

Santa Margarita Area Residents Together

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Comments:
Revised Draft Environmental Impact Report
March 27, 2008

We appreciate the opportunity to participate in the public comment process on the Revised Draft Environmental Report (RDEIR) for the proposed Agricultural Cluster Subdivision (ACS) and the Future Development Program scenarios (FDP) as published by Rincon and Associates. Below are our comments.

INTRODUCTION

The RDEIR is a study in dichotomy. The land area in which both the ACS and FDP projects are proposed is burdened with much extensive biodiversity and situational uniqueness. It is shown by the RDEIR that there is no one area that is suitable for the extensive scope of either the ACS or the magnitude of FDP proposals. As an example, the location in which the applicant has proposed the ACS produces untenable traffic impacts to a road infrastructure already hampered by problems with road alignment, sight-distance issues, and locations of school, railroad tracks, hills, and arterials. Other locations studied could reduce these traffic impacts, but in doing so they introduce other equally untenable impacts. Locations north of Santa Margarita increase impacts to prime agricultural soils. Locations west of Santa Margarita increase impacts to emerging wetlands. It is our assessment that the both the ACS and the FDP provide excessive impacts to the environment and the community of Santa Margarita but provide little or no benefits to either.

The proposed ACS does not meet criteria set by the County of San Luis Obispo Agricultural Subdivision ordinance that requires a 95% to 5% ratio of open space to development. The RDEIR states the ACS provides only a 82.1% to 17.9% ratio. This project must be reconfigured to conform to the appropriate ratio to go forward as an ACS. If the developers choose to subdivide a larger percentage than 5%, it would be more appropriate for them to apply for a subdivision rather than the ACS.

It is the opinion of the Board of Directors of SMART that the concept of

Agricultural Subdivisions carries with it the endemic problem of sprawl. Development should not occur as isolated pockets of exclusive bedroom communities. We believe this concern is officially shared by the County. We point it out here for emphasis.

The publication of two separate Environmental Impact Reports under one cover presents it's own set of irreconcilable dilemmas. CEQA law requires full study of cumulative impacts, yet the vague nature of the FDP portion of the RDEIR does not allow adequate study of these cumulative impacts. CEQA law has a name for the process proposed by the developers: Piecemealing. County land-use ordinances and standard practices offer a solution to this problem and it also has a name: Specific Plan. We believe the current path of phased proposals violates County Statutes and State Law and as a result the current RDEIR deviates from legal requirements.

Though we disagree with these precepts of the FDP, SMART recognizes it is incumbent upon us to participate in the RDEIR comment process. Our participation in no way is to be considered an endorsement of this portion of the EIR process. We agree with the consultants' assessment of the serious class of impacts associated with this project.

AGRICULTURAL RESOURCES

Our original comments are still relevant with the following changes as a result of the RDEIR.

We still support the DEIR's conclusions concerning the Class 1 impacts that are significant and unmitigable.

We now propose eliminating lots 17, 19, 20, 24, 25,26, 29, 30, 40, 66, 71, 72,73, 80, 81, 82,83, and 84, to avoid the loss of, or to avoid the direct negative impact on, existing prime soils and potential prime soils, and to provide adequate buffers to this resource.

We continue to propose the elimination of any uses in the FDP that encroach on prime soils. (eg; The historical area, the proposed wineries, various ranch headquarters, etc.)

As stated in the RDEIR, the proposed ag cluster violates the County Ag Lands Clustering Ordinance by placing only 82.1% of the site in open space and converting 17.9%, instead of the required of the required 5% footprint for development with 95% set aside for open space. **This in itself should be adequate grounds for rejecting this proposed project.**

We once again stand by our original comments that the DEIR must evaluate the worst-case scenario with regards to potential significant

impacts. Because of this, all FDP impacts have the potential of being class 1 and must be addressed accordingly. **Reducing and restricting what is allowed in the FDP, and eliminating uses, is the only way to avoid or to lessen these impacts. Elimination of future development potential could and should be used as mitigation for impacts if any ag cluster proposal goes forward.**

AIR QUALITY

The RDEIR does not adequately address GCC and GHG impacts due to the FDP. As stated above, the worst-case scenario must be considered for all FDP impacts, and cumulative impacts (ACS plus FDP) must be addressed and mitigated, if possible. **SMART cannot stress enough that this is the reason the courts included analysis of the FDP in this DEIR – to analyze, as best as possible, the cumulative effects of this project (the ACS) and future build-out (the FDP).**

BIOLOGICAL RESOURCES

While we support the new requirement of an Oak tree Inventory, Avoidance and Protection Plan as outlined beginning on page 2-67 and ending on page 2-73, we still feel the best mitigation is to eliminate the impacts. Therefore our original comments are still pertinent with the following revisions to the elimination of lots.

We continue to propose the elimination of lots according to listing on page 2-63 of the Revised DEIR. (Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 87, 89, 91, 93, 97, 98, 112, 113, & 115 to avoid impacts and losses to the oak woodland.

Additionally, the RDEIR suggests that an Oak Tree Inventory be prepared prior to issuance of a grading plan. We submit that this inventory should be part of a DEIR. In order for the impacts to Oak Tree habitat to be analyzed, a census of oak trees needs to be performed as part of the EIR process. It would be impossible for impacts to be analyzed without knowledge of the actual number and species of oak trees in a given area. The methodology of aerial surveys is inadequate. There instead should be a drawing for each proposed lot indicating the location, species, and drip line of each oak tree within the proposed lot.

