

650 NORTH SAN PEDRO ROAD FINAL EIR

STATE CLEARINGHOUSE NUMBER: 2004062004



County of Marin | September 30, 2009



DESIGN, COMMUNITY & ENVIRONMENT



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## 7 COMMENTS AND RESPONSES

### *A. Introduction to Comments and Responses*

After completion of a Draft Environmental Impact Report (DEIR), the California Environmental Quality Act (CEQA) requires the Lead Agency to consult with and obtain comments from public agencies that have legal jurisdiction with respect to the proposed project, and to provide the general public with opportunities to comment on the DEIR. CEQA also requires the Lead Agency to respond to significant environmental issues raised in the review and consultation process. The Lead Agency for the 650 North San Pedro Road EIR is the Marin County Community Development Agency.

The 650 North San Pedro Road DEIR (SCH# 2004062004) was released for public review and comment in December, 2008. Marin County circulated the DEIR for review by public agencies, interested parties, and organizations for a 45-day public comment period. The comment period closed January 26, 2009. During the comment period, the Planning Commission held a Public Hearing on January 26, 2009 to take public comment on the DEIR. The County received 29 written comment letters in addition to oral testimony at the hearing.

This chapter contains all comments received during the comment period on the DEIR, as well as responses to these comments. All of those who commented on the DEIR are listed in Table 7-1. Commentors are divided into government agencies, organizations and individuals in Table 7-1.

Several issues were addressed by multiple commentors. "Master Responses," which consolidate information on these subjects to ensure a more comprehensive response, are listed below and presented in Section B. Section C contains copies of all comment letters received and responses to the comments. Each comment letter is assigned a letter code, from 1 through 29, and each comment is numbered in the margin of the comment letter. Responses to the comments follow the letter and are referenced using the same numeric system. For example, the first comment of the first letter, from the United States Fish and Wildlife Service, is designated 1-1, as is the response to it.

TABLE 7-1 LIST OF COMMENTORS

**Government Agencies**

| Letter #/<br>Page #<br>(in Doc.) | Agency                                   | Date<br>Received | First<br>Name | Last Name | Title                         |
|----------------------------------|--|------------------|---------------|-----------|-------------------------------|
| 1<br>Page 52                     | U.S. Fish and<br>Wildlife Service        | 12/26/08         | Cay C.        | Goude     | Assistant Field<br>Supervisor |
| 2<br>Page 57                     | CA State<br>Clearinghouse                | 01/30/09         | Terry         | Roberts   | Director                      |
| 3<br>Page 59                     | BCDC                                     | 12/16/08         | Caitlin       | Sweeney   | Chief Deputy<br>Director      |
| 4<br>Page 63                     | City of San Rafael                       | 01/13/09         | Paul A.       | Jensen    | Planning<br>Manager           |
| 5<br>Page 69                     | Marin County<br>Planning<br>Commissioner | 01/26/09         | Randy         | Greenberg | Planning<br>Commissioner      |
| 6<br>Page 76                     | Marin County Parks<br>& Open Space       | 01/26/09         | James R.      | Raives    |                               |

**Organizations**

| Letter/<br>Page | Organization                 | Date<br>Received | First<br>Name      | Last Name          | Title     |
|-----------------|------------------------------|------------------|--------------------|--------------------|-----------|
| 7<br>Page 89    | Thompson<br>Development Inc. | 01/26/09         | Michael J.         | Marovich           |           |
| 8<br>Page 115   | Marin Audubon<br>Society     | 01/26/09         | Barbara<br>Salzman | Philip<br>Peterson | Co-Chairs |
| 9<br>Page 130   | Marin Conservation<br>League | 01/23/09         | Nona B.            | Dennis             | President |
| 10<br>Page 173  | Edgecomb Law<br>Group        | 01/26/09         | William D.         | Marsh              | Attorney  |

**Individuals**

| Letter /<br>Page | Date<br>Received | First Name      | Last Name  | City       |
|------------------|------------------|-----------------|------------|------------|
| 11<br>Page 203   | 01/26/09         | Giselle         | Block      | San Rafael |
| 12<br>Page 212   | 01/26/09         | Simon & Janet   | Boddington | San Rafael |
| 13<br>Page 215   | 01/23/09         | Kevin & Melissa | Burrell    | San Rafael |

**COUNTY OF MARIN**  
**650 NORTH SAN PEDRO ROAD EIR**  
 COMMENTS AND RESPONSES

| <b>Letter /<br/>Page</b>           | <b>Date<br/>Received</b> | <b>First Name</b>                             | <b>Last Name</b>  | <b>City</b> |
|------------------------------------|--------------------------|---|-------------------|-------------|
| 14<br>Page 218                     | 01/26/09                 | Jaquelin<br>Dennis                            | Pearson<br>Codlin | San Rafael  |
| 15<br>Page 222                     | 01/26/09                 | Elaine  | Gilmer Reichert   | San Rafael  |
| 16<br>Page 230                     | 01/26/09                 | Mary M.                                       | Hanley            | San Rafael  |
| 17<br>Page 238                     | 01/26/09                 | Tamara  | Hull              | San Rafael  |
| 18<br>Page 243                     | 01/26/09                 | Mary L.                                       | King              | San Rafael  |
| 19<br>Page 255                     | 01/26/09                 | Linda   | Levey             | San Rafael  |
| 20<br>Page 270                     | 01/26/09                 | Jonathan                                      | Metcalf           | San Rafael  |
| 21<br>Page 281                     | 01/26/09                 | Peter B.                                      | Newman            | San Rafael  |
| 22<br>Page 290                     | 01/15/09                 | Art   | Reichert          | San Rafael  |
| 23<br>Page 302                     | 01/26/09                 | Art   | Reichert          | San Rafael  |
| 24<br>Page 306                     | 01/26/09                 | Robert  | Sos               | San Rafael  |
| 25<br>Page 313                     | 01/26/09                 | Shelley                                       | Sweet             | San Rafael  |
| 26<br>Page 323                     | 01/26/09                 | Robert  | Sylvester         | San Rafael  |
| 27<br>Page 326                     | 01/26/09                 | Sandy   | Walker            | San Rafael  |
| 28<br>Page 349                     | 01/26/09                 | Helmut  | Winkelhake        | San Rafael  |
| 29<br>Page 360                     | 01/26/09                 | Robert  | Wallace           | San Rafael  |
| <b>Planning Commission Hearing</b> |                          |   |                   |             |
| 30<br>Page 373                     | 01/26/09                 | Testimony from Planning Commission<br>Hearing |                   |             |

*List of Master Responses*

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***B. Master Responses***

**Master Response 1 – Merits/Opinion-Based Comments**

Often during review of an EIR, the public raises issues that relate to the project itself or the project’s community consequences or benefits (referred to here as “project merits”), rather than the environmental analyses or impacts and mitigations raised in the EIR. Lead Agency review of environmental issues and project merits are both important in the decision of what action to take on a project, and both are considered in the decision-making process for a project. However, a Lead Agency is only required by CEQA to respond in its EIR review to environmental issues that are raised. After an EIR is completed and certified, the County Planning Commission and the Board of Supervisors hold publicly-noticed hearings to consider action on the merits of the project for approval or disapproval. These hearings are separate from those directed at reviewing the EIR and environmental issues. The decision-makers at the merits hearings consider both the EIR and project merits issues raised.

In accordance with Sections 15088 and 15132 of the CEQA Guidelines, a Final EIR must include a response to comments on the Draft EIR pertaining to

environmental issues analyzed under CEQA. Several of the comments provided in response to the DEIR express an opinion for or against the project or a project alternative, but do not pertain to the adequacy of the analysis or conclusions in the DEIR. Rather, these opinions relate to the merits of the project.

Section 15204 of the Guidelines provides direction for parties reviewing and providing comment on a Draft EIR, as follows:

*In reviewing the EIR, persons and agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated.*

Section 15204 continues in relation to the role of lead agencies responding to comments:

*When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.*

Therefore, in accordance with the Section 15204, the County is not required to respond to comments that express an opinion about the project merits, but do not relate to environmental issues covered in the DEIR. Although such project merits opinion comments received during the EIR process don't require response in the EIR, as previously noted, they do provide important input to the process of reviewing the project overall. Therefore, merits and opinion-based comment letters are included in the EIR to be available for consideration by the decision-makers at the merits stage of the project.

#### **Master Response 2 - Aesthetic Compatibility with Neighborhood**

Several comments were received that expressed concern about the visual compatibility of the proposed development with the surrounding area. In particular, there was concern that the homes themselves, the driveways, re-

taining walls, lighting, and removal of vegetation would degrade the visual quality of the site and the surroundings, and thereby be incompatible with the semi-rural, surrounding community. None of the comments presented new technical evidence, illustrative or otherwise, in support of these opinions.

The visual effect of the proposed project in relation to the surrounding built and natural environment is analyzed in Section 4.8 of the Draft EIR, Aesthetics. As this section concludes, the project would change the visual character of both the project site and the Santa Venetia neighborhood on the whole. Twelve, single-family detached homes, two with secondary units, would be built on a largely wooded, hillside site where just one residence currently exists. In addition, the project would involve a substantial amount of grading and vegetation removal, as discussed in both the Project Description (Section 3.0) and Section 4.8 (Aesthetics).

However, for several reasons, many of which are discussed in Section 4.8, these changes would not result in incompatibility with the surrounding visual context. First, the development footprint would be relatively small compared to the amount of open space that would be preserved on the project site. Fifty-eight percent of the property (8.6 of the 14.8 acres) would be preserved in perpetuity as open space. As shown on Figure 3-3 of the Draft EIR and consistent with County policy, the dwelling units and related improvements (roadways) would generally be clustered in the lower portion of the site closest to North San Pedro Road (NPSR). Through this unit clustering and open space preservation, the wooded, slopes on the higher portions of the property would be preserved in their existing condition, as shown on Figures 4.8-6 and 4.8-7 of the Draft EIR. Views of the ridgeline from the Santa Venetia neighborhood would remain intact. Furthermore, although a substantial amount of grading would occur, the overall character of the site would remain the same as a hillside property that slopes downward from west to east. The overall topographical form (slope) would be maintained, as opposed to the site being leveled off.

Second, although some of the proposed homes would be larger than those in Santa Venetia, the new development would be similar in density and character to the surroundings, where single-family residential land uses among subdivisions are located in a semi-rural, wooded setting. The existing setting and development pattern are illustrated in Figure 3-3 of the DEIR.

Third, the development would not encroach on the public, open space resources that contribute to the semi-rural nature of the surroundings. Figure 3-3 also shows that the physical footprint of proposed development would represent a relatively small land area (8.6 acres) in comparison to the expansive areas of nearby open space such as China Camp State Park, the San Pedro Mountain Open Space Preserve, and the Santa Venetia Open Space Preserve. The project would not adversely affect visual resources, including scenic vistas, within any of these open spaces.

Fourth, following construction, a planting and Tree Mitigation Plan would be implemented. The details of the Tree Mitigation Plan are discussed in Master Response 9. Under the Plan, 159 native trees would be planted throughout the site, including clusters of trees along the northerly edge of the site bordering NSPR. The planting of new trees would, in part, reduce the visual effect of vegetation removal and provide a visual buffer between the proposed homes and existing residences in Santa Venetia. The planting of new shrubs under the project planting plan would further soften the appearance of new development on the site.

Fifth, the project would be subject to the County's Single Family Hillside Design Guidelines, adopted in July 2005. Key factors considered within the guidelines include preservation of natural features, resource conservation, compatibility with neighboring development, location of buildings in relationship to pedestrian paths and streets, landscaping, general building forms, and scale. Compliance with these factors through the design review process would ensure that the visual compatibility of new development is considered in relation to the existing, visual context.

The project design for retaining walls would follow the County of Marin Single Family Hillside Design Guidelines and no single wall would exceed four feet in height. Where retaining is needed, the walls would be stepped in four-foot-high increments. Application of the standards guidelines would substantially reduce, if not eliminate, the visibility of from public vantage points along NSPR and from private residences within Santa Venetia.

Although a detailed exterior lighting plan has not been prepared for the project, the Single Family Hillside Design Guideline standards for exterior lighting would apply. Consistent with the Guidelines, all exterior lighting would be limited to only the lighting needed for roadway safety and home security. It is expected that all standards can be met through the use of low bollard and hooded lighting at roadway and driveway intersections and along driveway entries to homes.

Headlights from vehicles leaving the project site at the proposed roadway entry location would be angled down initially to the NSPR surface and ultimately leveled at the main road. The residences to the north, as can be seen on Figure 4.3-1 of the DEIR, are juxtaposed so as to face away from NSPR. House driveways and garages face the project access road well below NSPR. Furthermore, there is a substantial linear distance (approximately 200 feet) and significant change in elevation (+/- 15 feet of vertical distance) from the entry road proposed and the closest residences to the north. Finally, Figure 4.3-1 also shows that there is a substantial tree mass between the project entry roadway and the residences to the north.

As discussed above, the proposed intensification of development on the project site would cause a visual change to both the site and the surroundings. However, for the reasons stated above, the project would not be visually incompatible with the existing visual character. The semi-rural, low-density aesthetic character of this portion Santa Venetia would remain in tact.



### **Master Response 3 – Alternatives Analysis**

There were several comments made that the Draft EIR did not consider a reasonable range of alternatives and for the alternatives that were considered, they were not adequately analyzed. This response separately discusses the three key issues raised in these comments; range of alternatives considered, level of detail presented in alternatives analysis, and the description of No Project Alternative. In that the alternatives analysis in the DEIR was developed in accordance with Section 15126.6 of the CEQA Guidelines (Consideration and Discussion of Alternatives to the Proposed Project), several references to that section are included.

#### Reasonable Range of Alternatives

Some comments call the alternatives analysis inadequate on the basis that it does not include a reasonable range of alternatives. Related comments stated that the analysis was deficient because it did not examine a number of units between five (No Project Alternative) and nine (Reduced Density Alternative), or that it did not include alternatives with a different spatial arrangement than those presented.

Section 15126.6(a) of the Guidelines states:

“An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.”

Section 15126.6(f) of the Guidelines describes the rule of reason guiding alternative development. The guideline states:

“The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.”

In developing the alternatives to be analyzed in the DEIR, the County applied the rule of reason to identify a range that would allow for informed decision making and public participation. The alternatives reflect careful consideration by County Planning staff of the need to balance environmental site constraints and potential impacts, project objectives, and County policy. On this basis of this consideration, the County maintains that the alternatives presented are sufficiently different from one another so as to provide for meaningful comparison to the proposed project and one another. As illustrated and analyzed in Chapter 5 of the EIR, each of the alternatives presented includes a different spatial layout. In addition, two of the alternatives include a reduced number of units, including the No Project Alternative and the Reduced Density Alternative.

The range of alternatives also conforms with Section 15126.6(c) of the Guidelines which states:

“The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alterna-

tives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination.”

As concluded in Chapter 5 of the Draft EIR, all build alternatives would meet most or all of the project objectives. The No Project Alternative would not meet any of the Project Objectives, but is included in the analysis consistent with Section 15126.6(e). The rationale for the alternatives selection, as presented on page 2-15 of the DEIR, is that they would meet most of the project objectives while altogether avoiding or substantially reducing potentially significant impacts identified in Sections 4.1 to 4.14. In addition, as explained on page 2-15, an off-site alternative was examined prior to circulation of the Draft EIR, however the property of interest, which was located at 70 Oxford Drive in the Santa Venetia neighborhood, was withdrawn from consideration because it was sold prior to completion of the analysis and therefore no longer represented a reasonable option.

The County also considered the feasibility of the alternatives consistent with Section 15126.6(f)(1). This section states:

“Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives.”

The County considered each of the factors specified above for feasibility, however none of the alternatives were exclusively defined or included on the basis of any one factor. Rather, the various factors were given balanced consideration in the alternative development process.

Level of Detail Presented in Analysis

As mentioned above, several comments stated the opinion that the alternatives analysis did not provide a sufficient level of detail to perform its function under CEQA.

Section 15126.6(d) of the Guidelines states:

“The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed.”

The analysis, as presented in Chapter 5 of the DEIR, includes the following components:

- ◆ A conceptual illustration of each alternative demonstrating where lots and roadways (driveways) would be located;
- ◆ A comparative matrix (Table 5-1) showing whether each alternative would result in an improvement or deterioration in environmental effects in relation to the proposed project;
- ◆ A narrative discussion of how each alternative relates to all topics covered in Chapters 4.1 - 4.14 of the DEIR;
- ◆ The ability of each alternative to meet project objectives;
- ◆ Identification of the environmentally superior alternative; and
- ◆ How each alternative compares to the proposed project in relation to environmental superiority.

As permitted under CEQA, the level of analysis for selected alternatives is not intended to parallel the level of analysis conducted for the project pro-

posal itself (CEQA Guidelines, Section 15126.6(d)). Nowhere in the guidelines does it require that project alternatives be analyzed to the same level of detail as the proposed project. Consistent with Section 15126.6(d) of the Guidelines, the County maintains that the analysis provides “sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.”

#### No Build/ No Project

Some comments state that the analysis is inadequate on the basis that the No Project Alternative should examine current conditions on the project site, and not include the potential development of five units on the property, as analyzed and permitted under current zoning. These comments are based on the viewpoint that the No Project Alternative should equate to a no build scenario.

Section 15126.6(e) of the guidelines provides a detailed discussion of the No Project within the context of an alternatives analysis. This section does not require that a no-build scenario be analyzed, under which the project site would remain in its current condition. Section 15126.6(e) states:

“The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline.”

The "no project" analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, *as well as what would be reasonably expected to occur in the foreseeable future if the pro-*

*ject were not approved, based on current plans and consistent with available infrastructure and community services.”*

As specified in Section 15126.6(e)(3)(B), discussion of the "no project" alternative may proceed on this basis:

“If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the "no project" alternative is the circumstance under which the project does not proceed. Here the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" wherein the existing environmental setting is maintained. *However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.”*

(C) After defining the no project alternative using one of these approaches, the lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.”

Consistent with the guidelines specified above, the No Project Alternative presents and analyzes what is reasonably foreseeable under existing zoning; five single-family market rate units on existing, legal lots.

#### **Master Response 4 – California Red-Legged Frog**

Several comments expressed concern about the potential for California Red-Legged Frog (CRLF) to occur on the project site or in the near vicinity. These comments generally expressed the opinion that the Draft EIR did not provide sufficient evidence to confirm the absence or presence of CRLF on the site and that additional surveys should be conducted prior to completion of the FEIR in order to provide conclusive results.

As explained in Section 4.3 of the DEIR, an Environmental Constraints Analysis was completed for the project site in 2005. The analysis inventoried the existing biological resources on the project site and near vicinity including existing biotic communities (vegetation and wildlife habitats), and sensitive resources including wetlands, streams and special-status species. The report findings were based on detailed literature, database review and a field reconnaissance survey conducted on March 7, 2005. The 2005 Constraints Analysis has been included in Appendix F of the FEIR.

As concluded in the analysis, fifteen special-status wildlife species were identified in the literature and database review with potential to occur on the project site or in the vicinity. A sixteenth species, Allen's hummingbird (*Selasphorus sasin*), is no longer tracked as a sensitive species by the USFWS. Based on the assessment of wildlife habitats conducted during the field survey, nine of these species were determined to have moderate or high potential to occur on the site.

The CRLF was not among the species identified in the 2005 Constraints Report as having potential to occur on the site. The project biologist, Garcia and Associates (GANDA) determined that the pond was not likely to support CRLF because it is seasonal, has little emergent vegetation, and lacks deep water areas.<sup>1</sup> Because no CRLF occurrences were documented in the vicinity and no supporting habitat was identified, potential impacts to CRLF were not analyzed in the Draft EIR. In 2008, a biologist from Environmental Collabo-

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<sup>1</sup> Conclusions documented in a memo transmitted by DC&E to County staff on April 17, 2005.

rative conducted a peer review of the findings from GANDA's 2005 Constraints Report and completed an independent site survey. Environmental Collaborative concurred with GANDA's conclusions in relation to the CRLF.

As noted above, several comments on the Draft EIR recommended that follow-up surveys for CRLF be conducted. In response to these comments, LSA and Associates, Inc. prepared a CRLF site assessment in February 2009, under contract with the project applicant. The methods followed in the assessment were consistent with current agency protocol (USFWS 2005).<sup>2</sup> The assessment included a literature review of known occurrences within 10 miles of the site; aerial photo assessment of habitat within 1 mile of the site; and a field investigation by a qualified herpetologist. The field investigation focused on the aquatic habitat on site and suitable aquatic habitat features on adjacent properties. The report concluded that it is highly unlikely that CRLF occur on or in the vicinity of the project site. As documented in LSA's final report, the project site is within the historic range of CRLF, but the closest known record for the species is approximately 9 miles southeast, separated by extensive areas of urban development. The report also concluded that seasonal wetland on the property is not suitable breeding habitat for CRLF. Two aquatic features are within 1 mile of the project site, which may provide potentially suitable breeding habitat for CRLF; however, the report determined that it is unlikely that they are occupied.<sup>3</sup>

Garcia and Associates reviewed the LSA report subsequent to its completion and concurred with its conclusions. As part of this review, GANDA reaffirmed its conclusion that the ephemeral creek on the property is not suitable habitat and that the pond is seasonally dry and lacks deep water and emergent vegetation that CRLF require for breeding habitat. Garcia and Associates

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<sup>2</sup> This assessment report is available at the County offices for review or on the Agency's website.

<sup>3</sup> Roger Harris, LSA, memo to Chris Nagano, USFWS, February 18, 2009.



also concluded that because CRLF is highly unlikely to occur on-site, the project would not be expected to affect the species and mitigation measures are not warranted in the context of the Draft EIR.

Despite the lack of evidence indicating the existence of CRLF on-site, the project sponsor agreed to respond to USFWS requested and provide protocol-level surveys be completed to confirm presence or absence. The USFWS biologist and LSA biologists met on site to discuss survey protocols and agreed on methodology for conducting the survey. Protocol surveys were conducted in May and June, 2009 and the survey results were negative, re-confirming the earlier findings that there would be no impacts to CRLF. A complete report documenting the results of the protocol surveys is available at the offices of the County Community Development Agency. Because all studies and surveys concluded that CRLF does not occur on or in the vicinity of the site, the project would not affect the species and no mitigation is required.

#### **Master Response 5 – Land Use Incompatibility with Neighborhood**

Several comments expressed concern that the proposed project would be incompatible with existing land uses in the project area. The primary concern is that permitting 12 units on site, including two secondary units, would be excessive in relation to existing, residential land uses to the north and west of the site and that this intensity of development would have an adverse effect on the semi-rural character of the area.

The size of the proposed homes in relation to existing development was one of the main concerns. As stated in the project description the proposed residences would range in size from 2,221 square feet to 3,598 square feet. Although the homes would generally be comparable to or larger than the size of existing homes in the area, size variances do not, by default, result in an incompatibility between land uses. Furthermore, as illustrated on Figure 3-3 of the DEIR, none of the proposed homes would be located immediately adjacent to existing homes, which would further reduce the potential for incompatibility due to size.

A neighborhood parcel analysis was performed for the area immediately surrounding the project site. Using the GIS-based MarinMap Planners application, all parcels located either partially or entirely within a 500-foot "buffer zone" of existing parcel 180-321-05 were surveyed. According to MarinMap, this area contained 31 properties with residential improvements. Each was surveyed for lot square footage as well as property square footage. The average size of the homes surveyed was 2,109 square feet, or 828 square feet smaller than the average size of the 12 residences of the proposed project, at 2,937 square feet. The average lot size for the 31 properties was 191,656 square feet, while the average lot size for the proposed project would be 51,937 square feet. Among the 31 existing lots evaluated, four large lots (12 percent) ranged between 92,000 and 3,000,000 square feet, which is substantially larger than the average lot under the proposed project. However, the remaining 27 existing lots (88 percent) ranged in size from 8,896 square feet to 44,790 square feet, with an average of 16,195 square feet. Eight (8) of the 12 lots proposed under the project would be less than 50,000 square feet, with an average of 17,706 square feet. Based on this evaluation of lot size and home size, the building scale and intensity (home size vs. lot size) of the proposed project would not be substantially different than the majority of existing development in the vicinity of the project site.

The proposed form and intensity of development were two other leading concerns. As shown on Figure 3-3, the proposed development would follow a similar development pattern to what currently exists in the Santa Venetia community, where single-family, detached residences are constructed in subdivisions served by two lane roads. Although the proposed density for the project (0.81 dwelling units per acre [DUA]) may be slightly higher than the density within existing neighborhoods immediately to the north and west of the site, Figure 3-3 illustrates that the variation would be minor and that the proposed density, while not the same as, would not be substantially different from existing development.

According to the Marin County Code, high density residential zoning is provided for by the RMP (Residential, Multiple Planned) District, which is in-

tended to be consistent with multi-family residential land use designations of up to 30 units per acre. The density of 0.81 DUA under the proposed project would fall well below the 30 DUA high-density maximum. Furthermore, the site's existing land use designation would be maintained; Single family Residential (SF4), which provides for a density of 1 to 2 units per acre.

In summary, the project site is not in direct conflict with the semi-rural character of the area because the project would be similar in density, form, and type to existing residential development in the adjacent Santa Venetia neighborhood. Furthermore, through the clustering of homes close to NSPR and preservation of 8.6 acres of open space (58 percent) on the 14.8 acre site, the project would add to open space resources in the project area that are a valuable part of its overall character. The project would not change the low-density, semi-rural character of the area through the introduction of 12 new units and would not be incompatible from a land use standpoint.

#### **Master Response 6 – Development Permitted Under Existing Zoning**

Several comments questioned the conclusion in the alternatives analysis (Chapter 5 of the DEIR) that the No Project Alternative would be environmentally inferior to the proposed project. These comments were generally based on the opinion that permitting a project under current zoning, which would permit five units, would be environmentally superior to rezoning the property and permitting 12 units, including two secondary units. The underlying assumption among these comments is that seven fewer units would, by default, result in fewer environmental impacts than the proposed project. Some of these comments demonstrated an incomplete understanding of the level of development that could occur on the site under existing zoning. As discussed below, subdivision of the existing five lots would be permissible under existing zoning, which could result in a number of units on the site above what is currently proposed.

Accordingly, the first part of the response is a discussion of the five single-family units that could be constructed on the existing five, legal lots, as ana-

lyzed under the No Project Alternative. The second part explains how the property could be further subdivided under existing zoning.

*Existing Zoning – Five Unit Scenario (No Project Alternative)*

As stated on page 5-5 of the DEIR, the five existing lots are assembled and owned by one party and road easements and road development could be constructed for access to each of the five lots. Under current zoning each existing lot could be developed with an estate size single-family detached home and each lot could also support a second dwelling unit. Figure 5-1 in the DEIR provides a conceptual illustration of how the five lots might be developed under existing zoning and the No Project Alternative. In response to comments received on the Draft EIR, the project applicant, Thompson Development, submitted a conceptual plan to confirm the level of development permitted under existing zoning and to provide an alternative illustration of the form that this development could take.

The applicant's concept plan was developed using the existing lot configurations and engineering standards specified in current County road regulations, Title 24 codes. The purpose of this concept plan is to illustrate that the existing lots are developable under current design standards. The road/driveway locations follow, where feasible, the existing road configurations and site topography to minimize grading. The roads/driveways meet road width, vehicle turnaround and slope limits specified by San Rafael Fire. Although the conceptual development plan presented in Figure 5-1 is slightly different than that presented by the applicant, County staff confirms that there are five legal lots on the site, each of which could be developed with roadway or driveway access.

The applicant presented several reasons that this concept plan could result in greater potential impacts than the proposed project. DC&E independently reviewed the reasons presented in relation to its own analysis of the No Project Alternative. Consistent with the alternatives analysis presented in Chapter 5 of the DEIR, DC&E determined that the following information for the conceptual development plan is valid:

- ◆ Development of lots 3 and 4 shown Figure 5-1 and in the applicant's concept plan would include development in the upper reaches of the project site on slopes that would be preserved for open space under the proposed project. As concluded in Chapter 5 of the EIR, this development in the more visually prominent portions of the site would have a greater impact in relation to aesthetics. Conversely, the proposed project would cluster building development on the lower elevations of the site, thereby reducing the visual prominence of the development and effects on the wooded slopes in the more southern portion of the property.
- ◆ Development of driveway access to lots 3 and 4 and home construction could result in significant tree removal in existing oak woodland. In comparison, the proposed project would result in less tree removal in the oak woodland because development would be concentrated in the lower (northern) portions of the site. Although a tree permit would be required for development on lots 3 and 4 under the No Project Alternative, the same degree of land clearance would not be required in these portions of the site under the proposed project.
- ◆ Due to the grades at which development would occur, specifically on lots 3 and 4, substantial site grading and retaining wall development would be needed for driveway development to the existing lots. The proposed project reduces roadway lengths on-site by clustering development near existing roads.
- ◆ Five units would not provide affordable housing and the additional supply of market rate housing offered by the proposed 12-unit project.

In addition, as stated in Chapter 5 of the DEIR, three lots (APNs 180-231-05, 180-231-06, and 180-231-09) could be developed in conformance with the height, setback, floor area and other development standards of the governing R-E:B-3 zoning district. Therefore, it is not anticipated that these lots would require Design Review, Tree Removal Permits or any other type of discretionary approval for development that could otherwise permit the County to impose mitigating conditions on construction occurring on these lots. Since no discretionary approval would be required, Wetland Conservation Areas

(WCAs) as established through polices set forth in the Countywide Plan would not be applicable.

As a result of the factors described above, the County maintains that the No Project is environmentally inferior to the proposed project. A reduction in the number of units does not, by default, equate to a lesser environmental impacts.

*Existing Zoning – Re-Subdivision of Five Existing Lots*

The five existing lots are assembled in one ownership making grant of necessary road and utility easements for further subdivision a private property matter. The five lots assembled in one ownership provides for a total land area (14.8 acres) needed to achieve the range of density specified in the Countywide Plan (CWP) Land Use designation. The CWP specifies a density range, SF-4 – single family, of 1-2 units per acre maximum density, and the existing zoning density specified in the R-E: B-3 zone district is consistent with the CWP.

Thompson Development provided a conceptual development plan to illustrate this information. DC&E, in coordination with County staff, conducted an independent review of the plan and determined that the information therein is valid. As the plan shows, with application of current county R-E: B-3 zoning standards including; application of the slope policy for density; lot size; yard setbacks and Title 24 codes, the property could be further subdivided to yield 13 single family estate lots and up to twelve 12 second units. This would equate to one additional single family estate lot and up to 10 additional second units beyond what is proposed in the current application, or a total potential for up to 13 single-family residential lots and up to 12 second units. Therefore, it is possible to increase the site density to greater than the five existing lots with a subdivision that complies under the current zoning.

In summary, as analyzed under the No Project Alternative, five legal lots could be developed with new driveways and homes under existing zoning. As concluded in the DEIR, this alternative is environmentally inferior to the

proposed project for reasons documented in chapter 5 of the DEIR and stated above. The reduction of the number of dwelling units and density that may occur under this alternative would not, by default, result in an environmentally superior option. Furthermore, as discussed above, the five existing lots on site could be further subdivided and feasibly result in up to 13 single-family residential lots and up to 12 second units. This would result in an increased number of units on the site in relation to the proposed project.

#### **Master Response 7 – HOA Management of Open**

Several comments voiced concern that the Draft EIR does not adequately define the method and regulatory mechanism by which future development would be prevented in the proposed 8.6 acres of private open space and the common areas within the site. Many of these comments stated that the requirements on owners relating to management of private open space are too vague.

As shown on Figure 3-5 of the Draft EIR, the proposed 377,565 square feet (8.6 acres) of open space would be divided among, but entirely encompassed within, the lot lines of Lots 8-12. In addition to this open space, the area surrounding the pond would be a common parcel that would encompass 0.35 acres.

The common parcel and private lot open space would both be encumbered with an open space, scenic and resource conservation easement. The easement would be dedicated to the County of Marin and would restrict the use of the related property to scenic, open space and resource conservation purposes only. No further subdivision, residential development, or fencing would be permitted within the easement. Deed restrictions would be placed on lots 8-12 relating to the use and maintenance of the private open space. The deed restrictions would be permanent and be applicable to all future owners.

Management of the common parcel and open space would be the responsibility of an HOA and would be limited to fire vegetation management and re-

source protection. The HOA would follow a set of Covenants, Codes, and Restrictions (CCRs) that require property owners to pay annual dues. These dues would be used in part to pay for professional natural resource managers who would maintain the open space resources on the site. These resources would include the pond and adjacent common area, the patch of native grassland in the northeast corner of the property, and the oak woodlands on the hill south of the proposed development. The intent of this framework is that the HOA would be stewards of the property's open space and that County would have ultimate oversight through the easement dedication. This approach would be the same or similar to how many HOAs manage common, landscaped areas in Planned Unit Developments.

#### **Master Response 8 – AM Peak Period and Weekend Traffic**

Several comments expressed concern about the adequacy of the traffic analysis and the related conclusions set forth in the DEIR. Primarily, these comments were focused on how the vehicle trips created by the project would affect travel conditions on San Pedro Road. Many of the comments stated that the DEIR analysis did not adequately account for how the additional vehicle trips would exacerbate existing peak period congestion along San Pedro Road, especially between the project site and Highway 101. Specifically, numerous comments noted that the AM peak period counts used in the traffic analysis were obtained when school was not in session, so volumes were not typical; that the results provided in the DEIR are not consistent with what residents are experiencing; and that the congestion on San Pedro Road is most intense in the vicinity of the Venetia Valley School and Jewish Community Center (JCC). Based on these concerns, many comments requested additional AM peak traffic counts (with school in session) and weekend counts, which were not conducted as part of the original analysis. These two issues are discussed separately within this response.

#### AM Peak Hour Conditions

As stated in Section 4.6 of the DEIR (Traffic and Transportation), the project traffic analysis compared volumes obtained in 2005 and 2007. The 2005 volumes were used as these counts were higher than those obtained in 2007 and



therefore provided a more conservative baseline against which to compare project trip estimates. A comparison was also made W-Trans between the volumes used in the DEIR and counts conducted at two of the study intersections in early May and mid-October 2008, while local schools were in session. The 2008 counts can reasonably be expected to reflect typical conditions. However, these 2008 counts were equal to or lower than the counts from 2005, by as much as 12 percent. The 2005 data used for the DEIR analysis therefore provides a more conservative analysis in that it accounts for higher traffic volumes.

In preparing the traffic analysis contained in the DEIR, the project traffic consultant (Robert L. Harrison Transportation Planning) applied standard techniques and methodologies in accordance with County guidelines. Impacts on traffic operation are evaluated by analyzing operating conditions at critical intersections under volumes without and with the project, and using the difference between these results to determine significance. Under the County's adopted standards, study intersections must operate at LOS D or better, or experience an average of 55 seconds of delay per vehicle or less at signalized intersections and 35 seconds or less at unsignalized intersections. This measure is the weighted average for the intersection as a whole, so while individual movements or approaches may experience greater delays, as long as the average remains below the threshold, operation is considered acceptable under the applied standards. Further, the DEIR analysis covered a period of one hour, and higher and lower delays would be experienced at various times over the course of that hour.

It can be difficult for drivers to reconcile their experience traveling through intersections with the results of a traffic analysis, particularly if they encounter the highest delays and poorest operation for the intersection, as is likely the case for residents of Santa Venetia. Because of the high eastbound left-turn volume opposing a high westbound through volume, these two movements tend to have higher-than-average delays. These delays may be experienced, for example, by eastbound motorists on San Pedro Road making a left turn into the Venetia Valley School and westbound motorists from the Santa

Venetia neighborhood who are conflicting with this movement. Conversely, the eastbound through movement, which operates concurrently with both of these impacted movements, experiences very low delays. Despite many perceptions to the contrary, based on the analysis performed and using the County's adopted standards, the project would have a less-than-significant impact on traffic operation, as indicated in the DEIR.

It should be noted that many of the concerns expressed relative to traffic were relative to conditions associated with traffic at the JCC and Venetia Valley School. County staff is currently working with staff at both the JCC and Venetia Valley School to address the congestion that occurs during the morning drop-off period. However, the identified issue is specific to operation of these two schools rather than the volume of traffic served by North San Pedro Road. The 11 trips that the project would be expected to add during the morning peak hour represent less than a one percent increase in traffic on North San Pedro Road. Given that volumes vary from day to day and season to season by as much as 10 percent, the minimal number of trips that the project would add would result in an imperceptible change in traffic conditions. As a result, additional AM peak period counts are not warranted.

#### Weekend Conditions

Traffic counts were obtained from County staff for North San Pedro Road in various locations and covering more than 17 weeks in 2003 and five in 2008. A comparison of the 2003 and 2008 volumes at the same locations indicate that volumes have not changed much in that time; the weekday average increased by 1.1 percent and the weekend average decreased by 0.5 percent. These counts indicate that volumes in the study area are typically higher on weekdays than on weekend days. East of Golf Avenue, which is just east of Civic Center Drive, the weekday volume averaged about 22,000 vehicles and the weekend days had a volume of 17,000 vehicles, on average. Likewise, closer to the project site, counts east of Schmidt Lane, which is near Oxford Drive, were higher on weekdays than on weekend days.

Because the volumes are higher on weekdays than on weekend days, the analysis performed using weekday volumes would be expected to reflect worst-case conditions. Volumes on weekends would be lower, and operating conditions therefore better, so no analysis of weekday conditions is warranted.

### **Master Response 9 – Tree Removal and Replacement**

Several comments expressed the opinion that the Draft EIR did not sufficiently describe the number, type, and location of trees to be removed. Many of these comments also stated that the DEIR did not adequately describe and illustrate where trees would be replaced, what types of trees would be used, and what the replacement ratio would be under the Tree Mitigation Plan. This response addresses each of these issues and provides additional illustrative detail to support the conclusions in the DEIR.

#### Tree Removal

The October 2007 Tree Inventory and Evaluation Report (Revised) completed by MacNair and Associates is included in Appendix E of this FEIR. As documented in the report, MacNair and Associates inventoried and evaluated 292 trees within or near the proposed building lots and driveways (all within the limits of grading). Evaluated trees included all native species with trunk diameters (measured at 4.5 feet above grade) of 6 inches or larger, although numerous smaller diameter trees are also included, and non-native species of with trunk diameters of 8 inches or greater.

As stated in the MacNair report and under Impact 4.3-H of the DEIR, a total of 200 trees within the project's grading limits would be removed during site preparation, including mature oaks, bay laurels and madrones. The specific locations and types of trees to be removed are shown in Appendix E (Tree Removal Plan dated March 20, 2007). The trees demarcated with an 'X' symbol will be removed. Of these 200 trees, 5 are dead and 145 are rated as having poor or marginal suitability for preservation due to the condition of the tree, as further described in the MacNair report. Fifty-one of the removed trees are rated as having moderate to good suitability for preservation.

As stated on page 3-17 of the Project Description, the project arborist report indicates that 53 mature, healthy, native trees that meet the County's criteria for a "protected" tree would be removed during site preparation. These are native trees protected under Section 22.27.020 of the Marin Development Code. As documented on page 4.3-6 of the Biological Resources Chapter, the provisions of the Development Code prohibit the removal of a single protected tree from a vacant lot or more than five protected trees from an improved lot without requesting and receiving a tree removal permit. Replacement of these "protected trees" is discussed below.

#### Tree Replacement and Protection

As stated on page 4.3-40 of the DEIR, the Conceptual Tree Mitigation Plan prepared by MacNair and Associates identifies 159 native trees that would be planted on site to replace the 53 "protected" trees that would be removed. This would represent a 3:1 re-planting ratio for protected trees. The Tree Mitigation Plan is included as Appendix E in this FEIR. Sheet L-3 within this plan shows locations and types of trees to be planted. All of the new trees would have been grown in 15-gallon-or-greater containers, consistent with the County's Tree Replacement Policy. As the plan illustrates, tree replacement would strategically take place to minimize the visual change associated with tree removal and provide maximum future screening of the project development from off-site locations.

As shown on the Tree Removal Plan (Appendix E), there are 38 trees that would remain in place on the project site and be protected during construction. These trees have a dotted circle around them as opposed to an 'X' symbol. The MacNair report recommends guidelines to minimize damage to these trees and maximize their survivorship during and after construction, such as tree protection zones, root pruning and post-project tree planting. Mitigation Measure 4.3-H.2 in Draft EIR would require development and implementation of a Tree Protection Plan that would incorporate the arborist-recommended guidelines. As the mitigation measure states, the Tree Protection Plan must be approved by the County prior to starting site preparation and construction activities.

Additional tree preservation would occur within the 8.6 acres of open space on-site. As indicated in Master Response 7, future development would not be permitted within the site's open space areas, thereby minimizing the potential for tree removal. Should any tree removal in these areas occur, it would be at the discretion of a resource manager contracted by the HOA and be conducted for reasons of public safety, such as fire hazard management.

#### **Master Response 10 – Adequacy of Off-site Mitigation**

Several comments questioned the adequacy of West Marin Island as a location for off-site mitigation to address the removal of the heron rookery on-site. A primary concern expressed is that there is no evidence in the DEIR to demonstrate that nesting habitat enhancement at West Marin Island is in fact necessary, and is therefore of questionable value. Some of these comments suggest that there are other, local locations where enhancement of nesting and foraging habitat would be much more effective in mitigating the removal of the rookery from the project site. Suggested locations include the McPhails wetland, Gallinas Creek, East Marin Island, and Smith Ranch Pond in the City of San Rafael.

As stated in Section 4.3 of the DEIR, West Marin Island is approximately 3 miles south of the project site and is the closest known active rookery with great blue herons. The project biologist, Garcia and Associates, discussed the feasibility of off-site mitigation in the fall of 2008 with Mr. Jeremy Sarrow of California Department of Fish and Game (CDFG). Mr. Sarrow confirmed that CDFG would agree that the impact of removing the nest tree could be mitigated with compensation efforts on West Marin Island to improve the rookery there.<sup>4</sup>

Accordingly, Mitigation Measure 4.3-B.1 was developed to require that said efforts be undertaken by the project applicant. Based on coordination with

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<sup>4</sup> Email correspondence from John McCarthy, Garcia and Associates (GANDA). November 6, 2008, based on personal correspondence between GANDA and Jeremy Sarrow.

CDFG, the County maintains that West Marin Island may provide a reasonable location in which to carry out mitigating actions. However, the inclusion of Mitigation Measure 4.3-B.1 as part of the project does not eliminate other off-site locations from consideration. The County and applicant understand that other, feasible options exist as identified above, and that CDFG may ultimately determine that other off-site locations, aside from West Marin Island, be pursued. In order to obtain the necessary approvals, the applicant will ultimately have to comply with whatever location CDFG ultimately establishes. In addition, Mitigation Measure 4.3-B.1 has been augmented to clarify that the off-site mitigation program, regardless of location, would adhere, at a minimum, to a set of site specifications and performance standards. The specifications and standards are identified in the measure (see Chapter 4.3).

#### **Master Response 11 – Pond/Wetland/Creek**

Several comments expressed concern that the DEIR did not adequately analyze and therefore mitigate potential impacts associated with the development adjacent to the on-site pond and ephemeral Creek. While none of these comments introduced new technical evidence that contradicts the biological surveys completed for the project or conclusions of the EIR, the comments stated that given the proximity of project features to the pond, wetland, and creek, it is very likely to degrade these resources.

##### Pond/Wetland

The wetland on site, which contains a pond, has been formally delineated and assessed through environmental review conducted for this project. The pond appears to have developed as a result of obstruction of flow of the ephemeral creek. During periods when water is present, vegetation in the pond is sparse and consists primarily of the floating and emergent freshwater aquatic plant, water plantain. The pond dries seasonally, and the moist pond bottom in summer is dominated by the introduced, weedy forbs cocklebur and pennyroyal. The combination of factors results in a degraded wetland area characterized by a predominance of non-native, weedy vegetation. Additional information on the pond and wetland area is provided in the 2005 Constraints Analysis, which is included as Appendix F of this FEIR.

Mitigation Measures 4.3-F.1 and 4.3-F.2 in the DIER address the potential impacts to the wetland. Through implementation of these measures, there would be no net loss of wetlands. The resulting wetland would be larger with increased water storage capacity, and the function and value of the wetland would ultimately be improved through the removal of non-native vegetation, such as the surrounding eucalyptus trees, and the planting of native wetland species. Furthermore, potential impacts to the wetland from non-point source pollution would be mitigated through Mitigation Measure 4.4-A.1, as identified in the Hydrology and Water Quality section of the EIR.

County Goal BIO 3.1 requires a 100-foot setback from wetlands. The Goal also allows 4 exceptions to the standard distance. Exception #4 applies where wetlands are avoided and a site assessment demonstrates that incursion within the minimum Wetland Conservation Area (WCA) setback distance would not result in any significant adverse direct or indirect impacts. This exception applies to this project since planned development avoids the delineated wetland itself, and a site-specific analysis documented in the DEIR concluded that no significant adverse impact to the wetland would result.

The key mechanism by which the wetland on-site would be preserved and ultimately improved is the Wetland Monitoring and Enhancement Plan (WMEP), as required by Mitigation Measure 4.3-F. 2. The WMEP will be developed by a wetland specialist to be approved by regulatory agencies and County CDA prior to approval of the final map. As specified, the WMEP would need to include performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. Monitoring shall be conducted by the consulting wetland specialist for up to five years or until the identified success criteria are met.

#### Ephemeral Creek

The ephemeral creek was carefully evaluated through the environmental review for this project, initially by the Applicant's biologist, and independently by the EIR biologist in a subsequent preliminary environmental assessment, and again in completing the Draft and Final EIR. The ephemeral creek is not

included on the Marin County Anadromous Fish Streams and Tributaries map or on the Marin County Stream Conservation Area (SCA) Streams map. The drainage is not shown as a solid or dashed blue-line stream on the most recent appropriate USGS quad sheet. It does not support riparian vegetation for a length of 100 feet or more. The watercourse does not meet the definition of a Stream Conservation Area in the County Wide Plan (CWP) because of these factors above and because it does not support special-status species or any other sensitive biological community. The 20-foot setback reflected on the project plans would be consistent with County Policy BIO-4.1, which recommends a 20-foot setback on ephemeral streams that do not meet SCA criteria.

Ongoing maintenance of the pond and creek are discussed in Master Response 11. These resources would both be encompassed in an open space, scenic and resource conservation easement dedicated to the County of Marin. No further subdivision, residential development, or fencing would be permitted within the easement. Through HOA CCRs and dues, professional natural resource managers would be contracted to maintain these resources.

#### **Master Response 12 – Revised Project Alternative**

Subsequent to the closing of the public comment period for the DEIR, the project sponsor submitted a “Revised Project Alternative” to the County. This alternative was submitted after the County requested additional information from the project applicant to address certain concerns that were raised during the DEIR public-review process.

The submittal of additional information by the project sponsor complies with Sections 15082(c) and 15084 (b) and (c) of the CEQA Guidelines, which state that a lead agency may require an applicant to submit data and information in order to determine whether the project may have a significant effect on the environment and to assist in preparation of the Draft EIR.

As explained in Chapter 2 (Report Summary) on page 2-21 and consistent with Section 15088.5 of the CEQA Guidelines, the inclusion of the Revised



Project Alternative in the FEIR does not result in the need for recirculation of the DEIR or any portions thereof. Specifically, in relation to Guideline 15888.5(3), the applicant has committed to implementing this alternative if it is ultimately adopted by the Board.

As discussed in Section E. of Chapter 5 (Alternatives), the “Revised Project Alternative” primarily focuses on the location of facilities within the project site and proposes to incorporate all mitigation measures proposed in the EIR.

Through the submittal of the Revised Project Alternative, the project applicant proposed to test whether the alternative would be environmentally superior to the proposed project because the alternative would include increased setbacks from the delineated wetland on-site and reduced encroachment into the 100-foot wetland conservation area. The alternative would also involve less site preparation during construction and reduced impermeable surface area in the long-term due to a decreased amount of driveway area.

The Alternative Analysis (Chapter 5) provides discussion of this alternative and compares it to the proposed project. The Revised Project Alternative would represent an improvement over the proposed project when considering impacts to Land Use, Geology and Soils, Hydrology and Water Quality, Air Quality, Traffic and Circulation and Energy Conservation. In addition, this alternative would meet the project objectives and represent substantial improvements to Biological Resources and Aesthetics when compared to the proposed project. All other impacts would be similar to the proposed project.

Table 5-1 in Chapter 5 also provides a comparative summary of the Revised Project Alternative in relation to the three other build alternatives.

In relation to the Alternate Use Alternative, the Revised Project Alternative would represent an improvement in relation to Geology and Soils, Air Quality, Traffic and Circulation, and Energy Conservation. It would result in a

similar degree of impact in relation to Biological Resources, Hydrology and Water Quality, Aesthetics, Cultural Resources, Public Services, Noise, Hazards, and Utilities. The Alternate Use Alternative would represent an improvement in relation to Land Use and Population and Housing. In conclusion, the Revised Project Alternative would be superior in relation to four issues, similar in relation to eight issues, and inferior in relation to two issues.

In relation to the Reduced Density Alternative, the Revised Project Alternative would represent an improvement in relation to Geology and Soils. It would result in a similar degree of impact in relation to Biological Resources, Hydrology and Water Quality, Air Quality, Traffic and Circulation, Aesthetics, Cultural Resources, Hazards, Energy Conservation, and Population and Housing. The Reduced Density Alternative would represent an improvement in relation to Land Use, Public Services, Noise, and Utilities. Therefore, the Revised Project Alternative would be superior in relation to one issue, similar in relation to nine issues, and inferior in relation to four issues.

In relation to the Mitigated Alternative, the Revised Project Alternative would represent an improvement in relation to Geology and Soils, Biological Resources, Hydrology and Water Quality, Air Quality, Traffic and Circulation, Aesthetics, and Energy Conservation. It would result in a similar degree of impact in relation to Land Use, Public Services, Cultural Resources, Noise, Hazards, Population and Housing, and Utilities. The Mitigated Alternative would not result in an improvement in relation to any of the issues examined. Therefore, the Revised Project Alternative would be superior in relation to seven issues and similar in relation to seven issues. It would not be inferior to the Mitigated Alternative for any of the issues covered.

As concluded in Chapter 5, the Reduced Density Alternative would be the environmentally superior alternative amongst all alternatives considered; however it would not meet all project objectives. The Revised Project Alternative would be the second most environmentally superior alternative among all alternatives considered and it would meet all project objectives. As such, and as summarized above, the Revised Project Alternative would be envi-

ronmentally superior to the No Project Alternate, the Alternate Use Alternative and the Mitigated Alternative.

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

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*Individual Comments and Responses – Government  
Agencies*

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

**LETTER #1**

# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825-1846

In Reply Refer To:  
81420-2009-TA-0234

December 23, 2008

Mr. Tim Haddad  
Marin County Community Redevelopment Agency  
3501 Civic Center Drive Room 308  
San Rafael, California 94903-4157

Subject: Comments on the Proposed Residential Project at 650 North San Pedro Road in the County of Marin, California

Dear Mr. Haddad:

This responds to the Draft Environmental Impact Report for the proposed residential development at 650 North San Pedro Road in the County of Marin, California (APN 180-231-05, -06, -07, -09, and 180-291-04). Your request for comments was received in this field office on December 9, 2008. At issue are the potential adverse effects of the proposed project on the threatened California red-legged frog (*Rana aurora draytonii*), great blue heron rookery (*Ardea herodias*), and wildlife species. Our comments and recommendations are made under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)(Act), and the Service's Mitigation Policy of 1956. Our comments and recommendations are provided to assist you with your environmental review of the project and are not intended to preclude future comments from Service.

**1-1**

The comments and recommendations in this letter are based on 1) *650 North San Pedro Road Draft EIR State Clearinghouse Number 2004062004* dated December 3, 2008; and 2) other information available to the Service.

### Threatened California Red-legged Frog

Section 9 of the Act prohibits the take of the threatened California red-legged frog and other federally listed species by any person subject to the jurisdiction of the United States. As defined in the Act, take is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harass means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as

**1-2**

to significantly disrupt normal behavioral patterns which include, but are not limited to breeding, feeding, or sheltering.” “Harm has been further defined to include habitat destruction when it injures or kills a listed species by interfering with essential behavioral patterns, such as breeding, foraging, or resting. Thus, not only is the California red-legged frog protected from such activities as collecting and hunting, but also from actions that result in its death or injury due to the damage or destruction of its habitat. The term “person” is defined as “...an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States.” The action area does not contain designated or proposed critical habitat for this threatened species.

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project and a listed species is going to be adversely affected, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved in the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a)(1)(B) of the Act should be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be taken by the project.

1-3

There are records of this listed animal in Marin County (California Department of Fish and Game [DFG] 2008a, 2008b; Museum of Vertebrate Zoology, University of California, Berkeley, California); although the DFG’s California Natural Diversity Data Base contains an extensive number of records of listed, rare, and sensitive species, in the Golden State, the lack of records of a plant or animal in a specific area should not be construed as *prima facie* that the taxa in question is absent from a site. Surveys may not have been conducted at a site or the results may not yet been sent to the California Natural Diversity Data Base. Based on the Draft Environmental Impact Report and other information, the area surrounding the project site is characterized by a continuous mosaic of uplands that provide suitable habitat for dispersal, cover, foraging, and other essential behaviors, and there are wetlands on the site that may provide suitable breeding habitat for the California red-legged frog. According to Feller and Kleeman (2007), non-breeding dry season habitat includes several characteristics: 1) sufficient moisture to allow the frogs to survive throughout the non-breeding season that may be up to 11 months long; 2) sufficient cover to moderate temperatures during the warmest and coldest times of the year; and 3) protection (e.g., deep pools in a stream, or complex cover such as root masses or thick vegetation) from predators such as hawks and owls, herons, and small carnivores. This can include vegetated areas with coyote bush (*Baccharis pilularis*), California blackberry thickets (*Rubus ursinus*), root masses associated with willow (*Salix* species), trees, such as California bay (*Umbellularia californica*), or rodent burrows (Fellers 2005; Jennings and Hayes 1994; Service 2002). Sheltering habitat for this threatened amphibian is potentially all aquatic, riparian, and upland areas within the range of the species and includes any landscape features that provide cover, such as existing animal burrows, boulders or rocks, organic debris such as downed trees or

1-4



logs, and industrial debris. Agricultural features such as drains, watering troughs, spring boxes, abandoned sheds, or hay stacks may also be used. Incised stream channels with portions narrower and depths greater than 18 inches also may provide important summer sheltering habitat. Dispersing California red-legged frogs in northern Santa Cruz County traveled distances from 0.25 miles to more than 2 miles without apparent regard to topography, vegetation type, or riparian corridors (Bulger *et al.* 2003).

California red-legged frogs also have been found in disturbed areas such as channelized creeks and drainage ditches in urban and agricultural areas. An adult recently was observed in a shallow isolated pool on North Slough Creek that is largely surrounded by vineyards near the City of American Canyon in Solano County (Christine Gaber PG&E pers. com. to C.D. Nagano on October 22, 2008). Another adult was observed under debris in an unpaved parking lot near a vegetated drainage canal in a heavily industrialized area of the City of Burlingame (Patrick Kobernus personal communication to Michelle Havens of the Service on October 16, 2008). A breeding population of the California red-legged frog is located in a storm drainage system located in the major cloverleaf interchange of Milbrae Avenue and State Route 101 in San Mateo County (California Department of Transportation 2007).

**1-5**

Therefore, the Service has determined it is reasonable to conclude the California red-legged frog inhabits and has the potential to be encountered within the action area, based on the biology and ecology of the threatened amphibian, the presence of suitable habitat, and the records of this species.

#### Great Blue Heron Rookery

The great blue heron has been documented to currently nest at 650 North San Pedro Road (Kelly *et al.* 2006). At some sites, nesting great blue herons tolerate human activity at close range (Nisbet 2000; Kelly *et al.* 2006), however, tolerance levels are highly variable over time and among rookeries, and unpredictable changes in the type, proximity, or intensity of human use at any site may adversely affect the nesting birds (Vos *et al.* 1985; Rodgers and Smith 1995; Hafner 2000; Kelly 2002). Nest and colony abandonments have been reported to have increased with increased visits by humans and disturbance (Dusi and Dusi 1987; Hafer 2000; Drapeau *et al.* 1984) and with road building and logging activity with 0.30 mile (Werschkul *et al.* 1976). Adverse effects of human disturbance include egg and nestling mortality, premature fledging, reduced body mass or slower growth of nestlings, and reduced settlement of breeders in the nesting colony (Rodgers and Smith 1995; Hafner 2000; Fredrick 2002). Temporary abandonment of the nests may lead to nest failure during unfavorable weather or in the presence of opportunistic weather, or in the presence of opportunistic predators such as crows (*Corvus brachyrhynchos*) and ravens (*Corvus corax*) (Hafner 2000; Kelly 2002). Response to disturbance can vary between sites and time of breeding season (Vos *et al.* 1985). Early in the breeding season, great blue herons easily flush from their nests with the slightest disturbance (Kelly 2002); after their eggs are laid, they fly reluctantly and return quickly to their nests; few flush when their chicks are in the nest. Birds habituate to non-threatening repeated activities (Anderson 1978; Parker 1980; Vos *et al.* 1985). Kelly *et al.* (2006) recommend a minimum 600 foot buffer zone from the periphery of the colonies to minimize the effect of humans.

**1-6**

One of the primary components of a successful great blue heron rookery is optimal foraging habitat in the vicinity of the nesting birds (Kelly 2008). Kelly (2002), Kelly *et al.* 2006), and Mauchamp *et al.* (2002) suggested that conditions for nesting by great blue herons could be enhanced through appropriate restoration and enhancement of wetlands and increases in the abundance of prey. Since the late 1990s, increases in the number of great blue heron and egret nesting in the San Pablo Bay coincide with increases in the extent of restored tidal marshes (San Francisco Bay Ares Wetlands Ecosystem Goals Project 1999; Featherston *et al.* 2006); Bryan *et al.* (2003) and Frederick and Callopy (1989) felt that such distributional shifts may partly reflect increases in the availability of suitable wetland feeding areas.

## Wildlife

The on-going loss and reduction in habitat for listed species and wildlife in this portion of Marin County is of concern to the Service. The proposed project likely will adversely impact a number of species of wildlife, including black-tailed deer (*Odocoileus hemionus*), bobcat (*Lynx rufus*), and gray fox (*Urocyon cinereoargenteus*). Much of the San Pablo Hills are undeveloped, however, the proposed project at 650 North San Pedro Road will continue the fragmentation of this natural area. The proposed project will largely eliminate the ability of the California red-legged frog and wildlife to fully utilize the existing habitat that is located within and adjacent to the site. The elimination of the availability of habitat and cover likely will eliminate or significantly increase the difficulty for the listed amphibian and wildlife, especially medium to large sized animals, to successfully utilize the area because they likely will be reluctant, refuse, or be unable to move through this area due to the effects of urban development, predators, lack of cover, resting areas, and forage. Over time, the reduction in the amount of natural habitat in the San Pablo Hills likely will result in potential problems for the California red-legged frog, and reduced wildlife species diversity and abundance due to a lack of recruitment, genetic problems, and mortality resulting from predation by domestic cats (*Felis domesticus*) and dogs (*Canis familiaris*), collisions with vehicles, and other human-caused factors.

1-7

## Specific Comments and Recommendations

Our specific comments and recommendations for the proposed project at 650 North San Pedro Road are as follows:

1. California Red-legged Frog. There is no discussion of the California red-legged frog in the Draft Environmental Report. We do not concur with number 3 Biological Resources on pages 2-13, or 4.3-A on page 2-33 which state that adverse impacts to any endangered, rare, or threatened species either directly or indirectly through habitat modification will not occur or will be less than significant. There are records of this threatened animal in eastern Marin County and suitable habitat for this species is located within and in the vicinity of the project site. We recommend the following conservation measures be included in the final environmental impact report:

1-8

- a. We recommend that a protocol survey be completed prior to certification of final environmental impact report, or the presence of the California red-legged frog be

1-9

assumed in the action area. A biological opinion prepared for requesting authorization of incidental take via section 7 or a habitat conservation plan for a section 10(a) application should include the following measures:

- i. Based on the Draft Environmental Impact report, the proposed project will result in the loss of 6.2 acres of suitable California red-legged frog habitat through the implementation of residential development, roads, and other infrastructure. Therefore, we recommend that the applicant ensure the permanent protection and management of 18.6 acres of habitat within the vicinity of the action area for this listed amphibian. The 18.6 acres should have a California Department of Fish and Game and Service-approved conservation easement, and approved management plan including a non-wasting endowment based on a Property Analysis Report (PAR). We recommend that the County of Marin also should require the approval by the California Department of Fish and Game and the Service be obtained for the holders of the conservation easement and the in-perpetuity endowment. **1-10**
- ii. The applicant or their successor should be responsible for implementing the conservation measures and they should be the point of contact for the project. Prior to ground breaking, the resident engineer/project manager should submit a signed letter to the Service verifying that they have read and understand the conservation measures. **1-11**
- iii. A qualified biologist(s) should be onsite during all activities that may result in the take of the California red-legged frog. The potential for take should be determined by the Service and the California Department of Fish and Game, or in their absence, the Service-approved biologist. The qualifications of the biologist(s) should be presented to the Service for review and written approval at least ten (10) business days prior to the date of the initiation of ground-breaking at the project site. Prior to approval, the Service-approved biologist(s) should submit a letter to the Service verifying that they have read and understand these conservation measures. The Service-approved biologist(s) should keep a copy of the conservation measures in their possession when onsite. **1-12**
- iv. An employee education program on the California red-legged should be completed prior to the date of the initiation of groundbreaking at the Project. The program should consist of a brief presentation by the Service-approved biologist(s) to explain endangered species issues to all contractors and their employees involved in the construction and earthmoving portions of the project. The program should include a description of the California red-legged frog, and its habitat needs; an explanation of the status of this species and its protection under the Endangered Species Act; associated consequences of non-compliance with the conservation measures; and a description of the measures being taken to reduce effects to the species during project construction and implementation. **1-13**

Documentation of the training, including original individual signed affidavits, should be submitted to the Service within ten (10) business days of the completion of the class.

- v. The Service-approved biologist(s) should be given the authority through communication with the resident engineer/project manager or their successor to stop any work that may result in take of the California red-legged frog, or and other listed animal species. If the Service-approved biologist(s) exercises or attempts to exercise this authority, the Service and the California Department of Fish and Game should be notified by telephone and electronic mail within twenty-four (24) hours. The Service contact is Chris Nagano, Chief, Endangered Species Division, at the Sacramento Fish and Wildlife Office at telephone 916/414-6600 or electronic mail (Chris\_Nagano@fws.gov). The California Department of Fish and Game contact is Scott Wilson at swilson@dfg.ca.gov. **1-14**
- vi. No more than thirty (30) minute prior to the initiation of any ground disturbance, surveys should be conducted by a Service-approved biologist for the California red-legged frog. These surveys should consist of random walking surveys of the project limits and adjacent areas accessible to the public to determine presence of the listed amphibian. The Service-approved biologist(s) should examine potential California red-legged frog cover sites, including mammal burrows and root wads, where possible. Safety permitting, the Service-approved biologist also should investigate areas of disturbed soil for signs of listed species within thirty (30) minutes following the initial disturbance of that given area. **1-15**
- vii. All California red-legged frogs encountered in the action area should be relocated an appropriate site. The written permission of the landowner should be obtained prior to relocating individuals of the listed species. All individual listed amphibians should be placed at the mouth of suitably sized rodent burrows or other suitable site, as determined by the Service-approved biologist, and observed until it has entered the burrow or is otherwise safe. The written authorization of the Service and the California Department of Fish and Game should be obtained by the Service-approved biologist prior to transporting California red-legged frogs to a location other than the approved translocation site (i.e., individuals of this listed animal will not be moved to laboratories, holding facilities, or other facilities without the written authorization of the Service and the California Department of Fish and Game). **1-16**

The Service-approved biologist(s) may use nets or their bare hands to capture California red-legged frogs at the project site. The Service-approved biologist(s) should not use soaps, oils, creams, lotions, repellents, or solvents of any sort on their hands within two (2) hours before and during periods when they are capturing and relocating either of these two listed species. The Service-approved biologist(s) should limit the duration of handling and captivity of individuals of the listed amphibian. While in captivity, individuals of these threatened animals

should be kept in a cool, moist, aerated environment, such as a bucket containing a damp sponge. Containers used for holding or transporting adults of these species should not contain any standing water.

- viii. If a California red-legged frog, or any animal that construction or other personnel believe may be this listed species, work or activities that may result in injury, death, harm, harassment, or capture of the individual animal should immediately cease; the resident engineer/project manager and the Service-approved biologist should immediately be notified; the Service-approved biologist should notify the Service and California Department of Fish and Game by telephone and/or electronic mail; and the Service-approved biologist should move the California red-legged frog to the relocation site, or if appropriate, it should be allowed to leave of its own volition. The individual should be monitored by the Service-approved biologist until it has been determined that it is not imperiled by construction activities, predators or other dangers. **1-17**
- ix. Project employees should be provided with written guidance governing vehicle use, speed limits on unpaved roads, fire prevention, and other hazards. **1-18**
- x. The construction (disturbance) area should be delineated with high visibility temporary fencing at least 4 feet in height, flagging, or other barrier to prevent encroachment of construction personnel and equipment onto any sensitive areas during project work activities. Such fencing should be inspected and maintained daily by the Service-approved biologist until completion of the project. The fencing should be removed only when all construction equipment is removed from the site. No project activities should occur outside the delineated project construction (disturbance) area. **1-19**
- xi. To prevent inadvertent entrapment of the California red-legged frog during construction, all excavated, steep-walled holes or trenches more than one (1) foot deep should be completely covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals by the Service-approved biologist(s). If at any time a trapped listed animal is discovered, the Service-approved biologist(s) should immediately remove it by hand or net, place ramps or other appropriate structures to allow the animal to escape, or the Service and/or California Department of Fish and Game should be immediately contacted by telephone for guidance. The Service and the California Department of Fish and Game should be notified of the incident by telephone and electronic mail within twenty-four (24) hours of the discovery of the trapped animal. **1-20**

- xii. Project-related vehicles should observe a 15-mile per hour speed limit within construction areas, except on City or County roads, and State and Federal highways; this is particularly important at night when the California red-legged frog are most active. To the maximum extent possible, night-time construction should be minimized. **1-21**
- xiii. All grindings and asphaltic-concrete waste should be stored within previously disturbed areas absent of habitat and at a minimum of one hundred and fifty (150) feet from any culvert, or drainage feature. **1-22**
- xiv. To eliminate an attraction to predators of the California red-legged frog, all food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in closed containers and removed at least once every day from the construction area. **1-23**
- xv. To avoid injury or death of the California red-legged frog, no firearms should be allowed on the project site except for those carried by authorized security personnel, or local, State, or Federal law enforcement officials. **1-24**
- xvi. Plastic mono-filament netting (erosion control matting) or any material containing netting should not be used at the proposed project at 650 North San Pedro Road because California red-legged frogs may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackified hydroseeding compounds. **1-25**
- xvii. To control erosion during construction activities at the project, the applicant should implement best management practices (BMPs). Erosion control measures and BMPs, which retain soil or sediment, runoff from dust control, and hazardous materials on the construction site and prevent these from entering any drainages will be placed, monitored, and maintained throughout the construction operations. These measures and BMPs may include, but are not limited to, silt fencing, sterile hay bales, vegetative strips, hydroseeding, and temporary sediment disposal. **1-26**
- xviii. Use of rodenticides and herbicides in the action area should be utilized in such a manner to prevent primary or secondary poisoning of the California red-legged frog, and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other appropriate State and Federal regulations, as well as additional project-related restrictions deemed necessary by the Service or the California Department of Fish and Game. **1-27**
- xix. The California red-legged frog is attracted to den-like or burrow-like structures such as pipes and they may enter stored pipes or culverts where they may become trapped, injured, or killed. All replacement pipes, culverts, or similar structures **1-28**



with a diameter of two (2) inches or greater that are stored in the action area for one or more overnight periods should be thoroughly inspected by the Service-approved biologist for any individuals of this listed species before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California red-legged frog is discovered, it should be moved to the relocation site by the Service-approved biologist. The Service-approved biologist should contact the Service and the California Department of Fish and Game to report the incident with the listed amphibian via telephone and electronic mail within twenty-four (24) hours.

- xx. The applicant or their successor should allow complete and unrestricted access to the project site to inspect project effects to the California red-legged frog, and its habitats by the California Department of Fish and Game, the Service, or their designated representative before, during, or upon completion of ground breaking and construction activities. **1-29**
- xxi. The applicant or their successor should submit a post-construction compliance report prepared by the Service-approved biologist to the Service within thirty (30) calendar days following project completion or within five (5) calendar days of any break in construction activity lasting more than five (5) calendar days. This report shall detail (1) dates that ground breaking was reinitiated; (2) pertinent information concerning the success of the project in meeting compensation and other conservation measures; (3) an explanation of failure to meet such measures, if any; (4) known project effects on the California red-legged frog, if any; (5) occurrences of incidental take of this species; (6) documentation of employee environmental education; and (7) other pertinent information. The reports should be addressed to the Chris Nagano at the Sacramento Fish and Wildlife Office. **1-30**
- xxii. The Service-approved biologist(s), applicant or their successor should report to the Service any information about take or suspected take of the California red-legged frog or other listed species. The Service-approved biologist(s), applicant or their successor should notify the Service via electronic mail and telephone within twenty-four (24) hours of receiving such information. Notification should include the date, time, location of the incident or of the finding of a dead or injured animal, and photographs of the specific animal. Each animal should be sealed in a zip-lock® plastic bag in which a piece of paper is placed that contains the date, time, specific location, and the name of the person(s) who found the individual; the bag will be placed in a freezer in a secure location until the Service takes custody of it. The Service contacts are Chris Nagano at the Sacramento Fish and Wildlife Office, and Special Agent Daniel Crum, Resident Agent-in-Charge of the Service's Law Enforcement Division at telephone 916/ 414-6660 or electronic mail (Daniel\_Crum @fws.gov). **1-31**

2. Great Blue Heron Rookery. We are concerned that the great blue heron likely will abandon use of the project site as a rookery because, as described in the draft environmental impact report, the project will remove the single tree currently used by the birds to nest in (Impact 4.3-B), and also the disturbance resulting from construction along with the in-perpetuity effects of increased numbers of people, pets, vehicles, noise and lights. We suggest that the following mitigation measure also be implemented along with Measures 4.3-B., 4.3.-B.2, 4.3-B.3, 4.3.-B in the Draft Environmental Impact Report:

1-32

a. To enhance an existing feeding and loafing site with the intent of encouraging nesting by the great blue heron at another location, the applicant should implement the *Smith Ranch Road Pond Management Plan* (Resource Management International 1996). The applicant should work with the City of San Rafael, California Department of Fish and Game, and the Service in the implementation of the plan.

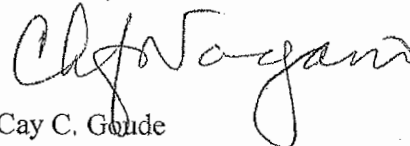
1-33


3. Wildlife Habitat. Page 3-11 of the Draft Environmental Impact Report states that 8.6 acres will be encompassed within lots 8-12 as private open space. It is our experience that, depending upon the interest of the landowners, the protection and management of wildlife habitat under such conditions ranges from beneficial to neglect or harmful for listed species, wildlife, and their habitats. Therefore, we recommend that all areas outside of the Area of Disturbance, but including the pond and wetland, designated on figure 4.3-2 be placed under a California Department of Fish and Game and Service-approved conservation easement, along with a management plan and in-perpetuity endowment based on a Property Analysis Records (PAR). We recommend that the County of Marin also should require that the approval by the California Department of Fish and Game and the Service be obtained for the holders of the conservation easement and the in-perpetuity endowment.

1-34

We are interested in working with the County of Marin and the applicant in the resolution of the issues regarding the threatened California red-legged frog, great blue heron rookery, and wildlife. Please contact Chris Nagano, Chief of our Endangered Species Division at the letterhead address, via electronic mail ([Chris\\_Nagano@fws.gov](mailto:Chris_Nagano@fws.gov)), or at telephone 916/414-6600, if you have any questions regarding this response on the Draft Environmental Impact Report for 650 North San Pedro Road in the County of Marin, California.

Sincerely,



  
Cay C. Guide  
Assistant Field Supervisor  
Endangered Species Program



Mr. Tim Haddad

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cc:

Scott Wilson, Jeremy Sarrow, California Department of Fish and Game, Yountville, California  
Jane Hicks, Regulatory Branch, U.S. Army Corps of Engineers, San Francisco, California

## Literature Cited

- Anderson, J.M. 1978. Protection and management of wading birds. Pages 99-104 in A. Sprunt IV, J.C. Ogden, and S. Winkler (editors). Wading birds. National Audubon Society Research Report Number 7. New York, New York.
- Bryan, J.C., S.J. Miller, C.S. Yates, and M. Minno. 2003. Variation in size and location of wading birds in the upper Saint Johns Basin, Florida, USA. *Waterbirds* 26: 239-251.
- Bulger, J. B.; N. J. Scott Jr.; R. B. Seymour. 2003. Terrestrial activity and conservation of adult California red-legged frogs *Rana aurora draytonii* in coastal forests and grasslands. *Biological Conservation* 110 (2003) 85-95.
- Butler, R.W. 1992a. Great blue heron. *The birds of North America* 25:1-18.
- \_\_\_\_\_. 1992b. A review of the biology and conservation of the great blue heron (*Ardea herodias*) in British Columbia. Canadian Wildlife Service Technical Report Number 1254. Delta, British Columbia.
- \_\_\_\_\_. 1994. Population regulation of wading Ciconiiform birds. *Colonial Waterbirds* 17: 189-199.
- California Department of Fish and Game. 2008a. RAREFIND. California Natural Diversity Data Base, Natural Heritage Division, Sacramento, California.
- \_\_\_\_\_. 2008b. BIOSIS. Natural Heritage Division, Sacramento, California.
- California Department of Transportation. 2007. Biological assessment for the restoration of the hydraulic capacity of the Cowan Storm Drain Canal within the U.S. Highway 101/Milbrae Avenue Interchange. EA 3A0400. December 2007. Oakland, California
- Drapeau, P., R. McNeil, and J. Burton. 1984. Influences du derangement h l'activite du cormorant a aigetts *Phalacrocorax auratus*, sur la reproduction *Ardea herodias*, aux iles de la Madeleine. *Canadian Field Naturalist* 98: 219-222.
- Featherstin, T., E. Zhang, C. Collins, and M. May. 2006. Bay Area wetland tracker. San Francisco Estuary Institute, Oakland, California. <http://www.wetlandtracker.org>
- Fellers, G. 2005. *Rana draytonii* Baird and Girard, 1852 California red-legged frog. Pages 552-554 in M. Lannoo (editor). Amphibian declines the conservation status of United States species. University of California Press. Berkeley, California.
- Fellers, G. M. and P. M. Kleeman. 2007. California Red-Legged Frog (*Rana draytonii*) Movement and Habitat Use: Implications for Conservation. *Journal of Herpetology*. 41(2): 271-281
- Frederick, P.C. and M.W. Callopy. 1989. Nesting success of five ciconiiform species in relation to water conditions in the Florida Everglades. *Auk* 106: 625-634.
- Gibbs, J.P. 1998. Amphibian movements in response to forest edges, roads, and streambeds in southern New England. *Journal of Wildlife Management* 62: 584-589.
- Jennings, M. R., and M. P. Hayes. 1994. Amphibian and reptile species of special concern in California. Report prepared for the California Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, California. 255 pages.
- Kelly, J.P. 2002. A safe place to nest. *The Ardeid* 2002: 1-3.
- \_\_\_\_\_. 2008. The protection of nesting landscapes. *The Ardeid* 2008: 4-6.
- Kelly, J.P., K. Etienne, C. Strong, M. McCaustland, and M.L. Parks. 2006. Annotated atlas and implications for the conservation of heron and egret nesting colonies in the San Francisco

- Bay Area. ACR Technical Report 90-3-17. Audubon Canyon Ranch, Marshall, California.
- Mauchamp, A., P. Chauvelon, and P. Grillas. 2002. Restoration of a floodplain wetlands: opening polders along a coastal river in Mediterranean France, Vistre marshes. *Ecological Engineering* 18: 619-632.
- Mazzerolle, M.J. and A. Desrochers. 2005. Landscape resistance to frog movements. *Canadian Journal of Zoology* 83: 455-464.
- Parker, J. 1980. Great blue herons (*Ardea herodias*) in northwestern Mon habitat use and the effects of human disturbance. Master of Science thesis. University of Montana.
- Resource Management International. 1996. Smith Ranch Pond Management Plan. Prepared for the City of San Rafael, California. San Rafael, California
- Rothermel, R.B. and R. D. Semlitsch. 2002. An experimental investigation of landscape resistance of forest versus old-field habitats to emigrating juvenile amphibians. *Conservation Biology* 16: 1324-1332.
- San Francisco Bay Area Wetlands Ecosystems Goals Project. 1999. Baylands ecosystem habitat goals. U.S. Environmental Protection Agency and the San Francisco Bay Regional Water Quality Control Board, Oakland, California.
- Vos, D.K., D.A. Ryder, and W.D. Graul. 1985. Response of breeding great blue herons to human disturbances in northcentral Colorado. *Colonial Waterbirds* 8: 13-2
- Werschkul, D.F., E. McMahon, and M. Leitschuh. 1976. Some effects of humans on the great blue heron in Oregon. *Wilson Bulletin* 88: 660-662.

## LETTER 1 – U.S. Fish and Wildlife Service

1-1: The comment presents introductory information pertaining to the subsequent comments in the letter. No additional response is required.

1-2 to 1-5: These comments pertain to the potential existence of the California Red Legged Frog (CRLF) on the project site and the potential impacts to the species that could occur. Please refer to Master Response 4, which includes a detailed discussion related to the CRLF.

1-6: As documented in Section 4.3 of the DEIR, the comment reiterates that there are great blue herons nesting in a tree located on the project site. The comment presents information pertaining to potential disturbance of nesting herons that can lead to nest abandonment. As documented in the 2005 Constraints Analysis, included in Appendix F of this EIR, and in Chapter 4.3 of the EIR, the potential adverse effects on the heron colony on-site have been thoroughly documented. The information provided in the comment does not present any substantial, new data that require a change to the conclusions presented in Section 4.3 of the EIR.

1-7: The comment states that due to the reduction of natural habitat on the project site, there will be adverse impacts on CRLF and other wildlife species, including the black-tailed deer, bobcat, and gray fox. Potential adverse effects on wildlife are analyzed in Chapter 4.3 of the DEIR and also in the policy consistency analysis in Chapter 4.1. As cited in Chapter 4.1, County Policy BIO-1.1 states the following:

- ◆ Protect Wetlands, Habitat for Special-Status Species, Sensitive Natural Communities, and Important Wildlife Nursery Areas and Movement Corridors. Protect sensitive biological resources, wetlands, migratory species of the Pacific flyway, and wildlife movement corridors through careful environmental review of proposed development applications, including consideration of cumulative impacts, participation in comprehensive habitat management programs with other local and resource agen-

cies, and continued acquisition and management of open space lands that provide for permanent protection of important natural habitats.

The analysis in Chapter 4.1 concludes that the project is consistent with this policy. As documented in Chapter 4.3, background research and reports have been completed to identify sensitive biological resources on-site, including wetlands, a heron rookery, and oak woodlands. Qualified biologists have conducted analyses in order to determine the potential for project impacts on these resources and appropriate mitigation measures to minimize the potential for significant impacts. Based on these analyses, several site-specific measures have been developed for protection, enhancement, and mitigation of wetlands, the ephemeral creek corridor on-site, the heron rookery, and vegetation communities. These mitigation measures, which are identified in Chapter 4.3 of the EIR, would reduce potential impacts to relevant resources to a less-than-significant level. In addition, the project would include 8.6 acres of open space that would remain contiguous with existing wildlife habitat. The management of this open space is discussed in Master Response 7. Through the implementation of the mitigation measures and the open space inclusion, the project would be consistent with the County's ongoing efforts to preserve and enhance wetlands and wildlife nursery areas, habitat, and movement corridors.

In response to the portion of the comment relating to CRLF, please refer to Master Response 4, which includes a detailed discussion about the potential existence of the species on-site.

1-8 to 1-32: The comments include several specific recommendations relevant to the potential existence of CRLF on the project site and how impact to the species should be minimized. Please refer to Master Response 4.

1-32 and 1-33: The comment expresses concern that the herons are likely to abandon the use of the site as a rookery due to removal of the nesting tree and other disturbances during both the construction and operational phases of the project. The comment recommends that an additional mitigation measure be

included in the project, as specified in the comment letter. The measure would require the applicant to work with the City of San Rafael, California Department of Fish and Game, and USFWS to implement the *Smith Ranch Road Pond Management Plan*.

The issue of off-site mitigation for loss of the heron nest on-site is addressed in Master Response 10.

1-34: The long-term management of the 8.6 acres of open space on-site is discussed in Master Response 7. Based on the management framework described in this response, the County does not agree that a CDFG-approved conservation easement is necessary to ensure adequate protection of habitat that would be encompassed within the 8.6 acres. In addition, while the County requires that the project applicant obtain necessary resource protection permits for the project, which may include a Streambed Alteration Agreement, it is not necessary that approval of the conservation easement holders be granted by CDF&G and USFWS. The County feels that the deed restrictions on the open space and associated limitations on use would provide adequate protection.



STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER  
GOVERNOR

CYNTHIA BRYANT  
DIRECTOR

January 27, 2009

**LETTER #2**

Tim Haddad  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Subject: 650 San Pedro Road Master Plan, Development Plan, Subdivision and Rezoning  
SCH#: 2004062004

Dear Tim Haddad:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on January 26, 2009, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

2-1

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

2-2

Sincerely,

Terry Roberts  
Director, State Clearinghouse

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2004062004  
**Project Title** 650 San Pedro Road Master Plan, Development Plan, Subdivision and Rezoning  
**Lead Agency** Marin County

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**Type** EIR Draft EIR  
**Description** The project sponsor is seeking to rezone the property from R-E:B-3 (Residential Estates District, 20,000 square foot minimum lot size) to a Residential Single-family Planned zoning district that would comply with the governing SF4 (Single-family, 1 to 2 units per acre maximum density) General Plan Designation for the property. The Master Plan, Development Plan, Subdivision and Rezoning application is for the subdivision and development of a 14.8-acre property into 12 separate residential lots and the development of 12 single-family residences.

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**Lead Agency Contact**

**Name** Tim Haddad  
**Agency** Marin County Community Development Agency  
**Phone** 415-499-6269 **Fax**  
**email**  
**Address** 3501 Civic Center Drive, Room 308  
**City** San Rafael **State** CA **Zip** 94903

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**Project Location**

**County** Marin  
**City** San Rafael  
**Region**  
**Lat / Long** 38° 0' 43.9" N / 122° 30' 21" W  
**Cross Streets** North San Pedro Road & Upper Road  
**Parcel No.** 180-231-05, -06, -07, -09, -291-29  
**Township** **Range** **Section** **Base**

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**Proximity to:**

**Highways** 101  
**Airports**  
**Railways**  
**Waterways** San Francisco Bay  
**Schools**  
**Land Use** Residential/RE:B-3/SF-4

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**Project Issues** Archaeologic-Historic; Drainage/Absorption; Economics/Jobs; Fiscal Impacts; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Job Generation; Cumulative Effects; Growth Inducing; Biological Resources; Aesthetic/Visual; Air Quality; Landuse

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**Reviewing Agencies** Resources Agency; Department of Boating and Waterways; Department of Conservation; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; California Highway Patrol; Caltrans, District 4; Department of Food and Agriculture; Integrated Waste Management Board; Regional Water Quality Control Board, Region 2; Native American Heritage Commission

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**Date Received** 12/05/2008 **Start of Review** 12/05/2008 **End of Review** 01/26/2009



**LETTER 2 - California State Clearinghouse**

2-1: The State Clearinghouse submitted a cover letter describing how the Draft EIR was circulated for review to State agencies and that Marin County has complied with State Clearinghouse and CEQA requirements for draft environmental reports. No State agencies submitted comments during the review period. No response is required to this cover letter.



Making San Francisco Bay Better

December 12, 2008

Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, California 94903-4157

3-1

**ATTENTION:** Tim Haddad, Environmental Planning Coordinator

**SUBJECT:** Notice of Possible BCDC Jurisdiction

Dear Mr. Haddad:

We have received notice that Marin County is evaluating a proposal to rezone and develop 12-single-family residences at 650 North San Pedro Road, in the City of San Rafael, Marin County. Portions of the project may be located within the Commission's jurisdiction. If that is the case, the project proponent will need the Commission's authorization before any work may begin at the site.

Please contact myself or Karen Wolowicz at the Commission's office at 415/352-3600 to discuss the matter, if you have questions concerning the Commission's policies, and to determine if a permit is necessary and the process for obtaining one.

Sincerely,

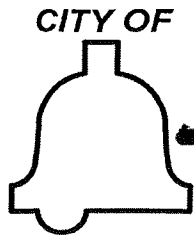
CAITLIN SWEENEY  
Chief Deputy Director

CS/KW/ra

**LETTER 3 – Bay Conservation and Development Commission**

3-1: The San Francisco Bay Conservation and Development Commission (BCDC) submitted a cover letter stating that if any portion of the project site is within the jurisdiction of BCDC, authorization from the Commission will be required before work begins. The project site is located outside the jurisdiction of BCDC and will not require BCDC authorization. No response is required to this cover letter and no change to the DEIR is required.

## LETTER #4



# San Rafael

**Mayor**  
Albert J. Boro

**Council Members**  
Greg Brockbank  
Damon Connolly  
Barbara Heller  
Cyr N. Miller

January 13, 2009

Tim Haddad  
Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903-4157

4-1

**Re: 650 N. San Pedro Road, San Rafael; Draft Environmental Impact Report**

Dear Mr. Haddad:

Thank you for providing the City of San Rafael the opportunity to review the Draft Environmental Impact Report (DEIR) that has been prepared and published for the 650 N. San Pedro Road residential development project. The project proposes Rezoning, Master Plan, Development Plan and Subdivision applications for the development of a 14.8-acre site with 12 single-family residential lots. As you are aware, this portion of the Santa Venetia area is within the City of San Rafael Planning Area and Sphere of Influence but is located outside the City's Urban Service Area. However, the property and greater area is within County Service Area 19 (CSA 19). The City of San Rafael Fire Department provides fire and emergency medical services through CSA 19.

The City of San Rafael has reviewed the DEIR finding that it is well organized and generally well written. We respectfully submit the following comments, which suggest document edits and/or a request for response in the FEIR:

1. Chapter 3, Project Description, page 3-11. 8.6-acres of open space proposed to be divided among a number of the lots in the development (Lots 8-12). This land area would essentially become private open space for each lot, and would be encumbered by a scenic easement. Since a homeowners' association (HOA) would be established to maintain and manage the on-site pond and private roads, the County might wish to consider placing this open space area in the common ownership of (and for long-term maintenance by) the HOA, rather than being retained with and managed by the underlying lot owner. We understand that this comment pertains to the merits of the project, not the DEIR. However, scenic easements on private lots are difficult to enforce (future, unauthorized encroachment of private structures and urban landscaping has occurred throughout Marin County). Retaining this open space area as one parcel held in the common ownership by the HOA would minimize the potential for future, unauthorized encroachments or uses of this area, and would provide one entity to oversee consistent vegetation and land management. Further, common ownership of this land would reinforce consistency with Marin Countywide Plan Policies, among others, BIO-1.3 (Protect Woodlands, Forests and tree Resources); BIO-2.2 (Limit Development Impacts); WR-1.4 (Protect Upland Vegetation); and EH-4.3 (Adopt and Implement a Fire Management Plan). 4-2
2. Table 4-1 (Approved and Current Development Project List) provided on pages 4-4 and 4-5 must be corrected. The table should either be re-titled as "Currently Pending and Approved 4-3

Development Projects in San Rafael” or pending projects (for which their status is incorrectly reported) should be removed from the list. It appears that the source of this table is the Marin County PROPDEV 43, dated March 2008. PROPDEV 43 appropriately reports the following projects as “Under Review,” not “Approved” or “Under Construction,” as noted in the table: 1867 Lincoln Avenue; Ascona Place; Camgros Subdivision; Lookout Mountain; San Rafael Airport Soccer Recreation Facility; and Target. Further, please note that the 2350 Kerner Boulevard project and Extended Stay are completed (“Construction Completed”) and the Peacock Gap Golf Club project has been approved (“Approved”).

3. Chapter 4.1, Land Use, page 4.1-67. The DEIR reports that the “City of San Rafael has postponed the requirement for dual annexation indefinitely.” Please note that the status of potential annexation of this property (and the general Santa Venetia area) is addressed in San Rafael General Plan 2020 Policy LU-6 (Annexation). There has not been a postponement of annexation by the City. Rather, per Policy LU-6, the City does not expect to annex the developed and undeveloped portions of Santa Venetia within the time frame of the General Plan (2020) due to flood and seismic hazards and urban service costs. **4-4**
4. Chapter 4.3, Biological Resources, pages 4.3-21 through 4.3-30. The DEIR discloses that the project site contains an active, blue heron rookery. The project proposes removal of a large eucalyptus, which contains a blue heron nest. DEIR Mitigation Measure 4.3-B.1 recommends the implementation of an off-site mitigation program to improve the existing heron rookery at West Marin Island. We would like to suggest another, more local option to consider for off-site mitigation, the Smith Ranch Pond. This freshwater pond is located along Smith Ranch Road. Great blue herons have been observed feeding at the pond site. The City of San Rafael has approved the Smith Ranch Pond Management Plan (RMI, 1996), which recommends, among other measures, pond dredging and landscaping. Ultimately, implementation of the plan measures will improve wildlife habitat and use of the pond and its environs. Although a detailed dredging and landscape plan have not been approved for the pond, the City has received a financial commitment from neighboring property owners to participate in the cost to complete these measures. We have consulted with the US Fish and Wildlife staff, who concurs that the Smith Ranch Pond provides a good opportunity for off-site mitigation. **4-5**
5. Chapter 4.6, Transportation, pages 4.6-8 through 4.6-14. The DEIR reports that the intersection of North San Pedro Road/Civic Center Drive/San Pablo Avenue currently operates at LOS C in both the AM and PM peak hours. These LOS conditions are acceptable to and consistent with City of San Rafael General Plan 2020 transportation policies. Further, the DEIR reports that the project would generate 11 AM and 15 PM peak hour trips. This additional traffic would increase delay at the North San Pedro Road/Civic Center Drive/San Pablo Avenue intersection by 1/10 of one second during the PM peak hour with no change in delay during the AM peak hour. The DEIR concludes that this impact is less-than-significant and no mitigation is recommended. While the DEIR reports the baseline and resulting LOS operations at this intersection, there is no discussion of the frequent westbound vehicle back-ups that occur at this intersection during the AM peak. These periods of back-up are largely due to the fact that westbound traffic is served by one travel lane. The operation of this intersection should be carefully reviewed by the County Transportation staff (as it is entirely within the jurisdiction of the County) to determine if improvements are needed/warranted, such as the addition of a second, westbound lane for turning and through moves. **4-6**
6. Chapter 4.6, Traffic and Transportation. The assessment of traffic impacts is focused solely on analysis of baseline conditions. The DEIR does not include any analysis of cumulative traffic conditions and impacts (in this chapter nor in Chapter 6.b, Cumulative Impacts). Historically, the City of San Rafael has used the adopted traffic mitigation fee program as a means of fair share mitigation for cumulative traffic impacts resulting from new development projects. These fees are used to fund planned improvements listed in the San Rafael General Plan 2020 (General Plan Program C-6a, Update Proposed Circulation Improvements). In 2005, the City updated this program adopting traffic mitigation fees to be **4-7**

applied citywide, and to be required of all new development in the San Rafael Planning Area. The current fee is \$4,246.00 per peak hour trip. The fee is calculated by combining the total number of new AM and PM peak hour trips generated by a project. Since the fees are formally adopted, they are applied through conditions of project approval, rather than being required as an environmental mitigation measure. As the proposed project contributes traffic to the San Rafael planning area, it is not only logical but responsible to require the project sponsor to contribute their fair share of mitigation. The City continues to encourage the County to require the payment of traffic mitigation fees, which, at some point can be collected for needed transportation improvements in the planning area.

7. Chapter 4.7, Public Services. As noted above, fire and emergency medical services for the project area are provided by the San Rafael Fire Department, through CSA 19. Chapter 4.7 of the DEIR provides an accurate and adequate assessment of fire service impacts. While not required to address environmental mitigation, the City Fire Prevention staff recommends that the County condition any planning application approvals to include the following: 4-8
- a. Automatic fire sprinkler systems shall be required for installation in each new building.
  - b. All required fire hydrants and fire apparatus access roads shall be installed and operable prior to the construction of new buildings.
8. Chapter 4.11, Hazards and Hazardous Materials, page 4.11-6. The DEIR states that the project site is located outside of a Wildland Urban Interface (WUI) area. This statement is incorrect. The San Rafael Fire Prevention staff has confirmed that the project site (and all of China Camp and the area covered by CSA 19) is located within a high fire severity zone requiring the preparation and implementation of a detailed Vegetation Management Plans (VMP). The City of San Rafael MapGuide/GIS system does not provide a correct WUI designation for this property; we will be making this mapping correction. 4-9

There are two ways to address WUI requirement: a) amend the DEIR to include an adequate assessment of this condition, the project impacts and presentation of mitigation (e.g., VMP); or b) require that the preparation and implementation of a VMP as a condition of project approval. The VMP requirement further reinforces the suggestion to consider establishing a common area open space parcel for the sloped areas on Lots 8-12 (number 1 above), which would provide management and oversight by the subdivision HOA. .

Thank you again for offering the City of San Rafael to comment on this DEIR. We are returning the hardcopy of the DEIR for your re-use but will retain the CD-copy for our files. Should you have any questions or comments, please do not hesitate to contact me at (415) 485-5064 or [Paul.Jensen@cityofsanrafael.org](mailto:Paul.Jensen@cityofsanrafael.org). 4-10

Sincerely,



Paul A. Jensen, AICP  
CITY OF SAN RAFAEL  
Planning Manager

Enclosures

cc: Nader Mansourian, Traffic Engineer, City of San Rafael  
John Lippitt, Fire Prevention  
Brad Mark, Fire Department

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#### LETTER 4 – The City of San Rafael

4-1: This comment describes the project location and its relation to the City of San Rafael. No additional response is required.

4-2: The comment recommends that the open space area should be placed in the common ownership of (and the long-term maintenance by) an HOA, rather than being retained with and managed by underlying lot owners. As the comment acknowledges, the recommendations pertain to the merits of the project and not the DEIR. Nonetheless, a discussion of issue is provided in Master Response 7.

4-3: The comment calls for corrections to Table 4-1 to update and correct the status of several projects. The status of following projects will be changed from “Under Construction” to “Under Review:” 33 San Pablo; Ascona Place; Camgros Subdivision; Lookout Mountain; 2<sup>nd</sup> & B Street Mixed Use; San Rafael Airport Soccer Recreation Facility; and Target. Additionally, since publication of PROPDEV 43, 2350 Kerner Boulevard and Extended Start are now listed as “Construction Completed,” and Peacock Gap Golf Club is now listed as “Approved.” The DEIR has been amended to reflect these changes. These changes do not change conclusions in the FEIR.

4-4: This comment states that the City of San Rafael has not postponed the annexation of the project site and clarifies that the San Rafael General Plan (2020) does not anticipate the annexation within the time frame of the General Plan buildout because of flood and seismic hazards and urban service costs. Text within the DEIR has been amended to reflect this comment.

4-5: The comment recommends that the Smith Ranch Pond in the City of San Rafael be considered for off-site mitigation to address the impacts from removal of the heron nest on-site. As indicated, herons have been observed feeding at the pond site and the City has approved the *Smith Ranch Road Pond Management Plan (1996)*. The comment notes that the City has con-

sulted with USFWS staff, which concurs that the pond provides a good opportunity for off-site mitigation.

The issue of off-site mitigation for loss of the heron nest on-site is addressed in Master Response 10.

4-6: The comments expresses concern that the traffic analysis in the DEIR does not include a discussion of westbound vehicle back-ups that occur in the AM peak at the intersection of San Pedro Road/Civic Center Drive/San Pablo Avenue. The comment states that the congestion is caused, in part, by the fact that westbound traffic at this intersection is served by one travel lane. The comment requests that operations at this intersection be carefully reviewed by County staff to determine if capacity-related improvements are necessary.

As documented in Section 4.6 of the DEIR, and reiterated in the comment, the additional traffic generated by the project would increase delay at this intersection by 1/10 of one second during the PM peak hour with no change in the AM peak hour. The level of service (LOS)<sup>5</sup> at this intersection would not change. The existing operation of this intersection was not discussed in more detail in Section 4.6 of the DEIR (Traffic and Transportation) due to the negligible degree of project impact. As a result, additional analysis of this intersection is not warranted to examine whether the project should contribute to capacity-related improvements. This case also applies to the baseline, project, and cumulative project conditions. Additional discussion of traffic operations during the AM peak period is provided in Master Response 8.

As required under CEQA, the County will continue to examine potential impacts on this intersection stemming from other future projects and whether those impacts warrant improvements, such as the addition of a second, westbound lane as suggested in the comment.

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<sup>5</sup> Level of Service is defined by Caltrans as “a qualitative description of operation based on delay and maneuverability. It can range from "A" representing free flow conditions to "F" representing gridlock.”



4-7: The comment incorrectly asserts that the project traffic analysis does not include any analysis of cumulative traffic conditions. Cumulative traffic impacts are analyzed on pages 4.6-23 to 4.6.25. Tables 4.6-4 and 4.6-5 present the key data, which shows that cumulative traffic volumes would not change the LOS at any of the study intersections.

While the project would result in additional vehicle trips in the San Rafael Planning Area, it is outside the city limit and therefore not formally subject to the traffic mitigation fee program. Furthermore, as stated in response to Comment 4-6, the project would result in a negligible addition to traffic trips. As a result, there is no nexus to require that the project be responsible for payment of fees through the City's traffic mitigation fee program.

4-8: As noted in the comment, the project would not result in a significant impact in relation to the adequate provision of fire and emergency medical services. However, the City's Fire Prevention staff provides two recommendations for conditions of approval, as specified in the comment. The County will consider these recommendations in completing the project review process. Should these recommendations enforce the applicable provisions of the county code, they would be included as conditions of approval.

4-9: The comment says that the DEIR is incorrect in saying that the project site is outside of a Wildland Urban Interface (WUI) area. This conclusion is based on a review of the Marin County Fire Department, 2005 Fire Management Plan. Figure 1 in the Plan shows WUI areas for the entire county. The project site is not located in close proximity to WUI areas, but it is not within one. The County acknowledges that San Rafael Fire Prevention staff has determined that the project site is within a high fire severity zone, thereby requiring implementation of a Vegetation Management Plan (VMP).

A Fire Hazard Management Plan (March 20, 2007) was prepared by Donald L. Blayney & Associates for the project. Design, Community, and Environment conducted a peer review of the Plan and submitted a memo to the County on December 7, 2007 with direction on next steps. Among these

next steps was that the project applicant will need to submit a written VMP to the City of San Rafael Fire Department for review and approval prior to occupancy. As also specified in the memo, continued compliance with the approved VMP will need to be placed within the Covenants, Codes, and Restrictions of the project. The County will include completion and approval of the VMP as a condition of project approval.

**TO:** Rachel Warner  
**FM:** Randy Greenberg  
**DATE:** 1/20/09  
**Re:** EIR Questions for 650 N. San Pedro Road

## LETTER #5

1. p. 4.1-6 Impact 4.1-A states: “While the proposed level of development would be considerably more intense in relation to existing conditions, the uses would be similar to the intensity and scale of existing single-family detached residential uses to the north and west of the site.” Please provide data to support the assertion that intensity and scale of development is similar to that nearby, including lot size, house size and FAR’s. **5-1**
2. p. 4.8-16-17 Describes site as semi-rural in nature. Says it is similar to existing residential uses to west or north. This project site appears located in a transitional zone between a more suburban level of development and rural and open space lands to the south and east. Describe an appropriate intensity and scale of development to provide a suitable transition between existing residential development and the largely undeveloped portions of the County to the south and east. **5-2**
3. p. 2-34 Mit. 4.3-D.1 requires preservation of at least .6 ac. of existing native grassland in an open space reserve east of Lot 12 (preserve shall be beyond the lot line for Lot 12). Explain ownership and maintenance responsibilities for this area. Explain how it would be demarcated. **5-3**
4. p. 2-34. Mit. 4.3-E.2 states: “Each of the private open space areas shall have deed restrictions on lots relating to use and maintenance of the private open space.” Explain why the pond area is to be owned in common, but the high value habitat of mixed-oak forest is located on individual lots. Has the EIR considered common HOA ownership, similar to the pond area, of at least some contiguous portion of these woodlands as a way of providing better habitat protection than private ownership provides? If not, why not? Which form of ownership (common vs. private) is likely to provide superior long term protections for these areas? **5-4**
5. Throughout the EIR, property ownership and/or responsibilities are assigned to a Homeowner’s Association (“HOA”) for a number of project conditions and mitigations. Please provide a complete list of these HOA obligations to allow evaluation of their effectiveness. **5-5**
6. p. 4.1-49. Mit. 4.3-F.3 calls for a .33 ac. common area around the wetland and states that all residents would have access to this area. Describe protections offered for this commonly owned pond area that would preserve and enhance vegetation and wildlife habitat. Describe specifically what is meant by “access” and how it might affect desired protections? **5-6**
7. p. 4.1-18. Top para. States that Mit. 4.3-C.1 says that because a 20’ setback from the creek will be maintained during construction, the creek would continue to function as a wildlife corridor. Is fencing along or over the creek prohibited after the construction phase is complete? If not, how does the corridor remain viable without such a prohibition? **5-7**

8. p. 4.1-21-22. The EIR states that Garcia & Assoc. concludes that a setback from the edge of the wetland is not required for the project. There is no new development. (weir pipe not considered “new” development) in the wetland itself. However, new development would occur within the 100’ setback area, but wetland specific mitigations would reduce impacts to a less than significant level, and function and value of wetland would be improved. Specify what development would occur within the 100’ setback. Please describe in terms of lot #, building envelope, building and accessory structure footprint, etc. and development distance from the edge of the wetland. **5-8**
9. p. 2-34. Mit. 4.3-E.2: “Compensate for loss of 1.5 ac. of oak forest by maintaining at least 4.5 ac. (3:1) ratio of mixed oak forest in OS.” How does *maintaining* an *existing* oak forest mitigate for the *loss* of such habitat? **5-9**
10. p. 4.6-11. The calculation for truck trips to off-haul soil is based on 20 cy capacity. Given the nature of San Pedro Road in this area and site conditions, please evaluate the likelihood of using 20 cy capacity trucks rather than 10 cy capacity. Please reevaluate traffic impacts with 10 cy trucks. Also, please provide data to support assumption of a 5-month grading period with the ability to stockpile soil during the construction phase so that daily truck trips could be maintained at levels provided in the EIR. **5-10**
11. p. 4.8-15 refers to a Tree Mitigation Plan. If available, provide the Wetland Mitigation & Enhancement Plan (referred to elsewhere) and the Tree Mitigation Plan to allow the public to assess possible environmental impacts of these plans which are offered as mitigations. The “Tree Mitigation Plan” that I saw was simply a list of tree species and potential planting locations. If these Plans do not include success standards and monitoring, please amend the Plans to provide them. Without success standards and monitoring, there is no assurance that these Plans will provide functional mitigation over some reasonable period of time. **5-11**
12. Assess the potential visual impacts of tree removal for fire hazard management by lot. If the lots higher on the site were deleted, would there be less potential for tree removal for this purpose? Evaluate the difference in potential visual impacts if units with the greatest potential for tree hazard removal were removed from the site plan. **5-12**
13. p. 4.2-9-10. Impact 4.2-C. The discussion states that there is low liquefaction and seismic susceptibility on the property, yet the hazard is considered a *significant impact*. If this is not a typo, please explain. **5-13**
14. Describe retaining walls on site (locations, lengths, heights) and assess visual impacts and possible mitigations, if appropriate. **5-14**
15. The 9/7/07 memo in Appendix C from Stetson Engineers to Ted Heyd on p. 2 says a **0.68 ac.-ft.** pond was determined to be the minimum sized detention pond that would eliminate potential project impacts. On p. 7 of the same memo it says the minimum required pond volume to achieve objectives is estimated to be about **0.62 ac.-ft.** Explain this discrepancy and state what the recommended size is. **5-15**

**LETTER 5 - Randy Greenburg - Marin County Planning Commissioner**

5-1: The comment calls for data, including lot size, house size, and FARs to support the statement in the DEIR that the proposed uses would be similar to the intensity and scale of the single-family detached residential uses to the north and west of the site. The issue of compatibility with existing development in the immediate vicinity of the site is addressed in Master Response 5.

5-2: The comment calls for a description of the ‘appropriate intensity of development to provide a suitable transition’ between existing residential uses and mostly undeveloped lands to the south and east. In accordance with CEQA, the purpose of the DEIR is not to define a suitable transition between land uses and the guidelines do not provide a standard definition of “appropriate” or “suitable,” that would allow such an assessment to be made. The thresholds of significance in Appendix G of the guidelines do require an analysis of whether a project would physically divide an established community or conflict with any applicable land use plan, policy, or regulation. These issues are analyzed in Section 4.1 of the EIR (Land Use and Planning). However, because compatibility with the existing community was a concern raised in several comments, this issue has been discussed in detail in Master Response 5. This issue also involves planning considerations which can be addressed during the review of project merits for approval.

5-3: The comment asks for a description of ownership and maintenance responsibilities for the native grassland, which would be within the 8.6 acres of open space on the site. Ownership and management responsibilities pertaining to the open space, including the 0.6 acres of existing native grassland, are discussed in Master Response 7. As illustrated on the project’s Fencing Plan, a fence would be placed to the east of Lot 12. This fence, which would be approximately 6-feet in height, would not specifically demark the native grassland, but it would restrict access to it.

5-4: The comment inquires as to whether HOA ownership has been considered for the mixed-oak forest that would be located on individual lots. As

explained in Master Response 7, management of the common parcel and open space would be the responsibility of an HOA and would be limited to fire vegetation management and resource protection. The common parcel and private lot open space both would be encumbered by an open space, scenic, and resource conservation easement dedicated to the County of Marin. The intent of this framework is that the HOA would be stewards of the property's open space, including the pond area, and that the County would have ultimate oversight through the easement dedication.

5-5: The comment calls for a complete list of HOA obligations to allow for evaluation of their effectiveness:

1. The common landscaping and common areas of the site, which would include the pond and a wetlands detention facility, would be maintained by a HOA.
2. Ongoing maintenance of the pond, including debris removal and monitoring, shall be the responsibility of a Homeowners Association. (Mitigation Measure 4.4-E.1)
3. The Homeowners' Association shall monitor and verify the implementation of management of vegetation for fire control and maintenance of large trees by property owners (Mitigation Measure 4.3-B.4).

5-6: The comment requests a description of protections that would be included around the 0.33 acre common parcel to preserve and enhance vegetation and wildlife habitat. Access to the 0.33 acre common parcel around the wetland would include areas for physical access (e.g. the ability to walk within) and visual access, which would prohibit physical access. Fencing and signage would be used to restrict physical access from certain portions of the common parcel in order to help preserve and enhance vegetation and wildlife habitat within the wetland area.

The project Fencing Plan (March 20, 2007) shows that a combination of solid and open-wire fencing would be strategically positioned on Lots 11 and 12 to reduce the degree of access to the wetland area from those lots. Ultimately,

the division of physical versus visual access and additional materials to be used in restricting physical access will be explained in the Wetland Mitigation and Enhancement Plan (WMEP). As specified in Mitigation Measure 4.3-F.2, the WMEP will be developed by a wetland specialist to be approved by regulatory agencies and County CDA prior to approval of the final map.

5-7: The comment questions whether fencing along or over the creek on-site is prohibited after construction is complete. The project Fencing Plan (March 20, 2007) shows that an open-wire fence will be constructed on Lots 9 to 11 at the 20-foot setback line from the creek. This fence, which would be approximately 6-feet in height, would allow for visual access to the creek, but would limit physical access and clearly distinguish the 20-foot setback buffer. Through the inclusion of this fencing, the creek could continue to function as a wildlife corridor.

5-8: The comment requests a description of development that would occur within the 100-foot Wetland Conservation Area (WSA). The project will result in 7,300 square feet of physical development within the WSA. This development will consist of residences, driveways, and any related infrastructure. The closest residence from the delineated wetland would be located on Lot 11 at a distance of 35 feet. The closest driveway would be located on Lot 11 at a distance of 5 feet, and the closest grading would be located at a distance of 3 feet.

5-9: The comment questions how maintaining an existing oak forest provides adequate mitigation for the loss of such habitat. The project is a 14.8-acre parcel of private land, and about 11 of those acres are mixed-oak forest. Approximately 1.5 acres of this mixed-oak forest would be developed. The proposed development footprint thereby avoids the majority of oaks on the property, minimizing the effect on mixed-oak forest.

As noted in the comment, Mitigation Measure 4.3-E.2, requires that the applicant compensate for the loss of the 1.5 acres of oak forest by maintaining at least 4.5 acres (3:1 ratio) of mixed-oak forest in the open space on-site. Regu-

lations for Oak Woodlands Protection are discussed in the Section A (Regulatory Framework) of Chapter 4.3. The State Public Resources Code (Section 21083.4) states that if a County determines that a project in its jurisdiction may result in a conversion of oak woodland that would be considered significant under CEQA, then mitigation for this impact is required. The mitigation can include: 1) conservation of oaks on the site; 2) replanting oaks (can be used for a maximum of 50 percent of the required mitigation); 3) contribution to the Oak Woodlands Conservation Fund; and/or 4) other mitigations developed by the County.

Because the project would be required to preserve 4.5 acres of oak forest within the open space, and this open space would be protected through deed restrictions and County easement, it complies with provision 1) above and therefore provides adequate mitigation.

5-10: This comment asks whether a truck with 20 cubic yards (cy) of capacity could be used for off-hauling soil from the project site. The use of trucks with 20 cy of capacity is recommended for use during the construction period as site conditions and the size of North San Pedro Road would not prevent the use of trucks with 20 cy of capacity. Chapter 4.6 has been amended to include Mitigation Measure 4.3-A.2. This mitigation measure requires the use of trucks with 20 cy of capacity in order to limit the amount of truck trips.

5-11: The comment requests provision of the WMEP and the Tree Mitigation Plan. The WMEP has not been prepared at this point in the entitlement process. As explained above in response to comment 5-6, the WMEP will be developed by a wetland specialist to be approved by regulatory agencies and County CDA prior to approval of the final map. Mitigation Measure 4.3-F. 2 in the FEIR has been amended to specify performance-based criteria that should be adhered to in the development of the WMEP. The amendment to Mitigation Measure 4.3-F.2 does not create new mitigation, but augments and clarifies the existing mitigation measure. Please refer to Chapter 4.3 for revisions made to Mitigation Measure 4.3-F.2.



Regulatory agencies' review and approval of the WMEP is the means of assuring that the Plan will provide functional mitigation that will be implemented and monitored for a minimum of five years, and longer if necessary to achieve success criteria.

The Tree Mitigation Plan has been included as Appendix E in this FEIR. As specified in Mitigation Measure 4.3-H.1, monitoring of replacement trees shall be conducted for three years following planting. Mitigation Measure 4.3-H.1 has been revised to include information on monitoring standards that will be utilized to ensure success of the Tree Mitigation Plan.

5-12: The comment calls for an assessment of visual impacts of tree removal for fire hazard management by lot. The comment also asks whether less tree removal would occur if the upper lots were removed, due to a reduced fire hazard.

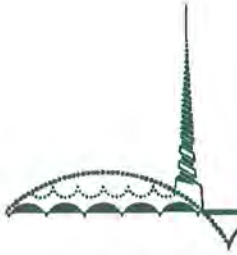
If the lots on the upper portion of the site (7 to 11) were removed from the project plan, there would be fewer trees removed for site preparation and for fire hazard management. A repositioning of homes and a reduction in the number of units was examined under the Alternate Use Alternative and the Mitigated Alternative, respectively. In the Alternate Use Alternative, twelve units would be clustered in the most disturbed portions of the site and, in the Mitigated Alternative, the homes on Lots 9, 10, and 11 were removed from development. As already determined through this analysis, both alternatives were found to be a substantial improvement in regards to aesthetics when compared to the proposed project (see Chapter 5 of the DEIR). This determination is based, in part, on reduced tree removal. As a result, the potential for reduced tree removal on the upper lots has already been adequately analyzed through the alternatives analysis.

5-13: This comment asks if a significant impact was correctly identified for Impact 4.2-C. The text has been amended to show that Impact 4.2-C is a less-than-significant impact. As a result, Mitigation Measure 4.2-C.1 has been re-

numbered and relocated to address Impact 4.2-D, which identifies the potential for landslides on the site as significant.

5-14: This comment asks for a description of the retaining walls located within the project site and assessment of the possible visual impacts. The retaining walls included within the project site would be designed in accordance with Marin County Single Family Hillside Design Guidelines. No wall would exceed four feet in height. Where retaining walls would be located, the walls will be stepped and shrubs and vines would be planted against the face of the walls for screening purposes. The application of the design guidelines would substantially reduce, if not eliminate, the visibility of the retaining walls from public vantage points along North San Pedro Road and from private residences within Santa Venetia.

5-15: This comment asks for clarification on the capacity of the drainage pond. As noted on Page 7 of Appendix C, “. . . the required minimum storage for reducing the 100-year, post-development peak flow from Drainage Area 1 to the pre-development level is estimated to be approximately 0.13 acre-feet. The conservative estimate of minimum storage of 0.68 acre-feet mainly resulted from the conservative assumption of detaining 24-hour, 100-year surface runoff, instead of 1-hour, 100-year surface runoff.” Stetson Engineers’ report (Appendix C) later identifies that the minimum required pond volume to achieve these objectives in Drainage Area 1 is estimated to be approximately 0.62 acre-feet. The DEIR used 0.62 acre-feet in discussion of stormwater runoff and drainage capacity; thus no changes to the DEIR are required.



