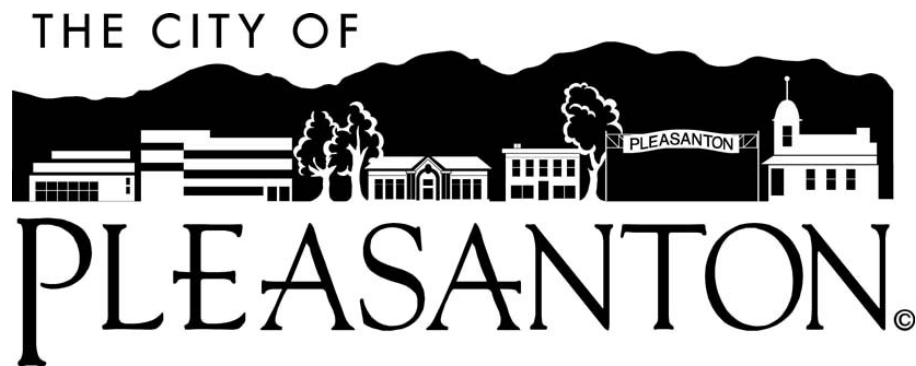


**FINAL ENVIRONMENTAL IMPACT REPORT  
FOR THE  
OAK GROVE PLANNED UNIT DEVELOPMENT  
(PUD-33)**

**SCH #2004012013**



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under contract to the  
**City of Pleasanton**

**February 9, 2007**

# CHAPTER 1 INTRODUCTION TO THE FEIR

## A. BACKGROUND

This Environmental Impact Report (EIR) addresses the Oak Grove Planned Unit Development (PUD). In compliance with Chapter 18.68 of the Pleasanton Municipal Code, a PUD Development Plan for the project was submitted to the City of Pleasanton on November 20, 2003. The PUD application envisioned a 98-lot custom home development proposed for a 562-acre site in southeastern Pleasanton that was annexed to the City on December 31, 1991.

The Draft EIR (DEIR) addresses both the 98-unit PUD Development Plan (the “original project”) and multiple alternatives. One of these, Alternative 4, is found in the DEIR (**Chapter 1. Summary**) to be the environmentally superior alternative.

This alternative, a site plan of 51 custom lots, has been selected in lieu of the original project as the basis for City project consideration and approval.

## B. BRIEF DESCRIPTION OF THE PROJECT

### 1. The Site

The site’s eastern and southern boundaries lie at the City limits. Beyond the City limits on the east and south, the neighboring use is agriculture (grazing) on lands owned by the Foley family. To the west and north within the City limits are existing developments called (clockwise from the west) Kottinger Ranch, Vintage Hills II, and Grey Eagle Estates.

The Oak Grove site is owned by the Lin family. The current application, “Oak Grove,” is their second Development Plan proposal. The first proposed project, Kottinger Hills, included 122 housing units, a golf course, and about 237 acres of open space proposed to be dedicated to the City. That project was approved by the Pleasanton City Council in November 3, 1992, as PUD-91-13. The approval, however, was rescinded in a referendum election on November 2, 1993. The project proposed in the Development Plan submitted in 2003 differs from the earlier project both in concept and in detail.

### 2. The 51-Unit Proposed Project

As noted in **A. Background**, above, the Development Plan is for 51 units to be constructed on custom home sites, in lieu of the 98 units originally proposed. The 51 parcels would have an average size of 1.13 acres (ranging from 30,290 to 90,834 square feet) compared with just under 0.6 acres for the original project. The homesites would be located along an eastward extension of Hearst Drive with approximately 27 parcels having frontage on Hearst Drive and the balance on cul-de-sacs served from Hearst Drive (Courts 1, 2, 3, and 4) or, in a few cases, private drives off the cul-de-sacs.

The 51-unit Oak Grove project includes:

- 51 lots, each with a custom residence to be designed for individual lot owners and constructed at some future time consistent with Design Guidelines for development. The mandatory components of the Design Guidelines are presented in the DEIR as Appendix G. The full set of Design Guidelines<sup>1</sup> has been provided to the City and is available for public review at the Pleasanton Planning Department.
- Roads and utility uses ancillary to the development (including a new water tank).
- Approximately 497 acres of open space. The open space will not be owned by a homeowners association, but will be dedicated by the applicant to the City of Pleasanton. On this public open space, the City will plan, provide, and maintain a trails network expected to consist of a Class A regional trail, trail facilities including an onsite staging area, and a network of Class C community trails.
- Securing of open space in perpetuity. The City and the applicant expect to enter into a Development Agreement that will stipulate that the dedication of open space (to take place with the first subdivision map) shall be in perpetuity; an open space easement to the Tri-Valley Conservancy or a similar entity is expected to accomplish this purpose. In addition, the General Plan update now in process would revise the land use designations for the site to correspond to the open space plan.

## C. PUBLIC REVIEW OF AND COMMENTS ON THE DEIR

The DEIR was distributed for public review on June 30, 2006, with a review period of June 30 through August 14, subsequently extended to August 29. The Planning Commission reviewed and commented on the DEIR under two publicly noticed work sessions held on July 12 and August 23, within the 60-day review period permitted by the CEQA Guidelines.

Communications relating to the DEIR include the minutes of the Planning Commission hearings and written communications submitted by public agencies and private organizations and individuals. These thirty communications, identified as “Communication A” through “Communication DD,” are presented in Chapter 3 of this document, with individual comments relating to the DEIR numbered in the margins. Comment summaries and responses are presented in Chapter 2 of this document.

Review of comments on the DEIR disclosed the need for corrections and clarifications to the original environmental document. These corrections and clarifications are provided in FEIR **Appendix J. DEIR Errata**. Among the corrections is a revision of the transportation conclusions for the scenario including existing conditions, approved projects, and Oak Grove. The DEIR’s conclusion that one intersection would operate at post-mitigation unsatisfactory level of service (LOS) has been corrected: all 10 intersections affected by the project would

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<sup>1</sup> *Oak Grove Residence Lot Design Guidelines* and *Oak Grove Open Space & Common Areas Design Guidelines*, prepared by Berger Detmer Ennis Architects and M D Fotheringham, Landscape Architects, Inc., January, 2007.

operate at satisfactory levels of service with the mitigation measures set forth in this document.

With the revision just described, the project concept presented as DEIR Alternative 4 would have no unmitigated project impacts. Two cumulative impacts – on oak grove woodland and on traffic at one intersection where no feasible mitigation has been identified – would remain.

## **D. THE FINAL ENVIRONMENTAL IMPACT REPORT AND PROJECT REVIEW**

The Final Environmental Impact Report (FEIR) on the Oak Grove Project consists of the Draft Environmental Impact Report (DEIR) together with this comments-and-responses document and accompanying appendices. As noted above, Appendix J is an Errata for the DEIR. Appendices K, L, and M provide additional information and responses relating to issues considered in the DEIR and in the Responses to Comments. Appendix N is the distribution list for the DEIR.

Pleasanton’s consideration of the Oak Grove project is expected to include the following:

- Review of the environmental documents;
- Consideration of a Development Agreement between the City of Pleasanton and the applicant, specifying a series of obligations and entitlements of both parties;
- Consideration of a Planned Unit Development Plan (“PUD” Development Plan) for Oak Grove (the “project” addressed by this FEIR); and
- Conditions of Approval, further specifying requirements of the applicant relating to the implementation of the project.

The Development Agreement, the PUD Development Plan, and the Conditions of Project Approval are mutually consistent and consistent with this Environmental Impact Report.



## **E. FEIR PREPARERS**

The FEIR has been prepared under the direction of the City of Pleasanton by the team of consultants originally engaged by Pleasanton to conduct the Oak Grove environmental analysis. Contributors are as follows:

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*Note: Includes concurrence letter from Mike Regan, August. 29, 2006*

<b>APPENDIX J. DEIR Errata</b>	<i>Follows Communication DD</i>
<b>APPENDIX K. DEIR Master Responses</b>	<i>Follows Appendix J</i>
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## CHAPTER 2 COMMENT SUMMARIES AND RESPONSES

### *Pleasanton Planning Commission*

#### **A. PLEASANTON PLANNING COMMISSION MEETING COMMENTS BY COMMISSIONERS, JULY 12, 2006**

**A 1 Comment Summary:**

[Arkin] Was the selection of view sites reviewed with City staff to make sure that those would be the appropriate locations? Did you review what was requested at the February scoping session? [Fox] Was the Bernal property one of the Downtown sites?

**Response:**

Master Response 3 (Appendix K) discusses the selection of viewpoints for the visual simulations of the project. A wide range of viewpoints was considered, including the viewpoints suggested at the public scoping session (see DEIR footnote 12, p. 21).

The selection of the viewpoints drew on (1) the existing conditions photos prepared by the EIR team's visual consultant, Environmental Vision, (2) the computerized terrain model Environmental Vision prepared incorporating the topography of Pleasanton and the pre- and post-grading terrain of the site, and (3) field work by staff viewing the site from a wide range of Pleasanton locations. The four vantage points serving as the viewpoints for the preparation of the simulations were selected in consultation between staff and the consultants from among the candidate view studies and additional site photographs. Simulation views were selected to include representative views of the project within its landscape setting and from varied perspectives available to the public.

The Bernal property was one of the Downtown sites from which views are presented in the EIR to illustrate the visual context of the Oak Grove site. Figure 9b (p. 36) shows view 21, which looks toward the site from the eastern edge of residential development on the Bernal property. Other views from Downtown are also presented in Figure 9b: view 18 looks toward the site from Main Street at Civic Park and view 19 looks toward the site from Main Street at Abbie Street. The Oak Grove site is not visible from either of the latter viewpoints.

**A 2 Comment Summary:**

[Arkin] How was the biological assessment done, and who conducted it?

**Response:**

The biological assessment was conducted by WRA, Inc., as a subcontractor to the City's EIR consultant, Mundie & Associates. WRA has worked previously on Pleasanton projects, including (with Mundie & Associates) the EIR on the Bernal Property Phase II Specific Plan and the Master Plan for Bernal Community Park, and also on the golf course project.

**A 3 Comment Summary:**

[Arkin] How many field surveys were done, and when?

**Response:**

Field surveys conducted for the Oak Grove EIR biological analysis included:

- Biological assessment for potential special status species habitat and other sensitive biological habitats throughout the site – August, 2004;
- California red-legged frog protocol surveys in and around Ponds 1 and 2 – September-October, 2004;
- California tiger salamander protocol larval surveys in Pond 1, Pond 2, and offsite detention pond aquatic habitat – March, April, and May, 2005;
- Rare plant surveys throughout site (observing CDFG and CNPS guidelines) – March-July 2005;
- Mapping of *Viola pedunculata* patches throughout site – March, 2005
- Single Callippe silverspot survey by Dr. Richard Arnold, Consulting Entomologist – July, 2005;
- CTS trapline protocol surveys surrounding Ponds 1 and 2 and the offsite detention pond – October-December, 2006; and
- Callippe silverspot surveys by Richard Arnold – May-July, 2006.

All surveys observed established protocols where such protocols have been established for the resource being considered. (See response A5.)

**A 4 Comment Summary:**

[Arkin] The company who did the surveys: how were they selected and who paid them?

**Response:**

Surveys were conducted by WRA, Inc., whose work was undertaken as subcontractor to Mundie & Associates for the City's EIR team, and by specialists under contract to WRA.

**A 5 Comment Summary:**

[Fox] How many hours does it take to do a survey? Does the survey cover the whole site or is it done on a sampling basis?

**Response:**

Surveys for biological resources are designed so as to provide the maximum opportunity to detect the target species at the time(s) of year when it is most likely to be evident on the site. Resources agencies, particularly the U.S. Fish and Wildlife Service, have provided "protocols" that set forth specifications for when and how surveys of species of concern are to be conducted. The individual surveys cover that portion of the site that would be required to be surveyed under the specifications of the protocol. The amount of time required to conduct a survey depends on the extent of survey area to which protocol specifications apply and the requirements of the protocol. A survey may be discontinued once the species in question is found.

**A 6 Comment Summary:**



[Arkin] Have there been any landslides on the site? If so, do they know how deep the landslide is? [O'Connor] Does the analysis take into account the 700,000 yards of soil that are going to be moved? [Arkin] When soil is moved on the site to create building pads and infrastructure installations that will be stable, is that stability 100 percent risk-free?

**Response:**

The site plan for the project is based in part on a substantial geological field investigation of the site. As noted in the DEIR (p. 146), the site geotechnical report identifies three specific relatively large landslides and presents mitigation of each of these features. These slide areas are listed and described (including length, width, and thickness) in the DEIR, p. 140. The investigation of the site leading to the identification of these landslides included excavation and logging of 201 test pits, 718 linear feet of trenches, and drilling and logging of 11 soil borings. These investigations provide detailed information on the profile and character of the landslides.

One of the purposes of the detailed geotechnical study is to evaluate existing conditions that may need mitigation for purposes of site development (DEIR Mitigation Measures F1, F2, and F3, pp. 148-151).

Another purpose of the detailed geotechnical study is to provide direction for site grading that would result in substantial levels of soil movement, such as the 700,000 cubic yards of soil cited in the comment. Impact F2 is a summary statement of the slope instability considerations identified in the course of the geotechnical evaluation (DEIR, pp. 146-147).

As the EIR consultant noted at the July 12, 2006 public hearing, the mitigation measures proposed are designed to minimize the probability of future earth movement that might put people, property, or infrastructure at risk.

**A 7 Comment Summary:**

[Arkin] Are any of the three current landslides in areas where homes would be constructed?

**Response:**

The three slide areas described in the DEIR, p. 140, are located in that description in terms of their proximity to project lots identified by lot number in the 98-unit site plan presented in DEIR Chapter 2. Landslide locations in relation to the 51-unit Alternative 4 lots are as follows:

Landslide 1 is in the northwestern portion of the site in the vicinity of Alternative 4 parcels 3, 4, and 5. The closest homesite (Lot 4) would be over 150 feet away from Landslide 1.

Landslide 2 is in the southwestern portion of the site. No homesites would be located in this area under Alternative 4; Balance Fill Area 1 would be located there.

Landslide 3 is in the southern portion of the site. No homesites would be located in this area under Alternative 4; the landslide area would be at the northern edge of Balance Fill Area 2, and south of lot 51 by approximately 200 feet.

**A 8 Comment Summary:**

It appears from the DEIR that one of the geology reports was prepared by Berlogar Technical Consultants. Is that the same Berlogar who owns the property to the north of the site? If so, does this represent a conflict of interest?

**Response:**

Frank Berlogar, president of BGC Berlogar Geotechnical Consultants, is the owner of one of the properties to the north of the site (Parcel 22 in the Vineyard Avenue Corridor Specific Plan area). As noted by staff at the Planning Commission meeting, there is no reason to think that there would be a conflict of interest between the private interests of the adjoining landowners.

**A 9 Comment Summary:**

[Fox] Who is the geotechnical consultant on the EIR? [Arkin] How much did they rely on the Berlogar report?

**Response:**

The geotechnical consultant for the Oak Grove DEIR is BASELINE Environmental Consulting, whose work was undertaken as subcontractor to Mundie & Associates for the City's EIR team. The Berlogar report was one of many background studies referred to by BASELINE in conducting their analysis (see DEIR footnotes 43 to 65).

**A 10 Comment Summary:**

[Arkin] Are all the homes going to be on cut or some going to be on fill? Can a map of these conditions be provided?

**Response:**

The applicant has provided to the Planning Commission an oversize map prepared by MacKay & Somps showing the rough grading cut/fill map. According to this map, of the 51 lots in Alternative 4, approximately 37 are partly or entirely on cut areas, and 12 are on lots that would include some cut and some fill areas. No lots are proposed entirely on fill areas.

While no lots are entirely on areas that would have neither cut nor fill, a good number of lots have substantial surface areas that would be neither cut nor fill. The allowable footprints of houses as laid out in the project's Design Guidelines may have less cut or fill than the lot as a whole.

**A 11 Comment Summary:**

[Arkin] Are there to be retaining walls, and are they necessary for the stability of homes or are they architectural retaining walls for landscaping, etc.? What is the height of the retaining walls?

**Response:**

There would be three classes of retaining walls:

- To stabilize an existing soil stability condition (like a mapped landslide) or weak surficial soils as the interface of the graded area and existing slope.
- To stabilize land in areas where Heritage trees are to be retained and protected.

- As part of land contouring within development parcels (lots).

Type 1 retaining walls could occur on development parcels (lots) depending on how close the lot owner wants to build to the edge of the native down slope. As defined in the Berlogar soils report and recommendations, these edge-condition walls would likely be buried walls installed to ensure pad stability at the top of slope, so most (or all) of these walls would not be visible.

Type 2 walls would occur on Alternative 4 lots 7, 27, 34, and 47 where Heritage trees would be preserved.

Types 3 walls are not known at present but would be part of the site and landscape plan on individual lots, when those plans are developed.

See response A12 for height of retaining walls.

#### **A 12 Comment Summary:**

[Arkin] It seems like the number of retaining walls should be determined before we approve the project and not determined as a house by house Design Guideline.

#### **Response:**

One of the purposes of the Oak Grove Design Guidelines is to avoid the problem that occurs in some projects, when the scale of retaining walls makes them prominent visual features that call attention to the extent of land contouring undertaken for development.

The provisions of the Mandatory Design Guidelines establish limits on the height of retaining walls (30 inches is the preferred maximum, with no retaining wall taller than five feet above finished grade). Where more than five feet is to be retained, that would be accomplished by a series of smaller retaining walls (no more than five feet in height) placed at least five feet apart, and the base, the top and the space between these walls are to be planted with sizable landscaping materials to screen the view of the wall. No wall is to run in a straight line for more than 30 feet.

Thus, the Design Guidelines operate as a limit on the grading plan because no very tall or very long straight retaining walls would be permitted. Limiting the number of retaining walls would work against the strategy of breaking up retaining walls into smaller elements where areas of sizable soil retention needs would exist.

Note that the PUD Grading Plan that has been submitted to the City of Pleasanton as part of the PUD application shows retaining walls.

#### **A 13 Comment Summary:**

[O'Connor] In the 51-unit plan, how many of the lots would have had a grade of more than 25 percent before the cut for the pad of the house? Would it be necessary to grade away the 25 percent slope in order to place a house on the building pad?

#### **Response:**

The applicant has provided to the Planning Commission an oversize map prepared by MacKay & Soms showing the parcel map for the 51-lot Alternative 4, with slopes shown in two categories: 0 to 25 percent, and above 25 percent.

A rough count indicates that on about 38 lots, at least 20 percent of the surface area has a slope of less than 25 percent, while on about 13 lots, 80 percent or more of the

surface area exceeds a slope of 25 percent. The allowable footprints of houses as laid out in the project's Design Guidelines may include some areas with existing slopes in excess of 25 percent.

**A 14 Comment Summary:**

[Fox] DEIR p. 140 says that the geotechnical analysis relied upon the report [seems to refer to the report by Berlogar Geotechnical Consultants cited in footnote 64] to determine stability. In looking at seismic impacts was there another consultant involved, or did that analysis also rely on the Berlogar report?

**Response:**

See response A9. Also, as noted in the DEIR (p. 149), Mitigation Measure F2a provides that:

The City Engineering Department and an independent certified professional licensed by the State and retained by the City shall review the design-level geotechnical report and grading plan for completeness prior to approval of the final grading/improvements plan. Implementation of the approved grading plan and recommendations shall be established as a condition of approval for the project.

The City retained Cotton Shires for the peer review of the geotechnical report and grading plan.

**A 15 Comment Summary:**

[Arkin] Do the site plan and Design Guidelines permit second units, a poolhouse, or things like that? If so, has that been taken into account in the DEIR? Are there any issues regarding having a pool on a fill site next to the edge of a hill?

**Response:**

The potential for accessory uses has been taking into consideration in the overall planning of the site. Placement of accessory uses on the individual sites is expected to be governed by the project's Conditions of Approval. Accessory uses are not expected to contribute significantly to any of the population-related impacts that are addressed in the EIR.

The project's geotechnical consultant advises that a properly constructed and maintained pool on an engineered fill next to the edge of a hill would not pose any issues from a geotechnical perspective. Because the water in a pool weighs only half as much as the soil that is excavated, a pool – properly constructed and maintained – would lessen the load on the hillside, thus improving slope stability. The consultant reports that he is not aware of any case in his 40+ years of practice in which stability problems occurred during seismic events with (properly designed and maintained) swimming pools at the top of slopes. He does state, however, that it is not uncommon for some of the water in pools to splash out during a seismic event.

**A 16 Comment Summary:**

[Fox] Did the applicant receive the letter the Commission received this afternoon about the EVA [emergency vehicle access] route and issues with granting EVA access?

**Response:**

Yes. The referenced letter prepared by Miller Starr & Regalia is provided in the FEIR as Communication S.

**A 17 Comment Summary:**

[Arkin] Would all the homes have sprinkler systems?

**Response:**

Yes. As noted in the DEIR (p. 226/8), the Development Plan includes a provision to equip all homes with automatic fire sprinkler systems. The requirement is also formalized in Mitigation Measure M2-2 (DEIR p. 230) stating that “All buildings shall be designed with fire safety provisions including sprinklers, fire-safe exterior building and room materials, and early warning fire detection systems.”

**A 18 Comment Summary:**

[O’Connor] Are there alternative EVA roads if the North EVA into Grey Eagle does not work out? If the 51-unit Alternative 4 becomes the project, would the West EVA be built? Is there an option for a third possible EVA route?

**Response:**

As noted by the environmental consultant at the Planning Commission meeting of July 12, if Alternative 4 becomes the project, the West EVA would not be built. See responses F2 and DD6.

The Planning Commission opened the hearing for comments by members of the public. These comments and responses are presented in Part D. Following comments by the public, the Planning Commission meeting resumed with a discussion of issues with staff that focused on EIR process and requests for further information about the project.

## **B. PLEASANTON PLANNING COMMISSION MEETING COMMENTS BY COMMISSIONERS, AUG. 23, 2006**

The Planning Commission discussion of Oak Grove began with a summary of the staff report. Staff noted that the City’s consultant would not be present, but had provided a written overview of key remaining EIR topics from the previous hearing. That written overview is presented as Appendix L.

Questions were asked about the project and responses were provided by staff and by the applicant.

Staff announced that the public review period for the DEIR would be extended to August 29.

**B 1 Comment Summary:**

[Fox] DEIR visual simulations were not clear and sharp.

**Response:**

The “Oak Grove DEIR Visual Re-Print Portfolio” (Jan., 2007) includes 11X17 inch sheets with existing visual character photo images presented in color at 7¼ x 4¼ inches. A total of 25 photos are included (Figs. 7 through 9c). Twenty sets of the portfolio have been provided to members of the Planning Commission and City Council or made available for public review at the Planning Department. Thirty additional copies have also been made available for Planning Department distribution.

The Planning Commission opened the hearing for comments by members of the public. These comments and responses are presented in Part E. Following comments by the public, the Planning Commission meeting resumed with questions of applicant and staff that focused on elements of the project.

## **C. WRITTEN COMMENTS, PLANNING COMMISSIONER ANNE FOX AUG. 29, 2006**

### **C 1 Comment Summary:**

Regarding terrain: There is text in the DEIR (p. 140) discussing slope stability; however, there are limited visual representations. The Kottinger Hills EIR provided visuals relating to steepness of terrain and the limitation of building on 25 percent or greater slopes. Using those maps, please prepare the following exhibits:

- (a) overlay the 98-unit and 51-unit site plans with Kottinger Hills EIR Figure 1-6. Slope Analysis (which shows areas of the property with 0-10% slope, 10-25% slope and greater than 25% slope), and
- (b) overlay the 98-unit and 51-unit site maps with Kottinger Hills EIR Figure 1-7. Selected Site Constraints showing areas with landslides, steep slopes and high visual sensitivity.

#### **Response:**

The Kottinger Hills EIR does not represent the project evaluated in the Oak Grove DEIR. Exhibits prepared for the Kottinger Hills EIR are not relevant to this analysis and are not available to the City for use or modification. However, in the interest of responding to the more general request regarding slopes and landslides, MacKay & Soms, engineers under contract to the applicant, have provided the following large-scale exhibits, available for public review at the Planning Department:

- Oak Grove Cut/Fill Map, 51-Lot Site Plan (showing red/green shading for cut/fill)
- Oak Grove Cut/Fill Map, 51-Lot Site Plan (showing red/green depth of cut/fill)
- Oak Grove 51-Lot Plan, Typical Grading Sections
- Oak Grove Slope Classification Map (showing slopes of 0% to 25% and slopes of 25% and above)

In addition, MacKay & Soms have prepared the report-scale exhibit that is provided at the end of this chapter, p. 97, presented as EIR Figure 40. This exhibit outlines the area proposed to be graded. Superimposed on the grading plan are shown (a) (outlined in blue) landslides within the grading limits that are proposed to be removed or repaired and (b) (outlined in yellow) landslides within the area encompassed by the 51-lot development but outside the area proposed for project grading.

### **C 2 Comment Summary:**

Regarding fill and grading in relation to existing topography: Provide an overlay showing planned grading and fill locations in relating to current slope and landslide areas.

**Response:**

See response C1.

**C 3 Comment Summary:**

The visual analysis is inadequate to convey both the proposed development and the existing appearance of the site. Please revise and resubmit the Visual Analysis. The commenter expresses the belief that the quality of the photographs included in the DEIR is not satisfactory.

**Response:**

The DEIR contains a systematic description of the project visual setting, as well as a thorough analysis of visual impacts, including a set of computer generated visual simulations, or “before” and “after” images which portray the project’s appearance as seen from five vantage points. From each of the selected vantage points, three stages of landscape maturity are illustrated in order to portray the project immediately following construction as well as at 5 and 15 years. The “Oak Grove DEIR Visual Re-Print Portfolio” (January 2007) presents a set of DEIR photographs and simulations, in high quality 11X17 inch format. Copies of the portfolio have been provided to Planning Commission and City Council members. Copies are also available for public review at the Pleasanton Planning Department. See also responses C4 through C10.

**C 4 Comment Summary:**

Provide visual simulations under the following assumptions of house size:

- (a) a scenario in which each house would have floor space at 25 percent FAR [commenter refers to this scenario as the worst-case];
- (b) a scenario in which half of the houses would be 10,000 sq. ft. and half less than 6,000 sq. ft. [commenter refers to this scenario as 'medium visibility'], and
- (c) a scenario in which all of the houses are smaller than 6,000 sq. ft.

For each scenario specified, provide visual simulations showing the maximum possible building envelope (height and mass) to represent the worst-case effects.

**Response:**

A set of visual simulations has been produced based upon project design data and a set of technical assumptions developed in consultation with City staff. See Visual Master Response 2 which documents the technical assumptions regarding house size and other physical development parameters. Note that the process of approval for individual custom homes will require that visual simulations of each individual planned project and adjoining streetscape be submitted for review.

**C 5 Comment Summary:**

Provide visual simulations that:

- (a) include the proposed water tank, and
- (b) illustrate project glare, etc. from lighting at nighttime.

**Response:**

- (a) Three dimensional (3D) computer-assisted terrain modeling was employed to evaluate the potential visibility of the proposed water tank. Based on site plan and

section drawings provided to Environmental Vision, a digital model of a 20-foot-tall, 60-foot diameter tank was incorporated into the 3D terrain model. This modeling was utilized during preparation of the DEIR visual simulations. As such, the DEIR visual simulations from the five selected viewpoints do incorporate the new water tank proposed at the project tank site.

Results of the computer modeling indicate that, in general, existing intervening vegetation and/or topography would screen views of the proposed water tank from areas located to the northwest. Similarly, views of the tank from locations to the west would be screened by landforms situated directly to the west of the proposed tank. The new tank would likely be visible from the future trailhead/staging area. In addition it would be seen from points along the future recreation trail. It is also possible that some views of the tank would occur from limited areas within the southernmost portion of the Ruby Hill or along East Vallecitos Road, just south of Ruby Hill. These locations are situated about three quarters of a mile or more from the proposed tank site.

The potential visibility of the proposed water tank with respect to the DEIR visual simulation viewing locations is described briefly below.

Viewpoint 1 (Future Trail Located Onsite). The tank would be located beyond the view captured in the simulation photo (about 14 degrees outside the horizontal field of view to the right). Based on computer modeling results it is expected that the tank would not be seen from this location due to intervening topography.

Viewpoint 4 (Hearst Drive). Dense vegetation and topography situated at the right side of the view would screen views of the tank.

Viewpoint 8 (Grey Eagle Court). The proposed tank would be located out of the view to the left. As seen from this location it is expected that existing topography, vegetation and future development, as well as the home seen on the left of the photo would screen the tank from view.

Viewpoint 9 (Red Feather Court). Topography seen on the left side of the photo would screen views of the tank from this location.

Viewpoint 14 (Bernal Avenue). The proposed tank would be hidden behind topography just to the right of the center of the view.

(b) See response C6.

## **C 6 Comment Summary:**

Some existing homes on hilltops have glass which produces excess reflected glare at sunrise/sunset so that the homes produce a reflective glow at certain times of day. Provide visual simulations for worst case scenarios that would show reflections of glass from homes from distant viewpoints in morning and evening hours.

### **Response:**

The project proposes preserving the majority of the site (nearly 500 acres) as open space which would not include new sources of light or glare. Potential glare could occur at the developed area of the site as a result of the sun's reflection off of the exterior surfaces of buildings or other structures. However, these potential glare effects would be minimized through the installation of proposed project landscaping as well as the implementation of several of the Mandatory Design Guidelines (DEIR



Appendix G) which call for the use of nonreflective exterior colors and materials that will blend with the natural environment and limit visual prominence of structures. For example, the use of bright plaster or bright colors such as white, pink, or yellow for walls is prohibited.

To the extent windows of the new homes result in some degree of additional glare, the introduction of the 51 homes proposed under the Alternative 4 project would be a relatively minor increase in the context of current conditions in the existing surrounding residential areas located to the north and northwest. Over time, as site landscaping matures, additional screening provided by vegetation will reduce visible glare from the new house windows. Overall, considering the types of materials specified for structures (Appendix G) and the extensive tree-planting proposed, the possibility of creation of substantial glare from development of the site is minimal.

### **C 7 Comment Summary:**

- (a) Provide replacement visual representations taken with 50 mm lens and a table of viewpoints listing figure number, location, viewing distance, date/time taken).

Prepare these exhibits in at least 8½X11 inch format as approved originally by the City Council in the Mundie & Associates proposal:

EIR Task 4 p. 3, Technical Specialists' Work Scope – Environmental Vision – "A set of twelve (12) draft and twelve (12) final simulation images will be submitted in 8½ by 11 inch color format (one existing and one development footprint image per viewpoint)"

- (b) Do not use a 28 mm wide angle lens (as DEIR Appendix H indicates was used in the DEIR), as this distorts the position of foreground objects in relation to background objects to make background objects appear further away than how the eye would see them. The 50 mm lens represents objects as the eye would see them. If the 50 mm lens will not show the entire project area site, take multiple pictures from a viewpoint location.

### **Response:**

- (a) The DEIR includes a set of color visual simulation images formatted for presentation at 8½X11 inches. This format is consistent with the Mundie & Associates proposal approved by the City Council. The "Oak Grove DEIR Visual Re-Print Portfolio" (January 2007) includes additional 11X17 inch sheets with larger images. Copies of the portfolio have been provided to the Planning Commission and City Council members. Copies are also available for public review at the City of Pleasanton Planning Department

The following summarizes the requested information regarding figure number, location, viewing distance, date/time taken.

1. Figure 11a-11d (Recreational Trail Onsite), located less than 1 mile away; taken on 10/18/05 at approximately noon.
2. Figure 12a-12d (Hearst Drive), located less than 1 mile away; taken on 4/19/06 at about 1 PM.
3. Figure 13a-13d (Grey Eagle Court), located less than 1 mile away; taken on 4/19/06 at about 2 PM.
4. Figure 14a-14d (Red Feather Court), located less than 1 mile away; taken on 4/19/06 at about 2 PM.

5. Figure 15a-15d (Bernal Avenue), located about 1 mile away; taken on 4/19/06 at about 12 noon.

(b) Refer to Visual Master Response 1 which documents the suitability of wide angle photography for the purpose of EIR visual simulations.

**C 8 Comment Summary:**

Photographic representations of 2X3½ inch dimensions are inadequate to assess the project site. Please replace visual representations with clear images taken in 50 mm format and printed at least in 8½X11 inch format.

[Commenter submitted an example photo taken from the Bernal Property, which she stated would be visible from at least one cul-de-sac on the Oak Grove site.]

**Response:**

The "Oak Grove DEIR Visual Re-Print Portfolio" (January 2007) includes 11X17 inch sheets with existing visual character photo images presented in color at 7¼X4¼ inches. A total of 25 photos are included (Figures 7 through 9c). Copies of the portfolio have been provided to Planning Commission and City Council members. Copies are also available for public review at the Pleasanton Planning Department.

**C 9 Comment Summary:**

Replace visual representations taken from the Valley/Stanley/Bernal intersection with clear images taken in 50 mm format and printed at least in 8½X11 inch format.

[Commenter submitted a photo taken from the Valley/Stanley/Bernal intersection, which she stated would be visible from almost all cul-de-sacs on the project site.]

**Response:**

See response C8.

**C 10 Comment Summary:**

The DEIR contains no visuals from locations at high elevations within Pleasanton. Add the following views to the portfolio of visuals to represent areas from which the site is visible:

- (a) a site from Foothill Road; for example, Raccoon Hollow and Adobe Alviso park area [commenter provided a photo],
- (b) the I-680 South flyover to I-580 East (the existing DEIR had a confusing statement that said "The site is barely visible from downtown Pleasanton and I-680"),
- (c) the Hacienda overpass of I-580,
- (d) near the W. Las Positas bridge over I-680,
- (e) McKinley Park,
- (f) the Iron Horse Trail, and
- (g) the entrance gate to Augustin Bernal Park.
- (h) Also please retake the Chain of Lakes photograph to aim toward the project site.

**Response:**

Representative views of the project site from a number of publicly accessible areas

are presented in the DEIR. CEQA does not require the visual analysis to document or evaluate a project proposal from every vantage point from which it would be seen. Visual Master Response 3 includes a detailed description of methods employed to systematically document existing views of the site, including the incorporation of input received from members of the public, the City of Pleasanton Planning Commission and City Council.

The following additional information is provided regarding the project's potential visibility in response to the commenter's request:

- (a) Foothill Road in the vicinity of Raccoon Hollow Court and Alviso Adobe Community Park is located approximately 3 miles west/northwest of the project site. Views of the Oak Grove Project from this area would be similar to, though slightly more distant than those from Interstate 680 at Bernal Avenue and Bernal Residential Development (see photos 20 and 21, Figure 9c of the DEIR). Portions of the project could potentially be visible, but would not appear prominent when seen from this distance.
- (b) The Interstate 680 flyover to Interstate 580 is situated about 5 miles northwest. Due to the elevation of this structure, there may be views of the project site. Views of the project would be brief in duration and, given the viewing distance of more than 4.5 miles, details would not be discerned.
- (c) The view from Hacienda overpass of Interstate 580 would be similar to Photo 24 on Figure 9c of the DEIR, taken from El Charro Road at Interstate 580. Like the El Charro Road Interchange it is located along the Interstate 580 corridor, approximately 3 miles north of the Project site, and at this distance landscape details, including proposed project elements, would not be discerned.
- (d) The vicinity of W. Las Positas Boulevard at Interstate 680 lies almost 4 miles northwest of the project site. Potential views from this location may be similar to those from Interstate 680 at Bernal Avenue (Photo 20, Figure 9c). Again when seen from this distance, landscape and project details at the site would not be discerned.
- (e) McKinley Park is situated approximately 1 mile northwest of the site on Kottinger Drive. Located on a hill with a high point of approximately 460 feet in elevation it is likely that views of portions of the project site would be available from this vantage point; however, views would be partially obstructed by existing vegetation.
- (f) The Pleasanton portion of the Iron Horse Trail is a 1 mile section linking Santa Rita Road with the intersection of Valley/Busch. This section lies roughly between 1.5 and 3 miles away from the project site along a northwest trajectory similar to that of DEIR Figure 9a, Photo 14 (Bernal Avenue at Utah Street). Views from this trail would be very similar, but because of the increased viewing distance landscape details at the site would be more difficult to discern than those shown in Photo 14.
- (g) Augustin Bernal Park is located approximately 3 miles west of the project site. The entrance is situated at an elevation approximately 400 feet higher than most of central Pleasanton. Views from the entrance gate would likely be available and may be somewhat similar to others from southern Interstate 680, such as Photo 20 (DEIR Figure 9c).
- (h) Photo 17 (DEIR Figure 9a) taken from the Chain of Lakes area does point toward

the site. The site is not visible from this area because existing topography toward the right side of the photograph screens potential views.

See also response A1.

**C 11 Comment Summary:**

Please discuss vibration impacts of existing houses and construction traffic.

**Response:**

See response D33.

**C 12 Comment Summary:**

Please discuss the impact of pedestrian safety related to the Open Space Design Guidelines description of no sidewalks.

**Response:**

The project site plan includes a sidewalk on one side of all public streets (DEIR p. 8, end of first paragraph under Access). The Design Guidelines, which are also part of the project, provide additional detail regarding this sidewalk.

**C 13 Comment Summary:**

Provide an analysis of the visual impacts while the grading is occurring.

**Response:**

See response D17.

**C 14 a. Comment Summary:**

Please discuss the lack of proposed neighborhood recreation facilities in Alternative 4 in relation to meeting the recreational needs for small children and the social opportunities of small children.

**Response:**

The number of very young children in the 51-unit project is anticipated to be quite small, insufficient to generate a need for park facilities as part of the project.

**C 14 b. Comment Summary:**

Commenter questions aspects of the DEIR presentation relating to public parks:

- (a) The Kottinger Hills EIR (1992) discussed city guidelines that a neighborhood park be located so that each residence is within 1/2 mile of a neighborhood/community park.
- (b) The current Oak Grove EIR stipulates that each residence in the proposed development plan is within 1.2 miles of the existing city neighborhood park (Vintage Hills) and that Kottinger Community Park is less than 1 mile away. Then in another section of the DEIR, it states that Vintage Hills Neighborhood Park is 1/2 mile away from the project site.
- (c) Please discuss how the distance to access a nearby park is measured (by how a resident would walk via roads? or from an aerial straight line viewpoint?).
- (d) Please explain the discrepancies between these measurements in the versions of the EIR.

- (e) Also please provide information on what the maximum distance would be for the farthest development in the property (lot furthest in the property) as well as the closest development in the property (lot near the existing Hearst Drive terminus) if this proposal has no neighborhood park.

**Response:**

Comments relating to Kottinger Hills EIR are noted. The only environmental review document before the City is the Oak Grove EIR. As such, the Kottinger Hills EIR is not relevant to consideration of the Oak Grove EIR.

Distance from residences to the closest neighborhood park can be measured either in terms of a radius or in terms of access route. The Pleasanton General Plan uses the radius measure in its recommendations; access distance, however, is also a useful measure. Both measures are referenced in the Oak Grove DEIR.

- (a) The Oak Grove DEIR states that Pleasanton's neighborhood parks "are to be distributed throughout the City such that no residence is farther than half a mile from a neighborhood park" (p. 242). The neighborhood park location standard referred to in the Oak Grove DEIR (p. 249) is cited specifically to Program 11.8 of Pleasanton's 1996 General Plan; the distance criterion is stated in General Plan Table VII-3 as "1/2 mile radius."

(Note that the proposed project includes a 6.5-acre neighborhood park adjacent to the Kottinger Ranch project, as shown in DEIR Figures 2 and 3. This facility had not been included in an early (2004) draft development plan for the Oak Grove site, and footnote 131 (DEIR p. 249), in discussing the absence of a park and the possible compensating presence of substantial open space, relates to that earlier draft development plan rather than to the Oak Grove project addressed in the DEIR.)

- (b) If the Oak Grove DEIR states that each proposed residential parcel lies within 1.2 miles walking distance of Vintage Hills Park, that is subject to correction (reference was not given in the comment). Where the DEIR refers (p. 250) to the project as lying within one-half mile of Vintage Hills Park, that statement requires clarification. The clarification is provided in Appendix J, DEIR Errata. The DEIR consultants estimate 1.2 miles as the approximate walking distance between the east end of Hearst Drive and Vintage Hills Park (for example, on DEIR p. 243).
- (d) See (a) above. Sometimes the radial measure is more relevant and sometimes the access distance via road or foot. The community trails network planned for Oak Grove could conceivably provide a walking route separate from the road network that would connect with Vintage Hills Park at a shorter distance than the 1.2 miles mentioned in (b).
- (e) Under the 98-unit project, the parcel farthest from the eastern terminus of Hearst Drive would be parcel 93 off Court 5, at a distance of 6,700 feet via streets/sidewalks within the Oak Grove development. Court 5 would not be developed under the 51-unit project, so the distance from the most distant property would be less: parcel 32 (off Court 3) would be farthest, at a road distance of 5,400 feet. In the 51-unit project, parcel 1 (Lot 1) would be closest to the eastern terminus of Hearst Drive, at a road distance of about 550 feet.

As noted in the DEIR (p. 376), the commitment of substantial lands to open space (497 acres under the Development Agreement) would remain. This sub-

stantial open space area, with a trails system, would compensate for the fact that the park standard in the General Plan would not be met (DEIR, p. 249).

**C 15 Comment Summary:**

- (a) The DEIR states "the absence of publicly accessible trails on the site would reduce the public benefit of site development (not a CEQA impact)." Please discuss the public benefit which would be achieved or not achieved by having a large project where the open space has no trail access from trailheads/parking locations on site; and
- (b) If the open space is not open [commenter probably meant *owned*] and managed by the City, discuss whether the homeowners association plans to have a fire and security protection staff for essentially a 500-acre private park, or whether city resources will be used to maintain and manage a private homeowners association own private open space. Please discuss this in relation to the General Plan and Parks and Recreation policies.

**Response:**

The open space land will be dedicated to and acquired by the City. It would be devoted to (passive) open space rather than a park (a park is open space developed for active recreational use). The land will include a regional trail available for public use along the eastern boundary of the site and a network of community trails (see Chapter 1 of this document, p. 2). See response E1 with respect to the City's intention to own the open space. The City would provide fire and police services.

**C 16 Comment Summary:**

- (a) Provide figures other than "n.a." to show Maximum Capacity and Over Capacity for schools in Table 23 regarding school overcrowding.
- (b) Show 2006 and 2007 data to include what school Ruby Hill residents are choosing (Valley View vs. Vintage Hills) by grade. Replace "n.a." in Table 27 as well with actual numbers.

**Response:**

The Pleasanton Unified School District engages an independent consultant, Enrollment Projection Consultants (EPC), to prepare projections of enrollment. The information presented in the DEIR is based on reports prepared by that firm. As noted in the DEIR (p. 234), the methodology of the preparation of enrollment projections takes into consideration existing enrollment throughout the district, expected new development, and the enrollment characteristics of development by type and value of housing units. Larger and more expensive housing units have student generation rates (SGRs) of approximately 1.03 per housing unit (DEIR Table 24, p. 235), with enrollment "steeply slanted toward secondary grades" (DEIR, p. 236). K-5 enrollment from housing units of this type – which would be characteristic of Oak Grove – accounts for roughly 40 percent of the project's projected total enrollment, while middle/high school students would account for roughly 60 percent.

The Oak Grove site would be located in the attendance areas of Vintage Hills Elementary School, Pleasanton Middle School, and Foothill High School (DEIR, Table 27, p. 238). A 51-unit Oak Grove project would yield an estimated 53 students of whom roughly 21 would be at the K-5 level (on the average, 3+ in each grade) and roughly

32 at the middle and high school level (on the average, 4+ in each grade). (These figures update the figures for a 98-unit project in DEIR Table 27.)

- (a) DEIR Table 23 (p. 234) summarizes data for K-12 schools but, as the commenter notes, the same data are not available (“n.a.”) for all levels. EPC reports do not provide capacity information for the middle schools and high schools, because PUSD has not provided it to them (most likely because at those levels there is considerable flexibility in accommodating physically shifting enrollments). Therefore, there is no calculation of over capacity. The first footnote to the table also notes that the elementary schools that show a maximum capacity as 600 are stated in the enrollment projections reports to have a “planned surplus” of 10 percent (accommodated by portables).

PUSD staff<sup>1</sup> note that school enrollment implicit in Pleasanton’s existing General Plan has been accounted for in facilities planning by the District. Staff notes that PUSD is able to house and provide a proper program for every student. The DEIR errs in indicating (p. 233) that either high school is over capacity. The enrollment the District would anticipate from a project of the scale of the 51-unit Oak Grove project would be accommodated in existing facilities at all grade levels.

- (b) With regard to school choice by Ruby Hill residents, the EPC report notes that Pleasanton has a large amount of across-attendance-boundary enrollment and that Vintage Hills has always received a large number of students from the Valley View region, especially the Ruby Hill section. This cross enrollment alleviates capacity constraints at Valley View, but EPC projects that Vintage Hills will continue to operate below its maximum capacity. Keeping in mind that it would be at least four years before the first students from Oak Grove would begin to enroll in local schools, and that elementary school enrollment overall is projected to decline, PUSD’s elementary schools should have more than sufficient capacity to serve Oak Grove’s elementary school population.

### **C 17 Comment Summary:**

The Table 27 has a figure of only 6 students with project (“6 (22 over)”) for Vintage Hills Elementary School [which] appears to be in error. If the school has an enrollment of 642 and 42 students are added, is this not 684 students or an overcapacity of 84 students? Please correct this data or otherwise provide an explanation how each column is calculated, particularly “Student Enrollment with Project.” Explain what “Student Enrollment with Project” means and explain how the number 6 is determined and how “22 over” is determined.

#### **Response:**

- (a) DEIR Table 27 is hereby corrected and updated for Alternative 4 to show 21 students at the K-5 level and 32 at the middle and high school levels. At the elementary level, including the 10 percent planned surplus, the capacity would be 660. Actual attendance is reported by EPC (PUSD’s consultants) as 633, so an additional 21 students even in 2005 would have been within the school’s maximum capacity. As discussed in response C16, elementary school enrollment is

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<sup>1</sup> Sandra Lepley, Assistant Superintendent/Business, Pleasanton Unified School District, personal communication to Mundie & Associates, January 29, 2007.

projected to decline over the next 5 and 10 years, meaning that Oak Grove's K-5 students are unlikely to face over-capacity schools.

- (b) The “bubble” in the attendance profile over the next five years is expected to be in the high school age group. A 51-unit Oak Grove project at buildout (probably 10 years away) would add 4+ students to each grade at Foothill.

The DEIR concluded that housing provided by the project would contribute to facilities requirements of the Pleasanton Unified School District (Impact M3-1, DEIR p. 239). Mitigation is provided (Measure M3-1) requiring the development to pay applicable fees to support provision of school facilities (DEIR p. 240).

### **C 18 Comment Summary:**

Regarding building heights: The proposed Oak Grove Design Guidelines (Mandatory Sections) presented in DEIR Appendix G have provisions for steep slope lots on p. 7 as follows:

On lots where the slope of the building footprint from street side to rear is 30% or more, the building height at the down-slope portions of the structure may be raised to 36'. This is not intended to raise the street side height, which is still to be compatible with the 30' height maximum but the maximum building height may be measured along a line from 30' at the street side to 36' at the rear of the footprint. The structures are encouraged to step down the slope.

Explain how *the building height at the downslope portions of the structure may be 36'* remains within the 30' height maximum. Please provide any reference to the municipal code, etc. that indicates building heights are only measured at 'street side height.'

#### **Response:**

The Oak Grove Design Guidelines (DEIR Appendix G) quoted in Comment C18 immediately above state that, in general, the maximum building height for any residence would be 30'.

This provision is relaxed on some of the lots that the Design Guidelines define as Steep Slope Lots. A maximum height of 36' would be allowed for the lowest floor of the building (the down-slope floor) on a Steep Slope Lot if the (front-to-back) slope across the building footprint would exceed than 30%. On the few lots where this situation exists, a greater height is allowed for the lowest floor – 36' – to account for the cladding of the structure below the lowest floor level. Thus, while there is no 30' maximum height limit on Steep Slope Lots (since on qualifying lots the height may go up to 36'), not all Steep Slope Lots would qualify for the 36' height.

Regarding the direction that building height is to be measured 'street side':

- The project is a planned development permit application and, as such, is required to set standards for the subject planned development.
- The text of the Design Guidelines is clear that, even where a Steep Slope Lot qualifies for a 36' maximum height at the rear elevation, the elevation toward the street may be no higher than 30'.



## ***Comments Provided by Individuals at Public Hearings***

### **D. COMMENTS BY MEMBERS OF THE PUBLIC PLANNING COMMISSION HEARING, JULY 12, 2006**

#### **D 1 Comment Summary:**

[Allen Roberts] I own a piece of property at 29 Grey Eagle Court, currently a vacant lot which is referenced in the EIR and one of the last lots to be developed in Grey Eagle. The DEIR shows an EVA planned through my property. Apparently, the plan was to use an existing easement that I have with the City of Pleasanton, and it is my opinion and the opinion of my Counsel that that does not allow for an EVA.

