

# ATTACHMENT P

September 23, 2015

**VIA E-MAIL AND  
FEDERAL EXPRESS**

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center  
Redwood City, California 94063

Re: Ascension Heights Subdivision Project

Dear Honorable Members of the Planning Commission:

We are writing on behalf of our client, San Mateo Real Estate, Inc., the applicant for the proposed 19-home Ascension Heights Subdivision Project (the "Project"). The environmental impacts of the Project have been thoroughly and adequately addressed in compliance with the California Environmental Quality Act ("CEQA"), and the Project complies with the County's General Plan as well as its zoning and subdivision regulations. As such, we respectfully request that the Planning Commission approve the Project at its October 14, 2015 meeting.

**I. Project Overview.**

The Project proposes an infill development consisting of 19 custom homes on lots averaging approximately 9,000 square feet on a 13.32 acre site. The site has been planned and zoned by the County for residential uses since 1958. On average, the Project is only about 32 percent as dense as residential development on nearby lots.

The homes will be built around a U-shaped private street system. The total acreage of the home lots and private street is approximately 5.5 acres. The remaining 60 percent of the Project site ("Project Site"), consisting of approximately 8 acres, will be maintained as permanent open space with public access to a new trail system along the Ascension Drive slope and a handicap-accessible lookout point near the existing water tank.

The current proposal of 19 homes is 24 percent smaller than the original 2009 plan that proposed 25 homes on the site. Despite the reduced Project size, the applicant still plans to make significant private investment in infrastructure improvements, construction costs, and other public and private benefits.

Upon full build-out, assessed values for the combined parcels on the Project Site will increase from a current value of \$1,065,700 to an estimated value of \$47,500,000. This increase will result in a 97 percent increase in annual tax payment to the County, the San Mateo-Foster City

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 2

School District, the San Mateo Union High School District, and the San Mateo Community College District. Property tax revenues from the Project Site are estimated to increase from a combined annual total of \$11,800 today to \$525,000 upon Project completion.

The Project will privately fund over \$5,000,000 in both public and private infrastructure improvements and permit fees to fully modernize the Project Site's sewer system, storm water system, and utility infrastructure. Additionally, the Project will implement substantial and permanent erosion and soil stabilization measures to prevent runoff into Polhemus Creek and San Mateo Creek and the surrounding area. Without development of the Project Site, storm water runoff from the Project Site will continue to occur, and erosion will get worse.

As an infill development, special consideration has been given to the needs and concerns of existing neighbors. All stages of the pre-construction and construction phases will adhere to strict CEQA environmental requirements as well as Project-specific conditions of approval.

The applicant has a long history of business and community involvement in the City of San Mateo and San Mateo County, including previous development of infill housing in the unincorporated Emerald Hills community near Redwood City. Our client looks forward to working with the County and neighbors in transforming a vacant site long-planned for residential uses into a compatible and beneficial part of the community.

## **II. Introduction.**

The main purpose of this letter is to respond to comments submitted to the Planning Commission on the environmental impact report ("EIR") prepared for the Project.<sup>1</sup> Specifically, this letter details the relevant legal framework and CEQA standards germane to many of these comments, and specifically responds to (i) the Baywood Park Homeowners Association February 24, 2015 letter; (ii) the Baywood Park Homeowners Association March 24, 2015 letter; (iii) the Baywood Park Homeowners' Association's January 28, 2015 presentation to the Planning Commission; and (iv) the John Mathon February 19, 2015 letter. Mr. Mathon and the Baywood Park Homeowners Association also submitted comment letters on the DEIR which are responded to in the FEIR. The Baywood Park Homeowners Association represents individuals that reside near the Project Site, including John Mathon.

When considering the comments and concerns raised by the Baywood Park Homeowners Association and others regarding the proposed Project and the EIR, we caution the Planning

---

<sup>1</sup> The "EIR" consists of the Draft EIR ("DEIR") and the Final EIR ("FEIR"). The FEIR is comprised of two volumes: Volume 1 – Response to Comments and Volume 2 – Revised Draft EIR.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 3

Commission to recognize that the comments routinely misstate both the facts and the law, specifically including the actual legal requirements of CEQA and the Subdivision Map Act, and do not offer any supporting evidence. As explained below, the EIR contains thorough and detailed analysis of the proposed Project's potentially significant environmental impacts based on expert studies and other substantial evidence. In contrast, the comments intended to raise questions or concerns about the EIR consist of unsupported arguments and opinions regarding the purported severity of certain impacts, or the adequacy or purported deferral of mitigation of those impacts, without citing any facts or expert analysis to support their position. We ask that the Planning Commission keep this in mind when analyzing the following comments and responses, and give careful consideration to the expert opinions contained in the EIR as well as the proposed findings in County Staff's January 28, 2015 report, and any subsequent staff report submitted to the Planning Commission for the October 14, 2015 hearing.

This Project has been over ten years in the making. During this time, the applicant has undertaken a significant amount of effort to ensure that all of the proposed Project's impacts are adequately analyzed and mitigated, and the concerns of the Project's neighbors are taken into account. Indeed, in response to concerns from neighboring homeowners, the original project was reduced from 25 residential units to 19 single family homes. This high level of detailed analysis and community outreach is not typical for such a small development, and it speaks to the lengths the applicant has gone to propose a properly planned development that will result in many benefits for the community. The Project's many benefits will be further detailed in a separate letter from the applicant to the Planning Commission.

### **III. Legal Framework and Relevant CEQA Standards.**

Neighborhood concern and opposition to infill residential projects is not new in San Mateo County or in any urban/suburban community for that matter. Existing residents and property owners often view the short and long-term impacts of any residential project as a threat to their quality of life and the existing set of known living conditions. The CEQA process exists to provide objective analysis and mitigation of the significant environmental impacts of a project; it is not intended nor designed to address personal opinions or emotional concerns.

First, the County's CEQA determinations must be upheld if they are supported by substantial evidence. This standard applies to the evidence, methodologies, and conclusions reached in the EIR. *See Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 898:

The substantial evidence standard is applied to conclusions, findings and determinations. It also applies to challenges to the scope of an EIR's analysis of a topic, the methodology used for studying an impact and the reliability or accuracy

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 4

of the data upon which the EIR relied because these types of challenges involve factual questions. . . . It also applies to factual disputes over whether adverse effects have been mitigated or could be better mitigated.

Substantial evidence includes “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” (Pub. Res. Code § 21080(e)). “Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.” (*Id.*)

The County, as the lead agency, is required to undertake a good faith effort to analyze the Project’s potential impacts based on its established thresholds of significance. (CEQA Guidelines §§ 15003(i), 15151, 15204.) The County is afforded significant deference in determining the applicable threshold of significance, and indeed, the lead agency is free to establish its own significance thresholds. (CEQA Guidelines § 15064.7; *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1067-1068.) If the County determines, based on these thresholds, that the Project could result in a potentially significant impact, the County is required to impose feasible mitigation measure(s) to reduce that impact. (CEQA Guidelines § 15126.4(a)(1).) The County is not required to impose a specific type of mitigation measure, but rather is required to ensure that feasible mitigation measures are imposed to reduce those impacts that are potentially significant. (CEQA Guidelines § 15126.4(a).) There is a presumption that the mitigation measure(s) developed by the County will be effective. (*Laurel Heights Improvement Ass’n. v. Regents of Univ. of California* (1988) 47 Cal.3d 376, 407, 421-22.)

Many of the comments regarding purported deferral of mitigation ignore the fact that a mitigation measure that ensures future compliance with certain standards is legally adequate under CEQA. (See CEQA Guidelines § 15126.4(a)(1)(B); *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) It is well-settled that mitigation measures that require future compliance with certain standards, even when details are unclear, are legally adequate and are regularly incorporated in projects across the state. (*California Native Plant Soc. v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 621 [“When a public agency has evaluated the potentially significant impacts of a project and has identified measures that will mitigate those impacts, the agency does not have to commit to any particular mitigation measure in the EIR, as long as it commits to mitigate the significant impacts of the project. **Moreover, the details of exactly how mitigation will be achieved under the identified measures can be deferred pending completion of further study**”] [emphasis added] [citing *Sac. Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1029-30 [identification of seven different options for mitigation of parking problem to be determined based on further study constituted sufficient mitigation]; see also, *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1273-77; *Riverwatch v. City of San*

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 5

*Diego* (1999) 76 Cal.App.4th 1238, 1447 [“the fact the entire extent and precise detail of the mitigation that may be required is not known does not undermine the final EIR’s conclusion that the impact can in fact be successfully mitigated”].)

Specifically, the comments discussed in detail below frequently criticize mitigation measures that require further study, yet such measures are legally adequate as a matter of law. (*California Native Plant Soc.*, *supra*, 172 Cal.App.4th at 621; *see also*, *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 525-26.) Additionally, a lead agency is only required to impose feasible mitigation measures. (CEQA Guidelines § 15126.4(a)(1).) As such, mitigation measures that provide contingency plans if the first mitigation “option” is not feasible are legally adequate.

The comments also attack mitigation measures that require compliance with existing law, regulations or ordinances, claiming that they constitute improper deferral. However, the Court of Appeal has made clear that these mitigation measures are legally adequate. (*Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 593-594; *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 243 [“Complying with government regulations as a mitigation measure is not an improper deferral”]). This is particularly true of such items as compliance with regulatory requirements for hydrology-related impacts or compliance with the Building Code for seismic safety. The County standards are equally applied to all development and have proven effective for all development.

#### **IV. February 24, 2015 Baywood Park Homeowners Association Letter to the Planning Commission.**

Comment No. 1: The commenter makes general comments about the proposed Project’s aesthetic impacts and criticizes the mitigation measures imposed to ensure those impacts are less than significant. Specifically, the commenter asserts that the actual landscape plan and tree replacement plan required by Mitigation Measures 4.1-1a and 4.1-1b should be included in the EIR itself, instead of being developed after Project approval, claiming that without the actual plans, it is impossible for the Planning Commission to determine whether these plans will actually reduce the Project’s aesthetic impacts to a less than significant level.

Response to Comment No. 1: As stated above, a mitigation measure that ensures future compliance with certain standards is legally adequate under CEQA. (*See* CEQA Guidelines § 15126.4(a)(1)(B).) Here, Mitigation Measure 4.1-1a details requirements of the future landscape plan, and requires its approval by the County Planning Department:

Prior to recordation of the Final Map, the project applicant shall submit a landscape plan for review and approval by the San Mateo County Planning Department

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 6

(County Planning Department). ***The landscape plan shall include the location, size, and species of any proposed landscaping and shall include, but not be limited to, hedges or other appropriate vegetation that will provide opaque screening between the northeastern edge of the project site and the residences along the southern side of Parrott Drive. In addition, all proposed landscaping shall be of native, noninvasive species. Areas used for the storage of landscape maintenance or other equipment, supplies, or debris shall be shielded from view by fencing, landscaping or other means.*** Prior to final approval of the Final Map, a site inspection shall be required by the County Planning Department to verify that all approved landscaping has been implemented or bonds posted for performance and maintenance. All perimeter landscaping shall serve to screen and/or enhance views of the project site from surrounding roadways and neighborhoods.

(DEIR, p. 4.1-16 [emphasis added].) This mitigation measure provides detailed and definitive performance standards to allow the Planning Commission to determine whether or not a plan complying with these standards would mitigate potential aesthetic impacts, particularly when the plan will be subject to County approval. As explained in the Executive Summary, this type of mitigation measure is legally adequate under CEQA.

Moreover, the landscape plan has now been developed, thereby mooting the commenter's claims. The plan calls for the dense planting of drought-tolerant, non-invasive, and native trees, plants, and shrubs that will reach maturity in approximately 5-7 years.

Similarly, Mitigation Measure 4.1-1b requires compliance with the County's Tree Ordinance, and specifies detailed requirements for the tree replacement plan:

- For each loss of a significant indigenous tree, there shall be a replacement with three or more trees, as determined by the Planning Director, of the same species using at least five gallon size stock.
- For each loss of a significant exotic tree, there shall be a replacement with three or more trees, as determined by the Planning Director that the substitute tree can survive and flourish in the regional climatic conditions.
- Replacement trees shall require a surety deposit for both performance (installation of tree, staking, and providing an irrigation system) and maintenance. Maintenance shall be required for no less than two and no more than five years as determined by the Planning Director.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 7

(DEIR, pp. 4.1-16 to -17.) For the same reasons as discussed above, this mitigation measure is more than sufficient to allow the Planning Commission to make a significance determination regarding impacts to aesthetics. Therefore, the mitigation measure is legally permissible pursuant to CEQA Guidelines § 15126.4(a)(1)(B) and the above-cited case law.

As discussed in detail in the Executive Summary, the County is afforded a significant amount of discretion and is not required to adopt any one particular type of mitigation measure. The County is well within its discretion to determine whether the aforementioned mitigation measure reduces the Project's impacts to a less than significant level. As discussed above, a mitigation measure is presumed effective when, as here, it is supported by evidence (*e.g.*, the facts and analysis in the EIR). (*Laurel Heights, supra*, 47 Cal.3d at 407, 421-22.)

Furthermore, it bears noting that the proposed Project will not result in an adverse change in the visual character or quality of the area given that the surrounding area is primarily a single-family residential neighborhood, and would be designed to be consistent with the surrounding neighborhood utilizing similar architectural themes. Indeed, legally binding local planning regulations and policies ensure aesthetic compatibility of the proposed Project with its surroundings (DEIR, p. 4.1-13 to -16; *see also*, FEIR, p. 3-8, 3-17 to -19, 3-27). Moreover, Project homes would be developed in accordance with the Ascension Heights Design Handbook developed by the applicant and included as Appendix J to the FEIR. In this regard, the Project is consistent with General Plan Policy 4.15, which specifically encourages the preparation of such design guidelines.

The Court of Appeal has held that compliance with design review and local regulations are adequate to ensure that aesthetic impacts are less than significant. (*See, e.g., Bowman, supra*, 122 Cal.App.4th at 593-594.) Additionally, approximately 60 percent of the Project Site will be retained in perpetuity as undeveloped open space. (DEIR, p. 4.1-14.) The proposed Project is also consistent with the County General Plan policies regarding aesthetics. (DEIR, Table 4.4-1; FEIR, p. 3-20.) Finally, with regard to density, the nearby properties have a lot density of between 4.16 and 4.71 units per acre. When the property is appropriately viewed as a whole, the lot density is 1.43 units per acre. As a result, on average, the Project is only about 32 percent as dense as the nearby properties. Even when excluding the open space area provided by the Project, which is not required by the County, the Project density is still less than the density of the surrounding neighborhood.

Comment No. 2: The commenter asserts that the mitigation measures imposing the obligation to conduct biological surveys after Project approval constitutes unlawful deferral of mitigation, claiming that the studies must occur before Project approval so that all potentially

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 8

significant impacts can be adequately identified. The commenter claims the EIR “jump[s] to the conclusion” that the Project’s biological impacts would be potentially significant.

Response to Comment No. 2: As explained above, a mitigation measure that ensures future compliance with certain standards is legally adequate under CEQA. Specifically, post-approval surveys that will be conducted prior to construction to ensure that impacts to certain species are avoided is standard practice, and *the Court of Appeal has expressly held that mitigation measures contemplating future, preconstruction surveys does not unlawfully defer mitigation.* (*Save Panoche Valley, supra*, 217 Cal.App.4th at 525-26.)

Specifically, the commenter takes issue with Mitigation Measures 4.3-1 [formerly required post-approval pre-construction focused botanical survey], 4.3-2 [formerly required post-approval pre-construction survey for the blue butterfly], and 4.3-6 [requiring post-approval pre-construction tree survey], arguing that post-approval, pre-construction surveys unlawfully defer mitigation. This comment is patently false, as explained above and in the Executive Summary. Notwithstanding the foregoing, further responses are provided below to explain why certain measures are no longer necessary and why the remaining measures are in fact adequate.

#### Former Mitigation Measure 4.3-1: Special Status Plants

No special status plant species were identified during surveys conducted in July 2013. Former Mitigation Measure 4.3-1 required an additional survey to be conducted for special status plants that would not have been in bloom during the July 2013 survey. This survey has been completed and no special status plant species were found. (April 11, 2015 Coast Ridge Ecology Biological Report [“Coast Ridge Report”].) The requirements of former Mitigation Measure 4.3-1 have been satisfied, the EIR has been modified to reflect the findings of the 2015 survey, and it has been removed as a mitigation measure from the EIR. No further mitigation is required.

#### Former Mitigation Measure 4.3-2: Mission Blue Butterfly

As was the case with special status plant species, the Mission Blue Butterfly was not observed on the Project Site during biological surveys conducted on the site during the spring of 2015, nor during numerous prior surveys. (DEIR, p. 4.3-21 to -22.) Despite the fact that surveys have already been conducted, former Mitigation Measure 4.3-2 required “a qualified biologist [to] conduct a focused survey within the nonnative grassland on the project site for the Mission blue butterfly during the appropriate identification periods for adults (March-July) or juveniles (wet season) prior to commencement of construction activities.” This survey has been completed (*see* Coast Ridge Report) and no butterflies were found. *See* Draft EIR, p. 4.3-22 (as revised in August 2015):

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 9

During the course of the over 25 surveys conducted in 2005, 2008, 2012, 2013, and 2015, no Mission blue/Paradis blue butterflies, or their host plants, were detected within the proposed development envelope of the project site. Therefore, because the project site is outside of the documented geographic distribution and the known elevation range to which this species is suited and the species were not observed during the multitude of surveys conducted on the project site, the Mission blue butterfly does not have the potential to occur on the project site. Implementation of the Proposed Project would not result in the take of this species. **Less than significant.** (Emphasis in the original.)

The requirements of former Mitigation Measure 4.3-2 have been satisfied and it has been removed as a mitigation measure from the EIR. No further mitigation is required.

#### Mitigation Measure 4.3-6: Significant Trees

The commenter asserts that the DEIR improperly fails to identify how many trees protected by the County tree ordinance are potentially affected by the Project and that conducting a pre-construction survey to determine which trees are protected is somehow improper because all impacts “should be identified.”

However, Mitigation Measure 4.3-6 requires that measures be taken to reduce impacts to a less than significant level, regardless of the number of protected trees identified on the Project Site. Moreover, the EIR clearly indicates that the proposed Project would require the removal of approximately 43 trees and concedes that such removal, without mitigation, would be a significant impact. (DEIR, p. 4.3-26.) In order to reduce this potentially significant impact to a less than significant level, the applicant is required to comply with the County’s Tree Ordinance. Compliance with ordinances and regulations does not constitute deferral of mitigation and, in fact, is recognized as ensuring that impacts will be less than significant. (See, e.g., *Center for Biological Diversity, supra*, Cal.App.4th at 243.) Additionally, Mitigation Measure 4.3-6 states that “a certified arborist or registered professional forester shall conduct an arborist survey documenting all trees with trunk circumferences of 38 inches or greater and their location, as well as any Tree Communities or Indigenous Trees regardless of size. The report shall be submitted to the County Planning Department. The applicant shall not remove any trees without prior approval from the County Planning Department.” If the County grants approval to remove trees, Mitigation Measure 4.3-6 further requires “[t]he project proponent [to] plant replacement significant and/or indigenous tree species recommended by the County at a 3:1 ratio within the project site.” (DEIR, p. 4.3-27.)

Accordingly, regardless of the result of the tree survey, the impacts on designated trees will be less than significant because any removed trees must be replaced at a 3:1 ratio within the Project

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 10

Site. Thus, with implementation of Mitigation Measure 4.3-6, the proposed Project's impacts will be less than significant.

Additionally, it bears repeating that the County, as the lead agency, is afforded considerable deference in determining the applicable threshold of significance. Indeed, the lead agency is free to establish its own threshold of significance. The County is not required to impose a certain type of mitigation measure, but is rather required to ensure that mitigation measures are imposed to avoid or reduce potentially significant impacts to the extent feasible. (CEQA Guidelines § 15126.4(a).) The County is well within its discretion to determine that Mitigation Measure 4.3-6 reduces the proposed Project's potential impacts to designated trees to a less than significant level.

Finally, the DEIR does not "jump to the conclusion" that the Project's biological impacts would be potentially significant. Instead, the DEIR undertakes a good faith effort to analyze the Project's potential impacts, and takes the more conservative approach by concluding that the Project's impacts would be potentially significant. Due to this conservative approach, mitigation measures were imposed and further surveys were required, which will ensure that the Project results in a less than significant impact on biological resources.

Comment No. 3: Commenter asserts that the EIR's purported requirement to formulate mitigation measures for the Project's impacts on biological resources after the results of post-approval biological surveys constitutes unlawful deferral of mitigation. The commenter also asserts that these mitigation measures are unlawful because they are uncertain/unenforceable, by requiring certain mitigation "if feasible."

Response to Comment No. 3: Under CEQA, the lead agency is only required to impose *feasible* mitigation measures to reduce potentially significant impacts. (CEQA Guidelines § 15126.4(a)(1).) Therefore, to the extent that a mitigation measure uses the word "feasible," it is simply restating the law and not somehow an indicator of deferred or otherwise unlawful mitigation.

Comment No. 4: The commenter notes that it is unclear whether or not the California Department of Fish & Game ("CDFW") was consulted in connection with the Project.

Response to Comment No. 4: The EIR was submitted to the State Clearinghouse and CDFW received a copy of it. In fact, the County's January 28, 2015 staff report (at page 19) lists the CDFW as a "referred agency" for the Project. While CDFW did not submit formal comments on the DEIR, the Project biologist contacted CDFW staff for input on the EIR, and in response to that input performed the 2015 surveys for the Mission Blue Butterfly and special status plant species. As noted above, the results of those surveys were negative for both the butterfly and protected plants.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 11

Notwithstanding the foregoing, there is no requirement that the applicant must consult with CDFW before the Project is approved, particularly considering that, as explained herein, the DEIR requires such consultation to occur under any circumstances where there could be a potential impact on biological resources. (*See also*, DEIR, p. 3-23 to -24.) More fundamentally, as explained above, and with implementation of the mitigation measures set forth in the EIR, the Project will not result in any adverse impacts to any special status plant or animal species.

Comment No. 5: The commenter asserts that the EIR does not impose mitigation for loss of raptor foraging habitat, and instead only focuses on mitigation of potential impacts on raptor breeding habitat.

Response to Comment No. 5: Mitigation Measures 4.3-3a and 4.3-3b mitigate potential impacts to both raptor foraging and breeding habitat, which are not “separate” impacts, but are instead linked. Specifically, as stated on page 4.3-22 of the DEIR, the CDFW (the relevant expert agency) considers 5 or more vacant acres within 10 miles of an active nest to be significant foraging habitat for raptors. Therefore, whether or not the Project Site contains breeding habitat (*e.g.*, nests) directly correlates to whether or not it contains foraging habitat. As a result, Mitigation Measures 4.3-3a and 4.3-3b require the applicant to conduct surveys for both the presence of raptors themselves as well as their nests.

The Project Site was surveyed for raptor nests and raptor nesting activity in two different surveys in March and April 2015. (Coast Ridge Report, p. 3.) No raptor nests or raptor nesting activity were observed on the Project Site, and in fact, most of the trees on the Project Site do not provide suitable raptor nesting habitat due to wind exposure and lack of large supportive branches. (*Id.*) Similarly, the DEIR indicates that only one white-tailed kite was observed foraging over the project site during the July 25, 2013 survey, but no other occurrences of raptor foraging have been documented within five miles of the Project Site. (DEIR, p. 4.3-23 to -24; *see also*, FEIR, Response to Comments, p. 3-7.)

Additionally, 60 percent of the Project Site will remain as dedicated open space, leaving ample raptor foraging habitat to the extent that the Project Site actually includes such habitat. (DEIR, p. 4.1-14.)

Mitigation is only required when the lead agency identifies a potentially significant impact (CEQA Guidelines § 15126.4(a)(3)), and based on the foregoing, the Project’s potential impacts on raptor foraging could arguably be less than significant *without mitigation*, meaning that mitigation is not legally required. However, the EIR took a conservative approach, and concluded that the Project’s potential impacts were still potentially significant because while “unlikely” raptors could still potentially nest on portions of the Project Site. (DEIR, p. 4.3-23 to -24.)

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 12

Accordingly, the EIR implemented Mitigation Measures 4.3-3a and 4.3-3b to ensure that these potential impacts, however unlikely, are reduced to a less than significant level.

Comment No. 6: The commenter asserts that Mitigation Measures 4.3-3a, 4.3-4b, and 4c requiring consultation with the CDFW are unenforceable and do not support the conclusion that the Project's impacts to biological resources have been mitigated to a less than significant level.

Response to Comment No. 6: As an initial matter, it bears noting that no special status birds, specifically including burrowing owls, northern harriers or white tailed kites, were observed in the 2015 surveys of the Project Site (conducted after the completion of the DEIR), and the Coast Ridge Report concluded that it is highly unlikely these species would nest on the site due to a lack of suitable nesting habitat. (Coast Ridge Report, pp. 3-4.) Mitigation is only required when the lead agency identifies a potentially significant impact. (CEQA Guidelines § 15126.4(a)(3).) Considering the fact that no special status bird species were identified on the Project Site in the most recent surveys, no further mitigation is legally required. However, the DEIR took a conservative approach and imposed Mitigation Measures 4.3-3a through 4.3-3c even in the absence of a potentially significant impact, which will ensure that the Project's impacts in this regard will be less than significant. (DEIR, pp. 4.3-23 to -25.)

Mitigation Measure 4.3-3a requires that the applicant undertake two protocol level preconstruction surveys for burrowing owls, northern harriers or white tailed kites (all of which were *not observed* in the 2015 surveys) and this measure only mentions the CDFW when imposing a requirement that a summary of the survey results be submitted to the County and the CDFW. (DEIR, p. 4.3-24.) To the extent that the commenter intended to cite Mitigation Measure 4.3-3b, that measure requires that in the unlikely event active listed bird nests are found, consultation with the CDFW is required to ensure that the avoidance measures – the parameters for which are specifically described (e.g., 0.25 mile buffers, monitoring by a biologist, etc.) – are properly executed and satisfy the CDFW's standards. (DEIR, pp. 4.3-24 to -25.)

Additionally, pursuant to that measure, Project construction cannot commence without CDFW approval. Involving the CDFW, if anything, ensures that the mitigation measures at issue are adequate. Involving the public agency with the most relevant expertise in no way makes the mitigation somehow unenforceable or otherwise unlawful. The mitigation measures mentioned in Comment No. 6 are quite clear, and the CDFW's potential involvement, including the requirement that the applicant obtain its approval before commencing construction, shows a commitment to ensuring that the Project avoid impacts to special species birds, rather than the contrary inference advanced by the commenter. (DEIR, p. 4.3-25 [“The construction activities shall not commence until the CDFW determines that construction activities would not result in abandonment of the nest/burrow site”].)

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 13

The commenter also takes issue with Mitigation Measures 4.3-4b and 4c, which require a 250-foot buffer zone to avoid any nests of any bird species (not just special status species) that are detected on the Project Site (as discussed above, the occurrence of such nests is unlikely). If the implementation of the 250-foot buffer zones becomes infeasible, these mitigation measures require consultation with the CDFW – the relevant expert public agency – to determine how best to avoid impacts to these nests. As discussed above, articulating a contingency plan for mitigation if the first option is not “feasible” does not constitute unlawful deferment of mitigation or otherwise render the mitigation unenforceable, but instead restates the applicable law: a lead agency need only impose *feasible* mitigation measures. (CEQA Guidelines § 15126.4(a)(1)).<sup>2</sup>

Comment No. 7: Citing Mitigation Measures 4.4-1a and 4.4-1b, the commenter claims that the EIR unlawfully defers mitigation of the Project’s potential impacts from soil erosion and loss of topsoil by requiring implementation of “unspecified” erosion control best management practices (“BMPs”), which commenter asserts violate CEQA because the mitigation measures purportedly do not contain performance standards and mandatory requirements. Accordingly, the commenter claims (without providing any evidence of an impact) that the EIR’s conclusion that the Project’s impacts on geology and soils would be less than significant is unsupported.

Response to Comment No. 7: As explained in Mitigation Measure 4.4-1a, the BMPs are not unspecified, but will be provided in the legally-mandated Stormwater Pollution Prevention Plan (“SWPPP”) that is required to be prepared, in accordance with the County’s National Pollutant Discharge Elimination System (“NPDES”) general permit for construction activities. (DEIR, p. 4.4-13; *see also*, Mitigation Measure 4.6-1.) As explained above, a mitigation measure requiring future compliance with regulations or a set of standards – in this case a legally binding permit and SWPPP – does not constitute deferral of mitigation. (*Center for Biological Diversity, supra*, Cal.App.4th at 243; *California Native Plant Soc., supra*, 172 Cal.App.4th at 621.) Indeed, compliance with uniform and generally accepted regulatory requirements is a standard mitigation for erosion-related impacts.

Mitigation Measure 4.4-1b requires the applicant to obtain a grading permit from the County, which by law, requires an Erosion and Sediment Control Plan. This Mitigation Measure

---

<sup>2</sup> *See also, California Native Plant Soc., supra*, 172 Cal.App.4th at 621 (“[w]hen a public agency has evaluated the potentially significant impacts of a project and has identified measures that will mitigate those impacts, the agency does not have to commit to any particular mitigation measure in the EIR, as long as it commits to mitigate the significant impacts of the project. Moreover, the details of exactly how mitigation will be achieved under the identified measures can be deferred pending completion of further study.”).

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 14

details the mandatory requirements for the Project's Erosion and Sediment Control Plan, and requires compliance with the Clean Water Act.<sup>3</sup> Requiring compliance with the County's Grading Ordinance and related requirements is not deferral, but instead imposes compliance with detailed performance standards (*e.g.*, the detailed standards contained the County's Grading Ordinance), in compliance with CEQA.

In sum, Mitigation Measures 4.4-1a and 4.4-1b require compliance with established plans, enacted permits, local ordinances and state law. Contrary to the commenter's assertions that these measures somehow constitute deferral of mitigation and contain "no performance standards or other mandatory requirements," these plans, permits and laws are readily available and clearly provide the applicable performance standards, and as explained above, requiring compliance with state regulations is not deferral of mitigation. (*See, Center for Biological Diversity, supra*, Cal.App.4th at 243.) These measures ensure that the proposed Project's impacts on geology and soils will be less than significant. (*See also*, FEIR, Response to Comments, p. 3-33; Appendix E to the EIR, Geotechnical Report.)

Finally, as a general matter, it bears noting that to the extent the commenter characterizes the Project's proposed grading activities as "massive," that characterization is inaccurate. (FEIR, Response to Comments, p. 3-4 ["The commenter is correct that the Proposed Project would require approximately 46,000 cubic yards of grading; however, this is not considered excessive or 'massive' as stated by the commenter for such a development in this region of San Mateo County"].) The proposed Project will construct pads for 19 homes, while leaving 60 percent of the Project Site as permanent open space. The development footprint of the residences and roadway is approximately 5.5 acres, and involves 46,480 cubic yard of grading, a large portion of which will be used for onsite fill. (DEIR, p. 3-7, -13.)

Comment No. 8: The commenter claims that the Project's mitigation measure requiring the applicant to purchase greenhouse gas ("GHG") credits for 249 metric tons ("MT") of carbon

---

<sup>3</sup> Mitigation Measure 4.4-1b reads in full as follows: "The applicant shall obtain a San Mateo County Grading Permit which includes the requirement of an Erosion and Sediment Control Plan. This Erosion and Sediment Control Plan shall be prepared by a licensed civil engineer or certified professional soil erosion and sediment control specialist. The plan shall show the location of proposed vegetative erosion control measures, including landscaping and hydroseeding, and the location and details of all proposed drainage systems. The plan shall include sufficient engineering analysis to show that the proposed erosion and sediment control measures during preconstruction, construction, and post-construction are capable of controlling surface runoff and erosion, retaining sediment on the project site, and preventing pollution of site runoff in compliance with the Clean Water Act." (DEIR, p. 4.4-13.)

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 15

dioxide equivalent (“CO<sub>2</sub>e”) emissions, resulting in a 26 percent reduction in emissions, is not sufficient because the commenter claims that applicable law (e.g., A.B. 32) requires a 26 percent reduction in existing emissions, and it does not “count” to reduce a new project’s emissions.

Response to Comment No. 8: The commenter’s reading of applicable law is not correct. A.B. 32 and related state law sets a goal for reductions of GHG emissions from “business as usual” (“BAU”) conditions, which means that a new project must show a reduction from emissions that would otherwise occur from that project if GHG regulations were not in force or imposed on the project. In *Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 337, the opponents challenged an EIR for the expansion of an existing Target store based on its analysis of GHG emission. The EIR found that the proposed Target store would have GHG emission of 10,337 MT CO<sub>2</sub>e under BAU conditions. Through the implementation of energy saving measures, the operational GHG emissions for the proposed store would be reduced to 7,381 metric tons per year, or 2,956 metric tons less than “business as usual.” The Court of Appeal upheld the EIR’s analysis of GHG emissions, including its reliance on a significance threshold for GHG emissions that relied on a BAU metric.

Here, Mitigation Measure 4.2-8 ensures that the Project’s construction-related GHG emissions are 26 percent less than they otherwise would be under the BAU conditions (e.g. no restrictions on GHG emissions). As noted in the EIR, neither the California Air Resources Board nor the Bay Area Air Quality Management District (“BAAQMD”) have a construction threshold for GHG emissions. Therefore, a 26 percent or greater reduction in construction-related GHG emissions (the overall state reduction goal of A.B. 32) was reasonably determined to result in a less than significant impact on global climate change. The Project’s operational-related GHG emissions (291.98 MT of CO<sub>2</sub>e per year) would not exceed the 1,100 MT significant threshold established by BAAQMD. Accordingly, the EIR properly concludes that the Project is in compliance with state law (as made clear by to *City of Chula Vista, supra*) and its impacts resulting from GHG emissions are less than significant.

It also bears noting that in addition to implementing Mitigation Measure 4.2-8, the proposed Project is designed and would be constructed utilizing green building and performance measures per the applicable County ordinances and guidelines. Sustainable building strategies would be integrated into the Project to the greatest extent feasible. Finishing materials (adhesives, sealants, paints, coatings, composite wood, and carpet systems) would comply with the California Green Building Standards Code (CALGreen) provisions for low emitting materials, and heating, ventilation, and air conditioning systems, refrigeration, and fire suppression systems would be free of chlorofluorocarbons. (DEIR, p. 3-18.)

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 16

Comment No. 9: The commenter claims that the EIR's air quality analysis understates the Project's potential impacts, and specifically, does not take into account potentially significant air quality impacts on nearby schools.

Response to Comment No. 9: The EIR's Air Quality section acknowledges and analyzes impacts on sensitive receptors, specifically including schools. (DEIR, p. 4.2-7.) The EIR explains that the only nearby school that could potentially be affected by air quality impacts is the College of San Mateo:

Some receptors are considered more sensitive than others to air pollutants. The reasons for greater than average sensitivity include pre-existing health problems, proximity to emissions and odor sources, or duration of exposure to air pollutants or odors. Schools, hospitals, and convalescent homes are considered to be relatively sensitive to poor air quality because children, elderly people, and the infirm are more susceptible to respiratory distress and other air quality related health problems. Residential areas are considered sensitive to poor air quality, because people usually stay home for extended periods of time, with greater associated exposure to ambient air quality. Recreational uses are also considered sensitive due to the greater exposure to ambient air quality conditions because vigorous exercise associated with recreation places a high demand on the human respiratory system. The land surrounding the project site is residential. The nearest residential sensitive receptors are located adjacent to the project site to the north. The nearest school is the College of San Mateo, which is located approximately 1,600 feet northwest of the project site. There are no medical facilities within five miles of the project site.

(*Id.*) Throughout the discussion of the Project's potential impacts, the DEIR mentions and analyzes the significance of potential impacts to sensitive receptors, which as shown above, include air quality impacts on schools. (DEIR, pp. 4.2-19 to -25.) Indeed, the EIR expressly studied whether or not "sensitive receptors [would be exposed] to substantial pollutant concentrations," and concluded that they would not. (*Id.*, 4.2-19.)

In sum, any allegation that the EIR does not analyze potential air quality impacts on schools is simply incorrect.

Comment No. 10: The commenter claims that the description of the Project's onsite stormwater drainage system is not sufficient, and that the DEIR does not actually include supporting analysis showing that the proposed stormwater treatment measures will reduce the Project's runoff impacts to a less than significant level or comply with the County's NPDES

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 17

permit. The commenter also asserts that the hydrological technical report should have been in the DEIR itself, as opposed to being publicly released at a later date.

Response to Comment No. 10: The DEIR specifically requires compliance with the County's NPDES permit, so to the extent the commenter makes claims to the contrary, those claims are incorrect. (*See, e.g.*, DEIR, p. 4.6-6 ["The Proposed Project must comply with the requirements of the most recent version of the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ)"].)

As evident by the excerpt quoted below, the DEIR describes the stormwater drainage and treatment system in detail. (DEIR, pp. 3-16 to -17; *see also*, p. 4.6-16.) This description is not "cursory" but instead as comprehensible as possible, and the DEIR also contains a diagram of this system. (*Id.*, Figure 3-7.)

The Proposed Project would include an on-site stormwater drainage system designed and sized such that runoff from the Proposed Project will be released at pre-development rates. Each individual lot will have its own separate stormwater retention system that will meter discharge from each individual lot. The retention system will be comprised of large underground pipes and will be oversized to compensate for the runoff from the on-site private roadway and to accommodate potential, intermittent blockage. This system will retain stormwater runoff underneath each lot and will release runoff through a metered pipe to restrict runoff prior to entering the collective on-site storm drainage system proposed for the project site.

The on-site storm drainage system of the Proposed Project consists of underground pipes, inlets, drainage structures and retention systems, and concrete valley gutters. Stormwater would drain to underground pipelines, consisting mainly of smooth-walled high density polyethylene (HDPE) plastic, and would exit the project site at two points. Two storm drain pipelines would run in the right-of-ways of the new private roadway and would connect at the fork in the road. A third storm drain pipeline would run along the northeastern boundary of the project site and would connect to the storm drain pipeline in the right-of-way of the private roadway at the northern edge of the project site. Stormwater in this pipeline would be conveyed to the northern treatment system (described in the following paragraph) before exiting the site via a new underground storm drain pipeline along Bel Aire Road. Additionally, a fourth on-site storm drain pipeline would run along the northwestern edge of Lots 16, 17, 18, and 19 (refer to Figure 3-4), would turn west at the northwest edge of Lot 17, and would exit the project site to connect with a

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 18

new pipeline that would underground along Ascension Drive. The new off-site storm drain lines will connect into a common manhole at the intersection of Bel Aire Road and Ascension Drive. The system would then connect into the existing County storm drain system, following Ascension Drive down to Polhemus Road, with the treated runoff ultimately released into Polhemus Creek.

The Proposed Project will include an on-site stormwater bioretention treatment system as part of the drainage system located along the new private roadway near its intersection with Bel Aire Road in the northern corner of the project site. The bioretention treatment system is a continuous deflective separation (CDS) hydrodynamic separator runoff treatment device and contains chambers designed to remove as many pollutants as possible. The CDS is specifically designed to remove large trash, oil, and small sedimentation particles. However, the CDS requires a regular maintenance schedule to perform properly; it is anticipated that any Covenants, Conditions, and Restrictions for the development will require a CDS maintenance agreement.

Additionally, the Proposed Project includes several permanent Best Management Practices (BMPs) to address drainage from the property during construction and long-term operation. BMPs related to stormwater drainage during construction are guided by the California C.3 storm water quality program. A Storm Water Pollution Prevention Program (SWPPP) will be developed and would mitigate the amount of erosion that could occur during and after construction. In addition, other BMPs, such as grassy-lined swales and smart landscaping, will address stormwater drainage in the long term. BMPs related to construction and operation stormwater drainage are included as mitigation measures in Section 4.6.

CEQA documents are inherently forward-looking, and obviously cannot list every conceivable detail of the project, only enough to allow adequate review of the project's potential impacts. (*See, e.g., Laurel Heights, supra*, 47 Cal.3d at 398.) Here, the DEIR's above-cited description of the storm water drainage system is more than sufficient to permit accurate analysis of potential impacts. The DEIR also contains analysis as to why this system, after mitigation, will result in less than significant impacts. (DEIR, pp. 4.6-11 to -17) This analysis is supported by the hydrology technical report for the Project, generated by experts in the field. (*See* Lea & Braze Engineering, Ascension Heights Subdivision Hydrology Study ["Lea & Braze Study"].)<sup>4</sup>

---

<sup>4</sup> The comment regarding the hydrological technical report is moot, because even if true that it was not released before its February 24, 2015 letter, it has now been publically released for a sufficient amount of time for the commenter to review and make additional comments.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 19

The commenter does not provide nor cite to any evidence that the proposed drainage system would in fact result in a significant impact. In other words, as is the case throughout these comments, the commenter fails to provide *any evidence* that contradicts the EIR. Instead, the only substantial evidence (e.g., the EIR and the supporting reports prepared by expert consultants) indicates that the Project's storm water drainage system is adequate and that the proposed Project's impacts on hydrology and water quality would be less than significant.

Considering that the *only* evidence provided the Planning Commission supports the conclusion that the Project will result in a less than significant impact related to hydrology and water quality, the Planning Commission is legally precluded from finding otherwise.

Comment No. 11: The commenter asserts that the Project does not comply with the County's NPDES permit, which requires Low Impact Development ("LID"), and according to the commenter, the proposed centralized detention basins are not LID features. The commenter further claims that the Project does not incorporate any LID designs or features.

Response to Comment No. 11: The EIR requires compliance with the County's NPDES permit. (See, e.g., DEIR, p. 4.6-6 ["The Proposed Project must comply with the requirements of the most recent version of the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ)"]; 4.6-15 ["the Proposed Project must comply with C.3 Provisions of the NPDES general permit"].) Therefore, to the extent the applicable NPDES permit requires LID designs or features, such designs or features will be implemented as part of the proposed Project, as it cannot proceed unless it complies with that permit. (See also, Lea & Braze Study, p. 5.)

Additionally, while not specifically referred to as "LID" in the EIR, the storm water BMPs implemented by the EIR are functionally the same as LID, such as "grassy-lined swales and smart landscaping." (DEIR, p. 3-15; see also, pp. 4.6-13 to -14 [discussing the C.3 Provisions required by the County's NPDES permit].)

Comment No. 12: The commenter claims that the Project's stormwater treatment system is only capable of handling a 10-year storm event, and asserts that the DEIR wrongfully fails to explain what would happen during a more extreme event.

Response to Comment No. 12: This comment is incorrect, as the EIR expressly addresses what would occur in a more extreme event, and imposes mitigation accordingly:

***Should the rainfall exceed that of a 10-year event*** or should the system become intermittently clogged, the slope of the project site and surrounding areas is such that water will run as over land flow and will drain into the nearby creek and thereby

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 20

would neither pond on the project site nor flood adjacent properties. To ensure offsite drainage associated with the Proposed Project would not exceed the capacity of existing stormwater drainage systems, Mitigation Measure 4.6-3b<sup>5</sup> is included below to reduce impacts to a less-than-significant level.

(DEIR, p. 4.6-16. [emphasis added].) Additionally, the DEIR concludes that the proposed Project would not result in any significant impact related to a potential 100-year flood hazard or other flooding risk. (DEIR, p. 4.6-17.)

Comment No. 13: The EIR states that construction of the Project would exceed the relevant noise significance threshold of 60 dB, reaching a maximum 85 dB, and that there is no way to feasibly reduce this construction noise. The commenter claims that the EIR then wrongfully concludes that the Project's temporary construction noise is not a significant impact, and asserts that the Project's construction noise should instead be a significant and unavoidable impact.

Response to Comment No. 13: As discussed above, the County, as the lead agency, is afforded significant deference in determining the applicable threshold of significance, and indeed, the lead agency is free to establish its own threshold of significance rather than relying on any thresholds developed by other agencies. (CEQA Guidelines § 15064.7; *Save Cuyama Valley*, *supra*, 213 Cal.App.4th at 1067-1068.)

The 60 dB significance threshold cited by the commenter relates only to operational noise levels. (San Mateo County Code, Ch. 4.88.) The County Noise Ordinance plainly states that construction noise is exempt from this threshold provided that construction activities occur only during specified hours. (*Id.*, § 4.88.360(e); DEIR, p. 4.8-12 to -13.) The EIR imposes Mitigation Measure 4.8-1, which limits construction activities to those specified hours and also requires a variety of measures to reduce construction noise. (*Id.*, p. 4.8-13.) The County is free to establish its own significance thresholds (CEQA Guidelines § 15064.7), and according to its own thresholds, construction noise during the aforementioned times – which are mirrored in Mitigation Measure 4.8-1 to ensure compliance with this ordinance – is not a significant impact. Accordingly, the EIR was justified in concluding that the proposed Project's construction noise will result in a less than significant impact.

---

<sup>5</sup> Mitigation Measure 4.6-3b reads as follows: “The 15-inch diameter stormwater drain pipe flowing at 2 percent that crosses Ascension Drive at Enchanted Way shall be replaced with a 21-inch diameter pipe. The 30-inch diameter stormwater drain pipe flowing at 1.3 percent shall be replaced with a 36-inch diameter pipe sloped at 2 percent. Stormwater drain pipe infrastructure improvements shall adhere to all applicable regulations and ordinances.” (DEIR, p. 4.6-17.)

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 21

Indeed, temporary construction noise is typically exempt from local noise ordinances, because if it was not, construction of anything would never be possible without a full-blown EIR. This shows a recognition by local agencies, including the County, that construction noise is a temporary situation that must be borne by the public from time to time.

Comment No. 14: The commenter notes that the EIR identifies a potential hazard in connection with the intersection of a new private road and Bel Aire Drive. The commenter then asserts that Mitigation Measure 4.11-4 – which mitigates this potential impact – is not mandatory nor enforceable because it uses the word “should,” and therefore the commenter asserts that the EIR improperly concludes that the Project’s traffic impacts have been reduced to a less than significant level.

Response to Comment No. 14: The DEIR states that “Mitigation Measure 4.11-4 is included to *ensure* a safe sight distance at the proposed new intersection.” (DEIR, p. 4.11-10 [emphasis added].) The comment focuses on the measure’s use of the word “should” instead of reading Mitigation Measure 4.11-4 as a whole, which makes clear that it is both mandatory and enforceable. The entire measure reads as follows:

Within the corner sight triangles at the new street intersection there should be no walls, fencing, or signs that would obstruct visibility. Trees should be planted so as to not create a “wall” effect when viewed at a shallow angle. The type of shrubbery planted within the triangles should be such that it will grow no higher than three feet above the adjacent roadway surface. Trees planted within the sight triangle areas should be large enough that the lowest limbs are at least seven feet above the surface of the adjacent roadway. Street parking should be prohibited within the bounds of the sight triangle.

(*Id.*) Additionally, a diagram of the new private street is provided in the DEIR (*see* Figure 3-6), and the private street and intersection at issue will be developed in accordance with applicable County standards. (*Id.*) The intersection plan for the intersection at issue has been approved by the County Public Works Department and their engineers, and the applicant has added convex mirrors at the entrance for additional view angles. Finally, Mitigation Measure 4.11-4, like all Mitigation Measures imposed by the EIR, will be incorporated into the proposed conditions of approval.

Comment No. 15: The commenter claims that generally, the proposed findings regarding the Project’s significant and unavoidable impacts identified in the EIR are not legally sufficient, and that the EIR and findings improperly conclude that there is no feasible mitigation measures or alternatives that could reduce the Project’s significant and unavoidable impacts to a less than significant level.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 22

Response to Comment No. 15: As an initial matter, this comment is difficult to respond to, as it is vague and does not cite to a single specific finding that the commenter asserts is inadequate, instead attacking all the proposed CEQA findings as inadequate. Moreover, the EIR concludes that the project would not result in any significant and unavoidable impacts; accordingly, the comment appears to be based on a mistaken assumption. The proposed CEQA findings only relate to potentially significant impacts that, after mitigation, have been reduced to a less than significant level.

Notwithstanding the foregoing, the commenter submits *no evidence* that contradicts the EIR. By contrast, the thirty-one (31) detailed pages of proposed findings developed by the County's staff are based on years of study of the environmental impacts of the proposed Project conducted by experts in the field, culminating in the EIR. As discussed above, the Planning Commission must make its decision based on substantial evidence. (*See, e.g., Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, 142.) The *only* evidence here supports the conclusion that, after mitigation, the proposed Project will result in a less than significant impact on the environment.

The commenter's vague, one paragraph comment does not credibly cast doubt on the years of work undertaken by County staff, expert environmental consultants, and the applicant. Moreover, County staff is entitled to deference when it comes to issues of credibility. The proposed findings comply with CEQA, pursuant to CEQA Guidelines § 15091.

Comment No. 16: The commenter asserts that the County is required to adopt a Statement of Overriding Considerations.

Response to Comment No. 16: A Statement of Overriding Considerations is only required when a lead agency concludes that the Project would result in a significant and unavoidable impact. (Pub. Res. Code § 21081.) Here, the EIR concludes that the project would not result in any significant and unavoidable impacts, and instead, concludes that all potentially significant impacts would be mitigated to a less than significant level by virtue of the mitigation measures articulated in the EIR. Therefore, the commenter is incorrect and no Statement of Overriding Considerations is required.

Comment No. 17: The commenter asserts that the County is not able to make the required findings under Subdivision Map Act because the Project Site is not physically suitable for the proposed density.

Response to Comment No. 17: This comment directly contradicts the conclusions of the County staff, based on years of study of the Project Site.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 23

As stated by the County's professional planning staff in its January 28, 2015 report, "the site is physically suitable for residential development as the proposed parcels are of sufficient size and shape to support single-family residences, as allowed and regulated by the current R-1/S-8 Zoning District. The average slope of the proposed parcels is 35 percent, similar to the other areas in the vicinity. Staff has reviewed the proposal against the required findings for a grading permit and concluded that, as conditioned, the project conforms to the criteria for review contained in the Grading Ordinance." (p. 2.) Specifically, staff's proposed findings stated that "[a]s conditioned, the proposed parcels indicated for development are physically suited for single-family residential development for the following reasons: (1) the proposed parcels conform to the minimum building site and lot width requirements of the R-1/S-8 Zoning District, (2) existing water, sanitary services, and all other utilities will be available to serve the newly created parcels, and (3) each parcel can be accessed with the proposed subdivision configuration. The slopes of the proposed 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other hillside developments within the County unincorporated areas. Based on the submitted geotechnical reports included within the EIR, no potential hazards were identified with developing the site as proposed." (p. 12.) The commenter also fails to contradict the substantial evidence and analysis contained in the DEIR's Geology and Soils Section and attached expert reports. (DEIR, Ch. 4.4.)

Additionally, it bears noting that some of the existing homes are built on slopes as high as 65 percent. There are no slopes on any of the proposed Project's 19 lots anywhere close to that level of steepness, as the proposed steepness of the slopes for the Project homes ranges from 12-48 percent with an average slope of 34.93 percent.

The commenter claims that it submitted comments from purported experts in 2009 that asserted (i) complications could arise from development of the "up-sloping" lots that would leave certain lots unbuildable (e.g., issues with retaining walls), and (ii) tree protection zones prevents development of portions of the Project Site. However, the County is entitled to rely on its experts that have made certain determinations, even if other experts might disagree. In other words, disagreement among experts does not render an EIR inadequate. (See, e.g., *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1391; *National Parks & Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1364; *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 642; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 625-26; *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1069; *Eureka Citizens for Responsible Gov't v. City of Eureka* (2007) 147 Cal.App.4th 357; *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal* (1998) 47 Cal.3d 376, 408; see also, CEQA Guidelines § 15151.)

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 24

Finally, it bears noting that the proposed Project is not the same project as the 2009 project, as it has been significantly reduced in scale. Therefore, the commenter's 2009 studies are not likely to be relevant here. Moreover, the arguments made in the "expert" analysis submitted by the commenter has already been addressed in the FEIR. (FEIR, Response to Comments, p. 3-8 [Response to Comment P1-6]; 3-24 [Response to Comment P1-67].)

**V. March 24, 2015 Baywood Park Homeowners Association Letter to the Planning Commission.**

Comment No. 18: Commenter claims that a Planning Commissioner noted that the Project's proposed layout fails to conform to the contours of the hillside.

Response to Comment No. 18: See Responses to Comment Nos. 1, 7 & 17.

Comment No. 19: The commenter asserts that Bel Aire is not safe under current conditions, and would become even more treacherous with the addition of a blind entrance to the new development.

Response to Comment No. 19: Compliance with the County Code and Mitigation Measure 4.11-4 ensures that the intersection of the proposed new private road and Bel Aire is not hazardous. See Response to Comment No. 14.

Comment No. 20: The commenter claims that the EIR does not contain adequate information about the availability of water to serve this new development and the existing community

Response to Comment No. 20: A Water Supply Assessment ("WSA") is only required for projects that would result in the construction of 500 or more units (Water Code § 10912(a)(1)), and therefore not required here. (DEIR, Appendix B, p. 2.) The proposed Project only calls for the development of 19 residential units, which will be built to meet or exceed current Building Code requirements. The Building Code is ever more restrictive in the use of water-efficient equipment and fixtures, ensuring that water use at the Project will consume less water than the existing homes.

Notwithstanding the foregoing, the EIR still fully analyzes the availability of water for the proposed Project and determines that its impacts in this regard would be less than significant. First, the EIR notes that the Cal Water Bayshore District ("BSD") supplies water to the Project area, and fully describes the available water sources, the current water demand on those sources, and the existing water supply facilities. (DEIR, pp. 4.10-1 to -4.) The DEIR then determines that the proposed Project's water demand would be approximately 4,940 gallons per day ("gpd"), which

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 25

is approximately **0.038 percent** of the 2010 BSD water demand of 13.254 million gallons per day. (DEIR, p. 4.10-25.) Additionally, the increase in population due to the proposed Project is consistent with population projections contained in the 2010 Urban Water Management Plan. (*Id.*) The water supplies for the Project are further described as follows:

As discussed in Section 4.10.2, water supply is projected to fall short of water demand in single and multiple dry years. The BSD anticipates meeting water demands in dry years by implementing its Water Shortage Contingency Plan, which is a series of procedures and outreach strategies designed to reduce customer demand. Mitigation Measure 4.10-2a<sup>6</sup> is included below to ensure the Proposed Project would comply with the Water Shortage Contingency Plan and reduce the impact of the Proposed Project to less than significant (Appendix G). As discussed in Section 3.4, an existing water storage tank owned by Cal Water is located on a parcel that is surrounded by the project site (Figure 3-4). Water from this existing storage tank would be used to supply the proposed development.

(*Id.*) Accordingly, the EIR properly concludes that with the implementation of the above-described mitigation, the Project will result in less than significant impacts to water supply.

Comment No. 21: The commenter generally states that a Planning Commissioner noted that the EIR did not contain enough detail about the Project design or proposed mitigation measures to judge the severity of the proposed Project's impacts, or whether mitigation will be effective, and that the EIR failed to adequately analyze the Project's impacts to schools.

Response to Comment No. 21: This comment is too vague to effectively respond to, but the EIR's level of detail and its mitigation measures are discussed throughout these responses. *See* Response to Comment No. 15. With regard to potential air quality impacts on schools, please refer to Response to Comment No. 9. Additionally, the DEIR's Project Description (Ch. 3) clearly complies with CEQA Guidelines § 15124. (*See* DEIR, pp. 3-1 to 3-20.) Moreover, in accordance with General Plan Policy 4.15, the applicant has provided a comprehensive set of design guidelines to the County. (Appendix J to the FEIR.) Project homes will be designed in accordance with these guidelines to ensure that the homes are visually appealing complementary of the existing homes in the area.

---

<sup>6</sup> Mitigation Measure 4.10-2a requires residents of the proposed Project to comply with all requirements of Cal Water's Water Shortage Contingency Plan as mandated by Cal Water and BSD. (DEIR, p. 4.10-26.)

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 26

Comment No. 22: The commenter claims that the potential aesthetic impacts of developing 36-foot high homes on top of a steep hillside cannot be mitigated through tree-planting and landscaping alone.

Response to Comment No. 22: See Response to Comments No. 1 & 17.

Comment No. 23: The commenter largely repeats comments made in its February 24, 2015 letter and asserts that the EIR improperly defers analysis of the extent and severity of impacts to special status species and Mission Blue Butterfly because it directs the applicant to undertake biological surveys after project approval.

Response to Comment No. 23: See Responses to Comments No. 2 & 3. See also, Responses to Comments Nos. 5 & 6; *Save Panoche Valley, supra*, 217 Cal.App.4th at 525-26 (biological impact analysis that contemplated future biological surveys did not improperly defer mitigation).

Comment No. 24: The EIR states that the sewer pipelines that would serve the proposed Project are already over capacity and alleges that Mitigation Measure 4.10-3 fails to provide any details on how potential sewer capacity impacts will be mitigated or whether or not such mitigation is feasible.

Response to Comment No. 24: As a preliminary matter, it is important to bear in mind that there is a presumption that mitigation will be effective. (*Laurel Heights, supra*, 47 Cal.3d at 407, 421-22; see also, *Riverwatch, supra*, 76 Cal.App.4th at 1447 [“the fact the entire extent and precise detail of the mitigation that may be required is not known does not undermine the final EIR’s conclusion that the impact can in fact be successfully mitigated”].) The commenter’s mere unsupported allegation that it is unclear whether the mitigation required by Mitigation Measure 4.10-3 would be effective or feasible is not sufficient to overcome this presumption, which is based on substantial evidence (e.g., the EIR and technical studies).

Notwithstanding the foregoing, as referenced by the commenter, the DEIR states that the sewer pipelines within the Town of Hillsborough and the City of San Mateo that would serve the proposed Project have capacity issues during wet weather events, and acknowledges that the additional wastewater generated by the Project would exacerbate these issues. (DEIR, p. 4.10-27.) However, the DEIR states that “Mitigation Measure 4.10-3 is included below to ensure the project applicant commits to a plan that achieves a net zero increase of in flow during wet weather events and thereby does not contribute to capacity issues associated with the pipelines within the Town of Hillsborough and the City of San Mateo,” resulting in a less than significant impact. (*Id.*; see also, FEIR, Response to Comments, p. 3-62.) Mitigation Measure 4.10-3 reads in full as follows:

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 27

The applicant *shall offset* the increase in sewer flow generated by the Proposed Project by reducing the amount of existing I&I into the CSCSD sewer system. The offset amount *shall achieve* a zero net increase in flow during wet weather events with implementation of the Proposed Project. This shall be achieved through the construction of improvements to impacted areas of the sewer system, with construction plans subject to CSCSD approval and required to be in compliance with applicable regulatory requirements. Construction of improvements, as approved by the CSCSD, shall be completed prior to the start of the construction of the residences.

(DEIR, pp. 4.10-27 to -28 [emphasis added].) This mitigation measure is quite clear that any increase in sewer flow *shall* be offset, and a zero net increase *shall* be achieved, and like all of the EIR's mitigation measures, it would be implemented as a Condition of Approval. The proposed Project would not be permitted to go forward unless these mandatory performance standards (*e.g.*, a net zero increase) are met. Mitigation Measure 4.10-3 is legally adequate, falling well within the parameters for acceptable mitigation measures described by the CEQA Guidelines and applicable case law detailed in the Executive Summary and throughout this letter.

Comment No. 25: The commenter asserts that the Project is inconsistent with several of the General Plan Policies found in Chapter 15 (Natural Hazards): Policies 15.20(a) and (b).

Response to Comment No. 25: As a threshold matter, a project must be, generally, "in agreement or harmony with the terms of the applicable plan, [but] *not in rigid conformity with every detail.*" (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 678 [emphasis added]; *see also, Wollmer v. City of Berkeley* (2009) 179 Cal.App.4th 933, 941; *Sequoyah Hills Homeowners Ass'n v. City of Oakland* (1993) 23 Cal.App.4th 704, 714.) A finding the Project is consistent with the General Plan can be reversed only if a reasonable person could not have reached the same conclusion. (*No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 243 [citing *McMillian v. American General Finance Corp.* (1976) 60 Cal.App.3d 175, 186]; *see also, A Local & Reg'l Monitor (ALARM) v. City of Los Angeles* (1993) 16 Cal.App.4th 630, 648; *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 822.)

As admitted by the commenter, this comment is directly contradicted by County Staff's proposed findings in the staff report for the January 28, 2015 Planning Commission meeting:

The proposal is consistent with Geotechnical Hazards Policies, specifically with Policy 15.18 (Determination of Existence of a Geotechnical Hazard), as the site is not located on the San Mateo County Natural Hazards Map, within the Alquist-Priolo Hazard Zone. Therefore, Policy 15.19 (Appropriate Land Uses and Densities

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 28

in Geotechnical Hazard Areas) is not applicable, although the housing density of 1.5 dwelling units per acre is of lower density than what the General Plan has established for the area (Medium Low, 2.0 to 6.0 dwelling units per acre). The slopes of the proposed 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other hillside developments within the County unincorporated areas. Based on the submitted geotechnical reports included within the EIR, no potential hazards were identified with developing the site as proposed. *The development regulations contained in Policies 15.20.a through 15.20.d (Review Criteria for Locating Development in Geotechnical Hazard Areas), which discourage development on steeply sloping areas (generally above 30 percent), is also not applicable due to the project site's location outside of the established Geotechnical Hazard Area (Alquist-Priolo Hazard Zone). This was incorrectly cited in the December 2009 Planning Commission hearing as being a non-conforming situation.*

(p. 9 [emphasis added].) County staff did not substantively reverse course from its position in 2009, but instead simply corrected a mistake by clarifying that Policies 15.20.a through 15.20.d do not apply here.

Indeed, a review of the General Plan reveals that these policies only apply within an established Geotechnical Hazard Area. (County of San Mateo General Plan, Natural Hazard Element, p. 15.5P-15.6P.) Geotechnical Hazard Areas are defined as “the areas illustrated on the Natural Hazards map as Alquist-Priolo Special Studies Zones, Tsunami and Seiche Flooding Areas, Coastal Cliff Stability Areas and Areas of High Landslide Susceptibility [or a]ny additional area delineated by other investigations, mapped in greater detail, and/or considered to be hazardous by the County Department of Public Works, including but not limited to areas delineated on the Geotechnical Hazards Synthesis maps, maps prepared by U.S.G.S. and other appropriate sources.” (*Id.*, p. 15.2P.) The Project Site is not located within such an area. (DEIR, pp. 4.4-13 to -14, 4.6-17.)