**COUNTY OF MARIN**  
**DEPARTMENT OF PARKS AND OPEN SPACE**  
3501 CIVIC CENTER DRIVE, SUITE 415, SAN RAFAEL, CA 94903  
415/499-6387 - FAX 415/499-3795

**RECEIVED**

January 26, 2009

JAN 26 2009

Tim Haddad  
Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, California 94903

COUNTY OF MARIN  
COMMUNITY DEVELOPMENT AGENCY  
PLANNING

RE: Draft Environmental Impact Report for 650 North San Pedro Road, San Rafael

Dear Mr. Haddad:

Enclosed are the Marin County Department of Parks and Open Space comments on the above-referenced Draft Environmental Impact Report (EIR). The proposed project includes the re-dividing of five lots, 14.8 acres, into 12 residential lots, the construction of 12 new houses, and the installation of roads and utilities. The project also includes the preservation of 8.6 acres of open space. **6-1**

Parks and Open Space staff agrees with the EIR's conclusion that the proposed open space restrictions will provide some protection for habitat and visual resources. In this case, because of the small size of the open space area and the fact that it is not adjacent to existing parks and preserves, the proposed deed restriction is an appropriate mechanism to protect the resource. However, in order to avoid future confusion and conflicts, the proposed deed restrictions should specify the allowed and prohibited uses in the open space areas. Most conservation easements include similar provisions and the County should use one of these documents as a template for the deed restriction.

The Department staff also agrees with the EIR's conclusion that the increase in density from the proposed project will have a cumulative effect on public parks, by increasing demand for these resources in an area that has a deficit of park facilities. Since the applicant proposes to pay an in-lieu park fees, as required by the Quimby Act, this impact will not be significant. **6-2**

The EIR did not address two issues of concern to Parks and Open Space staff. First, the project is within the boundaries of Community Service Area (CSA) 18, which supports parks and recreational facilities in the area. The EIR should evaluate the project in the context of this CSA and consider if there are additional measures necessary to ensure that the new parcels will participate in the CSA. **6-3**

Second, the EIR did not include an analysis of the project's consistency with the Countywide Plan's requirements for the Ridge and Upland Greenbelt. It appears that approximately 1/3 of the project site is within the Greenbelt, and the EIR should consider the project's consistency with these requirements. **6-4**

Thank you for the opportunity to comment on the above-referenced project. If you have any questions, please contact me at (415) 499-3745 or [jraives@co.marin.ca.us](mailto:jraives@co.marin.ca.us).

Sincerely

James R. Raives  
Senior Open Space Planner

c. Sharon McNamee

## LETTER 6 – Marin County Parks and Open Space

6-1: The comment recommends that the deed restrictions placed on the open space within the site should specify allowed and prohibited uses. Long-term management of the open space, including deed restrictions and limitations on usage of the open space, are discussed in Master Response 7. The site's open space would fall under an easement dedicated to the County of Marin that would restrict uses to scenic, open space and resource conservation purposes only. No further subdivision, residential development, or fencing would be permitted. The deed restrictions would be permanent and applicable to all future owners.

6-2: This comment states that the Department of Parks and Open Space agrees with the conclusion in the DEIR that an increase in density from the proposed project will have a cumulative effect on public parks, but that the impact will not be significant. No revisions to the DEIR are necessary.

6-3: This comment states that the project site is within Community Service Area (CSA) 18 and supports parks and recreational facilities in the area. Because the project site is located within the boundaries of CSA 18 the parcels created by the project (after subdivision of existing parcels) will automatically be assessed to fund CSA 18 facilities.

6-4: This comment requests analysis of the project's consistency with the Countywide Plan's requirements for Ridge and Upland Greenbelt as one third of the project site is located within a Ridge and Upland Greenbelt area. The policy consistency analysis in the DEIR determined that the project was consistent with Countywide Plan policies CD-1.3, DES-4.1, and HS-2.3, as they relate to Ridge and Upland Greenbelt areas. Development in the northwestern portions of the property are at lower elevations and closer to San Pedro Road, and the more elevated portions of the site to the south, which include ridgelines or elevations approaching ridgeline, would not be impacted by development due to the inclusion of the permanent open space buffer. Analysis of policy consistency is provided in Chapter 4.1, Land Use.

*Organizations*

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

**LETTER #7**

January 26, 2009

Mr. Tim Haddad, Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**RE: Project Sponsors Comments**

Notice of Completion of Draft Environmental Impact Report

For 650 N. San Pedro Road Master Plan, Development Plan, Subdivision & Rezoning

Dear Mr. Haddad,

Thank you for the opportunity to provide comments on the preparation of the above noted project DEIR. The DEIR is organized and generally well written. Our project development team is pleased to find that even though the DEIR finds a possible 25 adverse environmental impacts may result from the development of the proposed project, the DEIR presents mitigation measures that would eliminate or reduce those potential impacts to a “less than significant” level.

**7-1**

Additionally, we were pleased to read that the DEIR found that there are no significant adverse impacts that can not be avoided or mitigated – and this is outstanding news. Accordingly, the following comments are focused on mostly on mitigations presented in the DEIR and their feasibility from a physical planning and economic development standpoint.

**“Alternatives Analysis, Project Feasibility: Science vs. Policy Direction”**

Although CEQA requires every DEIR to contain “feasible” alternatives, and this DEIR attempts to meet that test, the analysis in the alternatives section draws conclusions and suggests an environmentally “superior alternative” to the proposed project that lacks clear evidence to support this conclusion. In point of fact and after careful analysis, it is our opinion that the project proposal with mitigations is the “superior alternative”.

**7-2**

Also, based on comments provided below by ILS Engineering it appears that the “Mitigated Project Design Alternative” (Figure 5-4) is not a “feasible alternative”. While the driveway re-location proposed may resolve a sight line issue, it would be physically impossible to construct a road grade that meets fire access slope requirements without substantial grading and retaining walls. In contrast, a simple moving of the fence on Lot 1 of the proposed project mitigates the sight distance impact. Accordingly, the “Mitigated Project Design Alternative” includes a proposed design feature that is not feasible and therefore in our opinion should not be defined in Table 2-1 as the “second most environmentally superior that would meet all project objectives”.

**7-3**

In the final analysis, the DEIR claims that the “Reduced Density Alternative” (Figure 5-3) is the “superior alternative” to the project yet the DEIR analysis is not balanced because it avoids discussion about the loss of potential housing and the impact this loss of housing (25% density reduction, loss of 1 second unit, one affordable unit) has on the County of Marin housing needs and Countywide Plan, Housing Element goals and objectives. Additionally, the second potentially superior alternative identified “Alternative Use Alternative”

**7-4**



(Figure 5-2), allows one more market rate (MR) unit than the current zoning (6 MR) and 6 below market rate (BMR) units. The DEIR fails to disclose what the County is thinking in terms of unit affordability mix (very low, low, moderate income) for the 6 BMR units proposed in the Alternative Use/Reconfigured Alternative project alternative.

**7-5**

There is no empirical basis for the project sponsor to use to determine if in fact the project under this alternative is feasible or economically viable. On the face of it, under this alternative the project would not be financially viable. If the BMR units are all very low or low income this most probably would not be a “feasible” project alternative and the same applies if the BMR units were moderate income.

Both the “Reduced Density Alternative” (Figure 5-3) and the “Alternative Use Alternative (Figure 5-2) are inconsistent with the project sponsors goals and objectives as well as appearing to be inconsistent with the Countywide Plan-Housing Element Policy and Inclusionary Housing Code requirements and this is not disclosed in the DEIR.

**7-6**

The “Mitigated Project Design Alternative” appears, based on the data presented in the physical environmental impact analysis, to be the “superior alternative” if the driveway location (DEIR consultants design) is not relocated. Figure 4.6-4 shows the driveway sight distance impact can be mitigated without relocation of the driveway by simply moving a fence. It is not clear in the analysis why there is not a mitigated project alternative with the driveway maintained at the proposed location especially since it already exists and the impact of the existing road is “less than significant” with a simple mitigation that calls for fence relocation.

**7-7**

In summary, it appears that the alternatives analysis is substantially flawed, it does not inform the reader about the potential physical environmental impacts of project alternatives with evidence and science to support the analysis. Rather, it appears that the alternatives have been crafted in order to support one or two alternatives which show a subjective basis toward more affordable housing in the project, or less market rate housing. For example Table 5-1 “Comparison of Project Alternatives” leaves out the impact the Reduced Density alternative has by removing 3 units of housing – impact on county housing needs. The Table and discussion in the alternatives section also avoids disclosing that the 6 below market rate (BMR) units proposed for Alternative Use/Reconfigured Alternative (Figure 5-2) would be inconsistent with Inclusionary Housing requirements and inconsistent with the project objectives (Page 3-19), one of which is to “expand the supply of market rate and affordable housing”.

**7-8**

Without disclosure of the BMR mix expected in the Alternative Use/Reconfigured Alternative it is not possible to know if this alternative meets the project objective for “financially – profitable project”. Finally, this comment is further supported by the fact the DEIR does not inform the reader that the “No Project Alternative”, under the current zoning, has a current land use density designation under the zoning with a potential subdivision for up to 30 dwelling units. Further, it does not point out that the current zoning is not consistent with the Countywide Plan policy, nor does it point out that the County has the responsibility under California Planning and Zoning Law to have a Countywide General Plan and Zoning constancy. Accordingly, the DEIR fails to clearly explain that the project includes a rezoning request and the reasons for it.

**7-9**

It is not clear what evidence supports the DEIR finding that the Reduced Density Alternative is the superior alternative, Table 5-1 is subjective and the Mitigated Project Design Alternative includes a consultant driven design mitigation that is not feasible (relocation of the driveway).

**7-10**

A “Mitigated Project Alternative” (proposed project with mitigations) is clearly the superior alternative

**7-11**



because, based on the DEIR scientific analysis (See Table 2-2), finds that the project as proposed with mitigation would have “less than significant” impact with mitigation. The DEIR should include a “Mitigated Project Alternative” that does not include an infeasible mitigation (relocation of the driveway) The Mitigated Project Alternative should be the superior alternative based on the facts presented.

## Comments on Other Specific Issues

### Report Summary

1. **Page 2-2 B.** In reviewing the adverse impacts, it appears that there are 25 and not 33 adverse impacts.

7-12

### Land Use

LTS impacts – the DEIR lacks analysis and information to show that the Alternative Use/Reconfigured Alternative is consistent with community development patterns (Page 4.1-51 Policy HS-2.2) (Single Family Residential vs. Attached Units). There is no evidence to show that the Mitigated Project Alternative does not meet housing goals and/or is inconsistent with resource stream and creek side setbacks (SCA requirements per CWP Policy OS-2.4 –Page 4.1-42 DEIR). There is no evidence to support the Reduced Density project alternative. The proposed project complies with CWP. Policy EH-3.2 Page 4.1-38 DEIR. The way the EIR reports the project impacts, with mitigation the project has “less than significant impacts” and is consistent with CWP policy. The alternatives analysis, although required by CEQA, lack facts, feasible mitigation alternatives and misinforms the decision makers about the no project alternative.

7-13

### Biology

Overall, the biology chapter was well written and thought out. The following comments are mainly of a technical nature.

1. **Page 4.2-2, fourth paragraph.** This paragraph refers to NPDES and SWPPP plans which are not biological. This paragraph should be moved to an appropriate chapter other than biology.
2. **Page 4.3-7, second paragraph, “The project site is bordered by China Camp State Park and San Pedro Mountain Preserve on its southern and eastern edges...”** A private property intervenes between the project site and the park and preserve.
3. **Page 4.3-7, third paragraph, “...introduced, weedy forbs cocklebur (*Xanthium strumarium*)...”** According to the standard reference for California flora, *The Jepson Manual* 4.3-15 – California newts (*Taricha torosa*) are known to breed in the pond, as noted by PCI. The ephemeral creek does not provide suitable habitat for this species as noted on 4.3 – 16.
4. **4.3-14, second paragraph, “Common mammals of coastal grassland habitats include the California ground squirrel (*Spermophilus beecheyi*) and Botta’s pocket gopher (*Thomomys bottae*)...”** California ground squirrels are not common in the project vicinity, although pocket gophers are. The reference to ground squirrels should be deleted.
5. **Page 4.3-16, second paragraph, “During the wet season, ephemeral creeks are habitat for a variety of aquatic insects and amphibians such as the California newt (*Taricha torosa*)...”** Intermittent and perennial creeks are potential aquatic habitat for newts. However, ephemeral creeks such as the drainage on the project site, which flow in response to rainfall events and normally dry out

7-14

7-15

7-16

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7-18

- repeatedly during the wet season, are not habitat. The reference to the newt in this sentence should be deleted.
6. **Page 4.3-19, third paragraph, and last sentence.** This sentence should be deleted because the USFWS Species of Concern list is not applicable. As the DEIR states, the USFWS no longer tracks the list. Further, the list is outdated and does not have legal standing. **7-19**
  7. **Page 4.3-21, second paragraph, "...the CDFG considers heron rookeries to be sensitive resources."** This phrase should be deleted, because it is misleading. The CDFG explicitly dropped heron rookeries from their list of California Species of Special Concern. DEIR would be more transparent if it stated something to the effect that the Fish and Game Code could be interpreted to provide some protection to heron rookeries. **7-20**
  8. **Page 4.3-25, third paragraph, "He identified several favorable traits about (sic) the rookery that herons would likely not find nearby..."** While it is correct to note that the choice of the eucalyptus tree on the project site by the two nesting pairs of herons has particular favorable characteristics, it is not correct that such characteristics cannot be found nearby. In fact, herons have nested on the ridge above the project site and on the adjacent farm. There is an abundance of suitable sites in the vicinity of the existing nest tree. **7-21**
  9. **Page 4.3-26, third paragraph, "...it can be considered a stable meta-population..."** Perhaps this is a typo, but the two nests in the eucalyptus tree should be considered an *unstable* meta-population. A meta-population is by definition an unstable population, which may blink in and out over time. **7-22**
  10. **Page 4.3-31, second paragraph, "...the ephemeral stream..."** Elsewhere in the DEIR the term "creek" is used instead of "stream". Both terms, however, are misleading. The preferred term is "ephemeral drainage", which most accurately describes this very minor erosion channel. **7-23**
  11. **Page 4.3-32, first paragraph, "...and could potentially support special-status plant species."** This phrase should be deleted because it is speculative and possibly misleading. While it is true that native grassland habitat could potentially support special status-status plant species, the same could be said about the potential of all the other habitats on-site. The fact that native grassland habitat has intrinsic value is sufficient to warrant its protection. **7-24**
  12. **Page 4.3-39, second paragraph, "Existing regulations implemented by permitting agencies, such as the USFWS and CDFG, require a plan to monitor nesting birds or bats during construction."** This sentence should be deleted as it is vague. The DEIR should explicitly cite the "existing regulations" are being referred to or the DEIR should explicitly cite the specific regulations. More to the point, it is sufficient for the DEIR under its CEQA authority to prescribe mitigation measures, without reference to the authority of the USFWS and CDFG. **7-25**
  13. **Page 4.3-39, fourth paragraph, "...within one week of planned clearing."** The usual standard for conducting preconstruction clearance surveys is usually "within 30 days," which should be applied here. Preconstruction surveys within only a week do not provide sufficient advance time to modify construction plans. For example, if an active raptor nest were to be found in the middle of the project site and if the full 300-foot buffer would be applied, that buffer would cover 6½ acres, effectively ending construction of the project for that year. The mitigation measure does allow modification of protection zones, but one week is insufficient time to plan and implement effective modifications, which would still protect target species. **7-26**
  14. **Page 4.3-39, fourth paragraph, "No additional measures need be implemented if active nests are more than the following distances..."** To add more flexibility to the construction effort without further impacting sensitive wildlife, the mitigation measure should specify that the buffers apply to **7-27**

new – as opposed to existing sources of disturbance. For instance, if a raptor nest were found next to San Pedro Road, the current mitigation would restrict project-related use of San Pedro Road within 300 feet of the nest, while heavy traffic unrelated to the project could pass the nest without restriction. Presumably, if a pair of raptors was acclimated enough to tolerate the existing traffic along San Pedro Road; they would likewise tolerate passage of project-related vehicles.

15. Page 4.1-11 Policy BI-1.5 Last sentence refers to the proposed planting plan but incorrectly refers to the first mitigation planting plan with California peppers (not a native tree) and not to the revised plan prepared in response to CFG comments. **7-28**
16. Page 4.3-15 2<sup>nd</sup> paragraph- DEIR states that most of the eucalyptus trees adjacent to North San Pedro are relatively small diameter. This statement is not accurate as there are numerous large diameter trees, which overhang the roadway and high voltage lines. **7-29**
17. Page 4.3-26 1<sup>st</sup> paragraph- The reference to the heron tree being infested with the long-horned borer is not verified, although adjacent trees are infested. **7-30**
18. Page 4.3-28 2<sup>nd</sup> paragraph- The heron tree is not close enough to North San Pedro to be a hazard to the roadway. (Same comments as above) **7-31**
19. Page 4.3-30 -4.3-B.4- Mitigation measure stating property owners are responsible for maintaining large trees in the open space as potential rookery sites. This could be an onerous requirement and needs clarification for specific responsibilities. **7-32**
20. Page 4.3-33 - 4.3-E.1- Tree protection fencing reference should be changed. Tree protection fencing should be installed at the edge of the Tree Protection Zone (TPZ) and not drip lines. Any work required within the TPZ shall be under the observation of the project arborist. 4.3-E.2- The requirement that open space areas be ‘maintained’ is not defined and could have varied interpretations. **7-33**
21. Page 4.3-40 Impact 4.3-H- 1<sup>st</sup> paragraph 1<sup>st</sup> sentence- adjective ‘larger’ for describing tree removals is not accurate and misleading. Many of the trees are smaller diameter trees, especially the bay laurels and madrone. Impact 4.3-H- 2<sup>nd</sup> paragraph- The conceptual plan referred to is the first mitigation planting plan with California peppers (not a native tree) and not to the revised plan prepared in response to CFG comments, which is exclusively native trees and uses boxed specimen trees in addition to 15-gallon trees. **7-34**
22. Page 4.3-42 Impact 4.3-I 1<sup>st</sup> paragraph- Incorrectly recommends cutting vegetation during dormant season for prevention of SOD infection. June through October (dry months) is the preferred timing for pruning oaks and other susceptible species. Mitigation Measure 4.3-I.1- Requirement for cleaning all vehicles leaving site will be onerous and impractical. Suggest that a broader statement be used such as “all SOD quarantine requirements shall be followed as mandated by California State agricultural laws and regulations.” Statements on specific requirements can quickly become out-dated and inappropriate. **7-35**
23. Page 4.8-15 2<sup>nd</sup> paragraph - Another incorrect reference to the first mitigation planting plan (with California peppers) and not the revised plan (reviewed and approved by CFG). **7-36**
24. Appendix B-3 4.3-E.1- Reference to tree protection fencing requirement. Use “Tree protection fencing should be installed at the edge of the Tree Protection Zone (TPZ) and not drip lines. Any work required within the TPZ shall be under the observation of the project arborist.” **7-37**
25. Table 1 - 4.3 – H & I -4.3-E.2 - Requirement for maintaining the open space. The maintenance requirements are not given and are very vague. This could have a significant impact on future owners depending upon the specific maintenance requirements. 4.3-H.1- The mitigation states that planted **7-38**

trees will be 10-16 feet in height when planted. This is inaccurate as California buckeyes and a portion of the smaller container sizes may only be 4' to 5' in height. There will be a range of trees heights given the range of container sizes. The larger boxed specimens will be in the 10'-16' foot range. 4.3-I.1- Again refers to specific SOD quarantine issues. Suggest using a broader statement that reflects compliance with current state regulations such as "all SOD quarantine requirements shall be followed as mandated by California State agricultural laws and regulations."

**Geology, Hydrology & Water Quality**

Page 4.3.2-9 30 Mitigation 4.2-B.1: Flexible connections for utilities will be used. **7-39**

Page 4.3- 37 Mitigation 4.3-F.2: 375 SF of additional wetland will be added to account for the outlet pipe that will be installed in the pond. Energy dissipaters and biofiltration facilities will be installed at three outlets to the pond. **7-40**

Page 4.4-21 Mitigation 4.4-A.1: The project will be installing continuous deflective separation (CDS) units to remove silt and pollutants from storm water. There will be one installed at each of three storm drain pipes before reaching the pond. There will be one installed at the fire turn around for the storm drain that flows to the ditch adjacent N. San Pedro Road. Most of the project site is too steep to install typical bioretention facilities. A storm water control plan will be prepared for the project. An operation and maintenance plan will be prepared for the project. **7-41**

Page 4.4-24 Mitigation 4.4-D.1: A storm water pollution prevention plan (SWPPP) will be prepared for the project. **7-42**

Page 4.4 -32 Mitigation 4.4-E.1: Storm water runoff for the site will be reduced from pre to post construction. Drainage area 1 will be increased, but the discharge will pass through the pond that will be designed as a detention structure, and this will reduce the discharge from the pre-development rate. Drainage area 2, that discharges to the ditch adjacent to N. San Pedro Road, will be reduced as will the discharge. **7-43**

Page 4.6-20 Mitigation 4.6-E.1: The fence at lot 1 will be located farther from N. San Pedro Road to increase stopping site distance to 250 feet. **7-44**

Page 4.14-11 Mitigation 4.14-H.1: A video inspection will be performed on the 6 inch sanitary sewer line in N. San Pedro Road to verify slope and capacity. **7-45**

Page 5-24 - Alternative 4 - Mitigated Alternative - recommends relocating the entry driveway to the west of the proposed location. The attached driveway profile shows that, with the maximum fire department required slope of 18 percent, the relocated driveway would end up 12 feet below the existing grade. This would require massive walls throughout the site. The proposed driveway can much more closely follow the existing site grades **7-46**

**Aesthetics** – The DEIR finds LTS impacts in all of the potential impact areas yet there is claim in the alternatives analysis, i.e. Reduced Density alternative that the reduction of density would result in greater community compatibility with SV neighborhood, with no evidence to support that claim. (Page 5-18 #2.a) **7-47**

**Alternatives Analysis –**

The Table 5-1 Comparison of Project Alternatives is very subjective with no factual analysis or evidence to **7-48**

support the findings in the table. It appears based on the DEIR consultants own subjective conclusions. This Table weights project alternatives well beyond what CEQA requires and seems to be scoring the project subjectively on merits rather than informing the decision makers and public about the facts of the proposal and/or alternatives.

For example, Aesthetics shows a ++ for the Alternative Use project yet the attached project design would be inconsistent with the established single family residential character of the surrounding neighborhood. The Population and Housing shows ++ for the Alternative Use when the density is the same as the mitigated project alternative. Also, there is a + for project objectives yet it is not disclosed what mix of BMR units would be required for the 6 lots. It is not known if the project is feasible from the project sponsors stand point of view and there is no evidence to provide the project sponsor with any possible feasibility analysis.

Moreover, the DEIR (Page 3-19) states that among the objective is to expand market rate supply of housing as well as provide inclusionary housing in accordance with regulations with BMR units. The project sponsors objective is not to develop a housing project with 50% density being BMR. This is an assumption and speculation made by the EIR consultant without taking into consideration the objective to “develop a financially-profitable project.” As noted above, there is no way for the project sponsor to determine if in fact the alternatives would provide a feasible project alternative because the DEIR lacks any information on the potential mix of BMR unit types and affordability limitations.

**7-49**

Furthermore, if from an environmental perspective a 12-unit project with attached and detached units works, what gives the EIR consultants and where is the CEQA authority that permits them to introduce real estate market considerations for unit affordability BMR vs. MR? The county policy and ordinances provide clear thresholds which would require 2.4 or 3 BMR units (or fees) with the 12-unit project proposed by the applicants. Yet the alternative exceeds the county standards for MR vs. BMR and states 6 of the 12 units would be BMR. The applicant’s proposed project with mitigation results in less than significant impacts.

The “No Project Alternative” allows 5 MR units w/o affordable requirements. It does not protect open space or the wetland conservation areas. No where in the DEIR is it disclosed that the current zoning (20,000 sq ft min lot size) could potentially permit up to 30 dwelling units.

**7-50**

The Alternative Use Alternative preserves the density proposed, but the DEIR avoids disclosing conflicts with project objectives. Alternative Use/Reconfigured Alternative does not disclose the BMR mix of affordability which leaves the public and the client without full disclosure of what BMR means – rental, low income, very low, moderate. Without this information project feasibility can not be assumed.

**7-51**

The DEIR claims that Biological Resource impact (Page 5-14) can be mitigated but it does not demonstrate how reduced footprint “area” really has less impact on biological resources if there is already LTS impact with the existing project. Taking this logic without supporting evidence one can conclude that no development would be the superior alternative.

**7-52**

Reduced Density Alternative – Land Use and Policy Consistency statements (Page 5-18) claims a “substantial improvement” between the proposed project and a project with 3 fewer units. Yet in earlier analysis (Page 4.1-1-70), it finds that the project with mitigation is “consistent” with all land use policies in the CWP. This alternative may result in “substantial improvements” but it goes well beyond the environmental quality thresholds presented in the CWP.

**7-53**

There is no authority for the CEQA analysis to reach beyond the thresholds established by the County policy.

**7-54**



The DEIR focuses on project merits, not an environmental impact issues, and there is no substantial evidence in the DEIR to support the consultant's conclusions.

The DEIR alternative proposed seems to proffer an alternative to a proposed project that already, with mitigation, reaches a level of LTS adverse impacts. It is understandable if the project has significant adverse impacts that can not be mitigated, a Reduced Density alternative would be provided. But in this case, the proposed project with mitigation reduces impacts to LTS and is consistent with CWP policy and Zoning Regulations. Finally, there is no evidence in the DEIR that demonstrates that reducing density results in an environmentally superior project. This is the DEIR consultants conclusion based on subjective analysis.

**7-55**

Mitigated Project Alternative: The EIR consultant's proposed alternative access ignores the fire code requirements established for maximum road grade. The alternative includes a new driveway location that would require extensive additional grading and retaining walls to achieve road grade standards for fire department access. Again, the alternative is reaching beyond a project with LTS impacts (proposed project with mitigation) toward a project alternative that would "more fully support the goals & objectives of the CWP". This is based on the EIR consultant's speculative analysis. The Geology and Soils impacts would not be "similar to the proposed project" because it would result in substantial additional grading and retaining walls (See ILS comments above & attached alternative driveway section provided).

**7-56**

Also, there is no evidence in the DEIR to show that moving Lot 12 would have "similar impacts" considered in the proposed project. The same is true for similar impacts "for Hydro, Air, Traffic, and Public Services & Objectives". The project has "same as project" for Aesthetics, Cultural Resources, Noise, Energy, Population Housing, Utilities. In the comparison to Proposed Project (5-29) this alternative is "neither superior nor inferior to the proposed project". Yet, Table 5-1 Comparison of Project Alternatives makes a subjective analysis then concludes based on opinion, not fact, that one project alternative is superior.

**7-57**

### **Summary and Conclusion**

In conclusion, the DEIR analysis claims that the Reduced Density alternative is the superior alternative based on Table 5-1 as evidence. Yet Table 5-1 is all weighted and based on the DEIR consultant's speculative analysis and opinion and there are no substantial facts presented in the DEIR that support the consultants conclusions.

**7-58**

For example, the DEIR consultants claim the Reduced Use plan may increase the degree of compatibility with the Santa Venetia neighborhood but there are no facts to support this conclusion. The DEIR consultants claim that reducing density by 3 units would be a "substantial improvement in relations to consistency with County policy" but the DEIR finds in earlier discussion that the proposed project is consistent with CWP policy.

What is missing in the DEIR under the Land Use analysis is full disclosure of the fact that reducing the density is inconsistent with CWP housing needs and goals. The County needs 773 new dwelling units in 7 years, 284 Market Rate, 183 new Very Low, 137 Low and 169 Moderate. Reducing density by 3 units and 1 second unit (25% less density) also results in a loss of affordable housing from 2.4 to 1.8 units (.6 du =1) and reduces one affordable housing opportunity and 2 Market Rate housing units.

**7-59**

There is no analysis or evidence to show what impact this reduction has on housing needs. If every project site identified in the Countywide Plan as an opportunity for affordable housing development has its density reduced by 25%, the County will not meet its affordable housing needs. There is no evidence in the DEIR to show that County thresholds call for a balance between housing needs and being "more consistent" with

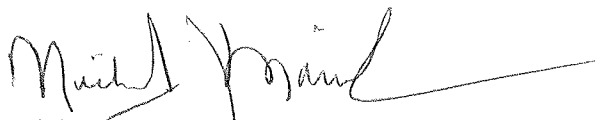
environmental policy.

The DEIR fails to make conclusions on superior project alternatives that are meaningful, supported by objective analysis, facts and evidence. The "superior alternative" selection in the Alternatives analysis is specious at best.

**7-60**

This concludes our comments and we look forward to reviewing the response to comments and the Final EIR.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Marovich", with a long horizontal flourish extending to the right.

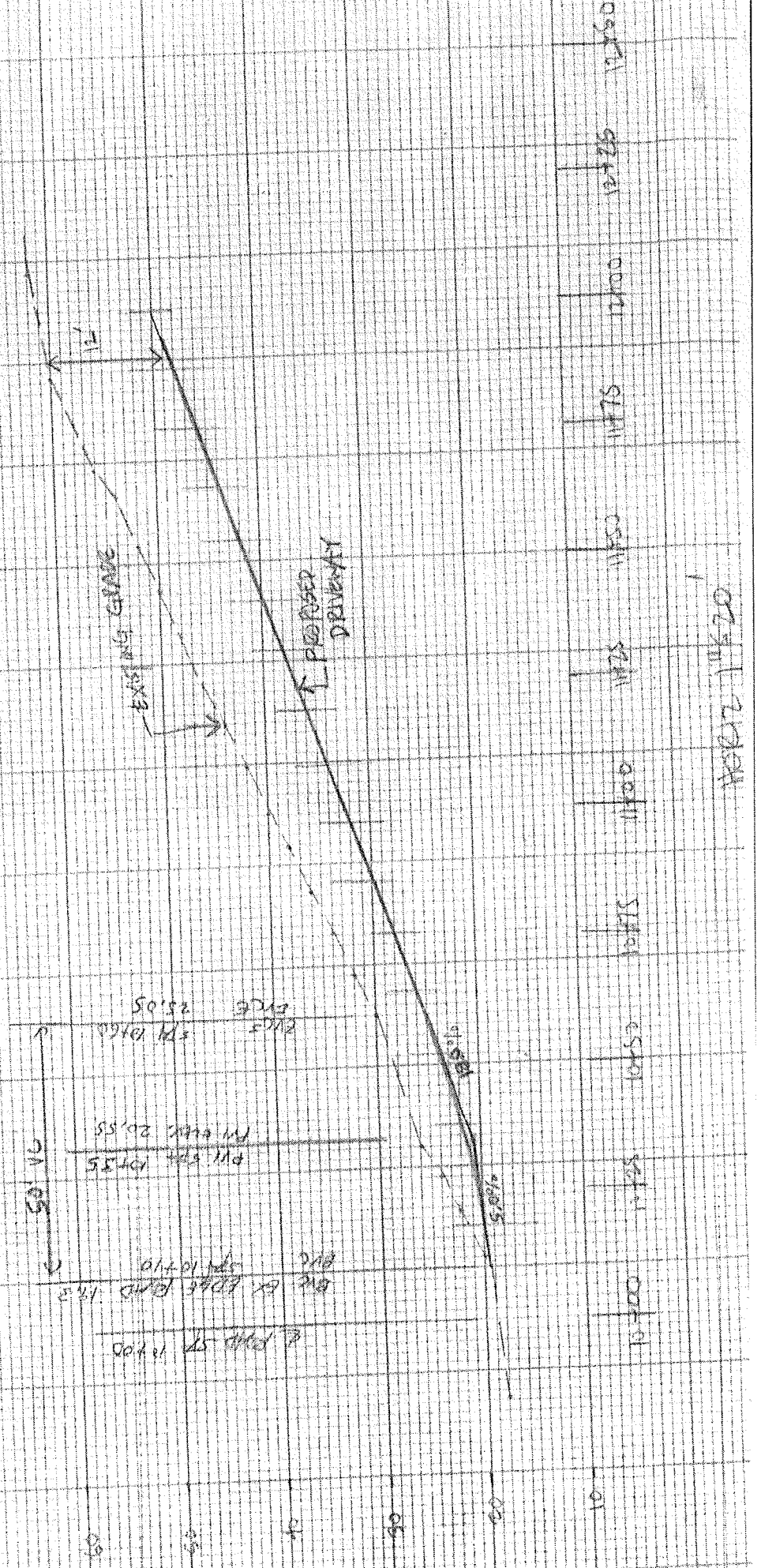
Michael J. Marovich

Thompson Development Inc.

A subsidiary of West Bay Builders

CC: Gary Giacomini., Hanson Bridges  
Scott Hochstrasser, IPA, Environmental Planning  
Mike Evans, ILS Civil Engineering  
Jennifer Michaud, Prunuske Chatham Environmental Consultants  
Roger Harris, LSA Environmental Consultants  
James MacNair, Arborist  
Don Blayney, Landscape Architect

MITIGATED PROJECT DESIGN ALTERNATIVE  
ENTRY DRIVEWAY





**LETTER 7 – Thompson Development, Inc.**

7-1: The comment provides an opinion about the overall set of conclusions in the EIR and an introduction of what subsequent comments focus on. There are no environmental issues raised in the comment. No change to the EIR is necessary.

7-2: This comment expresses the opinion that the proposed project with mitigation is the environmentally superior alternative. This comment also expresses the opinion that the analysis within the DEIR lacks clear evidence that the Reduced Density Alternative is the “environmentally superior alternative.” The determination that the Reduced Density Alternative is the environmentally superior alternative is based on reasons presented on page 5-23 of the DEIR. As the analysis states, through eliminating the proposed improvements on Lots 9, 10, and 11, the degree of potential project impact on sensitive biological resources is notably reduced. Much of the proposed encroachment into the 100-foot area around the wetland would not occur and the amount of development occurring in close proximity to the creek corridor is substantially reduced. Furthermore, the smaller, combined footprint of the project would reduce the amount of visual change occurring on the site and the amount of new impermeable surface area created. The County maintains that the Reduced Density Alternative is the environmentally superior alternative and no change to the DEIR is required.

7-3: The comment states that it appears that the Mitigated Alternative is not feasible on the basis that it would be physically impossible to construct a road grade that meets fire access slope requirements without substantial grading and retaining walls. On this basis, the comment opines that the Mitigated Alternative should not be identified as the second most environmentally superior alternative.

While more intensive grading and retaining wall construction may be required under this alternative, these factors do not serve as a basis for infeasibility. As stated in CEQA guidelines, 15126.6 (b), the discussion of alterna-

tives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly. Furthermore, there is no information provided with the comment to confirm the assertion that this alternative is infeasible due to reasons of cost or otherwise. No information is provided to show that this alternative is not 'feasible' as defined in Section 15364 of the CEQA guidelines.

This alternative would require increased grading to accommodate the different roadway location that would result in visual impacts. However, through the design review process and adherence to construction-period mitigation recommended throughout the DEIR, it is not expected that a driveway in this location would result in additional environmental impacts either during or after construction, beyond those identified for the project.

7-4: This comment states the opinion that the DEIR analysis of the Reduced Density Alternative is not balanced because it does not provide analysis of the impacts on Marin County's housing needs and the Countywide Plan, and Housing Element goals and objectives. Consistent with Section 15021(d) of the CEQA guidelines, this alternative demonstrates the County's effort to minimize environmental damage while balancing competing public objectives. Section 15021(d) says:

*(d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.*

Therefore, the reduction in the number of units described under this alternative is consistent with the intent of CEQA and does not represent an imbalanced alternative, as suggested. No change to the DEIR is required.

The comment also states that the DEIR fails to identify what the unit affordability mix would be for the six below market rate units under the Alternate Use Alternative. For the purposes of the alternatives analysis, it is not necessary to specify the unit mix of the six below market rate units. Unit mix is not a distinguishing factor in terms of minimizing or eliminating physical impacts identified as potentially significant (before mitigation) under the proposed project, and is therefore not relevant to an analysis of the alternative's environmental merits. No change to the DEIR is required.

7-5: The comments states that if the 6 below market rate units under the Alternate Use Alternative were all very low, low, or moderate income, the project would probably not be financially feasible. The EIR does not provide analysis of the financial feasibility of the project alternatives, as this is not required under CEQA. Rather, the analysis examines how the alternatives would reduce or eliminate potentially significant impacts identified for the proposed project. Section 15126.6 of the Guidelines makes clear that:

*An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.*

The range presented in the EIR, consistent with CEQA would feasibly attain most of the project objectives. Not meeting all project objectives is not a basis for dismissing alternatives that are otherwise feasible and consistent with other stated objectives. Also, as indicated in response to Comment 7-3, Section 15126.6 (b) of the CEQA Guidelines directs that the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of

the project objectives, or would be more costly. However, Section 21159.26 of the CEQA Guidelines states that a public agency may not reduce the proposed number of housing units as a mitigation measure or project alternative for a particular significant effect on the environment if it determines that there is another feasible specific mitigation measure or project alternative that would provide a comparable level of mitigation.

This comment also states that both the Reduced Density Alternative and the Alternative Use Alternative are inconsistent with the project sponsor's goals, but provide no additional reason(s) as to why. No additional response is required. The comment also opines that these alternatives are inconsistent with the Countywide Plan Housing Element Policy and Inclusionary Housing Code requirements. Despite this statement, the comment does not present any specific policies from the Housing Element or provisions from the Inclusionary Housing Ordinance that these alternatives are in conflict with.

7-6: This comment questions why the Mitigated Alternative did not locate the primary driveway at the same location as proposed under the project. The commentor explains that, because the proposed project mitigated the sight line impacts of the driveway location to a less-than-significant level, the Mitigated Alternative should include the mitigation measures of the project and locate the driveway at the same location as proposed by the project.

The Mitigated Alternative includes the primary driveway at this alternate location to eliminate development within the 100-foot buffer of the Wetland Conservation Area (WCA). As indicated under Impact 4.3-F in the DEIR, the Lot 12 residence and the second unit of Lot 11 are within 20 feet of the wetland. Although these structures and related grading are not within the delineated wetland area, the proximity of the development area is such that potential adverse effects on the function and value of the wetland could occur due to modifying the adjacent upland hydrology, increasing potential run-off from household and vehicle pollutants, reducing the upland buffer, and reducing the value of the wetland as wildlife habitat. Due to these factors, a potentially significant impact on the wetland could occur.

Consistent with the provisions of Section 15126.6(a) of the CEQA Guidelines, the homes and driveways under this alternative would be relocated in such a manner as to avoid the WCA and thereby substantially lessen one of the potentially significant impacts of the project. However, it is recognized that this driveway relocation would increase grading and visual impacts.

7-7: This comment states the opinion that the alternatives analysis in Chapter 5 of the DEIR lacks evidence and science to support the determinations therein, however no specific examples from the analysis are presented that may otherwise permit a more informed response. The adequacy of the alternatives analysis, including a discussion on the level of comparative detail required under CEQA, is provided in Master Response 3, Adequacy of Alternatives Analysis. No additional response is required.

The comment also suggests that the analysis is underlain by a bias for more affordable housing, or less market rate housing. It is not the purpose of the EIR to suggest and examine whether more or less affordable units should be included in the ultimate allocation of dwelling units on the sites. The EIR contains no bias for a greater or lesser number of affordable units than what is proposed under the project. No change to the DEIR is required.

7-8: The comment states that the Alternate Use Alternative would be inconsistent with the Inclusionary Housing Requirements and inconsistent with the project objective of expanding the supply of market rate and affordable housing. Under the Inclusionary Housing Ordinance, 2.2 affordable units are required and would be provided under the project as proposed. The inclusion of six below market rate units under the Alternate Use Alternative, which would exceed the minimum requirement by 3.8 units, does not represent an inconsistency with County Policy and does not need to be identified as such in Chapter 5.0 of the DEIR.

Furthermore, a reduction in the number of market rate units under this alternative does not conflict with the objective of expanding the County's sup-

ply of market rate and affordable housing. That objective could still be achieved under this alternative. No change to the DEIR is required.

7-9: The comment states that based on a lack of disclosure as to unit mix under the Alternate Use Alternative, it cannot be determined if it meets the project objective of a “financially profitable project.” This statement was previously made in Comment 7-5. As indicated in responses to Comments 7-4 and 7-5, the CEQA Guidelines state that a lead agency has an obligation to consider a range of competing objectives in its evaluation of a project. While the financial feasibility of an alternative is one factor that decision-makers must weigh, it is not the sole determinant.

The comment also accurately states that the DEIR does not disclose that the property could be subdivided for up to 30 dwelling units under the current zoning. The level of permissible development under existing zoning is explained in Master Response 6. In addition, the description of the No Project Alternative in Chapter 2 of the DEIR has been amended to clarify that although a more intense level of development could occur on the site under existing zoning and resubdivision of the five legal lots, consideration of a five unit scenario was reasonably foreseeable in the context of the alternatives analysis.

The comment continues by stating that the current zoning is not consistent with the Countywide Plan policy framework and as a result, the DEIR does not adequately explain why the project includes a rezoning request. The Project Description of the DEIR has been revised to clarify the purpose for the applicant’s rezoning request.

7-10: This comment states the opinion that the Reduced Density Alternative is not feasible (due to driveway location) and that the DEIR does not clearly state why the Reduced Density Alternative is the superior alternative. Similar comments concerning feasibility and environmental superiority were previously stated in Comments 7-3 and 7-2, respectively. Please refer to the responses to these comments for additional information.

7-11: This comment states the opinion that the proposed project with mitigations is the environmentally superior alternative and should be identified in the DEIR as such, without the driveway relocation. For the reasons presented in Chapter 5.0 of the DEIR and reiterated above in response 7-1 of this letter, the County maintains that the Reduced Density Alternative is the environmentally superior alternative. The reasons for the driveway relocation included under the Mitigated Project Alternative are discussed in response to Comment 7-6. No change to the DEIR is required.

7-12: This comment states that page 2-2 of the DEIR incorrectly states that there are 33 potentially significant impacts resulting from the proposed project. The DEIR identifies 25 potentially significant impacts. The DEIR has been amended to reflect this correction.

7-13: This comment states the opinion that the alternatives analysis lacks analysis and information to show that the Alternate Use Alternative is consistent with community development patterns. The DEIR already addresses this issue. As stated on page 5-12 of the DEIR, construction of the Alternate Use Alternative would be less compatible with surrounding uses, due to the inclusion of zero lot line housing. The surrounding residential development is of relatively low density, and comprised of detached single-family homes. No change to the DEIR is required.

Second, the comment states that there is no indication the Mitigated Project Alternative does not meet housing goals/or is inconsistent with resource and creek side setbacks. The comment does not specify which housing goals this alternative may be inconsistent with. The comment also suggests that this alternative would be inconsistent with County policy OS-2.4 that concerns stream setbacks, however as Figure 5-4 shows, there would be no encroachment into the 20-foot setback for the on-site creek.

Third, the comment says there is no evidence to support the Reduced Density Alternative. This comment is addressed in the response to Comment 7-1.

Fourth, the comment correctly notes that the proposed project is consistent with CWP Policy EH 3.2. This determination was made in Chapter 4.1 of the DEIR.

Fifth, the comment correctly notes that the potentially significant impacts identified in association with the proposed project in the DEIR are mitigated to a less than significant level. The comment also correctly notes that the DEIR determined, in Chapter 4.1, that the proposed project, with mitigation, is consistent with the CWP.

Lastly, the comment states that the alternatives analysis lacks facts, feasible alternatives and misinforms the decision makers about the no project alternative. The adequacy of the alternatives analysis, including the range of alternatives and the level of detail presented in the analysis of them is discussed in Master Response 3. Previous comments in this letter express concern related to the feasibility of the Mitigated Project Alternative and the Alternate Use Alternative and have been addressed accordingly. The level of development that could feasibly occur under the No Project Alternative and existing zoning on the site is discussed in Master Response 6. In addition, the description of the No Project Alternative in Chapter 2 has been updated to state that while a more intense level of development could occur if the five lots were resubdivided, a five unit scenario provides a reasonable assumption for the analysis.

7-14: This comment, presumably referring to page 4.3-2 requests that the paragraph discussing the National Pollutant Discharge Elimination System (NPDES) and a Storm Water Pollution Prevention Plan (SWPPP) be removed from the Biological Resources chapter. The DEIR has been amended to remove this paragraph. This information is discussed in Section 4.4 of the DEIR, Hydrology and Water Quality. No additional response is required.

7-15: This comment states that a privately owned property is located between the project site and China Camp State Park and San Pedro Mountain Preserve. The DEIR has been amended to reflect this information.



7-16: This comment states that the ephemeral creek does not provide suitable habitat for the California newt. Because of its geographic association with the pond, the ephemeral stream could provide suitable habitat in the wet season. No additional response or change to the DEIR is required.

7-17: This text states that reference to California ground squirrels (page 4.3-7) should be removed as they are not common in the project vicinity. This text provides a general discussion of coastal grassland as a wildlife habitat type and typical species found within it. The discussion does not state that California ground squirrels are located on the project site or in the vicinity. No additional response or change to the DEIR is required.

7-18: This comment states that the ephemeral creek does not provide suitable habitat for the California newt. As discussed in the response to comment 7-16, due to the geographical association with (proximity to) the pond on-site, the ephemeral creek could provide suitable habitat for California newts during the wet season. No additional response or change to the DEIR is required.

7-19: This comment states that text referencing the USFWS Species of Concern list should be deleted because the USFWS no longer tracks the Species of Concern list. The Sacramento office of USFWS does not currently track Species of Concern, as they did when the biological technical report for the project was prepared. Section 4.3-16 of the DEIR chapter states, "Of the 16 species reported in 2005 with potential to occur on site, four of them, including Allen's hummingbird, are USFWS Species of Concern, which is a category that the agency no longer tracks." This text was included to clarify why a special-status species in the technical report was not considered in the DEIR. No additional response or change to the DEIR is required.

7-20: This comment requests that DEIR text on page 4.3-21 regarding heron rookeries should be revised to show that CDFG does not consider heron rookeries to be sensitive resources. The DEIR has been amended based on this comment.

7-21: This comment questions whether the DEIR is correct to state that herons would not find favorable traits for a rookery nearby. The text on page 4.3-25 summarizes a comment by a CDFG biologist who is familiar with the site. GANDA biologists concur that there are unique characteristics about the eucalyptus tree (height, proximity to the salt marsh, protection from surrounding trees and the hill slope), which could explain why herons have nested there every year since 2002, and not anywhere else nearby. The DEIR has been amended to clarify that herons could establish nests in the vicinity of the site, the specific attributes provided by this rookery would not exist at other, adjacent sites.

7-22: This comment requests that the text be amended to accurately reflect the status of the heron rookery. The DEIR has been amended based on this comment.

7-23: This comment questions the correct usage of the term “stream” and instead recommends the use of “ephemeral drainage.” However, the term “stream” is accurate to describe the aquatic feature on the property that drains into the pond. The aquatic feature has a bed, banks and channel, which are characteristics of a stream. No change to the DEIR is required.

7-24: This comment suggests that text on page 4.3-32 should be revised to remove language that states that native grassland could “potentially support special-status plant species.” The text summarizes the biological constraints analysis, which was completed before the rare plant survey. Because the rare plant survey was completed and no special-status plants were found, the DEIR will be revised to delete the phrase.

7-25: This comment requests that reference to USFWS and CDFG on page 4.3-39 be removed because the DEIR can propose mitigation measures without specific mention of USFWS and CDFG. The DEIR has been amended to remove reference to USFWS and CDFG.

7-26: This comment questions the timeframe for preconstruction surveys to take place. A survey for active bird nests would need to be conducted within a week of construction to identify new nests. The mitigation measure would not preclude the project applicant from conducting additional surveys, such as one month prior to construction, to provide advance time to modify plans. However, the survey cannot conclude earlier than the prescribed time of one week to ensure that nesting does not occur or is identified. No change to the DEIR is required.

7-27: This comment requests that Mitigation Measure 4.3-G.1 specify that buffers to protect biological resources apply to new sources of disturbance. The mitigation measure allows a qualified biologist to adjust the protection zones on a site-specific basis. The comment's example of a raptor nesting along North San Pedro Road is a reasonable scenario where the biologist could determine that a smaller protection zone is sufficient. No change to the DEIR is required.

7-28: This comment states that page 4.1-11 of the DEIR refers to a previous planting plan that includes California pepper, a non-native species. The DEIR has been amended to reflect the omission of this species from the planting plan.

7-29: This comment disputes the DEIR's description of eucalyptus trees near North San Pedro Road as being of relatively small diameter. The text on page 4.3-15 refers to the lack of suitable rookery habitat provided by the smaller eucalyptus trees near the road. The DEIR has been amended to focus on the issue of suitability for raptor nesting, rather than tree diameter.

7-30: This comment states that there is no verification that the tree containing the heron rookery is infested with eucalyptus long-horn borer. The information presented is based on observations by James MacNair (Arborist) made during a July 23, 2008 site visit. No change to the DEIR is required.

7-31: This comment states that the eucalyptus tree that contains the heron rookery is not close enough to North San Pedro Road to be a hazard to users of the road. Because the tree in question is located approximately 150 feet from North San Pedro Road, the DEIR has been amended to remove text that states the tree will be a danger to motorists, bicyclists and pedestrians.

7-32: This comments requests that Mitigation Measure 4.3-B.4 state specific responsibilities the homeowners would have for maintaining large trees in open space as potential rookery sites. The mitigation measure has been revised to clarify the size of large trees (greater than 20 dbh) and that the responsibility of identifying large trees for preservation would fall to professional resource managers; a certified arborist and a fire prevention specialist. The property owners would not be responsible for maintaining the trees. Please see Chapter 4.3 for the amended text.

7-33: This comment states that Mitigation Measure 4.3-E.1 should be changed to say that tree protection fencing should be installed at the edge of the Tree Protection Zone (TPZ) and not the drip lines. Mitigation Measure 4.3-E.1 has been revised to allow distances other than drip lines if approved by a qualified arborist. In response to the second part of the comment concerning Mitigation Measure 4.3-E.2, the DEIR has been amended to clarify that the 4.5 acres would be preserved within the 8.6 acres proposed on the site.

7-34: This comment requests that the word “larger” be better defined with describing trees. The DEIR has been amended to omit the term “larger” in this context because the size threshold for trees evaluated is subsequently stated in the same paragraph. No additional response is required. The comment also provides information to update Impact 4.3-H and a related citation. The DEIR has been amended to reflect the information presented.

7-35: This comment expresses the opinion that the DEIR incorrectly recommends cutting vegetation during the dormant season to prevent Sudden Oak Death infection. The reference to dormant vegetation has been omitted from the text, however the timing of removing vegetation after September 1

is governed by the mitigation measure to minimize impacts to nesting birds. The timing will also minimize weeping, as reflected in revisions to the DEIR.

The comment also states the opinion that implementation of Mitigation Measure 4.3-I.1 would be difficult and should be replaced with a requirement for compliance with State agricultural laws and regulations. Laboratory analysis confirmed that SOD is present on the property; an effective measure to control its spread is to clean vegetation and mud from equipment before it leaves the site. Therefore, the requirement to remove mud and vegetation equipment before it leaves the site will be maintained.

7-36: This comment states that page 4.8-15 of the DEIR refers to a previous planting plan that includes California pepper, a non-native species. The DEIR, including the citation of the previous planting plan, has been amended.

7-37: This comment states that Mitigation Measure 4.3-E.1 should be changed to say that tree protection fencing should be installed at the edge of the Tree Protection Zone and not the drip lines. As discussed in response to comment 7-33, Mitigation Measure 4.3 E.1 in Appendix B has revised to allow a qualified arborist to establish TPZs at distances other than drip lines.

7-38: This comment requests clarification on the homeowners' maintenance responsibilities for open space areas. As stated in Master Response 7, management of the open space would be the responsibility of an HOA and would be limited to fire vegetation management and resource protection. The HOA would follow a set of Covenants, Codes, and Restrictions (CCRs) that require property owners to pay annual dues. These dues would be used in part to pay for professional natural resource managers who would maintain the open space resources on the site. The burden of the actual maintenance would therefore be placed on contracted resource managers as opposed to the property owners themselves. The responsibility of the future owners would be to comply with the deed restrictions placed on lots 8-12, which preclude further subdivision, residential development, or fencing.

This comment also questions the height of trees when planted, specifically the California buckeye. Mitigation Measure 4.3-H.1 has been revised to state that planted trees will range from 4 to 16 feet.

7-39 – 7-45: This comment states that the project applicant will include the provisions called for in the mitigation measures identified in the comments. No additional response is required.

7-46: This comment states that the primary driveway location proposed under Mitigated Alternative would require extensive grading and retaining walls. The comment indicates that the driveway for this alternative would be approximately twelve feet below existing grade and provides a diagram to illustrate this. The comment also states that the location for the main driveway under the proposed project much more closely follows the existing site grades. The reason behind the alternate location for the primary driveway under the Mitigated Alternative is presented in response to Comment 7-6.

7-47: This comment states that no evidence is presented in the DEIR to support the determination that the Reduced Density alternative would result in greater community compatibility when compared to the proposed project. The comment refers to the land use analysis of this alternative. As the discussion says, the construction of three fewer units and reduced density on the site ‘may’ increase the degree of compatibility. The analysis does not say it ‘would’ as suggested in the comment. Several commentors have expressed concern that construction of 12 units on the site and two secondary units is not compatible because the intensification of use would be excessive. Based on these comments, a project with three fewer units on this site may be perceived, by some, as more compatible with the existing level of development in the Santa Venetia neighborhood. Despite the likelihood of this perception, the statement has been omitted from the DEIR. This does not change the assessment in the DEIR that this alternative would be consistent with the existing land use pattern in the Santa Venetia neighborhood or that it would be a substantial improvement in relation to consistency with County policy due to the removal of units on the lots that have the greatest potential to im-

pact sensitive biological resources, including the 100-foot area around the delineated wetland and the creek corridor.

7-48: The comment says that there is no factual analysis to support the determinations in Table 5-1. Table 5-1 is a summary based directly on conclusions made in the alternatives analysis. As commonly provided in CEQA alternative analyses, the table provides decision-makers with a side-by-side comparison of how the alternatives relate to each in regards to the issues examined in the DEIR. Contrary to what the comment suggests, the table is based on whether the alternative would entirely avoid or substantially lessen an impact identified as potentially significant in the DEIR. Similarly, the table identifies instances where an alternative would be likely to result in a new impact beyond those identified for the project or an increase the severity of an impact already identified. Therefore, the table and the comparative information therein, is consistent with what is required under Section 15126.6 of the CEQA Guidelines (Consideration and Discussion of Alternatives to the Proposed Project).

The comment also questions the determination that the Alternate Use Alternative would result in a substantial improvement in relation to Aesthetics, stating that it would be inconsistent with the single-family residential character of the surrounding neighborhood. As shown in Figure 5-2 of the DEIR and discussed in the analysis of this alternative, unit clustering would focus development on the most disturbed portions of the site, more so than the proposed project, and reduce the overall level of visual change. For example, Lot 12 would not be constructed on the eastern side of the pond and adjacent to the grassland habitat.

The comment also questions why this alternative would result in a substantial improvement in relation to Population and Housing when it is the same density as the Mitigated Project Alternative. As stated in the analysis, this determination is made on the basis that this alternative would further support the County's goal of increasing affordable housing stock through the inclusion of six below market rate housing units. The determination of + (insubstantial

improvement) in relation to project objectives is based on the fact that the Alternate Use Alternative, with the 6 BMR units, would more fully support Marin County's affordable housing goal.

Lastly, the comment restates a previously expressed concern in Comment 7-5 that a lack of disclosure as to the unit allocation for the BMR units for the Alternate Use Alternative precludes the applicant from completing a feasibility analysis. Please refer to the response to comment 7-5 above.

7-49: This first part comment reiterates concerns previously expressed in Comment 7-5 concerning specification of unit mix for the BMR units under the Alternate Use Alternative. Please refer to the response for Comment 7-5. The second part of the comment questions the basis on which the EIR can apply 6 BMR units to the 12 unit Alternate Use Alternative when County Development Code Title 22.22.020(b) requires that 20 percent of the new housing development to be affordable.

As specified in Section 15126.6(a) of the CEQA Guidelines, the lead agency is not bound to meet all project all project objectives. As this section of the Guidelines states,

*An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.*

However, as specified in Section 15021(d), of the Guidelines, a public agency does have,

*an obligation to meet a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian.*



Under Section 15021(d), the County is enabled to introduce and evaluate alternatives, or components thereof, that are more consistent with its policies and goals than what may be proposed under the project. As such, the inclusion of 6 BMR units under the Alternate Use Alternative does not represent a procedural flaw under CEQA.

7-50: This comment states that the DEIR does not adequately describe the development potential on the project site under current zoning. As discussed in Master Response 6, the property could be resubdivided to accommodate a more intense level of development. This clarification has been made in the portion of Chapter 2 where the No Project Alternative is described. However, the County determined that five lots containing a total of five homes provided a reasonably foreseeable development scenario for the site if the project were not to occur. While the stated level of development is feasible, it is not required under CEQA that it be analyzed. A scenario including five units constitutes part of the reasonable range described in Master Response 6 and it is not necessary that the No Project analyze up to the maximum of what could be developed.

7-51: This comment reiterates concerns expressed in Comments 7-5 and 7-9. Please refer to the responses for those comments.

7-52: This comment questions how the Alternative Use Alternative has less of an impact on biological resources when impacts under the proposed project would be less than significant. As indicated under Impact 4.3-F in the DEIR, the Lot 12 residence and the second unit of Lot 11 are within 20 feet of the wetland. Although these structures and related grading are not within the delineated wetland area, the proximity of the development area is such that potential adverse effects on the function and value of the wetland could occur due to modifying the adjacent upland hydrology, increasing potential run-off from household and vehicle pollutants, reducing the upland buffer, and reducing the value of the wetland as wildlife habitat. Due to these factors, a potentially significant impact on the wetland could occur. This Alternate Use Alternative would move Lots 11 and 12 outside of the 100-foot WCA buffer,

thereby altogether eliminating or substantially lessening that potentially significant impact.

7-53: This comment opines that the conclusion of the environmental effect resulting from the Reduced Density Alternative is inconsistent with the policy consistency determination of the proposed project. Although the project is found to be consistent with the CWP, the DEIR's analysis of the Reduced Density Alternative states that the alternative will be a substantial improvement over the proposed project. Both of these statements are true while not negating each other. The project, as proposed, would be consistent with County policy related to wetland protection and enhancement. Because the Reduced Density Alternative would remove Lot 11 from the development altogether, it would not encroach into the WCA, including the location of the associated secondary unit within 20-feet of the wetland. This represents a substantial improvement in relation to the proposed project on this issue.

7-54: Continuing from Comment 7-53, the comment states that there is no authority for the CEQA analysis to consider issues outside the thresholds established by County policy. As indicated in response to 7-53, a determination that the proposed project, with mitigation, would be consistent with the CWP, does not prohibit the County from introducing and analyzing alternatives that would further reduce the significance of impacts identified, even if they are less than significant with mitigation.

The comment also states the opinion that the DEIR does not present substantial evidence to support the findings of the DEIR. Although this statement questions the adequacy of the DEIR, it does not provide specific examples. No changes to the DEIR are required.

7-55: Contrary to what the comment suggest, the DEIR does not explicitly state or implicitly suggest a preference for a particular alternative, including the proposed project. As required under CEQA, the DEIR presents an analysis of the impacts associated with the project as proposed and the relative merits of a reasonable range of alternatives. The comment questions the basis of

the Reduced Density Alternative in that all potentially impacts identified for the project as proposed could be mitigated to a less than significant level. This is not a basis for eliminating (not considering) alternatives that could further reduce potentially significant impacts that have been reduced to a less than significant level through mitigation. Lastly, the comment questions the basis on which the Reduced Density has been identified as the environmentally superior alternative and states that the determination is based on a subjective analysis. This same comment is made in comment 7-2. Please refer to that response above.

7-56: The comment states that the inclusion of the primary driveway at the alternate location under the Mitigated Project Alternative ignores fire code requirements and reaches beyond impact thresholds to a project that would more fully support CWP goals and objectives. The alternative does not ignore fire code requirements as suggested in the comment. As the comment notes, applicable requirements could be met through additional grading and retaining walls. These issues are addressed in Comment 7-3. Please refer to that response above.

The comment also states that the impacts from this alternative relating to Geology and Soils would not be similar to the proposed project, as determined in the DEIR. As the DEIR determines the development pattern under the Mitigated Alternative would result in a similar total (surface) area of disturbance. This is based on a comparison of building footprints and driveway layouts illustrated on Figures 3-6 and 5-4 in the DEIR. Should this alternative in fact require a greater overall degree of cut to achieve slope access requirements, it does not change the conclusion in the alternatives analysis that all potential impacts related to geology and soils could be reduced to a less-than-significant level through incorporation of mitigation measures. This alternative would therefore be considered similar to the proposed project.

7-57: This comment states that there is no evidence presented in the DEIR to show that the movement of Lot 12 to the east, as shown in the Mitigated Project Alternative, would have similar impacts to the proposed project in rela-

tion to Biological Resources, Hydrology and Water Quality, Air Quality, Public Services, Aesthetics, Cultural Resources, Noise, Energy, Population & Housing, Utilities, and Project Objectives.

As stated in the analysis of biological resources for this alternative, moving the unit on Lot 12 eastward so that it's outside the WCA, it would encroach into native grassland habitat where it does not do so under the current proposal. This is likely to result in a potentially significant impact that could be mitigated to a less than significant level by on-site and/or off-site native grassland habitat enhancement programs. On the assumption that potentially significant impacts could be successfully mitigated, this alternative is considered similar to the project in relation to biological resources.

The relocation of the driveway in the Mitigated Alternative would also result in an increase of grading and visual impacts resulting from the addition of retaining walls. Aside from the potentially different impact in relation to native grassland habitat already discussed in the DEIR and the visual impact from increased grading, the County maintains that this alternative would have a similar effect as the proposed project in relation to the issues identified. The comment, although in disagreement with this conclusion, does not present any evidence to the contrary.

7-58: The comment reiterates that the determinations in Table 5-1 are based on speculative analysis and opinion. As explained in response to Comments 7-48, Table 5-1 is a summary based directly on conclusions made in the alternatives analysis. Master Response 3 addresses the adequacy of the CEQA analysis, including the level of detail presented therein.

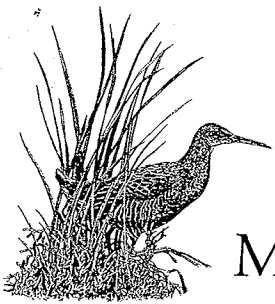
In addition, the comment states that there is no evidence presented to support the statement that three fewer units may increase the degree of compatibility with the existing neighborhood. While this would very likely be the case based on the volume and nature of public comments concerning this issue, the statement has been omitted from the DEIR. This does not change the assessment in the DEIR that this alternative would be consistent with the exist-

ing land use pattern in the Santa Venetia neighborhood or that it would be a substantial improvement in relation to consistency with County policy due to the removal of units on the lots that have the greatest potential to impact sensitive biological resources, including the 100-foot area around the delineated wetland and the creek corridor.

7-59: The comment states that a reduction in the number of housing units, as indicated under the Reduced Density Alternative is inconsistent with County housing policy. A reduction in the total number of units from 12 to 9 is not inconsistent with CWP housing needs and goals. The County Housing Element does not specify the number of units that should be built on the project site. Conversely, a reduction in the number of units for the purpose of further reducing mitigated impacts represents a balancing of objectives and is consistent with CEQA. It is not necessary for the DEIR to examine whether the reduction would have a significant impact on housing needs.

The comment concludes by stating that there is no evidence presented in the DEIR to show that County thresholds call for a balance between housing needs and being “more consistent” with environmental policy. As stated in response to 7-4, this alternative reflects consistency with Section 15021(d) of the CEQA guidelines, where competing objectives have been balanced to simultaneously consider housing needs, including affordable housing, and protection of environmental resources.

7-60: The comment reiterates concerns expressed in Comment 7-2 concerning the determination that the Reduced Density Alternative is the environmentally superior alternative. Please refer to the response to Comment 7-2 above.



# Marin Audubon Society

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January 24, 2009

Tim Haddad, Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive  
San Francisco, CA 94903

RE: Draft EIR for 650 North San Pedro Road Residential Project

Dear Mr. Haddad:

The Marin Audubon Society appreciates your consideration of our comments and questions on the Draft Environmental Impact Report for the 650 North San Pedro Road residential project. The proposal is for 14 residential units to be built on a 14.8-acre property. Currently, the property is largely in a natural state, with only a single residence and some out buildings. Our comments focus on natural resource impacts.

8-1

The project would have significant adverse environmental impacts. It would surround the existing pond and wetlands with development while at the same time claiming to improve the habitat.

8-2

### Regulatory Setting

Zoning - The zoning ordinance discussion on page 4.1-1 is vague and incomplete. It should state how many units are allowed under the existing zoning and discuss how the project complies with the ordinance.

8-3

### Countywide Plan Policy Inconsistencies

#### Policy BIO 1-3 Protect woodlands, Forest and Tree Resources

Removing 1.5 acres of native trees is not consistent with this policy. Deed restrictions limiting individual homeowners from damaging trees are also questionable measures because they require oversight and enforcement.

8-4

#### Policy BIO 1.7 Remove Invasive Exotic Plants

The determination of consistency (page 4:1-13) states that "much of the non-native exotic vegetation on-site...will be removed." It does not specify that the eucalyptus trees would be required to be removed.

8-5

#### Policy BIO 2.3 Preserve Ecotones & BIO 2.4 Protect Wildlife Nursery Areas and Ecotones

The transition between the pond/wetlands is being developed with houses. Only a narrow area along the streambank will be reserved. This is not consistent with the aforementioned policy.

8-6

#### Policy BIO 3.1 Protect Wetlands

The project is not consistent with this policy. The project will result in a smaller pond, extensive development within the required 100 foot buffer, loss of wetland with an inadequate movement corridor for wildlife. The proposed mitigation measures are not adequate to improve the ultimate function and value of the wetland.

8-7

The discussion notes that the "pond and the wetland are artificial or modified features that have been

altered by past human activities.” It can be said that all wetlands in Marin and the Bay area have been “altered by past human activities.” This has no relevance to complying with this policy. Nor does the view of Environmental Collaborative. County policy should be interpreted by the county, not past county consultants.

The discussion goes on to state that the pond is “relatively shallow and dries out by mid-summer, ...does not provide suitable habitat for species that require perennial aquatic habitats” (what species these are is not noted) and that the pond is “relatively degraded and characterized by a predominance of non-native weedy vegetation.”

8-8

Some of our members who have watched this pond have not observed it drying out until this year. What is the history of the water retention of the pond? Has there been any pumping of water from the pond this year?

Shallow ponded areas provide habitat for certain species, shorebirds, wading birds and dabbling ducks. This habitat is different than deep water habitat, which provides for diving birds.

Whether or not these aquatic habitats are degraded (the DEIR fails to justify that conclusion), if the areas are wetland and pond, they should be protected, even if they are considered degraded. Removing non-native plants is relatively easy and does not require, nor should it be used to justify, approval of a development.

There is no information provided that demonstrates the proposed mitigation will actually mitigate adverse impacts to the pond and wetland. Impact will not simply result from adding 10-cubic feet of fill. The habitat characteristics of the pond and the biological setting will be entirely changed, and indirect impacts will increase, resulting in significantly increased impacts that are not being mitigated.

8-9

#### BIOLOGICAL IMPACTS

The DEIR consultants take familiar stands in assessing the site’s biological resources, justifying habitat destruction on evaluations of low value for the pond, wetlands, and trees. The evaluations are based on vague conditions and criteria.

8-10

Wetlands and aquatic resources discussion page 43-17, attempts to justify that the wetland is degraded by explaining that there probably used to be a freshwater marsh, that there is now a road, an historic landside deposit and that the drainage now spreads out. None of these factors taken individually or cumulatively, have degraded the pond/wetland resources as much as the project will.

8-11

Mitigating for loss of the on-site great blue heron rookery is suggested to take place at the West Marin Island colony. There should be a description of what is proposed to improve the habitat at West Marin Island. Just because there is a rookery in that location does not mean that it needs any improvement. Our members have been observing this rookery for many years. The only adverse impacts are from ravens. The herons do very well nesting on the ground, trees and bushes on West Marin Island. The island’s habitat does not need restoration. In fact, there is a risk that even activities intended to improve the habitat could actually destroy or degrade nesting habitat. Instead, we suggest that improving the habitat on East Marin Island be considered.

8-12

The tree analysis (page 4.3-25) states that the “high density of trees on-site has resulted in over-crowding, excessive shade and decreased vigor... Numerous trees are in decline due to overcrowding, decay and pest disease problems...” This is an argument heard before by consultants for other projects. Each tree is

8-13

evaluated as to health and vigor. It is not recognized that woodlands contain trees that may be close together, and that are in various states of vigor and health. This all contributes to the complexity and diversity of the woodland habitat. Nature does not produce woodlands with trees of uniform size, health and vigor. Older trees that are in decline, even dead trees, provide essential for a wide variety of wildlife and smaller organisms. An evaluation should be prepared by a wildlife biologist expert in woodland habitats and species, as well as a plant ecologist knowledgeable about woodlands.

**Mitigation Measures**

4.3-B.1 We strongly oppose use of West Marin Island as mitigation. As mentioned above, there is absolutely no indication that any West Marin Island nesting habitat needs any enhancement, or that any actions at West Marin Island would “improve” the habitat. If anything, activities such as removing non-naive trees that allow for predators to nest on East Marin Island to make it more hospitable for nesting herons, should be considered.

**8-14**

4.3-B-4 This mitigation to plant riparian trees is fine, but to claim that they would be a possible future heron rookery site is highly speculative. The riparian trees that would be suitable as a heron rookery should be stated. We know of no heron rookery in riparian trees.

**8-15**

4.3-C.1 20-foot setback not sufficient for stream setback.

**8-16**

4.3-D-1 The DEIR identifies one acre of native grassland, yet only recommends protection of 0.6 acre of native grassland to the east of lot 12. The entire acre of these “high value” plants should be protected.

**8-17**

4.3-E-2 Maintaining a 3:1 ratio of protected trees would not compensate for the loss of 1.5 acres of native trees.

**8-18**

Wetland Impacts - Insufficient information is provided to evaluate impacts to the pond and to claim benefits of the mitigation. What area of the pond/wetland will be lost due to construction of the project? The DEIR only states that 10 cubic feet of fill will be placed. It does not state the surface area that will be lost. As it claims, 375 feet more wetland will be provided as mitigation, would half of this figure be lost?

**8-19**

What is the current water capacity of the pond now? How much larger would the pond be? What is the history of the water being retained in the pond? What is the ecological and mitigation benefit of having a pond with increased water storage capacity? A deeper smaller pond does not compensate for loss of a larger pond with shallow edges. We understand the flood control and perceived aesthetics benefits of having a deeper pond and that it would benefit some diving species, but a pond with shallow edges would provide diversity for shorebird and dabbling duck habitat.

To enable reviewers to understand the mitigation, it would be helpful yo provide a plan with the existing and proposed mitigation wetlands.

Mitigations 4.3-G Long term impacts on nesting bats and birds, particularly raptors, due to permanent loss of habitat trees should be addressed.

**8-20**

4.3-H Two-hundred large trees are proposed for removal - including mature oaks, bay and madrones. Smaller trees are needed to make a healthy forest too, so our recommendation is that all native trees be protected. Rather than mitigating for the loss of 200 native trees, with 53 trees large enough to be included in Marin’s ordinance, avoidance of all native oaks losses would be the preferred option. It is unclear whether some of these large trees are non-natives. It is also unclear where the replacement trees would be planted, and therefore whether they would actually compensate for the trees lost. For example,

**8-21**



if they are planted as landscape trees they would not compensate for the loss of woodland habitat.

While the DEIR recommends that native trees be “included” in mitigation tree planting, it sounds as though the palate could also include non-natives. The planting of non-native trees as mitigation should not be permitted. Finally, a three-year monitoring for replacement of native trees is insufficient.

8-22

In addition to the impacts and mitigation measures identified in the DEIR, the project would cause significant cumulative impacts on wetlands, tree and other resources that are not identified or discussed. The EIR should address the following potential impacts, and recommend measures to mitigate these impacts.

8-23

- The project will almost completely surround the pond and wetland with buildings and other developed uses. This impact should be mitigated by removing development from at least one side of the pond.

8-24

- Significant indirect impacts also will result from locating large buildings near and in natural resource areas including the increased presence of many more people along with their domestic pets. Measures should be identified to protect the pond resources from loose dogs and cats and to limit impacts of people on the pond and wetland areas.

8-25

- Broom is mentioned as a non-native species, but eucalypts are not recognized as such. Eucalyptus are a non-native species that pose a threat to wildlife and people. All of the eucalyptus trees should be removed. The areas where eucalyptus now stand should be considered as the locations for houses and/or rehabilitated and replanted with native trees.

8-26

- The consultants have designed a mitigation pond arrangement that will require long-term management and maintenance. A Management Plan should be required that will clearly identify measures to maintain the pond and who will be responsible and who will enforce the conditions.

8-27

- At least 1.5 acres of native trees would be removed. It does not appear that the native woodland habitat would be mitigated. While preserving remaining native trees is helpful, it does not mitigate for the loss of native trees, nor does the planting of trees that if they are not planted so that they expand the existing woodland.

8-28

#### ALTERNATIVES

The DEIR states that CEQA Guidelines “require the description and comparative analysis of a range of alternatives to the proposed project that could feasibly attain the objectives of the project, while avoiding potential environmental impacts.” Various alternatives are proposed but the environmental impacts are not avoided to the maximum extent by any of the alternatives. We request that an alternative be developed that removes the project from environmentally sensitive areas of the site by:

8-29

Limiting the number of units to that allowable under existing zoning.

Removing development from the one-acre native grassland, from the 1.5 acre of mixed-oak forest, from the current wetland, from the pond and the stream. Units should be concentrated units in those areas that are not otherwise constrained.

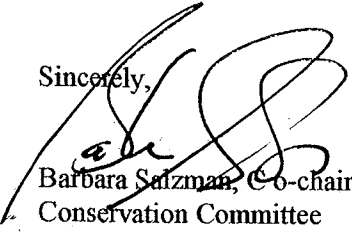
Some thoughts on how the project could better avoid natural resources impacts, provided this number of units is allowed under the current zoning:

8-30


- Eliminating unit 12 would protect the native grassland would avoid impacts to native grassland, 8-30
- Units one through five appear to be largely in eucalyptus. With some adjustment those in oak woodlands could be relocated to avoid the oaks by moving them to areas currently occupied with eucalyptus 8-31
- Units eight through eleven could be reduced in size and pulled closer to the road out of oak woodland 8-32

Thank you for considering our comments.

Sincerely,



Barbara Saitzman, Co-chair  
Conservation Committee



Philip Peterson, Co-chair  
Conservation Committee

## **LETTER 8 – Marin Audubon Society**

8-1: The comment provides background information on the current condition of the site and an introduction as to the nature of subsequent comments. No change to the DEIR is required.

8-2: The comment questions how the project could improve the habitat surrounding the pond and the wetland when new development would ‘surround’ these resources. Potential impacts to the wetland, including the pond, are fully documented in Section 4.3. Mitigation measures specifically related to the pond and wetlands, and how these measures would ultimately improve these resources, are described in Master Response 11.

8-3: The comment questions how many units on the site are permitted under existing zoning and how the project complies with the ordinance. The amount of permitted development is discussed in Master Response 6. The current zoning designation for the site is R-E:B-3 (Residential Estates District, 20,000-square-foot minimum lot size). The project, as proposed, is not consistent with the zoning ordinance. As stated in the Chapter 3 of the DEIR (Project Description), the project application includes a rezoning of five existing single-family estate parcels from standard district zoning R-E:B-3 (Residential Estates District 20,000-square-foot minimum lot size) to planned district RSP (Residential Single-Family Planned 0.81 dwelling units per acre).

8-4: The comment states that removal of 1.5 acres of native trees is not consistent with County policy. It is important to note that Policy BIO 1-3 does not uniformly restrict the removal of native trees. As stated in the consistency analysis for this policy in Chapter 4.1 of the DEIR, the project would include specific mitigation measures related to tree-protection during construction and preservation in the long-term, following construction. The proposed mitigation for tree removal, which includes planting native replacement trees, is consistent with County policy. Mitigation measures 4.3-E.1 and 4.3-E.2 were specifically developed to meet the standards in the County Develop-

ment Code and the requirements in the Native Tree Preservation and Protection Ordinance.

8-5: The comment incorrectly states that removal of eucalyptus trees was not mentioned in the consistency determination for Policy BIO 1.7. The determination states: “as indicated by the project grading plan and the arborist report, much of the non-native vegetation on-site, which includes invasive and exotic plant species such as eucalyptus trees and scotch broom, will be removed as a result of the project site preparation.”

8-6: The comment states that the project is not consistent with County policies 2.3 and 2.4 because the transition between the pond/wetlands is being developed with houses and only a narrow area along the creek is being preserved.

A consistency analysis was completed for both of these policies and is presented in Chapter 4.1 of the DEIR. While it is true that portions of the development footprint would be inside the 100-foot Wetland Conservation Area (WCA), there would not be any homes or related infrastructure constructed in the area(s) where the pond transitions to the bordering wetland area. This transition area is within the delineated wetland and, as documented in Section 4.3 of the DEIR, the weir outlet structure would be the only project fill within the delineated wetland.

In terms of creek preservation, the 20-foot setback that would be in place during and after construction are consistent with County policy BIO-3.1.

Policy consistency as discussed in the EIR represents consultant and County staff considerations. However, the EIR does not represent the final determination of policy consistency. The County decision-makers will make the formal policy consistency determination, in considering the merits of the project for approval following certification of the FEIR.

8-7: The comment provides various reasons to support its opinion that the project is not consistent with Policy BIO-3.1. These reasons are separately addressed, as follows.

- ◆ Pond size: Contrary to what is stated in the comment, size of the on-site pond would be increased through implementation of Mitigation Measure 4.4-E.1. (See page 4.4-31 of Hydrology and Water Quality chapter.)
- ◆ There would be development within the 100-foot WCA, but this is not inconsistent with this policy. County Goal BIO 3-1 allows four exceptions to the standard distance. Exception #4 applies where wetlands are avoided and a site assessment demonstrates that incursion within the minimum WCA setback distance would not result in any significant adverse direct or indirect impacts. This exception applies to this project since planned development avoids the delineated wetland itself, and a site-specific analysis concluded that no significant adverse impact to the wetland would result.
- ◆ Loss of wetland: As discussed in Master Response 11, through implementation of Mitigation Measures 4.3-F.1 and 4.3-F.2, there would be no net loss of wetlands. The pond and ephemeral creek would continue to provide an aquatic corridor.
- ◆ The comment states that the proposed mitigation measures are not adequate to improve the ultimate function and value of the wetland, but no information is present to support this conclusion.
- ◆ The comment questions why the condition of the wetland is relevant in terms of complying with County policy. The information is relevant because the condition of a wetland relates to its sensitivity to impact.

As stated in the consistency analysis for BIO-3, the 100-foot standard buffer should be sensitive to context in that the function and value of the wetland itself and the surrounding upland are intended to serve as the guiding factors in determining an appropriate setback. The intent of County policy is that a required site assessment, site-specific value and sensitivity of the jurisdictional wetlands, and other attributes dictate the

importance and size of the setback zone. Mitigation for encroachment into the 100-foot area is intended to be based on a range of several factors, including the magnitude of the incursion, proximity to the actual jurisdictional wetlands, and the value of the upland area that is actually encroached into.

- ◆ As noted in response 8-6 above, the comment is correct in that the County decision-makers ultimately determine consistency with County-wide Plan policies. Additionally, input from Environmental Collaborative is pertinent in this case as Jim Martin (Environmental Collaborative) is a certified biologist who was retained to review the project's biological analysis along with GANDA biologists and is the author of the WCA policy framework.

8-8: The comment asks several questions related to water-retention in the pond. Biologists have visited the site at various times since 2005 and have observed that the pond has always dried out before mid-summer. There has not been any pumping of water from the pond this year. The degraded condition of the wetland is based on the following information presented in Chapter 4.3, including:

The pond and surrounding wetland are artificial or modified features that have been created or altered by past human activities. Prior to construction of North San Pedro Road, the creek probably drained directly into a freshwater marsh located northwest of the project site. Construction of the road grade obstructed the natural drainage flow from the creek and contributed to the formation of the pond. In addition, the area around and upslope of the pond was altered by a landslide deposit of unknown age<sup>6</sup> and the ground in this area has been substantially disturbed. Drainage from the creek now spreads out in sheet flow across the disturbed

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<sup>6</sup> Earth Mechanics, 1998. *Site Stability Evaluation, Planned Residential Development, 650 North San Pedro Road, San Rafael, California*. Letter-report from H. Allen Gruen, Principal Engineer, to Mr. Vincent Saunders, Saunders and Associates, August 24.

ground between the toe of the slope and the pond. This combination of factors has resulted in a degraded wetland area characterized by a predominance of non-native, weedy vegetation.

The comment suggests that despite the degraded conditions of the wetlands, the project will not protect them, but this is incorrect. Please refer to Master Response 11 for a discussion of wetland mitigation.

8-9: The comment states that there is no information presented in the DEIR that demonstrates that the proposed wetland mitigation will actually mitigate adverse impacts. Mitigation Measure 4.3-F.2 in the DEIR identifies the information and provisions that will be required in a Wetland Mitigation and Enhancement Plan (WMEP). Mitigation Measure 4.3-F. 2 in the FEIR has been amended to specify performance-based criteria that should be adhered to in the development of the WMEP. Please refer to Chapter 4.3 for revisions made to Mitigation Measure 4.3-F.2. Monitoring shall be conducted by consulting wetland specialist for five years or until the identified success criteria are met.

As specified in Mitigation Measure 4.3-F. 2, the WMEP will be developed by a wetland specialist to be approved by regulatory agencies and County CDA prior to approval of the final map.

8-10: The comment suggests that the DEIR consultant aims to “justify” habitat destruction through artificially reducing the function and value of habitat on site. The comment states that evaluations are based on vague conditions and criteria. A specific list of factors for the determination of habitat function and value is provided in the FEIR in Section 4.3. No information is presented by the commentor to support their assertions.

The methods followed by the two EIR biologist teams to document the existence and quality of biological resources on site are consistent with standard industry practice. Detailed information on study methodology is contained in Appendix A of the 2005 Environmental Constraints Report. This report is

included as Appendix F of this EIR. The two biology firms employed for the EIR utilized professional biologists who have substantial expertise and experience in conducting field biology evaluations and studies. These firms also peer reviewed submittals by the applicant's preferred biologist submittals and independently conducted field investigations and literature review to reach their own conclusions.

8-11: This comment also states that the analysis 'attempts to justify' the degraded condition of the wetland through a list of factors presented in Section 4.3 of the DEIR. Again, the EIR professional biologist experts accurately and objectively made independent assessments as to the condition of the wetland on-site utilizing accepted professional standards. It is the opinion of the project biologist that through the implementation of mitigation measures 4.3-F. 2, the function and value of the wetland would ultimately be improved. The comment states that the project would degrade the wetland more than any of the factors identified by the project biologist, however there is no evidence provided in support of this statement.

8-12: The comment expresses concerns about the adequacy of West Marin Island for off-site mitigation. This issue is discussed in Master Response 10.

8-13: This comment calls for "an evaluation by a wildlife biologist expert in woodland habitats and species, as well as a plant ecologist knowledgeable about woodlands." The related surveys on site have been completed by certified biologists and a certified arborist. In accordance with CEQA Guidelines Section 15142, "Interdisciplinary Approach" analysis in an EIR "shall be conducted by competent individuals, but no single discipline shall be designated or required to undertake this evaluation." The County maintains that the credentials of these professionals and the methods they employed were adequate to allow for a valid documentation of woodland habitat and species and biological conditions on the project site. The commentor does not present evidence to support the need for additional biological evaluation of the project site. No change to the DEIR is required.



8-14: This comment states additional concerns pertaining to West Marin Island as an off-site mitigation for loss of the heron nest on-site. This issue is discussed in Master Response 10.

8-15: The comment regards the claim that riparian trees planted as part of Mitigation Measure 4.3-B.4 would be a possible location for a future heron rookery site is highly speculative. The comment is correct in that there is no certainty that the riparian trees would provide a location for a future rookery site. Mitigation Measure 4.3-B-4 in the DEIR has been revised in order to address the stated concern about speculation.

8-16: The comment states that a 20-foot setback is inadequate for the on-site creek. The 20-foot creek setback that would be in place during and after construction is consistent with County policy BIO-4.1. Policy BIO-4.1 is explained in Section 4.1 of the DEIR.

8-17: The comment recommends that the entire one (1) acre of grassland habitat on the site be protected. Figure 3-4 in the DEIR shows that approximately 0.77 of the 1-acre grassland is proposed for open space preserve. This suggests that approximately .20 acres of the grassland, outside the open space preserve, could later be disturbed. This potentially significant impact would be mitigated by preserving at least 0.6 acres of grassland in perpetuity (three times the amount of impact). If 0.77 acres of grassland remains in open space and is preserved in perpetuity then the project would exceed the mitigation requirement of preserving at least 0.6 acres. No change to the DEIR is required.

8-18: The comment states that maintaining a 3:1 ratio of protected trees would not compensate for the loss of 1.5 acres of native trees. Tree replacement mitigation is described in Master Response 9. The 3:1 protection ratio is consistent with County policy.

Regulations for Oak Woodlands Protection are discussed in the Section A (Regulatory Framework) of Chapter 4.3. The State Public Resources Code

(Section 21083.4) states that if a County determines that a project in its jurisdiction may result in a conversion of oak woodland that would be considered significant under CEQA, then mitigation for this impact is required. The mitigation can include: 1) conservation of oaks on the site; 2) replanting oaks (can be used for a maximum of 50 percent of the required mitigation); 3) contribution to the Oak Woodlands Conservation Fund; and/or 4) other mitigations developed by the County.

Because the project would be required to preserve 4.5 acres of oak forest within the open space, and this open space would be protected through deed restrictions and a County easement, it is consistent with Option 1) above and therefore provides adequate mitigation.

8-19: The comment states that information on impacts to the pond and wetland is insufficient. The weir outlet structure would be the only project fill within the delineated wetland. The 18-inch pipe that functions as the weir outlet structure would represent approximately 10 cubic feet of wetland fill. Approximately one cubic foot of water surface area in the pond would be lost due to installation of the outlet.

In response to questions asked in the second part of the comment, the existing pond has an existing earthen berm along the south edge of San Pedro Road with an estimated elevation of about 34.0 feet and a maximum existing capacity of 0.57 acre-feet. Please refer to Figure 4.4-3 in the DEIR. The pond would be enlarged to meet the runoff volume requirement of 0.62 acre-feet and the berm would be modified and raised. The elevation of the top of the modified berm would be 35.2 feet and would allow for 1-foot of free board above the normal pool elevation. The modified berm would increase the normal pool elevation of water to 34.2 feet with a corresponding storage volume of 0.62 acre-feet (see the cross section drawing on Figure 4.4-4 of the DEIR).

In relation to water retention in the pond, Response 8-8 above indicated that biologists have visited the site at various times since 2005 and have observed

that the pond has always dried out before mid-summer. Through increased water storage capacity, coupled with implementation of the WMEP, the pond would provide wildlife habitat, a visual amenity, and improved storm water management in comparison to current conditions. In response to the final comment, the edges of the pond would not be designed so as to preclude its habitat function for ducks. Given that this is not shoreline habitat, it is not expected that shoreline birds would forage at the pond or use it as a nursery site.

8-20: The comment says that long term impacts on nesting bats and birds should be addressed in Section 4.3. The project biologist concluded that the project would not have a long-term impact on nesting bats and birds. This conclusion is based, in part, on the Mitigation Measure 4.3-G.1 in the DEIR, which requires pre-construction nest surveys, if vegetation or buildings that provide potential nesting sites for birds or bats must be removed between January 15 and August 31. This measure also includes provisions for potential disturbance of nests. In addition, 9.59 of the 11.07 acres of mixed oak forest on the property would be avoided, thereby preserving habitat for nesting bats and birds.

8-21: The comment provides several recommendations in relation to tree replacement mitigation. Removal and replacement of trees as discussed in Master Response 9. Mitigation provided through replacement of trees and the preservation of existing trees is consistent with County policy. No additional mitigation is warranted.

8-22: This comment states that non-native trees should not be included within the planting plan. As identified in Mitigation Measure 4.3-H.1, the Tree Mitigation Plan includes the planting of at least 159 trees, consistent with a replacement ratio of 3:1. The native plant list for use within the project site was prepared by certified arborists and biologists and includes California buckeye, coast live oak, Oregon (white) oak, black oak, and valley oak.

This comment also states that three year monitoring for natives trees that will be planted as part of the project is insufficient. This comment does not present an alternative to three-year monitoring, and no factual support for this opinion is stated. Based on the professional experience of certified arborists, MacNair & Associates, three-year monitoring of native trees would be sufficient within a residential project where residents are present and the HOA would be maintaining landscaping features. No additional response is required.

8-23: This comment provides an introduction to subsequent comments that list cumulative impacts that the DEIR should address. Cumulative impacts to biological resources are discussed within Chapter 4.3 of the DEIR. No change to the DEIR is required.

8-24: The comment states potential impacts to the pond and wetland should be mitigated through removing development from either the east or west side of the pond. Potentially significant impacts to the pond and wetland on-site have been examined in Section 4.3 of the DEIR and adequately mitigated through Mitigation Measures 4.3-F. 1 and 4.3-F.2. Please refer to Master Response 11 (Wetland/Pond/Creek) for additional discussion of this issue.

8-25: The comment expresses concern that increased human activity in the vicinity of the pond and wetland, including the increased presence of domestic pets, could have adverse impacts on these resources. Mitigation Measure 4.3-F.2 requires the development and implementation of a Wetland Mitigation and Enhancement Plan (WMEP). The WMEP will be developed by a qualified wetlands specialist and will include performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. As the measure requires, monitoring shall be conducted by the consulting wetland specialist for up to five years or until the identified success criteria are met. The performance-based success criteria are identified in the amended Mitigation Measure 4.3-F.2 in Chapter 4.3 of the FEIR. If deemed necessary by said specialist, the appropriate access restric-

tions to the wetland and pond will be put in place to limit human and pet disturbance.

8-26: The comment clarifies that eucalyptus trees are non-native; that all should be removed from the site; and that homes should be placed in locations where this removal would occur. As specified in Section 4.3, 1.32 acres of the 1.40 acres of eucalyptus stands on the project site would be removed due to development. The remaining 0.8 acres would be preserved in areas outside the open space on-site. While the commentor is correct that these trees are non-native, they still offer positive aesthetic and biological resource attributes in the form of screening and potential nesting sites.

8-27: The comment states that a Management Plan should be required in relation to Mitigation Measure 4.3-F. 2, which identifies measures to maintain the pond, who will be responsible for maintenance, and who will enforce the maintenance. The suggestions raised in this comment are addressed in Master Response 11 (Wetland/Pond/Creek). As the Master Response explains, a Wetland Monitoring and Enhancement Plan (WMEP) will be required under Measure 4.3-F.2 and would account for the issues raised in this comment. The WMEP would include, at a minimum, performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures for success.

8-28: This comment reiterates concerns previously expressed in Comment 8-18 of this letter. Please refer to that response above.

8-29 - 8-32: The comment states that the project alternatives do not avoid environmental impacts to the maximum extent. The comment includes a citation from Section 15126.6(a) of the CEQA Guidelines, however the quotation provided in the comment is not entirely consistent with the language from the Guidelines. Section 15126.6(a) states:

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the ba-

sic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

As explained in Master Response 3, the reasonable range of alternatives analyzed in Section 5.0 of the DEIR is consistent with CEQA in that they would either avoid or lessen any of the significant impacts identified under the proposed project. The guidelines do not require that the alternatives provide a means of fully avoiding or eliminating all potentially significant impacts.

The commentor requests that the DEIR include an alternative that would limit the number of units to that allowable under existing zoning. The DEIR has done this through the analysis of the No Project Alternative. As Chapter 5.0 states, it is reasonably foreseeable that five single-family homes could be built on the property under existing zoning.

The commentor also provides suggestions on how resources on-site, including the oak woodland and grassland habitat could be afforded greater protection through a spatial redistribution of the units on the site. Based on the environmental constraints analysis and the EIR impact evaluation, the issue of biological resource protection was examined closely during the development of the alternatives. The configuration of the Alternate Use Alternative, the Mitigated Alternative, and the Reduced Density Alternative all account for a careful consideration of how many of the project objectives could be achieved concurrently with preservation of biological resources, including oak woodland and grassland. As such, the current scope of the existing alternatives analysis is adequate.



# Marin Conservation League

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**LETTER #9**

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January 23, 2009

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Re: Draft Environmental Impact Report (DEIR) for 650 N. San Pedro Rd. Master Plan, Development Plan, Subdivision and Rezoning

Dear Mr. Haddad,

We take this opportunity to provide the Community Development Agency with our comments with regard to the adequacy of the DEIR for the Master Plan development being proposed at 650 N. San Pedro Road. While the DEIR is well-presented, we believe that it can and should be expanded to cover the following points in greater detail.

1. The No Project Alternative discussion on pages 5-4 through 5-11 is summary in nature and provides no detailed information regarding the impacts of a project based upon the existing zoning of the site. Conclusions are made with respect to the No Project Alternative without any specific baseline data or presentation regarding its likely environmental impacts and appropriate mitigations. As a result there is no basis for comparing the No Project Alternative with the proposed project or other alternative projects described in the DEIR. This analysis is necessary to determine fairly the most environmentally beneficial use of the site. 9-1
2. Grading and Tree Removal: Substantial grading is proposed for much of the developed portion of the property along with the removal of 200 trees. Table 3.3 – Grading Calculations on page 3-18 show that there will be substantial cut and fill operations on site where development is proposed. It is not clear, however, from the DEIR whether this level of site preparation is necessary for all the project alternatives. Will any retaining walls be needed? If so, where will they be located? It is stated that 5,735 cubic yards of earth will be exported from the site. The loss of mature trees and loss of soils will markedly affect the aesthetics of the site as well as habitat values. The DEIR does not indicate where the grading will occur and precisely which trees are to be removed and where new plantings will be placed. Will existing top soils on site be stockpiled and re-used? Are all the eucalyptus trees to be removed? What trees and plants around the pond are to be preserved, if any? Will there be any buffering trees between the project area and N. San Pedro Rd.? 9-2

The DEIR calls for a 3:1 tree replacement for only 53 protected and non-exempt trees, and calls for re-planting of 159 native trees in 15 gallon or greater 9-3



containers, but does not disclose where these trees will be placed for the proposed project or project alternatives. This should be done in such a manner as to maximize their habitat value as well as promote project aesthetics. The DEIR should explain this mitigation in greater detail.

3. The Heron Rookery: We do not dispute the findings of the arborist with respect to the health of the eucalyptus trees historically used by Great Blue Herons as a nesting site, and the proposed removal of those and other diseased and dying trees on the site. We do, question, however, the proposed offsite mitigation at West Marin Island, an existing publicly owned and managed preserve. We suggest that a more proper mitigation site exists within the Las Gallinas valley watershed at Smith Ranch Pond and should be considered in the DEIR. The DEIR should also provide greater detail with respect to the specific offsite mitigation program and time period, the restoration work to be performed and how it will be managed and monitored. **9-6**
  
4. Biological Resources: Chapter 4.3 of the DEIR, recognizes the existence of significant stands of French Broom on the project site, but provides no mitigation for their removal and management. In addition, the grading and tree removal plans of the project will further encourage the spread of French Broom on the property. While the DEIR points out that it is a fire hazard and is poor habitat, it does not offer any mitigation program for its control and management. What measures will be taken to remove it from the site and what mechanism will be put into place for its long term management. **9-7**

In this connection, we observe that the proposed project and project alternatives described in the DEIR all rely upon the dedication of separate and individual private open spaces in the subdivision lot plans to preserve and protect the biologic resources of the site. We suggest that a preferred mitigation to this end is for the planned open space area to be protected by means of joint ownership. All property owners would be jointly obligated to manage it through a Homeowners Association or some other deed restricted assessment mechanism. We believe that the form of the subdivision itself with respect to the ownership of the open space provides a project mitigation opportunity that should be offered in the DEIR. **9-8**

5. Hydrology: This project site is basically a bowl shaped drainage basin that has contributed to neighborhood flooding problems in the past. The DEIR proposes to manage this risk through a reconfiguration of the on-site pond and using it as a detention basin. The reconfigured pond is being designed to meet a 100 year peak drainage flow storm condition. This is reassuring, and is a good plan as far as it goes. The DEIR should elaborate on how the project can be designed to maximize water absorption on site in order to manage runoff. For example, an additional mitigation of requiring permeable concrete and asphalt surfaces for driveways and roads would be appropriate. The use of contoured swales to control runoff and promote water absorption should be considered as well. The DEIR does not analyze the impact of the removal of the hydrophilic eucalyptus trees on the hydrology of the site. It is well known that eucalyptus take up large quantities of water in their growth process; their removal is likely to affect the amount of drainage to the ephemeral creek and pond and in the lower portions of the site. The runoff characteristics of the site without eucalyptus trees deserve analysis in the DEIR. **9-9**
  
6. Mitigation Plans: The DEIR includes provisions for a Tree Protection Plan, an Offsite Mitigation Plan for removal of the Heron Rookery, and a Wetland Mitigation and Enhancement Plan which should be should be developed in detail before any Building Permits are issued. It would be helpful if the DEIR would elaborate on the timing and program characteristics of these plans to ensure that they accomplish their intended results through proper design, management, and monitoring activities. **9-10**



7. Emissions: Chapter 4.5 discusses the Emission characteristics of this proposed Development and acknowledges that the project and its alternatives would generate greenhouse gasses that would contribute to global warming. We acknowledge that greenhouse gas emission protocols for CEQA analysis are still being developed but are discouraged that this DEIR makes no attempt to quantify them in this case or offer any mitigation responses whatsoever. Surely, the DEIR consultant can provide the County with some reasonable estimates of the greenhouse gas generation of this project and some suggested methods for reducing those impacts in the project design and its implementation.

9-11

8. Table 4-1 (page 4-4): This table incorrectly lists the pending San Rafael Airport project as a Mixed Use project that is Under Construction. The project is for a recreational (soccer) complex which is still being reviewed for approval by the City of San Rafael.

9-12

The table should consider including the McPhail School site in Santa Venetia which is in the process of being surplus and dedicated for potential development. It will likely have some impact on the traffic patterns for N. San Pedro Rd. that should be included in the traffic analysis of the DEIR.

9-13

We appreciate this opportunity to comment of the DEIR for 650 San Pedro Rd., and look forward to an FEIR that responds to our concerns.

Sincerely yours,



Nona B. Dennis  
President

## **LETTER 9 – Marin Conservation League**

9-1: This is an introductory comment that summarizes the project, and requires no change to the DEIR.

9-2: The comment states that the DEIR does not provide an adequate basis for comparing the No Project Alternative to the proposed project due to an absence of specific baseline data or presentation regarding its likely environmental impacts, and appropriate mitigations. Please refer to Master Response 3 for a discussion on the adequacy of the alternatives analysis in the DEIR. This response provides information on what constitutes an adequate analysis in the context of CEQA. In response to the specific concerns raised, the baseline condition for the No Project Alternative would be the same as the baseline for the proposed project, which equates to the project site in its existing condition. Contrary to what is suggested in the comment, the analysis of the No Project Alternative examines each of the environmental topics that have been covered for the proposed project in Sections 4.1 – 4.14 of the DEIR.

9-3: The comment questions whether the same degree of grading would be required for all project alternatives. Quantitative estimates of earthen cut were not developed for the project alternatives. As discussed in Master Response 3, it is not required under CEQA that project alternatives be analyzed at the same level of detail as the proposed project, only that they provide a sufficient basis for decision makers and the public to assess how the project's potentially significant impacts could be substantially reduced or altogether eliminated while meeting most project objectives.

A general comparison of the relative impacts of each alternative, including tree removal and grading is required to inform the comparison of project impacts. The following is a qualitative discussion of whether alternatives would require less site preparation, more site preparation, or similar site preparation as the proposed project:

*No Project Alternative* – As shown on Figure 5-1 of the DEIR, homes on Lots 3 and 4 may be constructed at higher (more southern) portions of the site than the most elevated homes under the proposed project. It is expected that construction of the driveways for these homes and associated building pads would involve a higher degree of site preparation (grading) due to the gradient at which these homes could be built.

*Alternate Use Alternative* – As stated in the analysis of this alternative and the potential effects on Hydrology and Water Quality, the area of disturbance from grading would be reduced due to the clustering of homes and a decrease in driveway surface area.

*Reduced Density Alternative* – Due to the removal of three units under this alternative and an otherwise parallel site design, this alternative would substantially reduce the area of disturbance from grading.

*Mitigated Alternative* – As stated in the analysis of this alternative and the potential effects on Geology and Soils, the area of disturbance from grading would be similar to the proposed project, despite the relocation of several lots and the repositioning of the primary driveway to a point across from Point Gallinas Road.

This comment also asks whether retaining walls would be required for the proposed project and where they would be located on-site. Retaining walls would be located between residences on Lots 1 to 6, on Lot 7 between the residence and Bay Creek Drive and along the driveway, and on Lot 10 along the driveway to the residence. All walls would be designed in accordance with Marin County Single Family Hillside Design Guidelines and no wall would exceed four feet in height. Where retaining walls would be located, the walls would be stepped and shrubs and vines would be planted against the face of the walls for screening purposes. The application of the design guidelines would substantially reduce, if not eliminate, the visibility of the retaining walls from public vantage points along North San Pedro Road and from private residences within Santa Venetia.

9-4: The comment states that the DEIR does not indicate where the grading would occur on-site, what trees would be removed, and where new plantings would take place. The project grading plan has been included as Appendix D in this FEIR. Tree removal and replacement, including references to the Tree Removal Plan and Tree Mitigation Plan, are discussed in Master Response 9.

The comment asks whether all top soil on-site will be stockpiled and reused. As indicated in the Project Description of the DEIR, approximately 2,900 cubic yards of cut material would be used on-site for fill purposes. This material would be stockpiled on site and the DEIR text has been revised to reflect this. Regarding the removal of eucalyptus trees, not all would be removed during site preparation and grading. The Tree Removal Plan has been included in Appendix E of this FEIR. As shown in this plan, 10 trees either bordering the pond or the delineated wetland would be preserved. As shown on the project grading plan, the limits of grading would not encroach into the pond or the delineated wetland area. Regarding tree buffering along North San Pedro Road, several new trees would be planted along the northern edge of the project site immediately adjacent to North San Pedro Road. This is illustrated in the Tree Mitigation Plan, which is also in Appendix E.

9-5: The comment calls for details on where replacement trees will be placed on site for the project and the project alternatives. The comment states that planting should take place to maximize habitat value and promote project aesthetics. The Tree Mitigation Plan, which is discussed in Master Response 9, illustrates approximately where replacement trees would be planted on-site. Because the project alternatives are not the actual proposal under CEQA review, it is not necessary that a comparable tree mitigation plan be prepared for them. Furthermore, it is not required that the DEIR describe where replacement trees may be planted due to removal occurring under each of the alternatives.

9-6: The comment questions the adequacy of off-site mitigation at West Marin Island and recommends that Smith Ranch Pond be considered as an alternative. For a discussion of this issue, please refer to Master Response 10. The

comment also states that the DEIR should provide increased detail on the off-site mitigation program. The final details of this program were not presented in the DEIR because they have not yet been confirmed. As explained in Mitigation Measure 4.3-B, final details would be developed through the coordination between the applicant and CDFG staff. However, this mitigation measure has been revised to identify the minimum site specifications and performance standards that the program would be subject to. Please refer to Master Response 10 for additional discussion of off-site mitigation.

The mitigation program will be undertaken in a manner that will avoid or reduce impacts to a less than significant level.

9-7: The comment requests that the DEIR include mitigation for removal and management of French Broom within the project site. Although located within the project site, the presence of French Broom is not identified as a significant impact within Chapter 4.3 (Biological Resources) of the DEIR. The existence of French Broom on the site would not be caused by the project. Rather, its existence is part of the existing condition. CEQA requires that there be a demonstrated nexus and proportionality between a project's identified impacts and the mitigation required to address the impact. In accordance with CEQA Guidelines 15126.4(3), the DEIR does not include mitigation for the effects of French Broom because no potentially significant impact of the project was identified. No change to the DEIR is required.

As noted in the comment, French Broom is a fire hazard. Following peer review of the Fire hazard Management Plan prepared in 2007 by Donald L. Blayney & Associates, it was determined that the applicant would be required to submit a written Vegetation Management Plan (VMP) to the County Fire Department for review and approval. Continued compliance with the VMP will need to be placed within the Covenants, Codes, and Restrictions (CC&Rs) of the project. The County will include completion and approval of the VMP as a condition of approval. Additionally, as stated in Section 4.11 of the DEIR, the project is designed in accordance with the Fire Hazard Management Plan, which would minimize the risks associated with wildland fires.

Among the measures incorporated into the Plan are buffer and defensible space zones, removal of several trees, compliance with the Marin County Fire Code, and an irrigation system. Through implementation of the Fire Hazard Management Plan and the Vegetation Management Plan, fire hazards associated with French Broom would be effectively addressed.

9-8: The comment recommends that the DEIR be amended to include a mitigation measure requiring that the open space on-site be placed in common ownership. Similar to the reasoning presented in response to Comment 9-7 above, the question of how the open space on-site would be managed does not constitute a potentially significant impact. Consistent with CEQA Guidelines Section 15126.4(3), mitigation is not presented because a significant impact has not been identified. For additional discussion of open space management, including deed restrictions, please refer to Master Response 7 (Open Space Management).

9-9: The comment states that the DEIR should elaborate on how the project can be designed to maximize water absorption on-site in order to manage runoff. The use of permeable concrete and asphalt surfaces are specifically recommended. Mitigation Measure 4.4-A-1 has been revised to address this issue.

The comment also states that the DEIR does not analyze the impact of removing eucalyptus trees on the site and that the runoff characteristics of the site without eucalyptus trees deserve analysis in the DEIR. As explained in the Master Response 9, the post-construction runoff estimates for the project were developed using methods specified in the County of Marin Public Works Hydrology Manual (August, 2000). Although several comments questioned the adequacy of methods employed for the peak flow analysis, the County Manual is based on professional industry standards and therefore provides a legitimate framework. The manual does not require that the absorption rates of removed vegetation, in this case eucalyptus trees, be accounted for in calculating runoff estimates.

9-10: The comment states that it would be helpful if the DEIR elaborated on the timing and program characteristics of the Tree Protection Plan, off-site mitigation for removal of the heron nest, and the Wetland Mitigation and Enhancement Plan (WMEP).

Tree protection during construction is discussed in Master Response 9. Mitigation Measure 4.3-H.2 in the Draft EIR would require development and implementation of a Tree Protection Plan that would incorporate the arborist-recommended guidelines. The guidelines are specified in the measure, which states that the Plan must be approved by the County prior to starting site preparation and construction activities.

Off-site mitigation for removal of the heron nest is discussed in Master Response 10 (West Marin Island). The program details for this mitigation have not yet been developed. As specified in the measure, the applicant would be responsible for coordinating with CDFG staff and other officials responsible for monitoring the West Marin rookery in developing the specifics for rookery enhancement. As indicated in Appendix B of the DEIR (Mitigation Monitoring and Reporting Program), the mitigation plan would have to be approved by the time the applicant submits a Precise Development Plan.

The key components of the Wetland Mitigation and Enhancement Plan (WMEP) are discussed in revised Mitigation Measure 4.3-F.2. Although the plan itself has not been completed, the required content of the plan, including standards and criteria to be achieved, are specified in the revised mitigation measure. Please refer to Chapter 4.3 of the FEIR for the revised text.

As required, the plan would need to be developed by a qualified wetland specialist and be submitted to the appropriate regulatory agencies and Marin County Community Development Agency for approval prior to the final map.

9-11: The comment suggests that the DEIR provide a quantitative estimate of the greenhouse gas that the project would generate. The comment also looks

to the DEIR to suggest methods for reducing GHG impacts in the project design and implementation. As the comment notes, protocol for greenhouse gas analyses are still being developed. Based on the regulatory framework in place at the time of the Notice of Preparation, there were no State or local requirements to mandate that a quantitative analysis be completed for the project. The April 2009 draft amendments to the CEQA Guidelines from the Office of Planning and Research (OPR) (currently in the administrative rule making process prior to adoption) proposed a new Section 15064.4, which provides that an agency may rely on a qualitative analysis or performance based standards considering the extent to which the project complies with regulations on requirements adopted to implement a local plan for the reduction or mitigation of greenhouse gas emissions. New section 15183.5 further provides:

1. Lead agencies may analyze and mitigate the effects of greenhouse gas emissions at a programmatic level, such as in a General Plan, a long range development plan, or a separate plan to reduce greenhouse gas emissions. Later project-specific environmental documents may rely on an EIR containing a programmatic analysis of greenhouse gas emissions as provided in section 15152 (tiering), 15167 (staged EIRs) 15168 (program EIRs), 15175-15179.5 (Master EIRs), 15182 (EIRs prepared for Specific Plans), and 15183 (EIRs prepared for General Plans, Community Plans, or Zoning).
2. Greenhouse Gas Reduction Plans. Public agencies may choose to analyze and mitigate greenhouse gas emissions in a greenhouse gas reduction plan or similar document. A plan to reduce greenhouse gas emissions may be used in a cumulative impact analysis. Pursuant to sections 15064(h)(3) and 15130(d), a lead agency may determine that a project's incremental contributions to a cumulative effect is not cumulatively considerable if the project complies with the requirements in a previously adopted plan or mitigation program under specified circumstances.

Because State and regional regulatory standards for the analysis of greenhouse gas impacts are in a state of flux and not yet finalized, the County has relied upon its adopted policies and mitigation standards for achieving greenhouse



gas reductions. This standard is more conservative than those currently being considered by State and regional agencies.

As discussed in Chapter 4.5 of the DEIR, the project would have a less-than-significant impact in relation to greenhouse gases. Consistent with policy set forth in the Countywide Plan and County adopted Greenhouse Gas Reduction Ordinance designed to reduce greenhouse gas emissions, the project would incorporate green building practices and green energy practices specified by County policies to mitigate greenhouse gas impacts and achieve project consistency with Countywide Plan policy of a 15 percent reduction in greenhouse gases below 1990 levels by 2015. As the analysis explains, the applicant completed a GreenPoint Rated checklist in order to evaluate the energy efficiency of the proposed project. This assessment tool, developed by Build It Green, is used to rate a development in terms of energy efficiency and overall sustainability. It assigns points for various “green” features, and projects that achieve a minimum of 50 points are officially certified as GreenPoint Rated. The proposed project surpassed that minimum and scored 90 points, an indication that the project would utilize energy, oil and natural gas in an efficient manner. In response to the comment, this inclusion of green building features into the project would reduce impacts in relation to greenhouse gas emissions.

9-12: The comment requests that Table 4-1 be updated to reflect the current status of the San Rafael Airport Recreational Facility project. The DEIR is required to include a description of the physical environmental conditions in the vicinity of the project as they existed at the time the Notice of Preparation was published (CEQA 15125[a]). Although the NOP was published on May 14, 2007, Table 4-1 reflects projects included within Marin County’s PROPDEV 43 list (March 2008). Several projects listed in Table 4-1 were incorrectly listed as “Under Construction” instead of “Under Review.” Among the projects incorrectly listed as under construction, the status of the San Rafael Airport Recreation Facility project will be changed to “Under Review.” The DEIR has been amended to reflect these changes.

Regarding the nature of the San Rafael Airport Project, the March 2009 EIR Notice of Completion (NOC) indicates that the project would include other uses aside from the soccer fields. These include, but are not limited to, office uses and meeting rooms. Therefore, the mixed use classification in the DEIR is accurate.

9-13: The list of cumulative projects in Table 4-1 was based on Prop Dev 43 at the time of the NOP. The list of project and the status of those projects at the time of the NOP is what serves as the adequate baseline in accordance with CEQA. The McPhail school site was not on that list. Furthermore, as the comment notes, development on said site is of a 'potential' nature. There was no formal development application being considered and no project was under construction when the Prop Dev 43 list was developed.

# LETTER #10



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## ► Fax

|  |  |
|--|--|
| <b>To:</b> Ms. Rachel Warner   | <b>From:</b> Mr. William Marsh         |
| <b>Fax:</b> (415) 499-7880   | <b>Pages:</b> 20, including cover page |
| <b>Company:</b>  | <b>Date:</b> January 26, 2009          |
| <b>Re:</b> Comments on 650 North San Pedro Road Draft<br>Environmental Impact Report | <b>cc:</b>                             |

**LETTER #10**



115 Sansome Street, Suite 700  
San Francisco, California 94104  
www.edgcomb-law.com

January 26, 2009

**Via e-mail and U.S. Mail**  
Marin County Community Development Agency  
Attn: Tim Haddad, Environmental Coordinator  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903-4157

Re: Comments on 650 North San Pedro Road Draft Environmental Impact Report

Dear Mr. Haddad:

Please find enclosed comments on the *December 2008 Draft Environmental Impact Report, 650 North San Pedro Road, SCH# 2004062004*, submitted on behalf of the Friends of San Pedro Mountain by Edgcomb Law Group.

If you have any questions regarding the enclosed comments, please contact the undersigned.

Very truly yours,

William D. Marsh  
415.399.1115  
bmarsh@edgcomb-law.com

Enclosure

**Comments on  
December 2008 Draft Environmental Impact Report  
650 North San Pedro Road  
SCH# 2004062004**

Submitted on behalf of the  
**Friends of San Pedro Mountain**  
by

**Edgcomb Law Group  
115 Sansome Street, Suite 700  
San Francisco, CA 94104**

**January 26, 2009**

# Friends of San Pedro Mountain Comments on December, 2008 Draft Environmental Impact Report 650 North San Pedro Road

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**Comments on  
December 2008 Draft Environmental Impact Report  
650 North San Pedro Road  
SCH# 2004062004**

Submitted on behalf of the  
**Friends of San Pedro Mountain**  
by

**Edgcomb Law Group  
115 Sansome Street, Suite 700  
San Francisco, CA 94104**

**January 26, 2009**

## **1 Introduction**

These comments are submitted on behalf of the Friends of San Pedro Mountain (FOSP) a non-profit organization whose members include concerned residents living near the proposed development at 650 North San Pedro Road (the "Development"). FOSP and its individual members believe, based on compelling evidence, that the Development proposed in the draft environmental impact report (DEIR) will have significant, irreversible impacts on the environment which cannot be mitigated and will unfairly impair the quality of life for area residents and users of nearby recreational areas, including China Camp State Park and the San Pedro Mountain Preserve.

**10-1**

In essence, the project applicant (the "Developer") has applied for a major modification to Marin's Countywide Plan and zoning laws by seeking to rezone the subject property to allow for the building of 14 dwellings, nearly triple the number of units initially envisioned in this sensitive and unique area, rather than the 5 or fewer houses for which the area is currently zoned. In doing so, the Development radically departs from the rural character of this area of low-density Residential Estates housing to provide for a dense single-family residential development that will forever change the aesthetics and visual setting of this unique area that is prime habitat for a diverse array of plants and species.

