

**MARIN COUNTY UNIFORMLY APPLIED CONDITIONS
FOR PROJECTS SUBJECT TO DISCRETIONARY PLANNING PERMITS**

2020

STANDARD CONDITIONS

1. The applicant/owner shall pay any deferred Planning Division fees as well as any fees required for mitigation monitoring or condition compliance review before vesting or final inspection of the approved project, as determined by the Director.
2. The applicant/owner shall defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations. The County of Marin shall promptly notify the applicant/owner of any claim, action, or proceeding that is served upon the County of Marin, and shall cooperate fully in the defense.
3. Exterior lighting for the approved development shall be located and shielded to avoid casting glare into the night sky or onto nearby properties, unless such lighting is necessary for safety purposes.
4. Building Permit applications shall substantially conform to the project that was approved by the planning permit. All Building Permit submittals shall be accompanied by an itemized list of any changes from the project approved by the planning permit. The list shall detail the changes and indicate where the changes are shown in the plan set. Construction involving modifications that do not substantially conform to the approved project, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications is obtained by the applicant.

SPECIAL CONDITIONS

1. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance prepared by a certified or licensed landscape design professional indicating that the landscape plan complies with the State of California's Model Water Efficient Landscape Ordinance and that a copy of the Landscape Documentation Package has been filed with the Community Development Agency.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call out the approved building setbacks on the Building Permit plans indicating the minimum distance of the building from the nearest property line or access easement at the closest point and any of the following features applicable to the project site: required tree protection zones, Wetland Conservation Areas, or Stream Conservation Areas.

3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant 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 consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts to the night sky or 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.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless related to losses experienced due to geologic and hydrologic conditions and other natural hazards.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit written confirmation that the property owner has recorded the "Disclosure Statement Concerning Agricultural Activities," as required by Section 23.03.050 of the Marin County Code.
6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in the project approval, the applicant shall install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. Acceptable limits of the tree protection zones shall be the dripline of the branches or a radius surrounding the tree of one foot for each one inch diameter at breast height (4.5 feet above grade) of the tree trunk. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. If encroachment into the tree protection zone is necessary for development purposes, additional tree protection measures shall be identified by a licensed arborist, forester, or botanist, and the tree specialist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a tree protection zone occurs.
7. BEFORE FINAL INSPECTION, if encroachments into a tree protection zone have been approved, then the tree specialist shall submit a letter to the Planning Division verifying that the additional tree protection measures were properly implemented during construction activities.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, temporary construction fencing shall be installed on the subject property at edge of the Wetland Conservation Area and/or Stream Conservation Area, as applicable to the site. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. The construction fencing shall remain until all construction activity is complete. No parking of vehicles, grading, materials/equipment storage, soil stockpiling, or other construction activity is allowed within the protected area. If encroachment into the protected area is necessary for development purposes, additional protection measures shall be identified by a qualified biologist and the biologist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A

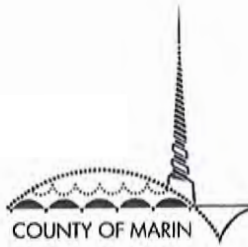
report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a protected area occurs.

9. BEFORE FINAL INSPECTION, if encroachments into a protected area have been approved, then the biologist shall submit a letter to the Planning Division verifying that the additional protection measures were properly implemented during construction activities.
10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must provide written evidence that all appropriate permits and authorizations have been secured for this project from the Bay Conservation and Development Commission, the California Department of Fish and Game, the Regional Water Quality Control Board, the California Coastal Commission, the California State Lands Commission, the Bay Area Air Quality Management District, and/or the United States Army Corps of Engineers.
11. BEFORE CLOSE-IN INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification prepare and submit written (stamped) Floor Elevation Certification to the Planning Division confirming that the building's finished floor elevation conforms to the floor elevation that is shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
12. BEFORE FINAL INSPECTION, the project shall substantially conform to the requirements for exterior materials and colors, as approved herein. Approved materials and colors shall substantially conform to the materials and colors samples shown in "Exhibit A" unless modified by the conditions of approval. The exterior materials or colors shall conform to any modifications required by the conditions of approval. All flashing, metalwork, and trim shall be treated or painted an appropriately subdued, non-reflective color.
13. BEFORE FINAL INSPECTION, the applicant shall install all approved landscaping that is required for the following purposes: (1) screening the project from the surrounding area; (2) replacing trees or other vegetation removed for the project; (3) implementing best management practices for drainage control; and, (4) enhancing the natural landscape or mitigating environmental impacts. If irrigation is necessary for landscaping, then an automatic drip irrigation system shall be installed. The species and size of those trees and plants installed for the project shall be clearly labeled in the field for inspection.
14. BEFORE FINAL INSPECTION, the applicant shall submit a Certificate of Completion prepared by a certified or licensed landscape design professional confirming that the installed landscaping complies with the State of California's Model Water Efficient Landscape Ordinance and the Landscape Documentation Package on file with the Community Development Agency.
15. BEFORE FINAL INSPECTION, the applicant shall submit written verification from a landscape design professional that all the approved and required landscaping has been completed and that any necessary irrigation has been installed.
16. BEFORE FINAL INSPECTION, utilities to serve the approved development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.
17. BEFORE FINAL INSPECTION, the applicant shall call for a Community Development Agency staff inspection of approved landscaping, building materials and colors, lighting and

compliance with conditions of project approval at least five business days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent reinspections.

CODE ENFORCEMENT CONDITIONS

1. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the development. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
2. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
3. Within 120 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.



COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

JAN 23 2020

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

P2737

PETITION FOR APPEAL

TO: THE MARIN COUNTY Planning Commission
3501 Civic Center Drive (Planning Commission or Board of Supervisors)
San Rafael, CA 94903-4157

1. The undersigned, Neighbors of Sacramento Avenue, hereby files an appeal
(Appellant/Petitioner)

of the decision issued by the CDA Planning Division, Kathleen Kilgariff (Planner)
(Director, or Deputy Zoning Administrator, or Planning Commission)

regarding the Sasan Site Plan Review (P2522)

relating to property described and located as follows:

a) Assessor's Parcel Number 177-172-10 and -20

b) Street Address Vacant parcel historically referred to as 187 Sacramento Avenue

2. The basis of this appeal is:

See attached list of appellants and basis of this appeal

(The pertinent facts and the basis for the appeal shall be provided to the Agency at the time the appeal is filed, but no later than the last date established for the appeal period – usually 10 days following the date of the decision. If more space is needed, please attach additional pages setting forth the bases for appeal.)

FROM Brandon Sullivan
(Print Name)
42 Miwok Drive
(Address)
San Anselmo, CA 94960
(City/State/Zip Code)


(Signature)
(415) 624-6056
(Telephone)
brmsullivan@gmail.com
(Email)

Appellants:

Brandon and Melissa Sullivan, 42 Miwok Drive

Rick and Vicki Block, 46 Miwok Drive

Eric and Roseann Schneider, 53 Miwok Drive

John Herr and Robin McKillop, 54 Miwok Drive

Shaun Church, 62 Miwok Drive

Peter Pursley and Todd Barbee, 2 Carmel Way

Basis of this appeal:

The proposal and the subsequent decision to accept the application fail to adequately address significant ongoing concerns raised by neighboring property owners, the Planning Commission (June 12, 2017 hearing) the Marin County Assessor and the Board of Supervisors (Resolution No. 2018-50). Our key concerns are as follows:

- The proposed project fails to meet Discretionary Development Standards, fire safety requirements, and objectives of the Countywide Plan, resulting in unnecessarily significant impacts to the environment and surrounding neighborhood. For example, the project calls for excavating 2,063 cubic yards of soil and does not meet minimum fire standards with regard to fire apparatus access roadway width and driveway turnouts.
- The proposal selectively manipulates the impact of the natural drainage and stream elements in order to restrict siting of the home to the steepest, most exposed and most distant area to the north and northeast corner of the property. Namely, the applicant exaggerates the extent of the Stream Conservation Area requirements as related to this property, while ignoring the mapped wetland along the northern property boundary.
- The lot area calculation continues to inaccurately include land associated with the Sacramento Avenue public right-of-way. This additional land, not owned by the applicant, would facilitate a future lot line adjustment needed to construct a second home on this lot that would not otherwise be possible under the requirements of the Development Code.
- Once again the applicants are proposing private development of the Sacramento Avenue public right-of-way even though it is prohibited by California law, detrimental to the neighborhood and community, contrary to Marin Countywide Plan objectives to preserve paper streets (TRL 1.5), and for the sole benefit of the applicants.
- The Development Code clearly recognizes that this entire site, consisting of two lots owned by the applicant and her brother, is suitable for only one house. In 2017, the Planning Commission agreed and sought to limit development to one house. Shockingly, an opportunity was missed at the 2017 hearing when planning staff failed to inform the Planning Commission of their right to require, not just request, a lot merger.
- Following the Planning Commission hearing in 2017, we reached out to the applicants with a development proposal that centered on moving the building site in a southwesterly direction on the property. This site would minimize, if not completely remove, all of the impediments associated with the current location. Since then, the applicants have transferred title to the adjacent substandard lot (APN 177-172-09) in order to prevent a forced merger, incorrectly

Prohibit construction near ridgelines (Standard D2). Discretionary Development Standards state that “no construction shall occur on top of, or within 300 feet horizontally, or within 100 feet vertically of visually prominent ridgelines, whichever is more restrictive.” The proposed location for this house is within 100 vertical feet of the visually prominent ridgeline that properties along Miwok Drive view. The Discretionary Development Standard applicable to ridgelines (Section 22.16.030.D.2) does not limit this construction restriction only to Ridge and Upland Greenbelt sites, as implied by planning staff in the project approval report.

Minimize noise impacts on neighboring properties (Standard D2.4). This standard requires minimizing noise impacts on residents in nearby areas through the placement of buildings and roads. Planning staff’s project approval simply states, “due to the location of the residence and site improvements, noise impacts on adjacent properties are not anticipated.” This comment completely disregards concerns repeatedly raised by neighbors regarding the visual, noise and privacy impacts resulting from the placement of this house, its upslope layout and its orientation towards our properties along Miwok Drive. None of the existing homes along Sacramento Avenue are oriented as to directly face a house along Miwok Drive.

2. Development in the Urban Wildland Interface should be held to the most stringent requirements to protect public health and safety, yet this project falls far short in many regards.

Given the incalculable devastation that so many local communities have faced in recent years due to fire storms and the location of this project in the Wildland Urban Interface (WUI), it would be common sense for the most stringent review requirements to apply. Unfortunately, concerns neighbors have expressed repeatedly that the project does not meet current fire access regulations have been dismissed with broad reference to fire officials’ discretion in implementation. The 2019 California Fire Code (Section 503) requires fire apparatus access roads to have an unobstructed width not less than 20 feet, yet the privately maintained portion of Sacramento Avenue is almost 2 feet narrower than required in places and often even narrower due to illegal parking of vehicles on this access road. Design plans indicate a maximum roadway width of just 19’9”, failing to meet minimum width requirements. It could be argued that the privately maintained portion of existing Sacramento Avenue is a driveway, rather than a road, and therefore not subject to the 20 foot width requirement. However in this scenario, the fire truck turnaround proposed for this project does not meet Marin County Fire Department (MCFD) standards. These standards require construction of a fire apparatus turn around “at the driveway end so as not to exceed 150 feet from the street.” The proposed fire truck turn around would be almost **500 feet** from the County maintained portion of Sacramento Avenue. MCFD standards also require a turnout at the midpoint of a driveway that is less than 20 feet wide (in the WUI) and over 150 feet in length. No turnout is indicated on the design plans although the driveway width is clearly less than 20 feet. The California Fire Code grants authority “to require or permit modifications to the required access widths where they are inadequate for fire or rescue operations or where necessary to meet the public safety objectives.” Broad discretion used by County fire officials to waive (or not enforce) minimum width requirements is clearly beyond the authority granted.

exaggerated a Stream Conservation Area in an attempt at eliminating our proposed site for development, and overstated the lot area in an effort to clear the way for building a second house in the future.

More details about our concerns are provided below. In responding to this appeal, we request that planning staff specifically address each of the individual concerns described below, not just the summary points listed above.

1. **In complete disregard to extensive feedback provided on past applications, the applicants continue to propose a building site on the steepest, most exposed and most distant portion of the lot where impacts to the environment and neighboring properties are unacceptably magnified.**

This project encompasses much more than constructing a single home. It proposes construction of a 130-foot roadway extension and 185-foot driveway, including an extensive network of both uphill and downhill retaining walls, and dedicated parking spots. Thoughtful siting is a critical first step towards minimizing environmental, visual and privacy impacts. The Site Plan Review process is designed as “an efficient and powerful tool for the Planning Division to implement Countywide Plan policies related to natural resource protection” (CDA Guide to the Marin County Development Code 2017). However, outcomes are largely dependent on the extent to which requirements are upheld. Unfortunately, numerous Discretionary Development Standards (Section 22.16.030) have not been upheld in this proposal.

Cluster structures to minimize impacts (Standard D1). The chosen location for this house is at the farthest distance from the developed end of Sacramento Avenue on the steepest, most exposed area of the lot where screening opportunities from natural vegetation are limited and visual impacts are greatest. This location greatly contrasts with Discretionary Development Standards that call for “clustering structures at the most accessible, least visually prominent portions of the site...consistent with the needs for privacy...(and is) especially important on **open grassy hillsides.**”

Minimize driveway length (Standard C2). The proposed project involves constructing a 185 foot long driveway plus a 130 foot long extension of Sacramento Avenue (315 ft total) over a 40%+ slope. Relocating this project to the recommended building site would significantly minimize the driveway length (see Item 9 below).

Minimize grading and ground disturbance (Standard J1). This project involves disturbing a significant portion of the site (0.3 acres) to depths in excess of 15 feet and excavating **2,063 cubic yards** of soil. The Board of Supervisors found the amount of earthwork associated with the previous proposal excessive, 1268 cubic yards of excavation, and advised the applicant accordingly. The applicants now propose excavation that represents a greater than 60% increase over what was already deemed unacceptable by the Board of Supervisors.

Minimize impervious surfaces (Standard J2). This project requires installation of 12,214 square feet of impervious surfaces (home + roadway + fire truck turnaround) that will significantly increase rainwater runoff from the hillside. A single storm producing 4 inches of rain would result in over 30,400 gallons of runoff from the impervious surfaces, likely resulting in erosion and siltation problems for the creek and potentially damaging the property and homes of downstream residents.

3. **The Stream Conservation Area (SCA) has been exaggerated beyond the requirements of the Countywide Plan Policy BIO-4.1, while the mapped wetland along the northern property boundary has been completely ignored. This selective manipulation of environmental requirements is a blatant attempt to eliminate the building site neighbors have proposed for this project and underestimate the significant environmental constraints of the chosen site.**

BIO-4.1 requires parcels in the County's City-Centered Corridor that range between 2 and 0.5 acres in size to provide a 50-foot development setback *from the top of the bank of a stream*, not the edge of the riparian canopy as presented in this proposal. No justification has been provided for this exaggerated SCA and no explanation is given as to why a SCA is required for this project when it was not required for previous ones. Furthermore even if the SCA is indeed required and correctly implemented in this proposal, the Countywide Plan (BIO-4.1) states that development could be allowed within the SCA if it would lessen environmental impacts as compared to development outside of the SCA. The applicants' tactic is clear: exaggerate the SCA in order to restrict development potential to the north and northeast portions of the property. Claims by the planning staff that "the development is constrained to the proposed location" are not supported by the facts. Similarly, planning staff's assertion that "it is not evident" that relocating the house to location we have proposed (Item 9, below) would result in a project that is more beneficial to the environment is alarming. In contrast to the exaggerated SCA, the mapped wetland along the northern property boundary has been entirely ignored. Although this wetland is clearly shown in County planning resources, a Wetlands Conservation Area (WCA) as required by Countywide Plan Policy BIO-3.1 has not been created. Furthermore the proposed development encroaches into the required 50 foot WCA setback.

4. **The lot size continues to be overstated to include the land associated with the public right-of-way, not owned by the applicants, inappropriately facilitating construction of a second house on this lot in the future.**

For years, the applicants have failed to demonstrate ownership of the land over undeveloped Sacramento Avenue. Yet simply by proposing construction throughout the public right-of-way, the applicants have somehow been allowed to absorb land they do not own, land that is specifically excluded in the deeds and is not included in the County's own parcel records. This error is extremely important with significant implications on future development. The additional 13,431 square feet of area the applicants have been allowed to absorb brings the total area of the two adjacent lots to over 2 acres, the amount of land needed to pursue a future lot line adjustment that could allow construction of a second home on the larger parcel (APN 172-177-10), development that would otherwise not be possible under the Hillside Development Standards. In the past, Planning Commissioners noted the same improper inclusion of the public right-of-way in the lot area calculation and directed planning staff to correct this error (Planning Commission Meeting, 6/12/2017, video mark 2:24:0). In fact the subsequent planning staff report submitted to the Board of Supervisors in 2017 adjusted the lot area accordingly. For reasons that are unclear, this direction is once again being ignored.

5. **Neighbors have expressed considerable concern regarding the possibility of future construction of a second house on this lot beyond the current proposal. Recognizing our concerns, Planning Commissioners expressed their desire to limit construction at the site to a single house and sought planning staff advice on how to achieve this at the last appeal hearing in 2017. Unfortunately, planning staff misinformed Planning Commissioners about options for requiring a merger to prevent this outcome. We believe this situation warrants further consideration by the Planning Commission to ensure the intent of the Development Code is upheld.**

In agreement with neighbors' concerns regarding the potential for future construction of a second home on this lot and the constraints to sound development on the adjacent substandard lot owned by the applicants, the Planning Commission specifically requested that the applicant merge the lots in 2017. Unfortunately, planning staff failed to explain the unique circumstances (i.e., contiguous lots, held by the same owner, and failure to meet minimum lot area requirements and slope stability standards) associated with these lots that would have allowed the Planning Commission to *require*, not simply request, a lot merger as per section 22.92.020 of the Development Code. When specifically asked by Commissioners about the type of reasonable restrictions that could be placed on the property's development potential, Jeremy Tejirian, Planning Manager, responded, "In terms of taking the property? None." (Planning Commission Meeting, 6/12/2017, video mark 2:22:05). This response was inaccurate and it influenced the Commissioners' willingness to proceed with requiring a merger. As such, only a voluntary merger was requested. Two months after the Planning Commission hearing, the applicants transferred title to the substandard lot (APN 177-172-09) to 187 Sacramento LLC (Mr. Thompson, brother of the applicant) in order to prevent a forced lot merger. This transfer was not for a legitimate purpose as it was clearly a calculated effort to prevent planning officials from exercising their authority to require a merger in order to reach a sound planning decision. In spite of these legal maneuvers, the Development Code clearly recognizes that no more than one house should be constructed at this site given its inherent constraints and unique characteristics. We believe this situation warrants further consideration.

6. **The design plan places the house on top of an existing drainage channel on the steepest portion of the lot even though considerable concerns were raised about this same issue regarding previous development reviews at this site.**

The applicants continue to propose construction over the significant natural drainage element on the very steep and unstable northern end of the property. In fact the applicants' previous proposal included a deck that encroached on one of the significant drainage channels. Despite direction from the Planning Commission to avoid this drainage element, the applicants now propose to encroach on the same sensitive area with the actual home itself. The current site plan references and relies on a land survey performed in 2014 for the applicants. That survey described the northern area in question as: "drainage has four channels ground convoluted eroded and unstable". The 2014 site constraints map, presented by the applicants for a previous proposal, mapped the full extent of the northern drainage element, streambed and riparian canopy in great detail. It is troubling that this natural drainage channel was clearly marked and avoided in that earlier application but not even acknowledged in this proposal. In recent communications, DPW Staff requested a current geotechnical report to "specifically comment on the condition of the drainage gully at the far end of

the proposed house, and provide recommendations for construction over this feature.” (Inter-Office Memorandum, 09/10/2019). It is illogical to conduct a site review without this information because the findings could have a significant impact on the appropriate siting of this house and the cumulative impacts of the project.

7. Once again the applicants propose private development of the Sacramento Avenue public right-of-way even though it is prohibited by California law, detrimental to the neighborhood and community, contrary to Marin Countywide Plan objectives to preserve paper streets (TRL 1.5), and for the sole benefit of the applicants.

Seeks de facto abandonment. By simply calling encroachments onto the public right-of-way “improvements,” this project seeks to obtain a *de facto* abandonment without navigating the County’s abandonment process. Furthermore these “improvements” are for the sole benefit of the developer, at the expense of the public and are beyond the nature of public roadway improvements. During a hearing in November 2015 the Planning Commission was very clear that the Sacramento Avenue public right-of-way was a significant public asset that must be preserved; yet the applicants continue to ignore this issue.

Blocks property access. This project blocks access to two neighboring properties, to the north (APN 177-172- 21) and east (APN 177-220-24). On several occasions, the owners of both of these properties have expressed legitimate concerns (as related to the current proposal and/or previous applications) that development within the right-of-way would block access to their properties.

Impedes public access. This project impedes public access by permitting a private party to block the entire width of the public right-of-way with a large retaining wall, up to 8’ high. The proposed “four-foot-wide stairway” to allow for the passage of pedestrians across the right-of-way is an insufficient and uninviting alternative. The public is totally prohibited from using the 20’ right-of-way for any purpose in exchange for a 4’ stairway that will be impassable to bicyclists, motorists and equestrians. It is a well-settled principle that public road right-of-way easements belong to the people of the State of California, and a local jurisdiction has no authority to allow the right-of-way easement to be blocked for the sole benefit and enrichment of a private developer. Furthermore, Discretionary Development Standards (MCC 22.16.030) state that no new roads can be developed if they cannot be used without public inconvenience.

Contrary to past development practices. Several properties in our neighborhood border a paper street/public right-of-way. In each case, the homes were constructed with respect for the boundaries delineated by the corresponding public right-of-way.

Blocks view corridors. The roadway extension incorporates retaining walls, guardrails and a dedicated parking spot all along and across the public right-of-way, thus severing public access, blocking view corridors from neighboring properties and diminishing our property values and quality of life.

Encroaches onto property owned by another. This project includes development on land that the applicants do not own without the express approval of the property owner. The owner of that fee interest, Short Ranch Co., has not consented to the construction and development. The applicants

stake their claim of ownership of Sacramento Avenue on a Quitclaim Deed that Paul Thompson bought from Wells Fargo Bank in 2014. However, Wells Fargo Bank is not in the chain of title to Sacramento Avenue. Although Thompson has provided a preliminary title report from Old Republic Title, neither he nor the Applicant have provided planning staff with an issued title insurance policy. In fact one neighbor has obtained a Litigation Guarantee issued by North American Title, in the amount of \$1 million, insuring that the fee interest in Sacramento Avenue is owned by Short Ranch Co., a third party wholly unrelated to the Applicant.

Violates the Subdivision Map Act. The sale by deed of the Sacramento Avenue parcel by Wells Fargo Bank to Thompson in 2014 was a division of real property in violation of the Subdivision Map Act and Marin County's zoning ordinances. Since the Sacramento Avenue parcel was created by illegal subdivision, it cannot be approved for development.

8. **A project of this magnitude, in an area with mapped streams and wetlands in close proximity to Open Space deserves careful environmental consideration, and a CEQA Initial Study is warranted.**

By developing and extending Sacramento Avenue, this project will also facilitate future development on two vacant lots (APN 177-172-09 owned by the applicant's brother and APN 177-220-24 a 5.63 acre lot to the east). As such, this project is growth inducing with potential cumulative impacts that warrant a comparable degree of environmental review (CEQA Initial Study) that was required when the properties at 171 and 179 Sacramento Avenue were developed. In addition, the categorical exemption 15303 applied to this application is limited in scope to the construction of a single-family residence. The current proposal, however, also involves constructing a 185 foot long driveway and extending Sacramento Avenue over a very steep slope in close proximity to mapped streams and wetlands, and requires extensive grading and excavating 2063 cubic yards of soil. Likewise, the number of unusual circumstances associated with this project and the reasonable possibility that they will have a significant effect on the environment as described under Section 15300.2 should not be ignored. These unusual circumstances include:

- a. Extension of Sacramento Ave;
- b. Location in the Urban Wildland Interface and designation as a State Responsibility Fire Area;
- c. Growth inducing nature of the project;
- d. Public right-of-way bisecting the lot;
- e. Issues associated with public access;
- f. Mapped streams and wetlands on the lot;
- g. Adjacent substandard lot owned by applicant's brother;
- h. Very steep 44.5% slope (Marin Map);
- i. Proximity to open space;
- j. Proximity to an undeveloped 5.6 acre lot immediately adjacent;

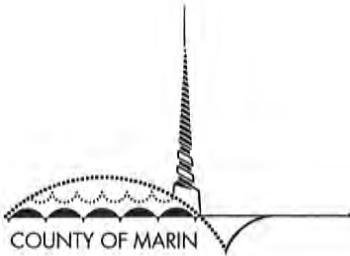
Lastly, public agencies utilizing CEQA exemptions must support their determination with "substantial evidence", but planning staff has failed to provide any evidence that cumulative impacts and unusual circumstances are not applicable.

9. **Following the Planning Commission hearing in 2017, our group of neighbors reached out to the applicants with a development proposal that centered on moving the building site in a southwesterly direction on the property.**

This site would minimize, if not completely remove, all of the impediments associated with the current location. Additionally our proposal addresses all of the recommendations set forth by the Planning Commission and the Board of Supervisors regarding the applicants' previous proposal. Our proposal has numerous environmental, visual and privacy benefits:


- Sites the house lower on the hillside, more than 100' below the visually prominent ridgeline and low enough for riparian trees to serve as natural screening;
- Should not require removal of any trees and prevents construction from being forced into close proximity with existing protected trees;
- Shortens the extension of Sacramento Avenue and driveway;
- Minimizes grading and excavating;
- Reduces impervious areas and resulting volumes of runoff;
- Minimizes the extent and height of retaining walls;
- Avoids the steepest, most exposed areas of the property;
- Builds downslope rather than upslope;
- Orients the house towards Mt. Tam instead of homes along Miwok Drive;
- Retains important wildlife corridors;
- Removes building from drainage channels and mapped wetlands setbacks;
- Adheres to SCA requirements;
- Preserves public access.

In summary, the applicants continue to waste everybody's time, including their own, by putting forth development proposals that fail to adhere to development standards or take into account feedback from multiple parties on significant issues related to development at this site.



**MARIN COUNTY PLANNING DIVISION
ADMINISTRATIVE DECISION
Sasan Site Plan Review**

Decision: Approved with Conditions
Date: January 9, 2020

Project ID No:	P2522	Applicant(s):	Casey Clement
		Owner(s):	Tim and Beth Sasan
		Assessor's Parcel No(s):	177-172-10 and -20
		Property Address:	Vacant Parcel Historically Referred to as 187 Sacramento Avenue
		Project Planner:	Kathleen Kilgariff 415.473.7173 kkilgariff@marincounty.org
		Signature:	
Countywide Plan Designation:		SF5 (Single Family Residential, 2-4 lots per acre)	
Community Plan Area:		N/A	
Zoning District:		R1:B2 (Residential, Single Family, 10,000 square feet minimum lot size)	
Environmental Determination:		Categorically Exempt per Section 15303, Class 3	

PROJECT SUMMARY

The applicants request Site Plan Review approval to construct a new residence on a vacant lot in San Anselmo. The development would result in a lot coverage of 16.5 percent on the 73,883 square foot lot. The proposed building footprint would have the following setbacks: 154 feet, 2 inches from the southern front property line (30 feet, 11 inches from the Sacramento Avenue right-of-way); 10 feet from the eastern side property line; 160 feet, 9 inches from the western side property line (27 feet from the Sacramento Avenue right-of-way); 84 feet, 4 inches from the northern rear property line.

The project entails an approximately 130-foot extension of Sacramento Avenue that will transition to an approximately 185-foot driveway, which includes a fire truck turn around to access the residence.

Grading includes 2,063 cubic yards of excavation, 379 cubic yards of fill, and 1,684 cubic yards of offhaul to accommodate development of the roadway extension, driveway, and residence. Associated site improvements include retaining walls that range in heights up to 8 feet.

Drainage will be collected and directed downhill to level spreaders, and erosion control devices designed to reduce water pollution by reducing the impact of stormwater surface runoff will be installed during construction. No landscaping is proposed, and all trees are proposed to remain.

Site Plan Review approval is required because the project entails development on a lot accessed by a paper street pursuant to Section 22.52.020.D of the Marin County Code.

BACKGROUND

The property owners and project applicants have been involved in various planning permit processes since 2013. Initially, the property owner filed for a Certificate of Compliance in 2013 to clarify the status of the property. The Certificate of Compliance verified that the subject property is one legal lot of record that comprises of APNs 177-172-10 and 177-172-20 and does not include the undeveloped property adjacent to the property (APN 177-172-09).

An application for Design Review and Lot Line Adjustment was filed on May 22, 2014 and included a request to abandon the Sacramento Avenue right-of-way. The application was considered by the Marin County Planning Commission in November of 2015 and was continued because the proposed Lot Line Adjustment was not categorically exempt from the California Environmental Quality Act (CEQA) due to the slope of the lot. The applicant subsequently withdrew the Design Review, Lot Line Adjustment and roadway abandonment indicating they would redesign the project based on input from the community and the Planning Commission.

An application for Design Review and Tree Removal permit was filed on July 26, 2016. The project no longer included a Lot Line Adjustment or request to abandon the Sacramento Avenue right-of-way.

The project was a proposal to build an approximately 3,300 square foot single family residence and 640 square foot attached garage on a vacant hillside lot. The Board concluded that the project was not supportable (despite modifications made by the Marin County Planning Commission) because the siting and design of the proposed residence and appurtenant improvements (length of driveway and height of retaining walls) would result in development that is visually obtrusive and would require excessive site disturbance. However, the Board indicated that a future development proposal may be looked more favorably upon if the proposed project was sited and designed to lessen its visual obtrusiveness, including but not limited to reduction of its three-story appearance, use of a design aesthetic more in keeping with the hillside setting that is not modern or angular, and more effective building articulation on both horizontal and vertical planes. The application was ultimately denied by the Board of Supervisors on June 5, 2018.

The current application for Site Plan Review was filed on June 20, 2019. The proposed project does not include a request approval to abandon the right-of-way, remove trees, or develop site improvements that would require Design Review. As a result, the overall appearance of the residence is not subject to review. Instead, Site Plan Review provides the opportunity to review site plans for the arrangement and design of improvements to ensure that the proposal complies with the Countywide Plan, encouraging sound design principles and preservation of the natural beauty of the County.

PUBLIC COMMENT

Misrepresentation of Lot Area

Neighbors have expressed concerns related to the noted 73,883 square feet of lot area on Sheet A1.0.

Section 22.130.030 of Marin County Code (MCC) defines lot area as, "The total area included within the lot lines of a lot, exclusive of adjacent street rights of way and portion of the property located below mean high tide that is subject to tidal action." Street is defined as, "a public right-of-way or access normally used for vehicular traffic, excluding vehicular driveways serving a single lot or parcel and trails or paths used for pedestrian access purposes only."

The right-of-way does not meet the definition of a street as it is not used for vehicular traffic. Therefore, the provided Lot Area was acceptable. The proposed floor area of 3,434 results in a 4.6 percent floor area ratio, well below the allowed 30 percent for the R1-B2 zoning district. This area calculation is consistent with prior applications.

Sacramento Avenue Right of Way

Throughout both the previous Design Review applications as well as the current Site Plan Review, some neighbors have alleged that there was a violation of the Subdivision Map Act when the Thompson Development acquired title to the property underneath the Sacramento Avenue road right-of-way.

This allegation was reviewed by county staff in consultation with the County Counsel's office and the County Surveyor. It was determined that there was no violation of the Subdivision Map Act. The assignment of tax parcel numbers to a portion of land does not necessarily convey development rights to that tax parcel and does not imply that the subject area is considered a buildable lot. Therefore, the Community Development Agency did not be filing a Notice of Violation.

However, the former County Assessor, Richard Benson, did indicate at the Board of Supervisors meeting on March 13, 2018 that it appeared that the undeveloped portion of Sacramento Avenue was mistakenly parcelized and the Assessor's office has since removed the parcel from the Assessors Map.

The proposed improvements do not preclude future extensions or improvements within the Sacramento Avenue right-of-way easement or prohibit the public's use within the Sacramento Avenue right-of-way easement.

Paper Street Improvements

The surrounding neighbors have expressed concerns that proposed improvements to the Sacramento Avenue road right-of-way will impact the public's ability to access open space, as well as access to the Sacramento Avenue road right-of-way.

The Sacramento Avenue road right-of-way currently extends through the middle of the subject property and is undeveloped. The project includes a proposal to extend the paved portion of Sacramento Avenue approximately 180 feet before the access transitions to private property.

The proposed retaining walls block pedestrian access across the right-of-way. As outlined in the findings, a condition of approval is imposed requiring the development to incorporate a stairway to allow for the passage of pedestrians and signage shall be required that notifies members of the public that the path is available for public use.

Further, the Marin County Fire Department will not permit parking in the fire truck turnaround. Thus removing the impediment a car may pose to those who wish to use the right-of-way.

As noted above, the proposed improvements do not preclude future extensions or improvements within the Sacramento Avenue right-of-way easement nor prohibit the public's use within the Sacramento Avenue right-of-way easement. In conclusion, the project would enable greater access to the Sacramento Avenue right-of-way and does not preclude the public's use or further development of the right-of-way.

Fire Impacts

Several commenters noted that the proposal does not comply with the Fire Department's development standards.

The project was reviewed by the Marin County Fire Department, which provided comments to be incorporated into the project at the time of building permit submittal. This is consistent with the Fire Department's review of planning applications.

The project will be required to comply with all development standards of the Marin County Fire Department. Should any change to the plan result in a project that does not substantially conform to the project approval, the Planning Department would require the changes to be subject to a Site Plan Review amendment. This would allow staff to analyze the proposed changes and allow the public to comment on the proposal as well.

Environmental Impacts

Neighbors expressed concerns that potential environmental impacts could result from the project. Therefore, commenters assert that the project should not qualify for a Categorical Exemption under Section 15303, Class 3 of the California Environmental Quality Act (CEQA).

The construction of a new single-family residence on a vacant, legal lot of record does not automatically constitute a potentially significant environmental impact. Section 15303 of the CEQA guidelines provides an exemption for the construction of up to three single-family residences in an urbanized area. The subject property is located in an urbanized area within the Marin Countywide Plan City Centered Corridor as identified in GIS maps on file with the Marin County Planning Division. Sewer and water services are available by the US Census, and the project would build out the last lot that obtains primary access from Sacramento Avenue. There are no sensitive plants or animal species located on the property as verified by Natural Diversity Database Maps prepared by the California Department of Fish and Wildlife.

Stream Conservation Area

Commenters have questioned the location of the Stream Conservation Area (SCA). It was further asserted that the applicants have overextended the SCA to allow them to develop in the proposed location.

According to the County's GIS (geographic information systems) maps, the project site contains two ephemeral streams – one stream to the north of the property and one along the western property line that runs north to south across the subject property. Ephemeral streams are subject to stream conservation area policies if they support riparian vegetation for a length of 100 feet, or if they support a special-status species or a sensitive natural community.

Per the Countywide Plan Policy BIO-4.g, development applications are required to include, "...a site assessment prepared by a qualified professional where incursions into the SCA are proposed, or adverse impacts to riparian resources may otherwise occur." As such, a site assessment was conducted by Eric Lichtwardt, Biologist for LSA, and a report dated October 17, 2019 was provided as part of the application.

The site assessment noted that the stream along the western property line is an intermittent stream and contains a riparian canopy. The mapped stream to the north is a small drainage course that lacks hydric soils, a distinct bed and bank, and wetland vegetation. As a result, the mapped stream to the north is not subject to the stream conservation area setbacks and the stream to the west is subject to the SCA policies.

Countywide Plan Policy BIO-4.1 notes that parcels that range between 2 and .5 acres in size are required to provide a 50-foot development setback from the top of bank of a stream or the edge of riparian canopy.

The site assessment included a constraints map, which mapped the edge of the riparian canopy as directed by BIO-4.1. No improvements are permitted within the stream conservation buffer of 50 feet from the riparian canopy to protect natural resources.

One commenter noted that BIO-4.1 allows development on the parcel within the stream conservation area if the development would have greater impacts on the environment than development within the SCA.

It is not evident that locating improvements within the SCA would result in a project that is beneficial to the environment, especially as resiting the structure would result in the potential removal of riparian habitat.

COUNTYWIDE PLAN CONSISTENCY

The proposed project is consistent with the Marin Countywide Plan (CWP) for the following reasons:

- A. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees.
- B. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.
- C. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands.

- D. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.
- E. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.
- F. The project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
- G. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during review of the Building Permit application.
- H. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.

DEVELOPMENT CODE CONSISTENCY

Mandatory Findings for Site Plan Review (Marin County Code Section 22.52.050)

A. The development would be consistent with all the site development criteria established in the Discretionary Development Standards.

The project's consistency with the standards most pertinent to the subject property is discussed below.

BUILDING LOCATION: Development Standards D.1 through D.4

The project site is an irregular configuration and bisected by a right-of-way. Per MCC Section 22.20.090.B:

...if an access easement or street right-of-way line extends into or through a yard setback, the measurement shall be taken from the nearest point of the easement right-of-way line, not the more distant property line.

Due to the configuration of the lot, the right-of-way across the property, required setbacks, the SCA (setback 50 feet from the edge of the riparian canopy), and preservation of a buckeye and oak tree to the west of the proposed building envelope, the development is constrained to the proposed location.

The prominence of the development will be screened by the vegetation along the northern and western property lines as well as the trees that are to be maintained to both the west and east of the proposed location of the structure. No construction will occur within 300 feet horizontally or 100 vertically of a prominent ridgeline within a Ridge and Upland Greenbelt.

The development will be required to incorporate energy conservation improvements in compliance with Title 24 of the California Building Code.

Due to the location of the residence and site improvements, noise impacts on adjacent properties are not anticipated.

SITE PREPARATION: Development Standards J.1 through J.6

The project entails 2,063 cubic yards of excavation, 378 cubic yards of fill, and 1,684 cubic yards of export.

While the grading quantity is considerable, it entails a roadway extension in addition to typical earthwork required to develop a single-family and access to the property. The earthwork is concentrated along the eastern portion of the property, retaining the natural features of the land to the greatest extent. The driveway follows the natural contours of the site and the fire truck turnaround is sited as to not require extensive grading into the hillside.

The proposed earthwork is not required to develop flat planes or outdoor space for the homeowners.

Drainage improvements have been reviewed and approved by the Department of Public Works (DPW). Additional review of the proposed project to ensure consistency with DPW's development standards will be required at the time of Building Permit submittal. Due to the SCA, drainage improvements are located away from the stream at along the western portion of the property. Impervious surfaces are limited to the driveway and residence, preserving a large majority of the site in its natural character.

No trees are proposed for removal as part of this application. The property is located within the Wildland Urban Interface and any development will be required to comply with the Marin County Fire Department's standards. A geotechnical report was provided that entails specific recommendations for the proposed improvements which would not result in impacts to geologic hazard areas.

LANDSCAPING AND VEGETATION REMOVAL: Development Standard F

No trees are proposed for removal. As noted above, the western retaining walls at the fire truck turnaround shall be landscaped to reduce the overall mass when viewed offsite. The plantings must not block/inhibit pedestrian access to the right-of-way and must be a native species to Marin.

ACCESS: Development Standard C

The extension of Sacramento Avenue as well as the driveway are required to comply with both the DPW's and the Marin County Fire Department's development standards. Given the site constraints, the driveway length is consistent with the clustering requirements.

Section 22.16.030 of the MCC notes no new roads shall be developed if they cannot be used without public inconvenience. A condition of approval is placed on the project that requires installation of a stairway to allow for the passage of pedestrians across the right-of-way. Signage shall be installed that notifies members of the public that the path is available for public use

- B. The development would be consistent with any applicable site development criteria for specific land uses provided in Chapter 22.32 or special purpose combining districts provided in Chapter 22.14 of this Development Code.**

The development does not include any uses outlined in Chapter 22.32 nor subject to special purpose combining district standards provided in Chapter 22.14.

- C. The development would employ best management practices for drainage and storm water management.**

Best management practices for drainage and stormwater management are required by the DPW. Drainage will be collected and directed downhill to level spreaders, erosion control devices designed to reduce water pollution by reducing the impact of stormwater surface runoff.

- D. The development would hold ground disturbance to a minimum and every reasonable effort would be made to retain the natural features of the area, such as skyline and ridge tops, rolling land forms, knolls, significant native vegetation, trees, rock outcroppings, shorelines, streambeds and watercourses.**

Ground disturbance is limited to the development of the roadway, driveway, drainage improvements, and single-family residence. No grading outside the footprints of these improvements are proposed. Natural features of the area are maintained, and no development is proposed on the lower half of the property due to the required SCA. No impacts to streambeds or watercourses are anticipated.

- E. If substantial ground disturbance is entailed in the development, the site would be adequately landscaped with existing or proposed vegetation at project completion.**

Ground disturbance is limited to the footprints of the improvements and the removal of significant vegetation is avoided. As conditioned, the applicant will be required to show a landscape plan that demonstrates that native plantings are placed at the base of the fire truck turnaround to reduce the overall mass of the wall when viewed offsite.

ACTION

The project described in condition of approval 1 below is authorized by the Marin County Planning Division and is subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

CONDITIONS OF PROJECT APPROVAL

CDA-Planning Division

1. This Site Plan Review approval authorizes the construction of a new residence on a vacant lot in San Anselmo. The development would result in a lot coverage of 16.5 percent on the 73,883 square foot lot. The proposed building footprint would have the following setbacks: 154 feet, 2 inches from the southern front property line (30 feet, 11 inches from the Sacramento Avenue right-of-way); 10 feet from the eastern side property line; 160 feet, 9 inches from the western side property line (27 feet from the Sacramento Avenue right-of-way); 84 feet, 4 inches from the northern rear property line.

The project entails an approximately 130-foot extension of Sacramento Avenue that will transition to an approximately 185-foot driveway, which includes a fire truck turn around to access the residence.

Grading includes 2,063 cubic yards of excavation, 379 cubic yards of fill, and 1,684 cubic yards of offhaul to accommodate development of the roadway extension, driveway, and residence. Associated site improvements include retaining walls that range in heights up to 8 feet.

Drainage will be collected and directed downhill to level spreaders, and erosion control devices designed to reduce water pollution by reducing the impact of stormwater surface runoff will be installed during construction. No landscaping is proposed, and all trees are proposed to remain.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "New Residence, 187 Sacramento Avenue," consisting of 6 sheets prepared by Polsky Perlstein Architects, received in final form on October 21, 2019, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the project to conform to the following requirements:

- a. A landscape plan must be submitted that incorporates three, 24-inch box, native shrubs at the base of the fire truck turnaround.
 - b. A minimum four-foot-wide stairway to allow for the passage of pedestrians across the right-of-way and signage shall be installed that notifies members of the public that the path is available for public use
3. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2020" with respect to all of the standard conditions of approval and the following special conditions: #6 which requires installation of temporary construction fencing around tree protection zones, #7 which requires written communication if encroachments into the tree protection zone occur during construction, #8 which requires the installation of temporary construction fencing installed at the edge of the stream conservation area, #9 which requires written communication if encroachments into the stream conservation area occur, #13, which requires the installation of required landscaping.

VESTING

Unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

RIGHT TO APPEAL

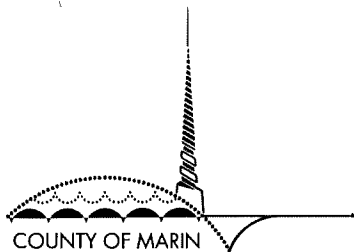
This decision is final unless appealed to the Planning Commission. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than eight business days from the date of this decision (January 23, 2020).

cc: *{Via email to County departments and Design Review Board}*

CDA – Assistant Director
CDA – Planning Manager
DPW – Land Development
Marin Municipal Water District
Ross Valley Sanitary District
Marin County Fire Department

Attachments:

1. Marin County Uniformly Applied Conditions 2020
2. Inter-Office Memorandum, Department of Public Works, September 10, 2019
3. Marin County Fire Department Comments
4. Public Comments
5. Applicant's Response to Public Comments



**MARIN COUNTY UNIFORMLY APPLIED CONDITIONS
FOR PROJECTS SUBJECT TO DISCRETIONARY PLANNING PERMITS**

2020

STANDARD CONDITIONS

1. The applicant/owner shall pay any deferred Planning Division fees as well as any fees required for mitigation monitoring or condition compliance review before vesting or final inspection of the approved project, as determined by the Director.
2. The applicant/owner shall defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations. The County of Marin shall promptly notify the applicant/owner of any claim, action, or proceeding that is served upon the County of Marin, and shall cooperate fully in the defense.
3. Exterior lighting for the approved development shall be located and shielded to avoid casting glare into the night sky or onto nearby properties, unless such lighting is necessary for safety purposes.
4. Building Permit applications shall substantially conform to the project that was approved by the planning permit. All Building Permit submittals shall be accompanied by an itemized list of any changes from the project approved by the planning permit. The list shall detail the changes and indicate where the changes are shown in the plan set. Construction involving modifications that do not substantially conform to the approved project, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications is obtained by the applicant.

SPECIAL CONDITIONS

1. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance prepared by a certified or licensed landscape design professional indicating that the landscape plan complies with the State of California's Model Water Efficient Landscape Ordinance and that a copy of the Landscape Documentation Package has been filed with the Community Development Agency.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call out the approved building setbacks on the Building Permit plans indicating the minimum distance of the building from the nearest property line or access easement at the closest point and any of the following features applicable to the project site: required tree protection zones, Wetland Conservation Areas, or Stream Conservation Areas.

3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant 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 consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts to the night sky or 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.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless related to losses experienced due to geologic and hydrologic conditions and other natural hazards.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit written confirmation that the property owner has recorded the "Disclosure Statement Concerning Agricultural Activities," as required by Section 23.03.050 of the Marin County Code.
6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in the project approval, the applicant shall install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. Acceptable limits of the tree protection zones shall be the dripline of the branches or a radius surrounding the tree of one foot for each one inch diameter at breast height (4.5 feet above grade) of the tree trunk. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. If encroachment into the tree protection zone is necessary for development purposes, additional tree protection measures shall be identified by a licensed arborist, forester, or botanist, and the tree specialist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a tree protection zone occurs.
7. BEFORE FINAL INSPECTION, if encroachments into a tree protection zone have been approved, then the tree specialist shall submit a letter to the Planning Division verifying that the additional tree protection measures were properly implemented during construction activities.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, temporary construction fencing shall be installed on the subject property at edge of the Wetland Conservation Area and/or Stream Conservation Area, as applicable to the site. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. The construction fencing shall remain until all construction activity is complete. No parking of vehicles, grading, materials/equipment storage, soil stockpiling, or other construction activity is allowed within the protected area. If encroachment into the protected area is necessary for development purposes, additional protection measures shall be identified by a qualified biologist and the biologist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A

report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a protected area occurs.

9. BEFORE FINAL INSPECTION, if encroachments into a protected area have been approved, then the biologist shall submit a letter to the Planning Division verifying that the additional protection measures were properly implemented during construction activities.
10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must provide written evidence that all appropriate permits and authorizations have been secured for this project from the Bay Conservation and Development Commission, the California Department of Fish and Game, the Regional Water Quality Control Board, the California Coastal Commission, the California State Lands Commission, the Bay Area Air Quality Management District, and/or the United States Army Corps of Engineers.
11. BEFORE CLOSE-IN INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification prepare and submit written (stamped) Floor Elevation Certification to the Planning Division confirming that the building's finished floor elevation conforms to the floor elevation that is shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
12. BEFORE FINAL INSPECTION, the project shall substantially conform to the requirements for exterior materials and colors, as approved herein. Approved materials and colors shall substantially conform to the materials and colors samples shown in "Exhibit A" unless modified by the conditions of approval. The exterior materials or colors shall conform to any modifications required by the conditions of approval. All flashing, metalwork, and trim shall be treated or painted an appropriately subdued, non-reflective color.
13. BEFORE FINAL INSPECTION, the applicant shall install all approved landscaping that is required for the following purposes: (1) screening the project from the surrounding area; (2) replacing trees or other vegetation removed for the project; (3) implementing best management practices for drainage control; and, (4) enhancing the natural landscape or mitigating environmental impacts. If irrigation is necessary for landscaping, then an automatic drip irrigation system shall be installed. The species and size of those trees and plants installed for the project shall be clearly labeled in the field for inspection.
14. BEFORE FINAL INSPECTION, the applicant shall submit a Certificate of Completion prepared by a certified or licensed landscape design professional confirming that the installed landscaping complies with the State of California's Model Water Efficient Landscape Ordinance and the Landscape Documentation Package on file with the Community Development Agency.
15. BEFORE FINAL INSPECTION, the applicant shall submit written verification from a landscape design professional that all the approved and required landscaping has been completed and that any necessary irrigation has been installed.
16. BEFORE FINAL INSPECTION, utilities to serve the approved development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.
17. BEFORE FINAL INSPECTION, the applicant shall call for a Community Development Agency staff inspection of approved landscaping, building materials and colors, lighting and

compliance with conditions of project approval at least five business days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent reinspections.

