Minutes

TOWN OF MORAGA
PLANNING COMMISSION MEETING

Moraga Library Meeting Room
1500 St. Mary's Road
Moraga, CA 94556

March 7, 2011

7:30 P.M.

MINUTES

I. CALL TO ORDER

Chairman Driver called the Special Meeting of the Planning Commission to order at 7:30 P.M.

ROLL CALL

Present: Commissioners Levenfeld, Obsitnik, Socolich, Wykle, Chairman Driver
Absent: Commissioners Richards, Whitley
Staff: Lori Salamack, Planning Director

B. Conflict of Interest

There was no reported conflict of interest.

II. ADOPTION OF MEETING AGENDA

On motion by Commissioner Obsitnik, seconded by Commissioner Socolich and carried unanimously to adopt the meeting agenda, as shown.

III. ANNOUNCEMENTS

There were no announcements.

IV. PUBLIC COMMENTS

Holly Lucas-Alcaly, 128 Devon Drive, Moraga, referenced the language in the approved conditional use permit for the Dollar Tree Store application in terms of defining the sale of food and beverages and confusion with respect to the interpretation of the Town's Retail Ordinance. She asked the Planning Commission to evaluate that situation as an agenda item at a future meeting.

V. ADOPTION OF THE CONSENT CALENDAR

There were no items on the Consent Calendar.

VI. PUBLIC HEARINGS

A. CDP 02-05 - Draft Environmental Impact Report for the Hetfield Estates Subdivision, John Wyro (Applicant), Robert and Sandy Lipson and Sanford Gage (Property Owners): Public Hearing to receive comments on the Draft Environmental Impact Report (EIR) for the proposed 7-acre lot subdivision. The project being evaluated by this EIR is the subdivision of a 58.2-acre parcel into seven lots. Six single-family lots would be located on 6.75 acres, with the remaining lot containing 51.45 acres that would remain in permanent open space. The open space area would be maintained either by a homeowner's association or a special district, e.g., geological hazard abatement district (GHAD). The six residential lots would range in size from 41,826 square feet (.96 acre) to 59,930 square feet (1.38 acres). The proposed development is located on a northern portion of a remnant parcel that was previously subdivided in 2001 (Subdivision 8444). At that time, the entire parcel contained 65.5 acres and 7.4 acres were developed for single-family housing in the southwest corner of the property.

The new homes would be served by the East Bay Municipal Utility District (EBMUD), Central Contra Costa Sanitary District (CCCSD), PG&E, and AT&T for cable television. Students would attend schools in the Moraga Elementary School District and the Acalanes Unified School District. The site is not a known toxic site.

Planning Director Lori Salamack presented the staff report for the public hearing to receive comments on the Draft EIR for the proposed 7-acre lot subdivision. The Planning Commission had considered the matter two years and had approved the project with a Mitigated Negative Declaration as the environmental document to support its decision. The project had been appealed to the Town Council which had determined that a Focused EIR was necessary to fully evaluate the impacts of the project and had directed staff to rework the environmental document. Staff in working with the Town's consultants had performed that work and the Draft EIR had laid out alternatives to the project submitted. It had also gone into greater detail on specific subjects of Town Council concern including concerns with respect to geology and issues with respect to the General Plan.

Ms. Salamack advised that the applicant's team was present and included the Town Consultants and Darwin Myers Peer Review Consultant Mitch Wolfe. She explained that the Planning Commission would not be making a decision on the project at this time in that the only decision to be made was to potentially extend the public comment period for an additional two weeks, as indicated in the staff report dated March 7, 2011. The public comment period had been open for 45 days in accordance with State law. An additional public hearing would not be held during that time unless the Planning Commission determined that was necessary.
An extension of the public comment period would allow additional opportunity for the public to submit written comments to be addressed in the Final EIR.

Carolyn Mills, Town consultant on the Draft EIR, added that the Town Council had directed specific areas to be expanded in the EIR including not only geology and soils but issues with respect to the General Plan, hydrology, drainage, aesthetics, and the land use planning component. The EIR team had evaluated those issues, had identified additional impacts and mitigation measures, and had pulled impacts and mitigation measures forward from the Initial Study, as deemed appropriate.

Darwin Myers, geotechnical consultant, commented that during the Town Council public hearing the neighbors had two experts testify on the surface water and groundwater hydrology with concerns expressed for the depth of the landslides, whether or not there was enough information to draw solid conclusions about landslide hazards, and concerns that groundwater could become unmanageable. A fault map of the site was to be evaluated with the idea it could be a groundwater barrier. The applicant's geotechnical consultant, ENGEO, had prepared a work program in response to the issues that had been raised which had been forwarded to all of the involved consultants for both the applicants and the neighbors. ENGEO had set stakes at locations for borings and test pits, had conducted borings in slide areas, and had indicated that the slide was confined to the soils in the overlying bedrock. The borings extended 30 feet into the bedrock and had been evaluated in a laboratory.

Mr. Myers advised that while in the field, the parties involved had determined that an additional boring or two and a change in the location of the borings was necessary within the landslide areas. It had been agreed that a total of seven borings would be in locations within the landslide areas with two additional borings down near the creek to determine the depth of rock and other characteristics of rock in that area. A location for a fault trench had also been

determined. Three of the borings had hit landslide debris down to a depth of 18 to 19 feet. The other four borings hit a slide plain at a depth of approximately 10 feet. The recovery of core was good once into the bedrock with a few areas of shearing into the core, which was not unusual in the fault trench. There was very little water found although there was some seepage in addition to one long trench to locate the fault. Shorter trenches had been utilized to project the fault across the site.

Mr. Myers commented that 14 test bits had been conducted by ENGEO and five borings by a previous developer, the data from which had been relied upon as part of the Initial Study. There were now approximately 26 test bits, with seven to eight test bits located in 3:1 fill slope areas to confirm the depth of bedrock and the severity of potential landslide hazards.
The report from ENGEO had been available since January 2010, and as a result the initial impacts and mitigation measures had been fine tuned and graphics clarified in the Draft EIR to better assist the experts in the field.

Ms. Mills stated that the drainage had also been evaluated and the analysis expanded for both on- and off-site drainage problems, and included back-to-back storms. The analysis had relied upon results from the geotechnical studies on groundwater impacts and had provided a more detailed description of the operation of the detention basin. In response to the aesthetic concerns in terms of consistency with the existing neighborhood, a more thorough analysis of the General Plan and planning policies on neighborhood character had resulted in a new set of impacts and mitigation measures.

Ms. Mills took this opportunity to identify a discrepancy between the text and the summary table regarding Mitigation Measure 3.1-3(a) of the summary table, where the last line should be corrected to read *"finished grade"* not *"existing grade,"* as shown.

Ms. Mills also commented that the planning and land use section of the Draft EIR had expanded the MOSO [Moraga Open Space Ordinance] discussion. It had been determined that based on all of the additional geotechnical analysis the proposed project met the MOSO criteria and was no longer considered to be a high risk site. The alternatives that had been developed with Town staff included a no project alternative; a 3-lot subdivision which would reduce the project area; an 8-lot subdivision with reduced lot size on a smaller development area; and an 11-lot subdivision, the maximum development allowed on the site, with reduced lot sizes within the proposed development area. All had been contained on

Pages 5-3 and 5-9 within the alternative section of the Draft EIR with a comparison table of the alternatives. The project applicant's objectives for the project had also been considered as part of the requirements of the California Environmental Quality Act (CEQA) where it had been determined that a 3-lot subdivision would not be financially feasible and with the 8-lot subdivision determined to be a superior alternative to the proposed project.

PUBLIC HEARING OPENED

John Wyro, 40 Valley Drive, Orinda, identified himself as the applicant representing the property owners. He recognized that the Planning Commission had seen the project before since the original application had been filed in December 2006, and the Planning Commission had approved the project in November 2008. That approval had been appealed to the Town Council leading to the preparation of the Focused EIR. He pointed out that the Draft EIR had come to the same conclusion as the Mitigated Negative Declaration. It was his hope that after exploration of the document itself they would be able to come back and discuss the project itself.
Mr. Wyro submitted written comments to staff that he identified as responses to be included in the document. He looked forward to working with the Planning Commission on the project.

M-1

Suzanne Jones, 1285 Bollinger Canyon Road, Moraga, representing Preserve Lamorinda Open Space comprised of approximately 700 local residents aimed at participating in the public process on open space development issues, commented that the organization had participated in the Initial Study and Mitigated Negative Declaration and the appeal. While she advised of her desire to comment on the Draft EIR, she stated she had been unable to do so because of the appeal of the Rancho Laguna II development which had culminated during the 45-day public review period for the Draft EIR for Hetfield Estates. Given that CEQA provided for an extension of the public comment period, she requested that the Planning Commission extend the public comment period for the Draft EIR for Hetfield Estates for a full 60 days to allow for public comment and the ability of the organization to inform its members of the opportunity to comment.

M-2

Lynne Fiorindo, 1112 Sanders Drive, Moraga, spoke to Pages 3-41 and 3-42 of the Draft EIR, specifically related to a 2002 and 2006 flooding incident at her residence at 1112 Sanders Drive. She commented that although those incidents had not been reported to the Contra Costa County Flood Control District (CCCFCD), she was disappointed and frustrated that had not been included in the Draft EIR. She stated that she had previously submitted photographs to the Town Council of her rear yard which she re-submitted to the Planning Commission at this time. She noted that she had not reported any flooding of her

M-3

property at that time and that section in the Draft EIR had implied that no flooding had occurred. She had not been aware of the various agencies to report to at the time she had purchased her home and had understood that property owners took care of the problem which they had understood was the right thing to do. She acknowledged that some improvements to her property had been made since those incidents to block any future flooding that may occur as a result of nearby Larch Creek. M-3

Daran Santi, 1148 Sanders Drive, Moraga, questioned what assurance the neighbors would have once the developer had approval from the Town that the project would be built and not end up like Vista Encinos, a project located on the other side of the hill. In that case, the developer had gone bankrupt and the property had become an eyesore in the community. M-4

Gordon Nathan, 51 Carr Drive, Moraga, commended the completeness of the Draft EIR. He referenced a letter he had read as contained in the EIR, which had listed 60 questions related to the development. While he understood that the Draft EIR had come to the same conclusion as the initial EIR, there remained a number of questions raised by the neighbors which he suggested may take more than the allowed public comment period to answer.
Mr. Nathan agreed that the Planning Commission must take into consideration the number of questions the neighbors had raised on the proposal either through public comment or through written correspondence. While he understood that the property owners had a right to develop the property as they wished, given that regulations had changed over the years he stated that the property owners must follow those regulations and it was the duty of the Planning Commission to ensure that was done. M-5

Jennifer Koziel, 1132 Sanders Drive, Moraga, asked that a copy of numerous questions that had been raised by the neighbors be incorporated into one document. She presented those questions to staff. She noted that Laurel Collins, a geomorphologist, had provided her with a number of questions regarding issues she had suggested had not been answered in the Draft EIR sufficiently, which questions she submitted to staff at this time. She also submitted her own written correspondence for the record along with photographs of the Vista Encinos property that had been referenced. The photographs depicted the deteriorated condition of the property and a very large pond of standing water at the end of that development where it appeared that the drainage may be failing. M-6

Christopher Bowen, 1108 Sanders Drive, Moraga, identified himself as an arborist. He cited the recommendation on Page S-4 of the Draft EIR for a California Baylor tree species that had been proposed as tree screening. He described that species as attractive to sudden oak death and suggested it would be a mistake to plant that species within the project site. M-7

Nancy Wilkerson, 1140 Sanders Drive, Moraga, expressed concern with the potential drainage issues and soil removal associated with the project site given the drainage issues on her own property. She too expressed concern with the potential for Hetfield Estates to become a nuisance as Vista Encinos had become. M-8