**10-2**

Rather than be forthright in showing the adverse environmental impacts of this highly-aggressive proposal, as the California Environmental Quality Act (CEQA) requires, the Developer ignored or underestimated numerous adverse impacts, failed to provide the decision-makers and the public with sufficient and credible information to properly assess the Development, and misleadingly claims that the building of 14 dwellings would be environmentally superior to 5 units by improperly analyzing CEQA's requirements and failing to provide reasonable range of alternatives.

**10-3**

The Development's numerous potential adverse impacts simply have not been adequately considered in the project and such impacts are not adequately identified, analyzed, or mitigated in the DEIR. Instead, most of the potential significant environmental impacts are simply ignored or mischaracterized. Perhaps the most glaring omission in the DEIR is the failure to justify *why* the requested zoning change is necessary. The Developer purchased the property zoned for Residential Estates which reasonably allows for the building of 5 residences, yet nowhere in the DEIR does the Developer explain why such land use warrants modification with any credible reasons.<sup>1</sup> While the DEIR ostensibly compares the "no project" alternative of building of 5 units to the Development's proposed 14 dwellings, such comparison is conclusory, lacks factual support, and does not adequately assess which project objectives are purportedly not met by the lesser density development. Moreover, a "no build" (or less than 5 unit) alternative is not even considered in the DEIR, contrary to CEQA's requirements.

**10-4**

Further, the DEIR concludes that the proposed Development is environmentally superior to the "no project" alternative of building 5 homes. Such claim not only is in violation of CEQA requirements and principles but also ignores that:

- More trees and grassland habitat would be removed and destroyed;
- A viable Great blue heron rookery consisting of at least 2 active nests which otherwise may have been preserved will be forever disturbed and the host tree removed with unknown consequences to the rookery; and
- More impermeable surfaces would be created with the attendant increases in stormwater runoff.

**10-5**

CEQA requires a full analysis of the proposed Development's impacts and unbiased identification of a range of reasonable alternatives and mitigation. If an alternative meets most reasonable project objectives, while minimizing or eliminating significant negative environmental impacts, it must be implemented accordingly.

**10-6**

For these and other reasons, the DEIR is uncertifiable – namely because:

- The DEIR fails to discuss potential adverse impacts on the California red-legged frog despite the likely presence of the species at the project site
- The DEIR completely fails to even consider potential adverse impacts to the endangered California clapper rail and California black rail despite their presence in the vicinity of the project site
- The DEIR fails to identify and analyze a reasonable range of alternatives
- The DEIR dismisses the environmentally superior "no project" alternative for improper reasons, including financial considerations that are not set forth in the DEIR as required by CEQA
- The DEIR fails to present a "no build" alternative as required by CEQA

**10-7**

**10-8**

**10-9**

**10-10**

**10-11**

<sup>1</sup>The Developer attempts to engender sympathy by pointing out that it previously applied to the County to build 19 residences at the site as if reducing the number to 14 units is a dramatic concession. Tellingly, a reader has to diligently dig through the DEIR to find that the property is currently zoned to allow for the building of 5 units (or less).



- Land will be dedicated to “private open space” with no legally enforceable mechanism in place to ensure compliance 10-12
- The traffic impact in the DEIR does not comport with CEQA 10-13
- The DEIR is based on outdated and incomplete wildlife studies 10-14
- The Development is inconsistent and contrary to relevant local policies, including the 2007 Marin Countywide Plan 10-15
- The DEIR otherwise fails to conduct the level of analysis required under CEQA 10-16

As a result of these and other deficiencies in the DEIR, if the County and project proponent proceed with the proposed project, additional analysis and studies (described herein) must be conducted, additional mitigation measures must be proposed, an adequate range of alternatives must be fairly presented and analyzed, and the DEIR must be substantially rewritten and reissued pursuant to 14 Cal. Code Regs. §15088.5. 10-17

In summary, the DEIR is deeply flawed and legally insufficient. The FOSP and its consultants and counsel look forward to working with the County and the Developer to ensure that the site is developed in an environmentally sensitive manner that adheres to the both the letter and spirit of CEQA.

## **2 The DEIR’s Environmental Evaluation Is Incomplete**

### ***2.1 The Development’s Adverse Impacts on Biological Resources are not Adequately Discussed or Addressed***

The DEIR identified numerous that potential significant impacts on biological resources from the Development but contends that such impacts are either less than significant or can be mitigated. (DEIR at 4.3-24 to 4.3-41. Close scrutiny of the DEIR, however, reveals that the adverse impacts of the Development were either completely ignored or severely underestimated. 10-18

First, the DEIR claims that the effects of the Development are not significant to the area’s biological resources because no federally-listed plants or animals occur at or in the vicinity of the project site. (DEIR at 2-13) The report offered in support of this claim, however, actually states that four special-status species are documented to be in the vicinity of the project site, including the California clapper rail, California black rail, and the salt marsh harvest mouse (GANDA at 19) – all of which are threatened or endangered species.<sup>2</sup> Thus, the DEIR’s generalized finding of no impact is contrary to the supporting evidence. 10-19

More importantly, the potential adverse impacts on the 4 species referenced are not discussed at all in the DEIR. There is no discussion of the Development’s proximity to their habitat or potential impacts to their habitat due no off-site migration of surface 10-20

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<sup>2</sup> These three species are somehow missing from Table 3 (and the DEIR) despite the text stating that the species listed in the table were identified as having the potential to occur “on the project site or in the vicinity.” (GANDA at 19.)

water, pollutants, and sediments, noise or light pollution, or the numerous other environmental impacts raised in the DEIR. In particular, the California clapper rail, which inhabits the Gallinas Creek Marsh<sup>3</sup>, could be affected by the increased run-off, sedimentation, or pollutants from the Development since the DEIR admits that “[s]urface runoff generated from the project site drains to the Gallinas Creek Marsh.” (DEIR at 4.4-1). These potential impacts are not even addressed. Thus, the DEIR cannot be certified until the potential impacts to each of these species are fully analyzed.

Second, the DEIR’s evaluation of the potential adverse effects of the Development on wildlife that were purportedly studied in the 2005 Garcia and Associates Biological Resources Technical Report (the “2005 GANDA Report”) did not include discussion that the endangered California red-legged frog likely inhabits the project site. In this regard, the 2005 GANDA Report is insufficient because the field surveys<sup>4</sup> upon which it is based were conducted in early 2005. As a result, the data and regulatory conditions upon which it is based are not reliable. Indeed, the United States Department of the Interior stated that:

“There is no discussion of the California red-legged frog in the Draft Environmental Report. We do not concur with number 3 Biological Resources on pages 2-13, or 4.3-A on page 2-33 which state that adverse Impacts to any endangered, rare, or threatened species either directly or indirectly through habitat modification will not occur or will be less than significant.”

(Exhibit A, p. 4). Due to the fact that biological conditions (such as the presence of threatened or endangered species) change over time, additional field surveys should be conducted and the DEIR should be based on a more recent report. Likewise, the Department of the Interior determined in December 2008 that it was reasonable to conclude that the California red-legged frog now inhabits the project area and strongly recommended that a protocol study be conducted prior to certification of the final EIR (Exhibit A, p. 4).

Third, the wildlife assessment of the DEIR, which relies almost entirely on the 2005 GANDA Report, is apparently based on only a single survey day (of unspecified duration. (GANDA at 2.) Because 16 several special-status species were identified in the 2005 GANDA Report with potential to occur at or in the vicinity of the Development (including the California Red-legged Frog, the Great blue heron, Allen’s hummingbird, and the California clapper rail)—including two (the Great blue heron and Allen’s hummingbird) that were observed at the project site—additional surveys are warranted to

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<sup>3</sup> The beneficial uses of Gallinas Creek and Gallinas Creek Marsh set forth in the San Francisco Bay Water Quality Control Plan (Basin Plan) include preservation or rare and endangered species (DEIR at 4.4-3 to 4.4-4).

<sup>4</sup> It is unclear whether the third special-status plant survey to identify late-blooming species as described in the GANDA Report was conducted in July 2005 as planned (GANDA at p. 2). If it was, the FOSP request that the results of such survey be provided and included in the record.

**10-21**

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**10-23**

ensure that conditions have not changed since early 2005 or that no sensitive species have moved into the project area.

Fourth, while the methods used to identify sensitive plant communities are extensively detailed in the 2005 GANDA Report, it contains little detail with regards to the wildlife assessment. (GANDA at 2.) Thus, the protocols used in the 2005 GANDA Report should be described in detail so that the decision-makers and concerned community can evaluate whether it was conducted in an adequate manner.

10-24

Fifth, perhaps in order to justify the removal of a mature mixed oak forest that supports a wide array of habitats, the DEIR suggests that oak trees at the project site are dying from Sudden Oak Death (SOD). In fact, the DEIR states only that a survey “found evidence” that unspecified trees at the Site “have been affected” by an organism that causes SOD). (DEIR at 4.3-9) Notably, the EIR does not state that any oak trees at the Site actually have SOD (it only claims that some trees are in marginal condition “due to probable SOD”) or were killed by SOD, or that any oak trees sampled positive for SOD. The report appears not to have been based on any sampling of the oak trees at the site. (GANDA at pp. 10-11.) The DEIR should be revised to clarify whether oak trees are impacted by SOD and their location should also be clarified.

10-25

Finally, the DEIR makes unsupportable assumptions and conclusions concerning the efficacy of certain mitigation and avoidance measures. For example, the DEIR concludes that the impact on the Great blue heron rookery can be mitigated by improving (in an unspecified way) the condition of an existing heron rookery at West Marin Island, approximately 3 miles south of North San Pedro Road.<sup>5</sup> Such “improvements” of the West Marin Island rookery are not specified and local bird experts contend that no such improvement is necessary. The DEIR needs to explain how such “mitigation” is adequate.

10-26

Accordingly, the FOSP requests that the County ask its biological consultants to independently study the potential effects of the proposed Development on wildlife in the project area, as well as the mitigation measures proposed, and that the DEIR be revised accordingly, with additional analysis and mitigation as needed.

10-27

## **2.2 The Development is Inconsistent with the Marin Countywide Plan and Relevant Policies**

Under CEQA, the proposed project must be consistent with all relevant plans and policies; such consistency is an important means of identifying significant environmental impacts. *See*, 14 Cal. Code Regs. §15125(d). The DEIR states that the project application consists of "a Master Plan, Precise Development Plan, Subdivision and Rezoning for the subdivision and development of a 14.8-acre property into 12 separate residential lots and the development of 12 single-family residences, and supporting

10-28

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<sup>5</sup> While it appears that the Developer informally consulted with California Fish and Game regarding the active Blue heron rookery, it is not clear whether it consulted with the United States Fish and Wildlife Service or intends to obtain an incidental “take” permit from either agency.

infrastructure.”<sup>6</sup> (DEIR at 1-1). As discussed in detail below, the Development is inconsistent and contrary to the relevant local policies, including the 2007 Marin Countywide Plan.

According to the Marin County Community Development Agency, the Marin Countywide Plan is the County’s long range guide for use of land and protection of natural resources in that:

“The Plan sets forth policies and programs to be used by the public, planning staff, and decision makers when reviewing and analyzing proposed development. The Plan strives to balance current and future needs for urban, rural and natural uses of Marin’s 520 square miles of land through the beginning of the 21<sup>st</sup> century.”<sup>7</sup>

The Plan contains numerous goals regarding aspects of preservation of natural systems which, as articulated further below, would be undermined by the proposed Development.

**10-29**

### **1. Goal BIO-1. Enhanced Native Habitat and Biodiversity.**

Goal BIO-1 seeks to enhance native habitat, maintain viable native plants and animal populations, and provide for improved biodiversity throughout the County. More specifically, Policy BIO-1.1 seeks to protect sensitive biological resources, wetlands, migratory species of the Pacific flyway, and wildlife movement corridors through careful environmental review of proposed developments. While the DEIR claims that “the project would be consistent with the County's ongoing efforts to preserve and enhance wetlands and wildlife nursery areas, habitat, and movement corridors” (DEIR at 4.1-9), close scrutiny reveals that the Development fails in this regard in that:

- More than 200 trees will be removed from a mature oak forest that is prime habitat to an array of species;
- An active Great blue heron rookery will be removed from the project site when feasible alternatives exist;
- Approximately 3.5 acres of mixed habitat will be developed;
- Habitat for nesting birds and bats will be removed; and
- A viable wetland area will be subject to construction and used for stormwater purposes.

### **2. Policy BIO-1.2 Acquire Habitat.**

Policy BIO-1.2’s purpose is to encourage the acquisition of areas containing sensitive resources for use as permanent public open space, and encourage and support public and private partnerships formed to acquire and manage important natural habitat

**10-30**

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<sup>6</sup> While the DEIR incessantly states that the Developer seeks approval for the building of 12 residences, the number of dwellings proposed is actually 14.

<sup>7</sup> From the Marin County Community Development Agency website:  
<http://www.co.marin.ca.us/depts/CD/main/comdev/ADVANCE/cwp/index.cfm> (last visited 01/24/09).

areas, such as baylands, wetlands, coastal shorelines, wildlife corridors, and other lands linking permanently protected public open space lands. The DEIR states that the planned Development is consistent with this policy because it calls for 8.6 acres of private open space and a buffer within which development would be prohibited in perpetuity. (DEIR at 4.1-10).

While 8.6 acres of land are claimed in the DEIR to be preserved from future development with deed restrictions, the Developer's plan to keep such land in private ownership, with no apparent public access and unknown future consequences is inconsistent with BIO-1.2's purposes. More importantly, there needs to be a legally enforceable mechanism to ensure compliance with any hope-for preservation of the open space area. As the Department of Interior correctly points out, the protection of wildlife habitat under a private open space scenario usually results in neglect or is harmful to sensitive species and habitat. (Exhibit A, p. 10.) In this regard, a resource agency, such as the California Department of Fish and Game should be provided with a conservation easement over the open space area to obtain consistency with this policy.

### **3. Policy BIO-1.3 Protect Woodlands, Forests, and Tree Resources.**

This Policy seeks to protect large native trees and trees with historical importance such as oak woodlands. The DEIR claims to be consistent with this policy because the mitigation measures would reduce potential impacts from loss of mature oak trees and mixed forest to a less than significant impact. Mitigation measures would also require compensation for the loss of oak forest by maintaining at least 4.5 acres of mixed oak forest in open space. (DEIR 4.1-11). However, the Development is totally inconsistent with this policy, particularly when compared to the "no project" alternative" for the many reasons set forth herein, including:

- More than 200 trees will be removed from a mature oak forest that is prime habitat to an array of species;
- Approximately 3.5 acres of mixed habitat will be developed; and
- Habitat for nesting birds and bats will be removed.

### **4. Goal EH-3.2. Retain Natural Conditions**

Goal EH-3.2 seeks to ensure that flow capacity is maintained in stream channels and floodplains, and achieve flood control using biological techniques instead of storm drains, culverts, riprap, and other forms of structural stabilization. While the DEIR states that it is consistent with this goal, it does not explain exactly how. Rather, the existing site drainage facilities do not comport with Goal EH-3.2 in that Drainage Area I utilizes many culverts and storm drains and other artificial facilities to manage stormwater runoff. Accordingly, these inadequacies and reliance on non-biological techniques demonstrate that Goal EH-3.2 will not be met by the Development's proposed drainage plan.

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**10-32**

## **5. Policy OS-2.4. Support Open Space Efforts Along Streams**

This Policy's goal is to support efforts to restore, enhance, and maintain natural vegetation and other habitat values along streams in the Baylands and City-Centered corridors and to maintain strict controls and high environmental standards in these zones. The DEIR states that it is consistent with this Policy because the ephemeral creek on-site would not be disturbed as a result of the project. (DEIR 4.1-42). During the wet season, the ephemeral creek at the site is habitat for a variety of aquatic insects and amphibians such as the California newt. In the drier months, the creek channel can offer cool, moist microhabitats for small mammals and reptiles. (DEIR at 4.3-16).

**10-33**

Because the Development calls for further construction and grading, as well as an increase in the amount of impermeable surfaces and thus an increase in peak flows and discharge, it is apparent that it is inconsistent with Marin County's policy to support efforts to restore, enhance, and maintain natural vegetation and other habitat values along streams.

## **6. Policy CD-2.8 Limit Development in Resource or Hazard Areas**

This Policy aims to discourage development in areas with high natural resource value or threats to life or property, and restrict development in such areas to minimize adverse impacts. The DEIR claims that the Plan is consistent with this Policy but the description of how the Plan is consistent is woefully inadequate. (DEIR at 4.1-45, 46).

**10-34**

The project area has exceedingly high natural resource value. Both the wetland and the ephemeral creek on the site provide benefits to wildlife and are important for drainage and stormwater conveyance. The site also contains two active Great blue heron nests and is habitat to many birds and bats. The effect of the Development on these resources is unpredictable. Even if certain mitigation measures are implemented, the suitability of the site as habitat will be diminished by the construction of 14 houses and adjacent streets, the increase in human activity in the area, and the removal of surrounding trees and vegetation. Thus, the Development is inconsistent with Policy CD-2.8 because it does not discourage or limit development in areas with high natural resource value.

### ***2.3 The Hydrology, Drainage, and Water Quality Impacts of the Development Require Further Study***

The DEIR sets thresholds of significance for water hydrology and quality impacts, stating that such impacts are significant if the Development will, among other things: (1) violate any water quality standards or waste discharge requirements; (2) substantially increase the rate or amount of surface runoff in a manner that would result in flooding; or (3) increase off-site flood hazard, erosion or sedimentation. (DEIR at 4.4-16 to 4.4-18.) While such impacts would be significant, the FOSP notes that impacts can be significant under CEQA even if such standards or requirements are not violated. *See, Communities*

**10-35**



*for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4<sup>th</sup> 98, 116-21.

**10-36**

First, the DEIR does not adequately provide enough information to assess whether any applicable water hydrology or quality standards will likely be violated by the increased demands on the storm water system proposed by the Development. For example, the Developer contends that the admittedly significant impacts of post-development non-point source pollution (Impact 4.4-A) would be mitigated because the Development would incorporate certain Best Management Practices (BMPs). (DEIR at 4.4-21 to 4.4-23). Similarly, numerous other significant impacts on water hydrology and quality are “mitigated away” in the DEIR by reciting that the Developer is required to comply with NPDES permits, BMPs, or Storm Water Pollution Prevention Plans (see, e.g., Impact Nos. 4.4-D and 4.4-K). Such BMPs, however, are not specified or discussed in any detail in the DEIR and neither are the various “plans” that the Developer (or future homeowner or Homeowner’s Association) are required to prepare and comply with. As a result – without knowledge of what BMPs or the other plans that will actually be implemented as mitigation measures – the DEIR lacks a foundation for the County or the public to determine whether or not the above thresholds will be violated.

**10-37**

Second, the increased peak runoff analysis (Impact 4.4-E) in the DEIR lacks transparency. While the DEIR admits that the stated 13.7 percent higher peak flow rate for Drainage Area 1 caused by the increase in impermeable surfaces of the project site is a significant impact (DEIR at 4.4-30), the Developer claims that such effects will be mitigated by using the on-site pond for stormwater detention purposes and expanding the size of the pond. However, several aspects of this contention warrant further clarification or additional studies, including:

- what inputs and assumptions were made regarding the impact of impermeable surfaces and comparison of such to the actual Development plans;
- what impact the removal of 57,000 cubic yards of soil as called for in the Development will have on the runoff coefficients;
- what the impact of imported fill and the quality of such fill will have on the runoff coefficients;
- how the flow rate/volumes of the impermeable and vegetated surfaced were determined;
- whether the increased size of the pond will create additional safety problems due to possible berm failure;
- how the ongoing maintenance requirements of the pond that “shall be the responsibility of a Homeowners Association” (DEIR at 4.4-31) will be implemented and enforced;
- what constitutes the ongoing maintenance requirements of the pond that “shall be the responsibility of a Homeowners Association” (DEIR at 4.4-31) ;

- whether it is appropriate to use rainfall intensity duration curve tables in the runoff calculations consisting of data compiled between 1940 and 1970; and
- The rainfall intensity data should consider the increasing frequency and intensity of rainfall caused by climate change.

Thus, the FOSP request that the Hydrology and Water Quality section of the DEIR be revised to clarify and address these issues or that the County order additional studies of the hydrology and water quality issues stemming from the Development. An agency has broad discretion to request further studies. *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376.

**10-38**

### **3 The DEIR Fails To Properly Discuss Alternatives To The Development**

A rigorous and complete alternatives analysis is at the heart and purpose of CEQA. *See* Pub. Res. Code § 21102. An EIR must analyze a reasonable range of alternatives to a project that would feasibly attain most of the objectives while avoiding or substantially reducing a project's impacts. *See* 14 Cal. Code Regs. § 15126.6(a). Alternatives that are capable of avoiding or substantially lessening the significant environmental effects of a project must be considered "even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly." *See*, 14 Cal. Code Regs. §15126.6(b).

**10-39**

The DEIR fails to meet these basic CEQA requirements in that it only presents the following four alternatives to the Development:

**10-40**

- "No Project" Alternative – 5 market rate units (as currently zoned)
- Reduced Density Alternative – 9 residential units
- Alternate Use/Reconfiguration Alternative – 12 residential units
- Mitigated Project Design Alternative – 14 residential units

(DEIR at 5-1 to 5-3). The range of alternatives analyzed in the DEIR consist only of either 5 residential units (as the property is currently zoned) or alternatives consisting of 9 to 14 units with absolutely no consideration of a project between 5 and 9 or less than 5 residential units. Such limited analysis fails to inform the decisionmakers and public of the real alternatives to the Development. Moreover, the four alternatives, and the analysis of each, are insufficient because a DEIR must include "sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." *See*, 14 Cal. Code Regs. §15126.6(d). The alternatives presented are not meaningfully evaluated and they summarily reject the obviously superior "no project" alternative and don't even include a less intense development that would likely be even more superior.



### **3.1 Analysis of the “No Project” Alternative is Misleading and Legally Insufficient**

Discussion of project alternatives must fairly include a “no project” alternative to allow for the comparison of the environmental impacts of approving the proposed project with the effects of not approving it. 14 Cal Code Regs §15126.6(e)(1); *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4<sup>th</sup> 477. When a project involves a new development proposal, such as here, the no project alternative must compare the environmental effects of the proposed project with the anticipated effects of the site remaining in its existing state. See, 14 Cal Code Regs §15126.6(e)(3)(B); *Woodward Park Homeowners Ass’n v. City of Fresno* (2007) 150 Cal.App.4<sup>th</sup> 683, 715 (court rejected no project alternative that failed to consider existing conditions as the baseline).

**10-41**

Here, the DEIR is deceptive in that: (1) a true “no build” alternative is not even discussed as required by CEQA authority; and, (2) the claim that the “no action” alternative (building of 5 homes under the current zoning) as environmentally inferior to the Development is erroneous and defies logic. The building of 5 homes (as the site is currently zoned) rather than 14, is a vastly superior alternative for a number of reasons. First, the no project alternative fails to analyze any alternatives that would preserve the Great blue heron nests as set forth in the 2005 GANDA Report prepared by the Developer’s consultant (GANDA at 22-23.) The Developer’s own consultant described in detail options for building in the area that would protect the Great blue heron nests at the site (GANDA at pp. 22-23), yet none of this information is included or even referenced in the DEIR for the County’s consideration. Moreover, the DEIR assumes that the tree containing the Great blue heron rookery would still be taken down. Such speculation should not be countenanced.

**10-42**

Second, the claim in the DEIR that the no project alternative would result in a substantial deterioration of land use and policy consistency (or otherwise be environmentally inferior) because development of 3 of the 5 homes purportedly would not be subject to County policy regarding Wetland Conservation Areas (WCAs) and creek setbacks is erroneous and without any support. (DEIR at 5-7) In fact, all private landowners in the County are subject to creekside and WCA restrictions. Moreover, the DEIR assumes that any future owners of the homes would not adhere to such policies—which is rank speculation.

**10-43**

Finally, the claim in the DEIR that this alternative is environmentally inferior to the Development defies logic and all environmental principles. The construction of five (or fewer) homes rather than 14 dwellings would obviously:

**10-44**

- consume fewer resources;
- take less space resulting in the removal of fewer trees and native grasses;
- create less impermeable surface area;
- result in less impact to geology and soils;
- result in fewer automobiles impacting traffic and air quality;
- result in a lesser burden on public services;

- less impair the visual setting; and
- cause less noise and light pollution.

Thus, the claim in the DEIR that the impact of the no project alternative would be environmentally inferior to the Development is without merit.

### **3.2 The DEIR Dismisses the “No Project” Alternative for Improper Reasons**

The DEIR concludes that the “no project” alternative of building 5 homes at the site “would not meet any of the objectives set forward for the project.” (DEIR at 5-11.) This claim is erroneous. First, this alternative would obviously increase the County’s supply of market-rate housing by 5 units, contrary to the claim in the DEIR that it would have no such effect. (DEIR at 5-11.) Similarly, the claim that this alternative would not increase the County’s supply of green housing is based on pure speculation—any future homes could be even more “green” than the Developer’s claims regarding the home proposed in the DEIR.

**10-45**

Second, it is mere speculation and subjective opinion that the building of 5 homes would not improve on the visual quality of the site—if the building of 11 homes would, as the DEIR contends, improve on the visual quality then it stands to reason that the building of 5 homes, with additional preservation of the natural beauty and biological resources of the area, would likely be an even better improvement.

**10-46**

Finally, the DEIR suggests, but does not expressly state, that the objective of developing a “financially-profitable project” would not be met by the “no project” alternative. Making as much money as possible as fast as possible is not a permissible basis for rejecting an alternative under CEQA, however. *See* 14 Cal. Code Regs. § 15126.6(b). Moreover, if financial constraints are used as the basis to reject an alternative which would substantially lessen impacts of the project, a full financial analysis should be presented, and the financial data and objectives should be included. *See, Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4<sup>th</sup> 1383, 1401. The mere increased cost of an otherwise environmentally superior alternative is not a sufficient reason to dismiss it.

**10-47**

The DEIR is completely deficient in that it fails to provide the information and analysis necessary for informed assessment of key significant environmental impacts and their potential solutions. Accordingly, the FOSP request that the DEIR be revised (or not certified until it is revised) to include: (1) diligent analysis of a “no build” alternative; (2) fair representation of the “no project” alternative’s environmental superiority; and (3) analysis of a reasonable range of alternative for building between 5 and 9 or less than 5 residences so the County and Planning Commission can make an informed decision, with informed public input, as required by CEQA. The DEIR’s failure to include alternatives such as these defies the “reasonable range” analysis requirement of CEQA. All of these additional alternatives comprise logical, reasonable, and feasible alternatives to the Project, and reduce significant impacts of the Development.

**10-48**

## 4 The DEIR's Traffic Analysis Fails To Comply With CEQA

The DEIR's Transportation and Circulation Analysis section is inconsistent with the requirements of CEQA in several key respects, as set forth below. The DEIR concludes that any increased service burden on existing roadways would result in a *less than significant* impact despite facts to the contrary. The numerous comment letters submitted by local citizens attest to the fact that the traffic in the project area is already bad and will only be exacerbated by the addition of 14 homes.

10-49

### 4.1 The Development will Substantially Increase Existing Traffic Loads to Unacceptable Levels

According to the DEIR, the proposed project would have a significant impact related to increased traffic and circulation only if it would cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections). (DEIR at 4.6-9). Moreover, according to the Marin County Environmental Review Guidelines, the project may also have a significant impact related to transportation and circulation if the project would significantly impact intersection level of service resulting in an unacceptable service level (e.g. below LOS D). (DEIR at 4.6-10).

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The DEIR concludes that any increase of service on existing roadways will result in a *less-than-significant* impact. (DEIR at 4.6-14). This conclusion is purportedly based on an assumption that the Project will result in an average delay per vehicle increase of no more than 0.3 seconds at any of the intersections studied due to the addition of Project traffic. Traffic consultant, R.L. Harrison Transportation Consulting, confirmed that project trip volumes from 650 North San Pedro Road would not be such that level of service ("LOS") would degrade from one level to another at the studied intersections. As a result, the DEIR concludes that the project would not exceed the County's level of service standard (LOS D).

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The DEIR is woefully inadequate in explaining the facts underlying these assumptions. The DEIR does not explain how the 0.3 second delay per vehicle figure was determined nor does it comport with the experience of neighbors in the area. It appears that peak traffic counts were conducted, in part, in June 2005 as well as in the evening in January 2007. Neither of these time periods accurately reflect average traffic flow. Venetia Valley School and Marin JCC, both situated on North San Pedro Road would tend to have less traffic during summer months. Traffic volumes should be conducted during the school year to more accurately reflect true traffic conditions.

The DEIR traffic analysis also appears to ignore the critical intersection of North San Pedro Road and Civic Center. Traffic backups on North San Pedro Road frequently

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begin at the intersection at the Civic Center and extend all the way to Meadow Drive and the 7-Eleven Store. The omission of this intersection is critical because the intersection controls all traffic in and out of the neighborhood.

Finally, it appears that the analysis of intersection traffic impacts did not account for the significant differences between weekday and weekend traffic. The North San Pedro Road area is subject to very high traffic on the weekends – this does not appear to be addressed in the DEIR. Data should be collected to evaluate weekend traffic to establish a baseline and to evaluate the impacts of the proposed additional traffic on the weekend cause by the proposed Project.

10-53

Rezoning 650 North San Pedro Road for the proposed Project will add up to 14 households. As the average household in America has 1.9 cars<sup>8</sup>, the Project would be expected to increase the number of cars regularly using North San Pedro Road by as much as 28 vehicles, which would result in approximately 140 additional car trips per day (assuming 5 trips per car). This is not an insignificant figure, especially in light of the potential for rezoning in other nearby areas (as discussed in the cumulative impacts section below). The rezoning sets a precedent that may lead to increased households and car trips that North San Pedro Road cannot support. Existing public transportation in this area is limited and insufficient to mitigate this increased impact on traffic flow. As neighbors struggle for relief and remedies regarding traffic congestion on North San Pedro Road, the increase in vehicle trips that will result from the proposed Project is significant.

10-54

Accordingly, the underlying assumptions regarding the *less-than-significant* determination for increasing existing traffic loads should be supported by facts as it is currently contradicted by the actual the experience of neighbors living in the area.

#### **4.2 The Mitigation Required to Obtain the Necessary Sight Distance will Result in a Significant Impact**

In order to achieve the required sight distance at the project driveway, Bay Creek Drive, the DEIR states that after certain mitigation measures are implemented, the impact will be reduced to the *less-than-significant*. (DEIR at 4.6-20). However, the mitigation measures required to obtain the required sight distance call for removal of existing trees and vegetation and a significant amount of grading, soil removal, and possible relocation of the Lot 1 footprint. (See DEIR Figure 4.6-4). However, such mitigation measures do not appear to be *less-than-significant*. How can the impact of achieving the required sight distance be *less-than-significant* when it appears that disruptive and environmentally unsound mitigation measures are required to achieve the requisite sight distance? This conclusion does not logically follow from the analysis of the mitigation measures. This failure to reach conclusions that logically follow from the required analysis undermines the very purpose of CEQA. “The EIR must contain facts and

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<sup>8</sup> See *Public Transit in America: Results from the 2001 National Household Travel Survey*, Center for Urban Transportation Research, University of South Florida, Tampa, September 2005, found at <http://www.nctr.usf.edu/pdf/527-09.pdf> (last visited January 25, 2009).

analysis, not just the bare conclusions of a public agency...[T]he public and decision-makers, for whom the EIR is prepared, should also have before them the basis for that opinion so as to enable them to make an independent, reasoned judgment.” *Santiago County Water Dis. v. County of Orange*, 118 Cal.App.3d 818 (1981); *see also Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 568 (1990). A revised EIR should include an analysis of the impacts of such mitigation measures and explain why they do not amount to a significant impact.

Further, the DEIR fails to consider alternative possibilities for entrance into the proposed development. An alternate entrance directly across from Point Gallinas Road (as illustrated in Figure 4.6-4) would eliminate the need to cut into the hillside, reduce the amount of significant grading and soil removal, blend in more harmoniously with the current road configuration, save the destruction of numerous trees, and make a safer access for residents in the new subdivision. A revised DEIR should consider this safer and environmentally superior alternative.

10-56

### **4.3 The Cumulative Effects on Traffic are Inadequately Assessed and Improperly Dismissed**

According to the DEIR, the proposed project would have a significant impact related to traffic and circulation only if it would exceed, either individually or cumulatively, a LOS standard established by the county congestion management agency for designated roads or highways. (DEIR at 4.6-9). The DEIR concludes that the cumulative traffic impacts from the proposed Project in combination with other development projects is *less than significant*. (DEIR at 4.6-23). However, in arriving at such a conclusion, the DEIR only discusses three projects currently under review or under construction in the North San Pedro Road area – Edgehill at San Rafael; Nebout Development; and Sequoia Heights Homes. An EIR, however, must “discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable.” 14 Cal. Code Regs. § 15130(a). “Cumulatively considerable” means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. 14 Cal. Code Regs. § 15065(a)(3). Where “[t]he project has possible environmental effects that are individually limited but cumulatively considerable,” a finding of significance is mandatory. *Id.*

10-57

The DEIR fails to mention to recent past projects – the expansion of the Venetia Valley School and Marin JCC, both situated on North San Pedro Road. Traffic from these facilities frequently form a bottleneck which impedes ingress and egress. The DEIR also fails to mention the upcoming Montessori School, the potential development at McPhails School and the current land parcels for sale in the area. As such future development in the area is probable, CEQA requires that an analysis of these projects be included in the assessment of cumulative impacts.

10-58

## **5 The Aesthetics And Visual Setting Of This Unique Area Will Be Significantly Impaired**

The DEIR claims that there will be no overall shift in the visual character of the surrounding area (DEIR at 2-6) when, in fact, modification of the zoning of this unique low-density Residential Estates area (R-E:B-3) with a 20,000 square feet minimum lot size to provide for dense single-family units will have a dramatic effect. In this regard, the DEIR improperly compares the project area with the fairly distant Santa Venetia neighborhood that is zoned for smaller lot sizes and higher density rather than the adjacent area's rural setting.

**10-59**

The proposed re-zoning will jeopardize the aesthetic integrity of the area, forcing a suburban sprawl-feel upon a rural-like community. The project will change the visual character of the area from a community of hillside homes located at large distances from each other to a sea of houses clumped together. Permanent losses to the environmental aesthetics will also result as trees and vegetation will be removed and open space will be paved over. This shift in character of the vicinity is a significant impact and should not be so swiftly dismissed in the DEIR.

**10-60**

Indeed, if as the DEIR contends, the building of 11 homes would improve on the visual quality of this area then it stands to reason that the building of 5 homes, with additional preservation of the natural beauty and biological resources of the area, would constitute an even better improvement.

**10-61**

## **6 Exhibits**

- A. United States Department of the Interior letter dated December 23, 2008.

# **Exhibit A**



## United States Department of the Interior



### FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825-1846

In Reply Refer To:  
81420-2009-TA-0234

December 23, 2008.

Mr. Tim Haddad  
Marin County Community Redevelopment Agency  
3501 Civic Center Drive Room 308  
San Rafael, California 94903-4157

Subject: Comments on the Proposed Residential Project at 650 North San Pedro Road in  
the County of Marin, California

Dear Mr. Haddad:

This responds to the Draft Environmental Impact Report for the proposed residential development at 650 North San Pedro Road in the County of Marin, California (APN 180-231-05, -06, -07, -09, and 180-291-04). Your request for comments was received in this field office on December 9, 2008. At issue are the potential adverse effects of the proposed project on the threatened California red-legged frog (*Rana aurora draytonii*), great blue heron rookery (*Ardea herodias*), and wildlife species. Our comments and recommendations are made under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)(Act), and the Service's Mitigation Policy of 1956. Our comments and recommendations are provided to assist you with your environmental review of the project and are not intended to preclude future comments from Service.

The comments and recommendations in this letter are based on 1) *650 North San Pedro Road Draft EIR State Clearinghouse Number 2004062004* dated December 3, 2008; and 2) other information available to the Service.

#### Threatened California Red-legged Frog

Section 9 of the Act prohibits the take of the threatened California red-legged frog and other federally listed species by any person subject to the jurisdiction of the United States. As defined in the Act, take is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harass means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as

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to significantly disrupt normal behavioral patterns which include, but are not limited to breeding, feeding, or sheltering." "Harm has been further defined to include habitat destruction when it injures or kills a listed species by interfering with essential behavioral patterns, such as breeding, foraging, or resting. Thus, not only is the California red-legged frog protected from such activities as collecting and hunting, but also from actions that result in its death or injury due to the damage or destruction of its habitat. The term "person" is defined as "...an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States." The action area does not contain designated or proposed critical habitat for this threatened species.

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project and a listed species is going to be adversely affected, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved in the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a)(1)(B) of the Act should be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be taken by the project.

There are records of this listed animal in Marin County (California Department of Fish and Game [DFG] 2008a, 2008b; Museum of Vertebrate Zoology, University of California, Berkeley, California); although the DFG's California Natural Diversity Data Base contains an extensive number of records of listed, rare, and sensitive species, in the Golden State, the lack of records of a plant or animal in a specific area should not be construed as *prima facie* that the taxa in question is absent from a site. Surveys may not have been conducted at a site or the results may not yet been sent to the California Natural Diversity Data Base. Based on the Draft Environmental Impact Report and other information, the area surrounding the project site is characterized by a continuous mosaic of uplands that provide suitable habitat for dispersal, cover, foraging, and other essential behaviors, and there are wetlands on the site that may provide suitable breeding habitat for the California red-legged frog. According to Feller and Kleeman (2007), non-breeding dry season habitat includes several characteristics: 1) sufficient moisture to allow the frogs to survive throughout the non-breeding season that may be up to 11 months long; 2) sufficient cover to moderate temperatures during the warmest and coldest times of the year; and 3) protection (e.g., deep pools in a stream, or complex cover such as root masses or thick vegetation) from predators such as hawks and owls, herons, and small carnivores. This can include vegetated areas with coyote bush (*Baccharis pilularis*), California blackberry thickets (*Rubus ursinus*), root masses associated with willow (*Salix* species), trees, such as California bay (*Umbellularia californica*), or rodent burrows (Fellers 2005; Jennings and Hayes 1994; Service 2002). Sheltering habitat for this threatened amphibian is potentially all aquatic, riparian, and upland areas within the range of the species and includes any landscape features that provide cover, such as existing animal burrows, boulders or rocks, organic debris such as downed trees or

logs, and industrial debris. Agricultural features such as drains, watering troughs, spring boxes, abandoned sheds, or hay stacks may also be used. Incised stream channels with portions narrower and depths greater than 18 inches also may provide important summer sheltering habitat. Dispersing California red-legged frogs in northern Santa Cruz County traveled distances from 0.25 miles to more than 2 miles without apparent regard to topography, vegetation type, or riparian corridors (Bulger *et al.* 2003).

California red-legged frogs also have been found in disturbed areas such as channelized creeks and drainage ditches in urban and agricultural areas. An adult recently was observed in a shallow isolated pool on North Slough Creek that is largely surrounded by vineyards near the City of American Canyon in Solano County (Christine Gaber PG&E pers. com. to C.D. Nagano on October 22, 2008). Another adult was observed under debris in an unpaved parking lot near a vegetated drainage canal in a heavily industrialized area of the City of Burlingame (Patrick Kobernus personal communication to Michelle Havens of the Service on October 16, 2008). A breeding population of the California red-legged frog is located in a storm drainage system located in the major cloverleaf interchange of Milbrae Avenue and State Route 101 in San Mateo County (California Department of Transportation 2007).

Therefore, the Service has determined it is reasonable to conclude the California red-legged frog inhabits and has the potential to be encountered within the action area, based on the biology and ecology of the threatened amphibian, the presence of suitable habitat, and the records of this species.

#### Great Blue Heron Rookery

The great blue heron has been documented to currently nest at 650 North San Pedro Road (Kelly *et al.* 2006). At some sites, nesting great blue herons tolerate human activity at close range (Nisbet 2000; Kelly *et al.* 2006), however, tolerance levels are highly variable over time and among rookeries, and unpredictable changes in the type, proximity, or intensity of human use at any site may adversely affect the nesting birds (Vos *et al.* 1985; Rodgers and Smith 1995; Hafner 2000; Kelly 2002). Nest and colony abandonments have been reported to have increased with increased visits by humans and disturbance (Dusi and Dusi 1987; Hafer 2000; Drapeau *et al.* 1984) and with road building and logging activity with 0.30 mile (Werschkul *et al.* 1976). Adverse effects of human disturbance include egg and nestling mortality, premature fledging, reduced body mass or slower growth of nestlings, and reduced settlement of breeders in the nesting colony (Rodgers and Smith 1995; Hafner 2000; Fredrick 2002). Temporary abandonment of the nests may lead to nest failure during unfavorable weather or in the presence of opportunistic weather, or in the presence of opportunistic predators such as crows (*Corvus brachyrhynchos*) and ravens (*Corvus corax*) (Hafner 2000; Kelly 2002). Response to disturbance can vary between sites and time of breeding season (Vos *et al.* 1985). Early in the breeding season, great blue herons easily flush from their nests with the slightest disturbance (Kelly 2002); *after their eggs are laid, they fly reluctantly and return quickly to their nests; few flush when their chicks are in the nest.* Birds habituate to non-threatening repeated activities (Anderson 1978; Parker 1980; Vos *et al.* 1985). Kelly *et al.* (2006) recommend a minimum 600 foot buffer zone from the periphery of the colonies to minimize the effect of humans.

One of the primary components of a successful great blue heron rookery is optimal foraging habitat in the vicinity of the nesting birds (Kelly 2008). Kelly (2002), Kelly *et al.* 2006), and Mauchamp *et al.* (2002) suggested that conditions for nesting by great blue herons could be enhanced through appropriate restoration and enhancement of wetlands and increases in the abundance of prey. Since the late 1990s, increases in the number of great blue heron and egret nesting in the San Pablo Bay coincide with increases in the extent of restored tidal marshes (San Francisco Bay Ares Wetlands Ecosystem Goals Project 1999; Featherston *et al.* 2006); Bryan *et al.* (2003) and Frederick and Callopy (1989) felt that such distributional shifts may partly reflect increases in the availability of suitable wetland feeding areas.

### Wildlife

The on-going loss and reduction in habitat for listed species and wildlife in this portion of Marin County is of concern to the Service. The proposed project likely will adversely impact a number of species of wildlife, including black-tailed deer (*Odocoileus hemionus*), bobcat (*Lynx rufus*), and gray fox (*Urocyon cinereoargenteus*). Much of the San Pablo Hills are undeveloped, however, the proposed project at 650 North San Pedro Road will continue the fragmentation of this natural area. The proposed project will largely eliminate the ability of the California red-legged frog and wildlife to fully utilize the existing habitat that is located within and adjacent to the site. The elimination of the availability of habitat and cover likely will eliminate or significantly increase the difficulty for the listed amphibian and wildlife, especially medium to large sized animals, to successfully utilize the area because they likely will be reluctant, refuse, or be unable to move through this area due to the effects of urban development, predators, lack of cover, resting areas, and forage. Over time, the reduction in the amount of natural habitat in the San Pablo Hills likely will result in potential problems for the California red-legged frog, and reduced wildlife species diversity and abundance due to a lack of recruitment, genetic problems, and mortality resulting from predation by domestic cats (*Felis domesticus*) and dogs (*Canis familiaris*), collisions with vehicles, and other human-caused factors.

### Specific Comments and Recommendations

Our specific comments and recommendations for the proposed project at 650 North San Pedro Road are as follows:

1. California Red-legged Frog. There is no discussion of the California red-legged frog in the Draft Environmental Report. We do not concur with number 3 Biological Resources on pages 2-13, or 4.3-A on page 2-33 which state that adverse impacts to any endangered, rare, or threatened species either directly or indirectly through habitat modification will not occur or will be less than significant. There are records of this threatened animal in eastern Marin County and suitable habitat for this species is located within and in the vicinity of the project site. We recommend the following conservation measures be included in the final environmental impact report:
  - a. We recommend that a protocol survey be completed prior to certification of final environmental impact report, or the presence of the California red-legged frog be

assumed in the action area. A biological opinion prepared for requesting authorization of incidental take via section 7 or a habitat conservation plan for a section 10(a) application should include the following measures:

- i. Based on the Draft Environmental Impact report, the proposed project will result in the loss of 6.2 acres of suitable California red-legged frog habitat through the implementation of residential development, roads, and other infrastructure. Therefore, we recommend that the applicant ensure the permanent protection and management of 18.6 acres of habitat within the vicinity of the action area for this listed amphibian. The 18.6 acres should have a California Department of Fish and Game and Service-approved conservation easement, and approved management plan including a non-wasting endowment based on a Property Analysis Report (PAR). We recommend that the County of Marin also should require the approval by the California Department of Fish and Game and the Service be obtained for the holders of the conservation easement and the in-perpetuity endowment.
- ii. *The applicant or their successor should be responsible for implementing the conservation measures and they should be the point of contact for the project. Prior to ground breaking, the resident engineer/project manager should submit a signed letter to the Service verifying that they have read and understand the conservation measures.*
- iii. A qualified biologist(s) should be onsite during all activities that may result in the take of the California red-legged frog. The potential for take should be determined by the Service and the California Department of Fish and Game, or in their absence, the Service-approved biologist. The qualifications of the biologist(s) should be presented to the Service for review and written approval at least ten (10) business days prior to the date of the initiation of ground-breaking at the project site. Prior to approval, the Service-approved biologist(s) should submit a letter to the Service verifying that they have read and understand these conservation measures. The Service-approved biologist(s) should keep a copy of the conservation measures in their possession when onsite.
- iv. An employee education program on the California red-legged should be completed prior to the date of the initiation of groundbreaking at the Project. The program should consist of a brief presentation by the Service-approved biologist(s) to explain endangered species issues to all contractors and their employees involved in the construction and earthmoving portions of the project. The program should include a description of the California red-legged frog, and its habitat needs; an explanation of the status of this species and its protection under the Endangered Species Act; associated consequences of non-compliance with the conservation measures; and a description of the measures being taken to reduce effects to the species during project construction and implementation.

Documentation of the training, including original individual signed affidavits, should be submitted to the Service within ten (10) business days of the completion of the class.

- v. The Service-approved biologist(s) should be given the authority through communication with the resident engineer/project manager or their successor to stop any work that may result in take of the California red-legged frog, or and other listed animal species. If the Service-approved biologist(s) exercises or attempts to exercise this authority, the Service and the California Department of Fish and Game should be notified by telephone and electronic mail within twenty-four (24) hours. The Service contact is Chris Nagano, Chief, Endangered Species Division, at the Sacramento Fish and Wildlife Office at telephone 916/414-6600 or electronic mail (Chris\_Nagano@fws.gov). The California Department of Fish and Game contact is Scott Wilson at swilson@dfg.ca.gov.
- vi. No more than thirty (30) minute prior to the initiation of any ground disturbance, surveys should be conducted by a Service-approved biologist for the California red-legged frog. These surveys should consist of random walking surveys of the project limits and adjacent areas accessible to the public to determine presence of the listed amphibian. The Service-approved biologist(s) should examine potential California red-legged frog cover sites, including mammal burrows and root wads, where possible. Safety permitting, the Service-approved biologist also should investigate areas of disturbed soil for signs of listed species within thirty (30) minutes following the initial disturbance of that given area.
- vii. All California red-legged frogs encountered in the action area should be relocated an appropriate site. The written permission of the landowner should be obtained prior to relocating individuals of the listed species. All individual listed amphibians should be placed at the mouth of suitably sized rodent burrows or other suitable site, as determined by the Service-approved biologist, and observed until it has entered the burrow or is otherwise safe. The written authorization of the Service and the California Department of Fish and Game should be obtained by the Service-approved biologist prior to transporting California red-legged frogs to a location other than the approved translocation site (i.e., individuals of this listed animal will not be moved to laboratories, holding facilities, or other facilities without the written authorization of the Service and the California Department of Fish and Game).

The Service-approved biologist(s) may use nets or their bare hands to capture California red-legged frogs at the project site. The Service-approved biologist(s) should not use soaps, oils, creams, lotions, repellents, or solvents of any sort on their hands within two (2) hours before and during periods when they are capturing and relocating either of these two listed species. The Service-approved biologist(s) should limit the duration of handling and captivity of individuals of the listed amphibian. While in captivity, individuals of these threatened animals

should be kept in a cool, moist, aerated environment, such as a bucket containing a damp sponge. Containers used for holding or transporting adults of these species should not contain any standing water.

- viii. If a California red-legged frog, or any animal that construction or other personnel believe may be this listed species, work or activities that may result in injury, death, harm, harassment, or capture of the individual animal should immediately cease; the resident engineer/project manager and the Service-approved biologist should immediately be notified; the Service-approved biologist should notify the Service and California Department of Fish and Game by telephone and/or electronic mail; and the Service-approved biologist should move the California red-legged frog to the relocation site, or if appropriate, it should be allowed to leave of its own volition. The individual should be monitored by the Service-approved biologist until it has been determined that it is not imperiled by construction activities, predators or other dangers.
- ix. Project employees should be provided with written guidance governing vehicle use, speed limits on unpaved roads, fire prevention, and other hazards.
- x. The construction (disturbance) area should be delineated with high visibility temporary fencing at least 4 feet in height, flagging, or other barrier to prevent encroachment of construction personnel and equipment onto any sensitive areas during project work activities. Such fencing should be inspected and maintained daily by the Service-approved biologist until completion of the project. The fencing should be removed only when all construction equipment is removed from the site. No project activities should occur outside the delineated project construction (disturbance) area.
- xi. To prevent inadvertent entrapment of the California red-legged frog during construction, all excavated, steep-walled holes or trenches more than one (1) foot deep should be completely covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals by the Service-approved biologist(s). If at any time a trapped listed animal is discovered, the Service-approved biologist(s) should immediately remove it by hand or net, place ramps or other appropriate structures to allow the animal to escape, or the Service and/or California Department of Fish and Game should be immediately contacted by telephone for guidance. The Service and the California Department of Fish and Game should be notified of the incident by telephone and electronic mail within twenty-four (24) hours of the discovery of the trapped animal.

- xii. Project-related vehicles should observe a 15-mile per hour speed limit within construction areas, except on City or County roads, and State and Federal highways; this is particularly important at night when the California red-legged frog are most active. To the maximum extent possible, night-time construction should be minimized.
- xiii. All grindings and asphaltic-concrete waste should be stored within previously disturbed areas absent of habitat and at a minimum of one hundred and fifty (150) feet from any culvert, or drainage feature.
- xiv. To eliminate an attraction to predators of the California red-legged frog, all food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in closed containers and removed at least once every day from the construction area.
- xv. To avoid injury or death of the California red-legged frog, no firearms should be allowed on the project site except for those carried by authorized security personnel, or local, State, or Federal law enforcement officials.
- xvi. Plastic mono-filament netting (erosion control matting) or any material containing netting should not be used at the proposed project at 650 North San Pedro Road because California red-legged frogs may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackified hydroseeding compounds.
- xvii. To control erosion during construction activities at the project, the applicant should implement best management practices (BMPs). Erosion control measures and BMPs, which retain soil or sediment, runoff from dust control, and hazardous materials on the construction site and prevent these from entering any drainages will be placed, monitored, and maintained throughout the construction operations. These measures and BMPs may include, but are not limited to, silt fencing, sterile hay bales, vegetative strips, hydroseeding, and temporary sediment disposal.
- xviii. Use of rodenticides and herbicides in the action area should be utilized in such a manner to prevent primary or secondary poisoning of the California red-legged frog, and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other appropriate State and Federal regulations, as well as additional project-related restrictions deemed necessary by the Service or the California Department of Fish and Game.
- xix. The California red-legged frog is attracted to den-like or burrow-like structures such as pipes and they may enter stored pipes or culverts where they may become trapped, injured, or killed. All replacement pipes, culverts, or similar structures

with a diameter of two (2) inches or greater that are stored in the action area for one or more overnight periods should be thoroughly inspected by the Service-approved biologist for any individuals of this listed species before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California red-legged frog is discovered, it should be moved to the relocation site by the Service-approved biologist. The Service-approved biologist should contact the Service and the California Department of Fish and Game to report the incident with the listed amphibian via telephone and electronic mail within twenty-four (24) hours.

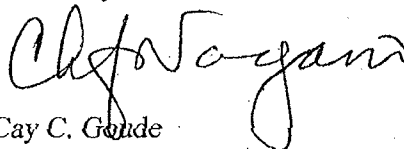
- xx. The applicant or their successor should allow complete and unrestricted access to the project site to inspect project effects to the California red-legged frog, and its habitats by the California Department of Fish and Game, the Service, or their designated representative before, during, or upon completion of ground breaking and construction activities.
- xxi. The applicant or their successor should submit a post-construction compliance report prepared by the Service-approved biologist to the Service within thirty (30) calendar days following project completion or within five (5) calendar days of any break in construction activity lasting more than five (5) calendar days. This report shall detail (1) dates that ground breaking was reinitiated; (2) pertinent information concerning the success of the project in meeting compensation and other conservation measures; (3) an explanation of failure to meet such measures, if any; (4) known project effects on the California red-legged frog, if any; (5) occurrences of incidental take of this species; (6) documentation of employee environmental education; and (7) other pertinent information. The reports should be addressed to the Chris Nagano at the Sacramento Fish and Wildlife Office.
- xxii. The Service-approved biologist(s), applicant or their successor should report to the Service any information about take or suspected take of the California red-legged frog or other listed species. The Service-approved biologist(s), applicant or their successor should notify the Service via electronic mail and telephone within twenty-four (24) hours of receiving such information. Notification should include the date, time, location of the incident or of the finding of a dead or injured animal, and photographs of the specific animal. Each animal should be sealed in a zip-lock® plastic bag in which a piece of paper is placed that contains the date, time, specific location, and the name of the person(s) who found the individual; the bag will be placed in a freezer in a secure location until the Service takes custody of it. The Service contacts are Chris Nagano at the Sacramento Fish and Wildlife Office, and Special Agent Daniel Crum, Resident Agent-in-Charge of the Service's Law Enforcement Division at telephone 916/ 414-6660 or electronic mail (Daniel\_Crum @fws.gov).




2. Great Blue Heron Rookery. We are concerned that the great blue heron likely will abandon use of the project site as a rookery because, as described in the draft environmental impact report, the project will remove the single tree currently used by the birds to nest in (Impact 4.3-B), and also the disturbance resulting from construction along with the in-perpetuity effects of increased numbers of people, pets, vehicles, noise and lights. We suggest that the following mitigation measure also be implemented along with Measures 4.3-B., 4.3.-B.2, 4.3-B.3, 4.3.-B in the Draft Environmental Impact Report:
  - a. To enhance an existing feeding and loafing site with the intent of encouraging nesting by the great blue heron at another location, the applicant should implement the *Smith Ranch Road Pond Management Plan* (Resource Management International 1996). The applicant should work with the City of San Rafael, California Department of Fish and Game, and the Service in the implementation of the plan.
3. Wildlife Habitat. Page 3-11 of the Draft Environmental Impact Report states that 8.6 acres will be encompassed within lots 8-12 as private open space. It is our experience that, depending upon the interest of the landowners, the protection and management of wildlife habitat under such conditions ranges from beneficial to neglect or harmful for listed species, wildlife, and their habitats. Therefore, we recommend that all areas outside of the Area of Disturbance, but including the pond and wetland, designated on figure 4.3-2 be placed under a California Department of Fish and Game and Service-approved conservation easement, along with a management plan and in-perpetuity endowment based on a Property Analysis Records (PAR). We recommend that the County of Marin also should require that the approval by the California Department of Fish and Game and the Service be obtained for the holders of the conservation easement and the in-perpetuity endowment.

We are interested in working with the County of Marin and the applicant in the resolution of the issues regarding the threatened California red-legged frog, great blue heron rookery, and wildlife. Please contact Chris Nagano, Chief of our Endangered Species Division at the letterhead address, via electronic mail ([Chris\\_Nagano@fws.gov](mailto:Chris_Nagano@fws.gov)), or at telephone 916/414-6600, if you have any questions regarding this response on the Draft Environmental Impact Report for 650 North San Pedro Road in the County of Marin, California.

Sincerely,



  
Cay C. Gonde  
Assistant Field Supervisor  
Endangered Species Program

Mr. Tim Haddad

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cc:

Scott Wilson, Jeremy Sarrow, California Department of Fish and Game, Yountville, California  
Jane Hicks, Regulatory Branch, U.S. Army Corps of Engineers, San Francisco, California

## Literature Cited

- Anderson, J.M. 1978. Protection and management of wading birds. Pages 99-104 in A. Sprunt IV, J.C. Ogden, and S. Winkler (editors). Wading birds. National Audubon Society Research Report Number 7. New York, New York.
- Bryan, J.C., S.J. Miller, C.S. Yates, and M. Minno. 2003. Variation in size and location of wading birds in the upper Saint Johns Basin, Florida, USA. *Waterbirds* 26: 239-251.
- Bulger, J. B.; N. J. Scott Jr.; R. B. Seymour. 2003. Terrestrial activity and conservation of adult California red-legged frogs *Rana aurora draytonii* in coastal forests and grasslands. *Biological Conservation* 110 (2003) 85-95.
- Butler, R.W. 1992a. Great blue heron. *The birds of North America* 25:1-18.
- \_\_\_\_\_. 1992b. A review of the biology and conservation of the great blue heron (*Ardea herodias*) in British Columbia. Canadian Wildlife Service Technical Report Number 1254. Delta, British Columbia.
- \_\_\_\_\_. 1994. Population regulation of wading Ciconiiform birds. *Colonial Waterbirds* 17: 189-199.
- California Department of Fish and Game. 2008a. RAREFIND. California Natural Diversity Data Base, Natural Heritage Division, Sacramento, California.
- \_\_\_\_\_. 2008b. BIOSIS. Natural Heritage Division, Sacramento, California.
- California Department of Transportation. 2007. Biological assessment for the restoration of the hydraulic capacity of the Cowan Storm Drain Canal within the U.S. Highway 101/Milbrae Avenue Interchange. EA 3A0400. December 2007. Oakland, California
- Drapeau, P., R. McNeil, and J. Burton. 1984. Influences du derangement h l'activite du cormorant a aigets *Phalacrocorax auratus*, sur la reproduction *Ardea herodias*, aux iles de la Madeleine. *Canadian Field Naturalist* 98: 219-222.
- Featherstin, T., E. Zhang, C. Collins, and M. May. 2006. Bay Area wetland tracker. San Francisco Estuary Institute, Oakland, California. <http://www.wetlandtracker.org>
- Fellers, G. 2005. *Rana draytonii* Baird and Girard, 1852 California red-legged frog. Pages 552-554 in M. Lannoo (editor). Amphibian declines the conservation status of United States species. University of California Press. Berkeley, California.
- Fellers, G. M. and P. M. Kleeman. 2007. California Red-Legged Frog (*Rana draytonii*) Movement and Habitat Use: Implications for Conservation. *Journal of Herpetology*. 41(2): 271-281
- Frederick, P.C. and M.W. Callopy. 1989. Nesting success of five ciconiiform species in relation to water conditions in the Florida Everglades. *Auk* 106: 625-634.
- Gibbs, J.P. 1998. Amphibian movements in response to forest edges, roads, and streambeds in southern New England. *Journal of Wildlife Management* 62: 584-589.
- Jennings, M. R., and M. P. Hayes. 1994. Amphibian and reptile species of special concern in California. Report prepared for the California Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, California. 255 pages.
- Kelly, J.P. 2002. A safe place to nest. *The Ardeid* 2002: 1-3.
- \_\_\_\_\_. 2008. The protection of nesting landscapes. *The Ardeid* 2008: 4-6.
- Kelly, J.P., K. Etienne, C. Strong, M. McCaustland, and M.L. Parks. 2006. Annotated atlas and implications for the conservation of heron and egret nesting colonies in the San Francisco

- Bay Area. ACR Technical Report 90-3-17. Audubon Canyon Ranch, Marshall, California.
- Mauchamp, A., P. Chauvelon, and P. Grillas. 2002. Restoration of a floodplain wetlands: opening polders along a coastal river in Mediterranean France, Vistre marshes. *Ecological Engineering* 18: 619-632.
- Mazzerolle, M.J. and A. Desrochers. 2005. Landscape resistance to frog movements. *Canadian Journal of Zoology* 83: 455-464.
- Parker, J. 1980. Great blue herons (*Ardea herodias*) in northwestern Mon habitat use and the effects of human disturbance. Master of Science thesis. University of Montana.
- Resource Management International. 1996. Smith Ranch Pond Management Plan. Prepared for the City of San Rafael, California. San Rafael, California
- Rothermel, R.B. and R. D. Semlitsch. 2002. An experimental investigation of landscape resistance of forest versus old-field habitats to emigrating juvenile amphibians. *Conservation Biology* 16: 1324-1332.
- San Francisco Bay Area Wetlands Ecosystems Goals Project. 1999. Baylands ecosystem habitat goals. U.S. Environmental Protection Agency and the San Francisco Bay Regional Water Quality Control Board, Oakland, California.
- Vos, D.K., D.A. Ryder, and W.D. Gaul. 1985. Response of breeding great blue herons to human disturbances in northcentral Colorado. *Colonial Waterbirds* 8: 13-2
- Werschkul, D.F., E. McMahon, and M. Leitschuh. 1976. Some effects of humans on the great blue heron in Oregon. *Wilson Bulletin* 88: 660-662.
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## LETTER 10 – Edgcomb Law Group

10-1: This comment introduces the commentators, the Friends of San Pedro, and summarizes the concerns of the group. The comment states the opinion that the project would have significant, irreversible impacts on the environment that can't be mitigated and impair the quality of life for nearby residents and user of recreational amenities (e.g. China Camp State Park). The comment offers no specific examples or evidence to substantiate the statement about irreversible impacts, however this comment will be considered by decision-makers, as explained in Master Response 1 (Merits/Opinion).

10-2: The comment expresses opposition to the project on the grounds that the rezoning is inconsistent with the original vision for the area and that the project, due to its scale, would have an adverse effect on the aesthetics and visual setting of the area. The level of development that could occur under existing zoning is discussed in Master Response 6 (Level of Development Permitted Under Existing Zoning). The issues of visual and land use compatibility are discussed in Master Responses 2 and 5, respectively.

10-3: The comment states the opinion that the Developer has ignored or underestimated numerous impacts and thereby has failed to provide the decision-makers with adequate information. However, no specific examples, including any references to the EIR, are provided to support this position. The comment continues by saying that the determination of the No Project Alternative's environmental inferiority is misleading and that a reasonable range of alternatives were not considered. The issue of whether the alternatives analysis considers a reasonable range is discussed in Master Response 3 (Adequacy of Alternatives Analysis).

10-4: The comment states that numerous potential impacts were not adequately analyzed or were ignored in the DEIR. As an example, the comment notes the absence of detail on why the applicant has requested a rezoning. It is not the purpose of the DEIR to examine or elaborate on the applicant's reasons for a rezone request. Rather, consistent with CEQA, the DEIR ana-

lyzes the potential effects on the environment that would occur if the rezoning were approved and the project were constructed, as proposed.

The comment says that the analysis of the No Project Alternative is conclusory, lacks factual support, and does not identify which project objectives would be met. As discussed in Master Response 3 (Adequacy of Alternatives Analysis), it is not required that project alternatives be analyzed at the same level of detail as the proposed project.

Contrary to what is said in the comment, the DEIR does explain why the No Build Alternative would not meet any of the objectives set forward for the project, as identified in Chapter 3.0 of the DEIR. For clarification, the project would not meet the objective of expanding market rate housing in the county because the site would retain its current use until an application for its development was pursued at an unknown time in the future. This statement is made in Chapter 2 of the DEIR, but not in Chapter 5.

Lastly, the issue of a No Build Alternative is discussed in Master Response 3 (Adequacy of Alternatives Analysis).

10-5: The comment provides an opinion that the DEIR conclusion that that the proposed project is environmentally superior to the No Project Alternative is a violation of CEQA and is incorrect. However, no reference to the CEQA guidelines or applicable case law is provided to clarify how this conclusion is a violation. Furthermore, the DEIR provides analysis that compares the proposed project with the No Project Alternative. The analysis shows that the No Project Alternative would have greater impacts than the impacts cited by the commentator. Under the No Project Alternative, development on three of the lots on the more northern portion of the site (APNs 180-231-05, 180-231-09, 180-231-06) would only require a building permit, and no further restrictions on the protection of habitat, trees, wetland area, or other sensitive habitat would be required. Such development, although allowing for less density, would occur without restrictions, avoidance or mitigation measures for sensitive biological resources that are avoided or miti-

gated by the proposed project with discretionary permit restrictions imposed. No change to the DEIR is required.

The comment provides three reasons why the proposed project would have a greater impact on the environment than the No Project Alternative, however no analysis, quantitative or otherwise is presented to substantiate these points and allow the reader to confirm their accuracy.

10-6: The comment states that CEQA requires a full analysis of a proposed project's impacts, which is what the DEIR provides. All applicable issues from the Appendix G checklist in the Guidelines and the Marin County Environmental Review guidelines have been examined in the document. The only issues not examined are agricultural and mineral resources because these do not exist on the site and the project would not affect these resources off-site. The comment also correctly states that a reasonable range of alternatives must be considered in an EIR. This issue is discussed in Master Response 3 (Adequacy of Alternatives Analysis). The comment incorrectly states that if an alternative meets most project objectives, while minimizing or eliminating significant impacts, it must be implemented. The Lead Agency is not obligated to approve the alternative that would minimize environmental impact while meeting most project objectives. However, through Findings of Fact on the EIR, the Lead Agency is required to explain the reasons for selecting the project, or an alternative, it chooses.

10-7: The comment states that the DEIR is not certifiable because it does not discuss potential impacts to California red-legged frog. Please refer to Master Response 4 for a discussion of this issue.

10-8: The comment states that the DEIR does not provide analysis of potential impacts to the California clapper rail or the California black rail. California clapper rail and black rail utilize tidal salt marsh habitat in the Bay. The project site is upland habitat on a hillside south of North San Pedro Road. As discussed in the DEIR on pages 4.3-20 and 4.3-21, both rail species

do occur in the vicinity of the project site, but north of North San Pedro Road in the marsh, where they would not be affected by the project.

10-9: The comment states the DEIR fails to analyze a reasonable range of alternatives. Please refer to Master Response 3 for a discussion of this issue.

10-10: Contrary to what the comment suggests, the DEIR did not dismiss the No Project Alternative. The Alternative is considered at the same level of detail as the other three build alternatives. The conclusion in the DEIR that the No Project Alternative is environmentally inferior to the proposed project does not constitute dismissal. Furthermore, this conclusion was based on consideration of issues germane to CEQA.

10-11: The comment states that the DEIR failed to present a No Build Alternative. Please refer to Master Response 3 for a discussion of this issue.

10-12: The comment states that there would be no legal mechanism in place to ensure compliance with any restrictions placed on the open space on site. Please refer to Master Response 7 for a discussion of open space management, including the County easement and deed restrictions that would be placed on the open space.

10-13: The comment says that the traffic impact does not comport with CEQA, however it provides no additional detail or evidence to support this statement. Furthermore, the CEQA guidelines do not dictate a specific method for conducting a traffic analysis. The traffic analysis, as presented in Chapter 4.6 of the DEIR, is based upon accepted industry methods for estimating project trips and is consistent with County criteria with regard to study methodology and the determination of impacts. As a result, the traffic analysis complies with CEQA.

10-14: The comment states that the DEIR is based on outdated and incomplete wildlife studies. The studies are not outdated. In 2007, for the revised project concept, the project biologist reviewed his initial conclusions from



2005 to determine whether updates were necessary to the inventory of flora and fauna. This review and related updates are consistent with Section 15125[a] of the CEQA Guidelines, which states that an EIR is required to include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the Notice of Preparation was published (CEQA 15125[a]).

The comment questions the completeness of the wildlife studies, but provides no specific examples or information. The studies were conducted by a certified biologist and based on accepted field survey and document research methods. Furthermore, mitigation measures included within the DEIR require pre-construction surveys to identify the presence of wildlife species in the event that species could be impacted by construction activities. Additionally, a red-legged frog survey, as discussed in Master Response 4, was recently completed in June 2009.

10-15: The comment states the opinion that the project is inconsistent with local policies and the Countywide Plan, but no specifics are provided to demonstrate inconsistency. As concluded in Chapter 4.1 of the DEIR, the project as mitigated would be consistent with policies set forth in the Countywide Plan.

10-16: The comment says that, in general, the DEIR fails to conduct the level of analysis required under CEQA. Similar to comment 10-15, this comment provides no specific examples from the DEIR that would otherwise allow for a more informed response. No additional response is warranted.

10-17: This comment provides a summary statement. The comment says that for the reasons specified above in Comments 10-7 to 10-16, additional studies and analysis must be conducted for the EIR to be certifiable. Moreover, the comment says that the additional mitigation must be proposed, an adequate range of alternatives must be presented, and the DEIR must be substantially re-written. Beyond the specific issues raised in Comments 10-7 to 10-16, this

comment does not identify additional issues from the DEIR. No additional response is therefore possible or warranted.

10-18: The comment suggests that potential impacts on biological resources have been either ignored or severely underestimated in the DEIR. The analysis, which is based on field reconnaissance, records research, and consultation with regulatory agencies, was completed by a certified biologist. The methods employed by the project biologist to document the existence and quality of biological resources on site are consistent with standard industry practice. On this basis, the biologist identified eight potentially significant impacts to biological resources.

The methods employed by the two EIR biologist teams to document the existence and quality of biological resources on site are consistent with standard industry practice. Detailed information on study methodology is contained in Appendix A of the 2005 Environmental Constraints Report. This report is included as Appendix F of this FEIR. The two biology firms employed for the EIR utilized professional biologists who have substantial expertise and experience in conducting field biology evaluations and studies. These firms also peer reviewed submittals by the applicant's preferred biologist submittals and independently conducted field investigations and literature review to reach their own conclusions.

Additionally, the commentor does not provide specific facts to support the opinion that impacts to biological resources are underestimated in the DEIR. No change to the DEIR is required.

10-19: As discussed in response to comment 10-8, the project site is upland habitat on a hillside south of North San Pedro Road. The species identified in the comment do occur in the vicinity of the project site, but north of North San Pedro Road in the marsh where they would not be affected by the project. This is noted on pages 4.3-20 and 4.3-21 of the DEIR. No additional response is required.

10-20: The comment describes potential impacts to Gallinas Creek Marsh and the four species identified in the previous comment. Particular concern is expressed about potential impacts to the California clapper rail. As stated in response to Comment 10-19, the project site is upland habitat on a hillside south of North San Pedro Road. Gallinas Creek Marsh at the closest point to the project site is approximately 1,200 feet away or roughly 0.25 miles. Due to the separating distance, vegetative screening that would be planted on the northern site boundary, and exterior lighting standards, the project would not have significant impacts on the marsh habitat from noise and light pollution. Vegetative screening and lighting standards are discussed in Master Responses 9 (Tree Removal and Replacement) and 2 (Visual Compatibility), respectively.

Measures that would be taken to address potential contamination in stormwater leaving the site are described in Section 4.4, Hydrology and Water Quality. Please also refer to the response to comment 16-6 (Letter 16 below), which identifies how Mitigation Measure 4.4-A.1 is being augmented to specify additional measures that should be considered to minimize adverse effects on water quality down stream of the site.

10-21 and 10-22: These comments question the absence of California red-legged frog from the existing conditions assessment and similar to comments in USFWS's letter (see Letter 1), recommend that a protocol study be completed prior to certification of the EIR. A protocol level study was completed. The study did not identify any CRLF on site. The study is on file at the County Community Development Agency office. Please refer to Master Response 4 for a discussion of these issues.

10-23: This comment provides the opinion that the DEIR is based on only one site survey and numerous species could be located within the project site. Several biological resource studies conducted by two biologists and an arborist have occurred within the project site between 2005 and 2009. These studies include, but are not limited to, a biological constraints analysis (June 2005) completed by a Garcia and Associates (GANDA) biologist, a 2008 independ-

ent peer review of GANDA's constraints analysis by a biologist from Environmental Collaborative a tree inventory and evaluation (completed in 2007 and revised in 2008) completed by a certified arborist (MacNair and Associates), and multiple studies and extensive coordination regarding the heron rookery (2008). Additionally, in June 2009, a study was conducted by a certified biologist from LSA to determine whether California red legged frog was located within the project site. As indicated in Master Response 4, no frogs were found. As discussed in response to comment 10-14, the studies are not outdated, and in 2007, the project biologist reviewed his initial conclusions from 2005 to determine whether updates were necessary to the inventory of flora and fauna.

Completion of these existing conditions analyses is consistent with Section 15125[a] of the CEQA Guidelines, which states that an EIR is required to include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the Notice of Preparation was published (CEQA 15125[a]). Furthermore, performance-based mitigation measures included within the DEIR require more detailed pre-construction surveys. The purpose of these measures is to identify the presence of wildlife species that could subsequently be impacted by construction activities defined at a more specific level of detail in the Precise Development Plan and improvement plans developed after the Master Plan is approved.

10-24: The comment calls for a description of the wildlife survey protocols followed by GANDA so that the decision makers can assess the adequacy of the surveys. Please refer to Appendix A of the 2005 Environmental Constraints Report for detailed information on study methodology. The Constraints Report is included as Appendix F in this FEIR.

10-25: The comment requests that more current surveys are conducted to confirm whether oak trees within the project site are impacted by Sudden Oak Death (SOD). The DEIR states that six foliage samples were sent to the Marin County Agricultural Commissioner's Office in 2005 for analysis for the presence or absence of the SOD pathogen *Phytophthora ramorum*. SOD

was positively detected in the sample collected at Site 6 (California bay [*Umbellularia californica*] and toyon [*Heteromeles arbutifolia*]). The location is approximately 250 feet south of the pond. Results from the other five sites were negative. In addition, Section 15125 of the CEQA Guidelines states that an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they existed at the time the notice of preparation was published. The description of the provided by the DEIR is adequate and a change to the DEIR is not required.

10-26: The comment questions the efficacy of off-site mitigation at West Marin Island as a means of addressing removal of the heron nest from the site. The offsite mitigation provides optional locations. The issue of off-site mitigation specific to this impact is discussed in Master Response 10 (West Marin Island).

10-27: This comments requests that independent biologists study the potential effects of the project on wildlife. This has been done for the EIR. The County's biological consultants independently conducted a study of potential impacts to wildlife; impacts and mitigation measures were documented in the DEIR. Studies included literature review, including a review of the California Natural Diversity Database, which was followed by a site assessment in the field. Follow-up surveys/studies were conducted for rare plants, SOD, and herons based on results of the site assessment. Detailed information on methodology is contained on pages 1-2 of the 2005 Environmental Constraints Report. This report is included as Appendix F of this EIR. The County's biologist also peer reviewed and independently verified the accuracy of studies conducted by the applicant, including a wetlands delineation and an arborist report.

10-28: This comment expresses the opinion that the development is inconsistent with relevant local policies, including the 2007 Main Countywide Plan. This comment quotes the Countywide Plan. The DEIR provides documentation and analysis of numerous goals and policies in Chapter 4.1 (Land Use). The DEIR concluded that through a combination of project features and re-

quired mitigation measures, the project would be consistent with applicable County policies. This comment also introduces the next several comments that cite specific policies. These comments represent the opinion of the commentor without apparent factual support. No change to the DEIR is required.

10-29: The comment lists five reasons to support its opinion that the project is inconsistent with Goal BIO-1 in the Countywide Plan. Each of the issues raised was analyzed in Section 4.3 of the DEIR and are discussed in responses to comments 10-30 to 10-35. Where potentially significant impacts were identified, mitigation measures were developed to reduce them to a less than significant impact. As determined in the policy consistency analysis in Chapter 4.1 of the DEIR, through implementation of these measures, the project would be consistent with the County's ongoing efforts to preserve and enhance wetlands and wildlife nursery areas, habitat, and movement corridors.

10-30: The comment states that the project is inconsistent with Policy BIO-1.2 in the Countywide Plan. The policy states:

Continue to acquire areas containing sensitive resources for use as permanent open space, and encourage and support public and private partnerships formed to acquire and manage important natural habitat areas, such as baylands, wetlands, coastal shorelines, wildlife corridors, and other lands linking permanently protected open space lands.

The policy does not emphasize or require that preserved open space be a public resource as suggested in the comment. As such, the private nature of the 8.6 acres of proposed open space on-site is not inconsistent with this policy.

The comment states that despite deed restrictions, there would be no legally enforceable mechanism to ensure open space preservation and recommends that the open space be placed within a CDFG conservation easement to ensure consistency with Policy BIO-1.2. Open space management, including deed restrictions, the County's easement, and prohibitions on activity are

discussed in Master Response 7 (Open space management). The County maintains that the project would be consistent with this policy because deed restrictions and an easement would be appropriate mechanisms by which to ensure that the open space is adequately preserved.

10-31: The comment identifies three reasons to support its opinion why the project would be inconsistent with Policy BIO 1.3. The policy does not prohibit tree removal outright. Rather, it encourages that protection occur for large native trees and trees with historical importance. The DEIR has adequately identified each of the impacts identified in this comment and in cases where potentially significant impacts have been identified, mitigation has been developed to address them. The County maintains that the project would be consistent with this policy because 8.6 acres of open space would be protected on-site and appropriate mitigation measures have been developed to address impacts to the resources protected under this policy; woodlands, forests, and tree resources.

10-32: The comment correctly infers that not all stormwater management would be dealt with through biotechnical techniques. Underground drainage pipes would also be installed at certain locations throughout the site. However, the County determined that project is consistent with Goal EH-3.2 because the project would also utilize the existing, on-site pond as the primary drainage feature collecting 85 percent of the stormwater runoff for biofiltration. Storm water exiting the project site would not be increased. As explained in Chapter 4.4 of the DEIR (Hydrology and Water Quality), the modified (enlarged) pond on-site would serve as a detention basin for storm water, with an overflow outlet.

10-33: The comment states that the project would be inconsistent with Policy OS- 2.4 for reasons stated therein. The comment does not mention the reasons for the consistency determination, as stated in the DEIR. The ephemeral creek on-site would not be disturbed as a result of the project. Consistent with County policy, a 20-foot setback would be established between the extent of development and the top of the creek bank. The one exception would

be the construction of one storm water outlet dissipater within 10-feet of the top of the creek bank, however this feature would not adversely affect the creek corridor's capacity to serve as habitat and a wildlife movement corridor. Following construction, a permanent fence would be installed to limit access to the creek. The project Fencing Plan (March 20, 2007) shows that an open-wire fence would be constructed on lots 9 through 11 at the 20-foot setback line from the creek. This fence, which would be approximately 6-feet in height, would allow for visual access to the creek, however would limit physical access and clearly distinguish the 20-foot setback buffer. Through the inclusion of this fencing, the creek corridor could continue to function as a habitat for plants and wildlife.

10-34: The extent and biological value of resources on the project site are adequately documented in Chapter 4.3 of the DEIR. The key question raised in this comment is whether the project reflects an effort to reduce, but not necessarily preclude, development in areas with high natural resource value to minimize adverse impacts. The DEIR does not attempt to demonstrate that the project would altogether avoid such areas on the site. In cases where the development has the potential to adversely affect said resources, mitigation measures have been developed. The existence of potentially significant impacts and the need for mitigation does not equate to an inconsistency with this policy. Conversely, the following factors demonstrate that an effort has been made to preserve resources on-site; no homes, roads, or driveways would be constructed within the extent of the delineated wetland; a 20-foot setback from the creek corridor would be in place during and after construction; and 8.6 acres of open space would be preserved on-site, primarily on the upslope, southern portion of the site contiguous with existing, undeveloped woodland.

10-35: The comment indicates that a project's impacts may be significant under CEQA, even if CEQA thresholds of significance are not exceeded. The commentor also provides a reference to a relevant court decision. In accordance with the provisions in Section 15064 of the CEQA Guidelines (Determining the Significance of the Environmental Effects Caused by a Project) a



determination of significance must stem from information in the project's record and, to the extent feasible, on scientific and factual data. In general, CEQA depends on the professional judgment of environmental professionals with specific expertise and training in a particular area to make a determination of significance, supported by substantial factual evidence. Accordingly, a team of CEQA professionals and other technical experts were used to develop the EIR and have made the conclusions of significance therein based on technical expertise supported by substantial factual evidence. No additional response is required.

10-36: The comment states that the DEIR does not adequately describe the specifics of Best Management Practices (BMPs) and other plans that would be implemented to address storm water quality. The comment also states that this stated lack of transparency precludes the County and the public from adequately determining whether water quality thresholds would be violated.

The mitigation measures related to storm water quality during and after construction are summarized in Appendix B of the DEIR (Mitigation Monitoring and Reporting Program). As alluded to in the comment and required through mitigation, a Storm Water Pollution Prevention Plan (SWPPP) as well as the post-construction, final drainage plan would be required for the project. The Best Management Practices (BMPs) and performance standards that should be considered for the construction-period SWPPP as well as the post-construction, final drainage plan are listed therein. The comment is correct in that all details relating to the BMPs are not provided in the DEIR. This is because the SWPPP and final drainage plan have not yet been developed. The timing, implementation, and enforcement framework for these plans is identified in the MMRP referenced above.

Although the comment disputes this, required compliance with the applicable regulatory framework described in Section 4.4 is an adequate means of ensuring that potentially significant impacts would be reduced to a less-than-significant level. The absence of final plans at this point in the entitlement process does not preclude the project hydrologist, Stetson Engineers, from

making a determination of less-than-significant, based on adherence to performance based mitigation. The design of the project must demonstrate compliance with the regulatory framework through the design of the project and by including construction-period BMPs.

10-37: The comment states that the peak runoff analysis in the DEIR lacks transparency. The methodology used by ILS Engineers in the drainage analysis is presented in Appendix C of the DEIR. This Appendix also contains Stetson Engineers' peer review of the ILS analysis. The comment identifies several points for which it is suggested that clarification or additional study is needed. Specific concerns include, but are not limited to, the accuracy of rainfall data and the validity of the runoff coefficients. The rainfall data and methods used in the analysis are based on the rainfall data, methods and procedures in the County of Marin Public Works Hydrology Manual (August, 2000). These methods are consistent with accepted industry standards and are universally applied in the course of other project reviews throughout the County. For example, consistent with the County manual, the 100-year peak flow rates were estimated using the Rational Method of Computation. The Rational Method is the most widely-used method in the world to estimate peak flow rates for relatively small drainage areas. In estimating 100-year post-construction runoff volumes for the post-construction, ILS Engineers used a runoff coefficient of 0.95 for impervious area and 0.75 for pervious area without specific consideration how cut and fill would affect the runoff coefficient. Based on follow-up consultation with Stetson Engineers, these coefficients are reasonable in general and do not deviate from the County Manual. The manual does not call for an adjustment to runoff coefficients based on the removal or addition of soil and fill.

On this basis, the County maintains that the methods followed to quantify estimated peak runoff and develop the drainage plan were adequate. The comments do not, therefore, warrant additional analysis.

The comment states that the structural integrity of the raised, modified berm is critical and questions how maintenance and security of the berm will be

ensured through the Homeowners' Association (HOA). As stated in Mitigation Measure 4.4-E.1 in the DEIR, ongoing maintenance of the pond, including debris removal and monitoring, shall be the responsibility of an HOA. This text of the DEIR has been revised to clarify that ongoing maintenance of the pond under this mitigation measure shall also include monitoring the structural integrity of the berm, and the proper functioning of the weir inlet. According to the project applicant, the modified berm will be designed in accordance with appropriate engineering standards.

The comment questions how the ongoing maintenance of the pond by the HOA would be implemented and enforced, and what the ongoing maintenance requirements would be. Mitigation Measure 4.4-E.1 has been amended to specify the mechanism for ongoing maintenance and what the maintenance requirements would be. Please refer to Chapter 4.4 of the FEIR for revised text.

10-38: This comment requests that in light of comments 10-35 – 10-37, Chapter 4.4 (Hydrology and Water Quality) of the DEIR be revised or the County order additional studies to address the issues discussed in these comments. Comments 10-35 – 10-37 have been separately addressed. Based on the reasons set forth in these responses relating to the adequacy of Chapter 4.4 of the DEIR, no additional revisions or studies are warranted to address this comment.

10-39: This informational comment provides citations from the CEQA Guidelines and the Public Resources Code in regards to an alternatives analysis within the context of an EIR. No additional response is required.

10-40: The comment states various reasons to support its opinion that the alternatives analysis in the DEIR is inadequate. As explained in Master Response 3 (Adequacy of Alternatives Analysis), the analysis was completed in accordance with Section 15126.6. The various factors demonstrating the project's compliance with this Section of the Guidelines are explained in the Master Response.

10-41: Please refer to Master Response 3 (Adequacy of Alternatives Analysis) for a discussion of how the No Project Alternative, as analyzed in Chapter 5.0 of the DEIR, is consistent with the CEQA Guidelines.

10-42: The first part of the comment states that the DEIR fails to discuss a true No Build Alternative. For a discussion of this issue, please refer to Master Response 3 (Adequacy of Alternatives Analysis). The comment proceeds to imply that a No Project Alternative would be environmentally superior, in part, because it provides more options for protecting the tree containing the heron nest. As explained in Section 4.3 of the EIR, the tree containing the heron nest on the site is of marginal health and condition. The project arborist considers the nest tree to be a hazard with a short life-span. As such, the tree is a hazard to the existing residents on the site and if left standing, would be a hazard to contractors during construction and to future occupants of the development, regardless of which alternative would be developed. In order to mitigate this hazard, the tree would be removed prior to construction, which would reduce the threat to life and property.

10-43: As stated in Chapters 2 and 5 of the DEIR, the County would have no discretionary review authority over development on three of the five lots under the No Project Alternative. The key point underlying the determination of environmental inferiority is that there would be no enforceable, regulatory mechanism for the County to intervene in the development process for these three lots and ensure compliance with County policy.

10-44: The comment lists several reasons to support the opinion that the No Project Alternative is environmentally superior. The comment states that these reasons are an obvious basis on which to conclude that the No Project is environmentally superior. However, no technical information, quantitative or otherwise, is presented to support these conclusions for the reasons set out in the EIR and as discussed in response to comment 10-43 above. The No Project Alternative is not shown to be the environmentally superior alternative. Moreover, under the proposed project, all of the impacts identified in the comment have shown to be mitigated to less than significant levels.

The comment says that the conclusion in the DEIR regarding the environmental inferiority of the No Project Alternative is without merit. As stated in response to Comment 10-43, the potential impacts resulting from a lack of discretionary review on three of the five lots is the primary basis on which the determination of environmental inferiority of the No Project Alternative was made.

10-45: As stated in Chapter 2.0 of the DEIR, under the No Project Alternative, the site would retain its current use until an application for development was pursued at an unknown time in the future. Due to the absence of an application for development of the five lots under existing zoning, it is valid to say that this alternative would not increase the County's supply of market rate housing or green housing. Conversely, the three build alternatives, which are variations of the project as proposed, would be consistent with this objective.

10-46: The comment questions the conclusion in the DEIR that the visual quality of the site would not improve under the No Project Alternative. As explained in Chapter 5 of the DEIR, development on three of the five lots would not require Design Review, Tree Removal Permits or any other type of discretionary approval for development. In addition, houses on Lots 3 and 4, as shown on Figure 5-1, are proposed in areas of the site that would result in greater visual impacts when compared to the proposed project. These homes would be located at higher elevations on the site and therefore would likely be more visible from public and private viewpoints south of the property.

Conversely, the proposed project would result in residences that are clustered on the lower site elevation; requires a comprehensive design review; a tree removal permit; and a tree mitigation (replacement) plan.

10-47: The comment suggests that the DEIR has 'rejected' the No Project Alternative on the basis that it would not meet the objective of developing a financially-profitable project. The DEIR has not rejected the No Project Al-

ternative from consideration. The conclusion that the No Project Alternative would be environmentally inferior does not constitute a rejection, and the DEIR does not explicitly or implicitly recommend this. Rather, similar to the build alternatives, the No Project Alternative was evaluated to the same degree that the three build alternatives were. Furthermore, the DEIR does not address any financial considerations.

10-48: This comment summarizes previous concerns expressed in Comments 10-39 – 10-40 and 10-45 – 10-47. The issues of the No Build Alternative and a reasonable range are discussed in Master Response 3. The comment also calls for a diligent analysis of the No Project Alternative. As explained in response to Comment 10-47, the No Project Alternative was evaluated to the same degree as the three build alternatives consistent with the requirements of CEQA.

10-49: This introductory comment says that the traffic analysis is inconsistent with CEQA for the reasons identified in Comments 10-50 – 10-54. The comment states that the numerous letters submitted by community members demonstrate that the project trips would exacerbate already poor traffic operating conditions. The comment letters from community members are each responded to separately. The traffic analysis presented in the DEIR conforms with the requirements of CEQA. Project trips would not exacerbate existing conditions as discussed in Chapter 4.3 (Traffic and Circulation) of the EIR and Master Response 8.

10-50: This comment provides an overview of the thresholds of impact significance under CEQA and the Marin County Environmental Review Guidelines. No additional response is required.

10-51: Contrary to the first sentence in the comment, the DEIR does not state that ‘any increase’ would result in a less-than-significant impact. Rather, the conclusion of less than significant is based specifically on a comparison of project trips in relation to existing traffic loads and levels of service at study

intersections. The comment accurately summarizes the basis on which the project traffic consultant made the less-than-significant determination.

The comment also asks for an explanation of how the 0.3 second delay per vehicle was determined. Using the procedures of the Transportation Research Board's Highway Capacity Manual 2000 (HCM2000), the average delay per vehicle for existing and existing plus project traffic volumes is estimated, as shown in Table 4.6-2. When the trips generated by the project are added to existing traffic volumes at each study intersection, the increase in average delay per vehicle is as shown in the referenced table. As shown in the table, the greatest increase in average delay, 0.3 seconds per vehicle, would occur at the intersection of North San Pedro Road and Meadow/Oxford Drive in the weekday PM peak hour. Additionally, when combined with other projects, the proposed project would also increase average delay by 0.3 seconds per vehicle, as shown in Table 4.5-6 in the DEIR. The average delay of 0.3 seconds per vehicle shown in the analysis represents a worst case scenario.

The other concerns expressed and recommendations made in the comment are addressed in Master Response 8 (Traffic AM Peak Period and Weekend).

10-52: The comment states that the traffic analysis appears to have ignored the intersection of North San Pedro Road and Civic Center Drive. This is incorrect. As stated in the introduction to the Chapter (4.6) in the DEIR, the section addresses traffic conditions on North San Pedro Road near the project site and at three nearby intersections: North San Pedro Road at Merrydale Road, at Civic Center Drive and at Meadow Drive. The intersections to be analyzed were identified through direct coordination with the Marin County Department of Public Works.

10-53: The comment recommends that weekend traffic counts be conducted due to high weekend volumes on North San Pedro Road. This issue is addressed in Master Response 8 (Traffic AM Peak Period and Weekend).

10-54: The comment states that the less-than-significant determination in relation to increased traffic needs to be supported by facts in that it contradicts the actual experience of neighbors living in the area. It is acknowledged that community members have reported experiencing substantial back-ups and delays on North San Pedro Road. These concerns and the County's efforts to coordinate with the Jewish Community Center and Valley Venetia School are discussed in Master Response 8 (Traffic AM Peak Period and Weekend). Despite the operational deficiencies reported by community members, the conclusions in Section 4.6 relating to significance are consistent with County criteria. Under these County-established criteria, the project would have no significant impact on traffic operations.

10-55: The comment says that implementation of Mitigation Measure 4.6-E.1 would result in a significant impact. This mitigation calls for a redesign of Lot 1 to allow the rear fence to be moved approximately 10-feet south and if necessary, a redesign of the footprint of the proposed residence on the lot to obtain the necessary sight distance from the Bay Creek Drive driveway.

As indicated in the discussion of available sight distance on page 4.6-18, the rear fence on Lot 1 is the reason that sight distance to the west would be limited to 135 feet as opposed to the required 250-feet. The mitigation measure has been revised so as to focus exclusively on the repositioning of the fence, without a redesign to the lot or the home. Based on a review of the project fencing plan, it would be feasible to move the fence 10-feet south of its proposed location. The statement of significance after mitigation has also been revised to indicate that the change in the location of the fence would not result in any new impacts, not already identified.

10-56: The comment requests that a revised DEIR consider an alternative location for the primary driveway at a point directly across from Pt. Gallinas Road. As illustrated in Figure 5-4, the Mitigated Project Alternative does consider a primary driveway directly across from Pt. Gallinas Road. Contrary to what is stated in the comment, a driveway in this location would not eliminate the need for cut on the site. Rather, as demonstrated through evi-



dence presented by the project applicant, developed in coordination with their engineer, developing a driveway at this location would require a greater amount of cut than the proposed project to meet fire access slope requirements.

The comment also opines that a driveway in this location would blend in more harmoniously with the current road configuration and prevent the removal of several trees, however no evidence is presented to support these statements. The comment also states that such a driveway would provide safer access to new residents of the subdivision. However, as concluded in Chapter 4.6, potential design hazards related to inadequate sight distance would be reduced to a less-than-significant level through Mitigation Measure 4.6-E.1 No other potential design safety impacts issues were identified in Section 4.6. No change to the DEIR is required.

10-57: The comment states that the conclusions related to cumulative impacts for traffic are flawed because the project's contribution to said impacts would be "cumulatively considerable."

As stated in Chapter 4.6 of the DEIR, all of the study intersections examined in the traffic analysis are operating at level of service (LOS) C (See Table 4.6-2). The County's threshold for an acceptable level of operation is LOS D so all intersections are within the threshold. As shown in Table 4.6-5, the LOS at the three study intersections would not change under the cumulative scenario when the project trips are combined with trips from other projects in the vicinity. As the table shows, the greatest increase in delay (seconds/vehicle) under the cumulative scenario would be 0.3 seconds at the Meadow Drive/Oxford Drive intersection. The City of San Rafael has identified the Meadow Drive/Oxford Drive intersection is operating at LOS B. On the basis of this data, the DEIR concluded that the project's contribution to cumulative increases in traffic volumes and effect on intersections would not be considerable or result in a degradation of LOS level.

10-58: As stated in response to Comment 10-57, the project's contribution to cumulative traffic increases would not be considerable. As documented in Chapter 4.6, the project would generate an estimated 11 AM peak hour trips and 15 PM peak hour trips. As shown in Table 4.6-3, in the AM peak hour, 3 trips would be inbound and 8 would be outbound. In the PM peak hour, 9 trips would be inbound and 6 would be outbound. Due to these negligible volumes relative to total peak hour volumes, the inclusion of the projects mentioned in the comment into the cumulative scenario would not change the conclusion. The project's contribution to cumulative volumes would still not be considerable and the impact would still be less than significant.

10-59: The comment states that the DEIR improperly compares the project area with the fairly distant Santa Venetia Neighborhood. However, as noted in data available through the Marin Countywide Plan Map Viewer, (<http://gisprod.co.marin.ca.us/CWP/Viewer/bottom/Viewer.asp>), the project site is located within the Santa Venetia neighborhood. Therefore, the comparisons within this community in the DEIR are appropriate. The issue of visual compatibility is discussed in Master Response 2 (Visual Compatibility). As noted therein the project would be visually compatible with the neighborhood.

10-60: The comment states several concerns about the visual impacts that the project could have on the community, such as the effects of tree removal. The concerns raised are addressed in Master Response 2 (Visual Compatibility) and 9 (Tree Removal and Replacement).

10-61: This comment repeats a comment made previously in this letter (see response to Comment 10-46).

*Individual Comments and Responses*

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

# LETTER #11

January 26, 2009

TO: Mr Tim Haddad  
Env. Planning Coordinator  
Marin County Comm Dev Agency  
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San Rafael, CA 94903-4157

FR: Giselle Block  
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San Rafael, CA 94903  
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RE: 650 North San Pedro EIR

Dear Mr. Haddad,

Thank you for the opportunity to comment on the 650 North San Pedro Environmental Impact Report. I live in the vicinity of the project and am therefore concerned about the potential impacts of the project. My concerns relative to biological resources are presented below. Please feel free to contact me with any questions. In summary, I believe the property should **not** be rezoned to allow high density development at the bottom of the property. Impacts to environment will occur whether the property is developed on the hill or at the bottom. There are laws and regulations in place that would provide protections for the property if it were developed as it is currently zoned. In addition, no analysis as been conducted and results presented that show rezoning would in fact be less harmful to the environment. Most of the comments provided below refer to the Biological resources section of the EIR.

11-1

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Federal Migratory Bird Treaty Act (MBTA). The EIR identifies the MBTA as part of the regulatory framework of this project (p. 4.3-3) because it is relevant to the project. Once described, the MBTA and how it applies to the project is not discussed elsewhere in the document until the mitigation measures section. The protections of the MBTA relative to project resources are not explained in the EIR. The EIR does not summarize those species, in addition to the highly visible herons, that could be protected under MBTA. Therefore, effects of the development and protections required as a result of development are not well represented in the EIR. How is removal of the rookery or any other migratory species allowable under the MBTA? Has the developer consulted with the U. S. Fish and Wildlife Service (USFWS) concerning the MBTA? Did the USFWS issue a take permit?

11-2

State and Federal protections of nesting species such as herons/egrets, raptors, etc. The developer identified an active heron/egret rookery on site. If nests used by the rookery are removed during the non-breeding season, the herons may attempt to build new nests

11-3

elsewhere on the project site or use old nests that were previously abandoned elsewhere on the project site. Herons and egrets return to the same breeding site each year as will young reared during previous years. How will new active heron/egret nests be dealt with within the project area prior to and during development? When will construction occur? How will take of any future active nests be avoided knowing that construction may happen next year or not for many years? If a nest is discovered within a building site or a "buffer zone", what actions will be permitted?

CA Department of Fish and Game (CDFG) Bird Protections Section 3503. This protection is relevant to the project and has resulted in the development of mitigation measures by the developer (in conjunction w/ CDFG) for take of the heron rookery. Section 3503.5 also refers to taking birds of prey. Has a survey of nesting predators been conducted within the project area? Will a survey for those species protected by the MBTA or CDFG planned within the project area immediately prior to commencement of construction? How will future take be avoided? The project area supports many raptor and owl species including Cooper's hawk, red-tailed hawk, red-shouldered hawk, sharp-shinned hawk, great horned owl, barn owl, western screech owl. These species are known to occur within or adjacent to environments the project area. If a nest occurs in a planned housing imprint how will the project proceed?

11-4

Marin Countywide Plan (CWP). The countywide plan identifies five goals for long term protection of natural resources and use of land. Each of the 5 goals presented in the CWP are applicable to this project. The project contains and is adjacent to significant natural resources: the heron rookery, oak woodlands, native grasslands, wetlands (ephemeral stream, pond), adjacent to National Estuarine Research Reserve (China Camp), adjacent to San Pedro Mtn. preserve, and in plain view of tidal marsh, etc. There was a purpose behind zoning this property as it is now. The zoning preserves the rural character of this part of North San Pedro and by doing so it also protects natural resources of the area. High density development at this location is not appropriate and re-zoning should not be permitted. Development of the site under its current zoning would also affect natural resources but there are County laws, regulations, etc. in effect that would reduce developmental impacts. Although not explicitly mentioned in the Biological Resources section of the EIR, there has been a suggestion by the developer and planning staff that higher density development along the bottom of the property would do less environmental damage than development of fewer homes spread across the property. I also thought this might be true but after much thought I do not now believe this is true. This EIR does not present an analysis and there are no results to compare.

11-5

*Greater than 5 housing units under the proposed development will encompass oak woodlands....this is the same number of units allowed under current zoning!* Lastly, rezoning of the property to permit higher density development along the bottom of the property sets a bad precedence in our neighborhood.

Effects of Opportunistic Species on Native Wildlife. High density development improves conditions for opportunistic species that are known predators to herons and egrets, endangered species such as CA clapper rails (occur in adjacent tidal marshlands), and other native wildlife. Opportunistic species that already occur in our neighborhood

11-6

include crows, ravens, rats, cats, raccoon, and possum. These species prosper in high density developments and increasing their populations as a result of this project would further impacting already stressed native wildlife and plant communities of our open space surroundings. Effects of these species on native wildlife are well documented in the scientific literature. Government agencies and land managers in our region spend thousands each year to control predator populations. The proposed development would be enhancing avian predator populations (ravens, crows) that could then prey upon other heron and egret rookeries. This property, given its juxtaposition to Gallinas Creek tidal marsh, China Camp, and San Pedro Mtn Preserve is not the location for a high density housing development. Preserve the current zoning designation.

Section viii (p. 4.3-16). The EIR identified developed/landscaped areas as sites that can provide “moderate habitat for wildlife” and that these areas can enhance this habitat for “opportunistic species”. They mention raccoon and possum but fail to mention ravens, crows, rats, and cats which are also very damaging to native wildlife species. In summary, the EIR misrepresents the effect of opportunistic predator species, especially species known to predate upon heron and egret rookeries and tidal marsh endangered species. The impact is negative, not positive. Lower density housing would reduce this impact.

Invasive Species. One of the most critical aspects of the proposed project is the opening of the forest canopy in conjunction with the presence of a highly invasive plant species, French broom. The EIR identifies the presence of French broom on the property (4.3-12). This species poses a significant threat to the adjacent native grassland and remaining oak woodlands on the property. The removal of tree cover will trigger an explosion of French broom on the property. This occurred at a development site on Sunny Oaks Drive (adjacent, ~#33 Sunny Oaks Dr.) when the developer came in, removed the tree cover, and then left it undeveloped. The site is now 100% French broom cover! Marin County and other municipalities in the region spend hundreds of thousands each year to control this species (e.g., consult the Marin-Sonoma Weed Mgt Area, CA Invasive Plant Council). In addition, French broom is a known fire hazard. The EIR correctly states (p. 4.3-15) that French broom degrades wildlife habitat by “displacing native forage species”.

11-7

Of significant concern is how will the development will control this species in years to come in light of the fact that French broom seeds will continue to germinate for years, requiring years of control efforts. Opening the canopy will cause this species to explode on the property. Is there a plan for the long term control of this species and protection of the adjacent native grassland? The EIR does not present a mitigation measure to reduce impacts that French broom will have on existing native communities, especially the native grassland which CDFG identified as a sensitive resource that needed to be protected.

Landscaping with Native Species. The property contains a wide array of native species that could be used to landscape the housing development and the EIR mentions a number of these species. The development should be landscaped with native species, not non-native ornamentals. Given the juxtaposition of this property to protected open space and significant natural resources (as identified in the CWP), landscaping with native species

11-8

will provide some protection to remaining natural resources on the property and adjacent lands. Many of the native plant species that occur on site were identified in the EIR (e.g., p. 4.3-9, 10) and can be used effectively as landscape material, reducing the need for water and herbicides.

Existing conditions (p. 4.3-7). The vegetation types section of the EIR does not include the ephemeral creek. Isn't this a significant feature of the site? It is discussed relative to wildlife habitat (4.3-16) but is never described under vegetation types. This environment should be described. 11-9

Wildlife habitat. The EIR does not discuss the presence and use of the property and its environments by bat species. Several species of bats use this area and adjacent China Camp (documented) for foraging and roosting. The pond and the ephemeral Creek provide ideal foraging locations and the trees on site may provide maternity roost sites. There is no discussion of this in the EIR prior to mitigation measures. Since bats are mentioned in the mitigation measures, potential effects to these species should be presented earlier in the document so the reader can understand the project. 11-10

The CNDDDB database (p. 4.3-19). The CNDDDB database identifies 4 protected species in the vicinity of the project site. Of these, 3 are native to tidal marsh. The mention of opportunistic species in the EIR and recognition that the project will enhance habitat for opportunistic species is a direct threat to sensitive species within the vicinity of the project. Besides habitat loss, increasing populations of "opportunistic species" (as mentioned in the EIR) pose one of the biggest threats to sensitive species of tidal marsh. Lower density housing will reduce this pressure. The EIR does not discuss the negative effects of opportunistic species to sensitive wildlife populations on the site or adjacent ecosystems. A discussion of opportunistic species and their negative effects on native wildlife on and adjacent to the property should be presented. The negative effect of increased predator populations on endangered species in the adjacent tidal marsh would apply to bullet #2 under "Standards of Significance" (p. 4.3-23). 11-11

Open Space Reserve. Approximately 9.37 acres has been identified in the EIR as "open space reserve". What is the definition of open space reserve? Is this land protected in perpetuity by the land owner or the County? Can the owner or County decide later that they want to use it for development or for another purpose? Could the owner or County legally decide to do something else with the property? Essentially, what protects this land from any development in perpetuity? What protections are in place to prevent the property owner from planting non-native invasive species, cutting down oak trees, or other activities that could be detrimental to remaining natural resources? What activities are not allowed in the open space reserve? Who would monitor and regulate future use of the reserve? 11-12

### **Mitigation Measures**

**4.3-B.3, B.4.** Only native species should be used in the wetland and in the open space reserve (again, what does open space reserve mean?) 11-13



4.3-d.1. How will the native grassland be preserved in light of French broom encroachment (which is certain when canopy cover of the site is removed)? This mitigation measure should read “preserved and protected” vs. just preserve. There are no protections for the grassland presented in the EIR. Protection would include actions that would reduce encroachment or control efforts to reduce spread of French broom into the grassland (and other non-native species that may be introduced to the property as a result of landscaping).

11-14

4.3-G. The EIR states that a plan “should” be prepared if there is potential for destruction of a nest or substantial disturbance. The EIR should state that a plan “will” be prepared. Bats, raptors and other species do use this area. A pre-construction survey should be conducted and a monitor should be present during construction to avoid impacts to nesting birds or bats. I ma not aware of any bat surveys or nesting raptor surveys were conducted for this project and conditions are likely to change between now and when construction would start. Therefore, how can the project know what impacts are possible.

11-15

There is no mitigation for the eventual spread of French broom on or adjacent to the property as a result of removing the canopy/tree cover. This will significantly affect the native grassland and the remaining oak woodland edge. This is a significant omission from this EIR.

11-16

Mitigation for loss of the rookery should occur within our neighborhood and at sites that would benefit herons and egrets. There are ample opportunities for wetland enhancement or foraging habitat enhancements in our neighborhood (e.g., McPhails wetland, Gallinas Creek). The EIR identifies the Marin Islands as a site for mitigation and states the site has rats and invasive species issues. I would like to see the data that supports these claims. Mitigation should occur where it is needed. A needs analysis is not presented for Marin Islands.

11-17

### **Cumulative Impacts**

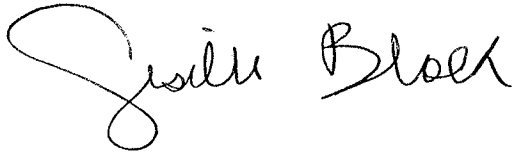
The EIR states (p. 4.3-43) that this project is consistent with current plans (e.g., CWP) and laws and therefore the project has a less-than-significant cumulative impact. This makes no sense! If this is true then when will there be a significant cumulative impact. The case presented here suggests that a significant cumulative impact would never be able to occur because current plans and laws wont let it happen. In this case the County would be going against a zoning designation that is in place to protect the environment (biological and human) so the argument no longer should apply. There are a number of developments on Sunny Oaks Drive and a potential for McPhails to be developed. There is great potential in this area for high density development. This project contributes to the cumulative impacts to the natural environment. The most significant is the increase in populations (crows, ravens, rats, cats, raccoons, possum, etc.) that predate upon native species such as the endangered clapper rail and salt marsh harvest mouse that inhabit marsh just a block away.

11-18

The EIR is incomplete and does not address all of the potential impacts that could occur as a result of the proposed project preferred alternative. Increase in density and clustering at the bottom of the property should not be permitted.

11-19

Thank you for the opportunity to comment on this project.

Justin Black

## LETTER 11 – Giselle Block

11-1: The comment states opposition to the proposed rezoning and says that no analysis has been completed to demonstrate that rezoning would be less harmful to the environment. The level of development that could occur on the site under existing zoning is discussed in Master Response 6. As concluded in Chapter 5 of the DEIR, possible development under existing zoning is examined as the No Project Alternative, which was found to be environmentally inferior to the proposed project. The basis for this conclusion is presented in Chapter 5.

11-2: The comment states that because the DEIR does not summarize species that could be protected under the Migratory Bird Treaty Act (MBTA), related impacts are not well-represented. Implementation of Mitigation Measure 4.3-G.1, which would limit the clearing of vegetation to the non-nesting season or pending an official biological survey in the nesting season, would avoid disturbance of active nests and thus avoid takes under the MBTA.

11-3: This comment questions how impacts to active heron/egret nests would be avoided. Implementation of Mitigation Measure 4.3-G.1 would prevent impacts to active heron nests. As this measure states, if vegetation or buildings that provide potential nesting sites for birds or bats must be removed during the nesting season (January 15 and August 31), a qualified wildlife biologist shall conduct pre-construction surveys within one week of planned clearing. If an active nest is found, the species shall be identified and the approximate distance from the closest work site to the nest estimated. No additional measures need be implemented if active nests are more than the following distances from the nearest work site: (a) 300 feet for raptors; or (b) 75 feet for other non-special-status bird and bat species. These protection zones may be modified on a site-specific basis as determined by a qualified biologist or in coordination with CDFG. Active nests within the project area would be monitored for signs of disturbance. If the biological monitor determines that a disturbance is occurring, construction shall be halted. Disturbance of active

nests shall be avoided until it is determined that nesting is complete and the young have fledged.

11-4: This comment raises similar questions to those asked in Comment 11-3 above, although raptor species are the concern in this case. Please refer to response 11-3 for a description of the provisions that would apply under Mitigation Measure 4.3-G.1. This measure would be sufficient to reduce potential impacts to raptors to a less-than-significant level.

11-5: This comment reiterates opposition to the project and concerns expressed in Comment 1-5. In general, the comment states that the proposed project, and related rezoning, is not consistent with the goals set forth in the Countywide Plan intended to protect natural resources and use of the land. Applicable policies from the Countywide Plan relating to preservation and enhancement of natural resources are closely examined in Chapter 4.1 of the DEIR. As concluded, the project can be mitigated to consistency through the inclusion of applicable mitigation measures set forth in Section 4.3 of the DEIR, Biological Resources.

It should be noted that the applicant seeks a rezoning to avoid the strict application of the residential estate zoning (R-E) that requires one (1) acre minimum lot size and standard setbacks. The proposed subdivision layout reduces lot sizes, setbacks and attempts to cluster homes in the lower (northern) portion of the property to permit open space easements on resource areas and where possible avoid or mitigate environmental impacts while preserving a development opportunity.

The comment also states that if the rezoning were approved it would set a bad precedent in the neighborhood. However, there is no information presented to support this conclusion. The County Community Development Agency and the Planning Commission review each development application on a case by case basis and, should a rezoning be approved for the project site, there is no direct relation to how the CDA and the Commission would decide on other rezoning requests in the vicinity.

11-6: This comment states that the DEIR misrepresents the affects of opportunistic predator species. The development of housing can encourage the spread of some opportunistic species associated with landscaping. The biologist's review in the Environmental Constraints Analysis did not identify this as a constraint to development. However, the project is consistent with the CWP policies related to development in this area and resource protection. The construction of 12 additional residences to Santa Venetia's current stock of approximately 1,700 homes will not result in a significant, cumulative impact related to threats to native wildlife in this area posed by the potential small increase in opportunistic species.

11-7: The comment requests that the DEIR include mitigation for removal and management of French Broom within the project site. Although located within the project site, the presence of French Broom is not identified as a significant impact within Chapter 4.3 (Biological Resources) of the DEIR. The current existence of French Broom on the site would not be caused by the project. Rather, its existence is part of the existing condition. In accordance with CEQA Guidelines 15126.4(3), the DEIR does not include mitigation for the effects of French Broom because no potentially significant impact was identified. There is no nexus established between project activity and the existence of broom on the site. No change to the DEIR is required.

11-8: This comments requests that the project should be landscaped with native trees. The tree mitigation focuses on establishing native tree and plant habitats within the project site. One hundred (100) percent of the replacement trees would be native species. The native tree list for use within the project site was prepared by a certified arborist and biologist and includes California buckeye, coast live oak, Oregon (white) oak, black oak, and valley oak.

In regards to other plantings, a review of the planting plan indicates that 42.4 percent of the shrubs and ground cover that would be used are native to California. Another 51.4 percent would be "naturalized." According to the informational legend on the planting plan, "Naturalized" indicates plant species

which, while not necessarily originally native to California, have become adapted and naturalized to the summer-dry climate of the San Francisco Bay Area, as defined by the East Bay Municipal Utility District (EBMUD) in their publication *Plants and Landscapes for Summer-Dry Climate of the San Francisco Bay Region, 2004*.

11-9: This comment states that the ephemeral creek is not included in the vegetation types section of the DEIR. The ephemeral creek is not a vegetation type. The habitat provided by the ephemeral creek is discussed in subsection 1.b.vii in Chapter 4.3 of the DEIR.

11-10: This comment states that the presence of bat species is not discussed in the existing conditions section of the DEIR. The commentor is correct and Impact 4.3-G describes that bat nurseries could be disturbed by demolition, but no discussion of the presence of bats is included within the Existing Conditions subsection of Chapter 4.3 (Biological Resources). No positive identification of any bat species or bat nurseries was made during the 2005 Biological field survey, no specific evidence of bats or bat nurseries was identified on site, and because suitable bat habitat is readily abundant throughout the area, there is no direct nexus to conclude a significant impact to bats or bat nurseries would occur. Therefore, Impact 4.3-G and Mitigation Measure 4.3-G.1 have been revised to omit any discussion of significant impacts on bat species within the project site.

11-11: This comment states that the DEIR does not discuss the impacts of opportunistic species on native wildlife. The proposed project is south of San Pedro Road and positioned on an upland hillside. Therefore it is not expected to affect the tidal saltmarsh north of San Pedro Road, or species that occur there. Additionally, as noted under Comment 11-6, above, construction of 12 additional residences in Santa Venetia is not likely to create a cumulative impact related to increase in opportunistic species.

11-12: The comment asks several questions concerning management of the open space on-site, including how the open space would be protected and

what mechanisms would exist to prevent negative impacts on biological resources within the open space. Master Response 7 (Open Space Management) provides discussion of open space development restrictions and states that the open space will be placed in a permanent easement that will limit all development within the open space.

11-13: This comment refers to the content of Mitigation Measures 4.3-B.3 and 4.3-B.4 and suggests that only native species should be used in the wetland and in the open space reserve. Mitigation Measure 4.3-B.3 addresses tree replacement; however, Measure 4.3-B.4 does not. Mitigation Measure 4.3-B.3 requires the applicant to revegetate the edges of the wetland on-site with a cluster of tall-growing, riparian tree species, which could provide a location for a future rookery site. As illustrated on the Tree Mitigation Plan, which is discussed in Master Response 9, approximately 30 trees would be planted around the edges of the delineated wetland. As stated in response to Comment 11-8 in this letter, all replacement trees planted would be either California natives, or species that are naturalized to the climate.