CODE ENFORCEMENT CONDITIONS

1. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the development. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
2. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
3. Within 120 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.

INTER-OFFICE MEMORANDUM

DEPARTMENT OF PUBLIC WORKS

Second Transmittal

DATE: September 10, 2019

DUE: September 10, 2019

TO: Kathleen Kilgariff

FROM: Cara E. Zichelli

APPROVED: 

RE: Sasan Site Plan Review P2522

ADDRESS: 187 Sacramento Avenue, San Anselmo

AP#: 177-172-20 and - 10

TYPE OF DOCUMENT

- DESIGN REVIEW
- LAND DIVISION
- USE PERMIT
- VARIANCE
- LOT LINE ADJUSTMENT
- COASTAL PERMIT
- ENVIRONMENTAL REV.
- OTHER:

Department of Public Works Land Use Division has reviewed this application for content and:

Comments Included (Inc.) or Attached (Att.) from other DPW Divisions:

- Find it **COMPLETE**
- Find it **INCOMPLETE**, please submit items listed below
- Find it **ACCEPTABLE** as presented
- Greater than 1-Acre site disturbance

- Traffic
- Flood Control
- Water Conservation
- Other: _____

Notes to Planning:

1. **Clarify the property owner, applicant and subject parcels.** Application materials are not internally consistent.
 - a. The transmittal indicates the project name as Sasan Site Plan Review, though the plans refer to the owners as 187 Sacramento Avenue LLC. The Assessor Parcel Records indicate that Sasan owns APN 177-172-20 and -10, which are the only two parcels listed on the Planning transmittal. Clarify the owner and applicant.
 - b. The plans list APN 177-172-09 as part of this application. The current Assessor's records indicate 187 Sacramento LLC owns APN 177-172-09. Work is proposed on this parcel but parcel is not part of the application per applicant's response.
 - c. The plans also list parcel APN 177-172-18 as part of this application. The Assessor's Parcel Map currently shows that this area is no longer parcelized. It is recommended that the plans be updated accordingly.
 - d. The site plan on A1.0 and civil sheet C-2 do not consistently represent property boundaries (at APN177-172-09 and the road which had been parcelized as APN177-182-19), and owners. It is recommended that the plans be updated as necessary to make consistent.
2. **Fire Protection District review of the plans.** It is recommended that Fire's review be included, specifically regarding the road/driveway turnaround design; hydrant placement; minimum water supply requirements (volume, pressure) for fire suppression; turning radii and turnarounds; and weight requirement for the design of the retaining walls supporting the driveway.

MERIT COMMENTS:

1. The project is accessed off a privately maintained section of Sacramento Avenue. Any work in the county maintained portion of Sacramento Avenue shall be located, constructed, operated, and maintained in the time, place and manner that causes the least interference with the public's use of the public right-of-way as determined by and approved by the Road Commissioner/Director of Public Works. The county maintained portion of Sacramento Avenue was recently paved, and this lower section is currently on the Open Excavations Moratorium List. Any cuts into the pavement on

the County Maintained portion of Sacramento will require extensive pavement restoration. Additionally, MCC 24.04.016 indicates that if construction activity, equipment, vehicles and/or material delivery and storage cause damage to any existing facility (e.g., pavement, curb, gutter, sidewalk, landscaping) beyond normal wear and tear, as determined by the agency, then the permittee shall be responsible for the repair of same.

2. Per MCC 23.18.093 any construction contractor performing work in the county shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a county storm drain system. In addition: all construction plans submitted to the county pursuant to any permit application shall consider the potential for erosion and sedimentation at the construction site and shall comply with county code Sections 24.04.625 and 24.04.627.

Prior to Issuance of Building Permit:

1. **Provide a current geotechnical report.** The "Stability Report" shall be prepared by a Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. The report must attest to the suitability and geological feasibility of constructing the extension of the road/shared driveway, placing the home in the proposed building site, and excavating for the retaining walls, and shall identify any drainage or soils problems that the design of the project must accommodate. The report shall also specifically comment on the condition of the drainage gully at the far end of the proposed house, and provide recommendations for construction over this feature. Report should also comment on the condition of the existing improvements along Sacramento Avenue, namely the drainage improvements, constructed driveway/road and retaining walls. Note that a 2015 geotechnical report was provided for a previous Planning application in 2016. The geotechnical engineer may provide a letter to update the 2015 findings, site conditions and recommendations for the proposed project.
2. **Geotechnical Review and Acceptance:** The plans must be reviewed and approved by the soils engineer. Certification shall be either by his/her stamp and original signature on the plans or by a stamped and signed letter. Certification shall reference plans reviewed, specifying site, structural, and drainage plans with date of drawings, and verify that plans address any recommendations previously offered.
3. **Parking:** Plot, label and dimension all on-site parking spaces, and dimension clear driveway widths. The spaces shall comply with the dimensional requirement of Marin County Code (MCC) 24.04.380(a) where by the minimum dimensions for head-in exterior parking spaces is 8.5 feet by 18 feet, and interior spaces shall be a minimum of 9 feet by 20 feet.
4. **Site Retaining Walls:**
 - a. Clarify the proposed heights for all site retaining walls. You will need to apply for a separate Building Permit for each site/driveway retaining wall 4 feet or greater in height, or for any wall that is subject to a surcharge such as a sloped backfill or vehicular load. The total height shall be measured from the bottom of the footing to the top of the wall. If any walls are structurally tied to the dwelling, indicate this on the plans, as these walls will not require a separate permit.
 - b. For each retaining wall, provide a cross sectional reference on the site plan which corresponds to a structural detail provided in the plan set.
 - c. Submit design calculations for the retaining walls which are 4 feet and greater in height, measured as described above in item a, or which are subject to a surcharge behind wall. Calculations shall be prepared, signed and stamped by the design engineer.
 - d. Add a note on the plans indicating that the Design Engineer shall inspect and certify in writing to DPW that each retaining wall was constructed per approved plan and field direction. Certification letters shall reference building permit number or numbers for specific work being certified, the address and the Assessor's Parcel Number (APN) for the project, and shall be signed and stamped by the certifying professional.
5. **Grading & Drainage Plans:** Provide a drainage and grading plan prepared by a licensed professional engineer or by a registered architect:

- a. Plan shall provide existing and proposed topographic contours, or a sufficient number of spot elevations, to describe drainage patterns. The proposed project shall maintain existing drainage patterns.
 - b. Plan shall show and label all existing and proposed drainage features and improvements. Improvements may include down spouts, footing and foundation drains, area drains and catch basins, piping and out fall structures or means of dispersion. Note that CPC 1101.11.1 requires roof areas of buildings to be drained by roof drains and gutters. Note as well that CPC 1101.5.6(2) indicates that the point of discharge shall not be less than 10 feet from the property line.
 - c. Plan shall show surface drainage away from the new foundation in accordance with 2016 CBC section 1804.4.
 - d. The plan shall also incorporate any recommendations from the Geotechnical Engineer.
 - e. The plan shall tabulate the existing and proposed areas of impervious surface for the property, and demonstrate that there will be no net increase in run of from the developed site compared to pre-existing development.
 - f. Plan shall show and label the limit of disturbance. Provide the total area to be disturbed and the proposed cut and fill earthwork volumes. Indicate to where off haul will be taken.
 - g. Indicate means of restoring all disturbed areas.
 - h. Add a note on the plans indicating that the Design Engineer/Architect shall certify to the County in writing upon the completion of work that all grading and drainage improvements were installed in accordance with the approved plans and field direction. Be aware that a DPW Engineer will need to inspect and accept work after receipt of certification letter. Certification letters shall reference building permit number or numbers for specific work being certified, the address of the property and the Assessor's Parcel Number (APN), and shall be signed and stamped by the certifying professional.
6. **Stormwater Control Plans:** Provide a Stormwater Control Plan as required by MCC 24.04.627 Permanent Stormwater Controls for New and Redevelopment as amended on May 19, 2015 through Ordinance 3631. You may refer to the BASMAA Post Construction Manual which you can access at the County's website for post-construction stormwater management requirements, publications and resources at: <http://www.marincounty.org/depts/pw/divisions/mcstoppp/development/new-and-redevelopment-projects?panelnum=2>. Direction for this project is in Appendix C of the BASMAA manual, Stormwater Control Plans for Small Projects / Single Family Homes. Provide completed Appendix C with the application and show run off reduction measures on plan.
7. **Erosion & Siltation Control Plan:**
- a. The applicant shall submit an Erosion & Siltation Control Plan (ESCP) as described in MCC24.04.625 as amended on May 19, 2015 through Ordinance 3631. You may refer to the Marin County Stormwater Pollution Prevention Program's website, <http://www.marincounty.org/depts/pw/divisions/mcstoppp/development/during-construction> under the tab entitled "Erosion and Sediment Control Plans – with NEW REQUIREMENTS". The plan shall indicate means of access to areas of new excavation and construction, a stabilized construction entrance, the construction staging area, and means of restoring disturbed areas after construction activities have been completed.
 - b. The applicant or contractor shall also complete and submit the Erosion and Sediment Control Plan document (application) available at the link above.
8. **Utilities:** Provide a comprehensive utilities plan. Show the location of all existing utility service mains, including water, sanitary sewer, gas, electric, and telecommunications. Show the location of all proposed utility laterals from the new structures to existing service mains.
9. Provide a draft copy of the driveway/road maintenance agreement. Also, indicate if there is a driveway maintenance agreement for the other two developed lots on this privately maintained portion of Sacramento Avenue. If there is, provide a copy of that document, and indicate how it may need to be amended to include two additional residential home sites.
10. Show location of proposed mail box. Note that mailbox shall be on 4" by 4" wood post or other acceptable break-away material in accordance with United States Postal Service regulations.

END

Kilgariff, Kathleen

From: Alber, Scott
Sent: Wednesday, October 2, 2019 5:13 PM
To: Casey Clement
Cc: Kilgariff, Kathleen; Robert Bastianon
Subject: RE: 187 Sacramento
Attachments: 187_Sacramento_Ave_SA_PLN_Plan_Review_2_Summary.pdf

Dear Casey,

I reviewed your latest submittal, and have some of the same questions/comments submitted from my initial review (attached).

The nearest hydrant appears to be approximately 900-ft from the front of the proposed structure. Fire hydrants are required to be located within 350-ft of the structure. Also, no flow information was provided for the existing hydrant.

The access road appears to be 20-ft wide. As such no parking will be permitted on the road. Furthermore, a parking space has been placed in the area shared by the turnaround; no parking is permitted in the turnaround area, so this area will need to be appropriately striped. Finally, the turnaround is required to be located within 50-ft of the structure.

No profile was provided for the turnaround or driveway. Note that the turnaround maximum grade in all directions is 8%, and the access road/driveway maximum grade is 18%.

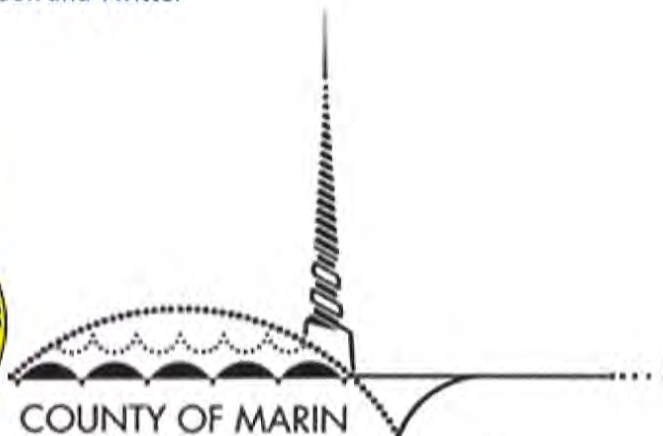
Let me know if you have any questions.

Regards,

Scott D. Alber, PE, EFO, CFO, FM, MIFireE
BATTALION CHIEF/FIRE MARSHAL

Marin County Fire Department
PO Box 518/33 Castle Rock Avenue
Woodacre, CA 94973
415.473.6566 T
415.473.4246 F
415.717.1520 M
CRS Dial 711
salber@marincounty.org

Follow us on Facebook and Twitter



From: Casey Clement <caseyc@thompsondevelopmentinc.com>
Sent: Monday, September 30, 2019 1:27 PM
To: Alber, Scott <SAlber@marincounty.org>
Cc: Kilgariff, Kathleen <KKilgariff@marincounty.org>
Subject: FW: 187 Sacramento

Hi Scott,

Casey Clement here with Thompson Development. I'm following up on the request for plan review comments on 187 Sacramento Ave. About a month ago I got a vm from you saying that our plans were in the queue. It's been two months since we first transmitted the plans to your office. Can we hope to receive your feedback soon?

Thank you,
Casey Clement

From: Casey Clement
Sent: Thursday, August 01, 2019 2:42 PM
To: 'salber@marincounty.org' <salber@marincounty.org>
Cc: 'Kilgariff, Kathleen' <KKilgariff@marincounty.org>
Subject: FW: 187 Sacramento

Hi Scott,

Just a heads up that a hard copy of the plans will be hand delivered to your office today. We look forward to receiving your feedback.

Thanks,
Casey

From: Casey Clement
Sent: Tuesday, July 30, 2019 2:12 PM
To: 'salber@marincounty.org' <salber@marincounty.org>
Cc: 'Kilgariff, Kathleen' <KKilgariff@marincounty.org>
Subject: RE: 187 Sacramento

Hi Scott,

I realized that I attached the County letter but not the site plan- my mistake! Please find attached the plans for the proposed SFH at 187 Sacramento Ave. If you require a hard copy please let me know!

FYI I have copied our Planner Kathleen Kilgariff and the project Civil Engineer Glenn Dearth on this email.

Thank you,
Casey Clement

From: Casey Clement
Sent: Monday, July 29, 2019 1:42 PM
To: salber@marincounty.org
Cc: Kilgariff, Kathleen <KKilgariff@marincounty.org>
Subject: FW: 187 Sacramento



Marin County Fire Dept

Occupancy: **Sasan Residence**
Address: **187 Sacramento AVE**
San Anselmo CA 94960

Inspection Type: **Plan Review**

Inspection Date: **4/10/2017**

Time In: **15:17**

Authorized Date: **Not Author**

By: Alber, Scott D (10003211)

Time Out: **00:00**

By:

Form: MCFD Plan Review
Form

Inspection Description:

Based on the 2013 California Building and Fire Codes, along with current Marin County Fire Department Standards.

Inspection Topics:

Planning Division Review

Automatic Residential Fire Sprinkler System Is Required per NFPA 13D

An automatic residential fire sprinkler system is required to be installed in all new residences including garages conforming to NFPA Std. 13D, Fire Protection Standard #401, and as modified by the Fire Marshal. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District or Marin Municipal Water District (as applicable) should an upgrade for the domestic water meter be needed. Additional sizing may be required due to available pressures and fire flow. The above requirement may be waived provided the new and existing remodel and addition does not exceed 50% of the total existing floor area.

Status: Condition of Approval

Notes: See above.

Fire Hydrants Required. (Upgrade)

The existing fire hydrant nearest the structure and located by the Fire Marshal shall have the body upgraded to have at least one 4 and one half inch and one 2 and one half inch outlet. Installation shall conform to the specifications of the Marin Municipal Water District or North Marin Water District (as applicable).

Status: Condition of Approval

Notes: Provide location, type and flow rate of nearest municipal fire hydrant.

Roadways and Driveways, Grade.

Proposed roads and driveways shall not exceed 18% grade.

Status: Condition of Approval

Notes: Provide grade profile of driveway/road and fire apparatus turnaround.

Roadways and Driveways Minimum Requirements (Prior to Lumber Delivery or Framing).

Roadways shall be not less than 20 feet wide capable of accommodating a 60,000 GVW and driveways not less than 16 feet wide capable of accommodating a 40,000 GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.

Status: Condition of Approval

Notes: See above.

Fire Apparatus Turn Around Required

An approved fire apparatus turn around shall be designed and installed at the driveway end so as not to exceed 150 feet from the street and shall be capable of accommodating MCFD apparatus. The turnaround shall be recorded, dedicated, and clearly delineated on the subdivision map as 'Dedicated Fire Apparatus Turnaround'.

Status: Condition of Approval

Notes: Fire apparatus turnaround shown in submittal does not appear to meet the MCFD standard with regards to depth. Please show outline of approved hammerhead turnaround on subsequent submittal, as well as grade profile of turnaround.

Vegetation Management Plan - Fuels Management Plan Required.

An irrigated greenbelt Vegetation Management Plan (VMP) Fuels Management Plan conforming to the standards of the Marin County Fire Department shall be prepared and implemented at the site. The VMP-Fuels Management Plan shall conform to MCFD Standard #220. The plan shall be incorporated into the landscape plan for the project and submitted to the Fire Marshal for review prior to implementation. The plan shall be implemented prior to building final.

Status: Condition of Approval

Notes: See above.

Project In A Wildland-Urban Interface Area.

This project is located in a wildland-urban interface area and must meet all applicable California Building Code requirements. See CBC Chapter 7A.

Status: Condition of Approval

Notes: See above.

Additional Time Spent on Inspection:

Category	Start Date / Time	End Date / Time
----------	-------------------	-----------------

Notes: No Additional time recorded

Total Additional Time: 0 minutes

Inspection Time: 0 minutes

Total Time: 0 minutes

Summary:

Overall Result:

Inspector Notes:

Inspector:

Name: Alber , Scott D
Rank: Fire Marshal BC

Kilgariff, Kathleen

From: John Newell <john.m.newell@gmail.com>
Sent: Monday, December 30, 2019 11:17 AM
To: Kilgariff, Kathleen; Robin McKillop
Subject: Additional comment -- Sasan Site Plan Review (P2522)
Attachments: Annotated Sasan Site Plan by John Newell 12.30.2019.pdf

Dear Ms. Kilgariff,

Further to my letter to the Planning Division dated Dec. 29, 2019, I have attached a PDF document which is an annotated Sasan Site Plan. The annotations disclose the existence, location, and origin of the Sacramento Ave. Right of Way, which was omitted from the Sasan Site Plan filed with the Planning Division.

The PDF also marks in orange the location of retaining walls, which span the width of the Right of Way in one location, and a portion of the width in another. These retaining walls extend up to 8' high, per the top of wall elevations shown on the Conceptual Drainage and Grading Plan. (Note that the wall elevations are approximate, since the Drainage and Grading Plan do not call out wall heights at the precise locations of the easement.)


Obviously, if retaining walls are running across some or all of the width of the Right of Way in 2 places, as high as 8', the Right of Way is obstructed to public vehicular and pedestrian use. As noted in my letter, the public should the right to unobstructed access to the entire length and width of the public Right of Way.

Please let me know if you have difficulty opening the attachment, and again feel free to contact me if you have any questions about either of these submissions. Thank you.

Best regards,
John M. Newell
1.415.990.7759

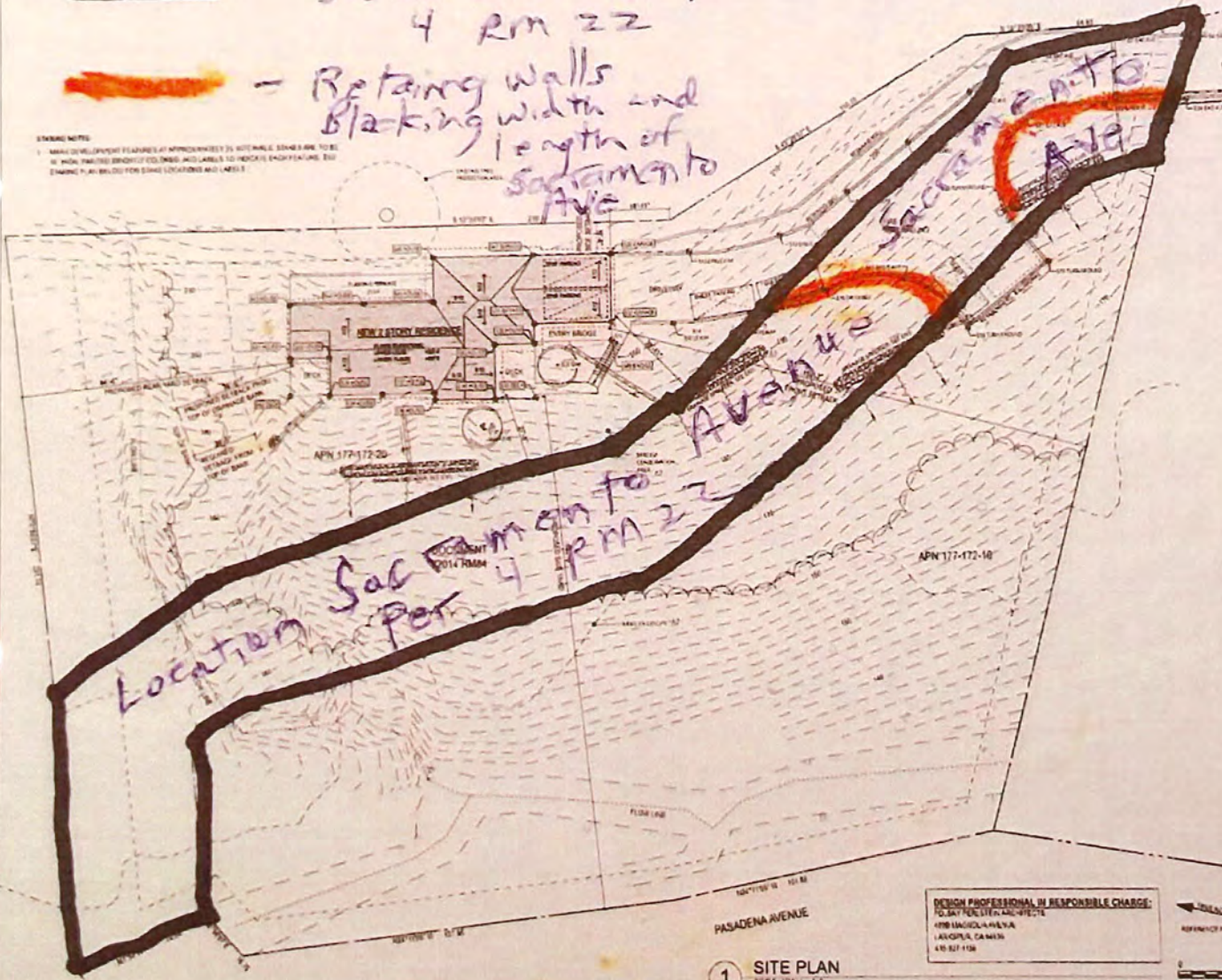
Comment from John Newell to Sasan Site
Plan Review (P2522) 12/30/2019

Legend

 - Sacramento Ave per
4 Rm 22

 - Retaining walls
blacking width and
length of
Sacramento
Ave

STANDARD NOTES:
1. MAJOR DEVELOPMENT FEATURES AT APPROXIMATELY 25' HORIZONTAL SCALES ARE TO BE
2. MINOR FEATURES (BENCH MARKS, ETC.) ARE TO BE INDICATED AS NECESSARY. SEE
3. ENGINEERING PLAN FOR SOME LOCATIONS AND LEVELS.



PROJECT INFORMATION

Owner: Sep & Tim Sasan
Address: 177-172-10 177-172-20
Zoning Designation: R-1
Construction Type: 1.5
Latitude: 37.950000 N
Longitude: -122.950000 W
Actual Site Area (SF): 13,883

Building Area (SF)

	Existing	Proposed
Upper Floor	0	1,031
Total Floor Area	0	3,875
Attached Garage	0	545
Total Area for F.A.R. Calculation	0	3,434
Net Floor Area for FAR Calc.	0.0	0.046

Area of Additional Disturbance

Includes Sacramento Ave. extension, retaining walls, parking, stairs, & areas of landscaping

14,291

Lot Coverage

House	100%
Maximum	100%
Proposed	100%
Total	100%

Building Height

House	10' 0"	20' 0"
Maximum	10' 0"	20' 0"
Proposed	10' 0"	20' 0"
Total	10' 0"	20' 0"

SHEET INDEX

- AREAS RESPONSIBLE FOR:
- A1-G SITE & SHARED PLAN
- CIVIL
- C-1 COVER SHEET
- C-2 CONCEPTUAL GRADING AND DRAINAGE PLAN
- C-3 DETAILS
- C-4 CIVIL MECHANICAL PLAN

1 SITE PLAN
SCALE 1/8" = 1'-0"

DESIGN PROFESSIONAL IN CHARGE:
D. S. S. ARCHITECTS
1478 MAGNOLIA AVENUE
LA JOLLA, CA 92038
415.527.1158



NEW RESIDENCE
187 SACRAMENTO AVENUE
SAN ANSELMO, CA



SITE & SHARED PLAN

-FILE COPY-

Kilgariff, Kathleen

From: John Newell <john.m.newell@gmail.com>
Sent: Sunday, December 29, 2019 6:10 PM
To: Kilgariff, Kathleen
Cc: Robin McKillop; John M. Newell
Subject: Sasan Site Plan Review (P2522)
Attachments: Letter from John Newell to Marin Planning Staff re Sasan Project P2522 20191229 final.pdf

Dear Ms. Kilgariff,

Attached is a letter dated December 29, 2019 with my comments on the Sasan Site Plan application (P2522).

In addition, Robin McKillop was kind enough to send to you, on December 21, two letters, with attachments, addressing a previous incarnation of this project. Please refer to those 2 letters in conjunction with the letter enclosed.

If you have any difficulty opening the attachment, or have any questions, please feel free to contact me at 1.415.990.7759.

Best regards,
John Newell

John M. Newell
1351 Sonoma Drive
Altadena, CA 91001
1.415.990.7759
john.m.newell@gmail.com

December 29, 2019

By Email to:
kkilgariff@marincounty.org

Planning Division
Community Development Agency
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903
Attention: Ms. Kathleen Kilgariff, Project Planner

Re: Sasan Site Plan Review (P2522)

Dear Ms. Kilgariff:

I am writing to comment on the Sasan Site Plan Review (P2522) (the "Site Plan Review").

My wife and I are the previous owners of 62 Miwok Drive, San Anselmo, which is adjacent to proposed development, and accessed by the Sacramento Ave. paper street. Although we have transferred ownership of that property, we still have an interest in this matter. The Sacramento Ave. existing public right-of-way easement (the Sacramento Ave. Right of Way), which passes through the middle of the Applicant's parcel, abuts into, and dead ends in, 62 Miwok Drive. Since 2004, when we bought 62 Miwok Drive, we have been intimately involved in reviewing and commenting on all aspects of planning and development of the lots and easements in question now.

According to the Notice and Referral of Planning Application dated November 17, 2019 from the Planning Division, "the property is located on a vacant lot, historically designated 187 Sacramento Avenue, further identified as Assessor's Parcel 177-172-10 and -20." No reference is made in the Notice that the proposed development is not only located on a vacant lot, but also on a public right of way, known as Sacramento Ave.

According to Marin County Planning website description of the project, the "Site Plan Review approval is required because the project entails development on a lot accessed by a paper street pursuant to Section 22.52.020.D of the Marin County Code."¹ As with the Notice, I would point out to the Staff that the development is not just "on a lot accessed by a paper street", but is on the Right of Way itself.

¹ https://www.marincounty.org/depts/cd/divisions/planning/projects/sleepy-hollow/sasan_spr_p2522_fx
(accessed 12-28-2019)

In summary, the Planning Division must deny approval of the proposed Site Plan because, among other things:

1. The Site Plan fails to disclose the existence of the Sacramento Ave. Right of Way. This is a fundamental error in the Site Plan. The Site Plan must be amended, and a new notice given to the public to make it clear that the Applicant intends to develop, and thereby obstruct, the Right of Way.
2. The Site Plan includes a large retaining wall and fire truck turnaround, which will block all use of the Sacramento Ave. Right of Way. The Planning Division does not have the authority, under California law, to approve a development that would restrict the right of the public to travel on a California right-of-way easement.
3. The Site Plan includes development on a portion of Sacramento Ave. that is not owned by the Applicant. The fee interest in Sacramento Ave. is currently owned by an entity named Short Ranch Co. The Applicant has failed to obtain the consent of the owner to develop its property. The Planning Division cannot approve the Site Plan because it clearly encroaches on property owned by another, without consent of the owner.
4. Even if the Applicant can demonstrate that it owns clear fee title to Sacramento Ave., the purported purchase by the Applicant's predecessor, Paul Thompson, by Quitclaim Deed in 2014 resulted in a division of real property without compliance with the Subdivision Map Act or the County's zoning code. The Planning Division is prohibited by the Marin Code and California law from granting development approvals or permits for real property that has been illegally subdivided. Therefore, granting approval of the Site Plan violates the law.

I submit the following comments for the consideration of the Staff of the Planning Division:

1. The Site Plan Fails to Disclose the Existence of the Sacramento Ave. Public Right-of-Way

The Site under development is encumbered by a public right of way, which right of way was created by that certain map entitled "Short Ranch Subdivision Two" and filed for record July 3, 1912 in Map Book 4 at Page 22, Marin County.

The Site Plan submitted by the Applicant is false and misleading in that it does not indicate that the public has a legal right-of-way along the entire section of Sacramento Ave., an unimproved street, that runs through the center of the project site.

This cannot be a drafting error by the Applicant; the Applicant intended to hide that critical fact. The Applicant fears that, if the Sacramento Ave. Right of Way is highlighted in the Site Plan, the Planning Division will require them to petition the County to abandon the right of way as a precondition to development.

A. The Project Site is Encumbered by an Existing Public Right of Way

By way of background, in 2014, the Applicant Beth Sasan's brother, Paul Thompson, acquired 2 lots, one of which is proposed to be developed in the current Site Plan. Thompson then approached the Planning Division to discuss the development of one house on each of the 2 lots. The Planning Division

immediately identified several major hurdles to the development. Most significantly, both of the proposed houses were to be situated the Sacramento Ave. Right of Way, blocking the right of way entirely. Therefore, the Planning Division told Thompson that in order to proceed with the development, Thompson must first get approval from the Board of Supervisors to abandon the Sacramento Ave. right of way.

Thompson then filed with the Dept. of Public Works an Application to Vacate a Portion of Undeveloped Sacramento Avenue. The Public Notice of the Application from the Marin Dept. of Public Works, dated October 24, 2014, included the following statement:

"Paul Thompson, owner of undeveloped property located adjacent to Sacramento Ave. in San Anselmo, has made application to vacate a portion of undeveloped Sacramento Ave. that encumbers his property. ... The right of way proposed for vacation was created by that certain map entitled "Short Ranch Subdivision Two" and filed for record July 3, 1912 in Map Book 4 at Page 22, Marin County. That portion of the right of way proposed for vacation is shown on the attached plat. The applicant wishes to have the right of way formally vacated to allow for a ... proposed development of two single family residences."

The Notice included an aerial photograph of the site, with the location of the area of the Sacramento Ave. Right of Way outlined in blue. Subsequent filings by Thompson, and later, the Applicant, include site plans which clearly label the area of the Sacramento Ave. right of way as "Location of Sacramento Ave per 4 RM 22."

Thompson's Applicant to Vacate the Sacramento Ave. Right of Way was subsequently withdrawn, principally because of objections raised by the public and members of the County Planning Commission that vacation would have meant that a public asset (the Right of Way) would be abandoned solely in order to benefit a private developer.

B. The Applicant's Site Plan Fails to Disclose the Existence of the Sacramento Ave. Right of Way

The Site Plan, page 1, has 2 lines, roughly parallel, which are in the location of the current Sacramento Ave. Right of Way. However, the legend for those 2 lines is "property boundary," not easement.

There is no indication on the Site Plan that the Sacramento Ave Right of Way exists, that it encumbers the Site, how it was created, or where it is located. This is in stark contrast to numerous maps that have been filed by the Applicant and her brother, Paul Thompson, with the Planning Division since 2014, which clearly show the "Location of Sacramento Ave per 4 RM 22."²

By omitting the fact that the Right of Way encumbers the Site, there is no way to determine that the Project entails development on an existing public right of way, in such a manner as to completely block any present or future use of the right of way. Because the proposed development would effectively block, and therefore abandon, the public right of way, the Applicant hid the encumbrance in

² See, for example, https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/projects/thompson_ll_dr_sa/thompson-lla-plans-52615.pdf?la=en

the hopes of avoiding a condition that it seek approval by the Board of Supervisors to formally abandon the Right of Way.

The Site Plan must be amended to show the existence of the Sacramento Ave. Right of Way. Once that is done, the revised Site Plan should be recirculated to the public, so that it can be seen on the Site Plan that the proposed development will have the effect of blocking the Right of Way. Once the public has that critical piece of information, they will be able to evaluate this critical aspect of the Site Plan.

2. The Planning Division Is Prohibited by California Law from Approving the Site Plan, which would Close a Portion of a Public Right-of-Way to Facilitate a Private Development

The Sacramento Ave. Right of Way as described on the original subdivision map includes the right of the public to pass over the entire length and width of the public easement. There is no provision on the subdivision map which allows any person, public or private, to block all or any portion of the easement, either temporarily or permanently.

It is a well-settled principle that public road right-of-way easements belong to the people of the State of California, and a local jurisdiction has no authority to allow the right-of-way easement to be blocked for the sole benefit and enrichment of a private developer.

The California courts have repeatedly ruled that California state law preempts local law in regulation of traffic on public streets. In City of Lafayette v. County of Contra Costa, 91 Cal.App.3d 749 (1979), the city of Lafayette voted to close Happy Valley Road (by way of an automatic gate) to through traffic except for drivers with an established need. The city sought a judicial declaration that it had the right to close the road and that it was entitled to do so by the installation of an automatic gate. The Court of Appeals held that the entire area covered by the Vehicle Code had been preempted by state law and that in the absence of express legislative authority, the city had no authority to restrict the right to travel on one of its streets. (*Id.*, at pp. 754-757.)

Similarly, in Citizens Against Gated Enclaves v. Whitley Heights Civic Assn., 23 Cal.App.4th 812 (1994), the City of Los Angeles issued a permit to the Whitley Heights Civic Assn. to install seven gates encircling the streets and sidewalks of the neighborhood of Whitley Heights, in order to protect the neighborhood from crime. In litigation brought by Citizens Against Gated Enclaves, the Court of Appeals ruled that the City was not authorized by state law to permit the Civic Assn. to close streets. The Court noted that it was irrelevant that the gates were erected by the Civic Assn., since they were erected pursuant to City authorization. The Court found that it was also irrelevant whether the streets were partially or totally closed.

The Applicant's proposed development includes a fire truck turnaround with a retaining wall, up to 8' high, that *blocks almost the entire 20' width of the Sacramento Ave. Right of Way*. Specifically, the fire truck turnaround is supported by a retaining wall, as high as 8' on the South edge of the Sacramento Ave Right of Way, and 3' on the North edge. Obviously, these retaining walls make the Right of Way impassible by vehicles and pedestrians. The proposed development effectively closes most of Sacramento Ave. for use by the public.

Approval by the Planning Division of the Site Plan would effectively surrender the Right of Way, a public asset, solely to facilitate the enrichment of a private developer. California law prohibits a local jurisdiction from closing a public right of way easement for such a purpose.

No doubt, the Applicant will assert several reasons why the Right of Way is not of value to the public, such as that the street dead ends in the Applicant's property. In fact, it does not, and continues on through the property and dead ends in a neighbor's lot, 62 Miwok. By blocking Sacramento Ave with retaining walls, the Applicant is cutting off the public Right of Way to 62 Miwok, as well as taking the property rights of that neighbor to access an existing public street.³ Furthermore, the Right of Way does have current value to the public. In light of the fire dangers in the area, which will be exacerbated by the proposed development as well as the accumulated effects of climate change, it is not inconceivable that the County may need the Sacramento Ave. Right of Way to create a fire road for escape by the residents. Once the Site Plan is approved, however, that right will be lost.

The Applicant can put forward no valid reason for the Planning Division to approve a Site Plan which blocks a public right of way, even in part or temporarily. As discussed above, in City of Lafayette case and Citizens United Against Gated Enclaves case, under California law, the Planning Division has no authority to grant allow the Applicant to close a public right of way, partially or totally. That is especially so in this case, because the sole beneficiary of closure would be a private real estate developer.

The Planning Division must reject the Site Plan because it would encroach on, and block, a portion of an existing public right of way.

I would note that this conclusion is exactly in line with the position that the Staff of the Planning Division took with Paul Thompson in 2014, where the Division refused to consider development plans for a house on this same parcel because the house would have blocked this same right of way. In 2014, the Staff advised Thompson to get approval of an application to vacate the Sacramento Ave. Right of Way before proceeding with any further with development plans. The situation now is no different, except that the Right of Way would be blocked by a retaining wall rather than a house wall.

3. The Site Plan Includes Development on Real Property That Is Not Owned by the Applicant

The Planning Division cannot approve a Site Plan for a project that includes development on land that the Applicant does not own, without the express approval of the property owner. The Division has no right to allow an encroachment like this. In this case, a portion of the property under development, constituting the fee interest in Sacramento Ave., is not owned by the Applicant, Beth and Tim Sasan. The owner of that fee interest, Short Ranch Co., has not consented to the construction and development.

In summary, the Applicant stakes their claim of ownership of Sacramento Ave. on a Quitclaim Deed that Paul Thompson bought from Wells Fargo Bank in 2014. However, Wells Fargo Bank is not in the chain of title to Sacramento Ave. Although Thompson has provided a preliminary title report from Old

³ As the prior owner of 62 Miwok, I was told by Staff of the Planning Division in 2004 that as a matter of policy the County would not abandon the paper street without our consent, because it abuts our property. I had informed the Staff starting in 2014 that any attempt to cut off our access through Sacramento Ave. would be an unlawful taking. If the Site Plan is approved, the County could be subject to similar claims by the current owner of 62 Miwok, Shaun Church.

Republic Title, neither he nor the Applicant have provided the Staff with an *issued* title insurance *policy*. A preliminary title report, on its face, cannot be relied upon, absent the issuance of a title policy. No policy has ever been issued by Old Republic.

In fact, I have obtained, and provided to Staff, a Litigation Guarantee issued by North American Title, in the amount of \$1 million, insuring that the fee interest in Sacramento Ave. is owned by Short Ranch Co., a third party wholly unrelated to the Applicant.

Since there is a dispute as to whether the Applicant has title to Sacramento Ave., before the Staff can approve the Site Plan to encroach upon, and develop Sacramento Ave. with retaining walls and other permanent improvements, the Applicant must bear its burden of proof that it owns that portion of the Site. Thus far, it has not done so.

For further detail regarding title to Sacramento Ave., the Staff is referred to my Letter to the Marin County Planning Commission with Attachments 1, 2, 3 and 4, dated June 5, 2017, and my Supplemental Letter to the Planning Commission, dated June 12, 2017, copies of which were emailed to you by Robin McKillop on December 21, 2019.

4. If Sacramento Ave. is Owned by the Applicant, It Was Acquired by Deed Through an Illegal Subdivision and Cannot Be Developed

Even if the Staff were to conclude that the Applicant has met its burden of proving ownership of Sacramento Ave., the parcel still could not be developed because the Applicant acquired title to the parcel through an illegal subdivision of land.

As part of its review of the previous project application filed in 2014, the Staff informed Paul Thompson that his title to Sacramento Ave. was clouded (see Section 3 above), and that the Staff would not approve of the previous road abandonment application unless Thompson were to obtain a recorded deed to the property, and provide evidence of ownership by means of title insurance. See, e.g., Staff Report to the Marin County Planning Commission on the Planning Commission 2017 Appeal, at p. 3 (the Applicant's predecessor "obtained title to the real property underneath the Sacramento Ave. road right-of-way easement in an attempt to comply with the roadway abandonment process administered by the Dept. of Public Works Real Estate Division.")

In order to comply with the Staff's request, Thompson paid for a "quitclaim deed" from Wells Fargo Bank, and gave the Staff a copy of a "Preliminary Title Report" from Old Republic Title.

The sale by deed of the parcel by Wells Fargo Bank to Thompson was a division of real property in violation of the Subdivision Map Act and Marin County's zoning ordinances. Therefore, since Sacramento Ave. parcel was created by illegal subdivision, the Planning Division cannot approve the Site Plan.

Under California law and the Marin Code, illegally subdivided parcels cannot be developed without meeting certain requirements which have not been met here. Section 20.84.030 of the Marin Code provides that if real property has been divided in violation of law, development approvals and permits must be withheld until further action is taken by the Planning Director or, on appeal, the Planning Commission. Section 20.84.030 provides, in part, as follows:

"20.84.030 - Development permits and approvals withheld.

"No permits or approvals necessary to develop any real property shall be issued for such real property which has been divided or which has resulted from a division in violation of the provisions of the Subdivision Map Act or the Marin County Code applicable at the time such division occurred, unless the planning director or, on appeal, the planning commission finds that the development of such real property is not contrary to the public health, safety or general welfare."

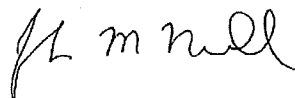
See also California Government Code 66499.34.

At this time, neither the Planning Director nor the Planning Commission has made the findings referred to in Section 20.84.030. Therefore, the Planning Division is prohibited by law from approving the Site Plan.

For further detail regarding the illegal subdivision of Sacramento Ave., the Staff is referred to my Letter to the Marin County Planning Commission with Attachments 1, 2, 3 and 4, dated June 5, 2017, and my Supplemental Letter to the Planning Commission, dated June 12, 2017, copies of which were emailed to you by Robin McKillop on December 21, 2019.

Based on the foregoing, I would urge the Planning Division to deny approval of the Applicant's Site Plan.

Very truly yours,

A handwritten signature in black ink, appearing to read "J M Newell". The signature is written in a cursive style with a large initial "J" and "M".

John M. Newell

Kilgariff, Kathleen

From: Matt Chapman <mchapman@sonic.net>
Sent: Monday, December 16, 2019 1:43 PM
To: Kilgariff, Kathleen
Subject: 187 Sacramento Avenue Project ID:P2522

Hi

This is Matt Chapman. I live at 40 Tomahawk Drive and received a notice of planning application referencing project ID P2522 (187 Sacramento Avenue). I would like to express concern about this project and the resulting impact to the natural beauty of the area, particularly as viewed from our dwelling and others on Tomahawk Drive. I hope this is taken into consideration as you decide on this application.

Thank you
Matt Chapman
415 250 9987

Richard M. Block
Vicki Crane Block
46 Miwok Drive
San Anselmo, CA 94960

December 24, 2019

Kathleen Kilgraiff
Planning Division
Marin Community Development Agency
3501 Civic Center Drive, Room 38
San Rafael, CA 94903

RE: Sasan Site Plan Review P2522

Dear Ms. Kilgariff:

We are writing in regards to the development proposal Sasan Site Plan P2522 at Sacramento Avenue in San Anselmo that is under your review. Our home is located between the Sullivan Residence and the Herr/McKillop Residence. The visual impact and the loss of privacy affects us a great deal.

Following is a brief list of our continued complaints. While it is not as detailed, we are and continue to be in agreement with every issue brought forth by our neighbors stated in their letters.

- Drainage issues.
- Impact on the seasonal creek.
- Overall environmental impact.

- The size and placement of retaining walls, parking area, guardrails, etc.
Continued interference with the paper road and right of way on Sacramento Avenue.
- Access for fire vehicles on Sacramento Avenue which may already be below minimum standards.

We bought our home in 2003. At that time, we were informed that there would be no development behind us. We were not informed of the impending Perderson project. One of the main reasons we bought this house was because of the open hills behind us. While we know it is the right of an owner to build on their property; we ask again that it would be done in an appropriate manner taking into consideration all the concerns of the neighborhood and the environment. We feel that the above issues continue to be ignored. It is our hope that those that have the responsibility to oversee the development of Marin County neighborhoods will do so in a conscientious manner.

We ask that you deny the current proposal.

Respectfully,

Richard M. Block

Vicki Crane Block

Kilgariff, Kathleen

From: Eric Schneider <eschneider3@me.com>
Sent: Friday, December 20, 2019 3:44 PM
To: Kilgariff, Kathleen
Cc: Herr, John - ARS; R McK; Brandon Sullivan; Shaun Church; John Newell; Roz Cell; Peter Pursley; Rick; Vicki Block; Benson, Rich; Jeff Kraut; Rice, Katie
Subject: Project ID P2522 Sasan Site Plan Review

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Kathleen Kilgariff,

Re: Project ID P2522 APN(s) 10 and 20

Has your office taken onto account the public record referred to in the testimony of Richard Benson, Marin County Assessor, at the March 13, 2018 BOS meeting on the prior Sasan project?

I assume not, because Proposed Project P2522 would not even be considered for development by your office if you had. The project as proposed includes building a fire truck turnaround, parking places and a high retaining wall on Sacramento Ave. If you look at the public record before making your decision, you must conclude that your office has no jurisdiction to approve a site that is, in part, on an official Marin County road. John Herr, a neighbor to the development site, asked the Assessor to clarify his testimony to the BOS. His response is below, but I will summarize it here:

According to Richard Benson, Marin County Assessor, Sacramento Ave. is more than a paper road. It first appears in Recorder's Map 004-0022, recorded on July 3, 1912. Short Ranch developers offered to dedicate to public use the land within the limits of Boulevards, Streets, Avenues, Roads and Lanes designated thereon. Sacramento Ave. was among the roads offered for public use to Marin County. Sacramento Ave. was later included in the Assessor's 1995 Parcel Map Book which was adopted by the Marin County Board of Supervisors by Resolution No. 5201 on February 25, 1958. Marin County accepted Sacramento Ave. as an "official street," by resolution 5210 on February 25, 1958. It can not be developed or built upon without the County of Marin abandoning its Public Use Right of Way. Indeed, the Fire Department can not obtain the required dedication of the land to use as a fire truck turnaround until there has been an abandonment of the public use right of way. Assessor Benson cites Marin County CDA Planning Division Report to the Planning Division (page 4) which describes the process for abandoning or vacating an official road right of way. (See below letter from Assessor Richard Benson to John Herr dated June 25, 2018)

Mr. Thompson sought and failed to get abandonment of the public right of way on Sacramento Ave. on November 9, 2015. When it became clear that the abandonment petition would fail, Thompson's motion for abandonment was withdrawn by his representative. Since then Thompson/Sasan have ignored the need to seek abandonment and continued to submit plans that include building on Sacramento Ave. The reason for the repeated hearings we've needed to attend on Thompson/Sasan projects on this property is the fault of Thompson having confused the record with claims of ownership of Sacramento Ave. based on flawed quit claim deeds and claimed title insurance that was never obtained. To settle this matter, A litigation guarantee was acquired by our neighbor John Newell. It finds that Short Ranch and its successors hold the title to the land under Sacramento Ave. But

Thompson/Sasan continue to ignore this record and continue to submit project plans based on a false claim of ownership. In fact, it is clear that neither Thompson nor Sasan have property rights to the land underlying Sacramento Ave. Mr. Thompson first claimed ownership through a recent purchase from Wells Fargo Bank of whatever rights they had in Sacramento Ave. (Of course, Wells Fargo had no legal interest because five decades earlier Sacramento Ave. was the land of Short Ranch developers who never transferred it and offered it as a public right of way to the County). Thompson then used another deed to make it appear that he'd transferred Sacramento Ave. to his sister, Sasan, but Thompson can not transfer ownership rights he never had. Thompson bought the land from Newberry. The Newberry deed to Thompson explicitly excludes any ownership interest to Sacramento Ave. Indeed, as pointed out by the Assessor, the County accepted Sacramento Ave. in 1958, so a recent alleged purchase by Thompson from Wells Fargo of development rights is impossible. Thompson did try to create two new parcels on Sacramento Ave. based on the Wells Fargo transaction. (APN 177-172-18 and 177-172-19). The Assessor's office recently found it inconsistent to have parcel numbers on an official road and has since the March 18, 2018 BOS hearing removed those parcel numbers from the Assessor's Parcel Map. (See public record changes to Assessor's map from 11/14/2014 to 5/15/2018 in Assessor's office..)

