Appellants:

Brandon and Melissa Sullivan, 42 Miwok Drive
Rick and Vicki Block, 46 Miwok Drive
Eric and Roseann Schneider, 53 Miwok Drive
John Herr and Robin McKillop, 54 Miwok Drive
Shaun Church, 62 Miwok Drive
Peter Pursley and Todd Barbee, 2 Carmel Way

Basis of this appeal:

The proposal and the subsequent approval of this application fail to address significant ongoing concerns raised by neighboring property owners and the Board of Supervisors (Resolution No. 2018-50). Our key concerns are as follows:

- The proposed project fails to meet Site Plan Review requirements. The development will result in significant environmental damage if it is not relocated to a lower impact site closer to the developed end of Sacramento Avenue, on a less steep and eroded area of the lot, and away from protected trees.

- Although Site Plan Review is intended to prioritize the protection of natural resources, significant environmental concerns have not been addressed. For example, options for reducing the extent of grading and impervious surfaces (known to be especially detrimental to streams) have not been adequately considered. The project involves over 1,200 cubic feet of grading, an amount that exceeds the 1,000 cubic feet of grading deemed excessive by the Board of Supervisors in 2018.

- The project forces the house into close proximity to several protected trees and encroaches into tree protection zones. Miscalculated at half the size they should be, tree protection zones continue to be misrepresented on current site plans.

- The project requires waiving fire safety standards in a very high fire hazard area of the Wildland Urban Interface within the State Responsibility Area. We question any fire authority’s ability to waive or reduce minimum fire safety standards without a hearing on why such a waiver is justified and whether the claimed justification outweighs public safety interests in adhering to minimum standards. These decisions bear on whether fire apparatus can get to a fire or not. A fire official’s decision that “it’s not absolutely critical” to locate the fire truck turnaround as required by fire safety regulations is not a legitimate decision and looks more like a personal favor rather than a reasoned departure from minimum standards. “Not
Absolutely critical" is an unacceptable and arbitrary reduction of fire safety standards for the location of critical fire-fighting infrastructure. Alternative, safer regulation compliant locations were not explored and ruled out.

- The impact of the proposal on the natural drainage and stream elements surrounding the property has not been adequately addressed. Planning staff has based their decisions solely on input from the applicants' hired biologists, allowing Stream Conservation Area policies to be manipulated, while entirely ignoring input from a Certified Professional Wetland Scientist hired by neighboring property owners. By allowing the applicants to choose one setback measurement initially, only to switch to an entirely different measurement after they were forced to admit they failed to include a protected stream, makes a mockery of the planning process. Similarly, allowing the applicants to pick and choose which parts of the biological assessment to use (e.g., stream setbacks) and which parts to ignore (e.g., tree protection zones) is incomprehensible.

- A CEQA exemption is not applicable to this project. CEQA clearly delineates exceptions to exemptions, including unique circumstances and cumulative impact, which are applicable to this development proposal.

- The Development Code recognizes that this entire site, consisting of two lots owned by the applicant and her brother, Paul Thompson of Thompson Development, Inc., is suitable for only one house. In 2017, the Planning Commission agreed and sought to limit development to one house. Shockingly, an opportunity was missed at the 2017 hearing when planning staff failed to inform the Planning Commission of their right to require, not just request, a lot merger. During the August 23, 2021 Planning Commission Hearing, Marin County Planning Manager, Jeremy Tejirian, expressed doubt that the lots were ever under the same ownership, thereby confusing the record and the Commissioners. A review of title reports clearly shows that these lots were under the same ownership in 2017, as the Planning Manager should be well aware.

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

- Several documents submitted with this proposal are outdated and incomplete:
  - Arborist report: dated February 13, 2019, represents outdated tree measurements, does not provide expert recommendations for tree protection zones, does not include an assessment of the large protected
Oregon oak on the lower parcel (APN 177-172-10) and the impact of placing large drainage spreaders well within the canopy of this tree;

- Geotechnical report: simply a memorandum dated from August 2019 to supplement an original report from 2015;
- Soils report: from May 2015 for a completely different project.

- In 2017, we reached out to the applicants with a development proposal that centered on moving the building site in a southwesterly direction on the property. This site would minimize, if not completely remove, all of the impediments associated with the current location. Since then, the applicants have transferred title to the adjacent substandard lot (APN 177-172-09) in order to prevent a forced merger, proceeded (and failed) with two lawsuits against Marin County, incorrectly exaggerated a Stream Conservation Area and misrepresented site conditions (e.g. size of trees) and setback requirements (e.g. exaggerated 25 foot side setback from the paper road where only 10 feet is required) in an attempt at eliminating our proposed site for development.

- Planning staff failed to respond to legitimate concerns neighbors have raised regarding the possibility of a future merger under Section 22.92.020 of the Marin County Development Code - the very section of the Code that allowed the County to require a merger in 2017. This section of the Development Code must be amended to clarify that any merger applies only if all parcels of a lot are included, regardless of whether or not they are developed.

In summary, the Planning Division is failing to implement the Development Code and Marin Countywide Plan as they pertain to Site Plan Review. Why are these standards in place if they are not going to be enforced? Furthermore, it is abundantly evident from the Planning Commission hearing on August 23, 2021 that scrutiny of the current project and its associated implications has evaporated when compared to the attention afforded previous proposals submitted by the applicant. It is unacceptable that the County is now failing to uphold its own code and guidelines and cowering under the threat of further litigation from a greedy developer who has been completely unwilling to consider input from the neighboring property owners from the start.