

PLANNING COMMISSION

Meeting Date: __9/6/16__

ADDITIONAL ITEM ADDED AFTER
DISTRIBUTION OF PACKET #2

Agenda # __2__
Farouk Kubba/SM Highlands

Date __9/2/16__

Time __4:20__

ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE



September 2, 2016

VIA ELECTRONIC MAIL

City of San Marcos
Planning Commission
1 Civic Center Drive
San Marcos, CA 92069
<planning.comm@san-marcos.net>
<NPedersen@san-marcos.net>

RE: San Marcos Highlands project, P13-009, Planning Commission, Sept. 6, 2016

Dear Chairperson Flodine and Members of the Commission:

Endangered Habitats League (EHL) writes to oppose approval of this project. For your reference, EHL is Southern California's only regional conservation group.

The project site is identified as containing very high species values in both the Multiple Habitat Conservation Program (MHCP) adopted by the San Diego Association of Governments and the County's draft North County Multiple Species Habitat Conservation Plan (NC MSCP). In the former, the land is designated as Biological Core and Linkage and in the latter as Pre-Approved Mitigation Area. The impacts to the regional ecosystem caused by the loss of such high value habitat have been neither adequately disclosed nor mitigated through the DEIR. As proposed, the project would effectively destroy these values.

Similarly, the loss of 77 acres of rare coastal sage scrub and associated impacts to species such as the gnatcatcher, and impacts to regional wildlife movement, have been neither adequately disclosed nor mitigated. Rather, the coastal sage scrub should be preserved as an intact core area.

The Highlands project will also severely constrain wildlife movement between the southeast and northwest. An inadequate wildlife corridor is proposed on the north side of the project, but it is only 500 feet wide, and has a pinch point that is only 400 feet wide for about 500 feet in length. Riparian connections along the creek are also compromised.

The DEIR fails to disclose the project's inconsistency with the adopted NC MSCP Planning Agreement (Section 6.7.3), which seeks to ensure through LAFCO that an "annexation will not jeopardize the buildout of the preserve or the coverage of species within either of the Planning Areas, or compromise viable habitat linkages within the proposed preserve, and that any development of the annexed lands proceeds in

accordance with the Planning Goals set out in section 3 of this Agreement and the Preliminary Conservation Goals set out in section 5 of this Agreement.” Rather, the project would preclude assembly of this vital portion of the NC MSCP.

This project would have a profound and negative affect on aesthetics, land use, and community character, which is not acknowledged or mitigated. Despite the project being located in the unincorporated area, and subject to the County’s General Plan, the DEIR fails to analyze impacts relative to this on-the-ground, baseline condition. The County’s designation as Semi-Rural 1 unit/10 acres reflects the site’s constraints, and clustering – as required by the County by the Conservation Subdivision – would preserve the resource values. The County Zoning Alternative is fatally flawed in that it does not consider the Conservation Subdivision, which is mandatory for the SR-10 category.

We urge you to reject a flawed alternatives analysis and rethink this project with a much lower overall density that can be consolidated in a fraction of the property.

Yours truly,

A handwritten signature in blue ink, appearing to read "Dan Silver", with a stylized flourish at the end.

Dan Silver
Executive Director

Tom and Mary Kumura
1602 Siddall Drive
Vista, California 90084

September 2, 2016

Mr. Norm Pedersen
Associate Planner
1 Civic Center Drive
San Marcos, CA 92069-2918

RE: Opposition to 189 clustered single-family residential lots – San Marcos Highlands

Dear Mr. Pedersen:

We are opposing the proposed 189 clustered single-family residential lots as part of the San Marcos Highlands project after reviewing the completed EIR for the following reasons:

1. The project site is currently within the City of San Marcos (141.14 acres) and the unincorporated County of San Diego (152.16 acres). Approximately 124.69 acres are within the City's Sphere of Influence. A reorganization to annex these 124.69 acres into the City from the unincorporated County is proposed as part of the project. The additional 3.69 acres would be subject to a boundary adjustment to correct a previous mapping error and to align the City's adopted Sphere of Influence with the proposed annexation area. (See 1.1 Project Synopsis)

From the San Marcos Planning Commission Regular Meeting minutes for June 3, 2002, pages 5 and 6, Mr. Nelson asked: **"When was the Sphere of Influence last updated?"**; Mr. Backoff responded: **"Have met with LAFCO on this particular project. They have not indicated an update was needed. The last time was about 7-8 years ago". This would mean that the Sphere of Influence was last reviewed, in 1994-1995. Is this true? If it is what justification would you have that basing your decision on a Sphere of Influence report that is over 21 years old is prudent?**