The Planning Division of the Community Development Agency has no jurisdiction to authorize building on land subject to public use until the County abandons the right of way through a formal abandonment proceeding. We request that the Planning Commission reject Ms. Sasan's present site plan because it usurps 4,000 + square feet of land dedicated to public use and includes building and development, including an eight foot retaining wall, across an official road of Marin County on land not owned by the developer.

Eric and Roz Schneider, 53 Miwok Drive, San Anselmo, CA 94960

From: Benson, Rich [<mailto:RBenson@marincounty.org>]

Sent: Monday, June 25, 2018 2:52 PM

To: Herr, John - ARS

Subject: RE: Status of Sacramento Ave. Paper Road (San Anselmo)

Dear Mr. Herr,

Thank you for your email.

The documents I relied upon for my opinion regarding creating Assessor's Parcel numbers, or not, for areas I referred to on Sacramento Avenue are Short Ranch Recorder's Map 004-022 (Recorded July 3, 1912; available for view in, or sale by, the Recorder's Office) and Assessor's 1955 Parcel Map (Book 177, Page 17).

Recorder's Map 004-0022 offered to dedicate to public use the land within the limits of Boulevards, Streets, Avenues, Roads and Lanes designated thereon.

Assessor's 1955 Parcel Map (Book 177, Page 17) shows Sacramento Avenue and a roadway and it is not an assessed parcel number. That map was included in the parcel maps the Marin County Board of Supervisors adopted by Resolution No. 5210, February 25, 1958.

I reflected the above at the March 13, 2018 BOS meeting but did not indicate that a document dating back to the time of the establishment of the Short Ranch sub-division showed that the County had formally accepted the Sacramento Ave paper road as an official street.

A Nov. 9, 2015 Marin County CDA Planning Division Report to the Planning Division on page 4 describes the process for abandoning or vacating a road right of way. It is my understanding that a referenced request for vacation was withdrawn in 2015.

I will reply to the second part of your inquiry after July 1 when all the information on the 2018-2019 regular assessment roll is distributed.

Regards,

Rich Benson



Richard N. Benson
ASSESSOR-RECORDER-COUNTY CLERK
County of Marin
Assessor-Recorder-County Clerk
3501 Civic Center Drive, Suite
San Rafael, CA 94903
415 473 7222 T
415 473 6542 F
CRS Dial 711
Rbenson@marincounty.org

Kk

Todd & Jennifer Barbee
2 Carmel Way
San Anselmo, CA 94960

December 24, 2019

Kathleen Kilgraiff, Planning Division
Marin Community Development Agency
3501 Civic Center Drive, Room 38
San Rafael, CA 94903

RE: Sasan Site Plan Review P2522

Dear Ms. Kilgraiff,

As long-time residents of the immediate neighborhood subject to this proposed development scheme, and life-long Marin residents, we wish to forcefully communicate our alarm and consternation with the manner in which county planning staff have turned a blind eye to the issues we have previously raised in earnest before the commissioners regarding the threat to public safety that this Sasan Wildland Urban Interface (WUA) development poses.

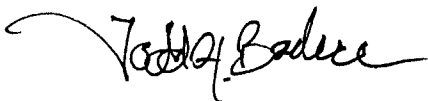
Given the incalculable devastation that so many local communities have faced in recent years due to fire storms and Wildland Urban Interface Area infrastructure development shortcomings (i.e. PG&E infrastructure, historically non-existent fire codes that allowed communities to be built without modern fire vehicle and first responder access, etc.), this project and projects like it in Northern California WUA areas should be subject to the **most** stringent review and approval processes by county planning officials. Ultimately, the decisions that County Commissioners and County Planning Staff make regarding developments of this nature could mean future stories of loss of life and communities devastated by fire storm, or stories of thoughtful, responsible stakeholder planning where homes and lives were saved, by taking a stringent approach to the minimum standards and guidance that organizations like Fire Wise, Cal Fire, etc. have spent countless public dollars studying and determining.

This project falls well short of those goals and determinations, and that fact is easily illustrated. Perhaps most disturbing, the County Planning Staff has not publicly identified these shortcomings that were presented before the commissioners the last round, and for reasons unknown the planning staff continues to support the project as if it is a model project. There is something amiss here.....

To be clear, this project should be *denied on merit* based upon all of the issues raised in the letter submitted to you by John Herr, PhD, on December 23, 2019, as well as the letter submitted by Brandon & Melissa Sullivan on December 24, 2019. Those and many other letters from concerned neighbors and members of our community, over many years, demonstrate that this project continues to fall short on many important development criteria... with each iteration of the plan.

With this development project ,at times it seems that county planning staff is not so focused on responsible development, or so concerned about the threat of wildfire, but instead appears to be an ongoing advocate of this particular development scheme, in spite of its shortcomings. We find that very disturbing indeed. If county planning staff, yet again, gives a favorable recommendation to the Commissioners regarding this messy, Fire-Wise dangerous, and non-compliant development scheme, we intend to very publicly illustrate the irresponsible and biased position that County Planning Staff has taken as it pertains the Sasan Project.

Sincerely,



Todd Barbee

Kilgariff, Kathleen

From: R McK <remck1@yahoo.com>
Sent: Saturday, December 21, 2019 9:53 AM
To: Kilgariff, Kathleen
Cc: John Newell
Subject: Sasan Project P2522
Attachments: Letter from John Newell to Planning Commission June 7, 2017 re Appeal of 187 Sacramento LLC Design Review Approval.pdf; Attachment 1 - Letter from John Newell dated 11-06-2015 to Planning Commission re Thompson LLA, DR and CEQA.pdf; Attachment 2 - Litigation Guarantee Issued by First American Title 07-23-2015.pdf; Attachment 3 - Letter from Eric Schneider dated 11-18-2015 to CDA re Notice of Violation of Subdivision Map Act.pdf; Attachment 4 - Letter from Eric Schneider dated 08-17-2016 to CDA re Notice of Violation of Subdivision Map Act.pdf; Supplemental Letter from John Newell to Planning Commission June 11, 2017 re Appeal of 187 Sacramento LLC Design Review Approval.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Kilgariff,

On behalf of John Newell, our former neighbor who has an ongoing interest in development proposals related to Sacramento Avenue, I am submitting the attached documents to be included in the public record for the current proposal (P2522). Many of the concerns raised on past proposals for this property remain relevant to the current proposal. Please confirm receipt of these documents.

Attachments:

1. Letter from John Newell to the Planning Commission with Attachments 1, 2, 3 and 4, June 5, 2015
2. Supplemental Letter from John Newell to the Planning Commission, June 12, 2017

Robin McKillop

John M. Newell
80 W. Sierra Madre Blvd., #419
Sierra Madre, CA 91024
1.415.990.7759
john.m.newell@gmail.com

June 11, 2017

By Email to:
planningcommission@marincounty.org

Planning Commission
County of Marin
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: Supplement to Letter of John Newell, dated June 5, 2017, regarding 187 Sacramento LLC Design Review / Tree Removal Permit (P1407/1408) / Appeal (P1663)

Dear Members of the Planning Commission:

This is a supplement to my letter, dated June 5, 2017, addressed to the Planning Commission, transmitted by email to the Commission on June 7, 2017. I apologize for this late submission. We will bring physical copies of these materials to the hearing on June 12, for the reference of the Commission and Staff.

With regard to Section 2 of my letter of June 5, under the heading "Alternatively, if the Parcel is Owned by the Applicant, It Was Acquired by Deed Through an Illegal Subdivision and Cannot Be Developed", I offer the following additional information.

Exhibit A attached hereto is an annotated copy of the Assessor's Map as it existed immediately prior to when the Applicant's predecessor, Paul Thompson, purchased the Quitclaim Deed from Wells Fargo Bank, N.A. It is the Applicant's contention that at that time Wells Fargo Bank owned the entire fee interest in the land underlying the Sacramento Ave. road right-of-way easement. This fee interest is highlighted in blue, and clearly labeled on the Assessor's map as "Sacramento Ave."

Exhibit B attached hereto is an annotated copy of the Assessor's Map as it existed following the transfer by deed of a portion of Wells Fargo Bank's fee interest in Sacramento Ave. on September 16, 2014. The portion of Wells Fargo's fee interest transferred by the Applicant's predecessor, Paul Thompson, is highlighted in yellow. After the division, the remainder of Sacramento Ave. continued to be owned by Wells Fargo Bank, per the Applicant, and the remainder is highlighted in blue.

In comparing Exhibit A and B, is it clear that Wells Fargo Bank engaged in a division of real property by means of the Quitclaim Deed recorded on September 16, 2014.

Exhibit C attached hereto is a copy of the Preliminary Title Report (Second Amended) dated September 15, 2014, by Old Republic Title Company. This is the document by which the Applicant claims that its predecessor acquired title to the real property designated 177-172-18. This report was provided by the Applicant to the Staff of the Planning Division, as evidence of the Applicant's fee interest.

The report was issued before the Quitclaim Deed was recorded, and speaks to the proposed transfer by deed. It is quite significant to note that, on page 4 of the Preliminary Title Report, Old Republic Title included an "**exception to coverage**" which states as follows:

"6. NOTE: Information in possession of [Old Republic Title] indicates the possibility of a division of land ownership. If such division is in fact contemplated, the transaction would appear to fall within the purview of the Subdivision Map Act (66410 et seq. Government Code). As a prerequisite to [Old Republic's] participation in land division transactions, compliance with one of the following provisions of the Subdivision Map Act will be required:

- a. The recording of a subdivision map in compliance with statutes or related local ordinances; or
- b. The recording of a parcel map in compliance with statutes or related local ordinances; or
- c. The recording of a Certificate of Compliance, as provided by statute; or
- d. The recording of a waiver as provided by Government Code Section 66428; or
- e. Submission of other satisfactory evidence of compliance with or non-violation of the Act."

Note that none of these requirements has been satisfied. Since the Preliminary Title Report dated September 15, 2014 was in possession of the Applicant's predecessor prior to recording of the Quitclaim Deed the following day, the Applicant's predecessor clearly knew that the land division was unlawful but decided to proceed anyway.¹

Furthermore, since Old Republic Title stated that it would only participate in the land division transaction if one of the five items were satisfied, and none were, this would explain why Old Republic Title never issued a policy of Title Insurance to the Applicant's predecessor.

Lastly, Exhibit D is a copy of the Quitclaim Deed from Wells Fargo Bank, N.A. to the Applicant's predecessor. Note that the transfer of title is to a "portion" of Sacramento Ave. The remainder was not transferred, and was retained by Wells Fargo Bank, thereby proving the existence of a land division.

Summary

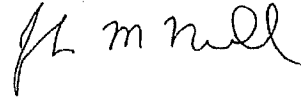
Thank you for your consideration of this supplemental information. It clearly demonstrates that the Quitclaim Deed from Wells Fargo Bank was an illegal division of land.

¹ Note, however, that under California law, a land division is unlawful, whether or not the transferee, or subsequent transferees, were aware of the illegality at the time of purchase.

Supplemental Letter to Marin County Planning Commission
From John Newell, dated June 11, 2017

Since it would be unlawful for the CDA or the Planning Commission to grant development permits or approvals on illegally subdivided land, the CDA's approval of Design Review must be overturned.

Very truly yours,

A handwritten signature in black ink, appearing to read "J M Newell". The signature is written in a cursive style with a large initial "J" and "M".

John M. Newell

Exhibits

- A. Assessor's Map prior to Sept. 16, 2014
- B. Assessor's Map after Sept. 16, 2014 deed from Wells Fargo Bank, N.A.
- C. Preliminary Title Report of Old Republic Title, dated Sept. 15, 2014
- D. Quitclaim Deed, recorded Sept. 16, 2014 from Wells Fargo Bank, N.A. to Paul Thompson

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

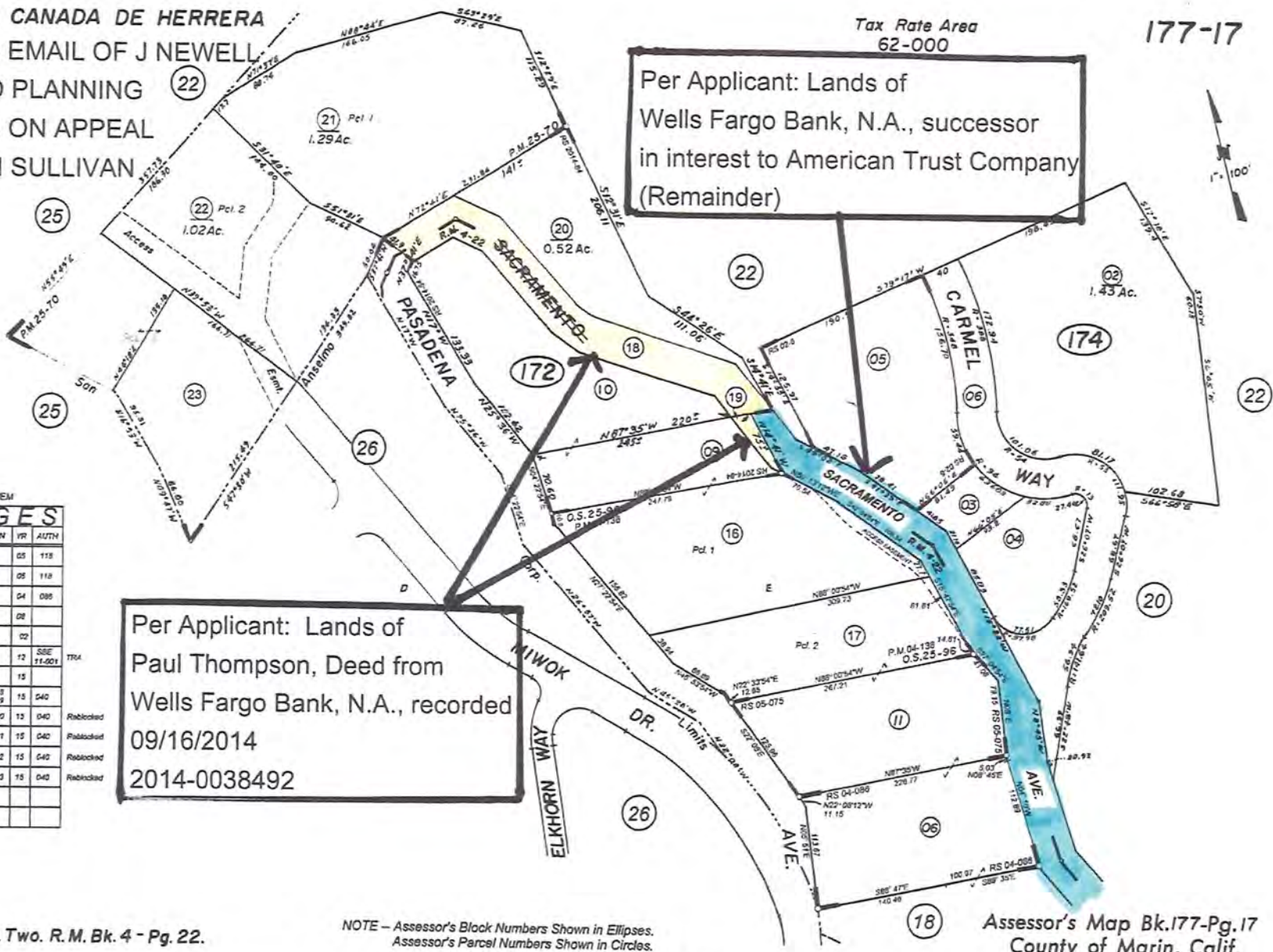
POR. RANCHO CANADA DE HERRERA
EXHIBIT B TO EMAIL OF J NEWELL
 06/11/2017 TO PLANNING
 COMMISSION ON APPEAL
 OF BRANDON SULLIVAN
 ET AL.

Tax Rate Area
 62-000

177-17

Per Applicant: Lands of
 Wells Fargo Bank, N.A., successor
 in interest to American Trust Company
 (Remainder)

Per Applicant: Lands of
 Paul Thompson, Deed from
 Wells Fargo Bank, N.A., recorded
 09/16/2014
 2014-0038492



11/14/2014 MEM

CHANGES				
BLK	PRIOR APN	NEW APN	YR	AUTH
172	12, 13, 14	15	05	118
172	15	16, 17	05	118
172	SURVEYS		04	086
172	SURVEY		08	
174	Survey		02	
			12	SSE 11-001
172	Survey		15	
172	From Roadway	177-172-19 177-172-19	15	540
172	177-171-03	177-172-20	13	040
172	177-171-04	177-172-21	15	040
172	177-171-05	177-172-22	15	540
172	177-171-07	177-172-23	15	040

TRM

Reblooked

Reblooked

Reblooked

Reblooked

Short Ranch, Subd. Two. R.M. Bk. 4 - Pg. 22.

NOTE - Assessor's Block Numbers Shown in Ellipses.
 Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk.177-Pg.17
 County of Marin, Calif.

AS OF 09/16/2014



545 Fourth Street
San Rafael, CA 94901
(415) 454-8300 Fax: (415) 453-3563

PRELIMINARY REPORT

SECOND AMENDED

WEST BAY BUILDERS
250 Bel Marin Keys Blvd., Building A
Novato, CA 94949

Our Order Number 0435017115-CG

Attention: PAUL THOMPSON

When Replying Please Contact:

Cathy Gaidano
CGaidano@ortc.com
(415) 454-8300

Property Address:

Portion of Sacramento Avenue, San Anselmo, CA 94960

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of September 15, 2014, at 7:30 AM

OLD REPUBLIC TITLE COMPANY
For Exceptions Shown or Referred to, See Attached

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0435017115-CG
SECOND AMENDED

The form of policy of title insurance contemplated by this report is:

CLTA Standard Coverage Policy - 1990. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred to by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Paul Thompson, a married man as his sole and separate property

The land referred to in this Report is situated in the County of Marin, City of San Anselmo, State of California, and is described as follows:

All that portion of Sacramento Avenue 40' feet in width as Shown on Map entitled, "Short Ranch Subdivision Two" filed July 3, 1912 in Map Book 4 at Page 22 lying Southerly of the Northern boundary and Northerly of the Southern boundary of the following described lands:

Parcel One:

Beginning at a point on the Easterly line of Pasadena Avenue, distant thereon North 3° 57' West 70.60 feet from the most Northerly corner of the property described in the Deed from Luisa Spagnoli to Jesse J. Filippelli, et ux, Recorded March 15, 1955 in Volume 928 of Official Records, at Page 177, Marin County Records; running thence along said Easterly Avenue line South 3° 57' East 70.60 feet to said most Northerly corner, thence along the Northerly line of the property so referred to and its Easterly Prolongation South 87° 35' East 255 feet, more or less, to the Westerly line of A 40 foot road, being the Westerly line of relocated Sacramento Avenue; thence along said Westerly road line North 14° 41' West 75 feet, more or less, to a point which bears South 87° 35' East from the point of beginning; running thence North 87° 35' West 245 feet, more or less, to the point of beginning.

Parcel Two:

Beginning at a point on the Easterly line of Pasadena Avenue, distant thereon North 3° 57' West 70.60 feet from the most Northerly corner of the property described in the Deed from Luisa Spagnoli to Jesse J. Filippelli, et ux, Recorded March 15, 1955 in Volume 928 of Official Records, at Page 177, Marin County Records; running thence along said Easterly Avenue line North 25° 36' West 102.62 feet, North 17° West 133.33 feet and North 37° 41' East 16.75 feet; thence leaving said line North 34° 39' West 41.94 feet to the Southeasterly line of the Property described in the Deed from Luisa Spagnoli to M. V. Kelley, et ux, Recorded November 6, 1953 in Volume 835 of Official records, at Page 375; thence along said line North 72° 41' East 231.84 feet to the centerline of Sacramento Avenue, as relocated; thence along said centerline South 12° 31' East 205.11 feet, South 44° 26' East 111.06 feet and South 14° 41' East to a point which bears South 87° 35' East from the point of beginning; thence leaving said centerline North 87° 35' West 265 feet, more or less, to the point of beginning

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0435017115-CG
SECOND AMENDED

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, for the fiscal year 2014 - 2015, a lien, but not yet due or payable.
2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.
3. Rights of the public, County and/or City, in and to that portion of said land lying within the lines of Sacramento Avenue.
4. Matters as contained or referred to in an instrument,

Entitled : Indenture
Executed By : Short Ranch Co, a California Corporation and Marin Water & Power Company, a Corporation
Recorded : August 20, 1912 in Book 145 of Deeds, Page 220
Which Among
Other Things : The right to lay, maintain, repair and remove water pipes and mains
Provides

Note: Reference is made to said instrument for full particulars.

5. Any interest of the spouse/domestic partner of Paul Thompson and the requirement that said spouse/domestic partner either "quitclaim" or "join" in the execution of any and all documents affecting said land.

NOTE: If quitclaiming, it is recommended that the following estoppel language be included:

"It is the express intent of the grantor, being the spouse/domestic partner of the grantee to convey all right, title and interest of the grantor, community or otherwise, in and to the herein described property to the grantee as his/her sole and separate property."

NOTE: TITLE EXCEPTION FOR POSSIBLE DIVISION
OF LAND OWNERSHIP

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0435017115-CG
SECOND AMENDED

6. NOTE: Information in possession of this Company indicates the possibility of a division of land ownership. If such division is in fact contemplated, the transaction would appear to fall within the purview of the Subdivision Map Act (66410 et seq. Government Code). As a prerequisite to the Company's participation in land division transactions, compliance with one of the following provisions of the Subdivision Map Act will be required:
- a. The recording of a subdivision map in compliance with statutes or related local ordinances; or
 - b. The recording of a parcel map in compliance with statutes or related local ordinances; or
 - c. The recording of a Certificate of Compliance, as provided by statute; or
 - d. The recording of a waiver as provided by Government Code Section 66428; or
 - e. Submission of other satisfactory evidence of compliance with or non-violation of the Act.

----- Informational Notes -----

- A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) 1.1.
- B. Effective May 1st, 2014, recording service fees for the types of transactions listed below are as follows:
- Finance transactions - \$105.00 to record all documents necessary to close and issue the required title insurance policy(ies).
- Sale transactions - \$130.00 to record all documents necessary to close and issue the required title insurance policy(ies).
- Commercial transactions - \$20.00 recording service fee plus all actual charges required by the County Recorder.
- All Cash transactions - \$20.00 recording service fee plus all actual charges required by the County Recorder to record all cash, non-commercial, sale transactions wherein no new deed of trust is recorded.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0435017115-CG
SECOND AMENDED

C. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument

Entitled : Indenture
By/From : Short Ranch Co., a corporation
To : Mercantile Trust Company of California, a corporation
Recorded : July 11, 1924 in Book 49 of Official Records, Page 426

O.N.

KW/mm

Quit Claim Deed executed by Wells Fargo Bank, N.A. successor in interest to American Trust Company to Paul Thompson, a married man as his sole and separate property recorded September 16, 2014 in Official Records under Recorder's Serial Number 2014-0038492.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0435017115-CG
SECOND AMENDED

If you anticipate having funds wired to Old Republic Title Company, our wiring information is as follows: Bank of the West, 300 S. Grand Ave., Los Angeles, CA 90071, credit to the account of Old Republic Title Company, Account Number 023734749, ABA Number 121100782.

When instructing the financial institution to wire funds, it is very important that you reference Old Republic Title's Order Number 0435017115.

ON-LINE BANKING TRANSFERS ARE NOT THE SAME.

"Electronic Funds Transfer" is a generic term for funds transfers, one of which is an ACH Transfer. On-line banking transfers are often completed through an ACH Transfer, not a Wire Transfer. Old Republic Title rejects all ACH Transfers and returns the funds to the sender (Government Entities/Agencies excluded.) Close of Escrow may be significantly delayed as a result of an ACH Transfer.

OLD REPUBLIC TITLE DOES NOT AUTHORIZE FUNDS TO BE DEPOSITED DIRECTLY INTO OUR ACCOUNT AT Bank of the West LOCAL BRANCH LOCATIONS.

Funds deposited directly into an account of Old Republic Title Company at a Bank of the West branch are subject to verification. Verification of unauthorized deposits is not immediate or automated following deposit. Delay in credit of funds to an escrow and delay in Close of Escrow may result.

If you want to transfer funds by Wire Transfer from a non-United States financial institution, or have questions with regard to acceptable funds, please contact your Escrow or Title Officer immediately.

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Web

EXHIBIT D TO EMAIL OF J NEWELL
06/11/2017 TO PLANNING COMMISSION
ON APPEAL OF BRANDON SULLIVAN ET AL.



2014-0038492

Recorded	REC FEE	21.00
Official Records	TAX	40.70
County of	CONFORMED COPY	0.00
Marin	SURVEY MONUMENT	10.00
RICHARD H. BENSON		
Assessor-Recorder		
County Clerk		
12:40PM 16-Sep-2014	Page 1 of 3	

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

And Mail All Tax Statements To:
Paul Thompson
250 Bel Marin Keys Bldg A
Novato, CA 94949

062-000

QUITCLAIM DEED

THE UNDERSIGNED GRANTOR DECLARES:

DOCUMENTARY TRANSFER TAX IS \$40.70 or shown by unrecorded separate affidavit pursuant to Section 11932 of the Revenue and Taxation Code

computed on full value of property conveyed, or

computed on full value less value of liens & encumbrances remaining at time of sale

Unincorporated area: County of Marin, State of California

Realty not sold.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Wells Fargo Bank N.A., successor in interest to American Trust Company ("Grantor") hereby REMISES, RELEASES AND FOREVER QUITCLAIMS to Paul Thompson, a married man as his sole and separate property ("Grantee"), any and all interest that Grantor has in that certain real property located in the County of Marin, State of California which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

This conveyance is made without representation or warranty of any kind, and subject to all liens, encumbrances and exceptions of record.

Grantor is released by Grantee from all rights, claims and actions that Grantee may have or acquire against Grantor concerning the deeded property, whether known or unknown, foreseen or unforeseen, present or future.

IN WITNESS WHEREOF, this Quitclaim Deed has been executed on September 11, 2014.

GRANTOR:

Wells Fargo Bank N.A.


 By: Donna M. Cummings, Vice President

State of California)
County of San Francisco)

On September 11th, 2014 before me Savita Davis, Notary Public, personally appeared

Donna Cummings
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

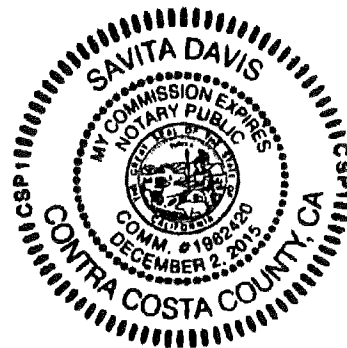
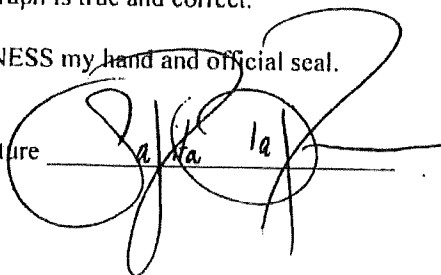


EXHIBIT A

The land referred to is situated in the County of Marin, City of San Anselmo, State of California, and is described as follows:

All that portion of Sacramento Avenue 40' feet in width as Shown on Map entitled, "Short Ranch Subdivision Two" filed July 3, 1912 in Map Book 4 at Page 22 lying Southerly of the Northern boundary and Northerly of the Southern boundary of the following described lands:

Parcel One:

Beginning at a point on the Easterly line of Pasadena Avenue, distant thereon North 3° 57' West 70.60 feet from the most Northerly corner of the property described in the Deed from Luisa Spagnoli to Jesse J. Filippelli, et ux, Recorded March 15, 1955 in Volume 928 of Official Records, at Page 177, Marin County Records; running thence along said Easterly Avenue line South 3° 57' East 70.60 feet to said most Northerly corner, thence along the Northerly line of the property so referred to and its Easterly Prolongation South 87° 35' East 255 feet, more or less, to the Westerly line of A 40 foot road, being the Westerly line of relocated Sacramento Avenue; thence along said Westerly road line North 14° 41' West 75 feet, more or less, to a point which bears South 87° 35' East from the point of beginning; running thence North 87° 35' West 245 feet, more or less, to the point of beginning.

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John M. Newell
80 W. Sierra Madre Blvd., #404
Sierra Madre, CA 91024
1.415.990.7759
john.m.newell@gmail.com

June 5, 2017

By Email to:
planningcommission@marincounty.org

Planning Commission
County of Marin
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: 187 Sacramento LLC Design Review / Tree Removal Permit (P1407/1408) / Appeal (P1663)

Dear Members of the Planning Commission:

I am writing to support the Petition for Appeal of Brandon Sullivan et al. of the decision by the Marin County Community Development Agency of 187 Sacramento LLC (formerly 179 Sacramento LLC) Design Review and Tree Removal Permit (P1407 and P1408) (the "Appeal").

The subject property is located at the end of Sacramento Avenue in unincorporated San Anselmo, designated 187 Sacramento Avenue. APNs are 177-172-20, -10, -18, and -19.

My wife and I are the previous owners of 62 Miwok Drive, San Anselmo, which is adjacent to proposed development. Although we have transferred ownership of that property, we still have an interest in this matter. The Sacramento Ave. public right-of-way easement, which passes through the middle of the Applicant's parcel, abuts and terminates in 62 Miwok Drive.

It is my understanding that the Planning Commission is scheduled to hear the Appeal on June 12, 2017. For the reasons set forth in this letter, I would urge the Planning Commission to overturn the Community Development Agency's action to approve Design Review.

In summary, the Planning Commission should overturn the CDA action to approve Design Review because, among other things:

1. The proposed development includes construction of a large retaining wall and parking spaces on a portion of the subject property (the land underneath the Sacramento Ave. road right of way easement) that is not owned by the Applicant. The Applicant has failed to obtain the consent of the owner of the real property. The CDA cannot approve Design Review for the project because it clearly encroaches on property owned by another, without consent of the owner.
2. Even if the Applicant can demonstrate that it owns clear title to real property APN 177-172-18, the purchase by the Applicant's predecessors of that real property by deed from Wells Fargo Bank in 2014 resulted in a division of real property without compliance with the Subdivision

Map Act or the County's zoning code. The CDA is prohibited by the Marin Code and California law from granting development approvals or permits for real property that has been illegally subdivided. Therefore, granting approval of Design Review violates the law.

3. The proposed development includes a massive retaining wall that will block a significant portion of the Sacramento Ave. road right-of-way easement to pedestrian use, and will block all vehicular use. The CDA and the Department of Public Works do not have the authority, under California law, to approve a development that would restrict the right of the public to travel on a California right-of-way easement.

I submit the following for the consideration of the Planning Commission:

1. The Proposed Development Includes a Retaining Wall, Parking and Other Improvements on Real Property That Is Not Owned by the Applicant

The CDA cannot under any circumstances approve Design Review for a project that includes construction on land that the Applicant does not own, without the express approval of the property owner. In this case, a portion of the property under development, constituting the real property underneath the Sacramento Ave. road right of way easement (designated by the Assessor as APN 177-172-18, is not owned by the Applicant. The owner of that real property, a third party unrelated to the Applicant, has not consented to the construction.

The overall site to be developed is designated by APNs 177-172-20, 10, 18 & 19. The proposed residential structure itself is to be located on the property designated APN 177-172-10 (incorrectly labeled 177-172-20 on the Overall Site Plan previously made available).

In addition to the residence itself, the development includes major construction on the real property underneath the Sacramento Ave. road right of way easement, which real property is not owned by the Applicant. Construction on that property includes extensive grading, construction of a fire truck turnout, and construction of a massive retaining wall and guardrail, up to 11' high and approximately 75' long, which cuts right across the middle of that parcel.

Since at least 2007, the Staff of the Planning Division has been deeply involved in discussions with many potential developers regarding the questions and ambiguities surrounding title to the real property underneath the Sacramento Ave. road right-of-way easement.¹ It is the burden of the Applicant to show that it owns clear title to the property that is proposed to be developed. The Applicant here has not met this burden.

I discussed the matter of title to the real property underneath the Sacramento Ave. road right-of-way easement in detail in my letter to the Planning Commission, dated November 6, 2015, a copy of

¹ At various times, the Staff has taken it upon themselves to opine on title to the parcel in question, by asserting the position that the Applicant's predecessors owned an unrecorded fee interest in the real property underneath the Sacramento Ave. road right of way easement, by application of the centerline presumption in California Civil Code Section 831. This position was in error, as it ignored the fact that the rebuttable presumption in Section 831 is rebutted by the plain language of the relevant deeds. Also, the Staff took this position without any support from either a title company or court judgment in a quiet title action, but based solely on its own erroneous analysis of the title documents and law. The Staff dropped that position, as discussed below, when the Staff required that the Applicant's predecessors show evidence of clear title by obtaining a deed from Wells Fargo Bank and a policy of title insurance.

which is attached. The issue is discussed at pages 4-7 of that letter. In summary, I have obtained a Litigation Guarantee issued by First American Title, stating that the real property underneath the Sacramento Ave. road right-of-way easement is owned by "Short Ranch Co., a California corporation," and therefore not the Applicant. A copy of the Litigation Guarantee is attached to my letter of November 6, 2015.

Although I have repeatedly asked the Staff whether the Applicant has produced an issued policy of title insurance, or a recorded judgment in a quiet title action, establishing that the Applicant owns the real property underneath the Sacramento Ave. road right-of-way easement, the Staff has always stated that it has received nothing from the Applicant other than the Preliminary Title Report from Old Republic Title. It appears that as far as the Staff is concerned, the Applicant "checked the box" when it supplied a preliminary title report, even though the report is simply preliminary and is directly contradicted by the issued Litigation Guarantee that I have obtained.

At the Planning Commission hearing in November 2015, several Commissioners noted that questions that had been raised regarding title to the real property underneath the Sacramento Ave. road right-of-way easement, and directed the Staff to look into it further. To date, the Staff has done nothing further to resolve the issue.

The Applicant has failed to meet the burden of establishing ownership of the real property underneath the Sacramento Ave. road right-of-way easement. Therefore, Design Review of the project, which includes improvements on the real property underneath the Sacramento Ave. road right-of-way easement, must be denied.

2. Alternatively, if the Parcel is Owned by the Applicant, It Was Acquired by Deed Through an Illegal Subdivision and Cannot Be Developed

Even if the Planning Commission were to agree that the Applicant has met its burden of proving ownership of the real property underneath the Sacramento Ave. road right-of-way easement, the parcel still could not be developed because the Applicant acquired title to the parcel through an illegal subdivision of land.

As part of its review of the previous project application filed in 2013, the Staff informed the Applicant's predecessor that the state of title to the real property underneath the Sacramento Ave. road right-of-way easement was unclear, and that the Staff would not approve of the previous road abandonment application unless the Applicant's predecessor were to obtain a recorded deed to the property from the purported owner in the chain of title, and provide evidence of ownership by means of title insurance.² See, e.g., Staff Report to the Marin County Planning Commission on the Appeal, at p. 3 (the Applicant's predecessor "obtained title to the real property underneath the Sacramento Ave. road right-of-way easement in an attempt to comply with the roadway abandonment process administered by the Dept. of Public Works Real Estate Division.")

² In so doing, the Staff dropped its erroneous and unsupported position regarding the centerline presumption referenced in footnote 1 above. If the Applicant already owned the property due to operation of the centerline presumption, the Staff could not have required the Applicant's predecessor to obtain a deed, and the Applicant's predecessor certainly would not have paid for one.

In order to comply with the Staff's request, the Applicant's predecessor paid \$50,000 for a "quitclaim deed" from Wells Fargo Bank, and gave the Staff a copy of a "Preliminary Title Report" from Old Republic Title, as noted above.

The sale by deed of the parcel by Wells Fargo Bank to the Applicant's predecessor was a division of real property in violation of the Subdivision Map Act and Marin County's zoning ordinances. Therefore, since the real property underneath the Sacramento Ave. road right-of-way easement is an illegal parcel, permits and approvals cannot be granted for its development.

The Project Planner, Curtis Havel, has stated to me unequivocally that the real property underneath the Sacramento Ave. road right-of-way easement is "not a legal parcel of record." Furthermore, it is important to note that in all its communications with Eric Schneider regarding this issue, and in the various Staff reports on this project provided to the Planning Commission, the Staff has *never once* disputed the fact that the real property underneath the Sacramento Ave. road right of way easement is an illegal parcel.³

Therefore, the sale by deed of the real property underneath the Sacramento Ave. road right-of-way easement by Wells Fargo Bank to the Applicant's predecessor must have been a carveout of a larger legal parcel of record owned by Wells Fargo Bank. The sale by Wells Fargo Bank of a portion of a legal parcel, without complying with the applicable laws regarding subdivision, is unlawful, and the resulting parcel acquired is an illegal parcel. Wells Fargo Bank did not take any of the steps necessary to get approval of the subdivision of real property.

As an aside, I would like to point out a serious misstatement in the Staff Report to the Planning Commission regarding the Appeal. The Staff Report on pages 2-3 states that a Certificate of Compliance was sought the Applicant in 2013. The Staff Report goes on to say that "*The Certificate of Compliance verified that the subject project is one legal lot of record (even though there are more multiple [sic] Assessor's Tax Parcel Numbers associated with the property).*" (emphasis added) This statement is false. It is true that in 2013, the Applicant filed for a Certificate of Compliance *on land designated by APNs 177-172-10 and -20*, and that a Certificate of Compliance was issued stating that there is one legal lot of record under those 2 APNs. However, the Applicant has neither sought nor received a Certificate of Compliance on the real property underneath the Sacramento Ave. road right-of-way easement. Therefore, the statement in the Staff Report that the "the Certificate of Compliance verified that the subject project is one legal lot of record" is false, because the Certificate of Compliance issued in 2013 did not include the real property underneath the Sacramento Ave. road right-of-way easement, which is part of the "subject property" under proposed development.

Under California law and the Marin Code, illegally subdivided parcels cannot be developed without meeting certain requirements which have not been met here. Section 20.84.030 of the Marin Code provides that if real property has been divided in violation of law, development approvals and permits

³ In the Staff Report on the Appeal, the Staff notes on page 3 that "the assignment of tax parcel numbers to a portion of land" does not constitute a violation of the Subdivision Map Act, and "does not imply that the subject area is a buildable lot". However, those points have never been in contention. The claim made by Eric Schneider in the letters attached hereto, which claim has never been refuted by the Staff, is that the conveyance by quitclaim deed from Wells Fargo Bank of the real property underneath the Sacramento Ave. road right of way is a conveyance out of a larger parcel purportedly owned by Wells Fargo Bank. It is that conveyance, not the assignment of Assessor parcel numbers, that is the illegal subdivision of land.

must be withheld until further action is taken by the Planning Director or, on appeal, the Planning Commission. Section 20.84.030 provides, in part, as follows:

“20.84.030 - Development permits and approvals withheld.

“No permits or approvals necessary to develop any real property shall be issued for such real property which has been divided or which has resulted from a division in violation of the provisions of the Subdivision Map Act or the Marin County Code applicable at the time such division occurred, unless the planning director or, on appeal, the planning commission finds that the development of such real property is not contrary to the public health, safety or general welfare.”

See also California Government Code 66499.34.

At this time, neither the Planning Director nor the Planning Commission has made the findings referred to in Section 20.84.030. Therefore, the CDA is prohibited by law from approving the Design Review of the development of the real property underneath the Sacramento Ave. road right-of-way easement, and the decision must be overturned.⁴

3. California Law Prohibits the CDA and the DPW from Approving a Development that Would Close the Sacramento Ave. Right of Way for the Benefit of a Private Development

A portion of the subject property under proposed development is encumbered by the right-of-way easement, as described in the Staff Report on the Appeal. The Sacramento Ave. road right-of-way easement is 20' in width. The Applicant's proposed development includes a retaining wall, up to 11' high and approximately 75' long, that blocks almost the entire width of the Sacramento Ave. road right-of-way easement. In effect, the proposed development almost entirely closes Sacramento Ave. for use by the public.

The CDA and the DPW have indicated no authority to allow the easement to be permanently blocked, and no explanation of why they would allow it. By most entirely blocking the public right-of-way easement, the CDA and DPW would effectively surrender a public asset, solely to facilitate the enrichment of a private developer. California law prohibits a local jurisdiction from closing a public right of way easement solely to facilitate development by a private party.

In the draft resolutions attached to the Staff Report on the Appeal, the Staff has set forth two responses. First, “the proposed improvements do not preclude future extensions or improvements within the Sacramento Avenue right-of-way easement.” Second, “the proposed improvements do not prohibit the public's use within the Sacramento Avenue right of way easement.” Both statements are inaccurate and misleading, as discussed below.

A. The Sacramento Ave. Right of Way Easement Has Not Been Abandoned or Vacated, and Remains a Public Asset

⁴ I would also ask the Planning Commission to review the letters, dated November 18, 2015, and August 17, 2016 from Eric Schneider to Brian Crawford, Planning Director, copies of which are attached, for further analysis of the illegal subdivision issues.

California law sets forth a specific procedure to vacate and abandon a public right of way, which includes a number of statutory findings and approval by the County Board of Supervisors. The Applicant has not proposed to vacate the public right of way. The Staff Report on the Appeal states that “it is important to note that the Sacramento Ave. road right-of-way easement was never abandoned, and the rights associated with that easement as described on the subdivision map are intact.” The right of way easement is a valuable public asset.

The Sacramento Ave. right-of-way easement as described on the original subdivision map includes the right of the public to pass over the entire length and width of the public easement. There is no provision on the subdivision map which allows any person, public or private, to block all or any portion of the easement, either temporarily or permanently.

B. The Proposed Development Blocks Virtually the Entire Width of the Public Right of Way Easement

By approving Design Review for the proposed project, the CDA and DPW are permitting the Applicant, a private party, to block almost the entire width of the public right-of-way easement. The Applicant is proposing to install a massive retaining wall, up to 11' high and approximately 75' long, right across the center of the easement, making it almost impassible by the public.

The Applicant has attempted to address this issue by proposing an “at-grade transition for future pedestrian access” at the end of one of the retaining walls. This pedestrian access appears to be approximately 3' wide. This means that the remaining 17' of road right-of-way easement width is totally and permanently blocked to pedestrian traffic. In addition, the entire road right-of-way easement is blocked to vehicular access.⁵

In the draft resolutions attached to the Staff Report on the Appeal, it is stated that “The proposed improvements do not prohibit the public’s use within the Sacramento Avenue right of way easement.” This statement is inaccurate and misleading. Because of the height and location of the retaining walls, the public is totally prohibited from using all but 3' of the 20' right of way for any purpose. In addition, the public is totally prohibited from using the entire right of way for vehicular travel, because 3' is not wide enough for a standard size vehicle.

C. The County Is Prohibited by California Law from Closing a Public Right-of-Way, Partly or Totally, to Facilitate a Private Development

The Inter-Office Memorandum from the Marin Dept. of Public Works Land Use Division, dated March 15, 2017, states that “Second unit parking and guest parking are permitted in the right of way at this time.”

Interestingly, the Conditions of Approval permit “parking” in the right of way, but do not permit the encroachment on the right of way by the construction of a 75' long retaining wall. Therefore, it is questionable whether the Applicant has obtained sufficient permits from the DPW.

⁵ In the 2013 application for abandonment by the Applicant’s predecessor, the argument was made the abandonment was appropriate because it was unlikely that the road would ever be developed for vehicular travel. However, since the Applicant is not seeking to vacate the right-of-way for pedestrian or vehicular travel, this argument is irrelevant.

The Land Use Division memo cites no authority for the proposition that DPW has the power to declare that parking in the public right-of-way easement (for, for that matter, encroachment by a 75' long retaining wall across the easement) is "permitted". In fact, there is no authority. It is a well-settled principle that public road right-of-way easements belong to the people of the State of California, and a local jurisdiction has no authority to allow the right-of-way easement to be blocked for the sole benefit and enrichment of a private developer.

The California courts have repeatedly ruled that California state law preempts local law in regulation of traffic on public streets. In City of Lafayette v. County of Contra Costa, 91 Cal.App.3d 749 (1979), the city of Lafayette voted to close Happy Valley Road (by way of an automatic gate) to through traffic except for drivers with an established need. The city sought a judicial declaration that it had the right to close the road and that it was entitled to do so by the installation of an automatic gate. The Court of Appeals held that the entire area covered by the Vehicle Code had been preempted by state law and that in the absence of express legislative authority, the city had no authority to restrict the right to travel on one of its streets. (*Id.*, at pp. 754-757.)

Similarly, in Citizens Against Gated Enclaves v. Whitley Heights Civic Assn., 23 Cal.App.4th 812 (1994), the City of Los Angeles issued a permit to the Whitley Heights Civic Assn. to install seven gates encircling the streets and sidewalks of the neighborhood of Whitley Heights, in order to protect the neighborhood from crime. In litigation brought by Citizens Against Gated Enclaves, the Court of Appeals ruled that the City was not authorized by state law to permit the Civic Association to close streets for the purpose of reducing crime. The Court noted that it was irrelevant that the gates were erected by the Civic Assn., since they were erected pursuant to City authorization. The Court found that it was also irrelevant whether the streets were partially or totally closed.

As in the Citizens Against Gated Enclaves case, the DPW has no power under California law to permit the closure, partially or totally, of a public right-of-way easement, without express State legislative authority. There is no state legislative authority that would give the DPW the power to authorize parking or a retaining wall that would have the effect of reducing or blocking a public right-of-way easement.

The Land Use Division will argue that the closure is not "total", because there is still a 3' wide transition for "future" pedestrian access, the Citizens Against Gated Enclaves case makes clear that local jurisdictions cannot authorize even partial closures of a public right of way easement for the purpose of benefiting private parties.

D. The DPW Condition that Parking "May Need to be Relocated" Does Not Cure the Violation

In an attempt to address the objection that the parking and retaining wall illegally encroach on the public right of way easement, the DPW included a provision in the Conditions of Approval to the effect that, in certain limited circumstances, the encroachments could be removed in the future. This does not adequately cure the violation.

The Inter-Office Memorandum from the Department of Public Works dated March 16, 2017 states that "in the event that additional or expanded road way and access improvements are proposed and approved in the Sacramento Avenue right of way, the parking spaces for the second unit and guests may need to be relocated at the owner's expense." Further, in the draft resolutions attached to the

Staff Report on the Appeal, it states “the proposed improvements do not preclude future extensions or improvements within the Sacramento Avenue right-of-way easement.”

This Condition is defective in a variety of respects. First, the Condition only says that the “*parking spaces* may need to be relocated.” It does not state that the 75’ retaining wall may also need to be removed out of the right of way easement. The owner may be able to put parking elsewhere on his property, but if the owner is not required to remove the retaining wall, it may be impossible or prohibitively expensive for the County or a private party to put in place additional or expanded road way and access improvements.

Second, the DPW is not authorized by California law to allow a private party to block a road right of way easement, even temporarily. Once the 75’ long retaining wall is constructed, it could be years or decades before additional or expanded road way and access improvements are proposed and approved, and during that entire time, the Applicant would be permitted by the DPW to block the public right of way. California law does not give DPW the power to close a public right-of-way easement, even temporarily, for the purpose of facilitating a private development.

Finally, even if the Conditions of Approval are revised to require that the retaining wall be removed in the future, the Conditions provide absolutely no clarity on how that removal would take place, on what timetable, who is responsible to do the work, and what happens if the owner of 187 Sacramento cannot provide a location for alternative parking.

E. If the Applicant Wants to Block the Public Right of Way With this Project, It Should Be Required to Seek to Vacate the Right of Way Instead

If the Applicant wishes to block the Sacramento Ave. road right-of-way easement with a retaining wall, effectively taking a public asset and using it for exclusively private benefit, a DPW permit is not the appropriate way to proceed.