11-14: This comment states that Mitigation Measure 4.3-D.1 should be amended to read “preserved and protected,” in order to better preserve grassland. The comment is based on the assumption that development would occur within the native grassland on-site. No development is proposed on native grassland, which occurs in one location at the northeast east edge of the property. No change to the DEIR is required.

11-15: This comment states that Impact 4.3-G should be amended to read that a plan “will” be prepared, rather than “should” be prepared. Impact 4.3-G of the FEIR has been amended accordingly.

11-16: This comment reiterates concerns previously expressed in Comment 11-7 regarding the potential spread of French Broom on the property following construction. Please refer to the response provided for Comment 11-7. No change to the DEIR is required.

11-17: The comment questions the value of West Marin Island as a location for off-site mitigation. The comment also suggests that there are several, local alternatives where this mitigation should be considered. Please refer to Master Response 10 (West Marin Island) for a discussion of these issues. As the response indicates, the inclusion of West Marin Island in Mitigation Measure 4.3-B.1 as part of the project does not eliminate other off-site locations from consideration. The County and applicant understand that other, feasible options exist, and that CDFG may ultimately determine that other off-site locations, aside from West Marin Island, be pursued.

11-18: The comment disputes the conclusion set forth in Chapter 4.3 that the project would not have a significant cumulative impact on Biological Resources. As discussed in the DEIR, the proposed project would not have a significant cumulative impact on biological resources. All potentially significant impacts to biological resources can be reduced to a less-than-significant level and none of them would make a substantial contribution to a trend of resource degradation.

The commentor provides no factual evidence that a cumulative impact would occur. In accordance with the provisions in Section 15064 of the CEQA Guidelines (Determining the Significance of the Environmental Effects Caused by a Project) a determination of significance must stem from information in the project's record and, to the extent feasible, on scientific and factual data. In general, CEQA depends on the professional judgment of environmental professionals with specific expertise and training in a particular area to make a determination of significance, supported by substantial factual evidence. Accordingly, a team of CEQA professionals and other technical experts were used to complete the Biological Resources analysis in the EIR and have made the conclusions of significance therein based on technical expertise supported by substantial factual evidence. No additional response is required.

11-19: The comment says that the DEIR is incomplete, but does not present any specific examples warranting further response. The comment also states the opinion that the rezoning and "clustering at the bottom of the property"



COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

should not be permitted. This is a merits-opinion based comment. No additional response is warranted.

## LETTER #12

**BODDINGTONS**  
560 North San Pedro Road  
San Rafael, CA 94903  
415-472-4131  
[etheridge5@aol.com](mailto:etheridge5@aol.com)

January 24, 2009

### VIA HAND DELIVERY

Marin County Community Development Agency  
Planning Division  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**Re: 650 North San Pedro Road**

Dear Planning Division:

We are writing as concerned citizens and residents of San Rafael.

12-1

**We are vehemently opposed to the proposed re-zoning of 650 North San Pedro Road.**

**There are major faults and discrepancies in the Draft Environmental Impact Report (DEIR), and as our representatives, we ask you to deny this proposal.**

As long-time residents of Santa Venetia, we enjoy the quiet, rural atmosphere of our community. The close proximity to China Camp State Park is a cherished tie to the land's history and tradition, which goes back to 1868. We choose to live here because we are attached to the nature, wildlife and serenity that this area offers. The quality of life here is simple and beautiful.

12-2

If we wanted traffic jams and floods in our front yard, we would have bought a house on San Anselmo Avenue.

It is essential to us that the cultural simplicity of our community be preserved and maintained.

This cannot be accomplished by approving the proposed rezoning and DEIR. The report erroneously attempts to convey that "more is better." In no way is our community equipped to handle the increased traffic nor environmental damage that cramming fourteen homes into a 5-home space would create. **It is imperative that this DEIR be reevaluated to accurately portray the significant and detrimental impact that this proposal brings.**

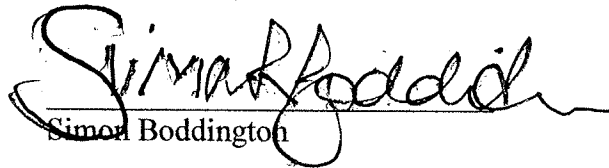
12-3

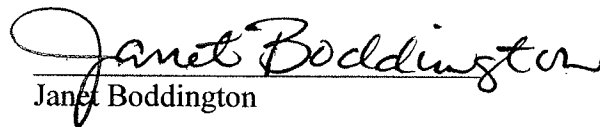
Aside from the likelihood of increased flooding and traffic issues, there is significant danger to the public at large at the entrance and exit points to 650 North San Pedro Road. The curves in the road leading to and from China Camp *create a blind spot at the very location where the proposed 14 families will be attempting to enter and/or exit North San Pedro.* We cringe to think of the collisions with oncoming traffic that will occur.

We are aware that growth is inevitable. Carefully planned growth is what we are asking.

**Dear Planning Division: Please do the right thing. Be sensible and deny this re-zone.**

Sincere thanks,

  
Simon Boddington

  
Janet Boddington

## LETTER 12 – Simon and Janet Boddington

12-1: This comment states strong opposition to the proposed re-zoning. This is a merits/opinion based comment. Please refer to Master Response document 1.

12-2: This comment states that there are major discrepancies in the DEIR. However, the comment does not provide any specific references to the document. The comment also states the opinion that the proposed project is a threat to the cultural simplicity of community. This is a merits/opinion based comment. Please refer to Master Response 1.

12-3: The DEIR does not explicitly state nor does it attempt to convey that “more is better,” as suggested in the comment. The purpose of the DEIR, consistent with CEQA, is to objectively analyze the potential environmental impacts associated with what is proposed; not to present an opinion for or against the overall value of the project. Regarding the concerns expressed related to traffic, the effect of project-generated trips on local roadway capacity and volumes was analyzed in Section 4.6 of the DEIR (Traffic and Transportation). As determined by the project traffic analyst, the additional trips to and from the project site would not result in significant environmental impacts.

12-4: Regarding the expressed opinion that the project would lead to increased flooding, it is concluded in Section 4.4 of the DEIR (Hydrology and Water Quality) that through implementation of mitigation there would be no net increase in stormwater runoff from the site, which could otherwise cause or contribute to flooding at off-site locations to the north of the project site.

The expressed concerns about limitations on visibility between project entry/exit points and San Pedro Road are addressed in Section 4.6 of the DEIR (Traffic and Transportation), specifically through Mitigation Measure 4.6-E.1. As discussed in response to comment 10-55, this mitigation measure has been revised to require the repositioning of the fence. Repositioning of the fence

will not result in redesigning the proposed dwelling unit or changing the lot size. The mitigation measure would provide the required 250 feet of sight distance and reduce potential design hazard impacts to a less-than-significant level. Furthermore, as explained in the Project Description of the DEIR, adequate sight distance from project driveways to applicable distance points along North San Pedro Road would be preserved through the establishment of sight easements. The purpose of these easements would be to prevent future landscaping or development that would limit the sight distance required for vehicles to safely enter and exit the project site. The easements are shown on Figure 3-5.

1/19/2009

JAN 23 2009 AM 11:28 Planning

## LETTER #13

To the County of Marin Community Development Agency:

This letter is in reference to the Draft Environmental Impact Report for:

**650 North San Pedro Road, San Rafael.**

We are concerned citizens and the next-door neighbors of the proposed development at 650 North San Pedro Road, San Rafael, in Santa Venetia. We reside at 630 North San Pedro Road, and have lived at this residence since 1995.

13-1

We specifically want to address the property sponsor's (West Bay Builders/Thompson Development) request to change the zoning of this parcel, to allow for a development of twelve proposed homes. We are very much against this proposal.

13-2

When we first considered buying our property at 630 NSP in 1995, we looked into the potential development opportunity at 650 NSP, and what the current zoning was for that parcel. Based on the zoning R-E: B-3, we knew that should development occur, we would be living up against only four to five residences. This was a deciding factor in making our home purchase. We are against changing this existing zoning. As citizens and neighbors, we feel the proposed size of this development is too large, it would negatively impact the neighborhood and dramatically increase the traffic and noise issues of North San Pedro Road. Of course we feel it would negatively impact our own quality of life, as construction for approximately two years some thirty feet away generates its own neighbor challenges, as would a large development on what is currently a single family residence on a large, open-space style parcel. The effects of changing the zoning for this property, to a 12-unit development with its accompanying noise, cars, traffic and related issues, **directly** affect us as well as our neighbors.

We feel strongly that by keeping the zoning at its present rating, R-E: B-3 (Residential Estates District, 20,000 square foot minimum lot size), 4-5 homes is consistent with an acceptable growth and development level for this unique portion of Santa Venetia, and in general, for Marin County. It also makes sense from our next-door neighbor standpoint. We do not need full-scale, high-impact development in this area. We would have absolutely no objection to the maximum number of homes to be developed with the existing zoning, which would be construction of four to five residences total.

We will look forward to our voice being heard at the meeting surrounding these issues on January 26, in room 328 at the Marin County Civic Center. Please also feel free to contact us directly regarding our concerns about this project.

Sincerely,

Kevin and Melissa Burrell

Owners – 630 North San Pedro Rd., San Rafael CA 94903 (415) 472-0430 Tel.



**LETTER 13 – Kevin and Melissa Burell**

13-1: This comment contains introductory information about the commenter's place of residence; 630 North San Pedro Road, which is the neighboring address to the project site. No change to the DEIR is required.

13-2: The comment states that proposed re-zoning and development would negatively impact the neighborhood and quality of life due to increases in traffic and noise. The potential traffic and noise impacts associated with the project are addressed in Sections 4.6 and 4.10 of the DEIR, respectively. In regards to both issues, the DEIR states that there would be potentially significant impacts associated with construction traffic and construction-period noise. Mitigation Measures 4.6-A.1 and 4.10-A.1 have been specifically developed to address those impacts and reduce them to a less-than-significant level.

The comment states the opinion that development of the project site should occur in accordance with the level of development permitted under existing zoning. Please refer to Master Response 6 for a discussion of this issue.

**LETTER #14**

13 Oak Crest Drive  
San Rafael, CA 94903

January 26, 2009

Marin County Community Development Agency  
Planning Division  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Subject: 650 North San Pedro Road

We are writing to register our strong objection to planned development of 14 additional homes at the subject property and to the Draft Environmental Impact Report (DEIR) which appears to support this additional development.

**14-1**

The adverse environmental impact of these additional homes and higher density is not adequately treated in the DEIR nor does the DEIR take into account the economic realities of the real estate market in Marin County, and specifically Santa Venetia. The increased development increases the risk of fire loss in Marin County.

**14-2**

There already exists an extraordinarily heavy traffic volume on North San Pedro Road, particularly in the morning and evening. Our residence is on a cross street to North San Pedro and it is extremely difficult and dangerous getting on and off North San Pedro. In addition, there are many pedestrians on and adjacent to North San Pedro Road, including from Venetia Valley School, who have difficulty dealing with the high traffic volume. The additional traffic in connection with the construction and then the additional residents and maintenance and other work at the additional homes will add to an already heavy traffic condition, which by reason of the number of vehicles and idling while waiting of the vehicles on the road will adversely impact the air quality, noise levels and other environmental impacts of high traffic volume.

**14-3**

**14-4**

In addition, North San Pedro Road was completely resurfaced in the past year. The road itself will sustain additional wear and tear from the heavy construction equipment and materials delivery trucks which will be necessitated by the additional fourteen homes. We ride bicycles on North San Pedro and can already feel some deterioration in the road surface which will accelerate as a result of the increase in construction activity.

**14-5**



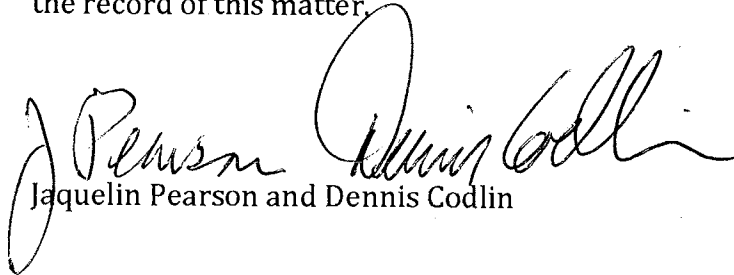
The housing economy in Marin County and in San Rafael is in terrible shape now and in the foreseeable future. To add more houses will add to the problem by increasing existing inventory, thus lowering the value and ability to sell existing houses. This condition is already being experienced by homeowners and by banks which have foreclosed on homes. More houses will make the problems worse and more prolonged.

14-6

Finally, climate change has resulted in higher summer temperatures and lower rainfall in Marin County. Last summer there was a fire at the north end of the China Camp preserve which expanded quickly due to dry conditions and high winds. Numerous local, county and state fire fighting resources were called in to contain the blaze which was on its way to residential areas. With the increased fire risk, putting in additional homes increases the risk of loss of property to the owners and stretches already overtaxed fire fighting resources. This is dangerous for the entire county which relies on the existing resources and their back up systems.

14-7

Thank you for your consideration and please include this letter into the record of this matter.



Jaquelin Pearson and Dennis Codlin

**LETTER 14 – Jaquelin Pearson and Dennis Codlin**

14-1: Comment states objection to the proposed project and DEIR, as the latter seems supportive of the former. This is a merits-opinion based comment. Please refer to Master Response 1.

14-2: The comment states that the environmental impact of proposed homes is not adequately treated in DEIR, and that local real estate market realities are ignored. As discussed in Section 15131 of the CEQA guidelines, real estate values, either existing or potential, are not relevant to a CEQA-based environmental analysis except to the extent that a proposed project has been shown to have possible adverse economic and social effects that could result in physical, urban decay. No such potential has been identified.

14-3: The comment states that the development increases the risk of fire loss in Marin County. Hazards associated with wild potential wildfires are discussed in Section 4.11 of the DEIR, Hazards and Hazardous Materials. As the analysis states, because of the project site's proximity to large areas of open space and undeveloped land containing dense vegetation, it is susceptible to wildland fires.

In addition, as stated in Section 4.11, the project is being designed in accordance with a Fire Hazard Management Plan that would minimize the risks associated with wildland fires. Although not expressly stated in the discussion in that section, the Fire Management Plan will include a Vegetation Management Plan (VMP) to comply with county urban wildfire management ordinance requirements. Continued compliance with the VMP will need to be placed within the Covenants, Codes, and Restrictions (CC&Rs) of the project. The fire Hazard Management Plan and the VMP will be a condition of project approval. Among the measures incorporated into the Plan are vegetation buffer and maintenance of defensible space zones, removal of several trees, compliance with the Marin County Fire Code, and an irrigation system. With the inclusion of the Fire Management Plan as part of the pro-

ject, exposure of people and structures to wildland fire will be reduced to a less-than-significant impact.

14-4: This comment states that existing traffic on North San Pedro Road is already heavy and will be further exacerbated by proposed project. As concluded in the DEIR, traffic-related impacts would be less than significant with mitigation measures. These impacts include increases in existing traffic load and levels of service, as well as cumulative increases in overall vehicle trip generation. The DEIR identified a potentially significant impact related to a substantial, temporary increase of truck trip volumes on San Pedro Road, in relation to existing conditions. As noted under Mitigation Measure 4.6-A.1, this impact would be mitigated to a less-than-significant level through the development of a comprehensive traffic management plan that identifies acceptable times for truck trips, limits simultaneous truck tips, contains adequate safety flagging and signage requirements and identifies contractor parking locations. The intent of the plan, in part, is to minimize interference with the existing community's travel patterns and to ensure that construction-period traffic vehicles do not adversely affect bicycle and pedestrian safety. Community concerns about traffic volumes during the peak hours and on weekends are discussed further in Master Response 8.

Additionally, all impacts related to a decrease in air quality as a result of traffic (4.5-B, 4.5-E) were determined to be less-than-significant. Although the impact of construction on existing noise levels was deemed potentially significant (Impact 4.10-A), it was determined that implementation of mitigation measure 4.10-A.1, development of a construction noise reduction plan, would reduce that impact to a less-than-significant level. In terms of project impacts on air quality and noise in the long-term, post-construction the DEIR concluded that impacts would be less than significant based on the minimal degree to which traffic would increase and the types and spatial arrangement of uses on the project site.

14-5: Although heavy construction can significantly damage paved surfaces, implementation of the traffic management plan described under mitigation

measure 4.6-A.1 would limit such damage to a less-than-significant level. One provision of the plan is that should construction activity or equipment damage an existing facility (including pavement and sidewalks) the permitted shall be responsible for the repair. In order to ensure repair, the lead agency may require cash deposits prior to issuance of permits or may place holds on interim or final inspections.

14-6: As stated in response to Comment 14-2 above, economic impacts such as existing and potential real estate values are not relevant to CEQA-based environmental analyses except to the extent a project has been shown to have the potential to result in physical, urban decay. Furthermore, no definitive information confirming the adverse affect of the proposed project on the local real estate market, or on the prospect for individual home sales, has been documented.

14-7: Please refer to the response provided above for Comment 14-3, which addresses the primary concern expressed in this comment; that the project would place an increased burden on fire prevention services in Marin County. In addition, as stated in the DEIR under Impacts 4.7-A and 4.7-B, according to the San Rafael Fire Department, Station 7 would be able to provide service to the project site without a significant impact to overall service. The proposed project would not result in the need for expanded fire protection services or degrade existing fire protection services levels and/or ratios. Therefore, the proposed project would be adequately serviced by existing fire protection services.

# LETTER #15

Elaine Gilmer Reichert  
1605 Vendola Drive  
San Rafael, CA 94903

415-472-6143

January 15, 2009

Jeremy Tejirian  
Marin County Community Development Agency  
Planning Division  
3501 Civic Center Drive, Room 308  
San Rafael, California 94903-4157

Re: 650 North San Pedro Road

Once again we are forced to take time to protest against the proposed rezoning and overdevelopment of 650 North San Pedro Road. The Draft Environmental Impact Report (DEIR) for this proposed project is riddled with deceptive language and inaccurate data. This letter will address the deceptive language.

15-1

Throughout the report we find the phrase "less than significant impact". What does this mean? On a scale of 1-10, if 10 is "significant impact", an impact level of 9 can be called "less than significant". This does not however render it an acceptable level of impact. The impact from this proposed project is entirely unacceptable, at least level nine on all counts.

15-2

Once again we urge you to refrain from rezoning this steep, wooded parcel.

15-3

Thank you for your consideration of these matters and your prompt reply.

Sincerely,

Elaine Reichert

cc: Susan Adams

**LETTER 15 – Elaine Gilmer Reichert**

15-1: This comment states opposition to the project and indicates the letter is intended to address “deceptive language and inaccurate language” in the DEIR. Opposition to the project is a merits-based comment and is addressed in Master Response 1. No change to the DEIR is required.

15-2 and 15-3: The comment requests clarification on the meaning of ‘less than significant’ as used in the DEIR.

According to Section 15382 of the CEQA Guidelines, “significant effect on the environment is defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”

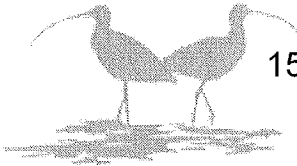
In accordance with the provisions in Section 15064 of the CEQA Guidelines (Determining the Significance of the Environmental Effects Caused by a Project) a determination of significance must stem from information in the project’s record, supported by substantial evidence based, to the extent feasible, on scientific and factual data. In general, CEQA depends on the professional judgment of environmental professionals with specific training in a particular area to make a determination of significance. Accordingly, a team of CEQA professionals and other technical experts were used to develop the EIR and have made the conclusions of significance therein based on substantial factual evidence.

CEQA does not include a numerical scale, as referred to in the comment, by which to make an assessment of impact. Thresholds of significance for the determination of impacts are identified in the EIR. Thresholds of significance for the determination of impacts are identified in the EIR. In addition, it is not the purpose of the DEIR to ascertain the acceptability of impacts identified in the DEIR as referred to in the comment. Whether or not the documented impacts are acceptable will ultimately be taken up by County deci-

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

sion-makers in their decision on the merits of the project for approval or disapproval, after certification of the EIR.

These comments also reiterate opposition to the rezoning of the site that would occur under the project. This opinion is a merits-based issue and is addressed in Master Response 1.



MARY M. HANLEY

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January 26, 2009

Hand-Delivered to Planning Commission

Marin County Community Development Agency  
Planning Division -- Re: 650 North San Pedro Road  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Subject: Comments on 650 North San Pedro Road (NSPR) Draft Environmental Impact Report (DEIR)

16-1

Thank you for the opportunity to comment on the DEIR. And for the record, I would like to concur and agree with comments submitted by my neighbors regarding the DEIR.

I have lived on Vendola Drive for 20 years (this August). I would like to try and describe how this development will significantly impact my visual point of view as well as our quality of life.

I walk my dog on a daily basis along the levee surrounding the Santa Venetia Marsh. On my way out, I enjoy the view to my right of the Las Gallinas Creek and the abundant wildlife that inhabits the area. In front of me is McInnis Park, with the undeveloped and dark at night hillside behind it. My highlight is when the view of Mt. Tam suddenly appears half-way around. On the way home, the hillside and ridgeline of San Pedro Mountain, spanning the eastern edge of 650 NSPR property line to 405 NSPR (Chalet Basque), remains my focus all the way home. I know it by heart.

For 20 years, I've been walking that levee and our surroundings always amaze me.

My house is directly beneath the flight path of the Great Blue Herons as they retire for the night and return to their nest on the 650 NSPR property. In the morning, like clockwork, they return to the marsh for the day.

I appreciate the clearly-audible sound of the endangered clapper rail at dusk that congregate at the very outlet to Gallinas Creek where this development proposes to disburse its run-off - into the creek and, eventually, San Pablo Bay.

Our home is currently zoned for kennels (BTW – the previous owners had a kennel operation and facilities). The zoning also allows for a horse and stall. Yet, within a stone's throw, plans for a subdivision are under review. To say this proposed project is out of character with our neighborhood is an understatement.



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If West Bay Builders developed the property according to the existing zoning regulation, there would be no controversy and I would have no objection.

Concerns About Flooding:

I have in my possession the "650 File Box" that contains the history or timeline of my neighborhood's involvement and concern regarding proposals to rezone and develop on this very controversial property. The earliest of these documents is from January 1990. A Marin County inter-office memorandum from John Wooley (Flood Control) to Bob Beaumont (Land Development) re: San Pedro Ridge Master Plan Draft EIR (copy attached). Mr. Beaumont describes in detail the inadequacy of the current (1990) existing system of culvert and drains to handle run-off from San Pedro Ridge. Also included in the memo is his recommendation that "The project applicant should contribute to the funding of improvements as deemed appropriate." That was 19 years ago! I've lived here, on Vendola Drive, since 1989 and as far as I know, no upgrade or improvement has been made to our existing system. Since 1990, there have been at least 3-4 proposals to rezone the 650 property. All proposals have been rejected primarily due to the impact to the existing drainage system's deteriorating condition. Yet, nowhere in this report did I find any mention of improvement or upgrade to our system to handle the "significant impact." What has changed since 1990 that would allow this development to be considered acceptable?

16-2

I am aware of the fact that my neighbor, and former Chair of FCZ #7, Art Reichert, has carefully reviewed and commented on this section and I totally trust, concur, and fully support his finding and comments. I'd like to add one comment regarding the proposal to raise the height of the earthen berm in order to raise the capacity level of the pond. (Section 4.4-30).

16-3

The same type of earthen berm/levee located near Pump House #4, and surrounds the marsh, is currently infested with gophers/moles. The Marin County Department of Public Works (DPW) was out recently to inspect and assess the extent of damage of undermining the berm/levee's integrity due to this invasion.

16-4

I am confident that this "Modified Pond Berm" proposal can/will suffer the same consequences, undermining its integrity. Increasing the capacity of the pond by added height to the berm will ultimately raise the water level in the pond – well above the elevation of NSPR. It is imperative that this "Modified Berm" remain structurally sound.

Will ongoing maintenance and security of this "Modified Berm" ALSO be the responsibility of the Homeowners Association?

- During a recent meeting held on the 650 property by West Bay representatives, I happened to notice the close proximity of the existing berm to NSPR. It appears to be encroaching into the “planned” 7’ widening area of NSPR. I believe this issue requires a closer examination of the facts and findings.

16-5

Impact 4.4-F Stormwater Drainage System Capacities

“The proposed development would link to the same existing off-site drain network” (4.4-31)

16-6

The existing catch-basin presently located near the existing driveway on NSPR is a big concern to me. In Figure 4.4-4, you will see the location of that catch-basin after the proposed driveway is installed. The existing catch-basin is then situated in the middle of the driveway at the bottom of the hill. Because of this location and the fact that this will now be the starting and stopping point for vehicles accessing the property, the impact of gas and oil from vehicle run-off along with the rest of the proposed driveway run-off will be significant. The location and function of this catch-basin is comparable to that of a “car-wash-type basin” only this particular catch-basin runs unfiltered under NSPR and directly into the fresh-water wetlands at the McPhail School Site. I find this to be significantly inadequate and unacceptable.

Concerns About Traffic:

The DEIR states that “the project would result in less-than-significant impact to existing traffic.” Any addition to our traffic situation is highly significant. We testified aggressively about our traffic problems at and during the Countywide Plan (CWP) process.

16-7

At the Neighborhood’s request, on September 30, 2007, Supervisor Adams and Farhad Mansourian attended our SVNA Community Meeting for the sole purpose of addressing our traffic situation. Farhad told us his traffic engineers were currently conducting and monitoring traffic counts and working on alternatives and solutions to help solve the congestion and back-ups we face on a daily basis. Susan Adams told us she was “in discussions with the Marin Jewish Community Center (JCC), Brandeis School, and Venetia Valley School about the possibility of “staggered start times” as well as “shuttle service to JCC.”

Parents and volunteers have organized meeting/drop-off points on Meadow Drive where students (escorted) can walk to school by using various connecting walkways, all in a concerted effort to reduce the back-up on NSPR that begins at the intersection at the Civic Center and extends all the way to Meadow Drive and the 7-Eleven Store.

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As my Neighborhood struggles for relief and remedies regarding back-ups and congestion on NSPR, any traffic generated by this project would be highly significant and unconscionable.

Sight Distance  
*Impact 4.6-E*

In order to achieve the Required Sight Distance to the west, removal of 1,212 cubic yards of cut earthwork and possible relocation of the Lot 1 footprint has been submitted as a mitigation measure to achieve the mandated sight distances. Figure 4.6-4 identifies this proposal. I am well aware of how treacherous this stretch of roadway can be. Frequently, I trailer our boat to Buck's Launch to access Gallinas Creek (as do many other boat owners) and in doing so, the combination of winding roads, narrow lanes, drop-off shoulders, bicycle traffic, and on-coming speeding traffic makes for one short harrowing trip. The present location and proposed entrance to the subdivision only increases the hazardous condition. During the early stages of discussion regarding this project, we requested/suggested relocating the driveway to the more suitable and safer access directly across from and more aligned with Point Gallinas Road (as illustrated in Figure 4.6-4). By doing so, it would eliminate the intrusion of headlights on the homes across the road; eliminate the need to cut into the hillside, reduce the amount of significant grading and soil removal, blend in more harmoniously with the current road configuration, save the destruction of numerous trees, and make a safer access for residents in the new subdivision. The developer told us, relocating the driveway was not an option due to the additional cost of moving a power pole that stood in the way. I believe the advantages of relocating the driveway far outweigh the cost of moving a power pole and implore the Planning Commission to take a closer look at this alternative.

**16-8**

Another concern I have regarding the required sight distance is: It has come to our attention that it is possible that this project may not be constructed and/or completed all at once. Rather "piecemealed," whereas completion of the entire project could be undetermined. If that is the case, then at what stage of construction will the "unacceptable sight distance" mitigation be implemented?

Concerns About Aesthetics:

Surprisingly, the DEIR has only one paragraph dedicated to addressing the issue of light and glare impacts. Due to the enormous addition of light generated by this project in an area presently dark and dimly lit, I believe this issue has been largely over-looked and inadequately addressed.

**16-9**

We were involved in the planning process for McInnis Park and Driving Range for many reasons; one being to ensure that every consideration be taken with regards of to the

**16-10**

infusion of lights. The location, the height, the direction, the brightness, the hours of operation, and their intrusiveness to the wildlife was very important to us. All of our concerns were implemented into the design of the Park and the Neighborhood was/is satisfied with the results.

From my viewpoint, I appreciate the scattered and obscured light generated from the homes presently situated on the hillside of San Pedro Mountain and adjacent to the 650 property. During the last few years, four or five homes have been newly constructed on that hillside (Sunny Oaks and Bayhills). Due to the consideration to the zoning, lay of the land, and preservation of trees, these new homes have settled nicely and harmoniously into the landscape, as it should be.

West Bay's proposal completely disregards those considerations and will undoubtedly and forever change the landscape by doing so. Due to the bowl shape of the property with houses clustered – at the bottom, the removal of over 200 trees, close proximity of the houses to each other, the back/rear of the houses facing towards the Neighborhood (presumably with floodlights), the possible encroachment of outdoor lighting in the "Private Open Space" (Re: Comment Letter submitted by City of San Rafael, No. 1, page 1) and probable installation of Street/Security Lighting by the Developer; all adds up to what I can only imagine to be a permanent Shaft of Light, stretching from NSPR to the Ridge of San Pedro Mountain. I believe these impacts to be Highly Significant, and justify closer examination to its details.

**16-11**

Including the above-mentioned possible light-generated sources, I would request the applicant provide some "visual aid" or photo-enhanced computer generated evidence of what we can expect our night-time landscape to be as a result of this development.

**16-12**

I will be submitting a photo-montage of the light-generating sources, as currently exists, to the Planning Commission at the January 26, 2009 meeting, to better demonstrate my concerns. I request this be included as part of my Comment Letter.

In order to protect and preserve any and all environmental resources in our Community, we participated in the CWP process. By doing so, we had hoped to avoid this from happening.

**16-13**

From February 2007 through October 15, 2007, Santa Venetia was, I believe, one of the most persistent, consistent, and vocal Neighborhood Groups participating in drafting the CWP. We attended countless meetings that lasted until 9-10-11 at night. We stood in the back of the room on those occasions when the crowds spilled out into the hallway. We submitted comment letters and public testimony on issues we knew would affect us in the future because we knew of the importance of having our concerns included with the adoption of the CWP.

In addition to attending meetings at the Civic Center, we organized meetings in our Neighborhood. Weekday evening after work, Sunday mornings, emails, gathering petitions, disbursing information. We had Kristin Drumm and Terry Watt attend a meeting in order to explain, clarify, and answer questions and comments we had.

We weighed in on topics such as: TOD's, HOD's, LOS's, density bonuses, upland greenbelt, and Bayland Corridors. Offering comment letters and public testimony accordingly.

When the CWP was finally adopted and released to the public, I was so pleased to see most of the results of all our hard work included into the CWP.

Never, at any time during the drafting or finalizing of the CWP did I hear mention of any Exception to the Rules. I cannot recall any discussion of any one individual, group, or developer being allowed to deviate from the Master Plan. Never.

West Bay Builders' proposal for a subdivision and rezoning project completely undermines all our time and effort we dedicated to the CWP.

Since the release of the DEIR, my Neighborhood has organized volunteer creek clean-ups, roadside clean-ups, median maintenance on NSPR, and marsh/open space rehabilitation work days. Instead of participating, I found myself reading, highlighting, and trying to comprehend the 590-page 650 NSPR DEIR. And it makes me angry because those are the things I want to volunteer my time to – not this!

I believed that by participating in the CWP, we would preserve and protect all those things we cherish about our Neighborhood. I believed you listened and agreed and I trust you will make the right decision for us now.

16-14

Please, reject the proposal for rezoning and subdivision for 650 North San Pedro Road and keep the existing zoning in place.

Thank you for your consideration to our concerns.

Sincerely,

COPY

Mary Hanley



**LETTER 16 – Mary M. Hanley**

16-1: This comment states that the proposed project would impact local quality of life by degrading the visual quality of the area and contrasting with the character of the existing neighborhood. The issues of visual and land use compatibility with the existing setting and neighborhood are discussed in Master Responses 2 and 5, respectively. The level of development on-site that could occur under existing zoning is discussed in Master Response 6.

16-2: The comment expresses concern that no upgrades have been made for the existing off-site stormwater drainage system during the last 20 years. As discussed in Chapter 4.4 of the DEIR, the project design proposes to mitigate hydrologic impacts through a reconfiguration of the on-site pond and using it as a detention basin. The reconfigured pond is being designed to attenuate the post-development 100-year peak flow to the pre-development level. The existing pond has an existing earthen berm along the south edge of San Pedro Road with an estimated elevation of about 34.0 feet and a maximum existing capacity of 0.57 acre-feet. Please refer to Figure 4.4-3 in the DEIR. The pond would be enlarged to meet the runoff volume requirement of 0.62 acre-feet and the berm would be modified and raised. The elevation of the top of the modified berm would be 35.2 feet and would allow for 1-foot of free board above the normal pool elevation. The modified berm would increase the normal pool elevation of water to 34.2 feet with a corresponding storage volume of 0.62 acre-feet (see the cross section drawing on Figure 4.4-4 of the DEIR).

In addition, the proposed mitigation measure 4.4-A.1 in Chapter 4.4 of the DEIR requires that the project meet the County's low impact development (LID) standards by modifying the landscape design to incorporate permanent Best Management Practices (BMPs). The permanent BMPs for meeting the LID standards are designed to address both stormwater quality pollution and reduce stormwater runoff. For example, appropriate landscape design (such as permeable concrete and asphalt surfaces for driveways and roads, grass swales, rain gardens, etc) will promote water absorption/infiltration and

thereby reduce stormwater runoff. The proposed reconfiguration of the on-site pond and the proposed BMPs for meeting the County's LID standards would reduce the post-development 100-year peak flow to less than the pre-development level.

16-3: The comment states that the commentor agrees with and fully supports the comments submitted by Art Reichert, former Chair of Flood Control Zone, # 7. This agreement is acknowledged by County staff. Comments submitted by Mr. Reichert are separately addressed in response to his letters (Letters 22 and 23).

16-4: The comment is correct in that the earthen berm along the south edge of the pond and bordering North San Pedro Road would be raised from an estimated elevation of about 34.0 feet to be 35.2 feet. The comment states that the structural integrity of the raised, modified berm is critical and asks if the maintenance and security of the berm will be the responsibility of the Homeowners' Association. The modified berm would be designed and constructed in accordance with current engineering standards. As stated in Mitigation Measure 4.4-E.1 in the DEIR, ongoing maintenance of the pond, including debris removal and monitoring, shall be the responsibility of a Homeowners Association. This text of the DEIR has been revised to clarify that maintenance of the pond under this mitigation measure shall also include monitoring of the berm's functionality, including its structural integrity.

16-5: This comment states that the existing berm appears to encroach into the planned widening area of NSPR. As indicated in the response to comment 16-4, the existing berm located on the north side of the pond adjacent to North San Pedro Road, would be re-constructed. The new berm would be located entirely outside the new edge of the road.

16-6: This comment states concern about the location of the existing catch basin and resulting run-off potential following proposed development. The proposed mitigation measure 4.4-A.1 in Chapter 4.4 of the DEIR requires that the project meet the County's low impact development (LID) standards.

The proposed mitigation measure also requires that the stormwater runoff from Drainage Area 1 be treated before it reaches the reconfigured pond to protect the wetland function of the pond, and the stormwater runoff from Drainage Area 2 be treated before it discharges to the off-site wetland. To be more specific, the proposed mitigation measure 4.4-A.1 in the Final EIR has been revised to add additional permanent BMPs. The added BMPs would not only help reduce the stormwater runoff rate and volume from the new driveway, but would also help mitigate non-point source pollution of the stormwater runoff from the new driveway.

16-7: This comment expresses the opinion that any addition to traffic in the vicinity of the project site will result in a significant impact. The DEIR reports the significance of the impact of the project in accordance with County criteria. Under these County established criteria, the project would have no significant impact on traffic operations. Community concerns relating to traffic congestion on North San Pedro Road and the County's current coordination efforts with the Jewish Community Center and the Venetia Valley School are further discussed in Master Response 8.

16-8: The comment states that the proposed location for the main driveway to the project presents a hazard due to inadequate sight distances. As discussed in response to comment 10-55, Mitigation Measure 4.6-E.1 has been revised to require the repositioning of the fence to allow for adequate sight distance. Based on a review of the project fencing plan, it would be feasible to move the fence 10-feet south of its proposed location. Repositioning of the fence would not result in redesigning the proposed dwelling unit or changing the lot size. Through the implementation of the revised mitigation measure, it was concluded that adequate sight distances, in accordance with Caltrans' Highway Design Manual, could be achieved. On this basis, the County maintains that relocation of the main driveway is not warranted on the basis of insufficient sight distance.

The comment asks when Mitigation Measure 4.6-E.1 would be implemented. As the measure explains, prior to grading activity for road and driveway con-



struction being undertaken, the applicant shall submit for review and approval of the Department of Public Works traffic engineer, detailed engineering cross sections of the roadway frontage and detailed plan specifications with traffic engineering graphic data that more specifically depict driveway configurations and sight distance from driveway exit points. The Mitigation Measure has been revised in the FEIR to clarify that confirmation of adequate sight distance would be required prior to occupancy of any units.

Regarding the potential for intrusion of headlights into homes from cars leaving the main driveway, this issue is discussed in Master Response 2. No significant impact from headlight glare would occur.

16-9: This comment expresses an opinion regarding the addition of light generated by the project. No detailed exterior lighting plan has been prepared. However, all exterior lighting would be limited to the lighting needed for roadway safety and home security. Light sources within the project site would be required to comply with the Section C-1.11 (Exterior Lighting) of the Marin County Single Family Hillside Design Guidelines. Requirements include low bollard and hooded lighting at roadway and driveway intersections and along driveway entries to homes. The project also includes a Tree Mitigation Plan, as discussed in Master Response 9 which would provide for screening trees throughout much of the property. These trees, many of which would be located along the site boundary with North San Pedro Road, would visually buffer the site from residences to the north. As determined in the EIR, these factors would result in a less-than-significant impact.

16-10: This comment expresses an opinion regarding the addition of light generated by the project. As discussed in response to comment 16-9, the issues of light and glare are important considerations in the development process. However, as explained in the previous response, the project would not result in a substantial increase in light or glare that would otherwise adversely affect the residences to the north.

16-11: This comment expresses the opinion that future, exterior light sources on the project site would lead to high-level of lighting “shaft of light” from North San Pedro Road to the ridge of San Pedro Mountain. The comment, however, does not provide any substantial evidence (illustrative or otherwise) to demonstrate the project would have the stated effect. As stated in response to comment 16-9, the conclusion in the DEIR that the project would have a less-than-significant impact relating to light and glare is based on the fact that the project would be required to conform with provisions in the County Development Code related to the minimization of light and glare on-site.

16-12: This comment requests a graphic or visual simulation of post-development, nighttime light and glare. The County considered this recommendation and whether development of a night-time simulation would potentially alter the conclusions set forth in the EIR. In the context of the factors explained above, including the Tree Planting Plan and conformance with County Design Guidelines, the County determined that a night-time simulation would ultimately not change the conclusion in the EIR in relation to light and glare.

16-13: This comment stresses the time and effort committed by many community members to the CWP update process, throughout most of 2007. Further, the comment states that the project proposal undermines the effort applied by said community members to the CWP update. This is a merits-opinion based comment that does not address the adequacy of the DEIR. Please refer to Master Response 1.

16-14: This comment recommends that the project be rejected and that the existing zoning be maintained. This is a merits-opinion based comment and is addressed in Master Response 1. Regarding the amount of development that could feasibly occur on the site under existing zoning, please refer to Master Response 6.

**TAMARA HULL**  
**39 MEADOW DRIVE**  
**SAN RAFAEL, CALIFORNIA 94903**  
**(415) 472-6787**  
**TAMARAHULL@YAHOO.COM**

January 26, 2009

**Marin County Planning Commission**  
**Marin County Civic Center**  
**3501 Civic Center Drive, Room 328**  
**San Rafael, California 94903**

**Re: 650 North San Pedro Road**

**Dear Commissioners:**

I am a resident of the Santa Venetia neighborhood who is very concerned about the community and environmental impact of the proposed project at 650 North San Pedro Road.

**17-1**

Community Impact

The main impact on our community will be the increased number of vehicles and vehicle trips on our already impacted main thoroughfare, North San Pedro Road.

**17-2**

I fully understand if the ability of our community to absorb twelve to fourteen more individuals and families traveling on our main thoroughfare does not sound like much of an impact.

However, we recently experienced something as simple as changing the starting time for classes at Venetia Valley K-8 school by 15 minutes and I can tell you that this small change created major havoc to our ability to enter, traverse and exit our neighborhood.

Traffic is such a major concern for the neighborhood that Supervisor Susan Adams is working on solutions for easing it.

As you are aware, the Santa Venetia neighborhood is only accessible by a two lane road. This road narrows significantly as it approaches the project site, from both directions. In addition, there are no sidewalks and no space to pull over in the case of an emergency near this site.

Marin County Planning Commission  
Re: 650 North San Pedro Road  
January 26, 2009  
Page Two

I understand that the project developers propose to widen the road at the site by seven feet and I applaud this plan. However, I do not believe that the plan adequately explains how carving out this seven feet will impact the environment. I believe that the widening of the road at this point will require movement of dirt not adequately covered in the draft EIR.

17-3

Finally, while I am a strong advocate for affordable housing, I cannot support building supposedly affordable housing at a location that is so far removed from public transportation and vital services.

17-4

I also cannot advocate for building new housing stock to be classified as affordable when the county has existing housing stock that could be purchased and converted to affordable housing.

#### Environmental Impact

In addition, I am very concerned that the county staff believes that mitigations can be made to reduce the impact to the environment, wildlife, on site wetland and pond to below significant levels. I'd like to know what is the staff's definition of "below significant". Do the mitigations reduce the environmental impact at significant levels? From my reading of the draft EIR, I do not think so.

17-5

I understand that the heron nest needs to be moved because of the ill health of the tree in which it resides, but that is just one wildlife family on the property. What is being done to ensure that all of the other wildlife are not displaced?

17-6

In addition, I believe that this property is so close to China Camp State Park that I wonder if it is in the Bay Corridors area and should be looked at more closely with that designation in mind?

17-7

I believe that building homes on this property, especially its slopes, will reduce the impervious areas and cause more water to flow to Gallinas Creek and San Pablo Bay. I do not believe that the draft EIR has done enough analysis to determine what the project's real impact will be on the Gallinas Watershed.

17-8

#### Summary

Santa Venetia is a neighborhood with a San Rafael zip code, a San Rafael address and assigned to a San Rafael school. Yet, the city of San Rafael refuses to annex Santa

17-9

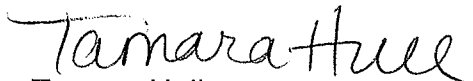
Marin County Planning Commission  
Re: 650 North San Pedro Road  
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Page Three

Venetia because of the past and potential future flood problems. Adding more homes to this neighborhood is not the right answer for this property.

I believe that no more homes should be built in the Santa Venetia neighborhood without a major expansion of North San Pedro Road, from Buck's Landing (the entrance to China Camp) to San Pablo Avenue or without serious work on fixing the levees. In addition, I believe that most existing homes can be remodeled and even expanded but to replace a single family residence with twelve to fourteen residences is more than our community can support.

Therefore, I ask you to vote no on the proposed project at 650 North San Pedro Road.

Sincerely,

  
Tamara Hull

Disclaimer: The views expressed in this letter are solely my own and do not reflect those of any of the organizations with which I am affiliated.

**LETTER 17 – Tamara Hull**

17-1: This is an introductory comment stating general concern with the community-based and environmental impact of the proposed project. No change to the DEIR is required as a result of this comment.

17-2: This comment stresses that the main impact of the project would be the increase in vehicles on local roads, as was the case following development of the Venetia Valley School. The impact of the project would be less than significant and is substantially less than the impact of recent changes at Venetia Valley School. For example, the project is estimated to generate 11 morning peak hour trips. The 700 students at the school are estimated to generate over 400 morning peak hour vehicle trips. Community concerns relating to traffic congestion on North San Pedro Road and the County's current coordination efforts with the Jewish Community Center and the Venetia Valley School are further discussed in Master Response 8.

In addition, as explained in the Project Description of the DEIR, North San Pedro Road would be widened by approximately 7 feet for a distance of approximately 700 feet along the northern frontage of the project site to provide a shoulder on the southern (Bay Creek Drive) side of the road as well as provide a bike lane. This would provide a deceleration shoulder area for vehicles entering the project driveways from the west. This shoulder area does not currently exist along the property's frontage.

17-3: According to this comment, the impacts of the proposed road widening are not fully assessed. The grading calculations, which are specified in Table 3-3, indicate that a total of 8,657 cubic yards of material would be cut (graded or excavated). Since circulation of the DEIR, the total amount of soil graded or excavated has been reduced to 7,400 cubic yards. As indicated in Table 3-3 in the Project Description (Grading Calculations), 333 cubic yards of cut would be required on North San Pedro Road to widen the roadway. The impacts associated with site preparation, including cut and fill activities, have been fully addressed in the DEIR. For example, Chapter 4.6 (Traffic and Cir-

ulation) examines the number of truck trips required to transport cut earthen material that will not be reused on the site and how these trips would affect local traffic conditions.

17-4: This comment protests the development of affordable housing because the proposed site is deemed too far from public transportation and services, and because affordable housing could first be provided via conversion of existing housing stock. This is a merits-opinion based comment. Please refer to Master Response 1.

17-5: The County's definition of a significant impact (effect) is based on Section 15382 of the CEQA Guidelines, which states:

“Significant effect on the environment” means a substantial, or potentially substantial, adverse change to existing environmental conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise and objects of historic or aesthetic significance.”

In accordance with the provisions in Section 15064 of the CEQA Guidelines (Determining the Significance of the Environmental Effects Caused by a Project) a determination of significance must stem from information in the project's record and, to the extent feasible, on scientific and factual data. In general, CEQA depends on the professional judgment of environmental professionals with specific training in a particular area to make a determination of significance. Accordingly, a team of CEQA professionals and other technical experts were used to develop the EIR and have made the conclusions of significance therein. Section 15382 of the CEQA Guidelines states that a “significant effect on the environment is defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”

17-6: No significant impacts to endangered species which are not mitigated to a less-than-significant level were identified in the DEIR. However, the docu-

ment contains multiple mitigation measures designed to protect sensitive habitats, and thus the wildlife they nurture. These measures target both project construction and operation. Mitigation measure 4.3-C.1 calls for the installation of protective fencing around the ephemeral stream during construction. Permanent fencing would establish the 20-foot creek setback following construction. Mitigation measure 4.3-F.2 calls for the development of a Wetland Mitigation and Enhancement Plan (WMEP) to reduce impacts on sensitive wetlands, including the installation of replacement habitat on the eastern edge of pond. In addition, Mitigation Measure 4.3-G.1 contains a vegetation clearance strategy to reduce impacts to multiple species of nesting birds and bats. These are three examples. Other mitigation measures specific to wildlife and habitat protection are set forth in Section 4.3 of the DEIR.

17-7: This comment asks whether the project site is located within the Baylands Environmental Corridor. As shown on the Marin County Countywide Plan Map Viewer (<http://gisprod.co.marin.ca.us/CWP>) the project site is located within City-Centered Environmental corridor, not the Baylands Corridor.

17-8: The DEIR concurs with the commentor that the project will *increase* (not “reduce” as typewritten in the comment) the impervious areas and would cause more water to flow to Gallinas Creek and San Pablo Bay if no mitigation measures were provided. However, the project design has taken significant measures to mitigate hydrologic impacts on the Gallinas Watershed. The proposed reconfiguration (enlargement) of the on-site pond and the proposed BMPs for meeting the County’s LID standards would reduce the post-development 100-year peak flow to less than the pre-development level. Detailed hydrologic analysis of the 100-year peak flows and the method by which the detention pond was sized is documented in Appendix C of the DEIR. No additional analysis is warranted to document what the project’s impact would be on the Gallinas watershed.

17-9: The comment expresses opposition to the project, in part, because of the potential for future flooding. Concerns related to potential flooding were



COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

previously addressed in response to comment 17-8. The project will not result in flooding. The opposition to the project is merits-opinion based comment and does not warrant further response.

# LETTER #18

144 Madison Avenue  
San Rafael, CA 94903

January 26, 2009

Marin County Community Development Agency  
Planning Division  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 650 North San Pedro Road

Dear Sirs:

I am writing to urge you to reject the proposed 14-home development, and to adhere to the existing 5-home zoning plan.

18-1

May I present my reasons:

- 1) Density in the Santa Venetia area is at saturation point and this proposal would impact its rural character.
- 2) The proposed size and number of houses would impose a strain on the environment, the wildlife and the community. Aesthetically, smaller and less houses on that parcel would be in keeping with the existing houses. As the recent Head of Architecture at UC Berkeley said "One must look at what is already there"
- 3) Increasing the number of homes beyond the present zoning would have another drastic impact on the already horrific traffic on North San Pedro Road. Neighbors who have lived in the area for many more years than I, mention how much the traffic has increased over the years due to the schools, more houses, and the JCC. I have seen a tremendous increase in cars even in the short span of five years, and I feel a lot of it is due to the JCC expanding their school and their acquiring another building and parking lot. This corridor of North San Pedro Road is compromised too much. The new condos on San Pablo Road and the proposed Public Safety Building will wreak their havoc on the traffic, too.

18-2

18-3

18-4

I would wish that you and the Board of Supervisors will listen to the people of Santa Venetia, who have very just and real concerns about this very special area of San Rafael.

Yours truly,

*Mary Louise King*

**LETTER 18 – Mary L. King**

18-1: This comment urges that the proposed project and rezoning be rejected for construction of five homes, as permitted under existing zoning. The recommendation to reject the project, as proposed is a merits-opinion based comment and is addressed in Master Response 1. The level of development actually permitted under existing zoning is discussed in Master Response 6.

18-2: This comment opposes the project on grounds that density in the Santa Venetia area is at a “saturation point.” While the project would increase number of homes in the Santa Venetia neighborhood, there is no basis provided to demonstrate that the existing level of development neighborhood is approaching the “saturation point” and that the project might exceed this point. The project’s compatibility with the surrounding community, including the open spaces that contribute to its semi-rural character, is discussed in Master Response 5.

18-3: As stated in response to Comment 18-2, the project’s land use compatibility with the surrounding community is discussed in Master Response 5. The project’s visual compatibility with the surrounding community is separately addressed in Master Response 2. The semi-rural character of the site and the surrounding area would be largely preserved in that 8.6 acres. Furthermore, 58 percent of the site would be protected as open space, and there would be extensive planting of replacement trees (see Tree Mitigation Plan in Appendix E of this EIR). In addition the natural pond and creek features would remain in place. Potential significant impacts to wildlife have been documented in Section 4.3 of the EIR and mitigations have been developed to address those impacts.

18-4: The comment expresses concern about the level of traffic on North San Pedro Road and opines that volumes have substantially increased in just the last five years. The comment specifies that the Jewish Community Center and new condominiums on San Pablo Road are two projects contributing to the volumes and congestion.

As documented in Section 4.6 of the DEIR (Traffic and Transportation), the project would generate few new trips on North San Pedro Road. The minimal effect that project trips would have on operations is discussed in Master Response 8. For example, the impact of the project would be significantly less than the impact of recent changes at Venetia Valley School. The 700 students at the school are estimated to generate over 400 morning peak hour vehicle trips, whereas the project is expected to generate 11 morning peak hour trips, including 8 outbound trips and 3 inbound trips.

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January 26, 2009

Marin County Community Development Agency  
Planning Division – Re: 650 North San Pedro Road  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Subject: Comments on 650 North San Pedro Road (NSPR) Draft Environmental Impact Report (DEIR)

Thank you for this opportunity to comment on this DEIR. For the record, I have emails and comments ranging as far back as 1999 regarding development on this property and hope all our neighbors concerns and comments have been included as you review this project and the effects it will have on our Community.

**19-1**

I grew up in Marin and have lived here for 45 years. I have lived in Santa Venetia for 20 of those years. I have watched as people have applied for lot line splits and rezoning and more land is eaten up by more and more houses are built. I see that traffic has come to a stand-still throughout Marin. I see that our infrastructure is crumbling and our emergency and utility services don't have the money and/or manpower to service their current customers and wonder, how can we add to that?

So, in response to this project and the DEIR: I believe the conclusions drawn in the DEIR are incorrect and not "*Consistent*," as stated. I believe the mitigations are, in truth, unable to mitigate the "*33 Adverse Impacts*" and "*Significant Irreversible Environmental Changes*" and the damage to the environment and our Community. I am listing the following specific concerns but please be aware that, obviously, this is not my field and I count on you, our Government employees, to work for me and our Community to carefully review these applications and reports and find these and further inconsistencies.

**19-2**

Concerns about Rezoning and Overall Promises:

The property is zoned for 5 lots, 5 houses. I believe that this zoning is consistent with the surrounding Neighborhood and would be more beneficial to the Community. We are told that the environmental benefit of having 12 + 2 homes clustered at the bottom

**19-3**

would be better than 5 homes on the property. I take exception and totally disagree with that statement.

I would like the Planning Commission to request information from the Developer as to the specific differences, e.g. how many trees would need to be removed to build 5 houses? Already they are proposing to remove 200 trees! *"Site preparation and construction would result in the removal of 200 trees on-site. This count includes all native species greater than 6 inches in diameter at breast height (dbh) and blue gum eucalyptus larger than 12 inches dbh. Fifty-three of these trees are protected and non-exempt under Marin County tree ordinances."*

19-4

Page 224 of the DEIR states: *Of the 11.1 acres of mixed-oak forest on the property, approximately 1.5 acres would be developed. And to: Compensate for the loss of 1.5 acres of oak forest by maintaining at least 4.5 acres (3:1 ratio) of mixed oak forest in open space. What happened to the remaining 5.1 of the 11.1 acres?*

Also, I have attached the Tree Mitigation Plan originally supplied in the As I understand it and as referenced on this plan, the replacement ratio for trees removed is 3.0:1. In the DEIR it seems to state that they are "maintaining" trees for the ones they are removing. Aren't they supposed to plant new trees? And if so, where will those plantings be?

19-5

And in earlier meetings, the Developer promised to leave the eucalyptus tree(s) with the heron's rookery, but now has stated the tree has have since been damaged by ramming with a backhoe and will need be removed.

So, a huge concern is that if the land is subdivided and approved, what guarantees do we have? We have seen over and over project drawings, depictions, and plans that are pushed through and accepted and then the land is sold for an increased price and the project is changed. Promises are broken over and over again...

19-6

#### Open Space:

I want to reiterate what I said in the past at the EIR Scoping Meeting and in my comments (included in your scoping package)' as regards to "private" open space and deed restrictions. To expect the homeowners to abide by these rules is wishful thinking at best and the damage to the environment can be, and usually is, done before anyone knows about it.

19-7

As I stated before, and although I'm ashamed to admit it, I know from experience - some friends of mine bought a newly developed property in San Rafael that had restrictions including a conservation easement and similar agreements for non-development of the "open" area. The first thing they did was build a fence and then they started with the

landscaping. As of now, they have totally cleared the "open space" and are building terraced lawns and planting. Their neighbors have also "improved" their properties. When I questioned how this was possible, I was told that if none of the neighbors in the development object, there is no problem and they can do as they please.

As we have seen numerous times in the past, if this is left as "private" open space, owned by individual property owners, many owners will feel it is their property to do with as they see fit.

Included in your Staff Report is a letter from the City of San Rafael, dated 1/13/09, stating a similar stance. I am quoting here but leaving out some of the detail: "... scenic easement on private lots are difficult to enforce (future, unauthorized encroachment of private structures and urban landscaping has occurred throughout Marin County), Retaining this open space area as one parcel held in the common ownership by the HOA would ..... reinforce consistency with Marin Countywide Plan Policies.... "

My original suggestion at the EIR Scoping Meeting was to have the open space be in an HOA. And after reviewing the DEIR, I wish to restate it – there will already be an HOA in place for the pond and wetlands detention facility. If the rezoning is allowed, and the homes are to be clustered at the bottom of the property, the remaining space should not be allocated to each individual lot but should be included in the HOA as open space with permanent deed restrictions and penalties for infractions.

The DEIR states that it is an environmental benefit to cluster the homes at the bottom to leave the visual space at the top. This "private" open space restriction is insufficient. If they are serious about the "open space," they should either deed that property to the County and/or include in their HOA common area.

I had asked at the Scoping that the EIR include information on what will be the environmental impact and effects if the whole property was landscaped by the individual homeowners? This may not happen tomorrow but, historically speaking, we can assume that it may eventually happen. I see that has also not been addressed.

#### Concerns about Wildlife:

Although I don't live adjacent to the property, I live along Gallinas Creek and the development of this property will affect us in numerous ways.

**19-8**

As noted earlier, we have huge concerns about the removal of the Eucalyptus trees and especially the Great Heron Rookery. I have included a picture of the herons nesting in the Eucalyptus trees on the property. The off-site mitigation program removing the Heron Rookery from our neighborhood and relocating at West Marin Island is totally unacceptable. The affects of removing 200 trees (53 protected) must be taken into consideration.

**19-9**

We have one of the largest concentrated areas of (the endangered) clapper rail along Gallinas Creek. As a Neighborhood, we have discussed the Marin County Stream Ordinance and set-backs to protect the clapper rail, marshland, and other wildlife. During the CWP, we agreed to be included in the Baylands Corridor to protect the clapper rail, marshland, and other wildlife. This property will generate pollution and run-off that will ultimately be draining into our Creek. The affects must be taken into consideration.

19-10

We have been told by Neighbors (within 200-300 yards of 650 NSPR) that they have sighted the (endangered) red-legged frog on their property. I have also been told this frog has been sighted at the 650 NSPR property. Has this been taken into consideration?

19-11

And finally, although it is not reflected in the DEIR, I also wish to add for the record that before the EIR process began, approximately 300 goats were let loose on this property for a weekend to "clear the property" for access. I am convinced that this process may have damaged vegetation and trees and scattered wildlife that may otherwise have been sighted and included when preparing the DEIR documents.

19-12

Concerns about the Constraints Analysis and DEIR:

Many concerns regarding the environmental damages were brought up and referenced by many of our neighbors and I am uncertain they were adequately dealt with in the DEIR. I have attached for inclusion in my comments a 4-page document noted "Giselle 10/27/06). I would like you to re-review and confirm that all of these concerns were included in the DEIR and "properly" taken care of and/or studied.

19-13

Concerns about the Wetlands Delineation & Ephemeral Stream:

In the DEIR there are numerous statements regarding the Wetlands Delineation, the Ephemeral Stream, and the necessary setbacks:

1. One statement notes the wetlands delineation consists of a 5.5-acre parcel. Later, it is stated the jurisdictional wetland was determined to be 0.29 acre. At numerous times throughout, two reports are footnoted yet I can't find copies of those in any of the documentation. I would like to request these copies, as well as other referenced copies, be included in the DEIR documentation and reviewed for accuracy as they relate to the DEIR. (I would also like to request to receive copies of these reports for review.) These include:
  - a. Prunuske Chatham, Inc. 2003 West Bay Builders Preliminary Wetlands Assessment Report. Prepared for West Bay Builders, November (and revised report 2004)

19-14



- b. U.S. Army Corps of Engineers, 2004. Letter from Jane Hicks, U.S. Army Corps of Engineers, San Francisco District, to West Bay Builders. File No. 28450N, July 15 **19-15**
- 2. There are also statements that "the pond and the wetland are artificial." That is not what I have been led to believe and I would like this further researched. **19-16**
- 3. Regarding required setbacks, on page 4.1-20, the setbacks range from 20-foot to 100-foot depending on the size of the parcel and "regardless of parcel size, an additional buffer may be required. It then goes on to say they are "Consistent" and "Under County policy, a 100-foot setback is general required..." and furthermore, "Garcia and Associates concludes that a setback from edge of wetland is not required for this project." I don't understand this logic and would ask for review. **19-17**
- 4. Page 4.1-22 includes the statement: "In regards to the 100-foot area surrounding the delineated wetland, GANDA concluded that new development would occur within the area and may result in potentially significant impacts from modifying the adjacent upland hydrology, increasing potential run-off from household and vehicle pollutants, reducing the upland buffer, and reducing the value of the wetland as wildlife habitat." **19-18**
- 5. The Environmental Constraints Document includes much more information about the wetland and ephemeral creek. I wish to request this information is fully researched and made sure it is considered and referenced in the DEIR. **19-19**

So, to wrap this up, I believe the conclusions drawn in the DEIR are incorrect and not "Consistent," as stated. I believe the mitigations are, in truth, unable to mitigate the damage to our environment and our Community. **19-20**

Please consider that rezoning and subdivisions are not conducive to the environment, our Neighborhood, or to Marin County in general. **19-20**

5 lots, 5 homes, it's not unreasonable!

Thank you,

**COPY**

Linda Levey



This letter provides comments on the current application for development presented by West Bay Builders.

### **Vesting Tentative Maps**

- It would be useful to know how many oak trees (by diameter class) and other native tree species (e.g., madrone, buckeye) that would be removed as a result of development. The maps show the trees but it would be useful to have a quick summary in text or tabular form. This would better enable assessment of native oak impacts.
- There needs to be a clear definition of the following terms presented on sheet C-3. These are: scenic easement, roadway easement, and private open space. These terms are not defined in any of the supporting documents. Definitions should include allowances and restrictions on those properties as well as future legal protections from urban development (e.g., subdivision, rezoning, etc.). Some of these terms may have already been defined (County) although private open space is not a previous feature of this property.
- Is the scenic easement and roadway easement part of the total acreage of private open space?
- What actions would or would not be allowed on each of the easements: types of development, planting, plant removal, grading, road improvement, water structures, etc. Would these restrictions be in perpetuity or could they be altered in some way in the future? Any development in these areas should be evaluated, especially relative to slope stability, erosion, etc. Could houses be placed on the road and scenic easements?
- Could a fence be constructed that surrounds the private open space? This would be looked upon as detrimental to wildlife movements that are currently uninhibited in the oak forest.
- The pond will be altered in size to accommodate increasing flows on the site. What is not clear from the supporting documents is how water quality will be maintained. This will clearly have an effect on downstream recipients of that water (e.g., endangered clapper rail).

- A concrete ditch is proposed for the property to drain areas 1 and 2 into the seasonal stream and pond. Can the pond adequately handle a 100-yr flood given this new scenario? Wouldn't the channel be significantly scoured given the increased flow directed from drainage area 2?
- The letter submitted by West Bay Builders on the new proposed development features does not adequately address the major hydrological issues identified in the CA. Before moving forward, a clear understanding of the plausibility of their revised hydrology plan is needed to evaluate their application.

### Constraints Analysis

- The Constraints (CA) analysis refers to a 3<sup>rd</sup> plant survey that was to be conducted during summer 2005. Results from this survey should be presented before the application is considered complete. This is especially important since evidence of sensitive plant species were observed (as stated in the CA) but verification of identification was dependent upon observation of flower/fruitlet structure development.
- The CA refers to the human-made pond as non-native seasonal wetland. Is this a term used in wetland delineation? If not, the pond should be referred to as a seasonal wetland. The wetland contains both native and non-native species. The CA does not state whether the development will remove or protect the remaining native species.
- Over time, sediments carried through the watershed and into the seasonal wetland will accumulate. What actions will be taken to keep the pond at the depth and width necessary to support the proposed carrying capacity, especially during the rainy season? Will permits adequately reflect the need to modify (e.g., dredge) the pond through time?
- The seasonal wetland is identified as common open space. What protection will the pond and its inhabitants have from residents of the development? A tall fence restricting animal movement is not appropriate but some form of deterrent (e.g., low rope fence) should be put in place to deter access.

- The CA shows that a wetland delineation was carried out on a portion of the property (5.5 acres). Since all of the acreage will be sold and could potentially be affected by the development and its residents, should delineation be carried out for the entire property. Since we do not know what actions will be considered under private open space it seems prudent to identify all potential wetlands on site. In addition, could there be springs that contribute to flows across the property that is not accounted for in the flow calculations?
- The CA does not show the density or type of native planting that will occur as part of the site development. We strongly urge that all plantings are native to Marin flora. A new version of Marin flora is being released by the Marin Chapter of the CA Native Plant Society and should be used to develop a landscape plan.
- There is no indication that non-native invasives will be removed on the property or that a control plan will be developed. French broom was identified to be on the property as reported in the CA. This is a highly invasive species that produces abundant seed and the seed is viable for many years. Removal of existing tree cover will significantly increase the spread of this species across the site and will spread to the native grassland and oak forest if a plan for control is not implemented. All shrub and tree non-native species (e.g., Acacia) should be removed from the site except in cases where removal will negatively affect the rookery or other sensitive species identified in the CA and other viable alternatives are not available.
- The CA does not mention field methods used to survey the property for plants, birds, mammals, etc. Without knowing methods used it is difficult to evaluate the completeness of the biological assessment presented in the CA.
- The CA states that ILS Associates “did not use the Hydrology Manual’s (Marin Co.) recommended equation for calculating the time of concentration (tc). Another words, hydrology computations were not conducted in accordance with County guidelines and may not adequately reflect peak flows. I did not see any other supporting documentation that addressed this issue clearly presented in the CA.
- In the hydrology section of the CA it states “the existing storm water drainage facilities .....are not large enough to convey the 100-year peak flows (21.4cfs)”. This applies to drainage areas 1

and 2. Has this issue been addressed in the application? Is it possible to accommodate these increased flows to downstream facilities?

- Later in the hydrology section the CA mentions again that the “current hydrology calculations are poorly documented and do not appear to follow Marin County Hydrology methods. Has this been addressed in the current application? Do the plans adequately address this deficiency?

**LETTER 19 – Linda Levey**

19-1: This comment, from a 20-year resident of Santa Venetia, observes that on a County-wide basis, problems associated with traffic congestion, emergency services, and utilities call into question how the County could approve the project and associated growth. This is a merits-opinion based comment and is addressed in Master Response 1.

19-2: This commentor expresses general dissatisfaction and disagreement with the findings of the EIR. The comment calls upon decision-makers to carefully review the project application and DEIR. Each member of the County Planning Commission and Board of Supervisors will review the EIR prior to action on the project. Written and verbal comments have been received from the Commissioners on the DEIR and are responded to as part of this Final EIR.

19-3: The comment states that existing zoning is consistent with the neighborhood and the construction of five units would be of more benefit to environment than proposed rezoning. This is a merits-opinion based comment and does not warrant further response. The level of development feasible under existing zoning is addressed in Master Response 6.

19-4: The comment requests that the Planning Commission require the developer to quantify how many trees would need to be removed to build five houses. This request is not related to the adequacy of the DEIR for the project as proposed. Five units were analyzed under the No Project Alternative, however as permitted under CEQA, alternatives need not be analyzed to the same level of detail as the proposed project. In so far as the alternative is not specifically designed or detailed to determine the actual quantity of trees, the analysis evaluates the concept for the alternative and generally concludes that due to limitations on any discretionary controls or conditions that could be imposed on this alternative, development could have a substantial impact on trees throughout the site and this is in part the reason the alternative is determined to be environmentally inferior to the project.

As stated in the comment, 4.5 acres of mixed oak forest would be protected on-site within the open space area(s) to mitigate for the loss of 1.5 acres of oak forest. The comment questions what would occur with the remaining 5.1 acres of the total 11.1 acres of mixed-oak forest on-site. The commentor likely intended to ask about the remaining 6.6 acres ( $11.1 - 4.5 = 6.6$ ). Assuming this is accurate, the remaining oak forest would also be protected within the designated open space area(s) on the property.

The comment also questions whether new trees would be planted on-site to mitigate tree removal and where those trees would be planted. New trees would be planted on site. The Tree Mitigation Plan is discussed in detail in Master Response 9.

19-5: As accurately stated in the comment, the tree on-site containing the heron nest would be removed prior to construction. As documented in Section 4.3 of the DEIR, the project arborist concluded that the tree is impaired because it is marginal in both health and structural condition. The arborist also concluded that the tree is not among those warranting protection under the Marin County Development Code Section 22.27.020. The tree has root damage from installation of the driveway and is infested with the eucalyptus long-horn borer and the eucalyptus tortoise beetle. The arborist considers the nest tree to be a hazard with a short life-span. The relevancy of how the root damage occurred is not germane to the findings of the arborist.

19-6: This comment expresses the concern that the existing parcels would be subdivided and the project would change or the parcels would be sold. This comment is speculative in nature and expresses an opinion that does not question the adequacy to the analysis under CEQA. This a merits-opinion based comment and is addressed in Master Response 1.

19-7: This comment relates to management of the open space on private lots and states the opinion that all open space should be placed within an HOA. The concerns and opinions expressed in this comment are addressed in Master Responses 7 (Open Space Management) and 1 (Merits/Opinion).



19-8: The commentor clarifies that while she doesn't live adjacent to the project site, she lives along Gallinas Creek and expresses the opinion that the development will affect her in numerous ways. This comment does not specify the impacts that will affect her. No response is required.

19-9: The comment reiterates previously expressed concerns about removal of the eucalyptus tree on-site containing the heron nest. The commentor has included a photo of the herons nesting on the property. She expresses the opinion that West Marin Island is an unacceptable off-site location for mitigation and that the effects of removing 200 trees (53 protected) must be taken into consideration. West Marin Island is discussed in Master Response 10. Tree removal and mitigation has been taken into consideration in the EIR, and is discussed in Master Response 9.

19-10: This comment states that pollution and runoff into Gallinas Creek, caused by proposed project, will impact the endangered clapper rail. California clapper rail and black rail utilize tidal saltmarsh habitat in the Bay. The project site is upland habitat on a hillside south of North San Pedro Road. Both rail species do occur in the vicinity of the project site, but north of North San Pedro Road in the marsh where they would not be affected by the project. Measures that will be taken to address potential contamination in stormwater leaving the site are described in Section 4.4, Hydrology and Water Quality. Please also refer to the response to comment 16-6 (Letter 16 above), which identifies how Mitigation Measure 4.4-A.1 is being augmented to specify additional measures that should be considered to minimize adverse effects on water quality down stream of the site.

19-11: The commentor indicates she has been told by neighbors that they have seen California Red Legged Frog on the project site. A USFWS protocol level survey was completed in June 2009 for Red Legged Frog and concluded that there are not Red Legged Frogs on site. Please refer to Master Response 4.

19-12: Contrary to what the comment suggests, the baseline (existing conditions) inventory of biological resources on-site was conducted prior to use of goats to clear vegetation.

19-13: The commentor's attachment was not received during the formal, 30-day scoping period for the project. In addition, these comments do not question the adequacy of the DEIR, but are comments on the developer's application and the 2005 Environmental Constraints Analysis. The commentor's attachments are on file with Marin County CDA.

19-14: The comment says the DEIR, presumably Section 4.3 (Biological Resources) makes reference to a 5.5-acre parcel, but this number could not be identified in the text. The 0.29-acre area is the jurisdictional wetland area, as stated in Section 4.3. This comment requests that two documents that are referenced within the DEIR be included with DEIR documentation. The requested documents related to wetlands are available at the Marin County Community Development Agency, Planning Division located at 3501 Civic Center Drive, Room 308, in San Rafael during normal business hours.

19-15: This comment requests clarification as to whether the pond and wetland are artificial. As noted in Section 4.3 of the DEIR, the pond was indirectly manmade as a result of obstruction of flow to the ephemeral creek. Prior to the construction of North San Pedro Road, it is believed that the creek flowed, uninterrupted, into downstream water bodies. However, the water in the pond is now impounded by the berm of North San Pedro Road, which functions as a hydrologic barrier. The following statement in Section 4.3 of the DEIR remains accurate: "the pond and surrounding wetland are artificial or modified features that have been created or altered by past human activities."

19-16: The comment expresses confusion about the DEIR's consistency determination for development within the Wetland Conservation Area (WCA). The project is consistent with WCA Policy. Please refer to Master Response

11 for a clarification of County policy and why the project is consistent with it.

9-17: This comment provides text from the DEIR related to the 100-foot buffer surrounding the delineated wetland, but does not discuss a take issue with the adequacy of the DEIR. No change to DEIR is required.

19-18: The biological resources section of both the Environmental Constraints report and the EIR were researched and written by Garcia and Associates biologists (GANDA). Therefore, any information in the Environmental Constraints report that is pertinent to the EIR, in addition to being appropriately researched, was considered and referenced in the EIR.

19-19: This comment states the opinion that the conclusions in the DEIR are incorrect and not “consistent” as stated but does not provide information to support the opinion. The commentor disagrees that the mitigation measures in the DEIR would reduce potential impacts to the environment and the community but does not provide supporting information for the conclusion. No additional response is warranted.

19-20: The comment asks for consideration of her opinion that rezoning and subdivisions are not conducive to the environment, the neighborhood, or the County. This is a merits-opinion based comment and does not warrant further response.

Jonathan Metcalf, JD MBA  
Resident, Pt. Gallinas Road, San Rafael  
(415) 444-0840

**LETTER #20**

January 24, 2009

Tim Haddad  
Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, #308  
San Rafael, CA 94903-4157

Re: 650 North San Pedro Road - Development Draft Environmental Impact  
Report – Request for Comments

Dear Mr. Haddad:

To re-express our opinions in our July 2004 letter to this same agency, we are strongly opposed to the proposed development plan for 650 North San Pedro Road. We feel that the proposed zoning change threatens the environmental habitat of the area and would have a severe impact not only upon the sensitive wetland and floodplain character of this region but also on the already strained traffic flow, water drainage and flood control issues already prevalent in this rural community.

**20-1**

This letter is in response to the Draft Environmental Impact Report (DEIR) that has been prepared and offered for review regarding the 650 North San Pedro Road residential development project. This project proposes Rezoning, Master Plan, Development Plan and Subdivision applications for the development of 14.8-acre site into 12 single-family residential lots, plus 2 second units for a total of 14 homes. Existing zoning on the subject property already allows for the development of one home on each of five parcels for a total of five homes.

Accordingly, I submit the following comments and questions for further consideration and response in the Final EIR.

**Background**

My wife and I moved to the Santa Venetia area in 2004. Our road, Point Gallinas Road, lies on the North side of North San Pedro, immediately across from where the proposed development will occur. We have reviewed the DEIR as thoroughly as we could – time permitting, conducted our own research, and have discussed this matter with several of our neighbors regarding issues that are of high concern to all of us. We are also active members of the Santa Venetia Neighborhood Association (SVNA) and the Friends of San Pedro Mountain (FOSPM) – 650 Group.

**20-2**

Between 1987 and 2004, we lived in the City of Larkspur. During our 17 years in Larkspur, a location we call the heart of Marin because of its proximity to Mt. Tamalpais and other Marin treasures, we experienced a dramatic change in the overall look and feel

of the hometown, rural quality of that area. Where we once walked through grass fields along the creek watching wildlife and enjoying the open space, new townhouses took their place; where it once took 10 minutes to reach our house from the 101 freeway, it started taking longer, up to 45 minutes during peak periods; where we once enjoyed our view of Mt. Tamalpais and the warm sun in the afternoon, our neighbors added a second story and blocked our view and sunshine – all with the permission of the City of Larkspur.

Before we purchased our house in the rural, bucolic neighborhood of Santa Venetia, we made diligent inquiries with the Marin County Planning Department about the zoning and land use regulations nearby. We were now wise to the detrimental effects that unwarranted and haphazard development can have on a neighborhood, its wildlife, plants and its citizens. Not until we were satisfied that Santa Venetia was not going to turn into another Larkspur, or Corte Madera or Greenbrae did we decide to purchase our house in Santa Venetia. These are serious decisions when one decides to sell a house and purchase another – especially in our county with the highest median price in the Bay Area. Similarly, zoning change decisions should also not be taken lightly. We moved here because the land use and zoning designations protected a more rural way of life – the one that we lost in Larkspur.

We have been accused of NIMBYism or being against affordable housing for the people who work in Marin. That may be true of a few, but it is not true of us and most of the people in this neighborhood who are concerned about this development. We are concerned that zoning and land use designation changes that don't benefit the community will encourage more rampant development with each subdivision and zoning change, furthering our existing flooding, water drainage, traffic problems and the overall degradation of the sleepy character of our neighborhood. We have treasures in Santa Venetia, too: China Camp State Park – a monument to the California wetland and Oak Park environments is at our doorstep; the North Fork of Gallinas Creek is to our North, winding its way to San Pablo Bay; and a swath of Marin Open Space offers a peaceful walk and solace to the hardworking people who live here. This backyard should be preserved for ALL of Marin to enjoy.

**20-3**

For these reasons, we oppose the rezoning and higher-density development of 650 North San Pedro. Our concerns are summarized as follows:

- 1) The project is a re-zoning request for the sake of profit and of little community benefit
- 2) Unwarranted re-zoning such as this sets a precedent for higher-density development in our area
- 3) Increased density raises the risk of flooding, reduces habitat for wildlife and negatively impacts traffic flow on North San Pedro Road
- 4) Increased density is in direct conflict with the rural character of our area.

**20-4**

**20-5**

**20-6**

**20-7**

The specific comments to the DEIR below are made in the spirit of keeping our community the way it was originally zoned by our governing bodies of Marin County. A summary of the comments are as follows:

- 1) We disagree with the Report's analysis that the proposed 14-home development is environmentally superior to the existing 5-home zoning plan **20-8**
- 2) The Report seriously underestimates many of the significant environmental impacts that will result from the 14-home project
- 3) The DEIR does not provide sufficient reasons or local community benefits why a re-zoning request should be granted **20-9**
- 4) We do not agree with the Report's analysis that this proposed development is more consistent with the Marin Countywide Plan than the existing zoning designation. **20-10**

### Comments

#### Introduction – A. Proposed Action.

In a meeting with the developer on December 17, 2008, the developer could not rule out separate (development at different time periods) development of each individual lot, rather than developing all of them at once. The DEIR should consider the cumulative effect of individual development over a longer period of time. **20-11**

Also, in the same meeting, a question was asked of the developer to provide a financial analysis of the differences in profit that the developer would make between the proposed project of 12 units versus developing homes on the existing 5 parcels (No Project Alternative). A developer representative replied that he did not have those figures but would try to provide them. **20-12**

#### Report Summary – B. Summary of Significant Unavoidable Adverse Impacts

I do not agree with the Report's conclusion that the proposed project would not result in any significant and unavoidable impacts. Either the mitigation measures presented are not sufficient to eliminate or reduce the impact, or the impact was not sufficiently analyzed. **20-13**

#### Report Summary – C. Summary of Growth-Inducing Impacts

I do not agree with this conclusion. The traffic reports used for this report do not seem to comport with reality. Many of our neighbors have been stuck in traffic all the way out to the 7-11 store during the morning rush hour and I have personally waited for a long line of cars to go by during the afternoon and evening before I can make a left turn from NSPR or on to NSPR. Rezoning 650 NSPR for the proposed project adds 9 more households (14 total minus the existing 5 currently allowed) which may not seem like a **20-14**

large number but has the potential to add 90 (9 x 2 cars/household x 5 car trips/day) car trips a day over NSPR. If 650 NSPR gets rezoned, this sets a precedent for rezoning properties all over the East side of Santa Venetia, adding more households and car trips that NSPR cannot support. There are no businesses or services on the East side of Santa Venetia, so any service request such as school, groceries, work, gas, medical, etc. require transportation from this area to the Civic Center and beyond. Furthermore, the available public transportation in this area – a limited bus service that runs at infrequent hours – is insufficient to mitigate this increased impact on traffic flow.

Setting a precedent for more development by rezoning existing residential lots to a higher density residential district is in its own right growth inducing!

**20-15**

Report Summary – D. Summary of Cumulative Impacts

Land Use Impacts. I feel that the proposed project would contribute to a shift in the character of the area. There would be a significant change from Residential Estates District zoning to the one being proposed. Most of the homes in this area, from Upper Road and Point Gallinas to Sunny Oaks, are on 20,000 s/f and larger lots. The DEIR seems to be comparing the proposed development to the subdivision on Vendola Drive, but that area was originally zoned for smaller lot sizes and is part of the Santa Venetia neighborhood. 650 NSPR is located farther away from Vendola drive and is considered part of the more rural area closer to the entrance of China Camp State Park.

**20-16**

Geology and Soils Impacts. Several neighbors have mentioned that the soil on this property is unstable. There have been mud slides before coming down the hill and on to the road. The project would involve 8,657 cubic yards of excavation and 2,922 cubic yards of dirt fill. The DEIR does not sufficiently analyze the existing soil conditions, nor explain how this impact to the hillside would be adequately eliminated or reduced through mitigation measures.

**20-17**

Biological Resources Impact. This area is home to many birds and other wildlife. The DEIR does not mention anything about the Clapper Rail or the Red Legged Frog which are federally- and state-protected species. How can the DEIR state that the development will be “consistently subject to policies in the Countywide Plan, as well as Federal, State and local laws” when it does not mention two species that are known to exist in this area? What about the list of protected animal and plant species that are mentioned in the County Wide Plan (see Special Status, Figure 5-1, Marin Countywide Plan, 2007). The DEIR is inadequate in analyzing the proposed project’s impact on the biological resources of this area.

**20-18**

Hydrology and Water Quality Impacts. The Report is accurate that the project would increase the amount of impervious surface area within the Gallinas Creek watershed and would result in an increase in the overall volume of storm water runoff. However, the conclusions that the impacts would be reduced to a less-than-significant level are at best

**20-19**

untested. At a meeting on January 15, 2009, with developer representatives at the proposed development site, the developer explained that water runoff from the newly added impervious surface areas will either run into the upgraded pond, or will run off the roads into side culverts, and all the water will be channeled into a pipe running under NSPR and out the other side into a drainage area by Point Gallinas Road. According to the Stetson Engineers Memo of September 7, 2007, attached to the DEIR, there will be an increase, post-development, of total discharge of surface runoff in Drainage Subarea 1 but a decrease in Drainage Subarea 2. The decrease in peak flow in Drainage Area 2 results from reduced land area. With the increase in water runoff, the following concerns are raised:

- a. If the upgraded pond is holding more water, what happens if the berm holding back the added water breaks and even more water runs down the hillside? Our Santa Venetia levees have been plagued by gophers and other factors that continually threaten a 'break' in the dam. What measures have been put in place to protect the pond and berm?
- b. What happens to the water that does not flow into the pond? There is bound to be additional surface runoff that does not go into the pond. This runoff will want to head towards the road.
- c. There is no mention of a toxic filter for the water running down the roads. This water simply runs into a culvert and on to the drainage area below. This water will be polluted with gas, oil, and other auto discharges.
- d. How does the DEIR account for increased flooding and water level rising from global warming? (See the *2005 Flooding Technical Background Report*, Alex Hinds, Community Development Agency Director, Marin Countywide Plan, page 11.)
- e. Finally, even though the proposed site is not within the FEMA 100-year flood zone, there are many areas in near proximity that are officially within this zone (see attached map.) The increase in surface runoff will certainly contribute to potential damage in the event of a flood in this wetland area.

Impact on Schools. Due to an increase in enrollment, San Rafael schools are at capacity. The local elementary school is currently over capacity. Additional development fees may not be enough to offset this impact.

**20-20**

Impacts on Visual Setting. In disagreement with the DEIR conclusion, the proposed project would surely contribute to an overall shift in the visual character of the surrounding area. A group of homes clustered in close proximity to each other does not have the same "look and feel" of the surrounding hillside homes, which are located at wide distances from each other. The visual effect on people living on Upper Road would also greatly change, since they would be looking over at a "village" of houses clumped together across the road.

**20-21**



Impacts on Sanitary Sewer. The conclusion in the DEIR is not completely accurate. I recently spoke to the district manager at LGVSD. He informed me that their existing infrastructure is at or over capacity and that “you don’t want to know.” They are currently retrofitting their plant to handle more capacity.

20-22

Report Summary – F. Summary of Plan and Policy Consistency.

20-23

I respectfully do not agree with the conclusion in this section that the Land Use Analysis in Section 4.1 “concludes that the proposed project would be consistent with applicable policies and regulations.” A more consistent plan in my view would be to keep development to the “No Project Alternative” and build any necessary high-density housing along the SMART train corridor of the 101 freeway. There would be less traffic, less cars on our roads, more affordable housing near reliable transportation, less environmental impact along a wetland-protected area, and less impact on resources and wildlife.

1. Marin Countwide Plan (2007). I also do not agree with the DEIR conclusion that the “project would be consistent with relevant goals and policies from the Countywide Plan.” For example, in reviewing the Countwide Plan, I found the project to be in possible direct contradiction to the Goal of **Safety from Flooding and Inundation** (EH3) and its corresponding policies below:

20-24

EH-3.c Revise Regulations. Consider expanding the F-1 and F-2 Floodway Districts to include areas of the unincorporated county that lie within primary and secondary floodways, and/or establishing an ordinance that will ensure that land use activities in flood hazard areas will be allowed only in compliance with federal standards.

EH-3.e Restrict Development in Flood Prone Areas. Continue to regulate development in Special Flood Hazard areas by applying the County’s Floodplain Management Ordinance, Federal Emergency Management Agency regulations, and environmental review pursuant to the California Environmental Quality Act (CEQA).

EH-3.f Require Hydrologic Studies. Continue to require submission of detailed hydrologic and geologic studies for any proposed development that could increase sedimentation of a watercourse or alter natural drainage patterns. Amend the Development Code to include findings to continue to regulate development in flood prone areas to ensure public health and safety and to preserve the hydraulic and geomorphic integrity of the stream system and associated habitat.

EH-3.k Anticipate Sea Level Rise. Work with the U.S. Geological Survey, the San Francisco Bay Conservation and Development Commission, and other monitoring agencies to track bay and ocean levels; utilize estimates for mean sea level rise to map potential areas subject to future inundation

(including by updating information about watershed channel conditions and levee elevations); and amend the Development Code to incorporate construction standards consistent with the policies of BCDC's Bay Plan for any areas subject to increased flooding from a rise in sea level.

EH-3.o Seek Levee Assistance. Pursue funding for levee reconstruction in those areas threatened by sea level rise, including but not limited to Santa Venetia.

Similarly, the project appears to be in contradiction with the Goal of **Safety from Fires. Protect people and property from hazards associated wildland and structural fires** (EH4) and its corresponding policy below:

**20-25**

EH-4.5 Regulate Land Uses to Protect from Wildland Fires. Use land use regulations, including but not limited to subdivision approvals and denials, as means of protecting people and property from hazards associated with wildland fires.

In conclusion, the DEIR must do a better job of substantiating its conclusions and claims.

### **Final comments**

There are two underlying principles in the DEIR that tend to state a case for rezoning the property at 650 NSPR. The first is that the proposed project will add badly needed housing and the second is that the proposed project is environmentally superior to the "No Project Alternative," which allows development of the five existing parcels.

**20-26**

In regard to affordable housing point, the developer proposes to provide two "below market rate" houses, plus two second units. It is interesting that a recent Marin Independent editorial by Dick Spotswood, *Housing quotas add up to 'bankrupt' planning*, January 18, 2009, states a different viewpoint that in this economic downturn, Marin would be better off filling existing vacant residences rather than building new ones. It is also interesting to note that if each of the five parcels developed in the "No Project Alternative" were to add a second unit, the county could obtain five additional housing units.

As for the second point, the developer was recently quoted in the Marin Independent Journal, saying "

**20-27**

"Our proposal is a more land-conserving than land-consuming plan that would cluster development," [Mike Marovich] said, adding 70 percent of the site would remain open space. If current zoning allowing five residences is allowed to stand, no environmental report would be required for development, and the county would have limited control, he said, adding the plan for 12 homes "provides the county with a higher level of discretionary review." (January 24, 2009)

This theme that the county would have limited control over development of the five existing parcels is frequently mentioned throughout the DEIR. This conclusion is unsubstantiated and without merit. Any development in Marin County must comply with strict building codes that protect against destruction of habitat, building on a hillside, fire protection, etc. There is fundamentally no proof whatsoever in the DEIR that the "No Project Alternative" is less environmentally superior than the proposed project. For this reason and the other reasons mentioned above, the DEIR is inadequate in explaining its conclusions, lacks clear presentation of the reasoning behind its conclusions and fails to provide meaningful information upon which to make any decisions regarding this project's overall environmental impact.

**20-27  
cont'd**

Sincerely,



Jonathan Metcalf

# LEGEND

## SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD

The 1% annual flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.

- ZONE A** No Base Flood Elevations determined.
- ZONE AE** Base Flood Elevations determined.
- ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
- ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- ZONE AR** Special Flood Hazard Area formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
- ZONE A99** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE V** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE** Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.

## FLOODWAY AREAS IN ZONE AE

The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

## OTHER FLOOD AREAS

**ZONE X** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

## OTHER AREAS

- ZONE X** Areas determined to be outside the 0.2% annual chance floodplain.
- ZONE D** Areas in which flood hazards are undetermined, but possible.



MAP SCALE 1" = 500'



NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0294D

**FIRM**  
**FLOOD INSURANCE RATE MAP**  
 MARIN COUNTY,  
 CALIFORNIA  
 AND INCORPORATED AREAS

**PANEL 294 OF 531**  
 (SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:  
 COMMUNITY NUMBER PANEL SUFFIX  
 MARIN COUNTY 060173 0294 D  
 SAN RAFAEL CITY OF 365038 0294 D

Notice to User: The Map Number shown below should be used when placing map orders. The Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER  
 06041C0294D

EFFECTIVE DATE  
 MAY 4, 2009

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEIMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)



MAP SCALE 1" = 500'



NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0294D

**FIRM**  
FLOOD INSURANCE RATE MAP  
MARIN COUNTY,  
CALIFORNIA  
AND INCORPORATED AREAS

PANEL 294 OF 531  
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS

| COMMUNITY NUMBER | PANEL NUMBER | SUFFIX |
|------------------|--------------|--------|
| 060173           | 0294         | D      |
| 265058           | 0294         | D      |

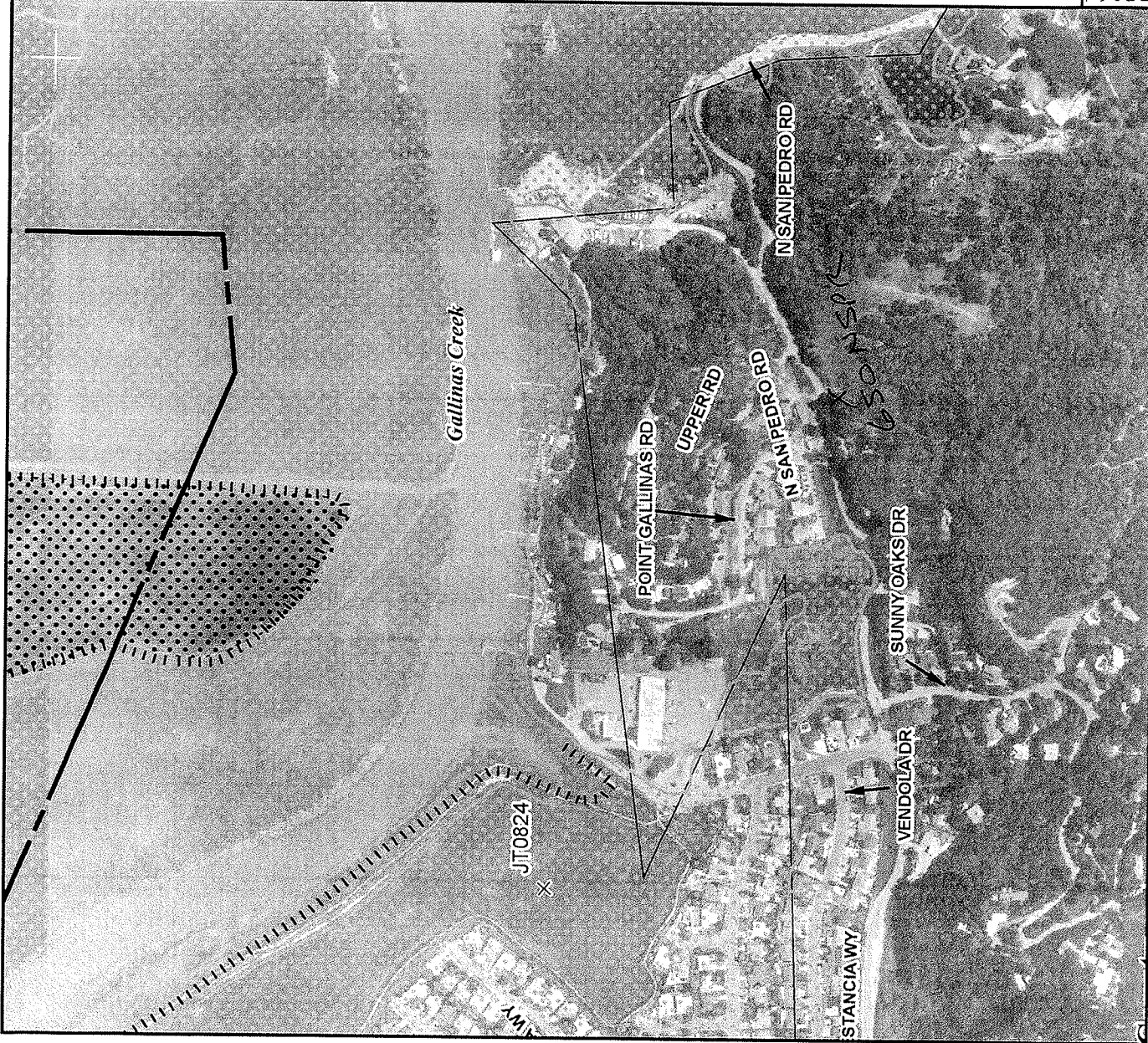
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**LETTER 20 – Jonathan Metcalf**

20-1: This comment discusses the commentator's concerns over the proposed Rezoning, Master Plan, Development Plan and Subdivision applications and states the commentator's opinion that the project would result in impacts on wetlands, traffic, water drainage, and flood control issues. Although each of these issues is addressed in the DEIR, the comment does not offer specific information to support the opinions or provide comments pertinent to the content of the EIR.

The comment refers to existing zoning on the site. The feasible level of development under existing zoning is discussed in Master Response 6.

20-2 - 20-5: These comments provide background information, but do not question the adequacy of the DEIR. The commentator expresses concern about how the subdivision of the property would adversely affect the quality of life that he currently enjoys and values. One of the concerns is that approval of the project would set a growth-inducing precedent, under which future urbanization of the project area would occur. Growth inducement is discussed in Chapter 6.0 of the DEIR. The analysis concluded that the project is not growth inducing. The merits-opinion based comments do not warrant additional response.

20-6: This comment states that increased density increases flood risks, reduces natural habitat, and increases traffic. The comment does not provide specific information to support the opinion. These issues are analyzed within the applicable sections of the DEIR. Where potentially significant impacts were identified, mitigation measures have been developed, to reduce impacts to a less-than-significant level.

20-7: This comment states that the increased density is in direct conflict with the rural character of the Santa Venetia area. This issue is addressed in Master Response 5.

20-8: The commentor disagrees with the conclusion that the project is environmentally superior to the No Project Alternative, but does not state reasons as to why or provide any specific information to support the opinion. The comment also states that the DEIR “seriously underestimates” many of the significant impacts associated with the 14-unit development, but it does not provide any specific information to support this assertion. No further response can be provided.

20-9: Pursuant to CEQA, it is not the purpose of the DEIR to state why a rezoning request should or should not be granted. Rather, the purpose, in part, is to analyze the potential environmental effects associated with that proposed rezoning. Grant of the rezoning is a merits issue to be considered during approval or disapproval stage, after the EIR has been certified.

20-10: This comment expresses the opinion that a five unit development is more consistent with County policy, but does not question the adequacy of the DEIR. No change to the DEIR is necessary. Because this is a merits-opinion based comment, please refer to Master Response 1.

20-11: This comment requests that the DEIR analyze the cumulative effect of development of parcels over a longer time period. The analysis in the DEIR accounts for all site preparation activities and full build out of the project. It is anticipated that all site preparation, including grading, road, and infrastructure improvements would take place in one phase. Construction of the actual homes may occur in phases based on market conditions. Because the DEIR is based on the full build out condition, it accounts for the worst case scenario in relation to potential impacts. A phased construction of the homes, if that were to occur, would not result in new, significant, impacts not already identified in the DEIR. Additional analysis considering phased construction over a longer period of time is therefore not warranted.

20-12: It is the decision of the applicant whether it wishes to furnish the financial analysis referred to in the comment. However, this issue is not ger-



mane to CEQA and the DEIR analysis. Because this is a merits-opinion based comment, no further response is warranted.

20-13: The commentor disagrees with the overall conclusion in the DEIR that there would not be any significant and unavoidable impacts. No evidence is provided to support this conclusion. No additional response is warranted.

20-14: This comment states that North San Pedro Road cannot support the addition of more households and car trips. The estimated number of project trips accounts for all activities including work, shopping, recreation, etc. that would be expected at a typical suburban residence where there is no available public transit. Project trip generation is based on research conducted by the Institute of Transportation Engineers (ITE) and accepted by all local jurisdictions in Marin County. Weekday traffic for the 14 dwelling units is estimated in the DEIR to be 134 trips. The impact of these added trips is evaluated at the most congested intersections on N. San Pedro Road and found not to meet significant impact criteria. No change to the DEIR is necessary.

Community concerns related to traffic congestion on San Pedro Road are discussed in Master Response 8.

20-15: This comment expresses the opinion that rezoning of the project site will set a precedent for future development and will result in growth inducement. The DEIR provides analysis of growth inducement in Chapter 6, CEQA-Required Assessment Conclusions. As concluded in this analysis, the proposed project would not be expected to induce growth beyond the limits of the project site or set a precedent for additional growth in the area. The project site is a relatively undeveloped parcel of land within Marin County with residential development to the north and west of the project site. Furthermore, China Camp State Park is located to the south of the project site, and the Marin County Open Space District manages the Santa Venetia Marsh to the northeast of the project site. These areas are protected in perpetuity and development is not anticipated or allowed.



20-16: This comment states that the proposed project would result in a reduction in the rural character of the area. The issue of land use compatibility is discussed in Master Response 5.

20-17: This comment questions the stability of the soil within the project site and the adequacy of the conclusions in the DEIR. As discussed in Chapter 4.2, Geology and Soils, a geotechnical investigation was completed in 2005 as part of the constraints analysis (see Appendix F of this EIR). Although the topography of the site was indicative of a previous slope failure, the presence of mature trees covering the steep, upper slopes of the property suggests that these slopes are currently in a stable condition. Contrary to what the comment states, the DEIR does incorporate an adequate analysis of existing soil conditions on-site and sufficiently identifies potentially significant impacts associated with land and mud slides. Mitigation Measures 4.2-C.1 and 4.2-F.1 specifically address the potential for downhill movements of earthen material.

20-18: This comment requests that the DEIR analyze impacts to California clapper rail and the California red legged frog (CRLF). California clapper rail and black rail utilize tidal saltmarsh habitat in the Bay. The project site is comprised of upland habitat on a hillside south of North San Pedro Road. Both rail species do occur in the vicinity of the project site, but north of North San Pedro Road in the marsh, where they would not be affected by the project. Refer to Master Response 4 for discussion of the potential occurrence of California red legged frog. A USFWS protocol-level survey was conducted for CRLF, and is available at the office of the County Community Development Agency. The survey determined that there were no CRLF on site. No change to the DEIR is necessary.

20-19: The comment identifies several concerns (items a-e, below) based on the assertion that the project would result in a post-construction (permanent) increase in the level of storm water runoff from the site. The proposed re-configuration of the on-site pond and the proposed BMPs for meeting the County's LID standards would reduce the post-development 100-year peak flow to less than the pre-development level. Therefore the DEIR concludes

that the hydrologic impacts of the project would be reduced to a less-than-significant level. The following responses correspond directly to the listed items in comment 20-19:

1. As stated in Mitigation Measure 4.4-E.1 in the DEIR, ongoing maintenance of the pond, including debris removal and monitoring, shall be the responsibility of a Homeowners Association. This text of the DEIR has been revised to clarify that maintenance of the pond under this mitigation measure shall also include monitoring of the berm's functionality, including its structural integrity.
2. As shown in Figure 4.4-4, the proposed drainage system would collect almost all of the stormwater runoff from Drainage Area 1 to the reconfigured pond except for the stormwater generated by the very short portion of the new two-way driveway between the collection pipe near the driveway exit and the North San Pedro Road. The proposed BMPs for meeting the County's LID standards and the proposed BMPs for treating the stormwater before it reaches the pond would promote water absorption/infiltration on-site and prevent non-point source pollution.
3. The proposed Mitigation Measure 4.4-A.1 in the Final EIR has been revised to add specific permanent BMPs to address the potential non-point source pollution from the new two-way driveway and the potential stormwater pollution to the on-site pond (which has wetland functions) and the off-site wetland.
4. The DEIR does not include an analysis of increased flooding and water level rising as a result of global warming. The project is not within the 100-year floodplain, as stated in Chapter 4.11 of the DEIR, and there is no information based on available maps of global warming-related sea level rise (BCDC/IPCC/EPA) showing that the project site would be exposed to increased flooding in the future.
5. As stated in the first part of the response, the proposed reconfiguration of the on-site pond and the proposed BMPs for meeting the County's LID standards would reduce the post-development 100-year peak flow to less than the pre-development level.

20-20: This comment expresses concerns over the capacity of schools in San Rafael. An analysis of school capacity and the impact associated with additional students is provided within the discussion of Impact 4.7-J in Chapter 4.7, Public Services. The DEIR concluded that students generated by the project would not exceed available capacity at the K-8 or high school levels. No change to the DEIR is necessary.

20-21: The comment expresses the opinion that the project would have a significant visual impact on the community, including people residing on Upper Road. The DEIR determined that no significant impact would occur. Please refer to Master Response 2 for a discussion of this issue.

20-22: The applicable threshold of significance for sanitary sewer, as identified in the DEIR, is whether the project would require new or expanded facilities, the construction of which would have significant, physical impacts on the environment. As concluded in Chapter 4.14 of the DEIR, the increase in sanitary sewer volumes generated by the project would not require an expansion of the LGVSD treatment plant. An upgrade to the existing, 6-inch diameter sewer line serving the project site may be required, however work would occur either under or immediately adjacent to North San Pedro Road, which has previously been disturbed through roadway construction or utility work. As concluded in the DEIR, a less than significant impact would occur.

20-23: This comment expresses an opinion on the analysis of policy consistency in the DEIR. The commentor states his opinion that development of five units on the site would be more consistent with County policy and that additional housing beyond that should be built along the SMART train corridor. This is an opinion –merits based comment. Please refer to Master Response 1.

20-24: This comment questions whether the project is consistent with five Implementation Programs related to Goal EH of the Countywide Plan. The analysis within the DEIR provides policy consistency analysis for policies EH-3.1 to EH-3.3 and concludes that the project is consistent with those poli-

cies. The DEIR is not required to analyze the methods by which the policies are implemented. No change to the DEIR is required.

20-25: This comment states that the project would not be consistent with Countywide Plan Policy EH-4.5, but no evidence is provided in support of this conclusion. As discussed in analysis provided for policies EH-4.2 and EH-4.3, the project would be required to submit a Vegetation Management Plan (VMP) to the County Fire Department for review and approval. The approved VMP will be placed within the Covenants, Codes, and Regulations (CC&Rs) of the project. Additionally, as stated in Section 4.11 of the DEIR, the project is designed in accordance with a Fire Hazard Management Plan that would minimize the risks associated with wildland fires. Among the measures incorporated into the Plan are buffer and defensible space zones, removal of several trees, compliance with the Marin County Fire Code, and an irrigation system. By complying with the Fire Management Plan as part of the project, exposure of people and structures to wildland fire will be reduced to a less-than-significant level. No change to the DEIR is required.

20-26: The comment suggests that the DEIR, whether explicitly or implicitly, tends to “state a case” for rezoning the project site because the project would add needed housing, as proposed, and would have fewer impacts than the No Project Alternative.

The purpose of the DEIR is to objectively analyze environmental impacts that the project may have on the physical environment. Contrary to the opinion expressed in the comment, the purpose of the analysis is not to promote or oppose the project so as to affect the ultimate decision to approve or deny the application. In addition, there is no instance in the DEIR where the analysis says that the project would provide ‘needed’ housing more so than the No Project Alternative, as suggested in the comment. Rather, the DEIR evaluates the consistency of project alternatives with the stated project objectives, one of which is to “Expand the County’s supply of market-rate and affordable housing.” This objective does not qualify whether or not the housing is “needed.” Furthermore, the determination that the proposed project,

with mitigation, would be environmentally superior is not made in support of or in opposition to the application for rezoning. Rather, in accordance with Section 15126.6(d) of the CEQA Guidelines, the determination is made, in part, to provide decision-makers with a meaningful comparison to the proposed project.

20-27: The comment states that there is no proof presented in the DEIR that the No Project is environmentally inferior. However, the reasons to support this conclusion are clearly presented in Chapter 5 of the document and also discussed in Master Response 6 (Permissible Development Under Existing Zoning). In summary, three of the five lots under the No Project Alternative would not be subject to discretionary review, which would otherwise restrict the location of buildings within sensitive resources areas or limit the removal of vegetation.

**LETTER #21**

Peter B. Newman  
245 Bayhills Dr.  
San Rafael CA 94903

Marin County Community Development Agency, Planning Division  
Attn: Tim Haddad  
3501 Civic Center Drive, Room 308  
San Rafael CA 94903

re: Jan. 26, 2009 DEIR hearing re 650 North San Pedro Rd.

ISSUES: 2.4X the amount of impact, and incorrect neighborhood comparisons

Dear Mr. Haddad (or whomever is appropriate) --

I own property that abuts against the South edge of 650 North San Pedro Rd. I have a number of concerns about the proposed plans to subdivide the property and to allow more development than would occur on the existing 5 parcels.

**21-1**

My primary problem is with the core concept of allowing development in our neighborhood to increase by 240% over the the number of currently legal parcels (from 5 to 12) on this property. I am also concerned that the DEIR is craftily worded to claim 'no impact' by claiming to be in a "neighborhood" (Santa Venetia) that it is not truly in -- while ignoring any honest comparisons to its actual hillside neighborhood (which is across the road, on the hill above Santa Venetia.)

**21-2**

1) I own an adjacent 15.8 acres of property, consisting of 6 developable parcels. Were I to take the same position as the applicants, I (or some subsequent owner or developer) might some day be arguing for 15 to 30 homes to be built on my lands. I bought my lands specifically to stop a subdivision from going in. I moved here for 'peace and quiet' and do not see how that could be improved by increasing the number of houses that can be built adjacent to my properties by a factor of 2.4X.

**21-3**

Which brings me to two other specific problems that I have with the DEIR for this property:

**21-4**

2) The DEIR repeatedly suggests that there will be "no significant impact" (or similar words) in many sections of the report. It suggests that the mitigation efforts taken during construction will be sufficient -- but it ignores that there will be 2.4X as many homes there into perpetuity, creating 2.4X the amount of residential pollution and noise and other impacts as would be the case were development limited to the original 5 parcels.

3) The DEIR repeatedly makes comparisons with its 'neighbors' -- but only the neighbors to the "North and West" -- it IGNORES its neighbors to the South (and East, where there is a farm). In doing so the DEIR provides a false sense that the project will create little or no adverse impact -- when in fact, were the DEIR to make the appropriate comparisons [which is with the neighborhood that is on the hill it is on, not on the flats -- and with the neighborhood that is wooded and that has houses well-separated, not with a neighborhood that is almost tree-less and that has high-density housing] then the DEIR would NOT be able to make the claims that it is 'consistent' with its neighbors, or that it is making 'no significant impact'.

**21-5**

These two problems (2.4X the number of houses, and no comps with the actual hill-side neighborhood the property is located in) specifically and negatively devolve on claims made in the DEIR re a number of Goals or Policies:

**21-6**

a) Goal WR-2 ("Clean Water") only addresses the impacts from construction -- not from ongoing use by residents who will be living too close to the wildlife pond.

**21-7**

b) Goal WR-2.3 suggests the need for requiring monitoring and maintenance of water and silt retention facilities -- but none are proposed in the DEIR.

**21-8**

c) Policy EH-4.5 "Protection from Wildlands Fires" suggests mitigations that will NOT be sufficient to reduce the risk to the same level as 5 homes would entail. I live up the hill, routinely hike the trails, too often see discarded cigarette butts and other discards to think anything other than 2.4X the number of houses = 2.4X the number of hikers and bikers = 2.4X the amount of added risk to those of us who live uphill.

**21-9**

d) Goal ARI-1.3 "Mitigation of Air Quality Impacts" only addresses the mitigation of construction impacts -- it does not address the unavoidable truth that 2.4X the number of homes = 2.4X the amount of residential pollution (everything from off-gassing from carpets and computer and TV housings to air fresheners and gas-powered lawn mowers).

**21-10**

e) Policy CD-2.5 "Locate Near Activity Centers" unrealistically assumes an average of only 2 auto trips per day for each house. Going to and coming from work constitutes 2 trips -- and that would only be for one adult. Two adults with two jobs? 4X the trips. Care to get some groceries or go to a movie? There is no adequate bus service on North San Pedro -- are the developers suggesting that their residents will go out less-often than the rest of Marin residents do?!

**21-11**

f) Goal DES-3.1 "Promote Infill 'Consistent With Neighborhood'" is flawed by the DEIR's repeated comparisons with "the neighborhood to the North and West" of the project. The DEIR repeatedly ignores the neighborhood to the South of the property [and the farm to the East] in its comparisons -- and so continually makes claims that are not fair or honest in their comparisons. The neighborhood I live in (to the South) is NOT full of closely-packed residences, is in NO WAY like the Santa Venetia neighborhood that the DEIR makes continued (and preferential) reference to -- and yet OUR neighborhood is on the same hill, in amongst the same trees as 650 North San Pedro.

21-12

In short, the DEIR compares itself with the wrong neighborhood -- and suggests development that is NOT consistent with its ACTUAL NEIGHBORHOOD.

g) Goal EN-1 "Decrease Energy Use" cannot possible be met with more than twice the number of houses as are currently entitled to be developed.

21-13

h) Policy NO-1.1 "Limit Noise Impact" CANNOT BE MITIGATED with 2.4X the number of homes. I live on top of a ridge, and can hear music played at Buck's Landing (and there is an intervening hill between them and I), as well as music played at McKinnis Park. 650 NSPR is closer to me than either of those locations. There is no way for the developers to keep 2.4X the number of houses from making 2.4X the amount of noise -- unless stereos, leaf blowers, etc. are 'outlawed' in the subdivision. And then who is going to enforce that? I have a neighbor with a habitually barking dog -- certified complaints to the police have had zero impact. The police tell me I'll have to sue the neighbor in court. 2.4X the houses = 2/4X the noise.

21-14

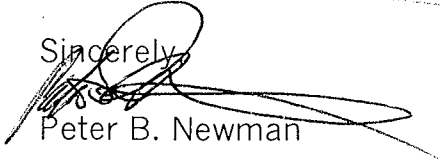
l) Impact 4.1-H "Nuisance Impact" only addresses mitigations to be taken during construction. It ignores the simple truth that 12X the existing house = 12X the amount of potential nuisance to neighbors. In my instance, besides noise (see immediately above) the other nuisance to me is bikers and hikers coming on to my lands and creating problems (bike jumps, discarded lit cigarettes, shouting and whooping, etc.) -- and 12X the number of houses on an adjacent property = 12X the likely amount of nuisance from those houses.

21-15

In summary, I think the DEIR falsely lays claim to less impact than 2.4X more homes will actually create -- and that it makes it neighborhood comparisons by ignoring the actual neighborhood it is located in, and instead refers itself to an adjacent neighborhood that does not share its character or situation.

21-16

Sincerely,

  
Peter B. Newman



**LETTER 21 – Peter B. Newman**

21-1: This is an introductory comment states that Mr. Newman owns the property that abuts the project site to the south. No change to the DEIR is required.

21-2: In this comment, the author states that he is mainly concerned with the proposed increase in parcels from 5 to 12 and the DEIR claim of “no impact” to surrounding hillside areas. The DEIR concludes a level of impact above ‘no impact’ in many instances. ‘Potentially Significant’ impacts are identified under numerous topic areas, including Geology and Soils, Biological Resources, Hydrology and Water Quality, Air Quality, Traffic and Circulation, Cultural Resources, Noise, Hazards and Hazardous Materials and Utilities. In addition, the location and largely undeveloped nature of the proposed project site is described in detail in the Existing Setting section of Chapter 4.1, Land Use and Policy Consistency. As a result, the ‘actual hillside neighborhood’ referred to in the comment is directly accounted for in the DEIR as part of the existing environmental condition.

The comment refers to the five units permissible under existing zoning. A discussion of the number of units that could legally be constructed under existing zoning is presented in Master Response 6.

21-3: In this comment, the commentor stresses that his original intention in purchasing land adjacent the project site was to prevent a subdivision from being constructed and to preserve “peace and quiet.” He suggests that the proposed project would limit or degrade those qualities. This is a merits-opinion based comment. Please refer to Master Response 1.

21-4: According to this comment, the DEIR ignores the ongoing, “in perpetuity” pollution and noise impacts that would result from the proposed project. As concluded in the DEIR, the proposed project would result in both short and long-term impacts to air quality as well as changes in ambient noise levels. Both temporary and permanent impacts are assessed in the DEIR. For exam-

ple, in Chapter 4.5 (Air Quality), Impacts 4.5-B and 4.5-C assess the ongoing, operational impacts of the project on air quality, while Impact 4.5-F is an assessment of cumulative project emissions. Chapter 4.8 (Noise) also contains an analysis of long-term project impacts. Impact 4.10-C is an assessment of increase in ambient noise levels while Impacts 4.10-G and 4.10-H assess ongoing impacts related to local noise policy and noise-related impacts to sensitive land uses. No change to the EIR is required as a result of this comment.

The comment also refers to the five units permissible under existing zoning. A discussion of the number of units that could legally be constructed under existing zoning is presented in Master Response 6.

21-5: As noted in this comment, the land use compatibility analysis in the DEIR focuses on impacts to areas north and west of the proposed project. Although this is the focus, the analysis of land use compatibility did not ignore uses to the south and east. As illustrated on Figure 3-3 in the DEIR, existing residential uses to the north and west of the site are in closest proximity to the project site and are therefore focused on in terms of potential land use conflicts. As also shown on Figure 3-3, existing uses to the south and east of the project site, including the farm referred to in the comment would be separated from the project site by the open space on Lots 9-12. As the figure shows, the closest home on Lot 9 would be approximately 375 from the lot line to the east. Finally, the area south of the project site is characterized by the undeveloped, wooded open space west of, and associated with, China Camp State Park. This would be maintained.

Therefore, the conclusions in the DEIR concerning compatibility with surrounding uses remain adequate.

21-6: This comment refers to Comments 21-7 through 21-15, below, each of which identifies a policy or goal from the Marin Countywide Plan and states an opinion as to why the project is not consistent with it. No additional response is warranted.

21-7: The comment incorrectly states that the DEIR's consistency determination with Goal WR-2 is limited to only construction-period impacts. As stated in the determination beyond the construction period, the drainage scheme would introduce several new features and utilize existing features such as the pond, to minimize the transfer of potentially polluted stormwater to receiving waterbodies and to meter the rate of stormwater release from the site. These features, which are described in more detail in Section 3.0 (Project Description) and 4.4, include catch basins, catch basin silt traps, grass swales, outlet dissipators, and weir outlet structures.

