Letter 5

Communication
RECEIVED
MAR 07 2011
MORAGA PLANNING DEPT.

March 7, 2011

Planning Department
Town of Moraga
329 Rheem Boulevard, Suite 2
Moraga, CA 94556

Re: Proposed Hetfield Project; Draft EIR dated January 14, 2011

To: Moraga Planning Commission and Moraga Planning Department

I am writing to express several concerns I have with the recently submitted Draft EIR for the proposed Hetfield Estates project. My family and I currently reside in a residence that would be directly impacted by the construction on the hill behind our house. Having lived in this location for several years and spent significant amount of time exploring the open space I have concerns that this land is steep and too unstable for the proposed development. For years this land was zoned high risk and only in recent times was this designation changed. I feel there are a multitude of factors that make this project and accompanying DEIR unacceptable. 5-1

The proposed development does not fit in with the Town's general plan and does not live up to the spirit of MOSO. This development does not just fit into existing buildable areas; the area would have to be extensively altered to accommodate the proposed development. The extensive amount of earth-altering grading that is necessary to build on this sight is staggering in volume and the full magnitude will not be fully known until the destruction of the pristine hillside has begun. If the grading continues as proposed problems will simply be dealt with as they arise and may be extensive and result in the movement of massive amounts of earth. This was the case with the Vista Encinos project where the extent of the grading triggered unforeseen slides and much more extensive work than was ever proposed. This "dig now and figure it out later" method of construction seems completely irresponsible in any area, let alone on a hillside with the potential to impact so many other residents in the area. Again this does not seem to live up to the spirit of MOSO. 5-2

The Vista Encinos project on the other side of the hill from the proposed development has a staggering amount of similarities. The similar landscapes, same developers, and same methods of construction make the likelihood of a similar outcome all but a foregone conclusion. To date the Vista Encinos project has sat as a vacant eye-sore and provided no new housing or source of sustained revenue to the Town. Promises that were made about tree screens and other mitigating factors have lapsed and the project changed hands enough times that the original proposing developer is of no recourse. How can the developer proposing the current project assure the Town that they will not immediately sell this to a less reputable firm and have history repeat itself at the expense of the nearby residents and Town as a whole? 5-3

Despite being down-played in the DEIR there have been significant floods in recent history in the Larch creek area. Excavating, grading, and paving a significant portion of the hillside will undoubtedly cause a change in the way water is absorbed and discharged from this site. Our concern besides the damage to the creek and surrounding wetlands is the possibility of catastrophic conditions that could result from the unforeseen movement of earth and water in a dramatic weather event. This project seems to have the potential to open the Town up to tremendous liability in a worst-case scenario. The proposed development will need to carry large amounts of bonds or insurance to cover the un-thinkable. No where in the DEIR was a monetary break-down of who would cover what and in what dollar amounts? If future homeowners on the proposed site will be responsible will this make insurance and HOA's so costly that the project sits vacant like Vista Encinos? We urge the Town to examine the potential liability of this project now and down the road and determine if the risks are worth the potential of a relatively small amount of tax revenue.

5-4

Finally, we are concerned about the potential damage to Sanders drive as a result of the large amounts of heavy equipment and unknown amounts of dirt being moved to and from the site. As is evident driving on Sanders the street is already in need of attention and any additional strain would have a significant impact. The DEIR does not quantify the number of truck trips up and down Sanders and how this potential damage would be mitigated and repaired.

5-5

In summary we urge the Planning Commission to consider all of these factors when examining the proposed DEIR. We understand the Town has needs in terms of revenue and housing, but feel the proposed development is not in keeping the spirit of the Town or MOSO and its potential risks and impacts out-weight its merits.

Sincerely,

Malcolm and Lena Cooper
1160 Sanders Drive
Moraga, CA 94556

LETTER
5
RESPONSE

Malcolm and Lena Cooper
March 7, 2011

5-1 **Comment:** States that the site had been designated high risk for years but that designation has changed. There are a multitude of factors that make project and DEIR unacceptable.

Response: Refer to Response to Comment 3-2 regarding the "High Risk" designation.

5-2 **Comment:** States that the development does not fit in with Town's general plan and does not live up to spirit of MOSO; nor fit into existing buildable area. Extensive problems will arise due to grading of site and movement of massive amounts of earth.

Response: Refer to Responses to Comments 4-12 and 4-13 regarding grading methods for the project and the formation of a GHAD. Also refer to the ERATA regarding changes in Mitigation Measure 3.2-6 regarding the inclusion of the open space in the GHAD.

A discussion of the project's consistency with the MOSO guidelines and the General Plan is included throughout Chapter 3.4 of the DEIR. The Planning Commission will make the decision as to whether the project is considered consistent with the General Plan and MOSO guidelines. Commenter should also refer to a discussion of MOSO and General Plan consistency in Response to Comments 3-1, 3-2, and 3-3.

5-3 **Comment:** Project is similar to Vista Encinos project; the site is an eyesore and the outcome of Hetfield could be similar to Vista Encinos.

Response: Comments noted regarding the Vista Encinos project; however, these comments do not question the adequacy of the EIR. The EIR responds to specific comments on the contents of the EIR document and not to other projects that have been approved by the Town.

5-4 **Comment:** Concerned that the potential of catastrophic damage may make the proposed project too expensive.

Response: The 100-year storm is the standard for protection of life and property throughout the United States. More severe storms are possible; some years ago, there was a storm with a recurrence interval between 500 and 1,000 years in Walnut Creek, California. However, the project applicant is providing the accepted standard of protection as required by county and federal agencies. Determining who would be held liable in the event flooding would occur is not relevant to addressing the adequacy of the EIR.

5-5 **Comment:** Concerned about damage to Sanders Drive from truck traffic during construction.

Response: As shown on the Tentative Map, the dirt will be balanced on site. There will be no off hauling of dirt; therefore, the number of truck trips would be limited to those used on site. The Town can impose a standard condition of approval that the applicant must repair any damage to the streets as a result of the construction activities. This is typically done by taking photos of existing conditions and returning the streets to pre-development conditions after the project has been completed.

Letter 6

Communication
RECEIVED
MAR 07
MORAGA PLANNING DEPT

March 7, 2011

Planning Department
Town of Moraga
329 Rheem Boulevard, Suite 2
Moraga, CA 94556

Re: Draft Hetfield EIR dated January 14, 2011

To: Moraga Planning Commission and Moraga Planning Department

Upon review of the Hetfield Estates DEIR dated January 14, 2011, I would like to take this opportunity comment on the point made on pages 3-41 and 3-42:

"At the public hearing for the Initial Study/Proposed Mitigated Negative Declaration for the Hetfield Estates project, testimony was received that flooding had occurred in 2002 and 2006 in the backyard of the house at 1112 Sanders Drive. However, the Contra Costa County Flood Control and Water Conservation District has no records of flooding complaints for Larch Creek (Boucher, 2010). Over the past two decades or so, the Town of Moraga has not received any complaints about flooding in the vicinity of the proposed project site (Blatner, 2010). Landscaping and backyard improvements at the existing houses on the south side of Sanders Drive have substantially altered the natural conditions along the northern bank of Larch Creek."