Frankly, it appears to be a cynical attempt by the Applicant, and the staff of the CDA and the DPW, to do an “end run” around the vacation statute. As members of the Planning Commission may recall from the 2015 hearing on this matter, there was a great deal of concern by the members about giving up a public asset in order to exclusively benefit a private developer.

The Planning Commission should not allow this. The Applicant should instead follow the mandatory statutory procedure, and file an application with the County to vacate the right-of-way. Until that is done, the CDA cannot and should not authorize and approve the Applicant’s development as currently designed.

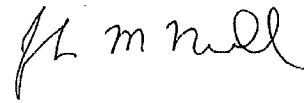
Summary

In conclusion, any of these arguments could provide an independent basis for the Planning Commission to overturn the CDA approval of the Design Review. First, the project includes development of land that the Applicant has not carried to burden on proof of ownership. Alternatively, if the land is owned by the Applicant, it was acquired by deed, in violation of the Subdivision Map Act and the County zoning codes, and therefore is an illegal parcel which cannot be developed. Third, the CDA and the DPW cannot, and should not, allow the Applicant to construct a 75’ long retaining wall

which would block, partially or totally or temporarily, the public right of way easement, solely for the purpose of benefiting a private developer.

Based on the foregoing, I would urge the Planning Commission to uphold the Appeal, and overturn the CDA's approval of Design Review.

Very truly yours,

A handwritten signature in black ink, appearing to read "J M Newell". The signature is written in a cursive, flowing style.

John M. Newell

Attachments

1. Letter from John Newell to Planning Commission, Nov. 6, 2015
2. Litigation Guarantee issued by First American Title, July 23, 2015
3. Letter from Eric Schneider to Brian Crawford, CDA Director, Nov. 18, 2015
4. Letter from Eric Schneider to Brian Crawford, CDA Director, Aug. 17, 2016

John M. Newell
62 Miwok Drive
San Anselmo, CA 94960
1.415.990.7759
john.newell@yahoo.com

November 6, 2015

Planning Commission
Marin County
Planning Commission Secretary
Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903
Attention: Planning Commission Secretary

Re: Thompson Lot Line Adjustment, Design Reviews, and CEQA Exemption

Dear Members of the Planning Commission:

I am writing to object to the application by Paul Thompson for a Lot Line Adjustment, Design Reviews, and CEQA Exemption, on the agenda for the Planning Commission meeting on November 9, 2015.

The property is located at the end of Sacramento Avenue in unincorporated San Anselmo, tentatively designated 183 and 187 Sacramento Avenue. APNs are 177-172-09, -10, -18, -19, and -20.

My wife and I own our home at 62 Miwok Drive, San Anselmo. Our property is adjacent to proposed development. The Sacramento Ave. public right of way, which passes through the middle of the Applicant's property, abuts and terminates in our property.

Over the course of the last year, I have provided many written comments to the Staff of the Departments of Public Works and Planning regarding the proposed development. It is my understanding that all of my prior comments would be provided to the Planning Commission for inclusion in the public record.

For the reasons set forth in this letter, and in my other communications regarding the proposed project, I oppose any action by the Planning Commission to approve the proposed Lot Line Adjustment, Design Reviews, and CEQA Exemption. Attachments referenced in this letter will be provided to the Planning Director by email before Monday, November 9.

In summary, the Planning Commission cannot and should not approve the proposed Lot Line Adjustment, Design Review, and CEQA Exemption because, among other things:

1. The proposed lot line adjustment is not categorically exempt under CEQA because the property site exceeds the maximum 20% slope requirement of Section 15305 of the CEQA Guidelines, and the lot line adjustment is not a "minor" alteration in land use limitations, as required by Section 15305.

2. The proposed development includes construction of two homes on real property that, in part, is not owned by the Applicant. The real property that is included with the boundaries of Sacramento Ave. is owned by Short Ranch Co., and entity that is unrelated to the Applicant. Since Sacramento Ave. cuts through the center of the proposed development, Design Review must be denied.
3. Even if the Applicant is able to demonstrate that he owns clear title to the Sacramento Ave. real property, the purchase by the Applicant of that real property from Wells Fargo Bank resulted in a division of real property without compliance with the Subdivision Map Act or the County's zoning code. The Planning Commission is prohibited by the Marin Code and California law from granting development approvals or permits because an illegal division of real property has occurred.
4. The proposed Lot Line Adjustment would increase the number of potential building sites from two to three, and therefore cannot be approved by the Planning Commission under Marin Code Section 22.90.40.
5. The proposed development will adversely affect rights-of-way and pathways for circulation, and therefore Design Review cannot be approved under Marin Code Section 22.42.060. The proposed development would: encroach on land owned by a third party, Short Ranch Co.; would block the Sacramento Ave. public right of way, which has not been and may never be abandoned by the Board of Supervisors; and would block existing private access easements that exist over Sacramento Ave.

I submit the following for the consideration of the Planning Commission:

1. The Proposed Lot Line Adjustment Is Not Categorically Exempt Under CEQA

CEQA exempt activities are either expressly identified by statute (i.e., statutory exemptions) or those that fall into one of more than two- dozen classes deemed categorically exempt by the Secretary of Resources (i.e., categorical exemptions).

Public agencies utilizing CEQA exemptions must support their determination with "substantial evidence." PRC § 21168.5. Exemptions to CEQA are narrowly construed and exemption categories are not to be expanded beyond the reasonable scope of their statutory language. *Mountain Lion Fndn v. Fish & Game Comm.*, 16 Cal.4th 105, 125 (1997).

A reviewing court must "scrupulously enforce all legislatively mandated CEQA requirements." *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 564 (1990). Erroneous reliance by Marin County on a categorical exemption constitutes a prejudicial abuse of discretion and a violation of CEQA. *Azusa Land Reclamation v. Main San Gabriel Basin*, 52 Cal.App.4th 1165, 1192 (1997).

A. Proposed Lot Line Adjustment Property Exceeds the Maximum Slope Criteria under Section 15305 of the CEQA Guidelines

The Staff Report states that the Design Reviews and Lot Line Adjustment are "Categorically Exempt from the requirements of the California Environmental Quality Act according to Sections 15303 and 15305 of the CEQA Guidelines." The Staff Report provides no explanation for the conclusion that the Lot Line Adjustment is categorically exempt under Section 15305. As mentioned above, PRC § 21168.5 provides that public agencies utilizing CEQA exemptions must support their determination with "substantial evidence."

Section 15305 of the CEQA Guidelines provides a categorical exemption for certain, but not all, lot line adjustments. Section 15305 reads as follows:

“15305. Minor Alterations in Land Use Limitations

“Class 5 consists of **minor alterations in land use limitations in areas with an average slope of less than 20%**, which do not result in any changes in land use or density, including but not limited to:

- “(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- “(b) Issuance of minor encroachment permits;
- “(c) Reversion to acreage in accordance with the Subdivision Map Act.” (emphasis added)

The Applicant’s proposed Lot Line Adjustment clearly does not meet the categorical exemption criteria under Section 15305 of the CEQA Guidelines. The project site is not “in [an area] with an average slope of less than 20%,” and so the categorical exemption plainly does not apply.

The Staff Report states that the project site is on a “Steep Slope (approximately 40%).” It describes the project site as “vacant, steeply sloped, grassy open hillside with a fairly consistent slope profile of approximately 40%.” (emphasis added) There can be no doubt that the categorical exemption under Section 15305 is not applicable.

B. The Proposed Lot Line Adjustment Is Not a “Minor Alteration in Land Use Limitations”

In order to qualify for the exemption under Section 15305, the proposed Lot Line Adjustment must constitute “minor alterations in land use limitations ..., which do not result in any changes in land use or density.”

The proposed Lot Line Adjustment is, in fact, anything but a “minor alteration in land use limitations.” According to the Staff Report, Lot 1 has an existing square footage of 16,638. After the Lot Line Adjustment, it will have a new square footage of 43,271. This is an increase of over 160%. The Lot Line Adjustment would add 26,633 square feet to Lot 1, well more than half an acre. There is no conceivable way that the Planning Commission can find that a 160% increase in the size of a parcel is a “minor” alteration in land use limitations.

Furthermore, by increasing the size of Lot 1 by over 160%, from 16,638 s.f. to 43,271 s.f., the land use limitations on Lot 1 are significantly lower. For example, at 16,638 s.f., Lot 1 is considered a “substandard lot” under Section 22.42.030 of the Marin Code. At 43,271 s.f., Lot 1 would no longer be classified as “substandard.”

A substandard lot is defined as a vacant parcel proposed for single-family residential development, where the parcel is “at least 50 percent smaller in total area than required for new parcels under the applicable zoning district or slope regulations, in compliance with Section 22.82.050 (Hillside Subdivision Design Standards), whichever is more restrictive.” Under the Hillside Subdivision Design Standards, for lots that have a slope of 40% or greater, the minimum lot area is 43,560 s.f. Since Lot 1 is currently 16,638 s.f., and according to the Staff Report, there is a consistent 40% slope over the project site, Lot 1 is more than 50% smaller than the minimum required lot area of 43,560 s.f.

There are several negative land use consequences to being a substandard lot. For example, a substandard lot such as existing Lot 1 must undergo Design Review regardless of the size of the development or any other exemption from Design Review, pursuant to Section 22.42.030. The stated purpose of this requirement is “to provide Design Review regulations for substandard and hillside building sites in conventional zoning districts to prevent inappropriate physical improvements. In these instances, any exemption from Design Review provided by Section 22.42.025 (Exemptions from Design Review) shall be void.” (emphasis added)

Therefore, by virtue of the Lot Line Adjustment, Lot 1 would no longer be substandard, and therefore development of Lot 1 could be exempt from Design Review. Exempting a lot from Design Review is in no way a “minor alteration in land use limitations.”

In summary, the Planning Commission must have “substantial evidence” to support a finding of a categorical exemption for the Lot Line Adjustment. Not only is there no evidence in the Staff Report or the proposed Resolutions to support the exemption, there is ample evidence in the record to conclude that the Section 15305 exemption is not applicable. Therefore, the Planning Commission would violate CEQA by approving the Lot Line Adjustment. The Lot Line Adjustment must be the subject of an Initial Study, and possibly an Environmental Impact Report.

2. The Proposed Development Includes Construction of 2 Homes on Real Property That Is Not Owned by the Applicant

In order to apply for a Lot Line Adjustment or Design Review in Marin County, the application must include the signature of the Property Owner. The County will not process a development proposal unless it is clear that the property owner agrees with the proposal.

Of course, the Planning Commission cannot under any circumstances approve Design Review for a project that includes construction on land that the Applicant does not own, without the express approval of the property owner. In this case, the true property owner of a critical piece of real property running through the center of the proposed development has never even been notified of the project, nor has it consented to the construction of encroachments that would render the property worthless.

A key portion of the real property included in the project site, on which 2 homes will be constructed, is owned by Short Ranch Co., not the Applicant. The Applicant and Short Ranch Co. are completely unrelated parties. Even though Short Ranch Co. is an owner within 600 feet of the project site, neither the County nor the Applicant has made any attempt to notify Short Ranch Co. of the proposed development.

Background of Prior Failed Attempt to Develop the Project Site by David Potts

The proposed development site includes, in part, two separate legal lots of record. Lot 1 is 16,638 s.f. of vacant land, APN 177-172-09. Lot 2 is 74,676 s.f. of vacant land, APNs 177-172-10 and -20. Although Lot 2 has been assigned two APNs, it is only one legal lot of record.

In 2007, a local developer named David Potts acquired title to Lots 1 and 2 by deed from the prior owner. The deed by which Mr. Potts acquired these 2 parcels expressly *excluded* “the included portion

of Sacramento Avenue as shown on the map entitled, 'Short Ranch Subdivision Two', filed July 3, 1912, in Map Book 4 at Page 22." (the "Sacramento Ave. Land Area").

Mr. Potts then drew up site plans, architectural drawings and other materials to proceed with development of the 2 parcels. (Interestingly, the Applicant's own plans for development are virtually identical to those created by Mr. Potts.)

As part of the development process, the Marin County Planning Division informed Mr. Potts that if he were to develop the project site as he proposed, he would be required to prove that he owned title to the Sacramento Ave. Land Area, because that real property is in the middle of the project site, and because title to that property had been expressly excluded from the grant deeds to Mr. Potts.

Mr. Potts contacted First American Title and requested a Preliminary Title Report on the ownership of the Sacramento Ave. Land Area. First American Title issued a Preliminary Title Report, dated March 29, 2007, which indicated that the Sacramento Ave. Land Area was owned by Short Ranch Co., a California corporation. See Prelim. Title Report of First American Title Company, dated March 29, 2007, attached.

I then met with Mr. Potts, who showed me his site plans and drawings. Mr. Potts informed me that Short Ranch Co. owned the Sacramento Ave. Land Area, running through the center of the project site. Mr. Potts indicated that he had attempted to contact Short Ranch Co., but the corporation had dissolved in the 1920s and so he did not know who to contact. I told him that, regardless of who may own the Sacramento Ave. Land Area, it was crystal clear in his deed that Mr. Potts did not own the land because it was expressly excluded.

Mr. Potts ultimately dropped the development, because he was unable to prove to the County Staff that he owned all of the land on which he proposed to build the homes. Mr. Potts then filed for bankruptcy. Lots 1 and 2 were acquired by the lenders in foreclosure, and eventually sold to Tim and Pat Newberry. The deeds to the lender, and the Newberrys, also expressly excluded any interest in Sacramento Ave. Land Area.

Purchase by Applicant of Lots 1 and 2

In March 2014, the Applicant acquired title to Lots 1 and 2 by deed from Tim and Pat Newberry. The deed by which the Applicant acquired these 2 parcels also expressly excluded "the included portion of Sacramento Avenue as shown on the map entitled, 'Short Ranch Subdivision Two', filed July 3, 1912, in Map Book 4 at Page 22", which is the Sacramento Ave. Land Area.

My understanding from Mr. Newberry is that the Applicant did many months of due diligence and title research on the parcels prior to the purchase. It is entirely possible that he was made aware of the prior title work done by David Potts and the preliminary title report from First American Title showing Short Ranch Co. as the owner of the Sacramento Ave. Land Area.

For example, six months prior to the closing of the purchase of Lots 1 and 2, on October 13, 2013, Annie Sasan, on behalf of the purported "property owner" Paul Thompson, submitted Applications for a Certificate of Compliance on Lots 1 and 2.

On April 17, 2014, the Planning Division issued two Certificates of Compliance, finding that Lot 1 and Lot 2 each constitute a legal parcel of record. The Applicant also furnished to the Staff a policy of title insurance regarding his ownership of a fee interest in Lots 1 and 2. In May 2014, the Applicant filed for a Lot Line Adjustment and Design Review.

Purported Purchase of the Sacramento Ave. Land Area by Applicant from Wells Fargo Bank

As part of the planning process, the Staff notified the Applicant that he would be required to demonstrate that the public right of way on undeveloped Sacramento Ave. had been vacated. Thereafter, the Applicant filed an Application to vacate the public right-of-way.

The Staff further asked the Applicant to demonstrate that he was the owner of the Sacramento Ave. Land Area. The Staff noted for the Applicant, as it had for Mr. Potts, that the deed to the Applicant for Lots 1 and 2 expressly excluded the included portion of undeveloped Sacramento Ave., and so that deed was not evidence that the Applicant owned land area. Without clear ownership of the property, the County would not permit the Applicant to construct improvements on land that might be owned by another person.

The Applicant then obtained a "Quitclaim Deed" from Wells Fargo Bank, N.A., dated September 11, 2014, recorded on September 16, 2014. The Quitclaim Deed conveyed to the Applicant any interest that Wells Fargo may have in the Sacramento Ave. Land Area. The Quitclaim Deed covers the following land area included in Lots 1 and 2: "All that portion of Sacramento Avenue 40' feet in width as Shown on Map entitled, "Short Ranch Subdivision Two" filed July 3, 1912 in Map Book 4 at Page 22 lying Southerly of the Northern boundary and Northerly of the Southern boundary" of Lots 1 and 2.

A quitclaim deed by definition provides no warranty to the purchaser that the seller owns any interest in the land conveyed, but only conveys whatever interest the seller might have, which could be none. The Wells Fargo deed stated that: "This conveyance is made without representation or warranty of any kind". The Applicant was well aware that Wells Fargo might have no interest in the property, but agreed to acquire the deed anyway.

Upon the filing of the Quitclaim Deed with the County Recorder, the County Assessor assigned two APNs to the Sacramento Ave. Land Area and listed Paul Thompson as the owner. The APNs assigned are 177-172-18, and -19. The assignment of an APN is not a determination by the County that the Sacramento Ave. Land Area constitutes a legal parcel of record, nor does it prove in any way that the Applicant is the owner of the property. It is merely done for the purpose of establishing property taxes and sending tax bills.

As part of a refinancing, the Applicant sought a Preliminary Title Report regarding his ownership of the Sacramento Ave. Land Area. Rather than seek a title report from First American Title, which had done the title work for Mr. Potts, the Applicant went title shopping. The Applicant contacted Old Republic Title Company, which issued a Preliminary Title Report dated September 15, 2014, which purportedly indicated that the Applicant, rather than Short Ranch Co., was the owner of a fee interest in the Sacramento Ave. Land Area.

The Old Republic Preliminary Title Report, like other title reports, specifically states "This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby." The Applicant provided a copy of the

Quitclaim Deed and the Preliminary Title Report to the Staff of the Real Estate Division, and based on those documents, the Staff concluded that the Applicant owned the Sacramento Ave. Land Area. To my knowledge, the Applicant has never provided the Staff with a copy of a title insurance policy covering his ownership of the Sacramento Ave. Land Area.

In preparation for a possible quiet title action to establish access easements over the Sacramento Ave. Land Area, I obtained a Litigation Guarantee from First American Title, which states that Short Ranch Co., a California corporation, is the owner of the Sacramento Ave. Land Area. A copy of the Litigation Guarantee issued by First American Title is attached.

The Applicant has been unable to produce any clear proof that he is the owner of the Sacramento Ave. Land Area, and the Litigation Guarantee issued by First American Title states that the land area is owned by Short Ranch Co., rather than the Applicant.

Even if the Applicant were able to produce a title insurance policy issued by Old Republic or another title insurer showing that he owns the Sacramento Ave. Land Area, the fact that First American Title has issued a Litigation Guarantee showing the owner to be Short Ranch Co. casts sufficient doubt on the Applicant's ownership of the property that the Planning Commission must require clear and unequivocal proof of ownership before allowing construction on the subject property.

3. The Sacramento Ave. Land Area, Even If Validly Conveyed by Wells Fargo to the Applicant, Is an Illegal Division of Real Property

Even if the Applicant is able to demonstrate unequivocally that he acquired title to the Sacramento Ave. Land Area by virtue of the deed from Wells Fargo Bank, the sale by Wells Fargo to him involved a division of real property in violation of the Subdivision Map Act and Marin County zoning ordinances.

The Planning Director has stated that the Sacramento Ave. Land Area is not a legal parcel of record. Therefore, the sale of the Sacramento Ave. Land Area by Wells Fargo Bank to the Applicant must have been a carveout of a portion of a larger legal parcel of record owned by Wells Fargo Bank. The sale by Wells Fargo Bank of a portion of a legal parcel, without complying with the applicable laws regarding subdivision, is unlawful. Wells Fargo Bank and the Applicant did not take any of the steps necessary to get approval of the division of real property.

Furthermore, the Applicant has neither sought nor received a certificate of compliance that includes his ownership of the Sacramento Ave. Land Area. The Planning Director has assured me that the land area is not a legal parcel of record, and therefore the Applicant could not get a certificate of compliance, even if he were to seek one.

Under Section 20.84.020 of the Marin Code, once the Planning Director verifies that real property has been divided in violation of the Subdivision Map Act or the Marin County Code, the County surveyor is required to record a tentative, and then final, Notice of Violation. To my knowledge, these notices have not been recorded, even though it has been known for many months that the Applicant owns real property that is not a legal parcel of record and was acquired by division in violation of law.

More significantly for the Planning Commission, Section 20.84.030 provides that if real property has been divided in violation of law, development approvals and permits must be withheld until further

action is taken by the Planning Director or, on appeal, the Planning Commission. Section 20.84.030 provides, in part, as follows:

“20.84.030 - Development permits and approvals withheld.

“No permits or approvals necessary to develop any real property shall be issued for such real property which has been divided or which has resulted from a division in violation of the provisions of the Subdivision Map Act or the Marin County Code applicable at the time such division occurred, unless the planning director or, on appeal, the planning commission finds that the development of such real property is not contrary to the public health, safety or general welfare.”

At this time, the Planning Director and the Planning Commission have not made the findings referred to in Section 20.84.030. Therefore, the Planning Commission is prohibited from approving the Lot Line Adjustment and the Design Reviews at this time.

4. Proposed Lot Line Adjustment Would Result in the Creation of Additional Potential Building Sites

Code Section 22.90.40 requires as a mandatory finding that the proposed Lot Line Adjustment would not result in the creation of additional potential building sites. This finding cannot be made.

Under the current lot configuration, there is only one potential building site on Lot 1, which is within the current boundaries of Lot 1. Lot 1 is only 16,638 s.f. It is long and narrow, and has a 40% slope down into a creek bottom. Assuming that Lot 1 is buildable at all, there is only one potential building site, which would be a very small house at the far eastern edge of Lot 1.

After the Lot Line Adjustment, Lot 1 will still have the first potential building site available, but it will also have another potential building site. Since Lot 1 is proposed to be increased in area by 160%, adding over a half acre of land area, a much larger and more desirable building site is created in the center or northeast part of the enlarged parcel. In fact, this is not only a “potential” second building site; this actually is where the Applicant is proposing to build House B.

Therefore, before the Lot Line Adjustment, Lot 1 and Lot 2 each have one potential building site. After the Lot Line Adjustment, Lot 1 would have 2 potential building sites. Lot 2 would continue to have 1, which is where House A is proposed to be located. Potential building sites are therefore increased from 2 to 3. Accordingly, the Lot Line Adjustment must be denied, pursuant to Code Section 22.90.40.

5. Proposed Development Will “Adversely Affect Rights-of-Way and Pathways for Circulation”

Under Marin Code Section 22.42.060, the Design Review Applications may only be approved by the Planning Commission if it makes an affirmative finding that “The proposed development results in site layout and design (including building arrangement, exterior appearance, heights, setbacks, drainage, fences and walls, grading, lighting, signs, etc.) ... that will not adversely affect rights-of-way or pathways for circulation.” The Planning Commission cannot make this required finding.

A. The Proposed Development Encroaches on the Sacramento Ave. Land Area, which is Owned by Short Ranch Co.

As discussed in detail above, the Sacramento Ave. Land Area runs through the middle of the project site, and it is owned by Short Ranch Co. If the proposed development is approved, the Applicant will build 2 homes on land owned by Short Ranch Co., which would be an encroachment that destroys the value of the land to Short Ranch Co.

B. The Proposed Development Blocks Sacramento Ave. Public Right of Way

The proposed development has a site layout that puts two homes directly in the path of the existing Sacramento Ave. public right-of-way, thereby completely blocking public access. Private parties have no right to block a public right-of-way, and the Planning Commission cannot approve a development that does so.

The Applicant cannot eliminate the right of public access by constructing buildings that block the road. Throughout Marin County, there are privately owned and maintained streets that are public rights of way. Even though own the property, the owners are not permitted to build structures that block the public right of way, be they gates, walls, houses or whatever.

In order to eliminate the public right of way, the Applicant must follow the procedures for vacating a public right of way under California law. Although the Applicant has filed an Application to abandon the Sacramento Ave. public right of way, that application has not been approved, and there is no assurance that the right-of-way will ever be abandoned. At this time, Sacramento Ave. remains a public right of way, and the Planning Commission cannot approve Design Review of a project that would block it. In the proposed Resolutions for the Planning Commission, in 11 pages of conditions, I am unable to find any condition that the Sacramento Ave. public right-of-way shall have been abandoned.

Frankly, this entire process is now backwards. The Applicant should seek and obtain abandonment of the public right of way before proceeding with a lot line adjustment and design review. If the right of way is not abandoned, all the other matters are irrelevant and a waste of the time of the Staff, the Planning Commission and the public in addressing a hypothetical development.

Current Sacramento Ave. Public Right-of-Way Is a Valuable Community Asset That Should Be Preserved

The current public right of way on Sacramento Ave. has been open to the public for use for almost 100 years. There is significant evidence in the public record that it has been used in the past, and recently. A trail is plainly visible on the ground, and historical evidence, including aerial photographs, shows that it has actually been used as a trail and a road for decades. Although the Staff Report repeatedly calls it a "proposed trail," in fact it is an actual undeveloped trail that is used by many in the area. Numerous local residents, including my family, the Schinners, the Herrs, the Schneiders, the Blocks and the Sullivans, among many others, have stated in writing that they use the right of way for hiking, dog walking, and as a route to get to open space. In addition, the public right of way has even been used recently for vehicular travel. Any argument by the Applicant that the public never uses the current right of way is false.

Although the public right of way is currently a valuable public asset on its own, someday if trail easements or other rights were acquired, Sacramento Ave. could become a key piece in a long loop of open space connecting Sorich Ranch Park and the Terra Linda/Sleepy Hollow Divide, without the need to travel on over half a mile of paved streets, some of which are very steep and have no sidewalks.

It is clear that there is significant public opposition to the concept that a public right of way be blocked or abandoned to benefit a private developer. The neighbors and other members of the public have commented in by meetings, calls, letters and petition that they do not want to see the current public right of way blocked or abandoned.

The Applicant's Proposed Trail Easement Is a Completely Inadequate Alternative to the Existing Public Right-of-Way

The Applicant's proposed trail easement is a completely unacceptable substitute for the current Sacramento Ave. public right of way. The current public right of way is usable for both walking and vehicular travel, with a gentle 3-5% grade. It is available for use by the public at any time. By the addition of a switchback or two within the confines of the existing right of way area, and a bit of improvement, it could even be made accessible to the mobility impaired.

By contrast, the Applicant's proposed "trail" easement would require construction of a 5-story staircase up a 30% grade on an eroded hillside, with no allowance for safety landings. By definition, it would be inaccessible to the mobility impaired and bicyclists, and of course other vehicles. The Planning Commission should not be willing to trade an accessible, public trail for an easement that would forever block access by the mobility impaired. In addition, the cost of construction and maintenance of the alternative trail would be huge, and this trail development would require an extensive permitting process.

Once site work and grading begins at the proposed development, the current easy public access over Sacramento Ave. will become blocked, effective immediately. Thereafter, public access would remain blocked until funds are raised for the alternative trail and staircase, permits and approvals are obtained, and staircase and trail construction completed, if ever. The Applicant has expressly repudiated any responsibility for the cost of construction or maintenance, seeking permits, and liability for injuries or deaths that might occur on the steep staircase. No one else has agreed to incur the expense, effort or liability. There is no assurance that the alternative trail will ever be constructed or maintained. In no way is it an acceptable substitute for the current right of public access, which is open and usable today by the public at any time at little or no cost to maintain.

C. The Proposed Development Blocks Private Access Easements that Benefit Many of the Parcels in Short Ranch Subdivision Two

Sacramento Ave. was shown on the original subdivision map for Short Ranch Subdivision Two. Many of the legal descriptions of parcels located in the Short Ranch Subdivision Two reference the original subdivision map. Under California law, such parcels have the benefit of an easement appurtenant, which gives the owners of all of those parcels the right of access to use all of Sacramento Ave., including the undeveloped portion. If the Board of Supervisors decides to abandon the Sacramento Ave. public right of way, owners of such parcels have 2 years after abandonment in which to give notice that they will preserve that right of access. In addition, I believe that our property at 62 Miwok Drive, which abuts the existing public right of way, may also benefit from a private easement over undeveloped Sacramento Ave.

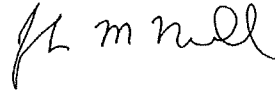
If the Planning Commission were to approve the proposed development, the development would completely block all of those private access easements, because the structures are sited on the

private access easements. Accordingly, the site layout would “adversely affect rights-of way”, in violation of Section 22.42.060.

Furthermore, by approving the proposed development, the County would be wiping out valuable private access easements. Owners that file the requisite notice within 2 years after abandonment of the public right of way could seek compensation for taking of or damage to private property because of loss of access. Since the number of potential claimants in the class is unknown at the time of abandonment, but could measure in the hundreds, the County could not know in advance how many claims the class might bring. The County can ill-afford to defend these claims, nor should it, when the private developer is the only person that benefits from the loss of public access.

Based on the foregoing, I would urge the Planning Commission to deny the Applicant’s Applications for Lot Line Adjustment and Design Review, and to not approve a CEQA exemption for the Lot Line Adjustment.

Very truly yours,

A handwritten signature in black ink, appearing to read "J M Newell". The signature is written in a cursive, somewhat stylized font.

John M. Newell



First American Title Company

**3203 West March Lane, Ste 110
Stockton, CA 95219**

July 29, 2015

Neil Sorensen, Attorney at Law
950 Northgate Drive, Suite 200
San Rafael, CA 94903
Phone: (415)499-8600
Fax: (415)491-9515

Customer Reference: John Newell

Title Officer: Christine Petersen
Phone: (209)929-4800

Order Number: 8706-4955201

Escrow Number: 8706-4955201

Property: Vacant Land, San Anselmo, CA

Attached please find the following item(s):

Guarantee

Thank You for your confidence and support. We at First American Title Company maintain the fundamental principle:

Customer First!

LITIGATION GUARANTEE

SUBJECT TO THE LIMITATIONS CONTAINED HEREIN, THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE.

First American Title Insurance Company
a Nebraska corporation, herein called the Company

GUARANTEES

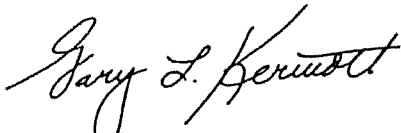
The Assured named in Schedule A against loss not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public records, as of Date of Guarantee shown in Schedule A:

1. The title to the herein described estate or interest is vested in the vestee named in Schedule A.
2. Except for the matters shown in Schedule B, there are no defects, liens, encumbrances or other matters affecting title to the estate or interest in the land shown in Schedule A, which matters are not necessarily shown in the order of their priority.
3. a) The current interest holders claiming some right, title or interest by reason of the matters shown in Part Two of Schedule B are as shown therein. The vestee named in Schedule A and parties claiming to have some right, title or interest by reason of the matters shown in Part Two of Schedule B may be necessary parties defendant in an action, the nature of which is referred to in Schedule A.
b) The current interest holders claiming some right, title or interest by reason of the matters shown in Part One of Schedule B may also be necessary parties defendant in an action, the nature of which is referred to in Schedule A. However, no assurance is given hereby as to those current interest holders.
4. The return addresses for mailing after recording, if any, as shown on each and every document referred to in Part Two of Schedule B by specific recording information, and as shown on the document(s) vesting title as shown in Schedule A are as shown in Schedule C.

THIS LITIGATION GUARANTEE IS FURNISHED SOLELY FOR THE PURPOSE OF FACILITATING THE FILING OF THE ACTION REFERRED TO IN SCHEDULE A. IT SHALL NOT BE USED OR RELIED UPON FOR ANY OTHER PURPOSE.

First American Title Insurance Company

BY



PRESIDENT

ATTEST



SECRETARY



SCHEDULE A

Liability: \$200,000.00

Fee: \$762.00

1. Named of Assured:

NEIL SORENSEN, ATTORNEY AT LAW

2. Date of Guarantee:

JULY 23, 2015 at 7:30 A.M.

3. This Litigation Guarantee is furnished solely for the purpose of facilitating the filing of an action to:

QUIET TITLE TO ESTABLISH ACCESS RIGHTS

4. The estate or interest in the Land which is covered by this Guarantee is:

FEE

5. Title to the estate or interest in the Land is vested in:

SHORT RANCH CO., A CALIFORNIA CORPORATION

6. The Land referred to in this Guarantee is described as follows:

Real property in the County of Marin, State of California, described as follows:

PARCEL ONE (APN: 177-172-18):

ALL THAT PORTION OF SACRAMENTO AVENUE, AS SAID AVENUE IS SHOWN ON THE MAP ENTITLED, "SHORT RANCH SUBDIVISION TWO," FILED JULY 3, 1912, IN MAP BOOK 4, AT PAGE 22, MARIN COUNTY RECORDS, WHICH LIES WITHIN THE BOUNDARIES OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGINNING AT A POINT ON THE EASTERLY LINE OF PASADENA AVENUE, DISTANT THEREON NORTH 3° 57' WEST 70.60 FEET FROM THE MOST NORTHERLY CORNER OF THE PROPERTY DESCRIBED IN THE DEED FROM LUISA SPAGNOLI TO JESSE J. FILIPPELLI, ET UX, RECORDED MARCH 15, 1955, IN VOLUME 928 OF OFFICIAL RECORDS, AT PAGE 177, MARIN COUNTY RECORDS; RUNNING THENCE, ALONG SAID EASTERLY AVENUE LINE, NORTH 25° 36' WEST 102.62 FEET, NORTH 17° WEST 133.33 FEET AND NORTH 37° 41' EAST 16.75 FEET; THENCE, LEAVING SAID LINE, NORTH 34° 39' WEST 41.94 FEET TO THE SOUTHEASTERLY LINE OF THE PROPERTY DESCRIBED IN THE DEED FROM LUISA SPAGNOLI TO M. V. KELLEY, ET UX, RECORDED NOVEMBER 6, 1953, IN VOLUME 835 OF OFFICIAL RECORDS, AT PAGE 375; THENCE, ALONG SAID LINE NORTH 72° 41' EAST 231.84 FEET TO THE CENTERLINE OF SACRAMENTO AVENUE, AS RELOCATED; THENCE, ALONG SAID CENTERLINE, SOUTH 12° 31' EAST 206.11 FEET, SOUTH 44° 26' EAST 111.06 FEET AND SOUTH 14° 41' EAST TO A POINT

WHICH BEARS SOUTH 87° 35' EAST FROM THE POINT OF BEGINNING; THENCE, LEAVING SAID CENTERLINE, NORTH 87° 35' WEST 265 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL TWO (APN: 177-172-19):

ALL THAT PORTION OF SACRAMENTO AVENUE, AS SAID AVENUE IS SHOWN ON THE MAP ENTITLED, "SHORT RANCH SUBDIVISION TWO," FILED JULY 3, 1912, IN MAP BOOK 4, AT PAGE 22, MARIN COUNTY RECORDS, WHICH LIES WITHIN THE BOUNDARIES OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGINNING AT A POINT ON THE EASTERLY LINE OF PASADENA AVENUE, DISTANT THEREON NORTH 3° 57' WEST 70.60 FEET FROM THE MOST NORTHERLY CORNER OF THE PROPERTY DESCRIBED IN THE DEED FROM LUISA SPAGNOLI TO JESSE J. FILIPPELLI, ET UX, RECORDED MARCH 15, 1955, IN VOLUME 928 OF OFFICIAL RECORDS, AT PAGE 177, MARIN COUNTY RECORDS; RUNNING THENCE, ALONG SAID EASTERLY AVENUE LINE, SOUTH 3°57' EAST 70.60 FEET TO SAID MOST NORTHERLY CORNER; THENCE, ALONG THE NORTHERLY LINE OF THE PROPERTY SO REFERRED TO AND ITS EASTERLY PROLONGATION, SOUTH 87° 35' EAST 255 FEET, MORE OR LESS, TO THE WESTERLY LINE OF A 40 FOOT ROAD, BEING THE WESTERLY LINE OF RELOCATED SACRAMENTO AVENUE; THENCE, ALONG SAID WESTERLY ROADLINE, NORTH 14° 41' WEST 75 FEET, MORE OR LESS, TO A POINT WHICH BEARS SOUTH 87° 35' EAST FROM THE POINT OF BEGINNING; THENCE NORTH 87° 35' WEST 245 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SCHEDULE B

Defects, liens, encumbrances or other matters affecting title:

PART ONE

1. General and special taxes and assessments for the fiscal year 2015-2016, a lien not yet due or payable.
2. All taxes - secured, supplemental, defaulted, escaped and including bonds and assessments are not available at this time. Please verify any/all tax amounts and assessment information with the County Tax Collector prior to the close of the contemplated transaction.
3. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
4. Any and all offers of dedications, conditions, restrictions, easements, notes and/or provisions shown or disclosed by the filed or recorded map referred to in the legal description.
5. Rights of the public in and to that portion of the land lying within any Road, Street, Alley or Highway.
6. Water rights, claims or title to water, whether or not shown by the public records.

PART TWO

7. The effect of a deed dated SEPTEMBER 11, 2014, executed by WELLS FARGO BANK, N.A., SUCCESSOR IN INTEREST TO AMERICAN TRUST COMPANY, as Grantor, to PAUL THOMPSON, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY, as Grantee, recorded SEPTEMBER 16, 2014, as Instrument No. INSTRUMENT NO. 2014-0038492 of Official Records.
8. The effect of a deed dated OCTOBER 7, 2014, executed by KATHLEEN THOMPSON, SPOUSE OF THE GRANTEE, as Grantor, to PAUL THOMPSON, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY, as Grantee, recorded OCTOBER 17, 2014, as Instrument No. INSTRUMENT NO. 2014-0043322 of Official Records.
9. A Deed of Trust to secure an original indebtedness of \$220,000.00 recorded OCTOBER 17, 2014 as INSTRUMENT NO. 2014-0043323 of Official Records.
Dated: OCTOBER 14, 2014
Trustor: PAUL THOMPSON, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY
Trustee: FIDELITY NATIONAL TITLE COMPANY
Beneficiary: BAYSIERRA CAPITAL FUND, LLC, AS TO A 220,000/220,000THS UNDIVIDED INTEREST

Affects: The land and other property.
10. A judgment for child, family or spousal support, a certified copy of which recorded FEBRUARY 1, 2005 as INSTRUMENT NO. 2005-0007622 of Official Records.
Court: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
Case No.: DA64190
Debtor: PAUL L. THOMPSON
Creditor: COUNTY OF SAN FRANCISCO DEPARTMENT OF CHILD SUPPORT SERVICES

NOTE: We are unable to determine if the above-mentioned debtor is the same person as PAUL THOMPSON SHOWN IN ITEMS NO. 7, 8 and 9 ABOVE

The map attached, if any, may or may not be a survey of the land depicted hereon. First American Title Insurance Company expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

SCHEDULE C

ADDRESSES

Paragraph Number:	Recording Information:	Mailing Address:
5 of SCHEDULE A	FEBRUARY 7, 1912, in BOOK 140 OF DEEDS, PAGE 466	NO ADDRESS AVAILABLE

ADDRESSES

Paragraph Number:	Recording Information:	Mailing Address:
7 of SCHEDULE B	SEPTEMBER 16, 2014, as INSTRUMENT NO. 2014- 0038492	PAUL THOMPSON 250 BEL MARIN KEYS BLDG A NOVATO, CA 94949

ADDRESSES

Paragraph Number:	Recording Information:	Mailing Address:
9 of SCHEDULE B	OCTOBER 17, 2014, as INSTRUMENT NO. 2014- 0043323	BAYSIERRA FINANCIAL, INC. P. O. BOX 1987 SANTA ROSA, CA. 95402

ADDRESSES

Paragraph Number:	Recording Information:	Mailing Address:
10 of SCHEDULE B	FEBRUARY 1, 2005, as INSTRUMENT NO. 2005- 0007622	ROBERT H. PEREZ MANAGING ATTORNEY DEPARTMENT OF CHILD SUPPORT SERVICES 875 STEVENSON STREET RM 125 SAN FRANCISCO, CA 94103-9576

SCHEDULE OF EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

1. Except to the extent that specific assurance are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
 - (a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.
 - (b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.
 - (c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.
2. Notwithstanding any specific assurance which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
 - (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps, or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.
 - (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.
 - (c) The identity of any party shown or referred to in Schedule A.
 - (d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee.

GUARANTEE CONDITIONS AND STIPULATIONS

1. Definition of Terms.

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
- (b) "land": the land described or referred to in Schedule (A) (C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A) (C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "date": the effective date.

2. Notice of Claim to be Given by Assured Claimant.

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the manner or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

3. No Duty to Defend or Prosecute.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

4. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

5. Proof of Loss Damage.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss damage. All information designated as confidential by the Assured provided to the Company, pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. Options to Pay or Otherwise Settle Claims: Termination of Liability.

In case of a claim under this Guarantee, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price. Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim Assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

7. Determination and Extent of Liability.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.

The Liability of the Company under this Guarantee to the Assured shall not exceed the least of:

(a) the amount of liability stated in Schedule A or in Part 2;

(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage Assured against by this Guarantee occurs, together with interest thereon; or

(c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance Assured against by this Guarantee.

8. Limitation of Liability.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter Assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.

(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

9. Reduction of Liability or Termination of Liability.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

10. Payment of Loss.

(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

11. Subrogation Upon Payment or Settlement.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

12. Arbitration.

Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

13. Liability Limited to This Guarantee; Guarantee Entire Contract.

(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.

(c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, and Assistant Secretary, or validating officer or authorized signatory of the Company.

14. Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at 3203 West March Lane, Ste 110, Stockton, CA 95219 .

Eric C. Schneider
+1.415.233.0035
eschneider3@me.com
November 18, 2015

Certified Mail, Return Receipt Requested

Mr. Brian Crawford
Director
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: Assessor's Parcels 177-172-18 and 177-172-19
Request to Record Notice of Violation under Subdivision Map Act

Dear Mr. Crawford:

I am the owner of 53 Miwok Drive in San Anselmo. My house is near to, and overlooks, Assessor's Parcel Nos. 177-172-18 and 177-172-19, known as a portion of undeveloped Sacramento Ave. in San Anselmo (Parcels 18 and 19).

Please note that I am currently traveling, so any correspondence back to me for the time being should go by email rather than regular mail. Alternatively, you can call my mobile number above or email me and we can make other arrangements for delivery of correspondence.

The purpose of this letter is to request that your department and the County Surveyor promptly take all necessary action to record with the County Recorder a Tentative, and then Final, Notice of Violation, pursuant to Marin Code Section 20.84.020 , against Parcels 18 and 19.

Parcels 18 and 19 have resulted from a division of property in violation of the Subdivision Map Act (California Government Code Section 66410 et seq.) and Title 22, Article VI (Subdivisions) of the Marin County Code.

As discussed below, I believe that there is an urgent need for the County Surveyor to record with the County Recorder a Tentative, and then Final, Notice of Violation, for the protection of potential purchasers of Parcels 18 and 19, as well as potential lenders.

Background

Parcels 18 and 19 are a portion of Sacramento Ave., which is a forty-foot wide road that was shown on the map entitled "Short Ranch Subdivision Two," filed July 3, 1912, in Map Book 4 at Page 22 (the "Subdivision Map"). Sacramento Ave. and the other streets shown on the Subdivision Map were dedicated by the developer, Short Ranch Co., to Marin County as public rights-of-way, but never accepted by the County.

As can be seen from the 1912 Subdivision Map, Parcels 18 and 19 are not shown as separate legal lots of record, nor for that matter is Sacramento Ave. In 2014, they were split off from what was originally "Sacramento Ave." Clearly, there was no intent in the Subdivision Map to create Sacramento Ave. or Parcels 18 and 19 as legal lots of record for purposes of sale, lease or financing.

The current owner of Parcels 18 and 19 is Paul Thompson. In March 2014, Mr. Thompson acquired two legal lots of record, APNs 177-172-09, and 177-172-10 and -20 (-10 and -20 comprising one legal lot of record). Parcel 18 runs through the middle and bisects the legal lot designated APN 177-172-10 and -20.

In the spring of 2014, Mr. Thompson publicly offered the two lots for sale for \$850,000, stating that he had "approved plans pending" for two houses, both of which were proposed to be sited in part on Parcel 18. It is my understanding that in 2014 a developer from Sacramento entered into contract with Mr. Thompson to purchase the properties, but it fell out of escrow.

In September 2014, Mr. Thompson purportedly acquired title to Parcels 18 and 19 by a deed from Wells Fargo Bank, N.A., dated September 11, 2014, recorded on September 16, 2014. After the deed was recorded, the County Assessor assigned APNs 177-172-18 and -19 to the property; however, no tentative map or Parcel Map was ever filed.

Shortly thereafter, on October 14, 2014, Mr. Thompson financed the parcels, borrowing \$220,000 from a lender. Under a deed of trust with BaySierra Capital Fund, LLC, he used Parcels 18 and 19 as part of the security for the loan.

Mr. Thompson is in the process of seeking approvals from the County to develop Parcels 18 and 19, together with his contiguous property. He has filed Applications for design review for two houses (DR 14-89 and DR 14-90) and a lot line adjustment (LLA 14-8). The County staff has declared these applications complete. The applications are pending before the County Planning Commission and could be approved at any time.

Also, Mr. Thompson has filed an Application for vacation of the public right-of-way on a portion of undeveloped Sacramento Ave. The staff of the Department of Public Works has processed the application, and the matter was forwarded to the Board of Supervisors on May 19, 2015, with a recommendation for approval. The Application is still pending before the Board of Supervisors and could be approved at any time.

Violation of the Subdivision Map Act

The sale of Parcels 18 and 19 to Mr. Thompson, and the financing of the parcels by Mr. Thompson, each violated the California Subdivision Map Act. Specifically, California Government Code Section 66499.30 (b) provides:

“(b) No person shall sell, lease or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, except for model homes, or allow occupancy thereof, for which a parcel map is required by this division or local ordinance, until the parcel map thereof in full compliance with this division and any local ordinance has been filed for record by the recorder of the county in which any portion of the subdivision is located.”

Marin Code Section 22.80.030 provides that a division of an existing parcel requires the filing and approval of a Tentative Map, and then a Parcel Map or Final Map:

“The Map Act and this Development Code require that the subdivision of an existing parcel into two or more proposed parcels be first approved by the County. In general, the procedure for subdivision first requires the approval of a Tentative Map, and then the approval of a Parcel Map or Final Map to complete the subdivision process.”

A review of the Subdivision Map from 1912 clearly shows that Sacramento Ave. was not intended to be a separate parcel for sale, lease or financing. It was a road that was dedicated to the County of Marin. As such, neither Sacramento Ave., nor any portion of it, can be sold, leased or financed without compliance with the Subdivision Map Act and the Marin Code.

Curtis Havel, Senior Planner, has stated that Parcels 18 and 19 are not recognized as separate, legal lots of record. Therefore, the sale of Parcels 18 and 19 by Wells Fargo Bank to Mr. Thompson must have been a division of real property owned by Wells Fargo Bank (i.e., Sacramento Avenue). The sale by Wells Fargo Bank of a portion of a legal lot of record, without complying with the applicable laws regarding subdivision, is unlawful.

Furthermore, the financing by Mr. Thompson of Parcels 18 and 19 with BaySierra Capital Fund, LLC is also unlawful. Violations of the Subdivision Map Act by the subdivider, or an owner of record of the property that has been unlawfully subdivided, are subject to penalties under California Govt. Code Section 66499.31.

Requirement to Record with the County Recorder a Tentative, and then Final, Notice of Violation Against Parcels 18 and 19

Government Code Section 66499.36 requires that, once a local agency has knowledge that real property has been divided in violation of the provisions of Subdivision Map Act or local ordinances, the agency *must* take action to file a Notice of Violation. See P. Weverka,

“California Subdivision Map Act and the Development Process”, CEB, 2014 (“Section 66499.36 is mandatory: The local agency must process a notice of violation whenever a violation occurs.”)

Similarly, Marin Code Section 20.84.020 requires that the County Planning Director verify the violation, and then it is the duty of the County Surveyor to record with the County Recorder a tentative notice of violation, and thereafter a final notice of violation:

“Whenever any person has knowledge that real property has been divided or has resulted from a division in violation of provisions of the Subdivision Map Act or Marin County Code, he shall report such violation to the planning director and county surveyor. After verification by the planning director, *it shall be the duty of the county surveyor to cause to be filed for record with the county recorder a tentative notice of violation and thereafter a final notice of violation as specified in this chapter.*”

Accordingly, I am requesting that you and the County Surveyor take all necessary steps to record with the County Recorder a Tentative, and then a Final, Notice of Violation against Parcels 18 and 19.

In addition, pursuant to Government Code Section 66499.34 and Marin Code Section 20.84.030, the County shall not issue any permit, or grant any approval necessary to develop Parcels 18 and 19, including any application by Mr. Thompson for design review, lot line adjustment, or vacation of a public right-of-way.

