

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE DETERMINATION

Appeal number..... A-3-MCO-04-054, Sunridge Views

Applicants..... Mr. Steve Bradshaw

Agent..... Mr. John Bridges, Law Firm of Fenton and Keller

Appellants..... Mary Akeh, Law Office of William J. Yeates, representing Friends, Artists and Neighbors (FANS) of Elkhorn Slough; Gary Patton, Executive Director, Land Watch, Monterey County; and Commissioners Sara Wan and Mike Reilly

Local government..... Monterey County

Local decision..... Resolution 04-256, for PLN990391, Approved with conditions, July 13, 2004

Project location..... 250 Maher Road (south of Tarpey Road), North Monterey County (APN 127-252-009).

Project description..... Coastal Development permit and Standard Subdivision of a 25 acre parcel into 10 lots ranging in size from 1 to 7.8 acres, 2,000 cubic yards of grading, development of a mutual water system, construction of two water tanks; demolition of an existing mobile home, barn, and greenhouse and conversion of an existing mobile home to a senior citizens unit.

Local approval..... The Monterey County Board of Supervisors approved a Combined Development Permit, Resolution 04-256 (PLN990391), for the project on July 13, 2004.

File documents..... Monterey County certified Local Coastal Program, including North County Land Use Plan; Final Local Action Notice 3-MCO-04-240

Staff recommendation ...Substantial Issue Exists

Staff Note: The applicant has not waived the 49-Day appeal hearing requirement. Therefore the Commission must act on substantial issue at the September hearing.

Summary of staff recommendation: Monterey County approved a Coastal Development Permit to subdivide a 25-acre parcel in North Monterey County (Elkhorn Slough watershed) into 10 lots ranging in size from 1 to 7.8 acres. The approval also allows 2,000 cubic yards of grading, development of a mutual



California Coastal Commission
September 8, 2004 Meeting in Eureka

Staff: K. Cuffe Approved by: *DLC*

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water system, construction of two water tanks, demolition of a mobile home, barn, and greenhouse, and conversion of an existing mobile home to a senior citizens unit.

Appeals, submitted by Commissioners Wan and Reilly, Friends, Artists, and Neighbors (FANS) of Elkhorn Slough, and LandWatch, Monterey County (LandWatch), allege that the project is inconsistent with the LCP due to (1) inadequate protection of groundwater resources; (2) inadequate long-term water supply and quality due to overdrafted aquifers and the potential for nitrate contamination; (3) potentially adverse impacts to adjacent environmentally sensitive habitat areas; (4) impacts to visual resources; (5) conflicts with the residential zoning density requirements; and (6) procedural errors. Staff is recommending that the Commission find that only the first three contentions raise a substantial issue with respect to conformity with the Monterey County LCP, and take jurisdiction over the coastal development permit for the project.

First, the County's approval **raises a substantial issue with regards to protecting groundwater resources**. The LCP requires protection of groundwater resources, especially within the North County where severe and chronic groundwater overdrafts have led to saltwater intrusion and the need to abandon previously-functional water supply wells. The North County LUP requires, among other things, that:

- New developments be controlled to a level that can be served by an identifiable, available, and long-term water supply (Key Policy 2.5.1);
- Development levels that generate water demand exceeding safe yield of local aquifers are only allowed once additional water supplies are secured (No Co LUP Policy 2.5.2.3);
- New development be phased so that existing water supplies are not committed beyond their safe long-term yields (No Co LUP Policies 2.5.2.3, 4.3.5.7, 4.3.6.D.5); and,
- The County should reduce the remaining build-out to limit groundwater use to the safe-yield level or, if required, in order to protect agricultural water supplies (No Co LUP policy 2.5.3.A.2).

Taken together the LCP provisions seek to ensure that any groundwater extraction protects groundwater aquifers, wetlands and streams, and agricultural water supplies.

While the applicant's hydrologic study estimates a net aquifer overdraft reduction of 24 af/yr by conversion of the current agricultural use on the site to expanded residential use, the North Highlands aquifer is already overdrafted by 1,860 acre feet (or 39 percent) beyond its annual safe yield. The reduction proposed by the subject project will only account for about 1 percent reduction of the severe and chronic overdraft conditions in the North Highlands sub-area, and even this minimal reduction may be ephemeral. In contrast, the expected residential use will require a long-term commitment to a permanent water supply, which is currently not available. The Pajaro Valley Water Management Agency (PVWMA) and Salinas Valley Water Project (SVWP) projects designed to improve long-term water supplies are still in the planning stage and cannot be relied upon as a future long-term water supply until they are constructed and have shown that they have restored groundwater resources and can provide an adequate water supply for existing and new planned development without overdrafting the basin.



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Without an identifiable, available long-term water supply, the project will continue to draw from the severely overdrafted aquifer of the North Highlands sub-area. The County's approval of the project is inconsistent with policy 2.5.2.3 because it allows commitment of water beyond its safe long-term yield for new development; inconsistent with policy 2.5.3.A.1 because it fails to protect groundwater supplies for coastal priority agricultural uses; and is inconsistent with policy 2.5.3.A.2 because it fails to reduce the 50% build-out level to protect groundwater resources in light of the current severe overdraft situation that exists in the North County area. There is also a question as to whether the water use on site was ever authorized, and if not, reduction of unpermitted water use cannot be used as a legally valid claim for water savings (i.e., one cannot plant berries without a water use permit, which is prohibited by the LCP, and then claim a reduction in water demand because they stop the unpermitted use).

Second, the project raises a substantial issue with regards to LCP water resource and water quality protection policies. The LCP requires that requires that new development be located and developed at densities that will not lead to health hazards on an individual or cumulative basis due to septic system failure or groundwater contamination (North County LUP Policy 2.5.2.5), and that the applicant "provide proof of an assured, long term water supply in terms of sustained yield and adequate quality for all lots which are proposed to be created through subdivision" (CIP Section 19.03.015.L The Hydrologic Assessment conducted for the project notes that nitrate levels in neighboring wells exceed State safe drinking water standards. The previous well on site was abandoned when nitrate levels were found to exceed State safe drinking water standards. The new well drilled on site in 2002, currently meets State safe drinking water standards and provides water to the site. However, based on water quality testing from the on-site wells and other surrounding wells, nitrate levels in the on-site water supply well will continue to increase, and may exceed State safe drinking standard levels within the next 55 years, such that the existing water supply well may fail within the economic lifespan of the project. Thus the project cannot be considered to have proof of an assured, long-term water supply in terms of adequate water quality as required by CIP Regulation 19.03.015.

Third, The County's approval raises a substantial issue with regard to protection of ESHA, because it allows development (construction of two water tanks and landscaping) within 25 feet of environmentally sensitive maritime chaparral habitat, which may adversely impact the long-term maintenance of this environmentally sensitive habitat area, inconsistent with LCP policies.

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1. Appeal of Monterey County Decision

A. Local Government Action

On July 13, 2004, the Monterey County Board of Supervisors approved a Coastal Development Permit to subdivide a 25-acre parcel into 10 lots ranging in size from 1 to 7.8 acres. The permit also approved 2,000 cubic yards of grading, development of a mutual water system, construction of two water tanks, demolition of a mobile home, barn, and greenhouse, and conversion of an existing mobile home to a senior citizens unit. The County’s Final Local Action Notice on the project, including findings and



MOTION: *I move that the Commission determine that Appeal No. A-3-MCO-04-054 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF SUBSTANTIAL ISSUE: Staff recommends a NO vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE: The Commission hereby finds that Appeal No. A-3-MCO-04-012 presents a **substantial issue** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

3. Recommended Findings and Declarations on Substantial Issue

The Commission finds and declares as follows:

A. Project Location

The project site is located in the Royal Oaks area of North Monterey County at 250 Maher Road (APN 127-252-009), west of Maher Road and approximately 1 mile south of the Tarpey Road/Maher Road intersection (Exhibit 1). The Royal Oaks area consists of low rolling hills, and numerous small canyons and valleys covered by grasses, maritime chaparral and oak forest habitat. Extensive land clearing for agricultural and residential use has occurred in the past. The surrounding unincorporated area includes rural residential, agricultural and limited commercial development.

The 25-acre property ranges in elevation from 120 feet above mean sea level near the southeastern property boundary, to about 320 feet on the northwest. Most of the parcel slopes gently eastward toward Maher Road, up to a ridgeline about 100 to 200 feet from the western property boundary, and then slopes westward. The property site contains a 2,500 sf single-family dwelling, barn, two mobile homes, and greenhouse, all located on the eastern side of the property. The site also contains several unpaved access roads (see Exhibit 3). Organic strawberries are grown on approximately 14 acres of the project site, and four acres are currently fallow agricultural land. The remainder of the project site is covered in oak woods, eucalyptus groves, and central maritime chaparral. A dense grove of Coast live oak trees are situated near the eastern end of the property, and eucalyptus and scattered oaks are found on the western end and along the ridgeline, with patches of maritime chaparral located in the southwestern portion of the property flanking either side of the mixed eucalyptus/coast live oak habitat in this area.



B. Project Description

Monterey County approved a Coastal Development permit and Standard Subdivision to subdivide a 25-acre parcel into 10 lots ranging in size from 1 to 7.8 acres. The approval also includes 2,000 cubic yards of grading, development of a mutual water system, construction of two water tanks; demolition of an existing mobile home, barn, and greenhouse and conversion of an existing mobile home to a senior citizens unit. The proposed Tentative Subdivision Map is attached as Exhibit 5.

According to the Draft EIR (DEIR, dated December 8, 2003) there are three existing residences on the project site, including a 2,500 square foot home and two mobile homes. The existing two-story single-family dwelling and one of the mobile homes would be retained, with the mobile home converted into a senior citizen unit, both of which would be located on Lot 1. The other mobile home currently on the property would be removed, allowing for construction of 9 new residential units. As approved, a 21-foot wide access road (within a 30-foot wide road and utility easement) would enter the property from Maher Road along the southern property boundary and then head north across the middle of the property to reach the other newly created lots. The County's approval required that the access road avoid removal of a landmark 30-inch cypress tree located in the southeast corner of the site.

Table 1 shows the size and development planned for each of the 10 proposed lots.

Table 1. Proposed Lot Sizes and Potential Development for Sunridge Views Subdivision

Lot Number	Acres	Proposed Development
1	5.0	Existing single family dwelling; convert existing mobile home to senior unit
2	1.2	New sfd
3	1.1	New sfd
4	1.0	New sfd
5	2.4	New sfd
6	1.5	New sfd
7	1.2	New sfd
8	7.8	New sfd two 20,000-gallon water tanks
9	1.5	New sfd



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10	2.0	New sfd
Dedicated for County Right-of- Way	0.3	-
Total	25.0	9 new sfds

Septic tanks and a well currently serve the house and mobile homes. The current water supply well, recently drilled in 2000, is located uphill from the existing structures, and is capable of producing water at 60 gpm. A former well, located immediately behind the house, was abandoned due to nitrate contamination. The project would allow two 20,000-gallon water tanks to be constructed on Lot 8, although the location of the tanks is not shown on the tentative parcel map, nor are any building or septic envelopes shown.

C. Substantial Issue Evaluation

Appellants allege that the project is inconsistent with the LCP due to (1) inadequate protection of groundwater resources; (2) inadequate long-term water supply and quality due to overdrafted aquifers and the potential for nitrate contamination; (3) potentially adverse impacts to adjacent environmentally sensitive habitat areas; (4) impacts to visual resources; (5) conflicts with the residential zoning density requirements; and (6) procedural errors. As discussed below, only the first three contentions raise a substantial issue with respect to conformity with the Monterey County LCP.

1. Protection of Groundwater and Agricultural Resources

The appellants contend that the approved project is inconsistent with LCP policies that require the protection of long-term groundwater resources. In particular, the appeals raise concerns that there is no adequate or proven **long-term** water supply; approval of the project allows for development that would generate demand beyond the safe yield of available water supplies; development should be phased so that water isn't committed beyond the safe long-term yield; and that the project is not consistent with policies that require groundwater supplies be protected for priority agricultural use. The appellants also contend that conversion from agricultural to residential use makes a long-term commitment to continued water use in an area that is already severely and chronically overdrafted.

a. Applicable Policies

The County's LCP requires the protection of groundwater resources, especially within the North County where severe and chronic groundwater overdrafts have led to saltwater intrusion and the need to abandon previously-functional water supply wells. The North County LUP requires, among other things, that:

- New developments be controlled to a level that can be served by an identifiable, available, and long-term water supply (Key Policy 2.5.1);



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- Development levels that generate water demand exceeding safe yield of local aquifers are only allowed once additional water supplies are secured (No Co LUP Policy 2.5.2.3);
- New development be phased so that existing water supplies are not committed beyond their safe long-term yields (No Co LUP Policies 2.5.2.3, 4.3.5.7, 4.3.6.D.5); and,
- The County should reduce the remaining build-out to limit groundwater use to the safe-yield level or, if required, in order to protect agricultural water supplies (No Co LUP policy 2.5.3.A.2).

Taken together the LCP provisions seek to ensure that any groundwater extraction protects groundwater aquifers, wetlands and streams, and agricultural water supplies.

Specifically, *North County Land Use Plan* provisions state:

North County LUP Action 2.3.4.1. A comprehensive natural resource and water basin management plan should be prepared for North County. The plan should include recommendations for monitoring residential and industrial runoff, regulation of discharges into coastal wetland and stream courses, instream flow protection, regulation of spoils disposal, development of best management practices for control of non-point discharge and erosion. Criteria should be set for adequate setbacks and development practices to protect environmentally sensitive habitats.

North County LUP Policy 2.5.1 Key Policy - The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies. The estuaries and wetlands of North County shall be protected from excessive sedimentation resulting from land use and development practices in the watershed areas.

North County LUP Policy 2.5.2.3. New development shall be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured.

North County LUP Policy 2.5.3.A.1 The County's Policy shall be to protect groundwater supplies for coastal priority agricultural uses with emphasis on agricultural lands located in areas designated in the plan for exclusive agricultural use.

North County LUP Policy 2.5.3.A.2 The County's long-term policy shall be to limit ground water use to the safe-yield level. The first phase of new development shall be limited to a level not exceeding 50% of the remaining build-out as specified in the LUP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural water supplies. Additional development beyond the first phase shall be permitted only after safe-yields have been established or other water supplies are determined to be available by an approved LCP amendment. Any amendment request shall



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be based upon definitive water studies, and shall include appropriate water management programs.

North County LUP Action 2.5.4.1 The County Flood Control and Water Conservation District, in cooperation with the County Planning Department should develop a system of monitoring the effects of increasing development on the groundwater resources. The County should establish a fee as part of permit applications (or some other financial arrangement) in order to provide a fund to support monitoring of groundwater use and to support further studies of groundwater resources or potential surface water projects that could serve the North County.

North County LUP Action 2.5.4.2. County growth management studies now in progress should recognize the water supply limitations in the North County Coastal Zone as a chief factor and resource constraint in determining an appropriate annual-growth rate for the area. An ordinance should be drafted by the County to phase development at a level compatible with the availability of groundwater supplies.

North County LUP Action 2.6.4.1. Monterey County shall develop a comprehensive agricultural management plan for existing and future agricultural uses in North Monterey County, in coordination with other appropriate public and private agencies, including but not limited to the County Agricultural Commissioner, Agricultural Extension, Soil Conservation Service, Monterey Coast Resource Conservation District, and the Farm Bureau. The goal of this plan would be the protection of long-term agricultural production, groundwater availability, water quality, and public welfare.

North County LUP Policy 4.3.5.4 Where there is limited land, water, or public facilities to support development, coastal-dependent agriculture, recreation, commercial and industrial uses shall have priority over residential and other non-coastal-dependent uses.

North County LUP Policy 4.3.5.7 New subdivision and development dependent upon groundwater shall be limited and phased over time until an adequate supply of water to meet long-term needs can be assured. In order to minimize the additional overdraft of groundwater accompanying new development, water conservation and on-site recharge methods shall be incorporated into site and structure design.

North County LUP Policy 4.3.6.D.1 Land divisions for residential purposes shall be approved at a density determined by evaluation of site and cumulative impact criteria set forth in this plan. These include geologic, flood, and fire hazard, slope, vegetation, environmentally sensitive habitat, water quality, water availability, erosion, septic tank suitability, adjacent land use compatibility, public service and facility, and where appropriate, coastal access and visual resource opportunities and constraints.

North County LUP Policy 4.3.6.D.5 Where public facilities or water supply necessary to support residential development are limited, residential growth should be phased to allow sufficient time for these essential elements to be provided.



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Code Section 20.144.070 WATER RESOURCES DEVELOPMENT STANDARDS: *The intent of this Section is to provide development standards which will protect the water quality of the North County surface water resources aquifers, and groundwater, control new development to a level that can be served by identifiable, available, and long-term water supplies, and protect North County streams, estuaries, and wetlands from excessive sedimentation resulting from land use and development practices in the watershed areas. (Ref. Policy 2.5.1).*

Code Section 20.144.070.E.10. *Development shall not be permitted if it has been determined, through preparation of the hydrologic report, or other resource information, that: a) the development will have adverse impacts to local agricultural water supplies, such as degrading water quantity or quality; and, b) there are no project alternatives and/or mitigation measures available that will reduce such impacts to levels at which the long-term maintenance of local coastal priority agricultural water supplies is assured. (Ref. Policy 2.5.3.A.1 t A.2)*

Code Section 20.144.070.E.11. *Development shall not be permitted if it has been determined, through preparation of a.) hydrologic report, or other resource information, that: a) the development will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer; and, b.) there are no project alternatives and/or mitigation measures available that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer.*

North County LUP2.6.3.8. *Conversion of uncultivated lands to crop lands shall not be permitted on slopes in excess of 25% except as specified in policy 2.5.3(4) of this plan and shall require preparation and approval of an Agricultural Management Plan. Conversion of uncultivated lands to crop lands on lands where 50% or more of the parcel has a slope of 10% or greater shall require a use permit. Approval of the use permit shall follow the submission of an adequate management plan. These plans should include analysis of soils, erosion potential and control, water demand and availability, proposed methods of water conservation and water quality protection, protection of important vegetation and wildlife habitats, rotation schedules, and such other means appropriate to ensure the long-term viability of agriculture on that parcel.*

b. Analysis of Consistency with Applicable LCP Policies

The County staff report for Sunridge Views notes that a project benefit justifying approval is a reduction in water use.² While at first glance this appears to be an appealing argument, further analysis reveals that it not persuasive and does not substitute for several inconsistencies with LCP policies that are not ameliorated³. In contrast to the current agricultural use (whose water consumption has varied and can be more easily controlled), this subdivision represents a permanent commitment of an estimated 7.5 af/yr

² There is no direct finding in the County's final action in this regard; rather just a general finding of consistency with LCP policies and a reference to the project EIR's consistency analysis chapter which states that the project would result in a positive effect on the groundwater basin increasing net recharge by 24 acre-feet per year..

³ For instance, as further noted in the DEIR, the North Monterey County hydrogeologic area is in a state of significant overdraft, and the proposed project would generate a water demand for which a long-term sustainable supply of water cannot be assured.



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(acre feet/year) of water from an overdrafted groundwater basin to a rural residential use. This is not a priority use under the LCP (nor Coastal Act).

No matter whether the proposed subdivision results in less overall water demand on this particular site, there is no guarantee that it could be served by an available, long-term water supply, as required by cited Key policy 2.5.1. The project relies on a well that will draw from the severely overdrafted North Highlands aquifer. Since, "water levels in the Highlands sub-areas have consistently declined over the last 20 years,"⁴ the well's long-term reliability is questionable. Of more immediate concern is the possibility that the well on site could become unusable due to groundwater nitrate contamination, as others in the area have (see discussion in Water Quality section below). If the well fails in the future, there is no alternative water supply system available in the area that could serve the new subdivision.

Even if the site's well is able to supply potable water over the long-term, the proposed subdivision still would not comply with LCP provisions because the use of the well affects and is affected by the entire groundwater basin in which it is located. Approving the creation of new lots that rely on groundwater from a severely overdrafted basin is inconsistent with LUP policy 2.5.2.3. The subject site is located in North Monterey County, which has severe groundwater overdraft problems on the order of 11,700 acre-feet per year (af/yr).⁵ The North Highlands hydrogeologic sub-area has historically had a groundwater demand of 4,780 af/yr and sustainable yield of only 2,920 af/yr. This has led to a current deficit of 1,860 af/yr (i.e., the current demand is 39 percent more than available groundwater supplies). Over-commitment of the aquifer threatens water supplies of other existing users due to seawater intrusion, which currently affects nearly half of the North County area. Until the basin is brought into equilibrium, future water use by even existing users will continue to exacerbate the already critical and chronic situation. Cumulatively, new development, particularly the creation of additional residential lots, will draw groundwater levels into further overdraft. Payment of the required fee to the Water Resources Agency (coastal permit condition # 66) only helps fund further study of solutions and does not adequately mitigate for the continued over-drafting of the North Highlands aquifer.

Future water projects mentioned in the County staff report that could result in an available long-term water supply are only in the earliest stages of planning and there is no assurance when or if they will actually become available, thus they cannot be counted on at this time to find new projects using groundwater consistent with LCP policies. The County staff report for the project notes that it would likely benefit from implementation of the Pajaro Valley Water Management Agency's (PVWMA)

⁴ Furgo West for Monterey County Water Resources Agency, *North Monterey County Hydrogeologic Study, Vol 1*, October 1995, p.53.

⁵ "The County estimate is based on "Sustainable yield," defined as the amount of annual pumping not causing additional ground water declines from 1992 conditions and/or not causing additional seawater intrusion. Since there were already groundwater problems before 1992, this definition may not be adequate. A more appropriate definition in terms of Coastal Act concerns would be: "the amount of naturally occurring ground water that can be withdrawn from an aquifer on a sustained basis, economically and legally, without impairing the native ground-water quality or creating an undesirable effect such as environmental damage," from Fetter, C.W., *Applied Hydrogeology*, Fourth Edition, 2001, p. 447. Additionally, any water that is extracted from ground water (or intercepted before it can become ground water) will reduce the amount of ground water available. Even if the aquifer remains saturated to the same levels, ground water flow will change and the amount that is recharged (to streams, to marshes, to the ocean) will change as a result of any interception or extraction of ground water. Thus, from a Coastal Act perspective the amount of acceptable groundwater extraction may be less than what is calculated in this study as "sustainable yield."



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Revised Basin Management Plan projects as well as the Salinas Valley Water Project (SVWP) at some point in the future.⁶ The staff report notes that “although the County is not relying on these projects as evidence of consistency of the Sunridge Views project, the County anticipates that these projects would be relied upon in the future as an additional assurance of a long-term sustainable water supply.” The PVWMD improvement projects are to use surface and imported water to substitute for agricultural wells along the coast currently experiencing salt-water intrusion. Similarly, the Salinas Valley Water Project would use surface water to substitute for agricultural wells and to replenish the aquifer. Neither of these projects would directly supply potable water to the Sunridge Views neighborhood, but they have the potential to lessen the groundwater overdraft in the area. These water projects are still in the planning stages, and neither the PVWMD nor SVWP projects have completed the permitting process, let alone have all their financing. If and when the projects are ever constructed, it would take some time and monitoring to determine if they have been successful at halting groundwater overdraft and restoring groundwater reserves to sustainable yields. Only then could a determination be made that there was an adequate long-term water supply available to serve additional development. Thus, it is premature to rely on these projects as an assured, available long-term water supply.

The Monterey County LCP was written in the early 1980’s and acknowledged the overdraft problems in North County, but allowed some new development prior to the water problem being resolved, while studies were conducted to more thoroughly address the issue. Since those studies have now been completed, the proposed project should no longer be eligible to take advantage of that accommodation. LUP policy 2.5.2.3 does potentially allow up to 50% of maximum build-out to occur (i.e., 2,043 units or

⁶ The PVWMA has plans to address saltwater intrusion, by reducing agricultural water withdrawals in the lower portion of the watershed and substituting that water with supplemental water taken from the upper Pajaro Valley watershed and water imported from the Central Valley. The PVWMA, as designed, is for agricultural use only, and is in no way designed to provide any type of domestic water supplies.

The SVWP is currently only in design phase, has had approvals for tax assessments, but the design is not complete, and so is not permitted or constructed yet. Based on discussions with County Water Resources Agency staff, the SVWP is currently in 8-10 month design phase and the regulatory process has not yet begun, thus construction is not expected to be complete before at least the year 2008. Monitoring would then need to be conducted for some period of time to determine if either of the projects actually stops groundwater overdraft, and builds up groundwater levels to a point where there is more water available than is being withdrawn, before allowing additional, non-priority development to depend on this water as an assured long-term water supply.

⁷ The PVWMA has plans to address saltwater intrusion, by reducing agricultural water withdrawals in the lower portion of the watershed and substituting that water with supplemental water taken from the upper Pajaro Valley watershed and water imported from the Central Valley. The PVWMA, as designed, is for agricultural use only, and is in no way designed to provide any type of domestic water supplies.

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lots) prior to the availability of a new water supply.⁸ Currently 255 units or lots remain until that threshold is reached. However, that is a **maximum** threshold, and LUP policy 2.5.3.A.2 includes a caveat that requires the remaining build-out threshold to be reduced to limit groundwater use to the safe-yield level or if required in order to protect agricultural water supplies. When the *Land Use Plan* was written in the early 1980's, it did not conclude what the "safe yield," was, but rather noted that:

A study for the State Department of Water Resources in 1977 indicated a general groundwater overdraft of about 15,500 acre-feet annually in the North County area. A more detailed study by the U.S. Geological Survey in 1980 confirmed the overdraft of the Aromas Sand Aquifer. The report estimated a study area annual overdraft in the North County area of about 1,500 to 8,000 acre-feet. However, due to the depth of the water-bearing Aromas Sands, its high storage capacity, and the overall complexity of geologic and hydrologic considerations, the long-term safe yield of the aquifer is difficult to estimate...

It is evident that continued overdraft in the North County will lead to increasing saltwater intrusion and lower water tables. In some areas, water shortages may occur. Managing the demand for water generated by agricultural use and residential and commercial development within the limits of attainable long-term water supply sources will be a major challenge for the area in the coming years. Additional information is urgently needed to help determine the long-term safe yield of North County aquifers. The opportunities for obtaining a surface water supply should also be investigated.

Since this was written, the County has sponsored more definitive studies, as mentioned above, that provide quantitative estimates of overdraft and safe yield by subarea in North County, and show that water demand already exceeds safe yield throughout North County. Thus, pursuant to policy 2.5.3.A.2, since the safe yield is already exceeded, further build-out must be reduced to zero. Where new development on existing legal lots of record must be approved, no net increase in water use should be allowed. Correspondingly, since it is known that groundwater extractions are harming agricultural water supplies, build-out needs to be commensurately reduced to protect these supplies.

The County at least temporarily implemented this requirement of policy 2.5.3.A.2 by establishing an urgency moratorium on new subdivisions from September 2000 to August 2002. But, State law allows moratoria established by urgency ordinances to last only two years. For a more permanent solution, County staff and Planning Commissioners crafted a new General Plan/local coastal program that would have mostly extended the ban on creating new residential lots within rural North County by increasing minimum parcel sizes to 40 acres, but the Board of Supervisors has since put the revised General Plan effort on hold. Meanwhile, subdivisions, like Sunridge Views, originally proposed before the moratorium, are now being approved by the County, in contradiction to policy 2.5.3.A.2's mandate to reduce the build-out threshold below 50% under current circumstances. Full adherence to this policy, though, as well as other related policies cited above, requires that this project along with any other new subdivisions not be approved at this time.

⁸ This policy applies to new lots and second units on existing lots; one home per vacant parcel is permitted



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Moreover, the LCP inconsistencies of this project cannot be overlooked simply because the proposed project is estimated to use less water per year than the current strawberry operation. The site's existing water use for 2002 is estimated to be 47.12 af/yr. Residential use is estimated at 2.35 af/yr based on a typical 0.78 af/yr per dwelling unit (times the three units currently on the site). Agricultural use is estimated at 44.77 af/yr based on 3.2 af/yr per acre of berry cultivation (times 14 acres in production in 2002). Due to recharge from infiltration, the estimate net draft on the aquifer is 24.05 af/yr (i.e., 23.08 af/yr of extracted water is estimated to infiltrate back into the aquifer). Future water use after Sunridge Views is built out is estimated to be 7.85 af/yr (0.78 af/yr per dwelling unit times 10 units). Due to recharge from infiltration, the estimate net draft on the aquifer is 0.05 af/yr (i.e., 7.8 af/yr of extracted water is estimated to infiltrate back into the aquifer). There is thus a reduction of 39.27 af/yr in estimated water use and a reduction of 24 af/yr in net draft on the aquifer. But, this estimated reduced water use as a result of agricultural conversion to residential use is not necessarily certain, long-term, nor the best outcome for the site for at least seven reasons.

First, there is no evidence that the existing water use was ever authorized because it is unknown if the structures or current farming activities ever obtained a coastal development permit. North County LUP Policy 2.6.3.8 requires a coastal development permit for conversion of uncultivated lands to crop lands where 50% or more of the parcel has a slope of 10%. Although slope density is difficult to read on the Tentative Parcel Map (shading for different slope ranges does not appear), contours are shown at 2 foot increments and given the scale of map (1" = 50 feet) show that more than 50% of parcel is over 10% slope. Without a coastal development permit, all agricultural activities, and residential use on the site is in violation of the LCP and Coastal Act, and so reduction of unpermitted water use cannot be used as a legally valid claim for water savings (i.e., one cannot plant berries without a water use permit, which is prohibited by the LCP, and then claim a reduction in water demand because they stop the unpermitted use). It may be that development and agricultural use began prior to enactment of the Coastal Act, but it is unknown at this time.

Second, even if the existing uses had been permitted, the estimated net reduction in water consumption is not guaranteed, in part because the estimates regarding existing and proposed water demand provided in the project's hydrologic report assume that the new SFD development will not use any water for landscaping and gardening. This assumption seems unreasonable. The permit is not conditioned to prohibit such water uses, only future commercial agricultural uses. Thus, actual residential water use could be much greater than estimated if individual, future property owners irrigate their land for personal use (e.g., for landscaping and gardening); Future owners may also decide to build second (senior) units which would also add to water use on site. The project's hydrologic report estimates zero future irrigation use for landscaping.

Third, the estimated current and future draft on the aquifer is also by no means certain. These figures are based on estimated infiltration. Only 37% of crop irrigation water is estimated to infiltrate back into the groundwater basin, while 50% of residential water use is estimated to infiltrate back into the groundwater basin. Additional infiltration is estimated from precipitation that enters into the ground. The 50% figure for residential use is based on aquifer recharge from septic systems. However, septic



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leach fields are shallow meaning it would take many years for the leachate to reach the groundwater basin. Conversely, the use of drip irrigation for watering strawberries could result in lower evaporation rates and consequently higher than estimated infiltration rates.

Fourth, even if the estimated net draft on the aquifer of 24 af/yr approximates reality, that figure is only from one period of time. Strawberry cultivation is a recent phenomenon; in the not too distant past, irrigated agriculture was not practiced in this area. According to the project's hydrologic report, in 1999 only 9 acres of the site was in production; while according to the final EIR only 4.5 acres were in cultivation in 1998 and 1999. Actual water use in those two years was 13 and 14 acre-feet respectively.⁹ In contrast, ongoing residential use will require a commitment to a permanent long-term water supply.

Fifth, as long as the property were to stay primarily in agricultural use, water consumption could be more easily adjusted or even terminated, especially if there is ever a supply or quality problem. Water use for agriculture can vary greatly based on the type of crops grown. For example artichokes use only 1.75 af/yr/acre and Brussels sprouts use only 2.5 af/yr of water per acre of crop. Grazing may not require any irrigation. There are also initiatives underway and planned to practice more aggressive conservation measures in crop irrigation to reduce water consumption.

Sixth, the LCP policies and subsequent planning do not necessarily suggest that permanently eliminating commercial agriculture on this site is the way to address the water overdraft. The latest in a series of studies is the County's *North County Comprehensive Water Resources Management Plan*. This plan, which, despite its name, is lacking in details, broadly calls for four alternatives to be pursued in parallel:

- Acquisition of agricultural parcels to reduce demand;
- An expansion of the Salinas Valley Water Project for agricultural water
- Use of the Salinas Valley Water Project for "urban" water
- Construction of a desalination plant and piping some of its water to "urban" uses in North County.