Comment No. 26: The commenter makes a general comment that the applicant should make further reductions to the Project and should work with the community to develop an acceptable project.

Response to Comment No. 26: The proposed Project already represents a significant reduction from the 2009 version of the Project, as 24 percent of the original Project (6 residential dwelling units) were eliminated. Now, a maximum of 19 single family homes would be developed, and 60 percent of the Project Site would be dedicated as permanent open space. Despite this significant reduction for a project that is already far less dense than surrounding developments, and consistently engaging in good faith community outreach efforts, the applicant is not able to

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 29

make any further reductions to the Project while providing at the same time the Project's significant public amenities and investments.

**VI. Response to Comments Made in the January 28, 2015 Baywood Park Homeowners' Presentation to the Planning Commission.**

Comment No. 27: The commenter asserts that the Project should not be built on steep, eroded lots on the "Ascension side," and that the "Project" (presumably, the EIR) assumes mitigation to "fix" this erosion but does not articulate a plan or cost. The commenter also asserts that the proposed steep lots are dangerous and pose long term liabilities. The commenter also opposes the large retaining walls needed for this type of construction.

Response to Comment No. 27: See Responses to Comments Nos. 1, 7 & 17. Additionally, the proposed Project will actually stop the flow of untreated water on the Ascension side and fix the unsightly and unstable eroded areas. Without development of the Project Site, these flows will continue to occur, and erosion will get worse.

Comment No. 28: The commenter requests that the Project provide a buffer to the Parrott Drive houses to mitigate the loss of privacy.

Response to Comment No. 28: The proposed Project includes a plan to provide screening for the homes on Parrott Drive. The recently submitted landscape plan clearly shows a very dense planting schedule that will reach maturity in approximately 5-7 years.

Comment No. 29: The commenter asserts that the proposed Stormwater Storage and Retention System is unproven and "irresponsible," particularly putting storm water underground on a steep hillside. The commenter also asserts that there will be untreated runoff on the Ascension side and that the EIR fails to address hydrology changes (e.g., changes to exiting drainage methods) due to construction of the Project.

Response to Comment No. 29: See Responses to Comments Nos. 10 & 11. With regard to any changes to existing drainage due to changes to the existing grade, see Response to Comment No. 7. See also, Response to Comment No. 17.

Comment No. 30: The commenter asserts the Project will have noise impacts, specifically stating that "300 close homes will have annoying noise 6 days a week," presumably referring to the proposed Project's temporary construction noise, which is only permitted 6 days a week during certain hours.

Response to Comment No. 30: See Response to Comment No. 13.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 30

Comment No. 31: The commenter asserts that the Project will have impacts on the Mission Blue Butterfly, other endangered species, and will result in the destruction of known foraging location for animals and large birds.

Response to Comment No. 31: See Responses to Comments Nos. 2 through 6.

Comment No. 32: The commenter asserts that the Project could have issues related to its water use.

Response to Comment No. 32: See Response to Comment No. 20.

Comment No. 33: The commenter asserts that the Project will result in a dangerous blind intersection at Bel Aire.

Response to Comment No. 33: See Responses to Comments Nos. 14 & 19.

Comment No. 34: The commenter asserts that a road within the proposed project is steep, “pushing very edge of legal” at a 20 percent grade.

Response to Comment No. 34: The comment acknowledges that the new road is in fact legal. The road conforms to the standards set by the County’s Public Works Department and the Fire Marshal, as well as all other County specifications. Indeed, the EIR, based on expert analysis rather than unsubstantiated opinion, concludes that this new road will not result in any significant impact related to traffic and circulation, and specifically, will not result in a traffic hazard:

[T]he Proposed Project includes development of a new private street on the project site to provide access to all proposed residences. The private street would connect with Bel Aire Road at the northern corner of the project site via a new intersection. The paved area of the private street would be approximately 36 feet wide, providing 22 feet for two travel lanes (11 feet per lane) and 14 feet for parallel parking spaces (7 feet per side). Street grades would range from 11 to 19 percent; any street with a slope greater than 15 percent would be constructed of concrete whereas all other streets would be asphalt. Figure 3-7 (Private Street Cross Sections) provides a diagram. The private street and intersection would be developed in accordance with applicable County standards. Mitigation Measure 4.11-4 is included to ensure a safe sight distance at the proposed new intersection. With the proposed mitigation, the potential of the Proposed Project to result in a substantial increase in hazards is less-than-significant.

(DEIR, p. 4.11-10.) See also, Response to Comment No. 14.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 31

Comment No. 35: The commenter asserts that the Project will result in air pollution and health risks.

Response to Comment No. 35: See Response to Comment No. 9

Comment No. 36: The commenter asserts that the proposed Project will result in a 28 percent traffic increase during the day.

Response to Comment No. 36: It is unclear whether this comment refers to the temporary increase in traffic during the construction of the proposed Project, or a purported increase in traffic during operation of the Project, as it is unclear how the commenter concluded that the proposed Project would result in a 28 percent increase in traffic during the day. Regardless, based on analysis performed by expert traffic consultants, impacts from increased traffic, both during construction and operation of the Project, would be less than significant. (DEIR, p. 4.11-8 to -9; see also, Appendix H.) The actual increase of traffic is not 28 percent, but instead, is negligible. (DEIR, Table 4.11-5.)

Specifically, under the absolute worst case scenario, construction of the Proposed Project would add approximately 176 vehicles per day during the soil hauling phase of construction. Given the existing volume of traffic on Bel Aire Road and Ascension Drive, the addition of 176 vehicle trips to these roadways would not result in an increase of greater than 0.1 on the TIRE Index,<sup>7</sup> which is defined as a noticeable increase in traffic on the street, either for Bel Aire Road or Ascension Drive. (DEIR, p. 4.11-7 to -8.) Similarly, no roadway segment would experience an increase in the TIRE Index greater than 0.1 during operation of the Project (e.g., the use of 19 single family homes), and the proposed Project would not exceed acceptable roadway capacities or result in significant impacts to nearby intersections. (*Id.*, p. 4.11-9; Table 4.11-5.) Clearly, the impacts on traffic will not be significant, as supported by technical analysis and expert conclusions. (*Id.*, Appendix H.)

Comment No. 37: The commenter asserts that the proposed Project is placing impossible burdens on it so that the developer can escape responsibility, specifically asserting that the Project will result in numerous long-term liability issues.

Response to Comment No. 37: This comment is vague and difficult to respond to. As noted above, all potentially significant environmental impacts have been identified and addressed

---

<sup>7</sup> Unlike a level of service model which assesses increased vehicular delays at intersections due to new development, the TIRE (Traffic Infusion on Residential Environment) Index measures the effects of project traffic on safety, pedestrians, bicyclists, and children playing near a street and the ability of residents to freely maneuver into and out of driveways.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 32

through appropriate mitigation measures that are the responsibility of the developer to implement. In addition, County staff previously prepared conditions of approval related to other non-CEQA project impacts that would also be the responsibility of the developer to implement. There is no evidence that the developer would “escape responsibility,” and the commenter did not specify the liability issues to which they refer.

Comment No. 38: The commenter asserts that the proposed homes are “out of character with the neighborhood” because they may be 3 floors, and the homes in the existing surrounding neighborhood are purportedly all one or two floors.

Response to Comment No. 38: *See* Response to Comment No. 1. The DEIR specifically found that the proposed Project will not result in a change in the visual character or quality of the area given that the surrounding area is primarily single-family residential neighborhoods, and would be designed to be consistent with surrounding neighborhoods and would utilize similar architectural themes as those of surrounding houses. Indeed, legally binding local planning regulations and policies will ensure aesthetic compatibility of the proposed Project with its surroundings. (DEIR, p. 4.1-13 to -14; *see also*, FEIR, p. 3-8, 3-17 to -19, 3-27.) Moreover, in accordance with General Plan Policy 4.15, the applicant has provided a comprehensive set of design guidelines to the County. (Appendix J to the FEIR.) The guidelines include an average height profile restriction of 28 feet whereas the County zoning ordinance allows 36 feet in this area. Project homes will be designed in accordance with these guidelines to ensure that the homes are visually appealing, complementary of the existing homes in the area.

Additionally, the proposed new residences will not be as tall as some of the existing residences in the neighboring community, regardless of the number of stories. *See* Response to Comment No. 17.

Comment No. 39: The commenter claims that it has presented alternative sites adjacent to or nearby the Project Site, such as Los Altos or Rainbow.

Response to Comment No. 39: Pursuant to CEQA Guidelines § 15126.6, Section 6 of the DEIR analyzes a reasonable range of alternatives to the proposed Project. However, the analysis of alternative sites is not mandated by CEQA. (*See, e.g., Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, n. 1.)

Notwithstanding the lack of a legal requirement to do so, as part of its alternative analysis, the DEIR considered an “off-site” alternative (such as locating the Project on the sites suggested by the commenter), but this alternative was determined to be infeasible, unable to meet most of the basic objectives of the Project, and unable to reduce the environmental impacts of the proposed Project. (DEIR, p. 6-2.) Specifically, “[t]he applicant does not own an alternate site with similar

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 33

requirements (zoning, acreage, and infrastructure). Thus, alternative site locations were not selected for detailed analysis as a site could not be identified that would reasonably accomplish the stated objectives of the Project while reducing the environmental effects.” (*Id.*) In other words, it is not as simple as the commenter would make it seem – the applicant cannot just “move” the Project. The commenter has not provided any evidence that contradicts the EIR’s conclusion that relocating the proposed Project would not be feasible.

Finally, it bears noting that CEQA Guidelines § 15126.6 only requires consideration of alternatives to the project type or its location, not an alternative project in a different location.

**VII. Response to February 19, 2015 Letter from John Mathon, Resident at 1450 Parrott Dr.**

Comment No. 40: The commenter indicated that 11 trees on his back property line are “considered significant trees by San Mateo County and protected by law.” The commenter asks that the proposed wall and road behind his property be moved 10 to 15 feet further away to avoid damage to these trees’ roots.

Response to Comment No. 40: After receiving this comment, the road has been modified to ensure that it is 15 feet away from the trees in question. The relevant modified civil engineering plans have been provided to County staff.

Comment No. 41: The commenter expresses doubt regarding whether or not it is legal to build structures such as the retaining wall and water retention system as close to his property line as planned by the proposed Project.

Response to Comment No. 41: The Project is required to comply with all applicable laws and local codes, and accordingly, will comply with all applicable setbacks. Moreover, the water retention system is a simple pipe in the ground, which is routinely done on hillsides without issues.

Comment No. 42: The commenter claims that cars coming down the new roadway will point their headlights directly into the commenter’s master bedroom, and asks that mature trees, bushes or another buffer be required on the planned roadway sides to prevent this light from entering his bedroom.

Response to Comment No. 42: The EIR acknowledges that the Project will result in additional light from headlights. However, after analyzing that potential impact, the EIR concludes that any impact from headlights would be less than significant because such lights are “common and necessary light sources for residential areas by the County,” and “[t]hese types of light sources that would be introduced as a result of the Proposed Project are frequent in the

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 34

neighboring residential developments and would not constitute a significant new source of light.” (DEIR, p. 4.1-18; *see also*, p. 4.1-8.) Accordingly, the issue raised by the commenter has already been analyzed and adequately addressed.

Moreover, the commenter is mistaken about the position of the road with respect to the commenter’s property. The roadway is 12 feet below his property elevation and the car headlights will shine into the retaining wall, not his property. Additionally, the landscape plan for the proposed Project requires the planting of trees that will screen out any headlights or other ambient light from cars.

Comment No. 43: The commenter asserts that the removal of soil, grading, movement of heavy vehicles during construction or retaining walls could destabilize his pool.

Response to Comment No. 43: Like impacts from light and glare, the proposed Project’s potential impacts from grading, soil removal, etc. have already been fully analyzed in the EIR. Specifically, the Geology and Soils section of the DEIR analyzes all potential impacts from earth-moving activities associated with construction. (DEIR, pp. 4.4-12 to -13.) After analyzing these potential impacts, the DEIR imposed Mitigation Measures 4.4-1a and 4.4-1b, which read as follows:

**Mitigation Measure 4.4-1a:** Implement Mitigation Measure 4.6-1 (Section 4.6; Hydrology and Water Quality) to identify and implement erosion control BMPs within the SWPPP prepared for construction activities in accordance with the State’s Clean Water Act NPDES general permit for construction activities. Implementation of these BMPs would ensure that temporary and short-term construction-related erosion impacts under the Proposed Project would be reduced to a less-than-significant level.

**Mitigation Measure 4.4-1b:** The applicant shall obtain a San Mateo County Grading Permit which includes the requirement of an Erosion and Sediment Control Plan. This Erosion and Sediment Control Plan shall be prepared by a licensed civil engineer or certified professional soil erosion and sediment control specialist. The plan shall show the location of proposed vegetative erosion control measures, including landscaping and hydroseeding, and the location and details of all proposed drainage systems. The plan shall include sufficient engineering analysis to show that the proposed erosion and sediment control measures during preconstruction, construction, and post-construction are capable of controlling surface runoff and erosion, retaining sediment on the project site, and preventing pollution of site runoff in compliance with the Clean Water Act.

Honorable Members of the San Mateo  
County Planning Commission  
September 23, 2015  
Page 35

(DEIR, p. 4.4-13.) With the implementation of these mitigation measures, all impacts from the earth moving activities associated with the proposed Project would be less than significant. Accordingly, these measures adequately address the concerns raised by this comment.

Comment No. 44: The commenter states that the construction of the proposed Project will impact his privacy and create noise impacts. The commenter asserts that the developer's suggestion to erect a temporary barrier along the shared property line to mitigate privacy issues during construction would be undesirable.

Response to Comment No. 44: The EIR fully analyzes the proposed Project's noise impacts and imposes mitigation measures accordingly. (DEIR, Section 4.8.) *See* Response to Comment No. 13.

### **VIII. Conclusion.**

For the many reasons detailed above, the EIR prepared for the Project fully analyzes and addresses all of the Project's potentially significant impacts and complies with CEQA. Additionally, the proposed Project is consistent with the County's General Plan, Zoning Ordinance, and all other applicable codes; it complies with the Subdivision Map Act; it would provide needed houses in an infill location, which has been identified as a priority type of development by the State of California. Moreover, the Project would create substantial and additional community benefits, including publicly-accessible open space and critical investments in public infrastructure. Accordingly, we respectfully urge the Planning Commission to approve the Project. My client looks forward to the Planning Commission's October 14th hearing where it will consider the Project and will be ready to answer any questions that the Commissioners may have. Thank you for your consideration.

RUTAN & TUCKER, LLP



Ash Pirayou

AP:abf

cc: James Castañeda  
Tim Fox  
John Nibbelin  
Dennis Thomas



October 1, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

The San Mateo County Association of REALTORS (SAMCAR) urges your support of the Ascension Heights Subdivision Project. The Ascension Heights project proposes an appropriate 19 units of new housing on an infill site that has always been designated for single family housing in the County's general plan.

The developer has worked for several years with the Planning Department and the community to modify the original proposal in order to address previous Planning Commission direction and community concerns, including:

- Eliminating six homes from the original proposal;
- Ensuring approximately 8 acres of permanent open space and public access to a proposed trail system;
- Funding \$5,000,000 in public and private community benefits that will include modern sewer and storm water retention systems, permanent erosion and soil control measures, and the elimination of untreated runoff from impacting the surrounding creeks and watershed;
- An estimated 97% increase in tax revenue for local public agencies.

As an organization that represents real estate industry professionals who work for both buyers and sellers of homes in San Mateo County, we take the EIR and quality of life concerns raised by existing residents in this neighborhood seriously. We are satisfied that the Ascension Heights project has addressed these environmental and quality of life concerns. We urge the Planning Commission to evaluate this project against the legal factors allowed under CEQA and County policies, and make decisions based on facts and not emotion.

Additionally, San Mateo County is in the midst of a housing shortage for buyers at all income levels and this project will result in the addition of much needed new housing stock in San Mateo County. There is no one solution to solving the housing crisis in San Mateo County. The only way to create more housing is to approve and construct more housing, which will include projects that range from 19 units at Ascension Heights to high-density developments envisioned by the Grand Boulevard planning process.

Once again, we urge your support of the Ascension Heights project because it is a good project on its own merits, and it represents an opportunity to build much needed housing in San Mateo County.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Blanton". The signature is fluid and cursive, with a large initial "S".

Steve Blanton, RCE, CAE  
Chief Executive Officer  
San Mateo County Association of REALTORS®

Cc: James Castaneda, San Mateo County Planning Department

Ivich Family  
1719 Parkwood Drive  
San Mateo, CA 94403

RECEIVED

2015 OCT -7 A 10: 28

October 1, 2015

SAN MATEO COUNTY  
PLANNING AND BUILDING  
DEPARTMENT

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

I strongly support the Ascension Heights proposal on your October 14, 2015 agenda and I strongly recommend your approval of this residential development.

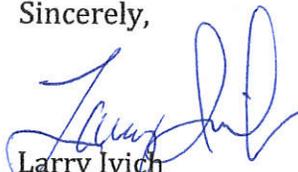
As a private citizen and local business leader, I believe that we need more housing in San Mateo County for families at all income levels.

I also believe that the CEQA process exists to ensure that development projects improve the areas in which they are proposed, and the Ascension Heights project will take a prime infill site of 13 acres and result in a small new community of homes which will add to the overall vitality of the neighborhood, improve infrastructure, fix existing environmental issues, and create permanent open space and a new public trail system.

I struggle to see the downside in a project which has satisfied the issues identified in a full EIR and proposes to privately fund public and private infrastructure upgrades totaling approximately \$5,000,000.

This developer has made significant changes since the original proposal was submitted and I believe the current proposal before you deserves your approval.

Sincerely,

  
Larry Ivich  
San Mateo Resident

  
Marie Ivich  
San Mateo Resident

Cc: James Castaneda, San Mateo County Planning Department

**Tom Thompson, MBA, Broker**

177 Bovet Road, Suite 600, San Mateo, CA 94402

**Direct: 650 678-0252 Office: 650 312-1819 Fax: 650 357-1327**

**Email: talltom@rwThompsonProperties.com**

**Web: www.rwThompsonProperties.com**

RECEIVED

2015 OCT -6 P 12:43

SAN MATEO COUNTY  
PLANNING AND BUILDING  
DEPARTMENT

October 1, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

I strongly urge you to approve the Ascension Heights project on October 14, 2015.

I have worked for the past 40+ years in the real estate, construction and property management industries in the Bay Area, including serving as the past CEO of the Santa Clara County Association of Realtors.

Locally, I live in San Mateo with my wife and I am a former appointee to the San Mateo County Board of Building Permit Appeals and past board member of the Housing Leadership Council of San Mateo County.

My personal, professional, and non-profit experiences run the spectrum of all types of housing from market rate ownership housing to affordable rental housing. It has never been easy to build new housing in San Mateo County, but it only gets more and more difficult in spite of the critical need for more.

The Ascension Heights development has been fully vetted through the CEQA process. The appropriate changes have been made to this project to reduce its' size, strengthen mitigations, and ensure the developer is providing infrastructure and community benefits.

I hope you will do the right thing and approve this project because it does deserve to be built and we cannot afford to turn down quality, well-planned housing like this in San Mateo County.

Sincerely,



Tom Thompson

Cc: James Castaneda, San Mateo County Planning Department

Jane Bradley, Attorney At Law  
3920 Edison Street  
San Mateo CA 94403  
650-571-8325  
[janebradley@mac.com](mailto:janebradley@mac.com)

RECEIVED

2015 OCT -6 P 12:38

SAN MATEO COUNTY  
PLANNING AND BUILDING  
DEPARTMENT

October 3, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

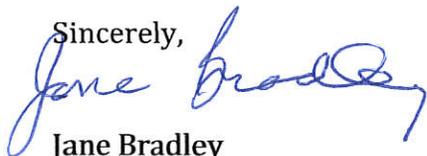
I support the Ascension Heights development proposal and I hope you will approve it at your October meeting.

In my work as an estate-planning attorney in the City of San Mateo I know from decades of experience that owning a home is one of the single most important investments that a young family can make for their future.

Sadly the high cost of housing in San Mateo County is one significant barrier to home ownership, but the lack of inventory is also a factor in causing people to live outside of our county. It contributes to a jobs/housing imbalance and the environmental impacts of people commuting from farther away to jobs locally. In my lifetime world population has tripled and California's population has quadrupled. We desperately need more housing!

If you approve this project, at least there will be 19 families who can plan for a future in San Mateo County and reduce their carbon footprint by driving less. Every bit counts.

Sincerely,



Jane Bradley  
Attorney  
San Mateo Resident and Voter

Cc: James Castaneda, San Mateo County Planning Department

JOHN GRIFFITH DAY AIA, AICP

ARCHITECTURE - PLANNING  
120 Montalvo Road  
Palomar Park, CALIFORNIA 94062

(650) 654-3880 (650) 743-1708 (cell)  
[johnday20@sbcglobal.net](mailto: johnday20@sbcglobal.net)

October 2, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

I served on the San Mateo County Design Review Committee for twelve years until my term ended in 2008. Design Review Committees were established by County ordinance to review plans for new development projects [primarily residential] in certain unincorporated communities of the County which are zoned for Design Review (DR).

I have an appreciation and understanding of the important role that the Planning Commission plays in balancing the legal rights of developers and property owners, with the needs and rights of existing residents. Despite the emotions associated with the Ascension Heights proposal, **I can strongly recommend this high quality, and well-planned development for your approval.**

I am familiar with the work produced by Mr. Dennis Thomas [San Mateo Real Estate Company] involving several residential projects which were approved by our board and subsequently constructed in unincorporated Emerald Hills. Mr. Thomas gives an attention to detail, along with a respect for protecting the quality of the existing environment and a sincere concern for the property of the existing residents that I find exceptional.

I would welcome a project by Dennis Thomas in my neighborhood.

Very sincerely yours,

John G. Day, AIA, AICP  
Architect - Planner

Cc: James Castaneda, San Mateo County Planning Department

**RICHARD A. HOLM**  
**CONSULTING STRUCTURAL ENGINEER**

LICENSED BY THE BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

719 Diablo Way  
Redwood City, California 94062

TELEPHONE: (650) 298-9706  
Fax: (650) 298-9824

October 5, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2nd Floor  
Redwood City, CA 94603

**Re: Ascension Heights Project**

Dear Honorable Members of the Planning Commission:

I am a licensed professional structural engineer in the State of California. I also own and operate my own consulting structural engineering firm in Redwood City.

Without question, the Ascension Heights project can be built safely as proposed on the slopes at the project site and should be approved by your governing body without further delay.

Modern building techniques and standards, which are more effective than those which existed in the late 1950's when many of the existing homes were built, will produce homes on this site which will be safe, secure and stand the test of time.

And for the record, I am not a paid consultant of the builder on this project.

Sincerely,

RICHARD A. HOLM  
CONSULTING STRUCTURAL ENGINEER



Richard A. Holm  
Structural Engineer #1508  
Redwood City resident

cc: James Castaneda, San Mateo Planning Department  
Dennis Thomas  
Don Cecil

October 6, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission,

I am writing to support Dennis Thomas and the Ascension Heights project and urge your approval of the project application.

As past president and board member of the San Mateo County Historical Association, I have a unique perspective on the history of our region. San Mateo County has been a leader in open space protection and environmental sustainability. As a result we have vast, protected areas of pristine open space for generations to enjoy.

In my opinion the 13 acres that comprise the project site for the Ascension Heights development is not pristine open space. It is a site riddled with erosion that will be transformed for the better with a modest number of homes and upgrades that will result in approximately 60% of the site being maintained as an open space preserve with publicly accessible trails.

Please approve this project of 19 homes and the important infrastructure and environmental benefits it will fund.

I have seen some of Mr. Thomas's homes that were built in Emerald Hills and can testify that, in my layman's opinion, they are well built quality homes.

Sincerely,

Stephan A. Way,  
San Mateo Homeowner and Business Owner  
338 Georgetown Ave.  
San Mateo, CA 94402

Cc: James Castaneda, San Mateo County Planning Department

October 8, 2015

Honorable Members of the San Mateo County Planning Commission  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the San Mateo County Planning Commission:

In advance of your October 14, 2015 public hearing regarding the Ascension Heights proposal, I wanted to provide you with the attached submittal, summarizing the many project benefits, the latest project information, and our efforts to meaningfully respond to concerns received from neighboring property owners as evidenced by the significant changes and enhancements reflected in the current proposal.

I would like to thank the Planning Commission, Planning Staff, and the collective Baywood neighborhood for the important feedback on the earlier versions of the application. I believe the application before the Planning Commission is a superior proposal because of the feedback and direction given since 2009.

Two specific clarifications I would like to make regarding the application are as follows:

- (1) Since receiving the original letter from our grading contractor, we have had an opportunity to review the Final EIR for the project, and I want to make clear that we are committed to meeting the requirements included in that document; and
- (2) The San Mateo-Foster City School District has informed me that the estimated six additional students to be generated by the project can be accommodated by the District and have, in fact, already been accounted for in their facility planning process.

As a local businessman and San Mateo County resident, I take great pride in my work and my community involvement. I have developed two similarly-sized projects in the unincorporated Emerald Hills area of San Mateo County and I place a high priority on constructing and building projects which respect the quality of life of existing residents, resulting in custom homes which add substantial value to existing neighborhoods.

I welcome the opportunity to present to you on October 14, 2015, and update you about the important changes to the project which will result in an environmentally superior project that preserves 60 percent of the site as permanent open space, constructs a publicly accessible trail system, and corrects decades of erosion and runoff problems associated with the site.

Please do not hesitate to contact me at (650) 867-8811 or [smredt@aol.com](mailto:smredt@aol.com).

Sincerely,



Dennis Thomas  
President  
San Mateo Real Estate Inc.

CC: James Castañeda, San Mateo County Planning Department

# ASCENSION HEIGHTS



**Prepared for  
County of San Mateo  
Planning Commission**

**October 8, 2015**

## TABLE OF CONTENTS

<b>PAGE 2:</b>	Summary of Project Description and Benefits
<b>PAGE 3:</b>	Current Proposal Summary
<b>PAGE 4:</b>	Table of Significant Changes from 2009 to 2015 Proposal
<b>PAGE 5:</b>	Project Benefits – Increased Tax Revenue
<b>PAGE 6:</b>	Project Benefits – Infrastructure Upgrades and Fees
<b>PAGE 7:</b>	Project Benefits – Storm Water Collection, Erosion Control, Landscaping Plan and Creek Protection
<b>PAGE 11:</b>	Project Benefits – Open Space Area and Publicly Accessible Trail
<b>PAGE 12:</b>	Habitat Concerns
<b>PAGE 13:</b>	Grading and Construction
<b>PAGE 16:</b>	Screening Measures for Parrott Drive Residents
<b>PAGE 17:</b>	Design Review Guidelines
<b>PAGE 18:</b>	School Impacts, Neighbor Concerns, and History of Project Site
<b>PAGE 19:</b>	About the Builder

### EXHIBITS:

- A. Landscaping site plan
- B. Landscaping plant list
- C. May 18, 2015 Letter from California Water Service Company
- D. August 13, 2015 Letter from California Water Service Company
- E. Neighbor concerns and responses

## **SUMMARY OF PROJECT DESCRIPTION AND BENEFITS**

The Ascension Heights residential plan proposes an infill development consisting of 19 custom homes on lots averaging 9,000 square feet. The site has been planned and zoned by San Mateo County for residential uses since 1958. On average, the project is only one-third as dense as residential development on nearby lots.

The homes will be built around a U-shaped private street system. The total acreage of the home lots and private streets is approximately 5.5 acres. The remaining 60% of the project site, consisting of approximately 8 acres, will be maintained as permanent open space with public access to a new trail system along the Ascension Drive slope and a handicap-accessible lookout point near the existing water tank.

The current proposal of 19 homes is 24% smaller than the original 2009 plan that proposed 25 homes on the site. Despite the reduced project size, the applicant still plans to make significant private investment in infrastructure improvements, construction costs, and other public and private benefits.

Upon full build-out, assessed values for the combined parcels on the project site will increase from a current value of \$1,065,700 to an estimated value of \$47,500,000. This increase will result in a 97% increase in annual tax payments to the County of San Mateo, San Mateo-Foster City School District, San Mateo Union High School District, and the San Mateo County Community College District. Property tax revenues from the project site are estimated to increase from a combined annual total of \$11,800 today to \$525,000 upon project completion.

The project will privately fund over \$5,000,000 in both public and private infrastructure improvements and permit fees to fully modernize the project site's sewer system, storm water system, and utility infrastructure. Additionally, the project will implement substantial and permanent erosion and soil stabilization measures to prevent runoff into Polhemus Creek and San Mateo Creek and the surrounding area. Without development of the project site, storm water runoff from the project site will continue to occur, and erosion will get worse.

As an infill development, special consideration has been given to the needs and concerns of existing neighbors. All stages of the pre-construction and construction phases will adhere to strict CEQA environmental requirements as well as project-specific conditions of approval.

The applicant has a long history of business and community involvement in the City of San Mateo and San Mateo County, including previous development of infill housing in the Emerald Hills unincorporated community near Redwood City. The builder looks forward to working with the County and neighbors in transforming a vacant site long-planned for residential uses into a compatible and beneficial part of the community.

## CURRENT PROPOSAL SUMMARY

- Subdivide six parcels, totaling 13.32 acres, into 21 lots for development of 19 single-family residences and a new access roadway, with a development footprint of approximately 5.5 acres.
- The average size of the proposed new parcels is 9,000 square feet, which is larger than the existing 7,500 square foot minimum lot size required in the R-1/S-8 zoning district.
- The average size of the proposed new homes is 3,200 to 3,500 square feet.
- The proposed 19 residential parcels would be orientated along a new street in a “U” configuration. The private street (Lot B on the proposed Vesting Tentative Map) would be owned and maintained by the Homeowners Association (HOA).
- Lot A on the proposed Vesting Tentative Map, which is approximately 8 acres, would be maintained as an open space area and would include an undisturbed and protected conservation area as well as common areas with a new trail system proposed to go along the southern perimeter of the water tank parcel to a lookout on the southeast side and provide safe, public access along the Ascension Drive slope.
- All development and structures would be designed to be consistent with the R-1/S-8 Zoning District, as well as with surrounding neighborhoods.
- Voluntary height limits are proposed by the builder to address community concerns. Despite current zoning limits that allow maximum average heights of 36 feet, new homes in Ascension Heights will have a maximum average height of 28 feet.
- Once completed, the project will make significant improvements to the entire project site, including installation of an efficient water system, sewer system, and storm drainage system. Overall, the proposed storm drainage infrastructure will improve site drainage conditions relative to current conditions and positively impact existing surrounding homes.
- The project will implement and maintain soil erosion control measures and surface erosion corrective measures throughout the entire 13.32-acre site. Of particular importance to the neighborhood is the requirement that repairs be made to the eroded corner at Ascension Drive and Bel Aire Road, as well as other eroded sites on the property in connection with the project’s construction.
- The landscaping and planting plan is designed to use drought tolerant, low maintenance, native and non-invasive trees and plantings to create nature solutions to help minimize erosion, maximize soil stability, and screen views of the new development while still minimizing obstruction of solar access for each residence.

## SIGNIFICANT CHANGES FROM ORIGINAL 2009 PROPOSAL TO CURRENT PROPOSAL

2015	2009	Notes
19 housing units	<ul style="list-style-type: none"> <li>• 25 housing units</li> </ul>	<ul style="list-style-type: none"> <li>• 6 units eliminated = 24% reduction</li> <li>• Lots and streets will only occupy 41% of the project site</li> <li>• Eliminates residential development on the lower southwestern portion of the project site facing Ascension Drive, which eliminates several of the geotechnical issues associated with the previous project</li> </ul>
Eliminated access road around water tank	Included access road around water tank	Reduces grading and construction impacts
Estimated 26,510 cubic yards of export material	Estimated 60,520 cubic yards of export material	56% reduction in material requiring truck export from the project site
7.63 acres of deed-restricted conservation area as permanent open space maintained by the HOA with public access	4.31 acres of deed-restricted conservation area representing only 33% of the project site.	<ul style="list-style-type: none"> <li>• 60% of the project site will be permanent open space.</li> <li>• 27% increase in permanent open space</li> </ul>
Construct a longer trail system loop system along the Ascension Drive slope, including an ADA compliant lookout below the water tank	Construct a short trail around the existing water tank with no ADA compliant access	Creates a new, safe public benefit by building a loop trail with two access points along the new street, including an ADA accessible outlook
<ul style="list-style-type: none"> <li>• Builder proposes voluntary, creation of general architectural requirements that will maintain an overall vision for Ascension Heights that complement the existing homes in the area.</li> <li>• The guidelines include an average height profile restriction of 28 feet; project conditions will require the homes to be built as described in the guidelines.</li> </ul>	<ul style="list-style-type: none"> <li>• No design review condition</li> </ul>	<ul style="list-style-type: none"> <li>• San Mateo County maximum height standard is 36'</li> <li>• Proposed average maximum is 22% lower than legal limit</li> </ul>

**PROJECT BENEFITS – INCREASED TAX REVENUE**

- Current assessed value of the project site = **\$1,065,693**
- Estimated assessed value of the 19 homes and open space = **\$47,500,000**
- Estimated assessed value based on current market conditions of home prices range from \$2,250,000 to \$2,750,000 and averaging \$2,500,000

<b>Tax Category</b>	<b>Current Tax</b>	<b>Projected Tax</b>	<b>% Increase</b>
General Tax Rate @ 1%	\$10,656.93	\$475,000.00	97%
SMFCSD 2005 Refund Ser. @.0388%	\$413.49	\$18,430.00	97%
SMUHSD 2002 Bond @ .0475%	\$506.20	\$22,562.50	97%
SMCCCD 2005 Bond @ .0190%	\$202.48	\$9,025.00	97%
SMFCSD Proposed 2015 Bond @ .0148%	\$0.00	\$7,030.00	100%
<b>TOTAL</b>	<b>\$11,779.10</b>	<b>\$532,047.50</b>	<b>97%</b>

## PROJECT BENEFITS – INFRASTRUCTURE UPGRADES AND FEES

The project is estimated to provide private funding totaling over \$5,000,000 for permits and fees, public and private infrastructure upgrades, and school impact fees.

<b>Category</b>	<b>Benefit Category</b>	<b>Estimate Private Investment</b>
Trails, Final Grading & Drought Resistant Landscaping to control erosion	Private infrastructure with Public Benefit	\$1,600,000.00
Grading & Off Hauling	Private infrastructure	\$900,000.00
Retaining Walls	Private infrastructure	\$365,000.00
Sewer connection fees for 19 homes	Public permits and fees	\$350,000.00
Sewer Installations & Laterals	Private infrastructure with Public Benefit	\$310,000.00
Water Connections & Installation	Private infrastructure	\$275,000.00
Storm Drains – Onsite	Private infrastructure with Public Benefit	\$275,000.00
Asphalt & Base for Streets	Private infrastructure	\$275,000.00
Storm Drains – Offsite	Private infrastructure with Public Benefit	\$245,000.00
Curbs & Gutters	Private infrastructure with Public Benefit	\$165,000.00
School Impact Fees – 57,000 sq. ft. @ \$1.50 per sq. ft.	School impact fees	\$85,500.00
County Fees, Permits & Sewer Connections	Public permits and fees	\$75,000.00
Civil Work, Staking & Plans	Private infrastructure with Public Benefit	\$75,000.00
Erosion Control	Private infrastructure with Public Benefit	\$40,000.00
<b>TOTAL</b>		<b>\$5,035,500.00</b>

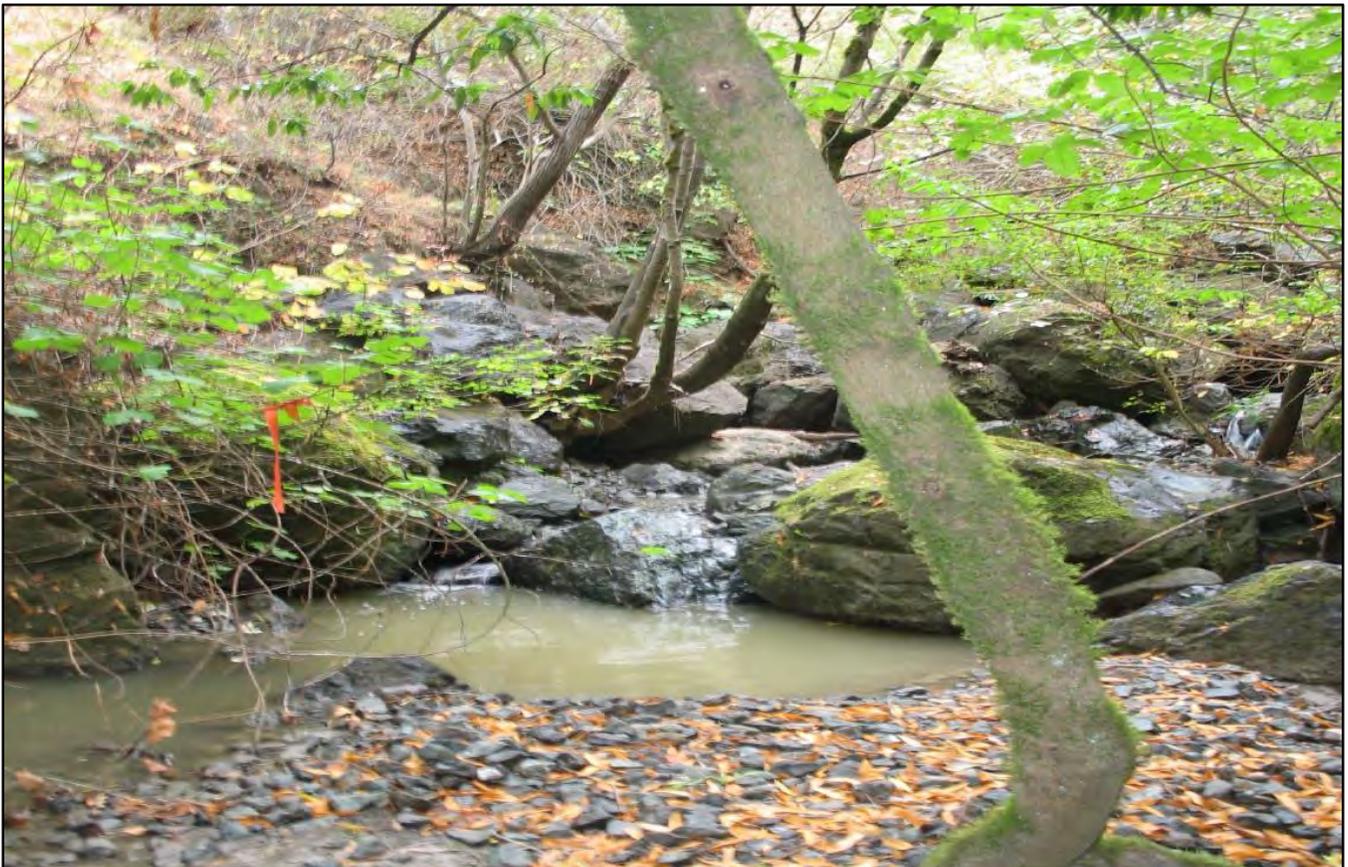
## **PROJECT BENEFITS – EROSION CONTROL, STORM WATER COLLECTION, AND CREEK PROTECTION**

The current condition of the project site exhibits signs of serious erosion and other soil degradation issues. The site was last graded in the 1950's and since that time the hillside has eroded and washed away in many places.

The current storm water system on the site is not adequate in size, and as a result, storm water and runoff materials are washed into the surrounding streets and eventually into Polhemus Creek and other groundwater collection points – which are tributaries to San Mateo Creek which feeds into Crystal Springs Reservoir.

Once completed, the project will make significant public and private improvements to the entire project site and surrounding area, including installation of an efficient landscaping water system, sewer system, and storm drainage system, as well as soil erosion control measures and corrective surface erosion measures throughout the entire 13.32 acre site. Overall, the proposed public and private storm drainage infrastructure will improve site drainage conditions relative to current conditions and positively impact existing surrounding homes and the creek and watershed systems.

### **Polhemus Creek**



## Storm Drainage System Highlights:

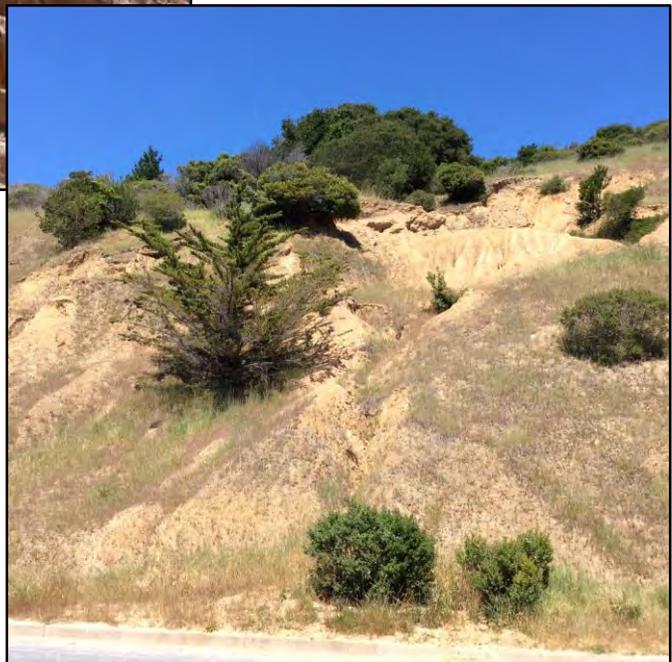
- The system will be designed to collect storm water runoff from project streets, roofs, yards, open space surfaces, and the bottom of the hills into a retention system.
- The retention system will filter water and carefully meter out water flow into the existing County storm water collection system to prevent flooding and runoff.
- The 15-inch diameter public storm water drainpipe that crosses Ascension Drive at Enchanted Way shall be replaced with a 21-inch diameter pipe; and the 30-inch diameter public storm water drainpipe shall be replaced with a 36-inch diameter pipe.
- This system will be required to undergo regular maintenance and inspections to ensure all elements are functioning and effectively protecting local creeks, ground water collection points, and surrounding homes and yards from storm water runoff.
- This system will also help prevent erosion and slides on the project site.



**Existing Sub-Standard Storm Drainage System**

## Erosion Control Highlights:

- As part of the project approval conditions, there will be a requirement for monitoring and maintenance of erosion, soil stability, and landscape maintenance in perpetuity for the project site. The developer will be responsible for the first ten years and the HOA after that.
- Of particular importance to the neighborhood is the requirement that repairs will be made to the eroded corner at Ascension Drive and Bel Aire Road, as well as other eroded sites on the property in connection with the project's construction.
- Landscaped areas shall be covered with plants or some type of ground cover to minimize erosion.
- No areas shall be left as bare dirt that could erode.
- Landscaped areas shall be designed with efficient irrigation and drainage to reduce pesticide use.
- Plants shall be selected based on size and situation to reduce maintenance and routine pruning.



**Existing Erosion Issues on the Project Site**

## Landscaping Plan Highlights:

- The proposed landscaping plan calls for the dense planting of drought-tolerant, non-invasive, and native trees, plants and shrubs that will reach maturity in approximately 5 to 7 years and have been successfully used in our Bay Area climate for decades. The landscaping plan and plant palette, attached as Exhibit A and Exhibit B, consists of street trees, entry plantings, slope trees, understory slope plantings, and open space plantings. The proposed plant palette has been carefully selected based on the following criteria:
  - Drought tolerant and low maintenance;
  - Non-invasive;
  - Native if possible, but all adaptive to the Bay Area's Mediterranean climate;
  - Varied height, color and density at maturity;
  - Appropriate for visual screening – especially along the Parrott Drive property line; and
  - Appropriate root systems to reduce future erosion and runoff.
- New plantings will be inter-planted among the existing trees and shrubs in a visually complementary pattern and spaced specifically to provide erosion control as the root systems penetrate the soil and reduce runoff. The palette is appropriate for this particular site and only requires very low water and maintenance to thrive.
- An added benefit to the landscaping plan will be fire protection for homes on Parrott Drive. Even with regular firebreak maintenance, the current site has dry grass and vegetation due to current drought conditions. The completed project will have a comprehensive irrigation system that will keep vegetation well hydrated and reduce fire risk to these existing homes.

Importantly, it should be further noted that the proposed landscape plan conforms with the requirements of the water supplier to the homes, as explained in the May 18, 2015 letter from the California Water Service Company, attached as Exhibit C. Additionally, California Water Service Company has advised in their August 13, 2015 letter that water is available to serve the project, attached as Exhibit D.

**PROJECT BENEFITS – CREATION OF AN OPEN SPACE CONSERVATION AREA AND PUBLICLY ACCESSIBLE TRAIL**

Sixty percent of the project site totaling approximately 8 acres will be maintained as permanent open space with public access to a new trail system along the Ascension Drive slope and a handicap-accessible lookout point near the existing water tank.

Prior to recordation of the final map, the applicant will be required to prepare Covenants, Conditions and Restrictions (CC&Rs) for County review and approval requiring the HOA or equivalent entity to maintain and pay for the ongoing maintenance and public accessibility of these spaces for the life of the project. The CC&Rs will also guarantee public access to the trail consistent with County policies concerning access to public parks and trails.

**Rendering of the Handicap-Accessible Lookout Point**



## HABITAT CONCERNS

### Mission Blue Butterfly

A qualified biologist has been engaged to survey the project site for any evidence of the Mission Blue Butterfly. Surveys were conducted on 25 separate inspection days in 2005, 2008, 2012, 2013, and 2015, including during the appropriate identification periods for adults during the months of March – July and for juveniles during the wet season. **No evidence was found during any of the 25 separate inspection days of the Mission Blue Butterfly on the project site.**

Based on the lack of evidence of the species on site after 25 inspections, **the EIR does not propose or require any restrictions or mitigations related to the Mission Blue Butterfly.**



### Raptors

The project site was surveyed for raptor nests and raptor nesting activity in two different surveys in March and April 2015. **The resulting Coast Ridge Report noted that no raptor nests or raptor nesting activity were observed on the project site, and in fact, most of the trees on the project site do not provide suitable raptor nesting habitat due to wind exposure and lack of large supportive branches.**



### Special Status Birds

**No special status birds, specifically including burrowing owls, northern harriers or white tailed kites, were observed in the 2015 surveys of the project site, and the Coast Ridge Report concluded that it is highly unlikely these species would nest on the site due to a lack of suitable nesting habitat.**

## **GRADING AND CONSTRUCTION**

As an infill project in an existing neighborhood, the builder is especially sensitive to the needs and concerns of the residents living in existing homes surrounding the proposed project site.

The builder has a history of developing infill custom residential projects in existing neighborhoods and has established relationships with local subcontractors who share the same sensitivities for existing neighbors.

The builder has selected Gary Pollack Construction and Excavation as the subcontractor to perform the grading work. This firm is a local San Mateo County based company with 25 years of experience and knowledge regarding the rules and environmental requirements of the California Air Resources Board, Bay Area Air Quality Management District, and the San Mateo County Planning and Building Departments.

According to the vesting tentative subdivision map sheet C-3, the proposed project is estimated to require the off hauling of 26,510 cubic yards of dirt with an estimated 2,253 truck trips required to transport the material. Based upon previous experience, the project team estimates the ability to make 100 truck trips per day depending on the work restrictions in the grading and excavation permit and external factors (e.g. weather). This is based on the County's construction work hours – Monday through Friday from 7 AM to 6 PM, and Saturdays from 9 AM to 5 PM.



## Controlling Dust and Particulate Matter:

The grading and off hauling process will involve several elements to ensure that dust and other particulate matter is contained to the project site and not allowed onto surrounding properties, including:

- The constant and intense watering of all dirt material in all stages of grading and off hauling. At a minimum, active grading areas and dirt roads will be watered at least twice a day. The use of this water will be from recycled water sources provided by California Water Service Company and will not impact drought conditions. Additionally, all watering will be monitored to prevent any erosion issues.
- All access points onto paved streets will be monitored, and the paved streets will be swept with water sweepers as needed on a daily basis.
- All transport trucks will be covered securely according to the legally mandated standards of the Bay Area Air Quality Management District.
- All grading activities will be stopped when instantaneous wind gusts exceed 25 miles per hour.
- No on-site vegetation burns.
- Cover all exposed stockpiles.
- Limit traffic speeds on unpaved roads to 15 miles per hour.



## Controlling Diesel Exhaust and Particulate Matter:

- The construction and excavation company owns and operates a well-maintained fleet of late model excavators, dozers, wheel loaders, mini excavators, track loaders, skid steers and all types of compaction equipment. All of their heavy equipment meets or exceeds Tier 2. With the ongoing addition of Tier 4 equipment their fleet is in **full compliance** with the strict rules imposed by the California Air Resources Board, including diesel particulate matter filters.
- All transport trucks will use state-of-the-art VDECS technology. This technology is used on diesel transport trucks in the form of exhaust retrofits, the most common types of which are diesel particulate filters (DPF). VDECS have been evaluated and verified by the California Air Resources Board to lower the harmful emissions from diesel exhaust.
- All drivers will be instructed that idling times cannot exceed five minutes, and that vehicle speeds on unpaved roads on-site are not to exceed 15 miles per hour.



## Managing Traffic and Quality of Life Impacts:

- The construction and excavation company will work closely with the County of San Mateo to develop a comprehensive traffic management and safety plan that will incorporate elements such as commute traffic patterns, College of San Mateo traffic patterns, pedestrian safety, and other community concerns.
- The route will be clearly marked with signage, flag personnel, and traffic monitors to ensure other vehicles and pedestrians are moved safely through the site and along the exit route.
- Based on an evaluation of the area, the likely standard traffic route will propose exiting the property on Bel Aire Road, heading down the hill for a right on Ascension Drive, and then a left turn onto Polhemus Road. This route represents the shortest route through the existing neighborhood with the fewest impacted homes.
- The project construction manager will receive any construction-related complaints and will strive to correct any issues within 48 hours, in close coordination with the County of San Mateo Building Department.
- Neighborhood streets will be swept regularly based on the conditions and need.



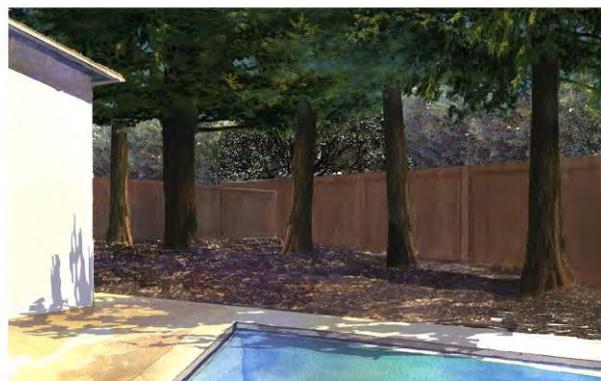
## SCREENING MEASURES – PARROTT DRIVE RESIDENTS

The Parrott Drive residences will benefit from a comprehensive screening and privacy plan that includes the following elements:

- A planting plan that uses a mix of approximately 75 to 80 evergreen screening trees along the property line that will utilize a variety of foliage textures and colors, including:
  - Italian stone pine: 40 – 80 feet tall at maturity
  - Olive tree: 25 – 30 feet tall at maturity
  - Hollywood Juniper: 15 feet tall at maturity
  - White Oleander: 20 feet tall at maturity
  - Silk Tassel: 5 – 10 feet tall at maturity
  - Toyon: 8 – 15 feet tall at maturity
- The trees will complement the existing mature, tall pine trees that will be preserved as part of the project.
- Immediately install a 6-foot high fence along the property line.
- Move the private street entrance on Bel Aire Road 17 feet further down the street and increase the proximity of the private street from 2.5 feet to over 15.7 feet at the center away from the property line of 1450 Parrott Drive at the request of the homeowner.
- If residents, the Planning Commission, or County Staff request temporary privacy screening during project construction, the builder is amenable to erecting it 20 feet from the Parrott Drive property line.



**Actual tree screening examples from other San Mateo Real Estate developments in Emerald Hills**



**Rendering of proposed fence and tree screening behind an existing Parrott Drive home**

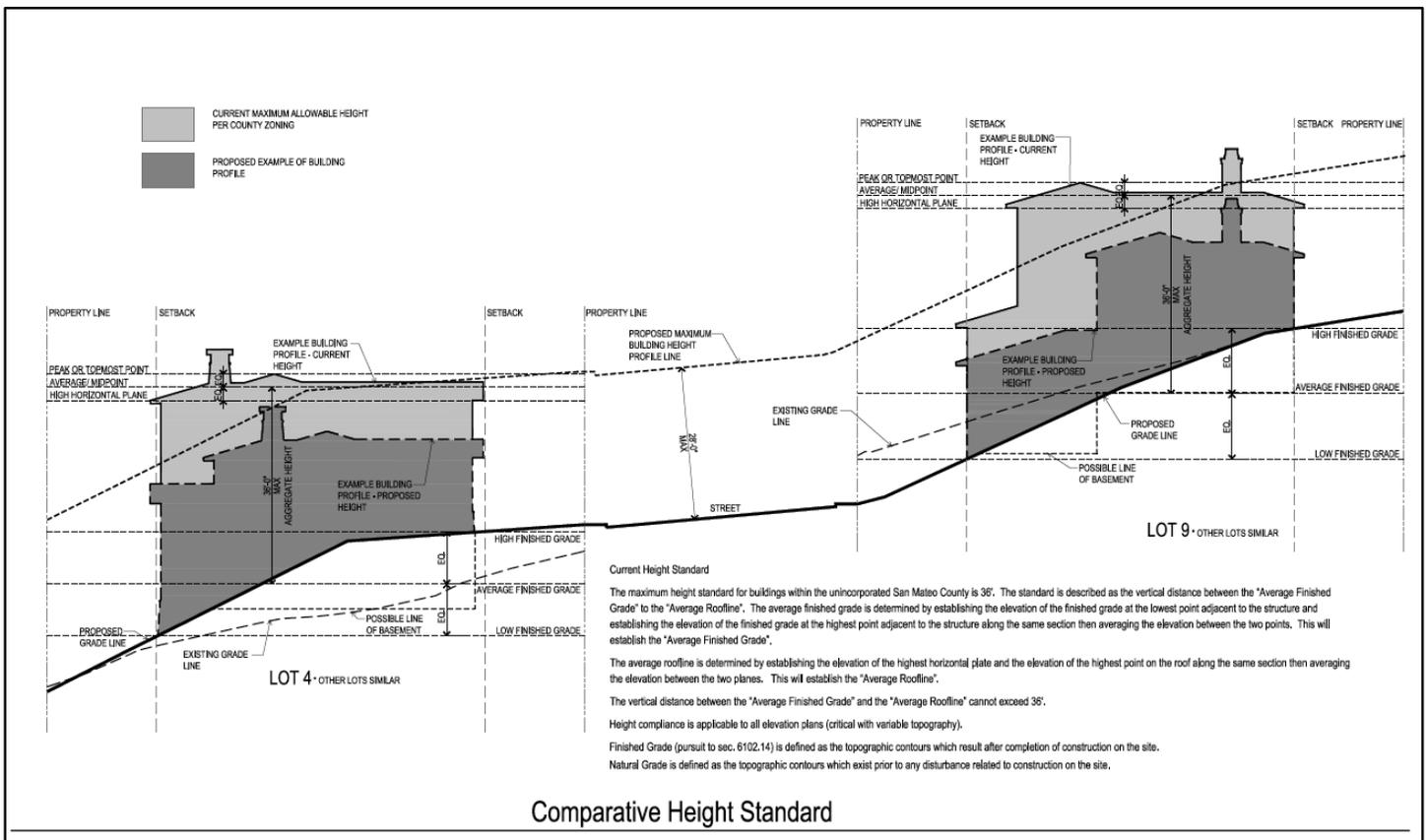
# DESIGN REVIEW GUIDELINES

In response to concerns from existing neighbors regarding the uncertainty of eventual building heights, style, construction materials, and other important design elements, the builder has proposed the voluntary creation of general architectural requirements that will maintain an overall vision for Ascension Heights homes that complement the existing homes in the area.

## Highlights of the proposed condition include:

- Average maximum height standard of 28 feet.
- Two-story massing will be minimized, one-story massing will predominate.
- Second floor massing will be setback from the main level to reduce appearance of large homes.
- Elements will be used to promote indoor/outdoor living.
- Detached and semi-detached structures will be used to reduce the appearance of overall building mass.
- Streetscape and hillside building profiles will vary from lot to lot to ensure a custom appearance of new homes that complement existing houses.

Additionally, the CC&Rs will require that future homes be designed in accordance with the guidelines.



## SCHOOL IMPACTS

The San Mateo-Foster City School District has informed the applicant that the estimated six additional students to be generated by the project can be accommodated by the District and have, in fact, already been accounted for in their facility planning process. Payment of the statutory school impact fees (listed above) constitutes full and complete mitigation of impacts to school facilities per CEQA. Gov. Code § 65996(a).

## RESPONSES TO NEIGHBOR CONCERNS

Over the last six years, the applicant has met numerous times with representatives of the Baywood Park Homeowners Association and others to attempt to address their concerns with the project. A summary of the concerns raised and responses by the applicant thereto are provided as Exhibit E.

## HISTORY OF THE PROJECT SITE

The Ascension Heights project site consists of six existing parcels that total 13.32 acres. The site is adjacent to an existing potable water tank owned and operated by the California Water Service Company on a separate 22,500 sq. ft. parcel.

Since 1958, the project site has been zoned R-1/S-8 single family residential. The project site has never been zoned for any other use, including open space or parkland.

Since 1986, the County General Plan has designated the project site as Medium Low Density Residential, which allows for development of 2.4 to 6 dwelling units per acre. At 6 dwelling units per acre, the site could accommodate 80 homes.



## **ABOUT THE BUILDER**

Dennis Thomas began his real estate career in San Mateo County in 1979 working at Coldwell Banker Commercial Real Estate in the City of San Mateo.

In 1984, Dennis opened up his own real estate firm, San Mateo Real Estate Inc., in the City of San Mateo where he still operates today. Dennis provides his clients with property management, real estate brokerage, and contractor services.

Dennis is also a builder of high-end custom homes on infill lots in unincorporated San Mateo County such as the proposed Ascension Heights project. Other projects completed by Dennis and San Mateo Real Estate include:

- The Jefferson Avenue subdivision in unincorporated Emerald Hills, which consists of seven custom homes on a former church site.
- The Emerald Estates Court subdivision in unincorporated Emerald Hills, which consists of seven custom homes sites.

Dennis is also involved in the San Mateo Community through his leadership as a board member and past Chairman of the San Mateo Area Chamber of Commerce, longtime member of the San Mateo Rotary, and through his support and involvement with the San Mateo Police Department Police Activities League (PAL).

Dennis and his wife have three grown children who were raised in San Mateo County and attended local public schools.

