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**Environmental Planning**  
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**2008 EASTON POINT  
RESIDENTIAL  
DEVELOPMENT**

*Rezoning  
Master Plan  
Precise Development Plan  
Tentative Subdivision Map*

***Final Environmental Impact  
Report***

***Response to Comments to the  
Draft Environmental Impact  
Report***

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*MARIN COUNTY*

*State Clearinghouse No. 2009012010*

*JUNE 2013*

# **2008 EASTON POINT RESIDENTIAL DEVELOPMENT FINAL ENVIRONMENTAL IMPACT REPORT 9.0 RESPONSE TO COMMENTS DOCUMENT**

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## **9.0 COMMENTS AND RESPONSES**

## 9.0 COMMENTS AND RESPONSES

### 9.1 INTRODUCTION TO THE COMMENTS AND RESPONSES

This Final Environmental Impact Report (Final EIR) contains the public and agency comments received during the public review period on the *2008 Easton Point Residential Development Draft EIR* (Draft EIR). This document has been prepared by the Marin County Community Development Agency in accordance with the California Environmental Quality Act (CEQA).

This Environmental Impact Report (EIR) is an informational document intended to disclose to the Marin County Planning Commission and Board of Supervisors, other decision makers, and the public the environmental consequences of approving and implementing the *2008 Easton Point Development* project.

Marin County prepared and on March 10, 2011 circulated the Draft EIR on the proposed *2008 Easton Point Residential Development* project. During the public review period from March 10, 2011 to April 29, 2011 comments on the Draft EIR were solicited from governmental agencies and the public. The Marin County Planning Commission conducted a public hearing to receive public comment on April 25, 2011.

All oral comments made at the public hearing on the Draft EIR held by the Marin County Planning Commission on April 25, 2011 and all written comments received during the 51-day public review period are addressed in this Final EIR.

This Final EIR consists of two volumes: the *Response to Comments to the Draft Environmental Impact Report* (this volume), and the *Draft Environmental Impact Report* of March 2011.

The governmental agencies, organizations, and individuals who commented on the Draft EIR are listed in **Section 9.2 Persons Commenting**.

**Section 9.3 Master Responses** provides master responses that have been prepared for selected comment topics to provide a comprehensive analysis of major environmental issues raised in multiple comments. These master responses are often referred to in the response to individual comments in section 9.4.

**Section 9.4 Responses to Comments** presents and responds to all comments on the Draft EIR and the project's environmental effects. The original letters are reproduced, and comments are numbered for referencing with responses. Responses to individual comments raising significant environmental points are presented immediately after each comment letter. Section 9.4 also includes comments made orally at the public hearing with responses presented immediately following the transcript of the meeting.

Comments received on the Draft EIR can generally be classified into one of three categories. These categories are as follows:

1. **Project Merits / Process Comments** -- These comments do not pertain to physical environmental issues but pertain to the merits of the project or to comments on the County's review process. These comments are included in this document although responses to these

comments are not necessary. Inclusion of these comments will make the commentor's views available to public officials who will make decisions about the project itself.

2. **Commentor Opinion** -- These are comments from commentors that either support or disagree with the conclusions of specific information included in the Draft EIR. Although a commentor may hold a different opinion than the information provided in the Draft EIR, these comments do not, however, focus on the adequacy of the Draft EIR. Section 15151 of the *State CEQA Guidelines* states that an EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Furthermore, disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts.

In light of section 15151 commentor's opinions are included in this document although responses to these comments are not necessary. Inclusion of these comments will make the commentor's views available to public officials who will make decisions about the project itself. Where appropriate, some additional explanatory information to help clarify information provided in the Draft EIR is provided.

3. **Questions Regarding Adequacy of Draft EIR** -- These are comments from commentors who question the adequacy of specific information in the Draft EIR. Responses to individual comments requiring clarification of environmental issues regarding the Draft EIR are provided in this document.

In some instances, text changes resulting from the comments and responses are recommended. In these instances information that is to be deleted is ~~crossed-out~~, and information that is added is underlined. The text changes resulting from comments and responses have been incorporated in the original Draft EIR text, as indicated in the responses.

## 9.2 PERSONS COMMENTING

Written comments on the *2008 Easton Point Residential Development Draft EIR* were received from the following agencies, organizations, and individuals.

### **Local and Regional Agencies**

1. Berenice Davidson, Marin County Department of Public Works (April 28, 2011)
2. Terri Fashing, Marin County Stormwater Pollution Prevention Program, (April 29, 2011).
3. Maureen Gaffney, Bay Trail Planner, San Francisco Bay Trail (April 28, 2011)
4. Dain Anderson, Environmental Services Coordinator, Marin Municipal Water District (April 28, 2011)
5. Ron Barney, Fire Marshal, Tiburon Fire Protection District, (April 26, 2011)
6. Scott Anderson, Director of Community Development, Town of Tiburon (April 26, 2011)

7. Randy Greenberg, Marin County Planning Commissioner (April 25, 2011)
8. Mark Ginalski, Marin County Planning Commissioner (April 25, 2011)

**State Agencies**

9. Scott Morgan, Director, State Clearinghouse, Governor's Office of Planning and Research (April 26, 2011)
10. Katy Sanchez, Program Analyst, Native American Heritage Commission, (March 23, 2011)
11. Carl Wilcox, Regional Manager, Bay Delta Region, California Department of Fish and Game (April 14, 2011)

**Organizations**

12. Scott Hochstrasser, IPA, Inc. (Applicant's Representative) (April 29, 2011)
13. Scott Woods, President Hill Haven Property Owners Association (April 22, 2011)
14. Eva Buxton, Conservation Chair, California Native Plant Society (April 29, 2011)
15. Barbara Salzman, Phil Peterson, Co-chairs, Conservation Committee, Marin Audubon Society (April 28, 2011)
16. Jerry A. Riessen, Co-Chair, Last Chance Committee (April 26, 2011)
17. Jon Welner, Downey Brand LLP on behalf of the Last Chance Committee for Open Space (April 26, 2011)
18. Lou M. Gilpin, Gilpin Geosciences, Inc. (April 29, 2011)
19. Antonia F. Adezio, President, The Garden Conservancy (April 27, 2011)
20. Nona Dennis, Vice President, Marin Conservation League (April 29, 2011)

**Individuals**

21. Russell D. Keil, Jr. (April 28, 2011)
22. Paul S. Simmons, Kelly M. Taber, Stomach Simmons & Dunn, on behalf of the Kiel family (April 28, 2011)

Exhibit A – Copy of 2007 Judgment

Exhibit B – Comments of Keil family

Exhibit C – Memo from Jenny L. Sterling and David W. Abbott, PG, CHg, Daniel B. Stephens & Associates, Inc.

Exhibit D – Memo from Robert Lamb Hart

23. Bob and Nancy Trahms (April 21, 2011)
24. Jill Richards (April 20, 2011) DUPLICATE LETTER
25. Nadine & Gerald Hill (April 21, 2011) DUPLICATE LETTER
26. Ernest & Marlene Bates (April 21, 2011) DUPLICATE LETTER
27. Nadine Hill (April 21, 2011) DUPLICATE LETTER
28. Ernest R. Bates (April 21, 2011) DUPLICATE LETTER
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31. Capudine Hoybach (April 19, 2011) DUPLICATE LETTER
32. John S. Ohmer (April 25, 2011) DUPLICATE LETTER
33. Steve Soja (April 21, 2011) DUPLICATE LETTER
34. Julie Soja (April 21, 2011) DUPLICATE LETTER
35. Patricia Montag (March 24, 2011)
36. Jill Barnett (March 20, 2011)
37. Mark E. Delane (April 2, 2011)
38. Rick and Susan Cattell (April 8, 2011)
39. Stephanie and Edward Regan (April 14, 2011)
40. Dr. and Mrs. Ronald R. Roberto (April 14, 2011)
41. Linda Bine (April 15, 2011)
42. James Campbell (April 17, 2011)
43. Marianne Hockenberry (April 17, 2011)
44. William L. Ross, III (April 14, 2011)
45. Richard Wodehouse (April 14, 2011)
46. Dr. and Mrs. Robert J. Swanson (April 18, 2011)
47. Dellie Woodring (received April 20, 2011)
48. Faith Brown (April 20, 2011)



49. Joan and Martin Lasden (April 20, 2011)
50. Mark Dickinson (April 21, 2011)
51. Virginia and John Doyle (April 2001)
52. Anne and Larry Drew (April 21, 2011)
53. Kenneth C. Metzger (April 22, 2011)
54. Derek and Nancy Parker (April 21, 2011)
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86. Jane A. Marra (April 28, 2011)
87. Peter and Jeanne Tymstra (April 28, 2011)
88. Diane Lynch (April 28, 2011)
89. John and Michelle Dimmick (April 28, 2011)
90. Robert Lamb Hart (April 28, 2011)
91. John H. Goodhart, Esq. (April 28, 2009 [sic])
92. Deb Frost, M.A., B.Sc. (April 28, 2011)
93. John C. Arvesen (April 28, 2011)
94. Geoffrey and Jude Fletcher (April 28, 2011)
95. Susan Brautovich (April 28, 2011)
96. Molly Keil Hynes (April 28, 2011)
97. Dr. & Mrs. Richard Musalo (April 11, 2011)
98. Julien Landau (April 29, 2011)
99. George J. Landau (April 29, 2011)
100. Marilyn V. Knight (undated)

- 101. Maxwell Bruce Drever (April 29, 2011)
- 102. Martin Perlmutter / Miki Raver (April 29, 2011)
- 103. Robin E. and Sherry Long De Mandel (April 29, 2011)
- 104. William R. and Nancy R. Riley (April 29, 2011)
- 105. Constance M. Peirce (April 29, 2011)
- 106. Carolyn Losee (April 26, 2011)
- 107. Rick Cattell (April 23, 2011)
- 108. Steve and Marian Russell DUPLICATE LETTER – LATE

## **9.3 MASTER RESPONSES**

This section provides master responses that have been prepared for selected comment topics to provide a comprehensive analysis of major issues raised in multiple comments. These master responses are referred to in the response to individual comments in Section 9.4. These master responses cover the following topics:

### **TRANSPORTATION**

- Master Response 1 - Existing Streets in the Lyford Cove / Old Tiburon and Hill Haven Neighborhoods - Discussion of Project Impacts and Mitigations
- Master Response 2 - Construction Road and Construction Phase Issues

### **HYDROLOGY**

- Master Response 3 - Potential Impacts to the Keil Property Spring and Groundwater-Based Water Supply
- Master Response 4 - Existing and Monitored Baseline Data for Assessment of Groundwater and Surface Water Quality Impacts
- Master Response 5 - Secondary Impacts of Landslide Dewatering on Peak Flows Conveyed by Paradise Drive Culverts
- Master Response 6 - Secondary Impacts of Road Widening and Additional Off-Lot Parking Space Requirements Per County Code Requirements on Peak Flow Rates and Runoff Volumes

### **PUBLIC SERVICES**

- Master Response 7 - Emergency Radio Service
- Master Response 8 - Paradise Drive Sanitary Sewer and Water Lines

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### ***Master Response 1 - Existing Streets in the Lyford Cove / Old Tiburon and Hill Haven Neighborhoods - Discussion of Project Impacts and Mitigations***

A number of commentors raised concerns regarding impacts to the hillside neighborhood streets located south and southeast of the project site, an area commonly referred to as the “Lyford Cove / Old Tiburon and Hill Haven neighborhoods.” These concerns include the physical effects project traffic would have on the paved surfaces of streets; the project’s contribution toward cumulative traffic impacts with an emphasis on existing construction vehicle traffic for current ongoing residential construction / remodel projects in the neighborhood; traffic and pedestrian safety where these streets are difficult to navigate; emergency vehicle access; and how the project would impact the capacity of

these streets in the event of an emergency evacuation, and the impact of project-generated construction vehicle traffic on the existing neighborhood streets. Many of the concerns raised were similar to the concerns raised during the EIR scoping process.

In describing issues identified for the Lyford Cove / Old Tiburon and Hill Haven neighborhoods, on page 197 of the Draft EIR it is stated:

Public scoping comments by residents of the Lyford Cove / Old Tiburon and Hill Haven neighborhoods describe the problems created by narrow roads on hilly terrain, citing Diviso Street (16.5 feet to 19.5 feet wide) as a bottle-neck and the acute-angle Diviso Street / Centro West Street / Centro East Street intersection as posing difficulties for movement of large vehicles. Field observations confirm that a large truck attempting to make a right-turn from southbound Diviso Street onto westbound Centro West Street requires a three-point turn. This maneuver temporarily obstructs the passage of other vehicles through the intersection. Field observation of large truck turns through the Solano Street / Centro West Street intersection revealed that trucks turning left from northbound Solano Street onto westbound Centro West Street cut the corner through the turn, swinging into the eastbound (opposing direction) traffic lane. These are existing traffic hazards, raising safety concerns for residents. During the time of field work for the EIR, there were many observed instances of on-going maintenance or minor construction activity at Lyford Cove / Old Tiburon and Hill Haven residences. For example, along a very narrow segment of Centro West Street a haul truck and dumpster (about ten feet by ten feet in size) were observed parked on-street, reducing the road to one narrow lane. This slowed the progress of through traffic. On Ridge Road a haul truck was observed to block opposite direction traffic. Pedestrians using the narrow, winding road sections with no sidewalks were observed to walk with caution, moving to the best available refuge from the travel lanes when approaching vehicles are seen or heard. During peak traffic periods this can result in stressful walking and a sometimes hazardous walking environment.

As discussed under *Impact 5.1-1 Existing-Plus-Project Impacts on Study Intersections*, the Draft EIR concludes that the proposed project would not result in a significant increase in peak hour traffic volumes at all of the study intersections. Long-term project traffic to Lyford Cove / Old Tiburon and Hill Haven neighborhood streets would not result in significant impacts to existing or future road capacity. However, emergency access vehicles and residents of these existing neighborhoods would be exposed to more frequent unpredictable traffic flow and intermittent safety hazards when traveling on the narrow, winding residential streets. For this reason, as recommended in the Draft EIR, maintaining all routes unobstructed would be critical for the maximum flow of two-way traffic.

This is the reason for Draft EIR Mitigation Measures 5.1-7(b) and 5.1-10, which require that dumpsters not be placed in the travelway, and that “no parking” signage be added to narrow streets such as Diviso and sections of Centro East. Such signage is already in place (painted on the pavement) along Centro West through the narrow sections.

As stated on page 255 of the Draft EIR:

There are no other clear solutions to the existing narrow, winding streets in the Lyford Cove / Old Tiburon or Hill Haven neighborhoods. Road widening would require residents to dedicate lot frontages (lawns and landscaped areas) to the public road right-of-way. It is anticipated that most, if not all, residents would object to such a project.

The Draft EIR describes existing road use in the Lyford Cove / Old Tiburon and Hill Haven neighborhoods, including observations of traffic associated with the teardowns of existing homes. It

details the number of vehicles projected to be added to neighborhood streets during peak weekday AM and PM traffic periods, and provides percentages of project traffic increases for specific roadway segments. It includes questions for the Tiburon Fire Protection District Fire Marshal, specifically asking for an evaluation of the addition of 30 residential units needing to be served via roads in the existing neighborhoods (Ridge Road, Vistazo East, Diviso, Centro East, Solano). As stated on page 254 of the Draft EIR:

In evaluating this question TFPD researched its responses to Ridge Road and Mountain View over the last six plus years. Calls for service to 44 homes on these two streets were studied and 64 responses to this area of which 48 were emergency responses, were identified. TFPD's mean response time to the 48 calls was five minutes and 35 seconds from time of dispatch to arrival at scene; the median response time was five minutes and 16 seconds. The average number of responses over the time period was 7.22 emergency calls per year. Based on these numbers the only issue raised has been the cumulative impact on the traffic along Tiburon Boulevard. The ambulance and any additional fire engines responding to this area will have to use Tiburon Boulevard for access. TFPD staff noted an increase in travel times along this main route. A potential mitigation for this impact may be to equip the remaining signal lights along Tiburon Boulevard with a traffic preemption device compatible with the current system.

The information in the Draft EIR has been confirmed by the TFPD Fire Chief.<sup>1</sup> The TFPD confirmed that the discussion provided in the Draft EIR is an accurate depiction of current emergency access to and from the affected streets.<sup>2</sup>

The Draft EIR recommends several improvements to the existing roadway system. These include "no parking" signs or lettering, added to streets with segments less than 20-feet wide. These include:

- Diviso Street: from Centro West, approximately 820 feet, to approximately 80 feet south of Vistazo East Street, where the roadway widens.
- Centro West from Diviso Street east, approximately 1,800 feet, to the vicinity of 1864 Centro West, where the roadway widens.
- Centro East (all) from Solano to the Centro West / Diviso Street intersection (approximately 1,100 feet).

In recognition of the problem of the narrowness of the road, much of Centro West is provided with "No Parking" painted on the pavement at regular, frequent intervals. This is due to the Town of Tiburon's Traffic and Safety Committee having determined that due to the function of this road as a collector, limiting parking along this route is preferred.<sup>3</sup> It is the opinion of the EIR traffic analysts that Centro East and Diviso streets would benefit from similar (on-street) "No Parking" labeling at regular intervals to maintain an unobstructed travelway. It is acknowledged that installation of no parking zones along Centro East and Diviso streets would result in the removal of some on-street

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<sup>1</sup> Crane Transportation Group communication with TFPD Fire Chief Richard Pearce, February 2013.

<sup>2</sup> Crane Transportation Group communication with TFPD Fire Chief Richard Pearce, February 2013.

<sup>3</sup> Crane Transportation Group communication with Nick Nguyen, Director, Tiburon Public Works Department, January 2013.

parking. This, in turn, could result in an inconvenience to residents who rely on the availability of the on-street parking.

It is noted that along Centro West, Centro East and Diviso streets, at any residence where there is sufficient width, parking bays have been constructed on individual lots.

**Construction phase measures** The applicant's proposed Construction Management Plan, as modified by Draft EIR mitigation measures, includes provisions for managing the movement of large construction trucks and vehicles along the roadways providing access to the project site, the provisions take into account the sight distance and other roadway limitations identified in the Draft EIR.

As required by Mitigation Measure 5.1-13(b):

Implement all project traffic control elements including consolidating delivery of construction materials using routes approved by Marin County and Town of Tiburon, informing Town of Tiburon residents of construction activities and duration, and providing a comprehensive network of flag persons along construction routes. Specifically, care shall be taken to insure safe passage of trucks along designated routes (such as Paradise Drive) by use of flag trucks traveling in front of and behind wide trucks (trucks which may intrude into the opposite direction travel lane). Flag persons shall be stationed along all roadway segments which may require stopping through traffic for safe truck passage or guiding trucks through existing streets.

Beyond the construction phase - There is an on-going need for fire prevention and emergency response awareness for all neighborhoods. The historic Oakland Hills Fire experience resulted in raising the awareness of the need for preparedness, such as:

- Maximizing access routes.
- Setting and maintaining road width standards that make possible two-way traffic flow through hilly terrain.
- Maintaining unobstructed travelways.
- Creating and maintaining fire breaks.
- Seasonal clearance of brush around all structures.
- Making residents aware of emergency evacuation procedures and routes.
- Knowing neighbors and their special needs, especially those needing evacuation assistance.
- Close coordination and rapid mutual assistance among firefighting jurisdictions and agencies.

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## **Master Response 2 - Construction Road and Construction Phase Issues**

A number of commentors raised concerns about construction related impacts and the proposed construction access road.

### **CONSTRUCTION ISSUES**

The proposed project could add significant amounts of construction traffic to Paradise Drive, adding to the existing sight distance safety concerns at the Paradise Drive / Forest Glen Court intersection, and raising safety concerns about construction truck use of Paradise Drive (related to tight curves and narrow segments of the road where large trucks would wander into the opposite direction travel lane). Construction trips also would damage pavement on affected roads and have the potential to disrupt the residential environment. This would be a significant impact, as identified in the discussion of *Impact 5.1-13 Construction Traffic Impacts*.

Project construction traffic impacts would result from construction worker traffic, haul trucks, and earthmoving equipment associated with initial site grading, landslide repair, and construction of the temporary construction access road, on-site roads and site infrastructure. Housing construction would result in trips by building material delivery trucks and construction workers. The number of construction worker trips to and from the site would fluctuate, depending on the activity and number of units being built at any one time.

### **CONSTRUCTION MANAGEMENT PLAN AND TEMPORARY CONSTRUCTION ROAD ISSUES**

As a part of the Precise Development Plan a Construction Management Plan has been submitted. The Construction Management Plan includes traffic control measures intended to reduce traffic congestion and truck idling times on roads near residences.

**Temporary Construction Access Road** As discussed on page 267 of the Draft EIR, initially, Forest Glen Court would be constructed from Paradise Drive to the MMWD water tank, and a 1,600 foot long, ten-foot wide temporary construction access road would be constructed between the Forest Glen Court cul-de-sac and the boundary of Lot 39 (near the Mt. Tiburon Court cul-de-sac). The construction access road is proposed to have heavily grooved, concrete pavement to maximize tire traction, with one-foot wide shoulders and turnouts every 400 feet. It would have 25 percent maximum grades with 50-foot minimum radius curves. The construction access road would not conform to Marin County standards for roads (e.g., County standards establish the maximum gradient for roads at 18 percent, per Marin County Code (MCC) Section 24.04.120 Grades, and states that continuous steep grades shall be avoided). The construction access road would be designed for the exclusive use of construction vehicles. Access would be blocked, for all uses other than construction or emergency access. The applicant requested review by two local construction contractors, Ghilotti Construction Company and Red Horse Constructors, Incorporated. As discussed in *Impact 5.1-13 Construction Traffic Impacts* both Ghilotti Construction and Red Horse Constructors, Inc. opined that the construction road would be suitable for construction vehicle access. Both firms did provide recommendation regarding extra safety measures being needed for the construction road. The EIR traffic analyst concurred with these recommendations.



In response to questions raised during the Draft EIR public review period Whitlock & Weinberger Transportation (W-Trans) was requested by the project sponsor to identify potential traffic safety issues associated with implementation of the construction plans, in particular use of the temporary construction road.<sup>4</sup> Based on a review of existing information W-Trans provided the following conclusions and recommendations:

- It is assumed that all traffic control devices and traffic control plans would be designed in accordance with the requirements of Marin County, and developed prior to the issuance of necessary building and grading permits.
- The temporary construction road should be sufficiently wide to accommodate the turning movements associated with the design vehicle, a heavy single unit commercial truck. This design vehicle is representative of the largest construction vehicle anticipated. The proposed road width of ten-feet would be insufficient in all curvilinear segments and must be increased to between 14- and 20-feet, as shown on **Exhibit 9.0-1**.
- The proposed ten-foot wide road would be too narrow to provide simultaneous two-way traffic. Turnouts are to be constructed along the roadway in order to accommodate emergency access, with four turnouts shown on the grading plan. These four proposed turnouts would also be useful in providing staging point for construction traffic.
- Radio controls would be necessary to maintain two-way travel on the single lane temporary construction road, which work zone traffic control measures were identified and recommended by the road contractor. Such radio controls are common and enable effective work zone traffic control operations.
- Installation of barriers or guardrails along the construction roadway curves is proposed by the road contractor, and deploying guardrails along the straight road sections would be appropriate, given the narrow roadway and steep road grade.
- Crash cushions or dragnet vehicle arresting barriers are types of energy attenuators that would be appropriate for deployment as described by the road contractor.
- The sight distance improvements recommended in the Draft EIR, Mitigation Measure 5.1-3 for safe operations at the intersection of Forest Glen Court / Paradise Drive should be the first order of construction work, as this access is required for all construction related traffic and the existing geometrics are inadequate.
- Implementation of the Construction Management Plan is expected to be adequate if followed in a manner consistent with the recommendations of the contractor and with the considerations identified herein.
- All traffic control devices and traffic control plans should be designed in accordance with the requirements of Marin County, and developed prior to the issuance of necessary building and grading permits.

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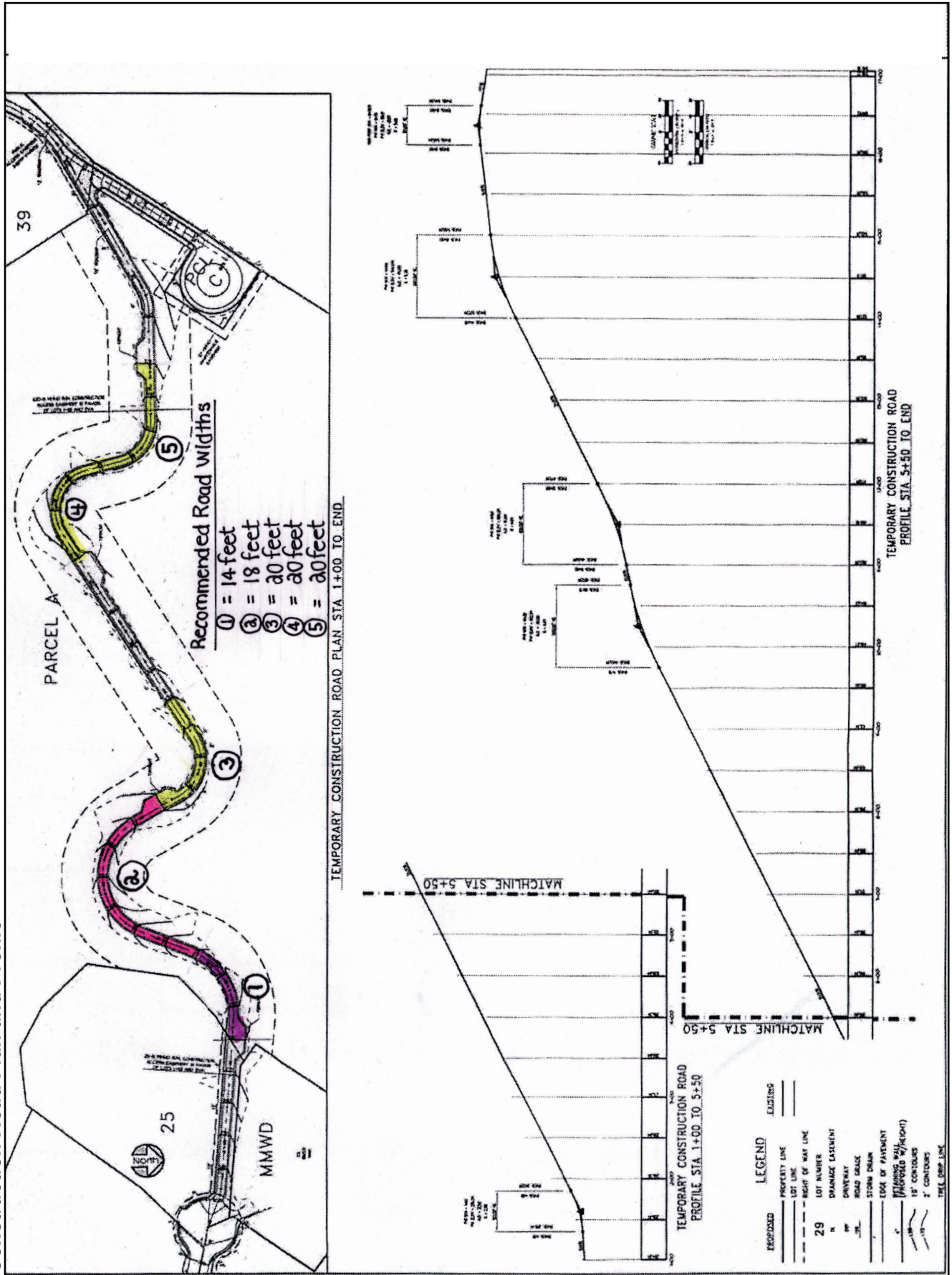
<sup>4</sup> Letter to Mr. John Reed from Mary Jo Yung, PE, PTOE, W-Trans, Re: Easton Point Construction Planning Traffic Evaluation, November 17, 2011.

The increased width of the construction road in selected locations would not result in new environmental impacts beyond those already discussed in the EIR. The wider road would be located primarily along the ridge. The additional grading associated with the wider road would require cuts into firm Franciscan Bedrock. Accordingly there would be no additional geologic impacts. Compared to the construction road evaluated in the Draft EIR the retaining walls would not be significantly different. The earthwork generated would be roughly 5,000 cubic yards of cut and 2,000 cubic yards of fill, resulting in 3,000 cubic yards of off-haul. For the construction road evaluated in the Draft EIR there would be approximately 3,430 cubic yards of cut and 526 cubic yards of fill for a net 2,904 cubic yards of off-haul.<sup>5</sup> Although there would be more grading, it would generate roughly the same amount of off-haul. The increased construction road width would result in an increased impervious area. This would not result in a significant increase in the severity of on-site drainage patterns or impact to groundwater recharge discussed in the Draft EIR. The increased road width could result in a small amount of additional loss of oak woodland habitat, already considered a significant impact. Mitigations are already included in the EIR that would reduce this impact to a less-than-significant impact.

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<sup>5</sup> Letter to Scott Hochstrasser, International Planning Associates, Inc. from Michael Tarnoff, P.E., FIRMA Design Group, December 15, 2011.

# Exhibit 9.0-1 Construction Road Plan and Profile



Source: CSW/ST2 Engineering Group (Easton Point Plan Sheet C-10: Road Plan and Profile) January 2009, W-Trans (Easton Point Construction Planning Traffic Evaluation: Figure 2: Recommended Road Widths) November 2011.

Crane Transportation Group (the EIR traffic analyst) concurs with the above-listed recommendations regarding extra safety measures for the temporary construction road. The project sponsor has agreed to incorporate the suggested revisions into the construction road improvement plans.<sup>6</sup> Accordingly Mitigation Measure 5.1-13(a) and Mitigation Measure 6.1-13(a) are revised as follows:

**Mitigation Measure 5.1-13(a)** The applicant shall implement all measures regarding the construction access road as proposed by Ghilotti Construction Company, ~~and~~ Red Horse Constructors, Incorporated, and the additional safety measures provided in the November 17, 2011 W-Trans report.

As discussed on page 72 of the Draft EIR, after construction, the applicant proposed that the construction road remain for emergency egress only and would be blocked at either end by a barricade gate. As noted on page 564 of the Draft EIR, the draft Development Agreement for *Alternative 2* provides for the eventual removal of the construction road after 12 of the homes constructed on Lots 1-17 have been issued certificates of occupancy, or ten years after the effective date of the Development Agreement. It is also stated in the draft Development Agreement that if Lots 1 through 8 or Lots 9 through 17 are dedicated to non-residential uses then the construction road need not be built.

**Non-Compliance with TFPD Standards** The construction road would remain a potential safety hazard for users of the road, as it would not be in compliance with Tiburon Fire Protection District (TFPD) or Marin County standards for roads, and would be considered unsafe for use by public or TFPD vehicles. The TFPD has noted that requiring construction vehicles delivering heavy construction materials to use the construction access road with the proposed steep grades would create a safety hazard.<sup>7</sup>

As discussed in *Impact 5.1-9 Project Impacts Related to Project Site Emergency Access* this would be a significant impact. Mitigation Measure 5.1-9 requires that the construction access road be closed after cessation of construction, unless specifically approved for emergency access by the TFPD. The applicant's proposal to gate the road and control all uses of the road, as recommended by Ghilotti and Red Horse Construction, are considered by the EIR traffic analyst to be necessary safety precautions.

## **CONSTRUCTION ACCESS, PHASING, AND IMPLEMENTATION**

The construction access road would be the primary access to the site for construction vehicles. Construction truck traffic would access the project site via Paradise Drive. Lots 21, 22, and 23 would be accessed directly from Paradise Drive the rest of the project site would be accessed via Forest Glen Court and the construction access road. Lots 1, 2, and 3 would be accessed via the construction access road and then via Ridge Road and Mountain View Drive. Applicant-initiated construction would include the roads and infrastructure. This construction would occur in two phases.

Phase One would involve six to eight months of activity for construction of Forest Glen Court, realigning the water line, building a new water tank, building the construction access road, retaining

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<sup>6</sup> Nichols • Berman communication with Scott Hochstrasser, project applicant's representative, February 2013.

<sup>7</sup> Memorandum from Ron Barney, Fire Marshal, Tiburon Fire Protection District to Curtis Havel, Marin County CDA, February 23, 2010.

walls, and paving. Construction of the construction access road may require initially utilizing Ridge Road for access. The construction access road would be the access to the site for construction vehicles, including earth moving, construction materials, and work crews. The on-site construction equipment for this phase would include one dozer, one excavator, a blade grader, one small compactor, and one water truck. There would be additional truck trips for delivering lumber, rebar and other retaining wall materials. Much of the cut material (excavated soil and rock) from the lower site areas would be needed on the upper site areas, so would be stock-piled in the vicinity of Lots 20 and 24; only the excess cut material would be hauled off-site. The intent is that there would be no import of fill for home building at any stage of construction.

Phase Two would include a 12-month construction period of clearing, grubbing, grading, landslide repair, subdivision road extensions, utility replacement (including installation of pipelines, drop inlets, fire hydrants, electric and cable utility infrastructure) for lots adjacent to the Hill Haven neighborhood. Drainage and utility extensions would also be constructed in this phase. Crews would consist of six to eight workers, utilizing two to three crew vehicles daily.<sup>8</sup> The on-site construction equipment for this phase would be one dozer, one excavator, a blade grader, one small compactor, and one water truck. A maximum of six to eight workers would be on the job simultaneously during each phase. At 1.3 persons per vehicle (assuming limited carpooling would take place), this would amount to five to seven construction worker vehicles arriving and departing each weekday. If carpooling is successful for workers during these phases, then the applicant's projected two to three worker vehicles may be more accurate. The hour of arrival likely would be 6:00 AM to 7:00 AM (summertime schedule), and departures likely would occur between 3:00 PM and 4:00 PM. The applicant proposes to mitigate inconvenience to neighbors and to protect public safety by designating a disturbance coordinator and implementing traffic control measures.

The responsibilities of the disturbance coordinator are described on page 269 of the Draft EIR. The additional traffic control measures are described on page 270 of the Draft EIR.

### **CONSTRUCTION TRAFFIC FLOW**

Construction worker traffic would mostly be oriented inbound to the site in the morning and outbound from the site in the afternoon. Virtually all workers and haul truck trips would be expected to travel to and from the site on Paradise Drive-Tiburon Boulevard. The exact number of workers would depend on the amount of grading and building activity underway at any one time. Construction worker traffic flow generally would occur in the off-peak direction and should produce no significant operational impacts along Paradise Drive-Tiburon Boulevard. Some off-site haul truck trips would coincide with peak traffic flow but would not be expected to result in operational impacts along Paradise Drive or Tiburon Boulevard. Construction-related trips at the Paradise Drive / Forest Glen Court intersection would raise sight distance safety concerns, adding to existing sight distance safety conditions at this intersection. As stated in *Impact 5.1-13 Construction Traffic Impacts* this would be a significant impact.

Trucks delivering or hauling materials to the site would arrive and depart throughout the day. Virtually all would travel to and from the west on Paradise Drive-Tiburon Boulevard and would produce only minor (insignificant) impacts (such as slower trips through curves and slow acceleration from signals and stops along Tiburon Boulevard and Paradise Drive). The amount of construction truck traffic would vary on a day-to-day basis depending on the construction activities occurring at

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<sup>8</sup> Construction Management Plan 2008, Appendix F of Easton Point – Project Narrative, project applicant, 2008.

any given time. For example, more construction truck traffic would result during the road paving phase of the project, as opposed to the planting and cleanup phase of the project when substantially fewer trips would be required. During site preparation and grading phases of the project, construction trucks would be required to import and export fill as well as to import materials such as precast blocks, concrete, lumber and rebar for use in constructing retaining walls. Construction trucks would also be necessary when utilities are installed to import concrete for the water tank construction, and other materials necessary to complete the proposed pipelines and drainage improvements.

During the road paving phase of the project, it is anticipated that approximately 700 trucks would be required to import base rock and concrete to the site. Construction truck traffic would be expected to be substantially lower during the planting and cleanup phase of the project.

Construction truck traffic expected during individual home construction would be less, averaging only a few truck trips per day. The road paving phase of the project would yield the highest number of trucks per day. Assuming Phases 1 and 2 would each require 350 trucks (700 inbound and outbound trips) in approximately 20 workdays, it is anticipated that there would be approximately 36 inbound and outbound truck trips on a daily basis. On average, over the course of an eight-hour workday, there would be four to six inbound plus outbound truck trips in any one hour. It is estimated that site development (access, utility installation and landslide stabilization) would generate a “surplus” of 6,499 cubic yards of cut material (excavated soil and rock). Assuming 20 cubic yard trucks, this would equate to 325 truck trips. However, it is proposed to store some of the excavated material on site (2,863 cubic yards) to be used for the fill necessary for house construction resulting in 3,636 cubic yards to be hauled off-site. Approximately 182 truck loads would be required to remove this material. Each truck would generate an inbound and an outbound trip, thus, truck trips would total 364 (182 inbound and 182 outbound) for the site development construction phase.

The grading in Phase 1 is expected to last three months and the grading in Phase 2 is anticipated to last four months. Assuming 20 workdays per month, the removal of the “surplus” cut material would require one to two trucks loads per day (two to four truck trips per day). All trips would be routed along Paradise Drive.

For purposes of this analysis, post-Phase 1, with a finished construction access road connecting to Forest Glen Court, it is assumed that all construction vehicles working on lots with access via Mountain View Drive and Ridge Road would be accessed via Forest Glen Court and Paradise Drive.

No on-site construction traffic would be routed via existing Lyford's Cove / Old Tiburon and Hill Haven neighborhood streets with the exception of the upper elevations of Ridge Road and Mountain View Drive, which would be necessary for access to Lots 1, 2, and 3. For this reason, the applicant proposes to accelerate grading and site preparation to the greatest extent possible for those portions of the project (Lots 1, 2, and 3) which require access through the existing Hill Haven neighborhood. It is proposed to condense grading operations to the “shortest period feasible.” If routed through these neighborhoods, truck trips would be very noticeable to residents at home during construction hours and would result in a significant intrusion in these neighborhoods. Uphill and downhill movement of construction trucks is currently noticed by residents (noise, obstruction of sight distance for cars following behind large trucks, temporary obstruction of progress through intersections too constrained to accommodate large truck turning movements, etc.), and any increase in truck activity would be considered a serious traffic hazard (as is the case today). This would be considered a significant temporary impact to traffic flow and road safety in the neighborhood, especially through the narrowest and steepest roads, Diviso Street (as narrow as 16.5 feet wide) and Centro West and Centro East streets (as narrow as 17 feet wide). These road widths are not sufficient to allow two trucks or a truck and a car traveling in opposite directions to pass one another safely. These would be significant

impacts if construction was not limited to the Paradise Drive-Forest Glen Court route. Pavement on Tiburon Drive - Paradise Drive could deteriorate during project construction. Such deterioration could lead to safety hazards.

#### **TRAFFIC MITIGATION MEASURES**

Mitigation Measure 5.1-13 includes measures to mitigate construction traffic impacts. Mitigation Measure 5.1-13(a) requires the applicant to implement all measures regarding the construction road as proposed by Ghilotti Construction Company and Red Horse Constructors, Incorporated. Mitigation Measure 5.1-13(b) provides for specific modifications to the Construction Management Plan.

#### **APPLICABLE TO ALL USERS**

Construction practices, including all construction safety precautions, would apply to all users of the roads – vehicles, bicycles and pedestrians. These measures are detailed in the Construction Management Plan set forth in the Precise Development Plan, and modified per the Draft EIR mitigation measures.

#### **ADDITIONAL TRAFFIC MITIGATION MEASURES**

Based on the above discussion Mitigation Measures 5.1-13(b) and 6.1-13(b) should establish speed limits for construction traffic and strict speed enforcement measures, as well as prohibitions of queuing in an active travel lane. Shoulder areas wide enough for stacking of construction traffic should be identified.

The discussion and mitigation measure for *Impact 5.1-13 Construction Traffic Impacts* and *Impact 6.1-13 Construction Traffic Impacts*, are revised as follows (bullet items are added to the existing list):

- Establish speed limits for construction traffic, and strict speed enforcement measures
- Prohibit construction vehicle queuing in an active travel lane; shoulder areas wide enough for stacking of construction traffic should be identified prior to commencement of construction activity.

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### **Master Response 3 - Potential Impacts to the Keil Property Spring and Groundwater-Based Water Supply**

In their comment letter, the Keil Family has formally reiterated two positions it holds relative to the Easton Point project and the mitigation measures proposed in **Section 5.5 Hydrology and Water Quality** of the Draft EIR. First, the family will not allow any constructed drainage improvements designed to direct upslope groundwater intercepted by subdrains associated with proposed landslide repairs back to its groundwater-based water supply system, as proposed in Mitigation Measure 5.5-6. Second, the Keil Family will not cooperate in any way with the project applicants to provide baseline water supply or water use data for its facilities, including its in-holding spring, its groundwater cisterns, Keil Pond, or its network of above-ground storage tanks, pumps and conveyance lines.

Given these positions, it will not be possible to quantify groundwater supplies lost to upslope development on the Easton Point property, including the impact of the proposed development on the yield of Keil Spring. Without an agreement to provide hydraulic connectivity between the Easton Point subdrain system and the Keil property water supply system (i.e. a linking piping system), or the ability to assess the quantities of groundwater supplies lost due to project development, no additional measures exist to mitigate the project's impacts on spring water and ground water flow to the Keil property. Thus, project impacts on the Keil property groundwater-based water supply as discussed under *Impact 5.5-6 Depleted Groundwater Supplies, Keil Spring and the Keil Property Spring-based Water Supply*, and similarly under *Impact 6.5-6 for Alternative 2* would be significant and unavoidable.

It should be noted that the Draft EIR stated that without the cooperation of the owners of the Keil property to implement Mitigation Measure 5.5-6, the project impacts of these spring-based groundwater supplies would be a significant unavoidable impact (see page 397 of the Draft EIR).

Mitigation Measures 5.5-6 and 6.5-6 are revised as follows:

**Mitigation Measure 5.5-6** No feasible mitigation is available due to lack of cooperation by the downstream property owner (Keil) and the resulting lack of access to the Keil property water supply system for: a) installation of a piping system to deliver intercepted upslope groundwater to the Keil storage facilities or b) monitoring of Keil Spring and cistern flows vs. irrigation use.~~The applicant shall install a water conveyance system to link the landslide improvement area subdrains to the water storage system on the Keil property. Depending on hydraulic constraints, this converted drain water could be conveyed to either the upslope redwood storage tank or the cisterns. Since all Keil property water system components are linked by piping and pumps, the link could be constructed to the upper redwood storage tank. Implementation of this mitigation measure would require the agreement and cooperation of the owners of the Keil property.~~

**Significance After Mitigation** Since no feasible mitigation is available, Impact 5.5-6 Implementation of Mitigation Measure 5.5-6 would reduce project impacts to the Keil property cistern and spring-based groundwater supply to a less-than-significant level.~~Implementation of this mitigation measure would require the agreement and cooperation of the owners of the Keil property. Without the cooperation of the owners of the Keil property to implement Mitigation Measure 5.5-6, the project impact on these spring-based groundwater supplies would be a significant unavoidable impact.~~



**~~Responsibility and Monitoring~~** ~~The applicant would be responsible to coordinate, design, and fund the installation of piping water conveyance system linking the on-site subdrain systems within the watersheds tributary to the water storage system on the Keil property. The applicant would also be responsible for monitoring the condition of and maintaining the on-site portions of this connective system for as long as the irrigation system and pond on the Keil property rely on this historic source of water.~~

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#### ***Master Response 4 - Existing and Monitored Baseline Data for Assessment of Groundwater and Surface Water Quality Impacts***

Several comments referred to insufficient baseline water quality data, for both groundwaters and surface waters, as a shortcoming of the Draft EIR water quality impact assessment. Additionally, numerous comments referred to impact assessments that they felt were insufficiently substantiated by more detailed, comparative analysis of water quality data. Due to the stated position of non-cooperation on the part of the Keil family and the Keil Estate, neither existing baseline data / records, nor property access for purposes of hydrologic data gathering, will be made available to the project applicant to facilitate a more detailed, quantitative assessment of project groundwater quality or surface water quality impacts. Baseline water quality data for Keil Spring is currently restricted to that derived from a limited number of samples taken by Questa Engineering Corp.<sup>9</sup> No ambient water quality data has been provided by the Keil family for Keil Pond or for the groundwater discharging to its twin subterranean cisterns. This lack of cooperation, the lack of availability to any existing water quality data and the infeasibility of obtaining comparative water quality data for conduct of a more quantitative impact assessment preclude the possibility of preparing technical responses to the above-cited comments.

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<sup>9</sup> *Supplemental Groundwater Investigation for Easton Point Subdivision Tiburon, California.* Questa Engineering Corp., November 4, 2008.

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## **Master Response 5 - Secondary Impacts of Landslide Dewatering on Peak Flows Conveyed by Paradise Drive Culverts**

The landslide repairs identified for the proposed project would result in the capture of the majority of the shallow and possibly much of the deeper groundwater underlying the affected watershed areas draining to Paradise Drive roadway culverts. Under the existing hydrologic conditions, a substantial portion of the shallow groundwater discharges to the lower reaches of the site drainageways, where it is naturally converted to streamflow (i.e. base flow). Thus, for this component of the groundwater, its capture by the project's dewatering systems would not represent a significant increase in the post-project runoff volumes or peak flow rates (e.g. significant dewatering systems at the base of Drainageways 2 and 3).

For deeper groundwater, its capture by the project dewatering systems associated with remove and replace landslide repairs and retaining wall constructions would result in an increase in flow volumes and peak flow rates conveyed in the Paradise Drive watersheds. The magnitude of these increases is uncertain as no project data is available to determine the magnitude of these increases, however, it is unlikely that it would increase the overall peak discharges by more than five percent. This is due to two factors: 1) the relatively limited portions of the watersheds subject to these more structurally severe repairs, and 2) the discharge of captured groundwater back onto the hillslopes downgradient of the repair footprints, which would allow some additional infiltration to occur, although the bulk of the flow would remain on the surface. By comparison, Rantz<sup>10</sup> suggested that total base flow for purposes of hydrograph construction range from ten to 25 percent of the direct runoff peak for the ten-year to 25-year rainstorms, respectively. The bulk of such base flow is typically derived from shallow groundwater discharge. The proportional magnitude of any increase would be further minimized if *Alternative 2* (32-Unit Lower Density) were implemented, since it prescribed fewer remove and replace landslide repairs and limited the extent of those still recommended.

As noted on page 398 of the Draft EIR, under the discussion of *Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection*, the project Drainage Report indicated that the post-project 100-year peak flow rates for each watershed would be reduced to the pre-project ten-year peak flow rates. Thus, even with an increase of perhaps five percent in the controlled post-project peak flow rates, these rates would be less than the pre-project rates for higher recurrence interval storms, e.g. >ten-year. Moreover, implementation of Mitigation Measure 5.5-3(e) would maintain two-year to ten-year peak flow rates at pre-project levels.

The proposed project does not include any upgrades to off-site culverts under Paradise Drive. Since it is likely that a small, and as yet undetermined, increase in peak flow rates would occur due to the capture of deeper groundwater within the project watersheds tributary to Paradise Drive, Accordingly, the discussion of *Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection* has been revised and an additional mitigation measure has been included under *Impact 5.5-7*.

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<sup>10</sup> *Suggested Criteria for Hydrologic Design of Storm-Drainage Facilities in the San Francisco Bay Region*, California, Table 9, S.E. Rantz, U.S. Geological Survey Open-File Report, 1971.

The discussion and mitigation measures for *Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection* beginning on page 398 of the Draft EIR is revised as follows:

***Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection***

*Construction of impervious surfaces would increase the rate and quantity of runoff leaving the project site. Future development of individual lots would add additional impervious surfaces to the project, increasing peak flow rates conveyed off-site by the culverts beneath Paradise Road and in the storm drain system beneath the Hill Haven neighborhood. Uncontrolled increases in peak flow rates would result in potentially significant impacts. The applicant has prepared a Drainage Report proposing the use of detention facilities to maintain pre-project peak flow rates for design storms equal to or greater than the ten-year recurrence interval storm, eliminate potential impacts to existing and downstream storm drain capacities, and protect against downstream flooding. However, the proposed facilities would not mitigate for increases in peak flow or runoff volumes associated with storms of lesser recurrence intervals (e.g. two-year storm). These lower magnitude, yet significant, storm events are geomorphically important and can trigger adjustments in the dimensions of receiving drainageways via channel scour. In addition, the conversion of deeper groundwater intercepted by project landslide repairs to surface water would increase peak flow rates in receiving drainageways to a minor, yet indeterminate extent. This increase in peak flows would not be mitigated by the project's on-site stormwater detention facilities. Thus, project impact on on-site peak flow rates, existing drainage structures and downstream flooding would remain significant, even with implementation of the detention measures included in Drainage Report.*

As described above in the Peak Flow Assessment, the applicant's civil engineer prepared a *Drainage Report* and associated calculations to document pre- and post-project peak flow rates and detention volumes required to maintain pre-project peak flow levels. The EIR hydrologist conducted a peer review of the document and calculations, and completed separate calculations for peak flow rates and detention facility sizing. The results of these calculations are presented in **Exhibit 5.5-3**. The detailed calculations and a summary of the methodology are contained in the Appendix. As described in the *Drainage Report*, detention facilities have been sized to store the volume differential between the pre- and post-project 100-year design rainstorm. The stored differential would then be slowly released, by use of a metering device such as an orifice, at no greater than the ten-year, pre-project peak flow rate. The detention facilities would serve this attenuating function for storms with recurrence intervals between ten and 100 years.

During the final design phase of the project drainage system, detention facility outlet controls (e.g. orifices) would be sized to meet the ten-year pre-project peak flow release requirement. Outlet controls cannot be sized until the dimensions of the detention facilities are known, since outlet sizing is a function of detention facility dimensions.

A prior study has shown that not all of the culverts below Paradise Road are sufficiently sized to pass the existing 100-year peak flow.(footnote omitted) However, since the 100-year post-project peak flow rate would be reduced to the ten-year, pre-project level from the developed subwatershed areas, peak flow rates to the culverts under Paradise Road would not change from existing conditions, and in some instances would be reduced.

As noted in the above discussion under *Impact 5.5-3 Site Drainage Patterns - Erosion and Downstream Sedimentation*, the broadly defined detention facilities suggested in the *Drainage*

*Report* would not necessarily mitigate for any increases in peak flows for lesser rainstorms, i.e. less than ten-year events. Post-development increases in peak flow rates and flow volumes during these more frequent runoff events could trigger channel changes, including incision and bank instability / channel widening. Such channel adjustment would yield increased quantities of sediment downstream, possibly obstructing Paradise Drive culverts and reducing their capacities. This could increase the likelihood of localized sheet flooding over Paradise Drive, which would constitute a significant impact.

The landslide repairs identified for the proposed project would result in the capture of the majority of the shallow and possibly much of the deeper groundwater underlying the affected watershed areas draining to Paradise Drive roadway culverts. Under the existing hydrologic conditions, a substantial portion of the shallow groundwater discharges to the lower reaches of the site drainageways, where is naturally converted to streamflow (i.e. base flow). Thus, for this component of the groundwater, its capture by the project's dewatering systems would not represent a significant increase in the post-project runoff volumes or peak flow rates (e.g. significant dewatering systems at the base of Drainageways 2 and 3). For deeper groundwater, its capture by the project dewatering systems associated with remove and replace landslide repairs and retaining wall constructions would result in an increase in flow volumes and peak flow rates conveyed in the Paradise Drive watersheds. The magnitude of these increases is uncertain, however, it is unlikely that it would increase the overall peak discharges by more than five percent. Rantz (Table 9) <sup>11</sup> lists suggested base flow for Bay Area watersheds as a percentage of the computed peak flow. For the ten-year and 100-year peak flows, the base flow contribution suggested ranges from ten to 25 percent. The lower estimated percentage surcharge (five percent) is due to two factors: 1) the relatively limited portions of the watersheds subject to these more structurally severe repairs, and 2) the discharge of captured groundwater back onto the hillslopes downgradient of the repair footprints. This discharge of captured groundwater onto the hillslopes below the repaired zones would allow some additional infiltration to occur, although the bulk of the flow would remain on the surface.

**Mitigation Measure 5.5-7(a)** Implement Mitigation Measures 5.5-3(c) (d) and (e) to minimize increases in peak flows and runoff volumes during rainstorms with two-year to ten-year recurrence intervals, and / or to minimize the risk of drainageway instability, downstream sedimentation, culvert blockage and local flooding.

**Mitigation Measure 5.5-7(b)** For site watersheds E (Drainageway 1), H, J (Drainageway 2), L (Drainageway 3), and N, the applicant shall assess Paradise Drive culverts draining these watersheds for their capacity to convey the ten-year post-project peak flow with a five percent surcharge derived from the capture of deep groundwater and its conversion to surface flow. Where the existing capacity of the culvert is inadequate to pass this augmented design flow without roadway flooding, the project shall be amended to include replacement of the culvert. Any culvert replacements should be designed to the drainage standards of Marin County for the contributing watershed size and should include appropriate energy dissipation measures at the culvert outlets.

Similar to the proposed project *Alternative 2* would not include any improvements to the drainage culverts under Paradise Drive. And although *Alternative 2* would result in the capture and release of

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<sup>11</sup> *Suggested Criteria for Hydrologic Design of Storm-Drainage Facilities in the San Francisco Bay Region*, California, Table 9, S.E. Rantz, U.S. Geological Survey Open-File Report, 1971.

deeper groundwater to a lesser extent than the proposed project, it still may increase flows received at Paradise Drive culverts that exceed existing capacity. Therefore the discussion and mitigation of *Impact 6.5-7* is revised as follows:

***Impact 6.5-7 On-site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection***

Under *Alternative 2*, 11 fewer residential lots would be developed, resulting in a decrease in impervious surface coverage relative to the proposed project. However, the remaining 32 residential lots would still increase the rate and quantity of runoff leaving the project site. Future development of individual lots would increase peak flow rates conveyed off-site by the culverts beneath Paradise Road and in the storm drain system beneath the Hill Haven neighborhood. Uncontrolled increases in peak flow rates would result in potentially significant impacts. The applicant's *Drainage Report* proposes the use of detention facilities to maintain pre-project peak flow rates, eliminate potential impacts to existing and downstream storm drain capacities, and protect against downstream flooding. Implementation of the detention measures included in *Drainage Report*, as quantified by the EIR hydrologist, would mitigate development related increases in peak flows and runoff volumes for rainstorms with recurrence intervals equal to or exceeding ten years.

As described above in the Peak Flow Assessment for *Alternative 2*, the applicant's revised *Drainage Report* and associated calculations document pre- and post-project peak flow rates and detention volumes required to maintain pre-project peak flow levels. The EIR hydrologist conducted a peer review of the document and calculations, and completed separate calculations for peak flow rates and detention facility sizing. The results of these calculations are presented in **Exhibit 6.0-35**. The detailed calculations and a summary of the methodology are contained in the Appendix. As described in the revised *Drainage Report*, detention facilities have been sized to store the volume differential between the pre- and post-project 100-year design rainstorm. The stored volume would then be slowly released, by use of a metering device such as an orifice, at no greater than the ten-year, pre-project peak flow rate. Therefore, the detention facilities would serve this attenuating function for storms with recurrence intervals between ten and 100 years.

During the final design phase of the project drainage system, detention facility outlet controls (e.g. orifices) would be sized to meet the ten-year, pre-project peak flow release requirement. Outlet controls cannot be sized until the dimensions of the detention facilities are known, since outlet sizing is a function of detention facility dimensions.

As noted under the discussion of *Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection*, some of the culverts below Paradise Road do not have sufficient capacity to pass the existing 100-year peak flow.<sup>12</sup> Furthermore, shallow groundwater flow captured by the proposed hillslope dewatering systems would increase local peak flow rates, albeit by an estimated five-percent or less. While However, since the on-site detention facilities would be appropriately sized to maintain maximum peak flow rates at the ten-year, pre-development levels, these additional dewatering-based flows would not be subject to on-site detention. The the impact of Alternative 2 on increased, undetained flows would be reduced relative to similar to that of the proposed project, due to its decrease in the extent of landslide repairs and / or dewatering systems. However, since some repair and replace landslide

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<sup>12</sup> Undeveloped Hydrology and Hydraulics Easton Point, CSW/Stuber-Stroeh Engineering Group, Inc., March 3, 1995.

stabilization, retaining wall construction and downslope dewatering systems would remain a part of Alternative 2, Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drainage Capacities and Downstream Flood Protection would still apply.

As noted in the above discussion under *Impact 6.5-3 Site Drainage Patterns - Erosion and Sedimentation*, the broadly defined detention facilities suggested in the revised *Drainage Report* would not necessarily mitigate for any increases in peak flows for lesser rainstorms, i.e. less than ten-year events. Post-development increases in peak flow rates and flow volumes during these more frequent runoff events could trigger channel changes, including incision and bank instability / channel widening. Such channel adjustment would yield increased quantities of sediment downstream, possibly obstructing Paradise Drive culverts and reducing their capacities. This could increase the likelihood of localized sheet flooding over Paradise Drive, which would constitute a significant impact.

In summary, *Alternative 2* would have a reduced, yet similarly significant impact on peak flow rates, existing storm drain capacities and flooding.

**Mitigation Measure 6.5-7(a)** Implement Mitigation Measures 6.5-3(c), (d), (e) and (f) to minimize increases in peak flows and runoff volumes during rainstorms with two-year to ten-year recurrence intervals, and / or to minimize the risk of drainageway instability, downstream sedimentation, culvert blockage and local flooding. As proposed, the applicant's detention facilities would partially mitigate for project increases in the ten-year to 100-year design storm events.

**Mitigation Measure 6.5-7(b)** For site watersheds E (Drainageway 1), H, J (Drainageway 2), L (Drainageway 3), and N, the applicant shall assess Paradise Drive culverts draining these watersheds for their capacity to convey the ten year post-project peak flow with a five-percent surcharge derived from the capture of deep groundwater and its conversion to surface flow. Where the existing capacity of the culvert is inadequate to pass this augmented design flow without roadway flooding, the project shall be amended to include replacement of the culvert. Any culvert replacements should be designed to the drainage standards of Marin County for the contributing watershed size and should include appropriate energy dissipation measures at the culvert outlets.

**Significance After Mitigation** With implementation of Mitigation Measures 6.5-7(a) and (b), *Alternative 2's* impacts on peak flow rates, existing storm drain capacities and flooding would be reduced to a less-than-significant level.

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**Master Response 6 - Secondary Impacts of Road Widening and Additional Off-Lot Parking Space Requirements Per County Code Requirements on Peak Flow Rates and Runoff Volumes**

Mitigation Measure 5.1-11 stipulated that the design of the three significant roadways proposed for the project interior must be revised to incorporate a 28-foot total roadway and shoulder width to comply with Marin County Code (MCC) standards for “minor residential roads”. This roadway upgrade would result in a 40-percent increase of roadway impervious surface area over the amount originally proposed. Accordingly, the total project impervious surface area would increase from 13.9 acres to 14.6 acres. The proportion of the total on-site, impervious surface area attributable to these roadways would increase from approximately 13.2 percent to 17.6 percent.

Mitigation Measure 5.1-12 stipulated that the project incorporate additional on-site, off-lot parking spaces as required by the MCC. The EIR traffic consultant verified that a literal reading of this requirement could mean that as many as 118 additional parking spaces could be required, but that some overlapping of access for multiple dwellings would likely be acceptable.

The project’s stormwater system design would provide separate detention vaults, piping or other means to capture roadway runoff and attenuate peak flow rates for storms at or above the ten-year recurrence interval to the pre-project ten-year peak flow rates. Separate lot-based detention systems would be provided to capture and detain residential stormwater runoff. The increased roadway runoff and any impermeable, paved parking spaces would have to be detained in the same manner as the runoff estimated for the 20 foot roadway design. The volume of the respective detention facilities collecting roadway runoff would have to be increased accordingly. Since no actual facility design has been supplied by the applicant’s civil engineer, it is not possible to verify the technical feasibility of these facilities. However, well-designed detention basins and other forms of civil works have proven effective in many situations where project-related hydromodification impacts must be mitigated. The commentors are correct that the additional runoff volumes shed by the widened on-site roadways would have to be captured and detained by those project sub-grade stormwater structures constructed for roadway runoff. This would increase the required storage volumes for these structures. In most cases, the topographic constraints of the site will force a lengthening of such structures, i.e. along and parallel to the roadway segments, since increased widths would require more structural slope stabilization (e.g. increases in retaining wall heights). As long as the final detention structure designs reflect the increased roadway surface area associated with the 28-foot roadway widths and the additional on-site parking spaces, the structures should be able to perform the intended detention function. The required storage volumes for these roadway detention facilities could be minimized to some extent by utilizing permeable pavers / pavement, gravel, or other porous materials for ridgeline locations (i.e. flat to mild grades (<two-percent) where such surfaces have demonstrable efficacy. Normally, porous pavement is not recommended for areas underlain by shallow soils, due to water quality considerations. For the proposed project, the impact of porous pavement or other permeable road and parking surfaces would likely be minor, particularly if parking spaces were segregated away from the identified recharge area for Keil Spring, north-northwest of the spring.

Mitigation Measure 5.5-3(e) and Mitigation Measure 6.5-3(f) is revised as follows:

**Mitigation Measure 5.5-3(e)** For final design of site stormwater runoff detention facilities, position the outlet to provide a runoff storage volume sufficient to mitigate for the volume differential between the pre- and post-development, two-year rainstorm, i.e. before any outlet



flow occurs. This feature would expand the detention function, but would not substantially change the overall design of the structure, since the outlet capacity would remain the targeted ten-year, pre-development peak flow and the total volumetric storage would satisfy the 100-year storm requirement. In addition, runoff detention facilities serving on-site roadways should be sized to accommodate the increased stormwater runoff volumes generated by the expanded 28-foot roadway width stipulated by Mitigation Measure 5.1-11 (Traffic) and the additional off-lot parking spaces stipulated by Mitigation Measure 5.1-12 (Traffic), rather than the project's proposed 20-foot roadway width and parking configuration. To the extent feasible, required off-lot parking spaces should be founded on permeable pavers / pavement, gravel or other permeable materials, in order to minimize required increases in the size of stormwater detention facilities, and to reduce the potential secondary grading and stabilization structure construction impacts that could accrue from expansion of these facilities. Permeable parking spaces should be restricted to areas outside of the recharge area identified for Keil Spring.

The paragraph regarding Responsibility and Monitoring of Mitigation 5.5-3(e) which has been revised in Response to Comment 2-1, is further revised as follows:

**Responsibility and Monitoring** Due to the Phase II NPDES Municipal Stormwater Permit regulations, including Attachment 4, the County requires the applicant to prepare a SWPPP that will include an Erosion and Sediment Control plan to address stormwater pollution during construction and a Stormwater Control Plan to address ongoing stormwater pollution after construction completion (post-construction measures). The applicant must comply with MCC Sections 24.04.625 and 627. The applicant is also responsible for obtaining coverage, by submitting a Notice of Intent to the State Water Resources Control Board, under the NPDES Construction General Construction-Permit (CGP) for stormwater discharge. This permit will also require that the applicant submit a SWPPP and other permit registration documents to the California State Water Resources Board. The applicant shall submit a copy of the Notice of Intent to the County as required by MCC Section 24.04.627(b) and the Regional Water Quality Control Board (RWQCB) will inspect the project during construction to assess compliance with the CGP. The applicant would be responsible to prepare stand alone SWPPP and Stormwater Control Plan documents. The applicant also would be responsible to ~~obtain coverage under and comply with the NPDES Construction General Permit for stormwater discharge and comply with MCC Section 24.04.625 and 24.04.627.~~ The Marin County Department of Public Works would be responsible to review and approve the Stormwater Control Plan and will review and approve the SWPPP to ensure compliance with MCC Section 24.04.625. ~~The Regional Water Quality Control Board (RWQCB) would be responsible to review and approve the SWPPP.~~ The applicant, and subsequently the Property Owners' Association, would be required to fully implement the erosion control and other water quality measures cited in the SWPPP and Stormwater Control Plan, and to monitor and maintain these measures during and following completion of site buildout, as necessary. The RWQCB applicant would be responsible to inspect these measures, typically and post-construction measures shall be inspected by the applicant (or Property Owners' Association) on an annual basis, for all components of the proposed project while ~~The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)]. The Marin County Department of Public Works would be responsible for review of the project's stormwater facilities. DPW may require the project applicant to provide a signed stamped letter from a California licensed professional engineer documenting engineering review of the project stormwater facility designs.~~ The applicant (or Property Owners' Association) would

be responsible to implement any remedial measures if the County or the RWQCB indicated that site stormwater quality objectives were not being met. The County also would be responsible for inspection during construction of BMPs and erosion control measures. ~~The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)].~~

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## **Master Response 7 – Emergency Radio Service**

*Impact 5.7-1 Fire Service Impact* stated that the Tiburon Fire Protection District indicated the project site is located in an area where there is limited emergency radio coverage, resulting in inadequate communication capabilities for emergency personnel. Mitigation Measure 5.7-1(b) requires the applicant to prepare an emergency radio coverage improvement plan. One possible method to provide the necessary radio coverage would be to locate a new emergency radio facility in the vicinity of the existing MMWD's Paradise Water Tank.

In its comments on the Draft EIR the Marin County Department of Public Works (DPW) commented on *Impact 5.7-1* and Mitigation Measure 5.7-1(b). DPW commented “upon approval by County Department of Public Works Operations Officer for MERA and prior to issuance of first grading or building permit, applicant shall on Parcel C, provide all required communications equipment, a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas.”

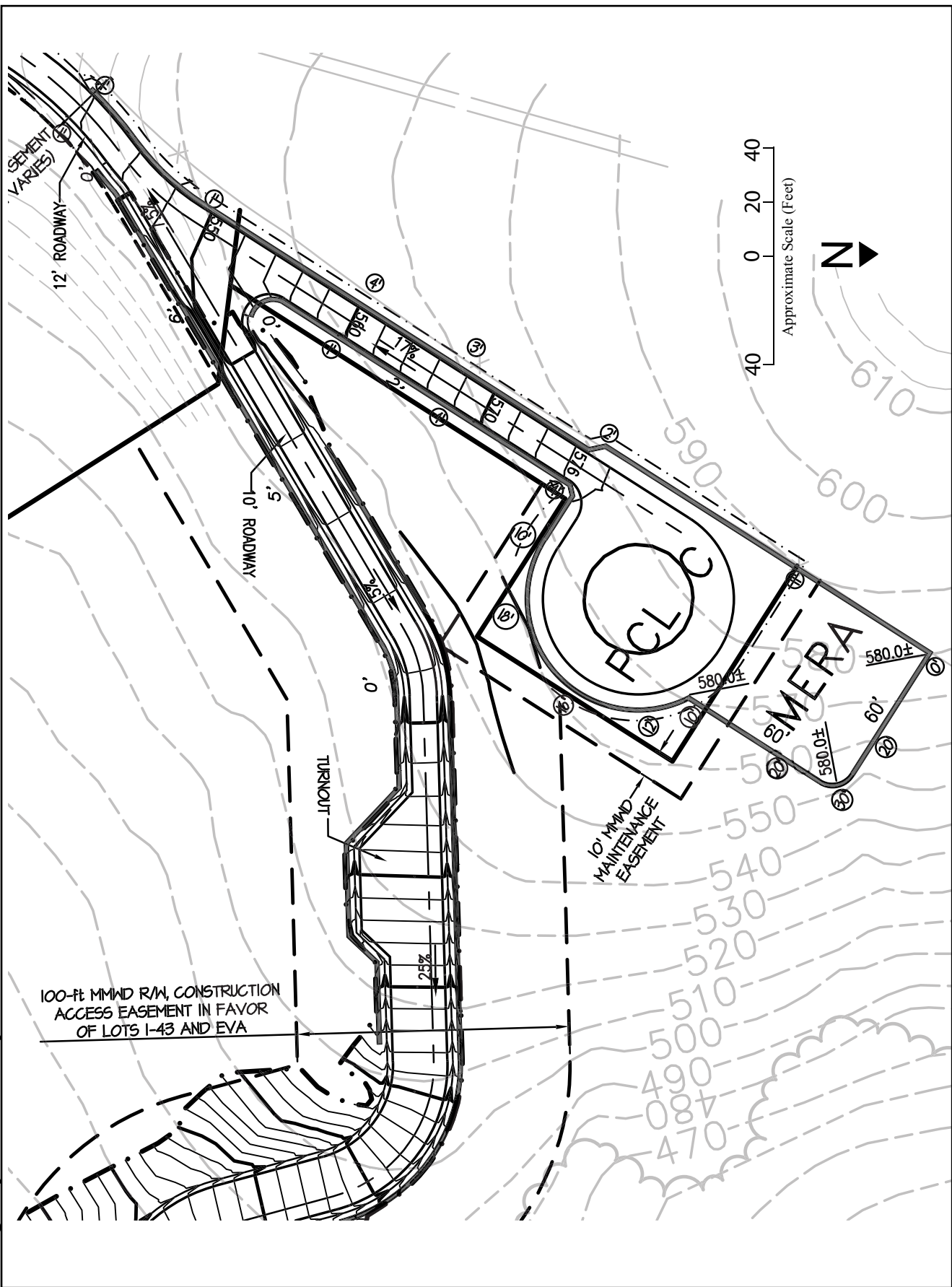
At the request of County staff the applicant did provide a site adjacent to Parcel C for an emergency radio facility. The site is adjacent to and just northeast of the proposed new water tank near the project's northwestern boundary (see **Exhibit 9.0-2**). The pad would provide a 60-foot by 60 foot area to locate all of the necessary equipment. The pad would be graded to an elevation of 580 feet. The northwest corner of the pad would be cut into the adjoining hillslope, while the southeast and northeast corners would be elevated above the existing ground by ten to 30 feet. A retaining wall ranging in height from zero feet to 30 feet would be required. Potential impacts associated with the emergency radio facility are described below.

### **Radio Frequency Electromagnetic Fields**

Hammett & Edison, Inc. was retained to prepare a radio frequency exposure report for a potential base station located adjacent to Parcel C. The Hammett & Edison report is in the Appendix.

The U.S. Federal Communications Commission (FCC) has established RF exposure limits. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Based on the analysis prepared by Hammett & Edison for a person anywhere at ground level, including the knoll to the northwest of Parcel C, the maximum RF exposure due to a base station design as described by DPW, including the contribution of the microwave antennas, is calculated to be 0.14 mW/cm<sup>2</sup>. This exposure level is 43 percent of the applicable public exposure limit. The maximum calculated level for a person at the adjacent proposed water tank would be 62 percent of the public exposure limit. The maximum calculated level at the second-floor elevation of the nearest proposed new residence would be 1.4 percent of the public exposure limit. In summary, the operation of an emergency radio base station as described by the DPW would comply with the FCC guidelines limiting public exposure to RF energy.

**Exhibit 9.0-2**  
**Emergency Radio Facility Pad**



### **Geology and Soils**

The proposed location of the emergency radio facility was reviewed to determine the proximity of the proposed site to the existing landslides (see **Exhibit 5.4-1**). A portion of the proposed site would be located on Landslide 20. This landslide was proposed to be improved but not repaired in the Conceptual Landslide Stabilization Plan prepared by the applicant's geotechnical consultant (see **Exhibit 5.4-2** and page 344 of the Draft EIR). Therefore, if the emergency radio facility site is located on Landslide 20, the landslide should be completely repaired, rather than improved, in order to be consistent with the Conceptual Landslide Stabilization Plan. It is Snyder & Wilson's (the EIR geology analyst) opinion that this small landslide could be easily stabilized using a graded buttress or piles designed similar to the other repairs presented by Miller Pacific to stabilize other landslides in the Conceptual Landslide Stabilization Plan (see **Exhibit 5.4-2**). Care should be taken to control all surface drainage runoff on the building pad, so that it does not flow uncontrolled down the slope and adversely affect slope stability.

### **Hydrology and Water Quality**

Taken together, a small portion of the adjacent water tank pad and the emergency radio facility pad would occupy approximately 0.2 acre of Sub-watershed W, (see **Exhibit 5.5-1** for the boundaries of the on-site watersheds) which is otherwise undeveloped. Vehicular use of the water tank site and the emergency radio facility site would be infrequent, and limited to maintenance vehicles. The minor increase in impervious surface coverage would not discernibly affect peak flow rates or runoff volumes in this sub-watershed. Thus, the emergency radio facility would have a less-than-significant impact on hydrology and water quality.

### **Biological Resources**

Construction of the emergency radio facility would result in an additional loss of 0.067 acres of non-native grassland (non-serpentine), bringing the total loss of this habitat type to 15.83 acres. Impacts to this habitat type prior to the emergency radio facility being proposed were considered less-than-significant and the additional loss of this small amount of acreage would not increase the severity of this impact to a significant level. No additional mitigation would be required for loss of habitat.

The facility would occur outside of habitat for special status plants, and mitigations already included in the Draft EIR, such as pre-construction surveys for nesting birds required by Mitigation Measure 5.6-7, would also apply to construction of this facility, therefore, the construction of the emergency radio facility would not result in impacts to individual special status animals or nesting birds.

### **Visual Quality**

Visual impacts associated with the construction of the proposed water tank are discussed in **Section 5.8 Visual Quality**. Although not visible in **Exhibit 5.8-5** in the discussion of *Impact 5.8-1 View from Tiburon Ridge* the Draft EIR on page 511 states that the water tank would be a highly conspicuous feature and would likely obstruct at least part of the view of Angel Island. In the discussion of *Impact 5.8-4 View from Ayala Cove on Angel Island* (page 525) it is stated the proposed water tank would appear in a prominent position at the highest point of land on the Tiburon Peninsula seen from Ayala Cove.

Constructed on a site adjacent to the water tank, the emergency radio facility would also be highly visible and would contribute to the previously identified significant visual impacts. Visual impacts from Tiburon Ridge (*Impact 5.8-1*), Heathcliff Drive (*Impact 5.8-2*) and from Ayala Cove on Angle

Island (*Impact 5.8-4*) have previously been identified as significant unavoidable impacts. With construction of the emergency radio facility these would remain significant unavoidable impacts, but would not be substantially more severe than the impact analyzed in the Draft EIR.

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## **Master Response 8 - Paradise Drive Sanitary Sewer and Water Line**

The project proposes the construction of an approximately 4,800-foot long four inch diameter sanitary sewer force main in Paradise Drive from Forest Glen Court to approximately 800 feet south of the southern project boundary, where it would connect with existing sewer lines maintained by Sanitary District No. 5.<sup>13</sup> In addition, Mitigation Measure 5.7-7 requires the replacement of the existing six-inch water main in Paradise Drive with an eight-inch water main from the proposed driveway for Lots 21 through 23 to Forest Glen Court. The length of the pipe replacement would be approximately 3,750 feet.

Several commentors requested additional environmental analysis of the construction of the sanitary sewer force main and the replacement water line. It is assumed that all work would occur within the Paradise Drive right-of-way. Furthermore it is assumed that the area affected for each pipeline would be limited to excavation of a relatively narrow (approximately two feet in width) installation trench, two to three feet below the roadway grade. The construction of improvements would be done consistent with permit requirements of Sanitary District No. 5, and Marin County Department of Public Works.

Potential impacts are discussed below.

### **Geology**

The main concern regarding the pipelines would be the potential for differential movement of the soil supporting the lines, either during an earthquake or from long-term soil settlement, particularly in the area adjacent to Landslide 11, which is of marginal stability. Past stability calculations of Landslide 11 by a previous consultant, Kleinfelder, (see pages 317 through 320 of the Draft EIR for a discussion of previous site geologic work) demonstrated that the entire lower portion of Landslide 11 would fail and yield at least four feet into Paradise Drive in the event of a moderate to large earthquake. Due to its extensive size, it is also possible that Landslide 11 extends further down the slope and under Paradise Drive. Therefore, the potential exists for a significant portion of the proposed wastewater line or water replacement line to be damaged if Landslide 11 were to move. It would be prudent to consider the potential for this movement in the pipeline design, especially where it is located adjacent to Landslide 11.

Another concern would be the potential for unwanted infiltration of storm water into the excavation, if the excavation were to be left opened during construction. Water percolating into underlying weaker materials on Paradise Drive, particularly in the area adjacent to Landslide 11, which is of marginal stability, would be a potential concern. Best management practices should be implemented during construction of the pipelines in order to reduce the potential for storm water entering the excavation.

### **Hydrology**

The design profile of the force main would have to maintain a minimum vertical clearance above the cross-roadway culverts that convey site and Paradise Drive (partial) stormwater runoff downslope. As

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<sup>13</sup> *Utility Plan, Master Plan / Precise Development Plan / Tentative Map, Sheet C-3, Backen Gilliam, International Planning Associates, CSW/Stuber-Stroeh, revised January 29, 2009.*

long as construction crews remove any surplus excavated materials off-site to an approved disposal area and follow Marin County guidelines for site cleanup, no significant impacts would occur to local drainage patterns, water quality or flooding. Special care would need to be taken to avoid discharging excavated material into the insloped roadway drainage ditches that parallel Paradise Drive.

### **Biological Resources**

The sanitary sewer force main and water line replacement would result in trenching within the developed roadway of Paradise Drive; therefore, this would not result in any new impacts to any natural habitats or loss of other sensitive resources such as ordinance-size trees. The installation of the pipelines could result in harm or mortality to individual special status animals, should they occur in close proximity to Paradise Drive at the time this work occurs, or could result in nest abandonment should birds be nesting in close proximity to Paradise Drive at the time trenching and installation work occurs. Mitigation measures, however, such as pre-construction nesting bird surveys, already required in the Draft EIR would lessen such potential impacts to a less-than-significant level (see Mitigation Measures 5.6-2(e) on page 442 and Mitigation Measure 5.6-7 on page 452 of the Draft EIR).

### **Transportation**

Portions of Paradise Drive would be limited to controlled traffic during construction of the proposed sewer line and waterline upgrade. During construction contractors would make efforts to minimize traffic disruptions and to ensure public health and safety. Contractors would be required to follow the California Manual on Uniform Traffic Control Devices (MUTCD).<sup>14</sup> Part 6 of the MUTCD provides the specific requirements for Temporary Traffic Control during construction. Marin County does allow alternating traffic lane closure so long as the vehicle waiting time does not exceed five minutes.<sup>15</sup> Implementation of these measures would ensure the safe passage of traffic and would optimize the flow of through traffic along Paradise Drive.

In summary, the above discussion of the impacts of construction of the proposed sewer line and water line in Paradise Drive does not affect any analysis or alter any conclusions in the Draft EIR.

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<sup>14</sup> *California Manual on Uniform Traffic Control Devices*, State of California Business Transportation and Housing Agency, Department of Transportation, 2012 Edition. Nichols Berman communication with Scott Schneider, Associate Civil Engineer, Marin County, May 2013.

<sup>15</sup> Nichols • Berman communication with Scott Schneider, Associate Civil Engineer, Marin County, May 2013.



## **9.4 RESPONSES TO COMMENTS**

All comments submitted to Marin County on the Draft EIR in letters 1 through 108 are presented in the following pages. The original letters are reproduced and comments are numbered for referencing with responses. Some responses refer readers to other comments or responses in this section or to the pages in the Draft EIR where specific topics are discussed.

## LETTER NO. 1

**Taylor, Tammy**


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**From:** Warner, Rachel  
**Sent:** Thursday, April 28, 2011 4:33 PM  
**To:** Taylor, Tammy  
**Subject:** FW: Easton Point Draft EIR  
**Attachments:** Easton Pt EIR Comments 4 25 2011 MERA.doc; Easton Pt EIR Comments Roads and Geology 4 25 11.doc

FYI

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**From:** Davidson, Berenice  
**Sent:** Thursday, April 28, 2011 4:32 PM  
**To:** Warner, Rachel  
**Cc:** 'John Roberto'  
**Subject:** Easton Point Draft EIR

Rachel,

Attached please find our comments regarding MERA, traffic, roads and slides.

The main comments are:

1

- **5.7-1(b)** Requires applicant prepare an emergency radio coverage improvement plan and access easements, subject to approval of County Department of Public Works Operations Officer for MERA that shows acceptable emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34, and coverage along Paradise Drive for emergency response units travelling to those lots, prior to recordation of the subdivision map. Upon approval by County Department of Public Works Operations Officer for MERA and prior to issuance of first grading or building permit, applicant shall on Parcel C, provide all required communications equipment, a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas. **Applicant is responsible to fund entire cost of design and implementation.**

- **A free and unlimited access to the tower from Paradise Drive, or any other feasible alternative, shall be provided**

2

- **5.1-3** Requires preparation of a right-of-way improvement plan that shows adequate sight distance would be provided and shall include improvements as follows: Provide a 10 foot right turn pocket and a 10 foot left turn pocket approaching each proposed driveway off Paradise Drive with 250 foot taper lengths. Paradise Drive shall be improved throughout entire property frontage with 12 foot lanes with 4 foot shoulders on each side.

- All proposed road to be built to Marin County standards and offer to the County.

3

- **5.4-1** Requires a design level comprehensive geotechnical report shall be prepared and submitted to Marin County prior to issuance of any grading permits. The geotechnical report shall include an engineering geologic and geotechnical investigation on a lot-by-lot basis before development of roadways and utilities and within proposed building envelopes of each individual lot. The report shall include a comprehensive design-level grading plan including a landslide stabilization program on all lots and a long-term maintenance program for the stabilization program. The repair

5/3/2011

program shall be implemented by the applicant. **Long term maintenance responsibility shall be the property owners association.**

Thank you.

Berenice

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**5.7-1(b)** Requires applicant prepare an emergency radio coverage improvement plan and access easements, subject to approval of County Department of Public Works Operations Officer for MERA, that shows

acceptable emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34, and coverage along Paradise Drive for emergency response units travelling to those lots, prior to recordation of the subdivision map. Upon approval by County Department of Public Works Operations Officer for MERA, and prior to issuance of first grading or building permit, applicant shall on Parcel C, provide all required communications equipment, a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas.

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Goal EH-4 Safety from Fires. Protect people and property from hazards associated with wildland and structural fires.

Consistent - The project would comply with the requirements of the 2003 Urban Wildland Interface Code, the 2007 California Building Code Chapter 7A, and the Tiburon Fire Protection District. Mitigation - 113 -

4.0 Relationship to Public Plans

2008 Easton Point Residential Development Draft EIR

Applicable Goal / Policy Consistency Issue(s)

Measure 5.1-9 requires proposed roadways to meet TFPD standards for emergency vehicle access and Mitigation Measure 5.7-1(b) will improve emergency radio coverage impacts regarding the existing MERA system.

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### MARIN EMERGENCY RADIO AUTHORITY (MERA)

In 1997 public safety agencies in Marin County began developing a proposal for a countywide emergency communication radio system to replace the obsolete communication systems that were used by individual emergency service providers. In February 1998, under a joint powers agreement, the Marin Emergency Radio Authority (MERA) was formed with the goal of providing a regional emergency radio communication system. Today the MERA system consists of 17 sites, including the main processing site located at the Marin Civic Center. The system links communication between each agency, but also allows for each agency to maintain autonomous communication separate from the region. The MERA system is working to develop new antenna sites to increase coverage. Marin County has received public comments from the TFPD stating concern over a "dead zone" in the MERA system, where communications have been dropped in the area of the proposed project site. In response to concerns expressed by the TFPD regarding the MERA coverage, on April 28, 2010 a reconnaissance of the project site was conducted. One purpose of the reconnaissance was to determine the level of emergency radio coverage in areas proposed for development on the project site. The level of emergency radio coverage was evaluated using two hand held portable radios that are part of the MERA system. Those participating in the reconnaissance represented Marin County, TFPD, MERA, the EIR consultant, and the project applicant. The following is a summary of the findings:

- At present there is a strong radio signal and adequate emergency radio coverage at the higher elevations on the project site.
- For the proposed project the emergency radio system coverage would be adequate for the three lots (Lots 1 through 3) to be accessed by Mountain View Drive, and the 27 lots that would be accessed by the extension of Ridge Road and Mt. Tiburon Court. There was one area in the vicinity of proposed Lots 18 and 12 where the radio signal was so strong from two different directions that they cancelled each other out.
- At present there is a weak radio signal and inadequate emergency radio coverage at the lower

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elevations on the project site, including areas along Paradise Drive that lead from Tiburon Fire Stations and surrounding jurisdictions.

- For the proposed project the existing emergency radio signal and coverage would be inadequate in the area proposed for Lots 21 through 23 and the ten lots (Lots 25 through 34) proposed along Forest Glen Court.

- After reviewing the site plans and topography maps for the project site it appeared that a new radio facility located in the vicinity of the existing 47-foot tall Paradise Water Tank could possibly provide adequate radio coverage for all lower elevation lots (those located below elevation 290). It also is possible that a new radio facility at the existing water tank site could mitigate the area at the higher elevations were the existing radio signals cancelled each other out.

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- It appears to be physically possible to locate a new radio facility next to the existing Paradise Water Tank on/near the MMWD property. MMWD approval would be required for any facility on the district's property. A new facility design might consist of a new tapered monopole as high as the existing water tank with the two antennae extending above the tank. There would also be one microwave dish, a small radio building (ten-feet by 18-feet) and an emergency generator. It was estimated that new antennae at this location would be adequate to provide emergency radio coverage for all proposed development at the lower elevation. However, in order to include areas along Paradise Drive that lead from Tiburon Fire Stations and surrounding jurisdictions, it is required by County Department of Public Works Operations Officer for MERA that prior to issuance of first grading or building permit, applicant shall on Parcel C, provide all required communications equipment, a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas.

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## **Fire Protection and Emergency Services – Impacts and Mitigation Measures**

### **NO OR LESS-THAN-SIGNIFICANT IMPACTS**

Based on the findings of the analyses completed as a part of this EIR it has been determined that the

proposed 2008 *Easton Point Residential Development* would have no or less-than-significant impacts

for the following significance criteria:

- *Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.*

The proposed project would not interfere with any emergency response or evacuation plan, therefore further analysis is not necessary.

### **IMPACT ANALYSIS 12**

#### **Impact 5.7-1 Fire Service Impact**

*Project site development would result in increased service demands on the TFPD. However, the increase would not be significant. Proposed roads and driveways would not comply with all Tiburon Fire Protection District's standards. The Tiburon Fire Protection District has indicated the project site is located in an area where there is limited emergency radio coverage, resulting in inadequate communication capabilities for emergency personnel. This would be a significant fire service impact.*

The TFPD would be able to serve the project site. The TFPD could not estimate the number of service

calls project residents would generate, but does not anticipate a significant increase in service calls

resulting from the project. 13

Vehicle circulation for the proposed project would consist of roads that would be designed to meet standards of the TFPD (see *Impact 5.1-9 Project Impacts Related to Emergency Access*). The applicant is required to dedicate the roads to Marin County. <sup>14</sup> With the exception of the construction access road, the project roads and driveways would comply with County of Marin and TFPD roadway grade requirements. The construction access road would have a 25 percent maximum grade and would not conform to TFPD standards. It is proposed that after construction that the construction access road would remain for emergency access only and would be blocked at either end by a barricade gate. Due to the 25 percent maximum grade the construction access road would not meet TFPD standards for grades and, therefore, it is unlikely that the construction access road would be available for use by emergency vehicles. As discussed in *Impact 5.1-9* in three locations driveways would be too narrow to meet TFPD standards and in four locations turnouts would be needed to meet TFPD standards.

**Mitigation Measure 5.7-1(b)** In order to reduce the significant emergency radio coverage impacts at lower elevations on the project site, the applicant shall prepare an emergency radio coverage improvement plan, subject to approval of director of County Department of Public Works (Operations Officer for MERA) that shows adequate emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34. Upon approval and prior to issuance of first grading or building permit, applicant shall build an 80 foot high tower on Parcel C with three dishes eight foot wide each.

The improvement plan shall clearly show that adequate emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34. The improvement plan shall be prepared for the review and approval of director of County Department of Public Works (Operations Officer for MERA).

- New emergency radio facility shall be located in Parcel C. A free and unlimited access to the tower from Paradise Drive, or any other feasible alternative, shall be provided. Upon approval by County Department of Public Works Operations Officer for MERA and prior to issuance of first grading or building permit, applicant shall on Parcel C, provide all required communications equipment, a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas.

**Significance after Mitigation**

**Mitigation Measure 5.7-1(a)** Same as Mitigation Measure 5.1-9.

**Mitigation Measure 5.7-1(b)** Implementation of Mitigation Measure 5.7-1(b) would provide adequate emergency radio coverage at the lower elevations of the project site and reduce the impact to a less-than-significant level.

**Responsibility and Monitoring**

**Mitigation Measure 5.7-1(a)** Same as Mitigation Measure 5.1-9.

**Mitigation Measure 5.7-1(b)** The applicant is required to obtain approval from County Department of Public Works Operations Officer for MERA for the design and implementation of the emergency radio facility. The applicant is responsible to fund entire cost of design and implementation. its fair share of the improvement.

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**Deleted:** Rather the new roads would be private roads and maintained by the Property Owners' Association.

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**Deleted:** One possible method to provide the necessary radio coverage would include the following:

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**Deleted:** in the vicinity of the existing MMWD's Paradise Water Tank. The facility could be located either on the project site or possibly on the water tank site with MMWD permission. The facility design might consist of a new tapered monopole as high as the existing water tank with the two antennae extending above the tank. There would also be one microwave dish, a small radio building (approximately ten-feet by 18-feet) and an emergency generator.

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**Deleted:** responsible

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**Deleted:** MERA to

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**Deleted:** that would provide emergency radio coverage at the lower elevations of the site.

**Deleted:** The applicant shall prepare the improvement plan for review and approval by MERA. MERA 15 Nichols • Berman communication with Ron Barney, Fire Inspector, Tiburon Fire Protection District, April 2009. - 462 - 5.7 Public Services and Utilities 2008 Easton Point Residential Development Draft EIR would be responsible to implement and / or oversee construction.

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The impacts *Alternative 2* would have on fire protection services would be similar to the proposed project. With *Alternative 2*, the development of 32 new houses would not create a need for new fire protection facilities, or the expansion of existing facilities, the construction of which would create environmental impacts of their own. As discussed in *Impact 6.1-9* in three locations turnouts would be needed to meet TFPD standards and the construction access road, proposed to be removed after construction, would not comply with TFPD standards for grade.

As stated in **Section 5.7 Public Services** the project site is located in an area where the MERA communications system, which is utilized by the TFPD as well as other emergency service providers, has limited communication and may be in need of a new antenna. Based on the April 2010 site reconnaissance it is expected that there would be a weak radio signal and inadequate emergency radio coverage at the lower elevations on the project site, Lots 18 through 21 and Lots 22 through 31. This impact would be the same as for the proposed project.

**Mitigation Measure 6.7-1** The applicant shall implement the following mitigation measures in order to reduce the project's fire service impacts to a less-than-significant level.

**Mitigation Measure 6.7-1(a)** Same as Mitigation Measure 6.1-9.

**Mitigation Measure 6.7-1(b)** In order to include areas along Paradise Drive that lead from Tiburon Fire Stations and surrounding jurisdictions, it is required by County Department of Public Works Operations Officer for MERA that prior to issuance of first grading or building permit, applicant shall on Parcel C, provide all required communications equipment, a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas. A free and unlimited access to the tower from Paradise Drive, or any other feasible alternative, shall be provided.

#### **Significance after Mitigation**

**Mitigation Measure 6.7-1(a)** Same as Mitigation Measure 6.1-9.

**Mitigation Measure 6.7-1(b)** Implementation of Mitigation Measure 6.7-1(b) would provide adequate emergency radio coverage.

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**Deleted:** In order to reduce the significant emergency radio coverage impacts at lower elevations on the project site, the applicant shall prepare an emergency radio coverage improvement plan. The improvement plan shall clearly show that adequate emergency radio coverage can be provided for Lots 18 through 21 and Lots 22 through 31. The improvement plan shall be - 665 -  
**6.0 Alternatives to the Proposed Project**  
**2008 Easton Point Residential Development Draft EIR**  
 prepared in cooperation with the MERA. One possible method to provide the necessary radio coverage at the lower elevations on the project site would include the following:  
 • Locate a new emergency radio facility in the vicinity of the existing MMWD's Paradise Water Tank. The facility could be located either on the project site or possibly on the water tank site with MMWD permission. The facility design might consist of a new tapered monopole as high as the existing water tank with the two antennae extending above the tank. There would also be one microwave dish, a small radio building (approximately ten-feet by 18-feet) and an emergency generator.

Page 16

9

In addition to the certification of the EIR, the proposed *2008 Easton Point Residential Development*

will require the following approvals from Marin County:

- Master Plan approval
- Precise Development Plan approval
- Tentative and Final Subdivision Map approval
- Design Review approval for construction of future homes on individual lots
- Exception to Marin County Subdivision Standards (an exception is requested to Title 24, Development Standards, Section 24.04.110 (road width)) Since County will require that these be build to standards and dedicated, should this statement still be here?
- Rezone the project site from Single Family Residential (R-1) and Residential Multiple Planned District (RMP-0.2) to Residential Single Family Planned (RSP).

Page 21

10

*5.1-3 Safety Impact Due to Inadequate Distances Approaching the Unsignalized Intersections of Paradise Drive with Project Access Roads.* Visibility for drivers approaching the intersection of Paradise Drive with the proposed driveway to Lots 21 through 23 and the proposed intersection of Forest Glen Court would be subject to the AASHTO standard for stopping sight distance. The Forest Glen Court intersection would, in the opinion of the EIR traffic analyst, result in a potentially unsafe condition.

S *5.1-3* Requires preparation of a right-of-way improvement plan that shows adequate sight distance would be provided and shall

include improvements as follows: Provide a 10 foot right turn pocket and a 10 foot left turn pocket approaching each proposed driveway off Paradise Drive with 250 foot taper lengths. Paradise Drive shall be improved through entire property frontage with 12 foot lanes with 4 foot shoulders on each side.

**Deleted:** to the Forest Glen Court / Paradise Drive intersection to provide a minimum 158 feet of sight distance and widening of Paradise Drive to include four-foot shoulders with minimum 60-foot taper at the proposed Forest Glen Court intersection.

PAGE 26

11

*5.4-1* Requires a design level comprehensive geotechnical report shall be prepared and submitted to Marin County prior to issuance of any grading permits. The geotechnical report shall include an engineering geologic and geotechnical investigation on a lot-by-lot basis before development of roadways and utilities and within proposed building envelopes of each individual lot. The report shall include a comprehensive design-level grading plan including a landslide stabilization program on all lots and a long-term maintenance program for the stabilization program. The repair program shall be implemented by the applicant. Long term maintenance responsibility shall be the property owners association. Furthermore:

Page 27

12

A long-term maintenance program that provides for periodic inspections and maintenance of the recommended landslide stabilization program during the life of the project shall be included. Long term maintenance responsibility shall be the property owners association.



The EIR reached the following major conclusions:

- As discussed in **Section 5.1 Transportation**, the Draft EIR concludes that the proposed project would not result in a significant increase in peak hour traffic volumes at all of the study intersections. The proposed project would contribute to peak hour cumulative impacts at the Avenida Miraflores / Tiburon Boulevard, Rock Hill Drive / Tiburon Boulevard intersections and the unsignalized Reed Ranch Road southbound left turn to Tiburon Boulevard. Project site residents would contribute to the number of bicyclists using Paradise Drive. Mitigation measures are proposed along Paradise Drive. Long-term project traffic to Lyford's Cove / Old Tiburon and Hill Haven neighborhood streets would not result in significant impacts to existing or future road capacity. However, emergency access vehicles and residents of these existing neighborhoods would be exposed to more frequent unpredictable traffic flow and intermittent safety hazards when traveling on the narrow, winding residential streets. Mitigation measures are proposed for this impact. The proposed on-site streets would not meet Marin County standards and the applicant has requested an exception to the County standards. The Draft EIR recommends that the on-site roads be constructed in compliance with county standards. The County requires these roads be built to Marin County road standards and be offered to the County. Construction of such roads

would have minor secondary impacts related primarily to geology and soils, hydrology and water quality, and biological resources. The proposed project would create a demand for parking spaces. A mitigation measure is proposed to provide additional on-site parking to accommodate anticipated parking demands.

- As discussed in **Section 5.2 Air Quality**, construction activities could expose neighbors to unhealthy levels of particulate matter and possible toxic air contaminants. Grading of the project site may disturb soils containing serpentine, possibly releasing asbestos fibers into the air. With conformance to BAAQMD regulations and proposed mitigation measures, these impacts would be less-than-significant. Generation of greenhouse gas emissions would not exceed BAAQMD significance criteria.

- As discussed in **Section 5.3 Noise**, construction noise at the project site would temporarily increase ambient noise levels in the site vicinity. Measures are proposed to mitigate construction noise but this would be a significant unavoidable impact.

- As discussed in **Section 5.4 Geology and Soils**, a total of 28 landslides have been identified on the project site. Miller Pacific Engineering Group, the applicant's geotechnical engineer, has proposed a conceptual landslide stabilization plan for the project site. **Exhibit 5.4-2** describes the proposed landslide stabilization for the on-site landslides and **Exhibit 5.4-3** illustrates the proposed landslide stabilization program. The Draft EIR found that the proposed landslide stabilization program would be adequate to protect proposed development improvements.

However, other, landslides are located in proposed open space areas and on portions of proposed lots over 100 feet from proposed building / improvement sites. If all of the landslides are not improved, mitigated or avoided, some of the un-repaired landslides could reactivate, causing a potential risk to life and property. While the applicant's geotechnical consultant's conceptual landslide stabilization plan would improve the stability of much of the site, it would also leave undeveloped portions of the site vulnerable to future slope failures. CEQA analysis addresses the impact of the proposed project on the site conditions existing at the time the Notice of Preparation was published. Because the landslides on the project site are an existing condition, some existing landslide hazards may or may not be impacted by the proposed project. How is the unknown mitigated? Existing landslide

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### **Marin County Code Title 24 Development Standards**

The 2008 Easton Point Residential Development project ~~will be required to be consistent with the~~ Marin County Code. Title 24 (Development Standards) of the County Code establishes standards of improvements and construction for the development of land within the unincorporated area of Marin County. Relevant development standards are discussed below.

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### **Page 196**

**Paradise Drive** Paradise Drive, from Main Street in downtown Tiburon to the project site's MMWD water tank service road, has winding narrow eight- to ten-foot lanes and shoulders varying from zero to two feet wide. For most of its length, shoulders are less than one-foot wide. This allows little room for driver inattention through the curves and little to no room to pull over to the shoulder for refuge, if an on-coming vehicle is cutting corners through curves and crossing the centerline. The remote scenic qualities of Paradise Drive (in some locations it provides the only public road access to views of San Francisco Bay along the northern and eastern parts of the Peninsula) make it attractive for scenic and recreational drivers, runners, and bicyclists. However, throughout its length there are no pathways, consistent width shoulders, or sufficiently wide paved travel lanes to accommodate both vehicles and bicyclists or pedestrians. Along most sections of Paradise Drive, there is no refuge for pedestrians and bicyclists to move out of the way of oncoming vehicles. Through the narrowest road segments (eight-foot lanes with no shoulders), if a car encounters a bicyclist pedaling ahead, the driver must slow to the speed of the bicycle until both arrive at a road section sufficiently wide and with adequate sight distance to allow the car to pass the bicycle safely. Observations indicate that drivers sometimes do not wait for a sufficiently safe viewing distance to pass but enter the lane of opposing traffic on the chance that there will be no collision. The segment of Paradise Drive near the site currently has a very low level of peak hour traffic, and, while lane widths are considered adequate for prevailing traffic volumes, it is the opinion of the EIR traffic analysts that the road width is unsafe for use by bicyclists and pedestrians. This is recognized by the fact that the Bay Trail, a pedestrian and bicycle trail, is not officially designated anywhere along Paradise Drive because the road and right-of-way generally are too narrow to widen, straighten, or paint a bicycle lane. The existing Class II (signed and striped) bicycle route ends in the vicinity of Mar West Street (east). Marin County Public Works researched the five-year collision rate for the approximately three-mile long segment of Paradise Drive (from milepost 4.31 to 7.22) and found it to be "below the state-wide average for conventional two-lane roads in both rolling and mountainous terrains." 23 There is no known data indicating that bicycle or pedestrian collision rates are higher than average on Paradise

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Drive.

- Provide a 10 foot right turn pocket and a 10 foot left turn pocket approaching each proposed driveway off Paradise Drive with 250 foot taper lengths. Paradise Drive shall be improved throughout entire property frontage with 12 foot lanes with 4 foot shoulders on each side.

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Page 210

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#### **Off-Site Improvements**

As a part of the project the applicant proposes to provide off-site traffic improvements including the following:

- Post signs prohibiting parking along both sides of Diviso Street and along other residential streets narrower than 20 feet wide.
  - Provide stop or yield sign control for the side streets intersecting Ridge Road.
- The applicant's traffic engineer recommends additional improvements, as follows:
- Improve the Forest Glen Court / Paradise Drive intersection to provide a minimum of 150 feet of sight distance in both directions for outbound vehicles.
  - Widen Paradise Drive road to include four-foot shoulders with 60-foot tapers at the Lots 21 to 23 Driveway and the proposed Forest Glen Court intersection.

- Provide a 10 foot right turn pocket and a 10 foot left turn pocket approaching each proposed driveway off Paradise Drive with 250 foot taper lengths. Paradise Drive shall be improved throughout entire property frontage with 12 foot lanes with 4 foot shoulders on each side.

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PAGE 631

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#### **Impact 6.4-1 Landsliding**

As discussed for the proposed project, numerous landslides are present on the project site, some of which are located in or within 100 feet of proposed residential building envelopes and public improvements. Other landslides are located in proposed open space areas and on portions of lots over 100 feet from existing landslides. If the portions of landslides that encroach onto proposed residential building envelopes and proposed public improvements are not adequately mitigated, landslides could reactivate, possibly causing bodily harm and / or property damage. In *Alternative 2* landslides that would threaten the proposed development and improvements include landslides 2, 3, 6, 7, 8, 11, 15, 16, 19, 20, 23, 26, 27, and 40. Except for landslide 15, each of these landslides has been designated as Risk Level A by Miller Pacific. Landslide 15 has been designated as Risk Level B (see **Exhibit 6.0-33**).

Impacts related to landslides on the project site for *Alternative 2* would be the same as for the

proposed project. For a more detailed discussion regarding the proposed landslide stabilization plan see *Impact 5.4-1 Landsliding*. As discussed in *Impact 5.4-1* repair and improvement methods proposed by Miller Pacific include additional grading, retaining walls (or subsurface pile walls), debris fences, rip-rap, and subdrains. Included within the mitigation measures proposed is the requirement to repair any landslide within 100 feet of a proposed residential building envelope or public improvement. Other landslide areas are to be avoided or improved. The stability of the landslides left in place has not been determined and, therefore, the long-term performance cannot be definitively predicted. Based upon the history and past poor performance of unrepaired landslides on the Tiburon Peninsula, future landsliding, in areas of the project site not destined for complete repair, cannot be ruled out. It is, however, noted that since the site instability is an existing condition, neither the Marin County landslide mitigation policy nor the Miller Pacific policy, developed for this project, **would require that landslides outside the proposed development be completely repaired.**

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#### Page 631

For each landslide repair proposed, the limits **shall** be verified.

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#### PAGE 642

• A long-term maintenance program that provides for periodic inspections and maintenance of the recommended landslide stabilization program during the life of the project shall be included. The maintenance program shall provide for:

- ☐ Periodic geologic inspections
- ☐ Monitoring of geotechnical and hydrologic mitigation measures to assure effectiveness.
- ☐ A schedule for routine cleaning and maintenance of drainage devices.
- ☐ Provisions to provide recommendations for additional erosion control or mitigation of any unforeseen hazards which develop in the future.
- ☐ Provision for a regular reporting schedule.
- ☐ Identification of an entity responsible to implement the maintenance program.

**Significance after Mitigation** Implementing the recommendations of the applicant's geotechnical

consultant and future recommendations of detailed lot-specific investigations would provide landslide

repair techniques capable of reducing potential slope instability hazards to residential building envelopes and public improvements to a less-than-significant level. Implementation of the maintenance program to be the responsibility of property owners association. OR WILL A 'SERVICE DISTRICT' BE FORMED? WHAT IF THEY START BUILDING ONE LOT AT A TIME, DOES THIS MEAN ONE PROPERTY OWNER WILL BE RESPONSIBLE FOR EVERYTHING?

**Taylor, Tammy**

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**From:** Warner, Rachel  
**Sent:** Thursday, April 28, 2011 4:34 PM  
**To:** Taylor, Tammy  
**Subject:** FW: Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010  
**Attachments:** easton.doc

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**From:** Davidson, Berenice  
**Sent:** Thursday, April 28, 2011 4:33 PM  
**To:** Warner, Rachel  
**Cc:** 'John Roberto'  
**Subject:** FW: Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010

[MCSTOPP Comments](#)

[Thanks,](#)

[Berenice](#)

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**From:** Fashing, Terri  
**Sent:** Thursday, April 28, 2011 9:27 AM  
**To:** Davidson, Berenice  
**Subject:** Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010

Hi Berenice,

Here are my edits to page of Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010. The attached document shows edits with tracked changes.

Thanks. Call 415-497-7546 with questions. I am in meetings in Oakland today.

Terri Fashing, MCSTOPPP

Due to the Phase II NPDES Municipal Stormwater Permit regulations, including Attachment 4, the County requires the applicant to prepare a SWPPP that will include an Erosion and Sediment Control plan to address stormwater pollution during construction and a Stormwater Control Plan to address ongoing stormwater pollution after construction completion (post-construction measures). The applicant must comply with MCC Sections 24.04.625 and 627. The applicant is also responsible for obtaining coverage, by submitting a Notice of Intent to the State Water Resources Control Board, under the NPDES Construction General Permit (CGP) for stormwater discharge. This permit will also require that the applicant submit a SWPPP and other permit registration documents to the California State Water Resources Board. The applicant shall submit a copy of the Notice of Intent to the County as required by MCC Section 24.04.627(b) and the Regional Water Quality Control Board (RWQCB) will inspect the project during construction to assess compliance with the CGP. The applicant would be responsible to prepare stand alone SWPPP and Stormwater Control Plan documents. The applicant also would be responsible to comply with MCC Section 24.04.625 and 24.04.627. The Marin County Department of

5/3/2011

Public Works would be responsible to review and approve the Stormwater Control Plan and will review and approve the SWPPP to ensure compliance with MCC Section 24.04.625. The applicant, and subsequently the Property Owners' Association, would be required to fully implement the erosion control and other water quality measures cited in the SWPPP and Stormwater Control Plan, and to monitor and maintain these measures during and following completion of site build out, as necessary. The applicant would be responsible to inspect these measures, and post-construction measures shall be inspected by the applicant (or Property Owners' Association) on an annual basis. The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)]. The applicant (or Property Owners' Association) would be responsible to implement any remedial measures if the County or the RWQCB indicated that site stormwater quality objectives were not being met. The County also would be responsible for inspection during construction of BMPs and erosion control measures.

Due to the Phase II NPDES Municipal Stormwater Permit regulations, including Attachment 4, the County requires the applicant to prepare a SWPPP that will include an Erosion and Sediment Control plan to address stormwater pollution during construction and a Stormwater Control Plan to address ongoing stormwater pollution after construction completion (post-construction measures). The applicant must comply with MCC Sections 24.04.625 and 627. The applicant is also responsible for obtaining coverage, by submitting a Notice of Intent to the State Water Resources Control Board, under the NPDES Construction General Permit (CGP) for stormwater discharge. This permit will also require that the applicant submit a SWPPP and other permit registration documents to the California State Water Resources Board. The applicant shall submit a copy of the Notice of Intent to the County as required by MCC Section 24.04.627(b) and the Regional Water Quality Control Board (RWQCB) will inspect the project during construction to assess compliance with the CGP. The applicant would be responsible to prepare stand alone SWPPP and Stormwater Control Plan documents. The applicant also would be responsible to to comply with MCC Section 24.04.625 and 24.04.627. The Marin County Department of Public Works would be responsible to review and approve the Stormwater Control Plan and will review and approve the SWPPP to ensure compliance with MCC Section 24.04.625. The applicant, and subsequently the Property Owners' Association would be required to fully implement the erosion control and other water quality measures cited in the SWPPP and Stormwater Control Plan, and to monitor and maintain these measures during and following completion of site build out, as necessary. The applicant would be responsible to inspect these measures, and post-construction measures shall be inspected by the applicant (or Property Owners' Association) on an annual basis. The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)]. The applicant (or Property Owners' Association) would be responsible to implement any remedial measures if the County or the RWQCB indicated that site stormwater quality objectives were not being met. The County also would be responsible for inspection during construction of BMPs and erosion control measures.

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## Taylor, Tammy

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**From:** Warner, Rachel  
**Sent:** Thursday, April 28, 2011 4:49 PM  
**To:** Taylor, Tammy  
**Subject:** FW: Easton Point EIR

---

**From:** Davidson, Berenice  
**Sent:** Thursday, April 28, 2011 4:46 PM  
**To:** Warner, Rachel  
**Cc:** 'John Roberto'  
**Subject:** Easton Point EIR

Rachel,

The following comments replaces my previous comment on Mitigation Measure 5.4-1 Landsliding

19

Page 27 sentence to be added at the end of last bullet. *Applicant to demonstrate how this maintenance program will be funded, identify what entity will be responsible for implementation and how this entity will be viable in the long term.*

Berenice



**From:** Fashing, Terri  
**Sent:** Thursday, April 28, 2011 9:27 AM  
**To:** Davidson, Berenice  
**Subject:** Notice of Completion - Draft EIR 2008 Easton Point Residential Development Project SCH #2009012010

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Terri Fashing, MCSTOPPP

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Responsibility and Monitoring Due to the Phase II NPDES Municipal Stormwater Permit regulations, including Attachment 4, the County requires the applicant to prepare a SWPPP that will

include an Erosion and Sediment Control plan to address stormwater pollution during construction and a Stormwater Control Plan to address ongoing stormwater pollution after construction completion (post-construction measures). The applicant must comply with MCC Sections 24.04.625 and 627. The applicant is also responsible for obtaining coverage, by submitting a Notice of Intent to the State Water Resources Control Board, under the NPDES Construction General Permit (CGP) for stormwater discharge. This permit will also require that the applicant submit a SWPPP and other permit registration documents to the California State Water Resources Board. The applicant shall submit a copy of the Notice of Intent to the County as required by MCC Section 24.04.627(b) and the Regional Water Quality Control Board (RWQCB) will inspect the project during construction to assess compliance with the CGP. The applicant would be responsible to prepare stand alone SWPPP and Stormwater Control Plan documents. The applicant also would be responsible to to comply with MCC Section 24.04.625 and 24.04.627. The Marin County Department of Public Works would be responsible to review and approve the Stormwater Control Plan and will review and approve the SWPPP to ensure compliance with MCC Section 24.04.625. The applicant, and subsequently the Property Owners' Association would be required to fully implement the erosion control and other water quality measures cited in the SWPPP and Stormwater Control Plan, and to monitor and maintain these measures during and following completion of site build out, as necessary. The applicant would be responsible to inspect these measures, and post-construction measures shall be inspected by the applicant (or Property Owners' Association) on an annual basis. The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)]. The applicant (or Property Owners' Association) would be responsible to implement any remedial measures if the County or the RWQCB indicated that site stormwater quality objectives were not being met. The County also would be responsible for inspection during construction of BMPs and erosion control measures.

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**RESPONSE TO LETTER NO. 1 – BERENICE DAVIDSON, MARIN COUNTY DEPARTMENT OF PUBLIC WORKS (APRIL 28, 2011)**

**Response to Comment 1-1**

In reference to Mitigation 5.7-1(b): comment provides detailed requirements for construction of antenna and secondary equipment that could be inserted into a revised mitigation measure.

Mitigation Measures 5.7-1(b) and 6.7-1(b) of the Draft EIR are revised as follows:

**Mitigation Measure 5.7-1(b)** In order to reduce the significant emergency radio coverage impacts at lower elevations on the project site, the applicant shall prepare an emergency radio coverage improvement plan. ~~The improvement plan shall clearly show that adequate emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34. The improvement plan shall be prepared in cooperation with the MERA. One possible method to provide the necessary radio coverage would include the following: and access easements, subject to approval of County Department of Public Works Operations Officer for MERA that shows acceptable emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34 and coverage along Paradise Drive for emergency response units travelling to those lots, prior to recordation of the final subdivision map. Upon approval by County Department of Public Works Operations Officer for MERA and prior to issuance of first grading or building permit, the applicant shall construct all required communications equipment, including a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas. These facilities shall be located on a parcel adjacent to the proposed water tank Parcel C.~~

- ~~• Locate a new emergency radio facility in the vicinity of the existing MMWD's Paradise Water Tank. The facility could be located either on the project site or possibly on the water tank site with MMWD permission. The facility design might consist of a new tapered monopole as high as the existing water tank with the two antennae extending above the tank. There would also be one microwave dish, a small radio building (approximately ten feet by 18 feet) and an emergency generator. A free and unobstructed access to the base station site shall be provided from Paradise Drive, or any other feasible access alternative.~~

**Response to Comment 1-2**

The comment requests the right-of-way improvement plan required by Mitigation Measure 5.1-3 include ten feet wide right-turn and left-turn pockets with 250 feet taper lengths on Paradise Drive at each proposed driveway location, and widening Paradise Drive to 12 feet lanes with four feet shoulders on each side along the projects property frontage.

The traffic analysis in the Draft EIR found that project traffic impacts to Paradise Drive did not result in the need for left turn lanes or the widening of Paradise Drive. *Impact 5.1-3 Safety Impact Due to Inadequate Distances Approaching the Unsignalized Intersections of Paradise Drive with Project Access* did identify potential sight distance impacts for drivers approaching the intersection of Paradise Drive with the proposed intersection of Forest Glen Court. Mitigation Measure 5.1-3 requires the improvement of the Paradise Drive / Forest Glen Court intersection including the widening of Paradise Drive to include four-foot shoulders with a minimum 60-foot taper at the proposed intersection. *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues* evaluates the project's impact on bicycle facilities and bicycle safety issues. In regard to Paradise Drive Mitigation Measure

5.1-6(a) requires the improvement of Paradise Drive along the frontage of the project site beginning at least 60 feet south of the proposed Lots 21 to 23 driveway, and extending at least 60 feet north of the proposed Forest Glen Court intersection. This measure includes the selective widening of the shoulder pavement along the project frontage of Paradise Drive within the public-right-of-way.

*State CEQA Guidelines* section 15126.4 discusses the inclusion of mitigation measures in an EIR to minimize significant environmental effects. In general an EIR shall describe feasible measures which could minimize significant adverse impacts. Section 15126.4(a)(4)(A) states that there must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. Section 15126.4(a)(4)(B) states that the mitigation measure must be “roughly proportional” to the impacts of the project. Where the mitigation measure is an *ad hoc* exaction, it must be “roughly proportional” to the impacts of the project.

Based on the traffic analysis in the Draft EIR the recommended transportation mitigation measures (especially 5.1-3 and 5.1-6) would reduce the identified significant impacts to a less-than-significant level and are consistent with the *State CEQA Guidelines* requirements for mitigation measures. Furthermore, the EIR analysis does not appear to support the inclusion of the DPW’s requested improvements as mitigation measures.

Under Marin County’s subdivision and development code regulations DPW has the authority to require the requested frontage improvements along the Easton Point property’s Paradise Drive frontage. The DPW may, therefore, recommend to the Board of Supervisors the requested improvements to Paradise Drive be included with the project as conditions of project approval, based on the merits of the proposed project. Should the Board of Supervisors support the DPW’s recommendation to amend the project to include the requested Paradise Drive improvements as a condition of project approval, CEQA requires that the potential environmental impacts, if any, of the additional Paradise Drive roadway improvements be addressed before the BOS can take final action on the Easton Point project applications.

The comment also request all proposed roads be built to Marin County standards and offered to the County for public dedication. This is addressed in the Draft EIR under *Responsibility and Monitoring* of Mitigation Measure 5.1-3 where it is stated that the applicant would be responsible for design and installation of this measure in accordance with Marin County standards. Furthermore, mitigation measures for *Impact 5.1-11 Provision of Safe On-Site Roads* require compliance with county standards.

### **Response to Comment 1-3**

The final bullet point of Mitigation Measures 5.4-1 and 6.4-1 is revised as follows:

- A long-term maintenance program that provides for periodic inspections and maintenance of the recommended landslide stabilization program during the life of the project shall be included. The maintenance program shall provide for:
  - Periodic geologic inspections
  - Monitoring of geotechnical and hydrologic mitigation measures to assure effectiveness.
  - A schedule for routine cleaning and maintenance of drainage devices.

- Provisions to provide recommendations for additional erosion control or mitigation of any unforeseen hazards ~~which that~~ develop in the future.
- Provision for a regular reporting schedule.
- ~~Identification of an entity responsible to implement the maintenance program~~ The property owner's association shall be responsible for implementation of the long-term maintenance program. This requirement shall also be incorporated into the CC&Rs. Marin County shall be named a third party beneficiary to the CC&Rs with the right, but not the legal obligation, to enforce its terms.

**Response to Comment 1-4**

Please see Response to Comment 1-1.

**Response to Comment 1-5**

Comment noted. No revision to Draft EIR text is necessary.

**Response to Comment 1-6**

The discussion of the Marin Emergency Radio Authority starting on page 457 of the Draft EIR is revised as follows:

The following is a summary of the findings:

- At present there is a strong radio signal and adequate emergency radio coverage at the higher elevations on the project site.
- For the proposed project the emergency radio system coverage would be adequate for the three lots (Lots 1 through 3) to be accessed by Mountain View Drive, and the 27 lots that would be accessed by the extension of Ridge Road and Mt. Tiburon Court. There was one area in the vicinity of proposed Lots 18 and 12 where the radio signal was so strong from two different directions that they cancelled each other out. ~~One solution to the problem would be to increase the strength of one radio signal over the other.~~
- At present there is a weak radio signal and inadequate emergency radio coverage at the lower elevations on the project site, including areas along Paradise Drive that lead from Tiburon Fire Stations and surrounding jurisdictions.
- For the proposed project the existing emergency radio signal and coverage would be inadequate in the area proposed for Lots 21 through 23 and the ten lots (Lots 25 through 34) proposed along Forest Glen Court.
- After reviewing the site plans and topography maps for the project site it appeared that a new radio facility located in the vicinity of the existing 47-foot tall Paradise Water Tank could possibly provide adequate radio coverage for all lower elevation lots (those located below elevation 290). It also is possible that a new radio facility at the existing water tank site could mitigate the area at the higher elevations where the existing radio signals cancelled each other out.

- It appears to be physically possible to locate a new radio facility next to the existing Paradise Water Tank on/near the MMWD property. MMWD approval would be required for any facility on the district's property. A new facility design might consist of a new tapered monopole as high as the existing water tank with the two antennae extending above the tank. There would also be one microwave dish, a small radio building (ten-feet by 18-feet) and an emergency generator. It was estimated that new antennae at this location would be adequate to provide emergency radio coverage for all proposed development at the lower elevation.

However, in order to include areas along Paradise Drive that lead from Tiburon Fire Stations and surrounding jurisdictions, it is required that prior to issuance of first grading or building permit, the applicant shall provide all required communications equipment, including a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas, adjacent to or on the proposed water tank Parcel C.

#### **Response to Comment 1-7**

The discussion for *Impact 5.7-1 Fire Service Impact* beginning on page 461 of the Draft EIR is revised as follows:

The TFPD would be able to serve the project site. The TFPD could not estimate the number of service calls project residents would generate, but does not anticipate a significant increase in service calls resulting from the project.

Vehicle circulation for the proposed project would consist of roads that would be designed to meet standards of the TFPD (see *Impact 5.1-9 Project Impacts Related to Emergency Access*). The applicant is ~~not proposing required to~~ dedicate the roads to Marin County. ~~Rather the new roads would be private roads and maintained by the Property Owners' Association.~~ With the exception of the construction access road, the project roads and driveways would comply with County of Marin and TFPD roadway grade requirements. The construction access road would have a 25 percent maximum grade and would not conform to TFPD standards. The applicant has proposed that after project construction the construction access road would remain for emergency access only and would be blocked at either end by a barricade gate. Due to the 25 percent maximum grade the construction access road would not meet TFPD standards for grades and, therefore, it is unlikely that the construction access road would be available for use by emergency vehicles. As discussed in *Impact 5.1-9* in three locations driveways would be too narrow to meet TFPD standards and in four locations turnouts would be needed to meet TFPD standards.

Mitigation Measure 5.7-1(b) is revised as follows:

***Mitigation Measure 5.7-1(b)*** In order to reduce the significant emergency radio coverage impacts at lower elevations on the project site, the applicant shall prepare an emergency radio coverage improvement plan, subject to approval of director of County Department of Public Works (Operations Officer for MERA) that shows adequate emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34. Upon approval and prior to issuance of first grading or building permit, applicant shall build a 65 foot high antenna support structure on or adjacent to Parcel C with three dishes eight foot wide each. The improvement plan shall clearly show that adequate emergency radio coverage can be provided for Lots 21 through 23 and Lots 25 through 34. The improvement plan shall be prepared ~~in cooperation with the MERA for the~~ review and approval of director of County Department of Public Works (Operations Officer for

~~NERA). One possible method to provide the necessary radio coverage would include the following:~~

- ~~• Locate a nNew emergency radio facility in the vicinity of the existing MMWD's Paradise Water Tank. The facility could be located either on the project site or possibly on the water tank site with MMWD permission. The facility design might consist of a new tapered monopole as high as the existing water tank with the two antennae extending above the tank. There would also be one microwave dish, a small radio building (approximately ten feet by 18 feet) and an emergency generators shall be located on or adjacent to proposed Parcel C as shown in Exhibit 9.0-2. The applicant shall provide a free and unlimited access to the base station site from Paradise Drive, or any other feasible access alternative. Upon approval by County Department of Public Works Operations Officer for MERA and prior to issuance of first grading or building permit, applicant shall provide on or adjacent to proposed Parcel C, all required communications equipment, including a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas.~~

### Significance after Mitigation

**Mitigation Measure 5.7-1(a)** Same as Mitigation Measure 5.1-9.

**Mitigation Measure 5.7-1(b)** Implementation of Mitigation Measure 5.7-1(b) would provide adequate emergency radio coverage at the lower elevations of the project site and reduce the impact to a less-than-significant level.

### ***Responsibility and Monitoring***

**Mitigation Measure 5.7-1(a)** Same as Mitigation Measure 5.1-9.

**Mitigation Measure 5.7-1(b)** ~~The applicant would be responsible to work with MERA to obtain approval from County Department of Public Works Operations Officer for MERA for the design and implementation of the emergency radio facility that would provide emergency radio coverage at the lower elevations of the site. The applicant shall prepare the improvement plan for review and approval by MERA. MERA would be responsible to implement and / or oversee construction. The applicant would be responsible to fund its fair share of the improvement.~~

***Response to Comment 1-8***

The discussion and mitigation measure for *Impact 6.7-1 Fire Service Impact* beginning on page 665 of the Draft EIR is revised as follows:

The impacts *Alternative 2* would have on fire protection services would be similar to the proposed project. With *Alternative 2*, the development of 32 new houses would not create a need for new fire protection facilities, or the expansion of existing facilities, the construction of which would create environmental impacts of their own. As discussed in *Impact 6.1-9* in three locations turnouts would be needed to meet TFPD standards and the construction access road, proposed to be removed after construction, would not comply with TFPD standards for grade.

As stated in **Section 5.7 Public Services** the project site is located in an area where the MERA communications system, which is utilized by the TFPD as well as other emergency service providers, has limited communication and may be in need of a new antenna. Based on the April 2010 site reconnaissance it is expected that there would be a weak radio signal and inadequate

emergency radio coverage at the lower elevations on the project site, Lots 18 through 21 and Lots 22 through 31.

This impact would be the same as for the proposed project.

**Mitigation Measure 6.7-1** The applicant shall implement the following mitigation measures in order to reduce the project's fire service impacts to a less-than-significant level.

**Mitigation Measure 6.7-1(a)** Same as Mitigation Measure 6.1-9.

**Mitigation Measure 6.7-1(b)** ~~In order to reduce the significant emergency radio coverage impacts at lower elevations on the project site, the applicant shall prepare an emergency radio coverage improvement plan. The improvement plan shall clearly show that adequate emergency radio coverage can be provided for Lots 18 through 21 and Lots 22 through 31. The improvement plan shall be prepared in cooperation with the MERA. One possible method to provide the necessary radio coverage at the lower elevations on the project site would include the following:~~

~~• Locate a new emergency radio facility in the vicinity of the existing MMWD's Paradise Water Tank. The facility could be located either on the project site or possibly on the water tank site with MMWD permission. The facility design might consist of a new tapered monopole as high as the existing water tank with the two antennae extending above the tank. There would also be one microwave dish, a small radio building (approximately ten feet by 18 feet) and an emergency generator. In order to reduce the significant lack of emergency radio coverage at the lower elevations of the project site and the lack of emergency radio coverage along portions of Paradise Drive between the Tiburon Fire Stations and fire stations in surrounding communities and the project site, it is required by the County Department of Public Works Operations Officer for MERA that prior to issuance of first grading or building permit, the applicant shall on or adjacent to Parcel C, provide all required communications equipment, including a 10 by 18 foot equipment building, a 45 KW emergency generator and fuel tank, a 65 foot antenna support structure capable of supporting two-six foot microwave dish antennas and three-two way radio whip antennas. The applicant shall also provide free and unlimited access to the base station site from Paradise Drive, or any other feasible access alternative.~~

#### **Significance after Mitigation**

**Mitigation Measure 6.7-1(a)** Same as Mitigation Measure 6.1-9.

**Mitigation Measure 6.7-1(b)** Implementation of Mitigation Measure 6.7-1(b) would provide adequate emergency radio coverage at the lower elevations of the project site and along those portions of Paradise Drive currently lacking emergency radio coverage and would reduce the impact to a less-than-significant level.

#### **Response to Comment 1-9**

As stated on page 16 of the Draft EIR the proposed project includes a request for exception to Marin County Subdivision Standards requirements for substandard road widths. This issue is further discussed under *Impact 5.1-11 Provision of Safe On-Site Roads*. In response to this comment: The text referred to is a summary of the project as proposed by the applicant, and therefore is appropriate. No text revision is necessary.



**Response to Comment 1-10**

Please see Response to Comment 1-2.

**Response to Comment 1-11**

The summary of Mitigation Measure 5.4-1 beginning on page 26 of the Draft EIR is revised as follows:

**5.4-1** Requires a design level comprehensive geotechnical report shall be prepared and submitted to Marin County prior to issuance of any grading permits. The geotechnical report shall include an engineering geologic and geotechnical investigation on a lot-by-lot basis before development of roadways and utilities and within proposed building envelopes of each individual lot. The report shall include a comprehensive design-level grading plan including a landslide stabilization program on all lots and a long-term maintenance program for the stabilization program. ~~The~~All required geotechnical work including the landslide stabilization~~repair~~ program shall be implemented by the applicant. The property owner's association shall be responsible for implementation of the long-term maintenance program. The Property Owners Association's responsibility for implementing the long-term maintenance program shall be incorporated into the subdivision's CC&Rs. Marin County shall be named a third party beneficiary to the CC&Rs with the right, but not the legal obligation, to enforce its terms.~~Furthermore:~~

The sixth bullet in Mitigation Measure 5.4-1 and the seventh bullet in Mitigation Measure 6.4-1 are revised as follows:

A long-term maintenance program that provides for periodic inspections and maintenance of the recommended landslide stabilization program during the life of the project shall be included. The maintenance program shall provide for:

- Periodic geologic inspections
- Monitoring of geotechnical and hydrologic mitigation measures to assure effectiveness.
- A schedule for routine cleaning and maintenance of drainage devices.
- Provisions to provide recommendations for additional erosion control or mitigation of any unforeseen hazards that develop in the future.
- Provision for a regular reporting schedule.
- ~~Identification of an entity responsible to implement the maintenance program.~~The property owner's association shall be responsible for implementation of the long-term maintenance program. The Property Owners Association's responsibility for implementing the long-term maintenance program shall be incorporated into the subdivision's CC&Rs. Marin County shall be named a third party beneficiary to the CC&Rs with the right, but not the legal obligation, to enforce its terms..

**Response to Comment 1-12**

The first bullet on page 27 of the Draft EIR is revised as follows:

- A long-term maintenance program that provides for periodic inspections and maintenance of the recommended landslide stabilization program during the life of the project shall be ~~included~~ required. The property owner's association shall be responsible for implementation of the long-term maintenance program. The property owners association's responsibility for implementing the long-term maintenance program shall also be incorporated into the subdivision CC&Rs.

**Response to Comment 1-13**

The first bullet point on page 49 of the Draft EIR is revised as follows:

- As discussed in **Section 5.1 Transportation**, the Draft EIR concludes that the proposed project would not result in a significant increase in peak hour traffic volumes at all of the study intersections. The proposed project would contribute to peak hour cumulative impacts at the Avenida Miraflores / Tiburon Boulevard, Rock Hill Drive / Tiburon Boulevard intersections and the unsignalized Reed Ranch Road southbound left turn to Tiburon Boulevard. Project site residents would contribute to the number of bicyclists using Paradise Drive. Mitigation measures are proposed along Paradise Drive. Long-term project traffic to Lyford's Cove / Old Tiburon and Hill Haven neighborhood streets would not result in significant impacts to existing or future road capacity. However, emergency access vehicles and residents of these existing neighborhoods would be exposed to more frequent unpredictable traffic flow and intermittent safety hazards when traveling on the narrow, winding residential streets. Mitigation measures are proposed for this impact. The proposed on-site streets would not meet Marin County standards and the applicant has requested an exception to the County standards. The Draft EIR recommends that the on-site roads be constructed in compliance with county standards. The Marin County Department of Public Works will require these roads be built to Marin County road standards and offered for dedication to the County. Construction of such roads would have minor secondary impacts related primarily to geology and soils, hydrology and water quality, and biological resources. The proposed project would create a demand for parking spaces. A mitigation measure is proposed to provide additional on-site parking to accommodate anticipated parking demands.

**Response to Comment 1-14**

This suggested revision to the Draft EIR text is not necessary.

**Response to Comment 1-15**

Please see Response to Comment 1-2.

**Response to Comment 1-16**

Please see Response to Comment 1-2.

**Response to Comment 1-17**

The third bullet point for Mitigation Measure 6.4-1 on page 631 of the Draft EIR is revised as follows:

- For each landslide repair proposed, the limits ~~should~~ shall be verified.

**Response to Comment 1-18**

The paragraph regarding Significance after Mitigation on page 632 of the Draft EIR is revised as follows:

**Significance after Mitigation** Implementing the recommendations of the applicant's geotechnical consultant and future recommendations of detailed lot-specific investigations would provide landslide repair techniques capable of reducing potential slope instability hazards to residential building envelopes and public improvements to a less-than-significant level. The property owner's association shall be responsible for implementation of long-term maintenance program. The responsibility of the property owner's association to be responsible for the long-term maintenance program shall also be incorporated into the CC&Rs. Marin County shall be named a third party beneficiary to the CC&Rs with the right, but not the legal obligation, to enforce its terms.

**Response to Comment 1-19**

A similar revision to this text has been made in response to comment 1-12 that establishes POA responsibility for implementing long term maintenance program.

LETTER NO. 2

**Taylor, Tammy**

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**From:** Taylor, Tammy  
**Sent:** Monday, May 02, 2011 11:57 AM  
**To:** 'Bob Berman'  
**Cc:** 'John Roberto'  
**Subject:** FW: Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010  
**Attachments:** easton TERRI.doc

[More comments:](#)

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**From:** Warner, Rachel  
**Sent:** Friday, April 29, 2011 2:29 PM  
**To:** Taylor, Tammy  
**Subject:** FW: Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010

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**From:** Davidson, Berenice  
**Sent:** Friday, April 29, 2011 11:12 AM  
**To:** Warner, Rachel  
**Cc:** 'John Roberto'  
**Subject:** FW: Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010

[Rachel,](#)

[For clarification, the email attachment tracked proposed changes from Marin County Stormwater Pollution Prevention Program coordinator Terri Fashing. The proposed changes are on page 391 of the draft EIR.](#)

[Thanks,](#)

[Berenice](#)

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**From:** Davidson, Berenice  
**Sent:** Thursday, April 28, 2011 4:33 PM  
**To:** Warner, Rachel  
**Cc:** 'John Roberto'  
**Subject:** FW: Notice of Completion - Draft EIR 2008 Easton Point Residential Development Porject SCH #2009012010

[MCSTOPP Comments](#)

[Thanks,](#)

[Berenice](#)

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5/3/2011

**From:** Fashing, Terri  
**Sent:** Thursday, April 28, 2011 9:27 AM  
**To:** Davidson, Berenice  
**Subject:** Notice of Completion - Draft EIR 2008 Easton Point Residential Development Project SCH #2009012010

Hi Berenice,

Here are my edits to page of Notice of Completion - Draft EIR 2008 Easton Point Residential Development Project SCH #2009012010. The attached document shows edits with tracked changes.

Thanks. Call 415-497-7546 with questions. I am in meetings in Oakland today.

Terri Fashing, MCSTOPPP

Due to the Phase II NPDES Municipal Stormwater Permit regulations, including Attachment 4, the County requires the applicant to prepare a SWPPP that will include an Erosion and Sediment Control plan to address stormwater pollution during construction and a Stormwater Control Plan to address ongoing stormwater pollution after construction completion (post-construction measures). The applicant must comply with MCC Sections 24.04.625 and 627. The applicant is also responsible for obtaining coverage, by submitting a Notice of Intent to the State Water Resources Control Board, under the NPDES Construction General Permit (CGP) for stormwater discharge. This permit will also require that the applicant submit a SWPPP and other permit registration documents to the California State Water Resources Board. The applicant shall submit a copy of the Notice of Intent to the County as required by MCC Section 24.04.627(b) and the Regional Water Quality Control Board (RWQCB) will inspect the project during construction to assess compliance with the CGP. The applicant would be responsible to prepare stand alone SWPPP and Stormwater Control Plan documents. The applicant also would be responsible to comply with MCC Section 24.04.625 and 24.04.627. The Marin County Department of Public Works would be responsible to review and approve the Stormwater Control Plan and will review and approve the SWPPP to ensure compliance with MCC Section 24.04.625. The applicant, and subsequently the Property Owners' Association, would be required to fully implement the erosion control and other water quality measures cited in the SWPPP and Stormwater Control Plan, and to monitor and maintain these measures during and following completion of site build out, as necessary. The applicant would be responsible to inspect these measures, and post-construction measures shall be inspected by the applicant (or Property Owners' Association) on an annual basis. The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)]. The applicant (or Property Owners' Association) would be responsible to implement any remedial measures if the County or the RWQCB indicated that site stormwater quality objectives were not being met. The County also would be responsible for inspection during construction of BMPs and erosion control measures.

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Responsibility and Monitoring Due to the Phase II NPDES Municipal Stormwater Permit regulations, including Attachment 4, the County requires the applicant to prepare a SWPPP that will

include an Erosion and Sediment Control plan to address stormwater pollution during construction and a Stormwater Control Plan to address ongoing stormwater pollution after construction completion (post-construction measures). The applicant must comply with MCC Sections 24.04.625 and 627. The applicant is also responsible for obtaining coverage, by submitting a Notice of Intent to the State Water Resources Control Board, under the NPDES Construction General Permit (CGP) for stormwater discharge. This permit will also require that the applicant submit a SWPPP and other permit registration documents to the California State Water Resources Board. The applicant shall submit a copy of the Notice of Intent to the County as required by MCC Section 24.04.627(b) and the Regional Water Quality Control Board (RWQCB) will inspect the project during construction to assess compliance with the CGP. The applicant would be responsible to prepare stand alone SWPPP and Stormwater Control Plan documents. The applicant also would be responsible to to comply with MCC Section 24.04.625 and 24.04.627. The Marin County Department of Public Works would be responsible to review and approve the Stormwater Control Plan and will review and approve the SWPPP to ensure compliance with MCC Section 24.04.625. The applicant, and subsequently the Property Owners' Association would be required to fully implement the erosion control and other water quality measures cited in the SWPPP and Stormwater Control Plan, and to monitor and maintain these measures during and following completion of site build out, as necessary. The applicant would be responsible to inspect these measures, and post-construction measures shall be inspected by the applicant (or Property Owners' Association) on an annual basis. The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)]. The applicant (or Property Owners' Association) would be responsible to implement any remedial measures if the County or the RWQCB indicated that site stormwater quality objectives were not being met. The County also would be responsible for inspection during construction of BMPs and erosion control measures.

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**RESPONSE TO LETTER NO. 2 – TERRI FASHING, MARIN COUNTY STORMWATER POLLUTION PREVENTION PROGRAM (APRIL 29, 2011)**

**Response to Comment 2-1**

The paragraph regarding Responsibility and Monitoring of Mitigation Measure 5.5-3 on page 391 is revised as follows:

**Responsibility and Monitoring** Due to the Phase II NPDES Municipal Stormwater Permit regulations, including Attachment 4, the County requires the applicant to prepare a SWPPP that will include an Erosion and Sediment Control plan to address stormwater pollution during construction and a Stormwater Control Plan to address ongoing stormwater pollution after construction completion (post-construction measures). The applicant must comply with MCC Sections 24.04.625 and 627. The applicant is also responsible for obtaining coverage, by submitting a Notice of Intent to the State Water Resources Control Board, under the NPDES Construction General Construction Permit (CGP) for stormwater discharge. This permit will also require that the applicant submit a SWPPP and other permit registration documents to the California State Water Resources Board. The applicant shall submit a copy of the Notice of Intent to the County as required by MCC Section 24.04.627(b) and the Regional Water Quality Control Board (RWQCB) will inspect the project during construction to assess compliance with the CGP. The applicant would be responsible to prepare stand alone SWPPP and Stormwater Control Plan documents. The applicant also would be responsible to ~~obtain coverage under and comply with the NPDES Construction General Permit for stormwater discharge and comply with~~ MCC Section 24.04.625 and 24.04.627. The Marin County Department of Public Works would be responsible to review and approve the Stormwater Control Plan and will review and approve the SWPPP to ensure compliance with MCC Section 24.04.625. ~~The Regional Water Quality Control Board (RWQCB) would be responsible to review and approve the SWPPP.~~ The applicant, and subsequently the Property Owners' Association, would be required to fully implement the erosion control and other water quality measures cited in the SWPPP and Stormwater Control Plan, and to monitor and maintain these measures during and following completion of site buildout, as necessary. ~~The RWQCB~~ applicant would be responsible to inspect these measures, typically and post-construction measures shall be inspected by the applicant (or Property Owners' Association) on an annual basis, for all components of the proposed project while ~~the Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)].~~ The applicant (or Property Owners' Association) would be responsible to implement any remedial measures if the County or the RWQCB indicated that site stormwater quality objectives were not being met. The County also would be responsible for inspection during construction of BMPs and erosion control measures. ~~The Property Owners' Association would be responsible for ongoing operations and maintenance of permanent BMPs including structural or treatment control BMPs. The POA shall provide verification provisions through such means as may be appropriate [MCC Section 24.04.627(g)].~~



April 28, 2011

Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**Subject: DEIR Comments Regarding the 2008 Easton Point Residential Development**

The Bay Trail Project is a nonprofit organization administered by the Association of Bay Area Governments (ABAG) that plans, promotes and advocates for the implementation of a continuous 500-mile Class I, multi-use bicycling and hiking path around San Francisco Bay. When complete, the trail will pass through 47 cities, all nine Bay Area counties, and cross seven toll bridges. To date, 54% of the Bay Trail alignment has been developed. In some areas where a Class I path is not feasible, Class II bike lanes and sidewalks may constitute "complete" Bay Trail.

The Bay Trail in Tiburon is located on Greenwood Beach Road to Blackie's Pasture, on Class I shoreline trail into downtown Tiburon, onto Paradise Drive and into Corte Madera. A spur exists on Trestle Glen. Of these, Greenwood Beach Road, Paradise Drive, and Trestle Glen are considered gaps in the Bay Trail as they provide neither Class I nor Class II facilities.

**Clarification Regarding the Bay Trail Status on Paradise Drive**

1 The Bay Trail Project appreciates being referenced in the DEIR. Page 239 of the DEIR states that "Paradise Drive is designated as a portion of the San Francisco Bay Trail that extends from San Jose to Napa along both sides of San Francisco Bay." While it is not untrue that the Bay Trail extends from "San Jose to Napa along both sides of the San Francisco Bay", it is more accurate to state that the Bay Trail is a 500-mile planned Class I multi-use path *encircling* San Francisco Bay along the shoreline, running through all nine Bay Area Counties and 47 cities.

Paradise Drive is specifically referenced as part of the San Francisco Bay Trail on page 239 (above) and additionally on page 176 "Proposed Bikeways: Class III bicycle route on Paradise Drive...that forms a portion of the San Francisco Bay Trail". Paradise Drive is shown as a gap on ABAG's Bay Trail maps which are readily available on our website. Paradise Drive was part of the original 1989 Bay Trail Plan.

2 However, in an attempt to bolster the DEIR's argument that the road width is unsafe for bicyclists and pedestrians, the document states "This is recognized by the fact that the Bay Trail, a pedestrian and bicycle trail, *is not officially designated anywhere along Paradise Drive* because the road and right-of-way generally are too narrow to widen, straighten, or



paint a bicycle lane" (emphasis added). As per the Bay Trail Plan and previous statements in the DEIR, the Bay Trail is officially designated on Paradise Drive. Please rectify this error in the final EIR and clarify that Paradise Drive is a gap in the Bay Trail, and that staff will continue to pursue completion of this gap.

### **Transportation**

3

In the section entitled "Bicycle Volumes on Paradise Drive" on page 176, the DEIR states the Crane Transportation Group counted bike and pedestrian activity on Paradise Drive during the weekday morning and afternoon peak hours, and that "...Summer and fall weekend bicycle activity is observed to be four or five times greater than weekday activity". The DEIR goes on to say that while "vehicles were shown to substantially outnumber bicycles during the weekday AM and PM peak hours...bicyclists were shown to outnumber vehicles on Paradise Drive on weekends before noon, while volumes of vehicles and bicyclists are relatively equal between noon and 1:00 PM." The weekend counts were taken from another study performed in September 2007.

Recent statistics released by the County of Marin and reported in the Marin Independent Journal show that from 2007 to 2010 bicycling in Marin increased 46% on weekdays and 85% on weekends. For purposes of accuracy, current 2011 weekend bicycle and pedestrian counts need to be included in the Final EIR.

### **Pedestrian Facilities**

4

While not within the prevue of ABAG's Bay Trail Project, the intentional lack of pedestrian facilities within the proposed development that would have pedestrians sharing the roads and driveways with vehicles and bicyclists is simply poor planning. Please incorporate pedestrian pathways within the project area.

### **Project Impact on Bicycle Facilities and Bicycle Safety Issues**

The DEIR states that the new traffic created by the proposed project will result in a significant cumulative impact on bicycle facilities and bicycle safety. In order to address these impacts, the traffic analyst recommends:

- Widening of Paradise Drive to include four-foot shoulders with 60-foot tapers at the Lots 21 to 23 driveway and the proposed Glen Court intersection
- Installation of Class III bike route signs, Countywide Bicycle Route Guide Signs, and appropriate warning and advisory signs along the project frontage
- Pavement improvements and/or road re-stripping as part of the project should include consideration of the needs of bicyclists and shoulders and/or turnouts should be provided where opportunities exist.

5

The cumulatively significant impacts to cyclists as a result of this project are not limited to the relatively small amount of "project frontage" associated with this development. Rather, they impact the entirety of Paradise Drive and this 7 mile segment of San Francisco Bay Trail between Mar West (where the bike lanes and sidewalks currently end) and Westward Drive in Corte Madera. In order to properly mitigate these impacts, the project must install the above referenced Class III bike route signage and Countywide Bicycle Route Guide Signs etc. along the entirety of Paradise Drive. Please also note that the definition "Class III" includes pavement markings, in addition to signage.

Pavement improvements and/or road re-striping should indeed be provided where opportunities exist. Once again, however, the impacts accrue to the entirety of Paradise Drive and not just to the project site frontage. Please include a list of specific locations and the proposed improvements along the entire 7 miles of Paradise Drive as part of the Final EIR.

### **Mitigation Measures**

6

Mitigation Measure 5.1-6(a): Please remove "along the project frontage".

Mitigation Measure 5.1-6 (b): Please remove "along the project frontage".

Mitigation Measure 5.1-6 (c): Please remove "along the project frontage".

Implementation of Mitigation Measures 5.1-6 would reduce the projects contribution to cumulative impacts to bicyclists to a less-than-significant level only if the measures are applied to all of Paradise Drive. This includes bringing the entirety of Paradise Drive up to a Class III standard, widening shoulders to a minimum width of four feet in blind corners, on the uphill side of the road and in newly created turnouts as desired by both the Marin County *2008 Unincorporated Area Bicycle and Pedestrian Master Plan* and the *Town of Tiburon's Bicycle and Pedestrian Plan 2008 Update*.

### **Conclusion**

The San Francisco Bay Trail is an important inter-connected regional trail system, and is an amenity that the new residents of the Easton Development will surely appreciate and enjoy. The improvements to all of Paradise Drive as recommended above will greatly improve access to the proposed development *by vehicles* as well as bicycles and pedestrians. As noted in the document, bicycles outnumber cars on weekends and may impede vehicle passage. As residents will likely access the development from both the Tiburon side and the Corte Madera side via Paradise Drive, improvements along its length are warranted and will improve conditions for all parties—residents in cars, residents on bikes or on foot, or the thousands of cyclists who enjoy the beauty of Paradise Drive.

If you have any questions regarding these comments or about the San Francisco Bay Trail Project, please do not hesitate to contact me at (510) 464-7909 or by e-mail at [maureeng@abag.ca.gov](mailto:maureeng@abag.ca.gov).

Sincerely,



Maureen Gaffney  
Bay Trail Planner

Enc: 1

**RESPONSE TO LETTER NO. 3 – MAUREEN GAFFNEY, BAY TRAIL PLANNER, SAN FRANCISCO BAY TRAIL (APRIL 28, 2011)**

**Response to Comment 3-1**

Based on this comment the first sentence in the second paragraph on page 239 is revised as follows:

Paradise Drive is designated as a portion of the *San Francisco Bay Trail* ~~that extends from San Jose to Napa along both sides of San Francisco Bay.~~ The Bay Trail is a 500-mile planned Class I multi-use path encircling San Francisco Bay along the shoreline, running through all nine Bay Area counties and 47 cities.

**Response to Comment 3-2**

Based on this comment, the fourth paragraph on page 196 is revised as follows:

The remote scenic qualities of Paradise Drive (in some locations it provides the only public road access to views of San Francisco Bay along the northern and eastern parts of the Peninsula) make it attractive for scenic and recreational drivers, runners, and bicyclists. However, throughout its length there are no pathways, consistent width shoulders, or sufficiently wide paved travel lanes to accommodate both vehicles and bicyclists or pedestrians. Along most sections of Paradise Drive, there is no refuge for pedestrians and bicyclists to move out of the way of oncoming vehicles. Through the narrowest road segments (eight-foot lanes with no shoulders), if a car encounters a bicyclist pedaling ahead, the driver must slow to the speed of the bicycle until both arrive at a road section sufficiently wide and with adequate sight distance to allow the car to pass the bicycle safely. Observations indicate that drivers sometimes do not wait for a sufficiently safe viewing distance to pass but enter the lane of opposing traffic on the chance that there will be no collision. The segment of Paradise Drive near the site currently has a very low level of peak hour traffic, and, while lane widths are considered adequate for prevailing traffic volumes, it is the opinion of the EIR traffic analysts that the road width is unsafe for use by bicyclists and pedestrians. ~~This is recognized by the fact that the Bay Trail, a pedestrian and bicycle trail, is not officially designated anywhere along Paradise Drive because the road and right-of-way generally are too narrow to widen, straighten, or paint a bicycle lane.~~ The existing Class II (signed and striped) bicycle route ends in the vicinity of Mar West Street (east).

**Response to Comment 3-3**

As a part of the preparation of this EIR Crane Transportation Group (the EIR traffic analyst) completed pedestrian and bicycle counts on Paradise Drive in the vicinity of the project site. The counts were completed during the AM and PM peak traffic hours in May 2009. This information along with previous weekday and weekend counts of bicycle activity along Paradise Drive confirm that a significant number of bicyclists use Paradise Drive. The potential impact to bicyclists is discussed in *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues*. Additional bicycle counts, as requested by the commentor, are not necessary to further evaluate the potential impact to bicycle facilities and bicycle safety issues.

**Response to Comment 3-4**

The commentor notes the lack of pedestrian facilities within the proposed development. *Impact 5.1-7 Project Impact on Pedestrian Circulation* discusses impacts due to the lack of sidewalk or pathways

outside the vehicle travel lane. Mitigation Measure 5.1-7(c) requires on-site pedestrian improvements including the provision of sidewalks or all-weather surface pathways on one side of each road.

***Response to Comment 3-5***

Please see Response to Comment 1-2 for information regarding the adequacy of Mitigation Measure 5.1-6.

***Response to Comment 3-6***

Please see Response to Comment 1-2. It is the opinion of the EIR preparers that no revisions to the text are necessary.



# MARIN MUNICIPAL WATER DISTRICT

LETTER NO. 4

APR 28 2011 3:28 PM Planning

220 Nellen Avenue Corte Madera CA 94925-1169  
[www.marinwater.org](http://www.marinwater.org)

April 28, 2011

Ms. Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
Planning Division  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**SUBJECT: Comments on the 2008 Easton Point Residential Development Draft Environmental Impact Report**

Dear Ms. Warner:

The Marin Municipal Water District (MMWD) appreciates the County providing us with the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the proposed Easton Point Residential Development located on the Tiburon Peninsula. Our comments are focused solely on those issues that directly affect or otherwise impact MMWD's delivery of domestic water to the project, including existing and new systems.

1

1. Reconstruction of Access to the Paradise Drive Tank – The proposed project would require construction of a new access drive to the existing MMWD Paradise Drive Tank, based on the current project plans. The existing access road to the tank off of Paradise Drive contains two 12-inch waterlines. One provides the connection to the distribution system and the second is for draining the tank and unplanned overflows. Both existing pipelines will need to be replaced due to the road realignment for the proposed Forest Glen Court. The tank drain line could potentially be connected to the storm drainage system in Forest Glen Court in-lieu of replacing it all the way down to Paradise Drive.

2

2. Proposed 180,000-Gallon Water Storage Tank – The Draft EIR states that the proposed/required 180,000-gallon water storage tank would be constructed at a pad elevation of 580 feet, would be 40-feet in diameter and 20-feet in height, and would be constructed of concrete. MMWD has not made a final determination of the tank pad's elevation, geometry, or material and it is possible that any or all of those tank attributes could change from that cited in the Draft EIR.

3

3. Alternative Underground Tank – The Draft EIR identifies an underground water storage tank as an alternative to a conventional above-ground tank. An underground tank has not been vetted nor endorsed at this time by MMWD and it is possible that such a design concept may not be accepted by MMWD.



4

3. Mitigation Measures 5.7-1(b) and 6.7-1(b) – The DEIR includes two mitigation measures designed to address issues with emergency radio communications on portions of the project site. Both measures suggest that a new Marin Emergency Radio Authority (MERA) radio facility that would include a monopole, a 10 x 18 ft building, and an emergency generator be located near the existing Paradise Drive Tank. MMWD has no objection to a MERA facility so long as it is not located on MMWD's existing Paradise Drive Tank lot. The existing level portion of the tank lot would not provide any space for the MERA facilities (the existing level portion of the tank site is the minimum required for maintenance access, vehicular parking associated with operation and maintenance of the tank and associated underground facilities, and construction of a new pump station to serve the proposed project). Siting the proposed MERA facility on the same lot would constrain MMWD's operations. Further, MMWD would require evidence that a new MERA facility located on an adjacent lot would not interfere with MMWD's existing radio signal that allows remote monitoring of the tank's operation from the District's Operations Center.

5

4. Water Supply - Environmental Setting (Page 469) – The agreement between MMWD and the Sonoma County Water Agency (SCWA) allows MMWD to take delivery of up to 14,300 acre-feet per year from SCWA. However, there is not currently sufficient capacity within the SCWA and MMWD distribution systems to allow the delivery of the full contractual volume of water. MMWD has never taken more than 8,400 acre feet of SCWA water in any calendar year.

6

5. Water Supply - Environmental Setting (page 469) – The statement that SCWA has abandoned plans to increase Russian River diversions is inaccurate. SCWA should be contacted directly to obtain the current status of their plans for Russian River diversions rather than relying on a newspaper article.

7

6. Water Supply - Environmental Setting (page 477) – The current yield of MMWD's water system is 28,300 acre feet per year (AF/yr) from local reservoirs and imported sources. All references to the system's yield of 29,300 AF/yr in the DEIR should be revised, and any assessment based on 29,300 AF/yr revised to reflect the lower yield.

8

7. New Pump Station – The proposed 180,000 gallon water tank required to serve portions of the project would also require construction of a new pump station adjacent to the existing Paradise Drive tank to move water from that lower elevation up to the new 180,000-gallon tank. The pump station, as stated in the DEIR has not been designed, so the project proponent's estimate of the size of the station and the structure that would enclose the equipment is just that, an estimate, and MMWD may specify different design attributes than those cited in the Draft EIR. It is also noted that there is no analysis in the DEIR of the potential impacts of the pump station, which include visual/aesthetics (for the pump station building) as well as the station's operational characteristics that include noise generation, near-field vibration, energy consumption, and greenhouse gas emissions associated with energy production to serve the new pump station.

On behalf of the Marin Municipal Water District we look forward to your responses when the Final EIR is published. In the interim, if you have any questions concerning the scope of our comments please call me at (415) 945-1586.

Sincerely



Dain Anderson  
Environmental Services Coordinator

cc: Paul Helliker, General Manager  
Michael Ban, Manager of Environmental and Engineering Services  
Jon LaHaye, Principal Engineer  
Scott Anderson, Town of Tiburon

**RESPONSE TO LETTER NO. 4 – DAIN ANDERSON, ENVIRONMENTAL SERVICES  
COORDINATOR, MARIN MUNICIPAL WATER DISTRICT (APRIL 28, 2011)**

**Response to Comment 4-1**

As stated in the comment, it is acknowledged that the construction of Forest Glen Court would require the relocation of the two existing 12-inch waterlines. The water lines would be relocated within the alignment of Forest Glen Court.

The text of Mitigation Measure 5.7-7, plus Mitigation Measure 6.7-7, is revised as follows:

**Mitigation Measure 5.7-7** In order to reduce water service impacts the applicant shall work with the MMWD to develop a water supply plan. The water supply plan shall clearly show that adequate water pressures would be provided to the new houses on the project site. The plan shall include the following:

- Increase the base elevation of the proposed water tank to 590 feet.
- Replace the existing six-inch water main in Paradise Drive with an eight-inch water main from the proposed driveway for Lots 21 through 23 to Forest Glen Court. The length of the pipe replacement would be approximately 3,750 feet.
- Prior to construction of Forest Glen Court: Replace both existing 12-inch water lines that connect to the Paradise Drive Water Tank as needed to meet the requirements of the MMWD in order to maintain existing functionality of both water lines and accommodate increased demand resulting from the proposed project.
- The applicant and / or property owners shall enter into a low pressure agreement with the MMWD that serves as a written release from liability for any damage or inconvenience associated with the low pressure domestic water service. If necessary the applicant or property owner must install a low pressure pump to provide adequate water pressure for the residence. (footnote omitted)

**Response to Comment 4-2**

It is acknowledged that MMWD has not made a final determination as to the proposed water tank's pad elevation, geometry, or material.

**Response to Comment 4-3**

An alternative location for the proposed on-site water tank is discussed as a part of *Alternative 2*. At the alternative location the water tank would be buried underground. The alternative water tank site is discussed on pages 685 through 690 of the Draft EIR. As stated by the commentor it is acknowledged that the alternative underground water tank has not been vetted nor endorsed at this time by MMWD and it is possible that such a design concept may not be accepted by MMWD.

**Response to Comment 4-4**

The commentor states that while not opposed to a new Marin Emergency Radio Authority (MERA) radio facility (as discussed in Mitigation Measures 5.7-1(b) and 6.7-1(b)) the facility cannot be located



on MMWD's existing Paradise Drive tank lot. Furthermore, MMWD would require evidence that a new MERA facility located on an adjacent lot would not interfere with MMWD's existing radio signal that allows remote monitoring of the tank's operation from the District's Operations Center. The concerns are acknowledged. Also please see Master Response 7. Furthermore, as discussed in Response to Comment 1-1 Mitigation Measure 5.7-1(b) has been revised in response to comments from the Marin County Department of Public Works. One of the revisions includes the requirement that these facilities shall be located on a parcel adjacent to the proposed water tank Parcel C.