Protection of water quality in the pond would also be provided through implementation of the Wetland Monitoring and Enhancement Plan, which is discussed in Master Response 11.

21-8: The comment states that although Goal WR-2.3 requires monitoring of water/silt retention facilities, no monitoring plans are proposed. The DEIR has been amended to specify that ongoing monitoring and maintenance of sediment retention facilities on-site would be the responsibility of a Homeowner's Association.

21-9: This comment suggests that the mitigation measures in Policy EH-4.5 are insufficient to reduce the fire risk associated with 12 homes to that of 5 homes. The project is being designed in accordance with a Fire Hazard Management Plan that would minimize the risks associated with wildland fires. Among the measures incorporated into the Plan are buffer and defensible space zones, strategic tree removal, compliance with the Marin County Fire Code, and a site wide irrigation system. In addition, the construction of driveways and completion of roadway improvements would increase accessibility to the site by emergency vehicles.

The comment expresses concern that due to an expected increase of the usage of trails in the area by hikers and bikers, the risk of wildfires will increase 2.4 times. It is a reasonable assumption that some residents of the project would use the trails in question, however, the maximum potential use resulting from

the 12 additional residences is not substantial. There is no evidence provided as to why increased trail usage would increase fire risk. No change to DEIR required.

21-10: The comment states that mitigation measures associated with Goal ARI-1.3 fail to address ongoing, operational impacts. Project operational emissions were measured against Bay Area Air Quality Management District thresholds to determine whether a significant impact to air quality would occur in the long-term. These thresholds are presented in Table 4.5-2 of the Draft EIR. As stated in the analysis, the Air District's CEQA guidelines dictate that for single-family residences, a project would need to include 320 units to approach or exceed the 80 lb/day threshold, which is 97 percent more houses than the 12 proposed single-family homes. Due to the less-than-significant determination in relation to air quality in the long-term, mitigation is not warranted, as suggested in the comment.

21-11: According to this comment, the assumed average of 2 auto trips per day per house, as contained under Policy CD-2.5, is unrealistic. The 26 trips referred to in the consistency determination for Policy CD -2.5 is the estimated total of peak period trips (11 AM peak hour and 15 PM peak hour trips) using the Institute of Transportation Engineers (ITE) publication, Trip Generation. The total number of daily trips (throughout a 24-hour period) is estimated to be 134, also based on ITE methodology. These 134 trips would be divided among trips from and to the site. This does not change the consistency determination in that the estimated 108 off-peak trips, made throughout a 24-hour period, would not have a substantial effect on congestion along San Pedro Road. These trips would be made outside the peak hour when congestion is at its worse and they would be temporally disbursed throughout the day.

21-12: This comment restates concerns expressed in Comment 21-5 of this letter. Please refer to that response.

21-13: The comment is correct in that the project would require energy both during and after construction. However, as stated in the consistency determination, the project would comply with the County's Green Building Program, including Marin's BEST- Building Energy Efficient Structures Today. Adherence to the BEST program would ensure that the new homes exceed existing State energy-efficiency standards. Therefore, in comparison to a 12-unit project that would simply meet the State's Title 24 standards, the proposed project would result in a decreased energy demand. The project remains consistent with Goal EN-1.

21-14: The commentor is concerned that the proposed development will generate excessive noise on his property that would be a nuisance. The DEIR has adequately documented that the project may have potentially significant, construction-period impacts on noise levels in the project area. A mitigation measure has been specifically required to address those impacts. In terms of noise generated by activity on the site following construction, there is no definitive means of confirming that on-site activities would be a nuisance to the commentor. While the music played at Buck's Landing and McKinnis Park may currently be a nuisance, this is not a basis on which to conclude that the project would also be a nuisance in terms of noise.

As stated in the consistency determination, following construction, primary sources of noise would be new vehicle trips to and from the site, maintenance activities (e.g. lawn mowing), and the operation of exterior HVAC equipment (e.g. air conditioners). None of these sources would generate an increase in ambient noise levels that would exceed applicable thresholds and be potentially harmful to sensitive receptors in the area, primarily residents to the north and west of the site.

21-15: The comment expresses concern that the project may lead to bikers and hikers trespassing onto his property. However, there is no factual evidence to support this assertion. The project would not, in any fashion, affect existing, local laws related to private property and trespassing. Should resi-

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dents or visitors of the project trespass onto the commentor's property, the property owner would be entitled to pursue legal action.

21-16: This comment is a summary of comments previously made in this letter. No additional response is warranted beyond those already provided.

**LETTER 22**

To:  
 Jeremy Tejirian, Planner  
 Marin County Community Development Agency  
 3501 Civic Center Dr.  
 San Rafael, CA 94903

From:  
 Art Reichert  
 1605 Vendola Dr.  
 San Rafael, CA

Date: January 13, 2009

Subject: Comments on 650 NSP Rd Draft DEIR

Jeremy, here are my comments on the completeness of the 650 NSP draft DEIR.

**22-1**

Hydrology/Drainage Analysis Report (Sec. 4.4) :

1. Regarding the 57,000 cu yds of earth to be removed - the loss of this amount of soil's ability to hold rainfall was not taken into consideration when they calculated the coefficient of runoff.
2. The rainfall intensity duration curve tables used in the runoff calculations reflect data compiled between 1940 and 1971. These are clearly out of date. The engineers should use current data and tables, ideally based on data from the rain gauge that the County maintains at/near the Civic Center. In addition, they did not consider the increasing frequency and intensity of storms/rainfall due to climate change.
3. The runoff calculations were done by dividing the property into Area 1 (11.5 acres), Area 2 (4.3 acres), and Area A (site of the present homestead, .77 acres). The calculations then are based on, for example in Area 1, an area which is "85% undeveloped and 15% roads and driveways." This enables them to calculate a more favorable (to them) runoff coefficient. Doing a before and after runoff calculation of just the area proposed for construction would give a more accurate representation of the true impact, especially the peak flow rate.
4. The plan states that the existing pond will be enlarged slightly and will mitigate all the runoff from the property. In fact, it says the plan will result in a reduction of runoff from the property compared to the current condition. Common sense tells me this is totally unrealistic. Their conclusion is possible only after doing what I mentioned in points #1-3.
5. Sunny Oaks drain and culvert: This is one of the key negative impacts of the proposal. With the increase in impervious surfaces from the proposed project, there will be an increase in the volume of water that flows into the freshwater marsh across the street. The peak flow rate may be lessened somewhat, but the total increased flow volume will still occur. Over the years, increased development on Sunny Oaks and Bay Hills, without any additional flood control improvements, has also increased the amount of run-off from the hillsides onto

**22-2****22-3****22-4****22-5**

the marsh (which serves as a temporary holding pond for this entire area). As a result, the Sunny Oaks drain and culvert system cannot handle the volume of water during prolonged storms. (Current culvert capacity is 15 cfs and a 50-yr storm load would be 25 cfs into this drain) The water backs up and floods the playing field area at the old McPhail's school, endangering the homes on Vendola Dr. and Pt. Gallinas that border the field. It normally takes a week, sometimes several weeks, for the additional water to either be absorbed or to get out to the Bay. Since the existing system is already over capacity, and flooding of homes in this area is ongoing, the proposed new development needs to include substantial improvements to the capacity of the Sunny Oaks drain and culvert before it can be allowed to proceed further.

Geology and Soils (4.2):

- 1. Would the retaining walls proposed at the base of the hill be sufficient to hold back that whole hillside? Especially after removing so much dirt from the bottom of the hill? **22-6**
- 2. Removing 5,735 cu yds of soil off-site would result in 573 round trips by the diesel dump trucks. (figuring 10 cu yds per truckful) This would have significant negative noise impacts. **22-7**
- 3. Diesel smoke is a strong carcinogen – this would have a significant negative impact on the health of the residents and wildlife in the surrounding community. **22-8**
- 4. The dirt and dust from the trucks would have a significant negative impact on the cleanliness of North San Pedro Rd. - similar to the impact of the quarry trucks from McNears brickyard on Pt. San Pedro Rd. **22-9**

Biological Resources/Tree Removal/Arborist's Report (4.3):

- 1. Removing 200 trees and possibly impacting 47 more by grading projects would essentially clear-cut the lower portion of that property. This is totally inappropriate. It is inconsistent with Upland Greenbelt practices, inconsistent with the appearance and use of land around it, and would devastate the semi-rural look and feel of this corridor on the way to China Camp State Park. **22-10**
- 2. The report says ¾ (150 of the 200) trees to be removed are poor or marginal for preservation. Healthy forests always have a combination of young, mature, half-dead, and dead trees. They all serve a purpose in the ecosystem, and should not be considered of poor value. **22-11**
- 3. There are no specifics given for how they would mitigate the 53 protected trees they plan to remove. (A nursery stick tree does not replace a mature one. **22-12**

Utilities (4.14)

- 1. I disagree with their analysis of the drinking water supply. MMWD is in deficit mode now, and will be unable to maintain the current level of supply to the already existing homes in the future. The comment about “pipeline restrictions” causing a deficit from Sonoma County sources is not valid. The real reason is Sonoma County needs that water for itself. They are also in deficit mode, and will be increasingly so in the future. We cannot rely on that source. **22-13**



Policy Consistency (4.1-1):

1. The homes proposed are not in scale (size-wise) to the existing homes in the area. **22-14**
2. The pond on the property is a watering hole for local wildlife. Surrounding it by a development will have a negative impact on the health of that wildlife. **22-15**
3. The integrity of the developer (West Bay Builders) is a key issue in a proposed project as large as this, and this owner/developer has not in the past acted in good faith or been honest with the community. They state their intention of wanting to work cooperatively with the neighborhood, but we have seen otherwise. For instance: 1. Declaring the existing pond as "having low value"; 2. Filling-in the seasonal wetland area of the pond (SE corner) a few years ago; 3. At the same time, doing major grading around the pond, partially filling it in, and killing all wildlife (esp. frogs) in it; 4. Extensive clearing of vegetation (goats) before the project is approved; 5. and Paul Thompson's scathing letter of 12/5/06 where he ridiculed a community member's efforts to make a video record of a protected species. **22-16**

These clearly are not the activities of someone concerned with their impact upon the surrounding neighborhood. **22-17**

Sincerely,



**LETTER 22 – Art Reichart (a) – Letter dated January 13, 2009**

22-1 – 22-3: These comments question the adequacy of methodology followed for the hydrologic analysis. Specific concerns include, but are not limited to, the accuracy of rainfall data and the validity of the runoff coefficient. The drainage analysis is presented in Appendix C of the DEIR. The methods used in the analysis are based on the methods and procedures in the County of Marin Public Works Hydrology Manual (August, 2000). These methods are consistent with accepted industry standards and are universally applied in the course of other project reviews throughout the County. For example, consistent with the County manual, the 100-year peak flow rates were estimated using the Rational Method of Computation. The Rational Method is most widely-used method in the world to estimate peak flow rates for relatively small drainage areas. In estimating 100-year post-construction runoff volumes for the post-construction, ILS Engineers used a runoff coefficient of 0.95 for impervious area and 0.75 for pervious area without specific consideration of how cut and fill would affect the runoff coefficient. Based on follow-up consultation with Stetson Engineers, this selection is reasonable in general and does not deviate from the County Manual. The manual does not call for an adjustment to runoff coefficients based on removal of soil and fill.

On this basis, the County maintains that the methods followed to quantify estimated peak runoff and to develop an adequate drainage plan were sufficient. The comments do not, therefore, warrant additional analysis.

22-4: This comment express concern regarding the existing pond mitigation of runoff from the project. Chapter 4.4 of the DEIR states that “the estimated 100-year peak for Drainage Area 1 under the post-development condition is about 26.6 cfs, which is about 3.2 cfs or 13.7 percent higher than the pre-development condition (23.4 cfs). The estimated 100-year peak flow for Drainage Area 2 under the post-development condition is about 8.2 cfs, which is about 1.1 cfs or 11.8 percent lower than the pre-development condition (9.3 cfs).” The decrease in peak flow in Drainage Area 2 results from reduced land area. In order to mitigate the hydrologic impacts from Drainage Area 1, the

DEIR proposes to reconfigure the on-site pond and use it as a detention pond. The DEIR does not include any indication (as stated in the comment) that the project will result in a reduction of runoff from the property compared to the current condition. No change to the DEIR is required.

22-5: This comment expresses concern regarding the Sunny Oaks drain and culvert as it relates to stormwater runoff. The DEIR considers mitigation of the project hydrologic impacts in terms of both peak flow rate and runoff volume. The proposed reconfiguration of the on-site pond is designed to reduce the post-development 100-year peak flow rate to the pre-development level. Some of the proposed permanent BMPs in meeting the County's LID standards can promote water absorption/infiltration and thereby reduce runoff volume and peak flow rate as well. For example, the proposed use of permeable concrete and asphalt surfaces for driveways and roads and the proposed construction of a drainage swale along the west side of the new two-way driveway in the Final EIR are designed to promote water absorption/infiltration.

Because the project would reduce the post-development 100-year peak flow rate to the pre-development level, there is no nexus to justify the suggested 'substantial improvements' to the capacity of the Sunny Oaks drain and culvert. If the project were to cause a substantial increase in the volume or velocity of storm water accommodated by these facilities, the recommended improvement would be justified, but this is not the case.

22-6: This comment questions the adequacy of the proposed hillside retaining wall to hold back the entire hillside. The retaining walls proposed for the project are not intended to hold back the whole hillside, as suggested in the comment. However, the structural efficiency of retaining walls would be ensured through Mitigation Measure 4.2-F.1. Impact 4.2-F concludes that that the underlying bedrock unit in the site vicinity has been mapped as Cretaceous Franciscan sandstone. The occurrence of unstable slopes and landslides in the Franciscan Formation is not uncommon in the San Francisco Bay and, as a result, the hazard of unstable geologic units is considered a significant

impact. Accordingly, Mitigation Measure 4.2-F.1 requires that in areas of significant cuts, foundations and retaining walls should be constructed to accommodate the lateral pressures of the upslope colluvium soil. The measure also requires that, where necessary, colluvium should be removed to expose bedrock.

22-7: This comment expresses concerns regarding noise impacts from trucks transporting soil from the project site. As discussed in Chapter 4.10, Noise, due to the intermittent and temporary nature of truck trips, in combination with the restriction on operation times (as proposed in Mitigation Measure 4.10-A.1), noise generated by larger truck trips would not result in a substantial change in the overall noise environment. No change to the DEIR is required.

In addition, this comment states that 573 round trips would be necessary to haul the material, assuming the use of trucks with a 10 cubic yard capacity. Since circulation of the DEIR the amount of soil hauled off-site has been reduced from 5,735 cubic yards to 4,500 cubic yards, resulting in 225 truck trips, assuming 20 cubic yard capacity. In order to ensure that the number of truck trips remains consistent with the estimate of 225 truck trips, Mitigation Measure 4.6-A.1 has been revised to require that 20 cubic yard trucks are used during off-haul operations. (Note: DC&E to revise text for the FEIR.)

22-8: This comment expresses concerns regarding construction-period air quality. As discussed in Chapter 4.5 of the DEIR, Air Quality, there would be emissions from truck traffic. However, through the requirements set forth under Mitigation Measure 4.5-A.1, air quality impacts related to diesel engines would be reduced to less-than-significant levels. These requirements include avoiding the use of diesel-powered compressors, limiting emissions from engines through proper maintenance, and turning off engines when idling for longer than three minutes. No change to the DEIR is required.

22-9: This comment states that dirt and dust from dump trucks would impact the cleanliness of North San Pedro Road. As noted in Chapter 4.5 of the

DEIR, Air Quality, soil from the project site could be tracked onto paved roads where it is entrained in the air by passing cars and trucks. With the inclusion of Mitigation Measure 4.5-A.1 air quality impacts related to dust would be reduced to less-than-significant levels through a series of measures that include watering all active construction areas at least twice daily and more often during windy periods, covering all hauling trucks or maintaining at least 2 feet of freeboard, paving, applying water at least twice daily, or applying (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas and sweeping daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweeping streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads. No change to the DEIR is required.

22-10: This comments states that the removal of trees within the project site is inconsistent with Upland Greenbelt practices and will change the rural characteristics of the project site and area. Portions of the site are within the Ridge and Upland Greenbelt environmental corridor. The DEIR provides policy consistency analysis for the Ridge and Upland Greenbelt environmental corridor within discussions of policies CD-1.3, DES-4.1, HS-2.3. Because development would take place within the lower elevations of the site, the project would be consistent with the requirements of the Ridge and Upland Greenbelt environmental corridor. Additionally, 8.6 acres of open space on the upper, wooded slopes would be permanently preserved within the project site. No change to the DEIR is required. The issues of tree replacement and visual compatibility are also discussed further in Master Responses 9 (Tree Removal and Replacement) and 2 (Aesthetic Compatibility).

22-11: This comment expresses the opinion that the trees within the project site should not be considered of poor value and not suitable for preservation. The analysis provided in Chapter 4.3, Biological Resources, is based on the field surveys and classification methods used by certified arborist MacNair and Associates. The conclusion 'of poor value' relates to the potential for successful preservation and is based on the tree's state of health and expected longevity. No change to the DEIR is required.

22-12: This comment states that no specifics are given regarding the mitigation for the removal of 53 protected trees. However, Mitigation Measure 4.3-H.1 states that tree height would range from 10-16 at the time of planting and trees would reach the height of 20-40 feet when mature. No change to DEIR is required.

22-13: This comment disagrees with the DEIR analysis of drinking water supply and a reference in the DEIR to “pipeline restrictions” from Sonoma County. The comment says that the statement about ‘pipeline restrictions’ is not valid, but provides no information to substantiate that opinion.

As indicated in the comment, MMWD’s peak period demand is currently in deficit mode. The DEIR acknowledges this fact. The comment also states that the supply source from Sonoma County cannot be counted on for future use. As stated in the DEIR, MMWD has several options for increasing its supply outside of SCWA sources and is currently examining means for doing so. Among these options are a possible desalinization plant in San Rafael and increased conservation measures. The conclusion in the DEIR remains valid; the project would increase demand for water supply on the site, but this would not result in a significant impact in relation to available supply or the need for new or expanded facilities.

22-14: This comment states that the sizes of the proposed residences are not in scale with existing homes in the area. For a discussion of land use compatibility, including a discussion of scale, please refer to Master Response 5.

22-15: This comment expresses concern over surrounding the pond with development. While development would occur relatively close to the pond, especially on Lots 11 and 12, development would not surround the pond as suggested. Instead, a corridor of open space along the ephemeral creek would be preserved, allowing wildlife to utilize the pond and ephemeral creek. No change to the DEIR is required.

22-16 and 22-17: Statement 1 indicates that West Bay Builders has not acted in good faith by declaring the existing pond as having low value. This determination was not made by West Bay, as suggested, but is rather the independent, objective assessment of project biologist, Garcia and Associates and Environmental Collaborative based on site visits. The remaining points 2-4 are primarily merits-opinion based comments essentially directed to West Bay Builders. No response to these three points is warranted.

To:  
Jeremy Tejirian, Planner  
Marin County Community Development Agency  
3501 Civic Center Dr.  
San Rafael, CA 94903

## LETTER #23

From:  
Art Reichert  
1605 Vendola Dr.  
San Rafael, CA

Date: January 25, 2009

Jeremy, here are some additional comments on the 650 NSP draft DEIR. Much of this is taken from the letter I sent to Kristin Drumm on April 4, 2007 with the subject: "Comments on the Built Environment Section of the Countywide Plan." I am including this same material again, as I feel it was not included or addressed – as I requested – during the CWP update process last year, and much of it pertains to runoff from the surrounding hillsides. In my opinion, this is one of the weakest areas in the DEIR - specifically avoiding the project's impact on the Sunny Oaks drain and culvert.

**23-1**

In addition, developers should not be entitled to demand, or assume they will receive, zoning changes in a community. In the case of this project, there would be far more negative impacts by clustering 12/14 homes near the bottom of the property than spreading out one home on each of the five parcels.

**23-2**

I have been a member of the Flood Control Zone 7 Advisory Board for a number of years and have been Chairman for the past several years (until the entire board was dismissed by Susan Adams for raising issues the County didn't want raised. One of which was the impact of hillside runoff on the flood zone).

**23-3**

In Santa Venetia, the hills are alive with the sound of bulldozers. This sound may be music to the ears of the developers and ABAG, but not to the thousands of us who live there.

**23-4**

The Countywide Plan (CWP) has Santa Venetia designated for housing overlay (high housing development) in the Built Environment document, but has failed to:

- 1.) examine this area, and plan for this area, from a watershed perspective
- 2.) address the cumulative impact of piecemeal hillside development and
- 3.) specify where the funding for the necessary flood control facilities will come from.

**23-5**

**23-6**

**23-7**

The changes we would like to see in the Built Environment document, from a flood control perspective, are addressed in the following four sections, labeled A through D.

A. not pertinent



## B. Interior Runoff

23-8

In Santa Venetia, interior runoff is our biggest concern. (See Appendix A) We have to pay for (i.e. pass special assessments) and build flood control structures to handle runoff from within our neighborhood, and all the hillside water draining into our zone. At the next meeting of the Flood Control Zone 7 Advisory Board (FCZ7 AB) on April 10, 2007, I am going to propose, and have the AB vote on, the creation of a flood control plan for Santa Venetia and the watershed that surrounds it. Our plan will include the following points:

1. A moratorium on construction of new homes on the hillsides surrounding FCZ7 (Santa Venetia) until all the flood control projects recommended in the following two studies are completed:
  - The Long Range Plan for Drainage and Flood Control, Marin County Flood Control Zone 7, done in 1971 by Nute Engineering. (See Appendix B for further explanation and list of projects.)
  - The Nute Engineering report of 1998. (See Appendix C.)
2. A fee to be assessed on the construction of new impervious surfaces (homes, additions, expanded driveways, etc.), due to the increased demand put on the flood control facilities in Santa Venetia, such as storm drains, culverts, and pump stations. This “user fee” would be based on the square footage of the impervious surface created by the construction, and would help pay for building, repair and maintenance of flood control structures in Santa Venetia. (Since these will be fees, the proposal would not be considered a tax, and thus, only needs to be approved by 50.1% of the voters.)
3. No zoning changes to allow denser housing (as stated in CD-8.b).
4. No exemption for low-cost or affordable housing from either: 1.) CEQA Section 15332 review or 2.) the full cost of flood control mitigation fees (as stated in CD-5.2 and HS-3.e).

The neighborhood needs to initiate something like this, frankly, because the County has failed to do so. The homes on the flats (i.e. those in FCZ7) simply cannot afford to pay for all the flood control facilities that need to be built in the watershed. (See note at the end of Appendix B.) I anticipate the FCZ7 AB will be working with the Community Development Agency (CDA), DPW, and other County departments and agencies on the implementation of this plan. At this time, we ask the CDA to:

- 1) incorporate the points listed above in their update of the Built Environment (Housing Overlay) section of the CWP
- 2) remove Las Gallinas from the sentence on pg. 3-11 Housing Section, which says: “The greatest potential for housing development is in the Richardson Bay, Las Gallinas, and Novato planning areas.”

## C. County Development Code

23-9

The current Development Code requires new (multi-unit) developments to meet certain standards for mitigation of surface runoff. Individual new homes, are exempt from this requirement. We would like the CDA and DPW to have “discretionary review” over all newly proposed individual homes on the hillsides.

Another quote from the Marin Countywide Plan, Flooding Technical Background Report (March 2002) is appropriate here:

“The Development Code (Title 22) guides the initial layout and design approach taken by developers...The current County Development Code does not include strong enough guidance to the development community to influence a move toward integration of “start-at-the-source” design features...associated with replacing drainageways with storm drain systems, peak flow increases and water quality and sensitive habitat impacts – all of which could be minimized if the development community utilized more ecologically sensitive design features... modification of the Development Code is necessary to enact a “start at the source” approach to project design.”

We ask the CDA to include the above design features/requirements in their update of the Built Environment section of the Countywide Plan.

#### D. Hillside Clearing, New Construction, and Increased Sedimentation

23-10

The County repeatedly violates it’s own MCSTOPP standards when it comes to building on the hillsides surrounding our community. There has been continual building on the surrounding hillsides in the 17 years I’ve been living in Santa Venetia. (i.e. projects on Oxford Drive and Leona Drive (an absolute abomination!); proposed projects at Oxford Valley and 650 N. San Pedro Rd.; and continual piecemeal building on Upper Road, Sunny Oaks and Bayhills Dr.) None of these construction projects has made any significant improvements to the drainage systems their runoff flows into. Nor have they done much in the way of mitigation. They’ll typically widen an existing drainage ditch, put some rocks in it to slow down the water, and then simply direct their runoff into it.

As a member of the FCZ7 AB and a resident in a flood-prone area, I am often walking around during storms, checking on known and potential drainage problems in the neighborhood. (Several of the other FCZ7 AB members have also done this, for many years.) Each time a lot is cleared, I see increased sedimentation in the water that comes down from that area of the hillside when it rains. This obviously silts up our drains, pipes, and culverts, AND flows directly into Gallinas Creek. This cannot be good for the health of Gallinas Creek.

Section CD-4.a talks of updating community plans with a watershed protection approach: “emphasis should also be placed on the need to consider and protect the health of watersheds when making site-specific land use decisions.” This is exactly what we want for Santa Venetia.

In conclusion, development in the area around FCZ7 has not been planned or regulated from a watershed basis. The community of Santa Venetia has worked tirelessly on the issue of hillside runoff and flood control for many years - as individuals and with County departments like DPW. We have assessed ourselves millions of dollars during this time. We have clearly done our part, now we ask all of you in the Community Development Agency to do your part. Please make the changes to the Countywide Plan as requested in this document.

Thank you.

Art Reichert  
AB Chairman, FCZ7  
Member, Santa Venetia Neighborhood Association, Land Use and Planning Committee  
1605 Vendola Dr.  
San Rafael, CA

## APPENDIX A

Quoting the Marin Countywide Plan, Flooding Technical Background Report (March 2002):

**23-12**

“The rate of watershed runoff increases due to increases in impervious surface coverage and construction of storm drain systems (on formerly undeveloped lands outside of the established storm drain networks) which reduce the time of concentration for runoff. When peak flow rates increase substantially and the altered flow regime is not accommodated or mitigated in some way, episodic flooding can occur.”

## APPENDIX B

From the section on Culverts:

1.) The Meadow Drive culvert (in 1971) “is adequate to handle the predicted 50-year storm flows from the presently heavily wooded hillside area. If and when the hillside lands are developed with homes and other improvements...the Meadow Drive diversion system will require about 20 per cent additional capacity to handle the 50-year storm flows.”

**23-13**

2.) The East Vendola culvert “was inspected and found to have a sag at Adrian Way...It is recommended that the last 250 feet of this culvert be relaid...” During high tides, this culvert leaks salt water at the point of the sag, literally sprouting like a drinking fountain from a crack in the sidewalk. It has killed all trees and vegetation in the area (over several properties) that cannot stand high concentrations of salt water.

**23-14**

Allow me to repeat here what I wrote to you in my January 13<sup>th</sup> DEIR comment letter:

**23-15**

Over the years, increased development on Sunny Oaks and Bay Hills, without any additional flood control improvements, has also increased the amount of run-off from the hillsides onto the marsh (which serves as a temporary holding pond for this entire area). As a result, the Sunny Oaks drain and culvert system cannot handle the volume of water during prolonged storms. (Current culvert capacity is 15 cfs and a 50-yr storm load would be 25 cfs into this drain. That works out to a present capacity to handle only a 30-year storm.) The water backs up and floods the playing field area at the old McPhail's school, endangering the homes on Vendola Dr. and Pt. Gallinas that border the field. It normally takes a week, sometimes several weeks, for the additional water to either be absorbed or to get out to the Bay. Since the existing system is already over capacity, and flooding of homes in this area is ongoing, the proposed new development needs to include substantial improvements to the capacity of the Sunny Oaks drain and culvert before it can be allowed to proceed further.

## APPENDIX C

All the following are quoted from the Marin Countywide Plan, Flooding Technical Background Report (March 2002), where it talks about the recommendations in the 1998 Nute study.

**23-16**

“Significant reductions in short to medium-term flood risk appear to be possible in Santa Venetia, if sufficient funding can be secured to complete the stormwater drainage improvements currently planned by Zone 7.”

“At present, the pump station network and its partially completed intertie pipeline are sufficient to evacuate the incoming stormwater runoff generated by the design 10-year rainstorm, assuming no levee overtopping by tide waters.”

Our Flood Zone goal is a 100-year level of protection, so much work obviously remains to be done. (It should be noted that since the above statement was written, pump station #1 has been completely rebuilt. While this enables one portion of the system to handle runoff from a 100-year storm, the remainder of the system is still inadequate.)

**LETTER 23 – Art Reichart (b) – Letter dated January 25, 2009**

23-1-23-4: In these comments, the author states that the analysis of runoff is one of the weakest portions in the DEIR; that the impacts of clustered development would far outweigh those of more evenly spread development; explains that his membership on the Flood Control Zone 7 Advisory Board was cut short by disagreement related to hillside runoff; and that the Santa Venetia hills are “alive with the sound of bulldozers.” Some of these comments are merits-opinion based and do not warrant an additional response. Furthermore, no specific factual information is provided by the commentor to support the opinion. No change to the EIR is required.

23-5-23-7: These comments refer to various issues of hydrology that, according to the author, were not addressed in the Marin Countywide Plan during the process of assigning a housing overlay designation to Santa Venetia. Although an analysis of project impacts related to hydrology is contained in the DEIR, these comments relate to the Built Environment section of the Countywide Plan. As such, they are not germane to the EIR analysis.

23-8: This comment relates to the issue of interior runoff and the content of the Built Environment Element in the CWP. In the comment, the author suggests specific changes to the Built Environment and Housing section of the CWP. This comment is not relevant to the content or analysis of the DEIR. No change to the DEIR is required.

23-9: Similar to the preceding comment, this comment relates to the content of the Marin County Development Code and Countywide Plan. This comment is not relevant to the content or analysis of the DEIR. No change to the DEIR is required.

23-10: Although the first part of this comment refers to past development in the hillside surrounding the proposed project site, it is not specific to the project or the DEIR. The second part of comment pertains to runoff and sedimentation in the vicinity of the proposed project site, but it is not a response

to the DEIR. Finally, the third portion of the comment refers to specific to content of the Marin Countywide Plan. No change to the DEIR required as a result of this comment.

23-11: This is a concluding, summary comment in which the author requests that the previously suggested changes to the Marin Countywide Plan be made. No change to the DEIR required as a result of this comment.

23-12–23-14: These comments present background information relating to flooding and flood control facilities; however, they do not specifically address the content of the DEIR. As such, no additional response is required.

23-15: This comment repeats one previously made in Mr. Reichert’s comment letter on the DEIR, dated January 13<sup>th</sup>. Please refer to responses for that letter.

23-16: The comment includes two citations from the Marin CWP, Flooding Technical Background Report (March 2002) and concludes with a statement about needed improvements to the Zone 7 flood control facilities. None of these comments directly relate to content in the DEIR and, therefore, no additional response is warranted.

# LETTER #24

Robert J. Sos  
14 Point Gallinas Road  
San Rafael, CA 94903

January 26, 2009

Jeremy Tejirian  
County Planner  
Marin County Community Development Agency, Planning Division  
San Rafael, CA 94903

Re: Comments on DEIR for 650 North San Pedro Road, San Rafael  
Dear Mr. Tejirian:

1. Disagree with comments in DEIR on project and rezoning requests not being growth inducing. This rezoning and project density will significantly influence the disposition and subsequent development of the nearby McPhail school site at the end of Vendola Drive 24-1
2. Disagree with the DEIR's statement regarding Visual Impact. The project's visual impact is significant. 24-2
  - a. It is not noted or addressed anywhere that this hillside development is already significantly upslope and uphill from existing homes. For example, even for the five homes slated to be built alongside N. San Pedro Road, the lowest homes on the hillside, they are already, at their base, the equivalent height of a four or five story building relative to the homes on Point Gallinas Road.
  - b. No mention of shielding the Point Gallinas Road homes from the street light that would be installed at the intersection of the development access road with N. San Pedro Road
  - c. The development area is essentially a "clear cut" of most trees. There is the promise but no guarantee that the proposed landscaping will grow and be maintained to the degree required to mitigate this clear-cut.
  - d. No mention of the impact of car lights on Point Gallinas Road as cars come down the road exiting the development to enter onto N. San Pedro Road
3. The presentation and description of the summary of the alternatives is inadequate and biased. 24-3
  - a. It is poorly written, misleading, and a poor attempt to justify the project as proposed.
  - b. There is no statement regarding consistency with community expectations that are based on existing zoning that allows for five homes
  - c. There is no discussion of a the scenario of eliminating the five homes that are close together, alongside N. San Pedro Road, immediately west of the main road to the development.
  - d. There is no consideration of the scenario of a development of only five homes under the new zoning, which would be consistent with the number of homes that could be built with the existing zoning.
4. The project objectives are incomplete. 24-4
  - a. They do not include any statement regarding working with the community and bringing in a development that is consistent with community expectations. The community's expectations are based on the existing zoning of five homes.
  - b. They do not include a statement of being consistent with the rural nature of the neighborhood.



5. Disagree with traffic impact statement. There will be impact, significant impact, to the west bound traffic at peak hours in the morning on weekday mornings at the Civic Center stoplight due to the cumulative effect of traffic. The numbers and statistics are misleading and contrary to common knowledge and experience. 24-5
6. Disagree with water impact. The cumulative impact of development in Marin will significantly impact fresh water resources to homes. Marin County is already in a water deficit and the Sonoma County pipeline is not in existence now or in the foreseeable future. Additionally, the Sonoma County water may not even be available if and when a pipeline is built. 24-6
7. Fully agree with the comments by the City of San Rafael regarding making the open space community owned versus privately owned to ensure compliance with open space requirements. 24-7
8. Disagree with statement that development is consistent with community. This development, as proposed with 12 homes and an additional 2 buildings, is inconsistent with the homes along Point Gallinas Road, Sunny Oaks Road, and both west and east on N. San Pedro Road. The five proposed homes immediately alongside N. San Pedro Road, uphill of the road and the existing homes on Point Gallinas Road, will give an effect of the density of an Adrian Terrace type development. The effect will be substantially worsened by the impact of the homes' uphill location. This is inconsistent with the west to east direction of N. San Pedro becoming more rural as you pass Meadow Drive and head towards China Camp State Park. The consistency would result in less dense developments and congruence with the rural character of the neighborhood. 24-8
9. No discussion of how the project will ensure maintenance of open space, drainage, and landscaping in a manner consistent with the proposed project. CCR's are not effective unless enforceable, funding is available, and the penalties for non-compliance are effective in ensuring compliance. 24-9
10. In agreement with comments by Mr. Goude of the U.S. Dept. of Interior Fish and Wildlife Service. 24-10
11. In agreement with the comments of Mr. Art Reichert 24-11

Sincerely,



Robert J. Sos

**LETTER 24 – Robert Sos**

24-1: In this comment, the commentor expresses his disagreement with the conclusion that the proposed project would not induce growth in surrounding areas. However, no evidence is presented to demonstrate how the proposed rezoning would affect subsequent development either at the McPhail School site or elsewhere. As a result, no further response is warranted.

24-2: This comment states that the proposed project would have significant visual impacts related to the elevation of the proposed residential units, lighting from a proposed street light, removal of trees, and vehicle head lamps exiting the project site. Please refer to Master Response 2 (Aesthetic Compatibility).

24-3: The comment makes four points related to the alternatives analysis. The first states an opinion that the analysis is “poorly written, misleading, and a poor attempt to justify the project as proposed,” but no specific examples from Chapter 5.0 of the DEIR are provided. Furthermore, the alternatives analysis and the larger DEIR are not intended to justify or oppose the project as proposed, but rather analyze the potential impacts on the environment resulting from the project and alternatives to the project. The remaining three comments relate to the No Project Alternative and suggest an alternative that would remove the five units closest to the North San Pedro Road. These three comments are addressed in Master Responses 3 (Adequacy of Alternative Analysis) and 6 (Level of Development Permitted Under Existing Zoning).

24-4: The comment states that the project objectives are incomplete and identifies two statements that should be included within the objectives. Project Objectives are statements provided by the applicant to address the underlying purpose of his project proposal. The EIR considers these objectives in evaluating the full range of potential effects of the project and also compares the applicant’s objectives to alternatives developed in the EIR to ascertain whether there may be environmental superior alternatives that would still

meet all or some of the applicant's stated objectives. The EIR cannot change the applicant's stated objectives for the project that the applicant has proposed. Disagreement with the applicant's project objectives is a merits-opinion based comment. No additional response is warranted.

24-5: The comment expresses concern about the level of traffic on North San Pedro Road and holds the opinion that the traffic analysis is incorrect, misleading, and contrary to common knowledge and experience. Community concerns related to traffic congestion on North San Pedro Road are discussed in Master Response 8. In addition, the traffic analysis provided in Chapter 4.6, Traffic and Circulation, states that the project would not degrade the existing satisfactory level of service at any of the intersections studied. Because the average delay per vehicle would be increased by no more than 0.3 second at any of the intersections, the project would not exceed the County level of service standard (LOS D) either by itself or in combination with other projects. No further response is warranted.

24-6: This comment disagrees with the DEIR determination that the project will not contribute to a cumulative impact to water resources. As discussed in response to comment 22-13, the DEIR analysis provides documentation from the Marin Municipal Water District and the Marin Countywide Plan Community Facilities Element Technical Background Report to make these determinations. As noted in Chapter 4.14, Utilities, CEQA Guidelines state that if the project complies with the requirements in a previously approved plan (Countywide Plan) and provides specific requirements that will avoid or substantially lessen a cumulative effect, a lead agency may determine that the project is not cumulatively considerable (2008 CEQA Guidelines, Section 15064[h]3). As discussed in Chapter 4.1 (Land Use), the project is consistent with Policies WR-3.1 and WR-3.2 by conserving and mitigating water use within the project site. As discussed, although the Project would increase water consumption on the site, the increase would be incremental in relation to cumulative demand in the County. Therefore, the project is not cumulatively considerable and would result in a less-than-significant impact. No change to the DEIR is required.

24-7: This comment expresses support for common ownership of the open space on-site. Although this is a merits-opinion based comment, this issue was raised in several other comments and is addressed in Master Response 7 (Open Space Management).

24-8: This comment expresses the opinion that the project would be incompatible with the surrounding area, particularly areas farther east from the project site on North San Pedro Road. Please refer to Master Response 5 (Land Use Compatibility) for a discussion of this issue.

24-9: This comment notes the absence of discussion in the DEIR regarding maintenance of open space, drainage, and landscaping. The maintenance of open space is discussed in Master Response 7 (Open Space Management). In terms of landscaping, when the project landscaping is completed, bonding for replacement and management will be provided to the County for a period of 2-5 years. At the end of the bonding period the landscaping is expected to be well established and the on-going maintenance will be the responsibility of the Homeowners Association (HOA). Each individual property owner will be a member of the HOA and be required to make an annual fee contribution toward the cost of maintenance.

The monitoring and maintenance of the on-site detention pond would also be the responsibility of the HOA, as required by Mitigation Measure 4.4-E.1 in the DEIR.

24-10: The comment states that the commentor agrees with the letter by Cay Goude of the U.S. Fish and Wildlife Service (Letter 1). Please refer to responses to Letter #1 from USFWS. No further response is warranted.

24-11: This comment states that the commentor agrees with the letters by Art Reichert (Letters 22 and 23). Refer to response to Letters #22 and 23. No further response is warranted.

**LETTER #25**

Mr. Tim Haddad  
Environmental Planning Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903-4157

January 24, 2009

Dear Mr. Haddad,

This letter is to express my concern regarding the suitability of the DEIR for the proposed project at 650 North San Pedro Road. I live on Pt. Gallinas Road (on the north side of the proposed project, across from North San Pedro Road).

**25-1**

I find the DEIR to be inadequate for many reasons. It is misleading and many of the conclusions made are opinions (that favor the developer) without substantial scientific study to support them. For these reasons, the report is not “believable” to me. I present some examples below.

**The DEIR claim that “impacts would be less than significant” is misleading.**

**25-2**

Continuing through pages 2-2 through 2-9, the reader is told, paragraph after paragraph for each cumulative impact that “impacts would be *less than significant*.” The reader is then naturally led to think after reading these pages, “Gee, this project has no significant environmental impact – terrific!” But clearly, a project that involves the removal of hundreds of trees, major excavation and road-building, the underground installation of utilities, the widening of North San Pedro Road, the building of a major drainage system, the building of 14 (median-size-of-2841-square-foot) homes all in a sensitive habitat of herons, bobcats, foxes, and the Federal-Threatened-Species-listed California red-legged frog, in the close proximity of a fresh-water and salt-water marsh must have a significant environmental impact, no matter what the proposed mitigation measures might be! And, most importantly, this project would *set a precedent for rezoning requests* thereby contributing to the overall urbanization of Marin County.

I am concerned about the removal of so many trees, and in particular native vegetation (which can take decades to come back), as this would increase erosion and the risk of flooding, and degrade the water quality flowing into the fresh-water marsh, Gallinas Creek, and ultimately San Pablo Bay. Flooding is a very real issue in the Santa Venetia community, and sometimes during heavy storms, the part of Pt. Gallinas Road near the McPhails School is buried under water.

**25-3**

Noise is an issue that deeply concerns me. Construction noise could permeate our area for years and years. But of particular concern is the ambient noise (and light) that would occur as a result of the residents that will live there. A very unique feature of the immediate neighborhood is the DARK and QUIET. It is the reason that I moved to the area, and they are the two attributes of the area that my neighbors often tell me are cherished by them as well – they love the remoteness and quiet. Increasing the density of

**25-4**

the 650 North San Pedro property will absolutely have a negative impact upon the peace and quiet of the neighborhood.

To state that there is no significant impact upon traffic is simply wrong. Even though there is a 7-11 convenience store, and the small Santa Venetia Market near the Civic Center (two businesses that rarely meet my needs), practically speaking the closest services are either in downtown San Rafael and Terra Linda. That means car trips, and plenty of them everyday. Adding cars from 14 homes to an already overburdened North San Pedro Road would only exacerbate one of the leading problems in our neighborhood. It already is sometimes difficult to pull out of Pt. Gallinas Road onto North San Pedro Road due to traffic. And, I do not even bother to leave my house for work everyday until after 9am, as I have tried to leave earlier, but find it futile to waste up to 20 minutes or more in stopped traffic in order to merely reach the Civic Center intersection.

25-5

*I recommend that the preparers provide a more realistic presentation, admitting there are significant environmental impacts, stating the mitigation measures proposed, in an un-biased way so that the public and the governing bodies of Marin County can make an informed decision about the merit of the project.*

**The project would unfairly result in a major shift in the character of the area.**

25-6

On page 2-3, in the “Land Use Impacts” section, the preparers state, “nor would <the project> contribute to a shift in the character of the area, which would continue to be low-density, single-family detached residential.” Again, this is biased language. Changing the development from 5 homes nestled in the hillside to 14 homes clustered all together at the bottom certainly changes the character of the development from rural to suburban. When taking my walk down Pt. Gallinas Road to my mailbox, rather than having a feeling of “being away from it all,” I will be confronted with the face of densely spaced homes staring at me from across North San Pedro Road. Before I invested in my home, during escrow, I researched the zoning of 650 North San Pedro Road (and the McPhail’s School site). I was satisfied that the “Residential Estates” zoning on the books for 650 North San Pedro Road was consistent with the current character of my immediate neighborhood.

*I recommend that the preparers provide a more balanced perspective, when making blanket statements.*

**The No Project Alternative is environmentally superior.**

25-7

On page 2-17, in section “b. Conclusions” the report states, “As a result, <the No Project Alternative> would be an environmentally inferior alternative. Furthermore, this alternative would not meet any of the project objectives because the site would retain its current use until an application for its development was pursued at an unknown time in the future.” Clearly this is a biased opinion. A property owner complying with existing zoning laws does not necessarily guarantee clear-cutting of the land, developing in a wetland conservation area and so on. Upon my first reading of the DEIR, I had no idea what was meant by “project objectives.” I later found them listed on page 3-19. And, from whose perspective are these “project objectives” – the developer’s, Marin County’s

or the community's? Clearly, they are from the developer's perspective. Certainly from the developer's perspective, the No Project Alternative is a lousy alternative – there is less profit. From Marin County's perspective, the No Project Alternative should be the preferred alternative as it complies with existing zoning laws. From the community's perspective, the No Project Alternative is the preferred alternative as it complies with existing zoning laws, appears to have the least environmental impact and is what the majority of the Santa Venetia community wants.

*I recommend that the preparers provide a more balanced presentation of the conclusions reached.*

**The DEIR ignores discussion of Threatened and Endangered Species in the area.**

25-8

On page 2-13, the report states in the “Biological Resources” section, “No impact would occur in regards to these issues.” Apparently, the preparers of the report did not perform adequate scientific study. There is no mention of the California Red-legged frog, for example, which was placed on the Federal Threatened Species list as of May 20th, 1996. There is also no mention of the California Clapper Rail, placed on the Federal Endangered Species list in 1970. Omission of threatened and endangered species on or near the property is blatant disregard for a critical impact area of the project, and discredits the integrity of the DEIR.

*I highly recommend that when making a “no impact” statement in the environmental impact report, its correctness be verified.*

**The DEIR is difficult to read.**

25-9

On page 2-2, in the “Summary of Significant Unavoidable Adverse Impacts” section, the report states, “This EIR identifies 33 adverse impacts that would result from development of the proposed project.” After reading this sentence, I then naturally questioned, “What are they?” I could not find the 33 impacts listed all together anywhere in the report. They are probably buried throughout the report, but the scattered presentation of the impacts makes them less impressionable upon the reader.

*I recommend that the report be structured in a way that makes it easy and quick to find the impacts and the proposed mitigations. A matrix/table should be included in the Report Summary section, possibly structured as follows:*

*Impact # | Impact | Mitigation Measure Proposed | Supporting Data\*\**

*\*\* the Supporting Data column would refer the reader to page numbers of the section that describes the impact in detail, and the detail section would be without redundant language from the summary section.*

*I also recommend that the report have a more detailed Table of Contents and an Index, to aid in finding information.*

**25-10**

In summary, I have provided several examples of problems with the DEIR. There are many, many more examples that I do not highlight in this letter. I expect that the County of Marin will properly perform its duty to ensure a complete and unbiased EIR.

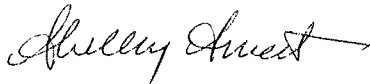
**25-11**

I would also like to point out that I am not a “Not-In-My-Backyard” extremist who opposes all development. I support the wise development of 5 homes (the No Project Alternative) as currently zoned. Most of my neighbors feel the same way.

**25-12**

The DEIR concludes in favor of the developer’s argument that rezoning to allow a higher-density development in an environmentally sensitive area is environmentally superior to developing under the current, less-density zoning. The DEIR does not adequately support this conclusion. In addition to its unsubstantiated “environmentally superior” argument, the DEIR does not provide sufficient local community benefit to warrant the rezoning. The rezoning request should be denied.

Respectfully submitted,



Shelley Sweet  
Resident, Pt. Gallinas Road  
San Rafael



## LETTER 25 – Shelley Sweet

25-1: This introductory comment states the author’s place of residence in relation to the proposed project site and stresses the perceived inadequacy of the DEIR. The perceived inadequacy of the DEIR is an opinion not supported by any factual information. No further response is warranted.

25-2: In the first part of this comment, the author states that use of the term “less-than-significant” (LTS) is misleading. The commentor then states that the proposed rezoning would set a precedent for urbanization in Marin County. CEQA defines “significant effect on the environment” as a substantial, or potentially substantial, adverse change to existing environmental conditions (CEQA Section 21068). There is no set definition or quantitative land use threshold of “significant impact” or “less-than-significant impact.” Rather, determinations of significance are professional judgments based on substantial evidence made by a relevant expert and then affirmed by a governmental agency. For impacts identified as potentially significant in the DEIR, conclusions are based on the inclusion of construction-period and long-term mitigation measures that would reduce impacts to a less-than-significant level. As to the second part of the comment, there is no factual basis to support the statement that the proposed rezoning will set a precedent for other rezoning projects and, ultimately, the urbanization of Marin County. The County processes applications and evaluates rezoning requests on a case-by-case basis. Should a rezoning be approved for this project, there is no direct relationship to decisions that would be made on other rezoning requests. In addition, the issue of potential growth inducement is evaluated in Chapter 6 of the DEIR, which concluded that the project would not be expected to induce growth beyond the limits of the project site or set a precedent for additional growth in the area.

25-3: In this comment, the author states concern that the number of trees proposed for removal would lead to increased erosion risks. As stated in the DEIR, impacts related to erosion, water quality and flooding would be mitigated as a result of project features, and both construction-period and long-

term BMPs incorporated into a required Storm Water Pollution Prevention Plan (SWPPP). Numerous built-in project features would address long-term water quality concerns, including use of an existing pond to treat stormwater runoff, and a grading and drainage plan that includes headwalls and discharge pipe dissipators to control erosion potential, biofiltrators to filter particulate pollutants and integration of existing catch basins to hinder sediment discharge into receiving waters. During construction, the applicant would be required to comply with all National Pollutant Discharge Elimination System (NPDES) Permit requirements, and thus incorporate BMPs such as off-site equipment maintenance, minimization of water use, storage of all chemicals under plastic sheeting or roofing and application of concrete and seal coat in dry weather. Finally, as concluded in the Hydrology and Water Quality analysis of the DEIR, the risk of flooding associated with the proposed project would be no greater than that of existing conditions, as there would be no net increase in stormwater runoff from the site following mitigation measures and consistent with County policy.

25-4: This comment is a statement of concern about increased ambient noise and light resulting from the proposed residences. As disclosed in the DEIR, the project would result in both short-term and long-term increases in ambient noise. Construction noise could significantly impact existing residences north and west of the proposed project site (Impact 4.10-A). However, this impact would be reduced to a less-than-significant level following implementation of Mitigation Measure 4.10-A.1, which calls for the development of a construction noise reduction plan and designation of a noise disturbance coordinator. As a result, increases in long-term noise levels would not be 'significant' according to the thresholds established by CEQA, in combination with thresholds established by Marin County. These thresholds define a substantial increase in noise levels as an increase of 3 dBA or greater at noise-sensitive land uses or an increase of 6 dBA or greater regardless of noise and land use compatibility standards.

The proposed project would be required to conform to provisions in the County Development Code related to the minimization of on-site light and

glare, while screening in the form of existing trees, new trees and varied topography would further reduce the affects of light from the project site. Finally, exterior, nighttime illumination would be focused on targeted areas so as to minimize the effects of spillover onto San Pedro Road and neighboring properties. For additional discussion relating to light and glare, please refer to Master Response 2.

25-5: This comment expresses the opinion that any addition to traffic in the vicinity of the project site will result in a significant impact. The DEIR reports the significance of the impact of the project in accordance with County criteria. Under these County established criteria, the project would have no significant impact on traffic operations. Community concerns relating to traffic congestion on North San Pedro Road and the County's current coordination efforts with the Jewish Community Center and the Venetia Valley School are further discussed in Master Response 8.

25-6: This comment states that the proposed project would shift the character of the area, contrary to what is concluded in the DEIR. The language and conclusions in the environmental analysis are based on a comparison of the type and location of proposed housing to that of existing housing. As acknowledged in the DEIR, the proposed project would influence the character of the immediate site; but the larger, surrounding area would remain semi-rural in nature. The proposed development pattern would be similar to what currently exists in the Santa Venetia community, characterized by single-family, detached residences constructed in subdivisions served by two lane roads. In addition, the proposed density of 0.81 dwelling units per acre is only slightly higher than the density within existing neighborhoods immediately to the north and west of the site. Finally, the clustering of homes proximate to North San Pedro Road, the preservation of 8.6 acres of open space on the 14.8 acre site, and the visual screening from existing and new trees would preserve the sense of "hidden" open space in the project area that is a valuable part of its overall character.

25-7: This comment states that the “No Project” alternative is environmentally superior, contrary to what is concluded in the DEIR. Under the No Project Alternative, there is no definitive means of determining when a project application may be submitted for development of the property and what the specifics of that application would be. Therefore, it is correct to conclude that, under these circumstances, the No Project Alternative would not meet any of the stated project objectives, as identified in Section 3.0.

The comment states that under current zoning and the No Project Alternative, it is not a given that the lot owners would clear cut trees and develop within the Wetland Conservation Area (WCA). While it is true that the actions of future land owners cannot be predicted with certainty, it is certain that the alternative is constrained by few development limitations or restrictions imposed due to ministerial building permits. The County would have no discretionary review for development on three of the existing five lots on the site under the No Project Alternative. As explained in Section 5.0 of the DEIR, the absence of this discretionary review would preclude the County’s ability to impose conditions and mitigations on development of those lots that could otherwise serve to protect environmental resources.

The comment concludes by stating that the No Project Alternative is the community’s preferred alternative and should be the County’s preferred alternative. This is a merits based opinion. No further response is warranted.

25-8: This comment recommends that the DEIR analyze potential impacts to California clapper rail and the California red legged frog. California clapper rail and black rail utilize tidal saltmarsh habitat in the Bay. The project site is upland habitat on a hillside south of North San Pedro Road. Both rail species do occur in the vicinity of the project site, but north of North San Pedro Road in the marsh, where they would not be affected by the project. Refer to Master Response 4 regarding potential occurrence of California red legged frog. As the response clarifies, a USFWS-protocol survey for California red legged frog was completed on-site in summer 2009 and no occurrences of the species were identified. No change to the DEIR is necessary.

25-9: This comment explains that the DEIR lacks a combined, easily-identifiable summary of all project impacts. As a result of this comment, a 'Supporting Data' column will be added to Table 2-2 to refer the reader to the pages in the DEIR where the impacts and related mitigations are discussed.

25-10: The first part of this comment, in which the author states that she has not stated all concerns with the DEIR, cannot be addressed until those concerns are stated. No change to the DEIR is required. The second portion of the comment, states the commentor's expectation that Marin County staff will review all comments and responses, including subsequent revisions to the DEIR, in order to ensure that the EIR is complete. As this comment relates to the document review process as opposed to the content or adequacy of the EIR, no further response is required.

25-11: The commentor states supports for development that is consistent with existing site zoning, and then refers to five units. This is a merits-opinion based comment and does not warrant additional response. In relation to the feasible level of development on the site, please refer to Master Response 1.

25-12: The comment suggests that the DEIR's conclusion as to the environmental inferiority of the No Project Alternative is made 'in favor of the developer's argument' for rezoning the property. Consistent with the principles of CEQA, the purpose of the DEIR is not to oppose or support what may or may not be in the interest of the developer. Rather, the document serves as an objective analysis of the impacts that the proposed project may have and provides a comparative review of project alternatives. As stated in response to Comment 25-7, the conclusion as to the environmental inferiority of the No Project Alternative stems from the absence of discretionary review that would apply to three of the five lots. This results in few development limitations or restrictions imposed due to ministerial building permits and would preclude the County's ability to impose conditions and mitigations on development of those lots that could otherwise serve to protect environmental resources. The comment concludes with the opinion that the project does not provide sufficient community benefit to warrant rezoning

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

and should be denied. This is a merits-opinion based comment and no further response is warranted.

650 North San Pedro Road Draft Environmental Report  
Public Comments

**LETTER #26**

Robert Sylvester  
35 Point Gallinas Road (601 North San Pedro Road)  
San Rafael CA 94903  
415 479 2860

Marin County Community Development Agency  
3501 Civic Center Drive Room 308  
San Rafael CA 94903-4157

January 26, 2009

My comments will be concerned with the Hydrology and Water Quality section of the DEIR

**26-1**

DEIR Section 4.4-9

2. Site Hydrology
    - a. Drainage Area 1
    - b. Drainage area 2
- Figure 4.4.1  
Figure 4.4.2

These sections show that all the storm-water runoff that drains from the North and South side of San Pedro Road in this area runs into the existing storm-water pond/catch-basin located on McPhail School property North of San Pedro Road then into the Sunny Oaks drain pipe that runs the length of Vendola Drive then out the flapgate into Gallinas Creek Marsh and ultimately into San Pablo Bay.

DEIR Section 4.4  
4. Flooding

This section shows that this area is subject to both *tidal flooding* and *watershed flooding*.

The following figures show the regularly occurring flood that happens on Point Gallinas Road during heavy rains that coincide with a high tide and/or last for more than a day.

Figure 1.1 and 1.2 (January 2006) show a Marin Sanitary Service truck stuck in the culvert basin.





Figure 1.1 (January 2006)



Figure 1.2 (January 2006)



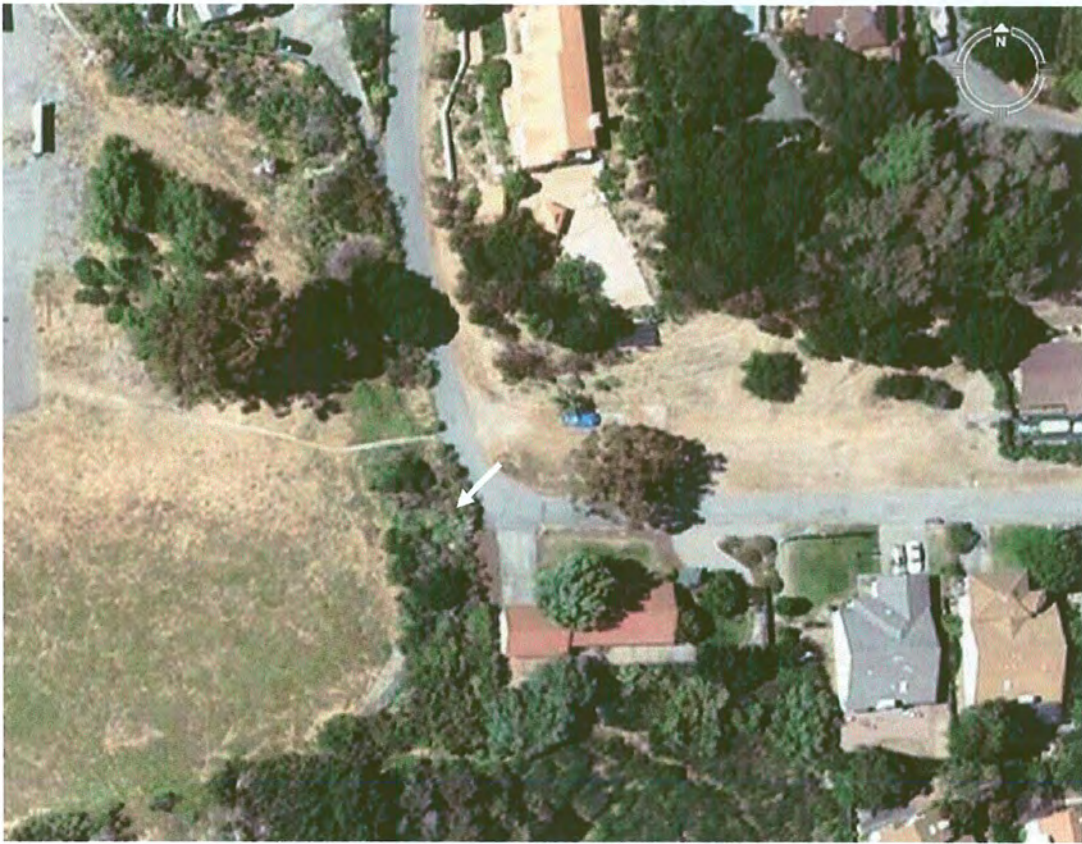


Figure 1.3



Figure 1.4 (January 2008)

Figure 1.3

In 2007 the 18' culvert under Point Gallinas Road that drains into the McPhail catch-basin North of San Pedro Road was replaced. White arrow shows approximate location of this culvert. This the exact spot where the Marin Sanitary Service truck was stuck.

Figure 1.4 (January 2008)

Obviously our new culvert can not stop this area from flooding when there is a corresponding high tide. All this storm-water runoff did not drain until the tide receded.

DEIR pages 4.4-15, 4.4-16, 4.4-17, all mention high tides and how they affect storm-water drainage in this area.

Figures 1.1, 1.2, 1.4 show that the current flood-control infrastructure from the McPhail School catch/basin to the Gallinas Creek Marsh is entirely inadequate and flooding in this area is directly related to seasonal rains and whims of the highest high tides of the season.

The additional storm-water runoff created by the proposed 14 units at 650 San Pedro Road will create significant impact and can only add to the problem we now face when seasonal rains coincide with seasonal high tides as they do almost every year. When the project storm-water pond fills up and starts draining there is no more control over how much water goes through the existing system.

**26-2**

The project storm-water pond is essentially a dam on the North San Pedro Road side and there is no mention of how long this dam can hold back the water that will collect in an even larger storm-water pond.

**26-3**

## LETTER 26 – Robert Sylvester

26-1: The comment makes several references to portions of the DEIR that deal with hydrology. Four exhibits showing drainage problems in the Santa Venetia area have been attached by the commentor and are referenced in the comment. Please see response to 26-2 and 26-3 below.

26-2 and 26-3: As discussed in the responses to Comment 22-5, the DEIR provides for mitigation of the project hydrologic impacts in terms of both peak flow rate and runoff volume. The proposed reconfiguration of the on-site pond is designed to reduce the post-development, 100-year peak flow rate to the pre-development level. Because the project would not increase runoff from the project site, it would not result in on or off-site flooding, as concluded in Section 4.4 of the DEIR, Hydrology and Water Quality. The project's potential effect on flooding in the area in combination with other projects was examined under the cumulative analysis in Section 4.4. As the analysis concluded, the project would not result in a significant cumulative impact because it would comply with the County's requirement to achieve no net increase in storm water runoff from the site.

In addition, several of the proposed permanent Best Management Practices toward meeting the County's Low Impact Development (LID) standards will promote water absorption/infiltration and thereby reduce runoff volume and peak flow rate. For example, the proposed use of permeable concrete and asphalt surfaces for driveways and roads, and the proposed construction of a drainage swale along the west side of the new two-way driveway (as specified in the revised Mitigation Measure 4.4-A.1 in this Final EIR) are both designed to promote water absorption/infiltration.

The elevation of the drainage inlet installed in the detention pond would be approximately one foot below the elevation of the top of berm. As a result, the pond would start draining through the inlet prior to water levels reaching or exceeding maximum berm elevation. This will minimize the potential for berm failure or roadway flooding as a result of spillover.



# FAX SHEET

From: Sandy Johnson Walker  
P.O. Box 4045  
San Rafael, CA 94913

**LETTER #27**

Home & Fax # : 415-898-4447  
Please call first for fax

Cell # : 415-720-8116  
sandybeach220@aol.com

To: Rachael Warner of DEIR

Fax #: 415-499-7880

Phone #:

Date: 1-26-09

Regarding: 650 NSPR project

*URGENT!*

As owner of 117 Upper Rd. San Rafael since 1977, I want to register my strong objection to the current project at 650 N San Pedro Rd. The area has always been a beautiful country setting with trees housing as many as 28 white egrets at a time. The cutting down of 200 trees to do this project will greatly jeopardize if not eliminate the habitat of these beautiful birds.

27-1

The value of our properties in this area is dependant on this rural setting. We do not look into neighbors' bathroom windows as is the case with many new projects in Marin. The concept of closing the space between houses with a large open common area sounds good initially, but in actuality presents a "housing project" environment. In looking at other neighborhoods built with this concept, it is apparent they have the appearance of a low income subdivision. To allow this to occur in our neighborhood, changing zoning, etc. merely to accommodate the almighty dollar will greatly reduce the overall value of the area. While the county may now greedily look forward to the increase revenue from taxing more homes, ultimately it could see a decrease as the entire area reduces in value.

27-2

Finally, and most importantly, the traffic impact will be horrendous. Currently, it can take 20 minutes or longer to come down N San Pedro Rd to the Civic Center depending on the time of day. The addition of this increase of homes will only add to this difficult situation. We now have a traffic problem on Upper Rd just from the addition of 2 new homes, as well as existing homes now renting to many individuals. You cannot accurately estimate that each new home will only generate one or two trips a day down

27-3

N San Pedro. There is no way of planning for how many additional trips will be made by teenagers driving in addition to their parents, or homes renting out rooms to make ends meet, especially during these times of economic peril.

I urge you to decline the appeal for more dense housing in our neighborhood. We hate the prospect of sitting back, allowing a beautiful area to be decimated just for the financial gain of a few.

**27-4**

Sincerely,



Sandy Walker

Total pages:   2   including this cover page

**LETTER 27 – Sandy Johnson Walker**

27-1: This comment states that removing 200 trees will jeopardize or eliminate bird habitat. In response to this comment, some of the research conducted by Audubon Canyon Ranch is described. Audubon Canyon Ranch is an independent, non-profit organization established in Marin County in 1962, originally to preserve a large heronry along Bolinas Lagoon. The organization maintains a comprehensive atlas of heronries that includes individual accounts of all known heronries in the Bay Area (over 150 sites). The atlas is based on field studies conducted over the last 15 to 37 years. As stated in Chapter 4.3 of the DEIR, in the atlas, the rookery on the project site is labeled North San Pedro Road #2. Two great blue heron pairs nested in the rookery every year from 2002 to 2008. In 2002, a pair of great egrets also nested there.

This heron and egret presence is therefore accounted for in the DEIR, with potential impacts to the rookery addressed through mitigation measures proposed. In addition, mitigation is proposed for the removal of trees where construction would occur.

27-2: In this comment, the author expresses dissatisfaction with the proposed site design, which she perceives as inconsistent with existing rural setting and likely to reduce value of surrounding homes. Based on Section 15131(a) of the CEQA Guidelines, a potential reduction in property values shall not be considered a significant effect on the environment, unless such a reduction could cause or contribute to adverse physical effects such as urban decay and blight. There is no indication in the comment or otherwise that the project would have this outcome. This is a merits-opinion based comment. No additional response is warranted.

27-3: Project trip generation estimates presented in Section 4.6 of the DEIR are based on research conducted by the Institute of Transportation Engineers (ITE) and accepted by all local jurisdictions in Marin County. Contrary to what is said in the comment, the DEIR does not state that each new home

would only generate one or two trips a day on North San Pedro Road. As stated in the DEIR, total weekday traffic for the 14 dwelling units is estimated in the DEIR to be 134 trips. Sub-totals for AM and PM peak period trips are also identified in the DEIR. The impact of these trips, evaluated at the most congested intersections on North San Pedro Road, was found not to meet the County-accepted threshold for significant impact.

27-4: This concluding comment urges that proposed project and associated rezoning be declined. This is a merits-opinion based comment. No further response is required.

# LETTER #28

January 26, 2009

Marin County Planning Commission  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903-4157

Dear Planning Commission:

28-1

I'm writing to comment on the proposed development project plan for 650 N. San Pedro Road in San Rafael. I have several concerns regarding this proposed development.

28-2

As a longtime resident and owner of homes at 637 N. San Pedro Road and 603 N. San Pedro Road, I believe that this development will critically damage the quality of life for those of us who live in the China Camp corridor, where we have long enjoyed the privacy and solitude of living in homes surrounded by relatively open space. This development will take away that privacy as the proposed homes would range in size from approximately 2,100 to almost 3,800 square feet and be clustered along the N. San Pedro corridor with hardly any setbacks.

28-3

To demonstrate the rural character of North San Pedro Road, I've included a list of all the residences on both sides of North San Pedro Road.

|           |  |
|-----------|--|
| 0.0 miles | Intersection of North San Pedro Road and Meadow Drive  |
| 0.7 miles | 542 N. San Pedro Road – 1 home<br>548 N. San Pedro Road – 1 home<br>550 N. San Pedro Road – 1 home<br>560 N. San Pedro Road – 1 home |
| 0.9 miles | Intersection of North San Pedro Road and Sunny Oak Drive<br>630 N. San Pedro Road – 1 home   |
| 1.0 miles | 650 N. San Pedro Road – 1 home<br><b>Proposed Project – 14 dwellings along 700 feet of North San Pedro Road</b>                      |
| 1.4 miles | 680 N. San Pedro Road – 1 home and several ranch buildings   |
| 1.5 miles | 690 N. San Pedro Road – 1 home   |
| 1.8 miles | Entrance to China Camp   |
| 5.7 miles | Chapel Cove Church   |
| 6.1 miles | Fire Station – San Rafael #5   |
| 6.7 miles | 829 Point San Pedro Road (Peacock Gap) – 1 home  |

In the 6.7 miles from the 7-11 on North San Pedro Road to China Camp, there are nine homes, one fire station, one church and several ranch buildings on the side of the proposed project.



On the opposite side of the proposed project, starting at 829 Point San Pedro Road and driving back:

|            |  |
|------------|--|
| 0.7 miles  | McNear Brick Yard  |
| 1.1 miles  | San Rafael Rock Quarry   |
| 1.2 miles  | Abandoned house – 201 Point San Pedro Road                                       |
| 1.7 miles  | 1820 North San Pedro Road – 1 home   |
| 1.8 miles  | Entrance to China Camp   |
| 5.3 miles  | Entrance to Buck’s Landing   |
| 5.35 miles | Intersection of Upper Road and North San Pedro Road                              |
| 5.4 miles  | 637 N. San Pedro Road – 1 home   |
| 5.42 miles | 603 N. San Pedro Road – 1 home   |
| 5.5 miles  | Intersection of Point Gallinas Road and North San Pedro Road                     |
| 6.2 miles  | Chalet Basque – restaurant and Intersection of Mary Way and North San Pedro Road |

In the 6.2 miles from McNear Brick Yard to Chalet Basque along North San Pedro Road, there are three homes, one restaurant and state parks on the side of the proposed project.

As shown, in reality, there are a total of twelve residences along approximately 6.7 miles of both sides of North San Pedro Road. This clearly demonstrates the rural character of our neighborhood. I reject the findings of the DEIR. The proposed project will not preserve the rural character of the North San Pedro corridor.

28-4

There should be no decision made on a project of this scale without a review of the project that shows the buildings with story poles to mark out the actual size of the homes. The project proposes approximately an acre (36,637 square feet) of living space on 700 feet of road way. In southern Marin, it is unheard of to propose a project without story poles.

28-5

The neighborhood will have to deal with:

28-6

1. A significant increase in traffic

I reject the DEIR’s estimate of the increase in traffic. There are 49 bedrooms in 14 units that could easily mean that 63 people will occupy those homes. There are 28 garages, two parking spaces in the second units and four guest parking spaces along the street as well as an additional 28 guest parking spaces in front of each garage, making for a total of 62 spaces. The DEIR claims that there would be only 26 daily trips when the project is finished. Clearly, with 49 bedrooms and approximately 63 people occupying the property, there would be at least 40 cars traveling daily. With at least two trips per car daily plus service providers like garbage, newspapers, post office, UPS, pizza deliveries, nannies, cleaners, landscapers, dog walkers, window washers, etc., there will be a minimum of 100 daily trips, conservatively. This is a significant impact on the daily traffic, not an insignificant impact as the DEIR states. On a side note, the DEIR does not

accommodate real life events like birthday parties, housewarming events and anniversaries in its traffic study.

2. Increased noise pollution

28-7

Currently, the only noise pollution we hear is the wind rustling through the Eucalyptus trees and the occasional noise from Highway 101, which is muffled by the Eucalyptus trees and is less than 55 decibels. You can hear the deer walking across the street. With this proposed development, the Eucalyptus trees will be cut down and the noise from Highway 101 will no longer be muffled. Also, at the present time, there is only one air conditioning unit in the area that is adding to the neighborhood noise. Each proposed home will have an air conditioning unit, contributing to noise pollution.

There are three garbage trucks that come each week to collect the waste from this area. The way that the project is proposed, these trucks will not be able to collect the garbage without backing down the street, which will activate the safety beeper, which will contribute significantly to the noise on two days out of the week. This will also happen with UPS and Fedex trucks as well.

3. Increased light pollution

28-8

This is one of the few areas in Marin where you're so close to the Bay, there's a nightscape that consists of only stars. With 14 homes located across the street, there will be such a proliferation of outside lighting, garden lighting and household lights, the nightscape will cease to be.

4. Drainage and flooding problems

The hydrology report stipulates that:

Drainage Area 1                      23.4 cfs    x 7.481 gallons = 175.05 gallons/second

28-9

Drainage Area 2                      9.3 cfs     x 7.481 gallons = 69.57 gallons/second

For a total of 244.62 gallons/second

One hour = 88,063.22 gallons of water has been flowing off the property  
(approximately two swimming pool of water per hour)

I hope that the enclosed photos will demonstrate that this stipulation is completely wrong. The hydrology report does not include a perk test, any evapotranspiration between storms, a measure of the different precipitation on the slopes or soil tests to determine what the field capacity or soil saturation would be. In other words, it assumes with any rain, there will be run off. This is not the case. In all the years that I've lived here, there was only one time when the pond drained through the overflow into the catch basin. The only run off comes from the driveway.

28-10

There's also no consideration for the water from Upper Road and the western part of 650 N. San Pedro Road. This water also goes through the 18" catch basin and has not been accounted for.

28-11

Please see the enclosed photos:

28-12

1. Shows the shoulder of North San Pedro Road that's supposed to be the drainage ditch going through the catch basin at the bottom of the driveway at 650 N. North San Pedro Road
2. The catch basin
3. The driveway
4. The east view of the drainage ditch of North San Pedro Road
5. The overflow from the pond
6. Another view of the catch basin
7. The overflow
8. The overflow
9. A close-up of the overflow
10. The overflow
11. North San Pedro Road
12. The pond
13. East of 637 N. San Pedro Road
14. 603 N. San Pedro Road
15. Upper Road
16. 637 N. San Pedro Road
17. Drainage at Point Gallinas Road
18. Upper Road
19. Discharge on Pt. Gallinas Road
20. Flooding at lower entrance of 637 N. San Pedro Road
21. Another view of water on the upper lot of N. San Pedro Road
22. Another view of water on the upper lot of N. San Pedro Road

23. A view of Buck's Landing towards Upper Road
24. Intersection of Upper Road and North San Pedro Road
25. Catch basin during the storm on January 4, 2008
26. The pond
27. A driveway at 650 N. San Pedro Road
28. Water traveling down the drainage ditch
29. Road damage from Eucalyptus tree
30. Water coming out the driveway onto N. San Pedro Road
31. Rodent damage at 637 N. San Pedro Road at the embankment
32. Flooding damage at the bottom of 637 N. San Pedro Road
33. – 36. Rodent damage
37. Water running down the bank on N. San Pedro Road
38. Water running down the bank on N. San Pedro Road
- 39.
- 40.
- 41.
- 42.

5. Damage to environment from the removal of several hundred trees, 8,657 cubic yards of excavation and 2,922 cubic yards of fill.  
 The number of trucks stipulated to remove the remaining 5,735 cubic yards of dirt is false. It's common knowledge that you have to add 10-20% volume, depending on soil type. That will bring the number of truckloads to at least 350 trucks. Please look very closely at the suggested mitigation items for the project. They do not have the right estimated number of trucks to deliver material or to remove material. The time for lot clearing and tree removal is not included in the two year period. It's also stipulated in the DEIR document that the road will be always be open. It's hard to believe that you can add seven feet of roadway to the existing

road without affecting the traffic. Also, there's no mention of the truckloads it will take to deliver 156 trees that are 10' to 16' tall.

One of the mitigating factors allows the work to continue for seven days a week, generating a stipulated 88 decibels until 6pm. It's unheard of in any part of southern Marin, including Belvedere, Tiburon, Mill Valley, Sausalito, San Anselmo, Ross, Corte Madera and Larkspur, where construction crews are allowed to work seven days a week.

Living for a minimum of two years in a construction zone seven days a week will not allow us to pursue a normal life with birthday parties, celebrations, luncheons and barbecues. It will diminish the value of the rental properties in the area.

6. Impact from opening the corridor by several hundred feet and lowering the bank along the southern N. San Pedro Road 28-14
  
7. Increased risk of Sudden Oak Disease (SOD) 28-15  
Due to the owner's lack of care to prevent SOD from spreading from 650 N. San Pedro Road for the last two years, over a dozen Oak trees now show symptoms of being infected with SOD on my property. Besides the current expense of treating these trees, this situation will lead to the eventual financial burden of taking out the trees as well as losing an important part of the landscape, which will decrease property values. This lack of care has also highly increased the chance of losing all the Oak trees along N. San Pedro Road, which is providing a highly needed buffer between the proposed construction and the rest of N. San Pedro Road. The DEIR makes the wrong assumption that these Oak trees will provide a visual buffer between the proposed construction and North San Pedro Road by not taking the SOD into consideration.
  
8. Increased risk of slides 28-16  
For example, the 2005 project with a lot split of the Upper Road increased the run-off, causing a retaining wall to fail and create a major slide. This is just a real reminder of how all the geotech and engineering reports, along with the oversight of the building departments and their inspections, as well as the precautions and high standards of the construction industry could not prevent a major slide in the first year of finishing a brand-new home.
  
9. Loss of wildlife 28-17  
The proposed construction will destroy the only fresh water pond that is home to many frogs, birds and other wildlife, including the red-legged frog, according to a previous tenant. It also provides a buffer for run-off from hundreds of acres from the hillsides.
  
10. Fire hazard 28-18  
The DEIR is wrong in its conclusion that building five homes means there's a higher fire danger. In fact, the Fire Safe Marin requires a Wildland Fuel

Reduction Zone of 50 to 100 feet distance around each property. Nevertheless, most fire insurance companies require one hundred yards before they issue a policy. This means the property would have to have all of the dead trees cleaned up and would make the neighborhood safer. The proposed project clusters the properties at the bottom so that the fire hazard remains.

11. Zoning

I own three lots located across the street from the proposed project, which are zoned as agricultural mixed-use. I plan to continue taking advantage of the agricultural zoning with livestock and farming as well as dog kennels. Also, several neighboring properties are also agricultural mixed-use zones. It's easy to predict a conflict of interest between 60+ plus residents in 14 homes and the livestock farming property across the street.

28-19

In addition, this project will become a real problem for my livelihood, as my business depends on my current zoning.

28-20

I know from other owners that have agricultural mixed-use zoned properties that when high-density residential developments are put in nearby that it is only a matter of time before a number of complaints will flood the county's agencies. It is well-documented of the problems the previous owners had with three horses on my property.

28-21

I think it's wrong to allow a project like this, because it puts a huge burden on the neighborhood just to create a more profitable project. No one bought homes here with the expectation of a zoning change. This marks a conflict of interest that can't be mitigated and the DEIR did not touch that subject in any form.

28-22

The proposed layouts of the lots do not take into account the value of the whole property. Instead of taking advantage of the whole property and providing space around the homes, the current layouts propose a high density construction in a ranch-style community that borders national parks and open space. High density construction should and is best utilized in high density urban corridors and not in a mixed-use agricultural land, such as this area. I strongly oppose the current proposal and plead with the planning commission and the Marin County Community Development Agency to take the opportunity to preserve the quality of life of the China Camp corridor.

28-23

12. Eucalyptus Tree with Heron Nest

The DEIR is wrong in stating that the Eucalyptus tree is a hazard to the traffic (bicyclists, pedestrians and cars) on North San Pedro Road. As you can see, the tree is way too far, over 100 feet, away from the road.

28-24

For all of the reasons mentioned above, I strongly oppose the zoning change and hope the current owner can be encouraged to find a profitable solution under the current zoning that will allow him to build five homes instead of the proposed 14 homes. I hope that he

28-25

takes the opportunity to provide the community with construction that will increase the quality of life instead of narrowly focusing on quantity.

Let's not waste a chance to build green homes, which would be a great asset to the neighborhood and would provide an opportunity for a big company like West Bay Builders to be on the cutting edge of green technology and profit handsomely.

28-26

Thank you for your consideration.

Sincerely,

Helmut Winkelhake  
Owner  
637 N. San Pedro Road  
603 N. San Pedro Road  
Vacant Lot on Upper Road  
San Rafael, CA 94903

Office: (415) 491-1882  
Fax: (415) 491-1581

Mailing Address:  
P.O. Box 1792  
Ross, CA 94957

Email: [contact@horticareusa.com](mailto:contact@horticareusa.com)





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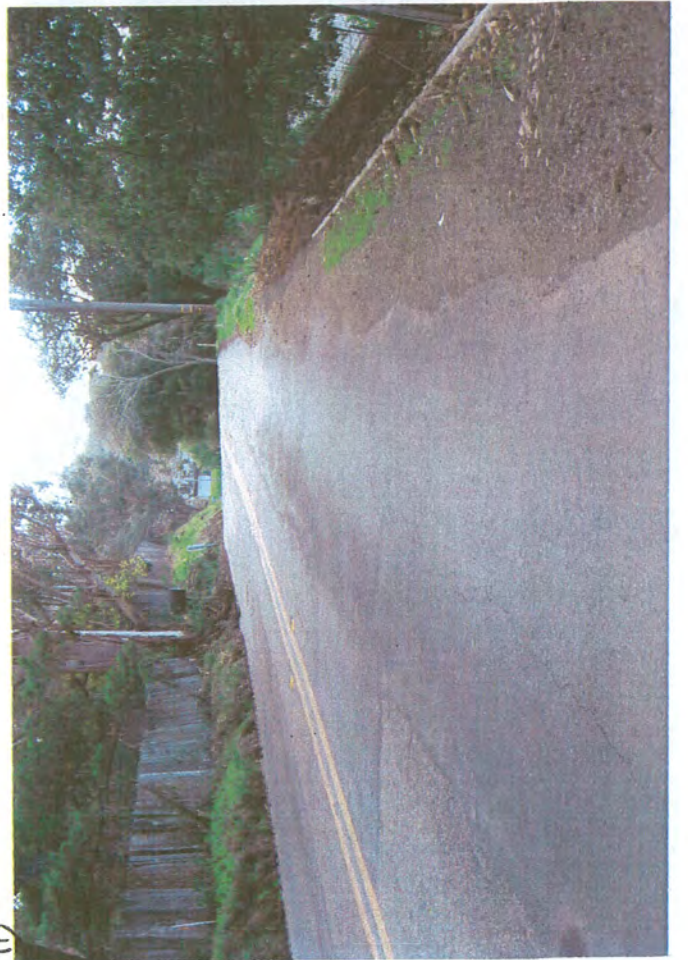


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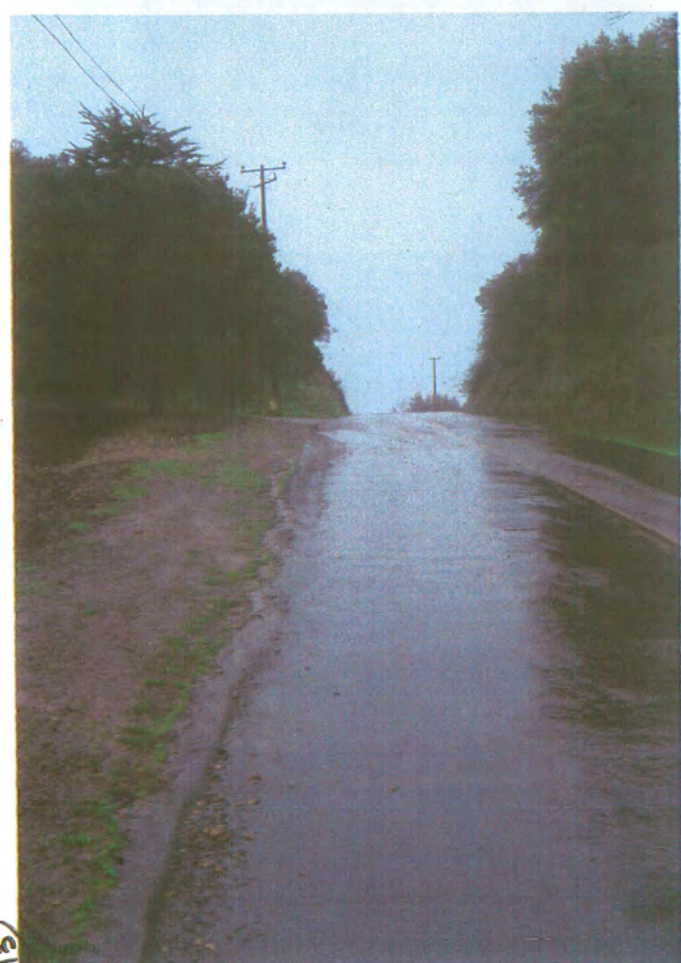
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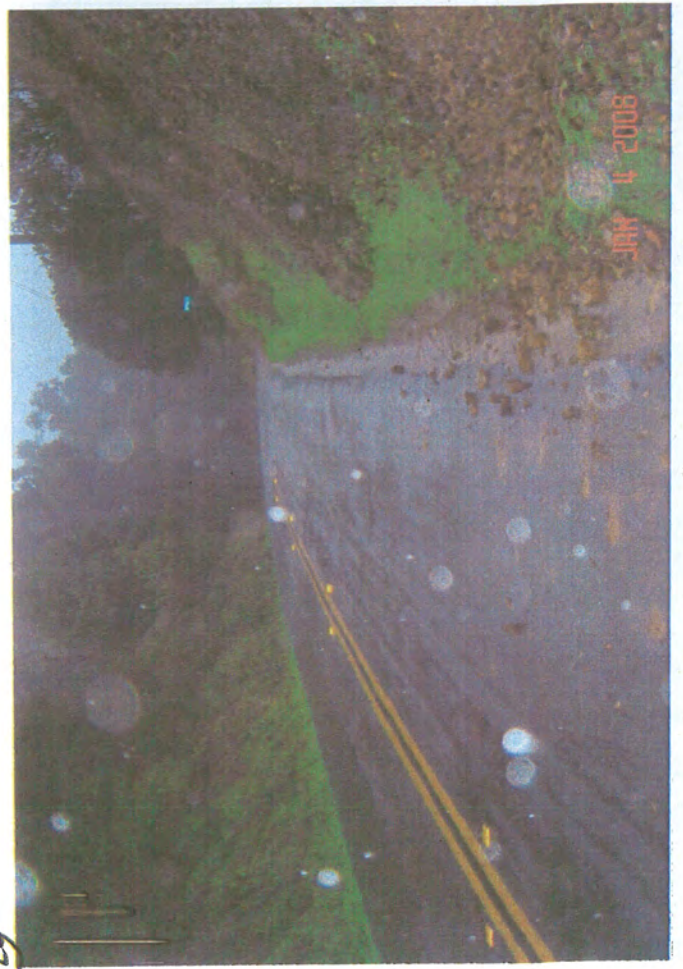


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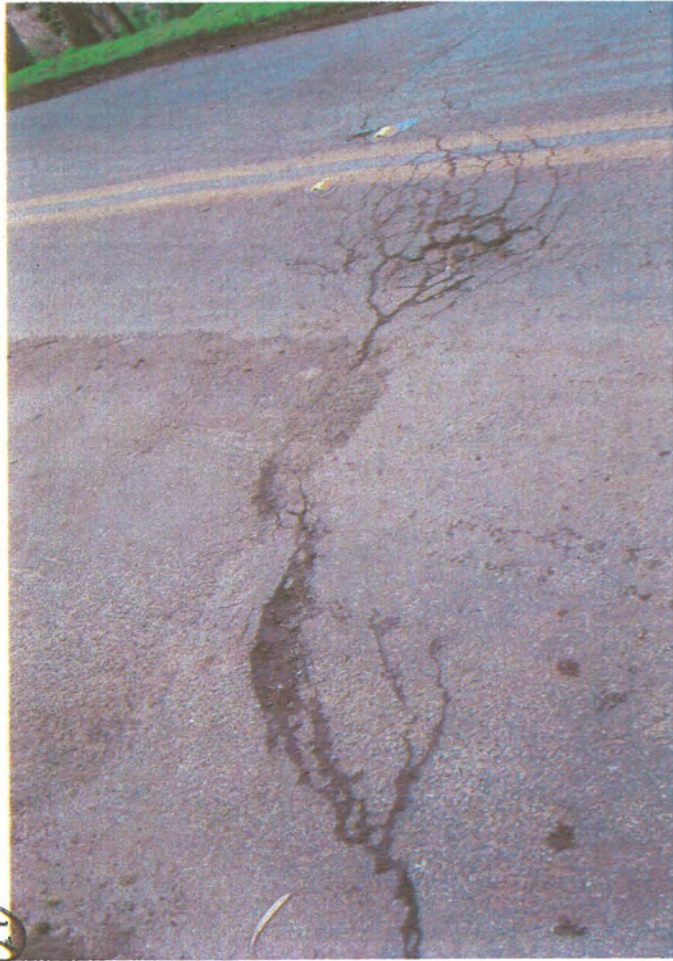
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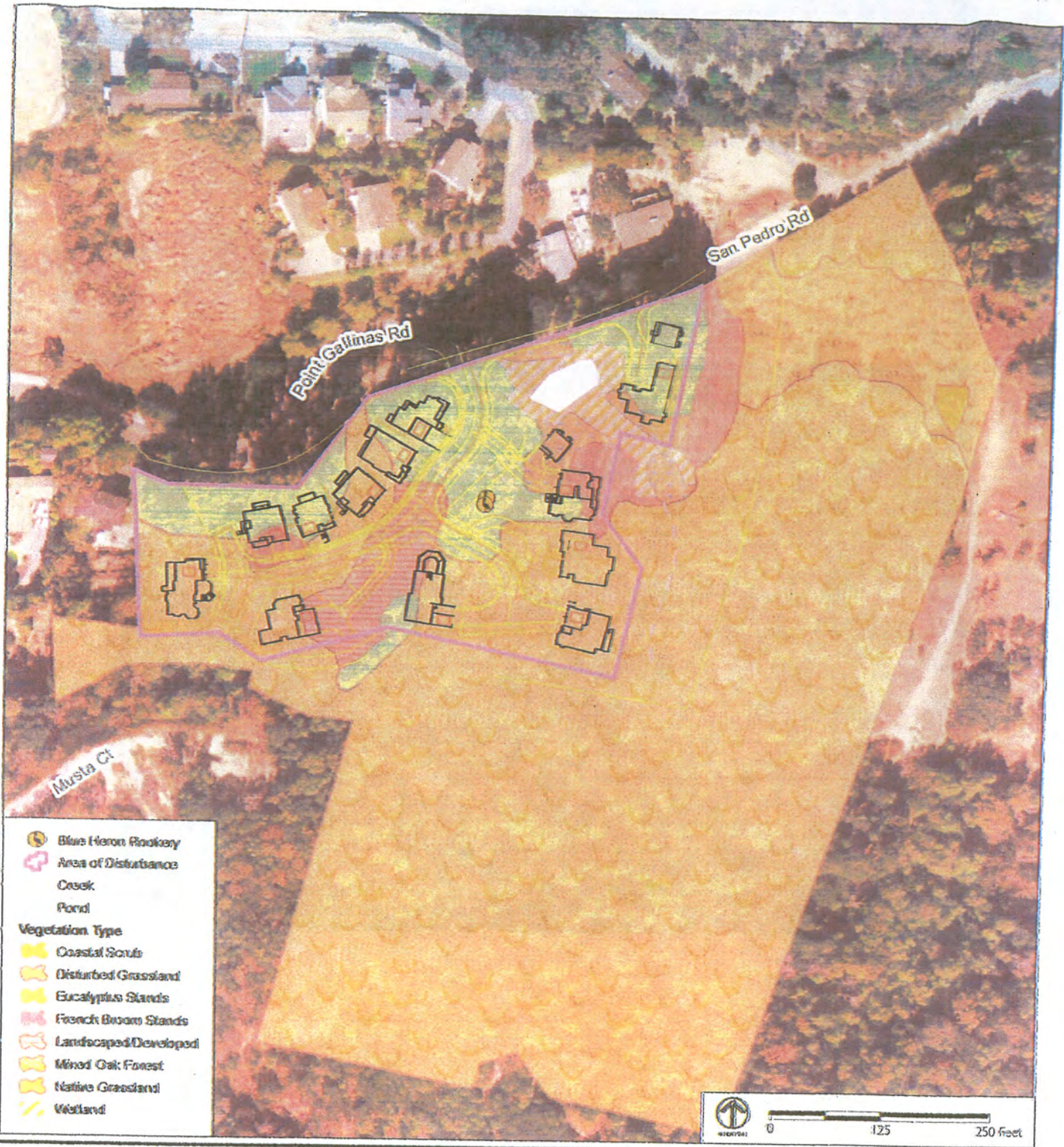
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4D



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Source: Garcia and Associates

FIGURE 4.3-1  
EXISTING CONDITIONS



i. Mixed Oak Forest

Mixed oak forest is the predominant vegetation type (approximately 11.1 acres) at the site and covers most of the steep upper north- and west-facing slopes of the site. The dominant trees are California bay (*Umbellularia californica*) and coast live oak (*Quercus agrifolia*). Associated tree species include madrone (*Arbutus menziesii*), California black oak (*Quercus kelloggii*), and California buckeye (*Aesculus californica*). Tree canopy cover is very dense, visually estimated to be at or near 100 percent throughout most of the mixed oak forest. Many of the large coast live oaks are dead. A survey for the presence of the organism that causes Sudden Oak Death (SOD) (*Phytophthora ramorum*) found evidence that trees at the site have been affected by this organism.<sup>4</sup> A significant portion of the oaks are in marginal condition due to old fire damage, high tree densities, and oak tree death due to probable SOD infection. The high density of trees has resulted in overcrowding, excessive shade, and decreased vigor due to competition for limited soil, sunlight, and water resources. The risk of wildfire is high due to the crowded woodland conditions, the presence of pyrophytic tree species, dense ground fuel, and the high number of declining trees with excessive amounts of dead wood in the tree canopy.<sup>5</sup>

Risk of wildfire

The mixed oak forest understory varies from dense to open, and is composed largely of native perennial ferns, grasses, forbs and shrubs, including: coastal wood fern (*Dryopteris arguta*), California polypody (*Polypodium californicum*), California fescue (*Festuca californica*) Torrey's melic (*Melica torreyana*), woodland madia (*Madia madioides*), poison oak (*Toxicodendron diversilobum*) and toyon (*Heteromeles arbutifolia*).

<sup>4</sup> Garcia and Associates (GANDA), 2005b. Update to SOD Evaluation at San Pedro Road. Memo prepared for DC&E, April 19.

<sup>5</sup> MacNair and Associates. 650 North San Pedro Road Tree Inventory and Evaluation (Revised). Marin County, California. Prepared for West Bay Builders, October 7, 2007.

**LETTER 28 – Helmut Winkelhake**

28-1: This is an introductory comment indicating that the commentator has several concerns regarding the proposed development. No change to the DEIR is required.

28-2: This comment states the author’s belief that the proposed project would degrade the local quality of life and erode privacy of existing homes. This is a merits-opinion based comment . No further response is warranted.

28-3: The comment provides a list of land uses on the north and south sides of North San Pedro Road between the project site and to a distance of up to 6.7 miles to the west. This background information has been considered in the context of the subsequent comment; however, no change to the DEIR is required.

28-4: The comment expresses the opinion that the project would ‘not preserve’ the rural character of the North San Pedro Road character. The commentator states that the existence of 12 residences within the specified 6.7-mile distance “clearly demonstrates” that the Santa Venetia neighborhood is rural in nature. However, there is no additional information presented, quantitative or otherwise, indicating how or why this determination was made. The issue of land use compatibility is addressed in Master Response 5. This comment is primarily a merits-opinion based. No further response is warranted.

28-5: The commentator is correct in suggesting that story poles can provide a useful tool in assessing the scale of a proposed project in relation to the surrounding natural and built environment. However, there is no requirement under CEQA that story poles be utilized in the context of preparing an EIR. The EIR evaluated the scale and potential for visual impacts of the project as discussed in Section 4.8 of the DEIR. The EIR determined that the project, as proposed, would not have significant impacts. Story poles may be utilized in design review or PDP stages of project consideration.

28-6: Project trip generation estimates presented in Chapter 4.6 of the DEIR are based on research conducted by the Institute of Transportation Engineers (ITE) and accepted by all local jurisdictions in Marin County. Total weekday traffic for the 14 dwelling units is estimated in the DEIR to be 134 trips. The sub-totals for the AM and PM peak hour trips, which are part of the 134 trips, are also specified in Chapter 4.6. The impact of these added trips was evaluated for the most congested intersections on North San Pedro Road and was found not to meet significant impact criteria. Contrary to what is stated in the comment, the DEIR does not report that the project would generate 26 daily trips. As stated above, the DEIR estimates the project would generate 134 daily trips. Special events such as parties and anniversaries are not specifically evaluated because they do not occur on a daily basis and usually not during weekday, peak traffic congestion times. Such events are included in the trip ends generation criteria of the Highway Capacity Manual used for such residential projects. Trips are conservatively averaged at 10 trips per day.

28-7: As disclosed in Section 4.10 of the DEIR, the project would result in both a short-term and long-term increase in ambient noise, with construction noise resulting in a significant impact to residences north and west of the proposed project site (Impact 4.10-A). However, this impact would be reduced to a less-than-significant level following implementation of mitigation measure 4.10-A.1, which calls for the development of a construction noise reduction plan and designation of a noise disturbance coordinator. Increases in long-term noise levels would not be 'significant' under County-wide Plan noise policy. Pursuant to CEQA, the threshold for a substantial increase in noise levels is an increase of 3 dBA or greater at noise-sensitive land uses or an increase of 6 dBA or greater regardless of noise and land use compatibility standards. According to the County-wide Plan noise thresholds, project-generated noise would be substantial if it caused permanent, ambient levels to increase more than 5 dBA, or by more than 3 dBA and exceeded the "normally acceptable" threshold for residential use areas, which is 60 dBA.

Therefore, as concluded in the DEIR, the increase in human activity on the site would increase ambient noise due to sources such as delivery trucks and

air conditioning units. However, these sources would not cause increases defined as substantial under CEQA or the County-wide Plan.

28-8: This comment expresses concern about how exterior lighting on the project site would affect nighttime views of the sky. The issue of exterior, nighttime illumination is discussed in Master Response 2.

28-9 – 28-10: In these comments, the author re-states the conclusions of the Hydrology Report related to Drainage Areas 1 and 2, and states that they are incorrect. It should be noted that the estimated flow rates of 23.4 cfs and 9.3 cfs for Drainage Area 1 and Drainage Area 2, respectively, are the estimated 100-year peak flow rates under existing conditions. The 100-year peak flow rates were estimated using the Rational Method. The Rational Method is the recommended method in the Marin County Department of Public Works Hydrology Manual. It is a widely-used method of estimate peak flow rates for relatively small drainage areas. The rational formula is:

$$Q = C i A$$

Where:

Q = Peak flow rate of runoff in cubic feet per second;

C = Runoff coefficient;

*i* = Average intensity of rainfall for the time of concentration ( $T_c$ ) for a selected design storm;

A = Drainage area in acres.

The time of concentration is the time required for a drop of water to travel from the most hydrologically remote point in the drainage basin to the point of collection. As shown in Appendix C of the DEIR, the time of concentration for Drainage Area 1 and Drainage Area 2 were estimated to be approximately 11.9 and 10.4 minutes, respectively, under existing conditions. Implicit in this comment is the assumption of a constant peak flow rate over one hour (60 minutes) to estimate runoff volume. This is a flawed assumption

and results in an overestimation of runoff volume. In order to correctly estimate the runoff volume, a hydrograph needs to be generated first.

28-11: The comment states that water from Upper Road and the western part of the project site is not accounted for. The existing 18-inch-diameter CMP culvert downstream from Drainage Area 1 has an estimated minimum hydraulic capacity of 20.9 cfs (see Table 4.4-1 in the DEIR). Under existing conditions, the 25-year peak flow from Drainage Area 1 was estimated to be approximately 18.5 cfs (see Table 4.4-2 in the DEIR). Without knowing how much stormwater comes from the Upper Road and the western part of the project site, it is impossible to make a judgment of whether the 18-inch culvert was adequately sized to convey stormwater from both Drainage Area 1 and the Upper Road under existing conditions.

However, the key consideration underlying this comment is the adequacy of the facility under future conditions. Since the post-development peak flows from Drainage Area 1 would be reduced to the pre-development levels through the proposed reconfiguration of the pond, the project would not have a significant impact on downstream stormwater drainage capacities, including the 18-inch culvert.

28-12: The commentor has included several photographs related to flooding and drainage facilities and requests that they be considered. No change to the DEIR is required.

28-13: Section 4.6 of the DEIR states that approximately 287 truck trips (with a capacity of 20 cubic yards per truck) would be required to remove the cut material from the site. Since the circulation of the DEIR, the number of truck trips has been reduced to 225 truck trips, based on a total of 4,500 cubic yards of soil to be hauled off-site. The commentor states that this assumption is false and that based on common knowledge the ultimate volume would actually be 10-20 percent greater than the amount cut, depending on soil type. However, there is no data or support evidence presented in the comment that confirms whether or not the estimate of cut should be increased by 10-20%.



The comment suggests that the time required for lot clearing and tree removal is not included in the two-year period for site preparation; however, there is no reference to such a timeframe in Chapter 4.6 of the DEIR. Regarding road closures during the widening of North San Pedro Road, Mitigation Measure 4.6-A.1 states that lane closures may be required and requires traffic management provisions in such instances to ensure safety. It is not expected that full road closures would be required to complete the widening.

The comment is correct in that the current estimate on the number of truck trips does not account for trips required for replacement tree delivery. Mitigation Measure 4.6-A.1 has been revised to address this. As stated in the revised text, the project traffic management plan required under this measure should show that replacement tree delivery to the site can be accomplished using the trucks that would be required to transport haul from the site. Through this combined use approach, the number of truck trips to the site would not be increased above levels presented in the DEIR.

Regarding weekend construction, this is permitted under 6.70.030 of the Marin County Development Code. However, some of the specifics regarding permitted hours, as stated in Mitigation Measure 4.10-A.1, of the DEIR have been revised to accurately reflect code restrictions. As the revisions to the DEIR show, construction is permitted on Saturdays from 9 am to 5 pm, but is not permitted on Sundays and Holidays.

28-14: This comment is incomplete; not all information has been provided. As a result, no change to the DEIR is required.

28-15: The presence of Sudden Oak Death (SOD) has been confirmed on the property and is documented in the DEIR. Potential impacts related to SOD are disclosed and mitigation is proposed. Please refer to Section 4.3 of the DEIR. The comment suggests that the DEIR assumes that Oak trees along North San Pedro Road would help screen the site during project construction; however, nowhere is this assumption made.

28-16: The retaining wall failure and resulting landslide referenced in this comment bear no direct relation to, and thus can not be used to predict, the potential for future slides on the project property. While the commentor's concerns about geological instability are noted, the appropriate geotechnical analysis was completed as part of the environmental review. A potentially significant impact related to landslides was identified, but deemed less than significant following implementation of Mitigation Measure 4.2-C.1 and 4.2-F.1, as specified in the DEIR.

28-17: Contrary to the statement in this comment, the on-site, freshwater pond would not be destroyed as a result of the proposed project. As identified in the DEIR, numerous mitigation measures would protect the pond. Foremost, Mitigation Measure 4.3-F.1 calls for the provision of a replacement wetlands habitat on the eastern edge of the pond. In addition, measure 4.3-F.2 calls for development of a Wetland Mitigation and Enhancement Plan (WMEP), one component of which is the placement of energy dissipators and biofiltration structures on all storm drains directed toward the pond. Mitigation measure 4.4-A.1 calls for the incorporation of Best Management Practices into the final drainage plan, including treatment of all runoff from drainage Area 1, which runs into the pond. Please refer to Master Response 11 for additional discussion of mitigation relating to the pond and wetland.

28-18: A Fire Hazard Management Plan (March 20, 2007) was prepared for the project by Donald L. Blayney & Associates. Design, Community, and Environment conducted a peer review of the Plan and submitted a memo to the County on December 7, 2007 with recommendations on next steps. Among these next steps was that the project applicant will need to submit a written Vegetative Management Plan (VMP) to the City of San Rafael's Fire Department for review and approval prior to occupancy. As also specified in the memo, continued compliance with the approved VMP will need to be placed within the Covenants, Codes, and Restrictions of the project. The County will include completion and approval of the VMP as a condition of project approval. The combination of the Fire Hazard Management Plan and the VMP would adequately address potential fire hazards on-site.

28-19: The comment suggests that there would be a potential ‘conflict of interest’ between proposed project land uses and existing, adjacent mixed-use agricultural uses. The commenter does not provide any factual evidence to demonstrate that such a conflict is likely to occur. No change to the DEIR is required.

28-20: The comment suggests that the project would preclude, or conflict with, the concerned land owner’s ability to use his property for profitable purposes. However, there is no information presented to support this position that allows the DEIR preparer to ascertain whether this would in fact occur. Based on the description of the project, there is no reason to conclude that this property owner’s ability to operate kennel(s) and raise livestock would be compromised either during or after project construction.

28-21: If all uses of the commenter’s property are permitted under the Marin County zoning code, and are not causing a public health hazard or nuisance, no potential complaints of residents of the proposed project would prevent those uses from continuing. Furthermore, the past experience of other property owners does not constitute declarative evidence that this property owner would have the same or a similar experience. No change to the DEIR is required.

28-22: This comment states the author’s belief that there is a conflict of interest between the perceived financial motivation of the developer and the needs of existing homeowners. This is a merits-opinion based comment. CEQA does not require that a potential variance between the interests of the project developer and community members be examined in the EIR. No change to the DEIR is required.

28-23: This comment is based on the opinion that the project proposes high-density construction. However, according to the Marin County Code and Citywide Plan, the proposed development, which would be zoned RSP (Residential, Single-Family Planned), does not constitute high density development. The Marin County Code describes the RSP district as suitable for

“single-family residential neighborhood development in a suburban setting,” and states that it is consistent with the existing Single family Residential (SF4) land use designation for the site, which provides for a density of 1 to 2 units per acre. High density residential zoning is provided for in the Marin County Code by the RMP (Residential, Multiple Planned) District, which is intended to be consistent with multi-family residential land use designations of up to 30 units per acre.

28-24: The comment is correct in that the eucalyptus tree containing the heron nest on-site would pose a hazard to motorists, bicyclists, or pedestrians. The tree is approximately 80-feet high and the closest point on North San Pedro Road is over 100-feet from the base of the tree. The text in the DEIR has been amended to reflect this.

28-25: This concluding statement reiterates the commentor’s opposition to the proposed rezoning of the site. This is a merits-opinion based comment. No further response is warranted.

28-26: In this concluding statement, the author states that the project represents an opportunity to build environmentally-friendly, “green” homes. However, as explained in the DEIR, the project would include multiple elements of “green” construction. The applicant completed a GreenPoint Rated checklist in order to evaluate the energy efficiency of the proposed project. This assessment tool, developed by Build It Green, is used to rate a development in terms of energy efficiency and overall sustainability. It assigns points for various “green” features, and projects that achieve a minimum of 50 points are officially certified as GreenPoint Rated. The proposed project surpassed that minimum and scored 90 points, an indication that the project would utilize energy, oil and natural gas in an efficient manner. No change to there is necessary.



# **Santa Venetia Neighborhood Association**

P.O. Box 4047 · San Rafael · CA · 94913-4047

January 26, 2009

Mr. Tim Haddad  
Environmental Planning Coordinator  
Marin County Community Development Agency, Planning Division  
3501 Civic Center Drive, #308  
San Rafael, CA 94903 -4157

Re: 650 North San Pedro Road, Santa Venetia

Dear Mr. Haddad,

The SVNA has voiced its opposition to the proposed development at 650 North San Pedro Road since its inception, and has written previously regarding this proposal. The public record reflects this opposition, and includes a letter written on July 9, 2002. Our membership has also spoken repeatedly and clearly of their opposition to the current rezoning proposal and the public record includes petitions signed by hundreds of Santa Venetia residents demonstrating their opposition. Although details of the proposal have changed and design changes were made during the EIR period, the overall negative impacts on our neighborhood remain substantially the same. As a result, the SVNA remains opposed to the current proposal for rezoning and subdivision at 650 NSPR.

29-1

The SVNA is in agreement with today's comments opposing the project as well as previous comments, including those from the Marin Audubon Society and the Friends of San Pedro Mountain. Overall, the DEIR underestimates the negative environmental consequences of this development, as is pointed out in extensive comments from many neighbors, who are also members of the SVNA.

29-2

Specifically, the DEIR underestimates:

- Negative impacts to the flood zone and nearby wetlands due to drainage, especially given the area's history of slides. The SVNA does not believe that designating steep hillside land of marginal value to developers as private open space to offset much denser development next to the wetlands near NSPR is in any way consistent with the County Wide Plan.

29-3

# **Santa Venetia Neighborhood Association**

- Negative traffic impacts along the congested NSPR corridor. 29-4
- The negative impacts of light and noise from this dense development. It would also dramatically change the character of the neighborhood, where existing homes are mostly hidden in a quiet woodland area. 29-5
- The real and recent history of wildfire in the immediate area. 29-6
- Negative biological impacts are underestimated. The SVNA is in agreement with the detailed comments of Giselle Block, who lives next to the property and has extensive knowledge of the biological resources that are at risk. 29-7
- Negative impacts on development in the surrounding area: we believe that rezoning in this area would encourage similar rezoning of nearby parcels such as Buck's Launching and the agricultural lands near the State Park, all of which have been targets for development in recent years. 29-8
- The availability of existing infrastructure to support a project of this size. This area of NSPR does not have the infrastructure to support clustered housing, as defined in the County Wide Plan, nor is it close to public transportation or a grocery store. 29-9

There are many good reasons that the parcels in this area are zoned as they are; rezoning to the benefit a single developer is inconsistent with the County Wide Plan and unfair to the surrounding neighbors. And, as mentioned previously, rezoning is inconsistent with the character of the existing neighborhood. 29-10

Finally, the conclusion of the DEIR that this proposal is consistent with the County Wide plan is based on a faulty premise: the DEIR sets up a straw man argument that development of these five parcels at one home per acre is likely or inevitable; the DEIR then argues that clustering homes at a much higher density is less damaging to the environment, and thus recommends rezoning. The flaw in this reasoning is that the rezoning, in itself, sets up a strong incentive for dense development in an area that would otherwise be economically impractical for development of this number of homes. 29-11

The rezoning essentially guarantees a density of development that is inconsistent with the surrounding area, and wholly inappropriate to the sensitive environment near protected wetlands and China Camp State Park. It is also clear to the SVNA that rezoning these parcels would create a precedent for rezoning for dense development on nearby properties along NSPR, many of which would be attractive targets for developers if rezoning were considered probable. 29-12

# **Santa Venetia Neighborhood Association**

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Page 3 of 3

January 26, 2009

Again, because of the flaws in the analysis and factual errors in the DEIR pointed out in this letter and by other commenters today, the SVNA disagrees with the conclusions of the DEIR does not support its approval.

29-13

Sincerely,

COPY

Mark Wallace  
President  
Santa Venetia Neighborhood Association

**LETTER 29 – Santa Venetia Neighborhood Association**

29-1: The comment states that the Santa Venetia Neighborhood Association (SVNA) opposes the proposed project. The comment relates to the merits of the project and no further response is warranted.

29-2: The comment states that SVNA is in agreement with other comments made in opposition to the project at the public hearing, such as those made by the Marin Audubon Society and the Friends of San Pedro Road. Similar to Comment 29-1, this is a merit-based comment and no further response is warranted to address this part of the comment. The comment also states that the DEIR underestimates the environmental impact associated with the project, but provides no specific examples from the analysis. No change to the DEIR is required.

29-3: The comment states that the DEIR underestimates impacts to the flood zone. The project would not result in an increase in runoff from the project site that could otherwise result in downstream impacts to the off-site flood zone. The comment also states the opinion that by designating a portion of the property's "marginal value" hillside to offset development next to wetlands near NSPR is not consistent with County policy.

The proposed open space is not intended to offset development near the wetlands. Preservation of hillside open space is not presented as wetland mitigation, as suggested in the comment. Impacts to wetlands are disclosed in Impact 4.3-F. Mitigation Measures 4.3-F.1 and 4.3-F.2 are designed to address those impacts. No change to the DEIR is required.

29-4: The comment states that the DEIR underestimates traffic impacts on North San Pedro Road. Master Response 8 discusses the effect of project-generated traffic on local traffic conditions, and states that project-generated trips would have a negligible effect on conditions and would not result in a significant impact. No change to the DEIR is required.



29-5: The comment states that the DEIR underestimates the impacts of light and noise resulting from the project and that these factors would dramatically change the character of the neighborhood. The potential effects associated with night time illumination are discussed in Master Response 2. Consistent with the analysis in the DEIR, Master Response 2 determines that there would be no significant impact related to new sources of light. No change to the DEIR is required.

As discussed in response to Section 4.10 (Noise) of the DEIR, the project would result in a long-term increase in ambient noise. However, increases in long-term noise levels would not be 'significant' under County-wide Plan noise policy. Pursuant to CEQA, the threshold for a substantial increase in noise levels is an increase of 3 dBA or greater at noise-sensitive land uses or an increase of 6 dBA or greater regardless of noise and land use compatibility standards. According to County noise thresholds, project-generated noise would be substantial if it caused permanent, ambient levels to increase more than 5 dBA, or by more than 3 dBA and exceeded the "normally acceptable" threshold for residential use areas, which is 60 dBA. No change to the DEIR is required.

The potential effects on the proposed project on neighborhood character is discussed in Master Response 2 (Aesthetic compatibility with neighborhood). The Master Response is consistent with the analysis of Impact 4.8-C of the DEIR, and determines that there would be no significant impact to the visual character of the surrounding area. No change to the DEIR is required.

29-6: This comment states that the DEIR underestimates the recent wildfire history in the immediate area of the project site. As discussed in Impact 4.11-F, the project site is not located within a Wildland Urban Interface (WUI), but because of the site's proximity to open space, the site is susceptible to wildland fires. The project is being designed in accordance with a Fire Hazard Management Plan that would minimize the risks associated with wildland fires. Adherence to a Fire Hazard Management Plan would reduce potential impacts to less-than-significant levels through the use of buffers, defensible

space zones, removal of tree, installation of an irrigation system, and compliance with the Marin County Fire Code. The recent history wildfires in the immediate area would not adversely impact the project site. No change to the DEIR is required.

29-7: This comment states that the DEIR underestimates the impacts to biological resources. Between 2005 and 2009, several biological resource studies have been conducted on the site to document existing conditions and assess potential impact of the project. These studies are either discussed in Section 4.3 of the DEIR or referenced therein through footnote citations. Most recently, in June 2009, USFWS protocol survey was conducted to determine whether California red legged frog was located on the project site. No occurrences of the species were identified.

Based on the survey reports and on-site studies, the Biological Resources chapter of the EIR (Chapter 4.3) adequately provides background information on biological resources, identifies impacts, and recommends mitigation. As a result, the document adequately accounts for the wildlife resources on the site and in the immediate vicinity. Comments presented by Giselle Block have been separately addressed in response to Letter 11. No change to the DEIR is required.

29-8: This comment states that the DEIR underestimates impacts on the surrounding area as a result of rezoning the project site. No factual evidence is presented by the commentor to support the opinion that the rezoning, if approved, would encourage similar rezoning in the area. This issue is further discussed in response to comment 29-12. No change to DEIR is required.

29-9: The comment states that the DEIR underestimates the availability to support a project of this size. This comment does not specify what infrastructure is inadequate nor is any information presented to support this statement. The comment states that the site is not close to public transportation or a grocery store, but does not make a connection between these con-

cerns and the adequacy of the CEQA analysis. No change to the DEIR is required.

29-10: The comment suggests that the rezoning is inconsistent with the CWP, however it does not present any specific reasons in support of this opinion. No change to the DEIR is required. The comment also states that the rezoning would be unfair to the community and is inconsistent with the character of the existing neighborhood. The project's compatibility with the existing neighborhood is addressed in Master Response 2, which concludes that the project would be similar in density, form and type to existing development, and the project is not in direct conflict with the rural character of the neighborhood. Whether or not the rezoning would be fair to the surrounding neighbors is a merits issue. No further response is warranted.

29-11: This comment states the opinion that the DEIR was based on the assumption that, if the project site builds out under existing zoning, the impacts resulting from this development would be greater than the proposed project. The commentor further argues that the proposed project's consistency with the CWP is flawed because of this assumption. The DEIR was not based on the assumption that the proposed project would result in fewer impacts than full buildout of the project site under existing zoning. Consistency with the CWP was evaluated based on the proposed project's components and not assumptions based on the site's development potential. No change to the DEIR is required.

29-12: This comment expresses the opinion that rezoning the project site would result in development that is inconsistent with the surrounding area and would lead to rezoning of other parcels along North San Pedro Road. The project's compatibility with the existing neighborhood is addressed in Master Response 2, which concludes that the project would be similar in density, form and type to existing development, and the project is not in direct conflict with the rural character of the neighborhood. Furthermore, there is no factual evidence presented by the commentor to support the opinion that the rezoning, if approved, would establish precedence for the rezoning and an

COUNTY OF MARIN  
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increase in density on other parcels along NSPR in the Santa Venetia neighborhood. No change to DEIR is required.

29-13: The comment reiterates that SVNA disagrees with the conclusions of the DEIR and does not support its approval. The comment also mentions the flaws and factual errors in the analysis as a reason for opposing EIR certification, however no specific examples from the DEIR are presented. No change to the DEIR is required.

*Planning Commission Hearing Testimony*

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

# LETTER PC Meeting

Marin County Planning Commission Meeting  
Regular Meeting Minutes  
Monday, January 26, 2009

## 1. INITIAL TRANSACTIONS

*ROLL CALL* The meeting was called to order by Chair Randy Greenberg at 1:01 p.m.

Present at Roll Call: Steve Thompson, Don Dickenson, Randy Greenberg, Wade Holland, and Pete Theran.

Absent at Roll Call: Katie Crecelius, Joan Lubamersky.

### Agenda

#### a. Incorporate Staff Reports into Minutes

M/s Wade Holland - Don Dickenson to incorporate Staff Reports into Minutes for January 12th and January 26th.

Vote: Motion carried 5-0

AYES: Steve Thompson; Don Dickenson; Randy Greenberg;  
Wade Holland; Pete Theran.

ABSENT: Katie Crecelius; Joan Lubamersky.

#### b. Continuances - None.

#### c. Minutes

Corrections to the minutes were made by Vice Chair Dickenson, Chair Greenberg, and Commissioner Holland.

M/s Wade Holland - Don Dickenson to approve the Minutes and associated Resolutions of January 12th as corrected.

Vote: Motion carried 5-0

AYES: Steve Thompson; Don Dickenson; Randy Greenberg;  
Wade Holland; Pete Theran.

ABSENT: Katie Crecelius; Joan Lubamersky.

#### d. Communications

Tom Lai, Deputy Director of Planning Services, reviewed communications received, including the final version of the LCP protocols and letters related to the draft EIR for the 650 North San Pedro project.

# LETTER PC Meeting

## 2. DIRECTOR'S REPORT

### a. Preliminary Agenda Discussion Items, Field Trips

Mr. Lai reviewed items for the February 9th agenda and discussed the annual report that will likely be presented at the second February hearing or the first hearing in March. He also commented on upcoming items for the Board of Supervisors.

## 3. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)

No member of the public spoke at this time.

The Commission recessed briefly.

Commissioner Lubamersky arrived at 1:12 P.M.

Chair Greenberg reconvened the meeting with all members present except Commissioner Crecelius, who was absent.

## 4. DRAFT ENVIRONMENTAL IMPACT REPORT (MASTER PLAN, PRECISE DEVELOPMENT PLAN, SUBDIVISION AND REZONING): 650 N SAN PEDRO ROAD

### Staff Report

Rachel Warner, Environmental Planner, presented the staff report. Ted Heyd, EIR consultant with the firm Design, Community & Environment, reviewed the major conclusions from the DEIR. Staff and the consultant responded to questions/comments from the Commission, as follows:

Commissioner Holland expressed concern with the no-project alternative and questioned the statement that Streamside Conservation Areas, Wetlands Conservation Areas, and the tree ordinance would not be applicable to any parcels on the site that are not subject to Design Review. Mr. Lai explained that if all the zoning-district standards are met, and the size of the project does not trigger a discretionary permit, only administrative review of the building permit would be required.

PC-1

Commissioner Holland was concerned that there is not sufficient protection for streams, waterways, and wetlands in conventional zoning districts.

PC-2



## LETTER PC Meeting

Vice Chair Dickenson asked if all the lots were legal, specifically given the limited access to the upper lots. Mr. Lai explained that there are at least five separate lots. He indicated that staff will need to confirm that all of the lots have road access. **(00:30:00)** Vice Chair Dickenson also questioned whether the houses would be subject to Design Review because of the recent revision in the Development Code. Mr. Lai explained that the project would be subject to the new Design Review requirements, especially the upper lots that have greater than 25% slopes.

PC-3

Chair Greenberg opened the public hearing.

Scott Hochstrasser, applicant's representative, commented on the purpose of the rezoning, historic zoning of the site, preservation of natural resources, references to below-market rate units, and problems with the design of the alternatives. Vice Chair Dickenson agreed that the rezoning issue is very confusing. He asked, and Mr. Hochstrasser confirmed, that the allowable density under current zoning regulations would be substantially less than 28 units.

PC-4

The following members of the public spoke about the project, citing these issues: traffic, biological resources, flooding, opposition to the rezoning, square footage of the units, inadequate analysis of the various alternatives, explanation of the private open space, drainage, the lack of permeable surfaces, invasive species, five units in the oak woodland, flawed language in the DEIR, construction noise impacts, impacts to wildlife from domestic pets, incompatibility with the existing neighborhood, integrity of the dam, calculation of vegetation on the site, incomplete objectives, visual impacts, maintenance of the landscaping, density of the project, light and glare impacts, tree removals, HOA protection of the open space, wildlife protections, 100-foot wetlands buffer, current density in the neighborhood, ambient noise levels, lack of services in the area, precedent that will be set, growth inducing impacts, lack of scientific analysis, threatened and endangered species, and lack of community benefit from the project.

PC-5

Mark Wallace, President of the Santa Venetia Association; Giselle Block, Elaine Reichert, Lion Goodman, Art Reichert **(01:00)**, Bob Sos, Mary Hanley, Linda Levey, Helmut Winkelhabe, Peter Gottschalk, Jonathan Metcalf, Mary Feller, Shelley Sweet, Kevin Burrell, and Robert Sylvester **(01:30)**.

Mr. Hochstrasser noted that the Hydrology Section of the EIR clearly addresses the flood control improvements that will be made by the project.

PC-6

Commissioner Holland asked whether the proposed project would locate some houses within the 100-foot wetland setback. Mr.

PC-7

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Meeting**

Hochstrasser agreed that it would and discussed the mitigations in the EIR, which will reduce the impacts to less than significant levels.

**PC-7  
cont.**

Seeing no further speakers, Chair Greenberg closed the public hearing.

The Commission recessed for 15 minutes and reconvened with six members present as indicated.

The Commission had the following comments/questions about the project.

Commissioner Holland said he would like to see the environmental constraints analysis done in 2005; Chair Greenberg said it would be helpful to see it as part of the Final EIR.

**PC-8**

Commissioner Holland asked about the proposed tree removals mentioned on page 2-25. Staff acknowledged that the word "all" was a typo and should be removed. Commissioner Holland expressed confusion about Figure 3-4, which shows existing boundaries, existing property lines and assessor's parcel lines; he also asked whether Bay Creek Drive and Bay Creek Court were to be dedicated roadways or private driveways, whether there was going to be a drainage catch basin in the center of the North San Pedro Road roadway as stated, how the green building score was calculated, whether there were rendered elevations of the proposed houses as mentioned by one of the correspondents, clarification about the open space preserve east of lot 12, whether the simulated visual labeled "northeastern visual from Gallinas Road" should be corrected to "southeastern", he inquired whether the five existing parcels could be subdivided further under the current zoning; and that if the site is rezoned to a "planned zoning district" whether the County would have much greater discretionary review authority.

**PC-9**

Commissioner Theran asked about the environmental constraints analysis, noting that the Draft EIR didn't mention any species of concern in the pond/stream area (which could have a major impact on the setbacks). He also asked for more information on how the changes in drainage would affect the water levels in the pond, whether and how they will be transporting soil off the site, efforts to control particulate matter and diesel exhaust, and about mitigation for removal of the great blue heron rookery.

**PC-10**

Vice Chair Dickenson commented that the EIR is inadequate in many ways - there is not enough data to support many of its conclusions. Specific information that he would like to see were clarification on the number of legal lots, what zoning regulations would apply to each lot, locations of which trees were to be removed, a map showing the limits of grading, architectural drawings of the proposed homes, more accurate photo

**PC-11**

**LETTER PC  
Meeting**

simulations and depictions of the project including a revised figure 4.8-5 without the proposed trees along the edge of the right-of-way and the eucalyptus trees in the background that are proposed to be removed, a revised figure 4.8-7 without the large grove of eucalyptus trees near the center of the photo that are also proposed to be removed, an additional photo simulation of how the project would appear from North San Pedro Road near the east side of the property looking west, and more realistic descriptions, analysis and impacts of the project alternatives. **(02:00)**

**PC-11  
cont.**

Commissioner Thompson stated that the traffic numbers need to be reviewed again and presented more accurately. He also commented that the legend on the sheet showing the tree removals is illegible.

**PC-12**

Commissioner Lubamersky said she thought there were a lot of good questions raised by the public in their comments and in letters from the public, some of which she would have asked herself. She indicated she was looking forward to seeing the responses. She agreed that some of the conclusions were unsupported by the data. She asked for more information on the offsite draining effects, and she expressed preference for actual fencing of the streams rather than posting "Exclusion Zone" signs.

**PC-13**

Chair Greenberg agreed with Vice Chair Dickenson that the data to support the conclusions could not be found in the report, particularly referencing the exception for reduced setbacks. She also indicated she would like to see the building elevations, grading plan, more information on the allowable uses in the private open space area, mitigation for the likely spread of broom resulting from grading and infrastructure installation, details on the no project alternative, details about the non-permeable surfaces, and technical reports. She also expressed the hope that the consultant will fully answer all the questions from the public in the "Response to Comments" document.

**PC-14**

Commissioner Theran said he would like clarification as to whether the driveway location in the mitigated alternative is realistic.

**PC-15**

Commissioner Holland asked what the source was for the traffic data presented, since it does not seem to match the real day-to-day experiences of the residents. He also stated that the line of sight problem coming off the property onto North San Pedro Road needs to be resolved before construction starts. He indicated that he was opposed to having separate open spaces for each lot; he would prefer one contiguous area with single ownership of the open space. He was especially opposed to the alternative with duplexes and zero-setback lot lines. He asked for better graphics, and he was concerned about the mosquito issue as the pond dries up in the

**PC-16**

## LETTER PC Meeting

summer. He commented on conflicting statements under Issues to Resolve: *"the Alternate Use Alternative is the environmentally superior alternative"* and *"the Reduced Density Alternative is the most environmentally superior alternative."*

PC-17

Finally, Commissioner Holland asked Mr. Heyd if the implication of the "Issues to be Resolved" section in Chapter 2 was that all adverse environmental impacts can be reduced to a level of less-than-significant by applying to the project as proposed by the applicant all the recommended mitigations, and implementing the single project design change specified in Mitigation Measure 4.6-E.1. Mr. Heyd concurred with Commissioner Holland's conclusion. Commissioner Holland recommended that in the Mitigation Monitoring and Reporting Program table in Appendix B, the entry in the "When Implemented" column for Mitigation 4.6-E.1 should be changed from "During Construction" to "Precise Development Plan", because the possible redesign of the footprint of the residence on Lot 1 would have to be addressed during consideration of the Precise Development Plan.

PC-18

Vice Chair Dickenson said he would be particularly interested in the response to issues raised in the letter from the U.S. Fish & Wildlife Service regarding mitigation for loss of potential red-legged frog habitat. He commented on the impact of the proposed tree removals.

PC-19

Mr. Lai, Deputy Director, mentioned that in reviewing past records, it appears that in 1988 the County issued separate determinations of the legality for each of the parcels.

PC-20

Chair Greenberg said she would like larger drawings and larger legends. Commissioner Holland said none of the legends match what is on the drawings.

PC-21

Chair Greenberg and staff reviewed the next steps in the process.

M/s Don Dickenson - Steve Thompson to instruct the consultant to prepare a final EIR based on the written responses to all the oral and written comments received at the Draft EIR hearing, and all the written comments received during the public review and comment period.

Vote: Motion carried 6-0

AYES: Steve Thompson; Don Dickenson; Randy Greenberg; Wade Holland; Pete Theran; Joan Lubamersky.

ABSENT: Katie Crecelius.

Chair Greenberg adjourned the meeting at 3:50 p.m.

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PC-1: Commissioner Holland questioned a statement in the no-project alternative pertaining to the limited applicability of biological conservation areas and the tree ordinance to parcels on the site that are subject to Design Review; Mr. Lai explained that for most cases, only an administrative review of the building permit would be required. Administrative review would apply to the three lots along North San Pedro Road (APN 180-231-05, and -06, and -09), whereas discretionary review would apply to the two remaining lots at higher elevations (APN 180-291-04 and 180-291-07). Master Response 6 provides further discussion of the No Project Alternative.

PC-2: Commissioner Holland expressed concern that there is not sufficient protection for streams, waterways, and wetlands in conventional zoning districts. Commissioner Holland is correct and the three lots identified in the description of the No Project Alternative that would not be subject to discretionary review would also not be subject to the Countywide Plan policies related to WCAs and creek setbacks. No change to the DEIR is required.

PC-3: Vice Chair Dickenson inquired if all five lots were legal given limited access to the upper lots. Mr. Lai confirmed the existence of five legal lots on the site, but indicated that staff would need to confirm that all currently have road access. Vice Chair Dickenson also inquired whether all lots (and homes) under the proposed project would be subject to the new Design Review requirements. Mr. Lai confirmed that all lots under the proposed project would be subject to current Design Review requirements. No change to the DEIR is required.

PC-4: Mr. Scott Hochstrasser, the applicant's representative, commented on the purpose of the rezoning request. The Project Description in the FEIR has been amended to reflect the reasons for the request. The comments made by Mr. Hochstrasser concerning the alternatives in Chapter 5.0 of the DEIR have been addressed in response to comments made in Letter 7. Vice Chair Dickenson agreed with Mr. Hochstrasser that the DEIR does not clearly ex-

plain the rezoning issue. The level of development permissible under existing zoning is discussed in Master Response 6. This issue is also discussed in amended text in Chapter 2 where the No Project Alternative is described.

PC-5: The comment lists members of the public who provided oral comments and summarizes the key issues of concern raised. Twelve of the 15 community members who provided oral comments submitted comment letters during the 45-day public review period. These individuals and associated letter numbers include the following:

- ◆ Mark Wallace (Letter 29)
- ◆ Giselle Block (Letter 11)
- ◆ Elaine Reichert (Letter 15)
- ◆ Art Reichert (Letters 22 and 23)
- ◆ Bob Sos (Letter 24)
- ◆ Mary Hanley (Letter 16)
- ◆ Linda Levey (Letter 19)
- ◆ Helmut Winkelhabe (Letter 28)
- ◆ Jonathan Metcalf (Letter 20)
- ◆ Shelley Sweet (Letter 25)
- ◆ Kevin Berrell (Letter 13)
- ◆ Robert Sylvester (Letter 26)

The oral comments made by these individuals during the course of the hearing were consistent with the written comments included in their respective letters. Please refer to the numbered letters and subsequent responses.

Three of the individuals who provided oral comments did not submit comment letters. These individuals are listed below as well as a summary of their comments and associated responses.

- ◆ Lyon Goodman

1. The noise analysis needs to be bolstered because it is flawed. The analysis does not account for the noise made by dogs barking. The commentor

also expressed concern about construction period noise and that a two year period of construction is unacceptable.

Response – No specific information or examples from the DEIR were presented to support the opinion that the noise analysis is flawed. Potential noise created by dogs barking on the project site would not lead to a substantial increase in ambient noise experienced in the vicinity of the site. The barking of dogs, if it were to occur, would be an intermittent source of noise and there is no evidence available to confirm that future property owners will keep dogs as pets.

As determined in Section 4.10 of the DEIR, there would be potentially significant impacts associated with construction-period noise. However, these impacts would be addressed and effectively mitigated to a less than significant level through the inclusion of Mitigation Measure 4.10-A.1 as part of the project. No change to the DEIR is required.

2. Mr. Goodman questioned the number of new vehicle trips to be introduced on San Pedro Road.

Response – The traffic analysis was completed by an independent, professional traffic engineer who based his estimate of future vehicle trips on accepted industry methodology and criteria. Please refer to Section 4.6 of the DEIR for additional information on how the traffic generation estimates were developed.

◆ Peter Gottchalk

3. The project would increase ambient noise levels over existing conditions.

Response – As specified in the Countywide Plan, a substantial permanent increase in noise levels would occur if project-generated noise increased ambient levels by more than 5 dBA, or by more than 3 dBA and exceeded the “normally acceptable” threshold for residential use areas, which is 60 dBA. As Section 4.10 of the DEIR states, existing residences west and north of the project site may hear noise from the proposed development (operational noise), however the average levels at those receptors would not increase by 5BA or more or exceed 60 dBA in the long-term. Therefore, long-term noise

levels at these receptors would not exceed the levels considered “normally acceptable” for residential development, as identified in the Countywide Plan. A less than significant impact would occur. No change to the DEIR is required.

4. The project traffic would result significant delays at local intersections.

Response – The traffic analysis was completed by an independent, professional traffic engineer. His estimate of future vehicle trips and the effects of those trips on local intersection operations was based on accepted industry methodology and criteria. As the analysis concluded, the project would add to volumes at the study intersections, but would not result in any significant impacts. Please refer to Section 4.6 of the DEIR for additional information.

5. How was the Persons per Household estimate in Section 4.13 generated?

Response – As documented on page 4.13-3 of the DEIR, the persons per household rates used are based on the most recent set of US Census data. No change to the DEIR is required.

6. There will be adverse changes to the level of ambient light in the area.

Response – The issue of exterior, night-time lighting for the project is discussed in Master Response 2. As the response indicates, the Single Family Hillside Design Guideline standards for exterior lighting would apply to all units. All exterior lighting would be limited to only the lighting needed for roadway safety and home security.

7. The rookery tree is diseased because it was bulldozed.

Response – What may have caused the damage to the base of the tree on-site containing the heron rookery is not germane to the content or adequacy of the DEIR. No further response is required.



8. The County is already 50 percent over its current growth rate.

Response – The commentor did not present any evidence to demonstrate that the County is exceeding its annual projected growth rate. Regardless, as determined in Chapter 4.13 of the DEIR, the additional population within the County that the project may create would not be in excess of the growth projections presented in the CWP. No change to the DEIR is required.

9. The DEIR is not credible. Aside from his points above, Mr. Gottchalk did not present any additional evidence to support this opinion. No change to the DEIR is required.

◆ Mary Feller

10. Traffic section – NSPR/Civic Center intersection is not included and needs to be. The Civic Center intersection is probably operating at LOS F.

Response – The NSPR/Civic Center intersection was examined as part of the traffic analysis. Please refer to Section 4.6 for additional information. No change to the DEIR is required.

11. There is a traffic backup at the intersection of Oxford and North San Pedro Road at the location of the 7-11 store.

Response – The NSPR/Meadow Drive intersection was examined as part of the traffic analysis. As shown on Figure 4.6-1 of the DEIR, this intersection is immediately adjoining the intersection of Oxford and NSPR. No change to the DEIR is required.

12. Other intersections need to be included in the traffic study.

Response – As stated in Section 4.6 of the DEIR, the intersections to be analyzed were identified through direct coordination between the County's traf-

fic consultant (Bob Harrison) and the County Department of Public Works.<sup>7</sup> The analysis encompassed an appropriate number of intersections. No change to the DEIR is required.

13. It can take 10-30 min to get to stop light at SPR and Civic Center and there are substantial traffic back ups during the AM peak hour.

Response – The issue of traffic back ups during the AM peak on NSPR is discussed in Master Response 8. As the response indicates, the 11 estimated AM peak period trips from the project would represent less than a one percent increase in traffic on NSPR. The minimal number of trips that the project would add would result in an imperceptible change in traffic conditions.

PC-6: Mr. Hochstrasser noted that the Hydrology Section of the EIR clearly addresses the flood control improvements that would be made by the project. No further response or change to the DEIR is required.

PC-7: Commissioner Holland ascertained from Mr. Hochstrasser that the project would locate houses within the 100-foot wetland conservation area (WCA) buffer. Mr. Hochstrasser summarized the mitigations in the EIR that would reduce the potential impacts to a less than significant level.

PC-8: Commissioner Holland said he would like the environmental constraints analysis completed in 2005 and Chair Greenberg said it would be helpful for the analysis to be part of the FEIR. The constraints analysis has been included in the FEIR as Appendix F.

PC-9: Commissioner Holland asked a series of questions, as summarized in the minutes. Responses to each of the questions asked are provided below.

1. Commissioner Holland identified a typo on page 2-25 of the DEIR. The word “all” has been removed from the text.

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<sup>7</sup> Nutt, Jason. Marin County Department of Public Works, Traffic Operations Division, memo to Tim Haddad, Marin County Environmental Coordinator, dated July 7, 2004.

2. Figure 3-4 has been modified to clearly distinguish the relevant information; the overall property boundary and Assessor Parcel lines. Please see the Revised Figure 3-4.
3. Bay Creek Court and Bay Creek Drive would be private driveways.
4. Two basins would be installed including one at the intersection of North San Pedro Road and Bay Creek Drive and another approximately 20 feet to the north near the center of North San Pedro Road. Both of the basins would be installed below grade to outlet structures and would serve to control the amount of sediment and debris transported into receiving waters.
5. The GreenPoint Rated checklist tracks green features incorporated into a new home. The recommended minimum requirements for a green home are to earn a total of 50 points or more and to obtain the following minimum points per category: Energy (30), Indoor Air Quality/Health (5), Resources (6), and Water (9); and meet the prerequisites. The proposed project earned 90 points by scoring 40 points for Energy, 12 points for Indoor Air Quality/Health, 13 points for Resources, 23 points for Water, and 2 points for Community.
6. Rendered elevations have been included in Appendix G of the FEIR.
7. The open space preserve would be encumbered with an open space, scenic and resource conservation easement. Management of the open space is described in Master Response 7. Permanent Deed restrictions would be placed on lots 8-12 relating to the use and maintenance of the private open space. The deed restrictions would be permanent and be applicable to all future owners.
8. Figure 4.8-2 has been renamed to “Southeastern View of Site from Pt. Gallinas Road”. (Note to County: Figure 4.8-2 Revised with new Figure title will be included in Screen Check. Aside from title, the figure will be the same.
9. Under existing zoning, the five existing parcels could be further subdivided.

10. Rezoning to planned zoning district would afford the County discretionary review authority over all proposed lots. As discussed in Master Response 6, under the No Project Alternative, discretionary review would be limited to two lots.

PC-10: Commissioner Theran asked a series of questions concerning the environmental constraints analysis, drainage, transporting soil off-site, efforts to control particulate matter and diesel exhaust, and mitigation for removal of the great blue heron rookery. Responses to Commissioner Theran's questions are provided below.

1. As indicated in Chapter 4.3 of the DEIR, of the 16 species reported in 2005 with potential to occur on site, four of them, including Allen's hummingbird, were USFWS Species of Concern. However, as also indicated in the Chapter, the Service no longer tracks this category.
2. As explained in Chapter 4.4 (Hydrology and Water Quality), the required water elevation of the modified storm water pond is estimated to be about 34.2 feet to create a volume of 0.62 acre-feet (see Figure 4.4-3). The existing pond has an existing earthen berm along the south edge of San Pedro Road with an estimated elevation of about 34.0 feet and a maximum existing capacity of 0.57 acre-feet. Therefore, maximum water levels could increase by approximately 0.2 feet in the modified pond.
3. As described in the Project Description (Chapter 3), soil will be transported off-site by 20 cubic-yard trucks.
4. Particulate matter and diesel exhaust would be controlled through Mitigation Measure 4.5-A.1 in Chapter 4.5.
5. Mitigation Measures 4.3-B.1 through 4.3-B.4 are devoted to removal of the heron rookery.

PC-11: Vice Chair Dickenson commented that the EIR is inadequate in many ways and that there is not enough data to support many of its conclusions. Responses to each of Vice Chair Dickenson's questions and requests are provided below.

1. There are five legal lots on the project site currently.
2. Zoning regulations that would apply to each lot under the proposed project are those defined under Residential Single-Family Planned Development zoning district.
3. The tree removal plan is illustrated in Appendix E of the FEIR. Tree removal is also discussed in Master Response 9.
4. The limits of grading are included in Appendix D of this FEIR.
5. Architectural drawings are on-file at the County Community Development Agency office.
6. Photo simulations have been revised and are included in Chapter 4.8 of the FEIR.
7. The locations for the simulated views of the project were developed in coordination with County staff and determined to be adequate for the purpose of identifying potential visual impacts.
8. Master Response 3 explains the adequacy of the alternative analysis, including the range of alternatives considered, level of detail presented, and the description of No Project Alternative.

PC-12: Commissioner Thompson stated that the traffic numbers need to be reviewed again and presented more accurately.

The traffic analysis was completed by an independent, professional traffic engineer following accepted industry methodology. Four tables were presented in Section 4.6 of the DEIR to clearly present relevant data and conclusions from the traffic analysis. Commissioner Thompson did not specify the means by which the data could be presented more effectively.

The legend of the exhibit in Appendix E showing tree removal has been enlarged.

PC-13: Commissioner Lubamersky said she thought there were a lot of good questions raised by the public in their comments and in letters from the pub-

lic, some of which she would have asked herself. She asked for more information on the offsite drainage effects, and she expressed preference for actual fencing of the streams rather than posting "Exclusion Zone" signs.

Regarding off-site drainage, as explained in Section 4.4 of the DEIR, a drainage plan for the project has been developed to ensure that volumes of stormwater runoff from the site do not increase from pre-development levels. As a result, there would be no increase in runoff from the site that would otherwise adversely affect downstream drainage. In the long-term, there would be permanent fencing to delineate the creek setback, as indicated on the fencing plan.

PC-14: Chair Greenberg agreed with Vice Chair Dickenson that the data to support the conclusions could not be found in the report, particularly referencing the exception for reduced setbacks. The DEIR does provide data to support the conclusion that the reduced setback from the wetland is appropriate. As explained in the Existing Conditions section of Chapter 4.3 in the DEIR, the pond and surrounding wetland are artificial or modified features that have been created or altered by past human activities. Prior to construction of North San Pedro Road, the creek probably drained directly into a freshwater marsh located northwest of the project site. Construction of the road grade obstructed the natural drainage flow from the creek and contributed to the formation of the pond. In addition, the area around and upslope of the pond was altered by a landslide deposit of unknown age<sup>8</sup> and the ground in this area has been substantially disturbed. Drainage from the creek now spreads out in sheet flow across the disturbed ground between the toe of the slope and the pond. This combination of factors has resulted in a degraded wetland area characterized by a predominance of non-native, weedy vegetation.

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<sup>8</sup> Earth Mechanics, 1998. *Site Stability Evaluation, Planned Residential Development, 650 North San Pedro Road, San Rafael, California*. Letter-report from H. Allen Gruen, Principal Engineer, to Mr. Vincent Saunders, Saunders and Associates, August 24.

Each additional comment and request made by Chair Greenburg is addressed below.

1. Building Elevations are included in Appendix G of the FEIR.
2. The project Grading Plan is included in Appendix D.
3. Long-term management of the on-site open space is discussed in Master Response 7.
4. The potential for spread of scotch broom was not identified as a potentially significant impact in the DEIR. No mitigation to address such impacts was therefore recommended.
5. The No Project Alternative is discussed in more detail in response to Master Response 6.
6. The request for additional detail on non-permeable surfaces is not specific enough to allow for an informed response. Appendix C, however provides the technical drainage analysis.

PC-15: Commissioner Theran said he would like clarification as to whether the driveway location in the mitigated alternative is realistic. The driveway would require a substantial increase in cut to meet fire access standards for slope, but this does not render it infeasible.

PC-16: Commissioner Holland made several comments and requests, each of which is addressed below.

1. The source of the traffic data presented is a traffic study completed by Robert Harrison, Transportation Engineer. The concerns expressed by local residents are further addressed in Master Response 8.
2. As specified in the amended Mitigation Measure 4.6-E.1, confirmation of adequate sight distance would be required prior to the start of construction.
3. Preference for a combined open space under single ownership is a merits-opinion based comment. No further response warranted.

4. Opposition to the Alternate Use Alternative is a merits-opinion based comment. No further response is warranted.
5. Regarding mosquito abatement, the project site is located in the Marin County Mosquito Abatement District. The final pond details will be transmitted to the District for suggestions on design, if necessary, to address mosquito abatement issues.
6. The discussion under Issues to be Resolved in Chapter 2 has been revised to clarify the relationship between the Reduced Density Alternative and the Alternate Use Alternative.

PC-18: Commissioner Holland asked Mr. Heyd if the implication of the "Issues to be Resolved" section in Chapter 2 was that all adverse environmental impacts can be reduced to a level of less-than-significant by applying to the project as proposed by the applicant all the recommended mitigations, and implementing the single project design change specified in Mitigation Measure 4.6-E.1. Mr. Heyd concurred with Commissioner Holland's conclusion. Commissioner Holland recommended that in the Mitigation Monitoring and Reporting Program table in Appendix B, the entry in the "When Implemented" column for Mitigation 4.6-E.1 should be changed from "During Construction" to "Precise Development Plan" The text has been amended accordingly.

PC-19: Vice Chair Dickenson said he would be particularly interested in the response to issues raised in the letter from the U.S. Fish & Wildlife Service regarding mitigation for loss of potential red-legged frog habitat. Each of the comments made by USFWS are presented in Letter 1 and subsequently addressed. Please refer to those responses for additional information. The tree removal and mitigation plans are discussed in more detail in Master Response 9.

PC-20: Mr. Lai, Deputy Director, mentioned that in reviewing past records, it appears that in 1988 the County issued separate determinations of the legality for each of the parcels. No response is required.



COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
COMMENTS AND RESPONSES

PC-21: Chair Greenberg said she would like larger drawings and larger legends. The Commissioner Holland said none of the legends match what is on the drawings, however did not specify on which drawing the discrepancies exist.

COUNTY OF MARIN  
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COMMENTS AND RESPONSES

## 78 REPORT PREPARATION

This report was prepared by:

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- ◆ Robert L. Harrison Transportation Planning, Traffic and Circulation
- ◆ Garcia & Associates, Biological Resources and Cultural Resources
- ◆ Stetson Engineers, Hydrology and Water Quality
- ◆ Environmental Collaborative, Biological Resources

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
REPORT PREPARATION

## 89 REFERENCES

### *4.1 Land Use*

#### Publications

County of Marin, Community Development Agency. Marin Countywide Plan Update, Draft Environmental Impact Report, January 2007.

#### Websites

County of Marin, Community Development Agency. Zoning Map, <http://gisprod1.co.marin.ca.us/CAODist/viewer.htm>. Accessed on January 17, 2008.

State of California, Department of Conservation. Prime Farmland Definition, [http://www.conservation.ca.gov/dlrp/fmmp/overview/Pages/prime\\_farmland\\_fmmp.aspx](http://www.conservation.ca.gov/dlrp/fmmp/overview/Pages/prime_farmland_fmmp.aspx). Accessed on April 7, 2008.

### *4.2 Geology and Soils*

#### Publications

Lowney Associates, Geohazards Assessment Report, San Pedro Court Project, San Rafael, California, April 2005.

#### Websites

State of California, California Geological Survey. Website, <http://www.consrv.ca.gov/CGS/rghm/ap/>. Accessed on June 10, 2008.

County of Marin, Countywide Plan Map Viewer, <http://gisprod.co.marin.ca.us/CWP/Viewer/bottom/Viewer.asp>, accessed on May 8, 2008.

Marin County Sheriff's Office, Local Hazard Mitigation Plan, <http://www.marinsheriff.org/uploads/documents/Marin%20County%20Local%20Hazard%20Mitigation%20Plan.pdf>. Accessed June 10, 2008.

Association of Bay Area Government, GIS Liquefaction Susceptibility Map, <http://gis.abag.ca.gov/website/liq/viewer.htm>. Accessed January 22, 2008.

United State Geological Survey, website, <http://water.usgs.gov/ogw/karst>, accessed on June 10, 2008.

### *4.3 Biological Resources*

#### Publications

Marin County Community Development Agency, 2007. *Marin Countywide Plan*. Adopted November 7, 2007.

Garcia and Associates (GANDA), 2005a. *Biological Resources Technical Report for the San Pedro Court Project, Marin County, California*. Prepared for DC&E, June 1.

Garcia and Associates (GANDA), 2005b. Update to SOD Evaluation at San Pedro Road. Memo prepared for DC&E, April 19.

MacNair and Associates. 650 North San Pedro Road Tree Inventory and Evaluation (Revised), Marin County, California. Prepared for West Bay Builders, October 7, 2007.

Cal-IPC (formerly called the California Exotic Pest Plant Council [Cal-EPPC]), 1999. Exotic pest plants of greatest ecological concern in California. Unpublished list.

Bossard, C.C., J.M. Randall and M.C. Hoshovsky (eds.), 2000. *Invasive Plants of California's Wildlands*. University of California Press, Berkeley, CA.

ILS Associates, Inc., 2003. San Pedro Court Topographic and Boundary Survey, Sheet No. C-2. Prepared for West Bay Builders, July 25.

Prunuske Chatham, Inc., 2003. West Bay Builders Preliminary Wetland Assessment Report. Prepared for West Bay Builders, November.

U.S. Army Corps of Engineers, 2004. Letter from Jane Hicks, U.S. Army Corps of Engineers, San Francisco District, to West Bay Builders. File No. 28450N, July 15.

Earth Mechanics, 1998. Site Stability Evaluation, Planned Residential Development, 650 North San Pedro Road, San Rafael, California. Letter-report from H. Allen Gruen, Principal Engineer, to Mr. Vincent Saunders, Saunders and Associates, August 24.

Garcia and Associates (GANDA), 2005c. SOD Evaluation at San Pedro Road. Memo prepared for DC&E, April 8.

Garcia and Associates (GANDA), 2005a. Biological Resources Technical Report for the San Pedro Court Project, Marin County, California. Prepared for DC&E, June 1.

Garcia and Associates (GANDA), 2005d. San Pedro Court Final Rare Plant Survey. Memo prepared for DC&E, July 15.

California Department of Fish & Game (CDFG), 2005a. Natural Diversity Database (RareFind3, Version 3.0.5). Electronic database. Sacramento, CA. Updated in August 2008.

Figura, Peter, Biologist, California Department of Fish & Game (CDFG). Email communication on August 19, 2005.

Kelly, J.P. 2002. A Safe Place to Nest: Disturbance Patterns in Heronries. The Ardeid 2002: 1-3. Audubon Canyon Ranch Cypress Grove Research Center, Marshall, CA.

MacNair and Associates, 2007. 650 North San Pedro Road Tree Inventory and Evaluation (Revised), Marin County, California. Prepared for West Bay Builders, October 7.

Kelly, J.P., et al., 2006. Annotated Atlas and Implications for the Conservation of Heron and Egret Nesting Colonies in the San Francisco Bay Area. ACR Technical Report 90-3-17, Marshall, CA, August 2006.

Starkweather, J., Audubon Canyon Ranch Volunteer. Personal communication with County's biological consultant, June 2, 2008.

Sarrow, Jeremy, California Department of Fish & Game (CDFG), Biologist. Personal communication with County's biological consultant, May 30, 2008.

Kelly, J.P. 2002. A Safe Place to Nest: Disturbance Patterns in Heronries. The Ardeid 2002: 1-3. Audubon Canyon Ranch Cypress Grove Research Center, Marshall, CA.

Kelly, J.P. Director, Research and Resource Management, Audubon Canyon Ranch Cypress Grove Research Center. Telephone conversation with Daniel Clemens, May 9, 2005.

Kelly, J.P., et al., 2006. Annotated Atlas and Implications for the Conservation of Heron and Egret Nesting Colonies in the San Francisco Bay Area. ACR Technical Report 90-3-17, Marshall, CA, August 2006.

Kelly, J.P. Director, Research and Resource Management, Audubon Canyon Ranch Cypress Grove Research Center. Telephone conversation with John McCarthy on June 17, 2008.

MacNair and Associates, 2007. 650 North San Pedro Road Tree Inventory and Evaluation (Revised), Marin County, California. Prepared for West Bay Builders, October 7.



Kelly, J.P., 2002. A Safe Place to Nest: Disturbance Patterns in Heronries. The Ardeid 2002: 1-3. Audubon Canyon Ranch Cypress Grove Research Center, Marshall, CA.

Garcia and Associates (GANDA), 2007. Update on 650 N. San Pedro Road, Heron Rookery. Memo prepared for DC&E, April 9.

California Department of Fish & Game (CDFG), 2002. California Wildlife Habitat Relationships System. Electronic database, Version 8.0. California Interagency Wildlife Task Group, Sacramento, CA.

Donald L. Blaney and Associates, 2007. Conceptual Tree Mitigation Plan. Prepared for West Bay Builders, March 20.

#### Websites

California Native Plant Society (CNPS), 2006. Inventory of Rare and Endangered Plants. <http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi>.

#### *4.4 Hydrology and Water Quality*

##### Publications

San Francisco Regional Water Quality Control Board, San Francisco Bay Basin Plan amendment, <http://www.swrcb.ca.gov/rwqcb2/TMDL/urbcrksdiazinon/approvedbpa.pdf>. Accessed on June 11, 2008.

San Francisco Bay Regional Water Control Board, Proposed 200566 CWA Section List of Water Quality Limited Segments. [http://www.waterboards.ca.gov/tmdl/docs/303dlists2006/final/r2\\_final303dlist.pdf](http://www.waterboards.ca.gov/tmdl/docs/303dlists2006/final/r2_final303dlist.pdf). Accessed on June 11, 2008.

County of Marin, Flooding Technical Background Report, Update November 2005, page 15.

Code of Federal Regulations, Title 44, Volume 1, Chapter 1, Part 9, Floodplain Management and Protection of Wetlands, Section 9.4, Definitions.

Marin County Code, Title 24, Development Standards.

Marin Municipal Water District, Urban Water Management Plan 2000, February 18, 2003.

California Stormwater Quality Association, California Stormwater Best Management Practices Handbook 2003.

Natural Resources Conservation Service (NRCS), Urban Hydrology for Small Watersheds, TR-55, 1986.

#### Websites

U.S. Environmental Protection Agency, Pesticides: Topical & Chemical Fact Sheets, <http://www.epa.gov/pesticides/factsheets/chemicals/diazinon-factsheet.htm>. Accessed on June 11, 2008.

### *4.5 Air Quality*

#### Publications

California Air Resources Board, ARB Almanac 2005 – Chapter 5: Toxic Air Contaminant Emissions, Air Quality, and Health Risk.

Marin Countywide Plan, Air Quality Technical Background Report. Marin County Community Development Agency, April 2002.

Bay Area Air Quality Management District, Bay Area Air Pollution Summary, 2004.

Bay Area Air Quality Management District, *BAAQMD CEQA Guidelines Assessing the Air Quality Impacts of Projects and Plans*, page 15.

Bay Area Air Quality Management District, BAAQMD 1999 CEQA Guidelines, Table 6, Projects with Potentially Significant Emissions, page 25.

Association of Environmental Professionals, Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents, June 29, 2007.

Intergovernmental Panel on Climate Change. 2007. R.B. Alley, et al. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. Summary for Policymakers. [www.ipcc.ch/WG1\\_SPM\\_17Apr07.pdf](http://www.ipcc.ch/WG1_SPM_17Apr07.pdf).

Association of Environmental Professionals, Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents, June 29, 2007.

State of California, Final 2006 Climate Action Team Report to the Governor and Legislature, 2006.

Association of Environmental Professionals, Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents, June 29, 2007.

Association of Environmental Professionals, Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents, June 29, 2007.

United Nations Framework Convention on Climate Change. 2006. Greenhouse Gas Emissions Data, Predefined Queries, Annex I Parties - GHG total without LULUCF (land use, land-use change, and forestry). [http://unfccc.int/ghg\\_emissions\\_data/predefined\\_queries/items/3841.php](http://unfccc.int/ghg_emissions_data/predefined_queries/items/3841.php)

U.S. Environmental Protection Agency, Office of Atmospheric Programs. April 2006. The U.S. Inventory of Greenhouse Gas Emissions and Sinks: Fast Facts. <http://epa.gov/climatechange/emissions/downloads06/06FastFacts.pdf>

U.S. Environmental Protection Agency. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2005. Executive Summary. April 2007. USEPA #430-R-07-002  
<http://www.epa.gov/climatechange/emissions/usinventoryreport.html>

U.S. Environmental Protection Agency. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2005. Executive Summary. April 2007. USEPA #430-R-07-002  
<http://www.epa.gov/climatechange/emissions/usinventoryreport.html>

California Energy Commission. December 2006. Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004. Staff Final Report. CEC-600-2006-013-SF. <http://www.energy.ca.gov/2006publications/CEC-600-2006-013/CEC-600-2006-013-SF.PDF>

#### Communication

Greg Tholen, Senior Environmental Planner, Bay Area Air Quality Management District, personal communication with DC&E, April 26, 2007.

### *4.6 Traffic and Circulation*

#### Publications

Marin Countywide Plan, Built Environment Element, page 3-147.  
Marin County Code, Title 24.

Caltrans 2003 Manual on Uniform Traffic Control Devices, Chapter 9 -- Traffic Signals and Lighting. Paragraph 9-01.2, Traffic Signal Warrants.  
California Department of Transportation. Highway Design Manual

Communications

Nutt, Jason. Marin County Department of Public Works, Traffic Operations Division, to Tim Haddad, Marin County Environmental Coordinator, dated July 7, 2004.

Robert Harrison Transportation Planning, written communication received by DC&E on January 16, 2008.

*4.7 Public Services*

Publications

County of Marin, 2003, Marin Countywide Plan Community Facilities Element Technical Background Report.

Marin County Code Section 22.98.040, Parkland Dedications and Fees

Marin County Parks and Open Space Department Comprehensive Strategic Plan: Existing Conditions Needs and Assessment Report, June 2007.

Marin Countywide Plan, Community Development Element.

Communications

Shoenthal, Keith. Division Chief, San Rafael Fire Department. Personal communication with Kyle Simpson, DCE, February 1, 2008.

Toci, Diana. Administrative Assistant to the Fire Chief, San Rafael Fire Department. Personal communication with DC&E, October 31, 2008.

Marziano, Fred. Sergeant, Marin County Sheriff's Office. Personal communication with Kyle Simpson, DC&E, January 30, 2008.

Medina, Susan. Crime Analyst, Marin County Sheriff's Office. Personal communication with Carey Stone, DC&E, November 8, 2007.

Medina, Susan. Crime Analyst, Marin County Sheriff. Personal email communication with Carey Stone, DC&E, October 11, 2007.

Echo, Mary Lou, Business Services Administrative Assistant, San Rafael City Schools. Personal email communication with Carey Stone, DC&E, November 9, 2007.

Colucci, Ed. San Rafael City Schools, Director, Curriculum & Student Services. Personal communication with Carey Stone, DC&E October 4, 2007.

#### Websites

Marin County Sheriff's Office, [http://www.marinsheriff.org/about.aspx?gi\\_id=129](http://www.marinsheriff.org/about.aspx?gi_id=129), accessed January 30, 2008

California State Parks, website, <http://www.parks.ca.gov/pages/795/files/quimby101.pdf>. Accessed on April 2, 2008.

Marin County Parks and Open Space website: <http://www.co.marin.ca.us/depts/PK/Main/pos/pdjfmkns.cfm>, accessed April 7, 2008.

Education Data Partnership, website, <http://www.ed-data.k12.ca.us>, accessed January 30, 2008.

#### *4.8 Aesthetics*

##### Publications

County of Marin Parks and Open Space District website, <http://co.marin.ca.us/depts/PK/Main/os/osdsnta.cfm>, accessed on April 9, 2008.

Existing Tree Inventory and Removal Plan, Donald L. Blaney & Associates, Prepared for West Bay Builders, March 20, 2007.

Tree Mitigation Plan, Donald L. Blaney & Associates, Prepared for West Bay Builders, March 20, 2007.

Revised Tree Mitigation Plan, Donald L. Blaney & Associates, Prepared for West Bay Builders, August 14, 2008.

Planting Plan, Donald L. Blaney & Associates, Prepared for West Bay Builders, March 20, 2007.

California Department of Transportation. Officially Designated State Scenic Highways. [http://www.dot.ca.gov/hq/LandArch/scenic\\_highways/](http://www.dot.ca.gov/hq/LandArch/scenic_highways/). Accessed January 24, 2008.

#### Websites

California Department of Transportation. Officially Designated State Scenic Highways. [http://www.dot.ca.gov/hq/LandArch/scenic\\_highways/](http://www.dot.ca.gov/hq/LandArch/scenic_highways/). Accessed January 24, 2008.

### *4.9 Cultural Resources*

#### Publications

State of California Office of Historic Preservation, 1988, Five Views: An Ethnic Historic Site Survey for California, Sacramento: State of California Department of Parks and Recreation.

State of California Office of Historic Preservation, 1990, California Historical Landmarks, Sacramento: State of California Department of Parks and Recreation.

State of California Office of Historic Preservation, 1992, California Points of Historical Interest, Sacramento: State of California Department of Parks and Recreation.

State of California Office of Historic Preservation, 2005, Historic Properties Directory Listing by City (through August 2005), Sacramento: State Office of Historic Preservation.

Memo dated 17 December 2007 from Lisa Hagel, Northwest Information Center, Sonoma State University.

#### Websites

CEQA Technical Advice Series website, CEQA & Historical Resources, [http://ceres.ca.gov/topic/env\\_law/ceqa/more/tas/page2.html](http://ceres.ca.gov/topic/env_law/ceqa/more/tas/page2.html), accessed April 7, 2008.

California Native American Heritage Commission, website, <http://ceres.ca.gov/nahc/discovery.html>, accessed April 7, 2008.

Natural Resources Conservation Service, website, <http://www.arrow-heads.com/burials.htm#CALIFORNIA>, accessed February 7, 2006.

California Department of Parks and Recreation, 1976, California Inventory of Historic Resources, Sacramento: State of California Department of Parks and Recreation.

#### *4.10 Noise*

##### Publications

Marin Countywide Plan, Built Environment Element.  
Illingworth and Rodkin, Inc. 2006.



Handbook of Acoustical Measurements and Noise Control, Cryril M. Harris, Editor in Chief, 1998, page 50.16.

United States Environmental Protection Agency, 1973, Legal Compilation on Noise, Vol. 1, page 2-104.

#### Communications

Robert Harrison Transportation Planning, written communication received by DC&E on April 16, 2008.

Illingworth and Rodkin, written communication received by DC&E on April 16, 2008.

#### *4.11 Hazards and Hazardous Materials*

#### Publications

Lowney Associates, *Limited Phase I Environmental Site Assessment*.

Marin County Fire Department, Community Wildfire Protection Plan, Figure 1, Wildland Urban Interface. Marin Countywide Plan

Fire Hazard Management Plan, Donald L. Blaney & Associates, Prepared for West Bay Builders, March 20, 2007.

#### Websites

Department of Toxic Substances Control, website, [http://www.dtsc.ca.gov/InformationResources/DTSC\\_Overview.cfm#Overview\\_of\\_DTSC](http://www.dtsc.ca.gov/InformationResources/DTSC_Overview.cfm#Overview_of_DTSC)

County of Marin, Waste Management Services, website, <http://www.co.marin.ca.us/depts/pw/main/wastemanagement.cfm>, accessed on April 7, 2008.

Google Maps, <http://maps.google.com>  
WUI Map

Communications

Colucci, Ed. San Rafael City Schools, Director, Curriculum & Student Services. Personal communication with Carey Stone, DC&E October 4, 2007.

*4.12 Energy Conservation*

Publications

Marin County Community Development Agency, New Home Green Building Residential Design Guidelines Certification Form.

Marin County Community Development Agency, Energy Technical Background Report.

Schematic Utility Plan, 650 North San Pedro Road, ILS Associates, Inc.

Marin Countywide Plan, Built Environment Element.

Websites

Federal Energy Regulatory Commission, website, <http://www.ferc.gov/>

California Energy Commission, website, <http://www.energy.ca.gov/commission/index.html>

Marin County Community Development, Marin's BEST, Residential Checklist, website, [http://www.co.marin.ca.us/depts/CD/main/pdf/BEST\\_pdf/checklists/checklist\\_residential.pdf](http://www.co.marin.ca.us/depts/CD/main/pdf/BEST_pdf/checklists/checklist_residential.pdf), access April 9, 2008.

Marin County Community Development Agency, Single-Family Residential Design Guidelines, [http://www.co.marin.ca.us/depts/CD/main/pdf/BEST\\_pdf/checklists/checklist\\_residential.pdf](http://www.co.marin.ca.us/depts/CD/main/pdf/BEST_pdf/checklists/checklist_residential.pdf), accessed on April 9, 2008.

California Energy Commission website, <http://www.energy.ca.gov/html/energysources.html>, accessed on April 9, 2008.

California Energy Commission's website, [http://www.energy.ca.gov/electricity/electricity\\_by\\_county\\_2005.html](http://www.energy.ca.gov/electricity/electricity_by_county_2005.html)

California Energy Commission's website. [http://www.energy.ca.gov/naturalgas/statistics/natural\\_gas\\_demand.html](http://www.energy.ca.gov/naturalgas/statistics/natural_gas_demand.html)

Built It Green, GreenPoint Rated, website, <http://www.builditgreen.org/greenpointrated>

#### *4.13 Population and Housing*

##### Publications

Association of Bay Area Governments. Planning Housing in the San Francisco Bay Area: Proposed Final Regional Housing Needs Allocation, March 20, 2008.

Association of Bay Area Governments, Projections 2007.

United States Census Bureau, Census 2000.

Bay Area Census, website, <http://www.bayareacensus.ca.gov/counties/MarinCounty.htm>

Marin Countywide Plan, Built Environment Element.

#### *4.14 Utilities*

##### Publications

Marin Countywide Plan, Community Facilities Element Technical Background Report Provision of Services in Marin County, September 2003, pages CF-4 to CF-12.1 Schematic Utility Plan, ILS Associates, Inc.  
Schematic Utility Plan, ILS Associates, Inc, August 3, 2007.

##### Communications

Eischens, Joseph. Engineering Technician, Marin Municipal Water District. Personal email communication with Carey Stone, DC&E, October 18, 2007.

Williams, Mark. District Manager, Las Gallinas Valley Sanitary District. Personal fax communication with Carey Stone, DC&E. November 7, 2007.

Robards, Gary. Nute Engineering, personal communication with Mark Williams, District Manager, LGVSD. October 23, 2007.

Williams, Mark. District Manager, Las Gallinas Valley Sanitary District. Personal fax communication with Carey Stone, DC&E. October 24, 2007.

Hudson, Roshana. Customer Service Representative, Marin Sanitary Service. Personal communication with Carey Stone, DC&E. November 7, 2007.

Holmes, Ray. Controller, Marin Sanitary Service. Personal communication with Carey Stone, DC&E. November 15, 2007.

Jones, Jessica. District Manager, Redwood Landfill. Personal email communication with Carey Stone, DC&E, November 13, 2007.

##### Websites

California Department of Integrated Waste Management Board, website, <http://www.ciwmb.ca.gov/>. Accessed September 19, 2006.

Marin Sanitary Services, website, <http://www.marinsanitary.com/mss.html>, accessed on April 7, 2008.

California Integrated Waste management Board (CIWMB) Waste Generation Rates, website, <http://ciwmb.ca.gov/wastechar/wastegenrates/default.htm>, Accessed on November 2, 2007.

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
REFERENCES

## **A P P E N D I C E S**

- APPENDIX A COMMENTS ON THE NOP AND PUBLIC SCOPING COMMENTS
- APPENDIX B DRAFT MITIGATION MONITORING AND REPORTING PROGRAM
- APPENDIX C ILS DRAINAGE ANALYSIS AND STETSON ENGINEERS PEER REVIEW
- APPENDIX D PROJECT DRAINAGE AND GRADING PLAN
- APPENDIX E TREE REMOVAL AND MITIGATION PLANS
- APPENDIX F BIOLOGICAL CONSTRAINTS ANALYSIS (2005)
- APPENDIX G STRUCTURAL ELEVATIONS







A P P E N D I X A

COMMENTS ON THE NOP AND  
PUBLIC SCOPING COMMENTS





**Scoping Comment Log  
650 North San Pedro Road EIR**

| <b>Name of Commentor</b>                           | <b>Affiliation of Commentor</b> | <b>Comment Letter Designation</b> | <b>Comment Number</b> | <b>Section Where Addressed in EIR</b>  |
|--|---------------------------------|-----------------------------------|-----------------------|--|
| <b>Local Environmental Group</b>                   |                                 |                                   |                       |  |
| Barbara Salzman                                    | Marin Audubon Society           | A                                 | 1                     | Land Use   |
|  |                                 | A                                 | 2                     | Hydrology and Water Quality  |
|  |                                 | A                                 | 3                     | Biological Resources; Hydrology and Water Quality  |
|  |                                 | A                                 | 4                     | Hydrology and Water Quality  |
|  |                                 | A                                 | 5                     | Biological Resources; Hydrology and Water Quality  |
|  |                                 | A                                 | 6                     | Biological Resources; Hydrology and Water Quality  |
|  |                                 | A                                 | 7                     | Hydrology and Water Quality  |
|  |                                 | A                                 | 8                     | Hydrology and Water Quality  |
|  |                                 | A                                 | 9                     | Hydrology and Water Quality  |
|  |                                 | A                                 | 10                    | Biological Resources; Hydrology and Water Quality  |
|  |                                 | A                                 | 11                    | Biological Resources; Hydrology and Water Quality  |
|  |                                 | A                                 | 12                    | Biological Resources   |
|  |                                 | A                                 | 13                    | Biological Resources; Hydrology and Water Quality  |
|  |                                 | A                                 | 14                    | Biological Resources   |
|  |                                 | A                                 | 15                    | Biological Resources   |
|  |                                 | A                                 | 16                    | Biological Resources   |
|  |                                 | A                                 | 17                    | Biological Resources   |
|  |                                 | A                                 | 18                    | Project Description  |
|  |                                 | A                                 | 19                    | Project Description  |
|  |                                 | A                                 | 20                    | Biological Resources   |
|  |                                 | A                                 | 21                    | Alternatives to the Proposed Project   |
| <b>Individuals</b>                                 |                                 |                                   |                       |  |
| John Dye   | Individual                      | B                                 | 1                     | The comments contained in this letter relate to the merits of the project, with a focus on the project's architectural style. Aside from Comment 2, which is generally in the Aesthetics Chapter, the comments do not raise issues that are germane to CEQA. Rather, the comments express an opinion about the proposed design. These comments have been taken under advisement by the County and prior to taking final action on the Project, the final decision-makers will be provided with all comments received on the Project. |
|  |                                 | B                                 | 2                     |  |
|  |                                 | B                                 | 3                     |  |
|  |                                 | B                                 | 4                     |  |
| Jonathan Metcalf                                   | Individual                      | C                                 | 1                     | Land Use and Policy Consistency  |
|  |                                 | C                                 | 2                     | Traffic and Circulation; Population and Housing  |
|  |                                 | C                                 | 3                     | Geology and Soils  |
|  |                                 | C                                 | 4                     | Utilities  |
|  |                                 | C                                 | 5                     | Air Quality  |
|  |                                 | C                                 | 6                     | Traffic and Circulation  |
|  |                                 | C                                 | 7                     | Biological Resources   |
|  |                                 | C                                 | 8                     | Noise  |
|  |                                 | C                                 | 9                     | Public Services  |
|  |                                 | C                                 | 10                    | Aesthetics   |
| Linda Levey  | Individual                      | D                                 | 1                     | Project Description; Land Use and Policy Consistency; Alternatives to the Proposed Project   |
|  |                                 | D                                 | 2                     | Land Use and Policy Consistency; Alternatives to the Proposed Project  |
| <b>Public Scoping Session Written Comment Form</b> |                                 |                                   |                       |  |
| Robert Sos & Faye Chin                             | Individuals                     | E                                 | 1                     | Biological Resources   |
|  |                                 | E                                 | 2                     | Biological Resources   |
|  |                                 | E                                 | 3                     | Biological Resources; Aesthetics   |
|  |                                 | E                                 | 4                     | Biological Resources; Aesthetics   |
|  |                                 | E                                 | 5                     | Aesthetics   |
|  |                                 | E                                 | 6                     | Individual Mitigation Measures and Mitigation Monitoring and Reporting Program   |
|  |                                 | E                                 | 7                     | Individual Mitigation Measures and Mitigation Monitoring and Reporting Program   |
|  |                                 | E                                 | 8                     | Utilities  |
|  |                                 | E                                 | 9                     | Aesthetics   |
|  |                                 | E                                 | 10                    | Aesthetics   |
|  |                                 | E                                 | 11                    | Biological Resources   |
|  |                                 | E                                 | 12                    | Merits of the Project are not addressed in the EIR   |
|  |                                 | E                                 | 13                    | Aesthetics   |
|  |                                 | E                                 | 14                    | Biological Resources/Noise   |
|  |                                 | E                                 | 15                    | Alternatives to the Proposed Project   |
|  |                                 | E                                 | 16                    | Alternatives to the Proposed Project   |
| Steven & Karen Wilgenbush                          | Individuals                     | F                                 | 1                     | Traffic and Circulation; Hazards and Hazardous Materials   |
|  |                                 | F                                 | 2                     | Biological Resources   |



# Marin Audubon Society

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

June 11, 2007

Tim Haddad, Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive  
San Rafael, CA 94903

RECEIVED  
2007 JUN 11 A 11:56  
MARIN COUNTY  
COMMUNITY DEVELOPMENT  
AGENCY

Re: SCOPING COMMENTS ON 650 SAN PEDRO ROAD

Dear Mr. Haddad:

The Marin Audubon Society appreciates the opportunity to comment scoping comments for the environmental report for residential development project proposed for 650 San Pedro Road. We request that the following questions be answered and issues be addressed in the DEIR:

**General**

How the project complies with current zoning and land use designation for the property?  
Evaluate how the project complies with slope and grading policies of the CWP.

1

**Hydrology/Water Quality:**

The current drainage on the project site with a map showing all streams and drainageways.

2

The existing conditions including the amount, location and type of wetlands, how long the pond remains ponded, and conditions after the recent removal of vegetation

3

The proposed drainage, with specific discussions of how the drainage pattern would change, any sections that would be undergrounded any sections, and any structural components that are proposed.

4

A description of any loss of riparian habitat that would occur.

5

The current water budget for pond, and how it is anticipated that the project would change the runoff into the pond.

6

The impact of the project on the pond and associated wetlands. How would the quality and quality of the runoff would change as a result of increased runoff from the project.

7

Would there be loss of wetlands? Would existing wetlands be inundated so that vegetation could die? Would the habitat along the margins of the pond change? If so, how?

7

The water quality discussion should address vehicular runoff (oil grease) and urban landscaping and what impact this would have on the species that depend on the pond and the pond ecosystem in general. Water quality could also be degraded by erosion and sedimentation caused by removal of vegetation that recently occurred and removal of vegetation for construction of the project. Discuss the current conditions and possible increased flow of sediments from the hillsides into the pond

8

The potential for flooding of any roads or structures as a result of increased runoff. to avoid siltation of the pond?

9

Mitigation measures to address all of the above impacts should be identified and their effectiveness addressed. In particular, a management plan should be required to ensure the pond is maintained as a viable resource should be prepared and the entity that would be responsible for maintaining the pond should be identified.

I 10

**Biological Resources**

Project setting section should address the importance of the fresh water pond and its associated wetlands adjacent to the Bay, stream habitats and wooded hills to the local and regional ecosystem.

I 11

A description of the vegetative and wildlife habitats on site and the species that depend on them. A listing of nesting raptors, colonial nesting birds and nontropical songbirds on site or habitats near the site. Migratory, resident and special status birds and other wildlife could use the vegetative habitats on site and adjacent to the project site?

I 12

How would continued use by species that currently use the aquatic habitat and upland habitats be ensured?

I 13

How many trees would be lost and of what species. Identify ways the loss of native trees could be reduced. How would the tree loss be mitigated and where?

I 14

The development will undoubtedly increase the number of people and domestic animal impacts on the vegetative and aquatic habitats. How can these impacts be avoided and/or minimized?

I 15

The pond would be virtually surrounded by development. How would its viability as habitat be ensured with the significant increase in people dogs and cats. How would they be kept away from the pond?

I 16

Habitat protection goals for the pond management plan should be identified.

I 17

**Open Space**

Describe the mechanism by which the open space area will be protected?

I 18

What standards will be used to ensure the habitat values are protected and not defrauded?

I 19

Who would own the pond? What management measures would ensure it is not turned into an urban amenity? What enforcement would be ensured?

I 20

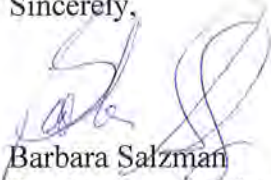
**Alternatives**

A project alternative that complies with current zoning and land use designation as well as that significantly reduce impacts to biological resources and eliminates the need to widen Pt San Pedro Road (if possible) should be developed.

I 21

Thank you for addressing our concerns.

Sincerely,



Barbara Salzman  
For the Conservation Committee

**Tejirian, Jeremy**

**From:** john dye [johnmdye@comcast.net]  
**Sent:** Wednesday, May 30, 2007 10:42 AM  
**To:** Tejirian, Jeremy  
**Subject:** 650 north san pedro road

Jeremy-

I sent the below comments to West Bay Builders yesterday regarding their pending project. I am a neighbor at 634 Galerita Way, a couple of blocks from the site. I ride past the project site regularly on mountain bike rides to China Camp and have an interest in the development. Will look forward to the meeting you on the 7<sup>th</sup> if you are at the project meeting.

-John Dye

Eve-

*Thanks for the materials you sent regarding 650 North San Pedro Road Development. I'll plan to go to the upcoming public meeting on the 7<sup>th</sup> (I think it was the 7<sup>th</sup> - I have to check my calendar again) at the Civic Center regarding the project. I have the following comments:*

*I have no objection to West Bay Builders Site Plan and Landscaping Plan other than to question the use of so many Oak trees in the planting plan. The Oaks are great, but we have lost so many to disease in this area, I question how many of these will survive over the long term. If these new Oaks are more disease resistant than those which have been dying off in the China Camp area, great. I would be interested to know if your Landscape Architect would entertain a broader selection of trees.*

*The lot divisions, building size and locations look OK though the smaller down hill lots look pretty tight. Anything that could be done to ease the congestion of those homes would be a project benefit, though I recognize the challenges to provide homes on smaller lots.*

*The whole package looked pretty good until I got to the rendered elevations of the proposed homes. I thought they were, in short, appalling. Here is why:*

1. *There is little if anything which identifies these homes as Californian or regional architecture. They could be located in a development in Kansas, Nevada, Indiana or Georgia. Sure you can say one is a mission style, and another is a ranch, and one has some Normany influence, but none of them have much strength of character. Where that turent motif is coming from that keeps reappearing, I have no idea.*
2. *The homes make little effort to identify with the surrounding landscape and environment. Outside of a few small decks and sliding patio doors the houses do not have any connection to the views, the landscaping and the rest of outside world. They are designed around the interior features such as media cabinets, jacuzzi tubs and large master bedrooms.*
3. *The architectural styles of the homes proposed don't seem to have evolved much from homes built 20, 40 even 60 years go. Most of us no longer drive cars that come with fins or listen to radios the size of washing machines, yet most spec homes would fit right in on the set of "Lassie" or "Leave it to Beaver". These houses are no exception, except in their size. The homes do not seem to be forward looking but harken back to styles developed in some cases many hundreds of years ago. That works in principle, but these designs have been watered down so much in an effort to make them buildable with modern methods and appeal to a broad audience that they end up not having much appeal at all.*
4. *I'd be interested to see a materials board. The way the homes are rendered, it is very difficult to tell what level of quality is being represented. For example, stucco is great, but whether it is Drivit or a real integral color product makes a huge difference. The same goes for the stone, siding products, windows and doors and roof finish. Some of the imitation products look just awful, don't hold up and create maintenance problems for homeowners. I'm not encouraging you to spend more money and increase*

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your debt load on the development. I'm simply asking you to spare neighbors and homeowners looking at imitation slate, imitation stone, and imitation board siding and dealing with the inevitable problems.

5. Some of the retaining walls look pretty big – over 8 feet. You are under your height limit, and this is entirely your call, but it seems something could be modified or shifted to reduce the amount of cut and the foundation cost and the potential drainage problems.

4 contd  
5

If those elevations are just a first pass, then so much the better. But the rest of your package looks so complete and professional I am guessing that with a few structural drawings, you are ready to go. I do not mean to be condescending toward your project, but I would rather tell you what I honestly think prior to a public meeting rather than blast way in an open forum. I admit I do have a strong bias for modern architecture which I rarely see represented and is nowhere in evidence here.

50 years ago Joe Eichler made a pile of money selling clean, simple homes out of modest materials on lots with a bit of landscaping. And he did it not once but several times, on both sides of the bridge with tracts both smaller and much larger than this one. People lined up to buy his houses and have been doing so ever since because he did it well and there were no other modern homes available. An Eichler in Lucas Valley cost no more to build sq. ft. for sq. ft. than the homes on the flats in Santa Venitia, probably less. They now command 150,000 to 500,000 more, generate more tax revenue and consequently have better services and schools. Lucas Valley is windy, hotter in the summer, colder in the winter and further from the bay, but it is a better neighborhood because the developer did a hell of a job putting it together, starting with really forward looking home designs. Why no one has copied that model and updated it I do not know. Maybe you can tell me. Ask a Marin Resident to name a prominent developer and you won't get many answers, but if anyone does pull up a name, it will be Joe Eichler. Try Googling it and you will see what I mean.

In any event I hope you get to build your project. I hope it is successful. I'd just like to see a more regional, site responsive and up to date design model used for the homes themselves.

-John Dye



Submitted 6/7/07  
at 56pm session.

C

Marin County Community Development Agency  
3501 Civic Center Drive, #308  
San Rafael, CA 94903-4157

July 5, 2004

Re: 650 North San Pedro Road - Development Draft Environmental Impact Report - Request for Comments

To Whom It May Concern:

We are strongly opposed to the proposed development plan for 650 North San Pedro Road. We feel that the proposed zoning change threatens the environmental habitat of the area and would have a severe impact not only upon the fauna and flora of this region but also on the overall rural character of the location.

In addressing the topical issues that are presently being reviewed, we would like to offer our comments as follows:

1. Land Use & Planning. The current plan provides no compelling reason to change the existing land use zoning.
2. Population & Housing. The current plan will increase population and therefore traffic to the area without sufficient roads to support the increase in traffic.
3. Geophysical. After discussing this proposed project with our neighbors, it has come to our attention that previous development attempts were thwarted by discovery of unstable soils. The excavation of such large amounts of land would significantly compromise the stability of the hill.
4. Water. The project produces an increased demand on water resources that was not part of the original land use plan.
5. Air Quality. Construction and excavation and the permanent increase in traffic will degrade air quality and undermine current land use plans.
6. Transportation/Circulation. To accommodate the additional traffic, the current two-lane N. San Pedro road would have to be widened to four lanes.
7. Biological Resources. The property is currently home to many species of wildlife that would permanently be displaced by the proposed plan.
8. Noise. One of the special features of the neighborhood in this location is the peace and quiet that residents currently enjoy. This project will significantly degrade the peace and quiet and will create more noise than what the original land use plan allows.
9. Public Services. Higher density will increase the risk of fire, erosion, land slides, further degradation of N. San Pedro Road, and other demands on public services.

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10. Aesthetics/Visual Resources. Again, another unique feature of the location is its unspoiled natural beauty. The construction of this many homes would dramatically change the beauty of the vista of the hill behind N. San Pedro Road. This point especially raises deep concern for our neighbors in near proximity to the proposed project who will have to endure the destruction of the natural beauty in this area and who have invested significant amounts of money in the area with the assurance that the area was zoned as a Residential Estates District.

10

Due to these concerns, we strongly urge that the existing zoning remain as is and that the proposed plan be dismissed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon E. Metcalf".

Mr. & Mrs. Jonathan Metcalf  
Owners – 26 Pt. Gallinas Road  
(415) 444-0840

**Taylor, Tamara**

---

**From:** Haddad, Timothy  
**Sent:** Tuesday, June 12, 2007 1:07 PM  
**To:** Taylor, Tamara; Warner, Rachel  
**Subject:** FW: 650 North San Pedro Road - Comments & Scoping

This is a scoping/NOP comment on San Pedro.

Tim

---

**From:** Linda Levey [mailto:linda@goagil.com]  
**Sent:** Tuesday, June 12, 2007 11:02 AM  
**To:** Haddad, Timothy  
**Subject:** FW: 650 North San Pedro Road - Comments & Scoping

This was returned so I am resending... Thanks, Linda

-----Original Message-----

**From:** Linda Levey [mailto:linda@goagil.com]  
**Sent:** Tuesday, June 12, 2007 10:38 AM  
**To:** 'Tejirian, Jeremy'; ':thaddad@co.marin.ca.us'  
**Cc:** 'ROBERT DOBRIN (letters@vendola.org)'  
**Subject:** 650 North San Pedro Road - Comments & Scoping

Hello Jeremy & Tim:

I just want to reiterate what I said in last week's meeting regarding my comments on "private" open space and deed restrictions. To expect the homeowners to abide by these rules is wishful thinking at best and the damage can be, and usually is, done before anyone knows about it.

Although I'm ashamed to admit it, I know from experience - some friends of mine bought a newly developed property in San Rafael that had restrictions including a conservation easement and similar agreements for non-development of the "open" area. The first thing they did was build a fence and then started with the landscaping. As of now, they have cleared the "open space" and are building terraced lawns and planting. I know from experience that when this occurs, the only one who would complain would be the next-door neighbor, and if they have similar plans, they are not likely to object - and this is the case in their area. Their neighbors have also "improved" the property.

The 650 North San Pedro Road development project is being sold as a good idea to have the homes clustered at the bottom to leave open space at the top. If this is "private" open space, it is still their property to do with what they will. The whole reason to have them clustered at the bottom is to leave the visual space at the top. This restriction is insufficient. If they were serious about the "open space," it seems to me they would either deed that property to the County and/or include in their HOA common area.

I have other objections to this project, the major one being the amount of houses and the zoning change, and although this is yet another objection to the project, I would also like to include this issue in the

6/12/2007

1

2

scoping: What would be the environmental impact and effects if the whole property was landscaped by the individual homeowners? This may not happen tomorrow, but we can assume that it will eventually happen.

2 contd

Thank you for your time,

*Linda Levey*

phone: 415.499.3411

fax: 415.507.1590

e-mail: [linda@goagil.com](mailto:linda@goagil.com)

cc: Robert Dobrin, SVNA Land Use Chair

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DIVISION

PUBLIC SCOPING SESSION

ENVIRONMENTAL IMPACT REPORT FOR

650 SAN PEDRO ROAD MASTER PLAN, DEVELOPMENT PLAN, SUBDIVISION AND REZONING

Page 1  
**RECEIVED**  
JUN 12 2007  
County of Marin Community Development  
Planning Division

WRITTEN COMMENT FORM

June 7, 2007

Name/Affiliation: Robert Sos + Faye Chin

Address: 14 Point Gallinas Road

City: San Rafael, CA Zip Code: 94903 Telephone: 415-499-8012

Please provide comments and concerns regarding the environmental effects of the proposed project or the environmental process below.

Here is our list of concerns and comments

- Impact to heron and egrets that nest in the trees on the property 1
- Impact to amphibious life at pond on property 2
- Visual impact of tree removal 3
- Adequacy of replacement trees to mitigate visual impact. Replacement trees will not be as tall as the removed trees and new property owners may keep them trimmed short so that they never mitigate the visual impact as planned. 4
- Impact of car head lights on houses on Point Gallinas Road as cars from property come down the new road on the former driveway and enter on to N. San Pedro Road. How to mitigate? 5
- Long term maintenance of any mitigations put in place - how will funding for it be established and secured, and 6
- How will monitoring, especially for the long term, (over) 7

Please use backside of page for additional comments, if needed. This comment form for the scope of the EIR may be handed in at the scoping session to County Staff or mailed to the attention of Tim Haddad, at the Marin County Community Development Agency - Planning Division, 3501 Civic Center Drive, Room 308, San Rafael, CA 94903, **prior to June 12, 2007**. Comments by FAX or E-mail may not be able to be confirmed as officially received and accepted before the end of the comment period deadline. **Commentors are advised to mail written comments postmarked on or before June 12, 2007.**

be established and maintained. How will it be effective, For any mitigations put in place. 7 contd

- Impact to water supplies of North San Pedro San Rafael, given constraints on Russian River supply. 8

- ~~Cons~~ Impact of street lights. Our preference is no street lights and this be stated in the CCR 9

- Impact of property owner floodlights and security lights on visual environment. Should be restricted to motion detector sensor lights and no continuous floodlighting of any area throughout the night. 10

- Impact of cats and dogs on wildlife. CCR should state that cats are not allowed. Dog owners must adhere to county rules and regulations. 11

- Mail boxes must be clustered at bottom of developed to reduce mail truck driving (or to eliminate increased driving and fuel consumption/carbon emissions by Post office truck. 12

- Fence or wall to be maintained by HOA of development to mitigate headlights hitting houses on Point Gallinas Road. 13

650 N. San Pedro Road

Robert Sos + Faye Chin

- Noise regulations documented and enforced during egret and heron nesting and mating period, via CCR's and county regulation 14
- Number of houses be reduced from 12 to 6 to minimize environmental impact 15
- No change to existing zoning for the development 16



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DIVISION

PUBLIC SCOPING SESSION

RECEIVED

ENVIRONMENTAL IMPACT REPORT FOR  
650 SAN PEDRO ROAD MASTER PLAN, DEVELOPMENT PLAN, SUBDIVISION AND REZONING

2007 JUN 12 P 2:18

MARIN COUNTY  
COMMUNITY DEVELOPMENT  
10-1107

WRITTEN COMMENT FORM

June 7, 2007

Name/Affiliation: Steve & Karen Wilgenbusch / Neighbors -

Address: 629 Pt. Gallinas Rd

City: San Rafael Zip Code: 94903 Telephone: 415-456-0815

Please provide comments and concerns regarding the environmental effects of the proposed project or the environmental process below.

We are opposed to the rezoning of the property at 650 San Pedro Rd. Our concern is the access road to this new development. Scoping Session for the 650 San Pedro Rd EIR.

1  
The existing driveway is on a blind corner. So many walkers, runners and bicyclist access the San Pedro Rd. in order to enjoy the open space at China Camp State Park. Has an EIR been performed during the week-end and holidays at all hours of the day to monitor & actually see the amount of bicyclist and foot traffic that access the China Camp State Park? We have experienced many close calls of cars and bicyclist & foot traffic on that particular section. We feel a serious accident is waiting to happen & could jeopardize a life. Please consider moving the driveway so it is not on the blind corner & limiting the amount of houses that was in the previous zoning. The eucalyptus trees are a rookerie for the Gray Heron & other wildlife  
2

Please use backside of page for additional comments, if needed. This comment form for the scope of the EIR may be handed in at the scoping session to County Staff or mailed to the attention of Tim Haddad, at the Marin County Community Development Agency - Planning Division, 3501 Civic Center Drive, Room 308, San Rafael, CA 94903, prior to June 12, 2007. Comments by FAX or E-mail may not be able to be confirmed as officially received and accepted before the end of the comment period deadline. Commentors are advised to mail written comments postmarked on or before June 12, 2007.





**A P P E N D I X B**

MITIGATION MONITORING AND  
REPORTING PROGRAM





## **MITIGATION MONITORING AND REPORTING PROGRAM**

This document is a Mitigation Monitoring and Reporting Program (MMRP) for the proposed 650 North San Pedro Road Project. The MMRP contains the following components:

- ◆ Table 1: Mitigation Monitoring and Reporting Program

The purpose of the MMRP is to ensure the implementation of mitigation measures identified as part of the environmental review for the Project. The MMRP includes the following information:

- ◆ A list of impacts and their corresponding mitigation measures.
- ◆ The party responsible for implementing the mitigation measures.
- ◆ The timing and procedure for implementation of the mitigation measure.
- ◆ The agency responsible for monitoring the implementation.
- ◆ The timing or frequency of monitoring activities.

The County of Marin must adopt this Mitigation Monitoring and Reporting Program, or an equally effective program, if it approves the proposed Project with the mitigation measures included in the EIR. Public Resources Code sec. 21081.6(a) requires an agency to adopt a program for reporting or monitoring mitigation measures that were adopted or made conditions of Project approval.

COUNTY OF MARIN  
650 NORTH SAN PEDRO ROAD EIR  
MITIGATION MONITORING AND REPORTING PROGRAM

**COUNTY OF MARIN**  
**650 NORTH SAN PEDRO ROAD EIR**  
 MITIGATION MONITORING AND REPORTING PROGRAM

TABLE I **MITIGATION MONITORING AND REPORTING PROGRAM**

| Impacts  | Mitigation  | Implemented By                   | When Implemented               | Monitored By     | Verified By and Date             |
|--|---|----------------------------------|--------------------------------|------------------|----------------------------------|
| <b>4.2 GEOLOGY AND SOILS</b>   |   |                                  |                                |                  |                                  |
| 4.2-B The project could result in the exposure of people, structures, and/or property to seismic ground shaking. | <p>4.2-B.1 The following seismic Best Management Practices (BMPs) should be employed:</p> <ul style="list-style-type: none"> <li>◆ Structures should be designed in accordance with all building design requirements as established by the International Building Code (IBC) of 2000 and the California Building Code of 2007.</li> <li>◆ A State-licensed architect and civil engineer should design all structures.</li> <li>◆ All design may undergo a plan review by an independent Civil Engineer with structural expertise retained by the County at the applicant's expense.</li> <li>◆ Utilities should be designed to provide sufficient flexibility or rigidity to withstand the expected ground motions during an earthquake.</li> <li>◆ Water heaters and other fixtures should be secured in accordance with County guidelines.</li> <li>◆ Design and construction of foundations, concrete structures, and pavements should be performed under the oversight of state-licensed civil, geotechnical, and/or structural engineers and should be reviewed by the Building Official.</li> </ul> | Project Engineer                 | Precise Development Plan (PDP) | Marin County CDA | Marin County CDA Approval of PDP |
| 4.2-C Seismic-related ground failure, including liquefaction.  | <p>4.2-C.1 Adherence to the Association of Bay Area Government's Manual of Standards for Erosion and Sediment Control Measures Soils during the design, construction and maintenance of the project would limit downhill movements.</p>   | Project Engineer                 | Precise Development Plan (PDP) | Marin County CDA | Marin County CDA Approval of PDP |
| 4.2-D Landslides.  | <p>4.2-D.1 The mitigation measure recommended for Impact 4.2-C also applies to this impact.</p>   | See the cited mitigation measure |                                |                  |                                  |
| 4.2-F Unstable geologic units.   | <p>4.2-F.1 All proposed structures in those areas identified should be founded in the underlying bedrock. In areas of significant</p>   | Project Engineer<br>Project      | Precise Development Plan       | Marin County CDA | Marin County CDA Approval of PDP |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation   | Implemented By    | When Implemented  | Monitored By     | Verified By and Date  |
|---|--|-------------------|---|------------------|---|
|   | cuts, foundations and retaining walls should be constructed to accommodate the lateral pressures of the upslope colluvium soil. Where necessary, colluvium should be removed to expose bedrock.  |                   |   |                  |   |
| <b>4.3 BIOLOGICAL RESOURCES</b>   |  |                   |   |                  |   |
| 4.3-B Removal of tree on-site containing the heron nest prior to construction will impact an active great blue heron rookery. | 4.3-B.1 Through direct consultation with a CDFG biologist, the applicant shall develop an off-site mitigation program that would improve the condition of the existing heron rookery at West Marin Island or other location, if deemed more suitable by CDFG. A preference should be given to sites that have already been identified as potential habitat that would also benefit by further enhancement and protection in the opinion of CDFG. In developing the program and methods for its implementation, the applicant shall coordinate with Jeremy Sarrow, California Department of Fish and Game and officials responsible for monitoring the heron rookery at West Marin Island. Compensatory mitigation on West Marin Island should consider actions such as rat control, invasive weed control, and/or native plant restoration. The program, which would require CDFG approval prior to construction, would create or enhance habitat for great blue heron nesting and would adhere, at a minimum, to the following site specifications and performance standards: | Project Applicant | Precise Development Plan  | Marin County CDA | Marin County CDA  |
|   | 4.3-B.2 Removal and any trimming of the tree containing the rookery shall occur only during the non-nesting season, from September 1 to January 31.  | Project Applicant | Precise Development Plan<br>Implementation prior to end of construction | Marin County CDA | Marin County CDA Approval of PDP<br>Marin County CDA until construction is complete |
|   | 4.3-B.3 The applicant shall revegetate the edges of the wetland on-site with a cluster of tall-growing, riparian tree species;   | Project Applicant | Precise Development Plan  | Marin County     | Marin County CDA Approval of PDP  |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts  | Mitigation  | Implemented By                           | When Implemented   | Monitored By           | Verified By and Date                            |
|--|---|--|--|------------------------|---|
|  | <del>which could provide a location for a future rookery site.</del>  |  |  | CDA                    | Marin County CDA until construction is complete |
|  | 4.3-B.4 <del>When managing vegetation for fire control</del> Prior to occupancy and during implementation of the project Vegetation Management Plan, the applicant shall contract a certified arborist to conduct a site visit with the appointed fire prevention specialist. During the site visit, the fire prevention specialist and arborist will collaborate to identify tall trees within the extent of the open space area that could be preserved, provided they do not present a fire risk and are in a good state of health. Prior to occupancy, the applicant shall present the outcome of this collaboration to the County CDA, including a list of tree species within the open space to be preserved, approximate location within the open space, and approximate dbh. <del>Health property owners shall maintain large trees in the areas designated as open space, so as to provide potential future rookery sites.</del> | Project Applicant<br><br>Property Owners | Implementation prior to end of construction<br><br>Occupational phase of development | Homeowners Association | Homeowners Association                          |
| 4.3-C Development could impact the channel, bed or banks of the ephemeral creek on-site.   | 4.3-C.1 Throughout construction, install and maintain temporary fencing or exclusion-zone signs at least 20 feet from the ephemeral stream to ensure consistency with County setback policies.  | Project Applicant                        | Precise Development Plan   | Marin County CDA       | Marin County CDA                                |
| 4.3-D Development could affect native grassland habitat, which CDFG tracks because it is declining statewide and provides high value for native plants and wildlife. | 4.3-D.1 Preserve at least 0.6-acre of the existing native grassland on the property in the open space reserve to the east of Lot 12. This preserve shall be beyond the lot line for Lot 12.   | Project Applicant                        | Precise Development Plan   | Marin County CDA       | Marin County CDA                                |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation  | Implemented By    | When Implemented         | Monitored By     | Verified By and Date |
|---|---|-------------------|--------------------------|------------------|----------------------|
| 4.3-E Development would remove mixed oak forest and mature trees.   | 4.3-E.1 Avoid tree removal and minimize impacts to individual trees and oak forest through the following measures. Install fencing at the drip lines of trees to be retained, or other <u>distances approved by a qualified arborist, and avoid operating equipment and vehicles within those buffers.</u> Install fencing along the boundary between <u>proposed private open space and areas to be developed and restrict equipment and vehicles from the areas of proposed private open space.</u>   | Project Applicant | Precise Development Plan | Marin County CDA | Marin County CDA     |
| 4.3-F Substantial adverse effect on federally protected wetlands.   | 4.3-E.2 Compensate for the loss of 1.5 acres of oak forest by maintaining at least 4.5 acres (3:1 ratio) of mixed oak forest <u>within the 8.6 acres of <del>an</del> open space on the site.</u> Each of the private open space areas shall have deed restrictions on the lots relating to the use and maintenance of the private open space. The deed restrictions will ban the building of any structures or fencing in those areas and require that the areas be maintained in their natural state. The deed restrictions would be permanent and be applicable to future owners.  | Project Applicant | Precise Development Plan | Marin County CDA | Marin County CDA     |
| 4.3-F.1 Direct impacts to jurisdictional waters associated with installation of the new weir outlet structure in the pond shall be mitigated by providing replacement habitat around the perimeter of the feature. The weir outlet structure would result in approximately 10 cubic feet of fill in the wetland, decreasing the size of the pond and its value for water storage. A minimum of 375 square feet of additional wetland habitat shall be created as replacement habitat by grading to appropriate elevations and establishing native wetland plants. This wetland mitigation shall be accomplished as part of the overall Wetland Mitigation and Enhancement Plan, called for in Mitigation Measure 4.3-F.3. | 4.3-F.1 Direct impacts to jurisdictional waters associated with installation of the new weir outlet structure in the pond shall be mitigated by providing replacement habitat around the perimeter of the feature. The weir outlet structure would result in approximately 10 cubic feet of fill in the wetland, decreasing the size of the pond and its value for water storage. A minimum of 375 square feet of additional wetland habitat shall be created as replacement habitat by grading to appropriate elevations and establishing native wetland plants. This wetland mitigation shall be accomplished as part of the overall Wetland Mitigation and Enhancement Plan, called for in Mitigation Measure 4.3-F.3. | Project Applicant | Precise Development Plan | Marin County CDA | Marin County CDA     |
| 4.3-F.2 A detailed Wetland Mitigation and Enhancement Plan (WMEP) shall be prepared by a qualified wetland specialist to mitigate project fill in the jurisdictional wetlands and   | 4.3-F.2 A detailed Wetland Mitigation and Enhancement Plan (WMEP) shall be prepared by a qualified wetland specialist to mitigate project fill in the jurisdictional wetlands and   | Project Applicant | Precise Development Plan | Marin County CDA | Marin County CDA     |



TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts | Mitigation   | Implemented By | When Implemented | Monitored By | Verified By and Date |
|---------|--|----------------|------------------|--------------|----------------------|
|         | <p>address potential impacts stemming from the proximity between the wetland boundary and the limits of development. The WMEP shall be approved by regulatory agencies and the County Community Development Agency prior to approval of the final map. The WMEP shall include the following information and provisions:</p> <ul style="list-style-type: none"> <li>◆ <u>The applicant shall provide evidence to the County Community Development Agency that they have secured appropriate authorizations from CDFG, Army Corps and RWQCB prior to issuance of a grading or building permit for the project. This shall ensure that all appropriate authorizations have been secured, and that the applicant is responsible for addressing any and all additional concerns and conditions of the regulatory agencies.</u></li> <li>◆ <u>The total area of jurisdictional wetlands affected by proposed improvements (10 cubic feet from installation of the weir outlet structure).</u></li> <li>◆ <u>The wetland type to be affected (seasonal pond).</u></li> <li>◆ <u>Mitigation ratios for each wetland type, and the total area of wetlands and adjacent uplands to be created, restored, or enhanced. It is expected that wetlands shall be replaced on-site at a minimum 2:1 ratio consistent with Countywide Policy BIO-3.2. For this project, this shall be achieved through the creation of at least 375 square feet of wetland habitat on the eastern side of and immediately contiguous with the existing, delineated wetland area, surrounded by an upland parcel of at least 0.33 acre.</u></li> <li>◆ <u>A timeline for creation of the mitigation wetlands, and installation of plantings and other improvements. The</u></li> </ul> |                |                  |              |                      |

TABLE I MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts | Mitigation  | Implemented By | When Implemented | Monitored By | Verified By and Date |
|---------|---|----------------|------------------|--------------|----------------------|
|         | <p><u>additional wetland shall be created by grading within 1 year of starting project construction.</u></p> <ul style="list-style-type: none"> <li>◆ <u>Specific performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. A timeline for the monitoring requirements, performance criteria, and associated reports shall also be specified. Monitoring shall be conducted by the consulting wetland specialist for five years; annual monitoring reports shall be submitted to the County until these criteria are met.</u></li> </ul>  |                |                  |              |                      |
|         | <ul style="list-style-type: none"> <li>◆ <u>Performance criteria shall include both the area of the created wetlands, and be based on functional parameters such as the presence of wetland hydrology and hydrophytic vegetation. The area of the created wetlands will be determined by a standard wetland delineation (using methods presented by the Army Corps of Engineers) with the understanding that hydric soil indicators may not develop within the monitoring timeframe. Functional performance criteria shall include dominance of hydrophytic vegetation, and hydrological functioning as a wetland. It is expected that adequately functioning created wetlands would support an average absolute percent cover of wetland indicator species equal to at least 80 percent of the average percent cover in the existing wetland, with a similar composition and cover of native species; created wetlands would also exhibit similar wetland hydrology. If the final success criteria have not been met within the five-year timeframe, remedial actions will be implemented and monitoring will continue until the criteria are achieved.</u></li> </ul> |                |                  |              |                      |

TABLE I MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts | Mitigation  | Implemented By | When Implemented | Monitored By | Verified By and Date |
|---------|---|----------------|------------------|--------------|----------------------|
| ♦       | <p>A comprehensive program to remove invasive exotics and provide enhancement plantings of native wetland indicator, transitional and upland species to improve the overall habitat functions and values of the area surrounding the existing wetlands. The WMEP will specify undesirable invasive weeds and noxious plants species; these plants shall be initially removed within one year of wetland creation. Native species shall be planted in the wetland and transition area immediately following the removal of these species. <u>The monitoring plan will include monitoring and subsequent management of these undesirable species.</u></p> |                |                  |              |                      |
| ♦       | <p>For the three proposed storm drains that would be directed toward the pond, energy dissipaters and biofiltration structures shall be constructed at the outlet of each drain to treat the water before it enters the pond.</p>   |                |                  |              |                      |
| ♦       | <p><u>The surrounding upland space shall be managed to maintain and enhance the functions and values of the wetland. The WMEP will specify monitoring of this surrounding upland, including issues such as presence of exotics, and general upkeep (e.g., trash, human disturbance, etc.).</u></p>  |                |                  |              |                      |
| ♦       | <p><u>The WMEP shall specify procedures and responsible parties for implementing any remedial or corrective actions needed for the wetland or upland area throughout the monitoring period. The WMEP shall specify long-term maintenance and monitoring provisions to be managed and funded by the Homeowner's Association.</u></p>   |                |                  |              |                      |
| ♦       | <p><u>The total area of wetlands and adjacent uplands to be</u></p>   |                |                  |              |                      |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts | Mitigation  | Implemented By   | When Implemented         | Monitored By     | Verified By and Date |
|---------|---|--|--------------------------|------------------|----------------------|
| 4.3-G   | Construction could impact nesting birds <del>and bats</del> . | <p>created, restored, or enhanced as part of the wetland. Any replacement wetlands shall be consolidated to improve existing habitat values, and be replaced on-site at a minimum 2:1 ratio consistent with Countywide Policy BIO-3.2. For this project, this shall be achieved through the creation of 375 square feet of wetland habitat on the eastern side of and immediately contiguous with the existing, delineated wetland area.</p> <ul style="list-style-type: none"> <li>◆ Performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. Monitoring shall be conducted by the consulting wetland specialist for up to five years or until the identified success criteria are met.</li> <li>◆ The area surrounding the wetland shall be a common parcel that would encompass at least 0.33 acres. The space shall be managed to maintain and enhance the functional values of the wetland. The WMEP shall specify long-term maintenance and monitoring provisions.</li> </ul> | Precise Development Plan | Marin County CDA | Marin County CDA     |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation   | Implemented By    | When Implemented         | Monitored By     | Verified By and Date |
|---|--|-------------------|--------------------------|------------------|----------------------|
| 4.3-H Site preparation would remove large trees native to Marin County. | <p>protection zones may be modified on a site-specific basis as determined by a qualified biologist or in coordination with CDFG. Active nests within the project area would be monitored for signs of disturbance. If the biological monitor determines that a disturbance is occurring, construction shall be halted. Disturbance of active nests shall be avoided until it is determined that nesting is complete and the young have fledged.</p> <p>4.3-H.1 To mitigate the loss of 53 protected trees, replant on site with native tree species at a minimum 3:1 ratio (at least 159 trees). Native tree species should include black oak, California buckeye, coast live oak, Oregon white oak and valley oak and will range in size 10 feet to 16 feet when planted, reaching 20 feet to 40 feet when mature. Conduct monitoring for three years following planting or until an arborist verifies that the trees have successfully reestablished.</p> | Project Applicant | Precise Development Plan | Marin County CDA | Marin County CDA     |
| 4.3-HI.2  | <p>Develop a Tree Protection Plan that details procedures to maximize tree survivability by implementing all of the guidelines recommended in the 2007 Tree Inventory and Evaluation. The plan shall include, at a minimum, the following topics:</p> <ul style="list-style-type: none"> <li>◆ Developing a Tree Protection Zone (TPZ) around trees to be protected.</li> <li>◆ Construction observation and supervision by a certified arborist, or County designated representative.</li> <li>◆ Installation for tree protection fencing around TPZs.</li> <li>◆ Requirements for demolition and/or site clearing near TPZs.</li> <li>◆ Requirements for site grading, trenching, and root pruning.</li> <li>◆ Requirements for foundation and wall Construction</li> </ul>  | Project Applicant | Precise Development Plan | Marin County CDA | Marin County CDA     |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts  | Mitigation   | Implemented By    | When Implemented                                 | Monitored By     | Verified By and Date |
|--|--|-------------------|--|------------------|----------------------|
|  | <p>within the TPZ.</p> <ul style="list-style-type: none"> <li>◆ Requirements for site drainage.</li> <li>◆ Standard requirements for pruning and cabling.</li> <li>◆ Tree damage mitigation requirements.</li> <li>◆ Post-construction recommendations.</li> <li>◆ Recommendations for planting around native oak trees.</li> </ul> <p>The Plan must be approved by the County prior to starting site preparation and construction activities.</p>   |                   |  |                  |                      |
| 4.3-I Trimming and removing vegetation and operating track equipment in SOD-infected areas would spread the disease to unaffected areas. | 4.3-I.1 Minimize the risk of spreading SOD to unaffected areas through the following measures. Retain vegetation on site or haul it to a permitted recycling center in Marin County. Prior to arrival and departure from the project area, all vehicles, equipment, tools and clothing shall be cleaned of vegetation and mud.   | Project Applicant | Precise Development Plan                         | Marin County CDA | Marin County GDA     |
| <b>4.4 HYDROLOGY AND WATER QUALITY</b>   |  |                   |  |                  |                      |
| 4.4-A Post development nonpoint source pollution.  | 4.4-A.1 The final drainage plan for the project should incorporate the following Best Management Practices (BMPs) to ensure that project development does not result in an increase in NPS pollutants to on-site and off-site wetlands, to lower Gallinas Creek, and ultimately, to San Pablo Bay.   | Project Engineer  | Precise Development Plan and During Construction | Marin County CDA | Marin County GDA     |
|  | <ul style="list-style-type: none"> <li>◆ The existing pond within Drainage Area 1 of the site has been designated as a wetland. The runoff from Drainage Area 1 needs to be treated before it reaches the pond, or it might potentially pollute the wetland. This is also true for the off-site wetland across North San Pedro Road. The runoff from Drainage Area 2 of the site goes into a culvert under North San Pedro Road and then into the off-site wetland. <u>To avoid the potential of pollutants entering the pond, all stormwater should be treated for</u></li> </ul> |                   |  |                  |                      |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts | Mitigation  | Implemented By | When Implemented | Monitored By | Verified By and Date |
|---------|---|----------------|------------------|--------------|----------------------|
|         | <p>water quality before it reaches any wetland. The current drainage design needs to be revised to incorporate permanent BMPs for meeting the County's LID standards. This may require more substantial changes to the landscape design. Permanent BMPs for meeting the County's LID standards may include but are not limited to site and drainage design features that route runoff from roofs and paved surfaces to landscaped areas, engineered bioretention facilities, roofs over areas where vehicles are washed or repaired, facilities for cleaning equipment such as mats used in restaurant kitchens, <u>use of permeable concrete and asphalt surfaces for driveways and roads, and construction of a drainage swale along the west side of the new two-way driveway. Permanent BMPs for treating the stormwater runoff before it reaches the reconfigured pond and the off-site wetland may include but are not limited to: installation of one continuous deflective separation (CDS) unit to remove silt and pollutants from stormwater at each of the three storm drain pipes discharging to the reconfigured pond and at the fire turn around for the storm drain that discharges to the roadside ditch adjacent to North San Pedro Road. The MCSTOPPP's Stormwater Quality Manual for Development Projects in Marin County contains specific guidance applicable to the project category.</u></p> |                |                  |              |                      |
|         | <ul style="list-style-type: none"> <li>◆ The applicant should prepare a Stormwater Control Plan that consists of all the information identified in the Stormwater Control Plan checklist in the MCSTOPPP's Stormwater Quality Manual for Development Projects in Marin County. This requires calculations for different Drainage Management Areas, a report, and an exhibit, which the applicant would be</li> </ul>  |                |                  |              |                      |

TABLE I MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts | Mitigation  | Implemented By | When Implemented   | Monitored By      | Verified By and Date                             |  |
|---------|---|----------------|--|-------------------|--|--|
| 4.4-D   | Construction-related erosion and sitation and water quality impact. | 4.4-D.1        | The project applicant is required to comply with all NPDES Permit requirements for the construction period. Under the NPDES program, the applicant is required to submit a Notice of Intent (NOI) with the State Water Resource Control Board's (SWRCB) Division of Water Quality. The NOI includes general information on the types of construction activities that will occur on the site. The applicant will also be required to prepare a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP will include a description of appropriate BMPs to minimize the discharge of pollutants from the site. BMPs appropriate for construction activities can be organized into four major categories: | Project Applicant | Precise Development Plan and During Construction | Marin County<br>San Francisco Bay Region<br>CDA<br>RWQCB |



TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation  | Implemented By | When Implemented | Monitored By | Verified By and Date |
|---|---|----------------|------------------|--------------|----------------------|
| 1) Erosion Control: Measures that prevent erosion and keep soil particles from entering stormwater, lessening the eroded sediment that must be trapped, both during and at completion of construction.  | 1) Erosion Control: Measures that prevent erosion and keep soil particles from entering stormwater, lessening the eroded sediment that must be trapped, both during and at completion of construction.  |                |                  |              |                      |
| 2) Sediment Control: Feasible methods of trapping eroded sediments so as to prevent a net increase in sediment load in stormwater discharges from the site.   | 2) Sediment Control: Feasible methods of trapping eroded sediments so as to prevent a net increase in sediment load in stormwater discharges from the site.   |                |                  |              |                      |
| 3) Site Management: Methods to manage the construction site and construction activities in a manner that prevents pollutants from entering stormwater, drainage systems or receiving waters.  | 3) Site Management: Methods to manage the construction site and construction activities in a manner that prevents pollutants from entering stormwater, drainage systems or receiving waters.  |                |                  |              |                      |
| 4) Materials and Waste Management: Methods to manage construction materials and waste that prevent their entry into stormwater, drainage systems or receiving waters.   | 4) Materials and Waste Management: Methods to manage construction materials and waste that prevent their entry into stormwater, drainage systems or receiving waters.   |                |                  |              |                      |
| The SWPPP shall fully comply with RWQCB requirements and shall contain specific BMPs to be implemented during project construction to reduce erosion and sedimentation to the maximum extent practical. Typical BMPs to be required on-site during construction include, but are not limited to, the following: | The SWPPP shall fully comply with RWQCB requirements and shall contain specific BMPs to be implemented during project construction to reduce erosion and sedimentation to the maximum extent practical. Typical BMPs to be required on-site during construction include, but are not limited to, the following: |                |                  |              |                      |
| ◆ Performing major vehicle maintenance, repair jobs, and equipment washing at appropriate off-site locations;   | ◆ Performing major vehicle maintenance, repair jobs, and equipment washing at appropriate off-site locations;   |                |                  |              |                      |
| ◆ Maintaining all vehicles and heavy equipment and frequently inspecting for leaks;   | ◆ Maintaining all vehicles and heavy equipment and frequently inspecting for leaks;   |                |                  |              |                      |
| ◆ Designating one area of the construction site, well away from streams or storm drain inlets, for auto and equipment parking and routine vehicle and equipment maintenance;  | ◆ Designating one area of the construction site, well away from streams or storm drain inlets, for auto and equipment parking and routine vehicle and equipment maintenance;  |                |                  |              |                      |
| ◆ Cleaning-up spilled dry materials immediately. Spills are   | ◆ Cleaning-up spilled dry materials immediately. Spills are   |                |                  |              |                      |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts | Mitigation   | Implemented By | When Implemented | Monitored By | Verified By and Date |
|---------|--|----------------|------------------|--------------|----------------------|
|         | <ul style="list-style-type: none"> <li>◆ not to be “washed away” with water or buried;</li> <li>◆ Using the minimum amount of water necessary for dust control;</li> <li>◆ Cleaning-up liquid spills on paved or impermeable surfaces using “dry” cleanup methods (e.g. absorbent materials such as cat litter, and/or rags);</li> <li>◆ Cleaning-up spills on dirt areas by removing and properly disposing of the contaminated soil;</li> <li>◆ Storing stockpiled materials, wastes, containers and dumpsters under a temporary roof or secured plastic sheeting;</li> <li>◆ Properly storing containers of paints, chemicals, solvents, and other hazardous materials in garages or sheds with double containment during rainy periods;</li> <li>◆ Applying concrete, asphalt, and seal coat during dry weather. Keeping contaminants from fresh concrete and asphalt out of the storm drains and creeks by scheduling paving jobs during periods of dry weather and allowing new pavement to cure before storm water flows across it;</li> <li>◆ Covering catch basins and manholes when applying seal coat, slurry seal and fog seal.</li> </ul> |                |                  |              |                      |
|         | <p>BMPs identified in the SWPPP shall also include soil stabilization techniques such as: hydroseeding and short-term biodegradable erosion control blankets; silt fences or some kind of inlet protection at downstream storm drain inlets; post-construction inspection of all drainage facilities for accumulated sediment; and post-construction clearing of all drainage structures of debris and sediment. Finally, the project applicant will be required to submit a Notice of Termination (NOT) when site soils are stable and permanent erosion and sediment control is in place.</p>  |                |                  |              |                      |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts  | Mitigation   | Implemented By    | When Implemented                                | Monitored By     | Verified By and Date           |
|--|--|-------------------|---|------------------|--------------------------------|
| 4.4-E Increased peak runoff and changes in drainage pattern.   | 4.4-E.1 Design pond to meet a peak flow reduction objective of 0.62 acre-feet for Drainage Area 1. Ongoing maintenance of the pond, including debris removal, and monitoring <u>the structural integrity of the berm, and the proper functioning of the weir inlet</u> shall be the responsibility of a Homeowners Association.  | Project Engineer  | Precise Development Plan                        | Marin County CDA | Marin County CDA               |
| <b>4.5 AIR QUALITY</b>   |  |                   |   |                  |                                |
| 4.5-A Construction of the new homes could generate temporary emissions of PM <sub>10</sub> that could cause localized exceedances of ambient air quality standards and contribute to regional violations of the ambient air quality standards. | 4.5-A.1 During construction, the developer should implement all of the following measures that are feasible to control dust and PM <sub>10</sub> from construction activities: <ul style="list-style-type: none"> <li>◆ Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.</li> <li>◆ Cover all hauling trucks or maintain at least 2 feet of freeboard. Dust-proof chutes should be used as appropriate to load debris onto trucks during demolition.</li> <li>◆ Pavement, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas.</li> <li>◆ Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.</li> <li>◆ Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously-graded areas that are inactive for ten days or more).</li> <li>◆ Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.</li> <li>◆ Limit traffic speeds on any unpaved roads to 15 mph.</li> </ul> | Project Applicant | Precise Development Plan (PDP) or Design Review | Marin County CDA | Marin County CDA Design Review |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation  | Implemented By    | When Implemented    | Monitored By     | Verified By and Date |
|---|---|-------------------|---------------------|------------------|----------------------|
|   | <ul style="list-style-type: none"> <li>◆ Replant vegetation in disturbed areas as quickly as possible.</li> <li>◆ Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. The project should ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately</li> <li>◆ The contractor shall install temporary electrical service as soon as possible to avoid the need for independently powered equipment (e.g. diesel-powered compressors).</li> <li>◆ Diesel equipment standing idle for more than three minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site and away from residences.</li> <li>◆ Properly tune and maintain equipment for low emissions.</li> </ul> |                   |                     |                  |                      |
| <b>4.6 TRAFFIC AND CIRCULATION</b>  |   |                   |                     |                  |                      |
| <p>4.6-A During the AM or PM peak hour, the volume of truck trips required could result in a substantial, temporary increase of truck trip volumes on San Pedro Road in relation to existing conditions. The increase, although temporary, would be notable in relation to the existing traffic load.</p> | <p>4.6-A.1 The applicant should be required to develop a traffic management plan that includes the following provisions:</p> <ul style="list-style-type: none"> <li>◆ Truck trips to and from the site for purposes of transporting fill would be prohibited during AM and PM peak hours;</li> <li>◆ No more than two trucks would be allowed to receive soil from the project site at one time;</li> <li>◆ In the event of lane closures in front of the project site</li> </ul>   | Project Applicant | During Construction | Marin County CDA | Marin County CDA     |

TABLE I MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation  | When Implemented By | Monitored By | Verified By and Date |
|---|---|---------------------|--------------|----------------------|
|   | <p>for purposes of truck parking, an adequate number of flaggers and the appropriate signage would be required to ensure the safe passage of vehicles, bicyclists, and pedestrians.</p>   |                     |              |                      |
| <ul style="list-style-type: none"> <li>◆ If construction activity, equipment, vehicles and/r material delivery and storage cause damage to any existing facility (e.g. pavement, curb, gutter, sidewalk, landscaping) beyond normal wear and tear, as determined by the agency, then the permitted shall be responsible for the repair of the same. In order to ensure repair, the agency may require cash deposits prior to issuance of permits or may place holds on interim or final inspections.</li> </ul> |   |                     |              |                      |
|   | <ul style="list-style-type: none"> <li>◆ The applicant should identify locations for contractor parking on site for the duration of the construction period so that spillover parking does not occur along North San Pedro Road or on adjacent streets (e.g. Pt. Gallinas Road).</li> </ul> |                     |              |                      |
|   | <ul style="list-style-type: none"> <li>◆ <u>Trucks that would be used to haul earthen material away from the site should be used to transport replacement trees to the site.</u></li> </ul>   |                     |              |                      |
|   | <ul style="list-style-type: none"> <li>◆ The applicant should be required to use trucks with a capacity of at least 20 cubic yards (cy) in order to limit the amount of truck trips.</li> </ul>   |                     |              |                      |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation   | Implemented By                                    | When Implemented   | Monitored By        | Verified By and Date   |
|---|--|---|--|---------------------|--|
| 4.6-E Failure to provide the required 250 feet of sight distance at the project driveway, Bay Creek Drive, to the west is considered a <i>significant</i> impact. | 4.6-E.1 <del>Project Lot 1 should be redesigned to allow</del> <u>the rear yard fence of Project Lot 1 should be relocated to approximately 10 feet south of the location currently shown on the Grading and Drainage Plan. If necessary, the footprint of the proposed residence on Lot 1 should also be redesigned.</u>  | Project Applicant                                 | <del>During Construction</del><br>Precise Development Plan | Marin County<br>CDA | Marin County<br>CDA  |
|   | Prior to grading activity for road and driveway construction being undertaken, the applicant shall submit for review and approval of the DPW traffic engineer, detailed engineering cross sections of the roadway frontage and detailed plan specifications with traffic engineering graphic data that more specifically depicts driveway configurations and site distance from driveway exit points. <u>Confirmation of adequate sight distance would be required prior to occupancy of any proposed units.</u> |   |  |                     |  |
| <b>4.9 CULTURAL RESOURCES</b>   |  |   |  |                     |  |
| 4.9-A An archaeological site or sites may be adversely impacted or destroyed by construction activities.  | 4.9-A.1 In the event that unique historical, archeological, paleontological or geologic features are discovered during ground disturbing activities, work on the site should stop immediately until a State-registered professional archeologist, paleontologist, or geologist can assess the nature and importance of the find and recommend appropriate treatment.   | Project Applicant<br>Project Construction Manager | Precise Development Plan<br>During Construction            | Marin County<br>CDA | Marin County<br>Approval of PDP<br>Completion of construction for implementation |
|   | 4.9-A.2 In the event that the project site is identified as an archeological, paleontological, or geologic resource, development should be situated or designed to avoid impacts on the archeological resources. This may be accomplished through one or more of the following methods:<br><br>◆ Siting buildings to completely avoid the archeological site.  | Project Applicant<br>Project Construction Manager | Precise Development Plan<br>During Construction            | Marin County<br>CDA | Marin County<br>Approval of PDP<br>Completion of construction for implementation |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts   | Mitigation   | Implemented By                                    | When Implemented                                    | Monitored By        | Verified By and Date   |
|---|--|---|---|---------------------|--|
|   | <ul style="list-style-type: none"> <li>◆ Covering the site with a layer of soil, also known as “capping”.</li> <li>◆ Deeding the site as a permanent conservation easement.</li> </ul>   |   |   |                     |  |
| 4.9-C A unique paleontological resource or geologic feature could potentially be impacted by construction activity. | 4.9-C.1 In the event that unique historical, archeological, paleontological or geologic features are discovered during ground disturbing activities, work on the site should stop immediately until a State-registered professional archeologist, paleontologist, or geologist can assess the nature and importance of the find and recommend appropriate treatment.   | Project Applicant<br>Project Construction Manager | Precise Development Plan<br><br>During Construction | Marin County<br>CDA | Marin County CDA<br>Approval of PDP<br>Completion of construction for implementation |
|   | 4.9-C.2 In the event that the project site is identified as an archeological, paleontological, or geologic resource, development should be situated or designed to avoid impacts on the archeological resources. This may be accomplished through one or more of the following methods: <ul style="list-style-type: none"> <li>◆ Siting buildings to completely avoid the archeological site.</li> <li>◆ Covering the site with a layer of soil, also known as “capping”.</li> <li>◆ Deeding the site as a permanent conservation easement.</li> </ul> | Project Applicant<br>Project Construction Manager | Precise Development Plan<br><br>During Construction | Marin County<br>CDA | Marin County CDA<br>Approval of PDP<br>Completion of construction for implementation |
| 4.9-D Human remains may potentially be disturbed by construction activity.  | 4.9-D.1 If previously unknown human remains are encountered during construction, the County Coroner and an appropriate representative of the Native American Heritage Commission should be informed and consulted, as required by State law and in accordance with the provisions of Section 7050.5 of the Health and Safety Code, Section 15064.5 (e) of the CEQA Guidelines, and Section 5097.98 pf the Public Resources Code.   | Project Applicant<br>Project Construction Manager | Precise Development Plan<br><br>During Construction | Marin County<br>CDA | Marin County CDA<br>Approval of PDP<br>Completion of construction for implementation |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts  | Mitigation  | Implemented By               | When Implemented  | Monitored By     | Verified By and Date                           |
|--|---|------------------------------|---|------------------|--|
| 4.10 NOISE   |   |                              |   |                  |  |
| <p>4.10-A Noise produced by construction activities would be audible and would intermittently exceed existing noise lev-els during the construction period at residences to the north and west of the site, would raise the Ldn by more than 5 dBA or exceed the “normally acceptable” standard (60 dBA), as established by the Marin Countywide Plan.</p> | <p>4.10-A.1 Consistent with Sections 6.70.030(5) and 6.70.040 of the Marin County Development Code, the applicant should develop a construction noise reduction plan prior to construction to establish allowable hours of operation for construction-related activities and to designate a noise disturbance coordinator at the construction site to implement the provisions of the plan. The noise disturbance coordinator should be responsible for responding to any local complaints about construction noise. In the event of complaints, the coordinator should determine the cause of the complaint (e.g. starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented.</p> | Project Construction Manager | Throughout project construction   | Marin County CDA | Marin County CDA<br>Completion of construction |
|  |   |                              | <p>Provisions that should be included in the plan include, but are not necessarily limited to, the following:</p> <ul style="list-style-type: none"> <li>◆ Limit construction activities, deliveries of materials or equipment to the site, to the hours between 9:00 a.m. and 6:00 p.m. Monday through Saturday, <del>and 10:00 a.m. to 6:00 p.m. Sundays and all holidays recognized by Marin County.</del></li> <li>◆ <u>Prohibit construction on all Sundays and holidays recognized by Marin County.</u></li> <li>◆ Do not allow start up of construction related machinery or equipment prior to 8:00 a.m. Monday through Friday, 9:00 a.m. Saturday, and 10:00 a.m. on Sunday and holidays.</li> <li>◆ Select quiet construction equipment, particularly air compressors, whenever possible.</li> <li>◆ Properly muffle and maintain all construction equipment powered by internal combustion engines.</li> </ul> |                  |  |



TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

| Impacts  | Mitigation   | Implemented By                      | When Implemented           | Monitored By            | Verified By and Date    |
|--|--|-------------------------------------|----------------------------|-------------------------|-------------------------|
|  | <ul style="list-style-type: none"> <li>◆ Prohibit unnecessary idling of internal combustion engines. Equipment should be turned off when not in use.</li> <li>◆ Do not allow machinery to be cleaned or serviced past 6:00 p.m. Monday through Friday, 6:00 p.m. on Saturdays, and 6:00 p.m. on Sundays and holidays.</li> <li>◆ Locate all stationary noise-generating construction equipment such as air compressors as far as practical from existing nearby residences and other noise-sensitive land uses. Acoustically shield such equipment.</li> <li>◆ Notify adjacent residents to the project site of the construction schedule in writing.</li> <li>◆ Control noise from construction workers' radios so they are not audible at existing residences that border the project site.</li> <li>◆ Conspicuously post a telephone number for the noise disturbance coordinator at the construction site and include it in the written notice sent to neighbors regarding the construction schedule.</li> </ul> |                                     |                            |                         |                         |
| <b>4.11 HAZARDS AND HAZARDOUS MATERIALS</b>  |  |                                     |                            |                         |                         |
| <p>4.11-B Demolition of the existing dwelling unit and auxiliary buildings may result in worker exposure to asbestos containing materials (ACMs) and the release of airborne asbestos.</p> | <p>4.11-B.1 Prior to demolition of the dwelling unit and auxiliary buildings located on the project site, the applicant should coordinate with the Bay Area Air Quality Management District (BAAQMD) to arrange for an inspection of structures to be demolished. If asbestos is detected in either structure, the demolition and removal of asbestos-containing building materials will be subject to applicable BAAQMD Regulations and the applicant would be required to obtain a Job Number from the BAAQMD. The applicant would be required to present the Job Number to the County Building Department before demolition could commence.</p>   | <p>Project Construction Manager</p> | <p>During Construction</p> | <p>Marin County CDA</p> | <p>Marin County CDA</p> |

TABLE I | MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

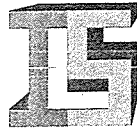
| Impacts   | Mitigation   | Implemented By    | When Implemented         | Monitored By     | Verified By and Date      |
|---|--|-------------------|--------------------------|------------------|---------------------------|
| 4.11-J The potential fall of the mature, blue gum eucalyptus tree located near the center of the site is an existing safety hazard.   | 4.11-J.1 The applicant shall contract a service to remove the tree prior to construction to ensure the safety of contractors during the construction period and future residents of the development.   | Project Applicant | Prior to Construction    | Marin County CDA | Marin County CDA          |
| <b>4.14 UTILITIES</b>   |  |                   |                          |                  |                           |
| 4.14-H The 6-inch diameter sewer line that the project would tie into may have subsided over time and lost the degree of grade necessary to allow for the adequate transfer of sanitary wastewater. | 4.14-H.1 Prior to issuance of a building permit, the applicant shall contract a qualified technician to probe the existing, 6-inch sanitary sewer line located along the northern edge of San Pedro Road. The probe shall be conducted downstream between Point Gallinas Road and the intersection with Vendola Drive to determine if this section has sufficient grade. Results of the probe shall be submitted to the Las Gallinas Valley Sanitary District (LGVSD) for review and based on the outcome, the applicant shall pay necessary fees to LGVSD for improvements to the pipe that would ensure adequate capacity for the project. | Project Applicant | Precise Development Plan | Marin County CDA | Marin County CDA Approval |

A P P E N D I X C

ILS DRAINAGE ANALYSIS AND  
STETSON ENGINEERS PEER  
REVIEW







**ILS ASSOCIATES, INC.**  
CIVIL ENGINEERING AND LAND SURVEYING

**DRAINAGE ANALYSIS**  
**650 N. San Pedro Road**  
**Marin County, CA**



**October 1, 2006**  
**Revised March 19, 2007**  
**Job No. 7282**



**ILS ASSOCIATES, INC.**  
CIVIL ENGINEERING AND LAND SURVEYING

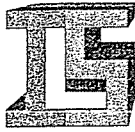
**DRAINAGE ANALYSIS  
650 NORTH SAN PEDRO ROAD  
MARIN COUNTY, CA  
JOB NO. 7282**

The 650 N. San Pedro Road property can be divided into two drainage areas in its current configuration shown as Drainage Area 1 and Drainage Area 2 on the attached Drainage Map dated October 1, 2006. After development, Drainage Area 1 will be increased by adding Drainage Area A, which will be decreased from Drainage Area 2.