I would like to first express my disappointment and frustration at the suggestion that there was not a flood in our backyard at 1112 Sanders Drive simply because we did not report the flood to the agencies listed above. We were not aware of these agencies nor the protocol of reporting flooding complaints to the town or county. There may not have been complaints with the Town of Moraga about flooding in the vicinity of the site, but we feel we've provided obvious visual evidence that flooding has occurred. Had we reported our flood complaints, what would be different? Additionally, while flooding complaints may have not been received by the Town of Moraga over the past two decades, when we purchased the house in 2002, flooding of creek was identified in the real estate disclosures. 6-1

Also, please note that the first picture that was displayed during the public hearing was taken in 2002 and showed the Larch Creek overflow before any backyard improvements were made. The second picture displayed was taken in 2006 and shows the overflow of the Larch Creek after we had the backyard area graded and the elevation brought up so that the water would not be retained on the area. The photos are attached to this email for your review. Since the flood in 2006, after we enhanced our backyard, we did alter the northern bank of Larch Creek by placing rip rap along on our property along the curve of the creek to restrain further flooding. In no way do the improvements we made to our backyard increase the likelihood of flooding on our property or elsewhere. On the contrary – we have enhanced our property to restrict further flooding from the natural flow of the Larch Creek. 6-2

Also, the DEIR states (at page 3-41) that FEMA "shows the water surface of Larch Creek opposite Carr Drive at elevation of 516 feet during the 100-year storm event." Should the project be approved, and should we see flooding more than once every 100 years, which your models don't consider, it would appear that any damage to our property, from excavation and runoff from the hillside, would be a direct result of the developer's modification of the hillside. Should this happen, please explain who will be responsible for paying for the damage it may cause? 6-3

Lastly, we are very concerned that the project includes a water detention basin (Page 3-52) and that it will discharge through Larch Creek. Will you please define what a "less-than-significant impact" would look like? Would water seepage and silt deposits on our property that destroy our landscaping be considered "less-than-significant"? Should our landscaping be affected, who will be financially responsible for the repair? 6-4

Thank you, in advance, for taking in to consideration our concerns and for taking the time to respond to our specific questions.

Sincerely,

Lynne Fiorindo Gregory C. Fiorindo

Lynne & Greg Fiorindo
1112 Sanders Drive

Florindo Backyard - 1112 Sanders Dr. 2002

LETTER
6
RESPONSE

Lynne and Greg Fiorindo
March 7, 2011

6-1 **Comment:** Concerned about no recognition of testimony regarding flooding of Larch Creek.

Response: Photographs provided by the commenter, indicate that flooding did occur in the commenter's backyard. The photographs confirm that high water levels in Larch Creek did occur during those years. These photographs show that the existing creek channel does not have sufficient capacity to convey flows resulting from large storms. However, these photographs do not affect the conclusions of the DEIR analysis.

The proposed project would not exacerbate the existing conditions. The project's storm drain system, with its detention basin, is designed to limit the rate of flow from the project site to pre-development flow rates in conformance with Contra Costa County's Clean Water Program's C.3 Guidelines. It is true that a portion of the runoff from the project site would be concentrated at the detention basin outlet rather than being spread out along 431 feet downstream from the outlet. This change should not result in increased flooding from storms as large as the 100-year storm (a storm that has a one-percent chance of occurring every year). If this is a serious concern, a condition of approval could require the development, through its Joint Maintenance Agreement, to clean the channel of accumulated debris and overgrowth every fall.

6-2 **Comment:** States that backyard improvements at 1112 Sanders Drive do not increase likelihood of flooding in Larch Creek.

Response: Although Mills Associates has not visited the back yard at 1112 Sanders Drive, it is assumed that the riprap that has been installed to protect the property from further erosion does not reduce the flow capacity of Larch Creek at that location.

6-3 **Comment:** Questions who would be responsible for damage resulting from large storms.

Response: The 100-year storm is the standard for protection of life and property throughout the United States. More severe storms are possible; some years ago, there was a storm with a recurrence interval between 500 and 1,000 years in Walnut Creek, California. However, the project applicant is providing the accepted standard of protection as required by county and federal agencies. Determining who would be held liable in the event flooding would occur is not relevant to addressing the adequacy of the EIR.

6-4 **Comment:** Questions who would be responsible if "less-than-significant" impacts damage landscaping at 1112 Sanders Drive.

Response: The reader is referred to the "CEQA Significance Criteria" on page 3-44 of the EIR. See also Response to Comment 6-3.

Letter 7

Communication
RECEIVED
MAR 07 2011
MORAGA PLANNING DEPT.

Planning Department
Town of Moraga
329 Rheem Boulevard, Suite 2
Moraga, CA 94556

Re: Proposed Hetfield Estates Project: Draft EIR dated January 14, 2011

To: Moraga Planning Commission and Moraga Planning Department

I am writing concerning the draft Environmental Impact Report (DEIR) that was prepared by Mills Associates for the Town of Moraga, dated January 14, 2011, regarding the proposed Hetfield Estates Project. I live at the opposite end of Hetfield Place (335) and have recently lived through the repair of a landslide on the slope behind my house and major repairs to my house. This has given me a practical perspective on the uncertainty and risks surrounding a project such as Hetfield Estates. A brief recap of the history of the slide repair behind my home will illustrate this.

