

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES

December 6, 2004

Marin County Civic Center, Room #328 - San Rafael, California

Commissioners Present: Allan Berland, Chairman
Steve Thompson, Vice Chairman
Hank Barner
Don Dickenson
Randy Greenberg
Wade Holland

Commissioners Absent: Jo Julin

Staff Present: Alex Hinds, Director, Community Development Agency
Brian Crawford, Deputy Director of Planning Services
Tom Lai, Principal Planner
Eric Steger, Department of Public Works, Senior Engineer
Jessica Woods, Recording Secretary

Minutes Approved on: **January 10, 2005**

Convened at 1:00 p.m.
Adjourned at 4:05 p.m.

1. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)

There were no public comments. The Commission acknowledged several pieces of correspondence for their review.

2. MASTER PLAN (MP 95-001)\LAND DIVISION (LD 95-001)\
AMENDMENT TO ENVIRONMENTAL IMPACT REPORT: OAKVIEW

(TKL)

Public hearing to consider and make a recommendation to the Board of Supervisors on the merits of the proposed application to subdivide the 106.3-acre property into two lots for future residential and assisted living development. Proposed Lot 1 would reserve 15.3 acres for 28 detached single-family residential lots, 1.8 acres of public right-of-way, 34.2 acres of open space, and 0.6 acres for freeway interchange improvements, for a total of 51.9 acres. Proposed Lot 2 would reserve 11.0 acres for a 94,400 square foot assisted living development, 34.6 acres of open space, and 8.8 acres for freeway interchange improvements, for a total of 54.4 acres. The residential component of the Master Plan designates an area for the future development of a 28-unit residential subdivision that would be accessed by a public roadway extension to Erin Drive. The Master Plan includes standards for the future residences, including proposed building envelopes, maximum height, general design and massing, and a maximum floor area of 4,500 square feet per home, excluding garage space for two vehicles. The assisted living component of the Master Plan would provide for future development of a 150-room retirement community with 75 independent living units with kitchens, and 75 assisted living units along with administrative and support services. Access to the future assisted living facility would be provided by a private roadway extension to Marinwood Avenue south, across Miller Creek. The property is zoned RMP-1.38 (Residential, Multiple Family, Planned District, 1.38 units per acre maximum density) which requires Master Plan review for the ultimate development of the site. Prior to making a recommendation on the merits of the project to the Board of Supervisors, the Planning Commission will consider recommending certification of the Environmental Impact Report and proposed amendments to the Board of Supervisors. The subject property is located at the northwestern quadrant of the U.S. Highway 101/Lucas Valley Road interchange, on property addressed as **200 Lucas Valley Road, San Rafael**, and further identified as **Assessor's Parcel 164-270-03**.

Tom Lai, Principal Planner, summarized the staff report and recommended that the Commission review the administrative record, conduct a public hearing and take the following actions:

1. Recommend that the Board of Supervisors adopt a Resolution approving an Amendment to and Certifying the Final Environmental Impact Report;
2. Recommend that the Board of Supervisors adopt an Ordinance approving the proposed Oakview Master Plan; and
3. Recommend that the Board of Supervisors adopt a Resolution conditionally approving the proposed Oakview Land Division.

Commissioner Thompson joined the Planning Commission hearing at 1:26 p.m.

Principal Planner Lai further pointed out that the project is consistent with the Countywide Plan and RMP zoning; the project would not result in significant environmental impacts; and substantial public benefits would be provided.

Commissioner Dickenson discussed the applicant's revised proposal and did not see where the applicant proposed to limit the garage to 400 square feet. Principal Planner Lai responded that according to Title 24 standards, the minimum space required for a two-car garage is 400 square feet. Staff added that since the applicant did not include a square-footage number, staff used 400 square feet for purposes of describing what could potentially be the maximum home size. Staff further noted that there could be a two-car garage that is larger than 400 square feet, which would result in a bigger building.

Commissioner Dickenson asked staff how far back the assisted living facility would be set back from the property line. Principal Planner Lai responded that at the closest point the assisted living building is about 170 feet from the front property line. Staff further stressed that the layout of the future building is conceptual at this point in time.

Commissioner Dickenson pointed out that in some cases the applicant is required to install the traffic improvements, such as at the intersection of Marinwood and Miller Creek, but in other cases the applicant is required to pay the project's fair share of required improvements. He asked staff if it is intended that the improvements would be made and the applicant would be reimbursed or would the money be collected and then used toward the improvements when sufficient funds are collected. Jason Nutt, Traffic Engineer, responded that staff is not requiring the applicant to make the improvements, but pay the project's fair share toward future improvements. Staff explained that fair share payment is sufficient to mitigate cumulative but not short-term impacts. Staff added that under the short-term conditions, staff required the applicant to make the improvements such as the signalization of the Marinwood Avenue and Miller Creek Road intersection. He further noted that currently there is money collected from regional traffic impact fees that have been set aside in the form of a trust fund for improvements that were identified in the Big Rock Ranch EIR.

Commissioner Dickenson asked staff what the traffic mitigation fee would have been if they were collected instead of giving the land dedication for the Highway 101 off-ramp. Traffic Engineer Nutt responded that it would be about 38% of the cost, which would represent around \$68,000 to \$70,000.

Commissioner Dickenson asked the consultant why the onsite wetland mitigation could not be accomplished at the valley between the proposed assisted living facility and the office building that was eliminated. Bob Berman, EIR Consultant, responded that they reviewed enhancement of existing wetlands and not necessarily creation of additional wetlands. Also, an adequate water source does not exist at that point to create the wetlands, although the preference is for the applicant to provide onsite wetlands as a mitigation. Staff did not feel there is sufficient area on-site to accomplish the entire 2:1 mitigation.

Commissioner Dickenson discussed the stormwater detention basin and asked staff the feasibility of the location near the PG&E gas line easement and the emergency connection to Lucas Valley Road. Eric Steger, Public Works Senior Engineer, responded that various alternatives were discussed for the detention area and there was still room to accommodate the emergency access connection. Staff added that the last set of plans has a more linear feature that runs between the road and the back of the properties and there is sufficient room to install a detention basin.

EIR Consultant Berman noted that there is not a specific wetland mitigation plan provided as part of the application, so staff was unable to evaluate a specific plan. Staff added that with the development of a specific mitigation wetland plan, more onsite mitigation could occur.

Commissioner Dickenson corrected page 20 of the staff report and noted that "580 square feet" should be "680 square feet" for Lots 16–28. Principal Planner Lai responded in the affirmative.

Commissioner Barner asked staff to indicate the depth of the detention basin. Senior Engineer Steger responded that there are no details provided at the present time. Commissioner Barner expressed concern for safety and recommended fencing. Principal Planner Lai pointed out that this is a conceptual plan at the present time. Also, staff emphasized that the Master Plan only sets the density in the general location for those future lots and if a larger detention basin is necessary, then adjustments to the lot configuration and street design must be made in order to comply with that mitigation. Staff further pointed out that the French Ranch Development has some onsite detention basins and staff has seen other detention basins on other projects where they are integrated with native landscaping to serve as an extended buffer area.

Commissioner Barner expressed concern for the berm and desired to know the height of the berm and what form of landscaping would be in that area. Principal Planner Lai responded that the berm, at its highest point, is 12 feet above natural grade. Staff explained that a palette of trees are proposed in the landscape concept plan that would screen the parking area and soften views of the future building.

Commissioner Greenberg expressed concern for the Master Plan concept and desired assurance that what is being voted on is flexible enough to accommodate future adjustments. Principal Planner Lai responded that this is a

conceptual plan and that a detailed design will be submitted for review as part of a Precise Development Plan, when precise lot locations and layouts would be determined. Staff added that the Master Plan would only establish the density of the overall project and the actual lot sizes would be subject to further Precise Development Plan review, and another Tentative Map would be required for the residential component. Also, the Master Plan only sets the outside parameters for future development at a conceptual level, and the County has the ability to require further reductions to the home sizes because the maximum size limits are not an entitlement that is granted with the Master Plan. Commissioner Greenberg believed that should be made explicit in the Resolution in order not to confuse the public. Principal Planner Lai agreed to recommend language that would make it clear that home sizes and other parameters are not entitlements but only maximums that could be granted if a project complies with all the objectives of the Master Plan and the conditions of approval.

Commissioner Greenberg discussed Item B on page 10 of the Resolution and desired an explanation from staff on the following sentence: "*The affordability requirements shall apply only to the housing portion of the total care expense.*" Principal Planner Lai responded that the inclusionary requirement only applies to the amount the resident pays toward the actual cost of shelter, and does not apply to the cost of food service, laundry and other services. Staff believed the County's inclusionary ordinance could only apply to the housing portion of the expense. However, this is an issue that staff is likely to study further in connection with future Development Code amendments that are contemplated for the inclusionary ordinance.

Commissioner Greenberg discussed Finding P on page 4 of the Resolution regarding noise-buffering property line fencing, and asked staff if this is in relationship to assisted care or housing. Principal Planner Lai responded that this finding pertains to Lots 27 and 28 that were required to have some solid fencing to comply with the noise mitigations. Commissioner Greenberg expressed concern for property line fencing, which can be highly visible with no mitigations and there is no opportunity to mitigate the wall that was created to mitigate noise impacts. Principal Planner Lai responded that the concept plan did not include details of future fencing for the two residential lots in question. Additionally, a wall is not contemplated on the freeway side of the future assisted living facility. Should an applicant include a sound wall in the future, there would likely be inconsistencies with Countywide Plan policies that discourage new sound walls along Highway 101. Tim Haddad, Environmental Coordinator, added that a secondary or indirect impact from a mitigation that arises and that was not evaluated in the EIR would have to be evaluated at that time, through either a supplement to the EIR or an addendum.

Commissioner Holland noted that he submitted two-pages worth of questions to staff in advance and expressed his appreciation for staff working those matters out. He pointed out that in his view there was an inconsistency in regard to how large this assisted living facility unit could be, but it was made clear by staff that the 150 units is a maximum and the total number of independent living units is capped at 78 for density purposes under the Countywide Plan land use designation. In regard to second units, in the staff report on page 20 because the word "*incentives*" is used, he interpreted this to mean an extra 500 square feet on the main house size, plus the 180 square feet for the second unit garage, plus the second unit itself, which would result in total additional area of up to 1,430 square feet. Now, staff indicated that the 500 square feet is for the second unit. Principal Planner Lai affirmed and responded that staff expressed concern about the home size, but because second units are means of affordable housing, staff would rather have homes slightly bigger if a second unit is built in.

Commissioner Holland asked staff if the new State laws permits the County to limit a second unit to 500 square feet. Principal Planner Lai responded that it would not. However, should the future owner decide to apply for a 750 square foot second unit, 250 square feet of that second unit space would come out of the living area for the main house, so the County would be in compliance with State law, but the living area for the main house would be smaller. Agency Director Hinds noted that the recommendations could be amended to allow for the full 750 square feet, if so desired by the Commission.

Commissioner Dickenson stated that Mill Valley has this exact provision where there is a floor area ratio for a lot and in addition the first 500 square feet of the second unit would not count toward the floor area ratio. He also

noted that Mill Valley can have up to 700 square feet, which creates an incentive, otherwise the total floor area for the house and second unit would be limited to 3,000 square feet.

Commissioner Holland asked staff if 81 parking spaces would be adequate for the assisted living facility. Senior Engineer Steger responded that at the time of the Precise Development Plan, staff would review the adequacy of the parking in order to establish the appropriate number of required parking spaces. Principal Planner Lai added that the 150 units is not an entitlement, but a maximum and if the parking study indicates that more spaces are necessary for this facility, then they must scale back the size of that facility in order to make sure there is sufficient parking.

Commissioner Holland asked staff what is happening in terms of freeway improvements. Traffic Engineer Nutt responded that once the Highway Gap Closure project is complete, the level of congestion present on the highway would be reduced. Staff continues to review other alternatives to mitigate the bypass traffic. Also, monies would be available to conduct some studies in that area.

Commissioner Holland expressed concern as to whether the amendment of the EIR adequately addressed the issues of noise and air quality at the assisted living facility. Planning Coordinator Haddad responded that there is number of cases where the mitigations call for further, more detailed plans and studies to be undertaken and those plans and studies must be a standard set forth in the mitigation that must be submitted to the County and approved as well as verified in the field that it has been implemented.

Commissioner Holland asked staff if the mitigations provided would work. EIR Consultant Berman responded that back in June of 2002 the assisted living facility was reviewed as an option and the Noise Consultant reviewed that project and identified that the noise levels could potentially exceed the County's noise policies. Staff explained that the applicant incorporated the previous mitigations into the project, so the proposal by the applicant was specifically proposed by the DEIR Noise Consultant to incorporate into the project. Staff further added that when the design comes to the County, the design must include those specific measures to be reviewed by the Noise Consultant to ensure that they are adequate and meet the standards.

Chairman Berland clarified with staff that the traffic flow on Highway 101 would significantly improve from the completion of the Gap Closure Project. Traffic Engineer Nutt responded in the affirmative. Staff added that it is based on the County's traffic model, which in the Bay Area is accurate within 1% of other projections.

Commissioner Thompson pointed out that in his view this project would not be completed until 2007 or 2008, and asked staff what they anticipate would be the condition of improvements to the freeway at that time. Traffic Engineer Nutt responded that to his knowledge the Gap Closure project is expected to be completed in 2007 or 2008.

Commissioner Holland asked staff if there was any specific analysis done on negative impacts associated with the truck scales. EIR Consultant responded that no studies were conducted in that regard. Commissioner Holland asked staff how often the truck scales are used. Traffic Engineer Nutt responded that staff consulted with both Caltrans and Highway Patrol and there has been some discussion about expanding the site at Truck Scale 1 to make sure the improvements did not impact any proposals and the answer received was that those proposals were low priority and long-term for Caltrans. Staff stated that noise studies are conducted over many hours, if not days, and what currently exists would be incorporated with what exists today as far as truck scales and highway movement. Commissioner Thompson pointed out that to his knowledge, operations occur during the daytime, so the impacts would be minimal.

Chairman Berland expressed concern that they would have affordable units, but the monthly assessments for the service part of it might preclude those with the greatest need from living in those units. Principal Planner Lai responded that the City of San Rafael reviewed this issue and there is some difference of opinion whether local jurisdictions' inclusionary requirements could apply to the service portion of the housing expense, but the actual requirement for the facility would be established at the time of the Precise Development Plan review. If the

County's inclusionary ordinance were amended to allow the County to apply the inclusionary component to the service portion of the fee, the project would be required to also subsidize the service portion of the expense. Staff further added that County Counsel did not believe the current ordinance provides the ability to require that, but because it is a Master Plan, staff has structured the recommended condition to state that the final determination for compliance with the inclusionary requirements would be made in conjunction with the Precise Development Plan.

Chairman Berland asked staff the median square-footage for Ellen Drive and Lisa Court. Principal Planner Lai provided the following information to the Commission for their consideration: Marinwood's average building area is 2,088 square feet; median building area is 1,946 square feet; Elvia Court, Ellen Drive, and Lisa Court's average building area is 2,158 square feet; median building area is 2,159 square feet; and Lisa Court's average building area is 2,330 square feet; and median building area is 2,190 square feet.

Commissioner Holland requested adding street addresses on the Chart as well in the future.

The hearing was opened to the public.

Irving Schwartz, Civil Engineer/Project Manager, thanked the consultants for all their hard work on the EIR as well as staff for an extraordinary staff report. He then emphasized the public benefits that would occur from the approval of this project as follows:

- 68 acres of the 106 acres would be donated to Marinwood CSD as public open space;
- 9.5 acres would be donated for the future Lucas Valley/Highway 101 Interchange;
- Fair share financial contributions will be made toward improving three major intersections in the neighborhood;
- Signalization improvements to Miller Creek Road and Miller Avenue will be made;
- Improvements to a number of storm drainage issues will occur;
- Provisions for a connection to the Countywide Bike Path from the end of Marinwood Avenue to Lucas Valley Road will be made; and
- The project will generate an increase in annual tax income to the Marinwood Community Services District of at least \$181, 000.

Larry Kennings, Planning Consultant, thanked the Agency Director for the wonderful idea of the assisted living facility. He then explained that the maximum house size proposed was 4,500 square feet, including the garages. Also, this project is a great example of what CEQA intended. He added that Attachment 23 did not include all the Marinwood lots, most of Marinwood was built in the early 60s and in the 70s, 80s and 90s larger homes were built, so if staff is going to revise the Chart the larger lots and larger homes should be included as well. He further stated that several consultants reviewed the wetlands and the recommendations are included in the memo provided to the Commission for their consideration.

Shirley Gallagher, Marinwood resident, expressed concern for water in the area and provided the Commission with photographs depicting two sinkholes near her home for their consideration. Also, she pointed out that all the homes in the neighborhood are very similar in size.

Frank Luederitz, San Rafael resident, objected to the adoption of the Tentative Map and believed the property should be developed as one parcel. He also discussed the staff report in regard to the contribution to the Marinwood Fire Department, which he felt is totally inadequate. He further expressed concern for second units.

In response to Commissioner Holland's question about the parcel tax revenue of \$181,000, Mr. Schwartz responded that it is a combination of Marinwood's portion of property taxes, the square-footage fee for fire protection and the parcel tax for Parks and Recreation.

