

M E M O R A N D U M

TO: Marin County Planning Commission
FROM: Kathleen Kilgariff, Planner
DATE: July 20, 2020
RE: Planning Commission Hearing of March 16, 2020
Brandon Sullivan et al Appeal of the Sasan Site Plan Review Approval
Agenda Item: 4

This memorandum provides additional correspondence received for the subject appeal, which were received after the publication of the Staff Report and are included in the attachments in the following order:

1. Correspondence from Robin McKillop and John Herr, March 11, 2020
2. Correspondence from Beverlee Sandy, March 11, 2020
3. Correspondence from Brandon and Melissa Sullivan, March 12, 2020
4. Correspondence from Brandon and Melissa Sullivan, March 12, 2020
5. Correspondence from Shaun Church, March 12, 2020
6. Correspondence from Anthony De Andrade, March 12, 2020
7. Correspondence from Eric Schneider, March 12, 2020
8. Correspondence from Friends of the Corte Madera Creek Watershed, March 13, 2020
9. Correspondence from Richard M. Block and Vicki Crane Block, March 13, 2020

Please note that the above communications that were received between March 11 and March 12, 2020 were provided in a Memorandum to the Planning Commission prior to the scheduled March 16, 2020 hearing. However, there was an error and one correspondence from Brandon and Melissa Sullivan was provided twice. To ensure clarity and consistency with the above noted list, the communications are again provided to the Commission, along with the two communications dated March 13, 2020.

Damazyn, Michele

From: R McK <remck1@yahoo.com>
Sent: Wednesday, March 11, 2020 8:13 PM
To: Kilgariff, Kathleen
Cc: PlanningCommission
Subject: Comments on Sasan Project P2522
Attachments: McKillop-Herr Comments on Sasan Project P2522.pdf; ATT 1-18, McKillop-Herr Attachments.pdf

Hi Kathleen,

Our comments on the Sasan Project (P2522) in San Anselmo are attached. Please confirm that you have received our documents.

Thanks,

Robin McKillop and John Herr

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

March 11, 2020

Delivered by email

Planning Commission
County of Marin
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903
planningcommission@marincounty.org

Re: Opposition to Sasan Site Plan Review (P2522)

Dear Members of the Planning Commission:

We own our home at 54 Miwok Drive, situated directly across a small valley from the proposed project, and we are one of the families most impacted by this project. Our 12/23/2019 letter to the Planning Department in opposition to this project provides additional information about our concerns (Attachment 18). We apologize for our lengthy correspondence, but we hope the details we have provided will help you make a more informed decision about this project.

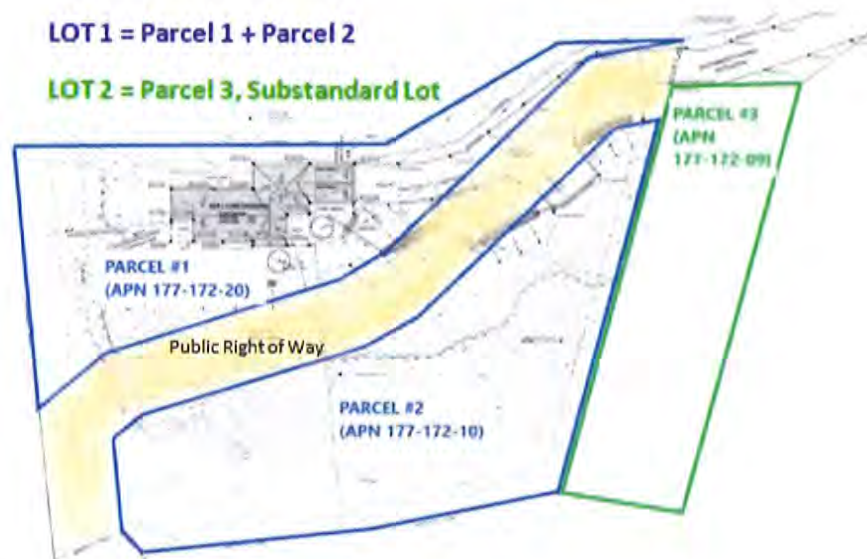
WHAT WE ARE REQUESTING

- **Deny this application** based on the significant environmental, noise and visual impacts that can be avoided or minimized by locating it elsewhere.
- Recognize that this **project is not constrained to the proposed location.**
- Direct planning staff to **ensure the lot area is accurately, consistently and fairly represented.**
- **Prohibit encroachment onto the public right-of-way.**
- **Reduce the size of the fire truck turnaround** that was originally designed with a parking space included. The applicants were instructed to remove the parking space and should also have been instructed to reduce the bulk and mass of the turnaround.
- **Require a comprehensive CEQA review.**
- **Reconsider options for requiring the lot merger** that should have happened in 2017 to ensure only one house is ever constructed on this lot.

BRIEF BACKGROUND

Beth and Tim Sasan are the owners of the lot proposed for development under this application. This steep lot is split into two parcels (177-172-20 and 177-172-10) by the public right of way as shown in the diagram below. The adjacent substandard lot (177-172-09) is currently owned by Beth Sasan's brother,

Paul Thompson of Thompson Development. Paul Thompson purchased these three parcels (2 lots) in 2014 and proposed building two houses on the larger lot in 2015. He withdrew that application when he realized his plans were flawed for a variety of reasons. Although the current proposal is for one house only, we believe that the applicants are working towards building a second house on this lot (parcels 177-172-20 and 177-172-10) as per their original plans – just with a piecemeal approach this time around.



SUMMARY OF MAJOR ISSUES

- **Mapped streams and wetlands** in the northern area of the project site and required setbacks were not included in the 2019 Biological Assessment.
- **The lot area is overstated** by 13,000 to 20,000 sq ft (between 22 to 37%).
- **The project encroaches onto the public right of way.**
- **Development potential for these lots is being inflated** beyond what was reflected in the price the applicants paid through an illegal “taking” of the public right of way.
- **A CEQA Class 3 Categorical Exemption should not apply.** Numerous nearby projects that are comparable to this one were not categorically exempt.
- **Negative impacts to the environment are needlessly severe.** Impacts can be significantly reduced by moving the building site closer to the developed end of Sacramento Avenue.
- **The project fails to meet Site Plan Review requirements** that require clustering development; minimizing impervious surfaces, grading, visual prominence; protecting streams and wetlands; and ensuring fire safety.

STREAM CONSERVATION AREA & WETLAND CONSERVATION AREA

In September 2019, the applicant’s hired Eric Lichtwardt of LSA Associates, Inc to prepare a Biological Assessment of the site. The Biological Assessment Report, dated 10/17/2019, describes and maps (Attachment 1) an intermittent stream running north to south along the western edge of the project site

and describes an unmapped drainage in the native grassland in the northern portion of the project. However, the report fails to mention the extensive network of mapped streams running east to west along the northern edge of the site. These streams are mapped in the Marin Map based on the USGS National Hydrography Dataset (Attachment 2). Similarly, Marin Map shows an extensive network of mapped riverine wetlands at the site (Attachment 3) based on data from the National Wetlands Inventory managed, but they were not mentioned in the Biological Assessment. The omitted streams have scoured channels in excess of 6' in depth and 15' in width, in places, and they have the same oak, bay and buckeye trees growing along their banks for over 100' (Attachment 4). **If streams at the site are treated consistently, and the same 100' setback called for along the western boundary stream is also applied along the northern boundary stream, the current building site falls squarely into the Stream Conservation Area (SCA).**

After planning staff shared our concerns (Attachment 5) about the mapped streams and wetlands in the northern area of the property not being mentioned in the 2019 Biological Assessment with the applicants, the LSA consultant visited the site again in February and provided new comments in a supplemental letter dated 3/3/2020. The consultant states that he did not make any mention of the mapped streams and wetlands along the northern property boundary in his original report because he determined that the mapped waterway is just an erosional feature or gully with *"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...(and) the exposed rocks have sharp edges; there are no rounded rocks, cobbles, etc. that are indicative of long-term flowing water...(and) there are no hydric soils...and no wetland vegetation."* He also alludes to this waterway having developed over the last 20 to 30 years, possibly *"due to over grazing upslope, contributions of several shallow upslope landslides, and the fractured rocky substrate in the area."*

The stream that runs north to south along the western border of the property is described by the LSA consultant as an intermittent stream even though it is mapped as an ephemeral stream. No information is provided in the LSA report to explain why or how the consultant has arrived at this conclusion. On the other hand, the stream along the northern border is mapped as an ephemeral stream, and the information provided to justify the consultant's determination that it is just a gully (4 months after the Biological Assessment was prepared) is not very convincing. In actuality, the western border stream has many of the same characteristics as the "omitted" northern border stream.

The western border stream also has "deeply incised eroded area(s) with many exposed roots of the trees growing in and adjacent to the area", as well as "exposed rocks" with "sharp edges" and "shallow upslope landslides". Both streams have scoured channels and distinct beds and banks. Neither stream has hydric soils or supports plant species typical of wetland habitats.



Creek along western property border has exposed sharp rocks and roots, and a landslide along its banks in January 2017.

With regard to the age of the omitted stream, 1997 Marin Map aerial imagery shows that both the western border and northern border streams likely existed well over 20 years ago as there is clearly a riparian canopy in 1997. The same tree species are present along both streams and they tend to cluster along waterways as seen in aerial photos. Although these trees often grow away from streams, they tend not to do so in this location as you can see in aerial images from 1997 and 2018 (Attachment 6).

With regards to cattle, grazing on these lands has not happened in over half a century. An article by the San Anselmo Historical Museum states, "Dairy cattle grazed the rolling hills at the dairies of Spagnoli and Sorich families until after WWII when an influx of new residents spurred the development of new homes". It seems highly unlikely that cattle grazing could have impacted any drainage that was formed only 20 to 30 years ago as the LSA consultant claims.

The two photographs of the waterways provided in the consultant's supplemental letter are not representative of the drainages in this area (Attachments 7, 7A, 8, 9). It's interesting that the LSA consultant chose to use a photo of the drainage channel taken during the summer of 2017 when tall grass prevented a clear view of the channel, rather than taking a picture when he recently visited the site in February when the drainage channel is much more pronounced. It's disappointing that the County chose to waive its right to select the biologist to perform this assessment. An opportunity has been missed to ensure an unbiased opinion.

None of the properties in this area, including this lot, is listed in a SCA zone, whether using the SCA lookup tool (<https://www.marincounty.org/depts/cd/divisions/planning/stream-conservation-area-lookup>) or viewing parcel reports (Attachment 10). We are not against SCA protections in this area, but we think it's only fair that requirements are applied consistently and accurately, and based on science not politics. The Countywide Plan requires a 50' setback from the top of bank for parcels between 0.5 to 2 acres in size in the City-Centered Corridor, and allows for an additional buffer based on a site assessment. **The LSA Biological Assessment (10/17/2019) provides no justification for why the buffer should be measured from the riparian canopy, rather than the top of bank.** If an additional SCA setback is truly required along the creek that borders our properties it should be clearly justified. Any setback along this stream will impact properties along Miwok Drive too. Planning staff has entirely failed to provide any justification for measuring setbacks from the canopy and has instead pointed to the section in the Countywide Plan that says additional setbacks may be required – as if it's totally acceptable to invoke an additional setback with no support whatsoever simply because the code says a provision exists.

It seems odd that a consultant hired by the applicants has the ability to eliminate mapped streams and wetlands from the site by simply saying they lack hydric soils and typical riparian/wetland vegetation, especially when he increases the classification (from ephemeral to intermittent) of the other onsite stream without providing any justification. The Countywide Plan definition of "stream" does not mention any requirements specific to hydric soils, vegetation type, rounded rocks or tree roots referred to by the LSA consultant:

A natural or once natural flowing open drainage channel with an established bed and bank. These consist of perennial, intermittent, and ephemeral streams, including open waterways that have been restored, modified, or channelized, but do not include ditches, culverts, or other above- or below- ground conduits constructed specifically for storm drainage function. Perennial and intermittent streams, shown as solid or dashed blue lines (or purple lines) on the most recent appropriate USGS data, and ephemeral streams as defined below, are subject to Stream Conservation Area protection policies.

The extensive drainage network in the northern area of this site was included by the applicants in a site constraints map for a previous proposal (Attachment 11). It is troubling that this drainage network is not acknowledged in the current proposal (Attachment 12) or the recent Biological Assessment (Attachment 1).

In summary, the mapped streams in the northern portion of the property have always drained the undeveloped hillsides above them. Both streams deserve the same classification and the same setbacks to protect them, as long as the setbacks are justified scientifically and applied consistently.

OVERSTATED LOT AREA

The applicants continue to overstate the size of this lot because they need the extra area to satisfy Hillside Subdivision requirements (22.82.050) in order to adjust the boundaries of the lots in the future. Their long-term plan continues to focus on constructing a second house on the lot currently proposed for development, even though this site is not suited for that degree of development. **If the total area of these three parcels can be inflated to 2 acres, the applicants can potentially proceed with placing a second house on the lot currently proposed for development.** Depending on the source of the lot area, the applicants are overstating the lot area between 22% and 37% as shown in Table 1 below.

TABLE 1: LOT AREA COMPARISON

| Lot | Parcel | Lot Area (Square Feet) | | | |
|--------------------|--|------------------------|--------------|------------------|--------------|
| | | Marin Map | % Overstated | Assessor Records | % Overstated |
| Lot 1 ^A | 177-172-20 | 23,080 | | 22,652 | |
| | 177-172-10 | 30,907 | | 37,800 | |
| | Total Area Lot 1 | 53,988 | | 60,452 | |
| | Public Right-of-Way | 19,895 | 37% | 13,431 | 22% |
| | Lot 1 Area per Sasan Site Review Staff Report (1/9/2020) | 73,883 | | 73,883 | |
| Lot 2 | 177-172-09 | 15,646 | | 17,150 | |
| Lot 1 + Lot 2 | Total Area Lot 1 + Lot 2 Acres ^B | 69,633 1.60 | | 91,033 2.09 | |

^A Lot 1 area has varied widely in planning staff reports, ranging from 73,833 sq ft (1/9/2020 Sasan Site Plan Review) to 53,163 sq ft (6/5/2018 Resolution 2018-50, Upholding the Brandon Sullivan et al. Appeal).

^B Hillside Subdivision Design standards (22.82.050) require a minimum lot size of 1 acre (43,560 sq ft) on slopes 40% or greater. Allowing the applicants to include the area of the public right-of-way in the lot area clears the way for future lot boundary adjustments and construction of a second house on the lot currently proposed for development (Lot 1) because the applicants will have acquired enough additional area to satisfy Section 22.82.050 requirements.

When Paul Thompson purchased both lots, **the deed 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 Avenue land area. Similarly, the Thompson

Certificate of Compliance prepared by Curtis Havel (4/17/2014) states, "...the legal description excludes Sacramento Avenue from the unit of land."

Planning staff has taken the position that *"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 explanation seems to twist the meaning of the phrase "street right-of-way". In this phrase, "street" simply describes "right-of-way". It's a street right-of-way as opposed to a trail right-of-way, for example. Public access does not need to be a street in order to be a right-of-way. Whether there's vehicular traffic on it or not, the right-of-way is still a right-of-way and it should be excluded from the lot area.

Contrary to planning staff's position, the California Streets and Highway Code states: "'Street' and 'highway' include all or part of, or any right in, a state highway or other public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement..." (Division 9, Part 3, Chapter 1, Section 8308) and defines "street" as "...any public street, road, highway, alley, lane, court, way or place of any nature open to the use of the public." (Division 13, Part 1, Chapter 1, Section 11004).

