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

**Decision:** Approved with Conditions  
**Date:** June 28, 2021

<table>
<thead>
<tr>
<th>Project ID No:</th>
<th>3073</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant(s):</td>
<td>Casey Clement</td>
</tr>
<tr>
<td>Owner(s):</td>
<td>Tim and Beth Sasan</td>
</tr>
<tr>
<td>Assessor’s Parcel No(s):</td>
<td>177-172-10 and -20</td>
</tr>
<tr>
<td>Property Address:</td>
<td>Vacant Parcel Historically Referred to as 187 Sacramento Avenue</td>
</tr>
<tr>
<td>Project Planner:</td>
<td>Kathleen Kilgariff</td>
</tr>
<tr>
<td>Signature:</td>
<td>Kathleen Kilgariff</td>
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</tbody>
</table>

**Countywide Plan Designation:** SF5 (Single Family Residential, 2-4 lots per acre)  
**Community Plan Area:** N/A  
**Zoning District:** R1:B2 (Residential, Single Family, 10,000 square feet minimum lot size)  
**Environmental Determination:** Categorically Exempt per Section 15303, Class 3

### PROJECT SUMMARY

The applicant requests Site Plan Review approval to construct a new residence on a vacant lot in San Anselmo. The development would result in a lot coverage of 21.6 percent on the 56,163 square foot lot. The proposed building footprint would have the following setbacks: 154 feet, 2 inches from the southern front property line (30 feet, 11 inches from the Sacramento Avenue right-of-way); 10 feet from the eastern side property line; 161 feet, 10 inches from the western side property line (27 feet, 11.5 inches from the Sacramento Avenue right-of-way); 89 feet, 1.5 inches from the northern rear property line.

The project entails an approximately 136-foot extension of Sacramento Avenue that will transition to an approximately 185-foot driveway, which includes a fire truck turn around, to access the residence. Included in the driveway design is a staircase that would allow for public access across the undeveloped right of way that bisects the property. Grading includes 1,248 cubic yards of excavation, 1,104 cubic yards of fill, and 114 cubic yards of import to accommodate development of the roadway extension, driveway, and residence.
Drainage will be collected and directed downhill to level spreaders, which are designed to distribute stormwater runoff across the slope below. All trees are proposed to remain, and new landscaping is proposed at the base of the fire truck turnaround retaining wall.

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

BACKGROUND

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

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

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

The 2016 application was a proposal to build an approximately 3,300 square foot single family residence and 640 square foot attached garage on a vacant hillside lot. The Board of Supervisors concluded that the project was not supportable (despite modifications made by the Marin County Planning Commission) because the siting and design of the proposed residence and appurtenant improvements (length of driveway and height of retaining walls) would result in development that is visually obtrusive and would require excessive site disturbance. However, the Board indicated that a future development proposal may be looked upon more favorably if the proposed project was sited and designed to lessen its visual obtrusiveness, including but not limited to reducing its three-story appearance, using a design aesthetic more in keeping with the hillside setting that is not modern and angular, and more effectively articulating both horizontal and vertical planes. The application was ultimately denied by the Board of Supervisors on June 5, 2018. The Board’s decision to deny the 2016 application was upheld by the Marin County Superior Court (decision issued January 22, 2020) and California Court of Appeal (decision issued June 10, 2021).

An application for Site Plan Review was filed on June 20, 2019. The 2019 application was for a proposal to build a new single-family residence, construct an extension of Sacramento Avenue and a new driveway to access the property, and a fire truck turnaround. Similar to the current proposal, the project did not include a request approval to abandon the right-of-way, remove trees, or develop a home exceeding 3,500 square feet or other improvements that would require Design Review. As a result, the architectural design of the residence was not subject to review. Instead, Site Plan Review provides the opportunity to review site plans for the location, arrangement, ground disturbance, and lot coverage of improvements to ensure that the proposal complies with the Countywide Plan policies and sound design principles.
The 2019 application was administratively approved and subsequently appealed to the Planning Commission. The Commission voted 4-3 to deny the project because the Biological Site Assessment did not effectively evaluate the potential stream resources in relation to the stream definitions outlined in the Countywide Plan (CWP) and the Commission requested a peer review of the BSA to determine its accuracy. Further the Commission concluded the amount of earthwork was too high, given the constraints of the site, and indicated it was unclear whether the site would be adequately landscaped at the completion of the project.

The applicants then appealed the Commission’s decision but withdrew their appeal prior to the Board of Supervisors hearing. As such, the Commission’s denial was the final determination.

On March 12, 2021 the applicants submitted the current proposal, which is also a Site Plan Review application. Changes from the previous project include an 815 cubic yard reduction in grading quantity, removing a parking spot to minimize the size of the retaining wall necessary for the fire truck turnaround, proposing landscaping at the base of the fire truck turnaround, and constructing a stairwell within the paper street to allow public access across the right of way, and increasing the setback from the development to the riparian areas on the property.

In addition, the applicant had a new Biological Site Assessment prepared by First Carbon Solutions that evaluates the previous BSA prepared by LSA and maps site constraints based on the relevant official definitions related to streams and stream conservation areas. Additionally, since the time the previous project was deemed complete the Development Code was amended to change the definition of Lot Area. Under the current definition, the lot area does not include the paper street, decreasing the calculation of lot area. The current project is further discussed in the following sections.

PUBLIC COMMENT

Paper Street Improvements

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

The Sacramento Avenue road right-of-way currently extends through the middle of the subject property and is undeveloped. The project includes a proposal to extend the paved portion of Sacramento Avenue approximately 140 feet before the access transitions to private property. Access improvements are consistent with development allowed in the public right-of-way throughout the unincorporated areas of the County.

Commenters note that the development blocks public access across the paper street. However, the project includes a stairway that would allow for the passage of pedestrians and signage will be posted that notifies members of the public that the path is available for public use.

Further, commenters assert that the development of the right-of-way prevents egress for the property at 62 Miwok. However, 62 Miwok currently has access to Miwok Avenue through an easement across 56 Miwok’s property. Further, it appears developing a roadway on the lower and steeper portion of the paper street would be infeasible given the topography of the site. Any new road must comply with certain slope and development standards established by the Department of Public Works and the Fire Department. At the current 45 degree slope, a road leading to the bottom of the slope could not be constructed in compliance with required roadway standards.
Additionally, to access the right-of-way the owners of 62 Miwok would need to remove trees and develop a bridge over the stream that separates the two properties.

While development of a street within the paper street would be difficult, the proposed improvements do not preclude future access improvements within the Sacramento Avenue right-of-way nor prohibit the public’s use of either the developed or undeveloped portions of the Sacramento Avenue right-of-way.

In conclusion, the project would enable greater access to the Sacramento Avenue right-of-way and does not preclude the public’s use or further development of the right-of-way.

Fire Impacts

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

The project was reviewed by the Marin County Fire Department, which provided comments to be addressed at the time of building permit review. This is consistent with the Fire Department’s review of planning applications. The Fire Department does not require applicants to rebuild offsite roads if they do not meet current dimensions.

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

Environmental Impacts

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

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

Commenters note that the previous 2014 application to develop two residences and a roadway that served both residences, and any future residence at the lot currently under review, required an Initial Study based on comments made at a Planning Commission meeting on November 9, 2015. However, as noted by Rachel Reid, Environmental Planning Manager on November 9, 2015, the previous project required an Initial Study because the development of the paper street provided access to three properties, was considered growth-inducing, and did not only benefit the proposed project at that time.
Conversely, the current proposal is not growth inducing and only serves the proposed development. As such, further environmental review is not required and the Categorical Exemption pursuant to CEQA Guidelines Section 15303, Class 3 is appropriate.

Stream Conservation Area and Biological Site Assessment (BSA)

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

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

The BSA prepared by LSA confirmed the stream along the western portion of the site was subject to the SCA policies but did not definitively conclude whether the mapped stream along the northern property line supports riparian habitat, which can be similar to the existing woodland habitat on the project site.

As such, the Planning Commission indicated that they would not be able to render a decision regarding the environmental effects of the project without a peer review of the BSA to determine the accuracy of the findings of the BSA prepared by Mr. Lichtwardt, which was within their right under the California Environmental Quality Act to ensure that the project would not impact environmental resources on the site.

As part of the current application, a new BSA was prepared by First Carbon Solutions dated February 8, 2021. Commenters have questioned the location of the Stream Conservation Area (SCA) and the validity of this BSA because the County did not hire the biologist.

The BSA prepared by First Carbon Solutions concludes that the previous LSA BSA incorrectly indicated that the drainage course along the northern portion of the site was not subject to the 50-foot SCA buffer area, and determined that in fact, this area is subject to the 50-foot SCA from top of bank. The BSA also concluded that the SCA was incorrectly applied to the creek that runs along the western portion of the site. Instead of requiring a 50-foot SCA from the edge of the riparian canopy, the new BSA maps a 50-foot SCA from the top of bank but encompasses the woody riparian habitat. Based on the updated and accurate BSA, the project is adequately setback from stream resources and riparian habitats.

