

MEMORANDUM

TO: Marin County Planning Commission

FROM: Kathleen Kilgariff, Planner

DATE: August 19, 2021

**RE: Planning Commission Hearing of August 23, 2021
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 Staff Report was completed on August 9, 2021 and are included in the attachments in the following order:

1. Correspondence from Eric Schneider, August 10, 2021
2. Correspondence from Lance Kuykendall, August 11, 2021
3. Correspondence from Peter Pursley, August 13, 2021
4. Correspondence from Lance Kuykendall, August 17, 2021
5. Correspondence from Brandon Sullivan, August 18, 2021

Please note, this communication contains the Biological Site Assessment (BSA) prepared by Eric Lichtwardt of LSA, dated October 17, 2019 as part of the previous Sasan Site Plan Review application (P2522). Because it is referenced in current application materials, it should be shared with members of the public and the Planning Commission as part of the current project record.

6. Correspondence from Robin McKillop and John Herr, August 18, 2021
7. Correspondence from Brandon and Melissa Sullivan, August 19, 2021

Additionally, the following communication from the Marin County Fire Department (MCFD) was provided prior to publication of the Staff Report but clarifies that MCFD accepts the location of the proposed Fire Truck Turnaround.

8. Correspondence from Fire Marshall, Scott Alber, August 4, 2021

From: [Eric Schneider](#)
To: [Kilgariff, Kathleen](#)
Cc: [Rick Block](#); [R. McK](#); [Brandon Sullivan](#); [John Herr](#); [John Newell](#); [Shaun Church](#); [Roz Cell](#); [Todd Barbee](#); [Peter Pursley](#)
Subject: Sasan Auite Plan Review Project P3073
Date: Tuesday, August 10, 2021 12:17:37 PM

To: Planning Commission
RE: Sasan Site Plan Review. Project ID P3073
From: Eric Schneider, 53 Miwok Drive, San Anselmo CA 94960
Date: August 10, 2021

Sasan's Plan proposes Marin County officials make a gift of a public right of way to a private owner and developer. Sasan claims the blocking of the Sacramento Ave. right of way is only temporary and is replaced by a steep and narrow stairway and thus is not an infringement on the public right of way. This argument doesn't change the fact that Sasan will get the financial benefit of the blocking of a public right of way in whole or in part without paying any compensation to the people of Marin County. Approving this plan is contrary to California Constitution XVI.

Allowing retaining walls to be built on the Sacramento Ave. right of way amounts to an abandonment without the due process guaranteed by section 8320 California Streets and Highway Code. (CS&H)

The California Court of Appeals, in its recent opinion in the case of Beth Sassan v. County of Marin (6/10/21), upheld the Marin Board of Supervisors' decision to deny Sasan's recent design review application. In footnote 2 the court stated it would not rule on concerns the project would interfere with the Sacramento Avenue Right of Way because this issue was not part of the Board's decision. However, the court does say, "the Board showed the property's boundaries and constraints including the topography and the *unbuildable right of way*." "Unbuildable" means that Sasan cannot build any part of her project on the public right of way without going through the process outlined in section 8320 CS&H (General Vacation Procedures). It has been argued that the County can "summarily vacate" a right of way without a hearing under section 8344 CS&H, but this power is reserved to an action that will benefit the public and should not be used when a public right of way is in dispute or to provide a gift to a developer. When the developer, Thompson, Sasan's brother and former owner of the land, filed for an abandonment of this right of way his petition was not successful at a hearing on November 9, 2015, in part because members of the Board were unwilling to make a gift of public property to a private developer. (CA Constitution Art. XVI, Sec 6). In addition, if the Sacramento Ave. right of way is summarily abandoned, the county must follow the procedures required by sections 8335 (BOS Resolution), 8336 (Filing with Clerk) and 8356 (Compensation). These procedures insure that public property not be given to private persons without proper notice to the citizens, (including marking the public right of way to be abandoned). It must be done with a public hearing on the matter or a resolution of the Board. It should not be allowed as a hidden part of a design review process.

From: [Lance Kuykendall](#)
To: [Kilgariff, Kathleen](#)
Cc: [Stacey Singer \(staceysinger1@mac.com\)](mailto:Stacey.Singer@staceysinger1@mac.com)
Subject: Sasan Site Plan Project ID P3073
Date: Wednesday, August 11, 2021 12:27:04 PM

I represent Stacey Singer owner of the of APN 177-220-24. This parcel is parallel to the project parcel along the northern edge of Sacramento Ave. Ms Singer has previously advised that access to her parcel is via an easement for utility and vehicular traffic from Sacramento Ave. This requires that area for a curb cut be available the width of the easements boundary with Sacramento Ave.

Previous drawings indicated a retaining wall would block entry to the easement and curb cut, The current site plan does not. As long as access to the easement is maintained Stacey Singer supports this project including emergency vehicle turn around and realignment of Sacramento Ave. that was previously developed as a driveway from its intersection with Carmel Way.

Thank you

From: [Peter Pursley](#)
To: [Kilgariff, Kathleen](#)
Cc: [Brandon Sullivan](#); [Robin McKillop](#); [Todd Barbee](#); [Eric Schneider](#); [Roz Schneider](#); [John Newell](#); [John Herr](#); [Rick Block](#); [Ruth Block](#); [Sandy Chan](#); [Ravi Lau](#)
Subject: Sasan 187 Sacramento Avenue (P3073) Plan Approval Appeal - Fire safety and code non-compliance issues -- supporting documents
Date: Friday, August 13, 2021 2:26:13 PM
Attachments: [187 Sacramento Non-Compliance 2021.v.7.pdf](#)
[Marin Planning Commission 3-13-2020 Sasan - Copy.docx](#)
[URGENT PETITION TO MARIN COUNTY BOARD OF SUPERVISORS FOR SORICH.wpd](#)

TO: Marin County Planning Commission
ATTN: Kathleen Kilgariff
RE: Appeal of Project I.D. P3073 Plan Approval -- Supporting Documents
FROM: Peter Pursley, an appellant
Date: August 13, 2021

Attached please find three documents submitted to the Planning Commission in furtherance of our appeal on fire issues.

1. 8-13-2021 PDF covering 187 Sacramento fire code non compliance issues.
2. 3-13-2020 memo to Marin Planning Commission and other officials on MINIMUM ROAD REQUIREMENTS FOR FIRE SAFETY
3. 1-22-2020 Urgent Memo to Marin County Supervisors for Sorich Fire

Proposed New Residence

187 Sacramento Avenue, San Anselmo **FIRE CODE NON-COMPLIANCE**

This project fails to meet California Building Standards Code, Title 24, Part 9: California Fire Code & the Marin County Fire Department Minimum Project Requirements



Non Compliance Overview

August 13, 2021

TO: Marin County Planning Commission

RE: Project I.D. P3073

Sasan Site Plan Review

P3073

187 Sacramento Avenue

San Anselmo

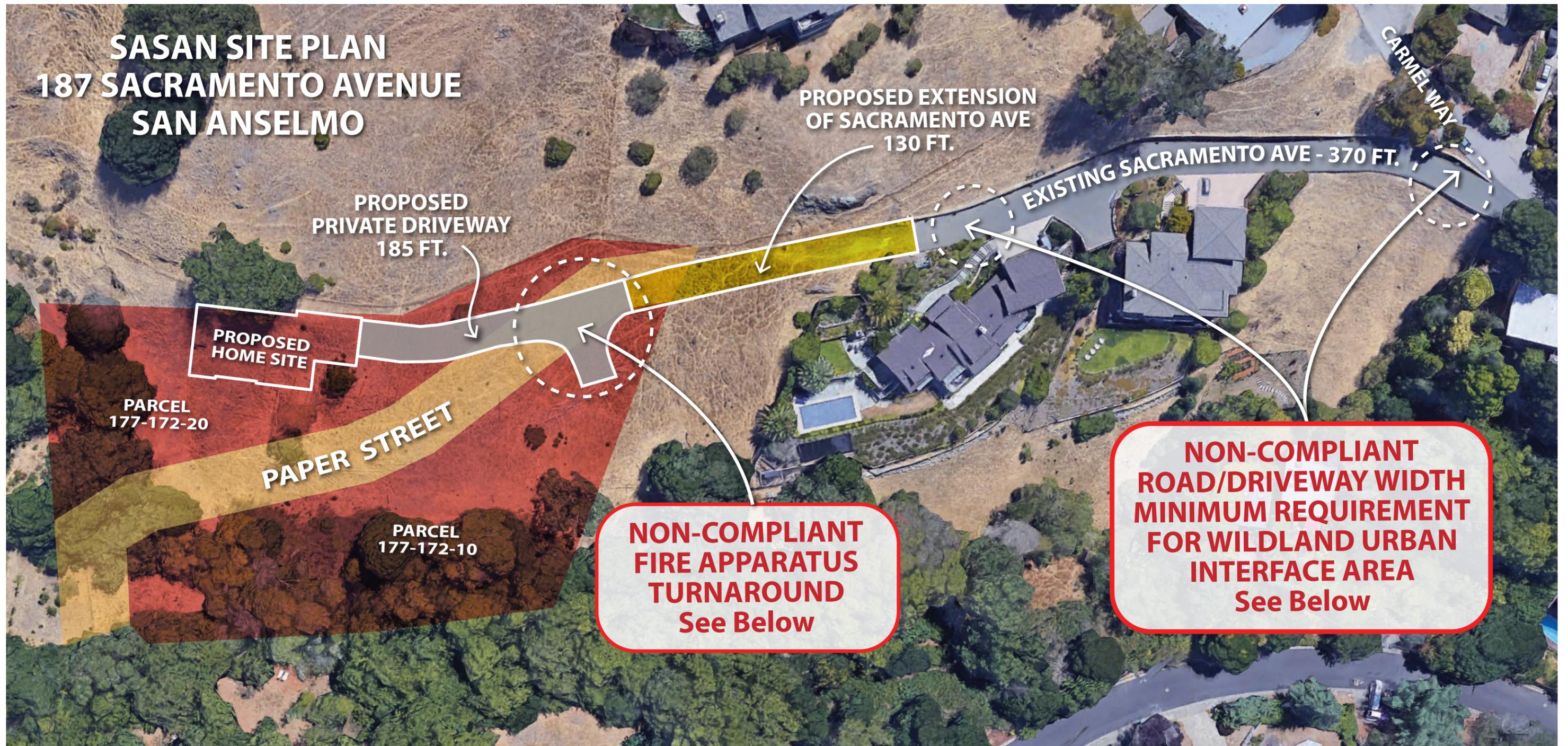
Once again, San Anselmo residents are appealing the Planning Commission's approval of residential building plans for 187 Sacramento Avenue that fail to meet minimum fire safety standards the County Fire Marshall stated in writing apply. See pg. 7 below for the Marin County Fire Department "Condition of Approval" letter based on a 4-10-2017 inspection. That letter specifies a minimum 20' road width for fire apparatus access, and minimum requirements for fire apparatus turnaround, none of which are met by the current, most recently approved 187 Sacramento Avenue project plan. We assume that "Condition of Approval" letter applies to the current project.

In a March 13, 2020 memo to the Planning Commission and Planning Department with copies to the Board of Supervisors, **we pleaded for our local officials to ensure that the 20' minimum road with requirement for fire apparatus access be met.** Nothing happened, as we anticipated. A copy of that 3-13-2020 memo is attached. It shows critical fire safety concerns that got ignored. We want this project to be compliant with minimum fire safety standards and we insist that the currently approved plans be modified to expressly show road expansion. We raised this issue before and the 2017 Fire Department "Condition of Approval" letter is clear. The applicant has had plenty of time to deal with this issue. The applicant did not appeal the 2017 "Condition of Approval" letter. It is time to comply or suspend the project.

This is an extremely dangerous area for fire, quite similar to the Berkeley Hills. Our hillside area – upper Sacramento Avenue and Carmel Way, San Anselmo – proved especially vulnerable in the 1976 Sorich Fire because of insufficient road surface area. Too little road surface area including widths of less than 20 feet resulted in head-on congestion of arriving fire trucks and resident vehicles simultaneously attempting to evacuate the hill. One residence was lost because fire suppression could not reach it in time. Inadequate road surface was a major factor in the 1991 Oakland Hills fire losses of more than 30 lives and scores of homes.

Marin County is entering the worst drought in 140 years! That is why now more than ever it is the responsibility of the Marin County officials, in the interest of public safety, to ensure that the minimum requirements for fire regulations, as outlined in Part 9 of Title 24, and the Wildland Urban Interface Area (WUI) Fire Codes and Standards, are enforced. The proposed development plan at 187 Sacramento Avenue is situated in a Wildland Urban Interface Area at the end of a difficult to access, narrow, substandard winding street, As such, the project should be required to meet, at the very least, the minimum requirements as outlined in the Marin County Fire Code and Part 9 of Title 24. The proposed fire apparatus turnaround and the road width at the Sacramento Avenue and Carmel Way intersection and along the entire Sacramento Street alignment are non compliant and substandard. The project currently approved plans fail to meet the minimum requirements at the state and local level. Until such a time that the developer can demonstrate that the minimum requirements for fire safety will be met, especially during this era of firestorms and 200 year drought, this project cannot responsibly move forward. Finally, we recognize this is a new project, but we ask the Planning Commission to take official notice of the fire issues and testimony presented in previous proposals for residential building at 187 Sacramento Avenue.

Sincerely, Peter Pursley, Owner, 2 Carmel Way, San Anselmo, CA 94960. Peterpursley.ph.d@gmail.com



NON COMPLIANT FIRE APPARATUS TURNAROUND

The proposed fire apparatus turnaround does not comply with the minimum requirement as described in the Marin County Fire Departments Wildland Urban Interface Area regulations. The proposed fire apparatus turnaround is 18' x 55', required turnaround is 18' x 60'. **See Page 4 for more information on non-compliance.**

NON COMPLIANT MINIMUM ROAD WIDTH

The proposed project does not comply with the minimum road width as described in the Marin County Fire Departments Wildland Urban Interface Area regulations and Part 9 of Title 24. The road width is almost 2 feet less than the required 20ft. **See Page 7 for information on non-compliance.**



MARIN COUNTY FIRE DEPARTMENT
MARIN COUNTY, CALIFORNIA

Kenneth Massucco
FIRE CHIEF

MINIMUM PROJECT REQUIREMENTS*

*Requirements for projects located in the Wildland-Urban Interface in *italics*

Access

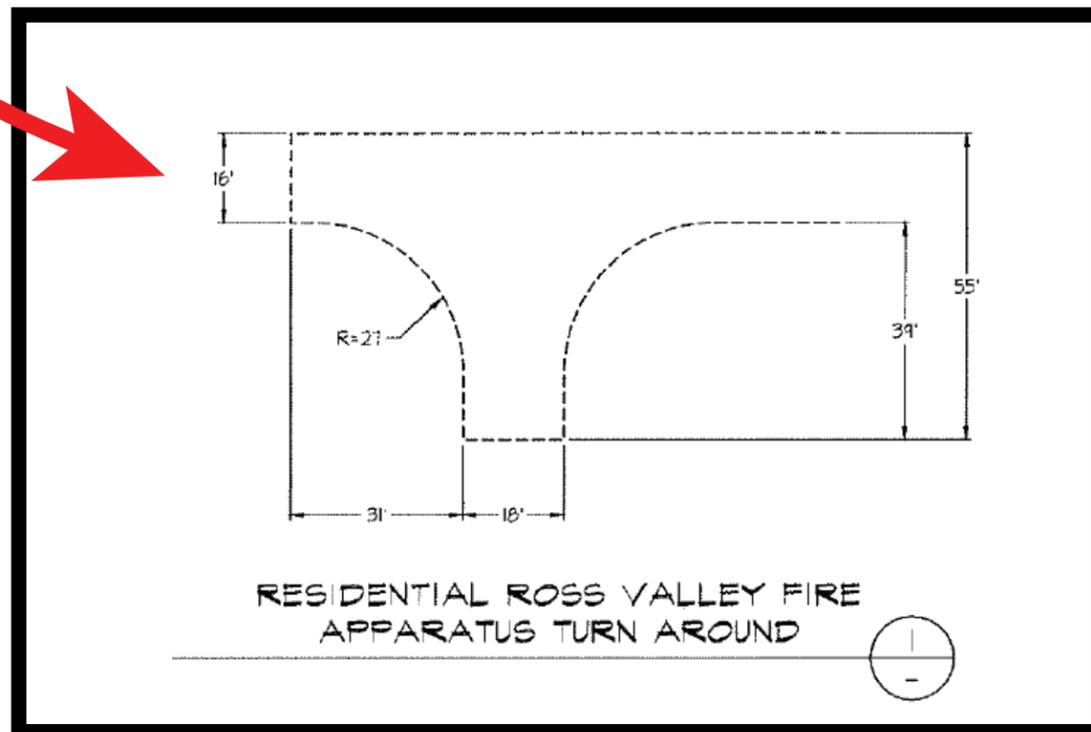
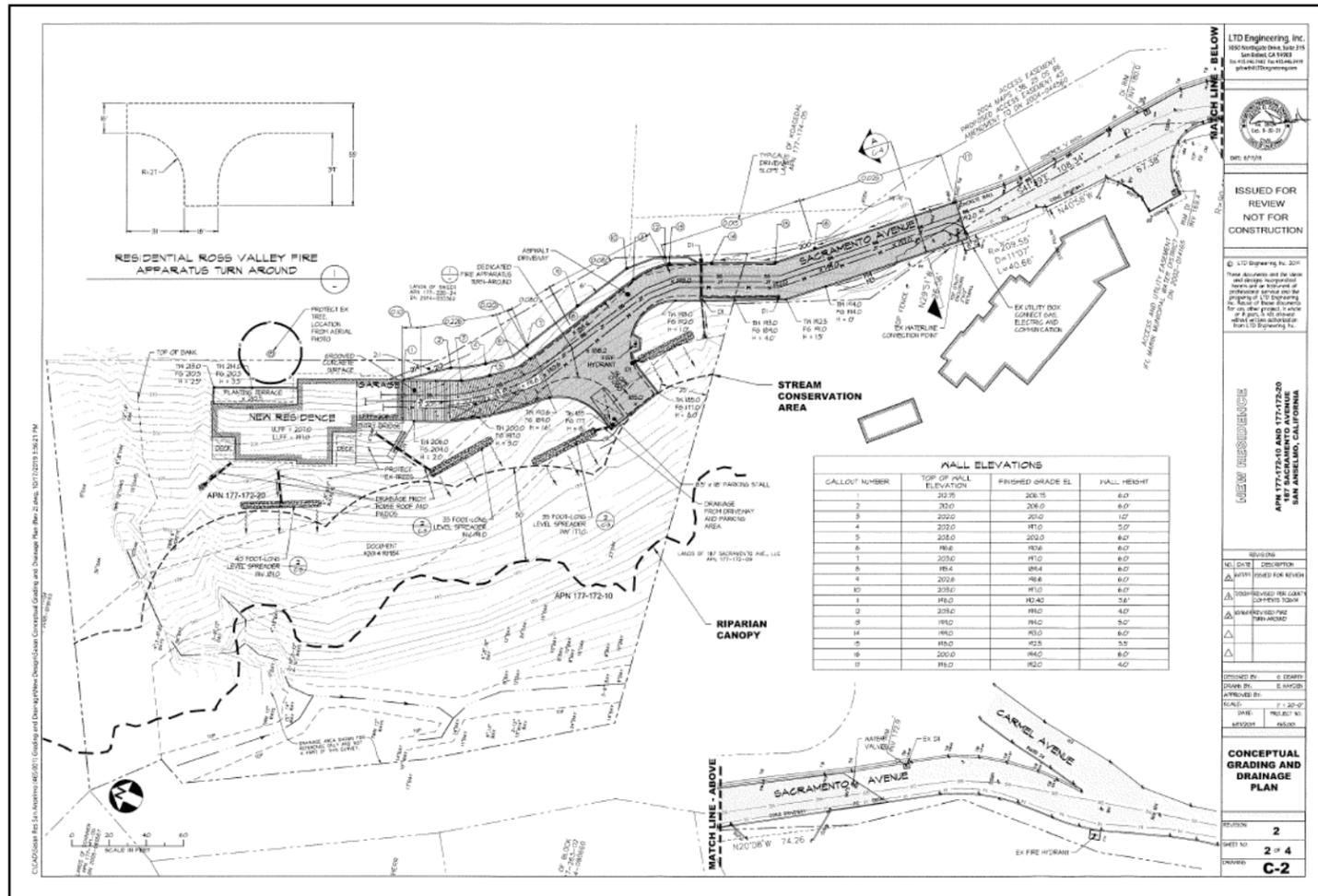
4. Unless the driveway is 16 feet in width (*20-ft for WUI*), turnouts are required on driveways over 150 feet in length. For driveways exceeding 150 feet in length, but less than 800 feet in length, a turnout is required at the midpoint of the driveway. If the driveway exceeds 800 feet in length, turnouts are to be provided no more than 400 feet apart. The turnout minimum width is 18 feet for a length of 60 feet.
5. Turnarounds are required at the end of driveways over 300 feet long (*150-ft for WUI*), and are required to be within 50 feet of the structure. The maximum grade of turnouts is 8 percent.
6. The maximum grade of a driveway is 25 percent (*18% for WUI*), but should not exceed 18 percent. Where the grade of a segment of a driveway exceeds 18 percent, the maximum length of that segment is 300 feet. Any two driveway segments with a grade greater than 18 percent are required to be joined by flatter segment not exceeding 15 percent grade at least 150 feet in length.
7. Where gates are installed on driveways, the gate entrances are required to be 16 feet wide or two feet wider than the approved driveway width. In addition, the gate is required to be at least 30 feet from the road and shall open to allow a vehicle to stop without obstructing traffic. Finally, where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius is required. If the gate is provided with a lock, a Knox Box is required.