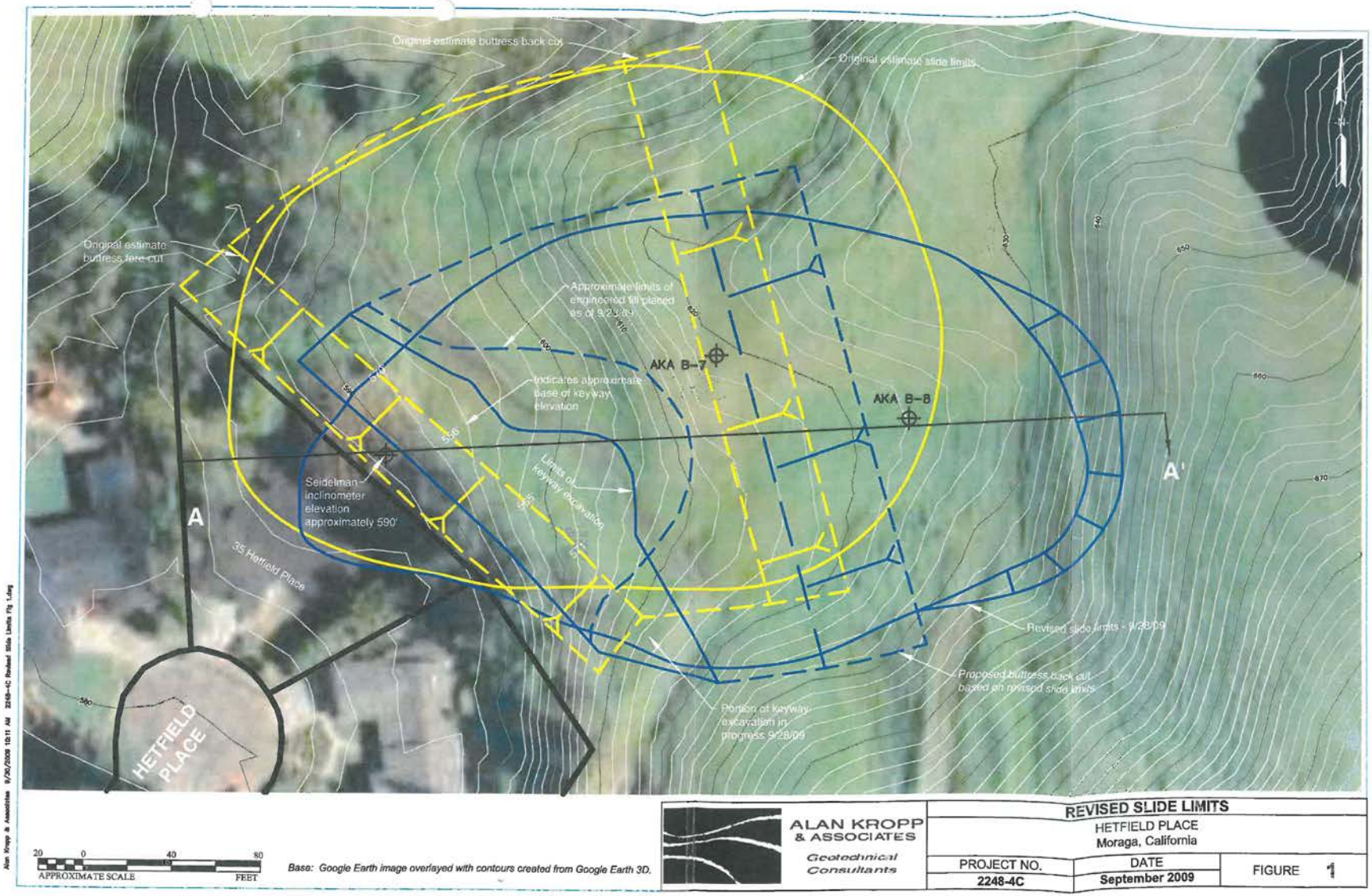
The slide was studied for over a year with three borings installed by Seidelman Associates and Alan Kropp and Associates, two reputable and highly regarded firms. The repair work was done by Engineered Soil Repairs, one of the most highly regarded firms in the Bay Area for this type of work. Yet, despite the study period ahead of time, the borings to 25 feet in depth, and the careful and detailed design, the project encountered two major issues.

First, the slide was a different shape and in a somewhat different location than was thought. This is shown on the attached color copy. A repair that was originally scheduled to be 3-4 weeks in duration instead took from August 25 through November 1, 2009, or 10 weeks. Secondly, during the repair, there was an unexpected failure that caused a large wedge (about 30 feet wide) of soil to collapse into the excavation. (See Figure 2, black and white copy). This failure endangered my house and an emergency installation of 12 stitch piers was required before work could continue. These piers are 28 feet deep, 18 inches in diameter, and have a 25 foot long steel beam down the center of each one, with concrete filling the remaining space.

Having seen firsthand the uncertainty and risks that accompany a large project in the unstable hillsides of the neighborhood, it is important that the developers be required to post a suitable bond in connection with the grading and the construction of the new homes. The neighboring homeowners need to be protected from the large potential liabilities if similar issues arise during the Hetfield Estates project. The developer also must be required to do sufficient work to leave the land in stable condition if the scope of the required excavation and slide repair exceeds what is expected to such an extent that the developer decides to abandon the project. Again, this can be ensured with the use of a suitable bond. As I have learned, the geology is an inexact science, and even hiring the best expertise available and gathering data in advance is no guarantee that all will go as planned.

7-1

Catherine Jarett
35 Hetfield Place
Moraga, CA 94556


Original estimate buttress back cut
Original estimate slide limits
Original estimate buttress fore cut
Approximate limits of engineered fill placed as of 9/29/09
AKA B-7
AKA B-8
Indicates approximate base of keyway elevation
Limits of keyway excavation
Seidelman inclinometer elevation approximately 590'
A
A'
35 Hetfield Place
HETFIELD PLACE
Revised slide limits - 9/28/09
Proposed buttress back cut based on revised slide limits
Portion of keyway excavation in progress 9/28/09
20 0 40 80
APPROXIMATE SCALE FEET
Base: Google Earth image overlayed with contours created from Google Earth 3D.
ALAN KROPP & ASSOCIATES
Geotechnical Consultants
REVISED SLIDE LIMITS
HETFIELD PLACE
Moraga, California
PROJECT NO. 2248-4C
DATE September 2009
FIGURE 1

