

Tree numbers

Lisa Shikany <lshikany@gmail.com>

Sun 12/31/2023 3:30 PM

To: Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

Cc: Patrick King <pat.king@gmail.com>

Joe,

Inconsistencies in the numbers of trees to be removed and to be planted as mitigation have come to light.

The Tree Mitigation Plan states the following:

84 trees removed that require 3:1 mitigation. Calls for planting of 252 15 gallon trees. Then states 158 trees provided: 67 24-in. box size, 63 15-gallon, and 32 5-gallon.

The following is excerpted from the IS/MND:

All trees removed from the on-site riparian woodland shall be replaced in-kind and on-site to the greatest extent practicable at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. A total of 18 native trees within the riparian woodland community are scheduled for removal – these trees would be replaced with approximately 54 native riparian woodland tree species including valley oak, coast live oak, California buckeye, and black walnut. A replacement tree planting plan shall be approved by the County along with landscape plans prior to issuance of building permits.

All trees removed from the onsite valley oak woodland shall be replaced in-kind and onsite at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. A total of 32 native and 8 non-native trees within the valley oak woodland community are scheduled for removal – these trees shall be replaced, onsite, with approximately 104 native valley oak woodland tree species such as valley oak, coast live oak, blue oak, California black oak, interior live oak, California buckeye, and/or California bay laurel.

The updated biological report states:

Section 7.2 Riparian Habitat states that 84 trees will be removed including natives species such as oaks, walnut and buckey. The report concludes that a total of 130 trees > 6” in diameter were inventoried, with 97 trees needing to be removed to accommodate the proposed project. When I counted the trees labeled to be removed in the tables in the updated bio report, it totaled 104, including:

- oaks - 65 (one of which was not labeled save or remove, so I assumed removal based on location)
- pear - 1
- California buckey - 3
- Monterey pine - 5
- mimosa - 1
- Chinese pistachio - 3
- coast redwood - 3
- eucalyptus - 3
- persimmon - 1
- black walnut - 6
- incense cedar - 1
- Siberian elm - 6
- willow - 2
- mulberry - 4

It would appear that the County's determination of 58 trees to be removed is significantly lower than what will actually be removed according to the biological report, so please explain this number. It also appears that there are inconsistent

tree numbers to be removed included in the IS/MND, biological report and mitigation plan. The IS/MND claims that 158 trees are required to mitigate the loss of 58 trees, yet the planting plan identifies the need for 252 trees but provides only the 158 called for in the IS/MND. **Please clarify how many trees will be removed and how many will be planted as the County's proposed mitigation. Please explain the inconsistencies I have identified above. Please explain the numbers in the IS/MND - where they came from and if the County still believes they are correct. Also, please point out where in the biological report and the IS/MND the explanation is presented regarding how the proposed mitigation will compensate for the permanent loss of 2 acres of oak and mixed woodland habitat and the permanent loss of 2 acres of wildlife habitat.**

Please note that the following statement in the appeal letter regarding the number of trees is incorrect in terms of tree numbers: *Without adequate performance standards, the determination of adequate mitigation for oak and riparian woodland and other destroyed trees (158 in total, 97 of which are code protected) has been deferred to a future unknown planting plan, which is illegal pursuant to CEQA.* The 158 appears to be the number of trees that will be planted as mitigation for 58 trees to be removed according to the IS/MND, and 97 is the number of trees over 6-inches DBH to be removed according to the biological report. The statement remains true despite the incorrect tree numbers. Given the inconsistencies in tree numbers described above, I'm not certain what the numbers should have been, but if the numbers are simply eliminated, the statement remains truthful and relevant.

I would appreciate a prompt response to my questions in bold above, as time is growing short.

Regards,

Lisa Shikany



September 29, 2023

Joseph Lawlor, Senior Planner
Contra Costa County
30 Muir Road
Martinez, CA 94526

Via email

RE: Conditions of Project Approval # 3, 42, 54, 59, 60 and 66: 1024 and 1026 Grayson Road, Pleasant Hill; County File: #CDS20-09581

Dear Mr. Lawlor:

This letter requests to modify six conditions of approval (3, 42, 59, 60 and 66) contained in the Zoning Administrator Resolution regarding #CDS20-9531.

Condition of Approval 3 and 42: The condition of approval list the requested waivers, unfortunately it omits the requested side yard setback of 5' minimum and 15' aggregate that was requested as part of the Density Bonus request and Project Description. The side yard setback deviation is necessary to construct the project as designed.

Condition of Approval 54 : The condition of approval states: "The Applicant shall construct frontage improvements along Grayson Road in accordance with the recommendations of the City of Pleasant Hill. The applicant will need to demonstrate that the City of Pleasant Hill approves of the frontage improvements proposed under this project".

The County is required to provide one or more "incentives" or "concessions" to each project that qualifies for a density bonus. A concession or incentive is defined as a reduction in site development standards or a modification of zoning code or other regulatory incentives or concessions that result in identifiable and actual cost reductions. The requested Concession is Not Completing Frontage Improvements (including the aerial utilities) because the frontage improvements would be very expensive, not connect to any sidewalks in either direction for over 1,000 feet, and adequate street width exists along the project frontage. Condition of approval 54 nullifies the concessions request and gives the authority to the City of Pleasant Hill in violation of Density Bonus Law.

In addition, City and Counties are not allowed to divest governmental power to other agencies (please see Alameda County Land Use Assn. v. City of Hayward (1995) 38 Cal.App.4th 1716). This Condition of Approval divests the County's Authority by adjudicating the requested Concession to the City of Pleasant Hill . For these reasons, condition of approval #54 should be struck entirely.

Condition of Approval 59 : The condition of approval states: "Applicant shall provide sight distance at the private road intersection with Grayson Road for a design speed of 45 miles per hour." The posted speed limit of Grayson Road is 35 mile per hour. Department of Public Works as part of the project status review requested a Site Distance Exhibit. On June 8, 2020, we

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provided a Site Distance Exhibit which demonstrated adequate site distance, given the 35MPH speed limit. On December 17, 2020, the County found the project complete and provided no additional comments regarding the submitted Site Distance Exhibit.

Please revise the condition of approval to be consistent with the material previously requested and provided to the Public Works Department, consistent with the site distance requirements for the posted 35 MPH speed limit.

Condition of Approval 60 : The condition of approval states:
Per the Vesting Tentative Map, Applicant shall construct an on-site roadway system to current County private road standards with a minimum pavement width of 28 feet, with 4.5-foot sidewalk (measured from the face of curb) within a minimum 42-foot access easement”. The actual easement width shown on the Tentative Map is 32 feet. Please correct the reference to read: 32-foot access easement.

Condition of Approval 66 : The condition of approval states: “The Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Grayson Road...” As mentioned above the requested concession was “not completing frontage improvements” including the aerial utilities. Given the design of the existing overhead utilities, it would very difficult to underground the utilities, because they cross Grayson Road and an acute angle and only one pole is located near the frontage of the property. Undergrounding the overhead utilities would be direct conflict with the Density Bonus and would conflict with the requested Concession. Please see the attached Joint Trench plan for additional information.

Please let me know if you have any questions regarding these requests. You may contact me at 925-683-5493 at your convenience or at andy@calibrventures.com.

Sincerely,

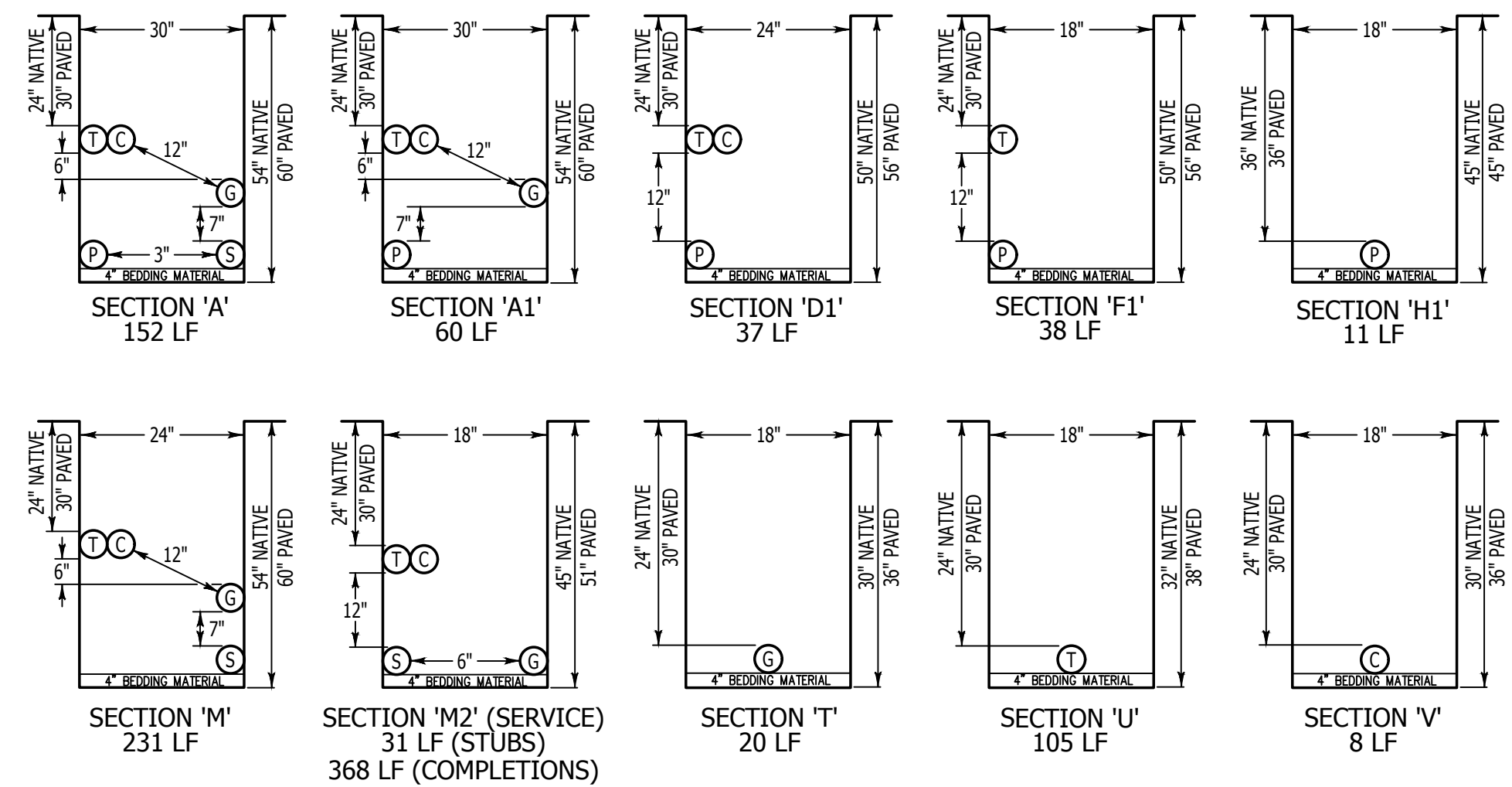
Andy Bye
Partner

Cc: Kellen O'Connor Public Works

JOINT TRENCH RECAP							DIST OR SERVICE	TRENCH SIZE	BACKFILL				SURFACE			FOOTAGE				
TRENCH SECTION	INDICATES SPECIFIC UTILITIES IN THE TRENCH								DIST	SVC-F	SVC-P	W" x D"	# SHADE	ADDITIONAL RECD	GRAVEL		SPREAD	HAUL	DIRT	PVMT
A	X	X	X	X	X		X		30" x 54"	X			X	X	X					152 LF
A1	X	X	X	X	X		X		30" x 54"	X			X	X	X					60 LF
D1		X	X		X		X		24" x 50"	X			X	X	X					37 LF
F1		X			X		X		18" x 50"	X			X	X	X					38 LF
H1					X		X		18" x 50"	X			X	X	X					11 LF
M	X	X	X	X	X		X		24" x 54"	X			X	X	X					231 LF
*M2-STUB	X	X	X	X	X				18" x 45"	X			X	X	X					31 LF
*M2-COMP	X	X	X	X	X				18" x 45"	X			X	X	X					368 LF
T	X						X		18" x 30"	X			X		X					20 LF
U		X					X		18" x 32"	X			X	X	X					105 LF
V			X				X		18" x 30"	X			X	X	X					8 LF

*SERVICE TRENCH ON PRIVATE PROPERTY NOT INCLUDED

SUBSTRUCTURES RECAP					BACKFILL			SURFACE				
SECTION	SUBSTRUCTURE	TOTAL	COMPANY	TRENCH AGENT	GRAVEL	SAND	SPREAD	HAUL	DIRT	PVMT	CONC	OTHER
C	24"X 30" CATV SPLICE BOX	4	COMCAST	APPLICANT			X		X			
T	24"X 30" TELEPHONE BOX	2	AT&T	APPLICANT			X		X			
ZE	17"X 30"X26" SECONDARY BOX	5	PG&E	APPLICANT			X		X			
A	36"X 52" PAD MOUNT TRANSFORMER	1	PG&E	APPLICANT			X		X			
S	3'X 5'X 3'6" PRIMARY VAULT	1	PG&E	APPLICANT			X		X			
	5'X5' GAS BELLHOLE	1	PG&E	APPLICANT		X				X		



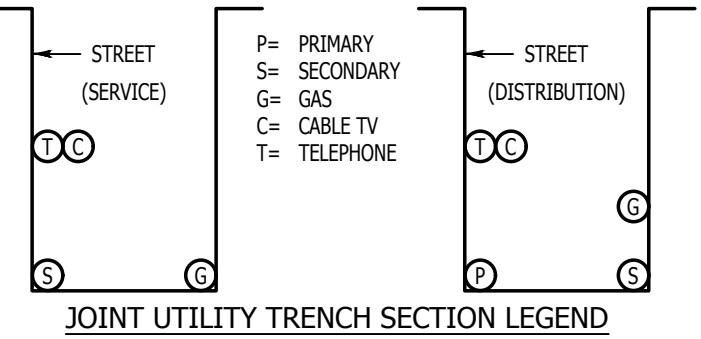
NOTE:
TRENCH SECTIONS SHOW UTILITY OCCUPANCY ONLY. SIZE AND QUANTITY OF CONDUITS NOT SHOWN.

SECTION	G	T	C	S	P	OTHER
A*	X	X	X	X	X	
A1*	X	X	X	X	X	
D*	X	X	X	X	X	
F*	X	X	X	X	X	
H*	X	X	X	X	X	
M*	X	X	X	X	X	
M2*	X	X	X	X	X	
T*	X	X	X	X	X	
U*	X	X	X	X	X	
V*	X	X	X	X	X	

* THESE SECTIONS MAY OR MAY NOT CONTAIN SECONDARY

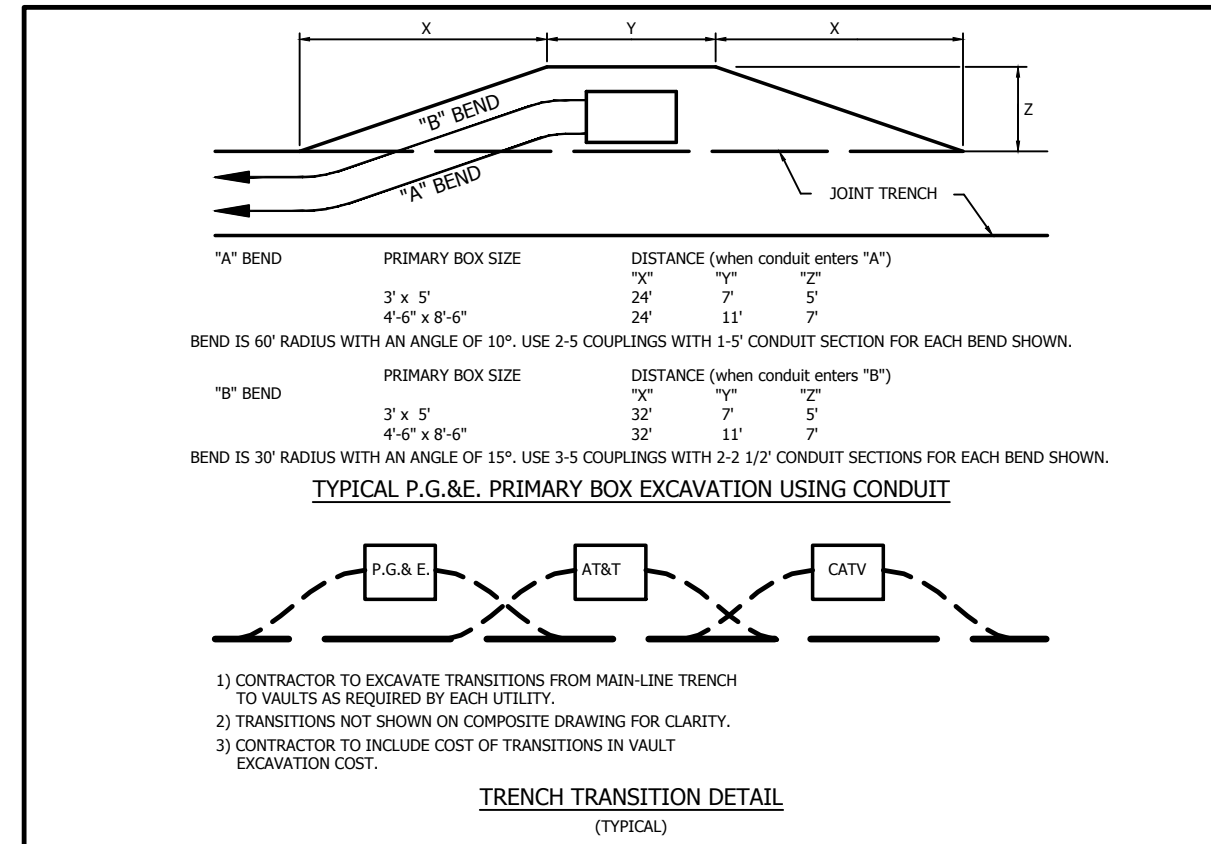
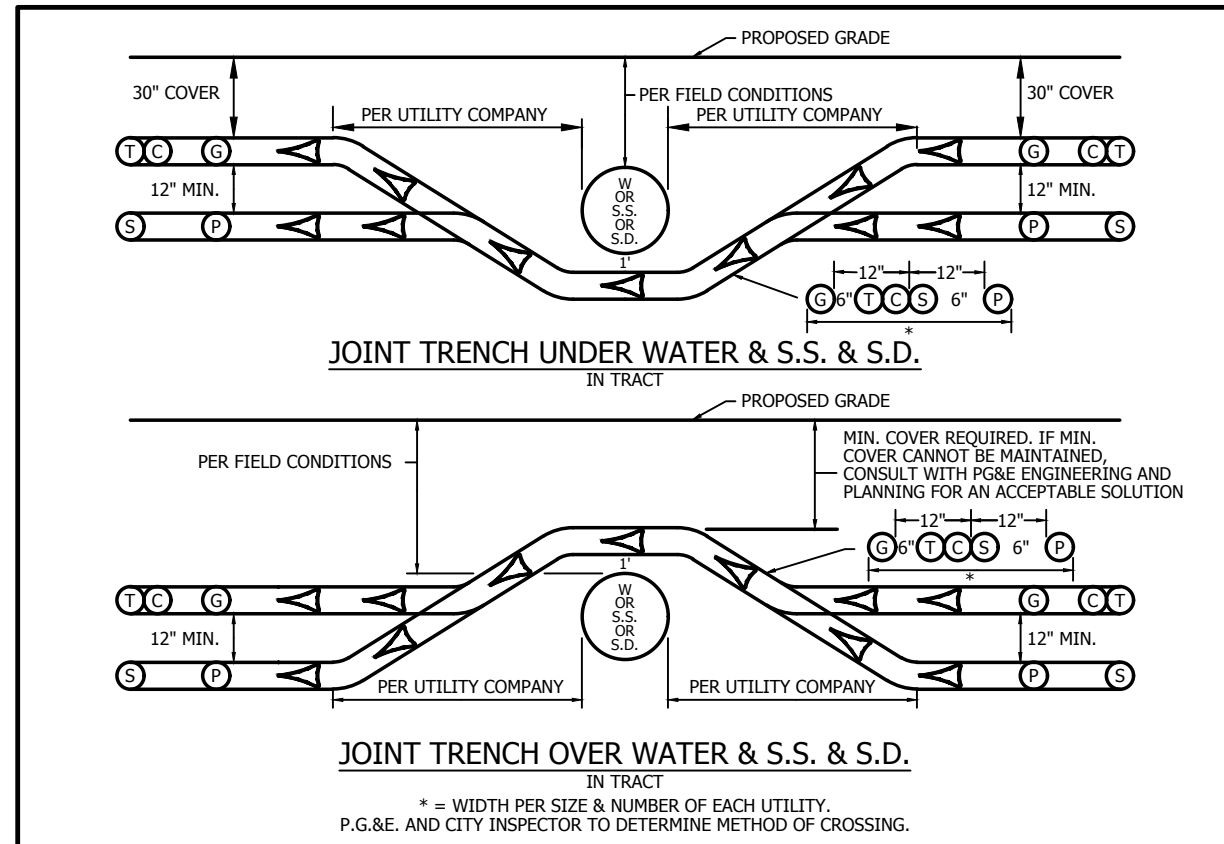
MINIMUM SEPARATION AND CLEARANCE REQUIREMENTS (INCHES)	G	T	C	S	P	OTHER
TEL. UTILITY TYPE						
G (GAS) SEE NOTES 4, 7, 8, 13	12	12	12	12	6	12
T TELEPHONE (DUCT)	12	12	12	12	12	12
T TELEPHONE (DIRECT BURY)	12	12	12	12	12	12
C CATV	12	12	12	12	12	12
S ELECTRIC SECONDARY	6	12	12	12	1.5	3
E ELECTRIC PRIMARY	12	12	12	12	3	3
STREET LIGHT - SEE NOTE 5	6	12	12	12	1.5	1.5
FE* (FOREIGN ELEC. SOURCES, NON PG&E) SEE NOTE 5	12	12**	12**	12**	12	12

*MUST BE CONSIDERED A UTILITY AS DEFINED IN UTILITY STANDARD 55453, "JOINT TRENCH."
**FOR EXCEPTIONS, REFER TO G.O. 128 RULE, SECTION 8, ITEMS (1) AND (2).

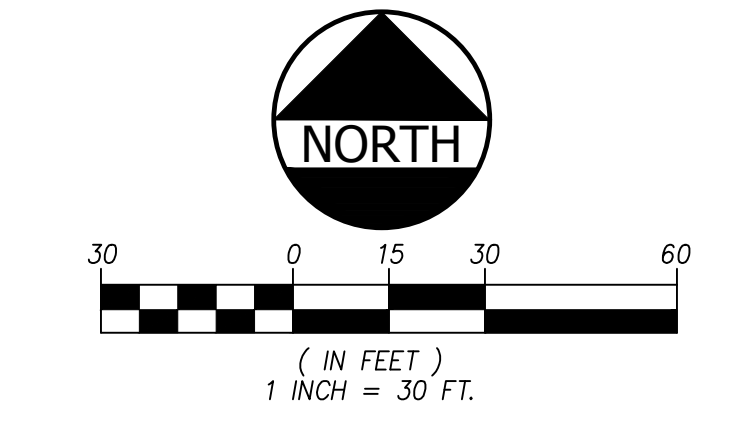


CONSTRUCTION NOTE:
DO NOT BURY OR ENCASE CONDUIT, SUBSTRUCTURES OR GROUNDING WITHOUT PG&E INSPECTION

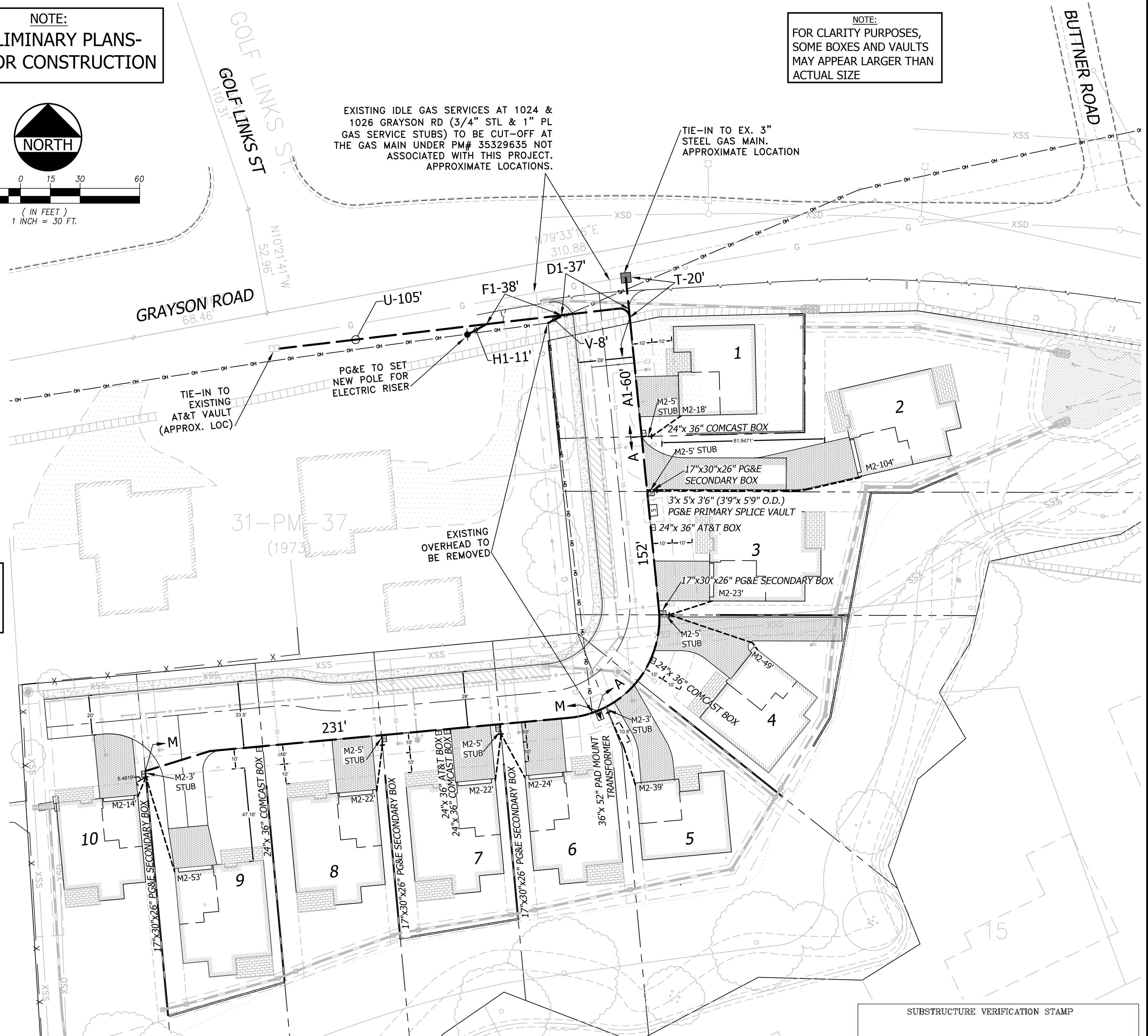
NOTE:
PLEASE VERIFY THE SERVICE POINTS ON THIS PLAN MATCH YOUR CURRENT DESIGN. IF THERE ARE DISCREPANCIES, PLEASE CONTACT THE PROJECT MANAGER IN OUR OFFICE @ 925-820-8502



NOTE:
-PRELIMINARY PLANS-
NOT FOR CONSTRUCTION

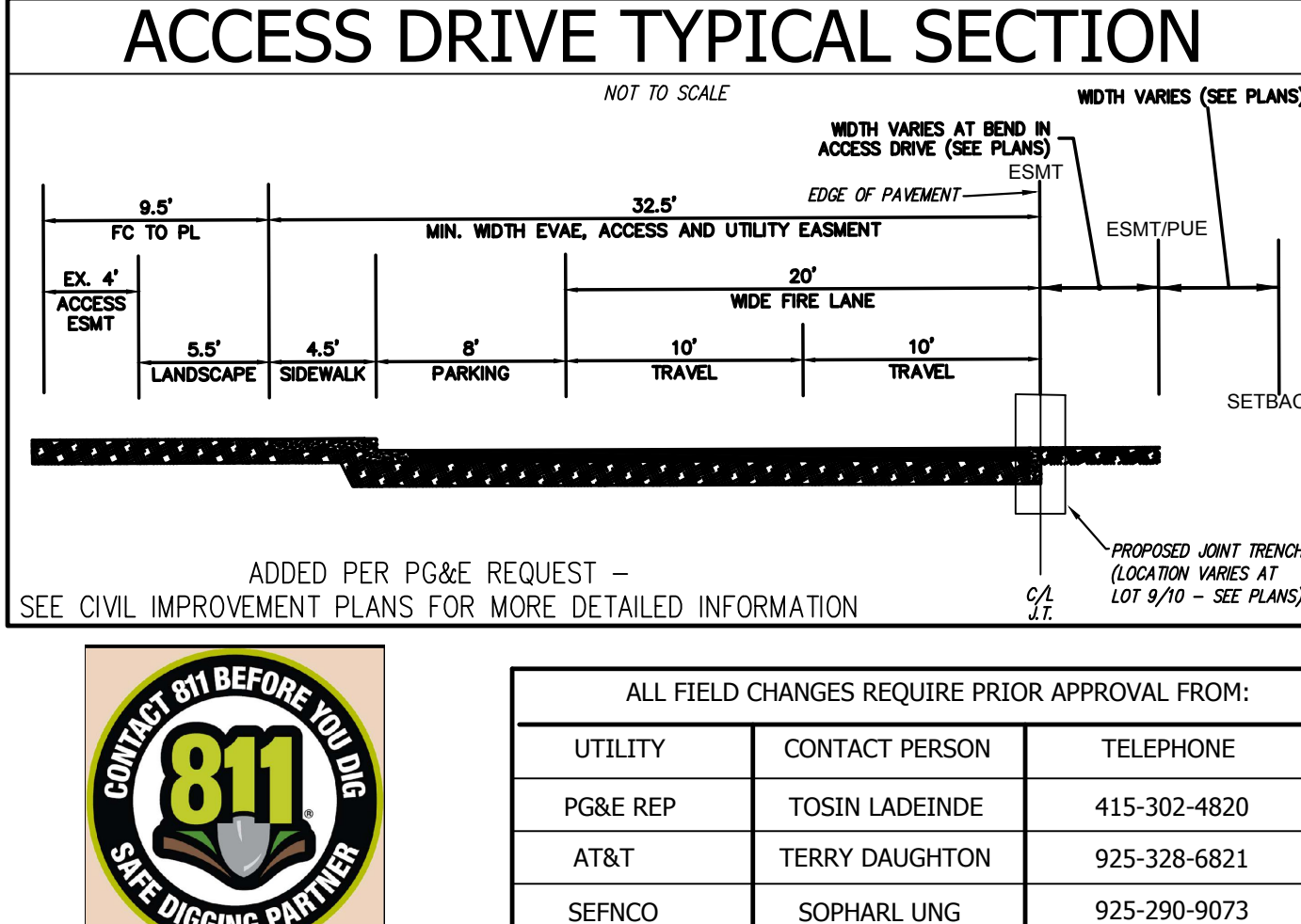


NOTE:
FOR CLARITY PURPOSES,
SOME BOXES AND VAULTS
MAY APPEAR LARGER THAN
ACTUAL SIZE



SYMBOL LEGEND

- PROPOSED SERVICE TRENCH
- PROPOSED DISTRIBUTION TRENCH
- STUB (MAINLINE TRENCH)
- STUB (SERVICE TRENCH)
- GAS TIE-IN PIT (1)
- EXISTING OVERHEAD LINES
- ZE 17"X 30"X26" PG&E SECONDARY BOX (5)
- C 24"X 30" COMCAST CATV SPLICE BOX (4)
- T 24"X 30" AT&T TELEPHONE BOX (2)
- A 36"X 52" PG&E PAD MOUNT TRANSFORMER (1)
- S 3'X 5'X 3'6" PRIMARY ELECTRIC VAULT (1)
- UTILITY POLE
- EX. UTILITY POLE
- P.U.E.



CONSTRUCTION/INSTALLATION RESPONSIBILITY TABLE

DRY UTILITY (JOINT TRENCH) INSTALLATION FOR THIS PROJECT SHALL BE: FULL APPLICANT INSTALL / SHARED INSTALL

	P.G.&E APPLICANT	
	○	●
* ELEC SUBSTRUCTURES INCLUDING BOXES/PADS/CONDUIT	○	●
* ELEC FACILITIES INCLUDING TRANSFORMERS/SWITCHES/WIRE	○	●
* GAS PIPE/MATERIALS/RISERS	○	●

ADDITIONAL NOTES:

- *APPLICANT WILL TRENCH & BACKFILL ALL.
- *PG&E WILL MAKE ALL "HOT" TIE-INS & SET ALL METERS.
- *APPLICANT WILL INSTALL ALL TELEPHONE BOXES & CONDUIT.
- *TELEPHONE COMPANY WILL INSTALL ALL TELEPHONE WIRE.
- *INSTALLATION OF CATV BOXES & CONDUIT BY CATV, OR APPLICANT, TO BE DETERMINED AT THE PRE-CONSTRUCTION MEETING. IF BY APPLICANT, CATV COMPANY TO DELIVER SUBSTRUCTURE MATERIAL TO THE JOBSITE.
- JT CONTRACTOR & CATV COMPANY TO COORDINATE DELIVERY.