Shivaun Wraith, 19 Hetfield Place, Moraga, also expressed concern with the potential drainage impacts if the property was ultimately left vacant and not developed as proposed as had occurred with Vista Encinos. She sought greater details on the drainage system being proposed for the property. She noted the number of restrictions imposed on Moraga residents to develop on their property and asked what development restrictions would be imposed on the project. M-9

John Ohare, 1120 Sanders Drive, Moraga, referenced the geologist that had been hired by the neighbors to consult on the Draft EIR and who had recommended that there could be a need for further drilling in response to potential deeper landslides on the property. He questioned the Town's liability if deeper landslides were found that had not been currently identified.
Mr. Ohare also understood that debris would be benched behind the homes to be built, the size and appearance of which had not been identified in the document. He requested some sense of the size of the debris bench, a schematic of the area once excavated, and the debris bench created and grading conducted to show how the hillside would appear after that work had taken place. He also understood that the size of the homes would be reduced to fit in better with the surrounding neighborhoods although that reduced size had not been identified. M-10

Malcolm Cooper, 1160 Sanders Drive, Moraga, read into the record a letter he had submitted to the Planning Commission. He expressed concern with the steepness and unstable conditions of the land where the project had been proposed for development, which land had been zoned as high risk. He questioned how that designation had now changed. He disagreed that the project was consistent with the General Plan or MOSO given that the development, as proposed, would require extensive grading with potential impacts. He suggested that the same impacts had occurred with the Vista Encinos development, which project had proposed the same methods of construction, and had become a vacant eyesore with no new housing or revenue for the Town. He expressed concern with the many similarities between the M-11

Vista Encinos project and the proposed Hetfield Estates development and asked the Town to take into consideration the potential liability and risks now and in the future if the project were allowed to move forward. He also expressed concern with impacts or required repairs to Sanders Drive as a result of heavy equipment and construction activities associated with the project that had not been addressed in the EIR. M-11

Ellen Voyles, 1156 Sanders Drive, Moraga, spoke to Page S-4 of the Draft EIR in terms of aesthetics. She questioned the proposed tree screening noting that her property would be directly impacted by the mitigation measures that had been proposed. She explained that her existing tree screening had taken many years to mature and she expressed concern the developer may remove existing trees to be replaced with the proposed trees identified for mitigation. She encouraged Commissioners to view the site. M-12

Tim Meltzer, 6 Willow Spring Lane, Moraga, concurred with the comments and agreed that the comment period should be extended given the time already spent on the proposal, and since the Town Council had directed the preparation of a Focused EIR two years ago. He understood that many people had been unable to attend the hearing and there was no reason not to extend the public comment period. He suggested that there remained problems with the development given that there was no agreement as to how the drilling would occur and that ENGEO had decided on a narrower drill than the drill recommended by the neighbors' consultant. Also, the drilling had not gone to the bottom of the deepest landslide and the potential impacts in that case were unknown. M-13

Mr. Meltzer also spoke to the Vista Encinos development and described that property as in disrepair, something the neighbors were concerned may occur with the Hetfield Estates development. He urged the Commission to address all areas of the project. M-14

Katherine Jarrett, 35 Hetfield Place, Moraga, reported that a large slide had been repaired directly behind her home in August 2009. She urged caution in that the slide had been monitored over a year by experts although the repair had turned out to be significantly different from the plans for its repair. She reported that there had been another failure which impacted her home and which had required an emergency repair at significant cost during the time of the other landslide repair. She sought assurance that the landslide repair would be fully completed and that existing homeowners would be protected from any potential damage. M-15

Zoe Klippert, 27 Hetfield Place, Moraga, echoed the comments made by Ms. Jarrett noting that the landslide referenced had greatly impacted her rear yard and had almost destroyed her home. She commented on the time involved with the Hetfield Estates development which had gone on for many years. She also commented on the closeness of the existing neighborhoods and urged Commissioners to visit those neighborhoods. M-16

Mr. Nathan also urged Commissioners to view the project site and the surrounding neighborhoods to see the steepness of the slope facing Sanders Drive. M-17

Jeff Schwartz, 22 Hetfield Place, Moraga, reported that a slide had occurred on the hillside five years ago which had illustrated what the hills were made of and the geological formation. He too expressed concern with the potential that landslides could occur in the future due to the development of the Hetfield Estates property. He stressed the need to be as careful as possible. M-18

Commissioner Levenfeld spoke to the Visual Resources section of the Draft EIR, specifically Section 3.123, and noted that she had reviewed the figures and still struggled with the visual impacts in terms of the relationship between the current and proposed new homes. Having walked the hillside, she noted that Figure 3.3-2 did not appear to have much of an elevation change between the current and new homes. Also, the debris bench had not been shown and would be at a higher elevation. She asked for a better rendering of the impacts and the relationship between the existing and new homes and the debris bench. M-19

Commissioner Levenfeld added that the size of the homes was also relevant in the Draft EIR due to the relationship between the proposal and the existing neighborhood in order to determine that the new homes would be in character with the existing neighborhood, and to better understand the mitigations that had been proposed. M-20

Commissioner Levenfeld understood that the home sizes would be no less than 180 feet apart although it would be helpful to have a better visual on the proposed sizes. While the mitigation measure that home designs would be compatible with the adjoining neighborhoods was good, she suggested that it could be going too far with a requirement for a low profile by incorporating low pitch roofs and roof overhangs for new construction. M-21

Commissioner Socolich commented on the testimony from those who resided on Sanders Drive having attempted to repair the drainage situation. He asked for an assessment of the existing drainage and requested clarification as to whether or not the mitigation measures that had been proposed would solve the problem. M-22

Bob Mills commented on the capacity of Larch Creek from the top down to its discharge into Moraga Creek. He noted that a study had been conducted in 1998 which had recommended that capacity be increased to 300 cubic feet per second, which had not been done with the exception of a new 72-inch pipe farther down from Larch Avenue and which had caused backup in the creek as a result of heavy storms. Foliage in the creek itself was also an issue. With a free discharge at the end of the project the water coming down the creek, even in a 100-year storm, would not come up to the top of the creek. He suggested that the existing conditions had exacerbated the current problems. The applicant had proposed a sophisticated storm drainage system including a detention basin with a 7-foot diameter concrete pipe which would retain the excess flow from the impervious surfaces of the development from a 100-year storm. The discharge from the detention basin would not be greater than the amount of flow coming from the site now consistent with the applicant's requirement to conform to the Clean Water C.3 Storm Water Requirements.

Commissioner Obsitnik acknowledged the concerns regarding the Vista Encinos development and the request for assurances that the approval of Hetfield Estates would not produce a similar situation. He asked that issue be addressed in the EIR or through a comment from the developer.

Commissioner Levenfeld understood that issue could not be addressed through the EIR.

Ms. Salamack explained that that topic could be addressed through a condition of approval as opposed to a mitigation measure in the EIR.

M-23

Commissioner Obsitnik commented on the concerns with respect to the geotechnical portion of the Draft EIR as to whether or not the methods used were adequate in terms of drill size and boring locations. As to the Town's risks on that issue, he asked for clarification in the EIR in terms of the discussion and agreements that had taken place.

M-24

Commissioner Obsitnik spoke to the issue of wildlife and commented that section of the Draft EIR should include more data on wildlife movements, existing wildlife, and impacts to wildlife. He suggested that the document did not offer much supporting data on that issue. He also requested clarification as to the definition of "environmentally superior" in terms of the alternatives.

M-25

Ms. Mills advised that the CEQA guidelines included a definition for environmentally superior.

Commissioner Wykle commented that he had visited the site. He echoed the comments that the site was very steep. He asked that any reference in the EIR to contour lines also provide the contour intervals, as an example, for Aerial Photo Figure 1-2, and Figure 2-1, to better gauge the steepness of the hill. He also referred to Page 3-4, the discussion of the General Plan as it related to new development and requested more discussion about that in section CD1.1 paragraph (a). For Pages 3-69 and 3-70, Project Impacts, he sought a more robust discussion on the increase in density in regards to landslides. As to the compatibility with the neighborhood, he urged further discussion in that section. M-26

Commissioner Levenfeld spoke to the existing trees in the riparian corridor and the preservation of some of the grasses. In response to the concerns with tree screening, she asked that section be discussed further in the EIR. M-27

Chairman Driver asked for more information to visualize what was occurring and to get a better sense in the EIR. He wanted to know the amount of soil to be moved or removed, excavation depths and the like, to be laid out in the EIR or to be provided in detail in the development plan portion of project review since it was currently unclear. He acknowledged that while more environmental work had been done in the EIR, questions remained and he sought confirmation that what had been proposed was appropriate, adequate, and acceptable. M-28

As to the language in the Draft EIR regarding neighborhood consistency, Chairman Driver was not convinced that the requirements for building height and a slope roof on the right slope was adequate given the size of the homes being proposed. He sought more information on the alternatives in the EIR, specifically the 8-lot alternative which would involve fewer environmental impacts. He also sought more information as to why that alternative was not preferred as opposed to the original baseline project. As to the debris bench, he requested more information on that detail in the grading plan. He suggested that the scale could be off and may be too wide for the proposed setting. He requested a clarification of that information. In terms of the drainage, he recognized that issue had been discussed at length in the past, but he would like to see how it all fit together with the impacts expressed through the creekbed in terms of the importance of the creekbed. M-29

In response to the request for an extension of the public comment period on the Draft EIR and in response to the Chair, Planning Commission consensus was that the public comment period should be extended.

When asked, Ms. Salamack clarified that extending the public comment period on the Draft EIR would not impose any additional cost to the Town.

As to the survey work done by ENGEO in response to the Chair, Mr. Myers reiterated that ENGEO had prepared a work program and had shown areas of proposed borings and test bits. Their commitment had been to go 30 feet deeper than the depth of a slide. Three borings had been done where the slide plain had been encountered at 18 or 19 feet and that meant the boring went to 50 feet to determine the presence of water, the methodology, and information to confirm the general relationships. Several borings at proposed locations had been moved in response to comments, or additional borings had been added. There had been consensus in the field from all of the parties that ENGEO had been flexible to moving things around to accommodate everyone's concerns.

Mr. Myers identified a potential groundwater concern and noted that a large boring would not allow them to really see anything in that any drilling method would have limitations. The method used had provided cores and drilling through the soils with all the bedrock cored to identify any slides. Slides were not in the bedrock and the two auger borings at the creek went down to about 35 to 40 feet to reach rock. The interpretation of the material encountered was that there may be a few feet of slide debris which was alluvium and polluvium of Larch Creek but not slide debris near the creek. The slide was not a rotational slide, or bedrock, but clay with pieces of sandstone, siltstone, and claystone mixed in it.

Ray Skinner, ENGEO, further spoke to the diameter of the boring and noted that there had been discussions on all of the issues. There had been agreement that if they had good recovery on the core that could provide the answer. Their report had gone into a lengthier discussion on that issue than usual. He reported that they had 90 percent recovery of all the core material that had been cut and therefore an excellent view of the materials. If there had been a slide plain in the rock it would have been seen. He had a high degree of confidence in the slide depths and emphasized that they had done substantially more exploration than in most projects. He explained that there had been nine borings in the latest round in addition to the five borings that had been done earlier, over 20 test bits, and more than two hundred feet of trenching. Maps in addition to the cross sections had shown the thickness of the slides.

Mr. Skinner again walked the Commission through the cross sections as earlier depicted by Mr. Myers. He also clarified that large volumes of groundwater had not been found.
No evidence had been found to identify that the fault had been acting as a groundwater barrier, and Mr. Skinner stated if it was acting as a groundwater barrier at greater depths it would be below where grading and slide removal had been proposed and was not relevant to what was being done. He added that slope seepages had been found in some of the test bits in different places under normal groundwater conditions.

Mr. Myers clarified that the borings had been conducted in September or October 2009. He commented that many times with grading or boring perched water was found and produced for a few hours or days and then drained. No large amount of water had been found other than the seepage that had been identified.

The Commission asked that Figures 3.2-4 and 3.2-5 be enlarged to allow greater visual details. M-30

Mr. Wyro stated, when asked, that he was not opposed to an extension of the public comment period.