INFLATED DEVELOPMENT POTENTIAL

The County's own Development Code recognizes that no more than one house should be approved for construction on these steep lots. Because the smaller lot (177-172-09) is substandard as defined in Section 22.42.020 of the Development Code, Merger of Parcels (section 22.92.020) applied when both lots were held under the same ownership. Parcels can be required to merge if they meet two requirements: 1) at least one parcel is undeveloped and 2) at least one parcel fails to meet slope stability standards. In this case, all parcels are undeveloped and all parcels are located entirely within zone 4 on the slope stability map, thereby failing to meet slope stability standards. As such, these lots should have been merged and development should have been limited to one house in 2017 when this issue was considered. The applicants have attempted to avoid this requirement by transferring title to the substandard lot to Paul Thompson. However, the intent of the Development Code is clear and we believe this situation warrants further consideration to prevent inappropriate development.

In 2014, when Paul Thompson purchased these parcels, they were just as constrained as they are today by the public right-of-way, topography and natural features. These inherent constraints likely raised concern by potential buyers about the extent to which these lots could be developed, leading to a lengthy listing period and numerous price reductions before Paul Thompson purchased them. By his own calculations, Paul Thompson paid significantly less for these lots in 2014 than what they would be worth if he can gain approval to construct two large, well situated houses. In 2014, just a few months after buying both lots for \$350,000, Paul Thompson listed them (with his sister, Beth Sasan, as the listing agent) for \$950,000, with "approved plans" (Attachment 13). The lots quickly went into escrow with a buyer, and subsequently fell out of escrow, probably once the buyer realized that the plans were not actually approved. The only thing that accounts for this huge increase in value over such a short amount of time is "approved plans" for a level of construction significantly beyond the development potential

that was reflected in the original purchase price. ***This inflated development potential is only possible if private development is allowed on the public right-of-way whether by abandonment, encroachment or by simply allowing the applicants to include the public right-of-way in the area of their lot.***

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This project has been granted a Class 3 Categorical Exemption under CEQA (Section 15303). While it's possible for the construction of a new single-family residence to be categorically exempt, this project involves a lot more than construction of a single house. It entails extending Sacramento Avenue 130 feet, constructing a 185 foot driveway, constructing an extensive network of retaining walls up to 8' in height, excavating 2,063 cubic yards of soil, and installing over 12,000 sq ft of impervious surfaces.

Furthermore, a Class 3 Exemption only applies if substantial evidence proves that none of the exceptions to this exemption apply (Public Resources Code Section 21168.5). **The following exceptions to a Class 3 Categorical Exemption apply.**

1. ***Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.***

If stream setbacks are applied consistently, this project is located in the SCA in the northern area of the site. Because the SCA is "designated, precisely mapped, and officially adopted", this project cannot be categorically exempt under CEQA.

2. ***Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.***

In a 2017 Notice of Exemption from CEQA, planning staff states: "*The project will not result in any potentially cumulative impacts because no other vacant lots in the area depend solely upon Sacramento Avenue for access, and the subject property is not further subdividable*" (6/1/2017). On the contrary, two other vacant lots in addition to the vacant lot proposed for development depend solely on Sacramento Avenue for access: the substandard lot adjacent to this one (177-172-09) and a 5-acre lot to the east (177-220-24), which could conceivably be subdivided in the future. In correspondence to planning staff, Stacy Singer, the owner of the 5 acre lot, stated that her property "*is only accessible over a Roadway and Utility easement located adjacent to the Southeast Corner of the Thompson Property and I must be assured that the proposal by Mr. Thompson does not diminish that needed access*"(11/21/2014). This project will directly support future residential development in this area and the possibility of cumulative impacts should prevent a CEQA Categorical Exemption.

3. ***Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.***

The public right-of-way that bisects this lot is an unusual circumstance associated with this property that has a reasonable possibility of having a significant effect on the environment. Through encroachment onto the public right-of-way and claiming an area of the paper road as part

of their lot size, the applicants are attempting to significantly increase the development potential of this lot well beyond what it was when they purchased the lot. Without the unusual circumstance of the lot being bisected by the public right-of-way, it would be impossible for planning staff to allow a lot area increase up to 37% or construction of private improvements on public lands. In the past, planning staff supported parcelizing the public right-of-way and allowing the applicants to claim ownership of these parcels. The parcels were created and mapped. In 2018, Main County Assessor, Richard Benson, realized the error and corrected the situation by eliminating the newly created parcels. Because of the public right-of-way and recent creation of parcels within the site, this site does not meet the definition of an “infill site” – another outcome associated with this unusual circumstance.

CEQA Section 15305 grants an exemption for 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.

The proposed addition of almost 20,000 sq ft of area to this lot will enable the adjacent substandard lot (177-172-09) to increase in size from 15,646 sq ft (per Marin Map) to 35,500 sq ft, thereby transforming it from a substandard lot to a standard one. Allowing this extra area to be absorbed from the paper road amounts to a greater than 200% increase in size of lot -09 and removes land use limitations associated with substandard lots, such as Design Review requirements and the potential for forcing a merger. Exempting a lot from Design Review or a merger is in no way a “minor alteration in land use limitations.”

CEQA Section 15304 grants an exemption for minor public or private alterations in the condition of land, water, and/or vegetation. Examples include, but are not limited to: Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway or in any wetland.

This project fails this exemption on two counts: 1) the extent of grading across a steep hillside is anything but minor, and 2) grading is planned in SCA and WCA areas (if setbacks are applied consistently). At 2,063 cubic yards, the amount of grading associated with this project is excessive as compared to other nearby projects that are also located on very steep slopes and involve construction access roads. As detailed below, the single-residence Sasan Project calls for four times greater excavating than the single-residence Rogers Project, almost two times greater excavation than the two-residence Pedersen Project, and slightly more excavation than the six-residence Draper Project. **An Initial Study was required for every one of these projects.** Why isn't the same level of review being required for the Sasan project?

308 Los Angeles Blvd, San Anselmo (Rogers Project)

- Initial Study completed
- 1 house, bridge, driveway, fire truck turnaround
- Grading: 400 cubic yards of cut, 100 cubic yards of fill
- Staff report (5/13/2019) references “*the extensive amount of grading and the presence of the riparian area at the front of the property*” in making the decision to require an environmental review (emphasis added).

1 Sacramento Ave, San Anselmo (Draper/Karuna Project)

- Initial Study completed
- 6 houses, access road, driveway

- Grading: 2,000 cubic yards of cut and fill to be balanced on site, no net import or offhaul

Murray Ave, Kentfield (Boersma/Cooney Project)

- Initial Study required
- 1 house
- Grading: 104 cubic yards cut, 120 cubic yards fill

171 and 179 Sacramento Ave, San Anselmo (2002 Pedersen Project)

- Initial Study completed
- 2 houses, 350' road extension, fire truck turnaround
- Grading: 725 cubic yards excavation, 419 cubic yards of fill

187 Sacramento Ave, San Anselmo (Sasan Project)

- Initial Study not required
- 1 house, road/driveway, fire truck turnaround
- Grading: **2,063 cubic yards** (1,684 cubic yards offhaul and 379 cubic yards fill)
- This volume of soil will require 150 to 180 roundtrips by a commercial dump truck.

ENVIRONMENTAL IMPACTS

The Biological Assessment noted that purple needlegrass grasslands occur throughout the grassy portions of the site, and that purple needlegrass (*Nasella* [Stipa] *pulchra*) is co-dominant. Native to California, purple needlegrass is known to help suppress invasive plant species and support native oaks (California Native Plant Society Calscape Database). A significant portion of this important ecosystem can be preserved by relocating this project closer to the developed end of Sacramento Avenue.

Although this proposal does not involve removing trees, it crowds construction into the only area of the lot where trees are growing on the open hillside, putting these protected trees at serious risk of damage or death. Impacts from construction that are known to be detrimental to the health of oak trees include grading, trenching, digging, using fill soils, paving and soil compaction. Trees like these, located on steep hillsides that drain into streams, play an important role moderating the quality and quantity of runoff into the stream. It makes a lot more sense to ensure the protection and continued health of these trees by locating the project away from them.



Native bunch grasses are prominent at the site. Why not save as much of this important habitat as possible?

The Countywide Plan's list of "Special Status Animal Species Known or Suspected from Marin County" (Table 5-1) includes the great blue heron (*Ardea Herodias*). This bird is also included on the CDFW Special Animals List because of its close association with a habitat that is continuing to decline in California. Among other things, tree cutting, draining of wetland habitats, and building have all contributed to rookery abandonment in recent years. These majestic birds (and many others) are known to visit this area. Given the close proximity to open space and accessibility of riparian resources, there is an abundance of wildlife in this area, and a thorough environmental review is warranted.



Great Blue Heron on top of the roof at 46 Miwok Drive.

SITE PLAN REVIEW AND DISCRETIONARY DEVELOPMENT STANDARDS

This project fails to meet Site Plan Review (MCC 22.20.090) and Discretionary Development Standards (MCC 22.16.030) as our Sacramento Ave Neighbors Appeal and previous letters outlined in great detail. In summary, our major concerns with this project are that it:

Fails to cluster development in the most accessible, least visually prominent area (D1-D4). The proposed building site is located at the farthest, steepest, most inaccessible and most visually prominent area of the lot, encroaching into the 100' vertical ridgeline setback (Attachment 14). Screening from existing vegetation is not possible when the house is located at such a high elevation. In addition, the proposed building is oriented directly towards our house so that the main living area of the proposed house directly faces the main living area of our home exacerbating noise impacts.



Views of this visually prominent ridgeline enjoyed from our homes along Miwok Drive. Higher elevation areas of this ridgeline are in the Ridge and Upland Greenbelt.

Fails to minimize ground disturbance, grading, impervious surfaces and protection of existing natural drainages (J1-6). At 2,063 cubic yards, more excavating is proposed for this single-residence project than what is proposed for the Draper six-residence project, which is also on a steep hillside and involves constructing an access road. Installation of 12,540 sq ft of impervious surfaces will result in over 30,000 gallons of runoff into the adjacent stream during a 4" rain event. Impervious surfaces cover 17% of the

site using the overstated lot area, 23% of the site using lot area per Marin Map, and 54% of the parcel area to which development is constrained (177-172-20). The project places the house in a significant drainage channel in the northern area of the site and within an historical mapped debris flow area with a history of landslides (Attachment 15).

Fails to prevent fire hazards (J4). The 2019 California Fire Code (Section 503) requires fire apparatus access roads to have an unobstructed width not less than 20 feet, yet Sacramento Avenue is almost 2 feet narrower than required in places and sometimes even narrower than that due to illegal parking of vehicles on this access road. Design plans indicate a roadway width of just 19'9".

Fails to meet access requirements (C1). Section 20.16.030 of the MCC requires that no new roads shall be developed if they cannot be used without public inconvenience. Reducing the public right-of-way from at grade 40' wide access to a 4' wide stairway over an 8' high retaining wall is an inconvenience that limits use of the right-of-way to foot traffic only. In an emergency evacuation (e.g. wildfire) escape via the public right-of-way will be blocked by an 8' high wall for anybody who is not able to find the 4' stairway in possibly dark and smoky conditions. In addition, given the growth inducing nature of this project, a roadway width of 28' is more appropriate as it will likely serve 7 or more dwelling units in the future as we believe the applicants will pursue an ADU. Marin County Title 24 Development Standards define a "minor residential road" as a residential road providing access to seven to nineteen dwelling units. Sacramento Avenue provides access to the properties listed below.

1. 171 Sacramento Ave
2. 179 Sacramento Ave
3. 64 Miwok Dr
4. 187 Sacramento Ave (current proposal)
5. Substandard Lot on Sacramento Ave (177-172-09)
6. 5 acre lot (177-220-24) – subdividable in the future?
7. Future ADU(s)

Fails to meet landscaping requirements. The only mention of landscaping is a few trees in front of the 8' fire truck turnaround across the public right-of-way. Site Plan Review requirements specifically call for landscaping when ground disturbance is substantial.



Retaining wall along Sacramento Ave with attempted vegetation screening (and blocked fire access).

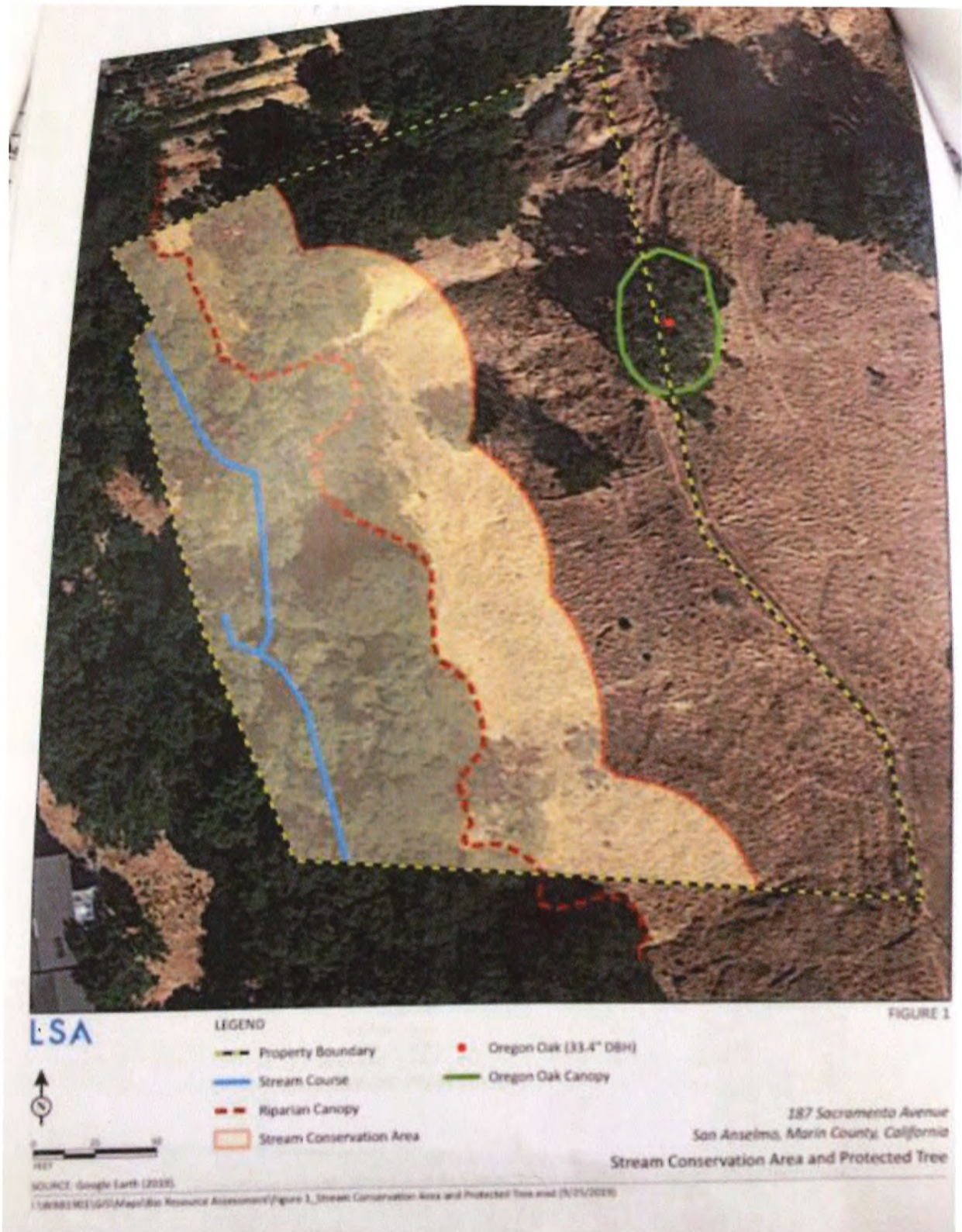
BETTER BUILDING SITE

Soon after the Planning Commission hearing on June 12, 2017, our group of neighbors proposed a mutually beneficial development option to the applicants that involved locating a single house below the public right-of-way, closer to the paved end of Sacramento Avenue. As described in our Appeal, this location has numerous benefits. In addition, it has an area of over 8,000 sq ft, enough to easily accommodate a 3,400 sq ft house with a 2,000 sq ft footprint (Attachment 16). The proposed building site is located on a natural plateau (Attachment 17) and it enjoys a view towards Mt Tam.