MILLENNIUM
DESIGN & CONSULTING, INC.
UTILITY DESIGN & CONSULTING - APPLICANT DESIGN - STREET LIGHTING

MOJL JOB#: 21-1302
MDCI PH: AG
DESIGNED BY: HK
CHECKED BY: AG
SCALE: 1"=30'
LAST MODIFIED: 7-12-23

DESCRIPTION
DATE
REV

CALLER VENTURES
JOINT TRENCH CONCEPTUAL COMPOSITE
1024 & 1026 GRAYSON ROAD
PLEASANT HILL
CALIFORNIA

SHEET NO. JTC1
SHEET 1 OF 1
REVISION NUMBER: 0
PLOT DATE: 7-12-23



**MILLER STARR
REGALIA**

1331 N. California Blvd.
Suite 600
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlgal.com

Bryan W. Wenter
Direct Dial: 925 941 3268
bryan.wenter@msrlgal.com

October 2, 2023

VIA E-MAIL

County Zoning Administrator
Department of Conservation and
Development
c/o William R. Nelson
Contra Costa County
30 Muir Road
Martinez, CA 94553
Email: Will.Nelson@dcd.cccounty.us

**Re: 1024 and 1026 Grayson Road, Pleasant Hill; CDS20-09531
and
3180 Walnut Boulevard, Walnut Creek; CDS21-09581**

Dear Mr. Nelson:

This firm represents Calibr Ventures in connection with the above-referenced housing development projects being processed in unincorporated Pleasant Hill and Walnut Creek, both of which are scheduled for approval hearings today.

As you know, the projects are subject to neighborhood opposition, the kind of opposition regularly levied against such infill housing projects. We write to encourage you to conduct the hearings for both of these projects today, without further delay, regardless of this opposition and regardless of any last minute comments the opposition has made.

Both projects are consistent with the County's applicable, objective land use regulations, and there is no evidence in the record, much less a preponderance of the evidence, that either project would have a specific, adverse impact upon public health or safety. Accordingly, under the Housing Accountability Act (Gov. Code § 65589.5) and Density Bonus Law (Gov. Code §§ 65915-65918) the County will be required to approve both projects without imposing conditions that negatively impact the ability of the projects to provide housing (Gov. Code § 65589.3(h)(7))—regardless of any opposition—as there is no lawful way to disapprove either (Gov. Code § 65589.5(j)(1) and Gov. Code §§ 65915(d)(1) and 65915(e)(1)).

As you also know, the applications for both projects were deemed complete long ago. In the case of Grayson Road, the application was deemed complete

December 17, 2020, and in the case of Walnut Boulevard, the application was deemed complete July 27, 2022. Given that the California Environmental Quality Act requires the completion and approval of Mitigated Negative Declarations within 180 days of the date the application was deemed complete (14. Cal. Code Regs. § 15107), these projects are already substantially delayed and may not be delayed further.

For the foregoing reasons, we respectfully request that you conduct both public hearings today and that you approve the projects, as correctly recommended by each project planner.

Sincerely,

MILLER STARR REGALIA

Bryan W. Wenter

Bryan W. Wenter, AICP

BWW

cc: Dominique Vogelpohl, Project Planner
Joseph W. Lawlor, AICP
Andy Byde, Partner

FW: Preserving the Protected Trees

DCD PlanningHearing <PlanningHearing@dcd.cccounty.us>

Mon 10/16/2023 2:09 PM

To: Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

From: Carol Glynn <carol.glynn5@gmail.com>

Sent: Monday, October 16, 2023 1:51 PM

To: DCD PlanningHearing <PlanningHearing@dcd.cccounty.us>

Subject: Preserving the Protected Trees

I have already written how important it is not to remove the protected trees, especially the Valley Oaks which support so many of our local species of insects.

I ask you as our County land stewards to request the developer to replace natives with natives, especially the keystone plants which support the most of our local species. These are: Asters, Buckwheat (California), Coffeeberry, Hollyleaf Cherry, California Lilac, Coyote Brush, Currant - Pink Flowering, Elderberry, Goldenrod, Gooseberry - fuchsia-flower, Hazelnut, Honeysuckle, Huckleberry, Lupine, Manzanita, Maple - Big Leaf, Mountain Mahogany, Oak (Black, Blue, Canyon, Coast Live, Valley, Scrub, Oregon White Oak), Ocean Spray, Penstemon, Rose, Sage (hummingbird, white), Strawberry (woodland), serviceberry, sunflower, Thimbleberry, Willow, Willow-Arroyo.

I encourage you to read Nature's Best Hope by Douglas W. Tallamy so you might understand the importance of planting plants that support our local species which is so vital to habitat & ecosystems. It is shameful if you disregard our county preservation ordinance and permit the protected trees to be removed.

Please prevent the developer from planting introduced plants that do not support our local species.

Thank you.

Contra Costa County
Department of Conservation and Development
Community Development Division

Spoke
10/2

COSD20
9531

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

GRAYSON RD. DEVELOPMENT

Agenda Item Number: 2a. Check one: Support: _____ Oppose:

Date: 10-16-23

Name: Clay Harberman

Address: 1010 Grayson Rd.

City: Pleasant Hill State: CA Zip: 94523

Telephone: (925) 323-1440 (Optional)

Contra Costa County
Department of Conservation and Development
Community Development Division

CDSD20
9531

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: Grayson Check one: Support: _____ Oppose:

Date: _____

Name: Lacey Friedman

Address: 2052 Mohawk Dr

City: Pleasant Hill State: CA Zip: 94523

Telephone: () 925-250-7898 (Optional)

Contra Costa County
Department of Conservation and Development
Community Development Division

COSD 20.-
9531

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 20 Check one: Support: _____ Oppose:

Date: 10/16/23

Name: Arthur West

Address: 2063 Mohawk Dr.

City: Pleasant Hill State: CA Zip: 94523

Telephone: (925) 942-1065 (Optional)

EPDSD 20-9531

**Contra Costa County
Department of Conservation and Development
Community Development Division**

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 26 Check one: Support: Oppose:

Date: 10/16/23

Name: JEANNE SHIKANY

Address: 990 IROQUOIS DR.

City: PLEASANT HILL State: _____ Zip: _____

Telephone: (925) 939-9684 (Optional)

CDSD20-01531
ED

Contra Costa County
Department of Conservation and Development
Community Development Division

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 2a/b Check one: Support: _____ Oppose:

Date: 10/16/2023

Name: Patrick King

Address: 2001 Mohawk Drive

City: Pleasant Hill State: CA Zip: 94523

Telephone: (925) 935-5464 (Optional)

CDSD20-
09531

Contra Costa County
Department of Conservation and Development
Community Development Division

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 2a Check one: Support: _____ Oppose:

Date: 10/16/23

Name: Carolyn Cheifetz

Address: 993 Iroquois Dr.

City: Pleasant Hill State: CA Zip: 94523

Telephone: (925) 451-6710 (Optional)

CDSD20-9531

Contra Costa County
Department of Conservation and Development
Community Development Division

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 20 Check one: Support: _____ Oppose:

Date: 10/16/2023

Name: Greg Cheifetz

Address: 993 Inguois Drive

City: Pleasant Hill State: CA Zip: 94523

Telephone: (925) 595-2170 (Optional)

October 25, 2023

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

CONTRA COSTA COUNTY
2023 OCT 26 AM 11:43
APPLICATION & PERMIT
CENTER

RE: Grayson Road 10-Lot Subdivision, County File #CDSD20-09531

Dear Department of Conservation and Development:

The Mohawk/Iroquois Neighborhood (hereinafter "Neighborhood"), as represented by the signatories at the end of this letter, is filing an appeal of the Zoning Administrator's decision to approve the Grayson Road 10-Lot Subdivision, County File #CDSD20-09531 (hereinafter "Project"). This appeal is based on the issues provided in this letter and supported by the previously submitted written and oral public comments on the Project, including the MND. The requisite \$250 fee is included with this filing. A more detailed analysis of many of these issues can be found in written comments submitted to the County throughout the processing of this Project, as well as in oral comments and testimony provided at public hearings, all provided by the letter signatories as well as others in the Neighborhood, and all of which are in the County's possession and are incorporated by reference as part of this filing.

In general, this Project as approved will have significant unmitigated impacts to the environment pursuant to the California Environmental Quality Act (CEQA), and to the public health and safety. The mitigated negative declaration (MND) adopted by the County violates CEQA due to inadequate impact analysis and inadequate mitigation which results in unmitigated environmental impacts, a circumstance that cannot occur with an MND and which results in an illegal project approval. Further, CEQA violations constitute a violation of state law, making this project ineligible for the requested concession and waivers that are primarily responsible for the significant impacts of this project. We are requesting this project, as currently proposed, be denied.

BIOLOGICAL IMPACTS

Impacts to oak woodland and riparian woodland are not fully analyzed, inadequately mitigated, and remain significant. Mitigation for impacts to sensitive plants is similarly inadequate.

The MND does not fully analyze nor mitigate impacts to the onsite oak and riparian woodlands as described in the MND comment letter from the California Department of Fish and Wildlife (CDFW) and in Neighborhood comments. Mitigation Measure Biology 2 lacks performance standards (location of planting, timing for planting, survival milestones, monitoring requirements, planting methodology, bonding requirements, etc.) sufficient to demonstrate that the loss of

almost 2 acres of oak and mixed woodland and some additional trees in the riparian woodland will be mitigated below a threshold of significance, an issue also raised by CDFW. All of CDFW's recommendations for additional oak woodland impact analysis were not implemented, and recommended mitigation for the loss of oak woodland habitat was completely dismissed by the County.

Without adequate performance standards, the determination of adequate mitigation for oak and riparian woodland and other destroyed trees (158 in total, 97 of which are code protected) has been deferred to a future unknown planting plan, which is illegal pursuant to CEQA. The inadequacy of this mitigation measure is demonstrated by the applicant's proposal to inappropriately reestablish 1.8 acres of destroyed oak and mixed woodland within the existing 1-acre riparian woodland, and by planting isolated trees throughout the site, because project density and waivers leave no other undeveloped area available for planting. Not only has the impact of installing mitigation in the riparian woodland not been analyzed, this proposal represents an unmitigated net loss of oak woodland. Almost two acres of oak woodland cannot be reestablished in a one-acre existing riparian woodland or by scattered trees. Furthermore, this measure requires the trees that will be destroyed in the riparian woodland to be replaced onsite and in-kind "to the greatest extent practicable," meaning if it is not practicable, no mitigation will occur, further contributing to the fact that destruction of oak and riparian woodland is an unmitigated impact. This mitigation measure as written represents inadequate deferred mitigation, is illegal pursuant to CEQA, and leaves the loss of oak and riparian woodland a significant environmental impact. Further, the density and waivers granted to this project foreclose any ability to mitigate these impacts, supporting a denial of the density bonus and waivers.

A resident of the Neighborhood adjacent to Grayson Creek had to do work near several code protected trees. To mitigate any potential harm, the County required that he post a bond and replant any lost trees with a minimum 24 gallon tree. This is in contrast to the maximum required 15 gallon trees, which can be reduced to 5 gallons as determined by an arborist. While it may be advisable to plant smaller trees in areas where the roots of other trees could be disturbed, this does not explain why the applicant can plant 15 gallon trees rather than being required to plant larger trees as the Neighborhood resident was required to do.

The same situation exists for sensitive plants and Mitigation Measure Biology 1 as provided in Neighborhood MND comments. This measure does not provide any hint of how sensitive plants are to be reestablished once seed or root stock is harvested, and considering that every square foot of the Project site outside the riparian woodland will be disturbed, as will portions of the riparian woodland, and virtually everything outside the creek setback and riparian woodland will be developed, there is no clear way to minimize or avoid impacts to rare plants as called for in the mitigation measure, and no location to replant them. The MND states no rare plants were found at the time the fieldwork was conducted. If sensitive plants were not evident at the time of the fieldwork but had the potential to exist on the site, the site clearing and filling that occurred while the project was under consideration, a circumstance that should have been revealed in the MND, would have had an impact on these plants and could impact future

preconstruction surveys. Site alteration during project consideration should not have occurred, and should be revealed in the MND. Impacts to sensitive plants remain unmitigated and significant without adequate analysis and mitigation.

Another key aspect of minimizing impacts pursuant to CEQA is avoidance. The MND makes no mention of avoidance as a first approach for minimizing impacts, which could be achieved with a lesser density. Neighborhood MND comments discuss how General Plan policies 8-6 and 8-12 require preservation of the habitats and wildlife impacted by the project. This Project makes absolutely no attempt to preserve any oak woodland habitat and in fact, some of the habitat was removed after project application, but hopefully not before the initial fieldwork for biological assessment was conducted; the timing must be confirmed. It's likely the habitat was removed before the biological assessment was updated in 2022, a circumstance not revealed in the biological assessment, MND or staff report, and should have been.

In addition, the County can allow protected tree removal if "reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot." Reasonable development is not synonymous with maximum development. This issue is discussed in the Neighborhood MND comments. The extraordinary number of code protected trees being destroyed violates the above cited General Plan policies, a circumstance that could be avoided with a reasonable Project density. This project should be redesigned with impact avoidance being a primary consideration. A lesser density would result in environmental impact avoidance. At the current density, impacts cannot be avoided or adequately mitigated, requiring the denial of this project pursuant to state housing law and pursuant to CEQA when utilizing an MND.

Wildlife and sensitive plant impacts are not adequately analyzed or mitigated, and remain significant.

Impacts to wildlife have been an ongoing concern for the Neighborhood. The applicant installed orange construction fencing along the upper portion of the riparian corridor, we believe in the fall of 2020, after which significant brush/understory removal and unpermitted fill occurred, as well as the removal of a tree that left debris in Grayson Creek that the Neighborhood removed. Since the site clearing (i.e. habitat removal) and the installation of the construction fencing, the quantity and type of wildlife observed in the Neighborhood has diminished. The work conducted thus far by the applicant, we assume without wildlife or botanical surveys, has already negatively impacted wildlife and potentially sensitive plant species, and the impacts will be heightened once the Project is built. The destruction of habitat with, at this point, no remediation is unacceptable. The loss of wildlife habitat diminishes quality of life certainly for the animals that rely on it, but for the community residents as well. The MND does not fully analyze these impacts and further, relies on the inadequate non-CEQA compliant Mitigation Measure Biology 2 to mitigate impacts to wildlife. As adopted, the mitigation measure does not mitigate the loss of 2 acres of wildlife habitat and therefore does not mitigate wildlife impacts longterm after Project development. Also, if the mitigation measure is ultimately implemented, it will have additional wildlife and creek impacts that are unanalyzed in the MND.

The MND erroneously assumes all wildlife movement occurs within the riparian corridor. However, Neighborhood observation of wildlife impacts caused by the construction fencing installed by the applicant across an existing wildlife trail, blocking this trail used by wildlife for Grayson Creek and Project site ingress/egress, would point to this not being the case. The Neighborhood, particularly those residents living along the creek who observe wildlife movement in and along the creek and on the Project site, were never contacted as part of the biological assessment for this project, and should have been. As the Neighborhood has observed, the installation of the orange fencing has prevented the natural and historic movement of wildlife through the Project site and along Grayson Creek, a circumstance that will be exacerbated by the Project. Project impacts to wildlife remain significant.

As mentioned above, construction fencing is believed to have been installed in 2020. This fencing looks to be located within the riparian woodland, and may have required authorization from CDFW; no record of any CDFW authorization exists. Site clearing, fill import and grading on the Project site appears to have occurred in 2021, during the permitting and CEQA review process for the subdivision and without permits to our knowledge. This work would appear to have occurred after the initial fieldwork was done for the biological assessment, but before the biological assessment was updated. This timeline must be confirmed, as it could significantly impact the biological impact assessment based on the timing. The baseline circumstances were certainly changed, at least when the biological assessment was updated. This circumstance must be addressed in the MND to clarify what site work was completed and when, and particularly when it was completed relative to the preparation of the initial as well as the updated biological assessment. Also, the MND must identify what, if any, impacts occurred as a result of the site work during the Project review period, and any required mitigation for those impacts.

Impacts to Grayson Creek are not fully analyzed, the creek setback is not clearly part of the project and is too small, a finding of a less than significant impact is not adequately supported, and impacts to Grayson Creek remain significant.

The health of the creek is of utmost concern to the Neighborhood, and is regionally critical. Inadequate set-backs from the creek are a significant issue. While the policy analysis in the MND states there will be a 50-ft. setback as shown on the plans, that setback is not clear on the plans made available to the public and there is no mention of a 50-ft. setback in the project description as claimed in the County's response to a Neighborhood comment in the initial staff report. Further, there was no analysis in the MND that demonstrates how a 50-ft. setback will sufficiently protect the creek. Comments were made by the County that the lots on the south side of the creek were much closer to the creek, and this was used as justification for a 50-ft. setback as being sufficient. This comparison is not adequate analysis of the sufficiency of the proposed setback. Two wrongs do not make a right and further, the fact that there may be lots that are close to the creek on the south side makes it even more important to have larger creek setbacks on the north side, preferably at least 100 feet from the centerline of the creek. Also, the houses on the south side of Grayson Creek were constructed decades ago. Longtime residents of the Neighborhood who live adjacent to the creek have observed creek erosion and

flooding that over the years have resulted in the widening of the channel, reducing setbacks of the existing homes from the creek.

The Creek Structure Setback should have been increased where significant riparian vegetation exists beyond the setback approved for the Project. The reason provided for not increasing the setback along this clearly important stretch of creek is because of the Density Bonus being granted for this project. In other words, the Density Bonus is directly responsible for significant impacts to Grayson Creek that will result from the lack of an adequate setback from the creek for the future homes, which due to their density will have light, noise, and activity disturbance to the creek far beyond the impacts associated with other less dense development along the creek. Sacrificing Grayson Creek for the dubious "public benefit" of one moderate income home is unacceptable. Development setbacks from the creek should be increased to at least 100 feet.

There was significant information regarding biological resources submitted by the Neighborhood (Mr. Patrick King, May 31, 2022) during the MND comment period as well as during the public hearing, that would support providing a setback larger than 50 feet from Grayson Creek. These comments revealed that salmon entered Grayson Creek in 2022, with hope they will return to their natural spawning ground in Briones. Grayson Creek provides the only viable route to Briones, and salmon will someday pass along the subject section of Grayson Creek. This section of Grayson Creek is a key, essential habitat area because it creates the only continuous water path that links eastern Briones to the Contra Costa Canal and out to the Sacramento River Delta. There is a wood duck restoration project on this creek as the creek habitat is perfect for the return of wood ducks to Pleasant Hill. There are wood duck boxes directly across the creek and directly adjacent to the Project site. None of this information was incorporated into the MND as it should have been, nor even acknowledged as having been received by the County. The information submitted to the County includes an extensive list of nesting and migrant bird species that utilize the Project area, noting that almost 100 bird species have been documented along Grayson Creek since 2018 <https://ebird.org/hotspot/L9110333?yr=all&m=>. The impact analysis for Grayson Creek must consider this information, which should result in the need for a larger creek setback to ensure protection of Grayson Creek.

The mitigation to restrict lighting to "within the project site" does not mitigate impacts from lighting entering the riparian corridor and creek. Grayson Creek is part of the project site, and it can be successfully argued that lighting the riparian corridor would therefore be allowed. Requests to clarify this mitigation measure were dismissed by the County. Therefore, lighting impacts to wildlife and the riparian corridor remain unmitigated below a threshold of significance unless lighting is restricted to only the developed portions of the Project and specifically restricted from entering the riparian woodland and creek.

The claim is made in the staff report that no direct impacts (fill or modification) to Grayson Creek will occur. Herein lies an example of the issue with the inadequate and illegal Mitigation Measure Biology 2, which does not provide any details about how or where replanting of removed trees proposed as mitigation will occur. In fact, the applicant is proposing to

inappropriately plant the majority of mitigation trees along the creek in the existing riparian woodland, a direct impact that is not analyzed in the MND. The mitigation planting plan not only does not reestablish 2 acres of oak and mixed woodland, but it constitutes unidentified unmitigated impacts to Grayson Creek and the riparian woodland it supports, as well as fill and modification to the creek. Thus, impacts to Grayson Creek remain unanalyzed, unmitigated, and significant.

Neighborhood comments questioned the impact of the Project on the amount of stormwater entering Grayson Creek due to a change in drainage patterns. While the staff report responded with information about volume, no response was provided regarding the impact to the creek from what will likely be redirected and therefore reduced stormwater flows into the creek. Strong winter flows in creeks help keep sediment from building up. The impact of lessened stormwater flows in Grayson Creek was not addressed in the MND as a potentially significant impact.

The Regional Water Quality Control Board requested the opportunity to comment on the Project, a request that was received by the County on the day of the continued public hearing. The Board would likely have had input regarding water quality and Grayson Creek Project impacts. The Zoning Administrator chose to proceed with project approval without input from the Board after asking the applicant for his thoughts. The applicant agreed with the Zoning Administrator, and opined that he did not need permission from the Board for his project, which is not true. The Project is subject to the Board's Construction Stormwater Program. The applicant will need to seek Board approval for his required Stormwater Pollution Prevention Plan required as mitigation, as well as any work the applicant will be undertaking in Grayson Creek. The County should seek the necessary input from the Board as part of this appeal.

Environmental and CEQA impacts associated with unpermitted fill import and brush removal.

The Neighborhood has been commenting regarding the tree cutting near the creek that occurred, we believe without a permit. Sawdust was deposited and left in the creek, necessitating the neighbors to clean up the mess to restore the creek. We have come to find out that fill was imported into the property in 2021 without a permit, for which a code enforcement case was started in August of 2021; the outcome of the enforcement action is unknown. This occurred after the applicant submitted an application to the County for the subdivision in January of 2020. In addition, it appears that "brush" and likely smaller trees were cleared throughout the property, leaving several very large piles of chips up to 6 feet tall. This raises the question of exactly how large was the brush, what exactly was removed, and whether this work needed a permit for more than just the fill, including permits from CDFW and the RWQCB, as well as from the County.

In addition, this raises the question of CEQA baseline. The applicant had already submitted a subdivision application when the "brush" and tree removal occurred and when the fill was imported, without permits and presumably without proper wildlife and plant surveys. The initial biological report fieldwork conducted in early 2021 according to the report, presumably before

the site work was conducted; this should be confirmed by the County. The report was updated in 2022, well after all this unpermitted site work was completed, thereby altering the biological baseline after submittal of the project application and biological assessment. This was not a homeowner removing a little brush in the process of maintaining his property. This work occurred during a subdivision permitting process and constitutes unauthorized site work. Neither the initial study/MND, biological report or staff report makes any mention of the unauthorized work, enforcement case, or the altered CEQA baseline, which is unacceptable. This circumstance needs to be addressed. A forensic biological assessment needs to be conducted to determine what habitat was removed from the property. Mitigation for this removal, and appropriate citations, fines or other appropriate remediation for any illegal work, must be completed prior to approval of this project, or at least prior to commencement of any site work.

Lack of enforcement to obtain CDFW and RWQCB permits results in unmitigated significant impacts to wildlife and Grayson Creek.

Based on information provided by the applicant at the public hearing, it would appear he is unaware of the permits or authorizations that will be required in order to carry out this project. For example, he did not believe he needed any authorization from the Regional Water Quality Control Board, yet the Project requires a permit pursuant to the Board's Construction Stormwater Program, including the requirement to prepare and submit a Storm Water Pollution and Prevention Plan (SWPPP). This requirement is actually a condition of approval. The Project will also require a Lake and Streambed Alteration Agreement (LSSA) from the California Department of Fish and Wildlife (CDFW). In fact, biological impact mitigation relies on the applicant obtaining an LSSA to help reduce significant impacts to wildlife, and to Grayson Creek and its associated habitat, yet obtaining the LSSA it is not included as a condition of approval.

The conditions of approval do nothing to ensure either of these authorizations will be obtained prior to any work beginning. While mitigation for biological impacts relies on obtaining an LSSA, the need for the applicant to actually obtain this agreement is listed only as an advisory note rather than a requirement. Relying on a permit to mitigate impacts, and then not requiring the applicant to obtain the permit, does not constitute adequate mitigation. There is nothing in any of the mitigation measures or conditions of approval that requires obtaining an LSSA. The requirement for a SWPPP is included as Mitigation Measure Biology 6, which according to the MMRP, will be verified during initial review of construction plan sets and throughout project. However, this may not preclude the applicant from moving forward with removing trees and conducting pre-construction grading and fill as he apparently did previously.

It is vital that both of these authorizations be obtained prior to any site work occurring, including but not limited to tree removal or ground disturbing work occurring on the Project site. Mitigation as adopted by the County relies on these authorizations, so the County must be responsible for documenting that the authorizations are received, are on file with the County, and in fact adequately mitigate the impacts they were cited as mitigating in the MND. Therefore, in order to ensure impacts to biological resources and water quality are reduced below a

threshold of significance, a condition of approval or mitigation measure must be added requiring the applicant to obtain these authorizations and provide copies to the County prior to any site work being done on the Project site, including but not limited to tree or any other vegetation removal and any work that disturbs the ground.

LAND USE, AESTHETICS, COMMUNITY CHARACTER

The Project is inconsistent with its surroundings, resulting in significant aesthetic, land use and community character impacts.

The size, scale and density of the Project is inconsistent with the County neighborhoods surrounding the project on the south side of Grayson Road. Aesthetic and land use impacts, and the inconsistency of this project with its surrounding community character, cannot be found to be mitigated below a threshold of significance. The extraordinary extent of the development standards waivers being granted to the applicant is a clear indication of these incompatibilities, as no other development in the surrounding area of the project utilizes these reduced standards.

Those of us who live in the neighborhood, many of us for decades, chose to live here because it is a peaceful, beautiful suburban/rural hybrid neighborhood that is also close to downtown, with large lots and room between neighbors, rolling hills, open space, privacy, natural habitat and lots of wildlife. The proposed development is completely contrary to these qualities. The development size and density is inappropriate for the surrounding community, with too many homes on too small of lots, and with the majority of the mature natural habitat on the Project site destroyed and wildlife displaced. Fewer homes would be in keeping with the "flavor" of the surrounding community.

Aesthetic, land use and community character impacts remain unmitigated and significant due to the density bonus and waivers granted for this Project. The Neighborhood has submitted numerous comments providing factual information that demonstrates this project is completely inconsistent with its surroundings when considering usable lot size, development scale, development density, and aesthetics. Any reasonable person can look at this area of Contra Costa County to see this project will look nothing like anything else surrounding it in the County; rather, it will stand out in a very negative way. The project is too dense and the homes are too large and too close together. The small lots in the area of Pleasant Hill across the street or near Taylor Blvd. cannot be used to determine consistency, as they are in urban Pleasant Hill, and were created as a PUD with significant open space. The Project site is located in a relatively rural, low density area of the County, not high density urban Pleasant Hill.

The County claims that the aesthetic, community character and land use (density, etc.) impacts associated of this development, including the removal of 158 mature trees that have taken decades to mature (97 of which are code protected) and the installation of an almost solid wall of giant two-story boxy homes, will be mitigated by a landscaping plan that will supposedly "enhance the aesthetic character to maintain adequate screening and privacy." This is a false

claim that cannot be substantiated. There is no mitigation included for the Project that requires a landscaping plan with adequate performance standards sufficient to support this claim. This means determining adequate mitigation for screening and privacy is being deferred to some future plan, contrary to CEQA requirements. Further, trees to be planted as mitigation for the complete destruction of almost two acres of oak woodland will take decades to grow to a point that they would provide the screening and privacy (and habitat) provided by the mature trees currently existing on the site, if the trees to be planted even survive, keeping in mind there is no place to plant these trees that constitutes restoration of the oak woodland. The County has misrepresented and downplayed this impact issue in an attempt to find neighborhood/community character consistency and as a consequence, formed erroneous consistency conclusions that leaves aesthetic, community character and land use impacts significant.

The Neighborhood has continually commented about the excessive density of the Project resulting from the use of the density bonus allowance and inappropriate waivers granted that are supposedly allowed by state housing law, all of which result in unmitigated significant impacts as discussed throughout this letter and previous Neighborhood comments. A reduction in density to what should be no more than four lots would contribute significantly toward mitigating the significant impacts of this project that are discussed in this letter and have been commented on throughout the Project permitting process. This lesser density would allow avoidance of impacts to existing habitat and the wildlife it supports, and would result in a development in keeping with the aesthetics, character, and land use of the surrounding community.

To summarize our understanding of the housing law situation for the Project, the applicant is using the inclusion of a single moderate income home (one of the two smallest homes, and located on the smallest lot in the worst location in the subdivision) as a tool to allow him to claim a density bonus and increase the reasonable density that would otherwise be allowed on this property by 150%; and to allow him to claim financial infeasibility of the project without the requested waivers and concession that together with the increased density are primarily responsible for the significant environmental impacts of this project, and that will result in financial benefits to the applicant in the neighborhood of what is likely hundreds of thousands of dollars while shifting his waived financial development responsibilities and environmental costs of project impacts to the community and taxpayers, all without being required to provide any evidence of his financial feasibility claims. While the County has explained state housing law as justification for their decisions regarding the Project, the resulting extraordinary benefits to the applicant and the extraordinary environmental, financial, health and safety, and community impacts and costs have not been adequately acknowledged and characterized. The community is entitled to this information, and the County should provide a discussion that explains it.

State housing law defines "density bonus" as a density increase over the otherwise maximum allowable gross residential density. A reasonable interpretation of maximum allowable gross residential density would be the maximum density allowed under all County development regulations, that is, density based on acreage that can actually be developed with residential uses. However, the state apparently calculates maximum allowable gross residential density using gross acreage, regardless of whether or not the acreage can be developed. For this

project, this means the Grayson Creek setback for which development rights will be conveyed to the County, and the access road, are included in the Project density calculations.

This property should have been divided into no more than 4 lots considering net acreage to accommodate the creek setback area and access road, leaving a substantial protective creek buffer and likely the majority of the existing oak woodland. Instead, the applicant is utilizing state housing laws by providing a single moderate income home as a tool to increase the density allowed on this property by 150%, from 4 lots that would have been consistent with the neighboring area, to 10 lots consistent with development in urban downtown Pleasant Hill. Calculations to support this are provided in Neighborhood 2023 MND comments. The excessive density of this project is primarily responsible for the unmitigated environmental, community, and public health and safety impacts of this Project. The density must be reduced to avoid unmitigated impacts to Grayson Creek, the valuable oak woodland and riparian habitat on the Project site, and the community character of this part of the County. Without the excessive density, the waivers that add to the impacts would not be needed. Due to the density of the Project and the resulting impacts, it should be denied.

The granting of numerous waivers to the County's development regulations significantly contributes to the unmitigated significant impacts of this project, and in some cases is not required to physically develop the Project.

The staff report contains the following: *Density Bonus Law (Gov. Code § 65915(e)(1)) states "In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section."* (emphasis added). The staff report further notes that the applicant has requested waivers of development standards for lot size and setbacks, and has stated that application of these development standards would physically preclude the construction of the project at its proposed density, as well as the proposed moderate-income unit.

The moderate income home is not responsible for creating the need for waivers of lot size or setbacks. Even at nine lots, a reduction in lot size would be required, evidence of the excessive density proposed by this Project. Thus, the tenth lot awarded to the Project as a Density Bonus, is not responsible for the need for a reduced lot size. Further, the need for reduced setbacks for the future homes is unjustified pursuant to state housing law. The lots can clearly be physically developed with reasonably sized homes, homes consistent in size with the surrounding neighborhood that would not require setback waivers. The applicant stated that the County's development standards would physically preclude construction of the project, which is clearly not the case. The applicant is choosing to construct giant homes, a choice that should be refused by the County by denying unnecessary setback waivers. If there is some other reason these large homes are being proposed and waivers are being granted to accommodate them, this should clearly be explained to the public in the MND and staff report. For example, if the applicant is justifying the size of these homes and the need for waivers because of an unsubstantiated claim of the financial feasibility of the project, the public should be informed of

this claim. Regardless, the waivers should be denied as they are not physically required. Applying standard setbacks would help somewhat in reducing the impacts of this giant wall of two-story boxy homes that will be built almost on top of each other, although aesthetic, community character and biological impacts, will never be reduced below a threshold of significance at the proposed density of the Project.

The inclusion of Accessory Dwelling Units (ADUs) in the Project is unclear.

Project plans indicate 6 lots will contain homes with ADUs. Despite the County and the applicant insisting that no ADUs are included in the Project, the project plans that were approved (the plans included in the staff report) included ADUs. We asked to have language added to the Project description that excluded ADUs in the Project, or to have the plans revised to eliminate the ADUs, but we are not aware that either occurred. Therefore, we presume that ADUs are included in the project without any analysis of these ADUs in the MND. The inclusion of these 6 ADUs in a project that is already far too dense increases the environmental and health and safety impacts of the project with more traffic, more lighting, more noise, and simply more activity. Given the lenient stance of the state when it comes to adding ADUs, the Project could increase even further the number of ADUs that could be added in the future.

As this appeal has argued, this project as proposed should not be approved. If the County continues to recommend approval, that approval should include a restriction that disallows any ADUs on these ten lots, considering the already excessive size, scale and density of the Project and the sensitivity of Grayson Creek and remaining associated habitat.

Noncompliance with state law and unmitigated impacts to the environment and public health and safety.

Following is an excerpt from the staff report:

The Density Bonus Law puts the burden of rejecting any proposed incentives or concessions on the County and requires the County to grant the concession or incentive requested by the applicant unless the County makes a written finding, based upon substantial evidence, of any of the following:

- (A) The concession or incentive does not result in identifiable and actual cost reductions;
- (B) The concession or incentive would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households;
- (C) The concession or incentive would be contrary to state or federal law.