Immediate Recording of a Tentative Notice of Violation Is Required

As mentioned above, I believe that the Marin planning staff has already verified that Parcels 18 and 19 are not legal lots of record, and that the parcels resulted from a division of real property in violation of the Subdivision Map Act and the Marin County Code.

I would urge you to proceed *immediately* and have the County Surveyor record with the County Recorder a Tentative, and then Final, Notice of Violation, as is required by Marin Code Section 20.84.020. I would like to point out the following in that regard:

- Mr. Thompson previously listed the property site for sale for \$850,000, and I understand that in 2014 the property was under contract with a buyer. Although Mr. Thompson may have the right to void his purchase of Parcels 18 and 19 from Wells Fargo, anyone who buys the parcels from him would have no such right, under Government Code Section 66499.32(a). Immediately recording a Tentative and Final Notice of Violation would serve to alert all potential buyers that the parcels were illegally subdivided.
- Mr. Thompson has already financed Parcels 18 and 19 with a third party lender, in violation of the Subdivision Map Act and the Marin Code. He can seek to refinance with another lender at any time. Immediately recording a Tentative and Final Notice of Violation would alert all other potential lenders.

- Mr. Thompson has filed several development applications with the County, which have been processed by the County staff and declared complete. As discussed above, Applications for a Lot Line Adjustment, and for Design Review, are now pending before the County Planning Commission. An Application to Vacate the Sacramento Ave. public right-of-way has been processed by the County staff, and is now pending before the Board of Supervisors. The County is prohibited from issuing development permits and approvals with respect to land which has been illegally subdivided, and so a Notice of Violation should be recorded before the County is required to take action on the development applications.

Note that Marin Code 20.84.020 requires that the Tentative Notice of Violation be recorded with the County Recorder. It is not sufficient to simply publish a notice or send it to the owner. See Marin Code 20.84.020 ("it shall be the duty of the county surveyor *to cause to be filed for record with the county recorder* a tentative notice of violation and thereafter a final notice of violation").

The reason for requiring a recording of both the tentative and final notice of violation is to protect the public by alerting potential purchasers and lenders that a violation has been verified, even if the determination is not final. Section 20.84.020 states: "Such tentative or final notice of violation, *when recorded*, shall be deemed to be constructive notice of the violation to all successors in interest in such property."

A number of other residents in the immediate vicinity of Parcels 18 and 19, who are concerned about the possibility that there has been an illegal division of real property in the neighborhood, have expressed their support of this request. They are copied on this letter.

If you have any questions or wish to discuss this matter, please feel free to contact me at +1.415.233.0035, or email me at eschneider3@me.com. As mentioned above, I am traveling at this time, and so the best way to reach me is by phone or email.

Very truly yours,



Eric C. Schneider

cc: Curtis Havel, Senior Planner
Richard Simonitch, County Surveyor
Todd Barbee (Carmel Way)
Vicki Crane Block (Miwok Dr.)
Rick Block (Miwok Dr.)
Connie Ducey (Sacramento Ave.)

William Ducey (Sacramento Ave.)
John Herr (Miwok Dr.)
Robin McKillop (Miwok Dr.)
John Newell (Miwok Dr.)
Peter Pursley (Carmel Way)
Roseann Schneider (Miwok Dr.)
Brandon Sullivan (Miwok Dr.)
Carolyn Truelove (Miwok Dr.)
Randall Truelove (Miwok Dr.)

Eric C. Schneider
+1.415.233.0035
eschneider3@me.com

August 17, 2016

By Express Mail

Mr. Brian Crawford
Director
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: Assessor's Parcels 177-172-18 and 177-172-19
Request to Record Notice of Violation under Subdivision Map Act

Dear Mr. Crawford:

As you might recall, I am the owner of 53 Miwok Drive in San Anselmo. My house is near to, and overlooks, Assessor's Parcel Nos. 177-172-18 and 177-172-19, known as a portion of undeveloped Sacramento Ave. in San Anselmo (Parcels 18 and 19).

The purpose of this letter is to request, once again, that your agency, the planning director and the County surveyor promptly take all necessary action to record with the County Recorder a Tentative, and then Final, Notice of Violation, pursuant to Marin Code Section 20.84.020, against Parcels 18 and 19. As discussed below, if action is not taken to record a Tentative Notice of Violation against the parcels by *August 31, 2016*, I intend thereafter to take further action, which may include filing a Writ of Mandamus.

I had contacted you by letter dated November 18, 2015, regarding this matter (the "Violation Reporting Letter"). In the Violation Reporting Letter, I stated that the subject parcels had already been sold once, and had been used as security for a mortgage, in violation of Govt. Code Section 66499.30(b).

In response, you indicated that given the weight of contentions in the Violation Reporting Letter, Curtis Havel had referred my letter to the office of County Counsel for review, and that Curtis would keep me apprised on the outcome of that review. In the last 9 months, I received nothing from County counsel or Mr. Havel. It is my understanding that, as of today,

the staff and the office of County Counsel have taken no action at all on the Violation Reporting Letter.

I have been concerned that, if the County did not take action to record a tentative notice of violation immediately, there could be potential harm to the public. It appears now that these concerns were well founded.

- At some point in the last nine months, Paul Thompson has apparently sold the subject parcels to Tim and Beth Sasan, in violation of Govt. Code Section 66499.30(b).
- The Sasans have incurred the effort, time and expense to prepare and file a full development application for 187 Sacramento Ave., which lists the Sasans as the "Owners." The development application, filed on July 26, 2016, includes development of a driveway and retaining walls on Parcels 18 and 19, to provide for a mandatory fire truck turnaround. However, under Govt. Code Section 66499.34, the County cannot approve their plans as presently proposed because they include development of parcels that were created by illegal subdivision.
- Presumably, the Sasans bought the subject parcels, and prepared their development plans, on the assumption that they could finance both the purchase of the parcels, and the development and construction of a residence. However, financing of Parcels 18 and 19 is prohibited, under Govt. Code Section 66499.30(b).
- The Sasans are not able legally to resell Parcels 18 and 19 because of the prohibition in Govt. Code Section 66499.30(b).
- These are outstanding, serious violations of the County's zoning ordinances. I and others in the neighborhood are very concerned that by failing to enforce the County's subdivision ordinance, the subdividers and their transferees will be able to profit from their illegal activity, to the detriment of other owners in the neighborhood. As this development proceeds further, it will be increasingly difficult for the County to take action, and so it is imperative that enforcement commence immediately.

At this time, there is nothing in the public record which would have alerted the Sasans, their advisors, architects, designers, surveyors, lenders or title insurers to the fact that the subject parcels were created by an illegal subdivision. If the County had taken timely action to record a Tentative Notice of Violation last November, the Sasans and the public generally would have clearly been on notice that no one could legally develop, finance, or resell the parcels.

The County can no longer fail to fulfill its *mandatory* obligation to record a tentative, and then final, notice of violation. In the event that the Community Development Agency, the

planning director and the county surveyor do not take all requisite action to file *and record*¹ a Tentative Notice of Violation under Marin Code Section 20.84.020, by *August 31, 2016*, I intend thereafter to take further action, which may include filing a Writ of Mandamus to require them to do so.

Please note that a number of residents in the neighborhood are aware of the illegal subdivision, and are quite frustrated that no action has been taken on this in the last 9 months.

If you have any questions or wish to discuss this matter, please feel free to contact me at +1.415.233.0035, or email me at eschneider3@me.com.

Very truly yours,



Eric C. Schneider

cc: Neil Sorenson, Esq.
Supervisor Katie Rice

¹ Note that Marin Code 20.84.020 requires that the Tentative Notice of Violation be *recorded* with the County Recorder. It is not sufficient to simply publish a notice or send it to the owner. *See* Marin Code 20.84.020 ("it shall be the duty of the county surveyor to cause to be filed for record with the county recorder a tentative notice of violation and thereafter a final notice of violation").

Kilgariff, Kathleen

From: Shaun Church <shaun@shaunchurch.net>
Sent: Monday, December 9, 2019 1:12 PM
To: Kilgariff, Kathleen
Cc: Tejirian, Jeremy; Rice, Katie
Subject: Sasan Site Plan Review (P2522)

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Kathleen

I am Shaun Church, owner of 62 Miwok Drive, the property closest to the proposed development at the Sasan site on Sacramento Avenue in San Anselmo. I would like to object to this planned development.

1: Visual Impact

The development would be positioned insensitively. The location high on the slope means it would significantly, negatively and irretrievably damage the views of the neighbors and the beauty of the local area. The massive grading and large unattractive retaining walls of the very long driveway make the impact far worse. Much of this is avoidable. Locating the development lower down the slope and closer to the current end of Sacramento Ave would go a long way to reducing this visual impact.

2: Public Right of Way

The development would obstruct a public right of way, a road to my property. With heightened risk of fire, the potential to have an alternate means of exit from my property is even more important than before. Ceding this public right to a private developer is neither justified or necessary. To allow the property to impede the road violates a public right in order to increase a private profit. Again, this is avoidable. The property could be redesigned so it in no way whatsoever impedes the public right of way.

3: Other Considerations

I also strongly support the other objections raised by my neighbors, such as the environmental impact and the fire access along Sacramento Avenue.

I appreciate your role and that of the Planning Department is a tricky one. You need to find a balance between the need for property development on the one hand, and maintaining the beauty of Marin and the well-being of its existing residents on the other. I believe that, as it stands, the planned development overly prioritizes private profit over public good.

However, a much better balance would be possible through:

- (a) more sensitive design
- (b) the relocation of the development further down the slope and closer to the end of Sacramento Ave such that there is only ever one new development on the vacant lot/s

Thank you for your consideration.

Best regards,

Shaun Church

Kilgariff, Kathleen

From: PeterPursleyPhD . <peterpursley.ph.d@gmail.com>
Sent: Tuesday, December 24, 2019 10:22 AM
To: Kilgariff, Kathleen
Subject: Sasan Site Plan Review (P2522)

Follow Up Flag: Follow up
Flag Status: Flagged

Marin County Planning Commission
cc: Planner Kathleen Kilgariff

RE:Sasan Site Plan Review(P2522) - Mandatory Minimum Fire truck Turnaround Infrastructure Dimensions

Dear Planning Commissioners and Staff:

At the Board of Supervisors hearing last year on an earlier version of this project, San Anselmo resident Todd Barbee raised a major fire safety issue when he addressed the Board and submitted narrative and graphics showing the 20' minimum surface width required for fire truck turnaround infrastructure was not in the project as submitted. In fact, some portions of the surface over which a fire truck would pass were as narrow as 18 feet.

The validity of the minimum road width issue was not disputed at that BOS hearing, Though we can repeat and elaborate on our concerns in more detail if needed, we trust it is sufficient to briefly remind everyone this important fire safety issue is not resolved and that a resolution compliant with all applicable fire regulations and minimum standards could result in significant changes to excavation and removal calculations.

Peter Pursley
owner, 2 Carmel Way
San Anselmo

Todd Barbee
resident, 2 Carmel Way
San Anselmo

Brandon M. Sullivan, Ph.D.
Melissa R. Sullivan, M.D.
42 Miwok Drive
San Anselmo, CA 94960
brmsullivan@gmail.com
415-624-6056

December 24, 2019

Kathleen Kilgariff
Planning Division
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

RE: Sasan Site Plan Review P2522

Dear Ms. Kilgariff:

We are writing to express our concerns with the development proposal "Sasan Site Plan P2522" at Sacramento Avenue in San Anselmo, currently under your review. The current application represents the third attempt by the applicants to develop the vacant property at the end of Sacramento Avenue. In fact the current proposal is only a nuanced version of the previous application "187 Sacramento LLC Design Review and Tree Removal Permit" (previous proposal). In addition to community input, the previous proposal generated considerable comments, concerns and recommendations from both the Planning Commission at a hearing on June 12, 2017 and the Board of Supervisors in Resolution No. 2018-50 to deny the project.

Despite these efforts, the applicants have elected to submit a project plan that once again fails to meet seminal standards of the Marin Countywide Plan and Marin County Code (Title 22, Development Code: Site Plan Review and Discretionary Development Standards). The parameters of an appropriate and conscientious building site include among others: "most accessible, least visually prominent," "geographically stable portions of the site" and "screened by existing vegetation." The proposed construction site in this application fails to meet all of these thresholds and several others while exacerbating negative impacts. Thus, the "Sasan Site Plan P2522" must be denied.

Extensive Grading and Excavation

The building site is forced into the northern-most corner of property, far from the current terminus of improved Sacramento Avenue. Access to the site necessitates an excessive, unacceptable amount of grading and excavation in order to extend Sacramento Avenue over 300 feet across and down a steep, exposed grassy hillside. The Development Code (Section 22.16.030) is very clear, "grading...shall be held to a minimum." The Board of Supervisors found the amount of earthwork associated with the previous proposal excessive and advised the applicant accordingly. Interestingly, while the previous proposal estimated 1268 cubic yards of excavation, the current proposal under review estimates 2063 cubic yards, a greater than 60% increase on what was already deemed unacceptable.

Visual Impact

By siting the home on the steepest, most exposed portion of the hillside the development exacerbates the visual impact imposed on the neighboring property owners. The proposed home itself is isolated from existing development, oriented directly at Miwok Drive unlike existing homes along Sacramento Avenue, and fails to take advantage of the natural screening opportunity from the riparian canopy. Together, the home's location significantly disrupts the views, natural character and quality of life of the neighborhood.

Unfortunately, due to the site location, the home is not the most prominent, imposing development proposed. The roadway extension, including the network of associated retaining walls on both the uphill and downhill sides and dedicated parking spots, is completely exposed on the hillside. Existing homes along Sacramento Avenue and across the valley on Miwok Drive are thoughtfully sited to minimize intrusiveness and preserve the natural character of the surroundings, consistent with the goals and recommendations in the Development Code and Countywide Plan. The current site plan fails to meet such standards.

Stream Conservation Area

The Stream Conservation Area (SCA) presented is excessive and represents a blatant attempt by the applicant to restrict development to the upper, exposed portions of the current site. Several neighbors have stressed the significance of the ephemeral creek and associated riparian wildlife corridor. Understandably we feel it should be respected and protected accordingly. However, to date the lots throughout our neighborhood bordering this creek, including the property in this proposal, are not within the SCA policy zone

based on MarinMap GIS parcel reports and the Planning Department's "Stream Conservation Area Lookup" website tool.

Furthermore, the property lies within the County's City-Centered Corridor. Thus, if warranted, an SCA would be imposed 50 feet from the top of the stream bank, not 50 feet from the edge of the riparian canopy as presented in the proposal. These SCA guidelines are clearly outlined in the Marin Countywide Plan (BIO-4). The applicants' tactic is clear: exaggerate the SCA in order to restrict development potential to the north and northeast portions of the property.

Drainage element

Interestingly, the applicants continue to propose construction over the significant natural drainage element on the northern end of the property. The current site plan references and relies on a land survey performed by Stephen Jacobs in 2014 for the applicant. That survey described the northern area in question as: "drainage has four channels ground convoluted eroded and unstable." The "Site Constraints Plan" (A2.4) of the applicants' 2014 proposal to develop this property, which is still available on the Planning Division website, presents an exhaustive and correct mapping of the extend of the northern drainage element, stream bed, riparian canopy and a second significant drainage element passing through APN 177-172-09 on the southern end of the property. At that time, the applicant sited construction within the framework of the property's natural boundaries, even benefiting from the significant natural screening provided by the riparian canopy. Unfortunately the current site fails to respect these sensitive elements and is inconsistent with the siting guidelines of the Development Code and Countywide Plan.

Extension of Sacramento Avenue

Once again the current proposal includes construction on the Sacramento Avenue right of way for the *sole* benefit of the applicants. The roadway extension incorporates retaining walls, guardrails and a dedicated parking spot all along and across the public right of way, thus severing public access and diminishing the value of neighboring properties. Several properties in our neighborhood border a paper street/public right of way. In each case, the homes were constructed with respect for the boundaries delineated by the corresponding public right of way. Moreover, the preservation of paper streets is explicitly stated in the Countywide Plan. Similarly during a hearing in November 2015 the Planning Commission was very clear that the Sacramento public right of way was a significant public asset that must be preserved; yet the applicants continue to ignore this issue.

For years, the applicants have failed to demonstrate ownership of the land over undeveloped Sacramento Avenue. Yet simply by proposing construction throughout the public right of way, the applicants have somehow been allowed to absorb land they do not own and erroneously inflate the size of the site area. In doing so the applicants calculate and claim a 73,883 square foot site area of which they own *only* the combined area of APN 177-172-10 and 177-172-20. Fundamentally, a "site" as defined by the Development Code (Section 22.130.030) is predicated on ownership. The applicants have demonstrated ownership of 177-172-10, 177-172-20, the neighboring substandard parcel 177-172-09 and nothing else. If the applicants truly believed that they legitimately owned the paper street they would have continued with the abandonment proceedings initiated back in 2015.

Additional Site Option

Unfortunately the applicants continue to force development on the most exposed, steepest, and inaccessible site located at the northern end of the property. Following the Planning Commission hearing in 2017, our group of neighbors reached out to the applicants in an effort to compromise. Our proposal centered around moving the building site in a southwesterly direction on the property. This site would minimize, if not completely remove, all of the impediments associated with the current location. Additionally our proposal addresses all the of the recommendations set forth by the Planning Commission and the Board of Supervisors regarding the applicants' previous proposal.

Based on the issues raised here and additional comments submitted by our neighbors, we implore you to deny the current proposal.

Thank you for your time and consideration.

Sincerely,

Brandon and Melissa Sullivan

Kilgariff, Kathleen

From: R McK <remck1@yahoo.com>
Sent: Monday, December 23, 2019 10:03 AM
To: Kilgariff, Kathleen
Cc: John Herr (ARS); R M; Brandon Sullivan; Eric Schneider; Roseann Schneider; Rick Block; Block Vicki; Shaun Church; PeterPursleyPhD .; Todd Barbee; Rice, Katie; Melissa Sullivan; Elise Semonian
Subject: McKillop Herr Comments on Sasan Project P2522
Attachments: McKillop Herr Comments on P2522 12-23-2019.pdf; 2017 01 McKillop-Herr Slide letter.pdf; 2016 08 22 Town of San Anselmo Planning.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Kilgariff,

Please find our comments on the Sasan Project (P2522) attached.

Thank you for considering our input,

Robin McKillop and John Herr
54 Miwok Dr, San Anselmo

John Herr, PhD
Robin McKillop, MS, CPA
54 Miwok Drive, San Anselmo, CA 94960
remck1@yahoo.com jherr61@gmail.com

December 23, 2019

Delivered by email

Kathleen Kilgariff, Planner
Planning Division
Marin County Community Development Agency
3501 Civic Center Drive
San Rafael, CA 94903

Re: Opposition to Sasan Site Plan Review (P2522)

Dear Ms. Kilgariff,

We are writing to oppose the application for construction of a new residence on a vacant lot, (Parcels 177-172-20 and 177-172-10) at 187 Sacramento Ave in unincorporated Marin County, near San Anselmo.

Our main concerns are:

- [The proposed development fails to meet all Site Plan Review requirements;](#)
- [The proposed development blocks the public right of way with a fire truck turn around, an unnecessary parking space and a huge retaining wall;](#)
- [Allowing encroachment onto the public right of way encourages the exact type of development the Code is designed to prohibit;](#)
- [The lot area continues to be overstated on design plans;](#)
- [The project should not be exempt from CEQA;](#)
- [Another option exists that significantly reduces negative impacts.](#)

THE PROPOSED DEVELOPMENT FAILS TO MEET SITE PLAN REVIEW REQUIREMENTS

Section 22.52.050 of the Development Code states that in order for this project to be approved **all** Site Plan Review requirements must be met. These requirements specify that:

1. **Ground disturbance must be held to a minimum and every reasonable effort must be made to retain the natural features of the area, such as skyline and ridge tops, rolling land forms, knolls, significant native vegetation, trees, rock outcroppings, shorelines, streambeds and watercourses.**

This project entails disturbing a significant portion of the site (0.3 acres) to depths in excess of 15 feet. Over 2,000 cubic yards of soil will be excavated. Clearly this project entails substantial ground disturbance. Rather than preserving watercourses, this project proposes building a house on top of the drainage channel on the northern side of the property.

2. **Adequate landscaping is required if substantial ground disturbance is entailed.**

Although the proposed development clearly entails substantial ground disturbance, a landscaping plan is not included. Nor is there any mention of using appropriate tree species to help provide visual screening of the proposed home and extensive network of retaining walls.

3. **Discretionary Development Standards must be met.**

This project fails to meet many of the Discretionary Development Standards described in Section 22.16.030 of the Development Code, intended to enhance the character and preserve the natural heritage of the area.

C2. Driveway Length: Driveway length shall be minimized, consistent with the clustering requirements of Subsection F.1.

This project involves constructing a 185 foot long driveway plus a 130 foot extension of Sacramento Ave (315 feet in total) across an unstable and very steep hillside (40% slope). The excessive driveway and road lengths, and associated environmental impacts, could easily be reduced by simply locating the project closer to the existing paved portion of Sacramento Ave. The driveway length is significantly greater than what was proposed in earlier project proposals, but no justification has been provided for increasing the length several fold in this proposal.

D1. Clustering: Structures shall be clustered in the most accessible, least visually prominent and most geologically stable portions of the site, consistent with needs for privacy where multiple residential units are proposed. Clustering is especially important on open grassy hillsides...the prominence of construction shall be minimized by placing buildings so that they will be screened by existing vegetation, rock outcroppings or depressions in topography.

The applicants have selected a building location on the steepest area of the lot, located the farthest distance away from the developed end of Sacramento Avenue. This location maximizes visual and privacy impacts to the surrounding neighborhood, and is inconsistent with recommendations of the Marin Countywide Plan with respect to placement of new construction on hillsides. The proposed location for this house is on top of an existing drainage channel on the northern side of the property, and is at a higher elevation than almost all of the neighboring homes. Neighbors who attended the

meeting on February 24, 2016 provided feedback to the applicants that the placement of a house lower on the hillside to minimize impacts to the surrounding neighborhood would be more favorable. This feedback continues to be ignored.

I2. Materials and Color: Building materials and colors shall be chosen to blend into the natural environment unobtrusively, to the greatest extent possible.

Regardless of the materials and colors selected, it will be challenging to blend a house in this location into the natural environment unobtrusively. The house should be located below the paper road, close to the developed end of Sacramento Avenue.

J1. Grading: Grading shall be held to a minimum. Every reasonable effort shall be made to retain the natural features of the land: skylines and ridgetops, rolling land forms, knolls, native vegetation, trees, rock outcroppings, and watercourses. Where grading is required, it shall not create flat planes and sharp angles of intersection with natural terrain. Slopes shall be rounded and contoured to blend with existing topography.

The project proposes severe cuts across the open hillside and installation of an extensive network of concrete retaining walls, up to 8 feet in height, at sharp angles of intersection with the natural terrain. Construction of the proposed development will entail a major alteration of the existing terrain. We calculate that over 150 round trips by commercial dump trucks will be needed to excavate this volume of soil. Because the exposed surface of the retaining walls associated with this project face into the center of the property, they should be limited in height to 6 feet, rather than the 8 feet (Development Code Section 22.20.050). Environmental impacts from grading, installation of impervious surfaces and dump truck trips could be greatly reduced by locating the project closer to the developed end of Sacramento Avenue.

J2. Drainage: All construction shall ensure drainage into the natural watershed in a manner that will avoid significant erosion or damage to adjacent properties. Impervious surfaces shall be minimized.

The stated area of 12,214 sqft of impervious coverage (home + roadway + fire truck turnaround) would significantly increase rainwater runoff from the hillside. A single storm producing 4 inches of rain (such as our neighborhood experienced on 12/2/2019) would result in over 30,400 gallons of runoff from the impervious surfaces. Such a major influx of new runoff would likely cause serious erosion and siltation problems for the creek and could potentially damage the property and homes of downstream residents: the homes at 100 Pasadena Ave and 37, 41, 45, and 49 Salinas Ave all have the West Fork of Sorich Creek running directly through their yards, and very close to their houses.

J3. Trees, Vegetation and Wildlife Habitats: Every effort shall be made to avoid tree removal, or changes or construction that would cause the death of existing trees, rare plant communities, and wildlife habitats.

The hillside of the neighboring parcel directly to the east contains a mature stand of native deciduous oak trees and a huge heritage oak growing only 5 feet from the property line. Given the close proximity to proposed construction, it is highly probable that this magnificent tree could be damaged, as its canopy and root system extend well into the parcel proposed for development.

J4. Fire Hazards: Development shall be permitted in areas subject to wildfire threat only where the Review Authority determines there is adequate access for fire and other emergency vehicles, an adequate water supply, a reliable fire warning system, and fire protection service. Setbacks for firebreaks shall be provided if necessary. Projects shall comply with State fire safe requirements including defensible space and residential construction techniques.

Neighbors have raised serious concerns about the extreme fire danger in this area and the increased risk created due to additional development and substandard roadways. The fencing and an outbuilding on Carmel Way have *twice* burned to the ground. It's troubling that the proposed roadway width doesn't meet the minimum 20 foot requirement. The "Typical Roadway Section" of the design plans indicates a width of just 18 feet.

If the County allows this project to block the public right of way, an effective means of escape for neighboring properties or alternate access point for firefighting is eliminated. This is especially important with regard to the house at the end of Miwok Drive (APN 177-171-04) where access is very limited due to the steep canyon walls behind it.

J5. Geologic Hazards: Construction shall not be permitted on identified seismic or geologic hazard areas such as on slides, on natural springs, on identified fault zones, or on bay mud without approval from the Department of Public Works, based on acceptable soils and geologic reports.

The proposed residence straddles a deep drainage channel with geologic properties very similar to the section that slid into the creek in 2017 (Attachment A). As pointed out in 2016 by the San Anselmo Planning Director, unstable areas within the proposed development site have been previously documented (Attachment B). The geotechnical report submitted by the applicant uses old survey data prepared for a previous proposal, and may not accurately reflect the true slope stability of the current proposed building site. The applicants should be required to complete a current slope stability assessment, especially given the recent slides on the lots.

L. Plan Consistency: Project approval shall require findings of consistency with the Marin Countywide Plan and any applicable Community Plan that may have more restrictive standards than the preceding provisions of this Section.

The Marin Countywide Plan recognizes the importance of protecting the environment and our limited natural resources, and provides detailed goals and policies in this regard. Many of the features of the proposed project are completely out of alignment with Marin Countywide Plan objectives.

TRL-1.5: Preserve Paper Streets. Preserve undedicated or unaccepted (paper) streets where a paper street may provide access to trails or open space areas.

In a 2016 letter to the County Planning Division, the Town of San Anselmo Planning Director raises numerous concerns with any plans that block public access, stating that “the Town objects to fencing and gates on any trails, roads and rights-of-way that may ‘wall in,’ and preclude access to existing and future pedestrian trails” (Attachment B). The San Anselmo open space conservation planning area map contained in the San Anselmo General Plan identifies Sacramento Avenue as a “street used as a trail”. The proposed fire truck turnaround and associated 8 ft high retaining walls would completely block the public access to the Sacramento Avenue right of way.

BIO-1.1 and BIO-2.4: Protect Wetlands, Habitat for Special-Status Species, Sensitive Natural Communities, and Important Wildlife Nursery Areas and Movement Corridors

The undeveloped road and surrounding lots serve as an important wildlife corridor, allowing access to the riparian habitat along the creek at the southern boundary of the applicants’ parcels. The proposed location of this house maximizes negative impacts to the environment through extensive paving and grading, and proposed plans call for constructing the house over one of the drainage channels on the northern portion of the lot. The 2019 Biological Assessment performed by LSA Associates, Inc. states that no native wildlife nursery sites are located on or adjacent to the project site. However, no justification is provided for this finding. We have seen young and newly born deer, bobcats, foxes, wild turkeys and quail in the area. We also disagree with the Biological Assessment finding that the project will have no adverse effects on the stream. Erosion and degraded water quality are likely to result from the huge volume of runoff entering the stream as a result of excessive amounts of impervious surfaces.

DES-4.1: Preserve Visual Quality

The Countywide Plan recognizes that infrastructure and natural resources create communities with a distinctive and beautiful place that residents can call “home” for many generations, and that preserving vegetation, landforms, and views is vital to retaining a sense of place, and contributes to a high quality of life.

If the County allows the applicants to construct a huge fire truck turnaround and parking spot with retaining walls up to 8 feet in height across the public right of way,

our home value and quality of life will be negatively impacted. The third (entirely unnecessary) guest parking spot adjacent to the turnaround adds significantly to the bulk of this raised structure and blocks the right of way and our views. Any construction in the public right of way should be absolutely prohibited.

The orientation of the proposed house and numerous large windows facing directly towards Miwok Drive is obtrusive and at odds with the character for the neighborhood. The design and placement of this house will negatively impact the privacy of all residents on the east side of Miwok drive, and the large windows will produce excessive glare as they reflect the sun.

DES-4.a: Protect Key Public Views

The current design calls for carving up the hillside with extensive retaining walls that will be highly visible from surrounding properties. Such an extensive network of concrete walls cannot be blended unobtrusively into the open hillside.

DES-4.c: Regulate Mass and Scale

The mass and scale of the proposed development does not respect environmental site constraints or the character of the surrounding neighborhood. The extensive retaining walls and long driveway/road magnify the mass and scale on the open hillside. The upslope location compounds this effect. The proposed home's size of 3,974 sqft (3,429 sqft home plus 545 sqft garage) is much larger than houses in the surrounding neighborhood, many of which are tucked away from street view and shielded with mature vegetation. Analysis of 45 properties within a 600 foot radius of the proposed development shows an average home size of approximately 2,400 sqft and an average garage size of approximately 450 square feet. As such, the building size of the proposed project is more than 1.4 times larger than the average building size in the surrounding area. The FAR is calculated using an overstated lot size (see discussion below), and is more accurately calculated as 5.7 rather than 4.6. Since all development is limited to one of two parcels comprising this site, a more realistic FAR, using the parcel area for parcel 177-172-20 only, is 15.2 – much higher than the FAR of neighboring properties.

THE PROPOSED DEVELOPMENT BLOCKS THE PUBLIC RIGHT OF WAY

The public right of way is a valuable public asset that should be preserved. Following an earlier failed attempt to secure a formal abandonment of the public right of way, ***the current proposal seeks to obtain a de facto abandonment without going through the abandonment process by simply calling encroachments onto the public right of way "improvements" even though they are for the sole benefit of the developer, at the expense of the public and are beyond the nature of public roadway improvements.*** Private development of the Sacramento Avenue public right of way, including retaining walls, guardrails and a dedicated parking spot, impedes public use and blocks access to two neighboring properties, to the north (APN 177-172-21) and east (APN 177-220-24).

No attempt has been made to mitigate blocking public access. Past plans for developing this site have located the fire truck turnaround above the paper street, thereby reducing impacts to neighboring views and preserving full public access. Similarly, the private driveway should be shortened and removed from the public right of way.

Neighbors have raised multiple legal concerns about the CDA allowing the easement to be permanently blocked and have pointed out that California law prohibits a local jurisdiction from closing a public right of way easement solely to facilitate development by a private party.

ALLOWING ENCROACHMENT ONTO THE PUBLIC RIGHT OF WAY ENCOURAGES THE EXACT TYPE OF DEVELOPMENT THE CODE IS DESIGNED TO PROHIBIT

The County's own Development Code recognizes that no more than one house should be constructed on these steep lots, one of which is substandard. It's infuriating that the County failed to take action to implement its own development code when specifically asked by the Planning Commission to require a lot merger in 2017. It's equally infuriating that planning staff continue to allow private construction on the public right of way, thereby enabling exactly the type of development that the Code is designed to prohibit.

THE LOT AREA CONTINUES TO BE STATED INCORRECTLY ON DESIGN PLANS

Planning staff continues to allow the applicants to include the right of way as part of the lot square footage although the applicants do not own the public right of way. When recently asked about this, planning staff responded:

The Code defines Lot Area as, "The total area included within the lot lines of a lot, exclusive of adjacent street rights of way and portion of the property located below mean high tide that is subject to tidal action." Street is defined as, "a public right of way or access normally used for vehicular traffic, excluding vehicular driveways serving a single lot or parcel and trails or paths used for pedestrian access purposes only." As such, we have accepted the site area as presented.

This finding makes no sense. The Code states that the area of a lot **excludes adjacent street rights of way**. Sacramento Avenue is clearly recognized as a street right of way per County assessor records, and therefore, must be excluded from the lot area. Likewise, the deeds specifically exclude Sacramento Avenue from the area of this lot. Even your own planning reports list the cumulative area of these lots at 1.7 acres, clearly excluding the public right of way (e.g., Staff Report to the Planning Commission, 6/12/2017). Lastly, Planning Commissioners specifically called out the improper inclusion of the public right of way in the lot area and directed planning staff to correct this error (Planning Commission Meeting, 6/12/2017, video mark 2:24:0). Please do as the Planning Commission requested in 2017 and correct this ongoing misrepresentation.

Table 1: Lot Areas per Marin County Property Tax Records

<u>Lot</u>	<u>Parcel Number</u>	<u>Area (Sq Ft)</u>	<u>Area (Acres)</u>
1	177-172-20	22,652	0.52
	177-172-10	37,800	0.87
Total Area Lot 1		60,452	1.39
2	177-172-09	17,150	0.39
Total Area Lots 1 & 2		77,602	1.78 acres

THIS PROJECT SHOULD NOT BE EXEMPT FROM CEQA

The current proposal involves much more than the construction of a single house. It includes extending Sacramento Avenue 130 feet, constructing a 185 foot driveway and numerous large retaining walls up to 8 feet in height, and significant grading. An initial study should be performed under the California Environmental Quality Act, especially given the very steep slope, nearby creek, numerous unusual circumstances and the fact that an initial study was required when the two most recent homes were constructed at the end of Sacramento Avenue in 2002, on a steep hillside with properties very similar to the site in question.

Section 15300.2 of the CEQA Guidelines contains exceptions to the exemptions. Because there is one additional undeveloped lot at the end of Sacramento Avenue and this project necessitates the extension of major infrastructure including the road, and water and sewer utilities, it is a growth-inducing project and cumulative impacts need to be considered under Section 15300.2(b). During the planning commission hearing on November 9, 2015, both the Planner and Environmental Coordinator, provided considerable details regarding cumulative impact as it pertained to the lots at the end of Sacramento Avenue. The neighboring development project for 179 and 171 Sacramento Avenue (Pederson project) was subject to an initial study, in part, due to its "growth inducing" nature and cumulative impact. The same exception outlined in CEQA 15200.2 (b) should be applied to the current proposal.

Many of the environmental concerns neighbors have raised are also raised by the Town of San Anselmo Planning Director (Attachment B). She specifically notes the number of unusual circumstances at the project site and possible significant environmental impacts associated with the nearby creek and unstable soils. Along with our neighbors, we have raised many concerns about the County claiming that this project is categorically exempt under CEQA. The concerns we've raised in our previous letters relating to development on these lots continue to apply and should be considered.

ANOTHER OPTION EXISTS THAT SIGNIFICANTLY REDUCES NEGATIVE IMPACTS

For unknown reasons, the applicants continue to propose building on the steepest, most exposed and most distant location on the lot, maximizing impacts to the environment, neighborhood and community.

Soon after the Planning Commission hearing on June 12, 2017, our neighborhood group proposed a mutually beneficial development option to the applicants. This option involved locating a single house below the public right of way, closer to the paved end of Sacramento Avenue by merging the three parcels that comprise the site, as requested by the Planning Commission. Unfortunately, the applicants rejected this option, preferring to stick with their chosen location that maximizes negative impacts.

There's no reason the current project can't be moved to the southern end of the lot, below the paper road. Although the most recent development plans show a Stream Conservation Area setback over much of the lot (including this location) we believe the SCA has been drawn incorrectly. ***Rather than extending 50 feet from the riparian canopy, it should extend 50 feet from the stream bank, as required for lots between 0.5 acres and 2 acres in the City-Centered Corridor.*** This correction removes the SCA setback from the building location recommended by our neighborhood group, thereby presenting a much better option for locating this house to minimize impacts to the neighborhood, environment and community – without blocking the public right of way. Even if the SCA is drawn correctly, the Marin Countywide Plan (BIO-4.1) states that development could be allowed within the SCA if it would lessen environmental impacts as compared to development outside of the SCA, as is the case with this proposal.

Some of the main benefits of relocating the project to this location include:

- Siting the house lower on the hillside;
- Shortening the extension of Sacramento Avenue;
- Minimizing grading and excavating;
- Reducing impervious areas and resulting volumes of runoff;
- Minimizing the extent and height of retaining walls;
- Avoiding the steepest areas of the property;
- Building down slope rather than up slope;
- Orienting the house towards Mt. Tam;
- Retaining an important wildlife corridor;
- Preserving public access.

The current proposal raises serious concerns and should be rejected.

Sincerely,

Robin McKillop and John Herr

ATTACHMENTS:

A. Letter from John Herr and Robin McKillop to CDA, January 16, 2017

B. Letter from Elise Semonian, Town of San Anselmo Planning Director, to CDA, August 22, 2016

Robin E. McKillop, MS, CPA
John C. Herr, PhD
54 Miwok Drive, San Anselmo, CA 94960
remck1@yahoo.com jherr61@gmail.com

January 16, 2017

Delivered by email

Mr. Curtis Havel
Senior Planner, Planning Division
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: New Landslide at 187 Sacramento Avenue, San Anselmo, site of proposed development by 179 Sacramento LLC (Design Review, Second Unit and Tree Removal, projects P1407 and P1408)

Dear Mr. Havel,

We are writing to inform you that a significant new landslide occurred within the last week at 187 Sacramento Ave. (APN 177-172-20), directly downhill from the proposed building site. The slide is approximately 30 feet wide and 40 feet long, and has deposited a large amount of soil, rock, and uprooted vegetation into the West Fork of Sorich Creek, which runs adjacent to the parcel. The wall of debris has completely blocked the creek channel at one point, forcing the water to cut a new channel under it, along the western creek bank. The steep hillside immediately adjacent to the area that gave way appears to be unstable, leading to the possibility of additional slides during the storms forecast for the coming week. Photographs of the slide are provided below.



Fig. 1. New landslide at 187 Sacramento Ave sent soil and debris in to West Fork Creek below.



Fig. 2. Top portion of slide, below steep hillside development site. Measuring tape = 10 feet.



Fig. 4. The West Fork of Sorich Creek, completely blocked by slide debris.

This new landslide indicates the potential for fundamental instability of the entire steep hillside currently proposed for development. The proposed residence straddles a deep drainage channel with geologic properties very similar to the section that just slid into the creek. As pointed out by the San Anselmo Planning Director, unstable areas within the proposed development site have been previously documented (E. Semonian letter to County Planning Division, August 22, 2016). The geotechnical report submitted by the applicant uses old survey data prepared for a previous proposal, and may not accurately reflect the true slope stability of the current proposed building site. Furthermore, long sections of the hillside south of the building site show signs of previous landslides, and this area is proposed for road development by the applicant.

As we mentioned in our previous letter (December 21, 2016) to your office in opposition of this development, the proposed project will generate a tremendous amount of runoff due to the addition of approximately 17,000 sq. ft. of impervious surfaces. Our neighborhood just received 10.8 inches of rain in one week during the storms of January 6-12, 2017. Runoff from the proposed development during these storms would have totaled over 114,000 gallons of water. Adding this much runoff to already unstable hillsides would clearly increase the risk of landslides, environmental damage to the West Fork Creek, and flooding to homes and businesses downstream in the Ross Valley Watershed. Furthermore, the entirely insufficient level spreader proposed to mitigate runoff from the development is designed to release the water immediately uphill from the new landslide that just occurred!

It is unconscionable that a development with this much potential to harm an already fragile hillside riparian habitat be allowed to proceed. We urge you to reject the building proposal in its current form and direct the applicant to address the multitude of legitimate complaints that our neighborhood has raised in opposition to the project.

Thank you for consideration of our concerns.

Ford Greene
Mayor

Kay Coleman
Vice Mayor



Matt Brown
Councilmember

Tom McInerney
Councilmember

John Wright
Councilmember

525 San Anselmo Avenue, San Anselmo, CA 94960-2682
www.townofsananselmo.org
(415) 258-4600 | Fax (415) 459-2477

August 22, 2016

Curtis Havel
Senior Planner
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903
By email: CHavel@marincounty.org

Re: 187 Sacramento Avenue, San Anselmo, CA 94960, Parcel Numbers: 177-172-20,
177-172-10 and 177-172-00 and right-of-way Parcel 177-172-18

Dear Mr. Havel:

We would like to provide comments on the project proposed at 187 Sacramento Avenue. At this time, I have more questions than comments. I am hopefully that you may already have the answers to some of these questions.

Our primary concerns with the project are maintaining trail access and potential pedestrian paths and trail access for open space. The Town General Plan policies support providing residents with access to open space areas. Sacramento Avenue, as shown on the Short Ranch Subdivision Two (Book 4, Page 22), is identified as a "proposed trail right of way" on the Town Conservation and Trail map, attached. The project proposes development on Sacramento Avenue and the ½ acre parcel east of Sacramento Avenue (an area that does not appear on Short Ranch Subdivision Two). Creating a private parking spot, tall upslope and downslope walls, guardrails, and significant fill, essentially fences off and cuts off street access to Sacramento Avenue to the public or anyone in the Short Ranch Subdivision Two, who may have legal access over it.

Please require the applicant to submit a survey that identifies all lots, the location of all rights-of-ways, easements, and existing trails/roadways on the site, not just topographic information. There appears to be a lot of information missing from the topographic map, such as monuments referenced in most other surveys of the area. A 2013 recorded survey shows a second right of way on the site that is not shown on the site plans or topographic survey. There is clearly a road or path running across the site on aerial photos that is not shown on the topographic map. Does the County know if this road/trail runs through the Sacramento right-of-way or the "adjusted" Sacramento right of way?

Can the County provide the Town with information on the legal status of Sacramento Avenue and "Sacramento Ave. as relocated," which is not shown on the plans? Has there been any action to quiet title or extinguish the rights of all of the property owners in the Short Ranch Subdivision Two (including the Town) to the Sacramento Avenue right-of-way? Has the County relinquished its interests in the right-of-way? Does the public have access over the "relocated" right of way? Parcel 177-172-20 was not a part of the Short Ranch Subdivision Two. Has there been a determination that the development area has legal access to the Sacramento Avenue right of way?

It is difficult to determine where the various Assessor parcels referenced above originated, since they were not created by subdivision maps to which we have access. Can you explain the legal status of the lot(s)? Is there a title report available for review for all of the Assessor parcels? Are the various parcel numbers proposed for merger or already merged (not contiguous due to the roadway)? Has the County confirmed that APN 177-172-18 (the Sacramento right of way) falls under the boundaries of a zoning district?

I do not see setbacks identified on the plans. Setbacks are often measured from street lines and rights-of-way, otherwise improvement are located very close to public access when the rights of way are improved. Will setbacks be measured from rights-of-way or property lines?

What level of environmental review is proposed? We trust there was a geotechnical and slope stability study prepared for the site area and proposed development. It appears from online information, the 1976 Smith/Rice Geology maps, and even a recorded survey that there are unstable areas in the project area and creek. These could be unusual circumstances that would warrant environmental review.

The project intercepts natural drainage swales that take runoff from the watershed and increases impervious surfaces at the project area. The site is in the Ross Valley Watershed. Floods are common in the floodplain and low-lying areas of the Corte Madera Creek watershed, including residential and commercial areas in Fairfax, San Anselmo, Ross and Kentfield. Increased impervious area has the potential to increase peak stormwater runoff from the site discharging to Sovich Creek, a tributary to Corte Madera Creek. This could be a potentially significant environmental impact. The Town of San Anselmo has a policy of requiring property owners to limit the rate and volume of site runoff to existing conditions, or to reduce runoff. We encourage you to require a drainage plan that demonstrates the project will produce no net increase in the rate and volume of peak runoff from the site compared to pre-project conditions (no net increase standard), or reduce peak runoff.

The landscape plan proposes many trees and plants within the defensible space area. Staff would like confirmation that the applicable water district and the Ross Valley Fire Department will accept the landscape plan proposed or if modifications will be required, which may reduce screening landscaping and tree replacement. Sequoia sempervirens, while native to California, is not native to San Anselmo oak woodlands and may not have adequate fog/moisture to survive to a healthy mature age. A number of non-native grasses are proposed adjacent to open space lands. Please confirm these grasses are not invasive species. The Town objects to fencing and gates on

any trails, roads and rights-of-way that may "wall in," and preclude access to, existing and future pedestrian trails.

An 80-foot long level spreader is shown to cross the riparian area adjacent to the creek. No trees are identified in this area. However, aerial photos appear to show trees. Please confirm that no tree removal will be required near the creek in order to install the proposed level spreader.

The Town has plans to repave San Francisco Boulevard from the County to Sir Francis Drake. Please ensure any conditions of approval will allow the County to require repairs for any road damage caused by the project. We would appreciate being notified prior to the start of any large construction projects in the area.

Thank you for considering our questions and comments.

Sincerely,

A handwritten signature in cursive script that reads "Elise Semonian". The signature is written in dark ink on a light-colored background.

Elise Semonian
Planning Director

**THOMPSON
DEVELOPMENT INC.**

20177 AVENUE OF WEST EAY BUILDERS INC.

250 BEL MARIN KEYS BLVD, BLDG. A
NOVATO, CALIFORNIA 94949
415.456.8972 TEL.
415.382.9896 FAX

January 8, 2020

Delivered via Email

Attn: Kathleen Kilgariff
Community Development Department
County of Marin
3701 Civic Center Drive
San Rafael, CA 94903

RE: Sasan Site Plan Review
APN: 177-172-10 & -20
County Project ID P2522

Dear Ms. Kilgariff,

We are in receipt of your letter dated 11/19/19 containing your notification that the application for the above referenced Site Plan Review has been deemed complete. We have also reviewed the public comment letters submitted to your office in relation to this application. We would like to take this opportunity to address some of the concerns raised in these letters and explain our process leading up to preparing and submitting this application.

Many of the comment letters you've recently received pertain to a previous development application that is not currently under review. On 4/17/17 the Planning Commission approved with conditions a Design Review and Tree Removal Permit for a 4,077 SF single family home with a 637 SF attached garage. However, that decision was appealed and overturned by the Board of Supervisors at a hearing on 3/1/18. Many of the current neighborhood comment letters are dated between 2015 and 2017. All of these letters apply to the old development application.

Following the BOS Hearing on 3/1/18 which overturned approval, the Applicant met with County Planning Staff to discuss a simplified approach. Our design team worked diligently to reduce the size of the home significantly and reconfigure the site plan to meet all maximum retaining wall height requirements. In addition, our team redesigned the footprint of the home in order to save the Oak tree which was previously slated to be removed. Lastly, we commissioned a Biological Site Assessment which added the additional constraint of a 50' setback from the edge of the riparian canopy along the Western edge of the site. The site plan was also reconfigured to respect this setback.

A side by side comparison of the old and new projects is included below for your reference:

	Old Project	New Project
Home SF	4,077	3,429
Garage SF	637	545
Size of Retaining Walls	13' max	8' max
Tree Removal Permit	YES	NO
Design Review	YES	NO
Site Plan Review	NO	YES

This is our third development application for this site, and as the table above illustrates, it is far less impactful than the previous applications. In fact, the total size of the home and garage combined has decreased by 740 SF. As you know, because we reduced the size of the home and avoided other impacts as described above, you are considering a Site Plan Application and not a Design Review Application. Many of the comments submitted to your office by the public extend beyond the reach of what can be scrutinized under a Site Plan Application.

In accordance with the Site Plan Review process, we trust that Staff will scrutinize this application based primarily on the siting of the home. The project site has a myriad of constraints including the paper street, several Oak trees, the riparian setback, and steep slope. The current Site Plan places the access road, fire turn-around and single family home in the only location that is feasible given the long list of site constraints.

Thank you for all of the time and effort you have put into reviewing our application. We look forward to receiving your decision.

