



**MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY**

ALEX HINDS , DIRECTOR

**STAFF REPORT TO THE MARIN COUNTY PLANNING COMMISSION**

MEASE/SALAH NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT,  
MASTER PLAN WAIVER REQUEST, LAND DIVISION (TENTATIVE MAP),  
PRECISE DEVELOPMENT PLAN AND DESIGN REVIEW

Item Nos.:	9A. & 9B.	Application Nos.:	LD 05-01, PDP 05-01, and DR 04 13
Applicants:	David Mease & Catherine Salah	Owners:	Same
Property Address:	701 Nicasio Valley Road, Nicasio	Assessor's Parcel:	121-200-01
Hearing Date:	November 28, 2005	Planner:	Johanna Patri, AICP Senior Planner

**RECOMMENDATIONS:** Adopt a Negative Declaration and Conditionally Approve the Master Plan Waiver Request, Land Division, Precise Development Plan and Design Review

**APPEAL PERIOD:** Ten calendar days to the Marin County Board of Supervisors

**LAST DATE FOR ACTION:** 60 days from the adoption of a Negative Declaration

**PROJECT SUMMARY**

The proposed project is a land division of a 39.5-acre parcel into two lots: Parcel "A", consisting of 23.7 acres; and Parcel "B", consisting of 15.8 acres, thereby extinguishing any additional principal residential development potential of the project site governed by the ARP-20 (Agricultural, Residential, Planned District, one dwelling unit per 20 acres maximum density) zoning district. The proposed lots subsequently will be developed with all site improvements and developed separately for single-family residential use with a small vineyard operation on proposed Parcel "A". The project includes recordation of a proposed "Private Agricultural and Woodlands Preservation Agreement" to protect the natural resources of the land areas outside of the proposed building envelopes.

**SUMMARY RECOMMENDATION**

Staff recommends that the Planning Commission: (1) adopt a Negative Declaration for the proposed project; and (2) approve the Master Plan Waiver request, Land Division (Tentative Map), Precise Development Plan, and Design Review applications subject to standard conditions of approval and special conditions of approval (Conditions 13 to 27) to assure that the project that will (a) protect the ridge and upland greenbelt area and visual resources; (b) limit tree removal and preserve wildlife habitat; (c) protect the rural character and comply with the County's hillside design guidelines; (d) minimize changes in drainage patterns and provide for stormwater pollution and erosion control measures; and (e) protect surface, ground water, air quality, and the fire road.

## **PROJECT DESCRIPTION**

The project consists of the following components:

### Master Plan Waiver Request

The applicants are requesting waiver of the Master Plan submittal requirement, in accordance with Marin County Code, Section 22.44.040 and Table 4-2 on the basis that: (1) the proposed two-lot land division will result in no additional residual principal residential development potential on the 39.5-acre parcel based upon the potential maximum density of two principal dwelling units established by the governing ARP-20 zoning district; (2) the applicants propose to record a "Private Agricultural and Woodlands Preservation Agreement" against the title of the property that will: (a) prohibit future development of any structures outside of the designated building envelopes, except for agricultural, resource and open space uses as allowed by Marin County Code, Title 22 (Section 22.08.030, Table 2-1, Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) and County approved site improvements associated with the current project i.e. driveways, retaining walls, utilities, water wells, septic fields and one agricultural-associated structure; (b) limit improvements outside of the designated building envelopes to landscaping, allowed agricultural, resource and open space uses as noted in Marin County Code, Title 22 (Section 22.08.030, Table 2-1, Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts), and passive recreational uses, as well as construction by the County of a possible future public multi-use access trail should the County acquire a trail easement; and (c) preserve the woodland area between the proposed residential sites and Nicasio Valley Road; and (3) cluster all proposed residential structures within the proposed designated building envelopes on each proposed parcel.

### Land Division

The applicants are requesting Land Division (Tentative Map) approval proposing a two-lot land division of a 39.5-acre parcel into two agricultural/residential lots as follows: (1) Parcel "A", consisting of 23.7 acres; and (2) Parcel "B", consisting of 15.8 acres. Water for domestic and fire suppression use for both parcels will be provided from the existing on-site well at the northwestern portion of the property. Water for agricultural purposes will be provided from two existing on-site wells located on the northern side of the proposed driveway, north of the vineyard. The applicants propose to improve to County standards for residential use the 2,900-foot long existing driveway from Nicasio Valley Road as a 12-foot wide common driveway, with a 2-foot wide shoulders, a maximum grade of 18% and eight vehicle turnouts to serve the proposed two residential parcels. Along the southern side of the access driveway at the first turn will be an approximately 80-foot long, 6-foot high steel post and timber lagging retaining wall.

### Precise Development Plan

#### *Site Improvements*

The Precise Development Plan (PDP) establishes the location, size and configuration of proposed building envelopes within the Nicasio side of the ridgeline, consisting of 47,000 square feet on proposed Parcel "A", and 40,000 square feet on proposed Parcel "B". The building envelope on Parcel "A" is sited within a meadow area on an eastern-facing downslope and the building envelope on Parcel "B" is sited within the woodlands on a northern-facing downslope. The PDP includes proposed utility easements, construction of associated site improvements including grading and drainage improvements, an approximately 370-foot long common driveway extension from the existing common access driveway and a common on-site sewage disposal system with a leach field area on each parcel located downslope from the building envelopes to serve the proposed future residential development. The project includes a common emergency vehicle turnaround on proposed Parcel "A" to serve both parcels. The project includes the removal of the existing agricultural storage buildings.

All utility lines will be constructed underground except for the first approximately 450 feet from Nicasio Valley Road off the existing pole. P G & E will provide electricity. Gas will be provided by installation of a propane tank at each residence. Estimated area of new site disturbance is 2.0 acres as follows: leach fields 0.1 acre, new driveway improvements 0.9 acre, residence Parcel "A" 0.7 acre, and residence Parcel "B" 0.3 acre. The proposed project would remove a total of thirty-eight trees.

### Design Review

The applicants are requesting Design Review approval proposing to remove the existing agricultural storage structure and construct two, two-story single-family residences partially utilizing straw bale construction, each with an attached garage, on proposed Parcels "A" and "B" and an agricultural structure for equipment storage on proposed Parcel "A" as follows:

#### *Parcel "A"*

The proposed project consists of the construction of a 2,800 square foot residence with a 625 square foot attached garage, with a maximum height of 24.66 feet, and appurtenant improvements. The proposed two-story residence is sited approximately at the 695-foot elevation, which is approximately 140 feet below the 300-foot horizontal and approximately 20 feet within the 100-foot vertical restricted ridge line area required by the development standards of the ARP-20 zoning district (*Marin County Code, Section 22.16.030 F. (2)*). Proposed exterior finishes consist of colored ("mushroom") stucco, dark ("oak brown") wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. The project also includes the removal of the two existing storage structures and construction of an 884 square foot, 16-foot high agricultural/equipment storage building, within the 300-foot horizontal ridgeline area. Proposed exterior finishes consist of painted horizontal wood siding and corrugated galvanized metal roof. On-site parking for four cars is proposed.

#### *Parcel "B"*

The proposed project consists of the construction of a 2,200 square foot single-family residence, with a 530 square foot attached garage, with a maximum height of 24.33 feet and appurtenant improvements. The proposed two-story residence is sited approximately at the 680-foot elevation, which is approximately 140 feet below the 300-foot horizontal and approximately 5 feet below the 100-foot vertical restricted ridgeline area required by the development standards of the ARP-20 zoning district (*Marin County Code, Section 22.16.030 F. (2)*). Proposed exterior finishes consist of colored ("taupe") stucco, dark ("oak brown") wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. On-site parking for four cars is proposed.

#### *Landscaping*

The applicants propose to reseed areas disturbed by construction activities or void of cover with drought resistant, native grasses.

### Agricultural Land Use and Management Plan

The applicants have submitted a proposed Agricultural Management Plan in conjunction with the proposed project, including a map showing the areas of the property which offer the best potential for future agricultural development based on sun exposure, ground slope, and lack of site constraints (*refer to Attachment 5.m.*). In general, the applicants have identified the potential agricultural area to be along both sides of the fire road, within the eastern exposed downslope meadow area, and the southern exposed vineyard site, totaling approximately 5 acres. The applicants may expand the existing vineyard (pinot noir grapes).

A summary of the current vineyard practices and business plan consists of the following:

Irrigation is by drip system at approximately four gallons per vine per week. Application is twice weekly from May/June through September/October, depending on weather conditions. Water is supplied by an irrigation well located on the property. Vines are fertilized using an injector pump feeding through the drip irrigation system on a weekly basis from July through September. Erosion control is achieved through the implementation of no-till vineyard practices, which incorporate the use of cover crops to improve soil health. The cover crop currently utilized is a mixture of native grasses, clover and vetch. On steeper slopes, terrace contouring is implemented in addition to the use of no-till practices and cover cropping. Earthwork necessary to accomplish the terracing occurs after the end of the rainy season (April 15). Cover cropping or re-vegetation is established prior to the rainy season (October 15).

No pesticide use is currently employed or anticipated. Sulphur dust (which is approved for organic use) is applied by using a backpack blower approximately twice monthly from early April through late July to control powdery mildew. Weed control is achieved by two topical applications per year of the herbicide glyphosate ("Roundup") in a 0.5% solution along the vine rows. Application is by backpack sprayer. Currently, the applicants do much of the maintenance work themselves, while the more specialized vineyard activities (i.e. winter pruning, sulphur dusting, gophering) are performed by workers subcontracted from Devil's Gulch Ranch in Nicasio. As the vineyard continues to develop, the owners may hire one or more agricultural workers directly as employees of the vineyard operation.

The applicants maintain that the steep slope of the project site, with good solar exposure, cool night time temperatures and thin, rocky soils have the potential to produce fine wine grapes. The initial planting of 1,500 pinot noir vines (now four years old) is estimated to produce approximately 5 tons of grapes or 330 cases of wine within a few years.

## GENERAL INFORMATION

General Plan: AG-2 (Inland Rural Corridor, Agricultural, one unit per 10 - 30 acres density with Ridge and Upland Greenbelt Overlay)  
Zoning: ARP-20 (Agricultural, Residential, Planned District, one dwelling unit per 20 acres maximum density)  
Lot size: 39.5 acres  
Adjacent Land Uses: The project site is bounded by Nicasio Valley Road on the eastern side, rural residential land uses to the northern end, and Marin County Open Space District and French Ranch Open Space Preserve lands to the south.  
Vegetation: Mixed evergreen forest and grasslands and introduced plantings consisting of a vineyard, olive trees, and lavender  
Topography and Slope: Steep downhill slopes to the northeast with an average slope of approximately 35% and steep downhill slopes to the southwest with an average slope of approximately 40%.  
Environmental Hazards: None identified

## PUBLIC NOTICE

The Community Development Agency (CDA) has provided a 30-day circulation period for the proposed Negative Declaration of Environmental Impact for the proposed project ending November 15, 2005. In addition, the CDA has provided a public noticed hearing date identifying the applicants, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property and interested parties.

## LOCATION

The project site is located approximately three miles south of the Nicasio Town Square on the west side of Nicasio Valley Road and north of Sir Francis Drake Boulevard. The irregularly shaped property is divided into two distinct

topographic areas, a northeastern-facing downslope and a southwestern-facing downslope with a ridgeline in between, commonly known as "Moon Hill". The property fronts and extends upslope from Nicasio Valley Road towards said ridgeline, which separates the Nicasio and San Geronimo Valley communities.

## **ENVIRONMENTAL SETTING AND EXISTING CONDITIONS**

The underlying geologic material of the project site consists of massive to thinly bedded Cretaceous sandstone bedrock of the Franciscan geologic formation. Site features include an ephemeral stream that runs parallel to, and along, Nicasio Valley Road, and various shallow erosional gullies extending from the ridge downslope toward the southwest. The ephemeral stream, believed to be fed by underground springs, is not identified as a "blue-line" stream on the United States Geological Service Quadrangle maps.

Vegetation on the eastern side of the property is characteristic of a mixed evergreen forest and consists predominantly of a canopy of California bay, Coast live oak, Douglas fir, madrone, and tan oak with an understory of California hazelnut, snowberry, honeysuckle, starflower, and several species of fern and poison oak. The area extending from the ridgeline southwesterly into the San Geronimo Valley consists of a mixture of native and non-native grasses interspersed with clusters of Coast live oak, madrone, Douglas fir, and California bay. A prominent feature of the site is the presence of approximately 20 large, heritage Coast live oak trees throughout the property.

Currently, the property is undeveloped except for the following improvements: a 12-foot wide graded fire road, which ascends the slopes off-site from Nicasio Valley Road towards the ridgeline and connects to an existing approximately 15-foot wide graded access driveway that starts on-site from Nicasio Valley Road; two small storage containers that serve the agricultural use of the property; a well at the northern portion of the property to serve future residential uses; three agricultural wells with one well to be abandoned; and a 4,900-gallon water storage tank. On the southeast slope of the property is a four-year old vineyard covering an area of approximately 1.5 acres.

## **PERMIT HISTORY**

In 1995 the Marin County Deputy Zoning Administrator adopted the Trahan Land Division and Precise Development Plan Negative Declaration of Environmental Impact and conditionally approved the Trahan Land Division (Tentative Map) and Precise Development Plan for a two-lot land division of this property. The project did not include residential design plans for development on either lot. Future development of the two approved parcels was subject to Design Review approval by the County. The approved Trahan Tentative Map required recordation of a Parcel Map in order to vest the County approvals. The Parcel Map was never recorded and thus, the Trahan approvals were never vested and have expired.

In November 2002, the Marin County Community Development Agency administratively approved a Design Review Clearance for the placement of two small storage containers on site to be used exclusively for storage of equipment for the agricultural use on the property.

In 1998, the Marin County Department of Public Works (DPW) issued a Notice of Violation to the previous owner for grading an access driveway without County permits. DPW has informed the applicants that this violation can be corrected through the issuance of a Grading Permit and payment of fees in connection with the proposed project.

## **PROJECT ANALYSIS**

### **Plan and Zoning Consistency**

The project is subject to the policies of the *Marin Countywide Plan (CWP)*, which emphasize minimizing impacts to

the surrounding natural and built environments. *CWP Policy CD-15.15* states that the policies of the *Nicasio Valley Community Plan* shall govern land use in Nicasio. The *Nicasio Valley Community Plan* emphasizes maintaining the character of the local community. As further discussed in the Analysis Section below and the attached recommended resolution, the proposed project, as modified by recommended conditions of approval, will be consistent with the policies contained in the *CWP* and the *Nicasio Valley Community Plan*, as well as the standards and allowed density of the governing ARP-20 zoning district and the design standards contained in the *Single-Family Residential Design Guidelines* (refer to Sections IV to VI, and XI of Attachment 2).

#### Marin Countywide Plan

The project will result in an overall density of one unit per 19.75 acres, consistent with the permitted density range of the governing *CWP* AG-2 (Agricultural, one unit per 10 - 30 acres density) land use designation. The project will provide housing opportunities within the governing ARP zoning district designated as "agricultural areas suitable for residential development", which are served by existing roadways, and necessary public and community facilities within the Inland Rural Corridor. Project design and conditions of project approval recommended by staff will limit tree removal and ensure that future development is compatible with the rural character of the Nicasio Community.

#### Nicasio Valley Community Plan

The project, subject to the recommended conditions of approval, will be consistent with the pertinent goals and policies of the *Nicasio Valley Community Plan* (*Plan*). In general, the primary goals of the *Plan* include: (1) preservation of those attributes of Nicasio Valley that provide the open spacious feeling of the rural community; (2) preservation of the best agricultural land in the Valley in parcels large enough to permit continuing and future agricultural production; (3) preservation of the visual views, vistas, and scenic corridors (i.e. Nicasio Valley Road corridor) of the Valley; (4) clustering of residential units on individual properties where the least detrimental impacts would occur; (5) grouping the allowable number of residential units in the smallest possible area; and (6) providing one entrance to the development from the main access road.

The proposed two-lot land division and subsequent build out, with one access off Nicasio Valley Road and the clustering of single-family residential development on each proposed lot in the least environmentally sensitive and visually prominent sites, will not impact the open spacious feeling of the rural community or any visual resources or scenic corridors of the Valley, including Nicasio Valley Road and Sir Francis Drake Boulevard. The property, with steep northeastern-facing downslopes that are wooded and steep southwestern-facing downslopes that are grasslands, has minimal agricultural production value. However, the proposed residential development is clustered in a small area (approximately 2 acres of the 39.5-acre property) on the least agricultural productive areas, thereby preserving small areas of agricultural productive land for the applicants' small-scale agricultural use. The proposed residential development will be screened from off-site views and vistas because of the topography and existing tree canopies.

#### Marin County Code Title 22 (Zoning)

##### *Density*

The proposed two-lot land division is consistent with the allowed maximum density of one dwelling unit per 20 acres as set forth by the ARP-20 planned district zoning. The density for the project has been calculated according to Marin County Code, Section 22.02.020 C (2), which requires any fraction of a unit of 0.9 or greater to be counted as a whole unit for the purpose of determining the potential allowable density of a site. Dividing the 39.5-acre site by the assigned density factor of 20 acres equals a potential maximum density of 1.975 units, which is rounded up to 2 units. The future development of one primary residence on each parcel is a principally permitted use within the governing ARP-20 zoning district and is permitted subject to Master Plan approval in accordance with Chapter 22.44 of the Marin County Code (MCC). In this case, the applicants are seeking waiver of the Master Plan requirements and are requesting Tentative Map, Precise Development Plan, and Design Review approvals in accordance with Section

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22.44.040 of the MCC. The project is consistent with the purpose of the governing ARP-20 zoning district, which allows residential development in agricultural areas of varied housing types designed without the confines of specific yard, height, or lot area requirements.

## **Environmental Review**

An Initial Study has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA). The Environmental Coordinator of the County of Marin has recommended the grant of a Negative Declaration of Environmental Impact and approval of the recommended CEQA Resolution contained in this staff report (*refer to Attachment 1*). All project related and potentially significant adverse effects of the project and the appropriate mitigation measures are discussed in the Initial Study. The Initial Study evaluated the proposal with respect to all potential environmental issues including County and community plan policies and zoning regulations, geology and soils, hydrology and drainage, biological resources, visual and aesthetic quality, transportation and circulation, air quality, noise public services, and costs and revenues. All mitigation measures are incorporated as recommended conditions of project approval in the conditional approval Resolution attached to this staff report (*refer to Attachment 2*). With all mitigation measures incorporated as conditions of project approval, the proposed project will result in no significant adverse environmental impacts, and no conditions described in the CEQA Guidelines have been identified in the Initial Study that would require the preparation of an Environmental Impact Report.

The following provides a summary of the key areas of potential environmental impacts that are identified in the Initial Study.

### **1. Protection of Ridge and Upland Greenbelt Areas and Visual Resources**

The irregularly shaped property is divided into two distinct topographic areas, a northeastern-facing downslope and a southwestern-facing downslope, with a prominent ridgeline in between. Views toward the site along Nicasio Valley Road and Sir Francis Drake Boulevard and over the site from public trails located on adjacent lands are characterized as scenic vistas.

