Letter 12

Gordon Nathan
51 Carr Drive
Moraga, CA 94556

March 18, 2011

To: Moraga Planning Commission and Planning Director

Subject: Hetfield Estates Draft EIR of 01-14-11

Having been at the last Planning Commission meeting on the above captioned matter, and hearing of the concerns of the homeowners living directly adjacent to the proposed project, compels me to write again.

The arguments against the proposed Hetfield Estates project appear to me to be quite legitimate in that the so called mitigation efforts proposed by the "experts" seem to really waltz around the fact that there are no guaranteed protections for the homeowners bordering the proposed Hetfield Estates development. Though the developers are willing to install catch basins, debris benches and other forms of hoped for protection from slides and creek overflows, the fact remains there are no guarantees, from anybody, that there will not be problems if the land is disturbed. In fact, by virtue of the use of the words catch basin, debris benches, among other descriptive mitigation efforts, it leads one to believe there actually is a big problem with the soils on the property. 12-1

I had the opportunity to read a letter from ENGEO wherein they discuss "**potential** geologic hazards" associated with the proposed development property, as well as the statement "landslide corrective grading is **expected** to reduce the potential for adverse impacts". ENGEO also indicates that "proposed **corrective** grading will improve the stability of the landslide area". They conclude with "this improved condition is **expected** to reduce the potential for impeding stream flows etc."

Now, not withstanding a possibly flawed DEIR and arguments on what is or is not covered in MOSO, what stands out to me is the fact that none of the experts in the geo technical field can say without a doubt that even with extensive grading, no shifting of the soils will occur. I wonder when the soil samples were taken, what kind of weather or rainy season we had prior the soil samples (borings) being taken. What would be the results today, what with the heavy winter rains we have experienced, and are continuing to experience? ENGEO is very good at what they are paid to do, I am sure, but geo engineering is not an exact science. I do not 12-2

believe that anywhere in their studies and resulting conclusions do they provide assurances that problems will not occur. Without solid assurances from the proponents of the project that protections are in place should the mitigation efforts fail, the project should be rejected in its present form. 12-2

At the last Planning Commission meeting on this subject, we heard from one of our neighbors at the end of Hetfield Place that had recently had great difficulties with landslides behind her house. I could view the extensive work from the top of Carr Drive, and believe me, there was a lot of soil that was moved to alleviate the problem, and it took a long time to get it right. The point here is that the experts in the field of geotechnical work proposed a solution to the problem, began the work, then experienced a major slide, which took months to contain and remedy the original problem. You can look up on any of the hills in this area and see that the soil is generally unstable, so why push our or their luck on this project that could have a damaging effect on so many home owners? No guarantees! 12-3

If the project is allowed to proceed, what damage will occur to Sanders Drive during grading and construction? What of the past history of this particular developer and the experience at Vista Encinos? 12-4

One last thought on this subject is what if the project property owners decided to give the land to the Town of Moraga for Open Space for tax purposes, would the Town accept the property? I would think not. Who would want a piece of land that has the potential to sometimes flood adjacent properties and with hillsides so steep that the soil slides when we experience a wetter than normal rainfall? 12-5

I am sure others may articulate their reasons for not wanting to see homes built behind their property on Sanders Drive, but I just wanted to share some additional thoughts with the Commission.

Thank you,

Gordon Nathan

LETTER 12 RESPONSE

Gordon Nathan
March 18, 2011

12-1 **Comment:** The comment expresses the opinion that there should be guarantees in some form to ensure the stability of the site and its drainage improvements

Response: It should be noted that regulations have been strengthened over the years, and the geotechnical standard of care has never been higher. In summary, the project is being designed to comply with the regulations administered by the Town of Moraga, and no exceptions have been requested. Additionally, a GHAD will be formed to provide monitoring and maintenance-related work as required in Mitigation Measure 3.2-6 in the EIR. The GHAD would include the developed portions of the site as well as the open space area.

12-2 **Comment:** States that the geotechnical investigation does not ensure there would be no soils problems.

Response: For the Engeo investigation, the borings were logged during the month of September. This is near the end of the dry summer season. The comment infers that the conclusions reached by Engeo may not be giving consideration to the fact the seasonal rainfall totals vary substantially from year to year, and that within a year groundwater conditions can be expected to vary. There are some factors that are pertinent to evaluation of groundwater conditions on the site:

Topography. The watershed area that is upslope of the site is relatively small.

Permeability. According to the Soil Survey of Contra Costa County, the clayey soils on the site are characterized by low permeability, and USGS Professional Paper 1357 indicates that the bedrock on the site that is northeast of the fault has "very low" intergranular permeability. The rock unit that occurs on the ridge top (upslope of the fault) is characterized by "mostly low" intergranular permeability.

Water Wells. There are no water wells on the site that are being pumped, so the groundwater levels in the bedrock recorded by Engeo are representative of conditions that naturally prevail on the site.