# **EXHIBIT A**



**PRELIMINARY PLANT PALETTE**

-  EXISTING PINE TREES TO REMAIN
-  EXISTING VEGETATION TO REMAIN
-  PINUS PINEA - Italian Stone Pine
-  OLEA EUROPEA - Olive Tree
-  AGAVE AMERICANA - Agave
-  ACACIA LONGIFOLIA - Golden Wattle  
or QUERCUS AGRIFOLIA - Coast Live Oak
-  HETEROMELESE ARBUTIFOLIA - Toyon  
ROMNEYA COULTERI - Matilja Poppy  
with MUHLENBERGIA RIGENS - Deer Grass  
at 4'-0" on center from 1" plugs
-  PINUS PINEA - Italian Stone Pine  
OLEA EUROPAEA - Olive Tree  
JUNIPERUS CHINENSIS 'TORULOSA' - Hollywood Juniper  
NERIUM OLEANDER - White Oleander  
COTONEASTER SPECIES - Cotoneaster  
HETEROMELESE ARBUTIFOLIA - Toyon
-  ARCTOSTAPHYLOS - Manzanita  
LEUCODENDRON SPECIES - Conebush  
LEPTOSPERMUM SPECIES - New Zealand Tea Tree

**ASCENSION HEIGHTS - PRELIMINARY SKETCH 'C'**

SCALE: 1" = 40'-0"

JUNE 1, 2015

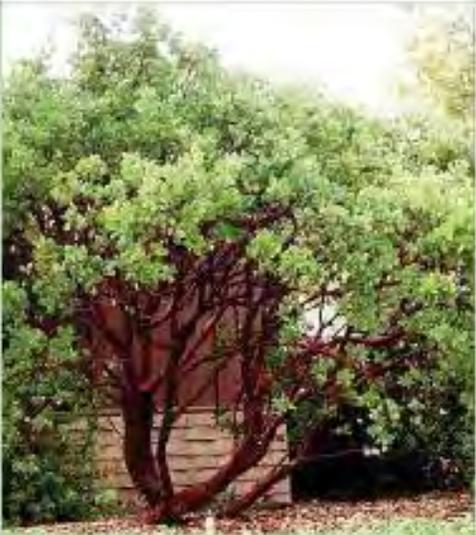


# **EXHIBIT B**

		NAME	CHARACTER
STREET TREES		<b>Italian Stone Pine</b> <i>Pinus pinea</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Moderate growth rate</li> <li>- 40' - 80' tall</li> <li>- 40' - 80' wide</li> <li>- Deep green needles</li> <li>- Broad &amp; flat topped</li> <li>- Very thick &amp; full canopy</li> <li>- Very low water use</li> </ul>
		<b>Olive Tree</b> <i>Olea europaea</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Fast growing in youth, then slowing with age</li> <li>- 25' - 30' tall</li> <li>- 25' - 30' wide</li> <li>- Soft gray-green</li> <li>- Foliage with smooth gray trunks</li> <li>- Very low water use</li> </ul>
ENTRY PLANTINGS		<b>Century Plant</b> <i>Agave americana</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Moderate growth rate</li> <li>- 8' tall</li> <li>- 12' wide</li> <li>- Hooked spines along margins</li> <li>- 15' - 40' flower stalk after 10+ years</li> <li>- Very low water use</li> </ul>

		NAME	CHARACTER
TREES ON SLOPE		<b>Sydney Golden Wattle</b> <i>Acacia longifolia</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Fast growing</li> <li>- 10' - 25' tall</li> <li>- 9' - 15' wide</li> <li>- Bright green lance-shaped leaves 3'-6" long</li> <li>- Scented golden yellow flower spike in late winter + early spring</li> <li>- Low water use</li> </ul>
		<b>Coast Live Oak</b> <i>Quercus agrifolia</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Slow growth</li> <li>- 20' - 70' tall</li> <li>- 20' - 70' wide</li> <li>- Stiff leathery green leaves with sharp teeth</li> <li>- 3/4" - 1 1/2" acorns appear in fall</li> <li>- Smooth gray bark becomes deeply fissure with age</li> <li>- Very low water use</li> </ul>
UNDERSTORY PLANTING ON SLOPE		<b>Toyon</b> <i>Heteromelese arbutifolia</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- 8' - 15' tall</li> <li>- 25' wide</li> <li>- 2" - 4" dark green leathery leaves</li> <li>- Edged with bristled pointed teeth</li> <li>- Small white flowers lead to bright red berries</li> <li>- Low water use</li> </ul>
		<b>Matilja Poppy</b> <i>Romneya coulteri</i>	<ul style="list-style-type: none"> <li>- Perennial</li> <li>- 6' - 8' tall</li> <li>- Dies back in late summer</li> <li>- Thick stems with irregular grey-green leaves appear in late winter</li> <li>- 9" white flowers with yellow centers</li> <li>- Very low water use</li> </ul>
		<b>Deer Grass</b> <i>Muhlenbergia rigens</i>	<ul style="list-style-type: none"> <li>- Evergreen grass</li> <li>- 4' tall</li> <li>- 4' wide</li> <li>- Bright green leaves form a dense, tight clump</li> <li>- Low water use</li> </ul>

		NAME	CHARACTER
SCREEN PLANTING		<b>Italian Stone Pine</b> <i>Pinus pinea</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Moderate growth rate</li> <li>- 40' - 80' tall</li> <li>- 40' - 80' wide</li> <li>- Deep green needles</li> <li>- Broad &amp; flat topped</li> <li>- Very thick &amp; full canopy</li> <li>- Very low water use</li> </ul>
		<b>Olive Tree</b> <i>Olea europaea</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Fast growing in youth, then slowing with age</li> <li>- 25' - 30' tall</li> <li>- 25' - 30' wide</li> <li>- Soft gray-green</li> <li>- Foliage with smooth gray trunks</li> <li>- Very low water use</li> </ul>
		<b>Hollywood Juniper</b> <i>Juniperus chinensis</i> 'Torulosa'	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- 15' tall</li> <li>- 10' wide</li> <li>- Irregular + upright with twisted appearance</li> <li>- Rich green foliage</li> <li>- Low water use</li> </ul>
		<b>White Oleander</b> <i>Nerium oleander</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Moderate to fast growth</li> <li>- 20' tall</li> <li>- 12' wide</li> <li>- Narrow dark green leaves</li> <li>- White flowers in late spring to fall</li> </ul>
		<b>Silk Tassel</b> <i>Garrya elliptica</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- 5'-10' tall</li> <li>- 8'-10' wide</li> <li>- Dark green leathery curled leaves with wavy edges</li> <li>- Long hanging flower catkins extend 3"-8" long</li> <li>- Very low water use</li> </ul>
		<b>Toyon</b> <i>Heteromelese arbutifolia</i>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- 8' - 15' tall</li> <li>- 25' wide</li> <li>- 2" - 4" dark green leathery leaves</li> <li>- Edged with bristled pointed teeth</li> <li>- Small white flowers lead to bright red berries</li> <li>- Low water use</li> </ul>

	NAME	CHARACTER
	<p><b>Manzanita</b> <i>Arctostaphylos</i></p>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Moderate growth rate</li> <li>- 8' tall</li> <li>- 6' wide</li> <li>- Tree-like shrubs</li> <li>- White or pink flowers in late winter to early spring</li> <li>- Cinnamon colored bark on twisted trunks</li> <li>- Low water use</li> </ul>
	<p><b>Conebush</b> <i>Leucadendron sp.</i></p>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- Moderate growth rate</li> <li>- 8' - 10' tall</li> <li>- 8' wide</li> <li>- Leaf color varies with species from deep green to gray green to red-tinged</li> <li>- Flowers vary from silvery green to pink to yellow</li> <li>- Moderate water use</li> </ul>
	<p><b>New Zealand Tea Tree</b> <i>Leptospermum sp.</i></p>	<ul style="list-style-type: none"> <li>- Evergreen</li> <li>- 6' - 10' tall</li> <li>- 6' wide</li> <li>- Small green leaves on fine textured limbs</li> <li>- Abundant tiny 1/2" flowers vary from deep pink to white in spring</li> <li>- Low water use</li> </ul>

# **EXHIBIT C**



## CALIFORNIA WATER SERVICE

Bayshore District 341 North Delaware Street  
San Mateo, CA 94401 Tel: (650) 558-7800

May 18, 2015

Dennis Thomas, President  
San Mateo Real Estate, Inc.  
1777 Borel Place, Suite 330  
San Mateo, CA 94402

**Re; Ascension Heights, San Mateo**

Mr. Thomas,

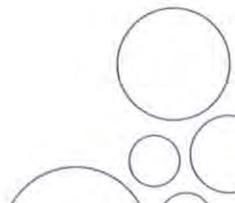
I have taken the opportunity to review the landscape design for Bel Aire Road in San Mateo Highlands, the plants that you have selected fit in our conservation theme, they are drought tolerant. Thank you for considering these types of outdoor plants, it is in times like the current drought that we appreciate the efforts of your development to sustain into the future.

We have also reviewed the water usage for this development and previously provided a "Will Serve" letter; currently we have the water supply allotment for this project entirely.

Again, I want to thank you for considering the environment when selecting the plant palette as you have, we wish more developers would use drought tolerant plants in their design.

Thank you,

Tony Carrasco  
District Manager, Bayshore



# **EXHIBIT D**



August 13, 2015

Mr. Dennis Thomas  
San Mateo Real Estates, Inc.  
1777 Borel Place, Suite 330  
San Mateo, CA 94402

Re: Will Serve Letter  
Ascension Heights Subdivision  
San Mateo, CA

Dear Mr. Thomas:

California Water Service Company, Bayshore District ("Cal Water") has determined that water is available to serve the above-referenced project based on the information provided. Cal Water agrees to operate the water system and provide service in accordance with the rules and regulations of the California Public Utilities Commission (CPUC) and the company's approved tariffs on file with the CPUC. This determination of water availability shall remain valid for **two years** from the date of this letter. If construction of the project has not commenced within this **two year** time frame, Cal Water will be under no further obligation to serve the project unless the developer receives an updated letter from Cal Water reconfirming water availability. Additionally, Cal Water reserves the right to rescind this letter at any time in the event its water supply is severely reduced by legislative, regulatory or environmental actions.

Cal Water will provide such potable water at such pressure as may be available from time to time as a result of its normal operations per the company's tariffs on file with the CPUC. Installation of facilities through developer funding shall be made in accordance with the current rules and regulations of the CPUC including, among others, Tariff Rules 15 and 16 and General Order 103-A. In order for us to provide adequate water for domestic use as well as fire service protection, it may be necessary for the developer to fund the cost of special facilities, such as, but not limited to, booster pumps, storage tanks and/or water wells, in addition to the cost of mains and services. Cal Water will provide more specific information regarding special facilities and fees after you provide us with your improvement plans, fire department requirements, and engineering fees for this project.

This letter shall at all times be subject to such changes or modifications by the CPUC as said Commission may, from time to time, require in the exercise of its jurisdiction.

If you have any questions regarding the above, please call me at (650) 558-7862.

Sincerely,

Leighton Low  
Superintendent II  
California Water Service

cc: Ting He – Cal Water Engineering Dept  
File

# **EXHIBIT E**

<b>NEIGHBOR CONCERNS FROM PREVIOUS PUBLIC COMMENT</b>	
<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
Don't build on the steep, eroded lots on the Ascension side	<ul style="list-style-type: none"> <li>• Six lots eliminated since 2009 plan; entire subdivision pulled back from the western edge.</li> <li>• The slopes of the remaining 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other County hillside developments including the surrounding area. With implementation of the mitigation measures specified in the EIR, including the detailed recommendations of the geotechnical study as required by Mitigation Measure 4.4-2b, the project can be safely constructed and will not pose any geological-related safety or hazard issues.</li> <li>• The development regulations contained in Policies 15.20.a through 15.20.d (Review Criteria for Locating Development in Geotechnical Hazard Areas), which discourage development on steeply sloping areas (generally above 30 percent), is also not applicable due to the project site's location outside of the established Geotechnical Hazard Area (Alquist-Priolo Hazard Zone). This was incorrectly cited in the December 2009 Planning Commission hearing as being a non-conforming situation.</li> </ul>
Provide buffer to Parrott houses – none provided, loss of privacy	<ul style="list-style-type: none"> <li>• The Parrott Drive residences will benefit from a comprehensive screening and privacy plan that includes 75 to 80 new evergreen screening trees planted along the property line to complement the existing mature, tall pine trees that will be preserved as part of the project.</li> <li>• Additionally a permanent 6 foot high fence will be immediately installed along the property line.</li> <li>• During project construction, a temporary mesh construction fence can also be erected 20 feet from the Parrott Drive property line if needed.</li> <li>• The applicant has experience with two infill developments in the Emerald Hills unincorporated community where tree screenings have been used successfully to protect existing residents.</li> </ul>

<b>NEIGHBOR CONCERNS FROM PREVIOUS PUBLIC COMMENT</b>	
<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
Unproven storm water storage/retention system putting storm water underground on steep hillside - Irresponsible Untried System	The proposed storm water retention system is required by law and complies with the Countywide Stormwater Pollution Prevention Program, State Water Resources Control Board requirements, and Federal Clean Water Act requirements. Additionally, the system has been reviewed and approved by the California Water Service Company and the Crystal Springs County Sanitation District. These retention systems have been installed extensively throughout all types of residential construction projects – both level and sloped – throughout San Mateo County. There have been no issues with their performance.
FEIR inadequate missing key information – Developer trying to hide defect in the project, storm water, noise, Blue Butterfly, water usage	<ul style="list-style-type: none"> <li>• An independent environmental consulting firm selected by the County Planning Department prepared the DEIR and FEIR. This independent firm did not take any direction from the builder and was managed and directed solely by County staff.</li> <li>• A qualified biologist has been engaged to survey the project site for any evidence of the Mission Blue Butterfly. Surveys for the Mission Blue Butterfly were performed in 2005, 2008, 2012, 2013, and 2015. These surveys were performed during the appropriate identification periods for adults during the months of March – July and for juveniles during the wet season. No butterflies or their host plant were observed in any of these surveys. .</li> <li>• Based on the lack of evidence of the species on the site as evidenced by the multiple, prior surveys, the FEIR does not propose or require any restrictions or mitigations related to the Mission Blue Butterfly.</li> </ul>
New dangerous blind intersection at Bel Aire entrance/exit	The County Public Works Department and their traffic engineers have approved the intersection plan. The plan calls for the installation of convex mirrors at the entrance for additional view angles and safety and restrictions are proposed to prevent visual obstructions due to walls, fencing, plantings, or parked cars.
Massive retaining walls required at the site entrance	The retaining walls at the entrance are six feet high and are consistent with County requirements in the area.

<b>NEIGHBOR CONCERNS FROM PREVIOUS PUBLIC COMMENT</b>	
<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
Steep road pushing very edge of legal (20% slope, which is absolute maximum)	The road is built to County specifications, conforms to the standards set by the Public Works Department and is approved by the County Fire Marshal.
Uncaring attitude to endangered species and flora and fauna on the hill	As part of the DEIR and FEIR analysis independent, qualified biologists conducted surveys conforming to federal and state agency protocols for special status plant and animal species. Additional surveys will be conducted for specified bird species at required milestones in the pre-construction and construction phases of the project. No mitigation requirements are needed for habitat restoration or endangered species such as the Mission Blue Butterfly. Additionally, of the 43 trees identified for removal, none have been identified as heritage status.
Destruction of known foraging location for animals and large birds	The FEIR addresses all aspects of the project's potential impacts and County staff has determined the project is not likely to cause serious public health problems, substantial environmental damage, or substantial injury to fish or wildlife or their habitat. Additionally, of the 43 trees identified for removal, none have been identified as heritage status. Preservation of 7.6 acres of open space will allow for the continued use of the property for foraging by bird and other species.
Air pollution and health risks (science is advancing every year on this subject)	The project will present negligible impacts to public health as conditioned. The FEIR thoroughly examines potential impacts (specifically within Section 4.2, Air Quality and Greenhouse Gas Emissions) and proposes mitigation measures to reduce any possible impact as a result of the grading and construction activities to a less than significant level. These mitigation measures are consistent with the Basic Construction Measures recommended by the Bay Area Air Quality Management District, which specifies type of heavy-duty equipment, off-haul practices, and other best practices to be required during grading activities.
Traffic 28% increase during day	The traffic studies all indicate no significant impacts on the local roads. The project will generate 228 trips during a 24-hour period, or an average of less than 10 trips per hour.

<b>NEIGHBOR CONCERNS FROM PREVIOUS PUBLIC COMMENT</b>	
<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
Noise – for 30 adjacent neighbors. 300 close homes will have noise 6 days a week	<ul style="list-style-type: none"> <li>• The construction activity conforms to all regulations for sound and noise requirements.</li> <li>• Construction activities can only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturdays. Construction activities cannot occur on Sundays, Thanksgiving, or Christmas. The intent of this measure is to prevent construction activities during the more sensitive time period and minimize the potential for effects.</li> <li>• Stationary equipment and staging areas shall be located as far as practical from noise-sensitive receptors.</li> <li>• All construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and acoustical shields or shrouds, in accordance with manufacturers' recommendations.</li> </ul>
HOA – Placing impossible burdens on HOA so developer can escape responsibility	Per the mitigation measures of the FEIR and conditions of approval recommended by County staff, all potential impacts of the project will be adequately addressed. The applicant will be responsible for satisfactorily addressing these impacts under County supervision and oversight, not the Baywood Park HOA.
Untreated runoff on the Ascension side	Currently the undeveloped site produces untreated runoff throughout the site onto adjacent streets, sewers, and local streams impacting the natural habitat. The development of the site will provide the necessary funding to construct required private and public infrastructure upgrades that will manage the untreated storm water runoff throughout the project site and fix the unsightly and unstable eroded areas for the life of the project. Without this development there is no funding for soil and erosion control measures.
California Water Service Company and the Crystal Springs County Sanitation District.	California Water Service Company and the Crystal Springs County Sanitation District have reviewed all water-related aspects of this project and have communicated their approval to the County with "will serve" letters.

<b>NEIGHBOR CONCERNS FROM PREVIOUS PUBLIC COMMENT</b>	
<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
Homes “out of character with the neighborhood” (3-story vs 1 or 2-story)	In response to concerns from existing neighbors regarding the uncertainty of eventual building heights, style, construction materials, and other important design elements due to the lack of a County regulation, the builder has voluntarily prepared design guidelines that will maintain an overall vision for Ascension Heights homes that complements the existing homes in the area. The guidelines include an average height profile restriction of 28 feet; project conditions will require the homes to be built as described in the guidelines.
Steep lots – dangerous and long term liabilities for everybody	The slopes of the proposed 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other hillside developments within the County unincorporated areas, including the surrounding neighborhoods. With implementation of the mitigation measures specified in the FEIR, including the detailed recommendations of the geotechnical study as required by Mitigation Measure 4.4-2b, the project can be safely constructed and will not pose any geological-related safety or hazard issues.
Slides adjacent to/nearby this hill – Los Altos, Rainbow (three times!) are ignored	<ul style="list-style-type: none"> <li>• The development regulations contained in Policies 15.20.a through 15.20.d (Review Criteria for Locating Development in Geotechnical Hazard Areas), which discourage development on steeply sloping areas (generally above 30 percent), are not applicable due to the project site’s location outside of the established Geotechnical Hazard Area (Alquist-Priolo Hazard Zone). This was incorrectly cited in the December 2009 Planning Commission hearing as being a non-conforming situation.</li> <li>• The soil type in the neighboring properties experiencing slides is Franciscan Melange soil.</li> <li>• The soil type on the Ascension Heights property is hard bedrock, which is not susceptible to the neighboring slides.</li> <li>• These facts are supported by the results of 52 boring samples taken from throughout the project site.</li> </ul>

<b>NEIGHBOR CONCERNS FROM PREVIOUS PUBLIC COMMENT</b>	
<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
Assumed mitigation to “fix” erosion on the Ascension side doesn’t have plan or cost	The project is estimated to provide private funding totaling over \$5,000,000 for permits and fees, public and private infrastructure upgrades, and school impact fees. Project plans specifically call for soil and erosion control through the use of landscaping and storm water systems.
Hydrology changes due to construction not addressed (most neighbors have French drains or sump pump)	The hydrology study and modern construction practices do provide for drainage and controls. The nearby properties were not built to current standards, and do not benefit from current technology.
Long Term Liabilities – Numerous long-term liability issues. Who will be responsible?	Per the mitigation measures of the FEIR and conditions of approval recommended by County staff, all potential impacts of the project will be adequately addressed. The applicant will be responsible for satisfactorily addressing these impacts under County oversight, not the Baywood Park HOA.

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>The neighbors immediately adjacent to the Ascension Heights proposed construction are concerned about the number of proposed houses, the multi-year construction period, extensive amount of soil disturbance, probability of serious health problems for nearby occupants and extensive disruption to their lives for 4-5 years.</p>	<p>The FEIR addresses all aspects of the project's potential impacts and County staff has determined the project is not likely to cause serious public health problems, substantial environmental damage, or substantial injury to fish or wildlife or their habitat.</p> <p>It is currently estimated that the project will be built out over a period of approximately 3 years.</p> <p>Grading of the property and installation of roads and infrastructure will occur first, over a period of approximately 6 months. Once site preparation is complete, the home construction will begin.</p>
<p>One other question concerns the water tank. What is the likelihood the grading would undercut the supports for the tank and would this increase the probability of tank failure in an earthquake? This tank is may be our only source of water for fire- fighting after an earthquake.</p>	<p>The grading plan will specifically avoid any damage to the water tank or its stability.</p> <p>Additionally the California Water Service Company has reviewed project plans and has no substantive concerns.</p>
<p>Our neighborhood sewer assessments have increased substantially. I understand the lateral connections from our houses may allow ground water to enter the sewer system requiring us to pay the City of San Mateo to enlarge their treatment plant. The enormous amount of heavy traffic (20 cu yd trucks) along city streets may break these laterals requiring homeowners to pay for repair. Will the developer be required to reimburse homeowners for the broken laterals as well as re-surfacing the streets?</p>	<p>In the 35-year history of this builder working in San Mateo County's unincorporated communities, he has never experienced damage caused by heavy truck traffic. If damage were to occur that could be attributed to the project, the builder would be required to pay to fix the damage.</p>
<p>The traffic to CSM is very busy almost every hour as classes let out and begin. How much worse will the traffic be once construction and earth movement begins—what does the traffic model illustrate?</p>	<p>All phases of construction will require traffic management plans approved by the County.</p> <p>Traffic management plans will address all aspects of public safety and commute patterns such as high activity times at the College of San Mateo.</p>
<p>Why should a developer have the right (power?) to enter a mature neighborhood and create such disruption, health hazards and overall impact on those of us who have lived here for years?</p>	<p>Since 1958, the project site has been zoned R-1/S-8 single family residential. The project site has never been zoned for any other use, such as open space or parkland.</p>

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>I have reviewed the DEIR and although there are serious deficiencies in many aspects of the Option B descriptions, the alternatives, C and D, are completely lacking grading details for the entire site, as well as individual lots. There is virtually no ability for anyone to determine the relative advantages or disadvantages of Option B or any of the alternatives. This DEIR is completely inadequate in this regard and must be corrected before any final determination can be made.</p>	<p>The FEIR document meets all of the legal requirements of CEQA in the County of San Mateo and the State of California.</p>
<p>In the DEIR non-proscriptive words such as "should", "may", "could" are used frequently to qualify most of the critical mitigation methods. This technique of not explicitly requiring mitigation methods would eliminate most, if not all, enforcement capabilities and emasculate the EIR.</p>	<p>The FEIR contains final details about the entire project. Implementation of all mitigation measures is mandatory and will be imposed as conditions of approval by the County. Further, County staff will monitor and enforce implementation of the measures as needed. This document meets the legal requirements of CEQA.</p>
<p>I am very concerned about the cost and effort required to clean up all the dust that will cover my property for many years since the graded land will not be re-planted until completion of the project. I do not see anything in the DEIR addressing cleaning the tremendous amount of dust that will accumulate on my property.</p>	<p>As an infill project in an existing neighborhood, the builder is especially sensitive to the needs and concerns of the residents living in existing homes surrounding the proposed project site. The builder has a history of developing infill custom residential projects in existing neighborhoods and has established relationships with local subcontractors who share the same sensitivities for existing neighbors. The builder has selected Gary Pollack Construction and Excavation as the subcontractor to perform the grading work. This firm is a local San Mateo County based company with 25 years of experience and knowledge regarding the rules and environmental requirements of the California Air Resource Board, Bay Area Air Quality Management District, and the San Mateo County Planning and Building Departments. All legally required dust and debris mitigation control measures will be used to minimize dust and other particles from being released during all phases of the project.</p>

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>Previous neighborhood presentations have acknowledged the probability that naturally occurring asbestos may be contained in the dust. I do not find any reference in the DEIR to monitoring and control of or the risks associated with asbestos.</p>	<p>There is no evidence that there is naturally occurring asbestos on the project site. All legally required dust and debris mitigation control measures will be used to minimize dust and other particulate from being released during all phases of the project.</p>
<p>I have a child less than 2 years of age and live next to the proposed development. The construction dust has been demonstrated to cause allergies/asthma that may be of life-long duration. Will I have to sue the developer to recover medical and quality of life costs? Or is there a requirement included in DEIR for the developer to compensate me?</p>	<p>Based on investigation, review, and analysis conducted by County Staff, reviewing County agencies, and the environmental consultant who prepared the FEIR, the project will not result in a serious public health problem or cause substantial environmental damage.</p>
<p>High noise levels have been demonstrated to cause serious psychological illnesses. The configuration of the hillside, both before and after grading, will act as a sound focusing structure pointing directly at the nearest neighbors. This will increase substantially the sound levels above standard estimates included in the DEIR resulting in, in addition to the extreme grading noises, all construction sounds throughout the entire 4-5 year project will negatively impact the entire neighborhood. No sound focusing analyses are included in the DEIR.</p>	<p>All aspects of the construction activity, including sound and noise abatement, has been studied and addressed by the FEIR and appropriate noise mitigations measures have been identified. It is currently estimated that the project will be built out over an approximately 3-year period.</p>
<p>The proposed grading plan has very steep graded slopes (up to 1.5:1) that run across several of the proposed lots. These grades are excessive and will result in very high retaining walls (30+ ft.) and houses with extensive walls</p>	<p>The slopes of the proposed 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other hillside developments within the County unincorporated areas and the surrounding neighborhoods. Based on the submitted geotechnical reports included within the FEIR, no potential hazards were identified with developing the site as proposed. The builder's plans do not include any retaining walls of 30 feet.</p>

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>In the DEIR, there are no calculations of grading volumes required for individual lot construction. The large volume of graded material for individual lots would need to be exported off site. Off hauling large volumes of material will further impact neighboring roadways, traffic, air quality, and noise. These impacts have been explicitly excluded from the DEIR calculations but they will continue to affect the neighborhood over the entire 5-year period house construction.</p>	<p>According to the vesting tentative subdivision map sheet C-3, the proposed project is estimated to require the off hauling of 26,510 cubic yards of dirt with an estimated 2,253 truck trips required to transport the material. Based upon previous experience, the project team estimates the ability to make 100 truck trips per day depending on the work restrictions in the grading and excavation permit and external factors (e.g. weather). The FEIR includes specific calculations for the truck trips in the air quality model. The truck trips will only occur during the grading period. Once grading is complete, there will be only occasional need for haul trucks to and from the site.</p>
<p>A substantial number of lots will require very large “cripple” walls (some as much as 16ft) supporting the house between the ground surface and first floor level. Total height of a two-story residence on such lots could exceed 40 feet. This house design is not typical of the surrounding neighborhood as assumed in the DEIR, and will create a significant negative visual impact.</p>	<p>In response to concerns from existing neighbors regarding the uncertainty of eventual building heights, style, construction materials, and other important design elements due to the lack of a County regulation, the builder has voluntarily prepared design guidelines that will maintain an overall vision for Ascension Heights homes that complements the existing homes in the area. The guidelines include an average height profile restriction of 28 feet; project conditions will require the homes to be built as described in the guidelines.</p>

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>Areas of severe erosion are present on the property. Michelucci &amp; Associates noted several areas of erosion features and presented three options to stabilize these features (Geotechnical Investigation, 2002, page 19). This consultant also identified a specific option to be considered for the prominent gully above the Bel Aire/Ascension intersection. In 2003 and 2008, Treadwell &amp; Rollo noted the severe erosion areas and recommended mitigating further erosion by controlling runoff and repairing and revegetating the eroded areas. This erosion contaminates the storm sewer runoff, accumulates on the surface streets, creates dust when dry and is potential health hazard. The DEIR should explicitly require that this erosion be repaired permanently.</p>	<p>The development of the site will provide the necessary funding to construct required private and public infrastructure upgrades that will manage the untreated storm water runoff throughout the project site and fix the unsightly and unstable eroded areas for the life of the project. Without this development there is no funding for soil and erosion control measures.</p>
<p>The proposed development plan indicates that the most severe area of site erosion (prominent gully above Bel Aire/Ascension intersection) is to be contained within a designated undisturbed area. Consequently, we understand that erosional features in this area are not proposed for repair. Project grading and drainage plans also do not specifically address other areas of site erosion problems.</p>	<p>The development of the site will provide the necessary funding to construct required private and public infrastructure upgrades that will manage the untreated storm water runoff throughout the project site and fix the unsightly and unstable eroded areas for the life of the project. Without this development there is no funding for soil and erosion control measures.</p>

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>The proposed graded slopes steeper than 2:1 (horizontal:vertical) across proposed residential building sites results in the following geotechnical and environmental impact concerns that should be addressed in the DEIR. In addition, to adequately address important differences between the development alternatives, and to arrest significant ongoing site erosion, Items 4 and 5 also be addressed in the DEIR.</p>	<ul style="list-style-type: none"> <li>• The slopes of the proposed 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other hillside developments within the County unincorporated areas. Based on the submitted geotechnical reports included within the EIR, no potential hazards were identified with developing the site as proposed.</li> <li>• The development of the site will provide the necessary funding to construct required private and public infrastructure upgrades that will manage the untreated storm water runoff throughout the project site and fix the unsightly and unstable eroded areas for the life of the project. Without this development there is no funding for soil and erosion control measures.</li> <li>• The FEIR is now complete and has reviewed all of the geotechnical and environmental impact concerns identified in the DEIR.</li> </ul>
<p>Slopes steeper than 2:1 will have an increased potential for erosion and instability. Given that site earth materials have a high erosion potential, and that adequate vegetation cover will not be readily established on cuts exposing bedrock, we anticipate that the proposed project design will result in accelerated erosion. Necessary coordinated drainage control improvements across individual lots are not depicted on development plans. The proposed design does not appear to be consistent with County requirements to minimize erosion and sedimentation from new projects. Reduced final graded slopes should be considered from an erosion control perspective.</p>	<ul style="list-style-type: none"> <li>• The slopes of the proposed 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other hillside developments within the County unincorporated areas. Based on the submitted geotechnical reports included within the EIR, no potential hazards were identified with developing the site as proposed.</li> <li>• The development of the site will provide the necessary funding to construct required private and public infrastructure upgrades that will manage the untreated storm water runoff throughout the project site and fix the unsightly and unstable eroded areas for the life of the project. Without this development there is no funding for soil and erosion control measures.</li> </ul>

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>From an aesthetics perspective, we have not seen an adequate evaluation in the DEIR of visual impacts related to potential house design challenges resulting from very steep slopes proposed across depicted building envelopes. The visual mass of buildings will likely be most significant for very steep lots on the downslope side of access roadways. Graphics showing homes located on proposed slopes should be prepared.</p>	<p>In response to concerns from existing neighbors regarding the uncertainty of eventual building heights, style, construction materials, and other important design elements due to the lack of a County regulation, the builder has voluntarily prepared design guidelines that will ensure that Ascension Heights homes are visually appealing and complement the existing homes in the area. The guidelines include an average height profile restriction of 28 feet; project conditions will require the homes to be built as described in the guidelines.</p>
<p>Very steep proposed lot slopes also result in the apparent need for significant grading during the house construction phase. The DEIR does not address the magnitude or potential impacts of grading required to establish viable floor level elevations for new residences. Very steep lots located on the upslope side of access roadways will likely require the most grading during the house construction phase. On steep lots, most of the excavated earth materials will need to be trucked from the site with resulting potential neighborhood construction period and air quality impacts. Probable grading volumes that will result in the establishment of new homes on depicted lots should be presented. Proposed creation of final graded slopes steeper than 2:1 across future house sites should be reconsidered for conformance with prevailing construction practices in the Bay Area.</p>	<ul style="list-style-type: none"> <li>• The slopes of the proposed 19 parcels range from 12 percent to 48 percent, with the average being approximately 35 percent. The slope of the terrain is typical of other hillside developments within the County unincorporated areas. Based on the submitted geotechnical reports included within the FEIR, no potential hazards were identified with developing the site as proposed.</li> <li>• The landscaping plan specifically identifies erosion control drought resistant plantings to be added after the project site has been properly re-graded.</li> </ul>

**BAYWOOD PARK HOA CONCERNS LISTED ON WEBSITE**

<b>CONCERN</b>	<b>HOW PROJECT WILL ADDRESS CONCERN</b>
<p>In order to allow adequate comparisons between the Project Alternatives, the following information should be presented for each alternative design:</p> <ul style="list-style-type: none"> <li>• Total required excavation and fill volumes (including probable grading required to establish viable house floor levels);</li> <li>• Extent of required retaining structures (lineal feet of wall and square footage of wall face);</li> <li>• Square footage of site disturbance required for grading;</li> <li>• Number of truck trips and associated impacts for earth material export for full project buildout (including the quantity and duration of earth material trucking during house construction); and</li> <li>• Assessment of air quality impacts.</li> </ul>	<p>According to the vesting tentative subdivision map sheet C-3, the proposed project is estimated to require the off hauling of 26,510 cubic yards of dirt with an estimated 2,253 truck trips required to transport the material. Based upon previous experience, the project team estimates the ability to make 100 truck trips per day depending on the work restrictions in the grading and excavation permit and external factors (e.g. weather).</p>
<p>Ongoing potentially significant sources of siltation should be corrected as part of the proposed project. Existing site gullies will continue to enlarge unless corrective measures are employed to arrest significant site erosion features. Appropriate repair options presented in project geotechnical investigation reports should be selected and be incorporated into project development plans.</p>	<ul style="list-style-type: none"> <li>• The development of the site will provide the necessary funding to construct required private and public infrastructure upgrades that will manage the untreated storm water runoff throughout the project site and fix the unsightly and unstable eroded areas for the life of the project. Without this development there is no funding for soil and erosion control measures.</li> <li>• Additionally, the County Building Department requires the submittal of an Erosion Control Plan for winter activities. The plan calls for specific soil retention practices to provide for winter grading activities. These practices have been implemented for many years and have proven to be extremely effective in controlling runoff during winter months.</li> </ul>

October 12, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

I support the Ascension Heights project because it proposes a high quality infill development that has undergone significant modifications to ensure compatibility with the existing residential neighborhood and address concerns related to site preparation, construction activities, and ongoing issues such as public access and permanent erosion and soil control improvements.

The project will fund \$5,000,000 in much-needed infrastructure, environmental protection, and other improvements that will not be possible without the construction of these homes.

Property owners have a right to develop their properties in accordance with all rules, regulations, zoning and engineering standards currently applied in the San Mateo County's unincorporated communities. Simply not wanting to have a new set of neighbors and be impacted for a limited amount of time during construction activities is not reason enough to say no to 19 much needed homes in San Mateo County.

San Mateo County is in the midst of a housing crisis and the Ascension Heights project is the right proposal for a site that has always been envisioned for single-family housing. I urge the Planning Commission to approve this project.

Thank you,



David Skromme  
Local Business Owner

Cc: James Castaneda, San Mateo County Planning Department



111 Anza Blvd., Suite 320  
Burlingame Ca, 94010

October 6, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

RE: Ascension Heights Nineteen Lot Residential Project

Dear Honorable Members of the Planning Commission:

The Ascension Heights project should be approved at your October 14, 2015 meeting.

The Foster Family has a long tradition of building residential and commercial projects in San Mateo County. Over time local, state and federal requirements have made San Mateo County an increasingly more difficult place to build.

The Ascension Heights project has proven itself to be one of the best projects and worthy of the Planning Commission's approval.

I know the builder personally and I would trust Dennis Thomas to build a house next door to mine. Dennis does not cut corners, he respects environmental regulations, and he will leave the project site in better condition than when he first found it.

Neighbor concerns for quality of life are normal for any project. And the San Mateo Highlands and Baywood Park neighborhoods are to be respected for their focus on demanding the best project. Now that a great project is before you, please approve it.

Sincerely,



Todd Foster  
Foster Enterprises

Cc: James Castaneda, San Mateo County Planning Department



**F O S T E R**  
**ENTERPRISES**

111 Anza Blvd., Suite 320  
Burlingame Ca, 94010

October 6, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

RE: Ascension Heights Nineteen Lot Residential Project

Dear Honorable Members of the Planning Commission:

Please approve the Ascension Heights project and the 19 new homes it will provide in San Mateo County.

I recently read that the Housing Leadership Council of San Mateo County estimates in the last three years, the county has increased employment by 40,000 workers but only built 3,000 new homes. Whatever the exact statistics, San Mateo County has a shortage of housing units and we need even 19 new homes to begin to turn back the tide.

The Planning Commission has done a good job of vetting this project and requiring changes that will result in a better project during construction and the lifetime of the new homes.

Now it is time to approve this project and get it built and get people living in the homes and settling into the existing community around them. Please do not delay in approving this project.

Sincerely,

T. Jack Foster, Jr.  
San Mateo County Resident

Cc: James Castaneda, San Mateo County Planning Department

**Planning-Commission - Water Tank Hill Project in San Mateo County**

---

**From:** Arthur Grinstead <awgrin@sbcglobal.net>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/7/2015 8:32 PM  
**Subject:** Water Tank Hill Project in San Mateo County  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>

---

To the Above Addresses,

The Developer recently has submitted pictures of various Architectural Styles that are being considered.

I feel this is a very inadequate response. We need actual to scale CAD pictures/drawings of the buildout from various perspectives including Aerial, Parrott Drive, CSM. I would also like to know about the 'shadow effects' these dwellings will have on the Parrott Drive houses.

Another concern, besides the ones our HOA have submitted, are the microwave towers. Microwaves are very insidious. What is the circumference of danger? Does this infringe upon the designated Open Space? Will there be warning signs posted? What are the lines of transmission? Is any portion of the New Development in this line?

I have lived here most of my life (family purchased the house in December 1954). Proposals for developing this land have been going on since the 1970s. I wish there was some end to all this; but for now I hope you proceed, as before, against the development, as it is just too much for such a small mostly vertical space.

Sincerely,

Art Grinstead  
1527 Parrott Drive  
San Mateo, CA 94402-3604  
650-345-7772

**Planning-Commission - please reconsider against the tank Hill Construction?**

---

**From:** Ines Malardino <ines@malardino.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/8/2015 8:50 AM  
**Subject:** please reconsider against the tank Hill Construction?

---

This is concerned request you and the group to please reconsider the approval of the Tank Hill development for so many reasons.

If you walk the site you can see the plight you will be putting the people living on Parrott Drive thru. They will be living in darkened homes and no privacy whatsoever, not to mention their situations living there with the upheaval of noise, dust, traffic and acrimony for the next decade. So many of these people are seniors. The upheaval of this decade of construction will affect the entire area with the CSM traffic on top of it all, regardless of the developers 'efforts'. There is also the issue the is an area of known land movement.

It is known: there will be large trucks hauling dirt through the neighborhood to or from the site every 1.5 to 4 minutes.

It is risky to the water drainage system that is only designed for 10yr storms where the norm is 100 year storms. Wind driven dust, allergens and diesel exhaust emissions pose serious, and often immediate, health hazards (death, heart attack, stroke, childhood lung development, asthma and COPD) for at least 400 identified local residents (less than 16 years of age including unborn children, men over 55, and everyone with asthma or chronic lung diseases) at serious risk throughout the construction period. Air pollution is projected in the 2014 FEIR to be 470% above the EPA National 24 hour standard, resulting in a near doubling of the neighborhood projected death rate during the construction period.

Ines Malardino  
Coldwell Banker  
Broker Associate BRE #00620122  
Certified Residential Specialist  
International President's Circle  
Email: ines@malardino.com  
Website: malardino.com  
650.291.0012

**Planning-Commission - Water Tank Hill**

---

**From:** wendy woodard <woodard.wendy@gmail.com>  
**To:** <planning-commission@smcgov.org>  
**Date:** 10/8/2015 8:53 AM  
**Subject:** Water Tank Hill

---

Please do NOT approve this development.

There is NO water, we are in a drought.

Can not tolerate the dirt and trucks.

Air pollution from project.

This area, Crystal Springs shopping center, highway 92 and Hillsdale blvd. can not support any more people or cars.

Thank you,  
Wendy Woodard  
1367 Parrott Drive

## Planning-Commission - Opposed to Ascension Heights Development

---

**From:** Riki Nakasuji <rnakasuji@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/8/2015 11:18 AM  
**Subject:** Opposed to Ascension Heights Development  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...>

---

Dear Supervisor Pine, Supervisor Groom and Mr. Castaneda,

As a resident of the area I'd like to voice my grave concerns for the Ascension Heights Development project. I'm a new resident and homeowner to the area as of last December and upon learning about the details of this proposal am very concerned about the risks and damage that the development creates.

From what I understand the proposal, while amended, still fails to address the major sloping/erosion, drainage and pollution issues in addition to privacy and traffic concerns by surrounding neighbors. On a personal note, as a soon to be father to my first child (due December 25th) from the research that I've seen the potential health risks alone should make this a non-starter.

As resident of the Bay Area all my life, I don't resist change and in fact have welcomed much of the expansion and improvement when in service of our communities. However, this project as it's currently planned creates too many long term and short term risks that are at the expense and detriment of our residents health and well-being.

While I've not met you personally, I'm hopeful that you'll consider the best interests of the affected community and I implore you to decline the approval of this project.

Thank you for your attention and your time.

All the best,

Riki Nakasuji  
(1492 Ascension Drive)

## Planning-Commission - Opposition to the Ascension Heights Project

---

**From:** Gina Blohowiak <gmblohowiak@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/8/2015 2:48 PM  
**Subject:** Opposition to the Ascension Heights Project  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, Craig ...

---

Dear Members of the Planning Commission:

I hope this email finds you well. I live at 1492 Ascension Dr and have many concerns about the Ascension Heights Project.

While the proposal was amended, I don't believe it satisfies the community's needs. My main concern is around the safety and health of my family, especially as I'm currently pregnant and my husband and I plan to continue to grow our family. The biggest issues in my opinion are around pollution, dust/asbestos, drainage, traffic and sloping/erosion. The current project creates too many long term and short term risks that are at the expense and detriment of our residents health and well-being.

If this project is approved, my family will be looking for a new home and community. I certainly don't think you want to drive out the residents, but I think that's what this development will do.

I hope you all seriously consider the residents' concerns and reject this proposal.

Thank you,  
Gina Blohowiak

**Planning-Commission - Ascension Heights Development: Objection**

---

**From:** kinmon lee <kinmonl@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/8/2015 4:23 PM  
**Subject:** Ascension Heights Development: Objection

---

**Hi Planning Commission,**

**I'm writing to you to voice my objection to the ascension height development plan for reasons below. I'm a Parrott resident (1163 Parrott Drive) and would kindly request you to take my objection into consideration.**

**THE CHANGES BY THE DEVELOPER ARE MINOR. All THE MAJOR ISSUES FROM FEBRUARY 25TH REMAIN THE SAME.**

- 19 homes laid out in a dense grid pattern on very steep slopes
- Large trucks hauling dirt through the neighborhood to or from the site every 1.5 to 4 minutes.
- Risky water drainage system that is only designed for 10yr storms where the norm is 100 yr storms.
- Dangerous blind intersection on Bel Aire Road
- Air pollution surpassing standards that will adversely affect the health of infants and the elderly
- Building too close to mature trees.
- No privacy for Parrott residents. New homes will be looming over the backyards of Parrott residents.

Kinmon Lee  
1163 Parrott Drive  
San mateo, ca 94402

**Planning-Commission - Ascension Heights Development: Objection**

---

**From:** kinmon lee <kinmonl@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/8/2015 4:23 PM  
**Subject:** Ascension Heights Development: Objection

---

**Hi Planning Commission,**

**I'm writing to you to voice my objection to the ascension height development plan for reasons below. I'm a Parrott resident (1163 Parrott Drive) and would kindly request you to take my objection into consideration.**

**THE CHANGES BY THE DEVELOPER ARE MINOR. All THE MAJOR ISSUES FROM FEBRUARY 25TH REMAIN THE SAME.**

- 19 homes laid out in a dense grid pattern on very steep slopes
- Large trucks hauling dirt through the neighborhood to or from the site every 1.5 to 4 minutes.
- Risky water drainage system that is only designed for 10yr storms where the norm is 100 yr storms.
- Dangerous blind intersection on Bel Aire Road
- Air pollution surpassing standards that will adversely affect the health of infants and the elderly
- Building too close to mature trees.
- No privacy for Parrott residents. New homes will be looming over the backyards of Parrott residents.

Kinmon Lee  
1163 Parrott Drive  
San mateo, ca 94402

## Planning-Commission - Ascension Heights Development

---

**From:** m g <marvingin@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/8/2015 8:54 PM  
**Subject:** Ascension Heights Development  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>

---

To All,

As a property tax payer, voter and resident of San Mateo County at 1459 Parrott Drive, I OPPOSE the Ascension Heights Development project. I have opposed the project several times over already and I oppose this project again.

I will not be at the meeting on the morning of October 14 because I will be at work.

The changes made by the developer are minor and laughable. All the major issues from February 25<sup>th</sup> remain the same.

- 19 homes laid out in a dense grid pattern on very steep slopes
- Large trucks hauling dirt through the neighborhood to or from the site every 1.5 to 4 minutes.
- Risky water drainage system that is only designed for 10yr storms where the norm is 100 yr storms.
- Dangerous blind intersection on Bel Aire Road
- Air pollution surpassing standards that will adversely affect the health of infants and the elderly
- Building homes too close to mature trees.
- No privacy for Parrott residents. New homes will be looming over the backyards of Parrott residents.

I'm a STAKEHOLDER'S in this project not just the developer. Address these issues!

Thank you,  
Marvin Gin

*Jersey Mike's Subs  
2925 South El Camino Real  
San Mateo, CA 94403*

October 1, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

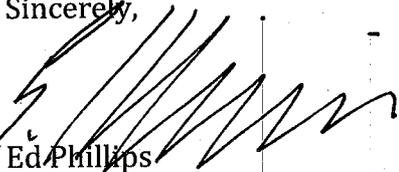
I have known and served side-by-side with Dennis Thomas for a number of years at countless community events with the San Mateo Rotary, the San Mateo Area Chamber of Commerce, and the San Mateo Police Activities League.

Dennis is a hard working businessman who has earned everything he has worked for and always given back to the community.

I cannot imagine a better person than Dennis Thomas to build a new community on the vacant land at Ascension Heights. Dennis is from this community, he cares about this community, and he will take great pride in his work at this site and protect the quality of life for those already there.

Approve the Ascension Heights project if you want an upstanding local resident to build a quality project that everyone will be proud of when it is finished.

Sincerely,



Ed Phillips

President, San Mateo Rotary and Owner, Jersey Mike's Subs

Cc: James Castaneda, San Mateo County Planning Department

**Planning-Commission - I am against the WAtEr Tank Hill Development**

---

**From:** Martha Phillips <m9phillips@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/9/2015 8:47 PM  
**Subject:** I am against the WAtEr Tank Hill Development  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>

---

Please vote NO and reject the developer's request to put tight close housing on the steep water tank hill in the Baywood Park area of unincorporated San Mateo. Save our neighborhood. Please preserve my property value.

Vote NO.

And here's why:

1. 19 homes laid out in a dense grid pattern on very steep slopes
2. Large trucks hauling dirt through the neighborhood to or from the site every 1.5 to 4 minutes.
3. Risky water drainage system that is only designed for 10yr storms where the norm is 100 yr storms.
4. Dangerous blind intersection on Bel Aire Road
5. Air pollution surpassing standards that will adversely affect the health of infants and the elderly
6. Building too close to mature trees.
7. No privacy for Parrott residents. New homes will be looming over the backyards of Parrott residents.

These are really big issues. The things the developer has updated since being challenged are very small and insignificant by comparison. Just because they put out a 35 page report, does NOT mean they're making significant improvement to their plan.

PLEASE VOTE NO.

Thanks for your attention to this.

A Concerned Neighbor,  
Martha Phillips

**Planning-Commission - Fwd: Ascension Heights subdivision - Craig please send to commissioners ...not letting me send for some reason**

---

**From:** Craig Nishizaki <watertankhill2013@gmail.com>  
**To:** "planning-commission@smcgov.org" <Planning-Commission@smcgov.org>, James...  
**Date:** 10/10/2015 5:33 PM  
**Subject:** Fwd: Ascension Heights subdivision - Craig please send to commissioners ...not letting me send for some reason

---

Forwarding email from Barbara Mikulic re: Ascension Heights Development

----- Forwarded message -----

**From:** Mikulic <[mikulic@sbcglobal.net](mailto:mikulic@sbcglobal.net)>  
**Date:** Sat, Oct 10, 2015 at 2:09 PM  
**Subject:** Ascension Heights subdivision - Craig please send to commissioners ...not letting me send for some reason  
**To:** Craig Nishizaki <[watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)>  
**Cc:** Mikulic <[mikulic@sbcglobal.net](mailto:mikulic@sbcglobal.net)>

Dear Commissioners,

It is beyond disheartening to go from what seemed like certain voting down the planned subdivision Water Tank Hill to recommending it. We cannot believe that our elected officials changed their minds in light of all the facts presented at our many meetings.

The abrupt ending of our previous meeting which had the vote 3 to 1 against it to this, is shocking and will demand an investigation. Perhaps a book can be written on "How to destroy a wonderful neighborhood." We will hold the county fully responsible for any landslides that follow this ill conceived plan should it be approved. Three story homes will look ridiculous but the health and safety issues are my primary concern. I had faith in you....please don't let me down on the 14th.

Respectfully yours,

Barbara Mikulic  
132 CSM Drive  
San Mateo, CA 94402

Sent from my iPad

Sent from my iPad

**Planning-Commission - Fwd: Please Forward**

---

**From:** Craig Nishizaki <watertankhill2013@gmail.com>  
**To:** James Castaneda <jcastaneda@smcgov.org>, Craig Nishizaki <watertankhill2...>  
**Date:** 10/10/2015 11:38 PM  
**Subject:** Fwd: Please Forward  
**CC:** Doris Greenwood <greenwood.doris@yahoo.com>

---

forwarding email from Doris Greenwood.

Thanks, Craig

----- Forwarded message -----

**From:** **Doris Greenwood** <[greenwood.doris@yahoo.com](mailto:greenwood.doris@yahoo.com)>  
**Date:** Sat, Oct 10, 2015 at 9:14 PM  
**Subject:** Please Forward  
**To:** [watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)  
**Cc:** Doris Greenwood <[greenwood.doris@yahoo.com](mailto:greenwood.doris@yahoo.com)>

To the San Mateo County Planning Commission:

Our family home is on Parrott Dr. and my husband and I are active members of the Baywood Park Homeowners' Association.

We have reviewed the latest submission of the Water Tank Hill developer to the Commission. In spite of an enormous amount of verbiage, the essential legal, environmental and community objections to this development remain peculiarly unresolved. The submission does not address:

- The health concerns raised in previous Commission hearings, namely impacts of dust and allergen pollution on the health of children, elders and asthmatics in our community caused by the movement of soil and plants and large trucks full of debris driving through our neighborhood that are needed to prepare for the development.
- Safety concerns related to drainage, erosion and slippage cited in previously professional reports. The property has a long, ugly history of these issues.
- Privacy issues caused by the planned three-story homes peering down into the homes on Parrott Drive.

Baywood Park homeowners, as well as legal and environmental experts, have long fought for our rights to safety, privacy and the semi-rural nature of our community. Be assured, should you decide against our interests, we will continue to fight.

Doris Greenwood and Eric Larson  
1515 Parrott Drive  
San Mateo, CA 94402  
[650-571-8377](tel:650-571-8377)

Sent from my iPad

**Planning-Commission - Water tank Hill development update**

---

**From:** Philippe Betermier <betermier@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/11/2015 9:40 AM  
**Subject:** Water tank Hill development update  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <watertankhill2013@gmail.co...>

---

Good morning,

My name is Philippe Betermier and I am a resident on Parrott Drive since 1995. I would like to express serious concern about the proposed Water Tank Hill development project, which doesn't have the support of the neighborhood.

- It is essentially the same project which is pushed every so often and there isn't much in it for the community

Thank you for your consideration

Best regards,

--

Philippe Betermier  
1-408-219-4794  
[betermier@gmail.com](mailto:betermier@gmail.com)

**Planning-Commission - Ascension heights project, my major concerns**

---

**From:** Gregory Potter <gregpotter@me.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/11/2015 11:50 AM  
**Subject:** Ascension heights project, my major concerns  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...>

---

Dear Planning Commission,

I am a San Mateo county resident, living on Valley View Ct, about 1 1/2 blocks from the proposed site for the Ascension heights project. I would like to attend the planning commission meeting on Wednesday, Oct. 14th, but I unfortunately I am not able to take time away from work on that day. ***I am very concerned about the development***, and I would plead with the Planning Commission to deny the project as it has been proposed. Let me be clear: I am not against development of that area, however I am concerned that the development proposed is not responsible and could negatively impact the health of my family.

In particular, ***I am very concerned about the noxious gasses and pollutants that will be released during construction on-site and by the vehicles traveling to and from the project site.*** The plan admits that pollution will be significant. It states that pollution will be intermittent, temporary, and short-term, but no data is provided to quantify these statements. **I have read the Mitigation Measure 4.2-1a and Mitigation Measure 4.2-8 that deal with dangerous air pollution, but I am still very concerned that these measure will be ineffectual, ignored, or not enforced.** There are no fines or measures imposed or proposed that would enforce these mitigation measures, and no oversight mentioned that imposes these mitigation measures. I have a three year old son that spends most of his time at home. His body is still developing and his health will be seriously compromised by this project. I also have asthma, which can be made severe by air pollution. I am very worried that the trucks and construction in my area will lead to hospitalization and therefore jeopardize my job. Without a job, I won't be able to provide for my family.

I have many other concerns (including soil stabilization, housing density, environmental impact, and aesthetics). Other members of my community can touch upon these better than me.

I am empathetic to the developer spending several years to get this plan approved. However, a bad, dangerous, and irresponsible plan should not be approved just because the developer feels they have taken enough time to get it approved. The bottom line is that serious problems still exist with the proposal, and it is the planning commissions' responsibility to make sure the plan that is approved addresses all these problems to the neighborhoods and commissions satisfaction. I am relying on the commission to keep me and my family safe and to act in the neighborhoods best interest.

Best regards,  
Greg Potter  
San Mateo, CA  
[gregpotter@me.com](mailto:gregpotter@me.com)  
415-271-8281

**Planning-Commission - Re: Concerns about the Water Tank Hill project**

---

**From:** Steve Eppler <eppler.steve@gene.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 12:51 PM  
**Subject:** Re: Concerns about the Water Tank Hill project  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, Craig ...

---

Greetings,

I'm Steve Eppler and I am a homeowner at 1676 Parrott Drive. I wanted to email you to express my concern over the Ascension Heights Development project on water tank hill. I am concerned over the amount of pollution that will be created by this project.

My wife has asthma and is very sensitive to particles in the air, often to the point of having difficulty breathing. I understand that the pollution generated by this project could be 470% above the national EPA standard, leading to a near doubling of the neighborhood death rate during the project. I think is unacceptable to subject current home owners to additional sickness and increased risk of death in order to complete a construction project.

This is only one of many concerns that my neighbors, family and I have over this project. Please do the right thing and reject the current proposal for the health of the people living nearby.

Thank you,  
Steve Eppler

**From:** Michael Hann <hann808@hotmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 1:03 PM  
**Subject:** Water Tank Hill Project

Planning Commission:

This is to express concern about the upcoming meeting to discuss the status of the Water Tank Hill Project. We are worried about this project as since the February 25th meeting the developer has not addressed any of the major concerns and continues to plan on placing 19 homes laid out in a dense grid pattern. These are steep slopes with inadequate drainage facilities.

This developer has repeatedly ignored concerns of the neighborhood and proceeded to hold to his intended plan. He shows no interest in the neighborhood or the outcome of placing these homes in such an unstable area.

We hope you will reject his plan. Recognizing that housing is tight in this area, development of this sight may be in the best interest of the greater community, however, this developers failure to meet any of the suggested alterations indicate his lack of concern for what will ultimately impact the entire neighborhood. We rely upon you to use your position to encourage responsible growth.

Thank you,  
Michael and Helen Hann  
1383 Enchanted Way  
San Mateo, California 94402

**Planning-Commission - Sthe the development**

---

**From:** Marilyn Salbashian <marills29@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>, "jcas...  
**Date:** 10/12/2015 1:08 PM  
**Subject:** Sthe the development

---

Since the Feb 25th 2015 Planning Commission Meeting, the developer has not addressed any of the Commissioners' major concerns. The project plan still has 19 homes being laid out in a dense grid pattern on steep slopes as well as the dangerous blind intersection on Bel Aire Road.

The Stormwater Retention System remains as a poor design with incomplete analysis, stringent maintenance requirements, numerous failure points, and no-fail safe mechanism. The FEIR states that if we get an extreme storm or the system gets clogged, that the water "... will simply drain into a nearby creek." All of the Parrott residents living next to this proposed development know that there is no "creek" for the water to flow into, only their backyards!

**Planning-Commission - Ascension Heights NO NO No**

---

**From:** Anne Goulding <annegould26@sbcglobal.net>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 1:27 PM  
**Subject:** Ascension Heights NO NO No

---

Traffic up here is bad enough & to have dump trucks for months is scary plus the additional traffic from all the homes built. When will San Mateo City and county start thinking about quality of life & not about additional tax base which will required more & rapid repair of streets and freeways 92 is a parking lot several times a day. We are very congested as it is. We are becoming like Los Angeles. Also what about extra students for the schools. A school was destroyed a number of years ago & now we want more houses with possibly more students. Where will these students go to school????

Anne Goulding 6 Tollridge Ct. San Mateo .

**From:** Linda Cooney <linda.cooney@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 1:45 PM  
**Subject:** Water tank Hill

We've lived on Parrott Drive since 1985 and endured the building of Tournament Drive with its dirty and noisy trucks streaming up and down our street. My daughter was never able to play outside because of this. We do not need to go through this again! Belaire Rd is already a busy street with students speeding to CSM classes, often not stopping at our corner. This is just so unnecessary. In addition, this area has already seen its share of slides (Rainbow and Polhemus). Have you not learned anything from the past? We don't need the pollution and traffic this development will cause. This is one of the last peaceful neighborhoods in San Mateo. Please don't add to what is already going on in San Mateo.

Linda and Tom Cooney  
1375 Parrott

Sent from my iPad

**From:** Karl Ehrlich <ehrlchs@ix.netcom.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 1:51 PM  
**Subject:** Ascension Drive Development - Kill this dangerous, unnecessary development

Dear Sirs:

Please listen to our community who have raised valid concerns about the proposed development on Ascension. You do not need any more hearings or additional information. You know all you need to know to deny the developer's application now. The slope is unsafe. Houses are likely to slide (as other have before them) and the County and the Planning Commission will have blood on its hands, if, heaven to bid, someone is in a house that slide down the hill. If the County ignores these known risks it will bear some of the liability for the damage and potential loss of life. The developer's water mitigation plan is inadequate, unproven and potentially dangerous. The Commission has every reason to deny this application. This decision is not even a close call. Kill this plan now.

Karl Ehrlich  
1590 Seneca Lane  
San Mateo, CA 94402-3852

**Planning-Commission - Water Tank Hill**

---

**From:** "Randy Witte" <randy@shecterlaw.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 1:51 PM  
**Subject:** Water Tank Hill

---

Commissioners:

I live at the intersection of Ascension and Bel Aire Drives and while I understand that this project ultimately cannot be stopped it is my opinion that too many x factors, that is unknowns, exist with the developer's current design plan. I am most concerned with the drainage/erosion issues that are visible along Ascension Drive especially at the southwest corner of the intersection that has undermined a long non-functioning drainage ditch and pipe as well as visible erosion along that 1500 block. I do not believe the plan contains any factors, other than the "holding tanks" for increased run-off in this area which represents a safety issue to all down slope residences. To my knowledge nothing in the plan addresses the drainage from the project to the residences on Parrot Drive who will take the full brunt of any significant rainstorm. Evidently the design plan references a non-existent "creek" for drainage control. As I understand it the holding tanks and other elements of the drainage and erosion mitigation aspect of this project are pure speculation, untested and if implemented we can only pray that our worse fears are not realized.

I have a further concern relating to potential damages from drainage and erosion from the developer's altering the nature of the existing natural drainage system. Once this project is completed who will the damaged parties look to for compensation to replace or repair their damaged structures, fencing and landscaping-the County? the developer?. Will the new homeowners be required to put in place sufficient insurance, liability or otherwise, to cover the potential catastrophic damages or will the damaged parties be left to their own means?

I ask you to consider denying the developer's current plan and to request further and more detailed mitigation.

**Randall J. Witte, Esq.**

**Law Offices of Philip H. Shecter APC**

1313 Laurel Street, Suite 222

San Carlos, CA 94070

T: 650-592-5676

F: 650-592-5759

*randy@shecterlaw.com*

**Planning-Commission - Water Tank Hill Development**

---

**From:** Joe M <jmanske@pacbell.net>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 2:06 PM  
**Subject:** Water Tank Hill Development  
**CC:** <"James Castaneda, jcastaneda"@smcgov.org>

---

To Whom it may concern,  
My wife and I residing at 1776 Los Altos Dr. since 1978 continue with our objection of inadequate plans for the development of Water Tank Hill as previously presented via Baywood Park HOA.

As members and past President of our own San Mateo Oaks Homeowners Association we paid our assessment for the massive retaining wall between Los Altos Dr. and Parrott Dr. which was suffering from the same very unstable soil conditions. We also remember the massive land slide on Rainbow Dr. destroying a single home and forcing San Mateo County to build a substantial retaining wall on Polhemus Rd. Again unstable soil conditions (Nothing but sand).

Realizing that San Mateo county is interested in a potential increase in their tax base, you will probably feel obligated to OK this project.

If you do, **Please force the developer to take full responsibility for any problems that will develop for at least ten years before a homeowners association is created to assume any financial responsibility.**

Respectfully,

Joseph and Hortense Manske  
1776 Los Altos Dr.  
San Mateo Ca. 94402

**Planning-Commission - Watertank Hill Development PLEASE DENIE**

---

**From:** "Agnes Moser" <amoser@sengadesign.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 2:09 PM  
**Subject:** Watertank Hill Development PLEASE DENIE  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...>

---

Dear Planning Committee,

I am writing to you as a resident at Baywood Park. I am very concerned with the lack of planning and response to issues the residents of this neighborhood have raised multiple times:

- Erosion on an extremely steep hillside
- Massing of structures
- No comprehensive landscaping plan - especially considering the drought
- Health and safety impact on residents during construction

I do not see how this can be responsible development! Please do not allow this to happen!

Best,  
Agnes



**Agnes Moser**  
**Senga** Interior Design  
Cell: 650.346.7883  
<http://www.sengadesign.com>  
Master of the Mix  
*With a Touch of The Unexpected*

**Planning-Commission - Ascension Heights Subdivision Project PLN2002-00517**

---

**From:** donald munakata <dmunakata@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 2:22 PM  
**Subject:** Ascension Heights Subdivision Project PLN2002-00517  
**CC:** "jcastenada@smcgov.org" <jcastenada@smcgov.org>, Carole Groom <cgroom@sm...

---

After reviewing the proposed revisions to the FEIR and the accompanying attachments (i.e. staff report Attachment A and the letter from the developer's attorney Attachment P) which were finally made available to the public, I am dismayed that the major concerns raised regarding the adequacy of the EIR in addressing the major impacts of the proposed project are not addressed despite the extensive public input provided. Both long term impacts (e.g. storm water retention, site stability after removal of trees/vegetation & creation of steeply sloped parcels) and during construction (e.g. real time monitoring of dust and noise emissions to detect violations and to take corrective action immediately) raised by comments on the DEIR and the FEIR were basically ignored.

I will be the first to admit that I am not versed in the interpretation of the legal discussion conveyed by the developer's attorney dated Sept. 23, 2015 but I find it interesting that he is basically saying that as long as the EIR proposes "feasible mitigation measures" that how they will be achieved or the methodology applied does not have to be addressed in the EIR. If so, the question becomes who will be responsible for determining how compliance to the mitigation measures will be achieved ? If the applicant or the County is not responsible who is?