Thank you for your time and consideration of our comments.
Robin McKillop and John Herr

ATTACHMENT 1

Stream Conservation Area Map Prepared by LSA Associates, 10/17/2019

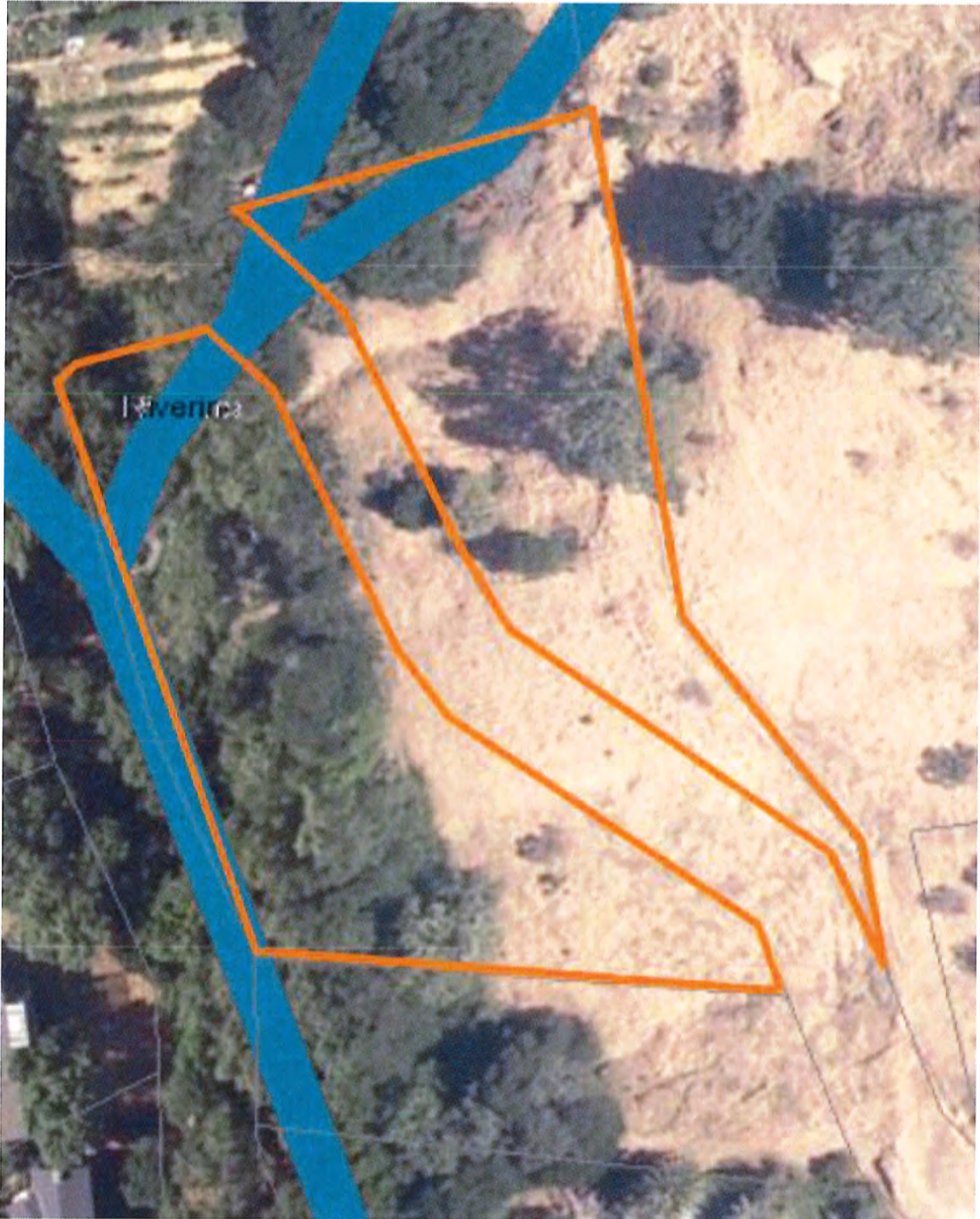


ATTACHMENT 2
Marin Map NDH Stream Layer



Streams are indicated by thin blue lines, except for stream included in the Biological Assessment is indicated as a bold blue line.

ATTACHMENT 3
Marin Map NWI Wetland Layer



ATTACHMENT 4
Riparian Vegetation Extends Beyond 100' on the Lot

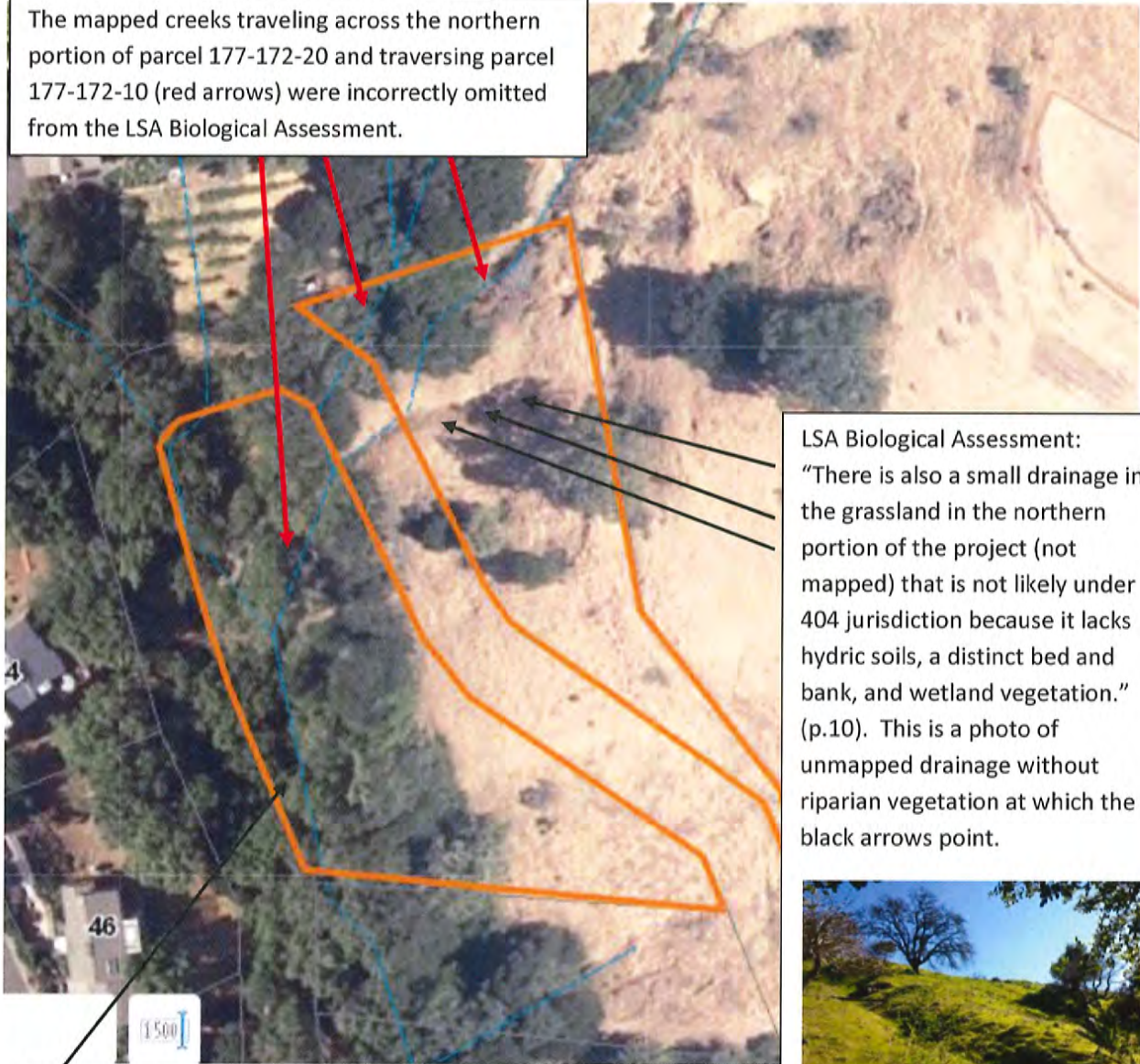


The riparian areas of the northern mapped streams located on the lot proposed for development are highlighted in yellow and labeled with each section's length as measured using Marin Map tools. The total length of the highlighted riparian corridor is 210 ft.

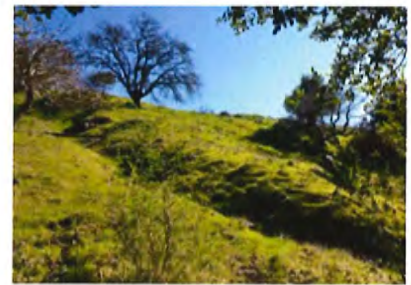
ATTACHMENT 5

Concerns Shared 2/14/2020 with Planning Staff Regarding the Biological Assessment

The mapped creeks traveling across the northern portion of parcel 177-172-20 and traversing parcel 177-172-10 (red arrows) were incorrectly omitted from the LSA Biological Assessment.

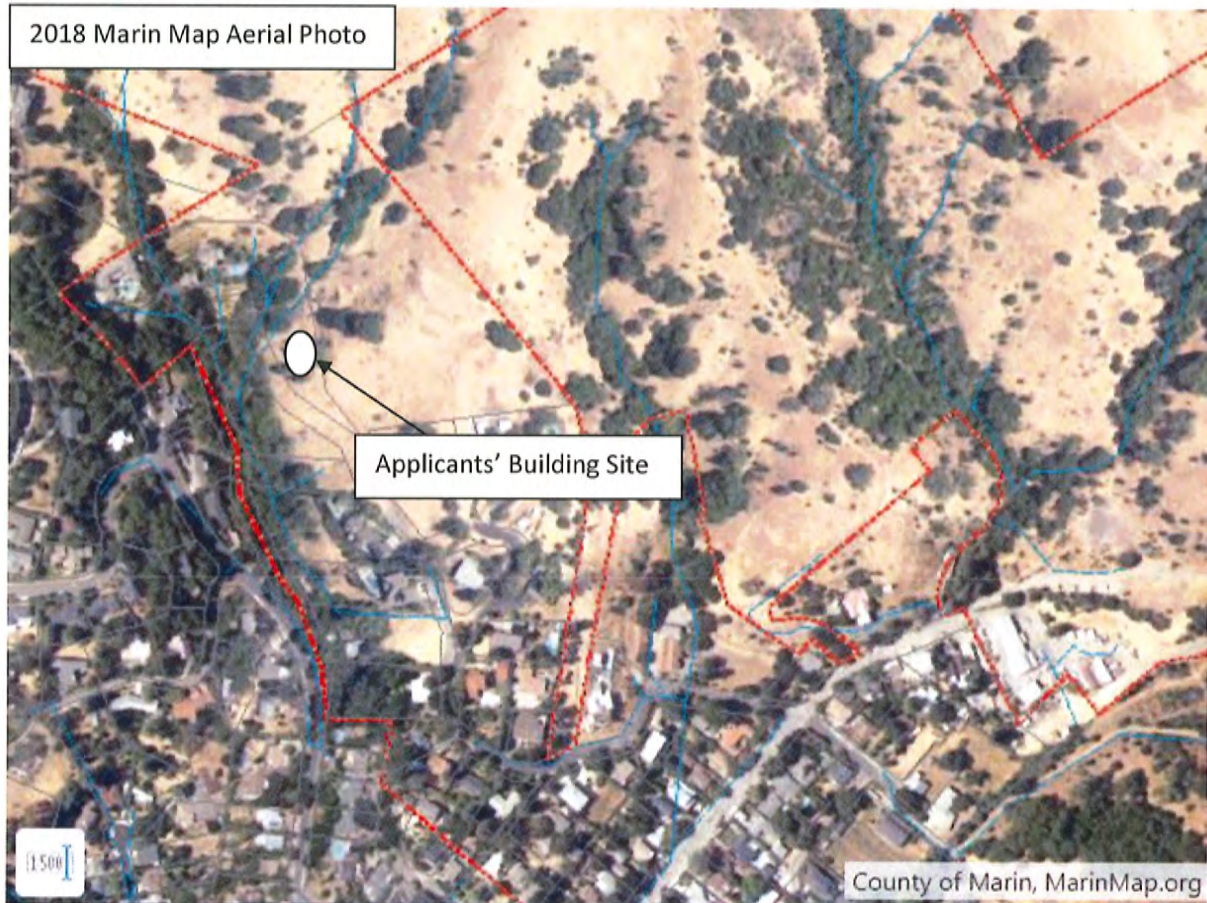
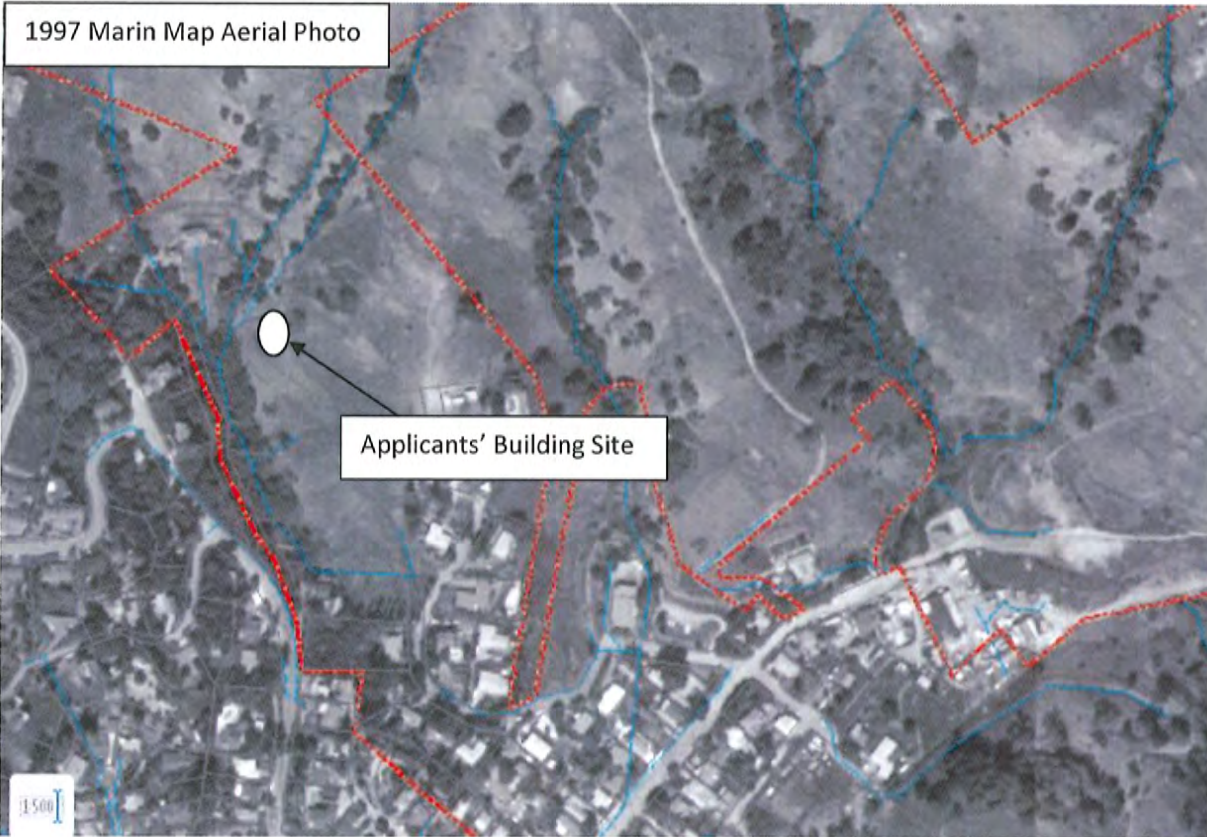


LSA Biological Assessment:
"There is also a small drainage in the grassland in the northern portion of the project (not mapped) that is not likely under 404 jurisdiction because it lacks hydric soils, a distinct bed and bank, and wetland vegetation." (p.10). This is a photo of unmapped drainage without riparian vegetation at which the black arrows point.