#### **Response to Comment 4-5**

Based on this comment, the first paragraph on page 469 of the Draft EIR is revised as follows:

The MMWD is evaluating several options to increase its water supply to meet the projected demand. ~~Currently the MMWD receives up to 14,300 acre-feet per year of water supply from the Russian River per a contractual agreement between the MMWD and the Sonoma County Water Agency (SCWA).~~ MMWD has an agreement with the Sonoma County Water Agency (SCWA) that allows MMWD to take delivery of up to 14,300 acre-feet per year from SCWA. There is not currently sufficient capacity within the SCWA and MMWD distribution systems to allow the delivery of the full contractual volume of water. MMWD has never taken more than 8,400 acre-feet of SCWA water in any calendar year.<sup>1</sup> This water is received from a single pipeline, owned by the North Marin Water District (NMWD) that extends from Petaluma to Novato. MMWD only has rights to utilize the surplus capacity available in this water line. Consequently as North Marin Water District demands on capacity of its pipeline increase the available surplus capacity to serve MMWD would decrease. Therefore, it would be very difficult for the MMWD to obtain additional supplies from the SCWA without construction of a new Sonoma-Marin pipeline.<sup>2</sup> Recently, efforts to increase imported water from the SCWA were scuttled when the SCWA Board voted to abandon plans to increase its allotment of water received from the Russian River, and construct pipelines to deliver the water.

#### **Response to Comment 4-6**

Based on this comment, the first paragraph on page 469 of the Draft EIR is further revised as follows:

The MMWD is evaluating several options to increase its water supply to meet the projected demand. Currently the MMWD can receive up to 14,300 acre-feet per year of water supply from the Russian River per a contractual agreement between the MMWD and the Sonoma County Water Agency (SCWA). This water is received from a single pipeline, owned by the North Marin Water District (NMWD) that extends from Petaluma to Novato. MMWD only has rights to utilize the surplus capacity available in this water line. Consequently as North Marin Water District demands on capacity of its pipeline increase the available surplus capacity to serve MMWD would decrease. Therefore, it would be very difficult for the MMWD to obtain additional supplies from the SCWA without construction of a new Sonoma-Marin pipeline. ~~Recently, efforts to increase imported water from the SCWA were scuttled when the SCWA Board voted to abandon plans to increase its allotment of water received from the Russian River, and construct pipelines to deliver the water.~~

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<sup>1</sup> Dain Anderson, MMWD Environmental Services Coordinator, Letter to Marin County CDA: *Comments on the 2008 Easton Point Residential Development Draft Environmental Impact Report*, April 28, 2011. (comment letter 4)

<sup>2</sup> *Ibid.*

**Response to Comment 4-7**

The commentor notes that the current yield of MMWD's water system is 28,300 acre-feet per year (AF/yr) from local reservoirs and imported sources and not the 29,300 acre-feet as noted on page 477. This correction is noted. This corrected figure does not change any of the analysis of the cumulative water supply impacts (*Impact 5.7-9*).

Based on this comment, the first paragraph on page 477 of the Draft EIR is revised as follows:

The MMWD can currently supply ~~29,300~~28,300 acre-feet of water per year from local reservoirs and imported water supplies. (footnote deleted) As stated above the MMWD is currently experiencing a water supply deficit of 3,700 acre feet, and this deficit is projected to grow to 7,400 acre feet in the year 2025, based on water supply conditions similar to a repeat of the drought of record (1976-77). (footnote deleted) The MMWD continues to pursue additional sources of water supply to meet project demand for the district. The recently approved desalination plant is anticipated to augment the available water supply. While the initial design of the desalination plant would have a capacity of five mgd, it can be expanded to 15 mgd.

**Response to Comment 4-8**

As stated on page 470 of the Draft EIR a new water pump would be installed at the Paradise Water tank site in order to pump water uphill to the proposed 180,000 water tank through an eight inch water line. Design specifics for the water pump have not been provided at this time. However, it is acknowledged that the design of the pump station would be required to meet design criteria and performance standards of the MMWD. It is assumed that the design of the pump station would have a mitigating affect on any noise or vibration impacts to the nearest residences, such that the impacts would be of no significance. Initially, the pump station would be sheltered for weather protection and this would also provide some sound attenuation. Additionally, the pump station can be partially buried and constructed with the use of concrete masonry block and other sound and energy vibration attenuating materials.<sup>3</sup> This would also mitigate visual impact, and it is not anticipated that other impacts brought up by the commentor would occur.

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<sup>3</sup> Nichols • Berman communication with Jon Lahaye, Principle Engineer at MMWD, February 2013.



# TIBURON FIRE PROTECTION DISTRICT

1679 TIBURON BOULEVARD, TIBURON, CALIFORNIA 94920  
TELEPHONE: (415) 435-7200 FAX: (415) 435-7205

APR 26 2011 PM 12:07 Planning

RICHARD PEARCE, FIRE CHIEF

April 26, 2011

**TO:** Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**FROM:** Ron Barney, Fire Marshal *REB*

**RE:** Draft Environmental impact report for the 2008 Easton Point  
Residential Development

We have reviewed the draft environmental impact report for the 2008 Easton Point Residential development and would like to make the following comment and request:

1

In the section dealing with Fire Protection and Emergency Services, specifically *Impact 5.7-3 Cumulative Fire Service Impact*, we feel the cumulative impact of this proposed development on our response times during emergencies has been understated. Over 90% of our multi-unit responses involve one or more emergency vehicle needing to use Tiburon Boulevard and this will likely be the largest development the Tiburon Fire District will ever see during the remainder of our existence. The proposed mitigation measure 5.7-3 does not address this issue. Payment of a fire mitigation fee would be required with or without this mitigation measure and therefore accomplishes nothing to resolve the problems created by the cumulative impacts. We request that this mitigation be changed to require the developer to pay for the purchase and installation of a suitable traffic preemption system for the six signal lights along Tiburon Boulevard between and including Beach Road and Trestle Glen Boulevard, and the purchase and installation of three compatible signal emitters in Tiburon Fire District fire apparatus. The Tiburon Fire District will be responsible for acquiring the equipment for the balance of our vehicle fleet and the maintenance of the system after installation and acceptance.

Thank you for the opportunity to review and comment on the document.

We have reviewed the draft environmental impact report for the 2008 Easton

cc: file

**RESPONSE TO LETTER NO. 5 – RON BARNEY, FIRE MARSHAL, TIBURON FIRE PROTECTION DISTRICT (APRIL 26, 2011)**

**Response to Comment 5-1**

The discussion of *Impact 5.7-3 Cumulative Fire Service Impact* on page 464 of the Draft EIR states that cumulative development in the Tiburon planning area would increase demand for emergency fire services, possibly requiring additional personal and equipment, and this would be a significant cumulative impact that the proposed project would make a cumulatively considerable contribution to. The issues of delayed emergency response times and the TFPD consideration of an intersection traffic control override system are also discussed under *Impact 5.7-3*.

The commentor states traffic delays are a source of concern for emergency response times when fire service vehicles travel on Tiburon Boulevard. In the discussion of *Impact 5.1-1 Existing-Plus-Project Impacts on Study Intersections*, it is concluded that the proposed project would not result in a significant increase in peak hour traffic volumes at all of the study intersections. This analysis consisted of 15 study intersections many located along Tiburon Boulevard (see **Exhibits 5.1-3 and 5.1-4**). The Draft EIR also discusses the issue of increased travel times for emergency vehicles on Tiburon Boulevard on page 254, and an estimation of response times for fire engines on page 456. Master Response 1 provides a summary of this information, and a recent confirmation of the adequacy of this information from TFPD staff. The Draft EIR also states under *Impact 5.1-2 Cumulative Buildout-Plus-Project Impacts to Study Intersections*, starting on page 218 that with implementation of mitigation the project's contribution to cumulative traffic impacts would be less than cumulatively considerable.

The issues raised by the commentor are discussed in the Draft EIR as noted above. With respect to the requested mitigation there is no clear nexus to justify such a requirement, particularly since mitigation measures proposed in the Draft EIR would account for the proposed project's contribution towards cumulative impact issues. However the issue of a traffic signal override system could be further discussed/reviewed by Marin County during its consideration of the merits of the project, and the information contained in the Draft EIR could be useful for the consideration of this issues.





## Community Development Department

April 26, 2011

Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Jeff Slavitz  
Mayor

Jim Fraser  
Vice Mayor

Richard Collins  
Councilmember

Alice Fredericks  
Councilmember

Emmett O'Donnell  
Councilmember

Margaret A. Curran  
Town Manager

### RE: EASTON POINT (MARTHA COMPANY) PROJECT: COMMENTS ON DRAFT EIR

Dear Ms. Warner:

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the Easton Point (Martha Company) Residential Project.

The future of the Martha property has long been a matter of serious concern to Town residents. The property is immediate adjacent to established Town neighborhoods and the proposed development would potentially have major impacts on the quality of life of Tiburon residents and the integrity of local open space. The 43-unit plan that Martha submitted to the County in 2008 confirmed our community's fears. In 2009, after long and careful discussion, the Town and the Martha Company entered into a Memorandum of Understanding (MOU) in which they agreed to support a reduced density 32-unit alternative to the 43-unit project. In the firm belief that the 32-unit project would prove to be a much better alternative than the original project, the Town committed to support that alternative unless the Town determined that it would cause dangerous health and safety conditions. Therefore, the Town's comments on the DEIR will focus on the 32-unit alternative, and primarily on health and safety issues of that alternative. Where appropriate, we will also recommend modifications that would enhance or clarify the EIR's analysis.

First and foremost, the Town is pleased that the DEIR identifies the 32-unit alternative as the environmentally superior development alternative for the site. This alternative clearly reduces numerous environmental impacts as compared to the 43-unit project submitted by the applicant. Most notably, the DEIR's photo simulations show a dramatic improvement in the visual impacts on ridgeline areas.

1 That being said, there are three impact areas where Alternative #2 would have greater impacts than the applicant's 43-unit project, including impacts on loss of oak woodland (loss increased by more than 11 acres), loss of 238 more ordinance-sized trees, and increased impacts on the California Red-legged Frog (CRLF). However, the DEIR identifies mitigation measures to decrease these impacts, and to the extent that such mitigations can be implemented within the context of the Town's MOU with the Martha Company, and for the benefit of the federally threatened frog and the ever-shrinking closed canopy oak woodland on the Tiburon Peninsula, we urge that the County adopt those measures. The Final EIR should clarify whether implementation of the identified



Rachel Warner, Interim Environmental Coordinator  
Page 2 of 6

mitigation measures would reduce these impacts to a level similar to (or less than) that of the applicant's 43-unit project.

- 2 Second, the Draft EIR recommends several mitigation measures that call for actions by the Town of Tiburon to mitigate traffic, safety, or other project impacts. The document also mentions annexation of the entire project site on several occasions. Given that only the Town of Tiburon could impose these mitigations, we believe that the Final EIR should list the Town as a Responsible Agency, both on that basis and as a likely issuer of trailing permits such as design review approval and building permits for homes.

The following technical comments are ordered by environmental topic:

#### Geology and Landslides

- 3 1. The temporary construction road would run through Landslide 16. How would the developer repair that landslide before construction of said road? Where would the construction equipment access the site for this work and to perform the estimated 5,000 cubic yards of grading necessary to repair the landslide?
- 4 2. Unlike the proposed project, Alternative #2 proposes public trails running through the project. These trails are seen as a major public benefit. Please clarify in the analysis of Alternative #2 whether the proposed landslide mitigation would protect the public trails that are contained within this alternative to the same degree as other public improvements (such as Paradise Drive) are protected in the 43-unit submittal. Please describe the specific measures for each landslide that would act to protect the public trails. The landslide mitigation program associated with Alternative #2 should be discussed as to its sufficiency to protect these major public assets from landslide disruption in the foreseeable future.
- 5 3. Mitigation Measure 6.4-1 describes a "long-term maintenance program.....for periodic inspections and maintenance [of landslides].....for the life of the project". The Final EIR should include more detailed explanation and clarification. How will such a program be monitored and how will sufficient monetary resources be guaranteed to fund it? Is this possibly a role for a Geological Hazard Abatement District (GHAD)?

#### Transportation

- 6 4. Mitigation Measures (MM) 6.1-7(b) and 6.1-10 seek to prohibit placement of debris boxes and dumpsters in public streets in the Hill Haven and Old Tiburon/Lyford Cove neighborhoods. The Town already requires a permit to place such objects in the street, and rarely issues any in this area precisely for the reasons set forth in the DEIR. This mitigation does not appear to meaningfully address traffic safety issues over the current situation.





7. On page 604, MM 6.1-7(b) calls for prohibiting parking along both sides of Diviso Street and along other Hill Haven neighborhood streets narrower than 20 feet wide to improve pedestrian safety. One minor correction: Diviso Street is part of the Old Tiburon (not Hill Haven) neighborhood. Please identify which specific streets would be affected by this mitigation measure. Vehicular entry/egress from many Easton Point lots would entail travel on the following Hill Haven and Old Tiburon neighborhood streets: either Ridge Road or Mountain View Avenue; Diviso Street, Centro West Street and Esperanza Street; or Centro East Street, Solano Street, and Paradise Drive. The DEIR should explain both the extent of the suggested parking prohibition and this mitigation measure's impacts on parking and those neighborhoods. We are concerned that this mitigation measure might create more problems than it would solve, affecting the surrounding neighborhood residents, some possibly living as far as a half-mile from the project site. Furthermore, the EIR should more fully address sight distance limitations at existing intersections involving the above-listed streets that would be adversely impacted by the project, especially during construction when large construction vehicles would be moving to and from the site. For both the 43-unit project and the 32-unit alternative, please provide a table or chart describing precisely which aspects of the project (from inception to completion of last home) would be expected to use the Hill Haven and Old Tiburon streets referenced above. The DEIR narrative description is unclear.
8. To ameliorate safety risks to pedestrians and bicyclists, the final mitigation measures must minimize new truck traffic (especially large trucks) on existing substandard neighborhood streets. Please describe the length of trucks that would be expected to be used during project construction. Would tractor-trailers be involved? The Final EIR should consider safety mitigation measures that limit the length and/or weight of construction vehicles using these streets during project construction.
9. The temporary construction road analysis seems truncated. Did the EIR traffic analyst offer an opinion as to the safety of this roadway for its intended purposes? Did a traffic safety expert with knowledge in this particular area of safety actually assess the situation? We strongly recommend that the Final EIR include a third party review to ensure that the construction road is safe for its limited lifetime and intended purposes. Also, the DEIR should say whether any retaining walls would be associated with the temporary construction access road. If the developer would construct retaining walls, would they also be removed when the road is removed?
10. Please include in the Final EIR the maximum grade of the driveway leading to the Remainder Parcel. Add this figure to Exhibit 6.0-5 of the DEIR.
11. The Final EIR should also clarify the proposed extent of likely Paradise Drive improvements and widening. MM 5.1-3, 5.1-6, and 5.1-7(a), and their counterparts in the Alternative #2 analysis, are unclear as to the linear extent of Paradise Drive frontage widening. The Final EIR should explain whether the widening would be "selective" or





affect the entire project frontage. Has the County Public Works Department stated that it will require widening beyond that identified in the DEIR? If so, please explain the basis for that requirement in the Final EIR. Lastly, the Final EIR should analyze (a) whether the Paradise Drive right of way can physically accommodate the recommended widening; and (b) any physical impacts of such widening.

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10. The Final EIR must include additional analysis of bicycle safety impacts along Paradise Drive. The various improvements specified in association with Impact 5.1-6 do not address construction-related bicycle safety issues, but focus on post-construction bicycle traffic. Please add an analysis of both bicycle and pedestrian-related traffic safety impacts during project construction.

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11. The DEIR discusses the project's internal street system and parking at length in the DEIR and proposed mitigation calls for widening of the streets, construction to public street standards, and provision of eight (8) parking spaces per lot. The County clearly intends to require compliance with public standards for street design and construction, but it is unclear whether the County intends to accept these streets as public streets or leave them as privately-maintained. This is an important issue for the Town of Tiburon, which might well annex the property in the future, and could be burdened with maintenance of the streets should they be accepted by the County for public street purposes. Please clarify this in the DEIR, and be advised that the Town's MOU with the Martha Company calls for the internal project streets to remain privately-maintained but open to public use.

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12. The DEIR appears inconsistent regarding the nature of overlapping signal phasing for the Rock Hill and Avenida Miraflores intersections with Tiburon Boulevard (pp. 598-599 in Alternative #2 and their counterparts in the 43-unit project analysis). The signal phasings are variously described as "southbound left turn" or "southbound right turn" overlap improvements. Please correct and clarify. The Avenida Miraflores intersection already has an existing right-turn overlap feature for cars making right turns onto Tiburon Boulevard from Avenida Miraflores. The Final EIR should clarify whether the mitigation measure suggests a new lane or duplicates an existing condition at that intersection, and clarify the exact nature of the proposed improvement at Rock Hill Road.

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13. We agree that construction traffic impacts can be mitigated, but the Final EIR should expand Mitigation Measure 6.1-13(b) to include all project traffic control elements. Construction traffic on Paradise Drive will present some conflicts with motorists and cyclists given the narrow lanes. The mitigation measure should establish speed limits for construction traffic and require strict enforcement of those limits. The measure should also prohibit any queuing in an active travel lane and require that the developer identify shoulder areas wide enough for stacking of construction traffic before start of construction.





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Public Services

16. The Final EIR should include an expanded discussion of environmental impacts from the installation of a 3,750 linear foot water line and a 4,800 linear foot sewer pipe in Paradise Drive.
17. At page 479, the DEIR states that the project would not use existing sewer facilities in Hill Haven neighborhood. Please explain how sewer service would be routed from Lots 1-3 in the project and from Lots 1, 2, and 6-8 in Alternative #2 without using these facilities.
18. We expect that the Tiburon Fire Protection District (TFPD) and Marin Municipal Water District (MMWD) will address fire flow issues in their comments. Accordingly, we note only that some of the DEIR's mitigation measures for inadequate fire flow require further explanation. For example, Mitigation Measure 6.7-8(a) calls for the applicant to "acquire approval of reduced fire flow requirements from the TFPD...." What is the likelihood of such approval being obtained? If not, what are the repercussions to the project?
19. Low water pressure service is a health and safety issue. The DEIR proposes to address this impact through various mitigation measures. Is the installation of pumps to off-set low pressures acceptable to MMWD? Is MMWD willing to accept a low pressure agreement and liability waivers from individual lot owners? Are these feasible mitigations or are they speculative mitigations? Lastly, the Final EIR should consider whether substandard water pressure at some homes and hydrants at the highest reaches of the site would contribute to wildland-urban interface dangers and retard emergency access and/or egress efforts in the event of a wildland fire.
20. For the most part, we agree with the DEIR's analysis regarding impacts on police services. However, the Final EIR should further discuss the problem of MERA coverage (page 457-458). The document discusses several options to provide adequate coverage on the project site and we agree with the recommendation that the applicant reach agreement to resolve this important safety issue. However, to provide adequate public safety protection on-site, public safety personnel on the site must be able to communicate with related off-site persons. This continuum of communication is critical for rapid and effective response and deployment in the event of fire or other emergency. The general area of the project site is not well-covered by MERA and the project will introduce a considerable number of new persons and structures into that area. Accordingly, the Final EIR should include a mitigation measure that would improve MERA coverage for the entire area. Any new communication facility should be located adjacent to planned or existing water tanks to minimize their visual impact.

With respect to other impacts on public services (i.e., water supply, wastewater management and fire protection services, etc.), we defer to the agencies that would



Rachel Warner, Interim Environmental Coordinator  
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provide those services to the proposed project, with the understanding that these agencies will submit written comments on the DEIR.

*General*

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19. Section 2.5 (Major EIR Conclusions and Issues to be Resolved) should also include a recitation of the significant unavoidable cumulative impacts of the project, which are separately set forth in Section 7.3. These appear to include significant unavoidable cumulative impacts in the areas of transportation, air pollution and greenhouse gas emission, noise, biological, and visual resources.

Thank you in advance for consideration of these comments. Please feel free to contact me at (415) 435-7392 if you have any questions.

Very truly yours,

Scott Anderson  
Director of Community Development

Cc: Digest

**RESPONSE TO LETTER NO. 6 – SCOTT ANDERSON, DIRECTOR OF COMMUNITY DEVELOPMENT, TOWN OF TIBURON (APRIL 26, 2011)**

**Response to Comment 6-1**

The commentor is correct for *Alternative 2 Impact 6.6-2 Impacts to the California Red-Legged Frog*, *Impact 6.6-4 Loss of Coast Live Oak Woodland*, and *Impact 6.6-8 Loss of Ordinance-Size Trees* would result in impacts greater than for the proposed project. For each of these impacts, with implementation of the identified mitigation measures the impacts would be reduced to a less-than-significant level. With the reduction of these impacts to a less-than-significant level impacts for the proposed project and *Alternative 2*, after mitigation, would be similar.

**Response to Comment 6-2**

The commentor is correct; the Town of Tiburon would have responsibility to implement several of the recommended mitigation measures. As a result the Town would be a responsible agency. It is also acknowledged that in the future the project site may be annexed to the Town of Tiburon. With annexation the Town would be responsible for several activities associated with the proposed project. The list of responsible agencies beginning on page 86 is revised to include the following:

**Town of Tiburon** – The Town of Tiburon would be responsible to implement certain mitigation measures within the Town identified in the EIR. In addition, it is possible that the project site would be annexed to the Town in the future. With annexation the Town would be responsible for several activities associated with the proposed project.

**Response to Comment 6-3**

Landslide 16 is located at the west boundary of the project site adjacent to Parcel C and the Old St. Hilary's Open Space Preserve. From the ridgeline, the slide descends to the east and into Parcel A. This landslide is mostly on Parcel A, but does encroach slightly into the north end of Lot 39. The landslide crosses the area of the proposed construction access road that would connect Mt. Tiburon Road and Forest Glen Court. Landslide 16, as shown on **Exhibit 5.4-1**, has an approximate surface area of 40,000 square feet.

Miller Pacific recommends repair of the upper portion of Landslide 16, within 100 feet of the proposed water tank and construction access road, through the use of a compacted fill buttress created by the removal and recompaction of approximately 4,886 cubic yards of material. As previously mentioned, the area of repair for Landslide 16 is located just east of proposed Mt. Tiburon Court and at the west end of the proposed construction access road that would connect Mt. Tiburon Court with Forest Glen Court to the east. It is also located near the intersection of several existing trails and dirt roads that converge at that location, which should provide adequate access for the earth moving equipment required for the proposed landslide repair. The area of proposed repair has little vegetation and the proposed compacted fill buttress and surrounding terrain have relatively moderate slope gradients of only approximately 2:1 (horizontal:vertical). Therefore, it appears that the repair of Landslide 16 through the use of a properly engineered and drained compacted fill buttress, would be feasible from an engineering geologic and geotechnical engineering standpoint and that the area can be accessed and the repair performed through the use of standard grading methods and typical earthmoving equipment.

#### **Response to Comment 6-4**

Marin County requirements for landslide mitigation measures are substantially different, for undeveloped open space hiking trails, than they are for existing or proposed building sites and/or public improvements (such as Paradise Drive). The slope repair and improvement methods proposed by Miller Pacific for the project development include additional grading, retaining walls (or subsurface pile walls or shear keys), debris fences, rip-rap, and subdrains. They also specifically require that any landslide within 100 feet of a proposed building site or public improvement be repaired.

As mentioned by the commentor, Alternative 2 includes the construction of three hiking trails across the project site (see **Exhibit 6.0-2**), as follows: (1) From the point where Ridge Road enters the project site along the property line, adjacent to the boundary of Lots 3 and 4, and then across the site, generally paralleling the water tank access road, to the Old St. Hilary's Open Space Reserve. This trail would also provide access to the large rock in Parcel A between Lots 4 and 17; (2) From the end of Spanish Trail Road across the public open space to Paradise Drive at a point between Forest Glen Court and the Remainder Parcel driveway; and (3) A third trail would be constructed in the roadbed remaining after removal of the proposed construction access road. The inclusion of these as part of Alternative 2 would perpetuate the informal public access Tiburon residents have grown accustomed to using and negate significant impacts on adjacent open space related to pedestrian access impact. The first two trails would be completed prior to the issuance of the first certificate of occupancy for any residence within the project site. The trail to be constructed after removal of the construction access road would be created simultaneously with removal of the construction access road paving. The proposed trails are intended to be serviceable single-use (hiking) footpaths, as commonly found on steep hillside trails throughout Marin County. The maintenance of the proposed foot trails should be performed in accordance with the requirements from the *Countywide Plan Policy TRL-2.7 (Ensure Sustainable Maintenance)*, to continue to ensure that the three proposed trails are responsibility maintained. Marin County uses the California State Parks and other agency guidelines for designing sustainable trails. These guidelines provide recommendations on trail width, slope, cross slope, clearance and other measures to minimize erosion, landsliding and other maintenance concerns. Therefore, the mitigation measures associated with the construction of the three trails proposed in Alternative 2 would be consistent with current practices and with *Countywide Plan Policy TRL-2.7*; however, they would be less stringent than those required for a structure proposed for human occupation or a permanent public improvement.

#### **Response to Comment 6-5**

A long-term maintenance program that provides for periodic inspections and maintenance of the recommended landslide stabilization program during the life of the project would be included with implementation of Mitigation Measure 5.4-1, or Mitigation Measure 6.4-1 in the event that *Alternative 2* is constructed. The maintenance program shall provide for periodic geologic inspections, monitoring of geotechnical and hydrologic mitigation measures to assure effectiveness, a schedule for routine cleaning and maintenance of drainage devices, provisions to provide recommendations for additional erosion control or mitigation of any unforeseen hazards which develop in the future, a provision for a regular reporting schedule and identification of an entity responsible to implement the maintenance program. The applicant's geotechnical consultant would be responsible for conducting subsurface investigations, determining the proposed approach(es) to satisfy required improvement in stability, and preparing a comprehensive geotechnical report including an analysis and recommendations on the grading plan(s), and the applicant would be responsible for funding an independent peer review, if required by the County. The applicant also would be responsible for constructing drainage improvements, grading and other repairs identified by the comprehensive grading plan in accordance with County guidelines. The applicant's geotechnical consultant would

monitor these measures. The County may retain the assistance of an independent geologist whose review would be funded by the applicant. Please see Response to Comment 1-3 for revision to Mitigation Measure 5.4-1 to address POA responsibility.

**Response to Comment 6-6**

An interview with the Town of Tiburon Community Development Director indicated that observed blockage of streets by dumpsters, as described in the Draft EIR on page 19, is allowed by permit only, and only after inspection to determine alternatives to encroachment on the roadway travel lanes.<sup>4</sup> As stated in the Town's response to the Draft EIR (see comment letter 6), permits are rarely granted if blockage of travel lanes will result. Each permit is individually reviewed to determine dumpster placement, and if blockage of travel lanes would occur, time limits are imposed in these rare circumstances.<sup>5</sup> The Draft EIR underscores the need for prohibiting dumpsters in the travelway in response to observed conditions, and to this degree, addresses observed, and with-project safety conditions. Prohibiting dumpsters from blocking the travelway would force immediate off-haul of debris from locations lacking sufficient room for placement of dumpsters, improving safety for through traffic. Also, please see Master Response Traffic 1.

**Response to Comment 6-7**

It is acknowledged that Diviso Street is part of the Old Tiburon neighborhood, and not a part of the Hill Haven neighborhood. Esperanza Street and Solano Street are 20 feet wide or greater. Streets with segments less than 20-feet wide include:

- Diviso Street from Centro West, approximately 820 feet, to approximately 80 feet south of Vistazo East Street, where the roadway widens.
- Centro West from Diviso Street East, approximately 1,800 feet, to the vicinity of 1864 Centro West, where the roadway widens.
- Centro East (all) from Solano to the Centro West/Diviso Street intersection (approximately 1,100 feet).

In recognition of the problem of the narrowness of the road, much of Centro West is provided with "No Parking" painted on the pavement at regular, frequent intervals. This is due to the Town of Tiburon's Traffic and Safety Committee having determined that due to the function of this road as a collector, limiting parking along this route is preferred.<sup>6</sup> It is the opinion of the EIR traffic analysts that Centro East and Diviso streets would benefit from similar (on-street) "No Parking" labeling at regular intervals to maintain an unobstructed travelway. It is acknowledged that installation of no parking zones along Centro East and Diviso streets would result in the removal of some on-street parking. This, in turn, could result in an inconvenience to residents who rely on the availability of the on-street parking.

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<sup>4</sup> Crane Transportation Group communication with Scott Anderson, Town of Tiburon Director of Community Development, January 2013.

<sup>5</sup> *Ibid.*

<sup>6</sup> Crane Transportation Group communication with Nick Nguyen, Town of Tiburon Director of Public Works, January, 2013.



It is noted that along Centro West, Centro East and Diviso streets, at any residence where there is sufficient width, parking bays have been constructed on individual lots.

Sight distance limitations or other limitations at the above-listed existing streets and intersections during the construction phase when large construction vehicles would be moving to and from the site, would be handled according to the Construction Management Plan as set forth in the Precise Development Plan, as modified by Mitigation Measure 5.1-13(b). Specifically, Mitigation Measure 5.1-13(b) includes the following requirement:

Implement all project traffic control elements including consolidating delivery of construction materials using routes approved by Marin County and Town of Tiburon, informing Town of Tiburon residents of construction activities and duration, and providing a comprehensive network of flag persons along construction routes. Specifically, care shall be taken to insure safe passage of trucks along designated routes (such as Paradise Drive) by use of flag trucks traveling in front of and behind wide trucks (trucks which may intrude into the opposite direction travel lane). Flag persons shall be stationed along all roadway segments which may require stopping through traffic for safe truck passage or guiding trucks through existing streets.

#### **Response to Comment 6-8**

The commentor requests safety mitigation measures that limit the size and weight of construction vehicles using on existing substandard neighborhood streets. Similarly, on page 272 of the Draft EIR Mitigation Measure 5.1-13(b) contains provisions requiring Town or County approval for truck haul routes and hours, and prohibition of certain construction traffic in neighborhood streets. It is the opinion of the EIR preparers that similar safety issues brought up by commentor would be addressed with implementation of this mitigation measure, and no further mitigation is required. Also, see Response to Comment 7-14.

#### **Response to Comment 6-9**

Please see Master Response 2 for information regarding the construction road. The Draft EIR provides opinions of two long-established, local operators, specifically, Bradford Simpkins, Vice President, Ghilotti Construction Company, and David Warner, President, Redhorse Constructors, Inc., in order to provide expert opinions in review of the safety of the construction road for its limited period of use.

In response to questions raised during the Draft EIR public review period Whitlock & Weinberger Transportation (W-Trans) was requested by the project sponsor to identify potential traffic safety issues associated with implementation of the construction plans, in particular use of the temporary construction road.<sup>7</sup> The conclusions and recommendations of this engineering evaluation are included in Master Response 2. They are supported by the Crane Transportation Group, the EIR traffic analysts.

Retaining walls are discussed in the Draft EIR. The Draft EIR also discusses the different potential scenarios involving installation and potential removal of a construction road. It is not necessary for the Draft EIR to contain speculation of the use of and removal of the construction road. The final

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<sup>7</sup> Letter to Mr. John Reed from Mary Jo Yung, PE, PTOE, W-Trans, Re: Easton Point Construction Planning Traffic Evaluation, November 17, 2011.

decision for the construction road would be made by the Board of Supervisors while weighing the merits of the proposed project.

**Response to Comment 6-10**

As shown on grading plan, the maximum grade of the driveway leading to the Remainder Parcel would be 21 percent, in excess of the County standard of 18 percent. This grade is applicable to seven feet of uphill grade, and nine feet of downhill grade within one segment of the road located just inside the property boundary fronting Paradise Drive.

Exhibit 6.5-5 is revised as follows to list the maximum road grade of the driveway leading to the Remainder Parcel:

**Exhibit 6.0-5  
Road Grades – Alternative 2**

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<b>Roadway / Driveway</b>	<b>Maximum Grade (percent)</b>
Forest Glen Court	18
Ridge Road	18
Water Tank Road <sup>a</sup>	13.7
Lots 3 to 4 Driveway	3
Lots 6 to 8 Driveway	7
Lots 18 to 21 Driveway	17
Lots 26 to 28 Driveway	12
Construction Access Road	25
<u>Remainder Parcel Driveway</u>	<u>21</u>

- a. Driveway to water tank has a maximum grade of 17 percent.

Source: *Town of Tiburon's 32 Units LDA, Easton Point Master Plan / Precise Development Plan / Tentative Map*, Sheets C-6, C-7, C-8, C-9, C10, CSW / Stuber-Stroeh Engineering Group, Inc, revised 12-15-09.

**Response to Comment 6-11**

Please see Response to Comment 1-2.

**Response to Comment 6-12**

Construction practices, including all construction safety precautions, would apply to all users of the roads – vehicles, bicycles and pedestrians. These measures are detailed in the proposed Construction Management Plan, as modified by Mitigation Measure 5.1-13(b). They include precautions listed in the Master Response 2.

**Response to Comment 6-13**

The discussion and mitigation measure for *Impact 5.7-1 Fire Service Impact* beginning on page 461 of the Draft EIR is revised as follows:

The TFPD would be able to serve the project site. The TFPD could not estimate the number of service calls project residents would generate, but does not anticipate a significant increase in service calls resulting from the project.

Vehicle circulation for the proposed project would consist of roads that would be designed to meet standards of the TFPD (see *Impact 5.1-9 Project Impacts Related to Emergency Access*). The applicant is ~~not proposing required to offer for dedication~~dedicate the roads to Marin County. ~~Rather the new roads would be private roads and maintained by the Property Owners' Association.~~ With the exception of the construction access road, the project roads and driveways would comply with County of Marin and TFPD roadway grade requirements. The construction access road would have a 25 percent maximum grade and would not conform to TFPD standards. ~~It is~~The applicant proposes~~proposed~~ that after construction that the construction access road would remain for emergency access only and would be blocked at either end by a barricade gate. Due to the 25 percent maximum grade the construction access road would not meet TFPD standards for grades and, therefore, it is unlikely that the construction access road would be available for use by emergency vehicles. As discussed in *Impact 5.1-9* in three locations driveways would be too narrow to meet TFPD standards and in four locations turnouts would be needed to meet TFPD standards.

#### **Response to Comment 6-14**

Signal phasing is clarified to specify *southbound right turn* overlap. The Avenida Miraflores intersection has a southbound right turn overlap improvement.<sup>8</sup> Therefore, the discussion and mitigation measure for *Impact 5.1-2 Cumulative Traffic Impacts to Study Intersections* on page 228 of the Draft EIR is revised as follows:

The applicant shall pay the project's fair share for provision of overlapping phasing for the southbound right turn from ~~both Avenida Miraflores and~~ Rock Hill Drive to Tiburon Boulevard. The fair share calculation shall be done by the Town of Tiburon. Resulting mitigated intersection LOS for ~~these two intersections~~this intersection is shown in **Exhibits 5.1-39 and 5.1-40**.

Likewise, the discussion and mitigation measure for *Impact 6.1-2(b) Cumulative Traffic Impacts to Study Intersections* on page 598 of the Draft EIR is revised as follows:

The applicant shall pay the *Alternative 2's* fair share for provision of overlapping phasing for the southbound right turn from ~~both Avenida Miraflores and~~ Rock Hill Drive to Tiburon Boulevard. The fair share calculation shall be done by the Town of Tiburon. Resulting mitigated intersection LOS for ~~these two intersections~~this intersection is shown in **Exhibits 6.0-29 and 6.0-30**.

#### **Response to Comment 6-15**

Mitigation Measures *5.1-13(b)* and *6.1-13(b)* should establish speed limits for construction traffic and strict speed enforcement measures, as well as prohibitions of queuing in an active travel lane. Shoulder areas wide enough for stacking of construction traffic should be identified.

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<sup>8</sup> Crane Transportation Group communication with Scott Anderson, Town of Tiburon Director of Community Development, January 2013.



The discussion and mitigation measure for *Impact 5.1-13 Construction Traffic Impact* beginning on page 267 of the Draft EIR and *Impact 6.1-13 Construction Traffic Impact* beginning on page 609 of the Draft EIR, are revised as follows (the bullet items are added to the existing list):

Establish speed limits for construction traffic, and strict speed enforcement measures.

Prohibit construction vehicle queuing in an active travel lane; shoulder areas wide enough for stacking of construction traffic should be identified prior to commencement of construction activity.

#### **Response to Comment 6-16**

For the purpose of this EIR it is assumed that all work involved with the installation of the proposed sewer line described on page 479 and the water line upgrade required in Mitigation Measure 5.7-7 (page 474) would occur within the Paradise Drive right-of-Way. The right-of-way consists of a previously disturbed area and the area does not contain sensitive habitat. Disturbed area would include paved roadway, road shoulder, and possibly some area of roadside storm drains. The construction of improvements would be done consistent with permit requirements of Sanitary District No. 5, and Marin County Department of Public Works. Although there would be some environmental effects resulting from trenching and installing the sewage collection lines, these effects would be substantially less than biological and aesthetic impacts that would result from an alternative sewage collection system on-site that would include treatment and disposal facilities. Portions of Paradise Drive would be limited to controlled traffic during construction of the proposed sewer line and waterline upgrade. During construction contractors would make efforts to minimize traffic disruptions and to ensure public health and safety. Contractors would be required to follow the California Manual on Uniform Traffic Control Devices (MUTCD).<sup>9</sup> Part 6 of the MUTCD provides the specific requirements for Temporary Traffic Control during construction. Marin County does allow alternating traffic lane closure so long as the vehicle waiting time does not exceed five minutes.<sup>10</sup> Implementation of these measures would ensure the safe passage of traffic and would optimize the flow of through traffic along Paradise Drive. Also, please see Master Response 8.

#### **Response to Comment 6-17**

For the proposed project Lots 1 through 3 would be served by a three-inch sanitary sewer force main via a 15 feet wide utility easement that would extend along the southern boundary for the project site from the location of Lots 1 through 3 to the proposed extension of Ridge Road. From this point the sewage would be routed through the proposed three-inch sanitary sewer force main under Ridge Road to a ten feet wide sanitary sewer easement through Lot 15, downslope through Lot 21 and connect with the proposed four-inch sanitary sewer force main under Paradise Drive. In *Alternative 2* Lots 1 and 2 would be served by a one-inch sanitary sewer force main via a 15 feet wide utility easement along the southern boundary for the project site to the proposed extension of Ridge Road. Lots 6 through 8 would be served by a sanitary sewer force main in a 30 feet private access and utility easement that would connect to the extension of Ridge Road. From this point proposed sewer lines would route the sewage towards Paradise Drive similarly to the proposed project.

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<sup>9</sup> *California Manual on Uniform Traffic Control Devices*, State of California Business Transportation and Housing Agency, Department of Transportation, 2012 Edition. Nichols • Berman communication with Scott Schneider, Associate Civil Engineer, Marin County, May 2013.

<sup>10</sup> Nichols • Berman communication with Scott Schneider, Associate Civil Engineer, Marin County, May 2013.

### **Response to Comment 6-18**

In July of 2009 the MMWD completed preliminary water feasibility analysis (**Exhibit 5.7-1**) for the proposed project. The water feasibility analysis includes an estimated fire flow for each lot and this information was considered for the analysis of *Impact 5.7-8 Inadequate Fire Flow*. As stated on page 474 more accurate design-level calculation would be possible upon completion of detailed construction plans. The preliminary water feasibility analysis demonstrates that according to estimated flows up to 20 proposed lots would not meet the minimum fire flow requirement of 1500 gpm and this would be a significant impact. Mitigation Measure 5.7-8 contains measures that would reduce this impact by either increasing the fire flow for some lots or designing buildings to comply with available fire flow. For example: Implementation of Mitigation Measure 5.7-8(c) (Paradise Drive water line upgrade) would increase fire flow available to Lots 21 – 23, and Mitigation Measure 5.7-8(b) would reduce the required fire flow for approximately nine lots through building design and or limiting the maximum size of structure to 3,600 square feet. Considering the degree of change the project would incur with implementation of Mitigation Measure 5.7-8 it is reasonable to question the feasibility of the mitigation, as the commentor does. However the mitigation is consistent with applicable codes, including the 2007 California Fire Code. Implementation of this mitigation would require substantial coordination between multiple parties, which the applicant has already initiated with the TFPD and MMWD in order to conduct the preliminary water feasibility analysis and review estimated fire flow figures. Mitigation Measure 5.7-8 reflects the information that has been prepared and the work already conducted regarding fire flow issues. If Mitigation Measure 5.7-8 only increased fire flows it's effectiveness would be limited. Considering the mitigation also addresses the size of residences and construction methods it is feasible.

### **Response to Comment 6-19**

Section 11.08.120 of the Marin Municipal Water District Code allows for the MMWD to provide service under an application of a low pressure agreement and written release of liability. The applicant has begun coordination with the MMWD and the MMWD has prepared a water pressure analysis (**Exhibit 5.7-1**). The MMWD has indicated that the applicant would be required to apply for a low pressure service agreement for some of the higher elevation lots.<sup>11</sup> With consideration of the coordination between the applicant and the MMWD and written information from the MMWD the proposed mitigation is feasible.

### **Response to Comment 6-20**

Please see Master Response 7 for a discussion about locating an emergency radio facility adjacent to the proposed water tank (Parcel C). Also please see Response to Comments 1-7 and 1-8.

### **Response to Comment 6-21**

As noted by the commentor significant unavoidable cumulative impacts that would result from buildout of the Tiburon Peninsula, which the *2008 Easton Point Residential Development* would contribute to, are listed under **Section 7.3 Significant Unavoidable Impacts**. Section 15120(a) of the CEQA Guidelines states *Environmental Impacts Reports shall contain the information outlined in this article (Section 15120 to 15132), but the format of the document may be varied*. No revision to the Draft EIR text is necessary.

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<sup>11</sup> Nichols • Berman communication with Dain Anderson, Marin Municipal Water District, April 2, 2009.

**TO:** Rachel Warner, John Roberto  
**FM:** Randy Greenberg  
**DATE:** 4/25/11  
**RE:** Easton Pt. DEIR questions

1

I. p. 706. States that Alternative ["Alt"] 2 is the environmentally superior alt because, despite similar significant impacts to the proposed Project's, the reduced number of housing units (32 vs. 43) would result in less site disturbance and thus reduce the degree (though not significance) of several impacts.

Alts 3 & 4 appear to have significantly smaller development footprints than both the Project and Alt 2. Lot size, building area, private open space ["OS"] and house sizes are not specified for Alts 3 & 4, and should be provided. An estimate of tree loss, grading amounts and slide repair associated with 3 & 4 should also be given to allow proper comparison and evaluation of the environmentally superior alt. Size of Parcels A & B for these Alts should be stated and a Schematic site plan for Alt 2, in the same scale as those for Alts 3 & 4 (see Exhibits 6.0-41, p. 692 and 6.0-42, p. 699) should be provided to allow comparison of alternative development footprints, lot locations and protected OS area.

The Staff Coordinator told me that Alts 3 & 4 lots are a half acre each and houses are smaller than for the other plans. If this is correct, each of Alts 3 & 4 total lot area is 21.5 acres vs. 49.61 acres for the Project and 50.54 acres for Alt 2. By way of example, if all houses for Alts 3 and 4 were 4,000 sf, Alts 3 and 4 would each have a total 172,000 sf for houses, vs. 296,300 sf for the 43-unit Project (average unit size = 6,891 sf), and 246,200 sf for 32-unit Alt 2 (average size = 7,694 sf). While driveways and site disturbance for 11 units more than for Alt 2 would increase grading amounts, the figures above still suggest that site disturbance and impacts for one or both of 3 & 4 are likely less (smaller lots, smaller building areas, smaller houses, reduced visual and/or biological impacts) than for Alt 2. I also note that the acreage for Alt 2's "Natural Areas", considerably larger than possible for Alts 3 & 4, are projected to result in many acres of habitat loss, including serpentine grassland, woodland, coyote brush scrub, and wetlands, along with the special status species they hold. Since site disturbance and related impacts appear to be the basis for the "environmentally superior" designation, as stated on p. 706, explain in greater detail the conclusion that favors Alt 2.

2

2. Mitigation 5.1-3 (p. 21) and 6.1-3 (p. 600) require adequate sight distance at Forest Glen Ct. for the Project and Alt 2. Exhibit 6.0-43 (p. 708) assigns greater impacts to Alts 3 & 4 than to the project or Alt 2 in regard to sight distance for project roads. This evaluation appears to compare both the Project and Alt 2, as mitigated, to Alts 3 & 4 without mitigation. Is this correct? If not, please explain the reasoning behind this impact assessment. If correct, it would seem that because Alt 2 was developed to a greater level of specificity, including mitigations supplied by the EIR preparer, that mitigations are assumed part of Alt 2, a benefit not enjoyed by 3 & 4. If mitigated alts are being compared with unmitigated ones, explain how this provides for fair comparison.

3

3. Impacts 5.5-1, 5.5-3 and 5.5-4 indicate that water quality, site drainage patterns (erosion and downstream sedimentation), groundwater recharge and flood impacts would be less for Alt 2 than for Alts 3 & 4. If the impact assessment (p. 709-710) relies on the fact that mitigation is applied to Alt 2 and not 3 & 4, we are once again looking at Alts developed to such different levels of specificity that fair comparison is not possible. While 3 & 4 have 11 more units and associated driveways than Alt 2, they have substantially smaller lot (21.5 ac. vs. 50.54 acs) and building area than Alt 2. This, along with significantly smaller units (see house size example in #1), would suggest less grading and impervious surface for Alts 3 & 4 than for Alt. 2. Please explain and re-evaluate these impact assessments.

4

4. DEIR mitigation 5.1-3 (p. 21) requires 4' wide shoulders along the project's Paradise Dr. frontage from 60' south of entry to lots 21-23 to 60' north of the entry to Forest Glen Court. What is this distance? What are the grading quantities associated with this improvement? Are they included in grading calculations? Describe whether excess soil (if any) would be off hauled and/or placed onsite. How much tree loss is associated with this road widening, if any? If this road widening occurs at or near the bottom of onsite landslides that are to be improved, rather than repaired, are simple retaining walls along the newly graded hillsides sufficient remediation for cutting into the lower portion or base of the slide(s)?

5

5. The following information on grading seems illogical on its face. Below are the figures provided in the DEIR:

	43-unit Project	32-unit Alt 2
<i>Lot development</i>	<i>Exhibit 3.0-10, p. 80</i>	<i>Exhibit 6.07, p. 571</i>
<i>Cut</i>	23,649 cy	41,497 cy
<i>Fill</i>	20,013 cy	25,046 cy
<i>House sf</i>	<i>Exhibit 3.0-5, p. 66</i>	<i>Exhibit 6.0-3, p. 555</i>
<i>House footprint sf</i>	296,300 sf	246,200 sf
	141,080 sf	129,650 sf

It appears that 32-lot Alt 2 has substantially *more* grading for *lot development* than the 43-lot Project, while its house sf/footprint sf is *less*. Indicate comparable lots in Alt 2 that require significantly more grading than their equivalent in the Project and explain why development of 11 more lots, with a bigger total house footprint results in less grading.

6

6. p. 27. Mit. 5.4-1 provides that there shall be a long term maintenance program for the landslide stabilization program which shall include a schedule for routine cleaning and maintenance of drainage devices, including debris fences. Explain what this work might entail and the equipment needed to accomplish it. Would motorized equipment have to travel across undeveloped areas, including areas of special habitat or landslides, to reach these devices? If "yes", please evaluate secondary environmental impacts, including spread of SODS, equipment movement, necessary access trails and provide mitigation as appropriate.

7

7. Alt 2's grading totals do not appear to include "replace and repair" for slide 23. Exhibit 6.0-34 (p. 619) notes that replace and repair of slide 23 is required when Remainder lot development occurs. However, this lot is part of the proposed entitlements, and full slide repair is required and should be quantified. Similarly, the DEIR (p. 646) states that Alt 2's grading for slide repair is about 2% less than for the Project - 3.45 acs vs. 3.52 acs. Do these figures include slide repair necessary for development of the Alt. 2's Remainder lot? If not, please recalculate, including estimated grading amounts for required work to repair Slide 23. There is no more or less certainty that this lot will be developed than any other lot. I note that house and lot size for the Remainder lot is included in comparison tables. For consistency, and to allow proper comparison, estimated grading amounts for this required slide work should be provided as well.

8

8. p. 344+. Parcel C, the site of the new, elevated water tank, is flanked by site landslides 16, 19, 20 & 21. While the direction of the slides appears to be away from the proposed tank, how would an earthquake that affected these slides impact this water tank site? Are the suggested slide repairs sufficient to secure Parcel C structures in the case of an earthquake and, if not, what additional work would need to be done?

9

9. Parcel C, the new water tank site, is contiguous with the project property line. There is no information on offsite slides. Has any evaluation been made of potential landslides in the adjacent offsite area? Although offsite, shouldn't such an evaluation be made to properly address health and safety impacts?

10

10. p. 355 states that *partial* grading (as opposed to full repair) could affect the stability of existing landslides adversely, if their factors of safety are not improved to stated standards. Could this be an issue in the construction of Alt 2's trail above Paradise Dr.? If "yes", please confirm that grading estimates (p. 571) for Alt 2's trails include any necessary slide remediation. Assess impacts associated with proposed trail construction and comment on associated landslide issues, if any.

11

11. p. 336. The DEIR repeatedly makes states that the County only requires slide repair where slides could affect project structures. It points out that slides that threaten Paradise Dr., and not project structures, are an existing condition and not the result of project impacts. However, project related traffic at build-out will increase approach traffic at the Forest Glen/Paradise intersection by @ 52% during AM peak hour and by @ 25% during PM peak hour on a daily basis (p. 207). The Project, or some approved variation of it, will increase traffic along the Paradise Dr. project frontage by 10 car trips per unit per day, resulting in 140 or more new car trips per day plus additional bike and pedestrian traffic, all of which are project generated. During the 10-year life of the proposed construction access road, additional (and, I believe, unassessed) project-related traffic will travel the project frontage. The Project meaningfully increases the number of individuals at slide risk over existing conditions on Paradise Dr. in the area of the Project. Explain why this project-caused increase in pedestrians/ vehicles/cyclists at risk from onsite slides doesn't trigger the requirement for more comprehensive slide repair along the full Paradise frontage.

12. The construction access road could act as an attractive/dangerous nuisance, paved or unpaved. Please provide mitigation needed to prevent adventurous cyclists, skateboarders, etc. from using this road before or after removal or as a trail. Discuss efficacy of such mitigation.
13. p. 23. Mit. 5.1-10. Prohibition of dumpsters to reduce safety hazards sounds good. But local residents assert that dumpsters are almost never to never in the road, but are on driveways, for the very reasons this mitigation is offered. How does requiring an existing condition reduce the impact from significant to LTS?
14. p. 270. States that “virtually all workers & haul truck trips would be expected to travel to and from the site on Paradise Dr.-Tiburon Blvd., “with traffic generally in off-peak flow direction”. On what data is this statement based? I am assuming that the vast majority of these construction related trips are assumed to go to the construction access road. Over a quarter-century’s personal experience indicates that most workers come from the north and that almost none will travel the full length of Tiburon Blvd. around the tip of the peninsula to reach the Forest Glen Ct. access. A surprising number approach this area from the 101 Paradise Dr. exit in Corte Madera. Most take Tiburon Blvd-Trestle Glen-Paradise Dr. Both these routes frequently take less time than travelling solely on Paradise Dr-Tiburon Blvd. Evaluate impacts, including safety, of regular use of these alternate routes. In addition, especially between 3-4 pm, schools creates traffic congestion *in all directions on all routes*.<sup>1</sup> Many construction workers end their day at this time. Please evaluate traffic impacts, via the 3 possible routes, of large trucks moving with school traffic along Tiburon Blvd. and Paradise Dr. Also, please consider a mitigation that will prohibit site deliveries during the pm school traffic congestion hours.
15. State the parameters for the time period of use for the “temporary construction access road” *for each alternative* and whether it is to be removed at the end of that time, to be subsequently used for emergency access or rebuilt as a trail.
16. p. 247+ Issue of Ghilotti and Redhorse making the assessment of truck safety on the construction access road. Their trucks may be equipped for a 25% grade, but what about the vehicles of all the independent contractors who will be using this road? The road mitigates some issues, but is it actually safe for all vehicles that will use it? Some 3<sup>rd</sup> party, without a conflict of interest, should make this assessment.
17. On p. 33 there are two Impacts 5.5-6 (one in box w. 5.5-5) – one is significant and the other LTS. Please edit as appropriate.
18. p. 33 Mit. 5.5-6. This mitigation proposes to link landslide improvement area subdrains to the Keil water storage system. Please describe such a system, including whether it would be above, or under, ground, length/size of piping required, grading amount associated with installation, if any, and evaluate any associated secondary impacts. Since this mitigation would require agreement of an offsite property owner, please indicate the status of such an agreement in order to assess whether the mitigation is feasible. If such an agreement is speculative, please provide an alternate mitigation.

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<sup>1</sup> St. Hilary’s Elementary, 765 Hilary; Little School, 11 Shepherd Way; Belvedere Nursery, 15 Cove; Strawberry Pre-school, 240 Tiburon Blvd.; Bel-Aire Elementary, 277 Karen; Reed Elementary, 199 Tiburon Blvd; Del Mar Middle School, 105 Avenida Miraflores; Marin Montessori, 5200 Paradise Dr., Marin County Day, 5221 Paradise; Lycee Francais, 330 Golden Hinde.

19. p. 50. If the owners of the Keil property do not agree to the mitigations associated with their irrigation water supply what, if any, obligation does the applicant have to preserve water flows to the Keil spring and main property, which is covered by a national Garden Conservancy easement that requires protection of its historic gardens?
20. p. 34+ Under “Biological Resources” mitigations, please show on a plan how lot lines would change to accommodate mitigations requiring a redesign of the PDP to protect special status plants/habitats (e.g., 5.6-1(a); 5.6-2(a); 5.6-3(a); 5.6-5(b), 3<sup>rd</sup> bullet, p 451, et al[5.6-5(b) does not appear as the same # mitigation on p. 37]). Indicate revised lot/residential bldg. areas/house sizes where changes will occur to demonstrate feasibility/impacts of such mitigation required changes. If these mitigations apply to any alts, please provide this information for them as well.
21. p. 68. Is it accurate that specific building envelopes are not being proposed as part of the PDP, but that specific building areas are to be determined at design review? Is it accurate that the entire lot, save “natural areas”/private OS, are available for consideration of structure placement or might these areas be used as well? According to the DEIR, the applicant proposes that to build outside the currently designated building footprint, an applicant need only address general view impacts and those to trail users and other homeowners. Additional potential grading and habitat impacts are not given as standards that need to be considered to allow building outside currently designated footprints. Evaluate potential environmental impacts from not designating specific building envelopes and not requiring consideration of additional grading, slide repair and habitat impacts in order to build outside of designated Project building footprints.
22. Please specify the square footage of “natural” or “protected OS areas” and the size of the building and landscape envelope for each Project lot to allow assessment of actual developable area.
23. Provide the sizes of the (1) Residential Building Areas; (2) Residential and Landscape Envelopes and (3) “Natural Areas” for Alt. 2 lots. If these figures are available for comparable areas of Alts 3 & 4, please provide them as well.
24. p. 559 States that for lots 18-31, where the Residential Building Envelope slope exceeds 30%, maximum building height for the primary residence is 35’ from existing grade. Specify which lots fall into this 30%+ grade category. For those that do not, what, if any, maximum building height is proposed?
25. Provide driveway grade for access to group of lots located directly above Paradise Dr. near the Town line. Include any tree loss numbers for this driveway installation and lot development, including fire hazard management.
26. p. 380-381. Exhibits. 5.5-5(a) & (b). Where are detention facilities 21, 22A and 22B (see p. 379) on the site?
27. p. 385, Mit. 5.5-1(b). States that each residence shall incorporate a bioswale or other appropriate method for treatment of impervious surface runoff. Is this feature proposed inside the lot’s building area, or could it be in the private OS? If in OS, please list lots so affected and show location of such features to allow impact assessment.

28

**28.** p. 74. States that the PDP Utility Plans shows location of proposed on-site street lights. Please provide description (height, location) of such lights and assess any potential environmental impacts of such night lighting, neighborhood consistency issues, visual impacts, etc.

29

**29.** The analysis for Alt 2 was prepared at an EIR level of specificity. This plan includes a Remainder lot with entitlements for a 15,000 sf house (the equivalent of 3 or more typically sized homes). It is not clear if analysis of grading, slide repair, tree loss, habitat, and public utility service or other impacts associated with this lot and driveway development are included in stated calculations. If they are not, please provide this data to allow fair comparison with the Project and other Alts.

For instance, the DEIR points out (p. 568) that no provision has been made to provide water or sewer services to the Remainder Lot. The EIR suggests one possibility - to place a meter in the Forest Glen Ct. cul-de-sac and a water line part way up the construction access road and across Parcel A to the Remainder lot. Please assess environmental impacts of running a water line cross-country in the proposed location between the construction access road and the Remainder lot (including slide, grading and habitat issues) or offer other solutions and assess their impacts, if any. Provide a similar discussion of providing sewer to this lot. This is necessary to show that such service provision is feasible and that significant impacts can be addressed.

30

**30.** p. 82 & p. 505. Talks about stockpiling of “some” cut on Lots 20 & 24 for future lot development. How long is this soil anticipated to remain stockpiled? Provide mitigation of soil storage for visual, dust, invasive species proliferation impacts, et al, over years until it is used for individual lot construction. Specify how remaining stocked cut, if any, is to be dealt at the end of some specific time period. Provide some estimate of amount of material to be stored (a cubic yard of soil covers a 10' by 10' area 3” deep).

31

**31.** p. 691. Alt. 3 puts 16 lots in the Forest Glen area on 8.9 acres. This is a reduction of 2.73 acres from the Project’s 11.63 acs., a 24% area decrease. Please provide an estimate of the associated reduction in tree loss, grading amounts and visual impacts, if any.

32

**32.** p. 463. Indicates that the PDP includes implementation of Marin Fire Safe Guidelines for Defensible Space, which includes areas that are spread throughout the project site, including private property & *common* OS. The Fire Safe requirement for removal of understory growth compromises habitat value. What areas - location & size – of common OS are included in this management plan?

33

**33.** Is there any requirement for transition landscaping within lots from building areas to required “natural areas” and/or the protected OS beyond the lot line? Consider if this is an appropriate mitigation for visual impacts? Suburban type landscaping can present a distinctly different look than the natural areas surrounding it and often follows fence areas, creating linear, unnatural features on the hills and ridges.

34

**34.** p. 426 Discusses “private use areas”, describing these as all lot areas outside building sites. For purposes of the EIR, the assumption is that all habitat within private use areas will be lost. The DEIR (p. 553) says “natural areas” and “private open space” are used interchangeably. How are “private use areas” different? If they are different, please describe size of each of these areas for each lot, and uses allowed in them, for the



Project and Alts. If they just different labels for the same thing, please describe size, function and allowed uses in “private OS” that is to be part of lost. Depending on definition, these areas may not only become bereft of native habitat, as the DEIR states (p. 426), but also present a distinctly different visual presence from the large OS parcels A & B which surround them, an impact which has not been evaluated.

35

**35.** p. 36. Mit. 5.6-3(d). This mitigation requires a “downslope barrier” on the edges of building envelopes for Lots 6, 19 and 2. Describe what is meant by “barrier” for this windy hillside. Provide lengths and heights of barrier structures for each lot and assess visual impacts.

36

**36.** p. 529. States that debris flow fences would be from 6-12’ high above Paradise Dr. and that they would span the debris flow areas. Please consolidate information on debris fences in order to better understand and assess visual impacts. Describe the debris fence locations by slide # and provide their length and height above grade. .

37

**37.** p. 82. **Retaining walls** are mentioned, but their visual impacts are not assessed. At the Forest Glen/Para Dr. intersection a retaining wall along Paradise Dr. from 0.5’ to 9’ high to the north would be required. To the south, retaining wall height ranges from 1 – 7’ h (p. 235). Please estimate the length of different wall heights, as well as total wall lengths needed. Assess visual impacts of such retaining walls and provide mitigation to address such impacts. Discuss policy consistency, including with the Paradise Dr. Visioning Plan, of such walls along this portion of Paradise Dr. Also, please provide height, length and location for visible retaining walls for onsite infrastructure and slide repair. Provide mitigation for visual impacts, including facing materials requirements, as appropriate.

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**RESPONSE TO LETTER NO. 7 - RANDY GREENBERG, MARIN COUNTY PLANNING  
COMMISSIONER (APRIL 25, 2011)**

**Response to Comment 7-1**

The Draft EIR provides enough detail for *Alternative 3* and *Alternative 4* to make a reasonable comparison of the environmental impacts each of the alternatives would have compared with the impacts of the proposed project and other alternatives. The Draft EIR does not provide any estimates for building footprints for *Alternatives 3* and *4*. Although lot sizes are smaller than the proposed project and *Alternative 2* it is assumed that building sizes would be similar.

The commentor requests more information be provided for *Alternative 3* and *Alternative 4*. The Draft EIR provides sufficient information to allow meaningful evaluation and comparison of the environmental impacts of the alternatives with those of the proposed project. There is no need to provide more details for *Alternative 3* and *Alternative 4*.

**Response to Comment 7-2**

The principal criteria for selecting and evaluating alternatives to the proposed project is to provide a range of concepts that would inform the public and public officials adequately to make decisions about the project. As discussed in the Draft EIR an EIR conceivably can analyze an infinite number of alternatives or variations of alternatives. However, as discussed in *State CEQA Guidelines* section 15126.6 CEQA directs EIRs to analyze a reasonable range of alternatives to the project or project location which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. The analysis of a range of alternatives is governed by a "rule of reason" for alternatives that could feasibly attain the basic objectives of the project.

Alternative 3 and Alternative 4 were designed to reduce a focused scope of significant environmental impact topics associated with the proposed project, and need not include every possible mitigation to inform the CEQA process. Because the project applicant and the Town of Tiburon requested that the County approve the 32-unit lower density alternative (*Alternative 2*) if the environmental impacts of the lower density alternative were found to be less or the same as the proposed project; the County requested that the applicant provide the same level of detail for *Alternative 2* as that provided for the proposed 43-unit project so that the EIR consultant could complete a detailed analysis and comparison of environmental impacts and mitigation measures. Accordingly the environmental analysis of Alternative 2 presented in the EIR is at a greater level of detail than the other alternatives.

**Response to Comment 7-3**

As discussed above in Response to Comment 7-1, Alternatives 3 and 4 would have smaller lot sizes, but not necessarily smaller building envelopes and building sizes. The impacts the commentor mentions *Impact 5.5-1 Water Quality*, *Impact 5.5-3 Site Drainage Patterns – Erosion and Downstream Sedimentation*, and *5.5-4 Groundwater Recharge and On-Site Hydrology* are associated with factors such as the amount of impervious surfaces and irrigated landscaping, pollutants from automobile traffic, and landslide repair methods. These factors are not dictated by the lot size, but by the scale of development on the lot. Although the proposed project and *Alternative 2* have larger lot sizes a significant portion of these lots are to remain vacant and in their current undeveloped state.

#### **Response to Comment 7-4**

Mitigation Measure 5.1-6(a - c) requires improvements to Paradise Drive along the project site frontage beginning 60 feet south of the driveway for lots 21 to 23 extending to 60 feet north of the proposed Forest Glen Court intersection for mitigation of *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues*. Requirements include selective widening of road shoulder pavement within public right-of-way on both sides, and installation of signage. The required measures differ slightly from the recommendation of the applicant's traffic analyst because they take into account widening the shoulder on the east side of Paradise Drive five feet from the fog line that is proposed as part of the Swahn residential project across Paradise Drive from the Easton Point project site. Implementation of improvements from both projects could improve safety conditions for both north and south bound bicyclist and pedestrians on Paradise Drive. Furthermore, Mitigation Measure 5.1-3 requires 4-foot wide shoulders with a minimum 60-foot taper on Paradise Drive at the proposed Forest Glen Court intersection.

Mitigation Measure 5.6-8 requires the applicant provide a report to the County advising the number of ordinance-size trees that would be removed for implementation of the project. Any ordinance sized trees that would be removed to accommodate this road widening would be included in this list. Proposed mitigation requires a \$500.00 fee for each ordinance sized tree removed.

Mitigation Measure 5.4-1 requires a long-term maintenance program for landslide stabilization methods that includes periodic inspections and maintenance of the recommended landslide stabilization program. Any landslides that may be affected by improvements to Paradise Drive (5, 6, 7, 8, 9, 40, 26, 27, and 23) would be monitored as required by this mitigation measure.

#### **Response to Comment 7-5**

This comment refers to the estimated quantities of grading anticipated for development of proposed lots for both the proposed project and *Alternative 2*. For comparison of grading quantities the Draft EIR provides a conceptual lot grading quantities for the proposed project in **Exhibit 3.0-11** and *Alternative 2* in **Exhibit 6.0-8**. *Alternative 2* requires more grading for lot development than the originally proposed project. Although *Alternative 2* has 11 fewer lots than the proposed project several of the lots would require considerably more grading than the lots in the proposed project. For example, the individual lots in the proposed project with the largest amount of cut material would be Lot 12 with 657 cubic yards of cut. In *Alternative 2* seven lots (Lots 2, 9, 16, 19, 20, 22 and the Remainder Parcel) would have in excess of 1,000 cubic yards of cut material. The Remainder Parcel alone would have an estimated 5,500 cubic yards of cut material. The impacts associated with grading are adequately analyzed in the Draft EIR. The amount and comparison of grading quantities between the two project versions is a matter of the projects merits and does not reflect the adequacy of the Draft EIR.

#### **Response to Comment 7-6**

Mitigation Measure 5.4-1 provides feasible landslide stabilization measures that would reduce potential risks to life and property to a less-than-significant level. The requirements for long-term maintenance of the stabilization equipment and inspection and monitoring establishes the effectiveness of this mitigation for the life of the project. Ongoing maintenance of landslide repair would primarily consist of maintaining drainage devices, keeping them clean and if any drainage elements are damaged over time they should be replaced. This work is not anticipated to result in any significant impacts.

### **Response to Comment 7-7**

The EIR acknowledges that if the Remainder Parcel is developed, then it would be necessary to completely repair Landslide 23 through removal and recompaction of the landslide and colluvial materials (see page 630 of the Draft EIR). A repair plan for Landslide 23 has not yet, however, been prepared. Based on the size and geology of Landslide 23 it is roughly estimated that stabilization of Landslide 23 would involve approximately 6,500 cubic yards of excavated material.<sup>12</sup>

Future development of the Remainder Parcel would require submittal of a Design Review application to Marin County. The County's Design Review process includes a discretionary review of plans and proposals for land use, building design, and site development. Design Review is subject to compliance with the California Environmental Quality Act (CEQA). Due to the lack of information at this time regarding the future development of the Remainder Parcel the Design Review process may require preparation of an Initial Study leading to a Negative Declaration, an addendum to this EIR, a supplement to this EIR or a subsequent EIR.

### **Response to Comment 7-8**

Dormant landslides 16, 19, 20 and 21 have all previously been evaluated by Miller Pacific and have been included in their Conceptual Landslide Stabilization Plan (**Exhibit 5.4-2**). Miller Pacific proposes to stabilize those landslides through the repair of the upper portion of Landslide 16 with a compacted fill buttress, the addition of subsurface drainage to improve Landslide 19, the addition of subsurface drainage and retaining structures to improve Landslide 20 and the construction of a catchment structure proposed near the base of Landslide 21 (to provide potential protection to Paradise Drive). Landslides 19 and 21 are located at a lower elevation than the proposed elevation of the water tank site on Parcel C, are contained within northerly facing ravines, and appear to be relatively surficial in nature. Therefore, Miller Pacific designed the improvements to landslides 19 and 21 primarily with the intent to protect Paradise Drive below from any future eroded soil or other debris, rather than to protect any future potential structure above. However, it was concluded by Miller Pacific that both landslides 16 and 20 are in close enough proximity to potentially adversely affect Parcel C in the event of either of their respective reactivations, so they designed landslide repairs which they feel provide adequate protection and will provide sufficient lateral support for the water tank site Parcel C, in the event of an earthquake. Snyder & Wilson (the EIR geologist) understand that Miller Pacific designed the proposed landslide repair measures considering both static and pseudo-static (seismic) conditions. Therefore, it appears as though this issue has been adequately addressed by the applicant's geotechnical consultant. Mitigation Measure 5.4-1 requires confirmation that landslide repair measures would provide a factor of safety of at least 1.5 for static conditions and greater than 1.0 for pseudo-static conditions (seismic conditions). Factor of safety ratios are defined on page 329 of the Draft EIR.

### **Response to Comment 7-9**

Review of published geologic maps, aerial photographs and reconnaissance level geologic field mapping by both Miller Pacific and the EIR geologist indicate that there are not any offsite landslides located in proximity to Parcel C.

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<sup>12</sup> Nichols • Berman communication with Scott Stephens, Miller Pacific Engineering Group, May 2013.

**Response to Comment 7-10**

The proposed trails are intended to be serviceable single-use (hiking) footpaths, as commonly found on steep hillside trails throughout Marin County. The maintenance of the proposed foot trails should be performed in accordance with the requirements from the *Countywide Plan* Policy **TRL-2.7** (*Ensure Sustainable Maintenance*), to continue to ensure that the three proposed trails are responsibly maintained (see Response to Comment 6-4). It should be noted that the estimate provided of 1,850 cubic yards of soil removal for the construction of the hiking trails represents only the minimum removals necessary to create a sustainable foot trail and does not constitute what would be considered to be a substantial amount of grading, particularly when the amount of soil is proportioned out over the entire proposed trail system to be several thousand feet in length. Therefore, it is the EIR geologist's professional opinion that the amount of soil that would be removed to construct the hiking trails proposed in *Alternative 2* would not be of appreciable enough volume to adversely affect the stability of any of the existing large landslides the trails would potentially traverse. Furthermore, Mitigation Measure 6.4-1 requires that documentation for any landslide that would not be repaired or improved will not have an adverse impact on the existing landslide and that the project would either improve or not further exacerbate the landslide.

**Response to Comment 7-11**

The Draft EIR states Marin County's Landslide Mitigation is such that existing landslides that would not be affected by the proposed project do not require mitigation. Proposed mitigation measures are consistent with the County's policy.

**Response to Comment 7-12**

This comment is in regards to land use issues that are related more to the merits of the project rather than the adequacy of the Draft EIR. No additional response necessary.

**Response to Comment 7-13**

Please see Response to Comment 6-6

**Response to Comment 7-14**

Based on the information available, the routes of construction workers cannot be projected, and instead, it is necessary to plan for construction traffic traveling to and from the project site from both directions. The most conservative evaluation, as included in the Draft EIR, would project that most workers would travel from U.S. 101, turning onto Tiburon Boulevard and traveling to Paradise Drive to reach the site. This assumes that most workers would travel to and from the south. Workers traveling to and from the north would be expected to turn onto Paradise Drive from U.S. 101 in Corte Madera. From there, the option would be to use Trestle Glen Boulevard to connect to Tiburon Boulevard and proceed to Paradise Drive, or to use the winding route along Paradise Drive to reach the site. From either direction, once on Paradise Drive, or Tiburon Boulevard-Paradise Drive, travel would be in the off-peak direction during the morning. Analysis was not conducted for the after-school period, as the "design" period in Tiburon<sup>13</sup> and in most communities, coincides with the morning and evening peak commute periods. The commentor requests consideration of mitigation to

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<sup>13</sup> The "design period" is the time historically known to produce peak traffic on a regular basis, i.e., every weekday morning and afternoon-evening, peak traffic can be predictably observed during these time periods. Streets must be designed to meet the demands of these predictable peak periods.

address conflicts between truck traffic and school traffic. Mitigation Measure 5.1-13(b) and Mitigation Measure 6.1-13(b), include the provision to “Obtain County and Town approval for construction truck haul routes and *establish haul truck hours* for project construction traffic.” This provision would consider hours of congestion or inconvenience to the community, such as during the periods of school traffic peak congestion.

**Response to Comment 7-15**

With each project alternative it is assumed the temporary construction access road would be installed during phase one of project development. For *Alternatives 3* and *4* the temporary construction access road would be treated the same as with the proposed project, and would remain for use as emergency access. Construction access road would have a maximum grade of 25 percent, be constructed with grooved concrete and turnouts where needed.

**Response to Comment 7-16**

Please see Master Response 2 for information regarding the construction road and an additional third party assessment of the road safety. No further response is necessary.

**Response to Comment 7-17**

The text referred to is not a duplication of *Impact 5.5-6*, it is a reference to the previously listed impact. There is no need to edit this page.

**Response to Comment 7-18**

Please see Master Response 3.

**Response to Comment 7-19**

Please see Master Response 3.

**Response to Comment 7-20**

In regards to the proposed project’s impacts to biological resources several mitigation measures require the PDP be redesigned to reduce project impacts (Mitigation Measures 5.6-1(a) – Marin dwarf flax and Serpentine Reed grass, 5.6-2 (a) redesign within Forest Glen Area to provide 100 feet corridor for CRLF, 5.6-3 (a) Serpentine bunchgrass habitat). The revisions to the lot layout of the PDP would be implemented by the project applicant and overseen by the responsible agency as established in the *Mitigation Monitoring and Reporting Program*. CEQA does not require the Draft EIR provide a conceptual implementation of each proposed mitigation measure as it would apply to the proposed project or any project alternatives.

**Exhibit 2.0-1** provides a summary of proposed mitigation measures. The text within the exhibit does not include every detail of each mitigation measure. The monitoring of created, restored, or enhanced wetland and drainageway habitats is required by Mitigation Measure 5.6-5(b) and is summarized in **Exhibit 2.0-1** where it states that a riparian mitigation and monitoring plan be included in the required RMP.

**Response to Comment 7-21**

As stated by the commentor it is accurate that specific building envelopes are not proposed and would be finalized when each lot goes through the County's Design Review process. The applicant has proposed building sites that are depicted on **Exhibit 3.0-4**, each residence would be located within the proposed building site. The commentor requests an evaluation of potential impacts and mitigation for what would occur if residences are constructed outside of proposed building sites. There is no proposal to build residences outside of the proposed building envelopes for each lot, therefore it is beyond the scope and requirements of the Draft EIR to address this.

**Response to Comment 7-22**

**Exhibit 3.0-3** provides a summary of acreage and square footage for each land use including open space and residential lots. **Exhibit 3.0-5** provides acreage for each residential lot and the proposed maximum house size and building footprint. This is the information included with the proposed project and it is adequate as the bases for environmental assessment contained in the Draft EIR.

**Response to Comment 7-23**

The Draft EIR provides adequate information for a reasonable comparison of environmental impacts between the proposed project and project alternatives as required by Section 15126.6 of the *State CEQA Guidelines*, and as needed for a reasonable evaluation of potential impacts that would occur with implementation of any project alternative.

**Response to Comment 7-24**

This comment, which refers to building heights for lots 18-31 of the proposed project, is in regards to the merits of the project and not the adequacy of the Draft EIR. An analysis of the impacts associated with residences is provided **Section 5.8 Visual Quality**. No further response is necessary.

**Response to Comment 7-25**

The information requested by the commentor may be useful for the consideration of the project's merits, but is not necessary for the Draft EIR to consider impacts related to project access and tree loss.

The maximum grade for each roadway and driveway for the proposed project are shown in **Exhibit 3.0-7**. For *Alternative 2* maximum grades are shown in **Exhibit 6.0-5**. Impacts related to vehicle access (*Impact 5.1-8 Project Impacts Related to Vehicular Site Access*) would be less-than-significant. *Impact 5.6-8 Loss of Ordinance-Size Trees* discusses impact and proposed mitigation to address this issue.

**Response to Comment 7-26**

The commentor is correct regarding the absence of detention outfall locations 21, and 22A and 22B, from **Exhibits 5.5-5 (a) and (b)**. These outfalls could not be depicted at the proper scale and legend coverage within the areas covered by the two exhibits. The referenced outfalls occur within Lot 18 (outfalls 22A and 22B) and Lot 21 (outfall 21), and are shown on the project Master Plan/Precise Development Plan/Tentative Map Plan Sheet C-1B, Grading & Drainage Plan (CSW-ST2).

### **Response to Comment 7-27**

The applicant has submitted conceptual grading plans for each of the proposed residential lots.<sup>14</sup> These plans were not included in the Draft EIR but are available for public review at the County offices. These conceptual grading plans indicate bioswales (bioswales are also referred to in the Draft EIR as bioretention planter / areas) would be located in close proximity to the residential building footprint. This allows for treatment of runoff from the residences' impervious surface, including roof runoff directed by downspouts as proposed in the applicant Storm Water Control Plan.<sup>15</sup> The final design and location of bioswales would be subsequent to overview and direction of the Public Works Department and approved during the Design Review process.

### **Response to Comment 7-28**

*Impact 5.8-6 Light Pollution* discusses potential significant impacts associated with new lighting sources. Implementation of Mitigation Measure 5.8-6 would reduce this impact to a less-than-significant level. There is no need to review street lighting in more detail because Mitigation Measure 5.8-6 requires the following measures that will apply to street lighting:

- All light sources shall be shielded from off-site view;
- All lights shall be downcast;
- Escape of light to the atmosphere shall be minimized.

### **Response to Comment 7-29**

The Remainder Parcel is included in the discussion of *Alternative 2* (see **Exhibit 6.0-2**). Development of the Remainder Parcel would not, however, be a part of the Tentative Map nor the Phase 1 Precise Development Plan. To the extent that information is available in regard to the Remainder Parcel (such as the conceptual access road and building footprint, maximum house size and footprint) this was included in the analysis of *Alternative 2*. The EIR cannot, however, speculate on how water and sewer service would be provided. Development of the Remainder Parcel would be subject to its own environmental review. Future development of the Remainder Parcel would require submittal of a Design Review application to Marin County. The County's Design Review process includes a discretionary review of plans and proposals for land use, building design, and site development. Design Review is subject to compliance with the California Environmental Quality Act (CEQA). Due to the lack of information at this time regarding the future development of the Remainder Parcel the Design Review process may require preparation of an Initial Study leading to a Negative Declaration, an addendum to this EIR, a supplement to this EIR or a subsequent EIR.

### **Response to Comment 7-30**

Importation of fill is discussed with Impact 5.6-6 as a construction activity that could result in accidental introduction of invasive exotic species to preserved habitats located on-site or nearby off-site. Mitigation Measures reduce this impact to a less-than-significant level by means of managing landscape materials (Mitigation Measure 5.6-6(a)) and the monitoring and management plan for non-native and invasive species detrimental to protected resources, which would be part of the Resource

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<sup>14</sup> Conceptual Lot Grading Plans, Land Development Solutions, Inc., 1/30/2009

<sup>15</sup> *Stormwater Control Plan, Master Plan / Precise Development Plan / Tentative Map, Sheet C-2*, Backend Gilliam, International Planning Associates, CSW/Stuber-Stroeh, revised January 29, 2009.



Management Plan (RMP) required by Mitigation Measure 5.6-1(c). The practice of using excavated fill from the project site would further reduce this risk. As shown in **Exhibit 3.0-10** the balance of cut or excavated soils from the project site would exceed the amount of fill needed, resulting in no need to import fill materials from outside of the project site. Page 80 shows amount of stockpile, and over the course of development this amount would be reduced to 3,636 yards of cubic fill, which would need to be transported off-site.

**Response to Comment 7-31**

The Draft EIR discusses the impact implementation of *Alternative 3* would have on tree loss (see Draft EIR, page 695). It is noted in the comparison of this impact to the proposed project that the impact would be greater. However mitigation measures would reduce these impacts to a less-than-significant level. The amount of grading is not considered as an impact in the Draft EIR. The purpose of *Alternative 3* is to reduce the significant visual impacts that were analyzed as part of the proposed project. Each viewpoint analyzed in the proposed project is considered with the analysis of *Alternative 3* on pages 696 and 696 of the Draft EIR, no further analysis is required.

**Response to Comment 7-32**

The extent of vegetation disturbance was included in the impact analysis in **Section 5.6 Biological Resources**. No further analysis is necessary.

**Response to Comment 7-33**

The EIR preparers are not aware of any requirement for transition landscaping from building areas to natural areas. As stated on page 69 of the Draft EIR the project would utilize native plant species compatible with the surrounding natural environment of the project site.

**Response to Comment 7-34**

These definitions are provided in the Draft EIR on page 426, Project Assumptions, first paragraph. Private use areas refer to all areas of individual lots outside of the building sites shown in shaded areas on **Exhibit 5.6-2**. The Easton Point application narrative states that all development including homes, patios, pools, gardening sheds, etc should be contained within the shaded areas (private use areas) shown on the proposed Site Plan. Although the applicant has proposed prohibiting development on those portions of the private lots outside the shaded ‘private use areas’ shown on the proposed Site Plan, the applicant has not proposed prohibiting future property owners from using areas on private lots outside the ‘private use areas’ for planting and landscaping. Therefore the Draft EIR’s biological analysis assumed that existing vegetation cover on private lots outside the ‘private use areas’ would be unprotected and therefore could be removed (worst case scenario). However, the EIR cannot speculate on whether the undeveloped portions of proposed private lots will remain as is or planted with new landscaping. It is anticipated that the County’s design review process will take into consideration proposed landscaping and the visual relationship of new landscaping to proposed open space parcels A and B.

**Response to Comment 7-35**

Although wind-borne particles of fill soils and fertilizers could result in some minor deposit of these materials onto preserved serpentine habitats on-site and off-site, this is unlikely to be a significant contributor to habitat degradation. Rather, as indicated in the impact discussion, it is the potential of these kinds of materials either eroding downslope onto these habitats or being carried downslope as a result of irrigation practices on upslope landscaped areas. Mitigation Measure 5.6-3(d) requires that

the structure be designed to prevent this, and the height and length would need to be determined through the design review process for each individual lot; however, a height of even just a few inches would likely be sufficient in most instances.

**Response to Comment 7-36**

*Impact 5.8-5 Landslide Repair* analyzes the visual impacts that would occur from landslide repair methods including above ground debris fences. The commentor requests a more detailed analysis however the analysis contained in the Draft EIR is adequate and describes there would be a significant impact. Proposed mitigation measures would reduce this impact to a less-than-significant level. No further comment is necessary.

**Response to Comment 7-37**

The visual quality methodology used to analyze visual impacts is described in the Draft EIR starting on page 500. Visual changes resulting from grading, retaining walls, and landslide repair is described on pages 505 and 506. A discussion of the projects consistency with the Paradise Drive Visioning Plan is provided in **Exhibit 4.0-5**, which begins on page 158.

Mark Ginalski

County of Marin Planning Commissioner

## **EASTON POINT – DRAFT ENVIRONMENTAL IMPACT REPORT**

**HEARING APRIL 25, 2011**

### **Written Questions to Professional Staff**

- 1 Is the Memorandum of Understanding (MOU) dated November 12, 2009 between the Town of Tiburon and Martha Co. binding in any way on the County of Marin.
- 2 What does “environmentally prudent course of action” mean as used in the MOU, page 2, paragraph 3(a)(i) – this sounds like a NEPA standard.
- 3 Has County Counsel provided a formal opinion as to whether or not the [Proposed] Development Agreement By and Between The County of Marin and Martha Co. With Respect to Easton Point is consistent, acceptable and in compliance with County Code and Ordinances, and the mandatory/precatory goals, policies and standards specified in the Countywide Plan, and that Martha’s rights under the proposed LDA Development Agreement create no health or safety issues. [Page 4, paragraph 4(c)(iii) and Exhibit 1 to MOU].
- 4 Did the County participate in the drafting of the Development Agreement.
- 5 Should the Martha property not be annexed into the Town of Tiburon, do the requirements of the MOU, Paragraph 5, page 4 survive.
- 6 Has the MOU been formally renewed to create a new “Outside Date” as set forth on page 5, paragraph 10. If not, has County Counsel provided a formal opinion as to whether or not it has been terminated.
- 7 What development limitations beyond those permitted under the 1976 and 2007 Judgments has Martha Co. agreed to. [Exhibit 1 to MOU, page 3, paragraph K(4).
- 8 Does Section 1.6 [Exhibit 1 to MOU, page 6] allow Martha to seek redress of the Court to weaken/remove mitigations set forth in the Certified EIR after the fact.
- 9 The Judgment Pursuant to Stipulation, (USDC, Northern District C 06 0200 SBA) signed by Judge Armstrong on November 7, 2007 mandates that the County must process a subdivision map in conformance with the 1976 Judgment. Did the Court provide or has County Counsel prepared any interpretation to the follow items:

1. What is a geologically safe portion of the site [Pps 2-3, paragraph 2b]
2. What is extensive landslide repair [Page 3, paragraph 2b]
3. What is some development within the Ridge and Upland Greenbelt [Page 3, paragraph 2c]
4. What/where is the “Ridge” [Page 3, paragraph 2c]
5. The Court found that because there was no requirement for inclusionary housing in 1976, Martha has no further obligation [Page 4, paragraph 4d]– using this logic, are there other post-1976 enacted State Law, Countywide Plan, Ordinances, Codes and/or Regulations which may be ignored.

10 What was the average square footage per residential unit approved by the County and Tiburon in 1975-1976.

11 Is there any prohibition to the approval of a duplex or triplex.

12 The 1976 Judgment Pursuant to Stipulation discusses “visually prominent ridge lines” [Page 2, paragraph 3] does the County or Town of Tiburon have a map of visually prominent ridge lines. The Court also allows for “feasible economic use” [Page 2, paragraph 2] do we have guidance in this regard.

13 In, *Sundstrom v. Mendocino* (1988) 202 Cal.App.3d 296, the court re-emphasized that an EIR must show the lead agency’s independent judgment in regard to the environmental impacts of the project. We appear to be given a Hobson’s choice between the 43 unit concept or the 32 unit LCD [the other two alternatives are more conceptual] – are we on solid legal footing by pre-ordaining proposed density notwithstanding the Order of the Court.

14 Is there flexibility in the various Judgments/Stipulations to allow for recirculation of the EIR prior to certification should new significant information be presented [Section 15088.5].

Mark Ginalski

County of Marin Planning Commissioner

## **EASTON POINT – DRAFT ENVIRONMENTAL IMPACT REPORT**

**HEARING APRIL 25, 2011**

### **Written Questions to Professional Staff – Part II**

15

My understanding is that the project applicant envisions a construction access road from the terminus of Forest Glen Court to the terminus of Mt. Tiburon Court. [Draft EIR, page 72] The construction access road would be ten feet wide with a maximum grade of 25%. The road would be kept after build-out for emergency egress. I have reviewed two letters from contractors regarding the road, but did not see an opinion from an expert on behalf of the applicant that the road is safe from a health and safety perspective. As such, has the County Counsel and/or the Department of Public Works prepared a formal opinion as to whether or not the proposed construction access road is consistent, acceptable and in compliance with County Code and Ordinances, and the mandatory/precatory goals, policies and standards specified in the Countywide Plan and that no health or safety issues are associated with the proposed road. If no opinion exists from either department, will one be prepared prior to certification of the EIR.

16

The proposed landslide repair program envisioned by Miller Pacific seeks to improve the stability of portions of landslides within 100 feet of the proposed building sites and proposed on-site public improvements [Draft EIR, pages 329-330]. Has the County Counsel and/or the Department of Public Works prepared a formal opinion as to whether or not the proposed landslide repair program is consistent, acceptable and in compliance with County Code and Ordinances, and the mandatory/precatory goals, policies and standards specified in the Countywide Plan and that no health or safety issues are associated with the proposed repair program. Must all slides on the property be repaired notwithstanding proximity to proposed building sites. If no opinion exists from either department, will one be prepared prior to certification of the EIR.

17

The project site plans show no bicycle accommodations; however the applicant's traffic engineer has recommended a four-foot shoulder along a portion of the project frontage that could accommodate southbound bicyclists on Paradise Drive at Forest Glen Court and at the Lots 21 through 23 driveway. [Draft EIR, page 210] Has the County Counsel and/or the Department of Public Works prepared a formal

opinion as to whether or not the nexus and proposed solution between construction traffic and current/expected bicycle traffic for twenty years on the entire length of Paradise Road (access to the proposed construction access road from Corte Madera/Trestle Glenn/Tiburon Blvd.) is consistent, acceptable and in compliance with County Code and Ordinances, and the mandatory/precatory goals, policies and standards specified in the Countywide Plan and that no health or safety issues are associated with the proposed bicycle facilities program. Will CEQA analysis be required if the entire length of Paradise Drive needs to be widened four feet to accommodate bicycle traffic. If no opinion exists from either department, will one be prepared prior to certification of the EIR.

**RESPONSE TO LETTER NO. 8 – MARK GINALSKI, MARIN COUNTY PLANNING  
COMMISSIONER (APRIL 25, 2011)**

***Response to Comment 8-1***

The Memorandum of Understanding between the Town of Tiburon and the Martha Company is not binding on Marin County. As stated in Resolution No. 33-2009 the Tiburon Town Council urges the Board of Supervisors to take certain actions regarding the Martha Company proposal.

***Response to Comment 8-2***

There is no explanation in the MOU or the accompanying Town resolutions as to what is meant by “environmentally prudent course of action”. Presumably it means that the 32-Unit Lower Density alternative is identified as the environmentally superior alternative in the certified EIR for the proposed project.

***Response to Comment 8-3***

As of the present time, the office of County Counsel has not issued any public opinion(s) or other statements with respect to whether the proposed development agreement is consistent with the County’s ordinances and land use plans, nor whether the agreement creates any real or potential health or safety issues.

***Response to Comment 8-4***

Marin County staff did not participate in the drafting of the Development Agreement.

***Response to Comment 8-5***

It is the EIR preparers understanding that paragraph 5 was intended by the parties to apply if the Martha property is not annexed to the Town of Tiburon; i.e. the obligations stated as applicable to the Town apply assuming the project is reviewed by the County.

***Response to Comment 8-6***

On June 7, 2011 the Tiburon Town Council approved an amendment to the MOU extending the deadline to June 30, 2012. Subsequently the Tiburon Town Council extended the deadline to December 31, 2013.

***Response to Comment 8-7***

At this time, other than the tentative agreement represented in the MOU and development agreement to limit the subdivision to 32 units as opposed to the 47 stated in the two judgments, the County is unaware of any other “development limitations” that the applicant has “agreed to.”

***Response to Comment 8-8***

If the County adopts the development agreement as proposed in the MOU between the applicant and the Town of Tiburon, and the language of section 1.6 is adopted as proposed in its entirety, this section appears to obligate the County to petition the federal Court prior to terminating or modifying the agreement for health or safety, or other reasons. It is not entirely clear what types of relief the court

can or would be able to entertain as a result of such a petition and/or response from the applicant. It appears that the court would be asked to determine whether there are other means of addressing the issue(s) leading to the proposed modification and/or termination. But whether the court would or could address such issues and whether the parties to the agreement would even agree on the process and/or result is unknown at this time.

**Response to Comment 8-9**

As to sub items 1-4 of this question, the answer is “no.” The judgment speaks for itself and will continue to be subject to interpretation as both this CEQA process and the merits process proceed.

**Response to Comment 8-10**

This comment, which is an inquiry of house sizes for residences approved in 1975 and 1976, is not about the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 8-11**

County zoning of the majority of the project site is RMP-0.2 (residential, Multiple Planned, 0.2 units per acre). The RMP zoning district is intended for a full range of residential development types within the unincorporated urban areas of the County. Permitted uses in this district include single-family, two-family dwellings, multi-family residential development and limited commercial uses in a suburban setting.

The RMP zoning would not prohibit approval of a duplex or triplex. The 2007 Judgment states that each of the 43 lots to be approved by the County shall be at least one-half acre in size unless the parties subsequently agree otherwise in writing. So, it would appear that there would need to be an agreement between the County and the property owner to approve a housing type other than a single-family house.

**Response to Comment 8-12**

On pages 92 and 93 of the Draft EIR there is a discussion of visually prominent ridgelines as it pertains to the *Marin Countywide Plan* and the Marin Development Code. **Exhibit 4.0-1** in the Draft EIR illustrates the portion of the project site that is within the County designated Ridge and Upland Greenbelt Area plus the visually prominent ridgelines that have been identified on the project site by Marin County Community Development Agency staff.

The *Tiburon General Plan* designates ridgelines within the Town’s planning area. *Tiburon General Plan Figure 3.3-1 Prime Open Space Characteristics* designates the location of both the Tiburon Ridge and significant ridgelines. Several significant ridgelines, as designated by the Town, are identified on the project site.

There is no further guidance in the 1976 Judgment as what would “allow the owners a feasible economic use of their property”.

**Response to Comment 8-13**

The County did not believe it was on “solid legal footing” by having a non-CEQA reviewed document, (i.e. the 1976 judgment) pre-ordain the density on this property. This is why the County brought its action to have the 1976 judgment set aside or amended so that it could comply with CEQA



in all respects. However the court rejected this suit and mandated that the County comply with the 1976 judgment and subsequent 2007 judgment.

***Response to Comment 8-14***

The judgments do not address this issue specifically, but do not appear to limit the County's responsibility to implement CEQA in full compliance with the law with respect to potential recirculation.

***Response to Comment 8-15***

County departments do not issue "formal opinions" on aspects of development applications and/or CEQA documentation applicable to those applications. However, county departments do thoroughly review the application submittals and environmental review documents within each of their areas of expertise to make certain that the resulting recommended actions are fully compliant with all relevant County plans, policies and ordinances, and that the CEQA document represents the independent judgment of the County.

***Response to Comment 8-16***

See Response to Comment 8-15.

***Response to Comment 8-17***

See Response to Comment 8-15. In addition County staff in recommending conditions of approval for any development project and/or mitigation measures carefully reviews each to make certain they are within the power of the County to adopt.



JERRY BROWN  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



April 26, 2011

Rachel Warner  
Marin Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Subject: Easton Point Rezoning, Master Plan, Precise Plan, and Tentative Subdivision Map  
SCH#: 2009012010

Dear Rachel Warner:

1

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on April 25, 2011, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

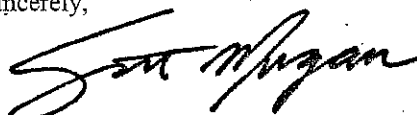
Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

  
Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2009012010  
**Project Title** Easton Point Rezoning, Master Plan, Precise Plan, and Tentative Subdivision Map  
**Lead Agency** Marin County

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**Type** EIR    Draft EIR

**Description** A proposal to subdivide the 110-acre project site into a total of 43 single-family residential lots, 2 public open space parcels, and 1 Marin Municipal Water District (MMWD) water tank parcel. The proposed residential lots range from 0.55 acres to 2.25 acres in size. Specific home designs have not been submitted as part of the application and, therefore, would be subject to future Design Review approval. Proposed open space and public access improvements include the creation of 59.7 acres of dedicated public open space, a 0.32-acre open space lot (Marin dwarf flax preservation area), and access easements to provide pedestrian access through the project site to proposed and existing public open space.

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**Lead Agency Contact**

**Name** Rachel Warner  
**Agency** Marin Community Development Agency  
**Phone** (415) 499-7873  
**email**  
**Address** 3501 Civic Center Drive, Room 308  
**City** San Rafael  
**Fax**  
**State** CA    **Zip** 94903

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**Project Location**

**County** Marin  
**City** Tiburon  
**Region**  
**Lat / Long** 37° 53' 1.8" N / 122° 26' 52.2" W  
**Cross Streets** Paradise Drive  
**Parcel No.** 059-251-05  
**Township**

**Range**

**Section**

**Base**

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**Proximity to:**

**Highways** Hwy 101  
**Airports**  
**Railways**  
**Waterways** San Francisco Bay  
**Schools**  
**Land Use** Vacant Land/RMP - 0.2 (Residential Master Plan 1 Unit/5 Acres)/Planned Residential 1 unit per 1 - 10 Acres, Single Family 4-7 units per acre.

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**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

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**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; California Highway Patrol; Caltrans, District 4; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Board, Region 2; Native American Heritage Commission; Public Utilities Commission

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**Date Received** 03/10/2011    **Start of Review** 03/10/2011    **End of Review** 04/25/2011

**RESPONSE TO LETTER NO. 9 – SCOTT MORGAN, DIRECTOR, STATE CLEARINGHOUSE,  
GOVERNOR’S OFFICE OF PLANNING AND RESEARCH (APRIL 26, 2011)**

***Response to Comment 9-1***

Comment noted. No additional response required.

## NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364  
 SACRAMENTO, CA 95814  
 (916) 653-4082  
 (916) 657-5390 - Fax



LETTER NO. 10

March 23, 2011

Rachel Warner  
 Marin Community Development Agency  
 3501 Civic Center Drive, Room 308  
 San Rafael, CA 94903

RE: SCH# 2009012010 Easton Point Rezoning, Master Plan, Precise Plan & Tentative Subdivision Map; Marin County.

Dear Ms. Warner;

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

1. ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. USGS 7.5 minute quadrangle name, township, range and section required.
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. Native American Contacts List attached.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

*Katy Sanchez*

Katy Sanchez  
 Program Analyst  
 (916) 653-4040

cc: State Clearinghouse

## **Native American Contact List**

Marin County

March 23, 2011

The Federated Indians of Graton Rancheria

Gene Buvelot

6400 Redwood Drive, Ste      Coast Miwok  
Rohnert Park, CA 94928      Southern Pomo  
coastmiwok@aol.com

(415) 895-1163 Home

(415) 259-7819 Cell

Ya-Ka-Ama

7465 Steve Olson Lane      Pomo  
Forestville, CA 95436      Coast Miwok  
info@yakaama.org      Wappo

(707) 887-1541

The Federated Indians of Graton Rancheria

Greg Sarris, Chairperson

6400 Redwood Drive, Ste      Coast Miwok  
Rohnert Park, CA 94928      Southern Pomo  
coastmiwok@aol.com

707-566-2288

707-566-2291 - fax

The Federated Indians of Graton Rancheria

Frank Ross

100 Cielo Lane, Apt 102      Coast Miwok  
Novato, CA 94949      Southern Pomo  
miwokone@yahoo.com

(415) 269-6075

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2009012010 Easton Point Rezoning, Master Plan, Precise Plan & Tentative Subdivision Map; Marin County.

**RESPONSE TO LETTER NO. 10 – KATY SANCHEZ, PROGRAM ANALYST, NATIVE AMERICAN HERITAGE COMMISSION (MARCH 23, 2011)**

**Response to Comment 10-1**

Historic resources, including archeological resources, are discussed in *Section 5.9 Cultural Resources*. Based on previous investigations no rock art petroglyphs or other prehistoric archaeological sites are recorded on the project site, and no evidence of cultural resources was found in 1987 and 1995 surface investigations of the site.

As a part of the preparation of this Draft EIR an archival record and information search for the project areas was conducted in August 2009 by the Northwest Information Center (NWIC) of the California Historical Resources Information System at Sonoma State University. The information center record search file number is 09-0137. In addition a search of the Sacred Lands Inventory by the Native American Heritage Commission was conducted in August 2009.

Mitigation measure 5.9-1 provides measures to follow if ground-disturbing activities disturb previously unidentified buried or otherwise obscured cultural deposits.





State of California – The Natural Resources Agency  
DEPARTMENT OF FISH AND GAME  
Bay Delta Region  
7329 Silverado Trail  
Napa, CA 94558  
(707) 944-5500  
[www.dfg.ca.gov](http://www.dfg.ca.gov)

EDMUND G. BROWN, Jr., Governor  
JOHN McCAMMAN, Director



LETTER NO. 11

APR 20 2011 AM 9:38 Planning

April 14, 2011

Ms. Rachel Warner  
Marin Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Dear Ms. Warner:

Subject: 2008 Easton Point Residential Development, Draft Environmental Impact Report,  
SCH # 2009012010, Marin County

The Department of Fish and Game (DFG) has reviewed the 2008 Easton Point Residential Development Project (Project) draft Environmental Impact Report (EIR). DFG is providing comments on the draft EIR as a Trustee Agency and Responsible Agency. As Trustee for the State's fish and wildlife resources, DFG has jurisdiction over the conservation, protection, and management of the fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of such species for the benefit and use by the people of California.

The Project proposes to subdivide the 110-acre Project site into a total of 43 single-family residential lots, 2 public open space parcels, and 1 Marin Municipal Water District water tank parcel. Access to the proposed lots would be provided by two new roadways/driveways off Paradise Drive as well as by extensions of the existing Mountain View Drive and Ridge Road roadways.

The proposed Project is located on the southeastern tip of the Tiburon Peninsula in unincorporated Marin County. This site consists of steep slopes and flatter ridges with some rock outcroppings. The site is generally vegetated with dense coast live oak woodlands on the lower elevations and grasslands on the higher elevations. Areas of serpentine bunchgrass habitat are also present. One existing residence and a water tank exist on-site. The site is underlain by 28 mapped landslides. The site also contains five mapped drainageways as well as seeps, springs, a pond, and wetlands. Special-status species known to occur or have a likelihood of occurring on-site include but are not limited to: California red-legged frog (*Rana aurora draytonii*; CRLF), Serpentine reed grass (*Calamagrostis ophitidis*), and Marin western flax (*Hesperolinon congestum*). Occurrences of other special-status species are documented in the Project vicinity.

#### **General Comments**

1. DFG recommends that the Project, which will result in the permanent and irreversible loss of natural habitats known to support sensitive species, be designed to avoid and minimize impacts to fish, wildlife, plants, and their habitats. Field surveys and assessments should be conducted prior to Project design so effects on biological resources may be considered and adequate mitigation can be incorporated into the Project.



Mitigation Measure (MM) 5.6-1(C) requires the preparation of a fully-funded Resource Management Plan (RMP) to ensure the preservation and management of special-status plant habitat, CRLF habitat, native bunchgrass habitat, woodland habitat, and wetlands, in perpetuity. In order to address specific impacts from the project, DFG recommends that the applicant have the Precise Development Plan (PDP) redesigned, [(as required by MM 5.1-11, 5.6-1(a), 5.6-2(a), and 5.63-(a))], conduct a formal wetland and jurisdictional delineation, conduct protocol-level botanical surveys, and other biologic resource assessments prior to the development of the RMP. Furthermore, DFG recommends that the RMP include an adaptive management and monitoring component and suggests that the RMP include specific success criteria to evaluate the mitigation success [See California Environmental Quality Act (CEQA) Guidelines 15146, 15126.4(a)(1), and 15126(a)(2)].

2. **Botanical Resources**

DFG recommends that the Project avoid all impacts to serpentine bunchgrass habitat which supports the California Threatened Marin western flax (*Hesperolinon congestum*) and the California Native Plant Society's List 4 Serpentine Reed Grass (*Calamagrostis ophitidis*), both of which have been identified on-site.

3. The EIR references biologic studies and field surveys that were conducted from 1996 to 2009. However, the referenced materials do not provide a sufficient basis to determine the absence or presence of botanical resources. The EIR and its Appendix do not include a description of the methodology used for floristic surveys. DFG recommends pre-construction special-status plant species surveys be conducted for plant species potentially occurring within the proposed Project area. These surveys should be conducted before and inform the development of the RMP. The RMP should include the results of the floristic surveys and should avoid impacting special-status plant habitats. DFG-recommended survey and monitoring protocols and guidelines are available at: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols for Surveying and Evaluating Impacts.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols%20for%20Surveying%20and%20Evaluating%20Impacts.pdf).

4. If Project impacts to sensitive plant species cannot be avoided, then off-site conservation should be included as part of a mitigation and monitoring plan. DFG should be consulted to review and approve the mitigation and monitoring plan.

5. The proposed Project would have a direct impact on California Threatened Marin western flax. The California Endangered Species Act (CESA) prohibits take of listed species. Please be advised that a CESA Permit must be obtained if the project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA Permit is subject to California Environmental Quality Act (CEQA) documentation; therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the project will impact CESA listed species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA Permit.

6. **Wildlife Resources**

The EIR should include a complete assessment (including but not limited to type, quantity and locations) of the habitats, flora and fauna within and adjacent to the project area, including endangered, threatened, and locally unique species and sensitive habitats. The assessment

should include the reasonably foreseeable direct and indirect changes (temporary and permanent) that may occur with implementation of the project. Rare, threatened and endangered species to be addressed should include all those which meet CEQA definition (see CEQA Guidelines, Section 15380). DFG-recommended survey and monitoring protocols and guidelines are available at [http://www.dfg.ca.gov/wildlife/species/survey\\_monitor.html](http://www.dfg.ca.gov/wildlife/species/survey_monitor.html).

7. DFG recommends a project design that avoids impacts to wildlife resources. If impacts cannot be avoided, then the Project should demonstrate that feasible minimization or compensatory measures have been included in the design. Such mitigation measures should be proposed that reduce impacts to species and or habitat to a less-than-significant level.

8. As stated in the EIR, a minimum of 742 trees will be removed and up to 12.8 acres of coast live oak woodland habitat would be lost. Mitigation Measures 5.6-4(a) and 5.6-4(b) are insufficient to reduce this impact to a less-than-significant level. With the incorporation of these measures, the Project would result in a significant net loss of oak woodland habitat. DFG recommends the Project be modified to avoid or substantially reduce this impact.

If impacts to trees and oak woodlands cannot be avoided or reduced, then an Oak Woodlands Management Plan should be developed. The management and protection of oak woodlands should be consistent with "The Oak Woodlands Conservation Act 2001" (see [http://www.wcb.ca.gov/Applications/pdf/Oak\\_Program.pdf](http://www.wcb.ca.gov/Applications/pdf/Oak_Program.pdf)). The EIR should specify that a detailed adaptive management plan for oak woodlands be prepared which is supported by scientific studies, ecological expertise, and funding. The EIR should require successful implementation of the plan as a project condition and describe restoration efforts and include a timeline for restoration work.

9. Fish and Game Code § 3503.5 states it is unlawful to take, possess, or destroy any birds in the orders of Falconiformes or Strigiformes (birds-of-prey or raptors) or take, possess, or destroy the nest or eggs of any such bird. Fish and Game Code § 3503 states that is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. In order to avoid the destruction of nesting birds, DFG recommends changing MM5.6-7 to specify that surveys shall be conducted within 14 days prior to project activities that occur between March 1 and August 31 and that if nesting birds are found, DFG shall be consulted to determine suitable buffers for detected nests. Such buffer(s) should remain in effect until the young have fledged, abandoned the nest on their own, or the nest fails and the birds do not re-nest.

10. Bats can also occupy trees year round and are particularly susceptible to disturbance during the maternity season and during hibernation. Pallid bats do not migrate and stay close to their summer roosts. Pallid bats are also known to switch roosts on a daily basis and seasonally. Thus, DFG recommends that a qualified biologist conduct a habitat assessment for potentially suitable bat habitat within six months of project activities. If the habitat assessment reveals suitable bat habitat, the qualified biologist should consult with DFG to determine appropriate avoidance measures. In general, tree trimming and/or tree removal should be only conducted during seasonal periods of bat activity (August 31 through October 15, when young would be self-sufficiently volant and prior to hibernation and March 1 to April 15 to avoid hibernating bats and prior to formation of maternity colonies) under supervision of a qualified biologist. Trees should be trimmed and/or removed in a two-phased removal system conducted over two

consecutive days. The first day (in the afternoon), limbs and branches would be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures would be avoided, and only branches or limbs without those features should be removed. On the second day, the entire tree should be removed.

11. The Project would be located within a previously undeveloped area and would be adjacent to Open Space Preserve land. The increased human activity in this area may have an irreversible impact on the environment. Increases in impacts to wildlife from domestic animals, human activity, and artificial light and sound that are likely to result from residential development may adversely affect wildlife through predation, harassment and disturbance. These impacts should be addressed, avoided where possible, and mitigation measures should be included in the EIR.

12. **Hydrologic Resources**  
The proposed Project would install debris fences, subdrains, buried drilled pier and grade beam walls, and remove geologically unstable soil within and near hydrologic features on the site. In order to avoid the impacts to aquatic habitats, DFG recommends avoiding project components that would excessively impact hydrologic features. The proposed geologic stabilization would dewater drainages, springs and wetlands through the use of subdrains and buried drilled and grade beam walls. Additional impacts to hydrologic features would occur from the excavation of unstable geologic units and the subsequent backfill of those areas. DFG prefers project solutions that would not result in such excessive modifications to hydrologic features. The EIR should include alternative project designs or mitigation measures to reduce impacts to hydrologic features.

13. The Project proposes to fill and impact areas of seasonal wetland(s) on the site. Since formal wetland delineation has not been performed, it is possible that areas of impact greater than estimated could occur. Wetland habitats are critical for migratory bird breeding and wintering habitat and provide important habitat for many species. The California Wetlands Conservation Policy goal is to ensure no overall net loss of wetlands and to achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage. It is the policy of the Fish and Game Commission to seek to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California. The Fish and Game Commission's Wetland Policy stresses the need to compensate for the loss of wetland habitat on an acre-for-acre basis. For every acre of wetland loss, no less than an acre of wetland must be created from non-wetland habitat. This amount may increase based on the quality of the impacted wetlands. DFG recommends that the Project avoid the proposed fill of wetlands. If complete avoidance is not possible, fill of wetlands should be minimized and mitigated and such measures should be detailed in the EIR.

14. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, DFG may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant. Issuance of an LSAA is subject to CEQA. DFG, as a responsible agency under CEQA, will consider the CEQA document for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA

notification process, please access our website at <http://www.dfg.ca.gov/habcon/1600/>; or to request a notification package, contact the Lake and Streambed Alteration Program at (707) 944-5520.

15. DFG recommends that the lead agency consider Project alternatives which will result in lower levels of impacts to plants, animals, their habitats, and hydrologic features.

### Specific Comments

16. 1. Mitigation Measures shown in the Executive Summary are inconsistent with Mitigation Measures in Section 5.0.
17. 2. The EIR does not address impacts that may result from the installation of subdrains, debris fences, and buried drilled and grade beam walls that are proposed. Many of these features are proposed to be located at the bottom of identified drainages within the coast live oak woodland habitat. There is no discussion of site access, construction techniques, or maintenance.
18. 3. Page 76, under "Drainage", first paragraph. It is stated that in instances where geotechnical concerns would prohibit release of stormwater onto hillslopes, discharge would be conveyed to site drainageways and ultimately to culverts crossing under Paradise Drive. The EIR does not clearly state whether the drainage plan and culvert capacity calculations considered the potential discharge from areas of geologic concern. As stated above, DFG recommends all project redesigns and assessments are conducted now so the Project can be properly analyzed for impacts and adequate mitigation can be determined.
19. 4. Page 80, the EIR does not address potential impacts that could result from stockpiling materials on lots 20 and 24 to the serpentine bunchgrass habitat downslope.
20. 5. Page 86, sixth bullet. *Hesperolinon congestum* is correctly referred to by the common name, Marin western flax. This common name is published in the January 4, 2011 report of "Special Vascular Plants, Bryophytes, and Lichens List, California Department of Fish and Game, Natural Diversity Database." For consistency, please update the rest of the document to reflect this common name.
21. 6. Page 337, first paragraph. It is stated that landslide stabilization would involve about 53,156 cubic yards of material. This amount is inconsistent with volumes shown in Exhibit 3.0-10.
22. 7. Exhibit 5.4-3 shows a small area of proposed landslide stabilization area in Landslide 11 that is not included on Exhibit 5.6-2.
23. 8. Page 441, MM 5.6-2(b). DFG recommends that the EIR specify mitigation for impact to CRLF including the loss of habitat.

24. 9. Page 442, MM 5.6-2(d). As stated above, the RMP should be prepared before project development.
25. 10. Page 435, third paragraph, last sentence. Confirm lots 4 and 7 will be reconfigured.
26. 11. Page 438 under "Significance after Mitigation." It is stated that 1.75 acres of Marin western flax would be protected. However, neither the analysis, nor the mitigation measures discuss how this specific area of land would be preserved. Please include specific details in the EIR.
27. 12. Page 448, last paragraph. It is stated that 0.07 acres of wetland occur in Lot 16. It is suggested elsewhere in the EIR (page 443) that resource protection cannot be guaranteed in perpetuity for resources on private lots. As such, the 0.07 acres of wetland should be considered lost. This impact and appropriate mitigation should be addressed in the EIR.
28. 13. Page 449, last paragraph. It is stated that the subdrain would dewater the spring on Lot 8 and result in permanent loss to wetland vegetation. This potential wetland impact on Lot 8 was not addressed in the EIR. Wetland and jurisdictional determinations should be conducted so all impacts can be analyzed, disclosed, and mitigated for.

If you have any questions, please contact Mr. Timothy Dodson, Environmental Scientist, at (707) 944-5513 or by email at [tdodson@dfg.ca.gov](mailto:tdodson@dfg.ca.gov); or Mr. Richard Fitzgerald, Coastal Habitat Conservation Supervisor, at (707) 944-5568.

Sincerely,

  
Carl Wilcox  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse

**RESPONSE TO LETTER NO. 11 – CARL WILCOX, RESIONAL MANAGER, BAY DELTA REGION,  
CALIFORNIA DEPARTMENT OF FISH AND GAME (APRIL 14, 2011)**

**Response to Comment 11-1**

Mitigation Measures 5.6-1 through 5.6-3 already requires a re-design of the Precise Development Plan (PDP) to lessen impacts on sensitive resources including the Marin western flax, Serpentine Reed grass, CRLF, and Serpentine bunchgrass. These respective impact analyses provide adequate information on the range of the magnitude of potential impacts that the project may have on sensitive biological resources to inform the CEQA process and to determine feasible mitigations to reduce such impacts, additional surveys, such as a formal wetland delineation and additional pre-construction tree surveys are required by the Draft EIR mitigation measures so that the exact extent of impacts to these resources can be determined and so that mitigations required in the Draft EIR can be implemented.

Mitigation Measure 5.6-1 already requires that a fully-funded Resource Management Plan (RMP) be prepared to ensure preservation and management of special status species and their habitats. The RMP requirements (MM 5.6-1(c)) include an adaptive management component and specific success criteria.

**Response to Comment 11-2**

Comment acknowledged. As proposed the project would result in the direct loss of 9.72 acres of serpentine bunchgrass habitat. Mitigation Measure 5.6-3(a) requires a redesign of the PDP to preserve serpentine bunchgrass habitat at a minimum 3:1 preservation: loss ratio.

The Draft EIR already recommends a re-design of the PDP to lessen impacts on Marin western flax. The requirement of a 3:1 preservation:loss ratio would result in minimum preservation of 75 percent of the on-site population as measured in 2009. The preserved population would be subject to the RMP requirements of Mitigation Measure 5.6-1.

**Response to Comment 11-3**

Several focused rare plant surveys have been conducted on the site since the mid-1990's, with the most recent surveys conducted in 2009 (April, May and June), which were consistent with the CNPS Botanical Survey Guidelines.<sup>16</sup> As such, multiple surveys covering the blooming season of all potentially-occurring rare plants were conducted within all areas of the site being considered for development or for inclusion in private lots. In addition, focused mapping efforts were conducted throughout the entire extent of the serpentine areas of the site for Marin western flax and serpentine reed grass in April, May and June 2009. It is the EIR Biologist's opinion that the 2009 surveys were sufficient to determine the occurrence and distribution of rare plants on the site and to provide adequate information for the environmental setting and inform the CEQA process, including the process of developing the RMP required by Mitigation Measure 5.6-1(c). It is possible that, as an annual species, the Marin western flax could expand its range in certain years or over time; however, mitigations included to preserve at least 75 percent of the serpentine bunchgrass habitats of the site would, at the same time, ensure that 75 percent of the potential on-site habitat for this species is also preserved, which should allow for future population expansion. At this time, we do not see the need to require that additional rare plant surveys are conducted on the site prior to development or preparation of the RMP.

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<sup>16</sup> CNPS Botanical Survey Guidelines, California Native Plant Society, June 2001.

**Response to Comment 11-4**

California Department of Fish and Wildlife (DFW)<sup>17</sup> would like to see off-site conservation of sensitive plant species be included as part of the mitigation in the event that on-site impacts to these species cannot be avoided. The current mitigations include a re-design of the project to result in on-site conservation in-perpetuity of at least 75 percent of the on-site population of these species, i.e. a minimum of a 3:1 preservation:loss ratio. The possibility for off-site acquisition and protection of lands supporting these species is considered extremely low given only ten other known occurrences in Marin County. Of these ten occurrences, only four occur on the Tiburon Peninsula, three of which already occur on preserved lands managed by the MCOSD. Therefore, off-site conservation as a mitigation strategy appears at this time to not be a feasible strategy. Page 436 of the Draft EIR addresses the reasoning for not including off-site mitigation as an alternative for sensitive plant species impacted by the project.

**Response to Comment 11-5**

The EIR Biologist's agree with DFW's recommendation that the applicant engage in early consultation regarding impacts to and mitigations for Marin western flax, a species listed as threatened under the California Endangered Species Act (CESA) and it is assumed that the applicant will obtain a CESA permit if the project results in any take of this species. The Draft EIR sets forth Mitigation Measure 5.6-1 for impacts to Marin western flax; however, it is agreed that the applicant should consult with DFW to confirm that mitigations are amenable to DFW and sufficient to obtain a CESA permit. As required in Mitigation Measure 5.6-1(c), the RMP must be reviewed and approved by Marin County CDA Planning Division in consultation with the MCOSD and all applicable resource agencies, including DFW.

**Response to Comment 11-6**

The Draft EIR already addresses on-site and off-site biological resources and addresses potential direct and indirect impacts that are reasonably foreseeable to wildlife resources within the discussion of *Impact 5.6-2 Impacts to the California Red-Legged Frog*, *Impact 5.6-7 Disturbance to Active Bird Nests*, and related discussion of rare plants and habitat. Mitigation measures are provided for those impacts considered significant or potentially significant. As stated in the Draft EIR starting on page 429, it is based on the findings of the analysis contained in the Draft EIR that no mitigation would be required for loss of habitat for special status animals, interference with movement of native wildlife, loss of habitat for native wildlife, or impacts to wildlife resulting from house cat predation. The analysis contained in the Draft EIR is consistent with CEQA in that the discussions include relevant specifics of the area, the resources involved, take into account foreseeable physical changes and alterations, including among other things human use of the land.

**Response to Comment 11-7**

The Draft EIR already includes mitigation measures, including a re-design of the PDP, to avoid impacts to wildlife resources and provides mitigations for those impacts that are considered significant or potentially significant. Also, please see Response to Comments 11-1 and 11-6.

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<sup>17</sup> Effective January 1, 2013 California's Department of Fish and Game is now called Department of Fish and Wildlife.

**Response to Comment 11-8**

Incorporation of Mitigation Measures 5.6-4(a) and 5.6-4(b) would result in the in-perpetuity preservation of a minimum of approximately 75 percent of the oak woodland habitat occurring on-site and an estimated 93 percent of native trees on the site. Per the Draft EIR, preserved woodlands and trees would be subject to a fully funded RMP. The Draft EIR sets forth minimum requirements for preparation of the RMP including, but not limited to, who can prepare the RMP; mitigation, management and monitoring requirements; an adaptive management component; and determination of a mechanism for funding. The RMP as it relates to woodlands is required to also comply with Marin County's Oak Woodland Voluntary Management Guidelines. Additionally, as indicated above, development of the RMP should occur in consultation with all applicable resource agencies, including DFW.

**Response to Comment 11-9**

The EIR Biologists agree with DFW's recommended changes to the mitigation measure for nesting birds. The revised text is shown in Response to Comment 11-10..

**Response to Comment 11-10**

The EIR Biologists agree with DFW regarding the potential for woodland trees on the site to provide habitat for certain special status bats including the pallid bat (*Antrozous pallidus*). The biological community has recently become more aware of the potential impacts that projects can have on bat species. As DFW points out, there are certain times of year when bats can be most susceptible to impacts, i.e. during the maternity season (April 15 through August) and during winter hibernation/torpor (October 15th through February). Accordingly, the Draft EIR text is revised as follows:

The discussion and mitigation measure for *Impact 5.6-7 Disturbance to Active Bird Nests* beginning on page 452 of the Draft EIR is revised as follows:

***Impact 5.6-7 Disturbance to Special Status Bats and Active Bird Nests***

*Construction activities could result in incidental impacts on special-status bats should they hibernate or breed on the site, and to birds of prey (raptors) and other birds which are protected by State and federal statutes should they be nesting on the site during project implementation. This would be a significant impact.*

Several species of raptors (eagles, hawks, and owls) breed regionally. Raptor species which may breed on or near the site include, but are not limited to, red-tailed hawks, Cooper's hawks, American kestrels, barn owls, and great horned owls. Additionally, many other resident or migratory bird species could potentially breed on the site within woodland and scrub habitats. Construction activities could result in the abandonment of active nests or direct mortality to these birds. State and federal laws protect raptors as well as other native resident and migratory bird species, and any construction activities which adversely affected nesting or resulted in the mortality of individual birds could violate State and federal law and would be a significant impact.

Special status bats may use trees throughout most or part of the year for roosting, hibernation and, in some cases, as maternity habitat. Bats may be particularly vulnerable to harm or mortality as a result of project construction activities requiring tree removal should these activities occur during the winter torpor period, generally accepted to be mid-October through the end of February, and



during the maternity season, generally accepted to be mid-April through the end of August. Should special status bats use the trees of the site for winter torpor or breeding, the removal of these trees during those seasonal periods could result in harm or mortality to these individuals and their young and this would be considered a significant impact.

**Mitigation Measure 5.6-7** The following mitigations when implemented will reduce potential project impacts on active bird nests and special status bats to a less-than-significant level.

**Mitigation Measure 5.6-7(a)** Construction (roads, buildings, etc.) within 250 feet of trees or scrubhabitats (the standard construction buffer) shall require a pre-construction survey for active bird nests if such project disturbance occurs during the breeding season. The applicant shall implement and add to the project's CC&Rs, for implementation by the individual lot owners, developers of lot clusters, and, subsequently, the POA, the following measures to reduce impacts to nesting birds:

- Within ~~30~~14 days of beginning construction during the nesting season (~~February~~ March 1<sup>st</sup> to August 31<sup>st</sup>), have a qualified biologist survey construction areas and their immediate vicinity (within 250 feet) for active nests. Surveys shall be conducted according to a protocol developed in consultation with the ~~CDFG~~DFW.
- Mark any active nests discovered during the pre-construction survey on a map and determine and establish an appropriate construction-free setback or buffer around each active nest by means of fencing or stakes with conspicuous flagging. The appropriate size of the buffer will be determined by the biologist based on the species and topography, and determined in consultation with DFW. No construction activities shall be permitted within the buffer area until all young have fledged and are observed by a qualified biologist to be foraging independently of the parents, or until the nest fails and the birds do not re-nest.

**Mitigation Measure 5.6-7(b)** The applicant shall implement and add to the project's CC&Rs, for implementation by the individual lot owners, developers of lot clusters, and, subsequently, the POA, the following measures to reduce impacts to special status bats:

- A qualified biologist shall conduct a habitat assessment for bats six months prior to any construction activities that will result in the removal of trees on-site.
- Should the habitat assessment conclude that trees proposed for removal provide potential hibernation and/or maternity habitat for special status bats, tree removal will only be conducted during seasonal periods of bat activity, i.e. September through mid-October and March through mid-April, under the supervision of a qualified biologist. Tree removals shall occur via a two-phased removal conducted over two consecutive days. In the afternoon of the first day, limbs and branches will be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures would be avoided, and only branch or limbs without those features should be removed. On the second day, the entire tree should be removed.

**Significance after Mitigation** Implementation of Mitigation Measure 5.6-7 would reduce potential impacts to nesting raptors and other birds, and to special status bats to a less-than-significant level.

**Responsibility and Monitoring** The applicant would be responsible for conducting pre-construction surveys for nesting birds and habitat assessment surveys for bats before start-up / site

preparation and the construction of any infrastructure, as per requirements contained in the mitigations above. The applicant would also be responsible for incorporating pre-construction survey and bat habitat assessment requirements into the CC&Rs. Individual lot owners would be responsible for conducting pre-construction surveys for nesting birds and habitat assessment surveys for bats, as per the above mitigations, before start-up / site preparation and construction activities on their individual lots.

**Response to Comment 11-11**

Potential impacts due to the introduction of new outdoor cats as a result of the project are addressed in the Draft EIR starting on page 433. This would be a less-than-significant impact of the project and would not require any mitigation.

With regard to potential disturbance to and trampling of sensitive resources in preserve areas, during the course of the many biological surveys conducted on the site by the EIR biologist, people from the surrounding neighborhoods were observed using the site to walk dogs, bike, jog, etc. The result is that many casual trails have been created throughout the site, including within the sensitive serpentine habitats. It is the opinion of the EIR biologists that the RMP will improve on the current situation of disturbance by humans and dogs by determining which activities will be allowed in preserved areas of the site, and will provide more substantial protection to the sensitive plant and wildlife resources occurring within preserved areas, on and off the site, than currently exists.

With regard to potential noise and light disturbance as a result of the project, only six proposed lots occur adjacent to off-site preserve areas. These occur adjacent to Old St. Hilary's Open Space Preserve in the southwestern portion of the site near existing residential development. Of these lots, only four of the building and landscape envelopes occur adjacent to the boundary, while those on the remaining two are separated from Old St. Hilary's by their private use areas where no development will be allowed. As such, it is our opinion that noise and light disturbance from the project will be a less-than-significant impact on resources occurring on adjacent preserve areas such as Old St. Hilary's Open Space Preserve.

**Response to Comment 11-12**

Comment is noted. The significant impact on shallow groundwater and its affect to on-site hydrological features, including Keil Spring and base flow in the bulk of Drainageway 2, upslope of Paradise Drive, would be substantially reduced with implementation of *Alternative 2*, the 32-unit low density project alternative. This alternative would eliminate several housing sites along the ridgeline within the groundwater recharge zone identified by the applicant's groundwater consultant (Questa).<sup>18</sup> *Alternative 2* would also reduce the extent of the more severe landslide repair referred to as "remove and replace", where excavation, recompaction and extensive subsurface drain installations fully dewater the shallow groundwater system and reduce non-storm base flow in the affected drainageways. *Alternative 2* would, therefore, maintain to a greater extent both the proportion of base flow in the project area drainageways and the physical integrity of these channels.

**Response to Comment 11-13**

Mitigation Measures 5.6-5(b) requires that a formal wetland delineation be conducted and that all temporary and permanent impacts to waters of the U.S. and state be determined, including those

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<sup>18</sup> *Supplemental Groundwater Investigation for Easton Point Subdivision Tiburon, California.*, Questa Engineering Corp., November 4, 2008.

resulting from fill or as a result of permanent dewatering. These mitigation measures further require a minimum of a 2:1 replacement:loss ratio to off-set wetland resource impacts.

**Response to Comment 11-14**

Mitigation Measure 5.6-5(b) requires that the applicant enter into a Streambed Alteration Agreement with DFW for any impacts to jurisdictional riparian resources. The required mitigation also includes the establishment of a minimum 100-foot setback from all drainageways and wetlands, and requires compensation for temporary and permanent encroachments within the set-back including the development of a restoration plan to re-vegetate temporarily disturbed areas and compensate for permanent encroachments via the enhancement of riparian habitat on-site at a minimum 2:1 enhancement:loss ratio.

**Response to Comment 11-15**

The Draft EIR evaluates a range of alternatives featuring designs to reduce particular impacts on the environment. The primary criterion behind the design of Alternative 4 was to avoid or substantially lessen the project's impacts to biological resources. *Alternative 4* is described and analyzed on pages 697 through 704 of the Draft EIR.

**Response to Comment 11-16**

**Exhibit 2.0-1** provides a summary of impacts and mitigation measures of the proposed project. The mitigation measures are consistent with those listed in each topical section. However they are summarized in fewer words and do not include every detail as the text found in the applicable section.

**Response to Comment 11-17**

Page 449 of the Draft EIR discusses the excavation of trenches for installation of the subdrains. The subdrains would be below ground, therefore, while installation activities would result in disturbance to drainageways, this disturbance is considered to be a temporary one and mitigations for the re-vegetation of these temporarily disturbed areas are provided in Mitigation Measure 5.6-5(b). Minor permanent impacts as a result of the installation of buried drilled and grade beam walls and debris fences are discussed on page 449 of the Draft EIR and mitigations for these permanent impacts are also provided in Mitigation Measure 5.6-5. As stated on page 450 of the Draft EIR, total permanent wetland impacts from the proposed project or *Alternative 2* are estimated at less than 0.01 acres. Any potential temporary disturbance to drainageways or wetlands as a result of the potential maintenance and installation access would be subject to the same mitigation measures.

**Response to Comment 11-18**

Please see Master Response 5 for information regarding secondary impacts of landslide dewatering on peak flows conveyed by Paradise Drive Culverts. Master Response 5 includes a revision to Mitigation Measure 5.5-7(b) with additional text to insure adequate drainage and flood protection capacity for culverts located at Paradise Drive. With revisions to Mitigation Measure 5.5-7 this impact would remain less-than-significant.

**Response to Comment 11-19**

On page 80 of the Draft EIR, as DFW points out, the applicant proposes that Lots 20 and/or 24 would be the last to be developed such that these lots can be utilized for the stockpiling of fill materials. Both of these lots occur across the proposed access road and up-slope from serpentine habitats within

the private open space areas of Lot 5 and Lot 6. Potentially, the downdrift of stockpiled fill materials could impact these serpentine areas. As discussed on page 426 of the Draft EIR under “Project Assumptions”, it has been concluded that serpentine habitats occurring within private use areas of individual lots could be substantially altered or completely lost over time and these areas were not included in acreage calculations of habitats that would be preserved, but rather were included in habitat impact calculations. However, as part of the mitigation for rare serpentine plants and serpentine habitat (Mitigation Measure 5.6-1 and 5.6-3), a redesign of the PDP was recommended to ensure preservation of a minimum of 75 percent of rare plant populations and serpentine bunchgrass habitat. Should the PDP be redesigned such that any lots that may be proposed for stockpiling occur up-slope from serpentine habitats that are proposed for preservation to meet mitigation requirements, the downdrift of stockpiled materials could impact these areas. Such indirect impacts on both rare plants and serpentine habitats as a result of the activities of individual lot owners are discussed under *Impact 5.6-1 Impacts to Special Status Species* and *Impact 5.6-3 Loss of Serpentine Bunchgrass*, beginning on page 435 and page 442, respectively, of the Draft EIR; however, no mitigations are included for the situation of the downdrift of stockpiled materials.

Based on the above, the discussion for *Impact 5.6-1 Impacts to Special Status Plants* beginning on page 435 of the Draft EIR is revised as follows:

***Impact 5.6-1 Impacts to Special Status Plants***

Development and long-term use on proposed Lots 1 through 4, 6, 7, and 19 would eliminate 1.68 acres (75 percent) of habitat mapped in 2009 for the federally- and state-threatened Marindwarf flax which occurs on the site and extends onto the Old St. Hilary’s Open Space Preserve. Development and long-term use on proposed Lots 1, 2, 6, and 7 would eliminate 0.06 acres (75 percent) of habitat mapped in 2009 for the serpentine reed grass (CNPS List 4). Fill materials stock-piled up-slope of serpentine areas during project construction phase could downdrift onto and degrade habitat for on-site special status plants. Landscape irrigation runoff, as well as the downdrift of landscape chemicals (herbicides, fertilizers) and non-serpentine fill and / or topsoils onto Old St. Hilary’s Open Space Preserve from the building site of Lot 1 could result in indirect impacts to three special status plant species occurring within 100 feet of the project boundary, including the federally-endangered and state-threatened Tiburon Indian paintbrush, the federally-endangered and state-endangered Tiburon jewel-flower, and the Carlotta Hall’s lace fern (CNPS List 4). This would be a significant impact.

The discussion for *Impact 5.6-1 Impacts to Special Status Plants* beginning on page 435 of the Draft EIR is revised as follows:

Portions of the on-site populations of dwarf flax and serpentine reed grass occurring on individual lots outside of the building envelopes are not likely to persist over the long term. The EIR biologists are aware of very few examples that demonstrate that a rare plant species can be protected and managed adequately within private open space (that is, areas deeded to individual lot owners), whether funded and managed by a home owners association or by individual residential lot owners, especially when a population is almost completely surrounded by development. Various human activities (herbicide and fertilizer use, over-watering, bike riding, trampling, land clearing and other activities) may occur despite deed restrictions, CC&Rs, and lot-owner or Property Owners Association observation and may damage or harm these populations purposefully or inadvertently. Fill materials stockpiled on-site up-slope from populations of special status plants occurring on-site and off-site could downdrift and degrade habitat for these species.

Mitigation Measure 5.6-1 beginning on page 436 of the Draft EIR is revised as follows:

**Mitigation Measure 5.6-1** The applicant shall implement the following mitigation measures to avoid or reduce impacts to special status plants:

**Mitigation Measure 5.6-1(a)** Avoid impacts to special status plants:

- Redesign the PDP site plan to preserve on-site populations of Marin dwarf flax and serpentine reed grass within Parcel A or Parcel B at a minimum preservation:loss ratio of 3:1, and to provide minimum setbacks from preserved populations of these species occurring on-site or off-site on Old St. Hilary's Open Space Preserve to ensure these populations are not indirectly impacted by landscape irrigation run-off, or downdrift of landscape chemicals or non-serpentine fill or top soils. The minimum setback for all lots that occur adjacent to and upslope from off-site or on-site populations (as mapped in 2009) shall be 100 feet from the edge of the off-site population or the edge of populations preserved on-site within Parcel A or B to the closest lot building and landscape envelope. The minimum setback for all other adjacent lots shall be 50 feet from the edge of the off-site population or the edge of populations preserved on-site within Parcel A or B to the closest lot building and landscape envelope.
- To the extent possible, stockpiling of fill materials during project construction should be done downslope of, or at least a minimum distance of 100 feet away from, sensitive plant habitats. If stockpiling is done upslope of serpentine areas, all fill materials shall be enclosed by debris fencing and/or covered when not actively being utilized to prevent these materials from eroding or downdrifting onto and degrading sensitive plant habitats.

**Response to Comment 11-20**

*Hesperolinon congestum* was known by more than one common name at the time the Draft EIR was prepared, i.e. Marin dwarf flax or Marin western flax. It was decided to use the name Marin dwarf flax throughout most of the Draft EIR to be consistent with the PDP and the prior EIRs prepared for the project site; however, the common name that is now preferred is Marin western flax. To eliminate confusion and unnecessary edits throughout the Draft EIR, the first mention of the species in the Draft EIR (page 1) and the first mention of the species in the Draft EIR Biological Resources section (page 401) has been changed to include recognition that the name Marin dwarf flax and Marin western flax both refer to the same species.

Beginning on page 1 of the Draft EIR, the **Section 1.0 Introduction** is revised as follows:

The Martha Company has submitted an application to Marin County for the approval of the proposed *2008 Easton Point Residential Development Project (2008 Easton Point)*. The project site is approximately 110 acres located near the southeastern tip of the Tiburon peninsula. The proposed project involves the eventual subdivision of the 110 acres into 43 single family parcels (49.6 acres), two open space parcels (60.0 acres) and one Marin Municipal Water District water tank parcel (0.25 acres). The residential parcels would range in size from 0.55 acres to 2.25 acres. Access to the residential lots would be provided by two new roads / driveways off Paradise Drive (serving 13 homes) as well as extensions of existing roads including Mountain View Drive (serving three homes) and Ridge Road (serving 27 homes). Proposed open space and public access improvements include the creation of approximately 60 acres of dedicated public open space, including a Marin dwarf flax (*Hesperolinon congestum*, also known by the common name Marin western flax) preservation area (0.3 acres) and access easements to provide pedestrian access through the project site to proposed and existing public open space areas.

Beginning on page 401 of the Draft EIR, Section 5.6 is revised as follows:

Numerous public scoping comments for the 2008 Easton Point Residential Development project were received by Marin County in February 2009 with regard to biological resources. Concerns raised by the public during the scoping process were focused on potential impacts to the federally-threatened California red-legged frog (*Rana aurora draytonii*) (CRLF) both on-site and in Keil Pond located downstream and to the east of the project site; to special-status plants including the Marin dwarf flax (*Hesperolinon congestum*, which is also known by the common name of Marin western flax), Tiburon Indian paintbrush (*Castilleja affinis*ssp. *neglecta*), Tiburon jewel-flower (*Streptanthus niger*) and serpentine reed grass (*Calamagrostis ophitidis*); to native plants and animals as a result of the introduction of exotic plants and domestic animals; and to habitats such as oak woodlands and serpentine bunchgrass. Additionally, the public voiced concerns once again about the probable occurrence of SODS on the site and how the project may compound the problem on-site and also in the immediate site vicinity.

#### **Response to Comment 11-21**

The applicant's engineer estimates the volume of grading and excavation needed for landslide stabilization would be 58,030 cubic yards. The first paragraph of page 337 of the Draft EIR notes an incorrect estimate for grading and excavating required for landslide stabilization and is revised as follows:

The locations of the on-site landslides and the approximate distribution of other geologic units are shown on **Exhibit 5.4-1** (same as **Exhibit 3.0-9**). Based on mapping by Miller Pacific<sup>19</sup> the approximate surface areas of the landslides have been included in this section to help illustrate the potential zones of disturbance created by the proposed mitigation measures. Miller Pacific estimates that grading and excavating for landslide stabilization would involve about ~~53,156~~58,030 cubic yards of material. The following is a brief discussion of each of the 28 previously mapped landslides and the proposed methods of stabilization. Miller Pacific has proposed methods of stabilization or improvement for the site landslides through the use of subdrains, shear keys, pier and grade beams, and debris fences.

Footnote No. 66 on page 337 of the Draft EIR is also revised to reflect the updated source:

*Preliminary Geotechnical Report Easton Point Subdivision Tiburon, California*, Miller Pacific Engineering Group, January 11, 2008, and Table C (Updated ~~August 20, 2010~~December 7, 2010) Conceptual Landslide Stabilization and Grading Estimate Easton Point Subdivision Tiburon, California, Miller Pacific Engineering Group, April 16, 2009 (revised August 20, 2010 and December 7, 2010).

The grading quantities shown for landslide stabilization in **Exhibit 3.0-10** are not intended to reflect the total volumes excavated and graded, but rather the amount of additional cut and fill that would be needed to complete the work. In other words an additional ten percent of the 58,030 cubic yards (5,659 cubic yards) removed and recompacted for landslide stabilization would be needed to compensate for shrinkage and compaction.

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<sup>19</sup> *Sheet GR1 Landslide Exhibit*, Miller Pacific Engineering Group, revised May 26, 2010.

**Response to Comment 11-22**

The commentor is correct that there is an area of landslide repair that is not shown on **Exhibit 5.6-2**. This particular area of removal and replacement is correctly shown on **Exhibit 5.4-3** within the private open space of Lot 42. Although **Exhibit 5.6-2** does not delineate this area the analysis of impacts resulting from landslide repair and slope stabilization is based on accurate information.

**Response to Comment 11-23**

The Draft EIR already specifies mitigations for the loss of CRLF foraging and dispersal habitats (Mitigation Measure 5.6-2 and Mitigation Measure 6.6-2 for *Alternative 2*). Also, see Response to Comment 11-1.

**Response to Comment 11-24**

Please see Response to Comment 11-1.

**Response to Comment 11-25**

The commentor makes reference to the analysis of *Impact 5.6-1 Impacts to Special Status Plants* where it states Parcel B, which is surrounded by Lots 4 and 7, would be insufficient for the preservation of Marin dwarf flax and Lots 4 and 7 should be reconfigured to allow access and connect Parcel B with the adjacent Old St. Hilary's Open Space Preserve. Mitigation Measure 5.6-1 requires redesign of the PDP to preserve on-site populations of Marin dwarf flax and serpentine reed grass, and provision of minimum setbacks from preserved populations on or off-site. It is believed that in order to implement this mitigation Lots 4 and 7 would need to be reconfigured to allow more room for Parcel B. The configuration of all lots and parcels in the proposed subdivision will be determined by the Marin County Board of Supervisors at the time the Board takes final action on the proposed project.

**Response to Comment 11-26**

Mitigation Measure 5.6-1 beginning on page 437 of the Draft EIR provides requirements on how Marin western flax habitat would be preserved, monitored, and managed in-perpetuity.

**Response to Comment 11-27**

The discussion referenced on page 443 of the Draft EIR pertained to protection of sensitive plant habitats such as serpentine habitat and not to wetlands. On a case by case basis, it might be determined that a wetland occurring on private property would foreseeably be impacted by the future activities of the property owner; however, the wetland in question occurs within a ravine on a steep slope on Lot 16 and outside the building and landscape envelope. It is the opinion of the EIR Biologists that foreseeable impacts to this area are unlikely to occur as a result of the activities of the future lot owners.

**Response to Comment 11-28**

Compensatory mitigations for all impacts to wetlands and other jurisdictional waters, including the dewatering of the spring on Lot 8, are provided in Mitigation Measure 5.6-5(b) beginning on page 450 of the Draft EIR. This measure requires that all such impacts be compensated at a minimum 2:1 replacement:loss ratio.



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April 29, 2011

Hand Delivered

Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

RE: **EASTON POINT RESIDENTIAL DEVELOPMENT DRAFT EIR – March 2011**  
Applicant: Martha Co. Comments

Dear Rachael,

Thank you for the opportunity to provide comments on the Draft EIR for the Easton Point Residential Development.

Generally the applicant is pleased that the DEIR is detailed, focused on science based analysis and appears to disclose fully the project potential environmental impacts and mitigation for potential significant environmental impacts that have not already been mitigated by the project design and impact avoidance measures. That being said, the DEIR needs to provide a few additional tables and summaries to help the reader make a fair assessment of the project as follows:

### ***GENERAL COMMENTS***

#### **5.7 Public Services:**

- 1 a. Mitigation 5.7-3: This measure requires a future property owner to pay a “fire mitigation fee” if such a fee is adopted by TFPD. Evidently there is no such fee currently and it is not clear how paying this fee now or in the future would mitigate cumulative fire service impacts. The project design includes compliance with current fire safety standards, has mitigation measures required to off-set any future potential for fire safety issues in future buildings including sprinklers, size limits, building material specifications. It seems that adding a measure for paying a fee that has not yet been developed is unreasonable. Moreover there is no evidence to indicate that paying a fee in the future is a feasible mitigation for any impact that results from the project development.



2

b. Impact 5.7-6 - It would be informative and helpful if the EIR provided a brief assessment of the current water pressure standards applied to existing residences in the Hill Haven neighborhood. For example do others in the immediate area also have signed “low pressure agreements” with MMWD? Do others in the immediate area have low pressure pumps and if so please identify the properties in the neighborhood?

3

**5.8 Visual Quality:** Impact 5.8-2 View from Heathcliff Drive – The EIR claims to view the Easton Point project development through both the lens of County of Marin Countywide Plan, and the Town of Tiburon General Plan including their policies, regulations, codes and standards. Yet when assessing the visual impacts of the project the EIR consultants use a impact assessment methodology, set of standards and establish a significance “threshold” that cannot be found in either the Marin Countywide Plan or the Tiburon General Plan. The visual impact assessment methodology, although science based, results in a subjective and speculative impact analysis and makes summary conclusions without referencing adopted policy standards.

Moreover, the Town of Tiburon policy on what is called “borrowed views” does not seem to be fairly weighted in the mitigation measures. This Town policy memorializes the fact that views over undeveloped but buildable properties are “temporary” in nature. Clearly the Heathcliff Drive and other off-site views of the property from the Town of Tiburon have been temporary in nature, the right to development the Martha Co land was established in 1976, so neighbors who view the site from their homes and from adjacent open space trails they use have enjoyed “borrowed views” over the Martha Co property for over 35 years. In determining impact significance and mitigation the analysis should be focused on established “policy” and standards. Conclusions of significance should be viewed through and adopted “threshold” of significance criteria and not based on the EIR consultant’s opinion.

4

**6.0 Alternatives to the Proposed Project:** No Project Alternative – it would be helpful to the public and decision makers if on Page 547 there was a brief summary of the loss of public health and safety benefits if no project is developed. For example under each of the individual sections it is pointed out that without the project landslide repairs would not be made, vegetation management for fire safety is not accomplished, additional water supply, fire access, fire hydrants, road improvements and emergency service radio coverage remain in their substandard “baseline” condition and there would be no “public open space” and no “public trails”.

The DEIR introduction points out that this is the largest undeveloped private land holding in the Tiburon Planning Area and it is surrounded by existing medium density residential development on 3 sides (P.53). The DEIR points out the vacant property “baseline “ condition is at risk in terms or land stability and fire safety, the DEIR points out the existing off-site road conditions are substandard but there is no clear summary of the public health and safety benefits of the proposed development in terms of addressing existing substandard “baseline” health and safety conditions.

5

Alternative #2 : several tables summarizing the land use for Alternative #2 – the “Environmentally Superior” project i.e. (6.0-1, 6.0-3, 6.0-4, 6.0-5, 6.0-7, 6.0-8, ) provide details of the proposed alternative however there is no convenient way to compare the 43 Unit Project with the details of Alternative #2 without flipping back and forth between several hundred pages in the document. Please expand the tables to provide a comparison between the Project and Alternative #2. The same is true of the tables in the Traffic Generation section (i.e. Exhibit 6.0-9 etc). Please modify the tables to provide a quick comparison between the Project and the “Environmentally Superior” project Alternative #2. A summary paragraph listing the public health and safety benefits and environmental benefits of Alternative #2 should also be provided to give the reader easy access to the list of impact modifications that result to support the finding that Alternative #2 is in fact the superior project alternative.

6

a. Significant Unavoidable Impacts: the project and the superior project Alternative #2 result in significant unavoidable impacts 5.2-1 Construction Noise, 5.7-19, Open Space, Visual Quality. Decision makers are going to have to make a statement of overriding considerations to approve any one of the alternative projects. Accordingly, it is suggested that the EIR consultant provide a list of public benefits that are evident and a matter of fact for the superior project Alternative #2. This summary can be used to inform the public and assist the decision makers with their deliberations. Expanding and modification of the Alternative #2 tables would assist the reader with a clear comparison between the proposed project and the superior alternative.

7

b. P. 576 – 3<sup>rd</sup> paragraph indicates that the County and Town codes consider any floor area that could easily be converted to habitable space as “building square footage”. Actually, the Town of Tiburon allows basement habitable floor area to be exempt from the calculations of building floor area to lot area (FAR) calculations. This makes it much easier for a larger home with basement square footage to meet house size limits and increase habitable space without counting in the building basement square footage in FAR, bulk, height and mass.

8

c. Mitigation 6.1-6(c), 6.1-7(a) please see comments below Item #1 Transportation a. and b.

9

d. Mitigation 6.1-12 please see comments below Item #1 Transportation.

10

e. Impact 6.1-13 – 1<sup>st</sup> paragraph under construction traffic impacts notes “Construction trips also would damage pavement on affected roads and have the potential to disrupt the residential environment.” First, the EIR consultant provides no evidence to support the conclusion that the construction trips would result in pavement damage and secondly it is not clear what is meant by the statement that traffic would “disrupt the residential environment”. Please explain what is meant by this statement? This impact seems to be speculative at best and lacks any analysis or data to support the conclusions.

11

f. Mitigation 6.1-13 (b) how is the before and after assessment of roadway conditions going to make the distinction between the project related and other non- project traffic related impacts to the roadway ?

Impact 6.5-6 the DEIR finds that the Alternative #2 project, while beneficial and less

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of an impact on the Keil property would not compensate for the groundwater lost to the on-site conversion to surface discharge. In the first place, the applicant believes that there is no legal support for the position that an impact to private property in which the public has no interest, and to which the public has no access, qualifies as a “cultural resource.” Indeed, the EIR does not so find, but instead assumes this conclusion only for purposes of analysis: “the Keil Cove property is assumed to meet the CEQA definition of a historic resource (discretionary significance) in order to evaluate cultural resources impacts for the Draft EIR) (P. 537). Upon review, the decision-makers in this case should eschew such a finding in light of the fact that the public benefits in no way from Keil Cove. In addition, everyman considers his home to be his castle, and every property owner could make a similar argument concerning impacts on his own private-property “cultural resource.”

13

In the second place the analysis concludes that both the project and the Alternative #2 would result in a reduction in the available water supply to the Keil cisterns and thereby result in a significant impact on the historic water supply.

Page 395 states that the *Investigation* found a second water collection box at a seep located in Watershed J. A careful review of Exhibit 5.5-1 shows that the seep is on the Martha Co property not on the Keil property. There are no legal rights for Keil to collect water on Martha property. Keil does have an easement for conveyance of water from his property over Martha Co. Nowhere in the DEIR is there any evidence to demonstrate what quantity and/or quality of water the Keil property receives. (See Page 397). Without knowledge of what water is being provided and/or what has been the historic yield from the Keil spring as a baseline it is impossible to determine if any impact would result with any project development. Moreover, if the data on water availability is not provided it is even more impossible to determine that any development results in a “significant adverse impact”. Accordingly, without the water quantity and/or quality baseline data the analysis is totally speculative. The FEIR should include a detailed record or log of the quantity and/or quality of the water currently and historically received by the Keil property from their spring only. Without this data no reasonable impact analysis can be completed and the mitigation measure 6.5-6 is meaningless.

What is clear in the DEIR on Page 536 is that historically the cisterns established in 1890s were apparently adequate to maintain the historic gardens McClaren planted. The newer 5,000 gallon tanks (built in 1985 and 1995) and the swimming pool built in 1963 were added features.

## ***SPECIFIC COMMENTS***

14

### **5.1 Transportation:**

- a. Mitigation 5.1-6 (c) requires “wherever possible, selectively widen the shoulder of pavement along the east side of the project frontage road of Paradise Drive within

the public right-of-way.” Several studies of Paradise Drive have been prepared in the past identifying need for road repairs and improvements yet neither the County nor the Town have made any significant improvements over the years for several reasons mostly related to cost but also to avoid changing the rural residential character of the roadway. Widening at the shoulders should be specific so as to eliminate any areas where upslope or down slope retaining walls are needed. The mitigation should include language to ensure that the widening be limited to areas where no walls are needed and to specify a scale of improvement that improves safety while maintaining the rural character of the roadway.

15

b. Mitigation 5.1-7(a) again Paradise Drive has a rural residential character and roadway improvements for pedestrian safety should be a consideration wherever improvements are planned.

16

c. Impact 5.1-12 P.263 – it is unclear how the county staff finds that each residential lot needs eight (8) on-lot parking spaces. The analysis lacks any connection to the current Code requirements and simply speculates on the parking needs. There is no fact based analysis to demonstrate the need for each home to provide 8 parking spaces. Additionally, there is a standard referenced regarding off-site parking within 850 feet of a driveway (a three-minute uphill walking distance) yet there is no Code reference or “threshold” authority presented. Accordingly, Mitigation 5.1-12 seems excessive and is based on speculative analysis without merit or “threshold” authority. Modify the analysis and mitigation to reflect what the County Code requires.

#### 5.4 Geology and Soils:

Miller Pacific Engineering Group has been retained to review, comment and provide geotechnical consultation regarding the Geology and Soil Section on the DEIR. Based on their review, the following comments are provided.

17

- Page 317, document is titled, “2008 Easton Point Residential Development Draft EIR”

*Document includes more recent evaluation and data. Should it be 2010 DEIR?*

18

- Page 323, Base Map does not show the Exhibit 5.4.1 label.

*This is an older version of the base map where the faults are shown as straight lines. Newer version displays curved of fault lines.*

19

- Page 332, in first paragraph under **Seismic Hazards**, text mentions 93 percent probability.

*This should be a 63 percent probability for the San Francisco Bay Area.*

20

- Page 337, first paragraph under Landslide Repair states that “...grading and excavating for landslide stabilization would involve about 53,156 cubic yards of material.”

*Miller Pacific estimates 58,030 cubic yards of material.*

21

- Page 338, Conceptual Plan/Map is not labeled.

*Should be labeled/identified as Exhibit 5.4.3.*

22

A statement regarding landslide 9, Page 341, under the heading Landslide 9, states that it is mapped “as being immediately above Paradise Drive and is less than 100 feet laterally from the proposed building site for Lot 23.

*Landslide is about 75 feet laterally from the proposed building site for Lot 23. Direction of movement is not toward structure. Risk of damage to proposed residence is low.*

23

- Page 347, last sentence in Lot 12 summary

*Insert “pier and grade beam retaining structure and..” before install subsurface drainage.*

- Page 348, Lots 13, 14 and 15:

*Same comment as mentioned above.*

- Page 348, Lot 17, last sentence in summary

*Insert “remove and recompact the landslide material and...” before install subsurface drainage.  
Remove “..and pier and grade beam walls”*

- Page 348, Lot 18, last sentence in summary

*Same comment as above in Lot 17*

- Page 350, Lot 31, last sentence in summary

*Insert “and pier and grade beam retaining structure..” after “subdrains”.*

- Page 351, Lot 43, first sentence.

*Remove the word, “much” and replace with “a portion”.*

- Page 351, Parcel A, first/only sentence

*Insert “and debris fences” after word, “subdrains”.*

- Page 352, Parcel C, first sentence in summary

*Remove “the addition of a retention structure...” and replace with “removal and recompaction of landslide material.*

- Page 354, first paragraph of this page, 5<sup>th</sup> sentence: “....demonstrated that the entire lower portion of Landslide 11 would fail and yield at least four feet...”

*Remove word, “would”, and replace with “may”*

*Remove phrase “at least” and replace with “up to”*

- Page 354, paragraph 4, first sentence indicating approximately 53,156 cubic yards of material

*Change measurement to 58,030 cubic yards.*

- Page 354, 4<sup>th</sup> paragraph, 3<sup>rd</sup> sentence,

*Since we would repair with 100 feet of proposed development, consider removing “proposed development ...” from sentence.*

- Page 355, paragraph 4,

*The planned subdrains and debris fence should improve shallow instability and provide protection of Paradise Drive from reactivation of shallow landslides.*

- Page 356, **Mitigation Measures 5.4-1**, last sentence of 3<sup>rd</sup> bullet point, “Stabilizing this small landslide would eliminate the inconsistencies present in the conceptual repair plan.”

*Considering the topographic conditions, the direction of potential movement of Landslide 9 is not toward the development. The closest portion of the landslide is about 75 feet from the planned structure and risk of damage from reactivated landslide movement is low. The landslide is within a natural drainage ravine and construction damage for repair could be significant. Could consider pier and grade beam stabilization that would improve stability to “repair” level and minimize disturbance.*

- Page 357, under **Slope Stability**, 3<sup>rd</sup> sentence mentions “according to Unified Building Code”

*Replace with California Building Code (CBC)*

- Page 358, first bullet point of page,

*Not “Uniform Building Code” 2010 California Building Code Section J109. Minimum gradient 5%. Down drain for every 13,500 sq. ft. of tributary area.*

*Remove “six percent” and “150 linear feet of terrace length”*

- Page 358, **Mitigation Measures 5.4-3**

*Replace “Uniform” with “California” Building Code*

- Page 359, second paragraph, after **Groundwater**

*Planned subdrains could be outleted to the Keil Spring system to reduce potential impact of reduced groundwater seepage.*

- Page 360, under **Mitigation Measures**, in 1<sup>st</sup> bullet point

*Remove “after grading” and replace with “as part of the design level investigation..”*

## **SUMMARY AND CONCLUSION**

Again, thank you for the opportunity to review and comment on the Easton Point DEIR. Martha Co representatives look forward to reviewing the response to comments and final EIR. Finally, our technical team stands ready to continue to cooperate with County Staff and their consultants to make the CEQA process complete, comprehensive and informative to the decision makers and the public.

Sincerely,



Scott L. Hochstrasser

CC:

John Reed, Martha Co.

Mary K. McEachron

**RESPONSE TO LETTER NO. 12 SCOTT HOCHSTRASSER, IPA, INC. (APPLICANT'S REPRESENTATIVE) (APRIL 29, 2011)**

**Response to Comment 12-1**

The *Marin County Environmental Review Guidelines* state that projects resulting in a need for additional fire staff, facilities or equipment to maintain an acceptable level of service would be a significant environmental impact. Unlike the state guidelines, which measure the severity of the impact by what would result from construction and implementation of new facilities, the *Marin County Environmental Review Guidelines* threshold is based on the need for additional support to maintain acceptable levels of service. Without regard to construction, the constraint expanding facilities or staff would be funding, which would be mitigated by a fire impact fee. Mitigation Measure 5.7-3 provides a standard for which the proposed project would be accountable for its share of increased demand on fire protection services. Furthermore, as stated under *Significance After Mitigation*: If no such fee has been adopted this would imply that the cumulative impacts of new development within the TFPD had not warranted an increase demand of equipment and/or personnel. Also, please see Response to Comment 5-1. No revision to this mitigation is necessary.

**Response to Comment 12-2**

*Impact 5.7-6 Increased Water Demand* consists of a discussion of existing water supplies and estimated demand the proposed project would create. Providing information about existing water pressure conditions for existing neighborhoods located adjacent to the proposed development would not be relevant to issue of water demand, and is not necessary to inform the CEQA process.

**Response to Comment 12-3**

As noted on page 509 of the Draft EIR the visual analysis uses criteria from the *State CEQA Guidelines* and the Marin County Environmental Impact Review guidelines. It is also noted that CEQA provides little guidance about how much change can occur before a significant impact is triggered. Similar to many EIRs, this EIR relies on two methods to determine what change is significant. The first is conformance with adopted plans and policies, and the second is a visual analysis.