“...The turnout minimum width is 18 feet for a length of 60 feet”

(Non-compliant - project turnout is 55’)

“Turnarounds are required at the END of driveways over 150 feet long in WUI”

(Non-compliant - driveway is 315’ long, turnout is located in the middle of driveway)





Intersection of Sacramento Ave and Carmel Way Street View

SACRAMENTO AVENUE

CARMEL WAY

ROAD STANDARD FOR FIRE VEHICLE ACCESS

If Sacramento Avenue is a county maintained or private road, the project is not compliant with the 2019 California Building Code and Marin County Fire Dept. Standard.

Sacramento Avenue Roadway width at intersection of Carmel Way:

18 feet 3 inches

Marin County Fire Department
CONDITION OF APPROVAL
Roadway width no less than

20 feet minimum





Marin County Fire Dept

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

Inspection Type: **Plan Review**
Inspection Date: **4/10/2017** By: **Alber, Scott D (10003211)**
Time In: **15:17** Time Out: **00:00**
Authorized Date: **Not Author** By:

Form: MCFD Plan Review Form

| |
|--|
| Inspection Description: |
| Based on the 2013 California Building and Fire Codes, along with current Marin County Fire Department Standards. |
| Inspection Topics: |
| Planning Division Review |
| Automatic Residential Fire Sprinkler System Is Required per NFPA 13D An automatic residential fire sprinkler system is required to be installed in all new residences including garages conforming to NFPA Std. 13D, Fire Protection Standard #401, and as modified by the Fire Marshal. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District or Marin Municipal Water District (as applicable) should an upgrade for the domestic water meter be needed. Additional sizing may be required due to available pressures and fire flow. The above requirement may be waived provided the new and existing remodel and addition does not exceed 50% of the total existing floor area. Status: Condition of Approval Notes: See above. |
| Fire Hydrants Required. (Upgrade) The existing fire hydrant nearest the structure and located by the Fire Marshal shall have the body upgraded to have at least one 4 and one half inch and one 2 and one half inch outlet. Installation shall conform to the specifications of the Marin Municipal Water District or North Marin Water District (as applicable). Status: Condition of Approval Notes: Provide location, type and flow rate of nearest municipal fire hydrant. |
| Roadways and Driveways, Grade. Proposed roads and driveways shall not exceed 18% grade. Status: Condition of Approval Notes: Provide grade profile of driveway/road and fire apparatus turnaround. |
| Roadways and Driveways Minimum Requirements (Prior to Lumber Delivery or Framing). Roadways shall be not less than 20 feet wide capable of accommodating a 60,000 GVW and driveways not less than 16 feet wide capable of accommodating a 40,000 GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing. Status: Condition of Approval Notes: See above. |
| Fire Apparatus Turn Around Required An approved fire apparatus turn around shall be designed and installed at the driveway end so as not to exceed 150 feet from the street and shall be capable of accommodating MCFD apparatus. The turnaround shall be recorded, dedicated, and clearly delineated on the subdivision map as 'Dedicated Fire Apparatus Turnaround'. Status: Condition of Approval Notes: Fire apparatus turnaround shown in submittal does not appear to meet the MCFD standard with regards to depth. Please show outline of approved hammerhead turnaround on subsequent submittal, as well as grade profile of turnaround. |
| Vegetation Management Plan - Fuels Management Plan Required. An irrigated greenbelt Vegetation Management Plan (VMP) Fuels Management Plan conforming to the standards of the Marin County Fire Department shall be prepared and implemented at the site. The VMP-Fuels Management Plan shall conform to MCFD Standard #220. The plan shall be incorporated into the landscape plan for the project and submitted to the Fire Marshal for review prior to implementation. The plan shall be implemented prior to building final. Status: Condition of Approval Notes: See above. |
| Project In A Wildland-Urban Interface Area. This project is located in a wildland-urban interface area and must meet all applicable California Building Code requirements. See CBC Chapter 7A. Status: Condition of Approval Notes: See above. |

Marin County Fire Department
Sasan Residence
187 Sacramento Avenue

CONDITION OF APPROVAL

“Roadways shall be not less than 20 feet wide capable of accommodating a 60,000 GVW”



Proposed Fire Vehicle Turnaround

**DRIVEWAY STANDARD
FOR FIRE VEHICLE ACCESS**

If Sacramento Avenue is considered a driveway, and not a county maintained or private road, then the project is not compliant with the 2019 California Building Code and Marin County Fire Dept. Standard.

“An approved fire apparatus turnaround shall be designed and installed at the driveway end so as not to exceed 150 feet from the street”.

Proposed fire vehicle turnaround far exceeds the requirement

685+ ft. from street

Nearest Street

Google Earth



Marin County Fire Dept

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

Inspection Type: **Plan Review**
Inspection Date: **4/10/2017** By: **Alber, Scott D (10003211)**
Time In: **15:17** Time Out: **00:00**
Authorized Date: **Not Author** By:

Form: MCFD Plan Review Form

| |
|---|
| Inspection Description: |
| Based on the 2013 California Building and Fire Codes, along with current Marin County Fire Department Standards. |
| Inspection Topics: |
| Planning Division Review |
| Automatic Residential Fire Sprinkler System Is Required per NFPA 13D An automatic residential fire sprinkler system is required to be installed in all new residences including garages conforming to NFPA Std. 13D, Fire Protection Standard #401, and as modified by the Fire Marshal. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District or Marin Municipal Water District (as applicable) should an upgrade for the domestic water meter be needed. Additional sizing may be required due to available pressures and fire flow. The above requirement may be waived provided the new and existing remodel and addition does not exceed 50% of the total existing floor area. Status: Condition of Approval Notes: See above. |
| Fire Hydrants Required. (Upgrade) The existing fire hydrant nearest the structure and located by the Fire Marshal shall have the body upgraded to have at least one 4 and one half inch and one 2 and one half inch outlet. Installation shall conform to the specifications of the Marin Municipal Water District or North Marin Water District (as applicable). Status: Condition of Approval Notes: Provide location, type and flow rate of nearest municipal fire hydrant. |
| Roadways and Driveways, Grade. Proposed roads and driveways shall not exceed 18% grade. Status: Condition of Approval Notes: Provide grade profile of driveway/road and fire apparatus turnaround. |
| Roadways and Driveways Minimum Requirements (Prior to Lumber Delivery or Framing). Roadways shall be not less than 20 feet wide capable of accommodating a 60,000 GVW and driveways not less than 16 feet wide capable of accommodating a 40,000 GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing. Status: Condition of Approval Notes: See above. |
| Fire Apparatus Turn Around Required An approved fire apparatus turn around shall be designed and installed at the driveway end so as not to exceed 150 feet from the street and shall be capable of accommodating MCFD apparatus. The turnaround shall be recorded, dedicated, and clearly delineated on the subdivision map as 'Dedicated Fire Apparatus Turnaround'. Status: Condition of Approval Notes: Fire apparatus turnaround shown in submittal does not appear to meet the MCFD standard with regards to depth. Please show outline of approved hammerhead turnaround on subsequent submittal, as well as grade profile of turnaround. |
| Vegetation Management Plan - Fuels Management Plan Required. |
| An irrigated greenbelt Vegetation Management Plan (VMP) Fuels Management Plan conforming to the standards of the Marin County Fire Department shall be prepared and implemented at the site. The VMP-Fuels Management Plan shall conform to MCFD Standard #220. The plan shall be incorporated into the landscape plan for the project and submitted to the Fire Marshal for review prior to implementation. The plan shall be implemented prior to building final. Status: Condition of Approval Notes: See above. |
| Project In A Wildland-Urban Interface Area. This project is located in a wildland-urban interface area and must meet all applicable California Building Code requirements. See CBC Chapter 7A. Status: Condition of Approval Notes: See above. |

Marin County Fire Department
Sasan Residence
187 Sacramento Avenue

CONDITION OF APPROVAL

“An approved fire apparatus turnaround shall be designed and installed at the driveway end so as not to exceed 150 feet from the street”.



Sacramento Avenue Roadway width
at widest point:

19 feet 5 inches

Marin County Fire Department
CONDITION OF APPROVAL
Roadway width no less than

20 feet minimum





REAL WORLD DAILY SCENARIO

Sacramento Avenue Roadway width
at widest point with cars parked:

12 feet 8 inches

Marin County Fire Department
CONDITION OF APPROVAL
Roadway width no less than

20 feet minimum





Typical Construction scenario on Sacramento Ave. The resident installed a pool on steep slope Construction continued for 8 months, with a major impact on access and traffic throughout the neighborhood.

Pool Construction
taking place from
June 2017 thru
March 2018



Proposed 187 Sacramento Site

Pool Construction from
June 2017 thru March 2018





**Pool Construction from
June 2017 thru March 2018**



Pool Construction from
June 2017 thru March 2018



Typical daily impact on surrounding streets.
This shot from 2 Carmel Way across the street from the Sacramento site during construction of a pool!

SASAN PROJECT (P2522)

To: Marin County Planning Commission and Planning Department Staff
cc: Marin County Board of Supervisors
Ross Valley Fire District
Sasan Project representative
Re: SASAN PROJECT (P2522) MINIMUM ROAD REQUIREMENTS FOR FIRE SAFETY
From: Peter Pursley, owner, 2 Carmel Way, San Anselmo
Date: March 13, 2020

On January 22, 2020, San Anselmo residents petitioned the Marin County Board of Supervisors with a request to address long-standing fire suppression and evacuation safety concerns stemming from inadequate roads on the upper Sacramento Avenue-Carmel Way hillside. A copy was sent to the Planning Commission, planning staff and Chief of the Ross Valley Fire District. We've received a preliminary reply from Supervisor's Rice's office.

We pointed out the need for increased road surface and that the undeveloped area of Sacramento Avenue included in the Sasan project should first be evaluated for road expansion to meet the need for improved fire evacuation before an encroachment permit is considered.

An equally important fire safety problem is the lack of any provision in the Sasan project plans to expand the access road surface to meet the 20 feet wide minimum for firetruck access. We have raised this issue before. Repeatedly. We recognize meeting that 20 foot minimum is a challenge but it needs to be addressed now. Calling the access road surface a driveway does not resolve the problem under applicable limitations on driveway length. We want full adherence to minimum fire safety standards including a 20 feet wide road surface.

Please do not put off the minimum road width issue any longer. We sense what might be happening is that the issue continues to be avoided creating the risk it will become a last-minute deal-breaker threat to the project that will be handled by granting an unlawful variance that contravenes minimum safety standards.

Our hillside area proved especially vulnerable in the 1976 Sorich Fire because of insufficient road surface area. Too little road surface area including widths of less than 20 feet in places resulted in head-on congestion of arriving fire trucks and resident vehicles simultaneously attempting to evacuate the hill.

One residence was lost because fire suppression could not reach it in time. Inadequate road surface was a major factor in the 1991 Oakland Hills fire losses of more than 30 lives and scores of homes. Inadequate road surface resulting from a local planning decision to reduce vehicle road surface was also a factor in the Paradise fire in which more than 80 lives were lost.

Our fire threat environment has intensified substantially just in the last several years. Still, the road surface for evacuation off the Sacramento-Carmel hill has not been expanded since 1976 when it was already demonstrably inadequate. Several large homes and several expansions and occupants and their vehicles have been added to that immediate area since 1976.

We urge County officials recognize the need for a current assessment of the fire evacuation and simultaneous fire truck ingress capacity over existing road infrastructure in the upper Sacramento Avenue-Carmel Way area. Officials should know the approximate number of vehicles and residents that might seek evacuation off that hillside. A key part of any assessment is the feasibility of developing the Sacramento Avenue paper road into usable roadway.

URGENT PETITION TO MARIN COUNTY BOARD OF SUPERVISORS FOR SORICH VALLEY
FIRE ESCAPE ROAD EXPANSION ON SACRAMENTO AVENUE, SAN ANSELMO

To: Marin County Board of Supervisors
cc: Marin County Planning Commission and Planning Department Staff
Ross Valley Fire District
Sasan Project representative
Editor, Marin I.J.
From: Undersigned San Anselmo home owners and residents
Date: January 22, 2020

Marin County has contended with the threat and occasional eruption of destructive urban interface grassland fires for many decades. One hillside area – upper Sacramento Avenue and Carmel Way, San Anselmo – proved especially vulnerable in the 1976 Sorich Fire because of insufficient road surface area. Too little road surface area including widths of less than 20 feet in places resulted in head-on congestion of arriving fire trucks and resident vehicles simultaneously attempting to evacuate the hill. One residence was lost because fire suppression could not reach it in time. Inadequate road surface was a major factor in the 1991 Oakland Hills fire losses of more than 30 lives and scores of homes.

Our fire threat environment has intensified substantially just in the last several years. Still, the road surface for evacuation off the Sacramento-Carmel hill has not been expanded since 1976 when it was already demonstrably inadequate. Several large homes and several expansions and occupants and their vehicles have been added to that immediate area since 1976.

The Sacramento Avenue undeveloped paper road area offers potential for road surface expansion in that area of critical need. That paper road option for surface expansion along that public right of way should be preserved as the highest possible potential public use for public safety. County officials should take no action that forecloses development of that paper road into additional active public roadway. That includes action on any pending development proposal including the Sasan project (P2522).

Five years ago Planning Department staff recommended abandoning the Sacramento Ave paper road public right of way for the benefit of a predecessor to the Sasan project. No findings supported that recommendation. A public right-of-way abandonment is

inappropriate because an encroachment permit application alternative procedure is not only available, it is mandatory for this project. See Marin County Code Chapter 6.72. County Code sections 6.72.010 and 6.72.020 clearly prohibit building in a public right-of-way without an encroachment permit. (An encroachment permit may be denied if fire evacuation capacity would be compromised by the encroachment.)

The county code provisions are clearly prescriptive and must be followed. "The public rights-of way are unique public resources held in trust by the county for the benefit of the public." Marin County Code 13.13.010 A. Relinquishing more of the public right-of-way than is needed for building the proposed residence can fairly be viewed as an impermissible transformation of a public asset to exclusive private use.

We request and strongly urge County officials recognize the need for a current assessment of the fire evacuation and simultaneous fire truck ingress capacity over existing road infrastructure in the upper Sacramento Avenue-Carmel Way area. Officials should know the approximate number of vehicles and residents that might seek evacuation off that hillside. A key part of any assessment is the feasibility of developing the Sacramento Avenue paper road into usable roadway. Finally, recent Northern California fire history fueled by climate change, higher temperatures, heavier grasslands after heavy rains, and higher winds have made our environment more fire dangerous. Intervals between disastrous fires have shrunk from decades to two years. Local planning decisions to reduce vehicle usable road surface to an insufficient size in the Paradise area contributed to the scores of deaths in that fire. Adequate road surface is clearly a matter of life and death.

Peter Pursley
owner, 2 Carmel Way
San Anselmo

Todd Barbee
lessee/resident, 2 Carmel Way
San Anselmo
2 Carmel Way

Marcus and Linda Yamane
Owners
152 Sacramento Ave., San Anselmo

To: Marin County Board of Supervisors
cc: Marin County Planning Commission and Planning Department Staff
Ross Valley Fire District
From: Undersigned San Anselmo homeowners
Date: January 15, 2020

We are writing with regards to the proposed Sasan project development on upper Sacramento Ave in San Anselmo. Specifically, we are writing to show our full support of the memo from Peter Pursley and Todd Barbee originally dated January 6, 2020. In their memo they clearly spell out the danger of permanently removing Sacramento Ave's public access and paper road easement. We are completely opposed to any development which would permanently interfere with our public access by building over this paper road. We have been homeowners and residents of 141 Sacramento Ave for over 41 years. As the danger of fire has gotten extensively more severe, the need to be ever more diligent about not adding more complexity, danger and burden to the residents on our dead-end road is critical.

Again, we fully support Mr. Pursley and Mr. Barbee's assessment in their January 2020 memo, that allowing the Sasan project to eliminate the Sacramento Ave. paper road and public access would place grave potential danger and hardship on the residents of Sacramento Ave, especially upper Sacramento Ave.

Thank you for your urgent attention to this community's request and concern.

William and Connie Ducey
141 Sacramento Ave.
San Anselmo, CA 94960

From: [Lance Kuykendall](#)
To: [Kilgariff, Kathleen](#)
Subject: P 3073 Sacramento Ave
Date: Tuesday, August 17, 2021 10:59:05 AM

Comments you recently received misrepresents the owner's intentions for the future use of the 5.25ac property owned by Stacey Singer adjacent to the north side of Sacramento Ave. The. This has been a pasture for the owner's horses for the last 45 years. Stacey is currently replacing the hay storage shed and plans to rebuild the adjacent coral and stable.

In 2014, Ms Singer advised the Applicant and Planning Commission that she owns an access from Sacramento Ave as the topography of the property allows the best access for large heavy vehicles from this point and she cannot allow it to be blocked by a retaining wall. As long as that access is protected Ms Singer has no objection to the project.

As to the reference of the need to protect an oak tree on the Singer property, Ms Singer would be pleased to provide what help or land the applicant might need to protect the tree.

Regarding future development of this property, when the hay storage shed is completed this month the horses will be returned however it is a fact that the pasture is currently zoned for 1 residence for each 10 acres. That means if a future owner were to develop a 4000 ft home it would cover less than 2% of the property. Such zoning is up to the county. Ms Singer intends to continue to live in her home on Carmel Way and let her horses roam on the pasture.

From: [Brandon Sullivan](#)
To: [Kilgariff, Kathleen](#)
Cc: [PlanningCommission](#); [R. McK](#)
Subject: Sasan Site Plan Review P3073, LSA Bioassessment
Date: Wednesday, August 18, 2021 2:45:53 PM
Attachments: [LSA Bioassessment_Sasan Site Plan.pdf](#)

Kathleen,

It appears that the original bioassessment provided by Eric Lichtwardt of LSA Associates dated October 17, 2019 has not been included in the Sasan Site Plan Review P3073 file. Several findings by the applicant and recent documents, including the current bioassessment from First Carbon Solutions, rely on or reference the LSA bioassessment.

I have attached the LSA bioassessment here and ask that you add it to the project file along with this correspondence as soon as possible.

Brandon



CARLSBAD
FRESNO
IRVINE
LOS ANGELES
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROSEVILLE
SAN LUIS OBISPO

October 17, 2019

Casey Clement
Development Manager
Thompson Development, Inc.
250 Bel Marin Keys Blvd., Bldg. A
Novato, CA 94949

Subject: Biological Site Assessment for 187 Sacramento Avenue (APN 177-172-09, 10, 18, and 20)
Property, Marin County, California

Dear Ms. Clement:

At your request, LSA conducted a biological site assessment of the above-referenced property (hereafter referred to as the project site or site). This assessment follows guidance provided in the Marin Countywide Plan (CWP) to identify and assess any biological resources that could be impacted by the proposed development on this site including an assessment of special-status species, sensitive biological communities, and wetlands and other waters under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS), the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, and/or the California Department of Fish and Wildlife (CDFW). This report also analyzes the biological resources on the project site in regard to the California Environmental Quality Act (CEQA).

The CWP also includes sections that address the identification and protection of biological resources within the County of Marin (County). Specifically, the following policies and associated implementation programs from the CWP emphasize the conservation and enhancement of special-status species and their habitats, wetlands, riparian areas, and Baylands: Policy Bio 1.1-1.9, 2.1-2.9, 3.1-3.2, 4.1-4.20, and 5.1-5.10.

PROJECT LOCATION AND DESCRIPTION

The proposed project is located on a 1.72-acre project site (APN 177-172-09, 10, 18, and 20) at the terminus of Sacramento Avenue off San Francisco Boulevard, in unincorporated Marin County near San Anselmo (Figure 1). The proposed project involves construction of a single-family home and the associated extension of Sacramento Avenue. The construction and road extension would occur in a 0.95-acre portion of the project site (referred to in the assessment as the work area), and the remaining 1.26-acre portion of the project site would remain undeveloped.

METHODS

Prior to conducting the field survey in 2017, LSA searched the CDFW California Natural Diversity Database (CNDDDB) for records of special-status species occurrences and sensitive natural communities in the project site area (3-mile radius) (CDFW 2017). LSA conducted an updated CNDDDB search for this report update (CDFW 2019). LSA also reviewed Howell et al. (2007) for special-status

plant records in the area. LSA biologist/botanist Sheryl Creer surveyed the project site on June 2, 2017. Ms. Creer assessed current habitat conditions on the project site and evaluated the site's potential to support special-status plant and/or animal species and sensitive natural communities. She walked the entire project site, access road, and adjoining areas and assessed whether any biological resources were present that could be impacted by the proposed development. Plants and animals observed, land cover, and soil conditions were recorded in a field notebook. LSA biologist Eric Lichtwardt conducted a follow-up site visit on September 24, 2019 to assess if any environmental conditions had changed since the initial 2017 survey and to measure the diameter at breast height (DBH) of the large Oregon oak (*Quercus garryana*), off-site, but near the proposed home site (Figure 1). For the purposes of this report, special-status species are defined as follows:

- Species that are listed, formally proposed, or designated as candidates for listing as threatened or endangered under the federal Endangered Species Act
- Species that are listed, or designated as candidates for listing, as rare, threatened, or endangered under the California Endangered Species Act
- Plant species assigned to California Rare Plant Ranks 1A, 1B, and 2
- Animal species designated as Species of Special Concern or Fully Protected by the CDFW
- Species that meet the definition of rare, threatened, or endangered under Section 15380 of the California Environmental Quality Act guidelines
- Species considered to be a taxon of special concern by local agencies

RESULTS AND DISCUSSION

Existing Conditions

The project site is surrounded on three sides by residential development and on the north side by a vacant lot and beyond the vacant lot, Sorich Ranch Park, an open space area under jurisdiction of the Town of San Anselmo. Native grassland and coast live oak woodland are the dominant vegetation communities within and adjacent to the project site. An intermittent stream course runs from north to south along the western edge of the project site (Figure 1, attached). This stream has a scoured rocky bed, but does not support any typical riparian/wetland vegetation and likely only holds water after rain events. The existing conditions are described in greater detail in the sections below.