Based on the calculations dated October 1, 2006 using the Rational Method of Computation and the County of Marin Department of Public Works Hydrology Manual, dated August 2, 2000, we have calculated the rate of runoff for a 100 year storm for Drainage Area 1 in the existing condition to be 23.4 cubic feet per second and for Drainage Area 2 to be 9.3 cubic feet per second. This compares to a rate of runoff after development of Area 1 + Area A of 26.6 cubic feet per second and a rate of runoff for Area 2 less Area A of 8.2 cubic feet per second.

The increase in rate of runoff to Point No.1 caused by the development of Area 1 when Area A is added to it is calculated as 3.2 cubic feet per second. However, the drainage collected within Area 1 and Area A is proposed as a part of the development of the project to be directed to the existing pond, which will be reconstructed to act as a detention pond. According to the July 20, 2005 Environmental Constraints Analysis, the minimum pond volume of 0.68 acre feet would completely mitigate the currently proposed projects impact of the 100-year peak flow discharge from Area 1. The report goes on to state that a elevation of the elevation to create that pond volume, considering the existing condition, is 34.7 feet. The calculations for the sizing of the detention pond and its detention facilities to account for this increase in rate of runoff will be provided with the Subdivision Improvement Plans as required by Marin County Code Sections 20.20.100 and 24.10.005 and will result in a reduction in rate of runoff at Point No.1 in the developed condition as compared to the current condition.

As can be seen, the rate of runoff in the developed condition to Point No. 2 shown on the Drainage Map, which is the outlet point for Area 2 and Area 2 minus A will decrease by 1.1 cubic feet per second. It should be noted that the Environmental Constraints Analysis dated July 20, 2005 points out two inadequate drainage facilities downstream of the subject site which are contributed to by the flow from Drainage Area 2. The report notes that there is an 8-inch diameter CMP culvert under the private residential driveway (No. 630 North San Pedro Road) that has collapsed. Approximately 200 feet farther downstream is a 12-inch diameter concrete cross culvert that carries the flow beneath North San Pedro Road to the storm water pond. While no physical changes have been made to the 12-inch cross culvert under North San Pedro Road by the County since the information provided in the July 20, 2005 Constraints Analysis, the resident at No. 630 North San Pedro Road has replaced the collapsed 8-inch corrugated metal pipe driveway culvert with a new 15-inch culvert and a concrete headwall at the inlet to the culvert. The new driveway culvert and headwall combined with the proposed reduction in storm flow of 1.1 cubic feet per second for Drainage Area No. 2 will result in an improvement to the existing drainage conditions along North San Pedro Road downstream of the subject site.



**ILS ASSOCIATES, INC.**  
CIVIL ENGINEERING AND LAND SURVEYING

BY: MEE JOB NO. 7282  
DATE: 10/1/06 SHEET NO: 1

**RATIONAL METHOD COMPUTATION FORM**

(From Cal-Trans Rainfall Intensity-Duration-Frequency Analysis  
& County of Marin Hydrology Manual Revised 8/2/00)

$$Q = C \times I \times A$$

Watershed AREA (1) At Point DI @ POINT 1  
Area = 503,200 sq. ft. = 11.55 acres.

Time of Concentration (+C) ...

$$t_c = \frac{1.8(1.1-C)\sqrt{L}}{[S(100)]^{1/3}} + 5 \text{ Min.} = \frac{1.8(1.1-.75)\sqrt{1200}}{[.31(100)]^{1/3}} = 6.9 \text{ min} + 5 \text{ min} = \underline{11.9 \text{ min}}$$

C = Runoff Coefficient\* 0.75

L = Longest run in feet 1200 FT

S = Average Slope in ft/ft =  $\frac{\Delta H}{L} = \frac{400-33}{1200} = \underline{0.31}$

Intensity

P<sub>60</sub> (chart I) = 1.2 zone (chart V) = B subzone (chart v) 1

I<sub>100</sub> (chart k) = 2.7 in/hr Rd<sub>10</sub> (chart k) NA

I<sub>10</sub> = I<sub>100</sub> NA x Rd<sub>10</sub> (chart k) \_\_\_\_\_ = \_\_\_\_\_ in/hr.

I \_\_\_\_\_ = Rd \_\_\_\_\_ (from Chart R) x I<sub>100</sub> \_\_\_\_\_ = \_\_\_\_\_ in/hr.

Coefficient of Runoff

Relief = 0.4

Soil infiltration = 0.15

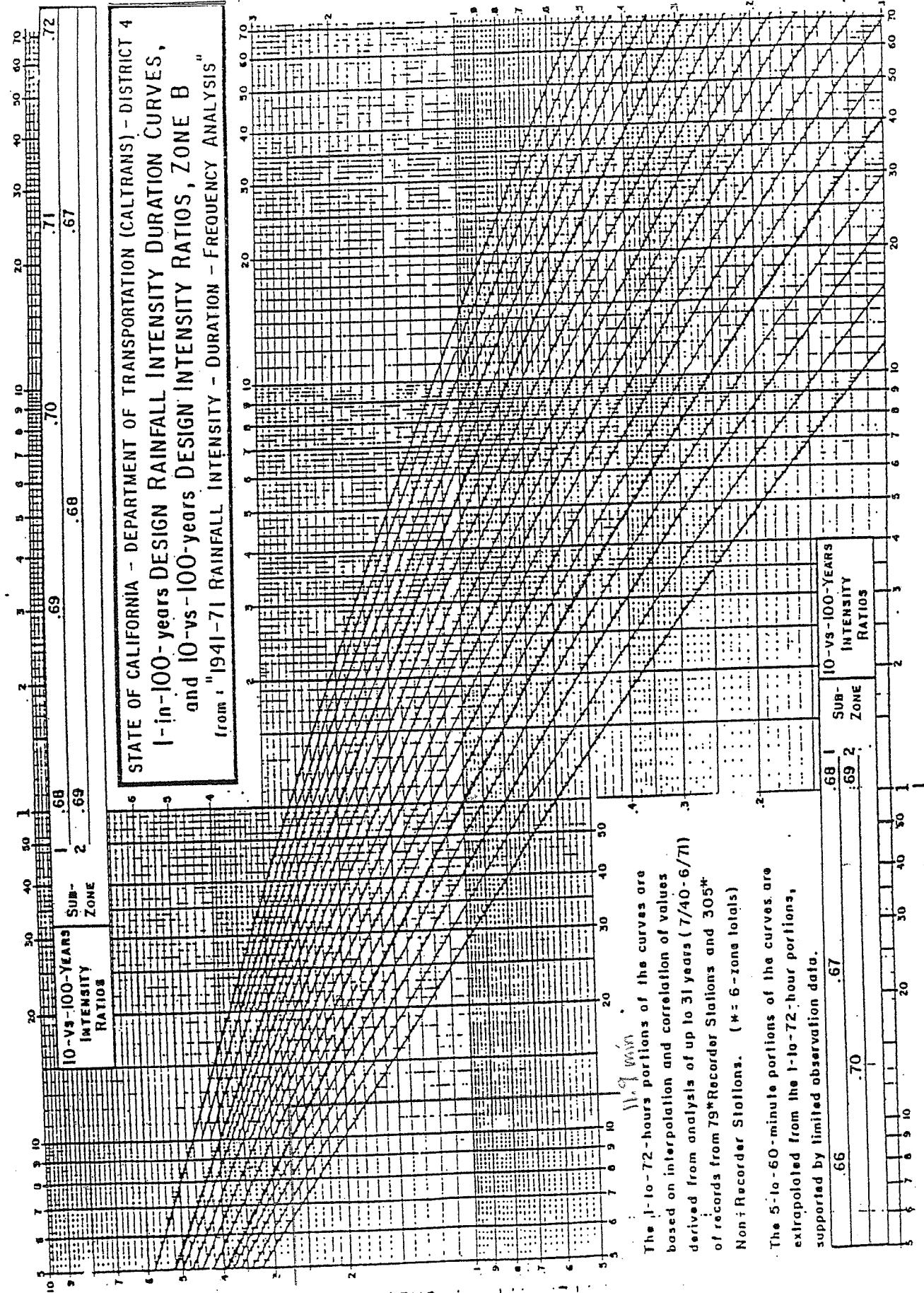
Vegetal cover = 0.05

Surface storage = 0.15

C = 0.75 (0.70 minimum)\*

Peak Discharge Q = C x I x A

$$Q \text{ } \underline{100 \text{ yR}} = \underline{0.75} \times \underline{2.7} \times \underline{11.55} = \underline{23.4} \text{ c.f.s.}$$

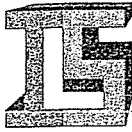


EK/ERR  
7/74

MINUTES — DURATION — HOURS CHART "K" ZONE B

2.7  
N/HC





ILS ASSOCIATES, INC.  
CIVIL ENGINEERING AND LAND SURVEYING

BY: MEE JOB NO. 7282  
DATE: 10/1/06 SHEET NO: 2

**RATIONAL METHOD COMPUTATION FORM**

(From Cal-Trans Rainfall Intensity-Duration-Frequency Analysis  
& County of Marin Hydrology Manual Revised 8/2/00)

$$Q = C \times I \times A$$

Watershed AREA (2) At Point POINT 2 (EXISTING ROADSIDE DITCH)  
Area = 186,625 sq. ft. = 4.28 acres.

Time of Concentration (+C) ...

$$t_c = \frac{1.8 (1.1-C)\sqrt{L}}{[S(100)]^{1/3}} + 5 \text{ Min.} = \frac{1.8(1.1-.75)\sqrt{780}}{[.35(100)]^{1/3}} = 5.4 \text{ min} + 5 \text{ min} = \underline{10.4 \text{ min}}$$

C = Runoff Coefficient\* 0.75

L = Longest run in feet 780 FT

S = Average Slope in ft/ft =  $\frac{\Delta H}{L}$   $\frac{290-16}{780} = \underline{0.35}$

Intensity

P<sub>60</sub> (chart I) = 1.2 zone (chart V) = B subzone (chart v) 1

I<sub>100</sub> (chart k) = 2.9 in/hr Rd<sub>10</sub> (chart k) NA

I<sub>10</sub> = I<sub>100</sub> NA x Rd<sub>10</sub> (chart k) \_\_\_\_\_ = \_\_\_\_\_ in/hr.

I \_\_\_\_\_ = Rd \_\_\_\_\_ (from Chart R) x I<sub>100</sub> \_\_\_\_\_ = \_\_\_\_\_ in/hr.

Coefficient of Runoff

Relief = 0.4

Soil infiltration = 0.15

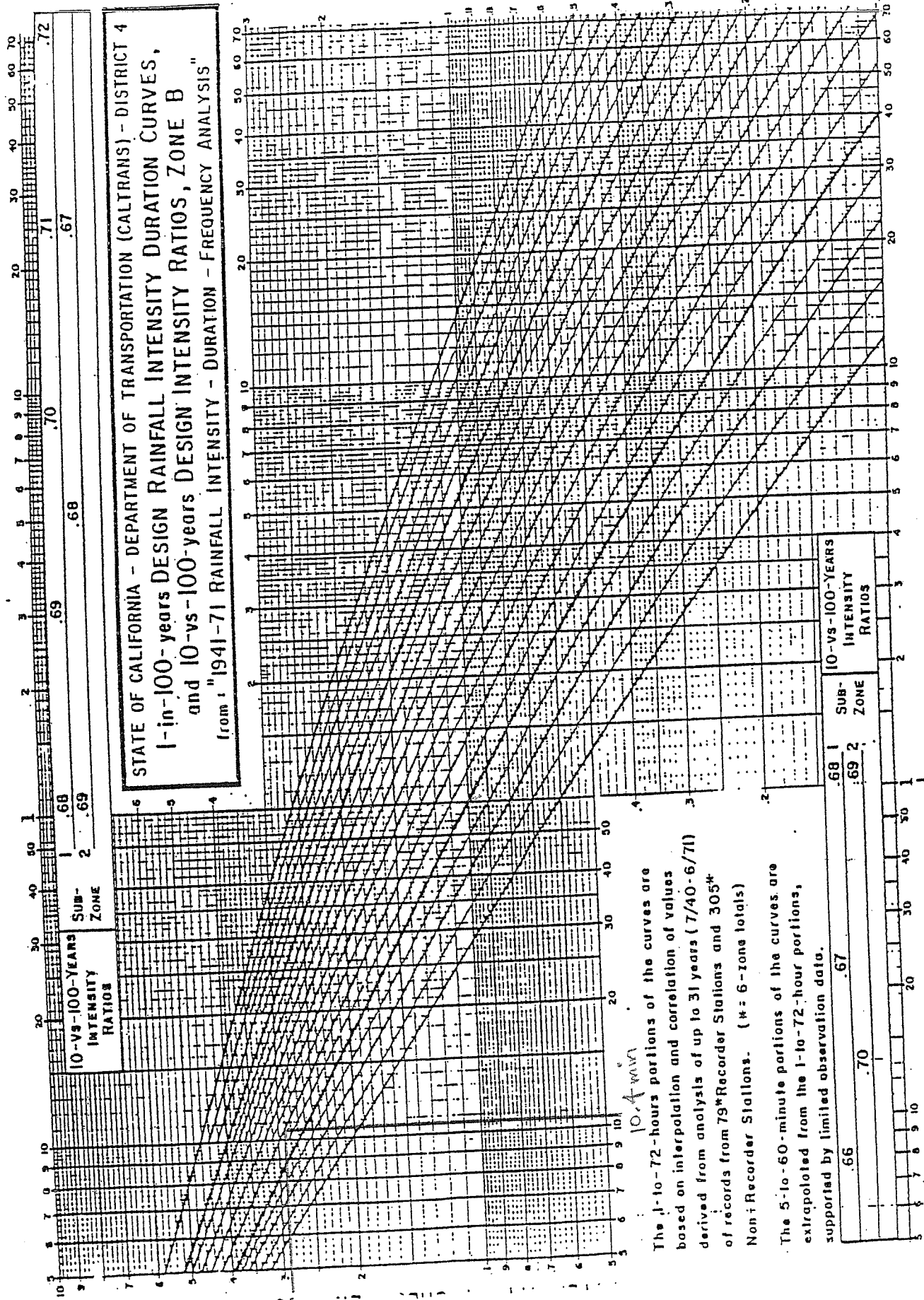
Vegetal cover = 0.05

Surface storage = 0.15

C = 0.75 (0.70 minimum)\*

Peak Discharge Q = C x I x A

$$Q_{100 \text{ YR}} = \underline{0.75} \times \underline{2.9} \times \underline{4.28} = \underline{9.3} \text{ c.f.s.}$$



STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION (CALTRANS) - DISTRICT 4  
 1-in-100-years DESIGN RAINFALL INTENSITY DURATION CURVES,  
 and 10-vs-100-years DESIGN INTENSITY RATIOS, ZONE B  
 from: "1941-71 RAINFALL INTENSITY - DURATION - FREQUENCY ANALYSIS"

The 1- to 72-hour portions of the curves are based on interpolation and correlation of values derived from analysis of up to 31 years (7/40-6/71) of records from 79\* Recorder Stations and 305\* Non-Recorder Stations. (\* = 6-zone totals)

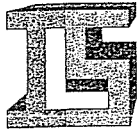
The 5- to 60-minute portions of the curves are extrapolated from the 1- to 72-hour portions, supported by limited observation data.

| SUB-ZONE | 10-Vs-100-YEARS INTENSITY RATIOS |
|----------|----------------------------------|
| 1        | .68                              |
| 2        | .69                              |
| 3        | .70                              |
| 4        | .71                              |
| 5        | .72                              |

EK/ERR 0.7%

MINUTES DURATION HOURS CHART "K" ZONE B

2.9  
11/11/48



**ILS ASSOCIATES, INC.**  
CIVIL ENGINEERING AND LAND SURVEYING

BY: MEE JOB NO. 7282  
DATE: 10/1/06 SHEET NO: 3

**RATIONAL METHOD COMPUTATION FORM**

(From Cal-Trans Rainfall Intensity-Duration-Frequency Analysis  
& County of Marin Hydrology Manual Revised 8/2/00)

$$Q = C \times I \times A$$

Watershed AREA ②-A At Point POINT 2 (EXISTING ROADSIDE DITCH)  
Area = 152,900 sq. ft. = 3.51 acres.

Time of Concentration (+C) ...

$$t_c = \frac{1.8 (1.1 - C) \sqrt{L}}{[S(100)]^{1/3}} + 5 \text{ Min.} = \frac{1.8 (1.1 - 0.78) \sqrt{780}}{[0.35 (100)]^{1/3}} = 4.9 \text{ min} + 5 \text{ min} = \underline{9.9 \text{ min}}$$

C = Runoff Coefficient\* 0.78  
L = Longest run in feet 780 FT  
S = Average Slope in ft/ft =  $\frac{\Delta H}{L} = \frac{290 - 16}{780} = \underline{0.35}$

Intensity

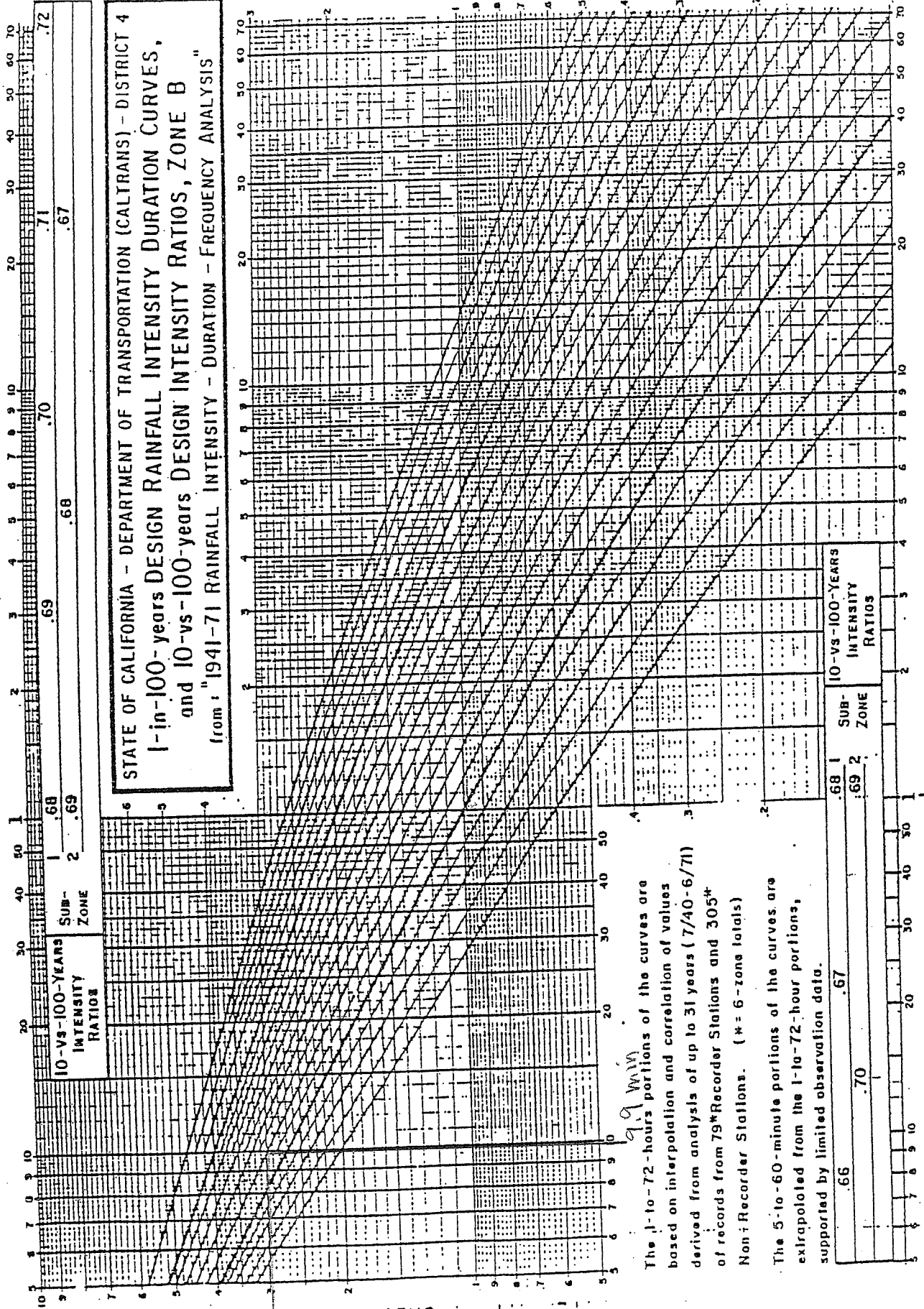
P<sub>60</sub> (chart I) = 1.2 zone (chart V) = B subzone (chart v) 1  
I<sub>100</sub> (chart k) = 3.0 in/hr Rd<sub>10</sub> (chart k) NA  
I<sub>10</sub> = I<sub>100</sub> NA x Rd<sub>10</sub> (chart k) \_\_\_\_\_ = \_\_\_\_\_ in/hr.  
I \_\_\_\_\_ = Rd \_\_\_\_\_ (from Chart R) x I<sub>100</sub> \_\_\_\_\_ = \_\_\_\_\_ in/hr.

Coefficient of Runoff

85% vegetation pave/roof 15%  
Relief = 0.4  
Soil infiltration = 0.15  
Vegetal cover = 0.05  
Surface storage = 0.15  
C = 0.75 0.95 (0.70 minimum)\*  
 $C_{weighted} = (0.85 \times 0.75 + 0.15 \times 0.95)$   
 $C = \underline{0.78}$

Peak Discharge  $Q = C \times I \times A$

$$Q_{100 \text{ yr}} = 0.78 \times 3.0 \times 3.51 = \underline{8.2} \text{ c.f.s.}$$



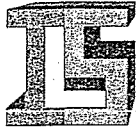
STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION (CALTRANS) - DISTRICT 4  
 1-in-100-years DESIGN RAINFALL INTENSITY DURATION CURVES,  
 and 10-vs-100-years DESIGN INTENSITY RATIOS, ZONE B  
 from: "1941-71 RAINFALL INTENSITY - DURATION - FREQUENCY ANALYSIS"

The 1- to -72 hours portions of the curves are based on interpolation and correlation of values derived from analysis of up to 31 years (7/40-6/71) of records from 79\*Recorder Stations and 305\* Non-Recorder Stations. (\* = 6-zone totals)

The 5- to -60-minute portions of the curves are extrapolated from the 1- to -72-hour portions, supported by limited observation data.

MINUTES — DURATION — HOURS CHART "K" ZONE B

EK/ERR 9/74



ILS ASSOCIATES, INC.  
CIVIL ENGINEERING AND LAND SURVEYING

BY: MEE JOB NO. 7282

DATE: 10/1/06 SHEET NO: 4

**RATIONAL METHOD COMPUTATION FORM**

(From Cal-Trans Rainfall Intensity-Duration-Frequency Analysis  
& County of Marin Hydrology Manual Revised 8/2/00)

$$Q = C \times I \times A$$

Watershed AREA ① + ② At Point DI @ POINT 1  
Area = 536,925 sq. ft. = 12.33 acres.

Time of Concentration (+C)

$$t_c = \frac{1.8(1.1-C)\sqrt{L}}{[S(100)]^{1/3}} + 5 \text{ Min.} = \frac{1.8(1.1-.77)\sqrt{1200}}{[.31(100)]^{1/3}} = 6.6 \text{ min} + 5 \text{ min} = \underline{11.6 \text{ min}}$$

C = Runoff Coefficient\* 0.77

L = Longest run in feet 1200 FT

S = Average Slope in ft/ft =  $\frac{\Delta H}{L} = \frac{400-33}{1200} = \underline{0.31}$

Intensity

P<sub>60</sub> (chart I) = 1.2 zone (chart V) = B subzone (chart v) 1

I<sub>100</sub> (chart k) = 2.8 in/hr Rd<sub>10</sub> (chart k) NA

I<sub>10</sub> = I<sub>100</sub> NA x Rd<sub>10</sub> (chart k) \_\_\_\_\_ = \_\_\_\_\_ in/hr.

I \_\_\_\_\_ = Rd \_\_\_\_\_ (from Chart R) x I<sub>100</sub> \_\_\_\_\_ = \_\_\_\_\_ in/hr.

Coefficient of Runoff

Relief = 0.4 91% vegetation - pave/roof 9%

Soil infiltration = 0.15

Vegetal cover = 0.05

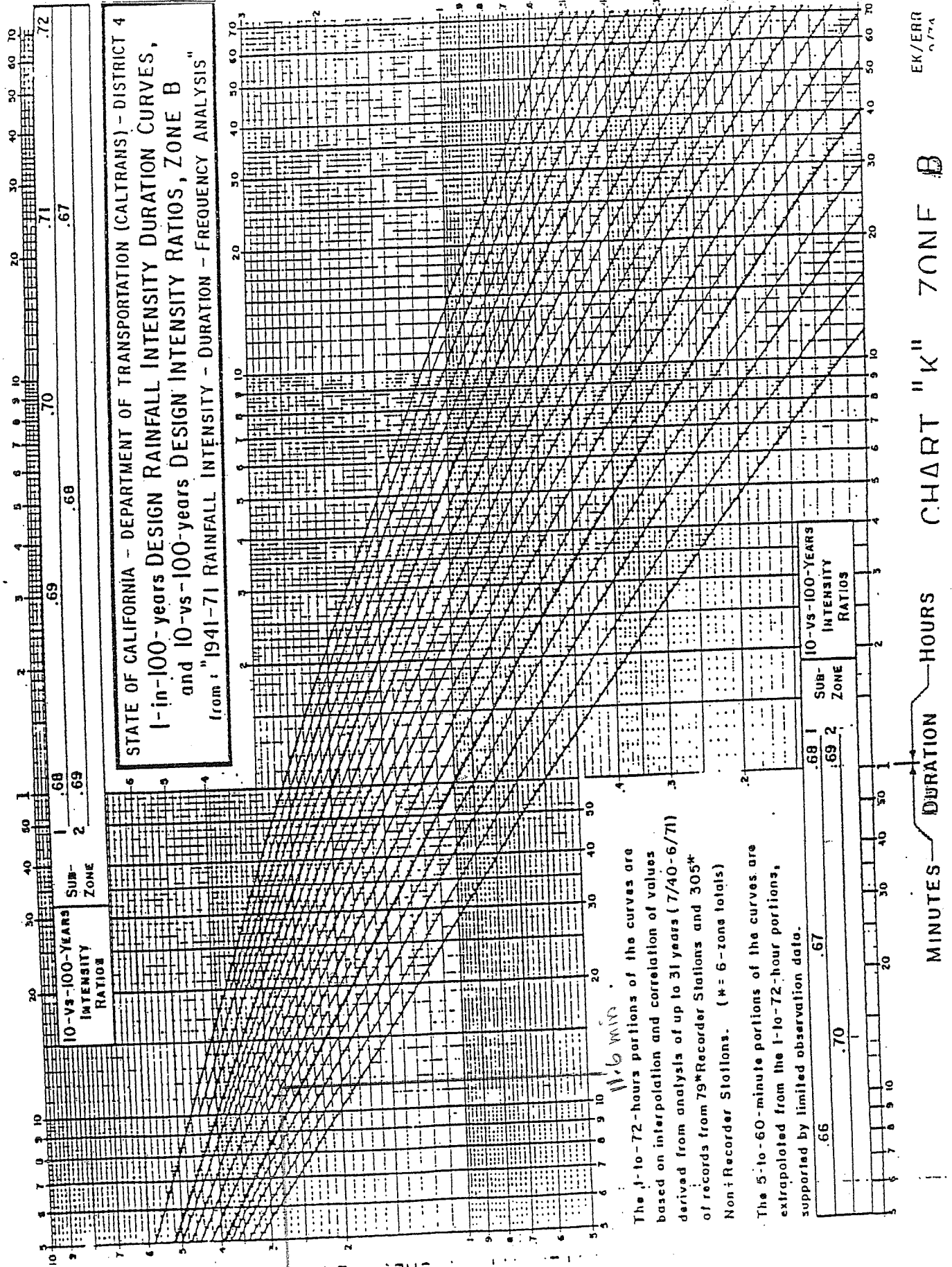
Surface storage = 0.15

C = 0.75 0.95 (0.70 minimum)\*

$$C_{\text{weighted}} = (.91 \times .75 + .09 \times .95) = \underline{0.77}$$

Peak Discharge Q = C x I x A

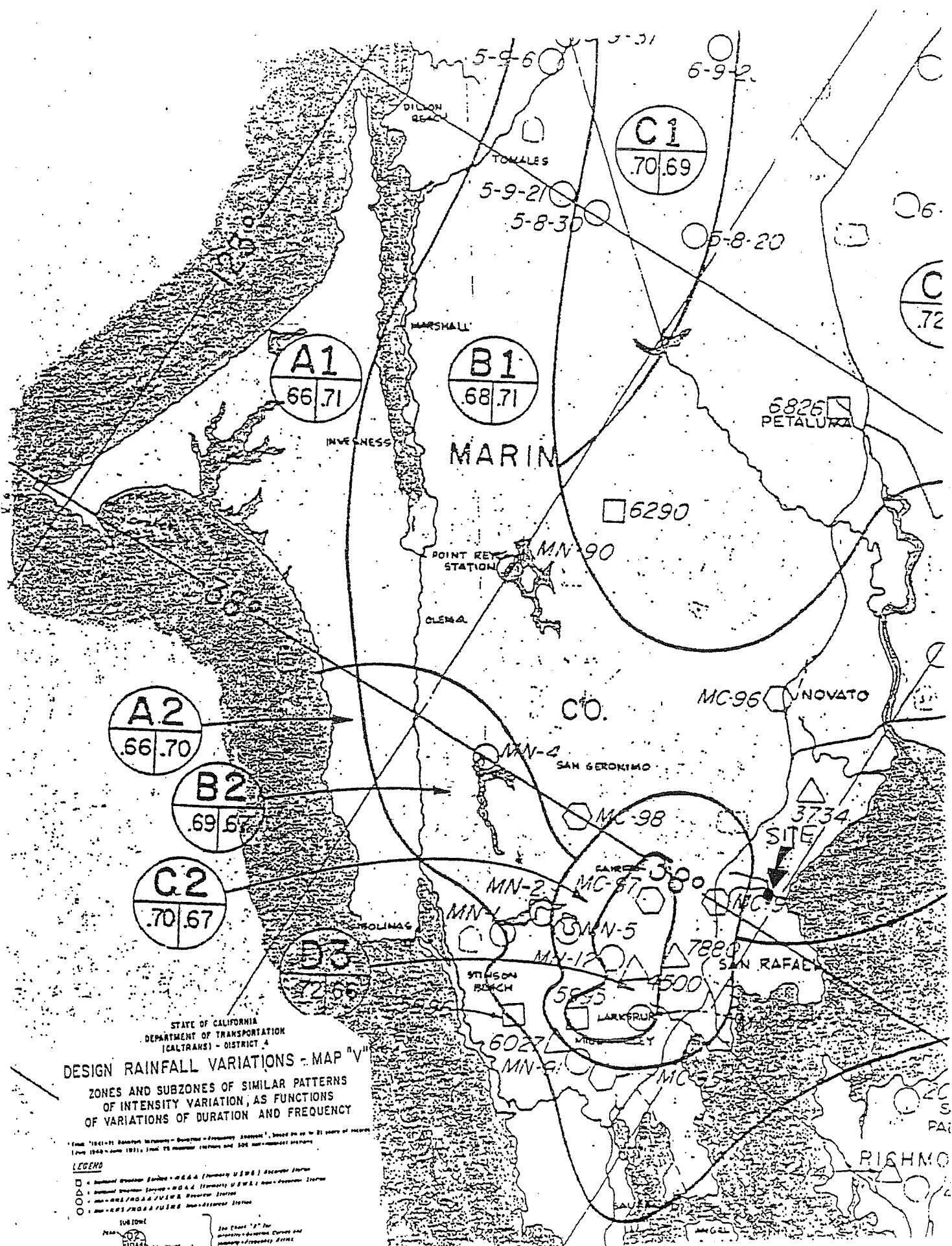
$$Q_{100 \text{ yr}} = \underline{0.77} \times \underline{2.8} \times \underline{12.33} = \underline{26.6} \text{ c.f.s.}$$



The 1-to-72-hour portions of the curves are based on interpolation and correlation of values derived from analysis of up to 31 years (7/40-6/71) of records from 79\* Recorder Stations and 305\* Non-Recorder Stations. (\* = 6-zone totals)

The 5-to-60-minute portions of the curves are extrapolated from the 1-to-72-hour portions, supported by limited observation data.

200  
10/1/52



STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
(CALTRANS) - DISTRICT 4

**DESIGN RAINFALL VARIATIONS - MAP "V"**  
ZONES AND SUBZONES OF SIMILAR PATTERNS  
OF INTENSITY VARIATION, AS FUNCTIONS  
OF VARIATIONS OF DURATION AND FREQUENCY

\* From "1961-71 Rainfall Intensity - Duration - Frequency Studies", based on up to 21 years of records (from 1948 to June 1971), from 73 recording stations and 506 non-recording stations.

- LEGEND**
- = National Weather Service - NOAA (formerly USWB) Recorder Station
  - △ = National Weather Service - NOAA (formerly USWB) Non-Recording Station
  - = WWS/NOAA/USWB Recorder Station
  - = WWS/NOAA/USWB Non-Recording Station

**SUBZONE**

Map "V" for intensity-duration curves and intensity-frequency curves







# CHART I

## RUNOFF COEFFICIENTS FOR AGRICULTURAL AND OPEN AREAS \*

|                           |         | WATERSHED CHARACTERISTICS  |   |  |  |
|---------------------------|---------|--|---|--|--|
|                           |         | A<br>RELIEF  | B<br>SOIL INFILTRATION  | C<br>VEGETAL COVER   | D<br>SURFACE STORAGE   |
| WATERSHED CHARACTERISTICS | EXTREME | 0.40<br>Steep rugged terrain<br>average slopes<br>greater than 30% | 0.20<br>No effective soil<br>cover; either rock or<br>thin soil mantle<br>negligible infiltra-<br>tion capacity | 0.20<br>No effective plant<br>cover; bare or very<br>sparse soil cover   | 0.20<br>Negligible; surface<br>depression few and<br>shallow; drainage<br>ways steep and small,<br>no ponds or marshes   |
|                           | HIGH    | 0.30<br>Hilly with average<br>slopes of 10 to 30%                  | 0.15<br>Slow to take up water;<br>clay or other soil of<br>low infiltration capaci-<br>ty such as heavy gumbo   | 0.15<br>Poor to fair; clean<br>cultivated crops or<br>poor natural cover;<br>less than 10% of area<br>under good cover | 0.15<br>Low; well defined<br>system of small drain-<br>age ways; no ponds or<br>marshes  |
|                           | NORMAL  | 0.20<br>Rolling with average<br>slopes of 5 to 10%                 | 0.10<br>Normal, deep loam   | 0.10<br>Fair to good; about<br>50% of area in good<br>grass land, woodland<br>or equivalent cover                      | 0.10<br>Normal; considerable<br>surface depression<br>storage; typical of<br>prairie lands; lakes,<br>ponds and marshes<br>less than 20% of area                   |
|                           | LOW     | 0.10<br>Relatively flat land<br>average slopes 0 to<br>5%          | 0.05<br>High; deep sand or<br>other soil that<br>takes up water<br>readily and rapidly                          | 0.05<br>Good to excellent;<br>about 90% of area<br>in good grass land,<br>woodland or equiv-<br>alent cover            | 0.05<br>High; surface depres-<br>sion storage high;<br>drainage system not<br>sharply defined. Eg.<br>flood plain storage;<br>large number of<br>ponds and marshes |

NOTE: Runoff coefficient is equal to sum of coefficients from the appropriate block in Rows A, B, C and D.

\* After H. L. Cook, as published in *Engineering for Agricultural Drainage*, by Harry B. Roe and Quincy C. Ayres, McGraw-Hill Book Co., Inc., New York, 1954, p. 165.



# MEMORANDUM

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**TO: TED HEYD, DC&E**

**DATE: SEPTEMBER 7, 2007**

**FROM: STETSON ENGINEERS**

**JOB NO.: 2108-02**

**RE: PEER REVIEW OF THE 650 NORTH SAN PEDRO ROAD DRAINAGE ANALYSIS**

This peer review is in regards to the drainage analysis completed by ILS Associates Inc. dated October 1, 2006 for the residential development located at 650 North San Pedro Road, San Rafael, CA (Figure 1 shows the project location and downstream drainage facilities). This peer review is a second round review to confirm whether ILS has addressed any deficiencies and recommendations that Stetson identified in the first peer review. Note that since the first peer review, the drainage boundary of the project has changed. In light of this change, the drainage and detention basin analysis will be examined for adequacy as part of this second round peer review.

## INTRODUCTION

The proposed site development is divided into two (2) drainage subareas: Drainage Area 1 (11.55 acres) and Drainage Area 2 (4.28 acres). After development, Drainage 1 will be increased by adding Drainage Area A (0.77 acres), which will be decreased from Drainage Area 2. There is an existing pond located in Drainage Area 1.

Figure 2 shows the 11.55-acre Drainage Area 1 and the 4.28-acre Drainage Area 2 under existing conditions. Both drainage areas discharge to an existing roadside earthen drainage ditch along the south edge of San Pedro Road. Runoff from Drainage Area 1 collects in the existing pond before discharging to the ditch (Figure 3 shows the storage capacity and surface area curves of the existing pond). All ditch flows are conveyed to a stormwater pond north of San Pedro Road via existing culverts beneath the road. The stormwater pond ultimately discharges to San Pablo Bay via the Sunny Oaks drain/flapgate.

The project site is primarily mixed evergreen forest dominated by oak and bay with steep slopes, typically more than 30%. The proposed project would increase the percentage of the site covered by impermeable surfaces and therefore has the potential to increase peak flows discharging to the ditch and other existing off-site, downstream drainage facilities.

A new site development is required to meet typical hydrology-related requirements: (1) not increasing the peak flow magnitude of stormwater leaving the site, compared to existing conditions; and (2) not reducing the water quality of stormwater leaving the site, compared to existing conditions.

The proposed drainage concept design is a system of collection and conveyance of surface runoff from the upper elevations of the property to the lower elevations discharge points (Figure 4). The proposed drainage system includes several features to manage the quality and quantity of stormwater runoff generated on the site. The proposed drainage facilities mainly include two discharge pipe outlet dissipators, three catch basin silt traps, two grass swales, a weir outlet structure, and multiple drainage pipes and ditches. The existing two catch basins will be integrated to the proposed drainage system. The potential increases in flow due to the new site development will be mitigated by the existing pond that will be sized such that the peak flows discharging from the pond are not greater than pre-development levels.

#### **SUMMARY OF DEFICIENCIES AND RECOMMENDATIONS IDENTIFIED BY STETSON IN THE FIRST PEER REVIEW**

During the first peer review, Stetson conducted field survey of on-site and off-site stormwater drainage facilities, conducted independent calculations of 100-year and 10-year peak flow discharges from Drainage Area 1 and Drainage Area 2 under pre-development and post-development conditions, analyzed minimum necessary size detention facilities for reducing increased peak flows as well as enhancing stormwater discharge quality, identified hydraulic constraints of existing downstream stormwater drainage facilities, and provided improvement recommendations. The first peer review results were documented in the Hydrology and Water Quality section of the July 20, 2005 Environmental Constraints Analysis. The following summarizes the deficiencies and recommendations identified in the first peer review:

- 1) The hydrology calculations by ILS did not follow the procedures in the Marin County Department of Public Works Hydrology Manual (That was why Stetson conducted independent calculations).
- 2) ILS did not provide analysis of minimum detention facilities necessary for peak flow reduction and stormwater quality enhancement. Stetson conducted independent analysis of minimum detention storage volume required for reducing increased peak flow from Drainage Area 1 using the NRCS triangle unit hydrograph method and analysis of wet pond storage volume required for stormwater quality enhancement based on the 2003 California Stormwater Best Management Practices Handbook. The analysis results indicated that the minimum detention pond volume required for reducing the increased peak flow was approximately 0.68 acre-feet, and the minimum required pond volume for stormwater quality enhancement that would provide 48-hour long detention and capture of 85% of annual runoff volume was about 0.58 acre-feet. Therefore, a 0.68 acre-foot pond was determined to be the minimum sized detention pond that would eliminate potential project impacts to both peak flows and stormwater quality downstream from Drainage Area 1. The corresponding elevation of the existing pond was estimated to be about 34.4 feet to create the pond volume of 0.68 acre-feet (see Figure 3). Stetson recommended that the drainage plan be revised to include the necessary stormwater facilities to completely offset the project's peak flow and stormwater quality impacts within Drainage Area 1.

- 3) Stetson recommended that an 18-in-diameter CMP culvert be installed to drain the pond into the existing off-site catch basin adjacent to San Pedro Road and the inlet of the new drain be designed to meet pond volume requirements for both peak flow reduction and stormwater quality enhancement.
- 4) Stetson's independent hydrology calculations indicated that there will be a minor increase (by 0.2 cfs) of 100-year peak flow discharge in Drainage Area 2. Accordingly, Stetson recommended that the developer could redesign the development plan by reducing Drainage Area 2 by 0.1 acres and adding this land area to Drainage Area 1, or alternatively, use multiple decentralized stormwater detention facilities because a centralized detention facility would be impractical on the steep slopes near the outlet of Drainage Area 2, such as relatively small roof top and/or below-grade holding tanks or gravel-filled trenches designed to detain a portion of discharge from roof top gutters and chemically-treated landscape areas, before overflowing the excess via the stormwater drain off-site to the existing roadside ditch.
- 5) Stetson recommended that the developer replace the failed 8-inch-diameter CMP culvert with a 15-inch-diameter culvert to handle the estimated post-development 100-year peak flow in the roadside ditch.
- 6) Stetson made general recommendations on Best Management Practices (BMPs).

## **SECOND ROUND REVIEW COMMENTS**

Total discharge of surface runoff of a hundred year (100-yr) reoccurring storm event was calculated by ILS for each of the two drainage subareas under pre-development and post-development conditions. Hydrology analyses were conducted by ILS following the procedures in the Marin County Department of Public Works Hydrology Manual. Based on ILS calculations the pre-development and post-development conditions for the subareas are shown in Table 1. The estimated 100-year peak flow for Drainage Area 1 under the post-development condition is about 26.6 cfs, which is about 3.2 cfs or 13.7% higher than the pre-development condition (23.4 cfs). The estimated 100-year peak flow for Drainage Area 2 under the post-development condition is about 8.2 cfs, which is about 1.1 cfs or 11.8% lower than the pre-development condition (9.3 cfs). The decrease in 100-year peak flow in Drainage Area 2 results from reduced land area, i.e., Drainage Area A.

Table 2 summarizes this second round review comments specifically related to the above listed deficiencies and recommendations identified by Stetson in the first peer review. In general ILS has followed Stetson's recommendations to revise the drainage plan and the 100-year peak flow calculations. However, ILS did not update the detention basin analysis to reflect the revised drainage plan and peak flow calculations.

**Table 1 Estimated 100-Year Peak Flows by ILS  
for the Pre-Development and Post-Development Conditions**

| <b>Pre-Development Conditions</b>  |                    |                          |                                |                         |                               |                              |                                 |                          |
|------------------------------------|--------------------|--------------------------|--------------------------------|-------------------------|-------------------------------|------------------------------|---------------------------------|--------------------------|
| Drainage Subarea                   | Total Area (acres) | Undeveloped Area (acres) | Undeveloped Runoff Coefficient | Impervious Area (acres) | Impervious Runoff Coefficient | Composite Runoff Coefficient | Time of Concentration (minutes) | 100-Year Peak Flow (cfs) |
| 1                                  | 11.55              | 11.55                    | 0.75                           | 0                       | 0.95                          | 0.75                         | 11.9                            | <b>23.4</b>              |
| 2                                  | 4.28               | 4.28                     | 0.75                           | 0                       | 0.95                          | 0.75                         | 10.4                            | <b>9.3</b>               |
| Total                              | 15.83              | 15.83                    |                                | 0                       |                               |                              |                                 |                          |
| <b>Post-Development Conditions</b> |                    |                          |                                |                         |                               |                              |                                 |                          |
| Drainage Subarea                   | Total Area (acres) | Undeveloped Area (acres) | Undeveloped Runoff Coefficient | Impervious Area (acres) | Impervious Runoff Coefficient | Composite Runoff Coefficient | Time of Concentration (minutes) | 100-Year Peak Flow (cfs) |
| 1                                  | 12.33              | 11.22                    | 0.75                           | 1.11                    | 0.95                          | 0.77                         | 11.6                            | <b>26.6</b>              |
| 2                                  | 3.51               | 2.98                     | 0.75                           | 0.53                    | 0.95                          | 0.78                         | 9.9                             | <b>8.2</b>               |
| Total                              | 15.83              | 14.20                    |                                | 1.64                    |                               |                              |                                 |                          |

**Table 2 Second Round Peer Review Comments**

| <b>Deficiencies and recommendations identified by Stetson in the first peer review</b> | <b>Review Comments</b>   |
|--|--|
| (1)  | ILS revised its hydrology calculation method to follow the Marin County Hydrology Manual.  |
| (2)  | ILS did not provide analysis of minimum detention facilities necessary for peak flow reduction and stormwater quality enhancement. ILS simply used Stetson’s calculation result in the first peer review.  |
| (3)  | ILS followed the recommendation by installing a CMP culvert to drain the pond into the existing off-site catch basin adjacent to San Pedro Road. However, ILS did not provide explanation about how the proposed weir outlet structure at the new drain inlet would meet pond volume requirements for both peak flow reduction and stormwater quality enhancement.   |
| (4)  | ILS hydrology analysis showed that the 100-year peak flow discharge from Drainage Area 2 will be decreased due to reduced land area. So this recommendation is not applicable for the revised development plan.  |
| (5)  | The ILS drainage analysis report indicated that the collapsed 8-inch diameter CMP culvert under the private residential driveway (No. 630 North San Pedro Road) has been replaced with a new 15-inch diameter culvert by the resident. Stetson field confirmed the new culvert on August 21, 2007.   |
| (6)  | ILS applied different BMPs in its grading and drainage plan, including proposed three catch basin silt traps for capturing stormwater silt, two discharge pipe outlet dissipators for reducing discharge velocity and hence erosion potential, two grass swales for filtering particulate pollutants (suspended solids and trace metals), and two existing catch basins for controlling the amount of sediment and debris transported into receiving waters. |

## ANALYSIS OF MINIMUM NECESSARY SIZE DETENTION FACILITIES FOR DRAINAGE AREA 1

ILS did not provide analysis of minimum detention facilities necessary for peak flow reduction and stormwater quality enhancement. ILS simply used Stetson's calculation results in the first peer review. However, due to the change in drainage boundary, the detention basin analysis needs to be updated to reflect the revised development plan and the updated peak flow calculations.

The Marin County Hydrology Manual (dated 8/2/2000) provides step-by-step instructions for determining 100-year peak flows using the 1-hour, 100-year intensity of rainfall as the basis and rainfall intensity-duration-frequency curves. The manual does not provide instructions for detention basin design. The well documented NRCS TR-55 method (NRCS, 1986) is used here to size the detention basin required for reducing the increased 100-year peak flow from Drainage Area 1. The method provides the following relationship between the ratio of the storage volume to the runoff volume and the ratio of the pre-development to the post-development peak discharges:

$$\frac{V_s}{V_r} = C_0 + C_1 \left( \frac{q_0}{q_1} \right) + C_2 \left( \frac{q_0}{q_1} \right)^2 + C_3 \left( \frac{q_0}{q_1} \right)^3$$

Where

$V_s/V_r$  = ratio of storage volume ( $V_s$ ) to runoff volume ( $V_r$ )

$q_0/q_1$  = ratio of peak outflow discharge ( $q_0$ ) to peak inflow discharge ( $q_1$ )

$C_0, C_1, C_2, C_3$  = coefficients from the following table. Rainfall distribution type in Main County is generally type I or IA.

**Coefficients for the NRCS TR-55 Detention Volume Method**

| <b>Rainfall Distribution</b> | <b>C<sub>0</sub></b> | <b>C<sub>1</sub></b> | <b>C<sub>2</sub></b> | <b>C<sub>3</sub></b> |
|------------------------------|----------------------|----------------------|----------------------|----------------------|
| <b>I or IA</b>               | 0.660                | -1.76                | 1.96                 | -0.730               |
| <b>II or III</b>             | 0.682                | -1.43                | 1.64                 | -0.804               |

For Drainage Area 1:

$$q_0/q_1 = 23.4 \text{ cfs} \div 26.6 \text{ cfs} = 0.88$$

$$V_s/V_r = 0.660 - 1.76 \times 0.88 + 1.96 \times 0.88^2 - 0.730 \times 0.88^3 = 0.132$$

1-hour, 100-year rainfall = 1.2 inches

Post-development runoff coefficient = 0.77

Drainage area = 12.33 acres

$$V_r = 0.77 \times 1.2 \text{ inches} \times 12.33 \text{ acres} = 0.95 \text{ acre-feet}$$

$$V_s = 0.132 \times V_r = 0.132 \times 0.95 = 0.13 \text{ acre-feet}$$

So the required minimum storage for reducing the 100-year post-development peak flow from Drainage Area 1 to the pre-development level is estimated to be approximately 0.13 acre-feet. The conservative estimate of minimum storage of 0.68 acre-feet in the first peer review mainly resulted from the conservative assumption of detaining 24-hour, 100-year surface runoff, instead of 1-hour, 100-year surface runoff.

According to the 2003 California Stormwater Best Management Practices Handbook (California Stormwater Quality Association 2003), adequate stormwater quality protection and enhancement would be provided if the detention pond were large enough to both capture 85% of total annual runoff volume, and provide 48-hour long detention. The minimum required pond volume to achieve these objectives in Drainage Area 1 is estimated to be about 0.62 acre-feet. Therefore, the minimum 0.62 acre-feet pond needed to provide for storm water quality protection and enhancement would also offset peak flow increases from Drainage Area 1. The corresponding elevation of the existing pond is estimated to be about 34.2 feet to create the pond volume of 0.62 acre-feet (see Figure 3).

Stetson recommends that the actual engineered detention pond design be prepared in close consultation with biological and site grading consultants so as to ensure that that the pond would be consistent with wetland conservation, enhancement, and grading plans.

## **References Cited**

California Stormwater Quality Association (CASQA). 2003. California Stormwater Best Management Practices Handbook.

ILS Associates, Inc. 2007. Drainage Analysis, 605 N. San Pedro Road, Marin County, CA. October 1, 2006, revised March 19, 2007.

Marin County Department of Public Works. 2000. Hydrology Manual, Simplified Instructions.

Natural Resources Conservation Service (NRCS), 1986. Urban Hydrology for Small Watersheds, TR-55.

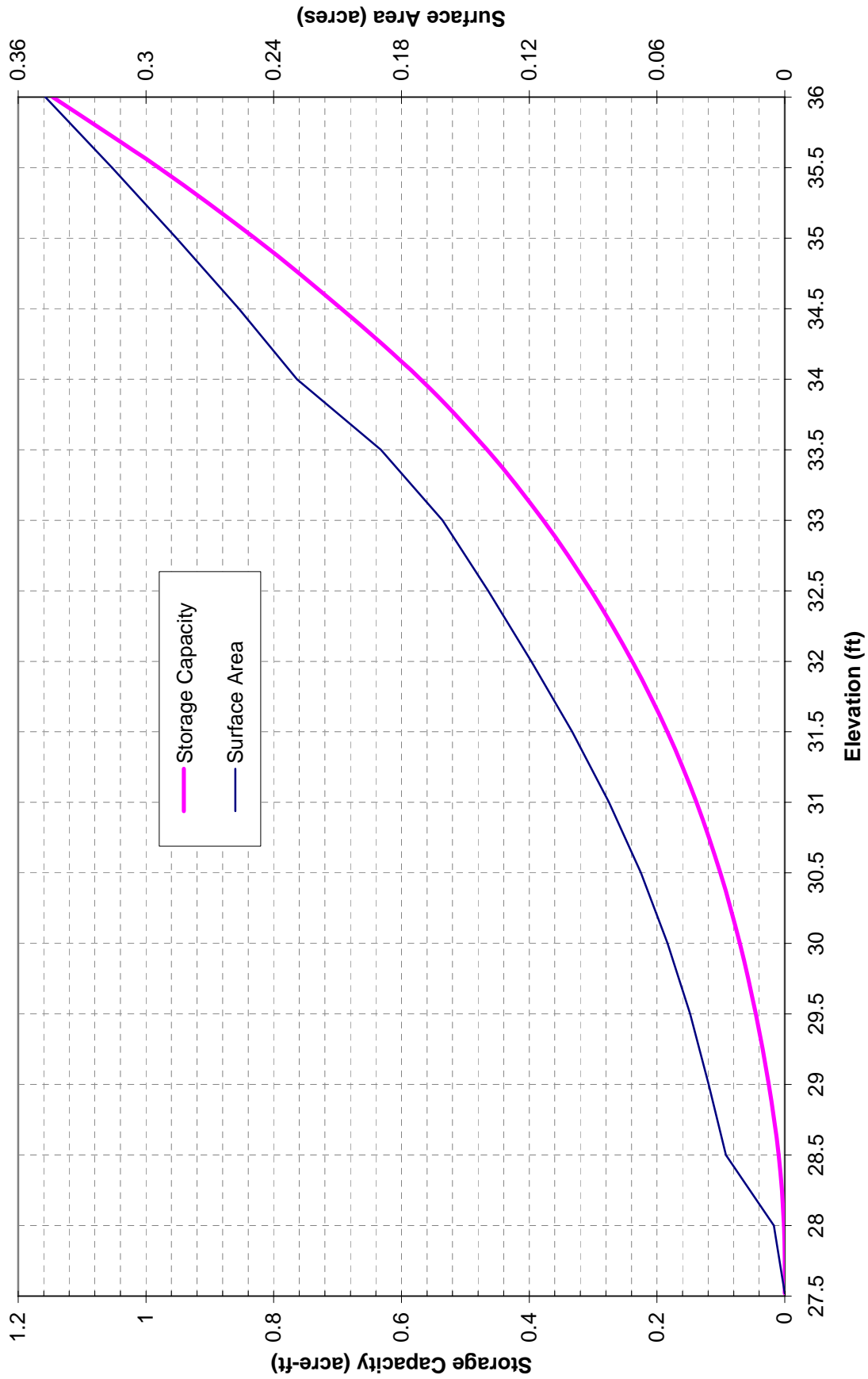




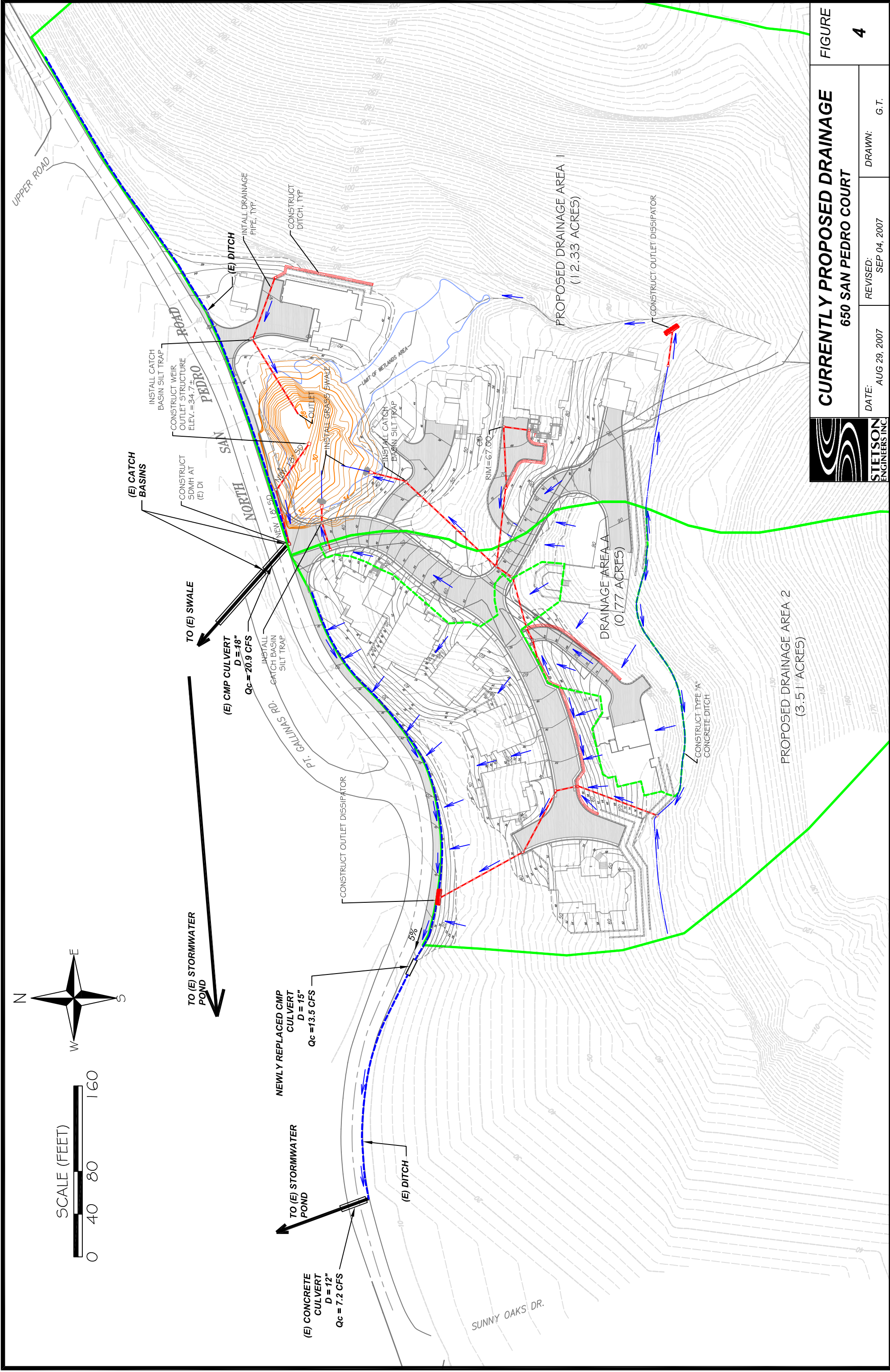
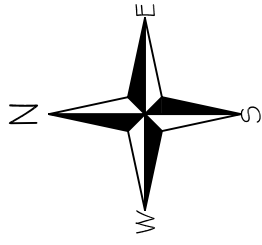




**Figure 3 Elevation - Surface Area - Storage Capacity Curve of Existing Pond**







SCALE (FEET)

0 40 80 160

(E) CATCH BASINS

INSTALL CATCH BASIN SILT TRAP

CONSTRUCT WEIR OUTLET STRUCTURE ELEV. = 34.7 ±

CONSTRUCT 50MH AT (E) DI

TO (E) SWALE

(E) CMP CULVERT D = 18" Qc = 20.9 CFS

TO (E) STORMWATER POND

NEWLY REPLACED CMP CULVERT D = 15" Qc = 13.5 CFS

TO (E) STORMWATER POND

(E) CONCRETE CULVERT D = 12" Qc = 7.2 CFS

(E) DITCH

CONSTRUCT OUTLET DISSIPATOR

CONSTRUCT DITCH, TYP

INITIAL DRAINAGE PIPE, TYP.

(E) DITCH

CONSTRUCT DITCH, TYP

INSTALL CATCH BASIN SILT TRAP

CONSTRUCT WEIR OUTLET STRUCTURE ELEV. = 34.7 ±

CONSTRUCT 50MH AT (E) DI

INSTALL CATCH BASIN SILT TRAP

CONSTRUCT WEIR OUTLET STRUCTURE ELEV. = 34.7 ±

CONSTRUCT 50MH AT (E) DI

INSTALL CATCH BASIN SILT TRAP

CONSTRUCT WEIR OUTLET STRUCTURE ELEV. = 34.7 ±

CONSTRUCT 50MH AT (E) DI

PROPOSED DRAINAGE AREA 1 (12.33 ACRES)

DRAINAGE AREA A (0.77 ACRES)

PROPOSED DRAINAGE AREA 2 (3.51 ACRES)

CONSTRUCT TYPE "A" CONCRETE DITCH

CONSTRUCT OUTLET DISSIPATOR

SUNNY OAKS DR.

PT. GALLINAS RD.

NORTH SAN PEDRO ROAD

SAN PEDRO ROAD

UPPER ROAD



# CURRENTLY PROPOSED DRAINAGE

## 650 SAN PEDRO COURT

FIGURE

4

DATE: AUG 29, 2007

REVISED: SEP 04, 2007

DRAWN: G.T.

G.T.

**A P P E N D I X D**

PROJECT DRAINAGE AND  
GRADING PLAN





A P P E N D I X E

TREE REMOVAL AND MITIGATION  
PLANS









MEMORANDUM

|          |                             |
|----------|-----------------------------|
| DATE:    | 8/14/08                     |
| TO:      | Michael Marovich            |
| CC:      |                             |
| FROM:    | James MacNair               |
| SUBJECT: | San Pedro Court Subdivision |
| RE:      | Tree Mitigation Plan        |

Michael,

This memorandum documents a proposed approach to the tree mitigation requirements for the San Pedro Court Subdivision. Mr. Jeremy Sarrow of the California Department of Fish and Game requested a tree mitigation approach that focused on establishing native tree and plant habitats within the project limits. He also requested that specimen sized trees be included within the new landscape and tree mitigation plan.

Attached is a compilation of documents addressing these requests. These are

- 1.) A revised Tree Mitigation Plan prepared by Donald Blayney and Associates that focuses on the use of native trees within the new project. While fulfilling the full tree mitigation requirements, the plan maintains tree canopy separation and uses non-pyrophytic tree species as required as part of a vegetation management plan for fire safety.
- 2.) A chart showing proposed tree mitigation sizes for the 160 new trees with trees from 15 gallon to 48 inch boxed specimens.
- 3.) The native plant list recommended for the project prepared by Prunuske Chatham, Inc., project biologists.
- 4.) Examples of specifications and photographs of specimen trees showing various container sizes proposed for use.

Please contact me with any questions, or if additional information is required.

Table 1. Proposed Mitigation Tree Container Sizes

| Tree Species                                       | #15 gallon | 24" box | 36" box | 48" box | Total Mitigation Trees |
|--|------------|---------|---------|---------|------------------------|
| black oak ( <i>Quercus kelloggii</i> )             | 4          | 3       |         |         | 7                      |
| California buckeye ( <i>Aesculus californica</i> ) | 40         | 10      |         |         | 50                     |
| coast live oak ( <i>Q. agrifolia</i> )             | 16         | 30      | 5       | 2       | 53                     |
| Oregon white oak ( <i>Q. garryana</i> )            | 5          | 4       |         |         | 9                      |
| valley oak ( <i>Q. lobata</i> )                    | 10         | 23      | 5       | 3       | 41                     |
| Total Trees:                                       | 75         | 70      | 10      | 5       | 160                    |

160 mitigation trees is approximately a 3:1 replacement ratio for removed 'protected' trees as defined by Section 22.27.020 of the Marin Development Code

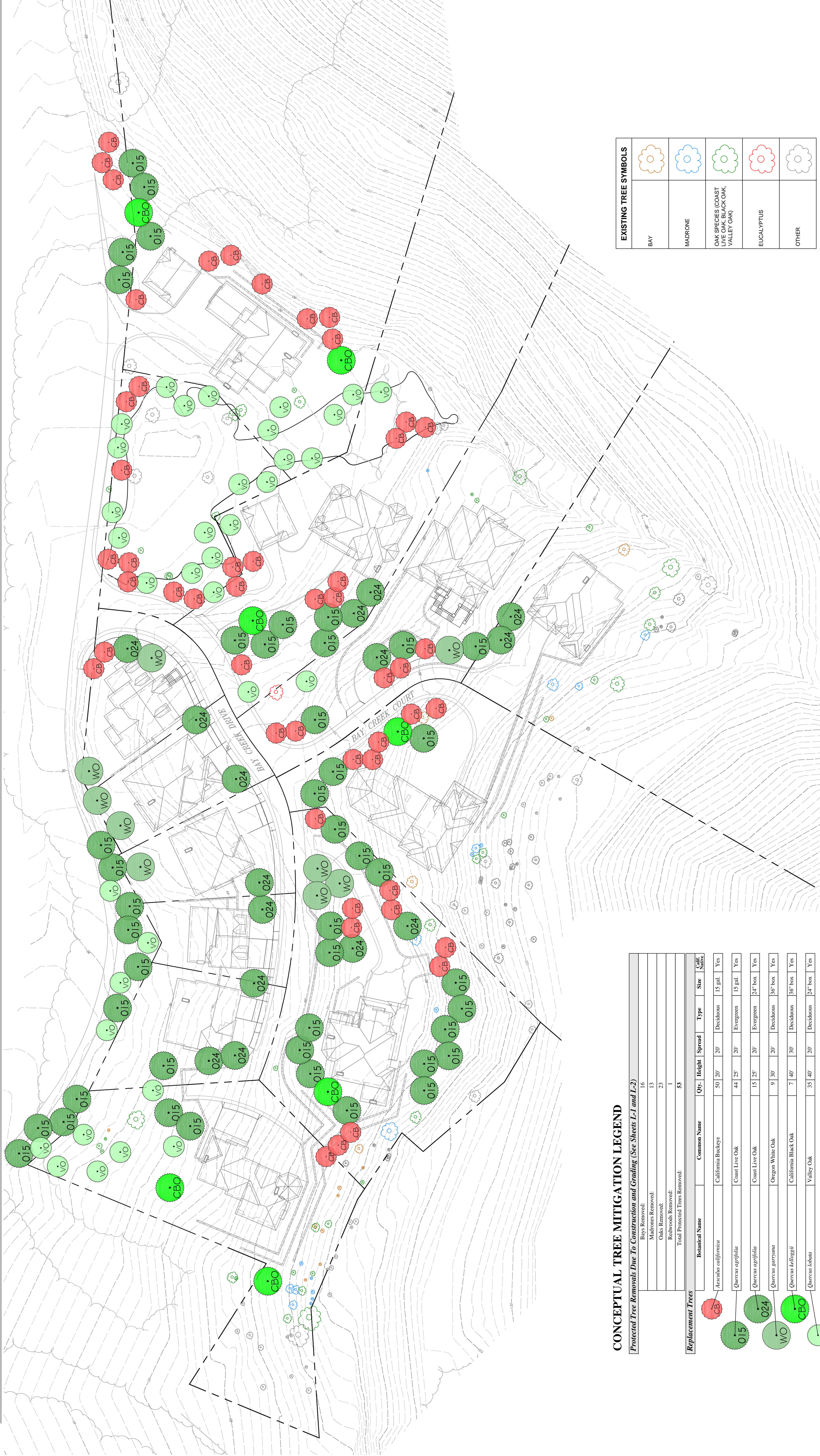
Black oak, California buckeye, and Oregon white oak are not typically grown in larger nursery container sizes. If larger specimens of these species of good quality are located, then they will be used. Sizes shown are intended to demonstrate range of tree sizes to be planted. These box sizes will replace those shown on the attached Tree Mitigation Plan (Donald L. Blayney and Associates).

Table 2. Recommended Revegetation Species

| Trees                           | Common Name            | Plant Requirements                                |
|---------------------------------|------------------------|---|
| <i>Aesculus californica</i>     | California buckeye     | well drained sites                                |
| <i>Quercus agrifolia</i>        | coast live oak         | well drained sites                                |
| <i>Quercus garryana</i>         | Oregon (white) oak     | Tolerates moist, north-facing slopes              |
| <i>Quercus kelloggii</i>        | black oak              | well drained sites                                |
| <i>Quercus lobata</i>           | valley oak             | tolerates flooding – plant around edge of wetland |
| <b>Shrubs &amp; Vines</b>       |                        |   |
| <i>Arctostaphylos manzanita</i> | common manzanita       | sun   |
| <i>Corylus cornuta</i>          | hazelnut               | sun to shade                                      |
| <i>Heteromeles arbutifolia</i>  | toyon                  | sun to shade, tolerates aridity                   |
| <i>Lonicera hispidula</i>       | California honeysuckle | understory  |
| <i>Mimulus aurantiacus</i>      | bush monkeyflower      | sun to part shade                                 |
| <i>Rhamnus californica</i>      | California coffeeberry | sun to part shade                                 |
| <i>Symphoricarpos mollis</i>    | creeping snowberry     | understory  |
| <i>Vitis californicus</i>       | California grape       | sun to part shade                                 |
| <b>grasses</b>                  |                        |   |
| <i>Bromus carinatus</i>         | California brome       | various habitats                                  |
| <i>Elymus glaucus</i>           | blue wildrye           | various habitats                                  |
| <i>Festuca californica</i>      | red fescue, Molate     | partial shade                                     |
| <i>Nassella pulchra</i>         | purple needle grass    | open exposed sites                                |

Recommended revegetation plant list was prepared by Prunuske Chatham. Shrubs and vines will be incorporated into planting plan upon approval of conceptual tree planting plan.





**CONCEPTUAL TREE MITIGATION LEGEND**

Protected Tree Removals Due To Construction and Grading (See Sheets L-1 and L-2)

|                                       |           |
|---------------------------------------|-----------|
| Bays Removed:                         | 16        |
| Madrone Removed:                      | 13        |
| Oaks Removed:                         | 23        |
| Redwoods Removed:                     | 1         |
| <b>Total Protected Trees Removed:</b> | <b>53</b> |

| Botanical Name                 | Common Name          | Qty.       | Height | Spread | Type      | Size    | Calif. Native |  |
|--------------------------------|----------------------|------------|--------|--------|-----------|---------|---------------|--|
| <i>Aesculus californica</i>    | California Buckeye   | 50         | 20'    | 20'    | Deciduous | 15 gal. | Yes           |  |
| <i>Quercus agrifolia</i>       | Coast Live Oak       | 44         | 25'    | 20'    | Evergreen | 15 gal. | Yes           |  |
| <i>Quercus agrifolia</i>       | Coast Live Oak       | 15         | 25'    | 20'    | Evergreen | 24" box | Yes           |  |
| <i>Quercus garryana</i>        | Oregon White Oak     | 9          | 30'    | 20'    | Deciduous | 36" box | Yes           |  |
| <i>Quercus kelloggii</i>       | California Black Oak | 7          | 40'    | 30'    | Deciduous | 36" box | Yes           |  |
| <i>Quercus lobata</i>          | Valley Oak           | 35         | 40'    | 20'    | Deciduous | 24" box | Yes           |  |
| <b>Total New Trees Planted</b> |                      | <b>169</b> |        |        |           |         |               |  |

Tree Replacement Ratio: 3.0 : 1

Refer to Tree Mitigation Chart for New Tree Sizes

Revisions: 08/06/08 TREE RECOMMENDATIONS

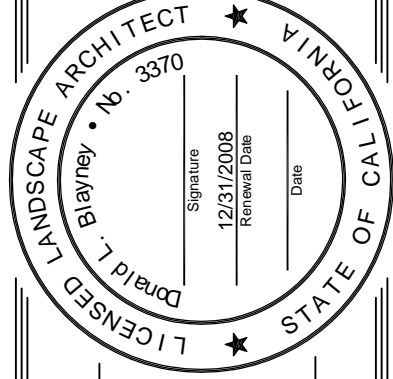
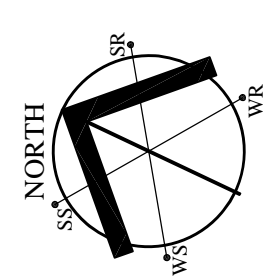
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**EXISTING TREE SYMBOLS**

|   |  |
|---|--|
| BAY   |  |
| MADRONE   |  |
| OAK SPECIES (COAST LIVE OAK, BLACK OAK, VALLEY OAK) |  |
| EUCALYPTUS  |  |
| OTHER   |  |



Date: August 6, 2008  
 Scale: 1" = 30.0'  
 Drawn by: JDG  
 Approved by: DLB

**TREE MITIGATION PLAN**

650 NORTH SAN PEDRO ROAD  
 Prepared for: West Bay Builders  
 A.P.N.'s: 180-231-05, -06, -07, -09, & 180-291-04

DONALD L. BLAYNEY & ASSOCIATES  
 LANDSCAPE ARCHITECTURE & PLANNING

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 California Registration # 3370  New Mexico Registration # 115

**FOR PLANNING REVIEW**

**ONLY - NOT FOR CONSTRUCTION**

Sheet Number **L-3**  
 of



36" Box *Quercus agrifolia* (coast live oak)  
(Photo 1)



Specifications:

|               |            |
|---------------|------------|
| Height:       | 12'-13'    |
| Crown Spread: | 4'-5'      |
| Caliper (@6") | 2.5"-2.75" |

36" Box *Quercus agrifolia* (coast live oak)  
(Photo 2)





48" Box *Quercus agrifolia* (coast live oak)  
(Photo 1)



Specifications:

|               |           |
|---------------|-----------|
| Height:       | 14'-16'   |
| Crown Spread: | 5'-6"     |
| Caliper (@6") | 3.0"-3.5" |



48" Box *Quercus agrifolia* (coast live oak)  
(Photo 2)



48" Box *Quercus agrifolia* (coast live oak) (natural form)  
(Photo 1)



Specifications:

|               |          |
|---------------|----------|
| Height:       | 10'-12'  |
| Crown Spread: | 6'-8'    |
| Caliper (@6") | 3.25"-4" |

Norman's Nursery (Linden)





# VALLEY CREST TREE COMPANY

The Tree Growing & Tree Moving Company

December 6, 2005

To: James @ MacNair & Associates

From: Glenn Hansen



36" Quercus lobata 12-14' x 4-5' x 2.5-2.75"

Thank you for choosing **Valley Crest Tree Company**.



# VALLEY CREST TREE COMPANY

The Tree Growing & Tree Moving Company

December 6, 2005

To: James @ MacNair & Associates

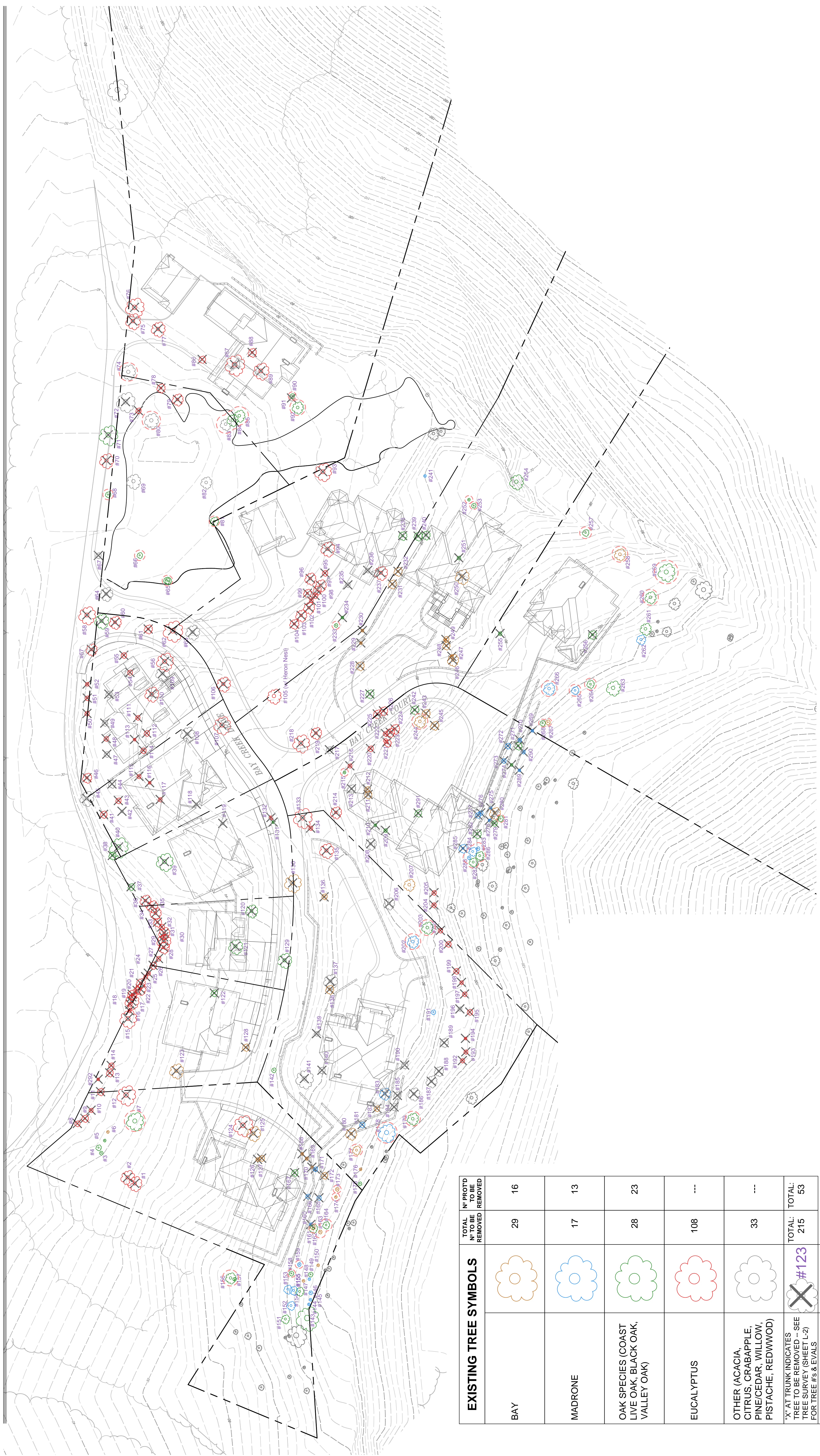
From: Glenn Hansen



48" Quercus lobata 14-15' x 5-6' x 2.75-3"

Thank you for choosing **Valley Crest Tree Company**.





| EXISTING TREE SYMBOLS | TOTAL N° TO BE REMOVED                                      | N° PROTD TO BE REMOVED |
|-----------------------|---|------------------------|
|                       | 29  | 16                     |
|                       | 17  | 13                     |
|                       | 28  | 23                     |
|                       | 108   | ---                    |
|                       | 33  | ---                    |
| #123                  | TOTAL: 215  | TOTAL: 53              |
|                       | INDICATES TREE TO REMAIN & BE PROTECTED DURING CONSTRUCTION |                        |

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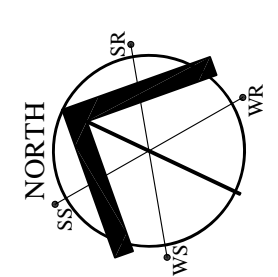
**EXISTING TREE INVENTORY & REMOVAL PLAN**

650 NORTH SAN PEDRO ROAD  
Prepared for: West Bay Builders  
A.P.N.'s: 180-231-05, -06, -07, -09, & 180-291-04

Date: March 20, 2007  
Scale: 1" = 30.0'  
Drawn by: JDG  
Approved by: DLB

Sheet Number **L-1** of

**LICENSED LANDSCAPE ARCHITECT**  
DONALD L. BLAYNEY, No. 3370  
Expires: 12/31/2007  
Issue Date: \_\_\_\_\_







A P P E N D I X F

BIOLOGICAL CONSTRAINTS  
ANALYSIS (2005)





## 2 BIOLOGICAL RESOURCES

### A. Methods

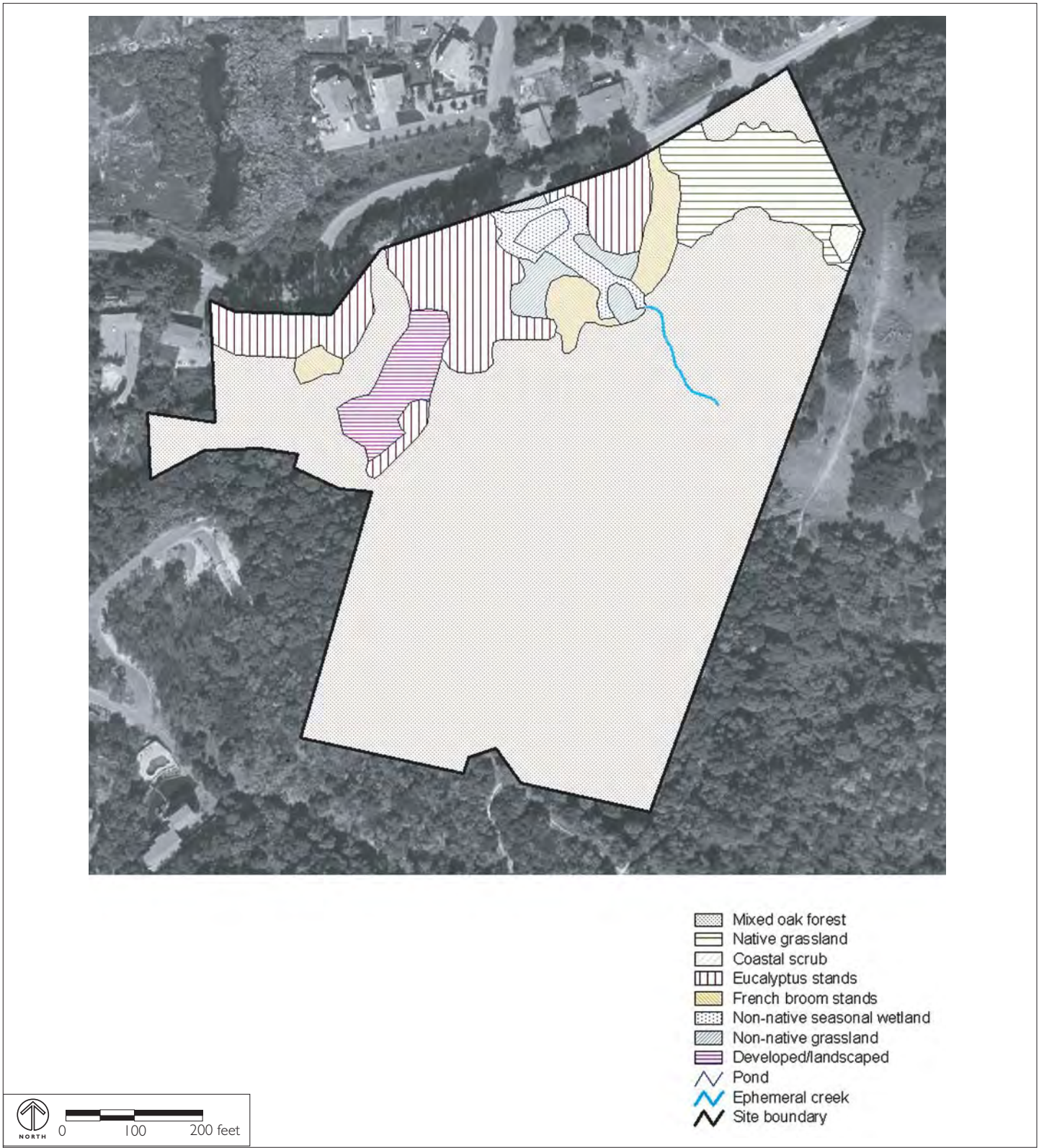
This chapter documents the existing biological resources of the project area including existing biotic communities (vegetation and wildlife habitats), and sensitive resources including wetlands, streams and special-status species. Potential biological constraints are identified in the report and shown on the constraints map in Chapter X. The report findings are based on detailed literature, database review and two field reconnaissance surveys conducted on March 7 and April 12, 2005. A third survey is scheduled for early July 2005. Detailed information on study methodology is contained in the Draft Biological Resources Technical Report (Appendix A).

### B. Vegetation

Eight vegetation types were identified on the property. These include three natural vegetation types (mixed oak forest, native grassland, and coastal scrub) and five types that are associated with human activities (eucalyptus stands, French broom stands, non-native seasonal wetland, non-native grassland, and developed/landscaped). Descriptions of these eight vegetation types follow. The approximate extent of each vegetation type is shown in Figure 2-1 and summarized in Table 2-1. Note the Table 2-1 indicates a total acreage of 13.55, though the entire property is much larger. The discrepancy is due to the fact that only the portion of the site proposed for development (13.55 acres) was subject to a detailed field survey and subsequent mapping.

#### 1. Mixed Oak Forest

Mixed oak forest is the predominant vegetation type (approximately 10.1 acres) at the site and covers most of the steep upper north- and west-facing slopes of the site. The dominant trees are California bay (*Umbellularia californica*) and coast live oak (*Quercus agrifolia*). Associated tree species include madrone (*Arbutus menziesii*), California black oak (*Quercus kelloggii*), and California buckeye (*Aesculus californica*). Tree canopy cover is very dense, visually estimated to be at or near 100 percent throughout most of the mixed



Source: Garcia and Associates, June 2005.

FIGURE 2-1  
VEGETATION AND HABITAT TYPES



TABLE 2-1 **EXTENT OF VEGETATION TYPES ON THE SAN PEDRO COURT PROJECT SITE**

| Vegetation Type                          | Area (acres) |
|--|--------------|
| <i>Natural vegetation types</i>          |              |
| Mixed oak forest                         | 10.09        |
| Native grassland                         | 0.78         |
| Coastal scrub                            | 0.04         |
| <i>Human-influenced vegetation types</i> |              |
| Eucalyptus stands                        | 1.37         |
| French broom stands                      | 0.39         |
| Non-native seasonal wetland              | 0.29         |
| Non-native grassland                     | 0.23         |
| Developed/landscaped                     | 0.36         |
| <b>Total</b>                             | <b>13.55</b> |

oak forest. Many of the large coast live oaks are dead. A survey for the presence of the organism that causes Sudden Oak Death (SOD) found evidence that trees at the site have been affected by this organism (see section 6). The mixed oak forest understory varies from dense to open, and is composed largely of native perennial ferns, grasses, forbs and shrubs, including: coastal wood fern (*Dryopteris arguta*), California polypody (*Polypodium californicum*), California fescue (*Festuca californica*) Torrey's melic (*Melica torreyana*), woodland madia (*Madia madioides*), poison oak (*Toxicodendron diversilobum*) and toyon (*Heteromeles arbutifolia*).

## 2. Native Grassland

Native grassland is the dominant vegetation on the steep, west-facing slope at the northeast end of the site, where it covers approximately 0.8 acres. This grassland is the most floristically diverse community at the site. The vegetation consists of native and introduced grasses, and a wide variety of native forb species that reach a height of about two feet. This grassland slope is virtually devoid of invasive non-native plants. Annual grasses dominate in terms of cover, but many large clumps of purple needlegrass (*Nassella pulchra*) and bulbous melic (*Melica bulbosa*) form an important cover element, especially on the upper part of the slope. From a visual estimate, about 20 percent of the slope contains native grasses. Native forbs found here include narrow-leaved mules-ears (*Wyethia angustifolia*), six species of native clovers (*Trifolium* spp.), blue larkspur (*Delphinium variegatum*), purple owl's-clover (*Castilleja exserta*), and many others.

## 3. Coastal Scrub

A very small patch (0.04 acre) of coastal scrub is found at the top of the native grassland-covered slope at the northern end of the site. This coastal scrub vegetation is dominated by two shrubs: coyote brush (*Baccharis pilularis*) and bush monkeyflower (*Mimulus aurantiacus*). The understory consists mainly of low-growing native and introduced annual forbs.

## 4. Eucalyptus Stands

Stands of tall eucalyptus trees, mainly Tasmanian blue gum (*Eucalyptus globulus*) cover about 1.4 acres of the lowest part of the site. Tasmanian blue gum is a non-native tree designated as invasive along the coast of California by the California Invasive Plant Council (Cal-IPC) (Cal-EPPC 1999). At the site, eucalyptus stands cover most of the North San Pedro Road frontage. These tall trees form a moderately dense canopy, with canopy cover visually estimated at approximately 85 percent. Eucalyptus trees release chemical compounds that inhibit the growth of many species of plants. Therefore, the understory of eucalyptus stands is typically low in plant species diversity, which is the case at the project site. The understory consists mainly of dense tangles

of the invasive weeds periwinkle (*Vinca major*) and Italian thistle (*Carduus pycnocephalus*).

#### 5. French Broom Stands

At the lower margins of the mixed oak forest and elsewhere on the lower portion of the site are dense stands of French broom (*Genista monspessulana*). This fast-growing shrub invades oak communities in Marin County, especially in areas disturbed by roads, wildfire and other causes. The French broom stands at the site are associated with old roads or other forms of disturbance. Most of these stands are very dense with shrubs six feet or more in height. Few plants grow beneath dense stands of French broom.

#### 6. Non-Native Seasonal Wetlands

Wetland vegetation is present within and along the edges of the pond and in a band that extends upslope from the pond to the mouth of the creek. The pond appears to have developed as a result of obstruction of flow from the upslope ephemeral creek. When water is present in the pond, vegetation is sparse and consists primarily of the floating and emergent freshwater aquatic plant, water plantain (*Alisma plantago-aquatica*). The pond dries seasonally, and the moist pond bottom in summer is dominated by the introduced, weedy forbs cocklebur (*Xanthium strumarium*) and pennyroyal (*Mentha pulegium*). Wet areas in the immediate vicinity of the pond are dominated by non-native, invasive, mesic-adapted wetland grasses and forbs, such as Italian ryegrass (*Lolium multiflorum*), rabbitsfoot grass (*Polypogon monspeliensis*) and pennyroyal. Scattered clumps of native perennial forbs, including umbrella sedge (*Cyperus eragrostis*), spreading rush (*Juncus patens*), and slender rush (*Juncus tenuis*) also occur in the wetter areas. A large shrub of native shining willow (*Salix lucida* ssp. *lasiandra*) occurs at the western pond edge.

#### 7. Non-Native Grassland

Non-native grassland is found in areas of higher ground in the vicinity of the pond and includes both dry and mesic microsites. The ground in this area is relatively disturbed and species diversity is low. This vegetation consists mainly of non-native annual grasses, weedy non-native forbs and a few native

forbs. Common plant species include: Mediterranean barley (*Hordeum marinum ssp. gussoneanum*), Italian ryegrass, little quaking grass (*Briza minor*), smooth cat's-ear (*Hypochaeris glabra*), California burclover (*Medicago polymorpha*) and California buttercup (*Ranunculus californicus*).

#### 8. Developed/Landscaped

Non-native trees, shrubs and perennial forbs have been planted along the driveway from San Pedro Road to the existing residence and in the area directly below the residence. Planted trees include several species of eucalyptus, incense cedar (*Calocedrus decurrens*), deodar cedar (*Cedrus deodara*), black locust (*Robinia pseudoacacia*), silver wattle (*Acacia dealbata*) and blackwood acacia (*Acacia melanoxylon*). The understory landscaping plants include montbretia (*Crocsmia crocosmiflora*) and daffodils (*Narcissus sp.*).

#### C. Wildlife Habitats

The classification of wildlife habitats generally follows that used for vegetation types described above. While vegetation types are defined by plant species composition, wildlife habitats can include other important features such as rock outcrops, underground refuges, and open water. In some cases, a wildlife habitat type includes more than one plant community where those communities provide similar habitat characteristics and support a similar assemblage of wildlife species. Some wildlife habitat types such as unvegetated, aquatic habitats, have no corresponding vegetation type. Following is a description of wildlife habitats on the project site.

##### 1. Mixed-Oak Forest

The mixed oak forest on the site forms a dense, diverse canopy that provides high habitat value for wildlife. Oak forests and woodlands provide important nesting and perching habitat for raptors and other birds, an abundant food source in acorns, and cover for larger mammals. Common birds and mammals that utilize this habitat type include red-shouldered hawk (*Buteo lineatus*), California quail (*Callipepla californica*), nuthatches (*Sitta spp.*), acorn

woodpecker (*Melanerpes formicivorus*), gray squirrel (*Sciurus griseus*), and black-tailed deer (*Odocoileus hemionus*). Leaf litter deposited below the trees creates microhabitats for small vertebrates including newts (*Taricha spp.*), western fence lizard (*Sceloporus occidentalis*), and rodents such as deer mouse (*Peromyscus maniculatus*).

## 2. Grassland

This wildlife habitat type includes both native and non-native grassland vegetation types. Grasslands can support a variety of small mammals and provide foraging habitat for raptors and other birds. Birds commonly found foraging in annual grasslands include the red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), and turkey vulture (*Cathartes aura*). Common mammals of coastal grassland habitats include the California ground squirrel (*Spermophilus beechyi*) and Botta's pocket gopher (*Thomomys bottae*). The burrows of these rodents can provide important refuge sites for amphibians and reptiles. Wildflowers in grasslands also provide foraging resources for butterflies, bees and other insects. The native grassland at the northeastern end of the site is a relatively diverse biotic community that provides moderately high habitat value for wildlife. By contrast, the non-native grassland adjacent to the wetland area is a degraded biotic community that provides relatively low habitat value.

## 3. Coastal Scrub

Coastal scrub communities provide foraging, perching and nesting sites for some birds and cover for small mammals and reptiles. Common species associated with these habitats include western fence lizard, California quail, western scrub-jay (*Apelocoma californica*), California towhee (*Pipilo crissalis*), and brush rabbit (*Sylvilagus bachmani*). The small patch of coastal scrub on the property does not represent a distinct, contiguous community, but provides habitat diversity for wildlife within the surrounding grassland matrix.

## 4. Eucalyptus Stands

Eucalyptus trees provide roosts, perches, and nest sites for a variety of birds including raptors, herons, hummingbirds and songbirds. Eucalyptus debris

that collects under the trees also creates microhabitats for ground-dwelling species such as gopher snakes (*Pituophis melanoleucus*) and woodrats (*Neotoma spp.*) (CDFG 2002). A few large eucalyptus trees on the project site have suitable branch structure and stability to support nests of raptors and other large birds. Most of the eucalyptus trees adjacent to North San Pedro Road are relatively small in diameter and not suitable for raptor nesting. However, these trees provide a wind buffer and visual screening for more suitable nesting sites located in the interior of the property.

#### **5. French Broom Stands**

Stands of French broom have low habitat value for wildlife, although the dense foliage of French broom can offer some cover for small mammals and birds. However, these low-diversity, non-native stands degrade habitat quality for wildlife by displacing native forage species. French broom does not support a diversity of native insects and its foliage and seeds are toxic to most wildlife species (Bossard et al. 2000).

#### **6. Pond/Wetland**

The pond and surrounding wetland on the project site provide moderate benefits for wildlife. Most of the wildlife habitat value is provided by the pond, as the surrounding wetland area is relatively degraded. When water is present, the pond can support a variety of aquatic insects, amphibians such as the Pacific tree frog (*Hyla regilla*), and reptiles such as garter snakes (*Thamnophis spp.*). The open water of the pond also provides foraging habitat for waterfowl such as mallards (*Anas platyrhynchos*) and wading birds such as great egrets (*Ardea alba*). During the March 2005 field survey, a female mallard was observed foraging on the pond. The pond is fairly shallow and dries by mid-summer, and so does not provide suitable habitat for species such as the western pond turtle (*Emys [= Clemmys] marmorata*) that require perennial aquatic habitats.

#### **7. Ephemeral Creek**

During the wet season, ephemeral creeks are habitats for a variety of aquatic insects and amphibians such as the California newt (*Taricha torosa*). In the

drier months, the creek channel can offer cool, moist microhabitats for small mammals and reptiles. The creek on the project site is not expected to support resident fish because it is small, seasonally dry, and isolated from other water bodies, but it likely provides benefits to terrestrial wildlife that inhabit the surrounding oak forest.

#### **8. Developed/Landscaped**

Developed areas, particularly areas with landscaping vegetation, can provide moderate habitat value for wildlife. The planting and maintenance of shrubs, trees, and other ornamental plants in residential areas can enhance this habitat for opportunistic animal species that can coexist with humans. Examples of species found in this habitat type are Anna's hummingbird (*Calypte anna*), Northern mockingbird (*Mimus polyglottos*), house finch (*Carpodacus mexicanus*), raccoon (*Procyon lotor*), and opossum (*Didelphis virginianus*).

### ***D. Wetlands and Aquatic Resources***

#### **1. Regulatory Background**

The U.S. Army Corps of Engineers (Corps), through Section 404 of the Clean Water Act (CWA), has jurisdiction over activities in "waters of the United States." Waters of the U.S. are broadly defined to include perennial, intermittent, and ephemeral watercourses as well as wetlands (33 CFR 328.3(a)). Wetlands are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (33 CFR 328.3(b)). Wetlands are identified using three parameters: vegetation, soils and hydrology. In most cases, jurisdictional wetlands are dominated by hydrophytic (wetland) vegetation, occur on hydric soils, and are supported by wetland hydrology. For watercourses, the Corps' jurisdiction extends up to the ordinary high water mark (OHWM) of the stream channel.

The discharge of dredged or fill material into waters of the U.S., including wetlands, is regulated by the Corps under Section 404 of the CWA. Certain activities may qualify for authorization under the Corps' Nationwide Permit (NWP) program, provided certain conditions are met. Discharge into, or filling of, jurisdictional wetlands associated with the construction of a residential development may be authorized under NWP number 39. For NWP 39, the affected area of wetlands/waters of the U.S. can not exceed 0.5 acre, and notification to the Corps is required for the loss of any open waters, including ephemeral, perennial, or intermittent streams, below the OHWM.

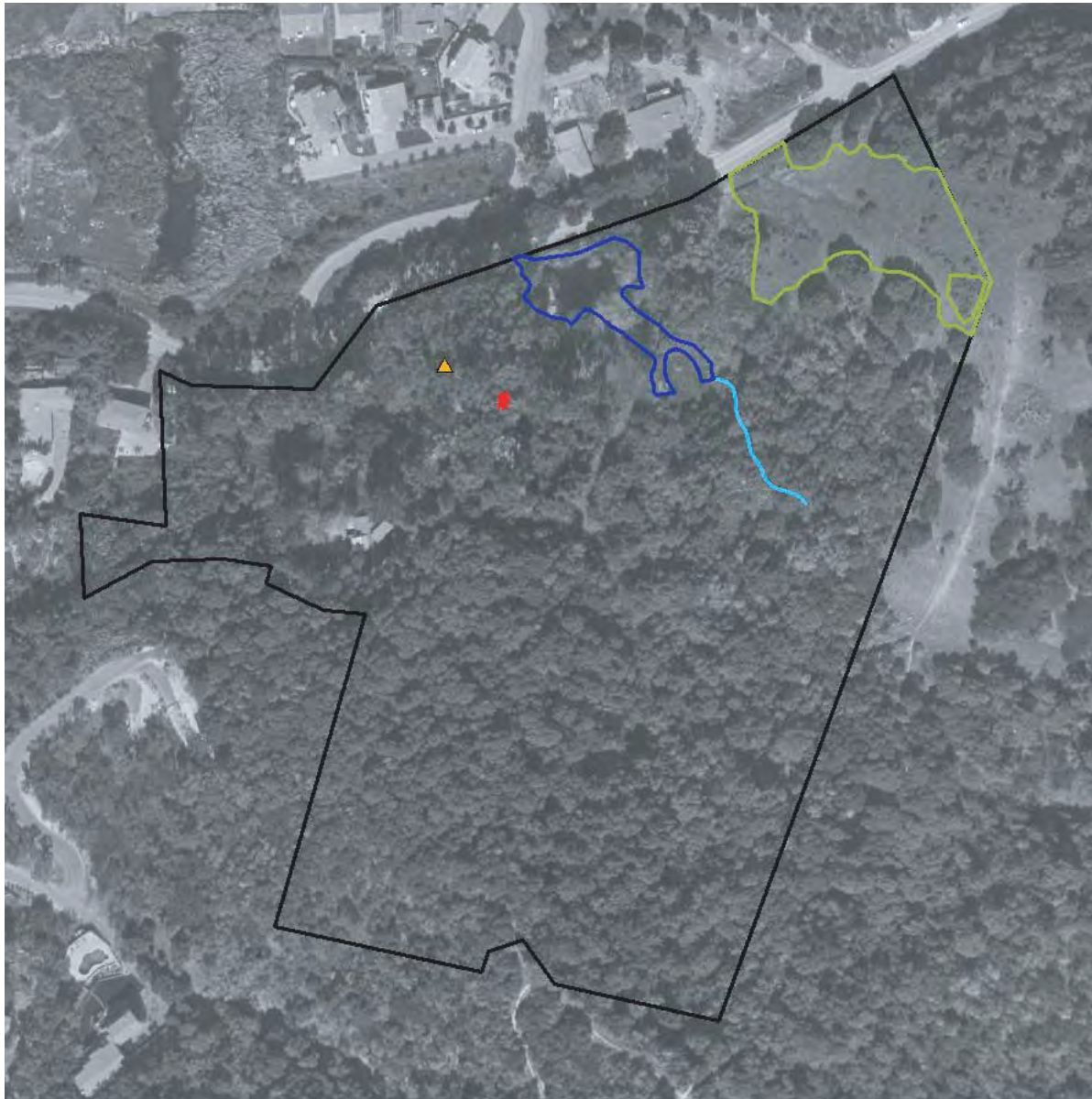
Under Section 401 of the CWA, water quality certification is required for all Section 404 nationwide or individual permits issued by the Corps. In California, the Regional Water Quality Control Board (RWQCB) is responsible for issuing a Section 401 water quality certification (or waiver). Measures to protect water quality and offset losses of waters of the U.S. are often required as conditions of water quality certification or waiver from the RWQCB.

The CDFG, under Section 1600 of the California Fish and Game Code, has jurisdiction over activities that would interfere with the natural flow of, or substantially alter, the channel, bed, or bank of a lake, river, or stream. Section 1602 requires notification to the CDFG for lake or stream alteration activities. If the CDFG determines that the activity may adversely affect an existing fish and wildlife resource, the CDFG has the authority to issue a streambed alteration agreement. Requirements to protect biological resources and water quality are often conditions of streambed alteration agreements.

## **2. Wetlands and Other Waters on the Project Site**

A preliminary wetland assessment was conducted on the project site by Prunuske Chatham, Inc. (2003) and revised with additional data collected in 2004 (Prunuske Chatham, Inc. 2004). The area covered in this wetland delineation consists of a 5.5-acre parcel (APN 180-231-180) that covers most of the northern portion of the project site and includes all of the proposed development area. The Corps verified the jurisdictional delineation on July 15, 2004 (Corps 2004). A field check of the jurisdictional areas conducted during





-  Site boundary
-  Jurisdictional stream
-  Jurisdictional wetland
-  Native grassland
-  Great blue heron nest
-  Allen's hummingbird sighting



Source: Garcia and Associates, June 2005.

FIGURE 2-2  
SENSITIVE BIOLOGICAL RESOURCES

the 2005 field survey found no change in conditions that would affect the extent of Corps jurisdiction on the project site.

Jurisdictional waters of the U.S. on the project site include the wetland area described in the vegetation section and the ephemeral creek that drains into the wetland (Figure 2-2). The jurisdictional wetland consists of the existing pond, the surrounding pond margin up to the 34-foot elevation contour (as mapped on the Topographic and Boundary Survey [ILS Associates, Inc. 2003a]), and a zone of wetland vegetation that extends upslope from the pond margin to the outlet of the ephemeral creek. The area of this jurisdictional wetland is 0.29 acre.

The ephemeral creek was delineated between its outlet at the toe of the steep slope and the boundary of the wetland study area. The total length of the delineated reach is 195 feet, its average width at OHWM is approximately 2.3 feet, and the jurisdictional area is approximately 0.01 acre. Because the project site encompasses a larger area than the original wetland study area, the extent of jurisdictional waters probably extends farther upslope, but not more than 75 linear feet, beyond the delineated reach. This creek is a short, steep-gradient stream that drains a small watershed. Consequently, the creek dries out fairly early in the dry season and does not support riparian vegetation.

The ephemeral creek is a natural watercourse. By contrast, the pond and surrounding wetland are artificial or modified features that have been created or altered by past human activities. Prior to construction of North San Pedro Road, the creek probably drained directly into a freshwater marsh located northwest of the project site. Construction of the road grade obstructed the natural drainage flow from the creek and contributed to the formation of the pond. In addition, the area around and upslope of the pond was altered by a landslide deposit of unknown age (Earth Mechanics 1998) and the ground in this area has been substantially disturbed. Drainage from the creek now spreads out in sheet flow across the disturbed ground between the toe of the slope and the pond. This combination of factors has resulted in a degraded

wetland area characterized by a predominance of non-native, weedy vegetation.

#### *E. Sudden Oak Death*

A detection survey was conducted on the project site to determine the presence of *Phytophthora ramorum*, the pathogen that causes Sudden Oak Death (SOD). The survey was conducted by certified arborist Andy Mieske and GANDA forester John McCarthy on March 25, 2005. Approximately 50 percent of the property was surveyed for symptoms of SOD. Samples of foliage were collected from host species of *P. ramorum* that were present on the property and that exhibited symptoms of SOD (leaf spots, twig dieback, lesions, and cankers). Six sites were chosen for foliar sampling that were spread out across the property and that had the greatest prevalence of SOD symptoms. Most of the leaves collected in the survey were from California bay because symptoms of SOD were most common on this species and *P. ramorum* is readily isolated from foliar samples of this host in the lab.

Leaf samples that exhibited symptoms of *P. ramorum* were collected, placed in labeled, sealed plastic bags, and stored in a cooler. These samples were sent to the Marin County Agricultural Commissioner's Office for analysis for the presence or absence of *P. ramorum*.

The SOD pathogen was positively detected in leaf samples from one of the six sampling sites (Site 6). The leaf samples consisted of California bay and toyon. This location is approximately 250 feet south of the pond. Results from the other five sampling sites were negative.

#### *F. Special-Status Species*

Special-status species are defined in accordance with the CEQA Guidelines, Section 15380, and include species that are:

- ◆ listed, proposed for listing, or candidates for listing as threatened or endangered under the federal Endangered Species Act;
- ◆ listed or candidates for listing as threatened or endangered under the California Endangered Species Act;
- ◆ included on lists 1B, 2, 3, or 4 of the CNPS (2001; 2005) Inventory;
- ◆ designated as Species of Special Concern by the CDFG;
- ◆ identified as “species of concern” or “species of local concern” by the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office;
- ◆ included on the CDFG’s “Special Vascular Plants, Bryophytes, and Lichens List” (CDFG 2005b) or “Special Animals” list (CDFG 2004); or
- ◆ species that otherwise meet the definition of rare, threatened or endangered, as described in the CEQA Guidelines, Section 15380.

Special-status plant and animal species with potential to occur on the project site or vicinity are summarized in tables 2 and 3 in Appendix A. In addition to these species, the CDFG has identified other biological resources of concern, including sensitive natural communities and special habitat areas such as nesting sites of certain wildlife species. Figure 2-2 shows the locations of special-status species and other sensitive biological resources observed on the project site.

### **1. Plants**

The characteristics of 25 species of special-status plants with the potential to occur on the project site are summarized in Table 2 in Appendix A. No special-status plants were found during the first two surveys conducted on March 7 and April 12, 2005. A third survey will be completed in early July to check for late-blooming special-status plants. During the March and April surveys, plants that may be special-status species were observed in an early stage of growth. The presence of flowers and fruits is necessary to determine the identity of these plants and whether they are special-status species.

## 2. Wildlife

Sixteen special-status wildlife species were identified in the literature and database review with potential to occur on the project site or in the vicinity (Table 3 of Appendix A). Based on the assessment of wildlife habitats conducted during the field survey, nine of these species were determined to have moderate or high potential to occur on the site. Two of these species, the great blue heron (*Ardea herodias*) and Allen's hummingbird (*Selasphorus sasin*) were observed on the project site and are discussed further below.

The CNDDDB documents four special-status species in the vicinity of the project site. Three of these species, the California clapper rail (*Rallus longirostris obsoletus*), California black rail (*Laterallus jamaicensis*) and salt-marsh harvest mouse (*Reithrodontomys raviventris*), occur exclusively in salt marsh and brackish marsh habitats which are not present on the project site. The fourth species, western burrowing owl (*Athene cunicularia hypugaea*), was reported in 1984 near St. Vincent's School, approximately 1.6 miles northwest of the project site (CDFG 2005a). This species prefers open, flat or gently sloped grasslands and requires burrows for nesting. The grassland on the project site is not favorable habitat for burrowing owls because it occurs mostly on a steep slope surrounded by dense woodland and does not contain suitable burrows. Therefore, this species is not expected to occur on the project site.

### a. Great Blue Heron (Nesting)

The great blue heron occurs in a variety of habitats where shallow, open water areas or wetlands provide foraging opportunities. Great blue herons hunt for prey along stream and lake shores, marshes, and tidal flats. They breed in colonies (rookeries) and build large stick nests, usually in tall trees. In coastal areas of California, eucalyptus trees are often used as nest sites. Although the great blue heron is not listed as threatened or endangered or designated as a Species of Special Concern, the CDFG considers heron rookeries to be sensitive resources. Nesting great blue herons are sensitive to human disturbance, particularly during the early part of the breeding season (Kelly 2002).

Two active great blue heron nests were observed on the project site, in a large eucalyptus tree located approximately 200 feet northeast of the existing house on the property (Figure 2-2). Adult herons were observed at the nests during the March 2005 survey, and fledglings were present in both nests in May 2005 (J. Starkweather, pers. comm.). This site provides a favorable nesting location because the nest tree is visually screened and buffered from wind and other sources of disturbance by surrounding tall trees and the slope to the south. This nesting site has been utilized for the past three years (J. Starkweather, pers. comm).

b. Allen's Hummingbird

Allen's hummingbird is an orange-colored hummingbird that breeds throughout coastal California. This species typically nests in trees in a variety of semi-open habitats including open oak woodlands, streamside groves, coastal chaparral, wooded suburbs, and city parks. A male Allen's hummingbird was seen on the project site at the edge of a eucalyptus stand during the field survey on March 7, 2005. The male was observed doing a buzzing courtship dive display that is characteristic of this species. Allen's hummingbird most likely nests on the project site.

*G. Biological Resource Constraints*

The following section discusses potential biological resource constraints related to the proposed San Pedro Court development project. Analysis of constraints and potential impacts is based on the Grading and Drainage Plan dated July 25, 2003 (ILS Associates, Inc. 2003b).

**1. Wetlands and Aquatic Resources**

Both the wetland and the ephemeral creek on the project site are jurisdictional waters of the U.S. According to the grading plan, a portion of the wetland and the downstream end of the ephemeral creek would be permanently affected by the proposed project. Portions of lots 16, 17, 18, and the Craftsman Court cul-de-sac overlap the existing wetland. The building footprints

and grading limits of lots 15 and 16 overlap the creek around and upstream of its outlet to the wetland area.

Given that the wetland area surrounding the pond is relatively disturbed and degraded, it probably does not merit special protection by the County such as the establishment of a wetland avoidance buffer. Filling of jurisdictional wetland areas would require Section 404 authorization from the Corps (possibly under a NWP 39) and Section 401 water quality certification or waiver from the RWQCB.

The ephemeral creek on the property does not meet the County's criteria for a Stream Conservation Area (SCA), since it is not a mapped "blue line" stream and does not support riparian vegetation. However, the creek is a natural watercourse that provides benefits to wildlife and is important for site drainage and stormwater conveyance. A setback of 20 feet from the top of the stream bank and around the outlet should be incorporated into the project design to protect the functions and values of the ephemeral creek. If it is not feasible to avoid impacts to the ephemeral creek, section 404 and 401 authorizations would be required as described above for the wetland area, and a Section 1602 agreement could be required from the CDFG for any filling, culvert installation, or other activities that would affect the stream bed, bank or channel.