Conformance with adopted plans is presented in **Chapter 4.0 Relationship to Public Plans**. The *Marin Countywide Plan's* goals and policies related to Community Design are evaluated on pages 121 through 123 of the Draft EIR.

The commentor is correct the *Town of Tiburon Design Guidelines for Hillside Dwelling* includes a principal regarding "borrowed" views. Principal 8 states "A view across a vacant lot is often considered to be a "borrowed" view, which is likely to be compromised by the eventual development of the vacant lot. A borrowed view is one which is temporary in nature and which may reasonably be expected to change upon development of the lot. Consideration may be given to preserving portions of a borrowed view if this is the only substantial view for a neighboring home."

As stated on page 89 of the Draft EIR the proposed development application does not include annexation into the Town of Tiburon. Therefore, since the proposed development would remain within the jurisdiction of Marin County, this EIR only analyses the project's conformance with Marin County adopted public plans and policies. The project conformance with Town of Tiburon policies



would only be relevant if the applicant was seeking land use and development entitlements from the Town.

**Section 5.8 Visual Quality** provides the visual analysis. Because CEQA provides little guidance about how much change can occur before a significant impact is triggered this EIR provides a discussion in regard to how the significance of change in visual quality is measured.

**Response to Comment 12-4**

The commentor states that with *Alternative 1*, the No Project Alternative, certain “benefits” that would occur with the proposed project, especially in regard to public health and safety, would not occur.

The EIR already acknowledges that the type of benefits mentioned by the commentor would not occur with *Alternative 1*. For example, in the discussion of geology and soils (pages 548 and 549 of the Draft EIR) the existing landslide potential from on-site landslides is discussed. It goes on to state that “with *Alternative 1* no repair work would be done to the landslides located on the project site”.

In the discussion of public services (pages 549 and 550 of the Draft EIR) it is stated that the proposed project would include vegetation management procedures that comply with urban-wildland requirements by strategically removing trees and other vegetation near residences to reduce wildfire hazards by limiting the availability of vegetative fuels. With *Alternative 1* the vegetative fuels on the project site would not be reduced and wildlife risk would remain as they currently exist.

No additional analysis is necessary.

**Response to Comment 12-5**

This comment is noted. The Draft EIR contains sufficient information about *Alternative 2* for the evaluation of relevant environmental topics and to provide a reasonable comparison with the impacts of the proposed project, and to inform the CEQA process. No further revisions to the Draft EIR are necessary.

**Response to Comment 12-6**

The commentor is correct. When the lead agency (in this instance Marin County) approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency should state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. This is referred to as a statement of overriding considerations.

Since CEQA allows the statement of overriding considerations to be based on information in the record, and not necessarily in the Final EIR, it is not necessary at this time to provide a list of public benefits associated with *Alternative 2* as suggested by the commentor.

**Response to Comment 12-7**

The Tiburon Zoning Code contains a definition of floor area and in the definition it is explained that basement square footage is not included in calculations of gross floor area.

**Response to Comment 12-8**

Please see Response to Comment 1-2.

**Response to Comment 12-9**

This comment does not specify any issue related to the adequacy of the Draft EIR.

**Response to Comment 12-10**

Pavement along Paradise Drive currently shows evidence of cracking and deterioration. Heavy construction vehicles could exasperate these conditions leading to safety hazards for vehicles and bicyclists along Paradise Drive. As this portion of Paradise Drive is not commonly used by large commercial vehicles it is likely construction traffic serving this project site would be the source of larger vehicles that could deteriorate pavement further and at an increased rate.

Cracking and other forms of roadway pavement deterioration would become source of safety hazard and nuisance that would have a detrimental effect on the quality of life residence have become used to at this residential environment, or neighborhood.

**Response to Comment 12-11**

Timing of inspections, in coordination with site construction activity, makes possible an evaluation program to determine if project-generated truck traffic causes any additional pavement deterioration. Mitigation Measure 5.1-13(b) requires that this inspection program is to be coordinated with Marin County and the Town of Tiburon.

**Response to Comment 12-12**

It is stated in *State CEQA Guidelines* 15064.5 a resource does not need to have been identified previously either through listing or survey to be considered significant under CEQA. A resource may still be considered significant if substantial evidence demonstrates its significance. In the case of Keil Cove, the original site plan and garden designed by John McLaren. Late 19<sup>th</sup> – early 20<sup>th</sup> Century country estate landscape. Terraced area, designed by Thomas Church in 1941, may be significant as an example of Church's work.

**Response to Comment 12-13**

Note that while the EIR analysis did not present any discussion of groundwater quality impacts due to a dearth of such data, the project *Supplemental Groundwater Investigation*<sup>20</sup> did contain some water quality data for samples obtained from both the drilled piezometers and the Keil Spring flow. Those data indicated that the Keil Spring water was of higher quality than the groundwater obtained from the piezometers upslope of the spring. This suggested the presence of a chert rock unit as the medium for the Spring water, compared to lower quality water contained in the Franciscan formation. Also, the lack of existing hydrology data pertaining to the Keil Estate is addressed in Master Responses 3 and 4.

**Response to Comment 12-14**

Please see Response to Comment 1-2 for clarification of issues related to Paradise Drive road widening and improvements, and Response to Comment 7-37 for consistency with the Paradise Drive Visioning Plan.

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<sup>20</sup> *Supplemental Groundwater Investigation for Easton Point Subdivision Tiburon, California.*, Questa Engineering Corp., November 4, 2008.

**Response to Comment 12-15**

The comment regarding preserving the rural character of Paradise Drive while implementing roadway improvements is noted.

**Response to Comment 12-16**

The Draft EIR analysis cites code requirements at the very first of the discussion of parking supply, and makes clear the reasons for parking supply concerns for lots served by roads with little or no nearby roadside parking. The applicant's proposed road widths are non-standard (narrower than code), and the on-street supply of parking spaces is, as a result, very limited throughout the development. It is the responsibility of the EIR authors to identify safety concerns and propose mitigation. In non-standard developments, where County Code (such as travelway widths and shoulder widths) cannot be met, it is necessary to identify any issues that arise as a result of the non-standard approach to development. It is the opinion of the EIR traffic analysts that an additional four spaces beyond the code requirement, would be necessary, and that the additional spaces should be proximate to each residence (i.e., the spaces should be provided on each lot, or located within three minutes' uphill walking distance of the driveway entrance to each lot.)

The discussion of *Impact 5.1-12 Provision of On-Site Parking Space* on pages 263 and 264 of the Draft EIR includes information about County parking code requirements and observed constraints with the proposed project due to narrow street widths, and safety concerns.

It is noted that if all on-site roads were designed according to the County standard for minor residential roads (28-foot minimum paved width with four-foot shoulders on each side), there would be room for a vehicle to park on-street while maintaining sufficient space for two vehicles to pass traveling in opposite directions. This would eliminate the need for the additional off-street parking spaces required for each lot (Mitigation Measure 5.1-12). However, compliance with the County's standards is not simple, because the standards take into account design solutions for steep and winding topography and other constraints. The County requires that "care shall be taken in combining individual design elements at the extreme limits of acceptability along the same section of road." As stated in the Draft EIR, roads with combined vertical and horizontal curvature (steep grades, especially through winding road sections) are more challenging for the driver, and may require even greater width to provide the driver a greater measure of forgiveness in steering through curves. Such sections may need to be designed to increase the driver's margin of error. It may make more design sense in some locations to allow a narrower road section due to topography, while prohibiting on-street parking through the section. This would require accommodating parking elsewhere, such as on the residential lots served by the narrow road section.

**Response to Comment 12-17**

The project title includes the year 2008 to distinguish that this project is different from two previous development proposals submitted in 1996 and 2001.

**Response to Comment 12-18**

It is acknowledged that **Exhibit 5.4-1** is based on an older version of the landslide base map and depicts the ancient inactive fault lines as straight lines. A newer version of the landslide base map, such as the one used for **Exhibit 6.0-34**, depicts the faults as curved lines.

#### **Response to Comment 12-19**

The first paragraph under *Seismic Hazards* on page 332 of the Draft EIR is revised as follows:

##### **Seismic Hazards**

The site is located in the seismically active San Francisco Bay Region. Fault rupture and strong seismic ground shaking are inevitable in this portion of the Coast Range province and there is a reported 93~~63~~ percent probability of at least one magnitude 6.7 or greater earthquake within the next 30 years in northern California.(footnote omitted) There are no known faults with the potential for surface rupture within the site; however, several known active faults with the potential for rupture are present in the region. The Working Group for California Earthquake Probabilities has calculated the 30-year probability of a magnitude 6.7 or greater earthquake on these faults, which are listed below by greatest to least probability of rupture within the next 30 years: Hayward-Rodgers Creek (31 percent), Northern San Andreas (21 percent), Calaveras (seven percent), San Gregorio (six percent), Concord-Green Valley (three percent), Greenville (three percent), and Mount Diablo Thrust (one percent).

#### **Response to Comment 12-20**

Please see Response to Comment 11-21.

#### **Response to Comment 12-21**

**Exhibit 5.4-3 Proposed Landslide Stabilization Plan** is appropriately titled in the upper right hand corner.

#### **Response to Comment 12-22**

The commentor points out that Landslide 23 is located about 75 feet laterally from the proposed building site for Lot 23, direction of movement is not towards structure, and risk of damage to proposed residence is low. Accordingly, the text on pages 341 and 342 of the Draft EIR is revised as follows:

##### **Landslide 9**

Landslide 9 is a relatively large landslide located in a ravine on an easterly descending slope above Paradise Drive, just north of Landslide 8. Landslide 9 is partially located on Lot 23, but much of it extends onto Parcel A. Based upon the limits of Landslide 9, as shown on **Exhibit 5.4-1**, this slide has an approximate surface area of potential disturbance of 37,500 square feet. At present, this landslide could potentially pose a threat to Paradise Drive and ~~there is a low risk to the proposed building site for Lot 23.~~ The landslide has been mapped as being immediately above Paradise Drive and is ~~less than~~ about 75 feet laterally from the proposed building site for Lot 23. ~~The direction of flow is not towards Lot 23.~~ The slide is also about 100 feet from the adjacent Chapman residence (2641 Paradise Drive). Topographic relief for the landslide is as much as 220 feet, from the toe of the slide to the landslide headscarp. Miller Pacific recommends that Landslide 9 be improved through the use of a “crow’s foot” subdrain and construction of a debris fence on piers with a catchment structure above Paradise Drive (see **Exhibit 5.4-3**). Miller Pacific estimates that improvement of this landslide would involve grading quantities on the order of 285 cubic yards. For this landslide that is located within 100 feet of the proposed building site on Lot 23, it is proposed to improve the stability of the slide through the use of subdrainage to be placed down the axis of the slide and a debris fence

to be located at the toe of the slope above Paradise Drive. It is not proposed to repair this landslide by bringing its respective factors of safety up to 1.5 and 1.0 for static and pseudo-static conditions. This would deviate from the applicant's geotechnical consultant's landslide policy that requires repair of landslides near (within 100 feet) proposed building sites.

**Response to Comment 12-23**

In response to this comment the text of the Draft EIR is revised as follows:

Page 347 of the Draft EIR:

**Lot 12**

The grading for Lot 12 would be anticipated to involve cut / fill grading to remove and recompact existing loose colluvial soils and landslide materials to enable construction of the proposed building site and adjacent roadway. It is also proposed to excavate to install pier and grade beam retaining structure and subsurface drainage to improve Landslide 11, which underlies much of this lot.

Page 348 of the Draft EIR:

roadway. It is also proposed to excavate to install pier and grade beam retaining structure and subsurface drainage to improve Landslide 11, which underlies much of this lot.

**Lot 14**

The grading for Lot 14 would be limited to cut / fill grading to remove and recompact existing loose colluvial soils and landslide materials to enable construction of the proposed building site and adjacent roadway to the south. It is also proposed to excavate to install pier and grade beam retaining structure and subsurface drainage to improve Landslide 11, which underlies much of this lot.

**Lot 15**

The grading for Lot 15 would be limited to cut / fill grading to remove and recompact existing loose colluvial soils and landslide materials to enable construction of the proposed building site and adjacent roadway to the west. It is also proposed to excavate to install pier and grade beam retaining structure and subsurface drainage to improve Landslide 11, which underlies much of this lot.

**Lot 16**

The grading for Lot 16 would involve cut / fill grading to remove and recompact existing loose colluvial soils and landslide materials to enable construction of the proposed building site and adjacent roadway to the north. It is also proposed to excavate to install pier and grade beams and subsurface drainage to improve Landslide 3, which encroaches onto this lot.

**Lot 17**

The grading for Lot 17 would include cut / fill grading to remove and recompact existing loose colluvial soils and landslide materials to enable construction of the proposed building site and adjacent roadway to the north. It is also proposed to excavate to remove and recompact the

~~landslide material and~~install subsurface drainage ~~and pier and grade beam walls~~ to improve Landslide 3, which encroaches onto this lot.

**Lot 18**

The grading for Lot 18 would include cut / fill grading to remove and recompact existing loose colluvial soils and landslide materials to enable construction of the proposed building site and adjacent roadway to the north. It is also proposed to remove and recompact the landslide material andinstall subsurface drainage ~~and a buried pile wall~~ to improve Landslide 3, which encroaches onto this lot.

There are no other text revisions to this page.

Page 350 of the Draft EIR:

**Lot 31**

The grading for Lot 31 would include cut / fill grading to remove and recompact existing loose colluvial soils to enable construction of the proposed building site and driveway to the south. It is also proposed to excavate and install subdrains and pier and grade beam structure to improve the stability and completely stabilize the slide material from Landslides 26 and 27, which encroach onto this lot.

Page 351 of the Draft EIR, last two paragraphs:

**Lot 43**

The grading for Lot 43 would involve grading to remove and recompact the loose colluvial soils and the slide material present to stabilize the upper portion of Landslide 11 which extends over ~~much a~~ portion of this lot. Minor cut / fill grading would also be necessary to enable construction of the proposed building site and the road along the lot's western boundary.

**Parcel A**

Minor cut / fill grading in previously mentioned areas of removal and recompaction, where landslides encroach into proposed building sites and roads, the excavation and installation of subdrains and debris fences has also been recommended in several places in this open space area.

Page 352 of the Draft EIR:

**Parcel C**

The repair for Parcel C would involve ~~the addition of a retention structure~~removal and recompaction of landside material and subsurface drainage to stabilize Landslide 16, which encroaches onto the southeast portion of this parcel. Minor cut / fill grading would also be necessary to allow construction of the proposed construction access roadway along the parcel's eastern boundary.

The first paragraph of page 354of the Draft EIR is revised as follows:

a deep ancient landslide that has spawned secondary, shallow landslides on top of it and along its lateral margins. Therefore, the landslide deposits could theoretically fail by either deep-seated or

shallow mechanisms, damaging and / or blocking Paradise Drive. This landslide has been classified, based upon their criteria, as active, Risk Level A, by Miller Pacific. This affirms that the applicant's geotechnical consultant found visible indications of relative youth (based on Miller Pacific's criteria) with respect to the upper, shallow, layer of the slide complex. Past stability calculations by Kleinfelder demonstrated that the entire lower portion of Landslide 11 ~~would~~may fail and yield ~~at least~~up to four feet into Paradise Drive in the event of a moderate to large earthquake. (footnote deleted) If this were to occur, Paradise Drive would be blocked for an indeterminate amount of time and likely suffer damage. Due to its extensive size, it is also possible that Landslide 11 extends further down the slope and under Paradise Drive. If that scenario is correct, then the extent of seismic damage to the roadway could potentially be much greater.

The fourth paragraph of page 354 of the Draft EIR is revised as follows:

The applicant's geotechnical consultant, Miller Pacific, estimates that approximately ~~53,156~~58,030 cubic yards of material would be removed and replaced during grading for landslide stabilization and related improvements (see **Exhibit 5.4-2**). Without obtaining the level of stability required for the proposed building sites and improvement areas, it is possible that the long-term stability of the portions of the landslides that are not slated for repair could not be assured. If the hazard of landsliding is not properly mitigated or the slope stability thoroughly improved, it could have a significant impact on the proposed development and public improvements, adjacent properties and Paradise Drive. Reactivation of landslides has been a problem in much of Marin County when landslide hazards were not significantly improved or completely mitigated.

The fourth paragraph on page 355 of the Draft EIR is revised as follows:

A coalescing landslide complex, Landslide 11 consists of a deep ancient landslide that has spawned secondary, shallow landslides on top of it and along its lateral margins. Currently landslide 11 is classified by Miller Pacific as Active. This landslide extends up into nine lots which are slated to be repaired within 100 feet of the proposed building sites. Proposed improvements to unrepaired areas would be limited to the addition of two subdrains and two debris fences. It is not known how these proposed improvements would affect the stability of the non-repaired portions of the landslide, but the planned subdrains and debris fence should improve shallow protection of Paradise Drive from reactivation of shallow landslides. However, due to the large size and depth of Landslide 11, their effect on slope stability would probably be negligible. Therefore, the lower portions of the landslide deposits could theoretically fail by either deep-seated or shallow mechanisms. If this were to occur, it could damage and / or block Paradise Drive. Additionally, if this landslide moves again it could damage the unrepaired portions of the proposed Lots 10 through 15, 42, and 43 causing the land to fail downslope and potentially onto adjacent lots. However, it must be noted that this potential geologic hazard of landsliding in non-developed areas was present prior to the contemplation of this project. Therefore, the Miller Pacific proposed conceptual stabilization plan would adhere to Marin County's landslide mitigation policy. Consistent with County policy, Miller Pacific recommend's improvement or avoidance in areas not planned for development. Implementation of the conceptual landslide stabilization plan would produce a site stability that would be the same or better than that prior to development.

The third bullet point under Mitigation Measures 5.4-1 and 6.4-1 are revised as follows:

- Landslide 9 shall be completely repaired in accordance with Miller Pacific's criteria for landslide repair. Landslide 9 is less than 100 feet from the proposed building site for Lot 23. This landslide is only scheduled for improvement. This would be inconsistent with the project's landslide mitigation policy. Stabilizing this small landslide would eliminate the inconsistencies present in the conceptual repair plan. Considering the topographic conditions, the direction of potential movement of Landslide 9 is not toward the development. The closest portion of the landslide is about 75 feet from the planned structure and risk of damage from reactivated landslide movement is low. The landslide is within a natural drainage ravine and construction damage for repair could be significant. Consider pier and grade beam stabilization that would improve stability to "repair" level and minimize disturbance.

Page 357 of the Draft EIR, the first paragraph under *Impact 5.4-2 Slope Stability* is revised as follows:

Because of the low shear strength of the weathered zone in the site's fractured bedrock and the existence of landslides and colluvial deposits mantling such bedrock, the potential instability of cut, fill, and natural slopes should be examined and re-evaluated once exposed by the grading operations. The applicant's geologist recommends slopes to be at a gradient of 2:1 (horizontal to vertical) or less. This gradient is in accordance with the ~~Unified~~ California Building Code (UCBC) and has worked fairly effectively in Marin County for fill slopes less than 30 feet high. Miller Pacific has avoided cut slopes in mélange areas where the bedrock is highly weathered and has not performed as well. This is prudent because, while many of the Franciscan and related bedrock units have moderate to high strengths when fresh, their relative strengths often decrease to lower levels once exposed to the elements for a few years and allowed to swell. It is particularly important to control water in landslide areas where concentrated runoff could lower stability of the existing landslides. These areas also are prone to increased erosion and surficial instability because of their low long-term strength when saturated. Thus, there is a significant possibility of erosion on graded slopes if proper drainage facilities are not provided.

Page 358 of the Draft EIR, first bullet point is revised as follows:

- Design drainage facilities, on cut and fill slopes, to include terrace drains every 30 feet of vertical height on all slopes. The terrace drains shall have a minimum flowline gradient of ~~six percent~~five percent to make them self-cleaning (a minimal tenet of the ~~Uniform Building Code~~2010 California Building Code Section J109). They also shall be fitted with downdrains ~~every 150 linear feet of terrace length~~ for every 13,500 square feet of tributary area to allow for quick drainage (also UCBC).

Mitigation Measures 5.4-3 and 6.4-3 are revised as follows:

**Mitigation Measure 5.4-3** All site development shall comply with all applicable seismic design provisions of the most recent County-adopted ~~Uniform California~~California Building Code criteria for structures in Seismic Zone 4.

The description of *Impact 5.4-4 Groundwater* is revised as follows:

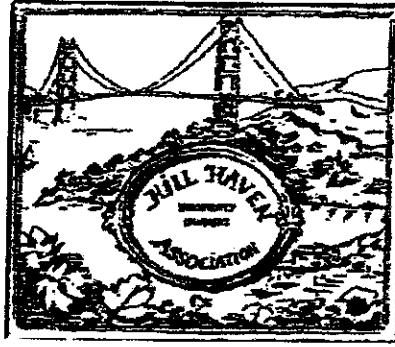


**Impact 5.4-4      Groundwater**

*The conceptual landslide stabilization plan is intended to increase the stability of existing on-site landslides through proposed ~~mitigative~~ mitigation measures such as earth fill buttresses, buried pier and grade beam walls, and subdrains. All of these methods of landslide improvement have the potential to convert groundwater to surface water. By intercepting groundwater emanating from the fractured bedrock on the ridges and perched within colluvial or landslide deposits, subsurface water recharge could be significantly reduced. This could limit the quantity of groundwater available to the seeps, springs (including Keil Spring), and the seasonal pond. Planned subdrains could be outleted to the Keil Spring system to reduce potential impact of reduced groundwater seepage. This would be a less-than-significant geologic impact.*

The first bullet point under Mitigation Measures 5.4-6 and 6.4-6 are revised as follows:

- Perform plasticity index or expansion index testing ~~after grading~~ as part of the design level investigation to determine the specific shrink-swell potential for development sites as deemed appropriate by the respective geotechnical engineer(s).



April 22, 2011

LETTER NO. 13

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Dear Ms. Warner:

### **Easton Point Development – DEIR**

On behalf of the Hill Haven Property Owners Association, I submit the following comments on the Easton Point DEIR

As you know, Hill Haven immediately abuts the Easton Point site and will form part of the access route for more than half of the residences proposed for this property. The members of our Association are therefore understandably concerned that development of the Easton Point Site proceeds with the minimum possible environmental impacts and in particular without unacceptable increases in the risk to the health and safety of our residents. In this context, there are a number of issues that remain unaddressed in the DEIR:

#### **1. Emergency Access and Egress**

1 As proposed, the project appears to result in a significant unmitigated risk of injury or death in the event of a firestorm. Several aspects of the proposal combine to make cause this impact:

- a) The project will represent the wildland interface to the North-East of the Hill Haven neighborhood
- b) During summer firestorm conditions, the prevailing wind is frequently from the North-East (as in the most recent Angel Island fire)
- c) It is proposed that several of the Easton Point houses will be built in locations that do not meet the minimum fire flow requirements
- d) The construction road proposed by the Applicant would be "blocked at either end by a barricade gate" (DEIR p 462) following completion of construction under the base proposal and would be removed under the MOU with the Town of Tiburon for the low density alternative. In any case, TFPD has indicated that its emergency vehicles may not be able to use the construction road due to its gradient

As a result, it appears inevitable that, in the event of a firestorm, all residents of Easton Point in addition to all residents of the existing Hill Haven neighborhood would need to leave via Ridge Road and through Lyford Cove/Old Tiburon, a road system that is described in the DEIR as "narrow and winding"(p173) with multiple difficult intersections. The build-out

of the Easton Point development will result in an increase of around 50% in normal peak-hour traffic at the Ridge Road/Vistazo West intersection (100% increase in the Vistazo to Ridge traffic in the Peak PM hour – the DEIR does not provide sufficient information to judge traffic increments at other locations in the Hill Haven and Lyford Cove/Old Tiburon neighborhoods).

Despite this large increase in traffic the DEIR offers no analysis of the increase in traffic under emergency conditions or the impact of simultaneous emergency vehicle traffic in the opposite direction. The only mitigations suggested in the DEIR:

- Prohibition of the parking of dumpsters on the Hill Haven Streets
- Requiring purchasers of some of the Easton Point lots to sign releases acknowledging low fire flow.

We submit that the DEIR should be revised to include a safety analysis of access and egress under emergency conditions, taking into account the expected increase in traffic, the actual configuration of neighborhood streets and intersections and the experience gained during the 1991 Oakland Hills fire, and that additional mitigation measures should be evaluated including, but not limited to, elimination of lots that cannot meet the minimum fire flow requirements. Unless realistic mitigation measures can be suggested, we believe that this should be considered a significant unmitigated safety impact.

## 2. "Post-Construction" traffic safety – "Old Tiburon"

While the DEIR includes an extensive section on transportation, the analysis of traffic patterns through the Lyford Cove/Old Tiburon and Hill Haven neighborhoods is far from complete. The DEIR acknowledges (P169) that residents raised numerous concerns about traffic issues in the "Old Tiburon" neighborhood, but few of these concerns have been fully addressed. Remaining concerns include:

2

a) Construction Traffic. While the construction road will be utilized for initial construction, the MOU between the Applicant and the Town of Tiburon calls for removal of the construction road after ten years or when 12 out of the 17 upland lots are completed. (It is not clear when the construction road would be limited to "emergency use" in the 43-lot proposal). Since local experience suggests that it will take many years to complete build-out on this property, the analysis should include the impact of construction traffic after removal of the construction road and propose mitigations to eliminate the safety impacts and reduce other impacts. Furthermore, since aforementioned MOU allows for the elimination of the construction road if lots 1-8 or lots 9-17 are dedicated to non-residential uses, the analysis of the Low Density Alternative should include the impact of all construction traffic for site development and construction of the remaining lots being directed through the Lyford Cove/Old Tiburon and Hill Haven neighborhoods.

3

b) Road Configuration and Intersections - Roads throughout the "Old Tiburon" neighborhoods are narrow and do not permit two moderate-sized vehicles to pass. In particular, vehicles have been known to fall off the edge of the narrow part of Diviso, blocking traffic for a considerable time. The streets are winding, with many blind spots, and with sharp corners which large vehicles are unable to navigate without crossing the centerline. In addition, the following intersections pose hazardous traffic patterns exhibiting a combination of poor sight lines, acute angles, multiple junctions and/or narrow roads:

- i. Paradise Drive/Solano
- ii. Centro East/Centro West/Diviso/Riserva Lane
- iii. Diviso/Vistazo East/St. Bernards Lane/Vistazo West/Ridge
- iv. Ridge/Lagoon View

The DEIR acknowledges that this access route is challenging but claims that safety concerns are mitigated by local residents' understanding of road conditions, low traffic volumes and relative scarcity of reported accidents. The DEIR fails to analyze the impact of increased traffic volumes (as noted above, reported as a 50% increase at

the Ridge/Vistazo intersection). As a result, the mitigation measures proposed (prohibition of dumpsters and signing of streets intersecting with Ridge Road, are unlikely to be effective

4

c) Road Use – the roads in the Old Tiburon neighborhood are used not only by vehicles but also by pedestrians, cyclists and even in-line skaters. There are no sidewalks and few of the streets are lighted at night. Increased vehicular traffic is likely to increase the risk of life-threatening accidents with non-vehicular road users. The DEIR includes no analysis of these issues and suggests no effective mitigations.

5

d) On-Road Parking – few of the existing properties have sufficient off-road parking to accommodate delivery vehicles or construction vehicles. Many of the existing structures are 50 years old and major remodels or tear-downs are common. As a result, on-road parking by construction crews, frequently involving 10 – 12 vehicles, reduces the streets to one-lane operation on frequent occasions. Again the DEIR does not analyze how this affects traffic flows and safety in the light of increased traffic generated by the Easton Point development.

6

### 3. Landslides

The DEIR demonstrates that the Easton Point Site contains many areas of unstable lands that are of serious concern to the project neighbors. From the perspective of our members, Landslide 3, a major, active, slide is of specific concern. Since it is proposed that several lots will be developed within this landslide area, our members are concerned that the proposed mitigations may not prevent slides resulting from such activities impacting Hill Haven properties. Further clarification of the basis for limiting repair activities to 100 feet from a building site is required.

7

### 4. Cut and Fill Operations

The DEIR states (p82) that "During Phase One cut material from the lower site that would be necessary for lot development on the upper site would be stock piled in the vicinity of Lots 20 and 24." This material would subsequently be used to "permit subsequent home development on the site to have required fill available onsite, without additional import." (The DEIR does not specify whether a similar approach would be adopted in the Low Density Alternative but we assume that it would and that the material would be stockpiled in a similar location )

While we acknowledge that this approach reduces the volume of construction traffic generated by the development, the DEIR fails to recognize that it may be many years between initial development of the site and completion of construction of homes on the site. The DEIR should specify mitigation measures to ensure that, over the life of the development, these stockpiles do not pose health and safety risks, air quality degradation or adverse visual impacts, particularly considering that the site can be exposed to high wind velocities (measured on occasion at over 90 mph on nearby Angel Island).

We look forward to seeing the above issues fully addressed in the final EIR.

Sincerely,

Scott Woods



President

Hill Haven Property Owners Association

**RESPONSE TO LETTER NO. 13 – SCOTT WOODS, PRESIDENT HILL HAVEN PROPERTY OWNERS ASSOCIATION (APRIL 22, 2011)**

**Response to Comment 13-1**

In the event of a firestorm, residents would leave via the nearest, most available route. Prevailing winds, time of year (whether rain is a possibility), shifting of winds, progression of the fire line, efficacy of firefighters' response, and individual timing for residents leaving the area, would dictate which routes would be available. On page 254 of the Draft EIR it is stated that with project-generated traffic,

emergency access vehicles and residents of these existing neighborhoods would be exposed to more frequent unpredictable traffic flow and intermittent safety hazards when traveling the narrow, winding residential streets. This would be a significant impact.

Keeping *all routes* unobstructed is critical to allow the maximum flow of two-way traffic. This is the reason for the Draft EIR mitigation that dumpsters not be placed in the travelway, and that "no parking" signage be added to narrow streets such as Diviso and sections of Centro East. Such signage is already in place (painted on the pavement) along Centro West through the narrow sections.

As stated on page 255 of the Draft EIR:

There are no other clear solutions to the existing narrow, winding streets in the Lyford's Cove / Old Tiburon or Hill Haven neighborhoods. Road widening would require residents to dedicate lot frontages (lawns and landscaped areas) to the public road right-of-way. It is anticipated that most, if not all, residents would object to such a project.

**Response to Comment 13-2**

As discussed in *Section 6.2 Alternative 2 – 32-Unit Lower Density Alternative*, the Memorandum of Understanding (MOU) with the Town of Tiburon allows for elimination of the construction road if fewer units with access via the Lyford Cove/Old Tiburon and Hill Haven neighborhoods are approved. With a reduction of eight units (Lots 1 through 8) or a reduction of nine units (lots 9 through 17), per the MOU, consideration can be given to *not requiring* provision of the temporary construction road.

This would result in construction traffic for the initial roadway grading and utility placement, followed by construction traffic for eight or nine residences, using the Lyford Cove/Old Tiburon and Hill Haven neighborhood streets. The following is taken from information provided by the applicant concerning construction phases <sup>21</sup> equipment per phase, and construction crew size.

Phase One: The on-site construction equipment for this phase would include one dozer, one excavator, a blade grader, one small compactor, and one water truck. There would be additional truck trips for delivering lumber, rebar and other retaining wall materials. Much of the cut material (excavated soil and rock) from the lower site areas would be needed on the upper site areas, so would be stock-piled in the vicinity of Lot 5; only the excess cut material would be hauled off-site. The intent is that there would be no import of fill for home building at any stage of construction.

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<sup>21</sup> Construction Management Plan 2008, Appendix F of *Easton Point- Project Narrative*, project applicant, 2008.

Phase Two would include a 12-month construction period of clearing, grubbing, grading, landslide repair, subdivision road extensions, utility replacement (including installation of pipelines, drop inlets, fire hydrants, electric and cable utility infrastructure) for lots adjacent to the Hill Haven neighborhood. Drainage and utility extensions would also be constructed in this phase.

Crews for both phases would consist of six to eight workers, utilizing two to three crew vehicles daily.<sup>22</sup> The on-site construction equipment for this phase would be one dozer, one excavator, a blade grader, one small compactor, and one water truck.

A maximum of six to eight workers would be on the job simultaneously during each phase. At 1.3 persons per vehicle (assuming limited carpooling would take place), this would amount to five to seven construction worker vehicles arriving and departing each weekday. If carpooling is successful for workers during these phases, then the applicant's projected two to three worker vehicles may be more accurate. The hour of arrival likely would be 6:00 AM to 7:00 AM (summertime schedule), and departures likely would occur between 3:00 PM and 4:00 PM. The applicant proposes to mitigate inconvenience to neighbors and to protect public safety by designating a disturbance coordinator and implementing the traffic control measures discussed in the Draft EIR.

For Lyford Cove/Old Tiburon and Hill Haven neighborhood residents, construction traffic would be greater over time with this approach to development (no temporary construction road), with daily traffic for workers at the levels projected above in Phases One and Two (crews of six to eight workers, in two to three crew vehicles daily). Impacts of construction trucks and other construction traffic in this neighborhood under these conditions are further discussed on page 609 of the Draft EIR. Long-term traffic from the new residences would be less, as fewer units would depend upon the existing neighborhood streets.

Housing construction would result in trips by building material delivery trucks and construction workers. The number of construction worker trips to and from the site would fluctuate, depending on the activity and number of units being built at any one time.

#### **Response to Comment 13-3**

Please see Master Response 1. The Draft EIR traffic analysts consider the combination of improvements, such as elimination of dumpsters in the travel-way, improved signage and "no parking" added to select streets, to represent effective improvements to the affected streets in the Lyford Cove/Old Tiburon and Hill Haven neighborhoods.

#### **Response to Comment 13-4**

Draft EIR, **Exhibits 5.1-42** and **5.1-43** provide detailed graphics showing projected peak hour roadway use in Lyford Cove/Old Tiburon and Hill Haven neighborhoods. The analysis includes observations of traffic along these roads, and analysis of intersections with Paradise Drive. The mitigations provided would represent improvements to these existing streets.

#### **Response to Comment 13-5**

Please see Master Response 1. On page 197 of the Draft EIR there is a description of existing road use in the Lyford Cove/Old Tiburon and Hill Haven neighborhoods, including construction practices

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<sup>22</sup> Easton Point Construction Management Plan, 2008, page 1.

for teardowns. It details the number of vehicles projected to be added to neighborhood streets during peak weekday AM and PM traffic periods (**Exhibits 5.1-42 and 5.1-43**). It includes mitigations to improve existing and with-project conditions (Mitigation Measures 5.1-7(b), 5.1-10, 6.1-7(b). On page 253 of the Draft EIR there is information provided by the TFPD in regards to provision of emergency services in the existing neighborhood. The information in the Draft EIR has been confirmed by the TFPD Fire Chief.<sup>23</sup>

#### **Response to Comment 13-6**

Landslide 3 has been previously explored by other consultants in detail with the exploration of 12 exploratory test pits, excavated in or immediately adjacent to the landslide mass.<sup>24</sup> Landslide 3 is a large shallow landslide complex that has an onsite surface area over 200,000 square feet, and much of its area extends off-site into the Hill Haven subdivision. Miller Pacific estimates that the repair improvement of this landslide could involve grading quantities of approximately 24,500 cubic yards. Miller Pacific recommends landslide repair with retaining structures and compacted fill buttress in the upper portion of the slide within 100 feet of the building sites. Stabilization of the lower portion of the slide would be accomplished with subdrain installation (**Exhibit 5.4-2**). Currently, the slope that contains Landslide 3 is sparsely vegetated and both the surface and subsurface drainage are completely uncontrolled. Miller Pacific's proposed repair would increase the overall stability of the landslide and improve both the surface and subsurface drainage, near and below building areas.

#### **Response to Comment 13-7**

For *Alternative 2* it is stated on page 573 of the Draft EIR that Lot 5 or an alternative lot approved by the County would be used for storage of excess fill materials. Marin County requires a grading permit for the scope of grading work needed for both the proposed project and *Alternative 2*.<sup>25</sup> Requirements for a grading permit include an erosion and sedimentation control plan, among other requirements that would reduce impacts associated with stockpiling fill. The proposed *Construction Management Plan* includes air quality control measures that would apply to the fill stockpiling. Mitigation Measure 5.2-1 includes additional control measures that would prevent tracking of dirt and mud onto roadways. Additionally, as mentioned in response to comment 35-1 the project applicant would be required to consult with the BAAQMD and adhere to regulations designed to employ the best available dust mitigation measures to reduce and control dust emissions. In regards to visual impacts, 7,000 cubic yards of fill stockpiling would reach a height of approximately ten feet. The stockpiling is not anticipated to reach heights that would cause significant visual impacts.

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<sup>23</sup> Crane Transportation Group communication with TFPD Fire Chief Richard Pearce, February 2013.

<sup>24</sup> *Preliminary Geotechnical Report, Easton Point Subdivision, Tiburon, California*, Miller Pacific Engineering Group, January 11, 2008.

<sup>25</sup> Marin County Code, *Chapter 23.08 Excavating Grading and Filling*

# California Native Plant Society

LETTER NO. 14

April 29, 2011

Ms. Rachel Warner  
Interim Environmental Coordinator  
3501 Civic Center Drive, Room 308  
Marin County Community Development Agency  
San Rafael, CA 94903

Re: EASTON POINT DEIR

Dear Ms. Warner:

The following comments are submitted on behalf of the Marin Chapter of the California Native Plant Society (CNPS) regarding the Draft Environmental Impact Report (DEIR) for the *2008 Easton Point Residential Development* (Nichols-Berman 2011). The comments below concern the special-status plant species and the native grasslands identified on the site.

The Tiburon peninsula, including the Easton Point property, is one of the few urban areas in Marin County that still supports native vegetation such as large tracts of native grassland and several federally- and State-listed plants. We find that the DEIR inadequately addresses impacts/potential impacts to and mitigation for 1. special-status plant species; and, 2. sensitive native grasslands. In addition, unusual hybrid oak-mats present on the site are not discussed in the DEIR.

## Special-status Plant Species

The DEIR states: A population of Marin western flax (*Hesperolinon congestum*), federally- and State-listed as a threatened species, occurs on the site and extends onto the adjacent Old St. Hilary's Preserve (OSHP). In 2009, 2.25 acres supporting this species were mapped in the southwestern corner of the property (Exhibit 5.6-2). Serpentine reedgrass (*Calamagrostis ophitidis*) (CNPS List 4) is also present on 0.11 acre (p. 417) in this area. Development and long-term use on lots proposed for this area will eliminate habitat for Marin western flax and serpentine reedgrass (Impact 5.6-1, p. 34).

Three special-status plant species that grow on the OSHP within 100 feet of the western boundary of the Easton Point property are identified: Tiburon Indian paintbrush (*Castilleja affinis* ssp. *neglecta*) (federally-listed as endangered, State-listed as threatened), Tiburon jewel-flower (*Streptanthus glandulosus* ssp. *niger*) (federally-listed as endangered, State-listed as endangered) and Carlotta Hall's lace fern (*Aspidotis carlotta-halliae*) (CNPS List 4) (p.34). The project as designed would result in significant unavoidable direct and indirect impacts to the special-status species that occur on the property and the OSHP. Indirect impacts, including irrigation run-off, the downdrift of non-serpentine fill and/or top soils, herbicides and fertilizers from landscaped areas could over time favor the growth of non-native invasive plants within the serpentine bunchgrass habitat on the property and the OSHP, diminishing this habitat for rare plants (Impact 5.6-1, pp. 435-436).



Dedicated to the preservation of California native flora





Comment: Marin western flax and serpentine reedgrass are restricted to serpentine soils. As the majority of the lots are placed in the southwestern portion of the site (Proposed Master Plan, Exhibit 3.0-4) in the most sensitive habitat - serpentine grassland with outcrops - all of the plants associated with this soil type are highly likely to be destroyed.

Marin western flax is an annual species whose distribution fluctuates from year to year depending on weather conditions. Why is the proposed project design depicted in Exhibit 3.0-4 based on data collected for the 1996 DEIR? The size and shape of Parcel B (to be dedicated as open space) is based on special-status species surveys conducted for the 1996 DEIR (Exhibit 5.3-6 of 1996 DEIR) and does not reflect the present distribution of the Marin western flax as shown in Exhibit 5.6-2 (present DEIR). The latter exhibit - *Biotic Habitats and Proposed Development* (2008) - clearly shows that the proposed project and that in Alternative 2 (Exhibit 6.0-2) will directly and indirectly impact most of the Marin western flax population (1.68 acres=75%) and the serpentine reed grass population. The boundary of Parcel B in Alternative 2 has been modified to include more of the flax population as mapped in 2009 but not all of it. It is highly likely (also noted in the EIR (5.6-1(a))) that the project will indirectly impact the remainder of these populations.

CNPS contends that the project as designed would, in time, obliterate the federally and State-listed Marin western flax and the serpentine reedgrass on the property. Impacts to these species cannot be mitigated on-site as both species are restricted to serpentine-derived soils and "disturbed" soils will not be suitable after the completion of the proposed project or the project in Alternative 2. The Resource Management Plan (RMP) outlined on pp. 437-438, embodying several of the mitigation measures for the protection of rare plants and their habitat, presents too many undetermined conditions to constitute credible mitigation for the loss of the rare plants and their habitat. The RMP should be prepared *prior to* project development in order for the mitigation measures to not only be "speculative." Please also provide suggestions for off-site mitigation for the special-status species.

In Alternatives 3 and 4, house lots have been removed in the most sensitive southwestern corner of the property. However, the distribution boundaries of Marin western flax and serpentine reedgrass, as well as the outline of Parcels A and B are not shown in relation to these proposed alternatives (Exhibit 6.0-41 and 6.0-42). Such boundaries should be shown for these alternatives so that a visual assessment of the various features can be made. With respect to indirect impacts suggested on p. 436 (run-off, the downdrift of non-serpentine fill and/or top soils, herbicides and fertilizers from landscaped areas), how will development of lots 09, 10 and 11 in Alternative 3 and lots 11, 12, and 13 in Alternative 4 avoid the adverse effects of such impacts on the present Marin western flax population and the suitable habitat for this species? Fifty (50) to 100-foot setbacks from the population as it existed in 2009 may not prevent impacts in future years.

CNPS finds that because the actual size and distribution of Marin western flax varies from year to year, a residential project should not be designed based on one year's survey, in this case 2009. All serpentine soil areas constituting habitat for the rare plants on the property should be avoided. As numerous studies of urban/suburban developments have shown, isolated "islands" of rare species in residential areas do not provide functional habitats in perpetuity for such species (also agreed to by project biologist, p. 426). Mitigation on-site is not feasible; avoidance of the sensitive serpentine areas is the environmentally superior mitigation. If avoidance is not possible, off-site mitigation for these species on the Tiburon peninsula should be developed, including restoration/management of habitat for the species on Marin County Open Space in Tiburon and/or Tiburon Open Space.

### *Old Saint Hilary's Preserve (OSHP)*

Comment: The Marin western flax population identified on the Easton Point property occurs as a continuous colony on the OSHP. This preserve also supports two other federally- and State-listed species – Tiburon jewelflower and Tiburon paintbrush - as well as Carlotta Hall's lace fern (CNPS List 4) with occurrences within 100 feet of the Easton Point boundary (p. 435). The project will highly likely indirectly impact - in perpetuity – the adjacent Marin County OSHP. Please explain how this indirect impact can be mitigated by building barriers (5.6-3(d)), the construction of which would constitute a secondary impact requiring mitigation. Any lot with a downslope toward the OSHP will contribute to the degradation of the habitat for the reasons stated on p. 436 (run-off, the downdrift of non-serpentine fill and/or top soils, herbicides and fertilizers from landscaped areas).

### **Native Grassland**

#### *Purple Needle-grass Grassland*

The EIR states: With the approximate 39 acres of non-native grassland on sandstone on the site, 12 acres support a significant component of native grasses, including purple needlegrass (*Nassella pulchra*), melic grass (*Melica torreyana* and *M. californica*), and California oat grass (*Danthonia californica*) and many native broad-leaved plants (p. 406). Grassland within the Northern Coyote Brush Scrub is also described as Non-native Grassland.

Comment: It appears that the 1996 Draft EIR for Easton Point was used in determining what plant communities to consider in the present EIR. *Native Grassland* was not mapped in 1996 (Harvey & Associates, Exhibit 5.3-1) but it is mapped (shown in orange color) in the present EIR (Exhibit 5.6-2). Why is the percent cover of native grasses (absolute or relative) not offered? Why are the mapped areas not shown as *Native Grassland* but are instead mapped as *Non-native Grassland (non-serpentine) with Significant Component of Native Grasses* without any mitigation for impacts to this grassland provided? The author of this comment is a Tiburon resident/botanist who is familiar with the grasslands on the site, including the unusually high percentage of native grasses. In fact, in August of 1999, Ms. Buxton, senior botanist at LSA Associates, did surveys on the property. At that time the absolute cover of native bunchgrasses, mainly purple needlegrass, was estimated to range between 20% and 75% (internal memo to Steve Foreman, LSA, attached). The result of this survey was included in a memorandum, dated October 17, 2001, to Scott Hochstrasser from S. Foreman. The percent cover by native grasses is likely less today than in the late 90's due to the ongoing invasion of non-native annual grasses; however, native grasses are definitely present in high frequencies in some areas of the site. Please explain why *Native Grassland* (Biotic Habitats, p. 403) has not been considered a natural plant community along with Coast Live Oak Woodland, Serpentine Bunchgrass, or Northern Coyote Brush Scrub. Why are the grass species within the Northern Coyote Brush Scrub not identified?

Native grasslands are considered *sensitive* natural communities by the California Department of Fish & Game (CDFG) (tracked by the agency) and by Marin County (Marin Countywide Plan Bio-1.1). The County uses the CNPS's guidelines put forth in *A Manual of California Vegetation* (Sawyer et al. 2009) in assessing grassland types (Martin, MCOSD, pers. comm.). These guidelines are also recognized by the CDFG as the preferred method in defining vegetative cover. Each type has a "membership rule" that specifies the percent cover for that type. For purple needlegrass it needs to be >10% relative cover or >5% absolute cover. When considering a

vegetation type as “sensitive” under CEQA, the State ranks in *A Manual of California Vegetation* is used; S1 through S3 are considered “rare and threatened.” Purple needlegrass grassland is ranked “S3?”.

Considering the totality of the construction activities during site preparation and buildout, including grading, extensive slide repair, temporary construction road, installation of a sewer line, motorized traffic, human trampling, etc., and the unavoidable introduction of non-native species in these disturbed areas - and in view of the TFPD standards of road and driveway widths and grades, turning radii, turnout, and turnaround requirements (p. 246), it is highly likely that the present grasslands on the site will be obliterated. The buildout of this project could last for a decade or more, thus “temporary road,” for example, has no meaning in this context.

Marin County (and the Town of Tiburon) require mitigation for the loss of native grassland. As native grassland is present in open areas described as Non-native Grassland and likely also in the Northern Coyote Brush Scrub, the EIR erroneously states that these communities are abundant regionally and their loss on the site would not significantly affect the biological resources of the region, therefore, no mitigation would be required (p. 430). Please provide mitigation for impacts to the native grassland – a sensitive natural community.

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#### *Serpentine Bunchgrass Grassland*

The EIR states: Eighty-six (86) percent (9.72 acres) of Serpentine Bunchgrass grassland will be lost constituting a significant impact, as this habitat is rare on the peninsula. The remaining acreage could be impacted by the indirect effects of irrigation runoff including fertilizers and downdrift of non-serpentine fill material (Exhibit 2.0-1, 5.6-3).

Comment: Serpentine bunchgrass grassland, another *sensitive* natural grassland community, occurs only on serpentine substrates and, on the site, provides habitat for the Marin western flax and serpentine reedgrass (see above). One of the identifying species associated with this type of grassland is serpentine reedgrass (Holland 1986), a species found in small colonies (142 plants) throughout this grassland. CNPS contends that the mitigation measures offered (5.6-3(a)) will not mitigate the loss of this valuable plant community/habitat. Parcels A and B within the development will not function as serpentine bunchgrass habitat in perpetuity within a residential development; human foot traffic, excess irrigation water, fertilizers, and other disturbances associated with a residential development will degrade the habitat. How will barriers along some lot boundaries mitigate for the loss of this grassland on the project site, or on the adjacent OSHP? As recommended by CNPS above, avoidance of this sensitive community is the environmentally superior mitigation. Restoration of the non-native areas on serpentine substrates should be considered.

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#### **Hybrid Oaks**

No mention is made in the EIR of the several low-growing shrubby “oak mats” present on and near the serpentine substrate in the southwestern portion of the site. These oaks are identified as leather oak (*Quercus durata* var. *durata*) only in the Appendix – *Vascular Plants of the Study Area* - assembled by Hartesveldt Ecological Consulting Services in 2000 and Live Oak Associates in 2009.

Comment: It has been suggested that the “peculiar shrubby mats that are more reminiscent of timberline than of sea level” are potential hybrids between garry oak (*Quercus garryana*) and leather oak and “on the windswept summit above Tiburon” (*Easton Point property*), the prostrate white oaks resembling garry oak are “perhaps an extreme form of this suspected hybrid” (Howell et al, *Marin Flora* 2007, p. 160). Please explain why these oak mats are not mapped. Garry oak does not occur naturally on the Tiburon peninsula and leather oak occurs on the Easton Point property only (E. Buxton, pers. obs.). Locally rare taxa – rare or uncommon within a local geographical boundary - are important for the preservation of species diversity and ecological processes, and therefore require recognizable conservation status (Crain and White, *Biodiversity and Conservation* March 2011). Please provide information on the potential conservation significance of the hybrid “oak mats” even though they do not have an unambiguous taxonomic status or legal listing status. [Peter Baye, Ph.D. (Coastal Plant Ecologist) (pers. comm.), has suggested that these oaks may have been planted by the Coast Miwok or are relicts from an earlier climate.]

The oak mats may qualify as “Special Stands” described as “specific patches of vegetation in the landscape that are unique from other patches, which may appear structurally distinctive as well as rare” (CDFG, Vegetation and Classification and Mapping Program, December 2009). Please obtain information regarding these “special stands.” Due to their rarity they should be avoided to the greatest extent feasible.

Thank you for the opportunity to comment on the DEIR for the 2008 *Easton Point Residential Development* project.

Sincerely,



Eva Buxton  
Conservation Chair

cc: Greg Suba, CNPS Conservation, Sacramento

September 13, 1999

To: Steve Foreman  
From: Eva Buxton  
Subject: Martha Property - Vegetation Evaluation

#### **METHODS**

The site was visited by the LSA staff botanist on August 24, 1999, to examine and update the botanical features mapped by H.T. Harvey & Associates (Harvey) (DEIR 1996) ((((((and the biological resource analysis by LSA Associates (LSA, June 1999))))))). Transects were walked by LSA in such a manner that visual coverage was provided of the majority of the site. In particular, the site was assessed for the 1. presence of native grassland, serpentine bunchgrass grassland, including the presence of serpentine reedgrass (*Calamagrostis ophitidis*); 2. the extent of suitable habitat for Franciscan flax (*Hesperolinon congestum*), Tiburon jewelflower (*Streptanthus niger*), and Tiburon blind harvestman (*Microcina tiburona*); and, 3. the presence of a riparian corridor at the proposed Lot #20.

#### **RESULTS**

1. True "serpentine bunchgrass" grassland (a type of native grassland) is restricted to serpentine substrates and was mapped by Harvey on the serpentine portion of the site (Exhibit 5.3-6; DEIR 1996). This grassland is dominated by purple needle-grass (*Stipa pulchra*) and interspersed with other native grasses such as melicgrass (*Melica californica*) and one-sided bluegrass (*Poa secunda* ssp. *secunda* [*P. scabrella*]). In addition, serpentine reedgrass (List 4), reported as absent on the site by Harvey, was observed in the serpentine bunchgrass grassland on the westfacing portion of the ridge.

In 1999, portions of the serpentine ridge was dominated by non-native, annual grasses such as wild oats (*Avena barbata*) and Italian wildrye (*Lolium multiflorum*). Therefore, serpentine bunchgrass grassland is

over



not as extensive as mapped in 1996. Serpentine bunchgrass grassland has no federal or State protective status but is considered a "sensitive plant community" by the Department of Fish and Game.

Native grassland occurring on non-serpentine soils and dominated by purple needlegrass (*Nassella pulchra*) is, however, present on large portions of the east-southeast facing slopes of the property. Other native grasses in this grassland include blue-rye (*Elymus glaucus*), one-sided bluegrass, and squirreltail (*Elymus elymoides*). In August, the absolute cover of native bunchgrasses was estimated to range between 20 and 75 percent. A more accurate estimate of the cover can be made in the spring when these bunchgrasses have inflorescences (flower stalks). This type of grassland was mapped as non-native grassland by Harvey (DEIR 1996). (Impacts on native grassland may require mitigation by the County of Marin.)

2. Franciscan flax is not detectable several months after it has senesced and dried. Therefore, this flax, which blooms between May and July in a normal rainfall year but bloomed early in 1999, was not observed by LSA in August 1999. However, this species has been observed by the LSA botanist in the thin, gravelly serpentine soil on a greater portion of the serpentine ridge on the site in previous years than mapped by Harvey (DEIR 1996). Franciscan flax is federally and State-listed as a threatened species.

Although potentially suitable habitat is present in the serpentine outcrop for the Tiburon jewelflower, there is no known occurrence for the species in this location (CDFG 1999). Tiburon jewelflower grows in abundance on the lower slopes of the Tiburon Ridge on the Old St. Hilary's Preserve (includes the former Harrowman Property), adjacent to the Easton Point property. No spent individuals were observed by LSA in August 1999; however, as habitat is present on the site and the occurrence of this species is extremely variable depending on the pattern of rainfall of the winter/spring season, surveys should be conducted in late spring. The Tiburon jewelflower is federally and State-listed as an endangered species.

Habitat for the Tiburon blind harvestman is present on the serpentine ridge, especially in moist areas on the eastfacing side, where serpentine rocks interface with serpentine grassland. This harvestman, a federal species of concern, was observed on the adjacent property (formerly the Harrowman property) in similar habitat and can, therefore, be expected to occur on the Easton Point property. Surveys for this species should be conducted from February through April depending on the soil moisture content.

**RESPONSE TO LETTER NO. 14 – EVA BUXTON, CONSERVATION CHAIR, CALIFORNIA NATIVE PLANT SOCIETY (APRIL 29, 2011)**

**Response to Comment 14-1**

It is agreed that both the project and *Alternative 2* PDPs as currently designed would result in significant impacts to both the Marin western flax and serpentine reed grass populations on-site. Mitigation Measure 5.6-3 requires a re-design of the project PDP to preserve serpentine bunchgrass habitat on-site at a minimum 3:1 preservation:loss ratio to reduce project impacts to a less-than-significant level. While exhibits are not provided with the same detail for *Alternatives 3* and *4* impacts as for the project and *Alternative 2*, discussions on relative impacts of these alternative projects are provided.

With regard to the future degradation of habitat for Marin western flax, should this species expand its range from that documented in 2009, i.e. into the 50 and 100 foot setback areas proposed in the Draft EIR, the analysis is based on the most current and best information available. The 2009 mapping effort, to the EIR biologists knowledge, documented the most expanded range of the Marin western flax population since surveys for this species have occurred on the site, i.e. since at least the mid-1990s. The EIR biologist considers that the 2009 survey data is adequate to inform the CEQA process and determine the general magnitude of project impacts on the population. Mitigation Measures 5.6-1 and 5.6-3, which include the setback requirements, if implemented, would result in a less-than-significant impact on the population.

**Response to Comment 14-2**

The construction of barriers to prevent the degradation of serpentine habitats occurring off-site and downslope of project lots are proposed to be constructed along the downslope edge of the building envelopes of these lots and would be constructed within areas already designated for home construction and landscape; therefore, they should not provide a secondary impact to serpentine habitats that is not already accounted for in the analysis for *Impact 5.6-3 Loss of Serpentine Bunchgrass*.

Retaining walls as well as setbacks from serpentine preserved areas, together, would be able to minimize the ability of soils and water runoff, which may contain landscape chemicals such as fertilizers that may be carried with them, by stopping the soils and surface water runoff from going onto these areas. The combination of the setback and the barriers would result in minimization of potential indirect impacts to a less-than-significant impact.

**Response to Comment 14-3**

The EIR biologists observed that most of the native grasses occurred within the serpentine bunchgrass habitat of the site which is already called out as a sensitive community and for which the Draft EIR provides mitigation for project impacts (Mitigation Measure 5.6-3). The density of native grasses occurring within areas designated as non-native grassland was much lower than the five percent absolute cover or ten percent relative cover required to be considered a native grassland; although there may have been small, discrete patches widely spread within the non-native grassland habitat where this criteria might be met. The EIR biologists did not observe any areas of the site, serpentine or otherwise, where the component of native grasses reached the 20 to 75 percent absolute cover observed by the commentor in 1999, but it is not doubted that these areas may have once supported a much greater abundance of native grasses. Although these areas did not meet the native grassland criteria in

the opinion of the EIR biologists, the Draft EIR does indicate that some areas within the non-serpentine grasslands of the site did support more native grasses than others. Under the current PDP, the majority of this latter habitat type, estimated at 75 percent, will be preserved within Parcel A (see **Exhibit 5.6-2** on page 405 of the Draft EIR).

Grasses occurring within the coyote brush scrub habitats are described on page 408 of the Draft EIR as being similar to those occurring in the non-native grassland habitat and those species are described beginning on page 406. Again, potentially this habitat used to support a greater abundance of native grasses than they do at present.

#### **Response to Comment 14-4**

The EIR biologists agree with the commentor that, as currently designed, the project would result in a significant loss of sensitive serpentine bunchgrass habitat via direct and indirect impacts (*Impact 5.6-3 Loss of Serpentine Bunchgrass*, beginning on page 442 of the Draft EIR). As such, Mitigation Measure 5.6-3 requires a re-design of the project PDP to preserve this sensitive habitat on-site at a minimum ratio of 3:1 preservation:loss, and which further provides measures, including barriers such as retaining walls at the downslope edges of the adjacent lot building envelopes to preclude the downdrift of irrigation, non-serpentine soils and landscape chemicals onto undeveloped serpentine areas.

#### **Response to Comment 14-5**

The EIR biologist's Associate Botanist, Neal Kramer, visited the project site on December 4, 2012 for the sole purpose of identifying and mapping stands of leather oak (*Quercus durata* var. *durata*) both on the project site and the adjacent serpentine habitats of Old St. Hilary's Open Space Preserve; and evaluating the morphological characters of individual oaks to determine their potential hybrid status.

Prior to Mr. Kramer's site visit, a background review was conducted with regard to potential hybrid oaks on the project site and its vicinity. As part of the background review, the Marin Flora;<sup>26</sup> the CalFlora database and the database of specimen records for the Herbaria were reviewed for information on leather oak collections that might have been made historically on the project site or in the immediate vicinity. Additionally, Ms. Buxton from the Marin Chapter of CNPS (author of the Draft EIR comment letter) was contacted both by email and phone in November 2012 to obtain additional information on the potential hybrid question as well as to obtain contact information for Peter Baye Ph. D., whom it was understood from the CNPS comment letter and communication with Ms. Buxton, may have additional information related to the question of the potential hybrid leather oaks on the Tiburon Peninsula. While the Marin Flora, page 160, does mention the existence of potential hybrid oaks on the ridges of the Tiburon Peninsula, there is no further information provided, i.e. how the hybrid status was determined or locations of the stands in question. Additionally, no records of any past specimen collections of leather oaks, including potential hybrids, made on the project site or its immediate vicinity, could be located.

In all, Mr. Kramer mapped 23 stands of leather oaks on the site and six stands on Old St. Hilary's Open Space Preserve, all of which occurred within serpentine habitats. Within those on-site and off-site stands, Mr. Kramer identified a total of nine individuals on-site and five individuals off-site that did appear to have morphological characteristics that pointed to potential hybrid status. Most of these

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<sup>26</sup> *Marin Flora*, John Thomas Howell, Frank Alameda, Wilma Follette, and Catherine Best, California Academy of Sciences and California Native Plant Society, Marin Chapter, 2007.



latter individuals appeared to be semi-deciduous (leather oaks are evergreen and do not lose their leaves in the winter) and had leaves that differed slightly in shape. Aside from an individual on Old St. Hilary's Open Space Preserve that appeared to be a cross with the common coast live oak (*Quercus agrifolia*), these individuals did appear to be potential hybrids with garry oaks (*Quercus agrifolia*). Additionally, he observed that while those individuals he identified as appearing to be non-hybrids still had acorn cups attached which were morphologically consistent with the species; those individuals that were potential hybrids did not have any acorn cups attached, indicating that they may be sterile, another potential indicator of hybridization.

Of the total stands of leather oaks mapped on the site, the vast majority (22 stands) occur within Parcel A which is proposed for preservation under the current project.

Leather oaks in and of themselves are considered a common species throughout most of California and within Marin County. The Marin Chapter of CNPS highlighted this species as its "Plant of the Month" for December 2012 and indicates that the species is "common" in Marin County and occurs within many preserves including Mt. Tamalpais, Big Rock Ridge and Mt. Burdell. As such, project impacts resulting in the elimination of a small number of leather oaks while preserving the vast majority within Parcel A would not be considered significant in and of itself as CNPS suggests in its letter. Additionally, although the hybrid status of nine of the leather oaks on the site could not be determined with any certainty, and it also could not be determined with certainty that these represent a special stand, the project, as proposed, would preserve eight of the nine potential hybrid oaks within Parcel A. The one potential hybrid that could be impacted occurs on the private open space area of Lot 19 adjacent to the area of landslide repairs. As such, potentially, this individual would be lost as a result of the project due to indirect impacts. This one individual would represent approximately seven percent of the total population of potential hybrids identified during the survey; while 93 percent would be preserved either on-site or on Old St. Hilary's Open Space Preserve. Even if the PDP is re-designed as required in some of the mitigation measures, any re-design should result in an increase of the amount of serpentine habitat protected and therefore should benefit the leather oaks occurring there.



LETTER NO. 15

# Marin Audubon Society

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

April 28, 2011

John Roberto, Contract Planner  
Marin County Community Development Agency  
3501 Civic Center Drive  
San Rafael, CA 94903

RE: DSEIR FOR EASTON POINT

Dear Mr. Roberto:

The Marin Audubon Society appreciates the opportunity to comment on the Draft Supplemental EIR for the Easton Point Project. The project proposes 43 building sites on a 110-acre property that has numerous environmental constraints. We have many concerns and questions about the project and about proposed mitigation measures.

CEQA identifies a preference for avoidance as mitigation. As discussed below, while the first mitigation identified for many of the biological impacts is to avoid the impacts by eliminating or redesigning lots, however, for some critical impacts avoidance is not offered as an option. In addition, CEQA provides that mitigation measures should be feasible and effective. Many of the mitigation measures are infeasible and/or would not be effective. These measures, cannot be considered adequate to reduce project impact to *less-than-significant* levels.

1 One overall mitigation approach that is of particular concern is assigning mitigation responsibilities to the POA. Enormous responsibility for implementing many mitigations is placed on the future property owners association (POA) even though there are discussions in several sections of the DSEIR of problems POAs have with such responsibilities. Residents have to police one another and the only recourse POAs have, if residents do not voluntarily comply, is to sue their neighbors. A partial list of mitigations assigned to the POA are: maintain ownership of and manage special status species habitat; ensuring the development of each lot complies with all conditions in the NPDES general permit; maintenance for clearing sediment from spreaders and the drainage system, maintaining lists of native and exotic plants, monitoring irrigation, and distributing pamphlets on landscape care. Having seen such boards struggle with management (at Bahia and another site in Novato), we simply cannot see how a group of homeowners can adequately carry out these many major ongoing responsibilities.

An additional problem is that it is likely this development will not have a critical mass of residents to carry the responsibility. In all of the developments we are aware of that have POAs, the units have built together so that there is a critical mass of residents to share the load. It is

important that this matter be discussed and evaluated in more detail in the final EIR.

## BIOLOGICAL RESOURCES .

- 2 The DSEIR should provide a figure of the natural resources on the site (oak woodlands, drainages, seeps and other wetlands, status species, potential landslide areas) with an overlay of the proposed development or figures that would allow the reader to overlay the figures. The public needs this information to evaluate impacts and possible less environmentally damaging areas.

### *Less than Significant Impacts*

#### 3 *Loss of Habitat for Special Status Species*

We question the evaluation of less-than-significant for loss of California Red Legged Frog (CRLF) habitat. This evaluation was made because the project would not affect the breeding success of this endangered species. More accurately, the project would not cause the direct loss of breeding habitat. The project as designed would adversely impact dispersal habitat for CRLF. While young may be produced they could not disperse. This would affect the breeding success of this species and should be considered a significant impact in our view.

#### 4 *Predation by House Cats*

This discussion is framed as an effect of predators on prey, which is an incorrect approach. House and feral cats are non-native predators and their predation should not be considered simply “part of the normal predator-prey relationship.” Further, their predation must be considered in addition to predation by native predators. The discussion has some additional misinformation. Diet has little to do with impacts of cats, because cats’ instinct to pounce is independent of the need for food. In fact, many studies note that well-fed cats catch more prey because they are in better shape. The discussion questions the profound effect of house cat predation on what they call a “paucity of empirical data” (eight studies are cited). We have large files with extensive studies over 20 years which we will provide, upon request. We consider this should be a potentially significant impact.

#### 5 *Special Status Species*

The first two biological impacts concern endangered species. There should be a recommendation that the applicant’s initiate an endangered species consultation with US Fish and Wildlife Service to determine the need for a formal or information or informal consultation and requirements that the Service would place on the project

#### 6 *Marin Dwarf Flax*

To preserve this species and serpentine reed grass from direct and indirect impacts, mitigation 5.6.-1 (a) calls for protection of the species, which may require relocation or elimination of lots 1 through 3, and 100-foot setbacks from this species. Mitigation 5.6.1-(b) calls for the applicant to dedicate the preserved populations of these species to the Marin County Open Space District (MCOSD) or non-profit. Whether any of these entities would accept the parcel should be discussed. Unless a recipient is willing to accept the donation, mitigation (b) would be ineffective. As an alternative, it is suggested that the POA may retain ownership. This is not an effective mitigation for the reasons discussed above. 5.6.(c) calls for a Resource Management Plan (RMP) for these species. This should be prepared prior to any project approval in order to evaluate its adequacy.

The only effective mitigation would be relocation or elimination of the lots.

*California Red legged Frog (CRLF)*

7 To protect the CRLF on the downstream Keil property, Mitigation 5.6.2(a) recommends avoiding the impacts by redesigning or removing lots in the Forest Glenn area to provide a 100-foot buffer, or if that is infeasible, habitat loss should be mitigated by creating or enhancing existing wetlands at a 2:1 ratio at Drainage 2. (b) calls for preserve CLRf habitat at a 3:1 ratio on-site or, if that is not feasible suitable habitat should be purchased off-site. Protecting or enhancing existing habitat on-site would in itself be insufficient because it would result in a net loss of habitat. Purchasing CRLF off-site would not be effective mitigation. It is not even known whether suitable habitat exists nearby. Unless it would be close enough so that it would function as dispersal habitat, it would certainly not benefit the population on the Keil property and, therefore, it should not be considered sufficient to reduce this impact to less-than-significant.

8 The Hydrology discussion (p. 387) indicates that the reduction in ground and surface water due to drainageway changes could have CLRf impacts and refers the reader to impact 5.6-2. Mitigation (a) calls for creating or enhancing wetland habitat at 2:1 ratio to mitigate impacts to jurisdictional waters and states that this could "contribute towards alleviating impacts to CRLF via the exchange of lesser quality foraging and dispersal habitat...for higher quality breeding habitat." Enhancing habitat alone would result in a net loss of wetlands and, therefore, is not an acceptable mitigation. Furthermore, this mitigation is of questionable feasibility as it is unknown whether there is, or would be after project construction, sufficient water supply to support creating additional, or enhancing existing, waters.

9 Measure 5.6-2 ©) calls for dedication to the MCOSD or other recipient agency/organization and for BMP practices to mitigate impacts of downstream drainage channels and off-site ponds. The MCOSD has not agreed to accept this property and, therefore, this must be considered an infeasible mitigation. What BMP practices would ensure protection of CRLF?

10 CRLF Management Plan should be prepared prior to project approval so that its adequacy can be evaluated in the light of project impacts.

The POA would be responsible for ensuring that pre-construction CRLF surveys are conducted and submitted to the county.

*Loss of Serpentine Bunchgrass*

11 9.72 acres of serpentine bunchgrass would be lost (approximately 86%) in lots 1 through 7, 18 through 20 and 24. In addition to this direct loss, irrigation impacts from irrigation on lots 6 through 19 are anticipated.

Mitigation 5.6-3 (a) calls for avoidance of some direct impacts by redesigning the project to allow for a minimum 3:1 ratio for losses, and (b) dedicating to preserved bunch grass to MCOSD. It is unclear whether this mitigation (b) is feasible and, therefore, it should be considered ineffective.

The second alternative, for the POA to retain ownership should be deleted. Ownership by a homeowners association is not a certain and effective mitigation for the many reasons discussed above and elsewhere in the DSEIR.

c) Preparation of an RMP should be done prior to any approvals. This mitigation states that funding would need to be obtained for ongoing management. Why shouldn't applicants be required to fund further management. The applicants should be required to fund ongoing management by contribution of an endowment that would cover resources management

This mitigations cannot be considered adequate to reduced the impact to less-than-significant.

#### *Coast Live Oak*

These native trees exist on lots 14, 23, and 25 through 34. The DSEIR proposes to preserve 35.1 acres. About 742 trees or 12.8 acres of woodland habitat would be lost and an additional unknown number would be lost for roadway improvements at Paradise and Forest Glen Court. The discussion speaks to oak woodlands declining due to removal for development (such as this) and other uses and SODS. The presence of these impacts are all the more reason to protect existing trees.

12 The loss of woodland habitat as a functioning unit with trees of different ages (not just impacts to trees), understory vegetation, including wildlife that depend on them for all or some part of their life cycles, and the presence of adjacent diverse habitats all contribute to the value of the woodlands on site. Some sources identify that more than 800 species utilize oak trees.

The fuel management plan should be described, stating how many additional trees would be recommended for removal for fire management. Who will be responsible for mitigating these losses and where would it occur?

13 The DSEIR states that no off-site locations are feasible for oak replacement and that planting alone would not be adequate as mitigation. Then, incomprehensibly, instead of recommending that the impact be avoided by relocating houses, the DSEIR recommends preservation of existing woodlands on-site that would be dedicated to the MCOSD combined with preparation of an RMP. Aren't the applicants proposing to dedicate the undeveloped areas for preservation anyway? Wouldn't any trees on these lands be protected in that way anyway? This mitigation would essentially be no mitigation at all. Mitigation 5.6.4(a) is completely unacceptable because it would result in the loss of a significant number of native oak trees.

14 Avoidance was recommenced as the first mitigation for other biological impacts, why not for native oak losses? The first mitigation alternative should be to eliminate or redesign lots where native trees are present to the maximum extent feasible. This should result in a significant reduction in trees lost. Any trees not protected by avoidance should be replaced on-site.

15 And again, the RMP, including a fuel management plan, should be prepared prior to approvals.

*Jurisdictional Waters*

16 0.94 acres of seasonal wetlands have been identified on-site. While the plan proposes to preserve .87 acres of these, the remaining .7 acres consisting of a wetland that is on lot 16 and on a drainageway are at risk. Is the seasonal pond near the lands of Kiel included in this calculation? If not the acreage should be revised to include it.

17 Mitigation 5.6-5(a) calls for protection of remaining wetland by dedication to the MCOSD or other entity. As discussed above, it is not clear that this mitigation is feasible. (b) calls for conducting a wetland delineation, having it verified by the Corps and applying for permits. This does not ensure adequate or any replacement according to County standards. The countywide plan calls for 2:1 replacement and that should be recommended here. However, this mitigation may not be feasible because it is not clear there is sufficient water to enlarge a give wetland area, particularly with the many subdrains and other drainageway modifications. Therefore, this mitigation cannot be considered to reduce the impact to less than significant level.

18 Establishment of a 100-foot setback from all wetlands and drainageways should be required. The DSEIR should also include criteria for vegetation and other characteristics of the buffer/setbacks. These criteria should ensure that the habitat is suitable for the CRLF to move through. We agree\* that the mitigation for permanent encroachments into the setback should be by avoiding the impacts wherever possible. If that is not possible, expanding setbacks - not enhancement - in other areas should be required.

19 In addition, the discussion should address the potential loss of ground and surface water. Again, an RMP should be prepared in advance of any approvals.

*Invasive Exotics*

20 There is a significant potential for additional exotic plants to invade the site with the extensive grading and ground disturbance.

Mitigation 5.6-6(a) calls for a botanist or horticulturist to develop a list of exotics known to readily colonize similar habitats. Creating such a list is a good idea, but it will be of limited value because new exotic plants are invading all the time. In fact, there is a new organization, the Bay Area Early Detection Network, that recently has been established just to address the issue of identifying exotics early so they can be removed early. It is essential that it be made clear that the list is not definitive and that it should be updated annually at least.

21 Another mitigation should be added that requires removal of non-native broom on the site and replanting the removal areas with native plants to help retard the regrowth of broom. Perhaps some oaks could be planted in these areas as mitigation. It should also be recognized that the broom will sprout from seeds for many years, so the removal efforts will need to continue for years.

Without these additional measures, this impact would be significant.

22

*Disturbance to Active Bird Nests*

Mitigation 5.6-7 calls for preconstruction nest surveys. To inform wildlife decisions, surveys should have been conducted for at least two years prior to construction.

23

The DSEIR defines the breeding season as February to August. Some species of birds begin nesting earlier than February. One unusual bird, Screech Owl, has been heard on site during our Christmas Bird Count.. Owls nest early and this should be accounted for in the timing of required monitoring.

24

*Loss of Ordinance Size Trees*

In addition to the 742 trees, an unknown number of additional trees would be cut down as a result of road improvements at the intersection of Forest Glenn and Paradise Drive. The DSEIR is unclear, but apparently there are ordinance size trees in this area. The number of additional trees and trees of heritage size in this area should be provided or at least estimated.

25

Mitigation 5.6-8 allows for the mitigation of up to 25% of the trees lost by incorporating them into landscaping. This mitigation further provides that they be SODS-resistant tree species native to Marin county or pay a fee to Marin county for each. The funds would be earmarked for management and enhancement preserved woodlands on the site including the removal of non-native plants. We strongly object to this mitigation. It would undoubtedly result in a significant loss of native oaks on this site and, therefore, for this region. Therefore, this mitigation is unacceptable and would not reduce this impact to less than significant. While an endowment from the developer to provide long-term maintenance for the lands would be suitable, payment of a fee that would reduce the number of replacement trees is not.

26

To make matters worse, this mitigation would allow for the replacement of oaks with non-oak trees. The tree species that could or would be substituted should be stated and a discussion included about how the habitat produced by the planted trees compares with an oak woodland. There are only a limited number of species that could grow under the site's habitat conditions (climate, soil etc.). If the conditions were suitable why wouldn't they be growing there now?

27

Oaks support, by some calculations, as many as 800 species. Just because some are diseased does not mean the species should be banished from our landscapes. Any native oaks lost should be replaced in-kind according to the ratio proposed by the applicant.

28

The proposed 5.6-8 mitigations would result in significant loss of habitat and wildlife resources and therefore would not reduce the loss of ordinance-sized native trees to a less than significant level.

29

Basic information that should be provided in the DSEIR includes: the number of ordinance size trees that would or could be removed and an analysis of how many mitigation trees would need to be planted per the county ordinance. The amount of land that would be suitable for planting replacement oaks (e.g. areas where broom would be removed) and an estimate of how many trees

Another mitigation should be added that requires removing host-nights from the site and replanting the removed trees with native plants. The project that is in the of Woodmont. Perhaps some oaks could be planted with these areas as mitigation. It should also be noted that the project will grow four trees for every year in the removal efforts which is a plus for years mailing list for staff reports and notices of meetings. Please direct mailings to my home address so we can without the additional by Barbara Salzman 48 Ardmore Road, San Francisco, CA 94939.

Thank you for considering our comments.

## Appendix D

Mitigation 5.6-7 calls for preconstruction nest surveys. To inform wildlife decisions, surveys should have been conducted for at least two years prior to construction.

The DSEIR defines the breeding season as February to August. Some species of birds begin nesting earlier than February. One unusual bird, a Screech owl, has been heard on site during our Christmas Bird County. One nests early and this should be accounted for in the timing of required monitoring.

Barbara Salzman, Co-chair

Phil Peterson, Co-chair

Conservation Committee

Conservation Committee

In addition to the 742 trees, an unknown number of additional trees would be cut down as a result of road improvements at the intersection of Forest Glenn and Paradise Drive. The DSEIR is unclear, but apparently there are ordinance size trees in this area. The number of additional trees and trees of heritage size in this area should be provided or at least estimated.

Mitigation 5.6-8 allows for the mitigation of up to 25% of the trees lost by incorporating them into landscaping. This mitigation further provides that they be SODS-resistant tree species native to Marin county or pay a fee to Marin county for each. The funds would be earmarked for management and enhancement preserved woodlands on the site including the removal of non-native plants. We strongly object to this mitigation. It would undoubtedly result in a significant loss of native oaks on this site and, therefore, for this region. Therefore, this mitigation is unacceptable and would not reduce this impact to less than significant. While an endowment from the developer to provide long-term maintenance for the lands would be suitable, payment of a fee that would reduce the number of replacement trees is not.

To make matters worse, this mitigation would allow for the replacement of oaks with non-oak trees. The tree species that could or would be substituted should be stated. There are only a limited number of species that could grow under the site's habitat conditions (climate, soil etc.). If the conditions were suitable why wouldn't they be growing there now?

Oaks support, by some calculations, as many as 800 species. Just because some get a disease does not mean they should be banished from our landscapes. All native oaks Any native oaks lost should be replaced in kind according to the ratio proposed by the applicant.

The proposed 5.6-8 mitigations would result in significant loss of habitat and wildlife resources and therefore would not reduce the loss of ordinance sized native trees to a level of insignificance.



### ACCOMPLISHMENTS LAST YEAR -

*We couldn't have done it without your help!*

Last year we were fortunate to have received multiple grants: the Coastal Conservancy helped fund monitoring at Bahia, the San Francisco Estuary Partnership funded monitoring, purchase of native plants, and planting of transition habitats and weed removal at Bahia. The Fish and Wildlife Commission provided funds to maintain our propagation beds. Funding from these agencies, however, was not sufficient to cover all of our needs.

Your donations last year provided needed funding that enabled us to:

- Purchase a storage shed to house our equipment, safely and in one place at a location accessible to our volunteers at Bahia. This purchase was funded in part by a grant from Patagonia Inc.
- Hire the Conservation Corps North Bay to remove the invasive radish and harding grass from 20 acres at Bahia. This work was not covered by grants. Your contribution was essential to augment the work of our volunteers who come from our membership and the Center for Volunteer and Non-profit Leadership.
- Pay for insurance and special district taxes on all of our properties. Each year these taxes require a large expenditure of funds.
- Purchase equipment and supplies which are needed for our workdays at both Bahia and Triangle Marsh, where we work regularly, and at Petaluma Marsh where we will be focusing more attention next year.



Lowell Sykes at Storage Shed

Figure 1: A, Schematic of the experimental setup. B, Schematic of the experimental setup.

THANK YOU, THANK FOR YOUR HELP IN THE PAST

**WE NEED YOUR HELP - NOW**

Your membership in Marin Audubon tells us that you care about wildlife. Our partnership with Marin Baylands Advocates over the last 20 years has enabled us to purchase more than 1,000 acres of property in Marin County. We now own and are directly responsible for more than 500 acres of habitat. We also retain some responsibility for habitats we no longer own but have donated to the Department of Fish and Game. We want to do the best job we can to enhance and maintain these habitats.

this impact be considered significant and mitigation be provided.

30

*Depleted Groundwater Supplies, Keil Property*

To compensate for the loss of groundwater to the downstream keil property, mitigation measure 5.5-6 recommends installation of a water conveyance system to link the subdrains to the water storage system on the keil property. Implementation of this measure, as recognized by the DSEIR, would require the agreement and cooperation of the Keil property owners. The Keils have publically announced that they will not cooperate in this matter, therefore, this mitigation is infeasible.

PROJECT ALTERNATIVES

31

The DSEIR should explain why the Environmental Alternative (Alternative 4) was not chosen as the Preferred Environmental Alternative as it is identified as being the most protective of environmental resources of the alternatives presented.

32


Even Alternative 4, however, allows some adverse environmental impacts. The analysis and information provided is too vague to allow meaningful evaluation and comment, however. We request that this alternative be more completely described by better defining the remaining impacts, providing information on how the revisions were made and ways impacts could be further reduced.

- Impacts to endangered plants would be significantly reduced by eliminating 1.67 acres of Marin Dwarf flax habitat and .08 acres of serpentine reed grass. How could these impacts be avoided?
- Are there any measures that could mitigate potential impacts from irrigated runoff and down-drift of fertilizers from adjacent lands?
- Direct impacts to serpentine bunchgrass would be substantially decreased. How could they be avoided?
- Coast Live oak impacts are described as being substantially less, but still significant. We disagree that mitigation 5.5-4 would reduce these levels to less than significant. To evaluate this impact, we need to know how many fewer trees would need to be removed under alternative 4? What project revisions would be needed to avoid impacts to oak trees?
- Impacts to jurisdictional waters would be reduced by eliminating lots. Are there any subdrains that could be eliminated to further reduce this impact?
- Impacts from exotic plants would remain significant unless the additional measure we recommend above are added.
- To evaluate the significance of the loss of ordinance size trees, the DSEIR needs to provide information on the number and location of the ordinance size trees.

Thank you for considering our questions and concerns. Please send a hard copy of the final SEIR so that we can adequately review it. To reach us efficiently, please send to: 48 Ardmore Road, Larkspur, CA 94939.

Sincerely,

  
Barbara Salzman, Co-chair  
Conservation Committee

  
Phil Peterson, Co-chair  
Conservation Committee

**RESPONSE TO LETTER NO. 15 BARBARA SALZMAN, PHIL PETERSON, CO-CHAIRS,  
CONSERVATION COMMITTEE, MARIN AUDUBON SOCIETY (APRIL 28, 2011)**

**Response to Comment 15-1**

The EIR biologist's agree that the best strategy for preservation of sensitive habitats and species on-site is to have them owned and managed by MCOSD or another appropriate land conservation organization as indicated in the Draft EIR. However, at the time the Draft EIR was prepared, no agreement had been reached by the applicant with MCOSD or another conservation organization to take ownership of on-site preserve areas.<sup>27</sup> Therefore providing an alternative where the property owner's association could retain ownership was a logical choice. Mitigation Measure 5.6-1 sets forth requiring a fully funded RMP developed in consultation with the County and all appropriate resource agencies; which sets forth minimum monitoring, management and reporting requirements, etc., would provide assurances that these areas would be managed and maintained in perpetuity regardless of whether the MCOSD, another conservation organization, or the POA retains ownership. If the POA retains responsibility for management of respective resources it is likely that the responsibility would be added to the CC&Rs. In addition Marin County would be required to be a named third party beneficiary with the right, but not the legal obligation to enforce the CC&Rs.

**Response to Comment 15-2**

**Exhibit 5.6-2** on page 405 of the Draft EIR provides an overlay of the project, including building envelopes, slope stabilization footprints and other infrastructure such as roads and subdrains, onto the habitats of the project site and provides a good visual representation of the project's impacts on biological resources.

**Response to Comment 15-3**

The Audubon Society has incorrectly indicated that the Draft EIR determined that loss of habitat for the California red-legged frog (CRLF) was a less-than-significant impact of the project. *Impact 5.6-2 Impacts to the California Red-Legged Frog* indicates the project as currently designed would result in a significant direct impact to foraging and dispersal habitat for CRLF and that the project also could result in significant indirect impacts to breeding habitat for CRLF located off-site at Keil Pond as a result of the degradation of downstream waters. As such, Mitigation Measure 5.6-2 requires that the applicant re-design the PDP to avoid impacts to CRLF dispersal movements from the off-site breeding habitat, or alternatively creates breeding habitat on-site that is contiguous with foraging and dispersal habitats that will be preserved within Parcel A. Additionally, the mitigation measure requires the preservation of CRLF habitat on-site at a minimum ratio of 3:1 preservation:loss or to make up any difference in this ratio through the purchase and preservation of CRLF habitat off-site. Any preserved CRLF habitats either on-site or off-site intended to compensate for project impacts would be subject to a CRLF Mitigation Plan that would need to be approved by Marin County and all applicable resource agencies.

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<sup>27</sup> MCOSD has indicated it will consider taking responsibility for Parcel B. Nichols • Berman communication with James Raives, Senior Open Space Planner, Marin County Parks, March 2013.

**Response to Comment 15-4**

It is the EIR biologist's opinion that the studies cited in the Draft EIR with regard to house cat predation, while they may not be inclusive of all such studies that may be available, provides a reasonable basis for determining the likely magnitude of the impact that house cat predation may have on native wildlife and to inform the CEQA process. The EIR biologist's believe that the introduction of new outdoor cats as a result of the project would be somewhere on the magnitude of 16 to 17 cats, and that the introduction of this many cats and their effect on native wildlife would be a less-than-significant impact of the project.

**Response to Comment 15-5**

Early consultation between the applicant and the resource agencies would be beneficial. At the time the Draft EIR was prepared, the EIR biologist's were not aware of any such formal or informal consultations having taken place. However, the assessment of potential impacts, based on current and past consultations the EIR biologists have been involved in on other projects for similar resources, will be generally consistent with the determinations of the resource agencies; and that the mitigations set forth in the Draft EIR will generally be consistent with any potential permitting conditions that may be required of the applicant by the resource agencies.

**Response to Comment 15-6**

Please see Response to Comment 15-1.

**Response to Comment 15-7**

Mitigation Measure 5.6-2 would ensure that dispersal and foraging habitat for CRLF is preserved at a minimum 3:1 preservation:loss ratio and to ensure that the project is designed such that there is connectivity of dispersal and foraging habitat to breeding habitat. While simply preserving habitat at this ratio would not be an adequate mitigation for loss of CRLF habitat, doing so with a fully funded RMP is a strategy that is not only considered a good strategy, but one that is also typically endorsed by the resource agencies, is respectfully considered adequate mitigation. As with previous responses regarding mitigation for other sensitive resources, it is generally considered an acceptable strategy to purchase preservation credits at this ratio at mitigation banks or to purchase and preserve habitat at an off-site location at this ratio to compensate for on-site impacts, but only if these preserves are subject to an ongoing management plan that assures protection in perpetuity.

**Response to Comment 15-8**

Mitigation Measure 5.6-2(b) allows for some flexibility for CRLF habitat preservation by allowing purchasing and preservation of off-site habitat.

**Response to Comment 15-9**

It is correct that the MCOSD has not agreed to accept Parcel A.<sup>28</sup> Mitigation Measure 5.6-2 provides for the opportunity to dedicate the preserved areas of the site to another land conservation organization or agency in the event that the MCOSD will not accept a dedication.

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<sup>28</sup> Nichols • Berman conversation with Ron Miska and James Raives, MCOSD, February 2013.

**Response to Comment 15-10**

It would be difficult for the applicant to develop an RMP in the absence of an approved project. It is the final approved project that will determine which resources to include under the RMP. However, under Mitigation Measure 5.6-1 and subsequent mitigation measures that would rely on an RMP, the Draft EIR provides a framework for the development of an RMP that will be sufficient to ensure that it adequately protects and manages sensitive resources that will ultimately be preserved or mitigated for as a result of the approved project. It is required that this plan be prepared by a qualified biologist via consultation with the resource agencies and it is subject to approval by the County. These requirements for Mitigation Measure 5.6-1 are consistent with Section 15126.4 of the *State CEQA Guidelines* for the consideration and discussion of Mitigation Measures in that they specify performance standards which would mitigate the significant effect of the project, and which may be accomplished in more than one specific way.

**Response to Comment 15-11**

It is feasible for the applicant to redesign or eliminate lots in order to mitigate significant impacts to serpentine bunchgrass habitat. It is feasible that the MCOSD or another land conservation organization would be willing to accept a dedication of preserved lands, especially if there is a fully funded RMP.

Regarding the potential management of on-site preserve areas by the POA, this is provided as an alternative in the event that the MCOSD or another land conservation organization would not accept fee title dedication, but it still requires that conservation easements be established over these areas.<sup>29</sup> The POA would be responsible for ensuring that all requirements of the RMP are carried out for these areas should they retain ownership.

Regarding funding for the RMP, Mitigation Measure 5.6-1(c) states that the funding mechanism would include the establishment by the applicant of a non-wasting endowment, funded by the applicant and/or through POA fees.

**Response to Comment 15-12**

The assertion that woodland habitat and trees removed on the site would not be mitigated is incorrect. The preservation of habitats in-perpetuity at between a 3:1 and 5:1 preservation:loss ratio along with a fully-funded RMP is generally considered to be a good mitigation strategy, even by the resource agencies and it is the EIR biologist's opinion that this mitigation along with mitigations requiring compensation for the loss of ordinance-size trees would reduce project impacts to a less-than-significant level. For perspective, if there was an available mitigation bank for oak woodlands that serviced the project area, the lower ratio of 3:1 would likely be the ratio at which preserved habitat credits, as opposed to created habitat credits, would be purchased.

The EIR biologist's also disagree that the mitigations required for woodlands is inconsistent with those required for serpentine bunchgrass habitat, as, the same 3:1 preservation ratio for woodlands would be required. The difference is that the applicant has already designed the project to result in avoidance of woodlands at this minimum ratio – and again, the ratio could be as high as 5:1, but likely somewhere between these two ratios.

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<sup>29</sup> MCOSD has indicated it will consider taking responsibility for Parcel B. Nichols • Berman communication with James Raives, Senior Open Space Planner, Marin County Parks, March 2013.

Additionally, pursuant to the mitigation measure for *Impact 5.6-8 Loss of Ordinance-Size Trees*, the applicant and individual lot owners would be required to additionally mitigate for the loss of any ordinance-size trees that are removed. The requirement for a fee to be paid for the removal of trees would encourage both the applicant and individual lot owner to preserve trees wherever possible.

With regard to avoidance, the EIR biologist's agree that generally this is a good strategy and unlike other sensitive habitats on the site, such as serpentine bunchgrass habitat, the project has been designed to avoid between approximately 75 percent and 84 percent of the oak woodlands on the site already. However, what was not proposed by the applicant was the addition of the preparation of the fully funded RMP, which will make a significant difference in assuring that these preserved woodlands are monitored, managed and maintained in-perpetuity.

The RMP would include a Fuel Management Plan. Potentially, the Fuel Management Plan could result in the loss of some additional trees as well as understory vegetation; however, the focus of the plan would be to maintain existing trees, including removing lower limbs, etc., rather than tree removal, since impacts to trees to be removed as a result of the Urban-Wildland Interface has already been considered in the EIR. Should additional trees or other vegetation be removed, under Mitigation Measure 5.6-1(c) the RMP would need to provide compensation for such impacts as stated below:

A Fuel Management Plan element to ensure that vegetation on preserved areas and adjacent private lots within the project site would be maintained consistent with all current and future fire safety guidelines. The plan shall include provisions for mitigating woodland impacts as a result of fuel management activities through woodland enhancement in unaffected areas of the site.

**Response to Comment 15-13**

Please see Response to Comment 15-12.

**Response to Comment 15-14**

Please see Response to Comment 15-12.

**Response to Comment 15-15**

Please see Response to Comment 15-12.

**Response to Comment 15-16**

With regard to the calculations of seasonal wetland habitats on the site, calculations for all habitats observed on the project site that support wetland vegetation and that potentially provide wetland functions and values for native plants and wildlife have been included. The discussion of wetlands under *Impact 5.6-5 Disturbance to Jurisdictional Waters* is clear on which areas were included and why. The calculation of wetlands on the site is sufficient to determine the foreseeable magnitude of wetland impacts, even though a formal wetland delineation has not yet been conducted. Mitigation Measure 5.6-5(b) requires a formal wetland delineation that would be verified by the USACE.

**Response to Comment 15-17**

Mitigation Measure 5.6-5(b) already requires compensation for wetland impacts on-site at a 2:1 replacement:loss ratio. Under the project, most wetland habitats (92 percent) are preserved in Parcel A. The remainder of wetland habitats identified by the EIR biologist on the site occur within the

private use areas of individual lots but between 50 and 100 feet outside of the building envelopes. The only wetland impacts identified under the project are minor temporary and permanent impacts as a result of necessary landslide repairs and they are detailed in the discussion under *Impact 5.6-5 Disturbance to Jurisdictional Water*. Permanent wetland impacts are estimated at 0.01 acre or less. Based on the minor nature of wetland impacts, it is completely feasible that required mitigations can be carried out on the site.

**Response to Comment 15-18**

The project incorporates 100 foot setbacks from all drainageways. The project as designed also, with one exception on Lot 16, has either preserved wetlands within Parcel A or, where wetlands occur on the private use areas of individual lots, they are at least 100 feet away from the building envelopes. The wetland feature on Lot 16 occurs approximately 50 feet away from the building envelope.

The EIR biologists would typically agree regarding the expansion of setbacks as a strategy to compensate for encroachment impacts; however, in this case, if the expansion was conducted on Parcel A where the vast majority of the encroachments on drainageways and wetlands would occur, it would only result in the setback incorporating areas already proposed for protection and preservation and would provide no additional benefit or compensation for encroachment.

**Response to Comment 15-19**

The Draft EIR discusses potential impacts to ground and surface water and provides mitigation measures to reduce these impacts to a less-than-significant impact (see *Impact 5.5-2 On-Site Drainage Patterns – On-Site and Off-Site Flooding* and *Impact 5.5-4 Groundwater Recharge and On-site Hydrology*). Also, see Response to Comment 15-10.

**Response to Comment 15-20**

New invasive exotics are discovered on a regular basis. Accordingly Mitigation Measure 5.6-6(a) Mitigation Measure 5.6-6(a) beginning on page 451 of the Draft EIR is revised as follows:

**Mitigation Measure 5.6-6(a)** Prior to any project development activities, the applicant shall have a qualified botanist or horticulturist develop a list of all exotic plants which are known to readily naturalize in habitats similar to those found on the project site. Black locust, blue gum, various brooms, periwinkle, pampas grass, non-native annual grasses and other species known to be invasive and difficult to eradicate shall be placed on this list and shall be prohibited from use in landscaping by applicant or individual lot owners by way of CC&R restrictions. Additionally, at the time of the development of their landscape plans, the applicant and individual lot owners, or their landscape professionals, shall check for any new occurrences of invasive exotics with the Bay Area Early Detection Network, or other similar resource dedicated to the identification of such species in the project region to ensure that no new such species are being utilized in the plans, and, if so, these species shall be removed from the landscape plans. All applicant or lot owner landscaping plans shall be submitted to Marin County CDA Planning Division for approval.

**Response to Comment 15-21**

As stated in Mitigation Measure 5.6-1(c) the minimum requirements of the RMP require that the applicant include a monitoring and management plan for invasive plant species (see Mitigation Measure 5.6-1(c)). The RMP does not require removal of all invasive exotics, however. Including a requirement that all invasive exotics be removed from the site including broom is not feasible. Even if

it were possible to remove existing populations on-site, this requirement is not being met on adjacent lands and, as such, there would be a constant source of such species to re-invade the site. None the less, the occurrence of broom and other exotics such as pampas grass on the site does create opportunities to improve habitats of the site and to compensate for project impacts to woodlands and other habitats through the removal of such species and the planting of native vegetation. The opportunities for such compensatory enhancement are addressed in the discussion and impact sections of *Impact 5.6-4 Loss of Coast Live Oak Woodland*.

**Response to Comment 15-22**

Conducting a single nesting bird survey prior to any project activities that could lead to bird mortality or nest abandonment, as stated in Mitigation Measure 5.6-7, is sufficient to determine existing conditions of nesting birds in and adjacent to impacted areas.

**Response to Comment 15-23**

The nesting seasons for smaller owls that occur commonly in the project region, such as the western screech owl (*Otus kenni cotti*), fall well within the February through August timeframe provided in the Draft EIR. It is true that some larger owl species such as the great horned owl (*Bubo virginianus*) and the barn owl (*Tyto alba*) have been known to begin breeding earlier than February in the southern portions of their ranges where winter weather is more moderate, but February is generally considered by DFW to be the beginning of the nesting season for raptors, including owls, in the project region. It should be noted that DFW did comment on this mitigation also, see Comment 11-9, and did not request any change to the breeding season timeframes provided in the mitigation, although they did request that the nesting surveys be conducted within 14 days of project disturbance rather than 30 days.

**Response to Comment 15-24**

As stated under the discussion of *Impact 5.6-8 Loss of Ordinance-Size Trees* additional impacts to woodland habitat as a result of the road improvements referenced were estimated at 0.5 acre. Mitigation Measure 5.6-8 requires report submittal confirming the number of ordinance-sized trees that would be impacted. Although the number of ordinance-sized trees that would be impacted by the development is unknown, there is sufficient information regarding woodland and tree impacts to determine the general magnitude of the impacts for CEQA purposes and to develop feasible mitigations for these impacts to reduce them to a less-than-significant level.

**Response to Comment 15-25**

Requiring the planting of oaks as replacement for lost ordinance-size oaks on the site at first appearance seems reasonable and in general, replacement “in kind” is preferred; however, when you factor in the unfortunate and likely occurrence of SODS on the site and the fact that this syndrome appears to be responsible for the decline and death of up to 25 percent of oaks and other susceptible species on the site, it is not reasonable to require that the applicant or individual lot owners plant oak trees or other SODS-susceptible tree species on the site if they have a high likelihood of succumbing to a disease for which there currently is no known cure and for which there are no known coast live oak or other SODS-susceptible tree species strains that are resistant to the disease. Additionally, the RMP requires that a monitoring and management plan with specific success criteria be developed for preserved areas where much of the mitigation for impacts to woodlands and trees will occur. Depending on the ultimate success criteria, including criteria regarding survivorship, it may not be reasonable to plant trees and other native vegetation that is susceptible to SODS and then hold the applicant, POA or any land conservation organization that may take ownership over preserve areas,



accountable for a certain survivorship criteria for these species if there is a high likelihood that, regardless of fulfilling their other RMP obligations (i.e. providing adequate irrigation, browsing protection, etc.) these plantings will succumb to disease. Lastly, there is the potential that replacement trees acquired from outside sources could be already diseased and could introduce SODS to areas of the site where it is currently absent, or at least not as prevalent, and result in more rapid spread of the disease.

**Response to Comment 15-26**

Please see Response to Comment 15-25.

**Response to Comment 15-27**

As stated previously, a minimum of 75 percent of the native oak woodlands on the site are to be preserved, monitored and managed pursuant to a fully funded RMP. These woodlands would continue to provide habitat functions and values for native plants and wildlife. Mitigation Measure 5.6-1(c) requires that the RMP be funded in perpetuity. The funding mechanism could be the establishment by the applicant of a non-wasting endowment, funded by the applicant and / or through monthly POA fees. Funds generated from the endowment could be utilized to enhance the preserved woodlands on-site, providing opportunities to potentially increased habitat functions and values through removal of non-native species, and the opportunity for planting not just trees but also shrub, herb and vine species that can result in a more species-rich and structurally-diverse woodland habitat than currently exists on-site. One of the reasons that woodlands are able to support so many native species has to do with the fact of diverse vegetation layers that can provide many different niches for these species.

Regarding the planting of oaks and other trees “in kind” at ratios set forth by the applicant, as discussed in the Draft EIR, this would likely result in a minimum planting of several thousand trees and there is no where on-site or even on the Tiburon Peninsula, where this could be conducted without resulting in the conversion of other habitat types. Currently, areas proposed under the project for preservation include a mosaic of habitat types, which also is important to many native species that utilize two or more habitat types for breeding, foraging, etc.; and, as previously pointed out in Response to Comment 15-26, the fact that oak woodland currently does not exist in other areas of the site is a good indication that conditions are not suitable to the development of woodlands in these areas. Additionally, even if it was a feasible strategy to plant this many trees on-site, this would basically result in a monoculture of trees, rather than in a species-rich and structurally-diverse woodland habitat.

A vast amount of time was spent reviewing available information and reports on biological resources of the project site, now spanning more than two decades, as well as on conducting additional field surveys to collect data on the existing conditions of the site, prior to preparation of the Draft EIR. It is the EIR biologist’s opinion this information is sufficient to determine the likely magnitude of impacts on such resources and to inform the CEQA process. Additionally, a vast amount of time was spent considering all of the potential strategies to reduce these impacts to a less-than-significant level, including their feasibility. The EIR biologists respectfully disagree that the mitigations provided for the loss of woodlands and ordinance trees would not reduce these impacts to a less-than-significant level.

**Response to Comment 15-28**

Please see Response to Comment 15-27.

**Response to Comment 15-29**

Please see Response to Comment 15-27.

**Response to Comment 15-30**

Please see Master Response 3.

**Response to Comment 15-31**

*Section 6.6 Environmentally Superior Alternative* states that *Alternative 2* is the environmentally superior alternative because the reduced number of housing units would result in less disturbance to the project site, reducing the degree of several impacts. *Alternative 4* is not identified as the most protective of environmental resources in the Draft EIR.

**Response to Comment 15-32**

Please see Response to Comment 11-15. *Alternative 4* features reduced density in areas where biological resource are known to occur, and would allow for an increased area of land to be dedicated for the preservation of the Marin western flax. While the commentor is requesting more details for the design of *Alternative 4*, it is important to note that the nature and scope of the alternatives to be discussed is governed by the rule of reason (*State CEQA Guidelines 15126.6(a)*). The details for the proposed layout of *Alternative 4* are sufficient to reason that impacts to biologically resources would be substantially reduced. Therefore there is no need to revise *Alternative 4*.

Mitigation Measure 5.6-1(a) requires setbacks from preserved populations of Marin dwarf flax. Also. Please see response to comment 11-19 for revision to Mitigation Measure 5.6-1(a) to address stockpiling of fill materials.

## LAST CHANCE COMMITTEE

April 26, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community. I have lived in Tiburon for over 40 years. My comments show the page # and then the section.

1

22 MM5.1-9 The roads don't seem safe. Is the construction road required for emergency access? If yes, what happens when it is removed? What is the definition of and standards for a "temporary road? The construction road could be used for at least 10 years. That does not seem temporary. If the construction road is required for emergency access, what are the required width and grade standards? How can TFPD accept the substandard road?

2

23 MM5.1-10 Please quantify the parking changes on Diviso. How many lost and at what places?

3

23 MM5.1-10 Forcing dramatic parking changes to Diviso so the applicant can make a profit is wrong. Where is the legal precedent that allows the county to remove rights of Tiburon homeowners? Why does the expert think this will help safety throughout Hill Haven and Old Tiburon?

4

23 MM5.1-13(a) Where is the report by the "safety expert?" Allowing two non experts to comment on such an important topic is wrong. The safety of the construction road must be determined by an expert not a construction company who wants the contract. Why didn't the transportation consultant comment or hire an expert?

5

26 MM5.4-1 Allowing unsafe landslides to remain on the property is a major risk to health and safety. Tiburon requires all landslides be made safe. If the applicant will not repair all landslides, will there be a bond to insure their repair when there is a slide. Who is responsible financially if the bond limits are exceeded in a claim? There certainly will be slides because of all the repairs on the other slides. The analysis called for in this MM is after the EIR approval. CEQA does not allow this delayed analysis. Where is the analysis before the EIR is certified?

6

27 MM5.4-2 Again delayed slope analysis after the EIR is certified. CEQA does not allow delayed environmental finding. Why not do the analysis before the EIR is certified?

7

33 MM5.5-6 The applicant is demanding changes by others to address problems that the applicant causes. What expert says this approach will result in the same amount of water that Keil has historically experienced? What happens if there is no agreement?

8

34 MM5.6-1(a) Significant impact to Marin dwarf flax. Why just buy property elsewhere? What is the onsite mitigation to not "take" the plant?

9

35 MM5.6-2(a) Significant impact to California Red Legged Frog. Why just buy property elsewhere? What is the onsite mitigation to not "take" the frog?

10

40 MM5.7-7 How can one raise the water tank above grade? What are the MMWD rules that allow raising the tank to any height? Are there safety concerns with raising the tank? How does putting in a wider pipe along Paradise increase the water pressure at a home after going through the water tank? Will TFD allow low pressure at various houses? A pump could fail in a fire. Will TFPD allow house pumps to get pressure to the necessary level?

11

40 MM5.7-9 What houses are not allowed with the TFPD fire flow rules? What houses are limited in size? To what size? What houses have building material requirements? This analysis must be done by an expert, not the applicant. Where is this analysis? Attached please find the TFPD letter sent by Ron Barney on February 23, 2010. Please respond to his issues and concerns, including, "The environmental review of the project needs to address a couple issues, the water supply delivery system and hydrant placement, the MERA coverage for this project site, traffic safety and

cumulative impacts to emergency traffic, and the impact of placing more homes in the WUI area adjacent to existing neighbourhoods.” and his statement that, “The proposed temporary construction road is a major concern to the Tiburon Fire District.”

12      41    MM5.7-10      What are the CEQA impacts of building a 4800' new sewer line? Where is the CEQA document for that project? The project cannot be built without the sewer line. The project cannot? Will not? wait for subsequent CEQA approval.

13      43    MM5.8-1      Dramatic visual impacts need to be mitigated. Why not lessen vertical height of houses? Marin County regulations specify 18' (don't they?)

14      47    MM5.9-3(a)      As noted above, the applicant is requiring Keil change their historic setting to help the applicant remove a major impact. Why is this required?

15      50    Sec 5.5      As noted above, the applicant is forcing Keil to change their historical setting to solve their impact. What expert says the flow will be as it historically has been?

16      50    Sec 5.6      Again a significant impact to the frog.

17      51    Sec 5.7      Provide the expert report that says these fixes will produce safe fire flow. This analysis cannot be deferred. The public must be able to review this critical report prior to the FEIR.

18      61    Approvals      It needs to be clear that no lots can be sold before all infrastructure in finished as this protects the safety of neighbors by avoiding a half built project that fails financially. Is that the case? If not, why not?

19      71    CC&Rs      How will they be enforced? If a homeowner ignores them, then what? Who has what authority to enforce them?

20      72    Circulation      Is 10' the proper width? What county rule states a paved road with lots of traffic, as well a emergency vehicles, need only be 10' wide? Why not 28" wide? What rule allows calling it a "temporary road" for at least 10 years? Why should Marin allow substandard project roads? Safety requires full width.

- 21      73    Road Grades      How can the construction road be allowed at an unsafe grade? What expert says that is safe? What happens when it is raining or there is frost? How safe is it then? What is the grade to the water tank if the tank is raised?
- 22      74    Water      Is the elevated water tank OK with MMWD? What are their standards for raised tanks? Is the access still OK?
- 23      74    Sewer      Where is the EIR for the 4800' sewer line? Delayed CEQA analysis is not allowed. How will the sewer line be built? Where? When? Traffic concerns during construction?
- 24      79    Landslide      Where is the expert that says slides more than 100' feet away are not a safety risk? Tiburon thinks they are a risk and requires all slides be fixed. Ask an expert if there are safety risks. Just following the County's approach does not make it safe.
- 25      82    Retaining walls      How high are the various walls? The walls on the construction road must be clearly described as they are a safety risk. Plus they will be a pedestrian path someday. All walls over 2.5' should be identified on a map for safety concerns and indicate the wall height and mitigation measures for the visual impacts.
- 26      86    Agencies      Here is an important list of all agencies who may need to issue an important permit for the project. What are their concerns/issues?
- 27      220    Bicycle Facilities      Just like page 557, there is no consideration of bicycle safety. There needs to be a 4' shoulder the full length of Paradise frontage. If not, who says it is safe?
- 28      241    MM5.1-6(a)      Where is the CEQA analysis of the impacts of widening Paradise? Can it be done? How will it be built? Safety is critical.
- 29      244    MM5.1-7(a)      Sidewalks? Can they be built? Where is the CEQA review of process?
- 30      244    MM5.1-7(b)      How can the county remove Tiburon parking rights? Where will these people park? What houses will lose their historic parking

right? How will the loss of these parking places make the rest of Hill Haven and Old Tiburon safe with the increased construction traffic?

31

247 MM5.1-9

Emergency Access? All of this MM is confusing.

How can Old Tiburon be required to allow all staging for the construction of the 1,600' TEMPORARY CONSTRUCTION ROAD? The road must be wider and less steep and built from Paradise Drive not via Old Tiburon. It is unsafe.

Where is the expert (not 2 construction companies who want the business) opinion that the road is safe? Why didn't the Transportation consultant comment or hire a real expert? What happens in rain? What happens in rain when there is mud on the road? Should there be a mitigation that all tires must be cleaned? "TFPD ... feels the road is a significant safety risk." All turnouts and roads must meet standards.

For such a large project, isn't there a requirement for TWO in and out routes? TFPD does not think there are two. Isn't this unsafe per TFPD?

32

258 MM5.1-11

How can the county allow sub standard roads?

This is an area of significant fire risk and slide risk. Normal roads are required. Has the applicant agreed to 28' roads? If not, why not?

33

266 MM5.1-11

How can the county allow substandard parking in

such a risky area? Fires and slides are a real risk. Has the applicant agreed to standard parking requirements? If not, why not?

34

267 Impact5.1-13

How can the county permit a road that for 10 years

will require a crash barrier to supposedly stop a falling cement truck? The road must be made wider and less steep. How will homes built below the construction road be considered safe? Old Tiburon should not have to suffer as construction equipment for the temporary 1600' construction road is routed through their neighborhood. What is required to build the 1600' road from Paradise Drive?

35

269 Construction Phasing

"Hour of arrival is 6 am." What does

Tiburon require as the early start for construction so near to neighbors? Why is there no discussion of construction vehicles in Hill Haven and Old Tiburon? Certainly many houses will be built after the use of the construction road ceases. Gilmartin is only coming to an end after 20 years. In this economy it could take longer. There are many safety issues that have to be discussed. How will heavy trucks get along Diviso? How will they turn on Ridge Road at Lagoon View? What size trucks can drive these roads? Full size trucks are not allowed today in

Old Tiburon and Hill Haven. Why allow them now? Has the traffic engineer confirmed that all construction vehicles can navigate all the Old Tiburon – Hill Haven roads? If not, why not? Will vehicles need to be off loaded? How will that impact staging of trucks on Paradise?

36

326 Exhibit 5.4-2 28 Slides on the site. Who will monitor and enforce? Who did peer review of the dangers? How are these recommendations for treatment different from Tiburon standards? Why should the project's neighbors be required to suffer lower safety standards than Tiburon would require? Who is liable if there is a slide? Certainly MCOSD won't take the exposure. Bonds need to be posted for potential slide damage and maintenance for many years.

37

364 Exhibit 5.5-1 Only CC&Rs protect the many drainages. Post bonds so their protection is certain. Isn't this health and safety?

38

441 MM 5.6-2(b) Red legged frog has little or no real protection on site. Post bonds to assure the CC&Rs are followed.

39

469 mid page Fire flow is substandard. What are the house size limits and location per Tiburon Fire Protection District (TFPD). What if the flow numbers don't happen when the house is built? Post bonds so needed fixes will happen? The sizes of the pipes need to be determined during DEIR, not after (top of p 470).

40

469-476 F fire flow Where is CEQA review of the 3,750' 8" pipe needed to serve lots 21-23? Who is responsible in an earthquake or landslide if the tank fails?

TFPD cannot approve any house without certainty of the fire flow rate. More detail is needed during DEIR. Analysis after DEIR is not allowed. Is raising the water tank allowed by MMWD? What is unsafe height? How can TFPD allow low pressure water to homes. Installing pumps is not the answer as electricity will fail in a fire.

41

473 Exhibit 5.7-1 Who is Land Development Solutions? Where is their report? Where is MMWD report regarding water pressure calculations? Or were all these critical calculations done by the applicant? Where is the expert analysis, whoever did them?



42

474 MM5.7-7

This is deferred water mitigation analysis. All analysis must take place during DEIR and be presented there. It is a safety and health issue.

43

476 F MM5.7-8

This is deferred fire flow mitigation analysis.

44

479 Sewer

Where are pumps needed to get sewerage up and over hill? Where is EIR for 4800' new sewer line along Paradise? Are there slide areas along the route?

45

554 Exhibit 6.0-2

Alternative # 2, 32 lot plan. Why is Parcel B so much bigger in Alt#2? 1.99 acres vs .33 acres in base Project? What acreage did bio consultant recommend?

46

556 Trails

Note that the base project has no trails. Alternative #2 has 3 trails. The third one is on the construction road once its use ends (10 years or so). This trail will be very unsafe as the very high retaining walls of the construction road are never removed. Will applicant fully remove the construction road and return it to its original condition? Does this accurately reflect the deal Tiburon made in the MOU (page 22)? Plus the trail along the ridge (current fire road) will also be unsafe for all the years (10 years or so) that construction uses that road. What will the experience be for hikers on the ridge trail for all the years that the construction traffic uses the construction road? Will it be quiet? Will it be safe?

47

557 Bicycle Facilities

Where is the environmental analysis of a four foot shoulder on Paradise for around 4,000 feet? (The sewer line is only slightly longer and it is 4,800') Without this 4' shoulder bicycle riders are not safe. Look at W-Trans Traffic study, March 17, 2009, page 4. Why isn't the 4' shoulder built along ALL of its Paradise Drive frontage? The applicant should upgrade bicycle safety for all of its frontage.

48

558 Exhibit 6.0-3

Please confirm the maximum square footage for each lot includes all structures including house, garage and accessory buildings.


49

573 Retaining walls

Please note all retaining walls that may be over 2.5 feet. Where are they and how long is each one? What is the mitigation for each such wall's impact? This is important for safety issues and visual impacts..

- 50 574 Construction Does Alt#2 build the construction road via Old Tiburon? Where is DEIR for that project?
- 51 667 F Impact6.7-7 Where is the fire flow analysis for Alt#2? What houses must be smaller or not built?
- 52 669 F MM6.7-8(a) Fire flow too low. The analysis must be done during DEIR not after.
- 53 692 Alt#3 This seems most attractive. What are lot sizes? What houses cannot be built for fire issues? Make houses one story and smaller in the ridge area. Move some next to Hill Haven. How many half-acre lots could be placed around and above the existing large water tank? How many half-acre lots could be placed on the remainder lot (Alternative #2, lot 32). Are these changes (moving houses to the remainder lot and around and above the existing large water tank) significant enough to allow deleting the construction road? What happens to water issues if the proposed water tank is buried?
- 54 718 Cumulative Where is the detail of each project? Where are the houses to be built in other projects? This matters for traffic. This analysis is very thin. Page 84 gives little detail.

Sincerely,

  
Jerry A. Riessen  
1474 Vistazo West  
Tiburon, CA 94920  
Last Chance Committee  
Co-Chair

Cc: Curtis Havel, Community Development Agency  
Attached: Ron Barney, TFPD, letter of February 23, 2010



## TIBURON FIRE PROTECTION DISTRICT

1679 TIBURON BOULEVARD, TIBURON, CALIFORNIA 94920  
TELEPHONE: (415) 435-7200 FAX: (415) 435-7205

RICHARD PEARCE, FIRE CHIEF

**TO:** Marin County CDA  
Attn: Curtis Havel

**DATE:** Feb. 23, 10

**FROM:** Ron Barney, Fire Marshal

**RE:** Easton Point Master Plan (APN 059-251-05)  
Lower Density Alternative

We have reviewed the Proposed Lower Density Alternative and find that this proposal generally contains the same challenges to us as the previous proposal.

The proposed water tank is large enough to contain the volume of water needed to supply the required fire flow of 1500 GPM for the minimum two hours; however, it may not be possible to deliver the required flow at the required minimum pressure. It may be necessary to restrict the overall size of the homes allowed on some of the parcels, or restrict their type of construction, or both.

The location of this project is within an area where the MERA system has inadequate coverage. This leaves Emergency personnel, Law enforcement and Fire District, without needed communication capabilities. It may be possible to mitigate this problem through the placement of an additional MERA radio system antennae site at the proposed water tank site. Further study would be needed to verify if this location would properly cover the project site.

The introduction of several new homes and their residents into the wildland urban interface adjacent to an existing neighbourhood will increase the likelihood of wildfire. This may be partially mitigated by improving the fire flow in the adjacent existing housing area to provide fire fighters with better suppression capabilities.

The proposed temporary construction road is a major concern to the Tiburon Fire District. With proposed slopes of 25% the narrow road appears to be a safety hazard for traffic. Given that Cal Trans starts placing warnings to heavy trucks when grades reach 6% slope on highways, we are concerned that requiring construction vehicles delivering heavy construction materials to travel on grades four times that steep will create a safety hazard.

While the first in emergency vehicle response time is not a significant concern to us given our current station location in relation to the project site, the site is at the extreme

end of the Tiburon Peninsula. This means that all additional emergency responders, mutual aid and ambulance as well as our own engines from station 10, will need to access the site via Tiburon Boulevard. We have noted increasing travel times along this main route. A potential mitigation for this impact may be to equip the remaining signal lights along the Boulevard with a traffic preemption device compatible with our current system.

The environmental review of the project needs to address a couple issues, the water supply delivery system and hydrant placement, the MERA coverage for this project site, traffic safety and cumulative impacts to emergency traffic, and the impact of placing more homes in the WUI area adjacent to existing neighbourhoods

Conditions for approval should include: The use of ignition resistant construction for all structures contained in the project equal to or exceeding the current standards found in the California Building Code Chapter 7A. Vegetation management plans shall be submitted for approval for each parcel to be built upon (it is noted that the applicants have increased and or reconfigured the parcels to allow the individual parcel owners to have control over the minimum defensible space dimensions as we requested). The access and water supply systems would need to be constructed, tested and approved by the Tiburon Fire District prior to the issuance of any permits to build structures other than those needed for the water supply.

Thank you for an opportunity to review the plans, I look forward to working through the environmental impact portion of the project.

Sincerely,

Ron Barney, Fire Marshal

**RESPONSE TO LETTER NO. 16 – JERRY A. RIESSEN, CO-CHAIR, LAST CHANCE COMMITTEE  
(APRIL 26, 2011)**

**Response to Comment 16-1**

As discussed under *Impact 5.1-11 Provision of Safe On-Site Roads* proposed on-site roads would not meet Marin County standards. This would be a significant impact that would be reduced to a less-than-significant level with implementation of Mitigation Measure 5.1-11. Although the proposed project would leave the construction access road for use in emergencies it is not needed for emergency access requirements. The three permanent on-site roads and driveways would comply with TFPD road grade requirements.

**Response to Comment 16-2**

Please see Mitigation Measure 5.1-7(b) and Response to Comment 6-7.

**Response to Comment 16-3**

The recommendation to limit on-street parking along the sections of Diviso that are less than 20 feet wide is a safety consideration. The Town of Tiburon would have to approve this action.<sup>30</sup> This would help safety for residents of Diviso, as well as neighbors using Diviso as a through street.

**Response to Comment 16-4**

Please see Master Response 2.

**Response to Comment 16-5**

Landslide hazards are discussed in *Section 5.4 Geology and Soils* of the Draft EIR. The analysis provided under *Impact 5.4-1 Landsliding* provides mitigation measures that are required to mitigate significant impacts related to landsliding. Mitigation Measure 5.4-1 clearly specifies performance standards for the mitigation of landslide impacts related to minimal factor of safety ratings for both static and seismic conditions. In regard to long-term maintenance of repairs Mitigation Measure 5.4-1 has been revised to include the following:

The property owner's association shall be responsible for implementation of long-term maintenance program. The responsibility of the property owner's association to be responsible for the long-term maintenance program shall also be incorporated into the CC&Rs.

**Response to Comment 16-6**

Please see Response to Comment 16-5. Section 15126.4 (a)(1)(B) of the *State CEQA Guidelines* states "...measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way." Mitigation Measure 5.4-1 requires confirmation that landslide repair would provide a factor of safety of 1.5 for static

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<sup>30</sup> Crane Transportation Group communication with Scott Anderson, Town of Tiburon Director of Community Development, January, 2013.

conditions and greater than 1.0 for seismic conditions.<sup>31</sup> This is a standard for slope stability that can be accomplished through the use of repair and improvement methods described in the Draft EIR.

**Response to Comment 16-7**

Please see Master Response 3 for information regarding the Keil property water supply.

**Response to Comment 16-8**

Mitigation Measures 5.6-1 would lessen impacts to the on-site population of the Marin western flax to a less-than-significant level. These do not include off-site purchase. It is the EIR biologist's opinion that off-site purchase is not a feasible approach given the few occurrences of the species known in Marin County that are not already protected.

**Response to Comment 16-9**

Mitigation Measure 5.6-2 would lessen impacts to CRLF to a less-than-significant level, including impacts to habitat and potential harm or mortality to individual CRLF. Several mitigation options are provided, including on-site preservation and creation, as well as purchasing and preserving habitat off-site.

**Response to Comment 16-10**

As discussed on page 566 of the Draft EIR one of the options for placing the 180,000 gallon water tank at a higher elevation is a different location, upslope from the initially proposed location, within Old St. Hilary's Open Space Preserve. The water tank would be constructed in compliance with the standards of the California Building Code, and the MMWD in consultation with the TFPD. Upgrading the water main within Paradise Drive would increase water pressure to Lots 21 thru 23, which would receive their water directly from the main and not through the proposed onsite water distribution system described on pages 470 and 471 of the Draft EIR. Water pumps may be installed at some houses to increase water pressure for the domestic water supply. This issue is separate from the issue of adequate fire flow at the proposed fire hydrants located throughout the site. For more discussion related to comments received on the fire flow issue please see Response to Comment 6-18.

**Response to Comment 16-11**

**Exhibit 5.7-1** provides an overview of the water feasibility analysis for the proposed project as conducted by the MMWD. The figures contained in the exhibit represent estimates of what the fire flow will be upon build out of the project. More accurate calculations could be made from construction level plans. As indicated in **Exhibit 5.7-1** the residences proposed for Lots 35 thru 43 may be limited to 3,600 square feet. Lots 7 thru 11 and 19 thru 23 may require alternative construction materials to enhance fire prevention safety.

**Response to Comment 16-12**

Please see Master Response 8.

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<sup>31</sup> The factor of safety is defined as the ratio of the resisting forces to the driving forces. Slopes with a factor of safety less than 1.0 are unstable. The higher the factor of safety, the more stable the slope. For pseudo-static analyses, the ground acceleration determined from deterministic methods or the probabilistic ground acceleration that corresponds with a 10 percent chance of being exceeded in 50 years.

**Response to Comment 16-13**

The proposed project is inconsistent with Section 22.16.030(K) where it states that development within the vicinity of ridgelines shall be limited to 18 feet structural height. As a planned development exceptions to such development regulations can be approved. As proposed homes on the upper portion of the lot would not exceed 25 feet in height and accessory structures would not exceed 15 feet in height. Mitigation Measures to reduce visual include limiting building height to one story with a maximum of 18 feet on lots that would be visible from Old St. Hilary's Open Space and relocating houses to create more distance from Ridgelines C and D (Mitigation Measure 5.8-1). However, with implementation of mitigation measures three identified visual impacts would remain significant and unavoidable.

**Response to Comment 16-14**

As discussed in Master Response 3, without an agreement and cooperation from the Keil family to allow development of a piping system to convey intercepted upslope groundwater to the Keil storage facilities, this mitigation is not feasible. Therefore impacts to groundwater supplies, Keil Spring and the Keil Property Spring-based Water Supply (*Impact 5.5-6*) would be significant and unavoidable.

**Response to Comment 16-15**

Please see Master Response 3 and 4, and Response to Comment 16-14.

**Response to Comment 16-16**

As discussed under *Impact 5.6-2 Impacts to the California Red-Legged Frog* the proposed project would have a significant impact to foraging habitat and dispersal movements for frogs. Implementation of Mitigation Measure 5.6-2 would reduce this impact to a less-than-significant level by establishing movement corridors, preservation of on-site or off-site dispersal and foraging habitat and dedication of habitat.

**Response to Comment 16-17**

**Exhibit 5.7-1** provides a water feasibility analysis for the proposed project. Mitigation Measure 5.7-8 reduces impacts related to inadequate fire flow to a less-than-significant level. The mitigation measure establishes standards that when met, qualify for reduced fire flow requirements.

**Response to Comment 16-18**

This comment is noted. It is the commentor's opinion that no lots can be sold before all infrastructure improvements are completed. Other than the timing implementation of Mitigation Measures related to infrastructure improvement this issue is outside the purview of the EIR. No further comment is necessary.

**Response to Comment 16-19**

Please see Response to Comment 1-3 for information regarding POA's responsibilities.

**Response to Comment 16-20**

Please see Master Response 2. Also, see Response to Comment 16-1 for more information. As proposed the construction road would be used as a temporary route for construction vehicles.

Following completion of construction the road would be left available as an access route for emergency vehicles, although as discussed with *Impact 5.1-9 Project Impacts Related to Project Site Emergency Access* the road is not required for emergency access. At no point would this road be open to public vehicular use, and therefore is not subject to the road standards that regulate public and private streets. With *Alternative 2* the temporary construction road would be removed upon completion of the project.

**Response to Comment 16-21**

Please see Master Response 2.

**Response to Comment 16-22**

Please see Response to Comments 4-2 and 4-3.

**Response to Comment 16-23**

Please see Master Response 8.

**Response to Comment 16-24**

The Marin County Landslide Repair Policy dictates existing landslides that would not be disturbed by development need not be repaired. In response to general questions about the safety of this policy, there are existing active and dormant landslides on the project site and landslides located within 100 feet of development would be repaired. Landslides which are to be avoided, as listed in **Exhibit 5.4-2**, would remain same as the existing condition. Repaired landslides would meet factor of safety standards explained in Response to Comment 7-8. Where new development would put residential uses in vicinity of existing landslides that would be avoided and unrepaired, Mitigation Measure 5.4-1 requires documentation that the project would not have an adverse impact on the development and the project would either improve or not further exacerbate the landslide.

**Response to Comment 16-25**

The applicant has submitted retaining wall plans and profiles for *Alternative 2*.<sup>32</sup> These plans are available for review located at Marin County offices.

**Response to Comment 16-26**

Pages 86 and 87 of the Draft EIR include a list of Responsible and Trustee Agencies for the *2008 Easton Point Residential Development*. These agencies have been notified that the Draft EIR has been prepared and comments have been received from the California Department of Fish and Game (Comment Letter No. 11), Marin Municipal Water District (Comment Letter No. 4) and the Tiburon Fire Protection District (Comment Letter No. 5). Responses to these comments are included in the Final EIR. Additionally the Draft EIR Appendix includes a list of public agencies that responded to the Notice of Preparation.

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<sup>32</sup> Easton Point Town of Tiburon's 32 Unit LDA Wall Plan and Profiles (Sheets W-1 thru W-8), CSW/ST2, April 14, 2009, Revised December 15, 2009.



**Response to Comment 16-27**

As discussed under *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues* the proposed project would make an incremental addition of vehicle traffic that would exasperate existing conditions that are unsafe for inexperienced bicyclists. This would be a significant cumulative impact. Mitigation Measure 5.1-6 requires improvements to Paradise Drive along the project frontage that would enhance bicyclist safety. These improvements include selectively widening the shoulder pavement on both sides of Paradise Drive and installation of signage. This widening of selected sections of Paradise Drive is consistent with the improvements recommended County's 2008 *Unincorporated Area Bicycle and Pedestrian Master Plan*<sup>33</sup> and the Town of Tiburon's *Bicycle and Pedestrian Master Plan 2008 Update*.<sup>34</sup> In addition, see Response to Comment 1-2 for information regarding Paradise Drive improvements.

**Response to Comment 16-28**

Please see Master Response 8.

**Response to Comment 16-29**

Sidewalks were accounted for in the CEQA analysis of road improvements and impervious surfaces, see Master Response 6 for a revised discussion of Mitigation Measure 5.5-3(e).

**Response to Comment 16-30**

Please see Master Response 1.

**Response to Comment 16-31**

Please see Master Response 2. The construction contractor would be required to follow specific safety practices due to the steep road grade.

For the 43-unit proposed project, there would not be just one access road; it is broken into several primary access roads that would be required to meet TFPD safety standards. Access roads would consist of: Mountain View Drive (serving three lots), Ridge Road (serving 27 lots), Forest Glen serving (ten lots) and Paradise Drive (serving three lots).

**Response to Comment 16-32**

Mitigation Measure 5.1-11 requires the three on-site roads be designed to meet County standards.

**Response to Comment 16-33**

County Staff has indicated that four parking spaces would be required on each lot to comply with minimum code requirements. As proposed all lots except Lot 21 and Lot 22 would meet this minimum requirement. As discussed under *Impact 5.1-11 Provision of On-Site Parking Space* there is a concern that larger residences would require more parking spaces and result with on-street parking where streets are narrow with steep grades, impeding the safe flow of residential and emergency

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<sup>33</sup> *Unincorporated Area Bicycle and Pedestrian Master Plan*, Marin County, adopted March 25, 2008.

<sup>34</sup> *Town of Tiburon Bicycle and Pedestrian Master Plan 2008 Update*, Alta Planning + Design, 2008.

traffic. Mitigation Measure 5.1-12 requires each residential lot provide the minimum four on-site parking spaces plus four additional spaces. As an alternative to the four additional on-site parking spaces the on-site roads can be designed to include parking bays.

***Response to Comment 16-34***

Please see Master Response 1.

***Response to Comment 16-35***

Please see Master Response 2 and Response to Comments 6-15 and 7-14.

***Response to Comment 16-36***

Please see Responses to Comments 1-2, and 6-5. Marin County's policy for landslide repair is explained on pages 328 and 329 of the Draft EIR.

***Response to Comment 16-37***

Please see Response to Comment 1-3.

***Response to Comment 16-38***

Please see Response to Comments 22-45, and 22-47 through 22-49.

***Response to Comment 16-39***

Please see Response to Comments 6-18 and 16-11.

***Response to Comment 16-40***

Please see Response to Comment 6-16 for discussion of CEQA review for water pipe, and Response to Comments 4-2 and 16-10 for the water tank, and Response to Comment 16-11 for feedback regarding the fire flow analysis.

***Response to Comment 16-41***

Land Development Solutions is the applicant's project engineer. MMWD prepared preliminary fire flow analysis using the information that is currently available. These figures are preliminary, a more detailed analysis would be done upon submission of project design level plans.

***Response to Comment 16-42***

Mitigation Measure 5.7-7 provides standards that when met would reduce water service impacts to a less-than-significant level.

***Response to Comment 16-43***

Mitigation Measure 5.7-8 provides standards that when met would reduce impacts related to inadequate fire flow to a less-than-significant level. Also, see Response to Comments 6-18 and 16-11.

**Response to Comment 16-44**

The applicant is proposing to install a gravity fed sewer system. No pumps are proposed. Please see Master Response 8. **Exhibit 3.0-9** shows all landslides located on the project site.

**Response to Comment 16-45**

Mitigation Measure 5.6-1 requires the PDP be redesigned to preserve the on-site populations of Marin dwarf flax and serpentine reed grass. The design of *Alternative 2* incorporates a 1.99 acre Parcel B, which appropriately sized to meet the intention of Mitigation Measure 5.6-1. As discussed with *Impact 5.6-1 Impact to Special Status Plants* the mapped population of Marin dwarf flax (2009) exceeds the boundaries of Parcel B as it is proposed with the original project (0.33 acres). The EIR biologist did not recommend a particular size for Parcel B, but rather recommends a preservation to loss ratio of 3:1 in Mitigation Measure 5.6-1.

**Response to Comment 16-46**

Trail related impacts would be reduced to a less-than-significant level with implementation of Mitigation Measure 5.1-7.

**Response to Comment 16-47**

Please see Master Response 8.

**Response to Comment 16-48**

As stated in the Memorandum of Understanding between the Town of Tiburon and the Martha Company <sup>35</sup> and on page 558 of the Draft EIR the maximum square footage would be based on methods set forth in the Tiburon Zoning Code except garages, carports and accessory buildings would be counted toward the maximum square footage.

**Response to Comment 16-49**

Please see Response to Comment 16-25. The visual changes that could result from construction of retaining walls are discussed on page 505 of the Draft EIR.

**Response to Comment 16-50**

The commentor requests an analysis of environmental impacts resulting from construction vehicles. Please see *Impact 5.1-13 Construction Traffic Impacts* for discussion of transportation impacts related to construction vehicles. This analysis includes consideration of construction traffic. Also see Master Response Traffic 1.

**Response to Comment 16-51**

A preliminary water feasibility analysis was not prepared for *Alternative 2*. Conclusions were drawn using the analysis done for the proposed project. It is likely Lots 5 thru 8 and 18 through 21 would

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<sup>35</sup> Exhibit 1 Development Agreement by and between the County of Marin and Martha Co. with Respect to Easton Point, Memorandum of Understanding by and between the Town of Tiburon and Martha Co, November 12, 2009, page 16.

have fire flow below 1500 gpm. Fire flow requirements would be the same for *Alternative 2* as with the proposed project.

**Response to Comment 16-52**

Please see Response to Comment 6-18 and 16-11.

**Response to Comment 16-53**

This comment is based on the merits of *Alternative 3* and not the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 16-54**

As stated on page 84 of the Draft EIR the cumulative development assumptions are incorporated into the CEQA analysis. Impact discussions reflect this where it is appropriate.

LETTER NO. 17

April 26, 2011

**VIA OVERNIGHT MAIL**

Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development Draft EIR

Dear Ms. Warner:

We are writing on behalf of the Last Chance Committee for Open Space (the "Committee") to comment on the County's 2008 Easton Point Residential Development Draft EIR. The Committee is a non-profit organization whose mission is the preservation and protection of open space on the Tiburon peninsula in Marin County. The Committee has been active since the early 1990s and has been the main force behind the preservation of many acres of treasured open space on the Tiburon peninsula.

Unfortunately, the County's Draft EIR is seriously flawed. In this letter, we endeavor to describe the key failings of the document. If the County does not substantially revise the Draft EIR to address these flaws, it will be in clear violation of the California Environmental Quality Act ("CEQA").

**I. Approval of the Project is a Foregone Conclusion, in Violation of CEQA**

1

The history of this project and the litigation between the Martha Company and the County is well documented, and we will not recite it here. However, we note that there is a fundamental flaw in the way this project has been handled: the County agreed to approve the project prior to undertaking environmental review under CEQA.

The 2007 Judgment entered into by agreement between the Martha Company and the County states that the "County shall take final action to certify a final Environmental Impact Report" and that "the County is required to approve forty-three (43) home sites on the Martha Property unless the parties subsequently agree otherwise in writing." In other words, the Judgment requires the County to approve the 43-unit project, regardless of the consequences identified in the EIR. Approval of the project is a foregone conclusion.

This is contrary to law. A private agreement between the County and a developer—entered into with no environmental review whatsoever—cannot absolve the County of its obligation to follow CEQA.

CEQA requires that *before* an agency “‘take[s] any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project,’” the County must independently evaluate the environmental impacts of the proposed project. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4<sup>th</sup> 116, 138.

The 2007 Judgment is exactly the type of “action” prohibited by the *Save Tara* decision. In the 2007 Judgment, the County forecloses consideration of a reasonable range of alternatives and mitigation measures (e.g., fewer than 43 home sites, smaller lots, home sites not located within the Ridge and Upland Greenbelt, providing affordable housing, etc.) that would ordinarily be part of a CEQA review.

Ultimately, the 2007 Judgment turns the Easton Point EIR into a “post hoc rationalization”<sup>1</sup> for a development project that the County agreed to approve in 2007. When, in a few months, the County acts to certify the EIR and approve the Project—as the 2007 Judgment says it must—it will be the final step in what has been a foregone conclusion for many years, and it will be in violation of State law.

The County should seek relief from the 2007 Judgment pursuant to Federal Rule of Civil Procedure Rule 60, on the grounds that the Judgment is void, since it requires the County to violate State law. We are copying the California Attorney General on this letter to ensure that she is aware of this imminent violation of CEQA.

## **II. The Draft EIR Is Legally Deficient**

In addition to the procedural defect described above, the Draft EIR contains substantive failings that render it legally insufficient.

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<sup>1</sup> “A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If postapproval environmental review were allowed, EIR’s would likely become nothing more than post hoc rationalizations to support action already taken. We have expressly condemned this use of EIR’s.” *Laurel Heights I*, 47 Cal.3d at 394.

**A. The Draft EIR Fails to Consider a Reasonable Range of Alternatives**

2

In a misguided attempt to comply with 2007 Judgment, the EIR fails to consider a reasonable range of alternatives. This constrained analysis fails both under CEQA and under the terms of the 2007 Judgment itself.

Per CEQA, an EIR must consider a reasonable range of “potentially feasible” “alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” 14 Cal. Code Regs. (“CEQA Guidelines”) §15126.6.

Per the 2007 Judgment, “any development alternative, or any proposed mitigation measure” which does not conform to the terms of the 1976 Judgment is “legally infeasible unless required to assure health or safety” and therefore may not be approved by the County. Under this mandate, the County “is required” to approve at least 43 home sites, each of which must be at least one-half acre in size, and some of which must be within the County’s Ridge and Upland Greenbelt – *unless* 43 homesites with those constraints will cause health and safety impacts.<sup>2</sup>

Put simply, the 2007 Judgment states that the County may only approve an alternative with fewer than 43 lots, or smaller lots, *if and only if* the alternative is required to assure health and safety. Any other alternatives are deemed “legally infeasible.”

The Draft EIR thus violates CEQA in two ways: (1) it fails to consider reasonable alternatives that the 2007 Judgment (wrongly) asserts are “legally infeasible”; and (2) it fails to consider any alternative that does not have significant health and safety impacts.

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<sup>2</sup> The 2007 Judgment states that the 1976 Judgment requires the following:

2a. Right to 43 Homes. Pursuant to the 1976 Judgment, the County is required to approve forty-three (43) homesites on the Martha Property unless the parties subsequently agree otherwise in writing.

2b. Minimum Half-Acre Lots. Pursuant to the 1976 Judgment, each of the 43 lots to be approved by the County shall be at least one-half acre in size unless the parties subsequently agree otherwise in writing. These lots are intended to be placed on geologically safe portions of the site, without the necessity for extensive landslide repair, rather than in the path of known landslides. If the parties cannot agree whether any required landslide repair is unreasonably extensive under the circumstances, the parties may petition this Court for binding instructions.

2c. Lots within the Ridge and Upland Greenbelt. In conformance with the 1976 Judgment, the County shall allow some development within the Ridge and Upland Greenbelt.

3

**1. The 2007 Judgment Is Wrong About Certain Alternatives Being “Legally Infeasible”**

The 2007 Judgment asserts that a development with fewer than 43 lots is “legally infeasible.” The term “legal infeasibility,” however, means something that is barred by law, and therefore cannot be accomplished due to a legal impediment—“where there is no way to legally implement it.” *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4<sup>th</sup> 587, 602. In this case, there is no legal impediment to approving a project smaller than 43 lots; there is only an agreement of the parties not to do so. A private settlement between the County and the project developer, even if contained in a consent judgment, is not law.

The 2007 Judgment’s declaration that certain alternatives and mitigation measures are “legally infeasible” does not make them so. For an action to be “legally infeasible,” it must be barred by law, not by an agreement of the parties. “The fact that [the Developer] does not wish to proceed with [those items] does not make [them] legally infeasible.” *Uphold Our Heritage*, 147 Cal.App.4<sup>th</sup> at 602.

The 2007 Judgment thus requires the County to violate CEQA. CEQA requires that the EIR describe, and that the County consider, “feasible measures which could minimize significant adverse impacts” and a reasonable “range of alternatives to the project...which would feasibly attain most of the basic objectives...” CEQA Guidelines §§15126.4, 15126.6. The 2007 Judgment, however, limits the consideration of alternatives and mitigation measures to those acceptable to the Developer.

**2. The Draft EIR Does Not Consider Alternatives that Avoid the Significant Health and Safety Impacts of the Project**

4

Despite the fact that the Draft EIR identifies this project as causing multiple unmitigated health and safety impacts,<sup>3</sup> it fails to offer any real options for the County to consider that avoid those impacts—even though 2007 Judgment allows the County to consider *and approve* such options. Instead of fairly evaluating alternatives that alleviate the multiple health and safety impacts of the proposed project, this Draft EIR avoids those alternatives and leaves the County without a full analysis of its options.

The Draft EIR should consider the following alternatives that could mitigate or avoid significant health and safety impacts of the project: a lower density alternative below 32 home sites; an alternative that clusters the homesites at the lowest elevations of the property; an alternative with smaller homesites and homes; an alternative that avoids the Upland Greenbelt and Ridgeline; and an alternative that involves full and complete landslide repair in all areas impacting homes on the property and outside the property boundaries.

<sup>3</sup> E.g., a construction and access road so steep and narrow as to be unsafe; failure to supply adequate water pressure to multiple home sites, implicating fire safety and health concerns; landslides that will go unrepaired; sewer improvements that are unanalyzed and therefore speculative; etc.



**B. The Draft EIR Fails to Analyze Critical Components of the Project**

“At a minimum,” CEQA requires that an EIR consider those activities that are “reasonably foreseeable” consequences of the proposed project. *Laurel Heights Improvement Assoc. v. Regents of the University of California* (1988) 47 Cal.3d 376, 397. The EIR must analyze the “whole of the action” that has the potential to impact the environment. CEQA Guidelines §15378. The Draft EIR fails this requirement by failing to analyze several critical components of the proposed project.

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|----|---|
| 5  | ○ The Draft EIR fails to independently analyze the safety of the proposed construction road. The Draft refers to two opinions by construction contractors as to the feasibility of using the construction road as proposed, but nowhere does the EIR address whether it would, in fact, be safe to do so. |
| 6  | ○ The Draft EIR fails to analyze the impacts of the proposed installation of a 3,750 linear foot water line.  |
| 7  | ○ The Draft EIR fails to analyze the impacts of the proposed installation of a 4,800 foot sewer pipe in Paradise Drive.   |
| 8  | ○ The Draft EIR defers analysis of, and therefore fails to analyze, the impacts of the many landslide areas that will need to be adequately repaired before homes can be built on the proposed home sites. ( <i>See, e.g.</i> , Mitigation Measures 5.4-1 and 5.4-2)                                      |
| 9  | ○ The Draft EIR fails to analyze the health and fire safety impacts of failing to supply water at an adequate or required pressure.   |
| 10 | ○ The Draft EIR fails to analyze the impacts of widening Paradise Drive to accommodate project components.  |
| 11 | ○ The Draft EIR fails to fully analyze the eventual annexation of the property into the Town of Tiburon.  |
| 12 | ○ The Draft EIR fails to analyze the impact of poor MERA coverage for the new homes on the property.  |

**C. The Draft EIR Improperly Relies on Speculative Mitigation Measures**

13

An EIR must describe feasible mitigation measures that can minimize a project’s significant adverse impacts. CEQA Guidelines §15126.4(a)(1). “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” CEQA Guidelines §15126.4(a)(2). This Draft EIR includes mitigation measures that are so speculative as to be infeasible.

A glaring example is the proposed mitigation related to impacts to the Keil property. Mitigation measure 5.5-6 requires "installation [of] a water conveyance system to link the landslide improvement area subdrains to the water storage system on the Keil property." This mitigation would ostensibly be required to protect the groundwater that supplies historically significant gardens and threatened species on the Keil property. The Draft EIR provides absolutely no information about the design, cost, or effectiveness of this proposed mitigation. According to the owners of the Keil property, they have not been contacted by anyone to discuss the mitigation, they have no idea what it would involve, and they are in no position to decide whether or not they can agree to such mitigation.

The Draft EIR is thus proposing speculative mitigation measures that will "magically" solve serious problems. This fails to meet the legal standard. To comply with CEQA, the County must instead propose specific, feasible mitigation measures that will credibly eliminate the significant impacts caused by the project.

### **III. Conclusion**

The County is in danger of violating CEQA. First, it agreed in the 2007 Judgment to approve the project prior to performing the statutorily required environmental review. Second, the Draft EIR contains numerous material flaws: it fails to consider reasonable alternatives, fails to analyze key impacts, and fails to propose and analyze realistic mitigation measures.

Nonetheless, we believe the County still has an opportunity to comply with CEQA by completing and recirculating a full and thorough EIR which considers an adequate range of alternatives, analyzes all significant impacts, and proposes specific and realistic mitigation measures.

The Last Chance Committee for Open Space therefore asks the County to take this opportunity to expand the environmental review of this project so as to fully comply with letter and spirit of CEQA, and to fully and fairly evaluate whether this project is right for the community.

Very truly yours,

DOWNEY BRAND LLP



Jon Welner

cc: Curtis Havel, Community Development Agency  
California Attorney General c/o Janill Richards, Deputy Attorney General  
Jerry Riessen, Last Chance Committee for Open Space  
Barry Wilson, Last Chance Committee for Open Space

**RESPONSE TO LETTER NO. 17 – JON WELNER, DOWNEY BRAND LLP ON BEHALF OF THE  
LAST CHANCE COMMITTEE FOR OPEN SPACE (APRIL 26, 2011)**

**Response to Comment 17-1**

Please see Response to Comment 8-13. County legal staff originally did not disagree with the analysis presented in this comment, which is why the County brought the legal action it did. However, the federal court upheld the prior judgment in a new (2007) judgment, such that the County is precluded from further challenge on those grounds.

**Response to Comment 17-2**

Please see Response to Comment 17-1. The 2007 judgment is now final as to the County, and therefore binding as to the County despite potential legal infirmities. The issue of any “health and safety” impacts however, will be addressed as allowed by the judgment during certification and merits review of the proposed project.

**Response to Comment 17-3**

County legal staff is of the opinion that the judgment is binding despite potential legal flaws since it was challenged on those grounds and the court rejected the challenge.

**Response to Comment 17-4**

Please see Response to Comment 17-2.

**Response to Comment 17-5**

Please see Master Response 2.

**Response to Comment 17-6**

Please see Master Response 8 and Response to Comment 6-16.

**Response to Comment 17-7**

Please see Master Response 8 and Response to Comment 6-16.

**Response to Comment 17-8**

Please see Response to Comments 6-5 and 7-8.

**Response to Comment 17-9**

Water pressure issues are addressed in *Section 5.7 Public Services and Utilities*. Mitigation Measure 5.7-7 establishes standards for a water supply plan that would reduce water service impacts to a less-than-significant level. Regarding fire flow impacts: Mitigation Measure 5.7-8 provides means to mitigate fire hazards and reduce the identified impact related to inadequate fire flow to a less-than-significant level.

**Response to Comment 17-10**

Please see Master Response 8.

**Response to Comment 17-11**

At this time the proposed project does not include a request for annexation into the Town of Tiburon. Annexation could occur in the future, however it is not required to include annexation in the Draft EIR.

**Response to Comment 17-12**

This comment is incorrect. Emergency radio coverage impacts are discussed under *Impact 5.7-1*. Also, please see Master Response 7.

**Response to Comment 17-13**

The Draft EIR does describe feasible mitigation measures to minimize the proposed project's significant impacts. In the discussion of Mitigation Measure 5.5-6 it is stated that implementation of this mitigation measure would require the agreement and cooperation of the owners of the Keil property. Furthermore, it is stated that without the cooperation of the owners of the Keil property to implement Mitigation Measure 5.5-6, the project impact on these spring-based groundwater supplies would be a significant unavoidable impact.

In its comment letter to this Draft EIR the Keil Family has formally reiterated two positions it holds relative to the Easton Point project and the mitigation measures proposed in ***Section 5.5 Hydrology and Water Quality*** of the Draft EIR. First, the family will not allow any constructed drainage improvements designed to direct upslope groundwater intercepted by subdrains associated with proposed landslide repairs back to its groundwater-based water supply system, as proposed in Mitigation Measure 5.5-6. Second, they will not cooperate in any way with the project applicants to provide baseline water supply or water use data for its facilities, including its in-holding spring, its groundwater cisterns, Keil Pond, or its network of above-ground storage tanks, pumps and conveyance lines.

Based on this position of the Keil Family there is no feasible mitigation for *Impact 5.5-6 Depleted Groundwater Supplies, Keil Spring and the Keil Property Spring-based Water Supply*. Please see Master Response 3 for a further discussion of this issue.

LETTER NO. 18

**TRANSMITTAL**

Date: APRIL 29, 2011

To: RACHEL WARNER

COMMUNITY DEVELOPMENT AGENCY  
MARIN COUNTY  
3501 CIVIC CENTER DRIVE Room 308  
SAN RAFAEL, CA 94903

Re: EASTON POINT DEIR

From: Lou Gilpin

We are sending you the following:

<u>Quantity</u>	<u>I.D. / Drawing #</u>	<u>Title/Description</u>
2	4/29/11	REVIEW OF DEIR EASTON POINT DEVELOPMENT

These are Transmitted: BY HAND

☐ For Review

☒ For Your Use

☐ As Requested

Signed: Lh Gilpin

**Gilpin Geosciences, Inc.**  
**Earthquake and Engineering Geology**

April 29, 2011

Project No: 91157.01

Mr. Jerry Riessen  
Co-Chair Last Chance Committee  
1474 Vistazo West  
Tiburon, California 94920

**Subject: REVIEW OF DRAFT ENVIRONMENTAL IMPACT REPORT**  
Easton Point Residential Development  
Paradise Drive  
Tiburon, California

Dear Mr. Riessen:

At your request, we have reviewed the Draft Environmental Impact Report (DEIR) for the proposed 2008 Easton Point Residential Development. This letter presents our comments on the DEIR. To facilitate our discussion we have attached Exhibit 5.4-3 Proposed Landslide Stabilization Plan.

We have previously presented evaluations of the 1999 DEIR for an earlier version of the development. We refer to our previous letters where applicable; many of our previous concerns have not been resolved. We attach our 26 June 2000 letter "Supplemental EIR Scoping Comments Debris Landslide Hazards Easton Point Development (Martha Company) Paradise Drive, Tiburon, California" because of the photographs documenting the 1982 debris slides, and its significance to the present proposed development.

1

Two general comments presented in our 2 November 2001 letter are still applicable to the present DEIR and we believe have not been adequately addressed. These are: (1) Project Landslide Mitigation Plan; and, (2) Stability of Colluvium Deposits. Our concerns are that the approach to landslide repairs and improvements in the DEIR is general in nature. The EIR should provide a more complete analysis of the secondary impacts resulting from landslide repair or improvement. We question the feasibility of several of the proposed partial landslide repairs for landslides 3 and 11, and the proposed improvements to landslides 1, 3, 4, 9, 11, 15, 18, 19, 20, 21/22, 23, 26, and 40. The scope and grading limits of these repairs and improvements should be more precisely specified because unforeseen subsurface conditions could demand grading encroachment on environmentally sensitive and/or building areas .

The landslide mitigation plan should specify the types and locations of repairs, surface and subsurface drainage measures, and instrumentation and monitoring requirements. The proposed mitigation should be based on detailed subsurface exploration that defines the lateral and vertical extent of each landslide that is to be subject to grading and the grading limits should be defined. If this is not specified, there is a very good chance that unexpected conditions may lead to expanded limits of grading that encroach into areas that are environmentally sensitive and that were assumed in the EIR to be unaffected. These areas might include offsite areas such as the Lands of Keil parcel or the Paradise Drive transportation corridor. Some of these impacts, not presently identified because of lack of a detailed landslide mitigation plan, may ultimately be unavoidable.

2

The second general comment we raised in our 2 November 2001 letter was regarding the stability of colluvium deposits. The attached letter dated 26 June 2000 includes photographs taken after the 1982 debris landslide that resulted in a fatality and closed Paradise Drive for two weeks. The debris landslide source area is identified as landslide 23 on the present Landslide Exhibit 5.4-3. This slide is mapped on the Remainder Lot and incorporated a 6- to 8-foot-deep layer that extended up the narrow drainage way and was responsible for depositing up to 4,000 cubic yards of material on Paradise Drive and the downslope property.

The head scarp of this failure appears to be about 4 to 6 feet high in the attached picture. Colluvium has been mapped extensively over the project site, both in areas to be developed as well as areas to be avoided. The 1982 failure was triggered by antecedent rainfall of about 18 inches and an intense winter storm. Nearby Corte Madera Creek experienced an approximate 250-year flood as the result of that storm (Stetson Engineers web link address: [http://marinwatersheds.org/library/ross\\_valley/Existing\\_Conditions\\_Tech\\_Memo\\_Final\\_102009.pdf](http://marinwatersheds.org/library/ross_valley/Existing_Conditions_Tech_Memo_Final_102009.pdf)). The standard engineering design requirement for stormwater systems is to meet a projected 100-year storm event. Given the fact that the proposed residences will potentially: (1) put occupants in harms way of potential debris landslide hazards from unstable colluvium deposits; and (2) introduce concentrated runoff from hardscape on a colluvium-mantled hillslope above offsite public and private improvements, we believe the areas mapped as underlain by colluvium should be subject to greater scrutiny in the landslide mitigation plan.

## LANDSLIDE HAZARD IDENTIFICATION AND MITIGATION

3 Based on aerial photograph review and a geologic reconnaissance, we identified three previously unmapped landslides in our letter of 24 April 2000 letter. The largest incorporates landslide 9 and 10 along its southern flank; however, based on topographic expression, we believe this complex extends to the north, into an area that is questionably mapped as metasedimentary bedrock (fms). The other two slides incorporate the southeast-facing, colluvium-mapped slopes on Lots 19, 20, and 21. We believe mapped Landslides 6, 7, and 8 are incorporated in a larger landslide complex. We have plotted the limits of these slides on the attached Landslide Exhibit.

No geological/geotechnical subsurface exploration has taken place on the site since 1996 so these features have not been investigated. We understand that a final design phase of geotechnical exploration is required by the DEIR, and that perhaps such concerns will be addressed. Despite our difference of opinion and the potential impact



these landslides pose to the development of Lots 19 to 21, we believe the deferral of subsurface exploration until the final design phase of the project severely limits the scope and purpose of the present EIR to accurately lay out the geologic hazard impacts and their associated risk and to comprehensively identify the secondary impacts of the proposed mitigation plans as they affect the proposed development.

#### LANDSLIDE MITIGATION PLAN – REPAIRS AND IMPROVEMENTS

4

Mitigation measures for slope instability proposed by Miller Pacific Engineering Group, the developer's geotechnical consultant, are based on a limited amount of subsurface data and, therefore, are necessarily general in nature. The landslides that encroach on proposed lots have not been adequately characterized to provide detailed repair designs. This creates uncertainty when evaluating the feasibility of developing each lot, especially for those lots that are located on mapped landslides. Detailed geotechnical exploration after project approval could reveal the need for more extensive stabilization measures, which have the potential to affect biotic, hydrologic, and other resources and should be addressed in the EIR. Furthermore, it is possible that some of the proposed lots would be considered unsuitable for development once subsurface conditions were adequately characterized.

Proposed landslide improvements incorporate a combination of subdrain and/or debris impact fences. Subdrains are only effective if they are installed to a depth below the groundwater layer. If installed too shallow, not into stable material, the drains can have the opposite of the intended effect of draining the subsurface and stabilizing the slope; they can cause soil creep leading to local drain failure and landslide movement. It is not clear the proposed subdrain improvements will be placed in areas where the appropriate depths can be reached. If adequate subdrain depths can be attained, alternative methods may be required that require expanded grading areas impacting adjacent offsite or environmentally sensitive areas. Many of the proposed subdrain improvements on the plans are located in either remote areas of private parcels or in the

open space areas, raising the question of how will these drainage features be maintained and by whom?

Our concern extends similarly to the debris impact fences. Without collecting detailed subsurface data from the colluvium/landslide source area to understand the volume of material involved in a potential failure, how can we know if a debris impact fence is feasible? Given the vast area of the landslide 19/20/21/22/23 complex, we question the ability of a single debris impact structure to contain a large slide event.

Furthermore, the proposed structure lies on two properties, the Remainder Lot and the Open Space Parcel A. Who will be responsible for maintaining the intricate guy wires and highly tensioned steel elements, and ensure the freeboard of the impact fence is maintained clear of debris and capable of arresting the design debris event?

## **COLLUVIUM STABILITY AND INFRASTRUCTURE IMPROVEMENTS**

5

The addition of water from site development can affect slope stability in two ways. First, localized concentration of drainage can saturate soil and cause shallow slope instability such as accelerated creep or earth flows, even where landslides have not previously been recognized. Debris flows that occurred in 1982 in the northern portion of the site demonstrate the susceptibility of the shallow soil to such failures. Second, the continual addition of infiltrated water can cause a cumulative increase in groundwater levels beneath the development over a period of years or decades. The resulting rise in "base level" groundwater elevations makes deeper-seated landslides (such as Landslide 11, Figure 1) more susceptible to movement during years with above-normal rainfall. These acute and cumulative impacts on slope stability caused by the addition of water should be addressed in the EIR.

