

HETFIELD ESTATES SUBDIVISION FINAL ENVIRONMENTAL IMPACT REPORT

SCH#: 2009022086

Prepared for
Town of Moraga

Prepared by
Mills Associates
Orinda, California

March 23, 2012

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I. INTRODUCTION

The California Environmental Quality Act (CEQA) Guidelines (Section 15132) require that upon completion of a Draft Environmental Impact Report (EIR) the Town of Moraga (Town), as lead agency, consult with and obtain comments from public agencies having legal jurisdiction with respect to a proposed project. In addition, the Town, as lead agency, must provide the general public with an opportunity to comment on the Draft EIR. The Draft EIR for the proposed Hetfield Estates Subdivision was circulated for a 60-day review period from January 21 to March 22, 2011.

This Final EIR has been prepared pursuant to CEQA and the State Guidelines (Section 15132), and responds to relevant and significant environmental issues received from public agencies and the general public on the Draft EIR. CEQA Guidelines specify that the Final EIR shall consist of the following:

- The Draft EIR or a revision of that draft;
- Comments and recommendations received on the Draft EIR;
- A list of persons, organizations, and public agencies commenting on the Draft EIR;
- The response of the Lead Agency to significant and substantive environmental points raised in the review and consultation process; and
- Any other information added by the Lead Agency.

Following this introductory first chapter, Chapter II provides a list of public agencies, organizations and persons commenting on the Draft EIR, as well as the minutes from the March 7, 2011 public hearing. Chapter III provides the individual comment letters followed by the responses. The comments are arranged beginning with those received from agencies, organizations and then individual letters follow in alphabetical order. Each comment letter and the individual comments have been numbered. The substantive comments in each letter have been marked in the margin by a bracket followed by the comment number; for example, 1-1 represents the first comment of the first letter. The responses to the numbered comments follow after each individual comment letter. The first page of each response includes the letter number, name of the person/agency submitting the letter or e-mail, and date of correspondence. The comment is summarized prior to the response of the EIR authors. Each response is numbered to correspond with the numbered comments in the comment letters. Note that in many instances the

comment may contain more than one subject matter, which was consolidated into one response.

Chapter IV provides an ERRATA which shows where the various modifications have been made in the EIR. A revised Summary Table of Impacts and Mitigation Measures is included in Chapter V. New language is underlined (new) and old language is ~~struck through~~.

The comments did not raise any new issues to be addressed in the EIR, but did result in some minor modifications/clarifications to the Draft EIR. It is noted that there were several comments pertaining to the project and the process (e.g., schedule, bonding) which are not relevant for determining the adequacy of the EIR. Because such information is not relevant to the environmental process, it is not required to be responded to in the Final EIR, and has been so noted. Information is provided if that information is known to the EIR authors.

This Final EIR will be considered by the Town of Moraga Planning Commission prior to taking action on the proposed project. Before the Commission can approve the proposed project or a project alternative, the following findings must be made in order to certify the Final EIR for its adequacy:

- that it adequately discloses the environmental effects of the proposed project,
- that it has been completed in conformance with CEQA,
- that it has been independently reviewed, and
- that the information has been considered by the decision-making body.

II.

LIST OF COMMENTERS

List of Agencies, Organizations and Persons Commenting on the DEIR

Agencies

1. Anne Rivoire, East Bay Regional Park District, letter dated March 22, 2011

Organizations

2. Hetfield Homeowners, letter of March 7, 2011
3. Suzanne Jones, Preserve Lamorinda Open Space, letter dated March 22, 2011

Individuals

4. Laurel Collins, Watershed Sciences, letter dated March 7, 2011
5. Malcolm and Lena Cooper, letter dated March 7, 2011
6. Lynne and Greg Fiorindo, letter dated March 7, 2011
7. Catherine Jarett, letter with no date
8. Walter Klippert, letter dated March 8, 2011
9. Zoe Klippert, letter dated March 17, 2011
10. Jennifer and Tadd Koziel, letter dated March 7, 2011
11. Timothy and Pamela Meltzer, letter dated March 7, 2011
12. Gordon Nathan, letter dated March 18, 2011

II. LIST OF COMMENTERS

13. John O'Hare, letter dated March 15, 2011
14. Dick Socolich, Planning Commissioner, memo dated March 8, 2011
15. Ellen Voyles, letter dated March 16, 2011
16. Caroline Wood, e-mail dated March 21, 2011
17. John Wyro, The Wyro Company, letter dated March 7, 2011

Planning Commission Hearing

Chairman Driver
Commissioner Levenfeld
Commissioner Obsitnik
Commissioner Socolich
Commissioner Wykle
Christopher Bowen
Malcolm Cooper
Lynne Fiorindo
Katherine Jarrett
Suzanne Jones
Zoe Klippert
Jennifer Koziel
Tim Meltzer
Gordon Nathan
John O'Hare
Daran Santi
Jeff Schwartz
Ellen Voyles
Nancy Wilkerson
Shivaun Wraith
John Wyro

Letter 1



2950 PERALTA OAKS COURT P.O. BOX 5381 OAKLAND CALIFORNIA 94605-0381 T. 888 EPARKS F. 510 569 4319 TDD. 510 633 0460 WWW.EBPARKS.ORG

March 22, 2011

Ms. Lori Salamack, Planning Director
Town of Moraga
329 Rheem Blvd.
Moraga, CA 94556

Dear Ms. Salamack,

The East Bay Regional Park District (the "District") has reviewed the Hetfield Estates subdivision Environmental Impact Report (EIR). The District manages and maintains the Old Moraga Ranch Trail which runs along the eastern boundary of the project. This is an existing regional trail as depicted on our 2009 Master Plan Map that connects this portion of Moraga to Las Trampas Regional Wilderness. It will eventually be part of a larger loop that will provide exceptional day-hiking opportunities to residents of Moraga and the greater East Bay.

As outlined in the EIR, it appears that the project includes two trail connections to the Old Moraga Ranch Trail. In the description on page 2-2, it appears that the Old Moraga Ranch trail will be used as a connector between the two proposed trails. The first would run between the proposed homes and creek, and the second would access the northwest/southeast ridge and provide overlooks. The same paragraph on 2-2 also states "Maintenance of the on-site trails will be the responsibility of the homeowners association."

The District strongly supports these kinds of local trail connections as they provide improved access and connectivity to a greater number of nearby residents. As such, we support this proposal. However, it should be made clear that the District operates and maintains the section of Old Moraga Ranch trail located within the proposed project area, and that we will continue to do so in the future. Further, the District recommends that all trails as described in the EIR be recorded as public access and that a permanent funding source for maintenance be established. No gates should be allowed as part of the project that might prevent public access for pedestrians, equestrians, or cyclists.

1-1

The District requests that the specifics of trail use and maintenance as part of the proposed project be clarified in the EIR and other future approvals and permit requirements.

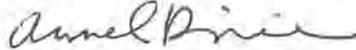
1-2

Board of Directors

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As the project progresses, we would appreciate Town coordination with the District in keeping us abreast of the project and any pertinent meetings and decisions. Our Regional Trails Manager, Jim Townsend can be reached at 510-544-2666 or jtownsend@ebparks.org. I can be reached at 510-544-2624 or by email at arivoire@ebparks.org. Please feel free to contact us should you have any questions.

Respectfully,



Anne Rivoire
Senior Planner

Cc: Jim Townsend
Larry Tong

LETTER
1
RESPONSE

East Bay Regional Park District
Anne Rivoire
March 22, 2011

- 1-1 **Comment:** EBRPD supports local trail connections; all trails should be recorded as public access and permanent funding source for maintenance be established. The District operates and maintains the section of Old Moraga Ranch trail located within the proposed project area and will continue to do so in the future.

Response: Comment noted regarding the Old Moraga Ranch trail, as well as the trails located within the project site. A condition of approval will be placed upon the project that requires all trails within the project site be recorded on the Final Map as public access and maintenance of the trails shall be included within the Geologic Hazard Abatement District (GHAD). The EIR has been corrected on page 2-2 to reflect that the GHAD, rather than a homeowners association, will maintain the trails. (Refer to the ERATA in Chapter IV of this report.)

- 1-2 **Comment:** EBRPD requests specifics of trail use and maintenance be clarified.

Response: The connector trails within the open space area of the proposed development will be limited to pedestrian use. This use restriction, and additional provisions regarding use and maintenance of the trails, will be included in the conditions of approval for the tentative subdivision map. The connector trails will be maintained by the GHAD, as will be further provided in the GHAD Plan of Control.

Letter 2

Communication
RECEIVED

MAR 07 2011

MORAGA PLANNING DEPT.
March 7, 2011

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

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

To: Moraga Planning Commission and Moraga Planning Department

We are writing concerning the draft Environmental Impact Report (DEIR) that was prepared by Mills Associates for the Town of Moraga dated January 14, 2011, regarding the proposed Hetfield Estates project. We are a group of homeowners who will be directly affected by the proposed Hetfield development.

We have consulted with numerous homeowners on Sanders Drive as well as in the adjacent neighborhoods who are concerned about the proposed Hetfield development. We have tried to collect in this letter as many of our concerns, questions and comments as possible, along with those of our neighbors and fellow homeowners in this general neighborhood regarding the proposed project.

We hope to receive clear and detailed responses to each of the points raised in this letter as part of this stage of the development process. We understand this is required under CEQA, and also believe that clear and detailed responses will serve in the best interest of all involved: the current homeowners, the developer/applicants, the Planning Commission, the Planning Department and the Town as a whole. Our goals are to ensure that:

- Any development of the Hetfield site is safe to any new homeowners and all neighboring homeowners.
- All existing homes and homeowners are protected against potential damage caused by the proposed new development.
- All significant environmental impacts are truly mitigated to a less than significant impact.
- Any houses that may ultimately be built are in fact compatible with the size of the adjacent houses on the south side of Sanders Drive.

Our concerns, questions, and comments have been broken out into sections as follows.

Sections and page numbers:

DEIR Document..... 2
Proposed Project Area..... 2
MOSO Application 3
Landslides 4
Trees / Wildlife 5
Safety / Liability 5
Design / Design Compatibility..... 6
Vista Encinos Precedent 7
Process / Disclosure 7
Water, Flooding, Drainage..... 9
Geology 12
Overall Mitigation..... 13
Projected Costs..... 13
Infrastructure 14

DEIR Document

1. Several of the drawings and Figures in the DEIR are not entirely legible on both the version on the Town's website and in the hardcopy that is available for purchase from the Planning Department. For example, Figure 5.1 (p. 5-3 and 5-4), which is meant to depict the "Eight-lot Subdivision (smaller lots on reduced acreage) Overlain on Proposed Project Plan," is not legible enough in the hardcopy DEIR or the online DEIR to make out the specific dimensions of the two proposed projects. Please include a drawing, diagram or figure that clearly, legibly and distinctly shows the proposed Hetfield project that is the subject of the DEIR, which also includes how the recommended 8-Lot alternative differs from it.

2-1

Proposed Project Area

2. According to the Town's consultant, Mills Associates, "the 8-Lot Subdivision contained within a smaller development area would be environmentally superior to the proposed [7-Lot] project" which was originally proposed (DEIR, p. 5-11).* Will all of the applicants' land outside the recommended 8-Lot Subdivision be added to Open Space, and at what stage of the planning process will this become permanent and no longer subject to change?

2-2

*NOTE: In the original proposal, there are 6 lots for houses and a 7th lot that remains Open Space, hence "7-Lot." In this letter when we say "6-Lot" we are referring to this original proposal.

3. Please provide a clear and legible drawing that shows all land included within the development envelope of the original 6-lot proposal which would remain as protected open space in the recommended 8-Lot Subdivision.

2-3

- 4. Where exactly does the developer contend the project-parcel's property line lies in relation to each of the Sanders Drive homes on the south side of Sanders Drive? If this information is disclosed on any of the figures in the DEIR, please attach to your response a clear and legible version that highlights this borderline as it relates to each Sanders Drive homeowner on the south side of the street. 2-4
- 5. The DEIR states at page 5-5 that the ability of the Sanders Drive residents to view the hillside between the houses "may be limited due to the smaller setbacks". What are the specific setbacks for each lot in the recommended 8-Lot Subdivision? 2-5
- 6. The DEIR says at page A-2 that "[t]he final map shall reflect similar house plotting as shown on Figure 3-1 in Appendix B" (sic, Appendix C). How exactly would this change if the 8-Lot alternative is approved by the Planning Commission? Please include a clear and legible drawing or similar type figure to Figure 3-1 of Appendix C for the recommended 8-Lot Subdivision. 2-6

MOSO Application

- 7. What specific software program and version were used to calculate the slope densities for the original 6-Lot subdivision for the Hetfield Estates? What are the user options available to someone using this program? Which of these options were used in the Hetfield Estates calculations, and which were not used? What was the precise source of the input data for the Hetfield Estates calculations? How can members of the public review the Hetfield Estates input data files and sources, the steps used in the program to calculate the values and the actual output from the program? 2-7
- 8. What exact areas on the map did the developer use in performing the MOSO cell calculation for the original 6-lot subdivision, the subject of the DEIR? Which Town ordinance, guideline or other provision did the developer rely on when determining the variables in the formula that it used? 2-8
- 9. Has the developer or the Town's Consultant who prepared the DEIR performed a MOSO cell calculation for the recommended 8-Lot subdivision? Where in the DEIR does such a calculation appear? What is the MOSO cell calculation for the recommended 8-Lot subdivision, and on which Town ordinance, guideline or other provision is this calculation based? Please identify the exact formula that you use in performing the MOSO cell calculation for the recommended 8-Lot subdivision, and the specific areas on the map for each of the variables of your calculation. 2-9
- 10. The DEIR states (at p. 3-72) that the developer omitted a portion of Lot 1 in his MOSO cell calculation as part of the 6-Lot proposal. Did the Town's consultant discover any other omissions by the developer in his MOSO cell calculation regarding the 6-Lot proposal and, if so, please identify them. 2-10

- 11. The DEIR states at page 3-72 that the portion of the development omitted from the original MOSO calculation would “increase the percentage of the slope gradient,” but that the revised calculation is still under the 20% limit. The original calculation was 18.39%. What is the exact revised slope percentage and where is this calculation described in the DEIR?
- 12. The DEIR states at page 5-2 that “the average slope [for the Eight-Lot Subdivision-Reduced Project Acreage] would range from 8.53 percent on Lot 8 to 19.19 percent on Lot 7.” Did the Town’s Consultant calculate these slopes independently? If so, what was the methodology or formula used, and what specific information or data was used in each component of the calculation? What was the result of that independent calculation for each of the proposed 8-Lots? If the Town’s Consultant relied on someone else’s calculations, on whom did it rely, what was the methodology or formula they used, and what specific information or data was used in each component of the calculation?

2-11

2-12

Landslides

- 13. Under the 8-Lot alternative, what are the exact dimensions of the debris benches, and where exactly on the Hetfield site would each be located? Are there any debris benches on an existing development in Moraga that can be viewed by the public and, if so, where are they located? At what location nearest to Moraga have debris benches been constructed that the public can view which are closely similar to the ones that are being proposed for the Hetfield site?
- 14. We need greater clarity regarding the proposed or contemplated use of retaining walls. The DEIR states at page 3-29 that “[t]here are no required retaining walls for the project, so there is no conflict with Policy PS4.12 (*sic*, should be PS4.11)”. However, among the “MITIGATION MEASURES” that are “required to reduce the impact of potential landsliding to a less-than-significant level” (DEIR, p. 3-34), the Town’s Consultant requires the developer to “[p]rovide low retaining walls with subsurface and surface drainage facilities at the toe of the major fill slopes on the site (at the rear of building pads)” (DEIR, p. 3-35). Does the use of retaining walls as generally described violate Moraga PS4.11? Moreover, if retaining walls of the nature mentioned in the DEIR are contemplated now, what are the anticipated dimensions and locations of all such retaining walls? How high above the ground does the developer contemplate they may rise?
- 15. One of the mitigation measures requires that, in all proposed areas of development, “existing landslides and slope repairs shall include (a) removal of slide debris, with the depth of excavation extending into underlying competent material” (DEIR, p. A-2 and A-3, 3.2-1A). What is meant by “competent material”? Does this mean bedrock or something else? Please explain.

2-13

2-14

2-15

16. The DEIR states at page 5-5 that "[o]ther slope stabilization measures as identified for the proposed project would also be required with the 8-lot subdivision alternative". What specific "other slope stabilization measures" is the DEIR referring to? 2-16

17. What slope stabilization measures, and other proposed or contemplated actions on the part of the developer or his agents with respect to the original 6-Lot subdivision, are eliminated under the Consultant's recommended 8-Lot Subdivision? 2-17

Trees / Wildlife

18. Except for the trees identified at the intended site of the proposed Hetfield Bridge leading to the proposed development, will any of the existing "tree screen" or bushes behind the homes on the South side of Sanders Drive be removed at any stage of the proposed Hetfield project, including the Town Consultant's recommended 8-Lot subdivision? 2-18

19. How many trees are proposed to be planted during the first phase of construction and how many feet from each Sanders Drive homeowner's property boundary will each tree be planted? 2-19

20. After the initial planting of "tree screening" referred to in the previous question, exactly how many additional trees will be planted during the course of the proposed project, and exactly how far from each Sanders Drive property boundary will each tree be planted? 2-20

21. If the 8-Lot alternative is approved by the Planning Commission, in what exact ways will the planting of "tree screening" change from the 6 lot proposal? 2-21

Safety / Liability

22. The homeowners who would be affected by any development at the Hetfield site, and the Town, need to have sufficient assurance that development at the site will not create any hazards to life or property, and that all mitigation measures that are required by the developer are fulfilled. The DEIR refers to the applicants' posting various "bonds" in connection with any development, but no amount is specified as to any of them. (See, e.g. DEIR, p. A-1). We believe the applicants should be required to post a reasonable bond in connection with any preparation of the property for the eventual building of any homes, and that the amount should be fixed at this point of the process at no less than \$5 million, adjusted for inflation. This is especially necessary given the acknowledgement in the DEIR that "[o]nce the subdivision improvement plans have been approved, site preparation can last as long as two years until all improvements are completed and prior to the construction of houses. It is acknowledged that the site could remain vacant for several years before houses are 2-22

constructed due to the current economy" (DEIR p. 3-7). Accordingly, since some of the interested or affected parties may change over this period (e.g. Planning Commission members, Planning Director and members of that department, homeowners, the current applicants, etc.), it would be both prudent and necessary to fix these amounts now so there is no question as to what to expect on that issue later.

2-22

23. As to the bond to protect Sanders Drive homeowners, and anyone else who may be injured in person or property, as any engineering, excavating, grading or any other developmental activities occur during the building of any individual home, another \$5 million bond should be required from the applicants, and that, too, should be established as a requirement for approval of the DEIR, any Conditional Use Permit (CUP) or the Conceptual Development Plan (CDP).

2-23

24. We are very concerned with the economic viability of any proposed GHAD or homeowners association to protect the safety and property of any adjacent or nearby homeowners who may be affected by the proposed project. Accordingly, as a condition of approval of the DEIR, any CUP or CDP, the Planning Commission should require that the applicant or any future owner of the Hetfield site post a bond in the amount of \$10 million before any work may begin on the construction of any homes on the development site.

2-24

Design / Design Compatibility

25. The DEIR states that, "[p]rior 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" (DEIR p. 3-10). We believe that, as a condition of any approval of the DEIR or CUP or CDP, the Planning Commission should place a limit on the square footage of any contemplated houses to a maximum of 3,000-3,500 square feet. This is an increase in the size of all of the adjacent houses on the south side of Sanders Drive, and represents an increase of between 57%-122% of those existing homes. There is no reason to put off to some later stage something as important as the potential size of the contemplated houses. It is particularly adverse to all interests involved to leave vague and open to dispute such a critical component of a conceptual development design. Everyone, including the applicants, the current homeowners, the Planning Commission, and any potential purchaser of the Hetfield site, or any part of it, should know at the earliest moment what this project will generally look like, and what some of the most important limitations will be. Otherwise, the applicants, the existing homeowners, and any prospective purchaser of the Hetfield site or the contemplated houses will be left in the dark on this critical point, which may lead to uninformed decision-making. This is an extremely important issue to all those who signed this letter, as well as the additional homeowners who we represent.

2-25

26. The DEIR states at page 5-5 that the size of the lots on the recommended [Eight-Lot Subdivision-Reduced Project Acreage] "would be similar in size to the adjoining

2-26

neighborhood.” What are the individual lot sizes of the adjoining neighborhood that the Consultant has used in reaching this conclusion?

2-26

27. If the 8-Lot alternative is approved by the Planning Commission, how will the “massing and stepping” of the houses change from what is shown for the 6-lot plan in Figures 2-2 through 2-4 of the DEIR (See p. A-2)?

2-27

Vista Encinos Precedent

28. We are greatly concerned that the current applicants plan to do as they did with respect to their first application to subdivide the Hetfield property around 2001, namely; go through all the planning stages to obtain an approved and certified subdivision, and then sell the entire property, rather than seeing it through to the end of construction, as occurred in the case of what is known as the Vista Encinos development off Larch and Baitx Drive. After all approvals from the Moraga Planning Commission were obtained concerning Vista Encinos, and the required certifications were filed with the Contra Costa Recorder’s office, the current applicants sold this newly subdivided portion of the Hetfield property. The company that purchased the subdivision then excavated and graded the entire hillside of the subdivision, carving out 10 different lots for sale to the public. Not one of those lots has been sold since that portion of the property was subdivided in 2001, and the property has stood vacant and unmaintained for almost 6 years, with nothing more than a cement street and carved out lots in the hillside. We are also very concerned that, after the new owner of the Vista Encinos subdivided property began excavating and grading the hillside, new landslides occurred that were never mentioned as a possibility during the approval process before the Moraga Planning Commission. What assurance is there that the proposed Hetfield project will not end up as the Vista Encinos project now appears?

2-28

Process / Disclosure

29. The DEIR states that “the Supplemental Geotechnical Exploration Report prepared by Engeo is not explicit regarding design details,” and that “[t]he Town of Moraga routinely requires the design-level studies as a Condition of Approval” (DEIR, p. 3-31). We believe such studies should be a Condition of Approval, and agree with the DEIR that “[a] design level geotechnical and geologic investigation report shall be submitted to the Town of Moraga prior to recordation of the subdivision map” (DEIR, p. 3-31).
30. As to MITIGATION MEASURE 3.2-1A at page 3-31 of the DEIR, which requires that “A design-level geotechnical and geological report shall be submitted to the Town of Moraga prior to recordation of the subdivision map,” will the public have an opportunity to review the report? How will the public be notified that the report has been submitted to the Town? Will the public be given an opportunity to make any

2-29

2-30

comments to the Planning Commission or other Town of Moraga commission or governmental body in time for further work to be performed or investigated before actual work begins or the next step in the process takes place? What is the procedure for addressing any concerns, problems, flaws, etc, in such a report, and what governmental body in Moraga will receive and act on any such public comments?

2-30

31. At what point in the planning process, and at what projected date or date range, does the developer expect to submit a proposed subdivision map? Will the public have an opportunity to review the proposed subdivision map, and to make any appropriate comments or raise any questions about it? To whom should any such comments, questions or concerns be submitted?

2-31

32. One of the required MITIGATION MEASURES referred in the DEIR regarding "Slope Stability" and "Landslides", is that, "Prior to recordation of the Final Map, the applicant shall provide a draft deed disclosure recorded against each lot" (DEIR, p. 3-32). Will the public have an opportunity to review the draft deed disclosure to be recorded against each lot to make sure it contains all the necessary disclosures to any prospective purchaser of that lot or the entire subdivision? Will the public be given an opportunity to make any comments to the Planning Commission or other Town of Moraga commission or governmental body regarding the draft deed disclosure document before it is recorded in time to have changes made to the document should any be necessary? If not, how does the public know if the developer has satisfied this essential requirement in obtaining the necessary local governmental approvals? If there will be an opportunity for the public to review and comment on this essential document, what is the procedure for addressing any concerns, problems, flaws, etc, in the document, including timeframes to submit such comments? What governmental body in Moraga will receive and act on any such public comments?

2-32

33. Another required MITIGATION MEASURE is that the developer must "Provide an erosion control plan prior to approval of the grading plan" (DEIR, p. 3-34). Will the public have an opportunity to review and comment on the erosion control plan prior to approval of the grading plan? If not, how does the public know if there are any defects or problems with the plan? If there will be an opportunity for the public to review and comment on the plan, what is the procedure for addressing any concerns, problems, flaws, etc, in the plan, including timeframes to submit comments, and what governmental body in Moraga will receive and act on any such public comments?

2-33

34. The DEIR states, as a further mitigation measure, that "The design-level geotechnical investigation shall provide criteria for foundation and pavement design, developed in accordance with the 2007 California Building Code and Ordinance Code requirements on the basis of subsurface exploration and laboratory testing" (DEIR, p. 3-36). Why should the criteria be limited to the 2007 California Building Code and Ordinance Code? The DEIR acknowledges that it could take up to 6-7 more years, at least, before any houses would be built (See, DEIR, p. 3-7). That means that this specific issue may not arise until sometime around 2017, at the earliest—at least ten years after the 2007 California Building Code. Accordingly, this mitigation measure

2-34

should be revised to require compliance, not only with the 2007 California Building Code and Ordinance Code, but also any updates, changes or revisions to either code.

2-34

35. The DEIR says at page A-2 (3.1-3D) that, "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". Will the public have an opportunity to review these design guidelines? How will the public be informed that such design guidelines have been submitted to the Town? Will the public have an opportunity to comment on or raise any questions regarding those proposed guidelines? To whom should such comments or questions be submitted? Will there be an opportunity to have the design guidelines revised if they are not compatible with the adjoining neighborhood? What is the precise procedure for reviewing, considering, revising and approving the proposed "design guidelines"?

2-35

36. As to the mitigation measure that requires "Review and approval of [the design-level geotechnical and geologic investigation report] by the Town's Peer Review Geologist" (DEIR, p. A-1, 3.2-1A-1C), how and when will the public know if the report has been approved or rejected? If the report is approved by the Town's Peer Review Geologist, will the public have an opportunity to comment or question that approval, and through what procedure?

2-36

37. What mechanism is in place, or will be put in place, for the public to review and comment upon the observations and approvals of the "Grading Technician" who is expected to review the implementation of the required erosion control plan (DEIR, p. A-6)?

2-37

38. As part of the "Mitigation Monitoring and Reporting Plan" (DEIR, p. A-1), the applicants are required to submit a tree planting plan for review and approval by the Town. Will the public have an opportunity to review this plan? How will the public be informed that such a plan has been submitted to the Town? Will the public have an opportunity to comment on or raise any questions regarding the plan? To whom should such comments or questions be submitted? Will there be an opportunity to have the plan revised if it does not comply with the required mitigation measures that are set forth in the DEIR? Please explain the procedure for analyzing and approving the required "Mitigation Monitoring and Reporting Plan."

2-38

Water, Flooding, Drainage

39. We do not understand the comment in the DEIR that, despite homeowner testimony, with photos, that flooding had occurred in 2002 and 2006 in the backyard of the house at 1112 Sanders Drive, "the Contra Costa County Flood Control and Water Conservation District has no records of flooding complaints for Larch Creek (Boucher, 2010)," and that "[o]ver the past two decades or so, the Town of Moraga has not received any complaints about flooding in the vicinity of the proposed project site (Boucher, 2010)" (DEIR, p. 3-41 and 3-42). Is the Town's Consultant taking the

2-39

- position that, in the absence of a homeowner contacting the Town of Moraga or the Contra Costa County Flood Control and Water Conservation District, no such flooding occurred? We ask that the Town's Consultant explain the point of mentioning the absence of any "complaints about flooding" to those two governmental bodies, and whether it believes that, in the absence of notifying those agencies, the homeowner's testimony on the subject must have been untrue. 2-39
40. The DEIR (p. 3-51) refers to the construction of "cleanouts" for the purpose of "flushing out the subdrains." Please describe the dimensions of the proposed "cleanouts," identify where they would be located on the Hetfield site, and include a new figure that clearly and legibly denotes their location. 2-40
41. Where are the subdrains proposed to be located on Lot 6 (See DEIR, p. 3-51), and, if included as part of a figure in the DEIR, please include a new figure that clearly and legibly denotes their location. 2-41
42. Where would all of the subdrains be located in the DEIR's recommended 8-Lot subdivision, and please include a new figure that clearly and legibly denotes their location. 2-42
43. Where is the contemplated "outlet structure on the bank of Larch Creek" proposed to be located (DEIR, p. 3-52)? Please provide a figure/reduced size drawing that clearly denote its location and dimensions. 2-43
44. Where is the "concrete pipe detention basin" that was inspected "very soon after a significant storm and was found to be completely clean of suspended soil materials" (see DEIR, p. 3-52)? In identifying its location, include, with other descriptive information, the house address that is the closest to it, and state the date of this inspection. 2-44
45. The DEIR (p. 3-52) refers to the requirement of installing "an energy dissipation structure at the discharge point to Larch Creek" for the purpose of reducing "the concentrated [water] flow from the storm drain system [which] could erode the bed and northern bank of the creek." What are the exact or contemplated dimensions of the "energy dissipation structure"; where exactly is it proposed to be located, and how is this structure going to be maintained over the years so it continues to serve its intended purpose and avoid eroding the bed and northern bank of Larch Creek indefinitely? 2-45
46. The DEIR says at page 3-55 that "[t]he major hydrologic impact created by the project's proposed storm drain system is that the discharge for the western two-thirds portion of the site would be at a single location (i.e., the detention basin outlet) rather than all along the northern frontage of Larch Creek by means of surface runoff and creek bank-seepage. Runoff from the eastern one third portion of the site that is not proposed for development would continue as it does under existing conditions. **While this concentration of flow may cause geomorphological impacts over a short**

distance upstream and downstream of the discharge location, the impacts would not be significant over the full length of Larch Creek.” Despite the acknowledgement of this environmental impact, how does the developer plan to eliminate the geomorphological impacts that are expected to occur upstream and downstream of the discharge location? Also, what actual distances in linear feet are projected to be included in the reference to “a short distance upstream and downstream of the discharge location”?

2-46

47. One of the required “MITIGATION MEASURES” in the DEIR (p. 3-57), is that a “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.” What constitutes a “major storm” for purposes of this mitigation measure? What are the projected annual costs to fulfill the requirements of the Stormwater Control Plan? By what percentage are these costs expected to rise each year? How will these costs be allocated between the proposed new Hetfield homeowners? What are the projected annual dues or costs of each Hetfield homeowner to fund the JMA? By what percentage are these costs expected to rise each year? How will the annual dues to fund the JMA be allocated if only a few of the proposed Hetfield houses are sold or if there are long delays between sales? What provisions will there be to guarantee that the required annual dues to fund the JMA are paid in full each year? What recourse will there be in the event one or more of the Hetfield homeowners fail to make their annual payment to the JMA? How will the JMA be funded if a Hetfield homeowner refuses to pay or is unable to pay or declares bankruptcy, as occurred with a previous owner of the Hetfield site that led to the current owners purchasing the property at a firesale price, and which prevented recourse by Sanders Drive homeowners following the damage caused by a landslide at the Hetfield site and related flooding? How are the Sanders Drive homeowners going to be protected from such circumstances in the future? If the required mitigation measures are to mean anything, these questions need to be answered now to the satisfaction of the current homeowners and the Planning Commission; otherwise, the environmental impact of the proposed Hetfield project remains potentially significant, and neither the project nor the DEIR should be approved, nor should the CUP be granted.

2-47

48. The Town's Consultant concluded, at page 3-55 of the DEIR, that “the impact of the proposed project on the rate or amount of off-site surface runoff would be less than significant.” However, even if the contemplated rate of offsite subsurface runoff may be reduced by a detention basin, the ultimate volume of water will increase, especially with respect to the area downstream of the detention basin outlet at the proposed new bridge over Larch Creek.

2-48

49. The DEIR (at page 3-56) states that “it appears unlikely that large quantities of groundwater will be encountered where the grading excavations intersect the fault zone.” However, isn’t it the case that this information will only be fully known after all grading excavations at all points of intersection with the fault zone take place?

2-49

50. The DEIR states (at page 3-57, 3-58) that “With either the undeveloped or developed project site, essentially the same amount of runoff would reach Larch Creek, therefore the creek would not dry up faster if it were developed.” However, this is inconsistent with the representation that “[t]he runoff to the creek would occur at one location (the detention basin outlet) [under the intended new Bridge over Larch Creek] rather than along the entire frontage of the project site” (DEIR, p.3-58). This necessarily means that the upstream portion of Larch Creek will dry up sooner than would occur if there was no development, because the drain system on the site will prevent natural water flow into the upper portion of the creek. What biological effect will this have on the stream habitat and associated wildlife upstream from the site of the detention basin outlet on Larch Creek? Nowhere in the DEIR is there any discussion or analysis of the effect this would have on the biological condition of the areas of Larch Creek that would experience that changed environmental condition.

2-50

51. Page 3-58 of the DEIR states, “Therefore, the amount of total energy generated by post-development discharges on the creek bed and banks would be less than existing conditions.” However, this fails to address the fact that more water runoff will be concentrated at the detention basin outlet under the bridge over Larch Creek, and there will be far less runoff in the upstream area of Larch Creek, both of which would create significant environmental impacts that have not been fully mitigated.

2-51

Geology

52. The DEIR erroneously states, at page 3-12, that “there was agreement by all geologists”...“including the two geologic consultants retained by the neighbors (Laurel Collins and William Cotton)”...“that the scope of work for the supplemental geologic investigation was adequate to analyze the questions that had been raised at the Town Council hearing” (See also, DEIR, p. 3-17). On the contrary, William Cotton and Laurel Collins made it clear to everyone at the meeting at the site that a 24 inch bucket auger drill should be used, which is much wider, and intended to go much deeper, than what Engeo proposed. At the insistence of Engeo, the parties agreed, as **only a first step**, that Engeo would proceed using its smaller diameter drill. The parties agreed to review the core samples that were obtained, and they did this at Engeo’s lab. However, contrary to what the DEIR says, William Cotton and Laurel Collins did not agree with Engeo’s conclusions from examining the core samples. Rather, both Cotton and Collins made clear at the time that only a larger diameter drill, descending deeper through the ground, would provide the material needed to adequately analyze the depth of the landslide material, and help resolve potential safety issues relating to developing the proposed site. Nevertheless, despite these

2-52

concerns, Engeo elected to proceed on the basis of questionable conclusions, because the owners did not want to spend any more money on the required analysis of the depth of landslides and other geological issues. On this basis alone, the Planning Commission should deny the project, pending further exploratory drilling necessary to characterize adequately the landslide depths.

2-52

53. William Cotton of Cotton Shires, and Laurel Collins of Watershed Resources, both disagree with Engeo's conclusions regarding the potential depth of the existing landslide material on the Hetfield site, and question whether Engeo's drilling program was sufficient to gain an actual and necessary understanding of the depth of the landslides. We believe that a deeper geological exploration of the Hetfield site is crucial for everyone, including the Planning Commission, and the Town, as well as the existing homeowners in the area, to resolve the lingering, significant issues regarding the geology of the specific site that is contemplated for development. Until this is done, neither the DEIR nor the Conceptual Development Plan should be approved, nor should a Conditional Use Permit be granted.

2-53

Overall Mitigation

54. How will the mitigation measures described in the DEIR change if the 8-Lot project is approved?

2-54

55. Do the applicants intend to have their agents, construction companies, etc. perform any of the work that is described as part of the mitigation measures? If so, what exactly do the applicants intend to have done before they attempt to sell the entire property or any portion thereof?

2-55

Projected Costs

56. What sales price does the developer expect to receive from the sale of each of the lots in the recommended 8-Lot Subdivision or for the entire subdivision as a whole? If the developer does not have an exact price in mind, what is the projected range of expected price for each lot and for the entire recommended 8 Lot subdivision? This information is necessary to help understand the developer's conclusion that the 3-Lot alternative is not economically feasible.

2-56

57. What does the developer expect the amount of property taxes to be for each of the 8 lots in the proposed 8-Lot Subdivision, or what range of projected property taxes? If the developer cannot or will not answer this question, then what does the Town's Consultant expect those costs or range of costs is expected to be?

2-57

58. The DEIR states at page 5-2 that "[t]he cost to improve the development under this alternative (Three-Lot Subdivision on Reduced Project Acreage), as well as to construct the private road would make this alternative economically infeasible." What

2-58

are the projected or anticipated costs to improve the development under this scenario, as well as the costs to construct the private road that warrant such a conclusion?

2-58

59. The DEIR states at page 5-2 that "it is unlikely that the three individual homeowners [in the Three-Lot Subdivision on Reduced Project Acreage] would want to take on the financial burden of maintaining the open space area." What is the projected cost of maintaining the open space area that leads to the Consultant's conclusion on this point? Please confirm that, under the original proposal, and all of the alternatives considered by the Town's Consultant, the owner(s) are responsible for maintaining all of the Open Space area within the borders of their property. If this is not correct, please explain in what way(s) it is not correct. In addition, please disclose exactly how many feet from the southern most boundary line of each of the adjacent Sanders Drive homeowner's property will the proposed 8-Lot Subdivision begin (including the new street that the developer will need to construct as part of the proposed project).

2-59

Infrastructure

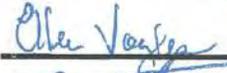
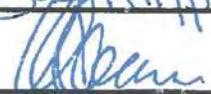
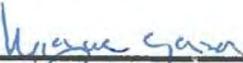
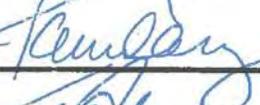
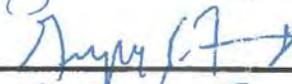
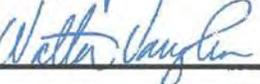
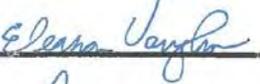
57. What amount of material will need to be delivered to the site to transform the slide material into "compacted engineered fill" as referred at page A-3 of the DEIR (Section 3.2-1A)? How many truck loads on Sanders Drive do you expect or project will be required to meet this requirement? What do you project the weight (or tonnage) of each truck load will be on Sanders Drive regarding the proposed development of the Hetfield site?

2-60

60. The DEIR fails to address the wear and tear on Sanders Drive from the effects of repeated heavy truck travel during each phase of the excavation, grading, soil recompacting and construction at the Hetfield site. This is yet another reason why the depth of the landslides at the Hetfield site need to be determined before the true extent of the significant environmental impact can be determined. Also, what will the Town or the developer do to guarantee that all necessary repairs or repaving of Sanders Drive as a result of any development of the Hetfield site will occur in a complete and timely fashion? If repairs become necessary due to any proposed development, will they be funded through the Town or the developer?

2-61

Hetfield DEIR Neighborhood Signatures 3 ~ 2011

DATE	SIGNATURE / PRINT	ADDRESS
3/3/11	 ROBERT ELLERBECK	1164 SANDERS DR. MORAGA, CA.
3/3/2011	Jane Ellerbeck / Jane Ellerbeck	1164 Sanders Drive
3/3/11	 Glenn C. Voyles	1156 Sanders Drive
3/3/11	 Ellen Voyles	1156 Sanders Dr.
3/4/4	 MICHAEL J. TORP	1151 SANDERS DR.
3/4/11	Diana & Jacob Torp DIANA TORP	1151 SANDERS DR.
3/4/11	Zoë Klippert. Zoë Klippert	27 Hetfield Place
3/4/11	 Walter Klippert	27 Hetfield Place
3/5/4	 Michael O'Loran	6 Hetfield Place
3/5/11	 Pamela Wong	6 Hetfield Place
3/5/11	 Jay O. Robinson	3 Hetfield Place
3/5/11	Michelle E. Robinson Michelle E. Robinson	3 Hetfield Place
3/5/11	Joan O'Hare Joan O'Hare	1120 Sanders Drive
3/5/11	John O'Hare John O'Hare	1120 Sanders Drive
3/5/11	Lynne Fiorindo Lynne Fiorindo	1112 Sanders Drive
3/5/11	 Greg Fiorindo	1112 Sanders Drive
3/5/11	 WALTER VAUGHN	1104 Sanders Drive
	 ELEANOR VAUGHN	1104 Sanders Drive
3/5/11	 LAUREN FRITTSCH	15 HETFIELD PLACE

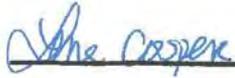
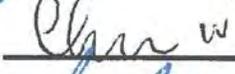
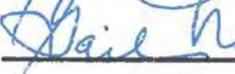
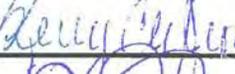
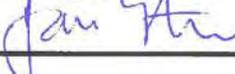
Hetfield DEIR Neighborhood Signatures 2 2011

DATE SIGNATURE / PRINT

ADDRESS

3/5/11	Virginia Henderson	1100 Sanders Dr
	Virginia & Jan Henderson	
3/5/11	Sally McFadden / Sally McLaughlin	2 Cortes Ct
3/5/11	Mary Smith	1096 Sanders Drive
3/5/11	Charles M Smith	1096 Sanders Dr.
3/5/11	Theodore A. Johnson / THEODORE A. JOHNSON	1064 SANDERS DR.
3/5/11	Liana Ariaga	1036 Sanders Dr.
3/5/11	Stally Menyan	10 Cortes Court
3/5/11	Nancy Wilkerson	1140 Sanders Dr.
3/5/11	Mumukshu Z. Wani	- - -
3/5	Daran Junt / DARAN SANTI	1148 SANDERS DR.
3/5	Camille E. Santa	1148 Sanders Dr.
3/5	Sharon M. Beath / SHARON MARGARETH	1135 Sanders Dr.
3/5	Diana Jundquist / DIANA LINDAQUIST	11 HETFIELD PL
3/5	Mark Garvey / MARK GARVEY	1123 SANDERS DR.
3/5	Tom Shurtz / Tom Shurtz	18 Hetfield Place
3/5	Sandra W. Shurtz / Sandra Shurtz	18 Hetfield PLACE
3/6	Shiyann Wraith / Shiyann Wraith	19 Hetfield Place
3/6/11	James Wraith / James Wraith	19 Hetfield Place

Hetfield DEIR Neighborhood Signatures 3 - 2011

DATE	SIGNATURE / PRINT	ADDRESS
3/6/11	 / Lena Cooper	1160 Sanders Dr.
3/6/11	 / Malcolm Cooper	1160 Sanders Dr.
3/6/11	 / JENNIFER KOZIEL	1132 SANDERS DR.
3/6/11	 / TADD KOZIEL	1132 SANDERS DR.
3/6	Manu H Wagnon	1152 Sanders Dr
3/6	Sam B Wagnon	1152 Sanders Dr
3/6/11	Alice P. Brinckerhoff ^{Alice Brinckerhoff}	1060 Sanders Dr.
3/6/11	 J.M. Brinckerhoff	1060 Sanders Dr
3/6/11	 Christopher W. Bowen	1108 Sanders Dr.
3/6/11	 GORYSAI NATHAN	51 CARR DRIVE
3-6-11	 GAIL NATHAN	51 CARR DR
3-6-11	Michelle Karver	1139 Sanders Dr.
3-6-11	 Eric J. Karver	1139 Sanders Dr.
3-7-11	Jean B Forness	1061 Sanders Dr.
3-7-11	 Tim Meltzer	6 Willow Spring Ln.
3-7-11	Randa A. Meltzer ^{Jan Meltzer}	6 Willow Spring Lane
3/7/11	 Kerry Clifton	1068 Sanders Dr.
3/7/11	 John Vancata	1144 SANDERS DR.
3/7/11	 Jim Clifton	1068 Sanders Dr.

Hetfield DEIR Neighborhood Signatures 2011

DATE SIGNATURE / PRINT

ADDRESS

3/4/11 Peter P. Macchi PETER P. MACCHI 1127 Sanders Drive

3/7/11 Adrienne L Macchi ADRIENNE L MACCHI 1127 SANDERS DRIVE

3/7/11 Cathome Juro 35 Hetfield Place