Botanical Resources

Botanical resources within the site include two natural communities comprised of native, non-native, and invasive species. A complete list of plant species observed is attached to this letter report.

Vegetation Communities

Coast Live Oak Woodland (*Quercus agrifolia* Woodland Alliance). Coast live oak woodland is present along an intermittent stream course (unnamed) within the project site. It forms a closed canopy over the watercourse that includes coast live oak (*Quercus agrifolia*) and California bay (*Umbellularia californica*). Most of the trees present are less than 12 inches in diameter at breast height (4.5 feet above ground surface) and were estimated to be between 20 and 30 feet tall. A few trees approached 30 inches in diameter. The understory consists of patchy shrubs with an herbaceous layer throughout. Species observed include Himalayan blackberry (*Rubus armeniacus*), French broom (*Genista monspessulanus*), poison oak (*Toxicodendron diversilobum*), hedge nettle (*Stachys* sp.), and common sanicle (*Sanicula crassicaule*). Other native species that occur in the understory include sword fern (*Polystichum munitum*), polypody fern (*Polypodium* sp.), and woodland strawberry (*Fragaria vesca*). Some of the associations within this alliance are considered sensitive natural communities by CDFW. However, the species composition of this alliance most closely matches the Coast Live Oak-California Bay-Poison Oak Woodland Association, which is not considered a sensitive natural community by CDFW.

Purple Needlegrass Grassland (*Nassella [Stipa] pulchra* Herbaceous Alliance). Purple needlegrass grassland occurs throughout the grassy portions of the project site. Purple needlegrass (*Nassella [Stipa] pulchra*) is co-dominant with slender wild oat (*Avena barbata*). In some areas soap plant (*Chloragalum pomeridianum* var. *pomeridianum*) occurs as a co-dominant species. Additional grass species observed include Italian ryegrass (*Festuca perennis*), purple false brome (*Brachypodium distachyon*), and rattlesnake grass (*Briza maxima*). Species considered to be invasive are also present and include hairy cat's ear (*Hypochaeris radicata*), bristly ox-tongue (*Helminthotheca echioides*), fennel (*Foeniculum vulgare*), and Italian thistle (*Carduus pycnocephalus* subsp. *pycnocephalus*). Three individual trees also grow in the grassland and include Oregon oak, California buckeye (*Aesculus californica*), and coast live oak. The Oregon oak is approximately 2.7 feet in diameter and about 30 feet tall, the California buckeye is approximately 36 inches in diameter¹ and 15 feet tall, and the coast live oak is 7 inches in diameter and 10 feet tall. All associations within this alliance are considered sensitive natural communities by CDFW. However, due to the presence of invasive species as a result of human disturbance, this community does not represent a high quality stand of this association. As such, it would not be considered a high-priority vegetation type or sensitive natural community by CDFW.

Wildlife

The project site is located at the edge of a low-density residential area that would allow for the movement of wildlife along the stream course within the project site. As a result, the project site is likely to support common species of wildlife that occur in suburban Marin County. Birds observed during the field survey include American crow (*Corvus brachyrhynchos*), California scrub jay (*Aphelocoma californica*), and California towhee (*Melospiza crissalis*). The California scrub jay and

¹ As measured according to the Native Tree Preservation and Protection Ordinance (Sections 22.27 and 22.130 of Marin County Codes); at its most narrow point beneath the branching of the trunk and in this case below 4.5 feet.

California towhee are likely to breed on site in dense shrub and/or tree cover. Nesting habitat for other species of locally common birds also occurs on site.

Mule deer (*Odocoileus hemionus*) were observed grazing on the project site. Other urban adapted mammals such as striped skunk (*Mephitis mephitis*), Virginia opossum (*Didelphis virginianus*), and northern raccoon (*Procyon lotor*) would be expected to regularly occur on site. Gray foxes (*Urocyon cinereoargenteus*) and possibly coyote (*Canus latrans*) would occasionally cross the site.

POTENTIAL IMPACTS TO BIOLOGICAL RESOURCES

The following CEQA checklist summarizes potential impacts from the proposed project on biological resources on the project site. Each item is addressed in greater detail on the following pages.

| Topics: | Potentially Significant Impact | Less Than Significant with Mitigation Incorporation | Less Than Significant Impact | No Impact | Not Applicable |
|--|--------------------------------|---|-------------------------------------|-------------------------------------|-------------------------------------|
| BIOLOGICAL RESOURCES | | | | | |
| Would the project: | | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

| Topics: | Potentially Significant Impact | Less Than Significant with Mitigation Incorporation | Less Than Significant Impact | No Impact | Not Applicable |
|--|---|--|---|--------------------------|-------------------------------------|
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | | | | | |

Special-Status Plant Species

The CNDDDB search provided occurrence records for 15 special-status plant species within 3 miles of the project site (Table A). Of these 15 species, 10 are not expected to occur on the site due to a lack of suitable habitat (e.g., serpentine soils, closed-cone coniferous forest, etc.) (Table A). The remaining four special-status plants, pale yellow hayfield tarplant (*Hemizonia congesta* subsp. *congesta*), Napa false indigo (*Amorpha californica* var. *napensis*), two-fork clover (*Trifolium amoenum*), and north coast semaphore grass (*Pleuropogon hooverianus*), have been documented within 3 miles of the project area and could potentially occur within the project site based on the presence of suitable habitat. However, the site assessment was conducted within the known blooming period for all these species and the species were not detected. The proposed project will not have an adverse effect on special-status plants.

Table A: Special-Status Species Analyzed

| Species/Common and Scientific Name | Status* (Fed/State/Other) | Habitat Requirements | Analysis |
|---|---------------------------|---|---|
| PLANTS | | | |
| Asteraceae - Sunflower Family | | | |
| Congested-headed hayfield tarplant <i>Hemizonia congesta</i> subsp. <i>congesta</i> | --/--/1B.2 | This annual herb occurs in valley and foothill grassland, sometimes on roadsides, from 66 to 1,837 feet in elevation. It blooms April through November. | There is one documented occurrence of pale yellow hayfield tarplant within 3 miles of the project site, and there is suitable habitat present. However, this occurrence was last documented in 1944 and congested-headed hayfield tarplant was not observed during the site assessment. Low potential to occur; not observed. |
| Santa Cruz tarplant <i>Holocarpha macradenia</i> | FT/SE/1B.1 | This annual herb occurs on sandy or sandy-clay soils in coastal scrub, coastal prairie, and valley and foothill grassland, from 32 to 722 feet in elevation. It blooms from June through October. | There is one documented occurrence of Santa Cruz tarplant within 3 miles of the project site. However, there is no suitable habitat present within the project site, and this occurrence is possibly extirpated. Santa Cruz tarplant was not observed during the site assessment. Not expected to occur; not observed. |
| Tamalpais lessingia <i>Lessingia micradenia</i> var. <i>micradenia</i> | --/--/1B.2 | This annual herb occurs on roadsides and in chaparral and valley and foothill grassland, typically in serpentine soils from 328 to 1,640 feet in elevation. It blooms June through October. | There are four documented occurrences of Tamalpais lessingia within 3 miles of the project site. However, there are no serpentine soils within the project site. Tamalpais lessingia was not observed during the site assessment. Not expected to occur; not observed. |
| White-rayed pentachaeta <i>Pentachaeta bellidiflora</i> | FE/SE/1B.1 | This annual herb occurs in cismontane woodland and valley and foothill grassland, often in serpentine soils, from 115 to 2,034 feet in elevation. It blooms March through May. | There are two documented occurrences of white-rayed pentachaeta within 3 miles of the project site. However, there are no serpentine soils within the project site and one of the occurrences was last documented in 1946, and the other occurrence is considered extirpated. White-rayed pentachaeta was not observed during the site assessment. Not expected to occur; not observed. |
| Boraginaceae - Borage Family | | | |
| Bent-flowered fiddleneck <i>Amsinckia lunaris</i> | --/--/1B.2 | This annual herb occurs in coastal bluff scrub, woodland, and valley and foothill grasslands. It blooms March through June. | There is one documented occurrence of bent-flowered fiddleneck within 3 miles of the project site; however, this species was not found on the project site during the site assessment. Not expected to occur; not observed. |
| Brassicaceae - Mustard Family | | | |
| Mount Tamalpais jewelflower <i>Streptanthus glandulosus</i> subsp. <i>pulchellus</i> | --/--/1B.2 | This annual species occurs in serpentine soils in chaparral and valley and foothill grassland from 650 to 2,635 feet in elevation. It blooms May through August. | There are four documented occurrences of Mount Tamalpais jewelflower within 3 miles of the project site. However, there are no serpentine soils within the project site. Mount Tamalpais jewelflower was not observed during the site assessment. Not expected to occur; not observed. |

Table A: Special-Status Species Analyzed

| Species/Common and Scientific Name | Status* (Fed/State/Other) | Habitat Requirements | Analysis |
|--|---------------------------|--|--|
| Ericaceae - Heath Family | | | |
| Mount Tamalpais manzanita <i>Arctostaphylos montana</i> subsp. <i>montana</i> | --/--/1B.3 | This perennial evergreen shrub occurs in chaparral, valley and foothill grassland, typically in rocky, serpentine soils from 525 to 2,493 feet in elevation. It blooms February through April. | There are two documented occurrences of Mount Tamalpais manzanita within 3 miles of the project site. However, there are no serpentine soils present within the project site. Mount Tamalpais manzanita was not observed during the site assessment. Not expected to occur; not observed. |
| Marin manzanita <i>Arctostaphylos virgate</i> | --/--/1B.2 | This perennial evergreen shrub occurs in broad-leaved upland forest, closed-cone coniferous forest, chaparral, and north coast coniferous forest on sandstone or granitic soils. Its known range is 197 to 2,297 feet in elevation. It blooms January through March. | There is one documented occurrence of Marin manzanita within 3 miles of the project site. However, there is no suitable habitat present within the project site. Marin manzanita was not observed during the site assessment. Not expected to occur; not observed. |
| Fabaceae - Pea Family | | | |
| Napa false indigo <i>Amorpha californica</i> var. <i>nopensis</i> | --/--/1B.2 | This perennial deciduous shrub occurs in openings in broadleaved upland forest, chaparral, and cismontane woodland from 492 to 6,562 feet in elevation. It blooms April through July. | There are four documented occurrences of Napa false indigo within 3 miles of the project site, and there is suitable habitat present. This species was not observed during the site assessment. Low potential to occur; not observed. |
| Two-fork clover <i>Trifolium amoenum</i> | FE/--/1B.1 | This annual herb occurs in coastal bluff scrub and valley and foothill grassland, sometimes in serpentine soils, from 16 to 1,362 feet in elevation. It blooms April through June. | There is one documented occurrence of two-fork clover within 3 miles of the project site, and there is suitable habitat present. However, this occurrence was last documented in 1933 and two-fork clover was not observed during the site assessment. Low potential to occur; not observed. |
| Fagaceae - Oak Family | | | |
| Tamalpais oak <i>Quercus parvula</i> var. <i>tamalpaisensis</i> | --/--/1B.3 | This perennial evergreen shrub occurs in lower montane coniferous forest from 328 to 2,460 feet in elevation. It blooms March through April. | There is one documented occurrence of Tamalpais oak within 3 miles of the project site. However, there is no suitable habitat present within the project site, and this species was not observed during the site assessment. Not expected to occur; not observed. |

Table A: Special-Status Species Analyzed

| Species/Common and Scientific Name | Status* (Fed/State/Other) | Habitat Requirements | Analysis |
|--|---------------------------|--|---|
| Linaceae - Flax Family | | | |
| Marin western flax <i>Hesperaloe congestum</i> | FT/ST/1B.1 | This annual herb occurs in serpentine soils in chaparral and valley and foothill woodland from 16 to 1,214 feet in elevation. It blooms April through July. | There is one documented occurrence of Marin western flax within 3 miles of the project site. However, this occurrence has not been observed since the late 1800s, and there are no serpentine soils within the project site. This species was not observed during the site assessment. Not expected to occur; not observed. |
| Malvaceae - Mallow Family | | | |
| Point Reyes checkerbloom <i>Sidalcea calycosa</i> var. <i>rhizomata</i> | --/--/1B.2 | This perennial rhizomatous herb occurs in freshwater marshes and swamps near the coast from 10 to 246 feet in elevation. It blooms April through September. | There is one documented occurrence of Point Reyes checkerbloom within 3 miles of the project site. However, this occurrence has not been observed since late 1922, and there is no suitable habitat within the project site. This species was not observed during the site assessment. Not expected to occur; not observed. |
| Polygonaceae - Buckwheat Family | | | |
| Tiburon buckwheat <i>Eriogonum luteolum</i> var. <i>caninum</i> | --/--/1B.2 | This annual herb occurs in sandy to gravely serpentine soils in chaparral, cismontane woodland, coastal prairie, and valley and foothill grassland from sea level to 2,297 feet in elevation. It blooms May through September. | There are four documented occurrences of Tiburon buckwheat within 3 miles of the project site. However, there are no serpentine soils within the project site, and this species was not observed during the site assessment. Not expected to occur; not observed. |
| Poaceae (Gramineae) - Grass Family | | | |
| North coast semaphore grass <i>Pleurapogon haoverianus</i> | --/CT/1B.1 | This perennial rhizomatous herb occurs in open and mesic areas in broadleaved upland forest, meadows and seeps, and north coast coniferous forest from 33 to 2,201 feet in elevation. It blooms April through June. | There is one documented occurrence of North Coast semaphore grass within 3 miles of the project site. However, this occurrence is considered to possibly be extirpated. This species was not observed during the site assessment. Low potential to occur; not observed. |
| ANIMALS | | | |
| Pallid bat <i>Antrozous pallidus</i> | --/--/SSC | Roots in crevices in rock outcrops, in the expansion joints under bridges, buildings, mines, and hollow trees; forages on large terrestrial insects in open habitats. | There are three documented occurrences of this species within 3 miles of the project site. It may forage in the grassland on site, and limited roosting habitat may be present in tree hollows in the coast live oak woodland. Low potential to occur; not observed. |

Special-Status Animal Species

The CNDDDB search provided occurrence records of eight special-status animal species within 3 miles of the project site. Seven of these species, tidewater goby (*Eucyclogobius newberryi*), foothill yellow-legged frog (*Rana boylei*), western pond turtle (*Actinemys marmorata*), California black rail (*Laterallus jamaicensis coturniculus*), San Pablo song sparrow (*Melospiza melodia samuelis*), Ridgway's rail (*Rallus obsoletus obsoletus*), and salt-marsh harvest mouse (*Reithrodontomys raviventris*), are associated with saltmarsh or freshwater aquatic habitats that are not present on or near the project site; therefore, these species would not occur and are not discussed in Table A. The pallid bat (*Antrozous pallidus*), a California Species of Special Concern (Table A), has been documented within 3 miles of the project site and could potentially forage on the site; however, the relatively small work area would not adversely affect foraging habitat for this bat and suitable day or maternity roost habitat is not present on the project site.

The trees and shrubs on the project site provide potential nesting habitat for various native bird species protected under the Migratory Bird Treaty Act and the California Fish and Game Code. Therefore, the project will comply with Marin County Code, Article III Site Planning and General Development Regulations, Section 22.20.040-F: Nesting Bird Protection Measures (Excluding Northern Spotted Owl). For the purposes of protecting nesting birds, outdoor construction activity that involves tree removal, grading, or other site disturbances in an area where a biological assessment has identified a high probability of the presence of nesting birds are subject to the requirements enumerated below before and during site preparation and construction activities, unless separate project mitigation measures have been adopted that override these requirements.

1. Construction activities that may disturb birds shall be conducted outside the nesting season, which generally occurs between February 1 and August 15.
2. If commencing construction activities between August 16 and January 31 is infeasible and ground disturbance or tree removal needs to occur within the nesting season, a pre-construction nesting bird survey of the property shall be conducted by a qualified biologist. If no nesting birds are observed by the biologist, no further action is required, and construction activities shall occur within one week of the survey.
3. If active bird nests are observed during the pre-construction survey, a disturbance-free buffer zone shall be established around the nest tree(s) until the young have fledged, as determined by a qualified biologist.
4. To delineate the buffer zone around a nesting tree, orange construction fencing shall be placed at the specified radius from the base of the tree within which no machinery or workers shall intrude. After the fencing is in place, there will be no restrictions on grading or construction activities outside the prescribed buffer zones, but County staff during routine site inspections may verify that fencing remains in place.
5. Pre-construction surveys will be documented and provided to the County by the qualified biologist. If construction fencing is required, photographs of the fencing, directly after installation, will be submitted to the County.

- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

The coast live oak woodland present within the project site is associated with the intermittent stream running along the western edge of the site (Figure 1), and is therefore considered riparian canopy by CDFW. However, construction within the work area, which is located outside the 50 foot setback from the edge of the riparian canopy, will not affect the stream or associated canopy as depicted on the Project Plans (attached). As previously discussed, the purple needlegrass grassland within the project site does not represent a high-quality occurrence of this vegetation community and would not be considered a high-priority or sensitive natural community by CDFW. There are no high-priority or sensitive natural communities within the project area and the proposed project will not have an adverse effect on these biological resources.

- c) *Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

The site does not have hydric soils and does not support any plant species typical of wetland habitats. However, the stream course running along the western edge of the project site has a scoured channel and distinct bed and bank and therefore is likely a water of the United States and under Section 404 jurisdiction; this would need to be verified by the U.S. Army Corps of Engineers. There is also a small drainage in the grassland in the northern portion of the project site (not mapped) that is not likely under 404 jurisdiction because it lacks hydric soils, a distinct bed and bank, and wetland vegetation. Because the proposed project will not have an adverse effect on the stream course (see attached Project Plans) the proposed project will not have an adverse effect on federally protected wetlands.

- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

The project site occurs at the edge of a low-density residential area and is adjacent to an undeveloped lot and adjacent to Sorich Ranch Park, an open space park. The wide spacing between the homes to the south and east and in the general area allows urban adapted wildlife to move freely through the area. The stream course located within the project site provides cover for such movement adjacent to the project site. The proposed project would not affect wildlife movement because there is ample space along the stream and in the area surrounding the homes. No native wildlife nursery sites are located on or adjacent to the project site and therefore, the proposed project would not have adverse effects on such biological resources.

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

Under the County's Native Tree Preservation and Protection Ordinance, the large Oregon oak (32.4 inches DBH), located just off site but near the proposed house, is considered a heritage tree protected tree because it is greater than 18 inches DBH. The tree protection zone shown on Project Plans was calculated as 1 foot diameter per each inch of trunk diameter DBH (i.e., 32.4 feet). The tree protection zone overlaps the edge of the project site, but not the development footprint (see Project Plans); therefore, the proposed project is not likely to adversely affect this tree. Additionally, the proposed project will not result in the removal of any trees and therefore the project will not conflict with the County's Native Tree Preservation and Protection Ordinance.

The CWP establishes Stream Conservation Areas (SCA) to protect streams and associated habitats from new developments. SCAs vary depending on the location and size of the property. The project site is located within the County's City Centered Corridor area (as identified in the CWP) and is less than 2 acres in size; therefore, according to the CWP, the SCA is 50 feet from the outer edge of riparian vegetation as shown in Figure 1 and the Project Plans (attached). The proposed project is located outside the SCA as depicted on the Project Plans. Thus, the project will not adversely affect the stream course nor conflict with County policies protecting streams.

- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?*

The project site is not within a Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan and therefore, would not conflict with any such plan.

SUMMARY

The project site has potential habitat for four special-status plant species known to occur within 3 miles of the site; however, the field survey was conducted within the blooming period of all these species and none were observed. The stream course on the project site is likely under Clean Water Act Section 404 jurisdiction; however, the proposed project will avoid this stream course and will have no adverse effects on areas within 404 jurisdiction. The coast live oak woodland within the project site is considered riparian canopy by CDFW, but the coast live oak woodland will not be impacted by the proposed project.

There is potential foraging habitat for the pallid bat, a California Species of Special Concern, within the project site, but the proposed work area is small relative to the large amount of potential foraging habitat in surrounding areas and therefore, the proposed project would not adversely affect this species. Birds protected under the MBTA and the CFGC could nest on the project site; however, the project will comply with Marin County Code, Article III Site Planning and General Development Regulations, Section 22.20.040-F: Nesting Bird Protection Measures (Excluding Northern Spotted Owl); therefore, the proposed project would not result in adverse effects to protected birds.

The proposed development is unlikely to adversely affect the heritage Oregon oak located just off-site, because the project footprint is outside the tree protection zone. The project site also includes

a Stream Conservation Area along the stream course; the project will avoid the SCA. In summary, the proposed project is not expected to result in significant impacts to biological resources.

If you have any questions, please contact me at 510/236-6810 or by email at eric.lichtwardt@lsa.net.

Sincerely,

LSA Associates, Inc.



Eric Lichtwardt
Associate/Senior Biologist

Attachments: Plant Species Observed
Figure 1: Stream Conservation Area and Protected Tree
Project Plans

Literature Cited

- California Department of Fish and Wildlife (CDFW). 2017. *California Natural Diversity Database (CNDDDB), Commercial Version, June 2017*. California Department of Fish and Wildlife, Biogeographic Data Branch, Sacramento, California.
- California Department of Fish and Wildlife (CDFW). 2019. *California Natural Diversity Database (CNDDDB), Commercial Version, August 2019*. California Department of Fish and Wildlife, Biogeographic Data Branch, Sacramento, California.
- Howell, John T., Frank Almeda, Wilma Follette, and Catherine Best. 2007. *Marin Flora*. California Academy of Sciences and California Native Plant Society (Marin Chapter), San Francisco, California.