The added water that results from site development can be partly offset by the presence of impermeable surfaces. However, the runoff from those areas must be collected and conveyed to a suitable discharge point away from areas of potential slope instability.

The configuration of the Easton Point development places most of the building pads at lower elevations than adjacent roads. This requires discharging stormwater to unstable, colluvium-mantled slopes below the houses or establishing drainage easements with v-ditches or drain pipes. Discharging stormwater onto unstable slopes could cause erosion and increase slope creep and landslide activity levels, which in turn increases erosion and offsite sedimentation.

The stormwater drainage system presented in the DEIR is described as incorporating individual residential detention systems that will insure no increase in peak period stormwater flow from the site for events greater than the 10-year storm, and more importantly, up to and including the 100-year storm. From DEIR Section 3.0 Description of Proposed Project, p. 36:

*Discharge for the detention facilities would be directed to a level spreader, infiltration trench, bubble-up box, or rip-rap pad. Where appropriate site conditions exist, detention facility discharge would outlet into hillslopes for further treatment via vegetation and soil filtering, prior to reaching site drainageways. In instances where geotechnical concerns would not permit release of stormwater onto hillslopes, detention facility discharge would be conveyed to site drainageways. Drainageway flows would be conveyed to culvert crossings under Paradise Drive and would continue downslope and off-site toward their respective outlets in North San Francisco Bay. **None of the existing Paradise Drive culverts handling runoff from the project site are proposed for replacement as part of the proposed project.***

We make two observations with regard to the proposed stormwater drainage system. Without detailed evaluation of the stability of the colluvium-mantled slopes of the project site and offsite areas (existing Paradise Drive culverts and downslope colluvium/debris slide-mantled drainage ways), how can the project consultants know that the goals of the proposed stormwater plan are feasible? In instances where there are geotechnical concerns, conveyance would necessarily be in pipes or v-ditches traversing identified unstable slopes that are subject to creep and therefore, potentially

compromise the means of conveyance. Conveyance to Paradise Drive culverts and downslope drainage ways have not been analyzed for their ability to handle the project discharge. Based on our geologic reconnaissance mapping, the debris landslide- and colluvium-filled drainage ways do not end at Paradise Drive. In fact, the geologic deposits continue onto private property on the downslope side of the Paradise Drive culverts. This lack of thorough stormwater analysis is short-sighted and poses a hazard to the downslope homeowners.

The Corte Madera Creek stream gauge recorded storm flows greater than the 100-year flood on two occasions since its installation in 1951; the 1982 storm was a 250-year storm and the New Years 2005/06 storm was a 100-year event. The DEIR describes the Paradise Drive culverts and downslope drainageways to the Bay as an integral part of the stormwater plan, however, there is little or no evaluation of their ability to handle the discharge, or acknowledgement of the potential negative impact of the potential increased runoff from the project site

The fatal debris landslide failure in the 1982 storm resulted in significant disruption to the neighborhood. Despite the long recurrence interval (~250-year) of this low probability event, the surface drainage changes proposed in this project and the potential impact to the colluvium-mantled slopes warrant careful evaluation of the future debris landslide hazards both to new and existing residents. The DEIR does not consider the debris slide hazard impact in sufficient detail. The project stormwater drainage requirements are not clearly defined with respect to how they can be safely discharged and not adversely impact the site and offsite unstable slopes.

## LANDS OF KEIL - HYDROLOGICAL SPRING STUDY

A hydrogeological report (4 November 2008) for the Keil Spring parcel was prepared by Questa Engineering Corp. They summarize the results of this investigation in their addendum letter dated 16 April 2009:

*We found the differences in groundwater quality to be strong evidence supporting our assessment that the main source of the Keil Spring is most probably from recharge through fractured rock zones **on** the ridgeline areas, and not from shallow perched hillside groundwater.*

The project design appears to ignore this conclusion by placing the water tank road alignment directly on the ridgeline above and west of the Keil Spring Parcel. Grading a road involves excavating loose soil (probably shallow along the ridgeline) and fractured bedrock to expose competent and “tight” bedrock for a stable road subgrade. The subgrade would be scarified and then compacted to insure a tight seal and then fill would be placed and compacted to 95% relative compaction. No infiltration would be possible along and adjacent to the roadway. Allowances for directing runoff into bioswales and vegetative cover along the sides of the roadway are intended to recharge the groundwater with some of the surface runoff lost to the roadway. Miller Pacific, the project geotechnical engineer, with this design in mind, restates the Questa findings:

*...we believe as does Questa, that the source of the springs on the Lands of Keil originate from surface water infiltration of the fractured bedrock that underlies the slope **between** the springs and the ridge to the northwest which is the location of the planned lots.*

If in fact the former is the correct assessment, the Water Tank Road alignment impacts a substantial percentage of the available spring recharge zone and significantly reduces the efficiency of the proposed mitigation constructing bioswales and infiltration trenches along the side slopes of the ridge (“shallow perched hillside groundwater”) as effective mitigation of the lost recharge. In addition, the project geotechnical engineer does mention the potential for subsurface dewatering associated with the landslide mitigation or improvement to divert source water away from Keil Spring and some of the other slope seeps. The DEIR Impact 5.4-4 Groundwater states that the effect of the landslide improvements and repairs will be to significantly reduce the subsurface water

recharge. The DEIR determines this to be a less-than-significant geologic impact and requires no mitigation.

7

The proposed partial landslide repairs of Landslide 11 adjacent to lots 9 through 13 do not mention the potential for landslide reactivation impacting the Lands of Keil. Landslide 11 is estimated to be up to 65 feet in depth. Grading for subdrains and partial landslide repairs adjacent to Lot 9 could cause slope movement on the Lands of Keil parcel. Between the construction of the Water Tank Road and the proposed subdrain landslide improvements, the project development is likely to impact the Lands of Keil spring source area and therefore the spring production.

Our intent in presenting this letter is to highlight our observations and concerns regarding the DEIR for the Easton Point Residential Development. The Easton Point site obviously has geologic hazards to mitigate during any planned development. A comprehensive geologic site characterization should address these issues and provide an adequate level of detail that yields a confident mitigation plan. Instead, we submit that without more site-specific exploration of the individual identified landslide hazards, it is difficult to evaluate the construction feasibility and to understand the potential secondary impacts those mitigation designs might generate. The secondary impacts include man-made hazards as the unintended consequences of the proposed development.

Easton Point DEIR  
Project 91157.01  
April 29, 2011  
Page 10

If you have any questions or require additional information, please call.

Sincerely yours,  
GILPIN GEOSCIENCES, INC.



4/20/12

Lou M. Gilpin  
Engineering Geologist

Attachment: Figure 1: Exhibit 5.4-3 Proposed Landslide Stabilization Plan  
26 June 2000 Gilpin Geosciences Letter with Figures





June 26, 2000  
91157.01

Mr. Scott Anderson  
Planning Director  
Town of Tiburon  
1505 Tiburon Boulevard  
Tiburon, CA 94920

**Subject: Supplemental EIR Scoping Comments  
Debris Landslide Hazards  
Easton Point Development (Martha Company)  
Paradise Drive Tiburon, CA**

Dear Mr. Anderson:

We are writing at the request of Shute, Mihaly, & Weinberger. We previously prepared a letter for Shute, Mihaly & Weinberger dated 24 April 2000 regarding the potential geologic impacts of the proposed development that need to be addressed in the Environmental Impact Report (EIR) for the above entitled project. In that letter we presented the results of our evaluation of the geologic hazards at the site with focus on previously unidentified geological hazards and adverse geotechnical conditions that may affect the behavior of the property.

The purpose of this letter is to better define the debris landslide geologic hazard, its impact on and off site, and to provide the attached relevant photographs of Paradise Drive and the Easton Point proposed Lot 24 after the January 1982 landsliding. The debris flow landslide failed on the undeveloped Easton Point property upslope of the Drever Residence at 2900 Paradise Drive.

Two of the photos, numbered 1 and 2, show debris on Paradise Drive and damage to the downslope side of the road. Although the road collected some of the debris it did not arrest the debris flow runout. One photograph shows a view of the debris track downslope from the road, along a previous walking path between the residence and the road.

The photographs, numbered 3 and 4, viewing the source region of the debris flow slide on proposed Lot 24, show that the slide incorporated a relatively shallow layer, 6 to 8 feet thick, of slope debris, organic material, and weathered bedrock. The head scarp appears to be on the order of 4 to 6 feet in height. In the photograph it appears that both sides of the narrow drainage channel have failed. One neighbor noted that approximately 4,000 cubic yards of debris was removed from the path of the landslide during the clean up.

Studies of the 1982 landslides indicate that over 18 inches of rainfall had saturated most of the Bay Areas hillsides prior to the triggering storm event. That event brought intense and long duration precipitation which probably undercut the toe of this and many other saturated hillsides

The 1982 slide removed vegetation and slope debris from the source area. However, a cleared track and oversteepened slopes remain within the scarp of the 1982 slide, thus exposing debris on the slope, with the potential for future failure.

The cleanup was started by the Army Corps of Engineers approximately 2 weeks after the event, however, the road was not repaired for 4 to 6 months, and the neighborhood had no electricity for 3 to 4 weeks.

Other properties along Paradise Drive were damaged during the 1982 storm. The neighbor at 3000 Paradise Drive experienced a similar debris landslide that impacted his residence. Dr. Tsu a professor, at San Francisco State University and a resident of the Paradise Park neighborhood, was killed in the debris flow landslide that destroyed his home.

Based on our research, geologic reconnaissance, and interviews with people participating in the repair of the road and residences, it is our opinion that there remains a significant debris landslide hazard along the upslope side of Paradise Drive. The 1982 debris was removed and infrastructure repaired; however, the hazard was not mitigated after the storm events. Typically, Federal Emergency Management Agency (FEMA) funds can be used to provide repair of damaged infrastructure and homes; however, FEMA will not fund necessary repairs to improve pre-existing conditions.

The Easton Point development project incorporates significant changes in the surface drainage and water infiltration by paving roads and driveways, concentrating runoff in roof downspouts, and adding landscape irrigation. The proposed Lot 24 driveway crosses two debris-filled drainages that empty onto Paradise Drive. The driveway enters the property and then crosses a debris-filled drainage before it crosses near the scarp of the debris slides shown in the photos. The proposed residence lies directly above a third debris-filled drainage.

Although the slope stability of each lot has to be considered by the project engineer, we believe the cumulative effect of the upslope development will have a significant additional contribution to the existing drainage along Paradise Drive which in turn impacts the homes downslope. In addition, the attached photographs highlight the causes and hazards posed by the hillslopes susceptible to debris flow landslides.

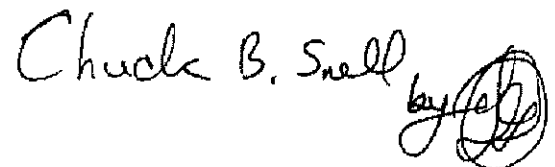
Because of the very serious threat to life and safety that the 1982 debris flow landslides caused, the presence of debris-filled drainages, and the changes proposed to the Easton Point property, the landslide and surface drainage hazards along Paradise Drive should be thoroughly assessed in the EIR that is being prepared by the Town.

If you have any questions, please call.

Sincerely yours,  
GILPIN GEOSCIENCES, INC.



Lou M. Gilpin, Ph.D., C.E.G.  
Principal Geologist



Chuck B. Snell, C.H.G., C.E.G.  
Senior Geologist


Attachments:      Figure 1: Paradise Drive Debris Flow Landslide  
                         Photographs #1& #2  
                         Figure 2: Paradise Drive Debris Flow Landslide  
                         Photographs #3& #4

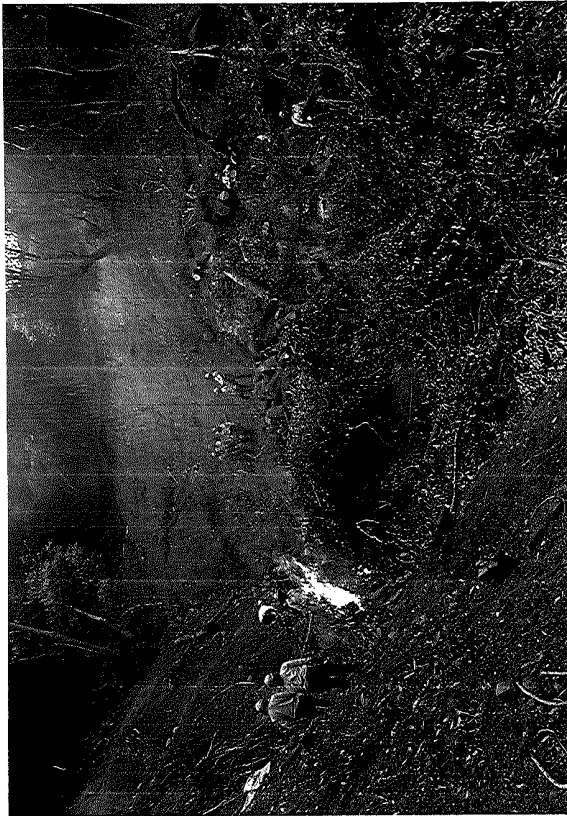


Photograph 1: January 1982 debris removal along a portion of the street upslope of 2900 Paradise Drive, showing erosion and undermining of the roadway bed.  
(by J. Knight)



Photograph 2: January 1982 view of 2900 Paradise Drive property from the street showing debris track and erosion. (by J. Knight)


<b>1982 Debris Flow Landslide</b> <b>Easton Point Property</b> <b>Paradise Drive Tiburon</b>		FIGURE <b>1</b>
Easton Point Development Tiburon, California		JOB NUMBER 91157.01
		DATE 6/19/00
 <b>Gilpin Geosciences, Inc.</b> Earthquake & Engineering Geology Consultants		



Photograph 3: February 1982 view of debris flow source area (upslope of 2900 Paradise Drive), note scarp in slope debris at top of scar and eroded drainage channel. (by J. Cacciatore)



Photograph 4: February 1982 view of debris flow (see Photograph 3) from source area (upslope of 2900 Paradise Drive), note debris track, lateral scarp exposing 6 to 8 feet of slope debris that did not slide in 1982, and eroded drainage channels. (by J. Cacciatore)

<b>1982 Debris Flow Landslide</b> <b>Easton Point Property</b> <b>Paradise Drive Tiburon</b>		
<b>Easton Point Development</b> Tiburon, California	FIGURE <b>2</b>	
JOB NUMBER 91157.01	DATE 6/19/00	
 <b>Gilpin Geosciences, Inc.</b> Earthquake & Engineering Geology Consultants		

**RESPONSE TO LETTER NO. 18 – LOU M. GILPIN GEOSCIENCES, INC. (APRIL 29, 2011)**

**Response to Comment 18-1**

Gilpin's original letter, dated November 2, 2001, was written for the 2001 Draft EIR, when the project was intended to be annexed into the Town of Tiburon. The *2008 Easton Point Residential Development Draft EIR*, which was prepared for submittal within Marin County, includes a detailed landslide repair plan (see **Exhibit 5.4-3** Conceptual Geologic Repair Solutions and **Exhibit 5.4-2** Conceptual Landslide Stabilization Plan). Miller Pacific prepared a detailed lot by lot summary of how the landslides are to be repaired in accordance with the Marin County landslide repair policy. This was not required in the 2001 Draft EIR submitted to the Town of Tiburon, because the Town requires complete repair of all landslides, rather than avoidance, partial mitigation and/or repair, which the County finds acceptable. Please see Response to Comments 7-8 and 18-2.

**Response to Comment 18-2**

History has shown that the general area has been subject to debris flow landsliding in the recent past. A published geologic report by the U.S. Geological Survey shows that in the 1968-1969 winter season, 66 landslides were reported in Marin County. During the 1972-1973 storms, at least 153 landslides occurred in Marin County, with one slide present within the project site.<sup>36</sup> Of greatest concern was the winter of 1982 where over 4,600 debris flow landslides occurred in Marin County in early January.<sup>37 38</sup> In 1982, two homes near the site were damaged and one person was killed, by the debris flows. This confirms the propensity for stormwater related debris flows in the area of the project site and therefore, the importance of implementing adequate mitigation and protective measures to prevent future property damage and / or loss of life.

Studies by the USGS and others have shown that the 1982 debris flows and debris flow avalanches in Marin County tended to occur within narrow ravines, on hard resistant rock and on steep slopes (steeper than 2:1 (horizontal:vertical));<sup>39</sup> such as, has been mapped in the area of the referenced Landslide 23; and the other landslides in the northern portion of the site that are underlain by the harder units of the Franciscan bedrock (fms) and on steep slopes, which include Landslides 21 and 22. Conversely, colluvial deposits and landslides on the central and southern portions of the site tend to occur within weaker bedrock materials, are generally deeper and are on slopes that are typically of a gentler gradient (1½:1 to 2:1) than those found within the hard bedrock at the north portion of the site.

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<sup>36</sup> *Natural Conditions That Control Landsliding in the San Francisco Bay Region-an Analysis Based on Data from the 1968-69 and 1972-73 Rainy Seasons*, T.H. Nilsen, F.A. Taylor and R.M. Dean, U.S. Geological Survey, Bulletin 1424, 1976.

<sup>37</sup> *Distribution of Debris Flows in Marin County*, S.D. Ellen, S.H. Cannon and S.L. Reneau, in *Landslides, Floods, and Marine Effects of the Storm of January 3-5, 1982, in the San Francisco Bay Region, California*, S.D. Ellen and G. F. Wieczorek, editors, U.S. Geological Survey, Professional Paper 1434, 1988.

<sup>38</sup> *An Analysis of Slope Failures in Eastern Marin County, California, Resulting from the January 3 and 4, 1982 Storm*, C.W. Davenport, California Division of Mines and Geology, Open File Report 84-22SF, 1984.

<sup>39</sup> *Landslides, Floods, and Marine Effects of the Storm of January 3-5, 1982, in the San Francisco Bay Region, California*, S.D. Ellen and G. F. Wieczorek, editors, U.S. Geological Survey, Professional Paper 1434, 1988.

These areas of potential debris flows on the northern portion of the site, and that are within 100 feet of proposed building sites or public facilities, have been considered by and have been included within Miller Pacific's Conceptual Geologic Repair Solutions (see **Exhibit 5.4-3**) and Conceptual Landslide Stabilization Plan (see **Exhibit 5.4-2**). Miller Pacific's mitigation proposes the use of a debris fence on piles and subdrains for mitigation of debris flow landslides.

Miller Pacific provides recommendations for colluvial soil repair and improvement in Mitigation Measure 5.4-2, in which they require characterization of the soils, lab testing, and removal and recompaction in areas where slope repairs are planned within 100 feet of a proposed building site or public improvement. They also recommend the addition of surface drainage facilities as per the California Building Code (CBC). The drainage devices would include self-cleaning terrace drains, fitted with downdrains every 150 linear feet of terrace length to allow for quick drainage as per CBC.

Therefore, colluvial deposits and the potential for debris flows have been considered and have been included within the proposed mitigation measures of the Draft EIR and the respective landslide mitigation plan.

#### **Response to Comment 18-3**

The first geomorphic feature described by Gilpin, which they interpret to be a possible ancient bedrock landslide, is located north of Landslides 9 and 10. This area is located immediately above an existing private residence. While test pits were excavated to explore the limits of Landslides 9 and 10, much of this area is heavily vegetated and largely inaccessible. This slope has been mapped in the past, numerous times, using air photos and field reconnaissance by all three of the applicant's geologists and by the previous and current EIR geologists. All of whom concur that it does not appear to be a large ancient landslide.

The second area described in Gilpin's comment involves the area of Lots 21, 22 and 23 (incorrectly mislabeled Lots 19 through 21 in the Gilpin letter). Without subsurface investigation, Gilpin opines that mapped Landslides 6, 7, and 8 are larger than shown and they lump the areas of colluvium surrounding those landslides with them in order to create one large landslide feature. Those areas have been previously explored by the applicant's consultants by the use of six test pits, which defined the limits of the Landslides 6, 7, 8 and the surrounding colluvium. This area was also mapped by all three of the applicant's geologists and by the previous and current EIR geologists using air photos and field reconnaissance methods, and all concur with the landslide limits currently shown on **Exhibit 5.4-3**. In addition, the published geologic maps by the USGS and CDMG relatively concur with these findings.

#### **Response to Comment 18-4**

All areas of subdrains are shown on the Conceptual Geologic Repair Solutions map (see **Exhibit 5.4-3**). All of the proposed subdrains are within the site boundaries and appear to be accessible for construction. Please see Response to Comment 1-3 for information regarding landslide repair maintenance.

With respect to debris impact fences, the size, number and style of these catchment structures does not affect the feasibility of their use for containing potential failures.

#### **Response to Comment 18-5**

Please see Master Response 5 for a revision to the analysis of *Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection* including added requirements for Mitigation Measure 5.5-7.



Regarding the geotechnical issues presented, it is understood that the proposed terrace drains and downdrains would be in areas of engineered and certified compacted fill buttresses constructed to code and the landslide mitigation plan. Therefore, these structures should not be affected by creep effect. Also please see Response to Comment 18-2.

**Response to Comment 18-6**

For the proposed project, the construction of a normal, paved road would eliminate natural infiltration of incident rainfall and groundwater recharge within its footprint. This road construction and the construction of residences and driveways on Lots 36 to 42 would cumulatively reduce on-site groundwater recharge and the supply of groundwater to Keil Spring. Please see Master Response 3 for revised discussion of Impact 5.5-6 and also Master Response 6 regarding mitigation of secondary hydrologic impacts from implementation of Mitigation Measure 5.1-11 (roadway widening) and Mitigation Measure 5.1-12 (parking provisions). As stated in Response to Comment 11-12, implementation of *Alternative 2* would reduce the severity of this impact.

**Response to Comment 18-7**

Repairs of Landslide 11 are proposed to improve the stability of Landslide 11. By installing a compacted fill buttress and subdrains, Snyder & Wilson (the EIR geologists) do not see how that would increase the potential for reactivation of this landslide. In Snyder & Wilson's opinion, this would have little effect on the stability of such a large landslide and if anything would slightly increase the landslide stability. Also, please see Master Response 3.



APR 28 2011 PM12:01 Planning

## THE GARDEN CONSERVANCY

38 KEYES AVENUE, SUITE 116 • THE PRESIDIO • SAN FRANCISCO, CA 94129

415-441-4300/4343 FAX • WCPROG@GARDENCONSERVANCY.ORG

LETTER NO. 19

April 27, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact report. I am the president of the Garden Conservancy, the organization that holds a conservation easement on the neighboring 31-acre Keil Cove property.

The Garden Conservancy is a national nonprofit organization founded in 1989 to preserve exceptional American gardens. The Conservancy works with individuals, local organizations, and government agencies to protect significant gardens throughout the United States. The Garden Conservancy was granted a conservation easement over Keil Cove in 2001; we accepted the easement to protect the property's natural, scenic, open-space, historic and horticultural values. Our organization prepared a management plan for the property (and a recent plan update) that identifies the many significant features of this unique designed and natural landscape. The Keil family follows the plan's management recommendations to ensure the preservation of the gardens into the future.

The Garden Conservancy holds a conservation easement on Keil Cove because of the extraordinary significance of the site in the history of California landscape design. The central garden and significant tree collections were designed and planted by John McLaren, the famed superintendent of Golden Gate Park and one of the great visionaries of his time. In addition, Thomas Church contributed an important component of the landscape surrounding the main house, and this garden survives as one of the few remaining examples of his early work. The landscape of Keil Cove in its entirety is a masterpiece of design and an important link with the history of the Bay Area.

We believe that Keil Cove is eligible for nomination to the California Register of Historical Resources and the National Register of Historic Places because of its historical significance and high artistic values, and due to the integrity of its location, design, setting, and materials.

1

We are extremely concerned about the proposed development plan as described in the DEIR. The plan as described could have significant negative impacts on the landscape at Keil Cove, which we are mandated to protect. In particular, the DEIR states that changes to the hydrology of the

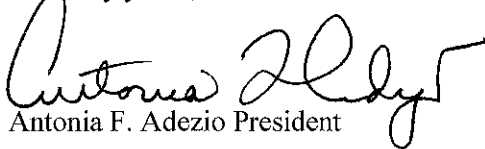
project site could reduce or eliminate the available water supply that recharges the Keil Cove spring and could reduce the groundwater inflow from upslope areas on the project site into the two Keil Cove cisterns. The spring water and the groundwater inflow provide the water used for the historic gardens, so depleting these water sources would make it impossible for the gardens to be protected and preserved according to the intent of the conservation easement. The destruction or alteration of water flow from the current source would irrevocably damage the Keil Cove gardens, and the proposed plan seriously threatens their future.

2

In addition, the DEIR states that construction activities could result in erosion and downstream sedimentation that increase the risk of sedimentation to Keil Cove Pond, a key feature of the property and documented habitat for the California red-legged frog, a federally threatened species and California species of special concern. Our conservation easement specifically protects the property's habitat, particularly for the red-legged frog. Sedimentation of the pond would make it impossible to protect this important habitat.

I would be happy to discuss this further with you and look forward to the opportunity for additional comment as necessary. Thank you for your consideration of our comments on the DEIR, and for your recognition of the significant potential impact of the proposed development on Keil Cove, a precious historic resource for the people of Tiburon and the state of California.

Sincerely yours,



Antonia F. Adezio President

**RESPONSE TO LETTER NO. 19 – ANTONIA F. ADEZIO, PRESIDENT, THE GARDEN CONSERVANCY (APRIL 27, 2011)**

**Response to Comment 19-1**

Please see Master Responses 3 and 4 for information regarding hydrology impacts. No further response is necessary.

**Response to Comment 19-2**

As discussed under *Impact 5.6-2 Impacts to the California Red-legged Frog* the project could result in degradation to downstream waters due to erosion and sedimentation during construction and operation, which in turn could impact the CRLF habitat located at Keil Pond. Mitigation Measure 5.6-2(c) calls for maintaining water quality in drainage channels downstream from the project site and would reduce this impact to a less-than-significant level.



Protecting Marin Since 1934

April 29, 2011

Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**Re: Comments on the Easton Point Draft Environmental Impact Report**

Dear Ms. Warner:

The Marin Conservation League has followed the Martha Property on Easton Pt. for many years and previously expressed concerns over the future development of this visually prominent and physically constrained land at the end of Tiburon Ridge. The site also holds biological resources of County-wide significance. We have reviewed the subject DEIR and wish to make the following comments on its adequacy.

**1. Applicant Objective**

1

The basic objective of the applicant, FEIR p. 60, is to "...preserve the scenic beauty of the Martha Company property at Easton Pt. while developing a residential development consistent with the 1976 stipulated judgment": i.e., a minimum of 43 single family residential units located on one-half acre minimum lots (that) is consistent with the goals of the general plan and will allow the owners a feasible economic use of their property."

We believe that the two parts of this objective are internally inconsistent, as supported by significant impacts identified in the DEIR. The applicant is entitled to encroach into the Ridge and Upland Greenbelt (a significant visual impact), would sacrifice 75 percent of serpentine grassland species (unless mitigated by moving building sites), remove between 700 and 900 trees depending on the alternative, and install a visually conspicuous construction road up the site to the ridge that will leave a permanent scar on the site. The internal inconsistency within this one objective needs to be explained and resolved in the final EIR.

**2. Proposed Size of Residences**

2

The basic conditions stipulated by the judgment in 1976 are 43 dwelling units, minimum one-half acre lots, and not less than forty-eight percent of the property as public open space. Nothing is said about house size. In 1976, average home sizes, even upscale ones, ranged between 2,000 and 4,000 square feet, with the occasional 5,000 s.f.

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being a *large* home for that time and neighborhood. The existing home sizes in the neighborhood follow this pattern. In contrast, the applicant shows 5,500 s.f. at the lowest end of the proposed range, and 12 units at 8,750 s.f. The 32-unit alternative, Alternative 2, would construct fewer residences, but would include 10 homes at 10,000 s.f.

The FEIR needs to explain the rationale behind proposing homes that are not only out of character with adjoining neighborhoods, but which also exacerbate impacts on the physically constrained site. With all the “sustainable design” features listed on p. 67 and p. 558 of the DEIR, the life-cycle impact of large homes on natural resource utilization, and the extent of site grading and landslide repair required to accommodate them, far outweigh any efficiencies that might be gained by energy conservation design and similar features. Please explain why such large homes are essential for the applicant to enjoy “feasible economic use of their property”?

3

### 3. Assignment of Responsibilities During Construction, and to Full Build-out

Numerous entities are assigned responsibility for carrying out mitigation measures during site development and subsequent construction of individual home sites. We have not yet seen a Mitigation Monitoring and Reporting Plan, but are aware of typical time limitations of an MMRP under CEQA. There is no way to predict when build-out might occur. On p. 269, a “Disturbance Coordinator” is to be designated for the duration of applicant-implemented construction . . . and for the duration of lot-owner construction until full build-out.” This assignment is not reflected in Mitigation measures 5.1-13 (a) or (b). We also question the reliability and possible liabilities entailed in this assignment. Who will be responsible ultimately if this Coordinator fails to carry out the task in 10 years, for example?

4

### 4. Endangered Species

A population of the endangered Dwarf Flax is present on the Easton Point property. We agree with the conclusions of the DEIR that the project would have both direct and indirect significant unavoidable impacts on the population as well as on serpentine reed grass. The proposed mitigation measures 5.6-1(a) through 5.6-1(c) will constitute real mitigation for loss of Marin dwarf flax only if Lots 1 through 3 are removed or relocated, as specified in 5.6-1(a).

5

### 5. Loss of Oak Woodland Habitat

The DEIR discussion under Impact 5.6-4 (Loss of Coast Live Oak Woodland) begins by stating how much the PDP proposes to permanently preserve on side within the Parcel A. It then goes on to say that between 26 and 16 percent of the woodland will be lost, the difference due to the inability to predict how individual home-owners will manage trees within their private use areas. The impact of removing a quarter of the trees on the site, many of them ordinance size, is not reduced to less-than-significant by taking credit for leaving (preserving) the remaining trees at a 3:1 to 5:1 ratio, as stated on

page 448 of the FEIR! The Resource Management Plan may help the long term health of the remaining trees, but cannot guarantee their longevity.

We recognize that replacing up to 2,000 trees is not a feasible mitigation either. The projected loss is a significant unavoidable impact that can only be lessened by reducing the number and size of the building sites and/or the size of the residences themselves. This mitigation is not explored in the DEIR except by considering alternatives. Alternative 2 has a greater impact. Alternative 4 presents the possibility of substantially reducing the impact, but not to a less-than-significant level, on oak woodlands.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, reading "Nona Dennis".

Nona Dennis, Vice President  
Marin Conservation League

**RESPONSE TO LETTER NO. 20 – NONA DENNIS, VICE PRESIDENT, MARIN CONSERVATION LEAGUE (APRIL 29, 2011)**

**Response to Comment 20-1**

The objective cited in this comment does not appear to be exactly the same as the referenced objective on page 60 of the Draft EIR. Never the less, it is not the responsibility of an EIR to evaluate the internal consistency of project objectives. As stated in *State CEQA Guidelines* section 15124 “a clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary”.

**Response to Comment 20-2**

It is acknowledged that the proposed project incorporates large house sizes. The Draft EIR addresses the project as it is proposed and acknowledges that actual house sizes may vary, and could further be reduced as part of mitigation for the identified environmental impacts (eg: Mitigation Measure 5.7-8(b) and Mitigation Measure 5.8-1.

**Response to Comment 20-3**

The applicant’s proposed Construction Management Plan would designate a disturbance coordinator for the duration of applicant implemented construction. The POA CC&R’s would require designation of a disturbance coordinator for the duration of lot-owner construction.

**Response to Comment 20-4**

As noted in the paragraph Significance after Mitigation on page 428 of the Draft EIR in the absence of the implementation of Mitigation Measure 5.6-1(a), project impacts on special status plants would be a significant unavoidable impact.

**Response to Comment 20-5**

Please see Response to Comments 11-8 and 15-12.



Russell D. Keil, Jr.  
Keil Cove  
2600 Paradise Drive  
Tiburon, CA 94920

MAY 2 2011 AM 10:05 Planning

April 28, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

1 In its current form the 2008 Easton Point Residential Development Draft Environmental Impact Report describes a project that poses a threat to Keil Cove and the Lands of Keil Spring that cannot be overstated. The cumulative effect of the project impacts and proposed mitigations would forever change the property that its owners, the Keil Family, have striven to protect.

In 2001 the Keil family granted to The Garden Conservancy a Conservation Easement on the property known as Keil Cove which not only prevents development of this unique 35 acre parcel on Raccoon Straits but also requires that the historic gardens, forest, spring, lake, beach and buildings be preserved forever. The Keil family takes this preservation responsibility as a profound duty. So should the County of Marin.

The purpose of the Conservation Easement is to guarantee that historians, landscape architects, botanists, environmentalists and the public will find this property unchanged in perpetuity, as it has been unchanged for the past 100 years.

The right of the Martha Company to develop their property is not disputed. A development that is based on the site's limitations, not arbitrary density, can be developed but has not been proposed in the 2008 DEIR.

The technical comments on the inconsistencies found in the DEIR will be addressed in comment letters.

This letter is a call to the County's public agencies to join in the effort to define a project that meets the CEQA goal of minimizing environmental damage and is consistent with the preservation of Keil Cove as a unique community resource.

Sincerely,

  
Russell D. Keil, Jr.

**RESPONSE TO LETTER NO. 21 RUSSELL D. KEIL, JR. (APRIL 28, 2011)**

**Response to Comment 21-1**

This is not a comment on the adequacy of the Draft EIR but rather on the merits of the proposed project. No further response is necessary.

LETTER NO. 22

April 28, 2011

**FEDERAL EXPRESS**

Curtis Havel  
Senior Planner  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: **Draft EIR 2008 Easton Point Residential Development  
(State Clearinghouse No. 2009012010)**

Dear Mr. Havel:

On behalf of the Keil family we provide the following comments on the Draft Environmental Impact Report (DEIR) for the 2008 Easton Point Residential Development Project. The Keil family owns the Keil Cove property, downhill and adjacent to the proposed project site, which would be severely impacted by the project.<sup>1</sup> The Keils have grave concerns about the proposed project, which would substantially diminish and degrade, if not completely eliminate, the water source for the historic Keil Cove property and gardens. The project would impermissibly interfere with the Keils' long-held water rights, and threatens numerous significant impacts to this treasured historic resource as well as to the federally protected California red-legged frog population that resides on the property and breeds in Keil Pond.

1

**I. Development of the Project Threatens Historic Keil Cove as Well as Its Water Rights**

The significant adverse impacts of the proposed development on Keil Cove cannot be fully appreciated without an understanding of the unique historic features of the Keil property. Indeed, the most compelling of the many adverse impacts on Keil Cove, the impacts on its water sources, threaten its very existence. These impacts also would result in irrevocable and impermissible harm to the Keils' water rights, which have been integral to Keil Cove since the 1890's.

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<sup>1</sup> The Keil property is not the only downhill property that will be adversely affected by the project. In fact, there are at least eight different downslope properties, including the Drever and Swann properties, that will be adversely affected by the project. Many of the issues that are of concern to the Keil property, such as project runoff, drainage and sedimentation, may affect these properties as well, yet the DEIR does not describe any of the potential impacts that will occur to these properties.

Keil Cove is more than the home of the Keil family for over 100 years. It is a magnificent and unique natural and historic preserve. In particular, Keil Cove has 34 acres of historic gardens designed by John McLaren, who also designed Golden Gate Park in San Francisco, and by Thomas Church, an acclaimed landscape architect. These gardens have been irrigated by a natural spring fed system of untreated water for more than 100 years, and the Keil Cove property also includes "Keil Pond" (a body of fresh water five acres in size, not just a small seasonal pond), which is a breeding site for the federally listed threatened California red-legged frog. Keil Spring, the water supply for these historic resources, is located on a parcel of land above Keil Cove, owned by the Keils, that is surrounded by the proposed project site and referred to in the DEIR as the "Lands of Keil."

Four generations of the Keil family have lived at Keil Cove and have been caretakers of its historic gardens. The gardens as originally designed have been maintained for more than a century and the water system has supplied the property throughout this period. The Keils' goal for Keil Cove is to preserve its natural, scenic, historic and horticultural features for generations of County residents to come. The Keils have expended tremendous physical as well as economic resources towards achieving this goal. They have legally ensured the preservation and protection of the historic gardens in perpetuity by granting a conservation easement covering the Keil property, including the Lands of Keil Spring, to The Garden Conservancy, a non-profit organization whose mission is the preservation, protection and study of America's finest gardens. As a result of the Keils' commitment, the gardens enjoy national recognition and their preservation as a national historic treasure for the benefit of the public has been ensured.

The Keil family has used the Keil Spring for more than 100 years for irrigation, domestic uses and other purposes. It has owned outright the property upon which the spring is located for nearly a century. The Keils hold the exclusive right to the use of water from Keil Spring. The water rights appurtenant to Keil Cove are a private property right to the use of that water, undiminished in quality or quantity, for beneficial use. At a minimum, there is a right deriving from diversion and continuous beneficial use beginning at least as early as 1900, and possibly earlier, when the Keil family first began to capture and divert all the water from Keil Spring and use it for beneficial purposes on the Keil Cove property.

The project site, within which Keil Spring is located, is blanketed with active hazardous landslides. The project and all project alternatives evaluated in the DEIR would place development within geologically unsafe portions of the site, directly in the path of known landslides, which would require extensive landslide repair. The amount of grading needed for even the minimal landslide stabilization proposed by the applicant is staggering. The grading, drainage systems and landscaping required for development of the project property will adversely affect flow and quality of the waters from Keil Spring if not eliminate the spring altogether, destroying the source of water the Keil family, and in recent years The Garden Conservancy, too, as conservator of the historic Keil Gardens, have relied on for more

than a century. The actions would also threaten the groundwater that supplies the two cistern wells on the Keil Cove property.

## II. The Proposed Project's Interference with the Keil Family Water Rights Makes Development of the Project as Proposed Infeasible

2

Simply stated, the proposed project cannot proceed because the Keils do not consent to the applicant's (or any one else's) destruction of their water rights. With this knowledge, the County is obliged to find that the project would result in significant unavoidable impacts that cannot be mitigated (including landslides). The project's adverse effect on the quantity and quality of the Keils' water supply would interfere with their water rights in a manner that constitutes trespass and nuisance and violates principles of California law. As stated in their 2001 comments on a prior draft EIR for the project site, and again in scoping comments submitted for this DEIR, the Keils oppose any development of the project site that will result in the elimination or reduction in the flow of the Keil Spring or adversely affect its water quality. The Keils are entitled to the use of water under vested water rights. The applicant may no more eliminate this property right than it may raze the structures on Keil Cove itself. Any diminishment in the quality or quantity of this historic water and property right is impermissible.

In addition, the applicant's predecessor in title conveyed the Lands of Keil parcel and a pipeline easement to the Keils for the purpose of assuring the spring water supply to the downstream Keil Cove property. As such, the applicant and any successors in title to the original grantor of the Lands of Keil property and the pipeline easement would be estopped from defeating the purposes of such grants or otherwise violating such grants through the proposed actions as described in the DEIR. Thus, any effort to interfere with the terms of the conveyances of the Lands of Keil parcel of the pipeline easement, such as development of project property in a manner that would render the purposes of either or both meaningless, would be a violation of California law.

Not only is the landslide stabilization necessary to develop the site as proposed by the applicant infeasible due to its interference with the Keils' water rights, but the mitigation proposed in the DEIR to address the loss of water supply to Keil Cove – providing Keil Cove with substitute groundwater rather than spring water – is also infeasible. The mitigation is infeasible as a practical matter because the Keils will not consent to it and cannot be compelled to give up their long-standing water rights. The mitigation is also legally infeasible because mitigation that would force a property owner to accept a substitute, lesser quality source of water has been held to be inadequate under CEQA. (See *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099 [rejecting as inadequate mitigation measures intended to mitigate adverse impact to offsite wells that would have required that applicant provide replacement water of dissimilar source, reliability, quantity and quality].)

3

### **III. The Project Is Inconsistent with the 2007 Judgment Addressing Development of the Site**

The DEIR confirms that a substantial majority of the project site is inappropriate for development due to the significant geologic hazards posed by the extensive existing landslides and expansive soils. The fact that development is proposed in landslide areas at all is mystifying in light of the fact that the 2007 court judgment agreed to by the County and applicant directs that any development of the site is “intended to be placed on geologically safe portions of the site, *without the necessity for extensive landslide repair, rather than in the path of known landslides.*” (See Exhibit A, November 7, 2007 Judgment Pursuant to Stipulation, No. C 06 0200 SBA Northern Dist. of Cal., emphasis added.) Moreover, the judgment provides that development must assure health and safety.<sup>2</sup>

The proposed project and all the alternatives evaluated in the DEIR brazenly violate the terms of the judgment by proposing development within geologically unsafe portions of the site, directly in the path of known landslides, which would require extensive landslide repair. The amount of grading needed for even the minimal landslide stabilization proposed by the applicant is staggering. The grading, drainage systems and landscaping required for development of the property will substantially alter the site’s hydrology and water quality and adversely affect the flow, clarity, and quality of the waters from Keil Spring, if not eliminate the spring altogether. Because the necessary physical alterations of the project site proposed to ensure health and safety would substantially interfere with the Keils’ water rights, they are infeasible, making the development as proposed infeasible and inconsistent with the judgment.

4

### **IV. The DEIR Fails to Comply with CEQA and Must be Substantially Revised and Recirculated**

In addition to their fundamental objections to the project due to its adverse effect on the Keil Spring and their water rights, the Keils strongly object to the adequacy of the DEIR and believes that the DEIR fails to comply with CEQA. The Keils have endeavored to evaluate the DEIR and provide the most specific comments and questions feasible within the time allowed for public review and comment.<sup>3</sup> Even in the limited time available for public review, the DEIR’s numerous deficiencies are apparent.

<sup>2</sup> The Keils have serious doubts as to the whether the judgment can or does compel any specific action but assumes for the sake of these comments that its dictates apply to the County and applicant’s actions with respect to the project site.

<sup>3</sup> In a letter submitted to the County on April 25, 2011, and in remarks at the Planning Commission hearing on the DEIR that day, Russell Keil requested a two-week extension of the comment period, noting the substantial length (more than 700 pages) and complexity of the project and DEIR analysis. We note that not only does CEQA specifically allow for a comment period of 60 days, but that in unusual circumstances more time may be appropriate. (CEQA Guidelines, § 15105(a).) Here, the DEIR evaluates two different projects (the proposed project and Alternative 2, the identified Environmentally Superior Alternative) at the same project level of detail.

We have focused these comments primarily on the issues of unique importance to the Keils. The DEIR, of course, raises numerous other issues of concern to the Keils and the greater Tiburon community, and the Keils adopt the comments made by others on the DEIR. The following comments summarize what we view to be some of the other primary problems with the DEIR. These comments are supported by additional detailed comments on the DEIR contained in Exhibits B and C to this letter.

**A. The DEIR Fails to Adequately Investigate or Describe the Baseline Against Which Project Impacts Are Measured**

5

The DEIR lacks key information about the environmental setting that is essential to evaluate impacts to the Keil Cove water supply, historic resources and the California red-legged frog, including a lack of information about the water quality of springs, seeps, groundwater on the project site, and Keil Pond, and information about existing flows and current sediment loads from the project site. Without this information there is no evidence upon which the DEIR can adequately assess the project's impacts in these areas. CEQA requires that an EIR be based on an adequate investigation, not mere guesswork. As set forth in greater detail in Exhibits B [comments of the Keil Family] and C [comments of Daniel B. Stephens & Associates], the DEIR was merely guessing as to many of the critical impacts of the project.

**B. No Substantial Evidence Supports the DEIR's Determination That Project Impacts from Geologic Hazards, and Impacts to Keil Spring, Keil Cove and the Historic Keil Gardens Are Less Than Significant**

6

As discussed, the DEIR's determination that geologic hazards can be mitigated by the extensive landslide stabilization program fails to recognize the fact that this mitigation is infeasible because it is premised on the assumption the Keils will forgo their rights to the use of spring and well water, an assumption that is erroneous. In comments on the 2001 Draft EIR for the property, which Mr. Russell Keil referenced in his comments in response to the NOP for this DEIR, Mr. Keil raised the concern, which remains unaddressed in this DEIR, of the project's effect on legal property and water rights owned by the Keils, and stated unequivocally that "[t]he Keil Family will vigorously oppose any development which will result in the elimination or reduction in the flow of the Lands of Keil Spring or adversely affect its water quality." In light of these comments, the DEIR's determination that mitigation measures that would eliminate the flow of the Keil Spring and adversely affect its water quality are feasible, is not only unsupported by substantial evidence but also defies logic.

The result is an extremely lengthy document that raises numerous technical issues with the potential to have a significant adverse impact on the Keil Cove property. The length and complexity of the DEIR, and the fact that it presents the equivalent of two full EIRs for separate projects are unusual circumstances making an extended comment period reasonable and appropriate. We reiterate Mr. Keil's request that the comment period be extended in order to further informed public review and participation in the EIR process.

Moreover, the mitigation proposed for the loss of the Keils' historic water supply – providing a substitute water source of lesser quality and unknown reliability – would require the consent of the Keils, which they will not give, and in any event has been held to be illegal under CEQA.

To better understand the DEIR's analysis and potential effect on Keil Spring and Keil Cove, the Keils engaged geologic experts from Daniel B. Stephens & Associates to review the DEIR. That evaluation revealed significant and irreconcilable flaws in the DEIR's analysis of impacts to hydrology and water quality, including impacts to the quantity and quality of water in Keil Spring, to the groundwater underlying the project site that supplies the Keils' wells, and to Keil Pond. The analysis revealed that impacts to each of these critical resources are likely substantially more severe than disclosed in the DEIR. The analysis also shows that the project has the potential to result in a new significant impact not addressed in the DEIR – water quality impacts to two groundwater wells on the Keil property below the project site. The analysis also further shows that stormwater mitigation is inadequate to mitigate water quality impacts to a less than significant level, as the DEIR claims. These comments are contained in Exhibit C.

Finally, the DEIR further reveals repeated, troubling instances of the applicant providing inaccurate or unsupportable information and analysis to the EIR consultants in areas affecting the analysis of issues of key importance. It is often difficult to know whether the impact analysis that depends on these data, such as the necessity for or size of essential infrastructure including geologic remediation, drainage systems and stormwater facilities, was based on correct information. The numerous problems identified by the EIR consultants with the data and assumptions provided by the applicant call into question the accuracy and credibility of the DEIR's impact analyses and also the efficacy of all future mitigation that relies on the development of engineering calculations, drainage plans, grading plans, etc., based on applicant-generated data and plans. Not only do these shortcomings undermine the integrity of the DEIR, but when considered with other troubling information revealed in the DEIR, such as the project's substandard roadways and parking and intent to provide only minimal landslide repairs, which create a risk to structures and people, they suggest that the proposed project seeks to maximize the applicant's economic gain at the expense of accuracy and full disclosure, and even public safety.

#### **C. The DEIR Fails to Quantify or Accurately Disclose the Scope of Numerous Secondary Impacts of the Project**

7

Both with respect to the project and all the alternatives, the DEIR fails to quantify and disclose the full scope of potential impacts to hydrology, geohydrology, groundwater supply (including effects to seeps, springs and offsite wells), groundwater quality and surface water hydrology (including increased flows from stormwater runoff and associated water quality degradation from the project). Each of these project impacts is exacerbated by secondary impacts resulting from mitigation designed to address the project's many significant impacts and shortcomings in design (e.g., substandard roads, inadequate on-site parking). To the



extent the secondary impacts result in substantially more severe project impacts, they also have the potential to result in more significant impacts to the historic Keil gardens, to Keil Pond, the breeding habitat of the California red-legged frog, and to the success and viability of the frogs that reside in Keil Cove and use the project site as foraging and dispersal habitat.

The DEIR fails to clearly, thoroughly and accurately account for and disclose the project's numerous secondary impacts resulting from mitigation measures. Numerous mitigation measures proposed have the potential to substantially increase the severity of the existing significant impacts disclosed (such as to hydrology, sedimentation, water quality). The linkages between these secondary impacts and the project impacts analyzed are confusing, with the result that it is not clear whether the impact assessment, significance determinations and mitigation account for the project as it would have to be constructed, rather than just as proposed (e.g., with inadequate landslide mitigation, substandard roads, inadequate parking, etc.).

#### **D. The DEIR Fails to Evaluate a Reasonable Range of Alternatives**

8

The discussion of alternatives has been held by the Supreme Court to be the "core of an EIR." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) CEQA requires that an EIR evaluate a reasonable range of alternatives that would reduce or avoid the project's significant environmental impacts even if they would impede attainment of project objectives to some degree or be more costly. (CEQA Guidelines, §§ 15126.6(a), (b).) The purpose is to implement CEQA's policy of reducing significant environmental impacts. (Pub. Resources Code, §§ 21002, 21002.1(a), 21100(b)(4), 21150.) The range of alternatives in an EIR must be designed to foster informed decisionmaking and public participation. (CEQA Guidelines, §§ 15126.6(a)-(f).) The range presented should be sufficient to permit a reasonable choice of alternatives for environmental aspects, and an EIR should provide enough of a variation to allow informed decisionmaking.

Here, the DEIR fails to describe a reasonable range of alternatives to the project or fulfill CEQA's goal of informed decisionmaking. Other than the No Project Alternative, neither the project nor any of the alternatives fulfills the direction of the 2007 Court Judgment that development be placed "on geologically safe portions of the site, *without the necessity for extensive landslide repair, rather than in the path of known landslides.*" The project and all alternatives propose to put dozens of homes on a site that is blanketed with high-risk landslides. There is no alternative that would not have a significant impact on the Keil property's water supply and water rights due to the massive earthwork, drainage system associated with landslide stabilization and other activities that are required to avoid significant risks to public health and safety from these geologic hazards. Moreover, each alternative threatens the continued existence of Keil Pond and Keil Cove as historic resources, due to the many significant impacts that will result from adverse changes in water supply and water quality, not to mention impacts to the California red-legged frog. There is no feasible mitigation that would avoid these significant impacts, and there are no overriding considerations that could support the destruction of the Keils' water rights and property rights.

Because the project and all of the alternatives would substantially interfere with the Keils' water rights, they are unlikely to ever be constructed, as the applicant may not destroy the Keils' rights. For these reasons, neither the proposed project nor any of the current DEIR alternatives presents a reasonable option for the County to approve. The County must start over and develop and evaluate new, reasonable, feasible alternatives that will permit the County, and the applicant, to make a reasoned choice with regard to development of the project site.

To comply with CEQA, and provide viable options for the applicant, a revised Draft EIR should evaluate one or more alternatives to the project, including an alternative that avoids any development in areas of landslides and that avoids the significant impacts from dewatering of the Keil Spring and/or alterations to site hydrology and groundwater recharge and water quality, including impacts to Keil Spring, the Keil cistern wells, Keil Cove historic gardens, Keil Pond and the California red-legged frog, that will occur under the project and all current DEIR alternatives.

In fact, an alternative meeting these criteria was presented to the applicant at the start of the EIR process in 2009. Designed by experts in the fields of land planning and real estate development, led by none other than Robert Lamb Hart, a Tiburon resident and internationally recognized planning and development expert, the alternative presented the applicant with a conceptual development plan for the project site that was designed to be environmentally superior as well as more profitable than the project proposal or the 32-lot alternative evaluated in the DEIR. Most notably, this alternative would dramatically reduce the amount of infrastructure required to implement the project (including roads) and, importantly, all lots would be on geologically stable land, consistent with the court judgment. In addition, the project would reduce other significant health and safety impacts by minimizing traffic and reducing visual impacts from adjoining properties and distant off-site vistas. A copy of the letter explaining the alternative and a conceptual site plan for the alternative that was provided to the applicant is provided in Exhibit D. We note that the 2007 Judgment permits the County and applicant to agree to a development configuration of any size.

Both the proposed plan and all development alternatives included in the DEIR pose significant threats to the quantity and quality of the water resources that are essential to maintaining Keil Cove's value as an important historic resource and breeding ground for the threatened California red-legged frog. The Hart development proposal is compelling evidence that a substantially reduced development alternative could accomplish both the financial goals of the applicant and avoid these significant impacts. A reasonable range of alternatives is essential to promote informed decisionmaking. Here, analysis of the environmental merits of a substantially reduced development alternative such as that presented to the applicant in 2009 promotes informed decisionmaking as to the County and the applicant.

Curtis Havel

Re: DEIR 2008 Easton Point Residential Development (State Clearinghouse No. 2009012010)

April 28, 2011

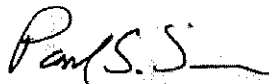
Page 9

## CONCLUSION

The many problems with the DEIR's analysis render it inadequate as an informational and decisionmaking document. In order to comply with CEQA and provide sufficient information to allow the public to understand the project and decisionmakers to make an informed decision about the merits of the project and its alternatives, the DEIR requires substantial additional investigation and analysis. The lack of critical baseline information, as well as a clear and comprehensive discussion of the project's numerous impacts to geology, hydrology and water quality, and the resulting adverse effects on the Keil Cove historic resource, as well as the threatened California red-legged frog, and the failure to evaluate a reasonable range of alternatives dictate that the County substantially revise the DEIR and recirculate it for public review and comment. Due to the complexity of the project, project site and its surroundings, and the wholesale revisions that will be required in numerous impact areas, the comment period on a recirculated Draft EIR should be at least 60 days.

The Keils have actively participated in the public dialogue associated with development of the project site and will continue to participate and take all action necessary to ensure the protection of the historic Keil Cove property and its water rights. To that end, please include this firm on the list to receive any and all notices related to the Easton Point Project and EIR, including, but not limited to, notices of availability for any revised or recirculated EIR, notices of public meetings, hearings, workshops and any notice of determination for the project. (Pub. Resources Code, § 21092.2.)

Sincerely,



Paul S. Simmons  
Kelley M. Taber

PSS:KMT:sb

cc: The Honorable Susan L. Abrams, President, Marin County Board of Supervisors  
Peter Theran, Chair, Marin County Planning Commission  
Randy Greenberg, Commissioner, Marin County Planning Commission

Enclosures: Exhibits:

- A: 2007 Judgment Pursuant to Stipulation
- B: April 29, 2011 Comments of the Keil Family on Draft EIR
- C: April 27, 2011 Comments of Daniel B. Stephens & Associates on Draft EIR
- D: 2009 Correspondence From Robert Lamb Hart to Reed Family Presenting Alternative Project Concept

# EXHIBIT A

1 IT IS ADJUDGED, DECREED AND ORDERED that, pursuant to the Stipulation for  
2 Entry of Judgment Creating Timeline and Procedures for Enforcing Judgment Entered in *Martha*  
3 *Co. v. County of Marin*, No. C 75 0125, ("Stipulation for Entry of Judgment") between Plaintiff  
4 County of Marin ("County") and Defendant Martha Co. ("Martha"), judgment is entered as  
5 follows:

6 **BACKGROUND**

7 Martha is the owner of Marin Assessor Parcel No. 59-251-05, consisting of approximately  
8 one hundred ten (110) acres of land on the Tiburon Peninsula in unincorporated Marin County  
9 ("Martha Property"). The County of Marin is a governmental entity duly organized and existing  
10 under the laws of the State of California as a county.

11 On January 20, 1975, Martha filed suit against the County, alleging a taking of the Martha  
12 Property as a result of: (i) the County's adoption of its 1973 Marin Countywide Plan designating  
13 a substantial portion of the Martha Property as Ridge and Upland Greenbelt; and (ii) the County's  
14 1974 down-zoning of the Martha Property from a maximum development potential of three to  
15 four hundred units down to development density of twenty-seven (27) residential units, with a  
16 possible bonus of seven (7) units, for a maximum density of thirty-four (34) units.

17 On December 29, 1976, the United States District Court for the Northern District of  
18 California, the Honorable Robert H. Schnacke, entered Judgment Pursuant to Stipulation in the  
19 matter of *Martha Co. v. County of Marin*, No. C 75 0125 RHS ("1976 Judgment," Exhibit A  
20 hereto). Such 1976 Judgment was entered pursuant to a Stipulation for Entry of Judgment, also  
21 filed on December 29, 1976.

22 On April 19, 2005, Martha submitted to the County of Marin an application for approval  
23 of a Master Plan, Precise Development Plan, and Vesting Tentative Map seeking approval of  
24 forty residential lots ("2005 Application"). The County declined to accept the 2005 Application  
25 for processing at that time.

26 On January 11, 2006, the County of Marin filed its Complaint for Declaratory Judgment  
27 in the above-captioned matter, and on April 11, 2006, the County filed its First Amended  
28 Complaint ("Complaint") seeking a declaration that the 1976 Judgment should no longer have

1 prospective application and seeking a declaration of the rights of the Town of Tiburon and six  
2 named individuals: Russell Keil, Jerry Riessen, Maxwell Drever, Marilyn Knight, Joanna  
3 Kemper, and Mark Bewsher ("Individual Counterclaimants").

4 On April 19, 2006, the Individual Counterclaimants filed a Counterclaim to the County's  
5 Complaint, also seeking a declaration that the 1976 Judgment was void and unenforceable and  
6 seeking an injunction prohibiting the County and Martha from taking any action to implement the  
7 1976 Judgment.

8 On September 8, 2006, this Court entered its Order dismissing both the County's  
9 Complaint and the Individual Counterclaimants' Counterclaim and denying as moot a Request for  
10 Judicial Notice which had been filed by the Town of Tiburon. However, the County continued to  
11 decline to process the 2005 Application, and litigation between the County and Martha therefore  
12 continued.

#### 13 ENFORCEMENT OF 1976 JUDGMENT

14 Based upon the above-referenced rulings of the Court, the County acknowledges that it  
15 must process a subdivision map in conformance with the 1976 Judgment. Therefore the parties  
16 have settled all litigation between them by creating a timeline and procedures for enforcing the  
17 1976 Judgment, and this Court implements such settlement by ordering and decreeing as follows:

18 1. Retention of Jurisdiction. This Court shall retain continuing jurisdiction to enforce  
19 both this Judgment and the 1976 Judgment, provided, however, that any dispute arising hereunder  
20 shall first be presented to a Magistrate Judge, with a right of reconsideration by either party to this  
21 Court.

22 2. 1976 Judgment.

23 2a. Right to 43 Homes. Pursuant to the 1976 Judgment, the County is required  
24 to approve forty-three (43) homesites on the Martha Property unless the parties subsequently  
25 agree otherwise in writing.

26 2b. Minimum Half-Acre Lots. Pursuant to the 1976 Judgment, each of the 43  
27 lots to be approved by the County shall be at least one-half acre in size unless the parties  
28 subsequently agree otherwise in writing. These lots are intended to be placed on geologically

1 safe portions of the site, without the necessity for extensive landslide repair, rather than in the  
2 path of known landslides. If the parties cannot agree whether any required landslide repair is  
3 unreasonably extensive under the circumstances, the parties may petition this Court for binding  
4 instructions.

5 2c. Lots within the Ridge and Upland Greenbelt. In conformance with the  
6 1976 Judgment, the County shall allow some development within the Ridge and Upland  
7 Greenbelt.

8 3. Revised Scope of Application. Martha intends to revise its 2005 Application to  
9 request approval of a forty-three (43) unit subdivision map as required to be approved under the  
10 1976 Judgment ("2007 Application"), to remove its request that the map be a "Vesting" Tentative  
11 Map, and to file such 2007 Application with the Marin County Community Development  
12 Agency.

13 4. Action Required by County to Implement the 1976 Judgment.

14 4a. Action on 2007 Application. The County shall procure a full scope  
15 Environmental Impact Report ("EIR") for the project. The County shall take final action to  
16 certify a final Environmental Impact Report ("EIR") in conformity with the California  
17 Environmental Quality Act, Cal. Public Resources Code §§ 21000 *et seq.* and to act on the 2007  
18 Application within fourteen months of the date on which the 2007 Application is filed.

19 4b. Legal Infeasibility of Any Alternative or Mitigation Measure Inconsistent  
20 with the 1976 Judgment. The County has acknowledged that any development alternative, or any  
21 proposed mitigation measure, which does not accord Martha all rights to which it is entitled under  
22 the 1976 Judgment is legally infeasible unless required to assure health or safety. Should the  
23 parties disagree as to what measures or alternatives are required to ensure "health or safety," the  
24 parties shall jointly petition this Court for binding instructions which implement the 1976  
25 Judgment and this Judgment to the greatest extent feasible consistent with health and safety.

26 4c. Protected Species. Notwithstanding the foregoing, it is not the parties'  
27 intent to allow the unmitigated taking of any endangered, threatened, listed, or otherwise  
28 protected species identified in the extensive environmental reviews previously prepared for the

1 Martha Property by the Town of Tiburon ("Identified Species"). If the parties cannot agree on  
2 adequate mitigation measures concerning Identified Species, the parties shall jointly petition this  
3 Court for binding instructions concerning the adequacy of such mitigation.

4 4d. Assumption of Responsibility for Affordable Housing. In light of the fact  
5 that no affordable housing requirements existed at the time of the 1976 Judgment, any affordable  
6 housing requirement or other inclusionary-housing mandate which is required with respect to the  
7 Martha project by the Marin Countywide Plan or any County ordinance, code, or regulation shall  
8 be assumed by the County itself, and Martha shall have no additional obligation whatsoever,  
9 whether for the donation of land or otherwise, with respect to affordable or inclusionary housing.

10 4c. Conduct of Hearings. Public hearings on the 2007 Application shall be  
11 held before the Marin County Board of Supervisors except for a one-day advisory hearing before  
12 the Marin County Planning Commission.

13 4f. Prompt Action on Final Map. The County shall promptly review and  
14 process Martha's proposed Final Map and approve the Final Map on the first legally permissible  
15 date following approval of the Tentative Map. The filing of a legal challenge by third parties to  
16 County action shall not constitute grounds for refusal to process, approve and record the Final  
17 Map. Moreover, the County shall not use any County custom, policy, or procedure which is not  
18 mandated by state law to deny or delay approval and recordation of the Final Map.

19 5. Payment of Processing Costs. Martha shall pay all of the ordinary, customary, and  
20 reasonable costs of processing its 2007 Application which are typically and ordinarily paid to  
21 third-party contractors during the processing of a development application (including, without  
22 limitation, the fees, costs, and expenses charged by environmental impact report consultants) up  
23 to a maximum of \$250,000, with the County and Martha to each pay half of any amount in excess  
24 of that number, provided, however, that each party shall pay half the cost of the contract planner  
25 who has been hired by the County to process the 2007 Application as an agent of the County  
26 ("Contract Planner"). In addition, Martha shall reimburse the County for the Staff time and out-  
27 of-pocket expenses involved in its ministerial/secretarial support of the Contract Planner, such as  
28 legally-required mailings and publications. The County shall apply the processing fee previously



1 paid by Martha in conjunction with the 2005 Application towards the costs of such  
2 ministerial/secretarial support and shall reimburse Martha for any amounts remaining after  
3 completion of processing. The County shall waive all other fees and costs which it would  
4 otherwise collect with respect to its own internal costs of processing the 2007 Application  
5 (including, without limitation, the County's customary 33% add-on to the cost of the  
6 environmental impact report, as well as any other increment collected by the County based on the  
7 cost of an outside consultant).

8 6. Effect of Subsequent Events.

9 6a. Defense of Approvals. Should litigation be commenced to overturn  
10 County certification of the environmental impact report for this project or to overturn County  
11 approval of development, or to otherwise interfere with any permit or entitlement which the  
12 County has granted to Martha, then the County shall take all action necessary under state law to  
13 defend such certification, approval, permit or entitlement. This requirement shall be satisfied by  
14 the County's appearance on all pleadings, motions, and other papers as appropriate to defend such  
15 certification, approvals, permits or entitlements. Except as required by the foregoing sentence,  
16 the County is not required to expend additional County time or money in this effort. Each party  
17 shall bear its own fees and costs in such defense, except that if fees and/or costs are awarded to  
18 any petitioners/plaintiffs in such litigation, then Martha and the County shall each bear half of the  
19 fees and costs awarded.

20 6b. Sanitary District Annexation. Should the Martha Property not be annexed  
21 for any reason into the local Sanitary District, the County will not oppose Martha's application  
22 for an out-of-district service agreement with the local Sanitary District. Should such agreement  
23 not be available for any reason, the County shall process an application for a sewer or septic  
24 system on the Property which will serve only the Property. If, after processing, the County is  
25 unable, based on sound scientific evidence or other reasons, to approve such application for a  
26 sewer or septic system serving only the Property, the parties shall jointly petition this Court for an  
27 independent, *de novo* review of and decision concerning the County's determination and for  
28 binding instructions as to how best to fulfill the letter and spirit of the 1976 Judgment and this

1 Judgment.

2 6c. Attempt to Annex Prior to Final Map. The parties have expressed their  
3 intent that, in order to implement the 1976 Judgment, the Town of Tiburon, which was not a party  
4 to that judgment, should not annex the Martha property until after a Final Map is recorded.  
5 Should Tiburon, for any reason whatsoever including without limitation for the purpose of  
6 defeating Martha's rights under federal Judgments, commence proceedings which could lead to  
7 annexation the Martha Property prior to recordation of a Final Map, the County has agreed not to  
8 oppose or otherwise interfere in Martha's effort to obtain appropriate relief from this Court. In  
9 such event, the County shall continue to carry out all of its obligations hereunder, including  
10 without limitation the obligations set forth in ¶ 4f above. If Tiburon succeeds in annexing the  
11 Martha Property prior to recordation of a Final Map, the parties shall petition this Court for  
12 binding instructions as to how best fulfill the letter and spirit of the 1976 Judgment and this  
13 Judgment.

14 7. Common Sense Interpretation. The 1976 Judgment as well as the Stipulation for  
15 Entry of Judgment and this Judgment constitute binding contracts. As such, the parties are  
16 required to exercise good faith to implement the letter and intent of these documents. The parties  
17 shall refrain from any conduct which has the purpose or effect of defeating the parties' respective  
18 rights hereunder. It is impossible to set forth every contingency which might interfere with the  
19 accomplishment of the intent expressed by the parties in entering into these stipulations; therefore  
20 these documents shall be interpreted in a common-sense manner that gives effect to their intent.

21 8. Term. This Judgment, and all rights and obligations hereunder, shall not be for a  
22 term of years, but instead shall run coterminous with the 1976 Judgment, which is to say it shall  
23 run with the land and shall bind and benefit the parties hereto, their heirs, successors, and assigns.

24 9. Severability. Should any portion of the Stipulation for Entry of Judgment or this  
25 Judgment be invalidated by a court of competent jurisdiction, then the remainder of the  
26 Stipulation for Entry of Judgment and this Judgment shall nevertheless be implemented. The  
27 invalidation of any or all portions of the Stipulation for Entry of Judgment or this Judgment shall  
28 in no way affect the continuing validity and enforceability of the 1976 Judgment.

10. Martha and the County have each waived findings of fact, conclusions of law, notice of entry of judgment, and any and all rights of appeal. Each party shall assume its own costs and attorney fees.

IT IS SO ADJUDGED, DECREED AND ORDERED.

Date: 11/7/07

*Sandra B. Armstrong*  
SAUNDRA B. ARMSTRONG  
United States District Court Judge

# EXHIBIT B

Comments of Keil Family on Draft EIR 2008 Easton Point Residential Development  
(State Clearinghouse No. 2009012010)  
April 28, 2011

**TRAFFIC**

**Impact 5.1.11 – Provision of Safe On-Site Roads (DEIR, p. 255)**

9

All project roads as proposed (except the construction road which will be narrower) are 20 feet wide with no shoulders (see p. 246, 2<sup>nd</sup> paragraph of Impact 5.1-9). Since these roads are “minor residential roads” which do not comply with the Marin County Code standards for either minor residential roads or limited residential roads, the safety concerns raised by these substandard roads are significant project impacts.

Mitigation Measure 5.1-11 proposes to widen the roads to comply with County minor residential road standards, which would result in 28-foot paved roads with pedestrian sidewalks on one side of all roads. The mitigation would reduce the road safety impacts to a less than significant level. However, there are extensive secondary impacts (that would result from that mitigation measure due to the increase in impervious surfaces, including on-site drainage. (DEIR, pp. 260-261.) The DEIR states that hydrologic impacts to off-site resources associated with the road widening are not significant in light of the already significant impacts from the extensive dewatering that would occur with the landslide remediation system. In other sections, the DEIR notes that even minor increases in the pollutants found in typical urban stormwater runoff or sedimentation could have a significant adverse effect on the water quality of Keil Pond, including the California red-legged frog (CRLF). Given the significance of impacts on erosion and sedimentation, the adverse consequences to Keil Cove, including water quality of Keil Pond, cannot be understood without a thorough analysis of this secondary impact.

Specifically, the required mitigation will increase the road impervious area by 40% in each of the component watersheds (p. 260). Do the applicant's groundwater peak flow analysis and stormwater detention plan account for changes in flow from these secondary impacts?

With regard to impacts on erosion and sediment, the DEIR states:

The expanded road widths associated with Mitigation Measure 5.1-11 would not significantly impact erosion or downstream sedimentation *as long as it remains feasible to detain the appropriate differential runoff volumes and mitigate for increases in peak flow rates*, both of which would be exacerbated by the increase in constructed road width. While the extent of impervious surface area would increase, the road expansions would not result in discernable increases in graded and disturbed areas. It is more likely that retaining wall heights would be increased to minimize the construction of extensive road fill slopes. *If detention facilities serving the roads and some of the individual lots cannot be upsized to the extent required to detain the increased stormwater runoff volumes, then erosion of receiving drainageways could be significantly increased.* In that case, downstream sedimentation could also increase relative to the proposed project road configuration. (DEIR, p. 261, emphasis added.)

10

Is it feasible to detain detention of the increased runoff that will occur from road widening? Can the detention facilities be upsized? If not, then it appears the project will result in significant unavoidable impacts to hydrology and water quality. If the determination is that downstream sedimentation impacts would not be significant even if detention facilities could not be upsized as needed, specify the evidence supporting that determination.

11

The applicant is proposing on-site detention of portions of the post-project stormwater runoff through the use of underground storage facilities. (DEIR, p. 363.) “[D]etention vaults and associated outfalls have been sized to only handle runoff from site roads (and in some instances driveway extensions and additional lot impervious area)...” (DEIR, p. 387.) Are any of the proposed detention facilities in the area or path of known landslides? What would be the potential for the underground storage facilities to be damaged from seismic activity and/or landslides? What are the potential risks to structures or people if an underground storage facility fails?

12

The DEIR further states that increased runoff associated with the expanded roads would have significant impacts on on-site peak flow rates, existing storm drain capacities and downstream flood protection (DEIR, p. 262):

The expanded road widths would increase both local peak flow rates and differential (pre- versus post-project) stormwater runoff volumes relative to the proposed project road configuration. To maintain the proposed runoff and peak flow mitigation program associated with the proposed project, the capacities of the road detention facilities would require significant upsizing. These increased capacities would be necessary to prevent drainageway scour and related hillslope erosion, as well as downstream sedimentation which could obstruct road culverts along Paradise Drive and episodic road flooding.

Are detention vaults and outfalls sized to handle only runoff from the roads as proposed, i.e., the twenty-foot roads? How will the stormwater retention system be affected by the increase in road impervious surfaces if mitigation measure 5.1-11 is implemented? What is the further effect on this system if impervious project surfaces increase to provide additional site parking places if Mitigation Measure 5.1-12 is implemented?

13

What type of “significant upsizing” would be required? Will this result in more/larger storage tanks? How big are the facilities required to mitigate this impact, what would they look like and where would they be located?

#### **Impact 5.1.12 – Provision of On-Site Parking Space (DEIR, p. 263)**

14

Mitigation Measure 5.1-12 (DEIR, p. 266) would increase the number of on-site parking spaces (on most lots doubling the number). To what extent will Mitigation Measure 5.1-12 increase the project’s impervious surfaces? The DEIR does not address this. Additional surfaces will trigger the same secondary impacts as Mitigation Measure

5.1.11, above. What will be the associated impact on stormwater runoff and flows and road detention facilities? Given the significance of impacts on erosion and sedimentation, the adverse consequences to Keil Cove, including the water quality of Keil Pond, cannot be understood without an analysis of these secondary impacts.

## GEOLOGY & SOILS

15

Page 352: The DEIR states that no grading is proposed within the limits of the Lands of Keil parcel. What is the closest distance to the Lands of Keil parcel boundary that grading would occur?

### Impact 5.4.1 – Landsliding (DEIR, p. 355)

The DEIR contains the following information relevant to landslide impacts:

The most significant potential geologic hazard to development of the site is landsliding. Landslides of various types blanket much of the site, both in and adjacent to areas proposed for development (see Exhibit 5.4-1).

*If the portions of landslides that encroach onto proposed building sites and proposed public improvements are not adequately mitigated, landslides could reactivate, possibly causing bodily harm and/or property damage.* Landslides that threaten the proposed development and improvements include landslides 2, 3, 6, 7, 8, 11, 13, 15, 16, 19, 26, 27, and 40. Except for landslides 13 and 15 each of these landslides has been designated as Risk Level A by Miller Pacific. Landslides 13 and 15 have been designated as Risk Level B (see Exhibit 5.4-2).

As discussed above, the applicant's geotechnical consultant proposes to protect the proposed lots and related public improvements by complete repair of the portions of landslides that are located within 100 feet of a proposed building site or proposed public improvement. The repaired landslides are to have minimum factors of safety of 1.5 for static and 1.0 for pseudo-static conditions, respectively. It is the applicant's geotechnical consultant's professional opinion that the proposed landslide mitigation plan would provide adequate setback or stability improvements that would reasonably protect the planned structures. They also conclude that implementation of the landslide mitigation plan would significantly improve the stability of existing landslides near the proposed building sites. Miller Pacific further concludes that the stability of the existing landslides within undeveloped or open space areas would remain the same or be marginally improved.

On a site blanketed by landslides, Miller Pacific must consider what they feel to be an acceptable risk. *While the applicant's geotechnical consultant's conceptual landslide stabilization plan would improve the stability of much of the site, it would also leave portions of the site vulnerable to future slope failures. Snyder & Wilson Engineering's (the EIR geologists) experience has shown that the standard of care*

*will drop to the lowest level that the geotechnical consultant, or more importantly, the reviewing agency will allow. Miller Pacific proposes to improve the stability of slides in areas beyond 100 feet from a proposed building site and not to repair them. However, the existing, poor inherent slope stability in some areas related to the site's landslide-affected areas, is significant. These existing instabilities may exist in non-developed areas after the proposed project is completed. The applicant's geotechnical consultant proposes to avoid or marginally improve solitary landslides and portions of slides that are over 100 feet from proposed building sites. Since existing slides more than 100 feet away from proposed building sites would not be completely repaired, there is the potential for some of the landslide material that was avoided or marginally improved to reactivate. Because this is an existing condition, some landslide hazard may remain on-site even after repairs are completed consistent with Marin County's landslide mitigation policy and Miller Pacific's landslide mitigation policy for this project. An example of this situation would be the lower portion of Landslide 11 that is present along the west side of Paradise Drive.*

16

The discussion of landslides indicates that the unrepaired portions of Landslide 11 and others could reactivate; in fact, reactivation is considered likely in the event of even a moderate earthquake. If Landslide 11 moves again, it could damage unrepaired portions of lots 10 through 15, 42 and 43, causing the land to fail downslope and potentially onto adjacent lots. Which specific downslope and/or adjacent lots in particular would be threatened by reactivation of the unrepaired portions of Landslide 11?

17

Although Landslide 11 is an existing condition, its potential effect on the health and safety of residents of adjacent lots cannot be minimized. It is precisely this threat that underpinned the District Court's 2007 Judgment between the County and the applicant limiting development to geologically safe areas *outside of the path of landslides*. The EIR incorrectly characterizes the risk to adjacent and downhill project development lots from reactivation of unrepaired landslides as not an impact under CEQA. (See DEIR, p. 356.)

18

Applying the EIR's own significance criteria, which are taken from the CEQA Guidelines, putting future residents and development in the path of a major landslide that is "likely" to reactivate, is a significant impact under CEQA. (See DEIR, p. 335, Significance Criteria for Geology and Soils: "Based on the State CEQA Guidelines the project would have a significant geologic impact if it (would): Geologic Hazards . . . expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death, involving: . . . Landslides"; see also CEQA Guidelines, § 15126.2(a) [EIR should analyze any significant environmental effects project might cause by bringing development and people into the area affected, citing as example EIR on subdivision astride active fault line should identify as significant effect seismic hazard to future occupants of the subdivision, which would have the effect of attracting people to the region and exposing them to the hazards found there].)



19

The EIR also does not address whether the project itself would directly impact any existing landslide that is not completely repaired, i.e., is the landslide risk exacerbated by the project itself? Would the mass of structures, lots, or grading create there any risk of significant impact to people or structures on downhill or adjacent lots? On this point the EIR acknowledges that the project site is "blanketed by landslides" but inexplicably defers the determination as to what is an acceptable risk to the applicant's engineer.

The DEIR states:

While the applicant's geotechnical consultant's conceptual landslide stabilization plan would improve the stability of much of the site, it would also leave portions of the site vulnerable to future slope failures. Snyder & Wilson Engineering's (the EIR geologists) experience has shown that the standard of care will drop to the lowest level that the geotechnical consultant, or more importantly, the reviewing agency will allow. Miller Pacific proposes to improve the stability of slides in areas beyond 100 feet from a proposed building site and not to repair them. However, the existing, poor inherent slope stability in some areas related to the site's landslide-affected areas, is significant. *These existing instabilities may exist in non-developed areas after the proposed project is completed. . . . Complete repair in non-building areas is not required by Marin County's landslide mitigation policy or proposed in Miller Pacific's conceptual landslide stabilization plan. If portions of these already active slides reactivate, they could potentially affect open space, Paradise Drive, off-site properties, on-site proposed roads, and other parts of proposed lots themselves.* If not significantly improved or mitigated, portions of landslides could fail periodically during heavy rains and/or seismic events. It is conceivable that partial grading also could affect the stability of existing landslides adversely, if their factors of safety are not improved to the applicant's geotechnical consultant's standards for stable slide areas, which is 1.5 for static and 1.0 for pseudo-static (seismic) conditions, respectively. (DEIR, pp. 353-355.)

20

In footnotes on pages 329 and 330, the DEIR reveals that slopes with a factor of safety less than 1.0 are unstable and that the applicant has not performed stability calculations to confirm that the proposed repair methods, which appear to repair slopes to the absolute minimum safety factor (i.e., virtually unstable), would yield the respective factors of safety assumed in the applicant's proposed plans.

21

The DEIR thus reveals that the extent of landslides on the project site pose a far greater risk to public health and safety than the applicant and its engineer would have the County and the public believe. It confirms the site cannot be safely developed at anything close to the intensity proposed without massive earth moving and extensive subdrainage systems – far more, in fact, than was assumed in the DEIR. The discussion also implies that the EIR authors lack confidence in the adequacy of the geologic investigation conducted for the project and are skeptical as to the efficacy of the mitigation. CEQA requires that the lead agency exercise its independent judgment in evaluating the

significance of project impacts and effectiveness of mitigation. Do the EIR experts believe the applicant's standards for stable slide areas are sufficient considering the conditions at the project site? Given the importance of this health and safety issue, the necessary stability calculations, based on site-specific information, are necessary and should be independently prepared by the EIR consultant, not the applicant.

22

Instead of assessing this critical health and safety issue, the EIR improperly defers assessment of the risk to future study, as set forth in Mitigation Measure 5.4.1 (pp. 356-357), which requires future post-approval documentation that the project will not have an adverse impact on existing landslides.

Not only does this mitigation inadequately defer study of a significant impact until after project approval, but it is inadequate because it fails to adopt any performance standards for assessment and mitigation of landslide repair. The deferral of this analysis, and failure to adopt effective and binding performance standards for landslide mitigation violates CEQA. If the County determines that it is infeasible to conduct the lot-specific investigation needed to adequately assess this impact in the DEIR, the specific reasons supporting that determination of infeasibility should be specified. Without a full description of the extent of required remediation, the true impacts of the project cannot be understood.

It is highly probable, given the EIR's findings about the extensive secondary significant impacts that will result from the amount of landslide repair proposed for the project, that there is a realistic potential that the future study required by mitigation measure 5.4-1 will require more extensive, additional remediation which, in turn, will further exacerbate the already significant secondary impacts of the project with proposed level of remediation.

23

The DEIR addresses only conceptually the risk to structures and persons from landslides. What is the risk from landslides to the long-term viability of any habitat created on site for the CRLF, including the breeding habitat proposed in mitigation measure 5.6-1. If the proposed habitat site is within the path of a known landslide that reactivates, what provisions for funding and carrying out the repair of the damaged replacement habitat will be included in the mitigation plan?

24

Mitigation Measure 5.4-1 further requires a long-term maintenance program that provides for inspections and maintenance of the landslide stabilization program in perpetuity. What entity would be responsible for assuming this responsibility? How would the County ensure compliance in perpetuity? Who will guarantee that the Property Owners Association (POA) maintains sufficient reserves to account for program including future repairs and how could this be enforced?

Unless the cost of this program is calculated, and a bond sufficient to ensure lifetime maintenance posted prior to issuance of a final subdivision map, there is no basis for concluding the mitigation will be feasible. In order to ensure the feasibility of all mitigation measures requiring ongoing inspection and maintenance and repair over the

life of the project, the County should require as a condition of approval that a mechanism for funding all required mitigation be established and sufficiently funded prior to commencement of any site development. CEQA requires that the County take steps to ensure that mitigation measures will actually be implemented, not merely adopted, then neglected or disregarded. Here, the County has no way to ensure that the mitigation critical to ensuring the health and safety of future residents and surrounding properties will actually be implemented.

25

Finally, how will the presence of active unrepaired landslides in the areas proposed for open space and/or habitat dedication affect the viability of the proposed mitigation that conservation lands be deeded to the Marin County Open Space District or a private entity? Has the County consulted with the Open Space District as to its willingness to accept such a dedication and the associated financial risk and liability? It seems highly improbable that any entity would accept dedication of the proposed open space that is riddled with landslides that can trigger lawsuits and require repair.

26

Significance after Mitigation: The conclusion that impacts with mitigation would be less than significant appears to be less than certain, and appears to be highly qualified, noting that it is based on "forthcoming detailed lot-specific investigations" that would "provide landslide repair techniques capable of reducing" hazards to a less than significant level.

27

In any event, there is no feasible mitigation for the risk of landslide impacts from Landslide 11 due to the fact that the geologic work required to accomplish such remediation, if it is even technically feasible to reduce the risk to a less than significant level, is legally infeasible because it requires the consent of the Keil family to the destruction of the Lands of Keil Spring, which consent will not be granted.

28

**Impact 5.4-2 – Slope Stability (DEIR, p. 357)**

Mitigation required to address slope stability impacts requires excavation and replacement of loose colluvium and soils with fill and adding subdrainage. How many lots are estimated to require this mitigation? Were these additional subdrains included in the analysis of potential effects to groundwater, including Keil Spring? By how much would this mitigation increase the amount of grading on site?

29

**Impact 5.4-4 – Groundwater (DEIR, p. 359)**

The EIR discloses that the conceptual landslide stabilization plan would adversely affect the groundwater available to seeps, springs, including Keil spring, and ponds, but concludes this is a less than significant geologic impact. However, Impact 5.5-6 reaches the same conclusion as to the impact on springs and seeps and ponds, but determines it is significant. Please explain how what appears to be the same impact differs from geologic and hydrologic perspectives.

**Impact 5.4-6 – Expansive Soils (DEIR, p. 360)**

30

As mitigation for expansive soils, Mitigation Measure 5.4-6 requires, among other things, that soil be treated with lime. What effect will this mitigation measure have on groundwater and surface water quality? What is the effect of lime in stormwater from the project site on the habitat quality of the California red-legged frog population in Keil Pond? What would the expected concentrations of lime be in water that would reach Keil Pond? How sensitive are red-legged frogs to lime? Would chemical treatment be required in or near the drainageways and buffer areas required for protection of the CRLF dispersal and foraging habitat? Without disclosing the likely volume of lime and its fate and effects in the environment, including effects on stormwater and groundwater quality, the water quality of Keil Spring and Keil Pond, and potential adverse effects to the California red-legged frog and landscape of Keil gardens, this full scope of slope stability impacts cannot be fully understood.

Mitigation Measure 5.4-6 further requires that chemical treatment be incorporated into building design. Please explain what this entails, i.e., the amount and type of chemicals, and their fate in the environment, including the potential for them to leach into stormwater or groundwater.

**HYDROLOGY & WATER QUALITY**

The applicant's geotechnical consultant, Miller Pacific, estimates that approximately 53,156 cubic yards of material would be removed and replaced during grading for landslide stabilization and related improvements (see Exhibit 5.4-2). The project also requires slope dewatering which will be done in part by diverting the spring water and releasing it further downslope. And the project will generate storm runoff from its roads and other impervious surfaces.

31

These activities will have significant adverse impacts to the quantity and quality of groundwater, spring water and surface water both on and off the project site. Most notably, the massive earthwork and installation of subdrains associated with the landslide remediation would dewater Keil Spring. According to hydrologic experts retained by the Keil family, the project also has the potential to substantially impact the quantity and quality of water in the two cistern wells located on the Keil property near the project boundary. (See April 27, 2011 Memorandum from Daniel B. Sterling & Associates to Russell Keil). The DEIR must be revised to evaluate the impact to offsite wells and recirculated to allow the public, and in particular the Keil family, the opportunity to understand this potentially significant undisclosed impact.

32

The EIR also presents troubling information indicating the project applicant and its engineer, in preparing their drainage report, attempted to minimize project impacts from runoff by using an unsupportable artificially high value for existing runoff and a similarly unsupportable low number to estimate the project runoff. (See, e.g., discussion at DEIR, pp. 375-377, 636-637.) The consequence appears to be that detention volume

calculations may have been underestimated, resulting in significantly higher stormwater flows, erosion, sedimentation and risk of landslide failure. The DEIR states that detention facilities would be sized during the final design phase. In order to ensure that the appropriate facilities are provided, the County should require that any technical submittals by the applicant associated with the project implementation be subject to independent peer review funded by the developer and/or individual lot owners, as appropriate.

33

It is very difficult to understand how, taken together, drainage, runoff and discharge will function on the site after development. The EIR should provide a clear, integrated description of the various systems and facilities required for collection, redirection and discharge of groundwater and surface water and how they will function together.

34

Do the computations of runoff for the purpose of retention include the volume of diverted spring water? Currently the spring water is captured by the Keil family and retained in tanks on their property. If the spring water is diverted as planned to dewater the slopes, where will it be captured, retained and released? Will the proposed stormwater detention vaults include that water?

35

Regarding the storm water runoff retention which is so critical to the slope stabilization: The DEIR states that the roads contribute approximately 20-30% of the total buildable area. (DEIR, p. 260.) It appears that the developer will be responsible for mitigating the impacts of only 20% of the project runoff (which may be not even that if the safety measure increase the road surfaces by another 40%) and the homeowners will be retaining the balance, i.e., 70-80% of the project runoff. Is this customary? Especially where storm runoff can trigger landslides at this particularly vulnerable site that already has so much instability?

36

The storm water detention system is designed to capture the additional runoff due to the increases in impermeable surfaces due to road construction. If the spring water is diverted to dewater the landslides as proposed, where is that water captured? Is it intended to be detained with the road runoff or is it just sent downhill below the slide area? If it needs to be captured and is not included, to what degree would the detention vaults have to be re-sized to hold it?

#### Impact 5.5-1 – Water Quality (DEIR, p. 378)

Regarding water quality, the EIR states:

*The quality of site runoff under existing watershed conditions is excellent. No urban use affects the site, and the only on-site road (the Marin Municipal Water District (MMWD) Paradise Water Tank service road) is little used. The site is relatively free of automotive pollutants, but small amounts enter road runoff along Paradise Drive. The quality of runoff entering the site's east-facing drainageways*

can affect water quality in Keil Pond and Keil Cove. (DEIR, p. 366, emphasis added.)

37

The EIR acknowledges that the project will result in transfer of nutrients and chemical residues, including petrochemicals and heavy metal contaminants, from the project site to the site's principal drainageways and swales, and that such contaminants will enter Railroad Marsh, Keil Cove and Keil Pond, home to the California red-legged frog. The EIR acknowledges that as a result, "even minor episodic introduction of contaminants could be harmful." The EIR explains that the project will increase the urbanized area within the Keil Cove Watershed by almost 50 percent and more than double the urbanized area in the Keil Pond Watershed. In fact, these statistics may belie the true potential impact to Keil Spring from the project because Keil Pond currently receives 100 percent of its water from Keil Spring. It is not possible from the information contained in the DEIR, however, to understand the impact this increase in urbanization will have on the volume or quality of water entering Keil Pond as a result of the Project.

The EIR also contains no information about the existing baseline water quality of these water resources (Keil Spring, Keil Pond, Railroad Marsh) and once again defers analysis of a key environmental impact, stating that "baseline water quality measurement would be required before upslope development proceeded to gage any long-term diminution in pond water quality."

**Impact 5.5-3 – Site Drainage Patterns – Erosion and Downstream Sedimentation (DEIR, p. 388)**

38

This impact discloses that the increased sedimentation in Keil Pond caused by the project would increase short-term turbidity levels and "increase biotic productivity." What does the last phrase mean? Does this mean increased algal growth? It further states that sedimentation may increase the extent and frequency of pond maintenance. These adverse consequences would appear to have potentially significant consequences to the breeding population of California red-legged frogs that reside in Keil Pond. These potentially significant secondary impacts must be evaluated.

**Impact 5.5-6 – Depleted Groundwater Supplies, Keil Spring & Keil Property Spring-based Water Supply (DEIR, pp. 395-397)**

The DEIR states, "Any impact to the groundwater supply of Keil Spring or the Keil property cisterns that would reduce dry season discharge from these sources would affect the ability of the Keil property to maintain the historically significant gardens and would be a *significant impact*." (DEIR, p. 397, emphasis added.)

39

Mitigation Measure 5.5-6, which proposes a water conveyance system to replace the historic spring-based water system used at Keil Cove for over 100 years, would require the consent of the Keil property owners. In his comment letter dated November 8, 2001,

which Russell Keil submitted in response to the 2001 Draft EIR for the project site, he made the Keils' position quite clear, stating:

The Keil Family will vigorously oppose any development which will result in the elimination or reduction in the flow of the Lands of Keil Spring or adversely affect its water quality.

The applicant has had this information for almost ten years. Because the Keils will not consent to accept a substitute source of water supply that is of uncertain volume and diminished quality from the spring to which it holds water rights, Mitigation Measure 5.5-6 is infeasible. Since there is no other mitigation possible, Impact 5.5-6 must be listed as a significant unavoidable impact of the project as proposed.

40

Since Mitigation Measure 5.5-6 is not feasible, Impact 5.9-3, Historic Significance of Keil Cove, also cannot be mitigated and the impact determination changed to significant and unavoidable.

#### **Impact 5.5-3 – Site Drainage Patterns - Erosion and Downstream Sedimentation**

41

The DEIR concludes that construction of impervious surfaces and storm drain systems in the site's watersheds would increase peak flow rates in on-site drainageways and increase the risk of incision and instability in receiving drainageways and on hillslopes. In addition, grading of lots and roadways and installing utilities would disturb areas of the site and expose bare soil surfaces to the erosive forces of rainfall and runoff. This could result in downstream sedimentation and obstruction of hydraulic structures (culverts and catch basins), as well as increase the risk of sedimentation in Keil Pond.

Despite its failure to quantify the existing conditions in Keil Pond or the degree of change that would occur from the project, the EIR concludes that unspecified construction and post-construction BMPs would reduce this significant impact to a less than significant level. The EIR thus paints a dire picture of the potential impacts to the water quality of the California red-legged frog breeding site but does not explain how "substantially improving the prospects for minimizing on-site and downstream degradation of water quality" would reduce this impact to a less than significant level. There thus appears to be no substantial evidence or analysis supporting this impact determination, which must be acknowledged to remain significant. Further, the DEIR acknowledges that both baseline water quality measurements and long term monitoring would be required to assess the impact of the project, and, presumably, to identify and remediate any long-term diminution of pond water quality if, in fact, any such remediation were technically feasible. Yet the DEIR does not contain any requirements for such assessment, monitoring or maintenance. Given the importance of Keil Cove as a breeding habitat for the CRLF, such long-term monitoring, and a plan for remediation in the event that water quality is discovered to be diminishing, are required.



42

The feasibility of Mitigation Measure 5.5.3-(a) is highly questionable. It is not reasonable to expect a homeowners' association to ensure that developers will meet the conditions of an NPDES permit, which is a technical determination. It is not reasonable to assume that delegating responsibility for enforcement of mitigation measures to a private entity with no assurance that it will have the ability to enforce them will ensure the feasibility of this critical mitigation. In fact, the DEIR authors appear to be similarly skeptical of the ability of the property owners' association to successfully implement such mitigation.

#### **Impact 5.5-5 – Groundwater Recharge and Offsite Hydrology (DEIR, p. 393)**

43

It defies logic to say that landslide mitigation that would reduce or eliminate groundwater recharge onsite and lower local groundwater tables on and offsite, is not significant. What specific criteria did the DEIR apply in determining whether the project would "substantially alter the character or pattern of ground and surface water flow? How much of a change was deemed "substantial"? What is the basis for the determination that this change is not "substantial"?

44

#### **Impact 5.5-6 – Depleted Groundwater Supplies, Keil Spring and the Keil Property Spring-based Water Supply (DEIR, p. 395)**

As stated on multiple occasions, the only mitigation available to reduce the risk of this significant impact to health and safety from the site's extensive geologic hazards would diminish the source of water the Keil family, and in recent years The Garden Conservancy, too, as conservator of the historic Keil Gardens, have relied on for more than a century, both as to its quality and quantity. Such interference with the Keils' long-established water rights is illegal and cannot be compelled, making the mitigation infeasible. Because mitigation measure 5.5-6 is infeasible, it also means that the impact determination for impact 5.9-3 must be changed to significant and unavoidable. The DEIR must be revised to disclose the infeasibility of mitigation measure 5.5-6 and the resulting new significant unavoidable impacts that will result. As a result of these new significant impacts, the DEIR must be recirculated for public review.

### **BIOLOGICAL RESOURCES**

#### **Impacts to California Red-Legged Frog (CRLF)**

45

The EIR presents evidence that the project will cause a variety of significant impacts to the CRLF and its habitat, including breeding habitat in Keil Pond and foraging and dispersal habitat on the Project site. Impacts to foraging and dispersal habitat on the project site are acknowledged to be significant and mitigation is proposed for these impacts. Although the DEIR acknowledges a significant impact to CRLF breeding habitat (and, presumably, the CRLF population that depends on the pond for its survival) from degradation of water quality in Keil Pond, the extent of the impact is not addressed and no mitigation is provided for this impact.



### Impacts to CRLF Breeding Habitat in Keil Pond

Keil Pond is acknowledged to be an important breeding habitat for the federally protected CRLF. The EIR states that breeding habitat is most important biologically for the CRLF. (DEIR, p. 420.) The U.S. Fish and Wildlife Service has determined that threats to the CRLF and its habitat that warrant special concern or protections include the following threats posed by the project, including but not limited to, "sedimentation, water chemistry or temperature alterations, pesticide applications, and habitat removal and alteration by urbanization." (Endangered and Threatened Wildlife and Plants: Revised Designation of Critical Habitat for California Red Legged Frog: Final Rule, 75 Fed. Reg. 12815 (March 17, 2010).)

The EIR acknowledges that increased sedimentation and chemical run-off from the project will adversely affect water quality of Keil Pond and have indirect impacts to breeding habitat for CRLF. (DEIR, p. 440.) "Keil Pond, in particular, supports a breeding population of the threatened California red-legged frog. As a result, *even minor episodic introduction of contaminants could be harmful.*" (DEIR, p. 382, emphasis added.)

46

In light of this acknowledgement and the Fish and Wildlife Service's determination that sedimentation and chemicals pose a significant threat to the CRLF and its habitat, impacts to the CRLF and its breeding habitat from water quality degradation would appear to be significant. While hinting at this impact, the DEIR fails to directly disclose it and fails to provide mitigation that would avoid or reduce this impact to a less than significant level. The DEIR must be revised to fully address the impacts to CRLF and the degradation of breeding habitat in Keil Pond and be recirculated for public review so that the public can understand the scope of these impacts and any available mitigation.

However, no estimate of the degree of change in water quality or specific chemical constituents that are expected to enter Keil Pond or associated drainageways is provided, no determination is made about the ultimate effect of project-related water quality changes on viability of the CRLF population in Keil Pond, and there is no mitigation for water quality. What types and degree of change in water chemistry of Keil Pond are expected to occur as a result of chemical runoff and sedimentation from the Project? What is the sensitivity of CRLF at all relevant life stages (e.g., egg, tadpole, juvenile and adult frog) to the predicted changes in water chemistry that will result from the project and how do the periods when increased sedimentation is expected to occur correlate with the various CRLF life stages in the pond at those time? Will project-related changes result in the mortality of CRLF or diminished reproduction of the existing population?

47

To the extent that the project will destroy the breeding habitat of the CRLF, it is reasonable to assume that it will result the diminishment and ultimate loss of the breeding population there. This impact would be significant on a project level, and due to the CRLF's status as a threatened species, the project's adverse effect on the ability of the species to recover should be considered cumulatively considerable as well. The DEIR's

cumulative impact analysis fails to address the significance of the project's contribution to the decline and recovery of the CRLF.

48

The U.S. Fish and Wildlife Service has declared that "[t]he long term probability of the survival and recovery of the California red-legged frog is dependent upon the protection of existing breeding habitat and associated uplands . . . ." (Endangered and Threatened Wildlife and Plants: Revised Designation of Critical Habitat for California Red Legged Frog: Final Rule, 75 Fed. Reg. 12815 (March 17, 2010), quoting Fellers and Kleeman 2005, pp. 1, 17-18.) How rare are CRLF breeding sites? How many known breeding sites exist in Marin County? In Northern California? Is the project site within an area of designated critical habitat for the CRLF?

### **Impacts to CRLF Dispersal and Foraging Habitat**

The DEIR describes a variety of investigations conducted to assess the potential for the CRLF to occur on the project site. The only independent investigation, not by the applicant's consultant, and by recognized CRLF expert Mark Jennings, determined that dispersing frogs could use the several seasonal drainage channels on the site, and it also was possible that frogs may seek refuge at various times of the year in the dense coast live oak woodlands through which these drainage channels tend to flow. (DEIR, p. 421.).

49

Overall, 26 percent or more of oak woodland habitat that could provide dispersal habitat for the CRLF will be lost by the project. In particular, oak woodland habitat in proposed lots 25-34 is identified as likely dispersal habitat for the CRLF. The project proposes to preserve some oak woodland habitat on Parcel A. What is the relative value as red-legged frog dispersal habitat of the oak woodland proposed to be preserved on Parcel A (described in the EIR as "marginal") (DEIR, p. 439) compared to the proposed lots 25-34 (the Forest Glen portion of the project), which was identified as likely dispersal habitat?

50

Landslide repairs required for Lots 17, 18 and 19 also would encroach into drainageways that are identified as CRLF dispersal habitat. Subdrains and fences necessary for landslide remediation are proposed for construction in all but one drainageway on the project site, and these drainageways "occur primarily within woodland habitat that likely provide more important dispersal and foraging habitat for CRLF." (DEIR, p. 439.) The EIR should evaluate the feasibility of an alternative that avoids any construction (including subdrains and debris fences, etc.) within the drainageways that provide this critical dispersal habitat for the CRLF. If such an alternative is deemed infeasible, please specify the basis for that determination that it is infeasible and the evidence supporting each determination related to feasibility.

51

Mitigation Measure 5.6-2(a) is intended to address significant impacts to CRLF dispersal movement by calling for redesigning or removing PDP to within the Forest Glen area to provide connectivity between woodland habitat in the southern and northern portions of the site.

However, the mitigation is not binding, as it allows for an alternative of recreating wetlands on site if the PDP design is “not feasible.” (“If the redesign of the PDP to provide for a 100-foot corridor is not feasible, then the applicant shall create wetland habitat on-site, or enhance the existing wetland near the top of Drainageway 2, such that these wetland habitats function as on-site breeding habitat for CRLF....”, DEIR, p. 441.)

What is the scientific basis for the DEIR’s determination that a 100-foot buffer along most, but not all, project drainageways would provide sufficient protection for CRLFs? The U.S. Fish and Wildlife Service’s Final Rule regarding critical habitat designation for the CRLF (Endangered and Threatened Wildlife and Plants: Revised Designation of Critical Habitat for California Red-Legged Frog: Final Rule, 75 Fed. Reg. 12815 (March 17, 2010)) describes dispersal movement of CRLF in the Golden Gate National Recreation Area, which is near the project, as extending up to 1.7 miles depending on habitat and site conditions. (*Id.* citing Fellers and Kleeman 2007, p. 284.) Moreover, the register notice cites studies finding that the species is capable of inhabiting upland habitats within 200 feet of aquatic habitat for continuous durations exceeding 20 days (citing Bulger, et al., 2003, pp. 87-89) and that Rathbun, et al. (1993, p. 15) observed a CRLF inhabiting upland riparian habitat at distances of up to 85 feet for 65 days. The upland areas include drainages.

What criteria will be used to determine whether the redesign is “feasible”? Is this intended to be a physical/technical or economic determination? Who will make this determination of feasibility?

52

Given the uncertain and nonbinding nature of the redesign mitigation, which may remove economically valuable lots and thus be resisted by the applicant, it must be presumed that the redesign will not occur, which would trigger the alternative mitigation option of creating onsite wetlands as on-site breeding habitat (see second bullet point on DEIR, p. 441). Please explain how the creation of breeding habitat will mitigate for the loss of dispersal habitat. What performance criteria would be applied to the creation and functionality of breeding habitat? What is the areal extent of wetlands needed to function as breeding habitat? What will the proposed water source for this habitat be? Are the soils and vegetation in this area of the site appropriate for the creation of a CRLF breeding habitat? Are there any examples of successful creation and long-term viability of CRLF breeding habitat in or adjacent to a new subdivision? Assuming CRLF breeding habitat can be successfully created in the proposed location, what mechanism (financial and management) will be in place to assure the long-term viability of the habitat?

53

According to the EIR, the project will remove up to 12.8 acres of CRLF foraging and dispersal habitat. (DEIR, p. 440.) Mitigation measure 5.6-2(b) requires compensating for this lost habitat by preserving land on site at 3:1 or, “[i]f the on-site preservation of CRLF habitat at a 3:1 (preservation:loss) ratio is not feasible, the applicant shall make up any difference in the ratio by purchasing and preserving CRLF habitat offsite in the project region.”

Who would make the determination as to the lands to be preserved? What criteria would be applied to the preserved habitat to ensure its functionality and viability? What criteria would be used to assess whether onsite preservation is feasible and who would make this determination? This information is necessary to understand the feasibility of mitigation measure 5.6-2(b).

54

Regarding the off-site mitigation alternative, what is the basis for the determination that a 3:1 on-site preservation of CRLF foraging and dispersal habitat will mitigate impacts from the loss of the on-site habitat? What is the basis for the determination that the purchase of off-site preservation land will sufficiently mitigate for the on-site loss of habitat? How would the loss of important foraging and dispersal habitat affect the CRLFs in Keil Pond? Even with mitigation, the impact to existing CRLF population in Keil Pond appears to be significant and unavoidable.

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Has the US Fish & Wildlife Service been consulted about the efficacy of any of these proposed mitigation measures? What is the maximum off-site acreage that would be required to mitigate at the 3:1 ratio specified in mitigation measure 5.6-2(b), assuming no on-site preservation is determined to be feasible? Is there suitable and available offsite mitigation land that could be preserved? Is there available adequate preservation habitat located in Marin County? Where? What is the current estimated cost per acre of such land? What evidence does the County have regarding the long-term success and functionality of recreated CRLF breeding habitat?

## VISUAL IMPACTS

The DEIR concludes that the project will have a significant unavoidable visual impact from, among other things, the extent of proposed landslide remediation. (DEIR, p. 500.)

56

### Impact 5.8-4 – View from Ayala Cove on Angel Island (DEIR, p. 525)

In order to reduce the significant impact to views from Ayala Cove on Angel Island, the EIR proposes lowering building heights for homes along the ridge. There will be a secondary impact of lowering building heights, from larger building footprint. How much larger will building footprints be if this mitigation measure is implemented? Will increased building footprints require more extensive landslide remediation? The EIR must disclose the additional significant impacts that would occur from this mitigation measure, including impacts to groundwater quantity and quality (from increased impervious surface and decreased groundwater recharge, increased stormwater runoff, and more intense adverse effects to from additional slope and landslide stabilization measures).

## HISTORIC RESOURCES

### Impact 5.9-3 – Historic Significance of Keil Cove (DEIR, p. 541)

The DEIR acknowledges the many project-related significant impacts that individually and collectively have the potential to cause a substantial adverse change in the historical significance of the Keil Cove property, which the DEIR correctly assumes meets the CEQA definition of a historic resource. Avoiding or reducing these impacts to a less than significant level depends on the accuracy of the DEIR's impact determinations for impacts 5.5-3 and 5.5-6 in particular, and the feasibility of mitigation measures 5.5-3(a),(b) and (c) and mitigation measure 5.5-6. For the reasons discussed herein, these impacts should be considered significant and unavoidable, with the result that impacts to the Keil Cove property's historic significance also would be significant and unavoidable.

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In particular, the DEIR states that maintaining the historic flow and quality of water is necessary to avoid physical alteration of the Keil Cove Property such that its historical significance would not be materially impaired. The DEIR states that Mitigation Measure 5.5-6 was designed to reduce the project's impact on the water supply system serving the Keil Cove property. Mitigation Measure 5.5-6 addresses the need to replace the water (in quantity and quality) that is necessary for irrigation on the Keil Cove property and proposes to alter the source of water for the Keil Cove water delivery system. As discussed above, however, there is no evidence to support the DEIR's determination that mitigation measure 5.5-6 is capable of maintaining the historic flow and quality of water supplied to Keil Cove, even assuming the Keil Family would agree to accept a substitute source of water rather than water supply for which it has a long-established right to use, which it will not. The DEIR lacks any information about the current or historic flow from Keil Spring, its water quality or the expected proposed substitute water quality, volume, timing or flow. It also lacks information as to the ability of the historic landscaping resources to tolerate the change in water quantity and quality associated with the vaguely referenced substitute source. Without any such information, there is no basis for the DEIR's determination that fundamentally altering the property's unique water system, including the spring, which is a key component of the historical resource, will not have a significant impact to the unique historic resources of Keil Cove.

## MITIGATION MEASURES

58

Mitigation measures required to address significant safety impacts from substandard roads and inadequate parking, as well as visual impacts, will increase the amount of impervious surface compared to the project proposal. What would the effect of this increase in impervious surface be on the number, size and effectiveness of proposed stormwater detention facilities, and the volume, flow rate and quality of stormwater flows leaving the property? What is the relationship between the detention facilities referenced on page 376 and the onsite detention systems required for individual homes? Does the

peak flow assessment account for all forms of runoff, including those from individual homes and additional flows resulting from the mitigation measures described above (e.g., additional parking spaces, wider roads, etc.)?

59

Many of the mitigation measures proposed in the DEIR delegate significant responsibilities to the future POA for implementation and ongoing monitoring and maintenance. All told these add up to a substantial amount of ongoing work and possible liability (e.g., monitoring and maintenance of landslide stabilization work) for a subdivision comprised of 42 or fewer homes.

How long will the applicant perform the responsibilities listed below that the DEIR delegates to the POA? How many lots have to be constructed/built out before the POA is solely responsible? How will the POA be funded during the period when lots are being sold and homes still being constructed?

Proposed Duties of Easton Point POA:

- Enforcement of architectural and landscape design restrictions. (DEIR, p. 71.)
- Servicing the Filtterra Bioretention systems, monthly sweeping of all development area streets. (DEIR, p. 384.)
- Ensuring that the developer of each lot complies with the NPDES construction general permit.
- Clearing sediment from the spreaders installed by Applicant to ensure proper distribution of stormwater flow for erosion control. (Mitigation Measure 5.5-3(c) DEIR, p. 391.)
- Ongoing maintenance of permanent BMPs including structural or treatment control BMPs. (Mitigation Measure 5.5-3(e), DEIR, p. 391.)
- Implementation and funding of a Resource Management Plan for special status plant habitats and monitoring homeowner compliance with the plan. (DEIR, p. 457.)
- Implementation and funding of a Resource Management Plan for the California red-legged frog. (DEIR, p. 461.)
- Ownership and management of Parcel A/Parcel B if fee title dedication to a non-profit organization is not possible. (DEIR, p. 462.)

The project assumptions section on DEIR page 426 states:

Most property owners associations (as the responsible entity) are ill-equipped to ensure that endangered plants or sensitive habitats are properly monitored or managed. Association board members usually are elected by project residents and have a fiduciary responsibility to the residents. As political and/or economic positions change, there is no guarantee or incentive that over the years the concerns of monitoring or managing these areas in perpetuity would continue to have a high priority.

The same limitations that the DEIR states limit POA's ability to implement mitigation designed to protect endangered plants and species would suggest that it is not reasonable for the DEIR to assume that mitigation which delegates to the POA responsibility for perpetual maintenance of erosion, sedimentation and stormwater control and release systems that are critical to slope stabilization is likely to be successful.

## ALTERNATIVES

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Other than the No Project Alternative, all alternatives would place development on or in the path of high risk landslides. (DEIR, p. 631.) The alternatives, like the project, are inconsistent with the terms of the 2007 Judgment between the County and applicant requiring development be placed in geologically safe areas outside of the path of landslides. Each also would substantially interfere with the Keil Family's water rights and thus is legally infeasible. Because none of the alternatives is feasible, the DEIR has failed to evaluate a reasonable range of alternatives.

### Alternative 2

61

This alternative would have substantially more severe impacts than the proposed project in the areas of tree removal (DEIR, p. 575) and adverse effects to/loss of CRLF habitat. Like the project, this alternative is inconsistent with policies intended to promote healthy watersheds and water quality, due to its substantial adverse changes in the site's hydrology. (DEIR, p. 575.) When considered in light of the other significant adverse impacts that it would cause to, among other things, public safety (from geologic hazards) and the Keil Cove historic water supply and Keil Cove historic resource, this alternative's many shortcomings render it completely unacceptable.

The DEIR provides multiple different estimates of the amount of grading required for the project, including landslide stabilization, under this alternative – 41,497 cubic yards (DEIR, p. 571), 47,238 cubic yards (DEIR, p. 573) and 42,515 cubic yards (DEIR, p. 618). These are significant discrepancies. Which number is correct? Do either of these estimates account for the additional grading that will be required to accomplish various mitigation measures, including the need for wider roads and additional parking spaces and the possible need for additional repair of colluvial and landslide deposits to ensure slope stability (see, e.g., mitigation measure 6.4-2, calling for additional grading)? Which number was used to estimate stormwater flows and impacts to groundwater, hydrology and water quality under this alternative? The lack of consistent and accurate information about the extent of grading required under this alternative makes it impossible to comprehend its impacts.

To the extent Alternative 2 relies on the same mitigation measures as the proposed project (e.g., 6.4-1 is the same as 5.4-1, 6.4-2 is the same as 5.4-2, etc.) they raise the same questions and concerns about the adequacy and feasibility of the mitigation



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measures, and potential secondary impacts, and our prior comments and questions on the project mitigation, above, apply equally to Alternative 2.

This alternative still provides for the same storm water retention and release system so sedimentation and clarity of water issues cited for the proposed project apply equally to this alternative.

#### Impact 6.4-4 – Groundwater (DEIR, p. 633)

62

The DEIR (pp. 633-34) states:

The conceptual landslide stabilization plan for *Alternative 2* is intended to increase the stability of existing on-site landslides through proposed measures such as earth fill buttresses, buried pier and grade beam walls, and subdrains. All of these methods of landslide improvement have the potential to convert groundwater to surface water. By intercepting groundwater emanating from the fractured bedrock on the ridges and perched within colluvial or landslide deposits, subsurface water recharge could potentially be significantly reduced.

*Alternative 2* eliminates several lots in the upper portions of the project site that are included in the proposed project. Lots, along Ridgeline C upslope of the Lands of Keil and Keil Spring, in the proposed project that have been eliminated in *Alternative 2* include Lots 24 and 35 through 43. This area is located along the head scarps of Landslides 11 and 13 and it extends up the slope to the proposed water tank road (Mt. Tiburon Court in the proposed project). As shown on the landslide stabilization plan (see Exhibit 6.0-34) in *Alternative 2* portions of Landslides 11 and 13 would not require repair. By eliminating these lots, the reduced repair needed for Landslide 11 and the elimination of the required repair to Landslide 13 *Alternative 2* would reduce the volume of subsurface water that would be intercepted and converted to surface. As a result the subsurface flow and recharge of the groundwater that feeds Keil Spring would be preserved. The impact to Keil Spring, therefore, would be less-than-significant. In regard to the impact to Keil Spring *Alternative 2* would be a substantial improvement over the proposed project.

The focus of this impact determination is unclear. Impact 5.4-4 stated it was addressing the geologic impact of groundwater (although the distinction between a geologic and hydrologic impact was not explained). (Compare Impact 5.5-4, addressing geologic impact of groundwater and Impact 5.5-5, addressing recharge.) In addressing the *geologic* impact of groundwater Impact 5.4.4 determined that impact was less than significant (not the recharge issues). The recharge issues were addressed in Impact 5.5-5). Impact 6.4-4 does not reach a determination as to the geologic impact associated with groundwater, so the statement that no mitigation is required is unclear at best.



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The DEIR presents no evidence to support its determination that Alternative 2 would be a "substantial improvement" over the proposed project. A "substantial improvement" over the total dewatering of the spring that would occur under the proposed project may nevertheless still result in a significant diminishment in the quantity and quality of the spring. As written this impact discussion also contradicts conclusions stated in Impact 6.5-5 and Impact 6.5-6 discussions. As noted throughout our comments, any reduction in the volume or quality of water at Keil Spring is inconsistent with the Keil family's water rights and would represent a significant impact.

Please provide the specific evidence supporting the determination that eliminating development of lots 24, and 35-43 would have a less than significant impact on subsurface flow and recharge of the groundwater that feeds Keil Spring and specifically the determination that subsurface flow and recharge of groundwater that feeds the spring would be preserved. What is the current flow and volume of recharge to the spring? The impact determination states that the alternative would "reduce" the volume of subsurface water that would be intercepted and converted to surface water but does not eliminate the interception and conversion of surface water.

The DEIR states that this alternative will reduce the number of lot-based dewatering systems in proportion to the reduced lots. (DEIR, p. 636.) Please quantify this reduction by providing the number of lots-based dewatering systems that are proposed for the project and the number that would be needed with Alternative 2, so they can be compared.

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#### **Impact 6.5-6 – Depleted Groundwater Supplies, Keil Spring and the Keil Property Spring-based Water Supply (DEIR, p. 650)**

The DEIR states:

Alternative 2's development would result in the elimination of residential lots formerly designated along Water Tank Road, as well as a reduction in the extent of repair and replace landslide stabilization (e.g., Landslides 11 and 13 in Watersheds J and L) relative to the proposed project. Thus, under Alternative 2, the significant impact on Keil Spring and its contribution to the Keil property water supply cited for the proposed project would be substantially reduced.

What evidence supports this conclusion? Impact 5.5-5 of the Proposed Project (DEIR, p. 394) states: "The applicant's groundwater investigation did not accurately delineate the recharge zone for Keil Spring, and the location of rock fracture networks feeding Keil Spring are uncertain with regard to both density and location." The lack of correct information about the extent and physical characteristics of the spring's recharge zone suggests that there is no evidence to support the EIR's determination that impacts associated with Alternative 2 will be substantially reduced and less than significant. The lack of essential data regarding existing conditions also undermines the determination in Impact 6.4.4, which states that the groundwater that feeds Keil Spring will be preserved.

The DEIR further states:

Under *Alternative 2*, landslide repair or improvements required to stabilize existing landslide deposits would convert on-site groundwater to surface water. While the extent of repair and replace stabilization would decrease relative to the proposed project, the extent of subdrain installation, either as stand-alone dewatering features or in association with remaining replace and repair stabilization, buried drilled pier and grade beam, and retaining wall construction sites, would remain similar to that of the proposed project.

If the extent of subdrain installation to dewater the landslides is "similar," what is the basis for the determination in Impact 6.4-4 that this alternative's impact on Keil Spring would be "substantially reduced" compared to the project? Wouldn't the same number of drains have the potential to divert the same or similar amount of groundwater?

The DEIR goes on to state:

Moreover, the construction of impervious surfaces in the form of pavement and roof coverage, while somewhat less than that for the proposed project, would eliminate areas of existing groundwater recharge. LID measures proposed by the applicant's hydrology and geotechnical consultants, while beneficial, would not compensate for the groundwater lost to on-site conversion to surface discharge. These impacts would reduce the available water supply to the groundwater cisterns located on the Keil property. A reduction in the available water supply to the cisterns could result in a reduction in the availability of this historic water supply to the Keil property. Such a reduction in the groundwater discharge to the Keil property cisterns would decrease the reliability or a significant portion of the historical groundwater supply used for irrigation of historically significant gardens and would result in a significant impact.

Even setting aside the issue of impacts to Keil Spring, which have not been shown to be less than significant, the impact analysis thus reveals that Alternative 2 does not avoid significant impacts to the Keil Cove because the alternative would have a significant impact on the site's historic water supply. It is not clear how the DEIR authors distinguish impacts to Keil Spring from impacts to the Keil property cisterns, as the cisterns are fed by spring water and groundwater from the Project site. What portion of the Keil Cove water supply is estimated to originate from the Spring versus "the historical groundwater supply." The distinction is unclear.

Mitigation Measure 6.5-6(a) calls for installation of a water conveyance distribution system to link the landslide improvement area subdrains with the Keil property's existing water supply system and notes that implementation of this mitigation measure would require the agreement and cooperation of the owners of the Keil property. The DEIR determines that implementation of the mitigation measure would reduce project impacts

to depleted groundwater supplies and the Keil property cisterns and spring-based groundwater supply to a less-than-significant level.

Without information about the volume of water that would be lost at the spring and to the cisterns, and the expected volume of any replacement water, it is impossible to assess whether this mitigation measure would adequately replace the historic water supply in terms of volume and timing of water. Elsewhere, in discussion of project impacts, the DEIR states that “[a]ny impact to the groundwater supply of Keil Spring or the Keil property cisterns that would reduce dry season discharge from these sources would affect the ability of the Keil property to maintain the historically significant gardens and would be a *significant impact*.” (DEIR, p. 397, emphasis added.)

Finally, the EIR states:

Site construction and landslide/hillslope stabilization activities associated with *Alternative 2* could result in damage to or displacement of the pipeline conveying Keil Spring discharge to the irrigation water supply on the Keil property. Construction of the trail segment across Parcel A, albeit with less reliance on large mechanized equipment, could also damage this conveyance pipe and cause a temporary disruption in Spring water delivery. Although this risk is avoidable with proper preconstruction planning, it would be a significant impact on the Keil spring-based water supply.

It should be noted that any damage or disruption to the Keil Cove water supply or conveyance system would subject the party causing the disruption to liability for nuisance, trespass and damages.

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For the reasons stated above in comments regarding Impact 5.5-6, and as acknowledged throughout the DEIR, to the extent project development contributes to a diminishment in groundwater quality, it will have a significant impact on Keil Cove. Moreover, as stated above, requiring a third party to accept a substitute water supply, especially where the quality and quantity may differ from the existing supply that will be degraded by the project, as mitigation for impacts to that party’s groundwater supply does not constitute acceptable mitigation under CEQA. In any event, the Keil family cannot and will not consent to such a system. As such, the impact must be acknowledged to be significant and unavoidable.

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Note that the discussion of proposed project responsibility and monitoring, included in the discussion of Impact 5.5-6, is missing from the alternative.

# EXHIBIT C



*Daniel B. Stephens & Associates, Inc.*

## MEMORANDUM

TO: Mr. Russell Keil

FROM: Jenny L. Sterling and David W. Abbott, PG, CHg

DATE: April 27, 2011

SUBJECT: Limited Review of the 2008 Easton Point Residential Development Draft Environmental Impact Report

### Introduction

The Martha Company has submitted an application to Marin County for the approval of the proposed 2008 Easton Point Residential Development Draft Environmental Impact Report (EIR). The proposed Easton Point project (Easton Point) involves the subdivision of 110 acres near the southeastern tip of the Tiburon Peninsula into 43 single family parcels (49.6 acres), two open space parcels (60.0 acres) and one Marin Municipal Water District water tank parcel (0.25 acres). The residential parcels would range in size from 0.55 to 2.25 acres. Access to the residential lots would be provided by two new roads/driveways off Paradise Drive (serving 13 homes) as well as extensions of existing roads including Mountain View Drive (serving three homes) and Ridge Road (serving 27 homes). Potable drinking water would be supplied to the development from Marin Municipal Water District while offsite conveyance and sewage facilities would be supplied by Sanitary District No. 5.

The downslope property adjacent to the proposed Easton Point project is Keil Cove. This 34-acre property represents a unique historic place on the tip of Tiburon Peninsula along the San Francisco Bay. Development of Keil Cove by Hugo Keil began in 1895 and it was designed as a family refuge. Built in an era of elaborate mansions and estates, Keil Cove possesses a unique character of simplicity and is among only a few estates from this period that remains intact. The extensive gardens were designed and built by two of California's most prominent and renowned horticulturalists and landscapers, who are responsible for planning and design of the Keil Cove gardens as they remain today. John McLaren, who served as horticulturalist for Golden Gate Park for 53 years, prepared the original design and plan for the gardens. The design was adapted to the site and reflects McLaren's horticultural interests. The Terrace was added in 1941 by Thomas D. Church, one of the world's most prominent and influential landscape architects of the 20th century. The design reflects the simplicity of form and materials in a modernist design that are characteristic of his gardens.

The gardens, buildings, and forests at Keil Cove are significant because they exist virtually unchanged in form and character and materials as an evolutionary product of one family over more than 100 years. Freshwater springs have provided water for these unique gardens and pond



via an access right-of-way for over a century. The springs lie on a one-half acre parcel (Lands of Keil) owned by the Keil family and provide irrigation water to Keil Cove. Also integral to the beauty and health of these gardens is the drainage system that was designed to capture the considerable runoff that drains through the Keil Cove property from the upslope property currently being proposed for the Easton Point project. The average annual rainfall is about 23-inches (Rantz, 1969). The drainage system includes weirs and catch basins that were successfully designed to slow surface water flow, prevent erosion and to be protective of the gardens and pond at Keil Cove. Because of the beauty and significance of the Keil Cove gardens, buildings and forests, Keil Cove is now protected by a conservation easement being held for the public benefit of future generations through The Garden Conservancy. Inherent to the Keil Cove gardens, and part of the conservation easement, are the water and drainage systems.

We visited the Keil Cove property on the afternoon of April 15, 2011 and conducted research and review of various documents within this short time-frame. Research included discussions with Mr. Keil; online search for, and review of, relevant documents, internal resources, and the EIR web site (<http://www.co.marin.ca.us/depts/CD/main/comdev/eir.cfm>). Some of the more important documents reviewed include:

- Portions of the Draft Environmental Impact Report (EIR) for 2008 Easton Point Residential Development (Nichols · Berman Environmental Planning, March 2011) - specifically Section 5.4 Geology and Soils, Section 5.5 Hydrology and Water Quality, and Hydrology Appendix.
- Rainfall records listed in the *Index to Sources of Hydrologic Data* (California Department of Water Resources Bulletin 230-81 (1981), Rantz (1969) and NOAA (2011).
- USGS topographic (CA San Quentin 7.5 minute Quadrangle) and geologic maps (Blake, et al., 2000).
- The Baseline Documentation Report Deed of Conservation Easement for Keil Cove (Beatty, 2001).

It should be noted that many other documents are mentioned and cited in the EIR but were not available for our review in such a short period of time.

### General Comments and Questions

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#### ***Comment 1: Proposed Replacement of Keil Spring Water***

The EIR states that the groundwater collected from monitoring wells installed by Questa in 2002 is different than water quality derived from the historical water resource, Keil Spring (page 395). The EIR discussed only some of the water quality parameters, indicating that groundwater has much higher concentrations of sodium, chloride, iron, and manganese (page 395) than the spring



water. Water quality analysis of the monitoring wells, seeps, and springs are not provided in the EIR or supporting documents we reviewed. The proposed stabilization of some landslides (especially Landslide 11) will require dewatering (page 393) of groundwater adjacent to the headscarp of the landslide. The EIR recognizes that the springs, including Keil Spring, and seeps will dry-up as a result of the dewatering plan. The plan proposes that water removed for landslide stabilization dewatering will be used to replace the Keil Spring water supply under this plan. The historically used high quality water provided by the Keil Spring will be replaced with poorer water quality from presumed bedrock sources.

Mitigation Measure 5.5-6 expressly states that "the applicant shall install a water conveyance system to link the landslide improvement area sub-drains (for Landslide 11) to the water storage system on the Keil property" (page 397). This proposed mitigation requires the "agreement and cooperation" of the Keil property owners. No agreement for the replacement of the Keil Spring waters exists, has been proposed or is likely.

#### *Comment 2: Groundwater Hydrology*

67

The water conveyed from the dewatering and landslide stabilization system to the Keil storage facility and Keil pond will have a different water quality than water that has been historically used on the property, stored in associated tanks and in Keil Pond and could impact significantly both the horticultural garden and Keil Pond being held in a conservation easement for the public benefit of future generations. Similarly, water from dewatering conveyed to Railroad Marsh could significantly impact the water quality and associated ecosystem in Railroad Marsh. The groundwater hydrology of the spring and seepage systems in the area is not well understood, particularly as it pertains to Keil Spring, the cistern wells at Keil Cove, groundwater inflow to Keil Pond, the hydrology of Railroad Marsh and the saltwater/fresh water interface of Keil Cove and Railroad Marsh. Additional water quality samples should be collected from Keil Spring, groundwater at the Easton Point property as well as at Keil Cove, seep areas, Keil Pond and Railroad Marsh to evaluate the impacts and adequacy of this proposed mitigation and to provide baseline data.

The water samples collected from these sources should be analyzed for the following: major cations (calcium, magnesium, sodium, and potassium); major anions (bicarbonate, sulfate, and chloride); minor ions (iron, manganese, fluoride, boron, and nitrogen species); trace metals (aluminum, antimony, arsenic, barium, beryllium, cadmium, chromium, copper, lead, mercury, selenium, silver, thallium, and zinc); and physical properties (total hardness, total alkalinity, pH, electrical conductivity, total dissolved solids, color, odor, turbidity, and MBAS). Water levels and associated flow rates should also be recorded.

#### *Comment 3: Landslide Stabilization Impacts on Keil Cove Drainage System*

68

Sediment load carried by the drainage ways is variable depending on the amount and intensity of a rainfall event and slower mass wasting events (i.e., soil creep); faster mass wasting events including rockfalls, rockslides, and debris flows. The property proposed for Easton Point (110



acres) has about 28 identified landslides. The total area of identified landslides is about 31 acres (1,355,600 square feet) or 28 percent of the property. The EIR acknowledges that many of the landslides will need repair and mitigation in order for the proposed project to be viable. The EIR presents proposed landslide repairs that may reduce potential re-activation of the landslides. Landslide 11, which includes the Lands of Keil and Keil Spring, is about 16 acres (700,000 square feet) in size or about 15 percent of the property and 54 percent of the area disrupted by landslide events. Landslide 11 is associated with Drainageway 2, Watershed J which shows active down cutting and headward erosion and indicates landslide instability. The typical rainy season produces significant amounts of sediment load caught by the Keil Cove drainage system, including sediment basins near Keil Pond. The 2010-2011 rainy season required much more intensive monitoring and management of the drainage system than is typical. Would similar events of the 2010-11 season post-development be expected to produce the same amount of sediment in the sediment basins, more, or less?

69

***Comment 4: Landslide Stabilization and Water Quality Impacts***

Landslide 11 is the largest landslide on the proposed Easton Point property, yet the conceptual geologic repair solutions (Exhibit 5.4-3) indicate geologic repairs only in the western most portions of Landslide 11 downhill from Lots 40, 41, 42, and 43. The steepest slopes are along the southern portion of Landslide 11 adjacent to lots 12, 13, and 14.

The EIR does not include any discussion of the current sediment loads to the Keil property or the Keil Pond. No water quality of the Keil Pond were reviewed or presented in the EIR. More detailed plans should be prepared to evaluate the geologic stabilization plans, evaluate sediment loads to Keil Pond, and water quality impacts from the landslide repair solutions.

70

***Comment 5: Geology, Landslides, and Development***

Landslides 3 and 11 are the largest landslides identified at the property being proposed for the Easton Point development and overlie the Franciscan Mélange (Fm) (Exhibit 5.4-1 Landslides), rather than the Franciscan metamorphic rocks (Fms), as identified in the EIR (see Exhibit 5.4-1 Landslides). The relatively narrow Ridge D separates these two large landslides. The northern portion of the property is underlain by Fms while the southern half of the property is underlain by Fm (see Exhibit 5.4-1); of note is the fact that the largest landslides and the majority of the area covered by landslides are in the southern half of the property. This suggests that the Fm rocks are weaker and more prone to landsliding, and, coincidentally, where most of the building will occur. Are landslide remediation plans and disposal of excess runoff inadequate?

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***Comment 6: Springs and Seeps***

The EIR provides definitions for "spring" and "seep" (page 369) that are not completely accurate.





"A spring is an identifiable, concentrated groundwater outflow from a geologic contact form by rock strata of differing hydraulic conductivities. A seep is also groundwater outflow emanating from a geologic contact. However, the magnitude of discharge is less and the surface area greater, producing a less concentrated discharge (for a seep)."

A spring is a place where groundwater flows naturally from a rock or the soil onto the land surface or into a body of surface water. Its occurrence depends on the nature and relationship of rocks, esp. permeable and impermeable strata, on the position of the water table, and on the topography (Neuendorf, et al., 2005).

A seep is an area, generally small, where water ... percolates slowly to the land surface. For water, it may be considered a synonym of seepage spring, but is used by some for flows too small to be considered as springs (Neuendorf, et al., 2005).

***Comment 7: Seepage and Bay Interface***

72

With reference to water at the Keil Cove property, the EIR states "Presumably, the loss to downgradient seepage is minimal due to the presence of the Bay interface" (Page 370). Please clarify the statement and provide support for this conclusion.

***Comment 8: Exhibit 5.5-1 Local Hydrology.***

73

Although reported in the EIR, watershed basin "Y" is not shown on the map; there are two watersheds identified as "T" on the map.

***Comment 9: Peak Flow Assessment and Hydrology Appendix***

74

There is a significant difference of opinion from the EIR consultant and the applicants' engineer on peak flow estimates. The Marin County rainfall-runoff method estimates peak flow using a locally-tailored version of the Rational Method used by the California Department of Transportation (page 374). The EIR consultant reduces the C-value from 0.65 to 0.40; the lower value (0.40) reduces the estimated peak flow (page 374). A C-value of 0.65 corresponds to 30% impervious area while a C-value of 0.40 corresponds to a 0 to 10% impervious area (see Figure 10-10, page 301, Dunne and Leopold). Note that the geology of the area near Landslide 11 (Exhibit 5.4-1), especially along Ridge Lines C and D (Exhibit 4.0-1), is underlain by the Franciscan Mélange (Fm) unit described as variable sized blocks of resistant sedimentary, volcanic, and metamorphic rock (Exhibit 5.4-1 Landslides); a thin veneer of soil supports native grasses. This suggests a more impervious area corresponding to a C-value of 0.65 and that the peak flows in the 2011 EIR are under-estimated. Please discuss and clarify this discrepancy. What are the impacts if the peak flows are calculated using the higher C-value, particularly with respect to the historic and public resources at Railroad Marsh and the Keil Cove property, including the Keil drainage system, gardens and Keil Pond?



## Questions Specific to Identified Impacts

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### *Impact 5.4-2.*

Numerous landslides are present on the Easton Point property. The proposed mitigation for landslide stabilization requires the development of an unidentified number and location of terrace drains and sub-drains to allow for quick but controlled drainage. What impacts will these proposed infrastructures have on the volume and quality of storm water runoff and groundwater, specifically as it pertains to the Keil Cove property, the Lands of Keil and Railroad Marsh?

The proposed mitigation calls for the applicant, individual landowners of each lot, and their respective technical consultants to develop and implement measures for improving slope stability. How will these separate efforts be evaluated and what assurance is there that the projects individually and collectively will be effective for preventing or reducing landslide failure? Landslide 11 cannot be mitigated effectively without an integrated slope stability plan. What are the impacts if applicants, individual property owners, and the consultants do not effectively stabilize the many landslides at this site, especially as they pertain to the Keil Cove property, Lands of Keil, and the water system that are all part of the Keil Cove conservation easement and Railroad Marsh, both of which are being held for the public benefit of future generations?

76

### *Impact 5.4-4.*

The EIR states "The conceptual landslide stabilization plan is intended to increase the stability of existing on-site landslides through proposed mitigation measures such as earth fill buttresses, buried pier and grade beam walls, and sub-drains to dewater the landslide area. All of these methods of landslide improvement have the potential to convert groundwater to surface water. By intercepting groundwater emanating from the fractured bedrock on the ridges and along the headscarps and perched within colluvial or landslide deposits, subsurface water recharge could be significantly reduced. This could limit the quantity of groundwater available to the seeps, springs (including Keil Spring) and the seasonal pond."

Keil Spring (quantity and quality) is an integral part of the water system that supports the gardens and pond at Keil Cove and is part of the Keil Cove conservation easement. Reduction or elimination of this resource that has been used for over 100 years is not an insignificant impact. How is the reduction or elimination of the spring water that is the property of the Keil family and part of Keil Cove conservation easement going to be mitigated?

Converting groundwater to surface water will have an impact on water quality. What impact will these changes have on water quality, particularly as it pertains to Keil Spring and the Keil Cove property and gardens and as it pertains to Railroad Marsh all of which are public resources being conserved for the public benefit of future generations?

Water quality and quantity is an important part of any ecosystem. The Keil Pond is the breeding ground of the threatened Red Legged Frog. What impact will changes in water quality to Keil Spring, which is a primary source of water for Keil Pond have on the Red Legged Frog? If the



water recharging Keil Spring is eliminated as proposed, what impact will the loss of a primary water source for Keil Pond have on the Red Legged Frog? What impact will changes in water quality of water supplying Railroad Marsh have on this important public resource and ecosystem?

#### *Impact 5.5-1 Water Quality.*

77

The EIR states "Project implementation would increase the area devoted both to impervious surfaces (roadways, driveways, and roof tops) and to potentially irrigated landscaping. Suburban automobile traffic can contribute oil and grease, and heavy metals to site impervious surfaces, and thus to stormwater runoff. Residential lot development could be accompanied by applications of fertilizers and chemicals (such as herbicides and pesticides). Over-irrigation, combined with accidental spills or releases of fertilizer or pesticides/herbicides, could result in downstream migration of contaminated runoff to drainageways tributary to Keil Pond and Central San Francisco Bay. These risks to water quality would be a significant impact. Due to the listing of Central San Francisco Bay under the Clean Water Act, Section 303(d) list of impaired water bodies as impaired for mercury, polycyclic aromatic hydrocarbons (PAHs), Dioxin compounds, Furan compounds PCBs, Selenium and several pesticides, including chlordane, DDT and dieldrin, even minor amounts of these substances above ambient watershed levels would result in a significant impact."

The proposed mitigation for the degradation of water quality that will result from the proposed 2008 Easton Point development calls for a post development stormwater control plan. Who will develop this plan? What assurance is there that this plan will be adequate for maintaining adequate water quality? Who will implement this plan? Will there be one entity or will it be the responsibility of individual land owners? Who will enforce the plan? What teeth will the plan enforcement have? What are impacts if the plan and/or its implementation are not protective of water quality, particularly as they pertain to the Keil Cove property, the Keil Cove water system including Keil Spring, Railroad Marsh and San Francisco Bay?

#### *5.5-3 Site Drainage Patterns - Erosion and Downstream Sedimentation.*

78

The EIR states "Construction of impervious surfaces and storm drain systems in the site's watersheds would alter site drainage patterns, concentrate stormwater runoff, increase peak flow rates in on-site drainageways and increase the risk of incision and instability in receiving drainageways and on hillslopes. In addition, grading of lots and roadways and installing utilities would disturb areas of the site and expose bared soil surfaces to the erosive forces of rainfall and runoff. This could result in downstream sedimentation and obstruction of hydraulic structures (culverts and catch basins), as well as increase the risk of sedimentation in Keil Pond and Railroad Marsh."

Mitigation 5.5-3(a) requires that a Stormwater Control Plan per mitigation 5.5-1(a) be developed and that a provision be added to CC&R's stating the Property Owners Association is responsible for ensuring that the developer of each lot be required to meet all conditions specified in the NPDES Construction General Permit. Who will develop this plan? What assurance is there that this plan will be adequate for maintaining adequate water quality? Who will implement this



plan? Will there be one entity or will it be the responsibility of individual land owners? How will the CC&R's and plan be enforced? What teeth will the plan and CC&R enforcement have? What are impacts if the plan, the CC&R's and/or their implementation are not protective of water quality, particularly as they pertain to the Keil Cove property, the Keil Cove water system including Keil Spring, Railroad Marsh and San Francisco Bay?

Mitigation 5.5-3(c) requires geomorphic evaluations and installation of various devices at each point discharge location. The proposed mitigation requires maintenance procedures for devices established and transferred to the Property Owners Association. How will the maintenance of these devices be enforced? Who will enforce their maintenance? What teeth will enforcement of their maintenance have? What are the impacts if the proposed devices and/or their level of maintenance are not protective of water quality, particularly as they pertain to the Keil Cove property, the Keil Cove water system including Keil Spring, Railroad Marsh and San Francisco Bay?

Mitigation 5.5-3(e) provides standards for final design of site stormwater runoff detention facilities to ensure runoff storage volume sufficient to hold the volume differential between the pre and post-development of a 100-year rainstorm. How will rainstorm events that are not 100-year events impact runoff to the historic Keil Cove gardens and pond, the drainage system and Railroad Marsh? Will there be a greater volume of water being discharged to these areas post development during these events? Will water quality from stormwater runoff post-development be of inferior quality? How will the changes in stormwater volume and quality for rainstorms that occur more frequently impact Railroad Marsh and the conservation easement at Keil Cove being held for the benefit of future generations, including the historic gardens, pond, water and drainage systems?

#### ***Impact 5.5-5 Groundwater Recharge and Off-Site Hydrology.***

79

Landslide repair and improvements required to stabilize existing slopes for the construction of homes could result in impacts to springs and seeps at the project site and/or rapid conversion of site groundwater to surface water. The addition of impervious surfaces in the form of pavement and roof coverage would eliminate areas of existing groundwater recharge and increase local peak flow rates and surface runoff volumes while reducing groundwater recharge. These potential impacts would reduce the discharge of offsite seeps and springs (including Keil Spring), lower the local groundwater table (including those on the Keil property and Railroad Marsh), reduce groundwater inflow to Keil Pond and Railroad Marsh, and reduce outflow of groundwater to submarine seeps resulting in a change in the position of the local salt water wedge beneath both Keil Cove and Railroad Marsh.

The Keil Cove property has two existing water wells. What impact will the elimination of existing areas of groundwater recharge have on the water quality and supply of those existing wells? What impacts will the changes in water quality and reduction water supply from these wells have on the Keil Cove property and gardens that are part of a conservation easement being held as a public resource for future generations? How will these impacts be mitigated?



What impact will increased peak flow rates and surface runoff volumes have on the Keil Cove property, pond and gardens? What impact will increased peak flow rates and surface runoff volumes have on Railroad Marsh? How will increased sediment load being carried by increased runoff impact the existing historic (and functional) drainage system integral to the health of the Keil Cove gardens? What impact will additional sedimentation and poor water quality that bypasses the existing drainage system have on the Keil Cove property, especially as it pertains to the historic pond and gardens being held in a conservation easement for the public benefit of future generations? What impact will additional sedimentation and poor water quality have on Railroad Marsh? How will these impacts be mitigated?

***Impact 5.5-6 Depleted Groundwater Supplies, Keil Spring and the Keil Property Spring-based Water Supply.***

80

Landslide repair or improvements required to stabilize existing landslide deposits would convert on-site groundwater to surface water. The addition of impervious surfaces in the form of pavement and roof coverage would eliminate areas of existing groundwater recharge. These impacts would reduce the available water supply to Keil Spring, the underground cisterns located on the Keil property and at Railroad Marsh. A reduction in the available water supply to Keil Spring and/or the cisterns could result in a reduction in the availability of this historic water supply to the Keil property. A reduction in the amount of groundwater discharge from Keil Spring and/or the Keil property cisterns would result in a reduction to this historically relied upon groundwater supply for irrigation of historically significant gardens and would result in a significant impact.

The proposed mitigation plan calls for the replacement of an historic high quality, reliable water source with a much inferior water quality source and one that has unproven reliability. What impacts will the reduced water quality from the proposed mitigation have on the Keil Cove property, especially to the historic gardens and pond being held as an important public and cultural resource in a conservation easement? What impacts will the reduced water quality from the proposed mitigation have on the public lands of Railroad Marsh and the ecosystem the marsh supports? How will these impacts be mitigated? What impacts will an unreliable or insufficient water supply source have on the Keil Cove property, especially to the historic gardens and pond? How will these impacts be mitigated?

The proposed mitigation for this significant impact requires the agreement and cooperation of the Keil property owners. The Keil Cove property and water system, including the Keil Cove Spring, are part of a conservation easement due to their historic significance. In addition to the need to garner the agreement and cooperation of the Keil property owners, agreement and cooperation of the easement conservators is required. What mitigation is available if the Keil Cove property owners and/or easement conservators do not agree with the proposed mitigation? If no mitigation is available, what impact will the depletion of groundwater supplies have on the Keil Cove property and water system, including the Keil Cove Spring, which are all being held in a conservation easement for the public benefit of future generations?



**Impact 5.9-3 Historic Significance of Keil Cove.**

The EIR states that "Changes to the hydrology of the site resulting from the project could reduce or eliminate the available water supply that recharges Keil Spring, a key feature of the Keil Cove property, and could reduce the groundwater inflow from upslope areas on the project site into the two Keil Cove cisterns.... These effects have the potential to cause a substantial adverse change in the historical significance of the Keil Cove property due to: (1) the adverse material alteration or loss of Keil Spring, (2) the adverse material alteration or loss of vegetation features, and/or (3) the adverse material alteration of Keil Pond. The Keil Cove property is assumed to meet the CEQA definition of a historical resource (discretionary significance) for the purposes of evaluating cultural resources impacts for the Draft EIR. These effects would be significant historical resource impacts."

The proposed mitigation requires the mitigations proposed for 5.5-3 and 5.5-6. What will be the impact if one or both of these mitigations are not possible?

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# EXHIBIT D

To the Reed Family:

A group of local residents and business people, all experienced in real estate and Marin's residential land markets, are offering for your consideration an alternative concept for developing Easton Point. They designed it to produce:

- Better financial results for the Martha Company – and realized more quickly.
- Better environmental results for Tiburon and Marin County.

This letter outlines the ideas and relates them to the 43 and 32 lot plans currently being evaluated. In addition, the ideas are backed up by professional calculations, based on the number in your 2007 Appraisal Report, and they compare financial results. The planning ideas will be discussed in a public forum, but our group would like to meet directly and privately with you and your financial advisors to go over the calculations, in order to review and critique the assumptions, methods, and results.

Facing the realities of development economics, including those anticipated over the next few years, I think you will find these well worth study. There is a depth of wealthy buyers drawn to this kind of rare opportunity – living in a protected land preserve on their own large estate with truly spectacular views.

#### **The Alternative Concept**

- ***Target the very high end market***
  - These are the last great San Francisco Bay view lots – and among the most desirable open lands in the U.S. Their greatest value would be realized in a narrow but very affluent national market.
  - Select 6-7 prime house sites, each with a 1 to 2 acre development envelope.
  - Observe the same or larger set backs from the key ridge line and “founders rock” – generally 300' – as the currently proposed 32 lot plan.
- ***Minimize development costs, exposure, and risk***
  - Above all, entitlement time and costs would be abbreviated. Litigation would be far less likely.
  - Only short spur roads off Ridge Road ( $\pm$  200') and Paradise Drive ( $\pm$  400') would be required. Other roads would not be needed.
  - The water tank and water main only down to Ridge Road would still be required.
  - Otherwise, the lot buyers would build their own private driveways and water and sewer laterals.
  - All construction would be on stable land.
- ***Produce early net revenues for the family***
  - Pre-arranged sales to ready buyers in this market segment are highly likely.
  - At  $\pm$  2 - 3 lots/year a 2-3 year sell-out is likely.
  - There would be little or no waiting for phased, year-by-year take-downs and payments for land by developers/builders.



- In addition, it is likely that you could pre-negotiate one large lot sale to a conservation buyer, closing immediately upon final approval by the County, producing substantial revenue in year one.
- *Reduce the significant health and safety impacts*
  - Traffic: only 1 lot off Mountain View, 3 lots off Ridge Road, 3 lots off Paradise Drive.
  - Driveways replace most roads.
  - Landslides: almost all construction can avoid landslides in ways similar to, or with less impact than 32 lot plan and far less than the 43 lot plan.
  - Endangered species avoided as in the current 32 lot plan.
- *Reduce visual impacts*
  - From all adjoining properties.
  - From all distant off-site vistas.
- *Financial Results for The Martha Company*
  - **Total value.** Taking into account all costs, the Company would receive several million dollars more cash-in-hand from this seven lot alternative for Easton Point.
  - **Timing:** Substantial cash is received immediately after approvals, and most revenues within 2-3 years.
- *Another way to maximize your land revenues*
  - Conservation easement techniques, well-proven in California, could be used to shelter income, possibly all of the land sales income, from taxes.

I believe that a face-to-face meeting to discuss these ideas and numbers, privately (or publically) could prove to be in everyone's best interest, and I would be pleased to help arrange that.

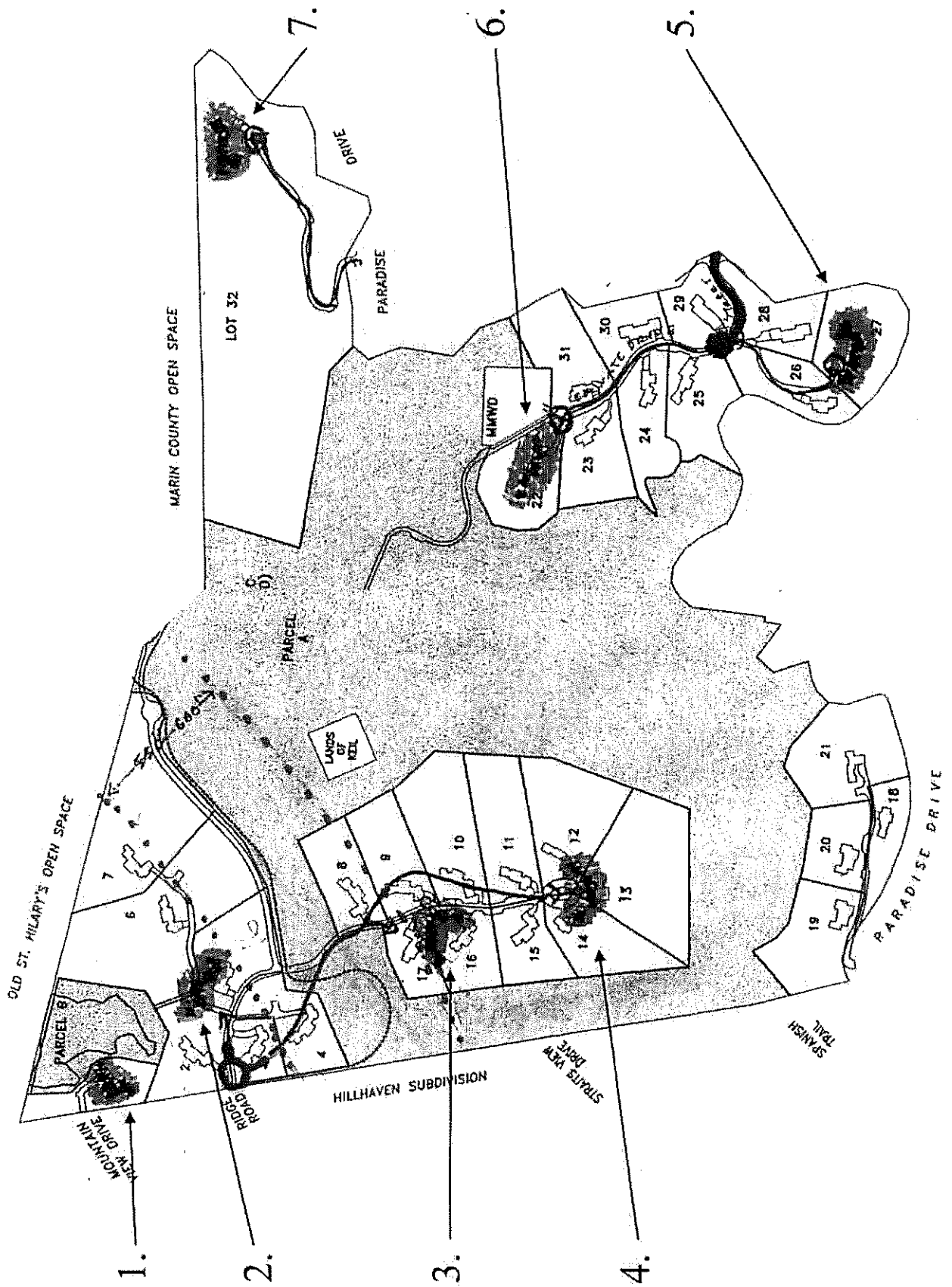
A quick sketch overlaid on your recent 32 lot plan is attached.

Best Regards,

Robert Lamb Hart  
2540 Paradise Drive  
Tiburon, CA 94920

cc: Tom Gram  
The Ark

# The 7 Lot Plan



October 6, 2009

## Easton Point Calculations

### Total Value

#### The 32 Lot Plan

Base on your 2007 Appraisal:

30 lots would sell for \$73,000,000 retail, averaging approximately \$2.5M/lot.

Then 32 lots would sell for \$5M more or \$78,000,000.

A developer would deduct his land, development costs, overhead, financing and profit, typically leaving a payment to landowner of approximately \$44,000,000 spread out over about 10 years.

Using the pace of sales noted in Appraisal, landowner would be paid in phased, year-by-year "take downs" of land over approximately 10 years. In that case, using a very conservative discount rate of 7% to calculate net present value of the land, the 32 lots' value to the landowner would be \$31,000,000.

#### The 7 lot Plan

The 2007 Appraisal estimates that the 1.38 acres average size lot is worth \$2.5M average. Then a 6 to 10 acre lot could be expected to be worth at least three times that or \$7.5M. (That can be compared to the Swann lot.)

Six lots at \$7.5M plus 1 at \$2M would sell for \$47,000,000 over 2-3 years.

The limited scope and simplicity of a 7 lot project puts it within the capability of the landowners, working with a small team: real estate attorney, site engineer, planner and realtor. No middle man would be needed. The Martha Company would receive the full retail value of the lots.

Development costs would be modest leaving the landowner profit of \$45,000,000 received over 2-3 years.

Again, discounted at 7% the land value to the landowner today would be \$41,000,000.

In other words:	<u>32 lots</u>		<u>7 lots</u>
Total payment to landowner	\$44M	v	\$47M
Present value of land	\$31M	v	\$41M

### In Conclusion

Looking at the 7, 30 or 40 lot plan, it doesn't seem to matter what lot valuation you use. In every case the 7 lot plan is more profitable.

**RESPONSE TO LETTER NO. 22 PAUL S. SIMMONS, KELLY M. TABER, SOMACH SIMMONS & DUNN, ON BEHALF OF THE KEIL FAMILY (APRIL 28, 2011)**

**Response to Comment 22-1**

The environmental impact report must address all potentially significant environmental impacts and propose effective mitigation measures where possible and feasible. However the EIR cannot resolve issues of common or statutory law with respect to competing rights of neighbors and/or appurtenant easements.

**Response to Comment 22-2**

Please see Response to Comment 22-1.

**Response to Comment 22-3**

The commentor states that the proposed project is inconsistent with the 2007 Judgment regarding development of the project site.

The EIR deals extensively with the environmental issues related to the proposed project's impacts including geologic impacts, (see *Section 5.4 Geology and Soils*) as well as proposed mitigation measures. The same is true with respect to the project alternatives discussed in *Chapter 6 Alternative to the Proposed Project* of the Draft EIR. The issue of whether the proposed project or any alternatives is consistent with the 2007 Judgment issued by the federal district court, especially as to whether required landslide repair might be too "extensive," or the lots are placed on "geologically safe portions of the site..." is an issue that relates to the merits of the proposed project and/or its alternatives. Initially the Board of Supervisors will need to address these issues, but only the court itself can ultimately decide these issues if there is a dispute that cannot otherwise be resolved.

**Response to Comment 22-4**

This comment states that the commentor on behalf of its client (the Keil family) objects to the adequacy of the Draft EIR and believes that the Draft EIR fails to comply with CEQA. Specific issues that the commentor has with the Draft EIR are set forth in subsequent paragraphs of the comment letter.

**Response to Comment 22-5**

Please see Master Responses 3 and 4.

**Response to Comment 22-6**

Please see Master Responses 3, 4, and 5. The commentor refers to subsequent comments contained in Exhibit C of this letter, which are responded to in Response to Comments 22-66 through 22-81.

**Response to Comment 22-7**

Please see Master Responses 3, 4, and 6.

**Response to Comment 22-8**

As discussed on page 546 of the Draft EIR an EIR conceivably can analyze an infinite number of alternatives or variations of alternatives. However, CEQA directs EIRs to analyze a reasonable range of alternatives to the project or project location which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. The analysis of a range of alternatives is governed by a “rule of reason” for alternatives that could feasibly attain the basic objectives of the project. This EIR does analyze a reasonable range of alternatives and additional alternatives are not necessary.

As further discussed on page 546 of the Draft EIR the intent of the discussion of the alternatives is to maintain consistency with the court order and decree contained in the 1976 and 2007 Judgments. The Judgment decrees that the owners of the Martha Property are entitled to 43 homes on minimum one-half acre residential lots unless the parties subsequently agree otherwise in writing. Consistent with this direction the Draft EIR evaluates two 43 unit alternatives. *Alternative 3* is a reconfigured development alternative with a lot configuration that is intended to reduce the visual impacts that would result from the development of the proposed project. In addition, *Alternative 4* is a reconfigured development alternative that features a reconfiguration of the proposed project’s residential lot pattern, and reduced lot sizes in an attempt to reduce impacts on biological resources. Furthermore, because there is a Memorandum of Understanding between the Town of Tiburon and the project applicant a 32-Unit lower density alternative is also analyzed in the Draft EIR.

***Exhibit A of the Comment Letter is a Copy of 2007 Judgment***

***Exhibit B of the Comment Letter is Comments of the Keil Family. Responses to Comments of the Keil Family are as follows:***

**Response to Comment 22-9**

Please see Master Response 6.

**Response to Comment 22-10**

Please see Master Response 6.

**Response to Comment 22-11**

None of the proposed detention facilities would be located within the path of known landslides. The detention facilities appear to be located within bedrock and would not likely be significantly damaged by landslides or strong ground shaking. Any detention structures that are constructed should be designed per the requirements of applicable codes.

**Response to Comment 22-12**

Please see Master Response 6.

**Response to Comment 22-13**

Please see Master Response 6.

**Response to Comment 22-14**

Please see Master Response 6.

**Response to Comment 22-15**

The closest grading proposed to the Lands of Keil spring is approximately 200 feet south and west on adjacent Lots 10 and 42, respectively.

**Response to Comment 22-16**

If Landslide 11 moves, it could potentially damage areas within the project site, including unrepaired portions of Lots 10 through 15 and 42. There would be no unrepaired portions of Landslide 11 on Lot 43; and, therefore, that lot would not likely be significantly damaged.

**Response to Comment 22-17**

The Draft EIR correctly characterizes the significant effects of the proposed project on the environment.

**Response to Comment 22-18**

The proposed development and future residences would be located upslope of Landslide 11; therefore, they would not be in the path of this landslide if it were to reactivate.

**Response to Comment 22-19**

Because the grading proposed for the project development is for repairing and improving the project site, the landslide risk would not be exacerbated by the project. The stability of the site would be improved by the engineering grading associated with the proposed development. The landslide risk would be decreased. Please see Response to Comment 7-10 for information regarding documentation of avoided landslides.

**Response to Comment 22-20**

The required factors of safety are the standard values normally used in the standard of care in California and are in accordance with Marin County's landslide repair policy. The County's landslide mitigation policy is discussed on page 328 and 329 of the Draft EIR.