On motion by Commissioner Socolich, seconded by Commissioner Obsitnik to extend the public comment period for the Draft Environmental Impact Report for the Hetfield Estates Subdivision for 15 days to March 22, 2011, carried by the following vote:

Ayes:	Commissioners Levenfeld, Obsitnik, Socolich, Wykle, Driver
Noes:	None
Abstain:	None
Absent:	Commissioners Richard, Whitley

VII. PUBLIC MEETING

A. None

VIII. ROUTINE & OTHER MATTERS

A. None

IX. COMMUNICATIONS

A. None

X. REPORTS

A. Planning Commission

Commissioner Wykle reported that he had attended the February 28 Design Review Board (DRB) meeting at which time the project at 120 Moraga Road had been discussed. Landscaping plans had been presented by the applicant. A nearby neighbor had expressed concern with privacy issues regarding her

driveway and some of the proposed landscaping. The DRB had ultimately approved a proposed green screen shrub material.

B. Staff

1. Update on Town Council actions and future agenda items.

Ms. Salamack reported that the Town Council would be considering a Green Building Ordinance and a procedure for reimbursement for the Calle Montana Nuisance Abatement during its March 9 meeting. The Town Council would consider a revised draft of the Medical Marijuana Ordinance during the meeting of March 23.

Responding to the concern expressed during public comment regarding the Dollar Tree Store application, Ms. Salamack explained that the Moraga Municipal Code (MMC) required a conditional use permit if the business was a restaurant or business which sold or distributed food or beverages. Retail uses were permitted subject to findings. During the Town Council meetings, a concern had been raised that the application should have been processed as a conditional use permit, not a permitted use application. Staff had reviewed the nature and classification of the business and determined it was classified as a General Merchandise Retailer, not a Food Retailer. After discussion, the Town Council determined that no more than ten percent of the floor area shall be devoted to food and beverage merchandise. She noted that the concern from the public was what the Planning Commission wanted the Retail Ordinance to include.

Ms. Salamack reported that the Town Council would be receiving a report from the Economic Development Team on March 9. The Economic Development Team had been charged with a new Retail Ordinance as a work product objective for the current year.

Chairman Driver suggested it would be beneficial for the Planning Commission to be given an update on the efforts of the Economic Development Team as part of the new Retail Ordinance.

Ms. Salamack also commented, when asked, that the Verizon application had included a landscape condition of approval that remained to be satisfied. The next meeting of the Planning Commission may include a discussion of a small subdivision proposed at Rheem Boulevard and St. Mary's Road.

Ms. Salamack also reported that another project that would be considered by the Town Council in April would be the Moraga Adobe Subdivision located in the City of Orinda given the interest of the community and given the property's historic significance.

XII. ADJOURNMENT

On motion by Commissioner Socolich, seconded by Commissioner Levenfeld to adjourn the Planning Commission meeting at approximately 9:20 P.M. to a special meeting of the Planning Commission on Monday, March 21, 2011 at 7:30 P.M. at the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission

MINUTES
M
RESPONSE

Town of Moraga
Planning Commission Meeting Minutes
March 7, 2011

M-1 **Comment:** States that the Draft EIR had come to the same conclusion as the Mitigated Negative Declaration. Provided a letter with his comments.

Response: Comment acknowledged. Responses to Mr. Wyro's letter are found in Response to Comments 17-1 through 17-15.

M-2 **Comment:** Requested that the public review period be extended.

Response: Comment noted regarding the extension of the public review period; refer to page 13 of the Minutes.

M-3 **Comment:** Disappointed that the flooding which occurred at 1112 Sanders Drive had not been acknowledged in the DEIR.

Response: Flooding at 1112 Sanders Drive is acknowledged on page 3-41 of the DEIR. Commenter should refer to Responses to Comments 6-1 through 6-4 and Response to Comment 2-39.

M-4 **Comment:** Questions what assurance the neighbors would have that the project would not end up like Vista Encinos.

Response: The Vista Encinos project is not the subject of this EIR and is therefore not relevant to determining the adequacy of the EIR. Later in the hearing when asked, Ms Salamack explained that the issue of the proposed project becoming another Vista Encinos situation could be addressed through a condition of approval as opposed to a mitigation measure in the EIR.

M-5 **Comment:** Pointed out that the neighbors had a number of questions that needed to be answered regarding the project.

Response: Commenter should refer to responses to the homeowners group, Responses to Comments 2-1 through 2-61.

M-6 **Comment:** Pointed out that questions raised by the neighbors and their consultant had not been answered in the DEIR. Also referenced the Vista Encinos project.

Response: Commenter should refer to responses to the homeowners group, Responses to Comments 2-1 through 2-61 and to Response to Comment 10-1. Information pertaining to the Vista Encinos project is acknowledged; however, that project is the not the subject of this EIR and is therefore not relevant to determining the adequacy of the EIR.

M-7 **Comment:** Pointed out that the reference to planting California bay tree species should be removed from the text because the tree is attractive to sudden oak death.

Response: Information acknowledged regarding the use of California bay laurel tree species. Based upon the information provided by the commenter, Mitigation Measure 3.1-1A has been modified and the reference to the bay laurel has been struck. Refer to ERRATA in Chapter 4.

M-8 **Comment:** Expressed concern with potential drainage issues and soil removal; project becoming a nuisance like Vista Encinos.

Response: On-site drainage and the measures to contain flow during peak storm events are discussed in Chapter 3-3 of the DEIR. The commenter should also refer to Responses to Comments 2-39, 2-47, 2-50, 3-3, 4-6 through 8, 5-4 and 12-1—all pertaining to the issue of drainage and potential flooding on Larch Creek. The Vista Encinos project is not the subject of this EIR and is therefore not relevant to determining the adequacy of the Hetfield Estates EIR.

M-9 **Comment:** Expressed concern with potential drainage impacts if property left vacant; also asked what development restrictions would be imposed on project.

Response: Refer to Response to Comment M-8 regarding drainage and Response to Comment M-6 regarding the Vista Encinos project. Insofar as restrictions imposed on the developer, the mitigation measures identified in the EIR will be placed upon the project, as well as conditions of approval that will be determined by Town staff and interested agencies. The project is also subject to federal and state review and these agencies may also place conditions upon the project. Also, the proposed project must comply with various parts of the Town's Municipal Code, such as zoning and infrastructure.

M-10 **Comment:** Questioned the Town's liability if deeper landslides were found that had not been currently identified. Size of the debris bench had not been identified in the DEIR and requested a schematic of the area to be excavated.

Response: Commenter should refer to Responses to Comments 2-52, 2-53, 4-1, and 4-2 regarding the extent of the borings and explorations undertaken by Engeo in the presence of the neighbor's geotechnical consultant as well as the Town's Peer Review Geologist. These same parties, as well as the EIR geologist reviewed the boring records. Regarding the size of the debris bench, the commenter should refer to Figures C&R-2 through C&R-5 in this report. These cross sections show the width of the debris bench. Figure C&R-1 provides a computer model of the slope in a post-graded condition.

M-11 **Comment:** Expressed concern with the steepness and unstable conditions of the project site and disagreed with the analysis that the project was consistent with the General Plan or MOSO. Discussed similarities between this project and Vista Encinos development.

Response: Commenter should refer to Responses to Comments 5-1 through 5-5.

M-12 **Comment:** Questioned the proposed tree screen noting that her property would be directly impacted by this mitigation measure.

Response: The tree screen would be planted on the project side of the creek and neighboring trees would not be impacted or removed. Additional language was added to Mitigation Measure 3.1-1A identifying where the planting of the trees would be located. Only the trees on the project site that are located within the development area, such as the creek crossing or along the proposed roadway alignment, would be removed.

M-13 **Comment:** Requested that the comment period be extended. Pointed out that there was no agreement as to how the drilling would occur.

Response: Regarding the public review extension, the commenter should refer to page 13 of the minutes whereby the Commission unanimously extended the comment period. Commenter should refer to Response to Comments 11-1 through 11-3 regarding geotechnical issues and the depth of borings.

M-14 **Comment:** Discussed the Vista Encinos project and its present condition.

Response: The Vista Encinos project is not the subject of this EIR and is therefore not relevant to determining the adequacy of the EIR.

M-15 **Comment:** Pointed out that a large slide had occurred at 35 Hetfield Place and the problems associated with that slide.

Response: Information regarding the slide at 35 Hetfield Place is acknowledged; no further response is necessary.

M-16 **Comment:** Referred to the slide at 35 Hetfield Place.

Response: Comments acknowledged regarding the slide at 35 Hetfield Place and the closeness of the project site to the neighborhoods.

M-17 **Comment:** Urged Planning Commissioners to view project site and surrounding neighborhoods to see steepness of project site.

Response: Comments acknowledged urging the Commissioners to view the project site and surrounding neighborhood.

M-18 **Comment:** Reported that a slide had occurred on the hillside five years ago.

Response: Comments acknowledged regarding the slide that had occurred on the project site previously and concerns raised regarding potential future landslides due to development.

M-19 **Comment:** Requested better graphics to show the proposed houses in relation to existing residences on Sanders Drive.

Response: Figures 3.3-1 and 3.3-2 are the largest size they can be for the report. Full size plans are available at the Planning Department. The commenter should also refer to Figures 3.1 through 3.3 in Appendix C that shows the proposed houses in cross section in relation to the existing houses on Sanders Drive. Figure 3.3-1 on page 3-45 of the EIR is a map of the cross sections reflected in Figure 3.3-2. This figure also shows where cross sections have been taken through Lots 1 and 6, which contain the largest debris benches. The other two lots have been included in the table as well to show the commenter the relationship between the existing houses, proposed building pads and the debris bench elevations.

Lot Number	Elevation Existing Residence	Elevation Future Building Pad	Elevation of Debris Bench (front to back)
1	Fauver – 543 ft.	566 ft.	582 – 589 ft.
3	Koziel – 564 ft.	572 ft.	598.5 – 603.5 ft.
5	Wiegman – 585 ft.	594 ft.	620 – 625 ft.
6	Meltzer – 593.5 ft.	601 ft.	640 – 646 ft.

M-20 **Comment:** Requested that the size of the proposed homes be included in the EIR.

Response: The suggested size of the proposed homes is stated on pages 2-2 and 3-9 of the DEIR. Mitigation Measures 3.1-3A through 3.1-3E mitigate the project's potentially significant impacts on neighborhood character. Plans provided in the EIR reflect a house size ranging from 5,110 gross square feet to 6,500 gross square feet (including the garage) and would include one- and two-story houses. The two-story house would be stepped up the hill. The size of the house is based upon the lot size and what can be accommodated on larger lots. There are no house plans to review for this project and therefore the actual size of future homes is unknown. The house plans shown in the EIR are included to illustrate the massing and siting on the lots and to address potential visual impacts. All future house designs would have to be reviewed by the Town's Design Review Board at which time the square footage would be regulated. As stated on page 3-9 of the DEIR, the proposed house size would not be compatible with the existing neighborhood. The houses in the Sanders Drive neighborhood are estimated to be 2,500 square feet average size. As suggested in the DEIR on page 3-9, large houses can be compatible with smaller homes provided architectural details are such that they will not exaggerate the size and mass of the house. For example, steeply pitched roofs, tall entryways or vertical elements can add mass to a house giving it the appearance of a much larger home. These types of elements should be avoided to maintain a similar architectural style with the adjoining neighborhood.

The EIR provides guidelines, which can be used by architects when designing the future, homes. The square footage of the house can be greater than the neighboring houses, but still look similar in design. Design review will occur later in the planning process after the CUP/CDP have been approved and the property has been graded.

Commenter should also refer to Response to Comments 2-5 and 2-25 regarding square footage.

M-21 **Comment:** Stated that requiring the new homes to be compatible with the existing neighborhood may be too restrictive.

Response: If it is the intent of the Planning Commission to require that new homes within the proposed development maintain compatibility with the existing neighborhood; then the mitigation measure to require low profile homes with low pitch roofs and overhangs would accomplish that objective. The architectural elevations shown in Figures 2-2 through 2-4 reflect low-profile homes with overhangs, although the square footage is large.

M-22 **Comment:** Requested an assessment of the existing drainage and requested clarification as to whether the mitigation measures proposed would solve the problem.

Response: Comment requesting information regarding the drainage situation was responded to in the public hearing as reflected in the minutes.

M-23 **Comment:** Acknowledged concerns regarding Vista Encinos development.

Response: This EIR does not address the Vista Encinos development. Comments relating to that development are not relevant to determining the adequacy of this EIR. As suggested by the Planning Director, the topic could be addressed through a condition of approval on the Hetfield Estates project.

M-24 **Comment:** Concerns with the geotechnical portion of the DEIR and whether or not methods used were adequate in terms of drill size and boring locations. Also questioned Town's risks on that issue.

Response: Issues related to the geotechnical analysis are discussed in the following Responses to Comments: 2-52, 4-1, 4-2, 4-5, 11-1, 11-3, 12-2 and 14-1. Issues related to the Town's risks are not relevant for determining the adequacy of the EIR. Response to Comment 2-52 explains the on-site meetings, which took place to determine the number of borings that needed to be conducted. The Town's geotechnical consultant was present at this on-site meeting.

M-25 **Comment:** Requests additional information relating to wildlife on the project site. Also requested definition of "environmentally superior."

Response: The discussion of wildlife is found in the Initial Study, Appendix C, pages 14-26. Species were identified, including special-status species, and impacts identified. The applicant's biologist conducted an on-site survey, which was supplemented, with an on-site survey conducted by the EIR biologist. It is noted that the Town Council did not identify "biological resources" as an environmental topic that needed further analysis, therefore, the analysis included in the Initial Study (Appendix C) was considered sufficient.

CEQA does not include a definition of an "environmentally superior alternative," but infers that it would be the alternative with the least impacts to the environment as compared to the proposed project and the other alternatives. CEQA Section 15126.6(e)(2) states that "if the environmentally superior alternative is the 'no project' alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives."

The purpose of the comparison table shown on page 5-12 in the DEIR is to distinguish the differences between the various alternatives and reach a conclusion as to the "environmentally superior alternative." As shown in the table, each environmental topic is identified for each alternative and if that alternative reduces the impact, a plus sign is shown; if the alternative increases the impact, a minus sign is shown. Where the alternative creates similar impacts to the proposed project, it is so stated. As shown in the table, the 8-Lot Subdivision Alternative has positive aspects and meets all except one of the applicant's objectives.

M-26 **Comment:** Requested contour intervals be shown on various graphics; also requested more discussion about General Plan and MOSO criteria.

Response: The contour intervals on the various site plans are two feet. The contour interval on the aerial photo, Figure 1-2, is 10 feet.

Section CD1.1 is the language taken from the General Plan's Community Design Element. A discussion of the project's consistency to this General Plan policy is found on page 3-8 of the EIR. The following additional language is added to the last paragraph on page 3-8 (refer to ERRATA for specific location in text):

> "The development area slopes down from east to west from an elevation of 601 feet at Lot 6 to an elevation of 566 feet at Lot 1. This corresponds with the downward slope of the adjoining residences on Sanders Drive that are located across from the project area. At the east end of Sanders Drive the elevation is 593.5 feet, and slopes down to 543 feet at the west end. The ridge elevation ranges from 727 feet behind Lot 1 to an elevation of 758.5 feet behind Lot 6. New houses would have a maximum height of 25 feet from finished grade. The distance between the existing houses on Sanders Drive and the new houses would range from 180 feet to 225 feet as shown on Figure 2-1. Given the distance of the existing houses on Sanders Drive from the proposed houses, an average of 134 vertical feet of hillside/ridgeline would be visible to the Sanders Drive residents."

The following language (underlined) is added to page 3-70 under MOSO criteria a. regarding landslides: (Also refer to ERRATA for exact location in text.)

> **Response:** <u>As stated in Section 3.2, the supplemental geotechnical investigation provided better data to characterize site geologic conditions.</u> Previous reconnaissance mapping supplemented by limited subsurface exploration confirmed six landslides within the area proposed for residential development. The landslides are primarily slumps and nested earthflows. Slides range up to 20 feet in thickness and are considered slow moving. <u>Data collected from the boring exploration would indicate that the slides are not</u>

any deeper and are repairable. Slide debris within the development area would be removed and replaced with engineered fill. The grading plan for the project indicates that the reconstructed fill slope would have a gradient of 3:1 (horizontal to vertical). A large slump block exists upslope of the development area in the open space. This would not be disturbed. Debris benches would be installed, creating a flatter slope gradient to trap a slump block. Anticipated slope instability is located outside the proposed development area. Corrective grading would reduce the potential for landslides originating on the site to impact the channel of Larch Creek or to affect the residences on Sanders Drive that back up to the creek. Mitigation measures require a design-level geotechnical and geologic investigation report, which is standard practice. Grading plans and future geotechnical reports would be reviewed by the Town's geotechnical engineering consultant as well as the Town's engineer. (Refer to discussion in Section 3.2 Geology/Soils.)

Corrective grading measures as described above and throughout Chapter 3.2 of the EIR remove the risk factors pertaining to landslides and allow for the consideration of higher density, which is permitted under the MOSO ordinance.

M-27 **Comment:** Requested further information regarding the tree screen along Larch Creek corridor and the preservation of grasses.

Response: The following text has been expanded (underlined portion) in the first paragraph after Impact 3.1-1 on page 3-7 of the Draft EIR:

"Scenic resources on the project site are limited to the numerous trees located along the northern edge of the property and interspersed on the slope outside the development area. The tree screen along both sides of Larch Creek consists of native species as well as conifers. Although several of the Sanders Drive residents who back up to the project site have some tree screening along their rear yard property line, nonetheless several houses have clear views of the project site and would experience a temporary visual impact as a result of site grading. The scraping of vegetation, removal of some trees and site grading would create a temporary visual impact to these residents ~~who have views of the site~~. The proposed grading would require the removal of several regulated trees as defined by the Town's Tree Preservation Ordinance. These include two willows, an oak and a buckeye on Lot 1 and several smaller oaks at the Hetfield Place bridge crossing. Once 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. However, the necessary site improvements would be completed and the site revegetated as a requirement of the erosion control plan. When the houses are constructed and individual lot landscaping is completed, views would be similar to those currently seen within the neighborhood; that is, a landscaped residential subdivision. As a means of providing privacy in the short and long-term of the development, it is recommended that the applicant plant a tree screen along the south side of Larch Creek to supplement existing vegetation. The new trees would be interspersed with existing vegetation and contain a mix of native species.

Although site preparation and construction of site improvements is considered a temporary visual impact, the following mitigation measures are recommended to reduce the impact to a less-than-significant level."

Commenter should refer to Response 3-5, which details the salvaging, and reuse of the on-site native grasses.

M-28 **Comment:** Requested additional graphic to show the amount of grading that would occur on the project site.

Response: The commenter should refer to Figure C&R-1, page III-80 of this document, which is a block diagram of how the site will appear after the grading and slide repair, and Figures C&R-2 and C&R-3, pages III-81 and III-83, which provide cross sections of a hypothetical slide of 30 to 35 feet in depth. As stated in the EIR, there will be no off-hauling of soil. On-site soils will be excavated and recompacted on the site. Also refer to Darwin Myers and Ray Skinner's responses to the Chairman's comments about excavation depths, borings, etc., as found on pages 12 and 13 of the Planning Commission minutes.

M-29 **Comment:** Questioned the requirements for building height and design to ensure neighborhood compatibility.

Response: The commenter should refer to the architectural elevations that represent large structures with low profile roofs and overhangs. To maintain neighborhood consistency, the houses should blend with the existing neighborhood. This can be achieved with larger houses by eliminating the use of vertical elements that tend to increase the mass. The height is recommended in order to maintain visibility of the upper slope and ridgeline.

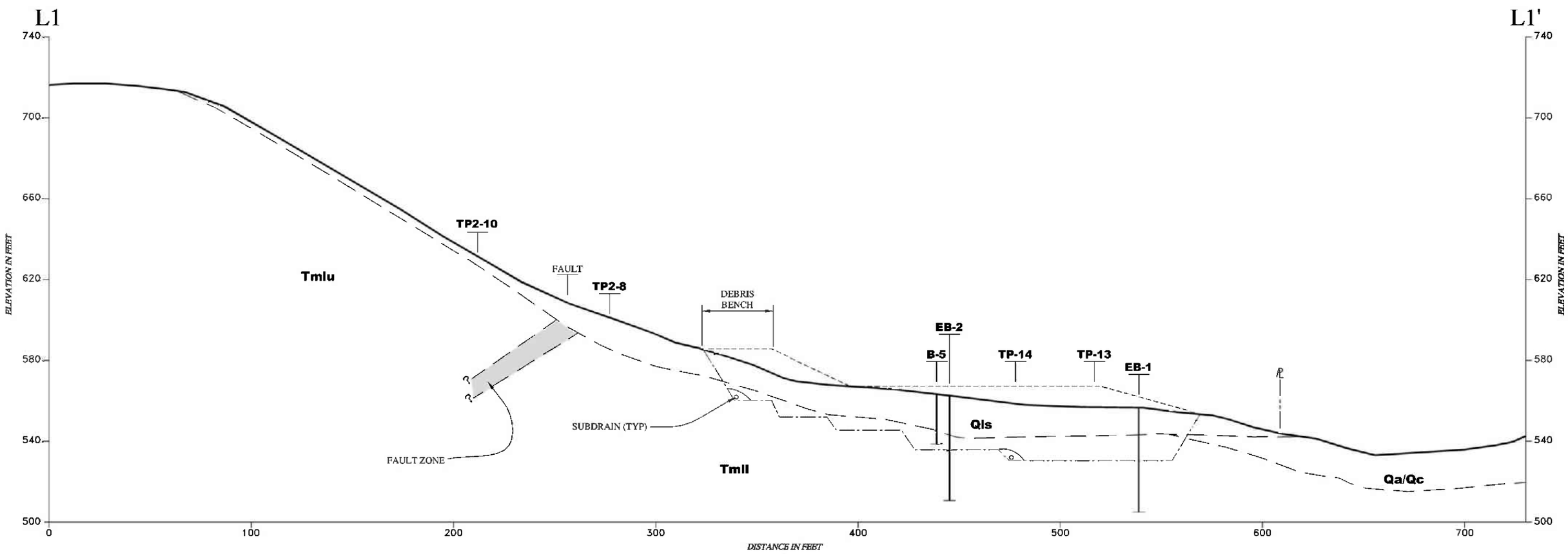
CEQA requires an analysis of alternatives to the proposed project that could reduce the impacts that are generated by the proposed project. The 8-Lot Alternative achieves that goal. By containing the development to a smaller land area, many of the impacts associated with grading are reduced, as well as impacts to wetland areas. More of the land is left in open space. The Planning Commission can consider this alternative or a variation thereof.

The block diagram shown on Figure C&R-1 illustrates how the project site will appear after grading has been completed and debris benches installed. The debris benches will range in height between 5 and 7 feet and will be configured to blend into the hillside.

Drainage has been further discussed in Responses to Comments 2-39, 2-50, 4-10, 5-4, 6-1 and 15-1.

M-30 **Comment:** Requested that Figures 3.2-4 and 3.2-5 be enlarged.

Response: DEIR Figures 3.2-4 and 3.2-5 have been enlarged and are included on the following pages.



EXPLANATION

Qls LANDSLIDE

Qa/Qc ALLUVIUM/COLLUVIUM

Tmlu MULLHOLLAND FORMATION, UPPER MEMBER

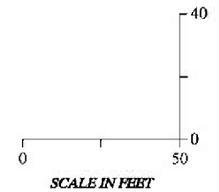
Tmll MULLHOLLAND FORMATION, LOWER MEMBER

APPROXIMATE GEOLOGIC CONTACT

APPROXIMATE EXISTING GROUND SURFACE

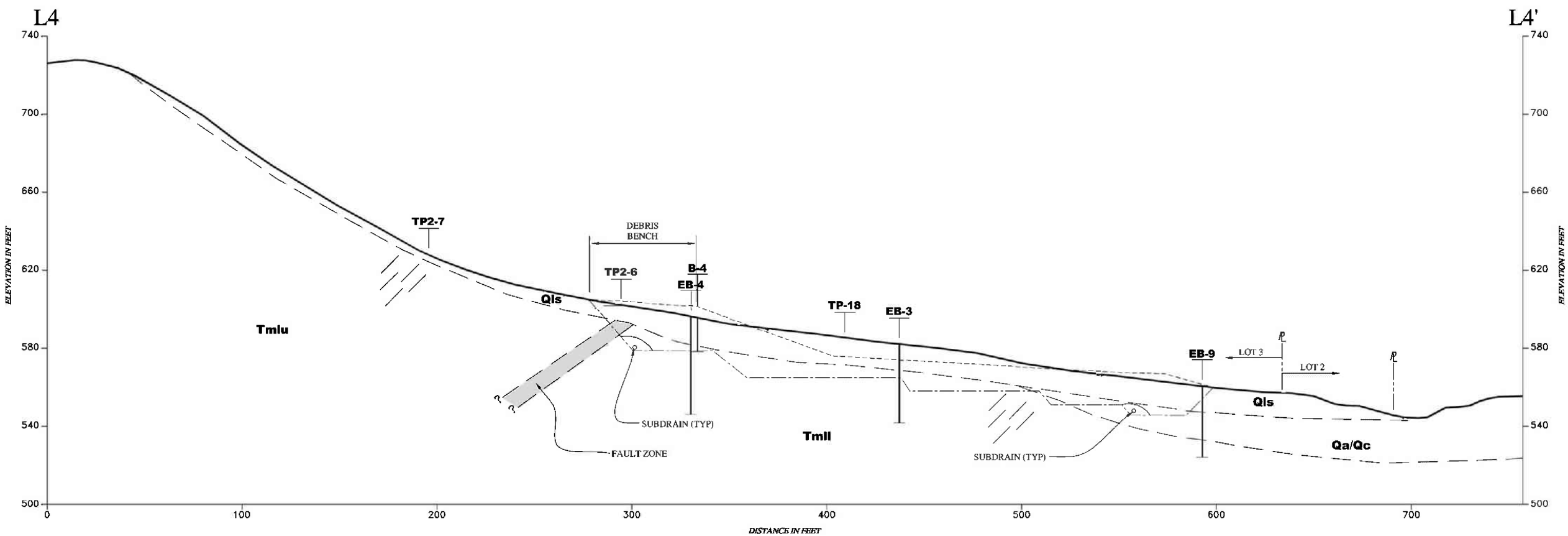
APPROXIMATE PROPOSED FINISHED GRADE AND DEPTH OF REMEDIAL GRADING

APPARENT BEDDING



Source: Engeo

Figure 3.2-4 Geologic Cross Section L-1

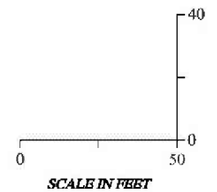


EXPLANATION

Qls	LANDSLIDE
Qa/Qc	ALLUVIUM/COLLUVIUM
Tmlu	MULLHOLLAND FORMATION, UPPER MEMBER
Tmll	MULLHOLLAND FORMATION, LOWER MEMBER
– – – –	APPROXIMATE GEOLOGIC CONTACT
———	APPROXIMATE EXISTING GROUND SURFACE

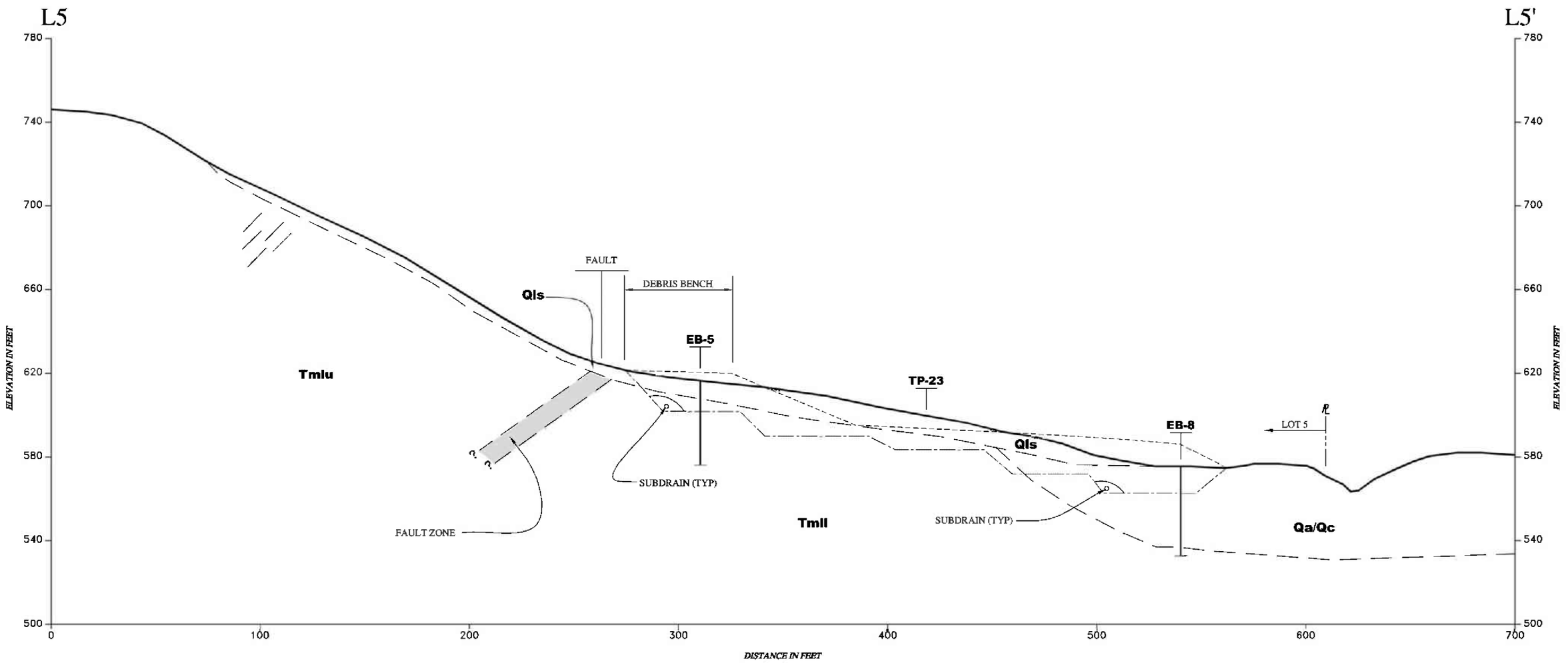
APPROXIMATE PROPOSED FINISHED GRADE AND DEPTH OF REMEDIAL GRADING

APPARENT BEDDING



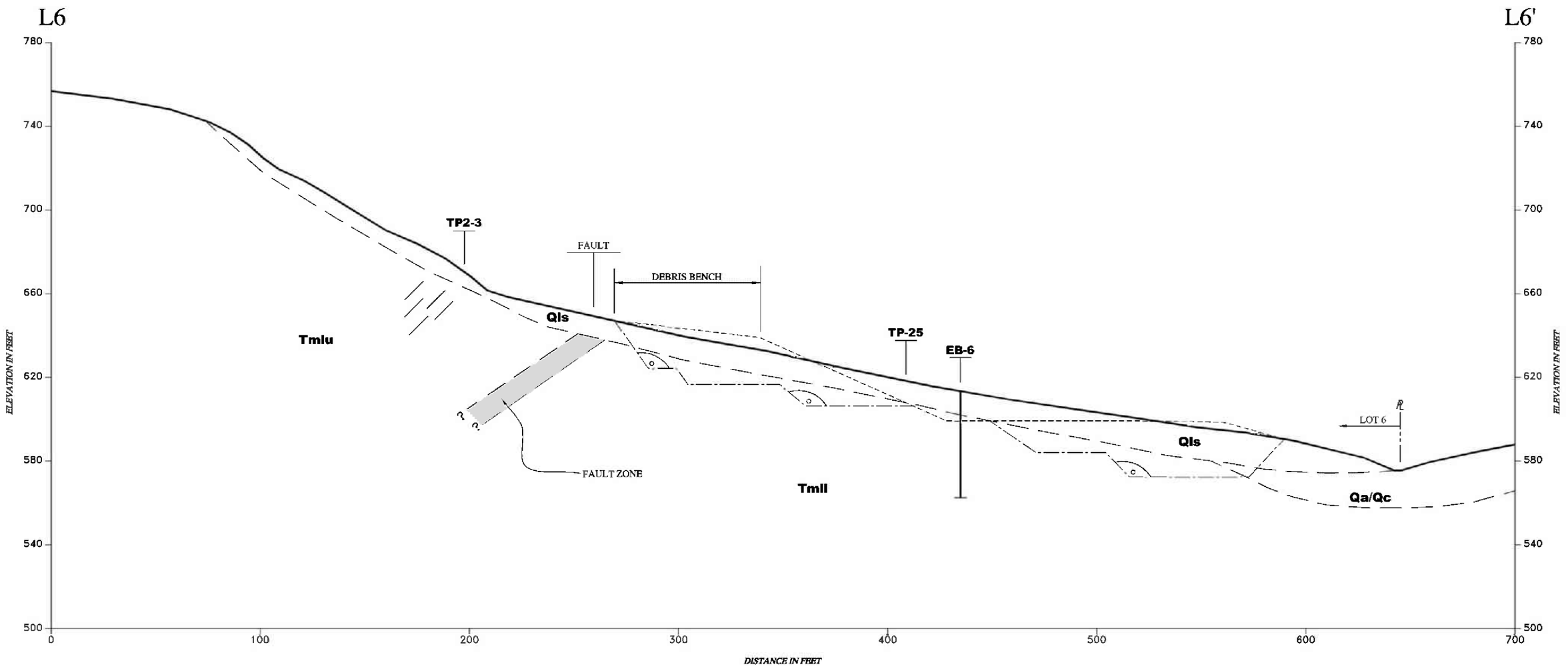
Source: Engeo

Figure 3.2-4A Geologic Cross Section L-4



Source: Engeo

Figure 3.2-5 Geologic Cross Section L-5

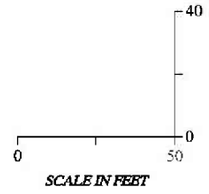


EXPLANATION

Qls	LANDSLIDE
Qa/Qc	ALLUVIUM/COLLUVIUM
Tmlu	MULLHOLLAND FORMATION, UPPER MEMBER
Tmll	MULLHOLLAND FORMATION, LOWER MEMBER
– – – –	APPROXIMATE GEOLOGIC CONTACT
———	APPROXIMATE EXISTING GROUND SURFACE

APPROXIMATE PROPOSED FINISHED GRADE AND DEPTH OF REMEDIAL GRADING

APPARENT BEDDING



Source: Engeo

Figure 3.2-5A Geologic Cross Section L-6

IV. ERRATA

Response 1-1: Page 2-2, last sentence in first paragraph, last sentence

Maintenance of the open space will be the responsibility of ~~either a homeowners association or a special district, such as a~~ the Geologic Hazard Abatement district (GHAD).

Response 2-14: Page 3-29, paragraph 3, line 4

There are no required retaining walls for the project so there is no conflict with Policy PS4.~~.12~~.

Response 2-31: Page 2-5, paragraph 2

The proposed project will require approval of a Vesting Tentative Map, a Hillside Development Permit, a Conditional Use Permit, Conceptual Development Plan, General Development Plan, Precise Development Plan and design review of future house designs. The Planning Commission will act on the Vesting Tentative Map, Hillside Development Permit, Conceptual Development Plan, ~~and the~~ Conditional Use Permit, General Development Plan and the Precise Development Plan.