PLANT SPECIES OBSERVED
187 SACRAMENTO AVENUE PROJECT, MARIN COUNTY, CALIFORNIA

| Angiosperms - Dicots | |
|--|----------------------|
| Anacardiaceae - Cashew or Sumac Family | |
| <i>Toxicodendron diversilobum</i> | Western poison-oak |
| Apiaceae (Umbelliferae) - Carrot Family | |
| * <i>Foeniculum vulgare</i> | Sweet fennel |
| <i>Sanicula crassicaulis</i> | Gamble weed |
| Asteraceae (Compositae) - Sunflower Family | |
| <i>Baccharis pilularis</i> subsp. <i>consanguinea</i> | Coyote brush |
| * <i>Carduus pycnocephalus</i> subsp. <i>pycnocephalus</i> | Italian thistle |
| * <i>Helminthotheca echioides</i> | Bristly ox-tongue |
| * <i>Hypochaeris radicata</i> | Rough cat's-ear |
| <i>Madia elegans</i> | Common madia |
| Fabaceae (Leguminosae) - Legume Family | |
| <i>Acmispon wrangelianus</i> | Chilean trefoil |
| * <i>Genista monspessulana</i> | French broom |
| * <i>Medicago polymorpha</i> | California burclover |
| * <i>Trifolium hirtum</i> | Rose clover |
| * <i>Vicia</i> sp. | Vetch |
| * <i>Foeniculum vulgare</i> | Sweet fennel |
| Fagaceae - Oak Family | |
| <i>Quercus agrifolia</i> var. <i>agrifolia</i> | Coast live oak |
| <i>Quercus garryana</i> | Oregon oak |
| Gentianaceae - Gentian Family | |
| <i>Zeltnera muehlenbergii</i> | June centaury |
| Geraniaceae - Geranium Family | |
| * <i>Erodium botrys</i> | Broad-leaf filaree |
| Lauraceae - Laurel Family | |
| <i>Umbellularia californica</i> | California bay |
| Myrsinaceae - Myrsine Family | |
| * <i>Lysimachia arvensis</i> | Scarlet pimpernel |
| Plantaginaceae - Plantain Family | |
| * <i>Plantago lanceolata</i> | English plantain |
| Polygonaceae - Buckwheat Family | |
| * <i>Rumex acetosella</i> | Sheep sorrel |
| Sapindaceae - Soapberry Family | |
| <i>Aesculus californica</i> | California buckeye |
| Angiosperms - Monocots | |
| Agavaceae - Agave Family | |
| <i>Chlorogalum pomeridianum</i> var. <i>pomeridianum</i> | Soap plant |
| Juncaceae - Rush Family | |
| * <i>Juncus effusus</i> | Soft rush |
| Poaceae (Gramineae) - Grass Family | |
| * <i>Avena barbata</i> | Slender wild oat |
| * <i>Brachypodium distachyon</i> | Purple falsebrome |
| * <i>Briza maxima</i> | Rattlesnake grass |
| * <i>Bromus diandrus</i> | Rippgut grass |
| * <i>Bromus hordeaceus</i> | Soft chess |
| * <i>Cynosurus echinatus</i> | Hedgehog dogtail |
| * <i>Festuca perennis</i> | Italian ryegrass |
| * <i>Hordeum marinum</i> subsp. <i>gussoneanum</i> | Mediterranean barley |
| <i>Stipa pulchra</i> | Purple needlegrass |

*non-native species

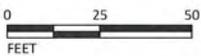


FIGURE 1

LSA

LEGEND

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



SOURCE: Google Earth (2019).

I:\WBB1901\GIS\Maps\Bio Resource Assessment\Figure 1_Stream Conservation Area and Protected Tree.mxd (9/25/2019)

187 Sacramento Avenue
 San Anselmo, Marin County, California
 Stream Conservation Area and Protected Tree

From: [R McK](#)
To: [Kilgariff, Kathleen](#); [PlanningCommission](#)
Cc: [Brandon Sullivan](#); [John Herr](#); [Rick Block](#); [Block Vicki](#); [Shaun Church](#); [PeterPursleyPhD.](#); [Todd Barbee](#); [Eric Schneider](#); [Roseann Schneider](#)
Subject: Sasan Site Plan Review Comments
Date: Wednesday, August 18, 2021 10:13:46 PM
Attachments: [McKillop-Herr Comments on Sasan Site Plan Review P3073-merged.pdf](#)
[McKillop-Herr Site Plan Review Comments.pdf](#)

Kathleen,

Attached please find our comments on the Sasan Site Plan Review (P3073) for the upcoming Planning Commission Hearing. Please be sure to include both pdf files (letters and attachments) that we've sent with this email.

Thanks for confirming you've received our correspondence,

Robin McKillop and John Herr

John Herr, PhD
Robin McKillop, MS, CPA
54 Miwok Dr., San Anselmo, CA 94960

August 19, 2021

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 (P3073)

Dear Members of the Planning Commission,

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

The current development proposal is not significantly different from those that the applicants have unsuccessfully proposed in the past. They continue to ignore input from neighbors, the Board of Supervisors and the Planning Commission, needlessly dragging out this process and wasting everyone's time. In addition, the applicants have sued Marin County twice, losing both times. In the most recent court ruling, on June 10, 2021, the State of California Appeals Court decided in favor of Marin County, upholding the County's denial of the applicant's 2018 project proposal and reaffirming the appropriateness of considering input and opinions of neighboring property owners in making planning decisions (<https://casetext.com/case/sasan-v-cnty-of-marin>).

We strongly oppose this project for the following reasons:

1. The project encroaches into the Stream Conservation Area (SCA) as measured from the edge of the riparian canopy.
2. The project does not meet Site Plan Review requirements.
3. This proposed building location is too constrained.
4. The Marin County Development Code (MCDC) might unintentionally allow construction of a second house on the lot currently proposed for development.
5. A CEQA Initial Study is warranted for many reasons.
6. The proposed development blocks the public right-of-way.

We apologize for yet another lengthy letter. We hope we have provided the Planning Commission with ample evidence and research to uphold our Appeal with confidence. Most importantly, an alternative, more appropriate building site exists on the property.

#1. The project encroaches into the Stream Conservation Area (SCA) as measured from the edge of the riparian canopy

In 2017, neighboring property owners proposed an alternative building location that significantly reduces environmental impacts. The Staff Report states that the building location proposed by neighboring property owners, closer to the developed end of Sacramento Avenue, is located in the SCA setback and relocating the structure to a lower portion of the site is not feasible (8/23/2021 Planning Department Staff Report, Section I).

In fact, Biological Constraints Maps prepared by the applicants' biologists tell a different story (Attachment 1). If SCA setbacks are measured from the edge of the riparian canopy, the building location proposed by neighboring property owners would likely encroach into the SCA as does the building site proposed by the applicants. If SCA setbacks are measured from the top of bank (TOB), it's likely that a house could be constructed in either location to avoid encroaching into the SCA. **Although both sites are basically "equal" with regards to whether or not a house would encroach into the SCA, the applicants continue to make misleading claims.**

Shortly after the Planning Commission Hearing on July 20, 2020, neighbors hired Wetland Research Associates Environmental Consultants (WRA) to review the streams at this site because we (correctly) suspected that the Biological Site Assessment (BSA) conducted by LSA Associates inaccurately omitted a protected stream along the northern property boundary. In early 2021, the applicants hired a biologist (formerly employed with LSA and currently employed by FirstCarbon Solutions (FCS)) to Peer Review the LSA bioassessment. Both biologists independently determined that the northern boundary stream is indeed a protected waterway. While WRA and FCS both agree that the northern boundary stream is protected, they do not agree on the size of the setback needed to protect the streams at the site.

Of the three biologists who have visited the site, Philip Greer is the only one who is certified as a Professional Wetland Scientist. This certification "signifies that the academic and work experience of a Professional Wetland Scientist meets the standards expected by his or her peers of a practicing wetland professional and provides acknowledgment to his or her peers of adherence to standards of professional ethics with regard to the conduct and practice of wetland science" (Society of Wetland Scientists website: www.sws.org). Mr. Greer is employed with WRA, a reputable local environmental consulting agency with extensive experience preparing bioassessments for properties throughout Marin County.

A summary of biological site visits and findings is provided in Table 2 below.

Table 2: Biologist Site Visits and Findings

| Details | Sept 2019 & Feb 2020 | Sept 2020 | Jan 2021 |
|-----------------------------|---|---|---------------------------------------|
| | LSA Associates Point Richmond | WRA Environmental Consultants San Rafael | FirstCarbon Solutions Walnut Creek |
| Purpose | BSA ¹ | Peer review of LSA BSA ² | Peer review of LSA BSA |
| Biologist | Eric Lichtwardt | Philip Greer, Certified Professional Wetland Scientist | Bernhard Warzecha |
| Hired by | Applicant | Neighbors | Applicant |
| W boundary stream status | Intermittent | Intermittent | Intermittent |
| N boundary stream status | NA - failed to recognize as a protected stream | Ephemeral | Ephemeral |
| 50 ft SCA setback from | Edge of riparian canopy | Edge of riparian canopy | Top of bank |

¹The 2019 LSA Biological Site Assessment references a 2017 site visit by another LSA Biologist, Sheryl Creer. However, no information has ever been provided about the findings of the 2017 site assessment conducted by Ms. Creer.

²See Attachment 2 for WRA 10/22/2020 Peer Review.

After visiting the site, Mr. Greer concluded: **“Considering the steep slopes and erodible bed and bank of this stream, a setback of 50 feet from the riparian canopy would be appropriate to protect stream and riparian resources.”** [Emphasis added].

After preparing a Peer Review of the LSA bioassessment, FCS was hired again by Thompson Development, Inc. to prepare a second Peer Review – this time of the WRA’s 10/22/2020 LSA Peer Review. In the 6/23/2021 SCA Setback letter, FCS states, “unless substantial evidence is presented that the County-required setback of 50 feet from TOB is insufficient to ensure compliance with the CWP, a setback of 50 feet from TOB as defined in the CWP appears to be adequate.” FCS argues that WRA’s justification for an extended setback (from the riparian canopy) based on steep slopes and erodible bed and bank is “arbitrary” and “unsubstantiated” because “specific quantitative” evidence and “reproducible correlation” showing how these factors are “related on the property” was not provided. Although it is entirely inappropriate to suggest that WRA should be held to a higher standard than either of the applicant-hired biologists, we are confident WRA’s findings are easily supported by an abundance of scientific evidence.

A wider SCA setback is warranted given the slope and extensive amount of impervious surfaces. With an average slope of 45%, the parcel proposed for development (APN 177-172-20) is extremely steep by any measure. The specific area of the parcel proposed for development is even steeper at 55% slope (measured using MarinMap analytical tools and topographic map) and the northeastern area of the

parcel is designated as “unstable and eroded” in 2015 site plans (Attachment 3). The CWP states that Best Management Practices (BMPs) shall be adhered to in all designated SCAs (CWP, Bio 4.1, 2.4-22). These BMPs emphasize “that significant water quality impacts begin at impervious land coverage levels of as little as 10%. At impervious land coverage over 30%, impacts on streams and wetlands become more severe, and degradation is almost unavoidable without special measures” (Bay Area Stormwater Management Agencies Association, *Start at the Source: Design Guidance Manual for Stormwater Quality Protection*, 1999, p.6). These BMP’s recognize three broad categories of general relationships between impervious land coverage and stream health:

| <u>Impervious Land Coverage</u> | <u>Stream Health</u> |
|---------------------------------|----------------------|
| <10% | Sensitive |
| >10% and <30% | Degrading |
| >30% | Non-supporting |

This project involves installing 12,148 sq ft of impervious surfaces, which amounts to land coverage over 50% on the parcel proposed for development and 23% on the entire lot. The BMPs also recognize that “sometimes lower overall impervious coverage can be achieved by clustering development at higher densities on one portion of a site, while maintaining open space elsewhere” (p. 6).

There’s an abundance of scientific literature that supports increasing SCA setbacks as slope increases, as well as numerous administrative policies that rely on standards for establishing SCA setbacks based on slope (Attachment 4).

A wider SCA setback is warranted to protect the stream from erosion. The goal of the SCA is “to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams” (CWP, Bio 4.1). This goal can be more complex than just protecting riparian vegetation, especially on steep, unstable and eroded hillsides. Numerous scientific studies recognize the unique and important role grasslands play protecting streams, especially with regard to trapping sediments and reducing erosion (Attachment 5). Grasslands reduce erosion by presenting a physical barrier to overland flow, slowing surface runoff, disrupting concentrated flow paths, and enhancing infiltration. The *2016 Marin County Land Owner Resource Guide for Property Owners Near Streams* recognizes the importance of having “an area for absorption of water runoff from adjacent rooftops, driveways, patios, and other hard surfaces. This absorption slows erosion along creek banks and prevents harmful pollutants from entering waterways.” “Because impervious surface area is so closely correlated with stream water quality, it may be considered as a variable for determining buffer width” (Wanger, S., *A Review of the Scientific Literature on Riparian Buffer Width, Extent and Vegetation*, 1999, p.46). In summary, measuring the SCA from the riparian canopy will provide a critical additional buffer to reduce erosion resulting from the steep slope, unstable soils and extensive amount of impervious surfaces involved with this project.

Headwater streams, like this northern boundary stream, have a direct impact on downstream water quality. “Riparian buffers are especially important along the smaller headwater streams which make up the majority of stream miles in any basin. These streams have the most land-water interaction and have the most opportunities to accept and transport sediment. Protecting greenways along low-order

streams may offer the greatest benefits for the stream network as a whole” (Wanger, S., *A Review of the Scientific Literature on Riparian Buffer Width, Extent and Vegetation*, 1999, p.17).

The planning process is inconsistent and subject to inappropriate manipulation. In 2020, the LSA bioassessment was accepted without any scientific justification whatsoever. The biologist hired by neighboring property owners should not be held to a higher standard. FCS’s attempt to discredit WRA’s professional opinion based on fabricated standards that do not align with CWP requirements or past practices should be ignored.

In 2020, no justification was given when the applicants insisted that SCA setbacks should be measured from the riparian canopy (in order to artificially constrain the alternative building location proposed by neighboring property owners), even after it was pointed out that this was contrary to CWP requirements. The 2020 Planning Department Administrative Decision (P2522) stated:

“The site assessment included a constraints map, which mapped the edge of the riparian canopy as **directed** by BIO-4.1” (1/9/2020 Planning Department Administrative Decision, Project ID No. P2522, p.5). [Emphasis added].

The 6/28/2021 Administrative Decision (3073) backpedals on the 2020 position, stating:

“Even though the previous BSA prepared by LSA may have recommended a 50-foot setback from the edge of riparian habitat, it was not a requirement of the Countywide Plan and is not the established practice for all applications subject to SCA policies” (6/28/2021 Planning Department Administrative Decision, Project ID No. 3073, p.6).

It’s disconcerting that in 2020, planning decisions were “directed” by BIO-4.1 to map SCA setbacks from the edge of the riparian canopy, but 2021 planning decisions simply dismiss the “directed” setback as “not a requirement”. Even more troubling, the 6/28/2021 Planning Department Administrative Decision (3073) goes on to say “...it appears the applicants have confused the application of the SCA policy...” (p.6). If the applicants were truly confused, why didn’t planning staff educate them about the requirements of the CWP and MCDC, rather than trying to defend inappropriate manipulation of SCA policies , especially since neighbors raised concerns early on?

Unsurprisingly, the manipulation continues in the current Planning Department Administrative Decision (3073) which attempts to discredit input by the WRA biologist hired by neighboring property owners, claiming because he “...was unable to trespass on private property and was unable to view the biological resources in this area... the recommendation of the First Carbon Solutions report is based on better evidence because they had access to the site” (p.6). For the record, there is excellent access to the site and streams from the public right-of-way and neighboring properties. In addition, it is disingenuous for the applicants to argue that “better access” results in “better evidence” given that the LSA biologist had full access to the site in 2019, yet entirely failed to include “evidence” of the northern boundary stream, even after multiple site visits. As the only certified Professional Wetland Scientist, of the three biologists who have visited this site, Phillip Greer has provided a professional opinion based on years of expertise conducting stream assessments throughout Marin County. Unsubstantiated attempts at discrediting his professional opinion are unconscionable.

The applicants should not be allowed to manipulate SCA setbacks for their financial gain. Instead, decisions should be based on sound science and unbiased consideration of site conditions. We hope you agree that setbacks should be measured from the riparian canopy to more adequately protect riparian resources at this site now and into the future given the steep slope, unstable soils, significant grading and extensive impervious surfaces involved.

#2: The project does not meet Site Plan Review requirements

Section 22.52.050 of the Marin County Development Code (MCDC) states that in order for this project to be approved *all* Site Plan Review requirements must be met. When Site Plan Review was introduced as a planning tool in 2017, it was presented as a means of rebalancing the efforts of planning staff to specifically prioritize the protection of natural resources. The purpose is to “implement the goals of the Countywide Plan and is intended to ensure that:

- A. Sound and creative design principles are used by applicants in designing proposed projects, which will result in high quality site planning;
- B. **The natural heritage and beauty of the County will be preserved and adverse physical effects which might otherwise result from unplanned or inappropriate development, design, or placement are minimized or eliminated”** (MCDC Section 22.52.10). [Emphasis added].

In 2018, the Board of Supervisors provided specific feedback to the applicants:

“The project’s overall visual prominence could be potentially reduced by moving the proposed residence in a southwesterly direction, closer to the paved portion of Sacramento Avenue and at a lower topographical elevation on the hillside. The re-siting of the home on the property would likely reduce the length of the driveway, thus ideally reducing the amount of necessary grading, length and height of retaining walls, and better respecting the patterns of development in the area. Finally, moving the proposed residence in a southwesterly direction on the property would provide some potential opportunity for partial screening from existing mature vegetation at the site while also preserving more of the open grassy hillside and providing greater separation from the eroded drainage in the northern portion of the property” (Resolution No. 2018-50, pp.3-4).

As separate correspondence, we have provided the Planning Commission with a comparison of building locations based on Site Plan Review objectives. Because the proposed project fails to minimize or eliminate adverse physical effects and because a lower impact building location exists, this proposal for development must be denied and our Appeal upheld.

#3: The proposed building location is too constrained

If the proposed house fit readily onto the proposed building location, the applicants would not need to continue to manipulate site conditions in order to accommodate development. We have many concerns in this regard.

- The 2019 bioassessment prepared by LSA, measures Tree Protection Zones (TPZs) using the diameter of the tree trunk at breast height (DBH), but the current proposal measures TPZs using tree canopy. No justification has been provided for changing methods from what the 2019 bioassessment directed. Measuring TPZs based on canopy size is likely inadequate. The International Society of Arboriculture (ISA) notes that “canopy width and tree height aren’t very useful for estimating spread of the root system” and “trunk diameter is a much better predictor of root spread.” (Attachment 6).
- TPZs were calculated incorrectly by LSA and are grossly understated on site plans for the currently proposed project (Attachments 7 and 8).
- The building footprint encroaches into the Tree Protection Zone (TPZ), whether measured using DBH or tree canopy. (Attachments 7, 8 and 9).
- The applicants have provided inconsistent tree measurements that do not align with trunk diameters listed on current site plans (Attachment 10). They consistently understate the size of protected trees growing in close proximity to the proposed building location and overstate the size of trees growing near the building location proposed by neighboring property owners (Attachment 11). This is a blatant attempt at misrepresenting site conditions to give the impression the proposed building location is less constrained than it actually is and the building location favored by neighbors is more constrained.
- On some site plans, the applicants have replaced designated TPZs based on DBH with arbitrary canopy outlines that do not match growth patterns shown in aerial photos and are nothing more than an attempt to inappropriately reduce the magnitude of site constraints.
- The applicants are using an outdated tree report that does not accurately show the current size of protected trees and the associated TPZs. Most likely, the applicants have intentionally omitted the Oregon oak growing along the southern property boundary from the 2019 Arborist Report because the applicants know this tree is unhealthy (Attachment 12).
- Neighboring property owners raised concerns about site staking that placed the building footprint within the SCA months ago (Attachment 13), but stakes were only repositioned a few days ago, just prior to the 8/23/2021 Planning Commission Hearing and well after planning staff conducted a site visit. Locating stakes farther from the northern stream will cause the building to shift in a southward direction, further encroaching into the protection zone of the oak tree growing along the southern edge of the building. Because a comprehensive site survey to ensure accurate staking has not been completed, we have little confidence stakes are placed accurately.
- The site is too constrained to meet Marin county fire safety standards. A 2019 email from Scott Alber, Marin County Fire Marshal states that “the turnaround is required to be located within 50

feet of the structure” (Attachment 14) but the Staff Report states “while Marin County Fire typically asks that fire truck turnarounds are located within 50 feet of the residence, there are times when exceptions can be made” (8/23/2021 Staff Report, Brandon Sullivan et al Appeal of the Sasan Site Plan Review Approval). However, no justification is provided. It is not acceptable to put our neighboring properties at risk by needlessly granting exceptions to fire safety standards in this very high fire hazard area when another site option exists that would make it possible to locate the turnaround within 50 feet of the residence, as required for fire safety.

- The building location of the current proposal forces the house into the most remote and steep area of the lot, which is unstable and eroded. In their 2018 decision, the Board of Supervisors specifically commented that relocating the project would provide greater separation from the eroded drainage in the northern portion of the property.