Based chiefly on the preceding bulleted points, the Town of Moraga's Peer Review Geologist has indicated that in his opinion the groundwater data gathered by Engeo during the subsurface investigation is representative of site conditions. It should also be recognized that the Grading Plans for the project indicate an efficient drainage system. The subdivision improvements, including drainage ditches, culverts must be designed in accordance with the Town of Moraga's Public Works Construction Standards, and design of subdrains must comply with geotechnical recommendations/ construction standards for the project. The applicant has not requested any exceptions to the construction standards of the Town.

12-3 **Comment:** States that landslides in the area demonstrate that there are no guarantees against soil movement.

Response: On DEIR pages 3-16 and 3-17, there is a discussion of the geotechnical investigation and its findings. The residence at 35 Hetfield Place was constructed in 1961; the earthwork for the project at that time was limited to the footprint of the lot. The grading for the residential subdivision generated surplus fill which was placed at the head of the landslide (south of the site). In 1997, a leveling survey confirmed that the rear portion of the house had been raised 4.3 inches. A 2006 geotechnical investigation found that near the rear foundation of the residence there was a slide plane 15 to 20 feet below the surface. In 2008, Alan Kropp & Associates explored the portion of the slide that was off-site and confirmed that a slide that ranged up to 30 feet in depth was sliding over the bedrock. The repair consisted of excavation of a keyway adjacent to the rear of the residence and then buttressing the slide. The neighbor reported that during the corrective grading the rear yard sloughed into the keyway excavation before it could be backfilled.

The six proposed building sites in the Hetfield subdivision are not being constructed on landslide debris, and the hillside southwest of the building sites is to be reconstructed as an engineered fill that is keyed into bedrock. If one were to examine distressed residences in the Lamorinda area, the record will indicate that the modern land development projects have had the benefit of more comprehensive geotechnical investigations, and the projects were better engineered and constructed than the older residential subdivision. Too often, older residential projects were constructed on or immediately adjacent to landslide deposits, constructed within the floodplain of creeks, and/or built on undocumented fill.

12-4 **Comment:** Questions what damage would be done to Sanders Drive during construction.

Response: This comment has two components. The first deals with the potential for construction-related damage to Sanders Drive, and the second with the record of the developer on another project in the Town of Moraga. With regard to the first part of the comment, the earthwork on the site is to be balanced (no export of landslide debris; no import of earth materials to be used for engineered fill). This is the case because when properly moisture-conditioned and compacted, the landslide deposits are suitable for use as engineered fill. Consequently, truck trips to the site would be limited to delivery of earthmoving equipment and construction materials (e.g., culvert pipes, base rock for construction of the cul-de-sac street that will provide immediate access to the property, concrete and rebar needed for construction of drainage ditches, etc.). Additionally, there would be commute trips to work and a fuel truck to service the earthmoving equipment. Typically, the Town requires the developer to provide street sweeping as necessary and to repair damage to roadways that is due to construction traffic.

The second half of the comment does not address the adequacy of the EIR. The subject of the DEIR is a proposed six-lot subdivision; evaluation of the developer's performance on other projects is not within the scope of the EIR.

12-5 **Comment:** Questions if the Town of Moraga would accept the project site as open space.

Response: Comment noted. These comments relate to the project and its economics, and not to the adequacy of the EIR. No additional response is necessary. The commenter should refer to the breakdown of costs associated with Letter 17.

Letter 13

March 15, 2011

RECEIVED
MAR 16 2011
MORAGA PLANNING DEPT.

Planning Commission
Town of Moraga
329 Rheem Boulevard
Moraga, Ca. 94556

Dear Planning Commissioners:

In light of what we have just seen happening in Japan and the damage that was caused by 40 foot deep slides to the house at one end of Hetfield Place, it is imperative that deeper drilling with larger diameter augers be completed before any consideration is given to whether or not the Hetfield Estates project should go forward. It is critical that any possibility of deeper underground earth movement be ruled out before any new homes are built, so that new homeowners will not have to experience what Cathy Jarett at 35 Hetfield Place had to experience: her home virtually coming apart at the seams due to deep, underground earth movement.

Bill Cotton, a highly respected and experienced geologist, felt there was the possibility of deeper slides on the Hetfield Estates property than has been identified by the developer's drilling and recommended much deeper drilling with larger diameter drills. This recommendation was not pursued. The hillside where the Hetfield Estates project is to be built has a well-documented history of instability. As stewards of land development in our community, I am sure Moraga planning commissioners do not want to approve a project without clear and certain evidence there is no potential for deep earth movement on a building site that could cause extensive damage to future homes.

13-1

Respectfully,

John O'Hare
1120 Sanders Drive

LETTER
13
RESPONSE

John O'Hare
March 15, 2011

13-1 **Comment:** States that deeper boring holes are necessary for an adequate geotechnical investigation.

Response: The commenter is referred to Responses to Comments 2-52, 2-53, 4-1, and 4-2 regarding geotechnical issues.

Letter 14

RECEIVED

MAR 08 2011

MORAGA PLANNING DEPT.

March 8, 2011

To: Lori Salamack, Planning Director

From: Dick Socolich, Planning Commissioner

Since the comment period has been extended to March 22, 2011 I am providing additional comments that need to be addressed in the forthcoming final EIR.

