SIERRA CLUB

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March 6, 2008

Jacqueline Onciano
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Monterey County Planning Department
168 West Alisal Street, Second Floor
Salinas, CA 93901-2487

RE: Rancho Canada Village Specific Plan DEIR Comments, PLN040061

Dear Ms. Onciano:

For decades, the Ventana Chapter of Sierra Club has been involved in protecting the habitat values of the Carmel River watershed and in protecting the quality of life of Carmel Valley residents.

We have reviewed the DEIR for Rancho Canada Village, one of the largest developments ever proposed near the mouth of the Carmel River. Given the size of the project and the sensitivity of the location, we expected a much more cohesive and complete DEIR than has been circulated for comment. We request that the county require the applicant to revise and re-circulate the DEIR.

Our specific comments follow.

Inadequate analysis of drought-flood cycles

Page 3.3-10 discusses impacts of drought and impacts of flooding on riparian vegetation. However, there is no discussion of the interaction of the *combined* impacts of drought and flooding. *What will be the combined impacts of drought and flooding?*

This is a significant question, given the common drought/flood cycles of the climate in the area. The project will be constructed substantially within the 100-year flood zone on top of a pad to be created by 200,000 cubic yards of fill. According to the DEIR, drainage changes will reduce available water for some areas of riparian vegetation, and in other areas will likely increase water velocities. The project, in effect, creates its own drought-flood cycle which may be exacerbated by the natural drought-flood cycles. *What is the impact of the interaction of these multiple drought and flood cycles?*

Inadequate analysis of species of special concern

Page 3.3-17 discusses potential impacts to Cooper's hawk, a California species of special concern. On page 3.3-18, the DEIR concludes that suitable habitat exists adjacent to the project area to support Cooper's hawk. *What facts support the conclusion that suitable habitat exists adjacent to the project area to support Cooper's hawk, given that no field survey observations of Cooper's hawk are reported?*

The report continues, "There are no CNDDB (2007a) records for nesting white-tailed kites within 5-miles of the project area and no white-tailed kites were observed during the field surveys (Rana Creek Habitat Restoration 2004)." *Do substantial facts support the seeming assumption that observations regarding white-tailed kites are indicative of impacts to Cooper's hawk? If so, provide these facts and the reports that substantiate this conclusion.*

Loss of Monterey Pine stands remains significant and unmitigated

Impact Bio-2, page 3.3-32, states that up to 3.2 acres of Monterey Pine will be permanently removed from the project area. Of the total, 3 acres are located on the existing golf course. Loss of these trees will not be mitigated, because the report claims that they are not a "native" stand. However, this conclusion is contradicted at page 3.3-6, lines 27-30. Here, the DEIR states, "Native Monterey pine forest is considered a sensitive community by the California Department of Fish and Game (CNDDB 2007). The stands located on the golf course may be native as their size suggests that they are older than the golf course itself which was built around 1970." The analysis continues, "mapping of Monterey pine forest conducted in 1994 (Jones & Stokes 1994) reports that the study area and vicinity contain scattered Monterey pine with up to 20% canopy covers as an overstory in golf courses...the overstory trees in these stands may retain valuable genetic diversity that can be valuable to the conservation of Monterey pine genetic diversity at the species level (Rogers 2002)." *Why are trees, considered a sensitive community by the California Department of Fish and Game, not subject to protection?*

Why is there no mitigation for the loss of the 3-acres of Monterey pine, when the DEIR proposes mitigation (albeit inadequate) for the loss of a .2-acre Monterey pine stand on the Hatton parcel?

Mitigation Measure BIO-1 requires that the applicant avoid or minimize impacts on the .2-acre Monterey pine stand, *if feasible.* If not feasible, BIO-2 proposes that the applicant preserve .6 acres of Monterey pine forest elsewhere. However, no alternative preservation sites are identified; no funding is designated for the purchase of an alternative preservation site; no criteria for determining success of preservation are established and no monitoring of the health of the preserved stand is prescribed. *What precise plans are proposed for off-site mitigation?*

The DEIR does not attempt to mitigate loss of 3 acres of native Monterey pine. The mitigation measures proposed for the remaining .2 acre stand are neither feasible nor funded. *Therefore, upon what facts does the DEIR conclude that the loss of Monterey pine stands totaling 3.2 acres will be reduced to less than significant?*

The DEIR does not include analysis of permanent, long-term impacts caused by the project, including: edge effects, regeneration, changes in drainage patterns and changes in soil levels. *An analysis of these long-term impacts must be provided.*

Disturbance of special-status plants remains significant and unmitigated

Prior to completion of the DEIR, no botanical surveys were conducted for Eastwood's goldenbush and San Francisco gumplant – two special status plant species. The DEIR acknowledges that construction activities could destroy or damage these plants if they're located in the project area. *Given that their destruction would be considered a significant impact, why were no botanical surveys undertaken to determine if these plants are present on or about the project site?*