**Response to Comment 22-21**

It is the professional opinion of the EIR geologists that the applicant's repair methods (designs which would achieve the required factors of safety of 1.5 and 1.0, respectively) are sufficient for the portions of the landslide areas, within 100 feet of a building site or public improvement, that are proposed to be repaired under the proposed mitigation plan. In the EIR geologist's opinion, the applicant's geotechnical consultant has adequately demonstrated feasibility of the repairs for the portions of the lots to be stabilized.

**Response to Comment 22-22**

Mitigation Measure 5.4-1 does provide the performance standards required for landslide repair. Mitigation Measure 5.4-1 requires confirmation that landslide repair measures would provide a factor

of safety of at least 1.5 for static conditions and greater than 1.0 for pseudo-static conditions (seismic conditions). Factor of safety ratio's are defined on page 329 of the Draft EIR. Additionally, please see Response to Comment 1-3 for revisions to Mitigation Measure 5.4-1 which revises it's text to require that the CC&Rs name Marin County as a third party beneficiary with the right to oversee the POA's responsibilities for ongoing maintenance of landslide repairs.

**Response to Comment 22-23**

Landslides are an existing condition on the project site, and the reactivation of any on-site landslide could have an adverse affect on habitat prior to any construction activity. Implementation of Miller Pacific's landslide repair program and Mitigation Measures 5.4-1 and 5.4-2 would improve the stability of treated landslides on the project site. Please see Response to Comment 7-8 for information regarding the standards for landslide stability set forth in the Mitigation Measures. Also, please see Response to Comments 22-45 through 22-55 regarding the CRLF. No further analysis is required.

**Response to Comment 22-24**

Please see Response to Comment 1-3.

**Response to Comment 22-25**

The commentor is correct in that Marin County may elect to decline acceptance of any open space dedication, in which case the POA would retain responsibility of ongoing maintenance (please see Response to Comment 1-3).

**Response to Comment 22-26**

Please see Response to Comments 7-8 and 7-10.

**Response to Comment 22-27**

While the Lands of Keil are located within the delineated boundary of Landslide 11, there is no proposed grading or other landslide repair that would occur within the Lands of Keil. Therefore the matter of consent and legal feasibility is not applicable to the proposed landslide repair for landslide 11, which is stated on page 342 and also shown on **Exhibit 5.4-3** of the Draft EIR

**Response to Comment 22-28**

There are a total of 30 lots and Parcels A and C that would require removal and recompaction of either colluvial or landslide deposits for stabilization. Please see Conceptual Landslide Stabilization Plan (**Exhibit 5.4.2**) and the Proposed Landslide Stabilization Plan (**Exhibit 5.4-3**). Subdrains that are called for in the Stabilization Plan were included in the analysis. **Exhibit 5.4-2** gives the specific cubic yardage of material for about ten subdrain installations, with a listed total of approximately 819 cubic yards.

**Response to Comment 22-29**

The evaluation of groundwater impacts related to geology (discussed under *Impact 5.4-4 Groundwater*) and hydrology (discussed under *Impact 5.5-6 Depleted Groundwater Supplies, Keil Spring and the Keil Property Spring-based Water Supply*) are based on different significance criteria. The significance criteria in Section 5.4 Geology and Soils do not address groundwater supplies. Instead, they focus on the provision for slope stability and the mitigation of geologic hazards.

Therefore, *Impact 5.4-4* is specific to the hazards of landsliding and slope stability as they relate to the amount of groundwater in the slopes. If groundwater levels were to rise, the slope stability and landslide impacts would likely become more significant; conversely, if the groundwater levels are lowered, slope stability and landsliding would likely improve, which is why it is considered a less-than-significant impact. In contrast, the significance criteria in Section 5.5 Hydrology and Water Quality address groundwater supply impact, specifically, those on groundwater wells. Impact 5.5-6 is specific to the impacts of groundwater lowering and the groundwater supply to Keil Spring. As reported in the Draft EIR, lowering of the groundwater would reduce the available water supply to Keil Spring and / or the cisterns and could result in a reduction in the availability of this historic water supply to the Keil property, which resulted in this being labeled as a significant impact.

Given the significance criteria governing the assessment of geologic versus hydrologic impacts, remediation and dewatering of landslides produces a beneficial impact on slope stability, while producing detrimental impacts on Keil Spring and the other well-based components of the Keil water supply system.

**Response to Comment 22-30**

According to the EIR geologist, lime is provided as one potential alternative to deal with construction that occurs on expansive soils, but is not required. Lime, if used, would not be placed directly within any drainageways of the site, and would only be used to treat soils occurring immediately beneath building pads and other impermeable surfaces. These areas will not be exposed to potential stormwater runoff and therefore, should not have any effect outside of the immediate area where lime is applied.

**Response to Comment 22-31**

Please see Master Response 3.

**Response to Comment 22-32**

Please see Response to Comment 22-74 and Master Response 6 for revisions to responsibility and monitoring of Mitigation Measure 5.5-3.

**Response to Comment 22-33**

The applicant's Drainage Report and subsequent submittals regarding the proposed stormwater detention facilities and landslide repair works, while detailed enough for impact assessment at the EIR level, have not provided other than standardized design details. Thus, it is difficult to describe the detailed, collective functionality of the groundwater and surface water capture, detention and/or conveyance systems. In general, surface runoff from developed areas, and some adjoining upslope natural areas, would be collected by roadway ditches or storm drains (road detention systems), or roofs and gutters (residence/lot detention systems) and detained in subsurface structures before being discharged at pre-project rates to points downslope of the capture zones. The road-based and lot-based detention systems and outfall would operate independent of each other. Similarly, separate subsurface drain systems associated with landslide repairs or retaining wall construction would capture shallow and some deeper groundwater and discharge to downslope hillslope areas. While these surface and groundwater flows would be captured independently by separate drain systems, they would all discharge to the downslope receiving drainageways, joining with additional runoff from undeveloped portions of the watersheds. The cumulative runoff from these natural and developed areas would be conveyed to the project boundaries where they would be conveyed off-site via either culverts under Paradise Drive or the drainageway tributary to Railroad Marsh (Watershed C in **Exhibit 5.5-1**).



Incorporation of the prescribed measures (e.g. grass-line infiltration swales, permeable pavement, return of captured retaining wall groundwater) designed to partially mitigate for development-induced hydromodification impacts would provide some opportunities for on-site infiltration within the developed areas of the site.

***Response to Comment 22-34***

For an updated discussion of the impact of landslide dewatering and groundwater interception on flows in the affected project area drainageways, please see Master Response 5. None of the groundwater intercepted by subdrains installed in conjunction with the prescribed landslide repairs would be detained by the detention facilities for the runoff generated from roadways and lot improvements (residences and driveways). As noted in the Response to Comment 22-33, the captured groundwater would be released onto hillslopes below the repair zones to join with natural area runoff in the downstream reaches of the project area drainageways.

***Response to Comment 22-35***

The Draft EIR hydrology and water quality assessment did not distinguish between the applicant/owner and the eventual developers of each residential lot. For purposes of the Draft EIR, the “project” impacts in total were assessed. For some development projects, the applicant/owner conducts site and infrastructure development, as well as residential home construction. In other cases, the land and infrastructure modifications are undertaken by one entity and another entity or entities purchase the lot with its ready-made access to that completed infrastructure. However, it is misleading to view the two sets of improvements as unrelated, as each set of design improvements related to geotechnical stability and stormwater handling and conveyance would be subject to the County’s engineering review process, and would be governed by the findings and stipulations set forth in the Draft EIR. The principal goal of the landslide remediation program is to remedy the inherent slope instability referred to by the commenter. The Draft EIR provides feasible mitigation measures to address impacts related to slope stability and stormwater retention. Also, see Master Response 6 for revision to Mitigation Measure 5.5-3(e) addressing additional runoff resulting from implementation of Mitigation Measures 5.1-11 and 5.1-12.

***Response to Comment 22-36***

The loss of groundwater that would result from implementation of the proposed project landslide repairs would occur due to two different mechanisms: 1) the introduction of roadway (Mt. Tiburon Road) and lot-based impervious surfaces (Lots 36 to 42) which would reduce the quantity of infiltrated water recharging the Keil Spring, and 2) groundwater captured by subdrains installed as part of “remove and replace” landslide repairs which is then conveyed in these drains (pipes) to surface outlets downslope of the repair zones. As noted in the Response to Comment 22-33, once this captured groundwater is discharged downslope it joins with hillslope surface runoff, neither of which would otherwise be detained in detention vaults or other subsurface facilities. For discussion of the impact project groundwater capture and release downslope would have on peak flow rates and the capacities of Paradise Drive culverts, please see Master Response 6.

***Response to Comment 22-37***

Please see Master Responses 3 and 4.

**Response to Comment 22-38**

Please see Master Response 4 for information regarding sedimentation increases. Also, the Response to Comments 22-45, and 22-47 through 22-49 respond with information regarding Keil pond and CRLF habitat.

**Response to Comment 22-39**

Please see Master Response 3.

**Response to Comment 22-40**

The mitigation measure for *Impact 5.9-3 Historic Significance of Keil Cove* beginning on page 544 of the Draft EIR is revised as follows:

**Mitigation Measure 5.9-3(a)** Mitigation Measures 5.5-3(a), (b), and (c), designed to reduce impacts associated with potential erosion and downstream sedimentation that could impact sensitive off-site habitats, including Keil Pond, to a less-than-significant level, would also be required to reduce the physical impacts that downstream sedimentation would have on Keil Pond which is a key component of the Keil Cove property (an historical resource) to a less-than-significant level.

**Mitigation Measure 5.9-3(b)** Mitigation Measure 5.5-6 is not feasible due to lack of cooperation by the downstream property owner (Keil) and the resulting lack of access to the Keil property water supply system for: a) installation of a piping system to deliver intercepted upslope groundwater to the Keil storage facilities or b) monitoring of Keil Spring, cistern flows, and irrigation use. ~~Mitigation Measure 5.5-6 is designed to reduce the project's impact on groundwater supplies, Keil Spring and the Keil property spring-based water supply to a less-than-significant level would also be required to reduce impacts on the Keil Cove property (an historical resource) to a less-than-significant level. As noted in Section 5.5 Hydrology and Water Quality implementation of Mitigation Measure 5.5-6 would require agreement and cooperation of the Keil Cove property owners.~~

**Significance After Mitigation** Since no mitigation is feasible to reduce the project's impacts to depleted groundwater supplies, Keil Spring and the Keil property spring-based water supply, Impact 5.9-3 would be significant and unavoidable. ~~Implementation of Mitigation Measures 5.5-3(a), (b), and (c) and 5.5-6 would reduce the identified hydrology and water quality impacts to a less-than-significant level. In turn, the significant impacts on the Keil Cove property, identified as a historical resource, would be reduced to a less-than-significant level. Without the cooperation of the owners of the Keil Cove property to implement Mitigation Measure 5.5-6, the project impact on Keil Cove's water supply would remain a significant and unavoidable.~~

**Responsibility and Monitoring** The responsibility and monitoring would be the same as for Mitigation Measures 5.5-3(a), (b), and (c), and 5.5-6.

The mitigation measure for *Impact 6.9-3 Historic Significance of Keil Cove* beginning on page 544 of the Draft EIR is revised as follows:

This impact would be the same as for the proposed project.

**Mitigation Measure 6.9-3** The following mitigation measures would be required to mitigate significant impacts to the historic significance of Keil Cove.

**Mitigation Measure 6.9-3(a)** Mitigation Measures 6.5-3(a), (b), and (c), designed to reduce impacts associated with potential erosion and downstream sedimentation that could impact sensitive off-site habitats, including Keil Pond, to a less-than-significant level, would also be required to reduce the physical impacts that downstream sedimentation would have on Keil Pond which is a key component of the Keil Cove property (an historical resource) to a less-than-significant level.

**Mitigation Measure 6.9-3(b)** Mitigation Measure 6.5-6 is not feasible due to lack of cooperation by the downstream property owner (Keil) and the resulting lack of access to the Keil property water supply system for: a) installation of a piping system to deliver intercepted upslope groundwater to the Keil storage facilities or b) monitoring of Keil Spring, cistern flows, and irrigation use. ~~Mitigation Measure 6.5-6(a) designed to reduce the project's impact on Keil Spring and the Keil property spring-based water supply to a less-than-significant level would also be required to reduce impacts on the Keil Cove property (an historical resource) to a less-than-significant level.~~

**Significance After Mitigation** Since no feasible mitigation is available, Impact 5.5-6 would be significant and unavoidable. Implementation of Mitigation Measures 6.5-3(a), (b), and (c) and 6.5-6(a) would reduce the identified hydrology and water quality impacts to a less-than-significant level. In turn, the significant impacts on the Keil Cove property, identified as a historical resource, would be reduced to a less-than-significant level.

#### **Response to Comment 22-41**

Please see Master Response 4.

#### **Response to Comment 22-42**

Mitigation Measure 5.5-3(a) provides feasible standards for the mitigation of erosion and downstream sedimentation impacts. Recent regulations promulgated by USEPA as part of the Non-Point Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ<sup>40</sup> which is administered by the State Water Resources Control Board (SWRCB), requires that Stormwater Pollution Prevention Plans (SWPPPs) now be prepared by a Qualified Stormwater Pollution Prevention Plan Developer (QSD) and be implemented in the field and monitored by either a QSD or similarly trained Qualified Stormwater Pollution Prevention Plan Practitioner (QSP). QSPs and QSDs must take a training course and pass an exam administered by the SWRCB. Thus, depending on the ultimate approach of the applicant, either the applicant or the individual residential lot developers would have to prepare a Notice of Intent with the SWRCB and file a SWPPP prepared by a QSD. The County's MCSTOPPP guidelines for new development also requires the development and implementation of a Stormwater Control Plan (SCP), which is addressed in Mitigation Measure 5.5-1(b). The SCP requirements include permanent water quality protection measures to counter the impacts of development on hydromodification and to maintain site water quality. Under the Order's language regarding construction projects with a Common Plan of Development or Sale, all such activities would be regulated. It follows that either a QSD or QSP will be required to monitor the installation of these Best Management Practice measures (BMPs) for water quality protection. Similar requirements would

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<sup>40</sup> Order No. 2009-0009-DWQ was adopted by the State Water Resources Control Board on September 2, 2009 and became effective on July 1, 2010. The order expires on September 9, 2014. Available at: [http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2009/wqo/wqo2009\\_0009\\_dwq.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2009/wqo/wqo2009_0009_dwq.pdf), accessed February 2013.

attach to the project SCP, which would be reviewed by Marin County Department of Public Works in conjunction with its consideration of grading and/or building permits applications.

**Response to Comment 22-43**

The project would not alter watershed boundaries in any significant way. Under undeveloped conditions, the shallow groundwater emanating from seeps and springs other than the principal Keil Spring is naturally discharged to the downslope reaches of the site drainageways as base flow. It is likely that this groundwater discharge enters the stream channels by the time flow reaches the Paradise Drive roadway ditches and culverts. For the developed conditions, the groundwater and spring flow intercepted by sub drain installed to dewater on-site landslides would re-enter the lower reaches of the site drainageways, perhaps further upslope than groundwater discharging to the stream under existing conditions. It is likely that only the deeper groundwater associated with fracture systems intercepted by the remove and replace landslide repairs would be lost to the off-site groundwater system represented by the Keil property cisterns. Moreover, some upslope areas tributary to the watersheds discharging to the Keil property would not be affected by landslide repairs and would likely continue to convey some groundwater off-site to the Keil property. Without existing and/or historical condition data on well inflows, it is not possible to fully assess the impact of deep groundwater conversion that could affect inflow to the cisterns. Otherwise, the basic off-site hydrologic conditions would not differ significantly from existing off-site conditions. Based on the groundwater monitoring data and the standardized details for landslide repair presented by the applicant, the EIR hydrologist determined the project would have a significant impact to the off-site water supplies represented by Keil Spring. The commentor is also directed to Master Response 3.

**Response to Comment 22-44**

Please see Master Response 3.

**Response to Comment 22-45**

The potential for significant indirect impacts to California red-legged frog breeding habitat at Keil Pond was determined based on the discussions contained in *Impact 5.5-1 Water Quality* and *Impact 5.5-3 Site Drainage Patterns – Erosion and Downstream Sedimentation* which indicated that off-site downstream water quality could potentially be affected and this was considered a potentially significant impact on CRLF in Keil Pond. However, the EIR hydrologist has also provided mitigations for these water quality impacts in Mitigation Measures 5.5-1 and 5.5-3 which are also referenced/required as part of Mitigation Measure 5.6-2. Mitigation Measures 5.5-1, which addresses water quality in runoff, Mitigation Measure 5.5-3, which addresses erosion and downstream sedimentation, and Mitigation Measure 5.6-2 (CRLF), when taken together would reduce off-site indirect impacts to CRLF as a result of water quality to a less-than-significant level.

**Response to Comment 22-46**

Please see Master Response 4 and Response to Comment 22-45.

**Response to Comment 22-47**

It is the opinion of the EIR Biologist (which includes CRLF expert Dr. Mark Jennings) that impacts from the project as mitigated would not degrade or destroy breeding habitat for CRLF.

**Response to Comment 22-48**

There are three Critical Habitat Mapping Units for CRLF in Marin County. The project site does not occur within any of these mapping units. The CRLF Recovery Plan indicates that there are significant populations of CRLF throughout Marin County.<sup>41</sup> Additional information on the ecology and occurrence of the species can be found in the Recovery Plan.

**Response to Comment 22-49**

First, it is noted that despite the two-plus decades of various field surveys conducted on the project site by biologists for both the County and the applicant, to inventory and evaluate the biological resources of the site, and despite surveys for CRLF being conducted on the site in 2000 by CRLF expert, Dr. Mark Jennings, following the USFWS protocol, as discussed on page 421 of the Draft EIR, there has never been a single observance of a CRLF on the project site. Therefore, any potential use of the project site by CRLF is speculative. It is entirely possible that most CRLF that breed on the Keil property also spend their entire lives foraging in the upland habitats immediately adjacent to their breeding habitat, i.e. on the Keil property.

Secondly, if CRLF do occur on the project site from time to time, the project as currently designed would preserve approximately 100 percent of the preferred habitat for CRLF on-site; that is the wooded drainageways, within Parcel A with a minimum 100-foot setback. Home and infrastructure development as proposed would permanently impact approximately eight acres or 16 percent of marginal CRLF upland habitat, i.e. the remaining wooded areas of the site. The vast majority of the remaining woodland habitat would be preserved in-perpetuity and subject to the RMP which would include management practices specifically targeted for the benefit of CRLF. Currently, the breeding pond on the Keil property is not subject to any approved management program. Thus, even though the CRLF has not been observed on the project site, the vast majority of potential habitat would be subject to an RMP that can only be a benefit to the population.

Thirdly, the EIR biologist's opinion, also supported by CRLF expert Dr. Jennings, is that it is the availability of breeding habitat, not the availability of upland habitat, which is the most important limiting factor for this CRLF population, and the immediately adjacent upland habitat, and that the loss of some potential upland habitat on the project site as a result of the project is unlikely to impact the size of this population. The closest project development that would result in impacts to potential CRLF upland habitat is more than 550 feet away, on the other side of the developed environs of the Keil property and on the other side of Paradise Drive.

When one considers then that the most important habitats for CRLF are the pond and the immediately adjacent uplands on the Keil property, then the activities that occur on the Keil property would have the greatest effect on the CRLF population, not the activities occurring on the project site. The upland habitats surrounding Keil Pond on the Keil property are managed as a botanical garden, where inputs and management practices are geared toward supporting large numbers of exotic plants in a setting in which they would not naturally occur. To the EIR biologist's knowledge, no regular monitoring

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<sup>41</sup> U.S. Fish and Wildlife Service Region 1 Portland, Oregon., *Recovery Plan for the California Red-legged Frog (Rana aurora draytonii)*, Page 8, 2002. Available on-line at [http://ecos.fws.gov/docs/recovery\\_plan/020528.pdf](http://ecos.fws.gov/docs/recovery_plan/020528.pdf)

(population surveys, water quality, etc.) or management activities are conducted on the Keil property, voluntarily or otherwise, that are specifically targeted for the benefit of CRLF habitat or individual CRLF. The potential for CRLF to occur on the project site, is in fact, dependent on the way the Keil site is maintained and managed to benefit CRLF, not the opposite, i.e. the better the Keil property is managed to benefit CRLF, the larger the population is likely to be, and the greater the likelihood that CRLF would disperse to the project site to forage.

Given the above, the in-perpetuity preservation of almost 100 percent of the wooded drainageways on the project site, considered the best potential on-site habitat for CRLF, along with 75 percent of other woodland habitats of the site, considered relatively less valuable for CRLF, all subject to an RMP that would include specific management activities geared toward CRLF not presently provided for this population, would actually greatly benefit the Keil Pond breeding population, if, in fact, CRLF occur on the project site at all.

Regarding the potential for creation of new breeding habitat for CRLF on the project site, if that is the alternative that is chosen, there has actually been good success with creating habitat for CRLF, for instance, CRLF are known to utilize manmade habitats such as stock ponds and for some populations, manmade breeding habitat is the only such habitat that remains available to them. A wetland already occurs on the site that, with some modifications, could provide a secondary breeding habitat. This wetland occurs adjacent to Drainageway 2 and would be preserved within Parcel A. The current population size of CRLF is limited by the availability of breeding habitat at Keil Pond, so additional breeding habitat would increase the size of the population and likely improve its potential for long-term persistence. Given that there is currently only one breeding pond (i.e., Keil Pond), a stochastic event could devastate this population, whether this project is built or not. Creating new breeding habitat could buffer this population against such a catastrophic event.

In summary, mitigations provided in the Draft EIR, including those for water quality, preservation and management of habitat, and potentially, the creation of habitat, would ensure that impacts to CRLF are not only mitigated to a less-than-significant level but could result in benefits to the population that would not occur but for the project.

***Response to Comment 22-50***

Please see Response to Comment 22-49.

***Response to Comment 22-51***

Please see Response to Comment 22-49.

***Response to Comment 22-52***

Please see Response to Comment 22-49.

***Response to Comment 22-53***

Please see Response to Comment 22-49.

***Response to Comment 22-54***

Please see Response to Comment 22-49

**Response to Comment 22-55**

Please see Response to Comment 22-49.

**Response to Comment 22-56**

The sizing of stormwater detention and treatment facilities would be finalized upon final design of each residence using the *Stormwater Quality Manual for Development Projects in Marin County*, as indicated in Mitigation Measure 5.5-1(b). Therefore, in the event that mitigation measures requiring reduced building heights result in increased impervious surfaces, these increases would be accounted for.

**Response to Comment 22-57**

Please see Master Responses 3 and 4.

**Response to Comment 22-58**

In addition to Master Response 5, please see Response to Comment 22- 33.

**Response to Comment 22-59**

Concerns regarding the future responsibilities of the property owners association for implementation and ongoing monitoring and maintenance are noted. This is one of reasons why it will be required that Marin County shall be named a third party beneficiary to the CC&Rs with the right, but not the legal obligation, to enforce its terms.

**Response to Comment 22-60**

The commentor raises a question regarding the range of alternatives and consistency with the 2007 Judgment.

In regard to the range of alternatives, as discussed on page 546 of the Draft EIR an EIR conceivably can analyze an infinite number of alternatives or variations of alternatives. However, CEQA directs EIRs to analyze a reasonable range of alternatives to the project or project location which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. The analysis of a range of alternatives is governed by a “rule of reason” for alternatives that could feasibly attain the basic objectives of the project. This EIR does analyze a reasonable range of alternatives and additional alternatives are not necessary.

In regard to consistency with the 2007 Judgment the EIR deals extensively with the environmental issues related to the proposed project’s impacts. The issue of whether the proposed project or any alternatives is consistent with the 2007 Judgment issued by the federal district court is an issue that relates to the merits of the proposed project and/or its alternatives. Initially the Board of Supervisors will need to address these issues, but only the court itself can ultimately decide these issues if there is a dispute that cannot otherwise be resolved.

**Response to Comment 22-61**

The Draft EIR provides a reasonable range of alternative with discussion that contributes to informed decision making and public participation. The discussion of *Alternative 2* provides a range of measures that reduce the environmental impacts discussed in the Draft EIR.

The differing grading quantities provided in the Draft EIR discussion of *Alternative 2* are intended to inform the reader of grading amounts estimated to be required for different aspects of the project (eg. cut versus fill and landslide repair compared to total lot grading).

**Response to Comment 22-62**

Please see Response to Comment 22-29 for information related to the differing groundwater analysis of *Impact 5.4-4 Groundwater*. *Impact 5.4-4* is specific to the hazards of landsliding and slope stability as they relate to the amount of groundwater in the slopes. *Impacts 5.5-4 Groundwater Recharge and On-Site Hydrology*, and *5.5-5 Groundwater Recharge and Off-Site Hydrology* are specific to hydrology issues. It is believed that eliminating development of Lots 24 and 35 through 43 would prevent increases to impervious surfaces where groundwater recharge to Keil Spring is assumed to occur by experts (please see Response to Comment 11-12). However, as stated in Master Response 4, there is a lack of baseline data needed to determine the quantity of existing flows that occurs.

**Response to Comment 22-63**

Please see Master Response 3.

**Response to Comment 22-64**

Please see Master Response 3.

**Response to Comment 22-65**

Comment noted. No further response is necessary.

***Exhibit C of the Comment Letter is a memorandum from Jenny L. Sterling and David W. Abbott, PG, CHG, of Daniel B. Stephens & Associates, Inc. Responses to Comments of Daniel B. Stephens & Associates are as follows:***

**Response to Comment 22-66**

Please see Master Response 3.

**Response to Comment 22-67**

The commentor is referred to Master Response 4 which addresses questions related to project impacts on off-site water quality, including Keil Spring, groundwater supplies and Keil Pond. With regard to project water quality impacts to Railroad Marsh, the main factor influencing the finding of less-than-significant impact with implementation of Mitigation Measure 5.5-1 was the fact that the existing watershed condition is substantially urbanized already (36.3 percent, see Technical Appendix to Draft EIR Hydrology and Water Quality section). It is likely that contaminant loading in stormwater discharging to the Marsh comes primarily from the parking lot of the existing facility adjacent and just upgradient to the north. The limited number of residential lots and roadways/driveways associated with the project development in Watershed C would increase the extent of urbanization by only 1.8 percent. Moreover, the project as proposed would utilize in-line storm drain filtration units to remove a significant portion of roadway contaminants and nutrient loading from stormwater runoff. Thus, the project impact on water quality in Railroad Marsh would be less-than-significant.



**Response to Comment 22-68**

The winter of 2010-2011 featured higher than average rainfall totals for the San Francisco Bay Region, including Marin County. While the winter was wetter than normal, there were no high magnitude rainstorms (e.g. greater than ten-year recurrence interval) during the year. Given the project's inclusion of on-site detention facilities to maintain post-project peak flow rates to pre-project levels, and the additional Mitigation Measures 5.5-3(a)-(e), the peak flow rates should not increase significantly with project development. The proposed on-site detention structures would not affect the increased runoff volumes that would obtain from project implementation. To some unquantifiable extent, other proposed measures such as bioswales, infiltration trenches and permeable pavements, could reduce the quantity of additional runoff delivered to site drainageways after development. The increased post-project runoff volumes would increase sediment yields from the project watersheds to some degree. However, the increased slope stability resulting from the prescribed landslide repairs should also reduce the frequency of larger slope instabilities that have likely delivered substantial portions of the site sediment to the drainageways for downstream transport. Taken together, these influences suggest that the post-project watershed response with respect to sediment yield would not be significantly different in wet years than that observed during the 2010-2011 winter.

**Response to Comment 22-69**

This comment is incorrect in that it does not recognize the repairs proposed for Lots 12, 13 and 14 and shown on **Exhibit 5.4-3**. The lots would be repaired with buried drilled pier and grade beam walls. Also, please see Master Responses 3 and 4.

**Response to Comment 22-70**

Please see Master Response 5. In general, Fms (sandstone), the harder unit, is more prone to debris flows landslides. The softer rocks on the site, tend to be Fm, and are more susceptible to the larger landslides. Landslide remediation plans were considered to be in accordance with Marin County standards, or they would not have been included in the Draft EIR.

**Response to Comment 22-71**

The verbatim definition from Glossary of Geology is noted and no change is required in the Draft EIR text.

**Response to Comment 22-72**

The reference was in reference to the influence of the Bay as the groundwater basin outlet and its influence on minimizing the available hydraulic gradient for groundwater flow from the higher cistern to its lower counterpart. The statement is a supposition and no groundwater monitoring data is available to confirm or disprove it.

The discussion under *Hydrology and Water Quality - Environmental Setting, Groundwater and Sensitive Habitats* on page 370 of the Draft EIR text is revised as follows:

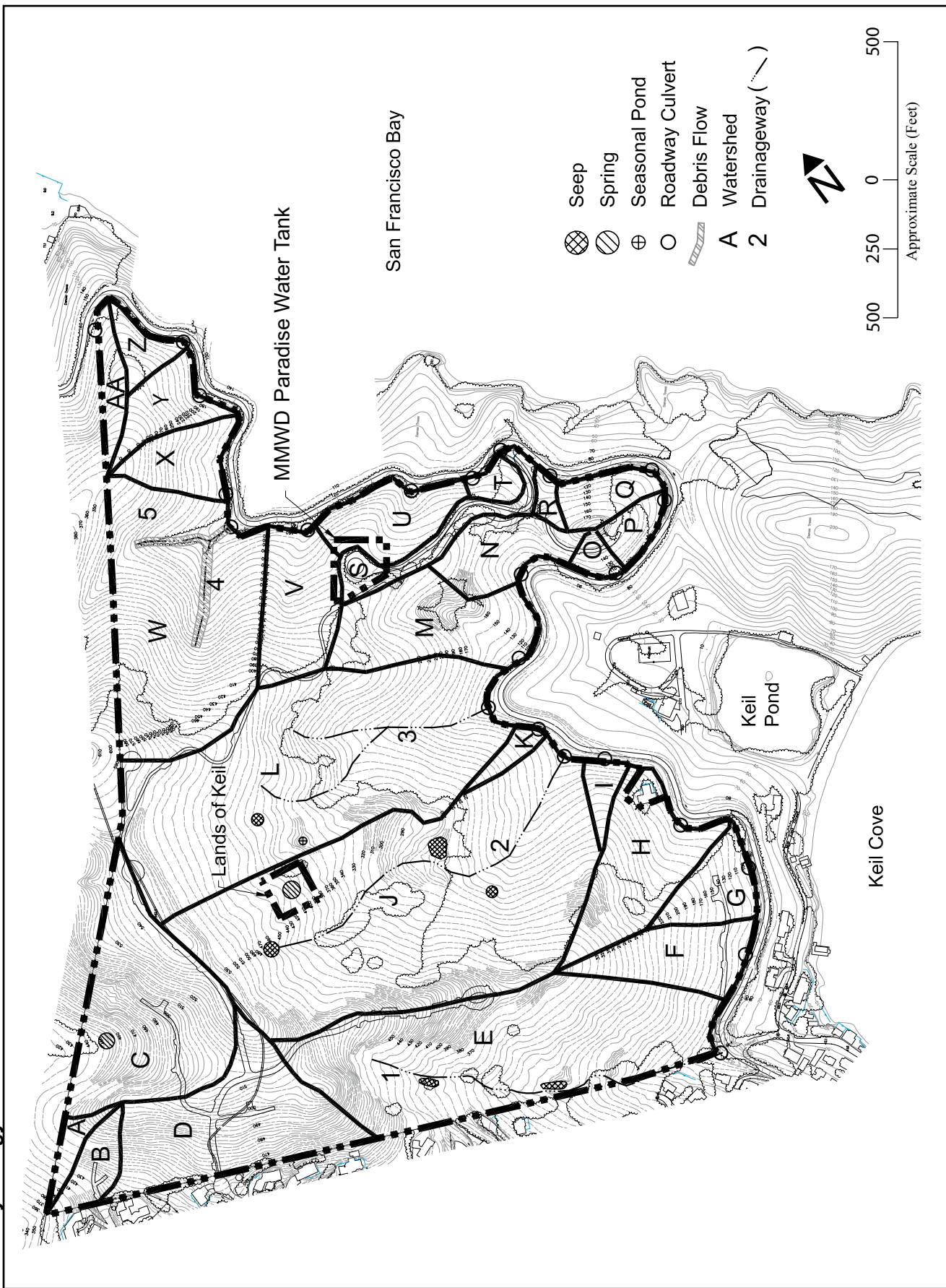
The underground brick cisterns were constructed in the 1890s and receive both tank overflow and groundwater inflow. Cistern depths at the upper and lower locations measure 60 and 40 feet, respectively. Cistern construction is similar to more modern wells to the extent that the upper part of the annular space is mortared to provide a seal while the lower portion is unmortared to allow for seepage into the well. According to the owner, groundwater inflow rates to the higher elevation cistern typically have been higher than inflow rates to the lower

cistern. ~~Presumably, the loss to downgradient seepage is minimal due to the presence of the Bay interface.~~ Pumps set in the cisterns enable the property managers to either feed the irrigation system or recirculate stored waters back to the upper above-ground storage tank. The flexibility of the storage and distribution system has enhanced the ability of the manager to better allocate water resources. Even before installing the storage tanks, the supply was always sufficient to maintain the gardens. However, during the worst period of the 1976-1977 drought, springflow was so limited that the lawns were allowed to die.

**Response to Comment 22-73**

**Exhibit 5.5-1** has been revised to correct the mislabeled watershed. The corrected exhibit is included on the next page.

**Exhibit 5.5-1 (Revised)**  
**Local Hydrology**



Source: Clearwater Hydrology 2010. Base topography provided by applicant. Seeps, spring and pond mapped by the EIR and applicant consultants since 1995.

#### **Response to Comment 22-74**

The commentor refers to the divergence between the peak flow and detention volume computations provided by the project applicant's Drainage Report <sup>42</sup> and the EIR hydrologist (Draft EIR Hydrology Technical Appendix). The Draft EIR's use of different runoff coefficient "C" values for peak flow and detention storage computations is explained fully under the discussion of Peak Flow Assessment on pages 374 and 375 of the Draft EIR. The commentor refers to Figure 10-10 from Dunne and Leopold's text *Water in Environmental Planning* <sup>43</sup> and the presence of shallow soils overlying the Franciscan Mélange geologic unit, in suggesting that the data therein supports a C value closer to the 0.65 applied to undeveloped hillsides in the project *Drainage Report*. The data referenced in Dunne and Leopold's discussion originated from the research conducted by the US Geological Survey and published in *Suggested Criteria for Hydrologic Design of Storm-Drainage Facilities in the San Francisco Bay Region* (Rantz). <sup>44</sup> Rantz's research included representative watersheds from all sub-regions of the SF Bay Region. Many of these watersheds include significant areas underlain by shallow soils over bedrock, similar to the project watersheds. Figure 10-10 from Dunne and Leopold reprises Figure 5 of Rantz, and is an extension of the data cited in Table 1, also from Rantz, which relates different types of development to typical development densities, percent impervious cover and recommended Rational Method "C" values. Cited "C" values for "natural watersheds with 2 percent impervious cover are 0.10-0.30. For these low impervious surface values, the maximum "C" value for higher recurrence interval events (e.g. 100-year.) is listed as 0.40, which is what was utilized by the EIR hydrologist. It is the EIR hydrologist's opinion, based on decades of experience in estimating peak flows using various methods (Rational Methods, flood frequency equations, flood hydrograph simulation models) and often calibrating those estimates with observed or recorded stream discharges, that the "C" values recommended in the Marin County drainage guidelines for peak flow computation are not appropriate for the specific assessment of pre-project vs. post-project peak flow differentials. If a higher existing condition "C" value were used in the peak flow computations for both the pre-project and post-project watershed conditions, the extent of the project impact on site peak flow rates would be substantially reduced. It would also require smaller detention structures for the lot-based stormwater detention facilities prescribed by the project for non-roadway impervious surfaces. This would result from a reduction in the difference in runoff volumes and peak flows that would attend the higher rates of runoff production from the project's undeveloped hillslope areas. As noted in Master Response 6 related to stormwater detention facility design, the Marin County Department of Public Works would be responsible for conducting or facilitating the engineering review of any final design prepared for the project.

#### **Response to Comment 22-75**

The terrace drains and subdrains proposed to be included within graded areas are to be installed in accordance with the requirements of the California Building Code (CBC), which specifies number of drains, elevation and spacing. Therefore, any proposed mitigation measures discussed in the Draft EIR or shown on the plans, and which were required because of the CBC, were considered during the preparation of the Draft EIR.

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<sup>42</sup> *Drainage Report, Onsite Drainage Hydrology and Hydraulics for Easton Point Master Plan, Precise Plan, Tentative Map, Marin County, California.*, prepared by Land Development Solutions, Inc., dated January 29, 2009.

<sup>43</sup> *Water in Environmental Planning*, Dunne, Thomas and Leopold, Luna B., 1979.

<sup>44</sup> *Suggested Criteria for Hydrologic Design of Storm-Drainage Facilities in the San Francisco Bay Region*, California, S.E. Rantz, U.S. Geological Survey Open-File Report, 1971.

**Response to Comment 22-76**

Please see Master Response 3 and Response to Comments 22-45 and 22-47 through 22-49.

**Response to Comment 22-77**

Please refer to the Response to Comment 22-42 for a discussion on regulations governing stormwater quality protection for construction activities under the federal NPDES statutes. In addition, note that the RWQCB is empowered to issue fines to project developers who violate water quality standards.

**Response to Comment 22-78**

Please see Master Responses 4, 5, and 6, and Response to Comments 22-42 and 22-68.

**Response to Comment 22-79**

Please see Master Responses 3 and 4.

**Response to Comment 22-80**

Please see Master Responses 3 and 4.

**Response to Comment 22-81**

In response to this comment, it is stated on page 545, under *Significance After Mitigation*, that without cooperation of the owners of Keil Cove to implement Mitigation Measure 5.5-6, the project impact on Keil Cove's water supply would remain significant and unavoidable. Also, please see Master Response 3. No further response is necessary.

**Exhibit D of the Comment Letter is memo from Robert Lamb Hart.**

Please see the response to comment letter 90.

APR 25 2011 10:12:52 AM

April 21, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, I am concerned that....

1

...The EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property.

- Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. I'd like to see that type of alternative analyzed.
- Isn't it illegal to build homes on a ridgeline in California now?
- A 7-lot plan which is more environmentally and neighborhood friendly than any alternative in the DEIR was studied in 2009. I'd like that alternative analyzed.

2

...The construction road will be too steep and too narrow for trucks with full loads to negotiate.

- How will the homes below the road be protected from runaway vehicles and equipment?
- Who is responsible if safety accidents occur because of the poorly designed construction road?
- Where is the analysis of additional traffic, air pollution and noise impacts from having to stage or off load full trucks in order to reduce their load and get them up the construction road?
- How will delays from using less than full trucks impact the construction schedule?
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...Maintenance for roads, drainage and other infrastructure has not been fully provided for in perpetuity with the current project assuming a reliance on the local Homeowners Associations (HOAs) to provide maintenance funding.

- Who will handle maintenance if the developer goes bankrupt and the construction is left incomplete?
- Has the county and the developer considered requiring a bond to ensure funds are available for systems and infrastructure maintenance since the HOAs are in no position to and should not be expected to fund maintenance?

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...The development plan does not provide a definition for a guest house or outbuildings

- Is the maximum footprint for buildings on each lot inclusive of outbuildings and guesthouses?
- If not, would the developer be allowed to scope the project for main houses with smaller square footage but then build larger and multiple other buildings on each property with larger square footages which could also be residences?

- If so, where is the analysis of the safety, construction, pollution, water, landslide, and other impacts of these additional structures?

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...The noise impacts of the development are not mitigated in the plan

- Noise from 12 years of construction could be mitigated by requiring the developer to follow the shorter Tiburon, rather than the longer Marin County construction hours. I'd like to see that alternative analyzed.
- Requiring the use of electric vehicles and equipment could also minimize noise (and air quality impacts). I'd like to see that alternative analyzed.

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...The impacts to the County and Town from the loss of open space have not been fully explored

- Where in the DEIR is the analysis of the economic impact of losing contiguous open space? What are the impacts to property values, tourism, and the desirability of living in Tiburon?

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...The DEIR includes traffic counts but not all traffic impacts have been considered or mitigations planned. Traffic levels are already unacceptable on Tiburon Boulevard around school start and end times and with construction traffic in the afternoon.

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...The biological impacts of the project are not able to be fully mitigated.

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- I'd also like to see an alternative where mitigation measures are applied to this project, not to future development projects so that the impact of this project is lessened and the developer responsible for preservation, restoration or creation of alternative habitat for wildlife and special status plants.
- I'd also like to see the analysis of the loss of the coast live oak and how the loss of those trees in this Open Space contributes to the overall decline of that plant species in California

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...The Air Quality impacts of the development are not in compliance with the Bay Area Clean Air Plan from the perspective of Greenhouse Gas Emissions and Vehicle Miles Traveled

- Won't the loss of 742 trees worsen the negative air quality impact of the development? How much could the air quality be improved if those trees were maintained or replantings made?
- Can you include keeping these trees in your analysis to lessen the impacts on air quality, wildlife and the viewspace?
- Can the project be approved when it has multiple unavoidable air quality impacts and doesn't comply with State standards?

Sincerely,

Bob & Nancy Traims  
1 Heathcliff Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 23 – BOB AND NANCY TRAHMS (APRIL 21, 2011)**

**Response to Comment 23-1**

*Alternative 3* and *Alternative 4* do include increased density at lower elevations. The commentor suggest that clustering houses at lower elevations would reduce visual impacts. However substantially increasing development at lower elevations would change the visual appearance of Paradise Drive and alter the scope of grading and proposed landslide repair that is discussed in **Section 5.4 Geology and Soils**.

**Response to Comment 23-2**

Please see Master Response 2 for information regarding construction road. An analysis of construction vehicle impacts is discussed with *Impact 5.1-13 Construction Traffic Impacts*. These impacts would be reduced to a less-than-significant level with implementation of measure proposed with Mitigation Measure 5.1-13.

The evaluation of impacts related to construction traffic has been based on the proposed project and submitted construction management plans. The commentor raises the question that there may be construction delays resulting for delivery trucks only transporting partial loads. This and any other potential impacts is speculative in nature and outside the scope of analysis for the Draft EIR. Construction traffic would be subject to common traffic and safety regulations and an analysis that accounts for violations of these traffic safety measures would be speculative.

**Response to Comment 23-3**

This topic is addressed in Response to Comment 1-3, where Mitigation Measure 5.4-1 is revised to address POA responsibilities. However, CEQA does not require that an EIR speculate on the financial feasibility of this project.

**Response to Comment 23-4**

The maximum house sizes (**Exhibit 3.0-5**) include the sum of all habitable floor area and proposed maximum lot coverage is the total building footprint for all building improvements including houses, storage sheds, pools, cabanas and etc.

**Response to Comment 23-5**

Noise impacts are discussed under *Impact 5.3-1 Construction Noise*. Mitigation Measure 5.3-1 would help reduce noise impacts on adjacent residences by requiring compliance with as discussed under *Impact 5.3-1* implementation of mitigation measures would not reduce construction noise impacts to a less-than-significant level because construction noise would substantially exceed existing ambient noise levels, resulting in a significant and unavoidable impact.

An analysis of construction noise impacts is provided with the discussion of *Impact 5.3-1*. The proposed precise development plan includes a Construction Management Plan<sup>45</sup> which contains noise control measures that are described on page 311 of the Draft EIR. Mitigation Measure 5.3-1 contains

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<sup>45</sup> Construction Management Plan 2008, Appendix F of *Easton Point – Project Narrative*, project applicant, 2008, page 1.



measures to further reduce noise impacts, however as discussed with *Impact 5.3-1* temporary noise increases in what is a quiet ambient setting would be a significant unavoidable impact.

**Response to Comment 23-6**

The commentor suggests that implementation of the proposed project would result in a loss of contiguous open space. In fact, as proposed the project would increase the amount of preserved open space in the area. An analysis of open space impacts is included with *Impact 5.7-19 Open Space Impacts*.

**Response to Comment 23-7**

Please see Response to Comments 1-2 and 7-14. Furthermore, the issues brought up by the commentor are generally discussed in **Section 5.1 Transportation**, which begins on page 169 of the Draft EIR. This analysis included both anticipated traffic from the construction of the project and private vehicle traffic that would occur with the land use throughout the lifetime of the project.

**Response to Comment 23-8**

Mitigation Measures would reduce the proposed projects impacts on Biological Resources to less-than-significant levels. Please see Response to Comments 11-2, 11-8, 15-10, 15-12 thru 15-15, 15-17, and 16-26 for information responding to the issues brought raised in this comment.

**Response to Comment 23-9**

As noted on page 287 of the Draft EIR the project would not violate any air quality standards nor conflict with or obstruct implementation Bay Area Clean Air Plan. Air quality impacts resulting from this project would be less-than-significant. *Impact 5.6-4 Loss of Coast Live Oak Woodland* and *Impact 5.6-8 Loss of Ordinance-Size Trees* would both be reduced to less-than-significant levels.

APR 20 2011 PM 1:38 PAPER

April 20, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, I am concerned that....

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- Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. I'd like to see that type of alternative analyzed.
- Isn't it illegal to build homes on a ridgeline in California now?
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...The construction road will be too steep and too narrow for trucks with full loads to negotiate.

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Sincerely,

*Jill J. Richards*

Jill Richards  
5 Heathcliff Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 24 – JILL RICHARDS (APRIL 20, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

April 21, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

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Sincerely,



Nadine & Gerald Hill  
7 Heathcliff Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 25 – NADINE & GERALD HILL (APRIL 21, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

April 21, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

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Sincerely,

  
Ernest & Marlene Bates  
4 Heathcliff Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 26 – ERNEST & MARLENE BATES (APRIL 21, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

Letter No. 27

April 21, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

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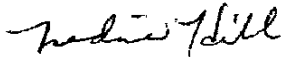
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Nadine & Gerald Hill  
7 Heathcliff Drive  
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**RESPONSE TO LETTER NO. 27 – NADINE HILL (APRIL 21, 2011)**

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April 21, 2011

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County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
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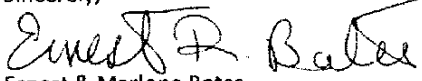
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- I'd also like to see the analysis of the loss of the coast live oak and how the loss of those trees in this Open Space contributes to the overall decline of that plant species in California

...The Air Quality impacts of the development are not in compliance with the Bay Area Clean Air Plan from the perspective of Greenhouse Gas Emissions and Vehicle Miles Traveled

- Won't the loss of 742 trees worsen the negative air quality impact of the development? How much could the air quality be improved if those trees were maintained or replantings made?
- Can you include keeping these trees in your analysis to lessen the impacts on air quality, wildlife and the view space?
- Can the project be approved when it has multiple unavoidable air quality impacts and doesn't comply with State standards?

Sincerely,

  
Ernest & Marlene Bates  
4 Heathcliff Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 28 – ERNEST R. BATES (APRIL 21, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.



April 21, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, I am concerned that....

...The EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property.

- Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. I'd like to see that type of alternative analyzed.
- Isn't it illegal to build homes on a ridgeline in California now?
- A 7-lot plan which is more environmentally and neighborhood friendly than any alternative in the DEIR was studied in 2009. I'd like that alternative analyzed.

...The construction road will be too steep and too narrow for trucks with full loads to negotiate.

- How will the homes below the road be protected from runaway vehicles and equipment?
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- Where is the analysis of additional traffic, air pollution and noise impacts from having to stage or off load full trucks in order to reduce their load and get them up the construction road?
- How will delays from using less than full trucks impact the construction schedule?
- Who will be monitoring daily construction traffic to ensure it complies with construction and neighborhood road limits as well air pollution mitigation requirements?

...Maintenance for roads, drainage and other infrastructure has not been fully provided for in perpetuity with the current project assuming a reliance on the local Homeowners Associations (HOAs) to provide maintenance funding.

- Who will handle maintenance if the developer goes bankrupt and the construction is left incomplete?
- Has the county and the developer considered requiring a bond to ensure funds are available for systems and infrastructure maintenance since the HOAs are in no position to and should not be expected to fund maintenance?

...The development plan does not provide a definition for a guest house or outbuildings

- Is the maximum footprint for buildings on each lot inclusive of outbuildings and guesthouses?
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- If so, where is the analysis of the safety, construction, pollution, water, landslide, and other impacts of these additional structures?

...The noise impacts of the development are not mitigated in the plan

- Noise from 12 years of construction could be mitigated by requiring the developer to follow the shorter Tiburon, rather than the longer Marin County construction hours. I'd like to see that alternative analyzed.
- Requiring the use of electric vehicles and equipment could also minimize noise (and air quality impacts). I'd like to see that alternative analyzed.

...The impacts to the County and Town from the loss of open space have not been fully explored

- Where in the DEIR is the analysis of the economic impact of losing contiguous open space? What are the impacts to property values, tourism, and the desirability of living in Tiburon?

...The DEIR includes traffic counts but not all traffic impacts have been considered or mitigations planned. Traffic levels are already unacceptable on Tiburon Boulevard around school start and end times and with construction traffic in the afternoon.

- Where is the schedule for the planned mitigations? Will the various agencies that need to provide services for mitigations be held to the project development schedule? Would mitigations be completed prior to the beginning of the project?
- What happens if the developer does not pay for all suggested mitigations?
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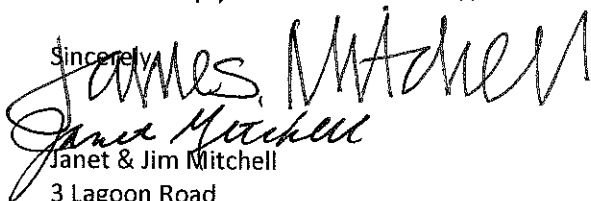
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- The loss of contiguous undeveloped space leaves our community without an important natural resource and is a further loss to wildlife. I'd like to see an alternative where development is confined to a single area leaving the undeveloped habitat unfragmented.
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- Can the project be approved when it has multiple unavoidable air quality impacts and doesn't comply with State standards?

Sincerely,

  
James Mitchell

Janet & Jim Mitchell

3 Lagoon Road  
Belvedere, CA 94920

**RESPONSE TO LETTER NO. 29 – JANET & JIM MITCHELL (APRIL 21, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

Letter No. 30

April 19, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community. I live directly adjacent to the proposed site and having discussed with my neighbors, I have the following comments.

Specifically, I am concerned that....

...The EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property.

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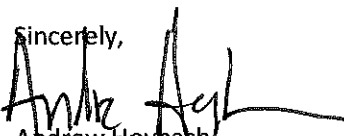
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Sincerely,  
  
 Andrew Hoybach  
 96 Sugarloaf Drive  
 Tiburon, CA 94920

**RESPONSE TO LETTER NO. 30 – ANDREW HOYBACH (APRIL 19, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

Letter No. 31

April 19, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

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Sincerely,

Capucine Hoybach  
96 Sugarloaf Drive  
Tiburon, CA 94920



**RESPONSE TO LETTER NO. 31 – CAPUDINE HOYBACH (APRIL 19, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

Letter No. 32

April 25, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

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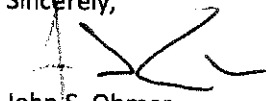
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Sincerely,



John S. Ohmer  
18 Acacia Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 32 – JOHN S. OHMER (APRIL 25, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

APR 27 2011 PM 5:35 PM

April 21, 2011

Letter No. 33

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

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— over —

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Sincerely,



Steve Soja  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 33 – STEVE SOJA (APRIL 21, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

April 21, 2011

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County of Marin, Community Development Agency  
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San Rafael, CA 94903

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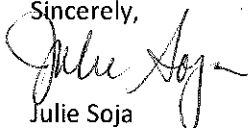
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- Won't the loss of 742 trees worsen the negative air quality impact of the development? How much could the air quality be improved if those trees were maintained or replantings made?
- Can you include keeping these trees in your analysis to lessen the impacts on air quality, wildlife and the viewspace?
- Can the project be approved when it has multiple unavoidable air quality impacts and doesn't comply with State standards?

Sincerely,



Julie Soja

Tiburon, CA 94920

**RESPONSE TO LETTER NO. 34 – JULIE SOJA (APRIL 21, 2011)**

This is a duplicate letter. Please see Response to Comment Letter No. 23.

TO: Marin County Planning Department  
RE: Martha Property Easton Property Draft EIR

DATE: March 24, 2011

1

1. Per 5.2 Pg. 287-288 Air Quality Impact Analysis Construction Period Air Pollutant Emission and 5.5 Hydrology p. 321 As noted the site contains jurasicaged serpentine in the SW corner

Since the project of development will span 2+years, has there been an analysis of the air quality when serpentine rock containing asbestos is blown by the high wind experienced on this site? As winds gust upwards of 30-40 miles an hour, particularly in the summer months along the Tiburon ridges, this may be a concern to residents who have compromised immune systems or to young children in the area. Have wind speeds been measured?

2

2. Per 5.7 Wastewater p. 478 With the addition of the homes off Ridge Road, there will be additional water runoff into the storm drains. Have the sewer lines and drainage pipes throughout Old Tiburon been scoped?

There are currently breaks in the storm drains as evidenced by the break along Raccoon Lane which the Town of Tiburon has not been able to repair. Significant water already overflows and causes dirt and excess water to flood onto adjacent properties on lower Raccoon Lane. Several years ago the Town had to replace a storm drain on Centro West to prevent flooding on a home on Mar West.

3

3. Per 5.7-17 Cumulative Public School Impacts

The report says the RUSD is only using a generator rate of .5 children per new home built, however, these homes will be of significant size to accommodate a family with 3-4 children. In the report, the Reed School has a current capacity of only 4 additional children. This could be a trend showing more demand for space in the Reed School district causing even further detrimental impact on space causing overcrowding and a higher detrimental impact on enrichment programs.

Has the EIR taken into consideration a projection for the next 10 years of the impact on the local schools?

Is it possible to charge a school bond assessment for each home built?

Submitted by



Patricia Montag

Raccoon Lane, Tiburon, CA

**RESPONSE TO LETTER NO. 35 – PATRICIA MONTAG (MARCH 24, 2011)**

**Response to Comment 35-1**

The comment notes that there are gusty winds on Tiburon Ridge and questions whether there has been an analysis of the air quality associated with disturbance of serpentine rock during episodes of these high winds.

As noted in *Impact 5.2-2 Generation of Airborne Asbestos* there is a potential to emit naturally occurring asbestos due to disturbance of serpentine rock outcroppings that are present in some areas of the project site. These types of rock outcroppings are not common at the site. Therefore, most construction activities would not involve disturbance of soils that could include naturally occurring asbestos. Construction period emissions of air pollutants and toxic air contaminants are addressed in *Impact 5.2-1 Construction Period Air Pollutant Emissions*. The potential for generation of airborne asbestos is specifically addressed in *Impact 5.2-2*. As described in *Impact 5.2-1*, the proposed project would include a Construction Management Plan that includes measures to reduce air pollutant emissions. This plan, along with Mitigation Measure 5.2-1 would be consistent with the best management practices recommended by the BAAQMD CEQA Guidelines for reducing fugitive dust (PM<sub>10</sub>) emissions from construction activities. BAAQMD regulates the emissions from naturally occurring asbestos caused by the disturbance of serpentine formations. As stated on page 292 of the Draft EIR, “the project applicant would be required to consult with the BAAQMD’s Enforcement Division prior to disturbance of soils that may contain asbestos. Project adherence to this requirement ensures that asbestos-related impacts would be less-than-significant. The regulation is designed to employ the best available dust mitigation measures in order to reduce and control dust emissions. The regulation is designed to employ the best available dust mitigation measures in order to reduce and control dust emissions so that sensitive receptors are not exposed to unhealthy levels of this contaminant.” Implementation of the Construction Management Plan with Mitigation Measure 5.2-1 and adherence to BAAQMD rules and regulations would minimize dust emissions such that the significant emissions of naturally occurring asbestos would be avoided. Mitigation Measure 5.2-1 has been revised as follows to include restrictions to grading or excavation activities during periods of high winds:

Mitigation measure for *Impact 5.2-1 Construction-Period Air Pollutant Emissions* beginning on page 290 of the Draft EIR is revised as follows:

- The Construction Management Plan shall be modified to require use of off-road construction equipment greater than 50 horsepower in size to meet U.S. EPA Tier II standards or newer, ~~that was manufactured during or after 1996 meeting the California Tier I emissions standard or is equipped with diesel particulate filters or uses alternative fuels (e.g., biodiesel) that result in lower particulate matter emissions that are at least 20 percent lower than the statewide fleet average reported by the California Air Resources Board.~~
- The Construction Management Plan shall be modified to prohibit the use of “dirty” equipment. Opacity is an indicator of exhaust particulate emissions from off-road diesel-powered equipment. The project shall ensure that emissions from all construction diesel-powered equipment used on the project site do not exceed 40-percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40-percent opacity (or Ringelmann 2.0) shall be repaired immediately. In essence, any piece of equipment that emits dark smoke for more than three minutes would be in violation of this mitigation measure.

- The Construction Management Plan shall be modified to ensure that diesel equipment standing idle for more than ~~two~~<sup>five</sup> minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site.
- The Construction Management Plan shall be revised to include the following PM10 control measures:
  - Prevent visible tracking of mud or dirt on to public roadways or immediately sweep dirt or mud tracked on to roadways.
  - Sweep public streets daily (with water sweepers) if visible soil material is carried onto public streets.
  - Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - All haul trucks transporting soil, sand or other loose material shall be covered.
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
  - Post a publicly visible sign with the telephone number and person to contact at the County regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

**Response to Comment 35-2**

Please see Master Response 6 for revision to Mitigation Measure 5.5-3, which addresses the on-site detention of increased runoff that would result from the project's impervious surface. Off-site flooding impacts are discussed in *Impact 5.5-2 On-Site Drainage Pattern* on-site and off-site drainage impacts are discussed in **Section 5.5 Hydrology and Water Quality**, particularly with *Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection*. The issue of wastewater is addressed in the discussion of *Impact 5.7-10 Increase to Wastewater Treatment Demand*.

**Response to Comment 35-3**

In evaluating project impacts on the Reed Union School District it seems the best tool for estimating how many new students would result from project build-out is the District's student generation rate of 0.5 per new single family housing unit. As discussed with *Impact 5.7-15 Reed Union School District* the project would generate approximately 21 students and the Reed Union School District has adequate capacity to accommodate the student increase.

Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

March 30, 2011

Dear Ms Warner

Thank you for the opportunity to comment on the Environmental Impact on the proposed Lower Density Alternative to the Easton Point Residential Development Project.

Just as the proposed development of the 43 single-family residential units was found to have a negative impact on our community, I feel the 32-unit alternative equally has a negative impact on the environment.

1

My main objection is the **traffic, parking, and circulation of traffic** on the roads leading in and out of Tiburon. As it stands now, the congestion is next to impossible at certain hours of the day. When those in our community travel to and from work or school, Tiburon Blvd is virtually at a stand still. Developing this property will only add to this congestion. Not only the residents of the community will be continuing to commute, but we will also have additional heavy construction equipment and contractors driving up and down the main thoroughfare. The traffic will be unbearable.

Then, if the project is complete, the addition of at least two cars for each of the 32 units will add a further burden on the traffic driving in and out of the community, not to mention visitors to these new homes. Bus service has already been curtailed over the years, so public transportation is limited.

I have mentioned the traffic to the **daily** life of the residents of Tiburon and Belvedere will have a negative impact with additional new homes being built. Now think about when there is an emergency. Most of

Tiburon Blvd is a two-lane highway, very difficult for emergency vehicles to negotiate when traffic exists.

I object to the lower density proposal, due to the environmental impact it will have on traffic, parking and circulation.

Sincerely,

A handwritten signature in black ink that reads "Jill G. Barnett". The signature is written in a cursive style with a large, looping initial "J" and a stylized "G".

Jill Barnett  
50 Peninsula Road  
Belvedere, CA 94920

**RESPONSE TO LETTER NO. 36 – JILL BARNETT (MARCH 20, 2011)**

**Response to Comment 36-1**

This comment raises an opinion on the merits of the proposed project and *Alternative 2*, and is not related to the adequacy of the Draft EIR. Project impacts to traffic on Tiburon Boulevard is discussed in the Draft EIR under *Impact 5.1-4 Impact on Regional Roadways*. Impacts to Tiburon Boulevard would be less-than-significant.



Ms Rachel Warner  
Interim Environmental Coordinator  
Marin County Development Agency  
3501 Civic Center Drive  
San Rafael, Ca 94903

April 2, 2011

Re: Easton Point Draft Environmental Impact Report

Dear Ms Warner,

I have read the recently released Easton Point Draft Environmental Impact Report. I live in Tiburon and in one of the affected areas, referred to in the report as Hill Haven Neighborhood. My address is 1965 Vistazo West St, Tiburon, Ca 94920. This letter will serve as my comments on the Report.

As with most Tiburon residents, we are extremely disappointed to see how the Easton Point development will destroy the open space that is such an integral part of our community. A significant part of the value of many of the homes in Tiburon is the environment that promotes family walks in a green and picturesque landscape. We walk at least weekly up on the ridge and remark how this makes Tiburon such a wonderful place to live.

The proposed development will destroy that environmentally friendly feel. While I do understand it is not possible to stop the development, I hope there are ways to influence it to retain the quality of a healthy lifestyle that makes Tiburon so unique. One way to start would be to reduce the number of homes to be built and maintain the walking paths. I hope that can be accomplished.

1 However, the focus of my comments relate to several Health and Safety items in the Report. More specifically, my comments will primarily relate to the findings and recommendations in the report related to Transportation, Section 5. Starting on page 197, the Draft Report describes the narrow, winding road through the Hill Haven Neighborhood that would serve as THE SINGLE PERMANENT ACCESS ROUTE TO THE NEW PROPERTIES. In particular, the roads of Diviso, Vistazo West and Ridge represent the ONLY WAY FOR THE NEW RESIDENTS TO ACCESS THEIR PROPERTY. My home is on that singular route. In my opinion, the Report dramatically understates the problem of a single access route and offers no mitigation approach in the event of a natural disaster.

As described in the report, these streets are already extremely narrow and cannot be expanded because of the existing property lines. In particular, Diviso Street barely has space for 2 regular vehicles to pass. Should an emergency vehicle or fire truck need to

access the area, they would need the entire street. In the event of a real fire or other natural disaster, the descending vehicles would create a ROADBLOCK THAT WOULD NOT ALLOW NEEDED EMERGENCY SERVICES TO ACCESS THE PROBLEM AREAS. This is clearly a SAFETY ISSUE.

This problem is made worse by the lack of sidewalks; forcing all residents of the area to walk children and pets in the street. Even a walking evacuation would be severely hampered by the size of the roads and the congestion. Already, with the current volume of traffic, these streets are an accident waiting to happen. Drivers do not obey the posted speed and Police never enforce the limits. There are many blind curves and driveways that add to the problem.

I also have not mentioned the 2 streets that connect the ONE WAY IN – ONE WAY OUT roads of Diviso, Vistazo, and Ridge to the Town of Tiburon. The shortest route is via Centro West. As described in the Report it requires a 3 point turn on to a winding, narrow road that is impassible in several places by 2 vehicles at the same time. With parking and construction on the street it is a clear ACCIDENT PRONE AREA. Emergency vehicles of any size would have difficulty with this road.

The second connector road to the ONE WAY IN – ONE WAY OUT section is via Centro East. Again this narrow road has no sidewalks and is barely passable by two vehicles at the same time. It would also be a nightmare in an emergency situation.

In summary, the current road situation is unacceptable and any additional homes using this ONE WAY IN – ONE WAY OUT route would only make the problem worse. I could easily prove my points by merely parking my car across the street in front of any home on the One Way route. ***No Police or tow truck could get past the congestion created to get to the site of the problem.*** I believe the Report, clearly pandering to the Builders who paid for it, has dramatically understated the current situation, and offered no mitigation approach.

2

My second problem with the Report is the huge understatement of the traffic impact of the new homes. If the 40+ homes are built, we can assume each of these expensive homes will have at least 3 vehicles. Surely each of these vehicles will make at least one trip per day using the ONE WAY IN – ONE WAY OUT route. When you add the additional vehicles required to service each of these homes from providers such as Fed Ex, pest control, USPS, cleaning services, yard services, maintenance, furniture and many others, it will add at least another 2 vehicles per day on the ONE WAY IN – ONE WAY OUT route.

Doing the simple math, these new homes would add at least 5 additional trips each way. THAT IS A TOTAL OF 400+ NEW VEHICLES USING AN ALREADY UNDERSIZED TRAFFIC INFRASTRUCTURE. Residents like myself will feel like living on a freeway, and the residents' Health will be severely impacted by the Noise and Pollution. The 400+ new vehicles will only INCREASE THE POTENTIAL FOR A DISASTER IN THE EVENT OF AN EMERGENCY SUCH AS A FIRE OR

EARTHQUAKE. The additional homes certainly increase the risk of fire, and add significantly to the congestion.

This increase in volume is listed in Section 5.1.10 as a problem. The Mitigation measure recommended as” no parking of dumpsters “ - DOES NOT ADDRESS THE PROBLEM.

I have not even discussed the impact on traffic along Tiburon Blvd. As pointed out in the report it is already saturated at peak times. The additional 400+ vehicles can only make this worse.

So given all these impending traffic problems on the ONE WAY IN- ONE WAY OUT route created by the Easton Point project, what recommendations are made by the Report: Add a stop sign and post no parking signs on Diviso! Clearly this must be a joke. These will not adequately address the problem.

While the new construction route will mitigate the problem in the early going, it does nothing for the ongoing problem of ONE WAY IN – ONE WAY OUT. I believe the Report does not adequately explain which vehicles will use the construction road and how that will be enforced. Any construction traffic on the narrow access roads through Hill Haven will be a clear Safety Hazard.

Even if the road were made permanent, it would not solve the problem as the new homeowners would not use the route, as it takes you too far from the desired destinations of Tiburon or beyond. It would also never be used by all the service vehicles as it is not the shortest route and they are all looking for efficiency.

Therefore, I believe the Report needs to offer a solution that CREATES A NEW ROAD TO ACCESS THE NEW HOMES AND OTHERS IN THE NEARBY AREAS. This road would need to be accessible from Tiburon Blvd, and must facilitate going to and from the main Highway 101. Not surprising, the option of a new permanent access road was not included in the Draft report.

3

Therefore to summarize, I have the following key Health and Safety concerns:

1. The DEIR creates an unsafe condition by using only One Way in and One Way out and will not be sufficient in the event of a natural disaster
2. The DEIR creates an unsafe condition by adding a volume of traffic that will lead to increased accidents and poorer health of Hill Haven residents.
3. Mitigation measure 5.1.10 does not address the volume problem
- 4.. The DEIR does not describe the volume of construction vehicles that will use the existing roads and how use of the Construction road will be enforced.

I hope my comments will be taken as specific and constructive and that you and the Marin County Community Agency will give them the consideration they warrant. I am a

significant annual property tax payer. Please do not give in to the interests of the developers and leave behind the people who will be adversely impacted.

I am available anytime to speak in person on this matter. I do plan to make my voice heard until the problems I have described are resolved.

Sincerely,



Mark E Delane  
1965 Vistazo West  
Tiburon, Ca 94920  
415 990 7165

**RESPONSE TO LETTER NO. 37 – MARK E. DELANE (APRIL 2, 2011)**

**Response to Comment 37-1**

Please see Master Response 1.

**Response to Comment 37-2**

As discussed under *Project Traffic Generation* (page 200 of the Draft EIR) vehicle trip generation rates for the proposed project were established by averaging traffic counts over a five day period at Upper Gilmartin Drive and Upper Reed Ranch Road. These neighborhoods were chosen because they have similar characteristics to the proposed project and it was thought that using this method would provide a better estimate of project trips than using the standard trip generation rates prepared by the Institute of Transportation. This was done in response to comments received during the public scoping process. The resulting trip generation rates are shown in **Exhibit 5.1-12**. Also, please see Master Response 1.

**Response to Comment 37-3**

Please see Master Responses 1 and 2.

**8 Raccoon Lane Tiburon, CA 94920-1949 (415) 435-5612**

Ms. Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael CA 94903

We have read through the Draft Environmental Impact Report for the Easton Point Project. It is likely we will be out of town on the date of the public review, so we are sending our feedback in writing.

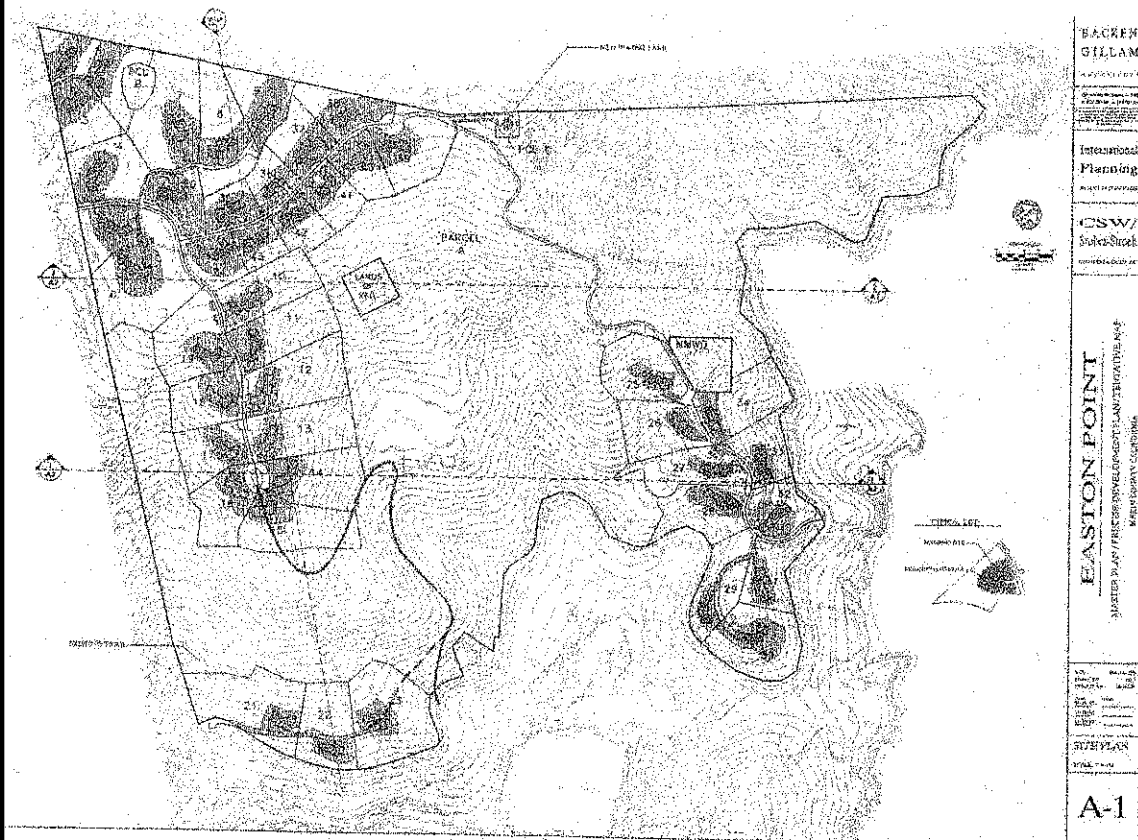
We wrote a letter last year before this report was written, and we're glad to see our input acknowledged in the report. However, we do not believe our issue has been addressed, on safety and increased traffic through Old Tiburon community streets. We also do not believe the report accurate or complete in its assessment of facts on this matter. We summarize our concerns in this letter, but you can find a more detailed description with photos and diagrams on this web site:

Our issue is that the narrow existing streets are totally inadequate to safely handle the traffic leading to the largest tract of houses on the site, above Ridge Road. Specifically, Diviso and Centro East/West cannot safely handle two-way car traffic, not to mention pedestrians, bicyclists, and parked cars. Other streets such as Solano And Vistazo are not much better. The temporary construction road is not a solution; work will likely continue for a decade or more on individual homes, and in any case our concern is the ongoing “steady state” traffic for both workers and residents in the tract.

We were surprised to see the report included many pages of discussion and diagrams of traffic on Tiburon Boulevard, which is a veritable Boeing 767 landing strip in comparison to Diviso/Centro. It is hard to believe that anyone spent more than a few minutes examining the condition of the Old Tiburon streets, looking at the report.

The only suggestions made are to prohibit parking and dumpsters on Old Tiburon streets. This “mitigation” only creates a new problem for Old Tiburon residents, and it may make the traffic situation *worse*: if pedestrians and construction trucks must travel to more distant parking or dumpsters, the safety issue may be worse, not better. In any case, this mitigation doesn’t solve the problem: the streets are simply too narrow and winding for two-way traffic. Bicyclists, children, pedestrians, and cars are all at risk with the short sight distance, and drivers already go too fast in impatience to get down the hill from streets even nearer than Ridge Road. Speed bumps might help a little, but that is not even proposed.

In our letter last year, we suggested it might be feasible to build a second route down from Ridge Road. There is no discussion whatsoever of this alternative in the report. We wonder if an alternative route was prematurely rejected, without adequate consideration of the consequences. Certainly there are engineering and cost issues, but we would like to hear them considered. For example, the end of Ridge Road at Lot 1 is fairly close to the proposed road to Lots 21-23. It might be feasible to connect these roads with just two switchbacks up the hill, as we've suggested on our web site:



**EXHIBIT A**  
**43-UNIT PLAN**



This route provides a much faster and more direct way down, on newly built wide roads, and runs to Paradise Drive / Tiburon Blvd, which are comparatively well equipped to handle two-way traffic. We understand there are potential landslide areas on the hillside, but perhaps a new road could be part of a solution to that, creating barriers and retaining walls to protect against landslides.

Alternatively, the temporary construction road could be made permanent. This route is longer, but is still safer and less travel time from the top of Ridge Road, compared to driving the Old Tiburon route.

We realize there are trade-offs with alternate routes, we would simply like to hear them considered. The safety issues are paramount. Routing all of this traffic through the narrow winding roads of Old Tiburon is a bad idea.

We can provide further documentation if desired. Our phone number and address is on our letterhead. Thank you for listening!

Sincerely,



Rick and Susan Cattell



**RESPONSE TO LETTER NO. 38 – RICK AND SUSAN CATTELL (APRIL 8, 2011)**

**Response to Comment 38-1**

Please see Master Response 1.

**Response to Comment 38-2**

Please see Master Response 1. The EIR traffic analysts consider the combination of improvements (mitigations) recommended in the Draft EIR, such as elimination of dumpsters in the travel-way, improved signage and “no parking” added to select streets, to represent effective improvements to the affected streets in the Lyford Cove/Old Tiburon and Hill Haven neighborhoods.

**Response to Comment 38-3**

Implementation of the suggested alternative road (a road leading down from the Ridge Road extension to Paradise Drive, using the proposed intersection at Lots 21 to 23 as the entry point) would result in significant adverse impacts. Such a road would be classified as a Residential Road as defined in the Marin County Code (section 24.04.030). A residential road means a road providing access to a generally residential area and which serves or may serve 20 or more dwelling units and a maximum potential average daily traffic of one thousand. Based on the Marin County Code such a road would be required to have a width of 36 feet and a maximum grade of 12 percent.

Existing slopes in the area range between 20 and 30 percent with several areas having slopes greater than 30 percent. A preliminary review indicates that there is not enough horizontal distance to physically make such a road work without constructing a new hillside and moving hundreds of thousands of yards of dirt.<sup>46</sup> The road would likely require switchbacks which in turn would require large retaining walls. The extensive grading and retaining walls also would have significant adverse visual impacts. The road would cross landslides 9 and 10 and interfere with a proposed subdrain for Landslide 9. The required grading would also destabilize landslides 9 and 10 and result in a hazard above Lot 23. Furthermore, the required grading would include mass grading on Landslide 11. The construction activity would destabilize Landslide 11 and threaten Paradise Drive below.

Based on the steepness of the existing slopes and slope instability (numerous landslides), the extent of remediation that would be necessary, and the extensive road construction necessary, this route is considered infeasible.

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<sup>46</sup> Nichols • Berman communication with Michael Tarnoff, Tarnoff Engineering, May 2013.

April 14, 2011

APR 19 2011 10:53 PM

Rachael Warner  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Dear Ms. Warner:

As a resident of Old Tiburon, I am extremely concerned about health and safety issues that could result from development of the Easton Properties in Tiburon. In the thirty years I have lived here, I have seen the negative effects of continuing growth and feel more homes will only intensify problems we face today and in the future.

### I. Traffic

Not only during construction but forever, the narrow (many one and a half lanes ),curvy, winding streets with precipitous drop offs, few sidewalks, no shoulders, and no room for expansion will put a tremendous strain on roadways in Old Tiburon that are already are at maximum capacity, and never were designed for high vehicular traffic.

#### New Road from Easton to Paradise Drive

1

. Only two contractors who I am concerned have a vested interest, have commented on this narrow, steep street. Wouldn't it be wise to have an experienced consultant on building this type of road doing the evaluation?

2

. Where will trucks and other large vehicles wait on Paradise for access to this road, since it obviously cannot accommodate the width of two trucks at the same time.

3

. Where will workers park? Hopefully not on Paradise Drive due to it's dangerous design.

4

. What precautions will be used to prevent land slides which this property is prone to, and which have destroyed portions of Paradise Drive before?

5

. Paradise Drive is one of only two roads for evacuation of Tiburon and Belvedere residents in and out of town. In an emergency not only will emergency vehicles not have rapid access to residents on parts of Paradise, but in the event of an evacuation, there would be chaos and potentially greater loss of life.

6

. Paradise Drive is narrow and windy with no shoulders. It frequently is used by bicyclists who will be endangered more than they are now by heavier traffic and large trucks. This road is on fill and periodically collapses. An additional load will worsen these conditions.

### Mountain View Drive, Ridge Road, Diviso, & Solano

- 7 . All of these roads are located in neighborhoods where increased noise from trucks; increased toxins from loose serpentine rock would pose a danger to people living along these streets,
- 8 . Where will workers be parking? There is no room on Diviso, while Mt. View Drive have service and homeowners vehicles taking most of the parking places. Diviso barely has enough room for cars to pass each other.
- 9 . At the bottom of Diviso three streets converge. It will be difficult for trucks to turn onto Centro East without blocking the street, and access onto Centro West is not possible. How can accidents be mitigated?
- 10 . Speeding is common in spite of posted 15 MPH signs at curvy areas, and streets are further narrowed by parked cars due to a lack of garages.
- 11 . At the bottom of Ridge Road (which is steep) there is no stop sign. There are two other streets that part of this intersection. Is another stop sign needed to stop speeding or out of control construction vehicles?

### Tiburon Boulevard

- 12 . Increased traffic on Tiburon Boulevard causes daily long backups of traffic not only in the morning but afternoons, and weekends. What will happen when frequent truck trips further compound this jam up? How will emergency vehicles fare in these situations.
- 13 . Traffic studies should be conducted and would do well to include pedestrian flow on these streets at times other than peak vehicular traffic, as mothers and children walking and cycling to school have differing times.

## **II. Health & Safety**

- 14 . How will hazardous materials like serpentine rock and asbestos dust at excavation sites and blowing from trucks be controlled to protect people near the excavation and along the route to disposal sites. Please note there are three schools next to Tiburon Boulevard where large numbers of children go to school. There also are many people who use the bike/pedestrian path which parallels Tiburon Boulevard, as well as the fields at Mc Kegney Green and Del Mar School for sporting events.
- 15 . How will emergency vehicles reach critically ill individuals when they have to negotiate narrow streets in Old Tiburon with increased traffic and wide trucks? There are approximately seventy five homes in Hill Haven and four hundred fifty homes in Old Tiburon. Will emergency personnel be able to reach individuals requesting 911 assistance in time? Will fire trucks and

personnel be able to deliver assistance quickly?

16

. What will happen to spring water sources that originate at the top of the hill above Old Saint Hillary's Church during excavation and building. Will this spring water be clean and available during emergencies when other sources of water are exhausted? Or will it be contaminated and unusable.

17

. Paradise Drive on the backside of Tiburon has be washed out by heavy rains before, and is considered the first road we will loose with an earthquake. It along with Tiburon Boulevard are the only routes to and from Highway 101. Loss of either will severely impair our ability to receive outside assistance and to transport critically ill people during major disasters.

18

. Will water runoff from loss of soil and increased paved surfaces be mitigated to prevent land slides that may close Paradise Drive and cause possible death. Both of which have occurred before.

19

. Have noise levels from construction and additional traffic been estimated, and what measures will be in place to keep them at acceptable levels to protect people and animals?

20

. Will there be a detailed time-line on the various stages of construction? And are they acceptable for the negative impact on the quality of people's lives?

21

. I have heard that it will take at least 12 years to complete this project.

22

. How many trucks a day will be entering and leaving this project?

Respectfully Submitted,

*Stephanie Regan*

*Ed Regan*

Stephanie & Edward Regan  
1876 Centro West Street  
Tiburon, California 94920  
415-435-4662

**RESPONSE TO LETTER NO. 39 – STEPHANIE AND EDWARD REGAN (APRIL 14, 2011)**

**Response to Comment 39-1**

Please see Master Response 2. The Draft EIR provides opinions of two long-established, local operators, specifically, Bradford Simpkins, Vice President, Ghilotti Construction Company, and David Warner, President, Redhorse Constructors, Inc., in order to provide expert opinions in review of the safety of the construction road for its limited period of use. In response to questions raised during the Draft EIR public review period Whitlock & Weinberger Transportation (W-Trans) was requested by the project sponsor to identify potential traffic safety issues associated with implementation of the construction plans, in particular use of the temporary construction road.<sup>47</sup> The conclusions and recommendations of this engineering evaluation are included in Master Response 2. They are supported by the EIR traffic analysts.

The road would be closed after cessation of construction.

**Response to Comment 39-2**

Trucks accessing the construction road would be on-site before accessing the construction road. They would stage on the project site. For trucks turning from Paradise Drive, the Construction Management Plan addresses the issue of queues on Paradise Drive. Please see Master Response 2.

**Response to Comment 39-3**

The Construction Management Plan (please see Master Response 2) addresses roadway safety and management of construction vehicles on Paradise Drive and turning into the project site from Paradise Drive. All roadway safety measures are intended for all users of the road: vehicles, bicycles and pedestrians.

**Response to Comment 39-4**

*Section 5.4 Geology and Soils* of the Draft EIR contains an evaluation of geologic hazards at the project site and analyzes impacts related to landsliding (*Impact 5.4-1 Landsliding*) and slope stability (*Impact 5.4-2 Slope Stability*). Proposed mitigation measures, which include the use of slope compaction, dewatering subdrains, debris fences, and pier and grade beams (see **Exhibit 5.4-4**), would reduce these impacts to a less-than-significant level. Please see Response to Comment 1-3 for revisions to Mitigation Measure 5.4-1 related to ongoing maintenance of landslide repair work.

**Response to Comment 39-5**

The comment implies that the project would increase traffic on Paradise Drive in the event of an emergency, causing a detrimental impact. The Draft EIR does not speculate on potential events that would occur on Paradise Drive during an emergency. Rather the traffic impact analysis is based on how the proposed project compares to current road standards. It is acknowledged portions of Paradise Drive are narrow and other characteristics could be problematic in an emergency event that would require evacuation. However with implementation of the proposed project certain mitigation

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<sup>47</sup> Letter to Mr. John Reed from Mary Jo Yung, PE, PTOE, W-Trans, Re: Easton Point Construction Planning Traffic Evaluation, November 17, 2011.

measures, such as Mitigation Measures 5.1-3 (Right of Way improvements plan: adequate sight distance at Forest Glen Court / Paradise Drive, widening of Paradise Drive to include 4-foot shoulders, 60-taper) and 5.1-6(a) selective widening-shoulders would improve conditions at Paradise Drive along the project frontage.

**Response to Comment 39-6**

The Draft EIR acknowledges that project construction would result in a significant impact to traffic (*Impact 5.1-13 Construction Traffic Impact*). Measures proposed with Mitigation Measure 5.1-13 would reduce this impact to a less-than-significant level. These measures include implementation of the proposed construction road and initial improvements to Paradise Drive.

**Response to Comment 39-7**

The commentor expresses concern over noise and air quality impacts from construction traffic on streets within the Old Town Tiburon neighborhood.

As stated within the discussion of *Impact 5.3-1 Construction Noise*, most construction vehicle traffic would access the site via Paradise Drive and utilize the proposed construction access road, which would extend from Forest Glen Court and provide access to all lots, except Lots 1 through 3, which would be accessed via Mountain View Drive, therefore minimizing noise impacts on existing neighborhoods. For *Alternative 2* all but Lot 1 could potentially be accessed from the construction access road. Construction noise is identified as a significant unavoidable impact, mainly because the existing noise levels are quiet ambient. The Draft EIR identifies construction noise as a significant and unavoidable impact. This is due to the quiet ambient noise levels that currently exist in the area.

Serpentine rock outcropping with naturally occurring asbestos are not common at the project site. Please see Response to Comment 35-1. There is potential that some asbestos in excavated materials would be transported in hauling trucks. Transport trucks would be covered. This issue of asbestos is addressed within the discussion of *Impact 5.2-2 Generation of Airborne Asbestos*, compliance with BAAQMD would require an asbestos dust mitigation plan to prevent emissions. This impact would be less-than-significant and no further mitigation would be necessary.

**Response to Comment 39-8**

All workers would be required to park on the project site. Please see Master Response 2.

**Response to Comment 39-9**

Flag persons would be required at problematic locations. Please see Master Response 2.

**Response to Comment 39-10**

Comment noted. Please see Master Response 1.

**Response to Comment 39-11**

Mitigation Measure 5.1-7(b), states that the applicant shall implement project proposed measures along Hill Haven neighborhood streets to improve safety. These include:

Provide stop or yield sign control for the side streets intersecting Ridge Road.

**Response to Comment 39-12**

The Draft EIR defines impacts to Paradise Drive (see pages 207, 209, 211, 217, 229, 230, 231, 232 of the Draft EIR) and lists Traffic Control Measures (see page 270 of the Draft EIR), such as:

Develop a comprehensive traffic control plan to limit daily construction vehicle trips. For example, workers' meals may be brought to the site by a vendor rather than having workers leave for lunch, and

Schedule delivery of construction materials and arrival of construction workers to avoid AM and PM peak hour traffic times. Station flag persons at intersections along truck routes to ensure safe truck passage.

For a full list of traffic control measures, see Master Response 2.

**Response to Comment 39-13**

The Draft EIR analyzes traffic for the traditional design periods in Tiburon: weekday AM and PM commute peak hours. The "design period" is the time historically known to produce peak traffic on a regular basis, i.e., *every weekday morning and afternoon-evening*, peak traffic can be predictably observed during these time periods. Streets must be designed to meet the demands of these predictable peak periods. It is recognized, however, that at all times, pedestrian safety is of primary concern.

**Response to Comment 39-14**

The comment questions how hazardous materials like naturally occurring asbestos from serpentine rock and soils at the site and transport trucks would be controlled.

Asbestos, which naturally occurs in some soils of Marin County where there are serpentine rock outcroppings, is the only identified hazardous material in soils at the site. Please see Response to Comment 35-1. Note that trucks hauling soils with hazardous materials, including soils that contain naturally occurring asbestos, would be covered to prevent emissions from transportation (see Mitigation Measure 5.2-1).

**Response to Comment 39-15**

Please see Master Response 1. The Draft EIR includes responses to questions asked of the Tiburon Fire Protection District Fire Marshal, specifically, an evaluation of the addition of 30 residential units needing to be served via roads in the existing neighborhoods (Ridge Road, Vistazo East, Diviso, Centro East, Solano). As stated on page 254 of the Draft EIR:

In evaluating this question TFPD researched its responses to Ridge Road and Mountain View over the last six plus years. Calls for service to 44 homes on these two streets were studied and 64 responses to this area of which 48 were emergency responses, were identified. TFPD's mean response time to the 48 calls was five minutes and 35 seconds from time of dispatch to arrival at scene, the median response time was five minutes and 16 seconds. The average number of responses over the time period was 7.22 emergency calls per year. Based on these numbers the only issue raised has been the cumulative impact on the traffic along Tiburon Boulevard. The ambulance and any additional fire engines responding to this area will have to use Tiburon Boulevard for access. TFPD staff noted an increase in travel times along this

main route. A potential mitigation for this impact may be to equip the remaining signal lights along Tiburon Boulevard with a traffic preemption device compatible with the current system.

**Response to Comment 39-16**

Please see Response to Comment 22-67 and 22-43.

**Response to Comment 39-17**

Please see Response to Comment 39-4.

**Response to Comment 39-18**

Please see Response to Comment 39-4.

**Response to Comment 39-19**

**Exhibit 5.3-7** contains a table of construction equipment noise emission levels. As discussed under *Impact 5.3-1 Construction Noise*, noise from construction would be a significant and unavoidable impact. Mitigation Measure 5.3-1 does require modifications to the Construction Management Plan that would reduce impacts. However because of the quiet ambient setting, construction noise impacts would remain significant and unavoidable.

**Response to Comment 39-20**

At this point in time the only construction schedule available is for applicant implemented construction and is shown in **Exhibit 3.0-12**.

**Response to Comment 39-21**

Applicant implemented construction is divided into two phases, and estimates for the duration of each task are shown in **Exhibit 3.0-12**. The time to complete the project would depend on many factors, including the market demand for new houses in Tiburon, that are beyond the scope of this EIR.

**Response to Comment 39-22**

It is assumed that this comment is referring to construction truck trips. Construction truck trips are discussed in several sections of the Draft EIR including *Impact 5.1-13 Construction Traffic Impacts* and *Impact 5.2-1 Construction-Period Air Pollutant Emissions*.



Dr. & Mrs Ronald R. Roberto  
PO BOX 293  
1799 Lagoon View Drive  
Tiburon, CA 94920

APR 19 2011 AM 10:53 Planning

Rachel Werner  
County of Marin, Community Development Agency  
3501 Civic Center Dr. - Room 308  
San Rafael CA 94903

April 14, 2011

Re. 2008 Easton Point Residential Development DEIR.

Dear Ms. Werner,

Here are our most major points of concern about the Easton project:

1. **WATER** - The loss of water pressure that will result from the development has never been addressed.. Adequate pressure is essential for fire protection not to mention for taking care of an organic garden.
2. **TRAFFIC** - The project will impact traffic not only on surrounding residential areas, and on Paradise Drive , but mostly on Tiburon Boulevard, already terribly congested during commute hours and by school traffic.
3. **AIR QUALITY** : The construction will involve working with serpentine rocks containing asbestos., which may contaminate the air, and make a serious pulmonary disease threat for the children close by at the Reed School, the Tiburon Peninsula Club and the Library , not to mention the Town Hall and the rest of the town..
4. **NOISE** - Years and perhaps decades of construction will adversely affect the quiet atmosphere of our residential area.

Thank you very much for considering our concerns.

Sincerely,

Ronald Roberto  
Jennifer Roberto

**RESPONSE TO LETTER NO. 40 – DR. AND MRS RONALD R. ROBERTO (APRIL 14, 2011)**

**Response to Comment 40-1**

Implementation of Mitigation Measure 5.7-7 would reduce water service impacts to a less-than-significant level. Please see Response to Comments 6-18 and 16-11 for response to fire flow comments.

**Response to Comment 40-2**

Please see Response to Comment 36-1

**Response to Comment 40-3**

Please see Response to Comments 35-1, 39-14, and 43-1.

**Response to Comment 40-4**

Construction noise is discussed under *Impact 5.3-1*. This is not a comment on the adequacy of the Draft EIR but rather on the merits of the proposed project.

April 15, 2011

APR 20 2011 PM 9:35 Pacific

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

1

Specifically, I am concerned about the project's non-conformance with Marin Countywide Trails Plan. I am distressed about the lack of a trail up the "nose" and apparent rerouting of the existing path off Spanish Trail.

2

I am also concerned about the impact of the project on views from and to the Martha Property, both above and below it, including why the new 20' x 40' water tank was not shown in view illustrations. Another issue is how the project will impact plant and animal life on the property

3

Finally, I believe that it is a mistake that the EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property. Having the homes at lower elevation would decrease the visual impacts. I would like to see that type of alternative analyzed

Sincerely,



Linda Bine  
339 San Rafael Avenue  
Belvedere, CA 94920

**RESPONSE TO LETTER NO. 41 – LINDA BINE (APRIL 15, 2011)**

**Response to Comment 41-1**

The project's consistency with the Marin Countywide Plan is discussed in **Exhibit 4.0-2 Consistency with Marin Countywide Plan**. Also, see Response to Comment 16-46.

**Response to Comment 41-2**

**Section 5.8 Visual Quality** of the Draft EIR includes an analysis of certain viewpoints and discusses visual impacts. It is acknowledged in the Draft EIR that the project would have significant and unavoidable impacts on Viewpoint No. 1 (*Impact 5.8-1 View from Tiburon Ridge*), Viewpoint No. 2 (*Impact 5.8-2 View from Heathcliff Drive*), and Viewpoint No. 4 (*Impact 5.8-4 View from Ayala Cove on Angel Island*). CEQA does not require an analysis of every viewpoint of and from the project site. The proposed water tank is located at a distance from other aspects of the project that are included in the view analysis. The water tank would be located outside of the view of Viewpoint No. 1 and would not likely be visible in Viewpoint No. 2. The water tank is shown in the photo simulation of Viewpoint No. 4 (see **Exhibit 5.8-11 Post-Development Conditions at Viewpoint No. 4 – View from Ayala Cove on Angel Island**), and is included in the analysis of project aspects that would contribute to the view impact at this viewpoint.

**Response to Comment 41-3**

As discussed on page 546 of the Draft EIR an EIR conceivably can analyze an infinite number of alternatives or variations of alternatives. However, CEQA directs EIRs to analyze a reasonable range of alternatives to the project or project location which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. The analysis of a range of alternatives is governed by a "rule of reason" for alternatives that could feasibly attain the basic objectives of the project. This EIR does analyze a reasonable range of alternatives and additional alternatives are not necessary.

APR 20 2011 PM 3:55 Planning

April 17, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

1

Specifically, I am concerned about how the construction will impact the safety of me and other cyclists who ride through Tiburon and along Paradise Drive. Many parts of Paradise Drive do not have any shoulder and are blind curves. An increase in traffic for this project and for a number of years is going to greatly affect our use and enjoyment and most importantly, our safety along Paradise Drive, one of the only ways to enter or leave the Tiburon Peninsula. I do not understand why no mention of safety improvements and mitigation of the obvious dangers of increased heavy vehicle traffic along an extremely popular recreation cycling route have been suggested in this DEIR? The developers of this project must ensure the safety of our community.

Best regards,

James Campbell

11 Toyon Avenue

Belvedere CA 94920

**RESPONSE TO LETTER NO. 42 – JAMES CAMPBELL (APRIL 17, 2011)**

**Response to Comment 42-1**

Please see Response to Comment 6-11.

April 17, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on the health and safety of the children at Reed elementary School, and Belvedere Hawthorne Nursery.

1

Specifically, I am concerned about how the construction and the disturbance of Serpentine rock will be dealt with in regards to asbestos. In the Hunter Point development, Lennar was asked to install air quality monitoring devices to ensure air quality standards for local residents. It was a wise safety measure as construction has been halted at that project numerous times when asbestos levels reach dangerous levels. As the developer, Lennar were also required to post a bond.

People may say they are going to use best practices but it would provide great piece of mind if we had a scientific reading of air quality in a project that will likely disperse asbestos above our town and schools.

I also did not see any measurement of the air quality impact at the above mentioned schools with the increased heavy construction vehicle traffic?

Please protect the health and safety of our children.

Best regards,



Marianne Hockenberry

136 Bella Vista Avenue

Belvedere CA 94920

**RESPONSE TO LETTER NO. 43 – MARIANNE HOCKENBERRY (APRIL 17, 2011)**

**Response to Comment 43-1**

The comment questions how the disturbance of serpentine rock at the site would be controlled with respect to asbestos. The commentor suggests that air monitoring be included for the project, since it was conducted for the Lennar development in Hunters Point (in San Francisco). In addition, the commentor inquires about air quality impacts to Reed Elementary School and Belvedere Hawthorne Nursery.

Please see Response to Comments 35-1 and 39-14. The project addressed impacts to nearby sensitive receptors that include residences. Best available measures to reduce air pollutant emissions were identified that would reduce these impacts to less-than-significant levels. This conclusion would also apply to sensitive receptors, such as schools, that are further away from the project. Note that the Lennar development in Hunters Point, San Francisco, was a much larger project than the proposed project. The California Air Resources Board's Naturally-Occurring Asbestos Airborne Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations grants BAAQMD the authority to require air monitoring of naturally occurring asbestos for projects that are subject to the ATCM. If necessary, BAAQMD could require asbestos monitoring per their rules and regulations that implement CARB's Naturally Occurring Asbestos ATCM. This is at the discretion of the Air District, subsequent to their review of construction/grading plans where soils with naturally occurring asbestos would be disturbed.



APR 20 2011 04:12 PM

April 18, 2011

Rachel Warner  
County of Marin Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. After looking through the enormous documents, there are several concerns I have:

- 1 Given the steepness of the area, how exactly will land slides be handled, both potential and actual?
- 2 It looks like Paradise Drive will have to be widened. Is there an environmental review for that?
- 3 As I live in the area and have two small children, we are very concerned about the construction traffic and the eventual home-related traffic that this project will cause on our narrow streets.

Sincerely,



William L. Ross, III

1874 Vistazo West

Tiburon, CA

94920

**RESPONSE TO LETTER NO. 44 – WILLIAM L. ROSS, III (APRIL 14, 2011)**

**Response to Comment 44-1**

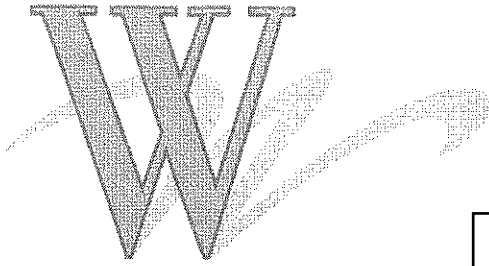
Please see Response to Comment 39-4.

**Response to Comment 44-2**

Please see Response to Comments 1-2, 6-16 and Master Response 8.

**Response to Comment 44-3**

Please see Master Responses 1 and 2, and Response to Comments 6-15 and 7-14.



**RICHARD WODEHOUSE**

PO Box 211  
Tiburon, CA. 94920

Cell: 415 944 0278

[rewodehouse@gmail.com](mailto:rewodehouse@gmail.com)

LETTER NO. 45

APR 20 2011 10:57 PM

April 14, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

RE: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing you with some concerns on this EIR and the potential impacts on my home town of Tiburon.

I am most concerned about:

1

Impacts on Paradise Drive with the following issues due to it's curviness and narrowness.

1. Additional vehicles at all time especially "rush hour"
2. Additional bicycle collisions with vehicles
3. Additional large trucks for trash pick-up etc.
4. the proposed widening of Paradise Dr. and installation of a sewer will have great impact on the entire South end of Tiburon and all the residents.

2

Impacts from the construction process which will take many years:

1. Runaway heavy trucks and vehicles on the narrow steep roads. We just had a fully loaded dump truck loose it's breaks on Gilmartin Drive and careen accross Tiburon Blvd. and the bike path ending upside down in Richardson Bay. The streets that will be used for the construction of these proposed residences are steeper and longer.
2. Noise and pollution in the town of Tiburon both near the construction sites and all the way to 101 freeway.
3. Dust and asbestos from the excavated materials.

3

Impacts on the overall appearance of Tiburon both from the town and from the bay and roads.

1. Many of these houses are to be visible up on the ridge permanently altering the shape of Tiburon point.
2. Increased traffic on Tiburon Blvd which is already backed up during school hours.

4

Environmental impacts:

1. Not enough remediation for possible landslides. Not all are mitigated.
2. Loss of 19.47 acres of Live Oak woodland.
3. Loss of habitat for Marin Dwarf Flax and the California Red-Legged Frog.
4. The reduction of functionality of the Spanish Trail and the access it provides to the upper open space on the ridge being cut-off.
5. The project's non-conformance with Marin Countywide Trails Plan.
6. The increase of downstream flooding
7. The inadequate management of groundwater intrusion on expansive soils where there are historic landslides.
8. Groundwater diverted from existing & historic springs and vegetation concentrations.

Given the contentious relations this family has had with the town and it's people, <sup>1357</sup>it is wise to allow sale of individual properties before all the infrastructure and "public" amenities are in place?

Sincerely,



Richard Wodehouse

**RESPONSE TO LETTER NO. 45 – RICHARD WODEHOUSE (APRIL 14, 2011)**

**Response to Comment 45-1**

The Draft EIR addresses these issues in *Section 5.1 Transportation* starting on page 169 of the Draft EIR. Please see Response to Comments 1-2, 13-3, 39-13, 57-4, and Master Response 8.

**Response to Comment 45-2**

Please see Master Responses 1 and 2 for information related to concerns for construction vehicles, and Response to Comments 35-1 and 39-14 regarding dust and asbestos. Construction noise and ambient noise levels is discussed under *Impact 5.3-1*.

**Response to Comment 45-3**

This issue is discussed under *Impact 5.8-1 View from the Tiburon Ridge (Viewpoint No. 1)*, and subsequent visual analysis, beginning on page 500. Please see Response to Comment 65-1 for traffic on Tiburon Boulevard.

**Response to Comment 45-4**

Mitigation Measure 5.4-1 reduces landslide impacts to a less-than-significant level. The discussion of landslide impacts begins on page 353 of the Draft EIR. Please see Master Response 5 for information about flood related issues. Also please see Master Response 3 and Response to Comments 11-23, 16-9, 22-45, 22-47 through 22-49.

Marin County Planning Commission  
 c/o Marin County CDA, Debra Stratton  
 3501 Civic Center Drive, Room 308  
 San Rafael, CA 94903  
 Re: Easton Point/Martha Company  
 Paradise Drive, Tiburon, CA  
 April 25, 2011 Marin Planning Commission Hearing

April 18, 2011

1

**Fire Flow:** As a doctor on emergency stand-by for the Berkeley Hills Fire, I experienced first-hand the shock and unpreparedness of October 20, 1991, in which three of my close colleagues lost their homes and one colleague died. I came to understand clearly the horror of the scenario: an ember, a deadly wind and a steep hill. Embers from a small grass fire blew up and down the Berkeley hills, sparking the 72-hour devastation of the dense hillside neighborhoods, destroying one home every 11 seconds.

The narrow neighborhood streets quickly became blocked by burning debris, making fire truck passage impossible. From the start, the fire overwhelmed local and then regional firefighting resources. The wind swept from the hills to new locations, jumping roads and then **freeways**. The result was the destruction of 3,791 dwellings.

The hot, dry northeasterly winds that stoked the Berkeley fire blow through the Bay Area during the fall season and have been compared to the Santa Ana winds.

Paradise Drive is notorious for low water pressure and Tiburon for strong wind. The combination of Easton Point's hillside location, the proximity of several dense, older neighborhoods, high winds, narrow neighborhood streets and inadequate fireflow combine to create a scenario with classic firestorm potential. How can the fire pressure delivery system be improved to assure the neighborhoods' safety? Describe a plan that includes redundancies.

2

**Noise and Health:** The National Institute for Occupational Safety and Health states that noises as low as 85 decibels cause hearing damage and that hearing damage occurs after people are exposed to 91 decibels for two hours. At 100 decibels, exposure must be limited to 15 minutes. Chain saws, to be used to cut 740 trees at Easton Point, operate at 110 decibels. To cut 740 trees will take many months. Can you describe ways to reduce this health impact, including limiting tree cutting hours and ways to reduce tree loss?

3

**Density:** Proposed house sizes range from 5,000 sf to 8,750 sf plus garages. Existing neighborhood houses range from 2,167 to 6,272 sf. Including garages. Proposed houses are significantly larger and would erase neighborhood character. ***If anything, houses on this exposed hillside should be smaller than average.*** In addition, lots are extremely large. These can be used for outdoor development, including pools, tennis courts, etc., increasing visual and noise impacts.

To limit the decibel level, excessive diesel fumes and massive tree destruction, please assess the impact of significantly reducing lot sizes and house sizes. **Can more smaller houses on smaller lots be clustered along Paradise Drive with limited access points to reduce the risks to the dense Hill Haven and Old Tiburon neighborhood that the project assigns?**

Smaller houses would use fewer materials, would be more consistent with Marin County 'green policies' and a step in the direction of meeting sustainability goals. **Much smaller houses** would be more consistent with the neighborhood and with the goals of the *Paradise Drive Visioning*

Plan: "Maintaining the rural character of the Paradise Drive area by limiting the bulk and mass of new residential structures and by designing homes in a rural style to blend into the existing landscape." Can the project be realigned to be more in keeping with Marin County policies, including reducing bulk and mass of the new houses?

4

**Road Safety:** The FEIR states that a presumed excess of 6,499 cubic yards (cy) of cut materials would be stored on site, with the remaining 3,636 cy transported offsite.

To negotiate the narrow Paradise Drive, smaller trucks would be likely be used to haul materials. A small dump truck would take 727 trips to remove the dirt, or 1400+ round trips. A large dump truck would take 541+ trips, or 1083 round trips. The largest truck would take 363 trips or 726 round trips. The largest trucks are too wide to stay within one of Paradise Drive's narrow lanes.

The adjacent Swahn property, being built at the same time as Easton Point, projects about 500 cy excess cut to be transported. The Paradise Drive Alta Robles subdivision, which will be built in the same time frame as Easton Point, projects removal of 53,592 cy to stabilize landslides alone, with an unknowable amount of fill excess. The Paradise Drive Sorokko property below Alta Robles projects removal of unspecified cys of earth.

Many more truck trips for this project and the others will be necessary for building supplies, workers, heavy equipment, for offloading the 740 Easton Point cut trees (some of which are ordinance size), the hundreds of trees to be cut by the Rabin project, the 426 trees to be cut by Sorokko, and the as yet undetermined number of Swahn trees, creating a spectacular log-jam on narrow Paradise Drive and on Tiburon Boulevard.

Please valuate the impact on Paradise Drive, Trestle Glen Boulevard, Tiburon Boulevard and beyond. How will the existing local roads safely accommodate this cumulative new traffic? What will be the impact on neighborhood safety for joggers, dog walkers, bicyclists and people simply trying to follow their normal routines such as getting their mail? How will it affect emergency response times? Who will be responsible for the wear and tear on the local roads? The data appears to presume that all construction traffic will use Tiburon Boulevard as their route. Those of us who live on Paradise Drive near Trestle Glen see first-hand that construction pick-ups and diesel trucks from construction regularly use the length of Paradise Drive, not Tiburon Boulevard.

5

The EIR requires a program of photographing roads before and after infrastructure installation, with the applicant posting a bond to do corrective roadwork. Consider including the length of Paradise Drive in this program, from Easton Point to Highway 101, and including Trestle Glen Boulevard, the cut-over from Paradise Drive to Tiburon Boulevard. Consider also expanding the program to include before and after house construction.

Sincerely,



Dr. and Mrs. Robert J. Swanson  
2 Seafirth Lane  
Tiburon CA 94920

**RESPONSE TO LETTER NO. 46 – DR. AND MRS. ROBERT J. SWANSON (APRIL 18, 2011)**

**Response to Comment 46-1**

Please see Response to Comments 6-18 and 16-11.

**Response to Comment 46-2**

The commentor describes an interpretation of the National Institute for Occupation Safety and Health recommendations for noise and resulting hearing damage and then describes noise from chain saw use. The commentor inquires about methods to reduce noise generated by chain saws.

Chain saws produce noise levels of about 110 dBA when cutting, as measured at about three feet. Workers at the project site would potentially be exposed to high noise levels from these activities as well as other construction activities. Hearing protection for these workers is the responsibility of the employer, who would be required to implement a hearing conservation program where noise levels approach unhealthy levels. As sound propagates, the level decreases proportionally to distance based on spherical spreading. Additional reductions occur due to shielding by terrain or structures. At 50 feet, sound levels from chain saws would be 85 dBA or less. Sound levels beyond the construction boundaries where sensitive receptors are located (i.e., more than 50 feet) would be below the health based levels described by the commentor. Therefore, sensitive receptors near the project site would not be exposed to unhealthy noise levels. The Construction Management Plan includes limits for construction activity. Noise generating construction activities are further limited under Mitigation Measure 6.3-1.

**Response to Comment 46-3**

Visual and noise impacts area addressed in the Draft EIR. Comments are noted. The applicant has not expressed a desire to redesign the project to include smaller house sizes.

**Response to Comment 46-4**

These impacts are discussed in **Section 5.1 Transportation**. Additionally, please see Master Responses 1 and 2 and Response to Comments 6-15 and 7-14.

**Response to Comment 46-5**

This suggested measure is applicable to all affected roads.

Mitigation Measure 6.1-13(b) (seventh bullet) is revised as follows:

Repair any deteriorated pavement along Tiburon Boulevard - Paradise Drive (from U.S. 101 to Easton Point) and include Trestle Glen Boulevard. This deterioration should be identified in cooperation with the Town of Tiburon and Marin County by a before and after pavement evaluation program which shall determine if project-generated truck traffic caused any additional pavement deterioration. Consider implementing this program before and after house construction.



Dellie Woodring  
1912 Mar West Street  
Tiburon, CA 94920  
Mail: P.O. Box 1160, Tiburon, CAQ 94920

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**RE: 2008 Easton Point Residential Development DEIR**

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. Even though our street address is Mar West St., our home fronts and faces Paradise Drive, between downtown Tiburon and the Caprice Restaurant at the eastern interesection with Mar West St.

1

Have you considered the major impact of construction traffic upon residents along Paradise Drive? We are here because of the peace and serenity of our location. Paradise Drive currently has very little heavy vehicle traffic. Much of our time is spent out of doors, on our deck looking over the bay. I can't imagine the disruption of heavy earth moving vehicles and construction traffic on our quiet environment. Noise pollution is a documented condition as to its negative effect on health - for me, the constant noise and traffic will definitely affect my mental health, for the relaxation is important to me.

2

And what of the effect of the construction traffic on our very busy congested commuter/school times on Tiburon Blvd. To add significant construction vehicles and workers' vehicles to this stream would virtually make us prisoners on the peninsula at certain times of the day.

3

Would it be possible to steer construction traffic to Paradise Drive via Trestle Glen Drive at least half of the time, or evenly divide permits among the trucks - half to use Paradise Drive via Trestle Glen, the other half to use all of Paradise Drive? If this massive project does go through, I hope that we can all bear some of the pain of years of unpleasant traffic, and bear the pain equally, in order not to put undue stress and inconvenience and unsafe conditions on one stretch of Paradise Drive only.

4

I fear for the safety of pedestrians and all of the bicyclists who use Paradise Drive. Paradise Drive is only two lane and has recently been repaved by Cal Trans. who will pay to repave it again? **NOISE and truck exhaust are MAJOR health concerns to me.**

Thank you for your attention.

*Dellie Woodring*

**RESPONSE TO LETTER NO. 47 – DELLIE WOODRING (RECEIVED APRIL 20, 2011)**

**Response to Comment 47-1**

The comment regarding noise is noted. Please see Master Response 2 for a further discussion of the construction road and construction traffic issues. Also, please see Response to Comments 1-2, 6-9, and 23-5.

**Response to Comment 47-2**

Please see Response to Comment 39-12.

**Response to Comment 47-3**

Please see Response to Comment 7-14.

**Response to Comment 47-4**

Please see Response to Comment 61-7 for information addressing diesel truck emissions.

LETTER NO. 48

April 20, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I have a number of concerns about the impacts this project will have on the Tiburon community. Following are a few of my concerns:

1

--Increased traffic, especially during the construction phase, will greatly impact residents' ability to get in and out of town. Paradise Drive and the narrow streets of Old Tiburon/Hill Haven are already treacherous. Heavy construction vehicles will impair the safety of passenger cars and bicyclists. I personally experienced a two-hour tie-up on Tiburon Blvd. as the result of an accident at Trestle Glen last fall. With the tremendous number of construction vehicles involved in this project, serious accidents seem inevitable, endangering the lives of everyone on the Tiburon Peninsula, as we rely on Tiburon Blvd. as our primary artery. Will emergency response time be affected by construction traffic?

2

--Asbestos-containing serpentine rock in the development will be disturbed during construction. I am concerned about how this will be mitigated. When a second water tank was built at the corner of Round Hill Road and Rolling Hills Road several years ago, residents' concerns about asbestos resulted in MMWD implementing stringent controls. What standards will be required on this project?

3

--Are there adequate measures to mitigate the loss of oak woodland and habitat for the endangered California red-legged frog, particularly if Alternative 2 is adopted? The habitat and ecosystem represented by this property have long been used by the flora and fauna that also occupy the adjacent County Open Space. What will be the impact when these habitats are greatly reduced in size?

I hope these concerns will be addressed during the review process.

Sincerely,



Faith Brown  
25 Spring Lane  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 48 – FAITH BROWN (APRIL 20, 2011)**

**Response to Comment 48-1**

Please see Master Response 1 and Response to Comments 7-14, 13-5, and 39-12.

**Response to Comment 48-2**

Please see Response to Comments 35-1, 39-14, 43-1, and 61-7 for information that addresses similar comments regarding serpentine rock and naturally occurring asbestos.

**Response to Comment 48-3**

Please see Response to Comments 16-9, 22-45, and 22-47 through 22-49.

April 20, 2011

APR 25 2011 AM 11:07 Planning

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 20008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. As a long time resident of Centro West Street in Tiburon, my husband and I are concerned about the impact that this project will have on our neighborhood.

1

One of our main concerns is about traffic and congestion resulting from both the building phase and added density after the additional homes are built. The small narrow streets in Old Tiburon like Diviso and Centro West can barely handle the traffic that exists today. We are very concerned about gridlock on these back streets and even negative impacts on Tiburon Blvd (particularly during commute hours). Has enough study been done to understand how the additional traffic will affect the neighboring areas?

2

We frequently bicycle on Paradise Drive and the connecting streets. How will the construction, and additional homes, impact the safety of cyclists in Tiburon?

3

We moved to the Tiburon peninsula in the early 1990's in part due to the beautiful views. We are concerned about the negative view impacts, both above and below the Martha Property, and wonder why the proposed new water tank (which will clearly be an eyesore) was not shown in view illustrations.

4

We understand that the serpentine rock in the construction area contains asbestos. Who will be monitoring the presence of asbestos fibers from the excavation and how will the local residents be protected from harmful effects?

5

There are many underwater streams in the Tiburon hills. Has enough study been done to assess how the project will impact drainage for residents below, and what steps are being taken to ensure that there will be no negative impacts?

Thank you for taking our concerns into consideration,

Sincerely,

*Joan + Martin Lasden*

Joan and Martin Lasden, 1812 Centro West, Tiburon CA 94920

**RESPONSE TO LETTER NO. 49 – JOAN AND MARTIN LASDEN (APRIL 20, 2011)**

**Response to Comment 49-1**

Please see Response to Comment 39-12.

**Response to Comment 49-2**

Please see Response to Comments 1-2 and 3-3.

**Response to Comment 49-3**

Please see Response to Comment 41-2.

**Response to Comment 49-4**

Please see Response to Comments 35-1, 39-14, 43-1, and 61-7 for information that addresses similar comments regarding serpentine rock and naturally occurring asbestos.

**Response to Comment 49-5**

Drainage impacts are analyzed under *Impact 5.5-2 On-Site Drainage Patterns – On-Site and Off-Site Flooding*, *Impact 5.5-3 Site Drainage Patterns – Erosion and Downstream Sedimentation*, and *Impact 5.5-7 On-Site Peak Flow Rates, Existing Storm Drain Capacities and Downstream Flood Protection*. Please see Master Response 5 for additional information regarding the release of landslide dewatering flows onto receiving drainageway and additional runoff anticipated by increases to impervious surfaces due to widening of on-site roadways and off-lot parking space requirements.

APR 25 2011 PM 2:52 PM

April 21, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, I am concerned that....

1

...Traffic, already gridlocked during morning and afternoon peak times, will be further impacted by the numerous truckloads of dirt and rock that must be hauled away for this development. Long term increase in traffic is also a major concern with the additional homes.

2

...the construction road will be too steep and too narrow. How will the homes below the road be protected from runaway vehicles and equipment? Who is responsible if safety accidents occur because of the poorly designed construction road?

3

...the development will not have adequate water pressure to ensure that the area is protected in the event of a fire. How will the County or Town ensure that fire protection will be achieved?

4

... the EIR says that some of the landslides will be fixed, but not all of them. Doesn't that leave dangerous landslide areas above existing homes? Where in the EIR does it say exactly which landslides will be fixed before homes are built?

5

...the EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property. Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road.

Sincerely,

Mark Dickinson  
2322 Mar East St.  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 50 – MARK DICKINSON (APRIL 21, 2011)**

**Response to Comment 50-1**

This comment does not express an inadequacy of the Draft EIR. Please see Master Response 1 and Response to Comments 6-7 and 7-14 for expanded discussion of traffic affect on existing streets.

**Response to Comment 50-2**

Please see Master Response 2 and Response to Comment 6-9.

**Response to Comment 50-3**

This issue is discussed under *Impact 5.7-8 Inadequate Fire Flow*. Also, please see Response to Comments 6-18 and 16-11 for more discussion.

**Response to Comment 50-4**

**Exhibit 5.4-2** lists proposed landslide stabilization plan for the project site. Slope instability is an existing condition on the project site and neither the Marin County landslide mitigation policy nor Miller Pacific's proposed landslide repair program require that landslides outside the proposed development be repaired. Landslides not proposed for repair are located outside of development. Please see Response to Comment 7-10.

**Response to Comment 50-5**

As discussed on page 546 of the Draft EIR an EIR conceivably can analyze an infinite number of alternatives or variations of alternatives. However, CEQA directs EIRs to analyze a reasonable range of alternatives to the project or project location which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. The analysis of a range of alternatives is governed by a "rule of reason" for alternatives that could feasibly attain the basic objectives of the project. This EIR does analyze a reasonable range of alternatives and additional alternatives are not necessary.



## SAMPLE DEIR COMMENT LETTER

April \_\_, 2011

APR 25 2011 11:51 PM

Rachel Warner  
 County of Marin, Community Development Agency  
 3501 Civic Center Drive, Room 308  
 San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, I am concerned that....

- 1 ...the construction road will be too steep and too narrow. How will the homes below the road be protected from runaway vehicles and equipment? Who is responsible if safety accidents occur because of the poorly designed construction road?
- 2 ...the development will not have adequate water pressure to ensure that the area is protected in the event of a fire. How will the County or Town ensure that fire protection will be achieved?
- 3 ... the EIR says that some of the landslides will be fixed, but not all of them. Doesn't that leave dangerous landslide areas above existing homes? Where in the EIR does it say exactly which landslides will be fixed before homes are built?
- 4 ...the EIR says that a new sewer line will have to be put in under Paradise Drive, and that some streets will have to be widened. Where is the environmental review for those projects? Will those projects cause additional impacts that aren't discussed in this document?
- 5 ...the EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property. Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. I'd like to see that type of alternative analyzed.

Sincerely, -



(name &amp; address)

6

Construction of so many homes will certainly impact the habitat of deer and other animals in Tiburon.

**RESPONSE TO LETTER NO. 51 – VIRGINIA AND JOHN DOYLE (APRIL 2011)**

**Response to Comment 51-1**

Please see Master Response 2 and Response to Comments 6-9, 7-14, and 7-16.

**Response to Comment 51-2**

Please see Response to Comments 6-18 and 16-11.

**Response to Comment 51-3**

Please see Response to Comment 50-4.

**Response to Comment 51-4**

Please see Master Response 8, and Response to Comments 1-2 and 6-16.

**Response to Comment 51-5**

Please see Response to Comment 50-5.

**Response to Comment 51-6**

As discussed on page 432 of the DEIR, the loss of habitat for most native wildlife occurring on the project site is considered a less-than-significant impact.

APR 25 2011 4:12:33 PM

2345 Spanish Trail Road  
Tiburon, CA 94920  
April 21, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

RE: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

We are writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. We are very concerned about the impacts that this project will have on our local community.

Specifically, we are concerned that...

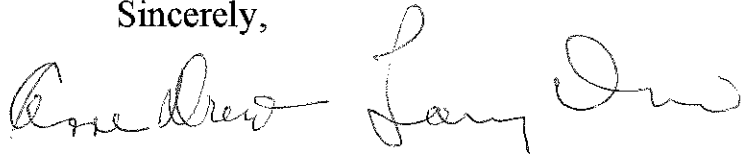
- 1 ...the construction road will be too steep and too narrow. How will the homes below the road be protected from runaway vehicles and equipment? Who is responsible if safety accidents occur because of poorly designed construction roads?
- 2 ...the development will not have adequate water pressure to ensure that the area is protected in the event of a fire. How will the county or town ensure that fire protection will be achieved?
- 3 ...the EIR says that some of the landslides will be fixed, but not all of them. Doesn't that leave dangerous landslide areas above existing homes? Where in the EIR does it say exactly which landslides will be fixed before homes are built?
- 4 ...the EIR says that a new sewer line will have to be put in under Paradise Drive and that some streets will have to be widened. What streets? Where is the environmental review for those projects? Will those projects cause additional impacts that aren't discussed in this document?
- 5 ...the EIR doesn't consider any alternatives to having the houses clustered at the high elevations of the property. Having the homes at the lower elevation would decrease the visual impacts and would not add to the water flow issues, and may

not require a dangerous construction road. We would like to see that type of alternative analyzed.

6

...the EIR does not address the lack of sidewalks on Paradise Dr. and Solano St.-- the main roads to the proposed development. This is already a major safety issue for cars, walkers, and bikers.

Sincerely,

Handwritten signatures of Anne and Larry Drew in cursive script.

Anne and Larry Drew



**RESPONSE TO LETTER NO. 52 – ANNE AND LARRY DREW (APRIL 21, 2011)**

**Response to Comment 52-1**

Please see Response to Comments 6-9 and 7-16.

**Response to Comment 52-2**

Please see Response to Comment 6-18.

**Response to Comment 52-3**

Please see Response to Comment 6-24.

**Response to Comment 52-4**

Please see Response to Comment 6-16.

**Response to Comment 52-5**

Please see Response to Comment 50-5.

**Response to Comment 52-6**

Please see Response to Comment 3-4.

APR 25 2011 4:12 PM Planning

**KENNETH C METZGER  
230 MADRONA AVE.  
BELVEDERE, CA.  
94920**

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: Martha Property, aka 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Draft Environment Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, WE WILL LOOSE OUR PRECIOUS OPEN SPACE IF IT IS DEVELOPED.

If it were to go ahead, please address the following:

- 1 • The construction road appears too steep and too narrow and poorly designed.
- 2 • How do you propose to ensure that the area has adequate water pressure to fight fires?
- 3 • It appears that little attention has been paid to erosion and landslide protection. What care has been given to the existing homes below?
- 4 • The EIR talks about a new sewer line on Paradise Drive. Has there been an EIR on this?

Please address all of my concerns at your earliest convenience.

Sincerely,

 4/22/2011  
Kenneth C. Metzger

**RESPONSE TO LETTER NO. 53- KENNETH C. METZGER (APRIL 22, 2011)**

**Response to Comment 53-1**

Please see Master Response 2 and Response to Comment 6-9.

**Response to Comment 53-2**

Please see the discussion of *Impact 5.7-8 Inadequate Fire Flow*. Mitigation measures would reduce this impact to a less-than-significant level.

**Response to Comment 53-3**

Erosion and landsliding are two separate issues both are addressed in the Draft EIR. Please see *Impact 5.4-1 Landsliding* and *Impact 5.4-2 Slope Stability*. Also, please see the discussion of *Impact 5.5-3 Site Drainage Patterns – Erosion and Downstream Sedimentation*. These issues are adequately addressed in the Draft EIR.

**Response to Comment 53-4**

Please see Master Response 8 and Response to Comment 6-16.

DEREK PARKER

April 21st, 2011

APR 25 2011 PM 10:50 Planning

Rachel Warner

Marin County Community Development Agency

3501 Civic Center Drive, Room 308

San Rafael, CA 94903

Dear Ms. Warner

My wife, Nancy, and I wish to comment on the DEIR for Easton Point project.

Please see table below:

Section	Comment
General	
1	<u>We believe the owner of the land has a right to develop it subject to zoning and other community regulations.</u>
2	<u>This is a large project in a small community. It is very high risk for the developer. In those circumstances, where failure to complete the project and its mitigations is a strong possibility, it would seem reasonable for the County to require a Bond in case of bankruptcy.</u>
3	<u>It is difficult for lay people to imagine the project in reality on the site. Storey poles are required for most, even modest, projects and they would be helpful in key places for this project on the ridge.</u>
4	<u>The impact of increased traffic on Solano appears to have been ignored.</u>
5	<u>The danger incurred by the construction road has been seriously underestimated. The support from contractors likely to be involved in the construction is conflicted.</u>
6	<u>Will there be an EIR for the utility and road improvements along Paradise Drive?</u>
2.0	
2.2 Summary of Alternative Analysis	
Alternative 2	
7	<u>If 180K gallons is appropriate for 43 homes, could the tank be smaller for 32 homes (75% or 130K gallons)</u>



2.0 Alternative 3	8	Why is there not an Alternative 3A Visual Quality Alternative with 32 homes?
2.0 2.5 first bullet 2.5 eighth bullet	9	Presumably the Marin County standards are based on best practice for health and safety. Why should we encourage a project with less than best practice?
	10	Why is there no visualization WITH the water tank?
2.0-1		Page 20
	11	Traffic delays caused by roadway improvements and subsurface services over what period of time
	12	School times??
	13	The post construction traffic will be substantial and exacerbated during multi year construction period
2.0-1		Page 21 and following:
	14	5.1-4 SU? When is the county planning on 101 improvements. Who funds that?
	15	5.1-8 impact on Solano?
	16	5.1-13 How can Construction Traffic, lumber trucks, Concrete mixers, workers which have to travel Tiburon Blvd and/or Paradise Drive be LTS
	17	5.1-13(a) Conflict of Interest?
	18	5.3-1 SU
	19	5.4-4 Impact on Keil Spring and water for Keil gardens? How can this be LTS?
	20	5.5-6 If the Keil family does not agree, and there is no reason that they should, the Significance after mitigation is SU not LTS
	21	5.6-4 How can the loss of 742+ trees be LTS?
	22	5.6-8 How do we monitor how these funds are used?
	23	5.8-3 If we prohibit wood burning fireplaces why do we need chimneys?

	24	5.8-5 Who pays to repair future landslides in Parcel A
	25	5.9-3 If the proponent has rights so do the existing residents including the Keil family. The Significance cannot be mitigated to LTS
3.0  3.2 Project Description	26	Objectives: Goals:  Bullets 4 and 5  Tiburon is known for its diverse Mediterranean views with a light and varied color palette off- set with a green and gold landscape. The visuals presented based on the goals in the DEIR are dull, monotonous, brown and boring.  ‘linking residences to each other’ creates an institutional or commercial appearance which will be boring in contrast to the present appearance of Old Tiburon
3.0	27	It is confusing when the maps keep getting rotated
3.04	28	Lets keep North consistently. The map cut off is too close to the property line which makes it difficult for lay folks to put the proposed project in context with their neighborhood.
	29	We need a storey pole for the water tank, lot 15,
	30	Exhibit 3.0-4 does not show Spanish Trail. Later exhibits do. Why?
	31	Where is Keil Cove on this exhibit?
Page 65	32	What is proposed re connection of Spanish Trail in Parcel A to Old St Hilary’s Open Space Reserve. Is it intended that the proposed construction road serve that purpose.?
Page 67	33	Please explain how the development is going to exploit “geothermal energy”
Page 68	34	If we are going to prohibit wood burning stoves or fireplaces why do we need chimneys?
	35	View-shed protection: 1 <sup>st</sup> Para: what does “ rebuttable “ mean?  2 <sup>nd</sup> Para: who decides if a homeowner can build outside of the designated footprint. This is a “Trojan Horse”
Page 73	36	what is the intended duration of the construction road. Start and end dates?
Page 74		

	37	1 <sup>st</sup> bullet: what is the impact on folks who have parked here for many years?
	38	What is the impact on Health and Safety?
Page 77	39	Landslide repair: Who pays for future landslides in Parcel A, particularly slides 3, 4, 5, 6, 7, 8,9,and 10 all of which impact the safety of existing homes and/or roadways
Page 82	40	2 <sup>nd</sup> Para: What are the heights and appearance of the retaining walls for roads and driveways
Page 82	41	Implementation and Phasing: what are the environmental impacts of realigned waterlines, utility placement etc. traffic delays over how long a period?
Page 93	42	Second bullet: The project which places houses on the ridge lines is not in compliance with CWP. See p135 para 2 Section 22.16.030(F). P 138 1c encroachment into ridgeline setbacks.
Page 132	43	<p>Consistency with Marin County Development Code</p> <p>The project is inconsistent with the CWP in numerous areas.</p> <p>Section 22.16.030(E)</p> <p>Section 22.16.030(F)</p> <p>Section 22.16.030(K)</p> <p>Section 22.16.030(L)</p> <p>Section 22.20.060</p> <p>Section 22.82.080</p> <p>Why do we have a County Wide Plan, developed over many years and at much taxpayer expense and the allow projects which are highly inconsistent with the terms, goals and intent of the plan.</p>
Page 170	44	The roads mentioned struggle to handle traffic today
Page 172	45	Where is Solano, which will be the main feeder to Ridge Rd
Page 179	46	Ditto
Page 181	47	Ditto
Page 187	48	Ditto

Page 197	49	This intersection poses significant safety issues to vehicle and pedestrians
Page 222	50	How will construction traffic access the site and proposed construction road, from Paradise road from the south or north? From Tiburon or Corte Madera
Page 251	51	All of the additional traffic accesses the site by Solano
Page 255	52	First bullet: the only solution to the impact on these roads is no project at all.
Page 267	53	The mitigation measures proposed are inadequate. There will be substantial delays caused by flagmen, road repair, road improvements and subsurface services installation. These are unavoidable and should be listed as such. This does not qualify for LTS.
Page 355	54	What is the visual impact of retaining walls, grading, rip-rap?
Page 495	55	What is the proposed access from Parcel A (Spanish Trail to Old St Hilary's Open Space
Page 525	56	Last Para: The water tank is not consistent with the CWP. See P 132 and following pages
Page 540	57	Last Para: Spanish Trail is locally important
Page 545	58	We have a responsibility to see that the impacts on the Keil Family are fully mitigated or removed entirely
Page 546	59	The alternative for the 32 houses with reduced visual impact has not been included.
	60	The 7 lot alternative has not been included.
Page 554	61	How does one get from the Spanish Trail pedestrian Trail to Old St Hilary's open space?
Page 562	62	Why are more trees removed in Alternative 2 than in the proposed project?
Page 589 and following	63	The Cumulative Traffic Volume diagrams are virtually incomprehensible to a lay person
	64	What we need to know, recognizing there are only two access points to the Peninsula from Hwy 101, Corte Madera, ( unlikely) and Strawberry is the following:
		A. Site preparation Phase:
	65	How many graders, back hoes, excavators. lumber and concrete truck, material trucks for rock and asphalt, workers vehicles etc. will be using Tiburon Bld. from 101 to the construction road. What will be the impact when roads are being

		excavated for utilities upgrades and improvements.  Over what period of time.  Do the residents and City Council of Belvedere understand the impacts on their community by this what seem like a remote project?
	66	<u>B. Residential lot sales and house construction</u>  Traffic caused by hundreds of real estate agents, potential buyers, architects , landscapers and contractors, sub-contractors for each house all coming along Tiburon Blvd from 101  Over what period of time
	67	<u>C. Increased traffic from new residents.</u>  Move in vans, household workers etc.
Page 690	68	<u>Why no visuals for 43 houses and why no alternative and visuals for 32 houses?</u>
Page 706	69	<u>If Alternate 3 were used for 32 houses would it be superior to Alternate 2?</u>

Derek Parker

Nancy Parker

2351 Spanish Trail, Tiburon, California

415 435 8893

[derekparker42@gmail.com](mailto:derekparker42@gmail.com)

**RESPONSE TO LETTER NO. – 54 DEREK AND NANCY PARKER (APRIL 21, 2011)**

**Response to Comment 54-1**

Comment noted. No further response is necessary.

**Response to Comment 54-2**

This is a comment on the merits of the proposed project and not on the adequacy of the EIR. No further response is necessary.

**Response to Comment 54-3**

Storey poles are not required at this point in the development review process. **Section 5.8 Visual Quality** contains visual simulations that depict how the proposed development would appear on the project site. Storey poles may be required prior to home construction as part of the design review approval process.

**Response to Comment 54-4**

Please see Master Response 1 and Response to Comment 54-45.

**Response to Comment 54-5**

Please see Master Response 2 and Response to Comment 6-9.

**Response to Comment 54-6**

Please see Master Response 8 and Response to Comment 6-16.

**Response to Comment 54-7**

Although *Alternative 2* would result in fewer homes than the proposed project, a 180,000 gallon water tank would be needed to maintain desired water pressure for fire flow. The MMWD has also indicated that it would consider enhancing water supply for the existing Hill Haven neighborhood with the proposed water tank.

**Response to Comment 54-8**

Please see Response to Comments 11-15, 15-32, and 50-5.

**Response to Comment 54-9**

This comment is acknowledged. **Section 2.5 Major EIR Conclusions and Issues To Be Resolved** includes a discussion of the applicant's proposal to construct roadways that do not meet Marin County development standards. The Draft EIR does not support this request. The Draft EIR includes Mitigation Measures that require roadways be constructed to meet county standards (Mitigation Measure 5.1-11).

**Response to Comment 54-10**

Please see Response to Comment 41-2.

**Response to Comment 54-11**

*Impact 5.1-2 Cumulative Buildout-Plus-Project Impacts to Study Intersection* makes reference to planned lane improvements in the *Tiburon General Plan*. There is no time frame for implementation of these improvements.

**Response to Comment 54-12**

Comment noted. No further response is necessary.

**Response to Comment 54-13**

Please see Response to Comments 6-15 and 7-14. These responses contain information that includes an expansion of mitigation measures for construction traffic, and expanded evaluation of three possible construction traffic routes.

**Response to Comment 54-14**

*Impact 5.1-4 Impact on Regional Roadways* discusses mitigation measures contained in the *Marin Countywide Plan EIR*<sup>48</sup> that would reduce cumulative impacts on U.S. 101 and regional roadways. Implementation of these mitigation measures (see *Countywide Plan EIR* Mitigation Measures 4.2-2, 4.2-9, 4.2-10, and 4.2-13) would be the responsibility of Caltrans in cooperation with Marin County and other jurisdictions. There is no known timeline for the implementation of these mitigation measures.

**Response to Comment 54-15**

Please see Response to Comment 54-45.

**Response to Comment 54-16**

The significance level of any impact is based upon the significance criteria as stated in the Draft EIR, which for *Section 5.1 Transportation* is listed on pages 198 and 199 of the Draft EIR.

**Response to Comment 54-17**

Please see Master Response 2 and Response to Comment 6-9.

**Response to Comment 54-18**

The project site is located in a quiet area with low ambient noise levels. Because of this noise from project construction, although reduced with implementation of Mitigation Measures 5.3-1, would result in a significant and unavoidable impact. In cases when proposed mitigation measures would not reduce an impact to the level of severity that is less-than-significant, the agencies with authority over the project must make findings that because of specific economic, legal, social, technological, or other

---

<sup>48</sup> *Marin Countywide Plan Update Draft EIR*, Marin County Community Development Department and Nichols • Berman, January 2007.

considerations the mitigation of such impacts is infeasible, and the agency adopts a statement of overriding considerations finding that economic, legal, social, technological, or other benefits of the proposed project outweigh its unavoidable adverse environmental effects.

**Response to Comment 54-19**

Please see Master Response 3 for information regarding Keil Property Spring and the Keil Property groundwater based water supply.

**Response to Comment 54-20**

Please see Master Response 3.

**Response to Comment 54-21**

Please see Response to Comment 11-8.

**Response to Comment 54-22**

Mitigation Measure 5.6-8 states that the applicant shall pay fees in the amount of \$500 for each ordinance-sized tree removed paid into the Resource Management Plan (RMP) endowment fund. The applicant would be required to comply with the County's Native Tree Protection and Preservation Ordinance (County Code Chapter 22.27) which requires \$500 per replacement tree to be deposited into the County Tree Preservation Fund. The ordinance does not, however, permit that these funds be paid into the RMP endowment fund. The RMP is initially required by Mitigation Measure 5.6-1. Details of the RMP, including oversight of fund management, would be developed as part of the RMP.

Based on the above the second bullet in Mitigation Measure 5.6-8 is revised as follows:

The applicant and individual lot owners shall be allowed to mitigate up to 25 percent of lost ordinance-size trees by incorporating tree plantings into their landscape plans for approval by the County, consistent with provisions contained in the Marin County Code Chapter 22.27 (Native Tree Protection and Preservation). Any replacement plantings shall consist of SODS-resistant tree species native to Marin County for the remaining 75 percent of ordinance-size trees to be removed, the applicant or individual lot owner shall pay a fee in the amount of \$500 for each ordinance-size tree that will be removed. ~~into the RMP endowment fund. These funds shall be earmarked to manage and enhance preserved woodlands on the site through RMP activities such as the removal of non-native invasive plants, SODS management, replacement of dead or dying trees, etc., as well as to fund the re-establishment of woodland vegetation in areas that will be temporarily impacted as a result of landslide repairs.~~

The second and third bullets in Mitigation Measure 6.6-8 are revised as follows:

The applicant and individual lot owners shall be allowed to mitigate up to 25 percent of lost ordinance-size trees by incorporating tree plantings into their landscape plans for approval by the County, consistent with provisions contained in the Marin County Code Chapter 22.27 (Native Tree Protection and Preservation). Any replacement plantings shall consist of SODS-resistant tree species native to Marin County. For the remaining 75 percent of ordinance-size trees to be removed, the applicant or individual lot owner shall pay a fee in the amount of \$500 for each ordinance-size tree that will be removed ~~into the RMP endowment fund.~~



~~These funds shall be ear-marked to manage and enhance preserved woodlands on the site through RMP activities such as the removal of non-native invasive plants, SODS management, replacement of dead or dying trees, etc., as well as to fund the re-establishment of woodland vegetation in areas that will be temporarily impacted as a result of landslide repairs.~~

**Response to Comment 54-23**

This comment addresses merits of the proposed project and does not raise issue regarding the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 54-24**

Please see Response to Comments 1-3 and 18-4.

**Response to Comment 54-25**

Please see Master Response 3.

**Response to Comment 54-26**

This comment is on the merits of the proposed project and not the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 54-27**

Comment noted. No further response is necessary.

**Response to Comment 54-28**

Comment noted. No further response is necessary.

**Response to Comment 54-29**

Request for a story poles is noted. Visual impacts are addressed in *Section 5.8 Visual Quality*.

**Response to Comment 54-30**

**Exhibit 6.0-2** indicates the location of the pedestrian trail which is one of the revisions to the proposed project included in *Alternative 2*. This is not the Spanish Trail.

**Response to Comment 54-31**

Keil Pond and surrounding property is shown on **Exhibit 3.0-4** to provide context of the off-site property in relation to the project site.

**Response to Comment 54-32**

As stated on page 65 of the Draft EIR, which is part of *Section 3.2 Project Description*, a public pedestrian access easement would be located along portion of Ridge Road, intended to provide pedestrian access from the Hill Haven neighborhood to Old St. Hilary's Open Space Preserve and the Tiburon Uplands Nature Preserve.

**Response to Comment 54-33**

The applicant has indicated that with the proposed project all buildings would incorporate sustainable design features. Details are not available at this time, and are not necessary for this environmental evaluation.

**Response to Comment 54-34**

This comment is regarding the merits of the proposed project, and not the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 54-35**

This comment is regarding the merits of the proposed project, and not the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 54-36**

Please see Master Response 2 and Response to Comment 6-9.

**Response to Comment 54-37**

The transportation analysis has identified traffic impacts resulting from potential obstruction of these streets. The impact of regulating parking on both sides of the street would be improved safety. Please see Response to Comment 6-7.

**Response to Comment 54-38**

Health and safety issues are addressed throughout the Draft EIR. Examples of areas where relevant topics are discussed include *Impact 5.2-2 Generation of Airborne Asbestos*, *Impact 5.1-9 Project Impacts Related to Project Site Emergency Access*, *Impact 5.1-11 Provision of Safe On-Site Roads*, and *Impact 5.7-2 Wildland-Building Fire Exposure* among others impact topics in the Draft EIR that provide substantial information for the environmental evaluation of this project.

**Response to Comment 54-39**

Please see Response to Comment 1-3.

**Response to Comment 54-40**

Retaining walls are discussed on pages 82 and 505 of the Draft EIR. Plans depicting the extent of retaining walls are available for review at the Marin County CDA offices. The height of retaining walls would vary. Retaining walls over 2.5 feet may require guardrails or fencing.

**Response to Comment 54-41**

Please see Master Response 8 and Response to Comment 6-16 for information regarding the proposed installation of a wastewater line within the Paradise Drive right of way.

**Response to Comment 54-42**

It is acknowledged in **Exhibit 4.0-3** that the proposed project is inconsistent with policies that restrict development near ridgelines.

**Response to Comment 54-43**

Please see Response to Comment 54-42.

**Response to Comment 54-44**

Comment noted. No further response is necessary.

**Response to Comment 54-45**

Solano Street, although not labeled, is shown on **Exhibits 5.1-2, 5.1-4, and 5.1-6**. Solano Street is included in the list of off-site streets that would be affected by project site access on page 170 of the Draft EIR. On page 173 of the Draft EIR Solano Street is included in the description of the street network of the Lyford's Cove / Old Tiburon and Hill Haven Neighborhood on pages 173 and 179 of the Draft EIR. A description of Solano Street can be found on page 174 of the Draft EIR. Page 202 of the Draft has a project trip distribution that includes Solano Street as part of the route from Old Tiburon neighborhood to downtown Tiburon. Accident records for Solano Street are listed on pages 252 and 253 of the Draft EIR.

**Response to Comment 54-46**

Please see Response to Comment 54-45.

**Response to Comment 54-47**

Please see Response to Comment 54-45.

**Response to Comment 54-48**

Please see Response to Comment 54-45.

**Response to Comment 54-49**

Please see Master Response 1, and Response to Comment 1-2 for information regarding plans for Paradise Drive.

**Response to Comment 54-50**

Please see Response to Comment 7-14.

**Response to Comment 54-51**

Comment Noted. No further response is necessary.

**Response to Comment 54-52**

Please see Master Response 1.

**Response to Comment 54-53**

Mitigation Measure 5.1-13 identifies feasible measures with standards to reduce construction traffic impacts to a less-than-significant level. These include implementation of the applicant's proposed construction access road (Mitigation Measure 5.1-13(a)), which would reduce construction traffic in

existing neighborhoods. Implementation of the applicant's Construction Management Plan (Mitigation Measure 5.1-13(b)) with modifications to restrict construction access through existing neighborhoods, practice safety precautions in regards to the construction road, and evaluate and repair deteriorated pavement caused by project generated traffic, among other measures.

**Response to Comment 54-54**

Grading, retaining walls, and landslide repair are included in the description of visual changes to the project site on page 505 of the Draft EIR.

**Response to Comment 54-55**

The proposed project includes a pedestrian easement to sustain access to Old Saint Hilary's open space preserve to and from Ridge Road. No access from the area described as Spanish Trail is included. *Alternative 2* would include a trail from the vicinity of Spanish Trail that could be used to access Old St. Hilary's Open Space.

**Response to Comment 54-56**

This comment regarding the water tank is not about the adequacy of this EIR. No further response is necessary.

**Response to Comment 54-57**

With respect to the commentor's opinion the comment regarding Spanish Trail is noted. As explained in the discussion of *Impact 5.9-2 Historic Significance of Spanish Trail*, Spanish Trail lacks historic integrity and has not been formally designated a locally important.

**Response to Comment 54-58**

Comment noted. Please see Master Response 3.

**Response to Comment 54-59**

*Alternative 2 – 32-Unit Lower Density Alternative* and *Alternative 3 – Visual Quality Alternative* are two separate project alternatives discussed in the Draft EIR. Like the proposed project, *Alternative 2* and *Alternative 3* would result in significant and unavoidable visual impact. However, these impacts would be less severe than with the proposed project.

**Response to Comment 54-60**

A sufficient variety of project alternatives are presented in the Draft EIR to represent a realistic and reasonable range of potential uses and development strategies for the project site. Also, please see the responses to comment letter 90.

**Response to Comment 54-61**

The proposed project does not include pedestrian access from the vicinity of Spanish Trail Road to Old Saint Hilary's Open Space.

**Response to Comment 54-62**

Please see Response to Comments 11-8, 15-12 thru 15-15, and 15-24 thru 15-26.

**Response to Comment 54-63**

These diagrams provide information sufficient to support the analysis contained in the Draft EIR. No further response is necessary.

**Response to Comment 54-64**

Please see Response to Comment 54-65.

**Response to Comment 54-65**

The Construction Management Plan <sup>49</sup> describes in general terms the type of equipment that would be used for various construction activities. For example, equipment on-site for grading would be one dozer (D-8), one excavator (E-330), a bladed grader (140 motor grader), one small compactor (815), and one water truck. The number of individual pieces of equipment that would be used, and the period of use, however, is not provided. Based on this information the Draft EIR provides a description of activities and construction phasing under the discussion of *Impact 5.1-13 Construction Traffic Impacts* and *Impact 5.3-1 Construction Noise*. For example, the amount of construction truck traffic would vary on a day-to-day basis depending on the construction activities occurring at any given time. More construction truck traffic would result during the road paving phase of the project, as opposed to the planting and cleanup phase of project where substantially fewer trips would be required.

During the site preparation and grading phases of the project, construction trucks would be required to import and export fill as well as to import materials such as precast blocks, concrete, lumber, and rebar for use in constructing retaining walls. Construction trucks would also be necessary when utilities are installed to import concrete for the water tank construction, and other materials necessary to complete the proposed pipelines and drainage improvements. During the road paving phase of the project, it is anticipated that approximately 700 trucks would be required to import base rock and concrete to the site. Construction truck traffic would be expected to be substantially lower during the planting and cleanup phase of project. Construction truck traffic expected during individual home construction would be even less, averaging only a few truck trips per day.

The road paving phase of the project would yield the highest number of trucks per day. Assuming Phases 1 and 2 would each require 350 trucks (700 one-way truck trips) in approximately 20 workdays, it is anticipated that there would be approximately 35 one-way truck trips on a daily basis. On average over the course of an eight-hour workday, there would be five one-way truck trips in any given hour.

Also, please see Master Response 2 for information regarding the construction road that would provide access for the types of vehicle raised in this comment.

---

<sup>49</sup> Construction Management Plan 2008, Appendix F of Easton Point – Project Narrative, project applicant.

**Response to Comment 54-66**

The scope of these additional traffic trips is accounted for in the Draft EIR. **Section 5.1 Transportation** estimates increased traffic trips and discusses impacts. This information can be found on pages 169 through pages 273 of the Draft EIR.

**Response to Comment 54-67**

Please see Response to Comment 54-66.

**Response to Comment 54-68**

Please see Response to Comment 54-8.

**Response to Comment 54-69**

Please see Response to Comments 11-15 and 15-32.

April 23, 2011

Ms. Rachel Warner  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Dear Ms. Warner,

I am a resident of Tiburon living on Centro East and writing with regard to the Easton Point Development DEIR.

I walk around my neighborhood once or twice daily and have found that on Solano, Centro West, Diviso and Centro East there is quite a bit of traffic, which sometimes overwhelms these narrow, winding streets and offers no protection to either pedestrians or cyclists.

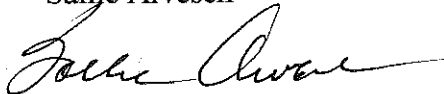
1 On page 197, under Paragraph 5.1 Transportation, fieldwork demonstrated that "stressful and at times hazardous" walking is already taking place. Significantly increased traffic, with no specification for either widening the roads to create pathways or constructing speed bumps, will certainly create an even more dangerous situation for those walking or riding bicycles. Many of our neighborhood children do bike to and from school.

Will there be any provision for making these areas in old Tiburon safe for those walking and cycling in the area? I certainly hope that these items will be addressed, so that people in the neighborhood can feel safe.

Thank you.

Sincerely,

Sallie Arvesen



**RESPONSE TO LETTER NO. 55 – SALLIE ARVESEN (APRIL 23, 2011)**

**Response to Comment 55-1**

Please see Response to Comment 13-4.



25 Windward Road  
Belvedere, CA 94920  
April 22, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR (The Martha Property)

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

1 I have lived in this community for over 50 years and have watched the traffic on Tiburon Blvd. become more and more congested. I fear that construction traffic will further aggravate commuter-hours traffic on Tiburon Blvd. Heavy trucks traversing will cause incredible noise impact on residents and will impact safety on local streets.

:Later, the addition of 45 houses to our community will cause increased congestion, overuse of our streets, and greater danger to cyclists and school children.

I am also concerned about the impact on plant and animal life. I have seen the gradual removal of open space on the peninsula, on trails that I have walked and enjoyed, and the time has come to STOP! Our way of life is in danger of permanent destruction. There are too many negative impacts on our community for this project to continue.

Sincerely yours,



Suzanne Himmelwright

**RESPONSE TO LETTER NO. 56 – SUZANNE HIMMELWRIGHT (APRIL 22, 2011)**

**Response to Comment 56-1**

Please see Response to Comments 6-14 and 39-12.

LETTER NO. 57

Claire McAuliffe  
229 Beach Road  
Belvedere, CA 94920

April 25, 2011

Rachel Warner  
Mr. Curtis Havel  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: Easton Property DEIR

Dear Ms. Warner and Mr. Havel:

This letter contains comments on the DEIR for the Easton Property.

1

Transportation. Construction of this project will adversely affect the Health and Safety of the residents of both Belvedere and Tiburon due to the increased traffic of trucks, on and off the Tiburon Peninsula as the trucks would

- (1) travel past three schools and one preschool on Tiburon Boulevard and emit noxious fumes affecting the children, parents and teachers in the schools during the day when the trucks would travel
- (2) be a significant hindrance in the event of any vehicular accident, and
- (3) seriously compromise emergency vehicles from responding to natural disasters.

Tiburon Boulevard is a narrow, two-lane road passing not just the schools but also a number of residences immediately adjacent to the street.

What is the science to avoid an adverse health impact to the health and safety of the children in the schools and the users of the bike path?

2

The reliance on increased use of public transit is specious. Bus service has been dramatically reduced in Tiburon due to low usage. Construction of the Easton project has not been shown anywhere in the DEIR to be a precipitating factor for increased use of public transit. How have you calculated mitigation measure 5.1-4?

3

Similarly, for the reduced bus service into/out of Tiburon, mitigation measure 5.1-5 is confusing. How did you calculate the number of trucks vs. the number of buses?

4

Bicycle traffic counts in the DEIR appear understated, and I believe the science is flawed. First, May is not peak bicycle riding month; higher bicycle counts will be during the summer. Further, the highest traffic counts for bicyclists are on the weekends, and include not just local experienced bicycle riders on Paradise Drive, but more troublingly, the significant number of visitors and tourists to Paradise Drive (and to Paradise Park for family picnics and other outdoor gatherings) during the summer days and on weekends. Once completed, up to 44 new houses would add at least 44 if not 88 cars going forward. I believe this is a highly significant adverse environmental impact, not least because the potential for serious, significant physical injury, if not death, to bicyclists on Paradise Drive, both during and after construction, is very real.

5

Similarly, while the DEIR counts pedestrians, it is logical to assume that there will be an increase in pedestrians going forward both during and after construction.

6

The DEIR provides inadequate science with regard to the health and safety of bicyclists and pedestrians on this roadway both during and after construction.

7

Page 18: Air Quality. Significant Impact

In addition to the impacts noted above, the proposed mitigation measures for the air quality impact fail to address the air quality impact to the many bicyclists and walkers on the Tiburon Bike Path, immediately adjacent to Tiburon Boulevard. Signage and other mitigation measures in 5.1-6 are inadequate in that all they do is warn of the dangers. Finally, there is no alternative for walkers and bicyclists on the bike path. What factual evidence is there that signage will improve air quality for bicyclists, walkers and small children who use the bike path daily and in all twelve months of the year?

8

Similarly, the air quality data does not distinguish between the adverse environmental impacts caused by diesel exhaust from construction trucks, and the typical exhaust from passenger cars. Where in the DEIR is there a clear explanation of the analysis of the emissions from diesel construction trucks?

9

Section 3.0 - Fencing, page 69

"When planned, fences should generally not exceed five feet in height. " This is a concern. Deer roam all over this property, and fences of five feet in height are insufficient to stop them from jumping into the homeowner's yards. This is a significant health and safety issue for two reasons: (1) as the deer can easily access these homes, what are the mitigation measures to prevent them from entering yards of the homes built? (2) As the deer will have reduced open space should the development proceed, what are the mitigation measures to prevent this wildlife from attacking people and animals in the open space as regularly happens in other such newly-restricted open space?

10

Public Services: emergency radio coverage. Mitigation requires preparation of an

emergency radio coverage improvement plan prepared in cooperation with the Marin Emergency Radio Authority. The DEIR is silent as to when would this MERA system be in place, exactly what it would look like, exactly where it would be located, and the cost. What are the answers to those questions?

11

Impact to existing open space: "Several aspects of the proposed project may impact the existing open space owned by the Marin County Open Space District – both Old St. Hilary's Open Space Preserve and Tiburon Uplands Preserve. These include pedestrian access impacts, impacts to special status plants, and visual impacts. The identified impacts to special status plants could be mitigated by a revised lot layout, but visual impacts would be significant unavoidable impacts." I find this impact to existing open space unacceptable: Existing open space is a publicly owned asset, not subject to a developer's intentions. Where in the DEIR is the specific legal standing and justification for impacting existing open space, and for mitigating the access of the public to existing and proposed open space?

12

"The visual impact to the views from Tiburon Ridge, Heathcliff Drive, and Ayala Cove on Angel Island would be significant unavoidable impacts. Although not visible in the simulated view from Tiburon Ridge the 180,000-gallon water tank would be a highly conspicuous feature and would likely obstruct at least part of the view of Angel Island from other Tiburon Ridge viewpoints. Development on the project site, including the construction access road and the water tank, would be visible from locations on Angel Island, including Ayala Cove as shown in the simulated view." Where does the DEIR address alternatives to siting the water tank in a less visually impactful space?

13

Proposed other developments on the Tiburon Peninsula: The Town of Tiburon is actively considering approving another development, commonly known as the Alta Robles property, which proposes building 13 homes at 3825 Paradise Drive. Where in the DEIR is cumulative environmental impact to the Tiburon Peninsula for concurrent construction addressed?

14

5.4 Geology and Soils. The area immediately surrounding this project is populated with significant numbers of older people, and very young children. The DEIR does not address the pulmonary and breathing impacts of the asbestos, which would be released from the serpentine rock when it is unearthed during construction. I feel this is a profound health risk not addressed in the DEIR. Where is the science on which you rely to justify your mitigation measures?

Thank you.

Claire McAuliffe



**RESPONSE TO LETTER NO. 57 – CLAIRE MCAULIFFE (APRIL 25, 2011)**

**Response to Comment 57-1**

Please see Response to Comment 7-14.

**Response to Comment 57-2**

*Impact 5.1-4 Impact on Regional Roads* discusses cumulative traffic impacts on Tiburon Boulevard and U.S. 101. Cumulative traffic impacts, build out of anticipated regional growth including the proposed project, were deemed significant unavoidable. The proposed project would make a small incremental contribution to this significant unavoidable cumulative impact. The Marin Countywide Plan Final EIR identifies mitigation measures to reduce impacts. This analysis considers regional growth and cumulative impacts. The project would make a small contribution to this cumulative impact.

**Response to Comment 57-3**

The discussion of *Impact 5.1-5 Project Impact on Transit* states that any increase demand for transit that would be generated by the proposed project would be met by existing services. Currently Paradise Drive has no transit service, therefore residential and construction traffic would not impact transit services.

**Response to Comment 57-4**

The commentor's opinion on bicycle traffic and vehicle trips that would result from the proposed project is noted. These issues are addressed in **Section 5.1 Transportation** of the Draft EIR. As discussed under *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues* proposed mitigation includes measure to enhance bicyclist safety along Paradise Drive (see page 240 of the Draft EIR).

**Response to Comment 57-5**

Mitigation Measure 5.1-3 includes improvements to Paradise Drive that would provide additional pedestrian refuge areas.

**Response to Comment 57-6**

Bicycle and Pedestrian safety issues are discussed with *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Issues* and *Impact 5.1-7 Project Impact on Pedestrian Circulation*.

**Response to Comment 57-7**

The commentor suggests that the air quality mitigation measures fail to address the impact to bicyclist and pedestrians on the Tiburon Bike path.

The project addressed impacts to nearby sensitive receptors that include residences. Best available measures to reduce air pollutant emissions were identified that would reduce these impacts to less-than-significant levels. This conclusion would also apply to sensitive receptors further from the project and bicyclist or pedestrians using Tiburon bike paths that are further away from the project.

Signage included in the Construction Management Plan is only one portion of the overall measures that control construction period emissions.