I believe that the primary reason for the instability of the Hetfield property soils, and the basis for existing homeowner concerns, can be connected to groundwater movement and the water content and moisture in the surficial soils overlaying the bedrock. I am troubled that the borings made in September 2009, subsequent to 2007-2008 and 2008-2009 draught periods do not adequately characterize the site hydrologic conditions which may exist today – after two seasons (2009-2010 and 2010-2011) of more normal rainfall.

Perhaps some of the borings were cased in which case sampling of current groundwater conditions could be performed to assess the impact of current rainfall conditions on site hydrology.

In any case I believe the EIR needs additional discussion relative to the concerns I have outline above.

14-1

LETTER
14
RESPONSE

Dick Socolich
Planning Commissioner
March 8, 2011

14-1 **Comment:** Concerned that the dates of the geotechnical investigation do not adequately address groundwater movement.

Response: The borings for the Supplemental Investigation were logged during a one-week time period (September 27 to October 1, 2010). At the close of the field work, all borings were backfilled with lean concrete as required by the permit.

As the record indicates, the 2009 Town Council hearing on the CEQA Initial Study for the project required additional subsurface data to characterized potential geologic hazards on the site. Among the items to be evaluated was the role of groundwater in influencing slope performance on the site and the volumes of groundwater that might be intercepted by the proposed subdrains on the site. Additionally, Laurel Collins, a hydrogeologist, expressed concerns about the role of the fault in serving as a conduit for groundwater movement or as a permeability barrier that impeded groundwater. 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 slow seepage in bedrock fractures. 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.

Everyone acknowledges that water levels vary seasonally, and they vary with the amount of annual rainfall. There has been speculation of a tremendous amount of groundwater on the property. That hypothesis was not confirmed by the Engeo investigation, which included more than 50 subsurface data points (i.e., borings plus test pits plus exploratory trenches). Perhaps this is not so surprising; the site is a ridge, so there is positive drainage to the channel of Larch Creek. The Soil Survey of Contra Costa County (1977) classifies the clayey soils that occur on the site as the Diablo clay (DdD, 9–15% slopes; DdE, 15–30% slopes; and DdF, 30–50% slopes). The permeability of these soils is "slow," and the water holding capacity is 6 to 9 inches. Additionally, the soils are highly expansive. During the early part of the winter rainy season, desiccation cracks close, which severely limits the ability of the rainfall to penetrate the soils.

With regard to the permeability of the bedrock, a professional paper issued by the U.S. Geological Survey (Ellen, 1995) indicates that the claystone bedrock that is primarily located downslope from the fault has "very low" permeability. The rock that is upslope from the fault (chiefly sandstone and conglomerate) has "low" permeability, but some (about one-third) has "moderate" permeability.

The geotechnical engineers for the project recognize that the performance of slopes is greatly influenced for moisture. The corrective grading plans indicate an efficient drainage system on the site, including a drainage ditch at the top of the 3:1 fill slope and subdrains at the base of the engineered fill that are designed to intercept groundwater before it can saturate the fill. The Engeo report (page 11) provides the following assessment of construction-related effects of groundwater:

- Based on the limited occurrence of groundwater encountered in Engeo's exploration of the site, it appears unlikely that large quantities of groundwater will be encountered during corrective grading.

- Engeo anticipates that localized, low volumes of seepage will be encountered in the excavations. This volume of water can easily be accommodated by the recommended subdrain system.

Letter 15

March 16, 2011

Planning Commission
Town of Moraga
329 Rheem Boulevard
Moraga, CA 94556

Dear Planning Commission Members:

An additional area of consideration has come to mind with regard to the Hetfield Estates development, one which hasn't been addressed at all as far as I know. This is the erosion which is very likely to occur with the initial excavation/compaction process, and the impact that erosion would have downstream.

I recall that in the winter after the grading was completed on the "berm" on Sanders Ranch which can be seen from the end of Sanders Drive unusual and abnormal silting was evident in the creek bed behind our houses. I have no physical proof of this (pictures), but remember its being noticeable and of some concern at the time. With the Hetfield project's much closer proximity to our properties, I think we do have reason to have some concerns in this area, too.

15-1

Sincerely,

Ellen Voyles

Ellen Voyles
1156 Sanders Drive

LETTER
15
RESPONSE

Ellen Voyles
March 16, 2011

15-1 **Comment:** Concerned that excavation would result in silting in Larch Creek.

Response: The EIR authors concur with the thrust of the comment that grading that is not properly engineered can pose significant erosion and sedimentation problems. In Chapter 3.2 of the DEIR the issues of erosion and sedimentation are identified as a potentially significant impact. The associated mitigation measures are presented on DEIR pages 3-34 & 3-35. Additionally, in Chapter 3.3 of the DEIR, the adequacy of the storm drainage system is identified as a significant impact (Impact 3.3-3) and the maintenance of the drainage system is identified as a potentially significant impact (Impact 3.3-4). The associated mitigation measures for these impacts are presented on DEIR page 3-56 and 3-57.