2. The proposed project consists of 189 clustered single-family residential lots with a minimum lot size of 5,000 feet within a development area of 50.04 acres (including roads). Planning Area One represents all the development area west of Las Posas Road and would have 109 residential lots on 20.27 acres. Planning Area Two covers the area east of Las Posas Road and would provide 80 residential lots on 24.41 acres. (Paragraph 4.3.5 County Zoning Alternative) **It is not clear, but I believe that 109 residential lots would be in the unincorporated County of San Diego. Is this true? If not, how many homes are being proposed for the unincorporated County of San Diego?**

Under the County Zoning Alternative, it was noted that if the development would be consistent with the current Semi-Rural 10 General Plan designation and A70 zoning, which is one home per 10 acres; there would be only 9 homes allowed. It was also noted that “Due to the parcel configuration for some of the County parcels (e.g., long and narrow) it may be difficult to find a home site location.” Does this mean that the 9 homes assumed for the County portion of the project would be less homes? It was also noted that: The actual yield could be less once required preserve areas are considered as well as the requirements for the City’s ROZ. This means that the analysis, when it assumes 124 unit would be developed in the City is over-estimating the number of homes.

The analysis that was performed used figures that did not represent the County Zoning Alternative and those understates for example the number of daily traffic trips and the estimates of the amount of water that would be used. This bias by the City makes assumptions that seems to favor the developer. For example: “Under this alternative it is assumed that the project applicant would reapply for new permits from the regulatory agencies and develop a new HMMP that reflects proposed impacts under this alternative. Mitigation ratios consistent with the MHCP (e.g., 2: for impacts to coastal sage scrub and 3:1 for wetlands/riparian impacts) would be applicable to this alternative. Under this alternative, the full extension of Las Posas Road to Buena Creek could still occur, consistent with the Mobility Elements of the City of San Marcos and County of San Diego General Plans.” Why wasn’t it assumed that no new permits would be pursued? Why would the full extension of Las Posas Road be necessary when only 9 homes are being built in the unincorporated San Diego County?

“The scattered nature of the residence in the County would result in a patchwork of grading and could potentially result in greater aesthetic impacts.” This maybe another faulty assumption, since it is not unusual for the County or City of San Marcos, to implement specific conditions that would need to be met before approval of the project. I would recommend that the City takes the step and develop the conditions that would ensure that the project would be less impactful.

Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hazards/Hazardous Materials, Hydrology/Water Quality, Land Use, Noise, Population/Housing, Public Services, Recreation, Transportation/Traffic and Utilities and Services Systems, would all be reduced impacts to below a level of significance. For example, using the high estimate of 133 homes, 24,041 gallons per day would be saved when compared to 189 homes. This is over 8.7 million gallons of water saved. Solid waste generation under this alternative would be 122 ton saved.

3. The extension of N. Las Posas Road to Buena Creek Road is not proposed as part of this project. The narrow strip of property extending up to Buena Creek Road will be preserved habitat as part of the 210.8 acres of conservation open space for the project.

It is not clear who owns parcels of narrow strips (184-102-18, 184-102-32, and 182-02-44) How will the property be obtained if not currently owned? "

4. The Habitat Mitigation and Monitoring Plan (HMMP) will be updated, finalized and submitted to the USFWS for review. The final HMMP will include measures and demonstrate that adequate funding would be provided to protect and manage the resources on the mitigation land in perpetuity. (0.3 Response to Comments, 4-6). ***LAFCO had previously requested that approval be obtained from regulatory agencies. Rather than rush the project through, it would be more prudent to see what the agencies are concerned with and make sure that the project can meet the new conditions.*** For example, "the 400-foot wide pinch point along the northern boundary is exclusive of any fuel modification. If fuel modification areas are included, the width is over 500 feet. The City recognizes that the wildlife agencies do not include actively managed fuel modification areas as conserved, however, these areas can provide stepping stone areas for avian (and other) species." (0.3 Response to Comments, 5-5). ***The city makes assumptions that they acknowledge that are the under the control of the wildlife agencies. In fact, in some cases, the width has been requested to be 1,000 ft.***
5. Ridgeline Protection and Management Overlay Zone Ordinance is not being applied to the portion of the unincorporated San Diego County land being annexed. "In North Area #1, the ROZ area which includes a portion of the project site, topography did not warrant the extension of primary and secondary ridgelines to the City Boundary. As shown in Figure 3.1-24 of the Draft EIR, the primary and secondary ridgelines in North Area #1 stop before the City boundary" (0.3 Response to Comments, 19-3.) ***The City seems to enforce regulations when it benefits the developer; when looking at the land use policy for the County, the City states that since the property is in the Sphere of Interest, that the higher City density will be used. When the ridgeline ordinance is being applied, the City used the County boundary as the reason why it is not continued.***
6. It has been disclosed that the Vallecitos Water District's Water Supply Assessment and Verification studies are undergoing revisions since the District's 2015's Urban Water Management Plan demonstrates a water supply deficit for normal, single dry, and multiple dry years in 2020, 2025, 2030 and 2035. ***The VWD cannot approve a Water Supply Assessment and Verification indicating it will have sufficient water supply to serve the San Marcos Highlands project if it is already facing a water supply deficit. This fact alone, justifies denying the project until the Water Supply Assessment and Verification is updated with a firm indication of the availability of water. In addition, some believe that the VWD cannot rely on Conservation Measures to make up for its water supply shortfall. Also, upstream water supplies are too uncertain to use as a basis of assurances of the water supply. Other problem with VWD's***