Members of the SMART Board of directors were able to personally survey some of the proposed building sites. We noted that blue stakes representing potential building sites were located in some cases where the canopies for adjacent trees were almost touching. This would indicate that building would not be possible outside the drip line, as required.

The language in the RDEIR that suggests, "development within proposed lots shall avoid the removal of oak trees to the maximum extent possible" is inadequate. SMART rejects the concept that "building envelopes" can be established to eliminate impacts to oak trees that would be outside the envelope. There is no process in place that would prevent future homeowners from building barns, garages, horse arenas and driveways outside the building envelopes. We submit that any oak tree within a parcel is vulnerable to future impacts and must be mitigated.

Steelhead

Updated Steelhead Mitigation (pg 2-74) and **Updated California Red-legged Frog Mitigation** (pg 2-77) accurately discuss potential 'take' associated with grading disturbances. Neither section looks at 'take' associated with depleted water resources through current ag uses. While this RDEIR is not tasked with evaluating the impact of current ag uses on the property, these ag uses have in fact affected SS and CRLF habitat, and that impact has to be addressed in light of potential impacts from the ACS and the FDP.

Traffic

SMART agrees with the language in the RDEIR that states, "the Agricultural Residential Cluster Subdivision will add traffic to locations with existing hazards and operational problems, including the SR 58 90-degree curve, US 101/SR 58 interchange, and limited sight distance along Estrada Avenue."

SMART disagrees with the language, "Implementation of proposed mitigation measures would improve hazards and deficiencies". We disagree because many of the mitigations proposed are not feasible or practicable. Leveling of the hill in Estrada Avenue east of H St. is one prime example.

On page 2-91, the RDEIR states, in regards to traffic impacts during school hours, that levels of service at specific intersections will not degrade to unacceptable levels. On the same page the RDEIR states, in regards to "cut through" traffic, that cut-through traffic will not result in unacceptable levels of service. Residents of the area are not concerned with 'levels of service' . Residents are concerned about existing conditions that are now real hazards to public safety, problems that will be greatly exacerbated with increased traffic. The RDEIR does not address these safety issues and the very specific conditions that cause these hazards.

One paragraph in the RDEIR (pg.2-97) sums up our position that proposed mitigations to traffic impacts may never be implemented:

"Residual Impacts.

*If the construction and occupation of residences occurs prior to completion of the above improvements, existing deficiencies and associated impacts would remain. Although proposed mitigation would reduce impacts to the extent possible, due to the uncertainty regarding Caltrans approval of improvements within their jurisdiction, and uncertainty regarding right-of-way acquisition, **it cannot be assured that all improvements would be feasibly constructed prior to occupation of the proposed residences. As a result, impacts would remain significant and unavoidable.***

The improvements referenced are mitigations for impacts from the ACS project. Occupancy permits are conditional upon completion of those improvements, as mitigation for increased traffic congestion. SMART concurs with the statement above that there is no guarantee the required mitigations may ever be implemented, therefore logic dictates there are no mitigations possible for the specified impacts, and they are Class I impacts.

WATER

Table 4.14-1 (pg 2-111) notes the current vineyards' "actual consumptive demand is estimated at approximately 400 afy." An authoritative, independent source must be cited for this information. If it is developer-generated data, it is biased and cannot be used. There is ample evidence to suggest the current ag operations are using more water than is reported. Members of the SMART Board of Directors have had opportunities to tour the Santa Margarita Ranch since the DEIR comment period. We have observed that an extensive water delivery system has been installed on the ranch in the vicinity of the proposed development. We also understand there is anecdotal evidence that increased water pumping by the ranch has

caused harm and degradation to riparian habitat.

There is not adequate information on the actual pumping of groundwater on the Santa Margarita Ranch. Pumping amounts are likely significant in relation to available water table capacities. **Once again, an independent monitoring program must be in place before any analysis of current use patterns can be used to establish future impacts.**

(pg 2-112) Residual Impacts. The RDEIR clearly states external water sources (SWP or NWP) are uncertain and unreliable. This ACS project must address water needs **before** any permits are granted. Reliance upon potential, questionable future water supplies is not sufficient to condition any project.

The RDEIR goes on to address the many impact issues associated with external water sources, but none of these can be of relevance unless the current ACS project is shelved till one or more external water sources becomes available.

Most importantly, the RDEIR does not address cumulative impacts of water demand with the addition of the FDP, as required. The FDP includes significant development that is potentially water intensive, including wineries and wine-grape processing stations. These FDP proposed uses are significant and their water demand must be included in analysis.

ALTERNATIVES

We agree with the conclusion on page 3-41, that the Reduced Project Alternative (#14) is environmentally superior to all the others (with the exception of the No project alternative in the original DEIR). All of the other alternatives have trade-offs with regards to certain impacts being reduced while others are increased. Therefore, if any type of Ag Cluster is allowed to go forward it should be done so with a greatly reduced number of dwellings.

SUMMARY

In conclusion, it is SMART's position that although the DEIR and the RDEIR has done a commendable job of pointing out Significant Class I and Class II impacts, the vague conceptual nature of the Future Development Program makes it impossible to accurately assess far-reaching cumulative

impacts of this project at build-out.

We suggest that if any ag cluster proposal is allowed to go forward, an **elimination of various parts of the future development program** seriously be considered as part of the mitigation. The Santa Margarita Community does not want or need the amount of development presently proposed. If a project is to happen, let it be done so the historic and environmental significance of the ranch is retained.

End of DEIR Comments

SMART BOARD OF DIRECTORS