It is pertinent to note that the project will be subject to relatively new requirements that are intended to protect water quality and control runoff. Some background information on the regulatory framework is as follows:

- The Contra Costa County Clean Water Program (CCCWP) is a cooperative entity formed of Contra Costa County and 19 incorporated cities, including the Town of Moraga. The San Francisco Bay Regional Water Quality Control Board (RWQCB) issued NPDES Permit #CAS612008, revised Order #R2-2003-022 to the CCCWP. It contains requirements to prevent storm-water pollution and to protect and restore creek and wetland habitat. The NPDES permit regulates Contra Costa County and its incorporated cities/towns. The Town of Moraga has jurisdiction over permits and approvals. The RWQCB has mandated that the responsible local jurisdiction imposes new, more stringent requirements to control runoff from land development projects. Specifically, the RWQCB added Provision C.3 in the permit, requiring that the local jurisdiction (Town of Moraga) condition development approvals to incorporate specific stormwater treatment measures (BMPs) as well as implement treatment features to reduce pollutants in stormwater discharges. Provision C.3 establishes specific thresholds and criteria for implementation of stormwater treatment measures. The C.3 requirements are not only intended to reduce short-term construction related runoff and resultant pollution, but are also intended to reduce the long-term adverse effects by requiring permanent runoff control measures as a part of approvals granted to land development projects.

- The CCCWP Stormwater C.3 Guidebook includes a Hydrograph Management Plan (HMP), including flow control standard. The flow control standard is preventative, focusing on design of projects so there will be no increase in runoff compared to pre-project conditions. Four options are

available to demonstrate compliance: (1) demonstrate no net increase in impervious surface area, (2) implement BMPs using designated procedures and tools, (3) use a continuous simulation hydrologic computer model to assess pre- and post-project runoff, and (4) demonstrate little likelihood for cumulative impacts to specific characteristics of the stream.

In summary, compliance with C.3 requires that the project proponent submit a Stormwater Control Plan (SWCP) in accordance with the provisions of the CCCWP Stormwater C.3 Guidebook. Moreover, the project is required to ensure that stormwater runoff does not exceed the pre-project peak and duration, and that the runoff does not exceed pre-project levels for pollutants. The SWCP that is approved by the Public Works Department is relevant to post-construction activities and is intended to treat runoff in perpetuity. As part of the subdivision improvements, the project proponent installs water quality improvements prescribed by the approved SWCP. The Public Works Department has construction inspectors that inspect/approve the installation of these drainage-related structures. Monitoring and maintenance of these facilities over the long term would be assigned to the GHAD.

Letter 16

Kelly Clancy

From: Caroline [crwwood@comcast.net]
Sent: Monday, March 21, 2011 3:30 PM
To: Kelly Clancy
Subject: Letter Opposing Development of Hetfield Estates

Hi Kelly,

Please forward this to the Planning Commissioners. Many thanks, Caroline

I was asked by people I know whose property and lives will be adversely affected by this development to write to you supporting them in their opposition to this project. I attended the Planning Commission hearings in the early days of this discussion and heard several reports about the instability of the land. Why would you all permit houses on land that sinks, slithers and slides? What happened to the desire for open space in Moraga. Doesn't this project back up into another hill and ridge line? We already have too many houses, cars and people in Moraga and I will remind all of you again, we are a cul-de-sac without too many exiting options in a disaster. 16-1

The homeowners who would be affected by any development at the Hetfield site, and the Town, need to have sufficient assurance that development at the site will not create any hazards to life or property, and that all mitigation measures that are required by the developer are fulfilled. The DEIR refers to the applicants' posting various "bonds" in connection with any development, but no amount is specified as to any of them. (See, e.g. DEIR, p. A-1). We believe the applicants should be required to post a reasonable bond in connection with any preparation of the property for the eventual building of any homes, and that the amount should be fixed at this point of the process at no less than $5 million, adjusted for inflation. This is especially necessary given the acknowledgement in the DEIR that "[o]nce the subdivision improvement plans have been approved, site preparation can last as long as two years until all improvements are completed and prior to the construction of houses. It is acknowledged that the site could remain vacant for several years before houses are constructed due to the current economy" (DEIR p. 3-7). Accordingly, since some of the interested or affected parties may change over this period (e.g. Planning Commission members, Planning Director and members of that department, homeowners, the current applicants, etc.), it would be both prudent and necessary to fix these amounts now so there is no question as to what to expect on that issue later. 16-2

As to the bond to protect Sanders Drive homeowners, and anyone else who may be injured in person or property, as any engineering, excavating, grading or any other developmental activities occur during the building of any individual home, another $5 million bond should be required from the applicants, and that, too, should be established as a requirement for approval of the DEIR, any Conditional Use Permit (CUP) or the Conceptual Development Plan (CDP). We are very concerned with the economic viability of any proposed GHAD or homeowners association to protect the safety and property of any adjacent or nearby homeowners who may be affected by the proposed project. Accordingly, as a

1

condition of approval of the DEIR, any CUP or CDP, the Planning Commission should require that the applicant or any future owner of the Hetfield site post a bond in the amount of $10 million before any work may begin on the construction of any homes on the development site. 16-2

It is time for the Planning Commission to say NO to a housing development.