I would also like to comment on the project proposed stormwater retention system plan. I worked on the San Francisco wastewater plan during the 1970-1990 period when a system had to be implemented to correct the uncontrolled discharges to SF Bay and the Pacific Ocean when the sewage system capacity was exceeded during heavy rains. The system that was implemented was to build massive wastewater boxes and tunnels around the perimeter of the City (at the lowest points) that could hold the combined sewer discharges until the storm abated and the retained wastewater pumped back to the treatment plants for treatment before discharging to the Bay or ocean. We took the premise that "stuff happens " that could not be foreseen and minimized as much as possible the reliance on facilities that could fail without frequent maintenance or without standby provisions. I find the proposed plan very complicated and, quite frankly, very risky and difficult to maintain. As I conveyed in previous correspondence, the San Francisco Bay Bridge is a prime example of what can go wrong ; particularly when inadequate assumptions are made and the risks or consequences not fully understood.

Thanks for considering my comments.

Donald Munakata

## Planning-Commission - Please Say No to Ascension Heights Development

---

**From:** Tom Luong <tom.luong@gmail.com>  
**To:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <planning-commission@smcgov...>  
**Date:** 10/12/2015 3:00 PM  
**Subject:** Please Say No to Ascension Heights Development

---

Hello everyone,

My Name is Tom Luong. I live on 1486 Parrott Drive, San Mateo, 94402.

I have a 7yr old, 5yr old , and a 1yr old. As you are aware, Parrott Dr is one of the main arteries of our community. This construction project will literally be taking place right in my back yard.

I have few concerns.

1. The DEIR did not address the air quality. With small children directly impacted by this construction more needs to be done to minimize the pollution.
2. The hill is very steep and has lots of erosion. In due time, the excavated dirt will be wash down the hill toward my house. The new homes will be unstable. As you know, gravity will pull that down hill.
3. The rain water retention system is unproven and no analysis was provided to show how they fair. What would happen if there was a leakage?

As you can see, everything that happens on this hill negatively affects my and the surrounding families directly. I urge you to pick responsible construction over profits.

I appreciate your consideration of my concerns.

Sincerely,

Tom Luong

**Planning-Commission - Water Tank Hill**

---

**From:** "Lyn Haithcox" <lynhiho@att.net>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 3:41 PM  
**Subject:** Water Tank Hill  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>

---

Dear Commissioners,

Please deny this frightening development. The developer has now offered only window dressing to address the serious flaws and concerns that the community and the commissioners have repeatedly expressed. To be brief – “ This proposed development endangers the long term stability of the hillside and the health and safety of our community”.

We value our community.

Please show that you understand and value our concerns.

Marilyn Haithcox  
1486 Ascension Drive

**From:** Ciranni <ruthgene@sbcglobal.net>  
**To:** <Planning-Commission@smcgov.org>, <jcastaneda@smcgov.org>, <dpine@smcgov...>  
**Date:** 10/12/2015 4:00 PM  
**Subject:** Water Tank Hill

To the Planning Commission:

I am writing this email in strong opposition to the proposed Water Tank Hill development in my neighborhood. The developer wants to build 19 homes on a steep slope in an area proven to be prone to landslides. As a homeowner and resident of this area for 45 years, I have witnessed the slides and helped pay for the large retaining walls on our Common Property. Those walls even needed repair after a few years and continue to need constant vigilance. Water Tank Hill is in that same type of terrain with steep, land unusable for home building. Whitecliff Homes knew that land was unsuitable and did not ever consider building there when San Mateo Oaks was developed.

Among many problems with the developer's plan is the suggestion for rain water run-off. Forecasts indicate an El Nino effect winter is approaching which will cause much rain water to descend the hill. The builder thinks run-off water will go into a "nearby creek." There is no such creek in that area. After the grading proposed for these lots, run-off water will go into people's yards.

Water certainly will not reach a storm run-off creek below my home on the west side of Ascension Drive. But dust from this project will foul the air to the point of affecting my health and the health of my young grandchildren who often visit here. Please read the EIR on that issue.

Responsible developers would never attempt this project. Under no circumstances should the Planning Commission approve the Water Tank Hill development proposal.

Yours truly,  
Ruth Ciranni  
1606 Ascension Drive  
San Mateo

**Planning-Commission - Ascension Heights Development**

---

**From:** Wendy Gee <wlgee@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>, "jcas...  
**Date:** 10/12/2015 4:47 PM  
**Subject:** Ascension Heights Development

---

Dear Planning Commission,

Please do not be influenced by the revenue brought in from additional property tax dollars from the sale of these potential 19 new homes. The plan is very flawed and the developer fails to address the concerns of the neighborhood. When I first went to the meeting in February and heard the developer's proposal the plan did not sound so bad. But after hearing all the neighbors speak I was convinced the developer was out to make money, was not operating in good faith, and had little concern over the neighborhood and effects of the development. It is a risky project and their reports and surveys were prepared to be in their favor. Please deny this project or require the developer to modify their plans. Thank you.

Wendy Gee and Gary Wong  
1419 Parrott Dr.

## Planning-Commission - Ascension Heights Development

---

**From:** "Jim Hart" <jh@pirteksfo.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 4:47 PM  
**Subject:** Ascension Heights Development  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...

---

To the San Mateo County Planning Board:

Hello, my name is Jim Hart, my family and I have lived at 1474 Ascension Drive for almost 21 years. I am sending this email because we will be unable to attend the meeting this week and want to go on record that we are in strong opposition of the Ascension Heights Development. I will not waste your time listing all of the objections that have all been clearly presented to the board, however there are three things we find very alarming:

- 1) Our most important objection is not forcing the developer to hold a substantial amount of money in escrow to cover the cost of any potential landslides that might (will) happen from this development. I believe he has presented this as being covered my HOA fees from the new homeowners. Seriously?, a slide could potentially cost into the millions of dollars. Do the math; if each home had an HOA fee of \$1000 per month (which would be ridiculous considering their mortgage payments) that is only \$228,000 per year, that's almost five years before there is over a million dollars. Scarier is a more realistic figure of \$500 per month brings in \$114,000 per year. Now it's 10 years before there's maybe enough money to repair a slide. Oh, and by the way, people will default on HOA fees and continue to pay their mortgage. There should be some mechanism put in place for a lien on the property for unpaid HOA fees, but the that probably would not be paid until the house is sold and deducted from sale proceeds. So there is likely no way to guarantee people will always pay their fees and there will be enough money to cover slide repairs. That said, the developer **must** put up a minimum of \$500K in escrow (designated for slide repairs) for at least ten years.
- 2) The degree of slope (20) that has been approved by the fire department for the entry and exit to the development is absurd. The slope on Ascension Drive in front of our house is 8 to 9 degrees, which is the same on Bel Aire Road which the entry road will connect to. When fire apparatus go up our street now you can hear the strain on the engines on a 9 degree slope, I can't imagine what it would be like at over twice that!
- 3) Finally, the storm drainage system they have outlined is not proven to work in the proposed configuration. This was a major red flag from the last meeting when their drainage system expert admitted it has not been installed in this configuration, so there is no history to base its success or failure. Really, do we want to be the guinea pigs?

Thank you for your attention and consideration of our concerns. We trust you will make the right decision for the community and **NOT** approve this project!!

Respectfully,

Jim & Ellen Hart,  
1474 Ascension Drive  
San Mateo, CA 94402  
(650) 341-7643

**Planning-Commission - WaterTank Hill**

---

**From:** Lakshmi G Yokoyama <lakshmiyokoyama@yahoo.com>  
**To:** "planning-commission@smcgov.org" <planning-commission@smcgov.org>  
**Date:** 10/12/2015 5:09 PM  
**Subject:** WaterTank Hill

---

Commissioners

I live on the corner or Ascension and Bel Aire

My understanding regarding the grading of the WaterTank Hill is that it will create a lot of dust that will surely be dispersed in the air surrounding the houses/our neighborhood. From what I recall during one of the meetings there were possible toxic air residue that would be created by the contraction company in preparing to level the site. I also understand that several truck loads of soil would be headed right in front my our corner on their way to wherever truckloads of dirt is to be dumped.

I suffer from severe asthma and need daily medication. I am extremely allergic to dust and can not be exposed to toxic substances flying around in the air. There are no options for me- I can not move to another place while all these construction is going on.

During the meetings- several other people in my neighborhood had health issues that would be compromised! Is the dollar mightier than the lives of people?

Please consider the health issues of the residents affected by the development of this Hill. Please consider our qualify of life and consider the long term effects exposure to dust and toxic air will do to our health for the rest of our lives!

Thank you!

Lakshmi G YOKOYAMA  
Mortgage Consultant

[415.971.8282](tel:415.971.8282)

[888.734.3381](tel:888.734.3381)

Sierra Pacific Mortgage Corp

[363 El Camino Real](#). #288

South San Francisco

BRE#1173506

NMLS end#270710

[www.SierraPacificMortgage.biz](http://www.SierraPacificMortgage.biz)

Ask me about Reverse Mortgages

<http://www.sierrapacificmortgage.biz/reverse-mortgage.htm>

For Realtors:

[www.AgentMastermind.info](http://www.AgentMastermind.info)

[www.AgentMastermind.com/lakshmiy](http://www.AgentMastermind.com/lakshmiy)

CONFIDENTIALITY NOTICE AND DISCLAIMER The information in this transmission may be confidential and/or protected by legal professional privilege, and is intended only for the person or persons to whom it is addressed. If you are not such a person, you are warned that any disclosure,

copying or dissemination of the information is unauthorized. If you have received the transmission in error, please immediately contact this Office by telephone, fax or email, to inform us of the error and to enable arrangements to be made for the destruction of the transmission, or its return at our cost. No liability is accepted for any unauthorized use of the information contained in this transmission. If the transmission contains advice, the advice is based on instructions in relation to, and is provided to the addressee in connection with, the matter mentioned above. Responsibility is not accepted for reliance upon it by any other person or for any other purpose.

## Planning-Commission - Ascension Heights Development

---

**From:** Andrew Ferrara <ferraraandrew@att.net>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>, "jcas...  
**Date:** 10/12/2015 5:40 PM  
**Subject:** Ascension Heights Development

---

I just want to inform you that I am AGAINST the Ascension Heights Development and would appreciate if you vote against it this coming Wednesday, October 14, 2015.

Andrew Ferrara  
1230 Parrott Drive  
San Mateo, Ca 94402

**Planning-Commission - Please Vote NO on the Water Tank Hill Development**

---

**From:** Martha Phillips <m9phillips@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 5:49 PM  
**Subject:** Please Vote NO on the Water Tank Hill Development  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, Dpine <dpine@smcgov.org...>

---

I plan to try to attend the water tank hill meeting on the 14th of October, but either way I want to make my feelings known to the commission.

Please Vote NO on the WAtEr Tank Hill Development.

We do not want heavy trucks pounding through our neighborhood for months on end all day long ruining our pavement.

We do not want the hill to be at greater risk of slide due to a big dig on a very steep slope. We do not want additional traffic risk in a neighborhood with lots of kids at a blind and dangerous intersection.

We feel VERY strongly that this development would not be to the advantage of this neighborhood, but will instead make our quality of life worse in the short and long term and will lower our property values. Property values are very high right now and we just bought our house. The last thing we want to see is a diminishment of our property value right after we sank our life savings into it.

Please vote NO.

Martha Phillips  
415-867-4982

**Planning-Commission - Ascension Heights Development**

---

**From:** Alex Llerena <alexlllerena960@hotmail.com>  
**To:** "Planning-Commission@smcgov.org" <planning-commission@smcgov.org>, "jcas...  
**Date:** 10/12/2015 5:57 PM  
**Subject:** Ascension Heights Development

---

Dear Sirs:

I am writing to your attention as a very concerned and potentially impacted resident of the Ascension Heights Development Project. It is very unfortunate that we still continue to review this proposal as it has been shown time and time again that this is not a development that is viable nor in the best interest of the surrounding communities and the Planning Commission has confirmed this by already voting against it. I am not aware of any major chances or proposals by the developer that provides the Commission with valid support to now take a different view from that which it has taken in the past. Please consider that this project proposes to place a crowded subdivision on a very steeply contoured parcel that has resisted development for the past 60 years, while all the other surrounding parcels have been developed. If this parcel was indeed a viable option, it would have been part of the original development. The Planning Commission needs to seriously weigh and consider this significant point and not be swayed by promises by the developer. We have experienced first hand the so called promises of the developer which he has yet to keep, so why would he keep them with the Commission once the project is approved. The neighbors have tried to work with the developer at the direction of the Planning Commission and the Board of Supervisors to no avail. The developer promised multiple accommodations, but ultimately has completely ignored community input.

In reading the most recent Planning Commission Staff report there are over 107 remediation steps that the developer has to take in order to be in compliance with the planning requirements. This should be a red flag to the Commission as who is going to monitor 107 actions. The report only states 50, but there are a number of actions with bullets and even sub-bullets. The issues are large, but it appears as if the Planning Staff is attempting to minimize there importance.

As a homeowner and resident of the Ascension Heights Community, I respectfully request that you not approve this development for the many reasons that have been articulated and shared with the Planning commission since the inception of this proposal.

Thank you in advance for your time and support.

Sincerely,

Alex Llerena  
1586 Ascension Dr.  
San Mateo, CA 94402

## Planning-Commission - Vote No on the Water Tank Hill Development

---

**From:** Matthew Bronstein <matt.bronstein@yahoo.com>  
**To:** "planning-commission@smcgov.org" <planning-commission@smcgov.org>  
**Date:** 10/12/2015 6:07 PM  
**Subject:** Vote No on the Water Tank Hill Development  
**CC:** James Castaneda <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpine@smcgo...>

---

Dear Planning Commission:

Please **vote no** on the Water Tank Hill Development.

This project is irresponsible considering the slope and previous issues with erosion and landslides. In addition, there are potential health issues related to the scope of the construction that have not been addressed.

I am a concerned resident and ask that you **vote no** on the Water Tank Hill Development.

Thank you,

Matt Bronstein  
(650) 291-1102

**From:** <tikirico@sbcglobal.net>  
**To:** <Planning-Commission@smcgov.org>  
**CC:** <cgroom@smcgov.org>, Dave Pine <dpine@smcgov.org>, James Castaneda <jcas...>  
**Date:** 10/12/2015 6:10 PM  
**Subject:** Vote no on watertank hill

Hi planning commission, please do not vote for construction on watertank hill in San Mateo. I have lived here for 27 years, paid my taxes, and have expected that the neighborhood would remain in the best possible condition. With the proposed building we will be facing more pollution than is healthy, we have medically fragile, elderly and babies in this neighborhood. We will be subjected to trucks constantly in the neighborhood, face possible slides. During the time I have lived here I have seen slides around the corner on Los Altos during heavy raining seasons. We may be approaching a heavy rain season. This construction can be putting our neighborhood in danger and lower home values. There is not ample water drainage in place for the new homes. Also the environment will be very disrupted. Please, do not vote on the construction site proposal.

Please listen to is home owners in the neighborhood. We have rights and are looking out for our families. We do not want to be forced to move from what has been our home for so many years due to problems arising because a developer wants to have some gain from this construction. It is not just to place our homes and neighborhood in any potential danger due to this construction and not having you, our Planning Commission not protect us! Please vote no. Thank you sincerely, Melinda Parker  
Sent from my iPhone

**From:** Kevin Lin <kuantec@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, Craig ...  
**Date:** 10/12/2015 6:12 PM  
**Subject:** Planning Commission Meeting on Ascension Heights

To: Planning Commissioners

I am a resident on the Ascension Dr, and I strongly against the proposed Ascension Heights Project. The project still proposes 19 lots that would require extensive grading, resulting in medically hazardous air pollutant levels, particularly for the high number of elders and small children in the existing neighborhood. It is evident to the public that the Commissioners had already signal at the last meeting to reject the proposal, but the developer used a procedural excuse to convince the staff to postpone the official vote. Since the major issues with the proposal still exist, please do not let this procedural postponement change your mind. Please reject this proposal at the upcoming meeting.

Best  
Kevin

## Planning-Commission - Please Vote NO on the Ascension Heights Development

---

**From:** "Lee B Bussey" <lbussey@sbcglobal.net>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 6:46 PM  
**Subject:** Please Vote NO on the Ascension Heights Development  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...>

---

Dear Planning Commission and San Mateo County Supervisors:

My Wife and I live at 1561 Ascension Dr. San Mateo, CA 94402. We are writing you to strongly request a **NO** vote on the **Ascension Heights Development**.

There are a large number of reasons why this development should not be authorized. Many of the reasons have already been discussed but are worth restating:

1. Mudslides and a significant probability of property damage will likely occur in year that is expected to be a strong El Nino event. Projections show that this winter maybe one of the heaviest rainfall events in ~20 years. Should slides or property damage occur, we would expect that there will be a significant number of lawsuits.
2. Storm water runoff has not been effectively addressed and the use of catchment systems which is not proven on hills. The runoff water may flood the current storm system or even cause mudslides directly. Again the potential of legal action is significant.
3. Traffic during and after construction will present a hazard to neighbors and students attending CSM. There is risk that one or more of the large dump trucks will have brake failures and home or lives could be destroyed.
4. Air Pollution from heavy construction vehicles will impact the air quality for the resident of the area. Most homeowners purchased their homes with the understanding that the air quality was very good most of the year. This increase air pollution will cause significant issues for residences with respiratory diseases. I have asthma and the pollution will impact my heath and my decrease my ability to work. Should the pollution hamper my ability to work I will take legal action.
5. Dust pollution during excavation and soil replacement will be a major problem.

Again individuals with respiratory diseases will suffer. I should also be noted that digs of the magnitude that is projected to occur may release opportunistic pathogens in to micro-fine particles that can lodge into the lungs. Individuals that are elderly or immunocompromised will be especially at risk. In my case, I will be forced to purchase a whole house HVAC system with HEPA filtration to minimize my risk. That is a very significant expense that I would not have to endure should this project be cancelled.

6. Next, we have installed a Solar System and the dust will eliminate or significantly decrease its output. This is going to cause us to either pay PG&E or pay for multiple panel cleanings. Should this project go through, it would seem only reasonable that the developer/contractors pay for the lost solar production for homes that have solar or pay for regular panel cleaning. Failure to do so would be stealing from all the homes that have solar.

7. Noise pollution during this planned project will be terrible for the individuals on Parrot, Belair and Ascension. The heavy equipment will make it difficult or impossible for individuals that sleep during the day or work from home. Saturday work will also disrupt the neighborhood during their weekends.

8. Impact on natural habitat and tree removal. It is understood that studies have been performed but the fact remains that homes were purchased in this area to be closer to nature not high density living. Almost every morning and night we have deer, rabbits, quail, etc. visiting the area behind our property. We also enjoy humming birds along with a long list of insects (including butterflies). We would feel terrible if you allow the developers to destroy the natural habitat including removing trees.

9. The property designs are not consistent with the properties in the area. Up to three stories are just too much for both the hill and the neighborhood.

10. The number and location of the homes is poorly thought-out and will result in privacy issue with the homes on Parrot and Ascension. This may decrease the value of the neighbors' property and should be seriously considered prior to a vote.

11. Responsibility has not been clearly defined for the developer, contractors, homeowners and the potential HOA. This is critical to be established so that expensive legal proceedings do not have to occur in the future.

12. As I wrote previously, I have met multiple times with my insurance company and that will hold the developer, contractors, homeowners, HOA and the County responsible for any damage to my home. They have assured me that mud, water, rocks, dust,

equipment, individuals etc., that cause damage to my home will be mitigated by holding the above responsible. Our assumption is that other homes in the neighborhood have similar insurance. It would only seem reasonable that the Planning Commission and San Mateo County Supervisors consider the high likelihood of litigation should the project move forward.

Thank you,

Lee B. Bussey and Margaret Bussey

**From:** Jane <gr8jy@aol.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>  
**Date:** 10/12/2015 8:05 PM  
**Subject:** Oppose Ascension Heights Development

San Mateo Planning Commission ,

I am extremely disappointed that the hearing for this project is on a weekday in Redwood City at an inconvenient time (work day) and location (far - 10 miles - from our neighborhood) for me to attend due to 101 commute traffic and work. Many of the neighborhood families would like to attend but are not able to because of these circumstances.

My family and I strongly oppose this project. The concerns of the neighborhood have not been addressed, not even a little, by the developer and his team. The EIR has many shortcomings, including the simple math of the number of trucks and the time it takes to load them vs. the amount of time the developer has allocated to the removal of the soil that needs to be excavated. In the meetings, the developer claims to want to work with the community, but each successive submission showed very minor changes. This gives me the impression that they are only paying "lip service" to us, hoping to outlast the resolve of the people who will be affected the most.

I am asking, as strongly as possible, for you to vote "no" on this development. Please listen to the community you represent. We have been long time San Mateo tax payers and supporters.

If there is any continued hearing, please consider a location which is near our neighborhood and a time where all who are concerned can attend.

Thank you for your time and consideration.

Jane Young  
1852 Parrott Drive  
San Mateo, CA

**From:** Kevin <kevman8@aol.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>  
**Date:** 10/12/2015 8:08 PM  
**Subject:** Ascension Heights Development- Please Vote No

Dear Planning Commission Members,

I urge you to vote "No" on this latest proposal. I am unable to attend this meeting in person due to work commitments. It is unfortunate that you will not see the large number of concerned community members who would normally have shown up to voice their displeasure at this proposed project. We are the ones who will be forced to live with the negative consequences of the many disruptive changes if this is approved.

In addition to the insufficient EIR and the gross distortion of the housing density calculated using the entire hillside vs. the actual land occupied by the houses, my main concern is the damage to the groundwater (Crystal Springs Reservoir is extremely close) and the inadequate drainage system (neither tested nor proven).

Erosion control measures are lacking, and the steep terrain makes it nearly impossible to control any sediment during the excavation phase, much less the long periods between the construction of houses, where the ground will be bare. Particulates will become airborne due to the stiff winds that are present for a majority of the year. Any recycled water that is used as a dust control measure will go directly to the portion of the hill that suffers the most damage (just stand on Ascension and look up) and go directly into storm drains.

The (nearly experimental) drainage system proposed is unproven for this application and would hold a dangerous amount of water on a steep hillside directly above many homes. Maintenance of said system is not simple, as the developer contends. To the contrary, proper maintenance is crucial to any drainage system's performance. Any deferred maintenance (maintenance not performed because it is difficult or would not normally be noticed if skipped) would severely impact the system's ability to shed a tremendous amount of water correctly and in a timely manner. Due to the design, any failures would not normally be noticed until a catastrophic failure with much loss of property and possibly fatalities, and that would be a shame.

Thank you for your consideration.

Sincerely,

Kevin Manalili  
Parrott Drive Resident

October 7, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

I strongly support the Ascension Heights residential development and I urge you to approve it on October 14, 2015.

As a San Mateo County Real Estate professional, I know firsthand how critical it is to build new housing units in all the cities and unincorporated areas of San Mateo County where it is appropriate to add housing. The lack of available for sale housing is having an impact on the rental housing market and contributing to rent increases and the rent control debate.

I understand the natural opposition that existing residents have to new housing proposals and the concern for their quality of life. I have reviewed the Ascension Heights proposal and I am convinced that these homes will have a positive impact on the neighborhood.

The only way that San Mateo County is going to build more housing is by supporting developers of all sizes, working on projects small and large, to build high quality homes like the ones proposed by Dennis Thomas and the Ascension Heights proposal.

Sincerely,

Chris Eckert  
Real Estate Agent  
Keller Williams

Cc: James Castaneda, San Mateo County Planning Department

**Planning-Commission - NOT Supportive of Ascension Water Tank Development**

---

**From:** Pete and Mags <petermargaret@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 8:55 PM  
**Subject:** NOT Supportive of Ascension Water Tank Development  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...>

---

Dear San Mateo Planning Commission,

Our family and along with our neighbors strongly oppose the development of the Water Tank Ascension Heights housing project. It a major risk to disrupt and uproot the natural habitat that has been homes for plants, small animals and insects that live there for years. Moreover, that hillside can't sustain more homes. I have lived in this neighbor for 8 years and every year the soil from the hillside has been eroding. It is very apparent as you drive through Ascension and Bel Aire Drive. This is a major safety concern for us, the safety of our neighbors and kids that often play and walk around this neighborhood.

We strongly oppose of the Water Tank housing project.

Regards,  
King Family

**Planning-Commission - Fwd: Ascension Heights Development**

---

**From:** Craig Nishizaki <watertankhill2013@gmail.com>  
**To:** "planning-commission@smcgov.org" <Planning-Commission@smcgov.org>, "cgro...  
**Date:** 10/12/2015 10:18 PM  
**Subject:** Fwd: Ascension Heights Development

---

Sorry if you already have received this email. Pat wasn't sure if it went through so I'm forwarding it over to be sure.

Thanks, Craig

----- Forwarded message -----

From: **Pat & Doris McGuire** <[dotpatmcguire@gmail.com](mailto:dotpatmcguire@gmail.com)>  
Date: Mon, Oct 12, 2015 at 8:58 PM  
Subject: Fwd: Ascension Heights Development  
To: [watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)

Honorable Commissioners,

Since the February 25, 2015 Planning Commission Meeting many of the Commissioners major concerns on the project remain unanswered. The developer doesn't appear to be genuinely interested in working seriously with the homeowners. It is time to step up and decline the application on the project.

The Stormwater Retention System and drainage plans are inadequate. It doesn't make sense that the first test be in an El Nino year. Again, please give serious consideration to denying the application.

Sincerely,

Pat and Doris McGuire

1610 Ascension Drive

San Mateo, CA 94402-3615

## Planning-Commission - The Water Tank Hill Project

---

**From:** Sandeep Pannu <sandeep.pannu@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/12/2015 10:38 PM  
**Subject:** The Water Tank Hill Project  
**CC:** <dpine@smcgov.org>, <watertankhill2013@gmail.com>, <cgroom@smcgov.org>, ...

---

Dear Planning Commission Members,

Unfortunately, I can't make it to the meeting this wed regarding the Ascension Heights Development. I am impacted by this development and I care about this a lot. This email is not a "cheap" way for me to stay involved. I hope the text in this email carries as much weight with you as if I was saying it aloud standing in front of you.

You would be making a decision on behalf of the broader San Mateo community. And you will be making a life changing decision for the community that lives near the planned Water Tank Hill Development.

Although it should not take a very long process, or a lot of analysis to see what is in plain sight, we have thus far had exactly this long, confusing and untruthful experience.

It does not take much insight, or a very long process, or a lot of analysis to see that the tightly packed cluster of 19 homes can not be considered consistent with the existing community. I could mention that extensive grading and extraordinary excavation in an already settled community can be justified by an ordinary (rather sub-ordinary) development. I could mention numerous nuisance and health issues during the development, and permanent environmental-risks, safety risks, and esthetics issues after the development.

We have been tested with a tiring process that never seems to end. We have been presented with shoddy analysis that 'spins' facts. e.g. take the simple question around the density of the homes. One look at the tight cluster of homes makes it obvious that it is not consistent with the community density. However, a spinning of facts to mathematically compute the density by including unbuildable land is being used as a counter to what is obvious.

Similar crafty spin is deployed for environment, safety, and esthetic aspects.

Edgar Allan Poe said, "Believe in only half of what you see, and nothing of what you hear".

I don't agree with Mr Poe. Personally, I put more faith than half for what I can see in plain sight. Still if we could get to half, that would be pretty good for the Ascension Heights Development.

Regards,

--

Sandeep Pannu  
1728 Parrott Dr, San Mateo. CA 94402  
m: +1-650-743 7385

San Mateo County Planning Commission  
c/o Steve Monowitz, Director, Planning Dept.  
County Office Building  
455 County Center  
Redwood City, CA 94063  
E-Mail: [planning-commission@smcgov.org](mailto:planning-commission@smcgov.org)

Re: Ascension Heights Subdivision Project

Honorable Members of the San Mateo County Planning Commission:

We, the members of the Baywood Park Homeowners' Association, would like to submit our comments for the San Mateo County Planning Commission for the October 14, 2015 Planning Commission meeting. We have restricted our comments primarily to changes made and new items inserted into the FEIR and Planning Department Staff Report, October 14, 2015 since the February 28, 2015 Planning Commission meeting.

We are submitting two documents to the Planning Commission for this meeting-- **Baywood Park HOA Comments for Ascension Heights Subdivision Project, October 14, 2015 (attached) and a letter from W. King; Shute, Mihaly & Weinberger (under separate email).**

We continue to find the proposed Ascension Heights Project unacceptable. The recent changes have, by and large, failed to adequately address our serious concerns:

- ▶ the high density of houses doesn't conform to natural contours,
- ▶ 11 of 19 houses are built on 50% slopes (10 will be made even steeper by grading)
- ▶ stormwater retention system has no fail-safe mode, inundating Parrott homes,
- ▶ non-existent creek bed used as a safeguard against flooding Parrott homes
- ▶ lot designs adjacent to Parrott homes not consistent with neighborhood
- ▶ new design proposal looms over Parrott homes with no analysis or modeling
- ▶ CEQA standards repeatedly ignored and inadequately observed

Thank you for your very dedicated efforts,

Laurel Nagle  
Gerard Ozanne  
Co-Presidents  
Baywood Park Home Owners' Association

**Baywood Park HOA Comments for Ascension Heights Subdivision Project  
October 14, 2015**

<b>Comments/questions by PC Commissioners, Feb 28, 2015</b>	
<b>General Concerns</b>	“there are just a whole host of things associated with this project that we have no control over and we’re kind of going on faith”
	“really no concept of answers to the problems. It’s mostly trust us.” “we ... talk about what how it works for the community.... do not see where this is harmonious with the neighborhood.”
	“what we’re being asked to do is approve a project that we have no idea what it is going to look like....”
	“struggle with the conclusion that the build option is a environmentally superior option to a lesser build option given the amount of grading.”
<b>Density</b>	“this development is too dense for this location.” “I believe 19 is too many for this site and the surrounding community.”
	“the 19 homes in this area is really too dense.”
	“there’s a potential project here .... don’t think that it is 19 homes in the extent of grading that exists.”
<b>Design</b>	[Need]“to have an architectural review or design”
	“don’t like the street grid.... two parallel streets right over the topography.... stopped really doing that in the 70’s” “want something that conforms with the contours....something very different.”
	“don’t have a design of homes”
	“still concerned about the amount of grading involved.”
	“ ....what these 19 homes are going to look like and what the neighbors are going to be facing” ...?
	“Thirty six feet can be done many different ways. Are you talking about stepping into the neighborhood? Are you talking about dominating over a neighborhood?.... I need to see the design.”
	“one of the bigger issues ... has to do with the height of the proposed houses particularly ... at the top of the hill.” “three stories high ... would be way out of character.” “reduce the height and ... that it comes down to twenty-four feet.”
<b>Stormwater</b>	“we keep praying for water. The conditions ... 60 years ago ... not ... where we are today....not where we’re going to be tomorrow. We have to plan for the future.”
	“The storm water plans... was not reassured that it works, that meets our demands.” “FEIR does not give ... any assurance that there is going to be any water here.” “Is there water for the community?”
<b>Biology</b>	“mitigation measures [it sic] includes some of the items that we had in the arborist’s report to protect some of the trees for the residents on Parrott drive.”
	“need a landscape plan.” “...drought tolerant, non-invasive or native”
<b>Traffic</b>	“No, Bel Air is not safe....There is a little kind of hump....cars coming uphill were rushing to work, rushing to school gravitates to the center....not seeing me as I am coming down the hill....That was scary.”
<b>Schools</b>	“Measure T did not pass so this will add burden to an already burden school.”
	“agree ... about the school impact.”
<b>Open Space</b>	[Concerned] “open space not being available to the general community....” “an open space is open. It’s open to everybody in the general area.”
	“The open space is not an open space”

<b>Issues</b>	<b>Neighborhood Comments, Oct 14, 2015</b>
<b>General Concerns</b>	<ul style="list-style-type: none"> <li>❖ The project proposes to place a crowded subdivision on a very steeply contoured parcel that has resisted development for the past 60+ years while all surrounding parcels were developed. Baywood Park has serious concerns about the environmental and community impacts of the proposed Project and about the adequacy of the environmental review prepared for it.</li> <li>❖ The FEIR remains critically short on specifics of the plan and necessary mitigations. The developer's 15+ years track record with community involvement is abysmal, consisting of insufficient documentation, specious promises and ignored input, including               <ul style="list-style-type: none"> <li>➤ repeated and unlawful deferral of analysis and mitigation,</li> <li>➤ failure to provide the public and decisionmakers with sufficient detail about the Project to analyze its impacts,</li> <li>➤ insufficient or no evidence to support the EIR's conclusion that mitigation would reduce the Project's impacts to a level of insignificance, and</li> <li>➤ repeated reliance on unenforceable mitigation measures.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>❖ 98% of the community in a fairly comprehensive poll believe the project will have a significant and dangerous impact.</li> </ul>
	<ul style="list-style-type: none"> <li>❖ At the direction of the Planning Commission and Board of Supervisors, neighborhood representatives invested 100's of person hours meeting with the Applicant to work through issues raised in this document and many others. The Applicant, at first, promised multiple accommodations but ultimately ignored community input.</li> </ul>
<b>Density</b>	<ul style="list-style-type: none"> <li>❖ The actual density issues are due to building on a very steeply contoured property requiring excessive grading and hauling of soil to maximize the buildable area. The insistence of placing 19 houses in the limited area results in high density of houses in subdivision, but not the entire parcel. This high density adversely affects the project impacts on aesthetics, Parrott privacy, stormwater management, landscaping, noise, erosion, traffic, etc.</li> </ul>
	<ul style="list-style-type: none"> <li>❖ The developer's comments on density refer to the entire 13+ acres, most of which is unbuildable. The actual density of new houses adjacent to Parrott Homes is higher than that on Parrott Drive (4.73 VS 4.38 houses/acre).</li> </ul>
<b>Design</b>	<ul style="list-style-type: none"> <li>❖ The just introduced 'reduced massing' designs proposed in the Design Handbook, Attachment H, introduces a completely new design that is substantially different and conflicts significantly with current FEIR/Staff Report documents, nor has it been modeled or presented to the neighborhood, and is completely out of character for surrounding neighborhood               <ul style="list-style-type: none"> <li>➤ The new design reduces the building height envelope from 36ft to 28ft by extending the depth of the houses to 60ft (front to back) and placing</li> </ul> </li> </ul>

	<p>the rear of the house on setback lines, 20ft from Parrott home lot lines. This is a new change in the DEIR/Reports, which show in plan drawings and descriptions house setbacks up to 40ft from the lot line, including 20-25ft utility easements</p> <ul style="list-style-type: none"> <li>➤ The applicant proposed a 20ft back-to-back rear yard setback (houses separated by 40ft) “would provide an adequate buffer” and the Planning Dept. decided unilaterally that it “is a reasonable solution to privacy issues, consistent with the layout of existing lots and homes in the neighborhood....” Staff Report, Oct 14, 2015 <ul style="list-style-type: none"> <li>▪ Houses with 20ft back-to-back setbacks (and house height differences of less than 20ft) do not exist in our neighborhood and are rare throughout the Peninsula. This is not consistent with our neighborhood and essentially does not exist here</li> </ul> </li> <li>➤ The 28ft design creates substantial blocking of the vertical views as experienced from the Parrott homes <ul style="list-style-type: none"> <li>▪ A 28ft home, <b>20ft</b> from the lot line, blocks a <b>59-degree</b> vertical view</li> <li>▪ A 36ft home, <b>40ft</b> from the lot line, blocks a <b>50-degree</b> vertical view (59deg at 20ft versus 50deg at 40ft)</li> </ul> </li> <li>➤ In addition to blocking a significant more vertical view, the 28ft design just 20ft away most likely will feel overwhelmingly more looming and intrusive</li> <li>➤ This latest attempt to improve the design cannot be evaluated effectively because of the very recent addition to the DEIR, lack of objective analyses or visual models, including Story Poles</li> <li>➤ Last minute attempts to satisfy FEIR deficiencies preclude careful deliberation and evaluation by all parties, and results in these types of gross miscalculations</li> </ul>
	<ul style="list-style-type: none"> <li>❖ 11 of the 19 houses will be built on 50% slopes <ul style="list-style-type: none"> <li>➤ On 10 of the sites the existing slopes currently are less than 50% but these slopes will be increased to 50% by the excessive grading</li> <li>➤ This design begins with a very steep hillside and makes it even steeper. It is hard to imagine there couldn’t be a more creative plan that reduces the buildable slopes</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>❖ The ‘cookie cutter’, grid pattern of lots provides the most dense development but lacking creativity, results in</li> <li>❖ lack of respect for the natural contours of the hill</li> <li>❖ excessive grading</li> <li>❖ results in significant height increase over existing neighborhood houses</li> <li>❖ unsightly massing of buildings</li> <li>❖ privacy intrusions of neighbors</li> </ul>
<b>Stormwater</b>	<ul style="list-style-type: none"> <li>❖ The Stormwater Retention System consists of a poor design, incomplete analyses, stringent maintenance requirements, numerous failure points and no fail-safe mechanism. The system stores the water in multiple, 2ft by 30ft</li> </ul>

	<p>PVC pipes before delayed release to the County stormwater system.</p> <ul style="list-style-type: none"> <li>➤ The entire stormwater, collected from 9 new houses, flows above the Parrott homes in 1200 linear feet of PVC pipe connected at multiple junctions, each at risk for disruption and leakage</li> <li>➤ No analysis was performed to assess or design structural support necessary for this system to survive minor slides, earthquakes, tree root invasion or erosion</li> <li>➤ Analyses are limited to 10-year storms</li> <li>➤ Impervious pipes deliver ~100,000 gallons for dangerous storage just 25ft superior to Parrott homes, precluding natural percolation and retention into majority of hillside as occurs now</li> <li>➤ The system contains multiple filters and metering apparatus requiring monthly maintenance to prevent overflows and leaks</li> <li>➤ The entire system will be placed underground making discovery and repairs of leaks prolonged and difficult</li> <li>➤ All leaks will flow directly to the dependent Parrott homes</li> <li>➤ For well over 10 months we have requested references for comparable systems to assess feasibility and system reliability. No comparables have been provided</li> </ul>
	<ul style="list-style-type: none"> <li>❖ Non-existent 'fail-safe' creek: the DEIR (4.6-16) states "Should the rainfall exceed that of a 10-year event or should the system become intermittently clogged, the slope of the project site and surrounding areas is such that water will run as over land flow and will drain into the nearby creek and thereby would neither pond on the project site nor flood adjacent properties."</li> <li>❖ There is no evidence of an existing creek on the project near the Parrott homes (<b>Figure 1</b> shows rapidly sloping land down to Parrott homes and <u>no creek bed or bank</u>; <b>Figure 2</b> illustrates the contour lines currently existing (<b>red</b>) as well as the contour of the final slope (<b>black</b>) <u>clearly showing no creek bed or bank</u>)</li> <li>❖ We have personally toured the site and discussed the non-existence of the imagined creek with 4 of the 5 Planning Commissioners, the project Planner, and the Director of Planning and Building</li> <li>❖ We fail to understand why the critical fail-safe creek bed continues to exist in the FEIR despite repeated notifications to the contrary to the County</li> <li>❖ Over the lifetime of this Retention System, the probability of failure is exceptionally high. With no reliable means for ensuring safety of 7 adjacent Parrott homes, the entire System must be rejected as designed</li> </ul>
	<ul style="list-style-type: none"> <li>❖ There are no plans to store rainwater on the property for landscaping irrigation or other uses. This makes no sense with today's climatic challenges</li> </ul>
	<ul style="list-style-type: none"> <li>❖ California Water Service Company determined they have sufficient capacity for 19 additional houses <ul style="list-style-type: none"> <li>➤ There is no indication they included in their calculations the amounts of water required to ensure landscaping survival for both houses and open space</li> <li>➤ Drought resistant plants need extra water to establish a root system</li> </ul> </li> </ul>

	before they can survive.
<b>Landscape Plan</b>	<ul style="list-style-type: none"> <li>❖ Landscaping Plan omits essential requirements <ul style="list-style-type: none"> <li>➤ No detailed plans exist for creating privacy screens for Parrott homes <ul style="list-style-type: none"> <li>▪ Existing trees are assumed to provide shielding but are completely inadequate (<b>Figure 3</b>)</li> <li>▪ Trees are placed so close to the property line they will intrude well into existing Parrott yards when mature</li> <li>▪ Screening trees are not specified with respect to numbers, stock sizes, irrigation, maintenance or survival rate</li> </ul> </li> <li>➤ Only “replacement” trees require 5-gallon stock size and surety deposits for performance, irrigation and 2-5yr maintenance</li> <li>➤ No other trees or foliage on Landscaping plan, including ‘privacy’ trees along Parrott homes, have performance requirements: surety deposits, minimum stock size, irrigation or maintenance required</li> <li>➤ No survival percentages required for any period of time for any plantings. This is ridiculous considering the quality of the soil</li> <li>➤ Water need for common area plantings is not calculated nor source identified, including Cal-Water</li> <li>➤ It appears this plan, which consists of a sketch with a few paragraphs of text in the Planning Staff report, is more of a “conversation starter” than a detailed plan and undoubtedly would be deemed insufficient by CEQA standards as mitigation for aesthetics and erosion control impacts</li> </ul> </li> </ul>
<b>Erosion</b>	<ul style="list-style-type: none"> <li>❖ Erosion of common areas during maintenance not adequately addressed after stripping of all native growth <ul style="list-style-type: none"> <li>➤ No performance requirements for plantings or ground cover</li> <li>➤ No consideration of the 50+ mile/hr winds</li> <li>➤ Amount of necessary water not calculated</li> </ul> </li> </ul>
<b>Noise</b>	<ul style="list-style-type: none"> <li>❖ Construction noise has been determined in the FEIR to reach or exceed 85 decibels for a single piece of equipment causing a potentially significant impact. Since 2009, we have repeatedly, but unsuccessfully, requested a noise assessment be performed when multiple pieces of equipment would be operating simultaneously in a ‘real world’ environment with realistic noise levels. Without this information realistic impacts and their mitigations will be impossible to determine</li> </ul>
<b>Traffic</b>	<ul style="list-style-type: none"> <li>❖ Traffic analysis during construction is incomplete and doesn’t cover any of the six possible routes that could be used <ul style="list-style-type: none"> <li>➤ 156 semi-trailer trucks per day (every 3 minutes); 4800 total trips</li> <li>➤ Bel Aire used for ingress and egress of the property will be difficult <ul style="list-style-type: none"> <li>▪ narrow and steep with blind access to Project</li> <li>▪ designated as the sole parking location for construction workers</li> <li>▪ heavily travelled as a primary route to College of San Mateo</li> </ul> </li> <li>➤ Parrott Dr. to CSM Drive busy, narrow and high volumes by class hours and mornings/evenings</li> <li>➤ Bel Aire to Ascension to Polhemus dangerous steep, sharp corners</li> <li>➤ Further analysis is required for final chosen route to identify specific traffic management solutions</li> <li>➤ Require road repair due to heavy truck loads be funded by applicant</li> </ul> </li> </ul>
<b>Air Quality</b>	<ul style="list-style-type: none"> <li>❖ Modeling analyses demonstrated excessively high and life-threatening</li> </ul>

	<p>pollution primarily of diesel particulates. The DEIR did not repeat the analysis using proposed solution (Tier 2 engines and DPF)</p> <ul style="list-style-type: none"> <li>➤ The DEIR contractually requires Tier 2 and Diesel Particulate Filters, which, if functioning properly, can substantially reduce particulates. Vehicles must be monitored continually and removed from use when air quality equipment malfunctions</li> <li>➤ Restrict heavy truck/off-road activities during “Spare the Air” days</li> </ul> <p>❖ Dust pollution from disturbed soils over entire property must be monitored through measuring water content of soil to determine minimal amount watering required</p>
<b>Parrott Homes</b>	<ul style="list-style-type: none"> <li>❖ Severe privacy intrusion in backyard/bedrooms from new neighbors <ul style="list-style-type: none"> <li>➤ 25’ buffer zone from 2009 plan has been removed (which is contrary to neighborhood precedence; see buffer zone at the corner of Parrott and CSM Drives, only four houses away from this property, <b>Figures 4A &amp; B</b>)</li> <li>➤ Existing trees do not provide any screening and roots of these trees on property line are unprotected, risking survival</li> <li>➤ Inadequate landscaping plan provides no meaningful privacy</li> <li>➤ New houses appear looming over existing Parrott homes</li> </ul> </li> <li>❖ Aesthetics of new homes inconsistent with Parrott homes <ul style="list-style-type: none"> <li>➤ Adjacency of new homes much closer than other homes in neighborhood</li> <li>➤ The proposed lots are slightly smaller than existing lots for the most part (e.g., adjacent Parrott lots are larger than the 7 adjacent lots in the proposal)</li> <li>➤ Large two- to three story homes are seriously out of character with neighborhood, which is dominated by 1-story and split-level homes.</li> </ul> </li> <li>❖ Failures of storm water drain system would inundate Parrott homes <ul style="list-style-type: none"> <li>➤ Applicant is counting on excessive runoff to flow into nearby “non-existent” creek; on the Parrott side of the development, however, the water would flow through existing homes and settle on Parrott</li> </ul> </li> </ul>
<b>HOA Responsibilities</b>	<ul style="list-style-type: none"> <li>❖ Extensive common area requirements that must be communicated to prospective owners and enforced <ul style="list-style-type: none"> <li>➤ Costs estimated to ensure new home owners will be capable of assuming maintenance for entire property</li> </ul> </li> </ul>
<b>Schools</b>	<ul style="list-style-type: none"> <li>❖ The developer's statement the properties will generate 500k tax revenue is irrelevant since it will not provide the necessary new school capacities</li> </ul>



**FIGURE 1**

**Illustration of 'non-existent creek' to protect Parrott homes (on left)  
from failed Stormwater Retention System**

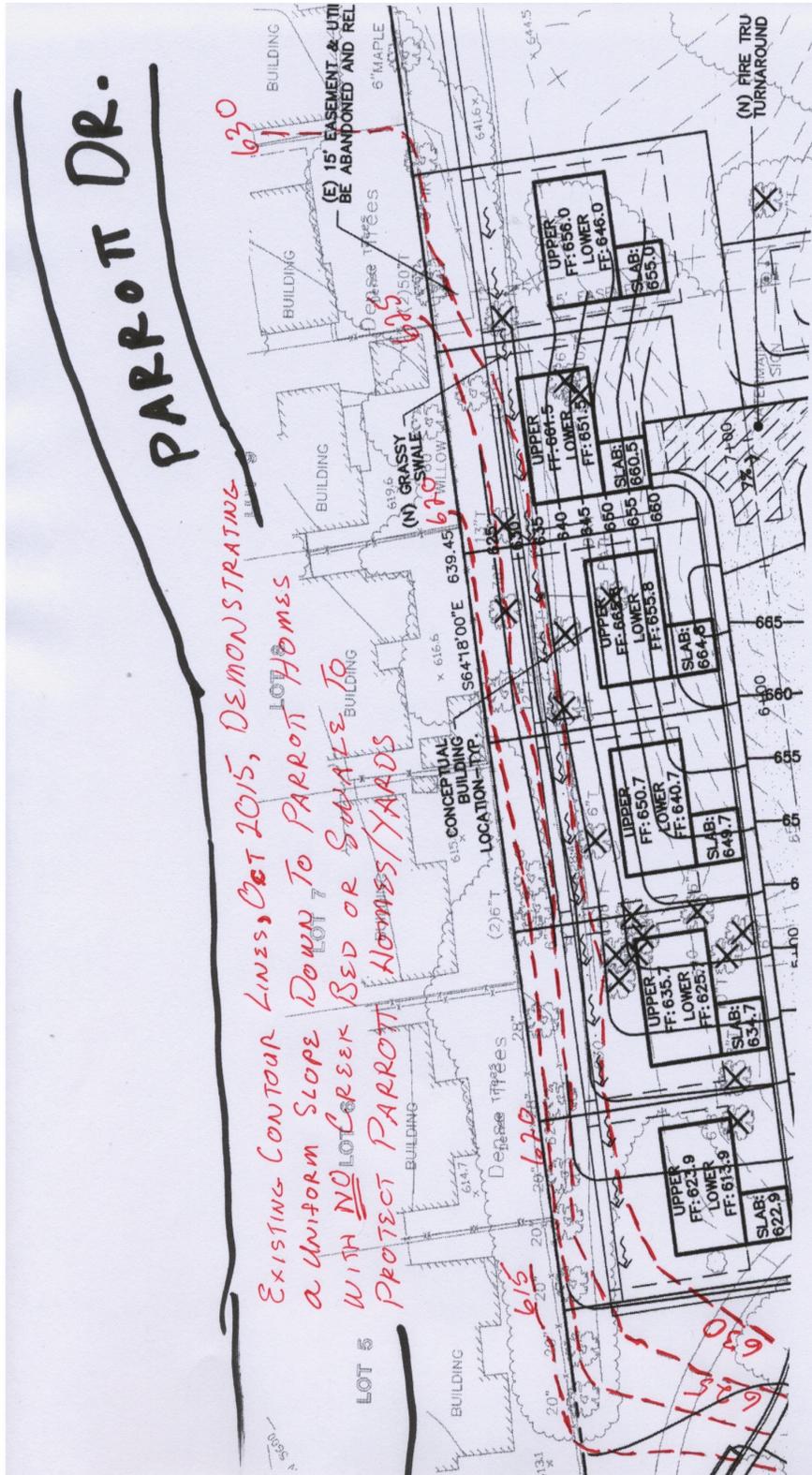


FIGURE 2

Contour lines (Red) demonstrating creek does not exist, nor is planned in final



**FIGURE 3**

**Looking up onto Asc. Hts. Property from Parrott yard. As shown in Landscaping Drawing, Pine trees are intended for “Privacy screening” but clearly are inadequate—no additional vegetation is proposed by developer between these trees**



FIGURE 4A



FIGURE 4B

**Existing Easements parallel to Parrott Drive and adjacent to Ascension Height property**

**Planning-Commission - Ascension Heights Development**

---

**From:** Suzanne Kennedy <suzannekennedy1@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 12:18 AM  
**Subject:** Ascension Heights Development  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>

---

Members of the San Mateo County Planning Commission,

I strongly urge you to deny the Ascension Heights development as it is currently proposed. The revised FEIR still falls short in correctly assessing the risks to the existing neighborhood as well as any future homeowners in the proposed development.

I am particularly concerned about the storm water system that is untested and only projected to handle a 10 year storm. The revised FEIR states any runoff from the system will flow into the nearby creek. Has the County been able to confirm there is a creek? There does not appear to be a creek in the project area. Any issues with the storm water system will greatly threaten the existing neighborhoods. Does the County have documentation on comparable systems so feasibility can be assessed?

I am also concerned with the inadequate documentation of the water needs for both the excavation and construction phases, as well as the ongoing needs of the new development for landscaping of both households and open space. Has Cal Water confirmed they have adequate supplies for these needs? During excavation and construction, the cited mitigation is spraying down exposed areas frequently. If there are water restrictions, what mitigations will be used to ensure air quality is kept within promised levels? Will Cal Water commit to supplying enough water that all plantings -- in open space or in developed lots -- will receive the water necessary to survive long term?

As a concerned resident, I urge you to reject the development as it is currently proposed.

Sincerely,  
Suzanne Kennedy  
1745 Los Altos Drive  
San Mateo, CA 94402

## Planning-Commission - Please vote against Ascension Heights

---

**From:** Kim Ricket <kim@sluggo.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 1:49 AM  
**Subject:** Please vote against Ascension Heights  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>

---

Dear Planning Commissioners,

I am writing to you to urge you to vote against certifying the Ascension Heights FEIR, and to vote to deny the grading and subdivision permits for the Ascension Heights Development. At the previous Planning Commission meeting, it was clear that some of you had serious concerns about the scope of the proposed project, and the detrimental effects it would have on the surrounding neighborhood. The applicant has had ample time to make changes to address your (and the neighborhood's) concerns, and yet he is still submitting what is essentially the exact same plan, with some pictures attached.

1. The FEIR fails to address many problems with the proposed development, and falsely claims that impacts will be "less than significant" when further mitigation is both relatively easy and would make a huge impact on the negative impacts on the surrounding community.

A. Erosion: When I visited the Planning Department last Friday, I spoke with James Castaneda, and learned that the condition requiring the developer to repair the erosion on the hillside had disappeared from the final copy of the documents. Although he assured me that it would be added back, I still am greatly concerned, because we have NO IDEA what the applicant plans to do to the hillside. This has always been a huge issue for the neighborhood, and will impact much more than erosion. These plans will impact water runoff into streets, neighborhood yards, and storm drains. It will impact the stability of the homes, trails, and landscaping on the slope. It will seriously impact what the slope will look like: giant retaining walls, terraces, cement culverts? It will even impact the landscaping, as some of these options prevent certain kinds of plantings. I find it quite remarkable that the applicant has not produced a single suggestion, let alone a plan, on how to tackle the extreme erosion that has been visible on the hill for decades.

Speaking of erosion, I have a few comments to make about the "landscaping plan." Whoever drew this, drew all of the plants the same size, whether small shrubs, or giant trees. If you look along Ascension, it is lined with Italian Stone Pine trees. These large, dense canopied trees are 40-80 feet high and wide, yet they are squeezed in like sardines at 20' apart. Furthermore, any arborist will tell you that these trees tend to lean, and when you plant trees like this along a street or sidewalk, you lose half a root system, which is a recipe for trees falling into the street. I don't see what this "landscaping plan" adds, other than some circles (of the wrong size) on paper.

One more thing about trees: the mitigation for the loss of the mature trees on the site is listed as replacement by three 5 gallon trees. Many municipalities require replacement of significant trees with 2'x2' box trees, which are standard in the trade, are significantly larger than 5 gallon trees, and would do much more to provide privacy.

B. Visual impact: This may seem relatively minor given some of the other serious impacts, but the FEIR falsely claims that no scenic views will be harmed. I understand the loophole about elevation (a view isn't considered scenic if you are below the project elevation), and while I consider this ridiculous, the

FEIR completely fails to acknowledge the scenic views held by a large number of homes in the Highlands neighborhood, that look out across "Polhemus Valley" at the proposed project site. These homes are ABOVE the project site, and therefore do have scenic views. Given the steepness of the slope below the Ascension side homes, and the potential to block the new homes' view, it is unlikely that landscaping will do anything to mitigate the appearance of these new homes.

C. Wildlife: Somehow the applicant has found or reclassified dozens of biological surveys that were never mentioned in previous drafts of this EIR or the EIR for the previously proposed 25 house project. Where are these studies, and what constitutes the definition of a "survey?" The result of this is to completely write off the possibility of Mission Blue butterflies, even though the host plants have been found on the site numerous times. The applicant very carefully states that none of the host plants fall into the "development envelope," yet the landscaping plan completely ignores these plants, and in the final plan the applicant may remove them at will. Given that this is an endangered species that we hope may recover, wouldn't it be prudent (and not very difficult) to protect the host plants?

D. Air Quality: The numbers provided by the applicant and the numbers provided by the homeowner's association are at odds. However, even if you accept the developer's figures, the calculations do not take into consideration the combined emissions from other construction projects (both at CSM and the new homes being constructed in the Highlands). Furthermore, the numbers do not take into account the fact that this is a valley, where noxious air can collect and concentrate on still days. What about those still days, when there are already "Spare the Air" alerts? If construction vehicle traffic is not stopped on those days, the neighborhood will be subjected to even higher unsafe levels of particulates.

E. Traffic: It is difficult to believe that adding huge trucks full of dirt every couple of minutes during rush hour at CSM is not going to be a significant problem. The traffic numbers simply look at the addition of "vehicles." Adding an extra car every couple of minutes might not be much of a problem, but a huge truck is another matter entirely. These large vehicles will move slowly on the small, climbing, curved neighborhood streets. They will be difficult to see around, and having so many of them is asking for trouble.

I would also like to point out the blind intersection at the corner of Bel Aire and the proposed road. When driving down Bel Aire, the road curves and increases in grade, just before the proposed intersection, meaning you will not be able to see the intersection until you are in it. Mitigation measures talk about not planting trees and bushes, but unless Bel Aire is regraded, there is no way to mitigate the danger of this intersection. If left turns were forbidden both into and out of the new roadway, some mitigation would occur, but this will still be a dangerous intersection.

It also seems that when the applicant redrew the roadway to preserve some mature trees, he may have made the intersection even more unsafe, as the sharper curve seems like it would decrease visibility for cars on the new road, and the new road now points directly at a house, rather than between two houses, as before. I agree with those homeowners that some sort of posts should be installed along the sidewalk to stop runaway cars that fail to turn after coming down the slope.

F. Slope stability: In my opinion, this is the most serious concern with this development. The San Mateo County General Plan discourages building on steep slopes, and this development proposes to do exactly that. It is the four homes along Ascension that really concern me. They will require extensive grading (resulting in more emissions and truck traffic), and there is no plan for how the currently seriously eroding slope will be stabilized beneath them.

I am also concerned about the liability that will be incurred by the future homeowners in this development. The applicant is banking off of his reputation and company of many years, yet he has

already created a separate company called Ascension Heights Development. He did something similar with Emerald Estates -- a separate company built those homes, then went out of business after they were sold. Perhaps this is standard operating procedure when building a development, but it does make me certain that any failures in the hillside will be completely borne by the new homeowners.

2. The San Mateo County General Plan discourages building on steep slopes and discourages extensive grading in the hills. The grading proposed for the subdivision runs counter to the General Plan, and is far too extensive for the surrounding neighborhood. The grading permit should be denied.

3. The proposed subdivision contains too many houses for the site, and does not take into consideration the land upon which it is being built. The rest of the neighborhood, despite being built in the 60's and early 70's, consists of curved streets, contoured like the hillsides. The applicant's basic grid is not appropriate for the area. The applicant also calculated his own densities for his project and the surrounding homes. However, I would like to point out that while he used the empty parcels in calculating the density for his project, he did not include the scenic easements and undeveloped parcels in Baywood Park when calculating neighborhood density. (One such large area can be viewed between Parrot and Los Altos -- right next to the proposed development.) He is simply trying to squeeze too many houses into an area that physically can't support them.

I am of the opinion that quite a few houses can be built upon the land in question. The top of the hill is relatively flat. Putting houses along the existing roadway, or even two roads, may be possible. Removing some of the houses from the plan could solve the problems with building on the steep Ascension side, and could re-introduce a buffer zone for the Parrot homes (which was even present in the previous, 25-house version of the plan). I proposed a "minimal grading plan" much earlier in the EIR process, and was told that it was "substantially similar" to the "large lots" alternative in the EIR. While I think the land could support more than 7 homes, I still must conclude that the "large lots" plan is superior to the applicant's plan, because it would result in significant mitigation of so many of the issues faced by the neighborhood, yet still provide additional homes in San Mateo County.

The applicant has had ample time to prepare a plan with fewer houses, and has refused to do so. That is his right, but you have rights too. You have made your reservations very clear, and have suggested that a plan with fewer homes might be more acceptable. His lawyers say you can't ask him to propose fewer homes unless there aren't any other alternatives. First, I would submit that there do not seem to be any other alternatives that sufficiently mitigate all of the concerns mentioned. Second, it is your job to make sure that any proposed development fits in with the San Mateo County Master Plan, and this project simply does not. You have given the applicant every opportunity to present a plan that would be appropriate for developing this special area, and this is what he has chosen. It is your right to say no -- to decline to certify the FEIR, to deny the grading permit, and to deny the subdivision permit. I strongly urge you to do so. This proposal is not appropriate for this piece of land and does not fit with the County General Plan.

Thank you for your attention,

Kim Ricket

## Planning-Commission - Nagle comments to Planning Commission wrt Ascension Heights

---

**From:** Donald Nagle <donald.r.nagle@gmail.com>  
**To:** Steve Monowitz <SMonowitz@smcgov.org>, <Planning-Commission@smcgov.org>, ...  
**Date:** 10/13/2015 2:11 AM  
**Subject:** Nagle comments to Planning Commission wrt Ascension Heights  
**CC:** Gerard Ozanne <jerryozanne@icloud.com>, Laurel Nagle <laurelnagle@gmail...>  
**Attachments:** Nagle letter to County 12Oct2015 Asc Heights.pdf

---

Please see attached for our comments on the Ascension Heights proposal and FEIR (dated August 2015) and associated Planning Staff Report (dated October 14, 2015).

Also, please distribute to Planning Commission members.

Thank you in advance,

Donald and Laurel Nagle

October 12, 2015

San Mateo County Planning Commission  
c/o Steve Monowitz, Director, San Mateo County Planning and Building Department  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

RE: Comments on the Ascension Heights proposal/FEIR (August 2015)

Honorable Members of the San Mateo County Planning Commission:

We live at 1538 Parrott Drive, directly adjacent to, downhill, and downwind from the proposed project site. Our comprehensive list of concerns detailed in prior letters and public comments remain active concerns for us, both about the proposal and the associated planning process undertaken by County personnel, and are already part of the record (including letters dated February 24, 2015; June 9, 2014; November 4, 2013 and earlier, as well as public comments during each Planning Commission hearing about this proposed project).

For this hearing, rather than repeating all previously documented concerns, we focus on three items that remain materially unaddressed and concerning, and provide a short list of other major concerns.

**1. Harm to our legally protected Significant Trees:** Complete lack of response to, or incorporation of the recommendations from, the Arborist Report that we submitted in person at the January 28, 2015 Planning Commission hearing (with a follow-up PDF sent to Heather Hardy on January 29, 2015 at her request). The net result should the plan proceed as recommended by County Planning Staff will be irreparable harm to our legally protected Significant Trees. This situation could be resolved if the applicant and the County would follow the compromise Tree Protection Zone described in the Arborist Report, which is what they have done for the trees at 1450 Parrott close to the proposed site entry road.