The acquisition of agricultural parcels would mean that they would no longer be used for irrigated cultivation. Such an approach, as one component of an overall agricultural management plan (required by No Co LUP action 2.6.4.1, but not yet prepared) and water supply plan, may have merit in reducing both water use and erosion. However, it may cause a conflict because agriculture is a priority use under the Coastal Act and the LCP. Thus, any agricultural reduction or fallowing program should be on land determined to be unsuitable for long-term cultivation based on resource protection criteria, not ad hoc decisions on individual parcels, as is the case here. And, any such reduction or fallowing should contribute to arriving at an aquifer in balance to protect the agricultural use that is to remain. Absent the details of such a program being approved, including a likely LCP amendment, there is no guarantee that the subject project would result in a net decrease in water use because equivalent new or expanded agriculture on a nearby site could cancel it out. Also, absent the details of such a program being

⁹ A meter was installed on the well in 1998. No actual water use figures from metered wells is available in the County record from 2000 on.



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approved it is premature to conclude that the subject property is an appropriate one on which to permanently restrict agriculture compared to all other properties in the sub-basin that are under cultivation. The site is zoned low density residential, (LDR/CZ 2.5), but this designation does provide for row crop cultivation as a principal permitted use. The property is also sloping, but the strawberry fields are mostly on lands less than the 25%. Since cultivation on slopes greater than 25% is prohibited, there may be other irrigated cultivation occurring on steep slopes or less viable land than the subject site that should be taken out of production before fallowing land on this site.

Seventh, the LCP policies and subsequent planning do not necessarily suggest that substituting residential use for agricultural use, as proposed and required by permit conditions, is the way to address the overdraft. In describing the approach of allowing subdivision where there was no net increase in water use through an offset program, the *North County Comprehensive Water Resources Management Plan* noted that:

The Planning Commission rejected this approach because no mitigation measures were specified, no mechanism for local land use control or implementation was defined, agricultural lands could be taken out of production contrary to Coastal Plan policies, and there were no quantified or meaningful reductions in demand. One key problem was leaving the development of the water mitigation plans up to project proponents without any guidelines or specific procedures to ensure compliance. These issues could be resolved and a viable means of reducing overdraft developed through a coordinated effort to define and manage the mitigation efforts, make the process legally defensible, and quantify the savings.

The Commission agrees with this assessment. If the County were to develop such an offset program it would have to determine not only which parcels should never have agriculture (as described above), but also which are priority for other uses and what those uses are. Under the LCP (and Coastal Act) priority is for coastal dependent uses and concentration of development in or near urbanized areas. Absent the details of such a program being approved, it is premature to conclude that the subject site has a priority for being subdivided into low density residential parcels.

c. Conclusion

The County's approval of the Sunridge Views subdivision raises a substantial issue with regards to protecting groundwater resources. At first glance it is tempting to consider as positive and worthy of approval a project that purports to reduce water use in an area of known, severe overdraft. But, there are many potential techniques being considered by the County that would result in reduced pumping of the overdrafted groundwater basin (e.g., fallowing agricultural uses on steeper slopes than the subject site, implementation of water conservation measures, more capture of surface water to substitute for groundwater withdrawals and/or replenish groundwater basins, using desalinated water instead of groundwater). Each of these has a price tag; the trade-off in allowing the subject project is a net gain of nine new rural residential parcels, each requiring a permanent commitment of potable water, currently only available from overdrafted basins. Possibly, as part of a detailed program, which spelled out where agriculture would continue versus where it would be prohibited in the context of an overall solution that



would guarantee that the groundwater basins would achieve equilibrium, this trade-off would be acceptable. But no such program has been advanced to date. Absent such an approved program, approval on new subdivisions is premature. The Commission must find substantial issue with the County permit approval because it relies on a permanent commitment to using groundwater from an overdrafted basin. The North Highlands aquifer is already overdrafted by an estimated 1,860 af/yr. The PVWMA and SVWP projects, which are designed to improve long-term water supplies, are still in the planning stage and cannot be relied upon as a future long-term water supply until they are constructed and it has been shown that they can restore groundwater resources and provide a safe yield for planned development. The County's approval of the project is inconsistent with policy 2.5.2.3 because it allows commitment of water beyond its safe long-term yield for new development; inconsistent with policy 2.5.3.A.1 because it fails to protect groundwater supplies for coastal priority agricultural uses; and is inconsistent with policy 2.5.3.A.2 because it fails to reduce the maximum 50% build-out level to protect groundwater resources in light of the current severe overdraft situation that exists in the North County area.

2. Water Quality

The appeals also raise the issue of conformance with the LCP's policies for providing a suitable water supply because of concerns regarding nitrate contamination.

a. Applicable Policies

North County LUP Policy 2.5.2.5. New rural development shall be located and developed at densities that will not lead to health hazards on an individual or cumulative basis due to septic system failure or contamination of groundwater. On-site systems should be constructed according to standards that will facilitate long-term operation. Septic systems shall be sited to minimize adverse effects to public health, sensitive habitat areas, and natural resources.[emphasis added]

Code Section 19.03.015.L Subdivision Ordinance. ...Hydrological evidence shall be submitted to the Director of Division of Environmental Health to show evidence of water quality and quantity. The applicant shall also provide proof of an assured, long-term water supply in terms of sustained yield and adequate quality for all lots, which are proposed to be created through subdivisions...[emphasis added]



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b. Analysis of Consistency with Applicable LCP Policies

North County LUP Policy 2.5.2.5 requires that new development be located and developed at densities that will not lead to health hazards on an individual or cumulative basis due to septic system failure or groundwater contamination.

Section 19.03.015 of Title 19 (Subdivision Ordinance) of the Monterey County Code requires that the applicant “provide proof of an assured, long term water supply in terms of sustained yield **and adequate quality** for all lots which are proposed to be created through subdivision” (emphasis added).

According to the Hydrologic Assessment conducted for the project by Todd Engineers (Technical Memorandum dated December 19, 2002, and Addendum dated July 21, 2003), the subject parcel had previously been served by a well located immediately behind the house. After testing high for nitrates (a water sample collected and analyzed in early January 2000 indicated a nitrate concentration of 82 parts per million (ppm), which dropped down to 46 ppm only after 4 hours of flushing, both of which exceed the California drinking water standard for nitrate, set at 45 ppm) the well was abandoned and a new well, located further up the hill, was drilled in February 2000. While the depth and screening levels of the earlier well are not known, the new well has been drilled to a depth of 500 feet below surface grade (bsg), is sealed to 300 feet bsg, and screened below 340 feet bsg. Water samples collected from the new well in February 2000 tested below detection levels. According to data shown in the Technical Addendum, which appears to include additional data points provided by Monterey County Health Department, three water samples from the new well, taken in 2000 (presumably the February 2000 sample), 2001, and 2003, all had nitrate levels apparently below detection levels. Thus since the earlier well was abandoned, samples from the new well were used to estimate the amount of time it would take for nitrate levels on the site to exceed safe drinking water standards, which was estimated to be 55 years (assuming a non-detection level of about 0.5 mg/l to be the existing nitrate concentration, and an average annual increase of 0.85 mg/l based on averaging of all other wells sampled in the area). However the Hydrologic Assessment notes that using an average annual increase is probably not wise since the average yearly increase varies greatly from well to well in this area (ranging from an increase of -.305 to +2.75 ppm per year).

The Hydrologic Assessment notes that four properties just north of the subject site have exceeded State safe drinking water standards. One site required drilling of a new, deeper well, another property was placed on bottled water until further notice, and another was required to install a nitrate treatment system. A property to the south of the subject site, based on the last sampling reported from 2001, had levels below the State drinking water standards. They also note that future water quality will most likely be impacted by nitrates from past and current fertilizer applications, and that, although nitrate fertilizer usage will effectively cease once the property is developed, nitrate in the soil will continue to leach to groundwater.

The conclusions of the Hydrologic Assessment (Technical Memo dated July 21, 2003) indicate that:

- (1) *Groundwater from the new well should not exceed the nitrate MCL [maximum concentration level] until 2055. However this date is based on only three sample*



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analyses and an average nitrate increase for the entire Maher road Area...local groundwater nitrate increases are more variable

- (2) Shallow groundwater already is contaminated with nitrate; wells with shallow screens (<100 feet) are above the 45 mg/l MCL*
- (3) Some wells with deep screen (>300 feet) are already above the MCL or will be above the MCL within the next few years*
- (4) Nitrate concentrations in deeper wells are increasing overall*
- (5) Nitrate leaching rates vary with time and location (geology, land use, topography, etc)*

Hence there is a very real potential that the new water supply well will exceed nitrate standards within the economic lifespan of the project, due to residual nitrate fertilizer that exists in the soils.

The Hydrologic assessment notes that because of the variability in annual nitrate increase from well to well in the Maher Road area, individual well monitoring for nitrate is more important than an average yearly nitrate increase for predicting when groundwater levels will exceed state safe drinking water standards. The County approval has incorporated this concern by requiring that ongoing monitoring should be conducted in order to predict when nitrate levels would actually exceed acceptable levels. However, this implies that adequate water quality might not be available at some time in the future, possibly even prior to 50 years. Other wells close to the site have already experienced nitrate contamination and have been forced either to use other water sources (e.g., bottled water), treatment systems, or have been abandoned. Such conditions would eliminate the long-term water supply the project would depend upon, and could lead to health hazards and further groundwater contamination, inconsistent with section 19.03.015.

c. Conclusion

The Hydrologic Assessment conducted for the project notes that nitrate levels in neighboring wells exceed State safe drinking water standards. A previous well on site was abandoned when nitrate levels were found to exceed State safe drinking water standards. The new well drilled on site in 2002, currently meets State safe drinking water standards and provides water to the site. However, nitrate levels will continue to increase, and may exceed State safe drinking water standard levels within the next 55 years, which is considered to be within the economic lifespan of the project. Since the project well may fail within the economic lifespan of the project, the project cannot be considered to have proof of an assured, long-term water supply in terms of adequate water quality as required by 19.03.015. The County's condition requiring monitoring of water quality will help to identify when the well might fail, but it does nothing to provide for a long-term water supply if it indeed does fail. Thus, the project **raises a substantial issue with regards to LCP water resource and water quality protection policies.**



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3. Environmentally Sensitive Habitat Areas

The FANS and LandWatch, Monterey County appeals raise the issue of conformance with the LCP's policies for protecting environmentally sensitive habitat areas. The project includes locating two water storage tanks on Lot 8, which contains Central Maritime Chaparral (maritime chaparral), a plant community classified as ESHA by the LCP. Additionally, placement of the access road, and future residential development may have potential impacts to oak woodland, which is also protected by LCP policies.

The appellants also contend in part that the project on appeal is inconsistent with the certified LCP ESHA policies for the following reasons:

- Project allows non-resource dependent development (vegetation removal) in environmentally sensitive (maritime chaparral) habitat
- Siting two water tanks in and/or adjacent to ESHA is not compatible with long-term maintenance of the resource.
- Planting of non-native landscaping within 30 feet of a developed sites is not compatible with the long-term maintenance of the resource.
- A 25-foot setback is not adequate to protect maritime chaparral from new development.
- Erosion from project may impact aquatic habitats of Elkhorn Slough watershed.

a. Applicable Policies

North County general ESHA policies relevant to this project include the following:

North County LUP Policy 2.3.2.1. With the exception of resource dependent uses, all development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare and endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. Resource dependent uses, including nature education and research hunting, fishing and aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values.

North County LUP Policy 2.3.2.2. Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts, upon habitat values and where they do not establish a precedent for continued land development, which, on a cumulative basis, could degrade the resource.



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***North County LUP Policy 2.3.2.6.** The County shall ensure the protection of environmentally sensitive habitats through deed restrictions or dedications of permanent conservation easements. Where land divisions or development are proposed in areas containing environmentally sensitive habitats, such restrictions or easements shall be established through the development review process. Where development has already occurred in areas supporting sensitive habitat, property owners should be encouraged to voluntarily establish conservation easements or deed restrictions.*

***North County LUP Policy 2.3.2.8.** Where development is permitted in or adjacent to environmentally sensitive habitat areas (consistent with all other resource protection policies), the County, through the development review process, shall restrict the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) to the minimum amount necessary for structural improvements.*

***North County LUP Policy 2.3.2.3.** New development adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New subdivisions shall be approved only where significant impacts to environmentally sensitive habitats from development of proposed parcels will not occur.*

***North County LUP Policy 2.3.2.4.** To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall maintain significant and, where possible, contiguous areas of undisturbed land for low intensity recreation, education, or resource conservation use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided. On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to prevent habitat impacts.*

***Regulation 20.144.040.B.2.** Development on parcels containing or within 100 feet of environmentally sensitive habitats, as identified on the current North County Environmentally Sensitive Habitat resource map, other resource information, or planner's on-site investigation, shall not be permitted to adversely impact the habitat's long-term maintenance, as determined through the biological survey prepared for the project. Proposals shall be modified for siting, location, bulk, size, design, grading vegetation removal, and/or other methods where such modifications will reduce impacts to an insignificant level and assure the habitat's long-term maintenance. Also, the recommended mitigation measures of the biological survey will be considered by the decision-making body and incorporated into the conditions of approval as found necessary by the decision-making body to implement land use plan policies and this ordinance and made conditions of project approval. (Ref. Policy 2.3.2.2)*

***Regulation 20.144.040.B.5.** Subdivision of parcels containing an environmentally sensitive habitat area, as identified on the current North County Environmentally Sensitive Habitat resource map, other resource information or planner's on-site investigation, shall only be permitted where such subdivision not result in adverse impacts to the habitat's long-term*



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maintenance, as determined through the biological survey. Such subdivisions shall incorporate techniques, such as clustering, appropriate setbacks from the habitat, building envelopes, and conservation easements, in order to mitigate adverse impacts to the habitat. As well, large and, where feasible, contiguous areas and corridors of native vegetation shall be placed in conservation easement so as to provide sufficient vegetative habitat for the long-term maintenance of its associated wildlife. Further conditions of project approval shall include: a) establishment of building envelopes on each approved parcel which allows for the least impact on and vegetation removal within and adjacent to the environmentally sensitive habitat; b) recordation of the building envelopes on the final map or record of survey; c) placement of a note on the final map stating that no grading, structures, roads, animal grazing, vegetation removal, or other activities may take place outside of the building envelope; and, d) recordation of a notice with the County Recorder stating that a building envelope has been established on the parcel, and that no grading, structures, roads, animal grazing, vegetation removal, or other activities may take place outside of the envelope. (Ref. Policy 2.3.2.4 and 2.3.3.C.1 & C.2)

North County LUP Policy 2.3.3.A.2. Maritime chaparral is an uncommon, highly localized and variable plant community that has been reduced in North County by residential and agricultural development. Further conversion of maritime chaparral habitat to agricultural uses is highly discouraged. Where new residential development is proposed in chaparral areas, it shall be sited and designed to protect the maximum amount of maritime chaparral. All chaparral on land exceeding 25 percent slope should be left undisturbed to prevent potential erosion impacts as well as to protect the habitat itself.

North County LUP Policy 2.3.3.A.3. Domestic livestock should be managed and controlled in areas where they would degrade or destroy rare and endangered plant habitats, riparian corridors, or other environmentally sensitive habitats.

North County LUP Policy 2.3.3.A.4. Oak woodland on land exceeding 25% slope should be left in its native state to protect this plant community and animal habitat from the impacts of development and erosion. Development within oak woodland on 25% slope or less shall be sited to minimize disruption of vegetation and habitat loss.

b. Analysis of Consistency with Applicable LCP Policies

The LCP requires protection of ESHA by, among other means, prohibiting non-resource dependent development in ESHA (LUP 2.3.2.1), limiting the amount of vegetation and land that can be disturbed (LUP 2.3.2.8), and requiring deed restrictions or permanent conservation easements over ESHA (LUP 2.3.2.6). The LCP also requires that development adjacent to ESHA be compatible with the long-term maintenance of the resource (LUP 2.3.2.2) and protect the maximum amount of maritime chaparral (LUP 2.3.3.A.2). The LCP only allows new subdivisions where significant impacts to ESHA will not occur, and where the long-term maintenance of the habitat will not be adversely impacted (CIP Regulation 20.144.040.B.2, 20.144.040.B.5). Finally, the LCP also protects oak woodland by requiring that development be sited to minimize disruption of vegetation and habitat loss.



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According to the biological report conducted for the site by Randall Morgan (dated July 19, 1999), the subject parcel includes remnants of two distinct plant communities that had originally covered the site, including Coast Live Oak woodland, on the eastern slope, and maritime chaparral on the upper slope and ridgetop. The majority of the site was cleared, some time in the past, for agricultural use, and now contains a fairly large stand of live-oak woodland near the lower, eastern end of the property (in proposed lots 1, 2 & 5) and a smaller patch of maritime chaparral at the upper, southwestern end of the property (entirely within proposed lot 8) (see Exhibit 6).

Central maritime chaparral is an uncommon vegetation type that has been identified as a rare plant community by the California Department of Fish and Game. At one time, central maritime chaparral covered extensive areas in north Monterey County. However, in the past forty years much of this habitat has been converted to agriculture and rural residential uses, so that less than 1,700 acres remain in North County. Habitat loss and concomitant fragmentation leave the remaining patches susceptible to increased edge effects due to the invasion of non-native species.

Central maritime chaparral habitat is frequently dominated by brittleleaf manzanita (*Arctostaphylos tomentosa*) plus one or more of four endemic manzanita taxa including: Pajaro manzanita (*Arctostaphylos pajaroensis*), Hooker's manzanita (*Arctostaphylos hookeri* ssp. *hookeri*), sandmat manzanita (*Arctostaphylos pumila*) and Monterey manzanita (*Arctostaphylos montereyensis*).¹⁰ At some locations, stand dominance is shared with chamise (*Adenostoma fasciculatum*). Other species that comprise this plant community include: black sage (*Salvia mellifera*), poison oak (*Toxicodendron diversilobum*), and coyote brush (*Baccharis pilularis*).

The biological report for the project site indicates that maritime chaparral in the southwestern part of the site contains several special status shrub species, including Pajaro manzanita (*Arctostaphylos pajaroensis*), Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*), and Eastwood's goldenbush (*Ericameria fasciculata*), all of which are growing on or near the relatively open margins of the main chaparral patch in the southern half of Lot 8. As shown on the biological map included in the Draft EIR (see Exhibit 6), the remaining maritime chaparral on site is located at the edges of the mixed eucalyptus and coast live oak habitat that extends along the ridgetop on the western portion of the site. The biological report indicates that the eucalyptus stand began as a row of planted trees but has since spread by seed so that they now dominate most of the remaining chaparral area. French broom (*Genista monspessulana*) is another invasive plant species that has become established in the maritime chaparral area.

The project, as approved by the County, includes construction of two water tanks on Lot 8, but the tentative map does not show where they will be located and no description is given in the County's approval as to where they will be placed. According to Mitigation Measure #1, they cannot be placed in ESHA.

¹⁰ Griffin, J. R., *Maritime chaparral and endemic shrubs of the Monterey Bay Region*, Madroño, 1978, pp 65-112.



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The County approval does require scenic easements for *“portions of the property where sensitive habitat (chaparral and oaks habitat) exists”* (condition 17; see also Condition 14), and requires a final map *“that excludes all improvements, including water tanks and distribution lines, from the central maritime chaparral habitat on Lot 8”* (Mitigation Measure #1). Mitigation Measure #1 also requires temporary exclusionary fencing along the conservation easement boundary, and prohibits removal or disturbance of native chaparral vegetation, grading, roads, animal grazing, and other activities that could adversely affect the habitat. It does allow activities necessary to reduce the potential risk of wildfires, to remove non-native plants, or *“to otherwise ensure the long-term maintenance of the habitat.”*

As conditioned, the conservation easement is to include a 25-foot buffer around the maritime chaparral, however this is not consistent with protection of the long-term maintenance of the habitat. Regulation 20.144.040.B2 prohibits development within 100 feet of ESHA to impact the habitat's long-term maintenance. Since no building envelopes are shown on the proposed Tentative Subdivision Map, it is difficult to determine if residential structures, construction activities, or associated residential activities within 100 feet of ESHA would impact the long-term maintenance of maritime chaparral habitat on Lot 8. Furthermore, while the County's approval does require that the site be landscaped using native species consistent with and found in the project area (Condition 42), and allows for the removal of eucalyptus and other non-native species in a manner protective of existing maritime chaparral habitat (Mitigation Measure 1d), it does not prohibit the use of non-native invasive plant species. Invasive, non-native plants have already degraded the quality of the maritime chaparral on site, and without prohibition of such plant species, the project may adversely impact the long-term maintenance of the habitat, inconsistent with LCP policies. Thus the project raises a **substantial issue with regards to protection of environmentally sensitive maritime chaparral habitat.**

The LUP requires that oak woodland on slopes over 25% be left intact, and requires projects be sited to minimize disruption and habitat loss of oak woodland on slopes 25% or less. The biological report indicates that no special status species were found or are expected to occur within the wooded portion of the property, and indicates that the removal of a few small to medium sized oaks to accommodate the project would not be a significant biological impact. The Final EIR (FEIR) states that *“up to 21 coast live oak trees along the access road corridor are close enough to the proposed access road that they could require removal or be damaged during road construction.”* The County's approval includes Mitigation Measures #4, 5 and 6, that require detailed grading plans noting possible tree removal of any oak trees over 6" diameter at breast height (dbh), alignment of the access road to minimize tree removal, tree protection measures to be implemented during construction, and 3:1 replacement of any trees that could not be avoided. While the County's approval does allow for the possibility of tree removal, it specifically requires that grading plans be submitted for review and approval prior to any tree removal, and that the project proponent provide sufficient evidence to the Planning and Building Inspection Department to determine that an exception can be made to remove oak trees greater than 6 inches dbh. It also requires that adjustments to the alignment and width of the road be made to minimize the potential for oak tree removal. Mitigation measure #5 requires that protective measures include wrapping of trunks for trees less than 12 inches dbh, protective fencing around trees greater than 12 inches dbh, bridging or tunneling under roots where exposed, and avoiding soil compaction, parking or stockpiling of materials under the drip lines of trees, and Mitigation Measure #6 requires replacement planting for



any trees greater than 6 inches dbh, using a 3:1 replacement ratio. The permit thus appears adequately conditioned to protect oak woodland habitat, consistent with LCP policies.

c. Conclusion

The County's approval allows development (construction of two water tanks and landscaping) within 25 feet of environmentally sensitive maritime chaparral habitat, which may adversely impact the long-term maintenance of this plant community, inconsistent with LCP policies. Thus the project is not inconsistent with LCP ESHA policies, and so raises a substantial issue with regard to protection of ESHA.

4. Visual Resources

The FANS and LandWatch, Monterey County appeals contend that the County approval of the project is inconsistent with protection of scenic resources, since the project includes development that may be located in the scenic viewshed, and not adequately screened consistent with viewshed protection policies.

a. Applicable Policies

North County LUP Policy 2.2.1. Key Policy- In order to protect the visual resources of North County, development should be prohibited to the fullest extent possible in beach, dune, estuary, and wetland areas. Only low intensity development that can be sited, screened, or designed to minimize visual impacts, shall be allowed on scenic hills, slopes, and ridgelines.

North County LUP Policy 2.2.2.3. Property containing land on scenic slopes, hills, and ridgelines when proposed for subdivision, should be subdivided so that the lots are situated to allow the highest potential for screening development and access roads from view. Lots and access roads should also be sited to minimize tree removal and visually intrusive grading during development. During the subdivision process, scenic or conservation easements should be required to the fullest extent possible for wooded ridge, hill, and areas of 30% slope or more.

North County LUP Policy 2.2.2.4. The least visually obtrusive portion of a parcel should be considered the most desirable site for the location of new structures. Structures should be located where existing topography and vegetation provide natural screening.

North County LUP Policy 2.2.2.5. Structures should be located to minimize tree removal, and grading for the building site and access road. Disturbed slopes should be restored to their previous visual quality. Landscape screening and restoration should consist of plant and tree species complementing the native growth of the area.

North County LUP Policy 2.2.3.1. The scenic areas of North County, including ... ridges shall be zoned for scenic conservation treatment.



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North County LUP Policy 2.2.3.5. New overhead utility and high voltage transmission lines that cannot be placed underground should be routed to minimize environmental and scenic impacts.

b. Analysis of Consistency with Applicable LCP Policies

The North County LUP policies require that low intensity development be allowed on scenic hills, slopes and ridgelines only if it can be sited, screened or designed to minimize visual impacts (LUP key policy 2.2.1), that land containing scenic hills, slopes and ridgelines be subdivided in a way that provides the highest potential for screening development and access roads (LUP 2.2.2.3), that structures be located where existing topography and vegetation provide natural screening (LUP 2.2.2.4), that lots and access roads be sited to minimize tree removal and visually intrusive grading (LUP 2.2.2.5), and that scenic or conservation easements be required over wooded ridges and areas of 30% slope (LUP 2.2.2.3). LUP 2.2.3.5 also provides that new overhead utility and transmission lines be placed underground or routed to minimize environmental and scenic impacts.

As described above, the project proposes subdivision of a 25-acre parcel into 10 lots, with an access road that extends west, from Maher Road to the middle of the site, along the southern property boundary, and then north through the middle of the parcel. The road would be located within a 30-foot wide road and public utilities easement. The project includes 2,000 cy of grading for roadway access and utility development. As previously mentioned, the location of the water tanks has not been established, and no building envelopes are shown on the Tentative Subdivision Map.

According to the Initial study,

Existing topography and vegetation provide substantial visual screening of most of the project site from Maher Road. Only small portions of the project are readily visible from public viewpoints of the project site. The existing single-family house and driveway are the most prominent features as viewed from Maher Road. A dense stand of oak trees beyond the house minimizes views to upper portions of the project site. The project site extends a short way to the west of the ridge, and the trees along the western edge of the project site are visible from San Miguel Canyon Road, and screen the ridge top from view. Strawberry fields on the adjacent property to the west provide a clear view up towards the ridgeline from San Miguel Canyon Road.

While no building envelopes are shown on the Tentative Subdivision Map, the Initial study further notes that:

Project plans include the removal of some of the eucalyptus trees on the project site. If the eucalyptus trees along the western boundary of the project site were removed, there is the potential that the house on Lot 8 could result in ridgeline development as viewed from San Miguel Canyon Road. The other proposed project lots would be screened from public view by dense oak woodland that would not be disturbed. The entry driveway would be somewhat visible



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from Maher Road, but not out of character with other driveways in the area. The project site is approximately two miles from Royal Oaks County Park, and would be only marginally visible, if visible at all, from the park. The proposed project would not be visible or potentially visible from any other public viewing areas.

As previously stated, the Tentative Subdivision Map does not include any building envelopes, so it is difficult to determine whether or not any actual developments would impact visible resources, inconsistent with LCP policies. The County's approval is conditioned to require a scenic easement over slopes more than 30% (Condition 16), unobtrusive lighting that is harmonious with the local area (Condition 35), a deed restriction recorded on each lot to limit exterior lighting to low voltage fixtures, or for lighting to be screened so as not to be visible from off-site locations (Mitigation Measure #14), underground utilities (Condition 37), and conditions designed to minimize tree removal (Mitigation Measures #1, 3 and 4). And all future development will require approval of a coastal development permit and the County will have to evaluate visual resource impacts at that time.

With regard to potential ridgeline development on Lot 8, the County's approval does require that *"proposed structures on Lot 8 be staked and flagged, prior to approval of building permits, and building design or siting adjusted to prevent ridgeline development."* It also requires that the water tank location be approved by the Planning and Building Inspection Department (Condition 67), that the tank site be landscaped, including land sculpturing and fencing (Condition 68), and painted an earth tone color to blend into the area (condition 69). It is expected that any additional future development would similarly need to be staked and flagged to evaluate visual resource impacts and siting or redesign modifications.

The conditions applied to the permit thus appear adequate to ensure that scenic resources are protected, and so do not appear to raise a substantial issue with regards to LCP requirements.

c. Conclusion

The project as approved by the County is conditioned to protect visual resources consistent with LCP policies; therefore the appeal contentions **do not raise a substantial issue with regards to visual resources.**

5. Zoning Requirements

The FANS and LandWatch appeals also contend that the County approval of the project is inconsistent with zoning requirements, because it allows the creation of parcels less than 2.5 acres in size.

a. Applicable Policies

Zoning Requirements for Low Density Residential zoning designation are located in Section 20.14.060, and include:



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20.14.060 SITE DEVELOPMENT STANDARDS.

A. Minimum Building Site - The minimum building site shall be 1 acre unless otherwise approved as part of a clustered residential development.

B. Development Density, Maximum - The maximum development density shall not exceed the acres/unit shown for the specific "LDR" district as shown on the zoning map (e.g. "LDR/2" means an "LDR" district with a maximum gross density of 2 acres/unit).

C. Structure Height and Setback Regulations - The following structure height and setback regulations apply unless superseded by a structure height limit noted on the zoning map (e.g. "LDR/2.5 (24)" would mean a structure height limit of 24 feet), setback requirements when combined with a "B" district, setbacks shown on a recorded final or parcel map, or setback lines on a Sectional District Map.

In a subdivision where a lot or lots have a designated building envelope, the dwelling unit and accessory structures shall be located wholly within the building envelope.

Under the LDR zoning designation, main structures are restricted to a maximum height of 30 feet, and accessory (non-habitable structures are limited to a maximum height of 15 feet. Accessory structures used as barns, stables or farm out buildings are restricted to a maximum height of 30 feet.

b. Analysis of Consistency with Applicable LCP Policies

The Monterey County LCP includes zoning ordinances as part of the LCP's Coastal Implementation Plan (CIP). The site is zoned Low Density Residential (LDR(CZ)), and the maximum density of development is 2.5 acres/unit, with minimum building sites of 1 acre.

The County's approval allows subdivision of the 25-acre site into ten parcels, which provides for an average of 2.5 acres density of development. There is no indication in the LCP that averaging lot sizes is not allowed, and in fact averaging lot sizes over a proposed subdivision is one way to cluster development in order to minimize potential adverse impacts from future development (e.g., to protect habitat, visual or geological resources). In this case, Lots 2, 3, 4, 5, 6, 7, 9 and 10, while less than 2.5 acres in size, are all clustered around the middle of the parcel, in the existing area that had been cleared for berry fields, reducing potential impact that future development might have to oak woodland that exists mainly on Lots 1 and 5, and maritime chaparral habitat that exists on Lot 8. Additionally, while some of the parcels are smaller than 2.5 acres, they all meet the minimum building size of one acre. Two of the parcels are larger than the 2.5 acre maximum (Lot 1 is 5.3 acres, and Lot 8 is 7.8 acres), but County approval requires that the project proponent rezone Lots 1 and 8 to LDR/2.5-B-6 prior to completion of the final map, which would prevent further subdivision (Condition 70). Finally, all lots meet the minimum area required for development of septic systems, pursuant to CIP Regulation 20.144.070.D.14.



c. Conclusion

The project as approved by the County allows for a 25-acre parcel to be divided into 10 lots, with an average density of development that is in conformance with the maximum allowed, and is conditioned to limit further subdivision of the two large lots (Lot 1 and Lot 8) consistent with LCP policies. The subdivision meets minimum building site and the minimum area needed for development of septic systems. The subdivision, as conditioned by the County, is thus consistent with zoning requirements of the LCP, and so the appeal contentions **do not raise a substantial issue with regards to zoning requirements.**

6. Procedural Issues

The FANS and LandWatch appeals raise a concern that in order to provide adequate public hearing opportunities, the Planning Commission was the appropriate authority to review the project following completion of the Final EIR (FEIR), and was required to make a recommendation to the Board of Supervisors (BOS), prior to the BOS ruling on the project. Instead, the BOS certified the EIR and approved the project without any recommendation from the Planning Commission, which had previously recommended denial of the project.

Coastal Implementation Plan (CIP) Section 20.82.030.B states that

The Planning Commission shall act as the recommending body to the Board of Supervisors when said Board is the Appropriate Authority for the Combined Development Permit. Said Board shall not act on a Combined Development Permit without prior review and recommendation of the Planning Commission on both the environmental and land use issues. The Planning Commission recommendation shall be made only after public hearing by the Planning Commission.