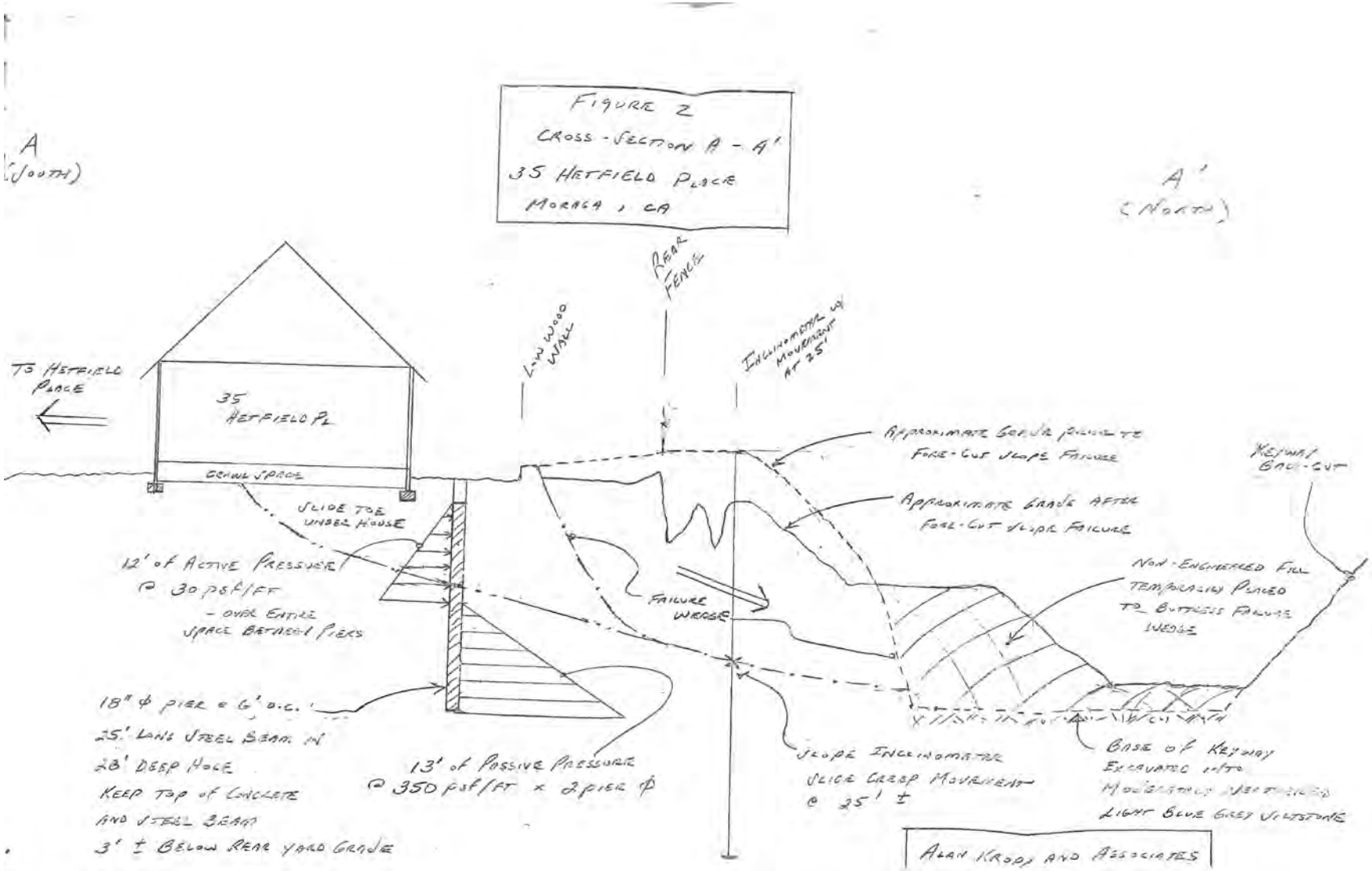


FIGURE 2
CROSS-SECTION A - A'
35 HETFIELD PLACE
MORAGA, CA
A
(SOUTH)
A'
(NORTH)
TO HETFIELD PLACE
35 HETFIELD PL
CRAWL SPACE
SLIDE TOE UNDER HOUSE
REAR FENCE
L-W WOOD WALL
INCLINOMETER W/ MOVEMENT AT 25'
APPROXIMATE GRADE PRIOR TO FOR-CUT SLOPE FAILURE
APPROXIMATE GRADE AFTER FOR-CUT SLOPE FAILURE
KEYWAY CAT-CUT
12' of ACTIVE PRESSURE @ 30 psf/FT - OVER ENTIRE SPACE BETWEEN PIERS
FAILURE WEDGE
NON-ENGINEERED FILL TEMPORARILY PLACED TO BUTTRESS FAILURE WEDGE
18" ϕ PIER @ 6' O.C.
25' LONG STEEL BEAM IN 28' DEEP HOLE
KEEP TOP of CONCRETE AND STEEL BEAM 3' ± BELOW REAR YARD GRADE
13' of PASSIVE PRESSURE @ 350 psf/FT x 2 PIER ϕ
SLOPE INCLINOMETER SLICE CREEP MOVEMENT @ 25' ±
BASE of KEYWAY EXCAVATED INTO MODERATELY WEATHERED LIGHT BLUE GREY VOLCANICS
ALAN KROOB AND ASSOCIATES

LETTER
7
RESPONSE

Catherine Jarett
(no date)

7-1 **Comment:** States that the developer should post an adequate bond in connection with grading and construction of the new homes as an additional measure for hazards associated with unstable geologic conditions.

Response: As a condition of approval, the Town will require the applicant to post bonds to ensure completion of the site improvement work. As a point of clarification, bonds are not appropriate to address applicant's potential liability for harm to persons or property. The applicant will be required to provide evidence of adequate liability and other insurance. The GHAD will bear ongoing responsibility for maintenance and repair of geological hazards on the property.

Letter 8

8 March 2011

To: Members of the Planning Commission: Jim Obsitnik, Russell Driver, Stacia Levenfeld, Bruce Whitley, Dick Socolich, Tom Richards and Roger Wykle

RECEIVED
MAR 1 4 2011
MORAGA PLANNING DEPT.

From: Walter Klippert, 27 Hetfield Place, Moraga, CA 94556
Re: Hetfield Estates DEIR Comment Letter

Dear Planning Commission Members,

My name is Walter Klippert. I have been a resident of 27 Hetfield Place, Moraga, since April 1973.

This is an update of my EIR letter to the planning commission of 2 April 2009.

Observations about the land in the Hetfield Estates area.

The behavior of the land in the general area of Hetfield Estates is hard to predict. The Hetfield Estates area has changed actively over time. I have observed changes while walking along the trails since 1973. It is clear from the data, *especially the rainfall data*, that we must take great care before approving construction in this delicate landscape.

Vegetation
In 1973 the hills were covered with wild artichokes, and the canyons had many smaller trees. Now the artichokes have disappeared. Yellow Star Thistle, a nasty, sharp-spined invasive weed has replaced them. Sudden Oak Death has taken some of the trees in the canyons. The growth in the canyons is much larger now than it was in 1973.

Animals
In 1973 the hills contained large groups of Red-winged Blackbirds. Deer were less dense. There were no coyotes or turkeys. Once in a while I would see a rattlesnake. After Sanders Ranch was built, the deer increased, and coyotes appeared. The Red-winged Blackbirds disappeared. Now we have turkeys, coyotes, feral pigs and many more deer. There are no rattlesnakes or Red-winged Blackbirds. Ravens, Stellars Jays, and many more rats and squirrels are present. Sanders Drive residents report seeing an occasional bobcat in the Hetfield Estates area.

8-1

Wildfires
Only one wildfire has affected the Hetfield Estates area since 1973. Sanders Drive residents already have reported about it. The wildfire burned an extensive area at the upper end of the proposed project. The size of the vegetation in the canyons in the surrounding hills suggests an absence of wildfire for a long time.

Landslides
The land never stops moving. As I've rambled over the past 36 years, I've seen hundreds of small slides. Sanders Drive residents already reported the slides in the Hetfield Estates area. The surrounding land is very active, too. About five years ago the landslide that nearly destroyed Catharine Jarrett's residence at 31 Hetfield Place was a complete surprise. About 35 years ago there was a small landslide into the creek behind my house. Around 45 years ago there were landslides behind the houses on the southeast side of Hetfield Place, where there is a large concrete ditch and drain now.

Flooding

Sanders Drive residents already reported the floods in the Hetfield Estates area. The variation in local rainfall is huge. I have recorded rain at my back yard gauge since 1975. Here are some selected rain years. A rain year begins August 1 and ends July 31.