It is clear that the applicant's and County's interpretation of housing law is resulting in a Project with significant unmitigated impacts to public health and safety and to the environment, including biological and public trust resource impacts; and aesthetic, community character land use, and traffic impacts, all due to the Project's excessively high density and numerous concessions and waivers. The project as proposed violates CEQA, a state law, due to mitigation not compliant with CEQA as well due to unmitigated significant environmental Project impacts, a circumstance which is not allowed for an MND. The project also has unmitigated public health and safety impacts. Significant Project impacts are directly associated with the density bonus, concession and waivers which create a Project with a size, scale and density that does not allow for adequate mitigation, such as reestablishment of lost oak woodland and a creek setback that would sufficiently protect Grayson Creek from residential activity associated with the excessively large homes that are proposed. This project should therefore be denied, and redesigned at a lower density.

NOISE

Noise is inappropriately noted as less than significant, and conflicts in conditions of approval could result in significant noise impacts.

Construction noise has the potential to disturb surrounding neighbors for a significant period of time, given the number and size of the proposed homes together with the construction of streets and utilities and the destruction of trees and understory that attenuate noise. Mitigation Measure Noise 1 is proposed to reduce construction noise, yet the initial study shows temporary or permanent noise as less than significant without mitigation. This is conflicting, and needs to be corrected, although noise impacts may require additional mitigation due to insufficient MND analysis.

The MND inappropriately found per Noise 1 that it was acceptable to disturb the Neighborhood with construction noise from 7:00 AM until 7:00 PM weekdays, and from 8:00 AM until 7:00 PM on Saturdays. The County adopted these hours of operation in the Mitigation, Monitoring and Reporting Program (MMRP) as Mitigation Measure Noise 1. Mitigation measures adopted in an MMRP are conditions of approval for a project. The County also adopted a more restrictive condition of approval that requires that, unless approved otherwise via prior authorization from the Zoning Administrator for special circumstances, construction activities are limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and on specific holidays. Both these sets of requirements are conditions of approval, yet are clearly inconsistent. This creates confusion, potential vulnerability on the part of the County to challenges regarding which condition applies, and could ultimately impact the Neighborhood whose residents will suffer from all the noise resulting from the Project if Mitigation Measure Noise 1 is enforced in lieu of the more restrictive County condition of approval. The MMRP must be modified to be consistent with the County's more restrictive condition of approval, or the MND must find that noise has not been mitigated below a threshold of significance since the MMRP hours of

operation are clearly unacceptable for a currently quiet neighborhood and do not mitigate construction noise impacts below a threshold of significance.

The Project site is zoned for residential use, and although there are two existing homes, the homes have not been occupied for years. Therefore, the baseline for residential noise being generated by this property is zero. A subdivision creating a reasonable number of homes (i.e. 4 homes) would generate residential noise that would presumably be at a level that would be expected and acceptable, as this number of homes would mean noise consistent with noise generated by surrounding homes that exist at a similar density, size and scale, and noise that would be attenuated by the retention of significantly more mature trees and other vegetation.

The street noise from Grayson Road has audibly increased into our Neighborhood since the pre-construction site clearing occurred. Our neighborhood's peace and enjoyment have already been negatively impacted by this vegetation removal. This increase in noise will be significantly exacerbated by removal of 158 mature trees, and the addition of ten very large homes within a concentrated area that constitute more than twice the number of homes then could reasonably be constructed on the property absent the applicant's and County's reliance on state housing regulations to justify the unacceptable density of this Project. The analysis of the noise that will impact our neighborhood and surrounding neighborhoods did not address or analyze any of these circumstances. The analysis needs to be amended, and potentially additional mitigation added, in order to find that noise impacts are mitigated below a threshold of significance.

TRANSPORATION

The Project substantially increases traffic hazards due to noncompliance with County standards and poses an unmitigated significant impact to the public health and safety.

The applicant is using the inclusion of one moderate income home as a tool to avoid his obligation to construct Grayson Road frontage improvements. This includes two key issues as proposed by the applicant - the elimination of a sidewalk, and the construction of an asphalt curb rather than the normally required concrete curb.

Elimination of a sidewalk in light of the number and size of homes the applicant is proposing that will likely house a significant number of children, coupled with the excessive speed of the cars traveling up and down Grayson as witnessed and acknowledged by the Zoning Administrator, creates an unmitigated traffic hazard to pedestrians as well as drivers, and an unmitigated impact to public health and safety as the Neighborhood has argued in written and oral comments. To address this impact, the Zoning Administrator at the October 16, 2023 public hearing, added a condition of approval to the Project that requires the applicant to construct a 150-ft. infill section of sidewalk on the north side of Grayson, requiring a minor amount of effort and expense on the part of the applicant as compared to what he should actually be required to construct, or at the very least bond for so the County can construct any

necessary improvements in the future. When asked if the applicant was agreeable to constructing this infill section of sidewalk, he answered that he was not.

The addition of this short section of sidewalk across Grayson raises questions as to whether this is adequate mitigation for the impacts generated by the Project. Normally, MNDs cannot be circulated unless the applicant has agreed to proposed mitigation. In this case, the requirement was added at a public hearing and the applicant said he would not agree to it. Further, the public had no opportunity to provide input or ask questions about the proposed mitigation since it was added after the public hearing was closed. The applicant must agree to the construction of this section of sidewalk in order to utilize an MND to mitigate the public safety transportation hazard created by the applicant's proposal of no sidewalk.

However, even if the applicant agrees to the mitigation, constructing a sidewalk across Grayson from the Project does not fully mitigate the significant traffic and public health and safety impact because there is no safe way to access the sidewalk. Considering the speed of the traffic on Grayson, crossing Grayson can be challenging and unsafe, particularly at certain times of the day such as peak traffic times. Therefore, the applicant must be required to provide amenities that will create a safe way for the residents of the Project to cross Grayson to the north side in order to utilize the sidewalk. This could include a crosswalk with flashing lights that are activated when someone wants to cross, or a stop sign near the new access road intersection. A stop sign would also serve to stop traffic near the curve in Grayson that limits traffic visibility from Mohawk, and will also slow down traffic on Grayson, all of which would help mitigate the already challenging task of turning out of Mohawk onto Grayson that will be made more difficult by the additional traffic that will result from this Project. Without a safe way to cross Grayson, traffic and public health and safety impacts remain significant.

Asphalt concrete curb on Grayson is not sufficient.

The applicant is proposing to install an asphalt concrete curb along the Project's Grayson frontage in lieu of the normally required concrete curb, gutter and sidewalk. The existing curb and gutter on the south side of Grayson from Taylor Blvd. to Release Valley Road are concrete except at this one property. Therefore, the Project should be conditioned to require a concrete curb and gutter along the entire Grayson frontage. An asphalt curb will not last, and as it deteriorates, will result in drainage issues. With the number and size of the proposed homes coupled with the limited parking on the access road, parking will undoubtedly occur on Grayson, further contributing to the deterioration of an asphalt curb due to cars running over it. The applicant should be required to construct a concrete curb and gutter to be consistent with other curb and gutter on the south side of Grayson, and to minimize drainage impacts that would result from the deterioration of an asphalt curb.

Granting of an exception to private road standards constitutes yet another waiver of County standards, and results in diminished accessibility and loss of landscaping area in the right of way.

Confusion remains regarding the private road access for this Project. The MND and staff report identify the road as being 28 feet wide, with conflicting sidewalk widths of 4.5 and 5 feet identified in the staff report and Project information, and a 42-ft. right of way. The Project condition of approval included in the staff report stated that *per the Vesting Tentative Map, Applicant shall construct an on-site roadway system to current County private road standards with a minimum pavement width of 28 feet, with 4.5-foot sidewalk (measured from the face of curb) within a minimum 42-foot access easement.* However, as part of the Project approval, the Zoning Administrator, after the close of the public hearing, agreed to the applicant's request to narrow the right of way to 33 feet. When asked after the meeting what exactly was involved with this change, the County has yet to provide us with a clear answer.

We were last told that as a result of the change made at the hearing, the road width had been increased to 30 feet, the sidewalk was decreased to 3 feet, and the right of way was reduced to 33 feet, but we were referred to Public Works for clarification, which after sending two emails requesting clarification, we have yet to receive. With a right of way reduced to 33 feet, there would be no room for landscaping within the right of way as proposed by the Project description. The Project description states the Project would be accessible, yet is now proposing a 3-ft. sidewalk along the access road where a 4-ft. sidewalk would be required for accessibility. Further, this change represents yet another waiver of standard County requirements that was not advertised to the public, and was made after the close of the public hearing which foreclosed any ability of the public to understand the change, question it, or object to it. This is unacceptable, and requires the County to clearly address this change and allow public input prior to approval of the project.

We hope you have come to understand how much the Neighborhood values our homes, our neighborhood, and our beautiful and peaceful environs that include wildlife, sensitive habitats, and Grayson Creek, all of which contribute to the health of our local and regional environment and community. Is it really worth destroying these assets for the sake of one moderate income home? We do not believe it is. We also hope you understand we are not opposed to development of the Project site in a reasonable manner that respects the environment, the neighborhood, and the community. We are asking the County to have the same respect when considering approval of this damaging Project, and deny the Project.

We encourage you to contact us if you have any questions. Please keep us informed regarding the progress and status of this appeal. Thank you for your consideration of this appeal.

Sincerely,

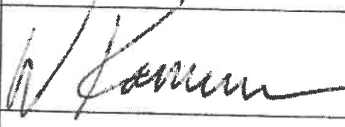
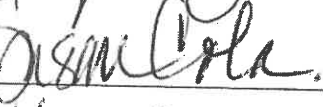

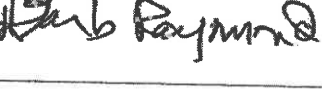
The Mohawk/Iroquois Neighborhood

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SUBMITTED BY:

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Carolyn Cheifetz	Carolyn Cheifetz	993 Iroquois Dr.	gregandcare@gmail.com
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Maureen Vierengel	Maureen Vierengel	2080 Mohawk Dr.	"
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**Contra Costa County
Department of Conservation and Development
Community Development Division**

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 30 Check one: Support: _____ Oppose:

Date: _____

Name: Brian Francis

Address: 2047 Mohawk Dr

City: Pleasant Hill State: CA Zip: 94573

Telephone: (925) 323-6139 (Optional)

Contra Costa County
Department of Conservation and Development
Community Development Division

IF YOU ARE INTERESTED IN SPEAKING IN FAVOR OF OR OBJECTING TO THE GRANTING OF ANY OF THE APPLICATIONS LISTED, PLEASE SIGN YOUR NAME AND ADDRESS AND LIST THE ITEM NUMBER TO WHICH YOU ARE GOING TO SPEAK AND LEAVE THIS AT THE LECTERN.

Item Number on Agenda: 1030 Walnut Blvd. ^{3b} Check one:

Date: 10-2-23

Support: _____ Oppose:

Name: Angela Dewey

Address: 8 Virginia Ct

City: Walnut Creek State: CA Zip: 94596

Telephone: () (Optional)

Contra Costa County
Department of Conservation and Development
Community Development Division

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 30 Check one: Support: _____ Oppose:

Date: 10-2-23

Name: CLAY HABERMAN

Address: 1010 GRAYSON RD

City: PLEASANT HILL State: CA Zip: 94523

Telephone: (925) 323-1440 (Optional)

**Contra Costa County
Department of Conservation and Development
Community Development Division**

IF YOU WISH TO SPEAK IN SUPPORT OF OR IN OPPOSITION TO ANY OF THE AGENDA ITEMS, PLEASE PRINT YOUR NAME, ADDRESS AND THE AGENDA ITEM NUMBER YOU WISH TO ADDRESS; AND PLACE IN THE BOX ON THE RAILING.

Agenda Item Number: 3^a Check one: Support: Oppose:

Date: 10/2

Name: SUZANNE FRANCOIS

Address: 2047 MOHAWK DR

City: PLEASANT HILL State: CA Zip: 94523

Telephone: (925) 323-6439 (Optional)

Grayson Road 10-Lot Subdivision, County File #CDSD20-09531

Clay Haberman <clay@johnsonlyman.com>

Mon 10/2/2023 10:21 AM

To: Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

Dear Mr. Lawlor,

The following summarizes the items that I believe are still not adequately addressed in the staff report and conditions of approval for the above referenced project:

1. **BASELINE PROJECT:** A plan should have been produced and included in the public evaluation of the project showing a baseline project that conforms to all County zoning laws. This base project would be used to determine the allowable waivers and concessions to be granted due to bonus density. This has not been shared with the public and we are supposed to trust that 9 houses would actually fit on this site under the current zoning ordinance. I ask that the base project plans be shared with the public.
2. **Setbacks:** Garage and house setbacks should be measured from back of accessible pedestrian sidewalk or curb. A dimension is shown on the plan but is not clear in the condition since the roadway is included within the proposed parcels. Also an accessible pedestrian sidewalk should be required---The current sidewalk does not connect the homes as it is on the other side of the street.
3. **Floor Plans number 3** showing an ADU do not have adequate parking. 5 bedrooms plus the ADU will have more parked cars than the 2 car garage can hold. There are 6 such units.
4. **Grayson Curb and gutter:** Grayson road has concrete curb and gutter to the East and West of this site. This is the only site with asphalt curb. The street has been paved recently with new bike line and striped island. Inadequate resident and guest parking on the proposed development will result in added frequency of cars parked on Grayson. The AC curb is not durable enough for this added traffic. The creek is adjacent to the East end of the gutter...Any abruption of the gutter will result in untreated runoff from Grayson Road going directly into Grayson Creek. The conditions should require that a new concrete curb and gutter be provided or the applicant should be required to show why this concession is necessary to the feasibility of the project.
5. The stormwater detention pond at the East end of the development should be graded such that water does not enter into Grayson Creek in an overflow condition.
6. **Condition 71** Indicates that a portion of the project property lies within a Special Flood Hazard Area (100 year flood boundary). Grading the site to raise the building pads above this flood plain would be detrimental to the existing trees and should not be allowed.
7. **Condition 17:** The applicant is to determine if he can save the trees that he requests permission to remove? This appears to be a conflict of interest. The County should determine which trees can and cannot be removed.
8. 2 working days is an inadequate amount of time to review the 265 page staff report.

Sincerely,

Clay Haberman

1010 Grayson Road
Pleasant Hill, CA

FW: 10 lot Grayson Road subdivision

DCD PlanningHearing <PlanningHearing@dcd.cccounty.us>

Mon 10/2/2023 1:51 PM

To: Ruben Hernandez <Ruben.Hernandez@dcd.cccounty.us>; Will Nelson
<Will.Nelson@dcd.cccounty.us>; Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

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

From: Jeanne Shikany <heyladyjs@comcast.net>

Sent: Monday, October 2, 2023 1:05 PM

To: DCD PlanningHearing <PlanningHearing@dcd.cccounty.us>

Subject: 10 lot Grayson Road subdivision

The above referenced suit be detrimental to the environment and to the community as provided in the comment letter provided by Lisa Shikany. This subdivision should not and cannot be approved.

Jeanne Shikany

Sent from my iPad

FW: Grayson Creek Subdivision

DCD PlanningHearing <PlanningHearing@dcd.cccounty.us>

Mon 10/16/2023 2:08 PM

To: Will Nelson <Will.Nelson@dcd.cccounty.us>; Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

From: Hart, Kathryn@Waterboards <Kathryn.Hart@waterboards.ca.gov>

Sent: Monday, October 16, 2023 2:06 PM

To: DCD PlanningHearing <PlanningHearing@dcd.cccounty.us>

Subject: Grayson Creek Subdivision

Contra Costa County Planning Department:

Please note that the Regional Water Quality Control Board, San Francisco Bay Region, is in the process of reviewing the Initial Study for the Grayson Creek Subdivision proposed for location near the intersection of Grayson and Buttner Roads. We are concerned about the limited setback to development from the creek. As you know, during storm events this creek is vulnerable to erosion and it is not clear that the setbacks to development are sufficient to allow the creek to naturally evolve. We encourage you to postpone approval of the tentative map until full review of adequate setbacks can be evaluated, along with the drainage plan for the project.

Regards,

Katie Hart | Water Resource Control Engineer, PE, she/her

SF Bay Regional Water Quality Control Board

1515 Clay St., Suite 1400 | Oakland, CA 94612

(510) 622-2356

October 1, 2023

Contra Costa County Zoning Administrator
planninghearing@dcd.cccounty.us

Joseph W. Lawlor Jr, AICP
joseph.Lawlor@dcd.cccounty.us

RE: CDS20-009531 Grayson Road 10-Lot Subdivision Public Hearing Comments

My comments are much briefer and less complete than I would have liked due to the unacceptably short period of time the public was given to respond to the County's lengthy staff report, including the County's response to my comments. The staff report was not made available to the public until the afternoon of Thursday, September 28th, four days before the public hearing, with two of those days being a weekend. It can be reasonably seen that this short time frame for such a complex and controversial project provides insufficient time to review and respond to the staff report. Despite my repeated requests to obtain the staff report when the notice of public hearing was sent to me, my request was continually denied with no explanation except that the County is not required by ordinance to provide the staff report any sooner than 96 hours before the hearing. Despite there being no prohibition in the ordinance preventing the County from providing the staff report sooner, the staff report was withheld from me until the agenda was emailed to me at 2:00 on October 28th. Was a notice of public hearing released before all project materials such as the staff report were completed and ready for public review, or was the County doing what they could to reduce the amount of time the public had to review the staff report in order to minimize public input? Neither of these options is acceptable. The public has simply not had enough time to fully review and respond to the information in the staff report, and thus this hearing should be continued to a future date that will provide sufficient time to thoroughly review and digest all project materials.

Regarding the appropriateness of this hearing, why is this project being advertised as a minor subdivision? Minor subdivisions are universally defined as containing 4 or fewer lots, a definition contained in the County's zoning ordinances. This project contains 10 lots. This is a significant error, and should result in the hearing being continued to a future date where it can be properly agendized. However, there are additional concerns that impact this hearing. This project has 10 lots which is a major subdivision and thus should be heard by the Planning Commission. A Zoning Administrator hearing is inappropriate not only due to the project being a major subdivision, but also because the project is steeped in controversy as evidenced by neighborhood concerns expressed through phone calls, emails, and submitted comments. A Planning Commission public hearing in the future with a staff report available at least when the public hearing notice is released is the appropriate legal path for this project. In the event the County chooses to continue with what would appear to be an inappropriate hearing, I am providing comments herein on the project.

I am providing my original CEQA comment letter as an attachment to this letter, which together serve as my comment letter for purposes of this hearing, since an inadequate amount of time was provided to fully respond to all the County's responses to my comments and other issues addressed in the staff report. While the County has provided responses to my concerns, those responses in most cases appear to simply restate information from the initial study that was insufficient to address my concern. The numerous concerns detailed in my CEQA comment letter remain valid and inadequately addressed by the CEQA document and the County's response to my comments, with minor exceptions.

Regarding the County's response to what they identify as my comment #1, Jeanne Shikany (my mother who lives in the neighborhood adjacent to this subdivision) did not receive a notice of the circulation of the revised MND, despite what the staff report response indicates. I did receive a notice. The response says her receipt of the notice is evidenced by her response, but she did not respond to the notice, I did; I responded to the notice I received. The County did not fulfill their noticing requirements for the MND circulation because they did not provide notice to my mother, despite her request to receive notices. Further, regarding County response to what the County identifies as my comment #2, forcing the public reviewing an IS/MND to have to submit a request for the reports that are legally part of the MND is not only bad public policy, it constitutes an insufficient CEQA circulation since the entire IS/MND was not circulated or made readily available. This project has had several issues with technical CEQA compliance as described in my early emails to Mr. Lawlor.

The County responded to one of my comments stating that the developer considered neighborhood concerns when designing the project. If this were the case, this project would look significantly different than it currently does. There is no change in the project plans or project description from the initial IS/MND circulation, as evidenced by the date on the plans attached to this staff report. The County has added one additional requirement in regard to addressing noise impacts raised by the neighborhood, but that is the only change to the project that can be directly attributed to the neighborhood comments. Other changes to biological impacts mitigation were the result of revised biological assessments conducted in response to California Department of Fish and Wildlife comments, according to County staff. While these changes addressed some neighborhood concerns, they were not changes provided by the developer in response to those concerns. The developer of this project has made no attempt to contact concerned neighbors or address neighborhood concerns directly.

The project mitigation is inadequate in many instances as described in my attached CEQA comments. One example of inadequate analysis and mitigation concerns the longterm impacts to wildlife and their habitat. One mitigation measure that attempts to address this impact is a requirement to replant 158 trees in-kind and onsite "to the extent practicable," when there is no place to plant those trees since the only area remaining undeveloped with roads, homes, residential yards or a detention basin, is the riparian corridor that should not be a replanting area. The tree planting mitigation relies on the requirement for a landscaping plan, but a landscaping plan does not miraculously create additional land area for tree planting and reestablishment of critical wildlife habitat being permanently destroyed by this project. This mitigation as proposed is

unattainable and therefore legally inadequate pursuant to CEQA, unless of course the County determines replanting is not “practicable” and does not require the replanting, thereby leaving this significant impact unmitigated. Significant environmental wildlife and habitat impacts remain, despite proposed mitigation for this project such as the mitigation to address habitat loss through tree replanting, as further detailed in my CEQA comments. Thus, adoption of the MND and MMRP cannot legally occur, and the project cannot be approved. A reduction in the number of lots would go a long way in addressing the wildlife, habitat loss, and other remaining significant impacts of this project.

The staff report contains project plans and elevations prepared by the architect WHA that are only now being provided to the public for the first time; they were not included in either circulated IS/MND. These plans clearly show that six homes include ADUs. The County is apparently not even aware that they are approving a project with 6 ADUs in addition to 10 single family homes, as the County’s responses to my and other’s concerns regarding ADUs consistently state that there will be no ADUs. This means that none of the traffic calculations considered the additional traffic from these ADUs, which needs to be remedied. Considering the virtual elimination of single family residential zoning by the exceptionally permissive stance of the state in regard to ADUs, together with the very large size of the proposed homes, traffic and parking needs should have assumed ADUs could be built on all lots.

The plans from WHA reveal the homes to be built were designed without any consideration for the neighborhood within which they will be located. The relatively rural location of this subdivision within the County is not comprised of the type of homes shown on the plans. These homes are very large two-story square boxes that will be very close together, forming an imposing mass of development where this type of development does not currently exist. It is the County’s job to protect the environment and community character of Contra Costa County, which is not what the County would be accomplishing by approving this project.

The County continues to cite state law as the justification for all the concessions and waivers being awarded to the developer of this subdivision. The concessions given to the developer by the County on behalf of the public clearly provide substantial financial gains for the developer that likely far outweigh his costs of providing one moderate income home. In contrast, these waivers and concession will result in a financial, environmental, community character, and public safety losses for the community. This is not an equitable tradeoff with little if any notable gain to the public from the one moderate income home. The waivers and concessions simply cannot be found to be in the public interest, considering the resulting impacts. The inclusion of one single moderate income home should not be utilized as a tool to substantially alter what would normally be allowed in a subdivision, but that appears to be what is happening here. A single moderate income home on the smallest lot in the worst location in the subdivision is not a comparable or significant gain for the public nor a significant financial loss to the developer when considering the developer’s financial gains and the public’s losses resulting from the concessions and waivers. Additionally, state law certainly did not envision allowing a housing project with significant environmental and community impacts for the sake of this one moderate income home.

Regarding the concession to eliminate complete frontage improvements on Grayson Road, most specifically elimination of sidewalks and construction of asphalt curbs which will not have longevity, the developer does not want to construct these improvements because of a claim it is too expensive, with no justification provided regarding what constitutes 'too expensive.' When the County finally decides sidewalks are needed (perhaps when someone is hit, which is more likely to occur with the addition of 10 homes and at least 6 ADUs to an already unsafe pedestrian situation), the public will bear the cost. If the County is going to actually give the developer the financial benefit of eliminating full frontage improvements on Grayson because of expense and because there is no sidewalk to connect to currently, there should at least be a sidewalk agreement that would encumber each and every lot in this subdivision, requiring them to pay the cost for curb, gutter and sidewalk when it is required at some point in the future. The public should not have to foot the bill for this substantial financial benefit to this developer. Again, a reduction in the number of lots could help justify the requested concession, but should still require a sidewalk agreement.

As provided in other comments contained in my letter, the consistency of this project with State Density Bonus Law is questionable. For example, the moderate income lot is not what is driving the need for modifications to zoning requirements such as lot size and setbacks. Nine lots (the number of lots without the moderate income lot) would not fit on this property while meeting all zoning requirements. The County did not adequately respond to my comment that the base number of lots (9) could not be created without the granting of a variance which in the case of a subdivision, would be illegal. In other words, even without the inclusion of the moderate income residence, a 9-lot subdivision could not meet county density and zoning requirements. It is therefore clear that the moderate income home is not what is driving the need for lot size and setback waivers. The county dismissed my comment by stating: *The Density Bonus Law allows waivers and concessions to R-15 zoning standards because an increased density often physically precludes a project from following all design standards for its land use and zoning designations.* However, it is not the increased density from the affordable home, which I believe is what the density bonus law is speaking to, that is requiring these waivers since there is no way to fit 9 claimed base lots on this property without these waivers. So again, how can the County find that waivers are required to provide for the affordable home when they are clearly not, as they would be required without the affordable home (ie. they would be required for 9 lots). This would also point to not only eliminating the requested waivers, but calls into question the base lot calculation of 9 lots when determining the maximum density allowed for this property. The County's inclusion of undevelopable or unusable area in net acreage calculations used to determine the base number of lots is yet another issue that should be reconsidered. These are examples of the County "standing on their head" to fulfill the developer's desire to construct this unacceptably dense development, thereby facilitating negative community and environmental impacts.

Lighting impacts have been an ongoing concern for the neighbors adjacent to this project, and are also a biological concern. A mitigation measure provides that lighting will be limited to the subject property, a statement that the staff report continuously points to when addressing neighborhood lighting concerns. However, the riparian corridor is located on the subject property, meaning that the mitigation measure would not restrict light entering the riparian corridor. This mitigation needs

to be revised to indicate that lighting will be restricted to only the developed portions of the project site, excluding the detention basin which should also not be impacted by light.


The staff report states in response to my comment regarding changes in the hours of operations in the section on noise, that the project would include standard conditions of approval that would limit the construction to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday. While that condition is included, the MMRP still states that the construction contractor shall limit noise producing construction activities to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, and between 8:00 a.m. and 7:00 p.m. on Saturday. This conflicts with the condition of approval, so this conflict needs to be rectified.

The findings and conditions of approval in the staff report refer to this subdivision as a parcel map in numerous places. However, it is not a parcel map subdivision; it is a final map subdivision due to the number of lots. The findings and conditions of approval must be revised to accurately reference the subdivision prior to adoption.

This letter contains just some of the issues that I have brought forward in my attached CEQA comments, plus contains some additional concerns. As noted above, the time provided by the County to review the staff report was woefully inadequate, and I simply ran out of time to provide a more thorough response to the staff report. No decisions should be made on this project until additional time is provided to allow a more thorough review of the staff report by the public, as well as additional time to allow the zoning administrator to thoroughly review comments received at the October 2nd hearing if it is held despite the issues raised at the beginning of this letter. More time should be provided for public review of the staff report for any future public hearings.

What the County is doing to the community with this project is unacceptable. This is a poorly designed project that, as currently proposed for approval, will have detrimental impacts to the environment and the community. As the County should be well aware, subdivision is a privilege, not a right. Yet, it appears that the County is reaching to the limits everywhere it believes it can in order to facilitate this inappropriately dense subdivision that has significant unmitigated impacts to the natural and developed environment, is providing inadequate road improvements, and is very obviously out of character with its surroundings, while giving the developer everything he is asking for and dismissing legitimate community concerns, leaving the community to ultimately pay the price for the inadequacies of this project the County is proposing to approve, all of which is truly unfortunate.

Sincerely,



Lisa D. Shikany

Attachment: Grayson Road MND comments dated 4-24-23

January 3 , 2024

Re: Calibr Venture’s Response to Appeal of CDSR 20-09531 1024 and 1026 Grayson Road Pleasant Hill, Vesting Tentative Map, Density Bonus, and Mitigated Negative Declaration

Dear Honorable Members of the Contra Costa County Planning Commission:

Calibr Ventures LLC ("Applicant") respectfully urges you to uphold the decision of the Zoning Administrator and reject the appeal filed by the Mohawk and Iroquois Dr Neighborhood ("Appellant") challenging the approvals of the proposed 10-unit subdivision ("Project") located at 1024 and 1026 Grayson Road ("Project Site").

The Applicant vigorously disagrees with the Appellant's contention that the project is a violation of State Density Bonus law or will result in unmitigated impacts on the environment. Below is background information on the Project, as well as responses to the Appellant's assertions, which demonstrate why the Planning Commission should reject the Appellant's appeal.

Project History

Applicant Calibr Ventures is the developer of the Grayson Road Project, a 10 lot subdivision and Density Bonus request located at 1024 and 1026 Grayson Road, in unincorporated Pleasant Hill. The Project has a Single-Family Residential-Low Density (SL) General Plan land use designation, which objectively allows a range of 1.0 and 2.9 single-family units per net acre, is zoned R-15 (Single-Family Residential) and is located in an R-15 (Single Family Residential 15,000 square foot minimum lot size) zone.

As discussed more fully below, the Project is a “housing development project” and it protected by the provisions of the Housing Accountability Act (“HAA”) and Density Bonus Law (“DBL”).

As noted above, the Project contemplates construction of 10 single-family homes, including one unit that will be restricted for a moderate-income household. Because it includes 10% moderate-income units, the Project is eligible for a density bonus and related incentives and concessions and waivers or reductions of development standards pursuant to the DBL set forth in Government Code section 65915 and implemented by section 922-2.208 of the ordinance code of Contra Costa County.

In 2008, the County approved the “Former Project,” a 5-lot Tentative Map and Mitigated Negative Declaration for the Project Site (see SD 06-9158). The Former Project never proceeded to a Final Map.

The Project application for the Calibr Ventures 10-lot Tentative Map was submitted to the County in January of 2020. The application was deemed complete in December of 2020. In May of 2022, the County published and mailed a notice of Public Review and Notice to Adopt a Mitigated Negative Declaration.

A Nextdoor post from the neighborhood articulated concern about the Project:



Integral Consulting Inc.
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MEMORANDUM

To: Andy Byde, Calibr Ventures
From: Sadie McGarvey, Integral Consulting Inc.
Date: January 3, 2024
Subject: Grayson Road 10-Lot Subdivision Project – Response to California Wildlife Foundation Comment Letter

This memo has been prepared to respond to comments presented in the December 20, 2023 comment letter from the California Wildlife Foundation (CWF) regarding the Grayson Road 10-Lot Subdivision Project in unincorporated Contra Costa County, California. Responses were developed using information presented within the IS/MND circulated by Contra Costa County on March 24, 2023, as well as the Biological Resource Analysis Addendum for the Grayson Road 10-Lot Subdivision Project, Contra Costa County, California (prepared by Johnson Marigot Consulting, LLC, dated December 2022) (BRA Addendum), and the Response to Comments letter (RTC) provided to Joseph Lawlor of Contra Costa County on July 31, 2023.

Comments

Comment 1: While the BRA Addendum identifies 1.18 acres of the site as Valley Oak Woodland (S3), the mitigation of this Sensitive Natural Community is insufficient. *The analysis is deficient in that it does not assess canopy cover and absolute percentages in upland areas or covering the channel of Grayson Creek.*

Response 1: The BRA Addendum provides an analysis of acreage of valley oak woodland to be impacted by the proposed Project (1.18 acre), as well as the number of trees within the valley oak woodland proposed for removal as a result of Project activities (32 native and 8 non-native). While the arborist report did not include an assessment of canopy cover or “absolute percentages” for the onsite trees, this is not a requirement for tree assessments and is not standard practice for determining health and vigor of trees, or calculating impacts to onsite trees. Further, it is unclear what “absolute percentages” refers to as it is not defined in either the CDFW comment letter from which it was copied, or the CWF letter. Finally, an assessment of canopy in upland areas cover the channel of Grayson Creek is not necessary as no trees that provide canopy cover over Grayson Creek

will be impacted as part of Project activities (i.e., they are outside of the development footprint).

The sufficiency of the mitigation for impacts to valley oak woodland (as a Sensitive Natural Community) is further addressed in RTC Response to CDFW-3. In summary, mitigation for trees removed will occur in-kind and on-site at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. This is consistent with the Contra Costa County Tree Protection and Preservation Ordinance implementation and practice, and there is no ecological or other basis for concluding that this tree replanting is inadequate.

Comment 2: *Further, the Sensitive Natural Communities page of the CDFW website notes: “Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents.” CEQA Guidelines Section 15065(a) mandates completion of an Environmental Impact Report if a project would threaten to eliminate a plant community. The BRA Addendum does not include the rigorous analysis of an EIR. Instead, it simply identifies approximately 1.18 acres of Valley Oak Woodland that the proposed project would remove, provides a revised mitigation measure that is acknowledged as less protective than what CDFW recommends, and argues that the proposed mitigation aligns with the county’s Tree Protection and Preservation Ordinance.*

Response 2: Implementation of the Project would not result in elimination of existing plant communities - Mitigation Measures Biology-2 and Biology-7 require on-site replacement of trees removed and planting of Valley Oak Woodland species within all on-site undeveloped areas. This is further discussed in RTC Response to CDFW-3 and SHIKANY-27.