The commenters noted that the previous LSA BSA site constraints map manipulated the SCA to limit development to the proposed project location and prevented building the residence on the lower portion of the hillside. However, even though the updated constraints map addresses the concerns they previously raised, they still take issue with the BSA because the 50-foot SCA is not measured from the edge of the riparian habitat and instead is measured from the top of bank.

A neighbor paid WRA to conduct a peer review of the LSA BSA (included in Attachment 3). Consistent with the First Carbon Solutions BSA the WRA peer review concluded that the northern ephemeral stream is subject to the SCA policies. The WRA report also noted that the LSA BSA
western setback from the edge of the riparian canopy was appropriate. However, the biologist from WRA was unable to trespass on private property and was unable to view the biological resources in this area. Therefore, the recommendation of the First Carbon Solutions report is based on better evidence because they had access to the site.

While the neighbors may not agree with the First Carbon Solutions BSA, staff found that the report accurately evaluates the watercourses on site in relation to the Countywide Plan. Policy BIO-4.1 specifically states that in the City Centered Corridor (where this property is located):

For parcels between 2 and 0.5 acres in size, provide a minimum 50-foot development setback on 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. A site assessment may be required to confirm the avoidance of woody riparian vegetation and to consider site constraints, presence of other sensitive biological resources, options for alternative mitigation, and determination of the precise setback. Site assessments will be required and conducted pursuant to Program BIO-4.g, Require Site Assessment.

Further, it appears that the applicants have confused the application of the SCA policy for the Coastal, Inland Rural, and Baylands corridors, which states:

For all parcels, provide a development setback on each side of the top of bank that is the greater of either (a) 50 feet landward from the outer edge of woody riparian vegetation associated with the stream or (b) 100 feet landward from the top of bank. An additional setback distance may be required based on the results of a site assessment. A site assessment may be required to confirm the avoidance of woody riparian vegetation and to consider site constraints, presence of other sensitive biological resources, options for alternative mitigation, and determination of the precise setback. Site assessments will be required and conducted pursuant to Program BIO-4.g, Require Site Assessment. SCAs shall be measured as shown in Figure 2-2.

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.

Finally, commenters assert that the current site staking of the proposed residence demonstrates that the dwelling would be located in the northern stream and does not respect the 50-foot SCA. However, based on a site visit, review of the plans, and review of the photos provided by neighbors, it appears that the “stream” they note is a swale that was evaluated in relation to the CWP policies and does not support riparian habitat nor have hydric soil indicators. As concluded in the BSA from First Carbon Solutions, this swale is neither a stream nor a wetland and should the project be developed, a licensed surveyor would be required to certify that the location of the home to ensure that the development conforms to the plans and does not encroach into the SCA.

COUNTYWIDE PLAN CONSISTENCY

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

A. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not result in the irreplaceable removal of a substantial number of mature, native trees.
B. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.

C. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands.

D. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.

E. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.

F. The project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.

G. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during review of the Building Permit application.

H. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.

DEVELOPMENT CODE CONSISTENCY

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

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

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

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

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

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

Due to the configuration of the lot, the right-of-way across the property, required setbacks (25 feet from the front and rear property lines, 10 feet from the side property lines), the 50-foot
SCA along the western and southern portions of the property, and preservation of a trees
surrounding the building envelope, the development is limited to the proposed location.

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

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

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

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

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

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

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

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

LANDSCAPING AND VEGETATION REMOVAL: Development Standard F

As noted above, no trees are proposed for removal.

The fire truck turnaround is supported by two stepped retaining walls. The lowest wall is
sufficiently landscaped, minimizing the appearance of the development, but no landscaping
is included between the two walls. To ensure that the fire truck turnaround is adequately
landscaped, a condition of approval requiring plantings between the two walls shall be
imposed on the project.

The plantings must not block/inhibit pedestrian access to the right-of-way and must be a native
species to Marin.
ACCESS: Development Standard C

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

The road and driveway improvements would take advantage of the existing unimproved alignment of the Sacramento Street right of way. The applicants have incorporated a stairway into the project design that provides the public with unobstructed use of the right-of-way. A condition of approval is placed on the project that requires signage be installed that notifies members of the public that the path is available for public use.

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

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

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

Best management practices for drainage and stormwater management are required by Marin County Code and DPW. Drainage will be collected and directed downhill to level spreaders, which are designed to distribute stormwater runoff across the slope below.

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

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

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

Ground disturbance would be limited to the footprints of the improvements and the removal of significant vegetation would be avoided. As conditioned, the applicant will be required to show a landscape plan that demonstrates that native plantings would be placed between the retaining walls of the fire truck turnaround to screen the overall mass of the wall when viewed offsite.

ACTION

The project described in condition of approval 1 below is authorized by the Marin County Planning Division and is subject to the conditions of project approval.
This planning permit is an entitlement to apply for construction permits, not a guarantee that they can be obtained, and it does not establish any vested rights. This decision certifies the proposed project’s conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

CONDITIONS OF PROJECT APPROVAL

CDA-Planning Division

1. This Site Plan Review approval authorizes the construction of a new residence on a vacant lot in San Anselmo. The development would result in a lot coverage of 21.6 percent on the 56,163 square foot lot. The proposed building footprint would have the following setbacks: 154 feet, 2 inches from the southern front property line (30 feet, 11 inches from the Sacramento Avenue right-of-way); 10 feet from the eastern side property line; 161 feet, 10 inches from the western side property line (27 feet, 11.5 inches from the Sacramento Avenue right-of-way); 89 feet, 1.5 inches from the northern rear property line.

The project entails an approximately 136-foot extension of Sacramento Avenue that will transition to an approximately 185-foot driveway, which includes a fire truck turn around, to access the residence. Included in the driveway design is a staircase that would allow for public access across the undeveloped right of way that bisects the property. Grading includes 1,248 cubic yards of excavation, 1,104 cubic yards of fill, and 114 cubic yards of import to accommodate development of the roadway extension, driveway, and residence.

Drainage will be collected and directed downhill to level spreaders, which are designed to distribute stormwater runoff across the slope below. All trees are proposed to remain, and new landscaping is proposed at the base of the fire truck turnaround retaining wall.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled “New Residence, 187 Sacramento Avenue,” consisting of 5 sheets prepared by Polsky Perlstein Architects, received in final form on April 5, 2021, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

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

a. A landscape plan must be submitted that incorporates three, 24-inch box, native shrubs between the two retaining walls that support the firetruck turnaround.

b. Signage shall be installed by the public access staircase that notifies members of the public that the staircase, path, and driveway is available for public use.

3. The project shall conform to the Planning Division’s “Uniformly Applied Conditions 2021” with respect to all of the standard conditions of approval and the following special conditions: #6 which requires installation of temporary construction fencing around tree protection zones, #7 which requires written communication if encroachments into the tree protection zone occur during construction, #8 which requires the installation of temporary construction fencing installed at the edge of the stream conservation area, #9 which requires written
communication if encroachments into the stream conservation area occur, #13, which requires the installation of required landscaping.

VESTING

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

RIGHT TO APPEAL

This decision is final unless appealed to the Planning Commission. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than eight business days from the date of this decision (July 8, 2021).

cc: {Via email to County departments and Design Review Board}
   CDA – Assistant Director
   CDA – Planning Manager
   DPW – Land Development
   Marin Municipal Water District
   Ross Valley Sanitary District
   Marin County Fire Department

Attachments:

1. Marin County Uniformly Applied Conditions 2020
2. Agency Correspondence
3. Public Comments
4. Applicant’s Response to Public Comments
MARIN COUNTY UNIFORMLY APPLIED CONDITIONS
FOR PROJECTS SUBJECT TO DISCRETIONARY PLANNING PERMITS

2021

STANDARD CONDITIONS

1. The applicant/owner shall pay any deferred Planning Division fees as well as any fees required for mitigation monitoring or condition compliance review before vesting or final inspection of the approved project, as determined by the Director.

2. The applicant/owner shall defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations. The County of Marin shall promptly notify the applicant/owner of any claim, action, or proceeding that is served upon the County of Marin, and shall cooperate fully in the defense.

3. Exterior lighting for the approved development shall be located and shielded to avoid casting glare into the night sky or onto nearby properties, unless such lighting is necessary for safety purposes.

4. Building Permit applications shall substantially conform to the project that was approved by the planning permit. All Building Permit submittals shall be accompanied by an itemized list of any changes from the project approved by the planning permit. The list shall detail the changes and indicate where the changes are shown in the plan set. Construction involving modifications that do not substantially conform to the approved project, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications is obtained by the applicant.