The property is located within the *CWP* designated Ridge and Upland Greenbelt overlay zone (*CWP Figure EQ-10*) and is governed by the *CWP* Ridge and Upland Greenbelt policies, specifically *CWP Policies EQ-3.18* through *EQ-3.20*. These policies were adopted to protect ridge and upland areas as important visual resources and as community separators and to preserve the wooded hillsides of these areas to maximize protection of visual resources. Specifically, *CWP Policy EQ-3.18* discourages construction near visually prominent ridgelines in designated Ridge and Upland Greenbelt areas and specifies that development should be clustered on the least visually prominent portions of a site, where it can be screened by wooded areas, rock outcroppings or topographic features. In addition, the *Nicasio Valley Community Plan* policies discourage development located on ridges or hilltops, unless effectively screened from surrounding corridors. Finally, the development standards of the ARP-20 zoning district prohibit the construction of buildings on top of, or within, 300 feet horizontally, or within 100 feet vertically of visually prominent ridgelines, whichever is more restrictive, unless no other suitable locations are available on the site. If structures must be placed within this restricted area because of site constraints, they shall be in locations that are the least visible from adjacent properties and view corridors (*Marin County Code, Section 22.16.030 F. (2)*). (*Refer to Attachment 18.*)

The residences on proposed Parcels "A" and "B" are sited approximately 140 feet below the 300-foot horizontal restricted ridgeline area required by the development standards of the ARP-20 zoning district. The proposed residential building site on Parcel "B" is located outside of the 100-foot vertical ridgeline setback. However, the proposed residential building site on Parcel "A" encroaches approximately 20 feet within the 100-foot vertical restricted area. Planning staff observed the story poles constructed on site to demonstrate the height, bulk and mass and potential visual impacts as a result of the proposed sitings of the residential

development and determined that the siting of the proposed residence on Parcel "A" will not be seen from off-site views across the ridgeline. Siting the residence further downslope will only result in increasing the length of the driveway and the amount of grading. Therefore, Planning staff has determined that, on balance, the siting of the residence on proposed Parcel "A" meets the intent of the ridgeline restrictions to avoid potential visual impacts of the natural ridgeline condition of the property from surrounding areas and view corridors from the Nicasio and San Geronimo Valley communities, while not unnecessarily increasing the length of the new driveway that would require additional grading and site disturbance. Alternative potential building sites on the property were considered to be suitable for residential development, but these alternative building sites are not consistent with the 300-foot horizontal and 100-foot vertical restricted areas of the ridge and upland greenbelt areas designated by County code.

The proposed agricultural/storage equipment structure on proposed Parcel "A" is sited upslope from the residential development and within the 300-foot horizontal as well as the 100-foot vertical restricted ridgeline areas. Accordingly, recommended Special Condition 17, (*Land Use and Planning Mitigation Measure 1.b-1*), will require that this structure be sited downslope and outside of the 300-foot horizontal restricted area. While the structure will still encroach within the 100-foot vertical restricted ridgeline area, the siting of the structure downslope and outside of the 300-foot horizontal restricted area will ensure that the structure will be screened from ridgeline views by the topography and tree canopies, minimize site disturbance, and maintain the intent of the County's ridge line protection policies.

In addition, the proposed residences have been designed to maintain low profiles with maximum heights of 25 feet above grade, below the 30-foot height permitted by the governing zoning. Furthermore, proposed exterior building materials and colors will blend with existing natural tones of the landscape. With the implementation of Special Condition 17, siting of all proposed structures will maintain adequate setbacks from the visually prominent ridge areas at the higher elevations of the property consistent with County Ridge and Upland Greenbelt policies.

## 2. Tree Protection and Replacement

The project site is moderately wooded with a mixed canopy of Douglas-fir (*Pseudotsuga menziesii*), Coast live oak (*Quercus agrifolia*), madrone (*Arbutus menziesii*), tanoak (*Lithocarpus densiflorus*) and California bay (*Umbellularia californica*). *CWP Policy EQ-3.14* discusses the importance of protecting large trees and oak woodland habitat. *CWP Policy EQ-2.87* states that the environmental review of development applications shall consider the impact of the proposed development on species and habitat diversity. Furthermore, the *Nicasio Valley Community Plan* policies and design guidelines require: (a) the protection of the natural resources, including wildlife areas and tree preservation; (b) that every effort should be made to avoid removal or change in landscaping, which would cause the death of existing trees; (c) natural vegetation should be protected from damage during construction; and (d) that should development potentially impact existing tree cover, a certified arborist should be retained by the applicant to develop a specific plan for tree protection during construction.

The *Tree Survey and Assessment (Assessment)*, prepared by Swift Tree Care (Craig Swift, I.S.A. Arborist #486) and submitted by the applicants, (*refer to Attachment 5.k.*) states that the surrounding forest is generally healthy with the exception of a number of fallen or leaning Douglas fir and various tan oak infected with Sudden Oak Death Syndrome fungus. Because these trees become hosts for insects and fungus that can spread to adjacent healthy trees, the *Assessment* recommends that these trees be promptly removed to protect the health of the surrounding forest. A prominent feature of this site is the presence of approximately 20 large, heritage Coast live oak trees that will be preserved. The *Assessment* states that these trees are in a state of decline due to the invasiveness of the Douglas fir, which are depriving the oak trees of nutrients and sunlight.

The *Assessment* recommends the removal of 38 trees over 8 inches dbh (diameter breast height) on the 39.5-acre property, all within the development site of the proposed project as follows: 28 Douglas fir, 8 California



bay laurel, and 2 Coast live oak. Overall, the extent of healthy trees proposed for removal is equivalent to approximately one healthy tree per acre, with removal all within an approximately 2-acre site, which constitutes the driveway extensions and building sites. The 28 Douglas fir and 2 Coast live oak trees proposed for removal are native trees as listed in the *Marin County Code, Chapter 22.27 (Native Tree Protection and Preservation)*.

The *CWP* recommended mitigation (*CWP Program EQ-3.14a*) consists of replacement of native trees at a 2:1 replacement ratio for the native trees proposed for removal, except where physical conditions on the site make this ratio infeasible, with the emphasis on the restoration of these lands to a more natural oak woodland environment. Accordingly, implementation of Special Condition 14 (*Land Use and Planning Mitigation Measure 1.b-2*), which requires the applicants to submit a Tree Planting Replacement Plan, prepared by a licensed arborist for review and approval by the Marin County Community Development Agency – Planning Division. The replacement plan shall provide for the replacement of any native tree (30 trees) proposed for removal due to development activities at a ratio of 2:1 with a minimum of 15-gallon size trees, as determined feasible by a licensed arborist approved by the Marin County Environmental Coordinator.

The *Assessment* provides guidelines for tree protection during construction activities, including avoiding the depositing of soils at root crowns, compaction by heavy equipment, and installation of safety barriers. Implementation of Special Condition 15 (*Land Use and Planning Mitigation Measure 1.b-3*) will ensure protection of native trees within the construction site.

With the removal of 28 Douglas fir within the building site and the potential of removal of additional Douglas fir in the future, the proposed project has the potential to result in adverse impacts on the habitat qualities of the site for the Northern Spotted Owl (*Strix occidentalis caurina*). As discussed in Item 8 below, Special Conditions 13 and 24 (*Biological Resources Mitigation Measure 7.a-1. and 7.a-2.*) require reducing the size of the building envelope on Parcel “B”, which will preclude the removal of additional trees in the future. (*Refer to Item 8, Protection of Wildlife Habitat and the Northern Spotted Owl below for additional discussion of tree protection and preservation of wildlife habitat.*)

### **3. Protection of the Rural Character, Aesthetics, and Minimal Use of Exterior Lighting**

The rural character of the Nicasio and San Geronimo Valley communities is primarily defined by the travel experience along Nicasio Valley Road and Sir Francis Drake Boulevard. The most important characteristic in this area consists of the open vistas of the surrounding hillsides and ridgelines. The proposed residential development has been clustered on the least visually prominent portions of the site, where it can be screened by the existing tree canopies and topography of the site. Furthermore, as discussed in Item 1, Protection of Ridge and Upland Greenbelt Areas and Visual Resources above, the proposed residences will be sited well below the visually prominent ridgeline, and recommended special conditions of approval will ensure that the agricultural/equipment storage structure is sited outside of the 300-foot horizontal ridgeline area, thereby assuring that its siting will not impact any public scenic vista.

*CWP Policy EQ-3.25* requires development of residential structures to be in scale and consistent with environmental constraints such as steep slopes and the design character of the existing neighborhood. The *Nicasio Development and Design Guideline (Policy V.E.7.)* requires building forms to be designed to conform to the site topography. Furthermore, the *Single-family Residential Design Guidelines (Guidelines)*, adopted by the Board of Supervisors July 19, 2005, require building masses to be broken into smaller parts, and roof forms and roof lines to be broken into a series of smaller building components to reflect the hillside setting. Finally, the *Guidelines* require that large expanses of wall in a single plane on downhill elevations should be avoided.

Residential development in the surrounding area generally ranges from medium-sized residential development (approximately 2,000 square feet) with an upper range generally of 5,000 square feet. The proposed project

consists of the construction of a 2,800 square foot residence with a 625 square foot attached garage on proposed Parcel "A" and a 2,200 square foot single-family residence, with a 530 square foot attached garage on proposed Parcel "B", well within the range of medium-sized residential development in the surrounding neighborhood. Both proposed residences are less than 25 feet in height from grade where a maximum of 30 feet is allowed by County code. The attached garage of the proposed residence on Parcel "A" and lower floor is excavated into the ground, roof lines are broken into a series of smaller building components, and the overall design of the residence has a low profile on the hillside lot.

While the size (2,200 square feet) of the proposed residence on proposed Parcel "B" is consistent in size and height with other residences in the Nicasio neighborhood, the residential design for proposed Parcel "B" is inconsistent with the constraints of development on a building site with an approximately 30% slope. The residential design has a flat, unbroken two-story wall massing on the downslope (north) elevation and long, unbroken rooflines and does not reflect the sloping underlying topography. Special Condition 18 (*Land Use and Planning Mitigation Measure 1. b-4.*) requires modification of the proposed residence on the hillside lot to reduce the effective visual bulk and mass by: (a) stepping the residence down the hillside, with the roof lines conforming to the underlying natural topography; and (b) breaking the roof forms and roof lines into series of smaller building components. To accomplish this effectively, without necessitating the removal of any additional trees, the overall footprint and square footage of the residence may have to be reduced.

The *Nicasio Valley Development and Design Guidelines (Policies V.E. 18 and V.H.)* and the *Single-family Residential Design Guidelines* require building materials, textures, and color schemes to blend with the natural landscape with an emphasis on darker tones and allow structures to recede into the background. The proposed exterior building materials, textures, and colors, are darker tones, compatible with the natural landscape and consistent with the design guidelines.

*CWP Policy EQ-3.26* states that development in rural portions of the County should be consistent with the rural character of the area and should provide lighting that is subtle and harmonious with the rural environment. The ultimate construction of two new reasonable-sized residences on large lot sizes will help to ensure that the rural character of the area is retained. While the land division itself will not result in new lighting, and the proposal does not include roadway lighting. Implementation of Special Condition 19 (*Land Use and Planning Mitigation Measure 1.b-5.*) will ensure that: (a) no future roadway lighting will result in glare along the access driveway, particularly at night; and (b) exterior residential and accessory lighting will be limited to hooded and down-lighting of low wattage, thereby assuring that lighting will be subtle and harmonious with the rural environment.

In summary, project design utilizes exterior materials and colors compatible with the natural environment. Implementation of Special Conditions will ensure consistency with *CWP Policies EQ-3.25 and EQ-3.26* and the aesthetic policies contained in the *Nicasio Valley Development and Design Guidelines* and the *Single-family Residential Design Guidelines*, thereby assuring that the project will not result in any significant impacts to scenic vistas and will be consistent with County policies regarding hillside development. All proposed structures will maintain adequate setbacks from the ridgeline, and the design of the residential structures will be consistent with County hillside development policies guidelines so as not to result in any potential visual impacts that detract from the open, rural character of the hillsides and ridgelines of the project site and that lighting improvements will be consistent with the rural character of the Nicasio community.

#### **4. Geology**

Field investigation by Community Development Agency staff of the project site and review of the geologic map materials on file with the Community Development Agency and the *Geotechnical Investigation* submitted by the applicants indicate no unusual or unique geological or physical features on the site. Grading associated with the project involves minimal landform alterations that do not result in a substantial change in the topography or create unstable soil conditions. In addition, as a standard practice, all roadway and drainage

improvements will be designed by a qualified professional engineer and be subject to review and approval by the Department of Public Works in accord with standard Marin County requirements at the time of submittal of the Improvement Plans and residential construction plans. Lastly, grading associated with the construction of future development of the two proposed lots will be minimized by using appropriate siting, engineering, and architectural design techniques typical for hillside development, such as pier and grade beam foundation systems.

The *Investigation* concluded that the entire property is underlain by a very stable, albeit highly fractured discontinuous sandstone rock mass. The geology is straightforward and there are no faults or geomorphic unstable landforms on the property. While some of the slopes are steep in the area of Parcel "B", the underlying sandstone rock mass is very competent and practically any type of development on either parcel is possible utilizing standard of practice engineered foundations anchored in the sandstone bedrock. The *Investigation* also concluded that development of the two parcels for residential structures and the improvement of the access road are feasible without any adverse impact relative to slope stability or natural drainage courses and no significant effects on the environment will result, providing that all subsequent construction plans incorporate the recommendation of the Parcel geotechnical investigation. In addition, DPW staff requires that a Registered Civil Engineer design the grading and foundation plans. Implementation of Special Conditions 20 and 21 (*Geophysical Mitigation Measures 3 a-1. and 3 a-2.*), will ensure that construction of the project will incorporate the recommendations of the Parcel geotechnical investigation submitted with the building permit plans, as approved by the Marin County Department of Public Works and that the Parcel project design will conform also to the engineering and seismic requirements of Marin County Code, Titles 23 (Grading) and 24 (Development Standards), and the Uniform Building Code.

## 5. Hydrology

The distance of the proposed residential development on Parcels "A" and "B" provides a natural buffer that will slow the movement of runoff through the existing soils and vegetation. In addition, there is a substantial natural buffer zone of soils and vegetation between the proposed residential site, the ephemeral stream and Nicasio Valley Road that will prevent substantial change in the absorption rate of surface runoff on the downhill slopes of the property.

At the time of submittal of improvement and building permit plans, DPW as a standard condition will require submittal of hydrologic and hydraulic calculations to verify that all drainage improvements have been designed to prevent surface run-off. Additionally, pursuant to Title 24 of the Marin County Code, drainage control features will have to be designed at the improvement plan stage by a registered civil engineer and constructed in accordance with the engineer's recommendations. Furthermore, implementation of Special Condition 22 (*Water Mitigation Measures 4.a-1*) will ensure that there will be no significant substantial changes in drainage patterns and that stormwater pollution and erosion control measures will be implemented.

## 6. Protection of Surface and Ground Waters

As modified by conditions of approval, the proposed future single-family residential use of the proposed parcels will not generate any unusual quantities of pollutants that will affect the ground water quality or surface or subsurface waters in the Nicasio Creek watershed or the Lagunitas Creek watershed. Planning staff, in consultation with the Marin County Parks and Open Space District staff, has determined that the use of the herbicide glyphosate ("Roundup") in a 0.5% solution mixed with water associated with the vineyard for weed control and applied topically will not affect ground water quality on the southeast slope. In addition, Planning staff, in consultation with the Marin County Department of Public Works, Creek Naturalist, has determined that a "No Spray Zone" of toxic materials within a 100-foot wide buffer along the ephemeral stream adjacent to Nicasio Valley Road is required to preserve the water quality of the ephemeral stream. In order to: (1) assure that there will be no use of toxic herbicides or pesticides associated with agricultural or landscaping activities or weed control on the property in a manner contrary to local, state or federal regulations that could

potentially impact: (a) the ephemeral stream and riparian habitat along Nicasio Valley Road, or (b) surface or ground water; and (2) reduce potential environmental effects to less than significant levels, Special Condition 13 (*Water Mitigation Measure 4.c-1*) requires that the "Private Agricultural and Woodlands Preservation Agreement" to be recorded against the title of the property include stipulations that the current owners or future owner(s): (a) are prohibited from using toxic pesticides or herbicides associated with landscaping, agricultural, and/or weed control activities in a manner contrary to local, state, or federal regulations that could result in the discharge of toxic materials into surface or ground waters; (b) shall utilize agricultural Best Management Practices (BMP), which may include, but are not necessarily limited to, organic gardening and agricultural methods, integrated pest management control, use of bio-diversity, and cover cropping; and (c) shall implement a "No Spray Zone" of toxic herbicides and/or pesticides within a 100-foot wide buffer area on either side of the ephemeral stream along Nicasio Valley Road.

## 7. Protection of Air Quality

Although the proposed development will maintain significant setbacks from adjoining property lines, people living or working in the area surrounding the project site may be exposed to air pollutants in the form of dust from grading activities during construction. Although these air quality effects are typically transitory and short-term in nature, they are considered potentially significant for the project given the quantity of proposed excavation and fill proposed in conjunction with the project and typical wind patterns in the area. The amount of dust that could be generated would be highly variable depending on the size of disturbed area, the amount of activity, soils conditions, and meteorological conditions. Without appropriate control measures, these temporary dust impacts could cause a nuisance for residents or properties located downwind of the project site. Implementation of Special Condition 23 (*Air Quality Mitigation Measure 5.b-1.*) during construction stages of the project, including control of dust and vehicular emission, will ensure that air quality effects are minimized, thereby reducing the exposure of sensitive receptors to potential pollutants to less than significant.

## 8. Protection of Wildlife Habitat and the Northern Spotted Owl

A *Biological Survey - Northern Spotted Owl and North Coast Semaphore Grass* prepared by Michael S. Marangio, Biological Consulting Services, dated October 11, 1994, for the project site was submitted by the applicants. The *Biological Survey* evaluated the potential for the presence of the North Coast Semaphore Grass on the property and concluded that the project site revealed no evidence of the North Coast Semaphore Grass or moist habitat conditions that are suitable for this grass species or any other species of rare plants.

The *Biological Survey* also evaluated the potential for the presence of the Northern Spotted Owl on the property. The Northern Spotted Owl is generally found in old-growth Douglas fir forests characterized by densely canopied, multi-layered forests with a canopy of old-growth trees and an understory of dead trees and downed woody debris that provide nesting sites and cover for squirrels, woodrats, and other rodents that serve as prey for the owl. The Spotted Owls usually nest in tree cavities or in broken tops of old trees. Breeding occurs from early March to late June, with peak activity in April and May. Spotted Owls are non-migratory, although some seasonal movement occurs. Habitat destruction, mainly from timber harvest, is the major threat to this species. Several observations of the Spotted Owl are known very close to the Mease property (new Nicasio Dam, at Samuel P. Taylor State Park, and Roy's Redwood Open Space Preserve).

According to the *Biological Survey*, the mixed evergreen forest associated with the proposed development sites do not fit the classical description of "old growth forest" often ascribed as a requirement for nesting habitat for the Northern Spotted Owl. However, in Marin County, the Northern Spotted Owl is known to also utilize 60-year old sites that have been logged.

Although the property does not fit the classical "old growth forest" conditions ascribed as a requirement for nesting habitat, the *Biological Survey* indicated that there has been known observations of the bird in the

surrounding area, and the proposed removal of existing mature fir trees in conjunction with the proposed project may affect potential foraging or roosting habitat for the owl. The project entails the removal of 38 trees of which 28 are Douglas fir trees, ranging in size from 14 to 30 inches dbh. Removal of these trees in conjunction with the development, plus potential future removal of additional trees, could result in deterioration of potential habitat values through the cumulative impacts associated with tree removal for the proposed project and potential future tree removal and should be mitigated.