- The report for our trees is authored by Don Cox, an ISA Board Certified Master Arborist.
- The County has accepted the judgment of Mr. Cox with respect to the siting of the proposed new entry road, which suggests the County values his expertise.
  - Specifically, in a report for John Mathon of 1450 Parrott Drive, which was submitted to the County, Mr. Cox recommended a compromise Tree Protection Zone for the trees at 1450 Parrott that would extend to the existing wooden retaining wall along the current access road to the site.
    - “The north-eastern side of the access road should represent a boundary for an absolute non-intrusion zone for any grading, excavation and construction activity, in order to avoid structural and physiological



- I clarified with Mr. Cox in verbal communication that a fenced Tree Protection Zone means absolutely zero construction activity of any kind, hence the installation of a temporary fence before the project begins.
- The project as described in the FEIR and associated plans, however, completely ignores this compromise TPZ. Based on the current plans, the Applicant would undertake the following extensive, intrusive work inside the compromise 50' TPZ:
  - Reroute Cal Water's large water pipe within ~10 feet of the tree trunks
  - Install storm drain pipes within ~20 feet of the tree trunks
  - Install the very large and deep water storage elements (retention pipes and catch basins) within ~25-30 feet of our tree trunks (Note: Per figures on page 5 of the plans, the retention pipes are situated within a unit that appears to be 10 feet wide, 30 feet long and several feet deep. While the catch basins on either side are not as long, they appear to be nearly as deep. Together these form massive excavations within the TPZ).
  - Install the slab for proposed lot 7 so that the corner of that slab is ~30 feet from our largest tree
  - Install the slab for proposed lot 6 so that the edge of the slab is ~40-50 feet from our two other trees
  - Construct the homes "down the slope" from the slabs so that edge of the homes built on lots 6 and 7 are as close as ~30 feet from our tree trunks.
- Based on the current plans, we can only assume that the Applicant and County Planning Staff (given their recommendation to accept the FEIR and the project proposal) have completely ignored the compromise TPZ required to protect our Significant Trees.
- We are curious as to what basis County Planning Staff are using to simultaneously (a) accept Mr. Cox's recommended TPZ for the trees on 1450 Parrott Drive and therefore shift the entry road and yet (b) ignore Mr. Cox's recommended TPZ for our Significant Trees.
- The logical conclusion when receiving both reports would be to be consistent, i.e., to accept the compromise TPZ in both cases.
- **The inevitable result of such consistency would be to alter the proposed project plan, and specifically to re-plan all elements shown within proposed lots 5-7 so that there is no construction activity of any type within the compromise TPZ**, including as example the proposed re-routing of the Cal Water water main (this water main could be left as it currently exists), the storm drains, the water storage system elements, and the house slabs.
- Without such a re-plan, the project impacts cannot be known, and the FEIR and proposed project cannot be accepted.
- As a concluding comment on this topic, these implications have been known for years (we bring them up at every hearing), but the County has repeatedly proposed postponing examining this issue until after the subdivision has been accepted by the

Planning Commission. With this report by Don Cox, an ISA Board Certified Master Arborist whom the County clearly respects (since they've accepted his recommendations to protect the trees at 1450 Parrott Drive), this issue and its implications for the proposed project can no longer be postponed.

## 2. Privacy impacts and a sense of being overwhelmed on a daily basis, forever, by a development that would be significantly out-of-character with the neighborhood

- The proposed homes would be outsized relative to and out of character with the neighborhood:
  - The proposed 3-story homes, even with the proposed design guidelines, are **dramatically out of character with the neighborhood**. The majority of existing homes are 1-story homes, followed by split-level homes (i.e., one-story homes with an additional room or two on another level, typically above the garage or below the main part of the house). There are only a very small number of true 2-story homes.
  - The proposed 28-foot limit would be voluntary, i.e., unenforceable, and is still out of character!
  - The proposed homes would be ~4000 square feet or larger. Most homes in the neighborhood, however, are only ~1400-1800 square feet (with a smaller number at 2200-2400 square feet, and a very few larger outliers).
- The proposed homes would be right on top of us (shared backyard fences with the houses looming above), a situation that also is out of character with the typical situation in the neighborhood:
  - Shared back-yard fences are NOT the norm in this neighborhood, despite County Planning Staff's assertion in its October 14, 2015 report.
  - A quick look using Google Earth view of the streets around the hill would show that most have no backyard neighbor at all! And those that do typically have an open gap of some significant distance. We're talking 100s of existing homes with this existing privacy.
  - Additionally, we have the **precedence of a true buffer zone with separate backyard fences located only four houses southeast of the proposed site**, at the corner of Parrott and CSM drives. This buffer zone is 29' at its narrowest, and 39' at its widest, and separates the houses of Parrott from the first house on CSM Drive.
  - It is simply the reality of how our specific neighborhood was built that we do NOT have "close proximity to backyard neighbors" as the norm.
- The proposed development is **actually denser than the neighborhood**. Adding in the roads and the open space confuses the issue. All you have to do is compare the square footage of the 7 closest lots on Parrott with the 7 closest lots in the proposal -- the Parrott lots are larger in total, and therefore the 7 homes on Parrott are less dense than what is proposed. It's simple math.

- Building homes with the proposed close proximity to existing homes, combined with the size differential, would be out of character and therefore a significant impact to the neighborhood.

### 3. An **insufficiently described and poorly thought through landscaping plan**

- The landscaping plan proposes to provide screening between the development and Parrott homes with trees that grow very wide to be planted within a few feet of the existing fence line. The plan states that Italian Stone Pines grow 40' to 80' wide, Olive trees grow 25' to 30' wide, and Toyon grow 25' wide. Yet the applicant's submitted drawing shows all of these trees situated within 2-5 feet of the existing fence. The inescapable conclusion is that the Parrott backyards will have tree limbs from these trees extending all the way to and beyond our homes. If we cut off the limbs at the fence lines, which would mean slicing off half of all branches nearly to the trunk, the trees would be horribly deformed and die prematurely. The limbs would also need to be extremely cut back on the uphill side (or else they would grow into the new homes). How does this proposal even make sense?!?
- Using trees of these sizes as a screen would be wonderful IF they were set back a sufficient distance so that they could grow into healthy, full, natural looking trees. This suggests the use of a large, true buffer zone in which the proposed trees would be established in the center and allowed to grow naturally in all directions out from their trunks and without pushing into either the Parrot backyards or the newly proposed backyards, which would be a positive situation for both sets of neighbors.
- The landscaping plan is inadequate in describing material details required to understand impact and effect. It's literally just a drawing with plant names and a couple paragraphs in the Staff Report (with assumptions that it will all be worked out somehow). A few examples include the lack of detail associated with the following topics:
  - Establishing the trees anywhere on the site, as even drought tolerant trees and shrubs require extension care and watering during their first couple years to get established.
  - Repairing the erosion on the hillside. The plan suggests installing trees and shrubs all over the Ascension side to help with the erosion. Ironically, maintaining those trees and shrubs would require workers walking up and down the steep hillside, which would cause erosion. There is no description of any stabilized or engineered walkways or paths to enable maintenance without erosion, so we must assume there won't be any. If there were, they likely would require significant grading and construction to first stabilize the hill before planting (again, on the Ascension side). The FEIR describes no figures or details on the associated environmental impacts.
  - Permanent responsibility and guarantees are missing in specificity.

4. A **partial list of other major concerns** (subset of those previously raised before prior hearings):

- Creation of a new dangerous, blind intersection at Bel Aire.
- Major dust and other particulate pollution during construction (including but not limited to the grading period), which is particularly troublesome for but not limited to the large number of elderly and very young in the neighborhood.
- Traffic impacts for 2+ months during grading due to large heavy trucks exiting and entering the proposed worksite every few minutes every day for the entire grading period.
- The grid-like pattern of homes laid on top of a steep and variable hillside is out of character.
- The placement of one home and a public walking path within ~25-30' of a cluster of 10+ cell towers (which is not a typical residential situation)
- The proposed stormwater retention system is documented to overflow water directly into Parrott properties during major storms; additionally this overflow cannot exit this portion of Parrott if the sole storm drain on this part of Parrott gets blocked, as the topography does not allow the water to run down to any creek.
- The assurances that zero slides will ever happen do not ring true given the multiple nearby slides (Parrott/Los Altos, Bel Aire, and Rainbow to name three major slides in the neighborhood).
- Lack of authentic collaboration by the Application with the community as requested by the Planning Commission after the 2009 denial. Instead the Applicant told the community his plans and accepted questions but made no adjustments to the basic elements of his plan (making such adjustments is what most people would assume is meant by the phrase "collaboration with the surrounding community").

In summary:

- The County should be consistent in respecting compromise Tree Protection Zones to safeguard the health of legally protected Significant Trees on Parrott.
- The County should recognize more clearly the existing character of the neighborhood (we're mostly smaller houses without direct backyard neighbors), and request adjustments to the plan to create a closer fit with that character.
- Numerous other issues have been inadequately detailed, several to the point of CEQA inadequacy (see letter from Baywood Park HOA legal representation).
- We on Parrott adjacent to the proposed project are deeply and seriously impacted, without currently planned helpful or meaningful mitigations.

Thank you for your attention to the above, and to our prior documented concerns,

Laurel and Donald Nagle  
1538 Parrott Drive  
San Mateo, CA 94402

**From:** Ian Small <iss@cogentmind.com>  
**To:** <Planning-Commission@smcgov.org>  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...>  
**Date:** 10/13/2015 3:13 AM  
**Subject:** Concerns about Ascension Heights development

Dear Planning Commission -

We have been following with some concern the ongoing discussions regarding the Ascension Heights development and continue to have real concerns about the impact of this development on the neighborhood.

We walk past the undeveloped hillside on a regular basis with our dog. It is hard to believe that sound development practices would allow the placement of 19 houses on that area, given the extreme contours of the land. Furthermore, our community has had previous disastrous experience with erosion and landslide issues, and from the analysis that we have seen, the stormwater retention and management system does not seem to be adequate for the proposed development, especially considering our increasingly extreme weather conditions.

The developer has taken multiple attempts at finding a design that works, resulting now in homes that are largely out of character with the rest of the neighborhood. Most of the neighborhood is composed of ranch and split-level homes, with occasional larger builds in between. This new set of designs calls for a tract of homes all of which exceed the average profile of the neighborhood.

And at this point, it still seems as if the construction process itself will deliver significant ongoing problems to the neighborhood, both in terms of traffic, noise and pollution, none of which have been fully mitigated.

As we will be unable to attend the upcoming meeting because we will be out of the country, we are taking the time to write this email to make our views known.

It does seem possible to design and approve a smaller more contained development on this property. But the developer appears intent on maximizing profit at the expense of the safety and long-term interests of surrounding community. In this case, we are relying on the Planning Commission to protect the community.

Thank you for your time and attention.

Fiona and Ian Small  
123 Lakeshore Drive  
San Mateo, CA 94402  
408-252-3522

## Planning-Commission - Ascension Heights Development

---

**From:** Anne Pitkin <apitkin@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 3:32 AM  
**Subject:** Ascension Heights Development  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, Craig ...

---

Hello,

I'm unable to attend the meeting on Wednesday morning. However, I wanted to be sure to voice my concern for this project. In particular, the lack of changes that have been made between February and now.

This is still a very concerning project, especially with all the land slides in the area. Current drought conditions, coupled with sudden hard rain showers caused local minor slides. A lot of it has been untouched, hard packed earth for 51 years. When earth is this dry and suddenly gets soaked with rain, it tends to move. The same kind of dry ground suffering sudden rain is what caused a span of Interstate 10 to move and collapse in Southern California just a few months ago.

Now just think how land that has been dug up and moved by machines on Ascension Heights Development will react once we get a good hard rain! 19 homes sitting that close to the edge of that steep hill is quite alarming to me. I really wish the number of houses would be re-thought and reduced to a safer number. I'm not against houses being there, I'm just really worried about how close to the edge of the hill so many of them are. Keeping in mind the disastrous slide on Polhemus Road, it just seems like an unnecessary risk to have that many houses built on the hill.

California is entering the fourth year of a record-breaking drought, creating an extremely parched landscape making me hope that there will be some changes to the proposed storm system to address drought concerns. As I understand it, any rain water will be stored at each lot and released at a later time to prevent the neighborhood system from being overloaded. Not only is this system worrisome due to the absence of a fail-safe in place, it also seems quite wasteful. There is no mention of reusing this water to irrigate each resident's lawn or plants. If you're storing the water, why aren't you using it to benefit the community by helping to conserve water?

Law "AB 2282: Residential recycled water" was passed back in 2014 and went on the books on January 1, 2015, requiring the inclusion of recycled water systems in new residential construction. And if this project is going to go on for years and years, as the developer said it would, I really hope that they will implement a recycled water system even if the project starts before this law is in full effect, since I doubt that construction will be finished before that time.

Here's a quote from the developer's lawyer. "The high level of detailed analysis and community outreach is not typical for such a small development, and it speaks to the lengths the applicant has gone to propose a properly planned development that will result in many benefits for the community." What about the the most important and crucial benefit, that of conserving water for the community?

Please think of the community. Think of California. Be wise with the water. If you're going to be storing it anyways, please re-use it.

Thank you,  
Anne

## Planning-Commission - Ascension Heights Development

---

**From:** Patricia Velarde <velarde650@gmail.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 8:25 AM  
**Subject:** Ascension Heights Development  
**CC:** <jcastaneda@smcgov.org>, <cgroom@smcgov.org>, <dpine@smcgov.org>, <water...>

---

Planning Commission members,

My husband and I have lived at 1575 Ascension Drive for over 25 years. This e-mail asks that you to decline the current proposed development plan for this area for the following reasons:

The project proposes to place a crowded subdivision on a very steeply contoured parcel that has resisted development for the past 60+ years while all surrounding parcels were developed. Baywood Park has serious concerns about the environmental and community impacts of the proposed Project and about the adequacy of the environmental review prepared for it.

The FEIR remains critically short on specifics of the plan and necessary mitigations. The developer's 15+ years track record with community involvement is abysmal, consisting of insufficient documentation,

repeated and unlawful deferral of analysis and mitigation,

failure to provide the public and decisionmakers with sufficient detail about the Project to analyze its impacts,

insufficient or no evidence to support the EIR's conclusion that mitigation would reduce the Project's impacts to a level of insignificance, and repeated reliance on unenforceable mitigation measures

You have heard from residents of this area during planning commission meetings and we ask you to carefully consider the feedback you have heard regarding this proposed development in advance of the meeting tomorrow. Place yourselves in the position of longtime residents such as ourselves, and make the correct decision to decline the submitted proposal.

Regards,

Robert & Patricia Velarde

**Planning-Commission - Watertankhill Public Meeting**

---

**From:** Thomas Tuohey <ttuohey@pacbell.net>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>, "jcas...  
**Date:** 10/13/2015 8:30 AM  
**Subject:** Watertankhill Public Meeting

---

This neighborhood will be changed for the worse if this development is approved. The data seems clear that the hill won't support the construction. The planned movement of the dirt can only have a negative effect on the lives and health of the current inhabitants. The total time span for the project will only subject the inhabitants to constant noise and pollution having serious consequences for the health for many.

As an eighty year old I seriously fear for my health. This project is fraught with problems with little concern for the people and the environment.

Sincerely,

Thomas Tuohey(at the foot of the hill)

**Planning-Commission - Ascension Heights Development**

---

**From:** Jeni Mikesell <jenimikesell@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 8:31 AM  
**Subject:** Ascension Heights Development  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>

---

Dear Planning Commission:

I am opposed to the Ascension Heights development.

The developer has not addressed the concerns of the residents who will be most affected by this project going through and his communication has been abysmal.

The proposed stormwater retention plan is untried and if the system fails the homes along Parrot Drive may be negatively impacted. There is no 'creek' for the water to flow into. Since these homes are not in a flood zone, I'm sure most of the homeowners do not have flood insurance. Who then will pick up the cost to repair these homes if this system fails? The developer? The county? Is the county prepared for potential fall out?

Then there is the issue of the trucks traveling up and down Ascension and Bel Aire or any of the other proposed routes. The noise from these truck will negatively impact the peaceful neighborhoods not to mention the traffic hazards these large trucks would pose.

These are just a few of the concerns of the homeowners that are opposed to the project.

I strongly urge the planning commission to vote no on this

issue.

Sincerely,

Jeni Giometti Mikesell

## Planning-Commission - Vote No on the Water Tank Hill Development

---

**From:** Daniel Bronstein <bronstein.daniel@yahoo.com>  
**To:** "planning-commission@smcgov.org" <planning-commission@smcgov.org>  
**Date:** 10/13/2015 8:37 AM  
**Subject:** Vote No on the Water Tank Hill Development  
**CC:** <dpine@smcgov.org>, <jcastaneda@smcgov.org>, <cgroom@smcgov.org>, <water...

---

Dear Planning Commission:

Please **vote no** on the Water Tank Hill Development.

This project is irresponsible considering the slope and previous issues with erosion and landslides. In addition, there are potential health issues related to the scope of the construction that have not been addressed. I am also concerned about local wildlife populations, as deer, the highly endangered California Condor, and other species utilize this area as a natural habitat. Construction in this area would undoubtedly and unfairly destroy the homes of these animals.

I am a concerned resident and ask that you **vote no** on the Water Tank Hill Development.

Thank you,  
Daniel Bronstein

**Planning-Commission - WATER TANK HILL**

---

**From:** Larry C Tripplett <larrytr@msn.com>  
**To:** <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 8:58 AM  
**Subject:** WATER TANK HILL  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, <water...>

---

My wife and I have lived at 1435 Rainbow Drive since 1989. Please VOTE NO on this disturbing and disruptive project.

I have personally observed many slides and much erosion on the proposed site. The hill is quite unstable. It will cost us the residents and taxpayers much money when it has a massive slide such as the one that happened down the street on Rainbow Drive. The house down the the street remains uninhabitable and vacant. There was also a massive slide near my house before we moved in and several houses were damaged. There was a massive slide behind the house next door some years ago. The neighbors were involved in lawsuits for years.

The environmental impact will be terrible with the dust and constant truck movement. During this terrible drought how can you consider another drain on our water resources. If people want to move in our community their are several houses for sale.

Please do not ruin my now retirement years.

Thanks for your consideration.

Larry C Tripplett  
[larrytr@msn.com](mailto:larrytr@msn.com)  
Tripplett Management Corporation  
Tripplett Properties, LLC  
LCT Services, Inc.  
(415) 385-5636 Fax (877) 773-6487

## Planning-Commission - Ascension Heights Development

---

**From:** Rosemarie Thomas <rosemariethomas43@gmail.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 9:10 AM  
**Subject:** Ascension Heights Development  
**CC:** James Castaneda <jcastaneda@smcgov.org>, "cgroom@smcgov.org" <cgroom@smc...

---

Greetings:

We received a notice stating that the Ascension Heights Development project will be on the agenda October 14, 2015. We are unable to attend this meeting and again want to express our concern regarding this project. We know that you have heard all of our concerns over and over and we are sure that you are tired of hearing them, but we truly feel that this project is not responsible. The key word here is responsible.

The Planning Department seems to feel that this developer has made a substantial effort to address the concerns of this project. This is not the case -- he has really not listened to the concerns of the neighborhood, has proposed a risky water drainage system that has not been proven in circumstances such as this hillside. There are numerous failure points and if the system become clogged where is the water to go -- a creek -- we do not have a creek in this area -- the creek will be the streets and backyards of homeowners in this area.

According to Mr. Thomas, the future homeowners and their Association will be responsible for maintaining this risky water drainage system -- now tell me if you are buying a two million dollar home (assuming that is the priced) are you going to want to be responsible for this system and the lawsuits that will come if it does fail? Is the Planning Department going to step up and reimburse the neighborhood for their losses??

Please look at the long term impact that this development will have on this area I.e. stability of the hillside that has been disturbed by this development and a water drainage system that is questionable.

Also one last issue -- this weekend a moving truck which is about the size of a large dump truck was trying to navigate up Ascension from Polhemus -- trying to make a left on to Bel Aire Road -- again the truck had trouble navigating the turn -- it had to back up several times - swing around and finally was able to make the turn but with school traffic and neighborhood traffic this is going to present a real problem.

People/taxpayers/voters are not against development but they want it to be responsible and this development is not responsible.

Thank you for your time,

Bob and Rosemarie Thomas

## Planning-Commission

---

**From:** Marian Sosnick <msosnick@outlook.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>, "Plan..."  
**Date:** 10/13/2015 9:16 AM

---

To the Planning Commission,  
We are homeowners in the San Mateo Oaks.

We were at the last planning commission meeting and were appalled at what transpired. It appeared that 3 of the 4 members of the planning commission were opposed to the development and at the last second Mr. Thomas was able to speak and derail the vote!!!! Mr. Thomas was given every opportunity to talk about the project at the prior meetings when he took up our time and the meeting had to be continued at a later date.

Forty - five minutes prior the planning commission asked if anyone had anything else to say and Mr. Thomas did not speak up then. When the vote looked like it was leaning towards being voted no he somehow was able to speak and he literally got up and made all sorts of promises that he clearly has not kept in the new revisions.

One member of the planning commission stated that the homes not be more than 2 stories - has that been changed?

Another member stated that the streets be curved in keeping with the neighborhood - has that been changed.

There are many more issues that have not been resolved such as -

Drainage System - how can you approve a system that has not been used in this country on a steep hill?

Water Issue - a letter was sent from the head of the water department and approved water usage - WHY ARE WE TOLD TO CUT BACK ON OUR WATER AND LET OUR GARDENS DIE AND THIS PROJECT WAS APPROVED FOR WATER USAGE TO HOSE DOWN TRUCKS AND THE STREET!!!!

Health and Safety Issue - I would like to know if any of the planning commission or Mr. Thomas would like to live in our area while this work is going on? You are going to be voting on something that will affect our health!!!

It is a fact that all the air pollution will increase chances to get CANCER, PULMONARY ISSUES, HEART AND STROKE PROBLEMS. If you do go ahead and approve this project I would like for all of you to trade housing and you live here while they excavate the hill and cause major health issues.

Slides - hills all over our area that have had slides and how can you let this hill be built on when it has so much erosion already. WHO IS GOING TO BE RESPONSIBLE IF THEIR IS A SLIDE IN YEARS TO COME? San Mateo Oaks Homeowners had been responsible to fix a number of slides that have already happened.

This new development will not have a homeowners association immediately and what if the developer

goes bankrupt? Who then will be responsible for a slide that will greatly effect our neighborhood.

Again, I am not sure how this new meeting even happened when it looked very certain at the last meeting that 3 of the 4 members were not in favor of Mr. Thomas building on Watertank Hill.

It is very disturbing to have witnessed what happened at the last meeting.

I hope that you take all of our concerns into account when you are voting on this issue!!!!

Marian and Jeffrey Sosnick  
1605 Ascension Drive  
San Mateo, CA 94402

**Planning-Commission - Fwd: Ascension Heights Development**

---

**From:** Craig Nishizaki <watertankhill2013@gmail.com>  
**To:** "planning-commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 10:13 AM  
**Subject:** Fwd: Ascension Heights Development

---

----- Forwarded message -----

From: **Edward Oh** <[edward.oh@yahoo.com](mailto:edward.oh@yahoo.com)>  
Date: Tue, Oct 13, 2015 at 9:19 AM  
Subject: Ascension Heights Development  
To:  
Cc: [jcastaneda@smcgov.org](mailto:jcastaneda@smcgov.org), [dpine@smcgov.org](mailto:dpine@smcgov.org), [watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)

To the Planning Commission.

This is in regards to the Ascension Heights Development. As a resident on Kristin Ct. I'm concerned about recent communications that I've received regarding a proposed approval for the development. Based on the reports submitted, especially in regards to the storm water retention system, I feel strongly that this proposed development puts the residents of the neighborhood in danger. In addition, I have similar concerns around the multitude of construction, environmental, congestion, and traffic dangers already documented in past discussions.

Additionally, I have grave concerns around the manner and forum in which these decisions have been made. For the record, I am strongly opposed to any approval of the Ascension Heights Development and support the rest of our community in any efforts to stop the development in its current proposed form.

Edward Oh

## Planning-Commission - Ascension Heights Development

---

**From:** David Codemo <dcodemo@hotmail.com>  
**To:** "Planning-Commission@smcgov.org" <planning-commission@smcgov.org>  
**Date:** 10/13/2015 11:25 AM  
**Subject:** Ascension Heights Development  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...

---

Dear Planning Commission,

I know that we are getting closer to a conclusion to this Ascension Heights Development proposal. I have attended numerous meetings about this. Personally, I believe it is a fact that this proposal really doesn't make much sense. That hill is much too steep of a grade, there are too many environmental factors that will be in jeopardy, and not to mention the road to enter into the development will pose some serious safety issues by itself alone. I believe that if it wasn't for the presence of lawyers involved from the other side that this would have easily been dismissed due to these reasons alone.

I just hope when you make your decision that you think about the residents that have lived in this area for decades. We take pride in our area and we all want to do what is best for our community. I ask you to take a moment and think about the proposed road off Bel Aire that would lead to this new development. Honestly, how safe can it really be? The answer is that "not safe one bit." Yeah, I am sure lawyers or the developer can try to sway your perception that it will be safe, but let's be honest here. Go take a look at that hill and the descent involved. It is only going to be sooner or later that there will be a serious accident and I hope that none of our kids will get hurt or even killed. It is just too steep. I don't even have a house on that street, but if I did, I would be worried that a car could come down that road and crash right into my living room.

I also don't know if you were in this area 35 years ago or so, but there was a fire on that proposed hill close to Parrott Dr. I remember vividly how rough it was to access that area to put out that fire. I can't even imagine what will happen if something like this happens if this project goes through. You could just be putting more people's lives in jeopardy up there in a disastrous situation.

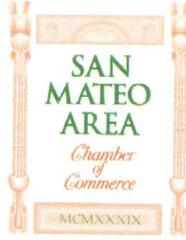
And how about the fact that we just had a few drought years in a row....what is going to happen when we get some intense storms over a few years and there are houses up there? That grade is so steep that I can see another slide taking place similar to what happened down on Polhemus.

Of course, the developer will counter all of these objections and try to find a way to make his proposal seem acceptable, but after you add everything up it really doesn't make sense at all. I know that there is no one in their right mind that could honestly say that this is a good idea that isn't somehow monetarily invested or have something to gain out of the situation. If someone told you it was safe to build a home twenty feet away from an eroding cliff on the Pacific shoreline, would you do it? You may be told that the eroding has stopped and experts are confident that the soil that remains is fine to withstand anything that comes in the future. But would you really fork up your own money to buy that house after you know that it could actually fall into the ocean one day? This is essentially the same

situation we have here on Ascension Heights. These expert can say that "today" everything looks fine.....the soil is fine, the grade is fine, the road is fine and safe, etc.....but if this project goes through and conditions "change" in the future then everything could "not" be fine and we may have a serious situation on our hands. And who is going to be held responsible for that? The developer that sold the homes, cashed in, and walked away? I doubt it. Is the County going to be responsible? Someone has to be I believe and most importantly someone (the Planning Commission) must take some responsibility now to protect, not only, the existing residents of this area but also the 19 families that could potentially invest in one of these houses.

In closing, I just hope that the Planning Commission makes the right decision on this without any pressure from lawyers, developers, etc.. Just please take a step back and look at the whole situation and see what your gut really feels about this and the safety of everyone involved and please do what your conscience feels is right. To me, it would be to vote this proposal down.

Dave Codemo



"Leading Business, Leading Community"

October 1, 2015

Honorable Members of the San Mateo County Planning Commission  
c/o Steve Monowitz, Community Development Director  
County Office Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Honorable Members of the Planning Commission:

On behalf of the Board of Directors of the San Mateo Area Chamber of Commerce, I recommend the approval of the Ascension Heights housing development proposed for the San Mateo Highlands/Baywood Park area of San Mateo County.

Approval of this project will construct much needed new housing in San Mateo County, and is consistent with the principles of the County of San Mateo's own 2014-2022 Housing Element document which states the following on page 99:

*"To the extent that the County has experienced recent opposition to housing, it has not been specific to affordable housing, but there has been some generalized opposition to new housing of all types, driven by community concerns about the impacts of new development, including negative environmental impacts such as loss of vacant land, real or perceived threats to sensitive habitats, and increased traffic and parking impacts, and concerns such as changes in the character of existing communities, impacts to quality of life, and other factors. These concerns highlight the need to prioritize housing in infill locations, housing that maximizes the availability of transit, and housing that, in general, minimizes potential environmental impacts, respects the character of existing communities, and makes efficient use of existing infrastructure and services. The policies incorporated in Section 10 prioritize these types of residential development."*

The proposed Ascension Heights project is on an infill site which has been zoned for housing for decades, demonstrates minimal potential environmental impacts according to its full EIR document, respects the character of existing residents through voluntary design guidelines, and improves existing infrastructure by upgrading sewer infrastructure, stormwater systems, and corrects decades of erosion through permanent control measures.

I urge the Planning Commission to approve this project because it has satisfied all the legal requirements for approval, and we need more housing of all types in San Mateo County.

Sincerely,

Cheryl Angeles  
President & CEO

San Mateo Area Chamber of Commerce

Cc: James Castaneda, San Mateo County Planning Department

SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

WINTER KING  
Attorney  
king@smwlaw.com

October 13, 2015

**Via E-Mail and U.S. Mail**

San Mateo County Planning Commission  
c/o Steve Monowitz, Community  
Development Director  
County Office Building  
455 County Center  
Redwood City, CA 94063  
E-Mail: [planning-commission@smcgov.org](mailto:planning-commission@smcgov.org)

Re: Ascension Heights Subdivision Project

Honorable Members of the San Mateo County Planning Commission:

This firm represents Baywood Park Homeowners' Association ("Baywood") with respect to the proposed Ascension Heights Subdivision Project ("Project"). As we have commented in the past, Baywood has serious concerns about the environmental and community impacts of the proposed Project and about the adequacy of the environmental review prepared for it. The Planning Commission echoed many of these concerns at the last hearing on this project, including the Project's excessive density, aesthetic and traffic safety impacts, and inappropriate, gridlike design. The Planning Commission has also repeatedly urged the Project applicant, San Mateo Real Estate, Inc. ("Applicant") to sit down and work with the community to resolve these concerns.

The Applicant has not addressed the concerns raised by Baywood and the Planning Commission. Nor have the flaws in the environmental impact report ("EIR") been remedied. Instead, the Applicant has submitted its own "responses" to Baywood's comments, which, far from demonstrating any intention to work with members of the community, dismiss their concerns as "emotional." The Planning Commission was correct to demand more community outreach from the Applicant.

Moreover, the California Environmental Quality Act ("CEQA") requires more than the vague project description and deferred mitigation contained in the EIR. After reviewing the revised FEIR issued in August, we conclude, once again, that it is

inadequate under CEQA. In fact, we find at least 10 discrete legal deficiencies: deficient analysis and/or mitigation of impacts in 7 different impact areas, and; at least 3 inconsistencies between the evidence and the findings required by CEQA and the Subdivision Map Act.

**I. Neither the Applicant's Proposed Changes to the Project Nor Changes to the EIR Remedy the Significant CEQA Violations Identified by Baywood.**

Since this Project was originally proposed, members of the community surrounding the Project site, including Baywood and individual homeowners, have consistently reviewed and commented on the Project materials, environmental analyses, and staff reports issued by the Applicant and the County for this Project. In February, Baywood retained this firm to submit comments on Baywood's behalf prior to the February 28, 2015 Planning Commission meeting. These comments identified numerous flaws in the Revised Draft EIR and the Final EIR (together, "EIR"), including repeated and unlawful deferral of analysis and mitigation, failure to provide the public and decisionmakers with sufficient detail about the Project to analyze its impacts, insufficient or no evidence to support the EIR's conclusion that mitigation would reduce the Project's impacts to a level of insignificance, and repeated reliance on unenforceable mitigation measures.

In response, the Applicant has attempted to remedy these fundamental flaws with a series of "band-aids"—minor tweaks to the Project and new, but unenforceable, design "guidelines" that do little if anything to resolve the concerns expressed by the community and the Planning Commission. Because the EIR is still plainly inadequate under CEQA, the Planning Commission must not certify it.

**A. Aesthetics**

The FEIR continues the RDEIR's legally inadequate analysis of aesthetic impacts and attempts to hide this inadequacy by offering two cherry-picked visual simulations and a non-binding, preliminary landscape "sketch" depicting the location of future plantings. At no point does the FEIR explain how the as-yet preliminary sketch will reduce these impacts. Moreover, by providing simulations of only the *least problematic* viewpoints, the FEIR underscores the thinness of its analysis and the limited efficacy of the landscaping.

As an initial matter, there is no "presumption" that mitigation measures will be effective in reducing impacts to less than significant levels. *Cf.* Attachment P to Staff

Report at 4 (“There is a presumption that the mitigation measure(s) developed by the County will be effective.”), 26 (same). It is long-settled and uncontroversial that the efficacy of mitigation measures must be supported by “substantial evidence.” *See Laurel Heights Improvement Ass’n v. Regents of University of California* (1988) 47 Cal.3d 376, 407, 421-22. Here, the County has failed to provide evidence, let alone substantial evidence, that the proposed mitigation will reduce the significance of the Project’s aesthetic impacts.

The visual simulations in the FEIR plainly show the new residences dominating the public viewpoints. FEIR at 4.1-10 through 12. The FEIR admits that this change constitutes a significant impact. FEIR at 4.1-13. Yet in response to these admittedly significant impacts, the FEIR proposed two preliminary plans—a landscape plan and a tree replacement plan—the details of which were not included in the FEIR. After Baywood criticized the EIR’s lack of detail on this topic, the County revised the EIR to include two new visualizations that purport to show the effect of the landscape plan on vistas in the Project area.

The new visualizations, however, depict areas where the Project’s visual impacts will be the least significant. One visualization depicts a trail in the open space, undeveloped portion of the Project site (Staff Report Attachment E-1), and the other depicts a view from Bel Aire Road, which would also be buffered from the Project by undeveloped open space (Staff Report Attachment E-2). By failing to illustrate the effect of the landscape plan from all vantage points showing a significant impact—including views from Parrot Drive—the FEIR continues to hide the visual impacts of the project and provides no evidence that the landscape plan will reduce visual impacts to less than significant levels. The FEIR should be revised to include visual simulations showing if and how implementation of the landscape plan would reduce the Project’s significant aesthetic impacts from each of the public vantage points included in the FEIR. *See* FEIR at 4.1-10 through 12 (containing seven additional vantage points that were not updated to include the effect of the landscape plan).

Contrary to the letter submitted by the Project proponent, the landscape plan remains in “preliminary” draft stages (*see* Staff Report at 3, Attachment D)—it has not been “developed” and the existence of a preliminary sketch does not “moot[]” Baywood’s concerns about aesthetic impacts. Staff Report Attachment P at 6. The final landscaping plan required by Condition 8.a could be different from the preliminary sketch offered in the FEIR.

This is classic deferral of mitigation. An EIR generally may not defer evaluation of mitigation to a later date. CEQA Guidelines<sup>1</sup> § 15126.4(a)(1)(B). For example, an EIR is inadequate if the mitigation of a project’s significant effects “largely depend[s] upon management plans that have not yet been formulated, and have not been subject to analysis and review within the EIR.” *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670. Moreover, without a concrete, developed landscape plan, and evidence showing it will effectively mitigate the Project, the County cannot make the findings to support the EIR’s conclusion that the Project’s aesthetic impacts will be less than significant. *See infra*.

Under CEQA, proposed mitigation measures must be “fully enforceable” through permit conditions, agreements, or other legally binding instruments. Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(2). Similarly, any proposed mitigation must provide assurance that such implementation will in fact occur. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-87. These requirements ensures “that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” *Federation of Hillside & Canyon Ass’ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (italics omitted); CEQA Guidelines § 15126.4(a)(2). The landscape plan, by contrast, is a moving target.

Moreover, the FEIR fails to explain how the plan would reduce the otherwise significant visual impacts disclosed in the FEIR. Mitigation Measure 4.1-1a, which describes the future landscape plan, lacks certain and definitive standards or performance benchmarks. To be enforceable, a mitigation measure must be detailed and specific. California courts have clarified that an EIR is inadequate where its proposed mitigation measures are so undefined that it is impossible to evaluate their effectiveness. *San Franciscans for Reasonable Growth v. City & County of San Francisco* (1984) 151 Cal.App.3d 61, 79. In particular, a mitigation measure must include criteria or performance standards against which the mitigation’s actual implementation can be measured. *See San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 670 (“*County of Merced*”). The reader must be able to discern what steps will be taken to mitigate the project’s impacts. *Id.* Without such detail, there is no way for decision-makers and the public to weigh whether the proposed measures will sufficiently mitigate a project’s impacts, causing the EIR to fail in its core, informational purpose.

---

<sup>1</sup> 14 California Code of Regulations § 15000 *et seq.*

Instead, the Measure 4.1-1a states that vegetation will provide “opaque screening” between the Project and Parrot Drive. For example, opaque screening that is only a few feet tall would satisfy the measure without doing anything to mitigate the visual impact of the Project. Without some sort of standard by which to evaluate the extent or quality of this screening, the measure remains standardless and unenforceable.

The tree replacement plan is similarly vague and unenforceable. Curiously, Mitigation Measure 4.1-1b states that the future tree replacement plan “shall not exceed the following specifications” before proceeding to list various standards. FEIR at 4.1-16. This phrasing suggests that the mitigation measure sets a *ceiling* on how much mitigation can be required without setting a corresponding *floor* to guarantee that any trees are replaced. As written, the measure requires no mitigation at all with respect to tree replacement. Furthermore, whatever mitigation the measure requires is set to expire within 5 years. *Id.* The document contains no analysis of what will happen to views from nearby areas after five years when no one is legally obligated to maintain the trees. This is improper. An EIR must consider the impacts a project will generate over its entire lifespan. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431.

The FEIR fails to explain whether and how the landscape plan and tree replacement plan are consistent with the County’s Water Efficient Landscape Ordinance, which requires the completion of various water usage worksheets and the calculation of a maximum applied water allowance. Moreover, pursuant to Executive Order B-29-15 (attached as Exhibit A), the County is legally-obligated to update its Water Efficient Landscape Ordinance by December 1, 2015 in an effort to deal with the current drought. The Water Commission has already updated the state’s model landscaping ordinance, and the FEIR ought to ensure that these landscaping plans will not conflict with these new regulations.

Without explicitly relying upon it as a mitigation measure, the FEIR notes that the Ascension Heights Design Handbook will ensure that the Project is consistent with the architectural themes in the surrounding neighborhoods. FEIR at 4.1-14 (citing Appendix J). The Handbook contains general height, massing, and setback guidelines. These Design Guidelines, however, are filled with unenforceable, hortatory statements. Condition 18 requires only that development within the Project adhere to the 28-foot height limitation and that “[d]welling designs shall incorporate styles presented as part of the ‘Ascension Heights Design Guidelines’ proposed by the applicant and presented to the Planning Commission on October 24, 2015.” Staff Report at 31. Once again, however, there is no evidence in the EIR demonstrating that compliance with the Design

Guidelines will reduce the Project's impacts to a level of insignificance. Beyond the suggested styles, the Project is not subject to any design review by the County. Staff Report at 6. Therefore it is misleading for the Project proponent to suggest that "legally binding local planning regulations and policies ensure aesthetic compatibility of the proposed Project with its surroundings." Staff Report, Attachment P at 7. These policies do not include any design review.

In the same paragraph in which staff endorses a height restriction that is lower than the one imposed by the County Code, the staff report claims that the County cannot impose any design requirements on the Applicant that are not part of the County Code. Staff Report at 6. This is incorrect. Under CEQA, the County is required to impose all mitigation that is feasible and necessary to reduce impacts to a level of insignificance. Thus where, as here, a project will have significant aesthetic impacts, the County must mitigate those impacts by imposing design requirements. CEQA's core mandate is that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1354 (quoting Pub. Res. Code § 21002). CEQA requires lead agencies to identify and analyze *all feasible mitigation*, even if this mitigation will not reduce the impact to a level of insignificance. CEQA Guidelines § 15126.4(a)(1)(A). Such measures should include those identified in Baywood's previous comment letters, including the use of a vegetated buffer zone between existing homes along Parrot Drive and the Project site, and a limitation on the maximum square footage of Project homes to a size that is truly consistent with the character of the neighborhood.

Finally, the FEIR and the Project proponent apply an improper baseline for aesthetic impacts. Under CEQA, the lead agency must compare the Project to existing conditions at the Project site—not to conditions at other sites nearby. As a general rule under CEQA, a project's impacts must be compared against the baseline conditions on the project site at the time of the analysis. *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 455. Here, the existing site is open space that the FEIR classifies as "an area that is currently valued as natural scenery," but the Project would transform 40% of that space into "urban development." FEIR 4.1-14. In order to downplay the significant contrast, the FEIR pivots to an analysis of the aesthetic characteristics of nearby sites. The fact that the area around the Project site

consists of primarily single-family residences does not mitigate the total and irreversible transformation of the open space occupying the Project site<sup>2</sup>.

## **B. Biological Resources**

The previous version of the EIR repeatedly deferred both analysis of the Project's impacts on special status species and development of mitigation measures for these impacts. In tacit recognition that this approach violated CEQA, and at the request of the California Department of Fish and Wildlife (in what appears to be a last-minute consultation), the biological resources consultant for the EIR conducted additional surveys this spring.<sup>3</sup> Staff Report, Attachment P. However, the additional information provided in the revised EIR fails to address the Project's impacts to onsite trees subject to the County's Significant Tree Ordinance.

Specifically, the EIR fails to indicate how many protected trees are on the Project site. *See* FEIR at 4.3-26. Instead, the EIR indicates only the total number of trees to be removed. *Id.* The result is that the public and decisionmakers cannot know if the Project will impact one protected tree or 43. This omission stems from the Project's deferral of the tree survey necessary to disclose this information.

---

<sup>2</sup> The FEIR and the Applicant appear to misunderstand the law regarding baseline conditions. In response to a comment about the impact of headlights shining into a neighbor's bedroom windows, the Applicant quotes the EIR's conclusion that such an impact would be less than significant because "such lights are 'common and necessary light sources for residential areas by the County,' and '[t]hese types of light sources that would be introduced as a result of the Proposed Project are frequent in the neighboring residential developments and would not constitute a significant new source of light.'" Staff Report, Attachment P at 33-34 (quoting DEIR at 4.1-18). Again, this comparison is irrelevant. The County must compare the Project's impacts to existing conditions at the Project site, not to conditions elsewhere. *See Neighbors for Smart Rail*, 57 Cal.4th at 455.

<sup>3</sup> Rather than acknowledging that the prior version of the EIR was flawed and that the community was correct to demand a thorough study of the Project's impacts before the County considers whether to approve it, the Applicant asserts that Baywood's comments were "patently false." Such comments are further evidence of the Applicant's blatant refusal to work cooperatively with the community, as the Planning Commission has repeatedly urged.

Moreover, in so much as the EIR's mitigation measures will only be implemented "to the extent feasible", they remain unenforceable. FEIR at 4.3-27. Counsel for the Applicant is incorrect when they assert to the contrary. Staff Report, Attachment P at 10. CEQA requires that a lead agency adopt all feasible mitigation measures that can substantially lessen a project's significant impacts. Pub. Res. Code § 21002. As discussed above, the agency must ensure that these measures are "fully enforceable" through permit conditions, agreements, or other legally binding instruments. Pub. Res. Code §§ 21002, 21081.6(b); CEQA Guidelines §§ 15002(a)(3), 15126.4(a)(2); *City of Marina v. Bd. of Trustees of the Cal. State Univ.* (2006) 39 Cal.4th 341, 359, 368-69; *Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261; CEQA Guidelines § 15126.4(a)(2).

Here, the EIR mitigation measures related to tree removal specify that they will only be implemented "to the extent feasible." FEIR at 4.3-27. The EIR doesn't indicate an alternative measure if the proposed measure is not feasible. Thus, measures requiring steps "to the extent feasible" are not enforceable and cannot be relied upon as reducing impact to less than significant. *See Sacramento Old City Assn. v City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1027.

### **C. Air Quality & GHG**

The Project proponent argues that the Project's greenhouse gas emissions will be mitigated by the use of "green building and performance measures" and that "[s]ustainable building strategies would be integrated into the Project to the greatest extent feasible." Staff Report, Attachment P at 15. As noted above, voluntary measures like these cannot constitute proper mitigation. Under CEQA, mitigation measures must be "fully enforceable" through permit conditions, agreements, or other legally binding instruments. Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(2). Neither the FEIR nor the staff's draft conditions of approval contain any conditions requiring the project to use these "green building measures." In any event, the measures themselves are merely a suggestion, given that they may be incorporated or ignored depending on their feasibility.

As the FEIR acknowledges, construction activities at the Project site could cause significant and harmful air quality impacts in the form of emissions of NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. FEIR at 4.2-19 and 20. Despite this health risk, the FEIR fails to consider a requirement that the Project use cleaner-burning diesel engines for construction activities. The Project's emissions of diesel particulate matter could feasibly be reduced through the use of Tier 4 engines. *Cf.* Exhibit B (excerpts of Chapter 4 of the LAX Northside Plan

Update FEIR containing mitigation measures requiring the use of Tier 4 construction equipment or Tier 3 equipment with emissions control retrofitting). The FEIR currently only requires the use of Tier 2 heavy duty construction equipment. FEIR at 4.2-21. CEQA requires lead agencies to analyze all feasible mitigation measures, and the County failed to do so here. CEQA Guidelines § 15126.4(a)(1)(A).

#### **D. Hydrology**

Following the last Planning Commission meeting on the Project, Baywood acquired a copy of the hydrology technical report by Lea & Braze Engineering, Inc. dated March, 2010 (Lea and Braze Report). The report provides additional details about the proposed Project's stormwater facilities. However, the report leaves unanswered questions about the Project's impacts related to runoff and potential flooding.

The Lea and Braze Report provides calculations of the net increase in stormwater flows resulting from the construction and provides information on the amount of flow each element of the Project's system can retain. Lea and Braze report at 6-9. The report states that the proposed stormwater system can retain and meter release the post-construction flow to the pre-development rate. Lea and Braze at 2. However, it appears that the proposed system provides an inadequate amount of retention capacity to accommodate the estimated increase in flows. For example, for lots 8,9,13, and 14, pre-construction runoff flow is 0.19 cubic feet per second (cfs), and the estimated post-construction flow is 0.35 cfs. This results in a net increase of 0.16 cfs, yet the proposed system retains and meters release of only 0.10 cfs, a shortfall of 0.06 cfs. Similar discrepancies are present in all the calculations for all eight of the proposed retention systems. Lea and Braze report at 6-9. The report fails to explain these discrepancies

Moreover, despite the fact that the Lea and Braze Report was prepared in 2010, the County failed to provide the hydrology technical appendix until after the Planning Commission hearing for the Project. CEQA requires that pertinent information be contained in the EIR. "Decision-makers and the general public should not be forced to sift through obscure minutiae or appendices in order to ferret out the fundamental assumptions that are being used for purposes of the environmental analysis." *San Joaquin Raptor Rescue Center*, 149 Cal.App.4th at 659; see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442 ("The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project.") and *California Oak Found. v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1239 (relevant information may not be

“buried in an appendix”). This omission resulted in an environmental document that did not provide the supporting analysis for its conclusion that the Projects runoff impacts would be mitigated to a level less than significant.

Finally, the hydrology report relies upon the existence of a so-called “creek” to accommodate flows from storms that exceed the 10-year storm flows. Yet, as depicted in the photographs and diagrams submitted by Baywood, the “creek” appears to be nothing more than a shallow indentation. Neighbors are justifiably concerned that the indentation is not large enough to accommodate larger flows, and it is far from clear that the consultants preparing the hydrology report were aware of the true nature of this feature..

#### **E. Noise**

The FEIR continues to ignore the admittedly significant noise impacts associated with the Project. In a nutshell, the FEIR concludes that, because the anticipated construction noise is exempt from the County’s nuisance ordinance, that noise—no matter how loud it is—will not constitute a significant impact on nearby residences. FEIR at 4.8-12 and 13. Given the public health impacts associated with noise, this endorsement of unrestricted noise levels during most of the day is unacceptable. *See, e.g.*, Traffic Noise Reduction in Europe, attached as Exhibit C.

Both the county’s code and other state and federal noise guidelines serve as the basis for the FEIR’s significance thresholds for noise impacts. FEIR at 4.8-10 and 11. However the County’s code provision is not a stand-alone threshold of significance for determining environmental impacts, but a nuisance statute which makes it a crime to create noises above a certain level. *See* San Mateo County Code § 4.88.350. Construction activities during specified hours are exempt from this nuisance statute, but the exemption does not specify acceptable levels of construction noise. *Id.* § 4.88.360.

Inexplicably, the FEIR and Project proponent admit that the Project will emit noise up to 85 decibels—louder than a power lawn mower at 20 feet (FEIR 4.8-2)—and exceed the significance threshold, causing a potentially significant impact. FEIR at 4.8-13. Yet because construction activities are exempt from *nuisance* liability, the EIR concludes that the noise impacts will be less than significant. *Id.* This analysis patently violates CEQA, which requires lead agencies to analyze the actual, on-the-ground impacts of a project, not its consistency with nuisance laws.

The Applicant doubles down on this nonsensical application of CEQA, arguing that as long as the Project complies with “existing law, regulations or ordinances”

additional mitigation and analysis are unnecessary. Staff Report, Attachment P at 5. But here, emitting unmitigated construction noise is not complying with a regulation; it is simply conducting an activity that is exempt from nuisance liability.

Moreover, the Applicant's assertion is also faulty as a matter of law. Merely requiring compliance with agency regulations does not conclusively indicate that a proposed project would not have a significant and adverse impact. In *Kings County Farm Bureau*, for example, the court found that the fact that the EPA and the local air pollution control district had issued the necessary air emission permits for the construction of a coal-fired cogeneration plant did not nullify the CEQA requirement that the lead agency analyze the significant air quality impacts of the entire project. (1990) 221 Cal.App.3d 692, 712-22.

Here, although the FEIR describes existing noise conditions, it does not analyze the Project's impacts against them. Instead, it measures impacts against what the Applicant and County appear to claim is a regulatory noise standard. This approach has been soundly rejected by Courts. *See, e.g., Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350 (EIR inadequate where the document compared the project's impacts against the existing general plan, rather than the existing environment); *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 320-23.

The County's failure to analyze the Project's noise impacts against a baseline of existing environmental conditions is a glaring violation of CEQA, and undermines the FEIR's entire discussion of noise impacts and mitigation. *Communities for a Better Environment* is instructive. In that case, the agency attempted to use the total air emissions a refinery was allowed under an existing permit as the baseline for analyzing the impacts of expanding the refinery's operations, even though the refinery was in fact emitting below permitted levels. The California Supreme Court rejected this approach. Citing the CEQA Guidelines and quoting the extensive caselaw on this issue, the Court held that the baseline of "existing physical conditions in the affected area" meant "real conditions on the ground . . . rather than the level of development or activity that *could* or *should* have been present according to a plan or regulation." *Id.* at 321 (internal quotation marks and citations omitted; emphases in the original). Thus, the County failed to comply with CEQA by considering the Project's impacts only against the County code's nuisance ordinance exemption for construction work, and not against existing ambient noise levels in the Project area. *See also Berkeley Keep Jets Over the Bay Com.*, 91 Cal.App.4th at 1381 (EIR's noise analysis was inadequate where the threshold would allow the project

to increase noise levels up to 64.9 dB CNEL without necessitating a finding of significant impact).

The cases cited by the Project proponent do not stand for the proposition that regulatory compliance is sufficient mitigation. Rather they simply stand for the unsurprising proposition that compliance with other regulations which independently require an agency to reduce impacts to a less than significant level can be considered proper mitigation. *See Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 243 (citing *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 945-46) (mitigation requiring compliance with separate Endangered Species Act protections did not constitute improper deferral); *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 593-594 (holding that where, unlike the Ascension Project, the project in question was subject to “extensive” design review, compliance with that regulatory process could constitute sufficient mitigation).

While lead agencies are granted some discretion in selecting thresholds of significance, they are not permitted to choose thresholds that foreclose consideration of other evidence tending to show the environmental effect may be significant. *Protect The Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 (“[T]hreshold[s] of significance cannot be applied in a way that [] foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant.”). The reason for this rule is made plain here: If the County could use the nuisance exemption as a threshold of significance, then construction noise of hundreds of decibels could take place all day, five days a week in a quiet neighborhood but would nonetheless be considered an insignificant environmental impact. In effect, the FEIR’s logic means that no construction noise can ever constitute a significant impact—a result that turns CEQA on its head.

## **F. Traffic**

The Project continues to pose unmitigated, significant traffic hazards to the surrounding community. *See* FEIR at 4.11-10 (noting the potential to substantially increase hazards due to the design of the new private street and proposed intersection with Bel Aire Drive). The proposed mitigation of these hazards remains unenforceable and voluntary. The words “shall” or “must” do not appear anywhere in Mitigation Measure 4.11-4. The Project proponent claims that the FEIR’s use of the word “ensure” in its description of the purpose of Mitigation Measure 4.11-4 suggests that the measure is mandatory. However, simply because the FEIR characterizes the measure as “included to ensure a safe sight distance” does not mean the measure actually requires safe sight

distances. Indeed, the plain language in the measure is suggestive, not mandatory. Without any legally binding conditions or some other assurance that the mitigation will be implemented, the mitigation is deficient under CEQA. Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(2); *Anderson First Coalition*, 130 Cal.App.4th at 1186-87.

Furthermore, the revised FEIR contains a new design layout for the intersection as depicted in Attachment C to the Staff Report. While the Staff Report asserts that staff has reviewed this new alignment for safety impacts, the FEIR does not contain this analysis or any explanation of why the change would not result in increased impacts.

## **II. The FEIR Must Be Recirculated**

Because of the inadequacies discussed above, additional information and analysis must be added to the FEIR. Moreover, the staff report has already added new information to the FEIR without an opportunity for public comment on the new materials (e.g. the hydrology report, new “Design Guidelines” that will, according to Baywood’s analysis, increase aesthetic impact from Parrott Ave.). Both of these factors require recirculation of the FEIR. CEQA requires lead agencies to prepare and recirculate a supplemental draft “[w]hen significant new information is added to an environmental impact report” after public review and comment on the earlier draft EIR. Pub. Res. Code § 21092.1. The opportunity for meaningful public review of significant new information is essential “to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom.” *Sutter Sensible Planning, Inc. v. Sutter County Board of Supervisors* (1981) 122 Cal.App.3d 813, 822; *see also City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal.App.3d 1005, 1017. An agency cannot simply release a draft report “that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review.” *Mountain Lion Coalition v. California Fish and Game Comm’n* (1989) 214 Cal.App.3d 1043, 1052.

In order to cure the egregious flaws in the FEIR identified in this letter, the County must obtain substantial new information to adequately assess the proposed Project’s environmental impacts, and to identify effective mitigation and alternatives capable of alleviating the Project’s significant impacts. This new information will clearly necessitate recirculation. CEQA requires that the public be given a meaningful opportunity to review and comment upon this significant new information in the form of a recirculated EIR.

### III. CEQA Findings

Under CEQA, the lead agency must make findings, supported by substantial evidence, demonstrating how the mitigation measures adopted by the agency will actually reduce environmental impacts to a level of insignificance. *See* CEQA § 21002, 21002.1(b), 21081; Guidelines §§ 15091(a), 15091(b), 15093(b); *see also Uphold Our Heritage v. Town of Woodside*, 147 Ca. App. 4th 587 (2007). In so doing, the agency must reveal the “analytical route” between the evidence and the findings—in other words, they must explain how the evidence supports the finding of insignificance. *Topanga Ass’n for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515. The proposed CEQA findings contained in the Staff Report fail to reveal that route in several instances.

For example, in finding that the Project’s aesthetic impacts will be insignificant after mitigation, the Staff Report explains that, despite the removal of more than half of the trees on the site and the total transformation of nearly half of the land area to urban development, the impacts will be less than significant because the “surrounding area is primarily single-family residential neighborhoods.” Staff Report, Attachment O-2 at 4. As explained above, this logic misses the point. While the character of the broader area might not change, the visual character of the Project site will change dramatically. Moreover, the findings do not even attempt to explain how the (preliminary) landscape plan will reduce impacts to views from nearby homes.

Similarly, the findings regarding noise impacts do not explain how the mitigation measures will reduce impacts to insignificant levels. Rather than revealing the analytical route, the findings simply decline to analyze how significant the impacts will be by claiming that because construction noise is exempt from the County’s nuisance ordinance any noise produced in this residential neighborhood—regardless of its volume—would be an insignificant impact. Staff Report, Attachment O-2 at 23-24.

### IV. Subdivision Map Act

Approval of the Project requires approval of a tentative subdivision map, which in turn must be consistent with the local general plan. *See* Gov’t Code §§ 66473.5; 66474; *see also Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 998 (Subdivision Map Act expressly requires consistency with general plan); San Mateo County Subdivision Regulations § 7013(3)(b). Among other things, the County’s Subdivision Regulations require the County to deny a tentative map if it finds that the subdivision “is not consistent with applicable general and specific plans” or the site is not

“physically suitable” for the type or proposed density of development. San Mateo County Subdivision Regulations § 7013(3)(b)(1), (3), (4).

Neither the revisions to the FEIR nor the letter submitted by the Project proponent adequately explain why General Plan Policies 15.20(a)-(b) do not apply to the Project. These policies direct the County to avoid siting structures in “areas where they are jeopardized by geotechnical hazards, where their location could potentially increase the geotechnical hazard, or where they could increase the geotechnical hazard to neighboring properties.” San Mateo County General Plan Policy 15.20(a).

Baywood reiterates the arguments it made in its March 24, 2015 letter to the Planning Commission, namely that staff are applying the definition of “geotechnical hazard area” too narrowly. The General Plan defines “geotechnical hazards” as “non-seismic unstable conditions, including but not limited to landsliding, cliff retrenchment, erosion, subsidence, soil creep . . . .” It then defines “geotechnical hazard areas” as “areas that meet the definition of geotechnical hazards, *including but not limited to* . . . [t]he areas illustrated on the Natural Hazards map as Alquist-Priolo Special Studies Zones, Tsunami and Seiche Flooding Areas, Coastal Cliff Stability Areas and Areas of High Landslide Susceptibility.” General Plan Policy 15.9 (emphasis added). Given this definition, which on its face applies to more than just areas within the Alquist-Priolo Special Studies Zones and other formally designated areas, Policies 15.20(a) and (b) appear to apply to the Project site. At no point in this administrative process have staff or the Project proponent explained why this plain reading of the General Plan does not apply to a site with slopes greater than 30% where significant erosion is likely to occur.

## **V. Denial Findings**

At the last Planning Commission hearing on this Project, the Commission clearly requested that staff return to the Commission with findings in support of Project denial. Baywood promptly provided staff and the Commission with draft findings, based on evidence in the record, that would support denial. In its report to the Commission, staff provided only the most cursory denial findings, with few or no references to evidence in the record in support. Baywood encourages the Planning Commission to follow through on its earlier decision to deny the Project, but also urges the Commission to add to staff’s denial findings in support. For the Commission’s convenience, we are reattaching our proposed denial findings here.

**VI. Conclusion**

For all of these reasons, Baywood urges the Planning Commission to deny the Project as currently proposed and to decline to certify the EIR.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Winter King

Attachments:

Exhibit A: Executive Order B-29-15

Exhibit B: Excerpt of LAX Northside Plan Update FEIR

Exhibit C: Traffic Noise Reduction in Europe

Exhibit D: Letter from W. King to Planning Commission with Proposed Denial Findings (March 24, 2015)

Exhibit E: Letter from W. King to Planning Commission (Feb 24, 2015)

cc: Baywood Park Homeowners' Association

714396.4

# EXHIBIT A

**Executive Department**  
State of California

**EXECUTIVE ORDER B-29-15**

**WHEREAS** on January 17, 2014, I proclaimed a State of Emergency to exist throughout the State of California due to severe drought conditions; and

**WHEREAS** on April 25, 2014, I proclaimed a Continued State of Emergency to exist throughout the State of California due to the ongoing drought; and

**WHEREAS** California's water supplies continue to be severely depleted despite a limited amount of rain and snowfall this winter, with record low snowpack in the Sierra Nevada mountains, decreased water levels in most of California's reservoirs, reduced flows in the state's rivers and shrinking supplies in underground water basins; and

**WHEREAS** the severe drought conditions continue to present urgent challenges including: drinking water shortages in communities across the state, diminished water for agricultural production, degraded habitat for many fish and wildlife species, increased wildfire risk, and the threat of saltwater contamination to fresh water supplies in the Sacramento-San Joaquin Bay Delta; and

**WHEREAS** a distinct possibility exists that the current drought will stretch into a fifth straight year in 2016 and beyond; and

**WHEREAS** new expedited actions are needed to reduce the harmful impacts from water shortages and other impacts of the drought; and

**WHEREAS** the magnitude of the severe drought conditions continues to present threats beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to combat; and

**WHEREAS** under the provisions of section 8558(b) of the Government Code, I find that conditions of extreme peril to the safety of persons and property continue to exist in California due to water shortage and drought conditions with which local authority is unable to cope; and

**WHEREAS** under the provisions of section 8571 of the California Government Code, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay the mitigation of the effects of the drought.

**NOW, THEREFORE, I, EDMUND G. BROWN JR.**, Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, in particular Government Code sections 8567 and 8571 of the California Government Code, do hereby issue this Executive Order, effective immediately.



**IT IS HEREBY ORDERED THAT:**

1. The orders and provisions contained in my January 17, 2014 Proclamation, my April 25, 2014 Proclamation, and Executive Orders B-26-14 and B-28-14 remain in full force and effect except as modified herein.

**SAVE WATER**

2. The State Water Resources Control Board (Water Board) shall impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016. These restrictions will require water suppliers to California's cities and towns to reduce usage as compared to the amount used in 2013. These restrictions should consider the relative per capita water usage of each water suppliers' service area, and require that those areas with high per capita use achieve proportionally greater reductions than those with low use. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.
3. The Department of Water Resources (the Department) shall lead a statewide initiative, in partnership with local agencies, to collectively replace 50 million square feet of lawns and ornamental turf with drought tolerant landscapes. The Department shall provide funding to allow for lawn replacement programs in underserved communities, which will complement local programs already underway across the state.
4. The California Energy Commission, jointly with the Department and the Water Board, shall implement a time-limited statewide appliance rebate program to provide monetary incentives for the replacement of inefficient household devices.
5. The Water Board shall impose restrictions to require that commercial, industrial, and institutional properties, such as campuses, golf courses, and cemeteries, immediately implement water efficiency measures to reduce potable water usage in an amount consistent with the reduction targets mandated by Directive 2 of this Executive Order.
6. The Water Board shall prohibit irrigation with potable water of ornamental turf on public street medians.
7. The Water Board shall prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems.