SPECIAL CONDITIONS

1. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance prepared by a certified or licensed landscape design professional indicating that the landscape plan complies with the State of California’s Model Water Efficient Landscape Ordinance and that a copy of the Landscape Documentation Package has been filed with the Community Development Agency.

2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call out the approved building setbacks on the Building Permit plans indicating the minimum distance of the building from the nearest property line or access easement at the closest point and any of the following features applicable to the project site: required tree protection zones, Wetland Conservation Areas, or Stream Conservation Areas.
3. **BEFORE ISSUANCE OF A BUILDING PERMIT**, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off-site shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts to the night sky or on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.

4. **BEFORE ISSUANCE OF A BUILDING PERMIT**, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless related to losses experienced due to geologic and hydrologic conditions and other natural hazards.

5. **BEFORE ISSUANCE OF A BUILDING PERMIT**, the applicant shall submit written confirmation that the property owner has recorded the “Disclosure Statement Concerning Agricultural Activities,” as required by Section 23.03.050 of the Marin County Code.

6. **BEFORE ISSUANCE OF A BUILDING PERMIT** for any of the work identified in the project approval, the applicant shall install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. Acceptable limits of the tree protection zones shall be the dripline of the branches or a radius surrounding the tree of one foot for each one inch diameter at breast height (4.5 feet above grade) of the tree trunk. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. If encroachment into the tree protection zone is necessary for development purposes, additional tree protection measures shall be identified by a licensed arborist, forester, or botanist, and the tree specialist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a tree protection zone occurs.

7. **BEFORE FINAL INSPECTION**, if encroachments into a tree protection zone have been approved, then the tree specialist shall submit a letter to the Planning Division verifying that the additional tree protection measures were properly implemented during construction activities.

8. **BEFORE ISSUANCE OF A BUILDING PERMIT**, temporary construction fencing shall be installed on the subject property at edge of the Wetland Conservation Area and/or Stream Conservation Area, as applicable to the site. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. The construction fencing shall remain until all construction activity is complete. No parking of vehicles, grading, materials/equipment storage, soil stockpiling, or other construction activity is allowed within the protected area. If encroachment into the protected area is necessary for development purposes, additional protection measures shall be identified by a qualified biologist and the biologist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A
report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a protected area occurs.

9. BEFORE FINAL INSPECTION, if encroachments into a protected area have been approved, then the biologist shall submit a letter to the Planning Division verifying that the additional protection measures were properly implemented during construction activities.

10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must provide written evidence that all appropriate permits and authorizations have been secured for this project from the Bay Conservation and Development Commission, the California Department of Fish and Game, the Regional Water Quality Control Board, the California Coastal Commission, the California State Lands Commission, the Bay Area Air Quality Management District, and/or the United States Army Corps of Engineers.

11. BEFORE CLOSE-IN INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification prepare and submit written (stamped) Floor Elevation Certification to the Planning Division confirming that the building’s finished floor elevation conforms to the floor elevation that is shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.

12. BEFORE FINAL INSPECTION, the project shall substantially conform to the requirements for exterior materials and colors, as approved herein. Approved materials and colors shall substantially conform to the materials and colors samples shown in “Exhibit A” unless modified by the conditions of approval. The exterior materials or colors shall conform to any modifications required by the conditions of approval. All flashing, metalwork, and trim shall be treated or painted an appropriately subdued, non-reflective color.

13. BEFORE FINAL INSPECTION, the applicant shall install all approved landscaping that is required for the following purposes: (1) screening the project from the surrounding area; (2) replacing trees or other vegetation removed for the project; (3) implementing best management practices for drainage control; and, (4) enhancing the natural landscape or mitigating environmental impacts. If irrigation is necessary for landscaping, then an automatic drip irrigation system shall be installed. The species and size of those trees and plants installed for the project shall be clearly labeled in the field for inspection.

14. BEFORE FINAL INSPECTION, the applicant shall submit a Certificate of Completion prepared by a certified or licensed landscape design professional confirming that the installed landscaping complies with the State of California’s Model Water Efficient Landscape Ordinance and the Landscape Documentation Package on file with the Community Development Agency.

15. BEFORE FINAL INSPECTION, the applicant shall submit written verification from a landscape design professional that all the approved and required landscaping has been completed and that any necessary irrigation has been installed.

16. BEFORE FINAL INSPECTION, utilities to serve the approved development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.

17. BEFORE FINAL INSPECTION, the applicant shall call for a Community Development Agency staff inspection of approved landscaping, building materials and colors, lighting and
compliance with conditions of project approval at least five business days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent reinspections.

CODE ENFORCEMENT CONDITIONS

1. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the development. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant’s control.

2. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant’s control.

3. Within 120 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant’s control.
INTER-OFFICE MEMORANDUM
DEPARTMENT OF PUBLIC WORKS
First Transmittal

DATE: March 30, 2021
DUE: March 30, 2021

TO: Kathleen Kilgariff
FROM: Cara E. Zichelli
APPROVED: [Signature]
RE: Sasan Site Plan Review P3073
ADDRESS: 187 Sacramento Avenue, San Anselmo
AP#: 177-172-20 and - 10

TYPE OF DOCUMENT
X DESIGN REVIEW
___ LAND DIVISION
___ USE PERMIT
___ VARIANCE
___ LOT LINE ADJUSTMENT
___ COASTAL PERMIT
___ ENVIRONMENTAL REV.
___ OTHER:

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

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

Comments Included (Inc.) or
Attached (Att.) from other DPW
Divisions:
___ Traffic
___ Flood Control
___ Water Conservation
___ Other: ____________________

Notes to Planning:

1. Correct Map references: Plan sheet C-2 labels the Sacramento Avenue right of way "Document #2014 RM84". It appears to be an incorrectly identified reference to Record of Survey 2014-84 (RS2014-84). It is recommended that Planning add a condition the approval for Applicant to correct all map references and labels.

2. Fire Protection District review of the plans. It is recommended that the Fire Protection District be included in the review of this application, specifically regarding the road/driveway turnaround design; hydrant placement; minimum water supply requirements (volume, pressure) for fire suppression; turning radii and turnarounds; and weight requirement for the design of the retaining walls supporting the driveway.

MERIT COMMENTS:

1. The project is accessed off a privately maintained section of Sacramento Avenue. Any work in the county maintained portion of Sacramento Avenue shall be located, constructed, operated, and maintained in the time, place and manner that causes the least interference with the public’s use of the public right-of-way as determined by and approved by the Road Commissioner/Director of Public Works. The county maintained portion of Sacramento Avenue was recently paved, and this lower section is currently on the Open Excavations Moratorium List. Any cuts into the pavement on the County Maintained portion of Sacramento will require extensive pavement restoration. Additionally, MCC 24.04.016 indicates that if construction activity, equipment, vehicles and/or material delivery and storage cause damage to any existing facility (e.g., pavement, curb, gutter, sidewalk, landscaping) beyond normal wear and tear, as determined by the agency, then the permittee shall be responsible for the repair of same.

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

Prior to Issuance of Building Permit:

1. Provide a current geotechnical report. NO REPORTS WERE SUBMITTED WITH THIS TRANSMITTAL, P3073. The following comment was offered during Site Plan Review P2522, and still applies: The "Stability Report" shall be prepared by a Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. The report must attest to the suitability and geological feasibility of constructing the extension of the road/shared driveway, placing the home in the proposed building site, and excavating for the retaining walls, and shall identify any drainage or soils problems that the design of the project must accommodate. The report shall also specifically comment on the condition of the drainage gully at the far end of the proposed house, and provide recommendations for construction over this feature. Report should also comment on the condition of the existing improvements along Sacramento Avenue, namely the drainage improvements, constructed driveway/road and retaining walls. Note that a 2015 geotechnical report was provided for a previous Planning application in 2016. The geotechnical engineer may provide a letter to update the 2015 findings, site conditions and recommendations for the proposed project.

2. Geotechnical Review and Acceptance: The plans must be reviewed and approved by the soils engineer. Certification shall be either by his/her stamp and original signature on the plans or by a stamped and signed letter. Certification shall reference plans reviewed, specifying site, structural, and drainage plans with date of drawings, and verify that plans address any recommendations previously offered.

3. Parking: Plot, label and dimension all on-site parking spaces, and dimension clear driveway widths. The spaces shall comply with the dimensional requirement of Marin County Code (MCC) 24.04.380(a) where by the minimum dimensions for head-in exterior parking spaces is 8.5 feet by 18 feet, and interior spaces shall be a minimum of 9 feet by 20 feet. Spaces shall also comply with the slope requirements of MCC24.04.400 (should not be greater than 5% and shall not be greater than 8%). As proposed, plan provides two compliant parking spaces in the garage, which is the minimum required per MCC24.04.340.