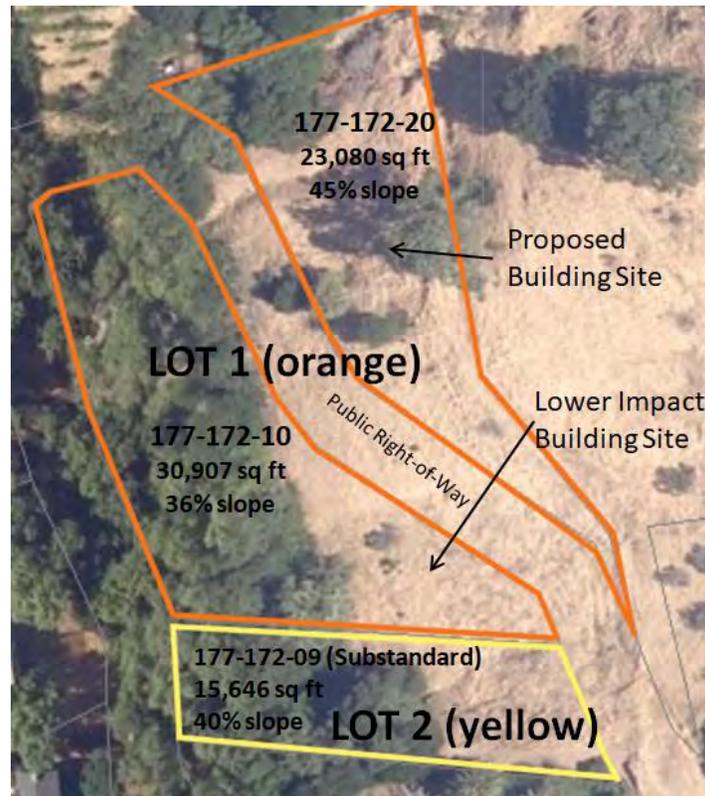
#3. The Marin County Development Code (MCDC) might unintentionally allow construction of a second house on the lot currently proposed for development.

We are concerned that MCDC Section 22.92.020 (Requirements for Merger) could unintentionally allow, or even require, one of the parcels from the lot currently proposed for development to be merged with the adjacent substandard lot on account of several unusual circumstances associated with the site. Such a merger could allow a second house on the lot closest to our home while also removing land use limitations associated with the substandard lot. Our concerns are directly applicable to the current development proposal because one of the parcels associated with the current proposal (177-172-10) could also be used to justify constructing a second house on the lot currently proposed for development, essentially allowing the parcel area to be counted twice: currently and with a future development proposal.

In 2014, the applicants purchased two lots, consisting of three parcels at the end of Sacramento Avenue. After originally proposing constructing two houses on the larger lot (closest to our homes) the applicants changed tactics and have more recently limited their development proposals to a single house. However, their plan to construct two houses on the lot currently proposed for development has never changed.

Figure 2 below shows Lot 1 (orange) is divided into two parcels by the public right-of-way. Even though there are two parcels, only one house can be constructed on this lot in its current configuration. Lot 2 is a substandard lot because it is “at least 50 percent smaller in total area than required for new parcels under the applicable zoning district or slope regulations, in compliance with Section 22.82.050 (Hillside Subdivision Design Standards), whichever is more restrictive” (MCDC Section 22.42.020). Under Hillside Subdivision Design Standards, for lots that have a slope of 40% or greater, the minimum lot area is 43,560 sq. ft. Since this lot is only 15,646 sq. ft. with a slope of 40%, it is more than 50% smaller than the minimum required lot area of 43,560 sq. ft., and therefore is substandard.

Figure 2. Site layout showing two lots consisting of three parcels.



MCDC Chapter 22.92.010 (Purpose of Merger of Parcels) states that “where applicable, (a) merger is required to consolidate contiguous parcels in common ownership which were created prior to modern subdivision requirements, and are substandard with respect to current County subdivision standards, including lot area, size, configuration, slope, and/or infrastructure.” In 2017, when all parcels were under the same ownership, a parcel merger could (and should) have been required under MCDC Section 22.92.020 (Requirements for Merger), ensuring only one house could ever be constructed on both lots (3 parcels). This outcome was supported by the Planning Commission in 2017 when a voluntary merger was requested. Unfortunately, this option was effectively eliminated when Beth Sasan transferred ownership of one of the lots to her brother, Paul Thompson of Thompson Development, Inc. with the clear intent of avoiding a forced merger.

If ownership of the substandard lot (APN 177-172-09) is transferred back to the applicants after construction of the currently proposed house, they can request a merger (or the County can require a merger) with the adjacent undeveloped parcel (APN 177-172-10). MCDC Section 22.92.020(C) states that “upon written request from the property owner, the Director shall merge two or more contiguous parcels or units of land that do not meet the requirements contained in Section 22.92.020 (Requirements for Merger). Owner-requested Mergers are not subject to the requirements of Section 22.92.040 (Notice of Intent to Determine Status) and may be recorded by the County without delay.” Such a merger is only possible because very specific circumstances are present:

- At least one of the parcels is undeveloped
Parcels -10 and -09 are currently undeveloped
- Both parcels are contiguous
Parcels -10 and -09 are contiguous
- One parcel does not conform to the minimum lot area requirements based on lot slope (Section 22.82.050 - Hillside Subdivision Design)
Parcel -09 is a substandard lot that does not conform to minimum area requirements as described in Footnote 2 of Figure 2.
- At least one parcel does not meet slope stability standards (i.e., more than 50% of the area is located within slope stability zone 3 or 4)
Parcels -10 and -09 are located entirely in slope stability zone 4 (least stable zone)
- Both parcels are held by the same owner
A transfer of ownership later on (once the first house is approved/built) so that both parcels are once again held by the same owner is all that's needed to require a merger of both parcels.

In addition to these specific circumstances identified in MCDC Section 22.92.020, the lot currently proposed for development is bisected by the public right-of way and split into two parcels (177-172-20 and -10). On account of this configuration, this lot is vulnerable to having a second house constructed on it, for no good reason and entirely contrary to the intent of the MCDC.

This section of the MCDC is really intended to merge both lots (all three parcels) together so the substandard lot, which does not meet modern subdivision requirements, cannot be developed on its own. Because the public right-of-way splits one lot into two parcels, it creates a unique situation where it might be possible for the contiguous parcel (177-172-10) to be merged with the substandard lot (177-172-09) after the remaining parcel (177-172-20) is approved for development.

By merging parcel APN 177-172-10 with the substandard lot (APN 177-172-09), a new lot over 43,560 sq. ft. in size would be created (Attachment 15), significantly reducing land use limitations associated with the substandard lot. However, the current lot size would be reduced to only APN 177-172-20, which at 15,646 sq. ft., is significantly less than the acre required under Hillside Subdivision Design standards for a parcel of 45% slope.

We believe these concerns warrant your consideration in reviewing the current proposal. Except for the applicants making a bogus ownership transfer in 2017 to avoid a forced merger, the MCDC would require both lots (three parcels) to be merged, limiting development of the entire site to one house. Because the County failed to require this merger in 2017, the applicants might now have an opportunity to misuse MCDC Section 22.92.020 to create a second building location on the lot closest to our homes rather than having their development options for a second house limited to the adjacent substandard lot.

It's frustrating that the County did not require a merger when there was the chance in 2017. It will be unforgivable if the County fails to uphold Site Plan Review requirements, and ultimately allows two houses to be constructed on the lot currently proposed for development. To prevent this outcome, we ask you to:

- **Uphold our Appeal based on Site Plan Review requirements and send a clear message to the applicants that Site Plan Review requirements dictate placing the house closer to the developed end of Sacramento Avenue;**
- **Amend MCDC Chapter 22.92 to ensure Hillside Subdivision Design requirements (Section 22.82.050) cannot be circumvented if a merger is required or requested under Section 22.92.020, perhaps by clarifying that such a merger is only allowed if all parcels of a contiguous bisected lot, whether or not developed, are included in the merger.**

#4. A CEQA Initial Study is warranted

This project has been granted a CEQA categorical exemption because planning staff has determined it does not have the potential to impact the environment. We disagree with this determination and urge the Planning Commission to take a closer look. This project site, surrounded by undeveloped land, in very close proximity to open space, and with an abundance of riparian resources, is an important habitat for plants and animals, much of which can be saved by simply relocating the project (Attachment 16).

Public agencies utilizing CEQA exemptions must support their determination with "substantial evidence" (PRC § 21168.5). Exemptions to CEQA are narrowly construed and exemption categories are not to be expanded beyond the reasonable scope of their statutory language (*Mountain Lion Fndn v. Fish & Game Comm.*, 16 Cal.4th 105, 125, 1997). A reviewing court must "scrupulously enforce all legislatively mandated CEQA requirements" (*Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 564, 1990). Erroneous reliance by Marin County on a categorical exemption constitutes a prejudicial abuse of discretion and a violation of CEQA (*Azusa Land Reclamation v. Main San Gabriel Basin*, 52 Cal.App.4th 1165, 1192, 1997).

Significant Effect Exception. A categorical exemption is not allowed where there is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.

As described above, there are many unusual circumstances associated with this project that might allow the construction of a second house on the lot currently proposed for development via a Section 22.92.020 merger. Any parcel merger on a 40+% slope that allows an increase in size of the substandard lot (APN 177-172-09) by three times and a transition of the substandard lot standard lot status, thereby reducing land use limitations, would be in violation of CEQA. Section 15305 of CEQA Guidelines (Minor Alterations in Land Use Limitations) provides a categorical exemption for certain, but not all, minor alterations in land use limitations in areas with an average slope of less than 20%. Clearly, requirements for a Section 15305 would not be met given the 40+% slope in this area and the significant change in land use limitations associated with a threefold increase in lot area. In 2020, MCDC Section 22.92.020 was amended so that parcel merger requests by the property-owner "are not subject to the

requirements of Section 22.92.040 (Notice of Intent to Determine Status) and may be recorded by the County **without delay**". [Emphasis added].

If the County does not require a CEQA Initial Study now, how will it prevent violating CEQA requirements in the future, if a parcel merger is requested under Section 22.92.020, given that the County may record such a merger "without delay"?

Cumulative Impact Exception. A categorical exemption is inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

There are two undeveloped lots at the end of Sacramento Avenue consisting of three parcels. The 6/28/2021 Administrative Decision (3073) states, "...the current proposal is not growth inducing and [the road extension] only serves the proposed development" (p.5) [Emphasis added]. In fact, the road extension serves the proposed development (APN 177-172-20 and -10) the adjacent undeveloped lot that does not yet have road access (APN 177-172-09) and a 5-acre lot to the east (APN 177-220-24). In correspondence to planning staff, Stacy Singer, the owner of the 5-acre lot, stated her desire to preserve access to her property from Sacramento Avenue (Attachment 17). It is clearly the intention of the applicants to construct two houses as stated in the Amendment to the Road and Storm Drain Maintenance Agreement which states, "Sacramento LLC intends to construct a private roadway to allow an extension of Sacramento Avenue to serve two parcels comprising the Sacramento LLC Property" and the Department of Public Works Interoffice Memorandum which directs the applicants to "indicate how [the Driveway Maintenance Agreement] may need to be amended to include two additional residential home sites" (8/23/2021 Staff Report, Attachments 2-4, Dept. of Public Works Inter-Office Memorandum, Item 9).

In 2002, the neighboring development project for 179 and 171 Sacramento Avenue (Pederson project) was subject to an Initial Study, due to its "growth inducing" nature and cumulative impacts. That project involved constructing two houses, extending Sacramento Avenue 350 feet and excavating 725 cubic yards of soil. Even before protected streams were mapped in this area, a CEQA Initial Study was required for the Pedersen project. We do not understand why the currently proposed project, which requires almost double the amount of excavation for one house as was required for the neighboring two houses, does not require an Initial Study as well. Members of your Planning Commission had the same question at the November 9, 2015 Planning Commission Hearing (video mark 2:22:05).

Wildfire Impacts. In 2018, new wildfire impacts were added to CEQA (Appendix G). These new requirements apply to projects located in state responsibility areas (SRA), which includes this project according to CAL FIRE maps (<https://egis.fire.ca.gov/FHSZ/>). The Planning Department Staff Report states that this project is also located in the wildland urban interface (WUI) and in a very high fire hazard area.

The 2016 Marin Community Wildfire Protection Plan recognizes that "response times in these communities [in the WUI] present significant challenges to keeping fires from directly impacting communities and subdivisions, especially within the SRA, as emergency fire access and evacuation egress is limited by narrow, winding roads lined with dense vegetation" (pp. 14-15). According to California Fire Code specifications, roadways are considered hazardous in terms of fire access and

protection if they have less than 20 feet of unobstructed paved surface width and are dead-ends longer than 800 feet. Sacramento Avenue is a dead-end road that is narrower than 20 feet and it is already over 1300 feet long, before adding the proposed 321 foot extension.

Given the location of this project on an already too long dead-end road, in the SRA and WUI, on a very steep slope, in a very high fire hazard area, with impaired emergency access, a CEQA Initial Study is warranted to more carefully assess the potential for this project to increase wildfire risk.

#4. 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 impedes public use and blocks access to neighboring properties to the north (APN 177-172-21) and east (APN 177-220-24).

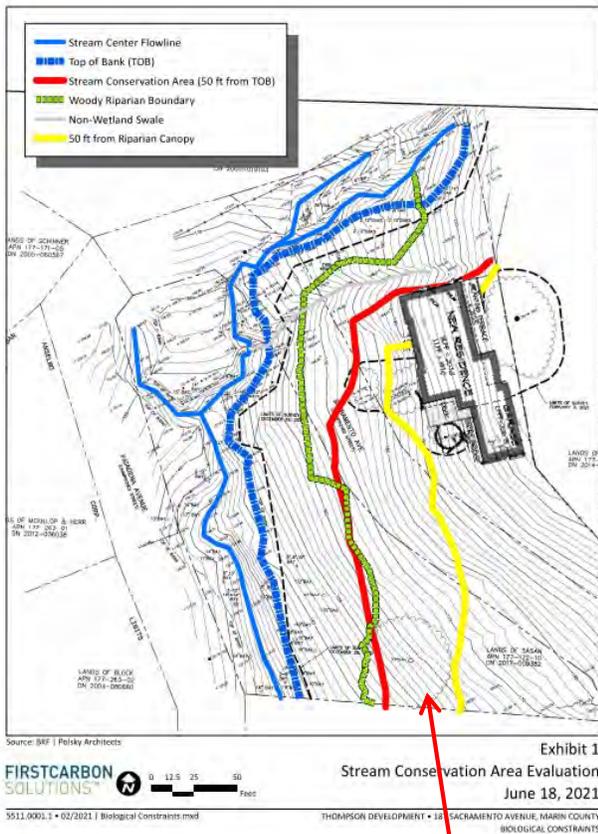
Conclusion

While neighboring property owners have spent countless hours addressing this project and its impacts to our homes, the neighborhood and the natural environment, the applicants have pursued litigation and continued to submit proposals that do not meet MCDRC requirements, misrepresent site conditions, and manipulate planning requirements. The current proposal does not meet Site Plan Review requirements and must be denied. The alternative development option proposed by neighbors in 2017 and supported by the Board of Supervisors in 2018 solves many of the significant environmental problems associated with the current proposal. We urge you to uphold our Appeal, advise the applicants that any future proposal should be located towards the developed end of Sacramento Avenue, and consider the concerns we have raised about a future Section 22.92.020 merger.

ATTACHMENT 1

Biological constraints maps show the proposed house is located in the SCA as measured from the riparian canopy.

2021 FCS Site Map. Proposed house is in the SCA as measured from the edge of the riparian canopy (yellow line).



Exaggerated tree canopy makes the buildable area of this parcel look smaller than it actually is.

2019 LSA BSA Site Map. Red bars represent 50 feet from the edge of the riparian canopy and clearly show the proposed house is in the SCA even though LSA failed to map the setback from the northern boundary stream. The setback is significantly overextended in the building site favored by neighbors.



Exaggerated SCA setback (50 feet from the riparian canopy) makes the buildable area of this parcel look smaller than it actually is.

ATTACHMENT 11

WRA Peer Review



Brandon Sullivan
42 Miwok Drive
San Anselmo, 94960

October 22, 2020

Re: 187 Sacramento Ave, San Anselmo Stream Review

Mr. Sullivan,

This letter presents my review of the streams within and adjacent to the 187 Sacramento Avenue property (Property) composed of parcels APN 177-172-10 (Parcel 10) and APN 177-172-20 (Parcel 20) in unincorporated Marin County, California. The review focused on potential stream features along the northern boundary of the Property as assessed by LSA Associates in its Biological Site Assessment (BSA) dated October 17, 2019 and letter dated March 3, 2020 regarding the subject property. This review is based on a site visit conducted on September 30, 2020. This letter includes a description of site observations of jurisdictional features as viewed from outside the Property accessed from the public right of way easement extending northward from Sacramento Ave. It includes assessment of SCA development setbacks as well as a comparison of observation and conclusions regarding presence of and setbacks from jurisdictional streams presented in the LSA letters.

The Marin County Wide Plan (CWP) designates Stream Conservation Areas (SCAs) along perennial, intermittent, and ephemeral streams. An ephemeral stream is defined as a watercourse that carries only surface runoff and flows during and immediately after periods of precipitation. An intermittent stream is defined as a watercourse that is temporally intermittent or seasonal and that flows during the wet season, continues to flow after the period of precipitation, and ceases surface flow during at least part of the dry season. Intermittent streams are typically shown as a dashed blue line on USGS quadrangle maps. A perennial stream is a watercourse that flows throughout the year. Riparian vegetation is defined as vegetation associated with a watercourse and relying on the higher level of water provided by the watercourse. Riparian vegetation can include trees, shrubs, and/or herbaceous plants.

The CWP defines SCA development setback distance from streams based on the location within County-wide designated Environmental Corridors, parcel size and stream flow class and riparian vegetation abundance. An ephemeral stream is subject to the SCA policies if it: (a) supports riparian vegetation for a length of 100 feet or more, and/or (b) supports special-status species and/or a sensitive natural community type, such as native grasslands, regardless of the extent of riparian vegetation associated with the stream. For those ephemeral streams that do not meet these criteria, a minimum 20-foot development setback should be required. The Property is located in the "City-centered Environmental Corridor". The combined area of the two parcels is approximately 1 acre. SCA development setback for parcels 0.5 to 2 acres within the City-centered corridor is a minimum 50 feet from each side of the top of bank. Regardless of parcel size, an additional buffer may be required based on the results of a site assessment.

Prior the site visit, I conducted a review of Marin County online database “Marin Maps” for the subject location focused on wetland, stream and National Wetland Inventory features. The county database depicts locations of streams generated remotely through GIS modeling of watershed accumulation areas. NWI features are also remotely analyzed using aerial photography. Considering remote methods used to map features in the Marin Maps database a site visit is warranted to determine potential jurisdictional status and seasonal flow characteristics of any drainage features.

The Marin Maps database depicts several ephemeral stream channels mapped within the western boundary of parcel APN 177-172-10 and the northern boundary of Parcel 10 and 20. Further downslope classification of the ephemeral stream feature is mapped as intermittent below 100 Pasadena Ave. The National Wetlands Inventory database depicts slightly fewer drainage features on the western and northern boundaries of the parcels with similar but not overlapping locations. The USGS San Rafael quadrangle topographic map does not depict stream features at this location.

Drainage 1.

The first feature encountered moving from south to north along the Sacramento Ave public right of way is a steep approximately 10 foot wide drainage in grassland near the northern boundary of the Property. The LSA BSA described this feature as a non-jurisdictional feature that lacked a bed and bank. The lower portion of this feature is mapped as an ephemeral stream by the County’s GIS model. The County database inaccurately depicts the upper portion of this feature as connecting to an ephemeral stream north. The feature lacked an ordinary high water mark, indicators of an active bed and bank and therefore cannot be classified as a stream under federal, state or County definitions. The swale does not contain a bed of actively moving sediment or any unvegetated areas indicating presence of flowing water under typical rainfall conditions. The feature is entirely vegetated with upland associated grass and other herbaceous species including wild oats (*Avena* sp.), Rattlesnake grass (*Briza maxima*), and brome fescue (*Festuca bromoides*) indicating this feature also does not meet wetland criteria.

Drainage 2.

The second feature encountered approximately 25 feet further north along Sacramento Ave parcel is a steep drainage channel with eroded bed and banks approximately 2 to 8 feet between ordinary high water marks (OHWM) and 10 to 12 at the Top of Bank (TOB). Marin Maps depicts an ephemeral stream in this vicinity however, the LSA BSA makes no mention of this feature. The bed was composed of angular cobble size (3 to 10 inch) rocks and uneroded native soil indicating active flow during typical rainfall conditions. Banks were steep to overhanging with exposed coast live oak (*Quercus agrifolia*) roots. The bed and bank characteristics qualify this drainage as a stream under California Department of Fish and Wildlife (CDFW) and County regulations. The steep topography, relatively small watershed, and vegetation indicate that stream flow is ephemeral in a typical rainfall year. Although the stream has an OHWM necessary to be considered jurisdictional, recent regulatory rule changes have excluded ephemeral streams from federal jurisdiction under the Clean Water Act.

Vegetation associated with the feature was composed entirely of upland (non-hydrophytic/wetland) species. The bed contained less than 5% cover of upland associated grass species such as hedgehog dogtail (*Cynosurus echinatus*) indicating lack of groundwater discharge or persistent soil moisture. The tree canopy associated with the stream was dominated by coast live oak. Additional shrubs and trees above the TOB included poison oak (*Toxicodendron diversilobum*), French broom (*Genista monspessulana*) and Oregon oak (*Quercus garryana*). The tree canopy associated with this ephemeral

stream should be considered riparian vegetation as defined in the CWP and consistent with the LSA BSA classification of the coast live oak woodland vegetation along the intermittent stream along the western property boundary. In aggregate there appears to be more than 100 feet of riparian vegetation along the ephemeral stream reach within and adjacent to the Property. Based on Marin CWP SCA guidelines the development setback from the top of bank of this ephemeral stream should be a minimum of 50 feet. Considering the steep slopes and erodible bed and banks of this stream a setback of 50 feet from the riparian canopy would be appropriate to protect stream and riparian resources.

Marin Maps indicates several ephemeral streams flowing into drainage 2 from the north. These drainages were observed to have similar channel form, ephemeral hydrology and riparian vegetation as drainage 2. These ephemeral streams would not be affected by the project and do not affect the location of the SCA within the Property.

Drainage 3.