Ron Marinoff, representing Lucas Valley Homeowners Association, supported Public Works in eliminating any additional access to Lucas Valley Road. Also, obtaining the land to build the southbound off-ramp from Highway 101 is a major improvement and they believed acquiring that land is a tremendous advantage to the community. He also stated that any additional revenue projected into the District is not only welcome, but also urgently needed and he believed this would help with the fiscal situation at the moment. He added that if the County has the legal right to require a certain percentage of the units to be open to Medical or Medicare patients that they be dedicated. He further believed if the legal means is not present, then elected representatives should be contacted in that regard.

Stanley Farber, San Rafael resident, believed the Marinwood Avenue extension should not be made available until such time as the freeway work is completed. He further believed the traffic count is incorrect. Commissioner Dickenson pointed out that it would be a private dead end road, so through access to Lucas Valley Road would not be provided.

Marilyn Williams, San Rafael resident, expressed concern about the placement and extension of Erin Drive as well as the noise, air pollution and privacy. She objected to Lots 8, 9 and 10 in order to preserve the oak trees. Also, during the summer time traffic is not so terrible, so she did not believe it is all freeway jumping and believed the school has a tremendous impact. She pointed out that drainage is a concern and the geotechnical consultants that she contacted indicated that it should be replaced with a subdrain in order to divert water from her property and the property of other neighbors. She desired assurance that the drainage issues are properly addressed and implemented.

Mr. Schwartz looked forward to the Commission's deliberation and decision and had nothing further to add at this time.

In response to Commissioner Dickenson's concern for Lots 8, 9 and 10 in regard to the oak trees, Mr. Schwartz responded that the actual lot configuration is yet to be determined as part of the Precise Development Plan. He further added that the goal is to preserve the healthy trees, which would be an asset to the development.

The public hearing was closed.

Commissioner Holland clarified with staff that if the Commission approved the Resolution as written that the maximum number of houses built on Parcel 1 would be 28, and 6 of the 28 would be affordable to very low and low-income. Principal Planner Lai responded in the affirmative.

In response to Chairman Berland's inquiry about requiring the developer to allow occupancy by MediCal or MediCare patients, Principal Planner Lai responded that it is the opinion of County Counsel that the current ordinance would not provide for that, but this is an issue that is being studied and could come before the Commission in a Development Code amendment in the near future. Staff explained that affordability requirements for the assisted living units would be established at the Precise Development Plan phase, so that if the ordinance changed between now and then to require Medicare or Medical, then staff would be able to legally impose that requirement on the project. Staff further added that if the applicant consents to that requirement voluntarily, it could then be imposed as a condition of approval.

Commissioner Holland stated that to his knowledge, no medical care is anticipated to be provided at this site, only independent and assisted living. Mr. Schwartz agreed. He explained that this is a Master Plan and this property is owned by two families and that is the purpose of the two lot split, so there would be an assisted care type of developer and a residential developer to establish a plan for that part of the property. Currently, he cannot commit to any specifics in terms of the nature of what kinds of qualifications would be acceptable because there is no information available to base a decision on at this point in time.

Doug Mahoney, applicant, noted that the applications for MediCal and MediCare is an incredible complicated subject and it would not be appropriate at this time and it is much better to be left to the developer who is an expert in the field to appraise the market and then decide on the matter.

Principal Planner Lai added that when staff updated the Development Code in connection with the last inclusionary ordinance update, staff modified the definition of medical services/extended care to include assisted living facilities. Staff added that in this definition they could potentially have nursing and health related uses, so an assisted living facility could, by definition, provide some limited medical services.

Commissioner Holland clarified that the Master Plan would not preclude MediCal or MediCare. Principal Planner Lai responded in the affirmative. Staff added that when the specific proposal comes in there would be a Precise Development Plan and a conditional Use Permit that would be required. Agency Director Hinds noted that the level of specificity would be left to a later date.

Commissioner Dickenson noted that he is quite pleased with the revision to this project and stressed that the concessions the applicant has made are very important. Also, he had some concerns about the design of the crossing of Miller Creek, but he is convinced with the elimination of Office Building B that more flexibility would be allowed to improve the plan studied in the EIR. He is very pleased that the applicant took staff's suggestion and abandoned the office use. He added that it would be unreasonable to assume that all development could be clustered on the back side of the property, so some use on the front side in that valley with screening is appropriate. He pointed out that single-family development is proposed at the rear of the property, which is consistent with the adjacent streets. He further stated that he is prepared to support staff's recommendation with a few modifications that he would introduce when appropriate.

Commissioner Greenberg stated that in terms of traffic issues it is a bad situation that would continue to become worse and this plan is a vast improvement over previous submissions, which minimizes traffic to what can be reasonably expected. She stated that during the Precise Development Plan review she desired specific information and suggestions about drainage in order to minimize the impacts. She further recommended including language that the Master Plan provide maximum development opportunities and that it is not an entitlement. Principal Planner Lai responded in the affirmative.

Commissioner Barner agreed this is a vast improvement and in terms of traffic, the assisted living facility would not add as much to existing traffic levels. Also, he believed this was a well-prepared report and was very impressed with the inclusion of design principles, but expressed hope that the design principals would not be lost during precise planning. In addition, he shared the concern of some that second units may be looked at as increasing density. However, if appropriate, they should be developed with the overall building design rather than as an after thought following construction of the residence. He further stated that he is prepared to support staff's recommendation.

Commissioner Holland had no objection to the residential development, but desired details on how land slippage would be avoided. Also, in terms of Lot 2, he is not sure if it is appropriate and expressed concern for having seniors or any type of residential use in that area. He appreciated the applicants desire to make effective use of their property and supported assisted living facilities, but in his view this is the least desirable location. He added that he is open to the possibility that the adverse impacts could be adequately mitigated. He indicated that he is willing to approve the Resolutions, but desired to view the air quality and noise mitigations very closely. He further noted that staff confirmed that sidewalks would be provided, which he believed is very important, so he recommended a condition that would require a sidewalk and a pedestrian bridge connection to the shopping center as well as to require installation of a bicycle and pedestrian pathway from Marinwood Avenue to the facility.

Commissioner Thompson supported the proposal and commended the design for the extension of Erin Drive where significant landscaping would be provided as well as drainage improvements. He believed a pedestrian connection is essential and heritage trees deserve some kind of permanent dedicated lot space. Also, as they move forward to

Parcel 2, he urged great care as to how that is pursued. He is disappointed with the length of the access road, but sidewalks would help that situation. He further noted that in general he is in great support of this effort.

Chairman Berland supported staff's recommendation and is pleased with the open space dedication. He agreed with changing the plan from office building to senior housing, which is an area that is greatly needed in the County. He expressed concern for the location near the freeway, but hoped the mitigations would not adversely impact the residents. He desired some type of incentive for building second units, not only in terms of making the plan at the outset, but encouraging the developer to install a second unit. He further agreed to add an additional 500 square feet if the second unit is constructed at the outset.

Commissioner Holland stated that if a second unit is built as an attached second unit, then there would be nothing to prevent the second unit space becoming incorporated into the main residence. He recommended that in the case where a bonus is given there should be a requirement that the second unit not be attached. Chairman Berland concurred. Commissioner Thompson recommended restricting the FAR or size of the unit because larger residences would provide less affordability, so he recommended restricting the basic construction. Commissioner Greenberg believed as written it is already a bonus because it can be built and never rented. Commissioner Dickenson supports staff's proposal to allow a 500 square-foot increase. He felt it is important to specify no internal connection between the main residence and the second unit without any specification in terms of attached and detached, which are details that should be left to the Precise Development Plan. Also, he objected to the extra square feet for the garage and recommended 3,000 square feet or 3,500 square feet and, if there is a second unit, not adding that extra 180 square feet for the garage.

Commissioner Dickenson proposed the following language:

- Attachment 2 – Page 1, the second sentence should read, “*Development of a maximum 28 unit residential subdivision and assisted living facility on a 106.3-acre property; sixth line down should read, “Proposed Lot 2 would reserve 11.0 acres for a maximum 94,400 square-foot assisted living facility;” 13th line down should read, “Development of a maximum 150-unit retirement community with a maximum 75 independent living units with kitchens, and a maximum 75 assisted living units along with administrative and support services.”*”
- Page 7 – Item 1 - Same changes as above.
- Page 8 – Item 4c, the second sentence should read, “*The maximum enclosed building area may be increased to 3,500 square feet if a second unit with no interior connection to the main unit is constructed;” deleting the next sentence as follows: “*If proposed, any garage for the second unit up to 180 square feet shall not be counted towards the maximum allowable building area;” sixth line down should read, “The maximum enclosed building area may be increased to 4,000 square feet if a second unit with no interior connection to the main unit is constructed;” deleting the next sentence as follows: “If proposed, any garage area for the second unit in excess of 180 square feet shall be counted towards the maximum allowable building area.”*”*
- Page 9 – Item 4f, add the following sentence to the end of that paragraph to read, “*To the maximum extent feasible, wetland mitigation shall be on-site. The required wetland mitigation shall not occur on the parcel intended for the Lucas Valley off-ramp.*”
- Page 9 – Item 5a, add the following to the first sentence: “*A Precise Development Plan and a Use Permit shall be required for the future maximum 94,000 square-foot assisted living development on Parcel 2;” second sentence should read, “*The assisted living component shall consist of a maximum 150-unit retirement community with up to 75 independent living units with kitchens, and up to 75 assisted living units along with administrative and support services;”*”*
- Page 10 - Condition 7 should read, “0.97.”
- Page 12 – Item 11j, add the following to the end of the paragraph: “*Accommodations for pedestrian access to Lucas Valley Road shall be provided.*”
- Supports the idea of constructing the bike path and sidewalk along the private driveway.

- Page 20 – New Condition 32g should read, “*The precise lot lines for Lots 8, 9 10 and the adjacent lots shall be selected to maintain maximum flexibility and setbacks in siting the future homes in order to protect the three oak trees.*”

Commissioner Barner modified Page 23 under Condition 40 to read as follows: “*A 20-foot wide landscaped area between existing homes on Ellen Drive and Lisa Court and the project site landscaping along Lucas Valley Road.*”

Commissioner Holland desired not to delete the 180 square feet for the garage. Commissioner Dickenson noted that they are required to have on-site parking, but they are not encouraging covered parking for the main unit, so he did not believe they should require covered parking for the second unit.

Commissioner Barner is sympathetic to make a provision for covered parking, but believed it would be used for storage or living space. Chairman Berland favored not having additional covered parking.

The majority of the Commission did not desire the extra 180 square feet for the garage.

Chairman Berland asked for a motion.

M/s, Dickenson/Thompson, to approve the first draft Resolution approving an Amendment to and Certifying Final EIR for Oakview Master Plan and Land Division with the changes as indicated in regard to inserting the word, “maximum.” Motion passed 6/0 (Commissioner Julin absent).

Chairman Berland asked for a motion.

M/s Dickenson/Thompson, to approve draft Resolution recommending that the Board of Supervisors approve the proposed Oakview Master Plan subject to the changes as previously discussed.

Principal Planner Lai proposed adding additional language to Condition 5d to state, “*In addition, the Precise Development Plan shall include provisions to construct a sidewalk and a pedestrian and bicycle pathway from the assisted living facility across Miller Creek to the end of Marinwood Avenue.*” Also, staff suggested using the following language from Condition 4c on page 9 of Attachment 2, which states: “*The maximum size is not an entitlement and a specific building design shall be evaluated through the subsequent Precise Development Plan review under its own merits for conformance with the County’s adopted plans and polices at that time,*” for Condition 5a in order to reinforce the suggestions made by Commissioner Dickenson.

Commissioner Dickenson and Commissioner Thompson agreed with the amendments.

Motion passed 6/0 (Commissioner Julin absent).

Chairman Berland asked for a motion.

M/s, Dickenson/Thompson, to recommend that the Board of Supervisors adopt a Resolution conditionally approving the proposed Oakview Land Division, with the addition of inserting the “maximum” wording in the description.

Commissioner Barner modified Condition 9b of Attachment 3 to read, “*The easement shall tie in with the public right-of-way on Marinwood Avenue.*”

Commissioner Dickenson and Commissioner Thompson agreed with the amendment.

Motion passed 6/0 (Commissioner Julin absent).

Chairman Berland adjourned the hearing at 4:05 p.m.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC 04-024

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS
APPROVE AN AMENDMENT TO AND CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT FOR
THE OAKVIEW MASTER PLAN 95-001 AND LAND DIVISION 95-001

200 LUCAS VALLEY ROAD, SAN RAFAEL
ASSESSOR'S PARCEL 164-270-03

SECTION I: FINDINGS

- I. WHEREAS, in May 1995, Virginia Daphne and Edward Bacciocco submitted a Master Plan, Subdivision Tentative Map, and Use Permit application proposing to subdivide a 106.3-acre subject property located in the northwestern quadrant of the U.S. Highway 101/Lucas Valley Road interchange into two parcels for future residential and office building development. The project proposed a maximum of 71 single-family detached housing units, two office buildings totaling 94,400 square feet of office space, 52.9 acres of open space and 9.0 acres for Highway 101 freeway interchange reserve. A Draft EIR on the 1995 proposal was prepared and circulated in September 1996 to members of the Planning Commission, Board of Supervisors, State Clearinghouse, State and local agencies, property owners and other interested groups and individuals for a 45-day public review and comment period. The Draft EIR determined that there were 12 unavoidable impacts resulting from the proposed project, including policy inconsistencies and unresolved issues regarding geotechnical stability of the site. The Planning Commission conducted a public hearing on the Draft EIR in November 1996. Substantial comment on the Draft EIR was received from the public and Agencies during the public review period and at the hearing on the Draft EIR. In November 1996, after reviewing the Draft EIR findings and comments, the project sponsor requested the County suspend review of the proposed project to consider development of a revised project plan to address the issues raised by the EIR. The property is located at the northwestern quadrant of the U.S. Highway 101/Lucas Valley Road interchange, on property addressed as **200 Lucas Valley Road, San Rafael**, and further identified as **Assessor's Parcel 164-270-03**.
- II. WHEREAS, between 1996 and 1999, the project sponsor conducted additional geotechnical work on the site and developed a revised project design. The design and layout of the project was substantially changed and an application depicting the currently proposed project was submitted to the County in April 1999 and determined complete in July 1999. The project as revised in 1999 proposes to subdivide the 106.3-acre subject property into two parcels. Parcel 1 would include 15.3 acres reserved for eventual site development with a maximum 28 detached single-family residences, 1.8 acres of public right of way and 34.8 acres of open space for a total of 51.9 acres. Parcel 2 would consist of 20.1 acres reserved for eventual development of a maximum 94,400 square feet of administrative/professional office development, 9.0 acres reserved for future interchange improvements to U.S. Highway 101, and 34.3 acres of open space for a total of 54.4 acres.
- III. WHEREAS, CEQA requires re-noticing and recirculation of an EIR when significant new information is added to the Draft EIR after it has been released for public review but prior to its certification. The County and Project Sponsor agreed that the substantial revisions to the previous project design and layout constituted significant new information and that the Draft EIR should be revised and recirculated for public review and comment. The County selected an environmental consultant and the project sponsor submitted the funds necessary to initiate preparation of the revised project EIR.

- IV. WHEREAS, A Notice of Preparation (NOP) for the Recirculated Draft Revised EIR was issued in August 1999 for a 30-day public comment period. A public scoping session on the Draft EIR was conducted in the Community on January 26, 2000, to further identify environmental issues and concerns of the public for evaluation in the EIR.
- V. WHEREAS, the Draft EIR and a Notice Of Completion (NOC) and notice of public hearing on the Draft EIR were distributed on March 28, 2001, to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies and special districts, surrounding property owners, and other interested groups and individuals. The Notice of Completion and notice of public hearing was published in a newspaper of general circulation to begin a 45-day public review and comment period on the adequacy of the Draft EIR. The public review and comment period ended on May 7, 2001 and was re-noticed and extended for an additional seven days, ending on May 14, 2001.
- VI. WHEREAS, on May 7, 2001, the Marin County Planning Commission conducted a public hearing to receive testimony on the adequacy of the Draft EIR. Oral and written comments were presented at the hearing. Following the close of the public hearing, the Commission directed that a Final EIR Response to Comments be prepared after the close of the comment period on the Draft EIR.
- VII. WHEREAS, on May 14, 2001, the public review and comment period on the Draft EIR was closed, and written comments were received on the Draft EIR until 4:00 p.m. on that date. Following the close of the public review period, meetings were held with the project sponsors representatives to discuss significant issues raised in comments on the EIR from the City of San Rafael, County Planning Commissioners, and other commentors regarding the need for on-site affordable housing, transportation, circulation and traffic count concerns, wetlands restoration, energy analysis and project energy efficiency, visual analysis, and incompatibility of the project's proposed office uses with City Plan Policies. The project sponsors agreed to submit project design options for residential and affordable housing use in lieu of the proposed office buildings and optional wetland restoration plans and to fund additional updated transportation and circulation analysis and visual and energy analysis for the design options. Completion of the EIR and project processing were put on hold pending submittal of project design options.
- VIII. Whereas, the project design options were submitted in June 2002 and included a optional design for an assisted living residential use in lieu of the proposed office use that is intended to be compatible with the residential land use designation in the City's General Plan and proposed as an option to affordable housing. The project sponsor also submitted an optional wetlands restoration plan that includes off site wetlands restoration and incorporates all of the other wetlands mitigation measures recommended in the Draft EIR.
- IX. Whereas, the Final EIR response to comments provides a "Master Response" that evaluated options to the project at a similar level of analysis as the proposed project and determined that the options to the project do not result in any new or more severe significant impacts from those identified in the Draft EIR. The Final EIR found that potential traffic and circulation, hydrology, geology and soils, seismicity, vegetation and wildlife, cultural, air quality and service effects would be similar to or less than the project as proposed and that the mitigation recommended in the Draft EIR would still be required. The Final EIR evaluated noise impacts to the assisted living residential option and determined that potentially significant interior noise exposure could be reduced to insignificance by mitigation measures for design of the buildings incorporating sound rated windows and mechanical ventilation. The Final EIR Master Responses also incorporates additional detailed transportation and circulation, visual and energy analysis of the project and determines that there are no new or more severe significant impacts from those identified in the Draft EIR. The Master Responses incorporating the project option and additional analysis result in only minor clarifications, additional information, and minor changes to the text of Final EIR. None of these changes to the EIR introduce new or more severe impacts, nor are they substantial enough to trigger CEQA requirements for recirculation of the document for additional public review as a Revised Draft EIR.