LSA Biological Assessment: "An intermittent stream course runs from north to south along the western edge of the project site (p.2). The stream course running along the western edge of the project site has scoured channel and distinct bed and bank and therefore is likely a water of the United States and under Section 404 jurisdiction." (p.10)

ATTACHMENT 6
Comparison of Riparian Canopy in 1997 and 2018



ATTACHMENT 7

**LSA Site Photos of Stream Along Northern Border and Unmapped Drainage
Provided as Part of the Supplemental Letter, 3/3/2020**



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

ATTACHMENT 7A

Recent Photos of the "Unmapped Drainage" that House is Forced Into



Unmapped drainage is about 3-4' deep

ATTACHMENT 8

Creek Along the Northern Property Boundary

Not Included in Biological Assessment Report, 10/17/2019



ATTACHMENT 9

Creek Along Western Property Boundary

Included in Biological Assessment Report, 10/17/2019



MarinMap Site Parcel Report

Property ID: 177-172-10

Parcel Information

Report generated 3/9/2020 9:30:33 PM

Property ID: 177-172-10
Address:
Land Use: Single-Resid. - Unimproved
Units: 0
Tax Rate Area: 062-000
Average Slope: 35.90



Parcel highlighted in blue

Census: 115000
District: 2 Katie Rice
Wildland Interface: Y
Community Plan: Upper Ross Valley
Community: Sleepy Hollow
ClubList: SLEEPY HOLLOW
Traffic Zone: 142
Zoning: R1-B2

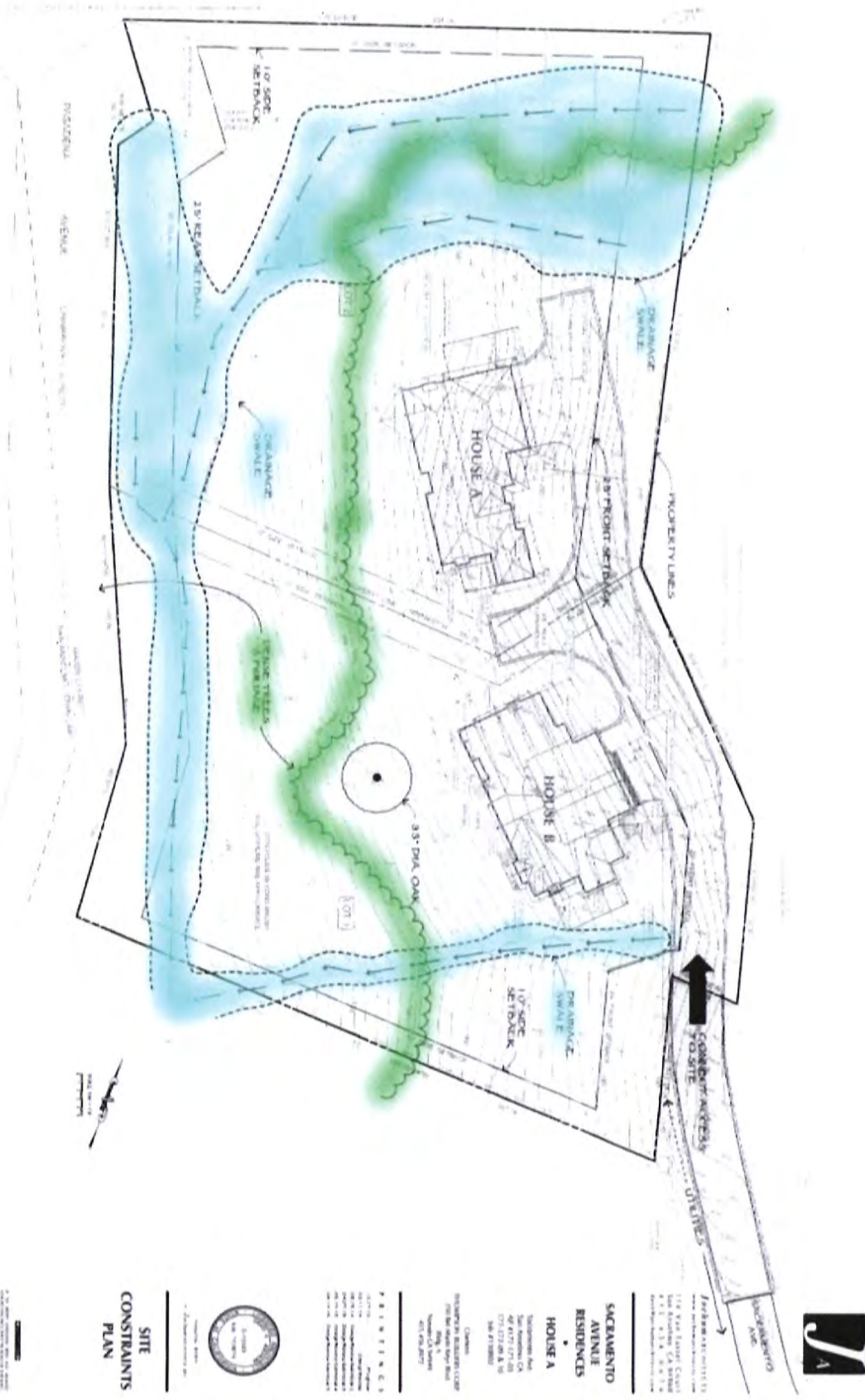
Local Coastal Plan:
Dam Failure Area:
Alquist Priolo Zone:
Stream Conserv. Area/Buffer: N 0
CWP Area: Upper Ross Valley
CWP Corridor: CITY-CENTERED
Fire Service: County Fire (CSA 31)
Fire Authority: County Fire (CSA 31)

Residential Single Family

Flood Zone: X **Insurance Required:** N

Zones B, C, and X are the flood insurance rate zones that correspond to areas outside the 1-percent annual chance floodplain, areas of 1-percent annual chance sheet flow flooding where average depths are less than 1 foot, areas of 1-percent annual chance stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 1-percent annual chance flood by levees. No Base Flood Elevations or depths are shown within this zone. Insurance purchase is not required in these zones.

ATTACHMENT 11
2015 Original Site Constraints Map (color added)



A2.4

**SITE
 CONSTRAINTS
 PLAN**



PRINTING
 Scale: 1/8" = 1'-0"
 Date: 10/15/15

OWNER
 JAMES W. HARRIS
 1234567890

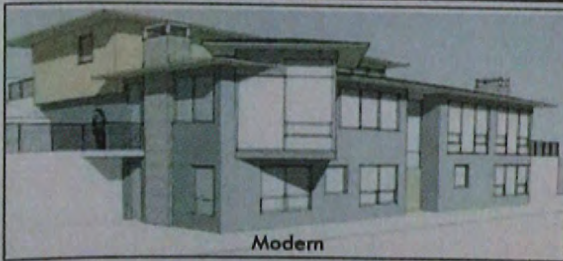
HOUSE A
 1234567890

HOUSE B
 1234567890

DATE
 10/15/15

PROJECT
 1234567890





Modern



Craftsman

Sacramento Avenue, San Anselmo

Two sun filled view lots offering incredible opportunity with approved plans. Each site takes advantage of expansive Mt. Tam views and full sun. Located in an area of multi-million dollar homes. Build your dream home in beautiful San Anselmo.

Each lot offered at: \$475,000



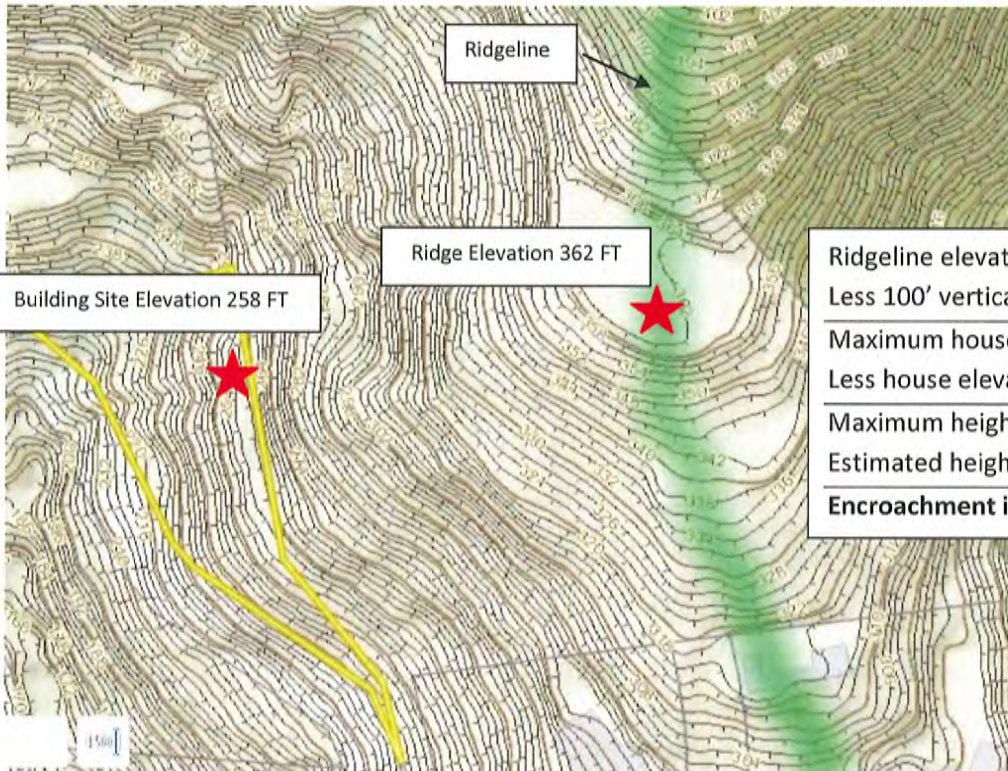
BETH SASAN
(415) 990-7186
LUXURY ESTATE SPECIALIST