8. The Water Board shall direct urban water suppliers to develop rate structures and other pricing mechanisms, including but not limited to surcharges, fees, and penalties, to maximize water conservation consistent with statewide water restrictions. The Water Board is directed to adopt emergency regulations, as it deems necessary, pursuant to Water Code section 1058.5 to implement this directive. The Water Board is further directed to work with state agencies and water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.

#### **INCREASE ENFORCEMENT AGAINST WATER WASTE**

9. The Water Board shall require urban water suppliers to provide monthly information on water usage, conservation, and enforcement on a permanent basis.
10. The Water Board shall require frequent reporting of water diversion and use by water right holders, conduct inspections to determine whether illegal diversions or wasteful and unreasonable use of water are occurring, and bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water. Pursuant to Government Code sections 8570 and 8627, the Water Board is granted authority to inspect property or diversion facilities to ascertain compliance with water rights laws and regulations where there is cause to believe such laws and regulations have been violated. When access is not granted by a property owner, the Water Board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of conducting an inspection pursuant to this directive.
11. The Department shall update the State Model Water Efficient Landscape Ordinance through expedited regulation. This updated Ordinance shall increase water efficiency standards for new and existing landscapes through more efficient irrigation systems, greywater usage, onsite storm water capture, and by limiting the portion of landscapes that can be covered in turf. It will also require reporting on the implementation and enforcement of local ordinances, with required reports due by December 31, 2015. The Department shall provide information on local compliance to the Water Board, which shall consider adopting regulations or taking appropriate enforcement actions to promote compliance. The Department shall provide technical assistance and give priority in grant funding to public agencies for actions necessary to comply with local ordinances.
12. Agricultural water suppliers that supply water to more than 25,000 acres shall include in their required 2015 Agricultural Water Management Plans a detailed drought management plan that describes the actions and measures the supplier will take to manage water demand during drought. The Department shall require those plans to include quantification of water supplies and demands for 2013, 2014, and 2015 to the extent data is available. The Department will provide technical assistance to water suppliers in preparing the plans.

13. Agricultural water suppliers that supply water to 10,000 to 25,000 acres of irrigated lands shall develop Agricultural Water Management Plans and submit the plans to the Department by July 1, 2016. These plans shall include a detailed drought management plan and quantification of water supplies and demands in 2013, 2014, and 2015, to the extent that data is available. The Department shall give priority in grant funding to agricultural water suppliers that supply water to 10,000 to 25,000 acres of land for development and implementation of Agricultural Water Management Plans.
14. The Department shall report to Water Board on the status of the Agricultural Water Management Plan submittals within one month of receipt of those reports.
15. Local water agencies in high and medium priority groundwater basins shall immediately implement all requirements of the California Statewide Groundwater Elevation Monitoring Program pursuant to Water Code section 10933. The Department shall refer noncompliant local water agencies within high and medium priority groundwater basins to the Water Board by December 31, 2015, which shall consider adopting regulations or taking appropriate enforcement to promote compliance.
16. The California Energy Commission shall adopt emergency regulations establishing standards that improve the efficiency of water appliances, including toilets, urinals, and faucets available for sale and installation in new and existing buildings.

#### **INVEST IN NEW TECHNOLOGIES**

17. The California Energy Commission, jointly with the Department and the Water Board, shall implement a Water Energy Technology (WET) program to deploy innovative water management technologies for businesses, residents, industries, and agriculture. This program will achieve water and energy savings and greenhouse gas reductions by accelerating use of cutting-edge technologies such as renewable energy-powered desalination, integrated on-site reuse systems, water-use monitoring software, irrigation system timing and precision technology, and on-farm precision technology.

#### **STREAMLINE GOVERNMENT RESPONSE**

18. The Office of Emergency Services and the Department of Housing and Community Development shall work jointly with counties to provide temporary assistance for persons moving from housing units due to a lack of potable water who are served by a private well or water utility with less than 15 connections, and where all reasonable attempts to find a potable water source have been exhausted.
19. State permitting agencies shall prioritize review and approval of water infrastructure projects and programs that increase local water supplies, including water recycling facilities, reservoir improvement projects, surface water treatment plants, desalination plants, stormwater capture, and greywater systems. Agencies shall report to the Governor's Office on applications that have been pending for longer than 90 days.

20. The Department shall take actions required to plan and, if necessary, implement Emergency Drought Salinity Barriers in coordination and consultation with the Water Board and the Department of Fish and Wildlife at locations within the Sacramento - San Joaquin delta estuary. These barriers will be designed to conserve water for use later in the year to meet state and federal Endangered Species Act requirements, preserve to the extent possible water quality in the Delta, and retain water supply for essential human health and safety uses in 2015 and in the future.
21. The Water Board and the Department of Fish and Wildlife shall immediately consider any necessary regulatory approvals for the purpose of installation of the Emergency Drought Salinity Barriers.
22. The Department shall immediately consider voluntary crop idling water transfer and water exchange proposals of one year or less in duration that are initiated by local public agencies and approved in 2015 by the Department subject to the criteria set forth in Water Code section 1810.
23. The Water Board will prioritize new and amended safe drinking water permits that enhance water supply and reliability for community water systems facing water shortages or that expand service connections to include existing residences facing water shortages. As the Department of Public Health's drinking water program was transferred to the Water Board, any reference to the Department of Public Health in any prior Proclamation or Executive Order listed in Paragraph 1 is deemed to refer to the Water Board.
24. The California Department of Forestry and Fire Protection shall launch a public information campaign to educate the public on actions they can take to help to prevent wildfires including the proper treatment of dead and dying trees. Pursuant to Government Code section 8645, \$1.2 million from the State Responsibility Area Fire Prevention Fund (Fund 3063) shall be allocated to the California Department of Forestry and Fire Protection to carry out this directive.
25. The Energy Commission shall expedite the processing of all applications or petitions for amendments to power plant certifications issued by the Energy Commission for the purpose of securing alternate water supply necessary for continued power plant operation. Title 20, section 1769 of the California Code of Regulations is hereby waived for any such petition, and the Energy Commission is authorized to create and implement an alternative process to consider such petitions. This process may delegate amendment approval authority, as appropriate, to the Energy Commission Executive Director. The Energy Commission shall give timely notice to all relevant local, regional, and state agencies of any petition subject to this directive, and shall post on its website any such petition.

26. For purposes of carrying out directives 2–9, 11, 16–17, 20–23, and 25, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are hereby suspended. This suspension applies to any actions taken by state agencies, and for actions taken by local agencies where the state agency with primary responsibility for implementing the directive concurs that local action is required, as well as for any necessary permits or approvals required to complete these actions. This suspension, and those specified in paragraph 9 of the January 17, 2014 Proclamation, paragraph 19 of the April 25, 2014 proclamation, and paragraph 4 of Executive Order B-26-14, shall remain in effect until May 31, 2016. Drought relief actions taken pursuant to these paragraphs that are started prior to May 31, 2016, but not completed, shall not be subject to Division 13 (commencing with section 21000) of the Public Resources Code for the time required to complete them.
27. For purposes of carrying out directives 20 and 21, section 13247 and Chapter 3 of Part 3 (commencing with section 85225) of the Water Code are suspended.
28. For actions called for in this proclamation in directive 20, the Department shall exercise any authority vested in the Central Valley Flood Protection Board, as codified in Water Code section 8521, et seq., that is necessary to enable these urgent actions to be taken more quickly than otherwise possible. The Director of the Department of Water Resources is specifically authorized, on behalf of the State of California, to request that the Secretary of the Army, on the recommendation of the Chief of Engineers of the Army Corps of Engineers, grant any permission required pursuant to section 14 of the Rivers and Harbors Act of 1899 and codified in section 48 of title 33 of the United States Code.
29. The Department is directed to enter into agreements with landowners for the purposes of planning and installation of the Emergency Drought Barriers in 2015 to the extent necessary to accommodate access to barrier locations, land-side and water-side construction, and materials staging in proximity to barrier locations. Where the Department is unable to reach an agreement with landowners, the Department may exercise the full authority of Government Code section 8572.
30. For purposes of this Executive Order, chapter 3.5 (commencing with section 11340) of part 1 of division 3 of the Government Code and chapter 5 (commencing with section 25400) of division 15 of the Public Resources Code are suspended for the development and adoption of regulations or guidelines needed to carry out the provisions in this Order. Any entity issuing regulations or guidelines pursuant to this directive shall conduct a public meeting on the regulations and guidelines prior to adopting them.

31. In order to ensure that equipment and services necessary for drought response can be procured quickly, the provisions of the Government Code and the Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements, are hereby suspended for directives 17, 20, and 24. Approval by the Department of Finance is required prior to the execution of any contract entered into pursuant to these directives.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**I FURTHER DIRECT** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 1<sup>st</sup> day of April 2015.

\_\_\_\_\_  
EDMUND G. BROWN JR.  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State

# EXHIBIT B

## 1.0 Introduction

---

- **PDF AQ-8:** All off-road diesel-powered construction equipment greater than 50 horsepower shall meet, at a minimum, US EPA Tier 3 off-road emission standards. In addition, all off-road diesel powered construction equipment greater than 50 hp with engines meeting USEPA Tier 3 off-road emission standards shall be retrofitted with a CARB-verified Level 3 Diesel Emissions Control Strategies (DECS). Any emissions control device used by the Contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations. Wherever feasible, all off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards. In the event the Contractor is using off-road diesel-powered construction equipment with engines meeting the Tier 4 off-road emission standards and is already supplied with a factory-equipped diesels particulate filter, no retrofitting with DECS is required. Contractor requirements to utilize Tier 3 equipment or next cleanest equipment available will be subject to the provisions of LAWA Air Quality Control Measure 2"x" (part of LAX Master Plan Commitment LAX-AQ-2, LAX Master Plan – Mitigation Plan for Air Quality; Construction-Related Measures). LAWA will encourage construction contractors to apply for SCAQMD "SOON" funds to accelerate clean-up of off-road diesel engine emissions.
- **PDF AQ-9:** LAWA will provide informational materials to developers regarding building materials that do not require painting.
- **PDF B-18:** The proposed Project contractor shall utilize integrated pest/rodent management measures wherever feasible during construction in the LAX Northside Campus District, including efforts such as using pest-resistant or well-adapted native plant varieties; removing weeds by hand and avoiding the use of chemical pesticides, herbicides, and fertilizers; and maintaining the construction site free of unsealed food or open trash that could attract rodents.
- **PDF GHG-4:** Provide a minimum number of electric vehicle charging stations, which is equal to 5% of the total number of parking spaces.
- **PDF GHG-5:** Provide necessary infrastructure (wiring and plugs) at appropriate locations on the proposed Project site that can be used for electric landscaping equipment.
- **PDF GHG-6:** All off-road diesel-powered construction equipment greater than 50 horsepower shall meet, at a minimum, US EPA Tier 3 off-road emission standards. In addition, all off-road diesel powered construction equipment greater than 50 hp with engines meeting USEPA Tier 3 off-road emission standards shall be retrofitted with a CARB-verified Level 3 Diesel Emissions Control Strategies (DECS). Any emissions control device used by the Contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations. Wherever feasible, all off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards. In the event the Contractor is using off-road diesel-powered construction equipment with engines meeting the Tier 4 off-road emission standards and is already supplied with a factory-equipped diesels particulate filter, no retrofitting with DECS is required. Contractor requirements to utilize Tier 3 equipment or next cleanest equipment available will be subject to the provisions of LAWA Air Quality Control Measure 2"x" (part of LAX Master Plan Commitment LAX-AQ-2, LAX Master Plan – Mitigation Plan for Air Quality; Construction-Related Measures). LAWA will encourage construction contractors to apply for SCAQMD "SOON" funds to accelerate clean-up of off-road diesel engine emissions.

# EXHIBIT C

## Traffic noise reduction in Europe

Health effects, social costs and  
technical and policy options to  
reduce road and rail traffic noise

### Report

Delft, August 2007

Authors: L.C. (Eelco) den Boer  
A. (Arno) Schroten



## Publication Data

Bibliographical data:

L.C. (Eelco) den Boer, A. (Arno) Schroten  
Traffic noise reduction in Europe  
CE Delft, March 2007

Traffic / Noise / Reduction / Health / Effects / Costs / Technology / Policy / Road /  
Railways /

Publication code: 07.4451.27

CE Delft publications are available from [www.ce.nl](http://www.ce.nl)

Commissioned by: T&E Brussels

For further information on this study, contact Eelco den Boer at CE.

© copyright, CE, Delft

### **CE Delft**

**Solutions for environment, economy and technology**

CE Delft is an independent research and consultancy organisation specialised in developing structural and innovative solutions to environmental problems. CE Delfts solutions are characterised in being politically feasible, technologically sound, economically prudent and socially equitable.

This report is printed on 100% recycled paper.

## Preface

Millions of people in Europe are affected by transport noise. Transport noise annoys people, causes stress and illness and may sometimes even have a fatal impact. As a result, noise is very costly to society.

There are numerous cheap and relatively easy ways to reduce transport noise significantly. First of all, noise should be taken as seriously as other forms of pollution, as it is similarly damaging to human health. This year, 2007, is an important one for the future of noise policy. The European Commission is presenting a proposal for tightening car tyre noise emission limits, and in June 2007 the first noise maps of large agglomerations, main roads and railways were to be submitted to the Commission under the terms of the Environmental noise directive.

This report describes the health effects of rail and road transport noise and presents a number of recommendations as to how to address them.

We would like to kindly thank the people who reviewed this report for their contributions. The comments of Rokho Kim of the WHO and Tor Kihlman of the Chalmers Institute of Technology were especially helpful in improving the overall quality of the report. We also thank Nigel Harle for his careful editing of the English.

Eelco den Boer  
Arno Schroten



# Contents

Summary	1
1 Introduction	3
2 The health effects of traffic noise	5
2.1 WHO Community Noise Guidelines	5
2.2 The relation between noise and human health	6
2.3 Review of health effects	7
2.3.1 Annoyance	7
2.3.2 Sleep disturbance	8
2.3.3 Impaired cognitive functioning	9
2.3.4 Cardiovascular disease	10
2.3.5 Mental illness	11
2.4 Traffic noise especially harmful to vulnerable groups	11
2.5 Over 210 million in EU25 exposed to harmful traffic noise	12
2.6 Health of millions of Europeans affected by traffic noise	13
2.7 Effects on animals and ecosystems	19
3 The social costs of traffic noise	21
3.1 Valuing the health effects of traffic noise	21
3.2 Social cost of traffic noise in EU22 over € 40 billion a year	21
3.3 Passenger cars and lorries responsible for bulk of costs	23
3.4 Benefits of noise reduction	23
4 Noise reduction options	25
4.1 At-source versus end-of pipe measures	25
4.2 Transport noise regulation: the legal framework	28
4.3 Vehicle noise regulation failed	29
4.4 Tyre noise limits too high to be effective	32
4.5 Low-noise road pavements	35
4.6 Speed reduction and traffic management	36
4.7 Anti-propagation measures (noise barriers, insulation)	37
4.8 Rail transport noise	38
4.9 Two-wheeled vehicle noise	40
5 Recommendations for action	43
Literature	45
A Exposure to traffic noise	57
B Social costs for traffic noise	61
C Vehicle noise emission trends	63



# Summary

The main conclusions of this report are as follows:

## Health effects and social costs

- Traffic noise has a variety of adverse impacts on human health. Community noise, including traffic noise, is already recognised as a serious public health problem by the World Health Organization, WHO.
- Of all the adverse effects of traffic noise the most widespread is simply annoyance.
- There is also substantial evidence for traffic noise disturbing sleep patterns, affecting cognitive functioning (especially in children) and contributing to certain cardiovascular diseases. For raised blood pressure, the evidence is increasing. For mental illness, however, the evidence is still only limited.
- The health effects of noise are not distributed uniformly across society, with vulnerable groups like children, the elderly, the sick and the poor suffering most.
- In 2000, more than 44% of the EU25<sup>1</sup> population (about 210 million people) were regularly exposed to over 55 dB of road traffic noise, a level potentially dangerous to health. In addition, 35 million people in the EU25 (about 7%) are exposed to rail traffic noise above 55 dB. Millions of people indeed experience health effects due to traffic noise. For example, about 57 million people are annoyed by road traffic noise, 42% of them seriously.
- A preliminary analysis shows that each year over 245,000 people in the EU25 are affected by cardiovascular diseases that can be traced to traffic noise. About 20% of these people (almost 50,000) suffer a lethal heart attack, thereby dying prematurely.
- The annual health loss due to traffic noise increased between 1980 and 2000 and is expected to increase up to 2020. In contrast, traffic safety has improved, following implementation of a variety of policy measures.
- At a conservative estimate, the social costs of traffic noise in the EU22<sup>2</sup> amount to at least € 40 billion per year (0.4% of total GDP). The bulk of these costs (about 90%) are caused by passenger cars and lorries.

## Noise reduction options

- If noise-related problems are to be alleviated, they must be the subject of greater political focus. Vehicle noise emission limits have not been technology-forcing since their introduction and were last tightened in 1995. This means these limits have not been updated for twelve years, in stark contrast to vehicle air pollution emission standards, which have been tightened three times over the same period.
- Consequently, there has been no reduction in community exposure to noise. This is due to the lax limits in the EU Motor vehicle sound emission directive

---

<sup>1</sup> EU25 refers to EU27 except Cyprus and Malta.

<sup>2</sup> EU22 refers to EU27 except Cyprus, Estonia, Latvia, Lithuania and Malta.

and the Tyre/road directive, the fact that changes in test conditions have in practice led to even weaker limits, and increased traffic volumes.

- There is plenty of scope for reducing ambient noise levels by at least 3-4 dB(A) in the short term using currently available technology. Beyond 2012, year-on-year improvement targets (x dB(A) every y years) should be introduced, outlined well in advance to give industry time to adapt.
- In the case of both road and rail traffic, there are already vehicles/rolling stock available that are well within current noise standards. Besides the vehicles themselves, examples of silent tyres/wheels and road pavements/tracks show also room for noise reduction. At noise 'hotspots' additional, local measures can be implemented.
- The most cost-effective measures are those addressing the noise at-source. This includes noise from the engine, exhaust, mechanical systems and contact between tyres and road, or wheels and track. The associated costs are generally limited, for vehicles and tyres at least. There are signs that use of composite brake blocks on rail wagons also comes at a modest cost.
- Although an optimal noise control regime will always be a mix of local and at-source measures, the Commission should take responsibility for ensuring that the noise emissions of cars, tyres and railways are reduced significantly. These are the most cost-effective measures and their impact will be felt across Europe.
- When it comes to tightening noise standards and improving test procedures, prolonged discussions and political procedures are costing Europe dearly. If the EU does not come up with better policies soon, local measures will need to be taken, which are considerably more expensive than measures taken across the EU.



# 1 Introduction

Noise pollution consistently ranks high on the list of citizens' concerns. It is estimated that over half of Europe's population is exposed to unacceptable noise levels. Noise from road transport is the major source, followed by aircraft and railway noise. In its 6th Environmental Action Programme (2002-2012) the EU has set itself the objective of substantially reducing the number of people regularly affected by long-term average levels of noise. The aim of reducing noise exposure to acceptable levels has been repeated in the renewed Sustainable Development Strategy as well as in the transport White paper and its mid-term review. Despite all efforts in this direction, however, EU policy does not seem to recognise that noise is first and foremost a major environmental health issue.

Vehicle noise regulation is important, especially in light of growing traffic volumes and the proximity between transport infrastructure and residential and living areas. Every doubling of transport intensity increases noise levels by 3 dB(A). Vehicle noise regulation goes back to the 1970s, with tyre/road noise regulation added in 2001 and thereafter. In their present form, however, both sets of legislation are too liberal to have had any significant effect and the number of people exposed to ambient noise has consequently increased rather than declined.

This report highlights the scale and scope of the traffic noise problem, which affects a very substantial proportion of the European populace. It serves as a background report to a T&E brochure and is based on a thorough literature review. The report covers health effects and social costs, and reviews noise reduction policies and measures to reduce noise exposure. In conclusion, a number of recommendations for action are given. The report focuses on road and rail transport.



## 2 The health effects of traffic noise

In this chapter we first discuss the health impact of traffic noise, describing the various effects signalled and discussing the scientific evidence for each. We then report on the number of people exposed to traffic noise and the number likely to be affected by the respective health effects. Finally, we briefly review the evidence for traffic noise having an impact on animals and ecosystems.

### 2.1 WHO Community Noise Guidelines

Traffic is the most widespread source of environmental noise. Exposure to traffic noise is associated with a wide range of effects on human health and well-being. The World Health Organisation (WHO) recognises community noise, including traffic noise, as a serious public health problem, prompting it to publish guidelines on community noise in 1999 (Berglund et al., 1999). These guidelines present noise levels above which a significant impact on human health and/or well-being is to be expected. In 2007 an extension of the guidelines was published (WHO, 2007), focusing on the health impacts of night-time noise. Table 1 presents the relevant guideline values for specific environments. When multiple adverse health effects are identified for a given environment, the guideline values are set at the level of the lowest adverse health effect (the 'critical health effect').

Table 1 Selected values from the WHO Community Noise Guidelines and WHO Night Noise Guidelines

Specific environment	Critical health effect	Day: $L_{Aeq}$ (dB(A)) Night: $L_{night}$ (dB(A))	Time base (hours)
<b>Day-time and evening noise</b>			
Outdoor living area	Serious annoyance, daytime and evening	55	16
	Moderate annoyance, daytime and evening	50	16
Dwellings, indoor	Speech intelligibility and moderate annoyance, daytime and evening	35	16
School class rooms, and pre-schools, indoors	Speech intelligibility, disturbance of information extraction, message communication	35	During class
School playground, outdoor	Annoyance	55	During play
Hospital ward rooms, indoors	Sleep disturbance, daytime and evenings	30	16
Hospital, treatment rooms, indoors	Interference with rest and recovery	<sup>a</sup>	
<b>Night-time noise</b>			
At the façade, outside	Body movements, awakening, self-reported sleep disturbance	30	During the night

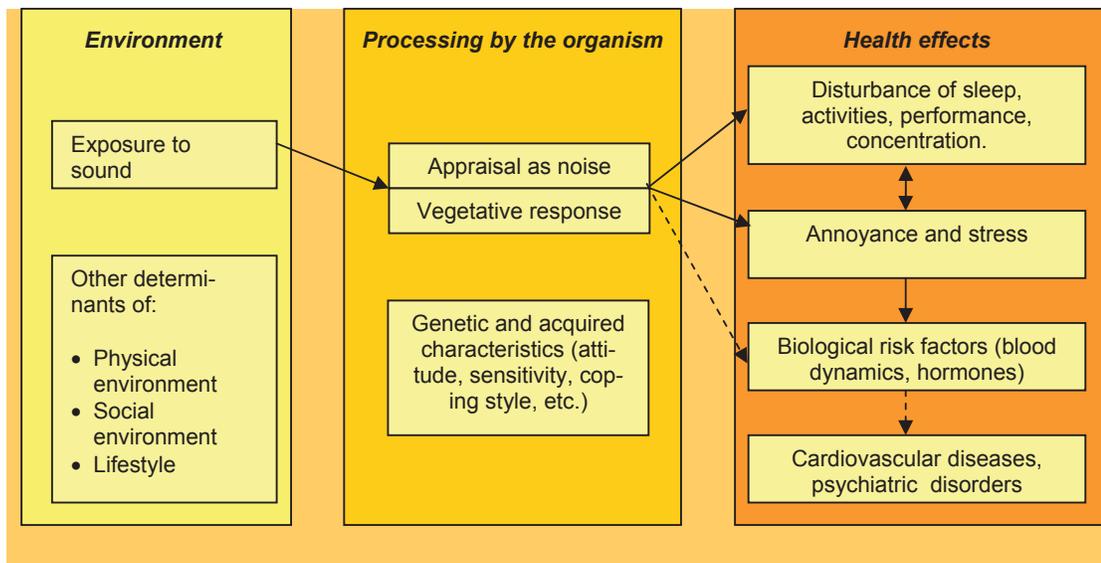
<sup>a</sup> As low as possible.

## 2.2 The relation between noise and human health

Traffic noise frequently exceeds the guideline values published by the WHO and those exposed to traffic noise consequently suffer an array of adverse health effects. These include socio-psychological responses like annoyance and sleep disturbance, and physiological effects such as cardiovascular diseases (heart and circulatory problems) and impacts on mental health (RIVM, 2004). In addition, traffic noise may also affect children's learning progress. Finally, prolonged, cumulative exposure to noise levels above 70 dB(A), common along major roads, may lead to irreversible loss of hearing (Rosenhall et al., 1990).

Figure 1 summarises the potential mechanisms of noise-induced health effects and their interactions. In the first place, noise exposure can lead to disturbance of sleep and daily activities, to annoyance and to stress. This stress can in turn trigger the production of certain hormones (e.g. cortisol, noradrenalin and adrenaline), which may lead to a variety of intermediate effects, including increased blood pressure. Over a prolonged period of exposure these effects may in their turn increase the risk of cardiovascular disease and psychiatric disorders. The degree to which noise leads to disturbance, annoyance and stress depends partly on individual characteristics, in particular a person's attitude and sensitivity to noise. Finally, the relation between noise and personal health and well-being is also influenced by external factors like physical and social environment and lifestyle.

Figure 1 The mechanisms of noise-induced health effects



Source: HCN (Health Council of the Netherlands), 1999.



## 2.3 Review of health effects

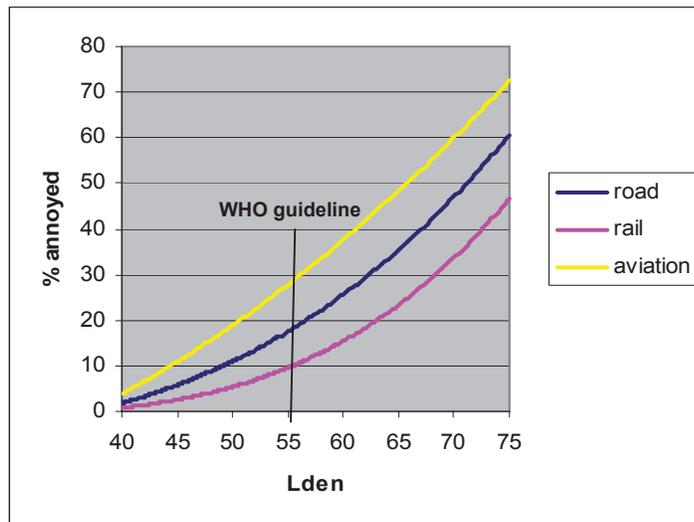
From Figure 1 and the discussion thus far we can identify the following potential health effects due to exposure to traffic noise:

- Annoyance.
- Sleep disturbance.
- Disturbed cognitive functioning (learning and understanding).
- Cardiovascular disease.
- Adverse effects on mental health.

### 2.3.1 Annoyance

The most widespread problem created by noise is quite simply annoyance. Annoyance can be defined as a general feeling of displeasure or adverse reaction triggered by the noise. Among the ways it can express itself are fear, uncertainty and mild anger (Stansfeld & Matheson, 2003; RIVM, 2005). In the human environment (which also includes neighbours, industry, etc.) traffic is the single most important source of noise annoyance (Niemann & Maschke, 2004; RIVM, 2004). As Figure 2 shows, aircraft noise is perceived as more annoying than road and rail traffic noise at the same volume. At a noise level of 55 dB(A), the guideline limit set by the WHO, approximately 30% of those exposed are annoyed by aircraft noise, about 20% by road traffic noise and about 10% by rail traffic noise. Some people begin to experience annoyance at traffic noise from noise levels of 40 dB(A) upwards.

Figure 2 Percentage of people annoyed as a function of noise exposure of dwellings (Lden in dB(A))



Source: Miedema & Oudshoorn (2001).

The degree of annoyance triggered by traffic noise is determined first of all by the noise level. The higher the level, the more people are annoyed and the greater the severity of perceived annoyance (Ellebjer Larsen et al., 2002; RIVM, 2005). The degree of annoyance depends on other noise characteristics, too (London

Health Commission, 2003). The higher the pitch of the noise, the greater the annoyance. Duration and intermittency also influence the degree of annoyance.

However, traffic noise-induced annoyance is governed by more than just acoustic factors, with personal and situational factors also coming into play, as well as a person's relationship to the source of the noise. In a familiar illustration, a mosquito may not make much of a noise, but during the night it can cause considerable annoyance. Feelings of annoyance depend in the first place on an individual's sensitivity to noise (Ouis, 2001; RIVM, 2004). The fact that noise is a form of harm that can be avoided contributes to people's perception of noise as annoyance (London Health Commission, 2003). Another important determinant of perceived annoyance is fear of the noise's source (RIVM, 2004). People who feel they have no control over the situation, or believe authorities are failing to control it, are likely to experience a greater level of annoyance. Annoyance at noise depends also on how the noise interferes with everyday life (London Health Commission, 2003; Stansfeld & Matheson, 2003). People will be more annoyed when noise affects activities that involve talking and listening, such as conversations, listening to music, watching television and so on. Finally, noise in situations where it is expected is less annoying than noise in circumstances anticipated to be quiet. For this reason noise at night-time (the buzzing of a mosquito, as cited, but also traffic noise) is more annoying than during the day.

To some extent, people frequently exposed to traffic noise develop strategies of adapting and coping with the problem (London Health Commission, 2003). The problem still remains, however: subconscious physical reactions, such as raised blood pressure, and levels of annoyance due to chronic noise will not diminish over time unless the noise itself is abated.

### 2.3.2 Sleep disturbance

Traffic noise is the main cause of sleep disturbance (Niemann & Maschke, 2004). This effect of noise on sleep has important health effects, since uninterrupted sleep is known to be a prerequisite for proper physiological and mental functioning in healthy people (WHO, 2007). Three types of effects of noise on sleep can be distinguished: effects on sleeping behaviour (primary effects), effects on performance and mood through the following day (secondary effects) and long-term effects on well-being and health:

- *Sleeping behaviour.* Night-time noise can increase the arousal of the human body, i.e. lead to activation of the nervous system, which may result in a person awakening or prevent them from falling asleep (Ising et al., 2004; TNO Inro, 2002; WHO, 2007). However, this arousal response to noise is often more subtle than mere awakening and may involve a change from a deeper to lighter sleep, an increase in body movements, a temporary increase in heart rate and changes in (stress) hormone levels (RVIM, 2003; HCN, 2004; WHO, 2007). Finally, there is also some evidence that blood pressure is affected by traffic noise during sleep (WHO, 2007).
- *Effects on performance and mood through the following day.* The secondary effects of sleep disturbance include reduced perceived sleep quality and in-



creased drowsiness, tiredness and irritability (HCN, 2004). While there are also indications of other effects such as depressed mood and decreased performance (Ouis, 2001), the available evidence is still inconclusive (HCN, 2004; WHO, 2007).

- *Long-term effects on well-being.* In the long-term, night-time noise can lead to insomnia and increased medication use (HCN, 2004; WHO, 2007). It may also result in chronic annoyance (Berglund et al., 1999; RIVM, 2004). Furthermore, an increased risk of cardiovascular disease due to night-time noise is plausible, although there is only limited evidence for this effect (TNO Inro, 2002; WHO, 2007). Finally, there are certain indications that night-time noise can contribute to mental illness (WHO, 2007)

The effects of night-time traffic noise on sleep disturbance begin at fairly low volumes and become more likely as the intensity of the noise increases. Changes between sleep stages, increased body movements and heart-rate acceleration start at noise levels around 32-42 dB(A) (WHO, 2007). In addition, reported sleep quality is likely to be affected at noise levels above 40 dB(A) (RIVM, 2004; Ising et al., 2004; WHO, 2007). Night-time awakenings also start at levels above 40 dB(A) (WHO, 2007). However, sleep disturbance is influenced by other noise characteristics, too. People are far more sensitive to intermittent noise than continuous noise (Prasher, 2003). For example, an accelerating car will disturb a person's sleep more than a continuous traffic flow. In addition, the alarm function of the sense of hearing may lead to awakening if the noise contains information perceived to be of relevance, even if the noise level is low. This means that unfamiliar noises are far more likely to disturb sleep than familiar, regular patterns of noise. Finally, personal characteristics like noise sensitivity influence the relation between night-time noise and sleep disturbances (Ouis, 2001).

People are good at adapting to nocturnal noise. However, there is never complete habituation, particularly with respect to heart-rate acceleration (Stansfeld & Matheson, 2003; WHO, 2007).

### 2.3.3 Impaired cognitive functioning

Exposure to traffic noise can impair an adult's cognitive functioning (information processing, understanding and learning) (Stansfeld & Matheson, 2003). To have this effect, though, noise levels must be high, or the task complex or cognitively demanding (Prasher, 2003). Repetitive and simple tasks are unaffected by (traffic) noise. The influence of noise on cognitive functioning depends on a person's perceived control of the noise and its predictability.

In the literature there is a prominent focus on the influence of traffic noise on the cognitive functioning of children. Although most of the studies are concerned with the impact of aircraft noise in this respect, some of them consider road and rail traffic noise, too. According to Bistrup et al. (2001), the adverse effects of road traffic noise exceed those of rail traffic noise.

In general, the following effects have been found for children exposed to high levels of traffic noise (Bistrup et al., 2001; Clark et al., 2005; RIVM, 2005):

- Difficulty sustaining attention.
- Difficulty concentrating.
- Poorer discrimination between sounds and poorer perception of speech.
- Difficulty remembering, especially complex issues.
- Poorer reading ability and school performance.

A hypothesis frequently stated to explain the impact of chronic exposure to noise on the cognitive development of children is that noise affects the intelligibility of speech communication (Bistrup et al., 2001; RIVM, 2005). Ambient noise leads to a loss in the content of a teacher's instruction, and consequently children may have problems with speech perception and language acquisition. This, in turn, can lead to impairment of children's reading skills and vocabulary, and eventually to difficulties with other, higher-level processes, such as long-term memory for complex issues. Closely related to this process is the so-called 'tuning out' response: to adapt to noise interferences during activities, children filter out the unwanted noise stimuli (RIVM, 2005). However, researchers suggest that children generalise this strategy to other situations where noise is not present, with adverse effects on their understanding and learning performance.

Although there has been little research into the impact of noise reduction in this context, there is evidence that reduced noise levels can relieve cognitive problems within about a year (London Health Commission, 2003).

#### **2.3.4 Cardiovascular disease**

Exposure to traffic noise is associated with changes in blood pressure and increased risk of various types of heart disease (e.g. ischemic heart diseases, angina pectoris, myocardial infarction). Noise-induced cardiovascular diseases are considered to be the consequence of stress (Babisch, 2006; Ising et al., 2004; Prasher, 2003; RIVM, 2004). Exposure to noise triggers the production of (stress) hormones like cortisol, noradrenaline and adrenaline. It does so both directly and indirectly, through disturbance of activities. These hormones may cause changes in the values of a number of biological risk factors, such as hypertension (high blood pressure), blood lipids (e.g. cholesterol) and blood glucose. These risk factors can increase the risk of cardiovascular disease (Babisch, 2006; Ising et al., 2004). Persistent exposure to environmental noise could therefore result in permanent changes to the vascular system, with elevated blood pressure and heart diseases as potential outcomes. The magnitude of these effects will be partly determined by individual characteristics, lifestyle behaviours and environmental conditions (Berglund et al., 1999).

Sufficient evidence can be found in the literature for the relation between traffic noise and heart diseases like myocardial infarction and ischemic heart diseases (Babisch, 2006; Babisch et al., 2005; Ising et al., 2004; Prasher, 2003). Higher risks of heart disease are found for those living in streets with average noise levels above 65-70 dB(A). For these people the risk of heart disease is approximately 20% higher than for those living in quieter areas (Babisch, 2006). This risk increases with noise level. Again, the risk is also influenced by personal characteristics. For example, Babisch et al. (2005) found that only men are at higher risk



of heart attack due to traffic noise. This risk is also dependent on the number of years of exposure to the traffic noise, moreover. The longer people are exposed to a high level of traffic noise, the greater the likelihood of it having an impact and increasing the risk of a heart attack.

There is a growing body of evidence for a higher risk of hypertension in people exposed to high levels of traffic noise (Babisch, 2006). For example, a recent study by Bluhm et al. (2006) suggests the existence of a relation between residential exposure to road traffic noise and hypertension. However, earlier studies (e.g. Babisch, 1998; RIVM, 2005) show less evidence for this relationship, and according to Babisch (2006) these studies cannot be neglected in the overall judgement process. Hence more research into the relation between traffic noise and hypertension is needed.

There has been hardly any research into the impact of night-time noise exposure on cardiovascular health outcomes (Babisch, 2006). One exception is UBA (2003), who showed that night-time noise exposure was more strongly associated with medical treatment for hypertension than day-time noise exposure.

In contrast to the subjective perception of noise, which adapts within a few days through habituation (see paragraph 2.3.1), none of the cardiovascular diseases show habituation to noise after prolonged exposure (WHO, 2007).

### **2.3.5 Mental illness**

A small number of studies have presented limited evidence for a link between traffic noise and mental illness (Prasher, 2003; Stansfeld & Matheson, 2003; WHO, 2007). The clear association between noise and annoyance does not necessarily translate into a more serious relationship with mental health (London Health Commission, 2003). However, noise may well accelerate and intensify the development of latent mental disorder. Even so, people already suffering mental problems are likely to be more sensitive to being annoyed or disturbed by traffic noise than the general population.

## **2.4 Traffic noise especially harmful to vulnerable groups**

The health effects of road and rail traffic noise are not distributed uniformly across society, with vulnerable groups like children, the elderly and the sick affected most. In addition, poorer people are more likely to suffer the health effects of transport noise than the better off. This might be explained by lower quality housing with poor noise insulation and the proximity of housing for lower income groups to noisy transport infrastructure.

Children are likely to be a group that is particularly vulnerable to the health effects of noise. They have less cognitive capacity to understand and anticipate it and lack well-developed coping strategies (Stansfeld & Matheson, 2003). As children are still developing both physically and cognitively, moreover, in this group there is a potential risk of chronic noise having irreversible negative con-

sequences. The impact of traffic noise on children's cognitive development has already been briefly discussed. Noise may also possibly affect foetal development, by way of (stress) effects on expectant mothers (EPA, 1978). However, a more recent study questions this impact on foetal development, although such effects are not completely ruled out (Bistrup et al., 2001). Additionally, children do not appear to be at particular risk with respect to cardiovascular disease, especially through high blood pressure (Babisch, 2006). At the same time, though, traffic noise exposure from an early age may have cumulative health effects in later life, which once more include cardiovascular disease. This also holds for the negative effects of sleep disturbance. In the short term, however, children are less severely affected by sleep disturbance than adults (RIVM, 2004), as evidenced by fewer awakenings and changes between sleep stages. With respect to annoyance due to traffic noise, finally, children do not differ from adults.

The elderly and the sick are two other groups that may be especially vulnerable to the effects of traffic noise. There has not been much research into this area, however. One of the rare findings is that both the elderly and those already ill are more affected by sleep disturbance - especially awakenings - than the general population (HCN, 2004; Ouis, 2001). Also, those already suffering from sleep disturbance are more severely affected by traffic noise. With regard to cardiovascular disease, Babisch (2006) shows that people with prevalent chronic diseases have a slightly higher probability of contracting certain heart diseases as a result of traffic noise than those without. For the elderly, there is no consistent evidence that the effect of traffic noise on cardiovascular diseases is greater than for younger people. Finally, traffic noise may aggravate the psychological problems of people with existing health problems (London Health Commission, 2003).

The price of houses exposed to high levels of traffic noise will be lower than that of similar houses in quieter areas (Soguel, 1994; Theebe, 2004). Those living on lower household incomes are therefore more likely to be exposed to traffic noise than those with higher incomes, and will hence have more noise-related health problems. For the Dutch region 'Rijnmond' this relationship between household income and exposure to noise was confirmed by RIVM (2004).

## **2.5 Over 210 million in EU25 exposed to harmful traffic noise**

In the year 2000 about 44% of the population of the EU25<sup>3</sup> (over 210 million people) were exposed to road traffic noise levels above 55 dB(A). This is the WHO guideline value for outdoor noise levels and the threshold for 'serious annoyance'. More than 54 million people were exposed to road traffic noise levels over 65 dB(A), which is ten times louder than the WHO guideline value. Rail traffic noise is a burden to fewer people. Nonetheless, 35 million people in the EU25 (about 7%) were exposed to rail traffic noise above 55 dB in 2000, with 7 million of them exposed to noise over 65 dB from this source.

In most European countries the number of people exposed to noise levels below 55 dB are not reported on. As already discussed, though, noise below 55 dB may

---

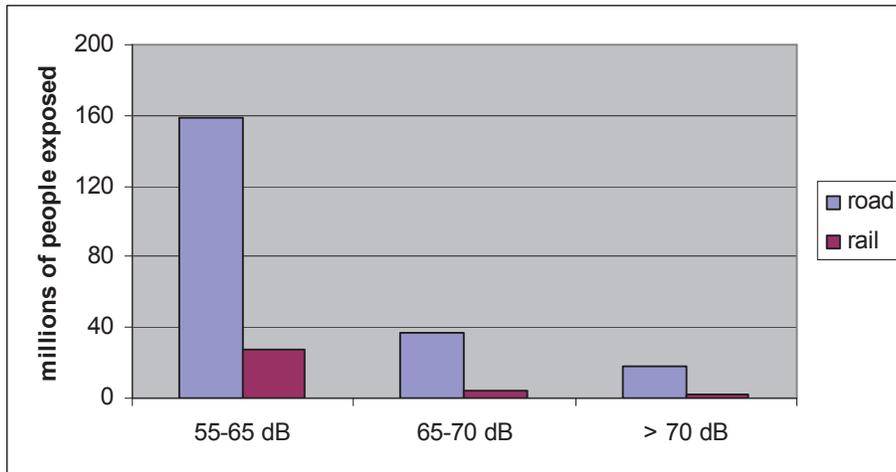
<sup>3</sup> EU27 except Cyprus and Malta.



still trigger adverse effects like annoyance, sleep disturbance and reduced cognitive ability. The actual number of people exposed to levels of traffic noise that are potentially dangerous to their health will thus be higher than the figures presented in Figure 3.

The data in this figure are for the year 2000. Given traffic growth and the fact that legislation and standards have hardly changed in the meantime, these exposure figures probably underestimate the true extent of the problem.

Figure 3 Number of people exposed to road and rail traffic noise in 25 EU countries in 2000



Note: This figure covers the EU27 except Cyprus and Malta.  
 Source: INFRAS/IWW (2004), OECD/INFRAS/Herry (2002), calculations by CE Delft (for Estonia, Latvia, Lithuania).

These figures for the number of people exposed to traffic noise are based mainly on data from INFRAS/IWW (2004) (West European countries) and OECD/INFRAS/Herry (2002) (East European countries). Link (2000) also presents estimates for the number of people exposed to traffic noise in certain West European countries. Although in some cases the results for individual countries (including the Netherlands) differ considerably between the first and last of these studies, the aggregate numbers are comparable, with a difference of only about 3% between the two. Since INFRAS/IWW (2004) covers more countries and uses more up-to-date data, we chose to present these figures here. The reliability of these data sets is discussed in appendix A.

## 2.6 Health of millions of Europeans affected by traffic noise

Although not all people exposed to road or rail noise will experience health effects (see also appendix A), a significant fraction will. Beyond investigations of the absolute number of people suffering from various health effects due to traffic noise, however, not much research has been undertaken in this area. In this section, therefore, we cannot do much more than provide an estimate of the number of people affected by cardiovascular disease. In addition, figures on the number

of people experiencing annoyance at traffic noise in Europe are presented. Finally, the health impact of traffic noise is compared to the health impact of two other social problems: air pollution and traffic accidents.

### Fatal heart attack and ischemic heart diseases

The annual count of people suffering a (fatal) heart attack due to traffic noise is known for three countries only (see Table 2). For two of these, Denmark and Germany, the annual count for ischemic heart diseases (IHD) is also known.

Table 2 Number of people affected by heart diseases and the probability of heart diseases due to traffic noise in three European countries

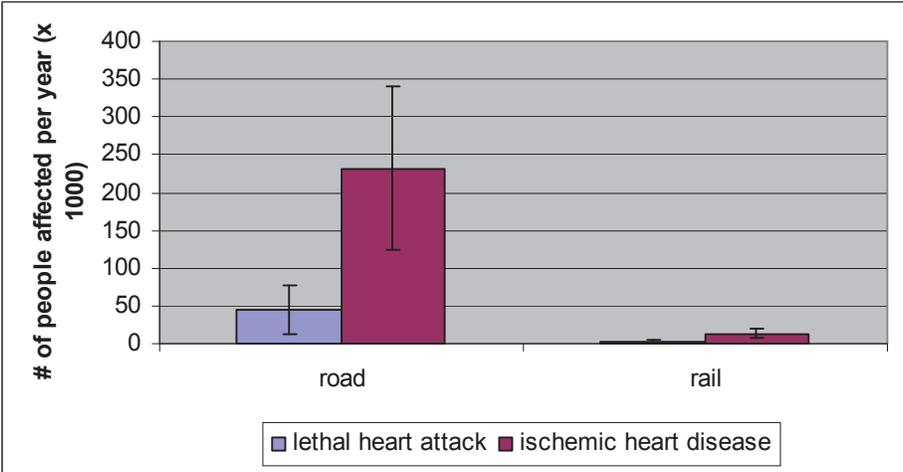
Country	Annual count of people suffering a lethal heart attack	Annual count of people affected by IHD	Probability of a lethal heart attack for people exposed to > 60 dB	Probability of IHD for people exposed to > 60 dB
Denmark	200 - 500	800 - 2200	0.00026 - 0.00065	0.001 - 0.003
Germany	4,289	27,366	0.00017	0.001
Netherlands	300 - 1000	-	0.00016 - 0.00053	-

Sources: Babish, 2006; Danish, 2003; RIVM, 2005; probabilities calculated by CE Delft.

Based on these figures and the number of people exposed to noise levels above 60 dB(A) in the relevant countries, we estimated the probability of a fatal heart attack or ischemic heart disease and used these probabilities to estimate the number of people likely to be affected by these diseases in the EU25 annually. To this end, for each country we multiplied the number of people exposed to noise levels over 60 dB(A) by the respective probabilities of the heart diseases. The aggregate results of this estimation procedure are shown in Figure 4.



Figure 4 Indication of number of people affected by an ischemic heart disease or suffering a lethal heart attack due to traffic noise in the EU25 (2000)



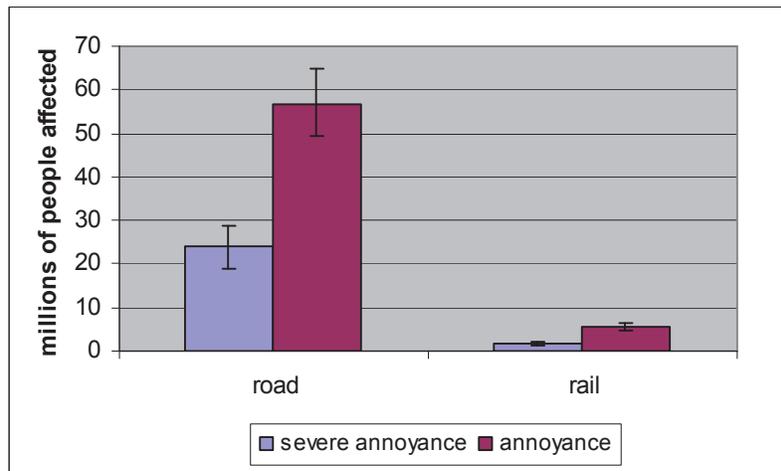
Note: This figure covers the EU27 except Cyprus and Malta.  
 To estimate the number of people affected by heart diseases the average of the probabilities from Table 2 were used, with the upper and lower bounds of the band width estimated using the highest and lowest probability, respectively.

We can conclude that over 245,000 people in the EU25 are affected by an ischemic heart disease due to traffic noise annually, of whom 94% (approx. 231,000) due to road traffic noise. About 20% (almost 50,000) of these people suffer fatal heart attacks. Road and rail traffic noise are thus responsible for around 50,000 premature deaths per year in Europe.

**Annoyance**

To estimate the number of people experiencing annoyance at traffic noise, we used exposure-response relationships. Miedema & Oudshoorn (2001) have estimated the percentage of people annoyed as a function of both road and rail traffic. Their exposure-response functions have already been presented in paragraph 2.3.1. These researchers derived exposure-response functions for both severe annoyance and annoyance and these curves have been recommended for use in EU legislation on noise (EC, 2001). Figure 5 shows the number of people experiencing (severe) annoyance at road and rail traffic noise in the EU25.

Figure 5 Number of people affected by (severe) annoyance due to road and rail traffic noise in the EU25 in 2000



Note: This figure covers the EU27 except Cyprus and Malta.

To estimate the number of people affected by (severe) annoyance, the exposure data from paragraph 2.5 were used. These exposure data are related to  $L_{Aeq}$  noise levels, while the exposure-response functions of Miedema & Oudshoorn are defined for  $L_{den}$  noise levels. For this reason the exposure data were translated using a rule of thumb: noise levels expressed in  $L_{den}$  are approximately 2 dB(A) lower than those expressed in  $L_{Aeq}$ . To express the uncertainty in the estimates a band width for the results is shown. The upper and lower bound of this band width were estimated by varying the exposure figures by 2 dB(A).

Around 57 million people in the EU25 are annoyed by road traffic noise, 42% of whom (approximately 24 million) are severely annoyed. This means that about 12% of the European population suffers annoyance due to road traffic noise. Rail traffic noise causes annoyance to about 5.5 million Europeans (about 1% of the total European population), of whom about 2 million are severely annoyed.

### Comparison with health impact of other environmental problems

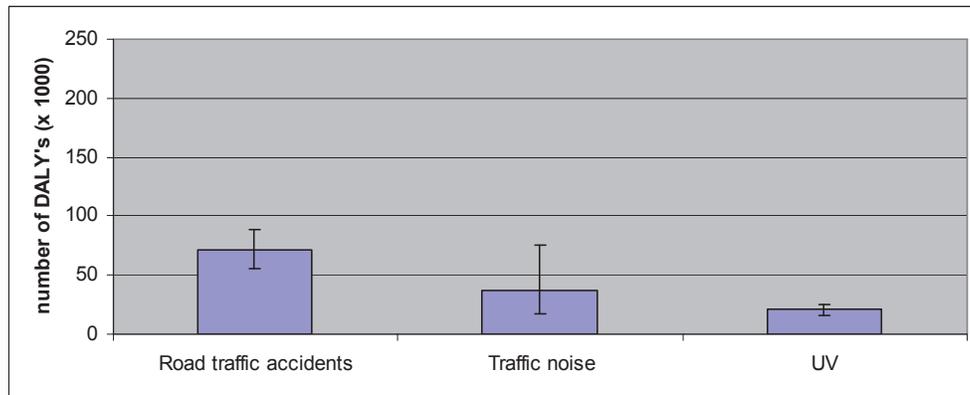
Disability-adjusted life years (DALY) is a measure used to quantify the overall 'burden of disease' on a population. It does so by combining the impact of premature death (mortality; life years lost) and disability (morbidity; life years lived with disability or disease) into a single, comparable measure. DALYs represent the total number of years of life lost due to premature death and of years lived with a reduced level of health, weighted by the seriousness of the health impairment suffered (SAEFL, 2003). Below, we use DALYs to summarise the health impact of an external environmental influence, traffic noise. By using this concept it is possible to compare the total impact of several health effects of traffic noise and, moreover, to compare the magnitude of these effects with that of other problems affecting society, such as air pollution and traffic accidents.

The WHO is currently working on an estimate of DALYs for traffic noise for Europe. To date, however, there is only country for which such an estimate is publicly available: the Netherlands. For this country, RIVM (2005) present DALYs for several environmental vectors of disease: see Figure 6. The DALYs for traffic



noise take the following health effects into account: mortality (through stress, hypertension and cardiovascular diseases), severe annoyance and severe sleep disturbance. These health effects are the major determinants of DALYs caused by traffic noise. Including other health effects, such as the adverse impact on cognitive functioning and hearing impairment, will not significantly change the order of magnitude of DALYs related to traffic noise.

Figure 6 Burden of disease due to several problems in the Netherlands in 2000, in DALYs



Note: The 90% prediction intervals around the respective DALY values are indicated by a band width. The figures for traffic noise include road, rail and air traffic noise.

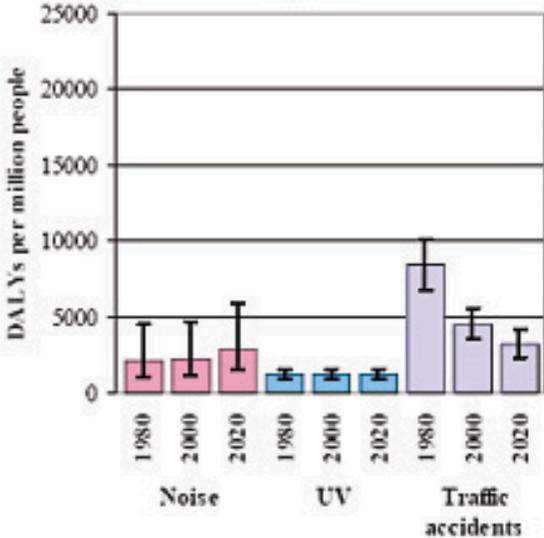
Source: RIVM, 2005.

The annual health loss associated with traffic noise is approximately half the health loss due to traffic accidents.

The number of DALYs related to traffic noise presented in Figure 6 also includes the noise of air traffic. The latter is only a very minor source of health loss (see Figure 8), as airport noise affects only relatively few people. However, the exposure of these people is likely to be severe, and so will their health loss.

RIVM (2005) also present trends in the environmental burden of disease in the Netherlands for the period 1980-2020. Figure 7 presents trends in DALYs due to three environmental problems.

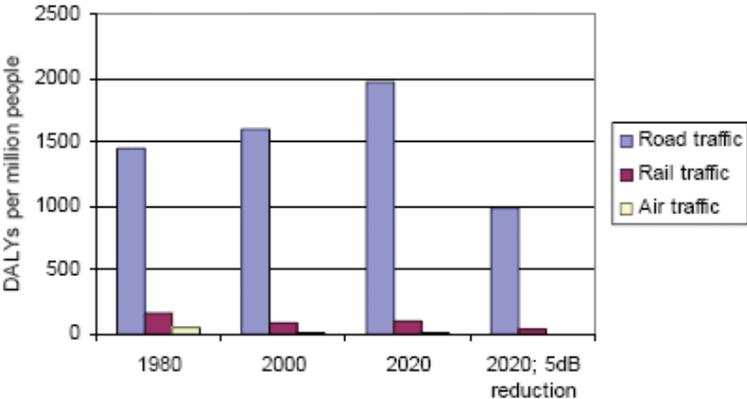
Figure 7 Trends in DALYs per million people in the Netherlands for the period 1980-2020



Source: RIVM, 2005.

In contrast to problems like traffic accidents, the number of DALYs due to traffic noise rose between 1980 and 2000. With policy as it stands today, this disease burden will continue to grow in the coming years, while that of traffic accidents will continue to fall. RIVM (2005) also report on the potential decrease in disease burden if noise levels are reduced by around 5 dB(A) for every source by 2020. Such a reduction could almost halve the number of annoyance and sleep disturbance-related DALYs (see Figure 8).

Figure 8 DALYs per million caused by severe annoyance and severe sleep disturbance due to road, train and air traffic noise, for 1980, 2000 and 2020, including an alternative scenario for 2020 (with 5 dB(A) noise exposure reduction for road and rail traffic)



Source: RIVM (2005).

In Chapter 4 we demonstrate that a 3-4 dB(A) reduction of road and railway noise is easily feasible in the short term using currently available technologies.

## 2.7 Effects on animals and ecosystems

It is not only humans but also animals that are affected by traffic noise. When exposed to man-made noise they may suffer both physiological and behavioural effects (Kaseloo and Tyson, 2004). With regard to the former, an animal's response may range from mild annoyance to panic and escape behaviour. These responses are manifestations of stress, which may harm an animal's health, growth and reproductive fitness. For example, energy losses due to escape and panic responses could result in impaired growth and health. For some animals, traffic noise also interferes with communication (Kaseloo, 2005). Bats, for example, a species group totally reliant on echo location, are unable to find food if noise levels are too high.

In terms of behaviour, animals may avoid places with high levels of traffic noise. In the case of birds it has been found that sound levels above 40 - 45 dB(A) influence species distribution; as the noise level at a given spot increases, fewer birds will visit the spot (Kaseloo, 2005; RIVM, 2002). For animals like the mountain goat and white-tailed deer, too, evidence has been found for the avoidance of noisy areas around busy roads (Kaseloo & Tyson, 2004).

The effects of traffic noise on animals vary markedly among as well as within species, owing to a variety of factors (such as age, sex, prior exposure, etc.). It is therefore hard to draw any general conclusions about the effects of traffic noise on animals. Further research on this topic is certainly needed. Nevertheless, from the evidence presented here it is reasonable to say that traffic noise interferes with animals' feeding, hunting and breeding behaviour and performance.



## 3 The social costs of traffic noise

### 3.1 Valuing the health effects of traffic noise

The loss of well-being due to exposure to traffic noise can be expressed in monetary terms. The amount of money people are willing to pay to avoid traffic noise provides a good estimate of the loss of well-being people experience. In some instances the market will provide reliable estimates of people's willingness to pay (WTP). For example, the price of sleeping pills provides an estimate of the WTP to fall asleep and avoid night-time awakenings.

For many of the health effects of noise, however, there are no such market prices. To estimate the WTP to avoid these effects various methods are available. Generally speaking, there are two relevant valuation methods: hedonic pricing and contingent valuation. The hedonic pricing method examines variations in housing prices due to traffic noise. These differences can be seen as the WTP to avoid the adverse effects (especially annoyance) of noise. The contingent valuation method, on the other hand, involves asking people directly in a survey how much they would be willing to pay to avoid certain health effects associated with noise. Both methods are used for placing a value on the effects of traffic noise.

To value mortality due to traffic noise means assigning a monetary value to a human life. In the field of environmental valuation this has always been a controversial topic, for the WTP to avoid the loss of one's life is infinite, is it not? Nonetheless, in their everyday lives people make plenty of choices that influence their risk of mortality. For example, we may choose to drive a motorcycle despite being aware that this involves a greater risk of lethal accident than driving a car. With the aid of this kind of information on risk behaviour a value can be determined for a *statistical* human life.

Additional information on attributing a monetary value to traffic noise is provided in appendix B.

### 3.2 Social cost of traffic noise in EU22 over € 40 billion a year

The social cost of road traffic noise in the EU22<sup>4</sup> is estimated to be at least €38 (30 - 46) billion per year, which is approximately 0.4% of total GDP in the EU22. For rail, estimates of social costs due to noise are about € 2.4 (2.3 - 2.5) billion per year (about 0.02% of total EU22 GDP). It should be noted that this takes into account only effects related to noise levels above 55 dB(A), while people may also be adversely affected by noise below this level. Hence, the social cost estimates presented here probably underestimate the actual costs.

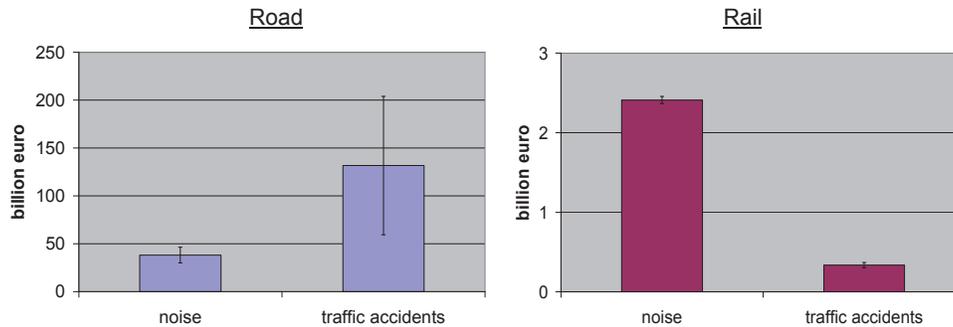
The social costs of road traffic noise in the EU22 are almost one-third of those associated with road traffic accidents; see Figure 9. In the case of rail traffic,

---

<sup>4</sup> EU27 except Cyprus, Estonia, Latvia, Lithuania and Malta.

though, the social costs of noise are approximately seven times those of accidents.

Figure 9 Social costs of traffic noise in the EU22 compared to those of traffic accidents (2006 price level)



Note: This figure covers the EU27 except Cyprus, Estonia, Latvia, Lithuania and Malta and hence covers 98.4% of the EU27's population.

Sources: INFRAS/IWW (2004), OECD/INFRAS/Herry (2002), Link (2000).

These social cost estimates are based on valuation studies by INFRAS/IWW (2004), OECD/INFRAS/Herry (2002) and Link (2000). INFRAS/IWW and Link provide cost estimates for West European countries, while cost estimates for East European countries are provided by OECD/INFRAS/Herry. INFRAS/IWW and Link cover partly the same countries, with the two studies presenting somewhat different estimates for some of them. A brief explanation for these differences is given in appendix B. As it is not clear which of the studies presents the most reliable estimates, in calculating total social noise costs in the EU22 the average of the two has been used for the relevant countries. For these countries minimum and maximum estimates were also determined, which were used to estimate band width. Note that the band width for the estimated social costs of traffic noise in the EU22 is based on minimum and maximum estimates for just 9 countries. For the other 13 countries, only a single estimate was available.

Another way to estimate the social costs of traffic noise is by valuating the associated DALYs (see previous chapter). As mentioned, the WHO is currently working on an estimate of DALYs due to traffic noise in Europe and certain preliminary results of this study have already been presented in the EU's Noise Steering Group<sup>5</sup>. These tentative results show that the total number of DALYs depends heavily on how the DALYs due to annoyance are calculated. Differences in measuring method yield estimates differing by a factor 2. If we value the WHO's conservative estimate of DALYs (assumption: 1 DALY equals € 78,500 (VITO, 2003)), the social costs of traffic noise are found to be comparable to the figure obtained by using the results of INFRAS/IWW, OECD/INFRAS/Herry and Link. The social cost estimates presented above would therefore appear to be robust, but conservative.

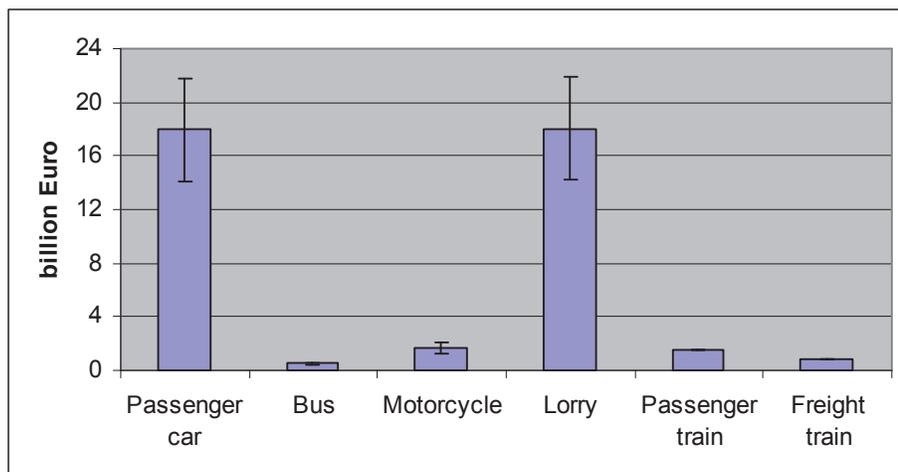
<sup>5</sup> See: [http://circa.europa.eu/Public/irc/env/noisedir/library?!=/health\\_effects\\_noise/who&vm=detailed&sb=Title](http://circa.europa.eu/Public/irc/env/noisedir/library?!=/health_effects_noise/who&vm=detailed&sb=Title)



### 3.3 Passenger cars and lorries responsible for bulk of costs

Passenger cars and lorries are responsible for 90% of the total social costs of road and rail traffic noise in Europe; see Figure 10. This is due above all to the large number of vehicles and kilometres driven on European roads.

Figure 10 Distribution of social costs due to traffic noise in the EU22 over transport modes (2006 price level)



Note : This figure covers the EU27 except Cyprus, Estonia, Latvia, Lithuania and Malta.

Sources: INFRAS/IWW (2004), OECD/INFRAS/Herry (2002), Link (2000).

This distribution of social costs over transport modes is again based on the valuation studies by INFRAS/IWW (2004), OECD/INFRAS/Herry (2002) and Link (2000). To derive average figures for the EU22 the same methodology was used as in section 3.2.

### 3.4 Benefits of noise reduction

Noise abatement policies will have major economic benefits. Less people will be annoyed by traffic noise and the incidence of health problems will decline. With their sleep less disturbed, people may also be more productive at work. The latter effect may be reinforced by improved cognitive performance, moreover. According to Navrud (2002) the perceived benefit of noise reduction is € 25 per household per decibel per year. This estimate is based on a thorough review of the literature on this topic. The EU working group 'Health and Socio-Economic Aspects' (2003) also recommends using this figure to value noise reduction.

Noise abatement policies will generate cost savings for government, too. Expenditures on the health system will be lower due to a decline in noise-related health problems. In addition, if noise is reduced at its source (i.e. on vehicles, road surfaces and rail tracks), then local and national authorities can reduce the funds currently spent on building and maintaining noise barriers and insulation. The Dutch government's Noise Innovation Programme (IPG) has calculated that for every decibel of noise reduction at-source €100 million in expenditures on end-of-

pipe measures such as noise barriers and insulation will be saved (IPG, 2007). This calculation only takes major interurban roads and railways into account. Actual savings will probably be even greater, because other regions and urban areas will also benefit from such noise reduction via at-source measures. From a social perspective there is also a preference for at-source over end-of-pipe measures, the latter being considerably less cost-effective (see Chapter 4).



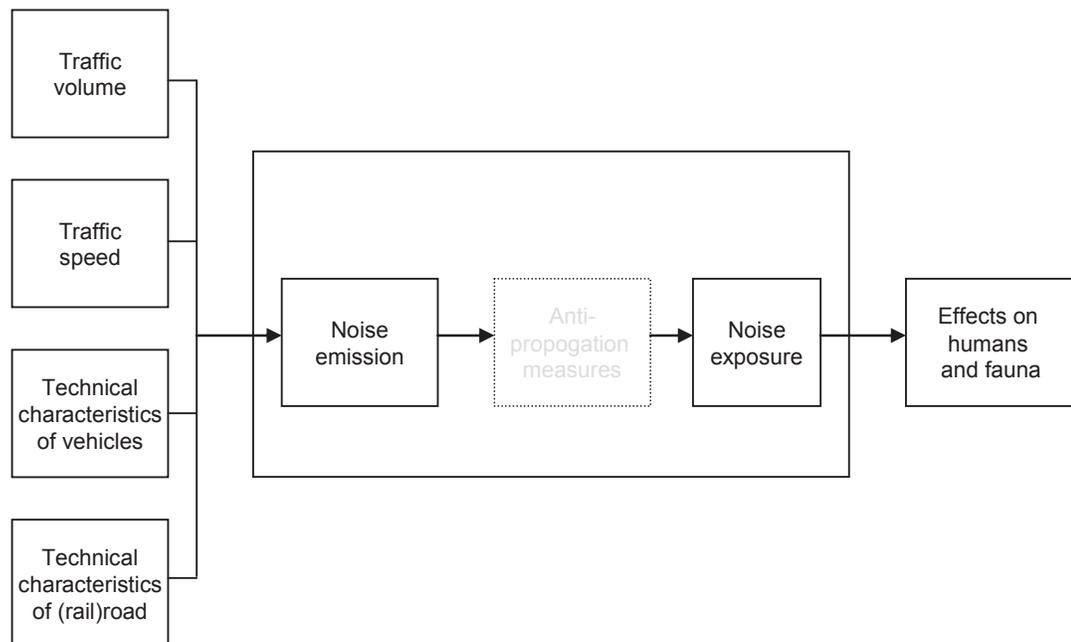
## 4 Noise reduction options

In this chapter we set out the noise policy developments of the last decades and the measures available to reduce traffic noise. We first describe the difference between at-source measures and end-of-pipe (anti-propagation) measures and then present an in-depth analysis of the former.

### 4.1 At-source versus end-of pipe measures

There are essentially two routes to noise abatement. Firstly, noise emissions can be reduced at their source, through measures relating to vehicles/drivelines, tyres, road surfaces and traffic management. Secondly, noise can be abated by reducing the exposure of people by means of anti-propagation or insulation measures (by increasing the distance between source and recipient, for example, or hampering noise propagation by insulating buildings or constructing noise barriers). Figure 11 provides a schematic overview of the factors leading to adverse effects of noise and thus the basic routes available to achieve abatement.

Figure 11 Factors determining traffic noise emissions



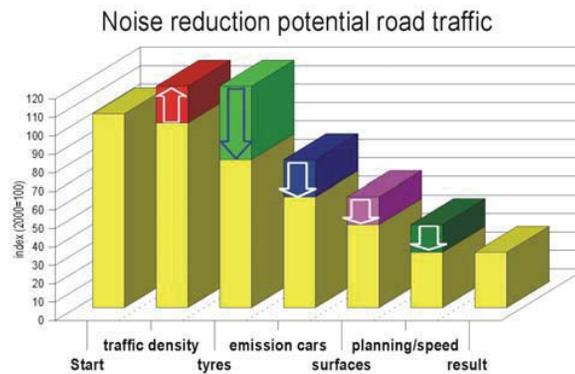
Source: RIVM, 2003 adapted by CE Delft.

At-source measures that reduce overall emissions are preferable to noise exposure measures reducing emissions at the local level, like insulation of houses or construction of noise barriers (EC, 2004; KPMG, 2005).

### At-source measures have the greatest potential

Measures that tackle the basic sources of noise have vast potential to reduce exposure; see Figure 12. This figure provides a qualitative estimate based on the contribution to the potential reduction of annoyance by each of the contributing factors. Together, these measures could reduce annoyance due to road traffic by as much as 70%. To make this a reality, though, requires concerted efforts at all government levels: EU, national and local, with the EU the most important body when it comes to at-source measures. At noise hotspots (residential areas, outside schools, hospitals, etc.) pan-European measures need to be complemented by specific local policies.

Figure 12 Reduction potential using current noise reduction technologies (expert judgement)



Source: EC, 2005.

As can be seen, the greatest reduction potential comes from technical measures to reduce noise emissions from vehicles, tyres and road surfaces. The abatement impact of these various measures is presented in more detail in Table 3.

Table 3 Potential at source noise reduction measures, in dB(A)

	Vehicle		Speed reduction	Road surface	
	Engine	Tyre		Thin/dense	Porous
5 year perspective	1-2	1-2	1-3	1-3	2-4
10-15 year perspective	2-4	2-4	-	3-5	6-8
Effect of measure	international	international	local	local	local
Who pays?	Industry/polluter	Industry/polluter	Industry/polluter	Road owner/society	Road owner/society

Source: TOI, 2005.

### At-source measures most cost effective

Measures to reduce noise at-source are generally more cost-effective than those designed to hamper its propagation (Ohm, 2006; DRI, 2005). Measures relating to tyres and vehicle propulsion can achieve noise reductions at relatively low cost, because state-of the art engines and tyres are already performing signifi-



cantly better than current limits. Tightening of the limits will therefore cause very little additional cost to the automotive industry (KPMG, 2005).

The Danish national traffic noise strategy shows that measures aimed at reducing noise propagation (including noise barriers) are amongst the least cost-effective solutions for 2020 (Danish, 2003). If these are applied on a large scale in the absence of at-source measures, the costs will even outstrip the benefits. One Danish case study clearly illustrates that porous asphalt is far more cost-effective than anti-propagation measures like home insulation or noise barrier construction, which are 3-10 times more expensive (DRI, 2005).

The Dutch Noise Innovation Programme (IPG) has calculated that every decibel of noise reduction at-source will save € 100 million in national expenditure on noise barriers and building insulation.

In general, the benefits of at-source noise abatement measures dramatically exceed their costs. This means that from a welfare point of view it is clearly advantageous to implement noise measures at-source. RIVM (2003) estimates that the benefits of noise reduction by way of quieter tyres, low-noise road pavements and wheel/rail optimisation are on average 2-4 times higher than their cost.

Of these measures, the cost effectiveness of quieter tyres is greatest, as several studies report that tyre/road noise reduction comes at zero cost (Sandberg, 2006; RIVM, 2003). A study by FEHRL indicates that the cost effectiveness of a reduction of tyre/road noise is significantly better than the figure reported above. FEHRL estimates the benefits at € 48-123 billion, while the costs are only € 1.2 billion. The main cost item for industry would be discontinuation of production of the noisiest tyres. Research costs would be very limited, as quieter tyres have already been developed and are already on sale on the European market (FEHRL, 2006).

Another argument in favour of at-source measures is that the costs of noise reduction are borne directly by the car driver, with any research and development costs being incorporated into prices. Furthermore, at-source measures - especially those at vehicle level - are in line with the polluter pays principle and Article 174 of the EC Treaty, which states action at-source to be a priority principle.

One disadvantage of at-source measures at the vehicle level, however, is that penetration of the vehicle fleet takes several years for tyres and almost a decade for motor vehicles. Local measures like speed reduction and low-noise road surfaces are therefore also needed. Given the very long life spans of railway rolling stock, this is even truer of railway noise reduction measures. The optimal strategy will need to comprise a mix of local and at-source measures, including noise barriers at hotspots.

## 4.2 Transport noise regulation: the legal framework

Road vehicle noise is covered by two European directives. Motor vehicle noise emission has been covered by legislation since the 1970s (Directive 70/157) and tyre-road noise since 2001 (Directive 2001/43).

The EU Driveline noise directive follows Regulation No. 51 of the United Nations Economic Commission for Europe (UNECE), which harmonises measurements of road vehicle sound emissions. Regulation 51 is defined at the international level by the UNECE world forum for harmonisation of vehicle regulations.

Railway noise is addressed through directives on railway interoperability for high-speed rail (Directive 96/48/EC) and conventional rail (Directive 2001/16/EC), which provide a legislative framework for technical and operational harmonisation of the rail network. Under this legislation, Technical Specifications for Interoperability (TSIs) are established by the Commission, which include noise limits for rolling stock.

Despite these efforts, the noise exposure of citizens has not diminished since the 1970s. In part this is due to ineffective legislation as well as increased traffic volumes. Additionally, though, it was deemed necessary to focus noise policy on actual noise reception. The 1996 Green Paper marked the start of this alternative approach, leading to the Environmental Noise Directive (END) of 2002 (Directive 2002/49) as a second cornerstone of noise policy. Its main objectives are:

- To monitor environmental noise.
- To address local issues.
- To inform the public about noise issues.
- To oblige local authorities to draw up noise maps and action plans for reducing noise exposure in and around major cities, roads, railway lines and airports (see Table 4).

At the same time, however, responsibility for setting noise exposure limits remains the competence of national authorities. Formally speaking, the action plans do not need to be attuned to these national exposure limits.

Table 4 Timetable for creation of noise maps and action plans

Area / Source to be mapped	Strategic noise maps by	Action plans by
Agglomerations		
> 250,000 inhabitants	30 June 2007	18 July 2008
> 100,000 inhabitants	30 June 2012	18 July 2008
Major roads		
> 6,000,000 vehicles / year	30 June 2007	18 July 2008
> 3,000,000 vehicles / year	30 June 2012	18 July 2008
Major railways		
> 60,000 train journeys / year	30 June 2007	18 July 2008
> 30,000 train journeys / year	30 June 2012	18 July 2008
Major airports		
> 50,000 flights / year	30 June 2007	18 July 2008



Traffic noise is also one of the impacts to be documented during the environmental impact assessment (EIA) of transport infrastructure projects. Guidelines for weighting noise as an environmental impact during the decision-making process are set out in European directives 85/337/EEC and 97/11/EC.

Under the framework of the CARS 21 initiative to boost the competitiveness of the EU car industry, the Commission has announced a 'holistic' view with regard to the tackling of noise issues. Thus, all relevant stakeholders and systems (e.g. traffic management, driver behaviour, vehicle and tyre technology, road surfaces) should be involved in tackling noise issues so as to achieve a cost-effective package of reduction measures (EC, 2007).

In the past, noise has always been seen as more of a trade issue relating to harmonisation of product standards than as an environmental health issue in the EU. This is still the case today, to judge by the influence of UNECE working groups, the handling of rail noise and the leading position of DG Enterprise and Industry in determining EU noise standards for vehicles.

### 4.3 Vehicle noise regulation failed

Despite noise type approval limits being in force since 1970, since then there has been no tangible reduction of noise emissions under real driving conditions for passenger cars and only a 2-4 dB(A) reduction for heavy duty vehicles (HDVs) (RIVM, 2003; Blokland, 2004). This is due to:

- Weak, ineffective noise emission limits.
- Driving conditions during product approval tests for vehicles and tyres that do not reflect real traffic situations.
- Test conditions being changed several times, which implied a tightening of the limits for HDVs but a weakening for passenger cars by several dB(A) (M+P, 2000; see Figure 14).
- Tyres only being assessed separately since 2001, even though tyre/road contact is already the dominant source of noise from passenger cars at any speed over 30-50 km/h.

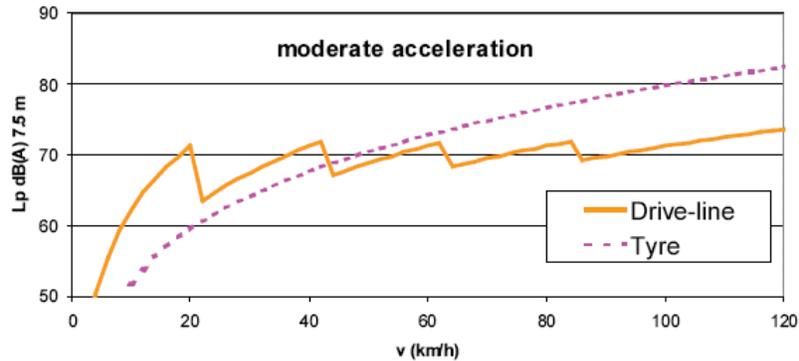
Although the exterior noise of vehicles has not diminished over the last decades, interior noise has been reduced, through improved insulation methods, in response to customer demand.

Directive 70/157/EEC, which has been updated several times, prescribes a test method for vehicle driveline and tyre noise and lays down noise emission limits. The test method basically comprises a noise measurement under full torque during acceleration at low speed. The underlying reasoning is that if a vehicle passes this extreme test it will also be quiet under normal circumstances. However, the test method has undergone several changes over the years, the most important of which has been changes in gear and hence engine speed (rpm), the most important determinant of driveline noise emissions.

### Vehicle driveline noise versus tyre noise

The two main noise sources in road transport are the vehicle driveline and tyre/road contact. The higher its speed, the more noise a vehicle produces. This graph shows the relationship between speed and noise emission for both driveline and tyres. At lower speeds driveline noise predominates, with the noise of tyre-road contact becoming most important as speed increases. The jagged line follows gear changes.

Figure 13 Correlation between speed and noise emission for a passenger car



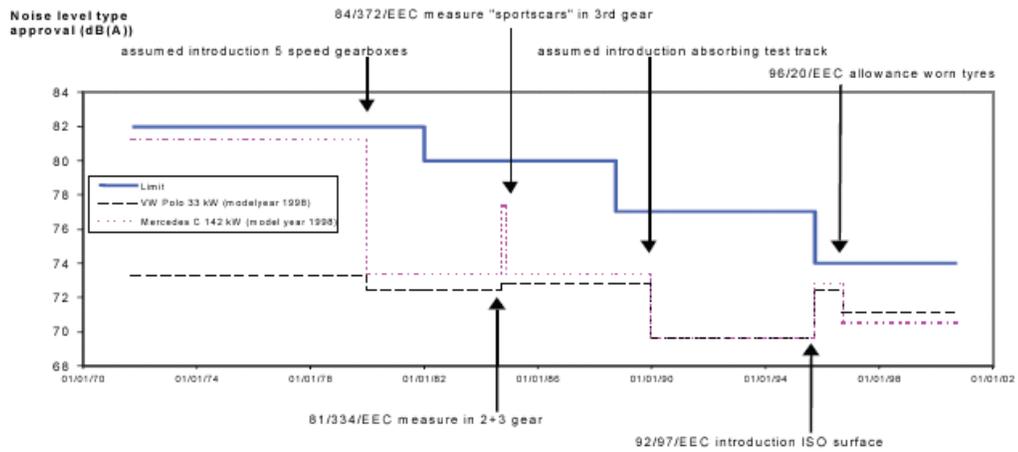
Source: RIVM, 2002.

The change in test method meant a reduction in the tested engine speed of passenger cars and an increase in that of heavy vehicles. Consequently, heavy vehicles became significantly more silent, while passenger cars did not (Blokland, 2004). The road surface and tyre have also been redefined in the test method, moreover, in a way beneficial to vehicle manufacturers. Figure 14, below, illustrates the liberal limits and the effect of the changes in the measurement procedure.

All in all, the noise emissions of passenger cars have not been further restricted by European or international noise emissions standards. This is illustrated by (M+P, 2000). One would expect a 1998 vehicle to be far more silent than the noise emission standard of 1970, but Figure 15 shows that this is not the case. The figure shows that although noise emission limits have indeed been tightened over time, these gains have been mainly on paper and not been translated to the real world. As can be seen, vehicle noise emissions follow roughly the same pattern as the tightening of limits. This means vehicles did not in fact become quieter, but that changes in the test method caused reduced noise emissions. Appendix A elaborates further on the effect of the past tightening of limits and test cycles on vehicle noise emissions.



Figure 14 Measured noise emissions of two passenger cars over the years as a function of the type approval test



Source: M+P, 2000.

Since 2000, lengthy discussions have been held within the UNECE working group on vehicle noise about the update of the test method and new limit values. There is a general consensus in the Working Party on Noise (GRB) that equivalent values must be identified between the new and old test procedures before any tightening of the limits can be discussed. A 2-year data collection period will start in June 2007. Updating the Directive will therefore take around 5 years from now before coming into force. Several experts consequently argue for a tightening of the type approval limits while still retaining the current test cycle.

As the new standards will apply only to new vehicles, it will be a decade before quieter cars start reducing noise exposure. With a 2-year measurement period after 2007 and around four years for new limit values to be negotiated and transposed in the UNECE and EU, it will be another two years before the new limit values come into force, so that quieter cars may not reach the market until about 2015. The average age of a car on the roads is around 6 years, and the overall noise abatement impact of new legislation will only have effect once quieter vehicles make up the bulk of the fleet. Tangible effects could therefore perhaps be expected on Europe's roads around 2020.

Recent drafts of the test procedure indicate that a more realistic driving pattern is to be adopted. It is extremely important, however, that the vehicle test remains a test of the power unit itself, where tyre/road noise is marginal.

**Scope for immediate improvement of at least 3 dB(A)**

The conclusions of a review of the technical potential for reduction of vehicle noise by TRL and RWTUV (TRL, 2003) can be summarised as follows:

- *Engine*: the variance of today's production engines for cars is around 7 dB(A) over the whole range, with the upper half comprising engines that are still on the market but not state-of-the-art. This means there is a reduction potential of 3 dB(A) if all vehicles are equipped with these quieter, currently available engines.
- *Gas flow noise*: a further reduction of intake and exhaust noise can in general be achieved by using greater silencer volumes and double-walled silencers. The problem is to reserve the necessary storage capacity for the silencers and accommodate the increase in weight.
- *Mechanical noise*: For cars, the contribution of gearbox and drivetrain to overall noise emission is insignificant. For heavy duty vehicles the situation is different, especially since the requirements for robustness and durability are much higher than for passenger cars. Possible reduction measures are advanced encapsulations and the de-coupling of the gearbox and engine (lower rpm).

A study by EC (2004) indicates that the limits for heavy duty vehicles could be lowered by 3-5 dB(A) in two steps within 10 years, based on a new measurement method. For passenger cars and light duty vehicles, the limits could be tightened by 3-6 dB(A) in two steps within the same timeframe.

For passenger cars the following proposal has been presented by M+P consultancy (Blokland, 2004):

- Decrease limit value from current 74 to 71 dB(A) (several cars are already available with 67 dB(A)).
- Remove the +1 dB(A) allowance for direct-injected diesel engines. Modern diesel injection technology is not louder than petrol engines.
- Remove the unnecessary allowance of +2 dB(A) for vans: these are mainly 'stripped down' passenger car models.

In the case of passenger cars, acoustic design usually tends towards lower noise volumes, especially for luxury models. However, loud acoustic design is a specific feature of a small minority of sports cars, which can thus nonetheless determine the overall sound level of a road. The industry is not that keen to reduce noise limits, as it sets restrictions on producing cars with a 'sporty' sound.

#### 4.4 Tyre noise limits too high to be effective

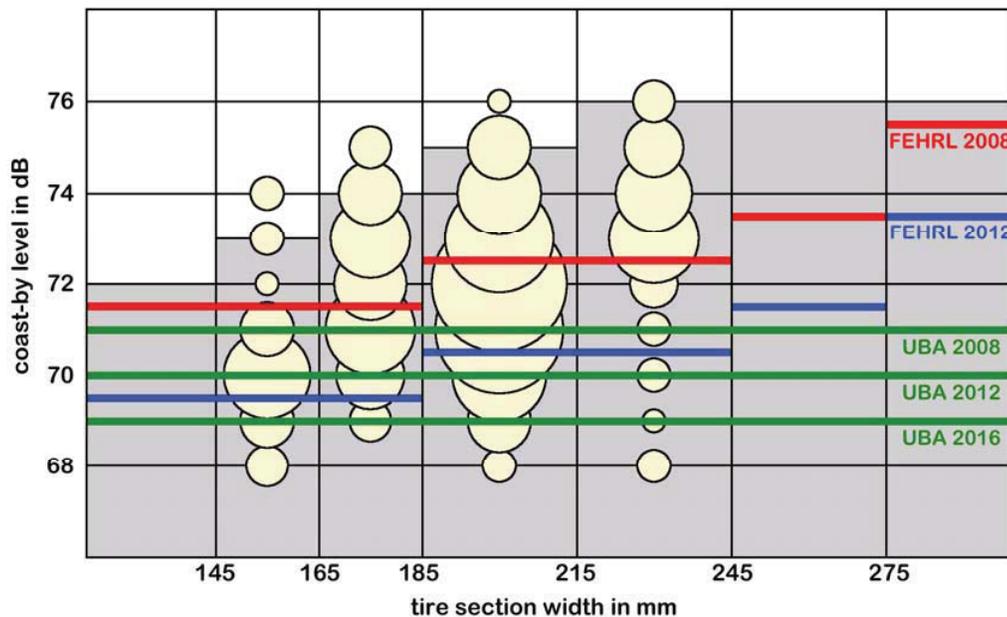
In 2001 Directive 2001/43/EC came into force, setting limit values for tyre/road noise. This Directive was potentially an important contribution to noise policy, because above 30-50 km/h tyre/road noise becomes the most important source. Almost all the tyres that have been in service since the regulations were introduced are well below the current limits. The Directive is therefore essentially ineffective and no more than symbolic (see Figure 15). Even the lowering by 1-2 dB(A) foreseen by the directive for 2007-2009 is ineffective (Sandberg, 2003). The most striking feature is that a 1dB(A) reduction and a round-down are applied before the measured test values are compared with the limit values. This implies that a tyre measured at 77.9 dB(A) meets the limit value of 76 dB(A).



In August 2004 the Directive and emissions limits were scheduled for revision. Within the framework of the revision of the Road/tyre directive, the Commission has commissioned FEHRL to carry out a study to assess the potential for reducing the limit values and the impacts of reductions on overall traffic noise, safety and economy. Based on the FEHRL study, the Commission will come up with a proposal for a Directive replacing and expanding on 2001/43/EC. This proposal will include standards for safety (wet grip, aquaplaning) and rolling resistance as well as noise. A consultation will be announced around May 2007, with a proposal due for the autumn.

As part of the FEHRL study, a database of measurements on 300 tyres has been created. Fifty per cent of the tyres measured produced noise levels over 3dB(A) below the current limits. As a whole, the range is typically up to around 5 dB(A) below the current limit value, while best available technology is even 8dB(A) below that limit (FEHRL, 2006; EC, 2004).

Figure 15 Measurement data and proposed limit values for passenger car tyres



adopted from "Tyre/Road Noise", Study SI2.408210

Source: FEHRL, 2006.

### Proposals for tightening the Road/tyre directive

FEHRL and the German Federal Environment Agency (UBA) have both provided proposals for a tightening of the Road/tyre directive. Their limit values for passenger cars are depicted in Figure 15. The FEHRL study recommends reductions of 2.5-5.5 dB(A) for passenger car tyres and 5.5-6.5 dB(A) for commercial vehicle tyres. The German Federal Agency (UBA) has proposed reductions versus the current limit values of roughly the same order, but proposes dropping the differentiation on the basis of tyre width. Table 5 shows the proposed limit values.

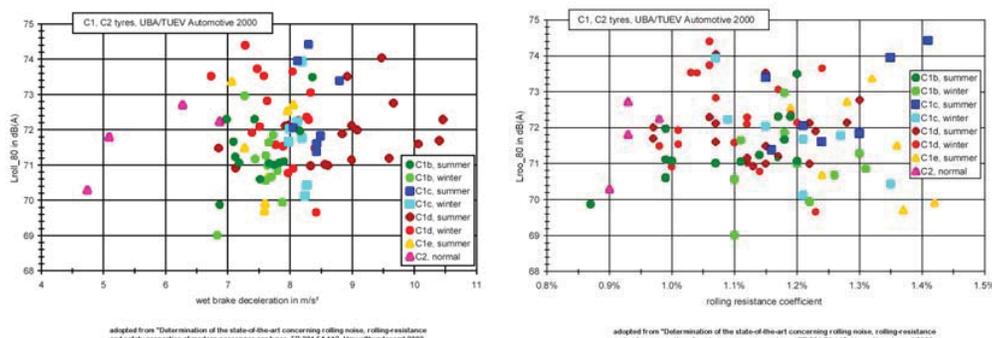
Table 5 Type approval limits (dB(A)) proposed for passenger car tyres

Tyre width R (mm)	2001/43/EG		FEHRL		UBA		
	Current	Next phase	2008	2012	2008	2012	2016
R ≤ 145	72	71	71.5	69.5	71	70	69
145 < R ≤ 165	73	72					
165 < R ≤ 185	74	73					
185 < R ≤ 215	75	74	72.5	70.5			
215 < R ≤ 245	76	75	73.5	71.5			
245 < R ≤ 275			75.5	73.5			
R > 275							

Low-noise tyres do not conflict with low rolling resistance and safety standards; see Figure 16. With respect to the former the FEHRL study (FEHRL, 2006) found no conflict at all. As regards the latter, there are many examples in the database of tyres that produce relatively low noise levels and yet perform well in terms of safety. There are indeed indications that these two characteristics are even positively associated (Sandberg, 2006).

While there is no conflict between safety (wet weather conditions) and low noise at current levels of technological development, it still needs to be monitored in the future, as it cannot be guaranteed that there will be no conflict for future tyres, as the FEHRL study concludes.

Figure 16 Correlation between low noise, safety and rolling resistance characteristics for passenger car tyres



Retreaded tyres are not covered by the Directive. This limits its effectiveness, because, somewhat surprisingly, around half the tyres used in heavy goods transport and a smaller fraction of passenger car tyres are reused.

The arguments for reducing tyre noise limits are sound not only because of the technical potential, but also from a socio-economic perspective. Several studies show that low-noise tyres are currently no more expensive than normal tyres (Sandberg, 2006; RIVM, 2003). According to the tyre industry, the costs for low-noise tyres amount to around € 2 billion per year, but in the view of FEHRL these are significantly overestimated. The benefits are significant, totalling around € 48-123 billion between 2010 and 2022, making low-noise tyres very cost-effective (FEHRL, 2006). These savings accrue to local and national authorities and hence



taxpayers, via savings on anti-propagation methods. Other benefits are lower health care costs and improved well-being.

### **Incentives for quieter tyres**

To speed up the development of low-noise tyres, financial incentives may need to be introduced. One means of doing so may be to levy a tax on tyres or introduce some other type of financial incentive proportional to the assigned noise level. Another option is a system based on introduction of a noise-differentiated annual vehicle tax. To increase the use of low-noise tyres, the type approval rating needs to be marked on the tyre sidewall. This is easy to realise and should be part of the revision of Directive 2001/43/EC (Sandberg, 2006b).

Optimisation of tyres from a fuel-efficiency perspective is also presently under discussion. The revision of the Tyre/road noise directive will include limits pertaining to fuel efficiency, safety and noise. There is currently very little information available to consumers on these tyre performance characteristics. There are therefore also arguments for developing a consumer label for tyres that covers safety, climate and noise together<sup>6</sup>.

## **4.5 Low-noise road pavements**

Low-noise road surfaces, such as thin-layer, double-layer, porous and poro-elastic pavements, offer considerable potential to cut road noise dramatically, and are very complementary to technical measures to reduce engine, exhaust and tyre noise from cars and trucks. Such surface measures have the advantage of bringing immediate benefits, particularly for use in noise hotspots.

### **Tyre road noise explained**

Tyre/road noise is a complex addition of several mechanisms of noise generation and amplification, depending on the properties of both tyres and road surface:

- Noise is generated partly by impacts and shocks on the tyre, caused by road surface irregularities or irregularities on the tyre tread. These shocks make the tyre vibrate and radiate noise. Vibrations of the tyre tread spread to the sidewalls, which then radiate the noise further.
- Aerodynamic noise sources include so-called air pumping, consisting of the noisy pushing away of air on the leading edge of the contact zone between tyre and road surface and the noisy sucking in of air along the rear edge. The resonances occurring in the tyre cavity and tread pattern canals can also be considered as aerodynamic noise sources.
- One 'micro-movement' effect is the stick/slip tread elements' motion relative to the road surface, causing the tread elements to vibrate tangentially.
- An adhesion effect is the stick/snap effect of the sudden loosening of the tyre tread from the road surface, comparable to the sudden loosening of a suction cup.
- The horn effect is a noise amplification mechanism whereby noise generated near the edge of the tyre/road surface contact area becomes amplified due to the geometry created by tyre and road surface. This is the same phenomenon intended by the conical part of a trumpet or a megaphone.

Source: EC, 2006.

<sup>6</sup> There are indications that this labelling needs to be different in different climatic zones. This would be a complication.

The degrees of noise reduction achieved by low-noise pavements are shown in Table 6.

Table 6 Noise reductions due to low-noise road pavements in urban and rural areas

Pavement	Urban	Rural	
	50 km/h	70 km/h	110 km/h
Two-layer asphalt	3 dB(A)	4 dB(A)	5 dB(A)
Thin layer asphalt	1.5 dB(A)	2 dB(A)	2 dB(A)

Source: Ohm, 2006.

Low-noise pavements are a cost-effective option to reduce traffic noise. KPMG (2005) indicates that low-noise asphalt can reduce investments in noise abatement measures by up to 80% compared to noise barriers. The cost reductions are greatest for intra-urban roads, because it is here particularly that low-noise pavements can reduce the need for expensive barriers.

The European Commission is planning to mandate CEN<sup>7</sup> to develop a European standard for low-noise asphalt. In certain Member States there are several acoustical classification systems for road surfaces, but there are no international standards on such classification nor are road surfaces checked for conformity. With such a CEN standard in place, the introduction of acoustical performance in public contracts for road surfacing might be facilitated, competition in tendering increased, and the use of lower-noise road surfaces fostered as well.

Importantly, the SILVIA project found that there are no significant differences between porous asphalts and dense asphalts with respect to either safety, rolling resistance or fuel consumption (Elvik, 2003).

#### 4.6 Speed reduction and traffic management

The noise of a road can also be reduced by influencing the speed or flow of the traffic it carries. Limiting traffic speed reduces its noise, especially between 50 and 80km/h. As Table 7 below shows, speed limit enforcement in urban areas has a positive effect on transport noise. Traffic management often also has an effect on the number of vehicles. The table shows the noise reduction caused by a reduced traffic volume under assumption of no changes in either speed or percentage of heavy vehicles.

Although traffic management measures have relatively limited potential compared to the long-term potential of other measures, they involve only limited investments and have a direct effect, because of their limited implementation time. However, the costs associated with travel time losses may be significant.

Compliance with new speed limits is obviously important for achieving the desired effects, as illustrated in the example in the textbox.

<sup>7</sup> CEN is the European Standardisation Committee.



**Speed reduction positive for air quality and noise**

In the Netherlands, the speed limit on various motorway sections close to city dwellings was reduced in 2006 because of local non-compliance with EU air quality regulations. Compliance with the new limit, 80 instead of 100 km/h, is enforced with speed cameras that calculate average speed. This has had a positive effect on air quality, but noise emission has also been reduced by up to 1.5 dB(A), depending on local circumstances. Another effect perceived by people living close to the road sections in question is the absence of noise peaks by individual cars passing at high speed during the night.

Source: Dutch Ministry of Transport, 2006.

Traffic management measures have a positive impact not only on noise reduction but also on air quality and road safety. Reductions in traffic can be achieved by promoting public transport, encouraging cycling and walking, parking management, HGV bans, route designation and road bypasses. Other examples of traffic management include measures that induce the traffic flow to become more fluent, through smart tuning of traffic lights, for example, to avoid stop-and-go traffic as far as possible. The effects of traffic management measures is shown in Table 7 and Table 8.

Table 7 Effects of speed limit changes on noise reduction

Speed reduction (10% heavy traffic)		Traffic reduction	
From 110 to 100 km/h	0.7 dB(A)	10 %	0.5 dB(A)
From 100 to 90 km/h	0.7 dB(A)	20 %	1.0 dB(A)
From 90 to 80 km/h	1.3 dB(A)	30 %	1.6 dB(A)
From 80 to 70 km/h	1.7 dB(A)	40 %	2.2 dB(A)
From 70 to 60 km/h	1.8 dB(A)	50 %	3.0 dB(A)
From 60 to 50 km/h	2.1 dB(A)	75 %	6.0 dB(A)
From 50 to 40 km/h	1.4 dB(A)		
From 40 to 30 km/h	0 dB(A)		

Source: DRI, 2004.

Table 8 Effects of traffic management measures on noise reduction

Traffic management measure	Potential noise reduction (LAeq)
Traffic calming / Environmentally adapted through-roads	Up to 4 dB(A)
30 km/h zone	Up to 2 dB(A)
Roundabouts	Up to 4 dB(A)
Round-top/circle-top road humps	Up to 2 dB(A)
Speed limits combined with signs about noise disturbance	1 - 4 dB(A)
Night time restrictions on heavy vehicles	Up to 7 dB(A) at night time
Rumble strips of thermoplastic	Up to 4 dB(A) noise increase
Rumble areas of paving stones	Up to 3 dB(A) noise increase
Flat-top humps	Up to 6 dB(A) increase
Narrow speed cushions	Up to 1 dB(A) increase
Rumble wave devices	0 dB(A)

Source: Berndtsen, 2005.

#### 4.7 Anti-propagation measures (noise barriers, insulation)

If the desired degree of noise reduction cannot be achieved by at-source measures, noise barriers and insulation of dwellings may be helpful in reducing propagation of the noise. On average, noise barriers reduce noise levels by 3-6 dB(A), depending on their design and height. Roadside noise barriers are only accept-

able for motorways and other bypass roads where there is no need for pedestrians to cross. On busy urban streets, which are crossed by pedestrians along their entire length, noise barriers cannot be placed directly on the kerbside. It is only in non-urban areas that they can provide a solution, therefore.

If no other measures can be adopted, or if other measures are inadequate, soundproof windows and insulated walls are the only possibility remaining for further protection against noise. To be effective, though, such windows must be kept closed, and many people have trouble adjusting to this restriction on their normal behaviour (opening windows, etc.), especially during the summer.

The average cost of a noise barrier is around € 300 per m<sup>2</sup>, depending on its construction and the materials used (Witteveen+Bos, 2004). This is around € 2.4 million for a barrier 4 metres high and 1 kilometre along both sides of a road.

#### **4.8 Rail transport noise**

Noise is one of the most significant environmental impacts of rail traffic. Contrary to road traffic, where European emission standards have existed since the early 1970s, such emissions standards for trains only came into force at the beginning of the present century. Moreover, EU noise emission standards apply only to rail vehicles operating in more than one Member State.

European legislation addresses railway noise at-source through directives on railway interoperability for high-speed rail (Council Directive 96/48/EC) and conventional rail (Directive 2001/16/EC), which provide a legislative framework for technical and operational harmonisation of the rail network. Under this legislation, Technical Specifications for Interoperability (TSIs) are established by the Commission, which include noise limits. Within the operability framework, emission limits regarding the noise of high speed trains (2002) and conventional trains (2005) have been set. These limits apply to new or upgraded rolling stock. A reduction of the limit values by 2-5 dB(A) is foreseen for 2016/18.

##### **Wheel and rail roughness the cause of noise**

Noise from trains is basically caused mainly by the wheels rolling over the rails. This problem obviously concerns the transport of both passengers and freight, but it is far more acute in the latter case. It is the roughness of rails and wheels that causes noise. Locally higher rail roughness, caused by intensive traffic and wear and tear of wheels, may cause a rise in noise emissions of up to 5 dB(A) (EC, 2003). One of the options to reduce such emissions is therefore regular polishing of the rails. One important source of wheel and rail roughness is vehicles with tread-braked wheels. The brake pads can create a roughness on the wheel, which in turn roughens the rail over time. Replacing cast iron brake blocks by composite material blocks would therefore be beneficial for all the vehicles travelling on the same track. Reports by the International Union of Railways (UIC) as well as other studies have stated that a reduction of 8-10 dB(A) can be achieved if all tread-braked freight wagons are retrofitted with composite brakes.



There are two types of brake blocks that are made of composite materials rather than iron: K-blocks and LL-blocks. K-blocks are approved by the official authorities for international use and are most frequently applied at the moment. Although LL-blocks are more similar to conventional brake systems and cheaper to fit, they are not yet certified for international use, a procedure that may take about 2 years (from 2007). In the case of new vehicles, disc brakes can also be used.

Most recent information shows that use of K-blocks saves maintenance costs, while LL-blocks can be applied cost-neutrally. LL-blocks are already applied in the US, South Africa and Portugal for cost reasons. The aforementioned Dutch IPG programme is running tests with both K- and LL-blocks, estimating the life cycle costs of each, amongst other things.

#### **Composite brake blocks most cost-effective**

Retrofitting all the 600,000 freight wagons in use in the EU would cost around € 2-3 billion (K-blocks) according to the UIC (UIC, 2006b), but these costs may be an upper estimate, as indicated above. It is undisputed, however, that retrofitting the freight wagon fleet with composite brake blocks is most cost-effective. It is concluded by the UIC, among others, that use of such braking blocks is far more cost-effective than merely installing noise barriers. The STAIRRS project (Oertli, 2003) concludes that a combination of composite braking blocks, optimised wheels, rail absorbers, acoustic grinding and noise barriers up to 2 m high is the most effective option. Higher noise barriers should only be used if other technologies fall short (Oertli, 2003; RIVM, 2003; UIC, 2006).

Without due action, half of all freight wagons currently on the rails in the EU will still be in use in 2020 (Kunst, 2006; UIC, 2006b). The EU working group on health and socio-economic aspects has therefore advised phasing out existing rolling stock (EC, 2005). This phase-out can be achieved by introducing progressively stringent emission standards.

#### **Track charge differentiation is promising**

An important instrument for noise emission control is the rail access charge. This is the fee the operator pays the infrastructure manager for using the railway system. This charge could be differentiated on the basis of the noise emission of the rolling stock. To increase its effectiveness, it could be differentiated according to population density. Track charge differentiation would put market pressure on operators to use low-noise rolling stock and on vehicle manufacturers to invest in low-noise technology development. Subsidy programmes lack such incentives. The costs of low-noise rolling stock are borne by the rail sector rather than the taxpayer, furthermore, in line with the polluter pays principle.

**Rail noise reduction in Switzerland**

Since January 2002 a noise reduction bonus is encouraging infrastructure users to employ low-noise rolling stock in Switzerland. To qualify for the bonus, advanced brake technology must be used (composite blocks, disc brakes or comparable). In practice the bonus is about 5-8 per cent of the total rail access charge. The noise reduction bonus is combined with a noise reduction programme including subsidies for retrofitting all Swiss rolling stock with composite brakes (K-type). Noise barriers have furthermore been constructed under a cost-benefit constraint. The whole programme is being funded from tax increases in the road sector.

Source: UIC, 2006

In the subsidy programme outlined in the box, Swiss rolling stock benefited, while foreign operators could not claim the subsidies for retrofitting. They were consequently charged more for their use of Swiss track. The Swiss example shows that in the single market national subsidies pose the risk of discriminatory treatment of operators.

**Future rail noise reduction**

As wheels become smoother, track grinding and other measures also become more important. Quieter railways depend not only on rolling stock, but also on track quality. Track-related measures are cost-effective. One way to enforce grinding of major tracks would be to introduce tighter noise exposure limits at night time. For the mid and long term, rolling stock needs to be developed with noise reduction in mind.

**4.9 Two-wheeled vehicle noise**

Only in regions where motorcycles make up a significant fraction of the overall vehicle fleet are they a major contributor to ambient noise levels. Although it is mainly in urban settings that this noise problem is noticed and reported, their annoyance potential is also high elsewhere because of the high percentage of illegal noise-increasing mufflers fitted and often aggressive driving behaviour. A Swedish noise annoyance study identified motorcycle noise as by far the most annoying form of vehicle-related noise. Consequently, measures to address the use of such mufflers need to be given the highest priority. In addition, all the other reduction measures cited for cars and heavy-duty vehicles, such as improvement of the type approval measurement method and lowering of noise limits, should be applied to motorcycles, too.

Directive 97/24/EC lays down limit values for two-wheeled road vehicles. These European limits are not particularly stringent, nor is the noise test technically demanding, as is demonstrated by the fact that some motorcycles pass it by a substantial margin of 4-6 dB(A) margin below the limit value.

The problem of owners tampering with their vehicle, particularly by replacing the original exhaust silencer by a less efficient one, seems to be equally serious all over Europe. Overall, the penetration of illegal exhausts in the fleet is 35% for motorcycles and 65% for mopeds.



The purpose of the type approval required for each category of vehicle is to ensure that individual vehicles meet the safety and environment requirements established by society. It is therefore patently absurd that in the case of two-wheeled vehicles many if not most of those vehicles in reality acquire quite a different, noisier performance profile, whether immediately or soon. Measures to prevent tampering should therefore be afforded the higher priority. Only after the problem of illegal noise emissions has been resolved is further tightening of noise emissions worthwhile. There is room enough for tightening of the limits, given the current margins under the limit value as well as the emission levels already being achieved in Japan.

The EffNoise study (EC, 2004) indicates that reduced use of illegal exhaust silencers could reduce motorcycle noise emissions by 5-15 dB(A), while subsequent stepwise tightening of limit values could reduce them by a further 3-6 dB(A) (EC, 2004).



## 5 Recommendations for action

Noise exposure is a widespread and serious health problem. In the European Union and noise abatement measures should therefore be afforded greater priority than at present in the EU policy process. To this end we make the following recommendations:

- To guarantee the European population a healthier living environment, noise exposure standards should be set and enforced for several different environments (outdoor living area, dwelling interiors, schools, etc.), as is the case with current EU air quality standards. In quantifying these standards, the guidelines drawn up by the WHO could serve as a starting point. These exposure standards could then serve as an appropriate basis for the action plans prescribed in the EU Environmental noise directive.
- There needs to be greater political focus on noise policy. Traffic noise should be viewed primarily as a public health issue, rather than merely a trading standards topic. The lead at both the European and the international level should therefore be taken by public health and environmental experts.
- The most cost-effective measures are those at the level of vehicles. It is therefore these measures that should be afforded priority at the EU level.
- The instruments employed in noise policy have the potential to reduce noise emissions significantly, but to do so the limits they rest on must be made considerably more stringent. To date, though, lobbying by industry seems to have been very successful, for the limits in force have been too liberal to have had any effect. Priority should not be given merely to harmonisation, but tightening of the limits placed higher on the political agenda, to reduce the ever growing noise exposure of the EU population.
- There is already scope for tightening the noise limits for vehicle drivelines by at least 3-4 dB(A), as an initial step. After 2012 year-on-year improvement targets (x dB(A) every y years) should be introduced, outlined well in advance to give industry sufficient time to adapt.
- The current test cycle for road vehicles is sub-optimal in relation to real-world vehicle noise performance. Revision of the test cycle is a lengthy process, however, and the noise emission limits should therefore first be tightened based on the current cycle, with the cycle itself being revised in time for the next tightening of limits around 2012.
- The limits in the EU Tyre/road directive need to be tightened if new technology is to be promoted. The UBA/FEHRL proposals are a good starting point. To improve consumer information, all tyres should be labelled with their noise approval rating and rolling resistance. Retreaded tyres should be included in the directive, at least for heavy vehicles, since these account for a surprisingly high share of about 50% of the market.
- An international standard for noise road surface classification systems should be developed, laying down terms for including acoustic performance in public contracts for road surfacing.
- As an initial step to reduce the noise emissions of rail transport, the use of composite brakes on freight wagons should be promoted. The current track

charge is a promising instrument for differentiating on the basis of noise emission. The advantage of this measure over a subsidised retrofitting programme is that retrofitted wagons will be used most frequently. Combining track charge differentiation with a subsidy scheme may have adverse effects on international competition.

- Type approval procedures for LL-blocks should also be hastened, as these perform just as well as K-blocks and are regarded as more cost-effective. Since LL-blocks can be applied cost-neutrally, no subsidies are necessary.



# EXHIBIT D

March 24, 2015

**Via E-Mail and U.S. Mail**

San Mateo County Planning Commission  
400 County Center  
Board Chambers  
Redwood City, CA 94063  
[planning-commission@smcgov.org](mailto:planning-commission@smcgov.org)

Re: Proposed Denial of Ascension Heights Subdivision Project

Honorable Members of the San Mateo County Planning Commission:

This firm represents Baywood Park Homeowners' Association ("Baywood") with respect to the proposed Ascension Heights Subdivision Project ("Project"). We submit these supplemental comments in support of the Commission's stated intention to deny the Project as it is currently proposed. The issues you raised at the hearings on this Project reflected the community's serious environmental and safety concerns. In response to staff's suggestion that the Commission include findings along with a resolution denying the Project, we have also prepared draft findings, based on evidence in the administrative record, and attach them to this letter.

Environmental Impacts and Safety Concerns. During the February 25 hearing, Commissioners raised a number of fundamental concerns about the Project. For example, several Commissioners noted that the Project is too dense for the site and surrounding community. As Commissioner Hansson noted, the proposed layout fails to conform to the contours of the hillside. Bel Air is not safe under current conditions and would become even more treacherous with the addition of a blind entrance to the new development. And there is inadequate information in the EIR about the availability of water to serve this new development and the existing community. Commissioner Kersteen-Tucker correctly noted that there is far too little detail about the Project design or proposed mitigation measures to judge what the impacts will be or whether mitigation will be effective, and the EIR failed to adequately analyze the Project's impacts to schools. In addition, several Commissioners noted the potential aesthetic impacts of developing 36-ft-high homes on top of a steep hillside. These impacts will undoubtedly

be significant and cannot be mitigated through tree-planting and landscaping alone. Baywood and other members of the community have raised similar concerns and agree with the Commissioners on all of these points.

The EIR Is Inadequate and Cannot Be Certified. Baywood also continues to have serious concerns about the adequacy of the EIR for the Project. Of course, if the Commission moves forward with a denial of the Project, it need not certify the EIR. *See* Pub. Res. Code § 21080(b)(5) (projects that are denied by a lead agency are not subject to California Environmental Quality Act (CEQA)). In this instance, however, the Commission *cannot* legally certify the EIR because that document contains numerous, substantial flaws, including illegal deferral of analysis and mitigation, unsupported conclusions, and a general failure to adequately describe the Project’s significant environmental impacts. *See* Letter from Winter King to Planning Commission (Feb. 24, 2015); Hearing Audio File (Commissioner Simonson noting that the FEIR is lacking basic mitigation measures and adequate analysis, especially in the chapters discussing biological resources and alternatives); *see also* DEIR at 4.3-20 – 21 (analysis of the extent and severity of impacts to special status species and Mission blue butterfly deferred; mitigation measures 4.3-1 and 4.3-2 direct Applicant to perform focused surveys *after* project approval); DEIR at 4.10-27 (stating that the sewer pipelines that would serve the proposed Project are already over capacity; mitigation measure 4.10-3 generically states that the applicant shall offset the increase in sewer flow by reducing the amount of infiltration and inflow (I & I), but fails to provide any details on how this will be accomplished or whether it is feasible).

Inconsistency with Natural Hazards Policies in General Plan. After conducting additional review of the materials presented to the Commission at the February 25 hearing, we have concluded that the Project is also inconsistent with several of the General Plan Policies found in Chapter 15 (Natural Hazards). In 2009, the Commission concluded that an earlier version of the Project was inconsistent with these policies, which direct the County to avoid siting structures “in areas where they are jeopardized by geotechnical hazards, where their location could potentially increase the geotechnical hazard, or where they could increase the geotechnical hazard to neighboring properties.” Policy 15.20 (a). This policy also directs the County to “avoid construction in steeply sloping areas (generally above 30%)” “wherever possible.” Policy 15.20(b).

In its January 28, 2015 report to the Commission, staff reversed course, stating that this conclusion was “incorrect.” Staff Report at 9. Staff now believes that (1) these policies only apply to projects proposed in formally identified “geotechnical hazard

areas” and (2) the Project is not located within such an area because it is not within the Alquist Priolo Hazard Zone. *Id.*

Staff’s new conclusion is inconsistent with the plain meaning of the General Plan. While policies 15.20(a) and (b) are both under the heading “Review Criteria for Locating Development in Geotechnical Hazard Areas,” it does not appear that this heading was intended to preclude the application of these policies outside areas that are formally designated as “Geotechnical Hazard Areas.” In fact, if the County had intended the heading to have such an effect, the language in Policy 15.20(c) specifying that it applies only to roads and trails “into or through geotechnical hazard areas” would be entirely redundant.

Moreover, staff’s suggestion that “geotechnical hazard areas” include only those areas within the Alquist-Priolo Hazard Zone also conflicts with the General Plan. In fact, the General Plan defines “geotechnical hazards” as “non-seismic unstable conditions, including but not limited to landsliding, cliff retrenchment, erosion, subsidence, soil creep . . .”. It then defines “geotechnical hazard areas” as “areas that meet the definition of geotechnical hazards, *including but not limited to* . . . [t]he areas illustrated on the Natural Hazards map as Alquist-Priolo Special Studies Zones, Tsunami and Seiche Flooding Areas, Coastal Cliff Stability Areas and Areas of High Landslide Susceptibility.” General Plan Policy 15.9 (emphasis added).

Reading these policies together, it appears that the County was right the first time: Policies 15.20(a)-(b) *do* apply to the Project because the Project site is subject to geotechnical hazards, including significant erosion, and some of the proposed residences would be located on lots with slopes greater than 30%. In addition, the County’s landslide map depicts several areas of existing landslides in the immediate vicinity of the Project site. *See* San Mateo County Hazards, Existing Landslides, *available at* <http://planning.smcgov.org/documents/san-mateo-county-hazards-existing-landslides>. The Project’s inconsistency with these policies provides another basis for denying the proposed tentative map.

Denying This Project Does Not Prohibit All Development. Finally, denying this Project as it is currently proposed does not mean that the Commission is prohibiting any and all development on the Project site. This Project first came before the Commission in 2008-2009. At that point, the Commission gave the Applicant clear direction about changes that would have to be made to develop this severely constrained property: “1) provide more moderate-sized housing, 2) address the concerns about avoiding building on the steep south facing slope, and 3) develop a new design that could

minimize negative impacts.” Jan. 28, 2015 Staff Report, Attachment E, p. 2. Additionally, Commissioner Slocum shared a conceptual map with the Applicant, on which she indicated the need for a trail and/or buffer between the proposed development and existing homes on Parrott Avenue.

With the exception of reducing the number of units from 25 to 19, the Applicant has not followed these directions. The proposed Project still has four units on the south-facing slope of the Project site (with three more on the southern edge of the ridgeline); the houses are still 36 feet high and cover up to 40% of each lot;<sup>1</sup> the design continues to force a square-grid layout on top of extremely steep and irregular land, requiring tens of thousands of cubic yards of cut and fill, and; there is no buffer between the proposed development and existing Parrott Avenue homes. The Commission can and should require the Applicant to address these issues.<sup>2</sup>

In sum, Baywood strongly supports the Commission’s stated intention to deny the proposed tentative map for all of the reasons identified by you and the public. To assist the Commission in finalizing its decision, we are attaching proposed findings, based on evidence in the record, that would support Project denial.

---

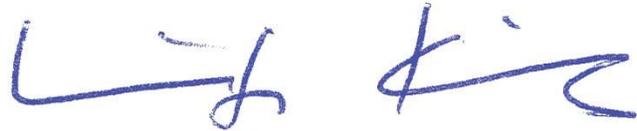
<sup>1</sup> Neither the Project Description chapter of the EIR nor the staff report informs the public of how many square feet each of the proposed houses could be. However, with lots varying in size from 7,500 square to nearly 16,000 square feet, the resulting houses could be enormous. For example, a three story house built on 40% of a 7,500 square foot lot would be close to 9,000 square feet. Performing the same calculation on the 16,000 square foot lot results in a 19,000 square foot residence.

<sup>2</sup> The Applicant also failed to follow the Commission’s clear direction to work with the community to develop a more suitable design. Although there have been public meetings on this Project, the Applicant has made it clear to those in attendance that he had no intention of modifying the Project in response to the community’s concerns.

San Mateo County Planning Commission  
March 24, 2015  
Page 5

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in blue ink, consisting of two distinct parts. The first part is a stylized, cursive signature that appears to be 'W. King'. The second part is a more fluid, cursive signature that appears to be 'Winter King'.

Winter King

Attachment

666422.1

**Ascension Heights Subdivision:**  
**Recommended Findings in Support of Project Denial**

Regarding the Environmental Review, Find:

1. That a project denial is not subject to California Environmental Quality Act (CEQA), and therefore the request to certify the EIR is also denied. *See* Pub. Res. Code § 21080(b)(5). In addition, the Commission has reviewed the Final Environmental Impact Report (FEIR), and has found that it is inadequate in the following ways:

(a) It does not include adequate analysis of the Project’s potential impacts to biological resources. Rather than conducting the required analysis now, it defers the analysis until after Project approval and likewise defers development of mitigation measures. This deferred analysis appears in other chapters of the EIR as well, including:

- Aesthetics. *See* RDEIR at 4.1-14 (noting that the Landscape Plan and Tree Replacement Plan—the only proposed mitigation for the project’s aesthetic impacts—need not be developed until after project approval).
- Geology and Soils. *See* RDEIR at 4.4-12 and 4.4-13 (deferring the development of an erosion control plan and the adoption of specified “erosion control BMPs” until after project approval and failing to provide any substantial evidence that these measures would mitigate erosion impacts to a less than significant level).
- Hydrology. *See* RDEIR at 4.10-27 (failing to provide any details about how the project applicant will achieve sufficient reduction in infiltration and inflow in order to mitigate the effect of increased discharge to an already over-burdened sewer line).
- Traffic. *See* RDEIR at 4.11-10 (proposing a handful of non-mandatory design suggestions to mitigate the traffic impacts associated with a hazardous intersection).

(b) The EIR incorrectly concludes that the Project will not have a significant aesthetic impact even though the photo simulations plainly show the impacts will be significant from nearby public streets. The Commission has not been presented with a landscape plan and thus has no basis to conclude that landscaping alone will reduce these impacts to a level of insignificance.

(c) Members of the public have identified additional flaws in the EIR, including repeated instances of the failure to adopt enforceable mitigation measures. For example, the requirement of a 250-foot buffer around active raptor nesting sites is unenforceable because it can be disregarded if the buffer is “impractical” or “unfeasible.” In some instances, the FEIR fails to support its findings of less than significant impacts with substantial evidence, for example, by basing its analysis of biological impacts on poorly timed and inadequate surveys of existing biological conditions. The document likewise

contains inadequate analysis and mitigation of impacts to geology and soils, air quality and greenhouse gas emissions, hydrology, noise, and traffic.

Regarding the Major Subdivision, Find:

2. That the proposed map is inconsistent with the applicable County general and specific plans. According to the EIR, the subdivision will cause significant adverse impacts to wildlife and associated habitat, such as impacts to raptor nesting and foraging sites and impacts to special status species such as the Mission blue butterfly. As noted above, the EIR fails to identify adequate, enforceable, and concrete mitigation measures for these impacts. As a result, the proposed subdivision violates General Plan Policies 1.23 (Regulate Development to Protect Vegetative, Water, Fish and Wildlife Resources), 1.24 (Regulate Location, Density and Design of Development to Protect Vegetative, Water, Fish and Wildlife Resources), 1.25 (Protect Vegetative Resources), 1.27 (Protect Fish and Wildlife Resources), 1.28 (Regulate Development to Protect Sensitive Habitats). For the same reason, the proposed subdivision would also cause severe, unmitigated impacts to the area's hydrology and soils. These impacts violate the following General Plan Policies: 2.17 (Regulate Development to Minimize Soil Erosion and Sedimentation), 2.23 (Regulate Excavation, Grading, Filling, and Land Clearing Activities Against Accelerated Soil Erosion), 2.25 (Regulate Topsoil Removal Operations Against Accelerated Soil Erosion), 2.29 (Promote and Support Soil Erosion Stabilization and Repair Efforts); and 16.2 (Reduce Noise Impacts Through Noise/Land Use Compatibility and Noise Mitigation). Finally, the proposed map would permit development of large residences on steeply sloped lots subject to severe erosion in direct violation of General Plan Policies 15.20(a) and (b). *See* General Plan Policy 15.20(a) (avoiding siting structures in areas where they are jeopardized by geotechnical hazards or where they could increase the geotechnical hazard to neighboring properties); 15.20(b) (avoid construction on steeply sloping areas in Geotechnical Hazard Areas).
3. That the site is physically not suitable for the type and density of residential development proposed there. Although the site is physically suitable for some residential development, it is not physically suitable for the density or size of residences proposed. The site is constrained by severely sloped hillsides and the Project, as proposed, would require extensive grading. The Commission has reviewed the Project, the site, and the materials in the record (including the alternatives analysis in the EIR), and believes that a less dense development could be proposed that would fit more naturally within the contours of the site and require far less grading. This reduced grading will also reduce construction-related impacts, including truck traffic on the already congested Bel Aire Avenue, the admittedly significant noise impacts, etc. A reduced density alternative would also reduce the amount of new impervious surface created on the Project site, and thus would reduce the Project's stormwater runoff, water quality, and erosion impacts.
4. That the design of the subdivision is likely to cause substantial environmental damage, or substantially and avoidably injure wildlife and its habitat. As described above (in the EIR findings), the Commission finds that the EIR does not identify enforceable or effective mitigation measures for all of the Project's potentially significant impacts, and

thus, without such mitigation measures, the Project would likely cause substantial environmental damage or injure wildlife.

5. That the design of the subdivision is likely to cause serious public health problems. As members of the public have commented, the Project will create significant noise impacts during construction and could have significant air quality impacts on neighboring communities and schools. Again, a reduced density alternative designed to fit on the contours of the site could require less grading and thus reduce these public health impacts.