- X. WHEREAS, on June 27, 2002, the Final EIR, Response to Comments and a notice of distribution of the Final EIR for review and notice of a public meeting of the Planning Commission to consider recommendation for certification of the Final EIR were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies and special districts, EIR commentors, and other interested groups and individuals. Notice of distribution of the Final EIR for review and notice of the public meeting of the Commission to consider recommendation for certification of the Final EIR was published in a newspaper of general circulation to begin a 14-day public review and comment period on the Final EIR ending on July 12, 2002. Prior to the July 12 ending date, the Final EIR comment period was re-noticed and extended for an additional 14 days at the request of the community.
- XI. WHEREAS, the extended 28-day comment period on the Final EIR was closed on July 26, 2002 and written comments were received on the Final EIR until 4:00 p.m. on that date. These comments primarily address concerns regarding the merits of the project and/or design considerations for approval or disapproval. Since the comments result in only minor clarifications and insignificant changes to the Final EIR, they do not trigger CEQA requirements for recirculation of the document for additional public review and do not prevent certification of the EIR as adequate and complete.
- XII. WHEREAS, on August 5, 2002, the Marin County Planning Commission conducted a public hearing to consider a recommendation to the Board of Supervisors to certify the Final EIR. The Final EIR and comments on the Final EIR together with staff's report recommending certification of the Final EIR were provided to the Commission.
- XIII. Whereas, the Marin County Planning Commission considered the written comments and received additional testimony on the Final EIR at the August 5th hearing. After taking into consideration all the information presented and expressing individual comments and concerns, the Commission closed the public hearing, directed staff to provide additional information to clarify impact analysis and respond to environmental issues raised over the adequacy of the Final EIR and continued action on the Commission's recommendation for certification of the Final EIR to a future date. The additional information requested included an update to the cumulative impact analysis to include new developments in the area and clarification of traffic impact review methodologies used.
- XIV. Whereas, Community Development Agency Staff and the EIR consultants prepared a Final EIR Response to Comments Amendment dated December 2002 that provides responses to all of the environmental issues raised in the written comments, public testimony and comments and concerns of Commissioners on the Final EIR. The Final EIR Response to Comments Amendment and a notice of distribution and notice of a public meeting of the Planning Commission to consider recommendation for certification of the Final EIR were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies and special districts, EIR commentors, and other interested groups and individuals. Notice of distribution of the Final EIR Response to Comments Amendment and notice of the public meeting of the Commission to consider recommendation for certification of the Final EIR was published in a newspaper of general circulation.
- XV. Whereas, on February 24, 2003, the Marin County Planning Commission conducted a public meeting and recommended that the Board of Supervisors certify the Final EIR. The Final EIR and Final EIR Response to Comments Amendment, together with staff's report recommending certification of the Final EIR were provided to the Commission. The Final EIR and Final EIR Response to Comments Amendment was determined not to trigger recirculation of the EIR pursuant to Section 15088.5 of the CEQA Guidelines because the information contained in these documents do not result in significant new information or new significant environmental impacts or a substantial increase in the severity of an environmental impacts.
- XVI. WHEREAS on April 18, 2003, the project sponsor submitted a revised application to the County that reflects the assisted living design option that was evaluated in the Final EIR and Amendment. The revised proposal

seeks to: (1) replace the two office buildings, totaling 94,400 square feet with a maximum of one, 94,400 square foot, 15-unit assisted living facility, to be located on the site of the previously-proposed 80,000 square foot office building; (2) designate the site of the previously-proposed 14,400 square foot office building as a site for wetland mitigation purposes; and (3) eliminate the proposed roadway connection to Lucas Valley Road, thereby providing access to all 28 future single-family lots via the proposed extension to Erin Road. The project sponsor also proposed to replace the proposed Vesting Tentative Map with a Tentative Map. The Tentative Map would still seek division of the 106-acre property into two lots. A supplemental traffic letter report was also prepared to evaluate the effects of rerouting traffic from all 28 future single-family lots to the Las Gallinas Avenue intersection. On June 24, 2004, the applicant submitted a letter request offer a voluntary dedication of the approximately 9.4-acre future highway interchange area that is located at the Highway 101 / Lucas Valley Road interchange. The revised project would subdivide the 106.3-acre property into two lots for future residential and assisted living development. Proposed Lot 1 would reserve 15.3 acres for a maximum of 28 detached single-family residential lots, 1.8 acres of public right-of-way, 34.2 acres of open space, and 0.6 acres for freeway interchange improvements, for a total of 51.9 acres. Proposed Lot 2 would reserve 11.0 acres for a maximum 94,400 square foot assisted living facility, 34.6 acres of open space, and 8.8 acres for freeway interchange improvements, for a total of 54.4 acres. The residential component of the Master Plan designates an area for the future development of a 28-unit residential subdivision that would be accessed by a public roadway extension to Erin Drive. The Master Plan includes standards for the future residences, including proposed building envelopes, maximum height, general design and massing, and a maximum floor area of 4,500 square feet per home, excluding garage space for two vehicles. The assisted living component of the Master Plan would provide for future development of a maximum 150-unit retirement community with 75 independent living units with kitchens, and 75 assisted living units along with administrative and support services. Access to the future assisted living facility would be provided by a private roadway extension to Marinwood Avenue south, across Miller Creek.

XVII. WHEREAS a second Amendment to the FEIR was prepared for the revised project. On December 6, 2004, the Marin County Planning Commission conducted a public meeting to consider and recommend the proposed Amendment to the FEIR for certification by the Board of Supervisors. The Final EIR, Final EIR Response to Comments Amendment, and the Amendment to the Final EIR, together with staff's report recommending certification of the Final EIR were provided to the Commission.

XVIII. WHEREAS, the Marin County Planning Commission has reviewed and considered the information in the Draft EIR, Final EIR, Final EIR Response to Comments Amendment, Amendment to the FEIR, Final EIR Appendices, and EIR administrative record, for adequacy, completeness and compliance with CEQA, State CEQA Guidelines, and County Environmental Review Procedures. The Amendment to the FEIR found that the amended application does not trigger recirculation of the EIR pursuant to Section 15088.5 of the CEQA Guidelines because the revisions do not result in significant new information or new significant environmental impacts or a substantial increase in the severity of an environmental impacts. The Planning Commission has considered and will continue to consider the information contained in the project's environmental documents prior to making recommendation to the Board of Supervisors regarding the project.

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Planning Commission makes the following findings:

1. Notice of the Planning Commission hearing on the Draft EIR and meeting to certify the Final EIR was given as required by law and the actions were conducted pursuant to State CEQA Guideline Sections 15088, 15088.5, 15089, 15090.

2. All individuals, groups and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the Draft EIR and to submit written comments on the adequacy of the Final EIR for certification. These opportunities for comment meet or exceed the requirements of CEQA and the County Environmental Review procedures.
3. The Oakview project Final Environmental Impact Report consists of the Final EIR, Final EIR Response to Comments Amendment, the Amendment to the Final EIR and appendices, and the Mitigation Monitoring and Reporting program.
4. All comments submitted during the public review and comment period on the Draft EIR, the public hearing on the adequacy of the Draft EIR conducted by the Planning Commission and the public review and comment period on the Final EIR, Final EIR Response to Comments Amendment, and Amendment to the Final EIR were responded to adequately.
5. The Planning Commission was presented with all of the information in the administrative record, testimony, and EIR documents for the project Final EIR, Final EIR Response to Comments Amendment, and Amendment to the Final EIR, and the Commission has reviewed and considered the information contained in these documents; and
6. The Final EIR has been completed in compliance with the intent and requirements of CEQA and the State CEQA Guidelines, and the County EIR process, and reflects the independent judgment of the County of Marin. The Planning Commission has considered and will continue to consider the information contained in the Final EIR, Final EIR Response to Comments Amendment, and Amendment to the Final EIR prior to making recommendation to the Board of Supervisors regarding the project.

NOW, THEN LET IT BE FURTHER RESOLVED that the Marin County Planning Commission recommends that the Marin County Board of Supervisors certify the Final Environmental Impact Report for the Oakview project Master Plan and Land Division (Tentative Map) as adequate and complete in compliance with CEQA, the State CEQA Guidelines and the County Environmental Review Procedures, and is adequate and complete for consideration in making a decision on the merits of the project.

SECTION II: VOTE

PASSED AND ADOPTED at a special meeting of the Planning Commission of the County of Marin, State of California, on the 6th day of December, 2004, by the following vote to wit:

AYES: Berland, Thompson, Barner, Dickenson, Greenberg, and Holland

NOES:

ABSENT: Julin

ALLAN BERLAND, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC 04-025

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE APPROVING THE OAKVIEW MASTER PLAN 95-001

200 LUCAS VALLEY ROAD, SAN RAFAEL
ASSESSOR'S PARCEL 164-270-03

SECTION I: FINDINGS

- I. WHEREAS Irving Schwartz, submitted a Master Plan application, on behalf of Virginia Daphne and Edward Bacciocco, proposing the development of a maximum 28-unit residential subdivision and assisted living facility on a 106.3-acre property. A concurrent Land Division application would divide the property into two lots. Proposed Lot 1 would reserve 15.3 acres for 28 detached single-family residential lots, 1.8 acres of public right-of-way, 34.2 acres of open space, and 0.6 acres for freeway interchange improvements, for a total of 51.9 acres. Proposed Lot 2 would reserve 11.0 acres for a maximum 94,400 square foot assisted living facility, 34.6 acres of open space, and 8.8 acres for freeway interchange improvements, for a total of 54.4 acres. The residential component of the Master Plan designates an area for the future development of a 28-unit residential subdivision that would be accessed by a public roadway extension to Erin Drive. The Master Plan includes standards for the future residences, including proposed building envelopes, maximum height, general design and massing, and a maximum floor area of 4,500 square feet per home, excluding garage space for two vehicles. The assisted living component of the Master Plan would provide for future development of a maximum 150-unit retirement community with a maximum 75 independent living units with kitchens, and a maximum 75 assisted living units along with administrative and support services. Access to the future assisted living facility would be provided by a private roadway extension to Marinwood Avenue south, across Miller Creek. The property is located at the northwestern quadrant of the U.S. Highway 101/Lucas Valley Road interchange, on property addressed as **200 Lucas Valley Road, San Rafael**, and further identified as **Assessor's Parcel 164-270-03**.
- II. WHEREAS a Final Environmental Impact Report (EIR) was prepared for the project for compliance with the California Environmental Quality Act (CEQA). The Draft EIR, Final EIR, Final EIR Response to Comments Amendment, and Amendment to the Final EIR have been reviewed and considered by the Planning Commission for adequacy, completeness and compliance with CEQA, State CEQA Guidelines, and County Environmental Review Procedures. The Planning Commission has adopted a separate resolution finding that the Amendment to the Final EIR does not trigger recirculation of the EIR pursuant to Section 15088.5 of the CEQA Guidelines because the revisions do not result in significant new information or new significant environmental impacts or a substantial increase in the severity of an environmental impacts.
- III. WHEREAS the Marin County Planning Commission held a duly-noticed public hearing on December 6, 2004 to consider the merits of the proposed project, and hear testimony in favor of, and in opposition to, the project.
- IV. WHEREAS the Marin County Planning Commission finds that the proposed project, as modified herein, is consistent with the following policies contained in the Marin Countywide Plan (CWP).
 - A. The project will result in a mix of single-family and assisted living uses that are consistent with the City Centered Corridor's Planned Residential (PR) land use designation for the property. The residential density of 0.97 units per acre (based on 103 residential units including 28 single-family residential units

and 75 independent assisted living units) is within the density range of between one unit per acre to one unit per 10 acres that is established by the PR land use designation. The 94,400 square foot assisted living facility represents a 2% non-residential floor area ratio on the 106.3-acre property, which is within the low end of the PR land use designation's 1% to 9% non-residential floor area ratio range. (*Environmental Quality Policy EQ-1.1 and Community Development Policies CD-1.1, CD-8.5, CD-10.2*)

- B. The project is consistent with the CWP's Stream Conservation Area ("SCA") policies. The overriding objective of the SCA policies is to preserve, protect, and enhance existing species and habitat diversity from erosion, sedimentation, pollution and habitat destruction. Streams and their riparian and woodland habitat are irreplaceable and should be protected as essential environmental resources because of their values for erosion control, water quality, fish and wildlife, aesthetics, recreation, and the health of human communities. No development is proposed within the SCA, with exception of a future bridge and roadway crossing, which is an allowed use within the SCA. Mitigations established in the EIR would require that the bridge or arched culvert crossing of Miller Creek be designed to minimize disturbance to riparian vegetation and disturbance to the creek channel and to replace all trees and shrubs that are removed within the SCA. The project would also include erosion control measures to minimize surface runoff and deposit of sediment into Miller Creek. (*Environmental Quality Policies EQ-1.1, EQ-2.3, EQ-2.4, EQ-2.5, EQ-2.8, EQ-2.9, EQ-2.10, EQ-2.11, EQ-2.18, EQ-2.18, EQ-2.19, EQ-2.20, EQ-2.21, EQ-2.22, EQ-2.23, EQ-2.24, EQ-2.26*)
- C. The project would comply with the CWP's policies to minimize or prevent air, water, and noise pollution and comply with applicable air quality standards. The project would incorporate measures to reduce dust generation during construction, to minimize soils erosion that could affect water quality, and to incorporate measures to the design and construction of the future structures to minimize noise impacts. Although the project would convert an existing intermittent drainageway to a storm drain system, the EIR found that the project would not result in substantial alterations to the natural drainage systems. (*Environmental Quality Policies EQ-2.75, EQ-2.78, EQ-3.2*)
- D. The project would be consistent with the CWP's policies which discourage development in natural resource areas and CWP's restrictions on development in areas which contain special status species and migratory species and significant natural areas, wetlands, riparian habitats, and freshwater habitats. The EIR found that the project would have less-than-significant impacts on all special-status species and communities and would not cause irreversible damage to hydrological or biological processes. Any active raptor nests that are established within the vicinity of proposed grading would result in the implementation of measures to avoid impacts to the nest until the young birds have fledged the nest. Mitigations requiring the project to minimize disturbance of the wildlife corridor along Miller Creek would minimize potential impacts on fish and wildlife species. (*Environmental Quality Policies EQ-2.87, EQ-2.88, EQ-3.4, EQ-3.6, Community Development Policy CD-2.7*)
- E. The project would not affect geologic, archaeological or historic sites. The project would not affect potential archaeological or cultural resources since none were found at the site. Native grasslands and freshwater seeps and wetlands that are removed by the project would be required to be replaced at a ratio of 1:1 for native grasslands and 2:1 for wetlands. The conceptual landscape plan includes a stipulation that non-native plants will be discouraged and/or prohibited. (*Environmental Quality Policies EQ-3.5, EQ-3.13, EQ-3.27, EQ-3.30*)
- F. Consistent with applicable CWP policies, the project has been designed to avoid hazards from earthquake, erosion, landslide, floods, and fires, and would result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. Although some incursion into sensitive woodland habitat, native grasslands, freshwater seeps and wetlands would occur, the EIR would require that residential building envelopes be revised to minimize tree removal and for grassland and wetland restoration to be incorporated into the final design of the project. The project would avoid

known geologic hazards, including ancient bedrock landslides. (*Environmental Quality Policy EQ-3.8, Community Development Policy CD-2.7, Environmental Hazards Policies EH-3.1, EH-3.2, EH-5.4*)