CHAIRMAN'S CLUB 2011, 2012, 2013
BSASAN01@GMAIL.COM
BRE # 01433542

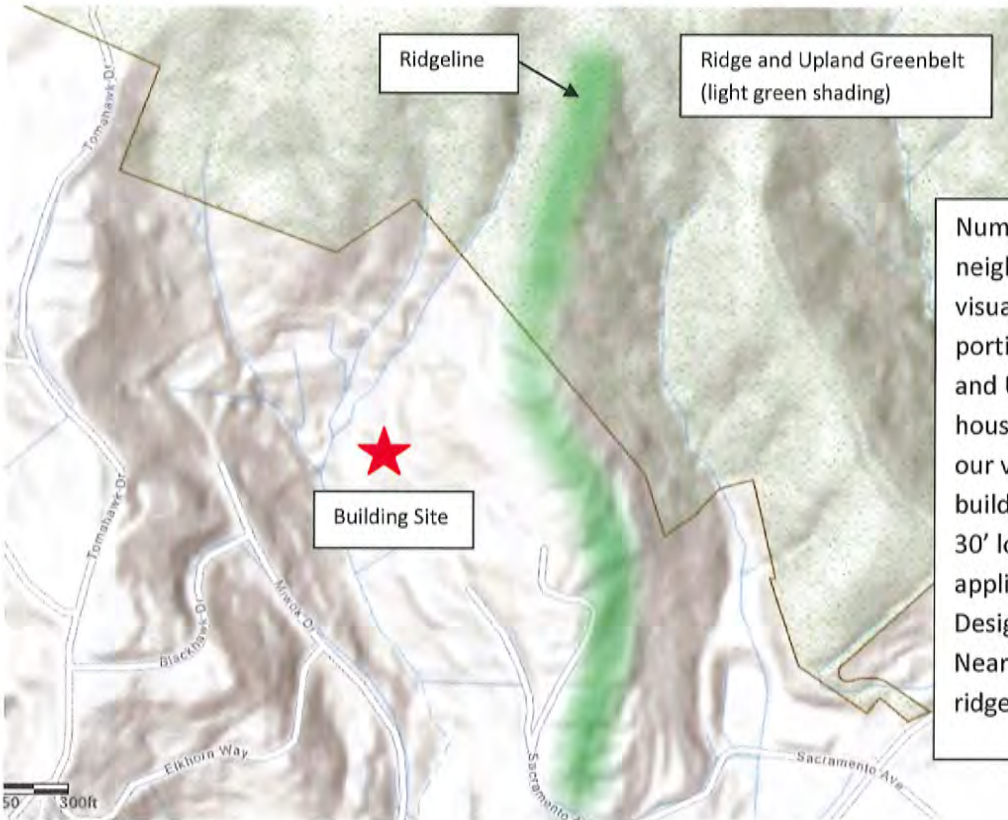


ATTACHMENT 14

Building Site Impacts to Visually Prominent Ridgeline



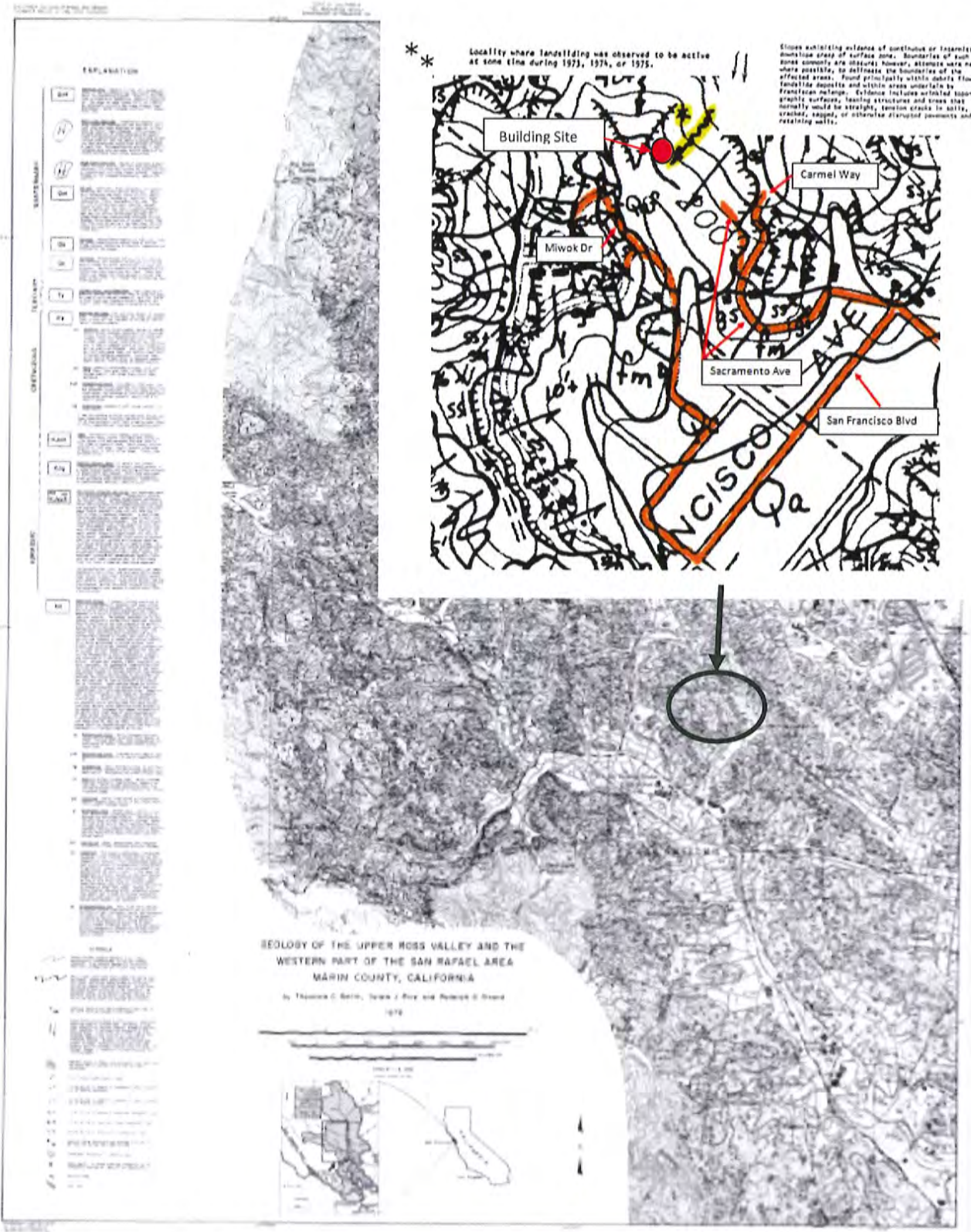
| | |
|--|--------------|
| Ridgeline elevation | 362 ft |
| Less 100' vertical setback | - 100 |
| Maximum house elevation | 262 |
| Less house elevation @ grade | - 258 |
| Maximum height of house above grade | 4 |
| Estimated height of house above grade | -20 |
| Encroachment into ridgeline setback | 16 ft |



Numerous homes in our neighborhood enjoy a view of this visually prominent ridgeline. A portion of it is located in the Ridge and Upland Greenbelt. Locating a house lower on the site will preserve our views of this ridgeline. The building site favored by neighbors is 30' lower in elevation than the applicants' site. Note: Discretionary Design Standards D2 (Development Near Ridgelines) is not limited to RUG ridgelines.

ATTACHMENT 15

Geology Map



High resolution image available at ftp://ftp.consrv.ca.gov/pub/dmg/pubs/ofr/OFR_76-02/OFR_76-02_Plate1B.pdf

ATTACHMENT 16
Building Sites



The building site proposed by neighbors is over 8,000 sq ft, providing ample room to build a 3,400 sq ft two-story house (roughly 2,000 sq ft footprint) while adhering to setback requirements. The fire truck turnaround can be located northeast of the house where the driveway is currently proposed. The building location is lower on the hillside, closer to the developed end of Sacramento Ave, on a natural plateau, away from the visually prominent ridgeline, away from the area of the site with the most complex hydrology, setback from drainages and shielded by trees.

ATTACHMENT 17

Slope Map from the Biological Assessment Report, 10/17/2019



ATTACHMENT 18

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

Kilgariff, Kathleen

From: Beverlee Sandy <beverlees10@gmail.com>
Sent: Wednesday, March 11, 2020 11:28 PM
To: Kilgariff, Kathleen
Subject: Sasan Site P2522

Hello

We oppose the project as it is unfair to the existing property owners: such a huge retaining wall and being allowed to take advantage of community owned land is a burden to us and will degrade property values in the area as well.

Thank you
Beverlee Sandy
56 Miwok Dr

Damazyn, Michele

From: Brandon Sullivan <brmsullivan@gmail.com>
Sent: Thursday, March 12, 2020 6:24 AM
To: Kilgariff, Kathleen
Cc: PlanningCommission
Subject: Sasan Site Plan Review, Sullivan
Attachments: Sasan Site Appeal stream_Sullivan.pdf

Kathleen,

Please find attached our letter, including 7 attachments, addressing the stream and riparian habitat involved in the Sasan Site Plan and approval.

Thank you,
Brandon and Melissa Sullivan

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

March 12, 2020

Delivered by email

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

RE: Sasan Site Plan Review, P2522

Dear Members of the Planning Commission,

We have expressed several concerns surrounding the current proposal and subsequent approval by Planning Staff. More recently it has become evident that the extensive stream network and riparian habitat present throughout the property have not been addressed appropriately.

The bioassessment submitted in the current application mapped one stream segment, historically referred to as West Fork of Sorich Creek, lying at the base of the western edge of the vacant lots in the valley below the homes along Miwok Drive (Attachment 1). However, the bioassessment failed to identify the extensive stream network along the northern boundary of the property that feeds the lower western portion of the stream.

Only after CDA approval of this project did we appreciate that the entire stream has indeed been mapped within the USGS National Hydrology Dataset (NHD) available on MarinMap GIS. MarinMap clearly delineates several stream branches feeding the lower stream bed that extend through both parcels (APNs 177-172-10 and 177-172-20) and the paper streets (Attachment 2). The cumulative length of ephemeral stream within the upper parcel alone, APN 177-172-20, exceeds 160 feet, including one section of roughly 120 feet based on MarinMap measurements.

Our concerns that the stream on the northern boundary had been excluded from the bioassessment were forwarded on to the applicant by the Planner, Kathleen Kilgariff. In response, the applicant's biologist dismissed the MarinMap GIS mapping as an error, provided

a representative photo and described the stream as simply an “erosional feature or gully” that “...has developed over the last 20 to 30 years.”

Unfortunately this characterization is inconsistent with other data available:

- An exhaustive survey of the property was performed by Steven Jacobs in November 2013 for the applicant (Attachment 3). Details within the survey described the northern boundary of the property as: “drainage has four channels, ground convoluted, eroded and unstable” (Attachment 4, larger red oval). Numerous trees are identified within a clearly demarcated canopy drip line that is contiguous with the canopy on the western boundary. The survey highlights two specific areas, both located within parcel APN 177-172-20 near the proposed building site, stating: “Top Arroyo, 26’ wide, 8-10’ deep” and “Top Arroyo 15’ wide, 6’ deep,” respectively (Attachment 4, smaller red ovals). Unfortunately these detailed survey notes are not provided in subsequent site maps, including the current proposal.
- The streams and associated riparian habitat on the property are in fact the lower segments of a lengthy and impressive stream and riparian canopy that originates from a defined bowl feature just below the Tomahawk Fire Road at the border of the Terra Linda/Sleepy Hollow Divide and Sorich Park (Attachment 5).
- Google Earth imagery, alluded to by the applicant’s biologist, from 1993 clearly captures the same upper bowl structure present near the ridgeline, the downstream channel and a distinct, albeit younger, not yet fully developed, canopy (Attachment 6, red arrows).
- It is worth noting that based on the Jacobs survey referenced above, the applicant once appreciated the extent of the streams and resulting development limitations on the northern boundary, including an unmapped channel that does not fully support riparian vegetation. At that time, the site constraints map submitted for the initial development application incorporated all stream elements and the contiguous riparian canopy throughout the property (Attachment 7).

Taken together, the MarinMap (NHD) mapping of the stream network on the property is indeed correct. A significant stream exists, likely representing the headwaters of West Fork, a tributary of Sorich Creek. At best, the current bioassessment submitted is not comprehensive nor representative of the hydrologic complexity on the northern boundary at this site.

To date, the entire bioassessment process has been orchestrated by the applicant and their biologist. Planning Staff allowed the applicant to hire their own biologist. The Marin Countywide Plan clearly advises that a qualified professional should be hired by Planning Staff and paid for by the applicant (BIO-4.g). Presumably, this policy was waived.

Since then, the applicant's biologist has been afforded the liberty of recreating maps, stream definitions and policy thresholds that are not outlined in the Marin Countywide Plan or consistent with the MarinMap GIS. The entire stream network present on the property falls under the "ephemeral" stream designation on MarinMap GIS and only transitions to "intermittent" status further downstream at 100 Pasadena. In contrast, the biologist removed the northern stream beds altogether from his initial analysis and mapping while elevating the western segment to "intermittent" status.

Given the length of stream and riparian canopy actually mapped in the bioassessment, Staff directed the applicant to provide a Stream Conservation Area (SCA). The applicant and biologist have now outlined the riparian canopy along the lower portion of the property, ignoring the remaining canopy that continues up the northern boundary. From there they have drawn a SCA of 50' from the riparian canopy, in lieu of the 50' SCA from the top of bank as recommended by the Countywide Plan for property within the City Centered Corridor (BIO-4.1). Once again this SCA was created by the applicant's biologist and accepted by Planning Staff.

In the March 3, 2020 response to our concerns noted above, the biologist highlighted a few features of the streambed location he chose to visit, including "...exposed rocks have sharp edges; there are no rounded rocks, cobbles, etc. that are indicative of long-term flowing water." and "There are no hydric soils in this eroded area..." As described these features were sufficient in his opinion to refute the presence of a clearly mapped stream by MarinMap (NHD). Unfortunately these represent observations and terms that are not designated as thresholds for policy and code implementation in County documents. The Countywide Plan defines a stream as:

A natural or once natural flowing open drainage channel with an established bed and bank. These consist of perennial, intermittent, and ephemeral streams, including open waterways that have been restored, modified, or channelized, but do not include ditches, culverts, or other above- or below- ground conduits constructed specifically for storm drainage function. Perennial and intermittent streams, shown as solid or dashed blue lines (or purple lines) on the most recent appropriate USGS data, and ephemeral streams as defined below, are subject to Stream Conservation Area protection policies.

More specifically, an ephemeral stream, as this is designated by MarinMap GIS, is defined as:

A watercourse that carries only surface runoff and flows during and immediately after periods of precipitation.

Stream designation as defined by the Countywide Plan is not subject to the thresholds of "hydric soils", "rounded rocks" and "long-term flowing water" created by the applicant's biologist.

To date Planning Staff has accepted and relied solely on the findings presented by the applicant's biologist. Furthermore, Planning Staff have not only referenced the applicant's

bioassessment and SCA as evidence for approving the current site but have also used this analysis for ruling out our proposed site. As outlined above we feel there is significant evidence supporting the implementation of stream conservation policies on both the western and northern boundaries of the property, placing the current site within a SCA. In its current form, the project should be denied on this issue alone. Finally, combined with the other significant environmental impacts associated with this proposal presented elsewhere, we believe a thorough report, namely a CEQA initial study, is necessary to approve development on this property.

Thank you for your time and consideration.

Sincerely,

Brandon and Melissa Sullivan

Attachment 1

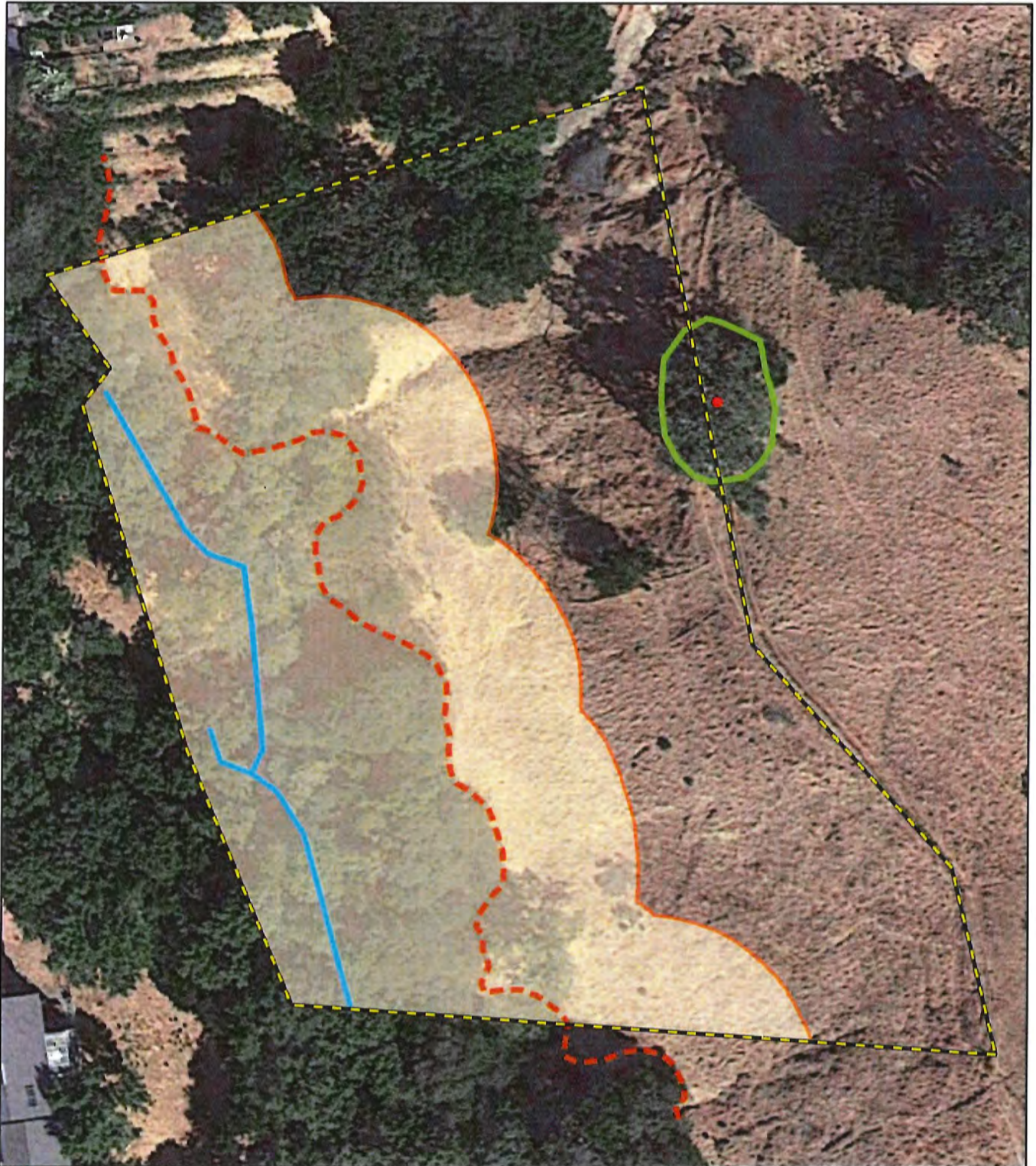
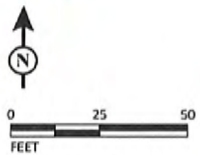