Mitigation measure BIO-3 proposes that the applicant hire a qualified botanist to conduct *one* survey for both plants during the four-month period when they may be in bloom – between July and October. BIO-3 states that this survey protocol would "allow" for the identification of these species. However, it does not state that the survey would "guarantee" identification of these plants. *Please explain why one survey over a four-month period when these plants may be in bloom is adequate to determine, absolutely, the presence or absence of these plants.*

If any special-status plants are identified, BIO-4 purports to protect them by redesigning or modifying the project to avoid direct and indirect impacts "if feasible." In addition, barrier fencing to protect these special-status plant populations "shall be installed at least 20 feet from the edge of the population where feasible."

What criteria will be used to determine the feasibility of installing barrier fencing a minimum of 20 feet from the edge of special-status plant populations? If the 20-foot minimum is infeasible, where will the fencing be installed? What criteria will be used to determine the efficacy of installing the barrier fencing closer than 20 feet from special-status populations? Who is responsible for making this feasibility determination? If the project must be redesigned or modified, what alternative designs will be considered; what criteria will be used to choose among alternatives and who will be responsible for making that decision?

If loss of special-status plants is unavoidable, BIO-4 proposes that a compensation plan be developed in conjunction the CDFG and Monterey County. *Who will monitor and report losses of these special-status species? Without assigned responsibility, what will trigger the development of a compensation plan?*

CEQA requires that mitigations be feasible. In the case of mitigation measure BIO-4, the DEIR clearly states that the mitigations may be infeasible *Based upon what facts does the DEIR conclude that loss of special-status species will be reduced to less that significant?*

Riparian forest and woodland habitat losses remain significant

The DEIR vaguely assesses the loss of Riparian forest and woodland habitat. It acknowledges the loss of .6 acres within the project. However, it does not indicate the acreage that will be impacted downstream of Rio Road west extension due to changes in the project's drainage patterns. The DEIR merely states that remaining water "may be adequate" to support the riparian overstory, but that the riparian understory will be replaced by non-riparian vegetation. *Please quantify the acreage impacted by drainage changes downstream of Rio Road west extension. Please analyze the impacts to riparian habitat of the loss of riparian understory and cite the sources of this analysis. Please quantify the amount of water required to support the riparian overstory in its current condition.*

Riparian forest and woodland habitat may also be lost to bank erosion due to increased velocities in the Carmel River. *What is the maximum acreage that may be lost due to bank erosion?*

The DEIR states, "the channel is expected to adjust to the change in velocities, eventually reaching a new equilibrium. Local bank erosion could occur during this period. If this occurs, then there could be loss of riparian vegetation along the eroded bank." *How long is "eventually?" What are the cumulative impacts that may occur to riparian vegetation and dependent species while a new equilibrium is being reached? How can impacts be mitigated if they are not quantified?*

Mitigation Measures BIO-5, BIO-6, BIO-7 and BIO-8 purport to mitigate loss of riparian habitat. However, scrutiny reveals they are vague, infeasible, unfunded and unenforceable.

BIO-5 requires a qualified biologist to conduct awareness training for construction personnel before work occurs in the project area. This briefing will include identification of special-status plant species, avoidance of riparian habitat and penalties for not complying with biological mitigation requirements. If new workers are added to the project, *the contractor* is tasked with ensuring they receive this training before they start work. The applicant is responsible for the measure. Documentation that the training occurred – an attendance sheet – is to be kept on file by the applicant to demonstrate to the county that the measure has been implemented.

In other words, construction workers, while operating construction equipment, are expected, after one briefing, to identify plants that qualified biologists can only identify while in bloom. *In the unlikely event construction personnel identify sensitive plant species; what are they or their supervisors supposed to do with the information? What enforcement mechanism ensures that the applicant, whose primary goal is project construction and profit, will effectively implement and document compliance with this measure?.*

Under mitigation measure BIO-6, riparian forest outside the construction footprint is to be identified with fencing barrier so that construction activities within those areas can be avoided. *Who will supervise, inspect or enforce these restrictions on activities within the fenced environmentally sensitive areas? Without assignment of responsibility, how is the mitigation measure enforceable or feasible?*

BIO-7 is a muddle. It states that the applicant will compensate for the permanent or temporary loss or disturbance of riparian forest habitat. This is to be accomplished by onsite restoration/creation of riparian habitat in a 31-acre habitat preserve area. Compensation is to be at a minimum ratio of 1:1. The DEIR concludes that "a much greater area of riparian woodland will be restored (approximately 18 acres) than will be removed (0.6 acre)." *Based upon what set of facts and based upon what reasoning can the DEIR conclude that requiring a minimum 1:1 restoration on 0.6 acres will result in restoration/creation of 18 acres of riparian habitat – a 30-fold gain?*

BIO-7 also claims that all the willows, cottonwoods and western sycamores removed will be replaced within the Habitat Preserve. According to the DEIR, the 0.6 acres identified contains 88 *mature* cottonwoods, 25 arroyo willows and 2 western sycamores. *How many trees, and of what varieties, may be lost or damaged due to changes in drainage patterns and due to bank erosion? How can these numbers be established without first establishing the acreage*

potentially impacted by bank erosion and changes in drainage patterns? Lacking this analysis, how can an accurate tree replacement ratio be established?