Sincerely,



Casey Clement

On behalf of Applicants

Tim and Beth Sasan

WHEN RECORDED MAIL TO:

Marin County Community Development Agency, Environmental Review Division
3501 Civic Center Drive, #308
San Rafael, Ca 94903

FILED

JAN 31 2020

SHELLY SCOTT
MARIN COUNTY CLERK
BY: L. VAWTEY Deputy

Attn: Don Allee

21-2020-022

THIS SPACE FOR RECORDER'S USE ONLY

Record without fee per G.C. 27383

NOTICE OF CEQA EXEMPTION

November 27, 2019

- 1. **Project Name:** Sasan Site Plan Review
- 2. **Project Location:** Assessor's Parcels 177-172-20 and 177-172-10
- 3. **Project Summary:**

The project entails the construction of a single-family residence, access improvements, and retaining walls on a vacant property in San Anselmo.

- 4. **Public Agency Approving Project:** Marin County Community Development Agency
- 5. **Project Sponsor:** Casey Clement
- 6. **CEQA Exemption Status:** CEQA Guidelines section 15303, Class 3
- 7. **Reasons for Exemption:**

The proposed residence is located on a legal lot of record in an urbanized area where sewer and other utilities are readily available. The project is located outside of any environmentally sensitive areas and would not result in potentially significant impacts to the environment.

Project Planner:

Reviewed by:



Kathleen Kilgariff
Planner



Rachel Reid
Environmental Planning Manager

C-20-70

POSTED 1-31-20 TO 3-1-20



Legend

- County Maintained Roads
 - Arterial
 - Collector
 - Interstate
 - Local
 - Other Freeway
- Condominium Common Area
- Mobile Home Pad
- City
- Community
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay
- Address
- Parcel Secured
- Stream - Perennial (NHD)
- Waterbody (NHD)
 - <all other values>
 - Estuary
 - Lake/Pond
 - Reservoir
 - Stream/River
 - Swamp/Marsh

Notes

0.0 0 0.02 0.0 Miles

NAD_1983_HARN_StatePlane_California_III_FIPS_0403_Feet
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THIS MAP IS NOT SURVEY ACCURATE



State of California - Department of Fish and Wildlife
2020 ENVIRONMENTAL FILING FEE CASH RECEIPT
 DFW 753.5a (REV. 12/01/19) Previously DFG 753.5a

[Print](#) [Start Over](#) [Finalize&Email](#)

RECEIPT NUMBER:
 21 — 01-31-20 — 022
 STATE CLEARINGHOUSE NUMBER (If applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY	LEAD AGENCY EMAIL	DATE 01-31-20
COUNTY/STATE AGENCY OF FILING Marin	DOCUMENT NUMBER C-20-70	
PROJECT TITLE		

SASAN SITE PLAN REVIEW

PROJECT APPLICANT NAME MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY	PROJECT APPLICANT EMAIL dallee@marincounty.org	PHONE NUMBER (415) 473-6269
PROJECT APPLICANT ADDRESS 3501 CIVIC CENTER DRIVE RM 308	CITY SAN RAFAEL	STATE CA
		ZIP CODE 94903

PROJECT APPLICANT (Check appropriate box)

- Local Public Agency
 School District
 Other Special District
 State Agency
 Private Entity

CHECK APPLICABLE FEES:

- | | | | |
|---|------------|----|-------|
| <input type="checkbox"/> Environmental Impact Report (EIR) | \$3,343.25 | \$ | 0.00 |
| <input type="checkbox"/> Mitigated/Negative Declaration (MND)(ND) | \$2,406.75 | \$ | 0.00 |
| <input type="checkbox"/> Certified Regulatory Program (CRP) document - payment due directly to CDFW | \$1,136.50 | \$ | 0.00 |
|
 | | | |
| <input checked="" type="checkbox"/> Exempt from fee | | | |
| <input checked="" type="checkbox"/> Notice of Exemption (attach) | | | |
| <input type="checkbox"/> CDFW No Effect Determination (attach) | | | |
| <input type="checkbox"/> Fee previously paid (attach previously issued cash receipt copy) | | | |
| <hr/> | | | |
| <input type="checkbox"/> Water Right Application or Petition Fee (State Water Resources Control Board only) | \$850.00 | \$ | 0.00 |
| <input checked="" type="checkbox"/> County documentary handling fee | | \$ | 50.00 |
| <input type="checkbox"/> Other | | \$ | |

PAYMENT METHOD:

- Cash
 Credit
 Check
 Other

TOTAL RECEIVED \$ 50.00

SIGNATURE

x *L. Vawter*

AGENCY OF FILING PRINTED NAME AND TITLE

MARIN COUNTY CLERK; L. VAWTER ARCCT1



CARLSBAD
FRESNO
IRVINE
LOS ANGELES
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROSEVILLE
SAN LUIS OBISPO

October 17, 2019

Casey Clement
Development Manager
Thompson Development, Inc.
250 Bel Marin Keys Blvd., Bldg. A
Novato, CA 94949

Subject: Biological Site Assessment for 187 Sacramento Avenue (APN 177-172-09, 10, 18, and 20)
Property, Marin County, California

Dear Ms. Clement:

At your request, LSA conducted a biological site assessment of the above-referenced property (hereafter referred to as the project site or site). This assessment follows guidance provided in the Marin Countywide Plan (CWP) to identify and assess any biological resources that could be impacted by the proposed development on this site including an assessment of special-status species, sensitive biological communities, and wetlands and other waters under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS), the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, and/or the California Department of Fish and Wildlife (CDFW). This report also analyzes the biological resources on the project site in regard to the California Environmental Quality Act (CEQA).

The CWP also includes sections that address the identification and protection of biological resources within the County of Marin (County). Specifically, the following policies and associated implementation programs from the CWP emphasize the conservation and enhancement of special-status species and their habitats, wetlands, riparian areas, and Baylands: Policy Bio 1.1-1.9, 2.1-2.9, 3.1-3.2, 4.1-4.20, and 5.1-5.10.

PROJECT LOCATION AND DESCRIPTION

The proposed project is located on a 1.72-acre project site (APN 177-172-09, 10, 18, and 20) at the terminus of Sacramento Avenue off San Francisco Boulevard, in unincorporated Marin County near San Anselmo (Figure 1). The proposed project involves construction of a single-family home and the associated extension of Sacramento Avenue. The construction and road extension would occur in a 0.95-acre portion of the project site (referred to in the assessment as the work area), and the remaining 1.26-acre portion of the project site would remain undeveloped.

METHODS

Prior to conducting the field survey in 2017, LSA searched the CDFW California Natural Diversity Database (CNDDDB) for records of special-status species occurrences and sensitive natural communities in the project site area (3-mile radius) (CDFW 2017). LSA conducted an updated CNDDDB search for this report update (CDFW 2019). LSA also reviewed Howell et al. (2007) for special-status

plant records in the area. LSA biologist/botanist Sheryl Creer surveyed the project site on June 2, 2017. Ms. Creer assessed current habitat conditions on the project site and evaluated the site's potential to support special-status plant and/or animal species and sensitive natural communities. She walked the entire project site, access road, and adjoining areas and assessed whether any biological resources were present that could be impacted by the proposed development. Plants and animals observed, land cover, and soil conditions were recorded in a field notebook. LSA biologist Eric Lichtwardt conducted a follow-up site visit on September 24, 2019 to assess if any environmental conditions had changed since the initial 2017 survey and to measure the diameter at breast height (DBH) of the large Oregon oak (*Quercus garryana*), off-site, but near the proposed home site (Figure 1). For the purposes of this report, special-status species are defined as follows:

- Species that are listed, formally proposed, or designated as candidates for listing as threatened or endangered under the federal Endangered Species Act
- Species that are listed, or designated as candidates for listing, as rare, threatened, or endangered under the California Endangered Species Act
- Plant species assigned to California Rare Plant Ranks 1A, 1B, and 2
- Animal species designated as Species of Special Concern or Fully Protected by the CDFW
- Species that meet the definition of rare, threatened, or endangered under Section 15380 of the California Environmental Quality Act guidelines
- Species considered to be a taxon of special concern by local agencies

RESULTS AND DISCUSSION

Existing Conditions

The project site is surrounded on three sides by residential development and on the north side by a vacant lot and beyond the vacant lot, Sorich Ranch Park, an open space area under jurisdiction of the Town of San Anselmo. Native grassland and coast live oak woodland are the dominant vegetation communities within and adjacent to the project site. An intermittent stream course runs from north to south along the western edge of the project site (Figure 1, attached). This stream has a scoured rocky bed, but does not support any typical riparian/wetland vegetation and likely only holds water after rain events. The existing conditions are described in greater detail in the sections below.

Botanical Resources

Botanical resources within the site include two natural communities comprised of native, non-native, and invasive species. A complete list of plant species observed is attached to this letter report.

Vegetation Communities

Coast Live Oak Woodland (*Quercus agrifolia* Woodland Alliance). Coast live oak woodland is present along an intermittent stream course (unnamed) within the project site. It forms a closed canopy over the watercourse that includes coast live oak (*Quercus agrifolia*) and California bay (*Umbellularia californica*). Most of the trees present are less than 12 inches in diameter at breast height (4.5 feet above ground surface) and were estimated to be between 20 and 30 feet tall. A few trees approached 30 inches in diameter. The understory consists of patchy shrubs with an herbaceous layer throughout. Species observed include Himalayan blackberry (*Rubus armeniacus*), French broom (*Genista monspessulanus*), poison oak (*Toxicodendron diversilobum*), hedge nettle (*Stachys* sp.), and common sanicle (*Sanicula crassicaule*). Other native species that occur in the understory include sword fern (*Polystichum munitum*), polypody fern (*Polypodium* sp.), and woodland strawberry (*Fragaria vesca*). Some of the associations within this alliance are considered sensitive natural communities by CDFW. However, the species composition of this alliance most closely matches the Coast Live Oak-California Bay-Poison Oak Woodland Association, which is not considered a sensitive natural community by CDFW.

Purple Needlegrass Grassland (*Nassella [Stipa] pulchra* Herbaceous Alliance). Purple needlegrass grassland occurs throughout the grassy portions of the project site. Purple needlegrass (*Nassella [Stipa] pulchra*) is co-dominant with slender wild oat (*Avena barbata*). In some areas soap plant (*Chlorogalum pomeridianum* var. *pomeridianum*) occurs as a co-dominant species. Additional grass species observed include Italian ryegrass (*Festuca perennis*), purple false brome (*Brachypodium distachyon*), and rattlesnake grass (*Briza maxima*). Species considered to be invasive are also present and include hairy cat's ear (*Hypochaeris radicata*), bristly ox-tongue (*Helminthotheca echioides*), fennel (*Foeniculum vulgare*), and Italian thistle (*Carduus pycnocephalus* subsp. *pycnocephalus*). Three individual trees also grow in the grassland and include Oregon oak, California buckeye (*Aesculus californica*), and coast live oak. The Oregon oak is approximately 2.7 feet in diameter and about 30 feet tall, the California buckeye is approximately 36 inches in diameter¹ and 15 feet tall, and the coast live oak is 7 inches in diameter and 10 feet tall. All associations within this alliance are considered sensitive natural communities by CDFW. However, due to the presence of invasive species as a result of human disturbance, this community does not represent a high quality stand of this association. As such, it would not be considered a high-priority vegetation type or sensitive natural community by CDFW.

Wildlife

The project site is located at the edge of a low-density residential area that would allow for the movement of wildlife along the stream course within the project site. As a result, the project site is likely to support common species of wildlife that occur in suburban Marin County. Birds observed during the field survey include American crow (*Corvus brachyrhynchos*), California scrub jay (*Aphelocoma californica*), and California towhee (*Melospiza crissalis*). The California scrub jay and

¹ As measured according to the Native Tree Preservation and Protection Ordinance (Sections 22.27 and 22.130 of Marin County Codes); at its most narrow point beneath the branching of the trunk and in this case below 4.5 feet.

California towhee are likely to breed on site in dense shrub and/or tree cover. Nesting habitat for other species of locally common birds also occurs on site.

Mule deer (*Odocoileus hemionus*) were observed grazing on the project site. Other urban adapted mammals such as striped skunk (*Mephitis mephitis*), Virginia opossum (*Didelphis virginianus*), and northern raccoon (*Procyon lotor*) would be expected to regularly occur on site. Gray foxes (*Urocyon cinereoargenteus*) and possibly coyote (*Canus latrans*) would occasionally cross the site.

POTENTIAL IMPACTS TO BIOLOGICAL RESOURCES

The following CEQA checklist summarizes potential impacts from the proposed project on biological resources on the project site. Each item is addressed in greater detail on the following pages.

Topics:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	Not Applicable
BIOLOGICAL RESOURCES					
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Topics:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	Not Applicable
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a) <i>Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?</i>					

Special-Status Plant Species

The CNDDDB search provided occurrence records for 15 special-status plant species within 3 miles of the project site (Table A). Of these 15 species, 10 are not expected to occur on the site due to a lack of suitable habitat (e.g., serpentine soils, closed-cone coniferous forest, etc.) (Table A). The remaining four special-status plants, pale yellow hayfield tarplant (*Hemizonia congesta* subsp. *congesta*), Napa false indigo (*Amorpha californica* var. *napensis*), two-fork clover (*Trifolium amoenum*), and north coast semaphore grass (*Pleuropogon hooverianus*), have been documented within 3 miles of the project area and could potentially occur within the project site based on the presence of suitable habitat. However, the site assessment was conducted within the known blooming period for all these species and the species were not detected. The proposed project will not have an adverse effect on special-status plants.

Table A: Special-Status Species Analyzed

Species/Common and Scientific Name	Status* (Fed/State/ Other)	Habitat Requirements	Analysis
PLANTS			
Asteraceae - Sunflower Family			
Congested-headed hayfield tarplant <i>Hemizonia congesta</i> subsp. <i>congesta</i>	--/--/1B.2	This annual herb occurs in valley and foothill grassland, sometimes on roadsides, from 66 to 1,837 feet in elevation. It blooms April through November.	There is one documented occurrence of pale yellow hayfield tarplant within 3 miles of the project site, and there is suitable habitat present. However, this occurrence was last documented in 1944 and congested-headed hayfield tarplant was not observed during the site assessment. Low potential to occur; not observed.
Santa Cruz tarplant <i>Holocarpa macradenia</i>	FT/SE/1B.1	This annual herb occurs on sandy or sandy-clay soils in coastal scrub, coastal prairie, and valley and foothill grassland, from 32 to 722 feet in elevation. It blooms from June through October.	There is one documented occurrence of Santa Cruz tarplant within 3 miles of the project site. However, there is no suitable habitat present within the project site, and this occurrence is possibly extirpated. Santa Cruz tarplant was not observed during the site assessment. Not expected to occur; not observed.
Tamalpais lessingia <i>Lessingia micradenia</i> var. <i>micradenia</i>	--/--/1B.2	This annual herb occurs on roadsides and in chaparral and valley and foothill grassland, typically in serpentine soils from 328 to 1,640 feet in elevation. It blooms June through October.	There are four documented occurrences of Tamalpais lessingia within 3 miles of the project site. However, there are no serpentine soils within the project site. Tamalpais lessingia was not observed during the site assessment. Not expected to occur; not observed.
White-rayed pentachaeta <i>Pentachaeta bellidiflora</i>	FE/SE/1B.1	This annual herb occurs in cismontane woodland and valley and foothill grassland, often in serpentine soils, from 115 to 2,034 feet in elevation. It blooms March through May.	There are two documented occurrences of white-rayed pentachaeta within 3 miles of the project site. However, there are no serpentine soils within the project site and one of the occurrences was last documented in 1946, and the other occurrence is considered extirpated. White-rayed pentachaeta was not observed during the site assessment. Not expected to occur; not observed.
Boraginaceae - Borage Family			
Bent-flowered fiddleneck <i>Amsinckia lunaris</i>	--/--/1B.2	This annual herb occurs in coastal bluff scrub, woodland, and valley and foothill grasslands. It blooms March through June.	There is one documented occurrence of bent-flowered fiddleneck within 3 miles of the project site; however, this species was not found on the project site during the site assessment. Not expected to occur; not observed.
Brassicaceae - Mustard Family			
Mount Tamalpais jewelflower <i>Streptanthus glandulosus</i> subsp. <i>pulchellus</i>	--/--/1B.2	This annual species occurs in serpentine soils in chaparral and valley and foothill grassland from 650 to 2,635 feet in elevation. It blooms May through August.	There are four documented occurrences of Mount Tamalpais jewelflower within 3 miles of the project site. However, there are no serpentine soils within the project site. Mount Tamalpais jewelflower was not observed during the site assessment. Not expected to occur; not observed.

Table A: Special-Status Species Analyzed

Species/Common and Scientific Name	Status* (Fed/State/Other)	Habitat Requirements	Analysis
Ericaceae - Heath Family			
Mount Tamalpais manzanita <i>Arctostaphylos montana</i> subsp. <i>montana</i>	--/--/1B.3	This perennial evergreen shrub occurs in chaparral, valley and foothill grassland, typically in rocky, serpentine soils from 525 to 2,493 feet in elevation. It blooms February through April.	There are two documented occurrences of Mount Tamalpais manzanita within 3 miles of the project site. However, there are no serpentine soils present within the project site. Mount Tamalpais manzanita was not observed during the site assessment. Not expected to occur; not observed.
Marin manzanita <i>Arctostaphylos virgate</i>	--/--/1B.2	This perennial evergreen shrub occurs in broad-leaved upland forest, closed-cone coniferous forest, chaparral, and north coast coniferous forest on sandstone or granitic soils. Its known range is 197 to 2,297 feet in elevation. It blooms January through March.	There is one documented occurrence of Marin manzanita within 3 miles of the project site. However, there is no suitable habitat present within the project site. Marin manzanita was not observed during the site assessment. Not expected to occur; not observed.
Fabaceae - Pea Family			
Napa false indigo <i>Amarpha californica</i> var. <i>napensis</i>	--/--/1B.2	This perennial deciduous shrub occurs in openings in broadleaved upland forest, chaparral, and cismontane woodland from 492 to 6,562 feet in elevation. It blooms April through July.	There are four documented occurrences of Napa false indigo within 3 miles of the project site, and there is suitable habitat present. This species was not observed during the site assessment. Low potential to occur; not observed.
Two-fork clover <i>Trifolium amoenum</i>	FE/--/1B.1	This annual herb occurs in coastal bluff scrub and valley and foothill grassland, sometimes in serpentine soils, from 16 to 1,362 feet in elevation. It blooms April through June.	There is one documented occurrence of two-fork clover within 3 miles of the project site, and there is suitable habitat present. However, this occurrence was last documented in 1933 and two-fork clover was not observed during the site assessment. Low potential to occur; not observed.
Fagaceae - Oak Family			
Tamalpais oak <i>Quercus parvula</i> var. <i>tamalpaisensis</i>	--/--/1B.3	This perennial evergreen shrub occurs in lower montane coniferous forest from 328 to 2,460 feet in elevation. It blooms March through April.	There is one documented occurrence of Tamalpais oak within 3 miles of the project site. However, there is no suitable habitat present within the project site, and this species was not observed during the site assessment. Not expected to occur; not observed.

Table A: Special-Status Species Analyzed

Species/Common and Scientific Name	Status* (Fed/State/Other)	Habitat Requirements	Analysis
Linaceae - Flax Family			
Marin western flax <i>Hesperolinon congestum</i>	FT/ST/1B.1	This annual herb occurs in serpentine soils in chaparral and valley and foothill woodland from 16 to 1,214 feet in elevation. It blooms April through July.	There is one documented occurrence of Marin western flax within 3 miles of the project site. However, this occurrence has not been observed since the late 1800s, and there are no serpentine soils within the project site. This species was not observed during the site assessment. Not expected to occur; not observed.
Malvaceae - Mallow Family			
Point Reyes checkerbloom <i>Sidalcea calycosa</i> var. <i>rhizomata</i>	--/--/1B.2	This perennial rhizomatous herb occurs in freshwater marshes and swamps near the coast from 10 to 246 feet in elevation. It blooms April through September.	There is one documented occurrence of Point Reyes checkerbloom within 3 miles of the project site. However, this occurrence has not been observed since late 1922, and there is no suitable habitat within the project site. This species was not observed during the site assessment. Not expected to occur; not observed.
Polygonaceae - Buckwheat Family			
Tiburon buckwheat <i>Eriogonum luteolum</i> var. <i>caninum</i>	--/--/1B.2	This annual herb occurs in sandy to gravelly serpentine soils in chaparral, cismontane woodland, coastal prairie, and valley and foothill grassland from sea level to 2,297 feet in elevation. It blooms May through September.	There are four documented occurrences of Tiburon buckwheat within 3 miles of the project site. However, there are no serpentine soils within the project site, and this species was not observed during the site assessment. Not expected to occur; not observed.
Poaceae (Gramineae) - Grass Family			
North coast semaphore grass <i>Pleuropogon haoverianus</i>	--/CT/1B.1	This perennial rhizomatous herb occurs in open and mesic areas in broadleaved upland forest, meadows and seeps, and north coast coniferous forest from 33 to 2,201 feet in elevation. It blooms April through June.	There is one documented occurrence of North Coast semaphore grass within 3 miles of the project site. However, this occurrence is considered to possibly be extirpated. This species was not observed during the site assessment. Low potential to occur; not observed.
ANIMALS			
Pallid bat <i>Antrozous pallidus</i>	--/--/SSC	Roosts in crevices in rock outcrops, in the expansion joints under bridges, buildings, mines, and hollow trees; forages on large terrestrial insects in open habitats.	There are three documented occurrences of this species within 3 miles of the project site. It may forage in the grassland on site, and limited roosting habitat may be present in tree hollows in the coast live oak woodland. Low potential to occur; not observed.

Special-Status Animal Species

The CNDDDB search provided occurrence records of eight special-status animal species within 3 miles of the project site. Seven of these species, tidewater goby (*Eucyclogobius newberryi*), foothill yellow-legged frog (*Rana boylei*), western pond turtle (*Actinemys marmorata*), California black rail (*Laterallus jamaicensis coturniculus*), San Pablo song sparrow (*Melospiza melodia samuelis*), Ridgway's rail (*Rallus obsoletus obsoletus*), and salt-marsh harvest mouse (*Reithrodontomys raviventris*), are associated with saltmarsh or freshwater aquatic habitats that are not present on or near the project site; therefore, these species would not occur and are not discussed in Table A. The pallid bat (*Antrozous pallidus*), a California Species of Special Concern (Table A), has been documented within 3 miles of the project site and could potentially forage on the site; however, the relatively small work area would not adversely affect foraging habitat for this bat and suitable day or maternity roost habitat is not present on the project site.

The trees and shrubs on the project site provide potential nesting habitat for various native bird species protected under the Migratory Bird Treaty Act and the California Fish and Game Code. Therefore, the project will comply with Marin County Code, Article III Site Planning and General Development Regulations, Section 22.20.040-F: Nesting Bird Protection Measures (Excluding Northern Spotted Owl). For the purposes of protecting nesting birds, outdoor construction activity that involves tree removal, grading, or other site disturbances in an area where a biological assessment has identified a high probability of the presence of nesting birds are subject to the requirements enumerated below before and during site preparation and construction activities, unless separate project mitigation measures have been adopted that override these requirements.

1. Construction activities that may disturb birds shall be conducted outside the nesting season, which generally occurs between February 1 and August 15.
2. If commencing construction activities between August 16 and January 31 is infeasible and ground disturbance or tree removal needs to occur within the nesting season, a pre-construction nesting bird survey of the property shall be conducted by a qualified biologist. If no nesting birds are observed by the biologist, no further action is required, and construction activities shall occur within one week of the survey.
3. If active bird nests are observed during the pre-construction survey, a disturbance-free buffer zone shall be established around the nest tree(s) until the young have fledged, as determined by a qualified biologist.
4. To delineate the buffer zone around a nesting tree, orange construction fencing shall be placed at the specified radius from the base of the tree within which no machinery or workers shall intrude. After the fencing is in place, there will be no restrictions on grading or construction activities outside the prescribed buffer zones, but County staff during routine site inspections may verify that fencing remains in place.
5. Pre-construction surveys will be documented and provided to the County by the qualified biologist. If construction fencing is required, photographs of the fencing, directly after installation, will be submitted to the County.

- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

The coast live oak woodland present within the project site is associated with the intermittent stream running along the western edge of the site (Figure 1), and is therefore considered riparian canopy by CDFW. However, construction within the work area, which is located outside the 50 foot setback from the edge of the riparian canopy, will not affect the stream or associated canopy as depicted on the Project Plans (attached). As previously discussed, the purple needlegrass grassland within the project site does not represent a high-quality occurrence of this vegetation community and would not be considered a high-priority or sensitive natural community by CDFW. There are no high-priority or sensitive natural communities within the project area and the proposed project will not have an adverse effect on these biological resources.

- c) *Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

The site does not have hydric soils and does not support any plant species typical of wetland habitats. However, the stream course running along the western edge of the project site has a scoured channel and distinct bed and bank and therefore is likely a water of the United States and under Section 404 jurisdiction; this would need to be verified by the U.S. Army Corps of Engineers. There is also a small drainage in the grassland in the northern portion of the project site (not mapped) that is not likely under 404 jurisdiction because it lacks hydric soils, a distinct bed and bank, and wetland vegetation. Because the proposed project will not have an adverse effect on the stream course (see attached Project Plans) the proposed project will not have an adverse effect on federally protected wetlands.

- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

The project site occurs at the edge of a low-density residential area and is adjacent to an undeveloped lot and adjacent to Sorich Ranch Park, an open space park. The wide spacing between the homes to the south and east and in the general area allows urban adapted wildlife to move freely through the area. The stream course located within the project site provides cover for such movement adjacent to the project site. The proposed project would not affect wildlife movement because there is ample space along the stream and in the area surrounding the homes. No native wildlife nursery sites are located on or adjacent to the project site and therefore, the proposed project would not have adverse effects on such biological resources.

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

Under the County's Native Tree Preservation and Protection Ordinance, the large Oregon oak (32.4 inches DBH), located just off site but near the proposed house, is considered a heritage tree protected tree because it is greater than 18 inches DBH. The tree protection zone shown on Project Plans was calculated as 1 foot diameter per each inch of trunk diameter DBH (i.e., 32.4 feet). The tree protection zone overlaps the edge of the project site, but not the development footprint (see Project Plans); therefore, the proposed project is not likely to adversely affect this tree. Additionally, the proposed project will not result in the removal of any trees and therefore the project will not conflict with the County's Native Tree Preservation and Protection Ordinance.

The CWP establishes Stream Conservation Areas (SCA) to protect streams and associated habitats from new developments. SCAs vary depending on the location and size of the property. The project site is located within the County's City Centered Corridor area (as identified in the CWP) and is less than 2 acres in size; therefore, according to the CWP, the SCA is 50 feet from the outer edge of riparian vegetation as shown in Figure 1 and the Project Plans (attached). The proposed project is located outside the SCA as depicted on the Project Plans. Thus, the project will not adversely affect the stream course nor conflict with County policies protecting streams.

- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?*

The project site is not within a Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan and therefore, would not conflict with any such plan.

SUMMARY

The project site has potential habitat for four special-status plant species known to occur within 3 miles of the site; however, the field survey was conducted within the blooming period of all these species and none were observed. The stream course on the project site is likely under Clean Water Act Section 404 jurisdiction; however, the proposed project will avoid this stream course and will have no adverse effects on areas within 404 jurisdiction. The coast live oak woodland within the project site is considered riparian canopy by CDFW, but the coast live oak woodland will not be impacted by the proposed project.

There is potential foraging habitat for the pallid bat, a California Species of Special Concern, within the project site, but the proposed work area is small relative to the large amount of potential foraging habitat in surrounding areas and therefore, the proposed project would not adversely affect this species. Birds protected under the MBTA and the CFGC could nest on the project site; however, the project will comply with Marin County Code, Article III Site Planning and General Development Regulations, Section 22.20.040-F: Nesting Bird Protection Measures (Excluding Northern Spotted Owl); therefore, the proposed project would not result in adverse effects to protected birds.

The proposed development is unlikely to adversely affect the heritage Oregon oak located just off-site, because the project footprint is outside the tree protection zone. The project site also includes

a Stream Conservation Area along the stream course; the project will avoid the SCA. In summary, the proposed project is not expected to result in significant impacts to biological resources.

If you have any questions, please contact me at 510/236-6810 or by email at eric.lichtwardt@lsa.net.

Sincerely,

LSA Associates, Inc.



Eric Lichtwardt
Associate/Senior Biologist

Attachments: Plant Species Observed
Figure 1: Stream Conservation Area and Protected Tree
Project Plans

Literature Cited

California Department of Fish and Wildlife (CDFW). 2017. *California Natural Diversity Database (CNDDDB), Commercial Version, June 2017*. California Department of Fish and Wildlife, Biogeographic Data Branch, Sacramento, California.

California Department of Fish and Wildlife (CDFW). 2019. *California Natural Diversity Database (CNDDDB), Commercial Version, August 2019*. California Department of Fish and Wildlife, Biogeographic Data Branch, Sacramento, California.

Howell, John T., Frank Almeda, Wilma Follette, and Catherine Best. 2007. *Marin Flora*. California Academy of Sciences and California Native Plant Society (Marin Chapter), San Francisco, California.

PLANT SPECIES OBSERVED
187 SACRAMENTO AVENUE PROJECT, MARIN COUNTY, CALIFORNIA

Angiosperms - Dicots	
Anacardiaceae - Cashew or Sumac Family	
<i>Toxicodendron diversilobum</i>	Western poison-oak
Apiaceae (Umbelliferae) - Carrot Family	
* <i>Foeniculum vulgare</i>	Sweet fennel
<i>Sanicula crassicaulis</i>	Gamble weed
Asteraceae (Compositae) - Sunflower Family	
<i>Baccharis pilularis</i> subsp. <i>consanguinea</i>	Coyote brush
* <i>Carduus pycnocephalus</i> subsp. <i>pycnocephalus</i>	Italian thistle
* <i>Helminthotheca echioides</i>	Bristly ox-tongue
* <i>Hypochaeris radicata</i>	Rough cat's-ear
<i>Madia elegans</i>	Common madia
Fabaceae (Leguminosae) - Legume Family	
<i>Acmispon wrangelianus</i>	Chilean trefoil
* <i>Genista monspessulana</i>	French broom
* <i>Medicago polymorpha</i>	California burclover
* <i>Trifolium hirtum</i>	Rose clover
* <i>Vicia</i> sp.	Vetch
* <i>Foeniculum vulgare</i>	Sweet fennel
Fagaceae - Oak Family	
<i>Quercus agrifolia</i> var. <i>agrifolia</i>	Coast live oak
<i>Quercus garryana</i>	Oregon oak
Gentianaceae - Gentian Family	
<i>Zeltnera muehlenbergii</i>	June centaury
Geraniaceae - Geranium Family	
* <i>Erodium botrys</i>	Broad-leaf filaree
Lauraceae - Laurel Family	
<i>Umbellularia californica</i>	California bay
Myrsinaceae - Myrsine Family	
* <i>Lysimachia arvensis</i>	Scarlet pimpernel
Plantaginaceae - Plantain Family	
* <i>Plantago lanceolata</i>	English plantain
Polygonaceae - Buckwheat Family	
* <i>Rumex acetosella</i>	Sheep sorrel
Sapindaceae - Soapberry Family	
<i>Aesculus californica</i>	California buckeye
Angiosperms - Monocots	
Agavaceae - Agave Family	
<i>Chlorogalum pomeridianum</i> var. <i>pomeridianum</i>	Soap plant
Juncaceae - Rush Family	
* <i>Juncus effusus</i>	Soft rush
Poaceae (Gramineae) - Grass Family	
* <i>Avena barbata</i>	Slender wild oat
* <i>Brachypodium distachyon</i>	Purple falsebrome
* <i>Briza maxima</i>	Rattlesnake grass
* <i>Bromus diandrus</i>	Ripgut grass
* <i>Bromus hordeaceus</i>	Soft chess
* <i>Cynosurus echinatus</i>	Hedgehog dogtail
* <i>Festuca perennis</i>	Italian ryegrass
* <i>Hordeum marinum</i> subsp. <i>gussoneanum</i>	Mediterranean barley
<i>Stipa pulchra</i>	Purple needlegrass

*non-native species

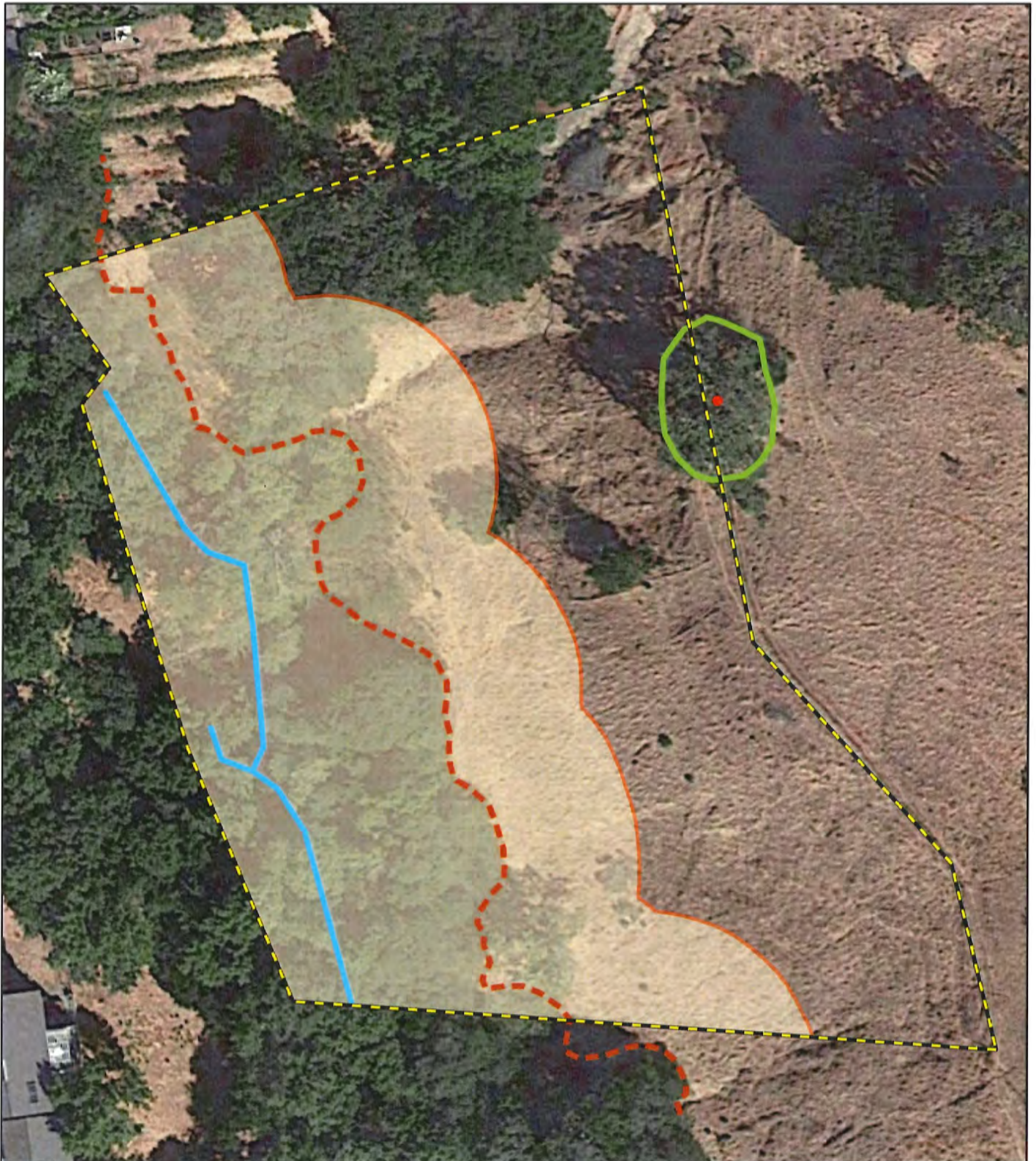


FIGURE 1

LSA

LEGEND

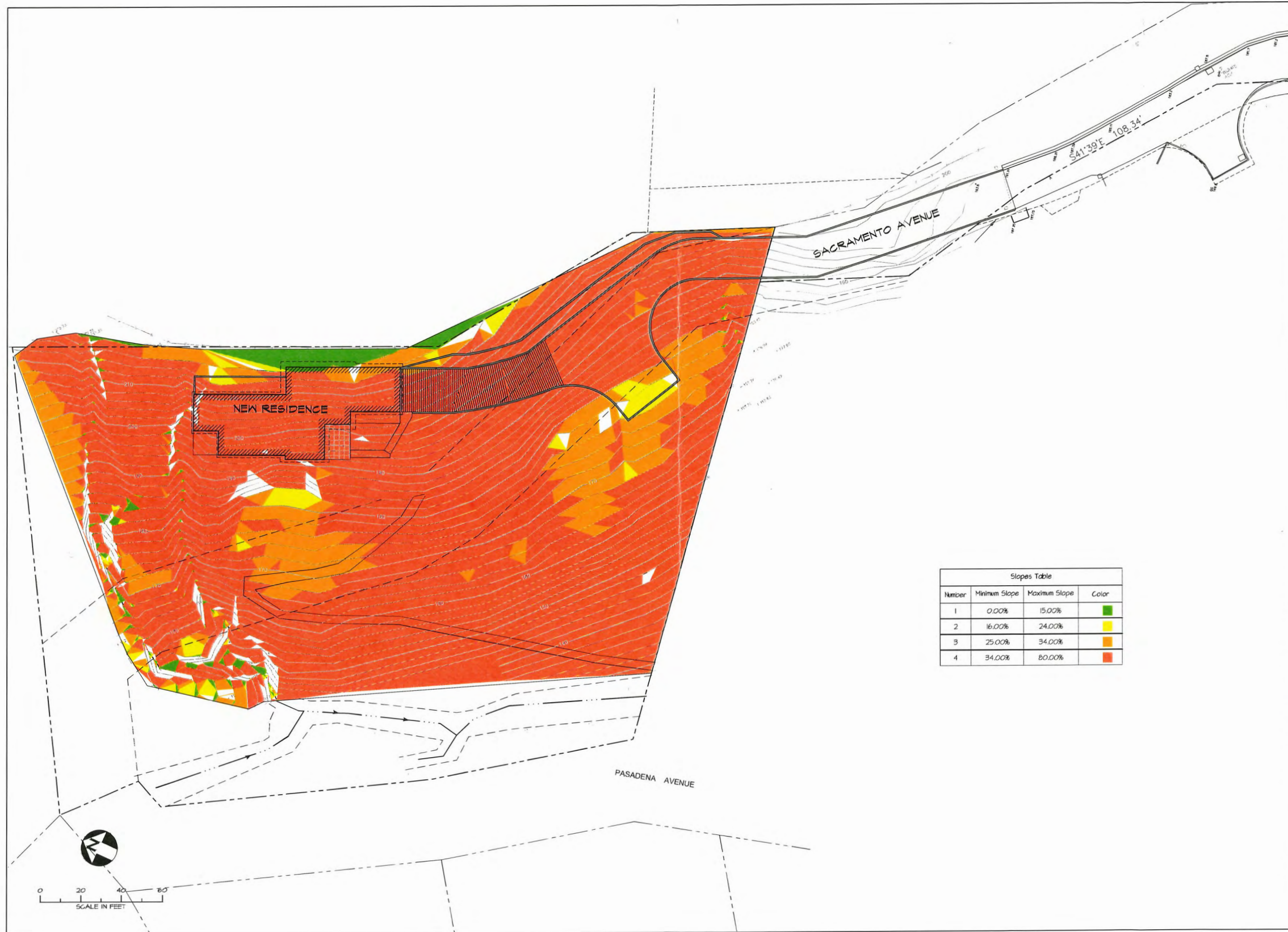
-  Property Boundary
-  Stream Course
-  Riparian Canopy
-  Stream Conservation Area
-  Oregon Oak (33.4" DBH)
-  Oregon Oak Canopy



SOURCE: Google Earth (2019).

I:\WBB1901\GIS\Maps\Bio Resource Assessment\Figure 1_Stream Conservation Area and Protected Tree.mxd (9/25/2019)

187 Sacramento Avenue
 San Anselmo, Marin County, California
 Stream Conservation Area and Protected Tree



Slopes Table			
Number	Minimum Slope	Maximum Slope	Color
1	0.00%	15.00%	Green
2	16.00%	24.00%	Yellow
3	25.00%	34.00%	Orange
4	34.00%	80.00%	Red

LTD Engineering, Inc.
 1050 Northgate Drive, Suite 315
 San Rafael, CA 94903
 Tel: 415.446.7497 Fax: 415.446.2419
 gdcarr@LTDengineering.com

PROCESSED
 NOT FOR CONSTRUCTION
 DATE: 9/26/2018

ISSUED FOR REVIEW
 NOT FOR CONSTRUCTION

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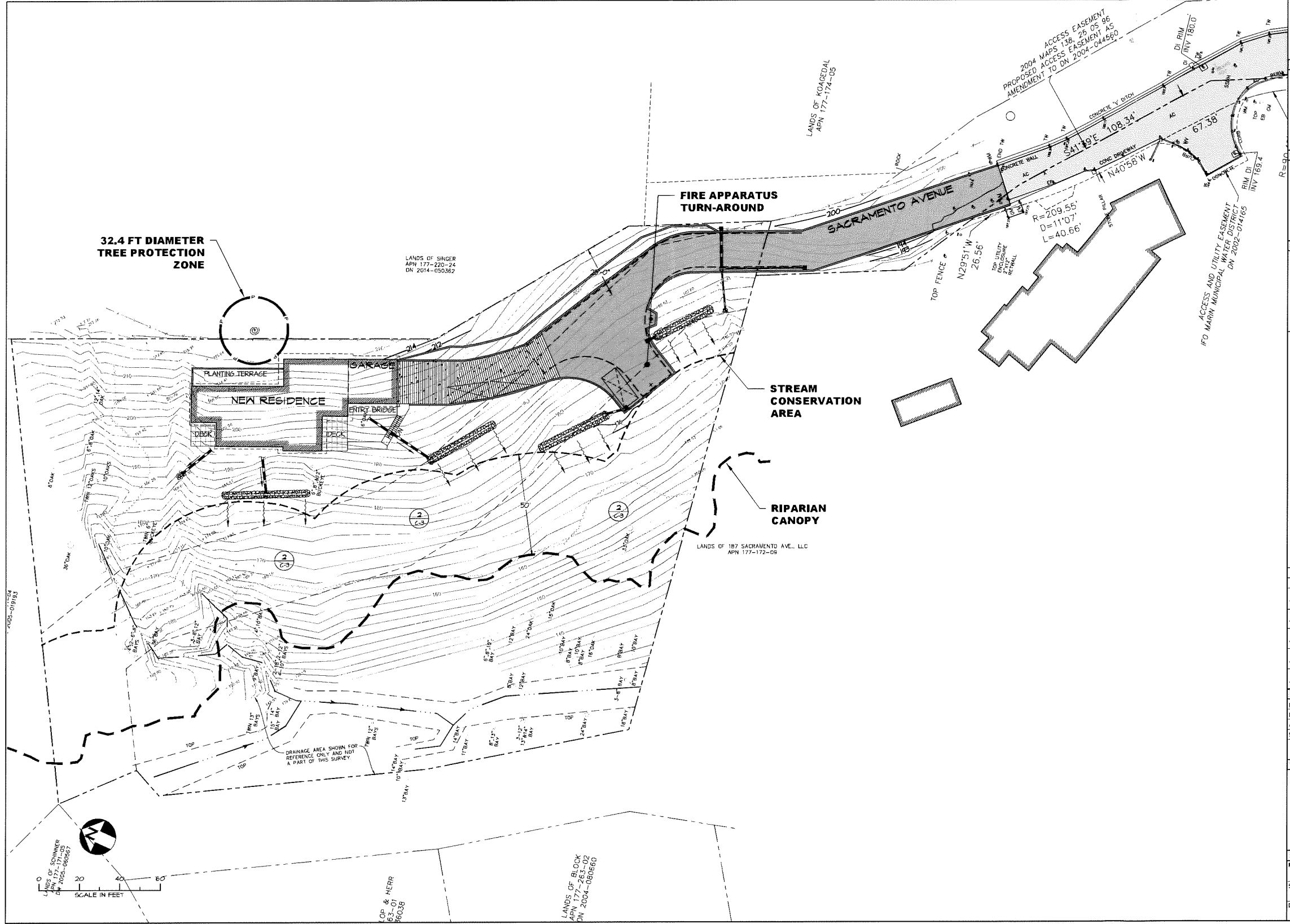
SASAN RESIDENCE
 APN 177-172-20
 187 SACRAMENTO AVENUE
 SAN ANSELMO, CALIFORNIA

REVISIONS		
NO.	DATE	DESCRIPTION
1	9/26/18	ISSUED FOR REVIEW

DESIGNED BY: G. DEARTH
 DRAWN BY: E. HAYDEN
 APPROVED BY:
 SCALE: AS SHOWN
 DATE: 9/26/2018 PROJECT NO: 465.001

SLOPE ANALYSIS

REVISION: 0
 SHEET NO: 2 OF 2
 DRAWING: ENV-2



LTD Engineering, Inc.
 1050 Northgate Drive, Suite 315
 San Rafael, CA 94903
 Tel. 415.466.7402 Fax 415.466.7419
 gde@ltdengineering.com



DATE:

ISSUED FOR
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NEW RESIDENCE
 APN 177-172-10 AND 177-172-20
 167 SACRAMENTO AVENUE
 SAN ANSELMO, CALIFORNIA

REVISIONS		
NO.	DATE	DESCRIPTION
1	9/26/19	ISSUED FOR REVIEW
2	1/30/20	NOT ISSUED
3	10/8/19	REVISED FIRE TURN-AROUND

DESIGNED BY: G. DEARTH
 DRAWN BY: E. HAYDEN
 APPROVED BY:
 SCALE: AS SHOWN
 DATE: 9/26/2019 PROJECT NO: 465.00

CONSTRAINTS ANALYSIS

REVISION: 0
 SHEET NO: 1 OF 2
 DRAWING: ENV-1



CARLSBAD
FRESNO
IRVINE
LOS ANGELES
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROSEVILLE
SAN LUIS OBISPO

March 3, 2020

Casey Clement
Development Manager
Thompson Development, Inc.
250 Bel Marin Keys Blvd., Bldg. A
Novato, CA 94949

Subject: Response to Comments for 187 Sacramento Avenue (APN 177-172-09, 10, 18, and 20)
Property, Marin County, California

Dear Ms. Clement:

This letter is a response to comments to the Marin County Community Development Agency concerning the above referenced project. LSA biologist/botanist Sheryl Creer conducted the initial field survey for this project on June 2, 2017 and LSA prepared a draft Biological Site Assessment (BSA), dated June 8, 2017. In preparation of an update to the BSA in 2019, LSA biologist Eric Lichtwardt conducted a follow-up site visit on September 24, 2019 to assess if any environmental conditions had changed since the initial 2017 survey. Additionally, Mr. Lichtwardt visited the project site on February 27, 2020 to photograph the erosional feature discussed herein. Sheryl Creer is an experienced field botanist with extensive expertise in the Bay Area. Mr. Lichtwardt has over 35 years' experience in California field biology and biological consulting and has worked throughout the Bay Area.

Comment 1: *The biological assessment failed to include the mapped wetlands and mapped streams in many areas of the property.*

LSA Response 1: This comment is in reference to the map in LSA's Biological Site Assessment not showing all the wetlands and streams indicated on the County of Marin GIS on-line map showing wetlands and streams. The County on-line GIS map states "data layers that appear on this map may or may not be accurate, current, or otherwise reliable." Based on our field survey, our determination is the County GIS mapped "riverine" feature running northwest on the property is actually an erosional feature or gully.

Our determination is based on the observation of the deeply incised eroded area with many exposed roots of the trees growing in and adjacent to the area; some roots extend completely across the eroded area (Photo 1, attached). In addition, the exposed rocks have sharp edges; there are no rounded rocks, cobbles, etc. that are indicative of long-term flowing water. Examination of older aerial imagery (Google Earth) suggests this gully has developed over the last 20 to 30 years as a result of ongoing erosion. This erosion may be due to over grazing upslope, contributions of several shallow upslope landslides, and the fractured rocky substrate in the area. There are no hydric soils in this eroded area, just bare rock and rock rubble, and no wetland vegetation is present. Overstory trees include coast live oak (*Quercus agrifolia*), Oregon oak (*Q. garryana*), and California

buckeye (*Aesculus californica*); all these tree species will occur along stream courses but are just as common in upland habitats away from streams.