- G. The project has been designed to avoid or minimize the hazards from earthquakes, erosion, landslides, floods, fire, and accidents consistent with the CWP's Environmental Quality and Environmental Hazards elements. The final project design would be based on geotechnical investigations by civil engineers with soils engineering expertise and soils certified engineering geologists, and would employ engineering measures that avoid and minimize against life and safety risks from seismic ground shaking hazards, including those relating to construction on expansive soils. All grading and structures would conform to applicable minimum earthquake design standards. (*Environmental Quality Policy EQ-3.7, Environmental Hazards Policies EH-3.1, EH-3.2, EH-5.1, EH-5.2, EH-5.4, EH-6.1, EH-6.3*)
- H. The EIR includes mitigations that would ensure that the project would not contribute to the incremental increase in non-point stormwater contaminant on surrounding water bodies or increase the potential for flooding hazards. These include the required construction of stormwater detention/treatment basins to minimize impacts associated with increases in peak flows as well as implementation of stormwater pollution prevention measures. (*Environmental Quality Policy EQ-2.31, Environmental Hazards Policy EH-8.6*)
- I. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services and facilities. To minimize the risk of fires and ensure adequate fire protection, the Marinwood Fire Department would ensure that the proposed project meets minimum fire safety codes and standards and incorporates into its design adequate water resources, fire suppressant systems, fire-resistant materials, vegetation clearances from structures, irrigated landscaping, and adequate access. Public services are available to serve the development. The Marinwood Community Services District would provide parks and recreation and fire protection services. The Marin Municipal Water District has sufficient water supplies for domestic and fire protection purposes to service the proposed development. Sewage treatment is proposed to be provided from the Las Gallinas Sanitary District. The Dixie Elementary School District and the San Rafael High School District have adequate capacity to accommodate the additional students that are expected to be generated by the proposed project. The project would also provide adequate recreation, open space, and public access through designation of 67.7 acres for open space along with trail improvements along Miller Creek and future pedestrian and bicycle connections through the site. (*Environmental Quality Policies EQ-2.27, EQ-3.9, EQ-3.10, EQ-4.1, and Environmental Hazards Policy EH-11.3*)
- J. The project would comply with applicable policies on preserving the visual qualities of the built environment and to ensure that structures are in scale with environmental constraints and the character of the surrounding neighborhood. The project complies with the visual quality policy by minimizing tree removal to 23 trees. The visual impact analysis contained in the EIR evaluated the project's day- and night-time impacts would result in less-than-significant impacts. Requirements to reduce the size of the future homes would ensure that the development is compatible with the surrounding community as well as the hillside character of the property. (*Environmental Quality Policies EQ-3.11, EQ-3.14, EQ-3.25*)
- K. The project has been designed to minimize the amount of grading and to limit it to the construction of building pads, streets, and parking areas. Retaining wall construction has either been avoided due to the proposed slopes, or minimized to the extent feasible. Much of the proposed grading is necessary for remediation of on-site landslides to remove geotechnical hazards. (*Environmental Quality Policy EQ-3.16*)
- L. The project would provide a mix of single-family and assisted living facilities which increase both housing and jobs opportunities in the City Centered Corridor near transportation and transit facilities. Compliance with the County's inclusionary housing requirements would provide affordable residential

and assisted living units. The assisted living facility would result in limited numbers of new service jobs that would benefit from the site's proximity to existing transit, retail and commercial uses nearby. (*Community Development Policies CD-2.1, CD-2.2, CD-2.3, CD-2.4, CD-3.5*)

- M. The proposed 94,400 square foot future assisted living development would be located on the Highway 101 frontage to the property. Continuous strip development and sprawl along the Highway 101 corridor is discouraged by the Countywide Plan and are not appropriate for commercial and higher intensity residential development. Although the development area is located at the base of the hill, below the transitional woodland-grassland edge of the site, the size and mass of the building would be prominently visible from both north- and south-bound motorists and distant development on the east side of the highway. However, this factor alone does not represent a significant visual impact because the building size and form would be similar to a number of commercial office buildings that have been built adjacent to Highway 101. The conceptual building design depicts a stepped building design with maximum building heights not exceeding the zoning district's 30-foot height limit. The 81-space parking area in front of the building would be screened from the highway by the proposed berm, and landscape plantings, upon maturity, would soften and screen views of the facility and private frontage roadway. By designating a central location along the property's Highway 101 frontage for the future assisted living facility and by maintaining the existing natural undeveloped character of the adjoining grasslands and oak-studded hillsides, the project would minimize the appearance of a continuous strip development along the Highway 101 corridor. Additionally, the assisted living use of this facility is appropriate given the site's close proximity to existing commercial and transit opportunities located to the north both in and near the Marinwood shopping center and the presence of similarly sized assisted living facilities across Highway 101 to the east as well as to the south of the property in the Northgate neighborhood of the City of San Rafael. Based on the factors discussed above, the assisted living component of the project would not result in visual or community compatibility impacts to surrounding areas and represent an appropriate type of use within an existing urbanized setting. (*Community Development Policy CD-2.4*)
- N. The project would be required to comply with the County's energy efficiency ordinance, Marin Green Home Rating System, and the Leadership in Energy and Environmental Design standards, and to partly utilize alternative energy sources, such as photovoltaic systems, to minimize the project's energy consumption. These measures, include, but are not limited to, use of energy-saving measures such as "Energy Star" rated appliances, avoidance of paints and stains containing Volatile Organic Compounds, and use of water conserving landscapes and low flush toilets and low flow shower heads. (*Community Development Policy CD-4.1, Housing Element Policies H2.4, H2.5*)
- O. The project would comply with CWP standards for traffic congestion by ensuring that traffic generated by the project and by cumulative development in the area would result in intersection levels of service of "D" or better. (*Transportation Policies T-1.1, T-1.3*)
- P. Mitigations identified by the EIR and proposed in the project would ensure that the development complies with the CWP's noise guidelines for acceptable exterior and interior noise levels. The mitigations include installation of noise-buffering property line fencing, use of sound-rated windows, siting outdoor living spaces away from noise generators, and adherence to residential construction hours that would minimize noise impacts. (*Noise Policies N-1.1, N-2.1, N-2.4*)
- Q. The proposed project would incorporate architectural standards and maximum home sizes that would ensure that the future development would be designed to reflect a sensitive transition in scale from and compatibility with the surrounding neighborhood, utilizing high quality, pedestrian-oriented site planning and architectural designs. (*Housing Element Policies H2.2, H2.3*)
- R. The project would comply with the CWP's policies by providing inclusionary housing units that would be affordable to very low and low income households and by incorporating potential second units to the

future design of the residential component of the Master Plan. The assisted living component of the project would also address a special needs population. (*Housing Element Policies H3.19, H3.26, H4.1, H4.2*)

- S. The project is consistent with the CWP's policy for establishing zoning densities within the Urban Service Area that would provide for less intensive development than that which would be allowed for an adjoining city. Under the RMP-1.38 (Residential Multiple-family Planned, 1.38 units per acre maximum density) zoning designation for the property, the 103-unit project would result in a density of 0.97 unit per acre, which would be less intensive than the two units per acre maximum density that would be allowed under the city's Hillside Residential land use designation for the property, which would provide for up to 212 residential units. (*Community Facilities Policy CF-1.1*)
- T. Based on the cost-revenues analysis that was prepared as part of the EIR, the project would pay its fair share of the cost of public services. (*Community Development Policy CD-7.3, Community Facilities Policy CF-5.2*)
- U. Although the CWP does not designate any trails through the project site, the Master Plan proposes to improve the existing pathway along Miller Creek and to dedicate a pedestrian and bicycle trail easement that would connect Marinwood Avenue with Lucas Valley Road. (*Trails Policy TR-1.3*)
- V. WHEREAS the Marin County Planning Commission finds that the proposed project, as modified herein, is consistent with the requirements of the RMP-1.38 (Residential Multiple-family Planned District, 1.38 units per acre) zoning district and the Planned District development standards contained in Section 22.16.030 of the Marin County Code, based on the following.
 - A. The Master Plan includes a conceptual roadway designs for the future roadways that will not exceed a 15% grade, consistent with the requirements of Section 22.16.030.E.1.
 - B. The future residential and assisted living development will be clustered in the most accessible, least visually prominent, and most geologically stable portions of the site. Both uses have been sited to avoid steep wooded hillsides and the primary ridgeline that separates the Highway 101 from the Marinwood sides of the development. Vehicular access could be provided to the future uses without significant roadway extensions. Additionally, the EIR has evaluated the proposed development areas and found the sites to be geologically stable. Therefore, the requirements of Section 22.16.030.F.1. are met.
 - C. No portion of the development areas will be located within the ridgeline area, consisting of land located within 300 feet horizontally or within 100 feet vertically of the primary ridgeline that separates the Highway 101 from the Marinwood sides of the development. Although portions of the rear yards of some of the residential lots extend into the ridgezone, no development will occur within this area due to the placement of the building envelope for these lots outside of the ridgezone area. Therefore, the requirements of Section 22.16.030.F.2. are met.
 - D. The future residential and assisted living development will be required to comply with energy conservation requirements of the Marin Green Home Rating System and the Leadership in Energy and Environmental Design green building standards, respectively. Compliance would be accomplished through the design and orientation of buildings to maximize solar access, and through utilization of a site and building designs that emphasize use of energy efficiency principles, renewable water conservation features, indoor air quality measures, site protection consideration, and green materials, consistent with the requirements of Section 22.16.030.F.3.
 - E. Noise impacts on the future residents of assisted living development will be minimized to meet the Countywide Plan noise criteria through use of sound-rated windows and a building design that focuses outdoor living areas on the backside of the building and away from the noises associated with Highway

101. The future single-family residential development has been sited to maintain substantial setbacks of over 50 feet from the nearest residences through future installation of a landscape buffer in order to minimize noise impacts. Therefore, the requirements of Section 22.16.030.F.4 are met.

- F. The project would comply with the requirements of Section 22.16.030.G by incorporating the following facilities and design features: (1) reclaimed waste water will be used for irrigation of the assisted living facility; (2) the development will use materials, siting principles, and construction techniques that minimize consumption of resources such as energy and water and incorporate recycling and use of water-conserving appliances; (3) recreation facilities will be provided from the open space, creek trail, and designation of an easement for a future bicycle and pedestrian trail that connects Marinwood Avenue with Lucas Valley Road along the Highway 101 frontage.
- G. The conceptual landscaping plan incorporates plan species that will minimally disturb natural areas and that are compatible with the native plant setting, consistent with the requirements of Section 22.16.030.H. The final design of the project's landscaping will be required to include fire-resistive, native, and drought tolerant plant species.
- H. Future exterior lighting that is visible from off-site areas will be designed for safety purposes, incorporating low-wattage fixtures that are directed downward and shielded to prevent adverse lighting impacts on nearby properties, consistent with the requirements of Section 22.16.030.I.
- I. The project includes the proposed dedication of approximately 67.7 acres of land for public open space and conservation purposes, consistent with the requirements of Section 22.16.030.J. The land that is offered for dedication includes wildlife habitat, riparian corridors, and wetland features that would be protected.
- J. Through future Precise Development Plan review, the design of individual buildings will be reviewed to ensure that they incorporate building materials and colors that blend into the natural environmental unobtrusively and that attain maximum heights at, or below, the 30 foot height limit for primary structures and 15 foot height limit for accessory structures, consistent with the requirements of Sections 22.16.030.K.1. and 22.16.030.K.2. Additionally, the assisted living facility will be allowed through subsequent review and approval of a Use Permit.
- K. The conceptual grading, drainage, and tree removal and preservation plan would comply with the requirements of Section 22.16.030.L. by: (1) minimizing the extent of future grading that is required to provide access to the future development areas; (2) minimizing tree removal to 23 trees; (3) incorporating drainage improvements that would minimize potential soils erosion while maintaining creekside areas in their natural state as much as possible; (4) siting development in areas with adequate fire protection service and where water would be available for fire protection purposes; and (5) avoiding seismic or geologic hazards areas to the extent feasible and acceptable based on geotechnical analyses.
- L. Future power and utility lines will be undergrounded, consistent with the requirements of Section 22.16.030.M.
- M. The project is consistent with the Marin Countywide Plan, based on the findings contained in Finding IV above, and as required by Section 22.16.030.N.

VI. WHEREAS the Marin County Planning Commission finds that the proposed project, as modified by conditions herein, would not adversely impact the public health, safety, and welfare of residents living and working in the surrounding community because the project would: (1) result in residential and assisted living uses that increase the housing opportunities for both families and a special needs senior population; (2) not result in significant environmental impacts associated with land use, visual, geological, hydrological,

biological, traffic, archaeological, air quality, noise, and public service factors; and (3) provide additional opportunities for recreation through the proposed public open space and pedestrian/bicycle accessways and improvements to an existing creekside trail.

- VII. WHEREAS the Marin County Planning Commission finds that the proposed Master Plan would result in public benefits associated with the dedication of approximately 67.7 acres of open space, the construction of a creekside trail, the voluntary dedication of an approximately 9.4-acre parcel of land for future construction of a freeway interchange, the provision for a future pedestrian and bicycle easement that would link Marinwood Avenue with Lucas Valley Road along the Highway 101 frontage to the property, and the development of affordable housing and housing that would serve a special needs population for seniors.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby recommends that the Marin County Board of Supervisors adopt an ordinance approving the Oakview Master Plan 95-001 subject to the following conditions of approval.

Marin County Community Development Agency - Planning Division

1. Pursuant to Chapter 22.44 of the Marin County Code, the Oakview Master Plan is approved for the future development of a maximum 28-unit residential subdivision and a maximum 94,400 square foot, 150-unit assisted living facility on the existing 106.3-acre property. A concurrent Land Division application would divide the property into two lots. Lot 1 would encompass in concept 15.3 acres for a maximum of 28 detached single-family residential lots, 1.8 acres of public right-of-way, 34.2 acres of open space, and 0.6 acres for freeway interchange improvements, for a total of 51.9 acres. Lot 2 would encompass in concept 11.0 acres for a maximum 94,400 square foot assisted living facility, 34.6 acres of open space, and 8.8 acres for freeway interchange improvements, for a total of 54.4 acres. The residential component of the Master Plan is approved for the future development of a maximum 28-unit residential subdivision that would be accessed by a public roadway extension to Erin Drive. The assisted living component of the Master Plan would be accessed by a private roadway extension to Marinwood Avenue south, across Miller Creek. The property is located at the northwestern quadrant of the U.S. Highway 101/Lucas Valley Road interchange, on property addressed as **200 Lucas Valley Road, San Rafael**, and further identified as **Assessor's Parcel 164-270-03**.
2. The Master Plan comprises a general development scheme that is depicted in plans on file in the Community Development Agency and identified as "Exhibit A," entitled "Oakview," consisting of seven sheets, prepared by ILS Associates, inc., and dated June 26, 2003 with revisions dated August 4, 2003, December 31, 2003, and September 22, 2004.
3. Pursuant to Marin County Section 22.44.030(C)(2), a Precise Development Plan shall be submitted for review and approval for a portion of, or the entire area of, the Master Plan. No development, land improvements and/or building construction shall commence until a Precise Development Plan is approved. A Tentative Subdivision Map may be submitted for the future residential development on Parcel 1 in conjunction with the Precise Development Plan.
4. Future development of the residential component of the Master Plan on Parcel 1 of the Oakview Tentative Map shall be subject to the following requirements.
 - a. A Precise Development Plan shall be required for all future residential development on Parcel 1.
 - b. The design of the subdivision and residences shall incorporate traditional neighborhood design and sustainable development principles, including but not necessarily limited to the following elements.
 1. Lot sizes and configurations should provide for a variation in building setbacks from the street.

2. There should be a variation in building heights with a mixture of one- and two-story, split level designs that reflect the hillside topography.
 3. Buildings should address the street at a pedestrian scale utilizing architectural elements, such as covered porches, verandas, projecting bay windows, recessed openings, and site trellises and covered walkways.
 4. Garage and parking areas should be de-emphasized by recessing the garage doors from the front wall of the residence, locating garages as a detached or attached element toward the rear of the residence, utilizing side-entry garage designs, and sharing driveways, whenever feasible.
 5. Second floors should be setback from the lower, street level of the residence and from the side property lines, where feasible in order to avoid large expanses of exterior wall areas in a single plane.
 6. Roof forms and roof lines should be broken into a series of smaller building components to reflect the surrounding natural landscape and should generally follow the direction of the natural slope.
 7. Outdoor spaces should be incorporated into the design of the residence through limited site terracing and integration of outdoor spaces into rooftop terraces at lower stories, porches, and verandas.
 8. Site improvements, such as patios, should minimize the use of paved (impervious) areas.
 9. Exterior colors should be coordinated with the predominant colors and values of the surrounding landscaping utilizing earthtone wall colors and darker roof colors.
 10. The street design should be pedestrian-friendly through use of traffic calming measures such as landscaped islands and variations in pavement material, whenever feasible.
 11. The future single-family residences shall meet the Certified or better rating under the Marin Green Home: New Home Green Building Residential Design Guidelines and shall incorporate green building principles and materials, with a focus on energy efficiency, renewable energy, water conservation, indoor air quality, site protection, and green materials. The Precise Development Plan shall designate a certain percentage of the 28 residential units to include installation of a solar energy system, such as a solar electric system (photovoltaics) or solar thermal system, based on the Community Development Agency's Solar Development Potential Analysis, dated November 8, 2004, that is maintained with the Oakview Master Plan file and exhibit in the Community Development Agency.
- c. The maximum allowable building area for the land area that is covered by Lots 1 to 12 shall not exceed 3,000 square feet per residential unit. The maximum enclosed building area may be increased to 3,500 square feet if a second unit with no interior connection to the main unit is constructed. The maximum allowable building area for the land area that is covered by Lots 13 to 28 shall not exceed 3,500 square feet per residential unit. The maximum enclosed building area may be increased to 4,000 square feet if a second unit with no interior connection to the main unit is constructed. The building area includes the sum of the gross area of all floors in all buildings on a site, including attached and detached garages and storage buildings, measured from the exterior faces of the exterior walls, but excluding all unenclosed horizontal surfaces, such as balconies, courts, decks, porches, and terraces. The maximum size is not an entitlement and specific building designs shall be evaluated through the subsequent Tentative Map and Precise Development Plan review under their own merits for conformance with the County's adopted plans and policies at that time.