Drainage 3 flows north to south along the western boundary of the Property. Marin Maps depicts this drainage as an ephemeral stream however the LSA BSA considers it an intermittent stream. Marin Maps indicates several ephemeral streams converging from the north of Parcel 10 to form Drainage 3. Drainage 2 flows into Drainage 3 approximately halfway along the western boundary. Drainage 3 has distinct bank and a scoured bed containing gravel size bed load that is approximately 6 to 9 feet between OHWMs and 12 to 18 at the TOB. The bed and bank characteristics qualify this drainage as a stream under California Department of Fish and Wildlife (CDFW) and County regulations. The relatively less steep channel bed relative to Drainage 2, larger watershed encompassing flow from several ephemeral streams indicate that stream flow is intermittent in a typical rainfall year. The intermittent hydrology in a typical rainfall year would make this stream jurisdictional under the Clean Water Act.

Vegetation associated with the feature was similar to that of Drainage 2 with the addition of several additional species indicating slightly wetter conditions along the banks including California bay (*Umbellularia californica*). The channel bed supported scattered individuals of soft rush (*Juncus effusus*) indicating intermittent flow. The tree canopy was continuous and should be considered riparian vegetation as defined in the CWP and consistent with the LSA BSA classification. Based on Marin CWP SCA guidelines the development setback from the top of bank of this intermittent stream should be 50 feet. The LSA BSA proposed a setback of 50 feet from the woody riparian canopy along the intermittent stream. This additional setback is consistent with CWP SCA guidelines and is appropriate to protect riparian resources.

In conclusion, this review of streams within and adjacent to the 187 Sacramento Ave property observed three drainage features that had the potential to affect the project. Drainage 1 is a steep approximately 10 foot wide drainage in grassland near the northern boundary of the property. Consistent with the LSA BSA, this feature lacked an ordinary high water mark, indicators of an active bed and bank and therefore cannot be classified as a stream under federal, state or County definitions. Drainage 2 is an ephemeral stream along the northern boundary of APM 177-172-20 that was not identified in the LSA BSA. Based on Marin CWP SCA guidelines the development setback from the top of bank of this ephemeral stream should be a minimum of 50 feet. Drainage 3 is an intermittent stream and associated riparian vegetation observed along the western boundary of APN 177-172-10 consistent with the LSA BSA. The 50 foot setback from the woody riparian canopy proposed in the LSA BSA is consistent with CWP SCA guidelines and is appropriate to protect riparian resources.

Please contact me at 415 497-0361 or greer@wra-ca.com if you have any questions regarding this review.

Sincerely,

A handwritten signature in blue ink that reads "Philip Greer". The signature is written in a cursive style with a large initial "P".

Philip Greer, MA PWS
Principal Biologist

ATTACHMENT 3

Northern area of the site is eroded and unstable

2015 Site Plans submitted by the applicants for a previous proposal indicate the northeast area of the site is eroded and unstable.

**DRAINAGE HAS FOUR CHANNELS
GROUND ERODED AND UNSTABLE**

(DRAINAGE HAS FOUR CHANNELS
GROUND ERODED AND UNSTABLE)



Jochum ARCHITECTS
www.jochumarchitects.com
114 Van Ness Court
San Anselmo, CA 94960
415.454.0674
dave@jochumarchitects.com

SACRAMENTO AVENUE RESIDENCES
HOUSE A
Sacramento Ave.
San Anselmo CA
AP #177-17-03
177-172-09 & 10
Job #130802

OWNER:
WEST END RESIDENCES
250 Bell Street
Novato, CA 94949
415.656.8972

PRINTINGS
15.11.15 Program
02.14.15 Program



DATE: 08/11/15
© JochumArchitects.com
SITE PLAN

SCALE: 1/4" = 1'-0"

A2.1

ATTACHMENT 4

Impact of Slope on Stream Setbacks

Wanger, S., *A Review of the Scientific Literature on Riparian Buffer Width, Extent and Vegetation*, 1999

“The steeper the slope, the higher the velocity of overland flow and the less time it takes nutrients and other contaminants to pass through the buffer, whether attached to sediments or moving in subsurface flow. Slope is a variable in virtually all models of buffer effectiveness and should definitely be included in a formula for buffer width.”

https://www.researchgate.net/publication/252178206_A_Review_of_the_Scientific_Literature_on_Riparian_Buffer_Width_Extent_and_Vegetation

Chagrin River Watershed Partners, Inc., *Riparian Setbacks Technical Information for Decision Makers*, 2006

“The degree to which riparian setbacks can filter sediments and nutrients depends to a great extent on the slope of the riparian area. A slope of less than 15 percent is reported to allow for a retention time long enough to remove pollutants from runoff and to absorb water. A steep slope, generally considered greater than 25 percent, reduces a setback’s potential to slow flow and minimizes its ability to filter nonpoint pollution. Even if steep areas are thickly vegetated, their steepness may negate the velocity reducing effects of vegetation and may promote erosion and channelization. As a result, setbacks areas containing steep slopes may not significantly impact runoff velocity and minimum setback widths must be increased to compensate for these steep areas.”

<https://www.losgatosca.gov/DocumentCenter/View/1589/06-Letter-6-Riparian-Attachment?bidId=>

Marin County Resource Conservation District

“Greater width may be required for steeper slopes, because the faster rate of runoff flow through the buffer means less opportunity for particles to be trapped and water to be infiltrated. Wider buffers are needed if sediment loads are high in runoff flowing into the buffer.”

https://www.marincounty.org/-/media/files/departments/pw/mcstoppp/residents/riparian_buffers.pdf

Napa County Code Section 18.108.025

Minimum setback requirements for streams are based on slope as shown in the table below.

https://library.municode.com/ca/napa_county/codes/code_of_ordinances?nodeId=TIT18ZO_C18.108CORE

| Slope (Percent) | Required Setback |
|-----------------|------------------|
| < 1 | 35 feet |
| 1—5 | 45 feet |
| 5—15 | 55 feet |
| 15—30 | 65 feet |
| 30—40 | 85 feet |
| 40—50 | 105 feet |
| 50—60 | 125 feet |
| 60—70 | 150 feet |

US EPA Aquatic Buffer Model Ordinance

Buffer widths vary according to slope.

<https://www.epa.gov/nps/urban-runoff-model-ordinances-aquatic-buffers>



Several methods may be used to adjust buffer width for steep slopes. Two examples ifollow:

Method A

| Percent | Width of Buffer |
|---------|-----------------|
| 15%-17% | add 10 feet |
| 18%-20% | add 30 feet |
| 21%-23% | add 50 feet |
| 24%-25% | add 60 feet |

Method B

| Percent Slope | Type of Stream Use | |
|------------------|--------------------------------|--------------------------|
| | Water Contact Recreational Use | Sensitive Stream Habitat |
| 0% to 14% | no change | add 50 feet |
| 15% to 25% | add 25 feet | add 75 feet |
| Greater than 25% | add 50 feet | add 100 feet |

ATTACHMENT 5

The Role of Grasslands in Preventing Erosion

Wanger, S., *A Review of the Scientific Literature on Riparian Buffer Width, Extent and Vegetation*, 1999, p.18

Numerous studies on riparian buffer zones show that “for purposes of trapping sediment, both grass and forested buffers are effective.”

https://www.researchgate.net/publication/252178206_A_Review_of_the_Scientific_Literature_on_Riparian_Buffer_Width_Extent_and_Vegetation

Hawes, E., *Riparian Buffer Zones: Functions and Recommended Widths*, 2005, p.6

A 2005 Yale study notes that “structurally diverse riparian buffers, i.e. those that contain a mix of trees, shrubs and grasses, are much more effective at capturing a wide range of pollutants than a riparian buffer that is solely trees or grass. Generally, the grass filter strip works best for sediment removal, while the forested buffer is better for nitrate removal from subsurface flows. Grasses have a shallower and denser root mat that is more effective in slowing runoff and trapping sediments from the surface flow. Trees have a deeper root system that can trap and uptake nutrients from the groundwater, stabilize banks, and regulate the flow of water to the stream.”

http://www.eightmileriver.org/resources/digital_library/appendicies/09c3_Riparian%20Buffer%20Science_YALE.pdf

Take a look at any tree and you will find yourself doing one of two things: either staring up into the canopy or looking down at the ground. You might readily see what you are looking for in the canopy, but when you look at the ground, chances are your brow will furrow, you'll look this way and that, you'll contemplate, maybe poke the ground with a stick or pull a soil sample. Watch any tree expert inspecting the root zone and you will see that look: surmising what is going on below ground, looking for clues.

Some of us have always felt the root system is the most important part of the tree—the key to health and longevity. Yet, roots have always been difficult to study. New technologies such as air excavation tools and ground-penetrating radar (GPR) are making root inspection easier than in the past, but learning about roots is still a tedious and imperfect process. These tools, especially GPR, are suitable for visualizing larger roots, as thick as your little finger or so. Fine roots are another animal entirely. As one commentary in a prestigious academic journal put it, “the fine roots ... are a royal pain to study ... to promote sanity, this complex network has often been sampled in ways that fail to relate the structure of the intact system to resource acquisition” (Pregitzer 2002). Even tireless and ambitious graduate students have been felled by the difficulty of studying fine roots.

The fine root system is complex, and its study is still an area of emerging research. The structure, function, birth, and death of fine roots, as well as interactions with symbiotic fungi and other soil biota, are revealing themselves to be more complicated than previously imagined.

Those in the tree care profession have additional complications to add to the mix: pavement, utilities, heat, contamination, and other typical impediments of the built environment. “Now where are the roots?” we ask ourselves. The question cannot be avoided if we are to provide the best diagnosis, treatment, and protection for existing trees as well as the best growing conditions for future trees. Through considerable research effort, entire root systems of trees have been excavated and their allometry (relationship between size and shape) described with the data at hand. We have thus been able to make broad statements about root extent, leading to significant changes in how we view and manage the belowground portion of the tree. These statements take form in arboriculture classes and educational publications as rules of thumb: (1) Tree root systems extend out 2–3 times the dripline, (2) most roots are in the top foot (30.5 cm) of soil, (3) roots extend out about 1.5 times the height of the tree, and (4) more than 60 percent of the absorbing root system is beyond the dripline.

Many times we have taken our students out to estimate root location with these techniques—forming circles around trees, watching amazed students ponder the extent of root systems. Are these rules of thumb wrong? No, they were certainly correct for the excavated research trees, and experience tells us they are not far off for many other trees. Yet it is time to take a fresh look at their estimating techniques. Many of these experiments were conducted with forest trees or young nursery trees, predominantly in the eastern United States. Research on mature urban and landscape trees is still

AT THE ROOT OF IT

Susan D. Day and
P. Eric Wiseman

very difficult to come by, especially on root systems, but enough new information is available to merit taking another look at tree roots. Recently we took part in a comprehensive review of scientific literature from around the world related to urban and landscape tree roots. There remains a lot we do not know about tree roots, especially urban and landscape trees, but there is more scientific information now than ever before.

Do Roots Really Go Out That Far?

They can and they do. It continues to surprise most of us when we excavate and follow an individual tree root to see how far it goes. But in our analysis of existing research, we uncovered a few concepts that changed the way we look at roots:

Canopy width and tree height aren't very useful for estimating spread of the root system, even on open-grown trees with few or no belowground obstacles.

Most studies we analyzed found a consistent relationship for a particular tree species of a particular size and in similar growing conditions—but when different types of trees were grouped together, predicting root spread from canopy width or tree height produced estimates that were equally incorrect among analysis as one might otherwise be correct.

Trunk diameter is a much better predictor of root spread.

Trunk diameter is about as good as it gets for estimating root spread of unobstructed trees. For young trees [less than approximately 8 in (20 cm) in diameter], the ratio of root radius to trunk diameter in the documented studies was about 38 to 1. That is to say, a 6 in (15 cm) diameter tree can have a root system that extends nearly 6 m, or 19.7 ft out from the trunk (about 19 ft per 6 in). There were not enough data to determine the relationship for conifers. Furthermore, the trunk diameter of palms does not increase with age or size, so this relationship cannot be applied to palms.

This relationship probably changes for older trees. First the caveats: there are a lot less data on large and mature trees for obvious reasons—and there are instances of roots extending great distances (but unfortunately the researchers who excavated them didn't record how big the tree was—data collection is not yet standardized in this arena). Nonetheless, existing studies of more mature trees suggest that root spread levels off to some extent as trees age. Thus, a tree with a 90 cm (35 in) diameter will probably have only a marginally larger root system than a tree that is 30 cm in diameter; the root system certainly won't be three times as large. In general, older trees spend a greater proportion of their resources on maintenance of tissue and less on growth. Studies have shown that older trees put more resources into the metabolically costly production of fine absorbing roots and fewer into large structural roots. This makes sense according to some current theories of plant allometry (e.g., West et al. 1999), which predicate the maximization of surface area (which determines resource uptake) and the minimization of the distance resources have to be transported.

Roads, sidewalks, and other surfaces can restrict root extension. Admittedly, there are just a handful of studies where adventurous

root investigators have excavated tree roots under pavement. However, these indicate roots generally don't extend very far under intact pavement, and sometimes taper off in as little as 4 in (10 cm). In irrigated sites, root extent is sometimes confined to soil areas receiving irrigation. Other management practices, such as mulch, may also influence root spread, but such effects are not documented.

Root systems are not uniformly distributed around a tree.

When entire root systems are excavated and mapped, the irregularity of root distribution can be quite striking. In addition, roots can proliferate in pockets where water and nutrients are plentiful (such as near a leaky sewer line). From our vantage point above ground, we often cannot see changes in water tables or soil that might influence root distribution. However, root extent does tend to be greater on the uphill side of trees planted on a slope, or in the case of a leaning tree, on the side away from the lean.

These findings largely affirm current practices in tree root zone protection. For example, the guideline for tree protection zones (TPZs) described by Harris, Clark, and Matheny in their text *Arboriculture: Integrated Management of Trees, Shrubs, and Vines* (2004), is based on trunk diameter. Applying this metric to the growth patterns described above, larger trees will have more of the root system protected than smaller trees. This is exactly what we want in most cases because young, high-vitality trees can withstand considerably more injury than mature trees. Tree stature varies considerably of course. Consider that a mature flowering dogwood (*Cornus florida*) may have approximately the same trunk diameter as a young, rapidly growing elm (*Ulmus* spp.). Our TPZ metrics partly account for this by using higher ratio of TPZ radius to trunk diameter for more mature trees.

What About Root Depth?

Tree roots seem to be able to grow everywhere. There are documented instances of roots penetrating cracks in rock 100 microns wide (that's one-tenth of a millimeter). They grow into sewers, buildings, basements, and even through large expanses of open air space. But somehow they rarely grow through compacted urban soils. There are exceptions though. For example, some tree species can elongate roots through compacted soil when it is softened by moisture. Also, some coarse-textured soils are less compactable than fine-textured clays, and roots may penetrate more deeply (Figure 1). Some considerations when estimating rooting depth:



Figure 1. Root depth varies by site. At the construction site pictured here (University of Costa Rica; San José, Costa Rica), nearby trees root systems can be seen to penetrate several meters deep.

There are many barriers to deep roots. Root depth is restricted by pavement, dense rock layers, compacted soil layers, and poor drainage—all common in urban sites (Figure 2). In addition, propagation techniques, nursery production, and transplanting may influence root depth. Adventitiously formed roots are more likely to grow outwards than down, but that is not always the case (Figure 3).

Species matters, but common urban tree species can grow deep roots. Root depth is species dependent, but common urban tree species such as hackberry (*Celtis occidentalis*) can grow very deep root systems if soil conditions permit. Roots for hackberry have been documented to reach a depth of 7 m, or 23 ft.



Figure 2. Root depth can be influenced by localized soil changes. ▲ (a) A layer of dense mineral material, likely an artifact of previous construction, has confined roots of this black maple (*Acer nigrum*) very close to the surface. ◀ (b) These loblolly pine (*Pinus taeda*) roots encountered a shallow water table and abruptly changed direction.

What Else Can Roots Do?

We know roots supply water and nutrients to the tree and serve a host of other physiological functions, but roots have some other tricks up their sleeves. For example, fine roots turn over quickly, meaning roots die and new ones grow on a weekly and even daily basis. Roots push their way through the soil as well. Together this means tree roots build soil structure, creating tunnels and macropores as they elongate through the soil and deposit organic matter as they die. Roots can improve drainage too, not only through improving soil structure, but the tunnels created by live and dead roots allow water to move through the soil belowground. With current interest in distributed stormwater management and bioretention systems, these characteristics of tree root systems become very important. Root systems may also develop special features to aid in mechanical stability of the tree. Buttress roots, for example, distribute mechanical stress for the tree. Pronounced buttress roots are most common on tropical trees and are sometimes associated with shallow soils (Figure 4). Tree roots can also play a role in remediation of contaminated soils, stormwater



Figure 3. The roots of this tap-rooted species grew deep, despite heavy clay soils. These clonal loblolly pine (*Pinus taeda*) were grown from rooted cuttings and planted in the Piedmont region of the southeastern United States. John Peterson of Virginia Tech's Forest Resources & Environmental Conservation department indicates the original soil surface with his right hand. Note the lateral roots have been removed, but the cut ends are beyond the photo's lower frame.



Figure 4. Buttress roots play a role in distributing mechanical stresses. ► (a) This kapok tree (*Ceiba pentandra*) growing in a frequently flooded zone in the Virgin Islands (U.S.). Kapok is known for its pronounced buttress roots, but they may be more well developed in wet areas or areas with shallow soils. ► (b) In temperate climates, buttress roots tend to be less pronounced as illustrated by this European beech tree (*Fagus sylvatica*) in South Dartmouth, Massachusetts, U.S.



filtration, carbon sequestration, and other ecosystem services. This is impressive when you think that we are not even considering the benefits we gain from the canopies supported by all of these roots!

Our society is becoming more urbanized, and trees will play a critical role in the sustainability and quality of life in these environments. To integrate trees into sustainable cities, we must understand how and where tree roots grow. We must also understand how to manage tree roots to ensure safe, healthy trees, and to minimize conflicts with the built environment. How we can manage roots to benefit trees and ourselves is the topic of the next ISA literature review.

Literature Cited

- Pregitzer, K.S. 2002. Fine roots of trees - a new perspective. *New Phytologist* 154(2):267–273.
- West, G.B., J.H. Brown, and B.J. Enquist. 1999. A general model for the structure and allometry of plant vascular systems. *Nature* 400(6745):664–667.

Susan D. Day and P. Eric Wiseman are both faculty in the urban forestry program at the University of Virginia Tech's Department of Forest Resources and Environmental Conservation. With co-authors S.B. Dickinson and J.R. Harris they have recently completed an in-depth review of root development and physiology in urban trees for publication in *Arboriculture & Urban Forestry*. The full article can be viewed online (auf.isa-arbor.com).

A complete "Roots Bibliography" will be posted on the research portal at the ISA website in early 2010.

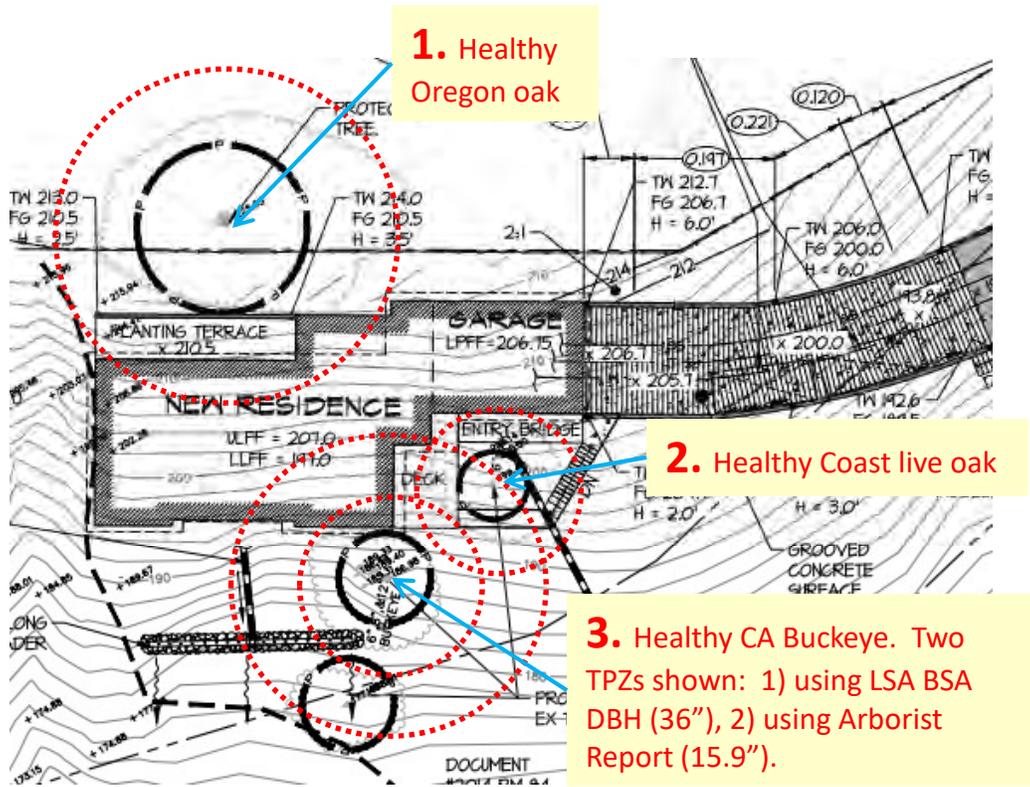
The authors thank Jeremy Stovall of Virginia Tech for sharing his loblolly roots.

Photos courtesy of Susan D. Day, James Roger Harris (Figure 4b), and P. Eric Wiseman (Figure 2a).

ATTACHMENT 8

Building footprint encroaches into Tree Protection Zones (TPZs)

If Tree Protection Zones (TPZs) are accurately drawn using DBH as directed in the 2019 BSA (red dotted circles), the building footprint encroaches into TPZs. Encroachment would be even more severe if current tree sizes were used rather than measurements made 3 years ago.



ATTACHMENT 9

Photos showing Tree Protection Zone (as determined by tree canopy) overlapping the building footprint.