Respectfully submitted, Caroline Wood

Caroline Wood
26 Hardie Drive
Moraga, California 94556
925-376-4907
925-899-6980 cell
crwwood@comcast.net
If you obey all the rules, you miss all the fun.
[illegible]

LETTER
16
RESPONSE

Caroline Wood
March 21, 2011

16-1 **Comment:** Questions why more development is allowed in this area, particularly on land that is unstable and asks whether the project site backs up to another hill or ridgeline.

Response: Comments acknowledged regarding the amount of development within Moraga. Regarding hillside stability the commenter should refer to Mitigation Measures 3.2-1A through G; 3.2-2; 3.2-3A through D; 3.2-5 and 3.2-6. The commenter also asks whether the property backs up onto another hill and ridgeline. As shown on the aerial photo in Figure 1-2, residential development and an undeveloped subdivision bound the property on three sides, with the exception of the northeast and southwest corners of the property. The property does not back up to another hill or ridgeline.

16-2 **Comment:** States that adequate bonds should be required.

Response: Comments acknowledged regarding the amount of bonds to be posted. The amount of bonds is specified by ordinance in the Town of Moraga. Bonds are determined based upon the "Engineer's Estimate" of improvement costs which is submitted with the engineering construction plans as they go through the plan check process with the Town. The Bond Estimate is then reviewed and approved by the Town engineering staff and the Town Engineer prior to approval of the final engineering plans. The Town then requires a 100 percent Labor and Materials and a 100 percent Faithful Performance Bond (i.e., bonding essentially twice the amount of the Engineer's Estimate). Therefore, the bond will be determined when the engineering construction plans are submitted. In addition, significant General Liability Insurance and Workers Compensation Insurance requirements are placed on contractors and are verified by the Town prior to commencement of construction. The Town will require proof of insurance prior to the start of grading/construction activities. Furthermore, as required by Mitigation Measure 3.2-6, the project site will be incorporated into a GHAD (Geologic Hazard Abatement District) for future maintenance.

Letter 17

March 7, 2011

Lori Salamack
Planning Director
Town of Moraga
329 Rheem Boulevard
Moraga, CA 94556

Re: Hetfield Estates Subdivision EIR Notice of Availability of DEIR January 20, 2011
Comments from Owner/Applicant

Dear Ms. Salamack:

The Wyro Company continues to be the applicant on behalf of Robert Lipson and Sanford Gage, the owners of the Hetfield Estates property (together "Applicants"). The Applicants hereby submit their comments on the Hetfield Estates Subdivision Draft EIR (Draft EIR), pursuant to the Notice of Availability issued by the City dated January 20, 2011.

I. Overall Comment

The Applicants appreciate the thorough review of the potential significant environmental impacts of the Hetfield Estates project as set forth in the Draft EIR. The Applicants agree with the identification and listing of potential significant impacts, the mitigation measures proposed to address potential impacts, and the conclusions of the Draft EIR. Specifically, the Applicants agree with the conclusions of the Draft EIR set forth in Section 4 (Impact Overview), confirming the reduction of all potentially significant impacts of the project to a less-than-significant level with mitigation measures as proposed.

In our view the Draft EIR is complete, and legally sufficient.

II Specific Comments

The Applicants want to submit the following supplemental comments/information into the administrative record and as part of the CEQA process. In addition please find correspondence attached from RMR Design Group, LSA and ENGEO regarding specific items in their respective fields:

1. Chapter 3 – Geology. Impact 3.2-2. It should be noted that a fault not considered active means it has not been active for at least 11,000 years. 17-1

2. Chapter 4 - Impact Overview. With respect to *Beneficial Impacts* as described on page 4-1, we would note that as a part of ongoing discussions with the community and Moraga-Orinda Fire District, the Owners have offered to dedicate an easement that could be used by the town to provide an emergency vehicle access from Hetfield, through the project to the Sander's Ranch homes. We believe this is a significant community benefit. 17-2

3. Chapter 5 - Project Alternatives. We note that one of the proposed alternatives at Section 5.3 is the "Three-Lot Subdivision on Reduced Project Acreage" (or "Three-Lot Alternative"). We concur with the Draft EIR conclusion that the cost to improve the development area under this alternative, as well as to construct the private road, and the burden on only three homeowners to maintain the private open space, all make this alternative economically infeasible. With regard to the economic infeasibility of this Three-Lot Alternative, we submit the paragraph attached hereto as Att. 1, and the "Rejected Project Alternative Pro Forma" attached hereto as Att. 2. These documents address the costs and potential profit for the Three-Lot Alternative, and confirm the economic infeasibility of such alternative. 17-3

4. Chapter 6 – Report Preparation. Persons Consulted should include Mitch Wolfe, Town of Moraga consulting engineer. 17-4

III. Conclusion

Thank you for your review of these comments on the Draft EIR. Please feel free to contact me with any questions.