**Response to Comment 57-8**

Construction period emissions of air pollutants and toxic air contaminants, including diesel particulate matter (DPM) are addressed under *Impact 5.2-1 Construction Period Air Pollutant Emissions*. Also, please see Response to Comment 35-1 for revisions to Mitigation Measure 5.2-1 that add additional measures to reduce DPM emissions from the project.

**Response to Comment 57-9**

The presence of deer in the vicinity of the project site may be a nuisance to some residents, however it is not anticipated to result in any environmental impacts that would need to be analyzed as part of the EIR. The presence of Black Tailed Deer is discussed on page 431 of the Draft EIR. Interference with movement of native wildlife is not considered to be a significant environmental impact.

**Response to Comment 57-10**

Please see Master Response 7 and Response to Comments 1-1 and 4-4.

**Response to Comment 57-11**

This comment highlights environmental topics that are discussed in the Draft EIR under *Impact 5.7-19 Open Space Impacts*.

**Response to Comment 57-12**

Please see Response to Comment 41-2.

**Response to Comment 57-13**

Please see Response to Comments 6-15 and 7-14.

**Response to Comment 57-14**

Please see Response to Comment 39-14.

*Michael G. Roy**1 Hacienda Drive**Tiburon, California 94920*

April 25, 2011

Ms. Rachel Warner

County of Marin, Community Development Agency

3501 Civic Center Drive, Room 308

San Rafael, CA 94903

Re: Martha Property/2008 Easton Point Residential Development DEIR

Dear Ms. Warner,

For a layperson, trudging through an 848 page Environmental Impact Report is no small task. Nonetheless, as a long time citizen of Tiburon, it is important that I understand the issues and the concerns that the subject project represent to all the citizens of the Tiburon peninsula. As you know, the bottom line issue is whether the well-being of the 8,700 residents of Tiburon and the 2,200 residents of Belvedere should trump the rights of a major landholder to develop property in an area where development activity and post-development density will have clear and significant negative impact on the population of the peninsula. The answer to that question must be that the reasonable well-being of that population is the priority. It must be the responsibility of local government agencies and representatives to hear their constituency, and to govern and regulate in the best interests of that constituency.

As you are well aware, the subject DEIR identifies multiple serious concerns and issues with the proposed development, from loss of irreplaceable open space and removal of trees, to prospective landslides, and issues of water and sewer suitability. In the short term, the impact of project related truck traffic on a peninsula infrastructure already over-burdened is likely to crush local movement along Tiburon Boulevard, severely damage the road itself, and reduce local business visits significantly. The development activity related to this project has the clear potential to quickly and frighteningly throttle much of the daily life up and down the peninsula.

1 With all due respect, there must come a time in any civilized society where enough is just enough. Throughout the San Francisco Bay Area, unbridled development has crushed much of what makes for a reasonable style of life and happiness. It is clear the short and longer term environmental impact of this proposed project will further deteriorate daily life for all of the nearly 11,000 residents of the Tiburon peninsula. It is simply not possible that such could be allowable within any reasonable understanding of what is right and good.



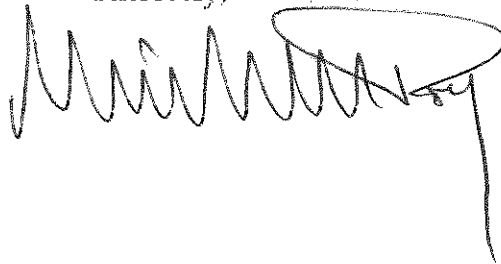
Ms. Rachel Warner

April 25, 2011

Page Two

I greatly appreciate your consideration and your concern about this matter. I will be following continuing developments closely and I sincerely hope that appropriate authorities with the County of Marin proceed forward on this matter with the greater good of the county and Tiburon peninsula citizenry foremost in their minds.

Sincerely,

A handwritten signature in black ink, appearing to be "M. Warner", with a large, stylized loop at the end.

**RESPONSE TO LETTER NO. 58 – MICHAEL G. ROY (APRIL 25, 2011)**

**Response to Comment 58-1**

The comment addresses the merits of the project and does not specify any areas where the Draft EIR may be inadequate. No further response is necessary.

M. DOUGLAS WOODRING  
P.O. BOX 1160  
TIBURON, CA 94920

April 24, 2011

Rachael Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential DEIR. A number of my major concerns are as follows:

**The negative impact that the project will have on the open space both near and long term –**

1

- Cutting 700 – 800 trees reduces wildlife habitat and offset to area's carbon footprint;
- Reducing mature trees will destabilize soil in hillsides noted for slides;
- Safety and health issues will be raised by reducing habitat for animals such as deer, coyotes, fox, raccoons, possums, forcing them to live closer to humans;
- Reducing trails and open space that is essential to the citizens' well being.

**Threat to historic Keil Cove eco system –**

2

- Negative impact on water volume and quality to Keil spring, Keil pond and the cove;
- Concerns about pollution of gardens and pond from runoff and seepage;
- Pollution may threaten existence of red-legged frog;
- Possibility of future flooding and slides.

**Logistics and transportation –**

3

- Who will police ongoing noise, dirt and air pollution?
- Heavy equipment and dump trucks using Tiburon Blvd over 3-5 years will degrade Tiburon Blvd, making it dangerous to drive;
- Noise level of construction and heavy equipment will affect neighbors during this long time period;
- Heavy equipment on narrow access streets will hinder safety and emergency vehicles;
- Construction vehicles on neighborhood streets will create safety hazards while competing with normal traffic and ongoing local construction projects;
- Access to Rte 101 will be badly impacted especially during peak travel hours;
- Temporary construction road over tract will destabilize soils, cause erosion and be potential safety hazard for runaway trucks;
- Who will police idling trucks on Tiburon Blvd waiting their turn to access single track construction road?

Have all of the foregoing issues and concerns been **ADEQUATELY** addressed in the DEIR?

Sincerely,

*Doug Woodring*

**RESPONSE TO LETTER NO. 59 – M. DOUGLAS WOODRING (APRIL 24, 2011)**

**Response to Comment 59-1**

Please see Response to Comment 11-8 for information regarding tree preservation. The commentor raises a point that removal of mature trees would destabilize soil within hillsides that have landslide and slope stability issues. A similar topic is addressed in the discussion of *Impact 5.4-2* where it is discussed that graded slopes would be exposed to erosion over time. Mitigation Measure 5.5-3(b) requires a Storm Water Pollution Prevention Plan that would include erosion control methods to help reduce this impact. Please see Response to Comments 11-2, 11-6, and 11-27.

**Response to Comment 59-2**

Please see Master Response 3. This topic is also discussed with *Impact 5.9-3 Historical Significance of Keil Cove* erosion and downstream sedimentation are discussed as well, this impact would reduce to a less-than-significant level.

**Response to Comment 59-3**

The applicant has proposed to designate a disturbance coordinator to field concerns from adjacent neighbors as discussed on page 269 of the Draft EIR. Mitigation Measure 5.1-13(b) includes a requirement for the repair of any deteriorated pavement along Tiburon Boulevard, and Paradise Drive that is caused by construction traffic (please see page 272 of the Draft EIR). It is acknowledged that noise impacts resulting from construction activities would be a significant and unavoidable impact (please see the discussion of *Impact 5.3-1*). Other comments are regarding the merits of the project and not the adequacy of the Draft EIR. No further response is necessary.

PO Box 68  
Tiburon CA 94920  
April 25, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: **2008 Easton Point Residential Development DEIR**

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on bicyclists using Tiburon Boulevard and Paradise Drive.

Every weekday morning for 25 years, Marin Cyclists has sponsored a ride around the Tiburon peninsula. We typically have 8-10 riders and for the last 10 years I have participated 4 days a week throughout the year. I have had two accidents due to unsafe road conditions, one resulting in a broken collar-bone and one requiring an ambulance ride to the emergency room at Marin General.

In addition, other groups of bicyclists use this route – the Alto Robles study counted 63 bicyclists during a 4-hour weekday period and an average of 488 during 8-hour weekend periods. The Easton Point DEIR states that the conditions on Paradise Drive are already “unsafe for use by bicyclists (pages 196, 239) due to lack of consistent width shoulders resulting in narrow roadways where bicyclists and pedestrians compete for hard space with vehicle traffic. Any contribution of new vehicle trips to these unsafe conditions result in a cumulative considerable contribution to this cumulative impact. This hazard would be exacerbated by even minor increases in vehicle traffic (page 239). The proposed project would contribute additional vehicle traffic on Paradise Drive, which would be a considerable cumulative impact” (page 240).

1

1. Volume of Truck Traffic

Heavy trucks of course constitute a greater hazard than normal vehicles, especially to bicycles. It appears that thousands of truck journeys will be required. The DEIR gives estimates of the additional traffic volume after the project is completed, but where are the estimates of truck traffic on Paradise Drive (a) during site preparation, and (b) during construction of the houses?

2

2. Traffic Control

I understand that there will be a period of up to 12 years during which site improvements and construction of houses will be occurring. According to the Alto Robles DEIR, construction traffic will expedite deterioration of the pavement on Paradise Drive. Traffic control measures will be required in the construction management plan during peak AM and PM travel periods (page 31). Since the traffic volume in the Easton Point project will likely be greater than in the Alto Robles project, should not traffic control measures, such as requiring trucks to travel in

convoys with pilot cars during peak AM and PM periods, also be mandated in the Easton Point project?

3

### 3. Bicyclist Safety

Due to the volume of heavy truck movements along Paradise Drive while bicyclists will also be traversing the route, it is inconceivable, with this much traffic, that accidents can be avoided. The DEIR states, without any justification, that "implementation of mitigation measure 5.1-6 would reduce the project's contribution to cumulative impacts to bicyclists to a less-than-significant level" (page 241). The traffic study cited in the DEIR\* makes the recommendations set out in 5.1-6 but does not demonstrate or even claim that implementation of these recommendations would reduce the impact to the desired degree. Where is the safety consultant's analysis relating the volume of truck traffic to the number of cyclist injuries and fatalities?

Should not this analysis be separated into project phases, namely (a) site preparation, (b) house construction, and (c) after project completion?

The DEIR states that bicyclists' needs should be considered (pages 210 and 557). However, I am concerned that, if left vague at the planning stage, these needs could be overlooked should the project be confronted with budget and schedule constraints, resulting in inadequate provision for bicyclists' safety. What commitments will be required of the developer up front to ensure that measures to ensure bicyclists' safety will actually be implemented?

4

### 4. Pavement Width

The DEIR states that the road width on Paradise drive is already unsafe for use by bicyclists (page 196). The proposed development only envisages widening the Paradise Drive pavement in two places, at Forest Glen Court and at the driveway for lots 21 through 23, with tapering extending 60 ft. in each direction. This is inadequate in view of the extra vehicle traffic that will be generated by the project. The conditions of approval by Marin County for the Sorokko project include a requirement that the project applicant provide a road section to include an 11-foot wide travel lane, a four-foot paved shoulder, and a two-foot wide dirt shoulder along the entire front of the property (approx. 1100 feet). Should not Paradise Drive be widened by 4 ft. for the entire frontage of the Easton Point property?

5

### 5. Debris on Road

During this 12-year period a great deal of gravel and other debris will inevitably be spilled on the road, creating a danger to bicyclists. Could the road at least be swept daily to remove the worst of these hazards?

Sincerely,



Mark Bewsher

\*"Focused Traffic Study for the Martha Company Project", March 17, 2009.

**RESPONSE TO LETTER NO. 60 – MARK BEWSHER (APRIL 25, 2011)**

**Response to Comment 60-1**

Please see the discussion under *Impact 5.1-13 Construction Traffic*.

**Response to Comment 60-2**

Please see Response to Comments 6-15 and 7-14.

**Response to Comment 60-3**

Please see Response to Comment 6-12.

**Response to Comment 60-4**

Please see Response to Comment 1-2.

**Response to Comment 60-5**

The Draft EIR contains an analysis of the proposed projects affects on bicycle safety issues in *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues*. See Response to Comment 7-14 for debris issue.

As part of dust control mitigation debris hauling trucks would be covered. The construction management plan requires prevention of visible tracking of mud or dirt on to public roadways or immediately sweep dirt or mud tracked on to roadways, and public streets would be swept daily (with water sweepers) if visible soil material is carried onto public streets.



Barry and Fran Wilson  
1990 Centro West  
Tiburon, CA 94920  
April 21, 2011

Rachel Warner  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**Reference: EASTON POINT DEIR COMMENTS**

In general, we believe that the DEIR imposes substantial inconvenience as well as health and safety costs on the neighbors while reserving nearly all benefits to the developers. We believe that the developers should assume development costs.

**Trails**

1

The project proposes only minimal trail benefits for Marin County residents. A number of clearly delineated, well-worn trails crossing the Martha Property that have been used for decades, would be eliminated or rerouted. These trails should be retained for the public and it can be accomplished without undue burden on new property owners.

**Comments:**

- The project does not include trails consistent with the Marin Countywide Trails Plan.
- The proposed trail along the existing Spanish Trail does not match the existing trail.
- The trail to the top of the hill from the water tank off Paradise Drive (future Forest Glen Court) is not shown.
- There is no trail up the "nose" from Spanish Trail as there has been for decades.

**Questions:**

- Why not mandate trails consistent with the Marin Countywide Trails Plan?
- Is the proposed trail along the existing Spanish Trail path intentionally relocated?
- Why was the path up the nose eliminated? It could be routed unobtrusively between lots 12 and 13 (or 13 and 14) in the manner of the Tiburon Ridge Trail below Place Moulin. (The Tiburon Ridge Trail at the end of Place Moulin, just prior to descending 162 steps to Mt. Tiburon Road, passes unobtrusively by three houses virtually out of sight.)
- There is a significant washout across the beginning of Spanish Trail path where it leaves Spanish Trail. Will this washout be repaired?

**Special Status Plants**

2

*As discussed in Section 5.6 Biological Resources, the implementation of the proposed project would impact or destroy 45.42 acres of natural habitat (see Exhibit 5.6-5). This includes habitat loss related to significant impacts to special status plants (Impact 5.6-1 Impacts to Special Status Plants), and the loss of Serpentine Bunchgrass (Impact 5.6-3 Loss of Serpentine Bunchgrass). Therefore the proposed project would make a cumulatively considerable contribution to the cumulative loss of undeveloped habitat and fragmentation of natural areas.*

*Mitigation Measures similar to the recommended mitigation measures in Section 5.6 Biological Resources would be required for future development projects in the Tiburon Planning Area to mitigate cumulative biological resources impacts.*

**Questions:**

- Why does it fall to future projects to mitigate these impacts? Why not start now?

**Visual Impacts (P673)**

3

**Questions:**

- Why is the new 20' x 40' water tank not included in any view simulation?



- Why aren't story poles required to be erected for the water tank?
- Is the tank going to be placed on a new 10' tall slab? If so, why must this be done?
- Why are story poles not required in appropriate locations to illustrate the project's impacts?

#### **Traffic Safety**

##### **Tiburon Boulevard and Old Tiburon Traffic**

*Page 249: Construction trucks and other construction traffic through the Hill Haven neighborhood streets would be very noticeable to residents at home during construction hours and would result in a significant intrusion in this neighborhood. Uphill and downhill movement of construction trucks currently is noticed by residents (noise, obstruction of sight distance for cars following behind large trucks, temporary obstruction of progress through intersections too constrained to accommodate large truck turning movements, etc.), and any increase in truck activity would be considered a serious traffic hazard (as is the case today). This would be a significant temporary impact to traffic flow and roadway safety in the Hill Haven neighborhood, especially through the narrowest and steepest roadways, Diviso Street (as narrow as 16.5 feet wide) and Centro West and Centro East streets (as narrow as 17 feet wide). These roadway widths are not sufficient to allow two trucks or a truck and a car traveling in opposite directions to pass one another safely. These would be significant impacts*

##### **Questions:**

- Page 577. Traffic safety is a huge consequence of developing the Martha Property. Why is the DEIR so quiet about traffic safety, while spending inordinate time and pages on traffic counts? It presents traffic counts at many intersections, apparently defending the premise that traffic volume is not a problem. When a large construction truck travels up Diviso or presents itself at the Diviso/Centro West intersection, the issue is traffic **safety**, not traffic count. Most of the roads in Old Tiburon are substandard—narrow and without shoulders or sidewalks. All construction vehicles are a menace when they travel in Old Tiburon. Large trucks require opposing vehicles to pull over or back up to reach driveways and pullouts to permit passage. Pedestrians and bicyclists are squeezed off the road or risk injury. Three-point turns at the Centro West/Diviso intersection happen multiple times each hour. Citing low traffic counts does nothing to diminish this peril.
- Why demand the neighborhood stop parking or putting dumpsters on Diviso—thereby precluding construction and maintenance projects along Old Tiburon streets—so the Martha Property developers can accomplish their work without having to provide proper mitigation?
- Pedestrian safety along Paradise Drive ends where the sidewalks end at Solano. Why does the DEIR not mandate sidewalks, shoulders and bike lanes along Paradise Drive from Solano all the way to Forest Glen Court?
- Tiburon residents are excruciatingly familiar with crawling traffic on Tiburon Boulevard at school-pickup and construction traffic time every day. Did the DEIR consider those peak times as well as regular commute rush hours?

##### **Construction Road (Page 564 & 565)**

The construction access road would have a maximum grade of 25 percent. P574: The construction access road would be ten feet wide with turnouts and paved with grooved concrete. The construction access road would be the primary access to the site for construction vehicles, including earth moving, construction materials, and work crews.

##### **Comments**

The construction road raises questions of safety and cost allocation that do not appear to be addressed well.

- It violates standards for both width and grade.
- It requires one-way traffic.
- It will be heavily used by large trucks—the earth removal alone may require over 1645 truck trips.
- Thousands more heavy truckloads will be required to transport materials, concrete, fuel and water for asbestos mitigation.

- We heard from a construction foreman that a road with this grade requires trucks be significantly off-loaded and possibly driven uphill in reverse.
- It is mentioned as a possible means of egress in emergency.  
*Page 574: The TFPD believes the applicant's proposal to keep the temporary construction access road as a possible means of egress from the project site in an emergency would constitute a hazard for vehicles because the road is too steep to serve as a safe secondary means of emergency egress from the Easton Point development. In addition, the temporary construction access road was not designed or intended to safely handle traffic without protocols, metering and overall use supervision. Therefore allowing the use of the construction access road for egress in an emergency would constitute a significant safety risk and would be a significant impact.*

**Questions:**

- Does TFPD stand by its statement that the construction road is unsafe for emergency egress? In view of the Oakland Hills fire history, is it safe and wise to build 16+ additional houses which will have to rely on the single access/egress route using Old Tiburon's extremely substandard roads?
- Has this road been evaluated by neutral professionals?
- Why does the DEIR permit the construction road to avoid meeting standards for grade and width? The cost of building a safe construction road (in dollars and injuries) should be allocated to the developers and not shared with the community and construction workers.
- Does the DEIR consider the unstable, landslide-prone land it proposes to traverse?
- The road will initially be built through access from Old Tiburon/Hillhaven. Is it possible to get the required equipment to the site through our neighborhoods' substandard streets without using prohibited trailers?
- Is it safe for a heavily-loaded truck to travel this road? Has a road-safety expert studied this?
- Nothing in the DEIR appears to speak to how and when the construction road will be closed. Will everything be removed, including retaining walls?
- Will a bond be required to assure complete removal and construction of the proposed trail in its place?

**Earth moving and cumulative construction traffic**

Page 571: 66,543 cubic yards of material will be moved in this project. 16,451 will be removed from the jobsite by truck through Tiburon.

**Comment:**

At ~10 cubic yards per truckload, well over 1600 truck trips will be required until trucks reach a staging area where trailers can be connected—(usually somewhere along Tiburon Blvd). Possibly many more loads will be required if trucks must be only partially loaded for safety. Thousands of truck trips will be required before buildout. The road must be built safely in terms of grade and width. We have a healthy skepticism of promises made by project planners that flagmen will provide traffic control. Cost pressures will trump EIR promises, particularly if the road remains so steep and narrow.

**Questions:**

- How many heavy truck trips will be required to remove the excavated soil and rock from the site?
- How many heavy truck trips overall will be generated by the Martha Development project—infrastructure and homes?
- In view of the grade and width limitations on this road, will heavy trucks need to be partially off-loaded? Has the effect of off-loading been considered in the number of truck trips and building standards required for the road?
- If dump truck trailers will be utilized, where will they be loaded?
- Will a cement truck have to climb the hill in reverse?
- Who will monitor compliance with traffic safety measures?
- Will a performance bond be required?

**Air Quality**

**Impact 6.2-2 Generation of Airborne Asbestos**

Similar to the proposed project, implementation of *Alternative 2* would include grading that may disturb soils containing serpentine, possibly releasing asbestos fibers into the air. With conformance to BAAQMD regulations this would be a less-than-significant impact.

**Mitigation Measure 6.2-2** No mitigation would be required.

**Comments:**

We have a healthy skepticism of promises made by planners in air-conditioned offices for mitigation of environmental damage. Neighbors of the Hunter's Point Project warned that construction practices at that site often fell short of their DEIR standards. One email said:

"Be sure to ask that the fencing be high enough to contain the dust, e.g., 8'-10' depending on wind conditions, and ask for plenty of water spraying. Also ask for the trucks to be cleaned thoroughly with water before exiting the site, so they don't track dust through the neighborhood. You should definitely ask that air quality monitors be installed both upwind and downwind from the site, that those monitors be checked and inspected frequently to ensure they are operating properly, and that there be clear and enforced penalties for failing to report or shut down after an exceedance."

Children at Reed School, Belvedere-Tiburon Library and Tiburon Peninsula Club are less than ½ mile from parts of the construction site. There should be a BAAQMD-approved plan before construction begins.

**Questions:**

- Why not require a BAAQMD-approved plan before construction begins?
- Who is going to assure conformance with BAAQMD regulations? Will there be a performance bond required?
- Who is going to monitor the 66,000+ cubic feet of cut and fill material for the presence of asbestos?
- Who is going to sample the air and the 16,451 cubic yards of exported material?
- If it contains asbestos, where will it be taken? To an appropriate landfill?
- Will asbestos-containing material be transferred to trailers at some point? Where? Will this point be included in air quality mitigation procedures?
- Will streets be watered and cleaned of dust from the project? How frequently?

**Water pressure****Impact 6.7-8 Inadequate Fire Flow (P668)**

*Fire flow requirements would be the same for Alternative 2 as for the proposed project, 1,500 gpm at 20 psi for two hours to approved fire hydrants, spaced at 350-foot intervals throughout the subdivision.*

*As discussed above, a preliminary water feasibility analysis as prepared for the proposed project was not prepared for Alternative 2. However, based on the preliminary water feasibility analysis for the proposed project some conclusions can be drawn for Alternative 2 regarding fire flow. Based on that analysis the fire flow for Lots 5 through 8 and 18 through 21 would likely be below 1,500 gpm.*

**Questions:**

- Why is it acceptable to have inadequate fire flow?
- Does the TFPD believe these numbers meet their standards?

**Landslides**

*The project site is underlain by 28 landslides (Landslides 1 through 23, 26, 27, 38 through 40).*

*Landslide Repair – Miller Pacific's proposed landslide repair program would improve the stability of portions of landslides within 100 feet of the residential building envelope and proposed public improvements such that the calculated factor of safety 22 is at least 1.5 for static conditions and greater than 1.0 for pseudo-static (seismic) conditions.*

*Landslide Improvement - Maintain or improve the stability of portions of existing landslides more than 100 feet from the proposed residential building envelopes and on-*

site public improvements. Improvement also includes efforts to maintain or improve stability of portions of landslides within 100 feet of off-site public improvements.

**Questions:**

- Why not repair all landslides, as Tiburon would require?
- Was there consideration given to the cumulative effect of large-scale development on land stability?
- Who is liable for landslides on private land greater than 100' from property lines?
- Who retains liability for unremediated landslides on Parcel A?
- Is Marin County Open Space willing to accept this unremediated land?

**Houses**

*P553: One single-family home plus any guest home would be located within each lot's Residential Building Envelope.*

**Questions:**

- Are multiple houses permissible on every lot?
- What is the definition of a "guest house"?
- Marin County hours of operation are more liberal than Tiburon's. Why allow this impact on the neighborhood?
- Why does the DEIR not mandate that story poles be erected showing the impacts of building both the 43 and 32-lot options?

Yours truly,

  
Barry and Fran Wilson

**RESPONSE TO LETTER NO. 61 – BARRY AND FRAN WILSON**

**Response to Comment 61-1**

Trails are discussed in the *Impact 5.1-7 Project Impact on Pedestrian Circulation* and *Impact 5.7-19 Open Space Impacts*.

**Response to Comment 61-2**

**Section 5.6 Biological Resources** identifies impacts to biological resources. All impacts would be reduced to less-than-significant levels with implementation of the proposed mitigation measures. Please see Response to Comments 11-2, 11-27, 14-2, 14-3, and 14-4 for information related to loss of habitat and special status plants.

**Response to Comment 61-3**

Please see Response to Comment 41-2. Story poles are not mandated by the development requirements of Marin County. Mitigation Measure 5.7-7 requires a water supply plan with an element that includes raising the elevation of the water supply tank to 590 feet in order to obtain adequate water pressure. The Marin County Community Development Agency may require story poles at the time house plans are submitted to the County for design review approval.

**Response to Comment 61-4**

Please see Master Responses 1 and 2.

**Response to Comment 61-5**

Please see Master Response 2 and Response to Comment 6-9.

**Response to Comment 61-6**

Construction traffic is discussed in several locations in the Draft EIR, including *Impact 5.1-13 Construction Traffic Impacts*, *Impact 5.2-1 Construction-Period Air Pollutant Emissions*, and *Impact 5.3-1 Construction Noise*. In addition, the proposed project includes a Construction Management Plan.

**Response to Comment 61-7**

The commentor raises several concerns regarding implementation of control measures to minimize emissions of naturally occurring asbestos at the project site.

Please see Response to Comment 43-1. The project applicant is subject to BAAQMD rules and regulations regarding the emissions of naturally occurring asbestos and will be required to have Asbestos Dust Mitigation Plan (ADMP) if the District finds that public health is endangered. This plan would have to be approved prior to any disturbance of soils that may contain naturally occurring asbestos. District inspectors would visit the site to enforce compliance with BAAQMD rules and regulations. The Construction Management Plan designated a disturbance coordinator with the name and phone number to report air quality issues at the construction site. The public can also contact BAAQMD with complaints. A monitoring program could be implemented at the discretion of

BAAQMD. If necessary, asbestos containing materials would be transported per BAAQMD rules and regulations, which require transported soil material be covered. Draft EIR Mitigation Measure 5.2-1 includes provisions to the Construction management Plan that address potential emissions from roadways used to access the project site. Draft EIR Mitigation Measure 5.2-1 has been revised to also include the Air District's phone number to ensure compliance with applicable regulations.

***Response to Comment 61-8***

Fire flow requirements will be calculated for each home at the time house plans are submitted for review and approval. Fire flow requirements are based on a number of factors including building design, capabilities of fire suppression equipment, and proposed building square footage. Available fire flow (gallons/minute delivered) at each lot could limit the total building floor area allowed on any given lot in the proposed project. Mitigation measure 5.7-8 includes measures to insure compliance with fire flow requirements.

***Response to Comment 61-9***

Please see Response to Comments 1-3, 7-8, and 7-9.

***Response to Comment 61-10***

The Court's decree (judgment) requires one single family home be allowed on each of the mandated 43-lots. The judgment does not speak to the issue of second units, but does not appear to disallow a second unit on any given lot. The Marin County Development Code (Section 22.130.030(G)) defines a guest house as a detached structure, accessory to a single-family dwelling, accommodating living/sleeping quarters, without food preparation facilities, and which cannot be rented. Story poles were not erected as part of the Draft EIR process because house plans were not submitted for County review and approval.

April 25, 2011

LETTER NO. 62

APR 27 2011 PM 2:35 710009

Ms Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Development Draft Environmental Impact Report

Dear Ms Warner,

I am very concerned about the health and safety impacts that this project will have on my local community.

Specifically I am concerned about:

**1. Landslides:** There has been much discussion about the 28 landslides located on the property. Even if the developer puts in the proposed retaining walls and drainage, who will take the financial responsibility of monitoring, maintaining, and repairing of these structures in the future, after the project is finished, long after the developer is gone? Just during the last few rainstorms, Paradise Drive has been affected by numerous landslides that have covered the road and affected traffic flow. Has the proposed development been examined for it's possible effect on water runoff and landslides which would worsen the stability of the already unstable land below it?

**2. Condition of Paradise Drive involving safety** of traffic, especially bike traffic: The condition of Paradise Drive is already in poor repair, especially the portion located in the County of Marin. When will the city and county repave the road, which is already overdue on the portion from Tiburon to Trestle Glen? The portion from Trestle Glen to Corte Madera was refinished last year (I think it was the portion within the city of Tiburon). There are portions of Paradise Drive where the shoulder is washed out, rough bumpy areas that are crudely patched, all sizes of potholes, loose gravel on the sides of the road, large cracks, patch repairs that are uneven and disjointed. Considering the proposed projects use of heavy construction traffic, will Tiburon and the County of Marin put off refinishing the road, knowing that this construction traffic will destroy the new road? We also have to consider the future Alta Robles development and it's construction traffic and how it will affect the safety of Paradise Drive over the next 10/15/maybe more years. Has the Alta Robles development been considered into the equation of how much construction traffic Paradise Drive can handle? Is it true that most of the construction traffic going to the temporary construction road on the Martha Property will be traveling down Trestle Glen, then south on Paradise Drive? Add that construction traffic to the Alta Robles construction traffic and how is Paradise Drive going to look on a normal work day? Loud noisy construction trucks, hauling load after load of possibly hazardous dirt (which can be expected to fall off the trucks as they swerve through the numerous curves of Paradise Drive, also adding to the already



existent loose gravel on the sides of the road), damage being done to the already compromised road surface and washed out shoulders. Again I ask has the lack of a realistic access road been considered in this project. We only have two ways in and out of Tiburon, which are Tiburon Blvd and Paradise Drive. Tiburon Blvd is already maxed out due to the high volume of traffic and being a single lane much of the way. Paradise Drive is a narrow, windy, long road in marginal condition, which has mudslides frequently during the rainy season. And what of the additional traffic along these 2 roads once the construction is done. Can these 2 roads handle any more traffic from new homes and all the labor, etc. traveling in and out of town that it will take to support these households? Please take these facts into consideration around the safety issues involved concerning the ability to get all the future construction vehicles in and out of the Martha Property (and the Alta Robles development) and the long term effects of all that traffic congesting our only two access roads to our fine city.

3

**3. Property ownership rights:** The Easton Point owners have certain property ownership rights. But should these rights outweigh the property ownership rights of the properties adjacent to Easton Point, especially the Kyle property owners located below the Easton Point project, who have had ownership since before the owners of the Easton Point property (also, what about water rights of the Kyle property owners that will be affected by the altered drainage on the Easton Point Development). Also consider the property rights of those that will be so heavily affected by the considerable lack of safety on their already congested and abnormally narrow streets in the Hillhaven neighborhood and along Paradise Drive. What about all the traffic noise, construction noise, unhealthy dust, massive amounts of construction traffic tearing up the street in front of their houses, the dirt and debris that normally falls off of moving construction trucks?

Thank you for your consideration.

Respectfully,



Sherry Wootton  
45 Seafirth Road  
Tiburon, CA 94920



**RESPONSE TO LETTER NO. 62 – SHEERY WOOTTON (APRIL 25, 2011)**

**Response to Comment 62-1**

The impacts the proposed project would have related to slope saturation from drainage and slope instability are discussed under *Impact 5.4-2 Slope Stability*. With implementation of Mitigation Measure 5.4-2 this impact would be less-than-significant.

**Response to Comment 62-2**

Please see Master Response 1 and Response to Comments 1-2 and 7-14.

**Response to Comment 62-3**

The commentor raises a number of environmental issues that have been addressed in the Draft EIR, such as construction noise and traffic. However the adequacy of the Draft EIR is not raised. Other issues raised by the commentor are related to the merits of the project, and not the adequacy of the Draft EIR. No further response is necessary.

APR 27 2011 PM 3:37 Power

April 25, 2011

Ms Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Development Draft Environmental Impact Report


Dear Ms Warner,

I am very concerned about the health and safety impacts that this project will have on my local community.

Specifically I am concerned about:

1. Access of fire trucks and equipment to the construction sites. The new proposed construction road is a narrow winding road with a 25% grade. The access through old Tiburon via Divisio is likewise narrow and steep. Where does the DEIR address accommodation for emergency vehicle access? Is the water pressure going to be adequate for fire hydrants? What if the applicant doesn't acquire approval of reduced fire flow requirement from the Tiburon fire protection district as called for in mitigation measure 6.7-8(a)?
2. Paradise Drive: Mitigation Measure 6.1-13(b) does not adequately address safety issues safety measures for motorists and cyclists on Paradise Drive between Trestle Glen and the construction road at Forest Glen. This is a 5 mile long, poorly maintained, winding, narrow road with no shoulder. Is the developer responsible for further damage to the road or who will pay for repairs? Where will construction traffic be staged? Who is responsible for the spilled construction debris on the roadway that is a danger to the many cyclists who ride this road? Who will monitor the effects of the construction effects on the roadway?
3. Temporary construction road: I am concerned about the safety of the road. What would happen in the event of a runaway construction truck? Given the 25% grade can trucks carry a full load? If not, was this factored in the DEIR in increased number of trips? What will be done to reduce airborne contaminate dust? Who will monitor this?
4. Landslides: The project site is riddled by 28 landslides. Will all the landslides be repaired? Will the development substantially improve or worsen the stability of this site? Who is liable for landslides that affect Paradise Drive?

Respectfully,

  
Dr. Barty Wootton  
45 Seafirth Road  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 63 –DR. BARRY WOOTTON (APRIL 25, 2011)**

**Response to Comment 63-1**

Please see Master Responses 1 and 2 and Response to Comments 6-18 and 16-11.

**Response to Comment 63-2**

Paradise Drive, construction traffic and safety area discussed under *Impact 5.1-13 Construction Traffic Impacts*. These issues are addressed in the document, and with implementation of Mitigation Measure 5-1-13 impacts would be reduced to a less-than-significant level.

**Response to Comment 63-3**

Please see Master Response 1 and 2, and Response to Comments 6-9 and 7-16.

**Response to Comment 63-4**

Landslides are an existing condition on the project site. Please see Response to Comments 7-8 and 16-24.

April 25, 2011

LETTER NO. 64

Rachel Warner  
County of Marin Community Development Agency  
3501 Civic Center Dr. Room 308  
San Rafael, CA 94903

Dear Ms. Warner,

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report.

My husband and I moved from the East Coast to the San Francisco area to be close to our children and grandchildren. We chose the town of Tiburon, in particular, because of its quiet small town appeal, its close proximity to the city, its beautiful views, and its large expanses of preserved open space. We purchased a home on Vistazo Street West because of its views of the city and the views of the beautiful hills and clear top of the ridge line.

My concerns are many:

1

Our views of the ridge will greatly impacted with the construction of a huge water tank along the ridge line, along with fencing, walls, roads and home construction on or near the ridgeline. Why weren't pictures of the new tank shown in the report?

2

I am very concerned for the safety of our Tiburon children, pedestrians, motorists, and cyclists. Measure 6-13 does not clearly address these issues. With all the construction vehicle traffic, how will the traffic flow be addressed to ensure a safe roadway for all-- with the shoulders being narrow, slanted or almost non-existent on Paradise Drive.? What will be done to provide a safe environment with a 25% grade on the temporary road? How will runaway construction vehicles be prevented? REMEMBER: this is a heavily used road for cyclists.

3

How will traffic tie ups on Tiburon Blvd. be addressed with the increased traffic of construction vehicles? Will our townspeople be safe with the onslaught of construction equipment in the downtown area and the narrow side streets up the hills to the property?

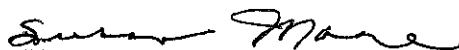
4

How will the "environmental standards" of construction vehicles be enforced as to not add more pollution and possible illnesses to our residents, particularly its children and seniors. What will be done to prevent hearing damage to our residents during a long construction period?

These are just a few of the many questions and concerns that my husband and I have. Many others were raised at the Civic Center on Monday.

Thank you for your time in addressing these issues.

Susan Moore  
1463 Vistazo St. W  
Tiburon, Ca 94920



**RESPONSE TO LETTER NO. 64 – SUSAN MOORE (APRIL 25, 2011)**

**Response to Comment 64-1**

The proposed water tank is shown in **Exhibit 5.8-11** (*Post Development Conditions at Viewpoint No. 4 – View from Ayala Cove on Angel Island*), although the water tank is difficult to discern in this photograph. Although not visible in other viewpoint exhibits, the discussion of *Impact 5.8-1 View from Tiburon Ridge* states the water tank would be a highly conspicuous feature and would likely obstruct at least part of the view of Angel Island (see page 511 of the Draft EIR). In further discussion on page 525 of the Draft EIR it is stated the proposed water tank would appear in a prominent position at the highest point of land on the Tiburon Peninsula seen from Ayala Cove.

**Response to Comment 64-2**

Please see Master Response 2 for information regarding the construction road.

**Response to Comment 64-3**

Construction traffic impacts are discussed in *Impact 5.1-13 Construction Traffic Impacts*. Significant construction traffic impacts on Tiburon Boulevard are not anticipated.

**Response to Comment 64-4**

It is not clear what is meant by “environmental standards” in this comment. The applicant proposes to mitigate inconvenience to neighbors and to protect public safety by designating a disturbance coordinator and implementing traffic control measures. Both the disturbance coordinator and the traffic control measures are described on pages 269 and 270 of the Draft EIR. Recommended traffic and construction mitigation provides for additional measures to mitigate construction traffic impacts.

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

April 26, 2011

I attended the County Planning Commission meeting at the Civic Center in San Rafael yesterday that convened to hear the Easton Point Development -DEIR Report and allow members of the community to express their views. My name is Patricia H. Buck and I live at 1930 Straits View Drive in the Hill Haven section of Tiburon. This project would significantly impact my property and the enjoyment of my property as well as those of my neighbors. The views expressed by those in the community are much in agreement with my views.

- 1 • I agree completely with the view expressed by many that I heard about the **Health and Safety Problems** that this project would impact. There are only two ways to get in or out of Tiburon: Tiburon Blvd. and Paradise Drive. Tiburon blvd. is often blocked to a standstill each weekday morning for about an hour and each weekday afternoon from about 3 PM to 5 PM. We rarely use Paradise Drive, but no one mentioned that in the late 1980's this road was completely rendered impassable by a gigantic mudslide due to a heavy storm that destroyed one house completely, damaged several others, and killed one man. The road was blocked completely for several weeks. Some residents and school children hiked overland to get to school and work. I understand that Paradise Drive is quite fragile today. It is heavily used by residents and bike riders. This is the only other road entering Tiburon. More traffic on either road would lead to many problems to the road and to traffic jams and delays. The Easton Project would only add to this congestion impacting the entire southern part of the peninsula.
- 2 • Another safety concern is that there will be a proposal that the Easton Project will ask for a **Variance of Title 24** which requires a 28 foot paved road with 4 foot shoulders and a sidewalk. They propose a 20-foot wide roadway with no sidewalks. In our lower neighborhood there are dog walkers, people with strollers, and joggers often walking in poor lighting situations in the roadway. When our children were growing up we were always concerned that they must use the street to get to friends' homes because there were no sidewalks. With this project still in the planning stage, sidewalks and shoulders must be considered as vital in a development this large.
- 3 • There are several dangerous intersections in this neighborhood that some trucks and larger cars must "back and fill" to negotiate. Compounding the problem is that several of these intersections are blind and drivers must proceed with extreme caution. Drivers unfamiliar with the neighborhood may drive erratically or too fast for the situation. As a

driver who must drive these streets every day, I am quite fearful of meeting a much larger vehicle driving in the middle of the street on a blind corner. I call this “war zone” driving, and it frightens me.

4

- Another concern is the Landslides on the property to be developed. One of these is near my home on Straits View Drive. I was unaware of this situation until recently. The proposed solution to these many landslides seems poorly planned, and large piles of fill remaining on the site for years seems to me an incomplete answer to a serious problem.

5

- Finally we must consider “Quality of Life” for current residents, visitors, and for the projected new residents. This term was dismissed by the two speakers on the podium as being of no consequence, or that it was an elitist term. Most of us came to Marin County because of its open spaces, clean air, magnificent views, and country-like atmosphere that we have guarded jealously for years. The homes built in the mid 20<sup>th</sup> century were modest in size with large open spaces between them. We managed to raise our family quite satisfactorily in a home that is only 1,400 sq. ft. We added on another 800 sq. ft. 10 years later. All of the proposed houses are double or triple that size. The southern spine of rolling hills of the Tiburon Peninsula can be seen from other areas including Sausalito and from the bay. We have “trespassed” for years to use the trails. Many Marinites from other areas come to “trespass” on the hill marveling at the views and openness of the area

Please consider these remarks and the remarks of other as you write your response to the DEIR Report. This project is too massive and overwhelming for the existing town and its residents unless some very deep thought and ingenious planning are made to solve the huge problems that have been exposed by the community.

Sincerely

PATRICIA H. BUCK, (43 year resident of Tiburon)

1930 Straits View Drive  
Tiburon, CA 94920

(415) 435-0936

**RESPONSE TO LETTER NO. 65 – PATRICIA H. BUCK (APRIL 26, 2011)**

**Response to Comment 65-1**

The commentor notes traffic problems on Tiburon Boulevard and Paradise Drive, and states concern over landslide hazards at Paradise Drive. **Section 5.1 Transportation** provides analysis for traffic impacts on Tiburon Boulevard and Paradise Drive. This analysis includes 15 study intersections along Tiburon Boulevard and Paradise Drive. The analysis of *Impact 5.1-1 Existing-Plus-Project Impact to Study Intersections* added project generated traffic numbers to existing traffic counts at each study intersection for both the AM peak and PM peak hours. These traffic volumes can be seen in **Exhibits 5.1-21 through 5.1-24**. The analysis concluded that the addition of project traffic would not result in unacceptable levels at study intersections, or warrant signalization at unsignalized intersections, and would therefore be a less-than-significant impact. Similarly, the analysis of anticipated cumulative buildout-plus-project impacts to study intersections is discussed under *Impact 5.1-2*. These cumulative scenarios would result in significant impacts to study intersection, however with implementation of mitigation measures, these impacts would be less-than-significant.

**Response to Comment 65-2**

Mitigation Measure 5.1-11 would require that the three on-site roads be designed to comply with county standards, and all roads have on at least one side a pedestrian sidewalk or all-weather pathway.

**Response to Comment 65-3**

Please see Master Response 1.

**Response to Comment 65-4**

Please see the discussion under *Impact 5.4-1 Landsliding*.

**Response to Comment 65-5**

Comment noted. No further response is necessary as this comment does not question the adequacy of the Draft EIR.



April 26, 2011

LETTER NO. 66

APR 27 2011 - 4:37 PM - 2011

Rachel Warner

County of Marin, Community Development Agency

3501 Civic Center Drive Room 308

San Rafael, CA 94903

Dear Ms. Warner:

We are writing to comment on the 2008 Easton Point Residential Draft Environmental Impact Report. We are very concerned about safety impacts that this project will have on our local neighborhood and community.

1 Specifically, we are concerned that safety impacts to pedestrians, bikers and vehicle commuters will escalate from an existing dangerous level to a substantially higher hazardous level due to heavy construction vehicle traffic in our neighborhood. The infrastructure contractors propose to mitigate this by prohibiting construction vehicles within residential neighborhoods during the 2 year infrastructure development period. What about the ensuing 10+ year period after the construction road is closed and thereafter? Major construction traffic will continue for at least a decade. Further construction impacts will continue and possibly increase after the houses are built including tennis courts, swimming pools, etc. and nanny, cook, gardener, cleaner vehicles will increase. Given the large sized homes proposed (Alternative 2), has the DEIR addressed these peak time traffic impacts?

2 The existing hazards of narrow, winding streets and road widths in Old Tiburon/Lyford Cove/Hill Haven are minimized in the DEIR description (pp173-175). In our opinion, the Diviso/Centro West/Centro East intersection is an existing hazard for pedestrians, bikers and autos due to the "hairpin" turn. Likewise, both trucks and speeding autos cut the corner and swing into the opposing traffic lane when turning left from Solano St. North to Centro East. Most streets in these areas do not have sidewalks, are not lighted and many homeowners have to back their cars out of driveways into the street.

3 Walking conditions currently require pedestrians to be constantly alert and make moves to positions of refuge and this will be exacerbated after this project is underway.

4 Emergency access will be an issue as will resident evacuation for our neighborhood should that be required.

5

Our reading of the proposed mitigation measures (MM6.1-13) such as prohibiting parking along sides of our neighborhood streets measuring less than 20 ft. are burdensome to many neighborhood residents and will create many everyday problems ((i.e. where do friends and relatives park?). What further effective mitigation measures will be addressed? Is a permanent access road being addressed as a possible mitigation?

6

The DEIR does not consider any alternative where houses are clustered at lower elevations of the property. This alternative would decrease health and safety issues such as reduced water flow to the project, a dangerous construction road at 25% grade and emergency access. It would also reduce many other environmental impacts such as endangered species issues and ridge line issues.

Sincerely,



Michael and Nancy Pulling

2095 Centro East Street, Tiburon

**RESPONSE TO LETTER NO. 66 – MICHAEL AND NANCY PULLING (APRIL 26, 2011)**

**Response to Comment 66-1**

Please see Master Response 1.

**Response to Comment 66-2**

Please see Master Response 1.

**Response to Comment 66-3**

Please see Master Response 1.

**Response to Comment 66-4**

Please see Response to Comments 13-1 and 13-5.

**Response to Comment 66-5**

Please see Response to Comment 13-3.

**Response to Comment 66-6**

Please see Response to Comments 11-15 and 15-32.

April 26, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

APP 23 2011 PM 2:07 PM

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report because I am very concerned about the many negative impacts this project will have on my life. I will limit my comments to three areas of concern: the character of my community, the loss of open space and scenic views, and the roads.

1

1) I question why any developer would want to destroy the character of the town in which he is hoping to sell property. Mega mansions do not fit the character of the Tiburon peninsula. Is anyone thinking about what constant construction traffic will do to the quality of life in a once tranquil environment?

2

2) I have walked many times in the Tiburon hills and I am saddened to think that these wonderful open spaces will be lost to future generations. I am equally concerned about the loss of ridge top views. Having fewer (smaller) homes at lower elevations would decrease the visual impacts. Has this been fully explored?

3

3) Many of our roads are already in bad shape and we have gridlock in the morning and again in the afternoon. These two situations will both be compounded with the addition of all the many construction vehicles. I see that 16, 451 cubic yards of soil will be removed. What will these dump trucks do to our roads? And how many truck trips will that alone take through our town? Our hills are steep, our roads are narrow and twisting. We like to walk on our roads. It will become dangerous to do so. The EIR states that some streets will have to be widened. Which streets? Where is the environmental review for these projects?

Sincerely,



Wendy Soule

15 Raccoon Lane

Tiburon, CA

**RESPONSE TO LETTER NO. 67 – WENDY SOULE (APRIL 26, 2011)**

**Response to Comment 67-1**

Comment noted. No further response is necessary in regards to house size. Construction traffic impact are discussed under *Impact 5.1-13 Construction Traffic Impacts*.

**Response to Comment 67-2**

Comment noted regarding open space. *Alternative 3* presents a reconfigured development alternative designed to reduce the visual impacts that would result from the development of the proposed project. The discussion of *Alternative 3* begins on page 690 of the Draft EIR.

**Response to Comment 67-3**

Please see Response to Comment 6-11. The Draft EIR provides mitigation for the pedestrian circulation of existing neighborhood streets, and any damage that may be done to streets as a result of this project.

April 27, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

APR 28 2011 PM 12:07 Planning

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, I am concerned that....

- 1 If an additional water tank is placed on the St Hillary Open Space Preserve to provide adequate water pressure and ruptures due to an earthquake what will be the consequences?
- 2 It appears that there is no specific indication as to which landslides will be fixed. It appears that dangerous landslide areas above existing homes will not be resolved.
- 3 The EIR says that a new sewer line will have to be put in under Paradise Drive, and that some streets will have to be widened. Where is the environmental review for those projects? Will those projects cause additional impacts that aren't discussed in this document?
- 4 The EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property. Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. I'd like to see that type of alternative analyzed.

Lastly, my husband and I feel like we are walking in one of the most beautiful areas in the Bay Area when we visit here each morning, to alter this landscape with ridge line homes and a massive water tank will forever change this setting for future generations.

Sincerely,

*Yvonne Wilkinson*

Yvonne Wilkinson

43 Alta Vista Ave.

Mill Valley, CA 94941

**RESPONSE TO LETTER NO. 68 – YVONNE WILKINSON**

**Response to Comment 68-1**

The discussion of an alternative water tank site begins on page 685 of the Draft EIR. This alternative proposal for the water tank would have it buried underground. It is difficult to anticipate impacts that would result from a catastrophic seismic event. Any new water tank approved for construction by MMWD would comply with current seismic safety standards.

**Response to Comment 68-2**

Please see Response to Comments 1-3, 7-8, and 7-9.

**Response to Comment 68-3**

Please see Master Response 8 and Response to Comment 6-16.

**Response to Comment 68-4**

Please see Response to Comments 11-15 and 15-32.

**1825, Lagoon View Drive**  
**Tiburon, CA, 94920**  
Tel No: 415-435-0157  
e-mail: masonbarker@comcast.net

April 26, 2011

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Dear Ms. Warner

**Comments on the Easton Point DEIR**

Thank you for the opportunity to comment on the DEIR. We have lived at the corner of Ridge Road and Lagoon View Drive for approximately 20 years and are therefore very familiar with the local issues associated with the development of this site. In particular the issues related to the health and safety of the residents of Easton Point and neighboring areas are of great concern to us. In this respect, we would like to raise a number of issues that we believe have not been adequately addressed in the DEIR.

**1. Traffic Analysis – Lyford Cove/Old Tiburon and Hill Haven**

1

The analysis of issues related to traffic through the Old Tiburon and Hillhaven neighborhoods relies primarily on a level of service approach. Issues related to health and safety are brushed off with suggestions that the existing residents have learned to deal with the difficulty of this access route and that relatively few accidents have been reported. However, the little data presented about traffic impacts of the Easton Point development suggests that there will be at least a 50% increase in peak hour traffic through the Ridge Road/Vistazo intersection. (No data is presented to show the proportional traffic increase at other points along the long and difficult route from Easton Point to Tiburon Boulevard). The DEIR should be amended to analyze the health and safety impacts of the traffic increase caused by the Easton Point development and should take into account at least the following issues and should propose specific mitigations to address each issue:



Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency

2

### **1.1 Intersections**

There are several intersections on the potential access route to the property which require special consideration with respect to the impact of increased traffic on safety. These include:

- *Junction of Solano and Paradise:* exit from Solano onto Paradise is essentially “blind” to traffic coming from the left. Roadside vegetation impedes sight lines such that traffic, in particular cyclists, traveling west on Paradise cannot be seen by vehicles exiting Solano without edging out into the roadway. This is particularly dangerous since cyclists are frequently traveling at high speed down the hill. In addition, traffic, especially large vehicles, turning left from Paradise onto Solano tends to cut the corner, causing an additional traffic hazard.
- *Junction of Solano and Centro East:* Large Vehicles traveling uphill on Solano have to cut the corner to make this turn.
- *Junction of Centro East, Centro West and Diviso:* this junction is notoriously difficult and has been the subject of concern at the Tiburon Traffic Safety Committee. Traffic between Centro West and Diviso in both directions has to make a 180 degree turn. Traffic using the small Riserva Lane as well as the frontage drive on Centro West complicates traffic patterns at this junction.
- *Junction area of Vistazo East, Diviso, Vistazo West, St Bernards Lane and Ridge:* The DEIR implies that this intersection is a simple four-way intersection, whereas it is in fact a series of intersections within 50 yards, on an S-Bend with complicated traffic patterns and blind spots as well as a driveway exit. Near misses are very common in this area and accidents have happened
- *Junction of Ridge and Lagoon View:* The steep upward gradient and sharp left turn on Ridge make this a hazardous junction. For traffic turning left on Lagoon View or going straight into our driveway, the junction is essentially blind to traffic coming down Ridge. In addition, large vehicles have to cross to the wrong side of the road to negotiate this corner and, on occasion, have grounded out at this junction, causing damage to the road surface and prolonged congestion.

The impact of increased traffic on these junctions should be specifically analyzed and mitigations proposed for potential hazards.

3

### **1.2 Road configuration**

Two issues of specific concern should be addressed in this area:

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency

- Diviso is extremely narrow in places and does not allow for large vehicles, such as construction vehicles, fire trucks or even SUVs to pass safely. In addition, steep drops exist on the side of the road with the attendant risk of vehicles falling over the edge to avoid collision or by misjudgment. Increased traffic on this section will add to the hazards.
- Concern has already been expressed over traffic volumes and speeds on Centro West, between Diviso and Esperanza, a narrow and winding section of road. The Tiburon Traffic Safety Committee considered various options for mitigating this problem. As a result a mandatory 15mph limit was imposed on Centro West. Requiring traffic to exit from uphill locations via Centro East and Solano was not considered an acceptable option. Centro West is an access route used by a significant proportion of Hillhaven traffic and it must be assumed that a similar portion of Easton Point traffic would also use it. No analysis of this section of road was included in the DEIR. This should be corrected and specific mitigations proposed for any potential hazards.

### **1.3. Pedestrian and Bicycle Traffic**

Many of the roads in this area are used for recreational activities, including walking, cycling and even in-line skating and skateboarding. Since there are no sidewalks in the area, such activities must share the pavement with vehicular traffic. Walking and bicycling along the length of Centro West, Centro East, Diviso, Mountain View and Ridge would be impacted by additional traffic. It is likely that such recreational use will increase if public rights of way are maintained over the Easton Point Property as part of the development.

In addition, cyclists from throughout Marin and beyond use Paradise Drive extensively, and travel at high speed down the hill from the junction with Centro East past Solano to downtown Tiburon. Vehicular traffic exiting from Solano poses a significant hazard to such high-speed cyclists, but, as noted above, is essentially blind.

The DEIR does not sufficiently address these issues. The analysis should be extended to cover public safety, liability and quality of life issues related to non-vehicular traffic.

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency

5

## **2. Emergency Access and Egress**

As proposed, the project appears to result in a significant unmitigated risk of injury or death in the event of a firestorm:

- The project will represent the wildland interface to the North-East of the Hill Haven neighborhood
- During summer firestorm conditions, the prevailing wind is frequently from the North-East (as in the most recent Angel Island fire)
- Several of the Easton Point houses will be built in locations that do not meet the minimum fire flow requirements
- The construction road proposed by the Applicant would be “blocked at either end by a barricade gate” (DEIR p 462) following completion of construction under the base proposal and would be removed under the MOU with the Town of Tiburon for the low density alternative.
- TFPD has indicated that its emergency vehicles may not be able to use the construction road due to its gradient

In the event of a firestorm, all residents of Easton Point in addition to all residents of the existing Hill Haven neighborhood would need to leave via Ridge Road and through Lyford Cove/Old Tiburon, a road system that is described in the DEIR as “narrow and winding”(p173) with multiple difficult intersections. Despite the large increase in traffic caused by the Easton Point development, the DEIR offers no analysis of the increase in traffic under emergency conditions or the impact of simultaneous emergency vehicle traffic in the opposite direction. The mitigations suggested in the DEIR do not realistically address these issues.

The DEIR should be revised to include a safety analysis of access and egress under emergency conditions, taking into account the expected increase in traffic, the actual configuration of neighborhood streets and intersections and the experience gained during the 1991 Oakland Hills fire. Again, mitigations that would eliminate the increased risks should be proposed.

6

## **3. Construction Traffic**

The DEIR does not consider the impact of construction traffic on the streets of the Lyford Cove/Old Tiburon and Hill Haven neighborhoods. Its traffic analysis assumes

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency

that all construction traffic will use the construction road from Paradise Drive to the project site. However, construction traffic will use the neighborhoods streets under a number of likely conditions:

- Construction of the construction road itself “may require initially utilizing Ridge Road for access” (DEIR p267). No estimate is given of the period of time in which such access would be required or the number of trips, no analysis is provided of the impacts, including health and safety impacts, of this use and no mitigation measures are proposed.
- Under the “Low Density Alternative” the MOU between the Applicant and the Town of Tiburon calls for removal of the construction road after ten years or when 12 out of the 17 upland lots are completed. In addition, the MOU allows for the elimination of the construction road if lots 1-8 or lots 9-17 are dedicated to non-residential uses. Since full build-out of this property will likely take many years, based on experience with other large developments in the area and given the current state of housing markets, the DEIR should include an analysis of the impacts, including health and safety impacts, of the use of neighborhood streets by a significant portion of the construction traffic and propose appropriate mitigations for such impacts..
- In the base (43-lot) proposal, the DEIR indicates that “After construction, it is proposed that this road remain for emergency egress only and would be blocked at either end by a barricade gate.”(p72). It is unclear what “after construction” means. It is imperative that this term be defined in the EIR and, if any construction on the site will continue after closure of the construction road, the impacts on neighborhood streets be analyzed and appropriate mitigations proposed
- Similarly, if Alternatives 3 or 4 are considered, a full analysis of the traffic on neighborhood streets should be completed and the impact of any construction traffic assessed

#### **4. Roads and Trails**

In the Lower Density Alternative, it is proposed that a public access trail would be provided to run along the Hill Haven boundary, via “Founder’s Rock” and then cross Ridge Road and run parallel to the Water Tank access road to the boundary with Old St.Hilary’s open space. This circuitous route a road crossing and then requires pedestrians to walk between housing developments and on a trail next to a paved road.

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency

Consideration should be given to the feasibility and impacts of routing the Water Tank access via the unnamed shared driveway to lots 5 – 8, rejoining the currently proposed route in the vicinity of lot 8. This would allow pedestrian traffic to pass along Ridge Road and then directly on to an unpaved trail along the proposed route of the water tank road along the boundaries of lots 5-7.

8

### **5. Cut & Fill.**

The DEIR states (p82) that “During Phase One cut material from the lower site that would be necessary for lot development on the upper site would be stock piled in the vicinity of Lots 20 and 24.” This material would subsequently be used to “permit subsequent home development on the site to have required fill available onsite, without additional import.” (The DEIR does not specify whether a similar approach would be adopted in the Low Density Alternative but we assume that it would and that the material would be stockpiled in a similar location.)

While this approach reduces the volume of construction traffic generated by the development, the DEIR fails to recognize that it may be many years between initial development of the site and completion of construction of homes on the site. The DEIR should specify mitigation measures to ensure that, over the life of the development, these stockpiles do not pose health and safety risks, air quality degradation or adverse visual impacts.

9

### **6. Tiburon Boulevard Traffic**

The analysis of Tiburon Boulevard traffic contains assumptions and conclusions that appear to be at odds with local experience:

- The DEIR states (p177) that “Weekday observations were conducted during the typical AM and PM peak hours for motor vehicle traffic (7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM). It is not clear whether the use of the word “typical” here was meant to be specific to Tiburon Boulevard or a generic description of traffic conditions elsewhere. Local experience would suggest that peak traffic can occur much earlier in the afternoon and is particularly impacted by school traffic and construction traffic. Unless the EIR traffic consultant made specific analyses of the whole afternoon period, the level of service conclusions must be considered suspect.

April 26, 2011 Page 7

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency

- The DEIR states (exhibit 5.1-10 – p187) that the average PM peak hour vehicle delay at intersection 5, Trestle Glen/Tiburon Boulevard, is 14.7 seconds. It is difficult to square this finding with the commonly experienced queuing from well before Rock Hill Drive to Trestle Glen during school semesters. Further analysis is required to explain this discrepancy.

Thank you for your consideration of these matters. We look forward to the inclusion of the analyses proposed above in the final EIR. We strongly urge staff, consultants, commissioners and Supervisors to visit the site and experience local conditions, during finalization of the EIR.

If you have any questions, please do not hesitate to contact us.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'David J. Barker' and the signature on the right is 'Margaret Mason'. Both are written in a cursive, flowing style.

David J. Barker and Margaret Mason

**RESPONSE TO LETTER NO. 69 – DAVID J. BARKER AND MARGARET MASON (APRIL 26, 2011)**

**Response to Comment 69-1**

This comment is incorrect. Traffic data is provided as volume diagrams for all roadway segments, from Easton Point to Tiburon Boulevard, and all along Tiburon Boulevard, up to and including the U.S. 101 on- and off-ramps. These data are provided for weekday AM and PM peak hour commute traffic conditions. Additional data, such as percentage increases, were provided to address a specific request by Hill Haven residents in the scoping letters for the EIR (see **Exhibits 5.1-42** and **5.1-43**).

**Response to Comment 69-2**

This request for additional analysis is acknowledged. However, the EIR traffic analyst considers the detailed volume graphics and detailed descriptions of existing streets to be sufficient, and to represent full disclosure, for this EIR analysis. Intersections and roadway segments included for analysis in the EIR were first reviewed and approved by the County of Marin and Town of Tiburon staffs before work on the EIR began.

**Response to Comment 69-3**

See Master Response 1. The Draft EIR describes this location (Diviso Street). On page 197 of the Draft EIR it is stated (in part):

Public scoping comments by residents of the Old Tiburon and Hill Haven neighborhoods describe the problems created by narrow roads on hilly terrain, citing Diviso Street (16.5 feet to 19.5 feet wide) as a bottle-neck and the acute-angle Diviso Street / Centro West Street / Centro East Street intersection as posing difficulties for movement of large vehicles. Field observations confirm that a large truck attempting to make a right-turn from southbound Diviso Street onto westbound Centro West Street requires a three-point turn. This maneuver temporarily obstructs the passage of other vehicles through the intersection. Field observation of large truck turns through the Solano Street / Centro West Street intersection revealed that trucks turning left from northbound Solano Street onto westbound Centro West Street cut the corner through the turn, swinging into the eastbound (opposing direction) traffic lane. These are existing traffic hazards, raising safety concerns for residents.

For this reason, specific measures were required as mitigation for these streets. Please see Master Response 1.

**Response to Comment 69-4**

This opinion is acknowledged. No additional response necessary.

**Response to Comment 69-5**

Please see Response to Comment 13-1.

In the event of a firestorm, residents would leave via the nearest, most available route. Prevailing winds, time of year (whether rain is a possibility), shifting of winds, progression of the fire line, efficacy of firefighters' response, and individual timing for residents leaving the area, would dictate

which routes would be available. The Oakland Hills Fire experience resulted in raising the awareness of the need for preparedness, such as:

- Limiting the number of residences served by a single access road.
- Maximizing access routes.
- Setting road width standards that make possible two-way traffic flow through hilly terrain.
- Maintaining unobstructed travelways.
- Creating and maintaining fire breaks.
- Seasonal clearance of brush around all structures.
- Making residents aware of emergency evacuation procedures and routes.
- Knowing neighbors and their special needs, especially those needing evacuation assistance.
- Close coordination and rapid mutual assistance among firefighting agencies and jurisdictions.

On page 254 of the Draft EIR it is stated that with project-generated traffic, emergency access vehicles and residents of existing neighborhoods would be exposed to more frequent unpredictable traffic flow and intermittent safety hazards when traveling the narrow, winding residential streets, and calls this a significant impact.

For this reason, as recommended in the Draft EIR, maintaining *all routes* unobstructed is critical to maximize the flow of two-way traffic. This is the reason for the Draft EIR mitigation that dumpsters not be placed in the travelway, and that “no parking” signage be added to narrow streets such as Diviso and sections of Centro East. Such signage is already in place (painted on the pavement) along Centro West through the narrow sections.

As stated on page 255 of the Draft EIR:

There are no other clear solutions to the existing narrow, winding streets in the Lyford’s Cove / Old Tiburon or Hill Haven neighborhoods. Road widening would require residents to dedicate lot frontages (lawns and landscaped areas) to the public road right-of-way. It is anticipated that most, if not all, residents would object to such a project.

#### **Response to Comment 69-6**

The issues raised in the four bullet items pertain to: 1) initially utilizing Ridge road for access (Draft EIR page 267), 2) removal of the construction road after ten years, or when 12 of the 17 upland lots are completed (per MOU between the applicant and the Town of Tiburon), and 3) request for elaboration of analyses for *Alternatives 3 and 4*. These issues are acknowledged. The Draft EIR addresses all three of these issues in sufficient detail for CEQA purposes. Some issues, although identified, result in decisions that must be made by Marin County (and Town) reviewers of the entire EIR. If additional studies are required, they will be authorized. It is the opinion of the County and EIR authors that the information provided fully details the issues, and recommends feasible mitigation measures for identified impacts.



**Response to Comment 69-7**

This suggested alternative, consisting of routing the water tank access via the unnamed shared driveway to Lots 5 through 8, then rejoining the currently proposed route in the vicinity of Lot 8, would direct pedestrians along a different route than proposed in *Alternative 2*.

**Response to Comment 69-8**

The comment expresses concern over air quality and visual impacts regarding the proposal to stockpile graded fill in the vicinity of Lots 20 and 24, which would be available for development of other lots. Please see Response to Comments 35-1, 43-1, and 61-7 for information addressing air quality. Visual changes created by the project are discussed on pages 504 through 507 of the Draft EIR.

**Response to Comment 69-9**

It is common to observe peak traffic periods other than the traditionally analyzed weekday AM and PM commute peak hours. School traffic is known to predictably peak, often for periods less than an hour at affected intersections. However, the AM and PM commute peak hours are the hours most analyzed in Tiburon and in most urban areas to determine needed roadway and intersection capacities. The Draft EIR analysis focused on these time periods to capture the impact of project-generated commute traffic on the overall roadway system. School-related traffic coincides with the AM commute peak period, but occurs earlier than the PM commute peak period. Some communities elect to analyze the roadway system during the after-school peak traffic time period, as well as during the morning and evening peak traffic periods. However, the after-school time period has not been the focus of analysis in the County of Marin or Town of Tiburon.

April 27, 2011

Rachel Warner  
Marin County Community Development Agency  
3501 Civic Center Dr., Room 308  
San Rafael, CA 94903

RE: Comments on the Draft EIR for the Easton Point/Martha Property Development

I am concerned about health and safety issues related to the construction of the proposed Easton Point development. I feel strongly that the traffic safety on Paradise Drive, together with issues related to the extremely steep construction road which is proposed, would create significant danger and inconvenience for Tiburon residents.

One factor which exacerbates these concerns is the average size of houses in the proposed development. Both the 43-unit plan and the 32-unit alternative involve significantly larger houses than those in surrounding neighborhoods. In the nearby Hill Haven residential area of Tiburon, home sizes are 2,500 sq. ft. to 5,000 sq. ft., with most homes in the 3,000 to 4,000 sq. ft. range, according to the Draft EIR, page 56. In the adjacent Lyford Cove and Old Tiburon neighborhoods, the house sizes are 1,500 sq. ft. to 4,500 sq. ft., with most homes in the 2,000 to 3,000 sq. ft. range.

The Martha Company 43-home proposal has houses ranging in size from 5,500 sq. ft. to 8,750 sq. ft., with an average size of 6,890 square feet. The alternative 32-home proposal has houses ranging in size from 4,800 sq. ft. to 15,000 sq. ft., with an average house size of over 7,600 sq. ft., or almost 12 percent larger than the original 43-home proposal.

1 I believe that it is a significant environmental impact to allow such oversized houses. The plan essentially calls for the super-sizing of houses in the proposed development, increasing them from an average of about 3,500 square feet in the nearby Hill Haven residential area to an average size of more than 7,500 square feet in the alternative 32-Unit Lower Density proposal. This size is more than twice as big as surrounding neighborhoods. Since over-sized mansions in our beautiful natural area are out of character with nearby homes, greater consideration should be given to reducing the average size of houses in this proposed development so that they are more in keeping with those in surrounding communities. Such a change would mitigate some of the construction and traffic involved in the building project and its subsequent maintenance.

As a resident of Tiburon and a member of a vibrant neighborhood organization, I feel that our town should not become more of a "trophy home" area than it already is. Many communities in the U.S. have given serious consideration in recent years to a cap on the size of houses, due to the out-sized character of many houses built by speculators and wealthy people in the past few decades. Communities are right to worry that homes are inconsistent in size with surrounding neighborhoods because huge homes put more stress on older, aging infrastructure, and because property values of surrounding neighborhoods will eventually be driven up by huge homes nearby, resulting in higher property taxes.

Furthermore, I feel strongly that the citizens of Marin County should give more consideration to an awareness and concern for resource conservation and sustainable uses of renewable and non-renewable resources. Marin's Countywide Plan, updated and unanimously adopted in 2007,

adopts sustainability as a guiding principle, so the issue of sustainable resource usages in real estate developments should be given more serious consideration.

Environmental awareness and concern, as epitomized by the passionate commitment to good causes of the late Supervisor Charles McGlashan, should focus on vital ecological considerations which take into account the greater good over the long term.

All guarantees of rights to citizens intrinsically involve substantive civil responsibilities in return. Private property rights contain implicit obligations to society to cause no irreversible damages to the ecological commons in the course of using the property. While lawyers may argue that the Takings Clause of the Fifth Amendment implies that property owners have a transcendent right to build mega-homes twice the size of those in surrounding neighborhoods, I feel strongly that the County of Marin has the right, and even the growing obligation, to honor farsighted principles of sustainable development, reasonable resource conservation, and fair constraints on the depletion of resources and disruptions of community peace.

#### Another Point

2

According to the Draft EIR, Marin County (the Lead Agency) shall not approve a project unless (1) all significant effects have been eliminated or reduced where feasible, or (2) it "adopts a statement of overriding considerations finding that economic, legal, social, technological or other benefits of the proposed project outweigh its unavoidable adverse environmental effects." I am not certain what the benefits of the proposed project are for the citizens of the Tiburon peninsula, other than an increase in property tax revenues from the new homes -- and later from their neighbors. Does the Draft EIR satisfactorily address this question?

The Martha Company and the Town of Tiburon are to be commended for having come to the *Memorandum of Understanding* agreement in November 2009 which tentatively reduced the number of houses on the site, as specified in the 32-Unit Lower Density Alternative. The contrast between the visual impact of the 43-house plan, as rendered on page 516 of the draft EIR and the 32-house plan, as rendered on page 678 is distinctly dramatic, so the planning process has already wrought a definitively positive effect on the proposed development.

3

My most significant concern with the DEIR is that it does not adequately address the true ecological footprint of the project. In a study prepared by the Global Footprint Network in February 2006 for the County of Marin Community Development Agency, it was determined that almost FIVE planet Earths would be required to sustain our average level of consumption. Needless to say, there is only one planet Earth. No matter how "green" the design of homes larger than 5,000 sq. ft., the amount of resources they require and the impact of their ecological footprints is substantial. Huge homes place proportionately greater demands on resources and the environment than smaller homes.

By failing to respect natural limits on the amounts of resources available on Earth, we are ramping up the systemic risks we are taking. Similarly, by failing to respect the inherent "carbon sink" capacity of the atmosphere, we are allowing steady increases in the concentration of greenhouse gases in the atmosphere to occur. This is creating heightened risks of climate disruption and sea level rises and more frequent and severe weather-related natural disasters.

The draft Environmental Impact Report states on page 292 that this proposed real estate development will have a less-than-significant impact on greenhouse gas concentrations in the atmosphere. While this is technically true, quantitatively speaking, the fact that the super-sized character of the proposed development is significantly out of proportion with the neighborhoods that surround it, causes the project in aggregate to violate an evolving necessity for us to collectively alter patterns of development so that human activities will become more likely sustainable. We must begin to act more reasonably and responsibly by conserving resources which will be desperately needed by our descendants in the future.

These are overarching environmental and social issues. One of our most important public objectives must be to give greater consideration to these issues, and to begin to plan and act in accordance with sensible ecological precautionary principles of environmental protection.

The average American home swelled from less than 1,000 square feet in 1950 to about 2,400 square feet in 2007, an increase of 140%. Part of this increase is attributable to the super-sizing trend in the construction of huge "McMansions" in the United States. In addition, the number of human beings on Earth has increased from about 2.5 billion in 1950 to almost 7 billion today, an increase of about 180%.

Simultaneous with these developments, the concentration of climate-disrupting greenhouse gases in the atmosphere, as measured from the Mauna Loa Observatory, has increased steadily from about 300 parts per million in 1950 to over 390 parts per million today. It is estimated that this concentration will increase in the next 100 years to a range of between 500 ppm and 750 ppm. This trend portends the high probability that trillions of dollars in mitigation measures will be required. The longer we deny this likelihood, the bigger the costs will eventually be. Thus, we must collectively take action soon. This proposed development in Marin is one place to start.

Human beings have used up more resources since 1950, and created more waste products, than in all of the previous history of our species' existence. We are essentially radically ramping up our demands on the planet at the same time we are increasingly damaging the planet's ecosystems. This is causing a diminution in the carrying capacity of the Earth for our species, a fact that presages highly undesirable outcomes.

All of these trends must become more significant considerations in our community planning. Wiser planning is needed at every level of governance, from the local to the national to the international, in order to forestall these improvident probabilities.

One of the most significant obligations of current generations of people alive today is to respect some rights for future generations. We simply must begin to show greater concern for the prospects of people in the future. To assure such rights, we must make more disciplined efforts to use resources less profligately, especially fossil fuels and fresh water and building materials.

There is a very real big-picture significance involved in approving super-sized residential houses in Marin County. The twenty-first century will almost certainly be increasingly characterized by resource wars, disruptions of weather patterns, mineral and water scarcities, natural disasters, debt crises, and economic volatility. Recognizing this, we must shift our worldviews from ones

dominated by conspicuous consumption to ones in which resource conservation and environmental protection and greater frugality of behaviors is considered more vital and honorable.

To prevent the worst-case scenarios of current global developments, this revolution in worldviews must focus on altering our habits and activities and public policies. The fairest way to accomplish this is to design powerful incentives for doing the right thing. Public leaders and decision makers must join together with the general public to help achieve greater good goals, instead of continuing to pander to narrow interests and contribute to adverse outcomes.

The omission of a Bill of Rights for Future Generations from our Constitution is becoming an ever-more increasingly evident problem. Such a Bill of Rights, as proposed by the Cousteau Society, would provide a good set of guidelines that would give farsighted assurances to people in future generations of a sustainable future. It would also help establish more responsible mitigations of the impacts of resource depletion and irresponsible harms being inflicted on the global-commons ecosystems of our home planet through unwise development activities.

Environmental impact assessments (EIAs) were first used in the 1960s as part of a rational decision-making process to identify and adjudicate conflicts of interests between various affected parties. The National Environmental Policy Act of 1969 first began requiring such independent professional assessments before projects could be approved.

These assessments have become ridiculously unwieldy and complex, and yet they generally address only direct effects of developments on-site and in the immediate vicinity, and they tend to discount the impacts that developments have in larger perspectives. It is clear that almost all real estate developments cause a multitude of indirect effects through such things as the mining of resources, the production of building materials and machinery, the consumption and transportation of goods and services during construction, additional land use for activities related to manufacturing services, and impacts like traffic and vehicular emissions related to on-going maintenance and repair services.

Since there appears to be no mitigation for low-cost housing anywhere nearby, won't there be a long-term increase in traffic and emissions related to housekeepers, gardeners, landscapers, plumbers and other workers who would be servicing the upscale homes?

The indirect effects of real estate developments are often an order of magnitude larger than the direct effects assessed by EIAs. These include national and global environmental impacts like increases in climate-disrupting greenhouse gas emissions and the stimulated depletion of resources. Intricate complexities and interconnections are involved in all large-scale activities, and humanity should arguably begin to take into account the bigger impacts that our collective activities are having on the health and well-being of planetary ecosystems.

This entire assessment process is an eye-opener into the challenges and complexities associated with the search for compromise between competing interests in our society. The Constitution of the United States was written 222 years ago at a time when there were less than 4 million non-Indian inhabitants of North America. Our Founders were outraged at the time of the Revolutionary War by the usurpation and abuse of power by King George III and the highly unfair colonial mercantile economic system, so they created an historic new form of democratic

republic that was characterized by a limited federal government and strong State's rights and a balance of government powers and a simply-articulated Bill of Rights guaranteeing rights for individuals.

Today, there are more than 300 million Americans, and an extremely powerful new form of abuse of economic and political power is affecting and dominating the lives of the American people. The Establishment of vested interests is fervently denying that revolutionary reforms are required to protect both the overarching interests of *We the People* today as well as the best interests of all people in future generations. Such reforms are nonetheless ever-more urgently required, and this is why a Bill of Rights for Future Generations would help guide us in our collective decision-making toward more reasonable and sensible directions, and less profligate, smaller home sizes.

Sincerely,

Don Mathews

50 Harbor Oak Drive, #31

Tiburon, CA. 94920

415-789-5449

**RESPONSE TO LETTER NO. 70- DON MATHEWS (APRIL 27, 2011)**

**Response to Comment 70-1**

Please see Response to Comment 16-11.

**Response to Comment 70-2**

The question raised is related to the merits of the project, and not the adequacy of the Draft EIR. The content of the Draft EIR is intended to provide information which can be useful for the decision making process.

**Response to Comment 70-3**

Please see Response to Comment 70-2.

LETTER NO. 71

**DENISE DEE BEHRENS**  
1740 Centro West Street  
Tiburon, CA 94920

April 27, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**RE: 2008 Easton Point Residential Development DEIR**

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on our local community. Specifically, I am concerned about the following impacts:

**Traffic Impact**

1 We live on a surrounding residential street and currently are exposed to safety risks, in addition to the noise and air pollution, of construction vehicles on a daily basis. This project will increase those impacts significantly. Construction vehicles regularly utilize side streets, and will continue to do so, no matter what the formal mitigation measures.

**Transportation and Recreation Impact**

2 The project construction will impact the safety of cyclists who frequent Tiburon and specifically Paradise Drive for both transportation and recreation. Many cycle to the ferry for transportation into San Francisco. Their safety will be impacted. Tourists come from all over the world to experience Marin County on bike. The Paradise Loop is a ride we are known for. Local Tiburon businesses will also suffer from the loss of tourism due to these safety concerns. Additionally, for hikers, the project does not conform to the Marin Countywide Trails Plan due to the lack of a trail up the "nose" of the hillside and rerouting of the existing path off Spanish Trail.

**Native Plant and Animal Impact**

3 This project will adversely impact plant and animal life currently on the property. The mitigation measures identified are ambitious, but appear easily side-stepped. In addition to the impact on the California Red-Legged Frog, other animals, such as the unidentified animal in the attached picture taken this month on the site, will be impacted. My husband and I are experienced hikers, doing most of our hiking in the Cascades, Olympics and Sierras. We are familiar with bears, cougars, coyotes and similar sightings in the wild. We watched this animal for several minutes and are unable to identify it. We emailed the enclosed picture to Felidae Conservation, who is following up on the property for tracks and scat.

Thank you for your consideration.

Sincerely,

  
Denise Dee Behrens



Behrens, Denise D.

---



4/27/2011

**RESPONSE TO LETTER NO. 71 – DENISE DEE BEHRENS (APRIL 27, 2011)**

**Response to Comment 71-1**

Please see Master Response 1.

**Response to Comment 71-2**

The discussion of *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues* discusses bicycle safety issues and trails are discussed under Pedestrian Access in the discussion of *Impact 5.7-19 Open Space Impacts*.

**Response to Comment 71-3**

The animal in the photograph, while out of focus, appears to be that of a bobcat (*Lynx rufus*). This species is a common small predator in a variety of habitats in the state and would be expected to forage on a regular basis within the woodland, grassland and coyote brush scrub habitats on-site. While the project will result in the loss of some habitat for this species, the majority of habitats on-site (i.e. 55 percent of the entire site), including a mosaic of woodland, coyote brush scrub and grassland habitats, will be preserved within Parcel A and habitat for this species will remain available both on-site and on the adjacent Old St. Hilary's Open Space Preserve. As discussed on page 432 of the Draft EIR, the loss of habitat for most native species occurring on the site is considered a less-than-significant impact.

LETTER NO. 72

*Paula Little*  
*420 Ridge Road*  
*Tiburon, Ca. 94920*

April 27, 2011

Ms. Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, California 94903

Dear Ms. Warner:

**EASTON POINT DEVELOPMENT – DEIR**

The following are some areas of deep concern:

**ROADS, ACCESS, AND EGRESS**

1

.....How **SAFE** are the roads in Hill Haven? Our home at 420 Ridge Road was built in 1953. Ours was one of the first houses in Hill Haven. The roads were **not yet** built. This was pasture land. How **well engineered** were the roads when built in the mid 1950's? Surely, the roads were **NEVER** intended to handle the traffic of today let alone additional traffic that will come from Easton Point.

2

.....What would happen in case of a firestorm? The summer winds usually prevail from the North-East as it did with the recent Angel Island fire. Did we not learn anything from the Oakland Hills fire regarding access and egress under emergency conditions?

3

.....If a firestorm were to occur, ALL residents in Hill Haven and Easton Point would have to exit via Ridge Road and the "narrow and winding" (p173) roads through Lyford Cove/Old Tiburon. The intersections are treacherous. Many of the roads (Vistazo East and West, Diviso, Centro East and West, Solano) are extremely narrow with NO sidewalks, little lighting but deep gullies. Numerous cars have gone over the edge of the road in past years. As it is, two vehicles can barely pass each other now and if there is an accident, both sides of the street are blocked for all vehicles. What would happen if all the cars and trucks in Hill Haven and Easton Point were trying to exit during a firestorm?

4

...Serious analysis needs to be made for "peak hour" traffic under emergency conditions through the Hill Haven and Lyford Cove/Old Tiburon neighborhoods.

5

.....What good is requiring some of the buyers of Easton Point to sign "releases" acknowledging low fire flow? Why aren't those lots eliminated **NOW**?

6

.....In a disaster situation, it will be **IMPOSSIBLE** for vehicles to turn **onto** Paradise Drive (if they are fortunate enough to get down that far from Hill Haven and Easton Point). It is critical that analysis needs to be made of this issue.

7

.....Regardless of how we "want" people to act during a disaster, people panic, they are fighting for their lives and those of their families and pets. In reality, there will be far **MORE** accidents.

### THE CONSTRUCTION ROAD

8

.....The TFPD has indicated that the road grade is too steep for their emergency vehicles.

.....What about the daily use of independent contractors' vehicles on the construction road? Can their vehicles sustain a 25% grade?

.....How often will the "construction road" be maintained? What happens to the road during stormy weather and serious ruts occur? Would vehicles "slide" more easily?

.....Being cognizant that "construction takes longer and costs more," how long in **reality** will the construction road be in place? What happens to the road afterwards?

### LANDSLIDES, CUT AND FILL

9

.....The DEIR acknowledges that Easton Point has numerous areas of great concern because of unstable lands and, yet, is planning to build homes within landside areas.

.....Landslide 3 is a major, active, slide of specific concern that could impact Hill Haven properties. Why are repairs limited to 100 feet from a building site?



.....Why would anyone be comfortable living in a noted landslide area? How would neighbors feel having homes above built on unstable land?

.....While stockpiling soil during construction appears to be a good approach, there should be specific mitigation to ensure that the stockpiles do not pose health, safety, and air quality degradation in the future. It should be noted that the winds in Hill Haven can have tremendous force, and the higher up you build as in some of the Easton Point proposed lot areas, the wind force will markedly increase. What effect will that have on the stockpiles over a period of years?

.....What will be the health and safety impacts when serpentine rock containing asbestos is released in the air during excavation and grading? How will they affect the workers and contractors?

#### OTHER ISSUES

10

.....Hill Haven has many old homes that are in need of repair, remodeling, or replacing. During remodeling or replacing, there can be 10-15 trucks occupying any available street space for 18-24 months or longer. As residents downsize, pass away, and the homes are sold, this will be an issue for many years to come.

.....The concern about drainage and our overly burdened culverts. When new drainage is installed, what impact will that have on the hillsides and existing landslides?

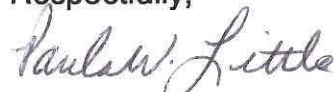
.....What consideration will be made to our existing cherished nature trails?

.....Can ANYTHING be done to avoid building on our sacred and exquisite ridge line?

.....Contractors go "belly up" often. What will happen to the houses under construction if that should occur?

Thank you in advance for addressing these issues.

Respectfully,



Paula W. Little

**RESPONSE TO LETTER NO. 72 PAULA LITTLE (APRIL 27, 2011)**

**Response to Comment 72-1**

Please see Master Response 1.

**Response to Comment 72-2**

Please see Response to Comments 13-1 and 69-5.

**Response to Comment 72-3**

Please see Response to Comments 13-1 and 69-5.

**Response to Comment 72-4**

Please see Master Response 1 and Response to Comment 13-5.

**Response to Comment 72-5**

Please see Response to Comments 6-18 and 16-11. As stated on page 475 of the Draft EIR, if necessary the applicant or property owner must install a low pressure pump to provide adequate water pressure for the residence.

**Response to Comment 72-6**

Please see Response to Comments 13-1, 13-5, and 69-5.

**Response to Comment 72-7**

Please see Response to Comments 13-1, 13-5, and 69-5.

**Response to Comment 72-8**

Please see Master Response 2.

**Response to Comment 72-9**

Please see Response to Comments 1-3 and 13-6.

**Response to Comment 72-10**

Please see Response to Comments 35-1, 43-1, and 61-7. The project applicant would be required to adhere to the BAAQMD guidelines for dust management, which are designed to employ the best available dust mitigation measures in order to reduce and control dust emissions so that sensitive receptors are not exposed to unhealthy levels of this contaminant.

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

April 27, 2011

APR 28 2011 PM 12:03 Planning

Re: 2008 Easton Point DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. My concerns are as follows.

- 1) The project will require an initial infusion of financing. Following that we will likely see a period of environmental mitigation work, the installation of a water tower, the removal of some 700 trees and acres of live oak woodland, the installation of sewers, power lines, water lines, gas lines, communication lines, and the paving of new streets. This period of construction promises to extend over a period of several months; perhaps even years, before significant income will be realized for the investors. The late drop in real estate activity, recent reductions in home valuations, and the possibility of cost overruns requiring further rounds of financing cause me to worry that the project may not be doable and may remain unfinished for years to come. We may be stuck with an abandoned half finished project that leaves the beautiful Tiburon Ridge decimated, unsightly, and un-hospitable to the local wildlife. I feel the DEIR is insufficient in that it does not sufficiently consider the on-going environmental impact of a partially finished project.
- 2) The DEIR frequently mentions the severe impact of the project on the Lands of Keil and Keil Cove. Some mitigation measures were stated as requiring the permission and cooperation of the Keil family. At the public meeting on April 25 Mr. Keil appeared and declared quite unambiguously that the family would not give its permission, nor would it cooperate. I think the DEIR is insufficient in that it does not address this fact and provide alternate mitigation measures. I feel any impact on the quality of the water in Keil Cove ought not be tolerated.
- 3) We suffer daily because of our limited ingress and egress from the Tiburon peninsula. The dangers posed in the event of fire, flood, or medical emergency, are real and worsening. The added danger resulting from the further congestion of our exits caused by this project is insufficiently addressed by the DEIR.
- 4) The "before and after" views of the project that were shown at the April 25 meeting were shocking to me. I walk there with my wife on an almost daily basis. To imagine the beautiful, pristine, and delicate habitat that we, along with our fellow "Broom busters," work so hard to nourish and sustain, will be turned into such a visually offensive, un-decorative, and decidedly out-of-place project pains and saddens me. And although the 180,000-gallon concrete water tank was mentioned in the text it was not pictured in the "after" view.

Sincerely,

  
Lucrecia and William Coomber

17 Venado Dr., Tiburon 94920

**RESPONSE TO LETTER NO. 73 – LUCRECIA AND WILLIAM COOMBER**

**Response to Comment 73-1**

CEQA does not require that a Draft EIR include an assessment of the financial feasibility of the project. In this regard any analysis of a potentially half completed project would be speculative in nature.

**Response to Comment 73-2**

Please see Master Response 3.

**Response to Comment 73-3**

Please see Master Response 1 and Response to Comments 13-1 and 13-5.

**Response to Comment 73-4**

The proposed design would be subject to review and approval by Marin County for compliance with design criteria.



April 26, 2011

LETTER NO. 74

Rachel Warner  
County of Marin  
Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**Re: 2008 Easton Point Residential Development DEIR**

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on bicyclists using Tiburon Boulevard and Paradise Drive.

1

Many bicyclists, mainly Marin county residents and tax payers, have used this route for many years. The Alto Robles study counted 63 bicyclists during a 4-hour weekday period and an average of 488 during 8-hour weekend periods. The DEIR states that the conditions on Paradise Drive are already "unsafe for use by bicyclists (pages 196, 239) due to lack of consistent width shoulders resulting in narrow roadways where bicyclists and pedestrians compete for hard space with vehicle traffic. Any contribution of new vehicle trips to these unsafe conditions result in a cumulative considerable contribution to this cumulative impact. This hazard would be exacerbated by even minor increases in vehicle traffic (page 239). The proposed project would contribute additional vehicle traffic on Paradise Drive, which would be a considerable cumulative impact" (page 240).

2

1. Volume of Truck Traffic

Heavy trucks of course constitute a greater hazard than normal vehicles, especially to bicycles. It appears that thousands of truck journeys will be required. The DEIR gives estimates of the additional traffic volume after the project is completed, but where are the estimates of truck traffic on Paradise Drive (a) during site preparation, and (b) during construction of the houses?

3

2. Traffic Control

I understand that there will be a period of up to 12 years during which site improvements and construction of houses will be occurring. According to the Alta Robles DEIR, construction traffic will expedite deterioration of the pavement on Paradise Drive. Traffic control measures will be required in the construction management plan during peak AM and PM travel periods (page 31). Since the traffic volume in the East Point project will likely be greater than in the Alto Robles project, should not traffic control measures, such as requiring trucks to travel in convoys with pilot cars during peak AM and PM periods, also be mandated in the Easton Point project?

4

3. Bicyclist Safety

Due to the volume of heavy truck movements along Paradise Drive while bicyclists will also be traversing the route, it is inconceivable, with this much traffic, that accidents can be avoided. The DEIR states, without any justification, that "implementation of mitigation measure 5.1-6 would reduce the project's contribution to cumulative impacts to bicyclists to a less-than-significant level" (page 241). The traffic study cited in the DEIR, the "Focused Traffic Study for the Martha Company Project", March 17, 2009, makes the recommendations set out in 5.1-6 but does not demonstrate or even claim that implementation of these recommendations would reduce the impact to the desired degree. Where is the safety consultant's analysis relating the volume of truck traffic to the number of cyclist injuries and fatalities?

Should not this analysis be separated into project phases, namely (a) site preparation, (b) house construction, and (c) after project completion?

The DEIR states that bicyclists' needs should be considered (pages 210 and 557). However, I am concerned that, if left vague at the planning stage, these needs could be overlooked should the project be confronted with budget and schedule constraints, resulting in inadequate provision for bicyclists' health and safety. What commitments will be required of the developer up front to ensure that measures to ensure bicyclists' safety will actually be implemented?

5

#### 4. Pavement Width

The DEIR states that the road width on Paradise drive is already unsafe for use by bicyclists (page 196). The proposed development only envisages widening the Paradise Drive pavement in two places, at Forest Glen Court and at the driveway for lots 21 through 23, with tapering extending 60 ft. in each direction. This is inadequate in view of the extra vehicle traffic that will be generated by the project. The conditions of approval by Marin County for the Sorokko project include a requirement that the project applicant provide a road section to include an 11-foot wide travel lane, a four-foot paved shoulder, and a two-foot wide dirt shoulder along the entire front of the property (approx. 1100 feet). Should not Paradise Drive be widened by 4 ft. for the entire frontage of the Easton Point property?

6

#### 5. Debris on Road

During this 12-year period a great deal of gravel and other debris will inevitably be spilled on the road, creating a danger to bicyclists. Could the road at least be swept daily to remove the worst of these hazards?

Sincerely,

  
Curt Simon  
206 Ross Valley Dr  
San Rafael, CA 94901  
(415) 785-3757  
ctsimon@pacbell.net

**RESPONSE TO LETTER NO. 74 – CURT SIMON (APRIL 26, 2011)**

**Response to Comment 74-1**

Mitigation Measure 5.1-6 contains measures to improve conditions along Paradise Drive for bicyclists.

**Response to Comment 74-2**

Please see Response to Comment 13-2.

**Response to Comment 74-3**

Construction related traffic impacts are addressed under *Impact 5.1-13 Construction Traffic Impacts*. These impacts would be reduced to a less-than-significant level upon implementation of Mitigation Measure 5.1-13. These mitigations are similar to the ideas express by the commentor.

**Response to Comment 74-4**

Please see Response to Comment 1-3.

**Response to Comment 74-5**

Please see Master Response 8.

**Response to Comment 74-6**

This comment should be raised during the merits hearing on the proposed project and not the Draft EIR itself. No further response is necessary.

VICTORIA REGENT  
WATERFRONT HOTEL & SUITES

April 26, 2011

Dear Mr. Warner,

I am sympathetic to the rights of an owner to develop.

The Martha DEIR seems destined to create severe traffic problems on Centro West.

Please incorporate a timed one way system in any approval.

For example, up Centro West 7AM to noon & down Centro East those hours. Reverse from 12 noon to 5PM. Two way 5PM - 7AM.

Jack Bridges  
1808 Centro West  
Tiburon

**RESPONSE TO LETTER NO. 75 – JACK BRIDGES (APRIL 26, 2011)**

**Response to Comment 75-1**

Transportation impacts were mitigated to a less-than-significant impact without need for such a measure described by the commentor.

April 27, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Funding of traffic improvement infrastructure by developers.

Dear Ms. Warner:

1

I am writing to express my concern regarding the traffic impacts of this project that are not addressed in the DEIR, specifically, the untenable situations that exist at two intersections: the intersection of Tiburon Boulevard at Trestle Glen Boulevard and Reed Ranch Road and Tiburon Boulevard.

The Trestle Glen-Tiburon Boulevard intersection is a nightmare of traffic engineering. Westbound Tiburon Boulevard feeds its one lane—the main exit from Tiburon and Belvedere--downhill and around a steep blind curve, intersecting with Trestle Glen on the radius of the curve. The guardrails on this curve are smashed and paint-smeared by frequent accidents. There is a three-way light with a long wait to allow traffic to turn left onto Trestle Glen across Tiburon Boulevard. Not all the cars make it and must wait for the next cycle.

It is highly unlikely that construction traffic on the “alternate route out of downtown” (Paradise Drive) will choose the multiple twists and turns and many extra miles of Paradise Drive all the way through to Corte Madera. Instead, we expect most of the construction traffic to end up on Tiburon Boulevard at Trestle Glen, in order to short-cut over to Highway 101.

This Trestle Glen construction traffic will make a right turn across the only marked and only safe crossing of Tiburon Boulevard for almost a mile and the main route that school children on foot and bicycles use to reach the bike path and continue on to Del Mar Middle School and Reed Elementary School. Hundreds of bicyclists use this intersection on weekends to go from the bike path to ride along Trestle Glen Boulevard and onto Paradise Drive. This goes against the encouragement of children to walk or bicycle to school, which is a goal of County transportation planners.

Just a short distance west from where Tiburon Boulevard, Paradise Drive and Trestle Glen Converge, there is a left turn against traffic from Tiburon Boulevard into Blackie's Pasture. After that traffic accelerates (often into the setting sun), and Heads to the intersection with Reed Ranch Road, where there is no traffic light, only a stop sign for cars attempting to turn left across traffic and head toward downtown Tiburon.

2.

Traffic turning left onto Tiburon Boulevard from Reed Ranch Road must wait for these two accelerating lanes of traffic to clear and then cross over into a small holding lane and wait for Eastbound traffic to clear before merging. There is often a three way conflict between vehicles making this turn to the left toward downtown Tiburon, traffic turning left across Tiburon Boulevard onto Reed Ranch Road and the traffic accelerating uphill out of the bottleneck of the Tiburon Boulevard and Trestle Glen intersection.

There have been no deaths at this intersection--yet. Caltrans, which is the owner of State Route 131, Tiburon Boulevard, will not install a traffic light because of the cost.

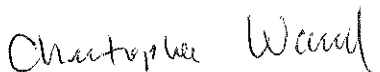
The point is that adding thousands of trips by large trucks hauling landslide debris, contractors, workers, deliveries of material and other construction related traffic will make all intersections, but especially these two, even more dangerous.

Paying for the costs of a traffic light and intersection improvements at this one unsignaled major intersection as well as improvements to Trestle Glen at Tiburon Boulevard might be an excellent means by which the developers of Easton Point could help make amends to the Tiburon Peninsula for the decade of construction traffic and residential services and occupant trips that their proposed development will cause.

This chokepoint of traffic funneled through Tiburon Boulevard is so perfect and complete that crime-detering license plate reading cameras have been installed on Tiburon Boulevard further along as well as on the one lane of Paradise Drive at the Corte Madera - Tiburon Town line. The combined two lanes of Tiburon Boulevard and the highly unlikely route of sinuous and long one-lane Paradise Drive are the only exit from the entire Tiburon Peninsula for all construction traffic. The same situation of course exists for traffic entering the peninsula.

The consequences of the increase in traffic created by this development may be an ambulance being caught in traffic and death for the unfortunate passenger. The consequences of this for someone who has called 911 for whatever emergency are a very long wait and self-reliance whatever the emergency.

Sincerely

A handwritten signature in cursive script that reads "Christopher Wand".

Christopher Wand  
5 Burrell Court  
Tiburon Ca 94920

**RESPONSE TO LETTER NO. 76 – CHRISTOPHER WAND (APRIL 27, 2011)**

**Response to Comment 76-1**

These very detailed descriptions of two intersections, Trestle Glen Boulevard/Tiburon Boulevard, and Reed Ranch Road/Tiburon Boulevard have long been recognized in the *Tiburon General Plan* as locations needing improvements. The Draft EIR cites the Town of Tiburon Traffic Mitigation Fee Program (TMF) and Planned Improvements. The TMF fee is based on the number of PM peak hour trips generated by each new project, and the fee varies between designated areas of Town (known as “traffic analysis zones”). The updated fee program was adopted by the Town Council in January 2007. The *Tiburon General Plan* calls for the following improvements that are incorporated into the TMF program:

- Add a second westbound lane on Tiburon Boulevard approaching the intersection with TrestleGlen Boulevard.
- Add a merge/acceleration lane for traffic turning left from Reed Ranch Road onto Tiburon Boulevard. (This proposed improvement has been completed.)

The Draft EIR describes conditions for Trestle Glen/Tiburon Boulevard on page 195. It states:

**Trestle Glen Boulevard / Tiburon Boulevard** This signalized intersection, currently operating at LOS B during the AM and PM peak hours, is observed to have lengthy back-ups on both Tiburon Boulevard intersection approaches. The *Tiburon General Plan's* planned road improvement cited above (add a westbound through lane on Tiburon Boulevard ) would address the back-up issue, and support *CWP's* policy TR-1.2 requiring maintenance of service standards, TR-1.5 requiring necessary transportation improvements, and implementing programs requiring identification of “impacts and mitigation measures for projects that may result in significant traffic impacts,” “require that new development pay its fair share of the transportation system impacts” and “guarantee their timely installation.”

Mitigation Measure 5.1-2(a) requires that the applicant pay the project’s prorated share of planned lane improvements at the Trestle Glen Boulevard / Tiburon Boulevard intersection, consistent with traffic mitigation fees to be determined by the Town of Tiburon.

The Draft EIR describes conditions for Reed Ranch Road/Tiburon Boulevard starting on page 195. It states:

**Reed Ranch Road / Tiburon Boulevard** This Tiburon Boulevard unsignalized intersection currently operating at poor levels of service during the weekday AM and PM commute traffic peak hours (Reed Ranch Road) has stop sign-controlled turning movements (left-turns from Reed Ranch Road) operating at an unacceptable level of service per Marin County’s standard of LOS D. Left turns at this intersection currently operate at LOS F during the weekday AM and PM commute traffic peak hours. However, mitigation only can occur when and if signal warrants are met at this intersection. The volume of traffic turning from Reed Ranch Road to Tiburon Boulevard is too low to meet the peak hour volume warrant, thus, Tiburon Boulevard remains uncontrolled by a signal and has turning movements operating acceptably. This is the optimal condition for the intersection, until, or unless, signal warrants are met. Throughout this EIR, the peak hour volume warrant is checked to determine whether signalization would be warranted to



mitigate the poor level of service at this intersection, consistent with the CWP's policy TR-1.2 requiring maintenance of service standards, TR-1.5 requiring necessary transportation improvements and implementing programs requiring identification of "impacts and mitigation measures for projects that may result in significant traffic impacts," "require that new development pay its fair share of the transportation system impacts" and "guarantee their timely installation." Since mitigation would require signalization, and signal warrants are not met, minor additions of traffic to this intersection are not considered to create an impact that is significant.

April 27, 2011

LETTER NO. 77

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Economic impacts on downtown Tiburon and resulting tax loss.

Dear Ms. Warner:

1

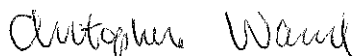
Tiburon Boulevard is already bumper-to-bumper gridlock twice a day and whenever there is an accident. Adding tens of thousands of large truck runs hauling landslide debris, construction material, the workers' cars, contractors and later the occupants and service staff of these proposed 43 homes through the Trestle Glen intersection feeding onto Tiburon Boulevard will make it far worse.

One effect of this will be to further damage downtown Tiburon as a viable economic community. The lack of parking and the difficulty of making the existing left turn at Reed Ranch Road and Tiburon Boulevard already are a factor in many residents favoring turning a right toward Mill Valley and Corte Madera and shopping and spending there.

This will be exacerbated by the increased traffic caused by the construction and maintenance of these homes which may go on and on for a decade, plus the later addition of residents trips and service vehicles. Tiburon Boulevard and access to downtown Tiburon may be simply too problematic due to an increase in traffic and business there will suffer further.

Whatever putative tax benefits that are claimed for these homes once completed and theoretically sold in a deteriorating economy and housing market may be offset by the loss of sales tax revenues and license fees as downtown Tiburon becomes cut off by increased traffic.

Sincerely,



Christopher Wand  
5 Burrell Court  
Tiburon Ca 94920

**RESPONSE TO LETTER NO. 77 – CHRISTOPHER WAND (APRIL 27, 2011)**

**Response to Comment 77-1**

The Draft EIR transportation impacts analysis found that proposed project traffic impacts to Tiburon Boulevard would be less-than-significant.

April 27, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Water usage.

Dear Ms. Warner:

All Marin citizens are being asked to conserve water and to join in common sacrifice to assure that there is an adequate water supply in the future. The ongoing work of the MMWD conservation department, the millions spent on the plans for the desalination plant, the battle over the voter approval process to build that plant and three ongoing rate increases with a fourth proposed speak to this process.

From page 468 of the DEIR:

"The MMWD currently has a water supply deficit and that deficit is projected to grow over time. The MMWD's current projections for water supply conditions similar to a repeat of the drought of record (1976-77) anticipates a water supply deficit of 3,700 acre feet in 2010, 6,400 acre feet in 2020, and 7,400 acre feet in 2025. This means that in a drought year, water supplies from existing sources (e.g. Lagunitas Creek and the Russian River) would not be sufficient to meet demand."

1 Imagine another drought. How much water will be used by these 43 additional homes? How much will we be required to sacrifice and conserve to make up for the usage of these 43 large houses? Why should all of us sacrifice and conserve water while this development will more than offset all our efforts at water conservation?

Perhaps the great-great grandchildren of John Reed should commit to providing their own separately funded water supply to the homes in this speculative development? For example, water could be purchased cheaply in Canada and brought down by tanker and then pumped into MMWD pipes at a dock to allow these homes to create no water use impact.

A commitment of the developers to a "last water meter hooked up, first to be rationed approach" would perhaps alleviate community concerns on the water usage problem that these proposed speculative developments might pose to all MMWD customers.

All citizens of Marin deserve a water system that serves our current needs first and speculative development last.

Sincerely,

*Christopher Wand*

Christopher Wand  
5 Burrell Court  
Tiburon Ca 94920

**RESPONSE TO LETTER NO. 78 – CHRISTOPHER WAND (APRIL 27, 2011)**

**Response to Comment 78-1**

Increases to water demand are discussed under *Impact 5.7-6 Increased Water Demand*.

LETTER NO. 79

2641 Paradise Dr.  
Tiburon, Ca. 94920

April 27, 2011

Rachel Warner  
County of Marin Community Development Agency  
3501 Civic Center Drive, Suite 308  
San Rafael, Ca94903

Re: 2008 Easton Pt. Residential Development Project

Dear Ms. Warner,

I have lived at 2641 Paradise Dr, which is right in the middle of the Easton Pt. project, for over 45 years. There are many concerns with the development; however I will only address those that I have observed over the years of living here. First of all, there are many issues that affect Traffic on Paradise Drive (section 5.1-6).

Bicyclists:

1

The volume of bicyclists on the road from my house to the town of Tiburon has increased dramatically over the past 20 years as riding the 'Tiburon loop' apparently has become one of the most popular bicycle rides in Marin. The bicycle traffic has made Paradise Drive very difficult to drive. The already narrow, two lane road makes it almost impossible to pass a bicyclist legally (or even illegally). Where will the road be widened on this stretch? How will the sight lines be improved? (The entrance to our driveway is very close to a dangerous curve and has been the site of an accident with a bicyclist).

The mitigation states that there will be pull outs for bicyclists. This is an unrealistic mitigation and will not be useful. Have you ever seen a bicyclist take advantage of a pullout to allow auto traffic to pass? This has not been my experience on Paradise Drive over the last 30 years. It is very hard to get bicyclists to move over on the road as it is. A realistic mitigation would be to prohibit bicycle traffic until the conclusion of the significant construction phase (e.g., construction of 80% of the allowable sites). In any event, who would monitor compliance? With the number of trucks coming from the construction road, how will the traffic move? How will the trucks pass the bicyclists? This will be a major safety and traffic consideration.

Trucks:

2

Regardless of whether the construction road is built, Paradise Drive is going to suffer more heavy vehicle traffic than it has been exposed to in the last 50 years. Was Paradise Drive designed to handle today's weight loads for heavy vehicles? Will the developer repair the road after the construction phase has been completed? Does the EIR measure the impact of such road repair? Will mitigation from such road repair be required?

Slides (section 5.4):

3

Has Miller Pacific Engineering or the other consultants looked at what impact the transport of cement trucks and heavy materials on the proposed construction road will have on the land below? What tests have been conducted to confirm that the load will not cause the fragile land below to slide? That fragile land includes numerous natural springs.

(I have counted at least 4). Will the developers be allowed to dam the springs? If not, has the impact of the combination of the runoff from the construction road and the springs been addressed?

4

The EIR does not take into account non-permitted activities that are committed by the new homeowners of the developed properties that undermine the mitigation efforts. Such activities often occur in suburban/rural communities such as Marin County, especially in high net worth neighborhoods, which is what the Easton property would become. However, this property is particularly sensitive to water runoff issues. How much of an F.T.E. for property inspectors will the County devote to enforcing compliance by the homeowners with the mitigation efforts so that the land is protected from mudslides and erosion?

5

Construction Road:

Others, I am sure, will address concerns regarding the 25% slope proposed for the construction road. What specific steps will the developer and its contractors be required to take to ensure that there are no runaway trucks (such as recently occurred on Gilmartin Road in Tiburon, where a heavy truck vehicle lost its brakes and ran down a 25% grade road, across Tiburon Blvd and into the Bay).

6

Observation: Will the Public Works Department of the County oversee the development and what penalties will be imposed for noncompliance?

Very truly yours,

  
Genevieve Chapman



**RESPONSE TO LETTER NO. 79 – GENEVIEVE CHAPMAN (APRIL 27, 2011)**

**Response to Comment 79-1**

Please see Response to Comment 3-3.

**Response to Comment 79-2**

Mitigation Measure 5.1-13 includes a requirement that any damage to Paradise Drive resulting from construction vehicles be repaired.

**Response to Comment 79-3**

Please see Master Response 2 for information regarding the construction road.

**Response to Comment 79-4**

Please see Response to Comment 1-3.

**Response to Comment 79-5**

Please see Master Response 2.

**Response to Comment 79-6**

Please see Response to Comment 1-3.

April 29, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

We are writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. We live at 22 Racoon Lane in Old Tiburon and are very concerned about the impacts that this project will have on our neighborhood.

1

Specifically, we are concerned with the conclusion that there is no need for adherence to the project's accepted landslide repair criteria with regard to the construction road. Due to the landslide possibilities and the narrow and steep design of this road, there seems to be a myriad of potential accident/disaster scenarios surrounding the construction road and adjacent neighborhoods. We believe mitigation factors should include assigning specific responsibility for the safety of this road and the prevention of any landslides into surrounding neighborhoods in the event of inclement weather.

2

In addition, the DEIR specifies that certain landslides are to be addressed, but others above our existing neighborhoods are not to be improved. Obviously, this seems problematic to those of us who live in homes below this proposed development. We believe that the mitigation factors should address all landslides that could possibly affect existing homes.

3

Furthermore, the DEIR notes the presence of serpentine rock (containing asbestos) in the project area but does not specify the mitigations to be undertaken to protect air quality. As parents of a young child in the project vicinity, this is of great concern to us.

4

Though the DEIR does recognize the narrow and crowded streets of Old Tiburon, we do not believe the DEIR adequately addresses factors to ensure the safety of our streets during construction. There are many young children, mothers with strollers and pedestrians on these narrow streets without sidewalks. We do not believe the impact of years of construction traffic and resulting safety hazards to the residents of Old Tiburon have been adequately addressed. Certainly, the conclusion that the prohibition of dumpsters from parking on the streets is an adequate mitigation is unsatisfactory.

5

Finally, in an attempt to satisfy the CEQA criteria of providing an "environmentally superior" alternative, it seems that an alternative would have been presented that places homes at lower elevations on the hillside. This would help alleviate many impacts, including views, water flow issues and the necessity for such an extensive construction road. In order to have a convincing "range of alternatives," this type of alternative should be presented in the Final EIR.

Sincerely,

Mike and Erin Tollini  
22 Racoon Lane, Tiburon

**RESPONSE TO LETTER NO. 80 – MIKE AND ERIN TOLLINI (APRIL 29, 2011)**

**Response to Comment 80-1**

Please see Master Response 2 for information regarding the construction road.

**Response to Comment 80-2**

Please see Response to Comment 18-2.

**Response to Comment 80-3**

Please see Response to Comments 35-1, 43-1, and 61-7. The project applicant would be required to adhere to the BAAQMD guidelines for dust management, which are designed to employ the best available dust mitigation measures in order to reduce and control dust emissions so that sensitive receptors are not exposed to unhealthy levels of this contaminant.

**Response to Comment 80-4**

Please see Master Response 1.

**Response to Comment 80-5**

Please see Response to Comments 11-15 and 15-32.

April 29, 2011

Curtis Havel  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

1 I am writing to comment on the 2008 Easton Point Residential Development Draft  
Environmental Impact Report. I am very concerned about the impacts that this project will have  
on my local community. The EIR says that some of the landslides will be fixed, but not all of  
them. Doesn't that leave dangerous landslide areas above existing homes? Where in the EIR  
does it say exactly which landslides will be fixed before homes are built? The EIR says that a  
2 new sewer line will have to be put in under Paradise Drive, and that some streets will have to be  
widened. Where is the environmental review for those projects? Will those projects cause  
additional impacts that aren't discussed in this document?

We need to focus on development projects that are in line with the Marin County Sustainability Plan. We need residential projects that are accessible by public transportation and do not destroy our beautiful natural landscape that future generations will never be able to enjoy.

Sincerely,

Natale Servino  
6 Community RD  
Belvedere, CA  
94920

**RESPONSE TO LETTER NO. 81 – NATALE SERVINO (APRIL 29, 2011)**

**Response to Comment 81-1**

The Draft EIR discusses landslides and landslide repair under *Impact 5.4-1 Landsliding*. Also, please see Response to Comments 7-8 and 16-24.

**Response to Comment 81-2**

Please see Master Response 8.

LETTER NO. 82

C. Holly Nyerges-Hooker  
1461 Vistazo West  
Tiburon, CA 94920


TO: The Marin County Community Development Agency  
SUBJECT: Easton Point DEIR  
DATE: April 28, 2011

1 I am a resident of Tiburon living at 1461 Vistazo West with a direct view of the Old St. Hilary Open Space. I covet that view as much as the view to San Francisco. I have great concern that the Old St Hilary Open Space is going to be completely compromised and destroyed if the Marin County Community Development Agency does not protect the ridge line from all development. In the DEIR (p.92) it states "Policies in the CWP and Marin Development Code call for the protection of visually prominent ridge lines." Ridge line C as depicted in exhibit 4.0 is a visually prominent Ridge line from almost everywhere in Tiburon and Belvedere. All the residents of Belvedere and Tiburon have been paying for the preservation that open space through their property taxes only to find out that the very important ridge top is not included the open space they are trying to protect and preserve. The house density in the proposed development along ridge C and in the slope down to the Old St Hilary Open Space line is extremely dense with 17 proposed homes.

2 I also have grave concern for the placement of the 180,000 gallon water tank that is planned to be built on the very top of the ridge Not only is it criminal from an aesthetic point of view I also concur with the statements made by Commissioner Don Dickenson at the Monday April 25, 2011 hearing (afternoon session) regarding the issues of constructing the water tank in that location. This large water tank needs to be relocated in a safer area. Other water tanks in Tiburon are nicely camouflaged and not noticeable. This one will be seen from everywhere.

The whole development as planned from the aesthetics to the environmental, health and safety issues is a tragedy perpetrated on the residents of Belvedere and Tiburon. I would rather see wind mills on the ridge knowing that we would be decreasing our energy and CO2 blueprint rather than increasing it with this housing development.

Sincerely,

  
C. Holly Nyerges-Hooker

**RESPONSE TO LETTER NO. 82 – C. HOLLY NYERGES-HOOKER (APRIL 28, 2011)**

**Response to Comment 82-1**

*Alternative 2* would feature a reduced density within the vicinity of prominent ridgelines.

**Response to Comment 82-2**

This comment regarding the proposed water tank is based on the merits of the project and not the adequacy of the Draft EIR. No further response is necessary.



**Todd Werby & Nonie Greene**  
**200 Diviso Street**  
**Tiburon, CA 94920**

LETTER NO. 83

April 28, 2011

Ms. Rachel Warner  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**Re: Easton Point Draft Environmental Impact Report (“DEIR”) Questions**

We have perused the DEIR and have several questions that we are not sure are adequately addressed.

**Landslide Mitigation**

1

The DEIR makes it clear that much of this property is on seismically unstable land which is prone to sliding (5.4-1, 5.4-2, etc.). It seems that the proposed mitigation is to construct retaining walls. However, much of this property is proposed to be dedicated to public open space. It is unclear to us whether there is a funding mechanism to provide for the perpetual maintenance of the retaining walls on public lands and, if so, whether this funding mechanism is adequate to the task. If it is left to the property owners’ association (“POA”) then it seems to us that there is a significant risk that the POA will decide not to adequately fund the reserve necessary, and the public may become exposed to liability as a result. This doesn’t seem fair.

**Traffic**

2

Traffic on Tiburon Boulevard is already often at a standstill, especially during pick-up and drop-off times for the schools. Obviously, a large number of new households is only going to exacerbate the problem. We are not convinced that the proposed lane improvements and additional Tiburon Boulevard traffic lights (5.1-2) will make this problem any better. Therefore, we do not believe that this issue has been adequately addressed or that the mitigation proposals in the DEIR are adequate.

3

Moreover, there is little doubt but that a development of this scope would add any number of potentially large construction vehicles mostly traveling on Old Town’s roads that simply are not up to the task. Not only will they severely degrade the roads themselves (some of which were only recently repaved) but they will put the other travelers on these narrow roads (cars, pedestrians, and bicycles) in harms way. We do not believe that these cost and safety impacts have been adequately addressed in the DEIR.

**Bicycle Safety**

4

Tiburon Boulevard and Paradise Drive are part of the “Tiburon Loop” which is used extensively by local cyclists as well as out-of-town cyclists on rented bikes and unfamiliar

with the road. The road is especially narrow where Paradise Drive begins just out of town. As we understand it, this is where most of the construction traffic will be directed. If so, it will create a very dangerous situation as the construction trucks try to compete with cyclists as they start to climb up Paradise Drive just past the its intersection with Mar West. The sight lines are poor and there is no place for an ordinary sized vehicle to pass, far less a large construction truck. This would seem to be a clear safety issue, and the proposed mitigation (5.1-6; additional signage?!) hardly seems adequate.

---

#### **Fire Safety**

5

The DEIR seems to indicate that the proposed roads and driveways would not comply with Tiburon Fire Protection District's standards (5.7-1). We are unclear as to why this noncompliance would not constitute and unacceptable safety risk.

6

The DEIR also indicates that there would be a significant addition strain on Tiburon fire services (5.7-3), but then seems to propose leaving it to the Town to pass future mitigation fees which would then be assessed on the individual homeowners. It is unclear to us why these costs should not be assessed to the developer as a condition of approval.

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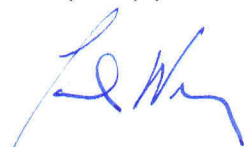
#### **Water Demand**

7

The DEIR seems to indicate that MMWD has plenty of excess capacity (5.7-6). But, the current season's unusually high rainfall notwithstanding, don't we all know this not to be the case? Isn't that why MMWD is being forced to consider a desalinization plant? This issue does not seem to have been given the proper consideration.

Thank you for your consideration of these questions.

Very truly yours,



Todd Werby



Nonie Greene

TW:bms

**RESPONSE TO LETTER NO. 83 – TODD WERBY & NONIE GREENE (APRIL 28, 2011)**

**Response to Comment 83-1**

Please see Response to Comment 1-3.

**Response to Comment 83-2**

All aspects of traffic on Tiburon Blvd have been addressed in the Draft EIR. Please see Response to Comment 36-1.

**Response to Comment 83-3**

Please see Response to Comment 7-14.

**Response to Comment 83-4**

Please see Response to Comment 3-3.

**Response to Comment 83-5**

The comment about the proposed roads is correct. Mitigation Measure 5.1-11 would require that roads be designed to meet county standards.

**Response to Comment 83-6**

Please see Master Response 7. Mitigation Measures would reduce the project's impacts for Fire Service to a less-than-significant level.

**Response to Comment 83-7**

No mitigation would be required for the project's demand on water supply.

322 13 00, 12 27 2011

Jocelyn Knight

105 Sunnyside Ave.  
Corte Madera, CA 94925

jocelynnknight.com

LETTER NO. 84

April 28, 2011

Rachel Warner  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**Reference: EASTON POINT DEIR COMMENTS**

### **FIRE AND WATER**

1

The proposed 180,000 gallon water tank has not been shown in any photo renderings nor has the site been evaluated as far as the impacts to the Old St. Hilary Preserve. Situated on the side of a steep hillside with a 25% grade construction road that would zig-zag up the east side of the hill, the tank project alone needs an environmental review. The size of the tank is required by the Fire Department as enough water for 2 hours of fire fighting should a fire occur on the property.

And then what?

**As I have personally lost my home at 615 Ridge Road Tiburon to fire** in 1973 I am hugely concerned about the ability of the fire trucks to get up the hill in time to save anything.

The egress for the neighborhood is already compromised and in the event of an emergency a fire could prevent people trying to flee and the emergency vehicles from getting up there.

With the water supply in county so variable and shortages common, is there enough water to supply 43 households anyway? Where is all that water coming from?

Is there a provision anywhere to require permeable surfaces for driveways and roadways to let the water return to the watershed this area truly is?

### **Wildlife and Loss of Habitat**

2

In either scenario, the 43 houses or the 32 houses with the gigantic construction road carving up an entire hillside, the habitat will be **destroyed**. This area is adjacent to the small Old St. Hilary Preserve and the even smaller Tiburon Uplands Preserve. Both areas are rich in wildlife and require the land adjacent to make life possible. The uninterrupted hillsides create a perfect habitat for the raptors and Dusky Footed Woodrat alike.

I do not think the DEIR is accurate in the census of creatures and flora that inhabit the area.

One example on page 410:

SF Dusky Footed Woodrat is listed as "possible." I have photographic evidence that there several nests along Spanish Trail and other signs that they live here.

SF Garter Snake is listed as "absent."

Again, I have a photo of a garter snake in the immediate area of the property and if the researchers spent a bit of time in the right places they would see that they do indeed live there, though not in the numbers they used to, as their habitat has gradually disappeared with the development of the hillsides. As a child growing up on Ridge Road we saw many Garter snakes especially in summer.

#### **5.6-2 Red Legged Frog**

The Red-Legged Frog requires the drainage from the rainfall through the hillsides to the pond in Keil Cove. If the landslide "mitigations" include drainage away from the springs and creeks that have been there for hundreds of years, to stabilize an area for development, the water supply to the pond disappears and so goes the habitat. Remove or divert the natural flow of water and you kill not only the frogs, but the entire ecosystem.

#### **5.6.7 Active Bird Nests**

Page 432 Regarding loss of habitat and native wildlife - **No mitigation would be required.**

REALLY?

#### **5.6-8 Loss of ordinance size trees**

The proposed removal of 742 trees will hugely impact the habitat of birds in the area that use them for nesting and foraging. These forests are habitat to many small mammals that are part of the raptor food chain. Contiguous oak forests are disappearing due to Sudden Oak Death and cutting down 700 trees is to decimate a forest in one broad sweep.

This does not include additional trees as a result of road improvements

Another question is regarding enough area for the Dwarf Flax and the Tiburon Jewel Flower to survive. With the climate getting warmer, the Tiburon Jewel Flower will have to migrate upward and that would prove impossible if it is boxed in on all sides by housing developments. The same can be said for the Dwarf Flax, which is present in many areas not specified on the maps. I have photos of it all around Founders Rock as well as other large patches in bloom today on either side of the ridge fire road down the center of the property.

page 414 Marin Checkerbloom is listed as "absent." Simply not true. Photos show the hillsides covered with it this spring along the fire road and in many other areas.

Gumplant is listed as "absent." Again, not true.

Owlslover listed as "absent." Yet it is growing there.

The Checker Fritillary butterfly is also present though listed as "absent."

#### **Pre-Construction Surveys**

Somewhere in the DEIR it mentions that the **applicant** be responsible for "pre-construction surveys," keeping track of all the impacts to the environment. Why not have an impartial party be the watchdog for the animal and plant populations on the property? Who is to oversee protections are in place if/when the property is sold? I think there should be a biologist and a botanist assigned to keep track of populations and impacts before, during and after construction, should any ultimately occur.

It seems there are many species that are obviously present that were listed as "absent" in the DEIR and I do not believe a comprehensive study was done during each season to fully assess the population of creatures that utilize the area.

Ring Mountain is a perfect example of what the habitat and ecosystem should look like while being accessible to humans to enjoy lightly as well. It is the contiguous 300 acre area that allows it to thrive.

For our **health and the health of the ecosystem** I think that the Martha Property should never be developed in any way, other than maybe some trail maintenance.

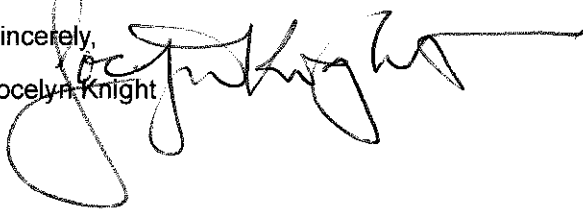
The Tiburon General Plan calls for areas defined as "Prime Open Space" as "open space that is worthy of permanent protection due to it's characteristics and attributes."

This community of Belvedere Tiburon thought that preserving the two adjacent properties were worth paying for, but what happens to that investment in open space if 43 houses, a 180,000 gallon water tank, construction road and several retaining walls are covering the land on the other side of the fence? Is there an accurate assessment of the LOSS contiguous open space for the health of the humans walking the hills or riding a bike or flying a kite?

For our **health and the ability for the ecosystem to survive**, I think that the Martha Property should never be developed in any way, other than maybe some trail maintenance.

Sincerely,

Jocelyn Knight

A handwritten signature in black ink, appearing to read 'Jocelyn Knight', with a long horizontal flourish extending to the right.

## **RESPONSE TO LETTER NO. 84 – JOCELYN KNIGHT (APRIL 28, 2011)**

### **Response to Comment 84-1**

The commentor raises issues regarding the visual impacts of the water tank, emergency vehicle access, and water supply/fire flow. Visual impacts of the proposed water tank are discussed on page 506 of the Draft EIR. Project impacts related to emergency access are discussed under *Impact 5.1-9*, and water supply and fire flow issues are adequately discussed under *Impact 5.7-7 Water Service Impacts* and *Impact 5.7-8 Inadequate Fire Flow*.

### **Response to Comment 84-2**

The commentor makes reference to the information contained in **Exhibit 5.6-3** (*Special-Status Animals Considered to Potentially Occur in Site Vicinity*), starting on page 410 of the Draft EIR, and indicates that she has personally observed several species to be present on the site which were noted as “absent” or “possible” in the Draft EIR. She indicates that rare species including the San Francisco garter snake, Marin checkerbloom, “gum plant”, “owls clover” and the “Checker Fritillary butterfly” are present on the site.

Checkerblooms have been observed on the site by Live Oak Associates (the EIR biologists) during surveys; however, these have been identified as two subspecies of the common checkerbloom (*Sidalcea malvaeflora*) and not the rare Marin checkerbloom (*Sidalcea hickmanii* ssp. *viridis*). The “gumplant” the commentor has observed on the site also has been identified as the common hairy gumweed (*Grindelia hirsutula* var. *hirsutula*) and not the rare marsh gumplant (*Grindelia stricta* var. *angustifolia*). Several species in two owl’s clover genus’ of *Castilleja* and *Tryphysaria* have been identified on the site, including *Castilleja densiflora* ssp. *densiflora*, *C. foliolosa*, *C. rubicundula* ssp. *lithospermoides*, *Tryphysa riaeriantha* and *T. pusilla* during Live Oak Associates’ surveys, all of which are considered common species in the region. The rare San Francisco owl’s clover (*Triphysaria floribunda*), has never been found on the site during the more than two decades that the biological resources of the site have been inventoried and studied by the EIR biologists and others. In particular, the EIR biologists are confident this species would have been found on the site during the 2009 focused botanical surveys if indeed it was present.

The commentor’s reference to the “checker fritillary butterfly” that the commentor claims to have observed on the site was actually meant to reference a rare plant of the Liliaceae family and not a rare butterfly, i.e. the Marin checker fritillary (*Fritillaria affinis* ssp. *tristulis*). As with other common species of plants found on the site, botanical surveys of the site confirmed the presence of more than ten common species in the Lily Family, but, as with the other rare species indicated above, surveys conducted on the site for more than two decades including focused surveys completed by the EIR biologist in 2009 failed to find any populations of Marin checker fritillary present on the site and we are confident that it does not occur on the site.

The commentor also indicates that she has a photograph of a garter snake taken near the project site. No doubt, as with the common plants discussed above that are present on the site, there are common species of garter snakes that likely do occur on the site and these include the California red-sided garter snake (*Thamnophis sirtalis infernalis*) and western terrestrial garter snake (*T. elegans*). As indicated in **Exhibit 5.6-3**, there are no known occurrences of the rare San Francisco garter snake outside of San Mateo County and, additionally, the Easton Point site lacks the types of aquatic habitats required by this species.

The commentor has expressed concern for a loss of trees and loss of habitat for birds as a result of the project. While the EIR biologist did determine that a loss of habitat for most native species would be less than significant due to the amount of habitat impacted by the project relative to the availability of habitat for these species that remains available in the region, and the amount of such habitat that also will remain on-site preserved in-perpetuity within Parcel A; the Draft EIR considers the loss of oak woodlands and ordinance-size trees to be significant impacts. Mitigations for these losses are required in Mitigation Measures 5.6-4 and 5.6-8. As currently designed, the PDP avoids impacts to between approximately 75 and 85 percent of woodlands on-site, with the vast majority of these woodlands to be incorporated into Parcel A to be preserved in perpetuity and subject to an RMP.

The commentor refers to the Draft EIR requirement that the applicant, rather than an impartial third party, is responsible for ensuring that pre-construction surveys required in the Draft EIR are conducted. Under the Draft EIR, the applicant must provide evidence to the County that pre-construction surveys required by the Draft EIR have been conducted prior to the issuance of a grading permit. This requirement is for all infrastructure development while individual lot owners will be responsible for conducting pre-construction surveys and providing evidence to the County prior to the issuance of a grading permit for construction on their individual lots. The Draft EIR requires that pre-construction surveys be conducted by a qualified biologist. The requirement to provide proof of the surveys to the County prior to issuance of a grading permit is sufficient to ensure compliance with the required mitigations.



LETTER NO. 85

5 Tower Point Lane

Tiburon, CA 94920

April 28, 2011

Ms. Rachel Warner

Marin County Community Development Agency

3501 Civic Center Drive, Room 308

San Rafael, CA 94903

APR 28 2011 10:01 AM

Subject: Martha Property (Easton Point) DEIR

I would like to offer the following comments on the DEIR:

1

First, it fails to address crucial issues touching on the health and safety of Lyford Cove and Old Tiburon residents by making no mention of the approximate number of truck trips the development will entail. Dr. William Atchley of Tiburon, now deceased, calculated that we are dealing with many hundreds of trips of concrete trucks and other heavy vehicles for the period of construction. This would extend over many years. Besides disrupting normal life in our area because of the traffic and noise, these will pose great risks for all by their use of inadequate roads. I am worried about the planned temporary access road. What if there is an accident there which would require emergency vehicles?

2

Another example of potential problems not mentioned in the DEIR: one of the main projected access roads to the construction zone, Centro East, is a narrow road with a blind curve. I have clocked concrete trucks on Centro East and Diviso Street, and found that many exceed the speed limit on the downtrip. I invite members of your Agency to see for themselves what the situation in the area between Solano, Centro East, Diviso, and Ridge Roads looks like, and would be glad to accompany them. On Centro East, near Solano, during the recent rains the road gave way and there was a slide. It was repaired only provisionally. Again, if you inspect the site, you will see the danger this slide poses for heavy trucks.

3

Second, Tiburon roads are heavily used by both pedestrians and bicyclists. No mention of this is found in the DEIR. Have they been deliberately ignored?

4

Third, besides heavy trucks, the hundreds and maybe even thousands of light trucks and vehicles that would be added to our roads should be taken into account. Every single building will require workers of all sorts, deliveries of building and finishing materials, appliances, and so forth. The lighter trucks are notorious for ignoring speed limits. How will they be supervised – who will monitor traffic during what probably will be a construction period of years? What are the costs of such supervision by either the police or other agents? Without such supervision our safety will be seriously compromised.

5

Fourth, have the planners thought of a continuous source of water for such a large development?

6

Fifth, what about the sewers? What experts have been consulted?

7

Sixth, have the planners given our wildlife more than perfunctory thought? How will they will impacted? Will their sources of water be altered or diminished?

8

Seventh, no mention is made of transporting children to schools. Is there a plan to add school buses to vehicles using the already inadequate roads? If not, how will the many cartrips by parents be impacted by large numbers of other vehicles on narrow roads during certain morning and afternoon hours when children are either brought to school or picked up?

These are only some of the problems that must be addressed. I have not mentioned others like noise, the altered nature of our neighborhood, or the curtailment of our enjoyment of peace and quiet.

Respectfully submitted by



Dr. Elisabeth G. Gleason

**RESPONSE TO LETTER NO. 85 – DR. ELISABETH G. GLEASON**

**Response to Comment 85-1**

Please see Master Response 1.

**Response to Comment 85-2**

Please see Master Response 1.

**Response to Comment 85-3**

The Draft EIR contains a discussion of *Impact 5.1-6 Project Impacts on Bicycle Facilities and Bicycle Safety Issues* and *Impact 5.1-7 Project Impact on Pedestrian Circulation* where these issues are addressed. Also, please see Master Response 1 for more information about pedestrian safety in Lyford Cove/Old Tiburon and Hill Haven neighborhoods.

**Response to Comment 85-4**

Please see Master Response 1.

**Response to Comment 85-5**

Project impact on water supply and demand are discussed on page 471.

**Response to Comment 85-6**

The discussion of wastewater management begins on page 478 of the Draft EIR. Project and cumulative impacts to wastewater treatment demand would be less than significant.

**Response to Comment 85-7**

Please see Response to Comments 71-3 and 84-2.

**Response to Comment 85-8**

Impacts to public schools are discussed in *Impact 5.7-15 Reed Union School District* and *Impact 5.7-16 Tamalpais Union School District*.

The Draft EIR analyzes traffic for the traditional design periods in Tiburon: weekday AM and PM commute peak hours. The “design period” is the time historically known to produce peak traffic on a regular basis, i.e., *every weekday morning and afternoon-evening*, peak traffic can be predictably observed during these time periods. If school trips occur during the weekday AM and PM commute peak hours they are included in the traffic analyses in the Draft EIR. Given the small number of students generated by the proposed project school trips outside of the peak periods would not generate significant traffic impacts.

April 28, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report and the impact on our community. Specifically, I am concerned that:

1

-the construction and it's resulting visual impact will substantially reduce the visual attractiveness of the St. Hilary's Open Space and Tiburon Ridge hiking trails, and will substantially reduce the attractiveness of Tiburon as a destination both for visitors and those looking to make Tiburon their home. My home is located just below the Heathcliff Drive vista from which the EIR took it's pictures. I am part of an active local community who park their cars and visit/hike/walk their dogs. I am concerned that the small-town community spirit and feel will be gone forever if the vistas are spoiled, and if access to one of the best views in the world is taken away. Many out-of-town visitors and visitors from the city of San Francisco make this open space a special treat. Has the EIR considered the economic impact of reduced visitor traffic on Tiburon businesses, ferry usage? Has the EIR tried to place a value on well-preserved open space and what that means in terms of attracting and retaining residents?

2

-Has the EIR considered the reduction in property values of homes located within the reduced visibility areas and how that property value reduction will in turn reduce state and local tax revenue?

3

-has the EIR considered other alternatives to placement of the water tank that will not result in dramatically reduced visual impact for the open space areas – for example perhaps an area to the east of the ridge? Why is the water tank not shown in the photos before/after? Has the EIR considered the impact of water tank views from lower elevations west of the site??

4

-has the EIR considered alternatives for housing construction that would be leading edge and minimize the visual impact of the homes aesthetically? (For example the Post Ranch Inn in Big Sur features grass roofed dwellings cut into the hill to achieve a substantial reduction in visual impact). Such initiatives could result in maintaining to a great degree the magnificent vistas that draw us and our visitors out to the open spaces. It would also dampen the visual impact for residents who live next to the site., as well as provide possible energy efficiencies that could help our community. Has the EIR considered such alternatives for housing design?

5

-as an avid cyclist I am interested in how will the EIR ensure proper safety of cyclists on the Tiburon/Paradise drive loop both during construction and after development? Can such vigilance be sustained throughout what could be a prolonged construction (10+year) timeframe?

Questions such as maintaining a debris-free road surface, wider bike lanes, and reduced exhaust fumes for cyclists (and pedestrians!) should be addressed.

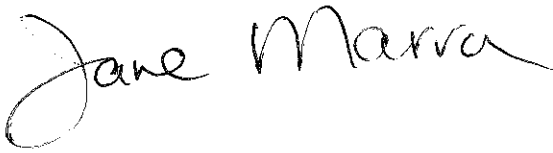
6

...the EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property. Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. I'd like to see that type of alternative analyzed.

7

-Has the EIR considered whether it makes sense to have all the home plans fully developed before development of roads/other services has begun? Might this raise other important questions difficult to anticipate at this time?

Sincerely,

A handwritten signature in cursive script that reads "Jane Marra". The signature is fluid and elegant, with a large initial "J" and "M".

Jane A Marra

141 Lyford Drive, Tiburon

**RESPONSE TO LETTER NO. 86 – JANE A. MARRA (APRIL 28, 2011)**

**Response to Comment 86-1**

Open space impacts are discussed on page 495 of the Draft EIR and following pages. Cumulative impact to parks and open space would be a less-than-significant impact.

**Response to Comment 86-2**

CEQA does not require an EIR contain information related to property values.

**Response to Comment 86-3**

Please see Response to Comment 4-3.

**Response to Comment 86-4**

The Draft EIR does not consider discuss a particular alternative.

**Response to Comment 86-5**

Please see Response to Comment 3-3.

**Response to Comment 86-6**

Please see Response to Comments 11-15 and 15-32.

**Response to Comment 86-7**

The County's zoning and planning regulations do not require that all entitlement applications be filed simultaneously. The only design level information included in the current applications is the detail provided in the Tentative Map/Phase 1 Precise Development Plan. The information details relates to proposed roadway grading and improvements, water and sewer lines, and etc. House plans and other improvements on individual lots will be submitted in the future and would be subject to Marin County's Design Review approval process.

LETTER NO. 87

Peter and Jeanne Tymstra  
2380 Paradise Drive  
Tiburon, CA 94920  
April 28, 2011

Rachel Warner, Environmental Coordinator  
County of Marin Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: Easton Point Residential Development DEIR

Dear Ms. Warner:

We would like to make a few comments about the Easton Point DEIR:

Transportation – including construction traffic

1

All construction traffic, which the DEIR describes as significant, will for six days a week, for up to ten years, be directed along Paradise Drive and up a newly built construction road at the water tower. The DEIR states the construction road will minimize construction traffic through existing residential neighborhoods. The DEIR seems to ignore the existing neighborhood of over 80 homes already located directly on Paradise Drive between the 2000 and 2400 blocks. This existing neighborhood is being asked to carry the burden of all construction traffic for ten years. How will the health and safety issues of the construction traffic, including noise and pollution from trucks, be mitigated for this neighborhood? Has the stress and resulting health issues of having to bear the construction traffic for ten years been addressed?

2

The DEIR describes Paradise Drive as a narrow and winding road, especially at the construction sites. It does not mention the very narrow and winding section of Paradise Drive in the 2000 block, at Lyford's Tower and the "S" curves. Trucks frequently cross the yellow line going in both directions. Bikes heading toward town on this stretch of Paradise Drive are traveling downhill at a fast pace. How will this unsafe situation be mitigated?

3

The traffic study charts and traffic map insets have erroneously identified the intersection of Mar East and Paradise Drive as Mar East and Tiburon Boulevard. An intersection on Tiburon Boulevard will be able to handle construction traffic and increased traffic from new homes more easily than an intersection on Paradise Drive. It is already difficult to make the left turn required to enter Paradise Drive from Mar East. Has the safety of this turn, with added construction traffic, been adequately addressed?

4

The description on page 170, section 5.1, of where Tiburon Boulevard ends and Paradise Drive begins, does not seem correct. Tiburon Boulevard ends and Paradise Drive begins at Main Street, not further east as stated in the DEIR. The stretch of Paradise Drive from Main Street to the intersection of Mar West Street and Paradise Drive runs along Shoreline Park and in front of the Point Tiburon condominiums. Has the DEIR considered the affect that construction traffic will have on the health and safety of the families, pets and tourists that frequent the park and the adjacent Elephant Rock and live in Point Tiburon?

5

It is not clear to us which parts of Paradise Drive are to be widened and where new shoulders will be built. Can this be clarified?

6

Will the new sewer and water lines along Paradise Drive necessitate manhole plates and other access plates in the road? If new manholes are necessary, where will they be located and will they generate noise when vehicles travel over them?

Thank you,

*Peter and Jeanne Tymstra*

Peter and Jeanne Tymstra



**RESPONSE TO LETTER NO. 87 – PETER AND JEANNE TYMSTRA (APRIL 28, 2011)**

**Response to Comment 87-1**

Please see Master Response 2 for information regarding the construction road.

**Response to Comment 87-2**

Please see Response to Comment 3-3.

**Response to Comment 87-3**

Please see Master Response 1 for information regarding existing streets in the Lyford Cove/Old Tiburon and Hill Haven Neighborhoods – Discussion of Project Impacts and Mitigation.

**Response to Comment 87-4**

Please see Master Response 2 for information regarding the construction road.

**Response to Comment 87-5**

Please see Response to Comment 6-11.

**Response to Comment 87-6**

This comment is based on the merits of the proposed project, and not the adequacy of the Draft EIR. Final sewer line plans must be submitted to Sanitary District #5 for review and approval. The Sanitary District will decide on the location and placement of any required manholes and access plates. Also, please see Master Response 8.

Diane Lynch • 171 Solano Street • Tiburon, California 94920

LETTER NO. 88

April 28, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

Below are some points I believe need to be considered by the County of Marin in crafting the Easton Point build-out.

- 1 • Since it's posted (Town of Tiburon Ordinance 23-22) at Solano and Paradise, as well as the beginning of Esperanza, that no tractor trailers are allowed up the hill, will the developer use only the new, as yet un-built, Paradise construction road to access the property with large trucks?
- 2 • Many streets going through Lyford Cove-Old Tiburon are substandard in width. Additionally, there are stop signs that are routinely ignored. How does the developer intend to safely navigate these streets in the appropriately sized vehicles?
- 3 • There is known asbestos in serpentine soils. Blasting and excavating will release these particles. How will the developer mitigate this? Can the entire development be required to retain all excavated soils on the site, to be used in walls, etc.?
- 4 • There are erosion issues associated with tree loss, not to mention habitat destruction. The list of birds that visit the site alone is substantial, along with many other species of animals and many rare plants. For instance, Berkeley has an ordinance that assesses a \$10,000.00 value on any native live oak cut without permission. Does the county have a similar ordinance that protects native species?
- 5 • Will the developer be putting in some affordable housing on the Tiburon Peninsula?
- 6 • Will the grading plans for each lot use the new recommendations for creating places for water to soak into the lot as opposed to running downhill and eventually into the Bay? How will this affect the landslides known to exist on the site?
- 7 • Things will change dramatically in this quiet neighborhood when construction starts on 43 massive homes, which will average about twice the size of the typical home in Old Tiburon/Lyford Cove. Walkers will be at greater risk than they are now, my kitchen windowsill will be covered in gritty dust every day for years, traffic tie-ups will become routine at the intersections of Solano and Centro, Diviso and Centro, Ridge and Vistazo as trucks are stuck and have to make three point turns to make corners, etc., etc. The list of potential and real impacts could go on and on, but the bottom line is the need to balance the developer's rights with those of the immediate neighborhood and the entire town of Tiburon, as well as Belvedere, as regards the use of Tiburon Boulevard and other services. How does the developer plan to mitigate or balance his right to do something with his property with the rights of several hundred homes below said property to enjoy their now relatively quiet, clean and safe homes and neighborhood?

Thank you for your consideration as you attempt to balance the needs of all the parties involved with this development.

*Diane Lynch*

**RESPONSE TO LETTER NO. 88 – DIANE LYNCH (APRIL 28, 2011)**

**Response to Comment 88-1**

Ordinance No. 23-22 of the Town of Tiburon Municipal Code regulates the placement of signs. Mitigation Measure 5.1-13 states that construction traffic routes would be approved by Marin County and the Town of Tiburon. No further response is necessary.

**Response to Comment 88-2**

Please see Master Response 1.

**Response to Comment 88-3**

Please see Response to Comments 35-1, 43-1, and 61-7, and the discussion of *Impact 5.2-2 Generation of Airborne Asbestos*. The project applicant would be required to adhere to the BAAQMD guidelines for dust management, which are designed to employ the best available dust mitigation measures in order to reduce and control dust emissions so that sensitive receptors are not exposed to unhealthy levels of this contaminant. This impact would be less-than-significant.

**Response to Comment 88-4**

Please see Response to Comments 11-2, 11-8, 11-9, and 15-3.

**Response to Comment 88-5**

Affordable housing is not included as part of the proposed project.

**Response to Comment 88-6**

Please see Response to Comment 22-33.

**Response to Comment 88-7**

The commentator raises concerns related to construction traffic and construction activities. Please see Response to Comment 6-12 and *Impact 5.1-13 Construction Traffic Impacts*.

LETTER NO. 89

April 28, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3051 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: Martha Property, 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to express my concerns about the inadequacies in the Martha Property DEIR.

1

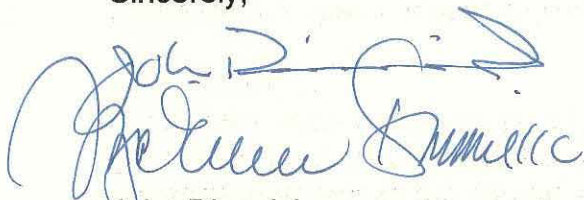
The EIR states that a new sewer line will be constructed under Paradise Drive, and that some streets will be widened. In our block of Paradise Drive, which is between Solano and Centro East, the street is currently 24 feet wide with a 40-foot easement. Building out the easement would mean a loss of 19 off street parking spaces in this one block alone. This impact is not addressed in the EIR.

2

While there are many problems with this project, the increased traffic on Tiburon Blvd., with construction and new residents and their domestic employees will be the straw that breaks the camels back. Traffic on the 2 lane sections of Tiburon Blvd. is nearing the breaking point already. The financial burden of constructing new 4 lane sections should fall on the developers not the taxpayers. How will this be addressed?

While we are champions of individual property rights, the impact this project will have on the local community is unacceptable as it is proposed.

Sincerely,



John Dimmick  
Michelle Dimmick  
2290 & 2292 Paradise Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 89 – JOHN AND MICHELLE DIMMICK (APRIL 28, 2011)**

**Response to Comment 89-1**

Please see Master Response 8 for information regarding Paradise Drive and also Response to Comment 6-11.

**Response to Comment 89-2**

Please see Response to Comment 36-1.

**Robert Lamb Hart**

LETTER NO. 90

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive – Room 308  
San Rafael, CA 94903

RE: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

1

On October 2, 2009, a group of Marin residents, experienced with this type of residential development and familiar with Southern Marin land markets, proposed to the Martha Company a feasible seven-lot Alternative likely to produce an equal or higher net economic return on the land with results realized much sooner. This Alternative is outlined in the attached letter and map.

Is there any reason that this viable Alternative with many fewer impacts should not be evaluated in the DEIR?

Thank you for your attention.

Regards,

*Robert L. Hart*  
Robert L. Hart

2540 Paradise Drive  
Tiburon, CA 94920

4/28/11

Robert Lamb Hart  
2540 Paradise Drive  
Tiburon, CA 94920

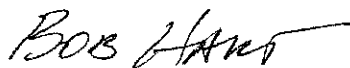
October 2, 2009

To John Reed:

I have been asked to take the lead in sending out the attached letter because I'm seen here as relatively neutral on the Easton Point issues. You may recall that I was the only neighbor who spoke favorably about the work of your planning team at the Romberg Center meetings a few years ago. I also tried to explain a similar idea back then, but we weren't able to get together to discuss it in more depth. Further, I have for years been interested in annexation of my property by the town of Tiburon. As you may know, it was the town (not me) who added Easton Point.

I believe you will find the letter offers you an attractive idea.

Best Regards,

A handwritten signature in cursive script that reads "Bob Hart". The signature is written in dark ink and is positioned above the printed name.

Robert Lamb Hart

To the Reed Family:

A group of local residents and business people, all experienced in real estate and Marin's residential land markets, are offering for your consideration an alternative concept for developing Easton Point. They designed it to produce:

- Better financial results for the Martha Company.
- Better environmental results for Tiburon and Marin County.

This letter outlines the ideas and relates them to the 43 and 32 lot plans currently being evaluated. In addition, they are backed up by reliable professional order-of-magnitude calculations, based on reasonable assumptions, that compare financial results. The planning ideas will be discussed in a public forum, but our group would like to meet directly and privately with you and your financial advisors to go over the calculations, in order to review and critique the assumptions, methods, and results. In the realities of development economics, including those in the next few years, I think you will find these well worth study. There is a depth of wealthy buyers drawn to this kind of spectacular land.

## **The Alternative Concept**

### ***1. Target the very high end market***

- These are the last great San Francisco Bay view lots – and among the most desirable open lands in the U.S. Their greatest value would be realized in a narrow but very affluent, very profitable national market – a rare opportunity to live in a protected land preserve on a large estate with truly spectacular views.
- Select 6-7 prime house sites, each with a ½ -1 acre development envelope.
- Observe the same or larger set backs from the key ridge line and “founders rock” – generally 300’ – as the proposed 32 lot plan.



- ***Minimize development costs, exposure, and risk***

- Above all, entitlement time and costs would be abbreviated. Litigation would be far less likely.
- Only short spur roads off Ridge Road ( $\pm 200'$ ) and Paradise Drive ( $\pm 400'$ ) would be required.
- The water tank and water main only down to Ridge Road would be required.
- The lot buyers would build their own private driveways, water, and sewer laterals.
- All construction would be on stable land.

- ***Maximize land revenues to the landowner***

- No middle-man/developer would be needed. The Martha Company would receive the full value of the land. The limited scope and simplicity of this project puts it within the capability of the landowners working with a small team: a real estate attorney, a planner, a site engineer, and a realtor.
- Conservation easement techniques could be used to shelter income, possibly all of the land sales income, from taxes.

- ***Produce net revenues early***

- There would be no waiting for phased, year-by-year take-downs and payments for land by developers/builders.
- Pre-arranged sales in this market segment are highly likely.
- At  $\pm 2$  lots/year a 2-3 year sell-out is likely.
- Pre-negotiate one large lot sale to a conservation buyer to close immediately, producing substantial revenue, upon final approval by the County.

- ***Reduce major health and safety impacts***

- Traffic: 1 lot off Mountain View; 3 lots off Ridge Road; 3 lots off Paradise Drive.
- Driveways replace most roads.
- Landslides: almost all construction can avoid landslides in ways similar to, or with less impact than 32 lot plan and far less than the 43 lot plan.

- ***Reduce visual impacts***

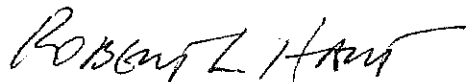
- From all adjoining properties.
- From all distant off-site vistas.

- ***Financial Results for The Martha Company***

- **Total value.** In terms of net present value, the Company would receive no less than 15% more and possibly far more cash-in-hand from this alternative for Easton Point.
- **Timing:** Company receives substantial cash immediately after approvals, and most revenues within 4-5 years.

I believe that a face-to-face meeting to discuss these ideas and numbers, privately (or publically) could prove to be in everyone's best interest, and I would be pleased to help arrange that.

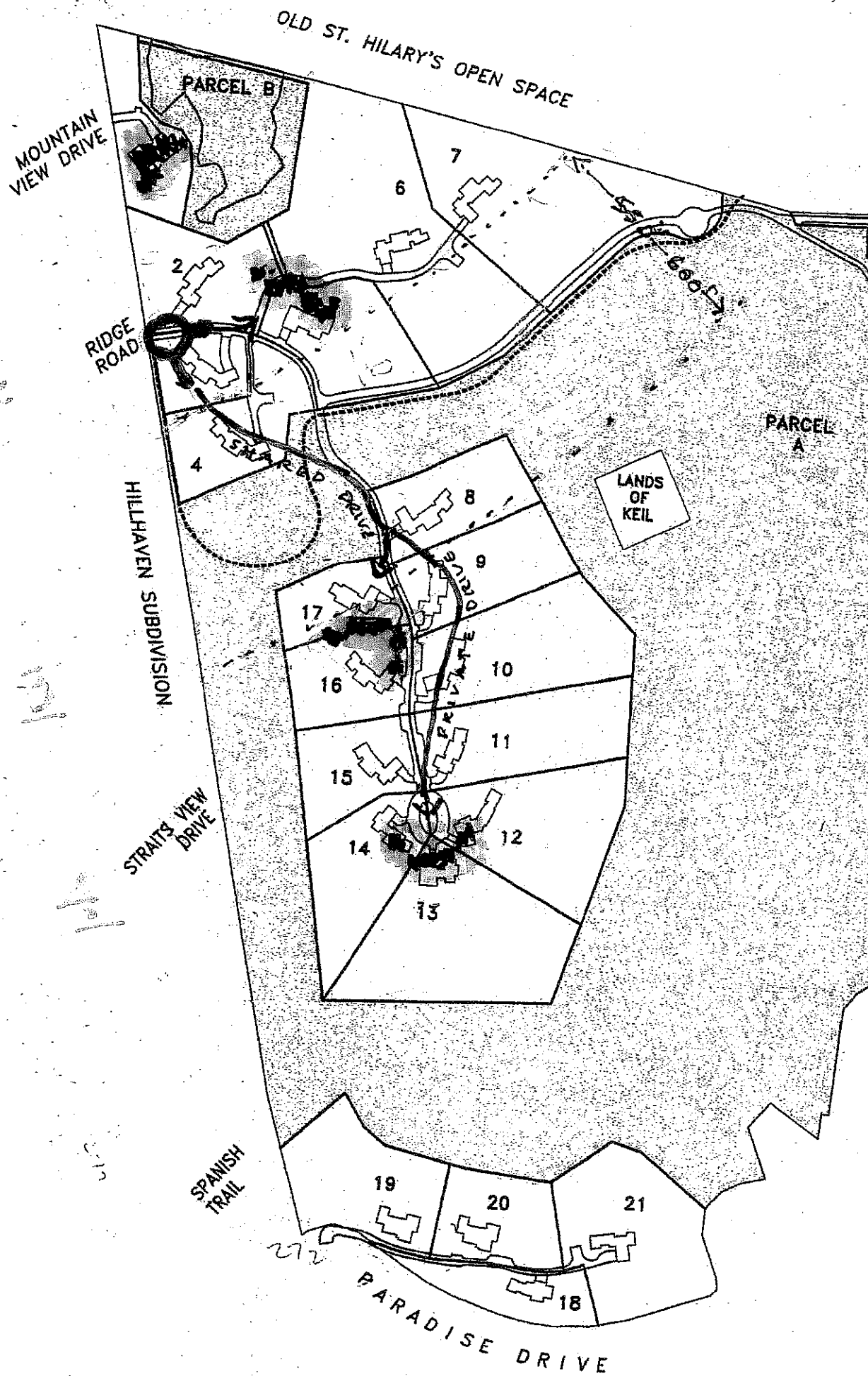
Best Regards,



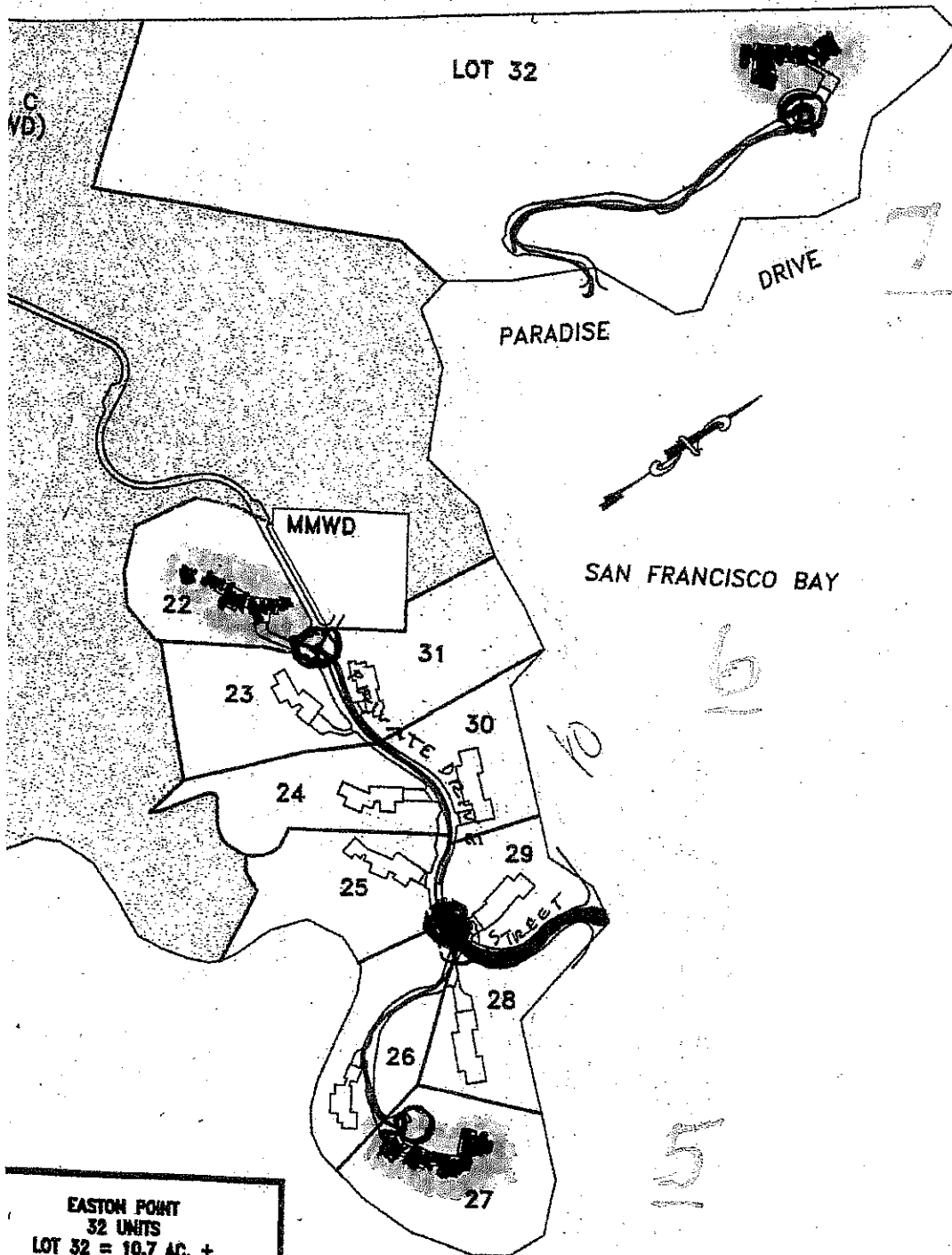
Robert Lamb Hart

October 2, 2009

Cc: The Ark



MARIN COUNTY OPEN SPACE



EASTON POINT  
32 UNITS  
LOT 32 = 10.7 AC. ±  
AUGUST 4, 2009  
PST2 AND LDSI JOB NO. 161410  
SCALE 1"=100'

EXHIBIT B  
32-UNIT PLAN

RLW 9/23/09

**Robert Lamb Hart**

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Rom 308  
San Rafael, CA 94903

RE: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

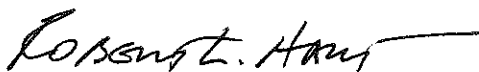
I am writing to comment on the 2008 Easton Point Residential Development DEIR because I believe the document does not adequately address impacts that this project will have on my local community. Specifically, I have identified 10 significant areas of impact that need further analysis:

- The new Construction Road
- The Driveway
- Homesites clustered on unstable land
- Paradise Drive widening
- Paradise Drive as a construction road
- Traffic through Hill Haven/Old Tiburon
- Emergency access and egress
- Off-site drainage
- Mitigation in practice
- Building height

They are outlined further in the attached pages.

Thank you for your attention.

Regards,



Robert L. Hart  
2540 Paradise Drive  
Tiburon, CA 94920

4/28/11

**Easton Point Impacts (RLH 4/27/11)****The Construction Road**

Significant health and safety impacts of the Construction Road have not been addressed.

2

**Retaining Walls – continuing hazards**

The road requires extensive grading and is lined with 860 linear feet of vertical retaining walls. The average wall height is 4'-5', but sections are 6'-7' and 10'-12' high

They are located in an open space, Parcel A, that will have public access for recreational use, and, as a result, present a permanent significant hazard to both adults and children who could be seriously injured by falling. Even with typical handrails they will be an "attractive nuisance". This is not addressed. How will this safety hazard be mitigated?

In Alternative 1, the "temporary" Construction Road is *not temporary*, but proposed to remain as an emergency access road. However, later the DEIR concludes it is not a feasible emergency access. This discrepancy is not addressed. What will the emergency access be?

In either Alternative the Construction Road's paving, guardrails and "runaway truck ramp" would be removed and the roadway revegetated suitable for a trail. However, regrading the deep cuts and fills and removal of the walls is specifically *not* required. Likewise the impact of storm water detention and outflow structures and regraded construction staging areas on the surrounding very steep slopes is not analyzed.

In other words, after construction hazardous conditions and deeply scarred land in a proposed public open space would remain as significant impacts created by the applicant. This is not addressed. Has agreement to accept and manage this deeply compromised land been reached with a responsible open space group?

**Traffic Safety – the extreme road**

The very steep grades on the Construction Road – 25% for about 1000 feet of its +/- quarter mile length – clearly violate county health and safety-based principles and regulations. If approved they will be a hazard for whoever uses them – from concrete trucks to commuting construction workers in their own cars. This hazard is not addressed in construction terms except for a conventional barrier on the outboard edge and crash cushion in the turnaround at the end of the Forest Glen Court cul-de-sac. But these are mitigations for a road that meets code. What evidence is there that they'll make this extreme, code-violating road safe?

A runaway truck ramp is referred to once, but not shown on the drawings or addressed in the impact analysis. Where and what is it? How will it work?

There are proposals to incorporate mitigation measures for management of the Road's use, but they are not required to be enforced in the contractors' construction contracts. In other words, some good "ideas" are offered but on-the-spot responsibility is not addressed. "Mitigations" are not mitigations until implemented in the field. What is proposed?

In view of the recent, March 28 incident, when, at about 9 am, a runaway truck sped out-of-control down Gilmartin Drive – a road not nearly as steep – raced across Tiburon Boulevard and the bike-pedestrian path and ended its run lying on its side in Richardson Bay, the safety of this Construction Road should be taken much more seriously. Isn't this alone a reason to analyze its safety and real depth?

**Easton Point Impacts (RLH 4/27/11)**

3

**The Driveway** – paralleling Paradise Drive at the south corner of the property.

Significant impacts have not been addressed.

**Retaining Walls** – a permanent hazard

The full 600' length of this narrow Driveway is lined on both sides with vertical retaining walls. Most range from 4' to 8' high, and sections of the uphill wall are 14.5' and 13.5' high. In Alternatives 1 and 2, the Driveway serves 3 or 4 family-size homes (more in the other Alternatives).

This Driveway is to be built on to-be-repaired landslides and on colluvial soils that are nearly identical to the soils that have slid in the past. (See the Kleinfelder test-pit logs). It will have exposed uphill-side cuts over 15' high during construction and downhill-side fills. Both the cut and the downhill loading of this type and the changed drainage caused by home building and landslide repair are known to trigger landslides, as pointed out in the DEIR. But this hazard is not addressed. How will it be mitigated?

**Code Violation**

The proposed Driveway also violates County regulations. It leaves Paradise Drive on a curve having an inside radius of 10'-20' and an outside radius of 20' to 40'. The required radius is 50'. The County codes have been adopted to assure health and safety. This is clearly an out-an-out violation that should be rejected that should be rejected. Why is it not addressed?



**Easton Point Impacts (RLH 4/27/11)**

**Homesites** – clustered on unstable land.

4

**Unstable Land**

In Alternative 1, three houses, accessed by the “Driveway”, would be built overlooking Paradise Drive on Lots 21, 22, and 23. In Alternative 2, four would be built there, on Lots 18, 19, 20, and 21. In Alternatives 3 and 4 there are more.

However, the Marin County Development Code 22.16.030F says that “structures shall be clustered in the most geologically stable portion of the site”. This portion of the site is clearly not one of those, and these proposed lots are clearly a violation of the letter and spirit of the Code. They should be rejected, but impacts are not even addressed.

The houses on these lots are shown built between or over three existing, to-be-repaired landslides. The purpose of landslide repair is to prevent *their* reactivation, but the soil profile *between* landslides appears to be essentially identical to the land that slid (see Kleinfelder test-pit logs) and the DEIR points out that landslides, especially in zones like this, where the “potential is high” for strong seismic shaking, can be triggered by cuts or by putting more loads, like houses or fill material, or changing drainage on the land. Any new sliding could undermine the residents’ grounds and could block the Driveway or Paradise Drive. How will these impacts be mitigated?

Further, letters and a map, submitted in 2000 and 2001, which are in the public record, show probable landslides – identified by an independent, qualified geologist, Gilpin Geoscience, Inc. – are much larger than those shown in the EIR. They are above Paradise Drive and extend under the road and onto the downslope properties, but the risk of building on top of them is not addressed. Why is only the best-case slide mapping analyzed? What reason is there to believe Gilpin is wrong?

Although the recommended foundation design for the houses would protect those structures themselves, all other hazards of building on unstable sites clearly subject to landslides are not addressed in spite of the obvious change in water flows and repeated warnings about the *unpredictability* of these soils, for example CEQA on pages 356 and 357, and their potential failure. This is just the kind of significant impact was intended to cover. Why is it ignored?

---

**Easton Point Impacts (RLH 4/27/11)****Paradise Drive Widening**

5

Significant impacts have not been addressed.

Alternative 2 calls for “paved shoulder widening along both sides of Paradise Drive along the project frontage on Paradise Drive within the public right-of-way” from 60’ south of the Driveway, to at least 60’ north of the Forest Glen Court intersection (page 604).

Alternative 1 has a similar requirement. (Pages 241 and 244) Neither the impact of the widening – the new exposed cuts on the uphill side, including cutting into about 300 linear feet of unrepaired Landslide Feature A – nor the volume of heavy earth moving equipment traffic, have been addressed.

Further, the impact of the widening on the uphill and downhill properties outside the right-of-way, where the new fill material will impact existing driveways and cut into one, or spill down onto the steep slopes of six neighbors’ land is not analyzed. Damage to, or the taking of private property is likely to be involved. These are potentially significant impacts but not addressed. Why not?

**Easton Point Impacts (4/27/11)**

Significant impacts have not been addressed.

6

**Paradise Drive as a construction road:**

There is no calculation or analysis of the number of trips by large, heavy trucks, or grading equipment, yet they will have at least two significant impacts.

1. Long sections of Paradise Drive are built on fill material. In many places surface cracks and uneven road surfaces indicate that that fill has been, and may still be failing and sliding downhill. Although the DEIR says that the applicant must repair *roadway* damage caused by construction, no mention is made of repairing damage to, or encroachment on down slope *properties* caused by hundreds of heavily loaded dump trucks and concrete trucks rumbling along over 10 or more years of construction.

Further, letters and a map, submitted in 2000 and 2001, which are in the public record, show probable landslides – identified by an independent, qualified geologist, Gilpin Geoscience, Inc. – that are much larger than those shown in the DEIR. They are above Paradise Drive and extend under the road and onto the downslope properties. Building on, and new loads on these existing unrepaired slides has not been addressed. What evidence is there to show Gilpin is wrong?

2. Most construction traffic will be required to pass along a winding section of sharp turns, just under ¼ mile long, on roadways as narrow as 18' with shoulders usually 1' and generally under 2' wide. Large and medium sized trucks typically occupy *both* lanes along this section today.

There will clearly be impacts on the safety of the many people on bicycles, as well as delays, and blocking of the road access for emergency vehicles for everyone, as trucks line up to wait their turn or creep through. A flagman would help but not solve the problem. This road could not be built today because it would violate County standards established to protect health and safety. Where is evidence that the significant health and safety impacts have been addressed? Who is responsible for safety? Not the flagman.

**East Point Impacts (RLH 4/27/11)**

7

**Traffic through Hill Haven and Old Tiburon**

1. In Alternative 1 Construction traffic for three houses will be required to pass along the narrow streets and difficult intersections of Diviso and Centro West and East. In addition, “initially”, for an unspecified period, construction of the new Construction Road “may” require access via Ridge Road (p. 247). Further, if, in Alternative 2, either lots 1-8 or 9-17 are not dedicated to residential use, the new Construction Road will not be built. In that case construction traffic for 8 or 9 homes, about ½ mile of road, and the water tank will all use Hill Haven/Old Tiburon streets. Mitigation by management and “protocols” would be turned over to Tiburon and others who are not parties to this DEIR. In other words, mitigation of these impacts are simply handed off and not addressed.
2. The DEIR points out that “post construction” traffic of “emergency vehicles and residents of existing neighborhoods will be exposed to more frequent unpredictable traffic flow and intermittent safety hazards when traveling on the narrow, winding residential streets” (p. 23). In addition, Easton Point will “substantially increase hazards” for pedestrians and bikers (p.198). The only mitigation offered is prohibiting dumpsters on the streets and prohibiting parking on streets less than 20’ wide. Since most of the narrow street sections are *already* posted for no parking, or have little on-street parking during working hours, essentially the only mitigation offered is the dumpsters, and the DEIR concludes, “there is no other clear solution” (p.197). Still, the problems remain with or without intermittent dumpsters, and the DEIR, in effect, again proposes to pass-the-buck to the town of Tiburon for the mitigation.  
  
In other words, little, if any substantial mitigation is offered and the significant hazards are not effectively addressed – and the residents of High Haven and Old Tiburon will still pay the price.

**Easton Point Impacts (RLH 4/27/11)**

Significant impacts have not been addressed.

**Emergency access and egress.**

8

Today well over 100 homes depend for their emergency access and egress on the open, efficient operation of a single route, the Vistazo East/Diviso intersection, Diviso and the Diviso/Centro West intersection, for emergency access and egress. However, because of the substandard geometry of these routes – geometry the County regulations prohibit because it is unsafe – conditions are already, by definition, hazardous. And the two alternative routes out – along Centro East or West are substandard as well.

Easton Point would make conditions worse for everyone. It would extend the length of roads feeding into these intersections to at least ½ mile and add houses for a total of about 150 – as well as *construction traffic* for some of the homes and the unspecified construction activity for the new Construction Road. These unconventional streets and intersections could not be built today because of their safety issues. Although theoretical traffic volumes were calculated, and “three-point turns” were mentioned, the practical operations of these intersections were not analyzed.

All of the new homes would share the danger, but in a region subject to wildfires, such as those in the Oakland Hills or on Angel Island, this significant impact is not addressed.

Why not?

**Easton Point Impacts (RLH 4/27/11)****Off-Site Drainage**

9

Significant impacts have not been addressed.

Essentially all of the storm water plus water from the landslide repair sub-drains that is directed toward Paradise Drive, flows into ample catch basins, under the road and then across the downhill neighbors' properties *before* it enters into San Francisco Bay.

However, some will add flows into landslides mapped by Gilpin Geoscience in 2001 – landslides that have been ignored in the DEIR. All of them will increase run off and sedimentation on the downhill properties. These impacts are not addressed. They clearly will be significant for the neighbors. Why are they ignored?

**Easton Point Impacts (RLH 4/27/11)****Mitigation in practice**

What assurance do we have that the important mitigation ideas will actually be carried out in practice?

10

1. There is no requirement to include mitigation in actual *construction contracts* is related to on-site parking. What about Construction Road management and the other mitigation?
2. The DEIR refers to the CC&R's which, it reports, will give a Property Owners' Association responsibility for follow-up on mitigation measures to assure they are carried out. However, POA performance is notoriously erratic. The formal CC&R document is not included in the DEIR and there is no evidence that the POA or individual lot owners will have the resources or motivation to follow-up or required mitigation in construction contracts – or maintain the mitigation measures. This is one more example of passing-the-buck to someone else in the future. If they are bankrupt, what happens then?
3. Critical mitigation is handed-off to the Town of Tiburon. There is no evidence that Tiburon will agree to make expenditures that solely benefit the applicant and do not benefit its own citizens and its taxpayers, but instead leave them with unsafe conditions created by the Easton Point development project. What happens then?
4. Mitigation of hydrological impacts depends on the cooperation of the Keil Estate. Has that been secured? They have announced they will not cooperate with plans to degrade water quality feeding their nationally recognized Garden.
5. The applicant may not be the landowner or developer during the construction and/or post-construction periods. Yet, there is no provision for the mitigation described in the DEIR, once certified, to be bonded or recorded on a deed. What happens if a developer or POA, home owner or someone else in the chain of ownership declares bankruptcy? How is the community protected?



6. Both recorded covenants that run with the land, and posting a bond that assures completion of promised improvements, are customary, well-tested ways to assure that the proposed mitigation will actually happen. Why are they not addressed.
7. If the County or Town governments, or concerned citizens are going to be able to take seriously the mitigation "words", all these means of enforcement must be integral to any approval. Why are they ignored?

**Easton Point Impacts (4/27/11)****Building height limits**

Significant impacts have not been addressed

11

Note that this issue is *not* related to a choice between Alternatives nor to approval by the County of a 43-lot subdivision. It is about *how* property would be developed *after* an approval. It is not covered by the recent court order, but relates to a requirement of CEQA that *remains alongside* any approval of a number of lots, and as a result should be addressed.

In Alternative 2, the development agreement with Tiburon would allow building heights of 35' on the downhill side of steep lots. This is just the kind of condition the County's height measurement specifications and Easton Point's *own* proposed Design Guidelines are intended to prevent in any Alternative.

The DEIR is based on the "Design Guidelines for Easton Point (2008)", which call for a 30' height limit and, on hillsides, one and two story "low profile" houses stepped down to conform to the surrounding terrain. In that way uphill views are intended to be of low slung horizontal silhouettes integrated into the topography (pages 68 & 69). Yet the DEIR neither acknowledges these clear-cut violations, nor analyzes, nor proposes to mitigate their impacts. A DEIR is incomplete without them.

**RESPONSE TO LETTER NO. 90 – ROBERT LAMB HART (APRIL 28, 2011)**

**Response to Comment 90-1**

As discussed on page 546 of the Draft EIR an EIR conceivably can analyze an infinite number of alternatives or variations of alternatives. However, CEQA directs EIRs to analyze a reasonable range of alternatives to the project or project location which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. The analysis of a range of alternatives is governed by a “rule of reason” for alternatives that could feasibly attain the basic objectives of the project. This EIR does analyze a reasonable range of alternatives and additional alternatives are not necessary.

CEQA also states that only alternatives that would feasibly attain most of the basic objectives of the project be analyzed in an EIR. The project’s objectives and goals are described on pages 60 and 61 of the Draft EIR. As the proposed project is 43 units, and the low density unit consists of 32 units, it is not feasible that a seven unit project would meet the objectives of the applicant.

CEQA also states that the lead agency is responsible for selecting a range of alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. The reasons for selecting *Alternative 1 - No Project Alternative*, *Alternative 2 – 32-Unit Lower Density Alternative*, *Alternative 3 – Visual Quality Alternative* and *Alternative 4 – Biological Resources Alternative* are discussed in **Chapter 6.0 Alternatives to the Proposed Project**.

**Response to Comment 90-2**

Please see Master Response 2 and Response to Comment 6-9 for information related to the construction road.

**Response to Comment 90-3**

Visual changes that would result from construction of retaining walls is discussed in on page 505 of the Draft EIR. Please see Response to Comments 7-8 and 16-24.

**Response to Comment 90-4**

The Draft EIR addresses landslide impacts under the impact analysis for *Impact 5.4-1 Landsliding* and *Impact 5.4-2 Slope Stability*.

**Response to Comment 90-5**

Please see Master Response 8 for information related to proposed road improvements for Paradise Drive.

**Response to Comment 90-6**

Please see Response to Comment 36-1 and 6-11.

**Response to Comment 90-7**

Please see Master Response 1.

***Response to Comment 90-8***

Please see Master Response 1 and Response to Comment 45-1.

***Response to Comment 90-9***

Please see Response to Comment 18-3.

***Response to Comment 90-10***

Please see Master Response 3.

***Response to Comment 90-11***

Building heights are addressed under Mitigation Measure 5.8-1.

John H. Goodhart, Esq.  
280 Loma Ave.  
Tiburon, CA 94920

April 28, 2009

Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Draft Environmental Impact Report

Dear Ms. Warner:

**I. Applicant's Obligation to Comply with the Federal Court Order**

The focus of my comment letter is the Martha Company's (the "Applicant") decision to ignore the U.S. District Court's *Judgment Pursuant to Stipulation*, filed November 7, 2007, in *County of Marin v. Martha Co. et al.*, ("2007 Judgment"). The Draft Environmental Impact Report ("DEIR") states:

The project applicant submitted the following project objectives and goals to Marin County for the proposed 2008 Easton Point Residential Development project.

**Objectives**

- Preserve the scenic beauty of the Martha Company property at Easton Point **while developing a residential development consistent with the *Judgment Pursuant to Stipulation* of the United States District Court...** filed November 7, 2007. (p. 15, emphasis added)

In the 2007 Judgment, the Court states, "**These lots are intended to be placed on geologically safe portions of the site, without the necessity for extensive landslide repair, rather than in the path of known landslides.**" (p.2, line 28, emphasis added). While the Applicant has stated as an objective the desire to develop a residential community consistent with the 2007 Judgment, an attempt to put forth a

plan that does not require extensive landslide repair seems to be missing from the entire voluminous document.

2

## II. Applicant's Failure to Comply with Federal Court Order Regarding Placement of Home Sites

The Applicant's placement of lots is based on maximizing the lot size and potential views from each dwelling. Although Exhibit 5.4-3 "Proposed Landslide Stabilization Plan"(p.338 of DEIR), which is prepared by the Applicant's engineer, is very difficult to read in that there is no color coding and the legends utilized are hard to distinguish, it appears that all of the lots at the end of Ridge line D (Lots 10 through 19) are located on two very significant landslides which will require extensive repair. The Applicant is trying to evade the mandate of the 2007 Judgment by placing the building footprints just above the landslide designation, although lots 14, 16, 18, and 19 appear to have landslide boundaries running through the proposed footprints of the residences. Additionally, it appears that all ten of these lots have landslide boundaries running through the building site indicated on each lot.

The two landslides that the DEIR identifies as affecting Lots 10 through 19 are identified as Landslide 3 and Landslide 11. Landslide 3 is described as:

**A large landslide complex** located on a south facing slope, along the south boundary of the site. Much of the slide extends off site onto the Hill Haven subdivision, in the area of Straights View Drive. The areal extent of Landslide 3 crosses into and affects, Lots 6, 16,17,18, 19 and Parcel A. The limits of Landslide 3...have not been mapped off site. This large landslide complex has an approximate on-site surface area of over 200,000 square feet. **This landslide encompasses much of the proposed building sites for Lots 16 through 19.** It just encroaches onto the northeast corner of Lot 6...Landslide 3 also covers a large portion of Parcel A. **Miller Pacific recommends complete repair of the upper portion of the landslide within 100 feet of the proposed building sites and improving slope stability in other areas on the project site.** The upper portion of the slide would be repaired through the use of retaining structures with subdrains and/ or grading. Grading would involve removal and recompaction of unstable materials to yield and engineered, compacted fill buttress. **Miller Pacific estimates that repair and improvement of this landslide could involve grading quantities of 24,593 cubic yards.** (p. 340, emphasis added)



This description of Landslide 3 as a large landslide complex, and the scope of the excavation work required to build on this geologically unsafe land, is in direct conflict with the Applicant's stated objective of complying with the 2007 Judgment's directive to build on the most geologically safe land without the need for extensive repair. The Lots seem like they were determined by a planner with an aerial view, with no regard to the extensive mitigation efforts that would be required to partially stabilize the land. Additionally, the plan does not bother to map the slide off site to determine the proximity to other improvements such as residences and roadways. Miller Pacific estimates that about 53, 156 cubic yards of material would have to be graded and excavated for the entire project. Even though Landslide 3 accounts for almost half of all the material to be graded/excavated, the Applicant does not deem avoidance of Landslide 3 - which affects five house sites - worthy of their efforts to comply with the 2007 Judgment.

Although Landslide 3 is a large slide which affects five lots and is situated on land that is composed of Colluvium, it pales in size and scope when compared to Landslide 11. The DEIR states:

**Landslide 11 is a mega-slide complex** that covers much of the project site. This landslide complex is located on the east facing slope and extends from the ridge all the way down to Paradise Drive. In areal extent, **Landslide 11 crosses into and affects Lots 10 through 15, 41, 42, 43, Parcel A, the Lands of Keil, and potentially the proposed Mt. Tiburon Road...** This large landslide complex has an approximate on-site surface area on the order of 700,000 square feet. Landslide 11 underlies much of the proposed building sties for Lots 10 through 15 and encroaches to within 100 feet of the proposed building sites on Lots 41 through 43. Landslide 11 also underlies a large portion of Parcel A... **Because this is such a large and varying slide complex, Miller Pacific recommends a combination of mitigation measures to repair or improve portions of the landslide.**

The full scope of all the dangers incorporated in Landslide 11 is not contained in the description provided to discuss mitigation procedures. In fact, many of the proposed mitigation techniques are deemed as ill-suited and ineffective to contain the massive size of the potential movement of Landslide 11, "As determined by Kleinfelder, **the central portion of the bedrock Landslide 11 is believed to be as deep as 65 to 70 feet.**" (p. 327 of DEIR, emphasis added). It is not surprising to learn that debris

fences along Paradise Drive would have, “little or no effect on the stability of a moderate or deep-seated slide.”

A good faith effort by the Applicant to comply with the directives of the 2007 Judgment would avoid the extensive repairs required by Landslide 3. For example, the Applicant should put forth a plan, with smaller lots, that fits more houses into the most stable portions of the property. The *Judgment Pursuant To Stipulation* (“1976 Judgment”), entered into in 1976, entitled the Applicant to a minimum of 43 half acres lots. Neither the 1976 Judgment, nor the 2007 Judgment, entitle the Applicant to build wherever it deems most desirable based on perceived economic gain.

### III. The Board of Supervisors Should Not Certify This DEIR

3

There are too many landslides to discuss each individually in this comment letter, “Landslides of various types blanket much of the site, both in and adjacent to areas proposed for development.” (p. 353 of DEIR). The significant excavation required by these two Landslides, discussed for illustrative purposes, indicates that the Applicant has made no effort to comply with the directives of the Court in the 2007 Judgment, which require the Applicant **to build on the safest portions of the parcel and avoid extensive landslide repairs**. Certifying this DEIR would be an abuse of discretion by the Board of Supervisors. The stated objective of the Applicant to comply with the 2007 Judgment is not only not met, but ignored. Objective analysis indicates that Applicant has failed to provide a plan which attempts to place Lots on the safest portion of the land and avoid extensive repairs. Additionally, all of the suggested alternatives fail to make any effort to satisfy the 2007 Judgment, except the “No Development” alternative. The alternatives analysis is deficient in that it fails to put forth a plan that emphasizes the location of the lots on safe portions of the parcel that do not require extensive landslide repairs. For example, the alternative plans, including the 32 lot plan, all place building sites at the end of Ridge line D which are within the boundaries of Landslide 3 and 11. The Applicant should put forth a plan that does not require extensive landslide repair and places the lots on the most stable portions of the parcel.

### IV. Soil Conditions and Rock Types Make Effective Mitigation Problematic

4

The underlying bedrock structure of Lots 17-20 is Jurassic-aged serpentinite of the Franciscan Assemblage, and has been mapped as being in **fault** contact with undifferentiated Franciscan rocks



along a vertical, ancient, inactive fault. (p. 322 of DEIR). The nature of this type of rock is that it can lead to unexpected instability, "the inherent fracturing and jointing of these materials can allow the bedrock structure to fail across-bedding and reduce bedrock stability below that which normally would be anticipated (p. 324 of DEIR).

Much of the technical data relied on by Miller Pacific to outline the landslides is incomplete in that the eight exploratory borings and many test pits do not constitute the level of analysis that is required to build the project. The mapping of the landslides will certainly change once adequate analysis is performed:

It should be noted that the repair methods are at this time schematic; that is, they indicate the general way in which the repair is to be made....When planning approvals have been obtained, detailed investigation will be needed in many of the landslide areas, and detailed designs developed for construction. (p. 318 of DEIR)

#### **V. The DEIR Improperly Defers Analysis Regarding Mitigation and Fails to Adequately Assess the Cumulative Impacts of the Project**

Most of the actual geotechnical analysis relating to this project is being deferred until after the project is approved; yet, the maps are drawn with definite boundaries which are sure to change once the technical analysis has been completed.

A proper method of analysis on such a large and potentially dangerous project would require that a much more detailed technical analysis be prepared prior to the submission of the DEIR. The extent of retaining walls, rip-rap, drainage, and grading are not going to be known prior to the certification process, and the public will be deprived from commenting on possibly very prominent features, on a scenic site, that could have critical safety implications. A comprehensive analysis should be performed so that the cumulative impacts of all the problematic areas of the building sites could be analyzed and addressed in a uniform manner. Why has the Applicant deferred so much critical analysis that is going to be required to build any project on this site? How can we know that there will be less than significant impacts from the landslide mitigation efforts, if we don't know what the schedule for building them is? Does grading and repairing one area of the parcel effect other unstable portions?

Does the building of roads effect the stability of the lots by increasing the storm run-off on the permeable surfaces of the unimproved lots?

6

#### **VI. Applicant Fails to Address the Risks Associated with the Building Process**

The landslides on the parcel are a preexisting hazard that could result in major property loss and personal injury or death, “ In 1982, two homes near the site were damaged and one person was killed, by debris flows. This confirms the propensity for stormwater related debris flows in the area of the project site and therefore, the importance of implementing adequate mitigative and protective measures to prevent future property damage and / or loss of life.” (p. 328 of DEIR). Based on the risk associated with the physical characteristics of the property, mitigative and protective measures need to be implemented, especially considering the current DEIR's failure to comply with the 2007 Judgment's mandate to build on the safest portions of the parcel. The DEIR comes to the conclusion that the mitigative measures suggested by their engineering firm will result in less than substantial impact on landslide risk. What seems to be missing is a thorough analysis on how the mitigative measures will be implemented in a practical sense. The houses are going to be built by individual owners over a long period of time, the DEIR suggests an optimistic range of ten to twelve years. When will construction start and be completed on some of the large roads and retaining walls? Will the building schedule acknowledge the increased risk of winter rains; and, therefore, schedule work to be started and completed before the rainy season? Will the mitigative measures reduce landslide risk if they are not fully implemented in a coordinated manner? How will drainage and grading be coordinated when the responsibility falls on individual homeowners who will be building at different times? Does not this type of risky project require that the homes be built by a developer as part of a unified project, not sold as lots for custom homes?

7

#### **VII. Applicant Should Attempt to Mitigate Harm Caused by the Project in a Meaningful Manner, Including Noise Abatement**

The Applicant routinely suggests following legally mandated codes as an abatement measure of harmful impacts. This approach results in the DEIR being a meaningless process. If they suggest that they will follow state air quality laws to abate pollution caused by the project, is this a significant statement? The construction noise generated by the project will last in the range of three to ten years. On page 311 of the DEIR the Applicant suggest limiting construction activities on weekdays between



7:30 AM and 5:30 PM. Why should not the Applicant agree to follow Tiburon code sections regarding noise, since the project borders Town property and will adversely affect Tiburon residents? Does the Applicant's data discussing the impact of noise levels take into consideration the unusual topography involved in this project? How much less noise dissipation occurs on this project compared to a level area that contains typical amounts of vegetation and improvements?

#### **VIII. Applicant Should Delineate How Mitigation Efforts Will be Monitored**

There is a long list of mitigation measure that require enforcement on a regular basis to be effective, including:

- turning off of diesel engines when not in use
- building near watersheds when weather is dry
- use of tools that make less noise
- use of construction road to access property
- wetting of material to reduce exposure of residents to hazardous airborne particles
- maintenance of storm drains and water retention tanks

Applicant should be obligated to explain who will do the monitoring and how they will be held legally responsible for such monitoring.

#### **IX. Conclusion**

The Applicant has not made a good faith effort to comply with the 2007 Judgment's mandate to avoid extensive landslide repair and build on the safest portions of the parcel, although they acknowledged that as an objective at the beginning of the DEIR. The alternative's analysis is deficient because it does not offer an alternative which meets the objectives of the 2007 Judgment. All of the alternatives except the "no building alternative" place lots and house sites on large landslides. Finally, the DEIR fails to adequately address the lack of geotechnical analysis provided by the Applicant. Deferral of the geotechnical analysis to a later stage in the process deprives the public from meaningfully commenting on the most dangerous elements of the project. Without doing extensive testing, there is no substantial evidence to support a conclusion that there will be less than significant impacts from landslides based on the mitigation.

Sincerely,

*John H. Goodhart*

**RESPONSE TO LETTER NO. 91 – JOHN H. GOODHART, ESQ. (APRIL 28, 2009 [SIC])**

**Response to Comment 91-1**

The commentor states that the proposed project is inconsistent with the 2007 Judgment regarding development of the project site.

The EIR deals extensively with the environmental issues related to the proposed project's impacts including geologic impacts, (see **Section 5.4 Geology and Soils**) as well as proposed mitigation measures. The same is true with respect to the project alternatives discussed in **Chapter 6 Alternative to the Proposed Project** of the Draft EIR. The issue of whether the proposed project or any alternatives is consistent with the 2007 Judgment issued by the federal district court, especially as to whether required landslide repair might be too "extensive," or the lots are placed on "geologically safe portions of the site..." is an issue that relates to the merits of the proposed project and/or its alternatives. Initially the Board of Supervisors will need to address these issues, but only the court itself can ultimately decide these issues if there is a dispute that cannot otherwise be resolved.

**Response to Comment 91-2**

Please see Response to Comment 91-1.

**Response to Comment 91-3**

The commentor states that the Marin County Board of Supervisors should not certify this EIR. At the appropriate time the Marin County Board of Supervisors will be requested to certify the EIR. The certification process is described in Section 15090 of the *State CEQA Guidelines*. The Board of Supervisors will exercise its independent judgment in regard to certification of the EIR.

**Response to Comment 91-4**

This comment is being asked out of context, in that the quote given is in itself also a quote from the EIR text, which is from a July 18, 1994 Miller Pacific Engineering Group (reviewer for the Town of Tiburon at the time) letter that reviewed previous HLA and Kleinfelder reports for the Town of Tiburon. The correct context in the EIR is as follows:

"In 1994, the Miller Pacific Engineering Group reviewed the previous HLA and Kleinfelder reports for the Town of Tiburon. Based on the information provided for review by the applicant, Miller Pacific concluded that, for the Town's purpose of accepting an application as complete for environmental review, the "evaluation made and the repair method selected is appropriate and meets the intent of the Town's criteria" for the landslides identified to that point in time. The letter goes on to say that

*"It should be noted that the repair methods are at this time schematic; that is, they indicate the general way in which the repair is to be made. ... When planning approvals have been obtained, detailed investigation will be needed in many of the landslide areas, and detailed designs developed for construction."*

**Response to Comment 91-5**

It is the professional opinion of the EIR geologists that the applicant's repair methods (designs which will achieve the required factors of safety of 1.5 and 1.0, respectively) are sufficient for the portions of the landslide areas, within 100 feet of a building site or public improvements that are proposed to be repaired under the proposed mitigation plan. In the EIR geologists opinion, the applicant's geotechnical consultant has adequately demonstrated feasibility of the repairs for the portions of the lots to be stabilized.

The building of the roads should not adversely affect the stability of the lots, because it collects and controls storm runoff. Proposed grading is designed to improve stability and runoff.

**Response to Comment 91-6**

Generally, construction superintendents and their consultants consider the various seasons when planning on certain phases of a construction project; and, typically determine whether it is safe or prudent to work in a particular portion of a site, dependent on the weather/season. Please see Response to Comment 1-3.

**Response to Comment 91-7**

Project adherence to the proposed Construction Management Plan as revised by Mitigation Measure 5.2-1 and additional BAAQMD regulations for asbestos-dust mitigation, which would be established upon consultation with the BAAQMD. Also please see Response to Comments 35-1, 43-1, and 61-7. Impacts resulting from construction noise would be significant and unavoidable, as discussed under *Impact 5.3-1*.

**Response to Comment 91-8**

As a part of the County review of the proposed project, a Mitigation Monitoring and Reporting Program (MMRP) will be prepared. California State Government Code Section 2108.6 requires a public agency to adopt a reporting or monitoring program when approving a project or changes to a project, in order to mitigate or avoid significant effects on the environment. The program is based on the findings and the required mitigation measures presented in the EIR that has been prepared on the project and certified by the lead agency. The reporting or monitoring program must be designed to ensure compliance during project implementation.

**Response to Comment 91-9**

This comment summarizes previous comments included in the comment letter. No additional response is required.

April 28, 2011

249 Diviso Street  
Tiburon, CA 94920

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

Thank you for receiving comments on the proposed Easton Point/Martha project. I have recently reviewed the Draft EIR and am writing to express my deep concern at the unmitigated health and safety impacts on neighborhood residents.

I would like to County to consider a much lower density alternative. Those alternatives currently analyzed, including the 32 unit LDA, leave significant safety impacts insufficiently mitigated and thereby result in too great a burden on existing residents.

In particular:

1. Traffic safety

1  
The existing traffic conditions are already unsafe. The access roads for the proposed project's household and service traffic are steep, narrow, winding, and already unsafe for neighborhood residents. The simple act of retrieving my mail, by walking up the short stretch of Diviso Street on which I live, is a hazardous endeavor. Cars travel down this steep hill at unsafe speeds, the road is so narrow as to be impassable for two cars abreast, and there is no shoulder, and no sidewalk. There are accounts of cars coming careening down the steep embankment on the downhill side of Diviso and crashing into my courtyard, steps from my home.

For each new home of the size the project proposes, not only are there the 2-4+ residents of each home, but the 4-6+ service vehicles (nannies, gardeners, spa maintenance, delivery vehicles, etc) whose cars would exacerbate these unsafe conditions.

Please review Section 5.1-10 of the draft report in which long-term traffic impacts are supposedly addressed. The draft EIR discounts the severity of the existing conditions, but most importantly, the Mitigation Measures then proposed are completely unrelated to the impacts. The statement that the prohibition of placing dumpsters on the streets is going to ameliorate the issue of too many cars traveling at speed down overly narrow substandard streets such as Diviso Street is simply unacceptable.

Further, I notice that the downhill U-turn from Diviso onto Centro West, already a bottleneck, has not even been identified as an existing trouble spot, let alone commenting on the worsening of this situation due to the project, let alone any mitigation conceived or proposed. This too indicates that the DEIR has not done an adequate review of existing traffic conditions, and is not proposing reasonable solutions.

2

## 2. Geologic Hazards: Landslide

The property already has over two dozen landslides currently documented. The project proposes constructing roads and driveways with grades of 17-25%. This would significantly increase the risk of further major slides, particularly in El Nino/La Nina years, which climate change is very likely to make more frequent.

Further, in January of 2011, the US Geological Survey and the Federal and California Emergency Management Agencies co-convened an emergency summit outlining the magnitude of geologic hazards and economic losses associated with newly understood superstorms called ARkStorms. For more information, please see: [http://www.usgs.gov/newsroom/article\\_pf.asp?ID=2683](http://www.usgs.gov/newsroom/article_pf.asp?ID=2683)

The excessive grades proposed in the Easton Point project would result in increased landslide and debris flow hazards to resident and biologicals alike. I urge the County and Town to require the project to analyze and mitigate for these newly understood risks.

3

## 3. Loss of Biological and Cultural Resources

The loss of 742 trees of significant age and size of grove is unacceptable. The DEIR biologist indicates it would not be feasible to complete replacement plantings, nor would the planting of new and immature trees even come close to replace the habitat value of the mature stands of oaks now present. The loss of habitat is unacceptable. The loss of the unusual bunch and reed grasses, red-legged frog habitat, and of Keil Springs is similarly unacceptable.

4

## 4. Visual impacts

Old Saint Hilary's Open Space and the Tiburon Uplands Reserve would be significantly impacted by ridgeline development, the placement of a large above-ground water tank. The proposed landslide "repair" would produce long-term scars on the visual landscape. Tiburon's viewsheds have already been damaged by thoughtless over-built ridgeline development in the 1970s. Mitigation to eliminate ridgeline development and the above-ground water tank, and reduce the visual impact of landslide repair to a less-than-significant levels is requested.

Conclusion: The above described impacts of the project as proposed place too heavy a burden on existing residents. I would like to request that the County consider a much lower density alternative. Even the LDA 32 unit Alternative is too densely settled for a

property whose project would result in so many traffic and geologic hazards, biologic and cultural losses, and visual impacts.

Thank you again for receiving these comments, and safeguarding our residents from these inadequately mitigated project risks.

Respectfully yours,

*Deb Frost, MA, B.Sc.*

Deb Frost, M.A., B.Sc. Geological Sciences Brown University



**RESPONSE TO LETTER NO. 92 – DEB FROST, M.A., B.SC. (APRIL 28, 2011)**

**Response to Comment 92-1**

Please see Master Response 2 for information regarding the construction road.

**Response to Comment 92-2**

The EIR geologists are aware of the super storms called ARkStorms. The ARkStorm scenario is reported by the U.S. Geological Survey in their Open-File Report 2010-1312, titled “Overview of the ARkStorm Scenario.”<sup>50</sup> As provided in the abstract of this report, an ARkStorm is defined as:

*“...a winter storm scenario called ArkStorm (for Atmospheric River 1,000). Experts have designed a large, scientifically realistic meteorological event followed by an examination of the secondary hazards (for example, landslides and flooding), physical damages to the built environment, and social and economic consequences. The hypothetical storm predicted here would strike the U.S. West Coast and be similar to the intense California winter storms of 1861 and 1862 that left the central valley of California impassible. The storm is estimated to produce precipitation that in many places exceeds levels only experienced on average once every 500 to 1,000 years.”*

The construction access road would have a maximum gradient of 25 percent (equivalent to 4:1 (horizontal:vertical) or about 14 degrees), see **Exhibit 3.0-7**. Roadway segments, including driveways, have proposed gradients that would not exceed 18 percent (less than 5.5:1). As discussed in the Draft EIR, (page 353) any landslides or debris flow source areas within 100 feet of a proposed improvement are required to be improved or repaired. Compared to a significant portion of the project site, the gradients of the proposed road improvements and driveways are relatively gentle; and, the roadway surface runoff is proposed to be controlled during and after construction as required in Mitigation Measures 5.5-2 and 5.5-3.

The EIR geologists are of the opinion that the gradients would not be typically considered “*excessive*,” as stated in the comment, for hillside development. The proposed gradients would likely not “[*increase*] landslide and debris flow hazards.” Some areas of the project site would be improved or repaired because of the roadway locations; thereby, increasing slope stability for either an average winter season or a hypothetical storm event. Also, please see Response to Comments 1-3, 7-8, and 16-24.

**Response to Comment 92-3**

Please see Response to Comments 7-35, 11-2, 11-8, 11-19, 15-12 through 15-15, and 22-45 through 22-55.

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<sup>50</sup> Porter, Keith, Wein, Anne, Alpers, Charles, Baez, Allan, Barnard, Patrick, Carter, James, Corsi, Alessandra, Costner, James, Cox, Dale, Das, Tapash, Dettinger, Michael, Done, James, Eadie, Charles, Eymann, Marcia, Ferris, Justin, Gunturi, Prasad, Hughes, Mimi, Jarrett, Robert, Johnson, Laurie, Dam Le-Griffin, Hanh, Mitchell, David, Morman, Suzette, Neiman, Paul, Olsen, Anna, Perry, Suzanne, Plumlee, Geoffrey, Ralph, Martin, Reynolds, David, Rose, Adam, Schaefer, Kathleen, Serakos, Julie, Siembieda, William, Stock, Jonathan, Strong, David, Sue Wing, Ian, Tang, Alex, Thomas, Pete, Topping, Ken, and Wills, Chris; Jones, Lucile, Chief Scientist, Cox, Dale, Project Manager, 2011, Overview of the ARkStorm scenario: U.S. Geological Survey Open-File Report 2010-1312, 183 p. and appendixes

**Response to Comment 92-4**

Comment note. The Draft EIR does discuss visual changes brought on by the project on pages 504 through 508. This comment is about the merits of the project and visual issues, and not the adequacy of the Draft EIR. No further response is necessary..

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

April 28, 2011

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about safety and potential wildfire impact of the "construction road". Note that this road has been deemed too steep for Tiburon Fire or Police Departments to safely use.

Specifically, I am concerned that the steepness of the construction road and its proximity to dry grass and wood fuel will result in an unacceptable fire risk. Below is a recent example of a runaway truck that occurred on Gilmartin Drive in Tiburon and very luckily did not kill anyone. At ~9:00am the truck lost its brakes, crossed Tiburon Blvd and the pedestrian path and ended up 75 feet into Richardson Bay. Gilmartin Drive is not as steep as the construction road. Concrete trucks can weigh over 60,000 pounds and no crash barrier can hold a runaway truck of this weight.

1

## Truck Takes a Dive



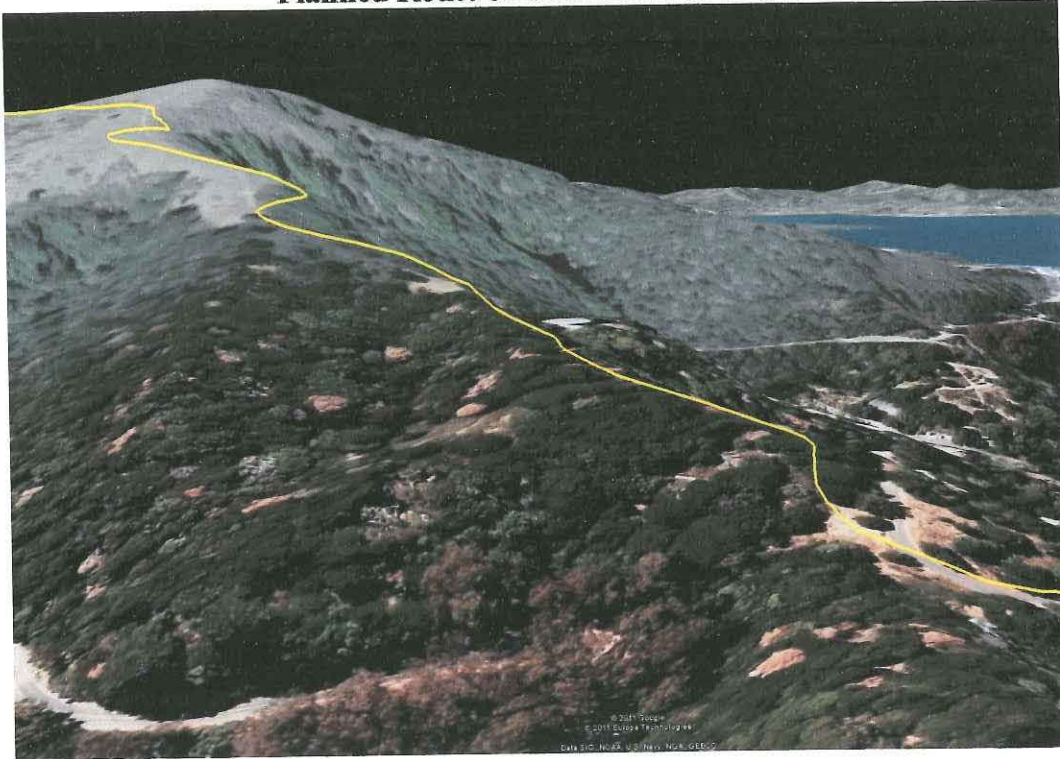
A dump truck crossed Tiburon's multi-use path and landed in the water after losing its brakes on Gilmartin Drive on Monday morning, on a sunny day with lots of walkers, joggers and cyclists using the path. The driver climbed out through the broken windshield and waded out of the water to safety, and, fortunately, no one was in the truck's way. See story on page 10. Photo: Elliot Karlan

....

2

In October 2008 a fire started on Angel Island. A dry, warm wind from the Central Valley provided the conditions that required several days and the combined efforts of every Marin County Fire Department to extinguish. The construction road is planned through a steep, densely wooded area and one can assume that the road will be used during extremely dry times of the year. If a spark, cigarette or worst case, a runaway vehicle, were to start a fire in this area, the result would be disastrous. The greatest environmental impact that could result from the planned construction is an extensive wildfire consuming the contiguous woodlands of the Tiburon Peninsula. Why is this not analyzed in the EIR?

#### Planned Route of Construction Road



3

How can the Martha Company, Marin County or Tiburon protect the area around the construction road from a potential wildfire caused by the vehicles and drivers that would use the road? What fire mitigation plan is in the EIR? Who is financially responsible in the event of a fire caused by the use of the construction road?

Having the homes at lower elevation on the Martha Property along Paradise Drive would decrease the visual, environmental and safety impacts. The dangerous construction road would not be required. I would like that alternative to be analyzed.

Sincerely,



John C. Arvesen  
2077 Centro East  
Tiburon, CA 94920  
(415) 789-1942



**RESPONSE TO LETTER NO. 93 – JOHN C. ARVESEN (APRIL 28, 2011)**

**Response to Comment 93-1**

The construction access road is not a public street and truck traffic on the construction access road would be radio controlled, metered, and monitored as required by mitigation measures included in the Draft EIR. The issue of wild fires is discussed under *Impact 5.7-2 Wildland Building Fire Exposure* on page 463 of the Draft EIR. Also, please see Master Response 2 for information about the construction road.

**Response to Comment 93-2**

Please see Master Response 2 and the discussion of *Impact 5.7-2 Wildland-Building Fire Exposure*.

**Response to Comment 93-3**

Please see Master Response 2 and the discussion of *Impact 5.7-2 Wildland-Building Fire Exposure*..

Rachel Warner

County of Marin, Community Development Agency

3501 Civic Center Drive, Room 308

San Rafael, CA 94903

Geoffrey and Jude Fletcher

612 Ridge Road

Tiburon

CA 94920

April 28th, 2011

**Re: 2008 Easton Point Residential Development DEIR**

Dear Rachel Warner,

I am writing with respect to the Martha Property development Draft Environmental Impact Report (DEIR). My comments are as follows

- The DEIR does not appear to fully address the issue of the temporary construction road where there are a number of open issues. The construction road runs through a landslide area and it is not clear whether the developer would need to repair landslides in advance. How would this work be accomplished and what types of equipment and access would be needed and how would the equipment access the site? What impact would the landslide mitigation work have on public trails? What certainty is there that the work needed in the future to protect the area from more landslides would be carried out – should it be specified how this would be done and paid for? The DEIR does not appear to address the need for independent verification that the construction road when completed is safe for the traffic intended to be using it

2

- Even after the completion of the construction road there will be a large increase in the volume of traffic for construction purposes along the roads of Hill Haven. These roads are currently completely incapable of handling an increase in traffic – particularly Diviso street. How will the roads be made safe? In the event of fire or earthquake how will the safety of residents be assured if there is a large amount of construction traffic on the streets at the time? The mitigation measure on page 604 (Measure 6.1-7(b)) is an inadequate response and does not address the impact on the nearby residents.

3

- The need for additional sewage pipes has significant impact which is not fully covered by the DEIR and on page 479 it is stated that the project would not use existing Hill Haven sewage pipes which needs clarification so it can be seen exactly how all the lots will be served.

Regards

A handwritten signature in cursive script, appearing to read "Geoffrey and Jude Fletcher".

Geoffrey and Jude Fletcher

**RESPONSE TO LETTER NO. 94 – GEOFFREY AND JUDE FLETCHER (APRIL 28, 2011)**

**Response to Comment 94-1**

Please see Master Response 1.

**Response to Comment 94-2**

Please see Master Response 2.

**Response to Comment 94-3**

The proposed on-site sewer system would have all lots connecting to a new sewer line at Paradise Drive. Please see Master Response 8.



April 28, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. Specifically, I have deep and serious concerns about the impacts this project will have on health and safety on the Town of Tiburon, my neighborhood, and my local community.

1

1. I am concerned that the health and safety of cyclists and pedestrians has not been adequately addressed. The proposal states that consideration of "cyclist concerns" (pages 210 and 557) should be considered but does not outline specific mitigation measures. Inevitably the increased level of heavy vehicle traffic caused by the required infrastructure build-out and excavation will cause damage to roads and create hazards for cyclists (as well as motorists and pedestrians). Spilled dirt, gravel, and construction materials compound the hazard for which and no mitigation measures are outlined to address.

2

2. I am concerned that the affect construction traffic will have on narrow residential streets in the Old Town and Hill Haven districts has not been adequately addressed. How will the dangers to pedestrians, cyclists, and motorists presented by one-way traffic controlled by flagmen, for example, be mitigated? And who will ensure that construction traffic uses only the routes designated for their use?

3

3. I am concerned about the safety of the proposed construction road. Is there any precedent in Marin County for a construction road with a 25% grade? How will the homes below the road be protected from runaway vehicles and equipment? Who is responsible if accidents occur because of the poorly designed construction road?

4

4. I am concerned about the lack of sidewalks along Paradise Drive from Solano to Forest Glen Court in the proposed development. This presents a further hazard to pedestrians, cyclists, and the motorists who try to avoid hitting them.

5

5. I am concerned about how construction traffic will further aggravate traffic on Tiburon Blvd - especially at the already very crowded hours of school drop-off and pick-up. This problem presents further issues in terms of emergency egress given that Tiburon Blvd is one of only two roads out of town, with Paradise Drive being the much longer and more dangerous alternative.

6

6. I am concerned that the affect increased traffic, additional noise and pollution, and loss of open space will have on our local real estate market and already struggling downtown business district has not adequately been addressed. Tourists from near and far are vital to local businesses and making Tiburon less pleasant, scenic, and clean will simply make it less desirable to visit. Our real estate values are also not invulnerable to changes in quality of life caused by traffic jams, noisy and polluting diesel trucks, and increased housing density that starts to make our town look like one of the “development mistakes” of years gone by.

7

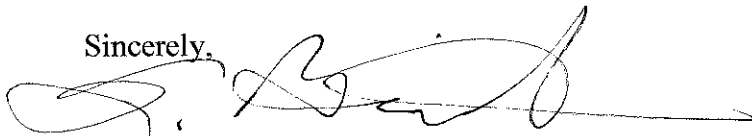
7. I am concerned that the EIR states that some of the known landslides will be fixed, but not all of them. Doesn't that leave dangerous landslide areas above existing homes? Where exactly does the EIR specify which landslides will be fixed before homes are built?

8

8. I am concerned that the EIR doesn't consider reasonable alternatives where the houses are clustered at the low elevations of the property. Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. Why has this type of alternative not been analyzed?

Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Susan Brautovich', written over a horizontal line.

Susan Brautovich  
1819 Mar West Street  
Tiburon CA 94920

**RESPONSE TO LETTER NO. 95 – SUSAN BRAUTOVICH (APRIL 28, 2011)**

**Response to Comment 95-1**

Please see Response to Comment 45-1.

**Response to Comment 95-2**

Please see Master Response 1.

**Response to Comment 95-3**

Please see Master Response 2.

**Response to Comment 95-4**

Please see Response to Comment 45-1.

**Response to Comment 95-5**

The Draft EIR contains a discussion of construction traffic impacts in *Impact 5.1-13 Construction Traffic Impacts*.

**Response to Comment 95-6**

Please see Response to Comment 35-1 and 46-2.

**Response to Comment 95-7**

Please see Response to Comment 7-8 and 7-9.

**Response to Comment 95-8**

Please see Response to Comments 11-15 and 15-32.

MAY 2 2011 PM 1:08 PM 0003

April 28, 2011



Rachael Warner  
County of Marin, Community Development Agency  
3501 Civic Center Dr., Rm. 308  
San Rafael, CA 94903  
Re: 2008 Easton Point DEIR

Dear Ms. Warner:

I AM extremely concerned with the impacts this project will have on my local community.

Specifically, my concerns fall under these topics: 1: Scoping + Areas of Controversy, Sec. 2.3 (Geology and soils): the stability of the existing landslides (49) at the project site and my concerns of seismic safety in event of an earthquake.

Four of the proposed lots (#18, 19, 20 + 21) are located directly across and above my property at 2550 Paradise Dr.: (Assessor's parcels: 059-211-10, 059-211-11, 059-213-02 and 059-213-04).

2: Under sec. 5.5 - Hydrology and Water Quality: 2001 maps show probable landslides that extend under the road and onto downslope properties. Have the risks of building on top of them been addressed?



Section: 5.5 con't.

Who is accountable for mudslides and increased "run-off" for all downslope properties? How will this project affect the Lands of Keil: the "Spring", lake and gardens? and the "Marsh" of Point Tiburon? and what measures have been proposed?

3

3. Also under sec. 2.3 - Biological Resources: my concern of the potential impacts to the eco system in the over 100 year balance in Keil Cove, ie, the federally-threatened Calif. Red-legged frog, Tiburon Indian Paintbrush and Tiburon-jewel-flower?

4

4. Sec. 5.9: Cultural Resources (Major EIR conclusions and issues to be resolved).

Of great concern to the Keil Cove-as it is a historic resource. The hydrological impacts are huge. This project could reduce or even eliminate much of available water supply that recharges "Keil" Spring and also reduce groundwater that flows into the Cove and its lake. Where is it mentioned- how property like Keil Cove, be protected? what voice do I have as an owner of Keil Cove in protecting it as an historic resource?





5

Traffic:

5: Paradise Drive.

most of Paradise Dr. have little or no sidewalks, most of it is very narrow and windy - with few places of off-road parking, biking and walking. It can very dangerous, even now - without this huge project being planned.

What mitigation has been addressed on this issue of vehicle, bike and pedestrian traffic and the dangers during 10 plus years of construction?

Thank you. Molly K. Hynes

Molly Keil Hynes  
2550 Paradise Drive  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 96 – MOLLY KEIL HYNES (APRIL 28, 2011)**

**Response to Comment 96-1**

Please see Response to Comment 7-8 and 7-9.

**Response to Comment 96-2**

Please see Response to Comment 90-4.

**Response to Comment 96-3**

Please see Response to Comments 22-45, and 22-47through 22-49 for information regarding the CRLF.

**Response to Comment 96-4**

Please see Master Response 3.

**Response to Comment 96-5**

Please see Response to Comment 1-2. The Draft EIR discusses bicycle and pedestrian safety issues under *Impact 5.1-6 Project Impact on Bicycle Facilities and Bicycle Safety Issues* and *Impact 5.1-7 Project Impact on Pedestrian Circulation*.

4/11/11 RW

Easton Point

APR 12 2011

LETTER NO. 97

To Whom it May Concern,

1

It is our concern as residents of Centro West St. of the impact that the traffic of additional large homes will produce on our very overused street — We believe that this is a safety issue — the road can not handle more impact, it is already a concern of ours — Centro West St is a curving, soft Shouldered at best one lane road with many obstacles i.e. cars, children, people walking Please address this issue with care for our neighborhood —

Sincerely,

Dr & Mrs Richard Musalo



**RESPONSE TO LETTER NO. 97 – DR. & MRS. RICHARD MUSALO**

**Response to Comment 97-1**

Please see Master Response 1.

April 29, 2011

Ms. Rachel Warner

County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner,

1

The DEIR does not address: the decrease in property values for surrounding homes once their views are impeded by the development. This needs to be addressed.

2

The DEIR does not address: The very real and possible threat of environmental activists disrupting the peace in Tiburon and the additional police resources needed to provide for the safety of Tiburon residents. I am concerned that said activists will cause a stir when construction begins on a site that is known to harbor an environmentally threatened species (the red legged frog, that has no corridor for escape from the area). If these environmental groups include extremist factions such as Earth First, how will the Town protect its' residents from them and their extreme activities (they have been known to set fires to construction sites). This needs to be addressed.

3

The DEIR does not address: the very real and possible threat that residents of the proposed new homes may inadvertently cause brush fires to the surrounding areas. In the spring and summertime with the increase of outdoor barbeques, one errant spark could ignite the Martha property and lead to the Saint Hillary's preserve, threatening homes (including those on Lyford). A wildfire on St Hillary's could be more than the Tiburon Fire Department can handle. If homes are destroyed, would the town of Tiburon be open to lawsuits? If residents or their guests smoke cigarettes and an errant ember finds its' way to surrounding property, it could also ignite a firestorm. The draft EIR does not properly take into account the safety of Tiburon residents in regard to the severity that such a wildfire would pose. This needs to be addressed.

4

The DEIR does not address: the fact that proposed development is in direct opposition to Tiburon's town charter that clearly states that nothing should be done to impede upon the towns character, and the Martha property is an integral part of the towns character as it is visible from downtown, from ferry rides bringing tourists and to the people who come worldwide to walk on Saint Hillary's preserve. I am concerned that if the hills are developed that less tourists will be attracted to come to walk on the hills, and Tiburon businesses will bear decreased revenues from Tourist dollars. This needs to be addressed.

5

The DEIR does not address: the environmental impact of the pets the new residents will have. Household cats are known to escape, and are known to be "perfect hunters", wreaking havoc on Native bird species as well as targeting moles, voles, field mice, snakes and other animals. Also not addressed is the possibility that a domesticated pet (that for whatever reason) contracts rabies could pass it on to

wildlife (such as skunks and raccoons) and this wildlife could, in a rabies induced rage attack hikers joggers and bicyclists who visit Saint Hillary's trail. This needs to be addressed.

6

The DEIR does not address: The increase of noise pollution as the wind carries sound from the bay, over Saint Hillary's preserve to residents occupying Lyford. Where will the money to increase policing noise complaints come from. This needs to be addressed.

7

The DEIR does not address: the danger that in the event of an earthquake, gas lines to these homes could be ruptured and a spark could ignite a blaze that could easily engulf Saint Hillary's preserve and all the homes nearby. This needs to be addressed.

8

The DEIR does not address: An earthquake could also disrupt the only road that makes these homes accessible, preventing emergency rescue crews from reaching them, causing a risk for the homeowners. This needs to be addressed.

9

The DEIR does not address: the possibility that an earthquake could hit while construction is in progress, and if it occurs before emergency truck stop lanes are in place it could lead to a scenario where a runaway truck strikes cars or cyclists on Paradise drive. This needs to be addressed.

10

The DEIR does not address: the increased use of Paradise Drive by the new homeowners, especially in regards to drinking and driving. With new homes come new parties and guests visiting. Invariably at some point there will be more drunk drivers on the narrow winding dangerous paradise drive, causing a safety hazard to the said driver, other drivers and bicyclists. This needs to be addressed.

11

The DEIR does not address: The safety problems inherent with the inevitable increased traffic congestion along Tiburon Boulevard. As it is, on peak hours, it can take up to half an hour to reach the freeway. Increased congestion hampers response time for emergency vehicles to come in and out of the town...as emergency vehicles wait for vehicles to pull over to allow them to pass, the more vehicles, the longer the emergency vehicles are delayed in coming in and reaching a hospital. A delay of even 1 minute more can mean a dramatic decrease in the safety of a person who must be rushed to a hospital. This needs to be addressed.

12

The DEIR does not address: Increased sewage being sent to the treatment center can cause the system to become overloaded if a flood occurs such as it did in 1988 when large parts of Tiburon were flooded.

13

The DEIR must address the safety of the people from being exposed to overflow sewage in case there is a breakdown in the system due to overcapacity (stemming from new residents sewage pushing the system to 75% of its' capacity...combined with a flood scenario). This needs to be addressed.

14

The DEIR does not address: If a flood occurs such as it did in 1988 will emergency crews be able to reach the new developments? Any difficulty in reaching them would be a safety hazard to the new residents, and could delay emergency crews in their ability to help existing residents. This needs to be addressed.

15

The DEIR does not address: homeowners dogs escaping to surrounding St Hillary's Preserve where dogs must be on leash. This is a concern as dogs on leash are both more vulnerable to dog attacks as well as

more aggressive in defending themselves and their owners to the perceived or real threat of an off leash dog, and the ensuing commotion would cause a safety threat to the dog owners. My dog on leash on Saint Hillary's was once attacked by two off leash dogs and I was nearly bitten in the ensuing scuffle. This needs to be addressed.

16

The DEIR does not address: the disruption to the integrity of the Old Spanish trail which is eligible to be considered a historic site, as it is believed some of the earliest Spanish visitors to California used the trail, when it's use will be **dramatically** increased by new homeowners and their guests. This needs to be addressed.

17

The DEIR does not address: Cyclists who are homeowners or friends of the new homeowners who increase risk to themselves and hikers on the Spanish trail to injury by using it, when it is no longer off limits to cyclists. If an injury occurs to a degree that they are immobile, and no hikers and bikers are there to find them, it could cause an accident to become fatal. Even if emergency crews are alerted to an injured cyclist, how will they reach the cyclist and remove them, especially if they have a spine injury and must be airlifted. On such a steep hill there is no place for a helicopter to land, and rescue efforts could pose a risk to the helicopter evacuation crew. This needs to be addressed.

18

The DEIR does not address: children of homeowners who may explore and wander off onto the steep and dangerous Spanish trail, if they fall on the hill or wander into the dense poison oak areas. Complications to Massive poison oak exposure are rare but can be serious, even fatal. This needs to be addressed.

19

The DEIR does not address: With increase in homeowners there will be an increase in auto oil leaked from cars unintentionally during trips to the home, and increase in use of pesticides as homeowners take care of their lawn and gardens. Where will the runoff of these agents, some of which are known to the state of California to cause cancer go? Will they make their way into watersheds, streams, the bay, and will surrounding residents be exposed, impeding their health? This needs to be addressed.

20

The DEIR does not address: As residents explore their surrounding areas and make their way down the Spanish trail to Paradise Drive, they will be at risk if they choose to walk along Paradise Drive towards Tiburon, especially if in the evening or at night as there are little to no streetlights and no sidewalk. They pose a risk at being struck by a vehicle along a blind curve and the drivers are at risk of swerving too dramatically to avoid them, possibly losing control of their vehicle. This needs to be addressed.

Sincerely,



Julien Landau

82 Sugar Loaf Dr,  
Tiburon, CA 94920

**RESPONSE TO LETTER NO. 98 – JULIEN LANDAU (APRIL 29, 2011)**

**Response to Comment 98-1**

This comment is on the merits of the project and not environmental issues or the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 98-2**

The *State CEQA Guidelines* do not require project level EIRs to analyze impacts based on speculation.

**Response to Comment 98-3**

These issues are addressed in the Draft EIR. Please see *Impact 5.1-9 Project Impacts Related to Project Site Emergency Access*, *Impact 5.7-1 Fire Service Impact*, and *Impact 5.7-2 Wildland-Building Fire Exposure*.

**Response to Comment 98-4**

This comment is on the merits of the project and not the adequacy of the Draft EIR and should be raised during the merits hearing on the project. No further response is necessary in the EIR.

**Response to Comment 98-5**

Please see Response to Comment 11-11.

**Response to Comment 98-6**

*Impact 5.3-1 Construction Noise* identifies construction noise as a significant and unavoidable impact. This is discussed in the Draft EIR starting on page 308.

**Response to Comment 98-7**

A Draft EIR need not speculate about every potential natural disaster that could occur over the life of a project.

**Response to Comment 98-8**

This comment is on the merits of the proposed project and not the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 98-9**

Please see Response to Comment 98-7.

Response to Comment 98-10. This issue may be considered along with other merits of the project. However, it is not an issue that the Draft EIR must discuss.

**Response to Comment 98-11**

Please see Master Response 1.

**Response to Comment 98-12**

Impacts to Sanitary District No. 5 are discussed in *Section 5.7 Public Services and Utilities*.

**Response to Comment 98-13**

Please see Response to Comment 98-12.

**Response to Comment 98-14**

Please see Master Response 3.

**Response to Comment 98-15**

Please see Response to Comment 11-11.

**Response to Comment 98-16**

Please see Response to Comment 11-11.

**Response to Comment 98-17**

Please see Response to Comment 1-2. Pedestrian and Bicycle Safety issues are addressed under Section 5.1.

**Response to Comment 98-17**

This comment is based on the merits of the project and not the adequacy of the Draft EIR.

**Response to Comment 98-18**

This comment is on the merits of the project and not the adequacy of the Draft EIR. No further response is necessary.

**Response to Comment 98-19**

Please see the discussion under *Impact 5.5-1 Water Quality*.

**Response to Comment 98-20**

Please see Response to Comment 1-2.

April 29, 2011

Ms .Rachel Warner

County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner,

I think that it is simultaneously ironic and appropriate that you are collecting comments from citizens about the DEIR for the Easton Point Residential Development so close to Earth Day, the National Day that celebrates the earth, and whose purpose is to inspire appreciation for the earth's environment and publicize the awareness of issues that threaten it.

As you know the passage of the Clean Air Act, the Clean Water Act and the Endangered Species Act are considered to be products associated with the original passage of Earth Day in 1970.

The DEIR for the Easton Point Residential Development attempts to deal with these subject but, in my opinion, fails to offer convincing proof or logical procedures to comply with the spirit of Earth Day and more specifically mitigate the enormous problems that this project will create in/for the three areas of the Clean Air, Clean Water, Endangered Species as well as many other Health and Safety issues.

By coincidence, it has been a year since the environmental disaster of the BP oil well blowout in the Gulf caused life changing consequences for all of the inhabitants (human, animal both land and water, as well as the plants.)

For our Community the Easton Point Residential Development, as it is currently described in the DEIR, has the same potential dangers as the BR Horizon well created in the Gulf.

As an entrepreneur for the last 50 years, I can tell you from personal experience of financing oil and gas exploration projects, that the Law of Unintended Consequences is 'alive and well' and operates with vengeance.

Many times, even when we used the best thinking of geologists, hydrologists and other skilled specialists to make predictions 'at the end of the day' The Earth just did not agree!

I am convinced that over the many years that the Easton Point Development will be a 'work in progress' that frequent cases of 'unintended consequences' will occur, each with potentially disastrous effects.

In the case of this DEIR the probable landslides, blocked and filled up streams and other phenomena could and probably will cause harm to our Health and Safety.

1 How specifically does the DEIR deal with the high probability of these unintended consequences occurring?

2 The DEIR suggests that a number of mitigation requirements/recommendations will be handled by/through conditions of the Homeowners Association that will be formed by the Developer.

The theory is that these Covenants will be part of the conditions of purchasing of the lots and the building of the houses.

What legal proof does the DEIR offer/quote that in reality that there are 'teeth' in these Covenants and Conditions?

My personal experience of living for the past 38 years as a member of the Marinero Home Owners Association and having been on the Board of Directors of it, does not give me 'cold comfort' for the requirements that are 'passed on' to the future owners of homes.

In 'real life' our Marinero Home Owners Association has always had problems even collecting the annual dues for the Association from owners in our neighborhood. Further, neighbors who are members as well as non members ignore the requests of the Association.

I have also had similar experiences as a member of a Home Owner Association in Timber Cove, Sonoma County.

3 Therefore I feel that a legitimate question is: How does the DEIR address this problem that, in my opinion, will certainly occur?

Our Marinero Home Owner Association had an automatic termination date which has now long passed. As such the conditions are frequently ignored by homeowners who choose to be non-cooperative.

4 How does the Home Owner Association discussed in the DEIR intend to deal with mitigating the inherent problems of Home Owner Associations and Covenants after the date of automatic dissolution? Or does the DEIR envision that the Association and Covenants will exist in perpetuity?

5 In Section 2.1 Why is there no mention of a 7 or 9 lot alternative which would remove many of the concerns discussed in the DEIR, would be easier and faster to complete and cause less intrusion to the site while at the same time create a larger potential \$ return to the Developer?

6 When discussing the 43 lot Plan and the 32 Alternative lot Plan why is there no mention of putting up 'Story Poles' so that the Community can see where these proposed houses will be built and judge the proposed mitigation as discussed in the DEIR on page 500?

7 When discussing the Open Space and the Private Open Space why are there no connecting trails shown



that circumvent the entire Development since there already exists a natural set of trails that does connect 'Founder's Rock' with the 'Spanish Trail' and then goes up to the top through a wooded area close to the present Water Tank?

8

On the subject of the Water Tank to be constructed at the top of the Development has the DEIR accounted for the fact that the winds on top of the Ridge frequently clock over 60 miles/hour and have been known to be close to 100 miles/hour?

What effect will that make on the structure of the Water Tank as it is currently designed?

Will the water tank be assembled on site or is it contemplated to be 'trucked up' the construction road?

Has the DEIR considered the effect on the Water Tank in case of an earthquake?

9

On page 354 the DEIR mentions that 53,156 cubic yards of material will be removed from the site. What effect will this have on surface water runoff?

What effect will this have on the natural spring that runs through the property and feeds into the Kyle Cove Lagoon?

10

How many truck loads does 53,156 cubic yards represent?

How can you be sure of this number of cubic yards? To my knowledge excavation is not an exact science?

11

Page 496 Visual Quality Impairment: How would this mitigation reduce the impingement of view?

12

How does the DEIR intend to mitigate when owners grow vegetation—hedges, trees etc. that will impinge and impair on the visual effects as viewed from the Old St. Hilary Open Space?

13

Grading, Retaining Walls, and Landslide Repair as discussed on page 505/506 mentions that as a part of the on-site road construction it would be necessary to construct several retaining walls.

What does the DEIR say about the conspicuous appearance of this?

14

The DEIR treatment of the 'construction road' brings with it a host of questions:

How will the Fire Department deal with the steep grade of this road?

How will the trucks deal with the steep grade of this road?

It has been said by some that due to the steepness of the road the trucks will only carry a half a load.

Does the DEIR account for this in the number of truck trips?

How does the DEIR deal with the eventual and highly probable 'caravan' of trucks lined up on Paradise Drive waiting their turn to go up the construction road?

The DEIR assumes that the trucks and their drivers will leave at the end of the day. What would the effect be in the DEIR if the trucks arrive late in the afternoon and the drivers sleep in their trucks so as to be among the first to unload their load or to load up in the morning?

The DEIR mentions the use of 'flagmen' directing traffic. Where does the DEIR mention that in the case of an accident due to an error of a 'flagman' that the 'flagmen' are not at all responsible for any damage or injury to the vehicles or the passengers and drivers of such vehicles.

Where does the DEIR deal with the effects of trucks lined up on Paradise Drive during the night when there are no 'flagmen' on duty?

Where has the DEIR dealt with the Safety issues of that many trucks coming on Paradise Drive, waiting for their turn and then leaving—in all probability via the winding road through the narrow portion of the dense residential area of Paradise Drive, eventually joining Tiburon Boulevard- present a real danger to the Community.

While 'stacked up' and waiting their turn where does the DEIR deal with the emissions and dangerous pollutant that these diesel trucks will spew out into the atmosphere affecting the entire area?

Although there is a law that requires trucks to turn off their engines after a certain number of minutes of idling it is difficult to 'police'. How does the DEIR deal with this real Health Issue?

How does this extra cumulative emissions from trucks and other construction vehicles and equipment 'dove tail' with the recent Town of Tiburon adopted Climate Action Plan which calls for a Greenhouse Gas Emission Reduction Target of 15% with one of the major components of the Plan being to encourage more use of bicycles both by adults and children using bicycles and our Bicycle Path to go to school.

15

With the added proposed increase in the use of bicycles as a transportation device how does the DEIR deal with the inherent Safety issues as a result of the added Truck traffic during all hours of the day particularly on Paradise Drive.

16

Last month our Community experienced the effects of a large truck losing its brakes on Gilmartin Drive that eventually plunged into the Richardson Bay. (Please see the photo and the article in The Ark, 30th March Issue Volume 39 Issue 13.)

Miraculously there was no loss of life in spite of the fact that the truck crossed a fairly heavily used path composed of walkers, joggers, bicycle riders and children in prams.

The DEIR deals with part of the construction road that has areas for runaway trucks to go into.

Does the DEIR offer any proof or can it mention any construction sites where this type of design has actually worked?

Where does the DEIR deal with potential truck accidents due to the narrow roads that they will be navigating after leaving the construction site?

17

Our Community is known in the Bicycle Community of the entire Bay Area for its 'Tiburon' bicycle loop and frequently this loop is used as part of a bicycle raceway.

Where does the DEIR deal with the Health and Safety issues when it comes to the frequent and heavy use of Paradise Drive as a 'Mecca' for the Bicycle Community?

18

It is a known fact that frequently Developers go bankrupt before completing a project. Here in Tiburon we have had a number of such cases.

The aftermath is very long, difficult, involves lawsuits and creates a lot of unhappiness for all concerned.

In order to mitigate this possibility and given the size of this Development where does the DEIR deal with this common possible and highly probable occurrence? Where does the DEIR call for a Completion Bond to be posted by the Developer before starting on the project?

19

When discussing the Traffic Effects of the 1000's of trips that will be made by trucks using Tiburon Boulevard where does the DEIR address the Safety, Noise and Health issues that will result from this constant caravan of trucks barreling their way through our Town?

20

Tiburon Boulevard is almost at a standstill each weekday morning and afternoon. When there are 'fender bender' accidents traffic is snarled and at a standstill for a long time. The same occurs when there is an unexpected freeze or some other 'natural' unusual occurrence.

Where does the DEIR deal with this unfortunate frequent phenomenon as the added truck traffic will add to the probabilities of these events occurring more frequently?

21

Where does the DEIR address the added number of 'service' and technical trade's people arriving on each location during the construction and the servicing of the homes after they are built and occupied.

22

Where does the DEIR deal with the parking problems created by the daily addition of these service and technical trade trucks?

Has the DEIR 'looked' at the havoc caused by constant construction and the number of service trucks arriving daily, as experienced by residents of neighboring Corinthian Island and Belvedere?

Has the DEIR addressed this similar situation?

23

Where has the DEIR dealt with the time line to complete the Easton Point Development? Using Gilmartin as a comparison it would appear that 12-20 years will be the timeline. How has the DEIR dealt with this ongoing intrusion into the very compact and narrow street neighborhood that may be the 'staging area' for many of the service trucks once the Construction Road is no longer in use and torn down.

24

The traffic flow projections in the DEIR I think are understated judging by my neighborhood's owners needs in homes that are much smaller than those projected for the Easton Point Development. What

assumptions does the DEIR make on the number of visits to the sites and what probability does the DEIR attach to these assumptions.

25

The Town of Tiburon has a Noise Ordinance as it considers Noise as a Health and Safety issue.

This Ordinance may be different in its scope and requirements from the 'treatment' of Noise in the DEIR. Although at the present time this project is in the County, nevertheless Noise impacts a portion of our Tiburon Community during all phases of the construction and ongoing house maintenance.

What comparison was made with the Tiburon Noise Ordinance when discussing Noise in the DEIR?

Thank you in Advance for addressing the concerns raised by me above.

Respectfully Yours,



George J. Landau

82 Sugar Loaf Drive

Tiburon, CA 94920

**RESPONSE TO LETTER NO. 99 – GEORGE J. LANDAU (APRIL 29, 2011)**

**Response to Comment 99-1**

Please see Response to Comment 1-3 and 7-6.

**Response to Comment 99-2**

Please see Response to Comment 1-3.

**Response to Comment 99-3**

Please see Response to Comment 1-3.

**Response to Comment 99-4**

Please see Response to Comment 1-3.

**Response to Comment 99-5**

Please see Response to Comment 90-1.

**Response to Comment 99-6**

The Draft EIR utilizes visual rendering showing the location of proposed homes from selected view points both before and after project construction.

**Response to Comment 99-7**

Please see Response to Comments 16-46 and 41-1.

**Response to Comment 99-8**

Please see Response to Comment 4-3.

**Response to Comment 99-9**

Please see Master Response 3 and the discussion of *Impact 5.5-3 Site Drainage Patterns – Erosion and Downstream Sedimentation*.

**Response to Comment 99-10**

Please see Response to Comment 99-9.

**Response to Comment 99-11**

Mitigation Measure 5.8-1 limits building heights and other measure to reduce the visual prominence of new structures.

**Response to Comment 99-12**

Please see Response to Comment 99-11.

**Response to Comment 99-13**

Please see Response to Comment 7-37.

**Response to Comment 99-14**

Please see Master Response 2.

**Response to Comment 99-15**

Please see Response to Comment 36-1.

**Response to Comment 99-16**

Please see Master Response 1.

**Response to Comment 99-17**

Please see Response to Comment 3-3.

**Response to Comment 99-18**

This comment is about the merits of the project and not the adequacy of the Draft EIR. If the project is not completed as proposed, it is reasonable to assume there would be fewer environmental impacts. No further response is necessary.

**Response to Comment 99-19**

Safety impacts are addressed under the discussion of *Impact 5.1-13 Construction Traffic Impacts*, noise impacts under *Impact 5.3-1 Construction Noise*.

**Response to Comment 99-20**

Please see Response to Comment 36-1.

**Response to Comment 99-21**

Please see Response to Comment 6-13.

**Response to Comment 99-22**

Please see Response to Comment 36-1.

**Response to Comment 99-23**

Please see Master Response 1.

**Response to Comment 99-24**

This comment is on the merits of the proposed project and not the adequacy of the EIR itself.

**Response to Comment 99-25**

Since the project is under jurisdiction of Marin County and Marin County is the Lead Agency required to prepare the EIR it is not appropriate or necessary to review the noise impacts of the proposed project based on an ordinance adopted by some other community, in this case the Town of Tiburon Noise Ordinance. The proposed project must comply with ordinances and regulations adopted by the County of Marin.

LETTER NO. 100

To

Rachel Warner  
Marin County Community development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

From Marilyn V. Knight  
615 Ridge Road  
Tiburon CA 94920-1817

To whom it may concern:

I have lived at 615 Ridge Road since 1969. Since then I have witnessed an increased number of cars and trucks on Tiburon Blvd and the narrow roads leading to my home. The traffic patterns have become so impacted that there are times in the morning (7:30-8:30) and in the afternoon (2:30-4:30) when Tiburon Blvd looks like a parking lot. The access to emergency vehicles is substantially challenged. Has the EIR counted the number of vehicles that will be added? Paradise Drive is a favorite Bike route. However because of the narrow road it is quite hazardous because of the many curves and blind spots. Has any accommodation been made for the safety of those riders? In 1985 as my husband and I were driving to the Ferry on Paradise Drive a very large lumber truck was too large to stay on his side of the road and smashed our car into the hillside. I was taken to the emergency room and subsequently was in a neck brace for months. ( I had to attend my daughters' wedding in one.) Has any thought been given to the size of truck to be used?

In our neighborhood alone when some remodeling or new construction takes place, the streets are filled with parked cars on either side of the street making it impossible for two cars to pass each other. Has the width of the new streets been addressed to take this into consideration? Just this December I hosted a large party for my grandsons' graduation. Cars parked on both sides of the street. There was no room for another car to pass as one car was leaving an an accident occurred . I did not see any provision for visitor parking on those new road. How would an emergency vehicle get through?

Will there be extra police needed to monitor and direct traffic on impacted streets?

Who will monitor the presence of asbestos fibers in the process of excavating/ filling more than 66,000 cubic yards of soil and rock? How will this effect the quality of air that the neighbors and workman will breathe? How prolonged will this be?

Has the issue of how much water these building will require and how that amount will impact the usage of water for the existing residences? I have lived through the lean water years and know it is a issue.

I don't see where the 40 identified landslide areas have been excised from the Marin open Space District. Does the county want to accept this land and the associated liability? The landslide areas impact neighbors' properties and the safety of all.



5

I did not see the noise issue addressed. Has the potential been calculated? This is an issue for those of us who will be subject not only to the truck noise but also to the excavating and drilling. This is a health issue as well as the quality of life.

6

There are several endangered species on the property. How are they going to be protected?

7

I question the ability of Ghliotti and Red Horse to give an unbiased opinion when they may directly benefit from the approval of the project. Has anyone else's opinion been sought? The recent incident of a truck from Gilmartin Drive crashing across Tiburon Blvd and landing in the bay gives one pause to contemplate the safety of large trucks filled with heavy loads coming down narrow and steep streets. How will this be monitored?

Thank you for your attention to my questions.

*Maureen V. Knight*

**RESPONSE TO LETTER NO. 100 – MARILYN V. KNIGHT (NOT DATED)**

**Response to Comment 100-1**

Please see Response to Comment 36-1.

**Response to Comment 100-2**

Please see Response to Comment 35-1.

**Response to Comment 100-3**

The issue of water supply is discussed under *Impact 5.7-7 Water Service Impacts*.

**Response to Comment 100-4**

This comment is on the merits of the proposed project and not the Draft EIR itself.

**Response to Comment 100-5**

*Impact 5.3-1 Construction Noise* discusses noise impacts.

**Response to Comment 100-6**

Please see Response to Comments 11-3, 11-5, 11-9, 11-10, 11-26, 11-27, 14-21, 15-12 through 15-15, 22-45 through 22-49, and 84-2.

**Response to Comment 100-7**

Please see Master Response 1.

# Maxwell Bruce Drever

LETTER NO. 101

April 29, 2011

Rachael Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

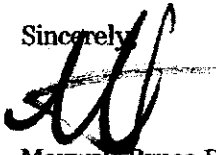
Re: 2008 Easton Point Residential Development – draft EIR

Dear Ms. Warner:

1

I have reviewed the draft EIR on the 2008 Easton Point Residential Development. I wanted to point out that the relevant maps in the report are inaccurate with respect to the historic and culturally significant Spanish Trail. Specifically, the main trailhead should be drawn as starting at the water tower just above Paradise Drive. Because it is improperly drawn on the map, the full impact of the development on this trail could not have been properly assessed.

Sincerely,



Maxwell Bruce Drever

**RESPONSE TO LETTER NO. 101 – MAXWELL BRUCE DREVER (APRIL 29, 2011)**

**Response to Comment 101-1**

Please see Response to Comment 54-57.

30 Harbor Oak Drive #15  
Tiburon CA 94920

April 29, 2011

Rachel Warner  
Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael CA 94903

Dear Ms. Warner,

We are residents of Tiburon and wish to express our strong opposition to the plan to develop Easton Point. The open space on the ridge is a place of refuge and succor to many people – we among them – and to the many animals who inhabit it. Actually, for some of us it's more than a source of pleasure, it is a vital link to nature and a source of healing. For the animals we always encounter there, birds and small mammals, perhaps a few larger creatures whose scat we see, it is more than a source of pleasure and healing; it is their life.

Many years ago, when Tiburon decided (against fierce developer pressure) to preserve its hilltop open space, our community underlined the vital role of undeveloped space for the health and happiness of all. For over 30 years, Tiburon and Belvedere and visitors from around the globe have drunk from that well of wisdom, enjoying the interface between the built environment and natural space.

1

The Easton Point development will destroy more than a section of the preserved land. It will shatter the silence and beauty of the hill's crest. It will end the unparalleled 360 degree views from the hills. It will fragment and trivialize what open space remains, turning it into a vest-pocket park, hardly a wild and scenic vista. The cost to the community will endure for generations. The cost to the living creatures who inhabit the hill will be absolute. We will not again see the signs of larger mammals who roam the forests of the slope. They will not be denizens of the new streets and walled-in backyards.

For the sake of all who literally and figuratively drink from this well of silence and beauty, let us find a better solution. Even in a time of constrained resources, our fortunate community may be able to compensate the would-be developers for their loss. But the loss to the greater Marin community will be incalculable, vast and enduring. You have the power to preserve a landscape that echoes within the viewers and across the Bay.

Sincerely,

  
Martin Perlmutter

  
Miki Raver

**RESPONSE TO LETTER NO. 102 – MARTIN PERLMUTTER & MIKI RAVEN (APRIL 29, 2011)**

**Response to Comment 102-1**

This comment is on the merits of the proposed project and not the adequacy of the Draft EIR.

LETTER NO. 103

Ms Rachel Warner  
Interim Environmental Coordinator  
Marin County Development Agency  
3501 Civic Center Drive  
San Rafael, CA 94903

April 29, 2011

Re: Easton Point Draft EIR

Dear Ms Warner:

My wife, Sherry, and I are home owners in one of the areas most affected by the proposed traffic routes in the DEIR: the top of Diviso Street where it intersects Vistazo Street and Ridge Road. We have concerns about the following Health and Safety issues in the DEIR. Our questions are:

#### SEC 5.1 Transportation

1

Why did the DEIR not put more study into considering other alternative(s) to the proposed route for project traffic through Lyford Cove/ Old Tiburon and Hill Haven neighborhood streets? Since both the construction phase and the permanent access route for future residents is up narrow, winding roads that already have **significant traffic and safety issues**, how is it possible to conclude that the minor mitigation efforts proposed in the report are in any way sufficient to mitigate the problems that the additional traffic could cause? The report's conclusions appear to be significant understatements of potential future problems, and we do not agree that they have impacts of "less-than-significant levels" as stated.

#### SEC 5.7 Public Services


2

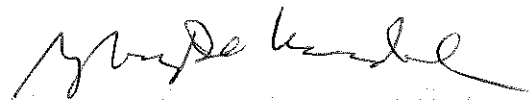
As a retired meteorologist with over 40 years professional experience in studying Bay Area wind and air quality, I think that the EIR should include a more thorough discussion of fire and emergency services as they pertain to the following:

During the Fall, very strong, dry winds from the northeast (meteorologically similar to Southern California's "Santa Ana" winds) can develop over Bay Area ridges, resulting in extreme fire hazards. These conditions produced the Oakland firestorm of 1991, and more recently, the Angel Island fire in 2008. During these conditions a fire starting in the steep, densely-forested eastern flanks of the Tiburon Peninsula would race toward the residential neighborhoods above and to the south.

The activity associated with the development and eventual occupation of the project sites will increase the probability of fires. The EIR should more thoroughly address these issues: If a fire were to break out, are the proposed roads adequate to handle rapid deployment of firefighting resources? And more importantly, are they adequate for rapid evacuation of residents should that become necessary? Residents of neighborhoods that have only one access road would be at risk of having escape routes cut off by an advancing fire.

Sincerely,

  
Robin E. De Mandel  
Sherry Long De Mandel  
2021 Vistazo East  
Tiburon, CA 94920



**RESPONSE TO LETTER NO. 103 – ROBIN E. AND SHERRY LONG DE MANDEL (APRIL 29, 2011)**

**Response to Comment 103-1**

Please see Master Response 2.

**Response to Comment 103-2**

Comment noted. However the issue of fire and emergency services is adequately addressed in the Draft EIR.



34 Greenwood Cove Drive  
Tiburon, California 94920  
April 29, 2011

Rachel Warner  
Marin County Community Development Agency  
381 Civic Center Drive, Room 308

San Rafael, CA 94903

MAY 2 2011 PM 1:07 Reming

Dear Mrs. Warner:

Please excuse my handwritten letter. Timely submission does not permit typing.

These are my comments on the Draft Environmental Impact Report for the Eastpoint Residential Development.

Page 201, Exhibit 5.1-14 "

"PM Peak hour. Generation rate per Tiburon Traffic Mitigation Fee Program Update, November 2006

"application of the averaged trip rate to build-out of the 43 single-family detached houses would generate the trips shown in Exhibit 5.1-15: 26 inbound and 24 outbound trips would be expected during the AM peak hour, and 19 inbound and 30 outbound trips would be expected during the PM peak hour."

1

My comment: I find these trip counts way too low for a 43 home project, and even too low for the reduced 32 home project. It would seem to me that the number of trips would be considerably more.

Page 456, 5.7 Public Services and Utilities

"Fire Protection and Emergency Services - Environmental Setting: Estimated response times for fire engines to the project site are five minutes from the Headquarters Station and ten minutes from the Trestle Glen station."



②

2

My Comment: I find these times questionable. In heavy traffic, bad weather, or during an earthquake it would seem to me that response times would be much longer. Fire protection response times are one of the most important considerations to be addressed for this project.

Pages 715 and 716, <sup>Visual Impacts</sup> Impacts 5.8-1, 5.8-2, 5.8-4

3

My Comments:

I find this section of the Draft Environmental Impact Report completely inadequate.

The views of the Marin hills from Marin, San Francisco and the Bay have been treasured by everyone seeing them for a hundred years and more. These views have increased property values throughout southern Marin County.

Further desecrations of these hilltops will diminish property values accordingly. This desecration will offend all the people and voters of the County traveling through the area. This desecration will reduce the attractions of the County which bring tourists to the County who contribute to our economy.

I could not oppose this development more.

The property owners will be adequately compensated by the county and profit considerably from the proceeds (even at today's prices), considering their acquisition costs years ago.

(3)

Saving this property for ourselves and ~~our~~ future generations is certainly a "public purpose" justifying condemnation and purchase from the proceeds of a County municipal bond issue.

Sincerely,  
William R. and Nancy R. Riley

**RESPONSE TO LETTER NO. 104 – WILLIAM R. AND NANCY R. RILEY (APRIL 29, 2011)**

**Response to Comment 104-1**

Please see Master Response 1 and 2, and Response to Comment 1-2.

**Response to Comment 104-2**

Please see Response to Comment 42-1.

**Response to Comment 104-3**

This comment is on the merits of the proposed project and no further response is required in the EIR.



## LETTER NO. 105

April 29, 2011

Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

1 Specifically, I am concerned about the impact the construction vehicles will have on me, my home and my immediate neighborhood. I reside at 36 Cove Rd., Belvedere, directly across from the library and I am often awakened before dawn by the noise and ground vibrations from, what I imagine are, garbage trucks hitting a particular spot on Tiburon Blvd. Thankfully, this is just a once-a-day occurrence. Magnify that impact by an endless flow of construction vehicles throughout the day, for a ten year period, and I fear for my own reasonable right to peace and tranquility; the integrity of my home, those of others and other buildings near Tiburon Blvd. What will be done to address these concerns?

2 Additionally, I am concerned about the safety of all, but pedestrians and children, in particular, at the intersection of Cove Rd., Tiburon Blvd., and Mar West. With the bike path on one side of Tiburon Blvd., and the library and Tiburon Peninsula Club on the other side, I see an accident waiting to happen. What will be done to guarantee the safety of all - the safety of moms with strollers and small children, second graders delighted to be heading to the pool or eighth-graders intent on a study project, or other residents, visitors or the elderly just out to enjoy the day or walk to the grocery store?

3 Tiburon and Belvedere are quiet little towns, attractive to residents, guests and visitors alike; towns whose safety and character will be dramatically threatened if this project is allowed to proceed. The other developments in Tiburon in the 80's and 90's (the Perini developments off Reed Ranch Rd., Trestle Glen and Blackfield Dr., and the Gilmartin project) though large in scale, differ significantly from the Easton Project. Three of those four projects were off the 4-lane highway segment of Tiburon Blvd., but the construction traffic of none of them rumbled through the pedestrian and most densely populated section of town. The Easton Project will. With massive and endless construction vehicles, the Easton project threatens the safety and well-being of all who reside in Belvedere and on the southern tip of the Tiburon peninsula, as well as all who frequent downtown and the tourist areas (an area extending, at least, from the Cove Rd./Tiburon Blvd. intersection to Keil Cove.) The project must also threaten the economic viability of the downtown merchants as what tourists on a glorious summer day want to visit an area overrun by construction traffic. My image is that, with the project's requisite heavy-duty construction traffic, a military installation is coming to town. What steps will be taken to insure that the safety and environmental character of Belvedere and the downtown area of Tiburon, and its economic viability is not disrupted and threatened by the heavy-duty construction traffic, dust and noise of the Easton Project?

Sincerely,



Constance M. Peirce

36 Cove Road

Belvedere, CA 94920

415-435-5954

connie94920@yahoo.com

**RESPONSE TO LETTER NO. 105 – CONSTANCE M. PEIRCE (APRIL 29, 2011)**

**Response to Comment 105-1**

Please see Master Responses 1 and 2.

**Response to Comment 105-2**

Please see Response to Comment 1-2.

**Response to Comment 105-3**

This comment is on the merits of the proposed project and not the adequacy of the Draft EIR. No further response is necessary.

**CAROLYN LOSEE, REGISTERED PROFESSIONAL ARCHAEOLOGIST**  
**28 MARINERO CIRCLE #25**  
**BELVEDERE-TIBURON, CALIFORNIA 94920**  
**LOSEE025@COMCAST.NET**

April 26, 2011

Ms. Rachel Warner, Interim Environmental Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

**RE: Easton Point DEIR**

Dear Ms. Warner:

The following letter contains my comments to the 2008 Draft Environmental Impact Report (DEIR) for the Easton Point Project (previously known as the Martha Property). My family and I live near the proposed development, and we hike the adjacent open space from our home almost daily. Since preservation of the ridges under consideration are of extreme importance to my family and myself, I am very interested in preserving local biological and cultural integrity.

1

Regarding the Cultural Resources section of the DEIR (Section 5.9), it is my opinion that a number of issues have not been adequately addressed. (If the issues I raise were discussed in a separate cultural resources document, I apologize for not having the opportunity to review that report after reviewing the DEIR). For preparation of the DEIR, only an archival record and information search for the project and a search of the Sacred Lands Inventory by the Native American Heritage Commission were conducted (DEIR page 532). My major concern is that I have not seen or heard of any evidence that local Native American representatives were consulted regarding the development of these ridges. In the study of cultural resources, it is common knowledge that, for religious, aesthetic, and defense purposes (at minimum) ridge tops were--and still are--often considered sacred to Native Americans.

Solely because they are not listed on the Sacred Lands Inventory, the DEIR dismisses the issue of the subject lands being sacred to Native Americans (*Letter to Lee Panich, Pacific Legacy, Inc. from Katy Sanchez, Program Analyst, Native American Heritage Commission, August 4, 2009*; as on page 537 of the DEIR). Since I see no evidence that local Native American representatives have had an opportunity to evaluate the significance of the subject lands or to render an opinion of the Easton Point development plans, it is my opinion that the DEIR is incomplete.

2

My next concern is, Why is there no mention in the DEIR's cultural resources section of Old Saint Hilary's Church and the Botanical Preserve? Regarding Environmental Impact Review guidelines, *State CEQA Guidelines* state that the project would have a significant cultural resources impact if it "caused a substantial adverse change in the significance of an historic resource as defined in *State CEQA Guidelines* Section 15064.5" (DEIR page 538).

Ms. Rachel Warner  
April 26, 2011  
Page two of two

Regarding Appendix N of the Marin County Environmental Impact Review Guidelines, the project would have a significant cultural resources impact if it:

- Affected federal or State-listed resources.
- Disrupted or adversely affected a prehistoric or archaeological site, or a property of historic or cultural significance to a community or ethnic or social groups, or a paleontological site, except as part of a scientific study.
- Affected a local landmark of local cultural/historical importance (DEIR page 538).

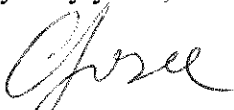
Old St. Hilary's is not only of major local significance, it is listed on the National Register of Historic Places (NRHP). Lying adjacent to the subject property, it would appear that both the church and its environs would undergo substantial visual effects and, therefore, the Easton Point Project would pose adverse impacts to a significant historical resource. The potential for the proposed addition of contemporary housing to alter the setting of this NRHP resource should be evaluated in the EIR.

To reiterate, due to lack of thorough investigation and Native American consultation, I do not find the cultural resources investigation for the DEIR adequate. The lack of consideration for potential impacts to Old St. Hilary's in the DEIR appears to be a gross oversight on the part of the preparers, as well. This lack of thoroughness is also apparent in the absence of adequate investigation and federal government consultation for rare and endangered species such as the red legged frog and serpentine bunch grass.

My understanding of the Easton Point development posing significant, unavoidable visual impacts to open space and to regional traffic, plus significant cumulative impacts (such as the removal of several hundred trees) renders the proposed project unconscionable at best. The reality of steep slopes, limited access via only two roads (Tiburon Boulevard and Paradise Drive), and limited access for fire and other safety vehicles seems to render the project extremely unreasonable and ill-advised.

I thank you and the Commission for taking my letter into consideration while reviewing the adequacy of the Easton Point DEIR.

Very truly yours,



Carolyn Losee RPA



**RESPONSE TO LETTER NO. 106 – CAROLYN LOSEE (APRIL 26, 2011)**

**Response to Comment 106-1**

Comment noted. Cultural Resources are discussed in *Section 5.9* of the Draft EIR.

**Response to Comment 106-2**

Old St. Hilary's Church and Botanical Garden is located near existing development. It is not anticipated that the proposed project would create a substantial adverse change that would adversely affect its value as a cultural resource.

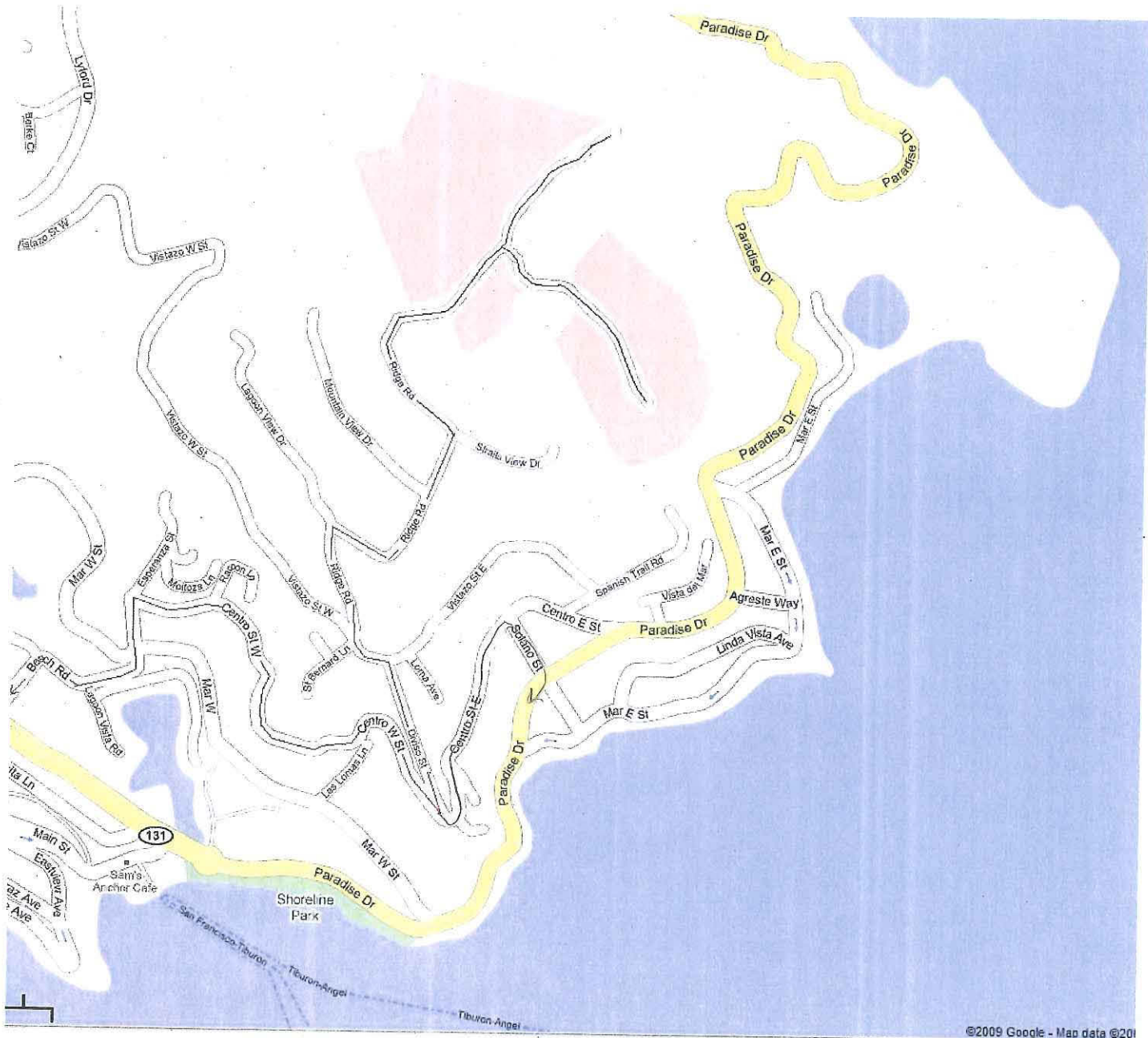
# 1 Old Tiburon streets cannot handle new traffic from the Martha Property

Feedback on this idea is welcomed: [rick@cattell.net](mailto:rick@cattell.net).

WARNING: these maps are rough and unverified, this web site is just to present the general idea.

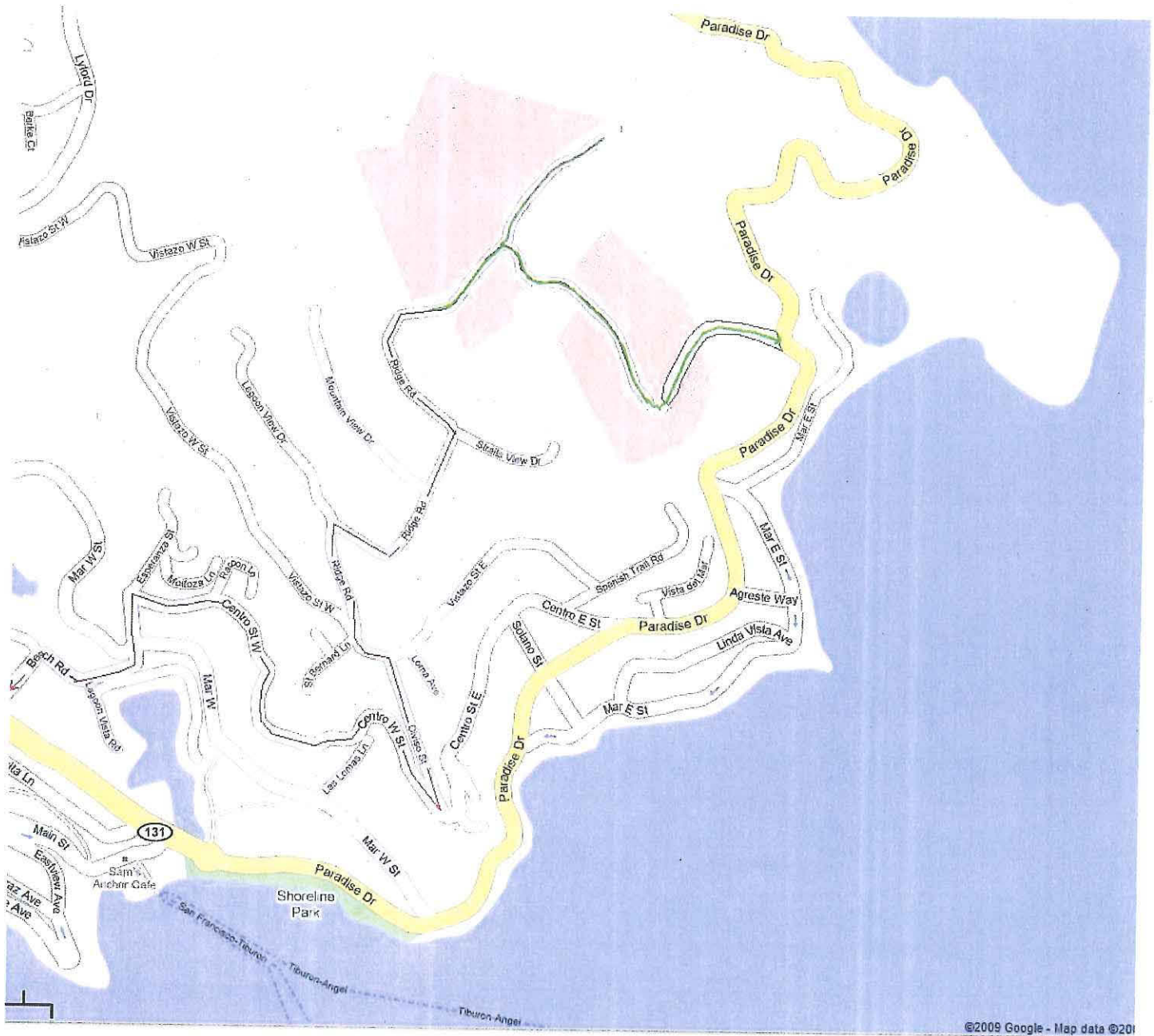
Rick Cattell  
- speaker @  
4/26 Hearing

The Martha Company proposes to build a number of new homes, at least 15 of which would be on an extension of Ridge Road. Their current proposal is to route construction traffic down a temporary road, but permanent traffic will need to go down Ridge Road to Diviso to Centro West to Esperanza, as shown in the red line here, or down Ridge Road to Diviso to Centro East to Solano. The pink areas mark the new lots:



Diviso and Centro contain many sharp curves, blind driveways, no shoulders, sharp drop-offs, blind turns into pedestrian crossings, and are mostly a single lane of traffic, with residents using every parking space available where there are two lanes. This is not a good idea! The Centro East route is no better than Centro West. If Ridge Road were instead extended down to Paradise Drive through the Martha property, the bulk

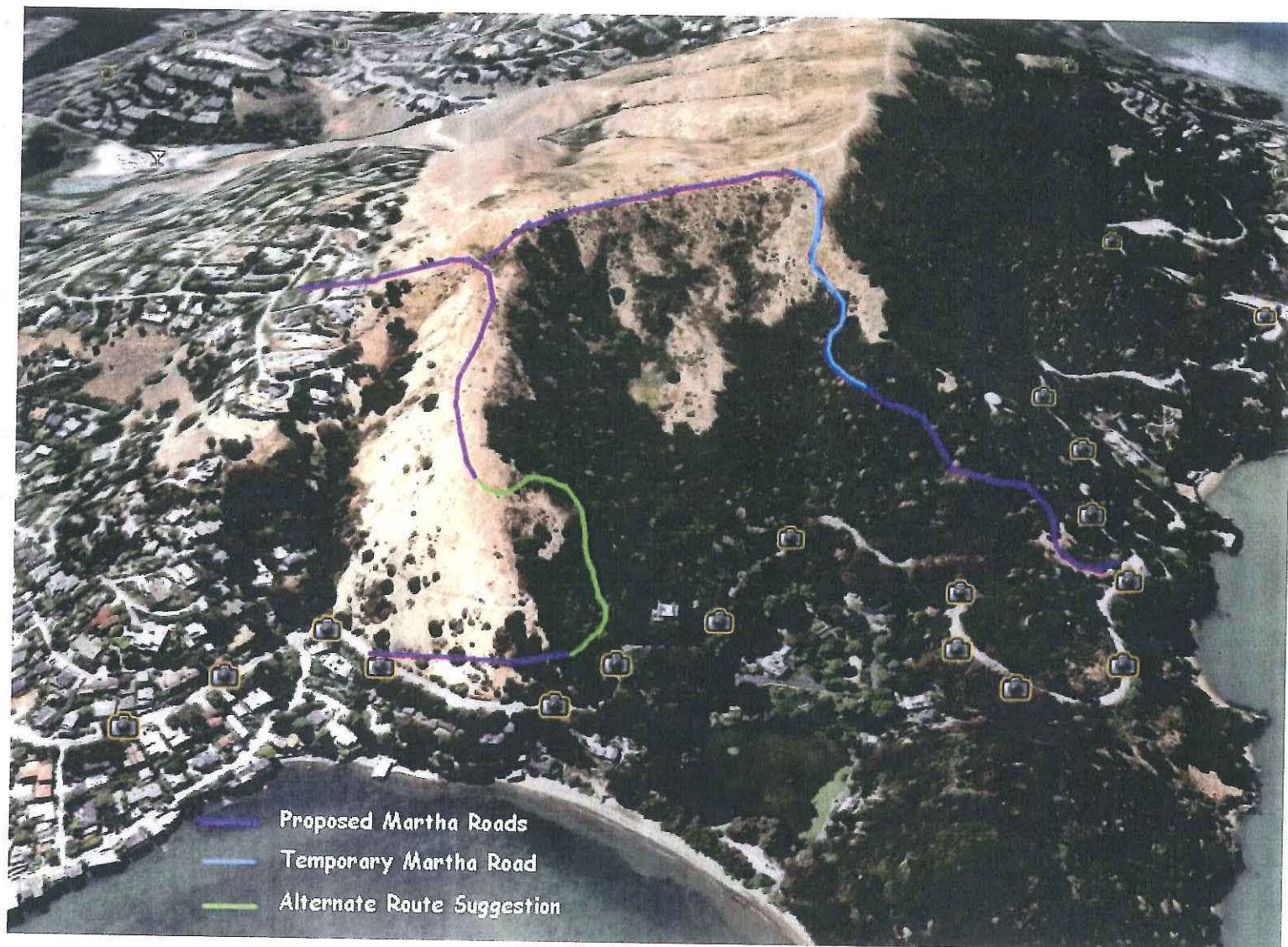
of the traffic could go down Paradise Drive, which is much better suited for two-way traffic. This alternative is shown with the green line in this map:



For those who know Diviso Road (which is very steep, with a sharp nearly 300 degree turn at the bottom) and Centro West (which is largely a single lane undivided, unlike Paradise Drive, which is fully two lanes divided by a double yellow line) this is obviously a much safer and less tedious path for the new homeowners, and is much safer for everyone walking, driving, or living along the red line in Old Tiburon. It also provides another route to Ridge Road in a fire, earthquake, or other emergency.

Here's a satellite view of the same proposal:





Another alternative would be to make Martha's proposed "temporary construction road" to Paradise Drive into a permanent route. That would be less direct, but might be easier to grade.

To provide more context, here are some views of Centro West coming down the hill. Centro West is mostly a single lane and it is not feasible to widen due to the cliffs and nearby houses:









Here is the 300 degree turn that vehicles must negotiate between Diviso and Centro West:





More details of the latest Martha Company proposal can be found in the [Town of Tiburon report](#). Here's a rough overlay of the proposed alternate route onto the Martha Company proposal map, showing how an alternate route could attach to either Paradise Drive or their new proposed cul de sac. This is just an approximate proposal, the best route may vary according to engineering and environmental requirements, and some relocation of lots would be necessary as well:

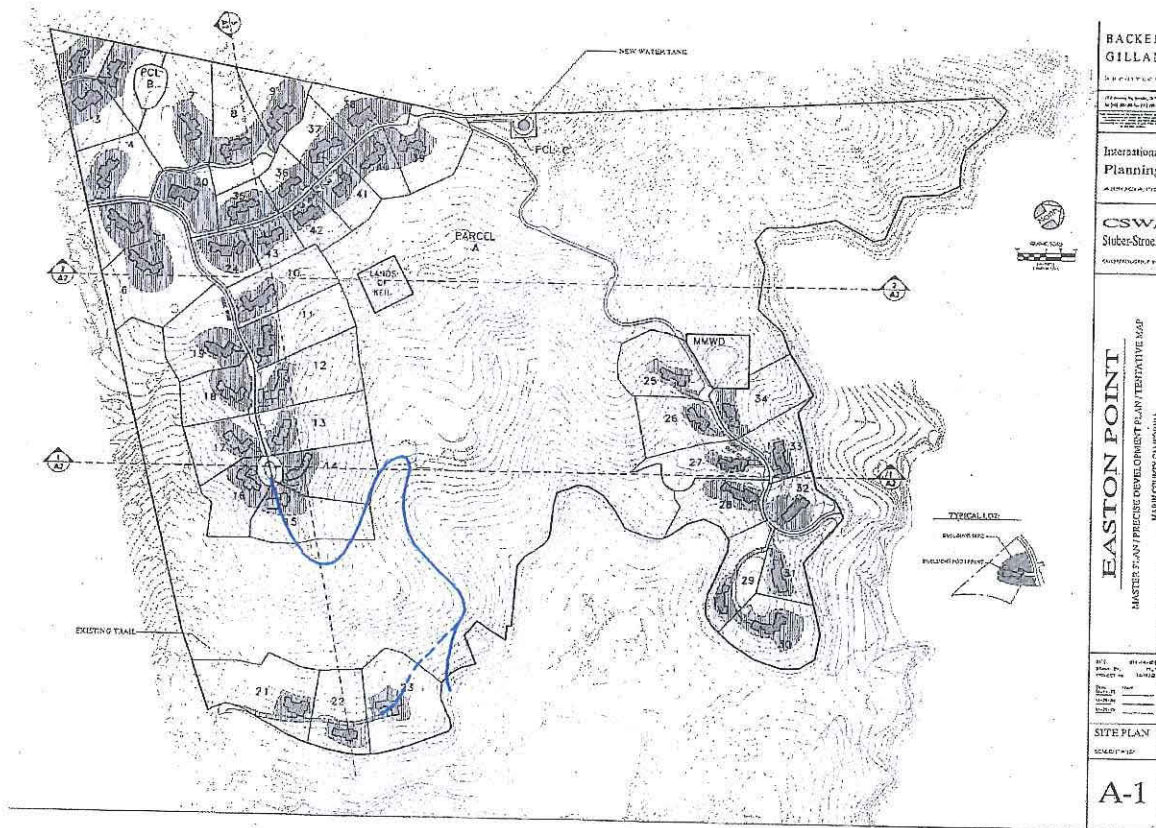


EXHIBIT A  
43-UNIT PLAN



**RESPONSE TO LETTER NO. 107 – RICK CATTELL (APRIL 23, 2011)**

**Response to Comment 107-1**

Please see Master Responses 1 and 2.

April 30, 2011

Ms. Rachel Warner  
County of Marin, Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903

Re: 2008 Easton Point Residential Development DEIR

Dear Ms. Warner:

I am writing to comment on the 2008 Easton Point Residential Development Draft Environmental Impact Report. I am very concerned about the impacts that this project will have on my local community.

Specifically, I am concerned that....

...The EIR doesn't consider any alternatives where the houses are clustered at the low elevations of the property.

- Having the homes at lower elevation would decrease the visual impacts and would aid with water flow issues, and may not require a dangerous construction road. I'd like to see that type of alternative analyzed.
- Isn't it illegal to build homes on a ridgeline in California now?
- A 7-lot plan which is more environmentally and neighborhood friendly than any alternative in the DEIR was studied in 2009. I'd like that alternative analyzed.

...The construction road will be too steep and too narrow for trucks with full loads to negotiate.

- How will the homes below the road be protected from runaway vehicles and equipment?
- Who is responsible if safety accidents occur because of the poorly designed construction road?
- Where is the analysis of additional traffic, air pollution and noise impacts from having to stage or off load full trucks in order to reduce their load and get them up the construction road?
- How will delays from using less than full trucks impact the construction schedule?
- Who will be monitoring daily construction traffic to ensure it complies with construction and neighborhood road limits as well air pollution mitigation requirements?

...Maintenance for roads, drainage and other infrastructure has not been fully provided for in perpetuity with the current project assuming a reliance on the local Homeowners Associations (HOAs) to provide maintenance funding.

- Who will handle maintenance if the developer goes bankrupt and the construction is left incomplete?
- Has the county and the developer considered requiring a bond to ensure funds are available for systems and infrastructure maintenance since the HOAs are in no position to and should not be expected to fund maintenance?

...The development plan does not provide a definition for a guest house or outbuildings

- Is the maximum footprint for buildings on each lot inclusive of outbuildings and guesthouses?
- If not, would the developer be allowed to scope the project for main houses with smaller square footage but then build larger and multiple other buildings on each property with larger square footages which could also be residences?

- If so, where is the analysis of the safety, construction, pollution, water, landslide, and other impacts of these additional structures?

...The noise impacts of the development are not mitigated in the plan

- Noise from 12 years of construction could be mitigated by requiring the developer to follow the shorter Tiburon, rather than the longer Marin County construction hours. I'd like to see that alternative analyzed.
- Requiring the use of electric vehicles and equipment could also minimize noise (and air quality impacts). I'd like to see that alternative analyzed.

...The impacts to the County and Town from the loss of open space have not been fully explored

- Where in the DEIR is the analysis of the economic impact of losing contiguous open space? What are the impacts to property values, tourism, and the desirability of living in Tiburon?

...The DEIR includes traffic counts but not all traffic impacts have been considered or mitigations planned. Traffic levels are already unacceptable on Tiburon Boulevard around school start and end times and with construction traffic in the afternoon.

- Where is the schedule for the planned mitigations? Will the various agencies that need to provide services for mitigations be held to the project development schedule? Would mitigations be completed prior to the beginning of the project?
- What happens if the developer does not pay for all suggested mitigations?
- What mitigation measures will ensure reasonable traffic flows as well as bicyclist and pedestrian safety throughout Tiburon?

...The biological impacts of the project are not able to be fully mitigated.

- The loss of contiguous undeveloped space leaves our community without an important natural resource and is a further loss to wildlife. I'd like to see an alternative where development is confined to a single area leaving the undeveloped habitat unfragmented.
- I'd also like to see an alternative where mitigation measures are applied to this project, not to future development projects so that the impact of this project is lessened and the developer responsible for preservation, restoration or creation of alternative habitat for wildlife and special status plants.
- I'd also like to see the analysis of the loss of the coast live oak and how the loss of those trees in this Open Space contributes to the overall decline of that plant species in California

...The Air Quality Impacts of the development are not in compliance with the Bay Area Clean Air Plan from the perspective of Greenhouse Gas Emissions and Vehicle Miles Traveled

- Won't the loss of 742 trees worsen the negative air quality impact of the development? How much could the air quality be improved if those trees were maintained or replantings made?
- Can you include keeping these trees in your analysis to lessen the impacts on air quality, wildlife and the viewspace?
- Can the project be approved when it has multiple unavoidable air quality impacts and doesn't comply with State standards?

Sincerely,

Steve and Marian Russell  
29 Meadow Hill Drive  
Tiburon, CA 94920

Thank you for your  
thoughtful consideration  
of these very serious  
concerns

**RESPONSE TO LETTER NO. 108 – STEVE AND MARIAN RUSSELL (APRIL 30, 2011)**

**Response to Comment**

This is a duplicate letter. Please see Response to Comment Letter 23.

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***Response to April 25, 2011 Public Hearing Comments***

On April 25, 2011 the Marin County Planning Commission held a public hearing on the Draft EIR. A written transcript is included and comments regarding the adequacy of the Draft EIR are identified. Following the transcript a response to each comment is provided.

Marin County Community Development Agency

Easton Point Project  
Draft Environmental Impact Report  
Public Hearing

Monday, April 25, 2011

10:10 a.m.

Room 328  
3501 Civic Center Drive  
San Rafael, California

Reported by Phillip Gioe

**California Reporting, LLC  
52 Longwood Drive  
San Rafael, California 94901  
(415) 457-4417**

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**Agenda Item 4.**

CHAIRPERSON LUBAMERSKY: This is a public hearing on the Easton Project Draft Environmental Impact Report. And I'd like to welcome everyone to this meeting.

I'd like to thank the public for their participation. We've received some very well-reasoned and some very well-written correspondence on this. And as you know, the EIR Consultant will be responding to those in writing.

And it's a very important project, with multiple EIRs, and multiple lawsuits, and whatnot, and I'd like to thank County staff and consultants for all the time and energy they've put into it because this piece of property is really worth the effort, I think, that everybody is putting into it, and we appreciate the work that staff has done.

This meeting is webcast and also, there's a court reporter who will be taking minutes.

COMMISSIONER HOLLAND: Transcript.

CHAIRPERSON LUBAMERSKY: Transcript, thank you. The process for today is we'll receive a briefing from County staff, then the Commission may ask some general questions about the process or clarification. We'll then hear from representatives of the Easton Company. They'll have ten minutes to make their presentation, but that wouldn't include that the Commission might ask and follow

1 up, that wouldn't come out of their time.

2 And we'll hear public testimony on the EIR, and  
3 representatives from organizations will have six minutes and  
4 the members of the public free. Again, exclusive of any  
5 questions that the Commission may ask.

6 And at three o'clock this afternoon we're going to  
7 reopen the public hearing, not for people who have already  
8 spoken, but there's a group of residents who are attending a  
9 religious observance today and they're unable to join us in  
10 the morning, and we'll reopen the hearing at three o'clock  
11 so they can testify and be involved in the process.

12 And anyone, as I said, who wishes to testify  
13 should fill out one of those pink cards.

14 I'd like to open the public hearing and call for  
15 the staff report.

16 MR. LAI: Thank you. One other housekeeping  
17 matter, if you're parking -- if you parked in the two-hour  
18 parking zone, just remember the time because the Sheriff's  
19 is enforcing the two-hour parking rule.

20 Good morning, my name is Tom Lai; I'm with the  
21 Community Development Agency. I'd like to introduce to you  
22 John Roberto, who is the Consulting Planner, as well as the  
23 Consulting Environmental Coordinator for this project. He's  
24 sitting two seats down to my right.

25 And then to John's left is Bob Berman, who is



1 the principal author of the EIR that's before you.

2 And I also want to point out that David Zaltsman,  
3 who is our Deputy County Council, is sitting also in the  
4 audience here, on the front row.

5 So, with that, I'm going to hand the mike off to  
6 John, who will provide the Commission with a brief  
7 presentation about the project and the EIR.

8 MR. ROBERTO: Thank you, Tom. Chair Lubamersky  
9 and members of the Commission, as Tom indicated my name is  
10 John Roberto. I'm a Planning and Environmental Consultant  
11 that's been retained by the County of Marin for the purposes  
12 of processing the Easton Point Application that was filed  
13 with the County under a Stipulated Judgment.

14 And there may be a lot of questions about that,  
15 I'm not going to talk about that too long, but the fact is  
16 that that is how this application is being processed. So as  
17 we go through this and we move through our EIR hearings into  
18 our Merits hearing that will have some play in the various  
19 reports that come to this Commission and to the Board of  
20 Supervisors.

21 I have a brief PowerPoint presentation, today,  
22 that I'd like to make. The purpose is to really -- I think  
23 the Commission is somewhat familiar with the process, but I  
24 would like to do this for the public, as well, to let  
25 them know what's going to happen and how it will happen.

1           So, the first off, today's meeting is on the  
2 Easton Point Draft Environmental Impact Report only, that's  
3 the only reason for the meeting.

4           The purpose of the meeting is to, first, an  
5 opportunity to comment on the adequacy of the Draft EIR.  
6 That's what we're looking for from both the Commission and  
7 the public, is this EIR adequate?

8           Second, we'd like you to limit your comments to  
9 the Environmental Impact Report, only, and not to whether  
10 this is a good or bad project or the project should have  
11 never come forward but, really, the environmental document,  
12 itself.

13          All comments will be recorded. We have a court  
14 recorder here today, everything will be recorded and all  
15 comments received, whether they're in letters or today, at  
16 this podium, will be responded to in writing. And people  
17 will have an opportunity to see those comments before the  
18 Environmental Impact Report is recommended for  
19 certification.

20          And once again, the purpose of the meeting is  
21 really to listen. This is not a question and answer  
22 meeting, we do not have the huge environmental team that was  
23 assembled to prepare the EIR here. We are here to record  
24 questions and to answer them in writing when the time  
25 comes, so this will not be a dialogue back and forth on

1 the EIR.

2 I'd like to let everyone know where we are in this  
3 process and that's the purpose of this little bar chart.

4 And I have on the left, and I don't know if you can all read  
5 it, but I'll read it to you, I call them milestones of where  
6 you are in the process before, and then what we've done so  
7 far and what remains to be done.

8 The application submitted to the County was  
9 submitted in December of 2008 and we reviewed that  
10 application, determined that an Environmental Impact Report  
11 was required and we issued a Notice of Preparation on this  
12 Environmental Impact Report, which gave all public agencies  
13 and the public as a whole 30 days to let us know what they  
14 wanted the EIR to address.

15 During that period we held a public scoping  
16 meeting in the town at Tiburon, at the Tiburon Town Hall,  
17 and it was very well attended. I think it was over a couple  
18 of hundred people that arrived at that meeting to let us  
19 know what their concerns were about this project, this site,  
20 their neighborhoods, their town, and what they wanted to  
21 have addressed in the Environmental Impact Report.

22 Following that public scoping meeting we started  
23 to prepare the Draft EIR. We retained the firm of Nichols-  
24 Berman, and Bob Berman, the principal, was in charge of  
25 that EIR and in charge of preparing that EIR.

1           The public -- after we were done with the  
2 preparation of the Draft EIR we issued a Notice of  
3 Completion. That means the Draft is done, we let the public  
4 know that we were going to have a meeting today to discuss  
5 that Draft EIR, and that it started a 50-day public review  
6 period.

7           State law allows for a 45-day public review  
8 period, we extended it another five days given the size of  
9 the document, to allow for the public a little more time to  
10 look at that document and to prepare their comments.

11          Today, we're at the last blue line, it's the  
12 public hearing on the Draft EIR, and this is what we are  
13 going to accomplish today and this milestone will be  
14 accomplished.

15          After this the Consultant will prepare Responses  
16 to Comments to all the comments made at this meeting today  
17 and they'll be responded to in writing.

18          Following that we're going to issue a notice of  
19 availability of the final EIR, which will provide the public  
20 another review period to comment in writing, if they like,  
21 on the adequacy of the responses that were made to their  
22 comments.

23          This is an extra step that the County of Marin  
24 does in its EIR process and allows for the public to do  
25 that. However, in this phase all comments must be

1 submitted in writing.

2 Following that period the matter will be brought  
3 to the Board of Supervisors for a hearing and certification  
4 of the Final EIR, and that hearing will be before the Board.  
5 So, the EIR will not return for hearing to the Planning  
6 Commission, it will go directly to the Board.

7 And this is one of the matters that I talked  
8 about, the uniqueness of the situation, that it's being  
9 handled under the Stipulated Judgment.

10 Following the certification of the Final EIR,  
11 assuming it's certified by the Board, we will start to  
12 prepare a staff report on the merits of the Application that  
13 was first filed in December 2008. We'll prepare that staff  
14 report for the Commission, it will be much more detailed  
15 than the staff report you have today because this will be  
16 about the project, itself.

17 The public will be given an opportunity to review  
18 that staff report ten to 14 days before that Commission  
19 meeting. A public hearing will be scheduled, the public  
20 will be noticed of that public hearing, and the Commission  
21 will hold a hearing to make its recommendation on the merits  
22 of the proposed project to the Board of Supervisors.

23 Following that hearing a staff report will again  
24 be prepared for the Board of Supervisors and the matter  
25 will be brought to the Board of Supervisors for a public

1 hearing and final decision.

2           Once again, the Planning Commission is only  
3 allowed, under the agreement, one meeting to make this  
4 recommendation on the merits, a one-day meeting. There is  
5 no limitation on the Board of Supervisors as to how many  
6 meetings they may hold before they make a decision on this  
7 project.

8           So, we are really into the process right now of  
9 public involvement. There's a long way to go, yet, before  
10 the EIR is finalized and certified and before we start to  
11 make decisions on the project.

12           It would be difficult for me to give you a  
13 timeline because I still do not know the extent of public  
14 comment and what it will take to respond to those comments.  
15 The comment period is not going to close for another week,  
16 yet, it will close at the end of this week, I should say,  
17 and at that point we'll have an idea of how many comments  
18 there are.

19           Okay, let's talk about this a little bit, and  
20 everyone probably knows this, and this is a hard Google  
21 photograph to see, but the Easton -- oh, look how great and  
22 steady this hand is. But the Easton Point property is  
23 basically right in this area. So -- excuse me, Paradise  
24 Drive moves to this area here. I just got done doing a  
25 report for (inaudible) Boulevard. So, this area here.

1 We have the Hill Haven neighborhood, I'll say generally to  
2 the south. Marin County open space and Old St. Hillary's  
3 (phonetic) open space is more to the west and north of the  
4 property.

5 And then, of course, there's the additional  
6 private land ownerships below Paradise Drive, and then San  
7 Pablo and San Francisco Bay that border the property.

8 The Easton Point Application, there are a number  
9 of applications that have been filed for by the Applicant.  
10 One is a rezoning of the property. This is to bring the  
11 property into conformance with the application that's been  
12 submitted for 43 home sites.

13 They have also submitted a master plan, which is a  
14 prerequisite under the existing zoning of the property and  
15 even under the proposed zoning that a master plan must be  
16 submitted and approved for this property.

17 They've also submitted a precise development plan,  
18 phone one only, which is the subdivision improvements for  
19 the property. This is a more detailed application that  
20 includes conceptual grading and drainage for the property  
21 and that has been included in the requesting approval of  
22 that.

23 They must accomplish the master plan and the  
24 precise development plan in order for you to consider the  
25 tentative subdivision map, which has also been submitted

1 for your approval.

2 The tentative subdivision map is the legal  
3 document that will allow the land to be divided into the  
4 number of lots and the Applicant is requesting 43 lots for  
5 development.

6 No home plans or home designs have been submitted  
7 with this application and so, therefore, no construction can  
8 occur on any of the lots that are approved for this property  
9 until home designs are submitted and they go through a  
10 similar review process here in the County, before this  
11 Commission, with appeals to the Board of Supervisors before  
12 a home can be constructed.

13 The Applicant has submitted, with his application,  
14 a series of home designs and plans they'd like this  
15 Commission to approve, that set development standards that  
16 are different than those contained in the County's  
17 development code. And that will be a matter of discussion  
18 at the merits hearing as to whether you deem those to be  
19 appropriate or not.

20 Very quickly, the application, itself, the  
21 property is 110 acres; it is one land holding and one  
22 parcel. They're asking for 43 single-family home sites.  
23 The lot sizes will range from half-acre to 2.2 acres.  
24 They're proposing to dedicate -- I use the word  
25 "proposing" to dedicate two public open space parcels to



1 the Marin County Open Space District. One of them a rather  
2 small parcel, another one a rather large parcel of  
3 approximately 50 acres.

4 They're also proposing a water tank site that will  
5 be owned by the Marin Municipal Water District for the  
6 development of the water tank.

7 And as I indicated before, they've also submitted  
8 architectural and design guidelines as part of their  
9 application.

10 This is the site plan that was submitted to the  
11 County for approval, it is for 43 homes. And very quickly,  
12 and neighbors probably know all about this, but in the Hill  
13 Haven area access to the upper portions of the site will be  
14 from Mt. View Drive, I know Ridge Road by heart, and those  
15 are the two accesses from above. And the major portions of  
16 the development will be accessed from Ridge Road, by an  
17 extension of Ridge Road, and another by a longer extension  
18 of what we call Mt. Tiburon Court.

19 On the lower portion of the site, off of Paradise  
20 Drive, there's proposed to be developed in the vicinity, if  
21 everyone knows about this, there's an existing driveway that  
22 serves an existing water tank, a million gallon water tank  
23 that MMWD owns, and they're proposing development in an area  
24 called Forest Glen Court, off of Paradise Drive. And  
25 there's also three homes proposed off of a driveway that

1 would be near, I'll call this the southeastern corner of the  
2 property, in the vicinity of what is known as Spanish Trail.

3 The Environmental Impact Report identified a  
4 number of environmental constraints of this property and  
5 they're discussed in detail in the report. If you've been  
6 out to the site, the topography is quite rugged out here and  
7 there are numbers landslides on this property, and I'll get  
8 into that in a minute.

9 There are also special status plant and animal  
10 species that have been identified on this property and they  
11 are a constraint to any development of this property.

12 Visual and open space resources, this area is --  
13 the open space adjacent to this property is heavily used.  
14 This property, I think, is used by many as an extension of  
15 that open space and I expect a lot of comments about the  
16 visual impacts of this project on the environment.

17 The other constraint is public safety and fire  
18 protection. There's issues of fire flow, there's issues of  
19 emergency communications by public service providers and  
20 those are talked about, and it is a constraint to  
21 development of the property.

22 Construction access, when we held the public  
23 scoping meeting in Tiburon there was a lot of comment about  
24 what the effects of construction would be on the Hill  
25 Haven, Old Tiburon areas. And subsequent to that the

1 Applicant came forward with a proposal for a construction  
2 access road, by which they're proposing to not have to use  
3 for the major portion of development the roads in the  
4 adjacent neighborhood. And I'll talk to that briefly in a  
5 few minutes.

6 Traffic, of course, is always a matter of concern.  
7 Parking and traffic were identified as problems in the  
8 Environmental Impact Report.

9 I'd like to talk briefly about landslides and  
10 this -- this drawing is in the Environmental Impact Report,  
11 however, no one has taken color to it. I've taken color to  
12 it to emphasize something, and that is that when you look at  
13 this property right now you'll see that the proposed  
14 development, which is in this area here, and here, and here,  
15 as well as down in here, and a little bit in through here  
16 avoids, for the most part, the major landslides on the  
17 property.

18 These are the existing landslides and how they  
19 have been mapped by the various geotechnical firms, the  
20 geologists and geotechnical engineers that have worked on  
21 the property.

22 Landslides you're going to hear about, I'm sure in  
23 hearing, because they are near the proposed development. We  
24 call this Landslide 11; it's a large slide that extends  
25 from the upper reaches of the property to Paradise Drive.

1 And though they're not showing it here, I'm sure under  
2 Paradise Drive and onto the properties below Paradise Drive.

3 Likewise, Landslide 3 on this property borders the  
4 Hill Haven neighborhood and it also does not end at the  
5 property line. So, these will be major landslides that we  
6 discuss.

7 The Applicant has submitted an application, the  
8 EIR has reviewed that and the implications are discussed in  
9 the Draft EIR.

10 But the Applicant is proposing to stabilize the  
11 project site for the project, itself, and I want to explain  
12 that very briefly, if I can.

13 The Applicant is not proposing to repair all the  
14 landslides on the property, they're only proposing to make  
15 the repairs needed to stabilize the site for the proposed  
16 43-lot development, and the roads and other facilities that  
17 go with that development.

18 That proposal includes, in these darker areas,  
19 actual repair of portions of landslides, but not all the  
20 landslide. I showed you that Landslide 11, that's kind of  
21 like this, so they're proposing to repair the upper portion  
22 of the slide to stabilize the property.

23 They also have, in addition to repairs, they're  
24 talking about doing some stabilization work, and these  
25 red marks are actually sub grade walls that will

1 stabilize the site. And behind that you see these green  
2 areas which are actually drainage to drain the area that's  
3 not being prepared. So the wall would hold back the site,  
4 the area would be drained to make the area more stable.

5           So, that's what's being proposed, that's also  
6 being proposed, that kind of a technique, down in the Forest  
7 Glen area, in here. It's also being proposed, some  
8 stabilization work for the construction road, which would  
9 follow this alignment here. That road has a grade of 25  
10 percent, it's very steep, and that's all discussed in detail  
11 in the Draft EIR.

12           The other portions of the property, the Applicant  
13 is proposing some additional sub drains on some of the  
14 existing slides, I'm pointing to them now, intended to, I  
15 guess, improve the condition. Water on the slope, on the  
16 slide plain makes the slide more susceptible to movement.  
17 And they're proposing to make it less susceptible by doing  
18 drains. This in no way is a repair. This in no way is  
19 going to stabilize these portions of the property that are  
20 still subject to sliding.

21           In addition, they've proposed some little  
22 catchment areas to catch surface material that might roll  
23 down the hillside onto the property.

24           Very quickly and I better move along, the other  
25 constraint is special status plants. The dark green is

1 Dwarf Flax, we also have in yellow the Serpentine Reed  
2 Grass, these are protected plants.

3           Serpentine Grass, and as you see in purple here,  
4 are also plants of concern of the California Environmental  
5 Quality Act and the Native Plant Society. So, those are  
6 identified and discussed in detail and mitigation is  
7 required for impacts on all these.

8           The large green area is really the woodland on the  
9 site and the U.S. Fish and Wildlife Service and the  
10 consultants have determined that this is really a dispersal  
11 area for the Red-Legged Frog. Which means that under the  
12 Fish and Wildlife regulations a take of anything from here  
13 would be considered a take of frog habitat.

14           Fish and Wildlife Service is a little bit  
15 different from California Fish and Game where California  
16 Fish and Game is only concerned about the take of the frog,  
17 itself.

18           But here we'd be working, because Fish and  
19 Wildlife Service will have a say on this project in terms of  
20 the wetland fill required for this project, because we do  
21 have some wetland seeps in this area.

22           The Red-Legged Frog has not been found. There's  
23 been a number of studies done on the project site, itself.  
24 It has been found on the adjacent Keil properties, in a  
25 pond on the Keil property below Paradise Drive.

1 I put this slide in here, it's from the EIR, it  
2 really shows the viewpoints that were taken to do the visual  
3 analysis of the property. We have viewpoints taken from the  
4 open space areas; we have viewpoints taken from Angel Island  
5 to try to indicate what the impact will be.

6 This is the existing view from the Tiburon Ridge  
7 just, I'll say, north of the project site. And this is how  
8 that view will change with development of the project site.  
9 So, there's a major change in the view from the open space  
10 lands. And this is one of the things that I think will be  
11 of major concern to the public as a whole, in terms of where  
12 the lots are being proposed by the Applicant.

13 Once again, this is a view from Heathcliff Drive  
14 and this will be the change in that view from the 43-unit  
15 development. That's how it would change.

16 I also provided the long shot from Angel Island,  
17 and the property once again, so you can kind of get a feel  
18 as to right in through here.

19 And once again, I don't think I need to point it  
20 out, but that's how the development will occur, and I'm  
21 pointing to the water tank the best I can. It's the only  
22 one of the photo sends where you can see the water tank,  
23 although it will be a very visually prominent feature on the  
24 landscape.

25 These are important things, unavoidable

1 impacts, because you may be used to all impacts being  
2 mitigated or of changing the project to implement mitigation  
3 measures. After the completion of the project, the EIR has  
4 determined that the visual and open resource -- the open  
5 space resource impacts are, in fact, unmitigatable, they  
6 will remain significant.

7 If that is the case the County, if it stays this  
8 way, the County would have to make a Statement of Overriding  
9 Consideration of why they would allow these impacts on the  
10 environment to go forward.

11 Construction noise is another impact which is  
12 unavoidable and unmitigatable. You cannot reduce that to a  
13 level of insignificance.

14 Another is regional traffic. This is all the way  
15 out at Highway 101, which is already in the F condition  
16 during the peak hours, and the addition of any traffic, no  
17 matter how de minimus, is deemed significant.

18 And here it would be significant and unavoidable  
19 because there are no mitigation measures available to us or  
20 to this project that could relieve that.

21 There are also significant cumulative impacts,  
22 impacts of this project in adjacent to other things that are  
23 happening now or could happen in the foreseeable future on  
24 the Tiburon Peninsula. Those include visual and open  
25 space, again, regional traffic again, construction noise



1 again.

2 But air quality and green gas emissions, the  
3 project, itself, does not reach a level of significant  
4 impact from mitigation, but combined with everything else it  
5 will be significant and unavoidable based upon the air  
6 quality regulations we all live with.

7 There will also be another impact, which is loss  
8 in fragmentation of natural habitat. While there's no  
9 unmitigatable biotic impacts of the project, itself, this  
10 project combined with other developments in the area are  
11 starting to fragment open space areas and habitat. And this  
12 is deemed as a significant adverse impact to the area as a  
13 whole and there's a cumulative impact of this project with  
14 others.

15 I'm getting close to the end, but I think it's  
16 important. There are a number of alternatives analyzed in  
17 the Draft EIR. By law, we must analyze a no-project  
18 alternative. This alternative, by its face, does not  
19 achieve the objectives of the application, which is for 43  
20 home sites.

21 There's a lower density alternative, 32 lots, and  
22 I want to speak to this briefly. In discussion with County  
23 Counsel's Office and in preparing the EIR, we did not have  
24 the leeway, the environmental consultant or your  
25 consultant here, to come up with alternatives that were

1 not in compliance with the Stipulated Judgment.

2 We required the signature of the Applicant and a  
3 sign-off to do anything else, and we did not receive that  
4 from the Applicant. So we only had to look at 43-lot  
5 alternatives.

6 During the time that we were preparing the EIR and  
7 some ten months into the process, we were preparing the  
8 Draft EIR and the 43-unit application, the Town of Tiburon  
9 and the Applicant were in negotiations with one another, and  
10 that ended up in a Memorandum of Understanding.

11 Now, you need to understand that the County did  
12 not participate, I did not participate, County Counsel did  
13 not participate, Mr. Berman did not participate.

14 But the Town and the Applicant came up with a  
15 lower-density alternative that the Applicant signed off on  
16 with the Town, and then the Town requested that this  
17 alternative be analyzed in the Draft EIR as an alternative.

18 But the Memorandum of Understanding, and this is  
19 the important point, requested that if the lower-density  
20 alternative had similar impacts to the proposed project or  
21 in fact had less impacts, and it was superior  
22 environmentally to the proposed project, they were  
23 requesting that the Board of Supervisors approve this  
24 alternative as the construction project for the site.

25 That's a very big statement because normally

1 when we prepare an alternative, and the alternative that was  
2 submitted by Tiburon was just a small drawing, it did not  
3 include all the things I showed you that we had for the  
4 application, which included master plans, and master plan  
5 drawings, and precise development plan drawings which are  
6 more detailed, conceptual grading, and drainage, and  
7 tentative map drawings which has to get to the detail of  
8 roads, and things, and sewage, and water.

9           Therefore, I met with the Applicant and asked the  
10 Applicant are you intending to withdraw your application  
11 based upon this agreement with Tiburon and they said, no,  
12 we're proceeding with the 43.

13           I said, but you and Tiburon have both agreed that  
14 if this turns out to be the environmentally superior  
15 alternative, you want the County to approve that?

16           They said, yes, but we're not going to know that  
17 until the day we're before the Board of Supervisors whether  
18 that's the case or not, which is true.

19           So, therefore, I said, well, if you want that to  
20 happen we need to analyze this project in this EIR, this  
21 alternative, at the same level of depth as the proposed  
22 project.

23           I therefore said if the Applicant wants to achieve  
24 this, they have to submit the same level of information  
25 that they submitted for the project and they went about

1 doing that. It took a number of months to do that because  
2 to prepare all these engineer drawings and other drawings  
3 takes a lot of time for the alternative, the lower-density  
4 alternative.

5 Now, those were submitted to the County. They  
6 don't go through the same process as an application. An  
7 application goes through what we call a completeness review.  
8 I couldn't do a completeness review on an alternative; I'm  
9 not empowered to do that under the regulations. But we took  
10 a very good look at this, Mr. Berman and I, and we had some  
11 amendments, requested additional information, so we did get  
12 that full level.

13 So when you and the public review the EIR, you're  
14 going to find that the Alternative 2 analysis to the EIR is  
15 quite detailed compared to the other alternatives in the  
16 EIR, which merely deal with the differences in impact on a  
17 more general basis.

18 So, the alternative section and the lower-density  
19 alternative really attempts to talk about what the  
20 differences of the two impacts are between the project and  
21 this lower-density alternative.

22 So you know, and you may know already if you read  
23 all the way through, the environmental consultant has found  
24 that the lower-density alternative is the environmentally  
25 superior alternative of all the alternatives considered.

1           That's the consultant's opinion. I don't know  
2 whether that opinion will be there at the date the Board  
3 certifies the EIR, but we'll find that out as we go through  
4 this hearing process.

5           The other alternatives, which are 43 units, the  
6 consultant worked on one which tried to accommodate the 43  
7 lots and mitigate, to the extent that they could, the visual  
8 impacts of that alternative and that's presented in the EIR.

9           We also had an alternative that was a biological  
10 resource alternative, 43 lots, that attempted to protect the  
11 biological resources that I talked about earlier, and that  
12 would give up on the visual resources as a result, and those  
13 are the two alternatives.

14           Alternatives were very limited when you consider  
15 all the biological resources, the landscape, and other  
16 things, the developable portions of the site are limited.

17           So you know, when we do alternatives, we don't  
18 have the detail available to design a project for this site,  
19 so we have to rely on existing information to do those  
20 analyses.

21           So, once again, the 32-unit lower-density  
22 alternative, really what it comes down to the major  
23 difference is the Applicant -- or I should say Tiburon and  
24 the Applicant have agreed that they're going to remove  
25 basically this portion of the development in this area

1 over here, which is on one of the highly visible ridge lines  
2 on the property, and that's where the 11-unit reduction is  
3 coming from. I believe they've added a unit down here and  
4 they also have a remainder parcel over here that could be  
5 developed into a home site. There's no tentative map  
6 submitted for that and it -- they indicate that they'd like  
7 approval on the master plan for a 15,000 square foot house  
8 on that property, and Tiburon and the developer have agreed  
9 to that.

10           The other alternative, the visual quality  
11 alternative, what this does also is attempts to open up the  
12 ridgeline here by providing a road down here and putting  
13 development at the lower portion to make the ridge more  
14 visible, and also removing some development in here.

15           But as you can see, this hasn't done too much. We  
16 also did a lot to open up this visible ridge here. We did  
17 that by stacking more units in at Glen Court and putting up  
18 to six lots, which is the maximum we could provide to serve  
19 by a 16-foot driveway, otherwise we had to put a minor  
20 street in there to make there more than six lots in that  
21 area.

22           This, again, is the biological resource  
23 alternative. This one really provides more open area up in  
24 here to protect all the Dwarf Flax and Serpentine Reed  
25 Grass populations. There is some take of Serpentine

1 Grassland.

2           It also provides a large corridor for the Red-  
3 legged Frog to move from this woodland to this woodland,  
4 which is heavily discussed in the EIR. So, the number of  
5 units are really bunched up down here.

6           Under these two alternatives, these lots meet the  
7 minimum requirement of the court order, which is half-acre  
8 lots. These lots are also assuming, probably, smaller home  
9 sizes than proposed by the Applicant. The court order has  
10 not authorized any specific home sizes, so we're able to  
11 play around with those two factors.

12           Getting into today's meeting and the last part of  
13 this presentation, everyone, if you haven't heard already,  
14 as the Chairperson indicated, there are pink testimony  
15 cards, please fill those out and submit them to the Planning  
16 Commission Secretary, sitting there by the computer, by the  
17 Commission.

18           All testimony cards will be given an opportunity  
19 to speak by the Commission. When your name is called  
20 approach the podium and speak into the microphone. I'm  
21 assuming there will be a three-minute limitation; it's up to  
22 the Chair if you want to do that.

23           And as indicated, after today's meeting you still  
24 can submit written comments on the Draft EIR through  
25 close of business at four o'clock this coming Friday,

1 April 29<sup>th</sup>. So, there will still be an opportunity after  
2 today's meeting to submit written comments. If you left and  
3 you thought about something, and you didn't say it, there's  
4 still another opportunity to do that.

5 And with that, I'd like to open it to public  
6 comments.

7 CHAIRPERSON LUBAMERSKY: First, I'd like to ask  
8 the Commission if they have any questions of Mr. Roberto at  
9 this point as to process or general questions.

10 Commissioner Greenberg?

11 COMMISSIONER GREENBERG: First, in the interest of  
12 full disclosure, I'd like to say that I was on the Tiburon  
13 Planning Commission for previous iterations of the EIR,  
14 which is as far as we got. I was there for the full time on  
15 the first one and I think a portion of the time on the  
16 second, in neither case were the EIRs certified.

17 I live on Paradise Drive, probably a couple of  
18 miles by the road from the project. I cannot see it; I will  
19 not hear construction on it. Some traffic may go by  
20 Paradise Drive. I live well above Paradise Drive in that  
21 area, but I am not in any way directly affected by the  
22 project.

23 And the one question I had about the EIR process  
24 or how it was -- the evaluations were done, were  
25 Alternative 2 and the project had mitigations developed



1 for them, 3 and 4 don't. It wasn't clear to me in your  
2 comparisons if you compared mitigated plans with unmitigated  
3 alternatives. No?

4 MR. ROBERTO: We did not do what you just said.

5 COMMISSIONER GREENBERG: Okay.

6 MR. ROBERTO: We compared specific plants without  
7 mitigation.

8 COMMISSIONER GREENBERG: Okay, thank you.

9 MR. ROBERTO: So it's a common denominator for all  
10 of them.

11 COMMISSIONER GREENBERG: As it should be.

12 CHAIRPERSON LUBAMERSKY: Commissioner Ginalski?

13 COMMISSIONER GINALSKI: Thank you. I had the  
14 privilege of working with Randy on the Planning Commission  
15 during the same period of time and was also on --

16 UNIDENTIFIED VOICE: We can't hear you.

17 COMMISSIONER GINALSKI: I'm sorry. Can you hear  
18 me now?

19 CHAIRPERSON LUBAMERSKY: Is your mike on?

20 COMMISSIONER GINALSKI: How's that?

21 UNIDENTIFIED VOICE: Good.

22 COMMISSIONER GINALSKI: As I was saying, I had the  
23 privilege of working with Randy Greenberg on the Planning  
24 Commission in Tiburon and looked at this project while it  
25 was there and also while I was a member of the Tiburon

1 Town Council.

2 Also, I happen to live at 1828 Vistazo West, in  
3 Old Town. I can't see the project from my house but there  
4 will be traffic impacts at the -- apparently, at the  
5 intersection of Vistazo West and Diviso, where I exit my  
6 home.

7 And, Tom, I had submitted some written questions,  
8 most of which are legal in basis, and I'm assuming that  
9 we'll have written responses to those prior to the next  
10 formal hearing before the Planning Commission?

11 MR. LAI: Yes, I forwarded those to the team here,  
12 and those questions more directed towards the merits will  
13 have responses or respond to them in our staff report on the  
14 merits of the project. That will -- you will get before the  
15 Commission reviews the merits.

16 COMMISSIONER GINALSKI: Great, thank you very  
17 much.

18 MR. LAI: And then the second -- Commissioner  
19 Ginalski's second round of comments we did get today, those  
20 pertain more to the EIR and we'll submit that.

21 COMMISSIONER GINALSKI: Thank you.

22 CHAIRPERSON LUBAMERSKY: Mr. Roberto?

23 MR. ROBERTO: Commissioner Ginalski, may I ask one  
24 question? Some of your comments were related to the  
25 judgment and how we're proceeding, and would you like

1 those responded to as part of the response to comments in  
2 the EIR, so the public can see that as well?

3 COMMISSIONER GINALSKI: Yes.

4 MR. ROBERTO: Okay.

5 CHAIRPERSON LUBAMERSKY: Thank you. Commissioner  
6 Dickenson?

7 COMMISSIONER DICKENSON: In line with the idea of  
8 full disclosure, I should disclose that I was a planner for  
9 the County about 35 years ago and I actually did some  
10 mapping that was involved with the -- what ended up as a  
11 Stipulated Judgment. I had no policy involved in it at all.  
12 I was a very young planner at the time. But at the time I  
13 did --

14 CHAIRPERSON LUBAMERSKY: You were an intern.

15 COMMISSIONER DICKENSON: Not quite, but I did  
16 spend extensive time on the property and somewhere in the  
17 record there are the maps that I prepared, they were used  
18 with the County Counsel and with the Board of Supervisors  
19 that resulted in the agreement for the 43 lots.

20 John, I did have a couple -- and I have a lot of  
21 specific questions, but in terms of general questions one  
22 has to do with the process. This is clearly a very unusual  
23 process in that we only have one hearing on the draft, we  
24 don't even see the final, and then it comes back for one  
25 hearing on the merits.

1           So, we will have no opportunity to comment on the  
2 information in the Final EIR, nor give any direction to  
3 staff until we see a complete package, presumably with a  
4 detailed resolution to the Board, and we will not have our  
5 usual ability to go through that resolution unless we spend  
6 24 hours meeting to go through the resolution, and fine tune  
7 the conditions, and make sure what gets forwarded to the  
8 Board reflects our recommendation.

9           I assume that's what it means is that we will just  
10 have a very long meeting in order to finalize a resolution  
11 reflecting our recommendation at that single hearing then?

12           MR. ROBERTO: These are -- these border on legal  
13 questions. I am not an attorney and I don't want to try to  
14 interpret the judgment of the court. But I'll tell you as I  
15 understand it, and possibly David Zaltsman, from County  
16 Council's Office, may want to say something.

17           As I understand it right now, I think your  
18 statement is correct, Commissioner Dickenson, that the  
19 Commission -- so you understand, the settlement between the  
20 Applicant and the County allowed for only a one-day hearing  
21 before the Planning Commission.

22           I lobbied the Applicant strongly, requesting that  
23 we at least have two meetings, one for this Commission to  
24 get input on the Draft EIR and one for the Commission to  
25 make its recommendation to the Board.

1           And in the end I had a verbal consent to that from  
2 the Applicant, so we noticed this meeting based on that, for  
3 the Draft EIR.

4           Now, I -- this is where I'm unclear because you're  
5 saying we, as a Commission, what can we do? You -- you are  
6 correct, the Final EIR will be prepared, as it would be, and  
7 I will prepare Draft Resolutions for certification if I --  
8 if I and the consultant deem, and the team deems that it's  
9 worthy of certification. So you need to know that, I'm not  
10 presuming that we're going to recommend certification on it.

11           But we have a responsibility to prepare a document  
12 that the County can certify so it can proceed to a decision  
13 on the application, so we'll be working toward that.

14           When the Final EIR is prepared, as I indicated the  
15 County Regs allow for a 10- to 14-day circulation period of  
16 that. This Commission will be given copies of this before  
17 there's a meeting held at the Board of Supervisors.

18           What I don't know is I'm assuming that you, as  
19 individual Commissioners, can submit comments in writing, as  
20 anyone else can, on the final document for the Board to  
21 consider.

22           What I cannot respond to is whether you can sit as  
23 a Commission, with a noticed hearing on the Easton Point  
24 Draft EIR and talk about it. I'm assuming that cannot  
25 happen. That's my assumption, unless I'm corrected.

1           COMMISSIONER DICKENSON:   Okay.   Do you know  
2   whether it would be possible for us to have on the agenda,  
3   an agendized item as a discussion item, not a hearing?

4           CHAIRPERSON LUBAMERSKY:   Mr. Zaltsman?

5           MR. ZALTSMAN:   Yeah, David Zaltsman, from the  
6   Deputy County Counsel's Office.   All I can really do is  
7   interpret the agreement that the Board entered into.   I  
8   don't see a problem with you having discussion items so long  
9   as, you know, it doesn't raise issues about getting things  
10   to the Board in a timely manner.   You know, and certainly  
11   as -- you know, as John mentioned, he lobbied to get the --  
12   to separate what the Stipulated Judgment talked about of one  
13   hearing before the Planning Commission into two and,  
14   certainly, further agreements can be made with the Applicant  
15   to have further hearings, if they want to.

16           Barring that, though, you know, we're stuck I  
17   think with the two.   But, certainly, you can have discussion  
18   items on anything you want so long as it doesn't interfere  
19   with the processing that's required under the judgment.

20           COMMISSIONER DICKENSON:   Okay, so if we did it,  
21   we'd have to do it at an agendized discussion items at one  
22   of our meetings, but it at least appears at this point that  
23   we might have that option within the time frame that the  
24   County allows for the Board to act on the Final EIR.

25           MR. ROBERTO:   But the -- I'm assuming the

1 comments you make would have to be submitted in writing for  
2 us to consider before the Board hearing, in preparation of  
3 the Board staff report.

4 COMMISSIONER DICKENSON: Well, there would be  
5 comments, like comments from the Town of Tiburon, or any  
6 other interested party, I would assume.

7 MR. ROBERTO: And they'd be part of the minutes?

8 COMMISSIONER DICKENSON: Yeah. I mean, if it's an  
9 agendized item, we keep minutes of our meeting.

10 MR. ROBERTO: Yeah, and so what I'm trying to say  
11 is that I know there's a sequence you -- I don't -- I'm not  
12 trying to -- I'm just trying to get all these things out.

13 CHAIRPERSON LUBAMERSKY: I think we can figure  
14 this out as time goes along, with the assistance of County  
15 Counsel.

