



Twin Oaks Valley Community Sponsor Group

P.O. Box 455

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December 28, 2001

Mr. Jerry Backoff
Director of Planning
City of San Marcos
1 Civic Center Drive
San Marcos, CA

Re: San Marcos Highlands Project, Comments on the Draft Supplemental Environmental Impact Report.

Introduction

We appreciate the opportunity to respond to the Draft Supplemental Environmental Impact Report (DSEIR) for the San Marcos Highlands. We hope that our comments will guide the City of San Marcos and the project applicant to create a project that will be a benefit to the applicant, the City of San Marcos, and the community of Twin Oaks. As previously stated¹, this project's impacts would be felt primarily by property owners and residents within our planning area who have no representation in San Marcos City matters. We believe that protection of natural resources and community character are directly linked to quality of life. We hope the City of San Marcos supports this position.

The Twin Oaks Valley Community Sponsor Group has written extensive comments regarding the San Marcos Highlands, or Highlands in response to both the Mitigated Negative Declaration (MND) and the Notice of Preparation (NOP). Those comments and supporting documentation are included as attachments to this document.

Attachment A.	Comments on MND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group, February 21, 2001
Attachment B.	Twin Oaks Community Plan
Attachment C	Response to NOP, San Marcos Highlands, Twin Oaks Valley Community Sponsor Group,
Attachment D	Response to NOP for San Marcos Highlands, LAFCO
Attachment E	Army Corps of Engineers letter to KB Homes

¹ P 1, Attachment A. Comments on MND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group, February 21, 2001

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Attachment F	Schuler letter to Army Corps, ref Permit Application 19991657-RRS
Attachment G	Comments on MND, San Marcos Highlands, San Diego County Department of Planning and Land Use
Attachment H	Section 1.500 of San Diego County Map Processing Manual
Attachment I	State of California Government Codes Section 66457(b)
Attachment J	County Policy I-55 and I-59
Attachment K	North County Times Newspaper Articles
Images A,A1-A4	Highlands Impact Plan Views
Image B	Existing Site Conditions

GENERAL COMMENTS

Overall it appears that the author of the Draft Supplemental Environmental Impact Report, or DSEIR, failed to read our previous comments. The DSEIR, as with previous documents, compares the Highlands either to an expired project or to adjacent development in the City of San Marcos. There is no acknowledgement that the majority (58%) of the project is outside of city boundaries, nor an attempt to comply with A-70 zoning presently on the portion of the project outside city boundaries. There is no acknowledgement of the rural character of development adjacent to three sides of the Highlands, some in existence since the early 1960s, nor any attempt to make the Highlands blend in with these areas. Attached (image a) takes the aerial view shown in DSEIR and overlays the proposed development.

We see major contextual flaws with the DSEIR. First of all it continues to evaluate the proposed project by comparing it to one that has expired in spite of the fact that the project boundaries, area, layout, and number of dwelling units have changed markedly. Secondly, the DSEIR fails to acknowledge the fact that 58 percent of the project has not been annexed to the City and therefore must still comply with the current A-70 zoning. Thirdly, the DSEIR fails to acknowledge any impacts associated with the project to the existing rural community that borders it on three sides. Finally, the DSEIR does not acknowledge that substantial changes in conditions, including environmental and land law, have occurred since 1990, the date of the original and expired EIR.

The statement repeatedly made throughout the DSEIR that the Highlands will have no impacts or have less than significant because the proposed project has less dwelling units than the previously approved project is false.

First of all, the previous project and plan have expired. Secondly, the intensity of development proposed in the DSEIR is substantially higher than the adjacent

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community or the previously adapted and now expired plan. Thirdly, it is clearly different than its neighbors to the east, west and north. Moreover, even with the removal of part of planning area 1 currently outside the sphere of influence, 58 % of the property and 90% of the development on the site, falls outside the city. For the City and applicant to propose a project so out-of-character in this area is preposterous.

We believe that the original twelve-year old project that expired in 1998, if brought forward today, would not be approved. There has been a significant shift in public sentiment since the original project was approved. Rampant growth has quickly replaced open space and rural communities with high-density housing. As a result, the public now desires to preserve many of the remaining open spaces and unique rural neighborhoods as a relief to the homogenous look often found in master planned communities. The loss of open space and rural neighborhoods to high-density tract type homes is now referred to as "sprawl".

To continue to compare any new project to the previously approved project is inappropriate. Over 50% of this project is located outside the City of San Marcos and under the land use jurisdiction of San Diego County Department of Planning and Land Use (DPLU). To date there is no approved project for this site listed with DPLU on county land.

This proposed development violates policies and regulations as set forth in the Twin Oaks Community Plan, County General Plan, Board of Supervisors Policy I-55, environmental policies, and LAFCO policies.

Therefore, for this DSEIR to properly fill its obligations under CEQA it needs to acknowledge this projects place in the county as well as the city and look at the cumulative impacts the Highlands would have on adjacent rural communities.

The DSEIR has failed to address a number of the issues raised by the Twin Oaks Valley Community Sponsor Group in our previous comments to both the RMND and NOP. We asked that questions and comments raised in previous comments by the Sponsor Group, not addressed by the DSEIR, be addressed in a either the FEIR or a new EIR.

PROJECT DESCRIPTION

3.1 Project Background/History

The San Marcos Highlands, originally approved by the City of San Marcos in 1990, went through several time extensions until it expired in 1998. The original

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project described in all previous documents consists of 230 du on 225 acres with a significant portion, 58% of the area and approximately 90% of the development proposed, lying outside the City of San Marcos in the Twin Oaks Valley Planning Area. This land is currently zoned A-70/Estate residential with 1 dwelling unit per 2&4 acres. The area is characterized by steep slopes and contains the headwaters to Agua Hedionda Creek. The creek has been identified as an important wildlife corridor that provides wildlife with foraging and nesting opportunities. The area is surrounded by estate residential and is characterized by individualistic style of architecture, large lot design, agricultural and equestrian land uses. To the south there is one SPA high-density development, Santa Fe Hills.

The proposed Highlands will require the extension of Las Posas road across Agua Hedionda Creek and up through the wildlife corridor. The DSEIR identifies significant cuts and fills as having a potential adverse effect. This along with the location of a 4-lane road and 230 homes in the middle of a wildlife corridor can only degrade wildlife, water quality and visual resources as well as jeopardize agricultural and equestrian activities prominent in the area. This project will seriously degrade the quality of life for the residents in Twin Oaks.

The Highlands project has undergone several changes, including the recent removal of 21 acres originally set aside for open space, outside the city's sphere of influence. Although the city repeatedly claims in the DSEIR that because the total number of dwelling units is less than the adopted project and therefore the project will have less impact, Table 3-2 of the DSEIR shows the land use intensity has actually increased from 2.6 (net/gross) du/acre identified in SP89-16 to 3.8 (net/gross) du/acre identified in SP89-1698 MOD.

Although the project has been in planning since the late 1980s, it appears that the City of San Marcos did not at any time consult with or seek the approval of either San Diego County Department of Planning and Land Use or the Twin Oaks Community Sponsor Group during the preparation of the original EIR (EIR 90-13). The City approved the project in 1990 without any involvement of the above-mentioned groups. Not until several residents approached us at our planning meeting in 1998 did we learn of the project.