Urban Water Management Plan includes the reliance on water demand factors that have not yet been determined and the report should be presented in a easily accessible format to the public.

The portion of the project that is in the unincorporated area of San Diego County does NOT fit the current rural nature of the Twin Oaks Valley/Buena Creek community. There was no effort made to reduce the density or provide a buffer zone which transition the high densely packed homes in the city of San Marcos to the rural area. Also, if the development is approved, what guarantee is there that the planning department would not grant variance in the height of the building pads.

The lack of water supply needs to be address before the plan can move forward. The decision should be delayed until the proper reports be obtained. In addition, approval from wildlife agencies should be obtained before approval of the EIR. This was the procedure before and since the applicant wants to use the same footprint as before, it should approach undergo the same process.

Finally, the Sphere of Influence plan is over 21 years old. Enough time has passed that it needs to be updated before any new projects are approved. The bias of the City of San Marcos against those residents living in the unincorporated area of San Diego County is very glaring. This subject will be brought up again to LACFO.

The reason why there is much distrust with the representatives of the City of San Marcos, is that the issue of Buena Creek road being classified as a four lane major road is due the request of the City of San Marcos. It was schedule to be downgraded to a two-lane road by the County but changed due to the City's request. Because of this, we do not believe the City when it states that Las Posas road will not be extended. (It may not be at this time, but eventually, the City will attempt to push a connection into Buena Creek road).

Sincerely,

Tom and Mary Kumura

California Native Plant Society

San Diego Chapter of the California Native Plant Society
P O Box 121390
San Diego CA 92112-1390
conservation@cnpssd.org | www.cnpssd.org

September 2, 2016

City of San Marcos Planning Commission:
1 Civic Center Drive
San Marcos, CA 92069

By e-mail to: Norm Pedersen, Associate Planner, NPedersen@san-marcos.net, and
planning.comm@san-marcos.net

RE: San Marcos Highlands project, P13-009, Planning Commission agenda of Sept. 6, 2016

Dear Planning Commission Chair Eric Flodine, and Commissioners Carl Maas, Bruce Minnery, Steve Kildoo, Kevin Norris, Wendy Matthews, James Schaible (Alternate) and Bill Jacoby (Alternate):

We appreciate the opportunity to comment on the San Marcos Highlands ("Project") Final Environmental Impact Report ("FEIR"). The San Diego Chapter of the California Native Plant Society (CNPSSD) works to protect California's native plant heritage and preserve it for future generations. CNPS promotes sound plant science as the backbone of effective natural areas protection. We work closely with decision-makers, scientists, and local planners to advocate for well informed and environmentally friendly policies, regulations, and land management practices. Based on our study of the document, the previous Draft Eir ("DEIR"), Mitigated Negative Declaration ("MND") for the same project and a 2013 visit to the project location, we are writing to question the greenhouse gas analysis in the FEIR and the response to the botanical analysis in the DEIR. We strongly urge that the EIR should not be certified in its current form, and we are strongly in favor of the No Project/No Development Option.

Climate Change

As background, the California Native Plant Society (CNPS, the parent organization of CNPSSD), was a co-plaintiff in the Center for Biological Diversity et al. vs. the California Department of Fish and Wildlife and the Newhall Land and Farming Company, ("Newhall Ranch") which was decided in our favor by the California Supreme Court on November 30, 2015. Subsequent to that decision, CNPS has more actively commented on climate change issues than we have in the past. The reason is simple: climate change is a major factor in most of the conservation issues facing native plants, whether it involves changes in fire frequency, increased drought, increased pests, or the need for migration corridors so that plants, like



Dedicated to the preservation of California native flora

animals, can move to areas with suitable climates. Unfortunately, this means we did not comment on the climate change section in the DEIR.

While we are not lawyers, we would strongly suggest double checking the language of the *Newhall Ranch* ruling and comparing it with the greenhouse gas analysis in the FEIR to make sure that the FEIR complies with the judge's decision. We would also suggest doing this before the FEIR is certified. The proposed Project only meets the San Marcos Climate Action Plan guidelines on a per-house basis, and only for the 2020 reductions. This sets up a numerical standard that needs to be checked against the ruling in the *Newhall Ranch* case, which rejected another numerical standard.

Another issue is from page 20 of the *Newhall Ranch* ruling: "[T]he Scoping Plan nowhere related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects, and nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy...*Plaintiffs put forward one ready reason to suspect that the percent reduction is not the same, and that in fact a greater degree of reduction may be needed from new land use projects than from the economy as a whole: Designing new buildings and infrastructure for maximum energy efficiency and renewable energy use is likely to be easier, and is more likely to occur, than achieving the same savings by retrofitting of older structures and systems.*" [emphasis added]

This is the issue that the Planning Commission and City Council need to face with the proposed Project. It adds buildings and greenhouse gas emissions to San Marcos, but it does not increase the total amount of greenhouse gas that the City allows itself to emit, nor does it decrease the emissions cuts that the City will have to undergo. Once the proposed Project is built, those houses will be expected to further cut their greenhouse gas emissions to meet the 2030 and later limits until they generate no greenhouse gases at all. Unfortunately, is no mechanism in place for them to do so. They will need to be retrofitted like everything else.

Newhall Ranch has already made the point that it is reasonable to expect new developments to greatly exceed minimum Climate Action Plan standards, as a way of helping the community as a whole meet its greenhouse gas reduction goals, so that the municipality can avoid the expensive and inefficient process of retrofitting existing structures. The proposed Project needs to plan for that future, not to try to avoid dealing with climate change by mathematical handwaving, as in the FEIR.

We therefore strongly suggest that the city and the developer go back and make sure that their greenhouse gas plans and analyses comply with the *Newhall Ranch* ruling before anyone contemplates certifying the EIR. We also strongly suggest that they look at the language of the current Senate Bill 32, which may be passed into law by the time of the hearing, to make sure the analysis and the project are compliant with that language as well. The City of San Marcos certainly wishes to grow, but it faces the formidable challenge of weaning itself from greenhouse gas production as fast as possible. Allowing 20th Century-style development that subsequently it will have to retrofit is not the way to attain this goal.

Native Plants, Vegetation, Fire, and More Climate Change

This project will require San Marcos to annex County land. Within the City, the proposed Project is on land recognized in Multiple Habitat Conservation Plan ("MHCP") as Biological Core and Linkage Areas (BCLA), while the County portion is recognized in the draft North County Multiple Species Conservation Plan as a Pre-Approved Mitigation Area (PAMA). The Project area as a whole is currently important as a wildlife corridor between two large open space areas, and it contains sensitive coastal sage scrub and riparian vegetation. Development in such an area causes serious problems for native species, especially plants. As our comment letter on the DEIR pointed out, native plants also migrate in response to climate change. Those that cannot hitch a ride on animals (as burs in fur or fruit in guts) have to move more slowly, generation by generation. For migrating native plants, a narrow bottleneck, 400' wide by 500' long where plants are cleared for fuels management, is problematic, especially since it will be narrowed still further by trails, and other human activity. Unlike an animal, a plant stuck in the corridor cannot run away from someone with a brush cutter. Safety for plants means getting their seeds through to other reserves.

Unfortunately, in the EIR, the native plants were treated very shabbily. The one, obvious sensitive plant, a walnut near the trail, was excluded until we mentioned it. Our noticing of the presence of native grassland patches was dismissed as undesirable "micromapping," and even though CDFW suggested surveying for a grassland species, the survey was not done. Even though a List 2 Ceanothus species was found on the site in 1989, no survey was done to determine that the species was no longer present, and these are shrubs that can live for a century. In other words, the DEIR work was, charitably, a suboptimal survey for land in the PAMA and BCLA.

The excuse offered in the FEIR (p 0.3-103) is that " the project does include the requirements for a Wildlife-Agency approved biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor shall have the authority to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures."

This sounds wonderful until one realizes that construction can easily take place when plants are dormant and invisible at which point they are destroy. On a big site, the biological monitor cannot be everywhere, and the job is poorly paid and often given to people fresh out of college. Worse, for the City, what happens when a sensitive species is found? At best, work stops until people determine what can be done about it. Does anyone think this is a better solution than having proper pre-construction surveys? Furthermore, plants found cannot be transplanted in the Preserve and expected to survive. CNPS tried that for decades, and we found that transplanting sensitive plants has a very low success rate. It is something that CNPS does not recommend.

With regards to climate change, again, the FEIR makes some fundamental mistakes about the nature of vegetation. For one thing, native plants have roots, and with chaparral species, the root mass can be several times the aboveground mass. That is where they sequester most of their carbon. Granted, this does not mean that chaparral is as good at carbon sequestration as is, say, a

redwood forest. The key point is that the carbon sequestered in chaparral and coastal sage scrub is mostly in the soil, and it stays there only so long as the plants live. If these areas burn frequently enough that they are converted to grasslands, two things happen. One is that most of the carbon sequestered in the system gets lost to the air as the plants and their roots die. The second is that no further carbon gets sequestered, because dead annual grasses and herbs lose their carbon back to the air quite rapidly.

The FEIR suggests that it is better to plant trees around houses to sequester carbon. Unfortunately, planting trees close to houses increases the fire risk for both. A palm tree or pine tree next to a house may look gorgeous, but it can also act as an efficient ember catcher during a wildfire, and a burning tree can readily ignite an adjacent house.¹ Indeed, fire safe landscaping principles promulgated by CalFire and other groups strongly suggest not having flammable plants close to homes, and focusing on the landscaping immediately around the house as the primary defense for the home itself.²

This is the central contradiction with the proposed Project and many other developments: to keep the homes safe in this high-fire area, it is best to landscape without big trees, except in areas far away from houses. In order to replace the loss of carbon sequestration by the native landscaping, it is desirable to have as many big trees as possible as close to homes as possible. Given that big trees use a lot of water, ultimately the decision should be to favor fire safe homes over big, drought-killed trees, but this means acknowledging the loss of the land's carbon sequestration by paving over native vegetation. This loss was not quantified in the FEIR.

Ultimately, we recommend not certifying the FEIR in its current form. The primary reason is that it is unclear whether the FEIR complies with the *Newhall Ranch* ruling, nor whether it will have to comply with Senate Bill 32 and other environmental legislation currently on the governor's desk. Our recommendation is also about surveys that are at best suboptimal, and it would probably be cheaper to have more surveys than for the developer to have to stop work because sensitive species were missed. Additionally, this project blocks an important wildlife corridor that plants need too, and the solutions proposed so far to keep the corridor open are inadequate. Ultimately, this is not the time to approve this project, and we honestly hope that it is not approved at all.

Thank you for considering our comments. Please keep us informed of all developments on the San Marcos Highlands project at conservation@cnpsd.org

Sincerely,

Frank Landis, PhD (Botany)
Conservation Chair
California Native Plant Society, San Diego Chapter

¹ Google "burning palm tree." One video from Los Angeles is on YouTube at https://www.youtube.com/watch?v=Ke_kuJpiOT8

² e.g. <http://www.readyforwildfire.org/Fire-Safe-Landscaping/>, firecenter.berkeley.edu/docs/CE_homelandscaping.pdf, and ucanr.edu/sites/SAFElandscapes.

Sandra Farrell
1900 Esplendido Ave
Vista, CA 92084
September 2, 2016

City of San Marcos
Planning Commission
1 Civic Center Drive
San Marcos, CA 92069

To: Norm Pedersen, Associate Planner, NPedersen@san-marcos.net, and
planning.comm@san-marcos.net

RE: San Marcos Highlands project, P13-009
Planning Commission agenda of Sept. 6, 2016

Dear Planning Commission Chair, Eric Flodine, and Commissioners Carl Maas, Bruce Minnery, Steve Kildoo, Kevin Norris, Wendy Matthews, James Schaible (Alternate) and Bill Jacoby (Alternate):

I appreciate you taking time to hear the San Marcos Highlands project. I'm sure, like members of the public, the Commission is struggling to review the FEIR and all the comments by Tuesday especially since the review period spans the Labor Day weekend and most of us have plans to be with family. It would benefit the Commission and the public to allow more time to go over the full two volumes of the FEIR and appendices. I respectfully ask this item be tabled until next month so you and the public have an opportunity to review everything and get any questions answered before the hearing. This project has come before your commission several times in the past and seems to have changed little over the years. The past Planning Commission didn't support the project in 2002 and 2004 and the map expired after the City Council failed to give extension years ago.

I'm don't finished with my review of the City's response to my comments but so far the FEIR appears to only look at the project's impacts to the City of San Marcos and not how the project will impact residents in the unincorporated portion of the County living near the site or County planning for the area. Please read the letters submitted by the public and especially those from other governmental agencies. Also, please read the full text of the Biological Opinion and not just what the Consultant says it means but the story this document is communicating. It is in **(AppendixE4_USFWS-BiologicalOpinion-and-Amendment)**. Under the "Consultation History", the Wildlife Agencies show they have repeatedly expressed concern over the years and tried to get Mr. Kubba to come up with a less damaging project for the site. There is a project for this land but what has been proposed by Mr. Kubba simply the wrong project in the wrong place.

I have always asked for three things over the last sixteen years. First, the City of San Marcos act as a good neighbor to the rural County residents who live on two sides of the project by providing a development design that is sensitive to existing rural land uses. Second, the project should be designed to allow for the recommended wildlife corridor outlined in the MHCP documents and by the Wildlife Agencies so wildlife can move through the site to access water along Agua Hedionda Creek. Third, the City look at the cumulative impacts of Las Posas Road and evaluate the full connection to Buena Creek that this project contributes to it so that the public and decision makers know the full impacts of the road on people and wildlife.

1. **To be a good neighbor** the project needs to respect the existing community character and rural residents who live adjacent to the project by making the project less dense as it transitions to rural land so that it blends into the adjacent rural communities. It should use the County General Plan designation on the portion of the property currently outside the City. According to a County Planner, (**see attachment 1**) the County General Plan would allow for a maximum density of 13 homes where the City currently plans to place about 136 of the total 189 homes. The developer's consultant says Mr. Kubba, under the County General Plan, can sell off each lot and develop them independently, making the project more environmentally damaging than what is proposed. However, if you look at the actual parcels of this project that are in the County it is hard to imagine developing each parcel as a separate lot would be either financially practical or feasible due to the odd sizes and shapes of the lots and access problems. To say that Mr. Kubba would chose this option if he used the County General Plan isn't a realistic argument if his goal is to profit from the development of the site. What he would do Under the County General Plan is to create a clustered project using the County's Conservation Subdivision Ordinance which would yield fewer and larger lots so there would be a transition between the City and County's density.

The County and City has over the years expressed concerns. Please review the following pages of the attachments found on pages of Volume 1 in the FEIR:

Page 439 County letter to LAFCO,

Page 489- 491 County evaluation of Kubba's request for change to GP

Page 524 San Marcos letter to Consultants Collaborative.

2. **To be a good wildlife corridor** means not to build in the places used by wildlife or if you do provide wildlife safe passage through the riparian corridor and provide the recommended 1,000 foot corridors so that wildlife can connect to adjacent areas. The current configuration places the development footprint in the middle of the site cutting of movement of the wildlife, especially larger forms like bobcats, which have live in the area. I'm very concerned that Las Posas Road along the riparian corridor will force wildlife into the path of cars. Although Mr. Kubba will purchase an easement across an existing residence, Darling property to create a roughly 500 foot corridor there isn't a way to get to the recommended 1,000 feet without removing the Darling's home and a private access road along with the home north of the Darling's.

3. **The Las Posas Road connection:** Although not a part of this project the project helps fund the extension of Las Posas Road to Buena Creek Road. The alternate alignment provide by Mr. Kubba to Army Corps of Engineers as a requirement for the permit for the San Marcos Highlands shows that alignment going through private property. I submitted a map of the alignment that was created for the permit application and it was included in my comment letter but it was left out. **(attachment 2)** You can't separate the project from the road if the Project helps fund/build the road and it was part of the permit process used for the project. The road and the project are linked. The impacts of the full extension of Las Posas Road to Buena Creek should be studied to see what impacts it will have. This should be done before approval of the Highlands or other projects that will likely use the road or be near the road. Las Posas Road will be a significant impact and even though the City changed to the project to avoid the FEIR having to study the impacts, I don't think doing so is the best interest of the public. During the County's General Plan update, when the County was considering removing Las Posas Road from the County Circulation Element, San Marcos sent staff to the Board of Supervisor hearings and said San Marcos needs Las Posas Road connection to Buena Creek Road on the Circulation Element. This project builds ½ of that connection and provides funds to the rest. The Army Corps pointed out to the City that it is peacemealing Las Posas Road up to Buena Creek Road. The eventual connection will have significant cumulative impacts that are foreseeable and possibly un-mitigatable if not addressed now.

I'm very concerned that many of the attachments to my comment letter weren't included in the FEIR. These are part of the Public Record for this project and I will ask Norm to include them the document you will be presented since they reference either the San Marcos Highlands project, City's planning for the build out of Las Posas Road or support arguments made in my comment letter. As you weigh the decision before you with the vast amount of documentation I'm sure you will agree that the time from release of the FEIR on 8/24 to the hearing date on 9/6, the day after the Labor Day weekend, is insufficient time for the public or the decision makers to do a proper review. Please table this project until everyone has had a chance to review all the documentation presented.

Thank you very much for your attention in this matter. Feel free to contact by email or by phone if you have any questions.

Sincerely,

Sandra Farrell
760-415-3349
sfbarrell@cox.net

Attachments

From: [Citrano, Robert](#)
To: [Sandra Farrell](#)
Cc: [Lardy, Eric](#); [Farace, Joseph](#)
Subject: RE: San Marcos Highlands
Date: Wednesday, February 18, 2015 2:30:22 PM
Attachments: [CoSD_commnts_NOP_140915.doc.pdf](#)

Hi Sandra;

Below are my responses to the questions posed in your email:

1. Can you tell me if the claims made by the consultant, are correct? They are saying that if the project came forward in the County, using the County General Plan for the land that is in the unincorporated area, the resultant project wouldn't offer as much habitat protection as what currently is being proposed.

Under the County General Plan, with a Semi-Rural 10 (SR-10 or one dwelling unit per 10 acres in areas under 25% slope and one dwelling unit per 20 acres in areas with 25% or greater slope), the unincorporated portion of the project site would yield a maximum of 13 dwelling units (probably less once steep slopes are accounted for). The SR-10 designation also requires any subdivisions comply with Conservation Subdivision Program (CSP), which requires the avoidance of 75% of sensitive resources. Per the County Resource Protection Ordinance, environmentally sensitive lands are defined as wetlands, floodplains, steep slope lands, sensitive habitat lands, and lands containing significant prehistoric and historic sites. Additional information on the Conservation Subdivision Program is provided here:
<http://www.sandiegocounty.gov/content/sdc/pds/advance/conservationsubdivision.html>

There is not enough information to verify the project applicant's claim that the project would offer less projection under the County General Plan; however, the CSP would only allow a maximum of 33 acres to be impacted (25% of 131 acres), which assumes all 131 acres contain sensitive resources. While the project applicant states that the project impacts 50 acres of habitat, it does not specify where they are (San Marcos or unincorporated lands).

2. Also, they said the County supports the project. Can you provide clarification on this last point.
We are not aware of any position taken by the County on this project (see attached comment letters provided to date identifying potential impacts from the project).

3. Finally, do you know who is working on the NC MSCP? Is that still in process or has it been abandoned until after the General Plan amendment is completed?
Eric Lardy is the lead for the preparation of the NC MSCP, which is currently in progress. More information on the NC MSCP is available at:
<http://www.sandiegocounty.gov/content/sdc/pds/mscp/nc.html>

Feel free to give me a call if you need to discuss further.

Sincerely;

Attachment 1

Bob Citrano

Land Use Planner III, Advance Planning Division
County of San Diego
Planning & Development Services
858-694-3229

From: Sandra Farrell [mailto:slfarrell@cox.net]
Sent: Monday, February 16, 2015 7:58 PM
To: Citrano, Robert
Subject: San Marcos Highlands

Hello Bob,

The Sponsor Group heard the San Marcos Highlands last month and I've attached a copy of the draft minutes. Can you tell me if the claims made by the consultant, are correct? They are saying that if the project came forward in the County, using the County General Plan for the land that is in the unincorporated area, the resultant project wouldn't offer as much habitat protection as what currently is being proposed. Also, they said the County supports the project. Can you provide clarification on this last point. Finally, do you know who is working on the NC MSCP? Is that still in process or has it been abandoned until after the General Plan amendment is completed ?

Thank you very much.

Sandra Farrell
1900 Esplendido Ave
Vista, CA 92084

PH 760-415-3349

- Property Boundary
- Originally Proposed Las Posas Road Development
- Proposed Realigned Las Posas Road
- Jurisdictional Areas
 - Waters of the U.S. and Wetlands (USACE Jurisdiction)
 - Emergent Wetland Scrub (CDFG Jurisdictional)¹
 - Wing-Fat Scrub (CDFG Jurisdiction)
 - Recently Disturbed Waters of the U.S. and Riparian Habitat (USACE/CDFG Jurisdictional)
 - Riparian (Non-Jurisdictional)²
 - Eucalyptus Groves (Non-Jurisdictional)³

Buena Creek Rd.

Areas of Impact
to Jurisdiction

Attachment 2

A3.1

A

A4

A3

- 1) CDFG Jurisdictional Riparian Habitat was formally delineated by the March of USF in 1999
- 2) Riparian Habitat is comprised of emergent wetland and is therefore included in CDFG Jurisdictional areas
- 3) Eucalyptus Groves are not considered "riparian" therefore, they are not included in CDFG Jurisdictional areas



RCOG

0 100 200 Feet



Figure 7
San Marcos Highlands
Las Posas Road - Northern Alignment
(Not a part of the project)

Pedersen, Norman

From: Royalviewranch@aol.com
Sent: Friday, September 02, 2016 4:03 PM
To: Pedersen, Norman
Subject: San Marcos Highlands comments P13-009 keps getting rejected by e m ail

This keeps coming back to me. Karen Binns

From: Royalviewranch@aol.com
To: npedersen@sanmarcos.net, planning.comm@san-marcos.net
Sent: 9/2/2016 2:39:13 P.M. Pacific Daylight Time
Subj: San Marcos Highlands comments P13-009

RE: San Marcos Highlands

Norm Pedersen, Associate Planner,

Dear Planning Commission Chair, Eric Flodine, and Commissioners Carl Maas, Bruce Minnery, Steve Kildoo, Kevin Norris, Wendy Matthews, James Schaible (Alternate) and Bill Jacoby (Alternate):

We are opposed to the San Marcos Highlands project. This project has been going on for years and years and has had issues with Fish and Game permits, etc.

We are also opposed on water issues. The Vallecitos Water District is in the midst of finalizing their Urban Water Management Plan. This Plan shows a deficit of water. Where will the water come from for this project if there is already a deficit?

We are opposed to the number of homes. Most of this project is in the County. It is SR 10 land. This project of 189 homes is much too dense.

Please reject this project. Thank you.

Allen and Karen Binns
2637 Deer Springs Place
San Marcos, CA 92069

Lesley Blankenship-Williams, Ph.D. Biology
788 Via Bahia
San Marcos, CA 92069

City of San Marcos
Planning Commission
1 Civic Center Drive
San Marcos, CA 92069

To: Norm Pedersen, Associate Planner, NPedersen@san-marcos.net, and
planning.comm@san-marcos.net

RE: San Marcos Highlands project, P13-009
Planning Commission agenda of Sept. 6, 2016

Dear Planning Commission Chair, Eric Flodine, and Commissioners Carl Maas, Bruce Minnery, Steve Kildoo, Kevin Norris, Wendy Matthews, James Schaible (Alternate) and Bill Jacoby (Alternate):

When this project released a **Mitigated Negative Declaration (MND)** in 2013, I spearheaded a 20+ page response that was the result of hundreds of hours of research, collaborations with biological specialists, and conversations with USFW and other interest groups. It was clear the MND was entirely inappropriate. As a result of both private and public agency scrutiny, Mr. Kubba and his consultants did in fact bring forward an EIR for which I was hopeful they would finally address some of the concerns.

Nope. Almost the same project is being proposed without honest efforts to mitigate the extreme environmental impacts.

Most of the points have been correctly captured by other concerned citizens and agencies that clearly recognize that this project – as is – is like trying to put a square peg in a round hole. I will limit my focus to three areas.

Most notably, no alternative has been proposed that fits within the County zoning if 1 house per 10 acres. **Why not?** The EIR rejected a proposal from Sandra Farrell and the Endangered Habitat League on the basis that the smaller project that adheres to the County zoning doesn't generate the desired profit margin. **Profit is not a valid reason for granting an exception to the County zoning – the zoning for that area was based not only on the density of the surrounding neighborhood but also on the supreme environmental sensitivity of the area.** In the past decade or so, there were efforts by at least one non-profit group to secure the funding to buy the land as a conservation trust. Mr. Kubba's interest in such proposals were disingenuous because he wanted more than the appraised value of the land. See Mary Clarke's letter for a full account of this.

I will also reiterate what many other groups have said - the EIR does not fully analyze the impact of connecting Las Posas to Buena Creek, which is a foreseeable project. “Piece-mealing” a significant environmental impact is unlawful and subject to litigation from CEQA violation.

Finally, I state that the project footprint clearly trisects the rare and valuable coastal sage scrub and riparian habitat (**Figure 1**). Much of the environmental mitigation depends on hoping for best-case scenarios - (1) the wildlife will use the proposed corridors, which are much narrower than current wildlife research supports as minimum widths, (2) an indoor cat policy is enforced (*how is that to be enforced?*), (3) loss of habitat from a Murai development and automotive impacts from connecting Buena Creek to Las Posas won’t ever be realized.

In summary, hoping for best case scenarios on all fronts is a terrible foundation to build the argument that this environmentally destructive footprint is somehow mitigated.



Figure 1. Proposed San Marcos Highlands project will trisect the habitat into three disjointed blocks of open space (orange lines) connected by two wildlife corridors (solid yellow arrows). A third wildlife corridor is possible (dashed yellow line) but the area is sparsely vegetated, narrow and includes substantial fuel modification zones; movement will probably be limited in this north-south corridor.

Thank you for an opportunity to comment.

Best regards, Lesley Blankenship-Williams