As described in the LandWatch Monterey County appeal, initially a Mitigated Negative Declaration had been proposed on the Sunridge Views project. The Planning Commission had recommended that the Board deny the project and not certify the Mitigated Negative Declaration. The Board of Supervisors ordered the preparation of an Environmental Impact Report, and a draft EIR (DEIR) was circulated for review and comment in December 2003. The DEIR noted areas of known controversy, which included concerns about water supplies and water quality, due to serious overdraft conditions and nitrate contamination in nearby wells. A Final EIR (FEIR) was released in June 2004, and a public hearing on the project, as well as certification of the FEIR went immediately to the Board of Supervisors, without having been reviewed by the Planning Commission, despite requests by FANS that the item first be sent to the Planning Commission for review and recommendation to the Board.

Although an additional hearing by the Planning Commission, after the preparation of the EIR, would have provided for additional public participation, particularly concerning the additional environmental and land use evidence developed in the EIR after the Planning Commission's first review, the Planning Commission did, technically, provide a recommendation to the BOS on the project. In addition, the



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BOS made the final decision on the project as the “Appropriate Authority,” consistent with IP section 20.82.030.B. Thus, no substantial issue is raised by this claim.



California Coastal Commission

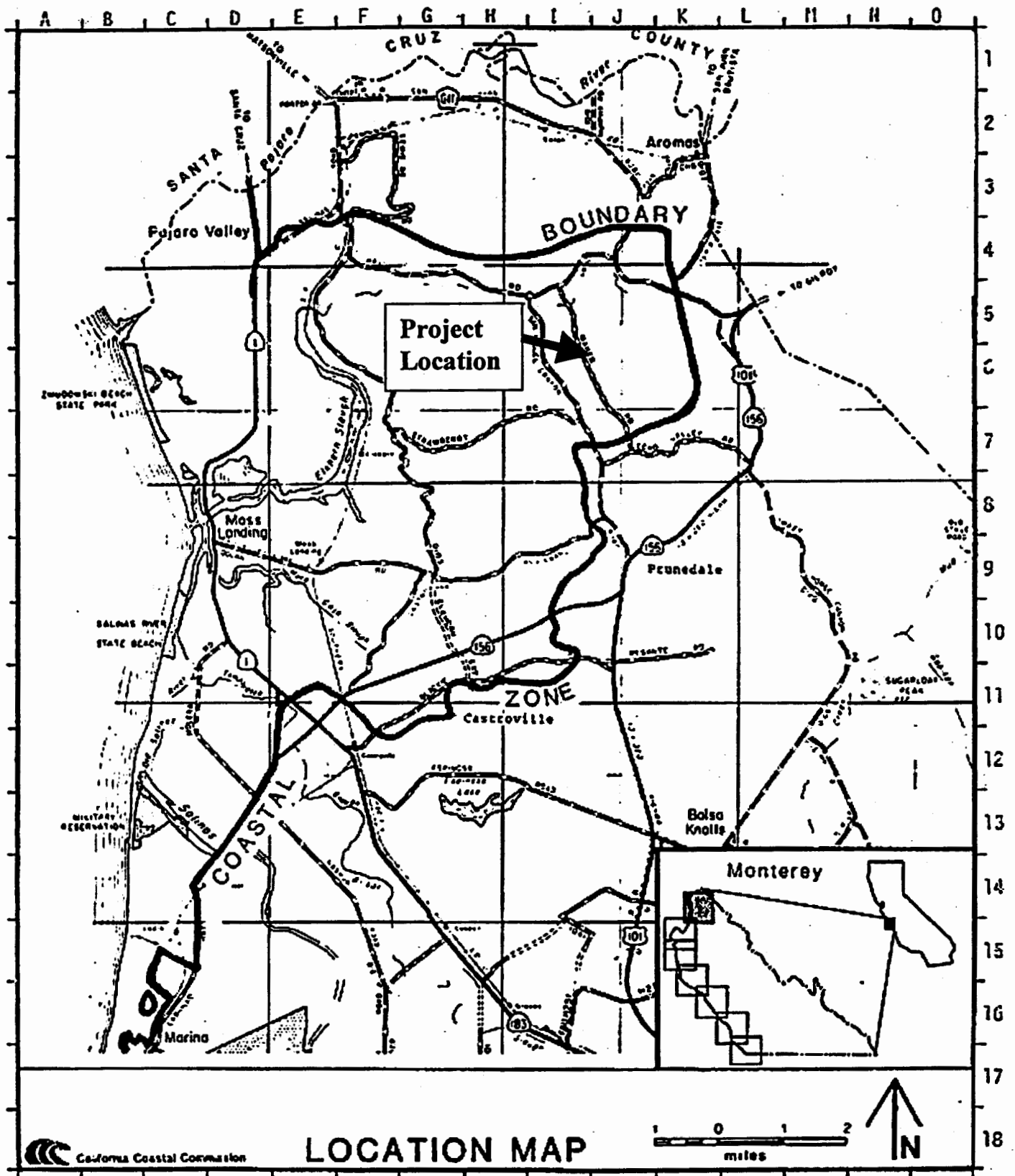


Exhibit **1**

Regional Location Map

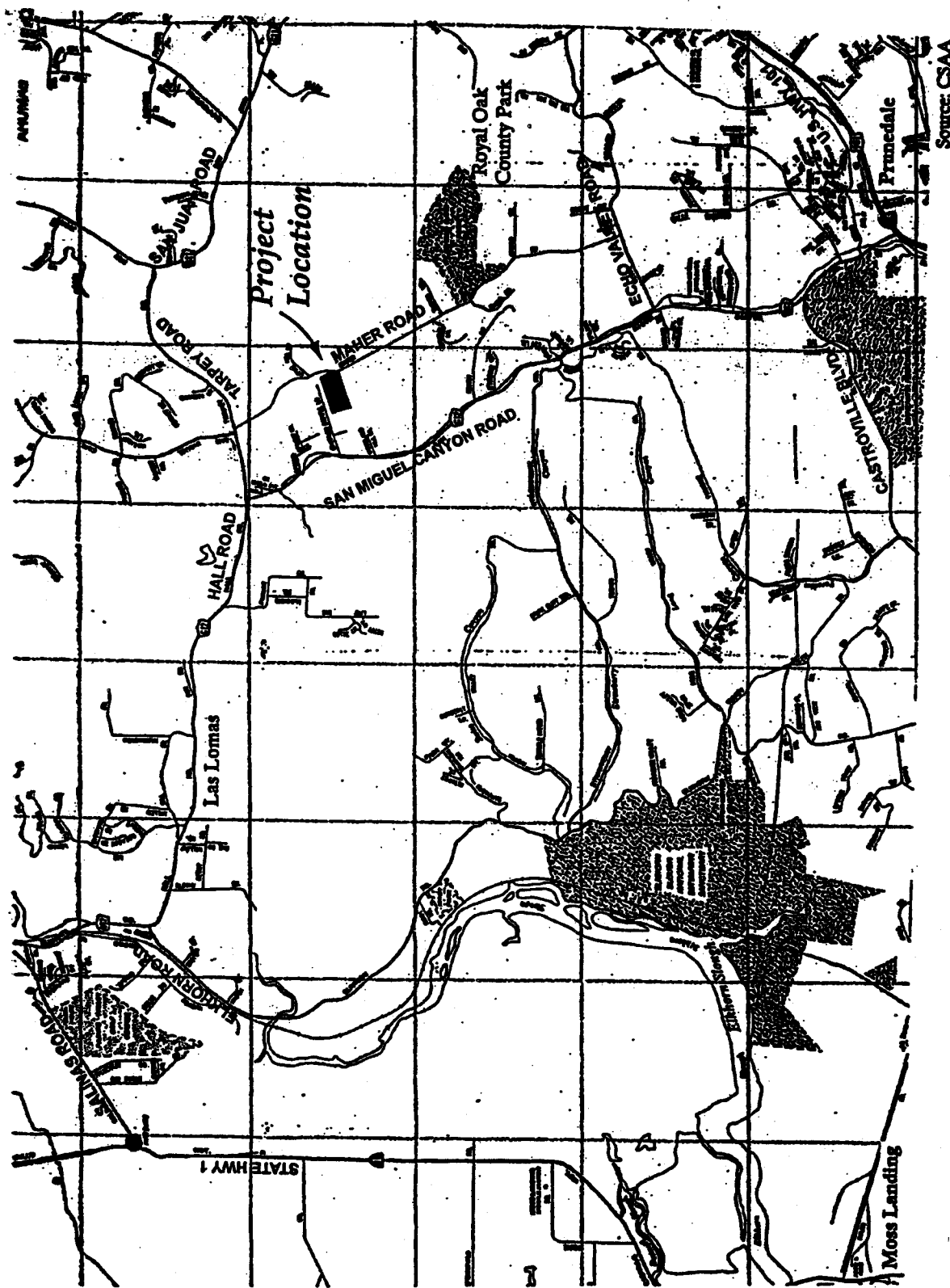
P 1 of 3

A-3-MCO-04-054

Appeal of Sunridge Views Subdivision



California Coastal Commission



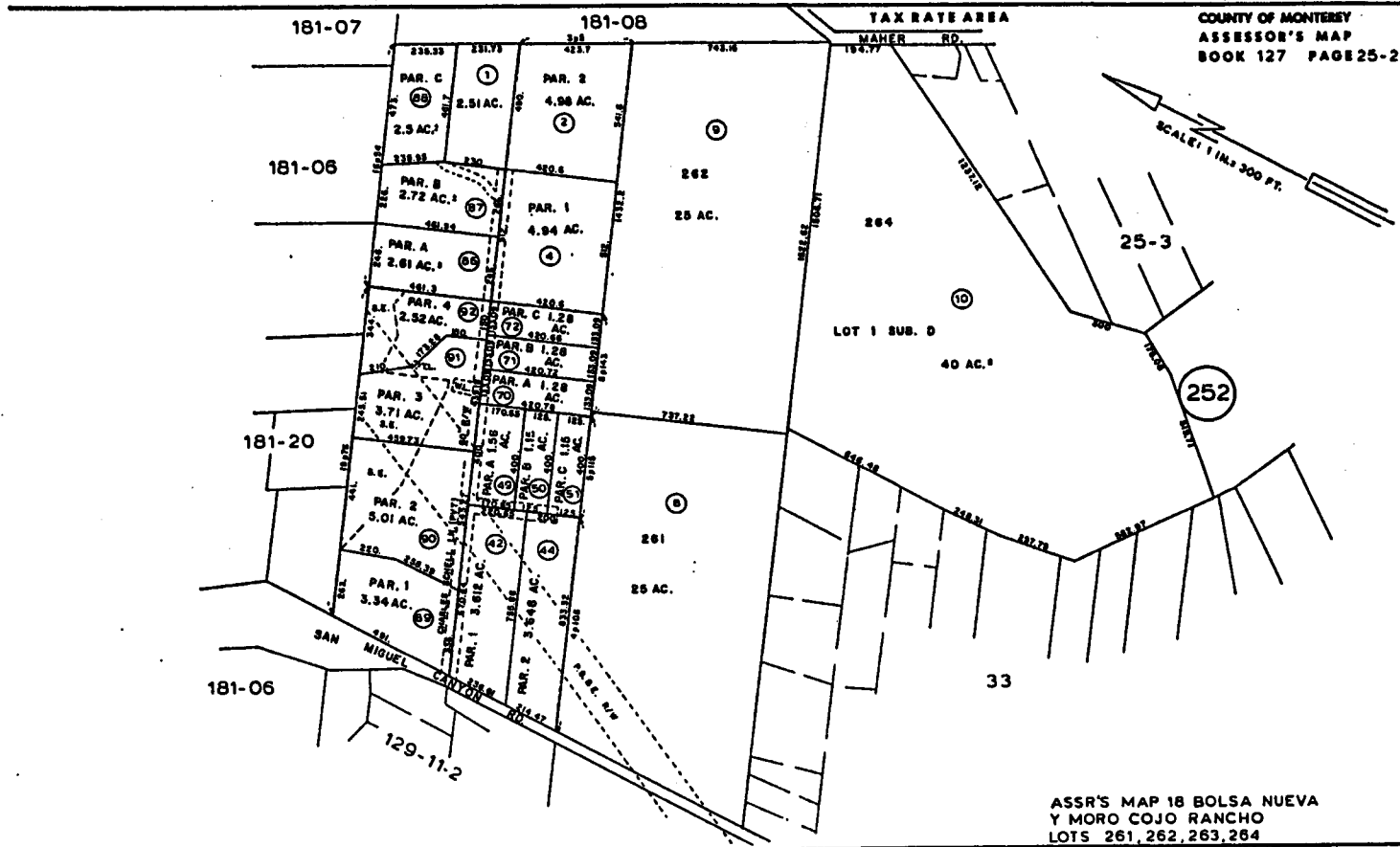
1 inch = 1,000 feet

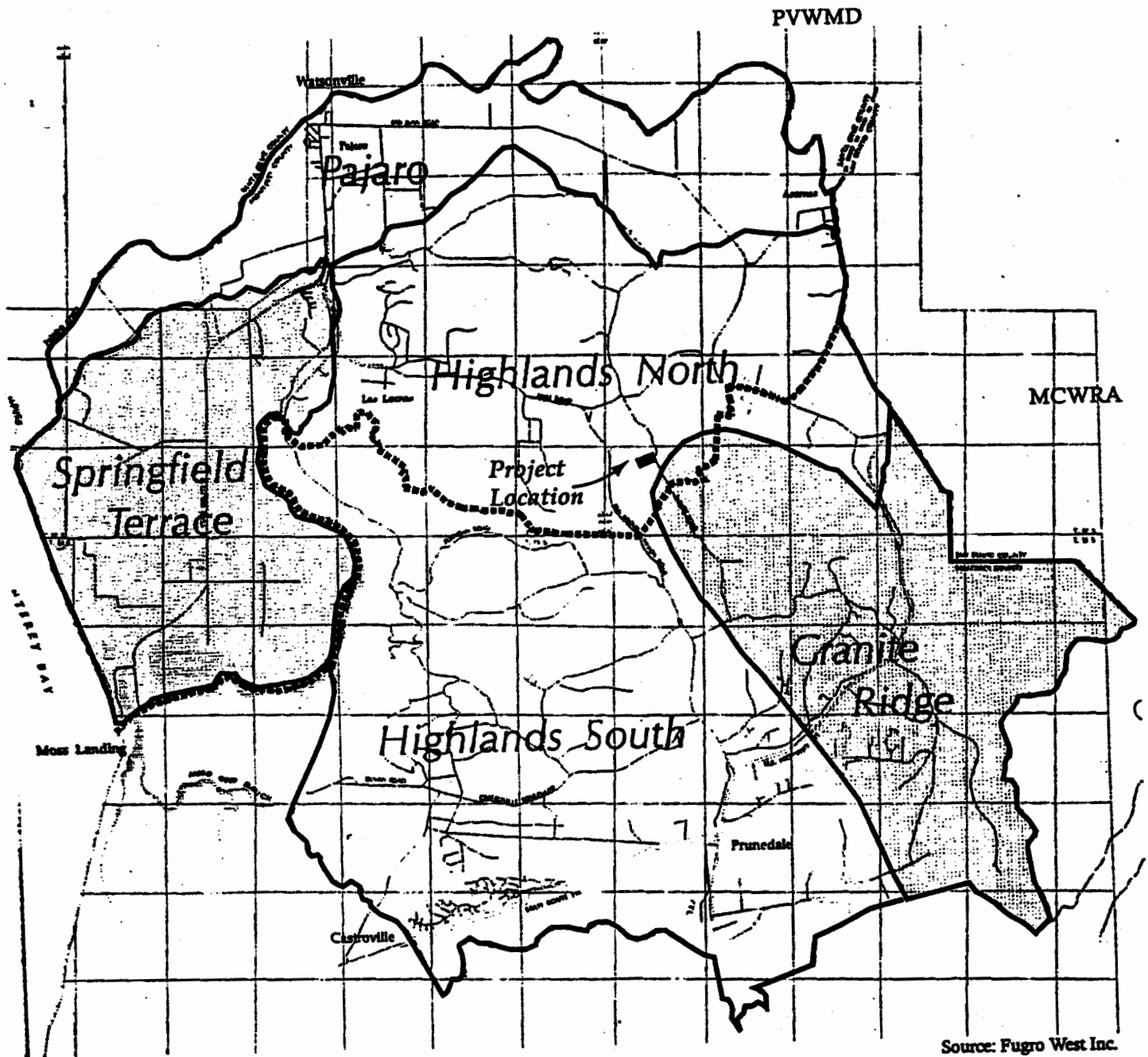


Figure 2

Project Vicinity

Sunridge Views Subdivision EIR





Source: Fugro West Inc.



1 inch = 1.5 miles



PVWMD / MCWRA Boundary



Subarea Boundaries

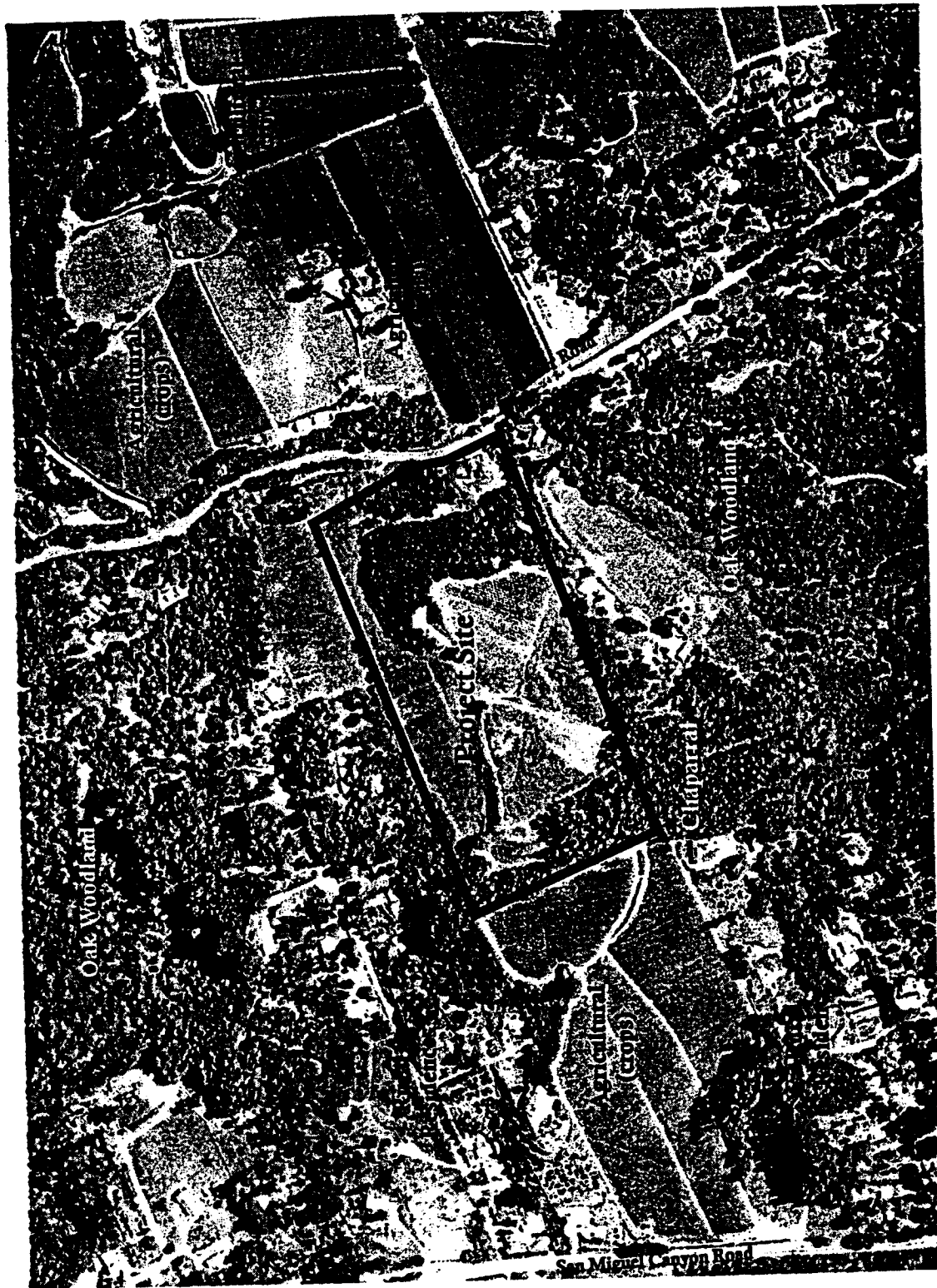
E M C

Figure 7
North Monterey County Hydrogeologic Subareas

Sunridge Views Subdivision EIR

CCC Exhibit 2

(page 1 of 1 pages)



1 inch = 500 feet



Figure 3
 Aerial Photograph
 Sunridge Views Subdivision EIR



Existing home along Maher Road near the eastern boundary of the project site. The proposed senior unit is visible behind.

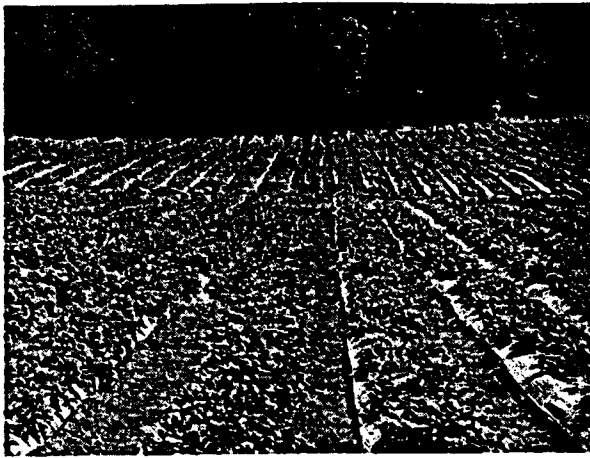


Existing barn in the southeast corner of the project site proposed for demolition.



Existing mobile home along the southern boundary of the project site proposed for removal.

Source: EMC Planning Group Inc.



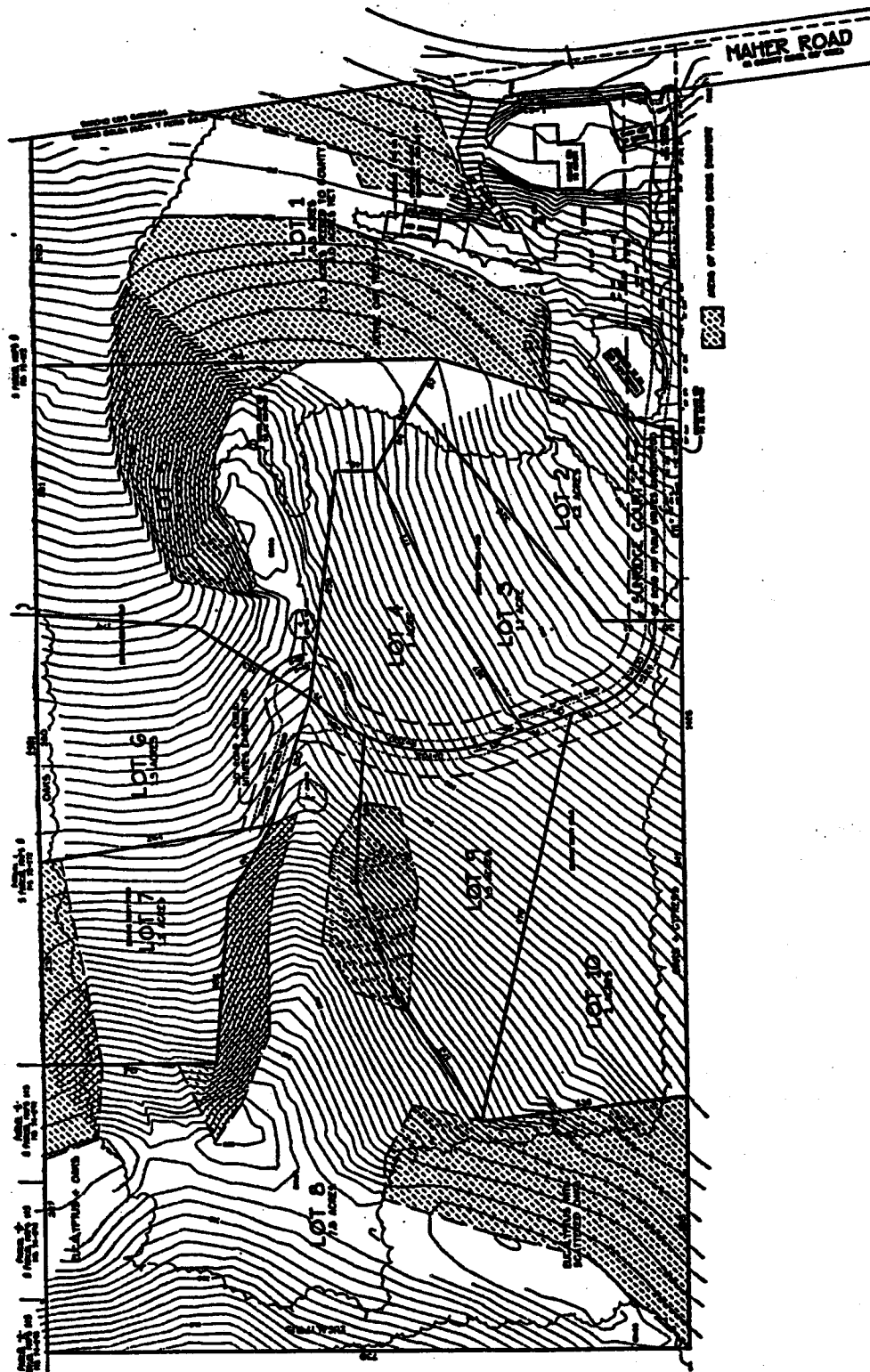
Strawberry fields near center of project site.

Eucalyptus trees and oak trees on ridge top near western boundary of project site.



Mobile home, oak woods, and strawberries located near the southern portion of the project site.

Source: EMC Planning Group Inc.



Source: Goetz Land Surveyors

Figure 5
Tentative Map
Sunridge Views Subdivision EIR

CCC Exhibit 5
(page 1 of 1 pages)

1 inch = 200 feet



1 inch = 200 feet



Coast Live Oak Woodland



Mixed Eucalyptus and
Coast Live Oak



Agricultural and/or Fallow



Central Maritime Chaparral

Source: WAC Corporation and Randall Morgan

Figure 6
Habitat Types

Sunridge Views Subdivision EIR



*Before the Board of Supervisors in and for the
County of Monterey, State of California*

Resolution No. 04-256

Certify and adopt an Environmental Impact Report)
and Mitigation Monitoring Program and approve a)
Combined Development Permit for Sunridge Views)
(PLN990391) consisting of: 1) a Coastal Development)
Permit and Standard Subdivision to allow for the division)
of a 25 acre parcel into 10 lots ranging in size from 1 to)
7.8 acres, 2,000 cubic yards of grading, a mutual water)
system, the construction of two water tanks and 2) a)
Coastal Development Permit to allow for the demolition)
of a mobile home, barn, and greenhouse and the conversion)
of an existing mobile home to a senior citizens unit. Deny)
applicant's request for a tree removal permit to remove a)
landmark tree consisting of a thirty-inch cypress. The site)
is located west of Maher Road at 250 Maher Road,)
(Assessor's Parcel Number 127-252-009-000),)
North County, Coastal Zone

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-MCO-04-240
APPEAL PERIOD 7/23-8/5/04

RECEIVED

JUL 22 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

WHEREAS, The applicant, Steve Bradshaw, filed an application for a Combined Development Permit consisting of: 1) a Coastal Development Permit and Standard Subdivision to allow for the division of a 25-acre parcel into 10 lots ranging in size from 1 to 7.8 acres, 2000 cubic yards of grading, pre-grading authorization, a mutual water system, the construction of two water tanks and the removal of a landmark tree (Thirty inch cypress); and 2) a Coastal Development Permit to allow for the demolition of a barn, greenhouse, and the conversion of an existing mobile home to a senior citizen's unit.

WHEREAS, the site is located on and west of Maher Road, North County Area, Coastal Zone, in the County of Monterey (the property).

WHEREAS, the application for Sunridge Views Combined Development Permit came for consideration before the North County (Coastal) Land Use Advisory Committee at a public hearing on November 15, 1999.

WHEREAS, at the conclusion of the public hearing on November 15, 1999, the North County (Coastal) Land Use Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors adopt a Mitigated Negative Declaration and approve the Combined Development Permit by a vote of 7-0.

WHEREAS, the application for Sunridge Views Combined Development Permit came for consideration before the Subdivision Committee at a public hearing on June 29 and July 27, 2000.

WHEREAS, at the conclusion of the public hearing on July 27, 2000, the Subdivision Committee recommended that the Planning Commission recommend that the Board of Supervisors adopt a Negative Declaration and approve the Combined Development Permit

basis of the findings, evidence and conditions contained in the Subdivision Committee Resolution No. 2019 by a vote of 4-0, 1 absent and 1 abstain.

WHEREAS, the application for Sunridge Views Combined Development Permit came for consideration before the Planning Commission at a public hearing on October 11 and November 15, 2000.

WHEREAS, at the conclusion of the public hearing on October 11, 2000, the Planning Commission adopted a resolution of intent to recommend to the Board of Supervisors denial of the Combined Development Permit and on November 15, 2000 adopted a resolution, with findings and evidence contained in the Planning Commission Resolution No. 00067, recommending denial.

WHEREAS, pursuant to the provisions of the Local Coastal Program and other applicable laws and regulations, the Board on February 6, 2001, heard and considered the application at a hearing de novo. The Board continued the public hearing and directed staff to review and analyze new technical information submitted by the applicant and to respond to testimony and all written comments submitted prior to February 21, 2001.

WHEREAS, at the March 13, 2001, Board hearing the applicant requested, and was granted, an extension of time to April 17, 2001.

WHEREAS, the item was continued by the Board of Supervisors on April 17, 2001, after a tie vote to require a Focused Environmental Impact Report (EIR).

WHEREAS, at the May 8, 2001, hearing the Board voted unanimously to direct the applicant to prepare the Focused EIR with an analysis of the direct, in-direct, and cumulative impacts regarding water supply, erosion of soil, and transportation issues associated with the proposed development.

WHEREAS, a Draft EIR was prepared and released for public review and comment on December 8, 2003.

WHEREAS, the Board, on July 13, 2004, heard and considered analysis presented in the Draft EIR.

WHEREAS, at the conclusion of the hearing, the matter was submitted to the Board for a decision. Having considered all written and documentary information submitted, the staff reports, oral testimony, and other evidence presented before the Board of Supervisors, the Board now renders its decision to approve the Combined Development Permit, with the exception of the requested tree removal permit, and makes the following findings in support of its decision:

Finding of Fact

- 1. FINDING: CONSISTENCY** - The Project, as conditioned and mitigated, is consistent with applicable plans and policies, the certified North County Land Use Plan, Monterey County Coastal Implementation Plan, Monterey County Zoning Ordinance (Title 20), Monterey County Subdivision.

Ordinance (Title 19) and Monterey County Grading Ordinance Title 16, Chapter 16.08.

EVIDENCE: (a) The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- The certified North County Land Use Plan
 - The certified Monterey County Coastal Implementation Plan regulations for "LDR/2.5 (CZ)" or Low Density Residential 2.5 acres per unit, Zoning District in the Coastal Zone
 - Chapter 20.64.010 of the Monterey County Coastal Implementation Plan regulations for Senior Citizens Units
 - Chapter 20.144 Monterey County Coastal Implementation Plan, regulations for development in the North County Land Use Plan
 - Monterey County Coastal Subdivision Ordinance (Title 19)
 - Chapter 16.08 Monterey County Grading Ordinance
 - Monterey County Water Resources Agency Ordinance No. 3932 pertaining to mandatory water conservation regulations
- (b) An Environmental Impact Report (EIR) was prepared EMC Planning Group and released for public review and comment on December 8, 2003. Section 1.5 - Consistency with Local and Regional Plans (pages 1-19 through 1-30) analyzed the proposal for conformity with:
- Monterey County General Plan
 - i. Policy 26.1.18
 - North County Land Use Plan/Local Coastal Program
 - ii. Visual Resources 2.2.2 General Policy 3
 - iii. Visual Resources 2.2.2 General Policy 4
 - iv. Visual Resources 2.2.2 General Policy 5
 - v. Environmentally Sensitive Habitat 2.3.2 General Policy 1, 2, 3, 6, 9, and 10
 - vi. Environmentally Sensitive Habitat 2.3.2 Specific Policy 3
 - vii. Water Resources 2.5.2 General Policy 3
 - viii. Water Resources 2.5.3 Specific Policy A2
 - ix. Water Resources 2.5.3.C.(5)
 - x. Hazards 2.82 General Policy 1
 - Monterey County Subdivision Ordinance (Title 19)
 - xi. 19.10.070 - Design and Development Standards Water Supply
 - Monterey County Zoning Ordinance/Coastal Implementation Plan (Title 20)
 - xii. 20.14.060 Site Development Standards
 - xiii. 20.66.010 Standards for Ridgeline Development
 - xiv. 20.144.040 Standards for Environmentally Sensitive Habitats
 - xv. 20.144.070 Water Resources Development Standards
 - Air Quality Management Plan
 - Regional Transportation Plan
- (c) Conversion of the exiting mobile home to a Senior Unit is an allowed use, in accordance with Section 20.64.010. A condition has been incorporated requiring the applicant to record a senior unit deed restriction.