Very truly yours,

John Wyro

Enclosures:

Attachment 1 - Rejected Project Alternative Description

Attachment 2 - Rejected Project Alternative Pro Forma

ENGEO letter dated March 1, 2011

LSA Associates, Inc. letter dated March 2, 2011

RMR Design Group letter dated March 7, 2011

cc: Robert M. Rourke, RMR Design Group
Raymond Skinner, Engeo, Inc.
Malcolm Sproul, LSA Associates,
Allan Moore, Gagen McCoy

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ATTACHMENT #1

HETFIELD PLACE
REJECTED PROJECT ALTERNATIVE PRO FORMA
MARCH 7, 2011

The proposed "Three-lot Subdivision on Reduced Project Acreage" would avoid repair of the two slides that occur in the vicinity of Lot 1 and Lot 6 of the proposed plan. While the costs to develop the site would be reduced as a result, there is soils work that is still required. That coupled with the bridge and other improvements would result in costs that would make the project infeasible.

The cost breakdown includes $780,000 in processing costs ($260,000 per lot), these are the actual costs incurred by the owners for plan preparation, town studies, reports and processing fees as well as other consultant and legal fees to date. The engineer's estimate for improvement costs is approximately $400,000 per lot: with a cost of sale of 5% added to these costs the total cost is $692,000 per lot. This assumes a zero land cost – *no value for the land.* The estimated retail value for these lots in an improved market in one to two years as based on estimations of value by local real estate professionals is $600,000. Clearly a project not feasible for a developer purchasing the property from the owners, but also not feasible for the owners to develop and sell. The owners are not real estate developers or builders. The end result is a loss of approximately $277,000 even with the zero land base. This alternative is not feasible.

ATTACHMENT #2

HETFIELD PLACE
Rejected Project Alternative Pro Forma 3-1-11

	PROCESS $	IMP. $/LOT	TOT. RAW $	RETAIL $	PROFIT/LOT	TOT. PROFIT
3 LOTS REDUCED	$780,000	$399,242	$692,204	$600,000	-$92,204	-$276,611

PROCESS $ - This is an accouting of the costs of the EIR, town review and consultants for the whole project

IMP.$/LOT - Preliminary estimate, including slide repair, mitigation measures, grading, bridge, street & utilities (includes a 10% contingency). Reflects no slide repair on lots 1 & 6

TOT. RAW $ - Total of processing and improvement costs **assuming a zero land base**.

RETAIL $ - The estimated value of an improved lot, provided by John Fazel assuming a sale in 2012 with a recovering market

PROFIT/LOT - Retail value minus process costs, improvements (Tot. raw $) & sales (5%)

TOT. PROFIT - Even with no value placed on the land the project would still lose in excess of $276,000

MAINTENANCE - Does not include the ongoing maintenance costs for bridge, road, open space and soils

ENGEO INCORPORATED

GEOTECHNICAL
ENVIRONMENTAL
WATER RESOURCES
CONSTRUCTION SERVICES

Project No.
5047.100.201

March 1, 2011

Mr. John Wyro
The Wyro Company
40 Valley Drive
Orinda, CA 94563

Subject: Hetfield Estates
Moraga, California

COMMENTS REGARDING THE ENVIRONMENTAL IMPACT REPORT

References: Mills Associates, January 14, 2011, Hetfield Estates Subdivision, Environmental Impact Report, Prepared for Town of Moraga.

Dear Mr. Wyro:

The purpose of this letter is to provide our comments regarding the geotechnical aspects of the Environmental Impact Report (EIR) that has been prepared for the Hetfield Estates project by Mills Associates (referenced above). ENGEO has previously performed geotechnical explorations for the project and presented the results of those studies in reports dated August 3, 2000, September 26, 2005 and February 5, 2010.

In general, the measures described in the EIR are consistent with the measures recommended by ENGEO for mitigation of potential geologic hazards associated with the project. With regard to mitigating risk factors (page 3-70, risk factor a.) it should be noted that the proposed landslide corrective grading is expected to reduce the potential for adverse impacts to the proposed improvements and is also expected to reduce the potential for adverse impacts to the adjacent properties. The proposed corrective grading will improve the stability of the landslide areas on the site and reduce the potential for these landslides to move into the creek channel. This improved condition is expected to reduce the potential for impeding stream flows, flooding and collection of debris on the adjacent existing lots.

17-5

If you have any questions regarding the geotechnical aspects of the project, please do not hesitate to contact us.