Moreover, San Marcos acting as the lead agency has not properly followed CEQA. According to Local Agency Formation Commission (LAFCO), the city approved the project without incorporating comments made by Local Agency Formation Commission (LAFCO) on the Draft EIR or providing them with an opportunity to comment on either the Mitigated Negative Declaration (MND) or Recirculated Mitigated Negative Declaration (RMND) ²

² p 1, Attachment D LAFCO, Response to NOP for San Marcos Highlands

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In our past comments we have requested a new or subsequent EIR, not a supplemental EIR, be done for this project. Upon review of the DSEIR, although some of the areas of concern have been sufficiently addressed, we still strongly believe that many impacts have not been properly addressed. We shall show several significant impacts that have been either not fully identified, not reasonably mitigated, or both. In addition, several errors occur in this document that are significant and therefore make the document unsuitable for fulfilling CEQA requirements.

The DSEIR contains several significant errors that make it unacceptable as a legal binding document because it requires the public to evaluate and comment on the project with incorrect information.

Upon inspection of the documents we noticed a disturbing number of errors. The map shown figure 3-4, page 3-5 in the DSEIR shows eleven more lots than maps in either the Mitigated Negative Declaration or the Notice of Preparation³. It is unclear how eleven more lots could be added while the total lot count remains the same. In addition, the project appears to have changed since the NOP. The removal of the area outside the city's sphere of influence raises new questions regarding open space. Is this area still considered part of the open space requirement for this project or will it be developed at a later date? If it is not part of the project, why is it shown in the document? How does the removal of this piece of the project impact agreements with the Wildlife agencies? Since the DSEIR is a legal document, we would like a clear explanation of these issues. If the map or stated lot count provided in the DSEIR is in error, we recommend that this document be revised and reissued with corrections. It is not fair to the public to ask them to comment on documents that are in error or are unclear.

Also, page 4.1-1 of the DSEIR fails to properly identify the current Paloma Specific Plan. This plan, amended in 1998, increased the density of the project by 100 more homes and removed the fire station from the College Area Community Plan area. As a result, the nearest fire station will be much farther way. This is a change in condition since the approval of the prior now expired project. Therefore, the loss of a fire station, along its associated impacts, needs to be identified.

Because San Marcos has experienced such rapid growth in the past fifteen years and may have increased densities of other projects beyond what was identified

³ p4, NOP, Figure 3 Master Plan Land Use

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at the time the original Highlands project was approved we would like the DSEIR to answer the following:

What other projects within present city boundaries have increased density from their original approved plans?

Does the total density change equal or exceed the present San Marcos General Plan?

If so how does this impact items listed in the Highlands DSEIR?

In addition, Esplendido Ave is misspelled throughout the DSEIR.

Finally, in appendix 11.a, comments submitted by the Twin Oaks Valley Community Sponsor Group are mixed in with comments by other groups, making reading of documents confusing and difficult.

This document is sloppy and insufficient. We trust that the city, in order to comply with CEQA, will ask the applicant to correct these errors and will re-circulate the document for public comment.

Annexation

The DSEIR fails to acknowledge the spirit and purpose of AB2838, which is to provide orderly coherent annexation and prevent sprawl.

The location of the Highlands property within the City's sphere of influence does not guarantee annexation. In fact, the circumstances surrounding this project bring into question effectiveness of the use of spheres of influence in encouraging orderly and coherent annexation and land use planning of areas located outside the San Marcos city boundaries. The area around the project has substantially changed since establishment of the current sphere boundary. This area has evolved to have a unique identity characterized by rural land uses. The Highlands is surrounded on three sides by rural areas and is in the jurisdiction of the County of San Diego and the Twin Oaks Community Sponsor Group. The proposed project is dramatically different from the Twin Oaks Community. The implementation of the Highlands would extend urban development beyond these geographical barriers making future annexation possible and furthering the

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spread of sprawl. The implementation of the Highlands could therefore lead to the demise of the entire rural community. Given the historical pattern of development in San Marcos combined with its land use policy, this is reasonable assumption.

AB2838 requires that cities update their spheres of influence five years. San Marcos last update occurred over nine years ago. As required by AB2838, the sphere of influence should be updated for this area and revised to reflect changes in conditions that have occurred since the sphere was originally developed.

The DSEIR failed to address comments we made to the MND regarding the long thin tendril in area 3B which extends northward and does not belong as part of the project. We stated that this area should not be annexed into San Marcos. We still believe that the City's stewardship of the southern portion of Agua Hedionda Creek does not justify their taking responsibility for additional wetlands. Their failure to maintain and protect the creek and the pond indicates a lack of concern. We also still believe that annexing this portion into the city would be growth inducing by making many more properties contiguous to the city. The recent attempts by the city to make annexation a condition of providing fire protection support our concerns. Since this tendril is not needed to service the proposed development, and the city states in the DSEIR that it does not intend to continue Las Posas any farther than what is shown of the project map, why is this tendril still part of the project?

Project Conflicts with County Annexation Policies as outlined in Board of Supervisor's Policy –I-55

A copy of Policy I-55 was submitted as part of the comments to NOP.⁴ It states in part:

" Annexation of developed or developing areas which are adjacent to cities is generally encouraged when the following factors are appropriate and/or applicable for the particular area and situation:

(c) There is no natural geographic separation between an existing city and the unincorporated territory.

(d) The community identity of the annexing area is compatible with the city."

Figure 3-3 in the DSEIR clearly shows a marked separation between existing development in the city and the rural county lands. Steep slopes of the San Marcos Mountains to the north and eastern portion of the project site create a natural barrier between this project and adjacent lands. The knoll requiring a

⁴ page 4, County response to NOP, San Marcos Highlands, April 30,2001

100-foot cut to accommodate the project, on the southern portion of the project site, is a key geographic indicator for the end of San Marcos City limits.

As seen in Figure 3-3 and images supplied with this document, there is a perceivable difference between rural community identity of homes in the county, along Esplendido Ave and Robin Hood Ranch, and the urbanized character of Santa Fe Hills to the south. Figure 3-3 clearly shows how the implementation of the Highlands, as proposed, will dramatically change the community character in this area and divide an existing rural community.

1.3 Project Alternatives

The DSEIR fails to investigate reasonable alternatives as defined in CEQA

As previously stated, the DSEIR fails to acknowledge the existing County of San Diego zoning on land outside the city within the Twin Oaks Community Sponsor Group Planning area of the North County Sub regional Plan. Although the 1990 FEIR did show a large lot alternative, it was dismissed without enough detail to determine that it was not practical. We therefore request that the DSIR address a large lot alternative incorporating policies specified in the Twin Oaks Community Plan and County General Plan.

The Highlands project is dramatically different from the rural Robin Hood Ranch community or the homes on Esplendido Ave. The Highlands proposes a minimum lot size of 5,830 square feet. The homes in the county have a minimum lot size of two or more acres depending on slope.

Section 15126.6 of the CEQA Guidelines require that an EIR describe a range of reasonable alternatives to the proposed project that could feasibly attain most of basic objectives of the project and are capable of avoiding or substantially lessening one or more of the significant effects. The "rule of reason" should therefore be applied and alternatives should be investigated that blend, gradate or provide a sufficient buffer between these two very different densities.