BIO-7 states, "Restoration activities" are to occur during and after construction. However, *planting* will only occur "*after* construction of the residential development has been *completed.*"

The project description, page 2-11 contains the following disclosure. "Construction of the Proposed Project is anticipated to take place over a period of several years, depending on a number of factors. The project would be constructed in four phases. The first phase includes 98 residential units and is planned for completion in 2007. The second phase would include 96 residential units and the completion of South Neighborhood Park and North Neighborhood Park. The third phase consists of 87 residential units. The fourth phase consists of the completion of the habitat preserve. Timing of phases 2 through 4 is not discussed in the Specific Plan. It is assumed therefore that the entire project would be constructed within five years of project approval."

In effect, mature riparian habitat will be removed during grading at the beginning of the project, but no real restoration (planting) will occur until the project is completed. Furthermore, there is no real estimate of how long it will take to complete the project. This depends upon "a number of factors" that are not enumerated or discussed here. Suffice it to say, these comments on the DEIR are being solicited at the end of the first quarter of 2008; but phase one was to be completed in 2007. *By what reasoning does the DEIR assume that the "entire project would be constructed within five years?" What additional impacts to riparian habitat are caused by delays between loss of habitat and full restoration of habitat? How can impacts to riparian habitat be fully mitigated absent quantification of impacted acreage; without inventory of trees impacted and without a certain duration over which those impacts will be mitigated?*

BIO-7 concludes with criteria that are to be met eventually by restoration and revegetation. Monitoring by an unidentified entity is supposed to occur over a 10-year period. *Please identify the responsible party.*

The DEIR continues, "These standards can be modified after 3 years if the ecologist determines that the preceding standard cannot be feasibly maintained due to adverse natural conditions on the site."

This begs the question: is the habitat preserve site appropriate for restoration or might there be adverse natural conditions on the site that would prevent it from being appropriate? If adverse natural conditions on the site might prevent full restoration, by what set of facts can the DEIR conclude that restoration there will mitigate loss of riparian habitat to less than significant levels?

By what reasoning can mitigation BIO-7 be deemed feasible? Given its uncertainties, how can BIO-7 meet CEQA's requirement that mitigation be established prior to project approval?

Mitigation measure BIO-8 tasks the applicant/developer with monitoring bank erosion caused by the project, requires the applicant/developer to obtain necessary regulatory permits to restore disturbed banks and riparian vegetation and to conduct that restoration according to the requirements of BIO-7 above.

Since there is no independent monitoring of bank erosion caused by the project, and since restoration would be costly to the applicant/developer, how can BIO-8 be considered enforceable? Since planting is not required until the last phase of the project, how much time might elapse between the onset of bank erosion and restoration? How long does it usually take for regulatory permits to be issued for restoration? When would the applicant/developer be required to submit those permit requests? Given the shortcomings of BIO-7, how would restoration according to the requirements of BIO-7 mitigate impacts of bank erosion to less than significant levels?

Mitigations for wetlands loss not established prior to project approval

BIO-9 and BIO-10 are supposed to mitigate the loss of wetlands to a level of less than significant. Neither mitigation measure is adequate because they defer mitigation to some uncertain time after project approval.

BIO-9 calls for impacted wetlands to be delineated AFTER project approval. This after-the-fact delineation will be used to "provide a basis for calculating impacts from the Proposed Project." *How does BIO-9 satisfy the CEQA requirement that impacts be analyzed and mitigated before project approval? Absent this analysis and mitigation, how can the DEIR conclude that BIO-9 mitigates loss of wetlands to less than significant levels?*

To address temporary and permanent wetlands impacts, BIO-10 proposes using the project's "preliminary restoration plan" until a final restoration is developed. In the interim, permits would be required to disturb wetland and riparian habitat.