- d. A maximum height limit of 25 feet from natural or finished grade, whichever is more restrictive, following completion of the subdivision improvements shall apply to Lots 1 to 12. A maximum height limit of 30 feet from natural or finished grade, whichever is more restrictive, following completion of the subdivision improvements shall apply to Lots 13 to 28. The maximum height is not an entitlement and specific building designs shall be evaluated through the subsequent Tentative Map and Precise Development Plan review under their own merits for conformance with the County's adopted plans and policies at that time.
 - e. The project shall be subject to the requirements of Marin County Code Chapter 22.22 (Affordable Housing Regulations) in effect at the time the Precise Development Plan and Tentative Subdivision Map are determined to be complete by the County. Based on the current requirements, at least six of the 28 future lots or units shall be dedicated to the County for development of units that are affordable to low or very low income households. In no case shall the number of inclusionary residential units that are required for the development be less than that which is required at the time of the Master Plan's approval. Second units shall not be allowed to be counted towards satisfaction of the project's inclusionary requirements without an amendment to the Master Plan. The dedication requirement will not apply if the applicant elects to construct the affordable units, provided the applicant executes a below market rate agreement in conformance with Marin County Code Section 22.22.040 and acknowledges that the project would consist of inclusionary units to be occupied by, and affordable to, very low and low income residents in perpetuity. The applicant shall have the option of constructing six rental units on-site to meet the inclusionary requirements, subject to compliance with Marin County Code Section 22.22.030.
 - f. The project shall comply with the wetland mitigation requirements for all wetlands that would be impacted by the residential component of this Master Plan. Since the designated on-site wetland mitigation site is located on the adjoining assisted living parcel, the applicant shall demonstrate that permission has been obtained from the future owner of Parcel 2 for wetland mitigation or that an equivalent method of mitigation for the wetland impacts on Parcel 1 can be implemented in compliance with this requirement. To the maximum extent feasible, the wetland mitigation shall be on-site. The required wetland mitigation shall not occur on the parcel intended for the Lucas Valley off-ramp.
 - g. The landscape plan for the area of land west of the Erin Street extension shall consist of trees that are planted outside of the existing public utility easement and tree types where the drip line at maturity will not extend into the public utility easement.
 - h. The landscape plan shall incorporate predominantly fire-resistive, native, and drought tolerant plan species.
5. Future development of the assisted living component of the Master Plan on Parcel 2 of the Oakview Tentative Map shall be subject to the following requirements.
- a. A Precise Development Plan and a Use Permit shall be required for the future maximum 94,400 square foot assisted living facility on Parcel 2. The assisted living component shall consist of a maximum 150-unit retirement facility with up to 75 independent living units with kitchens, and up to 75 assisted living units along with administrative and support services. The maximum size is not an entitlement and a specific building design shall be evaluated through the subsequent Precise Development Plan review under its own merits for conformance with the County's adopted plans and policies at that time.
 - b. The project shall be subject to the requirements of Marin County Code Chapter 22.22 (Affordable Housing Regulations) in effect at the time the County issues a final decision on the Precise Development Plan and Use Permit. Based on the current requirements, the project shall designate at least 15 of the 75 future independent assisted care units to be affordable to very low and low income residents in perpetuity. In no case shall the number of inclusionary assisted living units that are required for the development be less than

that which is required at the time of the Master Plan's approval. The affordability requirements shall apply only to the housing portion of the total care expense. A below market rate agreement shall be executed in compliance with Marin County Code Section 22.22.030.

- c. The assisted living facility shall meet the Silver rating criteria of the Leadership in Energy and Environmental Design (LEED) green building standards and incorporate green building principles and materials, with a focus on energy efficiency, renewable energy, water conservation, indoor air quality, site protection, and green materials.
 - d. Consistent with the Marin County Unincorporated Area Bicycle and Pedestrian Master Plan, the Precise Development Plan for the assisted living facility shall include the proposed dedication of a pedestrian and bicycle easement of sufficient width to accommodate the required improvements, as determined by the Department of Public Works, between Marinwood Avenue and the point of the property closest to the intersection of Lucas Valley Road and Los Gamos Road. The final width and alignment of the easement shall be established at the Precise Development Plan phase for the assisted living project; however in no case shall the easement be less than 12 feet in width. In addition, the Precise Development Plan shall include provisions to construct a sidewalk and pedestrian and bicycle pathway from the assisted living facility, across Miller Creek, to the end of Marinwood Avenue.
 - e. The applicant shall implement the proposed noise attenuation measures to ensure that the project has been designed to meet the Countywide Plan's criteria for acceptable interior and exterior noise levels. This can be done by using sound rated windows and providing the buildings with mechanical ventilation so that the windows could be maintained closed. Non-openable (sealed) windows shall be provided on the Highway 101 frontage of the building. Outdoor areas exposed to an Ldn of 60 dB or less shall be provided on the westerly back side of the building.
 - f. The landscape plan shall incorporate predominantly fire-resistive, native, and drought tolerant plan species.
 - g. The applicant shall demonstrate that the assisted living facility complies with any applicable standards and criteria for toxic air contaminants (TAC). The applicant shall undertake any necessary studies and investigations to determine the project's compliance with any official TAC standards or criteria. The project design shall incorporate design measures to reduce health risks to acceptable levels in compliance with any official TAC standards or criteria.
6. If Open Space Parcels A and B are not accepted by a public entity for dedication purposes, the applicant shall ensure that a legal means of ensuring their maintenance be provided either through a deed restriction or private covenants, conditions, or restrictions. This requirement shall be satisfied prior to subsequent approval of a Building Permit.
 7. Prior to or concurrent with the approval of a Precise Development Plan for either the residential or assisted living components of the Master Plan, whichever occurs first, the County shall rezone the property to a RMP-0.97 (Residential Multiple Family Planned, 0.97 units per acre maximum density) or equivalent to reflect the maximum density of 103 units that are approved in concept by the Master Plan.
 8. Pursuant to California Government Code Section 66474.9(b), the County of Marin shall require that the subdivider defend, indemnify, and hold harmless the County or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers and employees to attack, set aside, void, or annul, the approval by the County of the Oakview Master Plan Land Division, which action is brought within the time period provided for in California Government Code Section 66499.37. The County shall promptly notify the subdivider of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to cooperate fully in the defense, the subdivider shall not thereafter be responsible to defend, indemnify, or hold harmless the County.

9. Any changes or additions to the project shall be submitted to the Community Development Agency - Planning Division for review to determine whether a Master Plan Amendment is required.

Marin County Department of Public Works

10. The property owners are willing to provide a voluntary offer of dedication of an appropriate interest (such as a fee simple dedication if required by the California Department of Transportation or an easement) for public roadway purposes over the approximately 9.4-acre portion of the Tentative Map that is identified as "Interchange Acquisition Parcel A" and "Interchange Acquisition Parcel B". The voluntary donation would be effected by an offer of dedication on the Parcel Map implementing the Tentative Map, by deed, or such other means as the parties may agree. The dedication or conveyance of the property shall be to the State of California, or to the County of Marin for conveyance to the State and shall be subject to the provisions of Government code Section 7050 and 66477.5. The configuration and size of the interchange property shall be in substantial conformance with that shown on Sheets 1 and 2 of Exhibit A.

The voluntary offer of dedication of land area at the southeasterly corner of the property between Highway 101 and Lucas Valley Road for future southbound Highway 101 off-ramp improvements has been made in-lieu of the paying the Transportation Facilities Fees that are required pursuant to Marin County Code Section 15.07.060.

The voluntary offer of dedication of land area at the southeasterly corner of the property between Highway 101 and Lucas Valley Road for future southbound Highway 101 off-ramp improvements has been made in-lieu of paying the applicant's fair share of intersection improvements at the Lucas Valley Road / Los Gamos Road interchange since the signalization is intended to compliment the interchange improvements as identified in the Northgate Activity Center Plan. The EIR has identified that the applicant's fair share is 38% of the approved design and construction budget.

Compliance with this condition of approval shall satisfy the EIR Mitigations 7.0-1(b), 7.0-2(b), and 7.0-3(b).

11. PRIOR TO SUBSEQUENT APPROVAL OF A PRECISE DEVELOPMENT PLAN OR IMPROVEMENT PLANS, the applicant shall demonstrate compliance with the following conditions of approval:
 - a. Improvement plans shall be prepared in accordance with the Marin County Code Chapter 22.100 and shall conform to Marin County Code Title 24 (Development Standards), as approved by the Department of Public Works.
 - b. An updated soils report shall be submitted to address areas of instability, effects of drainage on site stability, and any subdrain systems that are needed to protect existing and proposed improvements.
 - c. A drainage easement shall be offered for dedication to the Marin County Flood Control District along Miller Creek in conjunction with the subsequent development of the assisted living component of the Master Plan. The easement shall be approximately equal to the Stream Conservation Area line as shown on Sheet 3 of 7 the Tentative Map.
 - d. Plans shall show the location of the stormwater detention/treatment basin(s) along with appurtenant facilities in conjunction with the subsequent development of the residential component of the Master Plan. The drainage improvements shall fully attenuate the 100-year peak flows from sub-watersheds 2 and 3 to pre-project levels, and shall be accompanied by hydrologic and hydraulic calculations.
 - e. A parking study and supporting information shall be submitted to establish the parking needs for the assisted care facility.

- f. Plans shall be reviewed and approved by a Registered Soils Engineer or a Registered Civil Engineer with soils expertise. Proof of the same may be demonstrated by the engineer's stamp and signature on the plans or by letter.
- g. Las Gallinas Avenue, extending from the Las Gallinas Avenue / Lucas Valley Road intersection to the Elvia Way intersection, shall be shown on the site plan in conjunction with the subsequent development of the residential component of the Master Plan, along with all required improvements to the Las Gallinas intersection and local streets.
- h. Marinwood Avenue, including the Miller Creek / Marinwood Avenue intersection and the Miller Creek / Highway 101 intersection, shall be shown on the site plan in conjunction with the subsequent assisted care component of the Master Plan, along with all required improvements to the intersections and local streets.
- i. A one-foot non-access easement fronting Lucas Valley Road shall be shown on future Lot 28 of the subsequent Tentative and Final Map for the residential component of the Master Plan.
- j. A gate or alternative method to restrict routine vehicle access shall be provided for the 12-foot wide emergency access path adjacent to Lucas Valley Road in conjunction with the subsequent development of the residential component of the Master Plan. Accommodations for pedestrian access to Lucas Valley Road shall be provided.
- k. The applicant shall provide an offer of dedication of a sufficiently shaped and sized area within the area that is designated as "Open Space Parcel C" as shown on the Master Plan Exhibit to accommodate future construction of a County standard end of a cul-de-sac road turnaround at the end of Ellen Drive as approved by the Public Works Director. The "Open Space Parcel C" shall not be described in the two-lot Parcel Map since the final alignment and size of the required turnaround will be determined as part of the subsequent Precise Development Plan and Tentative Subdivision Map for the residential component of the Master Plan.

Marin Municipal Water District

- 12. All future landscape and irrigation plans must be designed in accordance with the most current District landscape requirements. Prior to providing water service for new landscape areas, or improved or modified landscape areas, the applicant shall obtain the District's approval of all working drawings for planting and irrigation systems.
- 13. Recycled water shall be used for the assisted living facility's common landscape irrigation and any other approved use, as determined by the District. Landscape and irrigation plans shall comply with the District's recycled water criteria.

Marinwood Fire Department

- 14. The applicant shall be responsible for payment of fees associated with the review of the improvement plans and building permits by an outside fire protection engineer contractor or plan review contractor.

Project Environmental Impact Report Mitigations

The following conditions of approval, numbers 15 through 47, have been derived from mitigations contained in the Environmental Impact Report for the project. All stages of project development shall conform with the adopted Mitigation, Monitoring and Reporting Program, and the County of Marin will verify compliance with each of the required mitigations. The detailed reporting checklist in a table format reflects the specific monitoring, implementation, and timing provision of the Environmental Impact Report mitigation measures and shall serve the purpose of verifying project compliance with the required conditions of approval. The source of each condition is provided as a bracketed reference at the end of each condition. For example, (Geology #1.1-1) refers to geology mitigation measure 1.1-1 from the EIR.

15. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN, the applicant shall submit plans that include the repair of landslides and colluvial soils near the development areas in order to mitigate the potential for future landslide movements. Standard techniques proposed to repair the landslides include removal and recompaction of loose materials, keying and benching, and installation of subdrains and surficial drainage systems. All grading should be performed in compliance with the Uniform Building Code, as well as local code and agency standards, under the observation and testing of the project technical engineer and engineering geologist. (Geology 5.1-1)
16. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT, the applicant shall submit detailed grading and drainage plans which identify the extent and location of all work, including measures determined by the applicant's geologist and geotechnical engineer to be necessary in the field at the time of construction. Mitigation measures shall consist of a combination of site-specific recommendations by the applicant's consultant and local agency and code requirements. The following measures would be feasible in mitigating site-specific conditions and producing stable natural slopes, as well as engineered slopes, where cutting and filling would occur on the site. (Geology 5.1-3)
 - a. Evaluate the effects of bedding orientation (information acquired during the design phase investigation required for the Precise Development Plan) on the gross stability of existing and proposed slopes in the development area to prepare the geotechnical consultant to observe and direct grading operations and make site-specific determinations (see immediately following measure).
 - b. Examine natural and cut slopes during grading to confirm their potential for long-term stability. If the geotechnical consultant determines that the exposed earth materials are weaker than expected, mitigate this condition by recompacting as an earth buttress or stability fill or by the selected use of retaining walls or other acceptable methods, as have been proposed by the applicant's geologist.
 - c. Design drainage facilities to conform with agency and code standards. This should include terrace drains every 30 feet of vertical height on all graded slopes with grades steeper than 5:1. The terrace drains should have a minimum flowline gradient of six percent to make them self-cleaning (a minimal tenet of the Uniform Building Code). They also should be fitted with downdrains every 150 linear feet of terrace to allow for quick drainage.
 - d. Plant cut and fill slopes with ground cover in order to prevent erosion, raveling, or development of rills, sloughs, and other failures which could reduce the effectiveness of stabilization methods whereas roots of newly planted vegetation would enhance stability of graded slopes by holding materials in place.

17. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the applicant shall submit detailed drainage plans which include the use of drainage devices during grading to reduce the potential for seepage from Area D to the adjacent residential development. This should include a subdrain system to intercept this seepage water and a surficial drainage system to reduce the ponding and infiltration of surface water into the landslide. The drainage system should be designed by the project engineer and installed under his/her supervision. (Geology 5.1-4)
18. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall demonstrate that the foundations for the structures have been designed for creep loads. The design phase investigations for development of individual lots should determine the depth of the weathering profile and the zone affected by creep and should be used to establish specific design standards for each lot to comply with the Uniform Building Code as required to obtain site alteration and building permits from the County for construction of individual housing units or ancillary residential structures. (Geology 5.1-5)
19. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall demonstrate that all on-site structures, roads, and utilities are designed in conformance with the Uniform Building Code in order to mitigate seismic impacts. (Geology 5.1-6)
20. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall demonstrate compliance with the following mitigations to mitigate potential rockfall impacts. (Geology 5.1-9)
 - a. All unstable materials encountered adjacent to development areas shall be removed.
 - b. Plans shall depict the removal of the materials and place rip-rap or other engineered erosion control devices, construct rockfall entrapment trenches, or undertake selective rock bolting of remaining materials with galvanized or gray PVC-coated gabion mesh.
 - c. The development shall be set back from eroding rock faces not mitigated by the above measures or in addition to implementing those measures, depending on specific situations.
21. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT, the following measures shall be required to mitigate artificial fill impacts. (Geology 5.1-10)
 - a. The applicant shall conduct field investigations when formulating the Final Grading Plan to determine the presence and limits of such materials in the vicinity of parts of the site proposed for development.
 - b. Plans shall depict the removal and recompaction of artificial fill located in or adjacent to areas of proposed grading during landslide repair, grading operations for road construction, or development of individual private lots under the observation and testing of a registered engineer.
22. PRIOR TO APPROVAL OF A FINAL MAP FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN OR ISSUANCE OF A BUILDING PERMIT FOR THE ASSISTED CARE COMPONENT OF THE MASTER PLAN, the applicant shall demonstrate that a funding entity has been established to insure the effectiveness of long-term maintenance in mitigating the project's geotechnical and hydrologic impacts. This entity could be a homeowners' or property owners' association, an assessment district, or a Geologic Hazards Abatement District for the project site. The entity shall provide for the technical aspects of long-term maintenance to be handled by a geotechnical consultant and reviewed by the County. The professional consultant should follow a regular maintenance schedule and should prepare and submit progress reports to the County every six months for its review. Only site property owners would participate by paying taxes/fees into the fund. (Geology 5.1-13)

23. PRIOR TO APPROVAL OF A FINAL MAP FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the improvement plans shall include the construction of a stormwater detention/treatment basin to reduce peak flow impacts. The basin location shall be selected to minimize excessive topographic manipulation, even if one or more designated residential lots must be eliminated to accommodate its construction. Since stormwater quality impacts can be mitigated, in part, through the integration of water quality enhancements to normal detention basin design, the detention basin should be designed to serve a two-fold purposes: (1) fully attenuate 100-year peak flows from Sub-watersheds 2 and 3 to pre-project levels and, thus, reduce pressure on the downstream storm drain system – the Gallinas Creek tributary (i.e. Highway 101 box culvert); and (2) filter and cleanse stormwater runoff by use of a vegetated inlet swale and detention area (forebay). (Hydrology 5.2-2, 5.2-4, 5.2-10, 5.2-11) Other considerations shall include:
- a. Structure measures for normal pond dewatering and end-of-season (e.g. April) dewatering (fully) for mosquito control.
 - b. An emergency overflow spillway with appropriate energy dissipater at the outlet.
 - c. A monitoring and maintenance plan shall be prepared for the detention basin to ensure proper long-term basin functioning. The plan would include provisions for sediment removal and basin repair, as well as associated conditions governing the use of heavy mechanical equipment (e.g. backhoes, excavators) and environmental safeguards and procedures. This information shall be incorporated into the project's Stormwater Pollution Prevention Plan that is submitted to the Department of Public Works.
 - d. Prior to the release of the project performance bond, maintenance of the detention basin by a funding entity shall be established by the project applicant. Such an entity could choose to maintain the basin and other erosion and sediment control measures itself or could hire bonded independent contractors. Alternatively, this requirement would not be applicable if a public agency ultimately agrees to maintain the detention basin.
24. PRIOR TO APPROVAL OF A FINAL MAP FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the following measures shall be incorporated into the project to reduce impacts on downstream flooding due to inadequate storm drain system capacities. (Hydrology 5.2-3)
- a. The existing 18-inch storm drainpipe along the rear of 281 Ellen Drive shall be replaced with a 30-inch reinforced concrete pipe, as indicated in the project Schematic Grading Plan.
 - b. The gaps in the existing concrete, cross-slope interceptor ditch network and any other defects that could result in the diversion of ditch/hillslope runoff onto adjacent lots in the Marinwood Subdivision shall be repaired.

25. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT FOR EACH COMPONENT OF THE PROJECT, the applicant shall prepare and implement a comprehensive Stormwater Pollution Prevention Plan (SWPPP), which is submitted as part of the NPDES General Construction Activity Stormwater Permit (General Permit) filing with the State Water Resources Control Board. The SWPPP shall describe on-site measures for erosion control and stormwater treatment to be implemented during and following project construction, as well as a schedule for monitoring of performance. These measures are referred to as Best Management Practices (BMPs) for the control of point and non-point source pollutants in stormwater. BMPs incorporated in the project SWPPP would likely include in-situ protection, seeding, and mulching of bare ground, planting of trees and shrubbery in both disturbed upland and riparian areas, and installation of other forms of biotechnical slope stabilization, such as appropriately staked strawbale perimeters, silt fences, or staked plant wattles on the slope contour. Grading activities at the proposed Miller Creek crossing is allowed only during the period between May 1 and October 15. Grading in site areas outside of the SCA can occur during the winter season, as long as erosion control measures approved as part of the SWPPP are properly installed and properly maintained during this period. (Hydrology 5.2-7, 5.2-8, 5.2-11)
26. PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE ASSISTED LIVING FACILITY COMPONENT OF THE MASTER PLAN, the applicant shall acquire a 1603 Stream Alteration Agreement from the California Department of Fish and Game (CDFG). In addition to measures outline in the project SWPPP for graded or exposed soil surfaces, the applicant's construction contractor(s) and field engineer should implement temporary measures, where required, to minimize channel sedimentation during bridge construction. Due to the good quality stream habitat and culverting impacts to aquatic life, a bypass pipe through the work area is not appropriate. Some form of cofferdam segregating the work areas from the active channel would be preferred. All such measures would be described in the Stream Alteration Agreement submitted and would be subject to approval by the CDFG. The applicant shall also submit an application or letter of notification, as appropriate, to the U.S. Army Corps of Engineers for an Army Fill Permit, in accordance with provisions of the Nationwide Permit Program and acquire a Waiver of Water Quality Certification from the Regional Water Quality Control Board. (Hydrology 5.2-8, 5.2-10, 5.2-11)
27. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall demonstrate compliance with the following measures to minimize impacts on-site and downstream water quality. (Hydrology 5.2-10, 5.2-11)
- a. The stormwater detention basins recommended for construction as part of the program for peak flow mitigation should be designed to maximize their water quality treatment function. Proper configuration, sizing and inlet/outlet characteristics would maximize deposition of particulates in incoming stormwater and would favor the growth of emergent vegetation to facilitate filtering opportunities. Specific design characteristics for wet ponds are listed in the California Storm Water Best Management Practices Handbook for Construction Activity.
 - b. Due to the close proximity to the sensitive wetland and aquatic habitats in the receiving waters of Miller Creek and lower Gallinas Creek, the following Best Management Practices are considered a minimum for Oakview stormwater treatment to comply with the requirements of the NPDES General Permit and provisions of Title 24 of the Marin County Code (24.04.625), citing erosion control requirements associated with site grading.
 - c. A regular schedule of street and parking lot sweeping shall be instituted. The frequency of cleaning should be higher (e.g. twice monthly) during the winter rainy season, yet maintained year-round. Regular cleaning of paved surfaces reduce the "first flush" phenomenon wherein the highest concentration of contaminants are flushed off the surfaces during the early portion of a runoff event.

- d. Grass-lined swales shall be incorporated to convey stormwater from paved surfaces to creek channels or wetlands. Grass-lined swales filter particulates from stormwater and, as a result, reduce the entry of heavy metals and contaminated sediments to drainageways. The current development plan includes one grass-lined (i.e. vegetated) swale each toward the lower end of Sub-watersheds 2 and 3, although the one proposed for Sub-watershed 2 would not provide significant water quality benefits. Two additional swale locations could be integrated into the project design for Sub-watershed 6 stormwater drainage. The first swale would extend downslope from the eastern edge of the Lot 30 parking lot to the top of the existing cut-slope, at the freeway interface. The second swale would extend from the northernmost storm drain inlet along Roadway C (Marinwood Avenue extension), parallel to the freeway, to the southern bank of Miller Creek. To forestall excessive rilling within such swales, it may be necessary to install biodegradable fabric along the swale flowline. Initially, the swale may need to be irrigated along with the landscaping.
 - e. All disturbed areas shall be revegetated prior to the onset of each winter rainy season during and for 2-3 years following completion of construction. Use of an erosion control grass and forb mixture, favoring native species, would be best suited to this task. In addition, some type of surface erosion protection (e.g. jute netting, erosion control blankets, punched straw) should be installed to reduce the erosive energy of incoming raindrops for the first couple of winter seasons.
 - f. An irrigation scheduling and chemical management plan shall be prepared and implemented to govern the application of irrigation water and chemical amendments to landscaped areas adjacent to buildings and within or adjacent to parking lot facilities. Components of such a plan would likely include an irrigation schedule linked to soil moisture levels or related variables such as temperature, humidity and wind speed. Specific chemical inputs proposed for application to vegetation should be among those tested and cleared for use by the USEPA. Frequency and scheduling of these chemical inputs should also be indicated, based on-site-specific characteristics (e.g. soil and vegetative cover and rates of uptake) and the acknowledged sensitivity of downstream receiving waters.
28. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN, the applicant shall submit a detailed Landscape and Vegetation Management Plan in consultation with a plant ecologist experienced in management of native species. The Plan should be incorporated into the final landscape plan prepared as a part of the Precise Development Plan and should: (1) provide for re-establishment of native vegetation on graded slopes around the fringe of the proposed development; (2) provide details on native plantings associated with proposed restoration, enhancement, and mitigation; (3) establish a program to salvage suitable native plants for use in landscaping and revegetation; (4) identify unsuitable species which should not be used in landscaping; (5) control the establishment and spread of introduced broom; and (6) specify long-term management provisions to ensure re-establishment of landscape improvements. Aspects of the plan should include the following. (Biological Resources 5.3-1a)
- a. Landscaping and revegetation should emphasize the use of native plant species along the fringe of proposed structures and grading. Plant lists should be expanded to include valley oak (*Quercus lobata*), California buckeye (*Aesculus californica*), California rose (*Rosa californica*), common rush (*Juncus patens*), creeping wildrye (*Leymus triticoides*), purple needlegrass (*Nassella pulchra*), iris-leaved rush (*Juncus xiphioides*), and slender rush (*Juncus tenuis*).

- b. Suitable tufts of native grasses to be removed by the project should be salvaged before grading and used in landscaping and revegetation, providing a source of mature plants and re-establishing much of the desirable local cover which otherwise would be lost with development. The anticipated limits of grading should be flagged, and plant material suitable for use in the salvage program should be marked, carefully removed, and stored. The salvage material should be transplanted to selected mitigation areas at the appropriate time of the year before grading (generally in October and November), with maintenance provided as necessary to ensure re-establishment.
 - c. Non-native ornamental species used in landscape plantings should be restricted to the immediate vicinity of streets and development areas on residential lots on Parcel 1 and the parking lots and buildings on Parcel 2. The landscape plan should prohibit use of invasive non-native species which may spread into adjacent undeveloped areas. Unsuitable species include blue gum eucalyptus (*Eucalyptus globulus*), acacia (*Acacia* spp.), pampas grass (*Cortaderia selloana*), broom (*Cytisus* and *Genista* spp.), gorse (*Ulex europaeus*), bamboo (*Bambusa* spp.), giant reed (*Arundo donax*), English ivy (*Hedera helix*), German ivy (*Senecio milanioides*), and periwinkle (*Vinca* sp.), among others.
 - d. Species planted adjacent to retained woodlands should be native to the site, and "other trees offering seasonal color" should be eliminated from the Conceptual Landscape Plan.
 - e. Graded slopes and areas disturbed as part of the project should be monitored to prevent establishment and spread of French and Scotch broom. Removal and monitoring should include annual late winter removal of any rooted plants when soils are saturated and cutting back of any remaining flowering plants in the spring before seed begins to set in late April.
 - f. The landscape plan should specify provisions to maintain landscaping and graded slope revegetation with replacement plantings and seeding for a minimum of five years to ensure re-establishment of cover.
29. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN, the applicant shall submit a plan that would prevent vehicles and motorcycles from traveling off designated roadways in order to prevent further disturbance to grassland cover and other vegetation. (Biological Resources 5.3-1b)
30. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the applicant shall demonstrate that the development envelope shown on the Master Plan's Residential Area Layout has been revised to minimize tree removal within the building envelope areas. Deed restrictions or some other mechanism should be established over individual lots to prevent possible tree removal and disturbance of other native vegetation outside the identified building envelopes. Trees adjacent to building envelopes on Lots 8, 9, and 10 should be thinned or pruned under the guidance of a certified arborist rather than removed during house construction and yard landscaping. (Biological Resources 5.3-2a)
31. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the applicant shall demonstrate that trees near the limits of anticipated grading would be preserved and protected where feasible from an engineering and geotechnical standpoint and warranted based on the good to excellent health and structure of the tree. Individual specimen-sized trees should be preserved by retaining walls, short over-steepened slopes, and other methods. Protection of larger native trees with trunk diameters exceeding 24 inches should take precedence over smaller live oaks and California bay which are abundant in the woodland habitat. (Biological Resources 5.3-2b)

32. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the applicant shall submit detailed guidelines, prepared by a certified arborist, to protect trees to be preserved from possible damage. Trees to be retained should be identified in the field with flags or other obvious marking method before any grading. Standards contained in the preservation guidelines should include the following. (Biological Resources 5.3-2c)
- a. Grade changes should be avoided within 1.5 times the width of the tree dripline, and any encroachment should be prohibited closer than one-third the distance from the dripline to the trunk. Restrictions on the limits of grading, adjustments to the final grade of cut and fill slopes, and use of retaining walls should all be used to protect individual trees worthy of preservation.
 - b. Temporary fencing should be provided along the outermost edge of the dripline of each tree or group of trees to be retained in the vicinity of grading to avoid compaction of the root zone and mechanical damage to trunks and limbs.
 - c. Paving within the tree dripline should be prohibited or stringently minimized by using porous materials such as gravel, loose boulders, cobbles, wood chips, or bark mulch where hardscape improvements are necessary for access in the vicinity of trees.
 - d. Trenching within the tree dripline should be prohibited, and any required utility line within the dripline should be installed by boring or drilling through the soil.
 - e. The amount of landscape irrigation within the tree dripline should be minimized by prohibiting turf or any landscaping with high water requirements and by limiting permanent irrigation improvements to bubbler, drip, or subterranean systems.
 - f. Storage of construction equipment, materials, and stockpiled soils should be prohibited within the tree driplines.
 - g. The precise lot lines for Lots 8, 9, and 10 and the adjacent lots shall be selected to maintain maximum flexibility and setbacks in siting the future homes in order to protect the three oak trees.
33. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the applicant shall submit a tree replacement program to provide for replacement of native trees removed by proposed development. The tree replacement program should be included as a component of the project's Landscape and Vegetation Management Plan and implemented as part of site revegetation and landscaping. Provisions of the tree replacement program should include the following. (Biological Resources 5.3-2d)
- a. Oaks and other native trees should be replaced at a ratio of 2:1 (ratio of replacement trees to number of trees removed).
 - b. Species composition of plantings in the tree replacement program should generally be consistent with the percentage of each tree species removed. If off-site nursery stock is used for replacement plantings, plants preferably should be seedlings with a container size of one-gallon or smaller. Younger plant material tends to have a higher survival rate than older nursery stock which has become established under ideal growing conditions provided at most nurseries.
 - c. A program to collect seed and grow seedlings for use in the tree replacement program should be considered as part of the tree replacement program. Seed should be collected on-site in the fall months, planted in temporary containers, and maintained for a period of one or more years until seedlings are ready for planting. Oak seedlings grown from an on-site seed source would be preferable to use of off-site nursery stock, and this program should be encouraged.

- d. If trees proposed for removal are successfully salvaged and transplanted, no additional replacement mitigation should be required for those trees.
 - e. Tree replacement plantings should be monitored as part of the Landscape and Vegetation Management Plan for a minimum of five years. If mature salvaged trees die within this time period, replacement plantings should be made at the 2:1 ratio. Any on-site salvage, locally-collected and grown seedlings, or nursery stock plantings lost within this monitoring period should be replaced at a 1:1 ratio on an annual basis.
34. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN, the applicant shall submit a grassland restoration and enhancement program to mitigate the loss of native grasslands disturbed by proposed development which provides for replacement of native grasslands at a 1:1 ratio, meets or exceeds the cover class lost, and emphasizes the use of purple needlegrass and California oatgrass. A qualified plant ecologist experienced in grassland restoration using native grasses should prepare the program. The grassland program should be included as a component of the Landscape and Vegetation Management Plan required for the project and should be implemented as part of site revegetation and landscaping. Provisions of the grassland program should include. (Biological Resources 5.3-3)
- a. Deed restrictions or some other mechanism should be established over individual lots to prevent removal of native grasslands outside the building envelopes, particularly in the area of Lots 2 to 7, 17 to 20, 27, and 28.
 - b. Native grasslands disturbed by proposed development should be restored and replaced at a minimum 1:1 ratio with replacement provided on a per acre basis for each cover class lost. Success criteria for replacement should provide for establishment of native grasslands which meet or exceed the cover class of the existing stands lost as a result of development.
 - c. Replacement grasslands should be consolidated to the degree feasible to improve the value of the currently scattered stands, expanding the extent of native grasslands in the proposed open space in the southern part of the site, and used to revegetate the graded slopes above the proposed office area and recommended wetland mitigation area.
 - d. Prior to construction, the boundary of proposed grading within or adjacent to stands of native grasslands to be preserved should be clearly staked with color-coded flags set at 50-foot intervals, and disturbance from construction equipment operation, storage, or other activities should be prohibited inside the delineated "no disturbance zone." Native grasslands within the limits of grading should be considered as possible salvage material to be used in the replacement program.
 - e. Tree plantings shown in the Conceptual Landscape Plan and replacement plantings required for anticipated tree removal should be restricted to outside the existing and restored native grasslands.
 - f. The program should identify the on-site mitigation areas and acreage, specify performance criteria, maintenance, and long-term management responsibilities, monitoring requirements, and contingency measures, and define site preparation, revegetation procedures, and an implementation schedule.