4. Site Retaining Walls:
   a. Clarify the proposed heights for all site retaining walls. You will need to apply for a separate Building Permit for each site/driveway retaining wall 4 feet or greater in height, or for any wall that is subject to a surcharge such as a sloped backfill or vehicular load. The total height shall be measured from the bottom of the footing to the top of the wall. If any walls are structurally tied to the dwelling, indicate this on the plans, as these walls will not require a separate permit.
   b. For each retaining wall, provide a cross sectional reference on the site plan which corresponds to a structural detail provided in the plan set.
   c. Submit design calculations for the retaining walls which are 4 feet and greater in height, measured as described above in item a, or which are subject to a surcharge behind wall. Calculations shall be prepared, signed and stamped by the design engineer.
   d. Add a note on the plans indicating that the Design Engineer shall inspect and certify in writing to DPW that each retaining wall was constructed per approved plan and field direction. Certification letters shall reference building permit number or numbers for specific work being certified, the address and the Assessor’s Parcel Number (APN) for the project, and shall be signed and stamped by the certifying professional.

5. Grading & Drainage Plans: Provide a drainage and grading plan prepared by a licensed professional engineer or by a registered architect:
   a. Plan shall provide existing and proposed topographic contours, or a sufficient number of spot elevations, to describe drainage patterns. The proposed project shall maintain existing drainage patterns.
   b. Plan shall show and label all existing and proposed drainage features and improvements. Improvements may include down spouts, footing and foundation drains, area drains and catch basins, piping and out fall structures or means of dispersion. Note that CPC 1101.11.1 requires roof areas of buildings to be drained by roof drains and gutters. Note as well that
CPC 1101.5.6(2) indicates that the point of discharge shall not be less than 10 feet from the property line.
c. Plan shall show surface drainage away from the new foundation in accordance with 2019CBC section 1804.4.
d. The plan shall also incorporate any recommendations from the Geotechnical Engineer.
e. The plan shall tabulate the existing and proposed areas of impervious surface for the property, and demonstrate that there will be no net increase in run off from the developed site compared to pre-existing development.
f. Plan shall show and label the limit of disturbance. Provide the total area to be disturbed and the proposed cut and fill earthwork volumes. Indicate to where off haul will be taken.
g. Indicate means of restoring all disturbed areas.
h. Add a note on the plans indicating that the Design Engineer/Architect shall certify to the County in writing upon the completion of work that all grading and drainage improvements were installed in accordance with the approved plans and field direction. Be aware that a DPW Engineer will need to inspect and accept work after receipt of certification letter. Certification letters shall reference building permit number or numbers for specific work being certified, the address of the property and the Assessor’s Parcel Number (APN), and shall be signed and stamped by the certifying professional.


7. Erosion & Siltation Control Plan:
   a. The applicant shall submit an Erosion & Siltation Control Plan (ESCP) as described in MCC24.04.625 as amended on May 19, 2015 through Ordinance 3631. You may refer to the Marin County Stormwater Pollution Prevention Program’s website, http://www.marincounty.org/depts/pw/divisions/mcstopp/development/during-construction under the tab entitled “Erosion and Sediment Control Plans – with NEW REQUIREMENTS”. The plan shall indicate means of access to areas of new excavation and construction, a stabilized construction entrance, the construction staging area, and means of restoring disturbed areas after construction activities have been completed.
   b. The applicant or contractor shall also complete and submit the Erosion and Sediment Control Plan document (application) available at the link above.

8. Utilities: Provide a comprehensive utilities plan. Show the location of all existing utility service mains, including water, sanitary sewer, gas, electric, and telecommunications. Show the location of all proposed utility laterals from the new structures to existing service mains.

9. Driveway Maintenance Agreement: Provide a draft copy of the driveway/road maintenance agreement. Also, indicate if there is a driveway maintenance agreement for the other two developed lots on this privately maintained portion of Sacramento Avenue. If there is, provide a copy of that document, and indicate how it may need to be amended to include two additional residential home sites.

10. Mailbox: Show location of proposed mail box. Note that mailbox shall be on 4" by 4" wood post or other acceptable break-away material in accordance with United States Postal Service regulations.

END
Inspection Description:

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

Inspection Topics:

Planning/Building 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. If the residence is supplied by a public water supply, contact the local water purveyor (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. Deferred submittal to MCFD.

Fire Hydrants Installed, Tested and Operational.
Fire hydrants shall be installed in accordance with the applicable standard, tested and operational prior to framing.

Status: Condition of Approval
Notes: Provide location, flow/pressure information for nearest fire hydrant.

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 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'.

Status: Condition of Approval
Notes: Turnaround grade was provided in one direction in the submittal. Verify that the grade is less than 8% in all directions for the 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. Deferred submittal to MCFD.

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. These code provisions are enforced by Building & Safety.

Status: Condition of Approval
Notes: See above.

Additional Time Spent on Inspection:

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Dear Kathleen

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

1: Visual Impact
This development, like the previous plans, would be positioned insensitively. The location high on the slope means it would significantly, negatively and irretrievably damage the views of the neighbors and the beauty of the local area. The massive grading and large unattractive retaining walls of the very long driveway make the impact far worse. It would be an eyesore and would be visible not just from the nearby roads and properties, but also from the popular trails in the hills above.

The jarring, ugly development would negatively impact many residents and many visitors, and do so for generations to come. If approved, people would look at this property and ask “How on earth, in the enlightened year of 2021, did the planning department and representatives of the county allow such a monstrosity? Why did they put the short-term, profit-maximizing interests of a property developer above the long-term interests of the environment and voters? How could they be so out of touch with the values of Marin?”

2: Public Right of Way
The development would obstruct a public right of way, a road to my property. With heightened risk of fire, the potential to have an alternate means of exit from my property is even more important than before. Ceding this public right to a private developer is neither justified or necessary. To allow the property to impede the road violates a public right in order to increase a private profit.

3: Other Considerations
I also strongly support the other objections raised by my neighbors, such as the negative environmental impact and fire safety issues of the planned property.

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

The compelling alternative is to build a single property lower down the hill where it is
more out of sight and doesn’t block the public right-of-way. And build it closer to the existing road, therefore requiring less new road and standing walls to be constructed. Please, why not do that instead?

Thank you for your consideration and hard work,

Best regards,

Shaun Church
May 21, 2021

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

RE: Sasan Site Plan Review, P3073

Dear Ms. Kilgariff:

We are writing to express our concerns with the development proposal “Sasan Site Plan P3073” at Sacramento Avenue in San Anselmo, currently under your review. This proposal represents the third attempt by the applicants to site a home on the northern most corner of the property. In doing so, the applicants have once again submitted a nuanced version of the previous proposals, devoid of significant modifications. The applicants are forcing development on the steepest, most exposed and environmentally sensitive section of the site. To that end, the applicants continue to ignore considerable community input and several recommendations from the Marin County Planning Commission and Board of Supervisors. Finally, as with previous applications, the current proposal fails to meet the seminal development standards detailed in the Marin County Code (Title 22, Development Code: Site Plan Review and Discretionary Development Standards) and Marin Countywide Plan.

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

- The proposal fails to meet the requirements for Site Plan Review, including guidelines within the Marin Countywide Plan and Discretionary Development Standards.
• Several biological, environmental and geological factors associated with the property necessitate a truly comprehensive environmental review.

• Planning Staff cannot rely on the applicant’s hired consultants. Staff should seek a truly independent expert to recommend a Stream Conservation Area that is appropriate for the stream elements throughout the property.

• The maps and plans provided by in the application are not consistent with the staking on the property. The applicant is encroaching on their own SCA and the protected trees.

**Site Plan Review**

As described in Development Code 22.52-Site Plan Review several findings must be made in order to meet the standards of approval. This application fails to meet these findings, including those listed separately under Discretionary Development Standards and addressed below.

**22.52.050 D**

“The development would hold ground disturbance to a minimum...”

The current site plan involves excessive grading and excavation at depths of over 15 feet and covering 0.3 acres of the property. A responsible design and proposal, siting the home closer to the current end of Sacramento Avenue would satisfy this guideline.

**22.52.050 E**

“...the site would be adequately landscaped with existing or proposed vegetation at project completion.”

The “landscape plan” included in this proposal entails 3-24” boxes. The excessive roadway extension, driveway and fire truck turnaround traverse the site over 300 linear feet with lengthy retaining walls that are duplicated in places to presumably support the infrastructure. Needless to say the applicant’s “landscape plan” is far from sufficient and unlikely to be maintained.

The property has natural vegetation along the western and northern boundaries. The current siting does not take advantage of this natural screening resource, unlike other homes in the area, including our home at 42 Miwok Drive. Again, a responsible design and proposal, siting the home closer to the current end of Sacramento Avenue and lower on the hillside would satisfy this guideline. Additionally, siting
lower on the property would allow screening of the retaining wall infrastructure, similarly to the homes just east of the current proposal.