The preliminary plan is of uncertain value. BIO-10 states, it "could restore wetland habitat, but may not restore the lost pond habitat." The final restoration plan would be "subject to approval by USACE, RWQCB and the County." *When would this final restoration plan be completed, approved and adopted? Why is a final plan not required prior to project approval? If disturbance is permitted prior to adoption of an approved restoration plan, what might be the permanent impacts of that disturbance? How can the DEIR conclude that a preliminary plan, which could restore wetland habitat, but may not restore lost pond habitat, is adequate to mitigate impacts to a less than significant level?*

The DEIR also claims mitigation measures HYD-1 through HYD-4 will fully mitigate wetlands losses. On review, HYD-1 through HYD-4 address water quality impacts during construction only. Long term project impacts are to be mitigated by the restoration plan – a plan that has not been completed.

Hydrologic impacts are poorly analyzed and inadequately mitigated

From the definition given in Chapter 2.3, significance is determined by nature and severity of changes to existing drainage patterns, specifically focusing on increases in erosion or siltation on site or off site.

Mitigation measure HYD-1 states the change from the site's current flat and pervious surface to an impervious surface will decrease the amount of precipitation infiltrating into ground water supplies, will increase runoff and will potentially cause flooding on the site. The DEIR also acknowledges that building in the flood plain creates additional risk of damage to the Carmel Bay Water Protection Area and property on or around the project site.

According the mitigation measure HYD-1, these negative effects will be mitigated by implementing a Preliminary Storm Management Plan which includes storm water infiltration areas and storm drains. No performance standards are set within the document to ensure the plan's ability to mitigate storm impacts, such as increased velocities. *Please revise to include performance standards.*

In addition, the DEIR forecasts increases in water velocity from 5 cfs to 21 cfs and from 9 cfs to 36 cfs during a "10-year storm." However, there is no analysis or data provided about the types of impacts or the range of severity associated with quadrupling water velocities. *Please provide this analysis.*

Under the Preliminary Storm Management Plan, storm water, during peak flows, will flow, via direct conveyance, into the river. *Please provide the volume of "peak flows," an analysis of possible pollutants within the storm water runoff and analysis of impacts on water quality.*

HYD-1 also fails to address possible impact to groundwater supplies, infiltration and other issues that could drastically change the Carmel River. *Please address these issues.*

Mitigation Measure HYD-2 states, "Extensive channel adjustments (degradation and erosion) are not expected to change due to the limited extent of velocity increases." However, as noted above, HYD-1 acknowledges a four-fold increase in water velocity during a 10-year storm. *Please explain how a four-fold increase can be characterized as "limited."*

Mitigation measure HYD-3 requires development of a spill prevention and control program. If a reportable spill occurs, the contractor is to notify the county and the county, in turn, is to notify "the appropriate safety and clean up crews." No deadlines are established for this reporting process to occur. *Without established deadlines, what ensures that spill impacts will be minimized or prevented?*

What requirements will ensure that costs of clean up are borne exclusively by the project applicant? If long-term or permanent damage is caused by a spill, how will cleanup and restoration be funded?

Mitigation measure HYD-4 states that if a spill occurs, a detailed analysis by a Registered Environmental Assessor will "identify the likely cause of the contamination." The analysis is to include recommendations to reduce or eliminate the source of contamination. *Why does HYD-4 include no requirement for analysis of long-term, cumulative impacts of contamination on human or wildlife populations?*

HYD-4 continues, "Based on this analysis, the project proponent will select and implement measure to control contamination..." *Why is it left to the polluter to "select" the measures to control contamination? Why would this not be assigned by the expert – the Registered Environmental Assessor?*

Additionally, what is the elapsed time frame in which the reporting and assessment process in HYD-3 and HYD-4 occurs? What mechanism would prevent additional contamination during this process?

Mitigation measure HYD-7 states that the project must comply with a Monterey Regional Storm Water Management Program. The program will be implemented by either a "homeowner's association, community services district or similar entity" to manage maintenance of roads drainage facilities, erosion control improvements, and open spaces. Homeowner's associations are private agreements among homeowners. *Please explain the enforcement mechanism that will ensure that such private agreements among homeowners will be implemented over the long-term. Please also explain the funding mechanism that will ensure that the project's storm water management plan can be funded in perpetuity.*

Mitigation HYD-8 would require using rock or some similar hard substrate to protect the eastern slope of the excavated basin. *What are the direct impacts of introducing rock or "some similar substrate?" For example, concrete can impact the ph of the soil and the water. Please identify direct and indirect impacts of this mitigation measure on riparian habitat and aesthetics.*

Onciano, Jacqueline x5193

From: ENGELLJ@aol.com
Sent: Friday, March 07, 2008 12:26 PM
To: Onciano, Jacqueline x5193
Subject: Sierra Club Comments on Rancho Canada Village DEIR

Dear Ms. Onciano --

I've attached Sierra Club's comments on the Rancho Canada Village DIER, PLN040061. Would you please acknowledge receipt of our comments?

Thank you.

Julie Engell

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