Regarding the Grading Permit, Find:

6. That this project, even as conditioned, will have a significant adverse effect on the environment. As described above, the Commission has reviewed the EIR for the Project and considered comments by the public and Applicant. The EIR does not contain adequate, concrete, and enforceable mitigation measures for all of the Project's potentially significant impacts. As a result, it will have a significant, adverse effect on the environment. For example, the EIR concludes that the Project could have significant impacts related to erosion and sedimentation. DEIR at 4.4-12. Mitigation Measure 4.4-1b defers analysis of feasibility of measures to control surface runoff and prevent pollution of site runoff due to erosion and sedimentation. DEIR at 4.4-13. The EIR also concludes there could be significant impacts to surface and groundwater quality from project-related increased stormwater. DEIR at 4.6-11. While Mitigation Measures 4.6-1 includes a list of potential BMPs that could be applied to reduce these impacts, the measure does not require any specific BMPs to be included, much less demonstrate their sufficiency.
7. That this project, as conditioned, fails to conform to the criteria of the San Mateo County Grading Ordinance and is inconsistent with the General Plan for the reasons stated above in Finding Number 2.

666746.2

# EXHIBIT E

SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

WINTER KING  
Attorney  
king@smwlaw.com

February 24, 2015

**Via E-Mail and U.S. Mail**

San Mateo County Planning Commission

E-Mail:

[planning-commission@smcgov.org](mailto:planning-commission@smcgov.org)

Re: Ascension Heights Subdivision Project

Honorable Members of the San Mateo County Planning Commission:

This firm represents the Baywood Park Homeowners' Association ("Baywood") with regard to the Ascension Heights Subdivision Project ("Project"). Baywood is an association of homeowners and residents who live immediately adjacent to the proposed Project. As discussed in Baywood's detailed comment letters on the Draft Environmental Impact Report ("DEIR"), these residents have serious concerns about the proposed Project's potential environmental impacts and consistency with applicable land use regulations, as well as the DEIR's analysis of the Project's impacts. Baywood is also concerned about the Project applicant's failure to follow the specific direction provided by this Planning Commission in 2009—including direction to meet with the community and avoid building on the steep south-facing slope of the Project site.

Our preliminary review of the Final Environmental Impact Report ("FEIR") and Revised Draft EIR ("RDEIR") (together, "EIR") leads us to conclude, as Baywood has in its comments, that these documents contain substantial analytical flaws and informational omissions that render them inadequate under the California Environmental Quality Act.<sup>1</sup> As described below, the EIR repeatedly defers both analysis of impacts and development of mitigation until after Project approval, which is strictly prohibited under CEQA. The EIR and proposed resolutions attached to the January 28 staff report also fail to identify and require adequate mitigation for the Project's identified impacts.

---

<sup>1</sup> Public Resources Code § 21000 et seq. (hereinafter "CEQA"); Cal. Code of Regulations, tit. 14, § 15000 et seq. (hereinafter "Guidelines").

Nor do the proposed findings contained in the January 28 staff report support the conclusion that the Project complies with other land use regulations, including the County's General Plan state planning and subdivision laws. *See, e.g.*, Gov't Code § 65000 et seq.; Gov't Code §§ 66473.5 & 66474.

Given these inadequacies, it is our opinion that the County cannot approve the Project as proposed and must, at a minimum, recirculate a revised DEIR that addresses the inadequacies identified in this letter and in the previous comments submitted by Baywood.

**I. The EIR Fails to Adequately Analyze the Project's Potential Environmental Impacts or Identify Adequate Mitigation Measures.**

The discussion of a proposed project's environmental impacts is at the core of an EIR. *See* CEQA Guidelines, § 15126.2(a) (“[a]n EIR shall identify and focus on the significant environmental effects of the proposed project”). An EIR must effectuate the fundamental purpose of CEQA: to “inform the public and responsible officials of the environmental consequences of their decisions before they are made.” *Laurel Heights Improvement Assn. v. Regents of the University of California*, 6 Cal. 4th 1112 at 1123 (1993). To do so, an EIR must contain facts and analysis, not just an agency's bare conclusions. *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 568 (1990).

An EIR must also identify feasible mitigation measures to minimize significant environmental impacts. CEQA Guidelines, § 15126.4. Under CEQA, “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. . . .” Pub. Res. Code § 21002. California courts have made clear that an EIR is inadequate if it fails to suggest feasible mitigation measures, or if the proposed mitigation measures are so undefined that it is impossible to evaluate their effectiveness. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79.

Moreover, the formulation of mitigation measures may not properly be deferred until after Project approval. Rather, “[m]itigation measures must be fully enforceable through permit conditions, agreements, or legally binding instruments.” CEQA Guidelines § 15126.4(a). The record must also contain substantial evidence of the measures' feasibility and effectiveness. *Sacramento Old City Assn. v. City Council of*

*Sacramento*, 229 Cal. App. 3d 1011, 1027 (1991); *Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 726-29 (1990).

As explained below, the EIR's environmental impacts analysis is deficient under CEQA because it fails to provide the necessary facts and analysis to allow the County and the public to make informed decisions about the Project and its environmental impacts. The EIR also impermissibly defers analysis and the development of mitigation until after project approval—clear violations of CEQA. Finally, the conclusions drawn in the EIR regarding the significance of Project impacts and the adequacy and efficacy of mitigation are not supported by evidence. For all of these reasons, the RFEIR, like the DEIR and original FEIR, is inadequate under CEQA.

#### **A. Aesthetics**

Under CEQA, it is the State's policy to "[t]ake all action necessary to provide the people of this state with . . . enjoyment of *aesthetic*, natural, scenic, and historic environmental qualities." CEQA § 21001(b) (emphasis added). "A substantial negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA." *Ocean View Estates Homeowners Assn., Inc. v. Montecito Water District* (2004) 116 Cal.App.4th 396, 401. No special expertise is required to demonstrate that the Project will result in significant aesthetic impacts. *Ocean View Estates*, 116 Cal.App.4th at 402 ("Opinions that the [project] will not be aesthetically pleasing is not the special purview of experts."); *The Pocket Protectors v. City of Sacramento* (2005) 124 Cal.App.4th 903, 937 ("[N]o special expertise is required on this topic.").

As explained by the court in *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1606, it is "self-evident" that replacing open space with a subdivision will have an adverse effect upon "views and the beauty of the setting." Here, the EIR concludes that the proposed Project, with its 19 large new residences perched on hillsides, looming over the existing neighborhood, will have potentially significant aesthetic impacts. RDEIR at 4.1-14. And the visual simulations support this conclusion. RDEIR, Figures 4.1-2a and -2b.

The only mitigation measures identified and proposed for adoption, however, are the adoption and implementation of a landscape plan and a tree replacement plan. MM 4.1-1a and -1b. Neither of these plans are presented with the EIR, though. In fact, they need not be developed until after Project approval. RDEIR at 4.1-14. As a

result, there is no way for the public or decisionmakers to know whether these plans will actually reduce the Project's impacts to a level of insignificance.

## **B. Biological Resources**

A fundamental purpose of CEQA is to ensure that decisionmakers and the public are aware of the potential environmental impacts of a proposed project before deciding whether to approve it. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-450. As a result, courts have repeatedly held that an EIR must identify and analyze such impacts; deferring this analysis until after project approval is strictly forbidden. *Id.* at 441.

The EIR's biological resources section repeatedly violates this clear CEQA mandate. Rather than conducting thorough and timely biological surveys *now*, so that the public and decisionmakers know what the Project's impacts will be, the EIR defers this analysis until some future date after the Project is approved. For example:

- Impact 4.3-1: The survey conducted to identify special status plant species “was conducted outside of the evident and identifiable bloom period for . . . seven species.” MM 4.3-1 requires *post-approval* “focused botanical survey during the month of May” to determine whether the Project will impact these seven species.
- Impact 4.3-2: Members of the public observed Mission blue butterfly on the Project site. MM 4.3-2 requires *post-approval* “focused survey” during appropriate identification periods for adults (March-July) or juveniles (wet season).
- Impact 4.3-6: The EIR notes that the Project has the potential to “remove trees protected [by] the [County's] tree preservation ordinance.” However, there is no information in EIR itself about how many protected trees will be affected by the development. Instead, MM 4.3-6 requires a *post-approval* survey “documenting all [protected] trees.” This measure does not specify the survey area, a critical element of analysis, as the proposed Project could harm protected trees on neighboring properties, too.

The County must conduct these studies—and thus identify all potentially significant impacts to biological resources—before considering the proposed Project approvals. *See Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831 (a

lead agency may not simply jump to the conclusion that impacts would be significant without disclosing to the public and decision makers information about how adverse the impacts would be). Any new information resulting from these studies must then be provided to the public in a recirculated DEIR.<sup>2</sup>

The EIR also defers the development of mitigation measures until after these post-approval surveys are complete, in direct violation of CEQA. *See San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 670; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92, 94 (rejecting mitigation measures for greenhouse gas emissions that merely required applicant to create plan after project approval). Many of these yet-to-be-developed mitigation measures are contingent on a future determination of whether mitigation is feasible. For example:

- MM 4.3-1: If post approval survey finds special status plant species, a buffer shall be created “if feasible.” If the buffer is not feasible, a qualified botanist “would” salvage and relocate plants. There is no evidence to support the feasibility or effectiveness of either mitigation measure.
- MM 4.3-2: If Mission blue butterflies are observed and avoidance (through creation of a buffer zone) is infeasible, a qualified biologist will “establish . . . appropriate action following contact with CDFW.”

This deferral of mitigation patently violates CEQA and renders the proposed CEQA findings—which conclude the Project will have no significant impact on biological resources—completely hypothetical and unsupported. *See Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1027 (The record must also contain substantial evidence of the measures’ feasibility and effectiveness).

The EIR also notes that the Project site is suitable raptor foraging habitat and a white-tailed kite was observed foraging over the site during the July 25, 2013 survey. RDEIR at 4.3-22. Nonetheless, the EIR fails to identify any mitigation for the

---

<sup>2</sup> It is also unclear from the EIR whether CDFW was consulted as a Responsible or Trustee Agency for the Project. Moreover, as Baywood has noted, a late July survey in 2013 was unlikely to discover Mission blue butterflies, even if they are present on the site, because there was minimal rain that spring, and the lupin bloomed early and peaked in May.

loss of this foraging habitat, focusing instead exclusively on mitigation for the Project's potential impacts to breeding habitat. RDEIR at 4.3-22 through 23.

Several of the biological resource mitigation measures identified in the EIR (and proposed for adoption in the draft resolutions) are also plainly unenforceable and/or do not support the conclusion that the Project's impacts have been mitigated to a level of insignificance. For example, the EIR concludes that the project could have potentially significant impacts on nesting raptors. RDEIR at 4.3-22. At first blush, MM 4.3-4b and -4c appear to require a 250-foot buffer around active raptor nests discovered in pre-construction surveys. These measures contain a blanket exception to this buffer, however, if it is "impractical" or "infeasible." In that event, the only "mitigation" is the statement that "guidance from CDFW will be requested." RDEIR at 4.3-24. Neither the EIR nor the proposed resolutions even require the applicant to comply with CDFW's guidance. *See also* MM 4.3-3a (requiring pre-construction surveys to determine whether there are any active northern harrier, burrowing owl, or white-tailed kite nests in the area. If there are, then "CDFW shall be consulted" to develop avoidance measures. If CDFW determines that a "take" may nonetheless occur, the applicant must obtain a take permit.)

### **C. Geology and Soils**

The EIR concludes that the massive grading and earth-moving activities required to develop the Project could result in "substantial soil erosion and loss of topsoil from the project site." RDEIR at 4.4-12. Yet the EIR once again defers the development of mitigation measures until after Project approval, and provides no performance standards to guide that development. Thus, MM 4.4-1a and 4.4-1b simply require the identification and implementation of unspecified "erosion control BMPs" and the development of an erosion control plan. Because these deferred measures contain no performance standards or other mandatory requirements to ensure that they will sufficiently reduce the Project's impacts, they violate CEQA, and the proposed findings concluding this impact will be reduced to a level of insignificance are unsupported.

### **D. Air Quality and GHG**

The EIR estimates that Project construction would result in 957.68 MT of CO<sub>2</sub>e during the one-year construction period. The EIR then notes that neither CARB nor BAAQMD have established a construction threshold for GHG emissions. Nonetheless, the State has established a goal of reducing GHG emissions "by 26%" through adoption of AB 32. Therefore, the EIR identifies as a mitigation measure the requirement that the Project proponent purchase 249 MT worth of CO<sub>2</sub>e emissions reduction credits

(reflecting “a 26% reduction” in the total construction emissions for the Project) to maintain consistency with AB 32’s goal.

The flaw in this reasoning is that it fails to reveal that AB 32 actually established a goal of *reducing* GHG emissions statewide. Thus, simply offsetting some of the new GHG emissions from the Project does nothing to achieve this goal over overall GHG reduction. *See generally Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2014) 231 Cal.App.4th 1056.

The EIR’s air quality analysis also omits essential analysis and understates the Project’s potential impacts. Baywood commented extensively on these errors and omissions. For example, Baywood noted that the analysis did not take into account impacts on nearby schools, which would be affected by construction emissions due to the particular geography and meteorology in the area. Likewise, neither the EIR nor the findings provides evidence to support the conclusion that the proposed mitigation would reduce construction impacts to a level of insignificance. Instead of providing the missing analysis and information, the FEIR simply attempts to defend the RDEIR’s flawed approach. More is required for adequate responses to comments.

#### **E. Hydrology**

The EIR’s analysis of the Project’s hydrology impacts is similarly flawed. First, the EIR acknowledges that the Project, which would create more than two new acres of impervious surface, would have potentially significant impacts on the area’s water quality if left unmitigated. The EIR then states that these potentially significant impacts will be mitigated to a level of insignificance by “the proposed on-site detention and drainage systems . . . described in Section 3.4.” RDEIR at 4.6-14. Section 3.4, however, includes only the most generic and cursory description of the proposed stormwater treatment measure, making it impossible to evaluate the system’s efficacy.

Moreover, the brief description of the stormwater treatment measure suggests it does not comply with the requirements of the County’s current NPDES permit, Municipal Regional Stormwater NPDES Permit, Order No. R2-2009-0074, NPDES Permit No. CAS612008, adopted October 14, 2009 and revised November 28, 2011 (“MRP”). The C.3 portion of the MRP, which refers to post-construction stormwater management for new development and redevelopment projects, requires Low Impact Development (“LID”). The Project as proposed includes centralized detention basins, which are not LID features.

The goal of LID is to reduce runoff and mimic a site's predevelopment hydrology by minimizing disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. Practices used to adhere to these LID principles include measures such as rain barrels and cisterns, green roofs, permeable pavement, preserving undeveloped open space, and biotreatment through rain gardens, bioretention units, bioswales, and planter/tree boxes. LID also limits disturbance of natural water bodies and drainage systems; minimizes compaction of highly permeable soils; protects slopes and channels; and minimizes impacts from stormwater and urban runoff on the biological integrity of natural drainage systems and water bodies. Here, no LID designs or features appear to be incorporated or required into the Project.

In addition, the EIR does not actually include any supporting analysis for its conclusion that the proposed stormwater treatment measure will reduce the project's runoff impacts to a level of insignificance or comply with the County's NPDES requirements. See *Santa Clarita Organization for Planning the Environment v. County of L.A.* (2003) 106 Cal.App.4th 715, 722 (agency's analysis must be contained in the EIR, not "scattered here and there in EIR appendices").<sup>3</sup> While it appears the County had a hydrology report discussing these measures in more detail, the County was required to include this analysis in the EIR itself. "Decision-makers and the general public should not be forced to sift through obscure minutiae or appendices in order to ferret out the fundamental assumptions that are being used for purposes of the environmental analysis." *San Joaquin Raptor Rescue Center*, 149 Cal.App. 4th at 659; see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442 ("The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project.") Moreover, the County did not even provide this report to the public until after the first Planning Commission meeting on the revised Project had occurred, thus preventing Baywood from preparing complete comments on this document during the public comment period.

Finally, it appears that the stormwater treatment measures proposed to mitigate the Project's stormwater runoff impacts will only be capable of handling a 10-

---

<sup>3</sup> It is also unclear whether the particular treatment measure proposed will work on the steep slopes of the Project site. Baywood repeatedly asked for evidence that this technology had been safely and successfully used in similar topography, but was provided with no evidence that it had.

year storm event. RDEIR at 4.6-16. While MM 4.6-3b requires increasing the size and capacity of two stormwater drainage pipes, the EIR fails to explain how this measure with prevent significant runoff impacts during a more severe storm event.

## F. Noise

The EIR establishes a number of criteria for determining whether the proposed Project's noise impacts would be significant. *See* RDEIR at 4.8-10 through 11. One of these criteria is whether the Project would expose people to noise levels in excess of standards established in the County's general plan or ordinances. RDEIR at 4.8-10. Other, standalone criteria include whether the Project would cause "[a] substantial temporary or periodic increase in ambient noise levels," and whether the Project would expose people to "noise levels in excess of . . . 60 dB Ldn, exterior or 45 dB Ldn, interior." RDEIR at 4.8-11.

The EIR then goes on to demonstrate that the Project would, indeed, cross these significance thresholds by exposing nearby residents to excessive construction noise—reaching 85 dBA Lmax "at the nearest sensitive receptor northeast of the project site." RDEIR at 4.8-12.<sup>4</sup> The EIR also states that there is no feasible noise mitigation available to consistently reduce these construction noise levels below 60 dbA.

Given these facts, the EIR was required to conclude that the Project would have significant, unmitigable noise impacts: The construction noise clearly exceeds one of the County's own significance thresholds and the EIR asserts that there is no feasible mitigation available to prevent this exceedence. Instead, the EIR concludes that the Project is "exempt" from this threshold due to a County Noise Ordinance that exempts certain construction activities from the prohibitions contained in that ordinance. RDEIR at 4.8-12; *see also id.* at 4.8-6 through 8. However, CEQA requires lead agencies to consider more than just a project's consistency with local ordinances. It requires analysis of the project's actual environmental impacts. *See Protect the Historic Amador Waterways v. Amador Water Agency*, 116 Cal. App. 4th 1099, 1108-09 (2004) (environmental effect may be significant despite compliance with such requirements). Here the noise impacts are admittedly significant (regardless of whether they also violate

---

<sup>4</sup> As Baywood pointed out in its previous comments, even these high noise levels appear to understate the Project's true impacts, as they account for noise from only one piece of noisy construction equipment operating at any one time. *See, e.g.*, FEIR at 4.8-1.

the County Noise Ordinance). Thus, the County was required to inform decisionmakers and the public of this significant impact.

### **G. Traffic**

As with noise, the EIR concludes that the Project will have potentially significant transportation and circulation impacts. Specifically, the Project “has the potential to substantially increase hazards due to the design of the new private street and proposed intersection with Bel Aire Drive.” RDEIR at 4.11-10. However, the principal mitigation measure identified to reduce this impact—MM 4.11-4—is neither mandatory nor enforceable. Instead, this measure simply suggests that this hazardous intersection “should” be designed without walls, fences, signs, trees, shrubbery, or parked cars blocking motorists views. Because this measure is not mandatory, there is no basis for the conclusion that it will reduce this transportation impact one bit.<sup>5</sup>

## **II. The Proposed CEQA Findings Are Insufficient.**

Under CEQA, a lead agency cannot approve a project with significant environmental impacts without first finding that there are no feasible mitigation measures or alternatives that could lessen these impacts. *See* CEQA § 21002, 21002.1(b), 21081; Guidelines §§ 15091(a), 15091(b), 15093(b); *see also Uphold Our Heritage v. Town of Woodside*, 147 Ca. App. 4th 587 (2007). Moreover, the agency must make findings, supported by substantial evidence, demonstrating how the mitigation measures adopted by the agency will actually reduce environmental impacts to a level of insignificance. *See id.*

The proposed findings contained in the staff report do not satisfy this requirement. Many of them lack any explanation of how proposed mitigation measures will reduce Project impacts to a level of insignificance. And there are no findings (much less substantial evidence) to support the conclusion that there are no feasible, less impactful alternatives.<sup>6</sup>

---

<sup>5</sup> Moreover, MM 4.11-3, which requires the Project to include certain street lighting on the private street, will do nothing to prevent accidents caused by motorists who cannot see oncoming traffic due to physical obstacles, such as fences and parked cars.

<sup>6</sup> The EIR also impermissibly and artificially limits the environmental advantages of these reduced density alternatives by stating that they, unlike the Project, would not

Finally, if the County wishes to approve the Project despite its significant impacts, it must make and adopt a statement of overriding considerations. *See City of Marina v. Bd. of Trustees of the Cal. State Univ.* (2006) 39 Cal.4th 341, 368 (citing § 21081(b)). No such proposed findings are included in January 28 staff report.

### **III. Approval of This Project Would Violate the Subdivision Map Act.**

The proposed Project requires approval of a tentative subdivision map. *See* DEIR at 3.0-13. As a result, the County must comply with the Subdivision Map Act. This statute requires that a tentative map approval be consistent with the local general plan. *See* Gov't Code §§ 66473.5; 66474; *see also Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 998 (Subdivision Map Act expressly requires consistency with general plan). Approval of a project that is inconsistent with the general plan violates the Subdivision Map Act and may be enjoined on that basis. *See Friends of "B" Street*, 106 Cal.App.3d at 998 ("City approval of a proposed subdivision ... may be enjoined for lack of consistency of the subdivision map with the general plan."); *see also* City of Pittsburg Municipal Code § 17.20.060 (to approve a tentative map, the following findings must be made, among others: 1) the proposed map is consistent with the general plan and any applicable specific plan, or other applicable provisions of [the municipal] code; 2) the site is physically suitable for the proposed density of development; and 3) the design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat).

Here, the site is not physically suitable for the proposed density of development given the excessive slopes. In 2009, Baywood submitted expert comments indicating that substantial retaining walls will be needed to build on the up-sloping lots. Many of these lots are still proposed for development. As Baywood has pointed out in previous comments, piecemeal development of these retaining walls could leave certain lots essentially unbuildable. Likewise, the arborist report submitted by Baywood shows that the Tree Protection Zones required to protect existing trees (both on and off the Project Site) could also render portions of these identified building sites unbuildable.

---

require improvement of the site's existing drainage issues. *See, e.g.,* RDEIR at 6-4. There is no reason why the alternatives could not include a similar requirement.

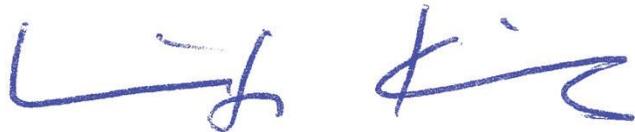
Given these physical constraints on development, the County cannot make the findings required to approve the proposed subdivision map.<sup>7</sup>

#### IV. Conclusion

For all of these reasons, we believe the EIR for the Project fails to comply with CEQA, and the proposed findings included in the January 28 staff report are insufficient to support approval of the Project. As a result, the Planning Commission cannot approve the Project based upon this record. We respectfully urge the County to direct the applicant and the Planning Department to correct the EIR's deficiencies and work with the community to resolve the remaining issues.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in blue ink, appearing to read "Winter King", written in a cursive style.

Winter King

661833.1

---

<sup>7</sup> These inconsistencies between the information on the proposed tentative map and the EIR's description of the Project and potential mitigation measures also render the Project description section of the EIR inadequate.

## Planning-Commission - Fwd: Ascension Heights Development

---

**From:** Craig Nishizaki <watertankhill2013@gmail.com>  
**To:** "planning-commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 1:22 PM  
**Subject:** Fwd: Ascension Heights Development  
**CC:** "Mark&MaryAnne Payne" <maryanne@pfconsulting.net>

---

Forwarding this to the Planning Commission. I didn't see them on the email list.  
Thanks, Craig

----- Forwarded message -----

**From:** **Mary Anne Payne CPA** <[maryanne@pfconsulting.net](mailto:maryanne@pfconsulting.net)>  
**Date:** Tue, Oct 13, 2015 at 12:50 PM  
**Subject:** RE: Ascension Heights Development  
**To:** [jcastaneda@smcgov.org](mailto:jcastaneda@smcgov.org), [dpine@smcgov.org](mailto:dpine@smcgov.org), [cgroom@smcgov.org](mailto:cgroom@smcgov.org), [watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)

I am quite alarmed that the discussion continues without any mitigation to the issues raised. In fact, the developer appears to be equivocating, claiming changes have been made, when in fact they have not. Please vote this development down.

Resident at 1720 Parrott Drive.

**MARY ANNE PAYNE, CPA**

PAYNE FINANCIAL CONSULTING, INC.

1900 So. Norfolk Street, Suite 215 | San Mateo, CA 94403

[650-372-0113](tel:650-372-0113) office | [650-372-0115](tel:650-372-0115) fax | [www.pfconsulting.net](http://www.pfconsulting.net)

Confidentiality Statement: This e-mail notice and contents associated with it such as attachments, etc. may contain confidential and privileged information for the use of the designated recipients to whom this notice was sent. If you are not the intended recipient, you have received this email in error and any review, disclosure, dissemination, or copying of it or its contents is prohibited. If you have received this email in error, please notify Mary Anne Payne at [maryanne@pfconsulting.net](mailto:maryanne@pfconsulting.net).

Circular 230 Disclosure: Pursuant to recently-enacted U.S. Treasury Department Regulations, we are now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written to be used, and may not be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

---

**From:** Mary Anne Payne, CPA [mailto:[pfconsulting@earthlink.net](mailto:pfconsulting@earthlink.net)]  
**Sent:** Tuesday, January 27, 2015 12:48 PM  
**To:** '[jcastaneda@smcgov.org](mailto:jcastaneda@smcgov.org)'; '[dpine@smcgov.org](mailto:dpine@smcgov.org)'; '[cgroom@smcgov.org](mailto:cgroom@smcgov.org)'; '[watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)'  
**Subject:** Ascension Heights Development

My neighbors have brought to my attention the building project to be done in the Ascension Heights Development.

My family and I are concerned with this on a number of levels, most importantly, long-term safety and enjoyment of our neighborhood.

**1. Dangerous Excavation:** Tremendous excavation and grading work is to be done on this project. Because of the high water table and delicate nature of our hill, this could destabilize existing properties and increase the likelihood of avalanche like what happened a few years ago. This is dangerous to the new owners, but also to the existing property owners whose houses will now be BELOW the new construction. This cannot be allowed.

**2. Character of Neighborhood:** Size and height of the homes. Our neighborhood on Parrott is predominantly one-story ranchers, with a few two story properties. They are gracefully arranged on 80' or 100' lots. The new development is packed very tightly together on narrow lots, and the homes rise THREE stories above ground level. This changes the nature of our neighborhood unnecessarily when more generous lots and lower profiles could be utilized.

**3. Reduced Property Values:** Because of the size and massive nature of the proposed development, existing homeowners will experience a decrease in the values of their homes. The new construction to be built behind Parrott Drive towers above those properties, significantly reducing the resale value and enjoyment of the property. Again, this is unnecessary when more gracious lots and lower profiles could be utilized.

**4. Quality of Life:** Finally, the quality of life in our neighborhood will be reduced permanently. Partially, this is due to the extended construction period (26 months). More importantly, our neighbors will experience a significant decrease in sunlight and privacy in their own homes.

**We strongly recommend against this project as it currently stands. We recommend the developer explore alternative proposals reducing grading, reducing building height, reduced units, and taking into consideration the concerns his neighbors have raised. Again, most important is the long-term safety and enjoyment of our current and future residents.**

MARY ANNE PAYNE, CPA

PAYNE FINANCIAL CONSULTING, INC.

1900 So. Norfolk Street, Suite 215 | San Mateo, CA 94403

[650-372-0113](tel:650-372-0113) office | [650-372-0115](tel:650-372-0115) fax | [www.pfconsulting.net](http://www.pfconsulting.net)

Confidentiality Statement: This e-mail notice and contents associated with it such as attachments, etc. may contain confidential and privileged information for the use of the designated recipients to whom this notice was sent. If you are not the intended recipient, you have received this email in error and any review, disclosure, dissemination, or copying of it or its contents is prohibited. If you have received this email in error, please notify Mary Anne Payne at [maryanne@pfconsulting.net](mailto:maryanne@pfconsulting.net).

Circular 230 Disclosure: Pursuant to recently-enacted U.S. Treasury Department Regulations, we are now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written to be used, and may not be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

**Planning-Commission - Stop water tank hill project**

---

**From:** Steve Peters <stevegrows@gmail.com>  
**To:** <Planning-Commission@smcgov.org>, <jcastaneda@smcgov.org>  
**Date:** 10/13/2015 2:47 PM  
**Subject:** Stop water tank hill project  
**CC:** <dpine@smcgov.org>, <cgroom@smcgov.org>, <watertankhill2013@gmail.com>

---

Dear San Mateo County Planning Commissioners,

I urge you reject the Water Tank Hill development project near Parrott Drive. Building 19 homes onto a very steep, mudslide and erosion-prone hillside with limited access has multiple negative effects that far outweigh any positive benefits. This project has inadequately addressed many key ecological, health, and social issues that must be considered including (but not limited to) the lack of privacy for many homes on Parrott Drive, the aesthetic value of the neighborhood diminished, increased vulnerability to erosion and flooding, significant noise and air pollution, and dangerous traffic conditions.

This is NOT responsible development.

Thank you for your time,

Steve Peters

1574 Parrott Drive

San Mateo, CA 94402

**Planning-Commission - Ascension Heights Development - Please vote No**

---

**From:** M Young <mkarynyoung@hotmail.com>  
**To:** "Planning-Commission@smcgov.org" <planning-commission@smcgov.org>  
**Date:** 10/13/2015 3:48 PM  
**Subject:** Ascension Heights Development - Please vote No  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>

---

Dear Honorable Members of the County of San Mateo Planning Commission,

I am writing to express my opposition to the current plan submitted for the Ascension Heights Development to be reviewed on October 14, 2015.

While the plan is purported to be within the letter of the law by the applicant's lawyers, this plan is an overzealous development of the land and will create environmental and health dangers. The original zoning is for 7 parcels. The applicant is seeking to subdivide those parcels and nearly triple them to a total of 19 creating a density of housing that will loom over its neighbors on Parrott Drive and even requires an exemption from the Fire Department stating that if no cars are parked in the street, its trucks will have proper access to the surrounding area. I do not deny the applicant has a right to develop his 7 parcels and even increase them, but clearly 19 is too many. His plan requires risky engineering to handle the rain runoff and a denuding of the land versus working with the terrain he has purchased.

We in the community have always asked for moderation and mitigation. Moderation in the number of parcels and houses, mitigation in the environmental and health risks. To date, the applicant has flouted the laws and rules showing little in the way of moderation still trying to almost triple the parcels he was deeded and also submitting plans that didn't even meet current environmental protection rules. Only when rejection seemed imminent has the applicant relented and even then minimally so. He has created a mistrust with the surrounding neighbors by showing complete contempt for any attempt at dialog and efforts by the community to work with him.

His plans are meager and generic showing little thought or actual planning. This combined with his lack of effort to work with the community makes me remiss about his intents to actually carry through on what few obligations he has committed to to protect the community and do quality work. To me, his lack of business and building plans suggest that the community is at risk of a prolonged development and exposure to the noted harmful environmental impacts of this project. He seems driven to raze the earth and pay little heed to the impact to those surrounding his work site. I'm unsure of what drives his arrogance, perhaps his previous work with the county's chamber of commerce or maybe he feels that his lawyers will be able to usurp our planning system to serve his agenda. Either way, it would be unfortunate to promote this lack of regard for our neighborhoods.

Please deny this applicant's project plan as submitted due to its lack of responsibility to the land and community. To allow this plan passage would be a corruption of our county's values for environmental leadership and livability.

Sincerely,  
Michele Young

**From:** Laura Ditlevsen <sharky30@mac.com>  
**To:** <Planning-Commission@smcgov.org>  
**CC:** <jcastaneda@smcgov.org>, <dpine@smcgov.org>, <cgroom@smcgov.org>, Craig ...  
**Date:** 10/13/2015 5:25 PM  
**Subject:** Proposed Ascension Heights Development

Dear Planning Commissioners,

I would like to thank you for your consideration in DENYING the proposed Ascension Heights Development in our community. I fully support the voices and efforts of all of our neighbors to protect our community from irresponsible development. We believe there is a path to reasonable development, and we are all in agreement that this is not it. Of the many legitimate and compelling reasons cited by the Homeowners for denial, we believe one of the most compelling is the major disruption to the community for years of construction, which is dismissed as less than significant simply because construction is considered to be temporary. We do not believe that such an adverse impact on the health and well being of the neighbors and homeowners for years should be dismissed.

Again, my sincere thanks for your service and your consideration.

Sincerely,

Laura Ditlevsen  
on behalf of the Ditlevsen Family  
1556 Parrott Drive



## Planning-Commission - Ascension Heights Development

---

**From:** "Robert Merritt" <rmerritt@rmnetworking.com>  
**To:** <Planning-Commission@smcgov.org>, <jcastaneda@smcgov.org>, <cgroom@smcgo...>  
**Date:** 10/13/2015 6:03 PM  
**Subject:** Ascension Heights Development  
**CC:** <watertankhill2013@gmail.com>  
**Attachments:** towering house.jpg

---

Please protect our neighborhood and vote to deny this development.

The attached photo shows in a minor detail what is in store for an entire block. It is a photo of a 2 story home remodeling on Enchanted Way that looms over the 2 adjacent properties. I don't know if you want this looking down on you, but I certainly would not. And this does not even convey what would happen with 3 story buildings as planned and huge retaining walls.

I remain amazed at the developer's continual flaunting of the commission recommendations regarding the number of units, the lack of separation from existing homes, no housing over the crest of the hill to the west.

I would have to guess that given his intense tenacity despite what he has spent already, there is a considerable amount of money to be made for the developer. Please do not let him destroy our neighborhood to finance his obscene profits. Long after he has taken the money and run, the new and existing homeowners will be saddled with the expense and fallout from the flaws in the design. They have been extensively described in previous meetings and comments and have not been addressed in the latest revisions.

Thank you for your consideration.  
Sincerely,

Robert Merritt  
650-504-2207  
rmerritt@rmnetworking.com

Jun 5

To : James Castaneda AICP  
County of San Mateo Planning and Building Department

This land with such steep hillsides is not suitable for a MAJOR SUBDIVISION

Our area already has very expensive sewer system problems, new homes and soil changes will only add to the water problems. This hill could be suitable for a much smaller MINOR SUBDIVISION (maybe 5 or 6 houses) without causing so many current and future extreme problems for all of the residents around it.

Moving so much soil to build so many houses is extreme and will have a severe impact on the quality of life for a very large number of residents throughout this area. Six long working days each week for over 2 years is too much for this area to endure with the noise and construction traffic, This would not be an " insignificant impact".

Homes in this area have experienced large and small landslides and soil erosion over the 53 years we have lived here. This has caused many of us much extra expense to install and maintain drainage pipes and retaining walls to prevent foundation problems and landslides.

Previous developers and builders have been out of business or gone from our area by the time the numerous problems from the unstable ground have occurred. It has been left to the county, homeowners, insurance companies and/or attorneys to resolve the many major and minor problems between properties.

This current developer should be required to pay for a 30- to 40-year large bond to fix the future erosion problems FOR THE NEW BUYERS and street repairs that will be needed as a result of this large project with known unstable land throughout the area.

Also, a substantial performance bond should be required to avoid the possibility of a half-completed project going bankrupt, the main principal has a serious illness or death, or the company closes after selling to a new owner who cannot complete the project as approved by the County.

The County has had much excessive expense in repairing earth slides, holes and cracks in the roads of our area, Too much grading and hauling away of dirt and the hauling of building supplies will cause extreme dust, exhaust fumes, traffic noise and congestion and street damage.

Ronald and Arlene Johnson  
1398 Parrott Drive  
San Mateo, CA 94402  
650-341-8342

## Planning-Commission - Fwd: water tank hill

---

**From:** Craig Nishizaki <watertankhill2013@gmail.com>  
**To:** "planning-commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 6:17 PM  
**Subject:** Fwd: water tank hill

---

Forwarding. I'll also bring a copy to the meeting.  
 thanks, Craig

----- Forwarded message -----

**From:** **Moria Peters** <[moriainsantafe@yahoo.com](mailto:moriainsantafe@yahoo.com)>  
**Date:** Tue, Oct 13, 2015 at 5:19 PM  
**Subject:** water tank hill  
**To:**  
**Cc:** "[jcastaneda@smcgov.org](mailto:jcastaneda@smcgov.org)" <[jcastaneda@smcgov.org](mailto:jcastaneda@smcgov.org)>, "[dpine@smcgov.org](mailto:dpine@smcgov.org)" <[dpine@smcgov.org](mailto:dpine@smcgov.org)>, "[cgroom@smcgov.org](mailto:cgroom@smcgov.org)" <[cgroom@smcgov.org](mailto:cgroom@smcgov.org)>, "[watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)" <[watertankhill2013@gmail.com](mailto:watertankhill2013@gmail.com)>

Dear Planning Commissioners,

I know you will be getting a lot of letters from concerned citizens regarding the proposed development of the water tank hill, but I doubt you will hear from anyone with as long a familiarity with the hill as I have. My parents bought our home at 1574 Parrott Drive when it was brand new in 1953. My mother, who will turn 100 in November, has lived there all these years, and I have been living here again for the past three years. My brother and I grew up playing on the hill. I have witnessed the severe erosion which has occurred every time the soil surface of its steep face has been exposed. The south and west sides quickly turned into a badlands of gullies and deep arroyos after Ascension went in, which has only worsened in the past five decades. One time a pipe burst from the water tank. The resulting gully is still visible on the east side on the lower third of the hill. I remember when a house on the next slope west of this one slid into the backyard of the home below. The developer had conveniently gone out of business, leaving the homeowners to deal with the monumental mess on their own. This hill is obviously problematic for building.

Over the years, the vegetation has regenerated, and where it is not a continually eroding wasteland, there is now a healthy, functioning ecosystem. Wildflowers cover the slopes in the spring. We have seen deer, rabbits, coyotes, raccoons, possums, squirrels, bobcats, and mountain lions on its flanks, while hawks, owls, vultures, and innumerable songbirds call the area home. All of this will be destroyed by the planned subdivision, which is notable for its complete disregard for the impact on the existing community, the terrain, and the environment. There is a spring which flows from the base of the hill on the north side, right where the builder plans to place his lower tier of homes. It is moist there even now, after four years of drought, but when the rains return, it will become a marsh.

It is hard to believe that the obviously intelligent members of the planning commission could accept the meagre changes of the plans for this development as compliance with the issues previously raised. As someone who has an interest in how to build properly on the land, I can see perhaps four or five spots where houses could realistically be built. They could be very nice homes, worth much more than the ones that the builder intends to squeeze onto the impossible site. I would be happy to walk the hill with the planning commissioners at any time to let you see the situation first hand. I want to urge you not to make such a decision without first seeing the entire area yourselves. I think the agents of the developer are not being honest in their statements. I have 63 years of experience with this terrain to back up what I am telling you.

Thank you for your consideration,  
 Nancy Moria Peters  
 1574 Parrott Dr. San Mateo 94402  
[505-670-2050](tel:505-670-2050)

**Planning-Commission - Ascension heights development**

---

**From:** Maya Marsden <marsdencouple@yahoo.com>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**Date:** 10/13/2015 9:36 PM  
**Subject:** Ascension heights development  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "cgroom@smcgov.org" <cg...>

---

I am very dismayed to see that though the neighborhood has been vociferously against this project in the manner it is planned to be developed, our concerns aren't being taken into consideration to amend the developmental plans. The Environmental Impact Report remains woefully inadequate, and this proposed development endangers the long term stability of the hillside and the health and safety of our community. I would urge you to not approve something about which the neighborhood has so many concerns. Thank you.

Respectfully,

Sujatha Marsden  
1844 Randall Road.

THE SAN MATEO HIGHLANDS COMMUNITY ASSOCIATION  
1851 Lexington Avenue, San Mateo, CA 94402  
HighlandsCommunity.org

San Mateo County Planning Commission  
c/o Steve Monowitz, Community  
Development Director  
County Office Building  
455 County Center  
Redwood City, CA 94063  
E-Mail: [planning-commission@smcgov.org](mailto:planning-commission@smcgov.org)

October 13, 2015

Dear Planning Commission,

The Highlands Community Association stands with and supports Baywood Park's significant concerns regarding the proposed Ascension Heights development. Our community has serious concerns about the environmental and community impacts of the proposed Project as well as the review prepared for it. We note the detailed analysis provided to the Planning Commission from Baywood Park and its legal representative and support their carefully detailed conclusion that the EIR for the Project fails to comply with CEQA, and the proposed findings included in the January 28 staff report are insufficient to support approval of the Project.

We urge the Planning Commission to follow through with its motion for denial of Project as currently proposed and to decline to certify the EIR.

We support the Planning Commission's effort to encourage the Ascension Heights applicant to work with all parties to work out an alternative that actually responds to the substantive concerns documented by the community.

Sincerely,

*Liesje Nicolas*

Liesje Nicolas  
President, Highlands Community Association  
[HighlandsCAPresident@gmail.com](mailto:HighlandsCAPresident@gmail.com)

**From:** Bryan Keller <bryan@vancouver.net>  
**To:** "Planning-Commission@smcgov.org" <Planning-Commission@smcgov.org>  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dpi...>  
**Date:** 10/13/2015 11:41 PM  
**Subject:** Ascension Heights development

Dear Members of the San Mateo County Planning Commission,

I am writing to state my opposition to the proposed Ascension Heights development being discussed tomorrow morning (10/14). Unfortunately, I will not be able to attend the meeting this time.

I have written to you before and enumerated the negative impacts I feel this development will have on our community, in term of safety, quality-of-life, and aesthetics. I also wanted to add that I do not feel the Ascension Heights development is in alignment with the declared intents of the County of San Mateo in its General Plan.

In the General Plan, the County declares it will protect and enhance the natural visual quality of the County, minimize adverse visual impacts of developments, minimize the removal of visually significant trees and vegetation, minimize changes to topography, promote aesthetically pleasing development, promote a balance of development and open space, and protect the health and safety of its residents.

The Ascension Heights proposal does not meet these goals.

I strongly feel we as a community should be encouraging more population density near transit centers and not covering the few natural resources we have with development sprawl.

Thank you for reading,

Bryan Keller  
172 Starlite Dr

**Planning-Commission - Please vote against Ascension Heights Development**

---

**From:** Craig Nishizaki <watertankhill2013@gmail.com>  
**To:** "planning-commission@smcgov.org" <Planning-Commission@smcgov.org>, "cgro...  
**Date:** 10/14/2015 12:00 AM  
**Subject:** Please vote against Ascension Heights Development  
**Attachments:** Letter to San Mateo Planning Commission re Ascension Heights 10-13-15.pdf

---

Dear Planning Commissioners:

My name is Craig Nishizaki and I live at 1474 Parrott Drive.

Please deny the Ascension Heights Project as currently proposed and decline to certify the EIR.

Seven and a half months ago, the Planning Commissioners were about to vote 3-1 against the development when the proceedings were abruptly stopped. Since that time the developer has not addressed any of the major issues that have been discussed repeatedly in meetings with the developer as well as in the January and February 2015 Planning Commission Meetings.

The development is still 19 homes densely packed in a grid pattern on very steep slopes in an area very close to major landslides. The access to the site on Bel Aire Road will be an extremely dangerous intersection especially with all of the morning traffic from CSM students in a hurry to get to class. The developer has provided some visuals of what the homes and landscaping will look like, but only where the visual impact will be the least significant. He has not provided updated visuals for the Parrott Drive residents. There will be no privacy for the Parrott Drive residents who will be living adjacent to the development even with the updated landscaping plans and reduction in height for the new homes.

I can summarize this development as follows: The developer has done an extremely poor job of reaching out to and listening to the neighborhood. His plans are very vague and he repeatedly defers the proper analysis and mitigation. He tries to hide behind a very literal interpretation of CEQA rather than to provide the proper analysis that CEQA requires to ensure that the correct decisions are being made for the community. (and in many cases he even fails to meet CEQA requirements. See attached letter from the attorney representing the Baywood Park HOA, Winter King, where she cites numerous CEQA deficiencies)

The stormwater retention is a great example that characterizes this poor development.

The Stormwater Retention System remains as a poor design with incomplete analysis, stringent maintenance requirements, numerous failure points, and no-fail safe mechanism. The FEIR states that if we get an extreme storm or the system gets clogged, that the water "... will simply drain into a nearby creek." All of the Parrott residents living next to this proposed development know that there is no "creek" for the water to flow into, only their backyards!

Again, I urge you to please vote against the Ascension Heights Development. **This is NOT RESPONSIBLE DEVELOPMENT!!!**

Sincerely,  
Craig Nishizaki  
1474 Parrott Drive

**From:** Susana Chan <nibblesbb@yahoo.com>  
**To:** "planning-commission@smcgov.org" <planning-commission@smcgov.org>  
**CC:** "jcastaneda@smcgov.org" <jcastaneda@smcgov.org>, "dpine@smcgov.org" <dp...>  
**Date:** 10/14/2015 2:22 AM  
**Subject:** Please Vote NO- Ascension Heights Development

Dear San Mateo Planning Commission,

I am writing to express my deep concern over the plans submitted for the Ascension Heights Development properties.

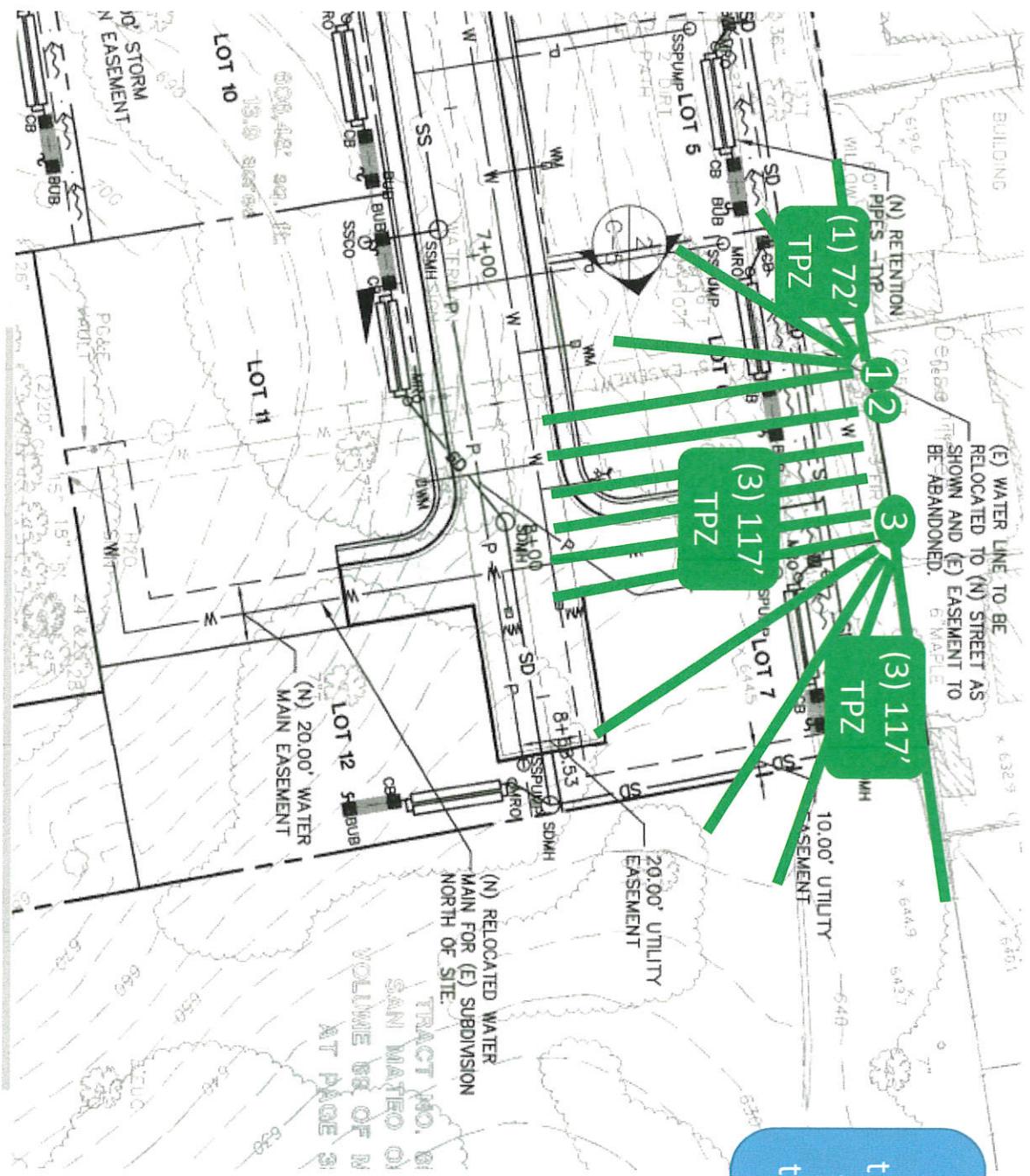
When I first considered moving to San Mateo, a few things were first and upmost important to me- a mature neighborhood that is safe, a community where neighbors look out for each other, a place where children can play without feeling overrun by the density of a city, a great education system, plus a neighborhood where the city cares about its residents and thinks about people first.

I am disappointed that the Planning Commission has dragged on the decision on the Ascension Heights development when it is clear the significant impact it would have on the neighborhood and its people. Last year, there were over 300 residents, including me and my entire family, who showed up at the hearing opposing the development and provided valid reasons why- the proposed development of 19 houses is irresponsible development when the zoning is for 7 parcels, thereby blocking the view and privacy that the residents on Parrott Drive currently have; the stormwater retention system is poorly designed without a full analysis of its impact on the residents living nearby; the construction will highly impact traffic, let alone the noise and lack of air quality that residents will have to endure, impacting quality of life; the erosion of the hillside and common areas after stripping all the native growth, not taking into consideration the impact to the environment and our rare butterflies in the area. These are just a few of the concerns, and the list goes on.

Since this proposal has surfaced, I've also noticed many residents moving out of the area due to their concerns about the development. I love our neighborhood and I respectfully ask the Commission to please consider the impacts to the residents who make up this community and do the right thing for its people and deny the proposed development. What the developer has proposed is irresponsible and without regards to the people, the community or the environment.

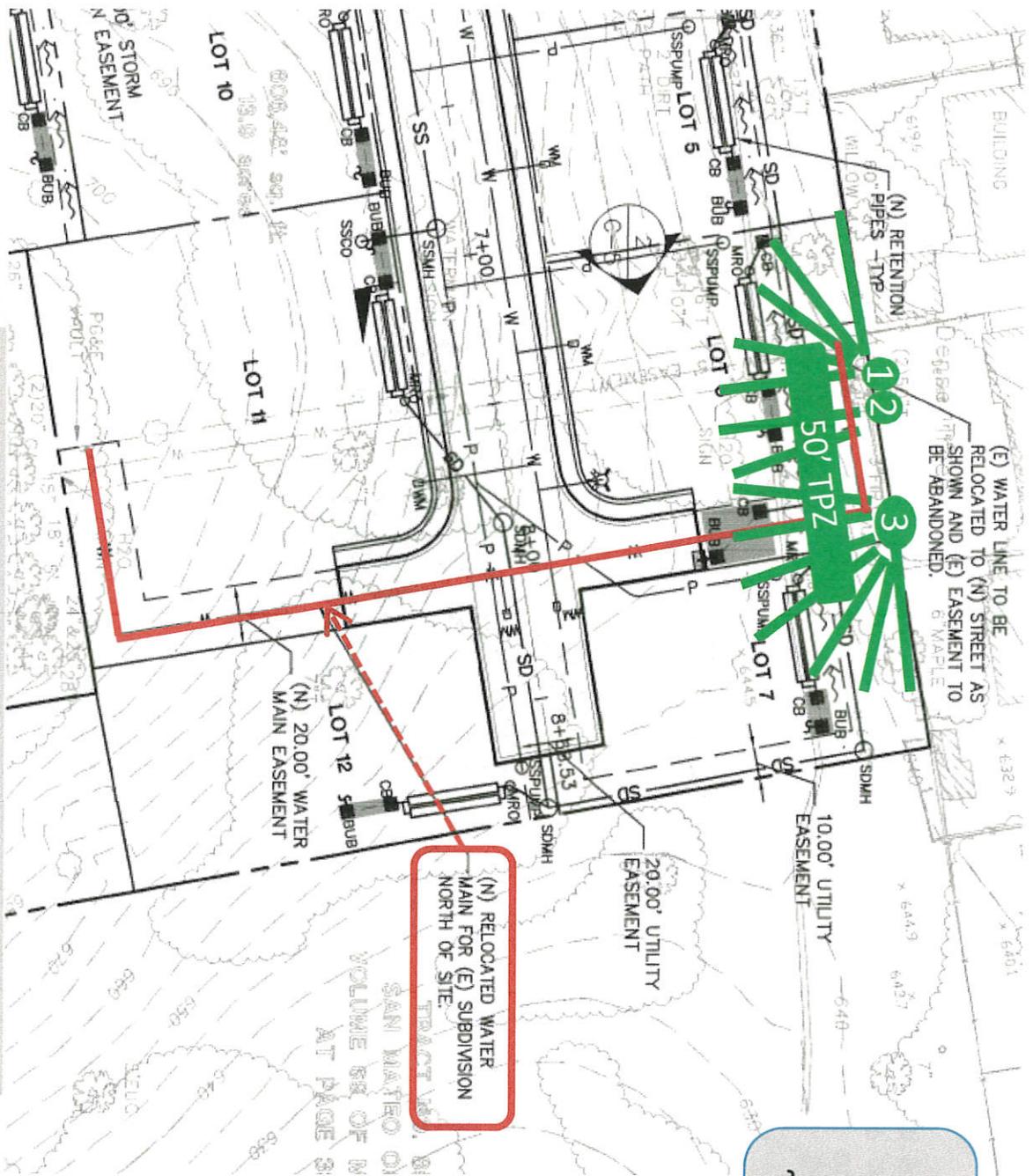
Sincerely,  
Susana Chan

# 72' and 117' TPZs (approx. scale) for Significant Trees

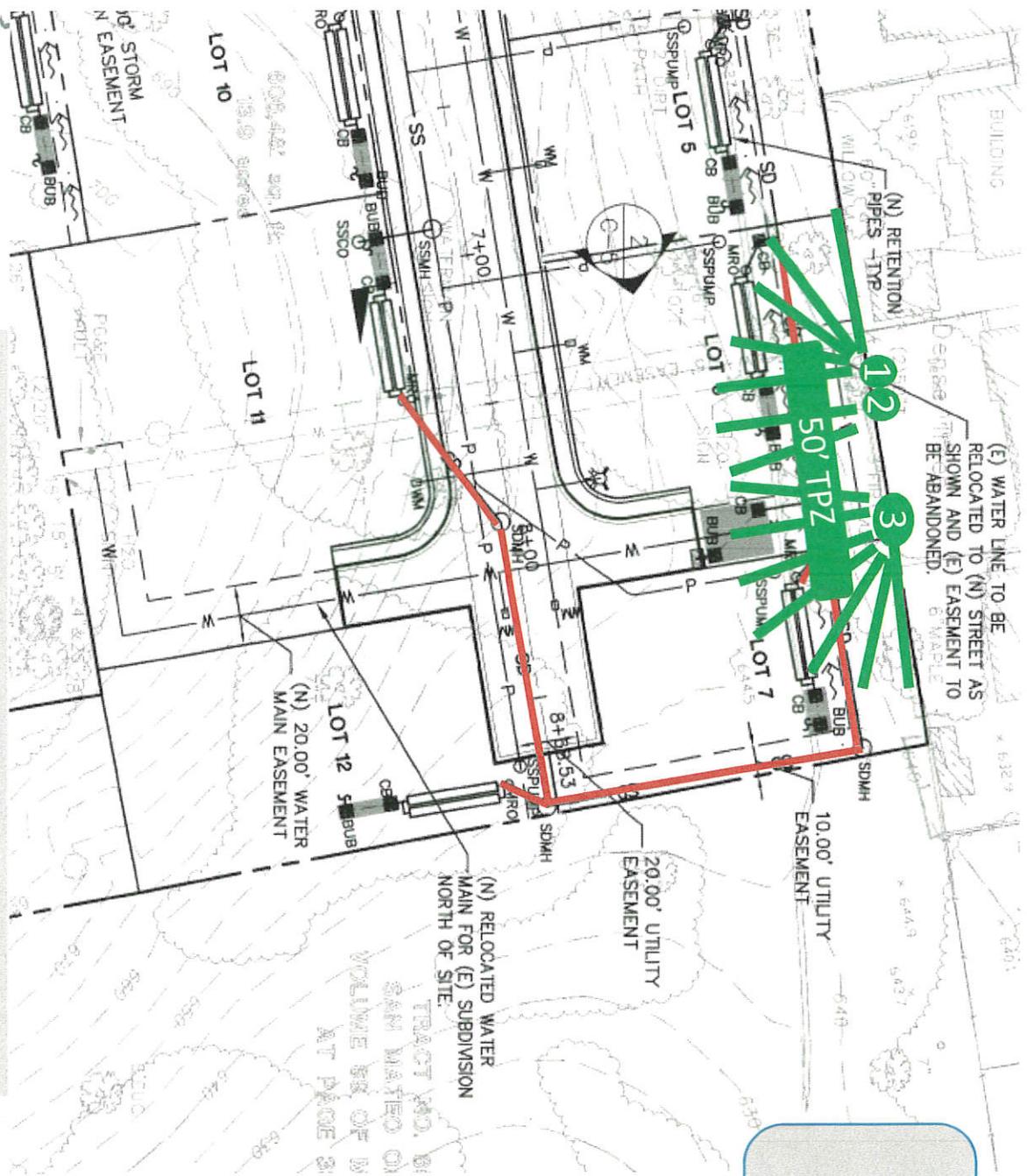




# Compromise 50' TPZ (approx. scale) for Significant Trees

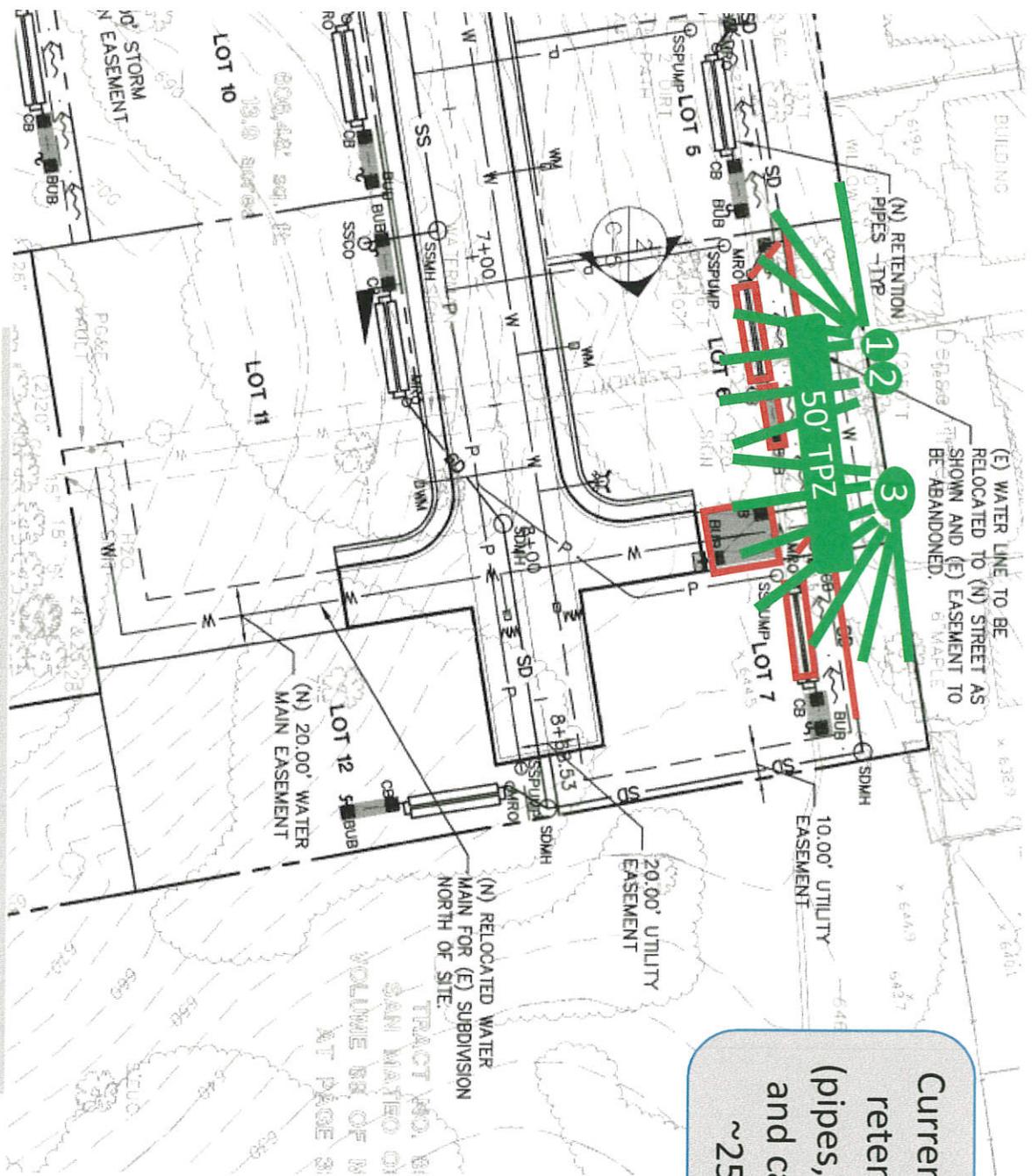


# Compromise 50' TPZ (approx. scale) for Significant Trees



Current plan is to place the storm drains within ~20 feet of the trees

# Compromise 50' TPZ (approx. scale) for Significant Trees



Current plan is to place water retention system elements (pipes, units to hold the pipes, and catch basins) as close as ~25-30 feet of the trees