3.6 Compatibility with adopted Plans

The DSEIR fails to address incompatibility of the existing zoning on the portion of the project outside city limits and the adopted plans associated with this land. Furthermore the Highlands is in gross violation with existing Community and County General Plans

As previously stated, the DSEIR repeatedly compares the proposed project to one that expired over three years ago. The proposed project consists of 119

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acres outside the City of San Marcos currently zoned A-70/Estate Residential, 1 dwelling unit per 2 or 4 acres as defined in the County General Plan.⁵

The DSEIR fails to identify that portions of the Highlands are outside the city is within the North County Metropolitan Sub-regional Plan and not part of any County designated Current Urban Development Area (CUDA) or Future Urban Development Area (FUDA). The existing A-70 zoning, with all its entitlements and restrictions, is clearly defined and supported in the County General Plan, the North County Metropolitan Sub-regional Plan, the County zoning ordinance, and the Twin Oaks Valley Community Plan. The proposed Highlands is incompatible with the County General Plan, the North County Metropolitan Sub-regional Plan, the County zoning, the Twin Oaks Valley Community Plan, and County Grading Ordinances (excessive cut slopes and other violations).

The proposed Highlands allows clustering and high-density urban type development violates the Twin Oaks Community Plan.⁶

The following are taken from the Twin Oaks Community Plan:

Page 4, *Policies and Recommendations, B. Maintain the existing rural character of Twin Oaks Valley in future developments by avoiding high density trade-offs (i.e. clustering and lot averaging) and encouraging rural oriented designs and compatible lot plans. No lot shall be less than two (2) acres in size.*

Page 5, *C. All new project and tentative maps shall reflect appropriate and innovative site design aspects including:*

- (1) Roads which reflect rural character following topography and minimizing grading.*
- (2) Residential design which varies significantly within individual project and reflects compatibility with rural character of the Twin Oaks Community.*
- (3) Lot patterns and dedicated open space, which reflect sensitivity to environmental resources and which are compatible with the prevailing rural agricultural character.*
- (4) Designs and site Landscaping which appropriately integrate the man-made construction with natural setting and topography.*

D. Site designs shall:

- (1) Be in harmony with existing topography and viewscape.*
- (2) Incorporate grading which does not create an eyesore nor unduly disrupt the natural terrain, nor cause problems associated with runoff, drainage, erosion or siltation.*

⁵ County of San Diego, General Plan map, Twin Oaks Sponsor Group Area

⁶ page Attachment B. Twin Oaks Community Plan

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E. No clustering or lot averaging shall be allowed in the Twin Oaks Valley Community Plan

Page 6.

K. All access-including roads, walkways and retaining walls—shall blend with the natural landforms. No curbs, gutters, or sidewalks shall be used outside the specific commercial land use areas. Grading shall be minimized.

Page 7.

RESIDENTIAL GOAL,

A. Maintain and enhance the existing rural/agricultural atmosphere of the community planning area while accommodating residential community growth which is in harmony with the natural environment.

Therefore both the original adopted plan and the proposed plan, Specific Plan Amendment SP89-1698 MOD, are in violation of all the above referenced plans.

Finally, it appears the originally approved project did not follow the section 66457 of California Codes, Government Code of the Map Act that states

(b If the subdivision lies partially within two or more territories, the map shall be filed with each, and each shall act thereon as provided in this chapter.

To date we can find no record that the Highlands followed this procedure. Therefore both the original and current maps are invalid as are all references and comparisons to a previously approved project. The DSEIR needs to supply proof that the applicant and the city have complied with the Map Act by providing evidence of map submissions to and approvals by the County of San Diego.

4.1 Land Use Community Character.

The DSEIR states: *No significant impacts to Land Use and Community Character are identified beyond those impacts analyzed in EIR 90-13. No new mitigation measures are required.*

In support of this, the DSEIR erroneously states on page 4.1-1 that *“the project site is governed by the San Marcos Highlands Specific Plan 89-16.”* Only the portion of the project that presently exists within the City of San Marcos is governed by city SPA. Areas outside city limits are not designated as SPA but A70 and under the jurisdiction of County DPLU.

On page 4.1-2 the DSEIR tries to justify the density of the Highlands by comparing it to other projects within the City of San Marcos. An equal number

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of acres of very low density and rural and agricultural uses can be found in closer proximity to the Highlands, thus proving that the Highlands as proposed is incompatible with adjacent land uses. A visual inspection of Fig 3-3 illustrates this point. It is obvious that although there is a project south of the Highlands that is high-density; however, lands within visual view, to the north, east, and west are of significantly lower density than that proposed by the Highlands. It is not reasonable to compare this project with others not adjacent to the project site within the city, and equally unreasonable to not compare this project with projects or lands adjacent to the project's borders. The DSEIR fails to acknowledge or identify impacts to residents and lands adjacent to the proposed project site.

The project site is undeveloped land surrounded on three sides by estate residential homes, agricultural uses, and other undeveloped land zoned for estate residential uses. Insertion of this high-density urban project would divide and disrupt the existing rural character. This is a potentially significant impact and not identified in the DSEIR

The project completely ignores the existing County zoning which exists on 58% of the project. The current zoning on the unincorporated portion of the project is Rural Residential 1Du/2,4 Acres. Given the steep slopes existing on much of the project and the reductions in density required by CEQA, it is estimated that the county portion of the project could contain approximately 45 houses. Due to environmental concerns and difficulty in development most of the property in the City portion of the project can not be built on. Approximately 90% of the currently proposed houses are sited within the county portion. This project does not meet the requirements of the County General Plan, the North County Metropolitan Sub-regional Plan, the County zoning, the Twin Oaks Valley Community Plan, County Grading Ordinances (excessive cut slopes and other violations), etc. Property rights are important, and the owner of the property has the right to develop it. What has been forgotten is the community character and rights of the property owners surrounding the proposed development. These residents and property owners have built their plans, their homes, and their lives based on the expectation that the property in their neighborhood would be developed consistent with the existing requirements. To allow these requirements to be changed so radically because the project is annexed into a city would violate the faith these property owners have placed in their government. This is a potentially significant impact.

The City approved College Area Community Plan is in conflict with the Twin Oaks Community Plan⁷. The Twin Oaks Community Plan does not allow development to jeopardize sensitive environmental resources, clustering or obtrusive grading.

⁷ Attachment B, Twin Oaks Community Plan

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In addition, the Highlands project, if implemented, will create a finger of urbanized development in the northern portion of the Hedionda Creek Valley, a sensitive habitat area. This urbanization will have substantial negative impact on rural adjacent land uses endangering the rural character of the Twin Oaks Community.

The planned extension of Las Posas road to Buena Creek road would further degrade the rural character of the Twin Oaks Community by inducing growth, adding traffic, noise and pollution to rural Twin Oaks. Although the extension of Las Posas road to Buena Creek road is not a part of this project, the DSEIR fails to acknowledge the City's intent to use this project as a stepping-stone to help complete Las Posas through to Buena Creek. This intent was made very clear in a letter sent by Alan Schuler to Army Corps of Engineers⁸. The DSEIR therefore needs to address the cumulative impacts of this project not only within the City boundaries but also to adjacent communities.