**Discretionary Development Standards**

The site proposed in this application fails to meet several fundamental guidelines in the Discretionary Development Standards of the Development Code.

**22.16.030 C.2 Driveways**

“Driveway length shall be minimized...”

Due to the inappropriate siting of the residence the proposal includes over 300 feet of roadway and driveway extension. Siting the home closer to the currently paved portion of Sacramento Avenue would minimize the excessive driveway length significantly.

**22.16.030 D.1 Clustering requirement**

“Structures shall be clustered in the most accessible, least visually prominent, and most geologically stable portions of the site...”

“Clustering is especially important on open grassy hillsides...”

“The prominence of construction shall be minimized by placing buildings so that they will be screened by existing vegetation, rock outcroppings or depressions in topography.”

The proposal has failed to meet each of these descriptions and goals. The home is sited on the steepest, most remote location of the property (Attachment 1). Thus, the homes visual prominence and significant negative impact on the neighboring properties is exacerbated. Additionally the home faces directly into existing homes along Miwok.

A site at a lower elevation, oriented towards the Mt. Tamalpais view corridor, similarly to the existing homes on Sacramento Avenue, and closer to the current terminus of Sacramento Avenue would accomplish the clustering requirement standards.

**22.16.030 D.2 Development near ridgelines**

“...locations that are the least visible from adjacent properties and view corridors.”
As detailed above, the current site maximizes the developments visibility and completely disrupts neighboring view corridors. The development imposes significant negative impact on the neighbors’ quality of life, which could be mitigated by responsible siting of the home.

22.16.030 J.1 Grading

“Grading shall be held to a minimum”

The grading and excavation associated with this project is obscene and unacceptable. Again, had the proposal chosen a different site on the property, grading would be minimized. The applicant contends that grading has been significantly reduced when compared to the last proposal. However, at nearly 1300 cubic yards, the excavation far exceeds any reasonable, thoughtful development proposal. Furthermore, this scale of earthwork is consistent with the previous 187 Sacramento LLC Design Review application from 2016, a degree of grading that was deemed excessive by the Board of Supervisors.

22.16.030 J.2 Drainage

“Impervious surfaces shall be minimized.”

The applicant proposes to introduce nearly 12000 square feet of impervious surface. The rainwater runoff associated with coverage of this magnitude is beyond significant. Further, this runoff in combination with the steep slope (Attachment 1), inherent slope instability (Attachment 2) and proximity to streams will inevitably lead to considerable land erosion and property damage to neighbors further downstream.

22.16.030 J.3 Trees and vegetation

“...avoid tree removal, or changes or construction that would cause the death of existing trees, rare plant communities, and wildlife habitats.”

The applicant is proposing to site the home amongst the few protected trees on the property and near a large heritage oak just across a property line. Despite assurances from the applicant, these trees will almost certainly be damaged during the course of construction.

The development plan severs wildlife corridors throughout the open hillside and encroaches on the riparian habitats associated with the northern stream elements.

22.16.030 J.5 Geological hazards

“Construction shall not be permitted on identified seismic or geological hazard areas such as on slides...”
The property does not meet the Development Code’s slope stability standards, lying entirely within zone 4 (Attachment 2). Furthermore the proposed building site is on the steepest most susceptible corner of the property (Attachment 1).

**Environmental Review**

The scope of the proposed development, including both the residence and the lengthy extension of Sacramento Avenue, combined with the natural characteristics of the property, is extensive. Here are some of the key factors:

Development Scope:

- 300 feet of roadway/driveway extension across the steep hillside
- Extensive grading and excavation
- Impermeable surfaces of nearly 12000 square feet
- Lengthy network of retaining walls
- Siting the home amongst the only significant cluster of protected trees and near the largest network of drainage channels

Environmental constraints:

- Greater than 40% average slope throughout the property
- Fails to meet slope stability standards, entire property located within slope stability zone of 4 (Attachment 2)
- Mapped ephemeral and intermittent streams surrounding the property on 3 sides
- Identified native grasslands
- Riparian habitats and wildlife corridors
- Protected trees

Previous applications have been awarded a CEQA exemption. CEQA clearly delineates exceptions to exemptions, including unique circumstances and cumulative impact, which are applicable to this development proposal. Any one of the environmental factors listed is of significant concern. It is difficult to imagine another scenario were such a comparable accumulation of factors exists on a single property.

**Stream Conservation Area**

Following the Planning Commission hearing of July 20, 2020 we contacted Wetlands Research Associates (WRA) of San Rafael, to conduct an independent, expert
assessment of the streams on the property and review the applicant’s initial bioassessment, produced by LSA Associates. In summary, the WRA report, submitted separately, provided a detailed description of the stream elements and recommended a Stream Conservation Area (SCA) of 50 feet from the edge of the riparian canopy for both the western and northern streams. This SCA was consistent with the setback recommended by LSA Associates with regards to the western stream, while also acknowledging the significance of the upstream elements along the northern boundary that LSA Associates chose to disregard.

In the current proposal the applicant has once again been allowed to draw a SCA that accommodates their plans. In the previous application, a SCA of 50 feet from the riparian canopy edge was proposed along the western stream, although the extensive stream network on the northern boundary was completely ignored and disregarded. When questioned about the proposed SCA, the County planner informed us that as a general policy the Planning Division was requiring SCA’s of 50 feet from the edge of the riparian canopy not from the top-of-bank (TOB). This policy was justified by guidance provided in the Marin Countywide Plan, BIO-4.1, which states, “Regardless of parcel size, an additional buffer may be required based on the results of a site assessment.”

In the current proposal, the applicant now acknowledges both the mapped northern and western streams but has now conveniently reduced the SCA to 50 feet from TOB. This reversal of the SCA has been made in order to accommodate their development, in lieu of significant environmental concerns and it appears the Planning Division is willing to accept the change in order to placate the applicant.

Initially, First Carbon Solutions in Walnut Creek and based in Irvine seemed like an odd choice given the location of the project. Why did the applicant need to seek out a biologist from Walnut Creek? Eric Lichtwardt from LSA Associates prepared the original bioassessment for the applicant’s last proposal. A quick Internet search reveals that the current biologist, Bernhard Warzecha, was in fact a Senior Biologist at LSA Associates prior to his relatively new position at First Carbon Solutions. Obviously we are not privy to the applicants’ relationship with LSA Associates and Eric Lichtwardt. However, the original assessment provided by Mr. Lichtwardt was lacking and suspect at best. To now rely on a “second opinion” from the same firm is inadequate and unacceptable.

The Marin Countywide Plan, BIO-4.g Require Site Assessment, clearly advises, “Unless waived, the qualified professional shall be hired by Marin County. The site assessment shall be paid for by the applicant...” As witnessed in the previous application and outlined above, the applicant abused the privilege to seek out an independent expert. County Staff should follow the recommendations outlined in the Countywide Plan and hire a professional, capable of providing an independent and thorough assessment of the environmental constraints on the property.
Finally there is clearly a difference of opinion on the Stream Conservation Area. Moreover, the applicant seems bound to some relationship with LSA instead of seeking truly independent experts. The Planning Division should revisit the scope of the SCA as part of a broader assessment of the environmental constraints throughout the property.

**Biological Constraints and Stakes**

The applicant asserts that the current application provides additional survey information with regards to the mapped streams, SCA and protected trees. A detailed topographical map generated by BKF was provided as part of the initial document posted on the project’s website (Attachment 3 and First Carbon Peer Review, Attachment A). Of note, BKF drew very distinct boundaries outside the streams and surrounding the protected trees labeled as “Limits of Survey” and dated accordingly. This appears to remove BKF from any controversies surrounding the SCA and the siting of the residence. Curiously this particular map has been subsequently removed from the latest version of the plans on the website.

Instead of relying on the BKF survey, the applicant appears to have taken the liberty of sketching their version of the protected tree drip lines, compare the attached topographical map from BKF to the “Site and Staking Plan, A1.0.” Additionally despite the mapping stakes now on the hillside are within the canopies of the protected trees, among others: S33 (Attachment 4) and under the majestic oak just off site. As presented the development site is encroaching on the protected trees and the applicant has no intention of respecting and preserving them.

Several elements of the current application rely on the SCA recommended by First Carbon Solutions, specifically the map “Exhibit 1, Biological Constraints” in the Peer Review document. This map includes clear outlines of not only the streams and SCA, but also the inner unmapped drainage channel, labeled as “Non-Wetland Swale.” Of note, the recommended SCA (red line) is clearly distinct and removed from this unmapped channel (light gray line). However, the applicant has not sited the home with respect to these clearly defined boundaries. As the attached photo illustrates, stakes S39, S40 and S41, based on the staking plan, are all within the unmapped channel (Attachment 5) and as such roughly 10-12 feet north of the recommended SCA.