Comment 2: *Although the unmapped drainage lacks riparian vegetation, we believe this is a significant hydrologic feature that should be recognized as an ephemeral stream. It is more significant than the mapped channel on lot 177-172-09.*

LSA Response 2: We assume the “unmapped drainage” referred to in the above is the feature running east to west across the northern portion of the project site that lacks tree cover (Photo 2, attached). This feature lacks a defined bed and bank and does not contain hydric soils. Therefore, it does not meet the definition of an ephemeral stream. In addition, no hydric vegetation is associated with this feature.

Comment 3: *In addition, the Countywide Plan states that an ephemeral stream is subject to SCA setback if it supports a sensitive natural community type (such as native grassland). This is a native grassland site with *Nassella pulchra* being co-dominant as stated in the Bio Assessment.*

LSA Response 3: Because the “ephemeral stream” referred to in Comment 2 does not have the typical characteristics to be defined as an ephemeral stream, the SCA setback would not apply to this feature. Purple needlegrass is also not generally associated with drainages including ephemeral streams; this vegetation type is typically in upland areas. The Biological Site Assessment also notes that due to the presence of a number of invasive non-native species including wild oat (*Avena barbata*), Italian ryegrass (*Festuca perennis*), purple false brome (*Brachypodium distachyon*), rattlesnake grass (*Briza maxima*), hairy cat’s ear (*Hypochaeris radicata*), bristly ox-tongue (*Helminthotheca echioides*), fennel (*Foeniculum vulgare*), and Italian thistle (*Carduus pycnocephalus* subsp. *pycnocephalus*) as a result of human disturbance, this community does not represent a high-quality stand of this association. As such, it would not be considered a high-priority vegetation type or sensitive natural community by the California Department of Fish and Wildlife.

If you have any questions, please contact me at 510/236-6810 or by email at eric.lichtwardt@lsa.net.

Sincerely,

LSA Associates, Inc.



Eric Lichtwardt
Associate/Senior Biologist

Attachment: Project Site Photos



Photo 1: Feature discussed in Comment 1
View up slope

Photo by Eric Lichtwardt
February 27, 2020



Photo 2: Feature discussed in Comments 2 and 3
View up slope

Photo by Sheryl Creer
June 2, 2017

LSA

Attachment

187 Sacramento Avenue
Marin County, California
Project Site Photos



Terra Spiritus Purgamus

SALEMHOWES ASSOCIATES INC.
GEOLOGISTS AND GEOTECHNICAL ENGINEER

Sacramento 187 12Aug
0603030

GEOTECHNICAL DESIGN MEMORANDUM

12 August 2019

TO: Marin County DPW Land Development

SUBJECT: 187 Sacramento Avenue, San Anselmo
Update of 2015 Geotechnical Report

We have returned to the site and did not observe any significant changes in the geomorphology that would warrant revising the recommendations and conclusions in our 15 May 2015 Geotechnical report.

Updates only involve changing the references to the 2016 CBC and the current section numbers in that code.

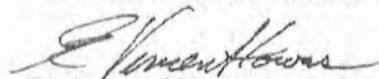
We will publish a new revised report incorporating the above when necessary for structural design

RECEIVED

AUG 13 2019

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

For SalemHowes Associates Inc.


E Vincent Howes

Geotechnical Engineer
GE #965 Exp. 31 Mar 20



1202 GRANT AVE. SUITE F
NOVATO, CALIFORNIA 94945
(415) 892-8528
howesgeo@aol.com



SALEM HOWES ASSOCIATES INC

GEOTECHNICAL ENGINEER AND GEOLOGISTS

1202 Grant Avenue, Suite F
Novato, CA 94945
415/892-8528
howesgeo@aol.com

REPORT
GEOTECHNICAL INVESTIGATION

SACRAMENTO AVENUE LOTS
SAN ANSELMO, CA.

14 May 2015



SALEM HOWES ASSOCIATES INC.
 GEOTECHNICAL ENGINEERS AND GEOLOGISTS

Sacramento Ave Lots Rpt

14 May 2015

Mr. Paul Thompson
 West Bay Builders, Inc
 250 Bel Marin Keys Blvd.
 Novato, CA 94949

Job : 0603030

Copy: Jochum Architects

SUBJECT: Report
 Geotechnical Investigation,
 Lots AP 177-172-09, 177-172-10 & 177-171-03
 Sacramento Avenue, San Anselmo

Contents

Page 2	Introduction and Summary
Page 3	Geology and Slope Stability
Page 3	Ground Water
Page 3	Earthquake Hazards and Seismic Design
Page 4	Site Conditions
Page 5	Foundation Conditions
Page 5	Design Recommendations
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Page 6	Drilled Piers
Page 8	Footings
Page 8	Retaining Walls
Page 9	Tiebacks
Page 10	Slab on Grade Construction
Page 11	Cuts and Fills
Page 11	Geotechnical Drainage Considerations
Page 13	Drainage checklist
Page 13	Construction Inspections
Page 13	Key Inspection Points
Page 13	Additional Engineering Services
Page 14	Limitations on the Use of This Report
	Attachments
	References

1202 GRANT AVENUE, SUITE F
 NOVATO, CALIFORNIA 94945
 (415) 892-8528
 FAX 892-8568

Introduction

This report presents the results of our geotechnical investigation of the proposed residential building site located at the above address. It conforms to the requirements of section 1803 in the 2013 California Building Code (CBC). The purpose of our investigation was to evaluate the geotechnical feasibility of the proposed development, assess the suitability of the building site, and provide detailed recommendations and conclusions as they relate to our specialty field of practice, geotechnical engineering and engineering geology. The scope of services specifically excluded any investigation needed to determine the presence or absence of issues of economic concern on the site, or of hazardous or toxic materials at the site in the soil, surface water, ground water, or air.

If this report is passed onto another engineer for review it must be accompanied by the approved architectural and structural drawings so that the reviewer can evaluate the exploration and data in the context of the complete project. Ground conditions and standards of practice change; therefore, we should be contacted to update this report if construction has not been started before the next winter or one-year from the report date.

For us to review the drawings for compliance with our recommendations the four following notes must be on the structural drawings:

- The geotechnical engineer shall accept the footing grade / pier holes prior to placing any reinforcing steel in accordance with the CRC requirements. Notify geotechnical engineer before the start of drilling. (If that isn't stated they may require inspections in accordance with CBC Section 1702-Definitions, "Special Inspections, Continuous". This would require a full time inspector during drilling.)
- Drainage details may be schematic, refer to the text and drawings in the geotechnical report for actual materials and installation.
- Refer to Geotechnical Report for geotechnical observation and acceptance requirements. Along with the structural drawings, to complete the review, we need the pertinent calculations from the structural engineer or the geotechnical design assumptions should be included on the drawings notes per requirements of the 2013 CBC.
- ***It is the owner's responsibility*** that the contractor knows of and complies with the BMP's (Best Management Practices) of the Regional Water Quality Control Board, available at www.swrcb.ca.gov, ↵ water quality ↵ stormwater ↵ construction

The fieldwork consisted of reconnaissance mapping of exposed geologic features on the site and in the immediate surrounding area and the excavation of nine test pits by a tract mounted excavator. Fieldwork was conducted in September of 2007 and reviewed in October of 2014. During this period we reviewed select geotechnical references pertinent to the area and examined stereo-paired aerial photographs of the site, which were available from Pacific Aerial Surveys in Oakland.

Summary

Albeit relatively steep, there is only a nominal seven feet of soil cover over stable bedrock. The road cuts will be bottomed in bedrock and the structure will have foundations which are supported on bedrock. Construction of the driveway near the gully banks will remove any soil down to stable bedrock. LTD Engineering has appropriately addressed the drainage in these areas and from the

existing improvements and proposed improvements along Sacramento Avenue, this is not in the scope of the geotechnical report. We have reviewed the civil drawings by LTD Engineering revision 2, 3 October 2014 and find that they incorporate our geotechnical recommendations. We judge that the proposed development as shown on the project drawings by Jochum Architects revision 07 April 2015 conforms to our geotechnical recommendations and is appropriate for the geologic and soils conditions at the site. Following standard Marin hillside construction practices the development of the driveway and house sites will not have a negative affect the stability of the hillside.

Geology and Slope Stability

The geology and geomorphology of the site has been mapped by others⁽¹⁾ as a collection of metasediment rocks (sandstone [ss], greenstone [gs] and chert [ch] of the mélange unit[fm] of the Franciscan geologic assemblage, which are covered by Debris Flow Landslide deposits (open arrow symbol on Rice's map⁽¹⁾). We did not see evidence of a old debris flow, rather it appears to be an area of continuous downslope creep of the surface zone (crinkly arrow⁽¹⁾). Rock is not exposed on the site; however soil and rock deposits resembling those described in the literature were encountered in all of the test pits.

The soil layer exhibits geomorphic features (hummocky ground, small scarps and circ cracks) that are representative of active soil creep. Except for one small local landslide in the vicinity of Test Pit E, there are no large ancient or potential landslide areas that would impact the proposed building sites. The active soil creep zone can be mitigated by creep resistant structures design to resist the active loads.

Ground Water

Ground water was not observed in the test pits during our investigation. However, ground water conditions vary with the seasons and annual fluctuations in weather. A general rise in ground water can be expected after one or more seasons of above average rainfall. Based on the limited time we have been able to collect ground water data on this site, it is not possible to accurately predict the range of ground water fluctuations in the future. Therefore, ground water sensitive structures such as basements, wine cellars and swimming pools should be designed to anticipate a rise in the water level that could potentially affect their function and stability. During construction it should be anticipated that ground water will be encountered at the rock/soil contact.

Earthquake Hazards and Seismic Design

This site is not subject to any unusual earthquake hazards, located near an active fault, within a current Alquist-Priolo Special Studies Zone or Seismic Hazards Zone as shown on the most recently published maps from the California Geologic Society. There were no geomorphic features observed in the field or on air photos, or geologic features in the literature that would suggest the presence of an active fault or splay fault traces. However, historically the entire San Francisco Bay Area has the potential for strong earthquake shaking from several fault systems, primarily the San Andreas Fault which lies approximately seven miles to the southwest and the Hayward/Rodgers Creek Faults, 10 miles to the northeast. The U.S. Geologic Survey presently estimates ⁽²⁾ there is up to 21 percent chance of a major quake (Magnitude 8) from 2000 to 2030 on the San Francisco Bay region segment of the San Andreas Fault. The probability is lower north of San Francisco and increases to the south. However, in the same period, there is a 32 percent chance of a major event (Magnitude 7) on the Hayward fault and Rodgers Creek Faults. The total 30-year probability of one or more large earthquakes occurring in the entire San Francisco region is 70 percent (see Plate 1). Based on the bedrock and soils observed at the site, we do not anticipate those seismically induced hazards,

specifically: liquefaction, settlement and differential compaction, landsliding, and flooding are present. Generally speaking structures founded on bedrock fare far better during an earthquake than structures on soil, fill or bay mud.

For California Building Code design purposes on this site the top 100 feet of the ground has an average Soil Profile Site of Class B per section 1613.3.2. Seismic Design Site Class and ground-motion parameters, as required by CBC and ASCE 7 may be obtained from the calculator on the USGS web site at <http://earthquake.usgs.gov/research/hazmaps/design>. For seismic design categories D, E or F refer to the Exception in the CBC. In California, the standard of practice requires the use of a seismic coefficient of 0.15, and minimum computed Factor of Safety of 1.5 for static and 1.1 to 1.2 for pseudo-static analysis of natural, cut and fill slopes.

Retaining walls which support tall rock cuts will stand vertical with only nominal shoring to prevent weathering. This inherently means there is no active pressure in the rock zone. Therefore, only a nominal value for active pressure is required to support the rock. For seismic analysis the dynamic loads from a slope only occur from the Rankine wedge, which in soils is typically 30 to 40-degrees (from the vertical) in a ϕ type material. However, with rock slopes the Rankine wedge is non-existent to near vertical. Consequently there is no measurable seismic force from the slope on the wall in a rock section. In a thin soil section (< 4-ft) the active pressure of 45 lbs/ft³ is sufficiently conservative to account for any additional seismic loading. In thicker soil sections a simple approach⁽⁶⁾ is to include in the design analysis an additional horizontal force P_E to account for the additional loads imposed on the retaining wall by the earthquake, as follows:

$$P_E = \frac{3}{8} (\alpha_{max}) \gamma_t H^2 \text{ (acting at a distance of } 0.6H \text{ above the base of the soil layer)}$$

Where H = height of soil section, $\alpha_{max} = 0.15$ & γ = unit weight of soil in slope. Because P_E = is a short-term loading it is common to allow a $\frac{1}{2}$ increase in bearing pressure and passive resistance for earthquake analysis. Also, for the analysis of sliding and overturning of the retaining wall it is acceptable to lower the factor of safety to 1.1 under the combined static and earthquake loads⁽⁷⁾.

As a homeowner there are a number of measures one can take to limit structural damage, protect lives and valuable objects in the event of a major earthquake. To be prepared and understand the mechanics of earthquakes we strongly recommend that you purchase a very practical book entitled "Peace of Mind in Earthquake Country" by Peter Yanev. This book is written for the homeowner and, while currently out of print, used copies are available in paperback (Chronicle Books/S.F.) from Amazon.com and other locations.

Site Conditions

The bedrock is overlain by an average of ten feet of hard soil, which stood vertically in ten foot deep test pits during our exploration. Nevertheless, it is soil and compliance with CalOSHA regulations any cuts over five feet high will require shoring. While the soil is hard, only in Test Pit D the backhoe encountered refusal. The rock, although hard, is normally highly fractured and can usually be drilled/excavated by commonly available equipment. Ground conditions were reasonably consistent over the site and the typical site section on Drawing B will be encountered at both house sites and the access driveways.

Structures with foundations on rock will not experience any measurable settlement and there are no conditions that require provisions to mitigate the effects of expansive soils, liquefaction, soil strength or

adjacent loads. The slope setback provisions in section 1806 of the UBC do not apply to foundations on slopes that are bottomed in bedrock.

Foundation Conditions

Sandstone bedrock lies between the surface and six feet below. The depth to the top of bedrock at the location of the test pits is shown on Drawing A. The overlying soil is stiff and will stand in vertical cuts up to five feet when dry. During winter construction shoring will be required. In wet weather ground water can be expected at the soil/rock contact. The rock, albeit hard, is generally highly fractured and can normally be excavated by common means; however, hard massive areas may be encountered that could require the use of an excavator mounted "hoe ram". Rock slopes over six feet high will require shoring. This is normally most economically accomplished by rock doweling and covering with wire mesh in lifts as the excavation progresses downward. Rock slopes will stand vertically for short periods of time; however, as they are exposed to air and start to dry out block failures will occur; this can happen as soon as the night after excavation.

Design Recommendations

Bedrock lies between seven and ten feet below the surface in the project area. The depth to the top of bedrock at the location of the test borings is shown on Drawing A. The overlying soil is stiff and will stand in vertical cuts up to five feet when dry. During winter construction shoring will be required. In wet weather ground water can be expected at the soil/rock contact. The rock, albeit hard, is generally highly fractured and can normally be excavated by common means; however, hard massive areas may be encountered that could require the use of an excavator mounted "hoe ram" or core barrel. CalOSHA regulations require shoring on rock cuts over six feet. This is normally most economically accomplished by rock doweling and covering with wire mesh in lifts as the excavation progresses downward. Rock slopes will stand vertically for short periods of time; however, as they are exposed to air and start to dry out block failures will occur; this can happen as soon as the night after excavation.

No laboratory testing was performed; since all foundations will be in rock, soil properties, such as moisture and density, do not provide any relevant engineering data for foundation design. In view of the fact that bedrock features in the Franciscan Formation can rarely be correlated over short distances, testing of small rock pieces provides no viable data for use in design. We based our recommendations on assessment of rock mass properties. During exploration in situ testing and sampling of the soil was performed by Standard Penetration Tests (ASTM D-1586)*. We will continue to evaluate the ground conditions during excavation and modify our recommendation if warranted.

Bedrock is not exposed on the site; however there are outcrops in the area for evaluation of engineering properties. The contractor may use these exposures to determine the difficulty of excavation and the appropriate type of equipment to use.

Structures with foundations on rock will not experience any measurable settlement and there are no conditions that require provisions to mitigate the effects of expansive soils, liquefaction, soil strength or adjacent loads. The slope setback provisions in §1808.7 of the CBC do not apply to foundations

on slopes that are bottomed in bedrock. Except for seismic none of the requirements in CBC § 1803.5.11 and .12 apply.

Summary of Design Values

The design engineer should compare the topography, building elevations and geotechnical report to determine the appropriate active earth pressures to be used. The actual type of foundation should be determined by the architect and design engineer based on construction and economic considerations.

- Seismic Design (See Earthquake Hazards Section)
Soil Profile Site Class Type B, Ground motion parameters from USGS web site at <http://earthquake.usgs.gov/research/hazmaps/design> with site coordinates.
- Active earth pressure:
In a Soil Section = 60 lbs/ft³ equivalent fluid pressure
In a Rock Section = 35 lbs/ft² (pounds per square foot)
- Allowable Bearing Capacity (P_{allow})
 $P_{allow} = 0.33 * 10.0 * (\text{footing width in feet}) = (\text{kips/ft}^2)$ (Not to exceed 10.0)
A 20-percent increase is allowed for each additional foot, beyond one-foot, of depth that the footing is excavated into the subgrade.
- Lateral Bearing in Rock
Passive equivalent fluid pressure of 800 lbs/ft³ and a friction factor of 0.45 to resist sliding. They may be combined and a one third increase is allowed for transitory loading.
- Pier Design (Per UBC section 1806.8.2.1)
Rock passive pressure: 800 lbs/ft²/ft to calculate S₁ or S₃
Adhesion: 900 lbs/ft²
- Tiebacks
Refer to Table 1
- Drainage
Include items in "Drainage Check List"

Details on the application of these design values are included in the following sections of this report.

Drilled Piers

Drilled, cast-in place, reinforced concrete piers should be a minimum of 18 inches in diameter and should extend at least six feet into competent bearing stratum as determined by the Engineer in the field. The structural engineer may impose additional depths. The piers shall extend into the bearing stratum six feet below a 30° line projected up from the bottom of the nearest cut slope or bank. Piers should be designed to resist forces from the gravitational creep of the soil layer. The height of the piers subject to the creep forces is equal to the depth to the top of rock. For design purposes on this project, this may be, interpolated from the data on Drawing A. Creep forces should be calculated using an equivalent fluid pressure of 60 lbs/ft³ (Fig 16, NAVFAC(4)) acting on two pier diameters. Because the rock and soil are discontinuous media, for geotechnical considerations, the piers should have a nominal spacing of 10 feet on center and connected by tie and grade beams in a grid like configuration. Isolated interior and deck piers should be avoided. Normally end bearing should be neglected (see conditions below).

Piers should be designed by the formula in section 1806.8.2.1, Uniform Building Code 1997 (UCB), with 'P' equal to the soil creep forces between the surface and top of rock (plus any lateral loads from the structure) and 800 lbs/ft²/ft used to calculate 'S₁' or 'S₃'. **Note** that in this formula 'b' is the actual diameter of the pier not a multiple and 'h' is measured from the point of fixity. These values are not appropriate for other methods of design. The structural engineer should contact us for the applicable values if another method of pier design is to be used.

We judge that when piers are in a full cut fixity occurs at the rock surface and the conditions result in a constrained top of the pier. For this case the depth may be calculated by using the UBC formula in section 1806.8.2.2 Constrained.

Design Parameters

Depth of fixity below top of bedrock surface for a sloping area:	1.5 feet
Soil active pressure:	60 lbs/ft ³
Rock active pressure:	K _a = 0.0
Rock passive pressure:	800 lbs/ft ² /ft to calculate S ₁ or S ₃
Adhesion:	900 lbs/ft ²

The values recommended for the calculation of "S" incorporate a 1.5 factor of safety. There is no requirement for the retaining wall designer to add an addition factor of safety for overturning.

In order for these strength values to be realized, the sides of the pier holes must be scaled of any mudcake.

End bearing may be used if the bottoms of the holes are thoroughly cleaned out with a "PG&E" spoon or other means. Drilled piers may be any convenient diameter that allows for readily cleaning the bottom of the holes. The end allowable bearing capacity may be determined as follows:⁽⁴⁾

$$P_{\text{allow}} = 0.33 * 10.0 * (\text{pier width in feet}) = (\text{kips/ft}^2) \quad (\text{Not to exceed } 10.0)$$

Bearing may be increased 10 percent of the allowable value for each foot of depth extending below one foot of the rock surface.

Notice: We will not accept the foundation for concrete placement if the pier holes are over 48 hours old and will require that they be redrilled. One should plan ahead and have the pier cages assembled prior to drilling the holes so that there is no delay in placing the concrete. The contractor may submit plans for remedial measures, such as spraying or covering the excavation, to extend this time period. However, acceptance is always subject to the condition of the foundation grade immediately prior to the pour.

Ground water may be encountered in the drilled pier holes and it may be necessary to dewater, case the holes and/or place the concrete by tremie methods. All construction water displaced from the pier holes must be contained on site and filtered before discharging into the storm water system or natural drainages. Hard drilling will be necessary to reach the required depths. The contractor should be familiar with the local conditions in order to have the appropriate equipment on hand. The rock to be encountered in the drilling can be observed in outcrops in the area.

Footings

Footings foundations may be used where the entire footing is excavated into unweathered rock. For retaining wall footings the toe of the footing must be excavated into rock, if a keyway is not used the top of the toe must have three feet of horizontal confinement in the unweathered rock.

As a minimum, spread footings should conform to the requirements of Table 18-I-C, section 1809 of the UBC except that the "Depth Below Undisturbed Ground Surface" in Table 18-I-C shall be interpreted as to mean "The Depth Below the Top of Weathered Rock". The footings should be stepped as necessary to produce level bottoms and should be deepened as required to provide at least 10 feet of horizontal confinement between the footing base and the edge of the closest slope face. In addition, the base of the footing should be below a 30 degree line projected upward from the toe of the closest slope. For geotechnical considerations, since rock and soil are discontinuous media, footings should be connected up and downslope in a grid like fashion by tie beams. Isolated interior and deck footings should be avoided.

The maximum allowable bearing pressure for dead loads plus Code live loads for footing type foundations can be determined by the following formula⁽⁴⁾:

$$P_{\text{allow.}} = 0.33 * 10.0 * (\text{footing width in feet}) = (\text{kips/ft}^2) \quad (\text{Not to exceed } 10.0)$$

A 20-percent increase is allowed for each additional foot, beyond one-foot, of depth that the footing is excavated into the subgrade. The portion of the footing extending into the undisturbed subgrade may be designed with a coefficient of passive earth pressure (K_p) equal to 6.0 with rock unit weight of 135 lbs/ft³ or a passive equivalent fluid pressure of 800 lbs/ft³ and a friction factor of 0.45 to resist sliding. Lateral bearing and lateral sliding may be combined and a one third increase is allowed for transitory loading.

Retaining Walls

All retaining walls should be supported on rock by piers or spread footing type foundations. Design parameters for retaining wall foundations are covered under the appropriate section for footings or drilled piers. The toe of footing type retaining walls should be excavated below grade and the concrete poured against natural ground, the toe should not be formed.

Retaining walls should be designed for a coefficient of active soil pressure (K_a) equal to 0.41, or an equivalent fluid pressure of 60 lbs/ft³ (Fig 16 Ref 4). Since the backfill never truly provides rigid support that prevents mobilization of the active pressure, this value is appropriate for normal or restrained walls. For rigid, tiedback retaining walls that support soil slopes an "at rest" value of the coefficient of active soil pressure (K_a) equal to 0.55 or 72 lbs/ft³ equivalent fluid pressure should be used. The portion of any wall supporting a rock backslope may be designed for a pressure of 35 lbs/ft² (yes, that is square feet), with a K_a equal to 0.25. See Drawing A for the depth of soil. Any wall where the backfill is subject to vehicular loads within an area defined by a 30-degree (from vertical) plane projected up from the base of the wall should have the design pressure increased equivalent to a 200-lbs/ft² (q') surcharge. In this case if a uniform surcharge load q' acts on the soil behind the wall it results in a pressure P_s in lbs/ft. of wall equal to:

$$P_s = q' * (\text{height of wall}) * K_a$$

It acts midway between the top and bottom of the wall.

Or the design height of wall may be increased two feet to account for the surcharge.

Allowable foundation bearing and lateral resistance to sliding should be obtained from the formulae in the respective sections on pier or footing foundations. When short rigid drilled piers are used in lieu of a keyway they may be designed as per section 1807.3.2.2 Constrained.

If the shoring is constructed with rock bolts (see following sections), reinforced shotcrete may be used in lieu of structural concrete walls. Conventional concrete structural retaining walls may be constructed without forming by using shotcrete and chimney drains. However, complete waterproofing with this system is very difficult and one should consult a waterproofing specialist.

Piers for 'garden' type walls (supporting only landscaping) founded in the stiff soil may be designed using the criteria in section 1806.8.2.1 of the UBC, with an allowable lateral bearing pressure of 200 lbs/ft²/ft of depth. Also Marin County Standard Type A, B or C may be used⁽⁶⁾. However, it must be understood that due to the active creep of the soil layer such wall are subject to rotational creep over time.

All retaining walls should have a backdrainage system consisting of, as a minimum, drainage rock in a filter fabric (e.g. Mirafi™ 140N) with at least three inch diameter perforated pipe laid to drain by gravity. If Caltrans specification Class 2 Permeable is used the filter fabric envelope may be omitted. The pipe should rest on the ground or footing with no gravel underneath. **The pipe should be rigid drainpipe, 3000 triple wall HDPE, 3 or 4 inch ID, ASTM F810.** Pipes with perforations greater than 1/16 inch in diameter shall be wrapped in filter fabric. A bentonite seal should be placed at the connection of all solid and perforated pipes. All backdrainage shall be maintained in a separate system from roof and other surface drainage. Cleanouts should be provided at convenient locations, that is a plumbing and maintenance consideration and not a geotechnical concern.

Retaining walls which are adjacent to living areas should have additional water proofing such as three dimensional drainage panels and moisture barriers (e.g. "Miradrain™ 6000" panels and "Paraseal™") and the invert of the drainage pipe should be a minimum of four inches below the adjacent interior finished floor elevation. Drainage panels should extend to 12 inches below the surface and be flashed to prevent the entry of soil material. The heel of the retaining wall footing should be sloped towards the hill to prevent ponding of water at the cold joint, the drainage pipe should be placed on the lowest point on the footing. The backslope of the retaining walls should be ditched to drain to avoid infiltration of surface run-off into the backdrainage system. All waterproofing materials must be installed in strict compliance with the manufacturer's specifications. A specialist in waterproofing should be consulted for the appropriate products, we are not waterproofing experts and do not design waterproofing, we only offer general guidelines that cover the geotechnical aspect of drainage.

Typical retaining wall drainage details are attached.

Tiebacks

The anchor section of the tieback must be in unweathered bedrock. The capacity of tiebacks should be determined by the methods in Table 1, Capacity of Anchor Rods in Fractured Rock⁽⁴⁾. While a

ten-foot long unbonded length is preferred it is not necessary to develop the low capacity tieback normally required for retaining wall stability.

Regardless of the type of anchor used (e.g. mechanical, grouted or helical) tiebacks must meet the following two criteria:

- Proof testing to 1.25 times the design capacity
- Depth of anchor must equal or exceed that determined by Table 1

The structural engineer should prepare detailed shop drawings, for approval, of the specific materials and connection methods to be used at the bulkhead. Installation should follow manufacturer's specifications. The anchor rods should be high strength threaded rods specifically manufactured for this application, such as "Williams" or "Dywidag" threadbars. For corrosion protection contact the manufacturer.

Grout should be tremmed to the bottom of each hole so that when the bar is inserted the grout will be displaced to the surface. The bar should be provided with centering guides, and when placed in the hole rotated and vibrated several times to assure thorough contact between the bar and grout.

When the grout has obtained the desired strength the anchor bars should be tested to 125 percent of the design load and tied off at a designated post tensioning load, normally about 33 percent of the design load. The lift-off readings should be taken after the nut has been set to confirm the post tensioning. Typical tieback configuration is attached.

Slab on Grade Construction

Slab on grade construction which spans cut and fill or rock and soil sections will settle differentially and crack. Therefore this type of construction is not recommended for living areas or garages unless the areas are completely excavated into rock or underlain by compacted fill or the slab is designed as a structural slab. If the slab is underlain by a wedge of fill or natural soil over rock a floating slab will still settle differentially, sloping towards the thickest section of fill. Because the loads on a floating slab are usually small the settlement may be negligible.

The base for slabs on grade should consist of a 4-inch capillary moisture break of clean free draining crushed rock or gravel with a gradation between 1/4 and 3/4 inch in size. The base should be compacted by a vibratory plate compactor to 90 percent maximum dry density as determined by ASTM D-1557. A 10-mil impermeable membrane moisture vapor retarder should be placed on top of the gravel. The gravel should be "turned down" by a vibratory roller or plate to provide a smooth surface for the membrane. Recycled material is never acceptable.

Where migration of moisture vapor would be undesirable (e.g. under living spaces and areas covered by flooring) a "true" under-slab vapor barrier, such as "Stego[®] Wrap", should be installed. In this case one should consult an expert in waterproofing, our recommendations only apply to the geotechnical aspect of drainage and do not address the prevention of mold or flooring failures.

The top of the membrane should be protected during construction from puncture. Any punctures in the membrane will defeat its purpose. The contractor is responsible for the method of protecting the

membrane and concrete placement. *Drains and outlets should be provided from the slab drain rock.* (See attached Drawing for Typical Under-slab Drains)

Cuts and Fills

Unsupported cuts and fills are generally not recommended for this site. Fills behind retaining walls should be of material approved by the geotechnical engineer and compacted to a maximum dry density of 90 percent as determined by ASTM D-1157. Fills underlying pavements shall have the top 12 inches compacted to 95 percent maximum dry density.

Geotechnical Drainage Considerations

These recommendations apply to the geotechnical aspect of the drainage as they affect the stability of the construction and land. They do not include site grading and area drainage, which is within the design responsibility of civil engineers and landscape professionals. The civil and landscape professionals should make every effort to comply with the Marin County "Stormwater Quality Manual for Development Projects In Marin County" by the Marin County Stormwater Pollution Prevention Program (MCSTOPPP www.mcstoppp.org) and Bay area Stormwater Management Agencies Association (BASMAA www.basmaa.org) when possible.

The site should be graded to provide positive drainage away from the foundations at a rate of 5 percent within the first ten feet (per requirements of the CBC section 1804.3). All roofs should be equipped with gutters and downspouts that discharge into a solid drainage line. Gutters may be eliminated if roof runoff is collected by shallow surface ditches or other acceptable landscape grading. All driveways and flat areas should drain into controlled collection points and all foundation and retaining walls constructed with backdrainage systems. Surface drainage systems, e.g. roofs, ditches and drop inlets *must be maintained separately* from foundation and backdrainage systems. The two systems may be joined into one pipe at a drop-inlet that is a minimum of two feet in elevation below the invert of the lowest back or slab drainage system. A bentonite seal should be placed at the transition point between drainpipes and solid pipes.

One should observe the ponding of water during winter and consult with you landscape professional for the location of surface drains and with us if subdrains are required.

All drop inlets that collect water contaminated with hydrocarbons (e.g. driveways) should be filtered before discharged in to a natural drainage.

All cross slope foundations should have backdrainage. In compliance with section 1805.4.2 of the CBC foundation drains should be installed around the perimeter of the foundation. On sloping lots only the upslope foundation line requires a perimeter drain. Interior and downslope grade beams and foundation lines should be provided with weep holes to allow any accumulated water to pass through the foundation. The top of the drainage pipe should be a minimum of four inches below the adjacent interior grade and constructed in accordance with the attached Typical Drainage Details. All drainpipes should rest on the bottom of the trench or footing with no gravel underneath. Drain pipes with holes greater than 1/8-inch should be wrapped with filter fabric, if Class 2 Permeable is used, to prevent piping of the fines into the pipe. If drain rock, other than Class 2 Permeable, is used the entire trench should be wrapped with filter fabric to prevent the large pore spaces in the drain rock

from silting up. On hillside lots it may not be possible to eliminate all moisture from the substructure area and some moisture is acceptable in a well-ventilated area. Site conditions change due to natural (e.g. rodent activity) and man related actions and during years of below average rainfall, future ground water problems may not be evident. One should expect to see changes in ground water conditions in the future that will require corrective actions.

All surface and ground water collected by drains or ditches should be dispersed across the property into a natural drainage below the structure. The upslope property owner is always responsible to the adjacent lower property owner for water, collected or natural, which may have a physical effect on their property.

All laterals carrying water to a discharge point should be SDR 35, Schedule 40 or 3000 triple wall HDPE pipe, depending on the application and should be buried. 'Flex pipe' is never acceptable. Cleanouts for stormwater drains should be installed in accordance with §1101.12 of the CPC, without pressure testing. However, this is not a geotechnical consideration and is the responsibility of the drainage contractor.

Retaining walls, cut and fill slopes should be graded to prevent water from running down the face of the slope. Diverted water should be collected in a lined "V" ditch or drop inlet leading to a solid pipe.

If the crawl space area is excavated below the outside site grade for joist clearance, the crawl space will act as a sump and collect water. If such construction is planned, the building design must provide for *gravity or pumped drainage from the crawl space*. If it is a concern that moisture vapor from the crawl space will affect flooring, a specialist in vapor barriers should be consulted, we only design drainage for geotechnical considerations.

The owner is responsible for periodic maintenance to prevent and eliminate standing water that may lead to such problems as dry rot and mold.

Construction grading will expose weak soil and rock that will be susceptible to erosion. Erosion protection measures must be implemented during and after construction. These would include jute netting, hydromulch, silt barriers and stabilized entrances established during construction. Typically fiber rolls are installed along the contour below the work area. Refer to the current ABAG⁽⁹⁾ manual for detailed specifications and applications. Erosion control products are available from Water Components in San Rafael. The ground should not be disturbed outside the immediate construction area. Prevention of erosion is emphasized over containment of silt. Post construction erosion control is the responsibility of your landscape professional. ***It is the owner's responsibility*** that the contractor knows of and complies with the BMP's (Best Management Practices) of the Regional Water Quality Control Board, available at www.swrcb.ca.gov, ↓ water quality ↓ stormwater ↓ construction. In addition, summer construction may create considerable dust that should be controlled by the judicious application of water spray. After construction, erosion resistant vegetation must be established on all slopes to reduce sloughing and erosion this is the responsibility of a landscape professional. Periodic land maintenance should be performed to clean and maintain all drains and repair any sloughing or erosion before it becomes a major problem.

Drainage Checklist

Before submitting the project drawings to us for review the architect and structural engineer should be sure the following applicable drainage items are shown on the drawings:

- Under-slab drains and outlets
- Crawl space drainage
- Cross-slope footing and grade beam weep holes
- Retaining wall backdrainage pipes with no gravel under the pipes
- Top of retaining wall heel sloped towards rear at 1/8 - inch per foot
- Drain pipe located at lowest part of footing
- Invert of foundation drains located 4-inches below interior grade
- No gravel under any drainpipe
- Upslope exterior foundation drains
- Drains installed in accordance with §1101.12 of the CPC
- Bentonite seals at drainpipe transition to solid pipe
- Proper installation of the drainage panels
- Outfall details and location
- Subdrains under any fill slopes

In lieu of the above details actually being shown on the drawings there may be a:

- **Note on the structural drawings:** "Drainage details may be schematic and incomplete, refer to the text and drawings in the geotechnical report for actual materials and installation"

Construction Inspections

In order to assure that the construction work is performed in accordance with the recommendations in this report, SalemHowes Associates Inc. must perform the following applicable inspections. We will provide a full time project engineer to supervise the foundation excavation, drainage, compaction and other geotechnical concerns during construction. Otherwise, if directed by the Owner, these inspections will be performed on an "as requested basis" by the Owner or Owner's representative. We will not be responsible for construction we were not called to inspect. In this case it is the responsibility of the Owner to assure that we are notified in a timely manner to observe and accept each individual phase of the project.

Key Inspection Points

- Map excavations in progress to identify and record rock/soil conditions.
- Observe tieback placement and proof loading, including lift off measurement.
- Observe and accept pier drilling and final depth and conditions of all pier holes. We must be on site at the start of drilling the first hole.
- Accept final footing grade prior to placement of reinforcing steel.
- Accept subdrainage prior to backfilling with drainage rock.
- Accept drainage discharge location.

Additional Engineering Services

We should work closely with your project engineer and architect to interactively review the site grading plan and foundation design for conformance with the intent of these recommendations. We should provide periodic engineering inspections and testing, as outlined in this report, during the

construction and upon completion to assure contractor compliance and provide a final report summarizing the work and design changes, if any.

Any engineering or inspection work beyond the scope of this report would be performed at your request and at our standard fee schedule.

Limitations on the Use of This Report

This report is prepared for the exclusive use of Paul Thompson dba West Bay Builders and their design professionals for construction of the proposed new residence. This is a copyrighted document and the unauthorized copying and distribution is expressly prohibited. Our services consist of professional opinions, conclusions and recommendations developed by a Geotechnical Engineer and Engineering Geologist in accordance with generally accepted principles and practices established in this area at this time. This warranty is in lieu of all other warranties, either expressed or implied.

All conclusions and recommendations in this report are contingent upon SalemHowes Associates being retained to review the geotechnical portion of the final grading and foundation plans prior to construction. The analysis and recommendations contained in this report are preliminary and based on the data obtained from the referenced subsurface explorations. The borings indicate subsurface conditions only at the specific locations and times, and only to the depths penetrated. They do not necessarily reflect strata variations that may exist between such locations. The validity of the recommendations is based on part on assumptions about the stratigraphy made by the geotechnical engineer or geologist. Such assumptions may be confirmed only during earth work and foundation construction for deep foundations. If subsurface conditions different from those described in this report are noted during construction, recommendations in this report must be re-evaluated. It is advised that SalemHowes Associates Inc. be retained to observe and accept earthwork construction in order to help confirm that our assumptions and preliminary recommendations are valid or to modify them accordingly. SalemHowes Associates Inc. cannot assume responsibility or liability for the adequacy of recommendations if we do not observe construction.

In preparation of this report it is assumed that the client will utilize the services of other licensed design professionals such as surveyors, architects and civil engineers, and will hire licensed contractors with the appropriate experience and license for the site grading and construction.

We judge that construction in accordance with the recommendations in this report will be stable and that the risk of future instability is within the range generally accepted for construction on hillsides in the Marin County area. However, one must realize there is an inherent risk of instability associated with all hillside construction and, therefore, we are unable to guarantee the stability of any hillside construction. For houses constructed on hillsides we recommend that one investigate the economic issues of earthquake insurance.

In the event that any changes in the nature, design, or location of the facilities are made, the conclusions and recommendations contained in this report should not be considered valid unless the changes are reviewed and conclusions of this report modified or verified in writing by SalemHowes Associates Inc. We are not responsible for any claims, damages, or liability associated with interpretations of subsurface data or reuse of the subsurface data or engineering analysis without

expressed written authorization of SalemHowes Associates Inc. Ground conditions and standards of practice change; therefore, we should be contacted to update this report if construction has not been started before the next winter.

We trust this provides you with the information required for your evaluation of geotechnical properties of this site. If you have any questions or wish to discuss this further please give us a call.

Prepared by:

SalemHowes Associates, Inc.

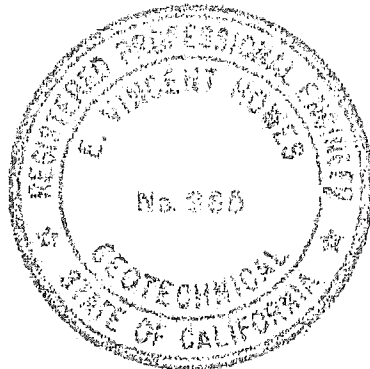
A California Corporation

Reviewed by:



E Vincent Howes

Geotechnical Engineer
GE #965 exp. 31 Mar 16

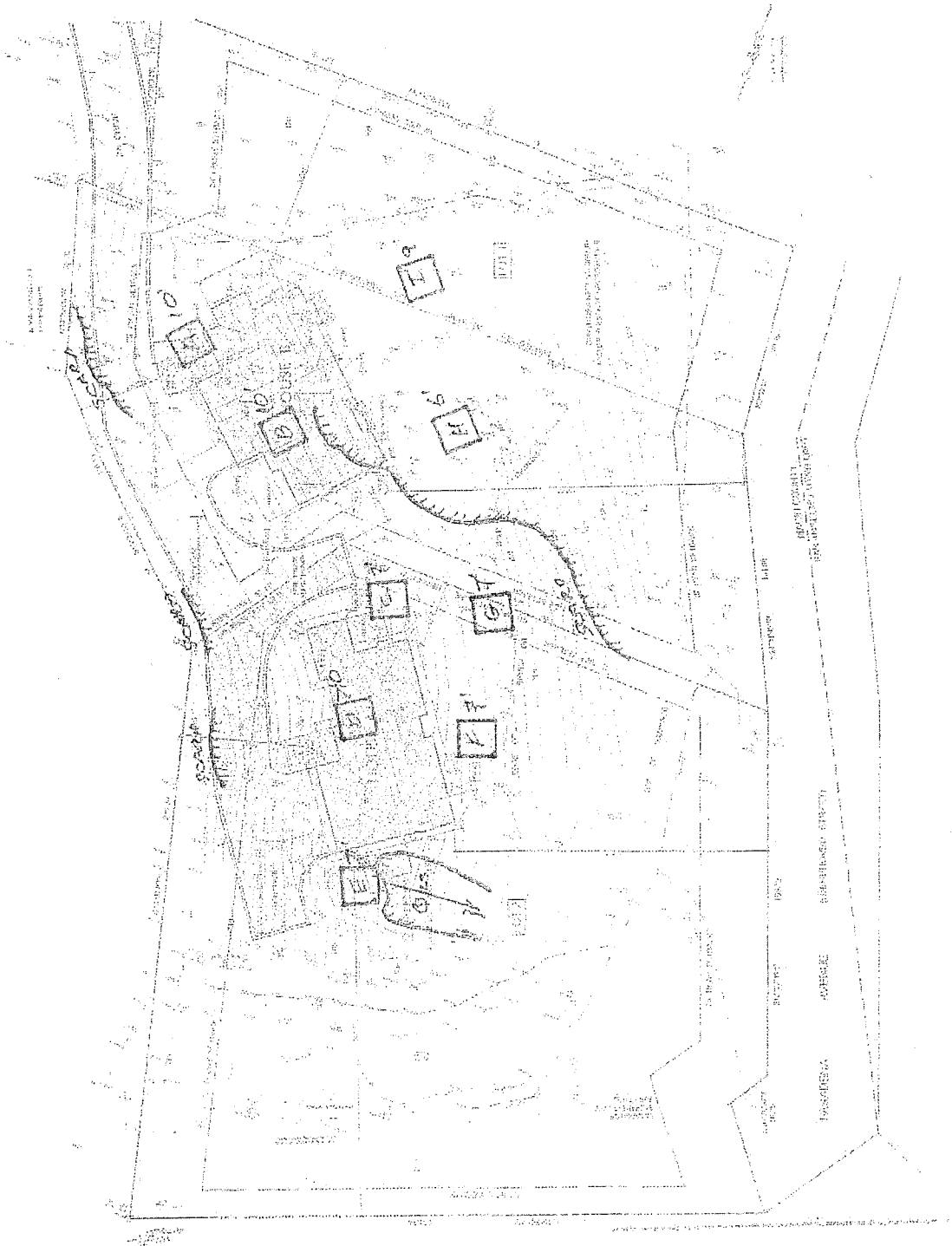


- Attachments:
- Drawing A, Site Plan and Location of Test Borings
 - Drawing B, Typical Site Sections
 - Typical Under-slab Drains
 - Outfall Details
 - Typical Drain Detail
 - Typical Retaining Wall Drainage
 - Logs of Test Pits
 - Table 1, Capacity of Anchor Rods in Fractured Rock
 - Plate 1, San Francisco Bay Region Earthquake Probabilities



References:

- (1) Rice, Salem J; Smith, Theodore C and Strand, Rudolph G.; Geology for Planning Central and Southeastern Marin County, California, California Divisions of Mines and Geology, 1976 OFR 76-2 SF.
- (2) U.S. Geological Survey, Probabilities of Large Earthquakes in the San Francisco Bay Region, 2000 to 2030, Open-File Report 99-517, 1999
- (3) California Department of Conservation, Division of Mines and Geology, Maps of Known Active Fault Near-Source Zones in California and Adjacent Portions of Nevada, February 1988, International conference of Building Officials.
- (4) Department of the Navy, Naval Facilities Engineering Command, Soil Mechanics, Design Manual 7.1, 7.2, (NAVFAC DM-7) May 1982,
- (5) Uniform Construction Standards, most recent edition, Marin County Building Department

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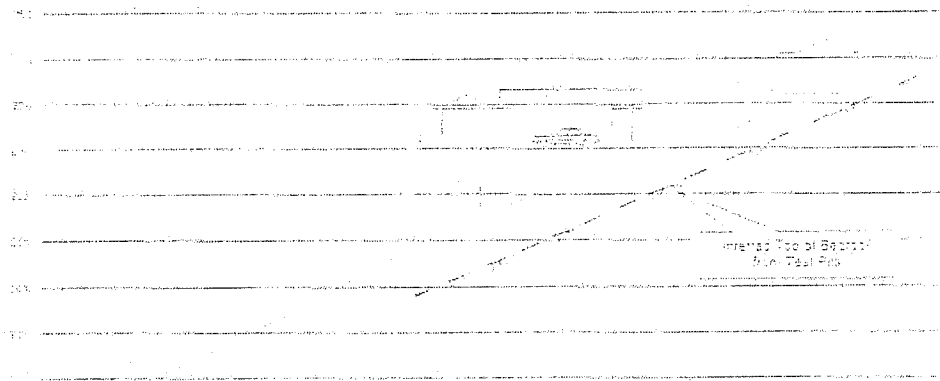
LEGEND

-  Location of Test Pits
-  Depth to Top of Bedrock

SITE PLAN AND LOCATION OF TEST PITS

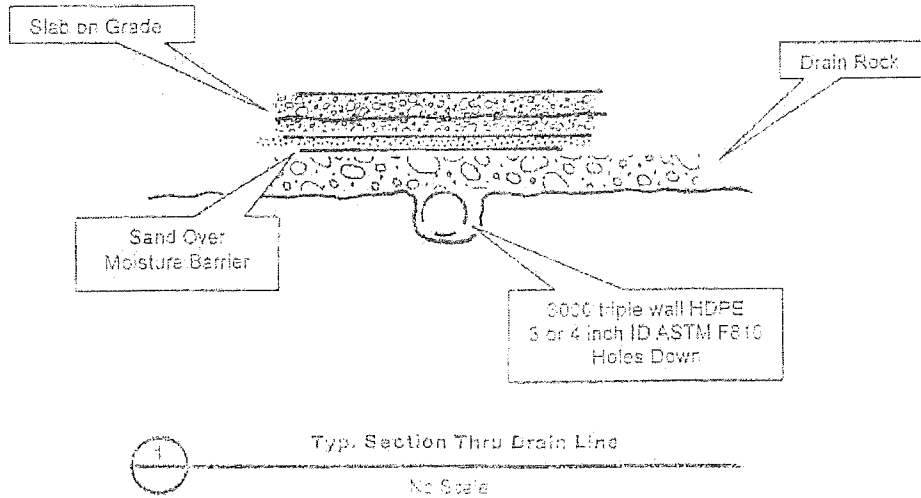
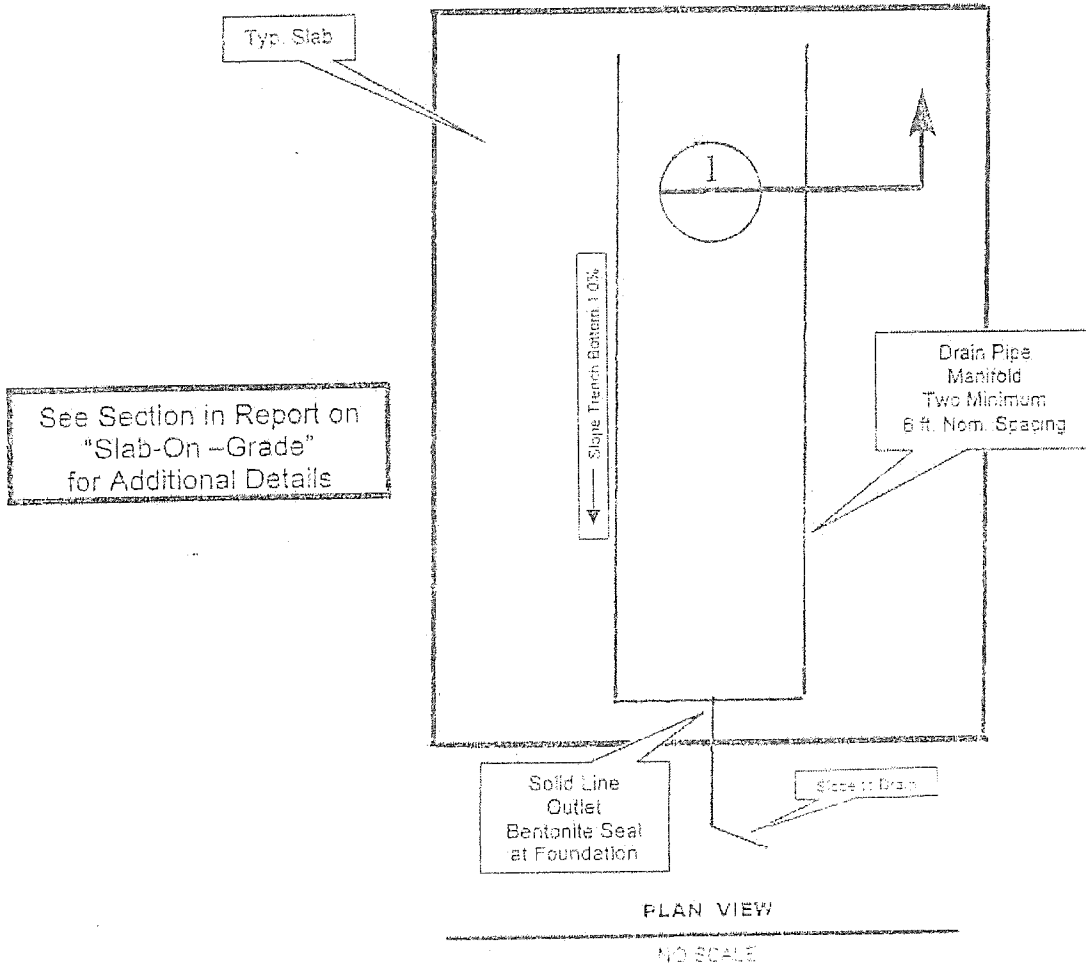


no scale s.a.d.