Sincerely,

ENGEO Incorporated

Raymond P. Skinner, CEG

Donald Bruggers, GE

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CARLSBAD
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IRVINE
PALM SPRINGS
RIVERSIDE
ROCKLIN
SAN LUIS

March 2, 2011

John Wyro
The Wyro Company
40 Valley Drive
Orinda, CA 94563

Subject: Comments on Draft EIR
Hetfield Estates

Dear John:

The following comments present the results of my review of the Hetfield Estates Draft EIR (January 2011). They focus on the Aesthetic/Visual Resources and Biological Resources sections of Table 5-1, Summary of Significant Impacts and Mitigation Measures. My comments are as follows:

Aesthetics/Visual Resources

M.M. 3.1-1A. This measure requires the container size of replacement tree plantings to be no less than 15 gallons. The plantings are to occur along the banks of Larch Creek to augment the riparian zone using native species. Research into the planting of native species has shown that tree growth is faster if smaller container stock is used. Trees from larger containers are frequently root bound in the containers and grow slowly once planted out. Trees from smaller containers are more likely to establish a viable root system in native soils, resulting in better tree growth. This is particularly true if regular maintenance is provided to the trees during their first years of growth. Maintenance needs to include regular deep irrigation during the dry months of the year (April/May to September/October), caging to protect from deer and weeding. More detailed specifications, including container size and performance criteria should be included in the tree-planting plan required by this measure. 17-6

M.M. 3.1-1C. This measure is not consistent with M.M. IV-5C which requires a minimum of five years of maintenance, not ten as stated here. Five years is sufficient to determine if a tree has become established and its growth is meeting performance criteria. This measure should be revised to be consistent with the language of M.M. IV-5C. 17-7

Biological Resources

M.M. IV-ID. The second sentence of this measure infers there are at least two methods of nest avoidance which could be implemented but only describes one. It appears additional language is necessary to clarify this sentence. I suggest the following: 17-8

> IV-1D: Any active raptor or loggerhead shrike nests in the vicinity of proposed grading shall be avoided until young birds are able to leave the nest (i.e., fledged)

and forage on their own. Avoidance may be accomplished either by scheduling removal of trees and shrubs during the non-nesting period, September through February, or by establishing buffers around active nests until the young have fledged. Provisions of the pre-construction survey and nest avoidance, if necessary, shall include the following:

17-8

M.M. IV-5A. In the last sentence of the introductory paragraph replace repaired with prepared.

17-9

M.M. IV-5C. See previous comment on M.M. 3.1-1C regarding consistency between these two mitigation measures.

17-10

Any changes to mitigation measures made in the Summary Table should also be made in the main body of the EIR and in the Mitigation Monitoring and Reporting Plan.
Let me know if you have any questions.

Sincerely,

LSA ASSOCIATES, INC.

Malcolm J. Sproul
Principal

March 7, 2011

Ms. Lori Salamack, Planning Director
Town of Moraga
329 Rheem Blvd., Ste. 2
Moraga, California 94556

Re: **"Hetfield Estates Subdivision"**
Comments on Draft EIR, January 14, 2011

Dear Lori,

I have reviewed the Draft EIR for the proposed Hetfield Estates Subdivision and have found it to be complete. I do have a few comments on some minor grammatical oversights, plus several supplementary comments that could be added to the responses in Chapter 3.4 beginning on Page 3-70. They are as follows:

1. Page S-5, MM 3.1-3.A: It appears this summary item was carried forward incorrectly from Page 3-9 & 10. The textual discussion of this Mitigation Measure for Impact 3.1-3 states: "The maximum building height shall be determined through the design review process, but shall not exceed 25 feet from *finished* grade." The summary table contained on Page S-5 should be corrected to match. 17-11
2. Page 2-1, Physical Location, 2nd paragraph, 4th line: This should read "previous subdivision occurred in the *southwest* portion of the property..." 17-12
3. Page 3-1, Setting, 2nd paragraph, 1st line: This should read "*northwest-southeast* trending ridge." 17-13
4. Page 3-66, 2nd paragraph, 6th line: This should say "the *northwest/southeast* trending ridgeline is not identified..." 17-14
5. Page 3-70, Chapter 3.4: The applicant agrees with the responses presented but would supplement them with the following: 17-15

   a. "The repair of the landslides within the Development Area combined with its protection from upslope debris generation provided by the proposed debris benches will effectively eliminate the risk of adverse impacts from landslides and unstable soil."
   b. "The existing ephemeral natural drainageway along the northerly property boundary traverses the edge of the property in such a way as to create no potentially adverse impacts on the Development Area. Furthermore, this drainageway serves a drainage basin which is less than 50 acres in size."

99011LTR.036

c. "The proposed 50' and 75' setbacks on either side of the mapped fault line will assure that habitable structures within the Development Area will not be negatively affected by any movement or reactivation of the mapped fault trace."
d. "Any intermittent springs which have any potential to impact the project will be provided with subdrains which intercept and divert their seasonal flows to the surrounding wetlands mitigation areas. The subdrainage system will also alleviate any adverse ground water conditions by removing subterranean flows from the Development Area. Consequently, these measures will eliminate the likelihood of any adverse impacts on the project from these elements."
e. "No reservoirs, detention basins or ponds of one acre or more in surface area are located or proposed within 1900 yards upstream or 500 yards downstream of the Development Area."

17-15

This concludes my comments on the Hetfield Estates Subdivision Draft EIR.