Comment 3: *Contra Costa County’s tree protections do not override state protections for sensitive natural communities. The beginning of CDFW’s letter clearly states that they serve as “... a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources.” Should the Grayson Road Subdivision project proceed, the analysis of and mitigation for the impacts to the Valley Oak Woodland must adhere to the analysis and mitigation requirements of CEQA. The proposed 3:1 replacement formula is inadequate. As noted in CDFW’s letter:*

Trees should be replaced at a level that will offset: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of growth habitat structure and diversity. Trees planted need to be spaced in a manner that promotes their

long-term growth habits, and that serves to replicate or enhance the state of which was disturbed.

Response 3: This comment reiterates the comments in the CDFW comment letter and is addressed in RTC Response to CDFW-3.

Comment 4: *The mitigation plan also lacks sufficient performance standards.*

Response 4: While the trees planted as mitigation are presumed to experience a very high survival rate due to the proximity to managed landscapes and ability to irrigate during the initial establishment period, monitoring and performance standards can be used to supplement Mitigation Measure Biology 2 to address this comment and any others referencing performance standards related to tree removals and replacement. Proposed performance standards language is below:

Annual monitoring of the mitigation trees shall be conducted by a qualified biologist during an initial establishment period. During annual monitoring, a minimum of 80% of the mitigation trees shall be alive and healthy (as demonstrated by growth and fruiting, as appropriate). If at any point during annual monitoring, survival and health drop below the minimum health requirement (80% healthy trees), an assessment of cause(s) for this health failure shall be provided by the qualified biologist, and remedial actions shall be implemented. If survival drops below 80%, trees will be replaced in-kind and at the same location, unless a different species or location is prescribed by the qualified biologist as part of remedial recommendations. Annual monitoring will occur up to 10 years, but may cease before then if the above success criteria are met during five consecutive years.

Comment 5: *Further, the suitability of the replanting scheme does not meet the requirements of CEQA to reach the less-than-significant threshold and will result in a net loss of oak woodland.*

Response 5: This comment is addressed in RTC Response to CDFW-3.

Comment 6: *Lastly, Public Resources Code Section 21083.4 limits oak tree planting to half of the mitigation for oak impacts and requires mitigation trees planted to be maintained during a seven-year establishment period. Thus, the current plan's exclusive reliance on tree planting is out-of-compliance with this requirement. Further, it must include either the code's seven-year establishment period or the 10-year period recommended in CDFW's letter.*


Response to CWF Comments
January 3, 2024



Response 6: The Project's adherence to Public Resources Code Section 21083.4 is addressed in RTC Response to SHIKANY-71. Monitoring and maintenance during the mitigation trees' establishment period are discussed above in Response 4.






CALIBR



V E N T U R E S


 **Rahima Warren** · Upper Reliez ...
We got a notice from Contra Costa County about this development. "Notice of Review and Intent to Adopt..." County file No. CDSD20-09531. Lead Agency CCC Dept of Conservation and Development, (925) 655-2872. Public Comment Period ends May 12 at 5:00pm. Submit comment to joseph.lawlor@dcd.cccounty.us Property is Assessor's Parcel Numbers: 166-030-001 and 166-030-002
26 Apr [Like](#) [Reply](#) [Share](#)

 **Lauren West** · Upper Reliez [Author](#) ...
Rahima yes we got that too. I read through most of it, and it's not good news. I'm sure even if a ton of people wrote in that they wouldn't stop. Clearly they don't care if they only gave us two weeks' notice.
28 Apr [Like](#) [Reply](#) [Share](#)  1

 **Rahima Warren** · Upper Reliez ...
I know, but I was hoping someone would have some knowledge of how to fight this.
28 Apr [Like](#) [Reply](#) [Share](#)

 **Suzanne Francois** · Upper Reliez ...
The impact will be massive for wildlife and my back yard.. first step might be to put a complaint in about only having until May 12th. The project will happen, but we can lodge relevant concerns to force them to address and supply resolutions.
28 Apr [Like](#) [Reply](#) [Share](#)  1

 **Suzanne Francois** · Upper Reliez ...
Yes I agree Rahima. I think my neighborhood on Mohawk Dr. is going to try to formulate a plan.
28 Apr [Like](#) [Reply](#) [Share](#)  1

 **Lauren West** · Upper Reliez [Author](#) ...
Suzanne I was planning on writing an email myself, but I'll happily join in whatever others on Mohawk want to do as well. This makes me so upset.

During the Public Review period, the County received numerous comments from neighbors complaining about the Project and its use of the DBL and associated incentives and concessions and waivers or reductions of development standards. The most frequently voiced concerns were about the density of the Project as well as concerns regarding speculative impacts to Grayson Creek.

In August of 2022, Calibr Ventures retained First Carbon Solutions (FCS), which has provided environmental consulting services for more than 39 years to public and private sector clients throughout California, including the cities of Pleasant Hill, Walnut Creek, Pittsburg, Hercules, Brentwood, Richmond, San Ramon, Antioch, Oakley, and Brentwood, among others. In addition, FCS has provided environmental review services for over 100 projects in the County itself, including recently for the Del Hombro Apartments Project EIR, Oak Road Townhouse Condominiums Project EIR, and Peer Review of Technical Studies, Tassajara Parks EIR, FSRE Industrial Concord Project EIR, CenterPoint Properties Logistics Warehouse Project

EIR, and Scannell Properties Logistics Warehouse Project EIR. FCS plainly has a substantial track record preparing appropriate and legally-defensible environmental review.

FCS's scope here was to peer review the existing environmental studies and prepare new studies for the Project (including sound, air quality, greenhouse gas emissions, energy analysis, and biology). Utilizing the updated studies, FCS Staff revised and updated the 2022 Initial Study and provided the Initial Study (along with the new studies and the peer reviewed studies) to County Planning Staff for their use in preparation of a revised Mitigated Negative Declaration.

With the new and peer reviewed studies, County Staff published the revised Public Review and Notice to Adopt a Mitigated Negative Declaration (MND), which was sent and published on March 24, 2023. Similar to the 2022 MND, numerous comments were submitted by the neighbors complaining about the Project and its use of the DBL and associated incentives and concessions and waivers or reductions of development standards.

Specifically, and similar to the 2022 public review period, one neighbor (a former advanced planner with Humboldt County) provided an 18-page comment letter providing numerous concerns about the Project and its use of the DBL as well as other project related comments and concerns designed to thwart the Project. That comment letter contained 127 separate comments. All 127 of the comments have been specifically addressed (in addition to all of the other comments) and the 48-page response to these comments is attached to this letter for reference.

On October 2, 2023, the County Zoning Administrator (who had legal authority to approve the Project) held a properly noticed public hearing regarding the Project. To give the public an opportunity to speak and to read and analyze all of the written comments regarding the Project, the Zoning Administrator continued the hearing to October 16, 2023, and took additional testimony at that hearing. The Zoning Administrator considered all of the evidence in the record and rendered a decision, approving the Vesting Tentative Map, Density Bonus request, and adopting the MND.

Under provisions of the Permit Streamlining Act and Senate Bill 330 that do not depend on the filing of a Preliminary Application, now that the Project has been approved and CEQA compliance achieved we note that the County has 60 days to conduct all of the hearings (at most 5) allowed by SB 330. (*See* Government Code sections 65950(a)(4) and 65905.5)).

On October 26, 2023, the self-described "Mohawk/Iroquois Neighborhood" appealed the Zoning Administrator's approval of the Project. The 15-page appeal letter raised the exact same issues that were raised during both the 2022 and 2023 public review periods. Responses to those comments were previously addressed as part of the adopted Mitigated Negative Declaration. Additionally, as noted above, the complete 48-page response to these comments is attached to this letter for the Commission's reference.

In December of 2023, the Board of Supervisors adopted the revised Housing Element and Certified the EIR, which listed the two subject properties as part of "Table A Housing Element Sites Inventory" with the total capacity of 8 units based upon the existing General Plan Land Use Designation

State Housing Law

The HAA is a housing production statute that seeks "to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the

density for, or render infeasible housing development projects (§ 65589.5(a)(2)(K)). Moreover, the HAA expresses the state’s policy that this statute “be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” (Gov. Code § 65589.5(a)(2)(L)).

As relevant here, subdivision (j) of the HAA directs that a decision to disapprove or reduce the density of a project that complies with “applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards” must be based on written findings supported by a preponderance of the evidence that (1) the project would have “a specific, adverse impact upon the public health or safety” and (2) that there is no feasible method to satisfactorily mitigate or avoid this adverse impact. (Gov’t Code § 65589.5(j)(1)). The HAA defines a “specific, adverse impact” to mean “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (Gov’t Code § 65589.5(j)(1)(A)).

Section 65589.5(j) thus requires cities to determine whether a project complies with the applicable, *objective* general plan, zoning, subdivision, and design standards. The HAA defines the term “objective” to mean “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (Gov. Code § 65589.5(h)(8)). Cities must make this determination based on the “reasonable person” standard cited above. (Gov. Code § 65589.5(f)(4)).

Accordingly, if a housing project complies with applicable, objective general plan, zoning, subdivision, and design standards in the eyes of a reasonable person, the project cannot be disapproved or conditioned on a lower density unless, based on a preponderance of the evidence in the record, it would have a "specific, adverse impact" upon public health or safety and there is no feasible way to mitigate that impact without disapproving the project or requiring that it be built at a lower density. If a county’s disapproval or conditional approval is challenged in court, the burden is on the County to prove its decision conformed to all the conditions specified in the HAA. (Gov. Code § 65589.6).

The courts have explained that the HAA’s findings constitute the “only” grounds for a lawful disapproval of a housing development project. (*North Pacifica, LLC v. City of Pacifica* (N.D.Cal. 2002) 234 F.Supp.2d 1053, 1059-60, disapproved on other grounds in *North Pacifica LLC v. City of Pacifica* (2008) 526 F.3d 478; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715-16). Moreover, the HAA creates such a “substantial limitation” on the government’s discretion to deny a permit that it amounts to a constitutionally protected property interest. (*North Pacifica, LLC v. City of Pacifica, supra*, 234 F.Supp.2d at 1059).

In addition to the HAA, as a result of providing 10% moderate-income BMR units, the Project is eligible for a density bonus under the state DBL, one incentive or concession from development standards that result in actual and identifiable affordable housing cost reductions, and unlimited waivers or reductions of development standards that would physically preclude construction of the Project at its proposed and allowed density. (Gov. Code §§ 65915(d)(2); (e)(1); (f)(1)).

“The applicant is not required to prove the requested incentives will lead to cost reductions; the incentive is presumed to result in cost reductions” (*Bankers Hill 150 v. City of San Diego*, 74 Cal.App.5th 755, 770 (2022)). The County’s ability to deny a requested

incentive/concession is limited to whether an incentive/concession: (1) would have “a specific, adverse impact . . . upon public health and safety,”(2) would have an adverse impact on any historic resource, or (3) would be contrary to state or federal law. (*Id.* at §65915(d)(1)(B)-(C), (e)(1)). The County bears the burden of proof for the denial of a requested incentive/concession. (*Id.* at § 65915(d)(4)).

In addition to “incentives/concessions,” the DBL provides for the grant of an unlimited number of waivers for any development standards “that will have the effect of physically precluding the construction of [the Project] at the densities or with the concessions or incentives permitted by [Government Code section 65915].” (Gov. Code § 65915(e)(1); *Bankers Hill 150, supra*, 74 Cal.App.5th 755, 775 (“so long as a proposed housing development project meets the criteria of the Density Bonus Law by including the necessary affordable units, a city may not apply any development standard that would physically preclude construction of that project as designed . . . ”)).

Appellant Falsely Claims there are potentially significant environmental impacts as a result of the utilization of Density Bonus Law and associated Incentives and Concessions and Waivers or Reductions of Development Standards.

The Appellants are driven by thwarting the Project by whatever means necessary and have clearly and consistently articulated that they do not want the Project to occur in their respective backyards (see, e.g., Nextdoor post above) and do not agree with the applicable and controlling provisions of state housing law. During the public review period and as part of this appeal, the Appellants have worked diligently to conflate CEQA impacts with the use of the HAA and DBL. However, State Law was amended in 2021 by AB 3194 to ensure that density bonus projects could not be denied for environmental reasons. Specifically, AB 3194 eliminated the ability for the denial of a density bonus, incentives and concessions, and waivers or reductions of development standards due to an adverse impact to the physical environment. The DBL now requires a public agency to approve density bonus projects unless a public health and safety impact finding (i.e., a significant, quantifiable, direct, *and* unavoidable impact, based on objective, identified written public health or safety standards as they existed on the date the application was deemed complete for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact) can be made. In the case of this Project, there is no evidence much less a preponderance of the evidence to support those findings.

Notwithstanding AB 3194, and to demonstrate that the Project does not have a significant impact on the environment (with the inclusion of appropriate mitigation measures), 13 different studies and reports were conducted (including air quality, Biological Resource Analysis, Biological Resource Analysis addendum, energy use, noise analysis, greenhouse gas analysis, cultural resource survey, two preliminary geotechnical reports, final geotechnical report, preliminary stormwater control plan, final stormwater control plan, and hydrological and stormwater detention report) and three of those studies (Biological Resource Analysis, cultural resource survey, and the preliminary geotechnical report) were peer reviewed. Additionally, all the plans and reports were reviewed by County Engineering and Planning Staff. Finally, State Housing and Community Development Staff also provided guidance to Planning Staff regarding the HAA and DBL. All of the studies and reports (including the MND, which summarizes them) were prepared by certified and licensed professionals, many of whom are the most qualified and respected in their particular field of expertise.

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V E N T U R E S

The Appellants have made it abundantly clear by the comments provided and the testimony given during the public hearings, that they simply do not want any housing project approved on the Project Site. They have provided no realistic Project alternatives and no Project modifications. Simply, the Appellants do not want this Project Site developed and are determined to use CEQA and any other potential tools to stop this Project and prevent the new housing from being constructed. This common “Not in My Backyard” tactic in which neighbors raise every conceivable issue to block any proposal for development near them is the very reason the Legislature continues to strengthen state housing law and reduce local control over the review and approval of new housing.

As demonstrated by the record, the Project is consistent with all applicable, objective provisions of the General Plan and Zoning Ordinance, which were fully analyzed pursuant to the requirements of the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.* and 14 Cal. Code Regs. § 15000 *et seq.*; collectively, “CEQA”).

Contrary to Appellants’ claims, there is no evidence in the record, much less substantial evidence, that would support the claim of a fair argument that as a result of the Project that there would be significant impact to the environment. Furthermore, there is no claim, much less a preponderance of the evidence in the record, to support a finding that the Project as proposed would have a “specific, adverse impact upon the public health or safety.”

By the time this appeal will have been heard by the Planning Commission, four years will have passed since this project has been filed. Hundreds of thousands of dollars have been expended on it. Unfortunately, given the time that has passed, the utility plans and associated contracts approved by both PG&E and EBMUD for this Project will have expired and will be required to be reissued and or redesigned, which will add to the costs already incurred by this unwarranted delay in approval.

We have worked to design much-needed new housing that fits within the community, the Project Site, and its surroundings, contrary to Appellant claims. Additional density beyond what the Project currently proposes is potentially available to the project under Density Bonus Law. Implementation of this project has proven extremely difficult as all of our costs have significantly increased as a result of the numerous delays we have endured.

For all of these reasons, we urge the Planning Commission to reject this appeal. Because the County is already outside the 60-day period (See Government Code 65950(a)(4)) to conduct any allowed hearings on the Project, the Planning Commission’s hearing must be the last County hearing on the Project.

Thank you.

Andy Byde

Partner

cc: Joseph Lawlor, Senior Planner
Billy Reed, Calibr Ventures

Bryan Wenter, Miller, Star, Regalia

Jason Brandman, First Carbon Solutions

Attachments:

1. Grayson Road 10-Lot Subdivision Project, January 3, 2024 – Response to California Wildlife Foundation Comment Letter, Prepared by Integral Consulting
2. Results of 2023 Rare Plant Surveys for the Grayson Road Project, July 12, 2023, Prepared by Integral Consulting
3. Grayson Road Tree Mitigation Plan, July 13, 2023, prepared by RW Stover and Associates Landscape Architect
4. Response To Comments, July 31, 2023, Prepared by First Carbon Solutions

MEMORANDUM

To: Andy Byde, Calibr Ventures, Partner
From: Haley Henderson, Integral Consulting Inc, Botanist
Date: July 12, 2023
Subject: Results of 2023 Rare Plant Surveys for the Grayson Road Project
Project No.: C3735

Purpose: This memo has been prepared to report the findings from one season of floristic surveys comprising three field visits conducted in the spring season of 2023. These surveys were conducted to confirm the presence or absence of special status plant species on the Grayson Road project site (Study Area).

Methods: Integral Consulting Inc botanist Ms. Haley Henderson conducted focused floristic surveys following guidelines established for rare plant surveys by CDFW (CDFG 2000, 2009, CDFW 2018) and CNPS (CNPS 2001). Three surveys were conducted to cover the peak bloom time for the target plant species found in Table 1 (below). Surveys were conducted March 23rd, May 1st, and June 8th, 2023. Surveys were floristic in nature with all encountered plants identified to a level necessary to determine rarity and often to a greater level. Transects were walked systematically with a varying width to ensure all area could be seen based on the thickness and type of vegetation. A full plant list is below in Table 2.

Table 1. Protected Species with the Potential to Occur:

Scientific Name	Common Name	Status	Probability of Occurring on Site	Found on Site
<i>Helianthella castanea</i>	Diablo helianthella	CNPS Rank 1B.2	Low	No
<i>Calochortus pulchellus</i>	Mt. Diablo fairy-lantern	CNPS Rank 1B.2	Low	No
<i>Amsinckia lunaris</i>	Bent-flowered fiddleneck	CNPS Rank 1B.2	Low	No

Conclusion: The vegetation community found on site was primarily Valley Oak and mixed woodland with an understory of non-native annual grasses. There is a riparian corridor with associated upland riparian woodland on the south and east side of the Study Area.

The non-native annual grassland vegetation community is spread across the understory of the Study Area. Plant species typical of this community include wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), soft brome (*Bromus hordeaceus*), wild radish (*Raphanus sativus*), Italian rye grass (*Festuca perennis*), English ivy (*Hedera helix*), and cleavers (*Galium aparine*). Above, the tree canopy is dominated by oak trees (*Quercus agrifolia* and *Q. lobata*) with the presence of a number of other species such as blue gum (*Eucalyptus globulus*) and coast redwood (*Sequoia sempervirens*).

The riparian vegetation understory is dominated by poison oak (*Toxicodendron diversilobum*) and periwinkle (*Vinca major*). The tree canopy includes willows (*Salix spp.*), California buckeye (*Aesculus californica*), and California bay laurel (*Umbellularia californica*).

No special status species were identified on site during the 2023 field surveys. No further surveys are recommended.

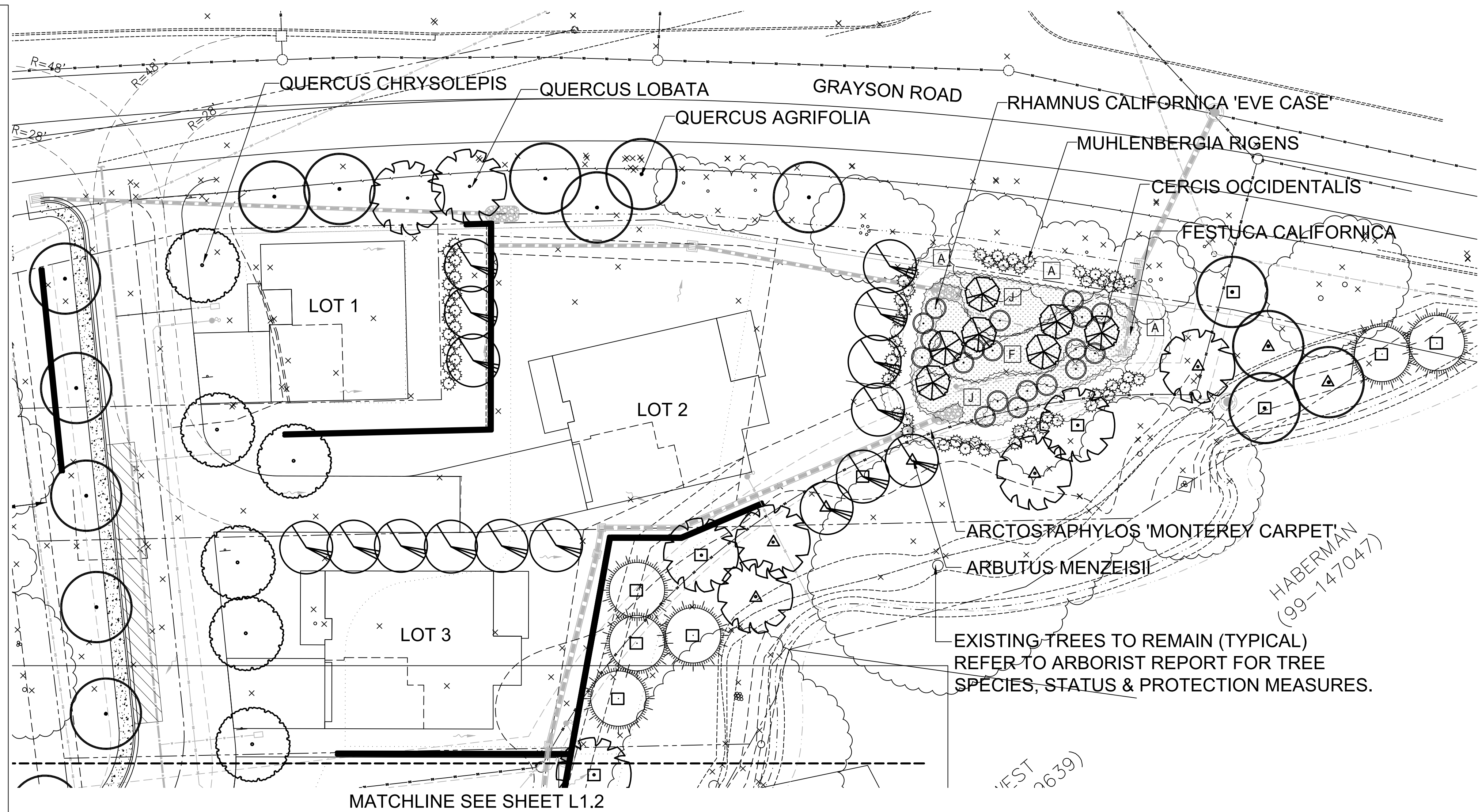
Table 2. Complete Species List

Scientific name	Common name
<i>Aesculus californica</i>	Buckeye
<i>Allium amplexens</i>	Narrow leaved onion
<i>Arum italicum</i>	Italian lords and ladies
<i>Avena fatua</i>	Wild oat
<i>Baccharis pilularis</i>	Coyote brush
<i>Brassica rapa</i>	Common mustard
<i>Briza minor</i>	Little rattlesnake grass
<i>Bromus diandrus</i>	Rip-gut brome
<i>Bromus hordeaceus</i>	Soft chess
<i>Calocedrus decurrens</i>	Incense cedar
<i>Cardamine oligosperma</i>	Bittercress
<i>Carduus pycnocephalus</i>	Italian thistle
<i>Claytonia perfoliata</i>	Miners lettuce
<i>Clematis viticella</i>	Alba luxurians
<i>Convolvulus arvensis</i>	Field bindweed
<i>Daucus carota</i>	Wild carrot
<i>Diospyros virginiana</i>	Persimmon
<i>Epilobium brachycarpum</i>	Tall annual willowherb
<i>Eucalyptus globulus</i>	Blue gum
<i>Eucalyptus polyanthemos</i>	Silver dollar eucalyptus
<i>Festuca bromoides</i>	Brome fescue
<i>Festuca perennis</i>	Italian rye grass
<i>Ficus carica</i>	Common fig

<i>Galium aparine</i>	Cleavers
<i>Geranium dissectum</i>	Wild geranium
<i>Hedera helix</i>	English ivy
<i>Heteromeles arbutifolia</i>	Toyon
<i>Hordeum murinum</i>	Foxtail barley
<i>Hypochaeris radicata</i>	Hairy catsears
<i>Juglans nigra</i>	Black walnut
<i>Juncus bufonius</i>	Common toad rush
<i>Lactuca serriola</i>	Prickly lettuce
<i>Marah fabacea</i>	California man-root
<i>Marus alba</i>	Mulberry
<i>Medicago polymorpha</i>	Burclover
<i>Melilotus indicus</i>	Annual yellow sweetclover
<i>Nerium oleander</i>	Oleander
<i>Opuntia ficus-indica</i>	Fig opuntia
<i>Oxalis pes-caprae</i>	Bermuda buttercup
<i>Photinia spp.</i>	Ornamental shrub
<i>Pistacia chinensis</i>	Chinese pistachio
<i>Poa annua</i>	Annual blue grass
<i>Prunus spp.</i>	Plum
<i>Pyrus communis</i>	Common pear
<i>Quercus agrifolia</i>	Coast live oak
<i>Quercus lobata</i>	Valley oak
<i>Raphanus sativus</i>	Wild radish
<i>Rosa californica</i>	Wild rose
<i>Rubus armeniacus</i>	Himalayan blackberry
<i>Rumex acetosella</i>	Sheep sorrel
<i>Salix spp.</i>	Willow
<i>Senecio vulgaris</i>	Common groundsel
<i>Sequoia sempervirens</i>	Coast redwood
<i>Sonchus asper</i>	Spiny sowthistle
<i>Taraxacum officinale</i>	Common dandelion
<i>Toxicodendron diversilobum</i>	Poison oak
<i>Trifolium albopurpureum</i>	Rancheria clover
<i>Trifolium campestre</i>	Hop clover



SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	WUCOLS WATER USE	NUMBER
TREES:					
	ARBUTUS MENZIESII	MADRONE	24" BOX	LOW	13
	CERCIS OCCIDENTALIS (LOW-BRANCH)	WESTERN REDBUD	24" BOX	LOW	7
	QUERCUS CHRYSOLEPIS	CANYON LIVE OAK	24" BOX	VERY LOW	17
	QUERCUS AGRIFOLIA	COAST LIVE OAK	24" BOX	VERY LOW	26
	QUERCUS LOBATA	VALLEY OAK	24" BOX	LOW	4
	QUERCUS AGRIFOLIA	COAST LIVE OAK	15 GA	VERY LOW	13
	QUERCUS LOBATA	VALLEY OAK	15 GA	LOW	14
	AESCULUS CALIFORNICA	CALIFORNIA BUCKEYE	15 GAL	VERY LOW	35
	ARBUTUS MENZIESII	MADRONE	15 GA	LOW	1
	QUERCUS AGRIFOLIA	COAST LIVE OAK	5 GA*	VERY LOW	17
	QUERCUS LOBATA	VALLEY OAK	5 GA*	LOW	13
	ARBUTUS MENZIESII	MADRONE	5 GA*	LOW	2
SHRUBS:					
	MUHLENBERGIA RIGENS	DEER GRASS	1 GA	LOW	66
	RHAMNUS CALIFORNICA 'EVE CASE'	COFFEEBERRY	5 GA	LOW	20
GROUND COVERS:					
	ARCTOSTAPHYLOS 'MONTEREY CARPET'	MANZANITA CARPET	1 GA@ 48" O.C.	LOW	1,205 SF
	FESTUCA CALIFORNICA	CALIFORNIA FESCUE	1 GA@ 30" O.C.	LOW	780 SF
	JUNCUS PATENS	GRAY RUSH	1 GA@ 30" O.C.	LOW	820 SF



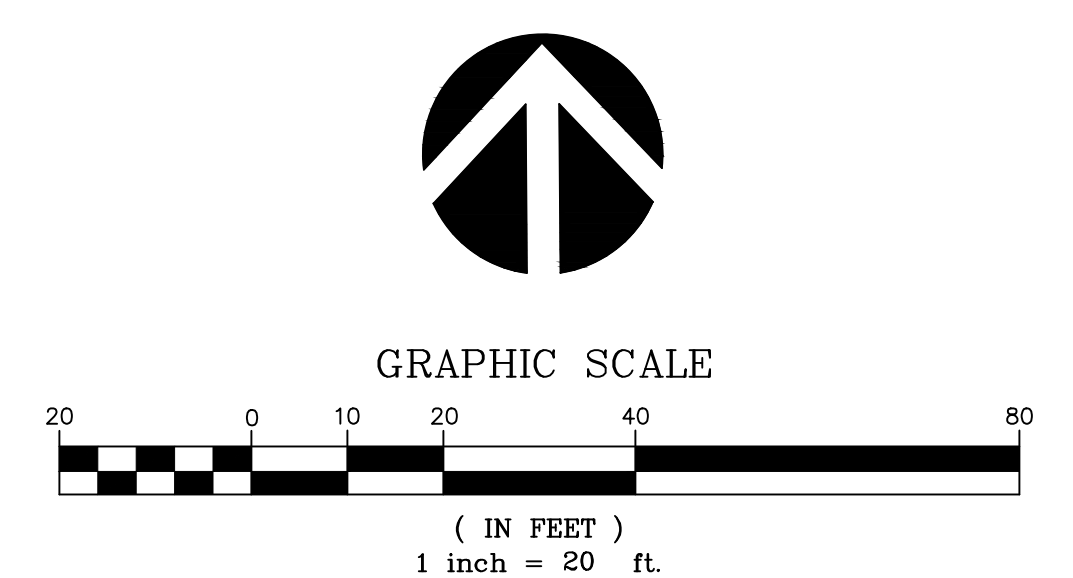
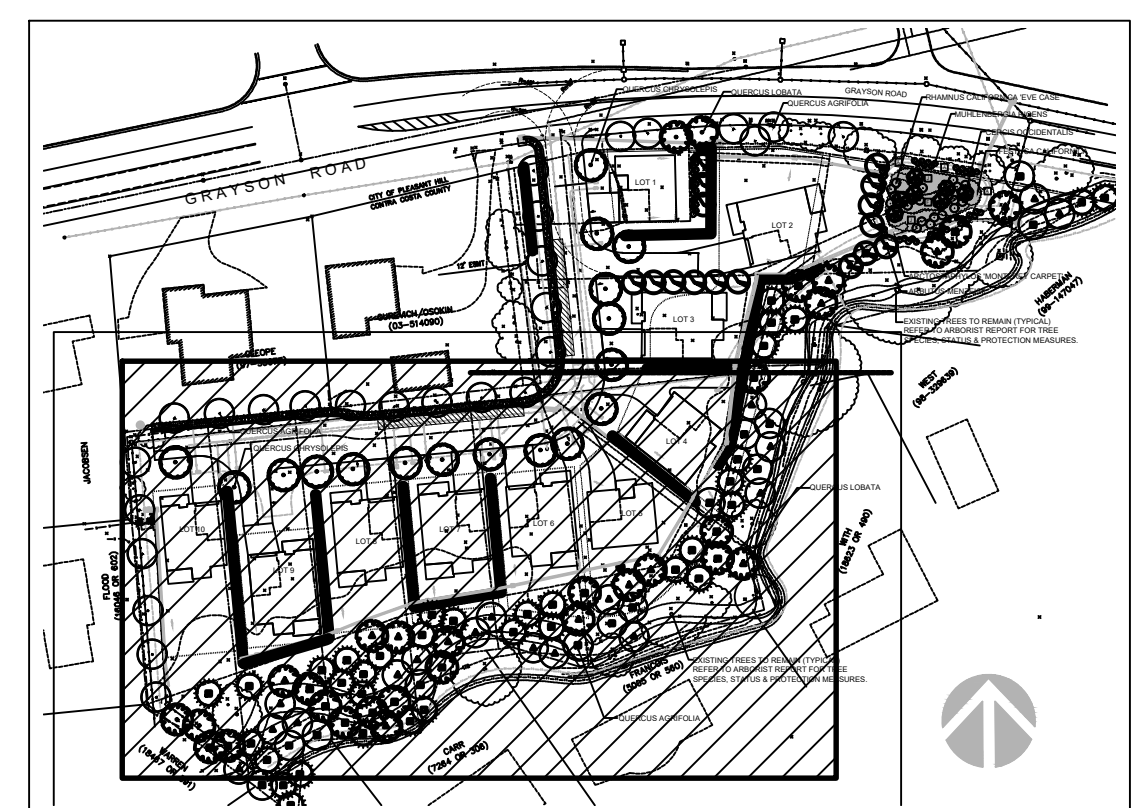
MITIGATION NOTES:

- 18 native trees removed within riparian area:
- Replaced with 54 native trees
- 32 Native Trees removed in valley oak woodland area
- Replaced with 104 Native trees: (67) AT 24" BOX SIZE, (63) AT 15 GAL SIZE, (32) AT 5 GAL SIZE*

GENERAL NOTES:

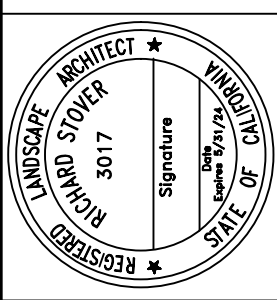
1. All planting shall be watered by a fully automatic irrigation system.
2. Welded-wire cages shall be constructed around all tree plantings to protect them from deer herbivory.

*Replacement trees shall be planted as 15-gallon trees, except that up to 50 percent of the required replacement trees may be planted as 5-gallon trees if it is determined based on an arborist report that long-term tree health and survival will be improved by starting with a smaller container size.



REVISIONS
03-10-23 Coordination

RW Stover & Associates, Inc.
Landscape Architecture
1020 North Main Street, Suite 4
Contra Costa, CA 94596
Ph: 925.933.2383

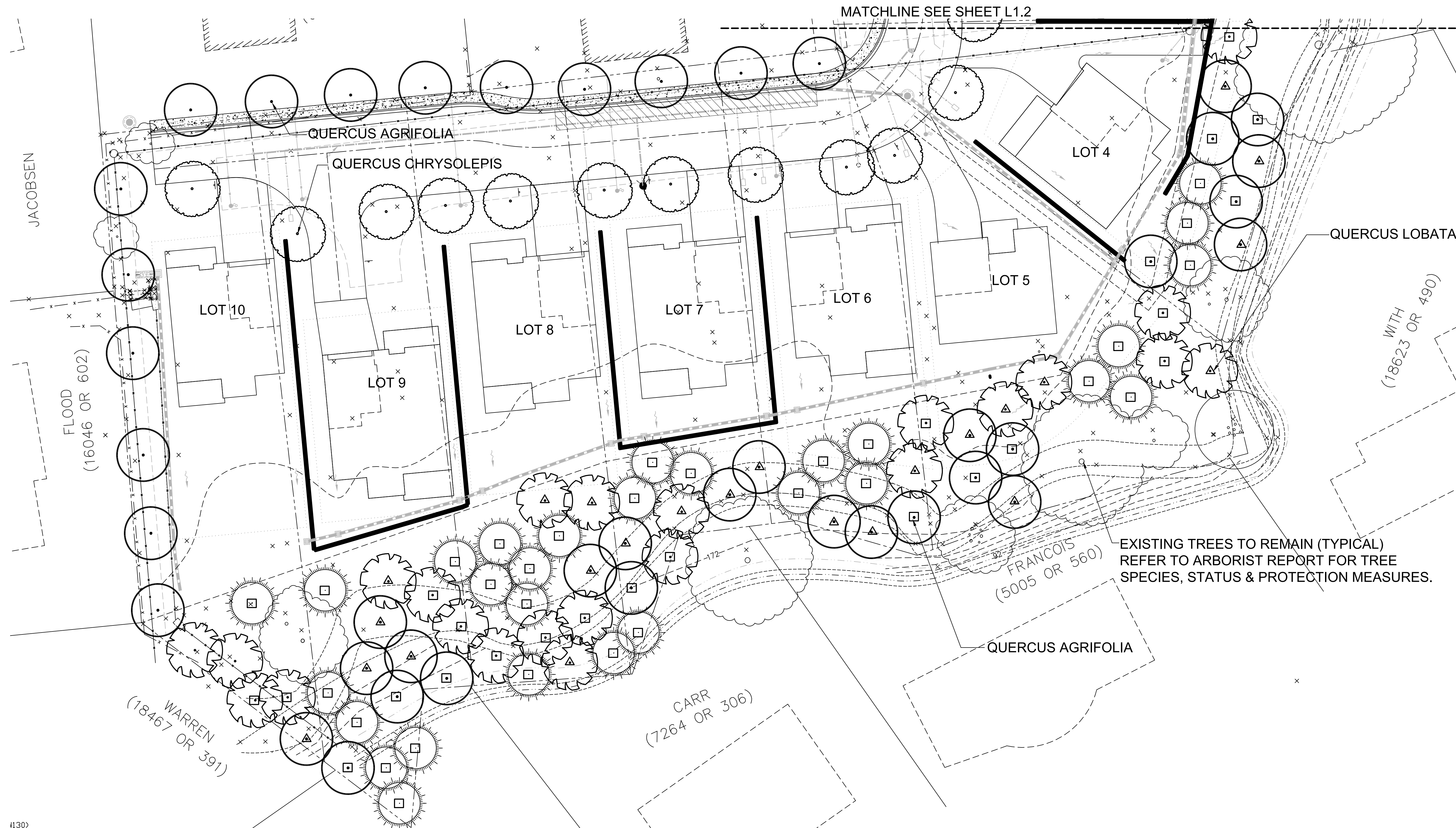


SUBDIVISION
1024-1026 GRAYSON ROAD
CONTRA COSTA COUNTY, CALIFORNIA

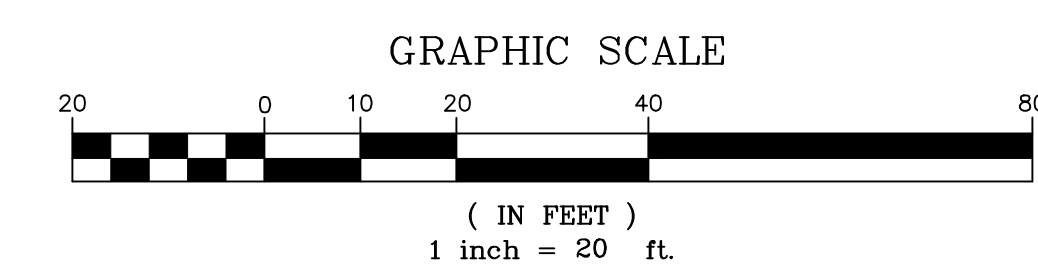
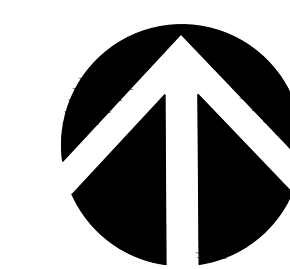
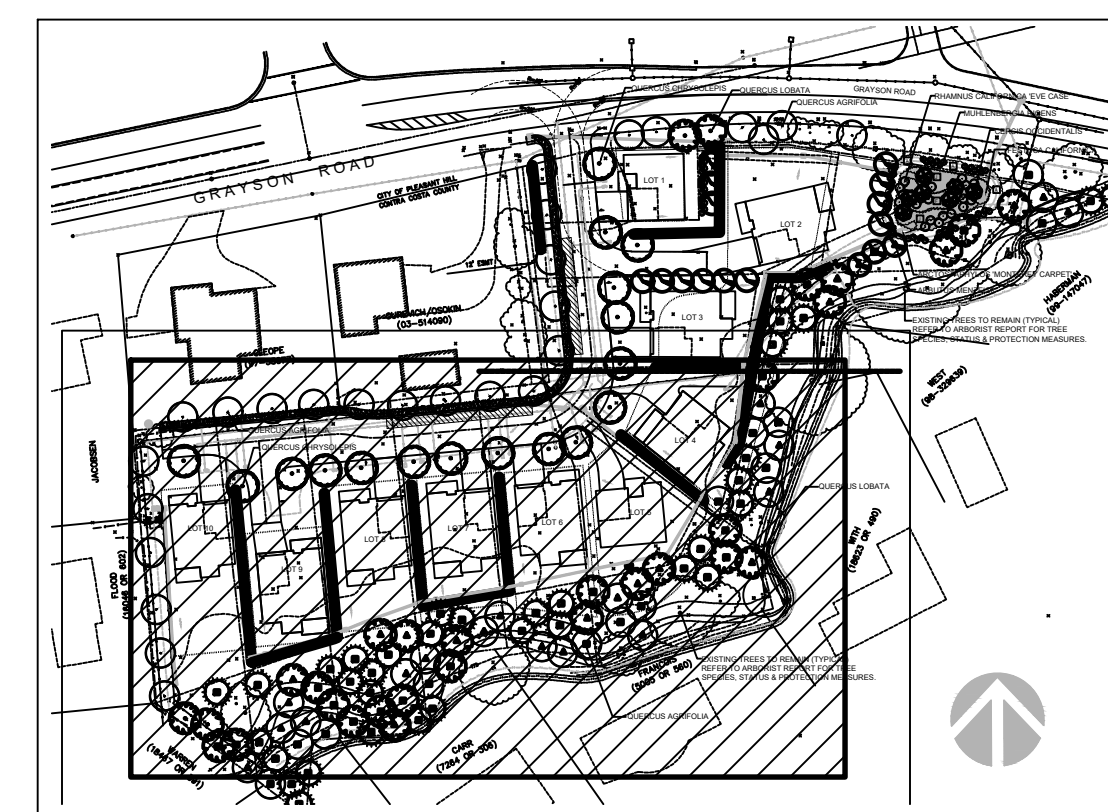
TREE
MITIGATION
PLAN

DESIGNED: RS	DRAWN: KD
CHECKED:	JOB NO:
DATE 07-13-21	
SCALE NOTED	

SHEET
L1.1
OF SHEETS



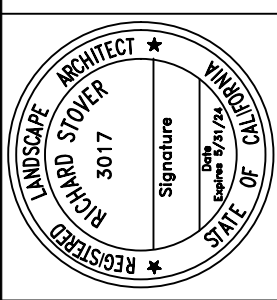
#130)



REFER TO SHEET L1.1 FOR PLANT MATERIALS LIST

REVISIONS	
1	03-10-23 Coordination

RW Stover & Associates, Inc.
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1020 North Main Street, Suite 4
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PH: 925.933.2383



SUBDIVISION
1024-1026 GRAYSON ROAD
CONTRA COSTA COUNTY, CALIFORNIA

TREE
MITIGATION
PLAN

DESIGNED: RS	DRAWN: KD
CHECKED:	JOB NO:
DATE 07-13-21	
SCALE NOTED	

SHEET
L1.2
OF SHEETS

July 31, 2023,

Prepared by First Carbon Solutions

State Agencies

California Department of Fish and Wildlife (CDFW)

Response to CDFW-1

The comment provides introductory remarks and requests that previous comment letter be addressed and met as part of the Conditions of Approval for the proposed project by the County.

Response to CDFW-2

The Draft IS/MND notes that 16 special-status plant species have been documented in the vicinity of the project site. Four of which have the potential to occur at the project site and hold known records within a reasonable dispersal distance for propagules (California Native Plant Society [CNPS]–East Bay Chapter 2018). The Biological Resources Analysis (BRA) and Draft IS/MND, states that only one site visit was conducted for a floristic survey on April 6, 2021, resulting in no observations of special-status plants at the project site.

CDFW recommends that the project area be surveyed for special-status plants by a qualified Botanist following the “Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities,” (Protocol) which can be found online at Website: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>.

If State-listed plants, special-status plants, State rare plants found on the CNPS California Rare Plant Ranking system, or plants found on the CNPS East Bay Chapter’s Database of Rare and Unusual Plants are identified during botanical surveys, consultation with the CDFW is warranted to determine whether the proposed project can avoid take. In the absence of botanical surveys being performed in accordance with the Protocol, presence of said species should be assumed and mitigated for accordingly. Impacts for California Endangered Species Act (CESA)-listed plant species should be fully avoided or addressed through application for, and issuance of, an Incidental Take Permit (ITP). Impacts to special-status plant species not listed under CESA should be mitigated for either by individual or acreage, depending on the species. CDFW recommends all future mitigation measures be summarized and disclosed to the public through the appropriate California Environmental Quality Act (CEQA) disclosure procedures in a revised and recirculated IS/MND.

Response to CDFW-3

The Draft IS/MND, supported by the included Revised Arborist Report dated May 6, 2020, and authored by Traverso Tree Service, indicates that 83 trees, 6.5 inches or greater in diameter at breast height (DBH), from an on-site upland woodland would be removed as a result of the proposed project. Of the trees slated for removal, 32 are coast live oaks (*Quercus agrifolia*), 20 valley oaks (*Quercus lobata*), and the remaining 31 being an assemblage of native, native yet not local, and non-native trees. Many of these trees are described as multi-trunk and/or hold features displaying growth habit associated with individuals aged more than 50 years. An analysis of oak natural communities was not provided, and the

Revised Arborist Report did not include an assessment of canopy cover and absolute percentages in upland areas or covering the channel of Grayson Creek. The Draft IS/MND fails to note that this collection of oaks may be identified as Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest, based on these initial findings; both of which are Sensitive Natural Communities ranked as State Rank 3 and 4 respectively according to the CDFW's Natural Communities List Website: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>). The Draft IS/MND indicates within Mitigation Measure Biology-8 that a 3:1 (mitigation: loss) ratio would be sought to mitigate for the loss of native trees caused by the proposed project. However, Mitigation Measure Biology-8 does not include a replanting regime associated with the monitoring component. The proposed ratio and lack of success criteria and monitoring period are inadequate for mitigating the project-related impacts to Sensitive Natural Communities to a level of less than significant.

CDFW recommends that the Draft IS/MND evaluate impacts to native tree species with a DBH of greater than 3 inches in the project area that would be removed as part of the proposed project. Because of the cumulative impacts and increasing rarity of Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest in proximity to the project area (i.e., remaining percentage of the communities within the County compared against their historic range within) and the State, the slow-growth habit and pattern of both of these natural communities, CDFW recommends mitigating for the loss of Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest, at a 10:1 (mitigation: loss) ratio for both trees removed by quantity, and understory removed by area. This 10:1 ratio should include container plantings, replanting salvage vegetation, and hydroseeding with Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest, focal species on-site at the point of disturbance in addition to a CDFW approved off-site mitigation component. Trees should be replaced at a level that will offset: (1) the lost biomass and canopy of the removed trees, and (2) the substantial temporal loss of growth habitat structure and diversity. Trees planted need to be spaced in a manner that promotes their long-term growth habits, and that serves to replicate or enhance the state of which was disturbed. As an alternative to container planting, the project proponent may elect to protect, enhance, and preserve an area of mature oak woodland of equal or greater habitat value under a conservation easement in accordance with the mitigation ratio described above. The project proponent should prepare a Mitigation and Monitoring Plan (MMP) outlining success criteria and benchmarks aligned to meet the 10:1 (mitigation: loss) ratio goal at the end of 10 years after initial mitigation efforts begin. CDFW recommends recirculating an updated IS/MND after performing a detailed analysis of such impacts to trees, Sensitive Natural Communities, and including appropriate mitigation measures to reduce the impacts of the proposed project to a level of less than significant.

The BRA Addendum provides an analysis of project impacts to Sensitive Natural Communities, drawing the conclusion that the proposed project would result in removal of 1.1 acre of Valley Oak Woodland. Mitigation Measure Biology 2 prescribes replacement of all trees removed from the on-site Valley Oak Woodland in-kind and on-site at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees, with a replacement tree planting plan that shall be approved by the County along with landscape plans prior to issuance of building permits. The mitigation ratio contained is consistent with the Contra Costa County Tree Protection and Preservation Ordinance implementation and practice.

The comment does not provide any ecological or other basis for concluding the tree replanting Mitigation Measure Biology-2 is inadequate, or to support the request for additional mitigation for the removal of trees. Review and approval of the County-required tree mitigation by the commenter is not required. The County as the Lead Agency is responsible for oversight of the tree mitigation, consistent with County Ordinance.

The comment does not provide any ecological or other basis for recommending a 10:1 mitigation ratio for the removal of trees or the need for a 10 year monitoring plan, and does not provide any reason why 3:1 mitigation for native trees and 1:1 mitigation for non-native trees would not mitigate potential impacts to trees to less than significant. Trees that would be removed by the proposed project are generally common trees locally and several of the trees that would be removed are dead, in poor health, or have been topped by Pacific Gas and Energy Company (PG&E) and the Arborist recommended their removal.

The most appropriate location to mitigate for the loss of trees at the project site is on-site, and the comment does not provide any basis for suggesting that off-site tree planting would be necessary or appropriate to mitigate potential project impacts. Mitigation Measure Biology-2, includes adequate replacement for the removal of trees, adequate measures to protect existing trees that would be retained, and adequate assurances that new plantings would be installed in connection with new development in appropriate locations and in accordance with professional standards to ensure adequate survival to mitigate for the potential impact to County-protected trees. With these mitigation measures in place, the proposed project would have a less than significant impact to trees and Valley Oak Woodland.

For the reasons discussed in response to comments above, the proposed project's potential impacts to trees and Valley Oak Woodland have been adequately analyzed, no further mitigation is required, and the proposed project would result in a less than significant impact to trees. For these reasons, the Draft IS/MND does not need to be recirculated.

Response to CDFW-4

The Draft IS/MND indicates in Mitigation Measure Biology-1 that nesting bird surveys would be limited to the large trees of the adjacent riparian area from February 15 to August 31. This measure fails to avoid ground nesting birds and those that nest in shrubs. CDFW recommends the following mitigation measure be incorporated into a revised and recirculated IS/MND: a qualified Biologist shall survey for non-raptors within and beyond the project area for a radius of 250 feet, and for raptors within and beyond the project area for a radius of 1,000 feet; nesting surveys shall occur from February 15 through September 15 and within 5 days prior to the expected commencement of project activities; surveys shall be repeated in areas where project activities lapse for a period of 7 days or more; any active nests shall have an appropriately sized protective buffer determined and established by a qualified Biologist where no project personnel or equipment shall be allowed to enter; that any active nest be continuously monitored by a qualified Biologist; and that active nest buffers shall increase if any change in bird behavior is detected as determined by a qualified Biologist.

Mitigation Measure Biology-3 includes additional survey requirements to protect birds that nest on the ground, in shrubs, and on structures that may be impacted by project implementation. In addition,

Mitigation Measure Biology-3 prescribes daily monitoring of active nests and conducting additional nesting surveys if there is a lapse in project activities of 7 or more days during the nesting season.

The proposed survey buffers (area around the project site where surveys should occur) provided by the commenter are excessive given the current conditions both on-site and surrounding the project site (primarily residential development). Accordingly, it is appropriate for a qualified Biologist to determine the extent of the survey area/survey buffers, including a determination of the zone of influence (the area immediately surrounding the project site that supports suitable nesting habitat that could be impacted by the proposed project due to visual or auditory disturbance associated with the removal of vegetation and construction activities scheduled to occur during the nesting season).

Response to CDFW-5

CDFW recommends the following language replace Mitigation Measure Biology-4 to mitigate for the permanent impacts to special-status bats and their habitats to a level of less than significant:

1. Special-status Bats (Bats). For all project activities planned in or adjacent to potential bat roosting habitat, such as structures and/or involving woody vegetation modification or removal of any and all trees, a qualified Biologist shall conduct daytime and evening acoustic surveys in addition to extensive visual surveys of potential habitat for special-status bats at least 7 days prior to initiation of project activities. If bats are found on-site, a qualified Biologist shall identify the species, estimated quantity present, roost type, and roost status, but shall avoid disturbing bats during surveys. A qualified Biologist shall also create a Bat Mitigation and Monitoring Plan if special-status bat species are detected prior to the start of project activities. The Bat Mitigation and Monitoring Plan shall include: (1) an assessment of all project impacts to special-status bats, including noise disturbance during construction; (2) effective avoidance and minimization measures to protect special-status bats; (3) and compensatory mitigation for permanent impacts to special-status bats or their nesting/roosting habitat. If structures, trees, or other refugia equivalents are slated for limbing, removal, or modification, the Bat Mitigation and Monitoring Plan shall include the following measures:
 - 1.1. To ensure that special-status bats have left potential roosting refugia, work shall occur over the course of two days. On the first day, smaller limbs or items from the identified trees or structures shall be brushed back or modified in the late afternoon. This disturbance should cause any potential roosting bats to seek other roosts during their nighttime foraging. The remainder of the refugia item can then be further limbed or removed as needed on the second day as late in the afternoon as feasible. If bats are found injured, or if bat mortality occurs during the course of tree work, a qualified Biologist shall record the species impacted, and the number of individuals documented.
 - 1.2. Tree limbing, modification, removal, or work on structural refugia shall not be performed under any of the following conditions: during any precipitation events, when ambient temperatures are below 4.5 degrees Celsius, when windspeeds exceed 11 miles per hour, and/or any other condition which may lead to bats seeking refuge.
 - 1.3. If special-status bats are found utilizing a tree, structure, or equivalent for roosting, the Bat Mitigation and Monitoring Plan shall include permanent artificial roosting habitat installation that shall be adjacent to, and sufficient for, the species observed and

associated ecology thereof. Effective buffer zones for the installation and monitoring of the artificial roosts shall be determined and established by a qualified Biologist. Artificial roosts shall follow the 2018 Acceptable Management Practices for Bat Species Inhabiting Transportation Infrastructure (found at <https://www.fs.fed.us/r6/sfpnw/issssp/documents2020/cpt-ma-bats-transportion-structures-management-2018-04.pdf>).

Mitigation Measure Biology-8 includes the above recommended prescription.

Response to CDFW-6

CDFW requires a Lake and Streambed Alteration (LSA) Notification, pursuant to Fish and Game Code Section 1600 *et seq.*, for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. Based on the Vesting Tentative Map for the proposed project, dated January 28, 2022, and authored by DeBolt Civil Engineering, an LSA Notification under Fish and Game Code Section 1600 *et seq.* would be a requirement of the proposed project as designed.

As stated within the BRA Addendum, as project implementation would result in impacts to CDFW's Fish and Game Code Sections 1600–1607 jurisdiction, a Lake and Streambed Alteration Agreement (LSAA) would be required. The project proponent will apply for an LSAA prior to project implementation.

Response to CDFW-7

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Public Resources Code [PRC] § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: Website: <https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

Any special-status species found to exist at the site during biological surveys or project implementation will be reported to the CNDDDB.

Local Agencies

East Bay Municipal Utility District (EBMUD)

Response to EBMUD-1

The comment provides introductory remarks and general project information. No response is required.

Response to EBMUD-2

The comment states that they provided prior comments on April 27, 2022, and that those comments still apply to the revised project regarding water service and water conservation. Responses to prior comments are addressed in Response to EBMUD-4 through EBMUD-9 below.

Response to EBMUD-3

The comment provides concluding remarks and agency contact information. No response is required.

Response to EBMUD-4

The comment provides introductory remarks and general project information. No response is required.

Response to EBMUD-5

The comment expresses the need for all proposed subdivided lots to contain individual water meters. Furthermore, the comment states that the proposed project will need to be served by a main water extension, provided at the project sponsor's expense. The comment requests that the project sponsor contact EBMUD's New Business Office to request a water service estimate to determine costs and conditions for providing water service to the proposed project once the project's development plans have been finalized. The comment cautions that the engineering and installation of water mains and services require substantial lead time, which should be factored into the proposed project's development schedule.

As noted in the comment, the project applicant would be required to coordinate with EBMUD to connect to water service. The comment has been provided to the applicant for their review.

Response to EBMUD-6

The comment states that a minimum 20-foot right-of-way is required for the installation of new water mains, and that utilities to be installed in the right-of-way with the water mains must meet horizontal and vertical separation distances established by Title 22, Section 64572 of the California Code of Regulations and EBMUD requirements for placements of water mains within a right-of-way. These requirements include, but are not limited to, minimum horizontal separation distances of 10 feet between the water main and sewer, 5 feet between water main and storm drain, 7 feet from the face of the curb, and 5 feet from the edge of the right-of-way, and a minimum vertical separation distance of 1-foot above storm drains and sewers for water mains. Furthermore, the comment states that the EBMUD cannot maintain water mains and services under pervious pavement. As such, the comment expresses the need for an alternative to pervious pavement if installation of EBMUD water mains or services is required.

This comment is noted. The required water infrastructure will be incorporated into the project. The project applicant would be required to coordinate with EBMUD to connect to water service. The comment has been provided to the applicant for their review.

Response to EBMUD-7

The comment requests that the County include a condition of approval requiring the proposed project to comply with Assembly Bill (AB) 325, Model Water Efficient Landscape Ordinance (MWELo).

Section 2.6, Energy, of the Draft IS/MND found in its analysis that the proposed project would comply with the State MWELo requirements. The comment has been provided to the County for their review and consideration for integration as a condition of approval.

Response to EBMUD-8

The comment states that water service from the EBMUD cannot be furnished to the proposed project unless all applicable water efficiency measures described in Section 31 of the EBMUD's Water Service Regulations are installed at the project sponsor's expense.

As stated in response EBMUD-7, Section 2.6, Energy, of the Draft IS/MND found in its analysis that the proposed project would comply with the State MWELo requirements. As noted in the comment, the project applicant would be required to comply with Section 31 of EBMUD's Water Service Regulations at the applicant's expense. The comment has been provided to the applicant for their review.

Response to EBMUD-9

The comment provides concluding remarks and agency contact information. No response is required.

Individuals

Suzanne Francois (FRANCOIS)

Response to FRANCOIS-1

The comment is concerned about the lack of detail provided about the proposed project. The comment requests more information, such as building specifics, ADU details, riparian setback details, lighting, and more. The comment adds that the project site's wildlife impact reports are incomplete.

The proposed project would not construct ADUs. Specific building details can be found in Draft IS/MND Table 2, Housing Mix Summary, and Table 3, Project Summary and Alternative Development Standards. A 50-foot setback from the Creek for protection of the Grayson Creek riparian corridor would be provided, as described in Draft IS/MND Section 1.4, Project Description, and as shown in Draft IS/MND Exhibit 5, Vesting Tentative Map. Lighting impacts were analyzed in Draft IS/MND Section 2.1(d), which found that new sources of light and glare would originate from internal and external housing lights and car headlights. Lighting from the project site would comply with Ordinance Code Article 76-4.612, which requires that newly installed lighting fixtures be controlled or directed so that light and glare would not be blinding to pedestrian and vehicle traffic, or on adjoining properties. As such, the proposed project would have a less than significant impact on light and glare.

Please see Response to SHIKANY-16, SHIKANY-27, SHIKANY-64, SHIKANY-65, SHIKANY-66, and SHIKANY-71 for information on wildlife impacts

Response to FRANCOIS-2

The comment states that the description of the neighborhood around the project site is inaccurate. The comment adds that the description of the on-site woodland area is also inaccurate.

The comment does not provide specifics as to the inaccuracies of the provided descriptions. As such, no further response is required.

Response to FRANCOIS-3

The commenter asks how nesting owls residing at the project site will be protected.

Mitigation Measure Biology 3 includes pre-construction survey requirements to avoid impacts to nesting birds that may be impacted by project implementation. In addition, Mitigation Measure Biology 3 prescribes daily monitoring of active nests and conducting additional nesting surveys if there is a lapse in Project activities of 7 or more days during the nesting season.

Response to FRANCOIS-4

The comment states that the proposed project is not transparent. The comment asks why Grayson Creek and its habitats are not being protected.

The comment on the proposed project's transparency is not an environmental issue. While project implementation would require grading and the removal of trees within the Grayson Creek riparian corridor, a majority of the Grayson Creek riparian corridor will be avoided by project activities (0.80 acre of the 1.01 acres of riparian habitat occurring on-site [79 percent of the on-site riparian habitat] would be avoided). Grayson Creek itself would not be impacted by the proposed project.

Response to FRANCOIS-5

The comment provides concluding remarks. No response required.

Clay Haberman (HABERMAN)

Response to HABERMAN-1

The comment provides introductory remarks and general project information. No response is required.

Response to HABERMAN-2

The comment states that 12-hour noise-inducing activities during the week for the proposed project is excessive. Furthermore, the comment requests that noise-inducing activities for the proposed project be limited on Saturdays to 9:00 a.m. to 5:00 p.m.

See Response to SHIKANY-104 for information on noise-inducing activities. The proposed project, as mitigated, is consistent with the County's construction noise restrictions. The comment does not provide any evidence that the construction noise would exceed any established thresholds or that additional mitigation is required to reduce impacts to below a level of significance.

Response to HABERMAN-3

The commenter states that the Arborist Report and tree survey have not been updated since the property owner removed trees and thus, it must be confirmed with a new tree survey that no protected trees were removed.

As approved by the Contra Costa County Department of Conservation and Development on October 28, 2021, a single dead Monterey pine (*Pinus radiata*) tree that was considered a safety hazard was removed from the site. Removal of this dead tree was not done as part of project activities.

Response to HABERMAN-4

The commenter states that a tree protection plan should be mandated as a condition of approval and that the replacement planting requirements should be quantified based on the original survey prior to the removal of trees.

A tree replacement plan and landscape plan will be prepared by a qualified Landscape Architect and provided to the County prior to issuance of building permits.

Response to HABERMAN-5

The comment notes that standard parking stalls are 9 feet wide and 19 feet long. As such, the comment states that the proposed setback of 14 feet would not be able to accommodate cars on the driveway and should not include the garage. The comment notes that standard parking stalls are 19 feet long, and that cars would not be able to park on the proposed driveways as they would be too short and narrow. The comment further notes that the proposed road would be too narrow to accommodate parallel parking, and therefore residents of the proposed project would have to park on Grayson Road. The comment further states that as such, adequate frontage improvements should be provided to Grayson Road to ensure parking space and pedestrian safety.

See Response to SHIKANY-8 and SHIKANY-77 regarding pedestrian safety and sidewalks. Per Draft IS/MND Table 3, Project Summary and Alternative Development Standards, the proposed project would enforce a 20-foot minimum front yard setback requirement to the face of the two-car garages in each proposed unit. This would exceed the standard parking stall length of 19 feet, and would thus allow for parking of standard-sized vehicles on the driveways.

Response to HABERMAN-6

The comment notes that the proposed project would receive a concession to develop smaller lots as part of the State Density Bonus Law. The comment suggests further decrease to the proposed lot and unit sizes to allow for proper street and driveway improvements. The comment explains that this would result in a reduced burden for adjacent streets and neighbors.

See Response to HABERMAN-5 regarding driveway size, and see Response to SHIKANY-8 and SHIKANY-77 regarding sidewalk improvements on Grayson Road.

The comment suggests smaller lots and homes to allow for wider streets. As explained in the responses above, the Draft IS/MND did not identify any potential circulation hazards that would require additional mitigation.

Response to HABERMAN-7

The comment provides concluding remarks. No response is required.

Ann Keeler (KEELER)

Response to KEELER-1

The commenter states that there appears to be a flock of band tail pigeons at the property.

Band-tailed pigeons (*Patagioenas fasciata*) are protected under the Migratory Bird Treaty Act (MBTA). Mitigation Measure Biology 3 includes pre-construction survey requirements to avoid impacts to birds protected pursuant to the MBTA that may be impacted by project implementation. In addition, Mitigation Measure Biology 3 prescribes daily monitoring of active nests and conducting additional nesting surveys if there is a lapse in project activities of 7 or more days during the nesting season.

Response to KEELER-2

The comment informs the County that chainsaw noises were heard from the project site. The County is noted in the comments to have reached out to the County's Code Enforcement Division. The comment concludes however by stating that tree work is being conducted in an adjacent property to the project site.

The comment clarifies that tree maintenance work was being conducted on an adjacent property and does not raise any environmental issues that relate to the proposed project or the project site and does not raise any specific environmental issues. Therefore, no further response is required.

Lisa Shikany (SHIKANY)

Response to SHIKANY-1

The comment provides introductory remarks and summarizes the comment's concerns about potential impacts resulting from the proposed project. The concerns pertaining to environmental impacts are addressed in Response to SHIKANY-5 through SHIKANY-127.

Response to SHIKANY-2

The comment remarks that they specifically requested for neighbor Jeanne Shikany to be notified of activities pertaining to the proposed project in addition to themselves in an email on May 8, 2022. The comment states that Jeanne Shikany did not receive any notification, and that the County is required to provide adequate notice to anyone requesting it and failed to do so in this case.

The comment has been provided to the County for review.

Response to SHIKANY-3

The comment states that the County failed to provide the complete Draft IS/MND for public review, and that copies of the various reports prepared to address the impacts of this proposed project were not available, including the addendum to the previous biological assessment, thereby limiting the public's ability to review and comment on the proposed project.

This comment does not address the adequacy of the Draft IS/MND, and thus does not require further response.

Response to SHIKANY-4

The comment compares the prior 2007 and 2009 proposal to the proposed project. It states that the 2007 and 2009 proposal better promoted privacy, protected the riparian area, minimized tree removal, and matched the community character with a lower density. Furthermore, the comment notes that the prior project sponsor facilitated better communication with the neighboring residents regarding project concerns and that the current project sponsor has not contacted the neighborhood community. The comment notes that the proposed project contains twice the number of subdivisions, includes setback and lot size waivers and a moderate-income home for the purposes of achieving maximum unit density. The comment notes that the project site contains sensitive habitats and wildlife and that the proposed project removes trees and habitats with no space for replacement. The comment also notes that the proposed project is out of character with the surrounding area.

The comment is noted. Please see Response to SHIKANY-5 through SHIKANY-127 regarding density, tree replacement, wildlife and habitat, and community character concerns.

Response to SHIKANY-5

The comment states that the applicant did not address neighborhood concerns raised during design review.

Response to SHIKANY-6

The comment states the long-term impacts to sensitive habitats and the wildlife that currently utilize them are not addressed in the Draft IS/MND.

Please see Response to SHIKANY-16, SHIKANY-27, SHIKANY-64, SHIKANY-65, SHIKANY-66, and SHIKANY-71.

Response to SHIKANY-7

The comment states that the Draft IS/MND does not incorporate mitigation measures such as riparian corridor fencing and a deed restriction prohibiting development, which would have provided long-term protection to Grayson Creek.

Please see Response to SHIKANY-27, SHIKANY-58, and SHIKANY-61.

Response to SHIKANY-8

The comment expresses concern about the lack of sidewalks and pedestrian safety on Grayson Road due to the density of the proposed project.

The comment is noted. Draft IS/MND Section 2.17, Transportation, found that the proposed project would generate an additional 8 AM and 8 PM new peak period trips, which was determined to be a less than significant impact on circulation. The proposed project includes a 5-foot-wide, elevated sidewalk along the proposed new roadway. It would also include a reconstructed asphalt-concrete curb along the edge of pavement of Grayson Road, as well as bicycle lane striping.

The County's Complete Streets policy requires streets to enable reasonably safe travel along and across the right-of-way for each category of users. The Draft IS/MND found the proposed project to be in compliance with due to the exemption provided in C.1(2) of the County's Complete Streets policy, which states: "inclusion of Complete Streets design principles would result in a disproportionate cost to the project." Furthermore, the proposed project qualifies for one exemption or concession from the County pursuant to the Density Bonus Law. The project applicant requested that they provide asphalt-concrete curb along the edge of pavement of Grayson Road along the project frontage as well as bicycle land striping, as shown on the Tentative Map.