Stakes 31 and 32 marking the southern building edge



Protected oak tree growing near entrance to proposed house

Stake 42 marking the eastern building edge



Heritage oak tree growing along eastern property boundary.

ATTACHMENT 10

Inconsistent tree trunk measurements are confusing the issue and causing TPZs to be understated

The applicants have provided a variety of confusing measurements that are sometimes significantly different from each other as shown in the table below.

| INCONSISTENT TREE MEASUREMENTS | | | |
|---------------------------------------|---|--|--|
| | DBH per current Site Plan (inches) | DBH per 2019 LSA BSA (inches) | DBH per 2019 Arborist Report (inches) |
| 1. Healthy Oregon oak | Not stated | 32.4 | Not stated |
| 2. Coast live oak | 6 | 7 | 9.8 |
| 3. California buckeye | 6, 8, 12 ^a | 36 | 15.9 |
| 4. Unhealthy Oregon oak | 36 ^b | 32.4 | Not stated |

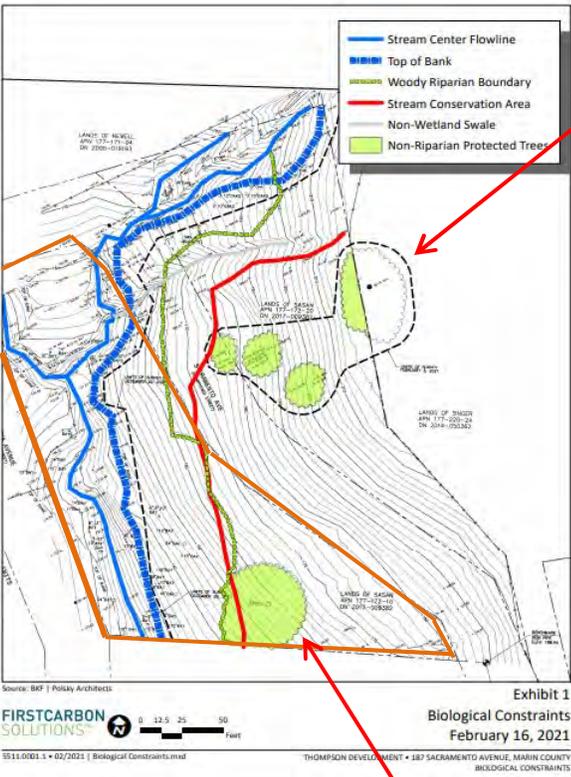
^a MCDC Article VIII (Development Code Definitions) states “if a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.” The applicants continue to base the California Buckeye TPZ on multiple smaller trunks rather than a single larger one as required by MCDC. As such, the size of Buckeye TPZ is significantly understated.

^b The applicants have removed the 36-inch trunk diameter designation from their most recent version of their ever-changing site plans. However, the topographic survey included as Appendix A of the FCS Peer Review (2/28/2021) labels this tree with a 36 inch trunk diameter.

ATTACHMENT 11

Tree canopy size per MarinMap aerial photograph as compared to FCS Biological Constraints Map

This comparison shows that there is much more space for a house below the public right-of-way than what's represented in the FCS map (left), which overstates the canopy size of the unhealthy oak growing along the southern boundary. It also shows that there is much less space for a house in the proposed location because the applicants have ignored how the canopy is actually growing.



Canopy of healthy Oregon oak growing along eastern boundary. The site map does not accurately show the extent to which the oak canopy overlaps the building site. The canopy shape is not oval as sketched on the site map.



Canopy of unhealthy Oregon oak growing along southern boundary. Note that the canopy is exaggerated in the drawing as compared to the aerial photograph. Also note that the unhealthy oak canopy is drawn about the same size as the healthy oak canopy. Clearly this is not the case.

ATTACHMENT 12

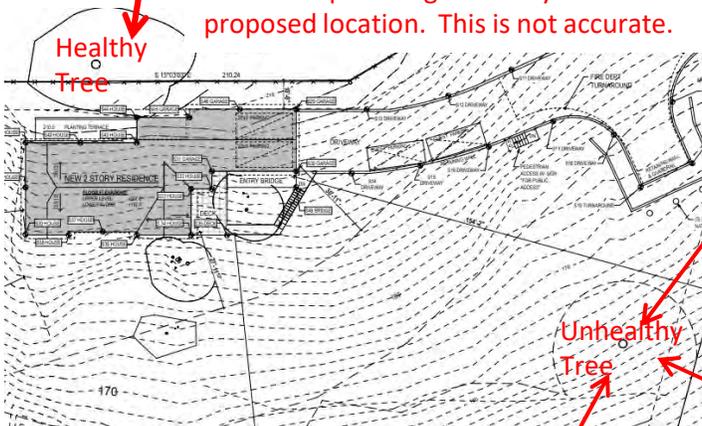
Large Oregon Oak Trees – one is healthy and the other is sick

Healthy Oregon oak tree growing in very close proximity to proposed building site.

Unhealthy Oregon oak tree growing in close proximity to lower impact building site.



The canopy of the unhealthy oak has been drawn larger than the healthy oak's to give the impression there is less space for a house below the public right-of-way and more in the proposed location. This is not accurate.

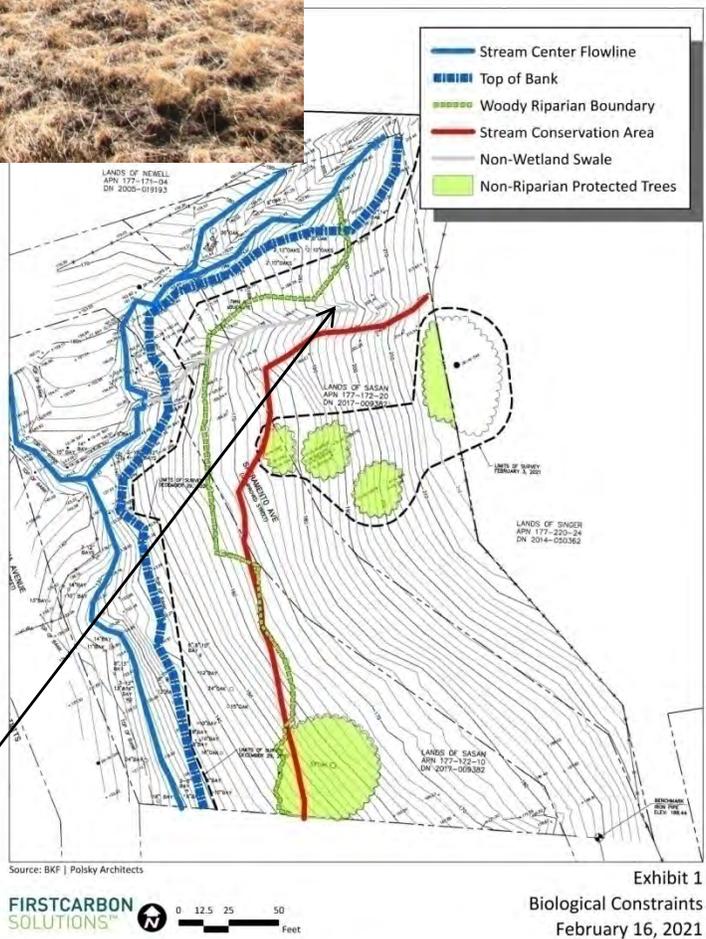


ATTACHMENT 13

Encroachment of House into the Stream Conservation Area



Stakes #39, 40, 41 were located in the “non-wetland swale” indicated by a gray line on the FCS map until they were recently moved to the south when neighbors pointed out their location was in the SCA. Given the self-admitted “errors” and “confusion” on the part of the applicants, we are not confident the house fits onto this building site.



Non-wetland swale (gray line)

ATTACHMENT 14

Email regarding location of fire truck turnaround

Kilgariff, Kathleen

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

Dear Casey,

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

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

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

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

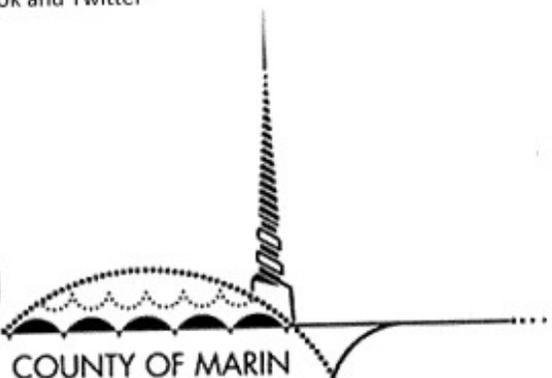
Let me know if you have any questions.

Regards,

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

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

Follow us on Facebook and Twitter



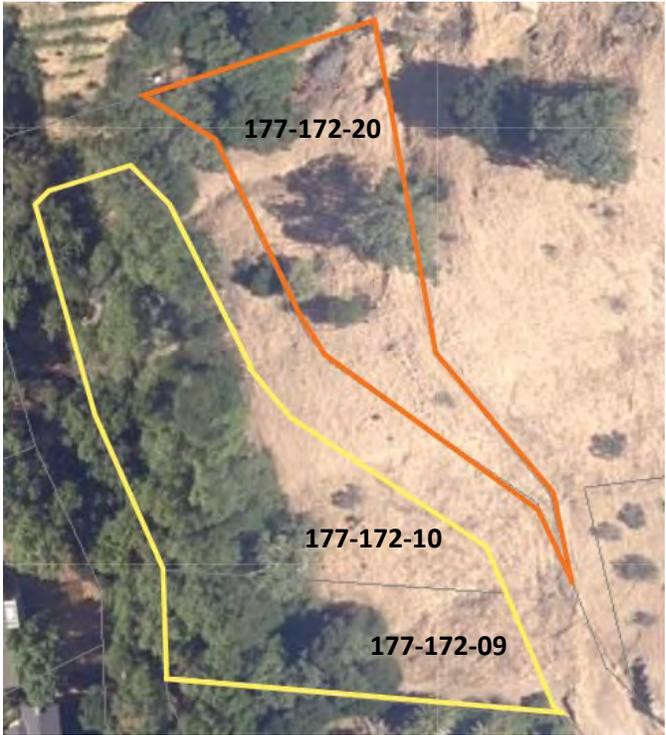
ATTACHMENT 15

Comparison of current lot configuration to possible future merged configuration

A merger of parcels 177-172-10 and -09 would increase the development potential of substandard lot -09 and allow a second house to be built on the lot currently proposed for development. Such a merger would be contrary to Hillside Subdivision Design requirements and CEQA.

| Current Lot Configuration | | |
|---------------------------|------------|----------------|
| Lot | APN | Size (Sq. Ft.) |
| LOT 1 | 177-172-20 | 23,080 |
| | 177-172-10 | 30,907 |
| | | <u>53,987</u> |
| LOT 2 | 177-172-09 | 15,646 |
| TOTAL | | 69,633 |

| Merged Lot Configuration | | |
|--------------------------|------------|----------------|
| Lot | APN | Size (Sq. Ft.) |
| LOT 1 | 177-172-20 | 23,080 |
| LOT 2 | 177-172-10 | 30,907 |
| | 177-172-09 | 15,646 |
| | | <u>46,553</u> |
| TOTAL | | 69,633 |

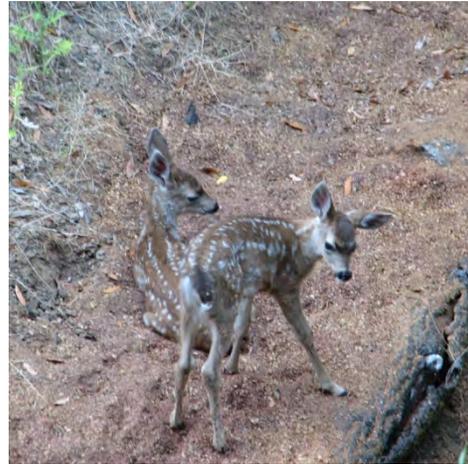


ATTACHMENT 16

Examples of wildlife that also live here (all photos taken from 54 Miwok Dr.)



Northern Spotted Owl resting on our deck



Fawns enjoying our yard



Buck passing through



Turkeys on our roof



Great Blue Heron on our neighbor's roof



Coyote prowling around our yard

ATTACHMENT 17

2014 Email from Stacey Singer, owner of 5-acre lot that takes access from Sacramento Ave

Dicker, Alexandra

From: Dicker, Alexandra
Sent: Friday, November 07, 2014 12:12 PM
To: 'Stacey Singer'
Subject: RE: Application to vacate Public Notice San Anselmo 10/24/2014

Stacey,

Thank you for your call. I have printed and filed your response with others received in regards to Mr. Paul Thompson's application to vacate a portion of Sacramento Avenue. We will be sure to address your concerns once all responses are collected. Per your request and for your future development purposes I will be sure to forward responses submitted by the utility companies.

Feel free to contact me again should you feel the need, Alexi

Alexi Dicker
Department of Public Works
Real Estate Division
Real Property Agent I

County of Marin
899 Northgate Drive, Suite 100
San Rafael, CA 94903
415 473 7219
CRS Dial 711
adicker@marincounty.org

Follow us on Facebook and Twitter

-----Original Message-----

From: Stacey Singer [<mailto:staceysinger1@mac.com>]
Sent: Friday, November 07, 2014 12:04 PM
To: Dicker, Alexandra
Subject: Application to vacate Public Notice San Anselmo 10/24/2014

Hi Alexi,

This e-mail is a follow up to our phone conversation today.

Thank you for your kind assistance regarding information on the development of two single family residences. I appreciate your verbal assurance that the development of the two parcels and road will have no effect on my property.

As you are aware, I own parcel number 177-220-24, which is adjacent to Paul Thompson's property.

As discussed, I want to be sure the development of the parcels and road will have NO negative impact on my property for future development of my own. This is to include utilities and water easements, fire, and access on the road (Sacramento) to my parcel.

Thank you for keeping me informed of all the notices the county mailed to the utilities, water, fire departments etc. and copying me on their responses. I appreciate your help in this concern and alerting me to any negative impact on my parcel.... should there be any in this matter.

Kindly acknowledge receipt of this communication.

With Best Regards,

Stacey Singer
415-302-3231

John Herr, PhD
Robin McKillop, MS, CPA
54 Miwok Dr., San Anselmo, CA 94960

August 19, 2021

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 (P3073)

Dear Members of the Planning Commission,

We believe satisfying Site Plan Review requirements is at the heart of any successful development proposal for this site and warrants careful consideration. Site Plan Review requirements are designed so **“the natural heritage and beauty of the County will be preserved and adverse physical effects which might otherwise result from unplanned or inappropriate development, design, or placement are minimized or eliminated”** (MCDC Section 22.52.10). [Emphasis added].

In 2017, we reached out to the applicants to propose a lower impact building location, closer to the developed end of Sacramento avenue and at a lower elevation [below the public right-of-way] that greatly reduces the amount of grading required for road construction and diminishes the visual impact to neighboring homes. Better siting of the home lower on the hillside avoids forcing it into unstable areas of the property in very close proximity to protected native trees and streams. Unfortunately, the applicants continue to propose development on the steepest, most exposed area of the lot, at the most distant point from the developed end of Sacramento Avenue, and in close proximity to a cluster of protected native trees. Figure 1 provides an overview of the site.

Figure 1. Site Layout and Building Locations.

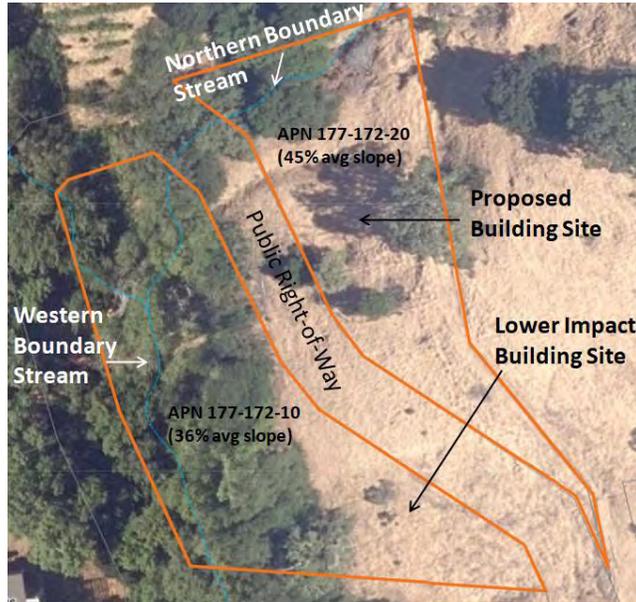


Table 1 provides a comparison of the extent to which Site Plan Review requirements are likely to be achieved based on the building location. Because the proposed project fails to minimize or eliminate adverse physical effects and because a lower impact building location exists, this proposal for development must be denied and our Appeal upheld.

Table 1: Comparison of Environmental Impacts Associated with Each Building Location

| DESIRED OUTCOME | PROPOSED LOCATION | LOWER IMPACT LOCATION |
|---|--|---|
| Site Plan Review (MCDC) | | |
| Holds ground disturbance to a minimum? (22.52.020) | <p>No</p> <p>This project calls for excavating 1,248 cubic yards of soil to depths in excess of 15 feet, installing 12,148 sq. ft. of impervious surfaces and disturbing an additional 14,293 sq. foot area. In comparison, the nearby 2002 Pedersen project constructed two houses (171 and 179 Sacramento Ave) and extended the road 350 ft, yet it involved much less excavation (725 cubic yards) on a similarly steep lot.</p> | <p>Yes</p> <p>By reducing the length of the road extension/driveway, a much greater area of the site can be left in its natural state.</p> |

| DESIRED OUTCOME | PROPOSED LOCATION | LOWER IMPACT LOCATION |
|--|---|--|
| <p>Provides adequate landscaping, especially if substantial ground disturbance is entailed? (22.52.020)</p> | <p>No</p> <p>Plans only call for adding 3-24” planter boxes around the base of the fire truck turnaround even though substantial ground disturbance is entailed.</p> | <p>Yes</p> <p>This location makes use of existing vegetation to screen the house, sited lower on the hillside.</p> |
| <p>Discretionary Design Standards</p> | | |
| <p>Minimizes driveway length consistent with the clustering requirement? (22.16.030-C2)</p> | <p>No</p> <p>This project involves constructing a 185 foot long driveway plus a 136 foot extension of Sacramento Ave (321 feet in total) across an unstable and very steep hillside (45% slope).</p> | <p>Yes</p> <p>The driveway length can be minimized consistent with the clustering requirement by locating the project closer to the developed end of Sacramento Avenue.</p> |
| <p>Clusters structures in the most accessible, least visually prominent and most geologically stable portions of the site...consistent with needs for privacy? (22.16.030-D1)</p> | <p>No</p> <p>The project is located on the highest, steepest and most exposed area, the farthest distance from the developed end of Sacramento Avenue. The imposing house faces directly into homes along Miwok Drive, disregarding needs for privacy.</p> | <p>Yes</p> <p>This location is much closer to the developed end of Sacramento Avenue, in the least visually prominent area, shielded by existing vegetation to minimize impacts to views across the open hillside and neighbors’ privacy. A house in this location would be oriented towards views of Mt. Tam rather than towards private residences along Miwok Dr. and is more consistent with the orientation of neighboring properties along Sacramento Avenue.</p> |
| <p>Minimizes the prominence of construction by placing buildings so that they will be screened by existing vegetation or depressions in topography? (22.16.030-D1)</p> | <p>No</p> <p>The project is located on the most visually prominent, steepest, highest elevation of the site where existing vegetation offers little screening.</p> | <p>Yes</p> <p>This location is at a lower elevation on a more gently sloped plateau. Existing vegetation is better able to screen this project by locating it lower on the hillside.</p> |

| DESIRED OUTCOME | PROPOSED LOCATION | LOWER IMPACT LOCATION |
|---|---|--|
| <p>Holds grading to a minimum and makes every reasonable effort to retain the natural features of the land? (22.16.030-J1)</p> | <p>No</p> <p>Although the applicants state that grading has been reduced as compared to the 2020 project, the level of grading is still <u>higher</u> than it was in 2018 when the Board of Supervisor commented that 1,000 cubic feet of grading associated with an earlier proposal was excessive.¹</p> | <p>Yes</p> <p>By locating the project closer to the developed end of Sacramento Avenue and taking advantage of less steep areas of the lot, less grading is needed.</p> |
| <p>Avoids significant erosion and minimizes impervious surfaces? (22.16.030-J2)</p> | <p>No</p> <p>The project requires installing 12,148 sq. ft. of impervious surfaces that will significantly increase rainwater runoff on the very steep and unstable hillside that drains into protected streams. The road/driveway extension accounts for 66% of these impervious surfaces.</p> | <p>Yes</p> <p>Locating the project closer to the developed end of Sacramento Avenue allows impervious surfaces to be reduced significantly by shortening the road extension/driveway and associated retaining walls.</p> |
| <p>Makes every effort to avoid construction that would cause the death of existing trees? (22.16.030-J3)</p> <p>Although the applicants are not removing any trees immediately, they are putting the health of four protected trees in peril by forcing their project in close proximity to the few trees that are growing on the open hillside.</p> | <p>No</p> <p>This location forces the large house into very close proximity to four healthy protected trees putting their health in peril.</p> <ul style="list-style-type: none"> • 2 Coast live oaks • A heritage California buckeye • A heritage Oregon oak <p>Tree Protection Zones are too small and the building footprint encroaches into them. Thompson Development (formerly West Bay Builders) killed a towering redwood tree when they failed to protect it (Attachment 1).</p> | <p>Yes</p> <p>Unfortunately, the Oregon oak tree growing at the southern end of the lot is unhealthy, as evidenced by notable dieback and unhealthy trunk (Attachment 2). Even so, there is ample space to build a house and avoid this tree. Given that a 100' drainage spreader will be installed immediately uphill of this already sick tree, it is unlikely to survive long.</p> |

| DESIRED OUTCOME | PROPOSED LOCATION | LOWER IMPACT LOCATION |
|--|---|--|
| <p>Avoids geologic hazard areas, such as slides? (22.16.030-J5)</p> | <p>No</p> <p>2015 project plans label this area of the lot as “Ground eroded and unstable” (Attachment 3). Using MarinMap, we calculate the slope in this building location to be 55%. The Dept of Public Works review states that no current geotechnical report was submitted.</p> | <p>Yes</p> <p>This site takes advantage of a less steep area of the lot (Attachment 4) while avoiding eroded and unstable areas. Using MarinMap we calculate the slope in this area to be 35%.</p> |
| <p>Marin Countywide Plan (CWP)</p> | | |
| <p>Preserves paper streets? (TRL-1.5)</p> | <p>No</p> <p>The proposed fire truck turnaround and associated 6 ft. high retaining walls will block public access to the Sacramento Avenue right-of-way.⁴ It is a stretch for the applicants to claim that a stairway right at the front entrance of a private residence improves public access.</p> | <p>Yes</p> <p>At-grade access along the undeveloped portion of Sacramento Ave can be preserved with thoughtful placement of a single house and fire truck turnaround.</p> |
| <p>Protects sensitive natural communities, and important wildlife nursery areas and movement corridors? (BIO-1.1 and BIO-2.4)</p> | <p>No</p> <p>Installation of 12,138 sq ft of impervious surfaces and extensive grading over a steep slope will impact stream water quality and wildlife access to riparian areas. Spreaders will discharge water in the immediate vicinity of two protected oaks, likely killing them.</p> | <p>Yes</p> <p>Impacts to the surrounding sensitive environment can be greatly reduced with fewer retaining walls, less impervious surfaces, less grading and less impacts to stream habitat.</p> |

| DESIRED OUTCOME | PROPOSED LOCATION | LOWER IMPACT LOCATION |
|--|---|---|
| Preserves visual quality and protects public views? (DES-4.1 and DES-4.a) | No The proposed location of the house on the most exposed area of the lot makes it highly visible from the surrounding neighborhood. The extensive network of concrete retaining walls is obtrusive on the open hillside and contrary to the semi-rural feel of the neighborhood. | Yes Relocating the project lower on the hillside reduces visual impacts and takes advantage of existing trees to shield the house. Public views across the open hillside are less impacted and the house would screen the driveway/road. Placement of a house lower on the hillside is consistent with neighboring residences on Sacramento Avenue. |
| Regulates mass and scale? (DES-4.c)? | No The extensive system of retaining walls up to 6 feet tall, massive fire truck turnaround, and 321 foot long driveway/road extension magnify the mass and scale of the project on the open hillside. | Yes The mass and scale of the project can be significantly reduced by minimizing the retaining walls, shortening the driveway and road extension, and locating the project lower on the hillside to use existing vegetation as a screen. |