In summary, the applicant has prioritized siting their desired development over respecting the true biological constraints on the property. This tactic is nothing new. Previous projects granted approval to the applicant, including the “Dominican Townhouses” at 1200 Irwin Street in San Rafael, 760 Bay Road in Mill Valley and the West Branch of the Berkeley Library, are a few examples. In each case the applicant agreed to specific plans only to subsequently modify the final development in a “build first, ask for forgiveness later” fashion. The final “Dominican Townhouses”
development included several design, material and color changes that were inconsistent with the approved plans. The applicant managed to kill a 70-foot redwood tree that was specifically highlighted for preservation as a centerpiece for the Berkeley Library. As noted above the plans are inconsistent with the actual footprint of the development as presented and already it is evident that the applicant is driving the narrative as they see fit.

In the interest of time, we are submitting these initial concerns regarding the application. These concerns are significant and the development proposed not only fails to meet the County’s standards of responsible planning, it also poses a significant negative effect to our neighborhood’s quality of life. The neighbors have repeatedly offered a compromise to the applicant, an alternative building site that mitigates nearly every concern raised by not only our group of neighbors but the Planning Commission and Board of Supervisors.

Thank you for your time and consideration.

Regards,

Brandon and Melissa Sullivan
Slope Stability Map

This map is a user-generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT SURVEY ACCURATE

Legend
- Condominium Common Area
- Mobile Home Pad
- City
- Community
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay
- Address
- Parcel Secured

CGS_slope_stability_12k
- High: 254
- Low: 0

Notes

Attachment 2
Kathleen,

Please find attached 3 documents relevant to the current Sasan Site Plan Review:

1. Stream Review provided by biologist Phil Greer of Wetlands Research Associates in San Rafael
2. Map that I generated to accompany the stream review
3. Letter from the Friends of Corte Madera Creek

Have a good weekend,
Brandon
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,

Philip Greer, MA PWS
Principal Biologist
March 13, 2020

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

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

Dear Commissioners,

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

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

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

We recommend expanding the biological assessment to include a review of potential hydrological and geological impacts associated with this development project based on the very steep slope, proximity to mapped wetlands and streams, and the significant amount of grading proposed for this project (2,063 cubic yards). Furthermore, construction of any kind should not be allowed to encroach into any waterway, including the unmapped, un-vegetated drainage running east to west in the northern area of the site.
March 13, 2020

Friends of Corte Madera Creek Watershed
Letter re: 187 Sacramento Avenue Appeal
Page 2 of 2

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

Sincerely,

Sandra Guldman, President
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

The California Fire Code: Fire Safety in the Golden State

Part 9 of Title 24 is known as the California Fire Code. By establishing minimum requirements, the code, “safeguards the public health, safety and general welfare from the hazards of fire, explosion or dangerous conditions, […] and provides safety and assistance to fire fighters and emergency responders.”

Fire safety is no minor concern for modern-day Californians. Six of the ten most destructive fires in California’s history occurred within the last decade, and the Camp Fire in late November of 2018 cost the State a reported $16.5 billion. And to make matters much worse - and further stressing the State’s limited fire protection resources - Marin County Board of Supervisors President Dennis Rodoni recently declared that in 2021 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 Board of Supervisors, 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 being considered, known as “Sasan Plans 4.15.21, fails 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 have been met, especially during this era of firestorms and 200 year drought, this project cannot responsibly move forward and be approved.

Sincerely,

Peter Pursley, Owner - 2 Carmel Way, San Anselmo - Email: 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.**
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. Turnarounds are required at the END of driveways over 150 feet long in WUI. **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)

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

(Non-compliant - project turnout is 55’)

MARIN COUNTY FIRE DEPARTMENT
MARIN COUNTY, CALIFORNIA

Kenneth Massucco
FIRE CHIEF

Committed to the preservation of life, property, and environment.

A Vegetation Modification & Maintenance Site Plan is required for projects located within the wildland-urban interface. The plan shall be submitted to the Marin County Fire Protection District for review and approval. The plan shall include a description of the vegetation to be removed or modified, the methods to be used for vegetation modification, and any necessary permits or approvals.

Determination of minimum Defensible Space Zones will be made by the Fire Protection District. The level of protection required will be based on the specific conditions of the property and the surrounding area.

The minimum defensible space requirements include:

1. The minimum defensible space requirement is 30 feet for driveways less than 150 feet in length.
2. The minimum defensible space requirement is 40 feet for driveways 150 feet or longer.
3. Annual maintenance required to plan specifications

The purpose of these requirements is to reduce the potential for fire spread and ensure that the property is prepared for fire protection.

Water Requirements

The minimum water supply requirement for projects located within the wildland-urban interface is 3000 gallons plus 2000 gallons dedicated to automatic fire sprinklers (if required) and domestic water. The water supply must be installed prior to framing.

The minimum storage requirement for the fire protection water supply will be determined based on the building permits, site improvements, and required site improvements. The fire protection water supply must be installed prior to framing.

If a private, on-site water supply is installed, a fee in an amount up to and including 5% of total building construction cost may be charged for the purpose of upgrading existing municipal fire flow. The fire protection water supply exceeds 10% of the total construction costs (based on the building permit valuation and required site improvements) may be permitted.

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Intersection of Sacramento Ave and Carmel Way Street View
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 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”
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
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
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!
May 21, 2021

TO: Marin County Planning Division
Kathleen Kilgariff
RE: Sasan Site Plan Review, Project P2522
Hearing Scheduled March 26, 2020

Ms. Kilgariff:
We are writing in regards to the proposed development as sited above. Our home is located between the Sullivan Residence and the Herr/McKillop Residents. We would like to briefly address our continued concerns. While not as detailed as stated by our neighbors; we support every issue brought forth.
Our concerns are as follows:
The visual impact imposed on us will effect our quality of life (not to mention many months of construction). While we do not expect to be completely shielded from the new construction, given the scope of development: the home, roadway, driveway, fire truck turn around, retaining walls that is all exposed and devoid of responsible planning-goes too far. We are also very concerned with the environmental impact and the possibility of further development.

As stated in our March 2020 letter: Following the Planning Commission hearing in 2017, our group of neighbors reached out to the applicants with a development proposal that centered on moving the building site in a southwesterly direction on the property.

This site would minimize, if not completely remove, all of the impediments associated with the current location. Our proposal addresses all of the recommendations set forth by the Planning Commission and the Board of Supervisors regarding the applicants' previous proposal. Our proposal has numerous environmental, visual and privacy benefits:
• Sites the house lower on the hillside, more than 100’ below the visually prominent ridge line and low enough for riparian trees to provide screening;
• Should not require removal of any trees and prevents construction from being forced into close proximity with existing protected trees;
• Shortens the extension of Sacramento Avenue and driveway;
• Minimizes grading and excavating;
• Significantly reduces impervious areas and resulting volumes of runoff;
• Minimizes the extent and height of retaining walls;
• Avoids the steepest, most exposed areas of the property;
• Allows for house to be oriented towards Mt. Tam;
• Retains important wildlife corridors;
• Removes building from drainage channel;
• Preserves public access.

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

We ask that you deny the current proposal.

Respectfully,
Richard M. Block
Vicki Crane Block
A planning department that appeases developers at the cost of environmental damage and increased danger from wild fires without regard to existing property law and safety regulations does not serve the residents of Marin. Each iteration of the Sacramento Ave plan is unaffected by previous rejections by hearing boards. The complaints by residents, independent environmentalists, experts on fire and safety as well as the Planning board and the Board of Supervisors are ignored. After each rejection Sasan/Thompson return with new plans that do not address the matters that caused the previous rejection. I ask that this time you not just go along with the developer but demand compliance with the law and regulations.

Sent from my iPad
Dear Ms Kilgariff,

I am sorry we all find ourselves in this absurd situation again. I think our neighbors have stated very clear and important objections to the site plan as re-drawn. We note that despite the willingness of all our neighbors to accommodate some construction here, none of our objections - whether as to fire safety, care for the environment, or public right of access - have been addressed. Until they are, we will continue to object.

Thank you.
Roz Schneider
53 Miwok Drive
May 21, 2021

Delivered by email

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

Re: Opposition to Sasan Site Plan Review (P3073)

Dear Ms. Kilgariff,

We are writing to oppose the application for construction of a new residence on a vacant lot, (Parcels 177-172-20 and 177-172-10) at 187 Sacramento Ave in unincorporated Marin County, near San Anselmo. Despite minor revisions of previous proposals made by the applicant, this project would impose unacceptable visual impact, grading disturbance, environmental impact, and degradation of the quality of life to our neighborhood.