In County's comment on the San Marcos Highlands Mitigated Negative Declaration several significant factors were identified which have not been addressed in the DSEIR. They include the lack of reconciliation between; the proposed project, the County's Multiple Species Conservation Plan (MSCP), current County land uses, development patterns and community plans.⁹

The DSEIR fails to address impacts of the Highlands to the San Marcos Mountains, a listed as a Resource Conservation Area in the San Diego County North County metropolitan Subregional Plan which is thus afforded all protections of this designation.¹⁰ The DSEIR fails to acknowledge this and does not address impacts of the Highlands to this designation.

As previously stated this project impacts would be felt primarily by county property owners and residents within our planning area who have no representation in San Marcos City matters.

4.2 Landform Alteration and Visual Quality.

The document internally contradicts its own findings. the DSEIR failed to adequately identify impacts to adjacent communities.

⁸ Attachment F, Schuler letter to Army Corps

⁹ Attachment G, County response to MND

¹⁰ p11, A-1, Part XXV, North Country Metropolitan Subregional Plan, San Diego County General Plan, amended Dec. 19, 1990.

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In Table 1-1, Summary of Significant Impacts and Mitigation Measures, page 1-5 it states:

"No significant impacts regarding Landform Alteration and Visual Quality are identified beyond those impacts analyzed in DEIR 90-13. No new mitigation measures are required."

However, on page 4.2-20, under Significance of Impacts it contradicts this determination by stating, *"A significant adverse landform impact is expected to result from an extensive cut slope required for the extension of Las Posas Road through the site. Therefore, this visual impact is an unavoidable adverse impact."*

At the bottom of the page and on page 4.2.21 it states, *"The large cut slopes required for the proposed alignment of Las Posas Road within Planning Area 1 is too extensive to be mitigated through measures identified and is considered a significant, unavoidable adverse impact."*

As a solution it then states, *"Landform and visual impact could be further reduced through either the large-lot or Las Posas Road alignment alternative."*

From the above it is clear that the document is internally inconsistent. Based on our knowledge of the area we believe the supporting statements are correct and the summary is incorrect. Viable alternatives exist which have not been evaluated.

4.2.1.1

Aesthetics

The DSEIR tries to show that the proposed Highlands project creates insignificant impacts to the variety, unity, vividness and uniqueness of the surrounding community.

On page 7 of the Twin Oaks Community Plan, FINDINGS it defines areas, including the portion of the Highlands site, within its planning area by stating:

"There are no common design housing tracts within the planning area and the homes in the area generally express the individual character of their owners. This has resulted in a wide variety of architectural styles and designs which should be encouraged."

It is clear to any reasonable person that the Highlands, which will be similar in style and intensity to Santa Fe Hills, conflicts with the style and appearance of the existing rural community, and will dramatically change the visual character of the area.

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The project will have substantial adverse effects on the scenic vistas from properties near the project, from Buena Creek Road, and from Hwy 78. These scenic vistas are currently comprised of open space, and natural hillsides, and the intensive building of so many houses on small lots cannot help but have an adverse affect. When viewed from a distance of ¼ to several miles the architectural details are lost and the impact of a project like this is one of high-density housing. Tract style homes seldom incorporate architectural detail on the sides and back of the dwellings. Residents in the adjacent community of Robin Hood Ranch and homes on Esplendido Ave will have a view of a box with windows. (See image b) This will adversely affect the property values of nearby residences. This is a potentially significant impact.

Figure 4.2-3 on page 4.2-4 illustrates where the DSEIR took data needed to evaluate the impact the Highlands will have on the views of adjacent dwellings. By viewing figure 4.2-3 it is apparent that no photos were taken from the northern end of the project site adjacent towards the homes in the Robin Hood Ranch area. The statement made of page 4.2-6 of the DSEIR *“Residences along Siddall Drive may also have view of the project (no images available due to private access).”* is an excuse not to identify the potentially significant impacts. Attached is a map and photos illustrating some of the impacts. These photos were gathered in one hour by simply driving to various homes as asking permission to take a photo. (See attached images A, A-1, A-2, A-3, A-4)

Light Pollution

The DSEIR fails to identify the impacts of nighttime light pollution from the proposed project. This project conflicts with the San Diego County Dark Skys Policy and the Twin Oaks Valley Community Plan Dark Skies Policy.

The introduction of urban development within a rural area cannot help but create new sources of substantial light and glare, which would adversely affect nighttime views in the area. The existing residents west and north of the project live in a rural area characterized by the absence of streetlights and restrained use of outside lighting resulting in a lack of light pollution. Rural residents generally appreciate the ability to see stars, planets, etc. Even with street lighting being minimized, the new residents would certainly leave their shades open, have outside lights, and use the lights on their vehicles while coming and going. This is normal, natural, and expected behavior for urban residents, but it will increase the ambient light affecting the rural area surrounding the proposed project. This is a potentially significant impact.

Landform Alteration

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Page 4.2-11 of the DSEIR state *“Large cut slopes approximately 100 feet high and 1,100 feet long and 60 feet high and 400 feet long would be created in the central and south-central portion of the site, respectively. Grading requirement within the eastern portion of the site (Planning Area 2) would also be extensive to develop 76 lots and roads on generally rugged terrain. A cut slope of approximately 80 feet and a fill slope of approximately 35 feet would be created in the east central portion of the site”*

As previously stated, the Highlands is in violation of the Twin Oaks Community Plan. On page 8 of this plan under item (5) it states *“Prohibit residential construction which would adversely affect view shed, if it is found that it will significantly alter land contours and drainage courses, or require removal of significant natural vegetation and rock outcropping or detract from the rural character of the area.”*

The grading variance required to cut and fill in order to accommodate this project illustrates that the Highlands will have a significant visual impact on the adjacent communities. The attached photos illustrate this.

Page 4.2-11 states, *“Artificial appearing slopes shall be avoided.”*

The cuts identified are about the size of the cut slopes required to build S-7 on Palomar Mountain east of S6. These cut slopes can be seen from downtown San Diego 45 miles away. Planting with native species will help if the ground is properly stabilized and prepared, but this is frequently not done because a cut this substantial generally exposes rock rather than soil. Even if native plantings take root and thrive, the change in landform will be un-natural enough to draw notice. This is a potentially significant impact. With such significant cuts required it is unreasonable to think that these slopes shall render any other appearance than an artificial one. The mitigation measures such as landscaping will not make an 80-foot or a 100-foot cut natural for the reasons stated above. The DSEIR fails to supply any proof that the mitigation measures will be sufficient. Digital images illustrating how mitigation will address this problem should be supplied, along with a detailed plan how this issue will be addressed.

In summation, the DSEIR findings of less than significant impact with mitigation measures, is therefore unsupported.

4.4 Traffic

See air quality and environmental sections

Water Quality

Page 4.7-2

4.7.4 Potential Impacts and Mitigation Measures

The proposed project could potentially violate water quality standards or waste discharge requirements.

Although the DSEIR says mitigation measures have been incorporated into the project therefore making impacts less than significant: it fails to adequately identify those measures or demonstrate that they will be sufficient.