Rainfall Recorded at 27 Hetfield Place, Moraga, CA

Rain year	Total rainfall (inches)
1976 – 1977	11.4
1981 – 1982	54.5
1982 – 1983	58.2
1997 – 1998	61.8
2006 – 2007	21.6

8-2

The average annual rainfall has been 34.1 inches.

Since 2006 rainfall has been much lower than average. Rainfall in 2007 – 2008 was lower than 2006 – 2007. Rainfall in 2008 – 2010 was well below average. This year has been a little higher, but it is likely to be below average. Notice that we had very high rainfall in the two back-to-back years from 1981 through 1983. Also notice that we have had rain years as little as 11.4 inches and as much as 61.8 inches. That is more than a *five-fold* difference.

From December 1997 through February 1998 we received 51 inches of rain, an average of 17 inches a month. That is a large amount of rainfall by any standard. Is this wide variation in rainfall normal, or are we beginning to see the effects of global warming?

Did the 1981 – 1983 local rainfall cause a hundred year flood? No one declared it so. Nevertheless, the creek behind my house was filled to capacity for days. It connects to the Larch Creek system that flows through the Hetfield Estates area.

I am an expert in the modeling of complex processes. It was clear from the beginning that financial derivative and trading models were going to fail. Why? In part because they are based on past "normal" observations. The same is true for other complex systems like weather and semiconductor manufacturing processes. When the effects of complex behavior cannot be predicted effectively, *we must be conservative and assume the worst case*.

What does this mean? We need to be conservative when we look at the water control provisions in the Hetfield Estates project. We also need to be wary of the new EIR data when they are presented. We have been in a low rainfall cycle beginning in rain year 2006 –2007. Any observations and data taken during this period will be dry-weather-cycle biased.

We must not forget. The land in the Hetfield Estates area is never still. Will we see a 1,000 year flood in our lifetime? We cannot extrapolate the future from past data when nature is changing so quickly now in ways we've never seen before. We must be conservative in our planning.

Sincerely,

Walter Klippert

LETTER
8
RESPONSE

Walter Klippert
March 8, 2011

8-1 **Comment:** Summarizes observations about vegetation, animals, wildfires and landslides in the project area.

Response: The information provided by the commenter is acknowledged. These comments provide anecdotal observations of the project site and do not relate to the adequacy of the EIR. Slope stability is discussed in Section 3.2 and the vegetation/wildlife was addressed in the Initial Study, included as Appendix C of the EIR.

8-2 **Comment:** Presents personal observations of rainfall amounts.

Response: Receipt of Mr. Klippert's rainfall gauge readings is acknowledged, although the data does not cover all years. In addition, the accuracy of some homeowners' rain gauges is questionable. One official rainfall gauge in the Town of Moraga is located at Saint Mary's College. The average rainfall for the Town is 29 inches per year (Contra Costa County Flood Control and Water Conservation District, 1977).

The possible effects of global warming are concerning, as evidenced by the wild winter weather nationwide in 2010–2011. However, the proposed drainage improvements meet the County Flood Control standards and requirements by which private and public development must comply.

Letter 9

RECEIVED
MAR 18 2011
MORAGA PLANNING DEPT.

March 17, 2011

To: Moraga Planning Commission and Moraga Planning Department

Re: Proposed Hetfield Estates Project: Draft EIR dated January 14, 2011

At the Planning Commission meeting on March 7, 2011, my neighbor Catherine Jarett spoke and submitted a letter regarding extensive slide repair work on her property at 35 Hetfield Place. This project was planned and carried out by three highly respected firms, and yet, in her words, "there was an unexpected failure that caused a large wedge (about 30 feet wide) of soil to collapse into the excavation."

I had not planned to speak that night, but I followed Catherine's presentation with a brief account what my husband and I observed that afternoon: a chasm where Catherine's back yard had been, trees uprooted, and others in danger of falling on the house. It was a great relief to see the approach of a cement mixer – a rare sight at dinner time on a Friday afternoon

9-1

The collapse was an emergency of the sort that all of us hope never to experience. And yet it might have been worse, in that no one was injured and that it occurred in daylight on a weekday, when permission for repairs beyond the scope of the original project could be obtained from the Town without undue delay.

As others have said and written, the proposed Hetfield Estates Project is subject to many of the same factors that were - and continue to be – at work at the upper end of Hetfield Place. I urge you to consider carefully before approving an excavation plan that poses substantial risks to properties on Sanders Drive and the adjoining creek and hillside.

Yours sincerely,

Zoë Klippert
27 Hetfield Place
Moraga CA 94556

LETTER
9
RESPONSE

Zoe Klippert
March 17, 2011

9-1 **Comment:** Describes the landslide that occurred at 35 Hetfield Place.

Response: Comments noted regarding the instability of the hillside behind the Jarrett residence. The commenter is directed to the comments and responses of Letters 2 and 4 regarding geotechnical and grading issues.

Letter 10

March 7, 2011

Planning Department, Town of Moraga
329 Rheem Boulevard, Suite 2
Moraga, CA 94556

Dear Moraga Planning Department and Planning Commission,

We are writing about the Hetfield Estates Draft Environmental Impact Report (DEIR). In addition to sharing other residents' questions and concerns about this project, there are two issues we wish to mention.

First, we were surprised and disappointed at the language and positioning in the DEIR. While this document is presented as an objective report, some of the contents seem subjective and presented in favor of the developer's objectives instead of in a factual manner. Other important details are obscured or absent from the report.

For example, MOSO prohibits development on open space land if the slope's grade is ≥ 20% (MOSO Guidelines, p. 6). The original Hetfield slope calculation is 18.4%, which is apparently inaccurate and lower than the actual percentage. Not only is the correct percentage not included, but the 18.4% calculation is described as being "far below" the 20% limit (p. 3-72). This kind of subjective marketing language is unnecessary and frustrating.

Another example is that less than half a page is devoted to either the No Project or 3-Lot alternatives, even though these do meet many of Moraga's General Plan and MOSO ordinances and could provide tax benefits to the owner via a conservation easement. By contrast, multiple pages, sections, and details are provided for the 8-Lot and 11-Lot alternatives, which happen to be preferred by the developer. Again, this is disappointing and frustrating. Many residents are trying hard to review the project plans and understand what is being proposed. We had expected the focused EIR to give a more balanced, objective, and honest assessment of the project both from the developer's and from the Town's points of view.

Secondly, we are concerned about the cumulative impact of development concurrently being considered in Moraga. For instance, according to the Contra Costa County Housing Needs Allocation for 2007-2014, Moraga should plan for 62 "Above Moderate" homes. The Town will more than double this number via the Palos Colorados, Vista Encinos, and now Rancho Laguna subdivisions. Is anyone thinking about these developments **in aggregate** and their cumulative impact on Moraga's housing balance, open space, and semi-rural character? Once

10-1

hills are carved up, they cannot be restored to their original state – and now we are talking about permanently altering a parcel of protected high risk open space when its sister development (Vista Encinos) continues to sit unsold and unmaintained.

We ask that the DEIR include fair consideration of all alternatives rather than focusing on the alternatives that are profitable to the current applicant, but riskier for the community in the long term. Please also consider the legacy of all of Moraga's development projects together when evaluating this DEIR for Hetfield Estates.

10-1

Thank you,

Jennifer and Tadd Koziel
1132 Sanders Drive

LETTER
10
RESPONSE

Jennifer and Tadd Koziel
March 7, 2011

10-1 **Comment:** States that portions of the DEIR are subjective and presented in favor of the developer's objectives instead of in a factual manner. Questions the slope calculation used for determining development within MOSO; claims that the calculation presented in the EIR is inaccurate. States that the alternatives discussion does not provide an objective analysis of the No Project or 3-Lot Alternative. Concerned about the cumulative development of pending and proposed projects on the town.

Response: The commenter is correct that the language used on page 3-72 is subjective. The word "far" has been removed. Thus, the sentence has been revised to read:

> "….under pre-development conditions the average slope is 18.39 percent which is below the 20 percent maximum permitted."

Refer to Response to Comments 2-7 and 2-8 regarding slope calculations for the proposed project and the preferred alternative.

Regarding the alternatives analysis, CEQA Guidelines Section 15126(d) states that "the EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix may be used to summarize the comparison." The No Project Alternative discussion provides adequate information if the site were left undeveloped and points out what other potential uses could occur. The matrix in Table 5-1 shows the pluses and minuses of the alternatives when compared to the proposed project. Furthermore, CEQA requires that a range of reasonable alternatives be examined in the EIR that could feasibly attain most of the basic objectives of the project. As pointed out in Table 5-1, the No Project Alternative does not meet the applicant's objectives for implementing the proposed project.

The 3-Lot Subdivision Alternative, while reducing many impacts, was discarded because of the cost for future homeowners to maintain the open space area, as well as the cost to improve the site to accommodate three lots. Also refer to Response to Comments 2-56 and 11-5.

It is not necessary to include every feasible alternative in the DEIR. As the CEQA Guidelines state, the document "must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation." In consultation with Town staff and the applicant, it was determined that the EIR look at two alternatives on smaller lots which would be more in keeping with the adjoining neighborhood. The maximum number of lots that could be

developed under MOSO would be eleven as shown on Figure 5-2, provided the project site is not high-risk. It was determined that the development area could be reduced, thereby eliminating some of the grading that the proposed project would require. This resulted in the 8-lot subdivision as shown on Figure 5-1. The Town's decision makers can consider any of these densities or something less if they choose. These two alternatives are representative of what can be done on the project site.

Also refer to Response to Comment 3-6 regarding the comparison of grading quantities for the on-going projects within the Town of Moraga.

Regarding cumulative development in Moraga, the 2010 Housing Element update (January 2010) shows a capacity of six dwellings. This element also identifies Rancho Laguna and Palos Colorados development potential.

Letter 11

RECEIVED
MAR 21 2011
MORAGA PLANNING DEPT.

March 7, 2011

Planning Department, Town of Moraga
329 Rheem Boulevard, Suite 2
Moraga, CA 94556

Re: Comments Regarding Hetfield DEIR dated January 14, 2011

Dear Moraga Planning Commission and Planning Department,

We are writing to comment upon the Hetfield DEIR noted above. We remain greatly concerned about the safety of the hillside that is the intended site of the Hetfield project. There remain numerous unanswered questions about the actual depth of the landslides on the proposed site. The site was originally designated "High Risk", and it remains so. The engineering firm retained by the applicants, Engeo, has failed to establish the full depth of the landslides on the property, without which there remain significant potential environmental impacts that cannot be determined and, therefore, cannot be mitigated in the manner described in the January 2011 DEIR. The Town's geological consultant, Darwin Meyers, acknowledged at the March 7, 2011 Planning Commission hearing that the full extent of the landslide depths have not been determined. Until they are, the request to approve the environmental impact report should be denied. It should not be too much to require the applicants to establish the actual depths of all the landslides on the property as a prerequisite to analyzing the proposed mitigation measures. Otherwise, the applicants are requesting the Planning Commission to allow them to excavate and grade the property, and only then determine how deep they need to excavate, how much overall ground needs to be disturbed, how much soil has to be recompacted, how many truck loads of dirt will need to travel on Sanders Drive, what the ultimate effects will be on the safety and functionality of Sanders Drive, including the costs to repair any damage to it, as well as what additional safety and environmental mitigation measures are required for the Hetfield site. The Planning Commission should find this unacceptable. 11-1

In the applicant's letter to the Moraga Planning Department dated March 7, 2011, he states that the existing geologic fault running through the proposed site is "not considered active" which means it has not been active for "at least 11, 000 years". However, given its proximity to the Hayward Fault, and the fact that new faults in California are discovered all the time, neither the applicant nor his geological engineers can guarantee that seismic activity on nearby faults could never trigger activity on the existing geologic fault on the property. (RMR Design, in its March 7, 2011 comment letter, seems to acknowledge the possibility of potential "movement or reactivation of the mapped fault trace"). 11-2 Nor has there been a sufficient evaluation of the impact of water traveling along the existing fault lines to guarantee that there won't be any seismic activity at the site, or transmission of water along the fault or further movement of the underlying soil that they would like to build on. 11-3 This is not an area that should be approved for building so long as these types of significant questions remain unanswered. These are questions that will outlast the current or extended terms of the Planning Commission and Town Council, and the lives of the current homeowners on Sanders Drive. Consequently, there should be no questions on the geology or hydrology of the site that will linger far beyond the short term. The longevity of any construction on the proposed site, and the lives of the proposed new homeowners on the site, must be

taken into careful consideration, particularly on a site that was originally determined by the Moraga Planning Department to be "High Risk".

In the same letter identified above, the applicant states that, among the potential *"Beneficial Impacts"* of the proposed development is the possibility of building an emergency vehicle access road through the proposed project to the homes in Sanders Ranch. The applicant states that the owners have offered to grant an easement at the proposed Hetfield site for that purpose. However, the applicant has previously stated, in written submissions to the Planning Department, that neither the applicant, nor the current owners, nor any subsequent owners of the project could be responsible for constructing or maintaining such a road. Rather, those costs would fall on the Town or the residents of the Sanders Ranch development. From the people we have spoken with who live at Sanders Ranch, there is absolutely no interest in taking on such a project or incurring the necessary and substantial costs of doing so. Hence, this proposed "significant community benefit" appears to be an unrealistic distraction from the important issues involving the proposed project. It adds no practical benefit to any aspect of the community. And, if it were built, how much actual time would be saved by running emergency vehicles on the 50 year-old Sanders Drive, only to go over the proposed bridge at Hetfield Place, and then travel through a narrow roadway and on through a narrow single lane emergency access road? Moreover, what would be the cost from the wear and tear on Sanders Drive, which is currently in need of repaving? If this is what the applicant and the owners view as a "significant community benefit", then this puts into question whether the proposed project would produce any actual benefit to our community. 11-4