¹ Grading. The amount of grading proposed is one of the most environmentally damaging aspects of this project and should be considered carefully given the proximity to protected creeks and 45% slope. Although the applicants state that grading has been reduced as compared to the 2020 project, the level of grading is still **higher** than it was in 2018 when the Board of Supervisor commented: “The amount of grading necessary to construct the driveway, turnout and residence would exceed 1,000 cubic yards of grading...Less grading and reforming of the natural terrain would be necessary if the home were moved in a southwesterly direction, closer to the paved edge of Sacramento Avenue. This finding [that the proposed development will minimize cut and fill and the reforming of the natural terrain] cannot be made for the project as it is currently proposed because the project would require excessive grading as discussed above” (Resolution No. 2018-50, p.5).

ATTACHMENT 1

Berkeleyside

COMMUNITY

Contractor mistake damages lone redwood tree at library

By Frances Dinkelspiel, Oct. 11, 2012, 9 a.m.



The redwood tree at the West Branch of the Berkeley Library that will have to be taken down. Photo: Frances Dinkelspiel

A towering redwood tree that was to be the focal point of the garden at the new West Branch of the [Berkeley Public Library](#) was so damaged by the contractor that it will have to be taken down, library officials announced Tuesday.

The contract with West Bay Builders required the company to take precautions to preserve the root structure of the redwood, but those measures were not followed, according to a letter Donna Corbeil, director of library services, sent out to neighbors. The contractor damaged the roots while excavating around the tree.

Dan Gallagher, the city's forestry engineer, recently examined the tree's roots and determined that they were so damaged that the tree is unstable and unhealthy.

"The result of severing those important roots is that the tree's anchorage and stability has been compromised," Gallagher was quoted as saying in the letter. "No reasonable alternatives to re-establishing the tree's

stability exist. The roots served a vital function that cannot be restored by any other means."

The contractor will be removing the tree — which looks about 70 feet high — within the next few days, and will have to pay for the damage, said Corbeil. The Library Board discussed the issue Tuesday night and will address what kind of tree will replace the redwood when it considers the landscaping plan Nov. 14.

The news that the redwood tree would soon be cut down came as a shock to neighbors, who were already upset that the library project at 1125 University Ave. had entailed the cutting of five other redwood trees.

"It's really shocking," said Chaim Mahgel, whose family lives right next door to the library. He also owns [Afikomen Judaica](#) on Claremont Avenue. "It's totally unbelievable. How many stands of redwood trees does a city have? You can't just go out and plant more and expect them to grow back in 10 years."

Nell Mahgel-Friedman said that the back of their apartment used to look out on a shady redwood grove. While there is more light now, there is also much more noise from University and San Pablo Avenues.

"The trees created a certain protection there, a quiet zone," said Mahgel-Friedman. "With the redwood trees taken down it will be a changed experience."

She doesn't understand why the library could not have worked to preserve the redwood grove.

"What is most infuriating to me is why plans were made to build the library in a way that killed these trees," said Mahgel-Friedman. "The small redwood grove that grew on the library grounds was a crown of the neighborhood, a small natural hidden gem in the midst

of the urbanity and concrete. The library could have treasured this gift and adopted plans that protected and respected the trees, not sacrificed them for extra square footage.”

The library held numerous meetings with neighbors to talk about the library design, said Corbeil. The Mahgels did not attend, they said, which is why they were so surprised when the first redwood trees were cut down.

The library had intended to make the large redwood the centerpiece of a garden that could be seen from inside the library. The plan was to add native plants around the tree. Corbeil said the library will try to plant a mature tree in the redwood’s place. She does not anticipate

there will be any delays [in the construction of the new branch library](#). The branch at University Avenue shut down in May. The new building should be completed by the summer of 2013. Total construction costs, not including furniture and fixtures, are \$7.5 million and are being paid through bonds authorized by Berkeley voters.

Read Donna Corbeil’s [letter to neighbors](#).

Would you like a digest of the day’s Berkeley news in your inbox at the end of your day? [Click here to subscribe](#) to Berkeleyside’s free email Daily Briefing.

Frances Dinkelspiel is co-founder and executive editor of Berkeleyside. Email: frances@citysidejournalism.org.

© Cityside. All Rights Reserved.

ATTACHMENT 2

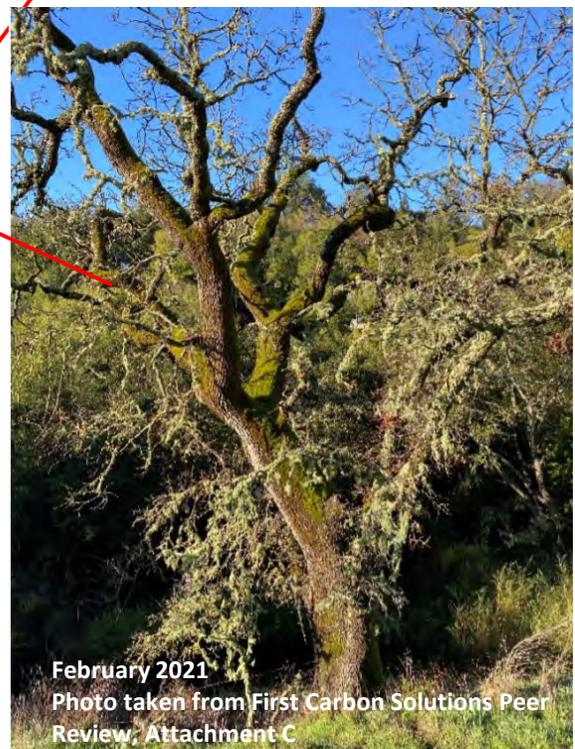
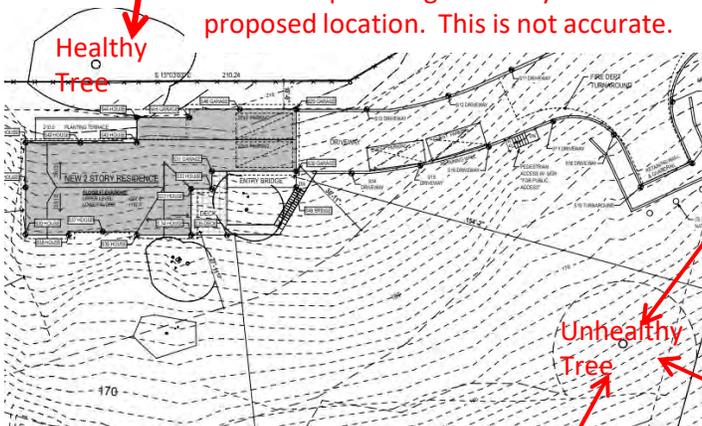
Large Oregon Oak Trees – one is healthy and the other is sick

Healthy Oregon oak tree growing in very close proximity to proposed building site.

Unhealthy Oregon oak tree growing in close proximity to lower impact building site.



The canopy of the unhealthy oak has been drawn larger than the healthy oak's to give the impression there is less space for a house below the public right-of-way and more in the proposed location. This is not accurate.



ATTACHMENT 3

Northern area of the site is eroded and unstable

2015 Site Plans submitted by the applicants for a previous proposal indicate the northeast area of the site is eroded and unstable.

**DRAINAGE HAS FOUR CHANNELS
GROUND ERODED AND UNSTABLE**

(DRAINAGE HAS FOUR CHANNELS
GROUND ERODED AND UNSTABLE)



ATTACHMENT 4 Site Slope Map



Source: LSA Associates BSA, 10/17/19

From: [Brandon Sullivan](#)
To: [Kilgariff, Kathleen](#); [PlanningCommission](#)
Subject: Sasan Site Plan Review, Sullivan
Date: Thursday, August 19, 2021 7:50:12 AM
Attachments: [PCAppealAug2021_Sullivan.pdf](#)

Kathleen,

Attached are our comments on the Sasan Site Plan Review (P3073) for the Planning Commission hearing on August 23rd. As stated, this document supplements our original letter on file, dated May 21, 2021.

Please confirm receipt of this correspondence.

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

August 19, 2021

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

RE: Sasan Site Plan Review, P3073

Dear Members of the Planning Commission,

We are writing to express our concerns with the development proposal "Sasan Site Plan Review P3073" at Sacramento Avenue in San Anselmo and the June 28, 2021 approval of this project by the Community Development Agency, Planning Division. In the interest of time, this letter is meant to serve as a supplement to our original correspondence, dated May 21, 2021, submitted during the initial review of this project.

In summary, this application must be denied based on the following:

- The project fails to meet several standards of Site Plan Review, which includes guidelines within the Marin Countywide Plan and the Development Code's Discretionary Development Standards.
- The applicant is proposing to site the home within a Stream Conservation Area recommended to extend from the edge of the riparian canopy.
- The project misrepresents the protected trees and associated protection zones located on and near the site. In doing so the development encroaches on the tree protection zones of the protected trees.

- Several site constraints and environmental factors associated with the proposal necessitate a comprehensive, independent review and should be subject to a CEQA Initial Study.
- The developer's long term plan for the entire property manipulates the Development Code.

SITE PLAN REVIEW STANDARDS

Site Plan Review was created as an alternative to Design Review in order to afford Planning Staff the opportunity to focus a review on the fundamental impacts, namely environmental, imposed by prospective development.

The standards provided under Site Plan Review by the Development Code and the Marin Countywide Plan have not been adequately achieved to warrant approval of this project. To be clear this proposal does not fail to meet one or two isolated standards, it fails to address a majority of these required standards. Our original letter to the Planning Division, dated May 21, 2021, provides a detailed list and description of this project's shortcomings in this area.

These standards are in place and clearly articulated for a reason: to address irresponsible proposals of this nature. Unfortunately, to date Planning Staff has chosen approval in lieu of implementing these standards accordingly. Why have these standards and guidelines in place if Planning Staff is not going to enforce them and instead defer to the applicant?

As we have presented in detail on several occasions, an alternative, more appropriate site exists on this property below the Sacramento Avenue right-of-way. This site represents a significantly more responsible development location, consistent with Development Code and Marin Countywide Plan standards. Furthermore, the site we have proposed mitigates or alleviates every concern and shortcoming of the current proposal while allowing the applicant to build a comparable and potentially larger home.

STREAM CONSERVATION AREA

To date three biologists have provided assessments of the mapped streams surrounding the project site:

1. Hired by the applicant, Eric Lichtwardt of LSA Associates (LSA) submitted a bioassessment (BSA) dated October 17, 2019.
2. Following the Planning Commission hearing on July 20, 2020 we reached out to Wetlands Research Associates (WRA) of San Rafael to conduct a review of the LSA bioassessment and assess the streams on the property.

3. Similarly, the applicant hired Bernhard Warzecha of First Carbon Solutions in Walnut Creek (FCS). It is noteworthy that prior to FCS, Mr. Warzecha was a Senior Biologist at LSA Associates.

In 2019, LSA directed a Stream Conservation Area along the western boundary of 50 feet from the riparian canopy edge while ignoring the significance of the mapped northern streams. In the current proposal both WRA and FCS agree that the mapped northern streams are significant and worthy of SCA protection. Consistent with the initial review from LSA the report from WRA directs a 50' setback from the riparian canopy on both the western and northern boundaries due to stream classification and the extreme slope associated with the property. Not only has FCS recommended a reduced setback from the top of bank, contrary to the other two biologists and accepted by Planning Staff, but a recent rebuttal questions the scientific merit of WRA's report and SCA recommendation.

First, WRA is a highly regarded environmental consulting firm located in San Rafael with an exhaustive background in providing bioassessments throughout Marin. Secondly, amongst the three, Phil Greer is the only biologist certified as a Professional Wetlands Scientist. Finally, despite what FCS may label as "arbitrary" and "unsubstantiated" there is considerable scientific evidence to support Mr. Greer's claims and recommendations for an extended setback from the riparian canopy edge given the site's extreme slope and instability.

PROTECTED TREES AND TREE PROTECTION ZONES

Several protected trees have been identified on or near the project site. As such, these trees require dedicated tree protection zones (TPZ) in order to preserve them during the course of construction. Unfortunately the applicant has not provided a reliable and consistent determination or delineation of the TPZ necessary to justify development at the proposed site. In fact, it is evident that the proposal encroaches significantly on the protected trees in question.

From the onset it must be noted that the arborist report provided is dated February 13, 2019. Thus at best every tree diameter presented and TPZ determination is not reliable as the trees have grown significantly since last assessed. Furthermore, several of the maps on file lack tree measurements or provide measurements from the original survey and plans back in 2015.

Initially, the LSA bioassessment from October 17, 2019 made an attempt to determine TPZ for the large oak just above the proposed site:

"Under the County's Native Tree Preservation and Protection Ordinance, the large Oregon oak (32.4 inches DBH)...The tree protection zone shown on the Project Plans was calculated as 1 foot diameter per inch of trunk diameter DBH (i.e., 32.4 feet.)"

While the biologist provided a TPZ determination based on trunk diameter, his TPZ fell short of the County's actual TPZ calculation:

“ a **radius** surrounding the tree of one foot for each inch diameter at breast height (4.5 feet above grade) of the tree trunk”

Thus the TPZ provided by the LSA biologist and the basis for the applicant's proposals represent half the distance mandated (16.2 feet from the trunk versus 32.4 feet in this example). Keep in mind not only is the TPZ in this example grossly underestimated, this is only one of three tree protection zones required in this overly constrained building site. Furthermore, the protected trees have grown significantly since last assessed in 2019. This Oregon oak likely requires protection of 36 feet minimum from the trunk while the coast live oak located at the entry to the home, a TPZ of 12-13 feet from the trunk.

Evidently the applicant was not satisfied with the County's recommendation for TPZ determinations. It appears now that the applicant has resorted to drawing arbitrary protection zones around the trees. In fact the shapes surrounding the trees are not even consistent from one drawing to the next throughout the plans.

Finally, as evidenced by the placement of stakes outlining the project footprint at the site, the development clearly encroaches into the drip lines of these trees at a minimum and would fall well within the County's TPZ calculation based on DPH.

APPLICANT'S LONG TERM PLAN

As outlined above, approval of this project represents a complete failure to enforce the Development Code and Marin Countywide Plan. Furthermore approval is facilitating the applicants' overriding objective to circumvent and manipulate the Development Code in order to construct two homes on the property.

The developer's long term plan is abundantly transparent:

- extend Sacramento Avenue and build a home on the isolated upper parcel, APN 177-172-20 as proposed in the current plan
- initiate a merger of the remaining two lower parcels APN 177-12-10 (currently part of this proposal) and APN 177-172-09 (neighboring substandard lot)
- build a second home below the Sacramento Avenue right-of-way on the newly redrawn lot

To succeed, this must be accomplished in a stepwise, deceptive and calculated manner. Every effort has been made to preserve the dated development rights associated with the neighboring substandard parcel, APN 177-172-09. For good reason, the County's development standards have evolved a bit since this lot was originally drawn. This lot fails to meet the

minimum lot area thresholds of the Hillside Development Standards, does not meet slide stability standards (in fact the entire property is located in the most severe stability zone of 4) and contains a mapped drainage channel.

Once a home is in place on the upper parcel APN 177-172-20, the developer will apply for a merger of the lower parcel APN 177-172-10 and the substandard lot APN 177-172-09, effectively siphoning land that used in the current proposal in order to accommodate future development on the neighboring substandard parcel.

This last maneuver will conveniently take advantage of the current Development Code's policy on Owner-Requested Mergers. Additionally and equally egregious, the development in this proposal, sited on APN 177-172-20, would not be compliant with the Hillside Development Standards, as the lot area will fall below the one acre (43,560 square feet) minimum for land of such extreme slope.

At a previous hearing on June 12, 2017, this Planning Commission appreciated the potential scope of the applicants' long term plan and the adverse implications to the environment and neighborhood. To ensure responsible development on the site the Planning Commission requested a voluntary merger of the three parcels. In response the applicants transferred title for the substandard lot to Mr Thompson's LLC, effectively blocking the forced merger that was warranted by the Development Code. The Board of Supervisors reached the same conclusions articulated by the Planning Commission and stressed the need for more responsible siting of the home (March 13, 2018, Resolution No. 2018-50), a decision that was subsequently upheld by both the Marin County Superior and Court of Appeal of the State of California.

In conclusion, given the issues raised here, in our letter from May 21, 2021 and by our neighbors, we urge you to uphold our appeal and deny the Sasan Site Plan Review in its current form. Over the last 6-7 years our group of neighbors have provided the applicant with substantial and genuine concerns for the impact that development at this site would impose on our quality of life and the environment. Furthermore our concerns are consistent with the standards and guidelines provided by the Development Code and the Marin Countywide Plan. Finally, we have provided the applicant with an alternative building site that alleviates or mitigates nearly all the issues associated with the current proposal and one that is consistent with the direction provided by the Planning Commission (June 12, 2017 hearing) and the Board of Supervisors (March 113, 2018, Resolution No. 2018-50).

Thank you for your time and consideration.

Regards,

Brandon and Melissa Sullivan

From: [Alber, Scott](#)
To: [Kilgariff, Kathleen](#)
Subject: RE: Fire Truck Turnaround Question
Date: Wednesday, August 4, 2021 11:53:35 AM

Yes...I remember they were a little outside the 50-ft distance, but were otherwise ok...

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

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

Follow us on Facebook and Twitter



From: Kilgariff, Kathleen <KKilgariff@marincounty.org>
Sent: Wednesday, August 4, 2021 11:24 AM
To: Alber, Scott <SAlber@marincounty.org>
Subject: RE: Fire Truck Turnaround Question

Thanks, Scott! So if you did not require it as a Condition of Approval, it is not likely that you would require this change as part of this application?

From: Alber, Scott <SAlber@marincounty.org>
Sent: Wednesday, August 4, 2021 11:17 AM
To: Kilgariff, Kathleen <KKilgariff@marincounty.org>
Subject: RE: Fire Truck Turnaround Question

Hi Kathleen,

Yes, we would like the turnaround within 50-ft of the structure, but it's not absolutely critical and we have made compromises in the past. Also, I noticed that the turnaround requirement is worded incorrectly; a turnaround is required when the driveway exceeds 300-ft in length (150-ft in the WUI), not that it has to be within 300-ft of the road...

Let me know if you have other questions.

Regards,

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

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

Follow us on Facebook and Twitter



From: Kilgariff, Kathleen <KKilgariff@marincounty.org>
Sent: Friday, July 30, 2021 5:22 PM
To: Alber, Scott <SAlber@marincounty.org>
Subject: Fire Truck Turnaround Question

Hi Scott,

Neighbors of a project I am working on are indicating that a fire truck turnaround must be no more than 50 feet from the proposed residence. Is this true? The only standard you provided in your transmittal (attached) is this one:

An approved fire apparatus turn around shall be designed and installed at the driveway end so as not to exceed 300 feet (150 feet in the Wildland-Urban Interface) from the street and shall be capable of accommodating MCFD apparatus. The turnaround shall be recorded, dedicated, and clearly delineated on the subdivision map as 'Dedicated Fire Apparatus Turnaround'.

Here are the project plans, if you would like to review:

https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/projects/sasan_spr_p3073/sasanplans41521.pdf?la=en

Thanks!

Kathleen

Kathleen Kilgariff
PLANNER

County of Marin
Community Development Agency
3501 Civic Center Drive, Suite #308
San Rafael, CA 94903
415 473 7173 T
415 473 7880 F
kkilgariff@marincounty.org

.....