Issues identified in section VIII, Hydrology and Water Quality, specifically items a, b, c, d. and f, in our comments made in our response to the MND¹¹ were not addressed by the DSEIR.

In addition, new information indicates the City plans not to comply with the Order 2001-1, the new storm water ordinance. According to a recent newspaper article, the city council is challenging this storm water ordinance¹² because the city does not support unfounded mandates and is concerned about costs for compliance. The DSEIR fails to identify if the Best Management Practices will comply with Order 2001-1 and who will pay for the costs. In addition, DSEIR fails to identify the cumulative impact these costs will have on the residents of the Highlands project. Finally, if the City chooses not to comply, what impacts the Highlands project will have to Hedionda Creek? Due to worsening pollution sections of Agua Hedionda Creek are now being considered for 303D listing.¹³ We strongly recommended that the FSEIR or new EIR address this issue. In addition we recommend water from the pond located on the Highlands site be tested and compared to water from the pond on the property adjacent to the north west portion of Santa Fe Hills so that the public can see how current methods used by the Santa Fe Hills development keep urban and storm water run off from polluting Agua Hedionda Creek.

Section 4.10 Air Quality

The DSEIR does not address the effects of this project on the existing rural community, compares impacts to an expired project and does not address the effects that will be present once the planned extension of Las Posas Road is completed. The determination "Impacts Found To Be Less Than Significant" is false.

The DSEIR states the following:

¹¹ Ref page 8-10, Attachment A. Comments on RMND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group, February 21, 2001

¹² SM to join storm-water regulations challenge, North County Times, Saturday December 15, 2001

¹³ Table 3-Recommended Additions/Modifications to Region 9 303 (d), RWQCB

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"The proposed project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation for long-term implementation."

"As indicated in Section 4.4 Traffic and circulation, the proposed project will result in a reduction of 660 daily vehicle trips as permitted by the previously adopted Specific Plan."

The DSEIR fails to look at the cumulative impacts planned road extensions will have on the Highlands development and surrounding community. Although the extension of Las Posas Road through to Buena Creek Road is not a part of this project, the eventual extension of Las Posas through to Buena Creek Road is part of the City Circulation element and may dramatically affect air quality for residents of the adjacent to the Highlands as well as its residents. SANDAG 2020 forecast traffic maps show that with the extension of Las Posas through to Buena Creek road traffic on the section from Buena Creek to Borden road will reach 13,000 ADT per day. This is significant effect not identified in the DSEIR needs to be reviewed, and mitigation measures need to be incorporated into the project.

Page 4.10-6 of the DSEIR states *"However, the project may be considered to have the potential for significant air quality impacts if daily and early emissions were to exceed the emission rates displayed in Table 4.10-9"*

How does the planned extension of Las Posas impact the rates on Table 4.10-9?

Page 4.10-8, Short –Term Construction Emissions states *"If all 60.3 acres of land targeted for development were under simultaneous disturbance, and standard dust control was implemented, peak daily PM₁₀ emissions would total 1,501 pounds. This exceeds the 100 pounds per day threshold identified by the APCD for a "major source".*

PM₁₀ particulate emissions are especially harmful because once inside the lungs, are not expelled. Humans with respiratory problems can suffer irreversible lung damage. We therefore recommend that additional measures be incorporated to reduce PM₁₀ emissions into the environment. Any grading should be immediately followed by watering of the soil before particulates become airborne. Grading, should be done in increments, should be limited to days when there is sufficient enough humidity and no high winds to keep particulate matter close to the soil.

Page 4-10-10 4.10.6 Cumulative Impacts states *"..the project site is located within the APCD, an extreme non-attainment zone, and any increase in regionally significant ozone (smog) precursor emissions is cumulatively significant to the region. MM4.10-1 and 4.10-2 reduce any cumulative impacts."*

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Although MM4.10-1 is given, 4.10-2 was not provided with the DSEIR. We recommend that a description be added for 4.10-2 and this document re-circulated.

San Diego met state and federal air quality standards for carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead. The current federal PM₁₀ standard was met, however, the state standard was exceeded for inhalable particulates. Geographic areas are designated by the federal Environmental Protection Agency (EPA) and/or the state Air Resources Board (ARB) as "attainment areas" or "nonattainment areas". An attainment area is in compliance with the National and/or California Ambient Air Quality Standards for a given pollutant. A nonattainment area does not meet the standards for a given pollutant.

In addition, nonattainment areas are classified according to the severity of their pollution problem. There are five classes of nonattainment areas for ozone (smog) ranging from marginal (relatively easy to clean up quickly) to extreme (which will take a lot of work and a long time to clean up).

San Diego has been classified as a serious nonattainment area for ozone by both the state and federal government. In addition, EPA and ARB have designated San Diego as in attainment for carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead.

The state has designated San Diego as nonattainment for PM₁₀ (inhalable particles 10 microns or less in diameter). Currently, the federal EPA has designated San Diego as unclassifiable. EPA is adding new particulate standards targeting even smaller particles, those 2.5 microns or less. A preliminary analysis of the District's limited PM_{2.5} data suggests that San Diego will be close to meeting the new PM_{2.5} standards, however, it is unclear whether San Diego will be in attainment.¹⁴

No mention was made in the DSEIR of PM_{2.5} particulate matter generated from the site. Does PM_{2.5} pollution exist in the area and if so what impact does the Highlands have on generation of PM_{2.5}? What mitigation measures will be incorporated into the project?

Projection for traffic generated by this development is 2300 average daily trips. The city's Public Works Department listing of average daily volumes in 2000 for the 138 city streets showed the greatest increase by far was on Los Posas Road between Mission Road and Grand Avenue. This increase is listed as a very substantial 426 percent compared with 1996. In spite of this explosive growth the MND claimed the increase in traffic would have "no impact," and failed to

¹⁴ <http://www.sdapcd.co.san-diego.ca.us/news/FAQS.htm#Q07>

address the cumulative impacts. Current San Marcos subdivisions as of January 25, 2001 totaled 54 in various stages of processing and construction, according to the city's Planning Department records. The huge number of lots included 3,398 in the San Elijo Ranch project and 1557 in the New Millennium development, both under construction. This indicates a potentially significant impact.

4.12 Hazards

The DSEIR failed to address issues related to fire and proximity to the San Diego Aqueduct that could place residents of the Highlands in jeopardy.

The close proximity of residential housing to the Second San Diego County Water Authority Aqueduct is a potential significant hazard not identified in the DSEIR. In a recent article in the North County Times, Gene Nordgren, Water Authority's director of operations and Bryan Troupe, operation and maintenance manager detailed what happened when the pipeline break occurred in 1994 on a section of the aqueduct pipeline along Del Dios Road. Troupe stated, *"Neighbors said they saw a jet of water shooting 200 feet into the air. It blew a chunk out of the top of the pipe about 10-foot long by 6 foot wide, and there was a boulder about eh size of a Volkswagen about 10 feet away. The ground was leveled-I paced it our-for a 475-yard radius....it looked like moonscape."*¹⁵

Several homes shown on the map for Highlands are adjacent to this aqueduct. If this type of occurrence happened again it could result in loss of life to residents living adjacent to the aqueduct. This is a significant impact not identified in the DSIER.