Response 2-34: Page S-10, 3-36 and A-8 – Mitigation Measure 3.2-4A

"The design level geotechnical investigation shall provide criteria for foundation and pavement design, developed in accordance with the latest version of the California Building Code and Ordinance Code requirements on the basis of subsurface exploration and laboratory testing."

Response 3-3 and Response 17-15: Page 3-70

b. **Response:** 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. The project site's drainage basin is ~~less than 50~~ greater than 50 acres. The drainage basin located behind Sanders Court encompasses 51.75 acres and

flows into Larch Creek as well as the 58.2 acre project site. Presently runoff from the site (~~easterly~~ *north*-facing slope) flows downslope to Larch Creek, an ephemeral stream. Project plans call for an underground and above ground storm drain system with an underground detention basin to monitor flows into Larch Creek during peak storm periods. Natural drainage ways that would not be altered by the proposed development are located outside the areas proposed for grading and development.

Page 3-71: Response to MOSO Policy d.

Response: The project site does contain springs, however the springs are located within the open space area, outside the area proposed for development. Any intermittent springs that have any potential to impact the project will be provided with subdrains which intercept and divert their seasonal flows to the surrounding wetland mitigation areas. The subdrainage system will also alleviate any adverse ground water conditions by removing subterranean flows from the development area. (Refer to Conceptual Development Plan, Figure 2-1).

Page 3-71: Response to MOSO Policy e.

Response: No reservoirs, detention basins or ponds of one acre or more in surface area are proposed within 1,900 yards upstream or 500 yards downstream of the proposed development. The nearest reservoir is located approximately three miles southwest of the project site.

Response 4-4, 4-12, 4-13, 5-2 and 12-1: Page S-1, paragraph 4, line 4

The open space area would be maintained ~~either by a homeowner's association or~~ by a special district, e.g., geological hazard abatement district.

Response 4-4, 4-12, 4-13, 5-2 and 12-1: Page 2-2, paragraph, line 4

Maintenance of the open space will be the responsibility of ~~either a homeowners association or~~ a special district, such as a Geologic Hazard Abatement District (GHAD).

Response 4-4, 4-12, 4-13, 5-2 and 12-1: Mitigation Measure 3.2-7, first paragraph, Pages 3-38, S-11 and A-9 (Mitigation Monitoring Program)

Mitigation Measure 3.2-~~7~~ 6: ~~The GHAD Plan of Control for the proposed project shall make provision for the perpetual maintenance of the wetland mitigation ponds. Specifiically, the Plan of Control shall provide the following details:~~ Prior to recordation of a final map or prior to approval of a subdivision map for the proposed project, the applicant shall ensure that the

entire project site, including the open space portion and the wetland mitigation ponds, be included within a Geologic Hazard Abatement District (GHAD) formed pursuant to Public Resources Code section 26500 *et seq*. The GHAD formation requires a Plan of Control that shall provide the following details:

- Frequency of inspections/timing of inspections,
- Outline the design elements of the ponds that are to be inspected by the GHAD Manager (e.g. holding capacity, outfall structure, etc.),
- Provide objective criteria for triggering the need for sediment removal or reconstruction of ponds,
- Indicate the role of a wetlands biologist in any necessary maintenance operations that involve work within the ponds,
- When the GHAD Manager determine the need for maintenance, outline the process to notice the GHAD Board of Directors and resource agencies of the proposed plan for maintenance, and
- Provide the agencies a reasonable amount of time to comment on the maintenance plan.

Response 10-1: Page 3-72, first paragraph, and line six amended as follows:

"The calculations show that under pre-development conditions, the average slope is 18.39 percent which is ~~far~~ below the 20 percent maximum permitted.

Response 17-2: Page 4-1, 4.2 Beneficial Impacts, second line add:

The beneficial impact of the project, if implemented, would provide permanent open space, a creek crossing, an emergency access easement from Hetfield Estates to the Sanders Ranch development, and a new trail available for public use that would connect to the existing public trail system.

Response 17-4: Page 6-1, Persons Consulted (add to list)

Mitch Wolfe, Town of Moraga Consulting Geotechnical Engineer

Response 17-8: Page S-18 (C&R V-16), Appendix A, Page A-16 and Appendix C, Page 19

"**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: …."

Response 17-9: Page S-22 (C&R V-20), Appendix A-Page A-21 and Appendix C Page-25

Mitigation Measure IV-5A: Grading shall be designed to avoid and minimize possible tree removal. This shall be accomplished by expanding the current tree mapping, adjusting the limits of grading to ensure adequate avoidance, and retaining a certified arborist to evaluate potential impacts and make specific recommendations to minimize tree loss or damage. The limits of tree mapping should be expanded to show all trees with trunk diameters of 5 inches or greater within 30 feet of the proposed "Grading Daylight Line" on the Conceptual Development Plan. All mapped trees shall be evaluated by a certified arborist consistent with Section 12.12.070 of the Town of Moraga Tree Preservation Ordinance, and a report shall be ~~repaired~~ prepared to minimize short-term construction damage and long-term decline due to changes in root zone.

Response 17-11: Page S-5 (C&R V-3)

Mitigation Measure 3.1-3A: The massing and stepping of the houses shall be as shown on Figures 2-2 through 2-4. The maximum building height shall be determined through the design review process, but shall not exceed 25 feet from ~~existing~~ grade.

Response 17-12: Page 2-1, paragraph 2, line 4

The previous subdivision occurred in the ~~southeast~~ portion of the property southeast of the ridge and off of Baitx Drive.

Response 17-13: Page 3-1, paragraph 3, line 1

The project site is located on the north-facing slope of a ~~northeast-southwest~~ northwest-southeast trending ridge on the south side of Sanders Drive.

Response 17-14: Page 3-66, paragraph 2, line 6

"The ~~northeast/southwest~~ northwest-southeast trending ridgeline is not identified as a major ridgeline in the Town's General Plan; however, it is considered a minor ridgeline and would be protected through the open space easement.

Response 17-15: Page 3-70, Response c.

Response: The property is crossed by a northwest-trending fault, although it is not considered active by the state and federal geological surveys. In the event of a major earthquake on the Hayward fault, however, it could be reactivated. As required by the Alquist-Priolo Act, the fault zone would be mapped on the final map. The proposed houses are set back sufficiently from the mapped fault zone (50 and 75 feet on either side). (Refer to discussion in Section 3.2 Geology/Soils.)

Response 17-7: Page S-4 (C&R V-2), Page 3-8 and Appendix A-1

Mitigation Measure 3.1-1C: Newly planted trees shall be monitored for a period of ~~ten~~ years from the date of installation. Any trees lost during this period shall be replaced and monitored by the developer for the same length of time. Upon completion of the monitoring period, the property owners or homeowners' association shall replace any trees that may require removal and shall be responsible for maintaining the trees.

Response M-7: Page S-4 (C&R V-2), Page 3-7 and Appendix A-1

Mitigation Measure 3.1-1A: The existing tree screen shall be supplemented with similar native species on the site behind the houses at 1108 through 1116, 1140, 1144 and 1156 through 1164 Sanders Drive. Trees shall be planted on the lower portions of the creek bank (on the project side of the creek bank), protected from deer, and maintained prior to the start of site preparation. Tree size shall be no less than 15-gallon size and shall be a mix of native species; e.g., Coast live oak, California buckeye, ~~California laurel~~, Western redbud. The applicant shall submit a tree-planting plan for review and approval by the Town.

Response M-26: Page 3-8, insert the following text to end of last paragraph:

Adjoining residents would not lose their views of the upper slope and ridgeline as shown in Appendix ~~B~~ C, Figures 3-1 through 3-3. The houses are sited so that they would be located on the flatter portion of the lot, closest

to the creek and stepped up the hill. This is consistent with Policy CD1.1 of the General Plan. The distance between the existing houses on Sanders Drive and the new houses would range from 180 feet to 225 feet as shown on Figure 2-1.

The development area slopes down from east to west from an elevation of 601 feet at Lot 6 to an elevation of 566 feet at Lot 1. This corresponds with the downward slope of the adjoining residences on Sanders Drive which are located across from the project area. At the east end of Sanders Drive the elevation is 593.5 feet, and slopes down to 543 feet at the west end. The ridge elevation ranges from 727 feet behind Lot 1 to an elevation of 758.5 feet behind Lot 6. New houses would have a maximum height of 25 feet from finished grade. The distance between the existing houses on Sanders Drive and the new houses would range from 180 feet to 225 feet as shown on Figure 2-1. Given the distance of the existing houses on Sanders Drive from the proposed houses, an average of 134 vertical feet of hillside/ridgeline would be visible to the Sanders Drive residents.

Response M-26: Page 3-70, insert the following text to the second paragraph under a.

Response: As stated in Section 3.2, the supplemental geotechnical investigation provided better data to characterize site geologic conditions. Previous reconnaissance mapping supplemented by limited subsurface exploration confirmed six landslides within the area proposed for residential development. The landslides are primarily slumps and nested earthflows. Slides range up to 20 feet in thickness and are considered slow moving. Data collected from the boring exploration would indicate that the slides are not any deeper and are repairable. Slide debris within the development area would be removed and replaced with engineered fill. The grading plan for the project indicates that the reconstructed fill slope would have a gradient of 3:1 (horizontal to vertical). A large slump block exists upslope of the development area in the open space. This would not be disturbed. Debris benches would be installed, creating a flatter slope gradient to trap a slump block. Anticipated slope instability is located outside the proposed development area. Corrective grading would reduce the potential for landslides originating on the site to impact the channel of Larch Creek or to affect the residences on Sanders Drive that back up to the creek. Mitigation measures require a design-level geotechnical and geologic investigation report, which is standard practice. Grading plans and future geotechnical reports would be reviewed by the Town's geotechnical engineering consultant as well as the Town's engineer. (Refer to discussion in Section 3.2 Geology/Soils.)

Response M-27: Page 3-7, First paragraph after Impact 3.1-1

Scenic resources on the project site are limited to the numerous trees located along the northern edge of the property and interspersed on the slope outside the development area. The tree screen along both sides of Larch Creek consists of native species as well as conifers. Although several of the Sanders Drive residents who back up to the project site have some tree screening along their rear yard property line, nonetheless several houses have clear views of the project site and would experience a temporary visual impact as a result of site grading. The scraping of vegetation, removal of some trees and site grading would create a temporary visual impact to these residents ~~who have views of the site~~. The proposed grading would require the removal of several regulated trees as defined by the Town's Tree Preservation Ordinance. These include two willows, an oak and a buckeye on Lot 1 and several smaller oaks at the Hetfield Place bridge crossing. Once 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. However, the necessary site improvements would be completed and the site revegetated as a requirement of the erosion control plan. When the houses are constructed and individual lot landscaping is completed, views would be similar to those currently seen within the neighborhood; that is, a landscaped residential subdivision. As a means of providing privacy in the short and long-term of the development, it is recommended that the applicant plant a tree screen along the south side of Larch Creek to supplement existing vegetation. The new trees would be interspersed with existing vegetation and contain a mix of native species.

V. ERRATA

V.
REVISED SUMMARY TABLE OF IMPACTS AND MITIGATION MEASURES

The revised Summary Table of Impacts and Mitigation Measures is provided on the following pages.

SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
IMPACTS AND MITIGATION MEASURES IDENTIFIED IN THE ENVIRONMENTAL IMPACT REPORT (EIR)		
AESTHETICS / VISUAL RESOURCES		
3.1-1: Site preparation and grading of the building area would create a temporary visual impact for residents abutting the north side of the project site.	**3.1-1A**: The existing tree screen shall be supplemented with similar native species on the site behind the houses at 1108 through 1116, 1140, 1144, and 1156 through 1164 Sanders Drive. Trees shall be planted on lower portions of the creek bank (on the project side of the creek bank), protected from deer, and maintained prior to the start of site preparation. Tree size shall be no less than 15-gallon size and shall be a mix of native species; e.g., coast live oak, California buckeye, ~~California laurel~~, Western redbud. The applicant shall submit a tree-planting plan for review and approval by the Town.	Yes
	3.1-1B: The applicant shall post a security bond to assure protection of existing and newly planted trees that are located along the north edge of the property. The term of the bond shall extend at least 36 months beyond the completion of the required subdivision improvements.	
	3.1-1C: Newly planted trees shall be monitored for a period of ~~ten~~ five years from the date of installation. Any trees lost during this period shall be replaced and monitored by the developer for the same length of time. Upon completion of the monitoring period, the property owners or a homeowner's association shall replace any trees that may require removal and shall be responsible for maintaining the trees.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
3.1-2: Partial views of the project site will be permanently lost with the development of the proposed project.	**3.1-2**: Refer to Mitigation Measures 3.1-1A–C.	Yes
3.1-3: New housing could be considered as out of character with the existing neighborhood.	**3.1-3A:** The massing and stepping of the houses shall be as shown on Figures 2-2 through 2-4. The maximum building height shall be determined through the design review process, but shall not exceed 25 feet from ~~existing~~ grade.	Yes
	3.1-3B: House designs shall be compatible to the adjoining neighborhood; that is, low profile by incorporating low-pitched roofs and roof overhangs.	
	3.1-3C: The final map shall reflect similar house plotting as shown on Figure 3-1 in Appendix B. A minimum distance between new and existing houses shall be no less than 180 feet.	
	3.1-3D: Prior to final map approval, the applicant shall submit design guidelines to ensure that future homebuilders incorporate features in the design that are compatible with the adjoining neighborhood.	
	3.1-3E: Individual landscape plans shall be submitted to the Town's Design Review Board at the time individual house plans are reviewed. The landscape plans shall reflect a mix of native vegetation that will help blend the structures with the natural setting.	
GEOLOGY / GEOTECHNICAL / SOILS		
3.2-1: Landslides have the potential to cause significant damage to improvements and, in extreme cases, loss of life.	**3.2-1A:** A design-level geotechnical and geologic investigation report shall be submitted to the Town of Moraga prior to recordation of the subdivision map. The report, which shall respond to the peer review letter by the Town's Engineering Geologist, shall provide specific criteria and standards to guide site grading, drainage and foundation design.	Yes

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	In areas of proposed development (i.e., cells), existing landslides and slope repairs shall include (a) removal of slide debris, with the depth of excavation extending into underlying competent material; (b) installation of subsurface drainage measures, (c) replacement of slide debris with compacted engineered fill, (d) construction of surface drainage measures, and (e) planting disturbed areas with erosion-resistant vegetation, as recommended in the design-level geotechnical investigation.	
	3.2-1B: Gradient criteria for engineered slopes as recommended by Engeo shall be required for development of the project site. Any conflicts between future grading plans and these criteria shall be interpreted as evidence that special engineering is required (e.g., retaining walls, geogrid reinforcement). Those standards call for use of 3:1 fill slopes as a general standard for the project, with the exception that fill slopes less than 8 feet high may have a 2:1 gradient. Cut slopes shall be avoided.	
	3.2-1C: Grading and drainage plans shall be subject to review of the Town's Public Works Department and the Town's Peer Review Geologist. Appropriately licensed professionals shall prepare the plans.	
	3.2-1D: Buttressing, keying and installation of debris benches shall be provided in the transition areas between open space areas and development as recommended in the design-level geotechnical report.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	3.2-1E: The design-level geotechnical report shall evaluate all major graded slopes and open space hillsides whose performance could affect planned improvements. The slope stability analysis shall be performed for both static and dynamic conditions using an appropriate pseudo-static coefficient.	
	3.2-1F: During grading, the project geotechnical engineer shall observe and approve all keyway excavations, removal of fill and landslide materials down to stable bedrock or in-place material, and installation of all subdrains including their connections. Cut slopes and keyways shall be observed and mapped by the project-engineering geologist who will provide any required slope modification recommendations based on the actual geologic conditions encountered during grading. Written approval from the Town's Public Works Department shall be obtained prior to any modification. Placement of all fill shall be observed and tested by the representative of the geotechnical engineer, and the density test results and reports shall be submitted to the Townand kept on file.	
	3.2-1G: Prior to recordation of the Final Map, the applicant shall provide a draft deed disclosure recorded against each lot. The disclosure shall provide a detailed citation of the Final Geotechnical Report, indicating that it is available from the developer and from the Town of Moraga; and it shall summarize the potential geologic hazards and explain the maintenance responsibilities of the property owner, including maintenance of the debris bench and drainage facilities. The language in the draft deed disclosure shall be subject to review and approval of the Planning Director, and shall be recorded concurrent with or prior to recordation of the final map.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
3.2-2: The existing northwest-trending fault that crosses the site could potentially become reactivated in the event of an earthquake.	**3.2-2**: A structure setback zone that provides a building free corridor along the mapped fault shall be shown and labeled on the Final Map. The zone shall be 125 feet wide and extend 50 feet from the mapped fault on its northeast flank and 75 feet from the mapped fault on the southwest flank. An annotation of the map shall specify that within the structure setback zone, corrective grading of the landslides is allowed, including the installation of subdrains, debris benches and surface drainage facilities. Additionally, necessary maintenance of these improvements is allowed. Any other use shall require review and approval by the Planning Director.	Yes
3.2-3: The proposed project involves placement of engineered fill slopes in an area of moderately steep terrain. Bare soils in area of relatively steep, high graded slopes has the potential to cause significant erosion of unprotected slopes, and create down slope sedimentation problems, both on- and off-site.	**3.2-3A**: Grading activities shall be restricted to the summer construction season (15 April through 1 October). Any earthwork done after 1 October shall be limited to activities directly related to erosion control, unless the Town of Moraga Public Works Department authorizes additional work.	Yes
	3.2-3B: Provide an erosion control plan prior to approval of the grading plan. The following interim control measures shall be employed based on site-specific needs in the project area: • Grading to minimize areas of exposed, erodible material, and to avoid over-concentration of rapidly flowing runoff in unprotected, erodible areas. • The erosion control plans shall include water bars, temporary culverts and swales, mulch and jute netting blanks on exposed slopes, hydro seeding, silt fences, and sediment traps/basins. • Placement of salvaged topsoil on graded 3:1 slopes prior to the onset of winter rains.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• Because the biggest problem with effective sediment control is lack of maintenance, the erosion control plan shall have a comprehensive program for inspection and maintenance during the winter rainy season, including provisions for documenting maintenance activities. • Wherever feasible, runoff shall be isolated from ungraded areas, thereby simplifying erosion control and sediment control measures within the graded area. • Monitor the effectiveness of the erosion control measures throughout the duration of construction.	
	3.2-3C: Provide a "Stormwater Control Plan" that is C.3 compliant, for review and approval of the Moraga Public Works Department. In order to reduce the potential impacts of long-term erosion and sedimentation, the project shall incorporate the appropriate design, construction and continued maintenance of one or more of the following long-term control measures: • The specific measures shall be based on the recommendations of the project geotechnical engineer and hydrologist. • Project plans shall incorporate drainage measures to collect and control surface runoff water on sloping lots, including lined ditches and closed downspout collection systems. • Concentrated runoff shall not be permitted to drain over engineered slopes. • The proposed location of lined drainage ditches shall be specified on the development plan accompanying the design-level geotechnical investigation report, which shall be reviewed by the Town's Peer Review Geologist.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	3.2-3D: Provide low retaining walls with subsurface and surface drainage facilities at the toe of the major fill slopes on the site (at rear of building pads).	
3.2-4: Expansive soils and/or bedrock have the potential to cause significant damage to foundations, slabs and pavements.	**3.2-4A:** The design-level geotechnical investigation shall provide criteria for foundation and pavement design, developed in accordance with the latest version of the 2007 California Building Code and Ordinance Code requirements on the basis of subsurface exploration and laboratory testing. The constraints on the use of expansive soil near finish grade shall be evaluated in the design-level geotechnical investigation report.	Yes
	3.2-4B: The foundation recommendation shall include provision for measuring corrosivity of soils within area planned for buildings following grading but prior to the issuance of building permits. The ferrous materials and concrete that is in contact with the ground shall be engineered to minimize/ avoid damage from corrosivity.	
3.2-5: Slide debris will be removed from the area planned for grading and development. The corrective grading plan is conservative on the side of safety, but without full-time monitoring by the project geotechnical engineer, grading operations in the field may fall short of the standards and criteria in the approved geotechnical report.	**3.2-5:** Prior to the issuance of the first residential building permit, the applicant shall submit a Grading Completion Report prepared by the project geotechnical engineer. The report shall include the following: • An as-graded geologic map of all cut slopes and keyways exposed during grading. This map shall not be generalized and diagrammatic; it shall show the details of observed features and conditions, and serve to document that all slide debris was removed from the graded areas.	Yes

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• Provide the results of compaction of fill, performed using an ASTM compaction test method. The documentation provided shall include reference to the date, location and elevation of the test.	
	• Document any field changes made during construction (i.e., what unexpected condition was encountered, date; what consultation occurred with the Town's Public Works Department/Town Geologist, date; and what remediation was implemented). • Describe the conformance of the as-graded project with the recommendations in the approved geotechnical report.	
3.2-6: Landslides, sedimentation and/or erosion have the potential to cause significant damage to the wetland mitigation ponds. This is considered a *potentially significant impact.*	**3.2-6:** ~~The GHAD Plan of Control for the proposed project shall make provision for the perpetual maintenance of the wetland mitigation ponds. Specifically, the Plan of Control shall provide the following details:~~ Prior to recordation of a subdivision map for the proposed project, or prior to approval of a final map, the applicant shall ensure that the entire project site, including the open space portion and the wetland mitigation ponds, be included within a Geologic Hazard Abatement District (GHAD) formed pursuant to Public Resources Code section 26500 *et seq*. The GHAD formation requires a Plan of Control that shall provide the following details: • frequency of inspections/ timing of inspections, • outline the design elements of the ponds that are to be inspected by the GHAD Manager (e.g. holding capacity, outfall structure, etc.), • provide objective criteria for triggering the need for sediment removal or re-construction of ponds,	Yes

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• indicate the role of a wetlands biologist in any necessary maintenance operations that involve work within the ponds, • when the GHAD Manager determines the need for maintenance, outline the process to notice the GHAD Board of Directors and resource agencies of the proposed plan for maintenance, and • provide the agencies a reasonable amount of time to comment on the maintenance plan.	
HYDROLOGY / DRAINAGE		
3.3-3: The debris benches and storm drain system may not be adequate to accommodate storm runoff from uphill areas.	**3.3-3:** The V–ditches shall be designed to convey the surface runoff from the natural areas above the debris benches resulting from a 100-year, 12-hour storm with saturated soil conditions.	Yes
3.3-5: The subdrain and storm drain systems may not function properly without periodic, long-term maintenance.	**3.3-5A:** Prior to submitting the final map, the applicant shall submit a Stormwater Facilities Operation and Maintenance Plan, including detailed maintenance requirements and a maintenance schedule.	Yes
	3.3-5B: Joint Maintenance Agreement (JMA) shall be established for maintaining and cleaning the Hetfield Estates storm drain system, including subdrains, V–ditches, catch basins and gratings, storm drain pipelines, the detention basin, and the IMPs that are proposed in the Stormwater Control Plan for the proposed project (RMR, 2008a, Table 1). All facilities shall be cleaned prior to the rainy season (mid-October each year) and following every major storm. All Hetfield Estates property owners shall be required to contribute annually to fund the JMA. Potential buyers of Hetfield Estates properties shall be informed of their commitments to the JMA so that they can assess their ability to pay their annual contributions.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
3.3-7: The presence of groundwater in an engineered fill is capable of adversely affecting the stability of engineered slopes.	**3.3-7A:** Lined ditches capable of collecting surface runoff shall be provided at the toe of the engineered slope to collect and transport runoff from the fills to the selected discharge points.	Yes
	3.3-7B: During grading, the location and approximate depth of subdrains shall be established by field survey. At the conclusion of site grading, the project applicant shall submit an as-built drainage plan showing the location and elevation of the subdrains and cleanouts, as well as the surface drainage facilities.	
3.3-8: Construction of a storm drain discharge structure and access bridge could impact Larch Creek and the vegetation within the creek corridor.	**3.3-8:** The applicant shall contact the United States Corps of Engineers and the California Department of Fish and Game to obtain required permits and a Streambed Alteration Agreement for construction and operation of a storm drain discharge structure and access bridge over Larch Creek.	Yes
PLANNING AND LAND USE		
3.4-2: A small portion of Lot 1 is located outside the Moraga Open Space Ordinance (MOSO) cell.	**3.4-2:** The applicant shall revise the Conceptual Development Plan to include all of the area within Lot 1 in the MOSO Cell Analysis for both pre- and post-development conditions, prior to approval of the general development plan.	Yes
IMPACTS AND MITIGATION MEASURES IDENTIFIED IN THE INITIAL STUDY / PROPOSED MITIGATED NEGATIVE DECLARATION (IS/MND)		
AIR QUALITY		
III-1: Construction of the proposed project could create potentially significant dust impacts that could affect nearby residents.	**III-1**: During grading and construction activities, the applicant shall implement the following measures to control dust: • Water all active construction areas at least twice daily.	Yes