Our main concerns are:
• The proposed development fails to meet all Site Plan Review requirements
• The proposed development blocks the public right of way with a fire truck turn around supported by tall retaining walls
• Allowing encroachment onto the public right of way encourages the exact type of development the Code is designed to prohibit
• The project should not be exempt from CEQA
• Another option exists that reduces negative impacts

THE PROPOSED DEVELOPMENT FAILS TO MEET SITE PLAN REVIEW REQUIREMENTS

Section 22.52.050 of the Development Code states that in order for this project to be approved all Site Plan Review requirements must be met. These requirements specify that:
1. **Ground disturbance must be held to a minimum** and every reasonable effort must be made to retain the natural features of the area, such as skyline and ridge tops, rolling land forms, knolls, significant native vegetation, trees, rock outcroppings, shorelines, streambeds and watercourses.

This project entails disturbing a significant portion (0.3 acre) of the site. Over 1,200 cubic yards of soil will be excavated. Clearly this project entails substantial ground disturbance.

Rather than preserving watercourses, current survey stakes on the northern edge of the proposed structure indicate that the building will encroach directly into a significant drainage channel on the northern side of the property (see photo, attachment C). Furthermore, recent stream assessments by WRA Environmental Consultants and The Friends of Corte Madera Creek (submitted to your office today by Brandon Sullivan) indicate that both the western and northern sections of the West Fork of Sorich Creek which run adjacent to the subject property have similar biological and physical characteristics, and should be treated the same with respect to the designation of Stream Conservation Areas (SCAs). The SCA boundaries should be drawn from the riparian canopy edge, rather than from the top of stream bank, as currently indicated. If appropriate SCA boundaries are applied, the current location of the proposed house is within the protection zone of the northern branch of the creek, and is therefore unacceptable.

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

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

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

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

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

This project involves constructing a 185 foot long driveway plus a 136 foot extension of Sacramento Ave (321 feet in total) across an unstable and very steep hillside (40% slope). The unnecessary driveway and road lengths, and associated environmental impacts, could easily be eliminated by simply locating the project closer to the existing paved portion of Sacramento Ave.

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

The applicants have selected a building location on the steepest area of the lot, located the farthest distance away from the developed end of Sacramento Avenue. This location maximizes visual and privacy impacts to the surrounding neighborhood, and is inconsistent with recommendations of the Marin Countywide Plan with respect to placement of new construction on hillsides. The proposed location for this house encroaches on an existing drainage channel on the northern side of the property, and is at a higher elevation than almost all of the neighboring homes. Neighbors who attended the meeting on February 24, 2016 provided feedback to the applicants that the placement of a house lower on the hillside to minimize impacts to the surrounding neighborhood would be more favorable. This feedback continues to be ignored.

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

Regardless of the materials and colors selected, it will be challenging to blend a house in this location into the natural environment unobtrusively.

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

The project proposes severe cuts across the open hillside and installation of an extensive network of concrete retaining walls, up to 6 feet in height, at sharp angles of intersection with the natural terrain. Construction of the proposed development will entail a major alteration of the existing terrain. Environmental impacts from grading and installation of impervious surfaces could be greatly reduced by locating the project closer to the developed end of Sacramento Avenue.

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

The stated area of 11,675 sq. ft. of impervious surfaces (home + roadway + fire truck turnaround) would significantly increase rainwater runoff from the hillside. During a large rainstorm, this amount of new impervious material could produce sufficient runoff to overwhelm the proposed drainage level spreaders. Such a major influx of new runoff would likely cause serious erosion and siltation problems for the creek and could potentially damage the property and homes of downstream residents: the homes at 100 Pasadena Ave and 37, 41, 45, and 49 Salinas Ave all have the West Fork of Sorich Creek running directly through their yards, and very close to their houses.
J3. Trees, Vegetation and Wildlife Habitats: *Every effort shall be made to avoid tree removal, or changes or construction that would cause the death of existing trees, rare plant communities, and wildlife habitats.*

The neighboring parcel directly to the east contains a mature stand of native deciduous oak trees and a huge heritage oak growing only 5 feet from the property line. Given the close proximity to proposed construction, it is highly probable that this magnificent tree could be damaged, as its canopy and root system extend well into the parcel proposed for development. Current survey maps show the drip line of this heritage oak to be overhanging the eastern edge of the proposed structure. Excavation required to construct the eastern wall of the home would most certainly impact the root zone of this heritage oak. Similarly, the protected live oaks and buckeye trees in the center of the site are located adjacent to portions of the building, and will undoubtedly experience significant impacts to their root systems.

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

Neighbors have raised serious concerns about the extreme fire danger in this area and the increased risk created by additional development, which will add congestion and further impede emergency egress on the narrow streets in the adjacent neighborhood.

If the County allows this project to block the public right of way, an effective means of escape for neighboring properties or alternate access point for firefighting is eliminated. This is especially important with regard to the house at 62 Miwok Drive (APN 177-171-04) where access is very limited due to the steep canyon walls behind it.

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

The proposed residence encroaches on a deep drainage channel with geologic properties very similar to the section that slid into the creek in 2017 (Attachment A). As pointed out in 2016 by the San Anselmo Planning Director, unstable areas within the proposed development site have been previously documented (Attachment B). The geotechnical report submitted by the applicant uses old survey data prepared for a previous proposal, and may not accurately reflect the true slope stability of the current proposed building.
site. No details are provided as to what physical measurements were taken (if any) by the geotechnical engineers on their more recent cursory site visit.

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

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

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

In a 2016 letter to the County Planning Division, the Town of San Anselmo Planning Director raises numerous concerns with any plans that block public access, stating that “the Town objects to fencing and gates on any trails, roads and rights-of-way that may ‘wall in,’ and preclude access to existing and future pedestrian trails” (Attachment B). The San Anselmo open space conservation planning area map contained in the San Anselmo General Plan identifies Sacramento Avenue as a "street used as a trail". The proposed fire truck turnaround and associated 6 ft. high retaining walls would completely block the public access to the Sacramento Avenue right of way.

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

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

**DES-4.1: Preserve Visual Quality**

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

If the County allows the applicants to construct a huge fire truck turnaround with retaining walls up to 6 feet in height across the public right of way, our home value and quality of life will be negatively impacted. Any construction in the public right of way should be absolutely prohibited.

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

**DES-4.a: Protect Key Public Views**

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

**DES-4.c: Regulate Mass and Scale**

The mass and scale of the proposed development does not respect environmental site constraints or the character of the surrounding neighborhood. The extensive retaining walls and long driveway/roadway magnify the mass and scale on the open hillside. The upslope location compounds this effect. The proposed home’s size of 4,035 sq. ft. (3,495 sq. ft. home plus 540 sq. ft. garage) is much larger than houses in the surrounding neighborhood, many of which are tucked away from street view and shielded with mature vegetation. Analysis of 45 properties within a 600 foot radius of the proposed development shows an average home size of approximately 2,400 sq. ft. and an average garage size of approximately 450 square feet. As such, the building size of the proposed project is more than 1.4 times larger than the average building size in the surrounding area.

**THE 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. The retaining walls of the proposed fire truck turnaround and residence driveway will block the public right of way and prevent the paper road from being utilized for vehicular egress in the event of wildfire. If the house were instead
located where the neighbors proposed (below the paper road and to the south), un-impeded access along the paper road would be preserved.

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

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

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

THIS PROJECT SHOULD NOT BE EXEMPT FROM CEQA

The current proposal involves much more than the construction of a single house. It includes extending Sacramento Avenue 136 feet, constructing a 185 foot driveway with numerous large retaining walls up to 6 feet in height, and significant grading. An initial study should be performed under the California Environmental Quality Act, especially given the very steep slope, nearby creek, numerous unusual circumstances and the fact that an initial study was required when the two most recent homes were constructed at the end of Sacramento Avenue in 2002, on a steep hillside with properties very similar to the site in question.

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

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

ANOTHER OPTION EXISTS THAT REDUCES NEGATIVE IMPACTS

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

Soon after the Planning Commission hearing on June 12, 2017, our neighborhood group proposed a mutually beneficial development option to the applicants. This option involved locating a single house below the public right of way, closer to the paved end of Sacramento Avenue by merging the three parcels that comprise the site, as requested by the Planning Commission. Unfortunately, the applicants rejected this option, preferring to stick with their chosen location that maximizes negative impacts. There is no reason the current project can’t be moved to the southern end of the lot, below the paper road.

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

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

The current proposal raises serious concerns and should be rejected.