4.13 Utilities and Service Systems

The DSEIR fails to address issues raised in the Vallecitos Water District response to the NOP

Page 4.15-2 states *"No impact. The project area is located within the boundaries of two water districts:...As member agencies of the San Diego County Water Authority, both districts are guaranteed a supply of water."*

In the letter by Vallecitos Water District in response to the NOP it states, *"The Vallecitos Water District relies 100 percent on imported water supplies, and although the District may have available capacity at this time, due to the*

¹⁵ p. A-8, Invisible flood flows through county, North county Times, Sunday December 23, 2001 title

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inadequacy of water supplies, water may not be available at the time the project is built.¹⁶ The DSEIR does not address this statement. How will San Marcos guarantee water to the Highlands?

This same letter states *"A large portion of the southeast corner of the project is above the maximum service elevation for the "Richland" service zone, This area is within a future service area zone of the District known as the "La Cienega" pressure zone which would maintain a hydraulic gradeline of 1275 feet above sea level. The facilities required for this area include a 175 horsepower pump station, 10" force main and approximately 5.5 million gallons of storage.*

The DSEIR fails to address this issue. Where will the 5.5 million gallon storage facility and the pumping station be located?

This letter also states *"The project is not currently within the sewer service boundaries of the District."* The DSEIR only states "Vallecitos Water District (VWD) will provide sewer service to the proposed development." It does not clearly answer how the project will be brought within the service boundaries of the Vallecitos Water District. Is this to be an extension of service? If so, how is the extension of services supported by LAFCO laws and policies?

The DSEIR does not adequately address the use of the on site pond as a detention facility and does not demonstrate that the project will not "require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects."

No calculations have been provided to show the adequacy of the pond to serve as a runoff detention facility as previously described in the MND. In addition, the project owner stated at the public meeting of the Twin Oaks Valley Community Sponsor Group on 2/21/01 that well water would be used to maintain the pond at an even level. A full or near full reservoir provides no help in runoff detention.

Additionally, the statement that drainage will be directed to a release point below the pond eventually into Agua Hedionda Creek is a grave concern as we have previously described in these section 4.7, Hydrology and Water Quality. It is clear that this project, if implemented, will require the construction of new storm water drainage facilities and could cause significant environmental effects.

4.15 Agricultural Resources

¹⁶ letter dated May 2, 2001 Cheryl Brandstrom, Vallecitos Water District to Jerry Backoff from

By not acknowledging existing zoning and the projects location within an agricultural community the DSEIR fails to identify impacts to agriculture.

As previously shown, a significant portion of the proposed project is located in the county and zoned A70. Although the preservation of agricultural land is not a stated goal of the College Area Community Plan, it is a stated goal of the Twin Oaks Community Plan. Several properties adjacent to the proposed project are currently being used for agricultural production for equestrian facilities. The dense project, adjacent to farming, will restrict the farmer's choices for aerial application of pesticides, herbicides, bee attractants, etc. It will also restrict the application of fertilizers or other agents which would produce odors which would be objectionable by urban standards. When urban developments are placed adjacent to equestrian or dairy operations, conflicts almost always occur regarding odors, noise, flies, runoff, etc. Although the MND says that preservation of agricultural land is not an objective of the City of San Marcos, it is an objective of the County, and certainly is an objective of those currently engaged in farming near the proposed project. Since the majority of the project is in the county, this conflict is highly significant and therefore a potentially significant impact.

4.16 Population and Housing

By not acknowledging existing zoning and the project's location within a rural community the DSEIR fails to identify impacts to population and housing

As previously discussed in our comments, a significant portion of the Highlands is located in the county and zoned A70. The determination of no impact because the DSIER compares this project to one that is expired with less dwelling units than the city approved project is erroneous.

Firstly, according to county DPLU there is no approved project for the portion of land that lies outside the city boundaries. Since the county is the designated land use agency for this area and has not approved any projects for this site, this project cannot be compared to any other project. Moreover, if the portion of the site in the county were allowed to develop as per this existing zoning, the site would hold approximately 45 dwelling units; not the over 200 proposed for the same space.

We have demonstrated previously in these comments, the city's documented desire for the extension of Las Posas Road to Buena Creek Road. We have shown how this will dramatically increase traffic though the site as per SADAG 2020 forecast maps. Any reasonable person can deduce that the implementation

of this project requires the extension of a road through an existing rural community and will be growth inducing to this community. Therefore the implementation of the Highlands will add substantial population growth in the area both directly and indirectly.

4.3 Biological Resources

The studies performed do not address a significant State Species of Concern and significant concern exists about the effectiveness of the habitat and other mitigations proposed.

Sensitive Species

The draft SEIR failed to address the potential adverse effects of the project on the San Diego horned lizard, a State Species of Concern and proposed for conservation under MHCP. Though the entire site supports suitable habitat, biological surveys apparently were not conducted for this regionally declining species. This omission renders the draft SEIR incomplete and inaccurate. Unless surveys are conducted and subsequent CEQA documents prepared to address this issue, potentially significant, unmitigated impacts could result without acknowledgment or measures to avoid, minimize, and mitigate adverse effects to a level of insignificance.

Inadequate Mitigation

The proposed off-site mitigation at an undisclosed location for 12 acres of coastal sage scrub habitat would not benefit the populations of species adversely affected by the proposed project. To benefit the populations of species adversely affected by the proposed project, mitigation habitat is needed on-site or on parcels adjoining the project. Otherwise, the proposed mitigation would benefit different populations in another, unknown area. This out-of-area subsidization would have the unavoidable effect of reducing the persistence probability of survival for those species adversely affected by the proposed project that occur in the rapidly disappearing block of habitat remaining between Buena Creek and the Palomar College area. Therefore, reduction of the proposed project footprint or mandatory off-site mitigation elsewhere within the affected habitat patch would be needed to provide for the long-term conservation needs of species in the local area. Please note that the 20+ acre portion of the project site treated as "Not A Part", could provide an opportunity to permanently protect additional habitat in the project area.

Indirect Effects

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The draft SEIR only cursorily addressed indirect effects to wildlife by claiming that edge effects from the proposed land uses would extend 50 meters into adjoining habitats. Scientific references were not provided to corroborate this unsupported opinion, and specific effects on different species were not analyzed. For example, urban development is known to contribute to the spread of Argentine ants, an alien species that displaces native ant species. This adverse effect reverberates up the food chain by eliminating the primary prey (native ants) of the San Diego horned lizard. The draft SEIR did not identify this significant regional problem, nor did it analyze the distance such adverse impacts extend from the urban interface. Further, mitigation measures were not identified or analyzed to reduce this adverse effect to a level of insignificance.