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• Cover all trucks hauling soil, sand, and other loose materials, or require trucks to maintain at least two feet of freeboard. • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites. • Sweep off-site streets leading to the project site daily if soil, sand, or other loose materials are deposited on these streets. • Sweep daily all paved access roads, parking areas, staging areas and entrances at the construction site.	
BIOLOGICAL RESOURCES		
IV-1: The proposed project will have an adverse effect on biological resources.	**IV-1A:** The applicant shall obtain all necessary permits from the Corps, USFWS, and the RWQCB as required by federal and State law to avoid, minimize or offset impacts to any species listed under either the State or federal Endangered Species Acts or protected under any other State or federal law as follows: • Before project implementation, a delineation of waters of the United States, including wetlands that could be affected by development, shall be made by a qualified wetland specialist through the formal CWA Section 404 process. • If based on the verified delineation, it is determined that fill of waters of the United States would result from project implementation, authorization for such fill shall be secured from the Corps through the Section 404 permitting process and from the RWQCB as part of the Section 401 water quality certification process.	Yes

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• Consultation or incidental take permitting may be required under the ESA. The applicant shall obtain all legally-required permits from the USFWS for the "take" of protected species under the ESA. • Evidence that the applicant has secured any required authorization from these agencies shall be submitted to the Town of Moraga prior to issuance of any grading or building permits for the project.	
	IV-1B: Following a biological opinion issued by the regulatory agencies as discussed above, measures shall be applied to minimize take within the construction zone. The applicant shall follow the requirements of the biological opinion. Furthermore, a qualified biologist shall be retained by the applicant to oversee construction and ensure that no inadvertent take of Alameda whipsnake or California red-legged frog occurs as a result of development of the site. If no biological opinion is obtained from the regulatory agencies regarding the taking of an endangered species, the following mitigation shall apply:	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• Prior to any grading or grubbing of the site, the biologist shall conduct a preconstruction survey to confirm absence of any California red-legged frog or Alameda whipsnake on the site. During the construction phase of the project, a trained biologist or a trained on-site monitor (such as the construction foreman) shall check the site in the morning and in the evening of construction activities for the presence of California red-legged frog and Alameda whipsnake. This includes checking holes, under vehicles and under boards left on the ground. If any California red-legged frog or Alameda whipsnake are found, construction shall be halted until they disperse naturally, and the monitor shall immediately notify the biologist in charge and the USFWS. Construction shall not proceed until adequate measures are taken to prevent dispersal of any individuals into the construction zone, as directed by the USFWS. Subsequent recommendations made by the USFWS shall be followed. The monitor shall not handle or otherwise harass the animal. The biologist in charge and the on-site monitor shall be aware of all terms and conditions set by USFWS and CDFG on the project. The biologist in charge shall train the on-site monitor in how to identify California red-legged frog and Alameda whipsnake. The biologist in charge shall visit the site at least once a week during construction and confer with the trained on-site monitor.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• All construction workers shall be informed of the potential presence of California red-legged frog and Alameda whipsnake, that these species are to be avoided, that the foreman must be notified if they are seen, and that construction shall be halted until authorization to proceed is obtained from the USFWS and appropriate protocols for species protection shall be followed. • During construction, all holes shall be covered at night to prevent California red-legged frog and Alameda whipsnake from becoming trapped in holes on the construction site.	
	IV-1C: A qualified biologist shall be retained by the applicant to conduct a trapping and relocation program for any San Francisco dusky-footed woodrats located within the limits of proposed grading and development. A field survey shall be conducted by a qualified biologist to determine whether any woodrat nests occur within the anticipated limits of grading. Any nests within the construction zone shall be relocated to locations proposed as permanent open space on the site and individual woodrats released into their relocated nests. If nest relocation is required, the trapping and relocation effort shall be conducted from August through February outside the breeding season to ensure any young are not inadvertently lost due to the destruction of the protective nest. The trapping and relocation effort shall preferably be conducted within a few days prior to grubbing and vegetation removal to prevent individual woodrats from moving back into the construction zone.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	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: • If grading is scheduled during the active nesting period (March through August), a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 30 days prior to initiation of grading to provide confirmation on the presence or absence of active nests in the vicinity. • If active nests are encountered, species-specific measures shall be prepared by a qualified biologist in consultation with the CDFG and implemented to prevent nest abandonment. Buffers and setback zones shall be established as required by CDFG and remain in place until young have fledged the zones. At a minimum, grading in the vicinity of the nest shall be deferred until the young birds have fledged. The perimeter of the nest-setback zone shall be fenced or adequately demarcated, and construction personnel restricted from the area.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the nest-setback zone until a qualified biologist verifies that the birds have either (a) not begun egg-laying and incubation, or (b) that the juveniles from the nest are foraging independently and capable of independent survival at an earlier date. A survey report by the qualified biologist verifying that the young have fledged shall be submitted to the Town of Moraga prior to initiation of grading in the nest-setback zone.	
IV-2: The proposed project could impact riparian habitat.	**IV-2**: Native grass plants from the stand of creeping wildrye in the vicinity of proposed Lot 3 shall be salvaged and reused as part of revegetating graded slopes. Plants shall be salvaged before grubbing and initial grading, and stored until replanted on the site. The salvage and replanting program shall be prepared by a qualified biologist and incorporated into the Landscaping Plan for the project, preferably as part of the Wetland Mitigation Program specified in **Mitigation Measure IV-3A**.	Yes
IV.3: Development of the site would affect federally protected wetlands.	**IV-3A:** A Final Wetland Mitigation Program shall be prepared by a qualified wetland specialist to provide for the protection, replacement, and management of jurisdictional waters on the site affected by proposed development. The Final Wetland Mitigation Program shall include the following components and meet the following standards:	Yes

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	• Proposed grading and development shall be redesigned to preferably avoid removal or adverse impacts on areas verified as jurisdictional wetlands, particularly the freshwater seep at the southeastern edge of the "Grading Daylight Limits" on proposed Lot 6. This freshwater seep appears to be larger than currently mapped by the applicant's consultant. • Provide adequate mitigation for any direct or indirect impacts on jurisdictional waters as coordinated with the Corps and/or RWQCB where complete avoidance is infeasible. Replacement wetlands shall be at a minimum of 2:1 ratio and shall be established in suitable locations within undeveloped open space areas, preferably on-site. The wetlands replacement component of the Final Wetland Mitigation Program shall emphasize establishment of native freshwater marsh and seasonal wetlands to enhance existing habitat values. • The wetland replacement component of the Final Wetland Mitigation Program shall specify performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. Monitoring shall be conducted by the qualified wetland specialist for a minimum of five years and continue until the success criteria are met. • The Final Wetland Mitigation Program shall be completed prior to approval of the Final Map for the project to demonstrate feasibility of wetland mitigation, and allow for possible major adjustments to the limits of proposed development, particularly on Lot 6.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
	IV-3B: The final trail alignment connecting to the cul-de-sac on proposed Lot 6 shall be designed to avoid or minimize passing through the freshwater seeps and seasonal wetlands on this portion of the site. If complete avoidance is not feasible, potential impacts shall be addressed as part of the Final Wetland Mitigation Program outlined in **Mitigation Measure IV-3A.**	
IV.4: Development could potentially interfere with the movement of wildlife species.	**IV-4A**: The portion of the site not proposed for development will be placed in permanent open space to preserve its function as permanent wildlife habitat. Any fencing proposed as part of development on individual lots shall be designed to allow for continued movement by wildlife, or shall be restricted to the vicinity of the building pads. Any fencing, which could obstruct wildlife movement, shall not extend beyond the limits of grading shown in the Conceptual Development Plan.	Yes
	IV-4B: Signage shall be provided at the access points off the cul-de-sac on proposed Lot 6 which indicate that dogs shall be leashed.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
IV.5: The proposed project may be in conflict with Town policies.	**IV-5A**: Grading shall be designed to avoid and minimize possible tree removal. This shall be accomplished by expanding the current tree mapping, adjusting the limits of grading to ensure adequate avoidance, and retaining a certified arborist to evaluate potential impacts and make specific recommendations to minimize tree loss or damage. The limits of tree mapping shall be expanded to show all trees with trunk diameters of 5 inches or greater within 30 feet of the proposed "Grading Daylight Line" on the Conceptual Development Plan. All mapped trees shall be evaluated by a certified arborist consistent with Section 12.12.070 of the Town of Moraga Tree Preservation Ordinance, and a report shall be ~~repaired~~ prepared to minimize short-term construction damage and long-term decline due to changes in root zone.	Yes
	IV-5B: A construction fence shall be installed around all trees to be protected that will identify the limits of grading and disturbance.	
	IV-5C: A Tree Replacement Program shall be prepared by the applicant's consulting biologist, and implemented as part of the mitigation program for the project. Replacement trees shall be provided at a minimum 3:1 ratio, shall be installed along the edge of the riparian corridor and other locations to be retained as undeveloped open space, and shall be maintained for a minimum of five years to ensure their successful establishment. Replacement tree plantings shall be irrigated for a minimum of two years following initial planting to ensure their survival, and shall be replaced on an annual basis to meet success criteria specified in the Tree Replacement Program.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
CULTURAL RESOURCES		
V-1: Potential subsurface cultural resources may exist on the site.	**V-1A:** In the event of the discovery of human remains during construction, pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Contra Costa County Coroner shall be notified by the developer and shall make a determination as to whether the remains are Native American. If the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native American.	Yes
	V-1B: Should evidence of prehistoric cultural resources be discovered during construction, work in the immediate area of the find shall be stopped to allow adequate time for evaluation and mitigation. A qualified professional archaeologist will be called in to make an evaluation of the material; and if significant, develop a mitigation program that includes collection and analysis of the materials, preparation of a report, and curation of the materials at a recognized storage facility under the direction of the Planning Director. Collection and evaluation shall be completed prior to the resumption of grading.	

Significant Impact	Mitigation Measures	Does Implementation of all Mitigation Measure(s) Reduce the Impact to a Less-Than-Significant Level?
PUBLIC SERVICES		
XIII-1: Cumulative development proposed in the town, coupled with the location of the development could delay police response time.	**XIII-1**: The six houses shall be equipped with security alarm systems subject to review and approval of the Town of Moraga Police Department.	Yes
TRANSPORTATION/TRAFFIC		
XV-1: The increase in traffic at the Sanders Drive/Hetfield Place intersection could create a safety hazard if left uncontrolled.	**XV-1:** Both approaches of Hetfield Place shall be stop sign controlled.	Yes