FIGURE 1

LSA

LEGEND

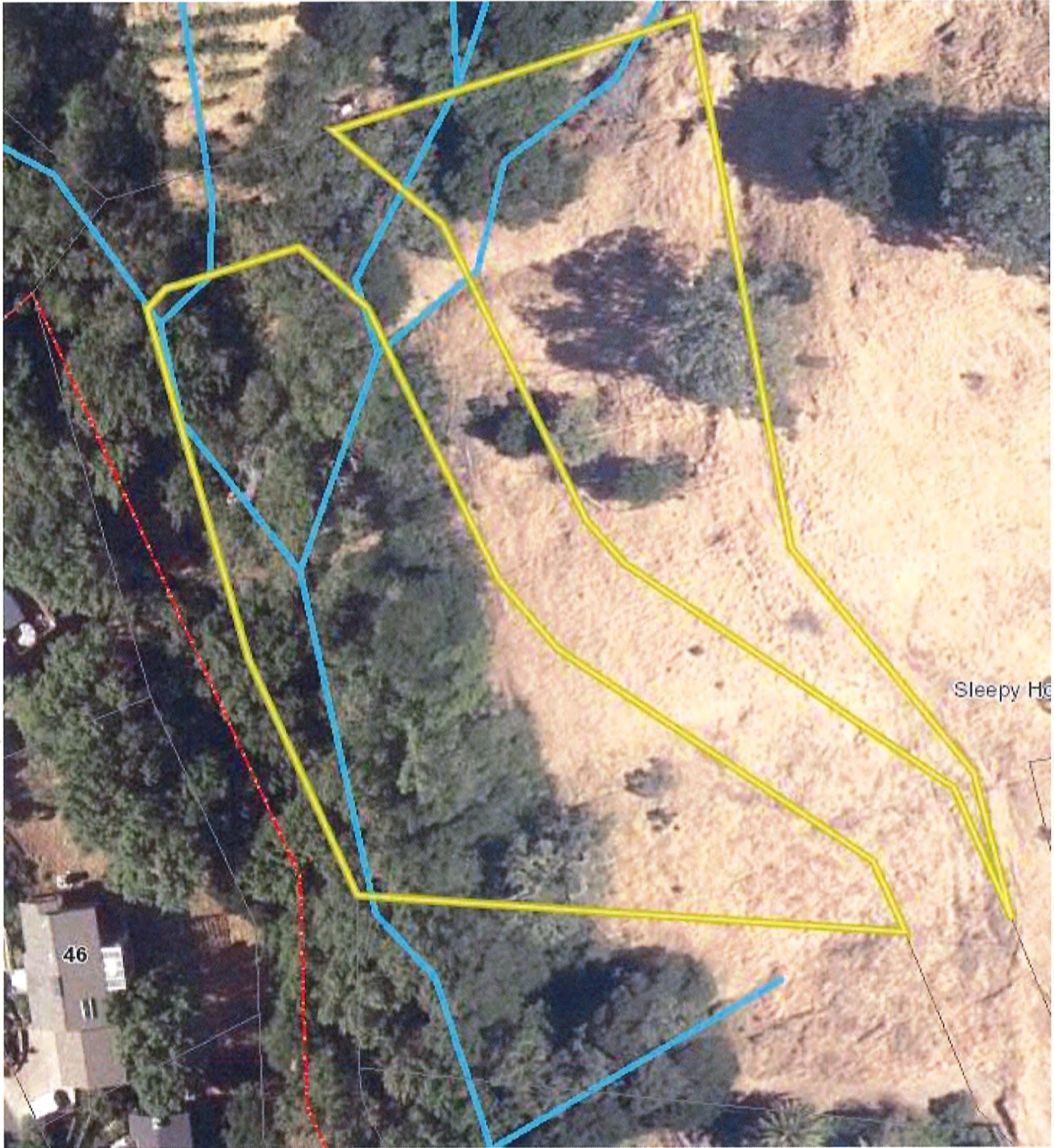
-  Property Boundary
-  Stream Course
-  Riparian Canopy
-  Stream Conservation Area
-  Oregon Oak (33.4" DBH)
-  Oregon Oak Canopy



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



Attachment 2

Steven H. Jacobs
STEVEN H. JACOBS/PLS 5286 LIC. EXP. 12-31-15



TOPOGRAPHIC SURVEY

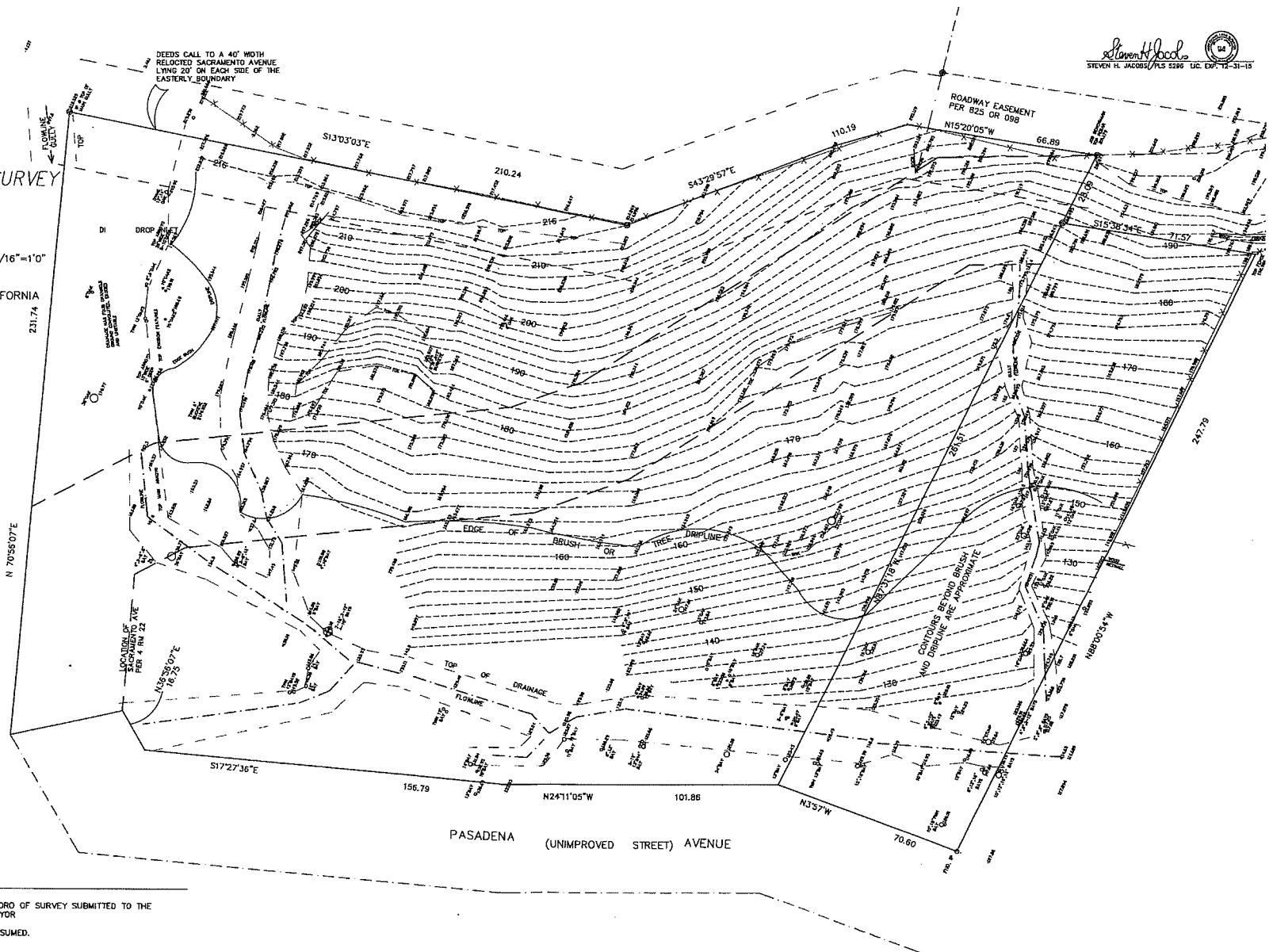
LANDS OF
DOCUMENT NO. 2013-
ADDRESS: SACRAMENTO AVENUE
APN 177-171-03 & 177-172-09&10
NOVEMBER, 2013 SCALE: 1/16"=1'0"
SAN ANSELMO
MARIN COUNTY ~ CALIFORNIA

JACOBS LAND SURVEYING
P.O. BOX 7829
COTATI, CA 94931
415 454-2235
JOB NO. 13-135-N F8/12 00/09
DWG FILED 2013/NOVEMBER/WESTBAY

REVISED AUGUST 2014

LEGEND

| | |
|----|-------------------------------|
| ⊙ | SURVEY CONTROL POINT FOUND IP |
| EB | ELECTRIC BOX |
| EM | ELECTRIC METER |
| FH | FIRE HYDRANT |
| GM | GAS METER |
| TW | TOP OF WALL |
| WM | WATER METER |
| WV | WATER VALVE |



NOTES

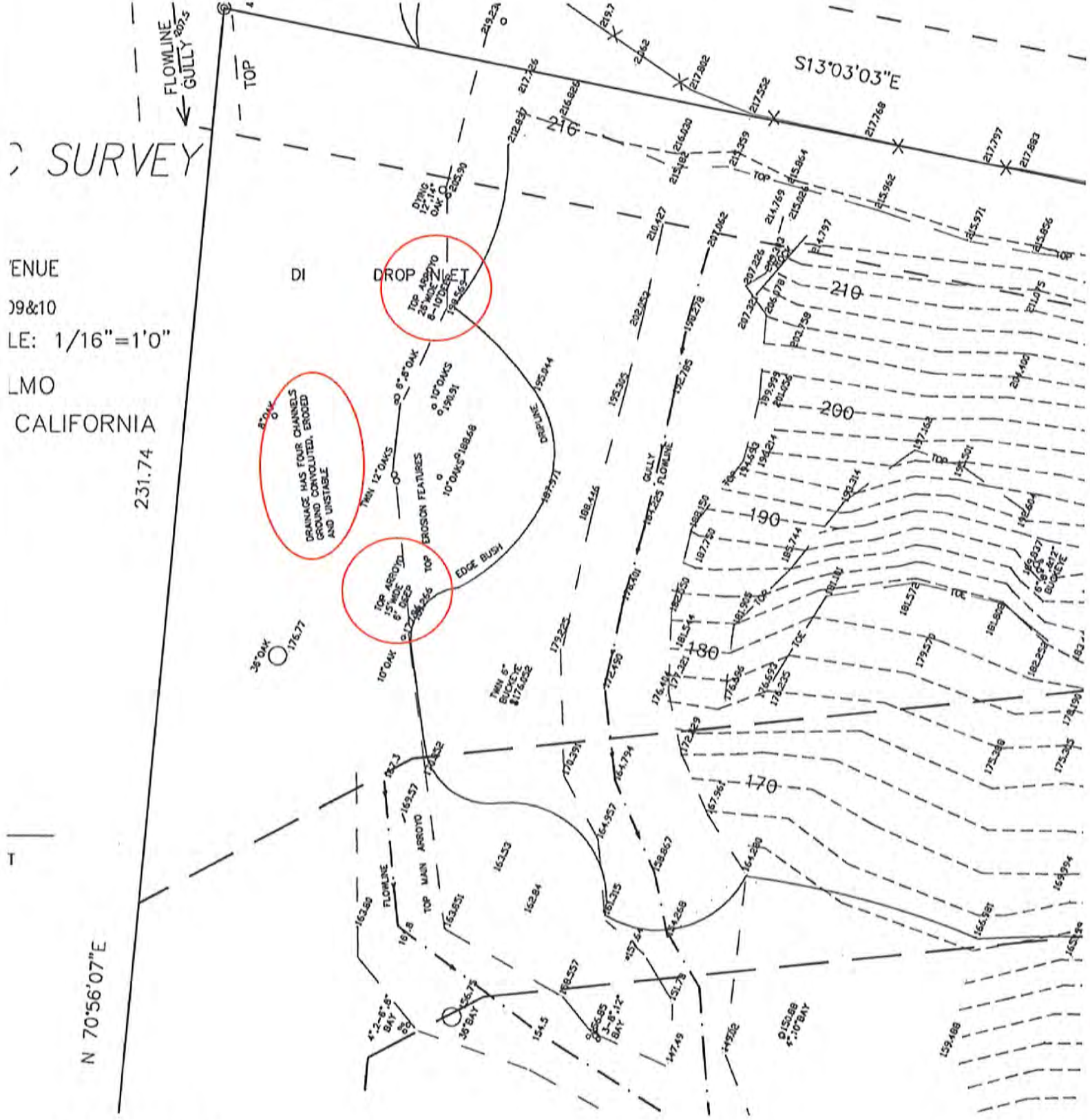
1. BOUNDARY PER RECORD OF SURVEY SUBMITTED TO THE MARIN COUNTY SURVEYOR
2. ELEVATION DATUM ASSUMED.

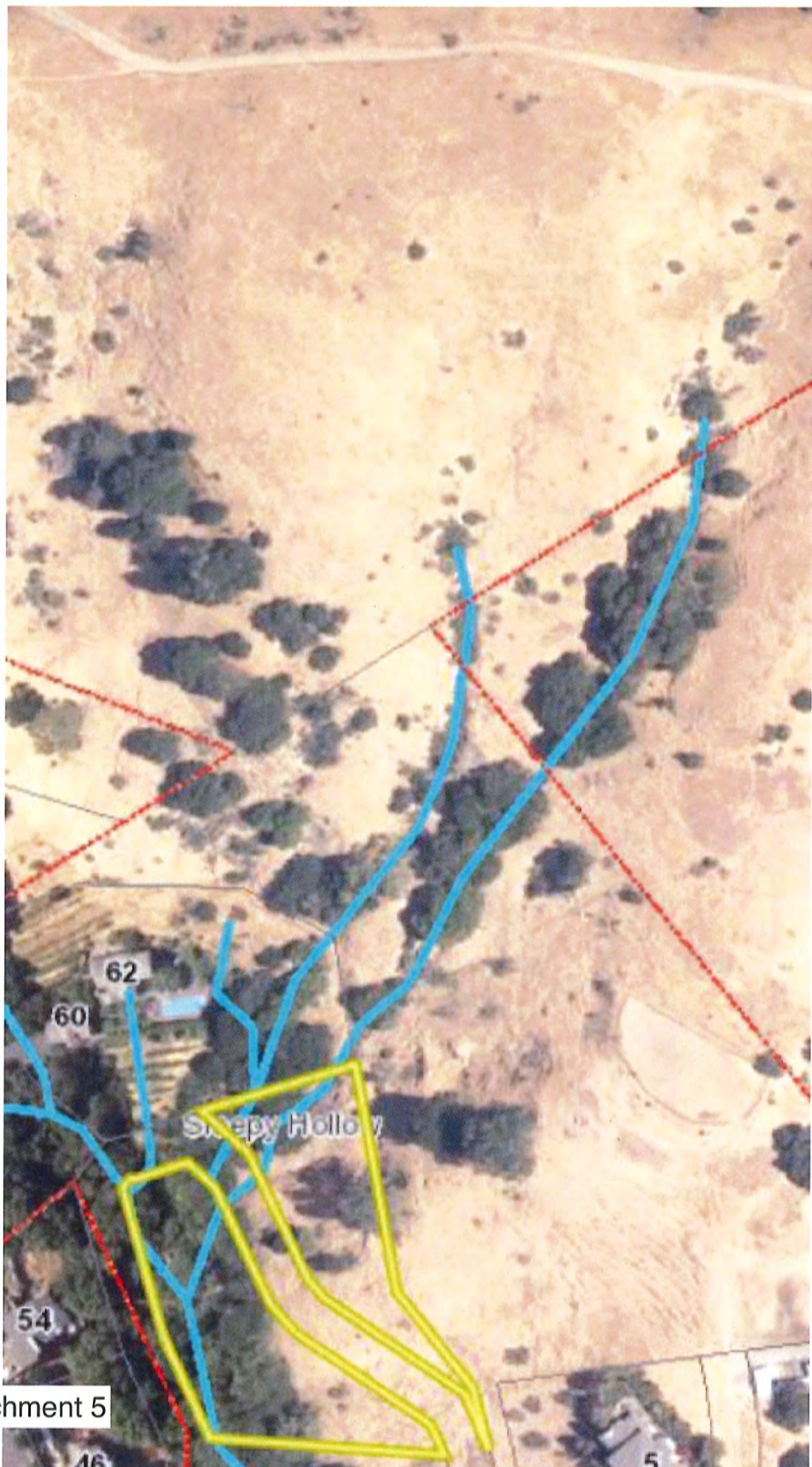
SURVEY

ENUE
 19&10
 LE: 1/16"=1'0"
 LMO
 CALIFORNIA

231.74

N 70°56'07"E





Attachment 5



Attachment 6



Jackham ARCHITECTS
www.jackhamarchitects.com
114 Van Tassel Court
San Anselmo CA 94960
415.454.0674
dave@jackhamarchitects.com