Pursuant to the Density Bonus Law, the County can only reject the concession or incentive requested by the applicant if they make a written finding, based upon substantial evidence of any of the following:

- a) The concession or incentive does not result in identifiable and actual cost reductions.
- b) The concession or incentive would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
- c) The concession or incentive would be contrary to State or federal law.

The commenter raises concerns related to b), which states that the County can reject a concession request if there would be an adverse impact on public safety. The project frontage is located in excess of 1,000 feet away to the east to the nearest sidewalks. As a result of the isolation, an isolated sidewalk along the project frontage would not provide pedestrians, cyclists, or vehicles with a safer travel experience along Grayson Road. Additionally the proposed project is only expected to generate an additional 8 AM and 8 PM vehicle trips along Grayson Road, it cannot be concluded that the proposed project would cause an adverse impact on public safety beyond existing conditions. As such, the applicant can legally request this concession, and the County is required to approve it.

Response to SHIKANY-9

The comment notes that the following comments will contain environmental concerns from comments made prior to this comment period. No response is required.

Response to SHIKANY-10

The comment states that the concept of a Vesting Tentative Map, which constitutes the plans provided by the proposed project, should be described to the public in the Draft IS/MND's project description. Specifically, the comment requests that it be disclosed that a Vesting Tentative Map allows the proposed project not to comply with any future changes in regulations following the proposed project's approval. The comment states that the applicant should be required to provide additional project details in exchange for these Vesting Tentative Map benefits and that the County should justify why the proposed project is granted the use of a Vesting Tentative Map.

The following is an explanation of a Vesting Tentative Map:

The proposed project is consistent with the requirements of Contra Costa County Municipal Code Section 94-2.204 which state the required information for the subdivision of land. CEQA does not require that an IS/MND disclose more details than what is required under CEQA in the case that a Vesting Tentative Map is used. Floor plans and elevations are available and can be provided upon request.

Response to SHIKANY-11

The comment states that the project description provided in the Draft IS/MND lacks sufficient detail to serve as the basis for addressing potential project impacts, and many project details are mentioned only in the analysis sections.

See Response to SHIKANY-12, SHIKANY-13, SHIKANY-14, and SHIKANY-16 for responses to specific comments regarding missing items in the Draft IS/MND project description.

Response to SHIKANY-12

The comment states that the Draft IS/MND's project description has missing details and is fragmented. The comment specifically references the fact that accessory dwelling units (ADUs) are not referenced in the project description.

No ADUs will be developed as part of the proposed project.

Response to SHIKANY-13

The comment states that the Draft IS/MND does not state the distance from the Creek to the riparian corridor setback, nor does it describe the width of the riparian corridor that was previously proposed to be protected through mitigation measures.

The proposed project would implement a 50-foot setback from the Grayson Creek centerline. This has been incorporated into the project description in the Final IS/MND. No adverse impacts were identified for the proposed project and no additional mitigation is necessary to reduce impacts to below a level of significance. The comment fails to provide any substantial evidence that there is an adverse impact requiring additional mitigation. The Draft IS/MND is not required to incorporate measures proposed in a CEQA document for a previous project.

Response to SHIKANY-14

The comment states that the Draft IS/MND project description does not mention the waiver of setback for retaining walls included in the land use section. Furthermore, the comment states that the Draft IS/MND does not describe the location of the retaining walls.

The comment is noted. The project description does include the waiver of setback of retaining walls and the Vesting Tentative Map shows the location of the proposed retaining walls. While the setback for the location of the retaining walls is requested to be waived, the setback waiver is only for the new lots; the waiver is not for the setbacks adjacent to other properties.

Response to SHIKANY-15

The comment states that much of the proposed project's site plan lacks labels for many of the lines shown, including, but not limited to, the top of the creek bank and the centerline of the creek channel.

The comment is noted.

Response to SHIKANY-16

The comment states that the Draft IS/MND project description misses information regarding riparian, oak woodland, and other protected habitat and vegetation on the project site. Furthermore, the Draft IS/MND project description does not describe any wildlife that utilizes the project site. The comment states that this information should be in the project description, not the analysis sections.

The comment is noted. Information on protected habitats, wildlife, and vegetation are found the Environmental Settings of Section 2.4, Biological Resources. Some of this information has been incorporated into the project description for purposes of clarification. The proposed project was designed to accommodate a 50-foot creek setback to avoid impacts to the adjacent Grayson Creek and surrounding habitat to the greatest extent feasible, including the avoidance of trees within the riparian corridor. The minimum extent of the creek structure setback was calculated from the top of bank, which was determined in accordance with Title 9, Division 914, (§§ 914-14.010, 914-14.012, and 914-14.014) of the Contra Costa County Ordinance Code.

Response to SHIKANY-17

The comment states that the description of the area surrounding the project site, that it is single-family residential development, is vague and inaccurate. The commenter states that the adjacent area in

unincorporated Contra Costa County has a lower density and smaller unit size than the adjacent area within the City of Pleasant Hill and that the proposed project would not be consistent with the density of the surrounding homes in unincorporated Contra Costa County.

The comment is noted. The project description states that the surrounding area consists of single-family homes, which is accurate. The difference in density and size of the surrounding homes in Contra Costa County in comparison to the surrounding homes in the City of Pleasant Hill is noted. However, the project site and the surrounding areas to the south have a land use designation of Single-Family Residential–Low (SL), and are zoned as R-15. The R-15 zoning designation is primarily for single-family detached homes, and permits a unit density of 1.0 to 2.9 dwelling units per acre. The Density Bonus Law allows for increased density of the proposed project to 3.28 dwelling units per acre. As such, the proposed density is consistent with the SL land use designation.

Response to SHIKANY-18

The comment states that the Draft IS/MND has not listed a Streambed Alteration Agreement from the CDFW, and a Storm Water Pollution Prevention Plan (SWPPP) from the Regional Water Quality Control Board (RWQCB) as required discretionary approvals.

Section 2.4, Biological Resources, of the Draft IS/MND states that a Streambed Alteration Agreement from the CDFW is required. Section 2.10, Hydrology and Quality, outlines RWQCB requirements to implement stormwater controls. The Draft IS/MND has been updated to clarify that this is referring to the Stormwater Pollution Prevention Plan. The proposed project's Stormwater Pollution Prevention Plan would be approved as part of the Construction General Permit from the RWQCB.

Response to SHIKANY-19

The comment states that while classified as an urban area by the Census Bureau, the visual character of the project area is still relatively rural, with significant tree cover and larger lots. The comment finds that the project's density and home size is inconsistent with the immediate surrounding area.

The comment also references Table 1, Section 2.11, Land Use and Planning, in the Draft IS/MND and compares it with Sheet 7 of the project plans, stating that the lot coverage shown in Table 1 is greater than the usable area illustrated in Sheet 7. In particular, Lots 3, 4, and 5 are called out as having less than half of the R-15 zoning designation's required minimum lot area of 15,000 square feet. The comment thus states that solely considering lot size when determining aesthetic impacts is misleading and that the density and size of the proposed homes is not consistent with the surrounding development in unincorporated Contra Costa County.

The analysis in the Draft IS/MND considers numerous issues when evaluating potential aesthetic impacts. As explained in Section 2.1, Aesthetics, of the Draft IS/MND, the proposed project would comply with applicable zoning and other regulations concerning aesthetics with certain concessions to the R-15 zoning development standards allowed by the Density Bonus Law. For example, the proposed project would be required to comply with Ordinance Code Article 76-4.612 related to lighting. As explained in more detail below, the proposed project would include a landscaping plan that will enhance the aesthetic character in accordance with the County's measurable performance standards identified in the Municipal Code.

Response to SHIKANY-20

The comment states that the density of the development must be reduced for the proposed project to not degrade the existing visual character. The comment states that lot size, width, and setback waivers could then be eliminated, and increased setbacks from the creek to the proposed residential development could also be accomplished.

The comment is noted. See Response to SHIKANY-17.

Response to SHIKANY-21

The comment requests that if a landscaping plan is used to make a less than significant determination in the aesthetics analysis, the proposed project should have measurable performance standards.

The applicant would be required to submit a landscape plan prior to the issuance of the first building permit. The County would review the landscaping plan in accordance with the County's measurable performance standards identified in the Municipal Code.

Response to SHIKANY-22

The commenter states that the requirement for "adequate planting of trees and other landscaping" is not a measurable performance standard, and that there needs to be a clear and detailed definition of "adequate."

Please see Response to CDFW-3.

Response to SHIKANY-23

The comment states that the Mitigation Measure Aesthetics-1 does not provide lighting standards that prevent light from spilling out onto the creek and riparian corridor.

Response to SHIKANY-24

The commenter states that no reports were attached to the MND, and thus, the public was restriction in their ability to comment on the findings.

All non-confidential appendices and technical reports may be released to the public upon request.

Response to SHIKANY-25

The commenter states that there is no discussion regarding what public agencies with jurisdiction over potentially impacted resources were consulted about this project prior to completion of the initial study.

Response to SHIKANY-26

This commenter states that the proposed project could have significant adverse permanent effects and will preclude reestablishment of existing habitat. The commenter further states that the Draft IS/MND only addresses temporary construction impacts, and not permanent adverse impacts.

This introductory statement is noted. No response is warranted.

Response to SHIKANY-27

This commenter states that there is no analysis of the impacts of noise, lights, and other residential activities on what habitat and wildlife will remain, as well as on reestablishment of destroyed habitat (for example, residential uses leave no room for replanting of removed trees.).

The impact of noise, lights, and other residential activities are addressed in the BRA Addendum and the Draft IS/MND. Site occupation has the potential to impact the adjacent riparian corridor through trespass, impacts associated with lighting and structure aesthetics, and stormwater runoff. Project plans include isolation of the residential lots from the riparian corridor through installation of permanent fencing along the southern/eastern boundary of the developed site. Mitigation Measure Aesthetics-1 includes requirements for all outdoor lighting, including façade, yard, security, and street lights, to be oriented down, onto the project site or road, and back shields or functionally similar design elements to be installed on every lighting pole to reduce lighting from spilling off-site, and to ensure that lighting remains within the project site. Mitigation Measure Biology-6 includes the implementation of a Stormwater Management Plan to ensure there are no impacts to water quality in Grayson Creek resulting from project construction or post-construction stormwater runoff.

Mitigation Measure Biology-2 requires on-site replacement of trees removed at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees, with trees spaced in a manner that promotes their long-term growth habits. Tree replacement plan and landscape plan will be prepared by a qualified Landscape Architect and provided to the County prior to issuance of building permits, documenting practicability of planting replacement trees on-site. In addition, Mitigation Measure Biology-7 prescribes the planting of Valley Oak Woodland species within all on-site undeveloped areas. Project design includes the avoidance of approximately 30 percent of the on-site trees, all other trees will be replaced. Implementation of the project design (including avoidance measures) and the two abovementioned mitigation measures minimize impacts to on-site trees and woodlands through avoidance and replacement, which reduces the magnitude of permanent tree/habitat removal.

Response to SHIKANY-28

The commenter states that there is no analysis or mitigation to address likely intrusions by residents into the riparian corridor that would be facilitated by the close proximity of proposed homes with shallow rear yards to the riparian corridor. A thorough analysis of ongoing residential impacts must be provided.

Please see Response to SHIKANY-27, above.

Response to SHIKANY-29

The commenter states that the habitat types listed add up to 2.61 acres, yet the project site is listed as 3.05 acres. What is occurring on the missing 0.44 acre?

Land Cover Types listed include 3.05 acres of Developed Land, Mixed Woodland, Valley Oak Woodland, and Riparian Woodland. The breakdown of the acreage is provided below:

- Developed (.21 acre)
- Mixed Woodland (0.62 acre)

- Valley Oak Woodland (1.18 acres)
- Riparian Woodland (1.01 acres)

Response to SHIKANY-30

The commenter asks how avoidance measures reference in Mitigation Measure Biology-1 will be implemented in the case that rare plants are found. They also ask what is proposed to be done with salvaged seed or root stock, given the development in the surrounding area. They ask if vegetation replacement for sensitive plants would occur in the riparian corridor.

Mitigation Measure Biology-1 states that if CNPS-Ranked species are observed on-site during protocol-level rare plant surveys, salvage of seed and/or root stock shall be conducted under the direction a qualified Botanist and in coordination with a qualified plant conservation institution or native nursery. Impacts to special-status species will be avoided through salvage of seeds or individual plants (root stock) in coordination with a qualified institution capable of propagating these species for planting off-site in protected environs. In addition, if CNPS-Ranked species are observed on-site during protocol-level rare plant surveys, the project proponent proposes to prepare a plan to accomplish salvage and relocation/replacement that states methods of salvage, storage, and replacement planting of seeds or plants, and to identify receptor sites, set target numbers to be established, describe monitoring methods, and define requirements for maintenance and annual monitoring reports.

Regardless, protocol rare plant surveys were conducted in 2023 by JMC Botanist Haley Henderson resulted in negative findings for rare plants. Ms. Henderson conducted appropriately timed focused floristic surveys on March 23, May 9, and June 8, 2023. Surveys were conducted to ensure that the primary bloom window was covered for each of the regionally known special-status plant species with potentially suitable habitat on the project site. No special-status plant species were observed during these focused floristic surveys, or previously conducted general site surveys.

Response to SHIKANY-31

The commenter states that the language in Mitigation Measure Biology-2, which requires replacement of on-site riparian woodland and Valley Oak Woodland to the greatest extent practicable, contains nebulous language and asks the following questions: What determines what is or is not practicable? Will the developer be allowed to argue that it is not practicable to replace any of the trees, or half of the trees?

Mitigation Measure Biology 2 calls for trees removed from the riparian woodland to be “replaced in-kind and on-site to the greatest extent practicable.” The practicability of in-kind and on-site planting is the issue to be considered, not the replacement ratio. Best practice for native planting is to source from local nurseries to preserve local genetics and avoid diseased/stressed plants. As such, if specific species are not available at the time of planting (which occasionally occurs for species such as the native Black Walnut (*Juglans hindsii*), alternative native riparian species would be installed instead. In addition, a tree replacement plan and landscape plan will be prepared by a qualified Landscape Architect and provided to the County prior to issuance of building permits, documenting practicability of planting replacement trees on-site.

Response to SHIKANY-32

The commenter states that project mitigation should call for avoidance of removing the habitat on the project site by removing multiple lots from the development.

Please see Response to SHIKANY-27, above.

Response to SHIKANY-33

The commenter states that the County is not obligated to allow the proposed density and that CEQA requires avoidance as a first step in mitigating project impacts.

Please see Response to SHIKANY-27, above.

Response to SHIKANY-34

The commenter asks where the 158 trees being replaced will be planted. They note that replacement trees in the riparian corridor would need to be evaluated for impacts to the existing habitat. They question the feasibility of planting replacement trees on-site.

Mitigation Measure Biology 2 prescribes that planted trees shall be spaced in a manner that promotes their long-term growth habits. A tree replacement plan and landscape plan will be prepared by a qualified Landscape Architect and provided to the County prior to issuance of building permits, documenting practicability of planting replacement trees on-site.

Response to SHIKANY-35

The commenter lists reasons that Mitigation Measure Biology-2 is not achievable.

The majority of the project site is regularly disked, occurs within a matrix of suburban development, and includes existing on-site residential development. Mitigation Measure Biology-2 requires on-site replacement of trees removed at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees, with trees spaced in a manner that promotes their long-term growth habits. Tree replacement plan and landscape plan will be prepared by a qualified Landscape Architect and provided to the County prior to issuance of building permits, documenting practicability of planting replacement trees on-site. In addition, Mitigation Measure Biology-7 prescribes the planting of Valley Oak Woodland species within all on-site undeveloped areas. Multiple trees on the project site will be preserved and others will be replaced. Implementation of the project design (including avoidance measures) and the two abovementioned mitigation measures minimize impacts to on-site trees and woodlands through replacement plantings, which reduces the magnitude of permanent tree/habitat removal.

Response to SHIKANY-36

The commenter states that the impact of removing the trees must be analyzed and location of replacement trees must be documented. They state that it must be documented how trees will be protected from removal.

Please see Response to SHIKANY-34 and SHIKANY-35, above.

Response to SHIKANY-37

This comment lists performance standards that must be included in Mitigation Measure Biology 2.

Please see Response to SHIKANY-34 and SHIKANY-35, above.

In addition, the trees planted as mitigation would be monitored, maintained, and replaced as needed. Recorded Covenants, Conditions, and Restrictions (CC&Rs) will provide a perpetual source of funding and responsibility for the trees. The required annual inspection (to be conducted prior to October 1 every year), ongoing maintenance, and the requirement to provide for the replacement of the mitigation trees will be included in the CC&Rs recorded against each of the proposed properties. A copy of the CC&R(s) will be provided to the County prior to installation of the permanent fencing.

Response to SHIKANY-38

This comment states that Mitigation Measure Biology-2 does not reduce the impact of the tree removal below of threshold of significance.

Please see Response to SHIKANY-34 and SHIKANY-35, above.

Response to SHIKANY-39

The commenter states that Mitigation Measure Biology-2 lacks performance standards specifying what is required if pond turtles are found.

If western pond turtles are found during construction activities, they shall be moved by a qualified Biologist to the portion of the riparian corridor that will not be subjected to project activities.

Response to SHIKANY-40

The commenter states that, while Mitigation Measure Biology-5 mentions exclusion fencing to mitigate impacts to western pond turtles, it specifies amphibians but does not specify reptiles when referring to site monitoring and what must occur if special-status reptiles (whip snake are found).

If Alameda whipsnake are found during construction activities, the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) shall be consulted to approve capture and relocation by a qualified Biologist.

Response to SHIKANY-41

The commenter states that Mitigation Measure Biology-4 and Mitigation Measure Biology-5 should be rewritten to be very clear about what must occur regarding special-status amphibians and reptiles.

If Alameda whipsnake are found during construction activities, the USFWS and CDFW shall be consulted to approve capture and relocation by a qualified Biologist.

Response to SHIKANY-42

The commenter states that replanting oak woodland in the riparian corridor would be inappropriate. They state that several lots of the proposed project must be removed in order to fulfill Mitigation Measure Biology-7.

Please see Response to SHIKANY-34 and SHIKANY-35, above.

Response to SHIKANY-43

The commenter states that tree cutting resulting in deposition of debris in the creek channel occurred while the developer was working on permitting the subdivision, as reported by adjoining neighbors. The commenter states that the Arborist Report, the BRA, and the MND do not address this. The commenter asks if this was considered when the biological report was updated in 2022.

As approved by the Contra Costa County Department of Conservation and Development on October 28, 2021, a single dead Monterey pine tree that was considered a safety hazard was removed from the site. Removal of this dead tree was not done as part of project activities.

Response to SHIKANY-44

The commenter states that tree cutting occurred after preparation of an Arborist Report in May 2020. They state that neither Arborist Report, nor the biological report or the Draft IS/MND documents the removal of these trees. They state that CEQA requires that early tree removal be included as part of the Draft IS/MND analysis. They mention that appropriate violations must be issued if the trees were removed without a permit, and mitigation for the loss of the trees must be required.

See Response to SHIKANY-43.

Response to SHIKANY-45

The commenter states that several oak trees in the riparian corridor would be removed and questions whether some of these trees can be retained, per recommendations of the Arborist Report.

The proposed project was designed to accommodate a 50-foot creek setback to avoid impacts to the adjacent Grayson Creek to the greatest extent feasible, including the avoidance of trees within the riparian corridor. This setback is on average significantly wider than that observed on the southern side of Grayson Creek in proximity to the project site. Because of the strong phototropism exhibited by several of the riparian trees, which have clearly expanded beyond the resources provided within the footprint of the Grayson Creek channel and abutting uplands, the potential root zone of these trees may be impacted by construction of project elements occurring outside of the creek setback, and accordingly, their removal was recommended by the Arborist.

Tree No. 136 is a non-native silver dollar eucalyptus (*Eucalyptus cinerea*) with a failed trunk, and tree No. 194 and No. 195 are dying Siberian elms (*Ulmus* sp.). These trees are recommended for removal by the Arborist due to health and location within the grading limits. Regardless, non-native trees in poor health should not be part of a preserved riparian corridor that would be subject to restoration efforts.

Trees No. 137 and No. 138 are native oaks that occur very adjacent to the top of bank of Grayson Creek and the proposed project was designed to avoid trees such as these. While native oaks, tree No. 114, No. 115, No. 116, No. 169, and NO. 169b occur approximately between 50 and 80+ feet beyond the centerline of Grayson Creek, making project planning of to avoid impacts to these trees (including their root systems) infeasible.

If it is determined that additional native trees can be protected in place while still achieving project objectives (as determined by the project Arborist in coordination with the Construction Manager and the

project proponent), the project proponent will determine if additional trees can be saved based upon the potential impacts from the grading to the root structure of the trees by “field-fit” grading activities to the greatest extent practicable to conduct such avoidance.

Response to SHIKANY-46

The commenter states that the Draft IS/MND contains no description of how the riparian setback was established, and no description of the width of the riparian setback from the creek channel, centerline, or from the top of bank. They state that neither the creek centerline nor the top of bank are shown on the development plans.

In some areas, the extent of riparian canopy extends far beyond the top of bank of Grayson Creek (such as in the southwestern corner of the project site), while in others, the riparian canopy is minimal and the top of bank is beyond the extent of riparian canopy. It appears the commentor is equating the riparian corridor and the creek structure setback; however, these are not equivalent. The County does not require a “riparian setback.” However, the project design incorporates a required 50-foot creek setback from the centerline of Grayson Creek to avoid impacts to Grayson Creek. The centerline of Grayson creek is depicted and labeled on the development plans.

Response to SHIKANY-47

The commenter states that Figure 11 of the Biological Report shows the top of bank either commensurate with or extending beyond the riparian setback, which apparently is the drip line of the trees that were determined to comprise the northerly boundary of the riparian corridor. The commenter cites Policy 8.89 of the General Plan Conservation Element requires a minimum 50-foot setback from the centerline of Grayson Creek. The commenter asks how the proposed riparian setback compares to the minimum 50-foot setback.

In some areas, the extent of riparian canopy extends far beyond the top of bank of Grayson Creek (such as in the southwestern corner of the project site), while in others, the riparian canopy is minimal and the top of bank is beyond the extent of riparian canopy. It appears the commentor is equating the riparian corridor and the creek structure setback; however, these are not equivalent. The County does not require a “riparian setback.” However, the project design incorporates a required 50-foot creek setback from the centerline of Grayson Creek to avoid impacts to Grayson Creek. The centerline of Grayson Creek is depicted and labeled on the development plans.

Response to SHIKANY-48

The commenter states that the Draft IS/MND needs to clarify the difference between the riparian setback area and the creek structure setback line, and what can occur within each area.

The proposed project includes a single setback from the centerline of Grayson Creek to avoid impacts to Grayson Creek. This setback includes the restriction of construction of aboveground permanent elements such as roads/driveways and structures to be a minimum of 50 feet from the centerline of Grayson Creek. While project implementation would require grading and tree removal within the riparian corridor, all grading activities are proposed to remain well outside of top of bank (a minimum of 20 feet). The County’s Creek Structure Setback requires a setback that is defined as a point where a line

with slope of 2.5 horizontal to 1 vertical, extending from the toe of the channel, intersects the existing ground plus 30 feet horizontal.

Response to SHIKANY-49

The commenter states that the project plans show the limit of the riparian area with a note that no grading will be allowed and that beyond that line, the plans show the creek structure setback line. They state that this means grading is allowed up to and below the top of the creek bank, which they state is inappropriate and requires extension of the riparian setback area to a point beyond the top of bank.

See Response to SHIKANY-48.

Response to SHIKANY-50

The commenter reiterates that the project plans do not clearly show the creek centerline nor the top of bank and needs to be remedied.

See Response to SHIKANY-48.

Response to SHIKANY-51

The commenter states that it currently does not appear the riparian setback is sufficient to protect Grayson Creek since grading would be allowed beyond the top of bank outside the riparian setback, and tree canopy is being removed within the riparian corridor. Without the riparian setback line extending well beyond the top of bank, which is not what is being proposed, Grayson Creek is left vulnerable to both construction and residential activities.

See Response to SHIKANY-48.

Response to SHIKANY-52

The commenter asks if the County has determined that Grayson Creek, or the portion within the proposed subdivision, is a “protected watercourse” and if it requires protection pursuant to County Code Section 914-4.002. The commenter asks for a rationale if it is not protected.

Grayson Creek is not identified as a “protected watercourse” within any publicly available maps, reports, or databases.

Response to SHIKANY-53

The commenter states that the Draft IS/MND does not address impacts associated with the establishment and ongoing activities of permanent residential uses close to Grayson Creek and does not address that the proposed residential lots include the riparian area. They state that due to the setback waivers coupled with the number of lots proposed, there is little rear yard on the majority of the lots, which could encourage the use of the riparian area as part of the homes backyards.

Site occupation has the potential to impact the adjacent riparian corridor through trespass, impacts associated with lighting and structure aesthetics, and stormwater runoff. Project plans include isolation of the residential lots from the riparian corridor through installation of permanent fencing along the southern/eastern boundary of the developed site. Mitigation Measure Aesthetics-1 includes requirements for all outdoor lighting, including façade, yard, security, and street lights, to be oriented

down, onto the project site or road, and back shields or functionally similar design elements to be installed on every lighting pole to reduce lighting from spilling off-site, and to ensure that lighting remains within the project site. Mitigation Measure Biology-6 includes the implementation of a Stormwater Management Plan to ensure there are no impacts to water quality in Grayson Creek resulting from project construction or post-construction stormwater runoff.

Response to SHIKANY-54

The commenter states that a permanent fence was previously proposed by Mitigation Measure Biology-6, but is no longer included as a mitigation measure. The comment asks how the County would ensure that future property owners do not extend their backyards into the protection riparian area.

The proposed project would incorporate a permanent fence along the southern/eastern boundary of the developed site. As this fence is part of project plans, it is no longer considered a mitigation measure.

Response to SHIKANY-55

The commenter states that the proposed fence was described as “wildlife friendly,” but that there was no clear definition of wildlife friendly.

See Response to SHIKANY-55.

Response to SHIKANY-56

The commenter states that the riparian area is based on the drip line of trees in the riparian corridor, and that the line defining the riparian corridor is very jagged, making the location of the fence unclear.

See Response to SHIKANY-55.

Response to SHIKANY-57

The commenter states that, while issues with the fence must be addressed, the fence should still be included as a mitigation measure to protect the riparian area. The commenter questions why the fence was removed and questions how the County intends to protect the riparian area from extension of the proposed lots.

See Response to SHIKANY-55.

Response to SHIKANY-58

The commenter states that it appears that a deed restriction of the creek structure setback is no longer required by Mitigation Measure Biology-6 and asks for clarification.

All the properties within the creek structure setback would be subject to deed restrictions (as required by County Code and as shown on the Vesting Tentative Map) prohibiting the property owners from developing the portion of their properties occurring within the setback, including the construction of permanent structures such as ADUs, pools, fences, etc.

Response to SHIKANY-59

The commenter states that impacts to Grayson Creek and the riparian corridor are not mitigated below a threshold of significance.

Please see Response to SHIKANY-34, SHIKANY-35, and SHIKANY-42, above.

Response to SHIKANY-60

The commenter states that the less than significant impact to State and federally protected wetlands is based on a number of project features that are not adequate.

No State or federally protected wetlands occur within the development area of the project site. While project implementation would result in impacts to the riparian corridor associated with Grayson Creek, it would avoid direct impacts (fill or modification) to Grayson Creek.

Response to SHIKANY-61

The commenter speculates that future homeowners will unlawfully expand their backyards into the deed-restricted creek structure set back. The commenter asks how expansion of backyards into the setback area will be monitored and prevented.

The commenter speculates that future homeowners will unlawfully expand their backyards into the deed-restricted creek structure set back. There is no basis provided for this speculative assertion, and while many of the existing homes along Grayson Creek include swimming pools and backyard improvements that are much closer to the Creek than the proposed project. The proposed project would include an enforceable deed restriction in addition to local land use controls to prevent unauthorized land uses. No further measures are necessary.

Response to SHIKANY-62

The commenter states that Sheet 4 of the development plans provides some information as to how the creek structure setback was calculated. They say it appears that only one cross-section was provided at the east end of Grayson Creek with six cross-sections on the westerly end and that there are no cross-sections in the middle of this stretch of creek. They ask the basis for the location of the cross-sections, how the number and location of cross-sections was determined to be adequate for the establishment of the structure setback lines, and how it was determined that the entire creek section is adequately represented by these cross-sections.

The minimum extent of the creek structure setback was calculated from the top of bank, which was determined in accordance with Title 9, Division 914 (§§ 914-14.010, 914-14.012, 914-14.014) of the Contra Costa County Ordinance Code. Because the height of the TOB is less than 20 feet above the channel invert, the required horizontal distance between top of bank and the setback line is 30 feet. The entire creek corridor was mapped to determine the extent of top of bank, and accordingly the extent of the creek structure setback. While the creek structure set back was determined by location the top of bank, functionally the creek structure setback occurs at a minimum of 50 feet from the centerline of the Grayson Creek channel.

Response to SHIKANY-63

The commenter states that County Code Section 914-14.012(d) states that where significant riparian vegetation exists beyond the limits required by Section (c) of this same section (the limits the subdivision utilizes), the County may extend the setback line to include such areas. The commenter asks what the basis was for not requiring this additional area, given the number of oaks and other trees that are

proposed to be removed, since the trees being removed have crowns that are part of the riparian canopy?

See Response to SHIKANY-13, SHIKANY-14, SHIKANY-16, SHIKANY-46, SHIKANY-47, SHIKANY-48, and SHIKANY-62.

Response to SHIKANY-64

The commenter states that, while the Draft IS/MND properly notes that the Grayson Creek riparian area serves as a wildlife corridor and provides wildlife nurse sites, it does not acknowledge that the oak woodland provides nesting habitat for migrating birds and other wildlife that utilizes the property.

As stated in Section 3.4 of the BRA Addendum, a nursery site is an area where juveniles occur at higher densities, avoid predation more successfully, or grow faster there than in a different habitat (Beck et al. 2001). While the project site is regularly disked, the trees, shrubs, and structures occurring on-site as well as the Grayson Creek riparian corridor have been identified as supporting suitable habitat for nesting birds and roosting bats. However, it is presumed that the Grayson Creek riparian habitat would act as a wildlife nursery due to the combination of presence of suitable nesting/roosting habitat and the creek corridor's protected nature. Regardless, Mitigation Measures Biology-2, Biology-3, Biology-4, Biology-5, and Biology-8, which requires tree replacement for riparian trees removed from the project site, pre-construction surveys for dispersing, roosting, and/or nesting wildlife, installation of wildlife exclusion fencing, and implementing post-construction measures for protection of the riparian corridor from site occupation would reduce impacts to nursery sites as well as all nesting, roosting, and dispersing wildlife.

Response to SHIKANY-65

The commenter asks how the removal of most of the existing habitat on the site and development of residential uses with a narrow riparian corridor would not impede use of wildlife corridors and nurse sites located at the project site. They ask if the 0.8 acre of riparian corridor that would remain would be sufficient to address all current wildlife migration and nursery uses on the project site, even though it would have residential uses directly adjacent to it.

The Grayson Creek riparian corridor has been identified as a potential wildlife corridor and nursery site; the remainder of the project site has not been identified as either a wildlife corridor or a nursery site. The Grayson Creek riparian corridor would remain largely untouched by implementation of the proposed project, with the exception of construction within 0.21 acre of riparian habitat (necessitating riparian tree removal along its northern boundary) and implementation of a riparian tree planting plan to mitigate impacts to trees.

Response to SHIKANY-66

The commenter states that the Draft IS/MND is missing information regarding the connectivity of Grayson Creek with off-site portions of watercourse and habitats for fish.

The proposed project would not alter Grayson Creek or interfere with the movement of off-site wildlife through the portion of Grayson Creek that is located on the project site. The comment does not provide

any basis for finding the proposed project would impact special-status species wildlife movement through the site. In addition, please see Response to SHIKANY-65, above.

Response to SHIKANY-67

The commenter states that Mitigation Measure Biology-2 through Biology-6 call for tree replacement, but that the requirement is unachievable.

Please see Response to SHIKANY-34 and SHIKANY-35, above.

Response to SHIKANY-68

The commenter states that the Draft IS/MND does not include post-construction measures for protection of the riparian area.

Please see Response to SHIKANY-53.

Response to SHIKANY-69

The commenter states that the previous MND required fencing along the riparian boundary and a deed restriction of the creek structure setback area prohibiting development.

Please see Response to SHIKANY-58 and SHIKANY-61.

Response to SHIKANY-70

The commenter states that the proposed project poses a potentially significant impact to the movement of wildlife, and the less than significant impact conclusion in the Draft IS/MND is not fully supported.

Please see Response to SHIKANY-53.

Response to SHIKANY-71

The commenter states that the discussion of wildlife impacts does not mention CEQA Section 21083.4 regarding the protection and mitigation of impacts to oak woodland.

CEQA Section 21083.4 requires that the County determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment and allows for the County to develop suitable measures to mitigate those impacts as well as the mitigation of impacts to oak woodland through the planting of “an appropriate number of trees.” Mitigation Measure Biology 2 called for the replacement of native trees at a 3:1 ratio and the non-native trees at a 1:1 ratio and is consistent with County practice and implementation of its tree protection and preservation ordinance.