The applicant also discusses in his letter why the "Three-Lot Alternative" would be "economically infeasible". He specifically refers to the cost to "construct the private road" within the development, and the cost to the new homeowners "to maintain the private open space". What are the projected separate costs to construct the private road, to build the bridge at Hetfield over Larch Creek, and the annual cost to maintain the open space that the new homeowners would be responsible for, as well as the bridge, their street, the drainage system and the debris benches? 11-5

The applicant has included, with his March 7 comment letter, a "Rejected Project Alternative Pro Forma" regarding the Three-Lot Alternative. In his discussion, he mentions the costs to date, and the initial improvement costs, assuming "a zero land cost-*no value for the land*". What are the costs for the land? Is "a zero land cost" used because all costs for the entire Hetfield property were recouped when the Vista Encinos portion was subdivided and sold off to another developer? For what price was the portion of the Hetfield property that is currently known as Vista Encinos sold to Roseburg Square Partners via Grand Deed dated April 14, 2005? 11-6

In his March 7 comment letter, the applicant acknowledges that the owners "are not real estate developers or builders". What are the owners' intentions with respect to the Hetfield site? Do they plan to hire engineers and have the preparatory excavation and grading performed at the site? Do they plan to hire a developer to build any of the houses on any lots that may be approved? Do they plan to sell the Hetfield property if they can first subdivide it, without developing any of the property, as was done with Vista Encinos? These questions should be answered now because they directly pertain to the staying power of the current owners, and whether the commitments that are made now with respect to the property are in fact fulfilled many years down the road should any 11-7

building on the site be approved. Given the failure to fully develop or even maintain Vista Encinos, the Planning Commission should be especially careful to make sure we do not end up with a repeat of that situation, especially since we are dealing with the same owners, the same developer, the same engineering geologists and other experts that were involved with that subdivision.

11-7

We are quite concerned with the proposed size of any houses that the developer may want to obtain approval to build on the Hetfield site. Most of the adjacent homes on Sanders Drive are in the range of 1,800-2,500 square feet. We understand that a developer would want to build lager homes on the Hetfield site. However, the Moraga General Plan requires that any such new homes must be compatible with the existing neighborhood. As such, the size of any potential houses on the Hetfield site should be limited to something in the range of 3,000-3,500 square feet, and this should be established in writing at this stage of the proceedings. This is a significant percentage increase over the existing houses. Anything larger would not be in character with the existing neighborhood, and we would hope the Planning Commission would reject building larger homes on the Hetfield site.

11-8

Finally, given the terrible landslide issues faced by a neighbor on Hetfield Place, Catherine Jarett, we hope the Planning Commission will use extra caution in analyzing the proposed Hetfield development. Ms. Jarett has endured more than we can imagine, and has sustained thousands of dollars in unreimbursed expenses, due to the landslides on and around her property. Even as emergency landslide repairs were underway, more landslides occurred. The landslides were much deeper than expected, and the required repairs were far more extensive, and expensive, than anticipated. We need to learn from the harsh lessons of the landslides and damage to Ms. Jarett's house, and the lack of follow-through and maintenance at Vista Encinos. We hope that the proposed Hetfield project will receive the greater scrutiny and restrictions that are warranted under the circumstances.

11-9

Sincerely,

T. Meltzer / Pamela K. Meltzer

Timothy and Pamela Meltzer
6 Willow Spring Lane
Moraga, CA 94556

LETTER
11
RESPONSE

Timothy and Pamela Meltzer
March 7, 2001

11-1 **Comment:** Statement is made that the site is designated "high risk". Concerned that the geotechnical investigation has not determined the depth of the landslides so that the amount of imported fill material and resulting truck traffic can be determined.

Response: The project site is designated as Moraga Open Space, which falls under the MOS ordinance and guidelines. Development can occur within MOSO designated lands and is limited to one dwelling unit per 20, 10 or 5 acres. The applicant is requesting a density of one dwelling unit per 9.7 acres. MOSO Guidelines allow for higher density providing the site is not considered "high risk". An area is classified as high risk depending upon both (1) its own site characteristics and (2) its location in relation to other geological and topographical conditions. The application for higher density is reviewed against the seven risk factors identified in the Guidelines in order to make the density determination. A discussion of these risk factors is found on pages 3-70 and 3-71 in the EIR. Commenter should also refer to Response to Comment 3-2 regarding MOSO compliance.

Regarding the geotechnical investigation, the Engeo report has evaluated subsurface conditions on the site based on a total of 15 exploratory borings (six logged by Seidelman & Associates), 36 test pits, and three exploratory trenches (total of 54 subsurface data points). Within the area proposed for grading and development, the data gathered indicate that the maximum thickness of landslides is 20 feet. Geologists retained by the neighbors, William Cotton and Laurel Collins, have expressed concerns that there is potential for deeper landslides, with the slide plane ranging up to 30 to 35 feet in thickness. This assertion is based on shears seen in core samples collected in September 2010 by Engeo. The shears seen in the core were also present in bedrock exposed in the walls of exploratory Trench T-1. In that case, the shearing was not associated with landsliding or faulting.

In summary, the Pliocene claystone bedrock is not isotropic and homogenous. The shears seen in the cores are characteristic of the massive claystone bedrock. It is probable that the shearing is associated with stress resulting from tightly folding, and Engeo indicates that the shears in the core were not associated with the features that are characteristic with landslide planes. To address concerns about the consequences of a hypothetical slide that is 30 to 35 feet deep, four figures have been prepared (see Figures C&R-2 through C&R-5). They provide a series of geologic cross-sections labeled L1, L4, L5, and L6. The lines of section for the cross-sections can be seen in DEIR Figure 3.2-2. As the legend for the geologic cross-sections indicate, a black line is used to show existing topography; a dashed pink line shows a hypothetical slide plane that is 30 to 35 feet deep; and a violet colored line shows the depth of excavation to address the hypothetical base of landslide. Note that the grading limits and final grades are not changed under this scenario. The depth of removal and

replacement would increase, but the grading concept would not change. The corrective grading plan would still remove all of the landslide debris from the six proposed residential lots. Two additional points on this subject are presented below:

1. When the corrective grading plan is implemented, the project geologist will provide observation services to ensure that all landslide debris is removed. The project geologist will prepare a map of the exposed bedrock on the floor of the excavation to determine that the rock is not part of a slide. If there is evidence that the rock is jumbled and/or disrupted, the grading contractor will be directed to go deeper until competent, in situ rock is confirmed by the project geologist. In summary, there will be a great deal more data generated during grading to confirm and/or modify Engeo's preliminary interpretation that the maximum depth to competent bedrock is not more that 20 feet below the ground surface. The routine requirements of the Town of Moraga require that the project geotechnical engineer provide observation and testing services throughout the grading period. Specifically it can be anticipated that prior to the issuance of the first building permit for a residence, the project geotechnical engineer will be required to submit a "Grading Completion Report." That report must (a) document the observation and testing services provided during grading, and (b) comment on compliance of the earthwork with the recommendations in the approved geotechnical report.

2. During the corrective grading, the Town's peer review geologist and Town's Public Works Department staff make site visits to view field procedures and observe exposed conditions. Before the applicant requests a final inspection of the grading to final the permit, the Town requires submittal of a grading completion report. That report provides documentation of the observation and testing services provided by the project geotechnical engineer/engineering geologist. The documentation presented in the report shall include the results of the fill compaction testing; a map showing the location and depth of subdrains, including cleanouts; a geologic map showing the details of the bedrock exposed on the floor of the excavation (stratigraphy, structure, weathering); and a letter from the project geotechnical engineer indicating that the earthwork performed under the grading permit was consistent with recommendations in the approved geotechnical report.

With regard to trucks trips on Sanders Drive, it should be noted that the applicant proposes a balanced grading plan. Properly moisture-conditioned and compacted, the landslide deposits are suitable for use as engineered fill. Consequently, slide debris will not be removed from the site, and there is no need to import fill material to implement the corrective grading plan. Truck trips to the site will be required to transport construction materials to the site (e.g., materials needed for construction of the proposed bridge, supplies needed for construction of subdrains, steel and concrete for construction of drainage ditches, drainage pipes needed to implement the drainage plans, etc.) There would also be the daily commute trips of construction workers, and a fuel truck will make daily trips to the site.

11-2 **Comment:** Concerned about the activity of the thrust fault.

Response: Figure 3.2-1 shows the location of faults in the Moraga area. The California Geological Survey (CGS) and U.S. Geological Survey (USGS) consider none of those faults active. However, information of their displacement history during the Holocene (i.e., past 11,000 years) is incomplete. Engeo performed a fault investigation consisting of the logging of three exploratory trenches. They confirmed the location of the fault on the site and confirmed that the fault serves as the boundary of the upper member of the Mulholland Formation (southwest of the fault) with the lower member of the Mulholland Formation. The Engeo report provides information on the character of the fault zone, but it does not provide conclusive evidence that the fault on the site is inactive. For that reason, Engeo has recommended a restricted building area along the confirmed location of the fault. Note that DEIR Figure 3.2-1 shows the on-site fault intersects another fault about 1 mile northwest of the site. Available information indicates that both of these faults dip southwesterly, toward the Hayward fault.

There is a relationship of the hazard posed by faults to their length. Faults that are tens and hundreds of miles in length have the potential to store energy that is released during a moderate to high magnitude earthquake. Conversely, a fault having a relatively short length is not considered to be a candidate for such earthquakes. The comment makes reference to the proximity of the Hayward fault. Its active trace passes approximately 5 miles southwest of the site. If the fault on the Hetfield project site is related to the Hayward fault zone, it would be interpreted as a subsidiary fault trace. In the event of a major earthquake on the Hayward fault zone, the primary risk of surface fault rupture would be expected to be on the active/creeping fault trace. For subsidiary traces, particularly traces located miles from the main trace, the potential for surface fault rupture would be very low and the displacement potential very limited. As DEIR Figure 3.2-3 indicates, that fault is just upslope of the proposed 3:1 fill slope.

11-3 **Comment:** Concerned about water moving along the thrust fault.

Response: At the 2009 Town Council meeting, the issue of faulting and the role of faults serving as a conduit for groundwater or a permeability barrier was identified as an issue that required further analysis. The 2010 Engeo investigation included the logging of three exploratory trenches to provide information on the fault. The data gathered from those trenches included information on the location and character of the fault zone, tracing the fault to the soil horizon. The trenches encountered no groundwater. Engeo also logged a series of test pits above and below the mapped fault to provide information on the thickness of soils and slide debris, as well as providing information of bedrock (rock type, degree of weathering, orientation of bedding) and groundwater data. A table on page 11 of the Engeo report summarizes information of water levels. At the time of the subsurface investigation (late September 2010), groundwater was confirmed in two of the core borings (EB-3 and EB-5) at depths of 33 and 23 feet, respectively. This was limited seepage in bedrock fractures (slow seepage). Additionally, groundwater was confirmed in auger borings located near Larch Creek (EB-8 and EB-9) at depths of 14.5 and 23.5 feet, respectively. This seepage was occurring in sandy alluvium that was at or near the elevation of the flow line of Larch Creek. Finally, two test pits found evidence of free water on fractures and/or slow seepage (TP2-8 and TP2-10) at depths of 19 and

10 feet, respectively. These test pits are within a slide area that is upslope of the Lot 1 building site (see DEIR Figure 3.2-2). TP-8 is located just below the fault and TP-10 is just upslope of the fault. Additionally, a groundwater seep is located downslope of TP-8. Based on the results of the investigation, Engeo concludes "where the fault was exposed… no seepage or other indications of impounded groundwater was observed…. The sandstone and conglomerate encountered on the upslope site of the fault were typically red-brown in color suggesting that these units are in an oxidized state and are generally not saturated…" (Engeo report, page 11, first paragraph). Although the investigation was performed in the fall, prior to the onset of winter rains, the data gathered indicate that if the fault is serving as a groundwater barrier, the depth of the water table is greater than the exploration depths, and this deeper groundwater will not be affected by the proposed corrective grading.

11-4 **Comment:** Cites the applicant's statement that an emergency access would be available from Sanders Ranch.

Response: Information noted regarding the potential emergency access road for Sanders Ranch homeowners. The applicant proposes to provide an emergency access easement, not a paved EVA.

11-5 **Comment:** Discusses applicant's letter regarding the 3-lot alternative.

Response: An EIR analyzes the impacts upon the environment and does not consider project costs or ongoing maintenance costs upon project completion. The applicant is providing additional information as to why the 3-Lot Alternative is not feasible. Refer to the attachment with Letter 17, which identifies the costs associated with developing the property, as well as Response to Comment 10-1.

11-6 **Comment:** Discusses the applicant's cost analysis to develop a 3-lot alternative.

Response: The information requested is not relevant to the adequacy of the EIR and is an appropriate question to ask at the time the project is considered by the decision makers.

11-7 **Comment:** Questions the owner's intentions to develop the project site.

Response: The questions regarding the property owner's intentions pertain to the proposed project and not to the adequacy of the EIR. Therefore, no further response is necessary.

11-8 **Comment:** Size of the potential houses on the project site should be limited to a range of 3,000 to 3,500 square feet.

Response: The commenter should refer to Mitigation Measures 3.1-3A through 3.1-3E on pages 3-9 and 3-10 in the DEIR. Although there is no mitigation measure that directly limits the square footage of the homes, these mitigation measures ensure that the homes will be visually compatible with the surrounding neighborhood and are adequate to avoid potential impacts related to building size. This is also an issue that the Design Review Board will be addressing when architectural house plans are submitted for review and approval.

11-9 **Comment:** Concerned that the landslide at 35 Hetfield Place sets a precedent.

Response: Comment noted. No additional response is necessary.