SACRAMENTO AVENUE RESIDENCES

HOUSE B

Sacramento Ave.
San Anselmo CA
AP #177-171-03
177-172-09 & 10
Job #130002

Owners:
THOMPSON UTILITIES CORP.
250 Bel Marin Keys Blvd.
Bldg. A
Novato CA 94949
415.456.0972

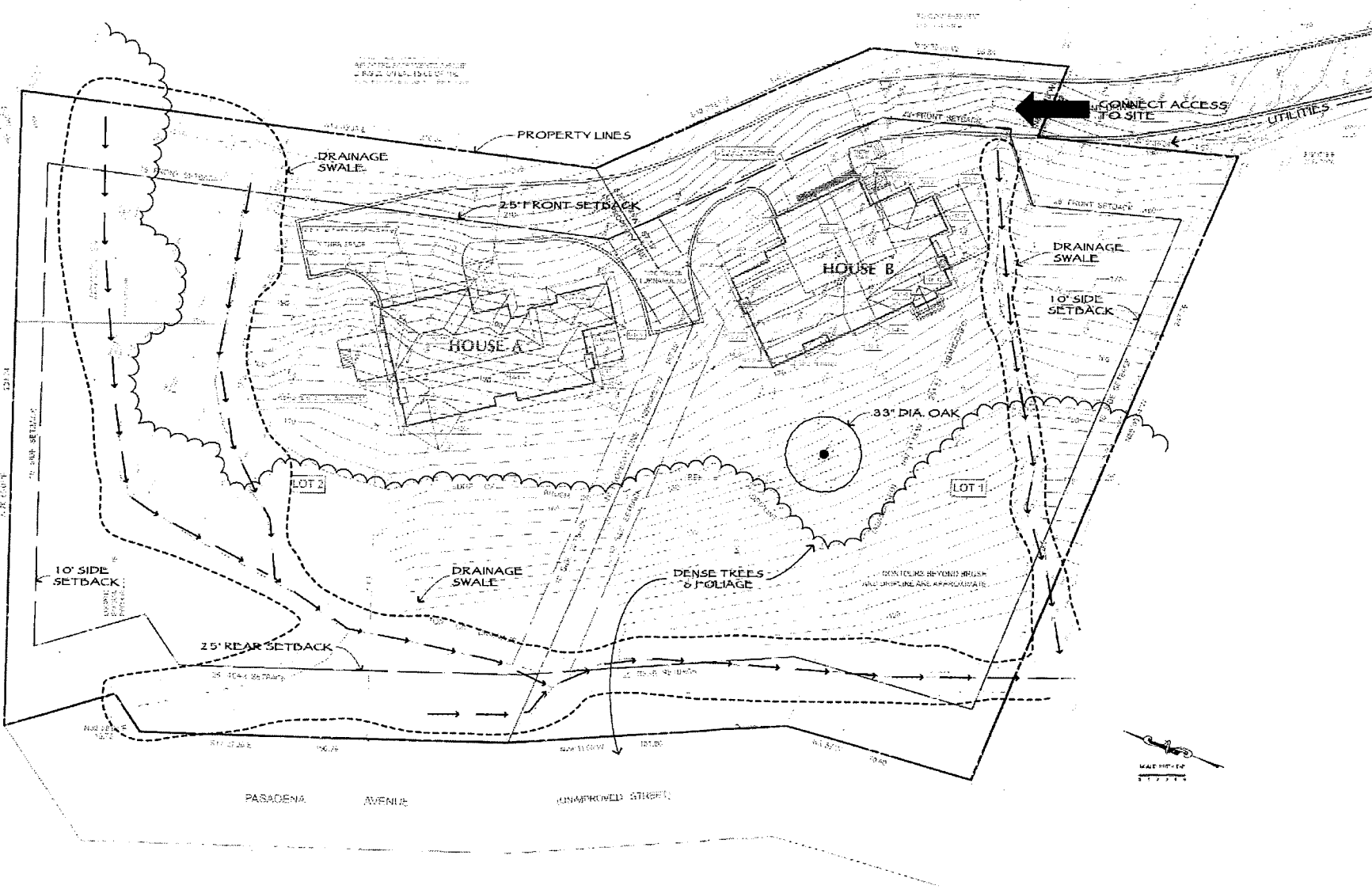
PRINTINGS

| | |
|----------|------------------------|
| 12-11-15 | Final |
| 08-11-14 | Design Review |
| 06-18-14 | Design Review Comments |
| 04-01-14 | Design Review Comments |
| 02-14-14 | Design Review Comments |
| 01-14-14 | Design Review Comments |



PREPARED BY:
Jackham Architects

SITE CONSTRAINTS PLAN



IF BY ANY MEANS THIS PLAN IS USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF JACKHAM ARCHITECTS, THE USER ASSUMES ALL LIABILITY FOR ANY DAMAGE TO PERSONS OR PROPERTY.

Damazyn, Michele

From: Brandon Sullivan <brmsullivan@gmail.com>
Sent: Thursday, March 12, 2020 6:25 AM
To: Kilgariff, Kathleen
Cc: PlanningCommission
Subject: Sasan Site Plan Review, Sullivan
Attachments: Sasan Site Appeal_Sullivan.pdf; Sasan Site Plan Review_Sullivan.pdf

Kathleen,

Please find attached a second letter, including 1 attachment, regarding concerns with the Sasan Site Plan and approval. I have also attached our previous letter submitted on December 24, 2019.

Thank you,
Brandon and Melissa Sullivan

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

March 12, 2020

Delivered by email

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

RE: Sasan Site Plan Review, P2522

We detailed several of our concerns with the current proposal in a letter submitted to the Planning Division on December 24, 2019. Additionally our group's basis of appeal document, filed shortly after Planning Staff approval of this project, summarizes many of the overriding issues, including Discretionary Development Standards in the Marin County Code (Section 22.16.030) that have not been upheld. We have submitted a separate letter today dedicated to the more recent concerns surrounding the streams and riparian habitat surrounding this property. In this letter we would like to comment briefly on a few topics raised throughout this process.

Impact on the Environment and Quality of Life

Our neighbors Robin McKillop and John Herr have provided the significant environmental implications associated with this proposed development. We also contend, as we have in previous correspondence, that development as currently proposed at this site necessitates a CEQA Initial Study.

Additionally we have come to realize that the Sacramento Avenue extension and driveway will sever wildlife paths that exist along and through the open grassy hillside. Furthermore, siting the home on the northernmost corner of the property encroaches on sensitive streams and associated riparian habitats. In combination, this extended development will drastically impede if not extinguish a well established and heavily trafficked wildlife corridor. This has significant impacts for not only the environment but our quality of life. Over the past seven years our family has enjoyed the frequency and diversity of wildlife surrounding our home. These moments include everything from the daily deer migration, seasonal flocks of turkey and families of quail

to spotting coyote, fox or bobcat. All of this and significantly more will be adversely affected should this project proceed.

As mentioned in several letters, our neighborhood group has proposed an alternative site that would significantly reduce the length of roadway and site the house away from the streams on the northern boundary. In doing so this alternative site would maintain a contiguous stretch of riparian habitat down the hill and along the stream below the property while also preserving a segment of uninterrupted open hillside.

Excessive Grading and Excavation

This proposal will result in over 2000 cubic yards of excavation and over 1600 cubic yards of offhaul. As outlined in our basis of appeal, by approving this project Planning Staff has failed to uphold several Discretionary Development Standards, including Standard J1 on grading.

Beyond the detrimental effects at the site itself, it is difficult to imagine the impact on the neighbors of Carmel Way and all along Sacramento Avenue as it winds down to San Francisco Boulevard, not to mention the roadway itself. Assuming the offhaul will be accomplished with 10-15 cubic yard capacity trucks, this project will require 110-160 round trips, all to access and build one home at a compromised site. Once again, the alternative building site proposed by our group of neighbors would minimize the grading and excavation requirements.

Sacramento Avenue public right of way

Our group of neighbors, namely Eric Schneider and John Newell, have provided compelling arguments defending the value of the public right of way that bisects this property. We would like to reiterate that this public asset is substantial and should be preserved. Unfortunately the current proposal incorporates considerable development throughout the Sacramento Avenue right of way for the sole benefit of the applicant and at a considerable cost to the public. The condition of approval providing some form of a staircase to climb a retaining wall in order to access the road at the home's driveway is simply unacceptable and uninviting. This access point falls well short of compensation for this valuable public asset.

While not ideal, siting the home lower on the hillside would provide a much better alternative to pedestrian access. With appropriate siting, the road and driveway could be positioned above and behind the home following the natural contours across the hillside and terminating with a more desirable public access point.

Unnecessary elements incorporated in the proposal

The current project includes features that should not be incorporated with this or any future proposal at this site. First, the applicants attempted to include an additional parking spot within the fire apparatus turnaround. While the conditions of approval remove parking rights from the

turnaround, the extra width and bulk associated with the proposed parking spot remain. As presented, the turnaround will be 36' wide, twice the 18' width requirement. The width of the turnaround should be reduced to the 18' standard. Similarly the staircase from the driveway at the garage is not necessary, and should be removed as well.

Given the review and appeal process associated with the previous proposal at this site, the applicants should be well aware that these features are not warranted. To be clear removal of these items are not viewed as concessions, nor should they be perceived as items towards achieving compromise. Considerable time and energy has been spent reigning in excess associated with previous proposals, yet these items still resurface with each new version.

Additional Site Option

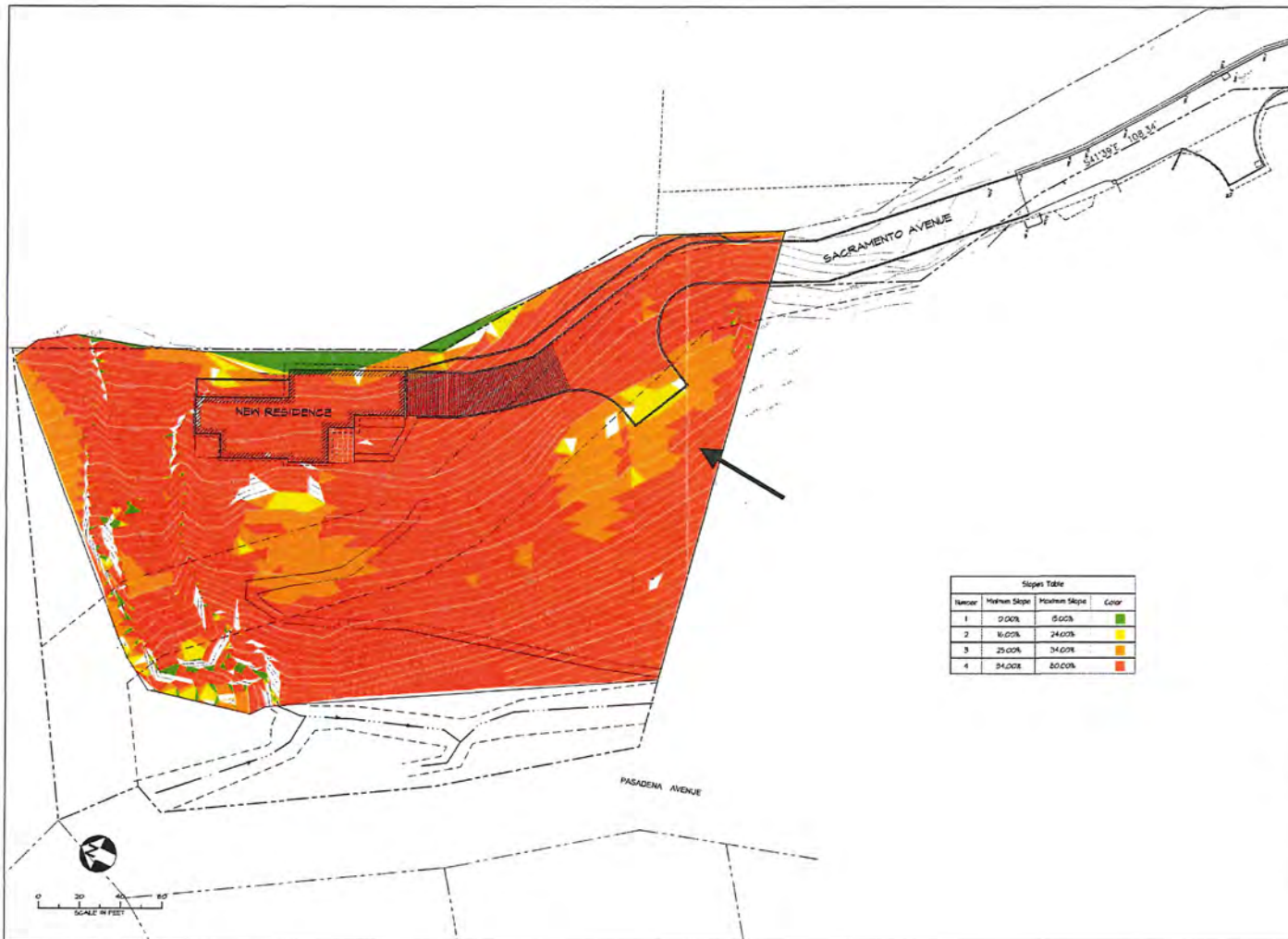
As noted on several occasions, our neighborhood group provided the applicants with an alternative building site that would alleviate or minimize all of the impediments associated with the current proposal. Our proposal was motivated not only by neighbors' concerns but also the recommendations articulated by the Planning Commission at the appeal hearing in 2017. The numerous benefits of this alternative site have been provided in our basis of appeal and elsewhere.

The recent bioassessment submitted along with this proposal provided a slope analysis map of the property, see attached. We found it striking that one of the isolated pockets of land exhibiting slope below 34% coincides with the site proposed by our group of neighbors. This represents further evidence supporting the numerous advantages to this site.

Thank you for your time and consideration.

Sincerely,

Brandon and Melissa Sullivan



Slope Table

| Number | Minimum Slope | Maximum Slope | Color |
|--------|---------------|---------------|--------|
| 1 | 0.00% | 5.00% | Green |
| 2 | 5.00% | 24.00% | Yellow |
| 3 | 25.00% | 34.00% | Orange |
| 4 | 34.00% | 80.00% | Red |

LTD Engineering, Inc.
 1850 Huntington Drive, Suite 315
 San Gabriel, CA 91781
 Tel: 626.441.1817 Fax: 626.441.1411
 gpl@ltdengineering.com



ISSUED FOR
 REVIEW
 NOT FOR
 CONSTRUCTION

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SACRAMENTO RESIDENCE
 APN 471-172-20
 147 PASADENA AVENUE
 SAN ANGELO, CALIFORNIA

REVISIONS

| NO. | DATE | DESCRIPTION |
|-----|----------|-------------------|
| 1 | 12/11/14 | ISSUED FOR REVIEW |
| | | |
| | | |
| | | |
| | | |

DESIGNED BY: S. NAVIDI
 DRAWN BY: S. NAVIDI
 APPROVED BY:
 SCALE: AS SHOWN
 SHEET NO. 406/2008 PROJECT NO. 484500

SLOPE ANALYSIS

REVISION: 0
 SHEET NO: 2 of 2
 DRAWING: ENV-2

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

Damazyn, Michele

From: Shaun Church <shaun@shaunchurch.net>
Sent: Thursday, March 12, 2020 9:02 AM
To: Kilgariff, Kathleen; PlanningCommission
Cc: Herr, John - ARS; remck1@yahoo.com; Brandon Sullivan; Eric Schneider; Roseann Schneider; Rick; Vicki Crane Block
Subject: Sasan Plan Appeal - Sacramento Avenue

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 and support the upcoming appeal by my neighbors.

I wrote to you during the review period on December 9, 2019, outlining my concerns. I restate those concerns and have included that email below.

For consideration at the appeal, I would also like to ask three simple questions.

Question 1: Why should a right of way owned by the public be given away for free so that a property developer can build a bigger house and make more profit?

To say that access to the road can be restored in the future, is both highly dubious and puts the interests of a private developer above those of the public. Why give the benefit of doubt to a property developer, rather than the broader public that you represent? As the owner of a property served by that right of way, I object to losing that important access. The property does not need to sprawl across the public right of way.

Question 2: Why should a disproportionately large house with an eyesore of colossal standing walls be built to the substantial detriment of residents, onlookers and future generations so that a property developer can make more profit?

The planned development is unnecessarily jarring and ugly. It doesn't need to be that way.

Question 3: Why choose this flawed plan when a far superior, less contentious alternative is available?

I appreciate that the task of the Planning Department is difficult and requires balancing competing interests. However, there is another plan that can achieve a better balance for you than this current one. The compelling alternative is to build a single property lower down the hill where it is more out of sight and doesn't block the public right-of-way. And build it closer to the existing road, therefore requiring less new road and standing walls to be constructed. **Why not do that instead?**

Thank you for listening.

Best regards,

Shaun Church

From: Shaun Church <shaun@shaunchurch.net>
Sent: Monday, December 9, 2019 9:11 PM

Damazyn, Michele

From: Anthony De Andrade <adea@quantifyip.com>
Sent: Thursday, March 12, 2020 2:27 PM
To: Kilgariff, Kathleen
Cc: PlanningCommission
Subject: Sasan Site Plan Review (P2522) Please reject this proposal

Dear Marin planning officials

The neighborhood fought off this illegal building plan a while back.

I am surprised to see the same people back, with a slightly modified approach that does not address the issues raised last time.

How can this be allowed, and get this far?

Mysteries and influences abound.

Please do your job, and have a very close look.

This plan should be rejected.

A neighbor sent the summary below. Please review it, point by point. Do your job. Be objective.

Update

Two years ago, the Marin County Board of Supervisors denied plans for constructing an imposing house on a steep exposed hillside below Sorich Park, in the vicinity of Sacramento Avenue in San Anselmo. Following that decision, the applicants sued the County and lost. Now, the applicants are seeking approval for a slightly modified project that is just as problematic as the previous one. The applicants are a real estate agent and her developer brother. We believe that their ultimate goal is to construct two large houses on this lot, where the Hillside Ordinance (Marin County Development Code) would normally limit development to one home, based on slope and area constraints. Our neighborhood group has challenged the Planning Department's approval of the Site Plan for this project, and our appeal will be heard by the Planning Commission on Monday, March 16th, at 1 pm.

Major Concerns

- The County has accepted the applicant-hired biologist's report that effectively discounts many of the on-site streams and prevents them from being granted the protection they deserve (e.g. appropriate set backs).
- The County is doing nothing to stop the applicants from counting at least 15,000 sq ft of the public right-of-way (undeveloped portion of Sacramento Ave.) in their lot area. They do not own this land! The larger lot area clears the way for construction of a second large house at this site that would otherwise not be possible.
- The proposed house is located on the steepest and most exposed portion of the site, at a location farthest away from the paved end of Sacramento Avenue and adjacent to an unstable drainage channel. This location maximizes environmental and visual impacts to the neighborhood.
- The project is located too high on the hillside to be shielded by existing vegetation.
- The proposed development includes an 8' high retaining wall supporting a huge fire truck turnaround structure that will block a significant portion of the Sacramento Avenue public right-of-way.

- A massive network of retaining walls, up to 8' high and hundreds of feet in length, will cut up the hillside and will be highly visible throughout the surrounding neighborhood.

- The project involves extending Sacramento Avenue by 315 feet and adding a total of 12,500 sq ft of impervious surfaces – all for one house. Increases in runoff, with associated impacts to the creeks and elevated flood risk are expected.

- The project entails removal of 2,063 cubic yards of soil generated by the extensive grading. This will required 150 round trips by commercial dump trucks: Imagine 300 one-way trips by dump trucks rumbling through our neighborhood, potentially damaging the recently reconstructed San Francisco Blvd! This amount of grading is significantly larger than what is involved in other Marin county hillside development projects.

Damazyn, Michele

From: Eric Schneider <eschneider3@me.com>
Sent: Thursday, March 12, 2020 2:32 PM
To: Kilgariff, Kathleen; PlanningCommission
Cc: R McK; John - ARS Herr; John Newell; Brandon Sullivan; Shaun Church; Rick Block; Block Vicki; PeterPursleyPhD .; Roz Schneider
Subject: Sasan Site Plan Project P2522

TO: Marin County Planning Division
RE: Sasan Site Plan Review, Project No. P2522

Submission of Eric Schneider for Planning Commission Hearing scheduled for March 16, 2020

There are many mistakes and confusing statements in the CDA's report dated January 9, 2020, particularly in section K of their submission. This letter will deal with five of these matters.

1. The legal status of the Sacramento Ave. right of way: On July 3, 1912 Short Ranch Development Company offered to Marin County all roads on its subdivision map for public use. On February 25, 1958 the Marin County Board of Supervisors by Resolution 5301 accepted the Map and all roads shown on it. Sacramento Ave. is now an official Marin County Road, partly developed and paved and partly not paved, but still a public right of way. It was not, as the CDA states, offered by Short Ranch to the County of Marin and rejected. (Letter by Assessor Benson regarding his testimony before the Board of Supervisors in 2018 is in the record.) The CDA in a seemingly incoherent and inconsistent sentence at the end of section K says, "The paper street has since been changed to a paper street on the Assessor's parcel map and is not included as part of the lot." This reference is probably to correcting the Assessor's Map to counteract the efforts of Thompson and Sasan who, through a series of questionable deeds to each other and shell companies, succeeded in getting parcel numbers on the right of way so that it could be developed. The Assessor caught the error in 2019 and his office removed the numbers from the parcel map. Perhaps CDA is arguing here that if the numbers are no longer on the Assessor's Map there isn't a Map Act violation?

2. Ownership of the land under the Sacramento Ave. Right of Way: Contrary to what CDA states, none of the appellants have ever argued that Paul Thompson has legal title to the Sacramento Ave. right of way on either of the theories proposed by CDA. We did argue there is no evidence in the chain of title that Thompson or Sasan ever got title to the land under the right of way. The deed to Thompson from Newberry on March 14, 2014 expressly "excepted" the Sacramento Ave. right of way. However, on September 11, 2014, Paul Thompson tried to gain title to the right of way by purchasing a "no warranty" quit claim deed from Wells Fargo. There is no evidence that Wells Fargo ever had any interest in the right of way. Paul Thompson got a title report from New Republic at that time. The report warned Thompson that there was a problem with a violation of the Map Act because he was subdividing Sacramento Ave. They never issued title insurance, but a neighbor, John Newell, was able to obtain a litigation guarantee that Short Ranch Development Co., not Thompson, is the owner of the land under the right of way. Nevertheless, Thompson tried to pass title on to his sister Sasan through the use of a shell company and got another title report for this transfer, New Republic, but, apparently, no title insurance. (These documents are part of the record.)

So, appellants never conceded that Thompson or the Sasan's have title to the land under the right of way. We did state, **for the sake of argument**, that even if Thompson took title to the right of way from Wells Fargo it would have been, as New Republic Title Company warned him, a violation of the Map Act that would preclude development.

3. The Abandonment hearing of November 9, 2015: (not 2014 as stated by CDA). CDA in a confusing paragraph, infers that Thompson's application for abandonment was not successful because of an ownership issue. The transcript of that hearing shows that Thompson's representative called for a continuance when Commission members questioned giving a valuable public right to a developer who offered no public benefit in return. The issue of ownership at that time arose as to the issue of whether Thompson could build a house directly on the public right of way. At that time Thompson used the theory that he had ownership by deed. Sasan/Thompson have now shifted away from that theory of ownership of the right of way, (probably because it would clearly be a violation of the Map Act), and now rely on section 831 of the CA Civil Code. They do

5. A final point I wish to raise is the CDA allowing Sasan to use the Sacramento Ave. right of way as part of the cumulative area of the lots owned by Thompson/Sasan. The Code defines Lot Area as being "exclusive of street right of ways". Staff argues that any street right of way that is not presently being primarily used for vehicular traffic is not a street. This faulty reasoning endangers all public rights of way. The increase to the cumulative area of the lots from the 1.7 acres to almost 2 acres conflicts with what the Planning Commission and the Assessor have previously used. Why does Thompson/Sasan want to use the 2 acres number? To leave the way open for possible future development of other houses? On June 12, 2017, Planing Commissioners criticized the improper inclusion of the public right of way in the Lot Area and directed planning staff to correct this error . (see Video mark 2:24:0.) We request that you again do as the Planning Commission required in 2017: Reject this flawed plan and any other action on this project until it complies with State and County law and your prior rulings.

We thank you for the important work you do protecting our community.

Eric and Roz Schneider

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March 13, 2020

Marin County Planning Commission
3501 Civic Center Drive
San Rafael, CA 94903
Email: planningcommission@marincounty.org
Cc: Kathleen Kilgariff, Planner: kkilgariff@marincounty.org

Re: Brandon Sullivan *et al.* Appeal of the Sasan Site Plan Review
Approval (March 16, 2020 Planning Commission Agenda)

Dear Commissioners,

Friends of Corte Madera Creek Watershed is concerned about potential adverse impacts to the West Fork of Sorich Creek, which runs adjacent to the parcel proposed for development in this project. It is our understanding that LSA Associates performed a biological assessment of this site in 2019. Although the initial LSA report, dated 10/17/2019, made no mention of the waterways in the northern area of the property, supplemental LSA correspondence, dated 3/3/2020, stated that the County GIS-mapped “riverine” feature running northwest on the property is an erosional feature or gully, rather than an ephemeral stream.

We believe the LSA finding warrants further consideration. Our visit to the site on 3/12/2020 confirmed the existence of a network of small creeks along the northern portion of the site, as indicated in the County GIS records and accessed from the public right-of-way. The main waterway running northwest near the property boundary appears to be a significant drainage with a scoured bed and defined banks. This waterway has very similar characteristics to the downstream section of the West Fork of Sorich Creek, including exposed roots and sharp rocks in many areas, with the riparian canopy composed primarily of oak and bay trees. We see no biological or ecological reason to change the classification of either stream section from “ephemeral” as stated in the County GIS records. Therefore, the setbacks required by the Countywide Plan should apply to the northern section of the creek, as well as the downstream section running along the western border of the subject parcels.

Countywide Plan policy BIO-4.1 states that there should be a minimum 50-foot setback on each side of the top of the bank for parcels in the City-Centered Corridor between 0.5 and 2 acres in size, and that regardless of parcel size, an additional buffer may be required based on a site assessment. Because the LSA report provides no justification for measuring the 50-foot setback from the riparian canopy, rather than the top of bank as is typically the case, we are not able to comment on the appropriateness of this setback. Nonetheless, setbacks should be applied consistently at this site, whether measured from the canopy or stream bank.

We recommend expanding the biological assessment to include a review of potential hydrological and geological impacts associated with this development project based on the very steep slope, proximity to mapped wetlands and streams, and the significant amount of grading proposed for this project (2,063 cubic yards). Furthermore, construction of any kind should not be allowed to encroach into any waterway, including the unmapped, un-vegetated drainage running east to west in the northern area of the site.

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Friends normally limits its comments to biological and hydrological issues, but there are a number of land use issues raised by this project that undermine its merit. Siting the house in a remote part of the lot that requires a very long driveway; appropriating the public right-of-way occupied by the paper street (the extension of Sacramento Avenue); building a long, visually obtrusive retaining wall (up to 8 feet tall); and cutting off access to the uphill parcel APN 177-220-24 should be evaluated carefully and an alternative location for the proposed house developed.

Sincerely,



Sandra Guldman, President

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

March 13, 2020

TO: Marin County Planning Division
Kathleen Kilgariff

RE: Sasan Site Plan Review, Project P2522
Hearing Scheduled March 26, 2020

Ms. Kilgariff:

We are writing in regards to the proposed development as sited above. Our home is located between the Sullivan Residence and the Herr/McKillop Residents. We would like to briefly address our continued concerns. While not as detailed as stated by our neighbors; we support every issue brought forth. Our intention is to reinforce those issues in our letter.

- Allowing the developer to utilize square footage from the paper road which the developer does not own.
- Continued interference with the paper road and right-of-way on Sacramento Avenue.
- Proposed location of the home at the steepest, most exposed and furthest point from Sacramento Avenue.
- Retaining walls 8' high and hundreds of feet long cutting up the hillside and creating not only an unsuitable visual impact, but an impact on the land, drainage, and the environment.
- Impact on the seasonal creeks.
- Removal of 2,063 cubic yards of soil due to extensive grading.
- Access for fire vehicles on Sacramento Avenue which may already be below minimum standards.
- Accepting a biologist's report paid for by the developer.
- Disregard of environmental impact.

- Concern for the possibility of further development on adjacent site.

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. 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 provide 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;
- Significantly 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;
- Allows for house to be oriented towards Mt. Tam;
- Retains important wildlife corridors;
- Removes building from drainage channel;
- Preserves public access.

Again, we want to state that we bought our home in 2003; one of the main reasons being the open space behind us. We are deeply concerned how this project will affect the wildlife. While we know it is the right of an owner to build on their property; we again ask that it be done in an appropriate manner taking into consideration all the concerns of the neighborhood, and the impact on the environment. We feel that these issues have yet again, been 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 and responsible manner.

We ask that you deny the current proposal.

Respectfully,

Richard M. Block

Vicki Crane Block