The IS/MND evaluates the project’s potential impacts to all County-protected trees, including oak woodlands as required under Section 21083.4 of the Public Resources Code. The IS/MND includes planting an “appropriate number of trees” and a replacement tree planting plan. Mitigation Measure Biology 2 calls for the replacement of native trees at a 3:1 ratio and the non-native trees at a 1:1 ratio, and implementation of the Arborist-prepared Tree Preservation Guidelines. The MND is consistent with Public Resources Code 21083.4 and no further mitigation through project redesign is necessary.

Response to SHIKANY-72

The commenter states that General Plan Policy 8-6 requires significant trees to be preserved, yet over 72 percent of the 117 trees on-site will be removed and 17 of the remaining trees will be subject to dripline encroachment. The commenter states that the project does not preserve significant trees and vegetation.

The project design includes retention and preservation of the greatest number of trees practicable. Mitigation Measure Biology 9 calls for trees retained and preserved, but subjected to dripline encroachment, to be monitoring by the project Arborist during encroachment and all damage to trees scheduled for preservation will be appropriately mitigated.

Response to SHIKANY-73

The commenter states that tree replacement is impossible at the rate required by General Plan Policy 8-12 and that the proposed residential lots should be reduced by half to mitigate this impact. It states that the proposed project currently violates General Plan policies and has a significant and unavoidable impact on existing woodland habitat.

Please see Responses to SHIKANY-34 and SHIKANY-35, above.

Response to SHIKANY-74

The commenter states that the proposed project does not preserve natural vegetation and wildlife, conflicting with policies listed in the Draft IS/MND. They state that a portion of riparian woodland and all of the oak and mixed woodland will be destroyed, grading will occur over the top bank of Grayson Creek, rear yards, rear yards would be extremely small and in close proximity to the riparian boundary, and that the proposed reestablishment of habitat is not possible. They state that all of this is in violation with General Plan policies.

This comment reiterates previous comments. No additional response is warranted.

Response to SHIKANY-75

The commenter states that trees have already been removed from the project site, but this is not discussed or properly documented.

Please see Response to SHIKANY-44, above.

Response to SHIKANY-76

The commenter explains that one of the reasons tree removal can be approved according to County Code is "reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot." The commenter asks what determines "reasonable development" and states that the proposed project could utilize smaller development footprints to avoid such extensive tree and habitat removal.

The proposed project has been designed to avoid impacts to natural habitats and resources where feasible. Project design elements include incorporating a structure setback from the centerline of Grayson Creek of a minimum of 50 feet, as well as avoidance and preservation of many trees and tree clusters, and isolation of the residential development from the preserved riparian corridor.

Response to SHIKANY-77

The commenter states that CEQA requires avoidance of environmental impacts as a first step, but that there seems to be no consideration or discussion of how removal of trees or habitat could be avoided, nor any justification provided for their removal. The commenter states that the density of the proposed project needs to be significantly reduced.

See Response to SHIKANY-76

Response to SHIKANY-78

The comment states that the neighborhood does not have adequate bike lanes and sidewalks to travel to a nearby commercial district and the Pleasant Hill Bay Area Rapid Transit (BART) station, and states that walking on Grayson Road is dangerous given the excessive traffic. The comment further questions if there is a bike lane that fully connects to the Pleasant Hill BART station.

The Draft IS/MND thoroughly evaluated potential safety issues that would result from the proposed project. The proposed project would comply with applicable County General Plan policies outlined in the Public Safety Element. The applicant would install bicycle lane striping as part of the proposed project. Furthermore, there is no sidewalk to the east for over 1,000 feet and no bike lanes or sidewalks that fully connects to the Pleasant Hill BART station which is over 3.5 miles to the east.

Response to SHIKANY-79

The comment states that the proposed waiver for the construction of sidewalks on the proposed project's frontage to Grayson Road is inappropriate given that the proposed project's density would create an increased need for sidewalks along Grayson Road. The comment adds that if sidewalks are developed in the area in the future, they would be unjustifiably installed at taxpayer expense. Furthermore, the comment states that statements made in Draft IS/MND, Section 2.6, Energy, regarding the project site being within walkable distance to a commercial distance, thus saving energy, to be disingenuous.

As stated in Response to SHIKANY-8, pursuant to the Density Bonus Law, the County can only reject the concession or incentive requested by the applicant if they make a written finding, based upon substantial evidence of any of the following:

- a) The concession or incentive does not result in identifiable and actual cost reductions.
- b) The concession or incentive would have a specific, adverse impact upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
- c) The concession or incentive would be contrary to State or federal law.

None of these conditions apply, meaning that the County cannot reject the requested concession.

The County recognizes that encouraging pedestrian transit reduces energy consumption in its Climate Action Plan (CAP).

Response to SHIKANY-80

The comment states that fire risk in the project area is high and contains significant vegetation and overhead power lines. The comment asks if power lines will be undergrounded on the project site. The comment further states that overhead power lines and vegetation surrounding the project site pose a risk regardless of the proposed project undergrounding power lines on-site.

Section 2.19, Wildfire, of the Draft IS/MND, found the site to be within a designated High Fire Hazard Severity Zone and conducted an analysis of the proposed project's fire risk accordingly. The analysis found that the proposed project would comply with the California Fire Code and California Building Standards Code to ensure that proposed development contains appropriate fire protections, and would be reviewed by the Contra Costa County Fire Protection District (CCCFPD) and other interested fire protection agencies in accordance with County General Plan Measure 7-au. General Plan Measure 7-au would also require the County to set Conditions of Approval as recommended by the CCCFPD's review. The Draft IS/MND determined that all new utility infrastructure that would serve the proposed project would be undergrounded, minimizing potential impacts to fire risk.

Furthermore, Section 2.19, Wildfire, analyzes vegetation risk to wildfire as well, and determined that the proposed project would be subject to the CCCFPD Ordinance, which would include design standards and management regulations such as weed abatement and brush clearance regulations, subject to review by the CCCFPD Engineering Unit. As such, impacts from on-site vegetation on fire risk would be minimized to a less than significant level.

Lastly, adjacent existing overhead power lines constitute the existing conditions of the project area and would not be altered by the proposed project. As such, wildfire risks related to these overhead power lines would not be affected by the proposed project and are thus not within the scope of the Draft IS/MND's environmental analysis. No further response is required.

Response to SHIKANY-81

The comment states that vegetation on the project site and in the surrounding area is atypical of urban areas. The comment argues that reduced yard setbacks, proposed high density development, and the placement of proposed development next to wooded areas would result in a high fire risk that could easily spread between proposed and existing houses.

See Response to SHIKANY-80.

Response to SHIKANY-82

The commenter states that the claim in the Draft IS/MND that fire risk will be reduced to vegetation removal demonstrates that the County is not committed to re-establishing habitats that would be removed as a result of the proposed project. The commenter questions whether the County actually intends to enforce the replacement mitigation.

Please see Response to SHIKANY-34 and SHIKANY-35. Furthermore, As stated in Mitigation Measure Biology 2, the proposed project would be required to submit a tree replacement plan and a landscape plan prepared by a qualified Landscape Architect, which would be prepared in compliance with the 2022 California Fire Code (CFC). The CFC includes specific requirements regarding fire-resistant landscaping and fire-resistant vegetation. Mitigation Measure Biology 2 states that most of the replacement trees would be various species of oak tree, which are considered fire-resistant trees, per the CFC. Tree replacement at the project site would not increase the risk of wildfire because it would be designed in compliance with the CFC and would adhere to the tree replacement and landscape plans required by Mitigation Measure Biology 2. The County would be legally bound to fulfill all requirements described in Mitigation Measure Biology 2. The County's compliance with the CFC is mandatory as it is required by State law.

Response to SHIKANY-83

The commenter states that it is unclear whether the required tree replacement is possible at the project site. The commenter states that the claim that fire risk will be reduced as a result of vegetation removal is incorrect and in direct conflict with the requirement to replant this vegetation.

Please see Response to SHIKANY-34, SHIKANY-35, and SHIKANY-82.

Response to SHIKANY-84

The comment states that Section 2.19, Wildfire, does not address the increased fire risk brought to the entire County due to climate change and ongoing drought. As such, the comment finds it inappropriate to increase density on the project site.

The comment pertaining to fire risk increases throughout the County due to climate change and ongoing drought are speculative and therefore outside the scope of this Draft IS/MND. The comment does not provide any specific information related to whether the proposed project would materially affect evacuation routes in the area or impact any existing wildfire issues. Draft IS/MND Section 2.19, Wildfire, determined that the proposed project would have a less than significant impact to fire risk. See Response to SHIKANY-80 for further information.

Response to SHIKANY-85

The comment states that the proposed project would interfere with the groundwater supplies and recharge given the increase of impervious surfaces the project proposes and given the direction of stormwater runoff from impermeable surfaces into the storm drain system. The comment further states that the Draft IS/MND contains incongruencies in its analysis of groundwater impacts, stating that the proposed bioretention basin was found to simultaneously maintain existing groundwater recharge on-site and yet also drain into the public storm drainage system. As such, the comment states that the proposed project would not retain the existing groundwater recharge.

As shown in the proposed project's Hydrology and Stormwater Control Plan, the proposed bioretention basin would be constructed as a flow-through planter following specifications found in the County Clean Water Program Technical Guidance Handbook. As such, a portion of stormwater runoff flowing through the bioretention basin would permeate through the basin and provide groundwater recharge, and the other portion of stormwater would continue into the public stormwater drainage system. Therefore, the

analysis made in Section 2.10, Hydrology and Water Quality, of the Draft IS/MND is correct, and impacts pertaining to groundwater recharge from implementation of the proposed project are less than significant.

Response to SHIKANY-86

The commenter is concerned that the proposed project could impact the amount of stormwater runoff feeding into Grayson Creek and change the drainage pattern of the project site. The proposed project stormwater runoff would not increase the peak flow rates from the added impervious surface area as a result of the biofiltration basin proposed for the project. Post-Development runoff of the proposed project would match or reduce the pre-development existing flow rate of 3.4 cubic feet per second (cfs). The 10-year hydrograph was plotted against the allowable flow rate of 3.4 cfs to establish the detention requirement. Based on these parameters, a required detention volume of 555 cubic feet has been determined. The proposed project would contain a biofiltration basin located at the eastern edge of the property that would contain a volume of 674 cubic feet, 119 cubic feet larger than required to match the existing 10-year hydrograph.

Response to SHIKANY-87

The comment asserts that the County's density calculation is incorrect, stating that the County used 2.99 dwelling units per acre rather than 2.9 as stated in the Draft IS/MND resulting in 8.28 units per acre, rounded to nine base units for this subdivision. The calculation was based on a net acreage of 2.76, which was calculated by subtracting the private right-of-way proposed for this project from the total project site acreage. According to the comment, Table 3-4 of the County General Plan Land Use Element states that "net acreage includes all land area used exclusively for residential purposes, and excludes streets, highways, and all other public right-of-way. Net acreage is assumed to constitute 75 percent of gross acreage for all uses except for the Multi-Family designations." The comment states that 75 percent of the project site gross acreage results in 2.29 net acres, not 2.76 net acres. As such, the comment concludes that the density calculations for the project site should be 2.29 net acres multiplied by 2.99 dwelling units per acre, resulting in seven base units allowed on the project site. Therefore, the commenter concludes that a 15 percent density bonus increase would only allow for eight dwelling units on-site. The comment further states that even this number is too dense.

The County's General Plan states that the General Plan land use designations are closely related to the density requirements defined in the County's Zoning Ordinance, and are continuous, without gaps, across the density range. For example, the density requirements of units per net acre for the Single-Family Residential-Very Low (0.2-0.9) and Single-Family Residential-Low (1.0-2.9) designations mean that the very low designation will allow for densities ranging from 0.2 units per net acre up to but not including 1.0 units per net acre." In this instance, Single-Family Low allows densities from 1.0 units an acre, to 2.9 an acre, with the maximum being a number that is less than 3.0.

The complete definition of "Net Acreage" from the General Plan is as follows: "Net acreage includes all land area used exclusively for residential purposes, and excludes streets, highways, and all other public right-of-way." 0.29 acres have been deducted for the proposed street. No other street, highway or public rights-of-way exist on the subject property. As a result the commentor's calculations are inaccurate and not consistent with the County's General Plan.

Additionally, the Density Bonus Law defines base density as “gross density” (Government Code § 65915(f)). Assembly Bill (AB) 2501, a bill signed into law in 2016, clarified that a "density bonus" means an increase over the maximum allowable gross residential density.

Moreover, the Density Bonus Law states that it “shall be interpreted liberally in favor of producing the maximum number of total housing units” (Government Code § 65915(r)). Therefore, under the Density Bonus Law the City must honor the applicant’s request to utilize the gross acreage of the parcel and the associated calculation of the maximum allowable gross density. The calculation must be based upon the total acreage of the project site and not reduced by the required City roadway dedications.

Response to SHIKANY-88

The comment restates that net average calculations for the proposed project are incorrect, finding that 0.29 acre for the street and 1.5 deed-restricted acres for the Grayson Creek structure setback area would need to be removed from the project site’s gross area for an accurate net acreage calculation.

Response to SHIKANY-89

The commenter states that a mitigation measure requiring a creek structure setback area be protected from development via a permanent deed restriction and dedication of development rights to the County should be added back to the Draft IS/MND.

Please see Response to SHIKANY-58.

Response to SHIKANY-90

The comment states that the 1.5 deed-restricted acres for Grayson Creek should be removed from the gross acreage as well to form the net acreage of the proposed project. The comment calculates that the proposed project’s net acreage would be 1.26 acres with this additional removal, and would have a maximum allowed density of four base units. With the application of the Density Bonus Law for one middle-income housing unit, the project site should only allow for a density of approximately five units per acre.

Response to SHIKANY-91

The comment states that net acreage should be recalculated according to Response to SHIKANY-88 and SHIKANY-90. Upon recalculation, the comment requests that all Density Bonus Law waivers and concessions be revisited for their need.

See Response to SHIKANY-88 regarding the response to net acreage recalculation for the proposed project.

Response to SHIKANY-92

The comment states that given the number of lots, the waiver on lot width creates lot widths completely inconsistent with the surrounding area.

As explained in Draft IS/MND Section 2.11, Land Use and Planning, the minimum lot size, lot width, depth, retaining wall setbacks, and front and side yard setbacks for the R-15 zoning designation would physically preclude the development of the project at the proposed density. As such, the proposed project is granted a waiver by the State Density Bonus Law.

Response to SHIKANY-93

The commenter states that the proposed project does not allow enough space to replant 158 large trees.

Please see Response to SHIKANY-34 and SHIKANY-35.

Response to SHIKANY-94

The comment states that the proposed project's curb, gutter, and sidewalk Density Bonus Law waivers pose a safety concern.

See Responses to SHIKANY-8 and SHIKANY-79 regarding safety on sidewalk improvements.

Response to SHIKANY-95

The comment requests clarification on the need for setback requirement waiver for retaining walls. The comment asks where these retaining walls would be located.

As stated in Response to SHIKANY-92, waivers to the R-15 zoning designation are provided under State Density Bonus Law if a project is physically precluded from occurring due to zoning requirements, as is the case with the setback requirement for retaining walls. An additional exhibit illustrating the location of the retaining walls is provided in the Final IS/MND. As described previously, pursuant to the Density Bonus Law, the County can only reject the concession or incentive requested by the applicant if they make a written finding, based upon substantial evidence of any of the following:

- a) The concession or incentive does not result in identifiable and actual cost reductions.
- b) The concession or incentive would have a specific, adverse impact upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
- c) The concession or incentive would be contrary to State or federal law.

None of these conditions apply, and the County would be required to approve this concession.

Response to SHIKANY-96

The comment states that the baseline density stated by the Draft IS/MND of the project site, nine dwelling units, would not be able to meet R-15 zoning requirements for lot size, lot width, and setbacks. As such, the comment states that the project site's baseline density would be illegal and cannot be considered.

The comment is noted. See Response to SHIKANY-17.

Response to SHIKANY-97

The comment questions how the County concluded that the inclusion of a moderate-income affordable lot into the proposed project drives the need for Density Bonus Law waivers when development standard waivers would still need to be in place to feasibly develop nine units, the established baseline

density, on the project site. The comment also requests an explanation for the application of development standard waivers for all lots, and not just the proposed affordable unit lot.

Without waivers, the proposed project would be allowed to develop eight units on the project site. It is assumed that the comment meant to write that eight units are the established baseline density. Because the proposed project is providing one moderate-income unit, it is allowed a 7 percent density bonus, allowing for nine units at the project site. Additionally, the Density Bonus Law allows waivers and concessions to R-15 zoning standards because an increased density often physically preclude a project from following all design standards for its land use and zoning designations. These waivers apply to all development in the proposed project to accommodate the increase in density permitted by the State Density Bonus Law, not solely to the proposed affordable housing.

Response to SHIKANY-98

The comment states that waivers can only be granted if they result in no impacts to public health or safety. The comment explains that the waiver of sidewalk requirements on Grayson Road would negatively impact the public health and safety, particularly when the Draft IS/MND analyzes that the proposed project is within walking distance to nearby commercial districts. The comment requests an explanation of how the County intends to make the finding that the waiver for sidewalk improvements on Grayson Road does not harm public health and safety.

See Response to SHIKANY-8 regarding public safety from potential sidewalk improvements on Grayson Road.

Response to SHIKANY-99

The comment states that the inclusion of moderate-income housing into the proposed project is solely to maximize the proposed project's density. Additionally, the comment finds that the proposed project's waivers and concessions are made with the intention to facilitate more high-end housing, not create affordable housing. The comment further states that the proposed affordable unit is in the worst location and is the smallest lot and home in the subdivision and will reveal itself as being of a different income level to other proposed units.

This comment addresses the project developer's intentions regarding the Density Bonus Law and comments on the location of the affordable unit. These features are not relevant to the environmental analysis of the proposed project, and thus do not require a response.

Response to SHIKANY-100

The comment asks if the County has received proof that the requested Density Bonus Law incentives and waivers are financially necessary to construct the proposed affordable unit.

The Density Bonus Law requires that the County must waive any development standards that will have the effect of physically precluding the construction of a qualifying project, pursuant to Government Code Section 65915(e)(1). As described previously, pursuant to the Density Bonus Law, the County can only reject the concession or incentive requested by the applicant if they make a written finding, based upon substantial evidence of any of the following:

- a) The concession or incentive does not result in identifiable and actual cost reductions.
- b) The concession or incentive would have a specific, adverse impact upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
- c) The concession or incentive would be contrary to State or federal law.

None of these conditions apply, and the County would be required to approve the requested waivers and concession. See Response to SHIKANY-97 for additional information regarding the Density Bonus Law.

Response to SHIKANY-101

The comment states that the proposed project would result in a project site subdivision with significant unmitigated impacts to public trust resources, as well as impacts resulting from a development completely out of character with its surroundings, due to its extremely high density. The comment questions if the County allows for the development of projects with significant impacts to public trust resources for the purpose of including one affordable unit.

The comment does not state what significant unmitigated impacts from the proposed project would impact public trust resources, and thus no response can be given. Environmental impact concerns resulting from high density development are addressed in the prior and continuing responses.

Response to SHIKANY-102

The comment states that the proposed project would contain impacts to the public's health and safety that are against housing law. The comment questions how the County intends to address the health and safety impacts resulting from the density of the proposed project.

The comment does not state what significant unmitigated impacts from the proposed project's density would impact health and safety. However, various responses to prior and following comments address density-related concerns to public health and safety. Specifically, see Response to SHIKANY-8.

Response to SHIKANY-103

The comment states that Table 1 of the Draft IS/MND, Contra Costa County Ordinance Code R-15 Requirements, is misleading, as it does not contain the developable area for each lot. The comment continues that the usable area of many of these lots is no more than approximately half the lot, and in the case of Lots 3, 4, and 5 may be less than half the listed lot size. The comment surmises that the proposed project would result in a subdivision with a density and visual appearance that is not appropriate for the project site.

See Response to SHIKANY-19 for information on concerns regarding developable area for each proposed subdivision.

Response to SHIKANY-104

The comment shows concern about the number of waivers and concessions that would be granted as part of the proposed project. The comment requests that the financial value of the waivers that would

be granted for the increased density and the waiver that excludes sidewalk improvements on the project site's Grayson Road frontage, be weighed against the cost of these waivers to public resources, the loss of standard frontage improvement requirements, increased traffic impacts, the addition of one moderate-income home, and so forth. The comment surmises that granting the proposed waivers is against the public interest and should be limited or denied.

Please see the various responses above that address the potential impacts of the proposed waivers to public resources, traffic, public health and safety, and affordable housing. Specifically, please see Response to SHIKANY-8, CEQA does not require the Draft IS/MND to analyze the financial values of environmental impacts and features of the proposed project. As such, no response is required.

Response to SHIKANY-105

The comment requests for Mitigation Measure Noise-1 to be amended to have the County require the project developer or contractor to mail a notice to each nearby resident providing them with the planned hours of operation and who to contact if there are noise concerns.

This comment does not address the adequacy of the Draft IS/MND. No response is required.

Response to SHIKANY-106

The comment states that the hours of operation for noise-producing activities are excessive, and requests that noise-producing activities during the week conclude at 6:00 p.m. The comment also requests that Saturday noise-generating activities occur between the hours of 9:00 a.m. and 5:00 p.m. The comment concludes that noise-generating activities should be limited according to the project area's quiet surrounding neighborhood.

Proposed project construction would occur pursuant to the County Noise Ordinance.

Response to SHIKANY-107

The comment reiterates concerns regarding the proposed waiver to frontage requirements on Grayson Road. The comment is specifically concerned about a precedent being set regarding the lack of sidewalk development on Grayson Road. The comment states that the existing fragmented sidewalks on Grayson Road, along with the increased traffic from the proposed project, would create a high risk to public health and safety, both to existing and potential new residents. The comment is also concerned about future frontage improvements requiring taxpayer funding rather than development funding.

See Response to SHIKANY-8 regarding pedestrian safety and Grayson Road sidewalk improvements.

Response to SHIKANY-108

The comment notes that while a sidewalk would not be developed on the project site's Grayson Road frontage, the proposed project would develop a sidewalk as part of the proposed internal road. The comment reiterates concerns regarding driver and pedestrian safety from the proposed subdivision.

See Response to SHIKANY-8 regarding potential density-related pedestrian safety issues and potential issues regarding Grayson Road sidewalk improvements.

Response to SHIKANY-109

The comment states that sidewalks along Grayson Road are incomplete and create significant safety issues for pedestrians walking to nearby commercial districts. The comment states that these safety issues would be exacerbated by potential increased vehicular and pedestrian traffic from the proposed project's subdivisions. The comment further states that the Draft IS/MND does not address potential impacts to pedestrians resulting from increased vehicular and pedestrian traffic.

See Response to SHIKANY-8, SHIKANY-78, and SHIKANY-79 regarding the impacts of sidewalk improvements to pedestrian safety and pedestrian travel to nearby commercial areas. Per Draft IS/MND Section 17, Transportation, the potential vehicular and pedestrian traffic increases were analyzed and found to create a minimal increase (an additional 8 AM and 8 PM trips) in traffic around the project site, and would thus result in a less than significant impact to the surrounding area's existing traffic levels. Section 17 of the Draft IS/MND also found that the proposed project would not substantially increase road hazards from proposed geometric design features, including the creation of an intersection between the proposed road and Grayson Road. As such, potential impacts to pedestrians resulting from increased vehicular and pedestrian traffic are addressed by the Draft IS/MND.

Response to SHIKANY-110

The comment establishes that complete frontage improvements are standard requirements of subdivision development. The comment states that Grayson Road desperately needs sidewalk improvements, and that the County should be trying to connect fragmented sidewalks on Grayson Road, rather than granting frontage improvement concessions to developers. The comment expresses concern regarding the future public cost of sidewalk development on Grayson Road due to the County granting waivers to developers.

See Response to SHIKANY-8, SHIKANY-79, and SHIKANY-107 regarding sidewalks.

Response to SHIKANY-111

The comment states that the proposed project involves a significant amount of grading, utility construction, and tree removal. As such, the comment finds that the justification that the waivers for frontage improvements to be incongruent with the amount of development work that would already occur as part of the proposed project. The comment requests an explanation as to what makes frontage improvements infeasible given the extent of proposed development work and the proposed density of development.

See Response to SHIKANY-8.

Response to SHIKANY-112

The comment proposes that frontage sidewalk improvements on Grayson Road could be designed to go around existing trees, removing the need for tree removal. The comment further states that a large reduction in the number of proposed lots would also make the waiver for frontage improvements feasible.

See Response to SHIKANY-8, SHIKANY-79, and SHIKANY-107

Response to SHIKANY-113

The comment cites that the reason given for the need of a waiver to frontage improvements on Grayson Road are that the nearest sidewalk improvements on Grayson Road are over 1,000 feet from the project site, and that adjacent properties that front Grayson are not expected to develop frontage improvements in the future. As such, the comment states that the County's acceptance of the waiver is because any potential frontage improvements to the proposed project would not be connected to other Grayson Road sidewalks in the near future. The comment asserts that if this waiver is accepted, no sidewalks on Grayson Road would ever be built, as other developments would be able to make similar justifications.

This comment does not identify any environmental issues. See Response to SHIKANY-8, SHIKANY-79, and SHIKANY-107 regarding sidewalks.

Response to SHIKANY-114

The comment requests that if concessions are provided to the proposed project as part of the Density Bonus Law, that the public receive something in return. The comment states that under the current condition the proposed affordable unit receives the smallest lot and the worst location, and thus is not a fair benefit to the public in comparison to the concessions given.

A comparison of potential social benefits does not raise environmental concerns and CEQA does not require the Draft IS/MND to analyze or compare the values of concessions given by the State Density Bonus Law to public benefits gained by the increased affordable housing. No further action is required.

Response to SHIKANY-115

The comment notes that the County is required to grant incentives and concessions consistent with the Density Bonus Law unless written findings significant impacts to public health or safety, upon which there is no feasible mitigation. The comment reiterates that waiving the Grayson Road frontage improvement would create significant impacts to public health and safety that are not analyzed by the Draft IS/MND, and that this waiver is unmitigable. As such, the comment requests for the County to deny this waiver or reduce the density of the proposed project to a level in keeping with the surrounding area.

The comment is noted. See Response to SHIKANY-8, SHIKANY-78, SHIKANY-79, SHIKANY-107, and SHIKANY-109 regarding potential public health and safety issues from sidewalk and frontage improvement waivers on Grayson Road.

Response to SHIKANY-116

The comment asks if there will be an addition of ADUs to the proposed project, as this would increase the trip generation and parking needs of the proposed project. The comment requests that the Draft IS/MND take any proposed ADU-related potential traffic impacts into account.

No ADUs would be developed as part of the proposed project. As such, no potential impacts are anticipated and no further action is required.

Response to SHIKANY-117

The comment notes that while the proposed project would not increase hazards due to a geometric design feature, it would result in increased vehicle traffic. The comment notes that current driving from

Mohawk Drive into Grayson Road is difficult due to existing traffic exceeding the 35 mile per hour (mph) speed limit established on Grayson Road. As such, the resulting intersection from the proposed road and Grayson Road would not provide sufficient stopping time for the speed of traffic traveling over the 35 mph speed limit. Therefore, the comment concludes that the proposed project would result in increased traffic risks to existing homes.

Increase in traffic as a result of the proposed project was analyzed by the Draft IS/MND in Section 2.17, Transportation. Section 2.17 found that the proposed project would generate an additional 10 AM and 8 PM peak-hour trips, which would be well below the traffic impact significance threshold of 100 peak-hour AM and PM trips. Therefore, the proposed project was found to have less than significant traffic impacts.

Cars traveling either eastbound or westbound on Grayson Road would have more than 500 feet of sight distance from the project driveway. This is more than adequate to provide for adequate stopping time on the 35 mph designated Grayson Road.

Response to SHIKANY-118

The comment alleges that fire risk on the project site is greater than standard urban areas due to the significant on-site and adjacent vegetation, including trees, shrubs, and grassland. The comment also asserts that existing overhead powerlines and the surrounding vegetation pose a significant fire risk. The comment requests clarification on whether power lines on-site would be undergrounded. However, the comment alleges that such measures would not be enough due to surrounding overhead power lines furthering fire risk in the project area.

See Response to SHIKANY-80 on fire hazards related to existing vegetation, aboveground power lines, and underground power line installation.

Response to SHIKANY-119

The comment alleges that the project area contains vegetation atypical to standard urban areas. The comment asserts that the proposed project's high density and large building sizes, in combination with its adjacency to wooded areas, would result in a higher fire risk than usual. This could result in easily spreadable fires in the neighborhood.

See Response to SHIKANY-80 on fire hazards related to existing vegetation.

Response to SHIKANY-120

The commenter states that the Draft IS/MND states that vegetation removal would reduce wildfire risk, while also requiring tree replacement on-site at a 3:1 ratio. The commenter suggests that this indicates the County is not committed to enforcing tree replacement.

Please see Response to SHIKANY-34, SHIKANY-35, and SHIKANY-82.

Response to SHIKANY-121

The commenter states that it is unclear if it is feasible to replace all trees on-site as required. The commenter states that, if the tree replacement is done as required, then the claim that fire risk will be reduced as a result of vegetation removal is incorrect.

Please see Response to SHIKANY-34, SHIKANY-35, and SHIKANY-82.

Response to SHIKANY-122

The comment asserts that the proposed increased density of the project creates a fire risk that is higher than typical urban areas.

As addressed in Response to SHIKANY-80, SHIKANY-119, and SHIKANY-121, the project site would be constructed in accordance with all applicable design guidelines, including such as weed abatement and brush clearing regulations, subject to review by the CCCFPD Engineering Unit. The Draft IS/MND concluded that compliance with existing regulations, as well as the proposed project design and vegetation removal would reduce impacts to below a level of significance. The comment includes a general assertion regarding development, but does not identify any specific evidence that the proposed project would exacerbate potential wildfires due to its density.

Response to SHIKANY-123

The comment states that some potential environmental impacts from the proposed project remain unaddressed. These include biological impacts from permanent habitat removal and traffic impacts that the comment surmises may be potentially significant.

See responses to comments listed above regarding permanent habitat removal and traffic impacts from the proposed project. Other impacts mentioned have not been identified by the comment, and thus cannot be responded to. No further response is required.

Response to SHIKANY-124

The comment appeals to the public and County on the privileges of subdivisions and asserts that the proposed project developer is primarily focused on increasing density on the project site rather than providing affordable housing. The comment argues that the proposed concessions and waivers disregard the long-term loss of sensitive and protected habitats and the health and safety concerns of the community.

See responses to comments listed above regarding the proposed waivers and their potential impacts on habitats and public health and safety. Comments regarding the subdivision and Density Bonus Law provision and acceptance process do not raise concerns regarding the adequacy, accuracy, or completeness of the environmental assessment for the proposed project and are therefore beyond the scope of CEQA. No further response is required.

Response to SHIKANY-125

The comment compares previous development projects for the project site to the proposed project, stating that the proposed project makes no attempt to balance development with existing habitat and community values.

See responses to comments listed above regarding habitat. No environmental impacts have been specifically identified by the comment. No further response is required.

Response to SHIKANY-126

The comment provides concluding remarks and summarizes prior points made. No response required.

Response to SHIKANY-127

The comment suggests, as per prior comments and in prior comment periods, that the proposed project's density be reduced by at least 50 percent. The comment states that this would be more appropriate for maintaining the existing habitat values on this site and protecting community values and the public interest, while simultaneously allowing for the subdivision of the project site.

See responses to comments listed above regarding habitat. The comment does not raise any specific environmental issues. Therefore, no further response is required.

Kirsten West (WEST)

Response to WEST-1

The comment provides introductory remarks. No response required.

Response to WEST-2

The comment notes that protections are in place through zoning and other County protections. However, the comment requests clarification regarding why some of these protections are being waived.

As detailed in Draft IS/MND Section 1.4.1, Density Bonus, the State Legislature passed the State Density Bonus Law to require cities and counties to grant a density bonus and other incentives or concessions to housing development projects in which affordable housing is provided. Consistent with State law, the proposed project's inclusion of one moderate-income housing unit would allow for a 7 percent increase in density. Development on the project site at this density would be physically precluded by the minimum lot size, lot width, depth, retaining wall setbacks, and front and side yard setbacks for the R-15 zoning designation. As such, these standards would be waived for the proposed project in accordance with State law. It is important to note that the Density Bonus Law establishes mandatory requirements for the County and is entirely separate from CEQA. Under the Density Bonus Law, the County is precluded from applying any development standard that would prevent construction of the project unless the County can make specific public health and safety findings.

Response to WEST-3

The commenter asks why code-protected trees are being removed.

Project design includes the avoidance of approximately 30 percent of the on-site trees, all other trees will be removed and replaced. Mitigation Measure Biology 2 prescribes replacement of all trees removed from the on-site Valley Oak Woodland in-kind and on-site at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. This is consistent with the Contra Costa County Tree Protection and Preservation Ordinance implementation and practice.

Response to WEST-4

The comment requests clarification on why the proposed project would receive waivers that allow for housing units to be built on smaller lots than allowed by R-15 zoning standards.

See Response to WEST-2 regarding Density Bonus Law waivers.

Response to WEST-5

The comment requests clarification on why the proposed project would be permitted at a higher density if waivers are needed to reach said higher density.

See Response to WEST-2 regarding Density Bonus Law waivers.

Response to WEST-6

The comment states that the proposed project would waive the requirement to develop a sidewalk frontage on Grayson Road, only maintaining an existing bicycle lane. The comment asks why this would be allowed.