Sincerely,

Robin McKillop and John Herr

ATTACHMENTS:
A. Letter from John Herr and Robin McKillop to CDA, January 16, 2017
B. Letter from Elise Semonian, Town of San Anselmo Planning Director, to CDA, August 22, 2016
C. Site photo taken 3/21/2021 showing survey stakes at northern edge of structure encroaching into significant drainage channel.
January 16, 2017

Delivered by email

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

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

Dear Mr. Havel,

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

Fig. 1. New landslide at 187 Sacramento Ave sent soil and debris in to West Fork Creek below.
Fig. 2. Top portion of slide, below steep hillside development site. Measuring tape = 10 feet.

Fig. 4. The West Fork of Sorich Creek, completely blocked by slide debris.
This new landslide indicates the potential for fundamental instability of the entire steep hillside currently proposed for development. The proposed residence straddles a deep drainage channel with geologic properties very similar to the section that just slid into the creek. As pointed out by the San Anselmo Planning Director, unstable areas within the proposed development site have been previously documented (E. Semonian letter to County Planning Division, August 22, 2016). The geotechnical report submitted by the applicant uses old survey data prepared for a previous proposal, and may not accurately reflect the true slope stability of the current proposed building site. Furthermore, long sections of the hillside south of the building site show signs of previous landslides, and this area is proposed for road development by the applicant.

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

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

Thank you for consideration of our concerns.
August 22, 2016

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

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

Dear Mr. Havel:

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

Our primary concerns with the project are maintaining trail access and potential pedestrian paths and trail access for open space. The Town General Plan policies support providing residents with access to open space areas. Sacramento Avenue, as shown on the Short Ranch Subdivision Two (Book 4, Page 22), is identified as a “proposed trail right of way” on the Town Conservation and Trail map, attached. The project proposes development on Sacramento Avenue and the 1/2 acre parcel east of Sacramento Avenue (an area that does not appear on Short Ranch Subdivision Two). Creating a private parking spot, tall upslope and downslope walls, guardrails, and significant fill, essentially fences off and cuts off street access to Sacramento Avenue to the public or anyone in the Short Ranch Subdivision Two, who may have legal access over it.

Please require the applicant to submit a survey that identifies all lots, the location of all rights-of-ways, easements, and existing trails/roadways on the site, not just topographic information. There appears to be a lot of information missing from the topographic map, such as monuments referenced in most other surveys of the area. A 2013 recorded survey shows a second right of way on the site that is not shown on the site plans or topographic survey. There is clearly a road or path running across the site on aerial photos that is not shown on the topographic map. Does the County know if this road/trail runs through the Sacramento right-of-way or the “adjusted” Sacramento right of way?
Can the County provide the Town with information on the legal status of Sacramento Avenue and "Sacramento Ave. as relocated," which is not shown on the plans? Has there been any action to quiet title or extinguish the rights of all of the property owners in the Short Ranch Subdivision Two (including the Town) to the Sacramento Avenue right-of-way? Has the County relinquished its interests in the right-of-way? Does the public have access over the "relocated" right of way? Parcel 177-172-20 was not a part of the Short Ranch Subdivision Two. Has there been a determination that the development area has legal access to the Sacramento Avenue right of way?

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

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

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

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

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

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

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

Thank you for considering our questions and comments.

Sincerely,

Elise Semonian
Planning Director
Dear Kathleen,

We have reviewed the public comments relative to our Site Plan Application for a single family residence at 187 Sacramento Ave. Among these comments is a letter prepared by WRA dated 10/22/20 which specifically addresses the Stream Conservation Areas and setbacks.

We believe that further clarification is warranted on this topic, so we are submitting a letter prepared by FCS dated 6/23/21 which is attached for your review. In addition to the clarifications made in this letter by Senior Biologist Bernhard Warzecha, we have an additional point of information and would like to point you to Exhibit 1 attached hereto.

The yellow line on Exhibit 1 represents a 50’ setback from edge of riparian canopies, which greatly exceeds the 50’ setback from TOB that is required in County Code. As Exhibit 1 illustrates, such an overly restrictive constraint would effectively prohibit any development on the site.

Sincerely,

Casey Clement

Development Manager

Thompson Development, Inc.
5400 Hanna Ranch Road
Novato, CA 94945
415.456.8972
June 23, 2021

Casey Clement, Development Manager
Thompson Development, Inc.
5400 Hanna Ranch Road
Novato, CA 94945

Subject: Stream Conservation Area (Setback) Evaluation for 187 Sacramento Avenue (APN 177-17209, 10, 18, and 20) Property, Marin County, California (BSA)

Dear Ms. Clement:

Per your request, FirstCarbon Solutions, Inc. (FCS) reviewed WRA’s 187 Sacramento Ave, San Anselmo Stream Review (dated October 22, 2020; attached), as it relates to 187 Sacramento Avenue Project (proposed project) and the ongoing discussion about the appropriate size of creek setbacks, which are defined as a “Stream Conservation Area” (SCA) in both the Marin Countywide Plan Marin Countywide Plan¹ (CWP), as well as the Land Owner Resource Guide for Properties Near Streams² (Marin Stream Guide).

For context, it appears that all involved parties are in agreement as to which drainage features on site require an SCA. These features are shown on Exhibit 1 (attached). However, it appears that confusion has arisen regarding the required stream setback/SCA. Accordingly, this letter provides FCS’s perspective regarding the appropriate stream setback, based on our review of the CWP guidance as well as our understanding of conditions in the field based on a site assessment.

Both the CWP and the Marin Stream Guide require a setback of 50 feet from top of bank (TOB); the guidance does not direct that the measurement be made from the outer woody riparian canopy dripline. Both the CWP and the Marin Stream Guide indicate that a larger setback than 50 feet from TOB may be required, if needed, to avoid impacts to “woody riparian vegetation and to consider site constraints, presence of other sensitive biological resources, options for alternative mitigation, and determination of the precise setback.” (CWP; BIO-4.1 Restrict Land Use in Stream Conservation Areas; 2.4-23).

Based on FCS’s review of the project plans and site-specific field conditions, the proposed project (including the 50-foot setback from TOB) would avoid impacts to riparian vegetation and sensitive biological resources, and thus a larger setback than 50 feet does not appear to be warranted.

WRAs’ Stream Review letter (WRA letter) contends that the development setback from the TOB of the ephemeral and intermittent streams on site should be a minimum of 50 feet and notes that “considering

the steep slopes and erodible bed and banks of this stream, a setback of 50 feet from the riparian canopy [emphasis added] would be appropriate to protect stream and riparian resources.”

Although WRA briefly mentions erodibility and steep slopes as the reason for a setback extension, WRA does not offer an analysis or substantial evidence of why the erodibility and steep slopes would require extending the setback based on the riparian canopy cover instead of the TOB. The WRA letter does not present a reproducible correlation between erodibility and the arbitrary extension of the setback (by up to 100%) based on riparian canopy cover (instead of TOB).

In fact, it is scientifically established that erodibility decreases with the presence of woody riparian vegetation as tree and shrub root systems hold riparian soils in place, e.g., see Rood et al., Biological bank protection: Trees are more effective than grasses at resisting erosion, Ecohydrology. 2014; and the Napa County Stream Maintenance Program Manual. On this basis, the recommendation to extend the setback based on the presence and extent of riparian canopy (i.e., presence of woody plant root systems) appears unsubstantiated, if not counter to established science. Moreover, FCS’s evaluation of the proposed project in light of the site-specific conditions indicate that the proposed project would avoid all impacts to riparian vegetation.

Furthermore, WRA mentions “steep slopes” as a reason to extend the SCA based on the riparian canopy cover instead of TOB. However, no rationale or analysis is provided demonstrating how these two factors are related on the property and how their interaction would result in a specific quantitative result of 50 feet setback from canopy cover. No definition or measure of “steep” is provided. Slopes vary throughout the property; however, WRA’s recommended setback extensions do not vary accordingly, indicating that no specific analysis of slope steepness and the consequences for a potential setback extension were conducted.

In conclusion, it appears that WRA’s recommendation to extend the setback or SCA to 50 feet from the riparian canopy cover (instead of TOB) appears unsupported by the evidence presented. Because the Project will not result in any impacts to riparian vegetation, and 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.

Sincerely,

Bernhard Warzecha, Senior Biologist
FirstCarbon Solutions
1350 Treat Boulevard, Suite 380
Walnut Creek, CA 94597

Attachment A:  Exhibit 1: Setbacks – 50 feet from TOB and 50 feet from Riparian Canopy
Attachment B:  WRA’s 187 Sacramento Ave, San Anselmo Stream Review
Attachment A:
Exhibit 1: Setbacks – 50 feet from TOB and 50 feet from Riparian Canopy
Exhibit 1
Stream Conservation Area Evaluation
June 18, 2021

Source: BKF | Polsky Architects
Attachment B:
WRA’s 187 Sacramento Ave, San Anselmo Stream 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 is 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,

Philip Greer, MA PWS
Principal Biologist
Exhibit 1

Stream Conservation Area Evaluation
June 18, 2021