On-site or off-site mitigation would likely be required to offset any losses of jurisdictional wetlands and other waters of the U.S. on the project site. One possible on-site mitigation concept could include creation and restoration of a more natural drainage channel between the creek outlet and the pond. This would require substantial modification of the project design, particularly around lots 16 and 17.

## **2. Native Grassland**

The CDFG (2002; 2005a) has identified Native Grassland and Valley Needlegrass Grassland as plant communities of interest. While these communities have no formal legal protection, the CDFG is interested in tracking their

status because they provide high value for native plants and wildlife and are declining statewide. The native grassland at the northeastern end of the project site could be of interest to the CDFG or the County because it contains approximately 20 percent cover of native grasses including purple needlegrass, and could potentially support special-status plant species. No development is proposed in this area; however, future changes in land uses associated with the project, including possible increases in pedestrian traffic, could affect species composition and habitat quality in this area.

### **3. Native Trees**

The project site has an abundance of coast live oaks and other native tree species. Chapter 22.27 of the Marin County Code establishes regulations for the preservation and protection of native trees. According to the grading plan, most of the large oak trees within the development area would be retained. A tree protection zone should be established around all trees to be retained within the construction area to protect the root zone and canopy of the tree. In general, the tree protection zone would extend out to the dripline (canopy edge) of the tree. The applicant's proposed tree protection zones would be reviewed by the EIR biologist. For removal of native oak trees, Marin County would require planting of replacement trees of appropriate native species. As a component of the planting plan, measures should be implemented as recommended by the Cal-IPC to control the spread of French broom and other non-native, invasive species.

### **4. Special-Status Plants**

There is a very low likelihood that special-status plants will be found in any of the human-influenced vegetation types of the project site, which includes the area proposed for development. In fact, no special-status plants were found during two of the three field surveys. Based on the results of these surveys, the highest potential for special-status plants exists on the steep slope at the northeast end of site in the area dominated by native grassland. During the March and April surveys, plants that may be special-status species were observed here in an early stage of growth. The identification of these plants and determination of whether they are special-status species will be made dur-



ing the third special-status plant survey, scheduled for July 2005. There is also a moderate potential for the occurrence of special-status plants within the oak forest that covers most of the southern and central parts of the property, although no special-status plants have been found here to date. The presence or absence of special-status plants cannot be determined with certainty until the third, late-season survey has been completed.

#### **5. Nesting Great Blue Heron**

The eucalyptus tree that contains two active great blue heron nests is located near the center of the proposed development area, within the footprint of Craftsman Terrace between lots 2 and 19 (refer to the Figure 1-3 in Chapter 1). According to the grading plan, the nest tree and nearly all of the surrounding eucalyptus trees would be removed to accommodate houses, streets, and associated infrastructure.

Regulatory constraints associated with these nests are twofold: (1) nesting herons are protected under the federal Migratory Bird Treaty Act and by Section 3503 of the California Fish and Game Code while the nests are active (i.e., containing eggs or young prior to fledging); (2) great blue heron rookeries are considered sensitive resources by the CDFG. Since there is more than one active nest on the site it would likely be considered a rookery by the CDFG.

Nesting great blue herons can tolerate some human presence and built structures near their nesting sites; however, the tolerance of nesting herons to human activity is highly variable. Experimental studies on nesting great blue herons have found that birds may be flushed from their nests by a person approaching from as far away as 100-200 meters (330-660 feet) from a nesting colony. In other cases, nesting herons may tolerate individuals walking right under their nests (Kelly 2002; J.Kelly, pers. comm.).

Given the central location of the nest tree in relation to the proposed project, it may not be possible to avoid impacts to the nesting herons with development of the site. Even if the nest tree is retained, the suitability of the site for

nesting would probably be diminished substantially by the removal of surrounding trees, construction of houses and streets adjacent to the nest tree, and increased human activity on the property.

Because the effect of these activities on the nesting herons is unpredictable, two options are proposed that take into account the proposed development plan and existing conditions on the site. The latter option consists of a tiered approach for establishing site-specific buffers around the nest.

- a. Option 1 – Remove the nest tree during the non-nesting season (September 1 – January 31)

The eucalyptus tree that contains two active great blue heron nests is located near the center of the proposed development area, within the footprint of Craftsman Terrace between lots 2 and 19. According to the grading plan, the nest tree and nearly all of the surrounding eucalyptus trees would be removed to accommodate houses, streets, and associated infrastructure.

- b. Option 2 – Retain the nest tree and implement site-specific buffers

Under this option, the nest tree would be retained and measures would be implemented to reduce impacts to nesting great blue herons both during and after construction. Both temporary and permanent buffer zones would be established around the nest tree. Incorporation of these buffers would require substantial modification of the project design. Proposed buffers and associated protection measures are as follows:

- i. *Tree Protection Zone*

Establish a tree protection zone that extends out to the dripline of the nest tree. No ground disturbance or construction should occur within the tree protection zone. A qualified arborist may establish a tree protection zone of less than the dripline of the tree if the arborist determines that this can occur without adversely affecting the root system of the tree.

*ii. 50-foot Buffer for Built Structures*

Establish a buffer of no less than 50 feet between the nest locations and new built structures (e.g., houses, garages, etc.). This buffer would overlap the proposed footprint for Craftsman Terrace, the intersection of Craftsman Court, most of the building footprint of Lot 2, and portions of lots 11 and 19. Appropriate species of native trees and other native vegetation should be planted within this buffer zone, but outside of the tree protection zone, to enhance protection and screening of the nest tree. To the extent practicable, paved streets should also be located outside of the 50-foot buffer.

*iii. 100-foot Buffer During the Nesting Season*

During the nesting season (February 1 to August 31), establish a minimum 100-foot, non-disturbance buffer around active great blue heron nests. No site grading, building construction, or operation of heavy equipment should occur within 100 feet of an active heron nest. Temporary fencing should be installed to demarcate the buffer zone and its location verified by a qualified biologist. Construction may occur within the 100-foot buffer once the biologist has determined that nesting is complete and the young have fledged.

*iv. Tree Removal and Trimming Outside of the Nesting Season*

To avoid potential impacts to nesting birds, removal and trimming of trees should occur only during the non-nesting season, from September 1 to January 31.

*v. Biological Monitor During Construction*

A qualified biologist should be present to monitor the heron nests at least weekly during construction activities occurring within 250 feet of the nests while one or more of the nests is active. The biologist should observe and record nesting status and behavior of the birds and note any evidence of nest disturbance. If construction activities are found to result in nest abandonment or nest failure, the CDFG would be notified and additional mitigation would likely be required.

*vi. Follow-up Surveys*

Following completion of the project, the nest site should be surveyed for a period of three consecutive years by a qualified biologist to evaluate site utilization and nesting activity by great blue herons. If it is determined that the herons have abandoned the site or experienced nest failure as a result of the project, additional measures would likely be required.

Both of the options described above could reduce, but would not eliminate, potential adverse effects of the project on the resident great blue herons. However, disruption of an active nest (which could occur with Option 2), were it to result in nest failure, would be a more severe impact than removal of the nest tree during the non-nesting season (Option 1). The tree contains two nests and there is little potential for a larger colony to become established, as most of the eucalyptus trees on the site are too small to provide favorable nesting sites. If the nest tree is removed, the herons would lose existing nesting habitat and would have to find suitable nesting sites elsewhere. On the other hand, destruction or abandonment of an active nest could result in death of offspring and loss of an entire year's reproductive investment by the nesting birds.

**6. Other Nesting Birds**

Construction activities could adversely affect other species of birds that nest on the site, including Allen's hummingbird. Tree removal, site grading, operation of equipment, and increased human presence on the site could result in disturbance or harm to nesting birds. To avoid or minimize potential impacts to nesting birds, all tree removal and tree trimming activities should occur between September 1 and January 31, outside of the nesting season. Additional measures, such as pre-construction surveying and monitoring of active nests, should be implemented as needed to minimize disturbance to breeding birds during the nesting season.

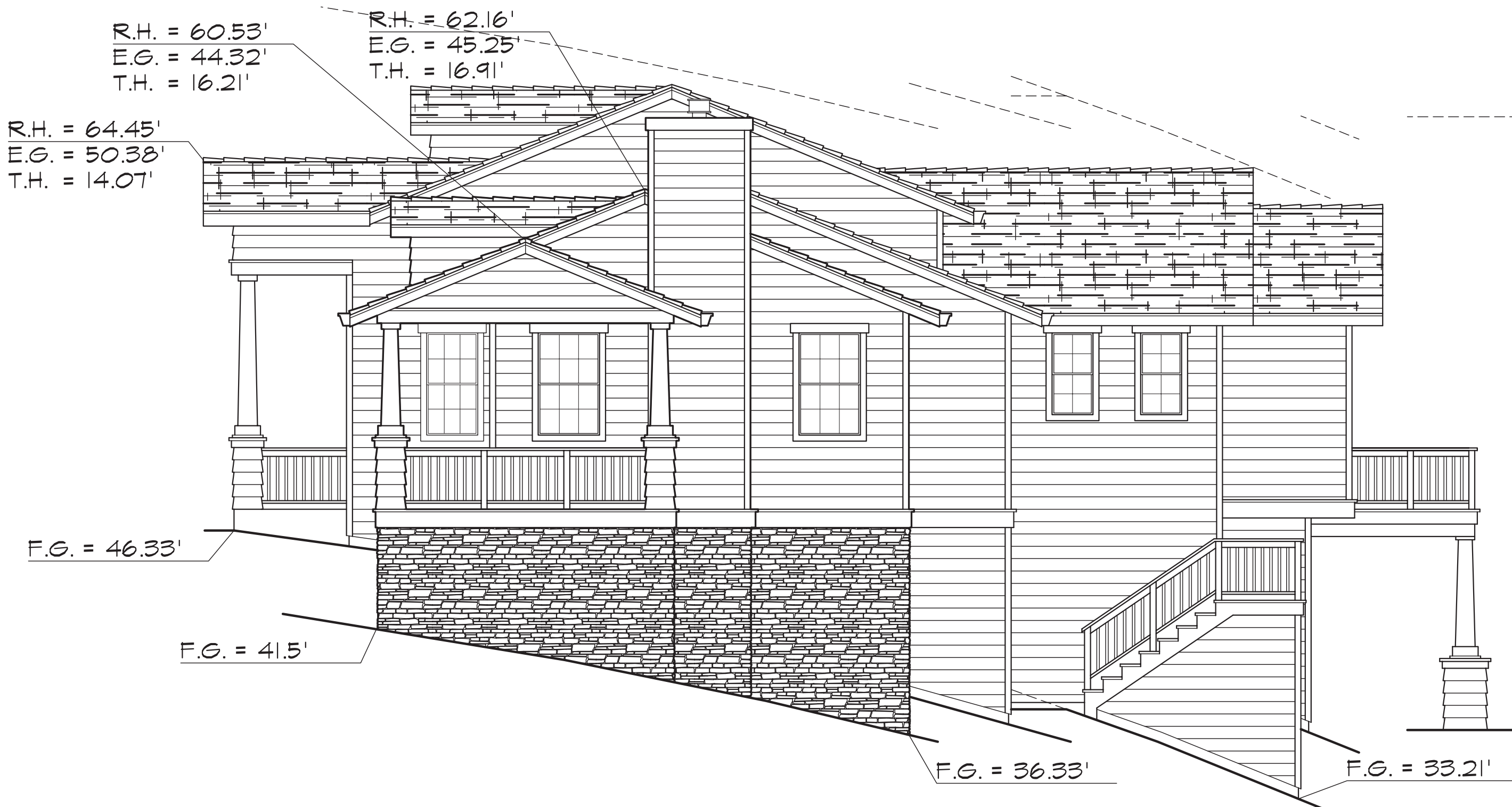
*H. References (See Appendix A)*

**A P P E N D I X G**

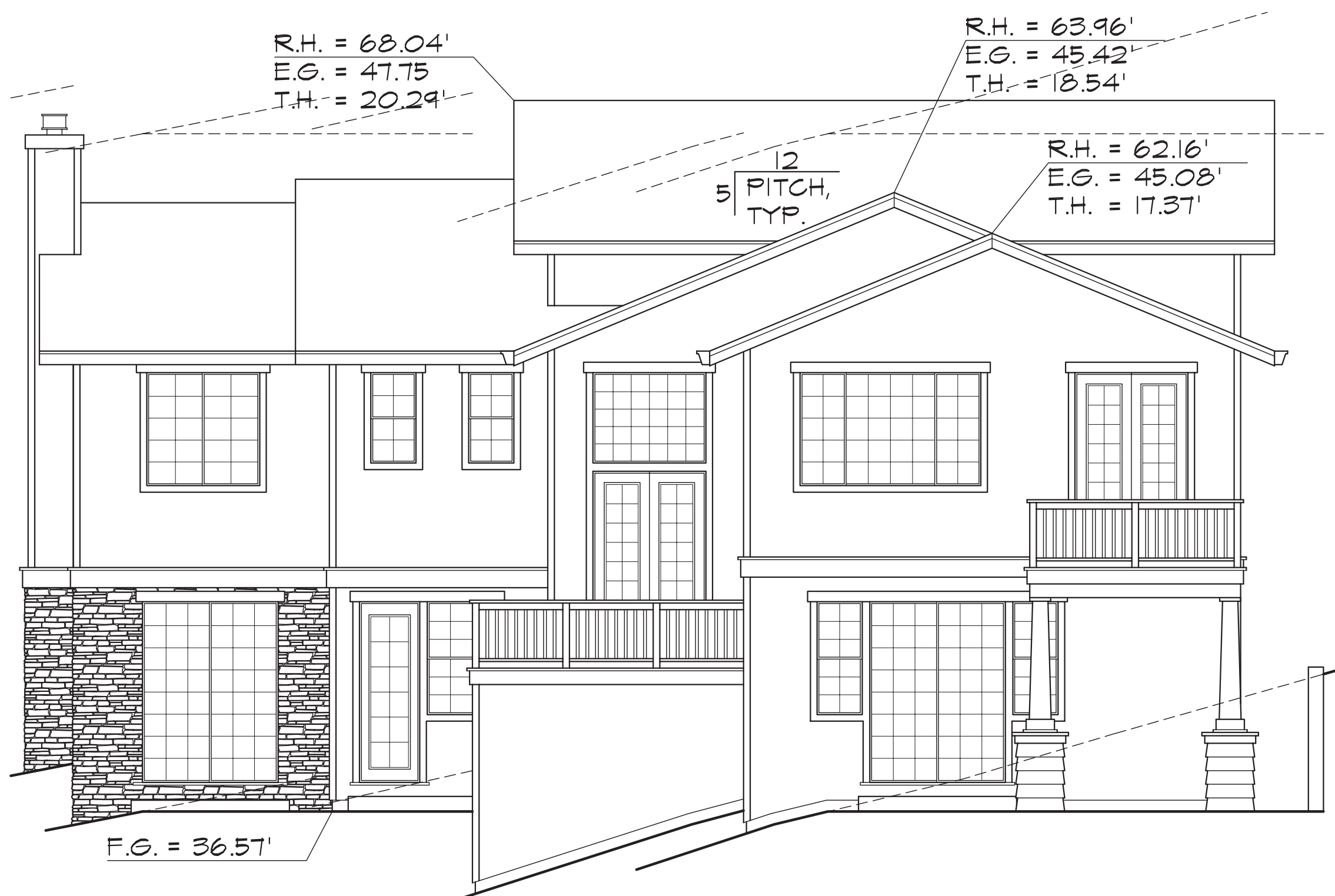
STRUCTURAL ELEVATIONS



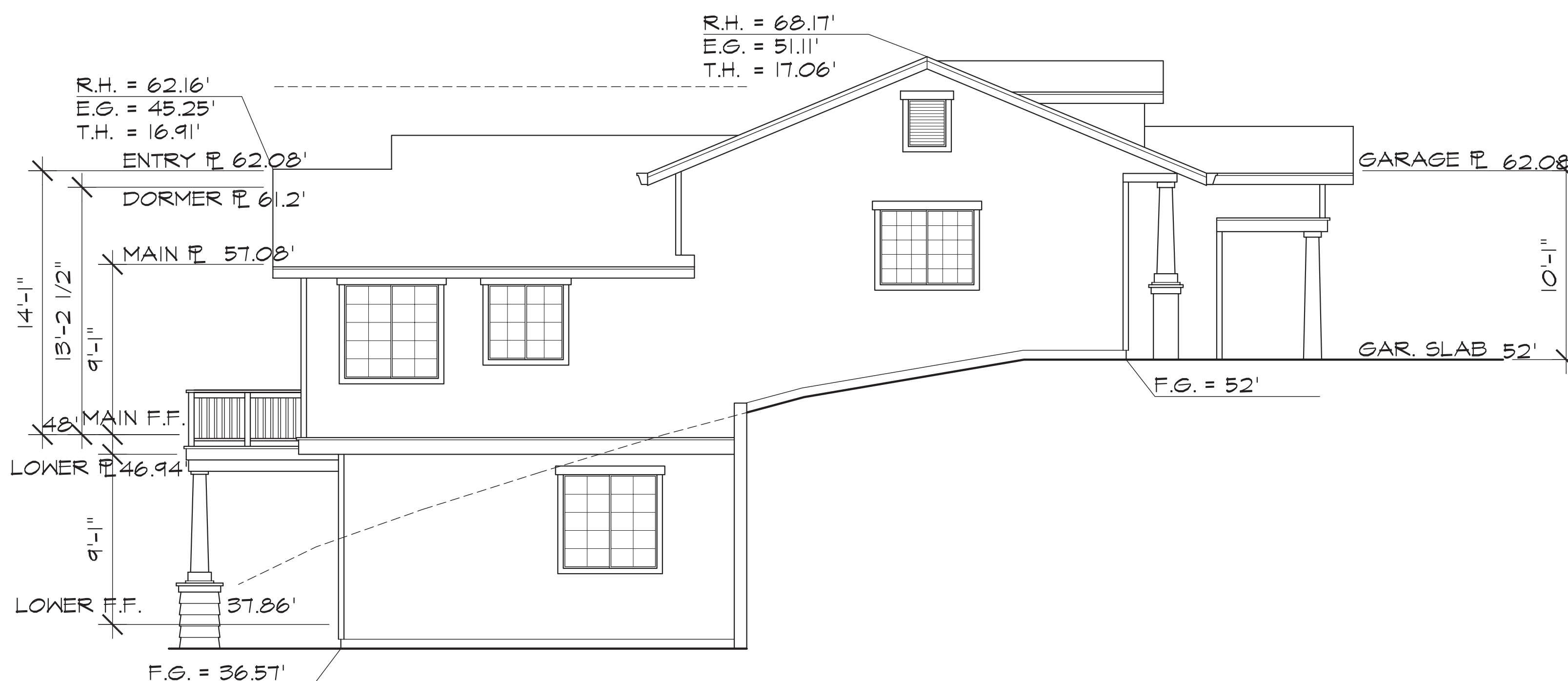




(B.M.R. UNIT)  
RIGHT SIDE ELEVATION

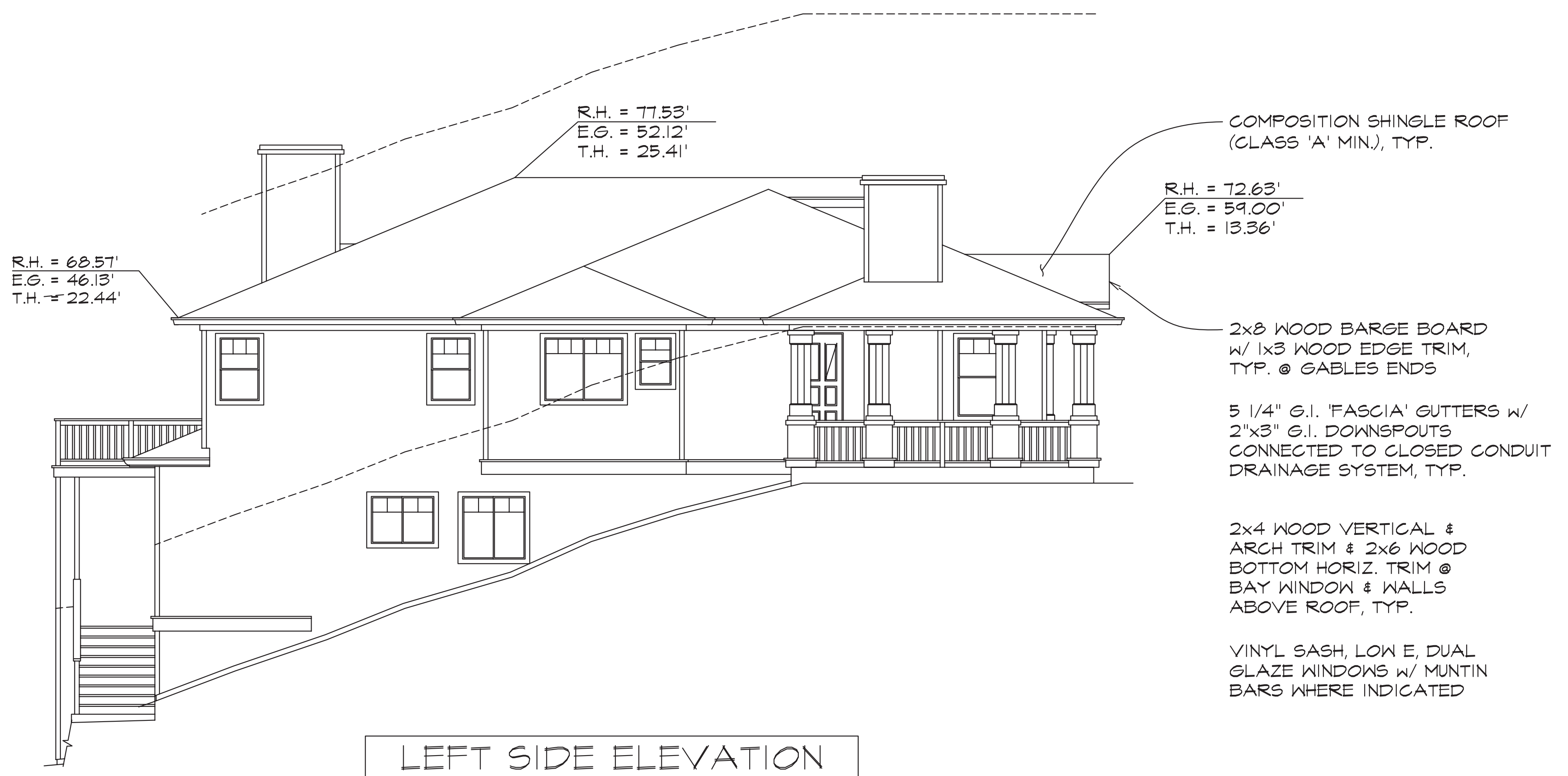


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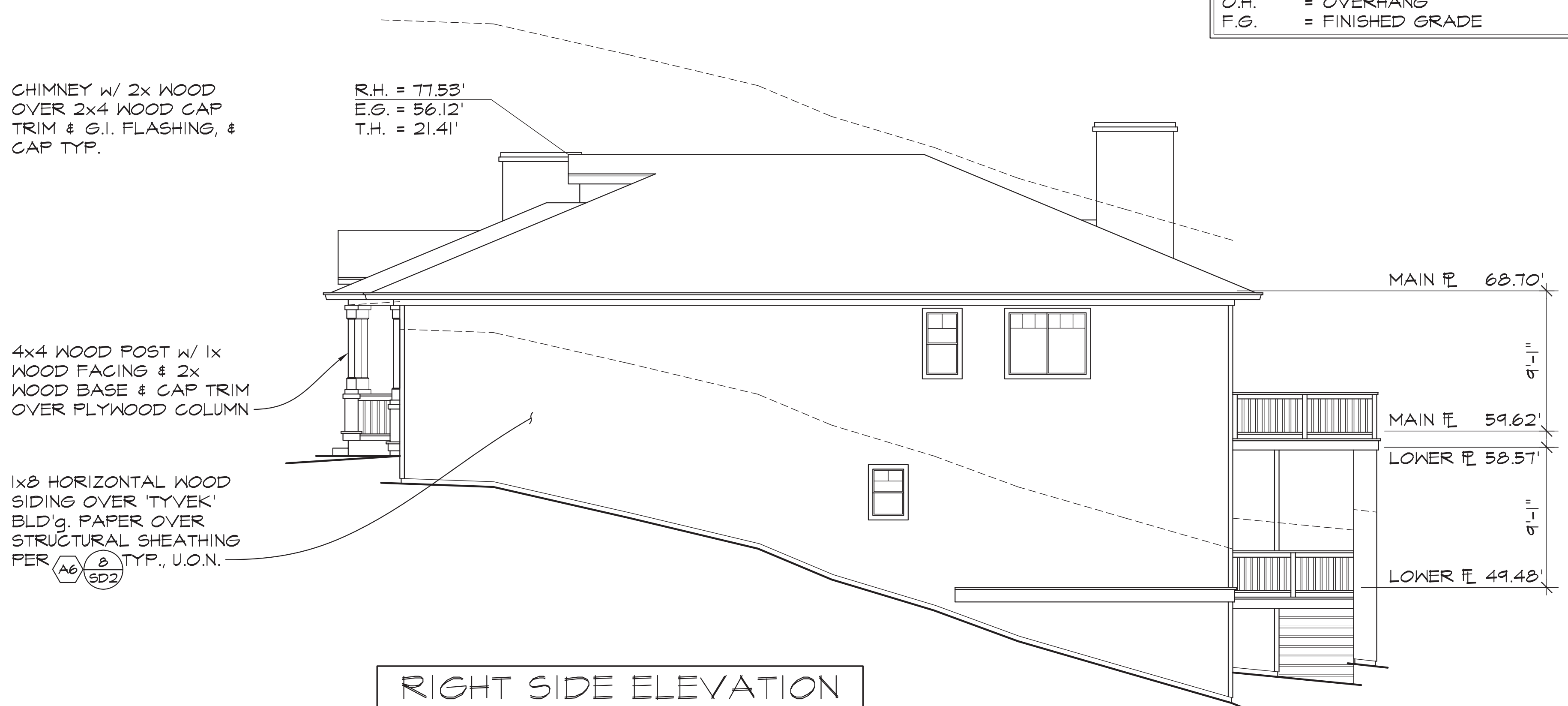


(B.M.R. UNIT)  
LEFT SIDE ELEVATION

# LOT 1 (B.M.R. UNIT)

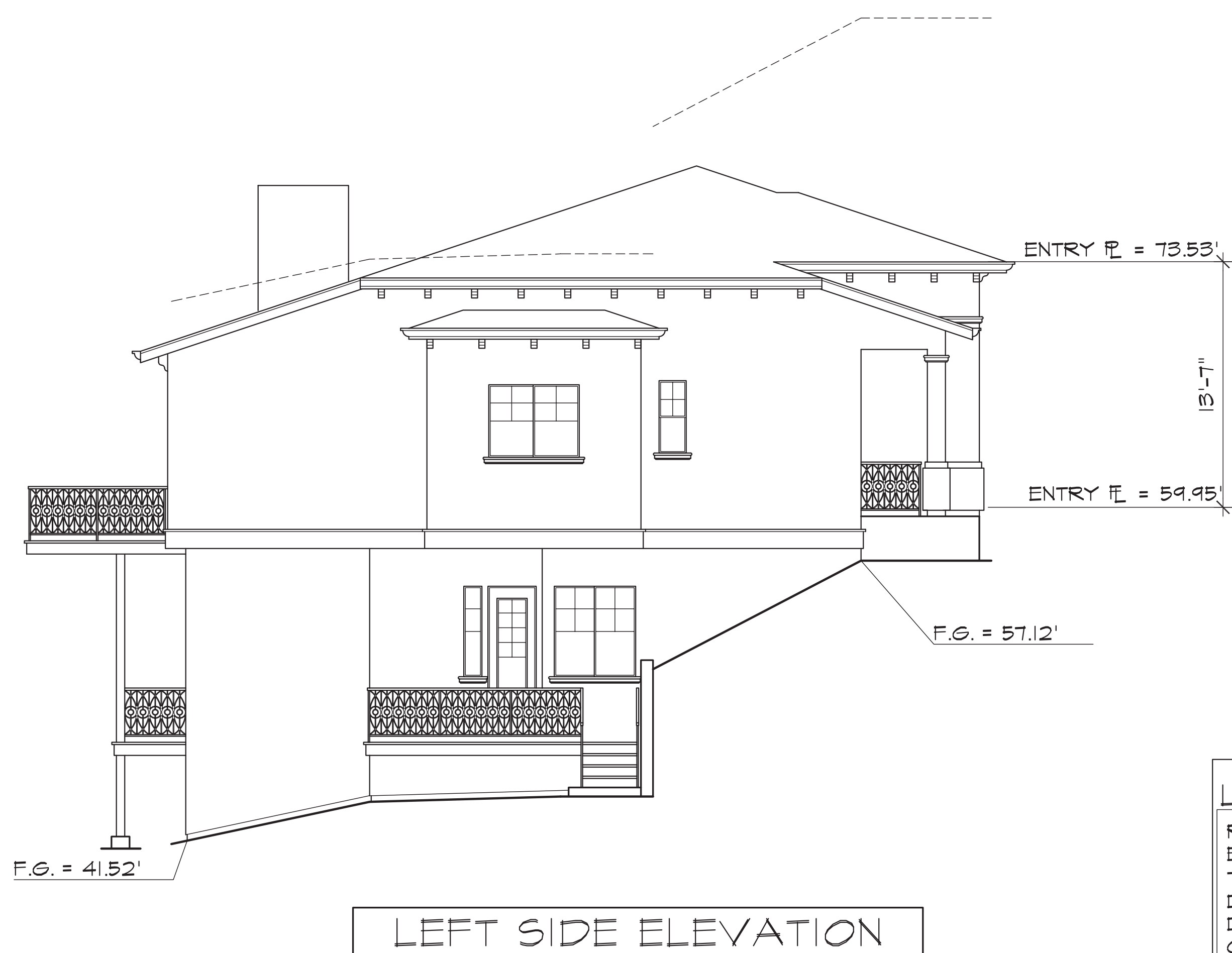
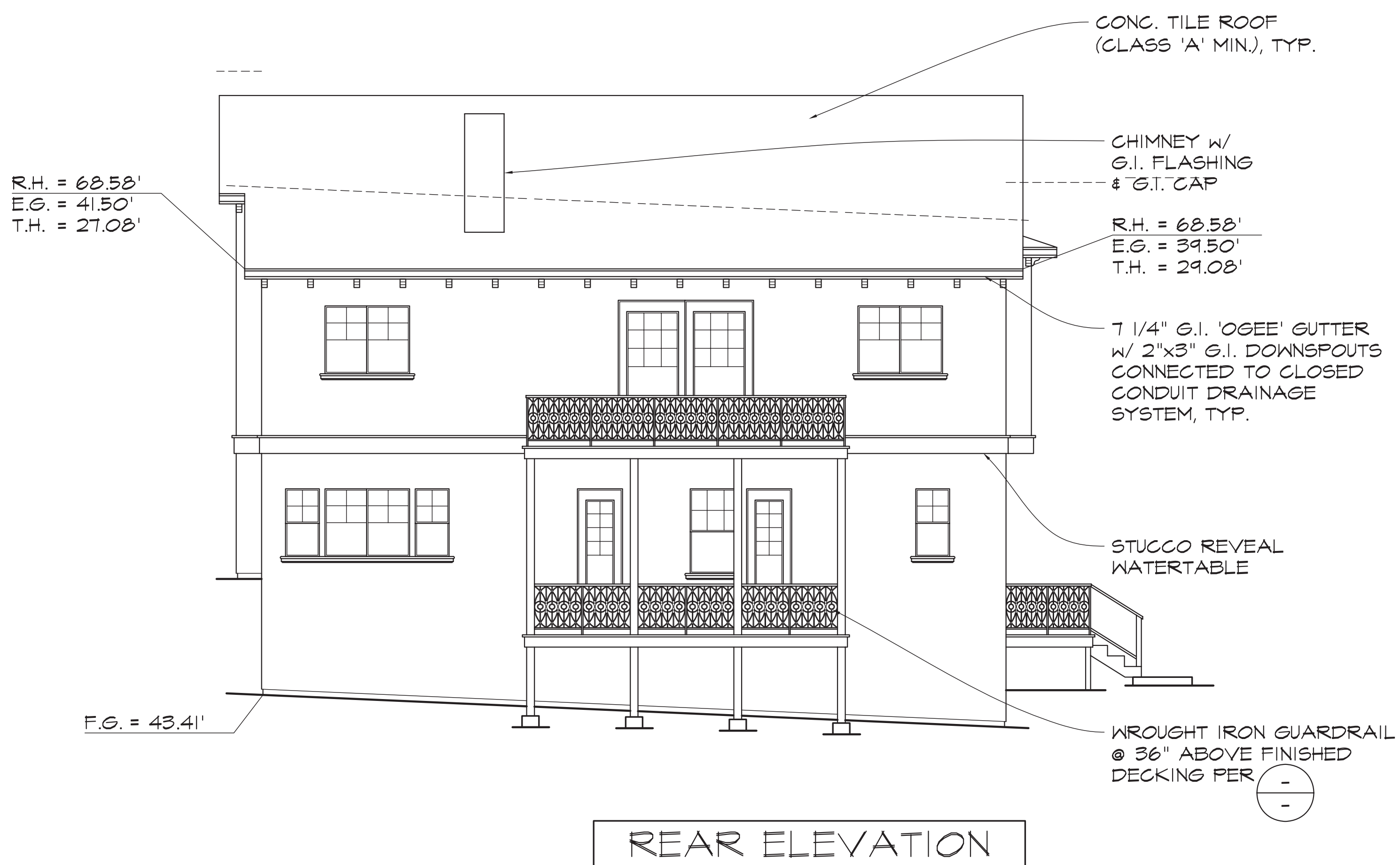
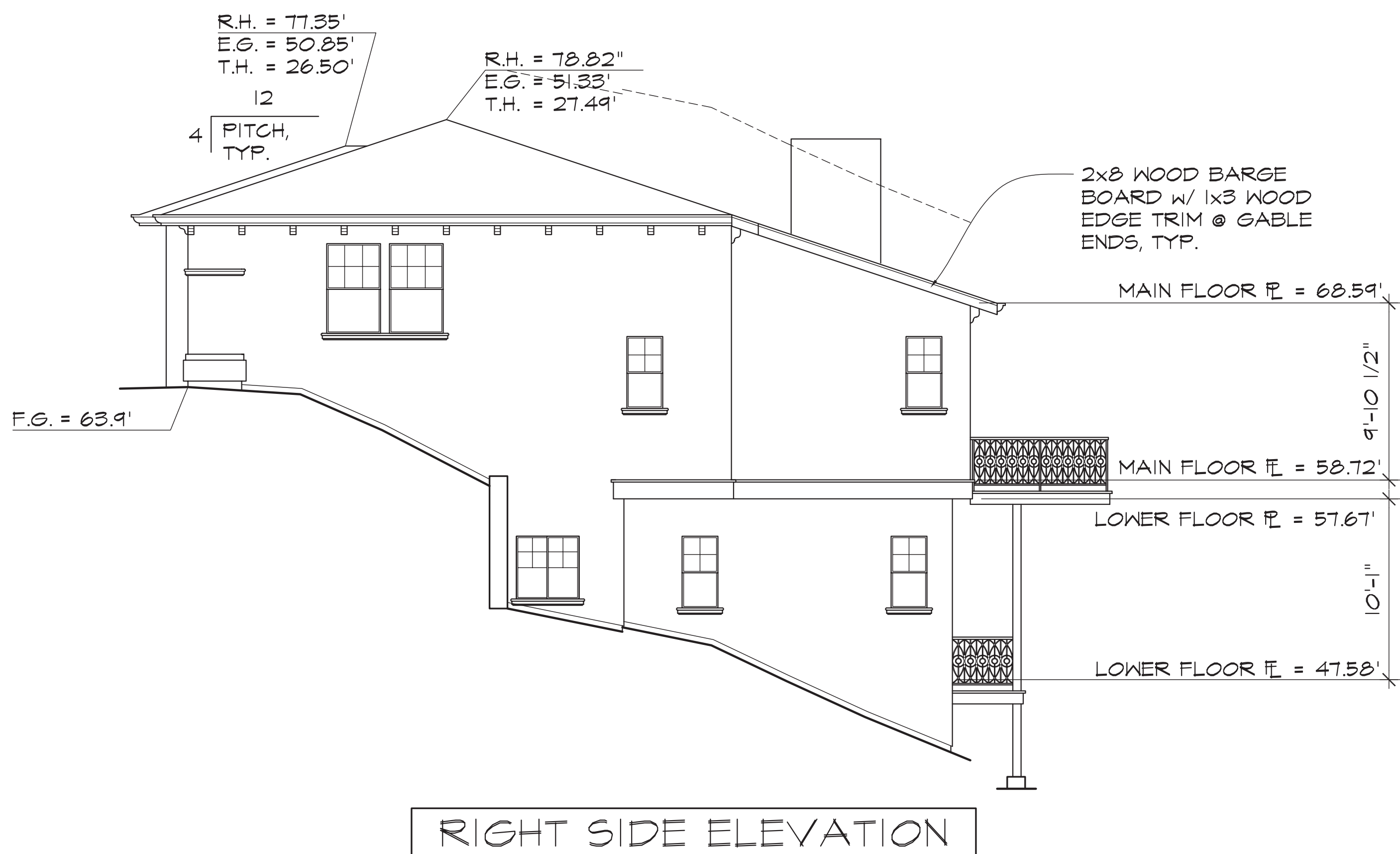


| LEGEND: |                                 |
|---------|---------------------------------|
| R.H.    | = RIDGE HEIGHT                  |
| E.G.    | = EXISTING GRADE                |
| T.H.    | = TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.    | = DOWNSPOUT                     |
| D.T.R.  | = DRAIN TO ROOF                 |
| O.H.    | = OVERHANG                      |
| F.G.    | = FINISHED GRADE                |



# LOT 2

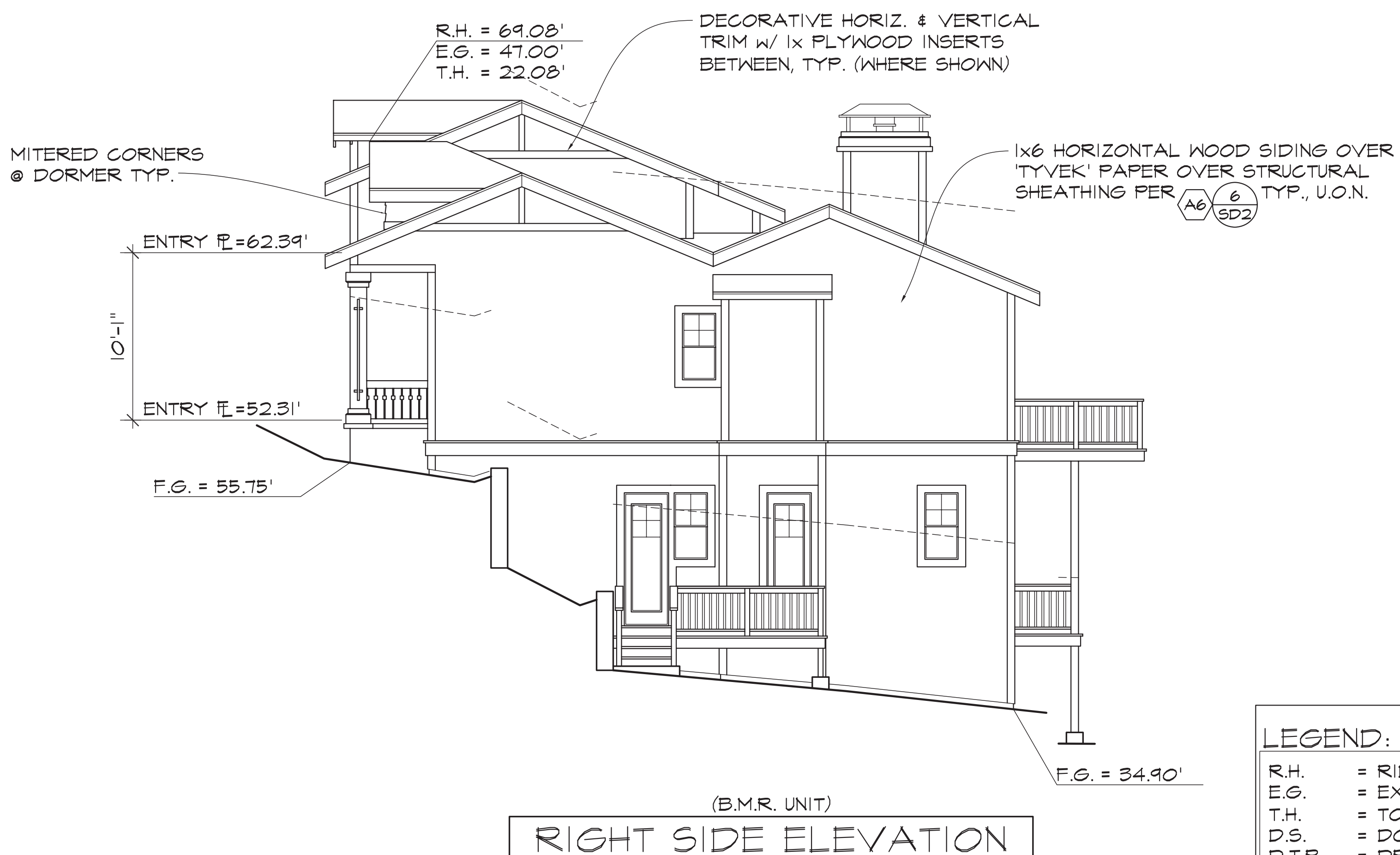
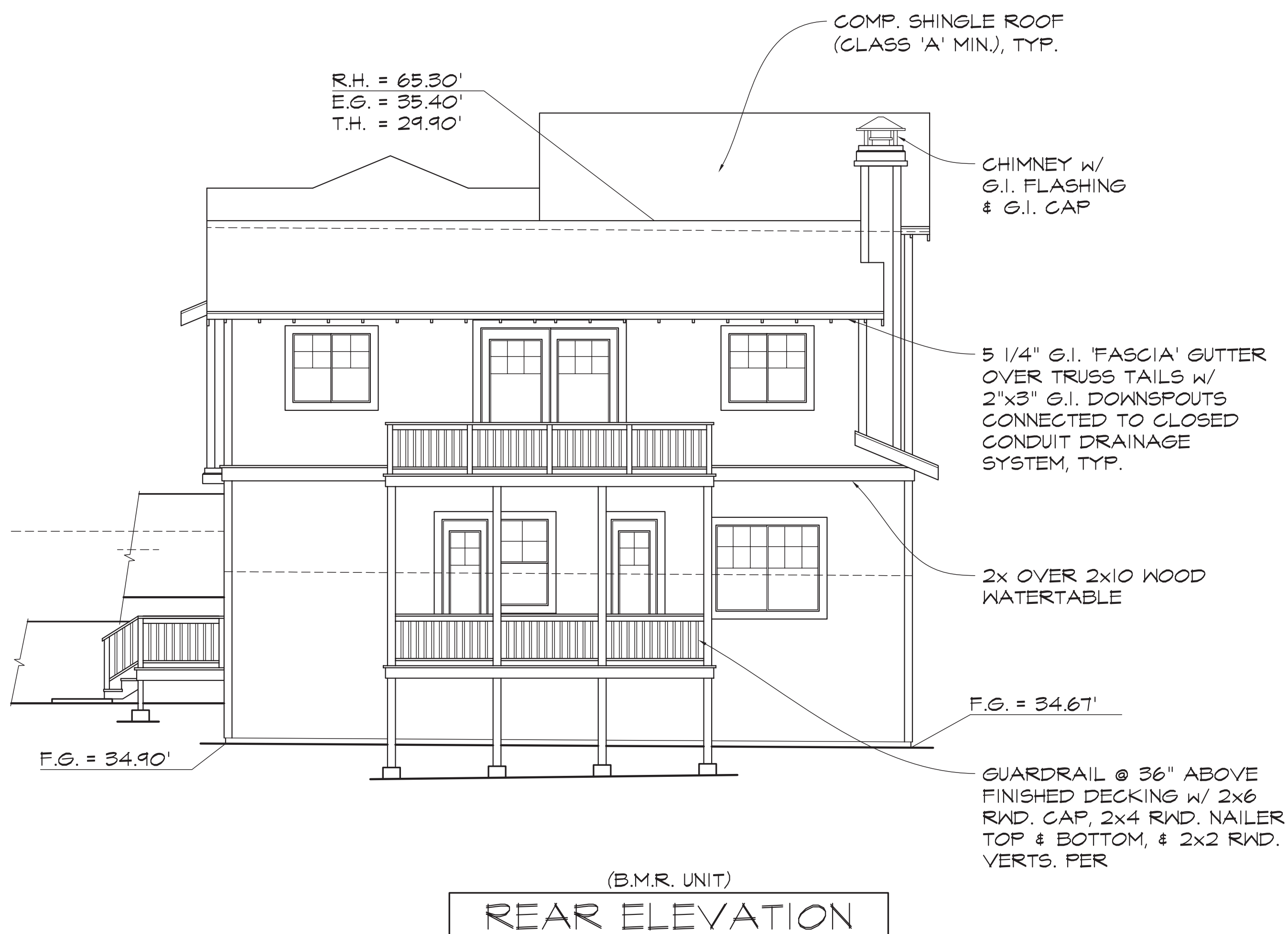
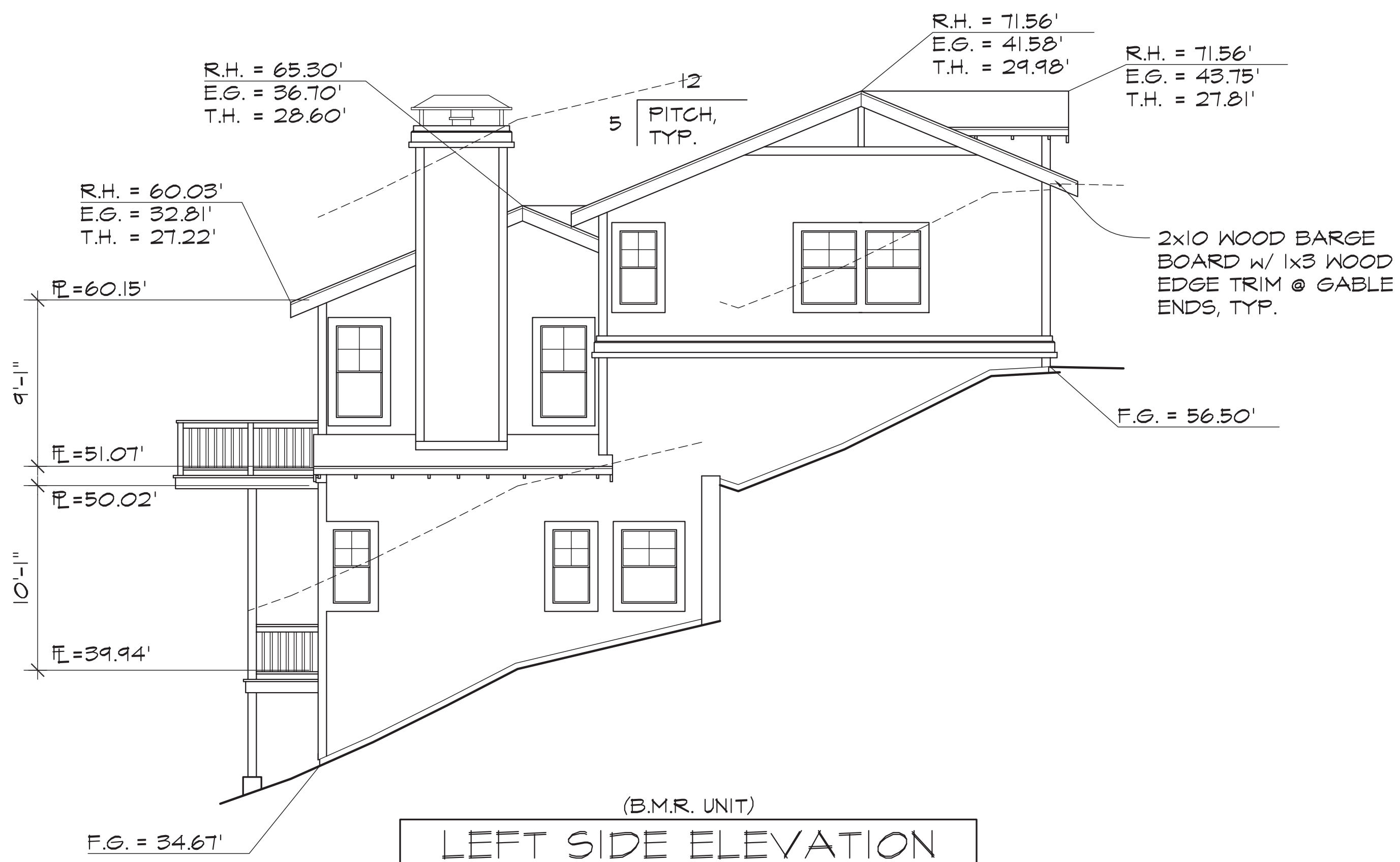




**LEGEND:**

|        |   |                               |
|--------|---|-------------------------------|
| R.H.   | = | RIDGE HEIGHT                  |
| E.G.   | = | EXISTING GRADE                |
| T.H.   | = | TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.   | = | DOWNSPOUT                     |
| D.T.R. | = | DRAIN TO ROOF                 |
| O.H.   | = | OVERHANG                      |
| F.G.   | = | FINISHED GRADE                |

**LOT 3**

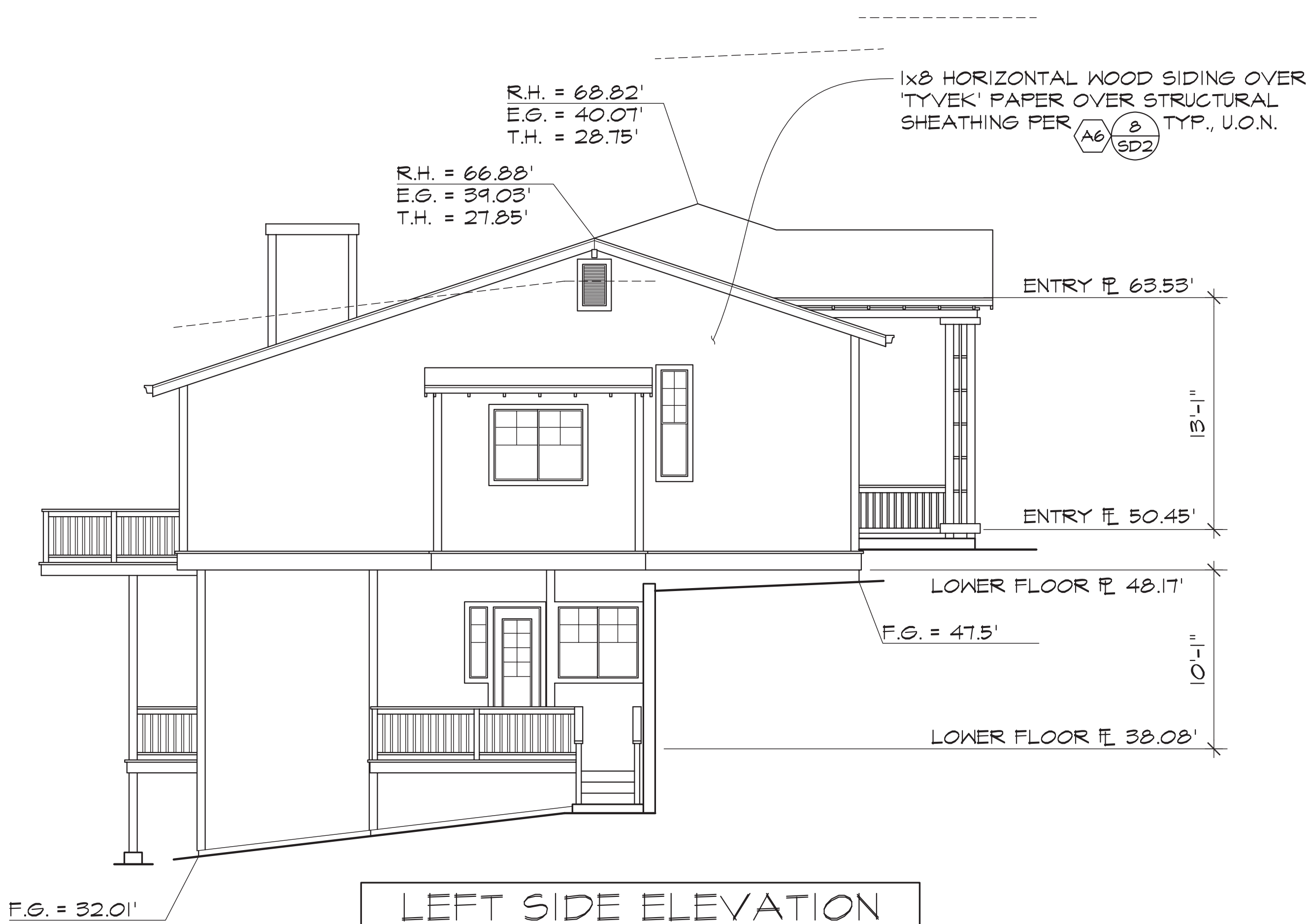
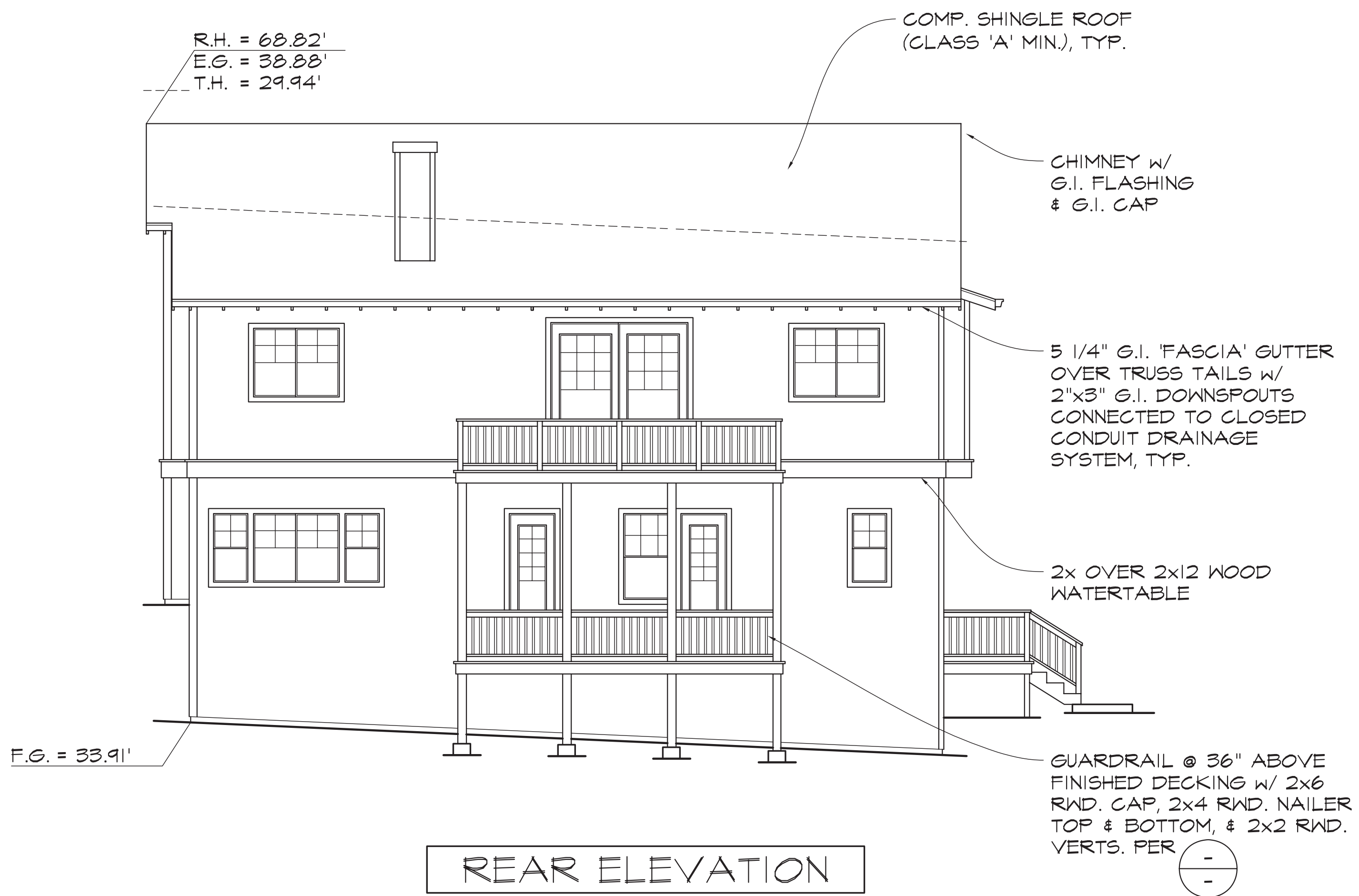
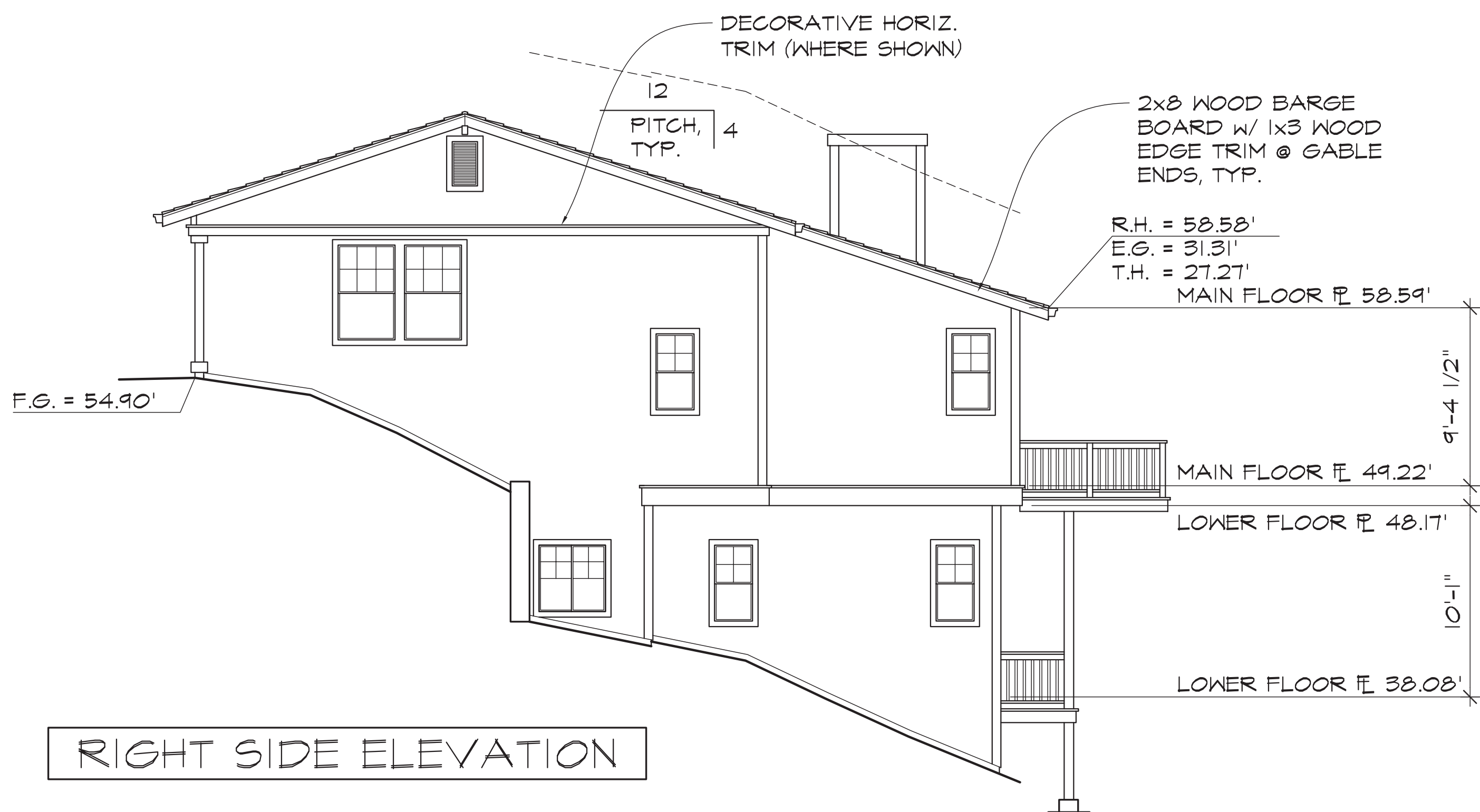


**LEGEND:**

|        |                                 |
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| R.H.   | = RIDGE HEIGHT                  |
| E.G.   | = EXISTING GRADE                |
| T.H.   | = TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.   | = DOWNSPOUT                     |
| D.T.R. | = DRAIN TO ROOF                 |
| O.H.   | = OVERHANG                      |
| F.G.   | = FINISHED GRADE                |

**LOT 4 (B.M.R. UNIT)**

|                        |                         |   |   |       |                     |
|------------------------|-------------------------|---|---|-------|---------------------|
| SHEET NO:<br><b>A1</b> | JOB NO:<br><b>06044</b> | DESIGN FOR:<br><b>650 NORTH SAN PEDRO RD.</b><br>MARIN COUNTY, CALIFORNIA | CONTRACTOR:<br><b>WEST BAY BUILDERS, INC.</b><br>NOVATO, CA | NOTES | DATE<br><b>9-08</b> |
|------------------------|-------------------------|---|---|-------|---------------------|



**LOT 5**

SHEET NO:  
**A1**

JOB NO:  
**06044**

DESIGN FOR:  
**650 NORTH SAN PEDRO RD.**

CONTRACTOR  
\*\*\*\*\*

DATE PRINTED  
DATE CHECKED

NOTES

DATE  
**9 08**

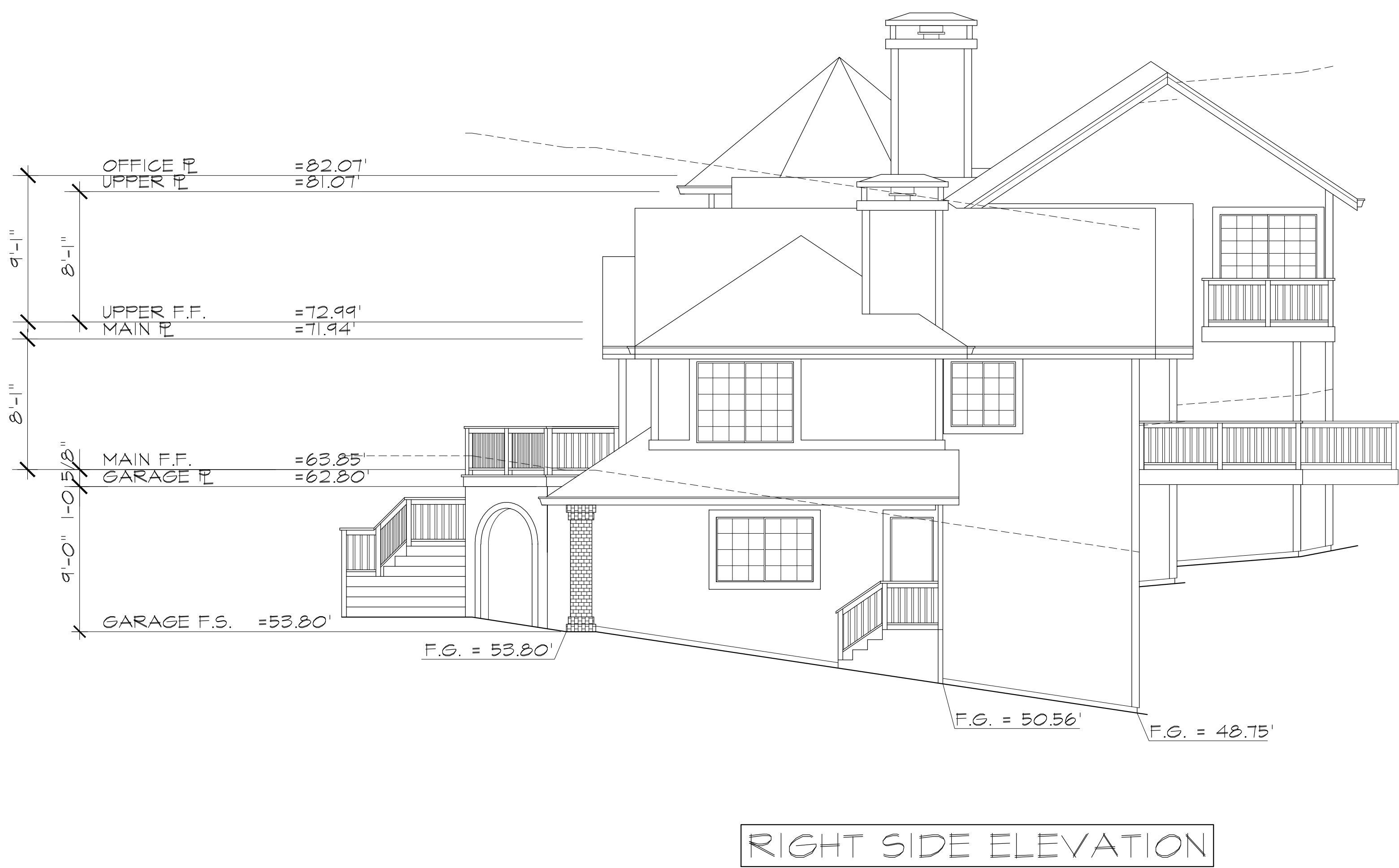
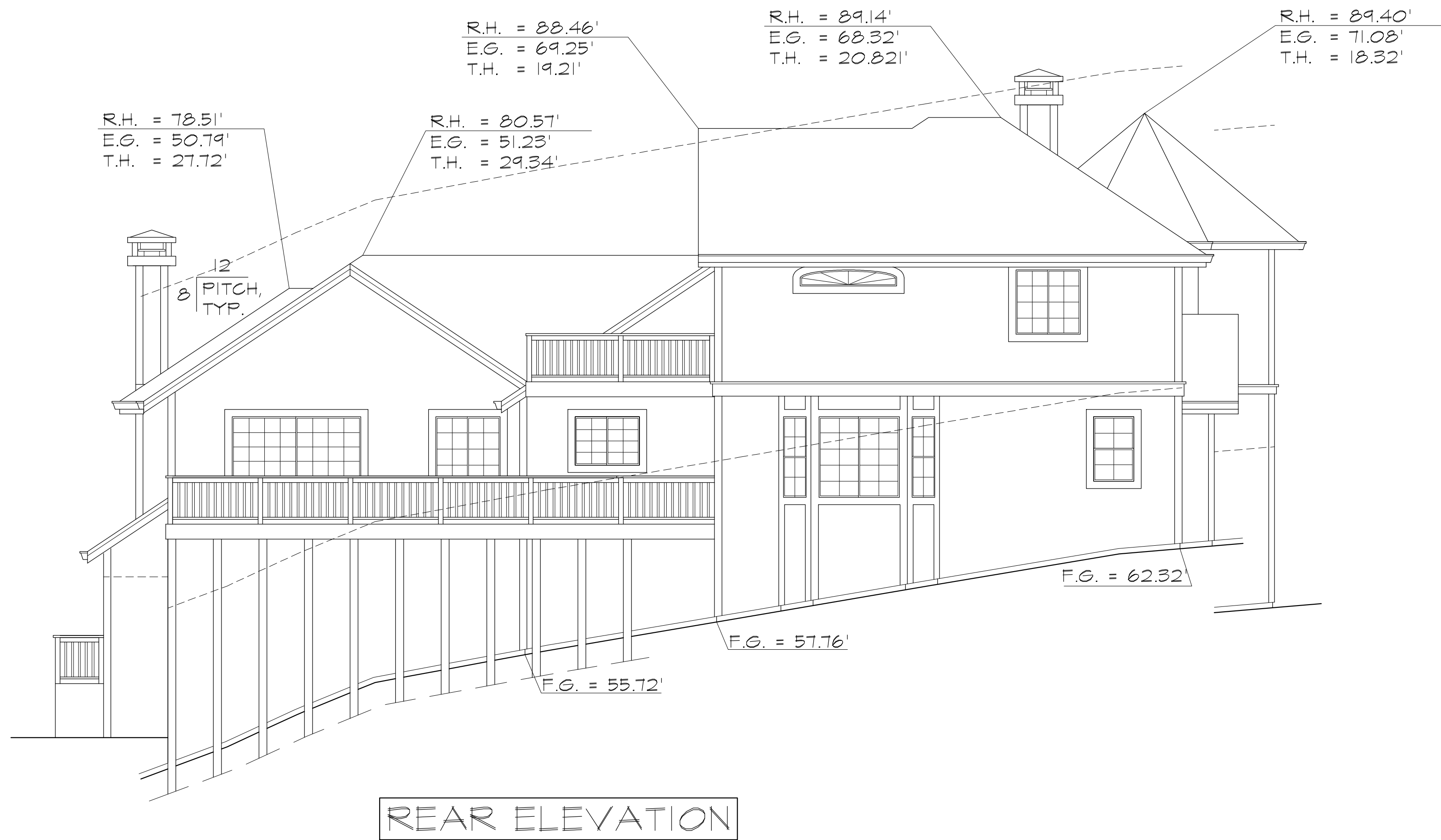
**avila**

**architects, inc.**

(707) 585-3711  
(707) 795-4511  
FAX 585-2499

Merle Avila architect  
5850 Commerce Blvd. Rohnert Park, CA. 94928

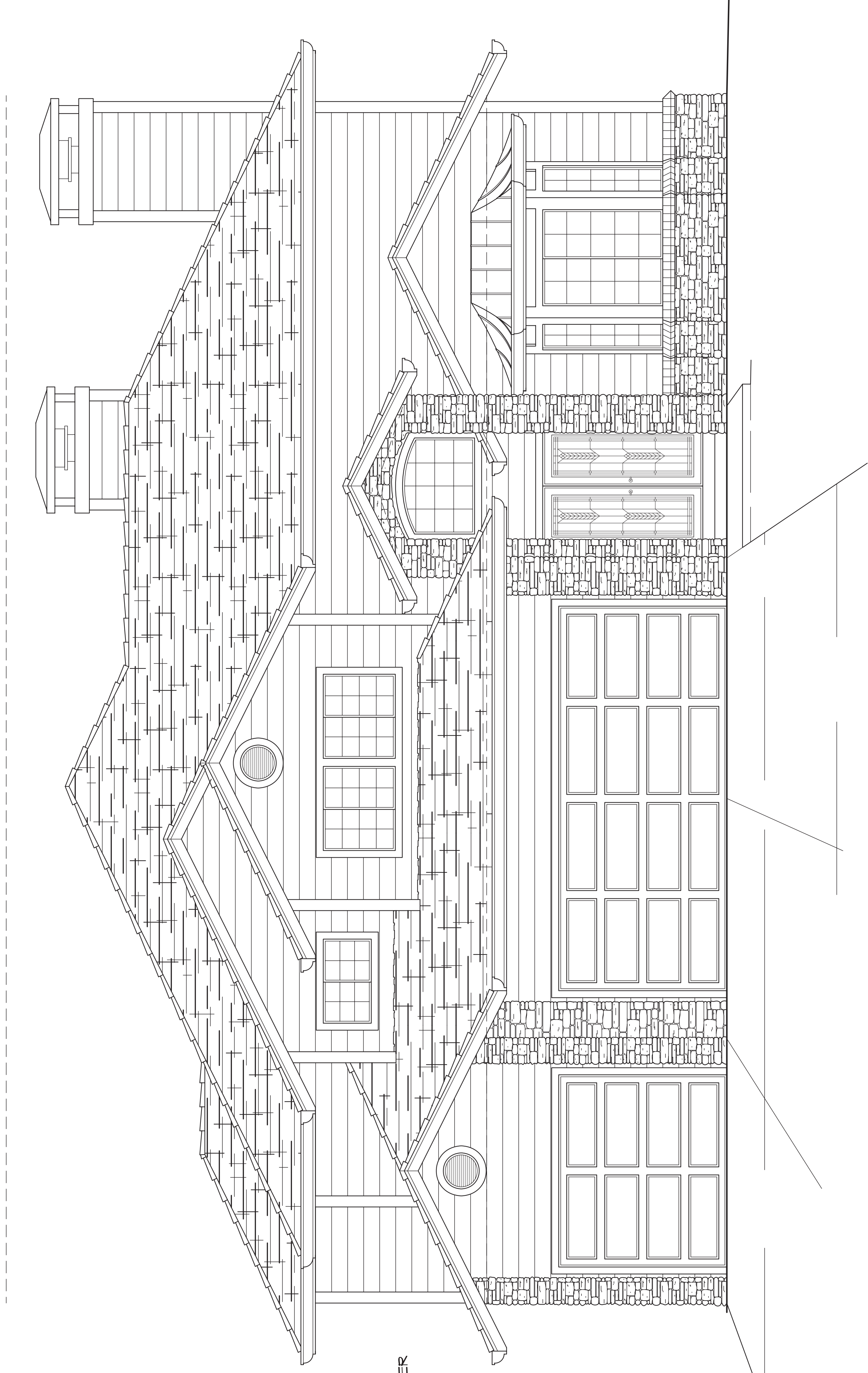




**LEGEND:**

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| R.H.   | = RIDGE HEIGHT                  |
| E.G.   | = EXISTING GRADE                |
| T.H.   | = TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.   | = DOWNSPOUT                     |
| D.T.R. | = DRAIN TO ROOF                 |
| O.H.   | = OVERHANG                      |
| F.G.   | = FINISHED GRADE                |

**LOT 6**

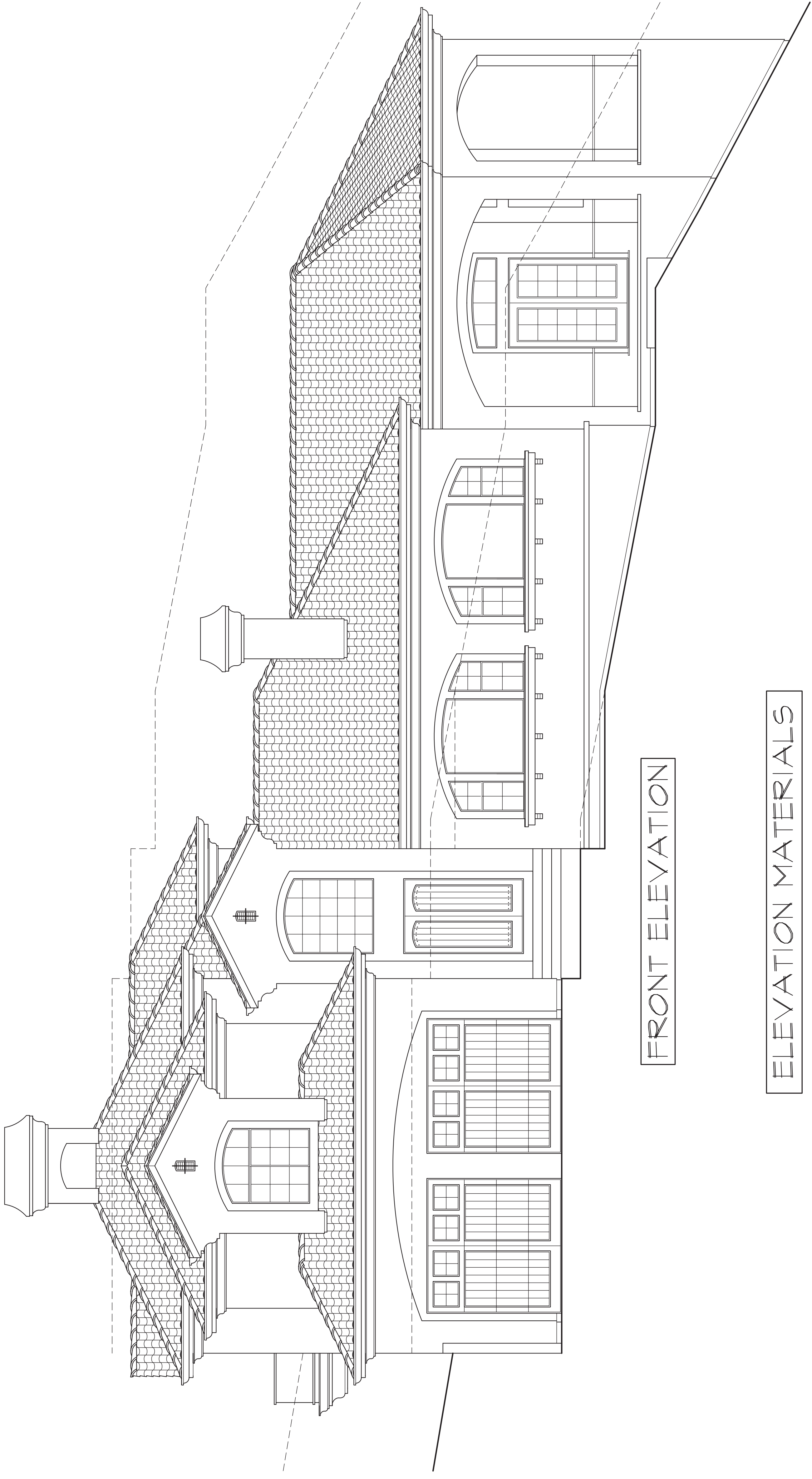


FRONT ELEVATION

ELEVATION MATERIALS

1. 1x8 HORIZONTAL WOOD SIDING OVER 'TYVEK' BLD'G PAPER OVER STRUCTURAL SHEATHING PER (A6) TYP.
2. MANUFACTURED STONE VENEER (ELDORADO, 'COPPER MOUNTAIN LEDGE') w/ BRICK CAP (WHERE SHOWN) OVER 2 LAYERS GRADE 'D' BUILDING PAPER OVER STRUCTURAL SHEATHING PER (A8) TYP.
3. COMPOSITION SHINGLE ROOF (CLASS 'A' MIN.) , TYP., PREFAB SHEET METAL ROOF @ LIVING ROOM BAY
4. 6" G.I. 'OGEE' GUTTER OVER 2x8 FASCIA BOARD w/ 2" x 3" G.I. DOWNSPOUT CONNECTED TO CLOSED CONDUIT DRAINAGE SYSTEM, TYP.
5. 2x4 WOOD WINDOW & DOOR TRIM, TYP.
6. 2x6 WOOD CORNER TRIM, TYP.
7. 2x8 WOOD BARGE BOARD w/ 1x3 WD EDGE TRIM, TYP. @ GABLE ENDS
8. PREFAB 18" φ G.I. LOUVERED ATTIC VENTS @ GABLE ENDS
9. CHIMNEY w/ G.I. BASE, FLASHING, & CAP, TYP.
10. VINYL SASH, DUAL GLAZED, LOW E. WINDOWS, TYP.
11. METAL SECTIONAL ROLL-UP GARAGE DOORS, TYP.
12. CONC. PORCH, STEPS, & DRIVEWAY
13. ILLUMINATED ADDRESS SIGN





FRONT ELEVATION

ELEVATION MATERIALS

1. STUCCO (3 LAYERS, 1/8" THICK MIN.) OVER 2 LAYERS GRADE 'D' BUILDING PAPER OVER STRUCTURAL SHEATHING PER  $\frac{A6}{S2}$  TYP. (WHERE SHOWN)
2. COMPOSITION SHINGLE ROOF (CLASS 'A' MIN.) , TYP.
3. 6" G.I. 'OGEE' GUTTER W/ 2"x10" FASCIA BOARD & 2"x3" G.I. DOWNSPOUTS CONNECTED TO CLOSED CONDUIT DRAINAGE SYSTEM, TYP.
4. 2x6 STUCCO REVEAL WINDOW & DOOR TRIM, TYP.
5. 4x6 DECORATIVE STUCCO REVEAL CORBELS @ WINDOW SILL (WHERE SHOWN), TYP.
6. CHIMNEY W/ G.I. BASE & CAP FLASHING W/ G.I. SPARK ARRESTOR W/ SHEET METAL CAP, TYP.
7. VINYL SASH, DUAL GLAZED, LOW E, WINDOWS, TYP.
8. METAL SECTIONAL ROLL-UP GARAGE DOORS, TYP.
9. CONG. PORCH, STEPS, & DRIVEWAY
10. ILLUMINATED ADDRESS SIGN

COMP. SHINGLE ROOF (CLASS 'A' MIN.), TYP.

7 1/4" G.I. 'FASCIA' GUTTERS W/ 2"x3" G.I. DOWNSPOUTS CONNECTED TO CLOSED CONDUIT DRAINAGE SYSTEM, TYP.

MANUFACTURED STONE VENEER OVER 2 LAYERS GRADE 'D' BUILDING PAPER OVER STRUCTURAL SHEATHING PER (6/SD2/A6)

2x4 WOOD WINDOW, DOOR, & CORNER TRIM, TYP.

1x8 HORIZONTAL WOOD SIDING OVER 'TYVEK' BLD'g. PAPER OVER STRUCTURAL SHEATHING PER (6/SD2/A6) TYP., U.O.N.

WOOD GUARDRAIL @ 36" ABOVE FINISHED DECK, TYP.

RIGHT SIDE ELEVATION

2x8 WOOD BARGE BOARD W/ 1x3 WOOD EDGE TRIM, TYP. @ GABLES ENDS

CHIMNEY W/ G.I. FLASHING & G.I. CAP, TYP.

PLYWOOD & SHEET METAL CRICKET, TYP.

VINYL SASH, LOW E, DUAL GLAZE WINDOWS W/ MUNTIN BARS WHERE INDICATED

2x RDWD. LATTICE BTWN. DECK POSTS, TYP.

G.I. FLASH @ WALLS ABV. ROOF, TYP.

12/6 PITCH, TYP.

106.03' MAIN P.  
97.95' MAIN F.F.  
92.88' LOWER F.F.  
F.G. = 95.14'

110.09' UPPER P.  
109.09' ENTRY P.  
102.01' UPPER F.F.  
100.96' LOWER P.  
92.88' LOWER F.F.  
91.00' GAR. F.S.  
F.G. = 86.21'

REAR ELEVATION

R.H. = 120.55'  
E.G. = 91.94'  
T.H. = 28.61'

R.H. = 109.83'  
E.G. = 86.58'  
T.H. = 23.25'

R.H. = 115.58'  
E.G. = 92.47'  
T.H. = 23.11'

R.H. = 109.02'  
E.G. = 90.46'  
T.H. = 18.56'

6x6 WOOD POST W/ 1x WOOD FACING & 2x WOOD BASE & CAP TRIM OVER 18" SQ. MANUF. STONE COLUMN

LEFT SIDE ELEVATION

LEGEND:

|        |                                 |
|--------|---------------------------------|
| R.H.   | = RIDGE HEIGHT                  |
| E.G.   | = EXISTING GRADE                |
| T.H.   | = TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.   | = DOWNSPOUT                     |
| D.T.R. | = DRAIN TO ROOF                 |
| O.H.   | = OVERHANG                      |
| F.G.   | = FINISHED GRADE                |

LOT 9

SHEET NO: A1

JOB NO: 06044

DESIGN FOR: 650 NORTH SAN PEDRO RD. MARIN COUNTY, CALIFORNIA

CONTRACTOR: WEST BAY BUILDERS, INC. NOVATO, CA

DATE PRINTED: DATE CHECKED

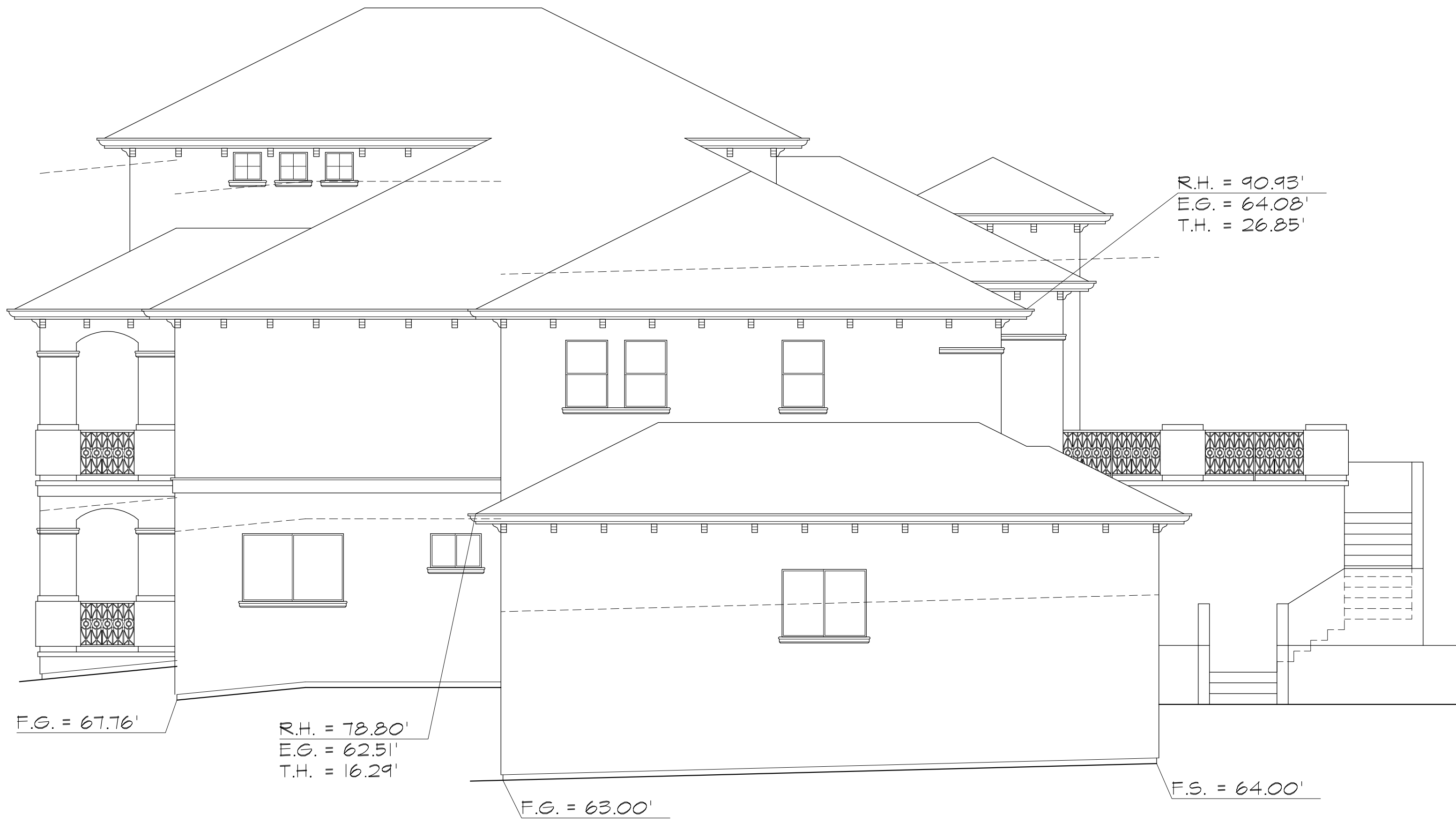
NOTES

DATE: 9-08

avila architects, inc.

(707) 585-3711  
(707) 795-4511  
FAX 585-2499

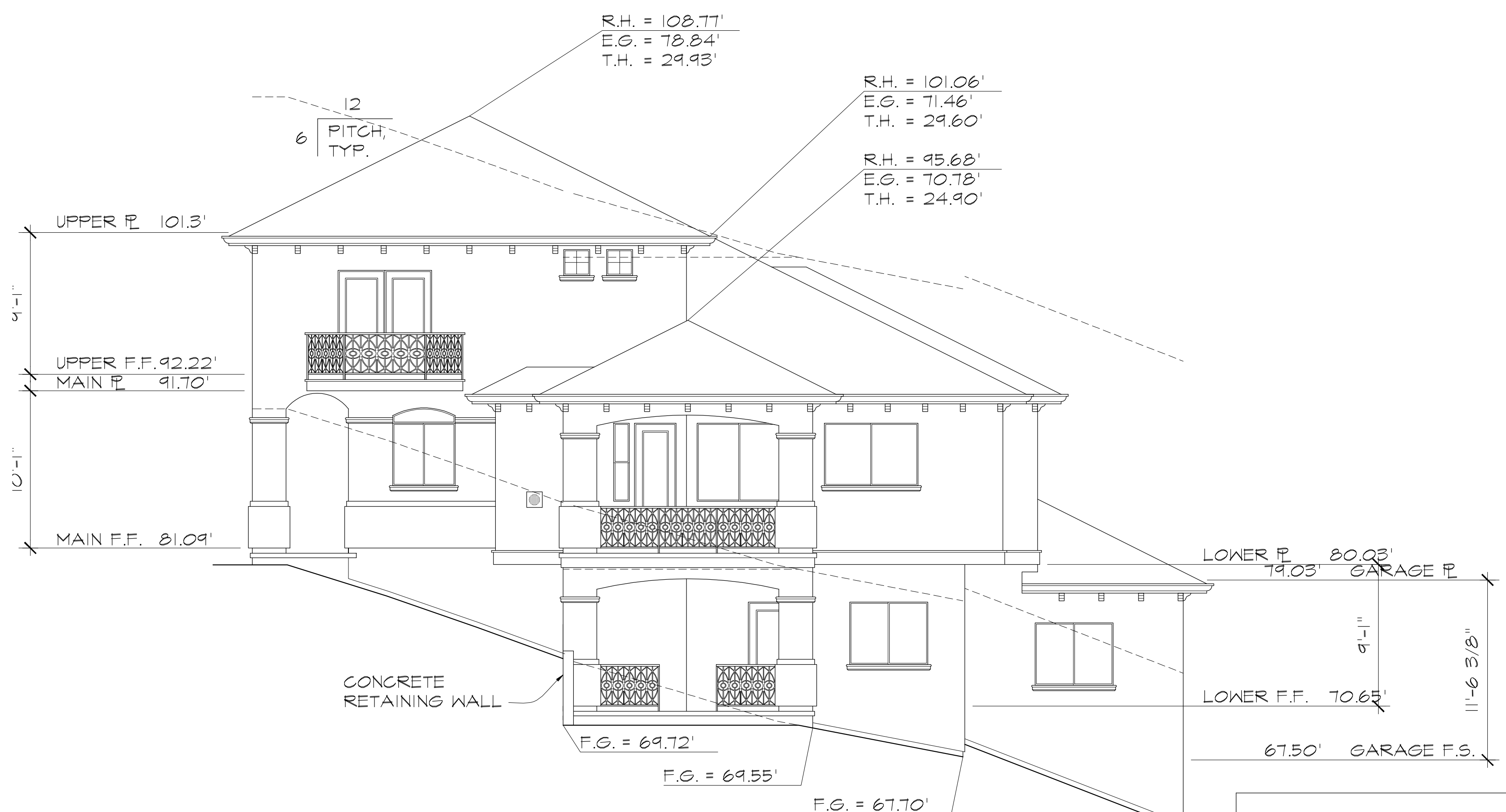
Merle Avila architect  
5850 Commerce Blvd. Rohnert Park, CA. 94928



LEFT ELEVATION



RIGHT ELEVATION



REAR ELEVATION

**LEGEND:**

|        |   |                               |
|--------|---|-------------------------------|
| R.H.   | = | RIDGE HEIGHT                  |
| E.G.   | = | EXISTING GRADE                |
| T.H.   | = | TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.   | = | DOWNSPOUT                     |
| D.T.R. | = | DRAIN TO ROOF                 |
| O.H.   | = | OVERHANG                      |
| F.G.   | = | FINISHED GRADE                |

LOT 10

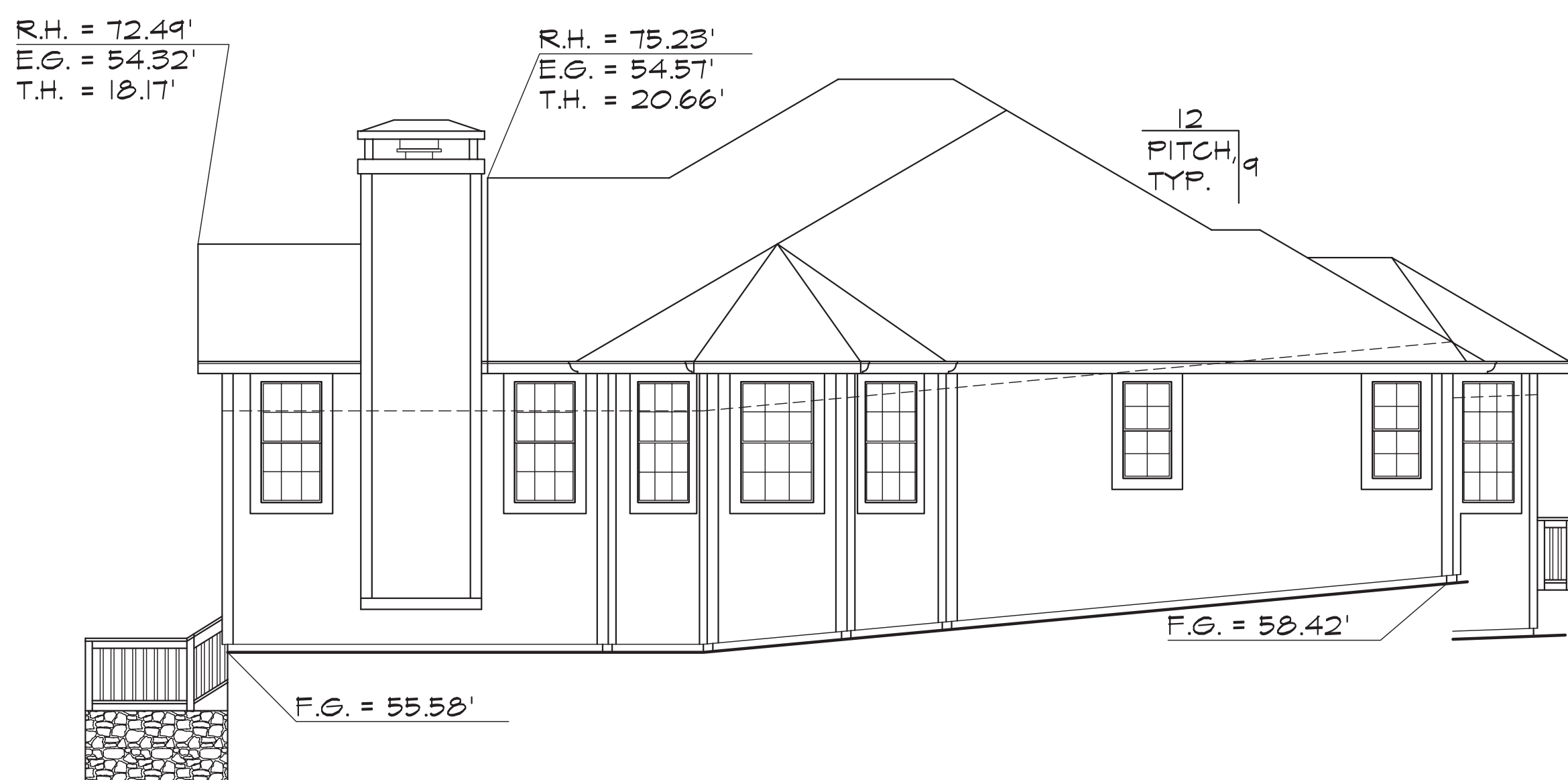




REAR ELEVATION



LEFT SIDE ELEVATION

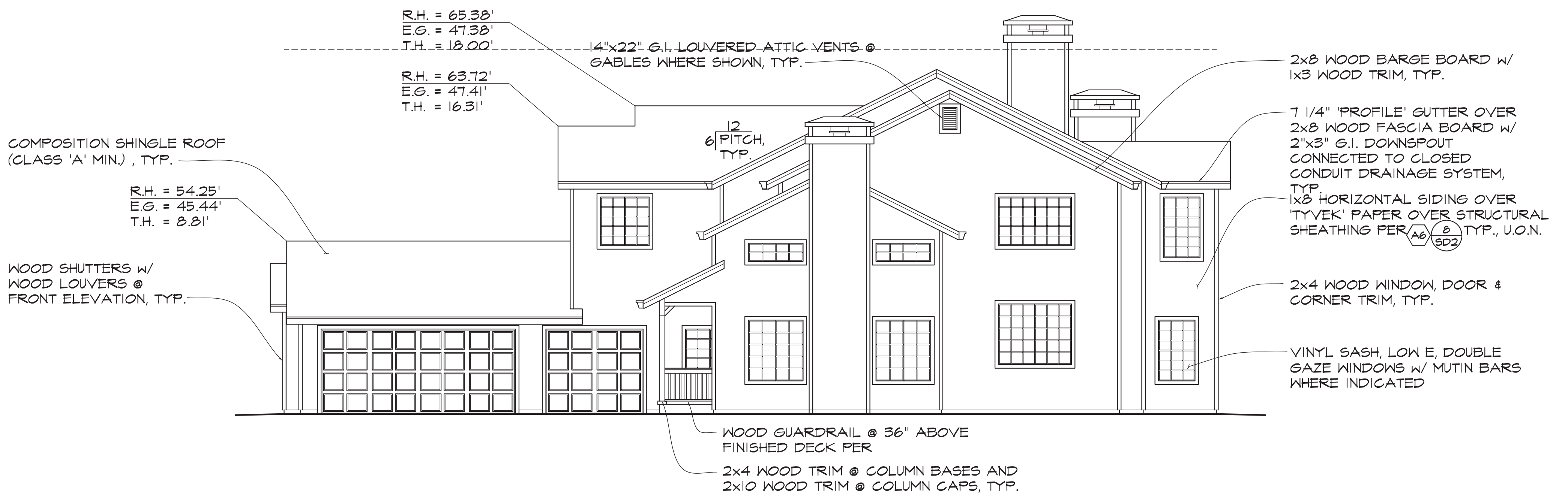


RIGHT SIDE ELEVATION

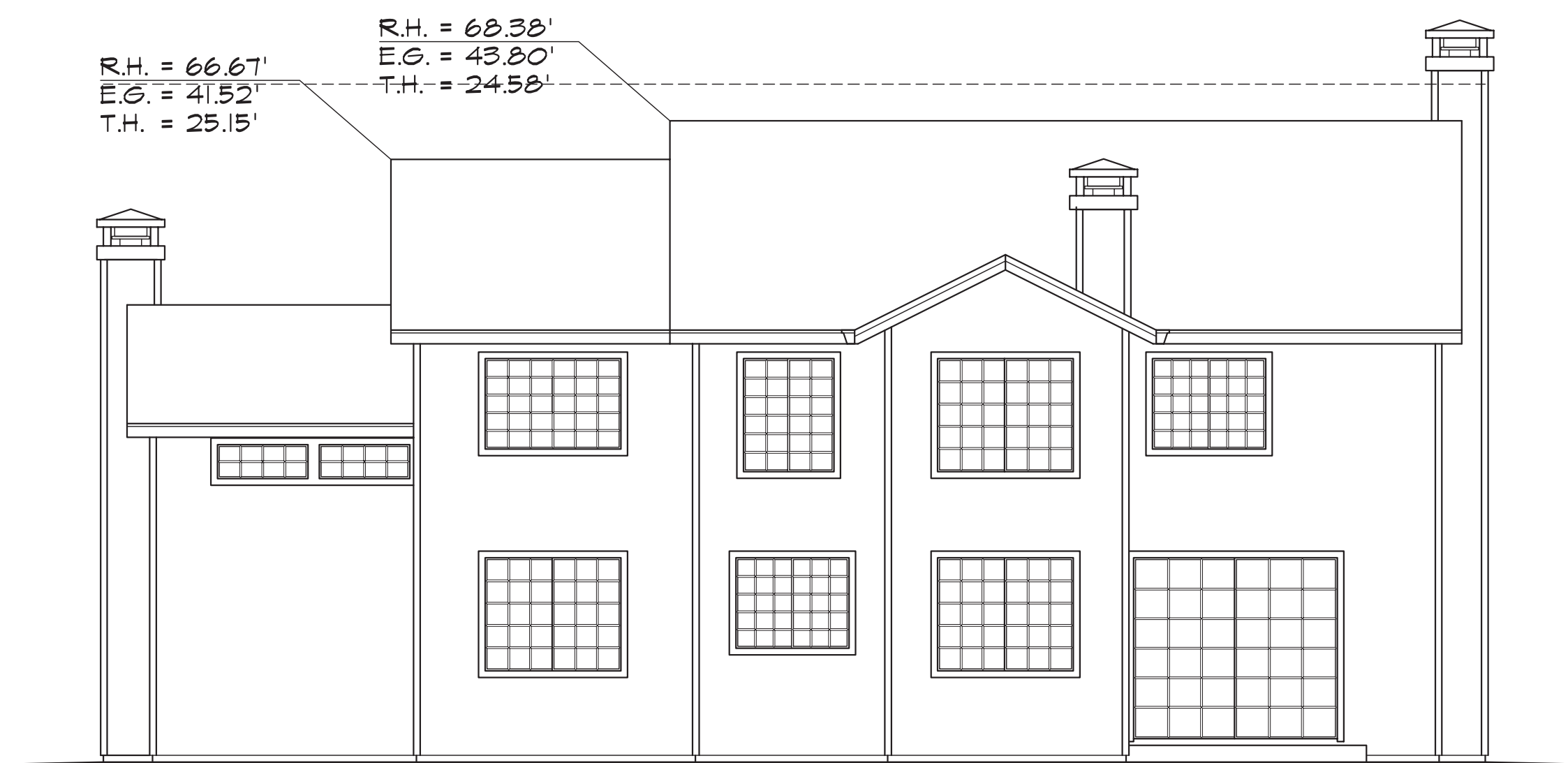
LEGEND:

|        |   |                               |
|--------|---|-------------------------------|
| R.H.   | = | RIDGE HEIGHT                  |
| E.G.   | = | EXISTING GRADE                |
| T.H.   | = | TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.   | = | DOWNSPOUT                     |
| D.T.R. | = | DRAIN TO ROOF                 |
| O.H.   | = | OVERHANG                      |
| F.G.   | = | FINISHED GRADE                |

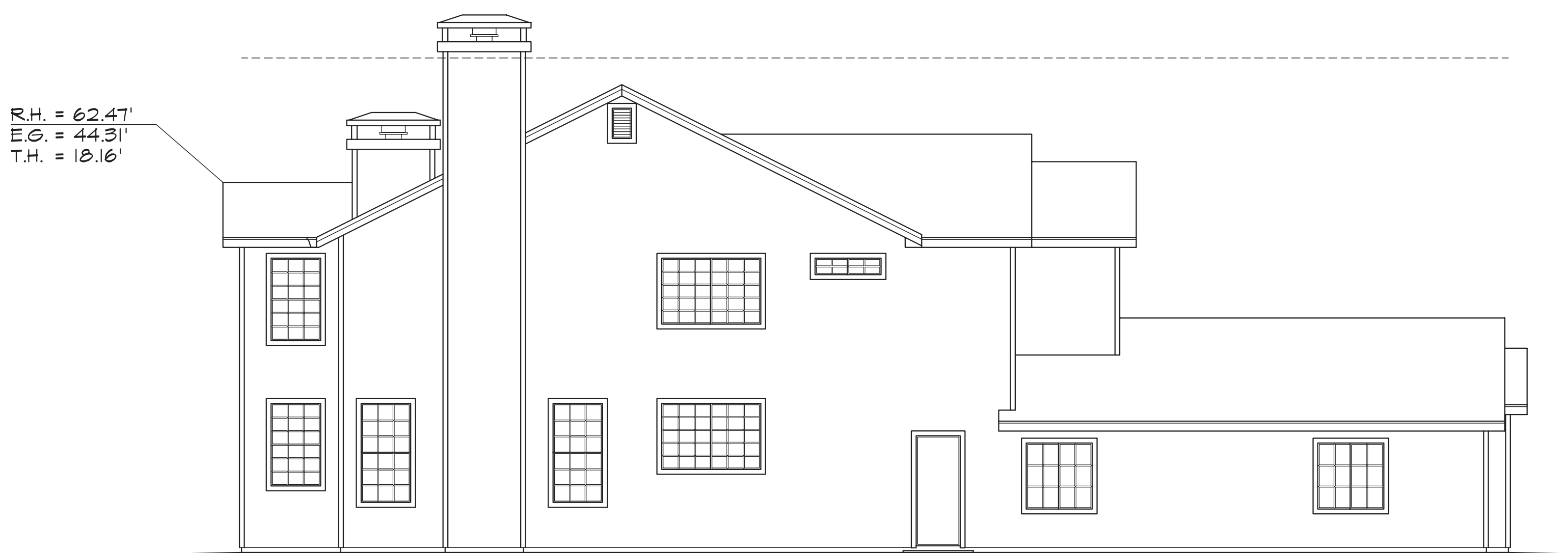
LOT 11



RIGHT SIDE ELEVATION



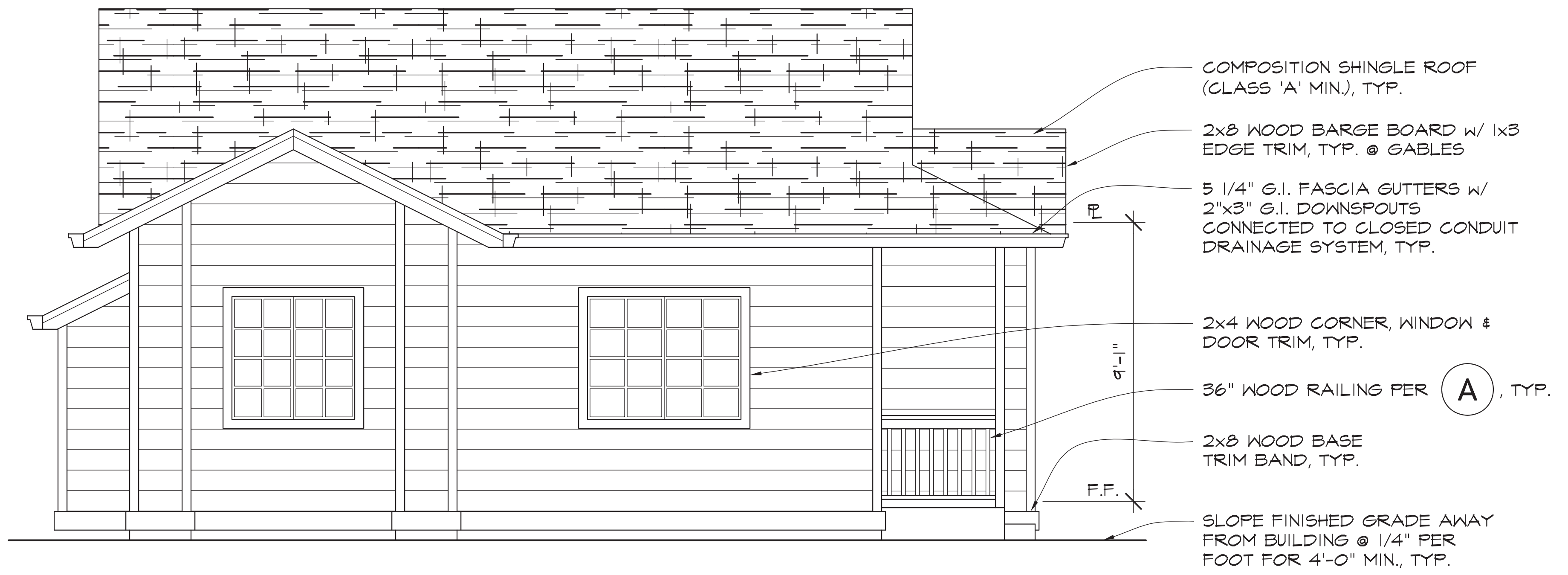
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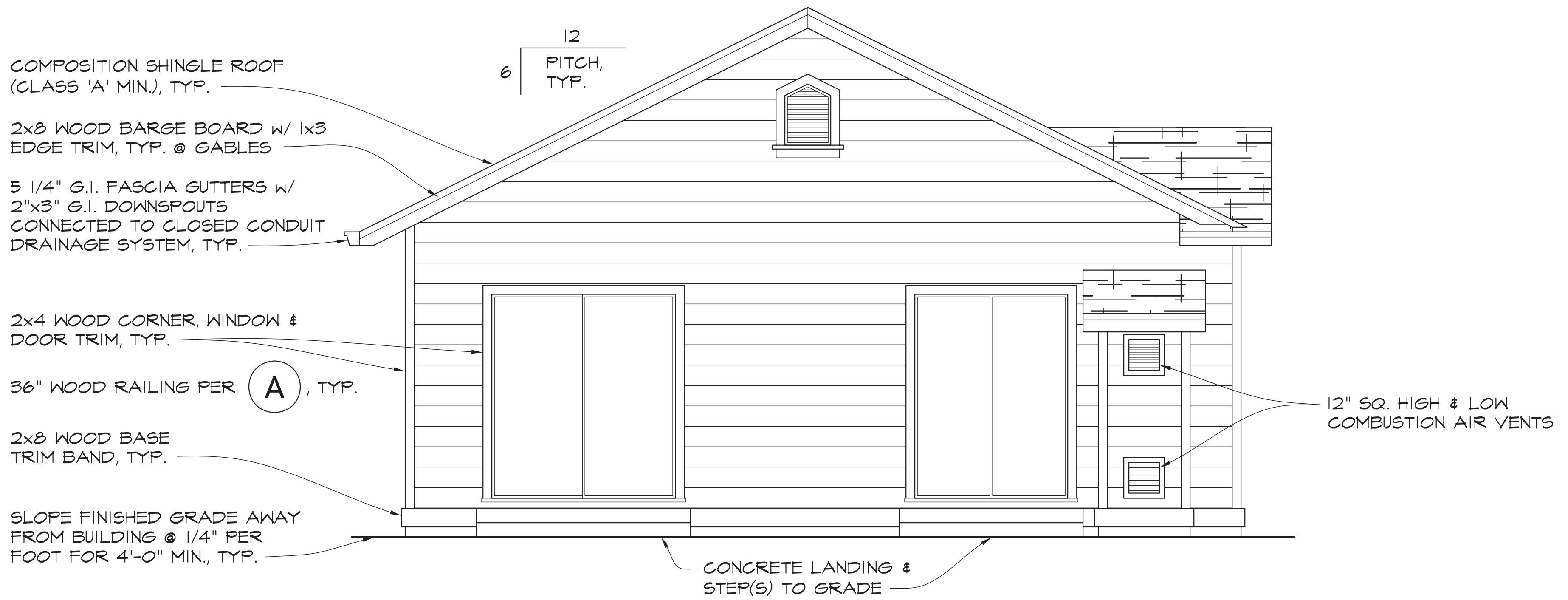
LEFT SIDE ELEVATION

| LEGEND: |                                 |
|---------|---------------------------------|
| R.H.    | = RIDGE HEIGHT                  |
| E.G.    | = EXISTING GRADE                |
| T.H.    | = TOTAL HEIGHT (R.H.-E.G.=T.H.) |
| D.S.    | = DOWNSPOUT                     |
| D.T.R.  | = DRAIN TO ROOF                 |
| O.H.    | = OVERHANG                      |
| F.G.    | = FINISHED GRADE                |

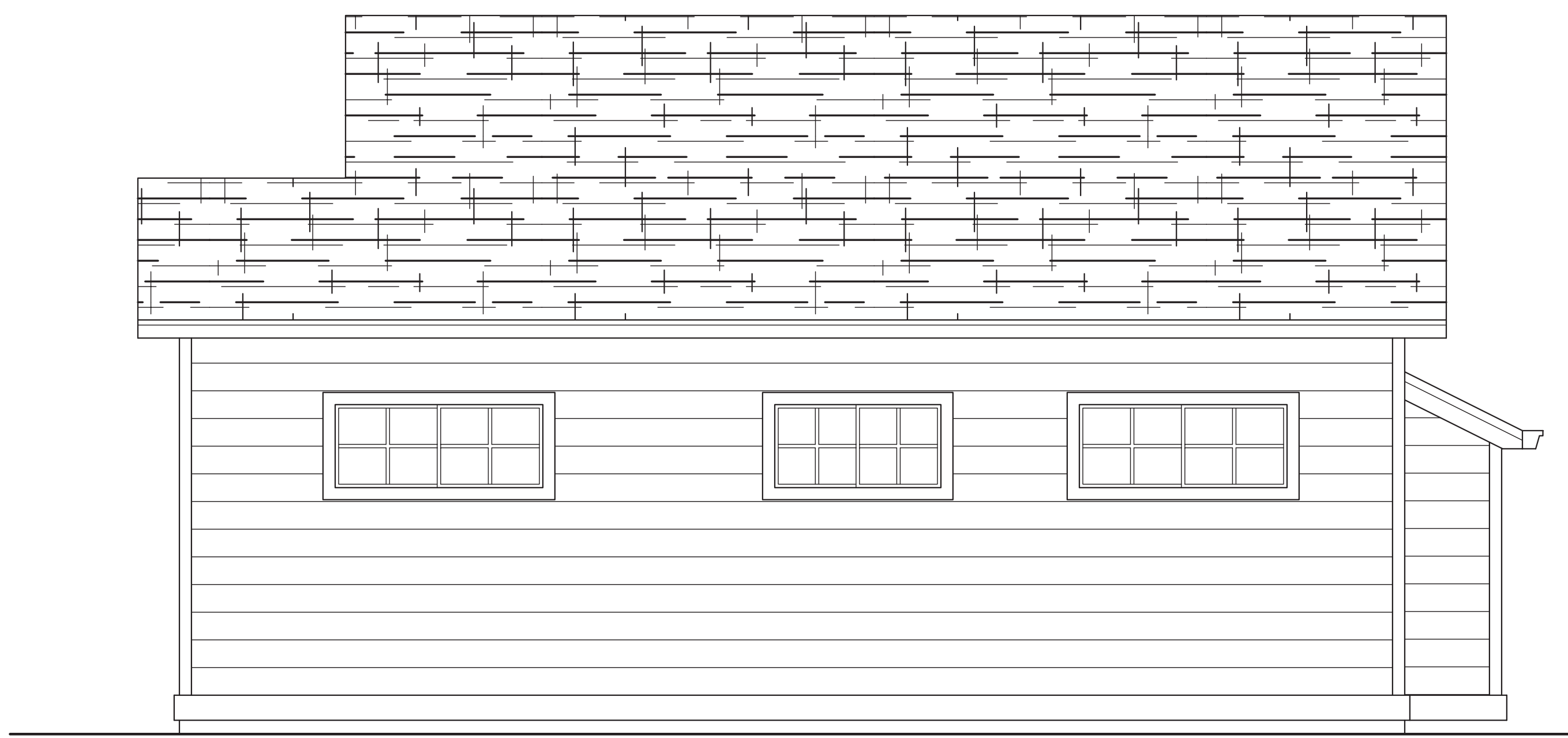
# LOT 12



LEFT SIDE ELEVATION



REAR ELEVATION



RIGHT SIDE ELEVATION

# SECOND UNIT - LOT 12