See Response to SHIKANY-8, SHIKANY-77, and SHIKANY-105 regarding sidewalk improvements on Grayson Road. See Response to WEST-2 regarding Density Bonus Law waivers.

Response to WEST-7

The comment notes that the proposed driveway length would cause vehicles to be parked along Grayson Road. The comment states that the proposed project's 14-foot setback allowance should not include the garage, and that a minimum 20-foot driveway should be included for each proposed lot to prevent parking on Grayson Road, which could potentially cause pedestrian and cyclist safety issues.

See Response to SHIKANY-8, SHIKANY-76, and SHIKANY-77, regarding cyclist and pedestrian connectivity and safety. See Response to HABERMAN-5 regarding proposed driveway sizes.

Response to WEST-8

The comment is concerned with the stated active hours for noise-generating activities on the project site. The comment requests a limit of 9:00 a.m. to 5:00 p.m. for on-site noise-generating activities on Saturday, and a weekday limitation on noise-generating activities from 8:00 a.m. to 5:00 p.m. The comment notes that prior projects in the County have had these restrictions.

See Response to SHIKANY-104 and HABERMAN-2 for information on noise-inducing activities.

Response to WEST-9

The comment summarizes prior points and provides concluding remarks. No response is required.



California Wildlife Foundation/California Oaks, 201 University Avenue, H-43 Berkeley, CA 94710, (510) 763-0282

December 20, 2023

Joseph W. Lawlor Jr, AICP
Contra Cost County Department of Conservation and Development
30 Muir Road
Martinez, CA, 94553

Transmitted via e-mail: joseph.lawlor@dcd.cccounty.us

Re: Grayson Road 10-Lot Subdivision, 1024 and 1026 Grayson Road, Pleasant Hill, CA 94523, County File #CDS20-0953, SCH No. 2022050245

Dear Mr. Lawlor:

The [California Oaks](#) program of the [California Wildlife Foundation](#) works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values. California Wildlife Foundation/California Oaks (CWF/CO) reviewed the October 25, 2023, letter regarding the appeal of the Zoning Administrator's decision to approve the Grayson Road 10-Lot Subdivision submitted by the Mohawk/Iroquois Neighborhood; the October 6, 2023, letter sent by Lisa Shikany; the October 2, 2023, Staff Report with attachments; and May 27, 2022, letter sent by California Department of Fish and Wildlife (CDFW). This letter contains comments regarding deficiencies of the environmental analysis and proposed mitigation for oak impacts of this ill-conceived project.

The conclusion that the proposed mitigation would result in a less than significant impact to trees does not meet the requirements of the California Environmental Quality Act (CEQA) and the mitigation plan is not in compliance with Public Resources Code Section 21083.4. The October 2, 2023, staff report addresses comments made in CDFW's May 2022 letter: "As detailed in the BRA Addendum, the proposed project's potential impacts to trees and Valley Oak Woodland have been adequately analyzed, adequate mitigation has been identified, and the proposed project would result in a less than significant impact to trees." CWF/CO disagrees with the conclusion that the analysis and mitigation is adequate. While the BRA Addendum identifies 1.18 acres of the site as Valley Oak Woodland (S3), the mitigation of this Sensitive Natural Community is insufficient.

The analysis is deficient in that it does not assess canopy cover and absolute percentages in upland areas or covering the channel of Grayson Creek. Further, the [Sensitive Natural Communities](#) page of the CDFW website notes: "Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents." CEQA Guidelines Section 15065(a) mandates

completion of an Environmental Impact Report if a project would threaten to eliminate a plant community. The BRA Addendum does not include the rigorous analysis of an EIR. Instead, it simply identifies approximately 1.18 acres of Valley Oak Woodland that the proposed project would remove, provides a revised mitigation measure that is acknowledged as less protective than what CDFW recommends, and argues that the proposed mitigation aligns with the county's Tree Protection and Preservation Ordinance.

Contra Costa County's tree protections do not override state protections for sensitive natural communities. The beginning of CDFW's letter clearly states that they serve as "... a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources." Should the Grayson Road Subdivision project proceed, the analysis of and mitigation for the impacts to the Valley Oak Woodland must adhere to the analysis and mitigation requirements of CEQA. The proposed 3:1 replacement formula is inadequate. As noted in CDFW's letter:

Trees should be replaced at a level that will offset: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of growth habitat structure and diversity. Trees planted need to be spaced in a manner that promotes their long-term growth habits, and that serves to replicate or enhance the state of which was disturbed.

The mitigation plan also lacks sufficient performance standards. Further, the suitability of the replanting scheme does not meet the requirements of CEQA to reach the less-than-significant threshold and will result in a net loss of oak woodland.

Lastly, Public Resources Code Section 21083.4 limits oak tree planting to half of the mitigation for oak impacts and requires mitigation trees planted to be maintained during a seven-year establishment period. Thus, the current plan's exclusive reliance on tree planting is out-of-compliance with this requirement. Further, it must include either the code's seven-year establishment period or the 10-year period recommended in CDFW's letter.

Greenhouse gas (GHG) impacts of proposed tree removals must be analyzed and mitigated.

The project's environmental analysis has no discussion of the GHG emissions of the proposed tree removals. Instead, it simply includes a table (page 139 of the October 2, 2023, staff report) that summarizes operational GHG emissions. California law requires the analysis and mitigation of greenhouse gas emissions associated with proposed oak woodland or forest conversions. CEQA's sole GHG focus is "the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions." Net present value of GHG emissions forms the foundation of the state's greenhouse reduction objectives, as well as the California Forest Protocol preservation standards. Every ton of carbon dioxide (CO₂) released into the atmosphere by oak woodland or forest conversion represents a measurable potential adverse environmental effect, which is covered by CEQA.

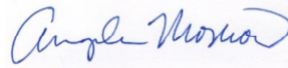
Root protection zones of native oak trees should be undisturbed. The root protection area, which is half again as large as the area from the trunk to the dripline of an oak, is critical to oak tree health. The analysis speaks about root zones but does not specify how the root zone is calculated. [Care of California's Native Oaks](#) provides additional information.

Thank you for your consideration of our comments.

Sincerely,



Janet Cobb
Executive Officer, California Wildlife Foundation
jcobb@californiawildlifefoundation.org



Angela Moskow
California Oaks Program Director
amoskow@californiaoaks.org

cc: Supervisor Candace Andersen, District 2, supervisorandersen@bos.cccounty.us
Michelle Battaglia, Senior Environmental Scientist, CDFW, Michelle.Battaglia@wildlife.ca.gov
Supervisor Diane Burgis, District 3, supervisor_burgis@bos.cccounty.us
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Lisa Shikany, lshikany@gmail.com
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Tiffany Yap, DEnv/PhD, Center for Biological Diversity, tyap@biologicaldiversity.org



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MEMORANDUM

To: Andy Byde, Calibr Ventures
From: Sadie McGarvey, Integral Consulting Inc.
Date: January 3, 2024
Subject: Grayson Road 10-Lot Subdivision Project – Response to California Wildlife Foundation Comment Letter

This memo has been prepared to respond to comments presented in the December 20, 2023 comment letter from the California Wildlife Foundation (CWF) regarding the Grayson Road 10-Lot Subdivision Project in unincorporated Contra Costa County, California. Responses were developed using information presented within the IS/MND circulated by Contra Costa County on March 24, 2023, as well as the Biological Resource Analysis Addendum for the Grayson Road 10-Lot Subdivision Project, Contra Costa County, California (prepared by Johnson Marigot Consulting, LLC, dated December 2022) (BRA Addendum), and the Response to Comments letter (RTC) provided to Joseph Lawlor of Contra Costa County on July 31, 2023.

Comments

Comment 1: While the BRA Addendum identifies 1.18 acres of the site as Valley Oak Woodland (S3), the mitigation of this Sensitive Natural Community is insufficient. *The analysis is deficient in that it does not assess canopy cover and absolute percentages in upland areas or covering the channel of Grayson Creek.*

Response 1: The BRA Addendum provides an analysis of acreage of valley oak woodland to be impacted by the proposed Project (1.18 acre), as well as the number of trees within the valley oak woodland proposed for removal as a result of Project activities (32 native and 8 non-native). While the arborist report did not include an assessment of canopy cover or “absolute percentages” for the onsite trees, this is not a requirement for tree assessments and is not standard practice for determining health and vigor of trees, or calculating impacts to onsite trees. Further, it is unclear what “absolute percentages” refers to as it is not defined in either the CDFW comment letter from which it was copied, or the CWF letter. Finally, an assessment of canopy in upland areas cover the channel of Grayson Creek is not necessary as no trees that provide canopy cover over Grayson Creek

will be impacted as part of Project activities (i.e., they are outside of the development footprint).

The sufficiency of the mitigation for impacts to valley oak woodland (as a Sensitive Natural Community) is further addressed in RTC Response to CDFW-3. In summary, mitigation for trees removed will occur in-kind and on-site at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. This is consistent with the Contra Costa County Tree Protection and Preservation Ordinance implementation and practice, and there is no ecological or other basis for concluding that this tree replanting is inadequate.

Comment 2: *Further, the Sensitive Natural Communities page of the CDFW website notes: “Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents.” CEQA Guidelines Section 15065(a) mandates completion of an Environmental Impact Report if a project would threaten to eliminate a plant community. The BRA Addendum does not include the rigorous analysis of an EIR. Instead, it simply identifies approximately 1.18 acres of Valley Oak Woodland that the proposed project would remove, provides a revised mitigation measure that is acknowledged as less protective than what CDFW recommends, and argues that the proposed mitigation aligns with the county’s Tree Protection and Preservation Ordinance.*

Response 2: Implementation of the Project would not result in elimination of existing plant communities - Mitigation Measures Biology-2 and Biology-7 require on-site replacement of trees removed and planting of Valley Oak Woodland species within all on-site undeveloped areas. This is further discussed in RTC Response to CDFW-3 and SHIKANY-27.

Comment 3: *Contra Costa County’s tree protections do not override state protections for sensitive natural communities. The beginning of CDFW’s letter clearly states that they serve as “... a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources.” Should the Grayson Road Subdivision project proceed, the analysis of and mitigation for the impacts to the Valley Oak Woodland must adhere to the analysis and mitigation requirements of CEQA. The proposed 3:1 replacement formula is inadequate. As noted in CDFW’s letter:*

Trees should be replaced at a level that will offset: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of growth habitat structure and diversity. Trees planted need to be spaced in a manner that promotes their

long-term growth habits, and that serves to replicate or enhance the state of which was disturbed.

Response 3: This comment reiterates the comments in the CDFW comment letter and is addressed in RTC Response to CDFW-3.

Comment 4: *The mitigation plan also lacks sufficient performance standards.*

Response 4: While the trees planted as mitigation are presumed to experience a very high survival rate due to the proximity to managed landscapes and ability to irrigate during the initial establishment period, monitoring and performance standards can be used to supplement Mitigation Measure Biology 2 to address this comment and any others referencing performance standards related to tree removals and replacement. Proposed performance standards language is below:

Annual monitoring of the mitigation trees shall be conducted by a qualified biologist during an initial establishment period. During annual monitoring, a minimum of 80% of the mitigation trees shall be alive and healthy (as demonstrated by growth and fruiting, as appropriate). If at any point during annual monitoring, survival and health drop below the minimum health requirement (80% healthy trees), an assessment of cause(s) for this health failure shall be provided by the qualified biologist, and remedial actions shall be implemented. If survival drops below 80%, trees will be replaced in-kind and at the same location, unless a different species or location is prescribed by the qualified biologist as part of remedial recommendations. Annual monitoring will occur up to 10 years, but may cease before then if the above success criteria are met during five consecutive years.

Comment 5: *Further, the suitability of the replanting scheme does not meet the requirements of CEQA to reach the less-than-significant threshold and will result in a net loss of oak woodland.*

Response 5: This comment is addressed in RTC Response to CDFW-3.

Comment 6: *Lastly, Public Resources Code Section 21083.4 limits oak tree planting to half of the mitigation for oak impacts and requires mitigation trees planted to be maintained during a seven-year establishment period. Thus, the current plan's exclusive reliance on tree planting is out-of-compliance with this requirement. Further, it must include either the code's seven-year establishment period or the 10-year period recommended in CDFW's letter.*

Response to CWF Comments
January 3, 2024

Response 6: The Project's adherence to Public Resources Code Section 21083.4 is addressed in RTC Response to SHIKANY-71. Monitoring and maintenance during the mitigation trees' establishment period are discussed above in Response 4.



Re: 01.10.2024 CPAGENDA

Lisa Shikany <lshikany@gmail.com>

Fri 1/5/2024 12:47 PM

To: Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

Cc: Ruben Hernandez <Ruben.Hernandez@dcd.cccounty.us>; Patrick King <pat.king@gmail.com>

Joe,

I see the County is dismissing all of our concerns, as expected, but still very disappointing to see the County continue to support a project that is so obviously damaging to the environment, the neighborhood and to the community.

I am wondering why there are NO public comments included in the staff report? I know you received several emailed comments from me during the ZA process and believe you received comments from others throughout this process. Why are those not included in the staff report like they were for the Walnut Creek project? I see the comments in that report go back to at least July! The PC must be provided all public comments or it looks like nobody cares, which you are well aware is not the case. This is just another reason for this hearing to be continued, so the PC can be provided a complete staff report.

I have not received an adequate response to my several emails requesting a rescheduling of the hearing due to lack of timely access to project information critical to the hearing. The only response I received was that the staff report would be available by 4:30 today. I am continuing to ask that due to the County's failure to provide timely access to the staff report (when the public notice was released, i.e. access to the staff report 10 days before the hearing), and now due to public comments not being included in the staff report, that the hearing must be rescheduled.

I am asking for a response to my concerns and request provided here, and in my previous emails to you and Deputy Director Hernandez sent January 1st, 3rd and 4th regarding these concerns and requests.

Thank you,

Lisa Shikany

On Jan 5, 2024, at 11:41 AM, Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us> wrote:

Please find the staff report for your project or appeal linked in the attached agenda.

Get [Outlook for Android](#)

From: Hiliana Li <Hiliana.Li@dcd.cccounty.us>

Sent: Friday, January 5, 2024 10:15:46 AM

To: Adrian Veliz <Adrian.Veliz@dcd.cccounty.us>; Anne Nounou <Anne.Nounou@dcd.cccounty.us>; Branka Tatarevic <Branka.Tatarevic@dcd.cccounty.us>; Brian Louis <brian.louis@pw.cccounty.us>; Cameron Collins <Cameron.Collins@bos.cccounty.us>; Cathy Remick <Cathy.Remick@dcd.cccounty.us>; Christine Louie <Christine.Louie@dcd.cccounty.us>; Cicily Briant <cicily.briant@dcd.cccounty.us>; Craig Standafer <craig.standafer@pw.cccounty.us>; Daniel Barrios <Daniel.Barrios@dcd.cccounty.us>; Danielle Pellegrini <Danielle.Pellegrini@dcd.cccounty.us>; Debi Melendres <Debi.Melendres@dcd.cccounty.us>; Deborah Preciado <Deborah.Preciado@pw.cccounty.us>; Demnlus Johnson <Demnlus.Johnson@bos.cccounty.us>; Diana Lecca <Diana.Lecca@dcd.cccounty.us>; Dominique Vogelpohl <Dominique.Vogelpohl@dcd.cccounty.us>; Eileen Koo <Eileen.Koo@dcd.cccounty.us>; Elizabeth Chebotarev <Elizabeth.Chebotarev@dcd.cccounty.us>; Everett Louie <Everett.Louie@dcd.cccounty.us>; Francisco Avila <Francisco.Avila@dcd.cccounty.us>; Grant Farrington <Grant.Farrington@dcd.cccounty.us>; Hendrik Van der Meulen <Hendrik.VanderMeulen@dcd.cccounty.us>; Hiliana Li <Hiliana.Li@dcd.cccounty.us>; Jamar Stamps <Jamar.Stamps@dcd.cccounty.us>; Jennifer Cruz <Jennifer.Cruz@dcd.cccounty.us>; Jocelyn LaRocque <jocelyn.larocque@pw.cccounty.us>; John Cunningham <John.Cunningham@dcd.cccounty.us>; John Kopchik <John.Kopchik@dcd.cccounty.us>; Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>; Joshua Elson <joshua.elson@dcd.cccounty.us>; Kellen O'Connor <Kellen.O'Connor@pw.cccounty.us>; Larry Gossett <Larry.Gossett@pw.cccounty.us>; Lashun Cross <Lashun.Cross@dcd.cccounty.us>; Lenard Uy <Lenard.Uy@dcd.cccounty.us>; Linda Guerrero <Linda.Guerrero@dcd.cccounty.us>; Lindsey Bazua <Lindsey.Bazua@dcd.cccounty.us>; Maria Lara-Lemus <Maria.Lara-Lemus@dcd.cccounty.us>; Maureen Toms <Maureen.Toms@dcd.cccounty.us>; Nai Saephan <Nai.Saephan@dcd.cccounty.us>; Robert Sarmiento <Robert.Sarmiento@dcd.cccounty.us>; Ross Hillesheim <rosshillesheim@gmail.com> <rosshillesheim@gmail.com>; Ruben Hernandez <Ruben.Hernandez@dcd.cccounty.us>; Ryan A. Hernandez <Ryan.Hernandez@dcd.cccounty.us>; Sean Tully <Sean.Tully@dcd.cccounty.us>; Sheila Whitson <Sheila.Whitson@dcd.cccounty.us>; Simone Saleh <Simone.Saleh@pw.cccounty.us>; Stanley Muraoka <Stanley.Muraoka@dcd.cccounty.us>; Stephani Hinman <Stephani.Hinman@dcd.cccounty.us>; Syd Sotoodeh <Syd.Sotoodeh@dcd.cccounty.us>; Joanne Chiu <Joanne.Chiu@dcd.cccounty.us>; Trish Dominguez <Trish.Dominguez@dcd.cccounty.us>; Vincent Manuel <Vincent.Manuel@bos.cccounty.us>; Will Nelson <Will.Nelson@dcd.cccounty.us>

Subject: 01.10.2024 CPAGENDA

The January 10, 2024, County Planning Commission agenda is attached.

Thank you,

Hiliana Li
Conservation and Development
30 Muir Road
Martinez, CA 94553
925-655-2860

<01.10.2024 CPC AGENDA.pdf>

Tree Questions

Lisa Shikany <lshikany@gmail.com>

Sun 1/7/2024 12:42 PM

To: Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

Cc: Ruben Hernandez <Ruben.Hernandez@dcd.cccounty.us>; Patrick King <pat.king@gmail.com>

Joe,

I sent you an email January 2 with questions about tree numbers, noting inconsistencies. You were going to look into them and resolve them, but I have not heard back from you. As I've been once again review things, I've realized there is a significant change in tree mitigation from the 2022 to the 2023 IS, and a significant issue regarding tree removal and mitigation that now exists.

The 2022 initial study called for all code-protected trees removed to be replanted as mitigation, natives 3:1 and non-natives 1:1. The current 2023 IS Bio 2 only calls for replanting of code-protected trees to be removed only from the riparian woodland and from the oak woodland. **Bio 2 does not identify trees to be removed from the mixed woodland, nor does it provide for replanting of the code-protected trees to be removed from the 0.65 acres of mixed woodland. Neither the 2022 or 2-23 IS identified the number of non-protected trees to be removed, nor mitigation for their removal, despite the fact they provide wildlife habitat, aesthetic enhancements, and their removal will increase GHG emissions.**

Tree report identifies 104 protected trees to be removed based on a tree count in the charts included in the tree report. While 4 trees are dead, they still need to be removed so are included in the 104 trees. It is unclear how the number of 97 trees to be removed noted in the text of the report was derived. Of these 104 trees, the following are natives:

Oak - 65

Buckeye - 3

Monterey Pine - 5

Coast Redwood - 3

Black Walnut - 6

Incense Cedar - 1

Willow - 2

Total: 85 trees to be removed

Replanting ratio 3:1 = 255 trees that should be required to be planted

The following are non-native:

Pear - 1

Mimosa - 1

Chinese Pistachio - 3

Eucalyptus - 3

Persimmon - 1

Siberian Elm - 6

Mulberry - 4

Total: 19

Replanting ratio 1:1 = 19 trees that should be required to be planted

Total replanting of 104 code-protected trees that should be required = 274 trees

The number of non-protected trees that are being removed and should be planted at a least a ratio of 1:1 is unknown; they are not identified or discussed in the IS.

2023 Bio 2 identifies 18 native trees to be removed from riparian woodland that require mitigation at a 3:1 ratio = 54 trees to be replanted

2023 Bio 2 identifies 32 native trees and 8 non-native trees to be removed within oak woodland that require mitigation at a 3:1 ratio = 96 trees to be replanted, and 8 non-native trees to be removed that require mitigation at a 1:1 ratio = 8 trees to be replanted, totaling 104 trees to be replanted

Total replanting per Bio 2 = 158 trees for the removal of 58 trees

Where 104 native and non-native code-protected trees are being removed from riparian woodland, oak woodland and mixed woodland, requiring 274 trees to replanted, only 58 code-protected trees being removed from riparian and oak woodland are proposed for mitigation by planting 158 trees per Bio 2. This leaves 46 code-protected trees, presumably in the mixed woodland, to be removed without mitigation that should require the planting of 116 trees.

Please clarify what is going on with your trees counts and mitigation.

Please explain why the county dropped mitigation for all protected trees in the 2023 IS. Clearly there are oaks, along with other natives, being removed from the mixed woodland with no mitigation required and no justification provided for this lack of mitigation.

Please explain why non-protected trees were not inventoried and identified. Their removal impacts wildlife habitat, aesthetics, GHG emissions, etc.

I would really like to understand what's going on, and if any changes are going to be made to address what is clearly a significant issue before the hearing. If I'm missing something in the IS that explains this, please let me know.

Thank you,

Lisa

Re: Staff Report Concerns

Lisa Shikany <lshikany@gmail.com>

Sun 1/7/2024 8:47 PM

To: Ruben Hernandez <Ruben.Hernandez@dcd.cccounty.us>; Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

Cc: Patrick King <pat.king@gmail.com>

One more important note, the appeal letter did NOT state that the actual allowed density should be 4 lots when considering density bonus law, yet this is what the staff report implies. This is a particularly egregious misrepresentation of what the appeal letter says. What the letter says is that the correct density for this property would be 4 lots when considering the access road and environmental conditions, but the applicant is utilize the density bonus law to increase the density by 150%.

> On Jan 7, 2024, at 8:32 PM, Lisa Shikany <lshikany@gmail.com> wrote:

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> Gentlemen,

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> I am extremely upset about how the staff report addresses the appeal letter. It misinterprets, mischaracterizes, misrepresents or completely avoids many of the issues raised. Many hours were spent preparing this letter, yet it appears not a lot of time or thought went into actually comprehending, restating and addressing the concerns expressed in the letter. Here are a few examples:

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> There is no discussion regarding the fact that the appeal letter expressed concern regarding the location of construction fencing in CDFW jurisdiction without their authorization. Instead, the staff report discusses county fencing requirements that are not the issue.

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> The appeal letter did not state the County should be responsible for enforcing other agencies regulator authority. The appeal letter stated that if the County relies on another agency's permit to mitigate significant impacts, the County must ensure the permit is obtained or the mitigation inadequate. The letter said nothing about enforcing another agency's permit requirements. The County continues to rely on a CDFW SSA as mitigation without requiring the applicant to obtain the agreement. The staff report even notes there is no reason to believe the required permits will not be obtained, even after the applicant neglected to get an SSA for the construction fencing and tree removal on the bank of Grayson Creek, neglected to obtain a grading permit, and stated at the ZA hearing he needed no authorization from the Waterboard to implement his project.

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> There is no discussion regarding the creek bank erosion issue raised in the letter.

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> The staff report states the appeal letter raised the issue of sedimentation impacts to Grayson Creek, which misrepresents the issue raised in the appeal. Rather, the issue raised was the impact of reduced stormwater runoff into the creek due to collected and redirected stormwater flows, given that increased stormwater flows into creeks during winter months facilitate clearing sediment from creek channels.

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> The concern expressed in the appeal letter about lighting is completely mischaracterized and misrepresented. The concern expressed in the appeal letter is that the restriction of lighting to "within the project site" does not mitigate lighting impacts to the riparian corridor and creek because the project site includes these areas. Instead, the discussion goes on about many other things except the specific issue that was raised that requires a simple change in language.

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> The appeal letter acknowledged the County and applicant's assurance that no ADUs were included in the project, yet the plans that were approved contained ADUs, and no condition of approval was added to remove ADUs. The staff report response characterizes the appeal letter concern as ignorant, which it clearly was not given the additional explanation. There was no way of knowing the plans were resubmitted without ADUs. Further, the staff report neglects to address the statement that given the excessive density of the project, ADUs should be prohibited.

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> The appeal letter's noise impact concerns are completely misrepresented. One concern raised in the letter was the inconsistency between the construction noise mitigation measure and the more restrictive condition of approval, and the

need to make them consistent. Another inconsistency mentioned was the fact that Mitigation Measure Noise 1 was included despite the initial study indicating temporary or permanent noise is less than significant without mitigation. The construction hours included in this measure would have resulted in a significant construction noise impact, yet those hours remain in the IS and MMRP as less than significant. Finally, the appeal letter discusses concerns regarding noise that will be generated by future homes, and concerns about deficiencies in the noise analysis, none of which was addressed in the staff report.

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> The staff report says that the appellant states waivers can be denied due to environmental impacts. This mischaracterizes what the appeal letter says, which is that due to the significant unmitigated environmental impacts that violate CEQA, impacts that are due to the density bonus, concession and waivers being granted, the project should be denied. Taking shortcuts in describing the concerns expressed in the appeal letter misrepresent what the letter says.

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> The staff report frontage requirements discussion misrepresents the transportation concerns expressed in the appeal letter. The letter discusses the 150 feet of sidewalk across Grayson required by the ZA, but without a crosswalk does nothing to increase public safety for residents of the subdivision, and discusses the need for a crosswalk and other amenities to create a safe way to cross the street. The appeal letter discusses the applicability of a mitigation measure in an MND that an applicant refuses to comply with, given that the applicant refused to accept the ZA sidewalk addition to address public health and safety. Further regarding transportation, the appeal letter pointed out inconsistencies in sidewalk widths within the ZA staff report and project information. None of this was discussed in the staff report.

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> Regarding density bonus interpretation, the appeal letter specifically stated that the community is entitled to understand the extraordinary benefits to the applicant and the extraordinary environmental, financial, health and safety, and community impacts and costs which have not been adequately acknowledged and characterized by the County. The community is entitled to this information and the County should provide it. The staff report completely ignores this issue.

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> There are also misstatements of fact and missing information resulting in an incomplete the staff report.

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> The number of trees requiring mitigation must be revised and tree number inconsistencies resolved per my previous email sent before the staff report was released. I note the misstatement in the appeal letter that 158 trees will be removed.

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> The California Wildlife Foundation letter was not included in the staff report, nor discussed. must be included and discussed.

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> All public and agency comments received throughout the entire review process must be included, as this is a de novo hearing. None were included.

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> The statement that the riparian corridor would remain largely untouched except for riparian tree removal and replanting is not true. The riparian corridor will be significantly impacted by the planting of at least 158 trees, including trees removed from oak woodland and riparian corridor, but not yet including trees removed from mixed woodland that must also be mitigated, for a total of 274 trees that require planting. This circumstance of not addressing tree removal and mitigation for the mixed woodland corridor must be remedied.

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> The statement that Density Bonus Law establishes mandatory requirements and is entirely separate from CEQA is not factual. A project that utilizes this law cannot violate CEQA by virtue of using the law. This is a very misleading statement and should be removed.

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> There does not appear to be a condition or mitigation measure requiring the infill section of sidewalk. Was it removed as a requirement, and if so, this is not made clear and should be very specifically acknowledged.

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> There are too many things piling up to allow this project to move forward on January 10th. There is no time for the public to address the arguments and conclusions in the staff report given the time frame in which we received the report, given the complexity and controversy associated with this project. The staff report does not adequately convey the issues raised in the appeal letter and must be modified in fairness to the appellants. The staff report is woefully incomplete;

several missing elements must be added before it is rereleased. I am asking once again that this hearing be continued to allow a sufficient public review and comment period and to address the numerous issues raised in this and previous emails.

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> Please respond to this email and request immediately, as time is growing short.

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> Thank you,

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> Lisa Shikany

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Tree numbers

Lisa Shikany <lshikany@gmail.com>

Sun 12/31/2023 3:30 PM

To: Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>

Cc: Patrick King <pat.king@gmail.com>

Joe,

Inconsistencies in the numbers of trees to be removed and to be planted as mitigation have come to light.

The Tree Mitigation Plan states the following:

84 trees removed that require 3:1 mitigation. Calls for planting of 252 15 gallon trees. Then states 158 trees provided: 67 24-in. box size, 63 15-gallon, and 32 5-gallon.

The following is excerpted from the IS/MND:

All trees removed from the on-site riparian woodland shall be replaced in-kind and on-site to the greatest extent practicable at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. A total of 18 native trees within the riparian woodland community are scheduled for removal – these trees would be replaced with approximately 54 native riparian woodland tree species including valley oak, coast live oak, California buckeye, and black walnut. A replacement tree planting plan shall be approved by the County along with landscape plans prior to issuance of building permits.

All trees removed from the onsite valley oak woodland shall be replaced in-kind and onsite at a 3:1 ratio for native trees, or out-of-kind at 1:1 ratio for non-native trees, to be replaced with native trees. A total of 32 native and 8 non-native trees within the valley oak woodland community are scheduled for removal – these trees shall be replaced, onsite, with approximately 104 native valley oak woodland tree species such as valley oak, coast live oak, blue oak, California black oak, interior live oak, California buckeye, and/or California bay laurel.

The updated biological report states:

Section 7.2 Riparian Habitat states that 84 trees will be removed including natives species such as oaks, walnut and buckey. The report concludes that a total of 130 trees > 6” in diameter were inventoried, with 97 trees needing to be removed to accommodate the proposed project. When I counted the trees labeled to be removed in the tables in the updated bio report, it totaled 104, including:

- oaks - 65 (one of which was not labeled save or remove, so I assumed removal based on location)
- pear - 1
- California buckey - 3
- Monterey pine - 5
- mimosa - 1
- Chinese pistachio - 3
- coast redwood - 3
- eucalyptus - 3
- persimmon - 1
- black walnut - 6
- incense cedar - 1
- Siberian elm - 6
- willow - 2
- mulberry - 4

It would appear that the County's determination of 58 trees to be removed is significantly lower than what will actually be removed according to the biological report, so please explain this number. It also appears that there are inconsistent

tree numbers to be removed included in the IS/MND, biological report and mitigation plan. The IS/MND claims that 158 trees are required to mitigate the loss of 58 trees, yet the planting plan identifies the need for 252 trees but provides only the 158 called for in the IS/MND. **Please clarify how many trees will be removed and how many will be planted as the County's proposed mitigation. Please explain the inconsistencies I have identified above. Please explain the numbers in the IS/MND - where they came from and if the County still believes they are correct. Also, please point out where in the biological report and the IS/MND the explanation is presented regarding how the proposed mitigation will compensate for the permanent loss of 2 acres of oak and mixed woodland habitat and the permanent loss of 2 acres of wildlife habitat.**

Please note that the following statement in the appeal letter regarding the number of trees is incorrect in terms of tree numbers: *Without adequate performance standards, the determination of adequate mitigation for oak and riparian woodland and other destroyed trees (158 in total, 97 of which are code protected) has been deferred to a future unknown planting plan, which is illegal pursuant to CEQA.* The 158 appears to be the number of trees that will be planted as mitigation for 58 trees to be removed according to the IS/MND, and 97 is the number of trees over 6-inches DBH to be removed according to the biological report. The statement remains true despite the incorrect tree numbers. Given the inconsistencies in tree numbers described above, I'm not certain what the numbers should have been, but if the numbers are simply eliminated, the statement remains truthful and relevant.

I would appreciate a prompt response to my questions in bold above, as time is growing short.

Regards,

Lisa Shikany

Dear County Building Department Members,

I am speaking in support of the proposed 10-lot subdivision project in our neighborhood. My name is Spencer MacKinnon, and I have been a member of this community since 1984. The prospect of a new housing development brings about a fresh and vibrant transformation to our locality, and I believe it is a positive step forward for our community.

Our neighborhood boasts homes with an average age ranging from 35 to 75 years old. While the charm of these residences is undeniable, introducing new housing will undoubtedly rejuvenate the area and provide a modern aesthetic. I am excited about the opportunity to welcome new families into our community, that I have enjoyed for nearly four decades.

Over time, neighborhoods can risk being perceived as outdated, and I believe this project will play a crucial role in revitalizing our community's image. By embracing change and progress, we can ensure that our neighborhood remains a vibrant and desirable place to live. This development is an investment in the future, ensuring that our area is recognized not only for its history but also for its ongoing growth and vitality.

Furthermore, I recognize the economic benefits that accompany new housing developments. The influx of new residents will bring in fresh income, supporting our regional economy. This, in turn, will have a positive impact on local businesses such as Zio Fradeo's, Produce King, The Little Red Bistro, Sherry's Kitchen, and many others. By fostering economic growth, we contribute to the sustainability and prosperity of our beloved community.

In conclusion, I wholeheartedly support the 10-lot subdivision project and believe it will create a positive impact on our neighborhood. I encourage the County Building Department to consider the long-term benefits it will bring to our community, not only in terms of aesthetics but also in terms of economic growth and vitality. I am confident that this development will contribute to the ongoing success and appeal of our neighborhood.

Thank you for your time and consideration.

Sincerely,

Spencer MacKinnon