The draft SEIR did not address the significant reductions in wildlife habitat value along riparian habitats that are not adequately buffered with adjoining natural terrestrial habitats typically required by species that depend on portions of their life cycle on aquatic and riparian habitats. For example, toads, frogs and nesting waterfowl require extensive amounts of upland habitat to complement the aquatic habitats upon which they depend for reproduction. Likewise, breeding migratory birds on-site, such as the common yellowthroat, likely would be displaced by the elimination of adjoining upland habitats and significant increases in human-related disturbance that would accompany the proposed high density residential development. Though buffer requirements typically differ regionally, among species and habitats, and across various regulatory jurisdictions (e.g., California Coastal Commission, California Department of Fish and Game), the range of potential mitigation buffers and edge treatments appropriate for species and habitats on-site were not analyzed in the draft SEIR. Similarly, the draft SEIR failed to address the adverse impacts of edge effects on the resident pairs of coastal California gnatcatchers with home ranges on and adjoining the project site. Without appropriate management of on-site mitigation habitat, human-related disturbance, including introduction of domestic cats and dogs in the hundreds of houses proposed for development, has the potential to eliminate the apparently small gnatcatcher population in the area. Edge effects should be quantified and mitigated in the same manner as direct effects. For example, if the 50-meter buffer mentioned in the draft SEIR is an accurate measure of compromised wildlife habitat value along the proposed urban interface, the acreage of this habitat band should be calculated and added to the impact base for application of the 2:1 habitat mitigation ratio.

Without an analysis of these and other edge effects in the draft SEIR, it is not possible to address the management needs and costs to maintain the ostensibly viable populations intended to benefit from the habitat open space set-aside by the proposed project. Given the significant fragmentation and edge effects portended, a substantial endowment to fund the management of project open

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space likely will be needed. The draft SEIR should analyze the management program and costs needed to reduce edge effects to a level of insignificance.

Connectivity

The proposed project would fragment the currently monolithic block of habitat that extends from the Owens Peak hills north of Palomar College to the hills northwest of the project site along Buena Creek. This several thousand-acre block of habitat would be severed by the proposed project, creating two isolated fragments. The equilibrium theory of island biogeography, upon which the current tenets of conservation biology are based, indicates that neither of these isolates will be as capable of maintaining the levels of biodiversity currently found in the single, larger habitat patch. This suggests that numerous species in the region likely will be extirpated in the foreseeable future, especially considering the significant increase in adverse edge effects introduced by the proposed project.

The proposed 48-inch culverts for wildlife connectivity are neither large or extensive enough, nor strategically placed to accomplish their intended function. Reducing a several thousand foot wide expanse of habitat down to a couple of 48-inch culverts could not possibly provide the levels of wildlife dispersal needed to maintain viable populations in the two newly created islands of habitat. This is particularly true of the proposed southernmost culvert, which does nothing more than direct wildlife movement into a diverticulum bordered by dense housing and the proposed Las Posas extension. This small peninsula of habitat will likely function more as a population sink (or death trap), rather than facilitating wildlife movement on a regional scale.

To maintain the east-west connectivity that currently exists, the northern edge of Planning Area 1 should be moved southward, such as by eliminating the northern row of housing that extends from Agua Hedionda Creek west to the San Diego Aqueduct. This reconfiguration would provide a band of habitat between the project site and the southernmost extent of Robinhood Ridge. Similarly, the westernmost row of housing proposed in Planning Area 1 along the San Diego Aqueduct should be removed to allow wildlife movement around the western edge of the proposed development.

Cumulative Effects

Unless addressed by the current proposal, the 20+ acre "Not A Part" portion of the project site could be proposed for development at a later date. Such potential piece-mealing runs counter to the full disclosure requirements of CEQA and sound land use decision-making. Given the significant adverse effects of the proposed project discussed above, the 20+ acre piece should be required as

habitat mitigation to help benefit wildlife populations inhabiting the regional habitat patch at issue.

4.5 Noise

The DSEIR is inadequate and supplies false or unclear information. In addition, it fails to clearly identify future noise emitters associated with this project, specifically Las Posas Road and impacts to adjacent rural residents and equestrian operations.

Upon review of both the findings in the DSEIR, Noise Analysis prepared by Giroux & Associates, and a conversation with Hans D. Giroux we have several concerns. Firstly, we are concerned that the data was gathered in a method that would skew the results in favor of the applicant. Secondly, that the data was evaluated in such a manner so that impacts could be perceived as insignificant. Lastly, the findings do not adequately identify nor mitigate for all impacts associated with the Highlands and Las Posas road.

The data is questionable when comparing Table 4.5-3 on page 4.5-5, Off-Site Noise Impact with the table on page 5 of the Noise Analysis. Table 4.5-3 show that *Las Posas Road, north of Borden Road existing off site noise to be 51.1 CNEL in 2000 and 57.9 CNEL, in 2000 existing plus project.* However, according to page 5 of the noise analysis the reading of *51.1 CNEL was taken at a distance of 25 feet from the centerline of the road and the reading of 57.9 CNEL (with project) is at a distance of 70' from the centerline of the road.*

One must therefore assume that if both readings were calculated from the same location, the noise level with project would be substantially higher than the 57.9 CNEL identified in the DSEIR.

A second questionable data gathering methodology occurs on page 4.5-2, Existing Setting, it states *"Measurements were made for 48 + hours on July 2-4, 2001."* However, in the Noise Analysis supplied with the DSEIR, the data only shows readings for Tuesday, July 3 and Wednesday July 4. In a conversation with Hans Giroux he said that his firm chose a holiday so that *"noise could be evaluated under those conditions"*. He implied that during a holiday noise would be at higher levels than during a normal weekday or weekend. July 2 –4, 2001 represented a Monday-Wednesday for the readings. Since this holiday fell in the middle of a week at many people may have taken Monday and Tuesday off to make the 4th of July holiday an extended weekend. Since many people often leave town during this time it can be concluded that the traffic and noise level at this time would have been substantially less than during a normal work week. Although the 4th of July is associated with fireworks and so a reasonable person

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might believe the noise level to be higher during this time, fireworks are illegal and few incidents of fireworks attributed noise were heard during this time.

On this same page it also states *"However, if Las Posas Road is ever extended by the County beyond Planning Area 1 north to Buena Creek Road at a future date, the baseline traffic noise will rise and any individual project contribution will not be perceptible."* Mr. Giroux said that the extension of Las Posas Road through to Buena Creek Road would create noise that would be more than the noise generated by the Highlands project. Although the extension of Las Posas to Buena Creek Road is considered not part of this project the extension is planned by the City of San Marcos as shown in Allen Schuler, Director of Engineering for the City of San Marcos letter to Army Corps dated June 27, 2001. In this letter Schuler states *"Without the extension of Las Posas Road to Buena Vista Road (meaning Buena Creek Road), the City of San Marcos would experience an unacceptable level of congestion on Twin Oaks Valley Road and San Marcos Blvd. In the vicinity of Highway 78."*¹⁷ It is clear that the Highlands project will be used to create a road that will be eventually extended through to Buena Creek Road. According to SANAG traffic forecast maps, the planned extension of Las Posas through to Buena Creek Road, north of Borden road, is estimated to go from 1,000 ADT to 11,000-13,000 ADT. This is substantially more than identified in the DSEIR. It is clear that once Las Posas connects to Buena Creek Road that the Highlands project will fail to meet the noise standards of 60 dB CNEL established by the city. In addition, since the reading (with project) of 57.9 CNEL is also suspect as explained above, the noise level within the project recreational rear yard areas for units abutting on Las Posas Road will be in excess of the 67 dB CNEL stated in the Noise Analysis. Therefore, the mitigation measures identified will be insufficient to reduce interior noise levels to city and county standards for residential development. The statement on page 7 of the Noise Analysis *"The project will likely marginally meet City interior standards of 45 db DNEL with zero margin of safety."* is false.

The DSEIR states in MM4.5-2, *"Air conditioning is recommended as a standard feature to allow for window closure to shut out roadway noise."* Considering the current energy problems related to growth in the region and the fact that this project is located where air conditioning is unnecessary for cooling purposes, it is preposterous to recommend air conditioning as a solution to road noise. Furthermore, the noise impacts of the additional air conditioning units have not been included in the evaluation.

The DSIER fails to identify what noise impacts residents in the county could face once the Highlands is implemented. In addition, since it is obvious that the extension of Las Posas through to Buena Creek Road is planned by the city and

¹⁷ Letter dated June 27, 2001 from Alan F. Schuler, P.E., Director of Engineering, City of San Marcos to U.S Army Corps of Engineers

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is tied to this project, impacts to county residents from road noise generated from 11,000-13,000 ¹⁸ADT from Las Posas need to be identified.

The issues surrounding Cannon Road in Oceanside support concerns that a road running in a low valley area creates acoustical phenomena that amplify road noise and can significant impact homes on adjacent hillsides in the county. A recent article in the North County Times, Carlsbad city engineer Dave Hauser is quoted *saying "If Cannon were to follow the original alignment along the creek bed, Hauser said, there would be no way to build sound walls that would have any real affect. All of that noise would just rise up to the homes along with emissions from hundreds of car trips daily."*¹⁹

This statement is supported by findings listed on page 16 and 17 of the Twin Oaks Valley Community Plan. It states, "*The topography of the Twin Oaks Valley Community with its hills and valleys creates an acoustic chamber-effect which can transmit and intensify noise at much higher levels than flat terrain.*" Las Posas Road and the surrounding topography will have the same effect. Road noise generated from the vehicles will bounce off the tight-packed stucco homes and hillsides resulting in a significant increased level of noise for dwellings located on hillsides adjacent to the project.

Noise significantly impacts wildlife. Since Las Posas road will run through the middle of an existing wildlife corridor, the impacts of road noise from the Highlands project as well as the cumulative impact generated by the extension of the road to Buena Creek road need to be identified. The DSIER fails to acknowledge noise impact to wildlife.

Thus as we stated in our previous comments to the MND,²⁰ the impact of noise from the adjacent unincorporated land on the proposed project has not been considered. While the impact of the noise generated by project residents has been addressed, it seriously underestimates the impact of urban development on a rural community. A noise level of 60 dB (A) on a 24 hour weighted average basis would be a serious impact on a rural neighborhood. It should not be a surprise to anyone that urban noises (electronic entertainment, traffic, human interaction, etc.) are very different in character, timing, and volume than rural noises (tractors and other farm equipment, domestic and wild animals, aerial spraying of crops, etc.) Putting rural and urban land uses immediately adjacent to each other will result in inevitable conflicts over a variety of issues including

¹⁸ SANDAG 2020 forecast maps show ADT with and without Las Posas road connecting to Buena Creek Road.

¹⁹ P. B-10, North County Times, December 23, 2001:

²⁰ P11 Attachment A. Comments on RMND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group, February 21, 2001

noise. A density gradient buffer or geographic feature buffer should be provided to avoid these conflicts. Since the topographical features across the southern portion of this project provide an excellent natural buffer between the urban development to the south and the rural areas to the north it would be an ideal boundary to stop urban sprawl, especially so since this is very near the current San Marcos city limit. Furthermore, the DSEIR statement that the noise levels would be lower than with the expired plan is meaningless.

4.9 PUBLIC SERVICES

Schools

The overcrowding of schools in San Marcos and Vista is common knowledge. The developer of San Marcos Highlands has indicated that San Marcos schools would be used by student residents of the proposed 230 homes. The MND declares, "All schools within the SMUSD (San Marcos Unified School District) are currently near or above design capacities." It then draws the illogical conclusion that "While the addition of students to the already overcrowded SMUSD schools is a potential impact, the payment of school mitigation fees to the SMUSD would mitigate the impact to below a level of significance." If the fees were sufficient to allow construction of additional schools, which is doubtful, these schools would not be available to accept students for a substantial period of time after the students moved in. This is a potentially significant impact not addressed in the DSEIR.

Fire Protection

Page 4.12-3 states, "*In any situation, the minimum distance between a structure and undisturbed native plant communities would be 100 feet,...*" Is this 100 feet calculated as part of the development or part of the open space? Since it requires destruction of native habitat, it should be considered part of the project or development. It is not clear that this has been done.

8.0 Growth Inducement

By not acknowledging existing zoning and the projects location within a rural community the DSEIR fails to identify the growth inducement this project will have on the present rural community

As previously discussed in our comments over 50% of the Highlands is located in the county and zoned A70. The determination that the proposed project would not induce substantial population growth either directly or indirectly is false. Once again the DSIER compares this project to one that is expired and violates all current zoning on the property outside the city's boundaries. According to

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county DPLU, there is no approved project for the portion of land that lies outside the city boundaries. Since the county is still the legal land use jurisdiction for this area and has not approved any projects for this site, this project cannot be compared to any other project. This area, as zoned, supports approximately 45 dwelling units. The Highlands proposes 230 dwelling units. To any reasonable person this increase in density is substantial and will put undo pressure on the adjacent rural properties. The planned eventual extension of Las Posas road to Buena Creek Road as previously shown in this document, although not a part of this project, has been proven to be an objective of the City of San Marcos. In addition, it is common knowledge in land use planning circles that placing high density development adjacent to low density rural uses leads to understandable friction and the conversion of the rural land uses to urban. New urban residents do not typically tolerate well the rural activities like horse ranching, farming, dairy operations, etc. A geographic, density gradient, or other type of buffer is needed. Therefore the Highlands project, as proposed, is clearly a stepping-stone project designed to induce growth in the rural Twin Oaks area. This is very simply planned sprawl for the city's and developer's benefit at the expense of the property rights of residents in the county.

Summation

After reviewing the DSEIR, it is clear that no intention was made on the part of the author to respond to comments previously raised by our planning group, LAFCO, San Diego County, and others. The DSEIR is a flawed document that is full of inconsistencies, errors and omissions. It is misleading to the public to the point of not providing the public with enough valid information to write effective comments. The repeated comparison to an expired project in the City is meaningless for the majority of the project located outside the City of San Marcos. It violates CEQA by being so superficial that it is mere lip service to the law. If this project truly had merit, all associated lands would have been annexed to the city years ago.

The Highlands project as presented in the DSIER fails all test of reason. It fails to acknowledge the existing zoning on 58% of the land. It fails to identify numerous significant impacts to the community as listed in these comments.

The Twin Oaks Community Sponsor Group is a strong supporter property rights and would whole-heartedly support any project that reflects existing community character, follows the community plan, abides by County land use laws and is environmentally sensitive. We ask that the developer revise this project and return with one we can support. We offer our assistance to Mr. Kubba and the City of San Marcos to make this possible.

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Gil Jemmott

Chairman