35. PRIOR TO APPROVAL OF THE FIRST PRECISE DEVELOPMENT PLAN, the applicant shall submit a detailed wetland protection, replacement, and restoration program, prepared by a qualified wetland consultant, which satisfies adopted standards and criteria of the County, Corps, CDFG, and RWQCB. The program should be prepared as a component of the required Landscape and Vegetation Management Plan at the Precise Development Plan stage of the County's planning and project approval process and should be implemented as part of site revegetation and landscaping. The wetland plan should clearly identify the total wetland and other jurisdictional area affected by the project, replace wetland habitat at a minimum 2:1 ratio (consistent with County policy), and provide for re-establishment, enhancement, and / or replacement of wetland vegetation. Details of the plan should include the following. (Biological Resources 5.3-4a)
- a. The location(s) of mitigation areas shall be identified. Mitigation for loss of existing wetlands should be provided at a minimum replacement ratio of 2:1, consistent with *The Marin Countywide Plan*, and should result in created or restored wetlands with a higher habitat value than that of the lost wetland areas.
 - b. Replacement wetlands should preferably be located on-site, but could include consideration of both on-site and an off-site location in the general vicinity. Use of the southeastern portion of the site for wetland mitigation would be unacceptable given that this area will most likely be developed with freeway interchange improvements in the future.
 - c. Performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures shall be specified. Monitoring should be provided for a minimum of five years and continue until the success criteria are met.
 - d. Site preparation and revegetation procedures, an implementation schedule, and funding sources to ensure long-term management of the overall wetland mitigation plan shall be specified.
36. PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN, the applicant shall submit a detailed erosion and sedimentation control plan, which would be implemented during construction on the site. The plan should contain detailed measures to control erosion of stockpiled earth and exposed soil, provide for revegetation of graded slopes before the first rainy season following construction, and specify procedures for monitoring the plan's effectiveness. The revegetation component of the plan should be consistent with the required Landscape and Vegetation Management Plan. (Biological Resources 5.3-4b)
37. PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN FOR THE ASSISTED LIVING COMPONENT OF THE MASTER PLAN, the applicant shall demonstrate that the design of the bridge or arched culvert proposed for the Marinwood Avenue crossing of Miller Creek would minimize disturbance to jurisdictional waters and riparian vegetation and conforms with the County's minimum roadway width standards and would restrict abutments to the upper channel banks. Construction should be performed during the low flow period in the creek (from June through October), and construction debris should be kept outside of the creek channel by using silt fencing or other effective methods. Replacement planting with native trees and shrubs should be provided adjacent to the structure as part of mitigation following completion of bridge construction. (Biological Resources 5.3-4c)

38. PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN FOR THE ASSISTED LIVING COMPONENT OF THE MASTER PLAN, the following measure would be required to mitigate impacts on wildlife resources. (Biological Resources 5.3-6)
- a. Disturbance within the Miller Creek corridor on the site should be minimized to protect its function for fish and wildlife movement. The proposed bridge or arched culvert crossing should be designed to avoid impeding movement of fish and wildlife along the creek channel, and drop structures under the bridge should be prohibited. Improvements to the existing creekside path should be limited to stabilizing and possibly surfacing, and lighting should be prohibited along the path to minimize disrupting creek use by wildlife at night.
39. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT, the following measures would be required to mitigate impacts on special-status species. If any active raptor nests are established within the vicinity of proposed grading in the future, they should be avoided until young birds are able to leave the nest (fledge) and forage on their own. Avoidance may be accomplished either by scheduling grading and tree removal during the non-nesting period (August 15 through January 14) or, if this is not feasible, by conducting a pre-grading survey for raptor nests. Provisions of the pre-grading survey effort, if necessary, should include the following. (Biological Resources 5.3-7)
- a. If grading is scheduled during the sensitive nesting period (January 15 through August 14), a qualified wildlife biologist, chosen by the County and paid for by the applicant, should conduct a pre-grading raptor survey to confirm the presence or absence of active nests in the vicinity of proposed construction activities.
 - b. If active nests are encountered, the biologist should prepare and implement species-specific measures to prevent abandonment of the active nest(s). At a minimum, grading in the vicinity of a nest's tree should be deferred until the young birds have fledged, and a construction-disturbance setback of at least 300 feet should be provided. Grading or other disturbance in the vicinity of the nest should not be permitted until the biologist confirms that the young raptors have fledged. The biologist should submit a survey report to the County verifying that the young have fledged before grading in the construction-disturbance setback area is initiated.
 - c. As necessary, representatives of the CDFG and USFWS should be consulted about appropriate construction restrictions, building setbacks, landscape screening, and other methods to ensure compliance with the Migratory Bird Treaty Act and provisions of the State Fish and Game Code.
40. PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the applicant shall submit a landscape plan which implements the proposed project landscaping (which includes street trees, a 20-foot wide landscaped area between existing homes on Ellen Drive and Lisa Court and the proposed homes, and the project site landscaping along Lucas Valley Road) as shown in the Conceptual Landscape Plan. This would break up the form and lines of project site development. (Visual 5.4-1, 5.4-3, 5.4-4)

41. PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN, the following measures would be required to be incorporated into the Precise Development Plan to mitigate visual impacts. (Visual 5.4-2)
- a. Shield or focus outdoor night lighting downward and select roadway and pavement surfaces to minimize upward reflected light.
 - b. Recess lighting elements within fixtures to prevent glare.
 - c. Conceal lights to avoid glare and avoid placing lights too close to objects to prevent reflected glare.
 - d. Avoid high-angle high-candela distribution.
 - e. Select lighting fixtures which can be shielded after installation, if a problem is identified.
 - f. Because light trespass effects are subjective and site-specific, quantifiable criteria (such as controlling the amount of luminescence or restricting certain angles of lighting) usually cannot be identified. For this reason, the applicant should consult a lighting design specialist to determine light source locations, light intensities, and types of light sources for the assisted living facility. A lighting plan for site roadways and public areas (such as assisted living facility parking lots) should be incorporated in the Precise Development Plan as a condition of Master Plan approval.
42. PRIOR TO OCCUPANCY FOR THE ASSISTED LIVING COMPONENT OF THE MASTER PLAN, the applicant shall implement the proposed project landscaping (which includes landscaping around the assisted living facility area) as shown in the Conceptual Landscape Plan in order to break up the form and lines of the building. (Visual 5.4-5)

43. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT, the applicant shall demonstrate that measures to reduce dust and equipment exhaust emissions have been incorporated into the construction plans. Implementation of the following measures would reduce the dust impacts associated with grading and new construction. (Air Quality 5.6-3)
- a. All active construction areas shall be watered at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
 - b. All hauling trucks shall be covered or at least two feet of freeboard shall be maintained.
 - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
 - d. 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.
 - e. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas that are inactive for 10 days or more).
 - f. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.
 - g. Limit traffic speeds on any unpaved roads to 15 mph.
 - h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - i. Replant vegetation in disturbed areas as quickly as possible.
 - j. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
 - k. Install wind breaks, or plant trees / vegetative wind breaks on the windward side(s) of construction areas.
 - l. Suspend excavation and grading activity when winds cause dust clouds to extend beyond the construction site and affect nearby land uses.
 - m. Limit the area subject to excavation, grading, and other construction activity at any one time.
 - n. Properly maintain construction equipment and avoid unnecessary idling near residences.
 - o. Designate a disturbance coordinator that would respond to complaints regarding construction-related air quality issues. The phone number for this disturbance coordinator shall be clearly posted at the construction sites.

44. PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN FOR THE RESIDENTIAL COMPONENT OF THE MASTER PLAN, the applicant shall demonstrate that the following measures have been incorporated into the project to reduce the impact of noise exposure on future residential use of proposed Lots 27 and 28. (Noise 5.7-1)
- a. Design property-line privacy fences to shield the backyards of Lots 27 and 28. Fences should be six feet high and of solid construction so that there are no cracks or gaps either in the fence itself or at the bottom. A double-sided wooden fence or board-on-board construction consisting of a minimum of three-quarter-inch thick wood would provide the necessary sound attenuation. A masonry sound wall of the type discouraged by County policy would not be required. Lot-by-lot site plans submitted to the County during design review should show the noise reduction solution selected.
 - b. Depending on proposed site orientation and noise shielding (in response to the immediately preceding measure), design and build (or require the future homeowners to build) second floors of housing units on Lots 27 and 28 with mechanical ventilation so that windows can be closed to achieve interior noise criteria.
45. PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT, the applicant shall demonstrate that measures would be undertaken during all phases of construction to minimize exposure of neighboring properties to excessive noise levels from construction-related activity. The type of construction, site location, and noise sensitivity of nearby land uses would determine the hours of construction to be established by the Community Development Agency. The conditions of approval would specify hours for staging and type of construction activities. The following measures would be required to mitigate the project's short-term construction noise impacts. (Noise 5.7-3)
- a. Adequately muffle and maintain all equipment used on the project site. All internal combustion engine-driven equipment should be fitted with intake and exhaust mufflers which are in good condition. Good mufflers with quieted compressors should result in all non-impact tools generating a maximum noise level of 85 dB when measured at a distance of 50 feet.
 - b. Powered construction equipment should be turned off when not in use.
 - c. Assign a disturbance coordinator to be available on-site during construction.
 - d. Clearly post the name and telephone number of the disturbance coordinator so that neighbors have a contact person at the project site with whom to discuss problems and who can facilitate resolution of these problems.
 - e. Confine residential construction to 8:00 AM to 5:00 PM on weekdays, at least during periods when construction is taking place within 1,000 feet of the nearest existing homes. Construction hours for activity in other parts of the site could be lengthened as appropriate, including commercial construction on Parcel 2.
46. PRIOR TO APPROVAL OF A PRECISE DEVELOPMENT PLAN, the applicant shall demonstrate that the following measures have been incorporated into the design of the project to reduce the potential impacts of wildland fires. (Public Services 5.8-2)

- a. A Fire Management Plan shall be prepared and shall include both a Vegetation Modification Plan (to ensure that a minimum defensible space -- 30 to 100 feet depending on specific site conditions -- would be provided by reducing flammable vegetation and fuel load) and a Vegetation Maintenance Plan (to describe the on-going annual vegetative maintenance program). The annual Vegetation Maintenance Plan reports would address the site's fire hazards based on fuel load, slope, aspect, topography, and other factors and should determine priority problem areas on the site where fire safety measures should be emphasized. Approval of the Fire Management Plan by the MFD would be required before construction, and implementation would be required prior to framing. Because the Master Plan does not yet describe long-term site maintenance aspects of the project (such as establishment of a homeowners' association or equivalent organization composed of all the site's residential, office, and open space landowners), the Vegetation Maintenance Plan should establish a mechanism and identify who would be responsible for implementing all elements of the Plan.
 - b. New plantings of trees and vegetation with a high fire risk (such as Bishop Pine [*Pinus muricata*], Tan Oak [*Lithocarpus densiflorus*], California Bay [*Umbellularia californica*], and Coyote Brush [*Bacharis pilularis*]) should be prohibited within the defensible space zone of buildings. Existing trees with a high fire risk within the defensible space zone of buildings (such as California Bay) could be retained with permission of the Marinwood Fire Department and would require special consideration in the Vegetation Management Plans, as described below. Resistant plantings should be encouraged (such as Coast Live Oak (*Quercus agrifolia*), Pacific Wax Myrtle (*Myrica californica*), California Lilac (*Ceanothus* spp.) and Toyon (*Heteromeles arbutifolia*)), all of which are included in the Conceptual Landscape Plan.
 - c. The applicant and individual residential or assisted care developers should be responsible for implementing the following fire prevention measures during construction. These should include (but not be limited to) the following:
 - 1) Installing all project roadway and water requirements before any residential sidewall construction on the site, consistent with Section 10.502 of the *Uniform Fire Code*.
 - 2) Clearing brush and other potential fire fuel around construction areas.
 - 3) Maintaining and clearly marking on-site fire response equipment (such as fire extinguishers, fire retardant blankets, shovels, buckets, etc.) at each construction area.
 - 4) Ensuring that all construction workers are trained to use on-site fire response equipment and workplace safety measures.
 - 5) Locating and clearly identifying a cellular phone or other communication device on-site at all times during construction.
47. The following off-site traffic improvements shall be developed in conjunction with the subsequent development of the assisted care component of the Master Plan.
- a. The applicant shall pay the project's fair share cost toward the signalization of the Miller Creek Road / northbound Highway 101 off-ramp intersection prior to issuance of a building permit associated with the subsequent development of the assisted living component of the Master Plan. The EIR has identified that the applicant's fair share is 6% of the approved design and construction budget. (Traffic 7.0-3[e])
 - b. The applicant shall pay the project's fair share cost toward the signalization of the Miller Creek Road / southbound Highway 101 off-ramp intersection. The fees shall be paid prior to issuance of a building permit associated with the subsequent development of the assisted living component of the Master Plan.

The EIR has identified that the applicant's fair share for this intersection is 60% of the approved design and construction budget. (Traffic 7.0-1[c], 7.0-2[c], 7.0-3[c])

- c. The intersection of Miller Creek Road and Marinwood Avenue shall be signalized. (Traffic 7.0-1[a], 7.0-2[a], 7.0-3[a])

- d. The applicant will pay the project's fair share cost toward the signalization of the Miller Creek Road / Las Gallinas Avenue intersection prior to issuance of a building permit associated with the subsequent development of the assisted living center component of the Master Plan. The EIR has identified that the applicant's fair share for this intersection is 5% of the approved design and construction budget. (Traffic 7.0-3[d])

SECTION III: VESTING

NOW, THEREFORE BE IT FURTHER RESOLVED that the Master Plan shall be valid for a period of two years from the date the ordinance approving the Master Plan was adopted. The Master Plan for the 28-unit residential and assisted living components of the development shall be vested individually through approval of separate Precise Development Plan applications. Extensions of time may be granted in compliance with Marin County Code Section 22.44.050.C for a maximum of four years following the original date of expiration provided the applicant files an extension application, accompanied by the appropriate filing fees, prior to the expiration of the Master Plan.

SECTION IV: VOTE

PASSED AND ADOPTED at a special meeting of the Planning Commission of the County of Marin, State of California, on the 6th day of December, 2004, by the following vote to wit:

AYES: Berland, Thompson, Barner, Dickenson, Greenberg, and Holland

NOES:

ABSENT: Julin

ALLAN BERLAND, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC 04-026

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A RESOLUTION APPROVING THE OAKVIEW LAND DIVISION 95-001

200 LUCAS VALLEY ROAD, SAN RAFAEL
ASSESSOR'S PARCEL 164-270-03

SECTION I: FINDINGS

- I. WHEREAS Irving Schwartz, submitted a Land Division application, on behalf of Virginia Daphne and Edward Bacciocco, to subdivide the 106.3-acre property into two lots for future residential and assisted living development. Proposed Lot 1 would reserve 15.3 acres for a maximum 28 detached single-family residential lots, 1.8 acres of public right-of-way, 34.2 acres of open space, and 0.6 acres for freeway interchange improvements, for a total of 51.9 acres. Proposed Lot 2 would reserve 11.0 acres for a maximum 94,400 square foot assisted living facility, 34.6 acres of open space, and 8.8 acres for freeway interchange improvements, for a total of 54.4 acres. The property is located at the northwestern quadrant of the U.S. Highway 101/Lucas Valley Road interchange, on property addressed as **200 Lucas Valley Road, San Rafael**, and further identified as **Assessor's Parcel 164-270-03**.

- II. WHEREAS a Final Environmental Impact Report (EIR) was prepared for the project for compliance with the California Environmental Quality Act (CEQA). The Draft EIR, Final EIR, Final EIR Response to Comments Amendment, and Amendment to the Final EIR have been reviewed and considered by the Planning Commission for adequacy, completeness and compliance with CEQA, State CEQA Guidelines, and County Environmental Review Procedures. The Planning Commission finds that the Amendment to the Final EIR does not trigger recirculation of the EIR pursuant to Section 15088.5 of the CEQA Guidelines because the revisions do not result in significant new information or new significant environmental impacts or a substantial increase in the severity of the environmental impacts.

- III. WHEREAS the Marin County Planning Commission held a duly-noticed public hearing on December 6, 2004 to consider the merits of the proposed project, and hear testimony in favor of, and in opposition to, the project.

- IV. WHEREAS the Marin County Planning Commission finds that the proposed Land Division is consistent with the Marin Countywide Plan based on the following factors.
 - A. The proposed two-lot Land Division will result in a residential density of 0.019 units per acre which is below the density range of between one unit per acre to one unit per 10 acres that is established by the Countywide Plan's City Centered Corridor's PR (Planned Residential) land use designation for this property. (*Environmental Quality Policy EQ-1.1 and Community Development Policies CD-1.1, CD-8.5, CD-10.2*)

 - B. The proposed project is consistent with the CWP's Stream Conservation Area ("SCA") policies. The overriding objective of the SCA policies is to preserve, protect, and enhance existing species and habitat diversity from erosion, sedimentation, pollution and habitat destruction. Streams and their riparian and woodland habitat are irreplaceable and should be protected as essential environmental resources because of their values for erosion control, water quality, fish and wildlife, aesthetics, recreation, and the health of human communities. No development is proposed within the SCA, with exception of a future bridge and

roadway crossing, which is an allowed use within the SCA. Mitigations established in the EIR would require that the bridge or arched culvert crossing of Miller Creek be designed to minimize disturbance to riparian vegetation and disturbance to the creek channel and to replace all trees and shrubs that are removed within the SCA. The project would also include erosion control measures to minimize surface runoff and deposit of sediment into Miller Creek. (*Environmental Quality Policies EQ-1.1, EQ-2.3, EQ-2.4, EQ-2.5, EQ-2.8, EQ-2.9, EQ-2.10, EQ-2.11, EQ-2.18, EQ-2.18, EQ-2.19, EQ-2.20, EQ-2.21, EQ-2.22, EQ-2.23, EQ-2.24, EQ-2.26*)

- C. The project would be consistent with the CWP's policies which discourage development in natural resource areas and CWP's restrictions on development in areas which contain special status species and migratory species and significant natural areas, wetlands, riparian habitats, and freshwater habitats. The EIR found that the project would have less-than-significant impacts on all special-status species and communities and would not cause irreversible damage to hydrological or biological processes. Any active raptor nests that are established within the vicinity of proposed grading would result in the implementation of measures to avoid impacts to the nest until the young birds have fledged the nest. Mitigations requiring the project to minimize disturbance of the wildlife corridor along Miller Creek would minimize potential impacts on fish and wildlife species. (*Environmental Quality Policies EQ-2.87, EQ-2.88, EQ-3.4, EQ-3.6, Community Development Policy CD-2.7*)
- D. The project would not affect geologic, archaeological or historic sites. The project would not affect potential archaeological or cultural resources since none were found at the site. Native grasslands and freshwater seeps and wetlands that are removed by the project would be required to be replaced at a ratio of 1:1 for native grasslands and 2:1 for wetlands. The conceptual landscape plan includes a stipulation that non-native plants will be discouraged and/or prohibited. (*Environmental Quality Policies EQ-3.5, EQ-3.13, EQ-3.27, EQ-3.30*)
- E. Consistent with applicable CWP policies, the project has been designed to avoid hazards from earthquake, erosion, landslide, floods, and fires, and would result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. Although some incursion into sensitive woodland habitat, native grasslands, freshwater seeps and wetlands would occur, the EIR would require that residential building envelopes be revised to minimize tree removal and for grassland and wetland restoration to be incorporated into the final design of the project. The project would avoid known geologic hazards, including ancient bedrock landslides. (*Environmental Quality Policy EQ-3.8, Community Development Policy CD-2.7, Environmental Hazards Policies EH-3.1, EH-3.2, EH-5.4*)
- F. The project has been designed to avoid or minimize the hazards from earthquakes, erosion, landslides, floods, fire, and accidents consistent with the CWP's Environmental Quality and Environmental Hazards elements. The final project design would be based on geotechnical investigations by civil engineers with soils engineering expertise and soils certified engineering geologists, and would employ engineering measures that avoid and minimize against life and safety risks from seismic ground shaking hazards, including those relating to construction on expansive soils. All grading and structures would conform to applicable minimum earthquake design standards. (*Environmental Quality Policy EQ-3.7, Environmental Hazards Policies EH-3.1, EH-3.2, EH-5.1, EH-5.2, EH-5.4, EH-6.1, EH-6.3*)
- G. The two-lot Land Division would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services and facilities. To minimize the risk of fires and ensure adequate fire protection, the Marinwood Fire Department would ensure that the proposed project meets minimum fire safety codes and standards and incorporates into its design adequate water resources, fire suppressant systems, fire-resistant materials, vegetation clearances from structures, irrigated landscaping, and adequate access. Public services are available to serve the development. The Marinwood Community Services District would provide parks and recreation and fire protection services. The Marin Municipal Water District has sufficient water supplies for domestic and fire protection

purposes to service the proposed development. Sewage treatment is proposed to be provided from the Las Gallinas Sanitary District. The Dixie Elementary School District and the San Rafael High School District have adequate capacity to accommodate the additional students that are expected to be generated by the proposed project. The project would also provide adequate recreation, open space, and public access through designation of 67.7 acres for open space along with trail improvements along Miller Creek and future pedestrian and bicycle connections through the site. (*Environmental Quality Policies EQ-2.27, EQ-3.9, EQ-3.10, EQ-4.1, and Environmental Hazards Policy EH-11.3*)