Sincerely,
RMR Design Group

Robert M. Rourke, P.E.
President

99011LTR.036

LETTER
17
RESPONSE

John Wyro
The Wyro Company
March 7, 2011

17-1 **Comment:** States that an inactive fault means it has not been active in the past 11,000 years.

Response: The EIR authors concur with the comment. This is the definition of an active fault in the "Policies and Criteria" utilized to implement the Alquist-Priolo Earthquake Fault Zone Act.

17-2 **Comment:** Provides information regarding the potential emergency vehicle access through the site connecting with Sanders Ranch.

Response: The information regarding the emergency access easement has been added to the discussion on page 4-1, Beneficial Impacts; (refer to ERRATA).

17-3 **Comment:** Provides cost information regarding the development of a 3-lot alternative.

Response: Information regarding the cost to develop a 3-Lot Subdivision Alternative is acknowledged and included in the Final EIR.

17-4 **Comment:** Should include Mitch Wolfe's name to list of Persons Consulted.

Response: Mitch Wolfe's name has been added to the list of Persons Consulted on page 6-1; (refer to ERRATA.)

17-5 **Comment:** States expectations of proposed geotechnical recommendations.

Response: No response is required. The comment does not challenge the adequacy of the DEIR. It does indicate that the corrective grading would reduce the potential for landslides originating on the site to impact the channel of Larch Creek.

17-6 **Comment:** Requests that the tree size be changed in Mitigation Measure 3.1-1A.

Response: In response to the comment regarding the appropriate size tree as called for in Mitigation Measure 3.1-1A, the EIR author consulted with a landscape architect who stated that 15-gallon size trees are typically used, particularly when supplementing an existing tree screen or providing a new tree screen. While it is true that smaller size trees may not be root bound, they are very small (one-inch diameter trunk) and would not meet the intent of the mitigation measure, which is to establish a tree screen as soon as possible after the project has been approved. Therefore, the mitigation measure remains as stated. The EIR authors would agree that no tree larger than 15-gallon size should be used.

17-7 **Comment:** Points out that Mitigation Measure 3.1-1C is not consistent with Mitigation Measure IV-5C.

Response: Mitigation Measure 3.1-1C has been corrected to require monitoring of the new trees for a period of five years, not ten (refer to ERRATA).

17-8 **Comment:** Requests additional language be added to Mitigation Measure IV-ID.

Response: The EIR authors concur with the commenter's revisions to Mitigation Measure IV-1D regarding raptor nesting with some additional qualifying language. Language underlined is that provided by the commenter and the language in Italics is that provided by the EIR biologist (refer to ERATA).

> "**Mitigation Measure IV-1D:** Any active raptor or loggerhead shrike nests in the vicinity of proposed grading shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling removal of trees and shrubs during the non-nesting period, September through February, or by establishing buffers around *any* active nests until the young have fledged *based on the results of a pre-construction survey and recommendations of a qualified biologist.* Provisions of the pre-construction survey and nest avoidance, if necessary, shall include the following: …."

17-9 **Comment:** Points out correction in Mitigation Measure IV-5A.

Response: Comment acknowledged regarding the wording in Mitigation Measure IV-5A. The word "repaired" is replaced with "prepared" (refer to ERRATA).

17-10 **Comment:** Points out consistency between Mitigation Measures IV-5C and 3.1-1C.

Response: The correction has been made; refer to Response to Comment 17-7.

17-11 **Comment:** Points out corrections to Mitigation Measure 3.3-3A.

Response: Correction noted. Mitigation Measure 3.3-3A has been corrected to read "finished" grade rather than "existing" grade (refer to ERRATA).

17-12 **Comment:** Points out correction on page 2 line 4 of the DEIR.

Response: Correction noted. Paragraph 2, line 4 on page 2-1 of the DEIR has been corrected to read "The previous subdivision occurred in the southwest portion of the property…" (refer to ERRATA).

17-13 **Comment:** Points out correction on page 3-1 second paragraph.

Response: Correction noted. The text has been modified as shown in the ERRATA.

17-14 **Comment:** Points out correction on page 3-66 second paragraph.

Response: Correction noted. The text has been modified as shown in the ERRATA.

17-15 **Comment:** Presents several supplemental text items relating to landslides, drainageways, springs and setbacks as it pertains to MOSO criteria.

Response: The inclusion of the supplemental language on pages 3-70 and 3-71 of the DEIR regarding MOSO criteria is acknowledged. Refer to the text modification in the ERRATA.

SOURCES OF INFORMATION

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King, Horace, and Brater, Ernest. 1963. *Handbook of Hydraulics for the Solution of Hydrostatic and Fluid-flow Problems, 5*th edition.

RMR Design Group. 2008a. *Hetfield Estates, Storm Water Control Plan,* February 19.

RMR Design Group. 2008b. *Hetfield Estates, Subdivision 9051,Conceptual Development Plan,* August 27.

Skinner, Ray, ENGEO Inc. 2011. Memorandum to John Wyro, The Wyro Company, April 14.

Soil Survey of Contra Costa County. 1977. USDA Soil Conservation Service.