As discussed in Item 2, Tree Protection and Replacement above, the applicants submitted a *Tree Removal Survey*, prepared by Swift Tree Care. The proposed building envelope (approximately 38,000 square feet in size) on proposed Parcel "B" is sited within the woodland area. Approximately 13 trees, some with a diameter of up to 30 inches, are proposed to be removed for the construction of the proposed residence, driveway/parking and turnaround within Parcel "B". Another approximately 22 trees are proposed to be removed within the building envelope (approximately 47,000 square feet) on Parcel "A" for the construction of the proposed residence and driveway. However, the outer extension of the building envelope on Parcel "A" consists of a grass meadow and not a woodland site for potential additional tree removal in the future. Three additional trees are proposed to be removed to construct the access driveway. Of the total 38 trees proposed to be removed, 28 of these trees are Douglas fir trees and two of the trees are Coast live oaks. As discussed under the Northern Spotted Owl discussion above, the Douglas fir forests have the potential to provide habitat for the Northern Spotted Owl. In order to maintain the most prominent woodland environment on the site and along Nicasio Valley Road, the applicants have proposed a Woodland Preservation Area (*refer to Woodland Preservation Area Map Attachment 5. (m.)*).

In order to preserve the woodland environment to preclude the further removal of trees, particularly the Douglas fir, Special Conditions 13 and 24 (*Biological Resources Mitigation Measure 7.a.-1. and 7.a-2.*) require: (a) the modification of the proposed building envelope on Parcel "B" by eliminating the northern most corner within the woodland area, thereby reducing the building envelope size to approximately 30,000 square feet and precluding the removal of additional trees; and (b) the modification of the proposed "Private Agricultural and Woodlands Preservation Agreement", to be recorded against the title of the property. In order to increase the natural resource protection and increase the potential habitat value of the property for the Northern Spotted Owl, the following stipulations shall be implemented through modifications to the proposed "Private Agricultural and Woodlands Preservation Agreement (Agreement)". The Agreement shall contain the following stipulations:

- (a) Except for improvements related to allowed agricultural, resource and open space uses as noted in Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts), subject to required County permits and approvals, development of any future structures (except for County-approved site improvements associated with this project i.e. driveways and retaining walls, utilities, water wells, and septic fields and one agricultural associated structure) is prohibited outside of the designated building envelopes;
- (b) Future land uses and improvements outside of the designated building envelopes are limited to allowed agricultural, resource and open space uses as noted in the Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) subject to required County permits and approvals and passive recreational uses, as well as construction of a future public multi-use access trail should the County acquire a trail easement;
- (c) Current and future owners are prohibited from removing existing healthy landscaping and trees within the delineated Woodland Preservation Area located between the building envelopes and Nicasio Valley Road without County approval and to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, to prevent reasonable safety hazards to people and property, and to enhance the health of the woodlands as deemed necessary by a Tree Analysis, prepared by a licensed arborist and submitted to the Community Development Agency for

review and approval; and

- (d) Except for open (wood or wire mesh) agricultural and/or deer fencing around agricultural areas, fencing within the building envelopes, and fencing of a possible future multi-purpose public trail within a County easement, the use of fencing on the property in order not to impact migration of wildlife is prohibited.

To protect the Northern Spotted Owl during the nesting period, should the species nest on the property during construction activities, Special Condition 25 (*Biological Resources Mitigation Measure 7.a-3.*) requires that prior to issuance of a grading permit, construction permits, and prior to any tree removal, a pre-construction Northern Spotted Owl nesting survey shall be conducted by a qualified biologist of the areas proposed for disturbance no more than 30 days prior to construction-related activities, if grading, construction activities or tree removal is to occur during nesting periods (normally between February 1 and August 31). A report documenting the findings of the survey shall be prepared and submitted for review and approval by the Community Development Agency - Planning Division. If any active nests are present, species specific recommendations shall be prepared by the biologist and implemented to prevent abandonment of the active nest. At a minimum, grading, tree removal or other construction disturbances shall not be permitted until the biologist has confirmed that the young raptors have fledged and are able to forage. As necessary, representatives of the California Department of Fish and Game and the U.S. Fish and Wildlife Service shall be consulted regarding appropriate construction restrictions, and other methods to ensure compliance with the Migratory Bird Treaty Act and State Fish and Game Code and to meet standards related to the nesting habitat and the timing of site disturbance.

### Corrections to the Initial Study

The following are corrections to the Initial Study:

- 1. **II. PUBLIC SERVICES.** *Would the proposal have an effect upon, or result in a need for new or altered government service in any of the following areas: (Page 59 of the Initial Study)*

c) Schools?

The proposed project is located within the ~~Nicasio School District~~, which has adequate capacity for additional enrollments. Therefore, a finding of less than significant impact is warranted. At the time of building permit application, the applicants will be required to pay school fees to the Nicasio School District.

Deleted: Lagunitas School District

- 2. **Page 53, First Paragraph**

As discussed in Section 1 (b) above, the project sponsors submitted a *Tree Removal Survey*, prepared by Swift Tree Care. The proposed building envelope (approximately ~~40,000~~ square feet in size) on proposed Parcel "B" is sited within the woodland area. Approximately 13 trees, some with a diameter of up to 30 inches, are proposed to be removed for the construction of the proposed residence, driveway/parking and turnaround within Parcel "B".

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### Responses to Initial Study Comments

In response to the circulation of the Initial Study, staff has received several letters commenting on the proposed project and the proposed Negative Declaration of Environmental Impact (*refer to Attachment 22*). Several of the issues raised are addressed in the Negative Declaration of Environmental Impact and this staff report for the proposed project. However, staff has provided more detailed responses to the comments in Attachment "A" of the CEQA resolution.

### DEVELOPMENT ISSUES

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In addition to the environmental issues discussed in the Environmental Review section above, staff has identified the following development issue in analyzing the merits of the proposed project.

## **Trail Dedication**

### *Countywide Plan Trails Element*

The *CWP Trails Element* identifies existing and potential trail sites to be preserved for public use, specifies the ultimate use of the identified trail sites, and establishes policies for acquiring and developing a trail network throughout the County. Map C-2 of the *CWP Trails Element* (refer to Attachment 6) identifies a potential multi-use hiking, equestrian, and biking trail starting off Nicasio Valley Road, south of the project site and continuing along the fire road and ridgeline on the "Lands of Mease". During the review process of the Mease applications, the County requested dedication of a public easement for future trail development. Acquisition by the County of a trail easement within the "Lands of Mease" would secure the last significant link of existing trail easements that make up the ridgeline trail network extending from the Open Space District lands at the Roy's Redwoods Open Space Preserve and French Ranch to the east and to Samuel P. Taylor State Park and the Golden Gate National Recreation Area to the northwest. An offer of a trail easement would provide the County the ability to construct in the future a multi-use trail link across the "Lands of Mease".

### *Proposed Project*

The proposed project does not include the provision for deeding to the County a trail easement along the ridgeline of the "Lands of Mease", nor are there any mechanisms proposed to assure public access over the "Lands of Mease" in the future. The applicants have suggested that there would be an alternative site for trail access on the Open Space District's French Ranch Open Space Preserve. The Open Space District staff reviewed possible alternative trail routes downslope of the property, and concluded that a route in this location would not be desirable. Construction would entail crossing numerous slides and watercourses on side slope gullies exceeding 50% in slope. Numerous bridges and walls would need to be constructed to hold a trail for mixed uses. The Open Space District staff concluded, following review of possible alternative routes, that no other reasonable routes exist for the multi-use trail linkage other than the existing ridgeline fire road over the "Lands of Mease". While the proposal could result in the sharing of a portion of the existing fire road developed with driveway access to the two proposed building sites with a potential future trail, this in itself would not preclude the County's ability to develop a trail should an easement be acquired in the future.

### *Consistency with ARP Zoning District Standards (Marin County Code, Section 22.16.040 A (4))*

Special standards apply to development and new land uses within the ARP zoning district. One of these standards includes the ability of the County, in some cases, to require reasonable public access across lands in private ownership, where consistent with adopted County plans, where not in conflict with agricultural uses, and where liability issues have been resolved. In those cases, public access for pedestrian and/or equestrian purposes shall be required as a condition of plan approval. Based on direction from County Counsel in this case, conditions of approval for the proposed project do not require dedication of an easement for future construction of a public access trail. The major legal issue involving the requirement of dedication of an easement for development entitlements in this case is whether the condition requiring dedication of a public access easement would have the sufficient degree of connection or nexus between the proposed development activity and the development impact or the demand for a new public trail access.

The two leading United States Supreme Court cases affirm the nexus requirement. In *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), the U. S. Supreme Court stressed the importance of a nexus or connection between the dedication requirement of public access to the beach and the burden being imposed by the new residential development. If there is no such nexus or connection, the decision to impose the condition would not be

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a proper land use decision, and therefore could amount to a 'taking' of property for which compensation must be paid. The court in *Nollan* specifically determined that where a nexus does not exist between the burden created by the development and the condition imposed, the condition results in a 'taking'. The *Nollan* decision was expanded on in the more recent case of *Dolan v. City of Tigard*, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994). In *Dolan*, the U. S. Supreme Court held that local governments must prove that development conditions placed on a discretionary permit have a 'rough proportionality' to the development's impact. If not, then a 'taking' could occur. The Court held that in making an adjudicative decision, local governments must demonstrate a 'required reasonable relationship' between the condition to be imposed on a development permit and the development's impact.

#### *Merits of the Project*

The absence of an offer of a public trail easement in conjunction with the proposed project does not result in a physical environmental change to the property or a loss of, or impact to, a previously County dedicated trail easement on this property. The *CWP Trails Element* maps are used in efforts to plan, secure, and develop public use trails. For the public trail system to expand, public agencies must acquire the land or a public trail easement for members of the public to access any trail lawfully over private property. The proposed project does not result in the construction of any structural barriers along the ridgeline or on the existing fire road that would preclude the County in the future from acquiring a public multi-trail easement as mapped in the *CWP Trail Element*. The proposed residences are sited well below the desired trail location on the ridgeline. In addition, the property is located within the *CWP* designated Ridge and Upland Greenbelt overlay zone, and the governing County ridge and upland greenbelt policies (*CWP Policies EQ-3.18* through *EQ-3.20*) preclude the construction of any structures along the ridgeline on the "Lands of Mease". Furthermore, any obstruction, including structures or tree planting, of the existing fire road is prohibited by the Marin County Fire Department, as the Department's Fire Run Book identifies the fire road as the "Moon Mountain Fire Road", which must be left open for the Department's use. In conclusion, staff finds that the proposed development does not create an impact that would prevent the County from obtaining an easement for the construction of a public access trail in the future.

#### *Community Concerns*

Members of the communities of Nicasio and San Geronimo assert that they have utilized the existing fire road along the ridgeline over the "Lands of Mease" as a multi-use trail since the 1950s. The Nicasio Design Review Board, the San Geronimo Planning Group, Save the Valley, the San Geronimo Valley Horseman's Association, and the Marin Horse Council request that the applicants grant the necessary trail easement to the County for trail development in the future, in order to complete the ridgeline trail discussed above.

The San Geronimo Valley Planning Group (SGVPG) found that the proposed residences are relatively modest in size and will not be visible from the Valley side of the ridge. However, the SGVPG remains concerned about the lack of a dedication to the County of a trail easement to assure the County's ability to construct a public trail for the community's continued use of the ridgeline fire road.

While the Nicasio Design Review Board (NDRB) expressed their concerns relative to the competing issues of clustering development downslope and outside of the ridge and upland greenbelt areas with additional tree removal, the NDRB continues to support the County's desire to acquire a trail access along the ridgeline fire road as an important community goal.

#### **Preservation of Agricultural Lands, Subdivision of ARP Parcels, and Clustering of Development**

*Marin Countywide Plan (CWP)* policies promote the preservation of agriculture by encouraging parcels to remain large enough in size to sustain agricultural production, thus avoiding conversion of agricultural land to non-agricultural uses (*CWP Policy A-1.1*). The *CWP* discourages the subdivision of agricultural land unless the division enhances the long-term agricultural productivity of the land (*CWP Policy A-1.3*). Within the inland rural corridor, *CWP* policies state that non-agricultural uses should be clustered on five percent of the entire property to encourage



the maximum protection of agricultural land (*CWP Policy A-1.4*). Finally, *CWP* policies encourage the acquisition or dedication of permanent agricultural easements to permanently preserve agricultural land for agricultural uses (*CWP Policy A-1.5*). Therefore, an issue of concern is whether the proposed two-lot land division and subsequent residential development would promote the long-term continued use of the property for agricultural purposes, as required by *CWP* policies. It has also been suggested that the proposed project might result in a predominantly residential use.

As proposed, the project includes the recently established and potential future agricultural production where historically no agricultural production existed. The project would provide some agricultural production diversity on proposed Parcel "A" as outlined in the Agricultural Management Plan. Proposed improvements are located in areas that do not have agricultural potential and would not impact the current or future agricultural production lands of the property, which are limited primarily to the downhill slopes extending southwesterly from the ridgeline. All land area within proposed Parcel "B" is heavily wooded and steeply sloped. Therefore, proposed Parcel "B" has no agricultural production potential and conditions of approval require that the major portion of the parcel be preserved as a woodland area because of its habitat value.

As modified by recommended conditions of approval, residential development areas will occupy less than one percent (approximately 2 acres) of the property, including driveway extensions and parking (Parcel A: 47,000 square foot residential building envelope and Parcel B: 30,000 square foot residential building envelope). While the property has limited agricultural potential, the proposed building sites were selected to avoid areas with the highest suitability for agricultural production, while also taking into consideration potential geologic and hydrologic hazards, visual impacts, and stream conservation and woodland preservation policies.

As noted above, *CWP* policies encourage the dedication of permanent agricultural easements in order to preserve agricultural land in perpetuity. Because of the limited agricultural potential of the property, the property would not qualify for a Williamson Act contract nor would MALT or the County want to acquire an agricultural easement over the property because of the small size of the parcel. However, to ensure that the limited agricultural use of the property is preserved in perpetuity, conditions of approval require recordation of a "Private, Agricultural and Woodland Preservation Agreement (Agreement)" against the title of the property that will limit future improvements outside of the approved building envelopes on each parcel to landscaping and allowed agricultural, resource and open space uses as noted in the Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) subject to required County permits and approvals and passive recreational uses, as well as construction of a future public multi-use access trail should the County acquire a trail easement. The Agreement would permanently preserve the limited existing and potential agriculturally productive land on the property for agricultural uses and prohibit the conversion of the agricultural land to non-agricultural uses.

Finally, staff acknowledges that the existing or potential agricultural use of the property would not, by itself, support the extent of proposed residential development from a financial standpoint. Additional regulations that would limit development on agricultural lands are being evaluated as part of the *Countywide Plan* update. However, the *Marin County Code* describes the ARP zoning, as a zoning applied to "agricultural areas suitable for residential development", and includes properties where larger projects such as the French Ranch Subdivision have been approved. In conclusion, staff has determined that as modified by conditions of approval, the project will ensure that potential agricultural land areas will be preserved and will not be impacted by the proposed lot division or subsequent residential development.

## CONCLUSION

Staff concludes that potential significant impacts of the project will be reduced to less than significant levels by the mitigation measures contained in the Negative Declaration and required as conditions of approval for the project. Staff further concludes that the Master Plan Waiver request can be granted and that all Land Division (Tentative Map), Precise Development Plan, and Design Review findings can be made to approve the proposed project subject

to conditions of approval, specifically Special Conditions 13 to 27 to assure that the project that will result in (a) protecting the ridge and upland greenbelt area and visual resources; (b) limiting tree removal and preserving wildlife habitat; (c) protecting the rural character and comply with the County's hillside design guidelines; (d) minimizing changes in drainage patterns and provide for stormwater pollution and erosion control measures; and (e) protecting surface and ground water, air quality and the fire road.

Based on the analysis above and the findings contained in the recommended Resolution (see Attachment 2), as modified by conditions of approval, the proposed project will be consistent with the pertinent policies of the Countywide Plan, the Nicasio Valley Community Plan, the ARP Development Standards and the Single-Family Residential Design Guidelines. The project will not interfere with existing views or privacy enjoyed by surrounding properties and will have no significant impact on the visual and rural character of the Nicasio community. As noted previously, conditions of project approval require that the applicants modify the proposed residence on Parcel "B" to reduce the effective visual bulk and mass by: (a) stepping the residence down the hillside, with the roof lines conforming to the underlying natural topography; and (b) breaking the roof forms and roof lines into series of smaller building components. The proposed exterior building materials, textures, and colors, are darker tones, compatible with the natural landscape and consistent with the *Nicasio Valley Development and Design Guidelines (Policies V.E. 18 and V.H.)* and the *Single-family Residential Design Guidelines*.

Marin County Environmental Health Services has reviewed and approved the construction of on-site sewage disposal and water systems to serve the residential development, subject to conditions of approval. Marin County Department of Public Works has reviewed and approved the conceptual site improvements, including improvements to the common driveway access, new driveway extensions to serve the building site, parking and emergency vehicle turnaround, and preliminary grading and drainage plans.

## **RECOMMENDATION**

Staff recommends that the Marin County Planning Commission review the administrative record, conduct a public hearing, and take the following actions:

1. Approve the attached Resolution adopting a Negative Declaration of Environmental Impact for the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan, and Design Review; and
2. Approve with conditions the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan, and Design Review based on the findings and subject to the conditions contained in the attached resolution.

## **ATTACHMENTS**

1. Proposed Resolution recommending adoption of the Negative Declaration of Environmental Impact for the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan, and Design Review
2. Proposed Resolution recommending conditional approval of the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan, and Design Review
3. Negative Declaration and Initial Study
4. Location Map
5. Assessor's Parcel Map
6. Map C-2 of the Marin Countywide Plan (1994) Trails Element
7. Project Plans and Submittal Materials
  - a. Land Division (Tentative) Map
  - b. Detailed Site Plan

- c. Site Plan for Proposed Development
  - d. Residence for Parcel "A" - Floor Plans
  - e. Residence for Parcel "A" - Elevations
  - f. Residence for Parcel "A" - Section
  - g. Residence for Parcel "B" - Floor Plans
  - h. Residence for Parcel "B" - Elevations
  - i. Residence for Parcel "B" - Section
  - j. Equipment Storage Structure for Parcel "A"
  - k. Schematic Land Division Map and Improvement Plan
  - l. Driveway Improvement Plans
  - m. Tree Survey and Assessment and Tree Removal Plan
  - n. Geotechnical Investigation Site Geology
  - o. Agricultural Management Plan Map
  - p. Woodland Preservation Area Map
  - q. SalemHoweAssociates Inc. documents, dated August 30, 2003, February 25, 2004, December 7, 2004
  - r. Photos of Property Posting and California Civil Code Section 1008 and 1009
  - s. Applicant's letter to Marin County Open Space District, dated April 26, 2004
  - t. Statement of Vineyard Practices, dated June 20, 2005
  - u. Exterior Color Board
  - v. New Home Green Building Residential Design Guidelines form
  - w. Swift Tree Care Arborist Report
8. Department of Public Works memo, dated January 20, 2005
  9. Marin County Fire Department memos dated 10/6/03, and 12/9/04
  10. Marin County Environmental Health Services memos, dated December 13, 2004 and January 28, 2005
  11. Marin County Open Space District Correspondence, dated October 15, 2003, April 8, 2004, November 1, 2004, December 22, 2004, and February 2, 2005
  12. Nicasio Valley Design Review Board correspondence October 16, 2003, January 3, 2005, May 9, 2005
  13. Save the Valley letter, dated April 7, 2004
  14. San Geronimo Valley Planning Group letters dated April 8, 2004, October 29, 2004, received December 30, 2004
  15. San Geronimo Valley Horseman's Association letter, dated April 8, 2004
  16. Marin Horse Council letter, dated April 9, 2004
  17. Peter D. Pattengill letter, dated November 22, 2004
  18. Marin County Code, Title 22, Section 22.16.030 F (2.) and Figure 2-3
  19. Draft Private Agricultural and Woodlands Preservation Agreement
  20. Mitigation Monitoring Program and Monitoring Compliance Checklist
  21. Site Photos
  22. Comments to Initial Study
    - a. State Department of Fish and Game letter, dated October 27, 2005
    - b. San Geronimo Valley Planning Group letter, dated November 6, 2005
    - c. San Geronimo Valley Horseman's Association letter, dated November 14, 2005
    - d. Nicasio Design Review Board letter, dated November 15, 2005
    - e. Bob and Diane Dougherty letter, dated November 14, 2005

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC \_\_\_\_\_

**A RESOLUTION ADOPTING A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE MEASE/SALAH MASTER PLAN WAIVER REQUEST, LAND DIVISION (TENTATIVE MAP) (LD 05-01), PRECISE DEVELOPMENT PLAN (PDP 05-01), AND DESIGN REVIEW (DR 04-13)**

**701 NICASIO VALLEY ROAD, NICASIO ASSESSOR'S PARCEL 121-200-01**

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**SECTION I: FINDINGS**

- I. WHEREAS the applicants are requesting Master Plan Waiver, Land Division, Precise Development Plan and Design Review approvals proposing the following:

Master Plan Waiver Request

The applicants are requesting Waiver of the Master Plan submittal requirement, in accordance with Marin County Code, Section 22.44.040 and Table 4-2 on the basis that: (1) the proposed two-lot land division will result in no additional residual principal residential development potential on the 39.5-acre parcel based upon the potential maximum density of two principal dwelling units established by the governing ARP-20 zoning district; (2) the applicants propose to record a "Private Agricultural and Woodlands Preservation Agreement" against the title of the property that will: (a) prohibit future development of any structures outside of the designated building envelopes, except for agricultural, resource and open space uses as allowed by Marin County Code, Title 22 (Section 22.08.030, Table 2-1, Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) and County approved site improvements associated with the current project i.e. driveways, retaining walls, utilities, water wells, septic fields and one agricultural-associated structure; (b) limit improvements outside of the designated building envelopes to landscaping, allowed agricultural, resource and open space uses as noted in Marin County Code, Title 22 (Section 22.08.030, Table 2-1, Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts), and passive recreational uses, as well as construction by the County of a possible future public multi-use access trail should the County acquire a trail easement; and (c) preserve the woodland area between the proposed residential sites and Nicasio Valley Road; and (3) siting of all proposed residential structures are clustered and limited to within the proposed designated building envelopes on each proposed parcel.

Land Division

The applicants are requesting Land Division (Tentative Map) approval proposing a two-lot land division of a 39.5-acre parcel into two agricultural/residential lots as follows: (1) Parcel "A", consisting of 23.7 acres; and (2) Parcel "B", consisting of 15.8 acres. Water for domestic and fire suppression use for both parcels will be provided from the existing on-site well at the northwestern portion of the property. Water for agricultural purposes will be provided from two existing on-site wells located on the northern side of the proposed driveway, north of the vineyard. The applicants propose to improve to County standards for residential use

the 2,900-foot long existing driveway from Nicasio Valley Road as a 12-foot wide, with 2-foot wide shoulders, common driveway, with a maximum grade of 18% with eight vehicle turnouts to serve the proposed two residential parcels. Along the southern side of the access driveway at the first turn will be an approximately 80-foot long, 6-foot high steel post and timber lagging retaining wall.

### Precise Development Plan

#### *Site Improvements*

The Precise Development Plan (PDP) establishes the location, size and configuration of proposed building envelopes within the Nicasio side of the ridgeline, consisting of 47,000 square feet on proposed Parcel "A", and 40,000 square feet on proposed Parcel "B". The building envelope on Parcel "A" is sited within a meadow area on an eastern-facing downslope and the building envelope on Parcel "B" is sited within the woodlands on a northern-facing downslope. The PDP includes proposed utility easements, construction of associated site improvements including grading and drainage improvements, an approximately 370-foot long common driveway extension from the existing common access driveway and a common on-site sewage disposal system with a leach field area on each parcel located downslope from the building envelopes to serve the proposed future residential development. The project includes a common emergency vehicle turnaround on proposed Parcel "A" to serve both parcels. The project includes the removal of the existing agricultural storage buildings.

All utility lines will be constructed underground except for the first approximately 450 feet from Nicasio Valley Road off the existing pole. P G & E will provide electricity. Gas will be provided by installation of a propane tank at each residence. Estimated area of new site disturbance is 2.0 acres as follows: leach fields 0.1 acre, new driveway improvements 0.9 acre, residence Parcel "A" 0.7 acre, and residence Parcel "B" 0.3 acre. Thirty-eight trees are proposed to be removed.

### Design Review

The applicants are requesting Design Review approval proposing to remove the existing agricultural storage structure and construct two, two-level single-family residences partially utilizing straw bale construction, each with an attached garage, on proposed Parcels "A" and "B" and an agricultural structure for equipment storage on proposed Parcel "A" as follows:

#### *Parcel "A"*

The proposed project consists of the construction of a 2,800 square foot residence with a 625 square foot attached garage, with a maximum height of 24.66 feet, and appurtenant improvements. The proposed two-story residence is sited approximately at the 695-foot elevation (approximately 140 feet below the 300-foot horizontal limitation ridgeline elevation) and approximately 500 feet down slope from the southern property line. Proposed exterior finishes consist of colored ("mushroom") stucco, dark ("oak brown") wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. The project also includes the removal of the two existing storage structures and construction of an 884 square foot, 16-foot high agricultural/equipment storage building, within the 300-foot horizontal ridgeline area. Proposed exterior finishes consist of painted horizontal wood siding and corrugated galvanized metal roof. On-site parking for four cars is proposed.

#### *Parcel "B"*

The proposed project consists of the construction of a 2,200 square foot single-family residence, with a 530 square foot attached garage, with a maximum height of 24.33 feet and appurtenant improvements. The proposed two-story residence is sited approximately at the 680-foot elevation (approximately 140 feet below the 300-foot horizontal limitation ridgeline elevation) and approximately 600 feet down slope from the southern property line and 140 feet from the western property line. Proposed exterior finishes consist of colored (“taupe”) stucco, dark (“oak brown”) wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. On-site parking for four cars is proposed.

#### *Landscaping*

The applicants propose to reseed areas disturbed by construction activities or void of cover with drought resistant, native grasses.

#### Agricultural Land Use and Management Plan

The applicants have submitted a proposed Agricultural Management Plan in conjunction with the proposed project, including a map showing the areas of the property which offer the best potential for future agricultural development based on sun exposure, ground slope, and lack of site constraints. In general, the applicants have identified the potential agricultural area to be along both sides of the fire road, within the eastern exposed downslope meadow area, and the southern exposed vineyard site, totaling approximately 5 acres. The applicants may expand the existing vineyard (pinot noir grapes).

**The property is located at 701 Nicasio Valley Road, Nicasio and is further identified as Assessor’s Parcel 121-200-01.**

- II. WHEREAS the Marin County Planning Commission finds that the Marin County Community Development Agency - Planning Division prepared an Initial Study for the project which determined that potential physical impacts relating to land use and planning, geophysical, water, air quality, biological resources, aesthetics and visual resources, are avoided or mitigated to a point where no significant adverse environmental impacts will occur because mitigation measures to the project, as agreed to by the applicants, have been incorporated as conditions of project approval, and there is no evidence that the project, as conditioned, will have a significant effect on the environment.
- III. WHEREAS the Marin County Community Development Agency – Planning Division prepared a Mitigation Monitoring and Reporting Program, identified as Exhibit “A”, and incorporated into this Resolution by reference, which encompasses the following:
  - A. A list of mitigation and monitoring measures required of the applicants at each state of project approval and development;
  - B. A checklist to document and verify mitigation measure compliance; and
  - C. A general condition of project approval which requires that all stages of project development shall conform with the adopted Mitigation, Monitoring and Reporting Program and stipulates that the County of Marin will verify compliance with each of the required mitigations.
- IV. WHEREAS the Marin County Environmental Coordinator determined that, based on the Initial Study, a Negative Declaration of Environmental Impact is recommended for the project pursuant to the California Environmental Quality Act (CEQA). All project-related, potentially significant and adverse effects and appropriate mitigation measures have been discussed in the Initial Study. All required mitigation measures have been incorporated into conditions of project approval contained in the conditional approval Resolution. With mitigation measures incorporated into conditions of approval, the proposed project will have no

significant adverse environmental impacts, and no conditions described in the CEQA Guidelines have been identified in the Initial Study that would require the preparation of an Environmental Impact Report. Responses received to date to the Initial Study, during the 30-day public comment and review period, have been addressed in the staff report.

- V. WHEREAS on October 17, 2005, a Negative Declaration of Environmental Impact was completed and distributed to agencies and interested parties to commence a 30-day public review period for review and comment on the Negative Declaration of Environmental Impact and a Notice of the public review period and hearing date to consider approval of the Negative Declaration of Environmental Impact was published in a general circulation newspaper pursuant to CEQA requirements.
- VI. WHEREAS after the close of the public review period on November 15, 2005, on November 28, 2005, the Marin County Planning Commission conducted a duly noticed public hearing to receive public testimony on the adequacy of the Negative Declaration of Environmental Impact and to consider the grant of a Negative Declaration of Environmental Impact of the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan and Design Review applications.
- VII. WHEREAS, on November 28, 2005, the Marin County Planning Commission reviewed and considered the information contained in the Initial Study and proposed Negative Declaration of Environmental Impact, and comments and responses thereto.

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

- A. Notice of the public review period and hearing on the Negative Declaration of Environmental Impact was given as required by law and said hearing was conducted pursuant to Sections 15073 and 15074 of the State CEQA Guidelines and the County CEQA process.
- B. All individuals, groups and agencies desiring to comment on the Negative Declaration of Environmental Impact were given the opportunity to address the **Marin County Planning Commission**.
- C. The Negative Declaration of Environmental Impact for the project consists of the Initial Study, Negative Declaration of Environmental Impact document, and supporting information incorporated by reference therein.
- D. The Negative Declaration of Environmental Impact was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County CEQA process.

**SECTION II: DECISION AND APPEAL RIGHTS**

NOW, THEREFORE, LET IT BE FURTHER RESOLVED that the Marin County Planning Commission hereby approves and adopts the Negative Declaration of Environmental Review for the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan and Design Review applications as adequate and complete for purposes of approving the project and declares that the Negative Declaration of Environmental Impact has been completed and considered in conjunction with the comments thereto, in compliance with CEQA Guidelines and the County CEQA process.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is Parcel unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$700.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on the tenth calendar day following the date of the action from which the appeal is taken.

**SECTION III: VOTE**

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the County of Marin, State of California, on the 28th day of November 2005, by the following vote to-wit:

AYES:

NOES:

OBSTAIN:

ABSENT:

\_\_\_\_\_  
STEVE C. THOMPSON, CHAIRPERSON  
MARIN COUNTY PLANNING COMMISSION

Attest:

\_\_\_\_\_  
Kim Shine  
Planning Commission Recording Secretary



## ATTACHMENT "A"

### Responses to Initial Study Comments

In response to the circulation of the Initial Study, staff has received several letters commenting on the proposed project and the proposed Negative Declaration of Environmental Impact. Several of the issues raised are addressed in the Negative Declaration of Environmental Impact and the staff report for the proposed project. However, staff provides responses to the comments as follows:

1. [San Geronimo Valley Planning Group \(SGVPG\) letter, dated November 6, 2005](#)

**a. The SGVPG recommends that the fire road should never be blocked.**

**Response**

*Special Condition 27 states that any obstruction of the existing fire road, including structures, owner's agricultural equipment, parking of vehicles, or tree planting, is prohibited by the Marin County Fire Department, as the Department's Fire Run Book identifies the fire road as the "Moon Mountain Fire Road", which must be left open and unobstructed for the Department's use.*

**b. The SGVPG believes that the lack of a trail easement granted by the applicants to the County as part of the project is a significant impact on existing recreational opportunities.**

**Response**

*For the ridgeline trail to expand, a public agency must acquire the land or a public trail easement for the public to access lawfully any "trail" over private property. A jurisdiction cannot use its California Environmental Quality Act powers to impose a condition to acquire something it did not have in the first place. The proposed two-lot land division and subsequent residential development will not impact the County's ability to obtain a trail easement over the fire road in the future. Furthermore, two United States Supreme Court cases affirmed the nexus requirement between the dedication requirement of public access and the burden being imposed by the project. If there is no such nexus or connection, the decision to impose the condition could amount to a 'taking' of property for which compensation must be paid. (Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994)).*

**c. The SGVPG does not believe that a two-lot land division of the 39.5-acre property is allowed in accordance with Marin County Code (MCC), Section 22.02.020 C (2) as the MCC calls for a rounding down.**

**Response**

*Marin County Code, Section 22.02.020 C (2) refers to residential density. When the number of housing units allowed on a site are calculated based on density limits, any fraction of a unit of 0.9 or greater shall be counted (rounded up) as a whole unit; any fraction of a unit less than 0.9 shall be rounded down to the next lowest whole number. Thus, dividing the 39.5-acre site by the assigned density factor of 20 acres equals a potential maximum density of 1.975 units, which is rounded up to 2 units. (ARP 20 allows one housing unit for each 20 acres (871,200 square feet) of land area; a lot of 39.5 acres (1,720,620 square feet) allows two housing units (1,720,620/871,200 = 1.975 units, rounded up to two).*

**d. The SGVPG questions the use of the 2,900-foot long driveway and the protection of the ephemeral**

**creek along Nicasio Valley Road.**

**Response**

*Because of the steep slopes and banks, and the ephemeral creek that runs along Nicasio Valley Road, construction of a short driveway access off Nicasio Valley Road is not feasible, would require considerable grading, would impact the woodlands and streetscape along Nicasio Valley Road, and would impact the ephemeral creek. While not designated as a 'blue-line' creek on the Nicasio USGS maps, the ephemeral creek and a buffer zone or "stream conservation area (SCA) along the banks of the creek provides important wildlife habitat. Countywide Plan policies (specifically Policy EQ-2.13) require that these habitat areas be permanently maintained and enhanced. Human use of these areas should be restricted as necessary. However, designated SCAs shall not in any manner authorize trespass upon private property, or increase the right of public agencies to gain access to private property.*

- e. The SGVPG states that the project site is within the San Geronimo Valley's corridor for scenic vistas and will impact the San Geronimo community unless carefully monitored.**

**Response**

*Based on review of the story poles, the residential development will not be seen from the San Geronimo community or scenic vistas, particularly as viewed along Sir Francis Drake Boulevard. All development improvements are located on the Nicasio side of the ridge. While a portion of the southwest grassland slopes facing the San Geronimo Valley corridor are planted with vineyards, consistent with a principal permitted use of the ARP zoning district, these vineyards do not destroy the natural scenic qualities and sense of visual containment within the San Geronimo Planning Area.*

- 2. San Geronimo Valley Horseman's Association (SGVHA) letter, dated November 14, 2005

- a. The SGVHA believes that the San Geronimo Valley Community Plan policies were omitted in considering the project and believe that the project site is located within the San Geronimo Valley Community Plan planning area.**

**Response**

*The project site is not located within the San Geronimo Valley Community Plan (San Geronimo Zoning Map C-2 and San Geronimo Valley Outside Village Areas Zoning Map C-5).*

- b. The SGVHA does not believe that a two-lot land division of the 39.5-acre property is allowed in accordance with Marin County Code (MCC), Section 22.02.020 C (2) as the MCC calls for a rounding down.**

**Response**

*Marin County Code, Section 22.02.020 C (2) refers to residential density. When the number of housing units allowed on a site are calculated based on density limits, any fraction of a unit of 0.9 or greater shall be counted (rounded up) as a whole unit; any fraction of a unit less than 0.9 shall be rounded down to the next lowest whole number. Thus, dividing the 39.5-acre site by the assigned density factor of 20 acres equals a potential maximum density of 1.975 units, which is rounded up to 2 units. (ARP 20 allows one housing unit for each 20 acres (871,200 square feet) of land area; a lot of 39.5 acres (1,720,620 square feet) allows two housing units ( $1,720,620/871,200 = 1.975$  units, rounded up to two).*

- c. The SGVHA believes that the lack of a trail easement granted by the applicants to the County is a**

**significant impact to recreational opportunities.**

**Response**

*For the ridgeline trail to expand, a public agency must acquire the land or a public trail easement for the public to access lawfully any “trail” over private property. A jurisdiction cannot use its California Environmental Quality Act powers to impose a condition to acquire something it did not have in the first place. The proposed two-lot land division and subsequent residential development will not impact the County’s ability to obtain a trail easement over the fire road in the future. Furthermore, two United States Supreme Court cases affirmed the nexus requirement. between the dedication requirement of public access and the burden being imposed by the project. If there is no such nexus or connection, the decision to impose the condition could amount to a ‘taking’ of property for which compensation must be paid. (Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994)).*

**d. The SGVHA believes that a finding of less than significant impact on the emergency access (the fire road) is erroneous.**

**Response**

*The project, including the access, has been reviewed and approved by the Marin County Fire Department and Department of Public Works. Special Condition 27 states that any obstruction of the existing fire road, including structures, owner’s agricultural equipment, parking of vehicles, or tree planting, is prohibited by the Marin County Fire Department, as the Department’s Fire Run Book identifies the fire road as the “Moon Mountain Fire Road”, which must be left open and unobstructed for the Department’s use.*

**e. The SGVHA believes that the lack of a trail easement granted by the applicants to the County is a significant impact to recreational opportunities.**

**Response**

*For the ridgeline trail to expand, a public agency must acquire the land or a public trail easement for the public to access lawfully any “trail” over private property. A jurisdiction cannot use its California Environmental Quality Act powers to impose a condition to acquire something it did not have in the first place. The proposed two-lot land division and subsequent residential development will not impact the County’s ability to obtain a trail easement over the fire road in the future. Furthermore, two United States Supreme Court cases affirmed the nexus requirement. between the dedication requirement of public access and the burden being imposed by the project. If there is no such nexus or connection, the decision to impose the condition could amount to a ‘taking’ of property for which compensation must be paid. (Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994)).*

3. Nicasio Design Review Board (NDRB) letter, dated November 15, 2005

**The Nicasio Community remains strongly interested in the development of a multi-use trail easement along the fire road. The NDRB continues to believe there are alternative siting opportunities for improvements nearer the ridgeline that would be less expensive to develop without any significant off-site visual impacts and would support such relocations in return for a dedicated trail access along the ridge.**

**Response**

*The applicants and planning staff considered alternative building sites. However, these alternative building sites for proposed Parcels “A” and “B” were located within the 300-foot horizontal and 100-foot vertical ridge and upland greenbelt restricted areas.*

4. Bob and Diane Dougherty letter, dated November 14, 2005

- a. **The Doughertys believe that the project adversely impacts the environment and their horse boarding business. For approximately 20 years, the Doughertys have had trail access across the “Lands of Mease” to gain access to the ridge. The Doughertys fear that the property owners will close the trail to all riders, hikers, and bikers.**

**Response**

*An Initial Study has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA). The Environmental Coordinator of the County of Marin has recommended the grant of a Negative Declaration of Environmental Impact. All project related and potentially significant adverse effects of the project and the appropriate mitigation measures are discussed in the Initial Study. The Initial Study evaluated the proposal with respect to all potential environmental issues including County and community plan policies and zoning regulations, geology and soils, hydrology and drainage, biological resources, visual and aesthetic quality, transportation and circulation, air quality, noise public services, and costs and revenues. All mitigation measures are incorporated as recommended conditions of project approval in the conditional approval Resolution attached to this staff report. With all mitigation measures incorporated as conditions of project approval, the proposed project will result in no significant adverse environmental impacts, and no conditions described in the CEQA Guidelines have been identified in the Initial Study that would require the preparation of an Environmental Impact Report.*

*For the ridgeline public trail access to expand, a public agency must acquire the land or a public trail easement for the public to access lawfully any “trail” over private property. A jurisdiction cannot use its California Environmental Quality Act powers to impose a condition to acquire something it did not have in the first place. The proposed two-lot land division and subsequent residential development will not impact the County’s ability to obtain a trail easement over the fire road in the future. Furthermore, two United States Supreme Court cases affirmed the nexus requirement. between the dedication requirement of public access and the burden being imposed by the project. If there is no such nexus or connection, the decision to impose the condition could amount to a ‘taking’ of property for which compensation must be paid. (Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994)).*

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MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC \_\_\_\_\_

**A RESOLUTION APPROVING WITH CONDITIONS THE MEASE/SALAH  
MASTER PLAN WAIVER REQUEST, LAND DIVISION (LD 05-01),  
PRECISE DEVELOPMENT PLAN (PDP 05-01), AND  
DESIGN REVIEW (DR 04-13)**

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ASSESSOR'S PARCEL 121-200-01**

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## Precise Development Plan

### *Site Improvements*

The Precise Development Plan (PDP) establishes the location, size and configuration of proposed building envelopes within the Nicasio side of the ridgeline, consisting of 47,000 square feet on proposed Parcel "A", and 40,000 square feet on proposed Parcel "B". The building envelope on Parcel "A" is sited within a meadow area on an eastern-facing downslope and the building envelope on Parcel "B" is sited within the woodlands on a northern-facing downslope. The PDP includes proposed utility easements, construction of associated site improvements including grading and drainage improvements, an approximately 370-foot long common driveway extension from the existing common access driveway and a common on-site sewage disposal system with a leach field area on each parcel located downslope from the building envelopes to serve the proposed future residential development. The project includes a common emergency vehicle turnaround on proposed Parcel "A" to serve both parcels. The project includes the removal of the existing agricultural storage buildings.

All utility lines will be constructed underground except for the first approximately 450 feet from Nicasio Valley Road off the existing pole. P G & E will provide electricity. Gas will be provided by installation of a propane tank at each residence. Estimated area of new site disturbance is 2.0 acres as follows: leach fields 0.1 acre, new driveway improvements 0.9 acre, residence Parcel "A" 0.7 acre, and residence Parcel "B" 0.3 acre. Thirty-eight trees are proposed to be removed.

### Design Review

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#### *Parcel "A"*

The proposed project consists of the construction of a 2,800 square foot residence with a 625 square foot attached garage, with a maximum height of 24.66 feet, and appurtenant improvements. The proposed two-story residence is sited approximately at the 695-foot elevation (approximately 140 feet below the 300-foot horizontal limitation ridgeline elevation) and approximately 500 feet down slope from the southern property line. Proposed exterior finishes consist of colored ("mushroom") stucco, dark ("oak brown") wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. The project also includes the removal of the two existing storage structures and construction of an 884 square foot, 16-foot high agricultural/equipment storage building, within the 300-foot horizontal ridgeline area. Proposed exterior finishes consist of painted horizontal wood siding and corrugated galvanized metal roof. On-site parking for four cars is proposed.

#### *Parcel "B"*

The proposed project consists of the construction of a 2,200 square foot single-family residence, with a 530 square foot attached garage, with a maximum height of 24.33 feet and appurtenant improvements. The proposed two-story residence is sited approximately at the 680-foot elevation (approximately 140 feet below the 300-foot horizontal limitation ridgeline elevation) and approximately 600 feet down slope from the southern property line and 140 feet from the western property line. Proposed exterior finishes consist of colored ("taupe") stucco, dark ("oak brown") wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. On-site parking for four cars is proposed.

### *Landscaping*

The applicants propose to reseed areas disturbed by construction activities or void of cover with drought resistant, native grasses.

### Agricultural Land Use and Management Plan

The applicants have submitted a proposed Agricultural Management Plan in conjunction with the proposed project, including a map showing the areas of the property which offer the best potential for future agricultural development based on sun exposure, ground slope, and lack of site constraints (*refer to Attachment 5.m.*). In general, the applicants have identified the potential agricultural area to be along both sides of the fire road, within the eastern exposed downslope meadow area, and the southern exposed vineyard site, totaling approximately 5 acres. The applicants may expand the existing vineyard (pinot noir grapes) in the future.

**The property is located at 701 Nicasio Valley Road, Nicasio and is further identified as Assessor's Parcel 121-200-01.**

- II. WHEREAS an Initial Study has been prepared for the proposed project pursuant to the requirements of the California Environmental Quality Act (CEQA), and the Marin County Planning Commission at a duly noticed public hearing on November 28, 2005, based on the findings and subject to the mitigation measures contained in the Initial Study and proposed Negative Declaration for the Mease/Salah Master Plan Waiver Request, Land Division (Tentative Map), Precise Development Plan, and Design Review applications, which are incorporated as conditions of project approval, found that the project will not result in any potential, significant environmental impacts, and, therefore, adopted a Negative Declaration of Environmental Impact in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County CEQA process.
- III. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on November 28, 2005, to consider the merits of the project and hear testimony in favor of, and in opposition to, the Mease/Salah Master Plan Waiver Request, Land Division (Tentative Map), Precise Development Plan, and Design Review applications.
- IV. WHEREAS the Marin County Planning Commission finds that, as modified by the conditions of approval, and as discussed in the Initial Study, the project is consistent with the *Marin Countywide Plan* for the reasons listed below.
  - A. The project is consistent with the governing *CWP* Single-family, residential, one dwelling unit per 10 to 30 acres land use designation (AG-2) (*Policies CD-8.1 to 8.3 and CD-8.8 and Community Development Map 7.6*).
  - B. The project will provide housing opportunities on an ARP zoned property within the Nicasio Community, which is served by existing roadways, and necessary public and community facilities within the Inland Rural Corridor, where agricultural land uses are emphasized along with other uses compatible with agriculture and enhance agricultural preservation in a significant way, such as resource and habitat preservation. (*Policy CD-1.2*).
  - C. The project will comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, does not consist of development in an area that poses hazards to life or property, and avoid development in the upland area of the project site which has a significant natural resource values (*Policy CD-2.7*).
  - D. The project will not cause significant adverse impacts on water supply, fire protection, waste

disposal, schools, traffic and circulation, or their services (*Objective CD-7*).

- E. The project is consistent with the development policies of the Ridge and Upland Greenbelt overlay zone because, as modified by conditions of approval, residential development will preserve the visual resources and community separator of the ridge and upland greenbelt area, as well as preserve the wooded hillside area. The residential development will be clustered and sited in the least visually prominent portions of the site, where it will be screened by the mixed woodland forest. Most of the proposed residential improvements are situated below the restricted ridgeline areas. Limited encroachments into this area are permitted in the interest of balancing competing policy objectives of minimizing grading and driveway lengths. Minimizing driveway lengths and grading are encouraged by the ARP zoning district development standards. (*Marin County Code 22.16.030 L*) (*CWP Policies ED-10 and EQ-3.18 through EQ-3.20*).

The residences on Parcels "A" and "B" are sited approximately 140 feet below the 300-foot horizontal restricted ridgeline area. The residential building site on Parcel "B" is located outside of the 100-foot vertical restricted ridgeline areas. The residential building site on Parcel "A" encroaches at one point approximately 20 feet within the 100-foot vertical restricted area. However, the siting of the residence on Parcel "A" will not be seen from off-site views across the ridgeline. Siting the residence further downslope will only result in increasing the length of the driveway, thereby increasing the amount of grading. Therefore, the siting of the residence on proposed Parcel "A" meets the intent of the ridgeline restrictions to avoid potential visual impacts of the natural ridgeline condition of the property from surrounding areas and view corridors from the Nicasio and San Geronimo Valley communities, while not unnecessarily increasing the length of the new driveway that would require additional grading and site disturbance.

Conditions of approval require that the agricultural/storage equipment structure on Parcel "A" be sited downslope and outside of the 300-foot horizontal restricted ridgeline area. While the structure will still encroach within the 100-foot vertical restricted ridgeline area, the siting of the structure downslope and outside of the 300-foot horizontal restricted area will ensure that the structure will be screened from ridgeline views by the topography and tree canopies, minimize site disturbance, and maintain the intent of the County's ridge line protection policies.

The residences have been designed to maintain low profiles with maximum heights of 25 feet above grade, well below the 30-foot height permitted by the governing zoning. Furthermore, proposed exterior building materials and colors will blend with existing natural tones of the landscape. As modified by conditions of approval, siting of all proposed structures will maintain adequate setbacks from the visually prominent ridge areas at the higher elevations of the property consistent with County ridge and upland greenbelt policies (*Policy CD-8.12 and Policies EQ-3.18 through EQ-3.20*).

- F. As modified by conditions of approval, the project is consistent with the *CWP Policies EQ-2.87* and *EQ-3.14* requiring the protection of large, native trees and oak woodland habitat. A prominent feature of this site is the presence of approximately 20 large, heritage Coast live oak trees that will be preserved. The project requires the removal of 38 trees over 8 inches dbh (diameter breast height) on the 39.5-acre property, all within the development site of the proposed project as follows: 28 Douglas fir, 8 California bay laurel, and 2 Coast live oak. Overall, the extent of healthy trees proposed for removal is equivalent to approximately one healthy tree per acre, with removal all within an approximately 2-acre site, which constitutes the driveway extensions and building sites. The 28 Douglas fir and 2 Coast live oak trees proposed for removal are native trees as listed in the *Marin County Code, Chapter 22.27 (Native Tree Protection and Preservation)*. Conditions of approval require the applicants to submit a Tree Planting Replacement Plan, prepared by a licensed arborist for review and approval by the Marin County Community Development Agency – Planning Division. The replacement plan shall provide for the replacement of any native tree (30



trees) proposed for removal due to development activities at a ratio of 2:1 with a minimum of 15-gallon size trees, as determined feasible by a licensed arborist approved by the Marin County Environmental Coordinator. (*CWP Program EQ-3.14a*)

- G. The project will not significantly impact: (1) habitat values of the mixed evergreen woodland area, particularly for the northern spotted owl, or the ephemeral stream on the eastern slope of the property and along Nicasio Valley Road; (2) surface or ground waters; or (3) the migration of wildlife as project approval requires the recordation of a "Private Agricultural and Woodlands Preservation Agreement" against the title of the property with the following provisions: (a) except for improvements related to allowed agricultural, resource and open space uses as noted in Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts), subject to required County permits and approvals, development of any future structures (except for County-approved site improvements associated with this project i.e. driveways and retaining walls, utilities, water wells, and septic fields and one agricultural associated structure) is prohibited outside of the designated building envelopes; (b) future land uses and improvements outside of the designated building envelopes are limited to only landscaping and allowed agricultural, resource and open space uses as noted in the Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) subject to required County permits and approvals and passive recreational uses, as well as construction of a future public multi-use access trail should the County acquire a trail easement; (c) current and future owners are prohibited from removing existing healthy landscaping and trees within the delineated Woodland Preservation Area located between the building envelopes and Nicasio Valley Road in accordance with the approved Woodland Preservation Area Map without County approval and to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, to prevent reasonable safety hazards to people and property, and to enhance the health of the woodlands as deemed necessary by a Tree Analysis, prepared by a licensed arborist and submitted to the Community Development Agency for review and approval; (d) except for open (wood or wire mesh) agricultural and/or deer fencing around agricultural areas, fencing within the building envelopes, and fencing of a possible future multi-purpose public trail within a County easement, the use of fencing on the property is prohibited in order not to impact migration of wildlife; and (e) the current owners or future owner(s): (1) are prohibited from using toxic pesticides or herbicides associated with landscaping, agricultural, and/or weed control activities in a manner contrary to local, state, or federal regulations that could result in the discharge of toxic materials into surface or ground waters; (2) shall utilize agricultural Best Management Practices (BMP), which may include, but are not necessarily limited to, organic gardening and agricultural methods, integrated pest management control, use of bio-diversity, and cover cropping; and (3) shall implement a "No Spray Zone" of toxic herbicides and/or pesticides within a 100-foot wide buffer area on either side of the water course along Nicasio Valley Road.
- H. As modified by conditions of approval, all used materials on-site will be reused on site in the proposed project or will be recycled for reuse off site (*Policy EQ-3.12*).
- I. The project will require the minimal amount of excavating, grading, and filling, while allowing for adequate access (*Policy-EQ-3.16*).
- J. As modified by conditions of approval, the siting, scale, and design of development will respect the natural characteristics and topography of the site, the low-density residential development of the surrounding neighborhood and will provide lighting that is subtle and harmonious with the neighborhood (*Policies EQ-3.25 to 3.26*).
- K. Conditions of approval require the protection of potential archaeological resources on the project site. (*Policies EQ-3.29 to EQ-3.33*).

- L. Map C-2 of the *CWP Trails Element* identifies a potential multi-use hiking, equestrian, and biking trail starting off Nicasio Valley Road, south of the project site and continuing along the fire road and ridgeline on the “Lands of Mease”, linking existing trail easements that make up the ridgeline trail network extending from the Open Space District lands at the Roy's Redwoods Open Space Preserve and French Ranch to the east and to Samuel P. Taylor State Park and the Golden Gate National Recreation Area to the northwest. An offer of a trail easement would provide the County the ability to construct in the future a multi-use trail link across the “Lands of Mease”. The residential development will be sited a minimum of 140 feet below the 300-foot horizontal restricted ridgeline area, the desired trail location. In addition, the property is located within the *CWP* designated Ridge and Upland Greenbelt overlay zone, and the governing County ridge and upland greenbelt policies (*CWP Policies EQ-3.18* through *EQ-3.20*) preclude the construction of any structures along the ridgeline on the “Lands of Mease”. Furthermore, any obstruction, including structures or tree planting, of the existing fire road is prohibited by the Marin County Fire Department, as the Department’s Fire Run Book identifies the fire road as the “Moon Mountain Fire Road”, which must be left open for the Department’s use.

While the project does not include, the provision for deeding to the County a trail easement along the ridgeline of the “Lands of Mease”, nor are there any mechanisms proposed to assure public access over the “Lands of Mease” in the future, the offer of a trail easement, consistent with the open space and trails policies contained in the Countywide Plan because it will not impede the acquisition and development of a trail link in the future (*Policy TR-1.4b*).

- M. Conditions of approval require construction plans to comply with the Single-family Dwelling Energy Efficiency Ordinance (Board of Supervisor Ordinance #3356) and Marin County Code Title 24 standards. The owner is encouraged to meet the Gold Rating of the Marin Green Home, Green Building Rating System.
- N. As modified by conditions of approval the project is consistent with the pertinent policies contained in the *Marin Countywide Plan (CWP) Agricultural Element*, which promote the preservation of agriculture by encouraging parcels to remain large enough in size to sustain agricultural production, thus avoiding conversion of agricultural land to non-agricultural uses (*CWP Policy A-1.1*). The *CWP* discourages the subdivision of agricultural land unless the division enhances the long-term agricultural productivity of the land (*CWP Policy A-1.3*). The project includes the recently established and potential future agricultural production on Parcel “A”, where historically no agricultural production existed. The project would provide some agricultural production diversity on proposed Parcel “A” as outlined in the Agricultural Management Plan. Proposed improvements are located in areas that do not have agricultural potential and would not impact the current or future agricultural production lands of the property, which are limited primarily to the downhill slopes extending southwesterly from the ridgeline. All land area within proposed Parcel “B” is heavily wooded and steeply sloped. Therefore proposed Parcel “B” has no agricultural production potential and conditions of approval require that the major portion of the parcel be preserved as a woodland area because of its habitat value.

As modified by recommended conditions of approval, residential development areas will be clustered on one percent (approximately 2 acres) of the property, including driveway extensions and parking (Parcel A: 47,000 square foot residential building envelope and Parcel B: 30,000 square foot residential building envelope). (*CWP Policy A-1.4*). While the property has limited agricultural potential, the proposed building sites were selected to avoid areas with the highest suitability for agricultural production, while also taking into consideration potential geologic and hydrologic hazards, visual impacts, and stream conservation and woodland preservation policies.

*CWP* policies encourage the dedication of permanent agricultural easements in order to preserve

agricultural land in perpetuity (*CWP Policy A-1.5*). Because of the limited agricultural potential of the property, the property would not qualify for a Williamson Act contract nor would MALT or the County want to acquire an agricultural easement over the property because of the small size of the parcel. However, to ensure that the limited agricultural use of the property is preserved in perpetuity, conditions of approval require recordation of a "Private, Agricultural and Woodland Preservation Agreement (Agreement)" against the title of the property that will limit future improvements outside of the approved building envelopes on each parcel to landscaping and allowed agricultural, resource and open space uses as noted in the Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) subject to required County permits and approvals and passive recreational uses, as well as construction of a future public multi-use access trail should the County acquire a trail easement. The Agreement would permanently preserve the limited existing and potential agriculturally productive land on the property for agricultural uses and prohibit the conversion of the agricultural land to non-agricultural uses.

- V. WHEREAS the Marin County Planning Commission finds that, as modified by the conditions of approval and as discussed in the Initial Study, the project is consistent with pertinent goals and policies the *Nicasio Valley Community Plan* and the *Nicasio Design Guidelines* including the: (1) preservation of those attributes of Nicasio Valley that provide the open spacious feeling of the rural community; (2) preservation of the best agricultural land on the project site to permit continuing and future agricultural production; (3) preservation of the visual views, vistas, and scenic corridors (i.e. Nicasio Valley Road corridor) of the Valley; (4) clustering of residential development on individual properties where the least detrimental impacts would occur; (5) grouping the allowable number of residential units in the smallest possible area; and (6) providing one entrance to the development from the main access road.

The proposed two-lot land division and subsequent build out, with one access off Nicasio Valley Road and the clustering of single-family residential development in the least environmentally sensitive and visually prominent sites, will not impact the open spacious feeling of the rural community or any visual resources or scenic corridors of the Valley, including Nicasio Valley Road and Sir Francis Drake Boulevard. The property, with steep northeastern-facing downslopes that are wooded and steep southwestern-facing downslopes that are grasslands, has minimal agricultural production value. However, the proposed residential development is clustered in a small area (approximately 2 acres of the 39.5-acre property) on the least agricultural productive areas, thereby preserving small areas of agricultural productive land for the applicants' small-scale agricultural use. The proposed residential development will be screened from off-site views and vistas because of the topography and existing tree canopies. As modified by conditions of approval, the scale of development would respect the characteristics of the site and the low-density residential development of the surrounding neighborhood.

- VI. WHEREAS the Marin County Planning Commission finds that the proposed project, as modified by conditions of approval and as discussed in the Initial Study, is consistent with the development criteria of the governing ARP-20 zoning district, for the reasons listed below.
- A. The proposed two-lot land division is consistent with the allowed maximum density of one dwelling unit per 20 acres as set forth by the ARP-20 planned district zoning. The density for the project has been calculated according to *Marin County Code, Section 22.02.020 C (2)*, which requires any fraction of a unit of 0.9 or greater to be counted as a whole unit for the purpose of determining the potential allowable density of a site. Dividing the 39.5-acre site by the assigned density factor of 20 acres equals a potential maximum density of 1.975 units, which is rounded up to two units.
- B. The future development of one primary residence on each parcel is a principally permitted use within the governing ARP-20 zoning district and is permitted subject to Master Plan approval in accordance with Chapter 22.44 of the Marin County Code (MCC). In this case, the applicants are

seeking waiver of the Master Plan requirements and are requesting Tentative Map, Precise Development Plan, and Design Review approvals in accordance with Section 22.44.040 of the MCC.

- C. The project is consistent with the purpose of the governing ARP-20 zoning district, which allows residential development in agricultural areas of varied housing types designed without the confines of specific yard, height, or lot area requirements.
- D. The project, involving the future residential development of two large lots, will result in a low density residential development consistent with the surrounding rural residential area, and will not conflict with adopted County aesthetic or visual policies or standards, including the Ridge and Upland Greenbelt policies.
- E. As discussed in Section IV. G. above, recordation of the "Private Agricultural and Woodlands Preservation Agreement" against the title of the property will protect approximately 14 acres of the property consisting of an evergreen forest and an ephemeral stream and : (a) prohibit future development of any structures outside of the designated building envelopes, except for agricultural, resource and open space uses as allowed by Marin County Code, Title 22 (Section 22.08.030, Table 2-1, Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) and County approved site improvements associated with the current project i.e. driveways, retaining walls, utilities, water wells, septic fields and one agricultural-associated structure; and (b) limit improvements outside of the designated building envelopes to landscaping, allowed agricultural, resource and open space uses as noted in Marin County Code, Title 22 (Section 22.08.030, Table 2-1, Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts), and passive recreational uses, as well as construction by the County of a possible future public multi-use access trail should the County acquire a trail easement.
- F. As modified by conditions of approval, the architectural designs will not result in the appearance of excessive mass and bulk and will be consistent with the hillside guidelines contained in the *Single-Family Residential Design Guidelines*. The construction of a 2,800 square foot residence with a 625 square foot attached garage, with a maximum height of 24.66 feet, and appurtenant improvements on Parcel "A" and the construction of a 2,200 square foot single-family residence, with a 530 square foot attached garage, with a maximum height of 24.33 feet on Parcel "B" constitutes reasonable-sized residential development on the large parcels, consistent with the surrounding community and within the development standards of the ARP zoning district. The exterior finishes, consisting of darker natural colors will blend with the natural environment. The maximum height for the proposed residences is within the allowed 30-foot height limit for primary structures and the maximum height of 15 feet for the proposed detached accessory structure is within the allowed 15-foot height limit for accessory structures. Proposed exterior building materials and colors will blend with the natural environment.
- G. As modified by conditions of approval, the siting and design of the improvements will conform to the natural topography of the development site, rather than altering the natural topography to accommodate new development. Grading will be held to the minimum feasible for access to the building sites and reasonable efforts will be made to retain the natural features of the land such as rolling land forms, native vegetation, trees, and the ephemeral stream along Nicasio Valley Road. Where grading is required, it will be done in such a manner as to avoid flat planes and sharp angles of intersection with natural terrain. The development will avoid creating large graded terraces for building pads.
- H. The project will preserve unique natural site amenities including the hillsides, the ephemeral stream, stands of significant trees, and other natural features that are distinguishing characteristics of the project site. The visibility of new development will be minimized by using existing natural

site characteristics for screening such as trees and topographic features. Further, the development will not reach a height or be located in a position that will result in impeding the primary views of the ridgeline as seen from surrounding neighborhoods.

- I. Usable agricultural land areas have been identified and every effort has been made to preserve and utilize their use. While the viable agricultural land is limited and the property has limited agricultural production, conditions of approval limit residential development to areas within designated building envelopes, not identified as the most viable agricultural production land.
  - J. The recordation of the "Private Agricultural and Woodlands Preservation Agreement" addresses erosion control methods and chemical and fertilizer use associated with the vineyard operation.
- VII. WHEREAS the Marin County Planning Commission finds that, as modified by conditions of approval and as reviewed by Marin County Department of Public Work (DPW) in accordance with DPW standards and the provisions of the Land division Map Act, the two-lot land division is consistent with *Marin County Code, Title 20 (Land division)* relative to land division standards. Also, the Marin County Planning Commission finds that, as reviewed by DPW and in accordance with DPW standards, the project is consistent with driveway and parking design standards of *Marin County Code, Title 24 (Development Standards)*. Conditions of approval require that: (1) all subsequent construction plans shall incorporate the recommendations of the Parcel geotechnical investigation submitted with the building permit plans, as approved by the Marin County Department of Public Works; (2) the Parcel project design shall conform also to the engineering and seismic requirements of Marin County Code, Titles 23 (Grading) and 24 (Development Standards), and the Uniform Building Code; (3) a Registered Civil Engineer shall design the grading and foundation plans. A Registered Soils Engineer shall stamp and sign a letter certifying that the grading and foundation plans conform to the recommendations of the Parcel geotechnical investigation; and (4) in accordance with the Marin County Department of Public Works provisions, the applicants must submit a Stormwater Pollution Prevention Plan that addresses both interim (during construction) and Parcel (post construction) stormwater pollution control measures, referred to as Best Management Practices (BMP). Permanent BMPs may include, but are not necessarily limited to, artificial wetlands and ponds, sediment basins, infiltration trenches, grassed swales, filter strips and buffers, oil/water separators, and site and landscaping management procedures. The plan should follow guidelines as established in "Start at the Source", published by the Bay Area Stormwater Management Agencies Association. The plan must be approved by DPW prior to issuance of a grading permit or improvement plan approval.
- VIII. WHEREAS the Marin County Planning Commission finds, pursuant to Marin County Code Section 22.44.040 and Table 4-2, that a waiver from the Master Plan requirement can be granted, subject to the conditions of approval, for the following reasons:
- A. The project will result in two residential parcels with future development of one primary single-family residence on each parcel, a principally permitted use in the governing ARP-20 zoning district.
  - B. The project, as modified by conditions of approval, will implement the goals and policies of the *Marin Countywide Plan*, the *Nicasio Valley Community Plan*, the *Single-family Residential Design Guidelines*, and the ARP-20 development standards with respect to site design and preservation of natural resources, agricultural lands, visual resources and the ridge and upland greenbelt areas.
  - C. All requirements of the Master Plan application for the proposed land division and future residential development including, but not limited to, siting, design, preliminary grading, drainage, infrastructure, and access and parking, as well as the agricultural use of the land, have been reviewed by the County through the Land Division (Tentative Map), Precise Development Plan, and Design Review applications. These applications and submittal plans and materials allow for the review and action of the full development potential of the property.

- D. Subject to the conditions of approval, the development, maintenance, and use of the property will be conducted in compliance with the conditionally approved Tentative Map, Precise Development Plan, and Design Review.
  - E. The two-lot land division, subject to conditions of approval, will result in no residual development potential for additional primary residences based upon the potential maximum density established by the Countywide Plan AG-2, land use designation and the governing ARP-20 zoning district and the project complies with Marin County Code, Section 22.44.040, Table 4-2.
  - F. The potential environmental impacts have been properly addressed through the Negative Declaration of Environmental Impact and all mitigation measures have been incorporated as conditions of approval and have been properly addressed through the Land Division (Tentative Map), Precise Development Plan, and Design Review applications including, but not limited to: drainage, erosion, grading, landscaping, tree and native vegetation preservation, and circulation and transportation.
  - G. The project does not involve the Transfer of Development Rights and all residential development is loosely clustered and will be sited on less than 5% (approximately 3%) of the gross acreage to retain the maximum amount of land for agricultural production and/or natural open space
  - H. The development is located outside of any resource areas relating to the protection and preservation of any viable agricultural lands, archaeological/historic resource area, geological hazards, mineral resources, significant woodlands and natural resource areas, ridge and upland greenbelt areas, water-related hazards, watersheds, or wetlands and development is sited to minimize impacts on scenic resources, wildlife habitat and streams, and viable agricultural lands.
  - I. The project includes recordation of a "Private Agricultural and Woodlands Preservation Agreement" against the title of the property that will protect approximately 14 acres of the property consisting of an evergreen forest and an ephemeral stream, thereby assuring the protection of natural resource areas.
  - J. The project can be served by County public safety personnel and equipment, as well as utilities and services.
  - K. The project is located in an area that is not impacted by noise, hazardous materials, or natural hazards, such as flooding.
  - L. As modified by conditions of approval, the site is physically suitable for the two-lot land division and future residential development as the project site contains adequate, unconstrained areas for the proposed development and related on-site circulation and parking.
  - M. The design of the land division or proposed improvements will not cause serious public health problems. Public health issues have been addressed by requiring that the septic systems for the future residences comply with the standards of the Environmental Health Services Division.
  - N. The design of the land division or proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of the subject property.
- IX. WHEREAS the Marin County Planning Commission finds that the proposed project, as modified by conditions of approval, is consistent with the mandatory findings to approve a Tentative Map as established by Section 22.84.060 of Marin County Code, as follows:

**A. The proposed map, together with the provisions for its design and improvement, is consistent with the pertinent Marin Countywide Plan and the Nicasio Valley Community Plan.**

The two-lot land division, resulting in two parcels 23.7 acres and 15.8 acres in size, is consistent with the Marin Countywide Plan because the land use designation specified for the property is AG-2 (Inland Rural Corridor, Agricultural, one unit per 10 - 30 acres density with Ridge and Upland Greenbelt Overlay and the governing zoning is ARP-20 (Agricultural, Residential, Planned District, one dwelling unit per 20 acres maximum density). The two-lot land division of the 39.5-acre parcel results in an overall density allowed by the permitted density range. The land division and future development of two single family residences is consistent with the goals and policies of the Countywide Plan because it provides for additional residential opportunities in the Inland Rural Corridor without adversely affecting natural resources, agricultural areas, archaeological resources, public open spaces, wetlands and other sensitive habitat areas or disrupting existing public services for water supply, fire protection, waste disposal, schools, traffic, circulation or other services. In addition, the land division is consistent with the Nicasio Valley Community Plan because the project will result in a future increase in the availability of housing opportunities in an existing rural residential community consistent with the AG-2 land use designation.

**B. The design or improvement of the proposed land division is consistent with applicable general and specific plans.**

The design and improvements of the proposed land division are consistent with the Countywide Plan and Nicasio Valley Community Plan polices because, as modified by conditions of approval, the location, layout and design of the resultant parcels, the location, size and configuration of the building envelopes on each parcel, the subsequent single-family residential development, vehicular access, public utilities, on-site sewage disposal and water systems, and landscaping will: (1) meet design goals and policies established by the Countywide Plan regarding tree preservation and replacement and design consistency with surrounding development; (2) be consistent with the ridge and upland greenbelt policies; and (3) satisfy requirements established in Titles 20 (Land division), 22 (Zoning), and 24 (Development Standards), including those which address maximum permitted height, off-street parking, and development guidelines to minimize grading and tree removal and comply with the County hillside guidelines for proposed residential improvements. The findings in Sections IV and V above also support this finding.

**C. The site is physically suitable for the type of development.**

As modified by conditions of approval, the property is physically suitable for the type of development proposed because each parcel within the two-lot land division will provide an adequate building site for a single-family residence with County-approved access and utilities and services without significant disruption to the surrounding natural landscape or the residential community of Nicasio.

**D. The site is physically suitable for the proposed density of development.**

The site is physically suitable for the proposed density of development because the two-lot land division of the 39.5-acre property will be within the maximum density requirements set forth by the Countywide Plan AG-2 land use designation, and the governing ARP-20 (Agricultural, Residential Planned District, one unit per 20 acres) zoning district. Further, the project will not result in significant adverse physical impacts relating to unstable soil conditions, archaeological disturbances or drainage alterations.

**E. The design of the land division or proposed improvement is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

All mitigation measures of the Negative Declaration of Environmental Impact have been incorporated into the conditions of approval assuring that the two-lot land division will not cause substantial environmental damage, will protect the downslope evergreen forest and ephemeral stream along Nicasio Valley Road and will not substantially and avoidably damage potential habitat value of the Northern Spotted Owl. The project will not result in significant tree removal and all trees removed would be replaced with native trees at a 2:1 ratio as feasible. The future residential development will be accessed from an existing driveway improved to County standards and a new driveway extension. Construction of improvements will not result in significant grading.

**F. The design of the land division is not likely to cause serious public health problems.**

The design of the two-lot land division, access improvements, and future residential development is not likely to cause serious public health problems because the project will result in the installation of drainage improvements and driveway access approved by the Marin County Fire Department for emergency access. Future residential improvements will comply with the minimum fire safety standards as required by the Marin County Fire Department and Building Inspection in accordance with the Uniform Building Code. Marin County Environmental Health Services has approved on-site sewage disposal and water systems to serve the residential development.

**G. The design of the land division or type of improvement will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed land division.**

The design of the land division or type of improvement would not conflict with easements, acquired by the public at large, for access through or use of property within the proposed land division because no public access easements exist through the subject property.

**X. WHEREAS the Marin County Planning Commission finds that the Precise Development Plan is consistent with the intent of Marin County Code, Chapter 22.44 and Table 4-2 (Master Plans and Precise Development Plans), the pertinent policies of the Countywide Plan and the Nicasio Valley Community Plan as discussed in Findings IV and V respectively above, and that the Master Plan requirement has been waived as discussed in Finding VIII, therefore, the Precise Development Plan approval can be granted, subject to the conditions of approval, for the following reasons:**

- A. The project will comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard.
- B. The project will comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works.
- C. The project will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
- D. The project will minimize soil disturbance and maximize retention of natural vegetation.
- E. The project will allow for phased development.
- F. The project will ensure harmony with the natural and built environment and the surround Nicasio Valley rural character.
- G. The residential development will be sited and clustered in such a manner to preserve natural



resource and environmental sensitive areas, the ridge and upland greenbelt areas, and the visual resources and scenic qualities of the property.

H. The subject parcel is the only parcel owned by the applicants in the Nicasio area, therefore the Precise Development Plan includes all of the area under the ownership of the applicants.

XI. WHEREAS the Marin County Planning Commission finds that the project, as modified by conditions of approval, is consistent with the mandatory Design Review findings pursuant to Marin County Code Section 22.42.060 and the design standards contained in the *Single-family Residential Design Guidelines* as described below.

A. **The proposed development will properly and adequately perform or satisfy its functional requirements without being unsightly or create a substantial disharmony with its locale and surrounding neighborhood.**

As modified by conditions of approval, the unpretentious architectural style of the residential development will be consistent with the rural residential character of the surrounding Nicasio community. The project (1) conforms with all property development standards applicable to the ARP-20 governing zoning district, including principally-permitted structures and uses and maximum building heights; (2) will function and harmonize with the site and other properties in the vicinity with respect to siting; (3) incorporates characteristics of scale, architectural design, and exterior color and building materials that are compatible with the project site and with surrounding residential and agricultural buildings; and (4) minimizes the extent of grading by siting the residence consistent with the underlying topography and outside of the ridge and upland greenbelt areas, while providing access in accordance with County standards. The design of the residential development and the agricultural storage building is compatible with those of other similar buildings in the vicinity, respects the surrounding natural environment, and does not adversely affect the views, light or privacy of adjoining properties.

The residential development preserves the unique natural site amenities including the ridge and upland greenbelt areas, the evergreen forest hillsides, the ephemeral stream, stands of significant trees, and other natural features that are distinguishing characteristics of the project site and surrounding area. Exterior building finishes will be subdued natural colors or earth tone finishes that are visually compatible with the colors of the natural setting and the rural setting.

Consistent with the *Single-Family Residential Guidelines*, as modified by conditions of approval, residential development will be integrated with the natural environment, compatible with the surrounding neighborhood, and respectful of natural systems.

While the project results in the removal of 38 trees over 8 inches dbh (diameter breast height) on the 39.5-acre property, all within the development site of the proposed project as follows: 28 Douglas fir, 8 California bay laurel, and 2 Coast live oak, overall, the extent of healthy trees proposed for removal is equivalent to approximately one healthy tree per acre, with removal all within an approximately 2-acre site, which constitutes the driveway extensions and building sites. The 28 Douglas fir and 2 Coast live oak trees proposed for removal are native trees as listed in the *Marin County Code, Chapter 22.27 (Native Tree Protection and Preservation)*.

Project approval requires replacement of native trees at a 2:1 replacement ratio for the native trees proposed for removal, except where physical conditions on the site make this ratio infeasible, with the emphasis on the restoration of these lands to a more natural oak woodland environment. In addition, project approval requires tree protection during construction activities, including avoiding the depositing of soils at root crowns, compaction by heavy equipment, and installation of safety barriers.

In order to preserve the woodland environment to preclude the further removal of trees, particularly the Douglas fir, project approval requires: (a) the modification of the proposed building envelope on Parcel "B" by eliminating the northern most corner within the woodland area, thereby reducing the building envelope size to approximately 30,000 square feet and precluding the removal of additional trees; and (b) the recordation of a "Private Agricultural and Woodlands Preservation Agreement", to be recorded against the title of the property that will assure protection of the potential habitat value of the property for the Northern Spotted Owl and protection of the ephemeral stream along Nicasio Valley Road, as current and future owners will be prohibited from removing existing healthy landscaping and trees within the delineated Woodland Preservation Area located between the building envelopes and Nicasio Valley Road without County approval and to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, to prevent reasonable safety hazards to people and property. Except for open (wood or wire mesh) agricultural and/or deer fencing around agricultural areas, fencing within the building envelopes, and fencing of a possible future multi-purpose public trail within a County easement, the use of fencing on the property in order not to impact migration of wildlife will be prohibited.

**B. The proposed development will not impair, or substantially interfere with, the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy, and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way.**

As modified by conditions of approval, the design of the residential development and accessory structure is complementary to the rural character of the Nicasio community and is compatible with other residences in the surrounding rural area. The project will not result in view, light, air, and privacy impacts to surrounding residences or public areas for the following reasons: (1) the proposed residential development will maintain adequate setbacks from all property lines; and (2) the height, bulk, and mass of the improvements have been designed to preserve the use and enjoyment of surrounding properties and are reasonable and appropriate given the size, configuration, and topographic conditions on the property.

The building envelope on Parcel "A" is sited within a meadow area on an eastern-facing downslope and the building envelope on Parcel "B" is sited within the woodlands on a northern-facing downslope. The Precise Development Plan includes proposed construction of associated site improvements, including preliminary grading and drainage improvements that have been reviewed and approved by Department of Public Works.

The residences on proposed Parcels "A" and "B" are sited approximately 140 feet below the 300-foot horizontal limitation ridgeline elevation. The proposed residential building site on Parcel "B" is located outside of the 100-foot vertical restricted ridgeline areas. However, the proposed residential building site on Parcel "A" encroaches at one point approximately 20 feet within the 100-foot vertical restricted area. Planning staff observed the story poles constructed on site to demonstrate the height, bulk and mass and potential visual impacts as a result of the proposed sitings of the residential development and determined that the siting of the proposed residence on Parcel "A" will not be seen from off-site views across the ridgeline. Siting the residence further downslope will only result in increasing the length of the driveway and the amount of grading. Therefore, Planning staff has determined that, in balance, the siting of the residence on proposed Parcel "A" meets the intent of the ridgeline restrictions to avoid potential visual impacts of the natural ridgeline condition of the property from surrounding areas and view corridors from the Nicasio and San Geronimo Valley communities, while not unnecessarily increasing the length of the new driveway that would require additional grading and site disturbance.

C. **The proposed development will not directly, or cumulatively impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way.**

The project will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way. The project would not result in view, light, air, and privacy impacts to surrounding residences or public areas because: (1) the proposed residential development will maintain adequate setbacks from all property lines; and (2) the height, bulk, and mass of the improvements have been designed to preserve the use and enjoyment of surrounding properties and are reasonable and appropriate given the size of the property.

*CWP Policy EQ-3.26* states that development in rural portions of the County should be consistent with the rural character of the area and should provide lighting that is subtle and harmonious with the rural environment. The ultimate construction of two new reasonable-sized residences on large lot sizes will help to ensure that the rural character of the area is retained. While the land division itself will not result in new lighting, and the proposal does not include roadway lighting, conditions of approval will ensure that: (a) no future roadway lighting will result in glare along the access driveway, particularly at night; (b) exterior residential and accessory lighting will be limited to hooded and down-lighting of low wattage, thereby assuring that lighting will be subtle and harmonious with the rural environment.

D. **The proposed development will be properly and adequately landscaped with maximum retention of trees and other natural features.**

The project has been designed and sited with consideration of the natural features of the site, including the evergreen forest, the ephemeral stream and the ridge and upland greenbelt area and incorporates setbacks and will not interfere with existing views or privacy enjoyed by surrounding properties.

The residential and accessory structure development will be screened and softened from views from adjoining properties and rights-of-way by the existing evergreen forest. The two-lot land division results in large lots (23.7 acres and 15.8 acres) with residential development sited to almost completely be screened from off site views by a heavy mixed evergreen forest. Review of story poles erected on the project site indicate that proposed development will not be readily visible from public vantage points including along either Nicasio Valley Road or Sir Francis Drake Boulevard. Therefore, the proposed project would not alter the exterior character of the site or adversely impact the sense of space, light, or openness between neighboring properties and adjacent roadways or homes.

E. **The proposed development will be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards).**

Excavation and fill for the proposed project, with the development of the existing driveway to residential standards, new driveway extensions to serve the two proposed residential sites, and development of two residences, will result in balancing the excavation and fill consisting of 3,635 cubic yards of cut and 3,635 cubic yards of fill. The project will result in approximately 2 acres of site disturbance or less than 5% of the property.

The proposed agricultural/storage equipment structure on proposed Parcel "A" is sited upslope from the residential development and within the 300-foot horizontal as well as the 100-foot vertical restricted ridgeline areas. Consistent with the ARP ridge and upland greenbelt development standards, conditions of approval will require that this structure be sited downslope and outside of

the 300-foot horizontal restricted area. While the structure will still encroach within the 100-foot vertical restricted ridgeline area, the siting of the structure downslope and outside of the 300-foot horizontal restricted area will ensure that the structure will be screened from ridgeline views by the topography and tree canopies, minimize site disturbance, and maintain the intent of the County's ridge line protection policies. With the implementation of siting of all proposed structures will maintain adequate setbacks from the visually prominent ridge areas at the higher elevations of the property

The project consists of one common driveway to serve both residential parcels and to be improved to Department of Public Works standards (Marin County Code, Title 24, Sections 24.04.240 et seq.) with construction of new driveway extensions to the clustered building sites. While the common driveway to serve both residential sites is a long (370 feet), driveway, access to the project development sites allows clustering of development in the least visually prominent and environmentally sensitive sites on the property and the most geologically stable portions of the site. In addition, the proposed residences have been designed to maintain low profiles with maximum heights of 25 feet above grade, well below the 30-foot height permitted by the governing zoning. Furthermore, proposed exterior building materials and colors will blend with existing natural tones of the landscape.

As discussed above, the siting of the residential development is consistent with the ridge and upland greenbelt development standards. Conditions of approval require that landscaping be primarily native. Project approval requires the recordation of a "Private Agricultural and Woodlands Preservation Agreement" against the titles of the property to assure that the project that will limit tree removal and preserve wildlife habitat, and protect surface and ground waters.

F. **The proposed development will minimize or eliminate adverse physical or visual effects, which might otherwise result from unplanned or inappropriate development, design, or placement.**

As modified by conditions of approval, the residential improvements will be designed to function and harmonize with the site with regards to size, scale, height, setbacks, architectural design, exterior color, and building materials. The residential development and agricultural storage building will be sited to minimize visual, air, light, and privacy impacts to surrounding properties and rights-of-way and will maintain adequate setbacks from property lines. As part of the Building Permit review, the Department of Public Works will review the grading and drainage plans to ensure that the project incorporates suitable drainage systems that will adequately collect, convey, and distribute surface run-off into appropriate drainage systems. The project will not encroach onto adjoining private properties, public lands, or private and public easements, and rights-of-way.

The *Single-Family Residential Guidelines* also address house size as a measure of "neighborhood compatibility." With respect to this issue, the document states that generally, the floor area of proposed development should not substantially exceed the median home size in the surrounding neighborhood

Residential development in the surrounding area generally ranges from medium-sized residential development (approximately 2,000 square feet) with an upper range generally of 5,000 square feet. The proposed project consists of the construction of a 2,800 square foot residence with a 625 square foot attached garage on proposed Parcel "A" and a 2,200 square foot single-family residence, with a 530 square foot attached garage on proposed Parcel "B", well within the range of medium-sized residential development in the surrounding neighborhood. Both proposed residences are less than 25 feet in height from grade where a maximum of 30 feet is allowed by County code. The attached garage of the proposed residence on Parcel "A" and lower floor is excavated into the

ground, roof lines are broken into a series of smaller building components, and the overall design of the residence has a low profile on the hillside lot.

The *Single-Family Residential Design Guidelines (Guidelines)* encourage building masses to be broken into smaller parts, and roof forms and roof lines to be broken into a series of smaller building components to reflect the hillside setting. In addition, the *Guidelines* require that large expanses of wall in a single plane on downhill elevations should be avoided.

The *Single-Family Residential Guidelines* contain a number of recommendations to reduce the visual bulk of structures and ensure that they are not visually prominent when seen from a distance. Buildings and roof forms should be broken into smaller parts to reduce visual bulk, particularly in visible hillside settings. Development should include stepbacks and building massing appropriate to its hillside setting. Similarly, large expanses of unarticulated walls and excessive cantilevered elements should be avoided.

While the size (2,200 square feet) of the proposed residence on proposed Parcel “B” is consistent in size and height with other residences in the Nicasio neighborhood, the residential design for proposed Parcel “B” is inconsistent with the constraints of development on a building site with an approximately 30% slope. The residential design has a flat, unbroken two-story wall massing on the downslope (north) elevation and long, unbroken rooflines and does not include stepbacks reflecting the sloping underlying topography. Project approval requires modification of the proposed residence on the hillside lot to reduce the effective visual bulk and mass by: (a) stepping the residence down the hillside (stepbacks), with the roof lines conforming to the underlying natural topography; and (b) breaking the roof forms and roof lines into series of smaller building components. To accomplish this effectively, without necessitating the removal of any additional trees, the overall footprint and square footage of the residence may have to be reduced.

The *Nicasio Valley Development and Design Guidelines (Policies V.E. 18 and V.H.)* and the *Single-family Residential Design Guidelines* require building materials, textures, and color schemes to blend with the natural landscape with an emphasis on darker tones and allow structures to recede into the background. The proposed exterior building materials, textures, and colors, are darker tones, compatible with the natural landscape and consistent with the design guidelines.

**G. The project design includes features, which foster energy and natural resource conservation while maintaining the character of the community.**

The *Single-family Residential Design Guidelines* specify that the design of single-family residences should incorporate “green building” measures that promote energy efficiency and conservation. The project has been designed (to be verified at the time of Building Permit application) to achieve a minimum of Gold Rating compliance with the Marin County Green Building Residential Design Guidelines through a number of measures including low-flow plumbing fixtures, the use of straw bale construction and water heating systems, Forest Stewardship Council certified wood and reclaimed lumber, and the installation of energy efficient windows and doors. Therefore, the project will comply with the Single-family Dwelling Energy Efficiency Ordinance (Board of Supervisor Ordinance #3356) and Marin County Code Title 24 standards.

**H. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, are compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

The project is consistent with the Countywide Plan’s (CWP) Agricultural one dwelling unit per 1- to 30 acres (AG-2) land use designation for the property. The single-family residential

development and agricultural accessory structure are principally permitted uses within the governing ARP-20 zoning district. The project will retain natural vegetation to the greatest extent, and all public utilities and services, including emergency services, are available to serve the proposed residential use. As discussed in Findings A – F above, as modified by conditions of approval, the project is consistent with applicable zoning district regulations, is compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

**SECTION II: CONDITIONS OF PROJECT APPROVAL**

NOW THEREFORE, BE IT RESOLVED that the Marin County Planning Commission pursuant to Marin County Development Code Section 22.44.040 and Table 4-2, Section 22.84.060, and Section 22.42.060 hereby approves the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan and Design Review subject to the following conditions:

Community Development Agency – Planning Division

1. These approvals authorize the following entitlements:

Land Division:

The Land Division (Tentative Map) approval permits a two-lot land division of a 39.5-acre parcel into two agricultural/residential lots as follows: (1) Parcel “A”, consisting of 23.7 acres; and (2) Parcel “B”, consisting of 15.8 acres. Water for domestic and fire suppression use for both parcels shall be provided from the existing on-site well at the northwestern portion of the property. Water for agricultural purposes shall be provided from two existing on-site wells located on the northern side of the proposed driveway, north of the vineyard. Approval allows improvements to County standards for residential use the 2,900-foot long existing driveway from Nicasio Valley Road as a 12-foot wide, with 2-foot wide shoulders, common driveway, with a maximum grade of 18% with eight vehicle turnouts to serve the proposed two residential parcels. Along the southern side of the access driveway at the first turn shall be an approximately 80-foot long, 6-foot high steel post and timber lagging retaining wall.

Precise Development Plan:

*Site Improvements*

The Precise Development Plan (PDP) permits the location of building envelopes within the Nicasio side of the ridgeline, consisting of 47,000 square feet on Parcel “A”, and 30,000 square feet on Parcel “B”. The building envelope on Parcel “A” is sited within a meadow area on an eastern-facing downslope and the building envelope on Parcel “B” is sited within the woodlands on a northern-facing downslope. The PDP approval includes utility easements, construction of associated site improvements including grading and drainage improvements, an approximately 370-foot long common driveway extension from the existing common access driveway and a common on-site sewage disposal system with a leach field area on each parcel located downslope from the building envelopes to serve the future residential development. Approval includes a common emergency vehicle turnaround on Parcel “A” to serve both parcels.

All utility lines shall be constructed underground except for the first approximately 450 feet from Nicasio Valley Road off the existing pole. P.G. & E. shall provide electricity. Gas shall be provided by installation of a propane tank at each residence. New site disturbance shall not exceed a total of 2.0 acres as follows: leach fields 0.1 acre, new driveway 0.9 acre, residence Parcel “A” 0.7 acre, and residence Parcel “B” 0.3 acre. Thirty-eight trees are approved for removal.

Design Review:

*Parcel “A”*

The approval allows construction of a 2,800 square foot residence with a 625 square foot attached garage, with a maximum height of 24.66 feet, and appurtenant improvements. The two-story residence shall be sited approximately at the 695-foot elevation (approximately 140 feet below the 300-foot horizontal limitation ridgeline elevation) and approximately 500 feet down slope from the southern property line. Approved exterior finishes consist of colored (“mushroom”) stucco, dark (“oak brown”) wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. The approval project also includes the removal of the two existing storage structures and construction of an 884 square foot, 16-foot high agricultural/equipment storage building, within the 300-foot horizontal ridgeline area. Approved exterior finishes consist of painted horizontal wood siding and corrugated galvanized metal roof. On-site parking for four vehicles shall be provided.

*Parcel "B"*

The approval allows the construction of a 2,200 square foot single-family residence, with a 530 square foot attached garage, with a maximum height of 24.33 feet and appurtenant improvements. The two-story residence shall be sited approximately at the 680-foot elevation (approximately 140 feet below the 300-foot horizontal limitation ridgeline elevation) and approximately 600 feet down slope from the southern property line and 140 from the western property line. Approved exterior finishes consist of colored ("taupe") stucco, dark ("oak brown") wood stain doors and windows, dark brown siding and trim, and a terra cotta blend mission-style tile roof. On-site parking for four vehicles shall be provided.

*Landscape Plan*

Approved landscaping shall consist of re-seeding areas disturbed by construction activities or void of cover with drought resistant, native grasses.

**The property is located at 701 Nicasio Valley Road, Nicasio and is further identified as Assessor's Parcel 121-200-01.**

2. Except as modified by these conditions, the plans submitted for a Building Permit shall substantially conform to plans on file with the Marin County Community Development Agency identified as
  - a. Project Plans, "Tentative Map" (Sheet TM-1, revised 6-1-2005) and Improvement Plans (Sheets 1, 2, 6, and 7) prepared by Matteson Engineering and Surveying, and further identified as "Exhibit A"
  - b. Design Review Plans for Residential Development for Lots "A" and "B", prepared by David H. Mease, AIA, consisting of Sheets A-1.0 through A-6 and further identified as part of "Exhibit A" (Sheet A-1.0 revised 06-20-2005 and Sheets A2.0 – A6.0 revised 03-01-2005)
  - c. "Biological Survey – Northern Spotted Owl and North Coast Semaphore Grass", prepared by Michael S. Maranglo, Biological Consulting Service, dated October 11, 1994
  - d. "Geotechnical Investigation", prepared by SalemHowes Associates dated August 30, 2003, February 25, 2004 and subsequent letter dated December 7, 2004
  - e. "Arborist Report", prepared by Swift Tree Care, Craig Swift ISA Arborist #486, dated November 2, 2003, with map revised May 2005
  - f. Woodland Preservation Area Map, dated October 1, 2005
3. The subdivider must file a Parcel Map with the County Recorder to record the land division approved herein. The required Parcel Map must be in substantial conformance with Exhibit "A," including, but not necessarily limited to, the proposed lot lines, easements, and building envelopes. 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 Chapters 20.36 and 20.40 of the Marin County Code.
4. The Mease/Salah land division approval must 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. The Community Development Agency Director may administratively authorize extensions to this mandatory vesting period upon written request by the subdivider and payment of the appropriate extension fee for a period not to exceed an aggregate of three years beyond the expiration date. Extension of the land division approval may be permitted pursuant to applicable State law.



5. 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 Mease/Salah 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.
6. The subdivider shall construct or cause to be constructed all improvements required by Title 20 (Subdivision), Title 24 (Development Standards), and any improvements shown on or required as a condition of approval of the land division approved herein, including site grading, utilities, drainage, and the common driveway improvements. Prior to recordation of the Parcel Map and commencement of any construction work, the subdivider shall submit Improvement Plans for review and approval of the Marin County Department of Public Works, as specified in Title 24 of the Marin County Code. The required land division improvements must be completed before occupancy of any new structure within the land division.
7. The required Improvement Plans shall comply with the following development and design criteria to the satisfaction of the Community Development Agency Director:
  - a. Maximum retention of trees and other significant vegetation shall be required.
  - b. Grading must be minimized and natural topographic features must be retained.
  - c. Any retaining walls shall be treated with texture, colors and/or landscaping to reduce any visual impacts as determined appropriate by the Community Development Agency Director.
8. BEFORE RECORDATION OF THE PARCEL MAP, the map shall be prepared designating the portion of the downslope site between the building envelopes and Nicasio Valley Road and running adjacent to Nicasio Valley Road as the "Private, Agricultural and Woodland Preservation Agreement" area.
9. BEFORE RECORDATION OF THE PARCEL MAP, the following restrictions and conditions shall be stated and shown on the Parcel Map, or supplemental sheets, to be filed for record:
  - a. All approved building envelopes must be designated on the Parcel Map.
  - b. Further land division of any parcel created by this land division shall not be permitted. This restriction shall be stated on the Parcel Map.
10. BEFORE RECORDATION OF THE PARCEL MAP, the applicants shall comply with *Marin County Code (MCC), Chapter 22.22. (Inclusionary Requirements for Lot Subdivision)* to provide a 0.4 unit of inclusionary housing based on two residential parcels (20% per unit times 2 = 0.4 unit), in the form of payment of an "In-lieu" fee to the County for affordable housing as there currently are no existing residences on the vacant property and the *MCC* stipulates that where one or more additional housing units could be developed, proposed residential development projects with two or more units require that 20% of the developable parcels, or their equivalent, shall be set aside for immediate or future development of low or very low income units. County policy has established that when parcels in the case of a land subdivision results in any decimal fraction less than 0.50, the applicant shall pay an in-lieu fee in compliance with County Code.
11. Unless a public emergency service provider requires otherwise or unique circumstances necessitate a change, street addresses for the approved lots shall be as follows:

PARCEL	STREET ADDRESS
A	701 Nicasio Valley Road
B	697 Nicasio Valley Road

12. The Notice of Decision of the Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan and Design Review conditions of project approval contained herein must be filed for record concurrently with the Parcel Map.

**SPECIAL CONDITIONS**

13. BEFORE RECORDATION OF THE PARCEL MAP, OR FINAL INSPECTION OF THE FIRST RESIDENCE, the applicants shall record against the title of the property, the required “Private, Agricultural and Woodland Preservation Agreement” against the titles of Parcels “A” and “B” as prepared by Planning Staff with the following provisions :
- (a) Except for improvements related to allowed agricultural, resource and open space uses as noted in Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts), subject to required County permits and approvals, development of any future structures (except for County-approved site improvements associated with this project i.e. driveways and retaining walls, utilities, water wells, and septic fields and one agricultural associated structure) is prohibited outside of the designated building envelopes.
  - (b) Future land uses and improvements outside of the designated building envelopes shall be limited to landscaping and allowed agricultural, resource and open space uses as noted in the Marin County Code, Title 22, Section 22.08.030, Table 2-1 (Allowed Uses & Permit Requirements for Agricultural & Resource Related Districts) subject to required County permits and approvals and passive recreational uses, as well as construction of a future public multi-use access trail should the County acquire a trail easement.
  - (c) Current and future owners are prohibited from removing existing healthy landscaping and trees within the delineated Woodland Preservation Area located between the building envelopes and Nicasio Valley Road in accordance with the approved Woodland Preservation Area Map without County approval and to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, to prevent reasonable safety hazards to people and property, and to enhance the health of the woodlands as deemed necessary by a Tree Analysis, prepared by a licensed arborist and submitted to the Community Development Agency for review and approval.
  - (d) Except for open (wood or wire mesh) agricultural and/or deer fencing around agricultural areas, fencing within the building envelopes, and fencing of a possible future multi-purpose public trail within a County easement, the use of fencing on the property is prohibited in order not to impact migration of wildlife.
  - (e) The current owners or future owner(s): (1) are prohibited from using toxic pesticides or herbicides associated with landscaping, agricultural, and/or weed control activities in a manner contrary to local, state, or federal regulations that could result in the discharge of toxic materials into surface or ground waters; (2) shall utilize agricultural Best Management Practices (BMP), which may include, but are not necessarily limited to, organic gardening and agricultural methods, integrated pest management control, use of bio-diversity, and cover cropping; and (3) shall implement a “No Spray Zone” of toxic herbicides and/or pesticides within a 100-foot wide buffer area on either side of the water course along Nicasio Valley Road. (*Water Mitigation Measure 4. c.-1, and Biological Resources Mitigation*

*Measure 7.a-2)*

14. BEFORE ISSUANCE OF A GRADING PERMIT OR A BUILDING PERMIT FOR THE CONSTRUCTION OF ANY IMPROVEMENT (access driveway, driveway extension, or residential development), the applicants shall submit a Tree Replacement Plan, prepared by a licensed arborist, for review and approval by the Marin County Community Development Agency – Planning Division. The Tree Replacement Plan shall provide for the replacement of any native tree (30 trees) that will be removed due to development activities at a ratio of 2:1 with a minimum of 15-gallon size trees at the time of planting, as determined feasible by a licensed arborist approved by the Marin County Environmental Coordinator. (*Land Use and Planning Mitigation Measure 1.b-2*)
15. BEFORE ISSUANCE OF A GRADING PERMIT OR A BUILDING PERMIT FOR THE CONSTRUCTION OF ANY IMPROVEMENT (access driveway, driveway extension, or residential development), the applicants shall submit a tree protection plan designating a tree protection zone (minimum zone shall be the driplines of existing trees) around trees to be protected and shall indicate locations for the installation of temporary construction fencing around areas of grading, construction, materials storage, soil stockpiling, or other construction activity in the vicinity of trees proposed to be preserved. The fencing is intended to protect trees during construction and shall remain in place until all construction activity is complete. During construction phases of the project, the applicant shall comply with all recommendations of the protection plan. (*Land Use and Planning Mitigation Measure 1.b-3*)
16. During construction activities the following provisions shall be met by the applicants:
  - a. All construction/demolition activity (grading, paving, landscaping) shall maintain a Tree Protection Zone (TPZ) around trees to be protected. The TPZ will be a distance of one-foot radial distance from the trunk for each one-inch of trunk diameter. Exceptions to this standard may occur depending upon the age and condition of individual trees.
  - b. All arboricultural and related soil work shall be performed under the supervision of an International Society of Arboriculture (ISA) Certified Arborist, qualified landscape architect or biologist.
  - c. All specified arboricultural work shall be completed prior to site grading (root pruning, canopy pruning, fencing, etc.).
  - d. Temporary construction fencing at a minimum of four feet in height and clearly marked to prevent inadvertent encroachment by heavy machinery shall be installed either at the edge of the Tree Protection Zone (TPZ), or at the edge of the construction zone if the construction zone protrudes into the TPZ. Location of fencing shall be approved by the Supervising Arborist. All fencing should be in place prior to any demolition work, site grading, or construction.
  - e. The Contractor shall maintain the protection fencing and prohibit all access to fenced areas by construction personnel or equipment until all site work is completed.
  - f. All structures including construction trailers, equipment storage areas and any other construction traffic are prohibited within fenced areas. Burning or debris piles are prohibited within fenced areas. No materials, equipment, spoil, waste, or washout water should be deposited or stored within fenced areas. Fences may not be moved without written permission of the Supervising Arborist. No soils shall be deposited at or on the root crowns. There shall be no compaction of soils at the drip line by heavy equipment.
  - g. If temporary access within a fenced area is determined to be necessary, then a six-inch layer of redwood bark fiber should be placed in all areas requiring access. This requirement for mulching

should apply to all areas within the fenced area. If equipment access is required, then the mulch should be overlaid with interlocking metal plates of sufficient thickness to adequately distribute bearing load.

- h. Any tree removal work within 50 feet of a TPZ shall be reviewed by a qualified arborist. Trees requiring removal shall be felled away from protected trees. Roots of trees to be removed may be required to be pruned with approved root cutting equipment prior to felling if intermingled with roots of retained trees.
  - i. Excavation equipment shall operate from outside the TPZ.
  - j. Grading cuts or trenching within the TPZ of a retained tree trunk require special trenching procedures. Trenches shall be dug manually or with the use of a root cutting machine, rock cutter, or other approved root-pruning equipment. This root-pruning trench shall be placed one foot inside the edge of the grading cut. The depth of the trench shall equal the depth of the grading cut to a maximum depth of 40 inches.
  - k. A trench may be mechanically dug toward a tree until the edge of the TPZ is reached. From the edge of the TPZ, the special trenching procedures shall apply. Underground utilities, drain, and irrigation lines should be routed outside the TPZ. When lines must cross the TPZ, the lines shall be bored or tunneled through the area at a depth approved by the supervising arborist. In these instances, a single shared utility conduit should be used to reduce impacts to trees.
  - l. Any roots one inch in diameter or larger requiring removal should be cut cleanly in sound tissue. The roots and surrounding soil should be moistened and covered with a thick mulch (4") to prevent desiccation. No pruning seals or paints should be used on wounds. Cut and exposed roots should be protected from drying. A water absorbent material (i.e. burlap) should be secured at the top of the trench and should be draped over the exposed roots. This material should be kept moistened and soil should be replaced as soon as practicable.
  - m. Foundation construction within the TPZ of retained trees is recommended to be either a pier and grade beam construction which bridges root areas, cantilevered structures, or raised foundations using pier footings.
  - n. All grading shall be designed to provide positive drainage away from the base of the tree trunk, and not create ponding within the TPZ.
  - o. Drainage features such as v-ditches and French drains shall be utilized upslope from existing trees to divert runoff away from roots and the TPZ. These V-ditches are best utilized downslope of any irrigated landscape areas.
  - p. Any tree pruning or other similar activity which may be proposed as part of site construction shall be included on site plans and be reviewed by a qualified arborist.
  - q. Trees identified by the supervising arborist to be affected by sudden oak death shall be removed from the site to an appropriate landfill and shall not be used for chipping, soil amendment, or firewood. Brush and wood chips generated from tree and brush removal from trees not affected by sudden oak death as identified by the supervising arborist may be used on site.
17. BEFORE ISSUANCE OF A BUILDING PERMIT, building permit plans shall show the agricultural/equipment storage structure on Parcel "A" to be sited downslope and outside of the 300-foot horizontal restricted area and adjacent to the proposed driveway extension. (*Land Use and Planning Mitigation Measure 1.b-1*)

18. BEFORE ISSUANCE OF A BUILDING PERMIT, building Permit plans for the proposed residence on Parcel "B" shall be modified to reduce the effective visual bulk and mass by: (a) stepping the residence down the hillside, with the roof lines conforming to the underlying natural topography; and (b) breaking the roof forms and roof lines into series of smaller building components. To accomplish this mitigation effectively, without necessitating the removal of any additional trees, the overall footprint and square footage of the residence may have to be reduced. (*Land Use and Planning Mitigation Measure 1.b-4*)
  
19. No lighting of the driveways, including along the ridgeline, shall be permitted except for safety purposes, and then only low, shielded, down-lighting at the ground level will be permitted and the residences and agricultural/storage equipment building shall incorporate only minimal low-level, shielded exterior lighting, limited to hooded and down-lighting of low wattage. (*Land Use and Planning Mitigation Measure 1.b-5*) BEFORE ISSUANCE OF A BUILDING PERMIT, the applicants shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.
  
20. All subsequent construction plans shall incorporate the recommendations of the Parcel geotechnical investigation submitted with the building permit plans, as approved by the Marin County Department of Public Works. The Parcel project design shall conform also to the engineering and seismic requirements of Marin County Code, Titles 23 (Grading) and 24 (Development Standards), and the Uniform Building Code. (*Geophysical Mitigation Measure 3. a-1*)
  
21. A Registered Civil Engineer shall design the grading and foundation plans. A Registered Soils Engineer shall stamp and sign a letter certifying that the grading and foundation plans conform to the recommendations of the Parcel geotechnical investigation. (*Geophysical Mitigation Measure 3.a-2*)
  
22. A Stormwater Pollution Prevention Plan shall be submitted that addresses both interim (during construction) and Parcel (post construction) stormwater pollution control measures, referred to as Best Management Practices (BMP). Permanent BMPs may include, but are not necessarily limited to, artificial wetlands and ponds, sediment basins, infiltration trenches, grassed swales, filter strips and buffers, oil/water separators, and site and landscaping management procedures. The plan should follow guidelines as established in "Start at the Source", published by the Bay Area Stormwater Management Agencies Association. The Marin County Department of Public Works must approve the Stormwater Pollution Prevention Plan prior to issuance of a grading permit or improvement plan approval and shall include the following provisions.
  - (a) Use permeable pavement for driveways and parking strips in order to reduce surface runoff. The material used needs to be strong enough to support a fire truck. The Bay Area Stormwater Management Agencies Association (BASMAA, 1999) "Start at the Source" manual lists 8 alternative materials that can be used as permeable pavement.
  
  - (b) Route roof runoff to areas where the soil is relatively well developed and permeable, and the slope is moderate. The heads of the steep ravines on the west side of the canyon should not be used for discharge of roof drains. Discharge to these areas could initiate gully erosion or shallow-seated debris slides. The runoff should be dispersed via a perforated pipe either on the surface or buried in a reverse French drain.
  
  - (c) During construction, prevent down-slope transport of loose soil with hay bales or silt fences below construction areas.

- (d) After construction is complete, reseed disturbed soil areas (not intended for landscaping) with an appropriate erosion control seed mix. Mulch disturbed soils in landscape areas to prevent surface soil erosion. (*Water Mitigation Measure 4. a.-1*)
23. Appropriate construction plans, documents, and permit conditions shall clearly note and incorporate the following mitigation measures to control dust and vehicular emissions:
- (1) All active construction areas should be watered at least twice daily and more often during windy periods.
  - (2) All hauling trucks should be covered when transporting excavated materials.
  - (3) All staging areas, roadways, and parking areas should be paved temporarily, watered at least twice daily, or stabilized by application of non-toxic soil stabilizers.
  - (4) All excavated material stockpiles should be enclosed, covered, watered at least twice daily, or stabilized by application of non-toxic soil stabilizers.
  - (5) Construction vehicles should be limited to speeds of 15 miles per hour or less on unpaved roadways and disturbed or graded construction areas.
  - (6) All construction activities that cause visible dust plumes, which cannot be controlled by watering, should be suspended immediately.
  - (7) All construction equipment using fossil fuel should have installed required emission control devices that are in proper operational condition.
  - (8) All construction equipment should be turned off when it is not in use. (*Air Quality Mitigation Measure 5.b.-1*)
24. In order to mitigate the potential removal of additional trees on proposed Parcel "B", thereby ensuring future tree protection on proposed Parcel "B", the building envelope for Parcel "B" shall be modified on the Parcel Map by reducing the size of the building envelope at the northern most corner from approximately 38,000 square feet to approximately 30,000 square feet (approximately 120 feet running east to west from the proposed common property line with Parcel "A" and 200 feet northeast to southwest, parallel to the common property line). (*Biological Resources Mitigation Measure 7.a-1*)
25. BEFORE ISSUANCE OF A GRADING PERMIT, construction permits, and prior to any tree removal, a pre-construction Northern Spotted Owl nesting survey shall be conducted by a qualified biologist of the areas proposed for disturbance no more than 30 days prior to construction-related activities, if grading, construction activities or tree removal is to occur during nesting periods (normally between February 1 and August 31). A report documenting the findings of the survey shall be prepared and submitted for review and approval by the Community Development Agency - Planning Division. If any active nests are present, species specific recommendations shall be prepared by the biologist and implemented to prevent abandonment of the active nest. At a minimum, grading, tree removal or other construction disturbances shall not be permitted until the biologist has confirmed that the young raptors have fledged and are able to forage. As necessary, representatives of the California Department of Fish and Game and the U.S. Fish and Wildlife Service shall be consulted regarding appropriate construction restrictions, and other methods to ensure compliance with the Migratory Bird Treaty Act and State Fish and Game Code and to meet standards related to the nesting habitat and the timing of site disturbance. (*Biological Resources Mitigation Measure 7.a-3*)

26. BEFORE ISSUANCE OF A BUILDING PERMIT for either residence, a landscaping plan shall be submitted to the Community Development Agency for review and approval consisting of primarily native, and non-invasive and drought-resistant plant species with all approved landscaping installed prior to Parcel inspection. (*Biological Resources Mitigation Measure 7.c-1*)
27. Any obstruction of the existing fire road, including structures, owner's agricultural equipment, parking of vehicles, or tree planting, is prohibited by the Marin County Fire Department, as the Department's Fire Run Book identifies the fire road as the "Moon Mountain Fire Road", which must be left open and unobstructed for the Department's use. The owners shall cooperate with the Marin County Fire Department in the maintenance of the fire road, which is generally limited to grading. Other maintenance measures, including erosion control, shall be the responsibility of the owners.
28. BEFORE ISSUANCE OF FINAL INSPECTION OF THE APPROVED NEW AGRICULTURE STORAGE STRUCTURE, the existing agricultural storage buildings must be removed.
29. BEFORE ISSUANCE OF A BUILDING PERMIT FOR EACH PROPOSED RESIDENCE, the applicant shall submit a precise landscape and irrigation plan, which consists of primarily native vegetation. Said landscape plan shall include plantings, primarily native ground covers and grasses that will revegetate disturbed areas and facilitate erosion control.
30. BEFORE THE ISSUANCE OF ANY PERMIT, BUILDING/CONSTRUCTION PERMITS, OR THE APPROVAL OF THE IMPROVEMENT PLANS, the applicants shall submit a recycling/reuse plan prepared by a contractor, architect and/or qualified consultant, which provides for the recycling/reuse of any construction waste from the project site.
31. BEFORE FINAL INSPECTION OF ANY RESIDENCE, the applicants shall install all proposed and required landscaping and a drip irrigation system to serve it as necessary. The applicants shall call for a Community Development Agency staff inspection of the landscaping and irrigation at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the occupancy certificate and imposition of hourly fees for subsequent reinspections.
32. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
33. Project approval requires that all stages of project development shall conform to the adopted Mitigation, Monitoring and Reporting Program as determined by the Community Development Agency and Department of Public Works verifying compliance with each of the required mitigations.
34. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a minimum Goal rating under the Marin Green Home: Remodeling Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the "Platinum" rating.
35. All construction activities shall comply with the following standards:
  - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on

the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.

- b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
36. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
  37. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
  38. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.
  39. BEFORE FINAL INSPECTION OF ANY RESIDENCE, the applicants shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Platinum" rating under the Marin Green Home: Remodeling Green Building Residential Design Guidelines.

Marin County Department of Public Works - Land Use and Water Resources Division

40. BEFORE ISSUANCE OF A BUILDING PERMIT OR GRADING PERMIT, the applicants shall comply with the following:
  - a. Improvement plans shall be prepared in accordance MCC Title 24, Development Standards and as approved by the Department of Public Works.
  - b. Provide documentation that a Notice of Intent from Regional Water Quality Control Board has been obtained.
  - c. Provide hydrologic and hydraulic calculations for drainage for DPW review and approval.
  - d. Emergency vehicle turnaround slope shall not exceed 8 percent.
  - e. An encroachment permit shall be required for work prior to work within county right-of-way (Nicasio Valley Road).
  - f. The first 30 feet of the driveway shall be paved.
  - g. Driveway sections with slopes less than 12 percent shall be surfaced with minimum 4" compacted



crushed rock, greater than 12 percent shall be surfaced AC, and greater than 18 percent shall be surfaced with concrete. Driveway slopes shall not exceed 25%.

- h. A Notice of Violation was issued for grading an access driveway without a permit. This violation has not been corrected. Applicant is responsible for submitting a grading permit application and paying the associated fees. Application shall include an engineer's cost estimate of all the new improvements.
  - i. The plans shall be reviewed and approved by a Registered Soils Engineer. Certification shall be by either the engineer's signature and stamp on the plans or stamped and signed letter. In particular, engineer shall comment on any special design consideration for road construction in "deep soil cover" area.
  - j. An erosion and siltation control plan shall be submitted which addresses both interim (during construction) and final (post construction) control measures in general accordance with "Manual of Standards for Erosion And Sediment Control Measures" published by ABAG.
  1. Note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that the driveway, parking and other site improvements shall be inspected by a DPW engineer.
41. BEFORE RECORDATION OF THE PARCEL MAP a drainage and roadway maintenance agreement for the common driveway shall be submitted in a form acceptable and approved by County of Marin.

#### Marin County Fire Department

42. BEFORE FINAL INSPECTION, the applicants shall provide confirmation from the Fire Marshal that all requirements of the Marin County Fire Department have been met including:
43. The following conditions must be met to comply with California Public Resources Code Section 4290 and the 2001 California Fire Code Sections 901.2 - 902.2.4.2, 903, and 16, 17 of Appendix II-A.:

#### *ACCESS*

Fire Department access is acceptable as proposed. Please note that an emergency vehicle clear zone such that vegetation adjacent to driveways and access roads is cleared to a minimum of 15' vertically (no exceptions) and 10' horizontally (no exceptions, first 5'). The Department of Public Works enforces the road and driveway standards.

Note that if a gate is contemplated, Fire Department approval for gates on the access road and/or driveway is required. If the gate is locked in any fashion, a MCFD Knox rapid entry system is mandatory.

#### *ADDRESSING*

Road signage indicating the address of the residence is required. Numbers are to be a minimum of 4" in height with a 3/8" stroke, on a sharply contrasting background.

#### *DEFENSIBLE SPACE*

A vegetation management/defensible space plan is required. The plan is required to show, at a minimum, the topography of the site (slope and aspect), vegetation/species currently on the site and how this vegetation is planned to be modified, and a listing of the species and locations of proposed plantings. Note that the defensible space must be in place prior to framing. Annual maintenance is required! Trees shall not be planted in a location that, when mature, said trees will contact overhead power lines.

During the fire season, firewood must be stored inside a fully enclosed structure, or stored a minimum of 30 feet away from any building.

#### *PROPANE TANK INSTALLATION*

The proposed LPG tank location is acceptable. Note that seismic bracing, seismic shutoff device or excess flow device per Marin County Building Department standards is required and must be maintained.

Minimum defensible space requirement:

- a. No combustible materials within 15-feet of any part of the tank.
- b. Defensible space must be maintained.

#### *FIRE PROTECTION WATER SUPPLY*

The existing fire protection water supply is acceptable.

#### *OTHER REQUIREMENTS*

*Residential Sprinkler System (design approval and site inspection by the Building Dept.)*

As part of the sprinkler system installation, a spare sprinkler head cabinet containing two spare sprinkler heads, and the applicable sprinkler head wrench will be required prior to Parcel approval of the sprinkler system.

*Class "A" Roofing (design approval and site inspection by the building dept.)*

*Smoke Detection System (design approval and site inspection by the building dept.)*

#### Marin County Environmental Health Services

44. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicants must meet the following requirements:

Water: The applicants have specified that the existing domestic well will be used to supply water to both parcels. The project is acceptable with the following conditions:

1. Modify the existing domestic water permit into a common water system and have one centralized system for both houses that are maintained and operated by the owners of both conceptual parcels. Additional water storage will be required. Centralized treatment will be required. Contact Scott Callow, EHS at 499-6907 to obtain permit application information and direction.
2. Before the building permit is cleared for construction, a modified water permit or a new water permit will need to be obtained by the applicant. Holds on the Parcel building permit inspection will be placed until the water system is completed and inspected by EHS.

Sewage: The applicant has demonstrated feasibility of a four-bedroom full-flow design septic system for both Lot A and B. Prior to building permit approval, applicant must submit revised septic plans for lot A and apply for permit with Marin EHS for a new-standard septic system for lot B.

#### **SECTION III: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT RESOLVED that the applicants must vest the Mease/Salah Master Plan Waiver Request, Land Division (Tentative Map), Precise Development Plan, and Design Review approvals by **November**

**28, 2008**, by: (1) recording the Parcel Map, (2) constructing all site improvements, (3) securing building permits for each residence and substantially completing construction, and (4) complying with all conditions of approval or all rights granted in this approval shall lapse unless the applicants apply for an extension at least 30 days before the expiration date above and the Agency Director approves it. An extension of up to three years may be granted for cause pursuant to the Marin County Code.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the date of such permit. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. If the Building Permit lapses after the vesting date stipulated in the Design Review approval (and no extensions have been granted), the Building Permit and Design Review approvals may become null and void.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is Parcel unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$700.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. **December 8, 2005**.

**SECTION IV: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 28<sup>th</sup> day of November 2005, by the following vote to wit:

AYES:

NOES:

OBSTAIN:

ABSENT:

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STEVE C. THOMPSON, CHAIRPERSON  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Kim Shine  
Planning Commission Secretary