- H. The project would comply with applicable policies on preserving the visual qualities of the built environment and to ensure that structures are in scale with environmental constraints and the character of the surrounding neighborhood. The project complies with the visual quality policy by minimizing tree removal to 23 trees. (*Environmental Quality Policies EQ-3.11, EQ-3.14*)
 - I. The project has been designed to minimize the amount of grading and to limit it to the construction of building pads, streets, and parking areas. Retaining wall construction has either been avoided due to the proposed slopes, or minimized to the extent feasible. Much of the proposed grading is necessary for remediation of on-site landslides to remove geotechnical hazards. (*Environmental Quality Policy EQ-3.16*)
 - J. The project would comply with CWP standards for traffic congestion by ensuring that traffic generated by the project and by cumulative development in the area would result in intersection levels of service of "D" or better. (*Transportation Policies T-1.1, T-1.3*)
 - K. The project would comply with the CWP's policies by providing inclusionary housing units that would be affordable to very low and low income households. (*Housing element Policies H3.19, H3.26, H4.1, H4.2*)
 - L. Based on the cost-revenues analysis that was prepared as part of the EIR, the project would pay its fair share of the cost of public services. (*Community Development Policy CD-7.3, Community Facilities Policy CF-5.2*)
 - M. Although the CWP does not designate any trails through the project site, the Master Plan proposes to improve the existing pathway along Miller Creek and to dedicate a pedestrian and bicycle trail easement that would connect Marinwood Avenue with Lucas Valley Road. (*Trails Policy TR-1.3*)
- V. WHEREAS the Marin County Planning Commission finds that mandatory findings for approval of a Land Division, pursuant to Marin County Code Section 22.84.060, could be made for the project, as follows.
- A. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the Marin Countywide Plan, Local Coastal Program, and any applicable Community Plan and Specific Plan, and that none of the findings for denial in Subsection D below (Findings Requiring Denial) can be made. The findings shall apply to each proposed parcel as well as the entire subdivision, including any parcel identified as a designated remainder in compliance with Map Act Section 66424.6.

The project is consistent with the Marin Countywide Plan based on the findings that are noted in Section IV above. None of the findings requiring denial of the Tentative Map could be made based on the Subsection D below.

- B. In addition to the findings required for approval of a Tentative Map by Subsection A. above (Required Findings for Approval), the following findings are also required when they are applicable to the specific subdivision proposal.

- 1. It is in the interest of the public health and safety, and it is necessary as a prerequisite to the orderly development of the surrounding area, to require the construction of road improvements within a specified time after recordation of the Parcel Map, where road improvements are required (see Section 22.82.080).**

Road improvements are not proposed or required in conjunction with the two-lot Land Division application at this time. For Lot 1 of the Tentative Map, the road improvements to the future residential subdivision would be required at the time of the subsequent review of a Tentative Subdivision Map. Road improvements to Lot 2 would be required in conjunction with the subsequent review of a Precise Development Plan for the future assisted living facility.

- 2. Any findings required by Sections 22.88.030 (Condominium Conversions) for condominium conversions.**

This finding is not applicable to the project.

- C. If waiver of a Parcel Map has been requested with the Tentative Map application, the review authority shall determine whether the findings required by Section 22.86.030 (Waiver of Parcel Map) can also be made.

Since the project does not include a request for a Parcel Map waiver, this finding does not apply to the project.

- D. The following findings for denial of a Tentative Map and as required by State Subdivision Map Act Section 66474, cannot be made to deny the project.

- 1. The proposed subdivision including design and improvements is not consistent with the Marin Countywide Plan or an applicable Community Plan or Specific Plan.**

The proposed Land Division is consistent with the Marin Countywide Plan. The 106.3-acre property is located within the City Centered corridor and is proposed to be divided into two separate lots for future development of a maximum 28-unit residential subdivision and an assisted living facility, consistent with the Planned Residential land use designation for the property. The proposed two-lot Land Division will result in a residential density of 0.019 units per acre which is below the density range of between one unit per acre to one unit per 10 acres that is established by the Countywide Plan's City Centered Corridor's PR (Planned Residential) land use designation for this property. Additionally, the location, layout, and design of the two lots, and future building envelopes, vehicular access, utilities, and landscaping will: (1) meet design goals and policies established regarding vegetation preservation, grading, ridgeline development, open space, and retention and preservation of the natural beauty and quality of life in the North San Rafael area; and (2) satisfy requirements established in Titles 22 (Zoning and Subdivision) and 24 (Development Standards), including those which address building height, off-street parking, and development guidelines minimizing grading and tree removal for future residential improvements.

- 2. The site is not physically suitable for the type or proposed density of development.**

The site is physically suitable for the type of development because each of the two proposed lots would have sufficient land area and be underlain by adequate geological materials to support future development of a 28-unit residential subdivision and a 94,400 square foot assisted living facility with County-approved access, utilities, and services without resulting in a significant disruption to the surrounding natural and built environments. The project would not create adverse environmental impacts relating to unstable soil conditions, archeological disturbances, and drainage alterations.

3. The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or injure fish or wildlife or their habitat.

The design of the Land Division and improvements will not cause substantial adverse environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the EIR that was prepared for development of the property concluded that, with the mandatory mitigations, no portion of the project will result in significant and adverse effects on wetlands and streams and associated sensitive habitat areas for special status species of plants or animals.

4. The design of the subdivision or type of improvements is likely to cause serious public health or safety problems.

The design of the Land Division and improvements is not likely to cause serious public health problems because there will be adequate provision of water, sewage, drainage, fire protection, and emergency vehicular services to the future residential and assisted living facilities. Additionally, the future development would utilize fire-resistant materials in conformance with the latest Fire Code requirements, vegetation management techniques would be incorporated to minimize fire hazards, and new landscaping and development would be restricted to designated building envelopes.

5. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large for access through or use of, property within the proposed subdivision. This finding may not be made if the review authority finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the review authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision.

Since there are no known public easements over the property, the above finding could not be made in the affirmative for the proposed Land Division. Additionally, the Land Division would provide for the dedication of 67.7 acres of open space to a public entity, such as the Marinwood Community Services District or the Marin County Open Space District, which includes a public trail along Miller Creek, as well as the designation of a future public pedestrian and bicycle easement that would connect Marinwood Avenue with Lucas Valley Road along the property's Highway 101 frontage.

6. The proposed subdivision is not consistent with all applicable provisions of this Development Code, any other applicable provisions of the County Code, and the Map Act.

The proposed project is consistent with all applicable provisions of Marin County Code, including, but not limited to the Subdivision Ordinance contained in Chapter 22.84.

VI. WHEREAS the Marin County Planning Commission finds that the project complies with the requirements of Marin County Code Section 22.98.040 (Parkland Dedications and Fees) and will provide for the dedication of land area which meets the park and recreational facilities that are required by the State Subdivision Map Act Sections 66477 et seq. (Quimby Act). The proposed dedication of 67.7-acres of open space to a public entity, such as the Marinwood Community Services District or the Marin County Open Space District, would accommodate the expected population increase as a result of the future residential and assisted living developments and more than meet the Countywide Plan's standard of 2.5 acres of land per 1,000 persons residing within the community. The EIR estimates that based on a population of 6,000 people, the Marinwood community's 17.8 acres of park land represent a standard of 3 acres of land per 1,000 residents. The addition of the proposed 67.7-acres of open space would result in an estimated park land to resident

population ratio of 13.7 acres for per 1,000 residents, which would comply with the parkland requirements. The parkland acreage to population ratio is based on a total parkland acreage of 85.5 acres (including the 67.7 acres of proposed open space) divided by the total resident population of 6,248, (reflecting an increase of 248 residents to the estimated existing 6,000 population in Marinwood). The 258 residents include 150 senior residents and 98 new residents for the 28-unit subdivision, based on a 3.5 persons per residence ratio. While the number of residents per unit is higher than that which is published in the Census, it reflects a more conservative estimate that was used in the EIR for this project.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby recommends that the Marin County Board of Supervisors adopt a resolution approving the Oakview Land Division 95-001 subject to the following conditions of approval.

Marin County Community Development Agency - Planning Division

1. Pursuant to Chapter 22.84 of the Marin County Code, the Oakview Land Division application is approved for the division of the existing 106.3-acre property into two lots. Lot 1 is approved to encompass 51.9 acres of land area for future single-family residential and open space uses. Lot 2 is approved to encompass 54.4 acres of land area for future assisted living and freeway interchange improvements. The property is located at the northwestern quadrant of the U.S. Highway 101/Lucas Valley Road interchange, on property addressed as **200 Lucas Valley Road, San Rafael**, and further identified as **Assessor's Parcel 164-270-03**.
2. Plans submitted for the Parcel Map shall be in substantial compliance with the approved Tentative Map on file in the Community Development Agency, and included as "Exhibit A" to the Oakview Master Plan, consisting of one sheet, prepared by ILS Associates, Inc., dated June 21, 2003, with revisions dated December 21, 2003. The Parcel Map shall be modified to depict the inclusion of the approximately 0.6 acres of land area that is identified as Parcel A' into the lot area for Lot 2.
3. The subdivider shall file a Parcel Map with the County Recorder to record the Oakview Land Division (Tentative Map) approved herein. The required Parcel Map must be in substantial conformance with "Exhibit A," including, but not necessarily limited to, the approved boundary lines, utility and access easement. Prior to recordation of the Parcel Map, the Parcel Map must be submitted to the County Surveyor for review and approval. Parcel Map data and form must be in compliance with provisions of Marin County Code Chapter 22.86.
4. Pursuant to California Government Code Section 66474.9(b), the County of Marin shall require that the subdivider defend, indemnify, and hold harmless the County or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers and employees to attack, set aside, void, or annul, the approval by the County of the Oakview Land Division, which action is brought within the time period provided for in California Government Code Section 66499.37. The County shall promptly notify the subdivider of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to cooperate fully in the defense, the subdivider shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. BEFORE RECORDATION OF THE TWO-LOT PARCEL MAP the subdivider shall comply with the items outlined below.
 - a. The applicant shall submit to the Community Development Agency, Planning Division, documentation from the Marin Local Agency Formation Commission confirming approval of the property's annexation into the Las Gallinas Valley Sanitary District and a deferment of the application of the Dual Annexation policy.

- b. The Oakview Land Division conditions of project approval and Notice of Decision contained herein must be recorded against the Title of the property concurrently with the Parcel Map.
 - c. Except for conveyance of land to a governmental agency, public entity, or public utility, further subdivision of Lot 2 within the subdivision shall not be permitted. This restriction shall be stated on the Parcel Map.
6. CONCURRENT WITH THE RECORDATION OF THE TWO-LOT PARCEL MAP, the applicant shall submit an offer of dedication of the land in fee title which comprises Parcels A and B of the Tentative Map to the County of Marin, or an assigned public agency, such as the Marinwood Community Services District or the Marin County Open Space District. The offer of dedication will not be accepted until the applicant either completes improvements to the existing pedestrian path along the south side of Miller Creek between the extension of Marinwood Avenue and Las Gallinas Avenue or enters into a performance and financial agreement with the appropriate public agency for the completion of the pedestrian path by the applicant or subsequent owner of Lot 2.

The applicant shall submit details of the proposed pathway improvements including the top and bottom of banks, existing structures, flood zone designations, flood control creek access from the street crossings, repair and restoration of the western end of the streambed, and construction of a short trail from the creekside trail up to the ridgeline, as necessary to comply with the requirements of the Marinwood Community Services District or the Marin County Open Space District. If required, the applicant shall also submit an application for a Grading Permit to the Department of Public Works.

7. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, street addressing for Lot 2 of the Oakview Tentative Map shall be 200 Marinwood Avenue, San Rafael. The street addressing for Lot 1 shall be determined at the time of the subsequent Tentative Subdivision Map review.
8. Any changes or additions to the project shall be submitted to the Community Development Agency - Planning Division for review to determine whether a Land Division Amendment is required.

Marin County Department of Public Works

9. PRIOR TO RECORDATION OF THE TWO-LOT PARCEL MAP, the following information shall be submitted in conjunction with the check print for the Parcel Map:
 - a. A title report that has been prepared within the previous six months from the submittal of the Parcel Map shall be submitted.
 - b. The Parcel Map shall provide a floating public access easement for the creekside trail between Las Gallinas Avenue and the future assisted living facility's roadway of sufficient width to accommodate the improvements, as determined by the Department of Public Works, but in no case shall the easement be less than 12 feet in width. The easement shall tie in with the public right-of-way on Marinwood Avenue. The final width and alignment of the easement shall be established at the Precise Development Plan phase for the assisted living project. This requirement would not apply if a public entity accepts the offer of dedication to the underlying land in fee title.
 - c. The Parcel Map shall provide a floating pedestrian and bicycle easement extending from the end of Marinwood Avenue through "Interchange Acquisition Parcel B" of sufficient width to accommodate the improvements, as determined by the Department of Public Works, but in no case shall the easement be less than 12 feet in width.
 - d. The limits for the City of San Rafael shall be clearly shown on the Parcel Map.

- e. The Federal Insurance Rate Map flood zone along Miller Creek shall be clearly shown on an additional information sheet for the Parcel Map.
 - f. References to “Acquisition Parcel A”, “Acquisition Parcel B” and “Open Space Parcel C” shall be removed from the two-lot Parcel Map.
10. The property owners are willing to provide a voluntary offer of dedication of an appropriate interest (such as a fee simple dedication if required by the California Department of Transportation or an easement) for public roadway purposes over the approximately 9.4-acre portion of the Tentative Map that is identified as “Interchange Acquisition Parcel A” and “Interchange Acquisition Parcel B”. The voluntary donation would be effected by an offer of dedication on the Parcel Map implementing the Tentative Map, by deed, or such other means as the parties may agree. The dedication or conveyance of the property shall be to the State of California, or to the County of Marin for conveyance to the State and shall be subject to the provisions of Government code Section 7050 and 66477.5. The configuration and size of the interchange property shall be in substantial conformance with that shown on Sheets 1 and 2 of Exhibit A.

The voluntary offer of dedication of land area at the southeasterly corner of the property between Highway 101 and Lucas Valley Road for future southbound Highway 101 off-ramp improvements has been made in-lieu of the paying the Transportation Facilities Fees that are required pursuant to Marin County Code Section 15.07.060.

The voluntary offer of dedication of land area at the southeasterly corner of the property between Highway 101 and Lucas Valley Road for future southbound Highway 101 off-ramp improvements has been made in-lieu of paying the applicant’s fair share of intersection improvements at the Lucas Valley Road / Los Gamos Road interchange since the signalization is intended to compliment the interchange improvements as identified in the Northgate Activity Center Plan. The EIR has identified that the applicant’s fair share is 38% of the approved design and construction budget.

Compliance with this condition of approval shall satisfy the EIR Mitigations 7.0-1(b), 7.0-2(b), and 7.0-3(b).

Marin Municipal Water District

11. BEFORE RECORDATION OF THE TWO-LOT PARCELMAP, the applicant shall obtain approval of a pipeline extension agreement with the District, if necessary, to extend water service to the property. All costs associated with a pipeline extension shall be borne by the applicant.

SECTION III: VESTING

NOW, THEREFORE BE IT FURTHER RESOLVED that the Land Division shall be vested by recordation of the required Parcel Map in compliance with all conditions of approval within three years after the date it is conditionally approved by the County of Marin. Extensions of time not to exceed a maximum of three, one-year extensions may be granted pursuant to Marin County Code Section 22.84.140 upon written request by the subdivider and payment of the appropriate extension fee before the date of expiration of the approval or previous extension.

SECTION IV: VOTE

PASSED AND ADOPTED at a special meeting of the Planning Commission of the County of Marin, State of California, on the 6th day of December, 2004, by the following vote to wit:

AYES: Berland, Thompson, Barner, Dickenson, Greenberg, and Holland

NOES:

ABSENT: Julin

ALLAN BERLAND, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary