

*The supporting docs referenced in F below can be found attached to Item 8a of the July 8, 2005 FORA board report.*

Resolution Determining Consistency )  
of the City of Marina's University )  
Villages Project with the Fort Ord Base )  
Reuse Plan )

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A. On June 13, 1997, the Fort Ord Reuse Authority ("FORA") adopted the Fort Ord Final Base Reuse Plan ("Base Reuse Plan") under Government Code Section 67675, et seq.
- B. After FORA has adopted a reuse plan, Government Code Sections 67675, et seq. require each county or city within the former Fort Ord to submit to FORA its general plan or amended general plan and zoning ordinances, and to submit project entitlements, and legislative land use decisions that satisfy the statutory requirements.
- C. By Resolution No. 98-1, the Authority Board of FORA adopted policies and procedures implementing the requirements in Government Code Sections 67675, et seq.
- D. The City of Marina ("Marina") is a member of FORA. Marina has land use authority over land within the former Fort Ord and subject to FORA's jurisdiction.
- E. After a noticed public meeting on May 31, 2005, the Marina Council, approved a land use project known as the University Villages Project. As part of that approval, the Marina Council, also adopted zoning and General Plan amendments covering lands on the former Fort Ord.
- F. Marina's existing General Plan has already been found consistent with the Base Reuse Plan. In January 2004, Marina adopted a Housing Element, which provides for a program for local preference in the provision of low and moderate housing, including Marina's territory within the jurisdiction of FORA. Marina's Housing Element has been found consistent with the Base Reuse Plan. In addition, in January of 2005, the California Department of Housing and Community Development determined that Marina's Housing Element was in compliance with state housing laws. A copy of Marina's submittal and supporting documentation are attached as Exhibits and made a part of this Resolution.

- G. The Marina Council made findings that the Fort Ord Base Reuse Plan Final Environmental Impact Report ("EIR"), certified by the Board on June 13, 1997, and the supplemental environmental documentation prepared by Marina for the current action, and the Marina General Plan, previously approved by the FORA Board, identified the potential environmental impacts of the project and imposed conditions to mitigate their impacts. The Marina Council found that the environmental documents satisfied and complied with the California Environmental Quality Act ("CEQA"). Marina's Council adopted mitigation measures and a mitigation-monitoring program for identified potential significant environmental impacts. For environmental impacts that could not be reduced to less than significant level, Marina determined that overriding social and economic considerations justified approval. Marina submitted to FORA its documentation and certified environmental documents together with the accompanying entitlement, zoning and General Plan amendments for determination whether they are consistent with the Reuse Plan.
- H. Marina's Environmental Documents considered all significant impacts, mitigation measures, and project alternatives identified in Marina's FEIR and has found that all potentially significant Project impacts have been lessened or avoided to the extent feasible and adopted a mitigation monitoring program to assure compliance.
- I. On May 31, 2005 the Marina Council adopted certain findings and a statement of overriding consideration in connection with those significant impacts that could not be avoided or lessened to less than significant levels.
- J. FORA is a Responsible Agency under CEQA. CEQA and the CEQA Guidelines provide that a responsible agency may not approve or carry out a project for which an EIR has been completed and which identifies one or more significant effects of the project unless the responsible agency makes written findings for each of the significant effects, accompanied by a statement of facts supporting each finding for those impacts that are within the responsible agency's jurisdiction.
- K. The Marina Council found the project is consistent with the Fort Ord Base Reuse Plan, FORA's plans and policies and the Fort Ord Reuse Authority Act. Further, Marina considered the Fort Ord Base Reuse Plan EIR and adopted Addenda to the EIR, and other evidence supporting the findings.
- L. Consistent with the Implementation Agreements between FORA and the City of Marina, prior to May 31, 2005, Marina provided FORA with a complete copy of the submittal for lands on the former Fort Ord, the resolutions and/or ordinance approving it, a staff report and materials relating to the Marina Council action, a reference to the environmental documentation and/or CEQA findings, and findings and evidence supporting its determination that any Entitlement and Plans are consistent with the Fort Ord Base Reuse Plan and the Fort Ord

Reuse Authority Act (collectively, "Supporting Material"), and a copy of the Disposition and Development Agreement establishing financial terms. Marina requested that FORA certify the update as being consistent with the Fort Ord Base Reuse Plan for those portions of Marina that lie within the jurisdiction of the Fort Ord Reuse Authority.

- M. FORA's Executive Officer and Administrative Committee reviewed Marina's application for consistency evaluation. The Executive Officer submitted a report recommending that the FORA Board concur in Marina's Finding of Consistency as submitted. The Administrative Committee reviewed, received additional information, and concurred with the Executive Officer's recommendation. The Executive Officer set the matter for public hearing regarding consistency of the application and General Plan Amendments before the FORA Board on June 10, 2005.
- N. On or about June 7, 2005, FORA received an appeal of Marina's approval of the University Villages project by Save Our Peninsula, filed by Mr. Richard Rosenthal. Master Resolution, Chapter 8, Section 8.01.050 provides that the Board's determination of the appeal, is to be based solely upon whether or not the project is consistent with the FORA Base Reuse Plan. The Board received both oral and written testimony from Mr. Rosenthal and received and considered materials from Mr. Rosenthal at the hearing on June 10, 2005. The June 10, 2005 meeting was adjourned to June 30, 2005.
- O. Master Resolution, Chapter 8, Section 8.02.010(a)(4) reads in part: "(a) In the review, evaluation, and determination of consistency regarding legislative land use decisions, the Authority Board shall disapprove any legislative land uses decision for which there is substantial evidence supported by the record, that [it] (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property..." (emphasis added).
- P. In this context, the term "consistency" is defined in the General Plan Guidelines adopted by the State Office of Planning and Research as follows: "An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment."
- Q. FORA's consistency determination must be based upon the overall congruence between the submittal and the Reuse Plan, not on a precise match between the two.

NOW THEREFORE be it resolved:

1. The FORA Board has reviewed and considered the Fort Ord Base Reuse Plan Final Environmental Impact Report and Marina's Environmental Material

Addendum (collectively, the "Environmental Documentation") and concurs in Marina's determination that the Environmental Documentation is adequate and complies with the California Environmental Quality Act. The FORA Board finds further that these documents are sufficient for purposes of FORA's determination of consistency of Marina's General Plan amendments. The FORA Board further finds that the range of alternatives set forth in the Environmental Documentation sufficient and that the Bahia Vista plan which was offered as an alternative to the project during the public comment is incomplete, infeasible, and as presented, does not meet the overall goals and objectives of the Base Reuse Plan, particularly the economic reuse element and is therefore not a feasible alternative.

2. The Board has considered the materials submitted with this application, the recommendation of the Executive Officer and Administrative Committee concerning the application and oral and written testimony presented at the hearings on the consistency determination, which are hereby incorporated by reference.
3. The Board finds that, in regard to the submittal, Marina followed the procedures and fulfilled the requirements of the Implementation Process and Procedures of the Fort Ord Base Reuse Plan and the Master Resolution and has met the requirements of Government Code section 67675, and following.
4. The Board finds that Marina has provided substantial evidence that the submittal is consistent with the Fort Ord Base Reuse Plan, and that none of the conditions set forth in Master Resolution 8.02.030 (for denying consistency) exist. The Board further finds that Marina's legislative decision was based in part upon the substantial evidence submitted regarding allowable land uses, a weighing of the Base Reuse Plan's emphasis on a resource constrained sustainable reuse that evidences a balance between jobs created and housing provided, and that the cumulative land uses contained in Marina's submittal are not more intense or dense than those contained in the Base Reuse Plan.
5. Marina's submittal will, considering all its aspects, further the objectives and policies of the Final Base Reuse Plan. The Marina application is hereby determined to satisfy the requirements of Title 7.85 of the Government Code and the Fort Ord Base Reuse Plan.
6. The Board finds that Marina's submittals are consistent with the previously FORA certified Marina Housing Element, and meet FORA's affordable housing unit goals and policies as listed in Resolution 04-01.
7. The FORA Board has independently considered (a) Marina's findings of fact adopted under CEQA Guidelines section 15091, and (b) the statement of overriding consideration adopted under CEQA Guidelines section 15093, and

(c) the impacts discussed in Marina's FEIR. Based on the FORA Board's independent review, it adopts and incorporates Marina's findings and statement of overriding consideration by reference as if repeated in full herein, and further finds that the project implements the overriding considerations that FOR A identified pursuant to CEQA Guideline 15093 when it certified the EIR for the Base Reuse Plan in 1997.

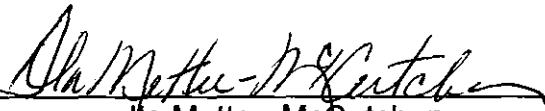
Upon motion by Mayor Rubio, seconded by Councilmember Mancini, the foregoing resolution was passed on June 30, 2005, by the following vote:

AYES: 12 (Directors Mettee-McCutchon, Russell, Rubio, Pendergrass, McCloud, Smith, Calcagno, Mancini, Morrison, Albert, Sanchez, and Potter)  
NOES: -0-  
ABSTENTIONS: -0-  
ABSENT: 1 (Director Costello)

I, Mayor Mettee-McCutchon, Chair of the Board of Directors of the Fort Ord Reuse Authority of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered under Item 8a, Page 2, of the board meeting minutes of July 8, 2005 thereof, which are kept in the Minute Book resident in the offices of the Fort Ord Reuse Authority.

DATED 7/14/05

BY



Ila Mettee-McCutchon  
Chair, Board of Directors  
Fort Ord Reuse Authority



(Gerald Bowden,  
Authority Counsel)

(As recommended by Mayor Sue McCloud  
at the July 8, 2005 Board Meeting)



# *City of Marina*

Strategic Development Center  
265 Reservation Road Ste E  
Marina, CA 93933  
(831) 384-7324



July 7, 2005, As Revised Pursuant to Direction by FORA Board July 8, 2005

Mr. Michael Houlemard, Executive Director  
Fort Ord Reuse Authority  
100 12th Street  
Building 2880  
Marina, CA 93933

Re: University Villages Consistency Determination

Dear Mr. Houlemard:

The purpose of this letter is to address the concerns raised in two recent letters to FORA regarding the above-referenced consistency determination: (1) the letter from the Sierra Club dated June 27, 2005, and (2) the letter from the Law Offices of Richard H. Rosenthal dated June 28, 2005. For your ease of references when reviewing the City of Marina's responses to each letter, I have set forth the City's responses point-by-point below.

### **Sierra Club letter dated June 27, 2005**

**Viewshed:** The letter notes the importance of preserving the seacoast outlook on both sides of Highway 1. This preservation will be attained with the University Villages project. The project does not include any land on the west side of Highway 1. As to the development on the east side of Highway 1, mitigation measures, AE 1.1, 1.2 and 1.3, of the University Villages Specific Plan Environmental Impact Report, will be imposed to ensure the visual quality as seen from Highway 1 will not have any adverse impact thereby protecting the Highway 1 Design Corridor and views of the Santa Lucia Range.

Of note, the Fort Ord Reuse Plan, Volume I (page 153), provides the design parameters for the University Villages development. Design Objective 4(b) states that the City of Marina

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shall establish a maximum building height relating to an identified mature landscape height. The height of 40 feet was established within the City of Marina General Plan Policy 4.53, with the exception of exceeding this height at certain locations if criteria are met. The design objective under the Reuse Plan is to take advantage of the Highway 1 visibility and accessibility. In 2001 the FORA Board found the General Plan update consistent with the Base Reuse Plan.

The recently adopted Highway 1 Design Guidelines, Section 2.2.14(a), clearly states that buildings within the Design Corridor can exceed 40 feet if consistent with the General Plan design criteria. The Consistency Determination includes a General Plan Amendment of which includes a revised Figure 4.15 showing the relocation of the buildings that can exceed 40 feet in height. The site locations were moved from the high ridgeline and now are shown on a much lower elevation. The General Plan Amendment does not change the permitted building height at the northwest corner of Imjin Parkway and Highway 1. The FORA Board found that the building height can exceed 40 feet in height under the Consistency Determination for the 2001 General Plan update. The City Council approved building elevations for the regional retail that will not exceed 36 feet in height.

Water: The letter indicates that the Marina Coast Water District ("MCWD") found that there was not sufficient long-term water supply for University Village. Mr. Bock notes that the City of Marina reached a different conclusion by relying on the future water augmentation project. Mr. Bock indicates that this is a significant impact to the extent that (1) the potential augmented water project has not been built or tested and (2) the future cumulative water demand is not yet known for all development in the City of Marina.

FORA's determination is limited to the specific issues of the University Village project's consistency with the Fort Ord Base Reuse Plan. This comment does not identify any specific inconsistency between the University Village project and the Fort Ord Base Reuse Plan and, as a result, does not comment on the decision at hand – namely FORA's responsibility to determine consistency. Rather, Mr. Bock challenges determinations made by the City of Marina in connection with its obligations to identify and discuss water supply impacts in the City's EIR. CEQA requires that FORA (as a responsible agency) consider the environmental effects identified in the final EIR for those activities that FORA is required to approve or carry out. In this case, FORA is acting as a responsible agency to determine consistency with the Fort Ord Base Reuse Plan. It is not a responsible agency for the purpose of determining water allocation for the specific project or for determining the appropriateness of water demand factors. The FORA Master Resolution does require the FORA Board to determine consistency based on whether the City has adopted "appropriate land use regulations that will ensure that development entitlements will not be approved until there is verification of an assured long term water supply for such development entitlements." (Master Resolution § 8.02.020(j-7).) Notably, however, the Master Resolution does not specify the method of determining water demand factors, which is the crux of this comment. As a result, state law, specifically Water Code section 10910 *et seq.* applies.

In response to the commentator's comment, FORA staff notes that the University Village's entitlements are specifically conditioned on the availability of an adequate water supply and the City Council adopted a water allocation resolution specifically providing that there was sufficient water supply for the University Village project. As a result, the University

Village project is consistent with the finding required by Master Resolution section 8.02.020(j-7).

In connection with the remainder of the comment, FORA notes that Water Code section 10911(c) requires that the City to make its own determination (even if it contradicted the MCWD's determination), based on substantial evidence in light of the entire record, as to whether there is a sufficient projected water supply available to satisfy the demands of the University Village project, in addition to existing and planned future uses. Similarly, Government Code Section 66473.7 specifically permits water supply verifications to rely on "projected water supplies that are not currently available" when determining whether sufficient water exists to serve a project. When considered in light of the entire record, the City found that such water supply is available because (1) appropriate water demand factors for the University Village project indicated that the project will consume less water than that amount assumed by the MCWD and (2) the planned MCWD Regional Urban Water Augmentation Project will, when implemented, provide an additional 2,400 AFY for uses on the former Fort Ord, the City's share of which will be sufficient to serve the University Village project water demand, in addition to existing and planned uses that were identified by the City in the project's EIR. As a result, planned uses were reviewed in conjunction with this project to assess cumulative water demand.

The MCWD's Program EIR for the Regional Urban Water Augmentation Project, certified October 27, 2004, considered desalination, importation and use of reclaimed water as additional sources of water supply. (City EIR at 3.9-19.) On May 25, 2005 the MCWD board adopted Resolution No. 2005-27 which, among other things, approved the Regional Water Augmentation Project Plan, consisting of the Augmentation Project, the Engineering Feasibility Report and the Final EIR for the Augmentation Project. While no particular alternative was adopted, the MCWD approved a course of action that will result in one of the three alternatives being adopted and implemented. MCWD currently has identified a budget requirement for fiscal year 03/04 through fiscal year 07/08 of approximately \$60 million to assure that reliable and high quality water is delivered to its Fort Ord customers. A capital fund collected by FORA as part of its development fee program is estimated to generate approximately \$19 million by 2015, which funds will be available to support implementation of the Augmentation Project. The University Village project will be included in this fee program.

As a result, there is sufficient evidence that the water supply analyzed by the City of Marina will be available for the University Village project. FORA has incorporated the environmental analysis performed in connection with the City of Marina's project approvals into its findings. Mr. Bock does not include any specific evidence to rebut these findings or conclusions.

Traffic: The function each of the traffic mitigation measures is set forth in the University Village EIR and the Traffic Study included in the appendix thereto. The City had extensive meetings, correspondence and coordination with all of the agencies responsible for the area's transportation system, including Caltrans, TAMC, Monterey County, and City of Seaside representatives. Section 4.1.3 of the City of Marina's CEQA findings (Resolution 2005-127) set forth in detail the ultimate findings and conclusions regarding all proposed mitigation measures. With regard to the widening of Highway 1, Caltrans concurred with the City's determination that the widening was infeasible. Thus, all responsible parties have already recognized that the



widening is unlikely as Mr. Bock notes. This fact has been fully considered. The regional traffic issues have been fully considered and were recently reassessed in connection with the FORA CIP. Thus, as suggested by Mr. Bock, a careful examination of the traffic impacts has been provided to the FORA Board.

**Law Offices of Richard H. Rosenthal letter dated June 28, 2005**

**I. Environmental Impact Report**

Mr. Rosenthal's comment letter asserts several "inadequacies" to the City's environmental document. We respond to those purported inadequacies point by point.

**A. Traffic Analysis.**

The University Villages EIR was properly tiered off of FORA's overall Base Reuse EIR. The traffic modeling utilized the appropriate regional modeling. While some of the other transportation agencies had initial questions about the analysis, their more in depth review of the City's approach demonstrated to the satisfaction of each agency that the City's project specific analysis was actually quite conservative. Hence, they ultimately confirmed their concurrence with the approach.

The letter from Mr. Rosenthal further assumes that signals will be installed at Highway 1 and Imjin Road offramps and would operate in such a way as to cause unsafe backup on the offramp. This is inaccurate as the City will coordinate with and receive approval from CALTRANS for any signals and other improvements to ensure a safe design for the offramps. The City CIP includes two improvement projects for the ramps, TI-22 and TI-23, and also a Project Study Report (PSR), R-58, to address the long term design of the interchange traffic circulation.

**B. Alternative Analysis.**

The Project EIR analyzed a reasonable range of alternatives given the overall objectives of the University Villages project, the entitlements sought, and consistency with the Base Reuse Plan, the City of Marina's Redevelopment Plan and the Marina General Plan. Under the Marina General Plan a specific plan is required for the development of West and North University Villages. Therefore, the "No Project" alternative is appropriately a "no build" scenario as set forth under CEQA Guidelines section 15126.6 (e)(3)(B). Contrary to Mr. Rosenthal's comment, the Project EIR also analyzed a reduced residential alternative consisting of a residential buildout of 800 units, and would not include the 400 additional units allowed by General Plan Section 2.35.5 (with approval of the Specific Plan) even though the General Plan set the future housing potential at 1,237 units. The limited production of housing units under the Bahia Vista Community Plan would interfere with the City's ability to meet its allocated share of the Regional Housing Needs Assessment. The reduced number of housing units would be inconsistent with the Housing Element Table 4-5(a) and 4-5(b). Moreover, the justifications required by Government Code section 65589.5 for such a reduction in housing units could not be made in this instance.

The Project EIR also assessed a reduced commercial alternative, which excluded 200,000 square feet of retail and 500 hotel rooms. The summary of impacts of the various development alternatives is found in EIR Table 5-1 which analyzes each projects impacts relative to the proposed project. This comment also references the Bahia Vista Community Plan as a possible alternative. This issue is discussed immediately below in connection with the "Response to Comments."

C. Response to Comments.

Mr. Rosenthal indicates that the City did not provide an adequate response to address one EIR commentator's comment relating to the Bahia Vista Community Plan prepared by the Associated Student of Cal State University Monterey Bay. The Bahia Vista plan, which has been urged as a potential alternative, is primarily a collection of design criteria and is incomplete (dealing only with Phase 1, generally only the northwest corner of the Specific Plan area). As submitted, the Bahia Vista plan includes a table which identifies it as a more environmentally severe project than a "No project alternative". The Bahia Vista plan is inconsistent with the Base Reuse Plan goal of fostering economic development and developing a jobs-housing balance because it substantially limits the number of hotel rooms and job opportunities. Further, this plan lacks feasibility and does not achieve project objectives. (See EIR Table 5-2 [alternatives attainment of project objectives].) Given the other information in the record regarding the feasibility of a multi-structure parking garage, it becomes evident that the parking proposed under the Bahia Vista Plan is simply infeasible. There is no demolition planned, as would be required for the Bahia Vista plan. The City's EIR's analysis of the proposed project already evaluates the removal of 500 hotel rooms. Thus adding back 200 hotel rooms projected in the Bahia Vista plan would create a substantial environmental impact. The environmental document and submittal package is sufficient for the FORA Board to make an informed decision relative to the proposed Bahia Vista materials.

D. Mitigation Measures.

The traffic mitigation measures necessitated by the project are to be implemented in accordance with the Mitigation Monitoring Program adopted by the City of Marina in Resolution 2005-127. The project related measures do not rely upon the FORA CIP program for implementation. In accordance with FORA's Base Reuse EIR, this project will implement the region-wide mitigation measures adopted by this Board by providing an estimated \$57,000,000 of FORA CIP funding.

II. Fiscal Impact Report.

A Fiscal Impact Report was prepared in response to the policy directive of the City of Marina City Council (not FORA). This Fiscal Impact Report indicated that the University Villages project should at least achieve fiscal neutrality for the City and preferably be fiscally positive. Fiscal neutrality is defined as being achieved when the recurring revenue impacts on the City's General Fund and Streets/Gas Tax Fund are at least equal to the recurring cost impacts of the project. The Fiscal Impact Report projects that the net present value of the net revenue to the City over the next 15 years will be approximately \$18 million. Detailed documentation of

methodology and assumptions are provided in the report. As such, the report is neither optimistic nor pessimistic but a best assessment of a future result.

Separate from the Fiscal Impact Report, the City has undertaken a Capital Improvement Program ("CIP") analysis, and is in the process of adopting impact fees on real estate projects within the jurisdiction that will provide funding for needed capital improvements. With regard to schools, this project will pay its required school fees. The school construction is beyond the City's jurisdiction, but the City has extensively coordinated with the school district regarding the satisfaction of all school related obligations. As to the fire station, the City's CIP program has been formulated to collect \$4.2 million for a Fort Ord Fire Station. Additional funds are being collected for equipment and other fire-related improvements. This project will pay its proportionate share of the CIP. As to the library, the City's CIP provides the mechanism for the collection of \$8 million for the construction of a new facility. Again, this project will pay its proportionate share of this cost.

In recognition that future reality is likely to differ from the best estimate of fiscal outcome as documented in any Fiscal Impact Report, the University Villages Disposition Development Agreement ("DDA") document between the developer and the City provides in Section 4.14 for corrective actions in the event that the project might fail to meet the fiscal neutrality criteria established by the Marina City Council. That corrective language is judged a significantly more powerful remedy than the information only data that could be provided by sensitivity analysis.

### III. Development Agreement.

Based on the reference provided in this comment letter, it appears that Mr. Rosenthal is actually referring to the DDA and not the Development Agreement. It should be noted that the Disposition and Development Agreement is not a land use entitlement document, but rather serves as the purchase and sale agreement between the City of Marina Redevelopment Agency and the developer. Therefore is not part of the FORA consistency review required by the Master Resolution. However, the DDA does incorporate the expected development pattern for the University Village project although actual development will be governed by the Development Agreement and the land use approvals.

Phase I of the University Village project is expected to include more development than just the 250,000 square feet of retail, 30,000 square feet of business park and 100 hotel rooms cited in the letter. In actuality, Phase I is expected to encompass 610,000 square feet of retail, 239,000 square feet of business park improvements and 525 residential units. The development distribution cited in Mr. Rosenthal's letter is related to the Phase I minimum improvements, which are a subset of Phase I development. It should also be noted that the remaining retail and business park development is not part of the "opportunity" phases but, rather, are part of subsequent phases. Those portions of the development that are part of opportunity phases may be developed prior to their corresponding phases, but at the latest must be developed at the time the applicable phase is developed. The "opportunity" phases only provide the developer with greater flexibility on developing those portions earlier than projected. The developer is not permitted to delay "opportunity" phase development beyond the development of the applicable phase.

The Phase I minimum improvements and the development standards and timelines required for such in the DDA are designed to ensure that the University Village project, at the earliest phase, will include a mix of land uses consistent with the City's General Plan and the Base Reuse Plan. Thus, before the developer can proceed with subsequent phases of residential development, the Phase I minimum improvements must be under construction (*See* DDA Section 6.13.) This provision of the DDA is designed to ensure that the City receives the fiscal benefit of the development early in the development process as well as ensure the jobs housing balance required for the development.

It should also be noted that the DDA contains several provisions designed to ensure that development occurs in accordance with the proposed development plan. The DDA does not allow the developer to acquire the property for each phase until the developer demonstrates that sufficient financing is available for the required development and all land use approvals are in place. Although these provisions do not guarantee that development will occur, they do provide the Agency with continued control of the project through its control over the property. Since neither the Agency nor the developer can dictate whether there will be a market for the development, this is the best method available for preserving the Agency's rights during the development process.

IV. Low and Moderate Income Housing.

The City of Marina Redevelopment Agency is providing a commitment to the Developer to assist in the development of very low, low and moderate income housing to be developed as part of the University Village project through the use of funds from the Agency's Low Income Housing Fund. This use of Low Income Housing Fund moneys is consistent with the requirements of the California Redevelopment Law requirements for the use of Low Income Housing Fund revenues (*See* Health and Safety Code Section 33334.2.) and is also consistent with the Base Reuse Plan and FORA policies that encourage the development of low and moderate income housing as part of the development of the base.

V. Water.

These comments are similar to the comments made by the Sierra Club. See the response to comments above entitled "Water" prepared for the Sierra Club letter.

Sincerely,



Douglas A. Yount  
Director Strategic Development Center