- (d) The parcel is zoned Low Density Residential, 2.5 units/acre, Coastal Zone ("LDR/2.5 (CZ)"). The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 20.14.060.
- (e) **LAND USE ADVISORY COMMITTEE:** The North County (Coastal) Land Use Advisory Committee recommended approval of the project on November 15, 1999, by a vote of 7-0.
- (f) **SUBDIVISION COMMITTEE:** The Subdivision Committee at a public hearing on June 29 and July 27, 2000 heard and reviewed written and verbal testimony. The Subdivision Committee recommended (4-0 with Mulholland abstaining and Brandau absent) that the Planning Commission approve the project on July 27, 2000.
- (g) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN990391.
- (h) The on-site inspection of the subject parcel by the project planner pursuant to Section 20.144.030 of the North County Coastal Implementation Plan. The area of the proposed subdivision would not be visible from the public view shed, nor result in any potential for ridgeline development.
- (i) Conditions have been incorporated to meet Ordinance 3932 of Monterey County Water Resource Agency's Mandatory Water Conservation Regulations (Condition No. 47)

2. FINDING: SITE SUITABILITY - The site is suitable for the use proposed.

- EVIDENCE:**
- (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and Recreation Department, and the North County Fire Protection District. There has been no indication from these agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - (b) The on-site inspection of the subject parcel by the project planner pursuant to Section 20.144.030 of the North County Coastal Implementation Plan. The area of the proposed subdivision would not be visible from the public view shed, nor result in any potential for ridgeline development.
 - (c) The application, plans, photographs and support materials submitted by the project applicant to the Monterey county Planning and Building Inspection Department for the proposed development, found in the project file.
 - (d) The proposed subdivision meets the site development standards of Title 20, Chapter 20.14, Section 20.14.060 for the LDR/2.5 (Low Density Residential 2.5 acres per unit) (CZ) zoning district and a condition ensuring minimum lots size has been incorporated. (Condition No. 2)
 - (e) Geotechnical Investigation prepared for the site by Grice Engineering, Inc., dated August 1999 and a Geologic Investigation for the property

prepared by Grice Engineering and Geology Inc., in October 1999. Mitigations recommended have been incorporated.

- (f) Conditions have been incorporated requiring review and approval of streetlights prior to filing of the Final Map to ensure that lighting is compatible with the rural nature of the parcel. (Condition No. 46)

3. FINDING: ENVIRONMENTAL COMPLIANCE - California Environmental Quality Act (CEQA): - The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment. An Environmental Impact Report (EIR) and a Mitigation Monitoring Plan have been prepared and are on file (PLN990391) in the Department of Planning and Building Inspection. All mitigation measures identified in the EIR and all project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of approval. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may have a significant effect on the environment. In accordance and compliance with CEQA Guidelines section 15090, the Board of Supervisors hereby certifies that the Final EIR has been completed in compliance with CEQA; the Final EIR was presented to the Board of Supervisors and the Board of Supervisors reviewed and considered the information contained in the Final EIR prior to approving the project; and the Final EIR reflects the Boards' and the Monterey County's independent judgment and analysis. In accordance and compliance with CEQA Guidelines Section 15091, the Board of Supervisors hereby finds that for each of the significant effects of the project identified in the Final EIR (impacts 1-16) changes or alternations have been required in, or incorporated into, the project and/or otherwise mitigated by condition(s) of project approval which avoid or substantially lessen each such significant effect as and to the extent identified in the Final EIR. These changes, alterations, and/or mitigations are described in the Final EIR as mitigation measures 1-16. The explanation of the rationale for the finding that each significant effect has been avoided or substantially lessened is contained in the Final EIR (which includes the Draft EIR, comments thereon, and responses to said comments), the staff report, the findings and evidence of this Resolution, and other materials associated with the project file all of which constitute substantial evidence in the record and are incorporated by reference herein. The documents and materials which constitute the record of the proceedings upon which this decision is based are located in the Monterey County Planning and Building Inspection Department (PLN990391). MCPBI is the custodian of these documents and materials.

EVIDENCE: (a) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.
(b) County staff prepared an Initial Study for the project in compliance with CEQA, its Guidelines, and the Monterey County CEQA

Guidelines and prepared a Mitigation Monitoring Plan pursuant to Section 21081.6 of the Public Resources Code. The initial Study and the Mitigation Monitoring Plan provided substantial evidence that the project would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on December 26, 2000. All comments on the Initial Study have been received and considered as well as evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study; findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

- Biological Assessment prepared by Randall Morgan, dated November 9, 1999 and July 19, 1999.
 - Geotechnical Soils-Foundation Report prepared by Grice Engineering Inc., dated August 1999.
 - Percolation and Groundwater Study with Septic System Design Recommendations, prepared by Grice Engineering Inc., dated August 1999.
 - Geological Investigation prepared by Grice Engineering and Geology Inc., dated October 1999.
 - Traffic Analysis prepared by Higgins Associates, September 30, 1999.
 - Archaeological survey prepared for the site by Archaeological Consulting dated July 20, 1999.
- (c) A DEIR was prepared for Monterey County Planning and Building Inspection Department by EMC Planning Group Inc, dated December 8, 2003. The DEIR and the Mitigation Monitoring Plan provided substantial evidence that the project would not have significant environmental impacts. All comments on the DEIR have been received and considered as well as evidence in the record that includes studies, data and reports supporting the DEIR; additional documentation requested by the consultant in support of the DEIR; findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:
- Technical Memorandum: Hydrologic Assessment for the Rancho Sunridge Views EIR prepared for the site by Todd Engineers dated December 19, 2002.
 - Technical Memorandum Addendum: Nitrates Concentrations in Groundwater for the Rancho Sunridge Views EIR, North Monterey County, CA prepared by Todd Engineers dated July 21, 2003.
 - Traffic Analysis for 250 Maher Road Subdivision Monterey County prepared by Higgins Associates, January 31, 2004.

- Peer Review of Higgins Associates Traffic Impact Analysis by Fehr and Peers Associates, 2002.

- (d) The structure to be demolished is less than 50 years old and there has been no indication of it being a historic resource.
- (e) The proposed project would develop the project site at densities consistent with the Monterey County General Plan and North County LUP/LCP. All project infrastructures would be contained within the limits of the project site. The proposed project would not induce additional growth in the surrounding area.
- (f) In accordance CEQA Guidelines Section 15126(c) and with consideration taken of analysis conducted for the DEIR the proposed project would not result in significant irreversible physical environmental changes.
- (g) In accordance CEQA Guidelines Section 15126(b) and with consideration taken of analysis conducted for the DEIR the proposed project would not result in significant unavoidable adverse environmental impacts.

4. FINDING: FISH AND GAME: For purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: (a) Staff analysis contained in the Initial Study and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations.
 (b) The applicant shall pay the Environmental Document Fee, pursuant to Fish and Game Code Section 753.5
 (c) DEIR prepared for Monterey County Planning and Building Inspection Department by EMC Planning Group, dated December 8, 2003.

5. FINDING: NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on the subject property.

6. FINDING: PUBLIC ACCESS - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

EVIDENCE: (a) The subject property is not described as an area where the Local Coastal Program requires access.
 (b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

- 7. FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the project applied for will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: (a) Preceding findings and supporting evidence.

- 8. FINDING: SUBDIVISION** - Section 19.03.025 of Monterey County Title 19 requires that a request for subdivision be denied if any of the following findings are made:

- That the proposed map is not consistent with the applicable general plan, area plan, coastal land use plan or specific plan.
- That the design or improvement of the proposed subdivision is not consistent with general plan, area plan, coastal land use plan or specific plan.
- That the site is not physically suitable for the type of development.
- That the site is not physically suitable for the proposed density of development.
- That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

Planning staff has analyzed the project against the findings for denial outlined in this section. The map and its design and improvements are consistent with the North County Land Use Plan and Coastal Implementation Plan. No specific plan has been prepared for this area. The site has been determined to be physically suitable for the type and density of development. The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause serious public health problems as demonstrated in the DEIR certified and adopted for this project. The design and improvements will not conflict with easements for access through or use of the property within the proposed subdivision. Planning staff reviewed the Title Report and applicable recorded documents to identify all easements and ensure that the project does not conflict with existing easements.

- EVIDENCE:** (a) The property provides for adequate building sites as evidenced by the application materials submitted for the site.
- (b) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

- (c) DEIR prepared for Monterey County Planning and Building Inspection Department by EMC Planning Group, Inc. dated December 8, 2003.
- (d) The project is in a very high fire hazard zone as found in the resource maps of the North County Land Use Plan. The North Monterey County Fire Protection District has recommended conditions, which have been incorporated, for development in the very high fire hazard area, which will reduce potential fire risks associated with development of the project.
- (e) Conditions have been incorporated to meet Section 20.144.030.B.9 (underground utilities) of the Coastal Implementation Plan to ensure that the public health, safety, and welfare is preserved and protected.
- (f) Conditions have been incorporated to meet Section 19.12.010 (Recreation Ordinance) of the Monterey County Code to meet recreation requirements.
- (g) Conditions have been incorporated to meet Environmental Health Division's requirement for septic envelopes on parcels 5, 7 and 8 as recommended in the percolation and groundwater study prepared for the site by Grice Engineering and Geology Inc.
- (h) Mitigation measures have been developed and incorporated requiring the applicant to pay a fee to cover project and cumulative traffic improvements. According to CEQA Guidelines section 15130(a)(3), payment of a fair share fee towards measures necessary to mitigate cumulative impact is considered to reduce the project's contribution to the cumulative impact a less than significant level.
- (i) The Monterey County Coastal Implementation Plan designates this site as a "critical" erosion area. A condition has been incorporated requiring a drainage plan, subject to the approval of the Water Resources Agency.

9. FINDING: SENIOR CITIZEN UNIT – The proposed senior citizen unit complies with all applicable requirements of Section 20.64.010(C) of Title 20, will not adversely impact traffic conditions in the area, and adequate sewage disposal and water supply facilities exist or are readily available to the site.

- EVIDENCE:**
- (a) An existing mobile home is proposed for conversion to a senior unit.
 - (b) The proposed senior unit will be located on proposed Lot 1, which would be greater than the 5 acre minimum required in North County for senior citizen units in areas not served by a public sewer system.
 - (c) The detached senior citizen unit shall not exceed 850 square feet. A condition of approval has been incorporated which requires the applicant to convert square footage in excess of 850 square feet to non-habitable storage.
 - (d) A deed restriction shall be required as a condition of approval restricting occupancy of the senior unit to a maximum of 2 persons, 1 of whom must be at least sixty years of age or handicapped.
 - (e) A deed restriction shall be required as a condition of approval limiting the number of senior units for Lot 1 to one unit.
 - (f) An existing attached carport will provide required parking for the proposed senior unit.

- (g) The proposed senior unit conforms with all of the zoning and development standards of the LDR 2.5 (Low Density Residential 2.5 units per acre) zoning district.
- (h) DEIR prepared for Monterey County Planning and Building Inspection Department by EMC Planning Group dated December 8, 2003.
- (i) The proposed project has been reviewed by the Monterey County Department of Public Works and there is no indication from that Department that the project will adversely impact traffic conditions. A senior citizen unit generates an average of three to four vehicle trips per day. However, the proposal is for conversion of an existing residential unit; therefore, no additional vehicle trips are expected.

10. FINDING: REMOVAL OF A LANDMARK TREE (Thirty-inch Monterey cypress): Landmark trees of all native and non-native species shall not be permitted to be removed unless an exception is granted which determines that there are no alternatives to development (such as re-siting, relocation, or reduction in development area) exists whereby the tree removal can be avoided. There is one alternative the applicant could pursue and that is demolishing an existing barn, which is in close proximity to the proposed road and realigning the road to avoid the cypress and oaks. The proposed tree removal does not meet the requirements of an exception.

- EVIDENCE:** (a) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN990391.
- (b) The DEIR prepared for the proposed project evaluated the proposed tree removal and determined that it would be a significant environmental impact. Mitigation Measure Number 3 has been incorporated into the document requiring the applicant to revise the final map to relocate the road to prevent removal of the landmark 30-inch Monterey cypress tree.

11. FINDING: GRADING PERMIT: The proposed grading is in conformance with Section 16.08.060 of Chapter 16.08 of the Monterey Code.

- EVIDENCE:** (a) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN990391.

(b) DEIR prepared for Monterey County Planning and Building Inspection Department by EMC Planning Group dated December 8, 2003.

12. FINDING: HOUSING NEEDS: That in recommending approval of the tentative map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources. The project was deemed complete on October 14, 1999, which is prior to the effective date (May 23, 2003) of the County's new Inclusionary Housing Ordinance and Administrative Manual and is therefore subject to the prior ordinance. The project consists of a 25-acre property to be subdivided into 10 parcels. Two residential units currently

exist on the property. The project is required to provide a contribution to the County's Inclusionary Housing program equal to 15% of the total new development proposed. The project will result in eight(8) new residential lots(two lots are exempt due to the two existing units). A 15% contribution for the eight new units is 1.2 inclusionary units. At the time this application was deemed complete the Inclusionary Ordinance allowed the applicants to select a compliance method. Therefore the contribution in this case can be in the form of the in-lieu fee for the North County Planning Area that was in effect when the application was deemed complete or provision of on-site or off-site inclusionary units.

EVIDENCE: (a) The applicant will be required to comply with the Inclusionary Housing Ordinance as a condition of approval.

(b) Section 18.40 of the Monterey County Code (Inclusionary Housing Ordinance)

13. FINDING: APPEALABILITY - The decision on this project is appealable to the California Coastal Commission.

EVIDENCE: (a) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors hereby:

1. Denies applicant's request for a Landmark Tree Removal Permit;
2. Certifies the EIR and adopts the Board Resolution/Findings and Evidence incorporated herein by reference as Exhibit "B";
3. Adopts the Mitigation Monitoring Program incorporated herein by reference as Exhibit "C" - Condition Compliance & Mitigation Monitoring and/or Reporting Plan and
4. Incorporates requested changes presented by staff and approves the Combined Development Permit for the Sunridge Views Subdivision, subject to the recommended Resolution/Findings and Evidence incorporated herein by reference as Exhibit "B," and recommended Conditions of Approval attached as Exhibit "C" - Condition Compliance & Mitigation Monitoring and/or Reporting Plan.

PASSED AND ADOPTED on this 13th day of July, 2004, upon motion of Supervisor Johnsen, seconded by Supervisor Lindley, and carried, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Lindley, Johnsen, Potter

NOES: None

ABSENT: None

I, Sally R. Reed, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book 72, on July 13, 2004.

Dated: July 21, 2004

Sally R. Reed, Clerk of the Board of Supervisors,
County of Monterey, State of California.

By Ann D. Anderson

Deputy

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CONDITION COMPLIANCE AND MITIGATION MONITORING AND/OR REPORTING PLAN

Department: Planning and Building Inspection

Project Name: Sunridge Views Subdivision

Condition Compliance & Mitigation Monitoring and/or Reporting Plan

File No: PLN990391

APN(s): 127-252-009

Approval by: _____ **Date:** _____

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
1		The subject Combined Development Permit consists of: 1) a Coastal Development Permit and Standard Subdivision to allow for the division of a 25 acre parcel into 10 lots ranging in size from 1 to 7.8 acres, 2,000 cubic yards of grading, a mutual water system, the construction of three water tanks and 2) a Coastal Development Permit to allow for the demolition of a mobile home, barn, and greenhouse and the conversion of an existing mobile home to a senior citizens unit. The site is located west of Maher Road at 250 Maher Road, (Assessor's Parcel Number 127-252-009-000), in the North County Area of the Coastal Zone. The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional	Adhere to conditions and mitigations set forth in approval.	Project Proponent	Ongoing	

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Permit Cond. Number	Map Numb er	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Action to be performed Where applicable Certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
		permits are approved by the appropriate authorities. (P&BI)				
2		Agriculture Restriction – A note shall be included on a separate sheet of the final map-recorded simultaneously with the final map, or by separate document, that shall indicate its relationship to the final map as follows: "No commercial agricultural uses may occur on this property." (P&BI)	Notice shall be incorporated on Final Map, or submit approved and recorded Notice to PBL.	Owner/ Applicant	Prior to recording of the Final Map. Ongoing	
3		Conditions, Covenants, and Restrictions (CC&Rs) – In accordance with Monterey County Water Resources Agency Water Conservation Ordinance No. 3932, or as subsequently amended, the CC&R's shall contain provisions that: 1) all new construction incorporate the use of low water use plumbing fixtures including, where applicable, hot water recirculation systems; 2) the front yards of all homes shall be landscaped at the time of construction; 3) low water use or drought tolerant plants shall be used together with water efficient irrigation systems; 4) leak repair is the property owner's responsibility; 5) vehicle and building washing shall use hoses equipped with shutoff nozzles; 6) no potable water to be used for sidewalk washing; 7) no water spillage into streets, curbs, and gutters; 8) no emptying or refilling of swimming pools except for structural repairs or if required for public health regulations; 9) no fountains unless water is recycled within the fountain. (WRA)	Submittal of approved and recorded CC&Rs to WRA.	Owner/ Applicant	Prior to recording of the Final Map. Ongoing	
4		DEED RESTRICTION – Drainage Plan A note shall be recorded on the final map stating that any future development on these parcels will require a drainage plan to be prepared by a	Submittal of approved and Recorded Deed Restriction to WRA	Owner/ Applicant	Prior to recording of the Final Map.	

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Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		registered civil engineer or architect. (WRA)				
5		DEED RESTRICTION – Fire Hazard Prior to the issuance of a building permit the applicant shall record a deed restriction which states: "The parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per Section 20.144.100-65 of the Coastal Implementation Plan and per the standards for development of residential property." (P&BI)	Submittal of approved and Recorded Deed Restriction to PBI.	Owner/ Applicant	Prior to Issuance of Grading and Building Permits	
6		DEED RESTRICTION – Front Yard Landscaping A deed shall be recorded for each lot requiring the front yards of all homes be landscaped at the time of construction. (WRA)	Submittal of approved and Recorded Deed Restriction to WRA.	Owner/ Applicant	Prior to final inspection/occupancy	
7		DEED RESTRICTION – Maintenance of Roads and Drainage Prior to the conveyance of any lots in the subdivision, developer shall have the sole responsibility for the care, maintenance, and repair of road and drainage improvements installed as a condition of approval of the subdivision. Upon each conveyance of each lot in the subdivision, developer shall be jointly obligated with the succeeding owners to perform such obligation pro rated on the basis of the remaining number of lots still owned by the developer. Developer's obligation shall cease upon the conveyance of the last lot in the subdivision. An agreement to this effect, running with the land, shall be recorded between developer and the County of Monterey prior to recordation of the final map. (WRA)	Submittal of approved and Recorded Deed Restriction to WRA	Owner/ Applicant	Prior to recordation of the Final Map/ Ongoing	
8		DEED RESTRICTION – Permit Approval: The applicant shall record a notice that states: "A permit (Resolution _____) was approved by the Board of Supervisors for Assessor's Parcel Number 127-252-009-000 on _____. The permit was granted subject to 72 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Alternatively, this note shall be	Submittal of permit approval and notice to PBI.	Owner/ Applicant	Prior to recordation of the Final Map/ Ongoing	

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Permit Cond. Number	Map Numb	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
		included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map. Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits, recording of the final map, or commencement of the use. (P&BI)				
9		<p>DEED RESTRICTION – Senior Unit: Prior to issuance of a building permit, applicant shall submit for review and approval of the Director of Planning and Building Inspection, and subsequently record, a deed restriction for each parcel stating the regulations for senior citizen units, as follows:</p> <ul style="list-style-type: none"> a. An attached senior citizen unit shall not exceed 700 square feet. b. A detached senior citizen unit shall not exceed 850 square feet. c. The senior citizen unit shall not be occupied by more than two persons, one of whom shall be at least 60 years of age or handicapped. d. Not more than one senior citizen unit shall be permitted on any lot or parcel. e. The senior citizen unit shall conform with all of the zoning and development standards of the zoning district which governs the lot. A senior citizen unit detached from the principal dwelling shall be treated as a habitable accessory structure in regard to height and setbacks. f. The senior citizen unit shall be designed in such a manner as to be visually consistent and compatible with the principal residence on-site and other residences in the area. g. One usable and accessible parking space shall be provided in addition to the parking required for the other uses on-site. Any garage or carport constructed in 	Submittal of approved and Recorded Deed Restriction for each lot to PBI.	Owner/ Applicant	Prior to recordation of the Final Map/ Ongoing	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		<p>connection with the senior citizen unit is not considered part of the area of the unit, but is considered in the overall lot coverage.</p> <p>h. Senior citizen units shall not be permitted on lots of less than 5 acres if located in an area not served by public sewer systems.</p> <p>i. Senior citizen units are not permitted on any lot less than ten acres where a guesthouse or a caretaker unit already exists.</p> <p>j. Subsequent subdivisions which divide the main residence from a senior citizen unit shall not be permitted except where lots created meet minimum lot size and density requirements of the existing zoning. (P&BI)</p>				
10		<p>DEED RESTRICTION – Waste Disposal Concurrent with the filing of the final map, the applicant shall record a deed notification with the Monterey County Recorder's Office on parcel(s) 7 indicating that:</p> <p>"An approved septic system design is on file at the Division of Environmental Health, File Number LSS-MA 990391, and any future development or expansions on this property shall be in compliance with the design and Chapter 15.20 MCC unless otherwise approved by the Director of Environmental Health." (EH)</p>	Submittal of approved and Recorded Deed Restriction to EH.	Owner/ Applicant	Prior to recordation of the Final Map/ Ongoing	
11		<p>DEED RESTRICTION – Water Conservation Prior to the filing of the final map, a deed shall be recorded for each lot that all new construction shall incorporate the use of low water use plumbing fixtures and drought tolerant landscaping, in accordance with County Water Resources Agency Ordinance #3932, or as subsequently amended. (WRA)</p>	Submittal of approved and Recorded Deed Restriction to WRA	Owner/ Applicant	Prior to recordation of the Final Map/ Ongoing	
12		Drainage: Prior to the filing of the final map, a	Submit a drainage report for pertinent lot(s)	Owner/	Prior to	

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 Exhibit 7

Permit Cond. Number	Mitig. Numb. er	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Action to be performed (Where applicable) a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
		drainage report shall be submitted for lot(s) contributing to natural drainage channels originating in or running through the subdivision. Report to be approved by the Monterey County Water Resources Agency. (PW and WRA)		Applicant	recording of the Final Map.	
13		Drainage: A note shall be included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "All development on the parcels shall have a drainage and erosion control plan prepared by a registered civil engineer to address on-site and off-site impacts." This note shall also be included on all improvement plans and permits. (P&BI)	Notice shall be incorporated on Final Map, or submit approved and recorded Notice to PBI.	Owner/ Applicant	Prior to recording of the Final Map.	
14		EASEMENTS – Conservation: A scenic easement shall be conveyed to the County over those portions of the property where sensitive habitats, archaeological sites, etc. exists. An easement deed shall be submitted to, and approved by, the Director of Planning and Building Inspection prior to issuance of grading and building permits. (P&BI)	Submit approved and Recorded scenic easement to PBI.	Owner/ Applicant	Prior to Issuance of Grading and Building Permits	
15		EASEMENTS - Drainage Prior to the filing of the final map, all natural drainage channels shall be designated on the final map by easements labeled "Natural Drainage Easements". (PW)	Submit scenic easement to Public Works for approval.	Owner/ Applicant	Prior to recording of the Final Map.	
16		EASEMENTS - Scenic (Slope) A scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 30 percent. A scenic easement deed shall be submitted to, and approved by, the Director of Planning and Building Inspection prior to issuance of grading or building permits. (PB&I)	Submit scenic easement to PBI for approval.	Owner/ Applicant	Prior to the issuance of grading and building permits.	
17		EASEMENT – Scenic (Sensitive Habitat) Prior to the filing of the final map, a scenic easement shall be conveyed to the County over those portions of the property where sensitive habitat (chaparral and oaks habitat) exists. Scenic easement deed to be	Submit scenic easement to PBI for approval.	Owner/ Applicant	Prior to recording of filing of the Final Map.	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		submitted to and approved by Director of Planning and Building Inspection. (P&BI)				
18		EASEMENTS-Utility: The Subdivider shall submit three prints of the approved tentative map to each of the following utility companies; Pacific Gas & Electric Company and Pacific Bell. Utility companies shall submit their recommendations, if any, to the Director of Public Works for all required easements. (PW)	Submit required maps. Utility companies shall submit their recommendations, if any, to the Director of Public Works for all required easements.	Owner/ Applicant	Prior to recordation of the Final Map.	
19		Erosion Control Plan and Schedule The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Soils Conservation Service and the Director of Planning and Building Inspection. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. (P&BI)	Evidence of compliance with the Erosion Control Plan shall be submitted to PBI prior to issuance of building and grading permits.	Owner/ Applicant	Prior to Issuance of Grading and Building Permits	
			Evidence of compliance with the Implementation Schedule shall be submitted to PBI during the course of construction until project completion as approved by the Director of PBI.	Owner/ Applicant	Prior to Final Inspection	
20		Fire Protection: Prior to issuance of grading or building permits, size of letters, numbers and symbols for street and road signs shall be a minimum 4 inch letter height, 1/2 inch stroke, and shall be a color that clearly contrasts with the background color of the sign. All numerals shall be Arabic. (North County FPD)	Submit plans to the North County Fire Protection District illustrating location and specs of street and road signs.	Project Proponent North County Fire	Prior to issuance of grading and building permits	
21		Fire Protection: Plans shall be subject to the approval of the North County Fire Protection District. (North County FPD)	Submit plans to the North County Fire Protection District illustrating location of all fire hydrant, fire flow improvements and intersection improvements at Maher and Sunridge Court.	Project Proponent North County Fire	Prior to issuance of grading and building permits	

Permit Cond. Number	Midg. Numb. er	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (time/date)
22		Fire Protection: Prior to issuance of grading or building permit, street and road signs shall be visible and legible from both directions of vehicle travel for a distance of at least 100 feet. (North County FPD)	Submit plans to the North County Fire Protection District illustrating location of street and road signs	Project Proponent North County Fire	Prior to issuance of grading and building permits	
23		Fire Protection: Prior to issuance of grading or building permits, height of street and road signs shall be uniform countywide, and meet the visibility and legibility standards of this chapter. (North County FPD)	Submit plans to the North County Fire Protection District illustrating location and specs of street and road signs	Project Proponent North County Fire	Prior to issuance of grading and building permits	
24		Fire Protection: Prior to issuance of grading or building permit, newly constructed or approved public and private roads and streets shall be identified in accordance with provisions of Monterey County Ordinance No. 1241. All signs shall be mounted and oriented in a uniform manner. This section does not require any entity to rename or renumber existing roads or streets, nor shall a roadway providing access only to a single commercial or industrial occupancy require naming or numbering. (North County FPD)	Submit plans to the North County Fire Protection District illustrating location and specs of street and road signs	Project Proponent North County Fire	Prior to issuance of grading and building permits	
25		<p>Fire Protection: Prior to issuance of grading or building permits each hydrant/fire valve or access to water shall be identified as follows:</p> <ol style="list-style-type: none"> 1. If located along a driveway, a blue reflector marker, with a minimum dimension of 3 inches, shall be located on the driveway address sign and mounted on a fire retardant post, or 2. If located along a street or road, a blue reflector marker, with a minimum dimension of 3 inches, shall be mounted on a fire retardant post. The sign post shall be within 3 feet of said hydrant/fire valve, with a sign no less than 3 feet or greater than 5 feet above ground, in a horizontal position and visible from the driveway. (North County FPD) 	Submit plans to the North County Fire Protection District illustrating location of each hydrant/fire valve	Project Proponent North County Fire	Prior to issuance of grading and building permits	

Permit Cond. Number	Midg. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
26		Geologic Certification Prior to final inspection, the geologic consultant shall provide certification that all development has been constructed in accordance with the geologic report. (PB&I)	Submit certification by the geological consultant to PBI showing project's compliance with the geological report.	Owner/ Applicant/ Geological Consultant	Prior to Final Inspection	
27		Grading – Permit Required: A grading permit is required for new private single family access driveways greater than fifty (50) feet in total length that require 100 cubic yards or more of earthwork. An over the counter (OTC) grading permit may be issued for new private single family access driveways greater than fifty (50) feet in total length that require less than 100 cubic yards of earthwork. (PB&I)	If applicable, apply and receive the appropriate grading permit from Monterey County Planning and Building Inspection.	Engineer/ Owner/ Applicant	Prior to issuance of grading permit	
28		Grading - Staking: The easement(s) and proposed grading shall be staked with 18" stakes at ten (10) feet intervals. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at the Monterey County Planning and Building Inspection Department. The staking shall be verified at the grading pre-site inspection by the grading inspector. (PB&I)	The easement(s) and proposed grading shall be staked with 18" stakes at ten (10) feet intervals. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at the Monterey County Planning and Building Inspection Department.	Owner/ Applicant	At pre-site inspection by the grading inspector	
29		Grading - Winter Restriction: A note shall be included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection." This note shall also be included on all improvement plans and permits. (P&BI)	Final Map shall be noted, or submittal of approved and Recorded Notice to PBI.	Owner/ Applicant	Prior to recording of the Final Map	
		Home Owners Association: Prior to the filing of the final map, a homeowners association shall be formed for the maintenance of roads, drainage facilities, and open spaces. Documents for formation of association shall be approved by the	Submit Documentation for formation of Home Owners Association	Owner/ Applicant Water Resources	Prior to recording of the Final Map	

Permit Cond. Number	Map Num ber	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		Director of Public Works, the Director of Planning and Building Inspection, and the County Water Resources Agency, prior to filing of final map. C.C. & R's shall include provisions for a yearly report by a registered civil engineer, and the monitoring of impacts of drainage and maintenance of drainage facilities. Report shall be approved by the County Water Resources Agency. (WRA)		PB&I		
31		Home Owners Association: If the homeowners' association after notice and hearing fails to properly maintain, repair or operate the drainage and flood control facilities in the project, Monterey County Water Resources Agency shall be granted the right by the property owners to enter any and all portions of the property to perform repairs, maintenance or improvements necessary to properly operate the drainage and flood control facilities in the project. The County Water Resources Agency shall have the right to collect the cost for said repairs, maintenance or improvements from the property owners upon their property tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the cost. An agreement to this effect shall be entered into concurrent with the filing of the final map of the first phase of the subdivision. (WRA)	Properly maintain, repair and operate the drainage and flood control facilities in the project.	Owner/ Applicant Water Resources PB&I	Prior to recordation of the Final Map/ Ongoing	
32 EXHIBIT 7 (pages 13 of 50)		Improvements: Prior to the filing of the final map, the project proponent shall pay for all maintenance and operation of private roads, fire hydrants, and storm drainage from time of installation until acceptance of the improvements for the subdivision by the Board of Supervisors, as completed in accordance with the agreement and until a homeowners association or other agency with legal authorization to collect fees sufficient to support the services is formed to assume responsibility for the services. (PW)	Pay for all maintenance and operation of private roads, fire hydrants, and storm drainage from time of installation until acceptance of the improvements for the subdivision by the Board of Supervisors	Owner/ Applicant	Prior to recordation of the Final Map	
33		Improvements: Requirements for the construction	Final Map shall be noted, or submittal of	Owner/	Prior to	

Permit Cond. Number	Midg. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		of offsite and onsite improvements shall be noticed by a statement on the final map or by a separate instrument and shall be recorded on, concurrently with, or prior to the final map being filed for record. The statement shall include that "construction of improvements shall be required before a permit or other grant or approval for development may be issued." All additional information, as described in Section 66434.2 of the Government Code, required to be filed or recorded with the final map shall include a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest. (P&BI)	approved and Recorded Notice to PBI.	Applicant	recording of the Final Map	
34		Improvements – Grading: The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. The improvement plan shall also include a staging area. All soil and equipment shall be located in this area. (P&BI)	Submit required map sheet for review and approval for incorporation into plan set.	Owner/ Applicant	Prior to recording of the Final Map	
35		Improvements - Exterior Lighting Plan: All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. (P&BI)	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits for each lot.	
36		Improvements – Street Lights: All streetlights in the development shall be approved by the Director of Planning and Building Inspection. (P&BI)	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to filing of the Final Map	

Permit Cond. Number	Map Numb. P.	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (date/time)
37		Improvements - Utilities: A note shall be included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "Underground utilities are required in this subdivision in accordance with Chapter 19.10.095, Title 19 of the Monterey County Code." Such facilities shall be installed or bonded prior to filing the final map. The note shall be located in a conspicuous manner subject to the approval of the Director of Public Works. (P&BI and PW)	Final Map shall be noted, or submittal of approved and Recorded Notice to PBI.	Owner/ Applicant	Prior to recordation of filing of the Final Map.	
38		Inclusionary Housing: Prior to the recordation of the Final Map, the project applicant shall comply with the County's Inclusionary Housing requirements that were in effect at the time the application was deemed complete. The applicants shall pay the required in-lieu fee of \$66,588 to meet the total requirement or provide one inclusionary unit in combination with an in-lieu fee for the fractional .2 unit requirement in conformance with the provisions of the effective Inclusionary Housing ordinance for this project. . (P&BI)	Pay the required in-lieu fee and provide proof of payment to PBI	Owner/ Applicant	Prior to recordation of the Final Map.	
39		Indemnification: The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees, which the County may be required by a court to	Submittal of approved and Recorded Agreement to PBI.	Owner/ Applicant	Prior to recordation of the Final Map.	

Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, or filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (P&BI)				
40		Landscaping: Plan and Maintenance The site shall be landscaped. At least 60 days prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)	Submit landscape plans and contractor's estimate to PBI for review and approval.	Owner/ Applicant/ Contractor	At least 60 days prior to final inspection or occupancy	
			All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.	Owner/ Applicant	Ongoing	

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41		Landscaping: A note shall be included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "A landscape plan has been approved by the Director of Planning and Building Inspection." This note shall also be included on all improvement plans and permits and applies to each individual lot. (P&BI)	Final Map shall be noted, or submittal of approved and Recorded Notice to PBI.	Owner/ Applicant	Prior to recordation of the Final Map	
42		Landscaping: North County Coastal Native Planting The site shall be landscaped. The use of native species consistent with and found in the project area shall be required in all landscaping plans as a condition of project approval. A list of appropriate native plant species identified in Attachment #2 and #3 in the North County Implementation Plan Development Regulations is available in brochure form (<i>Suggested Native Species Landscaping List - North County Coastal Zone</i>) from the Planning and Building Inspection Department. ((P&BI)	Submit landscape plans and contractor's estimate to PBI for review and approval.	Owner/ Applicant/ Contractor	At least three weeks prior to final inspection or occupancy	
43		Landscaping: A note shall be included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition." (P&BI)	Final Map shall be noted, or submittal of approved and Recorded Notice to PBI.	Owner/ Applicant	Prior to recordation of the Final Map	
44		Landscaping: The front yards of all homes shall be landscaped and designed with low water use and/or drought tolerant plants and water efficient irrigation systems. (WRA)	Submit photo documentation to WRA for review and approval.	Owner/ Applicant	Prior to final inspection of each lot.	
45		Landscaping: Tree Protection: Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to issuance of grading and building	

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		against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. (P&BI)			permits	
46		Restoration of Natural Materials Upon completion of the development, the area disturbed shall be restored to a condition to correspond with the adjoining area, subject to the approval of the Director of Planning and Building Inspection. Plans for such restoration shall be submitted to and approved by the Director of Planning and Building Inspection prior to commencement of use. (PB&I)	Submit restoration plans to PBI for review and approval.	Owner/ Applicant	Prior to start of use.	
47		Roads: Prior to the filing of the final map the following improvement shall be shown on improvement plans or bonded: Sunridge Court shall be constructed in accordance with the typical road section shown on the tentative map from Maher Road to the cul-de-sac. Install a private road name sign at the entrance to the subdivision. (PW)	Provide photo documentation of road name sign to PW for review and approval. Submit improvement plan to PW for review and approval.		Prior to recordation of the Final Map.	
48		Roads: Prior to the filing of the final map, a maintenance association shall be formed for road and drainage maintenance. (PW)	Submittal of approved and Recorded Deed Restriction to PW.	Owner/ Applicant	Prior to recordation of the Final Map	
49		Roads: Prior to the filing of the final map, obtain an encroachment permit from the Public Works Department and construct a private road intersection at Maher Road including tapers. (PW)	Obtain an encroachment permit from PW	Owner/ Applicant	Prior to recordation of the Final Map	
50		Roads: Prior to the filing of the final map, the project proponent shall pay a pro-rata share of a traffic impact fee for road improvements within the area equal to \$6,453.00 per lot. (PW)	Shall pay a pro-rata share of a traffic impact fee for road improvements within the area equal to \$6,453.00 per lot.	Owner/ Applicant	Prior to recordation of the Final Map	
51		Roads: The thirty-foot road and public utility easement shall be paved to a width subject to the approval of the North County Fire District. (PW)	Provide sign-off from North County Fire District that condition has been met	Owner/ Applicant	Prior to final inspection	

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52		Recreation: Prior to the filing of the final map, the applicant shall comply with the recreation requirements contained in section 19.12.010 of the Subdivision Ordinance (Title 19, Monterey County Code). (PKS)	Provide sign-off from Parks that condition has been met.	Owner/ Applicant	Prior to recording of the Final Map	
53		Storm Water Detention: Prior to issuance of any building permits, certification that the storm water detention facility has been constructed in accordance with approved plans shall be provided to the County Water Resources Agency by a registered civil engineer or licensed contractor who constructed the facility. (WRA)	Provide certification from a registered civil engineer or licensed contractor to WRA for review and approval.	Owner/ Applicant	Prior to issuance of any permits for subdivision improvements.	
54		Storm Water Detention: Prior to the filing of the final map, a drainage plan shall be prepared by a registered civil engineer to address on-site and off-site impacts to include detention facilities to mitigate the impact of impervious surface storm water runoff. Necessary improvements shall be constructed in accordance with approved plans. (WRA)	Provide certification from a registered civil engineer or licensed contractor to WRA for review and approval.	Owner/ Applicant	Prior to recording of the Final Map.	
55		STOP WORK – Resources Found If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (PB&I)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Owner/ Applicant/ Archaeologist	Ongoing	
56		Subdivision: A note shall be recorded on the final	Notice on Final Map stating no further	Project	Prior to	

Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		map stating no further subdivision shall be allowed on Lots 1 and 8. (P&BI)	subdivision shall be allowed on Lots 1 and 8.	Proponent	recording of the Final Map.	
57		<p>Supporting Reports and Studies: A note shall be included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "The following reports were prepared:</p> <ul style="list-style-type: none"> • <i>Biologic Survey for APN 127-282-009, Royal Oaks</i>, dated July, 1999, prepared by Randall Morgan; • <i>Addendum to Biologic Survey for APN 127-282-009, Maher Road</i>, dated November 9, 1999, prepared by Randall Morgan. • <i>Letter Report on 250 Maher Road Subdivision, North Monterey County</i>, September 30, 1999, prepared by Higgins Associates. • <i>Traffic Analysis for 250 Maher Road Subdivision Monterey County, California</i>, dated January 31, 2001, prepared by Higgins Associates. • <i>Peer review of Higgins Associates Traffic Impact Analysis</i>, 2002. • <i>Percolation and Groundwater Study with Septic Design Recommendations for the Proposed Subdivision at 250 Maher Road, Prunedale, California 95076, APN 127-252-009</i>, dated August 1999, prepared by Grice Engineering Inc. • <i>Geotechnical Soils-Foundation Report for the Proposed Subdivision at 250 Maher Road, Prunedale, California 95076, APN 127-252-009</i>, dated August 1999, prepared by Grice Engineering Inc. • <i>Geologic Hazards Report for the Proposed</i> 	Final Map shall be noted, or submittal of approved and Recorded Notice to PBI.	Owner/ Applicant	Prior to recording of the Final Map.	

EXHIBIT 7
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Permit Cond. Number	Map Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		<p>Subdivision at 250 Maher Road, Prunedale, California 95076, APN 127- 252-009, dated October 1999, prepared by Grice Engineering Inc.</p> <ul style="list-style-type: none"> Preliminary Archeological Reconnaissance for Assessor's Parcel Number 127-252- 009, Royal Oaks, North Monterey County, California, dated July 20, 1999, prepared by Archeological Consulting. Technical Memorandum: Hydrologic Assessment for the Rancho Sunridge Views EIR, dated December 19, 2002, prepared by Todd Engineers. Technical Memorandum Addendum: Nitrates Concentrations in Groundwater for the Rancho Sunridge Views EIR, North Monterey County, CA, dated July 21, 2003, prepared by Todd Engineers. <p>The recommendations contained in said reports except as modified in the FEIR shall be followed in all further development of this property and are on file in the Monterey County Planning and Building Inspection Department."</p> <p>The note shall be located in a conspicuous location, subject to the approval of the County Surveyor. This note shall also be included on all improvement plans and permits. (P&BI and FW)</p>				
58	31 of 50 pages	<p>Waste Disposal: Prior to filing the final map, submit a detailed disposal system design for parcel 7 to the Director of Environmental Health for review and approval meeting the regulations found in Chapter 15.20, Monterey County Code, and Prohibitions of the Basin Plan, RWQCB. The designs shall include 200% additional expansions/repair area. (EH)</p>		Owner/ Applicant	Prior to recording of the Final Map.	
59		<p>Waste Disposal: Prior to filing the final map, submit an updated map indicating proposed septic</p>		Owner/ Applicant	Prior to recording of	

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		envelopes for parcels 5, 7, and 8 to the Division of Environmental Health for review and approval. Once approved the septic envelopes shall appear as part of the final map. (EH)			the Final Map.	
60		Water System: Prior to filing the final map, the water system purveyor shall obtain a new water or amended system permit from the Division of Environmental Health. (EH)	Obtain water system permit from EH.	Owner/ Applicant	Prior to recording of the Final Map.	
61		Water System: The developer shall install or bond the water system improvements to and within the subdivision and any appurtenances needed prior to filing the final map. The water improvements shall only be installed or bonded after the engineered designs have been approved by the Division of Environmental Health. (EH)	Install or bond the water system improvements to and within the subdivision and any appurtenances needed.	Owner/ Applicant	Prior to recording of the Final Map.	
62		Water System: Design the water system improvements to meet the standards as found in Chapter 15.04, Titles 17 and 22 California Code of Regulations and as found in the residential subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval prior to installing (or bonding) the improvements. (EH)	Submit engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval.	Owner/ Applicant	Prior to issuance of any permits for subdivision improvements	
63		Water System: Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency. Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency prior to installation or bonding of the water system improvements. (EH)	Obtain approval from local fire protection agency regarding proposed water system and provide said approval to EH	Owner/ Applicant	Prior to issuance of any permits for subdivision improvements	
64		Water System: Prior to filing a final map and /or issuance of a building permit, provide to the Director of Environmental Health written certification, and any necessary certification from State agencies that Maher Road System #12 can and will supply sufficient water flow and pressure to comply with	Provide written certification from State agencies that there is sufficient water flow and pressure to EH.	Owner/ Applicant	Prior to recording of the Final Map And/or issuance of building	

Permit Cond. Number	Map Numb. or	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		both Health and fire flow standards. (EH)			permits.	
65		<p>Water – Conservation Measures: A note shall be included on a separate sheet of the final map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "The sub-divider and subsequent property owners shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction include, but are not limited to:</p> <p>a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons; all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.</p> <p>b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices." (P&BI)</p>	Final Map shall be noted, or submittal of approved and Recorded Notice to PBI.	Owner/ Applicant	Prior to recording of the Final Map	
66		<p>Water – Hydrology Study: The applicant shall pay the appropriate financial contribution in accordance with Ordinance #4005, adopted by the Board of Supervisors to implement an area-wide hydrological study to address groundwater overdraft and water resources in the project area. The fees shall be paid prior to the filing of the final map. (P&BI)</p>	Pay appropriate hydrological fees to PB&I.	Owner/ Applicant	Prior to recording of the Final Map	
67		<p>Water Tank: The location of the tank shall be approved by the Director of Planning and Building Inspection. (P&BI)</p>	Submit proposed site plan illustrating proposed tank locations to PBI for review and approval.	Owner/ Applicant	Prior to issuance of grading or building permits	

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68		Water Tank: The tank site shall be landscaped, including land sculpturing and fencing, where appropriate, by the applicant and a plan for such improvements be approved by the Director of Planning and Building Inspection, prior to final inspection. (P&BI)	Submit proposed landscaping to PBI for review and approval.	Owner/ Applicant	Prior to final inspection/ occupancy	
69		Water Tank: The water tank shall be painted an earth tone color to blend into the area and landscaped (including land sculpturing and fencing, where appropriate), subject to the approval of the Director of Planning and Building Inspection, prior to the issuance of building permits. (P&BI)	Submit proposed color of water tank and landscaping to PBI for review and approval.	Applicant/ Owner	Prior to the issuance of grading and building permits	
			Provide evidence to PBI that the water tank is painted as approved by PBI and that landscaped was installed as approved by PBI.	Applicant/ Owner	Prior to final inspection or occupancy.	
70		Zoning Amendment: Prior to the filing of the final map, the project proponent shall request in writing combining LDR/2.5-B-6 (CZ) zoning classification for Lots 1 and 8.	Submit formal request to PB&I.	Owner/ Applicant	Prior to recordation of the Final Map	
71		Mitigation Monitoring Plan: The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (PB&I)	1) Enter into agreement with the County to implement a Mitigation Monitoring Program. 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement.	Owner/ Applicant	Prior to issuance of grading and building permits.	
		Fish and Game: Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$850.00. (P&BI)	1) This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. 2) Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the map, the commencement of the use, or	Project Proponent	1) Five days from final approval 2) Prior to recordation of the Final Map.	

Permit Cond. Number	Mitig. Number	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
			the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid.			
(Page 35 of 50 pages) 7	MM #1	(Biological Resources) In order to protect central maritime chaparral on proposed Lot 8, the final map and related documentation shall include the following: a. Placement of a conservation easement over the central maritime chaparral habitat. The conservation easement shall prohibit removal or disturbance of native chaparral vegetation. No grading, structures, roads, water tanks, surface or sub surface utility lines, animal grazing, or other activities shall be allowed except as may be necessary to reduce the potential risk of wildfires, to maintain the vigor of the habitat, to maintain the diversity and value of the habitat, to remove non-native plants, or to otherwise ensure the long term maintenance of the habitat. b. A deed restriction shall be placed on the deed for Lot 8 in order to ensure the long-term protection and maintenance of the scenic and conservation easements: 1) Prohibit property owner from removing native vegetation and trees, unless approved in writing by the Monterey County Planning and Building Inspection Department; 2) Prohibit motor vehicle and bicycle use, pets, storage, dumping, or any other activities within the conservation easement that could adversely affect the ecological and scenic importance of these easements; and 3) Disclose to purchasers of Lot 8 the ecological and scenic importance of the conservation easement, the presence of special-status plants,	The project proponent shall have a final map prepared that excludes all improvements, including water tanks and distribution lines, from the central maritime chaparral habitat on Lot 8. The map shall be submitted to PBI for review and approval.	Project Proponent	Prior to recordation of the Final Map.	
			The project proponent or property owner shall have temporary exclusionary fencing installed along the conservation easement area boundary.	Project Proponent or Property Owner	Prior to commencement of construction and during construction	
			The project proponent or property owner shall arrange for a qualified biologist to submit a letter report, map, and photos to PBI documenting the date and location of the fencing installation and ongoing maintenance and condition of the exclusionary fencing and protection of the fenced area. The project proponent shall be responsible for correcting any violations immediately and reporting them to PBI.	Qualified Biologist per Project Proponent or Property Owner	At installation of fencing and thereafter monthly during construction	
			The project proponent shall prepare a conservation easement deed that includes permanent protection of the central maritime chaparral habitat and a 25-foot buffer on proposed Lot 8 by prohibiting uses within the conservation easement as described in the mitigation measure.	Project Proponent	Prior to recordation of the Final Map.	
			The property owner shall file a report regarding compliance with this measure including a description of any violations and restoration performed as appropriate. The report shall be submitted to the Director of Monterey County Planning and Building Inspection Department	Property Owner and Homeowners' Association	Annually	

Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		and habitat protection measures implemented as part of the development. c. Sign posting of the conservation easement boundary no less than every 100 feet along the conservation easement boundary within the project site. d. If removal of eucalyptus trees or other non-native vegetation is conducted within the conservation easement, such removal shall be conducted to avoid damage to maritime chaparral vegetation. The falling of trees shall be controlled by ropes and trees shall be taken out in pieces to avoid crushing maritime chaparral vegetation. Limbs and trunks shall be carried out of the habitat area and not dragged through maritime chaparral vegetation. Vehicles shall be prohibited within the conservation easement. Oiling and maintenance of saws shall take place on tarps. Re-sprouting of trunks shall be controlled annually to ensure that re-growth does not occur. Areas of disturbed soil shall be replanted with native chaparral vegetation.	and a copy provided to the homeowner's association. The homeowners' association shall be responsible for enforcing habitat protection and maintenance measures to protect onsite biological resources.			
(1000 36 of 50 pages) MM #2 CCC EXHIBIT 7		(Biological Resources) In order to prevent injury or disturbance to protected birds, no more than 30 days prior to the removal of any habitat that would occur during the nesting and/or breeding season of raptors potentially nesting on the project site (generally March 1 through August 1), a field survey shall be conducted by a qualified biologist to determine if active nests are present in the construction zone or within 200 feet of the construction zone. Areas within 200 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. If active nests are found within the survey area, clearing and construction within 200 feet of the active nest(s) shall be postponed or halted until the nest(s) are	If grading or construction will begin March 1 through August 1, a qualified biologist shall conduct a site inspection to verify that no nesting raptors or loggerhead shrikes occur in or within 200 feet of the construction zone. The biologist shall submit written verification of the survey and results to PBI.	Qualified Biologist per Project Proponent	Prior to the issuance of a grading permit	
			Install temporary exclusionary fencing along the 200-foot setback from nesting raptor sites.	Qualified Biologist per Project Proponent	Prior to the issuance of a grading permit	
			Arrange for a qualified biologist to submit a letter and/or photos to Monterey County Planning and Building Inspection Department documenting the date and location of the fencing installation and	Qualified Biologist per Project Proponent	At installation of fencing and thereafter monthly (or at	

Permit Cond. Number	Mitig. Number	Impact Addressed and Responsible Agency (Use Department)	Compliance or Monitoring Actions to be performed. Where applicable, a qualified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/daily)
		vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. (PBI)	ongoing maintenance and condition of the exclusionary fencing and protection of the fenced area. The project proponent shall be responsible for correcting any violations immediately and reporting them to Monterey County Planning and Building Inspection Department.		a frequency deemed appropriate by the biologist) during construction	
	MM #3	(Biological Resources) In order to prevent removal of the landmark 30-inch diameter Monterey cypress located at the southeastern corner of the project site, the final map shall be revised to relocate the access road to the north. (PBI)	The project proponent shall revise the final map to relocate the road to prevent removal of the landmark 30-inch Monterey cypress tree.	Project Proponent	Prior to recording of the final map.	
	MM #4	(Biological Resources) In order to minimize potential effects on protected oak trees, prior to issuance of a grading permit for the road, a grading plan shall be prepared to indicate the amount of cut and fill required to construct the road, and to identify potential protected oak tree removal requirements. Based on potential protected oak tree removal requirements identified in the grading plans, the road shall be realigned or redesigned to minimize tree removal including removal of any protected oak trees (i.e., oak trees greater than six inches in diameter). Any permanent tree protection measures necessary to retain protected oak trees shall be indicated on the grading plan. Potential tree replacement planting locations shall be specified on the grading plan, and the type, size and location of potential replacement tree plantings shall be specified. The road may be narrowed provided it meets fire department standards. Any protected tree(s) that cannot be avoided and must be removed shall be replaced at locations indicated on the grading plan at a minimum 3:1 ratio. The grading plan shall be subject to the review and approval by the Monterey County Planning and Building Inspection Department. (PBI)	<p>The project proponent shall prepare grading plans to indicate the amount of cut and fill required to construct the road, and to identify any potential protected oak tree removal requirements. The grading plans shall be submitted to PBI for review and approval. If removal of protected oak tree(s) cannot be avoided, the project proponent shall provide sufficient evidence to PBI to determine that an exception can be made to the prohibition against removal of protected trees.</p> <p>Assist with location of the road to avoid damage to or removal of protected oak trees. Adjustments to the location of the road shall be made to minimize the potential for protected oak tree removal.</p> <p>Install replacement trees in accordance with the grading plan. The project proponent shall retain a biologist to inspect the condition of oak trees near the road, protection measures, and replacement trees, and provide a written report to PBI.</p>	<p>Qualified Engineer per Project Proponent</p> <p>Qualified Biologist per Project Proponent</p> <p>Qualified Biologist per Project Proponent</p>	<p>Prior to the issuance of a grading permit</p> <p>During surveying for the road</p> <p>Following completion of the road, and prior to issuance of the first building permit</p>	

Permit Cond. Number	Midg. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
(see 38 of 50 pages)	MM #5	<p>(Biological Resources) In order to protect oak trees on the project site from inadvertent damage by construction equipment during grading and construction activities, protected trees that are to be retained and are located within or adjacent to the construction zone shall be identified in grading plans, and the following protective methods employed during construction:</p> <ul style="list-style-type: none"> a. for trees under 12 inches in diameter, wrap trunks with protective materials; b. for trees 12 inches in diameter or greater, install protective fencing six inches from the trunk per inch trunk diameter; work within the protected area shall be overseen by a qualified arborist or biologist; c. bridge or tunnel under roots greater than four inches in diameter where exposed. Smaller roots should be cut by manually digging a trench and cutting exposed roots with a saw, vibrating knife, rock saw, and narrow trencher with sharp blades, or other approved root-pruning equipment. Any roots damaged during grading or excavation should be exposed to sound tissue and cut cleanly. d. avoid soil compaction, parking of vehicles or heavy equipment, stockpiling of construction materials, and/or dumping of materials under drip-line of trees. (PBI) 	The project proponent shall have a qualified biologist submit a written report and/or photos to PBI verifying installation and maintenance of the tree protection measures	Qualified Biologist per Project Proponent	Prior to commencement of grading or construction activities and monthly during grading and construction activities.	
	MM # 6 7	(Biological Resources) To compensate for the loss of protected trees, any protected tree(s) that is/are removed shall be replaced at a minimum 3:1 ratio with trees included on the Suggested Native Species Landscaping List in the North County Coastal Zone. (PBI)	The project proponent shall have a landscape plan prepared that specifies the type, size, and location of replacement tree plantings. All replacement trees shall be from the Suggested Native Species Landscaping List in the North County Coastal Zone.	Qualified Landscape Architect or Designer per Project Proponent	Prior to issuance of a grading permit	

Permit Cond. Number	Mitig. Numb er	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
			The project proponent shall arrange for a qualified arborist to inspect replacement tree plantings following occupancy. Any trees that have died or are in poor condition in the judgment of the arborist, shall be replaced at a 3:1 ratio, and inspected on a two, five, and eight year schedule beginning with the next inspection on the original schedule, and with the same replacement requirements.	Qualified Arborist per Project Proponent	Two, five and eight years following issuance of occupancy permit.	
	MM #7	(Geology and Soils) In order to reduce erosion on the project site and sedimentation risks downstream, the applicant shall prepare an erosion control plan and Storm Water Pollution Prevention Plan for site preparation, construction, and post-construction periods. The erosion control plan shall incorporate best management practices consistent with the requirements of the National Pollution Discharge Prevention System and Monterey County Ordinance 16.12. The erosion control plan may include, but not necessarily be limited to, the following components: a. Limit grading to between April 16 and October 14 in conformance with Monterey County Code Section	The project proponent shall have a qualified engineer prepare an erosion control plan, including but not limited to the erosion control methods outlined in the mitigation measure. The erosion control plan shall be submitted to the PBI for review and approval based on inclusion of the methods outlined in the mitigation measure.	Qualified soils engineer, per Project Proponent	Prior to issuance of grading permit	

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 EXHIBIT 7

Permit Cond. Number	Map Numb er	Impact Addressed, and Responsible Local Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		<p>native to north Monterey County region, or with plant materials listed in the County brochure Erosion Control Planting, or other appropriate native California plants as identified by a qualified biologist or landscape architect; and</p> <p>k. Any disturbed areas within or immediately adjacent to conservation easements (i.e: from placement or removal of protective fencing) shall be re-vegetated with native grassland vegetation or other appropriate native vegetation as soon as feasibly possible after completion of construction activities. (PBI)</p>	The project proponent shall demonstrate that he applicable provisions of the erosion control plan have been implemented. The applicable long-term erosion control measures shall be inspected by PBI.	Qualified Engineer per Project Proponent	Prior to issuance of an occupancy permit for each house	
	MM # 8	<p>(Geology and Soils) In order to prevent potential soil erosion on the fallow strawberry fields, the project proponent shall prepare a landscaping and re-vegetation plan to include the following requirements:</p> <p>a. Exposed soil areas shall be planted, mulched, or covered between October 15 and the following April 15 each year;</p> <p>b. Plan materials used in landscaping, erosion control, or habitat restoration in locations more than 30 feet from the main</p>	The project proponent shall ensure the landscaping restrictions outlined in the mitigation measure are recorded on the deed and included in the CC&Rs.	Project Proponent	Concurrent with the recordation of the final map	

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Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
C.C.C. EXHIBIT 42 of 50 (pages)	7	residence structure shall consist of plants that are included on the Suggested Native Species Landscaping List in the North County Coastal Zone; c. Plant materials used in landscaping areas within 30 feet of the main residence shall be predominately fire resistant and drought tolerant, and any trees within this area shall be planted sufficiently far from the residence to maintain an adequate clearance for fire protection;	The project proponent shall arrange for a qualified landscape architect or designer to submit landscape and re-vegetation plans in accordance with the restrictions outlined in the mitigation measure.	Qualified Landscape Architect or Designer per Project Proponent	Prior to issuance of a building permits	
		d. Bare soil between newly installed plant materials shall be mulched, covered with jute netting, or seeded with a mix of seeds best suited for the climate and soil conditions, and native to the north Monterey County region; and e. The landscape plan shall be designed to minimize use of irrigation water, through choice of plant materials, choice of planting time, and other means; and f. The access road and driveway edges shall include diversion and/or dissipation measures to prevent washing or channeling of soils adjacent to paved surfaces. (PBI)	The project proponent shall submit a report and/or photos from a qualified landscape architect or designer, certifying that the approved landscape, re-vegetation, and erosion control plans have been implemented along the access road.	Qualified Landscape Architect or Designer per Project Proponent	Prior to issuance of the first occupancy permit	
			The project proponent shall submit a report and/or photos from a qualified landscape architect or designer certifying that the approved landscape, re-vegetation, and erosion control plans have been implemented on that lot.	Qualified Landscape Architect or Designer per Project Proponent	Prior to issuance of an occupancy permit for each house	

Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	MM #9	<p>(Hydrology and Water Quality) In order to prevent the potential contamination of downstream waters from urban pollutants, a registered civil engineer or other qualified professional shall design a storm drain system that includes the following components:</p> <ul style="list-style-type: none"> a. grease/oil water separators; b. sediment separation; c. vegetative filtering on open drainage conveyances, the detention basin, and along the margins of the project site access road; and d. on-site percolation of as much run-off as feasible, including diversion of roof gutters to French drains or dispersion trenches, dispersion of road and driveway run-off to vegetative margins, or other similar methods. (PBI) 	<p>The project proponent shall provide written evidence from a qualified engineer to demonstrate that the drainage plan has been adequately implemented as applicable. WRA and PW shall review and approve such evidence.</p>	Qualified Engineer per Project Proponent	Prior to sign-off on the final grading permit inspection	
			<p>The project proponent shall provide a certified report and/or photos from a qualified engineer to demonstrate that the drainage improvements are functioning adequately under winter storm conditions. If the engineer observes less than adequate function of the drainage system, a report shall be prepared outlining the necessary steps to bring the drainage system into an adequate state, and those steps shall be completed within 30 days of the engineer's report.</p>	Qualified Engineer per Project Proponent	In January of the first year following sign-off on the grading permit	
			<p>The project proponent shall provide a certified report and photos from a qualified engineer to demonstrate that the drainage plan has been adequately implemented on each lot. Prior to issuance of occupancy permit WRA and PW shall review and approve the report and/or photos.</p>	Qualified Engineer per Project Proponent	Prior to issuance of an occupancy permit for each house	
	MM #10	<p>(Hydrology and Water Quality) In order to protect the safety of the water supply for the project, the applicant shall obtain certified water quality testing to demonstrate that the levels of agricultural pesticides in the well water meet State standards prior to approval of Maher Road Water System Number 12 for use as domestic water supply for a mutual water system. If pesticide is established. (PBI)</p>	<p>The project proponent shall obtain certified water quality testing to determine the levels of agricultural pesticides in the well water and provide this information to EH for review and approval. If pesticide levels exceed standards, steps, such as re-casing the well, deepening the well, or re-locating the well, shall be taken until a source of water that meets standards for pesticides is established.</p>	Certified water testing laboratory per project proponent	Prior to approval of the final map.	

Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	MM #11	(Transportation) In order to mitigate for impacts to congested roads and intersections, prior to issuance of each building permit for each house, the project proponent shall pay a pro-rata share of improvements necessary to maintain acceptable levels of service at the intersections and roadway segments affected by project traffic as listed below. These pro-rata share costs shall be based on the project's contribution as a share of General Plan build-out traffic volumes using the methodology employed in the Blackie Meadows Estates project (reference Board of Supervisors Resolution No. 03-108 Condition number 28). In the event the Board of Supervisors adopts a regional traffic impact fee prior to project approval, the ad hoc fee for projects included in the regional impact fee program shall be counted towards and transferred to the regional traffic fee account. Proof of payment of the pro-rata share for the State Highway improvements shall be provided by the County to Caltrans' District 5 Development Review Branch. Fees to cover pro-rata shares of the following improvements shall be	<p>The project proponent shall attach a declaration relating to the establishment of a traffic impact fee to be paid at building permit issuance.</p> <p>The project proponent shall pay pro rata share traffic development impact fee and/or TAMC regional traffic impact fee to PBI, based on the proposed project's share of General Plan build-out traffic and current cost estimates of Monterey County Department of Public Works</p>	<p>Project Proponent</p> <p>Project Proponent</p>	<p>Concurrent with the recording of the final map</p> <p>Prior to the issuance of each building permit for each house</p>	

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Permit Cond. Number	Mitig. Numb. 21	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for compliance	Timing	Verification of compliance (name/date)
		<p>required:</p> <ul style="list-style-type: none"> a. U.S. Highway 101 Prunedale Corridor Upgrade per Prunedale Improvements Program; b. State Highway 1 and Salinas Road – Upgrade the intersection to an interchange as identified in the Route 1 Corridor Study – Castroville to Santa Cruz County (MCTC and AMBAG, 1985); c. Salinas Road (or Werner Road) and Elkhorn Road – Install a two-phase traffic signal as identified in the North County Circulation Study (Monterey County Public Works Department, October 1998); d. Elkhorn Road and Werner Road – Signalize intersection and lane improvements; e. Hall Road and Elkhorn Road – Signalize intersection; 				

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Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	MM #15	<p>(Air Quality) In order to reduce dust emission during grading and construction activities, the project proponent shall ensure that the project plans contain a dust control plan subject to review and approval by the County of Monterey Planning and Building Inspection Department Director. The dust control plan shall be submitted prior to issuance of a grading permit, and shall include all or some of the following measures, as necessary to adequately control dust. If measure (a) is employed, measures (b) through (m) would not be necessary.</p> <ul style="list-style-type: none"> a. Limit the area of grading to 2.2 acres per day during earthmoving efforts (grading and excavation) and 8.1 acres per day with minimal earthmoving (finish grading). The number of acres may be increased if direct emissions of PM10 do not exceed MBUAPCD's threshold of significance based on MBUAPCD approved dispersion modeling; b. Water all active portions of the construction site at least twice daily; c. Suspend all excavation and grading operations when wind speeds exceed 15 miles per hour averaged over one hour, if watering activities are inadequate to control airborne dust; d. Replace ground cover or apply MBUAPCD approved chemical soil stabilizers according to manufacturer's specifications to all inactive portions of the construction site (previously graded areas inactive for four days or more), when airborne dust conditions are visible; e. Apply water two times daily or chemical stabilizers according to manufacturer's specifications to all inactive portions of 	<p>The contractor shall keep a certified daily log of each activity performed during construction including date and photographs as necessary. Monthly reports shall be submitted to PBI. Failure to submit a report, or failure to comply with the requirements of the mitigation measure, shall cause all work to be stopped until the report is received and approved by PBI.</p>	Responsible Contractor	Monthly during grading and construction	

Permit Cond. Number	Muni. Numb. or	Impact Addressing and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
(continued) 49 of 50 pages COC EXHIBIT 7		the construction site (previously graded areas inactive for four days or more), when air born dust conditions are visible; f. Sufficiently water or securely cover all material transported off-site and adjust on-site loads as necessary to prevent airborne dust conditions. Haul trucks shall maintain enough freeboard to prevent airborne dust conditions; g. Plant vegetative ground cover in, or otherwise stabilize disturbed areas as soon as grading and construction activities in those areas are completed; h. Cover material stock piles that remain inactive for more than 72 consecutive hours; i. Provide dust free stabilized surfaces at the exit of construction sites for all exiting trucks; j. Sweep adjacent public streets at the end of each day if visible soil materials is carried out from the construction site; k. Limit traffic speed on all unpaved roads to 15 miles per hour or less; l. Post a publicly visible sign that specifies the telephone number of the on-site contractor and person to contact regarding dust complaints. This person shall respond to complaints and take corrective action by the end of the same day if the complaint is received by 12:00 p.m. and within 24 hours if the complaint is received later than 12:00 p.m. The phone number of the MBUPCD shall be visible to ensure compliance with Rule 402 (Nuisance); and m. The grading contractor shall appoint a				

Permit Cond. Number	Mitig. Numb er	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		qualified site monitor to ensure that the plan is implemented.				
	MM #16	<p>(Hazards and Hazardous Materials) In order to ensure the safety of residents, the applicant shall have the following testing performed:</p> <ul style="list-style-type: none"> • Lead-based paint and asbestos testing for any building proposed for on-site demolition; • Surface soil (0-6 inches depth) and subsurface soil (12 - 18 inches depth) testing for pesticide residues at proposed building sites. <p>In the event that testing indicates the presence of hazardous materials beyond acceptable thresholds, a work plan shall be prepared and the hazardous materials remediate to a level acceptable to the State Department of Toxic Substances Control. (PBI)</p>	<p>The project proponent shall submit testing prepared by a qualified testing laboratory or engineer, to PBI for review and approval.</p> <p>If testing indicates the presence of hazardous materials beyond acceptable thresholds, the applicant shall have a qualified engineer prepare a work plan for removal or remediation of the hazardous materials, and have the hazardous materials remediate to a level acceptable to the State Department of Toxic Substances Control.</p>	<p>Qualified Engineer or Testing Laboratory per Project Proponent</p> <p>Qualified Engineer per Project Proponent</p>	<p>Prior to approval of the final map.</p> <p>Prior to approval of grading permits.</p>	

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MONTEREY COUNTY BOARD OF SUPERVISORS

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

MEETING: July 13, 2004

AGENDA NO.: 5

SUBJECT: Review of 1) a Coastal Development Permit and Standard Subdivision(PLN 990391 Sunridge Views) to allow for the division of a 25 acre parcel into 10 parcels ranging in size from 1 to 7.8 acres; 2) a Coastal Development Permit to allow for the construction of two water tanks, a mutual water system, demolition of a barn, 2,000 cubic yards of grading, the removal of a landmark tree (30" Cypress) and the conversion of an existing mobile home to a senior citizens unit, and pre-grading authorization. The Board continued this item from the May 8, 2001, hearing directing the applicant to prepare an EIR prior to making a determination on the requested appeal. The site is located on and westerly of Maher Road, 250 Maher Road (Assessor's Parcel Number 127-252-009-0000, Prunedale Area, Coastal Zone.

DEPARTMENT: Planning and Building Inspection

RECOMMENDATION:

Staff is recommending that the Board of Supervisors:

1. Certify EIR and adopt the Board Resolution/Findings and Evidence attached as Exhibit "B" and
2. Adopt the Mitigation Monitoring Program attached as Exhibit "C" - Condition Compliance & Mitigation Monitoring and/or Reporting Plan and
3. Approve the Combined Development Permit for the Sunridge Views Subdivision, subject to the recommended Resolution/Findings and Evidence attached as Exhibit "B," and recommended Conditions of Approval attached as Exhibit "C" - Condition Compliance & Mitigation Monitoring and/or Reporting Plan.

SUMMARY:

The approval of the Combined Development Permit would allow for a 10-lot subdivision on a 25-acre parcel located in the North County area of the Coastal Zone. This would result in an increase of eight new units on the Project site. This item was continued by the Board of Supervisors on May 8, 2001. At that hearing, the Board voted unanimously to direct the applicant to prepare a Focused EIR with an analysis of the direct, in-direct, and cumulative impacts regarding water supply, erosion of soil, and transportation issues associated with the proposed development.

A Draft and Final EIR have been prepared. Staff concludes that all issues and potential impacts have addressed either through project design or mitigations and conditions. There are no significant unavoidable impacts requiring adoption of overriding consideration.

Staff is recommending that the Board deny the applicant's request to remove a Landmark Cypress tree, since there are alternatives available to avoid this impact. With this exception, staff is recommending approval of the project and certification of the FEIR.

Copies of all staff reports and technical reports are available for review at the Planning and Building Inspection Department.

DISCUSSION: See Exhibit "A" Background and Discussion

Exhibit 8
(1 of 6 pages)

PLN990391 – Sunridge
BOS – July 13, 2004

OTHER AGENCY INVOLVEMENT:

- ✓ Pajaro Valley Water Management Agency
- ✓ National Oceanic and Atmospheric Administration
- ✓ Transportation Agency for Monterey County (TAMC)
- ✓ Department of Toxic Substances Control
- ✓ Environmental Health Division
- ✓ Public Works Department
- ✓ Parks Department
- ✓ North Monterey County Fire Protection District
- ✓ Monterey Bay Unified Air Pollution Control District (MBUAPCD)
- ✓ Association of Monterey Bay Area Governments (AMBAG)
- ✓ California Department of Transportation (Caltrans)
- ✓ California Department of Fish and Game (CDFG)
- ✓ California Coastal Commission (CCC)
- ✓ MC Housing and Redevelopment

All of the above have reviewed this project. Related recommendations and conditions are included in the Findings & Evidence and the Condition Compliance & Mitigation Monitoring and/or Reporting Plan.

On November 15, 2000, the North County Land Use Advisory voted (7 to 0) to recommend approval of the project.

Note: This project may be appealed to the California Coastal Commission

FINANCING:

There is no impact on the General Fund

Scott Hennessy
Scott Hennessy, Director of Planning and Building Inspection,

Alana S. Knaster 7-2-04
By: Alana S. Knaster, Chief Assistant Director

831-883-7526/ knastera@co.monterey.ca.us

Therese M. Schmidt, Senior Planner, 831-883-7562/ schmidttn@co.monterey.ca.us

Cc: Clerk to Board (20); Public Works Department; Division of Environmental Health; Water Resources Agency; North County Fire Protection District; California Coastal Commission; Scott Hennessy, Alana Knaster, Dale Ellis, Lynne Mounday; Therese Schmidt; Marty Noel, Applicant and Representative; File

Attachments: Exhibit "A" Background and Discussion
Exhibit "B" Board Resolution/Findings and Evidence
Exhibit "C" Condition Compliance and Mitigation Monitoring and/or Reporting Plan
Exhibit "D" Vicinity Map
Exhibit "E" Draft Environmental Impact Report Sunridge Views Subdivision (PLN 990391) (December 8, 2003) and Final Environment Impact Report Sunridge Views Subdivision (PLN 990391) June 17, 2004. Available in the Office of the Clerk of the Board and County Planning Offices (Marina)

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EXHIBIT "A" BACKGROUND AND DISCUSSION

History of the Project. The Sunridge Views Subdivision is one of the projects designated as a "pipeline" project by the County of Monterey. These projects were deemed complete prior to the adoption of a building moratorium in North County on August 9, 2000 and therefore were not considered subject to that moratorium. A brief outline of the project history is as follows:

October 25, 1999	Application Submitted
November 27, 1999	Application Deemed Complete
July 24, 2000	Initial Study and Mitigated Negative Declaration Circulated
August 9, 2000	Ordinance establishing a building moratorium was adopted
December 13, 2000	Planning Commission recommended denial based upon LCP Policies pertaining to long-term supplies of water and Road capacity
May 8, 2001	Board of Supervisors directed staff to prepare an EIR with an Analysis of direct, indirect, and cumulative impacts Pertaining to water supply and transportation issues.
December 8, 2003	DEIR was circulated for public review
July 13, 2003	FEIR brought back to the Board for its consideration

In accordance with the County's coastal regulations, the Planning Commission reviews subdivision applications and makes recommendations to the Board of Supervisors; however, the Board is the decision-making authority for these applications. Since the Board's action on the Project in 2001 was to direct staff to prepare an EIR for the Project, and since there have been no changes to the Project from what had been reviewed in the past by other recommending bodies in the County, appropriately, staff brought the project and the FEIR back to the Board for its decision on the application.

Project and Project Area Description. The proposed subdivision is located on Mayer Road, Royal Oaks area, in the eastern most portion of the coastal zone. The area is characterized by farms, rural residences and oak woodland. The site is planned and zoned for low-density residential development. The property has been used for berry production for the past 20 years; it was converted to organic farming six years ago. The uncleared portion of the property is covered in oak and eucalyptus groves and central maritime chaparral. The Project will result in a cessation of agricultural use.

The applicant is proposing to subdivide the 25-acre parcel into 10 lots. Two of the existing structures on the property (a single family home and mobile unit to be used as a senior unit) will be located on Lot 1. Nine (9) additional lots will be created. The average density would be 1 unit per 2.5 acres. The project will be served by on-site wells and a septic system.

Key Environmental Issues. At the December 13, 2000 and May 8, 2001 public hearings, as well as in the written comments on the proposed Mitigated Negative Declaration, the primary

PLN990391 – Sunridge
BOS – July 13, 2004

issues raised by the public included potential traffic impacts, availability of water in North County, the adequacy of the water usage site analysis and drainage impacts to the Elkhorn Slough from disturbance of erosive soils. There were also comments to the Board indicating that an EIR was required for this project.

The County has prepared an EIR on the project. Staff and the EIR consultant examined all of the prior record as well as the information and comments received in connection with the preparation of the project EIR. Further discussion of several of the key issues is provided below.

Water supply. The project site is within a groundwater basin (Highlands North hydrogeologic sub-area) that has been in a state of overdraft for many years. It is also within the boundaries of the Pajaro Valley Water Management Agency.

Todd Engineers prepared a project hydrologic assessment (December 19, 2002) for the County. Conversion of the property from agriculture to residential use would result in an annual reduction in water consumption on the property from 47.12 acre feet to 7.85 acre feet. Net reduction in overdraft (factoring in changes in infiltration) would result in a net decrease in overdraft from the project site of 24 acre feet per year. The EIR concludes that there would be a "beneficial" impact from the project based upon this change in use.

There have also been a number of questions raised with respect to the availability of a long-term water supply and consistency with Title 19 (which requires an applicant to provide proof of an assured, long-term water supply) and MCC 20.144.020(E)(11) (which states that a development shall not be approved if it will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer). In the Response to Comments (June 17, 2004), staff have noted that over a 30-year timeframe, the net benefit to the groundwater basin in terms of a reduction in overdraft would equate to 719.40 afy and therefore would not generate a water demand exceeding or adversely impacting the safe, long term yield of the local aquifer. In addition, based upon the ongoing implementation of the Salinas Valley Water Project and likely benefits to adjacent sub-basins, staff have concluded that the projects that do not intensify water use would be consistent with county ordinances. Last, staff notes that there has been significant progress in the implementation of the Pajaro Water Management Agency's Revised Basin Management Plan projects which will in the future likely result in additional benefits to the north county hydrogeologic area. Although the County is not relying on these projects as evidence of consistency of the Sunridge Views project, the County anticipates that these projects would be relied upon in the future as an additional assurance of a long-term sustainable water supply.

Water Quality. There was an initial analysis of the property's groundwater conducted by Todd Engineers that indicated a potential for future exceedance of nitrate standards. Subsequent well data from the new well on the project site has indicated that there has been no change in nitrate levels that there is no exceedance of the standard. A subsequent regression analysis of data collected by the County for properties in the project vicinity indicates that the standards would

PLN990391 – Sunridge
BOS – July 13, 2004

not be exceeded until 2055. Mitigation measures recommended by Todd Engineers are provided in the Mitigation Monitoring Plan for addressing potential nitrate contamination issues in the future.

Traffic. The project will result in a net generation of about 75 vehicle trips per day with approximately eight trips during the peak hours. Approximately 60% of project traffic would use Maher Road north en route to U.S Highway 101. Approximately 40% would travel south on Maher Road to Prunedale and beyond. The project is expected to add two vehicles in the AM and PM peak periods to the State Highway 1 and Salinas Road intersection, and add 3 vehicles in the AM and PM peak period to the U.S 101 and San Juan Road intersection. These intersections are operating at LOS F currently. Mitigation for traffic impacts to these intersections and to other congested intersections in the project vicinity would be addressed through payment of mitigation fees.

Hydrology/erosion There have been concerns expressed about potential impacts to the Elkhorn Slough from erosion that would result from implementation of the project. Studies indicate that the sedimentation and polluted run-off have degraded Elkhorn Slough. Significant volumes of sediment are carried by Cameros Creek during storms which then is carried to the upper reaches of Elkhorn Slough. Agricultural uses on steep slopes typically result in soil erosion and therefore it is likely that there has been sedimentation occurring from run-off from the project.

It is important to note that the project site is located within sub-watersheds 9 and 10. Neither of these sub-watersheds is ranked in the North County LUP/LCP as areas of high potential soil disturbance. Moreover, a number of mitigation measures have been proposed that would address erosion and sedimentation both during and post construction including measures for addressing reduction from urban pollutants that are generated in typical residential development. These measures far exceed that which is currently in place for ongoing agricultural activities. In addition, the proposed project includes a detention basin which will be design to detain storm water and release after peak flow periods. The EIR concludes that there is a less than significant impact regarding downstream flooding.

In conclusion, the analysis of the proposed project indicates that while the proposed project would result in several impacts or potential impact, these impacts could be mitigated to a less than significant level. The project is consistent with County plans, policies and regulations. Staff accordingly recommends approval of the Combined Development Permit and certification of the EIR.

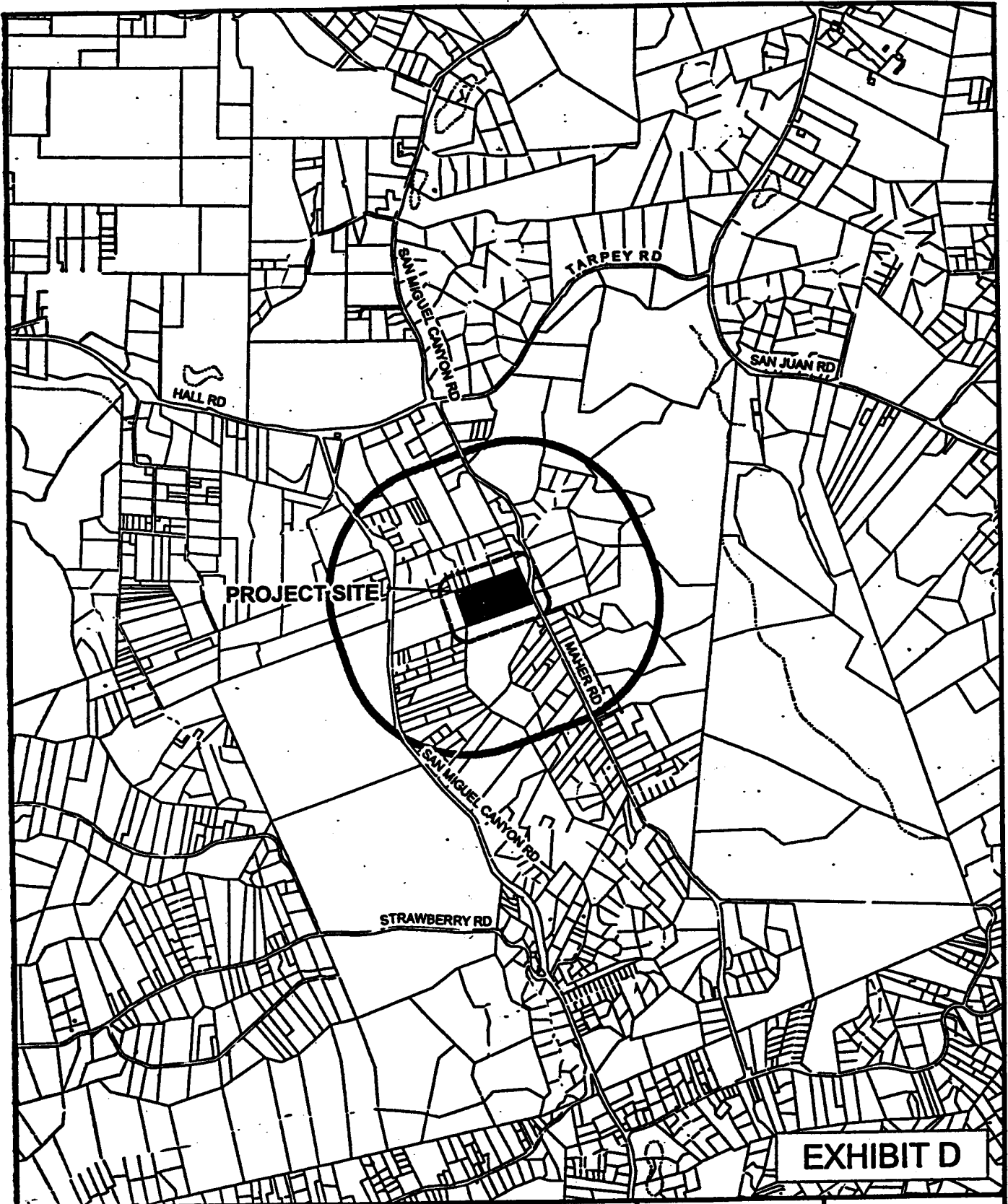


EXHIBIT D

APPLICANT: SUNRIDGE VIEWS

APN: 127-252-009-000

FILE # PLN990391

 **300' Limit**

 **2500' Limit**



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):

Commissioner Sara J. Wan	Commissioner Mike Reilly, Chair
California Coastal Commission	California Coastal Commission
45 Fremont Street, Suite 2000	45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219	San Francisco, CA 94105-2219
(415) 904-5200	(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

Monterey County

2. Brief description of development being appealed:

PLN990391 Coastal Development permit and Standard Subdivision of a 25 acre parcel into 10 lots ranging in size from 1 to 7.8 acres, 2,000 cubic yards of grading, develop a mutual water system, construction of two water tanks; allow demolition of an existing mobile home, barn, and greenhouse and conversion of an existing mobile home to a senior citizens unit.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

250 Maher Road, North Monterey County (Monterey County), APN 127-252-009.

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
b. Approval with special conditions: XX
c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MCO-04-054
DATE FILED: August 5, 2004
DISTRICT: Central Coast District

RECEIVED

AUG 05 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Exhibit 9
(page 1 of 9 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of
Supervisors

d. ☐ Other: _____

6. Date of local government's decision: July 13, 2004

7. Local government's file number: PLN990391 (Resolution No. 04-256)

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Steve Bradshaw

250 Maher Road

Royal Oaks, CA 95076

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Jeff Main/Theresa Schmidt

Monterey County Planning & Building Inspection

2620 First Avenue, Marina, CA 93933

(2) Alana Knaster, Chief Assistant Director

Monterey County Planning & Building Inspection

2620 First Avenue, Marina, CA 93933

(3) Friends, Artists, and Neighbors of Elkhorn Slough (FANS)

Mary U. Akens, Attorney c/o Law Office of J. William Yeates

3400 Cottabge Way, Suite K, Sacramento, CA 95825

(4) Gary Patton, Executive Director, LandWatch Monterey County

P.O. Box 1876

Salinas, CA 93902

(see attached for additional list of interested persons)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

(Additional interested parties list continued) -

JOHN BRIDGES
FENTON & KELLER
PO BOX 791
MONTEREY CA 93942-0791

TERESE SULLIVAN
EXECUTIVE DIRECTOR
ALLIANCE ON AGING
2200 GARDEN RD
MONTEREY CA 93940

LOUIS NORMAN
250 MAHER RD
ROYAL OAKS CA 95076

MARI KLOEPPPEL
PO BOX 180
MOSS LANDING CA 95039

PHILLIP COBERUBIOUS
266 MAHER RD
ROYAL OAKS CA 95076

CAROLYN ANDERSON
17-A MAHER RD
ROYAL OAKS CA 95076

JAN MITCHELL
RANCH FORGOTTEN
70 CARLSEN RD
PRUNEDALE CA 93907-1309

MARJORIE KAY
PO BOX 2371
WATSONVILLE CA 95077

GUUDRUN BECK
CONSERVATION CO-CHAIR
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23765 SPECTACULAR BID LN
MONTEREY CA 93940

JULIE ENGELL
15040 CHARTER OAK BLVD
PRUNEDALE CA 93907

MIKE GALIZO
DISTRICT 5
DEVELOPMENT REVIEW BRANCH
CALTRANS
50 HIGUERA ST
SAN LUIS OBISPO CA 93401-5415

JIM INGRAM
PO BOX 506
AROMAS CA 95004

CHARLES MCNIESH
GENERAL MANAGER
PVWMA
36 BRENNAN ST
WATSONVILLE CA 95076

ROBERT W FLOERKE
REGIONAL MANAGER
CENTRAL COAST REGION
DEPT OF FISH & GAME
PO BOX 47
YOUNTVILLE CA 945899

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Lisa J. War
Appellant or Agent

Date: August 5, 2004

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: *Paula Ruff*
Appellant or Agent

Date: August 5, 2004

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

**Reasons for Appeal of Monterey County Coastal Development Permit
PLN990391 Sunridge Views Subdivision**

Monterey County Board of Supervisors approval of PLN990391, Coastal Development Permit and Standard Subdivision to allow for the division of a 25-acre parcel into 10 lots ranging in size from 1 to 7.8 acres, 2,000 cubic yards of grading, development of a mutual water system, construction of two water tanks; demolition of an existing mobile home, barn, and greenhouse and conversion of an existing mobile home to a senior citizens unit, at 250 Maher Road, North Monterey County (APN 127-252-009), is inconsistent with the Monterey County certified Local Coastal Program, which includes the North County LUP and Regulations for Development in North Monterey County, for the following reasons:

1. Water Supply

The North County LUP requires, among other things, 1) that new developments be controlled to a level that can be served by an identifiable, available, and long-term water supply (Key No Co LUP Policy 2.5.1); that development levels that generate water demand exceeding safe yield of local aquifers are only allowed once additional water supplies are secured (No Co LUP Policy 2.5.2.3); that new development be phased so that existing water supplies are not committed beyond their safe long-term yields (ibid.); and that the County may reduce the remaining build-out below 50% to limit groundwater use to the safe-yield level or if required in order to protect agricultural water supplies (No Co LUP policy 2.5.3.A.2).

The project is located in the North Highlands hydrogeologic sub-area, a groundwater basin in serious overdraft (current deficit of 11,400 af). The project involves changing land use from crop cultivation to residential use, which is proposed to reduce average annual water demand, but will require a commitment to a permanent long-term water supply that currently cannot be assured without continuing to overdraft the groundwater basin. Thus, the project is not consistent with LCP policies that require new developments be controlled to a level that can be served by identifiable, available and long-term water supply (Key Policy 2.5.1).

The staff report for the project notes that the site is located within the Pajaro Valley Water Management Agency boundaries, and that the project would likely benefit from implementation of the Pajaro Water Management Agency's Revised Basin Management Plan projects and Salinas Valley Water Project at some point in the future. The staff report notes that "although the County is not relying on these projects as evidence of consistency of the Sunridge Views project, the County anticipates that these projects would be relied upon in the future as an additional assurance of a long-term sustainable water supply." However, these potential additional water supplies have not yet been secured. Neither the PVWMD nor SVWP projects have completed the permitting process, let alone construction and monitoring to determine if the projects have been successful at halting groundwater overdraft and restoring groundwater reserves to safe long-term yields, so it is premature to rely on these projects as an assured, available long-

term water supply¹. The only identifiable, available water supply at the present time is the overdrafted North Highlands aquifer, which is severely overdrafted and so can not serve as a long-term water supply. The project is thus inconsistent with LUP policy 2.5.2.3 since it would result in development levels that exceed the safe yield of the existing aquifer before additional water supplies have been secured.

Approval of this subdivision is not consistent with LCP policies that require development be phased so that existing water supplies are not committed beyond their safe long-term yield (Policy 2.5.2.3), or with LUP policy 2.5.3.A.2 that allows the County to reduce the remaining build-out below 50% to limit groundwater use to safe-yields. The current 50% buildout level is 2,043 units, and while the applicant has indicated that, given all approved projects as of December 2003, and all pending project applications, there are 255 units/lots available in North County. However, given the current overdraft situation, LUP policy 2.5.3.A.2 requires the County to reduce the remaining build-out level, since approval of any additional subdivisions that require additional water would increase the overdraft situation. While the project describes a reduction in water use from 47.12 to 7.85 acre feet per year due to the conversion of agricultural to residential use, and hence a reduction in the amount of water being overdrafted, it still results in water withdrawals from aquifers that are currently in overdraft conditions. Payment of a fee to the Water Resources Agency for further study does not adequately mitigate for the continued overdrafting of the North Highlands aquifer. Conversion of agricultural use to residential use will commit the site to water use on a continual basis, as opposed to agricultural water use, which could vary overtime, e.g., with the implementation of a fallowing program, crop rotation or use of less water-demanding crops.

LCP policies require that where there is limited land, water, or public facilities to support development, coastal dependent uses shall have priority over residential and other non-coastal dependent uses. Additionally, No Co. LUP Policy 2.5.3.A.2 allows the County to reduce the remaining build-out below 50% to limit groundwater use to the safe-yield level or if required in order to protect agricultural water supplies, which is considered a priority use. The proposed subdivision is not a priority use. The project hasn't been analyzed in conjunction with other priority uses, (like coastal dependent uses) let alone with other non-priority uses (i.e., should any extra water that might be gained after getting the groundwater table above overdraft conditions be provided for new non-

¹ The PVWMA has plans to address saltwater intrusion, by reducing agricultural water withdrawals in the lower portion of the watershed and substituting that water with supplemental water taken from the upper Pajaro Valley watershed and water imported from the Central Valley. The PVWMA, as designed, is for agricultural use only, and is in no way designed to provide any type of domestic water supplies.

The SVWP is currently only in design phase, has had approvals for tax assessments, but the design is not complete, and so is not permitted or constructed yet. Based on discussions with County Water Resources Agency staff, the SVWP is currently in 8-10 month design phase and the regulatory process has not yet begun, thus construction is not expected to be complete before at least the year 2008. Monitoring would then need to be conducted for some period of time to determine if either of the projects actually stops groundwater overdraft, and builds up groundwater levels to a point where there is more water available than is being withdrawn, before allowing additional, non-priority development to depend on this water as an assured long-term water supply.

priority rural development, or should it go to urban infill projects?). Therefore, by not limiting groundwater to safe-yield levels, the County's approval of the proposed subdivision does not protect agricultural water supplies, inconsistent with policy 2.3.5.A.2.

2. Water Quality

Section 19.03.015 of Title 19 (Subdivision Ordinance) of the Monterey County Code requires that the applicant "provide proof of an assured, long term water supply in terms of sustained yield and adequate quality for all lots which are proposed to be created through subdivision" (emphasis added).

The project site had previously been served by a well located immediately behind the house, however that well was abandoned after testing high in nitrates, and a new well, located further up the hill, was drilled in 2000. Project studies on nitrate levels in the old project site well have determined that there is a potential that the new water supply well might actually exceed nitrate standards within 50 years, because of residual agricultural pesticide levels. Because of this finding and variability of data found in wells along Maher Road, the County approval of the project requires that ongoing monitoring should be conducted in order to predict when nitrate levels would actually exceed acceptable levels. This implies that nitrate levels due to residual agricultural pesticides may also affect the new water supply well such that potable water might not be available at some time in the future, possibly even prior to 50 years. Such conditions would eliminate the long-term water supply the project would depend upon, and could lead to health hazards and groundwater contamination, inconsistent with section 19.03.015.

3. Mitigation Measures are Incomplete.

Mitigation measure #10 and #11 do not include the complete text as shown in the Final EIR, and so, as written in the Final Local Action Notice, do not adequately mitigate for potential water quality (MM#10) or transportation impacts (MM#11).

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060-4508

VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Friends, Artists, and Neighbors of Elkhorn Slough

Mailing Address: c/o Law Office of J. William Yeates, 3400 Cottage Way, Suite K

City: Sacramento

Zip Code: 95825

Phone: 916-609-5000

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Monterey

2. Brief description of development being appealed:

Approval of the Sunridge Views Combined Development Permit (PLN990391), consisting of: 1) a Coastal Development Permit and Standard Subdivision to allow for the division of a 25 acre parcel into 10 lots ranging in size from 1 to 7.8 acres, 2,000 cubic yards of grading, a mutual water system, the construction of two water tanks and 2) a Coastal Development Permit to allow for the demolition of a mobile home, barn, and greenhouse and the conversion of an existing mobile home to a senior citizens unit.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

The site is located on and westerly of Maher Road, 250 Maher Road, APN: 127-252-009-0000, Prunedale Area, Coastal Zone; North Monterey County

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-MCD-04-054DATE FILED: August 5, 2004DISTRICT: Central Coast**RECEIVED**

AUG 04 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREAEXHIBIT 10
(page 1 of 15 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: July 13, 2004

7. Local government's file number (if any): PLN990391

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Steve Bradshaw, Applicant, 250 Maher Road, Royal Oaks, CA 95076

John Bridges, Attorney for Applicant, Fenton & Keller, P O Box 791, Monterey, CA 93942-0791

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attached List

(2) See Attached List

(3) See Attached List

(4) See Attached List

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

FANS brings this appeal, as is allowed by law under subdivision (4) of section 30603 of the Public Resources Code (the Coastal Act). The Sunridge Views project is a development project approved by the Monterey County Board of Supervisors, that was designated LDR-2.5 (CZ). Within LDR-2.5 (CZ), subdivisions are not designated as the principal permitted use under Monterey County Zoning, Coastal Implementation Plan ("CIP"), Title 20, section 20.14.040; and is listed as a conditional use CIP, section 20.14.050.AA.

FANS hereby states its reasons for this appeal.

The Monterey County Board of Supervisors made its final determination approving the Sunridge Views Subdivision project and certifying the Final Environmental Impact Report on July 13, 2004. The Sunridge Subdivision project is a combined development permit to allow the subdivision of a 25-acre parcel into 10 parcels ranging in size from 1 to 7.8 acres, and a coastal development permit to allow for the construction of two 20,000-gallon water tanks, a mutual water system, demolition of a barn, 2,000 cubic yards of grading, and the conversion of an existing mobile home to a senior citizens unit, and pre grading authorization.

The Monterey County Board of Supervisors approvals are inconsistent with the North Monterey County Land Use Plan/Local Coastal Program ("North County LUP/LCP") for the following reasons:

1. THERE IS INADEQUATE WATER TO ACCOMMODATE THE SUBDIVISION.

The Sunridge Views project is located within the North County Hydrological Study Area. The North County Hydrological Study Area is in a state of severe groundwater overdraft and salt-water intrusion. The North County LUP/LCP states at Policy 2.5.1:

"The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long-term water supplies."

According to the certified LCP, proof of assured long-term water supply must be made prior to the project application being deemed complete. This policy is also found within the certified North Monterey County Subdivision Ordinance, a component of the CIP; Title 19, 19.03.15(L).

The project applicant failed to provide the required proof of assured long-term water supply prior to the application being deemed complete by the County.

Exhibit 10
(Page 3 of 15 pages)

The County concluded in its Final EIR, that because the Sunridge Views project will be taking land out of agricultural production for urban use, that there will be an overall savings of water over time because of a perceived "de-intensification" of water use.

Additionally, the County inappropriately relied on the Salinas Valley Water Project Engineering Report, January 2003, and a report delivered to the Board of Supervisors on December 9, 2003, from Mr. Curtis Weeks, the General Manager of the Monterey County Water Resources Agency, who believes that there were likely benefits from the implementation of the Salinas Valley Water Project to adjacent sub-basins. Mr. Weeks also determined that future projects that would not intensify use would meet the test of having a long-term water supply and would therefore be consistent with the North Monterey County LCP/LUP. (See FEIR, p. 4-10) The County further relied upon the Revised Basin Management Plan finding that the RBMP can be relied upon for "future" assurance of long-term water supply. (See FEIR, p. 4-4)

The Sunridge Views project is also inconsistent with North County LUP/LCP General Policy 2.5.2.3 requiring new development to "be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured."

North County LUP/LCP Specific Policy 2.5.3.A2 provides further that:

"The County's long-term policy shall be to limit ground water use to the safe-yield level. The first phase of new development shall be limited to a level not exceeding 50% of the remaining buildout as specified in the LP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural water supplies. Additional development beyond the first phase shall be permitted only after safe-yields have been established or other water supplies are determined to be available by an approved LCP amendment. Any amendment request shall be based upon definitive water studies, and shall include appropriate water management programs."

The Final EIR removes the determination that the project is inconsistent with North County LUP/LCP Water Resources 2.5.2. General Policy 3, and Water Resources 2.5.3., Specific Policy A2. See pages 4-1 through 4-4 of the final EIR. There is abundant evidence that the North County area in which this subdivision is proposed does not have "proven adequate water supplies," and it is absolutely clear that no additional water supplies have been "secured" for this area. The long-term impacts on existing property owners, homeowners, and the coastal environment will be severe if this and similar projects are constructed. The Sunridge Views Project, however, remains inconsistent with these provisions concerning proof of assured long-term water availability.

2. THE SUNRIDGE VIEWS PROJECT IS INCONSISTENT WITH THE COASTAL IMPLEMENTATION PLAN'S REQUIREMENTS TO PROTECT LONG-TERM SUPPLY OF WATER.

The County, in its Draft EIR, initially concluded that the Sunridge Views project was inconsistent with section 20.144.070 of the CIP.

The intent of Section 20.144.070 of the CIP is:

CCC Exhibit 10
(page 4 of 15 pages)
PAGE 3-A

"... to provide development standards which will protect the water quality of the North County surface water resources and groundwater aquifers, control new development to a level that can be served by identifiable, available, and long-term water supplies, and protect North County streams, estuaries, and wetlands from excessive sedimentation resulting from land use and development practices in the watershed areas. (Ref. Policy 2.5.1.)"

Section 2.5.1. of the North County LUP/LCP is the key policy for water resources and states:

"The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long term water supplies. The estuaries and wetlands of North County shall be protected from excessive sedimentation resulting from land use and development practices in the watershed areas."

The FEIR changed the County's initial conclusion and determined that the Sunridge Views project was consistent with this section of the North County LUP/LCP because of a perceived net reduction based on the change of use from agriculture to urban development. Additionally, the County determined that the Revised Basin Management Plan would allow for safe-yield groundwater withdrawals for all planned uses, including the Sunridge Views project. (See FEIR, p. 4-4)

Despite the County's new conclusion, the Sunridge Views project makes a new and long-term committed draw on the groundwater aquifer for urban development the County failed to require proof of long-term water supplies and is inconsistent with CIP, section 20.144.070 and the North County LUP/LCP, Key Policy 2.5.1.

3. THE SUNRIDGE VIEWS PROJECT FAILS TO PROTECT GROUNDWATER FOR COASTAL PRIORITY USES.

The Sunridge Views Project is a Subdivision project that will change agricultural use to urban use.

The Sunridge Views Project is inconsistent with Section 2.5.3.A.1. of the North County LUP/LCP requiring the County to protect groundwater supplies for coastal priority agricultural uses.

4. THE SUNRIDGE VIEWS PROJECT WILL HAVE SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT TO MARITIME CHAPARRAL - ENVIRONMENTALLY SENSITIVE HABITAT AREA (ESHA)

The Sunridge Views project is inconsistent with North County LUP/LCP Policy 2.3.2.1. prohibiting the development, "including vegetation removal, excavation, grading, filling, and the construction of roads and structures" from ESHA.

Additionally section 2.3.2.2. of the North County LUP/LCP requires development adjacent to ESHA to be "compatible with the long-term maintenance of the resource" and that new land uses "not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource. Also, section 2.3.2.3 of the North Monterey LUP/LCP specifically prohibits new subdivisions that may result in significant impacts to ESHA. The North County LUP/LCP, section 2.3.2.4 defines known threats to maritime chaparral as residential development and requires new residential development to be sited to protect the maximum amount of chaparral. Further requirements under the North County LUP/LCP include that "where new residential development is proposed in chaparral areas, it shall be

sited and designed to protect the maximum amount of maritime chaparral." (North County LUP/LCP, section 2.3.3.A.2.)

The Sunridge Views project site, contains maritime chaparral, considered ESHA. The Sunridge Views project proposes to plant fire-resistant landscaping within 30 feet of the main structures. The Sunridge Views project will also place two 20,000-gallon water tanks adjacent to sensitive maritime chaparral habitat. (See DEIR, p. 2-14; FEIR, Response to Comments, p. 2-32.) As mitigation, the EIR proposes a mere 25-foot setback from the ESHA. Additionally, the FEIR fails to disclose where the distribution lines will be placed or how ESHA will be protected during the development of those 20,000-gallon water tanks.

Section 20.144.040B.2. of the CIP states specifically:

"Development on parcels containing or within 100 feet of environmentally sensitive habitats, as identified on the current North County Environmentally Sensitive Habitat resource map, other resource information, planner's on-site investigation, shall not be permitted to adversely impact the habitat's long-term maintenance, as determined through the biological survey prepared for the project. Proposals shall be modified for siting, location, bulk, size, design, grading vegetation removal, and/or other methods where such modifications will reduce impacts to an insignificant level and assure the habitat's long-term maintenance. . . ."

The Coastal Act also recognizes the importance of protecting ESHA as stated within the Public Resources Code as follows:

"Development in the areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas."
(Pub. Resources Code, section 30240, subd. (b).)

Accordingly, the Project's allowance of non-native landscaping within 30 feet of development sites and the placing two 20,000-gallon water tanks adjacent to the maritime chaparral violates the CIP, section 20.144.040; North County LUP/LCP Policies 2.3.2.1, 2.3.2.2., 2.3.2.3., 2.3.2.4, and 2.3.3.A.2; as well as the Coastal Act.

As an additional note, the North County LUP/LCP is out of date. The North County LUP/LCP was initially certified in 1982. In 1987, additional amendments were adopted by the Monterey County Board of Supervisors and certified by the California Coastal Commission in 1987. Additional amendments were made to the North County LUP/LCP regarding water resources, however, those amendments have not been certified by the Coastal Commission.

The North County LUP/LCP ESHA policies must be amended to provide additional protections to ESHA.

The North County ESHA policies should be strengthened as encouraged in subdivision (K) at page 10, of the Elkhorn Slough at the Crossroads report as follows:

(K) Strengthen County policies that: (a) discourage conversion of any naturally vegetated area within Elkhorn Highlands into new cultivated agriculture, (b) encourage landowners to retire agriculture on

slopes exceeding 20%, to stabilize fallow fields from erosion and over time to restore habitats, (c) encourage landowners to control invasive non-native species throughout their property, and (d) discourage development within 100 meters of maritime chaparral to avoid conflicts between management and habitat protection.

The Elkhorn Slough at the Crossroads report indicates that the proliferation of non-native vegetation has contributed to the loss or fragmentation of sensitive native habitat. (See attached hereto as Exhibit A, Elkhorn Slough at the Crossroads report, at p. 10. Please note, the entire Elkhorn Slough at the Crossroads report is not attached hereto. Appellant has attached the cover of the Report, as well as the specific pages referenced herein.)

Additionally, the Elkhorn Slough at the Crossroads report states:

"The health of Elkhorn Slough's aquatic habitats is intertwined with central maritime chaparral. This is due to the fact that the sandy soils beneath maritime chaparral are highly erosive, and, if not carefully managed, can be washed away by winter runoff and greatly impact downstream wetlands. Residential development within or adjacent to central maritime chaparral is problematic due to the fact that the habitat is naturally dependent on fire for regeneration. Manzanita, of all the California chaparral plants, may be the most explosively flammable. Residents are not only at risk due to fire, but state fire codes which require extensive landscape clearing are in direct conflict with federal laws which protect rare and endangered species."

(Exhibit A, Appendix E, Elkhorn Slough at the Crossroads: Natural Resources and Conservation Strategies for the Elkhorn Slough Watershed report.)

5. THE COUNTY'S APPROVAL OF THE PLACEMENT OF WATER TANKS ON THE RIDGELINES VIOLATES THE NORTH COUNTY LUP/LCP.

In Response to FANS comments on the Draft EIR regarding how many water tanks would be placed, and where the water tanks would be placed, the County amended the Final EIR to describe for the first time, that two-three 20,000-gallon water tanks would be placed on Lot 8 near the high point of the ridge. (The Board's resolution No. 04-256 states that two water tanks will be constructed.) A key policy of the North County LUP/LCP at 2.2.1, states: "Only low intensity development that can be sited, screened or designed to minimize visual impacts, shall be allowed on scenic hills, slopes and ridgelines." Additionally General Policy 2.2.2.4. of the North County LUP/LCP states "Structures should be located where existing topography and vegetation provide natural screening." There is no information in the Final EIR as to whether the tanks will be visible, or how the County plans to mitigate the visual impacts by placing three large water tanks on the high point of the ridge without violating the North County LUP/LCP's key and general policies.

6. THE APPROVED SUBDIVISION IS INCONSISTENT WITH ZONING.

The Sunridge Views project is zoned "LDR-2.5 (CZ) District" within the Monterey County Zoning CIP.

The County's FEIR ignores the CIP's Low Density Residential Requirements as well as the the North County LUP/LCP. The project is inconsistent with the CIP and North County LUP/LCP's minimum parcel size requirement for Low Density Residential areas, within the Coastal Zone. The DEIR incorrectly relies on the Zoning Code's Building Site Requirement. The North County LUP/LCP requires "[d]evelopment densities from 1 unit to 10 or more acres to a maximum of 1 unit per 2-1/2 acres

would be allowed according to site evaluation of resource and public facility constraints." (North County LUP/LCP, 4.3.1.H) Table 1 of the DEIR demonstrates of the ten proposed subdivision lots, eight are less than the maximum allowable density of 2.5. acres.

The FEIR inappropriately states in the Introduction that the proposed project's "average" lot size is 2-1/2 acre. This interpretation of the minimum parcel size requirement is invalid. Apparently, County staff interpret the CIP, to allow the creation of new parcels under 2.5-acres within a Low Density Residential land Use area if the lot sizes for the entire subdivision averages at least 2.5 acres, so long as the lot is no smaller than the minimum building site set forth in section 20.14.060. This is both a misinterpretation and a misapplication of the Zoning Code by County staff. The minimum building site of one acre applies within each legal 2.5-acre LDR lot, unless the parcel is part of a clustered residential development.

The County, in its Response to Comments, claims that the Sunridge Views project "incorporates a clustering concept, (lot 8 at the top of the ridge comprises nearly one third of the project site) that allows adequate room on that lot for development while avoiding the chaparral and ridgeline development. Seven of the ten lots are small than the average lot size and are located in less sensitive areas." (FEIR, p. 2-41.) The County, however, misapplies clustering. The County's clustering concept frustrates one of its objectives by placing two 20,000-gallon water tanks adjacent to ESHA. North County LUP/LCP section 2.3.2.4, requires clustering to prevent habitat impacts, not create them.

Additionally, even if the Coastal Commission was to allow an amendment to the Coastal plans, the allowable density of the subdivision must be based on an evaluation of site conditions and cumulative impacts as required by CIP section 20.144.140.B.3.d.1. As provided in the foregoing, the approval of a 10-lot subdivision is inconsistent with this requirement because the density exceeds available water supply and it will have adverse environmental impacts to ESHA and ridgelines.

7. THE BOARD'S PROJECT APPROVAL WAS INCONSISTENT WITH THE ADMINISTRATIVE PROCEDURES UNDER THE COASTAL IMPLEMENTATION PLAN.

The Sunridge Views project was a combined development permit. The CIP under section 20.82 for Combined Development Permits requires the Planning Commission to "act as the recommending body to the Board of Supervisors when said Board is the Appropriate Authority for the Combined Development Permit. Said Board shall not act on a Combined Development Permit without prior review and recommendation of the Planning Commission on both the environmental and land use issues. The Planning Commission recommendation shall be made only after public hearing by the Planning Commission." (CIP, section 20.82.030.B.)

Initially, a Mitigated Negative Declaration had been proposed on the Sunridge Views project. The Planning Commission had recommended that the Board deny the project and not certify the Mitigated Negative Declaration. The Board of Supervisors ordered the preparation of an Environmental Impact Report. The EIR was circulated for review and comment in December of 2003. The FEIR was released in June of 2004. The public hearing on the determination of the proposed project as well as certification of the FEIR went immediately to the Board of Supervisors, without first having been reviewed by the Planning Commission. Despite FANS request that the Board send the matter first to the Planning Commission to first make its recommendation to the Board, the Board decided at the July 13, 2004, public hearing to go forward with its final determination on the Sunridge Views subdivision project and FEIR. (Attached hereto as Exhibit B is FANS July 2, 2004, letter to Louis Calcagno, Chairman and

Exhibit 10

(Page 8 of 15 pages) PAGE 3-E

Members of the Board of Supervisors.)

CONCLUSION

For the foregoing reasons, the Sunridge Views project is inconsistent with the North County LUP/LCP regarding water supply, failure to protect groundwater for coastal priority uses, development on ridgelines, development adjacent to or within ESHA, and Zoning. Additionally, the Sunridge Views project is inconsistent with Monterey County Zoning Coastal Implementation Plan - Title 20 in terms of zoning as well as administrative error in failing to first have its recommending body make its recommendation to the Board. Therefore, for the reasons stated herein, a new hearing is warranted.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

LAW OFFICE OF J. WILLIAM YEATES

BY:



Signature of Appellant(s) or Authorized Agent
MARY U. AKENS, ATTORNEYS FOR FANS

Date:

08/03/04

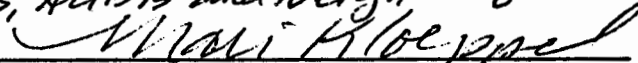
Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize The Law Office of J. William Yeates

to act as my/our representative and to bind me/us in all matters concerning this appeal.

*Mari Kloepfel, Co-Chair of Elk Horn 5 leg
Friends, Artists and Neighbors*



Signature of Appellant(s)

Date:

August 2, 2004

ELKHORN SLOUGH AT THE CROSSROADS

Natural Resources and Conservation Strategies for the Elkhorn Slough Watershed

Prepared by

**Elkhorn Slough Foundation
&
Tom Scharffenberger Land Planning and Design**

March 6, 2002

*Elkhorn Slough at the Crossroads:
Natural Resources and Conservation Strategies for the Elkhorn Slough Watershed*

(HCP) or Natural Community Conservation Plan (NCCP).

- i) Provide incentive programs to private landowners to manage ponds for California red-legged frog and other rare amphibians, as well as migrant shorebird species (especially for the latter where ponds exist adjacent to Elkhorn Slough). To increase habitat of California red-legged frog, encourage agricultural landowners to provide two-stage ponds systems. These utilize an upper pond for retaining stormwater and removing sediment, and a lower pond that is managed for habitat. Discourage development, roads and other land uses that could become barriers to the upland migration and dispersal of amphibians.
- j) Strengthen County policies that confine foot traffic to designated beach access points to maintain dune vegetation, prevent erosion and protect Snowy Plovers.
- k) Strengthen County policies that: (a) discourage conversion of any naturally vegetated area within Elkhorn Highlands into new cultivated agriculture, (b) encourage landowners to retire agriculture on slopes exceeding 20%, to stabilize fallow fields from erosion and over time to restore habitats, (c) encourage landowners to control invasive non-native species throughout their property, and (d) discourage development within 100 meters of maritime chaparral to avoid conflicts between management and habitat protection.
- l) Provide landowners incentives for proper management of special bird habitats, especially freshwater ponds. Freshwater ponds that are within close proximity to the Monterey Bay (within one mile from the shore) and close to marshes are particularly valuable to migratory and resident shorebird populations. Landowners should be encouraged to manage them for these bird populations. When and where appropriate, reintroduce extirpated species, such as California Clapper Rail.
- m) Throughout the Watershed, strengthen ordinances that discourage removal of "heritage native trees."
- n) Develop a restoration and enhancement plan for the McClusky Slough Wetlands.
- o) In Environmentally Sensitive Areas (see Figure 5), strengthen County policies



APPENDIX E

SPECIAL NOTES REGARDING CENTRAL MARITIME CHAPARRAL

Central maritime chaparral is a rare plant community that occurs within the central California coastal zone. The community requires both cool, foggy summers and well-drained sandy soils. In the Elkhorn Slough Watershed, central maritime chaparral occurs on ridges and south-facing slopes in an area known as the Elkhorn Highlands, located east of the main Slough channel. The habitat is dominated by two woolly-leaved Manzanitas, which are narrowly endemic, primarily in the Watershed. At one time, central maritime chaparral covered extensive areas in the Watershed, however, in the past forty years many of the south-facing chaparral slopes were converted to agriculture and rural residential uses. Much of the agriculture is now fallow and reverting to transitional coastal scrub vegetation. There are several federally listed rare and endangered plants associated with Elkhorn Slough's central maritime chaparral. Typically these plants occur in gaps and disturbed areas either within the habitat itself, within the fallow south-facing fields adjacent to the habitat, or occasionally within gaps in Live Oak Woodlands found on the north-facing slopes also adjacent to the habitat. Due to the fact that ridge-tops and south-facing slopes in Elkhorn Highlands are highly desirable by both agriculturists and residential buyers, the remaining relatively large areas of undisturbed central maritime chaparral are highly threatened. The health of Elkhorn Slough's aquatic habitats is intertwined with central maritime chaparral. This is due to the fact that the sandy soils beneath maritime chaparral are highly erosive, and, if not carefully managed, can be washed away by winter runoff and greatly impact downstream wetlands. Residential development within or adjacent to central maritime chaparral is problematic due to the fact that the habitat is naturally dependent on fire for regeneration. Manzanita, of all the California chaparral plants, may be the most explosively flammable. Residents are not only at risk due to fire, but state fire codes which require extensive landscape clearing are in direct conflict with federal laws which protect rare and endangered species.



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info@enviroqualitylaw.com

J. WILLIAM YEATES

MARY U. AKENS
KEITH G. WAGNER

July 2, 2004

VIA FACSIMILE AND FEDERAL EXPRESS

Louis Calcagno, Chairman and Members of the Board of Supervisors
MONTEREY COUNTY BOARD OF SUPERVISORS
Castroville Courthouse
10681 McDougall Street
Castroville, CA 95012

Re: Sunridge Views Subdivision (PLN 990391) State Clearinghouse Number 2002081014
Final Environmental Impact Report
Prepared for Monterey County Planning and Building Inspection Dept., June 17, 2004
Board of Supervisors Hearing: July 13, 2004

Dear Chairman Calcagno and Members of the Monterey County Board of Supervisors:

On behalf of our client, Friends, Artists, and Neighbors of Elkhorn Slough ("FANS"), we are in receipt of the Final Environmental Impact Report ("FEIR"), the cover letter from Ms. Alana Knaster, Chief Assistant Director of the Monterey County Planning and Building Inspection Department, and the Notice of Public Hearing of the Monterey County Board of Supervisors to be held on July 13, 2004.

Although FANS will be submitting comments on the FEIR, it is necessary for us to express FANS' objection and concern that the Planning Commission, the County's advisory body, will not be reviewing and making any recommendation on the adequacy of the FEIR and any feasible mitigation measures identified therein.¹

According to the June 23, 2004 cover letter to our office, the Board of Supervisors required the project applicant to prepare an EIR on the proposed project. Although the Planning Commission made a previous recommendation to deny the project, the DEIR was never in front of the Planning Commission.

To our knowledge, the Planning Commission did not hold a public hearing on the Sunridge Views project and DEIR, prior to the FEIR being released. Therefore, the Planning Commission, the County's advisory body, has not yet reviewed or made any determination or recommendation on the proposed project's CEQA document.

¹ See CEQA Guidelines, § 15025, subd. (c), "Where an advisory body such as a planning commission is required to make a recommendation on a project to the decisionmaking body, the advisory body shall also review and consider the EIR [] in draft or final form." See also 1 Kostka & Ziske, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2003) § 17.4, pp. 637-638.

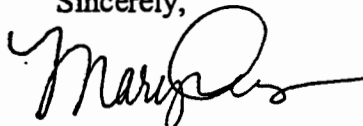
Louis Calcagno, Chair of the Monterey County Board of Supervisors
Members of the Monterey County Board of Supervisors
July 2, 2004
Page 2 of 2

The Sunridge Views project application is for a combined development permit. The County's ordinance requires combined development permits to start at the Planning Commission level. Subsection B of section 20.82.030 states explicitly that the "Board shall not act on a Combined Development Permit without prior review and recommendation of the Planning Commission on both the environmental and land use issues."

B. The Planning Commission shall act as the recommending body to the Board of Supervisors when said Board is the Appropriate Authority for the Combined Development Permit. Said Board shall not act on a Combined Development Permit without prior review and recommendation of the Planning Commission on both the environmental and land use issues. The Planning Commission recommendation shall be made only after public hearing by the Planning Commission.

Given the fact that the Planning Commission has not yet reviewed or given any recommendation on the EIR prepared on the Sunridge Views project, the Planning Commission must first make its recommendation before the Board can act.

Sincerely,



Mary U. Akens

cc: Ann D. Anderson, Clerk of the Board, Monterey Co. Board of Supervisors (Fed. Ex/Fax)
Alana Knaster, Chief Assistant Director, County of Monterey (By Mail)
Scott Hennessy, Planning Director, County of Monterey (By Mail)
Gary Patton, Executive Director LandWatch Monterey County (By Mail)
Charles J. McKee, County Counsel, County of Monterey (By Mail)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060-4506

VOICE (831) 427-4863 FAX (831) 427-4877

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: LandWatch Monterey County

Mailing Address: Box 1876

City: Salinas

Zip Code: 93902

Phone: 831-422-9390

RECEIVED

AUG 05 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**SECTION II. Decision Being Appealed**

1. Name of local/port government:

County of Monterey

2. Brief description of development being appealed:

Approval of Sunridge Views Combined Development Permit (PLN990391), including a Standard Subdivision to allow for the division of a 25 acre parcel into 10 parcels ranging in size from 1 to 7.8 acres, and a Coastal Development Permit to allow for the construction of three 20,000-gallon water tanks, a mutual water system, demolition of a barn, 2,000 cubic yards of grading, the removal of a landmark 30" Cypress tree and the conversion of an existing mobile home to a senior citizens unit, and pre grading authorization.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

The site is located on and westerly of Maher Road, 250 Maher Road, APN: 127-252-009-0000, Prunedale Area, Coastal Zone.

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-MCO-04-054DATE FILED: August 5, 2004DISTRICT: Central CoastCCC Exhibit 11
(page 1 of 17 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: July 13, 2004

7. Local government's file number (if any): PLN990391

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Steve Bradshaw, Applicant, 250 Maher Road, Royal Oaks, CA 95076
John Bridges, Attorney for Applicant, Fenton & Keller, P O Box 791, Monterey, CA 93942-0791

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attached List.

(2) See Attached List.

(3) See Attached List.

(4) See Attached List.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

This appeal is allowed by law under subdivision (4) of section 30603 of the Public Resources Code (the Coastal Act). The Sunridge Views project is a development project approved by the Monterey County Board of Supervisors, that was designated LDR-2.5 (CZ). Within LDR-2.5 (CZ), subdivisions are not designated as the principal permitted use under Monterey County Zoning, Coastal Implementation Plan ("CIP"), Title 20, section 20.14.040; and is listed as a conditional use CIP, section 20.14.050.AA.

LandWatch hereby states the following reasons for this appeal.

The Monterey County Board of Supervisors made its final determination approving the Sunridge Views Subdivision project and certifying the Final Environmental Impact Report on July 13, 2004. The Sunridge Subdivision project is a combined development permit to allow the subdivision of a 25-acre parcel into 10 parcels ranging in size from 1 to 7.8 acres, and a coastal development permit to allow for the construction of three water tanks, a mutual water system, demolition of a barn, 2,000 cubic yards of grading, the removal of a landmark 30" Cypress tree and the conversion of an existing mobile home to a senior citizens unit, and pre grading authorization.

The Monterey County Board of Supervisors approvals are inconsistent with the North Monterey County Land Use Plan/Local Coastal Program ("North County LUP/LCP") for the following reasons:

1. THERE IS INADEQUATE WATER TO ACCOMMODATE THE SUBDIVISION.

The Sunridge Views project is located within the North County Hydrological Study Area. The North County Hydrological Study Area is in a state of severe groundwater overdraft and salt-water intrusion. The North County LUP/LCP states at Policy 2.5.1:

"The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long-term water supplies."

According to the certified LCP, proof of assured long-term water supply must be made prior to the project application being deemed complete. This policy is also found within the certified North Monterey County Subdivision Ordinance, a component of the CIP; Title 19, 19.03.15(L).

The project applicant failed to provide the required proof of assured long-term water supply

prior to the

application being deemed complete by the County.

The County concluded in its Final EIR, that because the Sunridge Views project will be taking land out of agricultural production for urban use, that there will be an overall savings of water over time because of a perceived "de-intensification" of water use.

Additionally, the County inappropriately relied on the Salinas Valley Water Project Engineering Report, January 2003, and a report delivered to the Board of Supervisors on December 9, 2003, from Mr. Curtis Weeks, the General Manager of the Monterey County Water Resources Agency, who believes that there were likely benefits from the implementation of the Salinas Valley Water Project to adjacent sub-basins. Mr. Weeks also determined that future projects that would not intensify use would meet the test of having a long-term water supply and would therefore be consistent with the North Monterey County LCP/LUP. The County further relied upon the Revised Basin Management Plan finding that the RBMP can be relied upon for "future" assurance of long-term water supply.

The Sunridge Views project is also inconsistent with North County LUP/LCP General Policy 2.5.2.3 requiring new development to "be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured."

North County LUP/LCP Specific Policy 2.5.3.A2 provides further that:

"The County's long-term policy shall be to limit ground water use to the safe-yield level. The first phase of new development shall be limited to a level not exceeding 50% of the remaining buildout as specified in the LP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural water supplies. Additional development beyond the first phase shall be permitted only after safe-yields have been established or other water supplies are determined to be available by an approved LCP amendment. Any amendment request shall be based upon definitive water studies, and shall include appropriate water management programs."

The Final EIR removes the determination that the project is inconsistent with North County LUP/LCP Water Resources 2.5.2. General Policy 3, and Water Resources 2.5.3., Specific Policy A2. See pages 4-1 through 4-4 of the final EIR. There is abundant evidence that the North County area in which this subdivision is proposed does not have "proven adequate water supplies," and it is absolutely clear that no additional water supplies have been "secured" for this area. The long-term impacts on existing property owners, homeowners, and the coastal environment will be severe if this and similar projects are constructed. The Sunridge Views Project, however, remains inconsistent with these provisions concerning proof of assured long-term water availability.

2. THE SUNRIDGE VIEWS PROJECT IS INCONSISTENT WITH THE COASTAL IMPLEMENTATION PLAN.

The County, in its Draft EIR, initially concluded that the Sunridge Views project was inconsistent with section 20.144.070 of the CIP.

The intent of Section 20.144.070 of the CIP is:

Exhibit 11
(page 4 of 17 pages)

"... to provide development standards which will protect the water quality of the North County surface water resources and groundwater aquifers, control new development to a level that can be served by identifiable, available, and long-term water supplies, and protect North County streams, estuaries, and wetlands from excessive sedimentation resulting from land use and development practices in the watershed areas. (Ref. Policy 2.5.1.)"

Section 2.5.1. of the North County LUP/LCP is the key policy for water resources and states:

"The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long term water supplies. The estuaries and wetlands of North County shall be protected from excessive sedimentation resulting from land use and development practices in the watershed areas."

The FEIR changed the County's initial conclusion and determined that the Sunridge Views project was consistent with this section because of a perceived net reduction based on the change of use from agriculture to urban development over a 30 year period. Additionally, the County determined that the Revised Basin Management Plan would allow for safe-yield groundwater withdrawals for all planned uses.

Despite the County's new conclusion, the Sunridge Views project makes a new and long-term committed draw on the groundwater aquifer for urban development the County failed to require proof of long-term water supplies and is inconsistent with CIP, section 20.144.070 and the North County LUP/LCP, Key Policy 2.5.1.

3. THE SUNRIDGE VIEWS PROJECT WILL HAVE SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT TO MARITIME CHAPARRAL - ENVIRONMENTALLY SENSITIVE HABITAT AREA (ESHA)

The Sunridge Views project is inconsistent with North County LUP/LCP Policy 2.3.2.1. prohibiting the development, "including vegetation removal, excavation, grading, filling, and the construction of roads and structures" from ESHA."

Additionally section 2.3.2.2. of the North County LUP/LCP requires development adjacent to ESHA to be "compatible with the long-term maintenance of the resource" and that new land uses "not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource. Also, section 2.3.2.3 of the North Monterey LUP/LCP specifically prohibits new subdivisions that may result in significant impacts to ESHA. The North County LUP/LCP, section 2.3.2.4 defines known threats to maritime chaparral as residential development and requires new residential development to be sited to protect the maximum amount of chaparral.

The Sunridge Views project site, contains maritime chaparral, considered ESHA. The Sunridge Views project proposes to plant fire-resistant landscaping within 30 feet of the main structures. The Sunridge Views project will also place three 20,000-gallon water tanks adjacent to sensitive maritime chaparral habitat. (See DEIR, p. 2-14; FEIR, Response to Comments, p. 2-32.) As mitigation, the EIR proposes a mere 25-foot setback from the ESHA. Additionally, the FEIR fails to disclose where the distribution lines will be placed or how ESHA will be protected during the development of those 20,000-gallon water tanks.

Section 20.144.040B.2. of the CIP states specifically:

Exhibit 11
(page 5 of 13 pages)

chaparral. This is due to the fact that the sandy soils beneath maritime chaparral are highly erosive, and, if not carefully managed, can be washed away by winter runoff and greatly impact downstream wetlands. Residential development within or adjacent to central maritime chaparral is problematic due to the fact that the habitat is naturally dependent on fire for regeneration. Manzanita, of all the California chaparral plants, may be the most explosively flammable. Residents are not only at risk due to fire, but state fire codes which require extensive landscape clearing are in direct conflict with federal laws which protect rare and endangered species."

(Exhibit A, Appendix F, Elkhorn Slough at the Crossroads: Natural Resources and Conservation Strategies for the Elkhorn Slough Watershed report.)

4. THE COUNTY'S APPROVAL OF THE PLACEMENT OF WATER TANKS ON THE RIDGELINES VIOLATES THE NORTH COUNTY LUP/LCP.

In Response to a comment submitted by Friends Artists and Neighbors of Elkhorn Slough (FANS) on the Draft EIR regarding how many water tanks would be placed, and where the water tanks would be placed, the County amended the Final EIR to describe for the first time, that three 20,000-gallon water tanks would be placed on Lot 8 near the high point of the ridge. A key policy of the North County LUP/LCP at 2.2.1, states: "Only low intensity development that can be sited, screened or designed to minimize visual impacts, shall be allowed on scenic hills, slopes and ridgelines." Additionally General Policy 2.2.2.4. of the North County LUP/LCP states "Structures should be located where existing topography and vegetation provide natural screening." There is no information in the Final EIR as to whether the tanks will be visible, or how the County plans to mitigate the visual impacts by placing three large water tanks on the high point of the ridge without violating the North County LUP/LCP's key and general policies.

5. THE APPROVED SUBDIVISION IS INCONSISTENT WITH ZONING.

The Sunridge Views project is zoned "LDR-2.5 (CZ) District" within the Monterey County Zoning CIP.

The County's FEIR ignores the CIP's Low Density Residential Requirements as well as the the North County LUP/LCP. The project is inconsistent with the CIP and North County LUP/LCP's minimum parcel size requirement for Low Density Residential areas, within the Coastal Zone. The DEIR incorrectly relies on the Zoning Code's Building Site Requirement. The North County LUP/LCP requires "[d]evelopment densities from 1 unit to 10 or more acres to a maximum of 1 unit per 2-1/2 acres would be allowed according to site evaluation of resource and public facility constraints." (North County LUP/LCP, 4.3.1.H) Table 1 of the DEIR demonstrates of the ten proposed subdivision lots, eight are less than the maximum allowable density of 2.5. acres.

The FEIR inappropriately states in the Introduction that the proposed project's "average" lot size is 2-1/2 acre. This interpretation of the minimum parcel size requirement is invalid. Apparently, County staff interpret the CIP, to allow the creation of new parcels under 2.5-acres within a Low Density Residential land Use area if the lot sizes for the entire subdivision averages at least 2.5 acres, so long as the lot is no smaller than the minimum building site set forth in section 20.14.060. This is both a misinterpretation and a misapplication of the Zoning Code by County staff. The minimum building site of one acre applies within each legal 2.5-acre LDR lot, unless the parcel is part of a clustered residential development.

The County, in its Response to Comments, claims that the Sunridge Views project

"incorporates a clustering concept, (lot 8 at the top of the ridge comprises nearly one third of the project site) that allows adequate room on that lot for development while avoiding the chaparral and ridgeline development. Seven of the ten lots are small than the average lot size and are located in less sensitive areas." (FEIR, p. 2-41.) The County, however, misapplies clustering. The County's clustering concept frustrates one of its objectives by placing three 20,000-gallon water tanks adjacent to ESHA. North County LUP/LCP section 2.3.2.4, requires clustering to prevent habitat impacts, not create them.

Additionally, even if the Coastal Commission was to allow an amendment to the Coastal plans, the allowable density of the subdivision must be based on an evaluation of site conditions and cumulative impacts are required by CIP section 20.144.140.B.3.d.1. As provided in the foregoing, the approval of a 10-lot subdivision is inconsistent with this requirement because the density exceeds available water supply and it will have adverse environmental impacts to ESHA and ridgelines.

6. THE BOARD'S PROJECT APPROVAL WAS INCONSISTENT WITH THE ADMINISTRATIVE PROCEDURES UNDER THE COASTAL IMPLEMENTATION PLAN.

The Sunridge Views project was a combined development permit. The CIP under section 20.82 for Combined Development Permits requires the Planning Commission to "act as the recommending body to the Board of Supervisors when said Board is the Appropriate Authority for the Combined Development Permit. Said Board shall not act on a Combined Development Permit without prior review and recommendation of the Planning Commission on both the environmental and land use issues. The Planning Commission recommendation shall be made only after public hearing by the Planning Commission." (CIP, section 20.82.030.B.)

Initially, a Negative Declaration had been proposed on the Sunridge Views project. The Planning Commission had recommended that the Board deny the project and not certify the Negative Declaration. The Board of Supervisors ordered the preparation of an Environmental Impact Report. The EIR was circulated for review and comment in December of 2003. The FEIR was released in June of 2004. The public hearing on the determination of the proposed project as well as certification of the FEIR went immediately to the Board of Supervisors, without first having been reviewed by the Planning Commission. Despite FANS request that the Board send the matter first to the Planning Commission to first make its recommendation to the Board, the Board decided at the July 13, 2004, public hearing to go forward with its final determination on the Sunridge Views subdivision project and FEIR. (Attached hereto is a copy of LandWatch's July 7, 2004 letter, sent prior to the Board's hearing, and making this point, and including references to other grounds upon which the Coastal Commission should reverse the approval of the Sunridge Views project by the Monterey County Board of Supervisors.

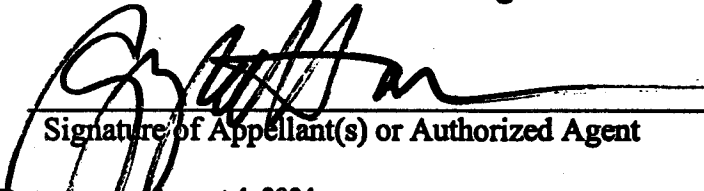
CONCLUSION

For the foregoing reasons, the Sunridge Views project is inconsistent with the North County LUP/LCP regarding water supply, development on ridgelines, development adjacent to or within ESHA and Zoning. Additionally, the Sunridge Views project is inconsistent with Monterey County Zoning Coastal Implementation Plan - Title 20 in terms of zoning as well as administrative error in failing to first have its recommending body make its recommendation to the Board. The California Coastal Commission should therefore, reverse the decision of the Monterey County Board of Supervisor's determination of the Project's Applicant's Sunridge Views Subdivision Project and deny the Project Applicant's coastal development permit.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent
Date: August 4, 2004

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

LandWatch

monterey county

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July 7, 2004

Supervisor Lou Calcagno, Chair
Monterey County Board of Supervisors
240 Church Street
Salinas, CA 93901

RE: Proposed Sunridge Views Combined Development Permit (PLN990391)
July 13, 2004 Board of Supervisors Meeting

Dear Chairperson Calcagno and Board Members:

LandWatch Monterey County has the following comments on the proposed Sunridge Views subdivision proposal, scheduled for hearing before your Board on July 13, 2004:

1. While the cover sheet of your staff report does not say so, and therefore disguises the actual situation, the proposed Resolution of approval, contained in the staff report as Exhibit "B," does clearly indicate that the application before you is for a "Combined Development Permit." In view of this fact, the matter is not properly before you at this time. County Code Chapter 20.82, relating to combined development permits, states unequivocally that this matter must first be heard by the Planning Commission, prior to a hearing before your Board:

20.82.030 - APPROPRIATE AUTHORITY.

A. The Appropriate Authority to consider a Combined Development Permit shall be the Planning Commission, Zoning Administrator, Minor Subdivision Committee or Board of Supervisors. The basis for the designation shall be that the body established under State Law, Title 19 (Subdivisions), Monterey County Code, or Title 20 (Zoning), Monterey County Code, as the decision making body for the principal land use shall be the decision making body for the Combined Development Permit. Should the Combined Development Permit include any permit normally considered by the Planning Commission, then the Planning Commission shall consider the entire Combined Development Permit, including Variances.

B. The Planning Commission shall act as the recommending body to the Board of Supervisors when said Board is the Appropriate Authority for the Combined Development Permit. Said Board shall not act on a Combined Development Permit without prior review and recommendation of the Planning Commission on both the environmental and land use issues. The Planning Commission recommendation shall be made only after public hearing by the Planning Commission [Emphasis added].

EXHIBIT 11
(page 10 of 17 pages)

The Board must remand this matter to the Planning Commission, for a public hearing. I am attaching a copy of an email exchange with the Chief Assistant Director of the County Planning and Building Inspection Department, forcefully making this point.

2. The County General Plan says that the County's goal, in the area of "Water Resources," is to "PROMOTE ADEQUATE, REPLENISHABLE WATER SUPPLIES OF SUITABLE QUALITY TO MEET THE COUNTY'S VARIOUS NEEDS [Goal 6, Page 22]." Objective 6.1, carrying out this goal is to "Eliminate long-term groundwater overdrafting in the County as soon as practically possible." Objective 53.1.3 says that "The County shall not allow water consuming development in areas which do not have proven adequate water supplies [Page 157, emphasis added]."

The North County Area Plan states, in Policy 6.1.4(NC) [Page 49], that "New development shall be phased until a safe, long-term yield of water supply can be demonstrated and maintained. Development levels that generate water demand exceeding safe yields of local aquifers shall only be allowed once additional water supplies are secured [Emphasis added]."

These General Plan policies were adopted in the 1980's, long before any application was made for this proposed subdivision. As *General Plan* policies, these provisions have the effect of law, where land use planning decisions are concerned. These General Plan policies prevail over any local ordinance or practice or policy of the County. The County General Plan is the "Constitution for land use" in Monterey County.

Furthermore, the County's Subdivision Ordinance recognizes that the General Plan prevails over every other policy or local ordinance or rule. Pursuant to relevant provisions of Title 19 of the County Code a proposed subdivision must be denied if the proposed map is "not consistent with the general plan [or] area plan."

Will this Board stand up for the integrity of the County General Plan? There is abundant evidence in your agenda packet that the North County area in which this subdivision is proposed does not have "proven adequate water supplies," and it is absolutely clear that no additional water supplies have been "secured" for this area. If the Board were to decide that the General Plan language does not mean what it says, you will be sending a message that every one of the extremely numerous "pending" projects in North County will likely be approved, even if they are located in an area of groundwater overdraft. LandWatch urges you not to set this precedent. The long term impacts on existing property owners and homeowners will be severe, not to mention the adverse environmental impacts on the groundwater basin.

3. Policy 26.1.18 of the Monterey County General Plan indicates that the proposed project should be denied, because approval of the project would be inconsistent with those provisions in the current General Plan that state that "lack of services, utility, environmental and other constraints provide a valid reason for denial of a proposed project." The staff argues, as did the Draft Environmental Impact Report (DEIR), that since fees related to the need for both traffic and water improvements are proposed as mitigations, the payment of these fees is sufficient to mitigate the proposed projects.

effects to a less than significant level—and to meet the requirements of the General Plan. No existing policy of the County holds that payment of mitigation fees “is considered...to mitigate the proposed project,” as the DEIR said, and it is clear, as a matter of law, that the payment of a fee, in this situation, cannot be held to be a sufficient mitigation measure. The fact that a fee is charged will not, in any way, lead to an actual mitigation of the identified water and traffic problems. Moreover, CEQA does not grant the County independent authority to override provisions of the General Plan and local zoning ordinances.

4. Requiring a project to pay a fee, to help finance studies of water overdraft and possible solutions, does not excuse the project from compliance with County's General Plan requirements, and is not the kind of “mitigation” that CEQA requires. Under CEQA, doing “studies” is not a legally satisfactory mitigation for an actual and identified impact. The fees do not “mitigate” the impacts of the development projects that pay the fees, and paying the fees does not change the General Plan requirement that the County “shall not allow” water consuming development in areas which do not have proven adequate water supplies.
5. The staff seems to think that the General Plan provisions relating to transportation can also be disregarded, just like the provisions relating to water. In fact, the provisions of the General Plan are clear: “transportation demands of proposed development shall not exceed an acceptable level of service for existing transportation facilities.” In this case, level of service F is not “acceptable.” As the staff report clearly reveals, the proposed project would add additional traffic to transportation facilities that are already “over the acceptable line,” and that are currently operating at Level of Service (LOS) F. The proposed subdivision does not “provide for” the appropriate increase in capacity of those highway facilities, although it does make a contribution to a solution. That's not good enough to comply with the General Plan. The project should not be approved until the necessary improvement is in place. Or, if the subdivision approval were conditioned to require an upfront payment of the fee, with the actual construction of the subdivision to be held in abeyance until the needed roadwork was done, then that would be consistent with the General Plan. But that is not what the condition recommended here says. It says, “Pay a fee, and build your new subdivision.” The result of that approach would be to defer (indefinitely) the actual improvement needed. This means that everyone's traffic will get even worse—and if lives are put in jeopardy while we're waiting for CALTRANS to improve the intersection, that's just the way it goes. Again, this is not the meaning of the General Plan policy.
6. LandWatch also wants to note that the current Monterey County General Plan, adopted in 1982, is not only chronologically out of date, but is now internally inconsistent and legally inadequate. This fact has been noted by the County itself. The County must make a finding of General Plan consistency to be able to approve the proposed Sunridge Views subdivision, and it is not able to do that in view of the inadequacy of the County's existing General Plan.
7. The EIR fails to consider and analyze the impacts of the development on surrounding land uses and the compatibility of the development with surrounding land uses. Much of the surrounding land is in agricultural production. The introduction of a residential

subdivision may lead to conflicts with adjacent land uses as well as create pressure to convert other agricultural lands to residential uses. The EIR's failure to address these impacts renders the EIR inadequate.

8. The EIR states that the property is not on the Important Farmlands Map of Monterey County. However, the EIR fails to address whether the site actually qualifies as prime agricultural land. Other characteristics, besides being on the Important Farmlands Map of Monterey County, qualify a land for protection as prime agricultural land under the Coastal Act. Indeed, the Coastal Act defines prime agricultural land more broadly than most local jurisdictions. Public Resources Code Section 30113 defines prime agricultural land as those lands defined in paragraphs (c)(1), (2), (3), or (4) of Section 51201 of the Government Code, otherwise known as the Williamson Act (Government Code Section 51200 et seq.). The Williamson Act defines "prime agricultural land" as follows:

(c) "Prime agricultural land" means any of the following

- (1) All land that qualifies for class I or class II in the Natural Resource Conservation Service land use capability classifications.
- (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
- (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
- (4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre." Government Code Section 51201(c).

Accordingly, there is a very low threshold for determining when farmland is "prime" in the Coastal Zone. If land is determined to prime farmland under the Coastal Act, it must be maintained in production and the division of such lands may not diminish its productivity. Public Resources Code Section 30241. Because the EIR fails to disclose the agricultural viability and productivity that exists on the site now, the EIR is deficient because the public and decisionmakers cannot determine whether the property qualifies as prime agricultural land pursuant to the Coastal Act.

9. Page 2-16 of the EIR states that the removal of maritime chaparral will be allowed, to reduce the risk of wildfire. This is a mitigation to reduce wildfire risk. The mitigation itself has an impact, and pursuant to CEQA, the impact of that mitigation must also be analyzed. Moreover, the Coastal Act does not allow the removal of ESHA for wildfire reduction. Only resource dependent uses are permitted. Accordingly, the Project's

allowance of removal of maritime chaparral for fire reduction violates the Coastal Act. Moreover, this also proves that the development proposed adjacent to ESHA will impact ESHA, which is also a violation of the Coastal Act. See Public Resources Code Section 30240. See also, Monterey County Coastal Implementation Plan Section 20.144.040 and North County LUP/LCP Policy 2.3.2.1.

10. Page 2-47 of the EIR states that the current agricultural water use on the property is estimated at 44.77 acre feet per year and residential use is at 2.35 acre feet per year. Yet the EIR does not explain how it arrived at these numbers. Reciting bare conclusions without supporting facts is not an adequate analysis pursuant to CEQA.
11. The final EIR removes the determination that the project is inconsistent with Water Resources 2.5.2. General Policy 3, Water Resources 2.5.3. Specific Policy A2, and Zoning Ordinance Section 20.144.070. See pages 4-1 through 4-4 of the final EIR. The Draft EIR determined that the project could be made consistent by the payment of a fee to the Monterey County Water Resources Agency. While LandWatch and others contest the use of the fee as an adequate or legal mitigation, the County has now removed the language that found the project inconsistent with these policies and zoning ordinance requirements. The removal of this analysis calls into question the validity of the EIR. The fact is that the Project remains inconsistent with these provisions and others concerning water availability.

Attached is a list of "pending projects" for North Monterey County (from the Monterey County website, as of July 13, 2004), showing the large number of proposed subdivision lots proposed in the North County area, where conditions of groundwater overdraft exist. This list is being submitted to demonstrate the significance of the precedent that the Board would be setting if it were to approve the Sunridge Views proposal. In addition, LandWatch hereby incorporates by reference all of the following materials, submitted to the Board in connection with its recent consideration of the proposed "Cathrein Estates" subdivision, heard by the Board of Supervisors on May 4, 2004. All of this information, in the possession of the County, helps demonstrate why the arguments in this letter should be accepted by the County, and why the Sunridge Views application should be denied.

1. The October 12, 1999 "Existing Conditions Report," prepared in connection with work on the Monterey County General Plan Update, and demonstrating inadequacies in the County's 1982 General Plan.
2. Information from the County's General Plan Update website, showing the water supply and water quality problems in North Monterey County.
3. A survey of water resources prepared by Denise Duffy & Associates, for the Association of Monterey Bay Area Governments, also showing the extent of North County water supply and water quality problems.
4. A copy of the findings made by the County Planning Commission on February 12, 2003 in turning down a proposed development in North County (Blackie Meadow Estates) based on findings that are similar to those that could be made with respect to the current proposal.

5. A copy of the staff report for the Monterey County Minor Subdivision Committee, recommending denial of a proposed North County subdivision on the basis of findings and evidence that are similar to those that could be made with respect to the current proposal.

Conclusion

In conclusion, LandWatch Monterey County believes that this project must be denied. Your Board may approve this proposed project only if you find that it complies with the County General Plan, and other applicable laws, and if you decide that you have followed the requirements of CEQA. As I hope this letter convincingly demonstrates, you can't make those findings, which means you must deny the project.

Respectfully submitted,



Gary A. Patton, Executive Director
LandWatch Monterey County

cc: County Planning Commission
County Counsel

To: Knaster, Alana x7526
Cc: J. McKee Charles (McKeeCJ@co.monterey.ca.us); Board of Supervisors, Monterey County;
 Reed, Sally (reeds@co.monterey.ca.us); Scott Hennessy (hennessys@co.monterey.ca.us);
 Planning Commission, Monterey County
Subject: Sunridge Views Subdivision- Board of Supervisors Hearing

Dear Alana:

Thank you for conveying the county's interpretation of its ordinance. As you might expect, I completely disagree.

Since the ordinance affirmatively requires the County to have the Planning Commission review Combined Development Permits with respect to "environmental issues," it is amazing that you and the County think that this obligation can be discharged without having had the Commission review the main "informational document" produced under state law that is intended to assist decision makers in understanding those environmental issues.

Also, isn't this situation similar to the recent claim made by a pick-up group of development interests, calling itself "Plan For The People," that told the County that CEQA required the Planning Commission to consider the "Final EIR" on the proposed GPU before the Board considered it? That claim was taken VERY SERIOUSLY by the County (or at least was the excuse the County employed for holding several closed sessions, after which the County abruptly threw out its General Plan process and "started over"). In the case of the claims made by "Plan For The People," of course, CEQA does NOT require the Planning Commission to review the "Final EIR." And, this is what the County Counsel immediately ruled, in public, when the claim was first presented. What WERE those closed sessions all about?

At any rate, the County's ordinances do establish a specific requirement that the Planning Commission review Combined Development permits as to their "environmental issues," before the Board rules on them. I think that the ordinance implicitly (if not explicitly) requires that the Commission be provided information in the possession of the County that relates to those environmental issues, prior to providing their recommendation. In my view, this interpretation raises a much more serious issue, legally speaking, than the bogus issue raised by "Plan For The People." I would hope that the County might take this claim at least as seriously as it took the claims of the "Plan For The People" development group.

I am always surprised that the County's approach to potential legal challenges raised by the public is simply to adopt the "least conservative" view, and rather than doing something that MIGHT be a little bit of extra work, but that would completely eliminate a potentially valid legal challenge, the County typically decides to ignore such objections, adopting the recommendation most favorable to the developer (in virtually every instance). Presumably, this is mostly because the County shifts 100% of the risk of violating the law to the developer, and therefore acts as if the developer were the "client" that the Board and staff represents, instead of the public.

Unless and until the County of Monterey starts putting the PUBLIC, instead of the developers first, the Planning and Building Inspection Department (and the County and its elected representatives) will continue to have a reputation for caring little about the rights of the public where land use matters are involved. Based on the considerable public contact I have in my job,

that is definitely the prevailing view at the moment. Decisions like the one you relay here helps cement this impression.

Please include this email in the administrative record for the Sunridge Views project.

Yours truly,

Gary A. Patton, Executive Director
LandWatch Monterey County
Box 1876
Salinas, CA 93902
Telephone: 831-422-9390, Ext. 10
FAX: 831-422-9391
Email: gapatton@mclw.org
Website: www.landwatch.org

cc:

Board of Supervisors; County Counsel; Planning Director; Planning Commission; Other Interested Persons

From: Knaster, Alana x7526 [mailto:knastera@co.monterey.ca.us]
Sent: Monday, July 12, 2004 9:31 AM
To: 'byeates@enviroqualitylaw.com'; 'Gary A. Patton'; 'gapatton@standfordalumni.org'
Cc: Anderson, Ann; McKee, Charles J; Hennessy, Scott (831)883-7516; Reed, Sally R.; Nordgreen, Evelyn x7577
Subject: Sunridge Views Subdivision- Board of Supervisors Hearing

This letter is in response to your July 2, 2004 letter regarding consideration of the Sunridge Views Subdivision by the Planning Commission prior to consideration by the Board.

It is the opinion of County staff that, in accordance with Subsection B of section 20.82.030, the Planning Commission made a recommendation to the Board of Supervisors regarding the Sunridge Views Subdivision regarding both environmental and land use issues. The Board held separate hearings on the project and decided that it required an EIR in order to make its decision. There was nothing in the Board's directive to staff to suggest that a completed EIR should first be reviewed by the Planning Commission. There is nothing in County procedures to suggest that the matter should automatically be returned to the Planning Commission. Accordingly, the hearing scheduled for July 13th is appropriate. The Board may exercise its discretion to either hear the matter and as the Appropriate Authority, act on the FEIR and permit application or refer the matter to the Planning Commission prior to taking any action.

Alana Knaster
Chief Assistant Director
Planning & Building Inspection Department
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knastera@co.monterey.ca.us

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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February 4, 2004

Alana Knaster
Chief Assistant Director
Planning & Building Inspection Department
County of Monterey
2620 First Avenue
Marina, CA 93933

Subject: Comments for Draft EIR Sunridge Views Subdivision (PLN990391)

Dear Ms. Knaster:

Thank you for sending our office the *Draft Environmental Impact Report, Sunridge Views Subdivision* (DEIR). The proposed project is to allow the division of a 25-acre parcel currently zoned LDR/2.5 (Low Density Residential, 2.5 acres per unit) into 10 parcels; a mutual water system, construction of two water tanks; demolition of a barn and greenhouse; converting an existing mobile home to a senior citizens unit; grading and construction of an access road for the proposed parcels. We received your transmittal on January 6, 2004 and have the following comments:

A primary concern with this project is changing the land use from crop cultivation to residential use, the latter, which requires a commitment to a permanent long-term water supply. The DEIR indicates that the project site is located in the North Highlands hydrogeologic subarea, a groundwater basin that is in serious overdraft. The Monterey County Local Coastal Program (LCP) states that where there is limited land, water, or public facilities to support development, coastal dependent uses shall have priority over residential and other non-coastal dependent uses (General Policy 4.3.5.4). In addition, the DEIR states that "the proposed project would generate a water demand for which a long-term supply *cannot* be assured" [emphasis added], and that the mitigation for this impact is the North County Hydrogeologic fee. A fee to fund a study that was completed in January 2002 is inadequate mitigation because it does not provide any actual water. The DEIR indicates that the anticipated water usage for the proposed project is 7.85 acre-feet per year (AF/y). Current water use for existing residential use is indicated at 2.35 AF/y and 44.77 AF/y for the existing irrigated strawberry fields. According to the hydrogeologic assessment conducted for the project (Todd Engineers), the estimated infiltration to the aquifer (based on a return flow of 50% of projected residential water use for the site) is 3.92 AF/y. Infiltration or return flow from residential runoff (impervious surfaces) is projected at 1.04 AF/y for a combined total infiltration of 4.96 AF/y.¹ Based on the projected site water usage of 7.85 AF/y this would apparently reduce actual water demand to 2.89 AF/y. Infiltration from

¹ Table 1B Rancho Sunridge Views: Project Water Budget; Hydrogeologic Assessment, Todd Engineers; Appendix H, DEIR Appendices; December 8, 2003

precipitation should not be included in this calculation, because precipitation is already infiltrating into the aquifer, therefore this would not count toward offsetting any demands. Also, the projections for future residential water use on the 10 lots appears low while the figure given for existing residential water use appears very high. The DEIR does not assess water usage with regards to other crops or preexisting vacant lots in North County. What is the anticipated water usage for crops other than strawberries? Additionally, the DEIR needs to assess the implications of development of existing vacant lots and their impacts to groundwater supply when they develop. Thus, creation of additional residential lots while other vacant lots already exist in this area and are entitled to water, should not be a priority. The proposed project is not consistent with LCP policies that require new developments be controlled to a level that can be served by identifiable, available, and long-term water supply (Key Policy 2.5.1); and be phased so that existing water supplies are not committed beyond their safe long-term yields (Policy 2.5.2.3). How will a long-term water supply be achieved prior to commencement of the project?

A second concern is ensuring water quality for the long-term water supply. The DEIR states that the project site is located in an area of considerable nitrate contamination. Furthermore, a nitrate study was conducted that indicated nitrate concerns with respect to wells along Maher Road, where the project is located. The study estimates that the new well might exceed nitrate standards within 50 years (2055). Moreover, the study cautions that due to variability of data that ongoing monitoring should be conducted in order to predict a year in which nitrates would exceed acceptable levels. It's evident in the study that a long-term water supply that meets water quality standards is not available. What are the alternatives for when nitrate levels exceed acceptable standards? How will the proposed individual septic systems cumulatively impact water quality in the aquifer? Will the individual septic systems for the project contribute to an increase in nitrate levels in the aquifer?

Another concern is that the site is designated as a "critical erosion area." There appears to be no mitigation in the DEIR for the project to avoid development on portions of the parcel that contain soils and slopes in excess of 15%, which are classified as "critical erosion areas." Will critical high erosion areas be mapped to determine where to avoid placing development (roads, driveways, houses, etc.) in these areas and whether it is feasible to proceed with the project as proposed?

There appears to be an inconsistency within the DEIR regarding the placement of scenic easements. In one section the DEIR states scenic easements will be placed on all slopes 25% or greater; however the remaining references state scenic easements will be placed on all slopes 30% or greater. The LCP requires that during the subdivision process scenic or conservation easements be placed on slopes 30% or more (Policy 2.2.1.3). However, the North County LCP protects all land exceeding 25% slope containing maritime chaparral and/or oak woodland from development, to protect these habitats (Policies 2.3.3.A.2; 2.3.3.A.3). It is not clear from reading the DEIR that these sensitive habitats will be protected with an easement, are they?

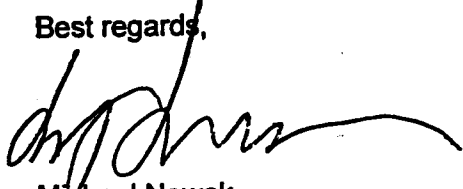
With respect to grading, it is not clear how much grading is to occur due to the proposed project. Previous correspondence cites two different figures: 200 cubic yards and 2000 cubic yards. The DEIR should indicate the amount of cut and fill and location of fill to occur to adequately determine impacts from the proposed project (e.g., grading for road building). Additionally, the project proposes a 21-foot wide road. The DEIR notes that this would impact oak woodlands. We recommend that an alternative road width (e.g., 18 feet) be evaluated for minimizing

Alana Knaster
Comments for Draft EIR Sunridge Views Subdivision (PLN990391)
February 4, 2004
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impacts to oak woodland. Monterey County Ordinance 3600 allows for emergency access road widths to be a minimum of two nine-foot lanes providing two-way traffic.

Thank you for the opportunity to comment on the Draft EIR. If you have any questions, please contact me at (831) 427-4863 or the address listed above.

Best regards,



Michael Nowak
Coastal Planner
Central Coast District Office

From: Stephanie Mattraw
Sent: Friday, August 24, 2001 2:37 PM
To: Wanda Hickman (E-mail)
Cc: Kelly Cuffe
Subject: Sunridge Views PLN990391

Hi, Wanda-

I've attached a comment letter regarding the Scope of Work for the Sunridge Views EIR. I can send a hard copy in the mail too if you like.



MCO Hickman
Sunridge Views cmtl...

Regards-
Stephanie Mattraw
smattraw@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863
HEARING IMPAIRED: (415) 904-5200



August 24, 2001

Wanda Hickman
Monterey County Planner
P.O. Box 1208
Salinas, CA 93902

Subject: *Sunridge Views, PLN990391, at 250 Maher Road*

Dear Wanda,

We understand that you are in the process of writing a Scope of Work for the Sunridge Views project, PLN990391, and would like to offer our suggestions for your consideration. We may have additional comments after we receive the Notice of Preparation and any other related documents.

Our concerns generally fall into three main groups: water use/impacts, agricultural land use, and ESHA protection.

Regarding water usage, some questions that should be answered are: How many other subdivisions are in process that are pre-moratorium, and what is their anticipated water usage? What is the maximum expected water usage for lots of this substantial size? What is the anticipated water usage for crops other than berries?

Regarding agriculture, we're curious about the exact meaning of the no-agricultural use restriction that staff had recommended. Does this mean that subdivision residences are allowed to have gardens and to keep horses? What agricultural or quasi-agricultural uses can or cannot be engaged in on a residential basis needs to be clarified if this recommendation is to remain. Is the land suitable for any other type of agriculture- not necessarily berries? What was the land use before agriculture, possibly native habitat?

Regarding habitat in general, is it possible to restore the land to viable habitat after the termination of agricultural use? If so, will this be the case? Are these areas connected to other open space areas valuable or usable as habitat?

More specifically, we have concerns about the preservation of Maritime Chaparral and oak woodlands on the site. North County LUP policies 2.3.2.3, 2.3.2.4, 2.3.2.6, and 2.3.3.A.2 for subdividing environmentally sensitive habitat would apply to this site, and they should be considered when determining impacts of this project. LUP policies 2.3.3.4 and 2.3.3.5 apply to live-oak woodland areas, located in the lower end of the property, and should also be considered accordingly.

Based on answers to the above questions, the EIR's cumulative impact assessment should address the ramifications of the Sunridge Views and other subdivisions, both as proposed and as they may be conditioned (e.g. to prohibit agricultural use). If agricultural and associated rural uses in the inland portion of the Elkhorn watershed are replaced by large homes on large lots, what will the ensuing cumulative impacts to agriculture, habitat and water use be?

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We also have concerns regarding the visual aspects of this proposed subdivision, and would refer you to Section 2.2.2 of the North County Land Use Plan. This section includes policies that deal with development on scenic hills, slopes and ridgelines.

Thank you for the opportunity to provide input to the scope of work process. We look forward to receiving the scope of work for this project and other associated documents.

Sincerely,

Stephanie Mattraw
Environmental Services Intern
Central Coast District Office

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



December 22, 1999

Wanda Hickman
Monterey County Planner
P.O. Box 1208
Salinas, Ca 93902

RE: Sunridge Views (PLN990391) at 250 Maher Road

Dear Wanda,

At this time, Coastal Commission staff has the following comments on the Sunridge Views project (PLN990391) proposed for 250 Maher Road. The project proposes subdividing an existing 25 acre parcel into 10 lots ranging in size from 1 to 7.8 acres, allowing construction of two water tanks, demolishing a barn, grading 2000 cubic yards, removing a landmark (thirty inch) Cypress tree and converting an existing mobile home to a senior citizens unit.

The existing parcel extends southwest from Maher road and rises to a crest elevation of about 316 to 320 feet near the southern boundary of the site. The North County Land Use Plan has specific policies for visual and natural resource protection. (see Section 2.2.1, 2.2.2, 2.3.1, 2.3.2, and 2.3.3). Section 2.2.2 includes policies that deal with development on scenic hills, slopes and ridgelines.

Lot 8 of the subject site is said to contain environmentally sensitive maritime coastal chaparral. Therefore, LUP policies 2.3.2.3, 2.3.2.4, 2.3.2.6, and 2.3.3.A.2 for subdividing environmentally sensitive habitat apply. The appropriate approach is to avoid impacting the environmentally sensitive habitat areas (ESHA) so that all the habitat area is assured of protection (including the smaller patch in proposed lot 8). Deed restrictions or conservation easements should be required to protect existing ESHA and to ensure that building envelopes are not allowed to encroach upon the maritime chaparral. Mitigation efforts enhancing habitat should not be considered an adequate substitute for protection of ESHAs.

The site also has live-oak woodland in the lower end of the property (in proposed lots 1, 2, and 5). The North County LUP policies 2.3.3.4, and 2.3.3.5 describe measures to take to ensure protection of oak woodland areas. Please also refer to Section 2.2.3.6 (and other sections cited therein) which provide protection of native trees and other significant vegetation.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. Kelly Cuffe".

Kelly Cuffe
Coastal Planner
Central Coast Area Office

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