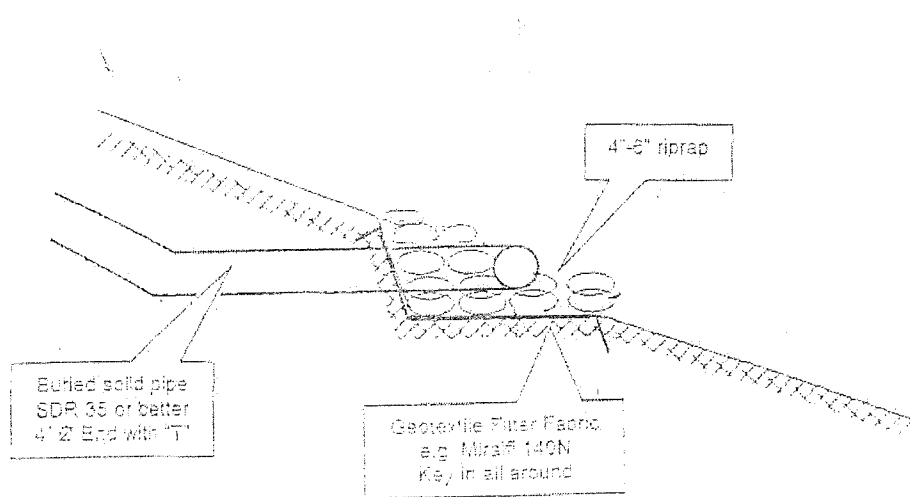
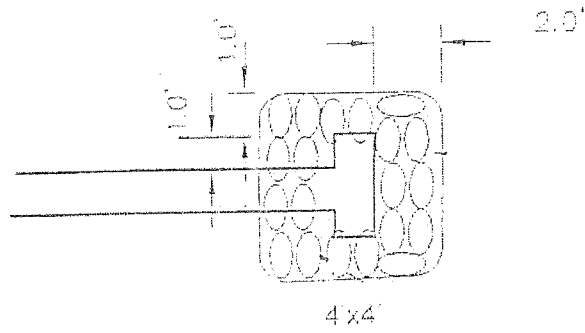
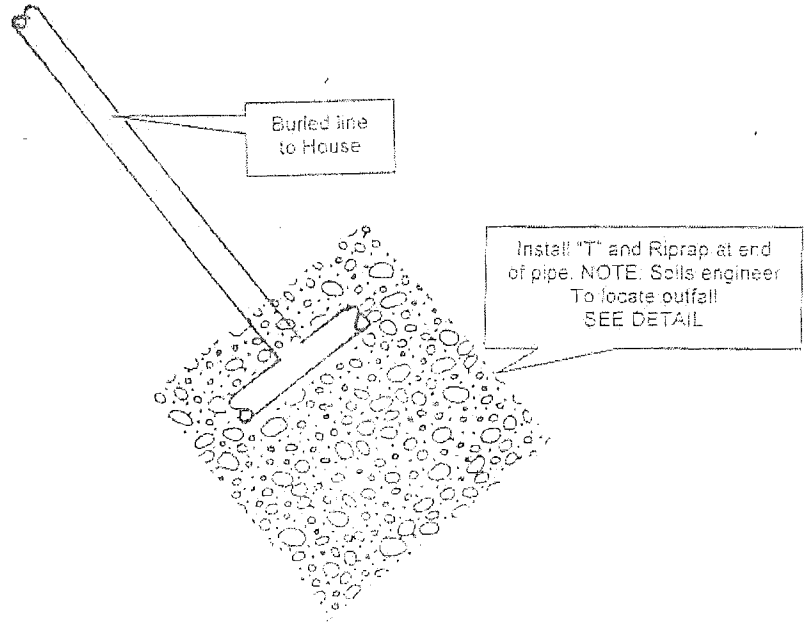
TYPICAL SITE SECTION

1" = 10' (architectural section 2)



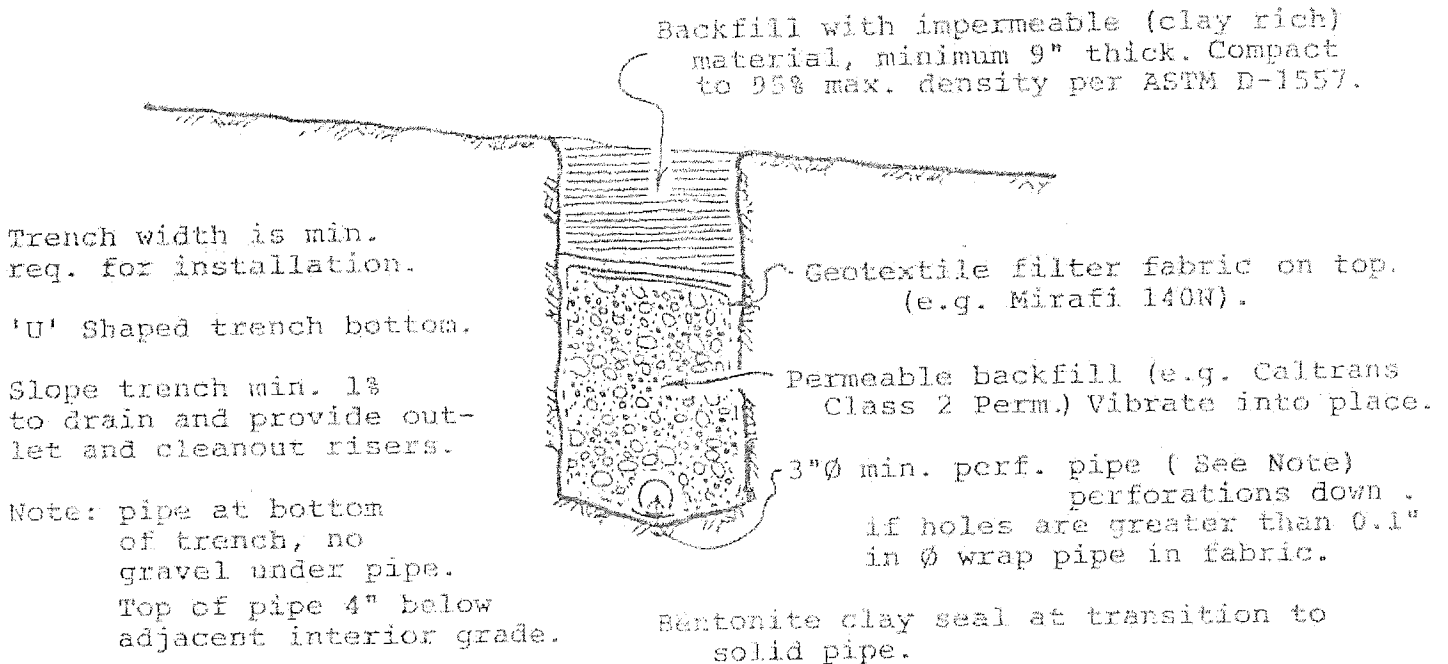
TYPICAL UNDERSLAB DRAINS

NO SCALE



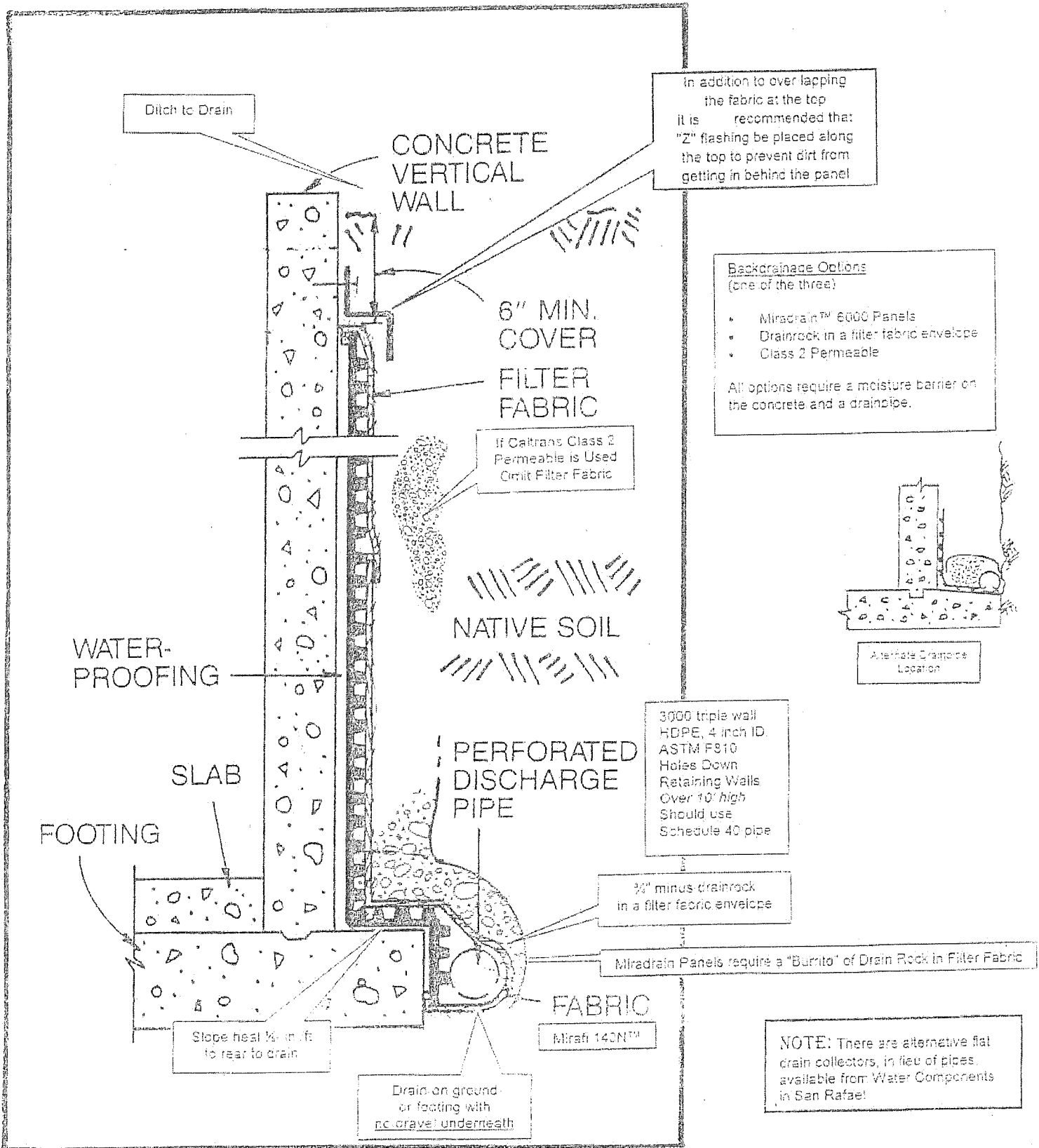
OUTFALL DETAILS

No Scale



NOTE: We recommend rigid drainpipe 3000 triple wall HDPE, 3 or 4 inch ID, ASTM F810.

TYPICAL DRAIN DETAILS



TYPICAL RETAINING WALL DRAINAGE DETAILS

LOGS OF TEST PITS

Test Pit A

- 0-5.0 ft. Landslide Debris [Qls]
Clayey silt [CL-ML] with Metasediment
Cobbles to boulders, slide debris
- 5.0 Clay [CL] grey soft clay LL= 34 PI = 34 $\gamma = 130$ Lbs/ft³
- 7.0 Δ to highly weathered rock?, tan silty sand [SM]
- 10.0 Metasediment Rock [fm] bedrock, highly weathered
friable and sheared
- Total Depth of Pit 14.0 feet

Test Pit B

- 0-2.0 ft. Colluvium [Qc]
Clayey silt [CL-ML]
- 2.0 Colluvium [Qc]
Silt [ML] tan hard
- 4.0 Metasediment [fm]
Highly weathered and sheared, look like
ancient Qls deposit or tectonicly sheared
rock.
- 10.0 Metasediment Rock [fm] hard bedrock
- Total Depth of Pit 12.0 feet

Test Pit C

0-2.0 ft. Topsoil [ML], grey soft with organics

2.0 Residual Soil silt [ML] hard with rock texture,
becoming harder with depth

4.0 Metasediment Rock [fm] bedrock, sheared with soft zones
surrounding hard enclosures

7.0 definitely in place bedrock, hard enclosures in
sheared matrix, typical fm.

10.0 backhoe refusal in hard rock

Total Depth of Pit 10.0 feet

Test Pit D

0-2.0 ft. Topsoil and Colluvium [ML & Oc]
grey clayey silt with large meta sandstone cobbles

2.0 Δ to hard tan silt [ML]

4.0 Δ to Landslide Debris [Qls] hard tan silt with rock fragments
and cobbles, old slide debris
silt and internal shearing LL= 40 PI = 10 $\gamma = 135$ Lbs/ft³g

Same to 10 feet

10.0 backhoe refusal in slide debris

Total Depth of Pit 10.0 feet

Test Pit E

0-5.0 ft. Colluvium or Landslide Debris [Qc or Qls]
silt [ML] tan hard with gravel to cobbles of
metasandstone.

5.0 Residual Soil, silty clay [ML-CL] with sheared rock texture

6.0 Metasandstone [fm] hard sheared metasandstone bedrock

Harder with depth

10.0 Backhoe refusal in hard rock

Total Depth of Test Pit 10.0 feet

Test Pit F

0-1.5 ft. Topsoil, grey silt [ML] with angular cobbles
and organics

1.5-7.0 Colluvium or Landslide Debris [Qc or Qls]
Tan hard silt [ML] matrix with angular metasandstone
cobbles

7.0-9.0 Metasandstone [fm] tan highly sheared bedrock

9.0-11.0 Δ to tan soft massive metasandstone

11-12.0 Δ to highly sheared metasandstone bedrock

Total Depth of Test Pit 12.0 Feet

Test Pit G

0-1.5 ft. **Topsoil**, grey silt [ML] with angular cobbles and organics

1.5-6.0 **Colluvium or Landslide Debris** [Qc or Qls]
Tan hard silt [ML] matrix with angular metasandstone cobbles

6.0 **Metasandstone** [fm] grey highly weathered and sheared bedrock

8.0 interbedded sandstone and shale

Total depth of Test Pit 10.0

Test Pit H

0-4.0 **Landslide Debris** [Qls] grey silt [ML] with angular rock Fragments

4-6.0 **Residual Soil** tan with grey silty clay [ML-CL] mottling
LL= 40 PI = 15 $\gamma = 130$ Lbs/ft³

6.0 Δ metasandstone/shale bedrock, highly internally sheared

Total depth of Test Pit 10.0

Test Pit I

0-1.0 ft **Top Soil** [ML] grey silt with organica

1-6.0 **Landslide Debris** [Qls] grey silty clay [CL-ML] with angular rock fragments

6.0 Bottom of landslide

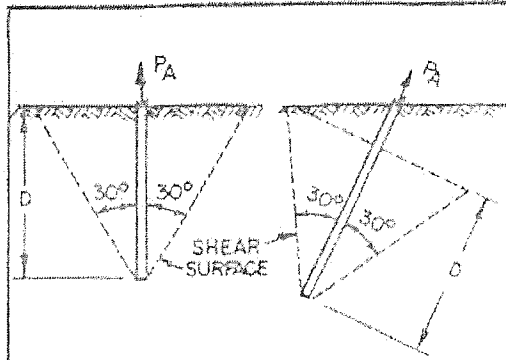
6.0 **Residual Soil** tan clayey silt [ML-CL] with faint rock texture

7.0 Δ to tan silty sand

9.0 **Metasandstone**, weathered bedrock. tan soft rock hardness

10.0 Turning hard.

Total depth of Test Pit 10.0



SINGLE BAR ANCHORAGES

P_A = ALLOWABLE ANCHOR PULL
 D = EMBEDMENT DEPTH, MEASURED AS SHOWN
 $C_{d||}$ = ALLOWABLE ROCK SHEAR STRESS
 f_s = ALLOWABLE BAR STRESS, $0.66 f_t$
 b_{rqd} = BOND STRESS ON BAR PERIMETER REQUIRED TO DEVELOP $C_{d||}$
 A = BAR CROSS-SECTION AREA

$P_A = (2.1) D^2 (C_{d||})$ AND $P_A = A f_s$

$b_{rqd} = \frac{P_A}{\text{BAR PERIMETER} \times D}$

TESTS INDICATE THAT FOR BAR IN ORDINARY FRACTURED ROCK NEAR THE SURFACE:
 MINIMUM D (FT) = $(1.25) \sqrt{P_A}$ (KIPS)
 AT THIS DEPTH $C_{d||} = 0.3$ KSF AND SHOULD NOT BE TAKEN GREATER THAN THIS VALUE WITHOUT PULLOUT TESTS
 SPACING OF BARS IN PLAN SHOULD EXCEED 1.2D

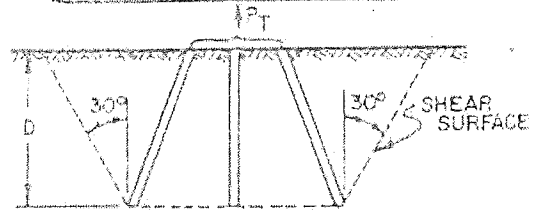
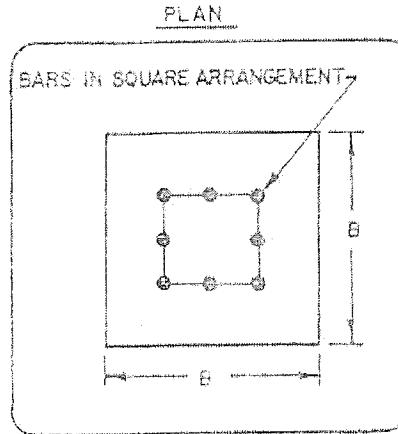
EXAMPLE:

GIVEN: $P_A = 20K$ FOR 1 IN. SQUARE BAR
 MINIMUM $D = 1.25 \sqrt{20} = 5.6$ FT.
 BAR SPACING = $1.2 (5.6) = 6.7$ FT.

$b_{rqd} = \frac{20,000}{4(5.6)(12)} = 74$ PSI

Not to exceed 100 psi.

(* Minimum depth for any application is 6 feet as measured above.



SECTION
BAR GROUP ANCHORAGE

P_T = ALLOWABLE ANCHOR PULL FOR GROUP OF BARS.
 N = NUMBER OF BARS IN SQUARE ARRANGEMENT
 $P_T = 4.6D(B + 0.58D) C_{d||}$ AND
 $P_T = N A f_s$
 $b_{rqd} = \frac{P_T}{\text{BAR PERIMETER} \times ND}$

TESTS INDICATE THAT FOR BAR GROUP IN ORDINARY FRACTURED ROCK NEAR THE SURFACE:
 MINIMUM D (FT)

$D = \frac{-4.6 B C_{d||} + \sqrt{21.2 B^2 (C_{d||})^2 + 10.7 C_{d||} \times N A f_s}}{5.34 C_{d||}}$

AT THIS DEPTH $C_{d||} = 0.3$ KSF AND SHOULD NOT BE TAKEN GREATER THAN THIS VALUE WITHOUT PULLOUT TESTS

EXAMPLE:

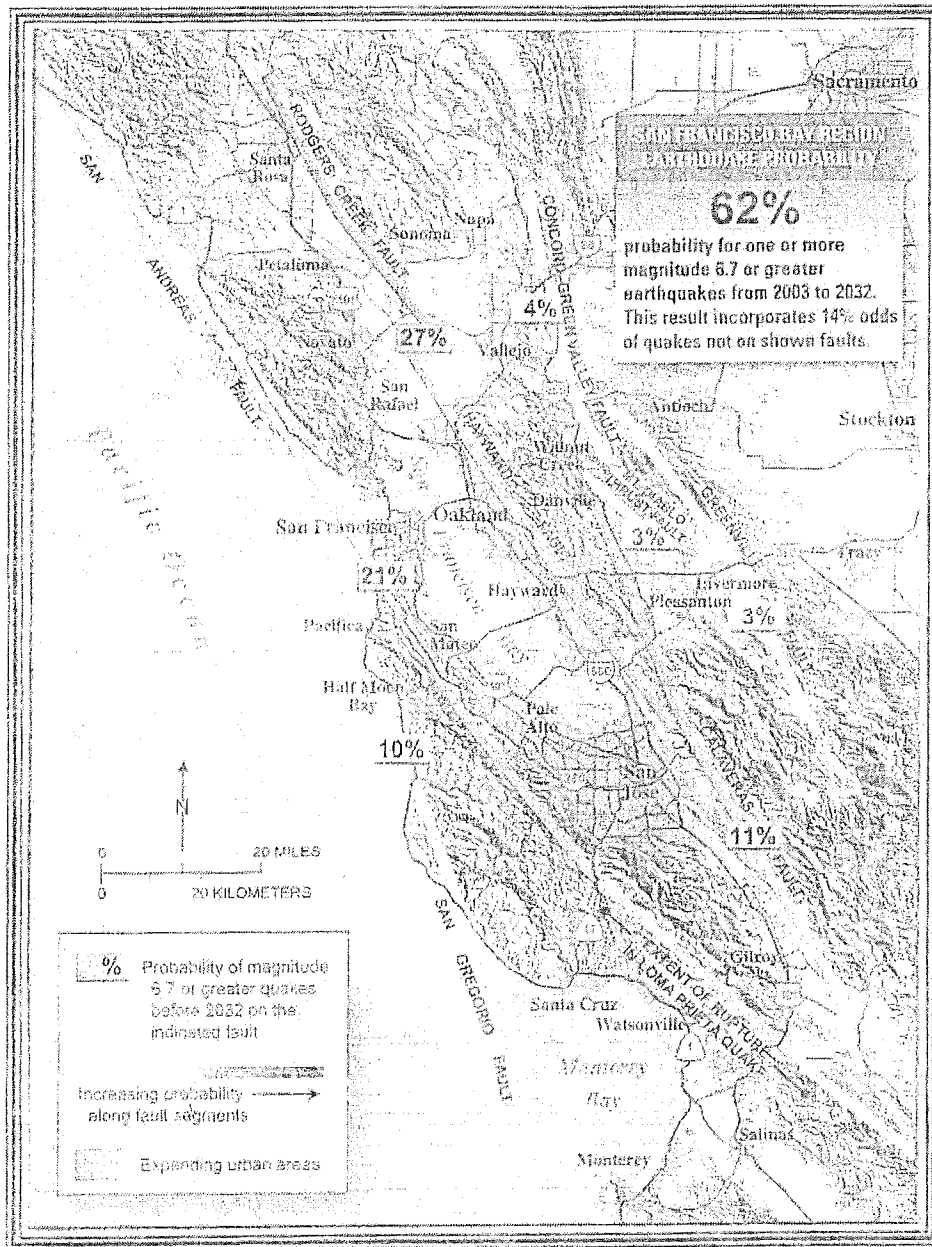
GIVEN $P_T = 80K$, USE 4 - 1 IN SQUARE BARS
 $B = 4.5$ FT $f_s = 20$ KSI
 MIN. D : WITHOUT TESTS:

$D = \frac{-4.6 \times 4.5 \times 0.3 + \sqrt{21.2 \times 4.5^2 \times 0.3^2 + 10.7 \times 0.3 \times 4 \times 1 \times 200}}{5.34 \times 0.3} = 6.9$ FT

$b_{rqd} = \frac{80,000}{(4)(4)(6.9)(12)} = 60$ PSI

Capacity of Anchor Rods in Fractured Rock

Table 1



Using newly collected data and evolving theories of earthquake occurrence, U.S. Geological Survey (USGS) and other scientists have concluded that there is a 62% probability of at least one magnitude 5.7 or greater quake, capable of causing widespread damage, striking somewhere in the San Francisco Bay region before 2032. A major quake can occur in any part of this densely populated region. Therefore, there is an ongoing need for all communities in the Bay region to continue preparing for the quakes that will strike in the future.

Plate 1, San Francisco Bay Region Earthquake Probabilities



OLD REPUBLIC
TITLE COMPANY

1400A Grant Avenue
Novato, CA 94945
(415) 897-9632 Fax: (415) 892-1137

PRELIMINARY REPORT

FIRST AMENDED

THOMPSON DEVELOPMENT INC
350 Bel Marin Keys
Novato, CA 94949

Our Order Number 0436023851-DM

Attention: CASEY CLEMENT

When Replying Please Contact:

Diana McInnis
dmcinnis@ortc.com
(415) 897-9632

Property Address:

179 Sacramento Avenue, San Anselmo, CA 94960
[Unincorporated area of Marin County]

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY, as issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit I attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit I. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of August 5, 2019, at 7:30 AM

OLD REPUBLIC TITLE COMPANY
For Exceptions Shown or Referred to, See Attached

Page 1 of 8 Pages

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0436023851-DM
FIRST AMENDED

The form of policy of title insurance contemplated by this report is:

ALTA Loan Policy - 2006. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Timothy J. Sasan and Elizabeth A. Sasan, husband and wife as joint tenants

The land referred to in this Report is situated in the unincorporated area of the County of Marin, State of California, and is described as follows:

TRACT I

Beginning at a point on the Easterly line of Pasadena Avenue, distant thereon North 3° 57' West 70.60 feet from the most Northerly corner of the property described in the Deed from Luisa Spagnoli to Jesse J. Filippelli, et ux, Recorded March 15, 1955 in Volume 928 of Official Records, at Page 177, Marin County Records; running thence along said Easterly Avenue line North 25° 36' West 102.62 feet, North 17° West 133.33 feet and North 37° 41' East 16.75 feet; thence leaving said line North 34° 39' West 41.94 feet to the Southeasterly line of the Property described in the Deed from Luisa Spagnoli to M. V. Kelley, et ux, Recorded November 6, 1953 in Volume 835 of Official records, at Page 375; thence along said line North 72° 41' East 231.84 feet to the centerline of Sacramento Avenue, as relocated; thence along said centerline South 12° 31' East 205.11 feet, South 44° 26' East 111.06 feet and South 14° 41' East to a point which bears South 87° 35' East from the point of beginning; thence leaving said centerline North 87° 35' West 265 feet, more or less, to the point of beginning

EXCEPTING THEREFROM the included portion of Sacramento Avenue as shown on Map entitled, "Short Ranch subdivision Two", filed July 3, 1912 in Map Book 4 at Page 22.

APN: 177-172-10 and 177-172-20

NOTE: Tract II herein described is only being included so as to avoid the Company being the cause of excluding it from deeds or encumbrances, but NO INSURANCE is to be provided as to said tract.

TRACT II:

All that portion of Sacramento Avenue 40' feet in width as Shown on Map entitled, "Short Ranch Subdivision Two" filed July 3, 1912 in Map Book 4 at Page 22 lying Southerly of the Northern boundary and Northerly of the Southern boundary of the following described lands:

PARCEL ONE:

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0436023851-DM
FIRST AMENDED

Beginning at a point on the Easterly line of Pasadena Avenue, distant thereon North 3° 57' West 70.60 feet from the most Northerly corner of the property described in the Deed from Luisa Spagnoli to Jesse J. Filippelli, et ux, Recorded March 15, 1955 in Volume 928 of Official Records, at Page 177, Marin County Records; running thence along said Easterly Avenue line South 3° 57' East 70.60 feet to said most Northerly corner, thence along the Northerly line of the property so referred to and its Easterly Prolongation South 87° 35' East 255 feet, more or less, to the Westerly line of A 40 foot road, being the Westerly line of relocated Sacramento Avenue; thence along said Westerly road line North 14° 41' West 75 feet, more or less, to a point which bears South 87° 35' East from the point of beginning; running thence North 87° 35' West 245 feet, more or less, to the point of beginning.

PARCEL TWO:

Beginning at a point on the Easterly line of Pasadena Avenue, distant thereon North 3° 57' West 70.60 feet from the most Northerly corner of the property described in the Deed from Luisa Spagnoli to Jesse J. Filippelli, et ux, Recorded March 15, 1955 in Volume 928 of Official Records, at Page 177, Marin County Records; running thence along said Easterly Avenue line North 25° 36' West 102.62 feet, North 17° West 133.33 feet and North 37° 41' East 16.75 feet; thence leaving said line North 34° 39' West 41.94 feet to the Southeasterly line of the Property described in the Deed from Luisa Spagnoli to M. V. Kelley, et ux, Recorded November 6, 1953 in Volume 835 of Official records, at Page 375; thence along said line North 72° 41' East 231.84 feet to the centerline of Sacramento Avenue, as relocated; thence along said centerline South 12° 31' East 205.11 feet, South 44° 26' East 111.06 feet and South 14° 41' East to a point which bears South 87° 35' East from the point of beginning; thence leaving said centerline North 87° 35' West 265 feet, more or less, to the point of beginning.

APN: 177-172-18 and 177-172-19

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, for the fiscal year 2019 - 2020, a lien, but not yet due or payable.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0436023851-DM
FIRST AMENDED

2. Taxes and assessments, general and special, for the fiscal year 2018 - 2019, as follows:

Assessor's Parcel No	:	177-172-10	
Bill No.	:	18-1073543	
Code No.	:	062-000	
1st Installment	:	\$1,491.09	Marked Paid
2nd Installment	:	\$1,491.09	Marked Paid
Land Value	:	\$173,398.00	

3. Taxes and assessments, general and special, for the fiscal year 2018 - 2019, as follows:

Assessor's Parcel No	:	177-172-20	
Bill No.	:	18-1073547	
Code No.	:	062-000	
1st Installment	:	\$1,182.01	Marked Paid
2nd Installment	:	\$1,182.01	Marked Paid
Land Value	:	\$112,198.00	

4. Supplemental taxes, general and special, for the fiscal year 2016 - 2017 as follows:

Assessor's Parcel No.	:	177-172-20	
Bill No.	:	17-1242305	
1st Installment	:	\$8.83	Marked Paid
2nd Installment	:	\$8.83	Marked Paid

5. Supplemental taxes, general and special, for the fiscal year 2017 - 2018 as follows:

Assessor's Parcel No.	:	177-172-20	
Bill No.	:	17-1242306	
1st Installment	:	\$24.80	Marked Paid
2nd Installment	:	\$24.80	Marked Paid

6. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0436023851-DM
FIRST AMENDED

7. The herein described property lying within the proposed boundaries of a Community Facilities District, as follows:

District No : 2014-14
For : Clean Energy
Disclosed By : Assessment Map
Recorded : August 28, 2015 in Official Records under Recorder's Serial Number 2015-41880

Further information may be obtained by contacting:

8. Rights of the public, County and/or City, in and to that portion of said land lying within the lines of Sacramento Avenue.

9. Matters as contained or referred to in an instrument,

Entitled : Indenture
Executed By : Short Ranch Co. and Marin Water and Power Company
Recorded : August 20, 1912 in Book 145 of Deeds, Page 220
Which Among
Other Things : The right to lay, maintain, repair and remove water pipes and mains
Provides

Affects Tract II

Said matters affect Tract II

10. Matters as contained or referred to in an instrument,

Entitled : Certificate of Compliance (Division 2 of Title 7, Section 66499.35 California Government Code)
Executed By : Paul Thompson and Marin County Community Development Agency
Dated : April 21, 2014
Recorded : April 22, 2014 in Official Records under Recorder's Serial Number 2014-0015061
Returned to
Address : 3501 Civic Center Drive, #308, San Rafael, CA 94903

Note: Reference is made to said instrument for full particulars.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0436023851-DM
FIRST AMENDED

11. Matters as contained or referred to in an instrument,
- Entitled : Certificate of Compliance (Division 2 of Title 7, Section 66499.35
California Government Code)
- Executed By : Paul Thompson and Marin County Community Development Agency
- Dated : April 21, 2014
- Recorded : April 22, 2014 in Official Records under Recorder's Serial Number
2014-0015062
- Returned to
Address : 3501 Civic Center Drive, #308, San Rafael, CA 94903

Note: Reference is made to said instrument for full particulars.

12. Deed of Trust to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof,
- Amount : \$220,000.00
- Trustor/Borrower : Paul Thompson, a married man as his sole and separate property
- Trustee : Fidelity Title Company
- Beneficiary/Lender : BaySierra Capital Fund, LLC, as to a 220,000/220,000ths
undivided interest
- Dated : October 14, 2014
- Recorded : October 17, 2014 in Official Records under Recorder's Serial
Number 2014-0043323
- Loan No. : 1405008

Affects this and other property.

13. Any effect of the deed from Wells Fargo Bank successor in interest to American Trust Company to Paul Thompson, recorded September 16, 2014 as Document No. 2014-0038492.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0436023851-DM
FIRST AMENDED

14. Prior to the issuance of any policy of title insurance, the Company requires the following with respect to 187 Sacramento LLC, a California Limited Liability Company:
 1. A copy of any management or operating agreements and any amendments thereto, together with a current list of all members of said LLC.
 2. A certified copy of its Articles of Organization (LLC-1), any Certificate of Correction (LLC-11), Certificate of Amendment (LLC-2), or Restatement of Articles of Organization (LLC-10).
 3. Recording a Certified copy of said LLC-1 and any "amendments thereto".

15. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

16. Note: It appears that Old Republic National Title Insurance may be asked to insure against the rights of Mechanics Lien claimants. The Company may require the following:
 - A. Signed indemnities by all parties.
 - B. A copy of the construction cost breakdown.
 - C. Appropriate financial statements from all Indemnitors.

17. The requirement that this Company be provided with a suitable Owner's Declaration (form ORT 174). The Company reserves the right to make additional exceptions and/or requirements upon review of the Owner's Declaration.

18. Any unrecorded and subsisting leases.

----- **Informational Notes** -----

- A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) 2.2.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0436023851-DM
FIRST AMENDED

B. The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented to reflect the following additional items relating to the issuance of an American Land Title Association loan form policy:

NONE

NOTE: Our investigation has been completed and there is located on said land vacant land known as 179 Sacramento Avenue, San Anselmo, CA 94960.

The ALTA loan policy, when issued, will contain the CLTA 100 Endorsement and 116 series Endorsement.

Unless shown elsewhere in the body of this report, there appear of record no transfers or agreements to transfer the land described herein within the last three years prior to the date hereof, except as follows:

Grant Deed executed by 179 Sacramento LLC, a California limited liability company to Timothy J. Sasan and Elisabeth A. Sasan, husband and wife as joint tenants recorded March 3, 2017 in Official Records under Recorder's Serial Number 2017-0009382.

C. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument

Entitled	:	Grant Deed
By/From	:	Timothy J. Sasan and Elisabeth A. Sasan, husband and wife, as Joint Tenants
To	:	187 Sacramento, LLC, a California limited liability company
Dated	:	August 22, 2017
Recorded	:	August 23, 2017 in Official Records under Recorder's Serial Number 2017-0033810

O.N.
MMV/mm

RECEIVED

AUG 13 2019

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

ORDER NO. : 0436023851

EXHIBIT A

The land referred to is situated in the unincorporated area of the County of Marin, State of California, and is described as follows:

TRACT I

Beginning at a point on the Easterly line of Pasadena Avenue, distant thereon North 3° 57' West 70.60 feet from the most Northerly corner of the property described in the Deed from Luisa Spagnoli to Jesse J. Filippelli, et ux, Recorded March 15, 1955 in Volume 928 of Official Records, at Page 177, Marin County Records; running thence along said Easterly Avenue line North 25° 36' West 102.62 feet, North 17° West 133.33 feet and North 37° 41' East 16.75 feet; thence leaving said line North 34° 39' West 41.94 feet to the Southeasterly line of the Property described in the Deed from Luisa Spagnoli to M. V. Kelley, et ux, Recorded November 6, 1953 in Volume 835 of Official records, at Page 375; thence along said line North 72° 41' East 231.84 feet to the centerline of Sacramento Avenue, as relocated; thence along said centerline South 12° 31' East 205.11 feet, South 44° 26' East 111.06 feet and South 14° 41' East to a point which bears South 87° 35' East from the point of beginning; thence leaving said centerline North 87° 35' West 265 feet, more or less, to the point of beginning

EXCEPTING THEREFROM the included portion of Sacramento Avenue as shown on Map entitled, "Short Ranch subdivision Two", filed July 3, 1912 in Map Book 4 at Page 22.

APN: 177-172-10 and 177-172-20

NOTE: Tract II herein described is only being included so as to avoid the Company being the cause of excluding it from deeds or encumbrances, but NO INSURANCE is to be provided as to said tract.

TRACT II:

All that portion of Sacramento Avenue 40' feet in width as Shown on Map entitled, "Short Ranch Subdivision Two" filed July 3, 1912 in Map Book 4 at Page 22 lying Southerly of the Northern boundary and Northerly of the Southern boundary of the following described lands:

PARCEL ONE:

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or less, to the Westerly line of A 40 foot road, being the Westerly line of relocated Sacramento Avenue; thence along said Westerly road line North 14° 41' West 75 feet, more or less, to a point which bears South 87° 35' East from the point of beginning; running thence North 87° 35' West 245 feet, more or less , to the point of beginning.

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APN: 177-172-18 and 177-172-19

**AMERICAN LAND TITLE ASSOCIATION
LOAN POLICY OF TITLE INSURANCE - 2006
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations.This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

EXCEPTIONS FROM COVERAGE – SCHEDULE B, PART 1, SECTION ONE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

FACTS
**WHAT DOES OLD REPUBLIC TITLE
DO WITH YOUR PERSONAL INFORMATION?**

Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> • Social Security number and employment information • Mortgage rates and payments and account balances • Checking account information and wire transfer instructions <p>When you are <i>no longer</i> our customer, we continue to share your information as described in this notice.</p>
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Old Republic Title chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does Old Republic Title share?	Can you limit this sharing?
For our everyday business purposes — such as to process your transactions, maintain your account(s), or respond to court orders and legal investigations, or report to credit bureaus	Yes	No
For our marketing purposes — to offer our products and services to you	No	We don't share
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes — information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes — information about your creditworthiness	No	We don't share
For our affiliates to market to you	No	We don't share
For non-affiliates to market to you	No	We don't share

Questions

 Go to www.oldrepublictitle.com (Contact Us)

Who we are	
Who is providing this notice?	Companies with an Old Republic Title name and other affiliates. Please see below for a list of affiliates.

What we do	
How does Old Republic Title protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information, visit http://www.OldRepublicTitle.com/newnational/Contact/privacy .
How does Old Republic Title collect my personal information?	<p>We collect your personal information, for example, when you:</p> <ul style="list-style-type: none"> • Give us your contact information or show your driver's license • Show your government-issued ID or provide your mortgage information • Make a wire transfer <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
Why can't I limit all sharing?	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> • Sharing for affiliates' everyday business purposes - information about your creditworthiness • Affiliates from using your information to market to you • Sharing for non-affiliates to market to you <p>State laws and individual companies may give you additional rights to limit sharing. See the "Other important information" section below for your rights under state law.</p>

Definitions	
Affiliates	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> • <i>Our affiliates include companies with an Old Republic Title name, and financial companies such as Attorneys' Title Fund Services, LLC, Lex Terrae National Title Services, Inc., Mississippi Valley Title Services Company, and The Title Company of North Carolina.</i>
Non-affiliates	<p>Companies not related by common ownership or control. They can be financial and non-financial companies.</p> <ul style="list-style-type: none"> • <i>Old Republic Title does not share with non-affiliates so they can market to you</i>
Joint marketing	<p>A formal agreement between non-affiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> • <i>Old Republic Title doesn't jointly market.</i>

Other Important Information

Oregon residents only: We are providing you this notice under state law. We may share your personal information (described on page one) obtained from you or others with non-affiliate service providers with whom we contract, such as notaries and delivery services, in order to process your transactions. You may see what personal information we have collected about you in connection with your transaction (other than personal information related to a claim or legal proceeding). To see your information, please click on "Contact Us" at www.oldrepublictitle.com and submit your written request to the Legal Department. You may see and copy the information at our office or ask us to mail you a copy for a reasonable fee. If you think any information is wrong, you may submit a written request online to correct or delete it. We will let you know what actions we take. If you do not agree with our actions, you may send us a statement.

Affiliates Who May be Delivering This Notice

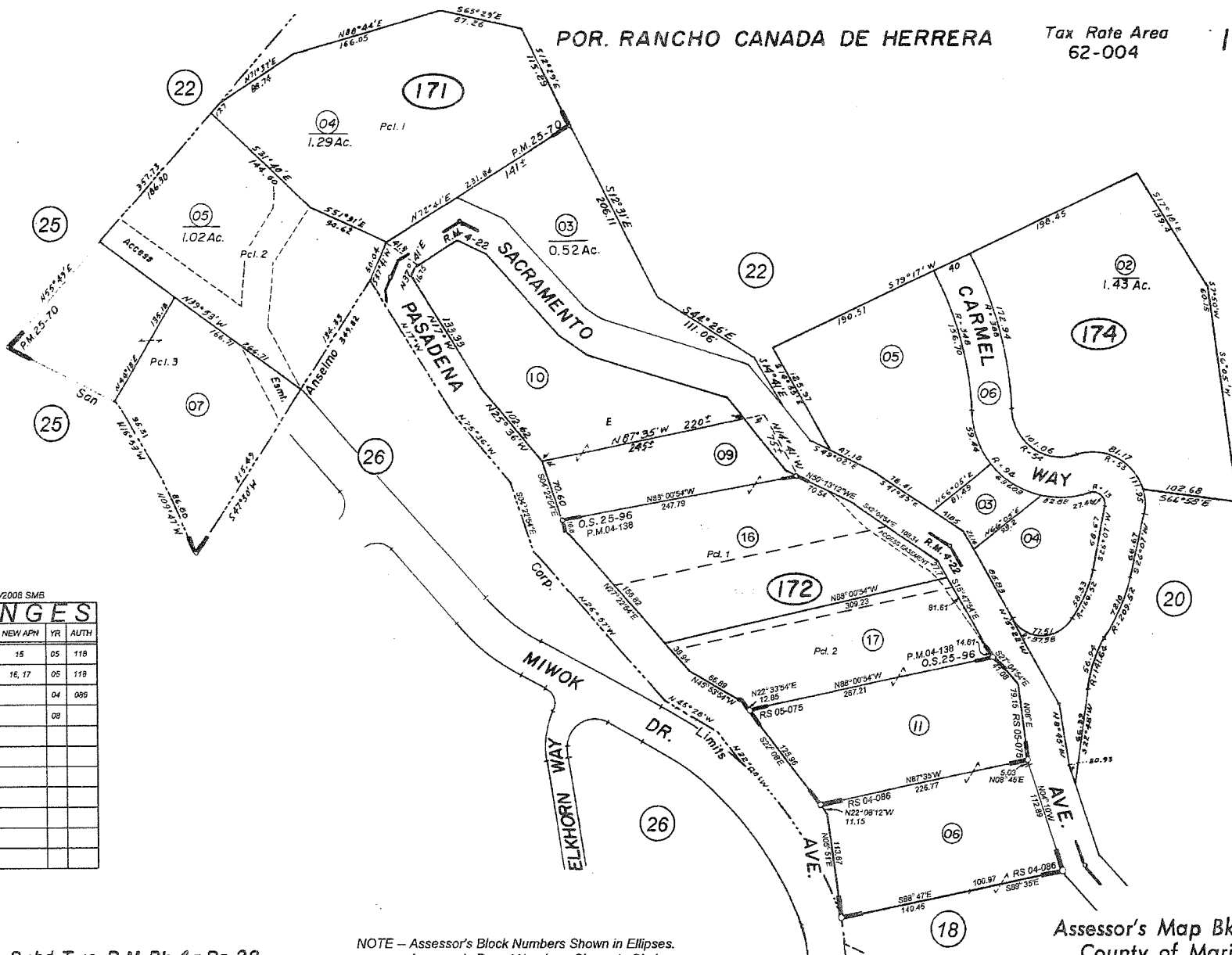
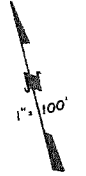
American First Abstract, LLC	American First Title & Trust Company	American Guaranty Title Insurance Company	Attorneys' Title Fund Services, LLC	Compass Abstract, Inc.
eRecording Partners Network, LLC	Genesis Abstract, LLC	Kansas City Management Group, LLC	L.T. Service Corp.	Lenders Inspection Company
Lex Terrae National Title Services, Inc.	Lex Terrae, Ltd.	Mara Escrow Company	Mississippi Valley Title Services Company	National Title Agent's Services Company
Old Republic Branch Information Services, Inc.	Old Republic Diversified Services, Inc.	Old Republic Exchange Company	Old Republic National Title Insurance Company	Old Republic Title and Escrow of Hawaii, Ltd.
Old Republic Title Co.	Old Republic Title Company of Conroe	Old Republic Title Company of Indiana	Old Republic Title Company of Nevada	Old Republic Title Company of Oklahoma
Old Republic Title Company of Oregon	Old Republic Title Company of St. Louis	Old Republic Title Company of Tennessee	Old Republic Title Information Concepts	Old Republic Title Insurance Agency, Inc.
Old Republic Title, Ltd.	Republic Abstract & Settlement, LLC	Sentry Abstract Company	The Title Company of North Carolina	Title Services, LLC
Trident Land Transfer Company, LLC				

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

POR. RANCHO CANADA DE HERRERA

Tax Rate Area
62-004

177-17



06/11/2008 SMS

CHANGES				
BLK	PRIOR APN	NEW APN	YR	AUTH
172	12, 13, 14	15	05	118
172	15	16, 17	05	118
172	SURVEYS		04	086
172	SURVEY		08	

Survey

Short Ranch, Subd. Two. R.M. Bk. 4 - Pg. 22.

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk.177-Pg.17
County of Marin, Calif.

Source: National Aerial Photography, 1980s. Digitized by the County of Marin Assessor's Office. 06/11/2008. 177-17 Pg. 17 of 17.