16 MR. ROBERTO: Okay.

17 CHAIRPERSON LUBAMERSKY: I think we understand the  
18 goal, though.

19 COMMISSIONER DICKENSON: Okay.

20 CHAIRPERSON LUBAMERSKY: And if the Commission  
21 would need to write it down, what they talked about, then  
22 they --

23 MR. ROBERTO: Yeah, because comments on the Final  
24 EIR are only in writing.

25 COMMISSIONER DICKENSON: Let me ask, maybe only

1 one other general comment at this point and that is in terms  
2 of the decision on the alternatives to be analyzed, I mean a  
3 lot of times we have what's called a mitigated alternative,  
4 where you take various constraints and overlay them and then  
5 come up with a recommended mitigation, mitigated plan. And  
6 here we have the Alternative 2, which is a result of the  
7 Tiburon/Martha Company MOU.

8           And then the other two alternatives we have  
9 concentrate on one resource, either the visual resources or  
10 biological resources, but they're kind of looked at  
11 independently. And I wondered why there wasn't, in the EIR,  
12 an attempt to look at an alternative that looked at various  
13 constraints as opposed to like just isolated constraints. I  
14 found that highly unusual about the process.

15           MR. ROBERTO: I think when the consultant team,  
16 the environmental consultant team and then myself, when we  
17 participated in this effort, as I indicated before when you  
18 take the landslides and the topography of the site, combined  
19 with the biology of the site for the dispersal habitat for  
20 the frog and the plants that are protected, you have a very  
21 narrow window of opportunity.

22           Now, the other thing we're not sure about is that  
23 as you see in the Tiburon -- I shouldn't say that, the  
24 lower-density alternative, we now have another  
25 development area which is not part of the application,



1    which is what we call the remainder parcel.  That doesn't  
2    provide all the detail required for a subdivision, but it  
3    does show where a driveway would be and how that could be  
4    developed.

5               My understanding is that that area was under  
6    discussion at one time in Tiburon, with various items that  
7    they looked at, at one time when this was being processed  
8    through Tiburon.

9               What I see right now in terms of the merits  
10   hearing is I don't feel bound by any of these alternatives  
11   in my recommendation to this Commission, so I'm no bound  
12   what Tiburon has bound itself to, I, being the County's  
13   consultant.  There's a proposal -- we are bound by the court  
14   order, as I understand it, we are bound for 43 lots, half-  
15   acre parcels, and whatever else that judgment says, but it  
16   doesn't bind us to a location.

17              But as a planner and taking the County's plans and  
18   policies into consideration and how you go about land  
19   development and land development review, we are bound by  
20   those things.  So, a recommendation that would come to you  
21   would be a recommendation from my stand point, and staff's  
22   stand point, of what we think would be best for the County  
23   and achieve the objective that the court has ordered and the  
24   Applicant is seeking.

25              That may or may not be anything you see up

1 here, it could be different.

2           So, I don't think anyone should view this as you  
3 have a choice to pick between what I just showed you today.  
4 The lower-density alternative, as I understand it, between  
5 the Applicant and Tiburon really binds -- binds everyone to  
6 that alternative. I think they've indicated that if this is  
7 approved by the County as submitted, I'm going to use that  
8 general terminology, it's not the exact terminology, and the  
9 Applicant rep is here, if I'm incorrect, they can correct me  
10 later.

11           The MOU says, really, thou shalt approve this; you  
12 will be able to do 32 units if you approve it as submitted.  
13 How's that a quick way of saying it? That's how that's  
14 coming to us.

15           So, it's not saying the County, or the County  
16 staff, or the Planning Submission or the Board can start  
17 playing around with that alternative, with putting 32 in  
18 motion, like one can with 43 in motion.

19           Is that understandable? I mean, I -- to everyone?

20           COMMISSIONER DICKENSON: Right, because of the  
21 Stipulated Judgment our alternative has to show 43 units, a  
22 minimum of 43 units.

23           MR. ROBERTO: It has to show 43 units and it has  
24 to show a minimum half-acre lots, those are the two  
25 criteria. There's some other criteria but --

1 COMMISSIONER DICKENSON: And some within the --  
2 MR. ROBERTO: And some within, that's the word  
3 some.  
4 COMMISSIONER DICKENSON: Just a follow up to  
5 something you mentioned, it wasn't clear to me why under the  
6 alternatives there was this remainder parcel, and why wasn't  
7 it just called a lot? Is there some significance to that?  
8 MR. ROBERTO: That's a question you're going to  
9 have to ask --  
10 COMMISSIONER DICKENSON: I mean, is the intent  
11 only one house? It kind of implied to me that the intent  
12 was --  
13 MR. ROBERTO: Here's what I -- here's what I --  
14 CHAIRPERSON LUBAMERSKY: Should we ask the  
15 Applicant that?  
16 MR. ROBERTO: There's a remainder -- you should  
17 ask the Applicant that question.  
18 COMMISSIONER DICKENSON: Okay.  
19 MR. ROBERTO: The remainder parcel seeks -- the  
20 remainder parcel is not subject to all the requirements of  
21 subdivision so in a sense the precise plan -- the master  
22 plan addresses the remainder parcel, the precise plan does  
23 not. And the subdivision map submitted for that 32-home  
24 alternative does not address the remainder parcel.  
25 If there's a remainder, I assume one can -- and

1 you approve a master plan with some kind of conditions or  
2 something on that remainder, none are being proposed in what  
3 came to you, and if that should stay as the approved project  
4 that everyone agreed to, then there would be some control  
5 over that remainder.

6 But I can't tell you that someone in the future  
7 couldn't come forward with some other idea for the  
8 remainder. They'd have to go through a whole process, they  
9 might require other zoning, but nothing is ever done in  
10 concrete in this world that we operate in planning-wise.

11 COMMISSIONER DICKENSON: So the intent -- I mean  
12 the master plan shows a driveway and a home location,  
13 basically, the same information that exists for the other  
14 lots, but the intent is that the use of that property, part  
15 of the property might not be a house?

16 MR. ROBERTO: Yeah, I missed -- why might it not?

17 COMMISSIONER DICKENSON: Okay, I'll ask the  
18 Applicant.

19 MR. ROBERTO: Okay.

20 COMMISSIONER DICKENSON: Thank you.

21 CHAIRPERSON LUBAMERSKY: Other general questions?  
22 Commissioner Holland?

23 COMMISSIONER HOLLAND: I had one question about  
24 follow up on your statement, John, about you coming up  
25 with an alternative, or your recommendation, which might

1 be a different configuration. That would be constrained,  
2 would it not, by what has been analyzed in the EIR or the  
3 environmental documents? And if you came up with something  
4 that introduced elements that haven't been analyzed, that  
5 would require going back into the CEQA process, would it  
6 not?

7 And does the Stipulated Judgment restrict going  
8 back to the CEQA process?

9 MR. ROBERTO: As I see this right now,  
10 Commissioner, is that we're making some judgments about  
11 things and I don't think you should think of a merits  
12 recommendation as an alternative. It's a recommendation on  
13 the proposed Application. Right? And attempting to achieve  
14 the intent of the court order.

15 What I'm telling you right now is I don't have  
16 anything in mind, I don't have a surprise alternative, I  
17 would have done something with this.

18 But what I'm telling you is that when you look at  
19 this there are mitigation recommendations in the EIR for the  
20 43-unit project. Those imply some movements of lots, so  
21 that's going to happen if one implements mitigation and one  
22 could suggest some ideas.

23 And I may not do this in a vacuum, I'll discuss  
24 this with the Applicant, I'll do some other kinds of  
25 things as we move toward merits hearings, okay.

1           And I'm apologizing right now because I forgot to  
2 turn off my cell and it's ringing in my pocket.

3           CHAIRPERSON LUBAMERSKY: In full disclosure.

4           MR. ROBERTO: Full disclosure. But it will be off  
5 right after I'm done speaking.

6           So when we go -- I think you're also making a true  
7 statement. But once the EIR is certified and we will not  
8 come to you for merits until the EIR is certified, the  
9 really question is the action that maybe I recommend, or the  
10 Planning Commission may recommend, or the Board may take,  
11 and it's really the action that we take, is it necessary to  
12 do a recirculation, is it necessary? And there's other  
13 parameters of the guidelines one looks to, to determine if  
14 that's necessary or not. That's kind of a general  
15 statement.

16           But the rule of thumb for moving to recirculation  
17 or preparing a subsequent EIR is a much higher level to do  
18 than we do here at the Draft level, to have to go in and do  
19 a recirculation or supplemental, or a subsequent EIR. Did  
20 that answer your question?

21           CHAIRPERSON LUBAMERSKY: Mr. Lai, do you have  
22 anything you wanted to color that with or --

23           MR. LAI: Yes. And, you know, it could be a  
24 recirculated or a subsequent, it could also be an  
25 amendment to the EIR, depending on what it is that we

1 ended up recommending to the Commission. So I want to just,  
2 you know, have -- keep our minds open and not, you know,  
3 prejudge or come to any conclusion about what might likely  
4 be needed for the environmental review to support the  
5 ultimate action that may be recommended to the Board of  
6 Supervisors.

7 COMMISSIONER HOLLAND: Okay. But my point was  
8 that there's nothing, is there, in the Stipulated Judgment  
9 that allows the environmental review to be short-circuited  
10 or abbreviated, we have to comply with it in its entirety  
11 regardless, or is there something in there that says, you  
12 know, you can ignore parts of it?

13 MR. ZALTSMAN: There could be. At this point  
14 there hasn't been. There could be an argument in the future  
15 about the time limits, that we've already exceeded by a  
16 significant amount of time the amount of the time that was  
17 in the original judgment. And that's been with the -- at  
18 least the tacit agreement of the Applicant. If that  
19 agreement essentially gets withdrawn, I can't really tell  
20 you how we'd react to that at that time or how we would work  
21 around it. But you're right in the sense that there's  
22 nothing in the Stipulated Judgment that short-circuits the  
23 CEQA process. It says we'll do a full scope EIR; it does  
24 not address the 15088.5 type situation where some new  
25 project design or something else comes in.

1           And I assume the first thing we would try and do  
2 is negotiate that with the Applicant, see if there's some  
3 better design everyone can agree on that -- and if it  
4 requires some sort of recirculation or addendum, or  
5 subsequent EIR, we'll deal with it.

6           Otherwise, it's something that we presumably, as  
7 proposed in the Judgment, have to seek instructions from the  
8 judge on.

9           CHAIRPERSON LUBAMERSKY: Thank you. Anything else  
10 of Mr. Roberto?

11          MR. ROBERTO: I just want to -- we can come back  
12 around this and I'm sure that there may be comments about  
13 this, as well, from the public.

14          CHAIRPERSON LUBAMERSKY: Well, we're just talking  
15 about the EIR data, though, not --

16          MR. ROBERTO: Right. One thing to keep in mind is  
17 that under the County-wide plan this is a parcel that can be  
18 developed. It's not an open space parcel or anything like  
19 that, so the County-wide plan says this parcel can be  
20 developed. The Stipulated Judgment says it shall be  
21 developed with 43 units.

22          But there's other wording in the Judgment that I'm  
23 sure I'll talk to County Counsel about, the Applicant will  
24 to talk to us about and what it means. And I don't want  
25 to get into that now, but the public may get into it



1 later. It's something, we're well aware of it.

2 Right now we're moving through the Draft  
3 Environmental Impact Report. So, what I'm trying to tell  
4 you is that certification of this EIR does not bind you or  
5 the Board to any of those alternatives or to the  
6 application, that's all I'm trying to make.

7 CHAIRPERSON LUBAMERSKY: Understood. Thank you  
8 very much.

9 Okay, does the representative from the Easton  
10 Point Development wish to speak first? And state your name  
11 clearly for the court reporter, particularly, into the  
12 microphone.

13 MR. HOCHSTRASSER: Thank you, Madam Chair, Members  
14 of the Planning Commission. My name is Scott Hochstrasser  
15 and I'm a planning consultant, I've been working on this  
16 project for several years.

17 I wanted to answer two questions that your  
18 Commission had, one about the remainder lot. That lot is  
19 intended to be used for a single-family residential home, as  
20 it is indicated in the application. There's no further  
21 thought at this time about subdividing that lot. One of the  
22 reasons it's left as a remainder is because we didn't want  
23 to do all the detailed engineering work that's necessary to  
24 prove that the house would work there from a precise  
25 development plan stand point. It would just be a lot

1 that would be developed at that precise level later on.

2 Secondly, I just wanted to say, in terms of the  
3 MOU that the Martha Company has with the Town of Tiburon,  
4 it's very specific that the Applicant, and the Town, and the  
5 County will work in good faith to come up with a 32-unit  
6 project alternative that's reasonable. So, there may very  
7 well be an alternative that has not been seen, yet.

8 That's all I have to say today. We're going to  
9 reserve our right for comment in writing and we'll prepare  
10 those and submit those on Friday. We're here to listen.  
11 Questions?

12 CHAIRPERSON LUBAMERSKY: We may have some more  
13 questions.

14 COMMISSIONER HOLLAND: Yeah, a question.

15 CHAIRPERSON LUBAMERSKY: Did you want to say  
16 something, Mr. Roberto, at this point?

17 MR. ROBERTO: You may be going to do this already,  
18 Commissioner. There was a letter received just a few  
19 minutes ago that requested an extension of the comment  
20 period on the Draft EIR, and the Applicant plays a major  
21 role in the timing.

22 And if, through the Chair, we can ask the  
23 Applicant how they feel about extending the comment period  
24 beyond the 29<sup>th</sup> of April, I think that would be  
25 appropriate.

1           CHAIRPERSON LUBAMERSKY: Mr. Lai, would you wish  
2 to ask the Applicant -- or is that your request, then?

3           MR. ROBERTO: That's my request.

4           CHAIRPERSON LUBAMERSKY: Have you seen the letter?

5           MR. LAI: I have not.

6           CHAIRPERSON LUBAMERSKY: Perhaps he should.

7           MR. LAI: Now, I've seen the letter.

8           CHAIRPERSON LUBAMERSKY: Okay, thank you.

9           Mr. Hochstrasser?

10          MR. HOCHSTRASSER: Well, let me just say three  
11 things. One, this project has been in a process for 38  
12 years. Too, you just heard from your legal counsel that  
13 they've exceeded the time limits both in the Stipulated  
14 Judgment and under the CEQA time limits for preparation of  
15 the EIR.

16          And then, finally, you have a 50-day review period  
17 on this EIR, and I think that's adequate time. It took me a  
18 while to read the 850 pages and I think we can all do that  
19 as a community effort. So the answer is no, we would not  
20 agree to extend the time.

21          CHAIRPERSON LUBAMERSKY: I see. Other questions  
22 for Mr. Hochstrasser? Commissioner Holland?

23          COMMISSIONER HOLLAND: Scott, you said a moment  
24 ago, in regard to the remainder parcel that there was no  
25 intention at this time; you used those words, to

1     subdivide it. But is it not true that the MOU with the Town  
2     of Tiburon says categorically that it will not be  
3     subdivided?

4             MR. HOCHSTRASSER: I think that is correct.

5             COMMISSIONER HOLLAND: Okay, thank you.

6             CHAIRPERSON LUBAMERSKY: Other questions? Okay,  
7     thank you very much. We may ask you back again.

8             MR. HOCHSTRASSER: Okay, thank you very much.

9             CHAIRPERSON LUBAMERSKY: Okay, everyone who wishes  
10    to speak should fill out one of these pink speaker cards.  
11    Members of the public will be allowed three minutes and  
12    representatives of organizations six minutes.

13            And with that -- and please speak clearly into the  
14    microphone for the court reporter.

15            The first name I have, from the Hill Haven  
16    Property Owners Association, is Paula Little. And after  
17    that will be Stephanie Regan, from Old Tiburon HOA.

18            MS. LITTLE: I'm allowed three minutes, you're  
19    saying?

20            CHAIRPERSON LUBAMERSKY: Six minutes as a  
21    representative of an organization.

22            MS. LITTLE: My name is Paula Little, P-a-u-l-a  
23    L-i-t-t-l-e.

24            I am representing the Hill Haven Property  
25    Owners Association today. There are four points that we

1 choose to address, specifically in our letter, representing  
2 the homeowners.

3 One is emergency access and egress; the second is  
4 post-construction traffic safety of Old Tiburon; three  
5 landslides; and four, cut and fill operations.

6 Under emergency access and egress we are very  
7 concerned about a possibility of a firestorm. As we know,  
8 what happened in the Oakland Hills and most recently in the  
9 Angel Island fire, the prevailing winds during the summer  
10 frequently come from the northeast. And as we know by the  
11 maps and where we're located, Hill Haven will have about 50  
12 percent -- over 50 percent of the homes from the Easton  
13 Point project that will be coming through the Hill Haven  
14 area. So, a great concern that we have would be the  
15 emergency vehicles as well as the vehicles of homeowners  
16 getting in and out.

17 It is proposed that several of the Easton Point  
18 houses will be built in locations that do not meet the  
19 minimum fire flow requirements. In any case, the Tiburon  
20 Fire and Police Department have indicated that its emergency  
21 vehicles may not be able to use the construction road  
22 because of the grade. It is a very steep grade and that is  
23 of major construction to us as well.

24 The DEIR does not provide sufficient  
25 information to judge traffic increments at other

1 locations. For example, there are different peak times for  
2 traffic that would make a very big difference. And an  
3 increase of 50 percent in a normal peak hour at Ridge  
4 Road/Vistazo West, an intersection with an increase -- a  
5 hundred percent increase in Vistazo to Ridge traffic in the  
6 peak hours in the afternoon.

7 And because the DEIR does not provide sufficient  
8 information to judge the traffic increments at other  
9 locations, and Hill, and the Laiford Cove, Old Tiburon  
10 neighborhoods, it is of great concern to us.

11 If any of you have ever tried to get in and out of  
12 Tiburon during -- after three o'clock, or any other time in  
13 the early mornings, it's virtually impossible as it is right  
14 now.

15 The post-construction traffic safety of Old  
16 Tiburon is also of tremendous concern to us. Construction  
17 traffic in itself, the analysis should be -- should include  
18 the impact of construction traffic after removal of the  
19 construction road and proposed mitigations to eliminate the  
20 safety impacts and reduce the other impacts.

21 The issue is that the safety -- the construction  
22 traffic will be 10 to 12 years, I think, of use, but who  
23 knows when those 10 to 12 years will actually be in place  
24 and how they -- and what would happen after that.

25 Road configuration and intersections, roads

3  
continued

1 throughout Old Tiburon, they are, as we all know, very  
2 windy, they are very narrow, they cannot be expanded. The  
3 vehicles very frequently have gone off the sides because  
4 they can't get around. Very often we have had to, many of  
5 us, I live on Ridge Road, have to back up when we're going  
6 up Diviso because to let another car pass. You can imagine  
7 what that's like with construction vehicles, as well.

4

8 Another great issue, of course, is the road use.  
9 Right now many of our homes up there, my home included, was  
10 built, actually, over 60 years ago, and most of the homes up  
11 there have to be remodeled. They have old wiring, old  
12 plumbing and everything else, or they're being torn down.

13 Our issue right now, there are usually 10 to 12  
14 vehicles connected with any one construction in the Hill  
15 Haven area, alone. So the idea of having additional  
16 vehicles will just impact us tremendously.

17 I realize that there will be a different use as  
18 far as where people will enter and exit during the  
19 construction, but we all know that people do not always  
20 follow the law. And that is of great concern for us.

5

21 In road use, there are no sidewalks, and few of  
22 the streets are lighted. Increased vehicular traffic is  
23 likely to increase the risk of life-threatening accidents  
24 with non-vehicular road use.

25 CHAIRPERSON LUBAMERSKY: You're coming up on

1 five and a half minutes.

2 MS. LITTLE: Pardon?

3 CHAIRPERSON LUBAMERSKY: You're coming up on five  
4 minutes.

5 MS. LITTLE: Oh, jeepers. Okay. The DEIR  
6 includes no analysis of these issues and suggestions for no  
7 effective mitigations.

8 On-road parking, as I said, is a huge problem of  
9 vehicles at present.

10 Landslides, it is our contention that from the  
11 perspective of our members Landslide 3 is a major active  
12 slide in the specific -- is of specific concern.

13 CHAIRPERSON LUBAMERSKY: You're at six minutes, if  
14 I could ask you to wrap it up.

15 MS. LITTLE: Okay. To wrap it up is just to say,  
16 basically, that we are of great concern, we are very close  
17 to the Easton Point project and safety, health is the major  
18 concern for all of us. Thank you.

19 CHAIRPERSON LUBAMERSKY: Thank you very much. And  
20 we won't be having any applause. I think I started to hear  
21 someone do that.

22 Okay, our next speaker will be Stephanie Regan  
23 from Old Tiburon HOA.

24 And after that I have three people who've said  
25 they're from the --



1 UNIDENTIFIED SPEAKER: (Inaudible)

2 CHAIRPERSON LUBAMERSKY: Oh. And does he have

3 a -- as an organization? Oh. Okay, could you speak into

4 the mike so that we call could understand what you're

5 asking?

6 Ms. Regan, if you'd like to defer your comments

7 until Mr. Cattell comes up as a private citizen, we can do

8 that. Is that your request?

9 MS. REGAN: That is my request. Because he will

10 set up what I'm going to show and it will make more sense.

11 CHAIRPERSON LUBAMERSKY: Okay.

12 MS. REGAN: Okay, my name is Stephanie Regan and I

13 live at 1876 Centro West, in Tiburon.

14 CHAIRPERSON LUBAMERSKY: Okay, so Stephanie Regan

15 will go with Rick Cattell, under public testimony, not as a

16 group.

17 MS. REGAN: Correct.

18 CHAIRPERSON LUBAMERSKY: Okay, great.

19 Now, we have the Last Chance Committee, we have

20 Jerry Riessen, Susan Brautovich, and Derek Parker have all

21 indicated they're with the Last Chance Committee. So, if

22 you all would like to either do three minutes each, or if

23 one of you wants to speak for the organization, if you could

24 briefly caucus, that would be great.

25 Who would like to speak for the organization?

1 And the other two I'll put under private individuals.

2 And state your name clearly, please?

3 MR. RIESSEN: Good morning, Madam Chair,  
4 Commissioners, my name is Jerry Riessen, and I'm with the  
5 Last Chance Committee, and I live at 1474 Vistazo West.

6 The Martha Project has gone on for many years, as  
7 has already been stated. And there's been lots of  
8 litigation, as everybody knows. But I do want to address,  
9 first of all, that Last Chance has been very active in the  
10 community as far as preserving open space and in this  
11 process protecting property rights of the owners.

12 We've raised over \$7.8 million to acquire the  
13 existing open space, called Old St. Hillary's Open Space.  
14 And we went through that very process that we're going  
15 through right now, where interested citizens expressed their  
16 concerns about the environmental impacts. Then there were  
17 appraisals and the property was purchased.

18 We're not trying to steal the property; we're  
19 trying to understand the environmental impacts on the  
20 property. And if anybody has walked on the property, they  
21 know the environmental impacts are substantial, and  
22 dramatic, and it's really hard to build on the property. If  
23 it weren't hard to build on the property, it would have been  
24 built on tens of years ago.

25 I appreciate this is a question that's not

1 going to be answered for me this morning, but I do want to  
2 note that the County and the Applicant have a settlement  
3 amongst them that talks about cost-sharing in the processing  
4 of this process, and I think the public has a right to  
5 understand where the cost sharing -- where that cost-sharing  
6 arrangement sits.

7           My understanding is over \$250,000 the County is  
8 obliged to pay half of any ongoing costs, and I would hope  
9 that that would not deter the County from doing the right  
10 thing in seeing the DEIR for what it truly is, and what  
11 state it's truly in.

12           In 2009, Tiburon made, members of the Tiburon  
13 Council made a good-faith effort to try to end the  
14 litigation and craft a solution for this project. I was not  
15 actively involved in that process, but did offer some  
16 suggestions and was very hopeful at that time that there was  
17 a way to come up with a solution that would meet everybody's  
18 concerns.

19           Those concerns generally are to substantially  
20 lessen building on the ridge. The County of Marin has a  
21 long-standing, very strong policy of not building on ridges,  
22 as done Tiburon.

23           The other concerns, certainly, were to lessen  
24 traffic through Old Tiburon and Hill Haven, and a great  
25 deal of concern about landslides.

1           In 2009, everybody that was involved in the  
2 process hoped that there was a way to come up with a  
3 solution that would mitigate safety issues and that we could  
4 go forward.

5           Sadly, we haven't made it. And if I had dragged  
6 my Draft EIR in with me this morning, you would have seen  
7 over a hundred flags, yellow, highlighted flags on the  
8 document, noting that health and safety issues have not been  
9 solved and that the project is still very much in need of  
10 work.

7  
11           One of the -- one of the concerns, obviously, is  
12 about landslides and I would hope that there can be a real  
13 effort to talk about mitigation of the landslides and  
14 ongoing maintenance of the landslides. I hope that that  
15 gets addressed, and who's going to pay for that, and how  
16 that will be done.

17           In other projects of similar magnitude the process  
18 has been a geologic hazard abatement district. That is  
19 critical here and that needs to be funded with real dollars  
20 so that the County, who currently owns this land, and  
21 Tiburon, who may someday own this land or control this land,  
22 is protected from obvious litigation and obvious safety  
23 problems.

24           I would note one thing in the 2007 Judgment it  
25 talks about a term that I've never heard of, I'm not the

1 lawyer in the room, nowhere close, but I'd never heard of it  
2 before and wondered what it meant, the term legally and  
3 feasible. Maybe somebody does know what that means, but  
4 from talking with our lawyer, the term legally and feasible  
5 means something that's not allowed by law.

6 That is not the case in this Judgment, this 2007  
7 Judgment, it's merely the County, who was under the threat  
8 of a massively expensive lawsuit, settled with the Applicant  
9 and, hence, the term -- from then on this term legally and  
10 feasible came forth. I don't see that it fits here.

11 Another thing that is flawed in the EIR --

12 CHAIRPERSON LUBAMERSKY: That's five and a half  
13 minutes.

14 MR. RIESSEN: Thank you. Another thing that was  
15 flawed in the EIR is the lack of consideration of  
16 alternatives. We are going to -- aspects of the project are  
17 substantially not defined and not evaluated, we'll highlight  
18 that in our comment letters.

19 There still is a ten-year construction road that  
20 is clearly unsafe for the Tiburon Fire Department. Slides  
21 still remain unprotected and that's for property owners off-  
22 site.

23 CHAIRPERSON LUBAMERSKY: That's six minutes, if  
24 you could please wrap up?

25 MR. RIESSEN: And I will, thank you, Chair.

1 And there's certainly construction road safety through Old  
2 Tiburon.

3 I believe there is a better solution, I'm  
4 encouraged by the statements that were made this morning and  
5 I hope that everybody will help work to find a much better  
6 solution. Thank you.

7 CHAIRPERSON LUBAMERSKY: Thank you very much.

8 Okay, next, we'll have Nona Dennis, from Marin  
9 Conservation League, followed by Barbara Saltzman from Marin  
10 Audubon.

11 UNIDENTIFIED SPEAKER: We have two more members  
12 from the Last Change Committee.

13 CHAIRPERSON LUBAMERSKY: Oh, I was going to put  
14 you in with members of the public, as three minutes. Thank  
15 you. We do the organizations first, that's how we do it.

16 MS. DENNIS: Thank you, Madam Chairman, I am Nona  
17 Dennis, I live at 69 Marlin, Mill Valley, and I'm  
18 representing the Marin Conservation League.

19 We will be submitting a letter with more detailed  
20 comments, but I would like to comment on three -- three  
21 major points, general points, and then follow up later with  
22 a letter.

23 The first has to do with the size of residences.  
24 Mr. Roberto did say that the Stipulated Judgment says  
25 nothing about size of residences. It lays out the

1 parameters for the minimum size of lots, for the size of the  
2 open space area that will be dedicated to be -- dedicated,  
3 and the number of dwellings, it says nothing about size.

4 If one can go back into 1976, you would find that  
5 probably the largest house that would be even considered at  
6 that time would have been 5,000 square feet, and that would  
7 be a maximum.

8 If you look at the size of houses in the immediate  
9 neighborhood, you find them ranging from 2,000 on up,  
10 perhaps one at 7,500, probably a very recent -- a recent  
11 residence.

12 It is possible, as Mr. Roberto said, to, if I can  
13 quote, "play around with the size of houses," thank you,  
14 John.

15 CHAIRPERSON LUBAMERSKY: Technical planning can.

16 MS. DENNIS: What the EIR needs to do is to  
17 justify. It has laid out the parameters in every other  
18 respect, but not the size. So, the EIR needs to present a  
19 rationalization for why it is that we are stuck with a  
20 1976 -- 1976 presumptions on the number of residences, and  
21 the size of the acreage of the lots, but not the size of a  
22 house. Clearly, no matter how certified these houses might  
23 be, and the solar, and what have you, they are clearly going  
24 to have a much greater impact on this very, very  
25 constrained site than smaller houses would have.

1           The EIR really needs to justify the extraordinary  
2 size of the houses.

3           The second really relates to what is called  
4 temporary in the EIR, and that's typical. Temporary is the  
5 construction phase, which could go on for ten years. We  
6 don't know how long it will go on.

10

7           The EIR is quite specific on controls during the  
8 two phases of the actual establishing of infrastructure and  
9 so forth, but it becomes really very, very fuzzy to  
10 determine who is going to take responsibility during  
11 subsequent construction phases, in fact throughout. And  
12 while these responsibilities and liabilities seem to be  
13 shared among the Applicant, the individual lot owners, the  
14 County, and the Town of Tiburon, and it is not clear  
15 throughout the EIR. Particularly, I can give one -- one  
16 example, which doesn't even show up in the mitigation  
17 measures, and that is that there will be a disturbance  
18 coordinator designated by the property owners association  
19 during -- and this will go on until full build-out, which is  
20 not defined, we don't know how long that build-out will be.  
21 But that will be, of course, codified in the CCRs,  
22 responsibility for the property owners to designate a  
23 disturbance coordinator to receive and act on complaints,  
24 determine cause and remedial action, to post the name on  
25 the construction site and so forth.



1 I cannot believe that this is a clear definition  
2 of responsibility, let alone liability for what could go on  
3 for ten, or even longer, 20 years, as this -- as this  
4 project is gradually implemented.

5 It also -- another example would be the treatment  
6 of slope stability and artificial fill areas, in which the  
7 responsibility then becomes that of the individual lot  
8 owner, and who knows at that point if each residence is  
9 going to have a different design review, perhaps there will  
10 be some check here. But if it is left to each individual  
11 lot owner to protect the remainder of the site, let alone  
12 off-site properties, then there is clearly a lack of  
13 clarification as to how is responsible.

14 The third point, which we'll go into in more  
15 detail in a letter, has to do with the removal of 742 trees  
16 in the woodland.

17 We agree with the Department of Fish and Game that  
18 the mitigation measures are clearly, clearly insufficient,  
19 that to say that you're going to preserve at a ratio of 3-  
20 to-1 and 4-to-1 the loss of trees is sophistry. And I use  
21 that word, Aristotle defined it as "the appearance of  
22 wisdom," not necessarily, "but fallacious in arguments."

23 Okay.

24 CHAIRPERSON LUBAMERSKY: So noted.

25 MS. DENNIS: Okay, that is -- that concludes my

1 comments for now. We have other, further comments. We have  
2 not had a chance to really look at the -- look at the  
3 alternatives to see which one really is the environmentally  
4 superior one. We think none of the alternatives are  
5 environmentally superior. But that concludes my comments.

6 CHAIRPERSON LUBAMERSKY: Thank you, Ms. Dennis.

7 Then we have Barbara Saltzman from Marin Audubon  
8 and after that I'll hear the -- Stephanie Regan and Mr.  
9 Cattell can move -- be next.

10 MS. SALTZMAN: Hi, my name is Barbara Saltzman;  
11 I'm representing the Marin Audubon Society.

12 I'm going to focus our comments on the biological  
13 impact, although I think Nona raised some really good  
14 points.

15 First, I'd like to say that I'd like to see a good  
12 16 figure in the EIR about where these resources are. This  
17 is -- now, I have to admit that I have a hard time getting  
18 through these things on a disk, a CD. I'm used to looking  
19 at a hard copy, and I couldn't get one. But this is the  
20 only one I found and I don't know if this is quite accurate  
21 or if this is just related to -- it would be nice to be able  
22 to do your own evaluation by looking at a figure that shows  
23 where the resources are, and then being able to -- actually,  
24 an overlay would be better. You've heard me ask for that  
25 before, and so that you could see and compare the

1 different alternatives in terms of the biological resources.

2 So, okay, with regard to the Red-legged Frog, it's  
3 unclear whether there's been a consultation with Fish and  
4 Wildlife Service initiated and, certainly, you're going to  
5 need to do that. And it would be beneficial, after this  
6 project's been around for 30 years, if it had already been  
7 done, but we would recommend that it be done before any  
8 project is approved.

9 The mitigation -- one of the -- well, the first  
10 one is avoidance, which is a good mitigation, that's what  
11 CEQA requires as far as we understand, they can start with  
12 avoidance.

13 But subsequent to that there is allowance, if  
14 that's not feasible, to make up the difference by purchasing  
15 a --

16 CHAIRPERSON LUBAMERSKY: Yeah, habitat.

17 MS. SALTZMAN: -- Yeah, Red-legged Frog habitat  
18 elsewhere. Well, you know, that's not going to help the  
19 Red-legged Frog that are in the neighborhood, on the Keil  
20 property. So how that would be considered effective and  
21 feasible mitigation is beyond me. That would be something  
22 you would have to address. And we question, really, whether  
23 that would be an effective mitigation, maybe it should be  
24 taken out.

25 There's a management plan proposed for the Red-

1 legged Frog. There's actually management plans -- I don't  
2 know if it would be many or one management plan for all of  
3 these resources. They should be prepared ahead of time so  
4 you know whether it's going to be effective, whether it's  
5 going to be workable. So, that would be for the Red-legged  
6 Frog, for the Serpentine Bunch Grass it's the same thing.

14

7 Now, for the second alternative for the Serpentine  
8 Bunch Grass is for the homeowner association to retain  
9 ownership. The first one is avoidance, and that's good.  
10 But in many locations throughout the -- at least the  
11 biological chapter, there's reference and discussion, which  
12 we agree with, about the ineffectiveness of homeowners  
13 managing these kinds of resources. We have several  
14 experiences, ourselves, in property we own, and other  
15 property nearby where -- I mean, you have to go sue the --  
16 sue your fellow homeowners, and people don't want to go do  
17 that for many, many reasons. So, we don't think that's an  
18 effective mitigation and we don't think it should be in the  
19 document.

15

20 Coast Live Oak; certainly agree with Marin  
21 Conservation League. It talks about the importance of the  
22 oaks and then, amazingly, and that they're, you know, a 3-  
23 to-1, and 2-to-1, and 5-to-1 mitigation. And then,  
24 amazingly, it goes on to say, well, you can just approve  
25 what's on site or protect what's on site.

1 Well, that would lead to a significant loss of  
2 that resources and that's not an appropriate or effective  
3 mitigation.

4 Again, they're asking for a fuel-management plan  
5 and a protection plan for wetlands, and they should all be  
6 prepared ahead of time.

7 Finally, with regard to the alternatives, it's  
8 unclear whether why Alternative 4 isn't the preferred  
9 environmental -- environmentally preferred alternative. It  
10 seems to me it provides 43 units, and it seems to avoid --  
11 maybe I missed something, but it seems to avoid most all of  
12 the impacts better than the 32-unit. So, we'd like to see  
13 an explanation for that.

14 We'd actually like to see the environmentally  
15 preferred alternative to be Alternative 4, at least from a  
16 biological point of view. And we'll be submitting a letter,  
17 also addressing other concerns before -- or on the 29<sup>th</sup>.

18 CHAIRPERSON LUBAMERSKY: Thank you, Ms. Saltzman.

19 Okay, next we have Stephanie Regan and Rick  
20 Cattell, C-a-t-t-e-l-l.

21 MR. CATTELL: I'm Rick Cattell; I live at 8  
22 Raccoon Lane, in Tiburon. And as Stephanie mentioned, she's  
23 going to continue with some points that I'm going to begin  
24 with my presentation.

25 I also have a website called Eastonpoint.org.

1 If it's possible to get -- oh, good. Well, that will work.  
2 Oh, you haven't got the website, though; you've just got one  
3 picture. But this is the first picture you'll find on your  
4 handout, so we can start with this.

5 So, my point today is about road safety in Old  
6 Tiburon. For those of you on the audience, you can find  
7 this at home on Eastonpoint.org.

8 On the first page here you can -- I've drawn the  
9 long, narrow and circuitous route that traffic has to follow  
10 to get in and out of the 15 or 30 lots that are at the top  
11 of the ridge, at the top of the property.

12 As an earlier speaker mentioned, this would double  
13 the traffic at the top of Diviso. I have not shown the  
14 temporary construction road in this diagram here because I'm  
15 concerned about the long-term traffic impact. But, of  
16 course, I believe many of the construction workers will go  
17 up and down these streets, even though the large  
18 construction vehicles may use the temporary construction  
19 road.

20 Diviso is the only way in and out of this area.  
21 It's a narrow, steep street. It will be very difficult for  
22 fire vehicles to get in and out, let alone regular traffic.  
23 And it comes down to Centro East or Centro West. I believe  
24 a lot of the traffic will go down Centro West to get out  
25 of town.

1           In the later pages in my handout, in the later  
2 pages on the website there are photographs of various parts  
3 of Diviso and Centro West as you come down, and you can see  
4 that most of that is one lane, very narrow, little, limited  
5 sight distance.

6           I've personally witnessed three near misses at the  
7 corner of Raccoon Lane and Centro West as people come up the  
8 hill from the ferry, crossing Centro West, because people  
9 come racing down the hill. It's a long way down and I can  
10 see why they get to be in a hurry, but they don't see people  
11 crossing the street there.

12           My wife has actually been hit by a car while she  
13 was getting mail out of our mailbox.

14           So, my concern is the Draft EIR does not  
15 adequately address this. The only mitigation suggested is  
16 to put up no parking signs on these streets. There are  
17 already no parking signs on these streets and labeled on the  
18 street, itself. The neighbors, in general, do respect the  
19 no parking areas. You occasionally get visitors that park  
20 where they're not supposed to. There just isn't enough room  
21 and disallowing all parking would not -- would just be an  
22 excessive burden for anyone trying to live, or build, or  
23 remodel on the streets.

24           My conclusion, and I'm a software engineer, not  
25 a civil engineer, is that the only solution is another

1 road down or fewer houses up on the hill. And on my website  
2 I did suggest one alternative, without knowing whether it's  
3 practical engineering-wise, to extend the road that goes  
4 through lots 21 through 24 of the -- of the 43-lot plan, or  
5 I think it's lots 15 through 17 of the 32-lot plan, that  
6 have that continue up to Ridge Road, and it gives a shorter  
7 path out and a permanent path out of the upper Ridge Road  
8 area. So, that's my point.

9 I don't know if that's even practical, building  
10 another road. Certainly, this 32-lot plan would be better  
11 with respect to traffic safety.

12 If there's time, I could put up the pictures on  
13 the website so everyone could see them.

14 CHAIRPERSON LUBAMERSKY: Sure.

15 MR. CATTELL: Can we do that? Do we have internet  
16 access here? Can we get Eastonpoint.org up there?

17 MR. LAI: We'll see how long the cord is. I mean,  
18 I don't think we usually do that.

19 MR. CATTELL: Okay. All right. Well, I guess you  
20 can't put up the pictures.

21 And, Stephanie, will --

22 CHAIRPERSON LUBAMERSKY: Could you speak into the  
23 mike, please?

24 MR. CATTELL: I'm going to see if I can get  
25 these -- oh, hold on a sec.



1                   CHAIRPERSON LUBAMERSKY: Did Ms. Regan want to  
2 testify?  
3                   MR. CATTELL: Can we get a map, can we go --  
4                   CHAIRPERSON LUBAMERSKY: Talk into the mike,  
5 please.  
6                   MR. CATTELL: Did my folder get on here? It was  
7 called --  
8                   MR. LAI: You had a number of slides on there, I  
9 went up one level.  
10                  MR. CATTELL: Okay. Okay, yeah, show me the other  
11 slides, maybe.  
12                  CHAIRPERSON LUBAMERSKY: Easton Point?  
13                  MR. CATTELL: Yes, Easton Point. Nope, not that  
14 one.  
15                  CHAIRPERSON LUBAMERSKY: Do we want to -- perhaps  
16 you guys can work on that and we can hear other testimony?  
17                  MR. CATTELL: All right. Yeah, right, that's  
18 great, and if Stephanie can go ahead of time? In fact, she  
19 has additional photos.  
20                  But my point is it would be good for you folks to  
21 actually go up and see this road and --  
22                  CHAIRPERSON LUBAMERSKY: I believe we've all  
23 toured the site.  
24                  MR. CATTELL: Yes, it's very narrow.  
25                  CHAIRPERSON LUBAMERSKY: Right, we have.

1 MR. CATTELL: Great, thank you.

2 CHAIRPERSON LUBAMERSKY: Okay. Ms. Regan, do you

3 wish to testify now?

4 MS. REGAN: I do. Is it all right to do it from

5 here so I can point to the roads as we're doing this?

6 CHAIRPERSON LUBAMERSKY: Sure.

7 MR. LAI: The problem is, can you tell me which

8 file it is that all your slides are in?

9 MS. REGAN: It should be in the Easton --

10 MR. LAI: It's downloaded to --

11 MS. REGAN: So, the one that we were just in, you

12 had all the IMGs.

13 MR. LAI: Well, I've lost it when he was told to

14 go up one level and --

15 MS. REGAN: Thank you for trying.

16 MR. LAI: What's the name of all the folders?

17 MS. REGAN: Easton Point.

18 CHAIRPERSON LUBAMERSKY: Would you guys like to

19 work on this and I'll hear other public testimony? Would

20 that be okay, Mr. Lai?

21 MS. REGAN: Sure.

22 CHAIRPERSON LUBAMERSKY: Okay. In that case, I'd

23 like to call Derek Parker, please, who will be followed by

24 Susan Brautovich.

25 MR. PARKER: Good morning. I'm Derek Parker; I

1 live with my wife, Nancy, on the Spanish Trail, in Tiburon.  
2 We've read the Draft EIR and have sent in a six-page letter  
3 to the Commission on our comments on that.

4 We fully appreciate the rights of property owners  
5 to develop their property, as long as other people's rights  
6 are also protected.

7 The project is large, our community is small, and  
8 the impacts are real, and large, and substantially not  
9 mitigated.

10 It's also a very risky project for the developer  
11 in that a lot of money has to be spent on developing the  
12 infrastructure before there's any offsetting revenue from  
13 sales. Now, we all know that this would not be the first  
14 project that remains incomplete because of changes in  
15 financial and real estate markets.

16 And if that happens, we will have an unmitigated  
17 environmental disaster replete with health and safety  
18 issues. So it seems only prudent for the County to insist  
19 on a performance bond so that, at best, we might end up with  
20 a mitigated disaster. And that would be a recommendation  
21 that I've made in the letter to the -- in response to the  
22 Draft EIR, and that's not mentioned anywhere in the EIR that  
23 I could find. Thank you.

24 CHAIRPERSON LUBAMERSKY: But that was in your  
25 letter, you indicated?

1 MR. PARKER: Yes.

2 CHAIRPERSON LUBAMERSKY: Thank you very much.

3 COMMISSIONER HOLLAND: Did we get his letter?

4 CHAIRPERSON LUBAMERSKY: Excuse me, Mr. Parker, to  
5 whom did you send your letter? We're looking to track down  
6 your letter.

7 MR. PARKER: It was sent on Saturday. I felt it  
8 would be delivered today, which I understand the deadline is  
9 the 29<sup>th</sup>.

10 CHAIRPERSON LUBAMERSKY: No, the EIR consultant  
11 will get it and we'll see it eventually.

12 MR. PARKER: Thank you.

13 CHAIRPERSON LUBAMERSKY: Thank you. Thank you,  
14 Mr. Holland -- Commissioner Holland.

15 How are we doing on the -- still working? Okay,  
16 then I'll call the next speaker.

17 Susan Brautovich, please?

18 MS. BRAUTOVICH: Thank you. My name is Susan  
19 Brautovich; I live at 1819 Mar West, in Tiburon. And I have  
20 lived in Marin for 15 years, but I grew up in the Silicon  
21 Valley, which some of you may know when I was growing up was  
22 called the fruit basket of the nation. It's a little hard  
23 to believe, now, but I come from a place that changed  
24 unimaginably in one generation.

25 And one of the reasons I live in Marin and want

1 to stay here is because of the quality of life defined by  
2 low growth, the amount of open space and the value on those  
3 things.

4 So, however, I know that you're concerned here in  
5 certifying this document is around health and safety, so  
6 I'll confine my comments to that.

19

7 In looking through the DEIR, what I feel the most  
8 blatant areas that are inadequately addressed are around  
9 health and safety, particularly around traffic. Our number  
10 one, the construction road, the temporary construction road,  
11 and it's the retaining walls called out for fortifying the  
12 construction road, the 25 percent grade, and the other items  
13 like the guard rails and barriers that are going to be  
14 required, along with the amount of traffic that the  
15 construction road is going to bring.

16 Now, the traffic issue, to me, is very much a  
17 health and safety issue. I think that's not in dispute.  
18 The fact is that we'll get a lot more traffic. And somebody  
19 else mentioned that the traffic on Tiburon Boulevard of  
20 course is going to be affected.

21 Anyone who's tried to get in and out of Tiburon,  
22 on Tiburon Boulevard at school in and out times knows this  
23 very well. And, of course, it's going to get a lot worse.

20

24 But also, in terms of pedestrian and cyclist  
25 safety, I don't think anything in the EIR that requires

1 mitigation measures, such as cleaning up the roads, taking  
2 care of the degradation of the road that's going to be  
3 caused, obviously, by the increase in heavy trucks and its  
4 construction equipment, as well as what's been mentioned  
5 earlier about the fact that there is going to be a lot of  
6 construction siting. So, dumpsters, trailers, things that  
7 need to be left along the road that are going to decrease  
8 the amount of room cars already have, currently have to  
9 maneuver on Diviso, Vistazo West, Ridge Road. And I walk  
10 those streets all the time so I'm very well aware of how  
11 dangerous that is.

12 That and the fact that we're going to need -- this  
13 project would require a lot of one-way traffic control by  
14 flagmen, and I can tell you from firsthand experience that I  
15 found out the hard way, when a traffic accident is caused by  
16 a flagman's direction, the only person not at fault is the  
17 flagman, which is understandable because we'd never get  
18 anyone to be a flagman. But the two people in a car  
19 accident, caused by the direction of a flagman, are held  
20 solely responsible.

21 So, we're setting up more danger, more expense,  
22 and more difficulty than I think we really understand.

23 Oh, and I also want to mention our -- the Last  
24 Chance Committee has a new website called  
25 Tiburonopenspace.org, at which you can visit for

1 photographs, for direction in terms of our membership drive,  
2 and our current measures to work on this issue. Thank you.

3 CHAIRPERSON LUBAMERSKY: Thank you very much.

4 Ms. Regan, are we ready?

5 Thank you, Mr. Lai, for helping out with the  
6 technology.

7 MS. REGAN: So, I'm going to take you on a ride  
8 through -- this is on, now? Click it again. On a ride  
9 through Old Tiburon and Hill Haven, so you understand what  
10 it's like on these streets. This is a, obviously, cement  
11 truck that backed off as far as it could, there's a flagman  
12 here, and this car can barely make it through with a very  
13 steep drop off on this driveway.

14 Next, please? These roads are only about a lane  
15 and a half wide and they call it Old Tiburon because this is  
16 where the cattle used to walk and then they put a road in  
17 behind it.

18 Mountain View is at the top, coming off of Easton  
19 properties, and will be one of the roads that's being used.

20 So, if we can go to the next slide? As you look  
21 back you can see there are some cars on either side of the  
22 road, that when you put cars on both sides of the road,  
23 including anything construction trucks, for people having  
24 work done on their homes, it's almost impossible to pass.

25 And when you start bringing great big trucks

1 and heavy construction vehicles down here, it becomes  
2 another issue. Then the question I have, where are the  
3 construction people going to park? Are they going to park  
4 on these roads or are they going to be bussed up from  
5 downtown Tiburon?

6           Next, please? Again, looking back at one of the  
7 Hill Haven streets you can see that they would be fine  
8 without the cars, but it's very hard to navigate them. And  
9 as you start thinking about health issues, with the  
10 Serpentine Rock, and I know some measures to mitigate it  
11 have been discussed, these trucks, and I hear there are  
12 going to be at least a thousand over a period of time, will  
13 be close to homes on these streets.

14           If we can go forward, and as you go down Tiburon  
15 Boulevard, and I'll discuss that in a minute, this is the  
16 top of Diviso, it is only a two-lane road, you can see  
17 there's very little parking because it's so narrow, and it's  
18 steep. And down at the bottom is where this intersection  
19 comes in, next slide, where five streets converge.

20           So, this is Diviso from the top, here on the right  
21 is Centro West. There's another road on the other side of  
22 this ceramic device. There is Reserva Lane over here and  
23 there is Centro East over here.

24           Currently, what people do when they come down  
25 Diviso, and they want to go to Centro West, is they go



1 way out into this intersection, make a huge circle and come  
2 back. So, this is a very, very dangerous intersection.  
3 Trucks can't go down here, but construction workers can, and  
4 that's going to put a tremendous load on Centro West which  
5 is, again, very narrow.

6 Paradise Drive, a lot of traffic's going to be on  
7 Paradise Drive. This is one of our bicyclists, they love us  
8 on weekends, and I understand construction can go on, on  
9 Saturdays, which poses a problem.

10 Paradise Drive has been wiped out before. This is  
11 going down to where the Caprice is; you can see how narrow  
12 it is in here. And we only have two roads in and out of  
13 Tiburon, Tiburon Boulevard and Paradise. They both can be  
14 blocked very easily.

15 Next slide and this is coming up Paradise, just  
16 having passed the Caprice. You can see a parked car's  
17 blocking one side, and we go to the next slide. So, there  
18 are a lot of traffic problems just on the size of the  
19 streets and the narrowness of them.

20 So, at least they put this sign up, where Diviso  
21 comes into the four other roads, but it's impossible to  
22 manage. This would be Diviso, this is Centro West, we have  
23 to go in a great big circle, come back, if there's any  
24 ongoing traffic you have to stop. This is a side road  
25 and it just tells you, and we can turn this off now, how

1 dangerous it is.

2           One of the things to consider, too, on health  
3 issues are these trucks carrying all this Serpentine Rock,  
4 which a precursor of asbestos, going down Tiburon Boulevard,  
5 past three schools. Two of them have very, very large  
6 playgrounds, including McKegney, Green, and we have the  
7 Multi-Purpose Path, which to me says a lot of people over a  
8 period of time can be exposed to potentially hazardous  
9 material. Thank you very much.

10           CHAIRPERSON LUBAMERSKY: Thank you. Our next  
11 speaker will be Russ Keil, followed by James Campbell.

12           MR. KEIL: Good morning, Commissioners. My name  
13 is Russ Keil; I reside at 2600 Paradise Drive.

14           I'd like to talk just for a moment about water.  
15 Water is perhaps the key element in the development of this  
16 very difficult site. The Draft EIR proposes mitigations to  
17 deal with water on this site.

18           The first issue it addresses is mitigating  
19 landslides by removing groundwater.

20           The second that it addresses is dealing with  
21 surface water and storm runoff and their impacts on the Red-  
22 legged Frog.

23           The third is the implications of this project on  
24 the historic spring, which has provided the water source  
25 for the preserved Keil Cove Gardens which, as you know,

1 are held under a conservation easement.

2 All three of these mitigations call for or require  
3 the cooperation of the Keil Family. Without the cooperation  
4 of the Keil Family there is no mitigation. There is no  
5 cooperation.

6 I'd like to read a line to you from a letter that  
7 we wrote in comment to a Draft EIR that was presented in  
8 2001, and the paragraph concluded with this line; "The Keil  
9 Family will vigorously oppose any development which will  
10 result in the elimination or reduction in the flow of the  
11 lands of Keil Spring or adversely affect water quality to  
12 the Keil Pond."

13 So I ask in your comments, joining with me, that  
14 we ask the EIR, in draft form, to address new and  
15 appropriate mitigations that do not require the cooperation  
16 of the Keil Family. Thank you.

17 CHAIRPERSON LUBAMERSKY: A question for Mr. Keil  
18 from Commissioner Holland.

19 COMMISSIONER HOLLAND: Mr. Keil, do you have pre-  
20 1914 rights to that water?

21 MR. KEIL: Yes, we do.

22 COMMISSIONER HOLLAND: Thank you very much.

23 CHAIRPERSON LUBAMERSKY: Any other questions?

24 Thank you.

25 MR. KEIL: Thank you.

1                   CHAIRPERSON LUBAMERSKY:   Okay.   Now, we'll have  
2   James Campbell followed by John Goodhart.

3                   MR. CAMPBELL:   Good morning, still.   James  
4   Campbell, 11 Toyon Avenue, Belvedere, California.

5                   At least three times a week I ride my bike on  
6   Paradise Drive, doing the Tiburon Loop, along with hundreds  
7   of other bike riders, and I've had some major concerns.  
8   Ever since I've heard about this project I've been watching  
9   how much distance we have between large construction  
10  vehicles and trucks and the cyclists who are forced to be on  
11  the roadway, as well, because there are no bike paths and  
12  often no shoulder.   It's very close.   I, myself, have had my  
13  helmet tapped by a rearview mirror one time.   And then more  
14  recently I was about a half an hour away from a big truck  
15  that came down and crossed the bike path in Tiburon, coming  
16  down a normally graded road, and ended up in the Bay.   And  
17  I'm wondering what's going to happen when you have a lot of  
18  construction vehicles coming down a 25 percent grade road  
19  over ten years and what safety measures they're going to put  
20  in place to keep those trucks from losing brakes, or  
21  control, and flying across Paradise Drive, as well.

22                   So, mostly, I'm just concerned about the safety of  
23  all the cyclists, myself, and all the other people I see who  
24  use Paradise ride -- Road to ride, with no shoulders and  
25  no bike lane, and what's going to happen with all these

1 large trucks driving past all the time. Thank you.

2 CHAIRPERSON LUBAMERSKY: Thank you, Mr. Campbell.

3 Now, we're going to have John Goodhart and I'd  
4 like to ask the Commission about this, we're coming onto  
5 12:00, after Mr. Goodhart we have one, two, three, four,  
6 five members of the public testifying at three minutes each.  
7 Are there any other members of the public who are going to  
8 be testifying?

9 Then should we just continue into lunch? Okay,  
10 very well.

11 Okay, after John Goodhart we have John Arvison, on  
12 Centro East. I may have mispronounced your name.

13 MR. GOODHART: I'm John Goodhart; I live at 280  
14 Loma, in Tiburon. I was going to begin my speech discussing  
15 the 2007 Judgment, but I've heard it stated many times today  
16 that it's required that the county approve a 43-lot plan,  
17 and that's simply not true.

18 The 2007 Judgment, itself, says "legal and  
19 feasibility of any alternative or mitigation measure  
20 inconsistent with the 1976 judgment." That's paragraph 4.b.

21 And it says, basically, that the County has  
22 acknowledged that any development and alternative, or any  
23 proposed mitigation measure which does not accord Martha all  
24 rights, which it is entitled to under the '76 judgment,  
25 is legally and feasible unless required to assure health

1 or safety. So, that's a very important distinction that  
2 we're not limited to a 43-lot plan.

3 I'll start with right here, the summary of the  
4 findings of the DEIR states that one of the appellant's  
5 objectives is to develop residential development consistent  
6 with the judgment pursuant to stipulation of the U.S.  
7 District Court, so this is the 2007 Judgment.

8 And their stated goal is to make a development  
9 consistent with the 2007 judgment. The 2007 judgment  
10 states -- okay, that's all right, I'll just turn it around.  
11 I apologize for the mess.

12 But, basically, it's a very simple statement, the  
13 2007 judgment states that the --

14 CHAIRPERSON LUBAMERSKY: Can you tell us what page  
15 that's on, just so we can --

16 MR. GOODHART: Page 2, the very last line of page  
17 2.

18 CHAIRPERSON LUBAMERSKY: Okay, thank you.

19 MR. GOODHART: Going on to page 3 of the 2007  
20 judgment. "These lots are intended to be placed on  
21 geologically safe portions of the site, without the  
22 necessity of extensive landslide repair." That's the key  
23 clause right there, "without the necessity for extensive  
24 landslide repair rather than in the path of known  
25 landslides."

1           Okay. It's falling apart, but the point is that  
2 it's requiring that it be built on portions of land without  
3 extensive repair, in the path of known landslides. And then  
4 the DEIR, itself, has the summary on page 338 and continuing  
5 on, of 342 and continuing on. Landslide 3. "Landslide 3 is  
6 a large landslide complex on the south facing slope, along  
7 the south boundary of the site."

8           And then it talks about the lots that are  
9 affected. The lots that are affected are lot 6, 16, 17, 18,  
10 19 parcel A.

11           The upper portions of the slide will be repaired  
12 with the use of retaining structures, with subdivisions --  
13 with sub drains and/or grading. Grading would involve  
14 removal and recompaction of the unstable materials, and they  
15 estimate 24,593 cubic yards.

16           And then we go on to landslide 11.

17           CHAIRPERSON LUBAMERSKY: And you're over your  
18 three minutes, but I'll give a --

19           MR. GOODHART: Okay, landslide 11, I can conclude.  
20 Landslide 11 is a mega-slide complex that covers much of the  
21 project site and many of the lots are affected.

22           So, in summary, they are ignoring their stated  
23 objective and they failed to meet an objective analysis of  
24 mitigating this damage. Thank you very much.

25           CHAIRPERSON LUBAMERSKY: Thank you very much.

1                   Okay, now we have John Arvesen and Robert --  
2 followed by Robert Hart. You can just take a minute while  
3 they're getting themselves organized.

4                   MR. ARVESEN: Okay, my name is John Arvesen; I  
5 live at 2077 Centro East. As mentioned before, I'm  
6 concerned with the safety both from a human life stand  
7 point, and from a wildfire stand point of the construction  
8 road. As mentioned before, several weeks ago, a heavy truck  
9 lost his brakes on Gilmartin, which is a considerably less  
10 sloped road than a construction road, jumped Tiburon  
11 Boulevard, jumped the biking path, ended up about 50 feet  
12 into the Bay.

13                   Thankfully, no human was injured in this, nobody  
14 was killed this time.

15                   The 25 percent slope is going to create a -- it's  
16 a half-mile long construction road and it's done through  
17 forest right now that I hike, and run almost weekly. If  
18 anybody would like to see what a 25 percent grade looks  
19 like, they should go up that -- take that hike up there.

20                   I'm concerned about the possibility of wildfires  
21 that would be a complete disaster to the entire east slope  
22 of that peninsula, of Tiburon Peninsula. The construction  
23 of that road, plus the possibility that any truck hitting a  
24 barrier, a crash barrier would cause a fire in that area  
25 would be a disaster to the eastern Tiburon Ridge.



1           Let alone the houses that are along Paradise and  
2 Spanish Trail.

24

3           I would like to see something in the EIR that  
4 addressed the possibility of a major wildfire in that area  
5 caused by the construction and/or the runaway of a  
6 construction vehicle.

7           So, that's really my primary points.

8           CHAIRPERSON LUBAMERSKY: Thank you very much.

9           Next, we have Robert Hart, followed by Maureen  
10 Meikle.

11           MR. HART: Madam Chairman and Members of the  
12 Commission, my name is Robert Hart. I live at 2540 Paradise  
13 Drive. Right above me on Paradise Drive is the Easton Point  
14 property and its landslides.

25

15           But my comment has to do with reinforcing and  
16 expanding a little bit on a couple of previous comments, and  
17 that is I don't see anything in the Environmental Impact  
18 Statement that convinces me the mitigation will be carried  
19 out in practice.

20           There are many, many actors here. There's the  
21 initial landowner. The initial landowner may sell the land,  
22 the land may be sold to a developer, who will develop  
23 houses, maybe more than one developer and maybe one of those  
24 developers go broke. They do a lot; we certainly have  
25 plenty of experience of that. It has a POA, property

1 owners association.

2 Do we have any reason to believe the property  
3 owners association will have the resources to carry out its  
4 part, its role?

5 The mitigation is handed off to the Town of  
6 Tiburon for policing the streets on Hill Haven, Old Tiburon,  
7 and then there are the landowners, themselves.

8 Now, there are potential solutions to assuring all  
9 of those people will in fact carry out the mitigation. The  
10 mitigation, now, is all words, but to make it real and to  
11 make it last through all of those owners and actors, there  
12 are conventional, routine provisions that are made all the  
13 time.

14 Number one is CC&Rs can require that all the  
15 mitigation provisions run with the land. Is that -- I don't  
16 see that mentioned in the EIR, maybe it's proposed, I don't  
17 see it mentioned. But it's a common place for covenants to  
18 run with the land that require environmental --  
19 environmentally sensitive treatment.

20 And secondly, it's customary in construction for a  
21 bond, to have a bond, posting bonds to assure that the  
22 contracted jobs are carried out, didn't see any reference to  
23 that.

24 Without those two provisions, it seems to me  
25 there's no reason to believe, at least in the DEIR, that

1 once all of those steps are taken and there is an approval,  
2 there's no assurance that the mitigations will actually be  
3 carried out on the ground. Thank you.

4 CHAIRPERSON LUBAMERSKY: Thank you very much.

5 Question from Commissioner Holland.

6 COMMISSIONER HOLLAND: I'd just like to comment to  
7 Mr. Hart, once the project is approved there will be a  
8 mitigation monitoring and reporting program included as part  
9 of the approval and it will spell out how everything is --  
10 all the mitigations are implemented, who does it, and who is  
11 responsible for monitoring to ensure that it gets done.  
12 That comes at a later stage in the process.

13 MR. HART: At a later stage there is a bond that  
14 will ensure that these mitigations are carried out?

15 COMMISSIONER HOLLAND: There is a program that  
16 will be approved by the Board that will spell out how all  
17 the mitigations are implemented and monitored.

18 MR. HART: And will that bond then -- will that  
19 bond cover the property owners association, additional --

20 COMMISSIONER HOLLAND: I just told you there will  
21 be another document that will answer your questions.

22 CHAIRPERSON LUBAMERSKY: In fact, your questions  
23 will be answered in the responses to the EIR.

24 MR. HART: It's not in the EIR that --

25 CHAIRPERSON LUBAMERSKY: No, but right now you

1 asked a question and Mr. Berman and Mr. Roberto will answer  
2 it in their responses that will be appended to this EIR,  
3 when it goes before the Board of Supervisors.

4 MR. HART: I look forward to seeing it.

5 CHAIRPERSON LUBAMERSKY: Thank you.

6 Maureen Meikle, followed by Robert Swanson.

7 MS. MEIKLE: Good afternoon, Madam Chairman. I'm  
8 Maureen Meikle; I live at 45 Harbor Oak Drive, which is  
9 right above the Railroad Marsh. The comments may seem  
10 rather minor compared with the overwhelming ones we've heard  
11 today.

12 But my concern is about the biological resources  
13 at the marsh because according to the EIR there will be  
14 drainage from the project and, obviously, during  
15 construction, but maybe onwards, too, and some of it will  
16 come into the Railroad Marsh.

17 What effect is it going to have? There's no  
18 comment in the EIR about what's going to happen. It has  
19 migrating wild fowls, wild fowl birds; I've seen river  
20 otters there. True, it's rare. I've seen jack rabbits and  
21 even a fox. And I don't see any biological report about how  
22 any of these may be affected by the runoff. So, I hope that  
23 might be addressed.

24 My other quick comment is what does the Marin  
25 County Open Space District have to say about accepting

1 the open -- they may not want it, and have they been asked?  
2 I mean, they don't have many resources at the moment and to  
3 extend it would be very difficult. Would there be any  
4 contribution to the County Open Space from the developers?  
5 It's not an easy space to hold title to, if it's all  
6 surrounded by a lot of our houses. It's absolutely lovely,  
7 of course. I have to say I've walked it for 40 years. I  
8 hate to fess up, but still --

9 CHAIRPERSON LUBAMERSKY: Everybody else here has,  
10 also.

11 MS. MEIKLE: But we all did, and we're very  
12 grateful to the families that they've let us do it, but it  
13 will be quite different.

14 And also, what was it about the water tank, there  
15 was some question of whether the County Open Space would let  
16 it be dug into the hillside. Well, I don't know, you better  
17 ask them, but I would hope not. Thank you very much.

18 CHAIRPERSON LUBAMERSKY: Thank you very much.  
19 Okay, Robert Swanson, followed by Mark Delane and those are  
20 the only cards that I have.

21 MR. SWANSON: My name is Robert Swanson; I live at  
22 2 Seyfarth Lane, in Tiburon. I address you today as a  
23 physician. My major concerns are fire hazard, bicycle  
24 safety, and hearing loss.

25 I've lived at Seyfarth since 1977; we back

1 right on Paradise Drive. My comments today are going to be  
2 based on my knowledge as a physician, as well as some of my  
3 real life experiences.

4 First of all, my practice was in vascular surgery  
5 at Alta Bates Medical Center. In 1991, in October of that  
6 year, I was on call in the emergency room and there for  
7 backup during the Oakland/Berkeley Fires. And those fires  
8 were quite extensive, they really pointed out the  
9 unpreparedness of those communities. Very rapidly, 3,800  
10 homes were destroyed, that's 11 homes per second -- every  
11 home was destroyed in 11 seconds. There were multiple  
12 people injured, multiple people killed.

13 I, personally, had three very close colleagues who  
14 lost their homes and I knew one person who died in that  
15 fire.

16 My second concern is that the -- well, still on  
17 the fire concern. That fire was caused by, basically, the  
18 analog of a Santa Ana wind. It was a northwest wind; it was  
19 hot, blowing up from Oakland Hills, over the hillside. It  
20 spread to the houses and within minutes the fire was jumping  
21 streets and freeways. Emergency vehicles, fire trucks, and  
22 ambulances could not respond in a timely fashion.

23 My second concern is traffic safety with  
24 bicyclists. I drive that Paradise Drive part every day  
25 and when a bicyclist is on that road -- I'm a good

1 driver, I try to share the road. Bicyclists, unfortunately,  
2 are not quite as understanding and they will signal me to  
3 pass them on a curve.

4 I can imagine what's going to happen when  
5 construction vehicles are lined up to get through. And we  
6 all know that Paradise Drive is a good alternative to  
7 Tiburon Boulevard, and that Tiburon Boulevard is going to  
8 back up during certain times of the day and so Paradise  
9 Drive will be the preferred route for many of these  
10 construction vehicles.

11 I'm concerned that somebody's going to get hurt  
12 and killed, it's just like that. Bicyclists come from far  
13 and wide to drive the so-called Tiburon route, which is  
14 Paradise Drive, the bike path. It's a very attractive bike  
15 ride, I'm told. I'm not a bike rider, but I have many  
16 friends who are.

17 Bike riders will all say --

18 CHAIRPERSON LUBAMERSKY: You're over your three  
19 minutes, if you could --

20 MR. SWANSON: Okay. Hearing loss, I'm concerned  
21 that with the chainsaws cutting the trees that are going to  
22 need to be removed there will be a significant decibel  
23 increase. You know, I'm an old guy and my hearing is very  
24 faded. I can imagine what's going to happen when all the  
25 trees that are going to be destroyed, both up the hill

1 from me, downhill from me, in Sirocco, Rabin and Martha  
2 property, it's going to be a disaster.

30

3 And I just would make a plea that this Board takes  
4 on the responsibility of making sure that the Environmental  
5 Impact Report addresses these safety concerns. Thank you.

6 CHAIRPERSON LUBAMERSKY: Thank you, Dr. Swanson.

7 Our last speaker is Mark Delane. Is Mark  
8 Delane -- oh, I'm sorry, I didn't see you.

9 MR. DELANE: I'm here, sorry to hold you up.

10 CHAIRPERSON LUBAMERSKY: No, no, no, no, I just  
11 was --

12 MR. DELANE: I know you want to go to lunch.

13 CHAIRPERSON LUBAMERSKY: We're okay.

14 MR. DELANE: Yeah, my name is Mark Delane, I live  
15 at 1965 Vistazo West, I'm the neighbor of one of your  
16 Commissioners, I pass his house every day on my walk. I've  
17 sent you a very passionate letter that's already been  
18 included so, hopefully, you've had a chance to look at that.

19 But I'd make three quick points and then I'll let  
20 you go to lunch.

21 First is the fire safety issue that's already been  
22 brought up. As was pointed out in the picture, which was a  
23 lovely picture of my mailbox, looking down Devisio, that's  
24 right where my house is.

25 Just one minor point, if I back my car out of



1    there in the event of a fire and it gets stuck, not one  
2    vehicle will be able to pass up and down to get to those  
3    houses or for those people to get out. That is the only  
4    access in and out and no one will be able to leave, nor will  
5    any fire trucks be able to get up, and all I have to do is  
6    back my car out and stop it, and that will be the end of it.

7                So, please -- no tow truck will be able to get  
8    there. So that's a serious fire safety issue that's not  
9    addressed at all in the report.

10               My second point is the volume of foot traffic, and  
31 11    I mentioned that I pass the Commissioner's house all the  
12    time. There's the access to and from the open space is  
13    actually through that area, along Vistazo West. There are  
14    hundreds of people who use that access area. There's  
15    nothing in the DEIR that talks about mitigation around  
16    dealing with that foot traffic and how it's going to be  
17    handled.

18               And those are the people that would be affected by  
19    the volume of cars, which I estimated another 400 a day  
20    going up and down, just not for construction, this is after  
21    it's finished, and nothing's being addressed to how to deal  
22    with that.

23               And my final point is I don't see anything in the  
32 24    DEIR about considering everybody's bringing up the  
25    traffic and I don't see anything about considering

1 another permanent road. We clearly need another permanent  
2 road in and out to avoid the safety, and I've seen nothing  
3 about putting in another permanent road and I don't  
4 understand why.

5 That's all I have, thank you very much.

6 CHAIRPERSON LUBAMERSKY: Thank you, Mr. Delane.

7 Very well, Mr. Lai, we'll be breaking for lunch now and  
8 returning at one o'clock. Okay, thank you very much.

9 (Off the record at 12:19 p.m.)

10 AFTERNOON SESSION

11 1:18 P.M.

12 CHAIRPERSON LUBAMERSKY: Are we ready?

13 MR. LAI: We have two more speaker cards, to have  
14 those speakers go. Close the public hearing, so you can  
15 deliberate and review the EIR, and then reopen the hearing  
16 at three o'clock, to allow some members of the public, who  
17 can't attend -- who weren't available this morning to  
18 provide their testimony.

19 I also wanted to make a comment. During the  
20 morning session we've heard from a number of individuals  
21 about their experience walking through and on this property.  
22 I just wanted to let everyone know that this is private  
23 property and for those who do, or who plan to go onto the  
24 property to make sure that they're respectful of the  
25 private property rights and, preferably, to check with

1 the property owners so that the proper permissions can be  
2 granted for use of the property.

3 CHAIRPERSON LUBAMERSKY: Thank you. There are two  
4 people here who have given me speaker cards; they did not  
5 speak earlier, so we'll take that testimony now. And then,  
6 as Mr. Lai said, we'll close the public hearing and reopen  
7 it at three o'clock who had a religious observance and  
8 couldn't attend earlier.

9 And we are being webcast and also there's a court  
10 reporter present.

11 So, if I could ask Mr. Barker, David Barker, and  
12 that will be followed by George Landau.

13 MR. BARKER: Good afternoon Madam Chairman,  
14 Commissioners, my name is David Barker, I live at 1825  
15 Lagoon View Drive, which is at the intersection of Ridge  
16 Road and Lagoon View, in the Hill Haven District.

17 I will be submitting written comments but today  
18 I'd just like to focus on three issues. The first is that  
19 it seems to me that in the Draft EIR the traffic analysis  
20 through the Hill Haven District focuses fundamentally on the  
21 level of service issues and, frankly, that isn't the issue  
22 in that neighborhood, the issue is really one of safety.

23 And these are kind of brushed off in the EIR by  
24 suggesting the current residents kind of know how to  
25 drive in this area and there have been very few

1 accidents, according to Tiburon Police.

2           However, the DEIR does not analyze the impact of  
3 increased traffic on safety in that neighborhood. And I  
4 figure, from the very little data that's given about  
5 traffic, actually, in that neighborhood that at least in the  
6 Ridge/Vistazo intersection, which is the only one that's  
7 counted, there will be a 50 percent increase in the amount  
8 of traffic in peak hours, at least 50 percent going on the  
9 Ridge/Vistazo intersection.

10           So, I believe that that issue should be analyzed  
11 from a safety aspect in the Final EIR.

12           Finally, secondly, the EIR does not seem to  
13 recognize that the development of this property could take  
14 and, indeed, based on experience with other large properties  
15 in the area is likely to take a very extended period of  
16 years. And now, in the lower density, the alternative  
17 that's specified under the MOU with Tiburon, the  
18 construction road would be abandoned after ten years or  
19 possibly, under other conditions, even earlier, in which  
20 case there would be construction traffic through the Hill  
21 Haven neighborhood. That's not analyzed in the EIR and I  
22 believe you should request that that issue be analyzed.

23           On the 43-lot proposal, the kind of original  
24 proposal, the status of the construction road and when in  
25 fact it would be gated and abandoned as a regular access

1 is not specifically specified, it just says kind of at the  
2 end of construction, but I believe that at least should be  
3 specified more particularly, and identified if any  
4 construction would take place that wouldn't go via the  
5 construction road.

35

6 And that leads me to my final comment for today  
7 which is that there is a reference that maybe before the  
8 construction road is completed, in initial construction,  
9 construction traffic may be required to go through Hill  
10 Haven. There's no indication of how much, how long, how  
11 many and so on, and what mitigations there might be for  
12 that, and I believe that should be included in the Final  
13 EIR. Thank you for your attention.

14 CHAIRPERSON LUBAMERSKY: Thank you, Mr. Barker.

15 George Landau, please.

16 MR. LANDAU: Good afternoon. My name is George  
17 Landau, I'm a 38-year resident at 82 Sugarloaf Drive, in  
18 Tiburon. And as Mr. Barker, I will also be submitting the  
19 formal comments with references to sections and pages.

20 But for right now I'd like to make a brief  
21 statement. And I think that it's in a way appropriate and  
22 ironic at the same time that we're here today so close to  
23 Earth Day, and also the first anniversary of the Gulf Oil  
24 Disaster. And I think that if you go back to Earth Day  
25 in 1970 it brought about three acts, which are referenced

1 in this EIR but, in my opinion, not really in-depth.  
2 They're the Clean Air Act, the Clean Water Act, and the  
3 Endangered Species Act, and they are all glossed over, in my  
4 opinion, in this DEIR.

5 But in addition to that I think that there are  
6 many other health and safety issues that we will be  
7 addressing individually.

8 In, in my 50 odd years of being an entrepreneur, I  
9 had for many years participated in oil and gas exploration  
10 and I can tell you from a personal experience that there's  
11 something called law of unintended consequences. And this  
12 DEIR tries to deal with it in the area of landslides, and  
13 blocking streams, and so forth. But the earth doesn't  
14 always agree with you and you have many, many situations in  
15 real life where the best geologists, the best hydrologists,  
16 the best of everything and the net result is the earth just  
17 does not agree.

18 As was pointed out by Mr. Barker, this is a long-  
19 term project, there are consequences that go along into  
20 individual safety and health hazards, and I am very, very  
21 concerned with these and I'll make a final submission.

22 But I did want you to know that here in California  
23 we've had many examples of this beginning with trying to  
24 preserve the logging industry and balancing that against  
25 the decimation of the thousand-year-old trees.

1           We've seen it in Katrina where the levies were  
2   flooded, not necessarily only because the levies gave out,  
3   but the Mississippi River was mucked around with by  
4   hydrologists and the Core of Engineers.

5           And so when we touch nature, whether it be the  
6   spring on that property, or the landslides, we're in for  
7   trouble. And this is why I think that the 7/09 plan, a  
8   proposal that's not even in this, should be revisited  
9   because that does stay away from most of the most dangerous  
10  things. Thank you very much.

11           CHAIRPERSON LUBAMERSKY: Thank you very much, Mr.  
12  Landau.

13           Okay, I'd like to close the public hearing. And,  
14  Mr. Roberto, would you like to summarize where we are and  
15  what we're going to be doing next?

16           MR. ROBERTO: Well, at this point we are going to  
17  reopen the public hearing, I think at three o'clock.

18           CHAIRPERSON LUBAMERSKY: At three o'clock.

19           MR. ROBERTO: We've received all the comments from  
20  the public to date. We have a court recorder, who's  
21  recorded those comments. We've made some notes, the  
22  environmental consultant and myself.

23           So, at this point we are not going to attempt to  
24  respond to any of these questions for reasons of getting  
25  that -- we want to get the response right and we may have

1 to do research and other kinds of things.

2           So, it's back to the Commission. And the  
3 Commission, I know that some Commissioners have submitted  
4 questions that we will address in the EIR and provide  
5 written responses to those. I don't know if the Commission  
6 wants to deliberate, further comments or questions they want  
7 to give to us to evaluate in the Final EIR or not, but that  
8 is all I'd be looking for at this point.

9           Am I missing anything, Tom, in the normal process?

10          CHAIRPERSON LUBAMERSKY: Very well. I had thought  
11 to go issue by issue, like the hydrology and traffic, and  
12 whatnot, but I think probably people will just want to speak  
13 as to what they -- what their comments will be as a whole,  
14 just one-on-one.

15          Is there any kind of broader or statement anybody  
16 would -- okay, Mr. Ginalski, before we go onto details.

17          COMMISSIONER GINALSKI: Yeah, this is just a  
18 question that I was thinking about. In the Judgment, the  
19 '76 Judgment it speaks about the -- it speaks about units,  
20 as opposed to lots. And in terms of our deliberation on  
21 adequacy of mitigations, et cetera, during the next period  
22 of time, is there any prohibition from us analyzing whether  
23 or not we can use a model that employs duplexes or something  
24 else, other than a single-family home?

25          MR. ROBERTO: I'll have David Zaltsman speak to



1 it. My recollection of the documents, and I don't have them  
2 in front of me to refer to at the moment, although I could  
3 if I wanted to, is that it speaks to the creation of single-  
4 family lots, which have to be a minimum of half-acre each  
5 and there should be 43. Generally, that's what it is and  
6 that implies to me that these are going to be detached  
7 units.

8 CHAIRPERSON LUBAMERSKY: Mr. Zaltsman, do you want  
9 to respond to that now or we can do it --

10 MR. ZALTSMAN: It's in your packet --

11 CHAIRPERSON LUBAMERSKY: -- or we can do it in the  
12 EIR.

13 MR. ZALTSMAN: In your packet, though, it does say  
14 in the '76 judgment a development of a parcel with not less  
15 than a minimum, if it's double -- of 43 single-family  
16 residential -- single-family residential units, one half-  
17 acre minimum lot.

18 So, to me, you know, I realize they used the word  
19 units, but I'm not sure that we would have used the word  
20 lots, you know, unless, you know, to have empty lots.

21 COMMISSIONER GINALSKI: I see. Okay, I just  
22 wanted to clarify it. There's some ambiguity there and I  
23 just wanted to make it clear.

24 MR. ZALTSMAN: Right.

25 COMMISSIONER GINALSKI: Yeah, thanks.

1           CHAIRPERSON LUBAMERSKY: Thank you. Any other  
2 general, overall questions? Commissioner Dickenson?

3           COMMISSIONER DICKENSON: I'm not sure who this is  
4 for, but the issue was actually raised during the public  
5 testimony in terms of the provisions in the 2007 agreement  
6 regarding the cost sharing for the application. And I, for  
7 one, am curious in terms of I went back and re-read it  
8 again, and it talks about \$250,000 that the Martha Company  
9 will put up and then beyond that the County and Martha  
10 Company will split, equally, the cost, and then the cost of  
11 the consulting planners could be split 50/50.

12           MR. ZALTSMAN: And that's the way it has been to  
13 date.

14           COMMISSIONER DICKENSON: Do you have any idea what  
15 the cost is at, at this point?

16           MR. ZALTSMAN: I do know that we've exceeded the  
17 quarter million dollars on the EIR budget because we've  
18 started paying half of the additional amounts. You know,  
19 it's public record.

20           COMMISSIONER DICKENSON: Right.

21           MR. ZALTSMAN: I mean, I could certainly find out  
22 for you how much we've spent on each of the contracts. You  
23 know, if I had to guess right now, I'd say probably \$300,000  
24 or so on the EIR. Does that sound about right? Well  
25 spent. And probably a hundred and fifty or so on John's

1 contract to date.

2 MR. BERMAN: Yeah, probably a little bit less.

3 CHAIRPERSON LUBAMERSKY: But would that be in  
4 response to the EIR questions?

5 MR. ZALTSMAN: Not really, it's not on  
6 environmental comments, it's a matter of public record.

7 CHAIRPERSON LUBAMERSKY: It's a public record.

8 COMMISSIONER DICKENSON: Right, and I was just  
9 curious, I assumed we were now into the 50/50 cost sharing  
10 part of the --

11 MR. ZALTSMAN: Yes.

12 CHAIRPERSON LUBAMERSKY: Okay. With that, shall  
13 we go to Commissioner comments?

14 Commissioner Greenberg?

15 COMMISSIONER GREENBERG: Okay. Well, I've  
16 submitted a bunch of comments and I may hit some high points  
17 on them, but first I wanted to emphasize some of the  
18 comments that were made today, which I believe are deserving  
19 of response.

20 First of all, this whole resource management plan  
21 I believe should not be deferred until some future time. I  
22 think to assess if the mitigations are going to be  
23 effective, we need to see what's being proposed and exactly  
24 who's responsible for what. So I would not like to see  
25 that somewhere before the first building, you know,

1 permits or something are issued.

2 And you can just -- you know, if you think that's  
3 inappropriate, I'm sure you'll let me know in your responses  
4 to questions.

38

5 The comments on house size, that that was not  
6 offered as a mitigation on Alt. 2 and the project, itself.  
7 It was surprising to me when I read the document and I would  
8 ask you to look at that. It may not reduce the level of  
9 significance, but it may improve the degree of impact.

39

10 I would agree with all the commenters who say that  
11 the traffic impacts on Hill Haven and the Old Tiburon  
12 neighborhoods are greatly understated. It's not an issue of  
13 LOS here; it's an issue of very substandard roads, which  
14 cannot be changed by this project. That the health and  
15 safety issues associated with putting construction traffic  
16 over the years, because certainly not all the houses on all  
17 these lots are going to be proposed to be built within the  
18 ten-year time frame for the construction access road, and  
19 the remarkable increase in traffic over what exists for  
20 those houses, both residents and all the people who are  
21 going to be servicing these houses, I think creates real  
22 health and safety issues.

40

23 And also in the EIR, I felt the whole issue of  
24 adequacy of fire flow was not addressed sufficiently.  
25 Just to say that policy requires, then, 3,600 square foot

1 houses doesn't tell me what the reality is going to be and  
2 what the fire district will actually require or allow. I'm  
3 unclear.

4 And I'm also unclear on whether the fire flow  
5 inadequacy just relates to those named projects on the ridge  
6 or if it also affects some of those along Paradise Drive,  
7 and I'd like to know that.

41 8 For my questions that I have submitted, I mean  
9 really the bottom line question is, is the alternatives  
10 analysis conclusion the correct one? It may be, but there  
11 was so little data on 3 and 4 which, on its face, looked to  
12 me like superior alternatives, that I couldn't make -- I  
13 don't know how you got to the conclusions you got to. I'm  
14 sure there's information there, but I think they're going to  
15 have to be fleshed out a little more for you to, you know,  
16 make a straight-faced conclusion that you did.

42 17 I included questions on grading. I wonder why  
18 tables show there's more grading for lot development for the  
19 32-lot alternative than for the 43-lot alternative; it  
20 doesn't seem to make sense.

21 And I wanted to know which specific lots are  
22 causing this unexpected finding so that we could evaluate  
23 what it is, you know, about those lots that might be  
24 improved or changed.

25 I raised some questions about the remainder

1 lot. It's not clear to me why the meaningful increase of  
2 traffic in the Paradise Drive areas of development aren't a  
3 project-related impact that require more complete slide  
4 repair of work above the road because of the health and  
5 safety impacts to project residents, and I asked about that.

6 This project is going to put a whole bunch more  
7 people on that road right in those slide areas that are  
8 being partially repaired, or debris fences are going to hold  
9 back 11, you know, it doesn't seem to work for me. And  
10 those residents are going to be driving, walking, bicycling  
11 right in front of those slides and I think that's a health  
12 and safety issue that wasn't evaluated.

13 There are questions about the safety of the  
14 construction access road and there's a mitigation that  
15 relies on an agreement that hasn't even been talked about  
16 between the parties. I don't think that's a mitigation at  
17 all.

18 I wanted the lot -- the mitigations require  
19 reconfiguration of lots, reductions in some lot sizes, I'd  
20 like to see a plan that reflect that because unless I see  
21 that I don't know if those mitigations are feasible, or if  
22 they accomplish their purposes, or if there aren't secondary  
23 impacts associated with those, and I would like to see  
24 something on, you know, a drawing that -- at least a  
25 sketch that indicates what those changes would look like.

45

1                   For Alt. 2, I'd like to know which lots have  
2 buildings -- building areas that fall into the more than 30  
3 percent grade because then the proposal is to allow 35-foot  
4 high structures on them, which is not what we usually allow,  
5 so I don't know which lots are so affected.

46

6                   And I also asked for information about the length  
7 and height of project retaining walls, including those along  
8 Paradise Drive. That's it.

9                   CHAIRPERSON LUBAMERSKY: Thank you. Other  
10 Commissioner questions? Commissioner Ginalski?  
11 Well, these are EIR inputs issues that you'd like addressed  
12 more fully in the EIR?

13                   Okay. Commissioner Holland?

14                   COMMISSIONER HOLLAND: I thought you were going to  
15 go first. I've got a couple of major issues that I want to  
16 go into a little bit, a couple of others that are lesser and  
17 I can deal with more briefly.

47

18                   One was the Serpentine and asbestos issue, which I  
19 was quite surprised about, but I guess there's a history of  
20 this issue, again, on the Peninsula, and it's quite striking  
21 to me the number of letters that came in that mention this,  
22 and they continue to come in. It's just one of the most  
23 common themes is the worry about this threat of asbestos.

24                   But what I discovered when I read this was how  
25 this is regulated depends on how much area of disturbance

1 there is. And if an area of disturbance is less than an  
2 acre, then you just sort of have to go along with the  
3 standard protocols. If it's more than an acre, then you've  
4 got to have an actual plan and, what do they call it, an  
5 asbestos dust mitigation plan that's approved by the Air  
6 Quality Management District.

7           So my question was since these lots are  
8 individually going to be less than an acre will they be  
9 handled individually, under an acre, a one-acre disturbance,  
10 or will we look at the total project, 110 acres, and require  
11 approval from the Air Quality Management District for the  
12 entirety of the thing, which I think is what people probably  
13 want, but it's not clear in the mitigation. Again, the  
14 mitigation just seems to say, well, it depends on whether  
15 you're more or less than one acre, and that's a question  
16 that I think needs resolved, whether it is or not.

17           As you might have understood earlier, I have  
18 concerns about the impacts on Mr. Keil's spring, and I was  
19 relieved to hear him confirm that he has pre-1914 water  
20 rights, which is not an absolute protection, but it  
21 certainly helps his position.

22           But I do notice that in the -- one of the very few  
23 advantages I could see of Alternative No. 2, the 32-unit  
24 subdivision, is that it does not impact his spring.

25           But what I was concerned about on the actual



1 project was the mitigation -- what we're doing is we're  
2 interfering with ground water, which feeds his spring, which  
3 takes water to him. We interfere with the ground water so  
4 the water isn't there to go down.

5           So what the mitigation does is require, basically,  
6 a pipeline, I guess, to get the water down there, but it  
7 doesn't deal with ensuring there is any water to get into  
8 the pipe, it's an assumption. But I've seen situations  
9 where changes in topography -- we saw situations in West  
10 Marin, after the '82 landslides, where springs disappeared  
11 entirely because of the land movement. Or we had one case  
12 where a spring that came down to the north, towards the post  
13 office in Inverness stopped flowing and it went the other  
14 direction, and now flows to the east directly into the Bay.  
15 So, these things can happen and there doesn't seem to be a  
16 mitigation in here to protect Mr. Keil if the landslide  
17 repair actually is so disruptive that that spring is --  
18 doesn't have water at that site to get down to him, so  
19 that's a concern to me.

20           The merit issue, this is the --

21           CHAIRPERSON LUBAMERSKY: Oh.

22           COMMISSIONER HOLLAND: Oh, I'm sorry, I did get  
23 this. I was concerned at one point that it was only -- but  
24 it does say that the Applicant has to bear their fair  
25 share of the funding of a corrective action, so I'm okay

1 with that.

48

2 My big issue, of course, my major issue is with  
3 the traffic impacts in the Hill Haven neighborhood. And  
4 I'm -- I think that our traffic engineering people need to  
5 go back and look at this area, and especially that major  
6 intersection, the Ridge Road/Vistazo/St. Bernard Lane  
7 intersection is identified.

8 And I don't think it's appropriate to simply apply  
9 ASHTO or ITE criteria to an intersection like that. You're  
10 probably going to have to search a long way, all over the  
11 country, to find an intersection that's identical to that  
12 and especially that right turn. Just using standard  
13 criteria to decide level of service, that's an F with no  
14 traffic in it, so I don't think that just applying the  
15 criteria is adequate.

16 But even when we do apply the criteria I note,  
17 interestingly, when you look at some of the sort of farthest  
18 out -- when you look at the impacts on that neighborhood --  
19 the traffic carrying capacity, the project traffic volume,  
20 at the PM peak hour that intersection, with the cumulative  
21 impacts in 2020, that intersection will be carrying more  
22 cars per hour than Paradise Drive, on the information that's  
23 in the EIR.

49 24 So, it's a very significant issue, so I don't -  
25 - I feel that the impacts on this neighborhood haven't

1 been as well developed in the EIR as they should have been,  
2 the impacts are more serious than they should have been, and  
3 I don't feel that the mitigations address the impacts at  
4 all.

5           The idea that we're going to ban, we're going to  
6 prohibit, or the Applicant is going to go and convince the  
7 town to prohibit putting dumpsters in the middle of the  
8 street, I'm sure the Town of Tiburon already has adequate  
9 ordinances to prohibit that, but they're probably not being  
10 enforced. That's probably the issue.

11           As someone said during public testimony, some of  
12 these areas where this is requiring posting of no parking  
13 signs, they're already posted or they're repainted, or  
14 something, so these aren't going to solve the problem.

15           I'd like to suggest that the one mitigation that  
16 will solve and I think it's a totally appropriate  
17 mitigation, that will solve the problem in the Hill Haven  
18 neighborhood is to not allow connection of any roadways  
19 within the subdivision into the Hill Haven neighborhood,  
20 don't allow those roads to come in.

21           It's not like this is a land-locked parcel that  
22 you've got to find some way to come through somebody else's  
23 land to get to. About 50 percent of the property boundary  
24 of this 110-acre parcel is along a major arterial  
25 highway, Paradise Drive. They may not like the fact that

1 it's an arterial, but it is, so it's not like they don't  
2 have options.

3           So my -- I would like you to very seriously  
4 consider just closing off the Hill Haven neighborhood to  
5 traffic from this project. And somehow the Applicant, it's  
6 not the County's responsibility or Tiburon's, the Applicants  
7 need to find some way that they can accommodate whatever it  
8 is they can accommodate, and if they can get 43 half-acre  
9 lots, fine, with them all getting access from -- accesses  
10 from the arterial road that they're up against, that's what  
11 they're going to have to do.

12           I don't think it's the obligation of the neighbors  
13 in Hill Haven to accommodate whatever the problems are on  
14 their site that are restricting access, so that's my  
15 suggestion there.

16           I was also interested to note that at this  
17 intersection of Ridge Road and Vistazo that there's more  
18 traffic coming in, in the morning, than goes out, and  
19 there's more traffic going out in the evening than is coming  
20 back home. And that's a problem that's only going to get  
21 worse when you get more houses up there because it says it's  
22 the support people that are coming in, in the morning, and  
23 leaving in the evening. They're the ones that are providing  
24 the big traffic impact, not the residents so much.

25           And even right now, today, according to the

1 counts, more going in, in the morning, than coming out, more  
2 coming out in the evening than going back in.

3 And, finally, the Alternative 2, I did not -- I  
4 was certainly not convinced that it's environmentally  
5 superior. It requires the removal of 238 more trees than  
6 the project proposal.

7 Average maximum house size increases from 68 --  
8 6,900 square feet under Alternative 2. I mean, it goes  
9 under the 43-lot alternative the maximum house size average  
10 is 6,900, but it goes up to 7,700 under the 32-lot proposal,  
11 larger house sizes.

12 The average footprint increases, the total size of  
13 developed lots increases, 2.1 million square feet of lot  
14 size under the 43-unit, 2.2 million under the 32-units. So,  
15 I think on a lot of statistical bases the 32-unit proposal  
16 is more intrusive on the landscape than the 43 was.

17 Now, maybe there are other factors here that I'm  
18 not seeing, but when you start looking at the statistics,  
19 the 43 looks better than the 32.

20 I think that is my issues, thank you.

21 CHAIRPERSON LUBAMERSKY: Thank you.

22 Commissioner Ginalski?

23 COMMISSIONER GINALSKI: Yeah, I'm sorry, Madam  
24 Chair, I thought you wanted to go issue by issue, which  
25 is why I deferred last.

1           CHAIRPERSON LUBAMERSKY: Oh, no, no. I know, I  
2 had originally intended issue by issue, but then it just  
3 seemed person by person seemed to be better.

4           COMMISSIONER GINALSKI: Thank you, I'll just speak  
5 now then, thank you.

6           CHAIRPERSON LUBAMERSKY: Wonderful.

7           COMMISSIONER GINALSKI: I agree with Commissioner  
8 Greenberg and Holland said about the resource management  
9 plans, I think we need more -- more data in those proposed  
10 plans now, so we can make better informed decisions as we  
11 move towards the next step.

12           And with respect to what Mr. Holland just said  
13 about the levels of service and traffic in and around Old  
14 Tiburon, of course, it's exactly right, and that anyone  
15 who's been in those areas or been on those roads knows what  
16 the real situation is there.

17           And I think that there's been some constructive  
18 suggestions about not only looking at levels of service, but  
19 also looking at levels of safety and trying to figure out a  
20 way to measure that in a health and safety form, because  
21 right now it hasn't been done adequately within the context  
22 of that particular neighborhood.

51 23           I wanted to take a moment to talk a little bit  
24 about the construction road. It's my understanding that  
25 the construction road's going to be built from the top

1 down, which means that it would be built through the New  
2 Haven neighborhood and I think we need to have a little more  
3 analysis about that.

4 I also understand that because of the proposed  
5 width of the construction road that it will be a one-way  
6 road. We've talked a lot about the grade and those types of  
7 things, issues have been raised about what to do in the  
8 rain, et cetera, et cetera, and there has been -- at least  
9 some anecdotal information here today, but I've been told in  
10 the past that there's a possibility that either the trucks  
11 that will be servicing the proposal -- I'm sorry, the  
12 development, when approved, will need to back up this road  
13 as opposed to drive up and then come down, so there's egress  
14 and ingress with respect to the larger vehicles that are  
15 being used.

16 There's also the possibility that some of these  
17 trucks will have to be loaded or offloaded at the base of  
18 Paradise Drive and then brought up, that sort of thing. And  
19 so those types of issues are important to give some  
20 consideration to with respect to that.

21 The other thing that was mentioned earlier was  
22 that I believe it was the Tiburon Fire Department did not  
23 approve this fire road. And although this won't -- this  
24 isn't immediately going to be in Tiburon, it seems to me  
25 that we should get some --

1 COMMISSIONER GREENBERG: It's in their district.

2 COMMISSIONER GINALSKI: Right, it's in their  
3 district. Thank you. All right, so we need to figure out  
4 why it is or how it is that we can deal with that health and  
5 safety issue with respect to the road in Tiburon's view, the  
6 fire district's view of that.

7 The next issue I wanted to talk about, briefly,  
8 was the bicycle issue. Now, if I understand the mitigation  
9 requirements in the DEIR, there's 4,000 lineal feet of  
10 additional bike lane that's approved along the area of  
11 Paradise Drive that's contiguous to the parcel. I think  
12 that that's a problem; I think we need to do some more  
13 analysis for a few reasons. One is that the construction  
14 traffic, when it does come to this project, isn't going to  
15 be coming down Tiburon Boulevard, around Paradise and up the  
16 new proposed construction road, it's going to come from  
17 Corte Madera, it's going to come from Trestle Glen, it's  
18 going to come all along Paradise Drive on the back side of

52 19 the Peninsula and I think we need some further analysis as  
20 to whether or not the amount and impact of the proposed  
21 construction activity all Paradise Drive is going to have an  
22 effect on the actual -- the sub-foundation of that road, to  
23 begin with, and also how it is that we can create safe  
24 passage for our friends on bicycles.

25 And, I mean, when I was on the Tiburon Town



1 Council years ago, we actually had a discussion about how to  
2 get bicycles around Paradise Drive from -- over to Solano,  
3 around the horn there, and there was some discussion about  
4 closing Tiburon Boulevard to bicycle traffic altogether.

5           You know, I don't want to be that draconian, but  
6 it seems to me that we need to look at ways to regulate the  
7 safe passage of bicyclists interacting with all of Paradise  
8 Drive, not just 4,000 lineal feet of Paradise Drive that's  
9 contiguous to this property because I don't think that's a  
10 real measurement of what the impact is.

11           I didn't see anything in the EIR with respect to  
12 the design of the sewer system as it hooks into Sanitation  
13 District Number 5. I think the length of sanitary line  
14 required is 4,800 square feet -- I'm sorry, lineal feet, and  
15 there's nothing in there that talks about the impact with  
16 respect to crossing the proposed, even repaired landslides,  
17 the riparians, the other special species areas, those sorts  
18 of things.

19           The other thing I think we need to keep in mind is  
20 that fact that the Open Space District isn't going to accept  
21 any proposed dedication of this property, it's not going to  
22 happen, and we need to do some analysis as to -- from a  
23 mitigation point of view as to what it's really going to  
24 cost the homeowners association and the private  
25 landowners on that property to maintain this property

1 with it's -- even if the slides aren't repaired, what we're  
2 going to do with that, and how we're going to deal with all  
3 the other agency issues, including the protection of the  
4 various habitat areas, the replantings, all the monitoring  
5 mitigation matters that need to be put together. We need to  
6 have a -- I guess a fuller understanding of how we're going  
7 to actually implement all these mitigation processes without  
8 the assistance of the County, because I don't see that  
9 happening.

10 Oh, the other thing I would point out is from a  
11 health and safety issue, which I didn't see a lot of  
12 discussion about, MERA was mentioned earlier, but this will  
13 be County so I'm assuming that if there is a police issue,  
14 that the County Sheriff will respond to an issue out there,  
15 unless there's a sharing arrangement with Tiburon, but I  
16 don't know the answer to that. So, some issue -- some  
17 discussion as to how we're going to deal with the problems  
18 that are associated with that, as well as MERA, fire flow,  
19 the other issues that were brought up earlier.

20 Those are my comments generally right now, thank  
21 you.

22 CHAIRPERSON LUBAMERSKY: Thank you.

23 Commissioner Dickenson?

24 COMMISSIONER DICKENSON: I have a number of  
25 areas where I think we need additional information to

1 eventually be able to make an informed decision, and one of  
2 them has to do with the water tank, and I don't think the  
3 current discussion of the impacts of that really is  
4 adequate.

5           When we were out on the property and looked at it,  
6 and looked at some of the skyline along the ridge, it's a  
7 very steep hillside, located near the top of a grassy -- a  
8 grassy hill, and there are general -- there's not photo  
9 montages or any visual representations of it, but there are  
10 comments that it will be visually significant.

11           But I don't really have a sense of what that  
12 impact will be.

13           In terms of, and I assume there probably were  
14 grading plans for the road that's required to get up to it,  
15 which is going to require cut-and-fill banks, and maybe  
16 retaining walls. The EIR does include a drawing showing the  
17 alternative of the water tank on the open space and some  
18 grading required to get a road up to that.

19           But then in addition to the fact that it's in a  
20 very visible location, the mitigation measure recommends  
21 increasing the elevation by 10 feet to 590 feet in  
22 elevation, which is the elevation at the top edge of the  
23 water tank, which doesn't allow you to do any excavation.  
24 The entire pad of the tank is going to have to be raised,  
25 somehow raised up into the air.

1           And even there's one cross-section of the tank in  
2 the Draft EIR and it must be a section located east/west  
3 through the tank and not from -- not through the scope,  
4 because it shows an 11-foot high retaining wall on one side  
5 and a 12-inch high retaining wall on the other side, and not  
6 cut bank at all. And I assume the only reason that could be  
7 the case is because you're cutting through the ridge this  
8 way as opposed to showing what the grading and retaining  
9 walls would be running along the direction of the ridge  
10 line.

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11           And I just don't see how you could raise the tank,  
12 as the mitigation measure recommends, to 590 feet elevation,  
13 which is the elevation at the property line, and somehow get  
14 a pad that's that high in the air when you're talking about  
15 raising the downhill edge of the pad by 40 feet or something  
16 like that on a slope that you can hardly walk up, now.

17           So, I would like to see more details on what is  
18 actually involved in doing the water tank as recommended in  
19 the mitigation measure. And not only the grading for the  
20 tank and how you accomplish the pad for the tank, but also  
21 the grading and now additional grading that would be  
22 required to get the service road up to it because you're now  
23 the same distance, going ten feet higher in elevation, and  
24 that's going to change the -- I assume change the  
25 alignment, change the amount of grading involved in doing

1 that water tank.

2 So, I am just not at all convinced, I have an  
3 idea, of what it would even be involved in building it the  
4 way it's proposed and certainly not in terms of what would  
5 be involved in building it with the recommended mitigation  
6 measure.

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7 The second area where I probably have the biggest  
8 questions are the visual impact and feasibility of the  
9 construction road. When we were out there we actually  
10 walked down that hillside, and it's very steep, and you  
11 actually had difficulty keeping from sliding just walking  
12 down it. It is a very important traffic mitigation measure  
13 in that it's intended by building this other road down to  
14 Paradise Drive, it's intended to keep a lot of the traffic,  
15 construction traffic out of -- out of the existing  
16 neighborhood and off the existing neighborhood streets.

17 The EIR talks about a ribbed concrete road with  
18 guard rails and K-barriers along it, and that -- and given  
19 the location, and you can see it from all over, and from --  
20 certainly from Angel Island looking back, you look right at  
21 what will be this ribbed concrete road running right up the  
22 face of the hillside.

23 The EIR refers to two letters, one from Galati and  
24 one from Red Horse that indicated that they felt the road  
25 was feasible. I think we need more verification that it

1 in fact is feasible for the length it's proposed.

2 I mean usually when you talk about a 25-percent  
3 grade road it's only for a certain distance because vehicles  
4 slow down as the length increases. And I just cannot  
5 envision loaded construction trucks, or even partially  
6 loaded construction vehicles, which then would theoretically  
7 double the amount of construction traffic because you have  
8 twice as many half-loaded trucks going up there, making it  
9 up that construction road.

10 And when we were there it was explained that it  
11 was not only the heavy equipment, but the intention is to  
12 use it for all construction activity. So that dozens and  
13 dozens of contractors' pickup trucks, plumbing supply  
14 trucks, as well as the loaded dump trucks, and the concrete  
15 trucks, and lumber trucks are all going to have to go up the  
16 face of that hill.

17 And if it isn't feasible or if the impacts are so  
18 significant then that, I think, changes the equation in  
19 terms of where the traffic is going to go.

20 Another issue that I had is that -- actually, I  
21 think the graphics are very helpful in the EIR, and Barbara  
22 Saltzman raised an issue about the maps, and actually the  
23 information in here was very detailed in terms of the  
24 location of the homes in relation to the biotic -- the  
25 biological resources.

1           The problem I have, though, is that the landslide  
2 repair map, superimposed over the development, assumed that  
3 the only grading is within the footprint of the actual  
4 slide. And particularly Landslide 3, which is on that very  
5 steep hillside above the Hill Haven subdivision, I am sure  
6 is going to require benching into bedrock, keying it in,  
7 building a buttress fill, and it's a very steep hillside and  
8 you're not going to be able to just limit it to grading, as  
9 indicated in the EIR, to the extent of the footprint of the  
10 existing slide.

11           In order to do the benching, you're going to have  
12 to go outside that and cover a larger area that is indicated  
13 in the EIR, and for which all the grading calculations have  
14 been based on. And that's -- the same comment applies to  
15 other landslides, but that's the one in particular because  
16 of the very steep hillside that it's on I'm sure is going to  
17 require a lot more grading than the figure that was used,  
18 which appeared to be just taking out the dirt and putting  
19 the dirt back in without the geotechnical requirements of  
20 benching into bedrock, and then building a buttress fill,  
21 and having to taper it in.

22           An area where I did not have a clear understanding  
23 of what is actually proposed is the proposed detention  
24 basins. And it's kind of general and it talks about,  
25 well, the subdivision detention basin -- and there are

1 drawings that show it, but it still didn't indicate to me  
2 how that would work and whether it was feasible in terms of  
3 the goal of not increasing peak-hour runoff during a five-  
4 to hundred-year storm.

5 It talked about culverts, and catch basins, and  
6 then as I recall, it talked about the detention facilities  
7 where the homes would be designed with design review, but  
8 what's indicated in there are like black lines on the  
9 drawing, and I have no sense as to what is involved with  
10 that, and is it a huge underground cistern, how you capture  
11 enough runoff from the impervious surfaces involved from the  
12 road to accomplish the goal.

61 13 And then what likely will have to happen, because  
14 water runs downhill, in terms of cisterns below houses to  
15 catch the runoff from the roofs, and the driveways, and all  
16 that are not included -- from what I recall, not included in  
17 the drawings or calculations that were in the Draft EIR.

18 So, I, for one, just don't have a real sense as to  
19 what is really involved in trying to accomplish this goal of  
20 no net increase in peak period runoff.

62 21 And the next issue I have has to do with house  
22 size, and one of the things I noted in the plan, included in  
23 the Tiburon MOU, is that in one area of the site, over off  
24 Paradise Drive, the home sizes are being increased  
25 significantly. And I understand why that may seem



1 desirable, they're the ones the farthest away from the  
2 neighbors and they're, in fact, in the dense oak forest.  
3 But in the proposed project the house sizes are 6,000,  
4 6,550, 5,870, 5,500, in that range, whereas in the Tiburon  
5 alternative they're all 10,000 square feet. And those lots  
6 are probably the steepest lots in the proposed development.  
7 Some of them, on the downhill side of the road to the  
8 existing water tank are, I mean, extremely steep and I just  
9 cannot envision how you could even fit a 10,000 square foot  
10 house on that steep of a hillside.

11           And I think at one point there was reference to  
12 areas of tree cover, that also is the area where most of the  
13 trees are being removed, it's where most of the big, Coast  
14 Live Oaks are located, and some are in good shape and some  
15 are in bad shape. But in order to try and preserve the ones  
16 that are in good shape, you need the flexibility of being  
17 able to work around trees and I think once you increase the  
18 size from five to six thousand square feet up to 10,000  
19 square feet that you're working against the County goal of  
20 trying to minimize the removal of the oak trees.

21           And I don't think there's adequate discussion of  
22 what the impacts would be in terms of comparing the proposed  
23 project with the Alternative 2, what the impacts would be of  
24 almost doubling the size of the houses in the oak forest  
25 on what are clearly the steepest lots in the entire

1 subdivision.

2 Then -- I'm almost finished here. Then, the  
3 project as described in the EIR, requires exceptions from  
4 County regulations, current County regulations in, as far as  
5 I'm concerned, two significant areas.

6 One is a road width and the EIR does look at the  
7 associated impacts, recommends a mitigation measure of  
8 increasing the width of the road to comply with the County  
9 standards, not granting the exception, and it does look at  
10 the impacts of doing that in terms of increased runoff and  
11 various other things.

12 What the EIR doesn't look at is the impacts of  
13 complying with the County's height limitation. And that if  
14 you're in the Ridge and Upland Greenbelt, on a visually  
15 prominent ridge, you can build there if there are no other  
16 places, and the court judgment seems to indicate that  
17 they're entitled to build there because there are not  
18 adequate sites out of the Ridge and Upland Greenbelt area,  
19 but the height limit is 18 feet.

20 And in the proposed project the maximum height is  
21 25 feet, and in the Tiburon alternative the maximum height  
22 limit is 30 to 35 feet. And I don't have a good sense as to  
23 what would be involved in terms of reducing house size, or  
24 spreading the houses over a log bigger area, increasing  
25 the impervious surface if you complied -- if you modified

1 the project to comply with the County's 18-foot standard,  
2 which is basically a one-story house.

3 If you look at the photo montages or look at the  
4 charts that show the footprint versus the house size, the  
5 assumption is that most of those houses are two stories,  
6 which don't comply with the County standards for building in  
7 a ridge top area. And I don't have a good sense as to what  
8 the implications would be of just, as a mitigation measure,  
9 of saying, oh, well, it should comply with the standards.

10 I also noted that in terms of Ridge and Upland  
11 Greenbelt that the Ridge and Upland Greenbelt line that  
12 existed back in the seventies and all the way up until the  
13 recent County-wide plan is different than the Ridge and  
14 Upland Greenbelt line that exists today. And while we  
15 didn't really talk about it, the line now includes a lot  
16 more of the property than the old line did.

17 And it exists, I actually believe that the  
18 previous version of the County-wide plan, I have a copy  
19 here, is probably pretty close to what existed in the 1970s,  
20 at the time the original Stipulated Judgment was entered  
21 into. But it's a lot less of the property that is -- and is  
22 indicated in the exhibit that is in the Draft EIR, which is  
23 based on the current Ridge and Upland Greenbelt line, which  
24 is a topographic elevation that runs through the  
25 property. The other was like a swath that cut across the

1 upper part of the property.

65 2 And because in a lot of ways we're being locked  
3 into what was done in 1976, I think it would be helpful to  
4 see what portion of the property was being referred to at  
5 that time.

66 6 And the final comment I have is that the  
7 Department of Fish and Game submitted a letter, which we  
8 received copies of, that had a lot of very specific  
9 recommendations and took issue with a number of mitigation  
10 measures, and I'm really looking -- because they submitted  
11 it in writing, there will be a response, but I'm really  
12 looking forward to what the implications would be of  
13 complying with their -- with their request for revisions.

14 And those are my comments.

15 CHAIRPERSON LUBAMERSKY: Thank you.

16 Commissioner Crecelius?

67 17 COMMISSIONER CRECELIUS: I think I agree with  
18 everything my colleagues have said. I would like to talk  
19 about the oak woodland and it just, sort of to me, to -- the  
20 mitigations do not reduce the level of significance to less  
21 than significant. I think that needs to be a significant  
22 unavoidable impact.

23 If you're talking about taking out either 748  
24 trees or 900 and something trees, I just don't think that  
25 passes the straight face test in terms of a -- to get it

1 to a less than significant impact. So, that's one of my  
2 comments.

3 I share concern about the construction road and,  
4 as I understand it, the construction road is a mitigation to  
5 keep the traffic off the streets in Hill Haven and other  
6 areas. And I'm really concerned about it, when I saw it, I  
7 was joking with the consultants who were taking me around,  
8 and I was saying, well, I'm hoping nobody's planning to use  
9 pre-fab trusses, because I'm not at all sure how they're  
10 going to get them up the hill. And that was kind of a  
11 little comment, you know, kind of a silly comment but, you  
12 know, think of a concrete truck, think of any large vehicle  
13 that's trying to get up the hill, and to some extent any  
14 improvement, you know, any rehab that's done on any of the  
15 houses in Hill Haven, they got to pour concrete, they face  
16 that issue. But here it's a level of magnitude, I think, of  
17 people -- of trucks trying to get up that hill.

18 And it is described by the Tiburon Fire Protection  
19 District, I believe, as an unsafe condition. So, you know,  
20 if my son drove a concrete truck, I'm not sure I'd like to  
21 have him driving up there. So, I just think it needs more  
22 work as a mitigation for another negative thing, which is  
23 traffic in Hill Haven.

24 I do share concerns about the maintenance of  
25 the open space. Was that Commissioner Ginalski who was

1 talking about the maintenance of the open space, if the  
2 County is not going to accept it, and I don't know whether  
3 they will or they won't.

4 I'm also concerned about house sizes and  
5 particularly, I mean, the visual simulations were very  
6 useful. Thank you for doing those. Particularly the one on  
7 page 516.

8 It does seem that if the houses were shorter, not  
9 as high and not as big that it would significantly affect  
10 that issue of views from the open space.

11 I also think if the houses were shorter and  
12 smaller they would significantly -- that the view from Angel  
13 Island would also be noticeably improved.

14 I know why everyone wants to have a bigger house  
15 and I understand that, but we're talking about an EIR here  
16 and we're talking about mitigation measures, that's why  
17 we're talking about it.

18 And I also agree that the resource management plan  
19 should be worked out much earlier in the game. Okay, I'm  
20 done.

21 CHAIRPERSON LUBAMERSKY: Thank you. I just --  
22 everybody's raised, I think, what needs to be raised, just a  
23 couple comments, though.

24 In terms of the traffic through the Hill Haven  
25 area, I don't think even calling them streets is really a

1 valid thing. I mean, just some of them are just places, you  
2 know, where people back up and turn around. And as  
3 Commissioner, I think, Holland mentioned, and also  
4 Greenberg, is it's not level of service, it's really as a  
5 practical matter getting -- getting vehicles in and out of  
6 there, which does lead one to ask the question that  
7 Commissioner Holland asked about, emptying onto Tiburon  
8 Boulevard, or there being some sort of way to deal with  
9 this. Because, I mean, they're already at a tipping point,  
10 it seems to me, and adding more vehicles up that hill I  
11 don't think is a -- is as a practical matter humane, I guess  
12 in a way.

13           And then the other thing touches on what other  
14 people have said, which is I'd like to just get a sense of  
15 all of the things that where we'd be putting on the EIR  
16 would be putting on the homeowners association, I mean  
17 whether it's drainage maintenance, whether it's open space  
18 maintenance, whether it's monitoring, being a construction  
19 disturbance manager, I mean all of these things, if only to  
20 let people who would be buying these houses later know all  
21 of these things they're going to have to do. But in terms  
22 of being able to judge how many, and where, and how, and how  
23 big or that would be interesting and I think a useful  
24 collection of information from my point of view.

25           Commissioner Holland?

1           COMMISSIONER HOLLAND: I just wanted to add a  
2 couple of things. One is it occurred to me what you just  
3 said about a homeowners association. I'm not sure a  
4 homeowner, who has a home right up at the top, off Mountain  
5 View Drive, appreciates they have much in common with a home  
6 owner down by the water tank. Do they really understand  
7 their commonality of interests in that homeowners  
8 association? They're almost like on opposite sides of the  
9 Peninsula, so I think there's a problem with the homeowners  
10 association. But we run into these problems with homeowners  
11 associations everywhere, so that's nothing new.

12           And too, and actual thing, one item I forgot to  
13 mention and that's this requirement for eight parking places  
14 on site for everyone of the lots, that's 344 parking places,  
15 and if they're all hard-scaped, it's about one and a half  
16 acres of hard-scaping just to accommodate all this parking.

17           And it's interesting that the EIR notes that some  
18 parcels, lots, home sites will not accommodate eight, and so  
19 that you'd have to have off-site, what they call parking  
20 bays, which I think is a fancy term for parking lots in the  
21 neighborhoods which, undoubtedly, will be out on expanded  
22 streets, hard-scaped again.

23           But what I'd like to have is look at somehow  
24 acknowledging or expanding that mitigation so that -- or  
25 mitigate so that to the maximum extent possible we use



1 permeable paving for as many of these parking spaces as we  
2 can. Presumably, a quarter of them will be indoor, will be  
3 in garages, but that still leaves a substantial number of  
4 them which are going to be outdoors. This is the kind of  
5 area where, left to their own devices, most people are going  
6 to pave the hell out of everything anyway, so I think we  
7 need to have some mechanism that puts on notice, when these  
8 things come to design review, as much as possible all these  
9 excess parking spaces will get permeably paved.

10           The only other thing I wanted to mention and I  
11 forgot to, is to tell Mr. Berman that I was -- thought this  
12 was one of the better EIRs I've read. It was very well  
13 written, very well presented, very difficult. And the fact  
14 that we've chewed up a lot of pieces of it I think says we  
15 understood what you said and we were able to get to the  
16 details without being so frustrated by a bad job to begin  
17 with, which is sometimes the case, that it's actually a  
18 testimony to how well you did that we were able to get into  
19 the actual meat of the thing and give you a lot of feedback.  
20 So, I was pleased. Thank you.

21           CHAIRPERSON LUBAMERSKY: Thank you.

22           Commissioner Greenberg?

23           COMMISSIONER GREENBERG: Yeah, I'd just like to  
24 comment on some of the comments, briefly. I note that  
25 for the MOU alternative, the 32 lots that Commissioner

1     Dickenson was talking about, 10 10,000 square foot houses  
2     off Forest Glen Court, that the house sizes in that  
3     alternative are guaranteed. They're not subject to design  
4     review, 10,000 square feet of building on each of those lots  
5     is an entitlement. That's not true of any of the other  
6     alternatives where you could consider that that's the  
7     maximum house size which could be reduced through the  
8     process. And so when you consider the impact, that's the  
9     full impact on those.

10             I, too, noted the parking requirement issue and I  
11     would say that if houses can be made meaningfully smaller,  
12     we could cut that parking requirement in half, or close to  
13     half, which would solve some of those secondary impacts from  
14     requiring eight parking spots per house.

15             And then I just want to say overall, thinking  
16     about this coming in, but certainly after hearing the public  
17     testimony and the comments of my colleagues, it becomes more  
18     and more clear to me that if we could take as many lots as  
19     possible off the ridge, we would solve a whole lot of  
20     problems.

21             A lot of the grading impacts for slide repair that  
22     are on the ridge could go away. The special status species,  
23     with the exception of that Red-legged Frog, are all on the  
24     ridge.

25             The water tank issue and the water pressure

1 issue could be -- the problems associated with that could go  
2 away or be far less.

3           The impacts to the Keil Spring could go away. The  
4 need for the construction access road could go away, and the  
5 traffic impacts to the existing neighborhood, which are  
6 substantial to the quality of life of people who already  
7 live there, could be vastly reduced.

8           And I think some effort should be made in terms of  
9 mitigations to find places for half-acre lots, with much  
10 smaller houses, along the three building sites along  
11 Paradise Drive.

12           And I would note that the one that's -- the area  
13 that's adjacent to Spanish Trail, in that Old Tiburon  
14 neighborhood, it's a logical extension of existing  
15 development. I mean, it's a very nice, natural undeveloped  
16 hillside now, but it is directly adjacent to existing  
17 development and it seems to me that you could have tiers of  
18 houses in there, you could get more than has been suggested  
19 with some effort, I think.

20           But to look at those house sizes and lot sizes,  
21 and do something comparable there that would be a natural  
22 flow with the existing neighborhood, albeit with access of  
23 Paradise Drive, certainly not through Spanish Trail.

24           But I really have come to see that a lot of the  
25 impacts could be greatly reduced if as many -- granted,

1 that the settlement allows some houses, which you can  
2 interpret however you like, I guess, off the ridge, that we  
3 would ameliorate a lot of the impacts of this development.

4 CHAIRPERSON LUBAMERSKY: Commissioner Dickenson?

5 COMMISSIONER DICKENSON: I realized there was one  
6 other aspect of the house size issue that I skipped over,  
7 and that is intuitively, it seems to me, that as the house  
8 size increases, for instance on the lots by the water tank,  
9 off Paradise Drive, if they're going from five to six  
10 thousand square feet, up to 10,000 square feet there has to  
11 be at least a proportional, or probably a proportional  
12 increase in material supply trips and maybe close to a  
13 proportional increase in number of construction vehicles  
14 that are going there.

15 The EIR, as I recall, looked at the trip  
16 generation based on the number of lots, but didn't adjust  
17 that for larger houses in some areas. And it seems to me  
18 that where there are larger houses, than proposed in by the  
19 project Applicant, that there could be significantly greater  
20 construction traffic and I think long-term some increase in  
21 terms of people servicing the house.

22 But the thing that would be, I think, pretty easy  
23 to document is if you build a 5,000 square foot house how  
24 does the construction traffic for that compare to if you  
25 build a 10,000 square foot house?

1           And under both the project and -- or under the  
2 project and then under Alternative 2 it assumed they both  
3 had, I believe, ten home sites there, but with the  
4 significant increase in size I suspect that the traffic  
5 could be very different.

6           And I don't know but I mean intuitively, I think,  
7 that would be the case.

8           CHAIRPERSON LUBAMERSKY: Okay. Very well.

9           COMMISSIONER HOLLAND: It's interesting how we  
10 slipped into this business with regarding 5,000 square foot  
11 homes as being a small one.

12          CHAIRPERSON LUBAMERSKY: Right. I believe we've  
13 concluded Commissioner comments. We would be reopening the  
14 public hearing in 35 minutes.

15          Is there any other good work that we could be  
16 doing now, Mr. Lai?

17          MR. LAI: Now, why don't you guys take a good  
18 break. I think coffee is probably going to be coming soon,  
19 so --

20          CHAIRPERSON LUBAMERSKY: Okay. Then we'll be  
21 taking a break until three o'clock.

22          MR. LAI: Yes.

23          CHAIRPERSON LUBAMERSKY: Thank you.

24          (Off the record at 2:25 p.m.)

25          (Back on the record at 3:00 p.m.)

1                   CHAIRPERSON LUBAMERSKY: As announced earlier,  
2 we're going to reopen the public hearing because there were  
3 individuals who couldn't attend earlier, but could join us.  
4 But I believe those people have already actually made it and  
5 so, in that case, unless there's somebody -- nope. Okay,  
6 great, then we will close the public hearing and our next  
7 steps are --

8                   MR. LAI: We will need to --

9                   CHAIRPERSON LUBAMERSKY: Mr. Lai?

10                  MR. LAI: Thank you. We will respond to all of  
11 the comments received.

12                  CHAIRPERSON LUBAMERSKY: We can make a motion, but  
13 I'd like you to just set out what we need to do next, and  
14 then we will do it.

15                  MR. LAI: You can do it.

16                  MR. ROBERTO: Following in the format of the  
17 County, we'd be looking for a motion from the Commission to  
18 prepare the Final Environmental Impact Report responding to  
19 all the comments made at the meeting today, both by the  
20 public and the Commission, and responding to all the  
21 comments we receive through the end of the comment period,  
22 which is April 29<sup>th</sup>, this coming Friday, and to prepare that  
23 Final Environmental Impact Report, and to actually bring  
24 that Final Environmental Impact Report to the Board of  
25 Supervisors.

1 CHAIRPERSON LUBAMERSKY: Okay.

2 MR. ROBERTO: When it's ready for certification.

3 CHAIRPERSON LUBAMERSKY: Do we have a motion?

4 COMMISSIONER DICKENSON: Yes.

5 CHAIRPERSON LUBAMERSKY: Commissioner Dickenson.

6 COMMISSIONER DICKENSON: I would move that the

7 Planning Commission instruct the EIR consultant to prepare a

8 Final EIR based upon the written comments, based upon the

9 written responses to all of the oral and written comments

10 received at the Draft EIR hearing, and all of the written

11 comments received during the public review and comment

12 period that ends April 29<sup>th</sup>.

13 CHAIRPERSON LUBAMERSKY: Second, anybody?

14 COMMISSIONER HOLLAND: Second.

15 CHAIRPERSON LUBAMERSKY: Second, Commissioner

16 Holland.

17 Those in favor?

18 (Ayes.)

19 CHAIRPERSON LUBAMERSKY: Opposed?

20 Carried.

21 And we don't know when that will come back to the

22 Board, correct?

23 MR. ROBERTO: We do not and I don't want to

24 guesstimate at this point in time.

25 CHAIRPERSON LUBAMERSKY: I'm not asking you.

1           MR. ROBERTO: Yeah. And we'll know more -- I can  
2 let Tom know, once we have a sense of -- there's a lot of  
3 comments today, there's a lot of letters coming in, and  
4 we'll have a sense in a few weeks of where we are and what  
5 it's going to take to respond.

6           CHAIRPERSON LUBAMERSKY: Yeah.

7           MR. ROBERTO: And we'll know more -- I can let Tom  
8 know, once we have a sense of -- there's a lot of comments  
9 today, there's a lot of letters coming in, and we'll have a  
10 sense in a few weeks of where we are and what it's going to  
11 take to respond.

12          CHAIRPERSON LUBAMERSKY: And when the comments are  
13 available, they'll be available on the Planning website, or  
14 how would people look for it?

15          COMMISSIONER DICKENSON: Do you post --

16          MR. LAI: No, we don't post all of the comments  
17 received online, but we would make the response to comments  
18 available online, like we did --

19          CHAIRPERSON LUBAMERSKY: Yeah, the response to  
20 comments would be great.

21          MR. ROBERTO: The Final EIR, before it goes,  
22 before it's scheduled for hearing before the Board, will be  
23 distributed to the Planning Commission, as well to the  
24 public, and it will be posted on the Marin cda's website.  
25 So the entire document, including response to comments



1 and any amendments made to the Draft EIR will be on the  
2 website.

3 CHAIRPERSON LUBAMERSKY: And how will people know  
4 to look for it, they'll just -- people will -- is it a  
5 network --

6 MR. ROBERTO: Yeah, we issue a notice of  
7 availability, and it will be given to everyone who's spoken  
8 at any of the hearings.

9 CHAIRPERSON LUBAMERSKY: Okay.

10 MR. ROBERTO: We'll do a mailing; we have a  
11 mailing list that's quite long.

12 CHAIRPERSON LUBAMERSKY: Great.

13 MR. ROBERTO: And they will receive notice of this  
14 and where they can receive copies of the Final. We may even  
15 distribute some CDs of the Final and things of that kind.

16 CHAIRPERSON LUBAMERSKY: Great. Commissioner  
17 Dickenson?

18 COMMISSIONER DICKENSON: I was just going to ask  
19 that we formalize my suggestion that, if possible, that the  
20 Planning Commission, when the Final EIR is available, the  
21 Planning Commission schedule a discussion item to allow us  
22 to review the comments, including the ones to our questions  
23 raised today.

24 CHAIRPERSON LUBAMERSKY: And that we were going  
25 to ask staff to think about that and how to do that,

1 whatever proper way that might happen. Is that right?

2 MR. LAI: I'm fine as long as counsel says we can  
3 do it.

4 CHAIRPERSON LUBAMERSKY: Okay.

5 COMMISSIONER DICKENSON: Yeah, as long as County  
6 Counsel will think about that, we'll either be here or we  
7 won't be here, however it works.

8 CHAIRPERSON LUBAMERSKY: Okay, well just -- if you  
9 could let him know and let us know, that would be great.

10 MR. ROBERTO: Sure.

11 CHAIRPERSON LUBAMERSKY: Any other questions?  
12 Commissioner Ginalska?

13 COMMISSIONER GINALSKI: Just with respect to our  
14 merits discussion, if we decide that we'd like to -- I don't  
15 know how the Commission feels about this but, if possible,  
16 that we could at least do what we did today and adjourn, and  
17 then go back into session, say at 7:00 or 8:00 o'clock in  
18 the evening of the day of that merits discussion, so that  
19 people that have to work could come and visit. Just, I'm  
20 assuming we're not going to have enough people to keep us  
21 busy all day, but I could be wrong. So, just in case we  
22 could do that that makes some sense.

23 CHAIRPERSON LUBAMERSKY: Eight o'clock I'm not so  
24 sure about. No, but I think that the idea, though, of --

25 COMMISSIONER GINALSKI: Or 7:00.

1           CHAIRPERSON LUBAMERSKY: -- yeah, 7:00, perhaps,  
2   yeah. I think is -- is the Commission comfortable with  
3   that? I mean, I think basically we're willing to be here as  
4   long as we need to and start when we need to. But on the  
5   other hand, it may -- I don't think we'll be doing good work  
6   if it's midnight, so we'll have to figure that out.

7           MR. LAI: I'm happy to schedule another ten  
8   o'clock morning start for the merits and then --

9           CHAIRPERSON LUBAMERSKY: Yeah, okay. But I think  
10   we might want to even plan, as Commissioner Ginalski said,  
11   to make it known that at 7:00 --

12          COMMISSIONER GINALSKI: Right, yeah, invite people  
13   that after work they can come and speak to us, if they need.

14          COMMISSIONER CRECELIUS: Even if we have to take a  
15   recess from 4:00 to 7:00 or something, people should have an  
16   opportunity to make those comments.

17          MR. LAI: Okay.

18          COMMISSIONER DICKENSON: Thank you.

19          CHAIRPERSON LUBAMERSKY: Okay, then a motion to  
20   adjourn.

21          COMMISSIONER GREENBERG: Make a motion to adjourn.

22          CHAIRPERSON LUBAMERSKY: Second?

23          Those in favor, aye?

24          (Ayes.)

25          CHAIRPERSON LUBAMERSKY: Adjourned.

1           (Thereupon, the Hearing was concluded  
2           at 5:54 p.m.)

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***Comments of Paula Little, Hill Haven Property Owners Association***

In addition to oral comments at the public hearing the Hill Haven Property Owners Association submitted written comments (see comment letter 13) as did Paula Little (see comment letter 72).

***Response to Public Hearing Comment 1***

Please see Response to Comment 13-1 for information regarding vehicle egress during emergency situations, and Master Response 2.

***Response to Public Hearing Comment 2***

Please see Master Response 1 and also Response to Comment 6-7.

***Response to Public Hearing Comment 3***

Please see Master Response 1.

***Response to Public Hearing Comment 4***

Please see Response to Comments 6-6, 6-15, 13-3, and Master Response 1.

***Response to Public Hearing Comment 5***

Please see Response to Comment 6-6, 6-15, 13-1, and 13-3.

***Response to Public Hearing Comment 6***

Please see Response to Comment 13-6 for information regarding Landslide 3.

***COMMENTS OF JERRY RIESSEN, LAST CHANCE COMMITTEE***

In addition to oral comments at the public hearing the Last Chance Committee submitted written comments (see comment letter 16).

***Response to Public Hearing Comment 7***

Comment noted. The issue of landslides will be further discussed and reviewed by Marin County during consideration and public hearings on the merits of the project. Please see Response to Comments 1-3, 6-5, 7-8, 13-6, 16-5 and 16-24.

***Response to Public Hearing Comment 8***

Please see Response to Comments 7-1, 11-15 and 15-32 for information regarding the alternative analysis contained in the Draft EIR.

***COMMENTS OF NONA DENNIS, MARIN CONSERVATION LEAGUE***

In addition to oral comments at the public hearing the Marin Conservation League submitted written comments (see comment letter 20).

***Response to Public Hearing Comment 9***

Where the size of proposed homes is related to identified impacts, these issues are discussed in the Draft EIR. Otherwise the matter of home size is a project merits issue and not the adequacy of the Draft EIR. Also, please see Response to Comments 16-11 and 20-2.

***Response to Public Hearing Comment 10***

Responsibility for each mitigation measure is established in the Draft EIR and will be further described in the Mitigation Monitoring and Reporting Program. Please see Response to Comments 1-3 and 16-24.

***Response to Public Hearing Comment 11***

Please see Response to Comments 15-12, 15-24, and 15-27.

***COMMENTS OF BARBARA SALZMAN, MARIN AUDUBON SOCIETY***

In addition to oral comments at the public hearing the Marin Audubon Society submitted written comments (see comment letter 15).

***Response to Public Hearing Comment 12***

Please see Response to Comment 15-2.

***Response to Public Hearing Comment 13***

Please see Response to Comment 15-5.

***Response to Public Hearing Comment 14***

Please see Response to Comments 15-1 and 15-11.

***Response to Public Hearing Comment 15***

Please see Response to Comments 15-12 and 15-24 through 15-27.

***Response to Public Hearing Comment 16***

Please see Response to Comments 11-15 and 15-32.

***COMMENTS OF RICK CATTELL***

In addition to oral comments at the public hearing Rick and Susan Cattell submitted written comments (see comment letter 38).

***Response to Public Hearing Comment 17***

Please see Master Response 1 and Response to Comments 6-6, 6-7, and 38-2.

**COMMENTS OF DEREK PARKER**

In addition to oral comments at the public hearing Derek and Nancy Parker submitted written comments (see comment letter 54).

**Response to Public Hearing Comment 18**

A performance bond, as requested by the commentor, is something that could be discussed in regards to the merits of the project. CEQA does not require that this issue is addressed in EIRs.

**COMMENTS OF SUSAN BRAUTOVICH**

In addition to oral comments at the public hearing Susan Brautovich submitted written comments (see comment letter 95).

**Response to Public Hearing Comment 19**

Please see Master Response 2.

**Response to Public Hearing Comment 20**

Please see Response to Comment 6-15 and 12-11.

**COMMENTS OF STEPHANIE REGAN**

In addition to oral comments at the public hearing Stephanie and Edward Regan submitted written comments (see comment letter 39).

Ms. Regan provided photographs of the existing streets in the Old Tiburon and Hill Haven neighborhoods. No addition comments on the adequacy of the Draft EIR were provided.

**COMMENTS OF RUSS KEIL**

In addition to oral comments at the public hearing Russ Keil submitted written comments (see comment letters 21 and 22).

**Response to Public Hearing Comment 21**

Please see Master Response 3.

**COMMENTS OF JAMES CAMPBELL**

In addition to oral comments at the public hearing James Campbell submitted written comments (see comment letter 42).

**Response to Public Hearing Comment 22**

Please see Master Response 2.

### **COMMENTS OF JOHN GOODHART**

In addition to oral comments at the public hearing John Goodhart submitted written comments (see comment letter 91).

#### ***Response to Public Hearing Comment 23***

Please see Response to Comment 91-1.

### **COMMENTS OF JOHN ARVESEN**

In addition to oral comments at the public hearing John Arvesen submitted written comments (see comment letter 93).

#### ***Response to Public Hearing Comment 24***

Please see Master Response 2, Response to Comment 13-1, and the discussion of *Impact 5.7-2 Wildland-Building Fire Exposure*.

### **COMMENTS OF ROBERT HART**

In addition to oral comments at the public hearing Robert Hart submitted written comments (see comment letter 90).

#### ***Response to Public Hearing Comment 25***

Please see Response to Comments 1-3, 6-5, and 16-24 as discussion examples for on-going mitigation. The Draft EIR provides feasible standards to mitigate identified impacts, and provides adequate information about the impacts and mitigation to inform the CEQA process.

#### ***Response to Public Hearing Comment 26***

CEQA requires that all significant impacts resulting from a project be mitigated to the extent feasible. If a mitigation measure is found to be infeasible and the decision making authority desires to approve a project; the decision making authority must first make a Statement of Overriding Consideration setting forth the reason the mitigation is infeasible and the benefits associated with approving the project without mitigation. Also please see Response to Comment 1-3.

#### ***Response to Public Hearing Comment 27***

The State of California Subdivision Map Act regulations and Marin County's Subdivision Ordinance give the County the legal authority to require a performance bond or other financial measure to insure all subdivision improvements are constructed. A developer is normally required to provide the financial security prior to approval of the Final Subdivision Map. The amount of the financial security is normally based on the improvements shown in the improvement plans for the subdivision and any other fiscal assurance required by the County prior to approval of the Final Subdivision Map. CEQA regulations do not include any authority to require the posting of a financial security before a Final EIR is certified.



**COMMENTS OF MAUREEN MEIKLE**

***Response to Public Hearing Comment 28***

Please see Response to Comments 22-33 and 22-67.

***Response to Public Hearing Comment 29***

Please see Response to Comments 15-1, 15-9, and 15-11.

**COMMENTS OF ROBERT SWANSON**

In addition to oral comments at the public hearing Robert Swanson submitted written comments (see comment letter 46).

***Response to Public Hearing Comment 30***

Please see Response to Comments 13-1, 69-5, 1-2, 16-27, and 46-2.

**COMMENTS OF MARK DELANE**

In addition to oral comments at the public hearing Mark Delane submitted written comments (see comment letter 37).

***Response to Public Hearing Comment 31***

Please see Master Response 1.

***Response to Public Hearing Comment 32***

Traffic and safety impacts are adequately discussed in the Draft EIR. The issue of whether the proposed project requires another permanent road is related to the merits of the project and not the adequacy of the Draft EIR. Please see Master Response 1 and Response to Comment 1-2.

**COMMENTS OF DAVID BARKER**

In addition to oral comments at the public hearing David Barker and Margaret Mason submitted written comments (see comment letter 69).

***Response to Public Hearing Comment 33***

Please see Master Response 1 and Response to Comments 69-1, 69-2, and 69-5.

***Response to Public Hearing Comment 34***

Please see Response to Comments 13-2 and 39-21.

**Response to Public Hearing Comment 35**

Please see Master Response 2 *Construction Road and Construction Phase Issues* and Response to Comment 13-2.

**COMMENTS OF GEORGE LANDAU**

In addition to oral comments at the public hearing George Landau submitted written comments (see comment letter 99).

**Response to Public Hearing Comment 36**

The Draft EIR is consistent with *State CEQA Guidelines* for the content of an EIR, which may include a discussion of the environmental acts mentioned by the commentor as they relate to specific environmental thresholds. However the impact topics of air quality, water quality, and endangered species are adequately discussed in the Draft EIR.

**COMMENTS OF PLANNING COMMISSIONER RANDY GREENBERG**

In addition to oral comments at the public hearing Randy Greenberg submitted written comments (see comment letter 7).

**Response to Public Hearing Comment 37**

The timing of the submittal of a Resource Management Plan (RMP) is a matter that can be discussed during the project merits review and hearing. The entitlement applications submitted by the project sponsor does not include a proposal to prepare a RMP. However, a number of mitigation measures contained in the EIR require the preparation of a RMP to insure that significant natural resources identified on the project site are protected during and after project construction. A decision on the proposed project and the feasibility of recommended mitigation measures would appear to be necessary in order to establish the parameters upon which a RMP can be prepared. Also please see Response to Comment 11-1.

**Response to Public Hearing Comment 38**

In the past the Marin County Planning Commission and Board of Supervisor have placed limits on house size in order to mitigate the impacts of a proposed project. Visual impact mitigation measures in the Draft EIR include building height limitations in the County's ridgeline zone that are more restrictive than the building height limitations proposed by the applicant. It is possible that implementation of the mitigation measure associated with reducing the visual impacts of the proposed project could influence the size of future home construction. The County has also adopted energy efficiency regulations and guidelines that may limit the future size of any given home in the proposed project and elsewhere in the County.

The proposed project is requesting approval for specific house sizes on each of the 43 lots. However, the Court's judgment does not specify house sizes for any of the 43 lots mandated. Therefore, there is no legal reason why house size cannot be discussed during project merits. In fact future house size can be discussed for all the development alternatives in the EIR.

The only other alternative that specifies house sizes is *Alternative 2*. The MOU between the Town of Tiburon and the applicant generally provides that if the County intends to approve *Alternative 2* the County must enter into a development agreement with Martha Company that is substantially in the form submitted to the County with the Lower Density Alternative. Since the development agreement identifies specific house sizes for each of the lots and the remainder parcel in *Alternative 2* it is possible that the project sponsor (Martha Company) could withdraw its consent to reduce the number of residential lots from the Court ordered 43 to 31 lots and the remainder parcel if the house sizes in the proposed development agreement are modified,. Also please see Response to Public Hearing Comment 9 above.

**Response to Public Hearing Comment 39**

Please see Master Response 1.

**Response to Public Hearing Comment 40**

It is not possible to specify at this time how fire flow requirements for any given lot would affect future house size. The Tiburon Fire Protection District will review all future house plans for any approved lots in the Easton Point Subdivision. The Uniform Fire Code and the District's role in implementing the standards and guidelines in the Code will eventually determine if available fire flow will limit the size (square footage) of any future home. Also please see Response to Comments 6-18, 16-11, 16-17, and 16-41.

**Response to Public Hearing Comment 41**

As stated by the County's contract planner at the Planning Commission public hearing on the Draft EIR; the Planning Commission and Board of Supervisors are not legally bound to choose between the proposed project and any of the alternatives discussed in the EIR. The EIR provides information on the environmental impacts of a proposed project and recommends feasible mitigation measure. During the merits hearing on any project application the Planning Commission and Board of Supervisor take into consideration not only the information in the EIR but planning policy contained in the Countywide Plan, zoning and subdivision regulations, and input from County staff and the public. However, the one limitation associated with this project is the Court Judgment requiring the County to approve 43 one-half acre residential lots, unless the applicant and the County agree to a different number. Also please see Response to Comments 7-1, 11-15 and 15-32.

**Response to Public Hearing Comment 42**

Please see Response to Comment 7-5.

**Response to Public Hearing Comment 43**

Please see Response to Comments 7-10 and 16-24.

**Response to Public Hearing Comment 44**

Between the proposed project and *Alternatives 2* through *4* there are four iterations of lot configuration that represent different scales of development on the project site. It appears that the only limitation placed on the County's decision regarding lots is the Court Judgment requiring a minimum of 43 one-half acre lots.

***Response to Public Hearing Comment 45***

This comment is on the merits of the project and not the adequacy of the Draft EIR. Structure heights can be reviewed/discussed further during the County's process to consider the merits of the project. No further response is necessary.

***Response to Public Hearing Comment 46***

The applicant has submitted retaining wall plans and profiles. These plans are available for review at the Marin County CDA office.

***COMMENTS OF PLANNING COMMISSIONER HOLLAND***

***Response to Public Hearing Comment 47***

Please see Response to Comments 39-14, 43-1, and 61-7.

***Response to Public Hearing Comment 48***

Please see Master Response 1 and Response to Comments 6-6, 6-7, and 13-5.

***Response to Public Hearing Comment 49***

Please see Master Response 1 and Response to Comments 13-3, 13-4, and 13-5.

***Response to Public Hearing Comment 50***

This comment is on the merits of the project and traffic that would affect the Hill Haven Neighborhood. Master Response 1 and Response to Comments 6-6, 6-7, and 13-3 through 13-5 respond to the environmental issues related to this topic. No further response is necessary.

***COMMENTS OF PLANNING COMMISSIONER MARK GINALSKI***

In addition to oral comments at the public hearing Mark Ginalski submitted written comments (see comment letter8).

***Response to Public Hearing Comment 51***

Please see Master Response 2.

***Response to Public Hearing Comment 52***

Please see Response to Comments 3-3, 7-14, and 60-5.

***Response to Public Hearing Comment 53***

Please see Master Response 8.

***Response to Public Hearing Comment 54***

Please see Response to Comment 15-1.

**Response to Public Hearing Comment 55**

Police services are discussed under *Impact 5.7-4*. Please see Master Response 7 and Response to Comments 6-18, 16-11, 16-17, and 16-41.

**COMMENTS OF PLANNING COMMISSIONER DON DICKENSON**

**Response to Public Hearing Comment 56**

Please see Response to Comments 4-3, 16-10, 41-2, and 68-1.

**Response to Public Hearing Comment 57**

Implementation of Mitigation Measure 5.7-7, which includes increasing the base elevation of the proposed water tank to 590 feet, would require a revised grading scheme if the water tank stayed at the same location. Although an engineering feasibility study has not been completed it is noted that the northwest corner of Parcel C is at elevation 590. So in order to place the base elevation at 590 feet this would require additional fill material to provide a level pad for the water tank. This in turn would result in different retaining wall heights than shown in **Exhibit 3.0-8** and in the Precise Development Plan.<sup>1</sup> As noted on page 475 of the Draft EIR increasing the elevation of the proposed water tank would result in the tank being more visible than as discussed for the proposed project. It also is acknowledged that increasing the base elevation of the water tank may affect the feasibility of locating the required emergency communications facility adjacent to or on Parcel C.

Mitigation Measure 5.7-7 does require the applicant to work with the MMWD to develop a water supply plan. The water supply plan would further evaluate the feasibility of raising the base elevation of the water tank as well as other measures to provide adequate water pressures to the new houses on the project site.

It also is noted that *Chapter 6.0 Alternatives to the Proposed Project* evaluates an alternative location for the water tank on the adjacent Old St. Hilary's Open Space preserve.

**Response to Public Hearing Comment 58**

Please see Master Response 2.

**Response to Public Hearing Comment 59**

Please see Response to Comment 13-6.

**Response to Public Hearing Comment 60**

Please see Master Response 5 and Master Response 6 and Response to Comment 22-33.

**Response to Public Hearing Comment 61**

Please see Master Response 5, Master Response, and Response to Comment 22-33.

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<sup>1</sup> *Wall Plan & Profile, Master Plan / Precise Development Plan / Tentative Map*, Sheet W-7, Backen Gilliam, International Planning Associates, CSW/Stuber-Stroeh, revised January 29, 2009.

**Response to Public Hearing Comment 62**

This comment is related to the merits of the project. Where the size of proposed homes is related to identified impacts, these issues are discussed in the Draft EIR. Otherwise the matter is in regards to the merits of the project, and not the adequacy of the Draft EIR.

**Response to Public Hearing Comment 63**

The Draft EIR includes an analysis of *Alternative 2* in a level of detail comparable for the analysis of the proposed project, which provides for a detailed comparison of impacts between the two different proposals. Furthermore, **Exhibit 6.0-43** summarizes the impacts of all alternatives and compares the severity of each impact.

**Response to Public Hearing Comment 64**

This comment is not on the adequacy of the Draft EIR, but rather the merits of the proposed project. No further response is necessary.

**Response to Public Hearing Comment 65**

Comment noted. No further response is necessary as the comment is not in regards to the adequacy of the Draft EIR.

**Response to Public Hearing Comment 66**

The comment letter referred to is comment letter 11 from Carl Wilcox of the California Department Fish and Game (now known as California Department of Fish and Wildlife). Please see Response to Comments 11-1 through 11-28.

**COMMENTS OF PLANNING COMMISSIONER CRECELIUS**

**Response to Public Hearing Comment 67**

Please see Response to Comments 15-12 and 15-24 through 15-27.

**Response to Public Hearing Comment 68**

Please see Master Response 1 and Master Response 2.

**COMMENT OF PLANNING COMMISSIONER HOLLAND**

**Response to Public Hearing Comment 69**

Please see Response to Comments 12-16 and Master Response 6, which includes revisions to Mitigation Measure 5.5-3(e) that addresses the use of permeable pavers.

**ADDITIONAL COMMENTS OF PLANNING COMMISSIONER DICKENSON**

***Response to Public Hearing Comment 70***

Please see Response to Comment 13-5 and 39-13. The request for additional analysis based on home size is noted. However in the opinion of the EIR preparers the detailed traffic volumes included in the traffic analysis of the Draft EIR are adequate.

***APPENDIX***  
***POTENTIAL MARIN EMERGENCY RADIO BASE STATION***



! " # \$ % & ( ) \* ' + , - . : ; < = > ? @ A B C D E F G H I J K L M N O P Q R S T U V W X Y Z [ \ ] ^ \_ ` { | } ~ ¡ ¢ £ ¤ ¥ ¦ § ¨ © ª « ¬ ® ¯ ° ± ² ³ ´ µ ¶ · ¸ ¹ º » ¼ ½ ¾ ¿

5 # \$ % - \$ % # " > ' - - \$ # ( ? ) , 2 & " % ( ) @ A < " % 4 : ( # % ) , % & \$ \$ + 4

/ 0 + ' - 123 ' , - ' 4 ) 3 3 + 55 6 ' 7 8 9 , : ; ' < = % > , : 9 ? @ ! \* ' 7 : \* 1 + + 29 ; ' 0 ) 9 ' A + : ' 2 + 5 ) 1 + 8 ' A B ' C 1 = 0 , @ ' D + 23 ) : ' 5 ' + E ) @ ' 5 + ' ) ' F , 5 + : 5 ) @ G ) 2 ! ' 7 3 + 2 \* + : = B ' H ) 8 1 , ' A ) 9 + ' 95 ) 5 ! : ' @ ' 5 + 8 ' , : ' 50 + ' 7 ) 95 : ' ( , 1 : 5 F 2 , F + 2 B ' 1 ' / 1 A ? 2 , : ; ' > ) @ , 2 1 ) ; ' - , 2 = 3 F @ : = + ' I 150 ' ) F F 2 , F 2 ) 5 + ' \* ? 18 + @ + 9 ' @ 15 ! : \* ' 0 ? 3 ) : ' + J F , 9 ? 2 + ' 5 ' 2 ) 8 1 , ' - 2 + K ? + : = B ' I M H N O P + @ = 5 2 , 3 ) \* : + 5 ! = - 1 + 8 9 %

, B \$ / : # & C \$ ) 5 :- - ' + 0)

/ 0 + ' F , 5 + : 5 1 ) @ ' A ) 9 + ' 95 ) 5 ! : , ' I , ? @ 8 ' 1 : = @ ? 8 + ' , 3 : 18 12 + = 5 1 , : ) @ ' ) : 8 ' 3 1 = 2 I ) E + ' M 190 O ) : 5 + : ) 9 ' , ' ) ' 5 ) @ @ ' 95 + + @ ' F , @ + ' 5 , ' A + ' @ , = ) 5 + 8 ' ) 5 ' 7 ) 95 , : ' ( , 1 : 5 ' 1 : ' / 1 A ? 2 : % / 0 + ' F 2 , F , 9 + 8 5 1 F + 2 , ? @ 8 ' = 3 F @ B ' I 150 ' 50 + ' N > > ' \* ? 18 + @ 1 : + 9 ' @ 13 15 1 : \* ' F ? A @ 1 = + J F , 9 ? 2 + ' 5 , ' H N + : + 2 \* B %

! + \$ C & % ) , B D ' 4 : + \$ 5 # % 2 ' + 24)

/ 0 + ' Q % % > , : \* 2 + 99 ' 2 + K ? 12 + 9 ' 5 ) 5 50 + ' N + 8 + 2 ) @ > , 3 3 ? : 1 = 5 ! : 9 ' > , 3 3 199 1 , ' I M N > > O P + E ) @ ' 5 + ' 15 ' ) = 5 ! : 9 ' - , 2 F , 99 1 A @ 9 ! \* : 1 = ) : 5 B F ) = 5 , : ' 50 + ' + : E 12 : 3 + : 5 % R ' 9 ? 3 3 ) 2 B ' , - ' 50 + ' N > > S ' + J F , 9 ? 2 + ' @ 15 ' 19 ' 90 , I : ' 1 ' N I \* ? 2 + ' & % / 0 + 9 + ' @ 15 ' ) F F @ ' - , 2 = : 5 ! : ? , 9 ' + J F , 9 ? 2 + 9 ' ) : 8 ' ) 2 + ' 1 : 5 + 8 + 5 ' 5 ' F 2 E 18 + ' ) ' F 2 ? 8 + : 5 3 ) 2 \* 1 ' , - ' 9 ) - + 5 B ' - , 2 ) @ F + 29 , 9 ; ' 2 + \* ) 28 @ 99 , - ' ) \* + , \* + 8 + 2 ; ' 9 I + , ' 2 0 + ) @ % / 0 + ' N > > ' F ? A @ ' @ 15 - , 2 50 + ' F , 5 + : 5 ) @ G ) 2 ! ' 7 3 + 2 \* + : = B ' H ) 8 1 , ' A ) 9 + ' 95 ) 5 ! : , ' F + 2 ) 5 ! : \* ' ) 5 U " V ' G 4 T 19 W % X ' 3 # Y 3 X ; ' ) F F @ 1 \* ' 1 ' ) 2 + ) 9 I 0 + 2 + ) = + 99 ' A B ' 50 + ' \* + : + 2 ) @ F ? A @ ' 1 ' ? : = : 5 2 @ 8 % / 0 + ' N > > ' , = ? F ) 5 ! : ) @ @ 15 - , 2 50 + ' F , 5 + : 5 ) @ G ) 2 ! ' 7 3 + 2 \* + : = B ' H ) 8 1 , ' A ) 9 + ' 95 ) 5 ! : ' 19 ' & % 3 # Y 3 X ; ' ) F F @ 1 \* ' 5 ' 50 , 9 + ' 5 ) 5 ) 2 + ) I ) 2 + , - ' 50 + ' F , 5 + : 5 ) @ , 2 + J F , 9 ? 2 + ) : 8 ' = ) : ' + J + 2 = 19 + : = 5 2 @ E + 2 50 + 12 + J F , 9 ? 2 + %

< " - D : # \$ + \* " 2 \$ ( % ) \* \$ # E " 2)

/ 0 + ' N > > ' F 2 E 18 + 9 ' 8 12 + = 5 ! : , - , 2 8 + 5 + 23 1 1 : \* ' = 3 F @ : = + ' 1 ' 15 ' [ -- 1 = + , - ' 7 : \* 1 + + 2 1 : \* ' ) : 8 ' / + = 0 : , @ \* B ' D ? @ 5 ! : ' C , % Z V ; ' M E ) @ 5 ! : \* ' > , 3 F @ : = + ' I 150 ' N > > \ ! F + = 1 + 8 ' ] ? 18 + @ : + 9 - , 2 4 ? 3 ) : ' 7 J F , 9 ? 2 + ' 5 ' H ) 8 1 , ' N 2 + K ? + : = B ' H ) 8 1 ) 5 ! : ; O 8 ) 5 + 8 ' R ? \* ? 95 ' & ^ ^ " % ' N I \* ? 2 + ' X ' ) 55 = 0 + 8 ' 8 + 9 = 2 1 A + 9 ' 50 + ' = ) @ ? @ 5 ! : , ' 3 + 50 , 8 , @ ' 1 + 9 ; ' 2 + @ = 5 ! : \* ' 50 + ' - ) = 9 ' 5 ) 5 ) ' 8 12 + = 5 ! : ) @ : 5 + : ) 5 ' 2 ) 8 1 ) 5 ! : ' F ) 55 + 2 ' 19 : , 5 - ? @ ' - , 23 + 8 ' ) 5 @ = 5 ! : 9 ' E + 2 B ' = @ + ' A B ' 150 + ' M + ) 2 - 1 + 8 O + - + = P ' ) : 8 ' 5 ) 5 ) 5 \* 2 + ) 5 + 2 8 195 : = + 9 ' 50 + ' F , I + 2 @ E + @ 2 3 ' ) : ' + : + 2 \* B ' 9 , ? 2 = + ' 8 + = 2 + ) 9 + 9 ' I 150 ' 50 + ' 9 K ? ) 2 + , - ' 50 + ' 8 195 : = + ' - 2 3 ' 15 15 0 + ' M E + 29 + ' 9 K ? ) 2 + @ I O P % / 0 + ' = : 9 + 2 E ) 5 I E + : ) 5 ? 2 + , - ' 50 19 3 + 50 , 8 ' - , 2 + E ) @ 5 ! : \* ' + J F , 9 ? 2 + ' = : 8 15 ! : 9 ' 0 ) 9 ' A + : ' E + 2 1 + 8 ' A B ' : ? 3 + 2 ? 9 ' - 1 + 8 ' 5 + 95 9 %





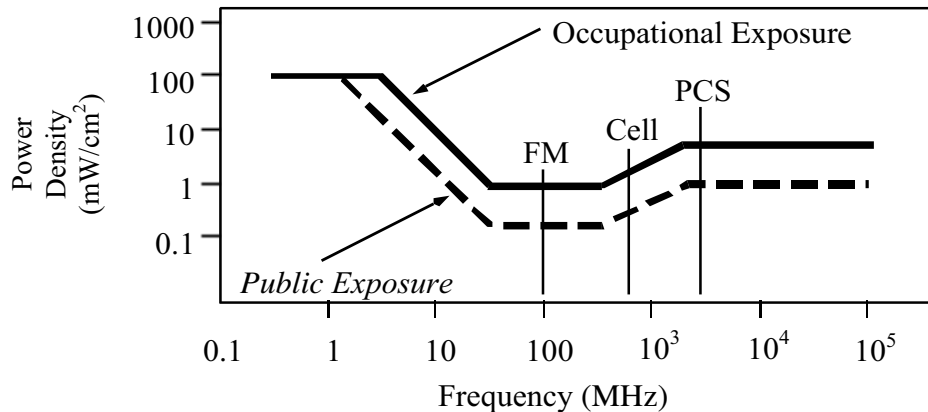


## FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission (“FCC”) to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, “Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields,” published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements (“NCRP”). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, “Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz,” includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields (f is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm <sup>2</sup> )	
0.3 – 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 – 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f<sup>2</sup></i>
3.0 – 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f <sup>2</sup>	<i>180/f<sup>2</sup></i>
30 – 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 – 1,500	3.54√f	<i>1.59√f</i>	√f/106	<i>√f/238</i>	f/300	<i>f/1500</i>
1,500 – 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.