#### **Response:**

The proposed project and Alternative 4 both propose to make use of this easement to provide emergency vehicle access. The City has determined that the project does have the right to utilize this easement for emergency vehicle access, as the easement was provided and dedicated to service this function. The opinion of the commenter's attorney is noted.

#### **D 2 Comment Summary:**

[Allen Roberts] The EIR calls for a maximum grade of 12 percent for an EVA or fire truck access, as I understand it, to keep things from falling off the back of the truck if it goes up too steep of a hill. That hill [in the City of Pleasanton easement on commenter's property] is 18 percent, which, I have been told by the Fire Department, is too steep for a fire truck.

#### **Response:**

EVA access is to meet design and engineering standards of the Livermore Pleasanton Fire Department (LFPD). LFPD's review of proposed EVAs take into consideration location (which should be suitable both for LFPD access and for resident emergency egress) and design criteria that include width, weight-bearing capacity, radii of curves, and provision of turn-around areas, as well as grade. The grade criterion has some flexibility depending on other characteristics of proposed site development and the components of the project's Wildland/Urban Interface Management Plan.

The California Fire Code (Appendix 3-D, Section 6, 6.1 – Grades) specifies a maximum grade of 12 percent for EVAs, with the exception that the grade can be modified with approval of the Fire Chief. Pleasanton's practice generally is to meet the 12 percent maximum wherever possible but to accept up to 15 percent where such an adjustment is warranted. An existing grade in excess of 15 percent is not necessarily an impediment to the construction of an EVA meeting LFPD requirements because grading of the route can reduce the grade to an acceptable level.

Oak Grove's anticipated provision of a major new piece of fire-fighting equipment, a Type III engine (see description, DEIR p. 231), would improve LFPD's response to fires at the edge of developed Pleasanton.

**D 3 Comment Summary:**

[Lee Fulton] A 28 mm wide angle lens was used to take the pictures in the EIR with the exception of the picture taken from Bernal Avenue (which used a 55 mm lens). The image that is the product of a 28 mm lens does not truly represent what the eye actually sees.

**Response:**

Refer to Visual Master Response 1 which documents the suitability of wide angle photography for the purpose of EIR visual simulations.

**D 4 Comment Summary:**

[Lee Fulton] The plan is to put the road on top of the ridge, and the houses down [lower than the road] on either side. But even if the houses are lower than the road elevation, what you will see from the rest of town, since you are looking up at a hill, your visual impact is going to be rooflines – it's not going to be a natural ridgeline.

**Response:**

As stated in the DEIR (p. 39), placement of houses near the ridgelines would increase the potential for visibility from offsite locations. As described in the DEIR (pp. 68-73) and illustrated in the visual simulations (DEIR Figures 11 through 15), portions of the project site would be visible from various locations in Pleasanton. As seen from various vantage points, the project's appearance would depend on many factors, including the elevation and geographical location of the viewpoint, the difference between the elevation of the proposed road and the proposed residence, the profile and height of the proposed residence, and the presence of screening vegetation. As noted in the DEIR (p. 29), from many viewpoints within the city much or all of the Oak Grove site is obscured by intervening topography.

The conditions of approval for the 51-unit project would require that site-specific visual analyses be completed for each lot in conjunction with its design review application, providing the ability to analyze the site-specific design within the context of its site and surroundings. At that time, the City will have the discretion to reduce the housing size and/or modify its footprint to mitigate its impacts.

**D 5 Comment Summary:**

[Lee Fulton] The DEIR does not show how the horizon of Mataro Court, Grey Eagle, Vintage Hills, and Vintage Hills II look from the Busch property. From the City Corporation Yard [on Busch Road east of Valley Avenue], you can see Hearst Drive, and all the houses on the north side of Hearst Drive will block the view of the ridge. From McDonald's [southwest corner of Bernal Ave. and Stanley Blvd.], Court 1 will be very prominent: people will look up and instead of seeing hillsides, they're going to see houses.

**Response:**

Visual Master Response 3 includes a detailed description of methods employed to systematically document existing views of the site, including the incorporation of input received from members of the public and the City.

**D 6 Comment Summary:**

[Lee Fulton] The reason why development would be along the ridgeline, according to the applicant, is environmental, but I would guess that this development pattern is also cheaper because (1) you do not have to move as much dirt and (2) you can sell each lot for twice as much because you have a killer view, at least from the house. [But] from the rest of the town looking up at the houses, your view of the ridgelines is gone ... I think we should be very careful with our only ridgelines.

**Response:**

As stated in the DEIR, p. 5: “With lots laid out along the upper areas of ridges on both sides of the access roads, the amount of earth movement required to provide roads and building pads is less than what would be required for development either on hillsides or on the floors of scattered valleys.” Minimization of earth movement allows grading to be balanced on the site. These site planning strategies avoid environmental impacts that would be associated with transporting soils between the site and other locations, and reduce fill in sensitive valley areas on the site.

With regard to the statement that “your view of the ridgelines is gone,” see response D4. Note also that the upper elevations of the Oak Grove site are lower than the ridgelines of the higher elevations in the Southeast Hills (see response I8), with the result that, from many points of view, it is the background ridges that are prominent from distant views rather than elevated points on the Oak Grove site. The same is true of Pleasanton Ridge.

**D 7 Comment Summary:**

[Lee Fulton] The area just west of Court 1 and north of Hearst Drive, that whole area that they were initially proposing for a park, that is daily hunted by hawk, kites, owls, vultures and fox at night, all the time.

**Response:**

Comment noted. DEIR Impact D4 (p. 107) identifies possible impact on raptors due to potential disturbance of active raptor nests. Also note that the environmentally superior alternative, the 51-lot site plan selected as the project, would not place a park in this location.

**D 8 Comment Summary:**

[Lee Fulton] You are asking about landslides – that same area right below Court 1 has had several landslides over the years. It is really steep – so steep that kids used to go up there with their four-wheel drives and needed to be pulled out.

**Response:**

DEIR Figure 3 (p. 6) shows the proposed location of the park; topographic lines included in the graphic indicate the steepness of the slopes. The layout of the park would focus the primary use area on the portion of the site that is relatively flat, as described in the DEIR (p. 247). Further, under Alternative 4, the environmentally superior alternative, development in the area in question has been eliminated.

**D 9 Comment Summary:**

[Russell Schmidt] Re construction noise: I did not find any reference to specific noise sources during construction, like backup beepers on heavy construction

equipment: a very piercing sound that carries a long way. I hear them often where I live down the hill from the Beratlis development [north of Crellin Road on the east side of Cresta Blanca Drive]. If construction is allowed on Saturday and Sunday, this noise source should be prohibited. For construction at other times, if the beepers could be turned down or the frequency changed, that would be appreciated.

**Response:**

As stated in the DEIR (p. 203), the project would have a significant noise impact:

If the project would cause prolonged interference (greater than one construction season) with normal outdoor activities in noise sensitive areas and exceed 60 dBA Leq and the ambient by 5 dBA Leq or more due to construction noise.

A “construction season” is the period during each 12-month period during which weather conditions allow outdoor construction activities to take place. In the Bay Area, that would normally be the 6-to-7-month period after the last major rainfall of the preceding rainy season (generally April) and before the first major rainfall of the following rainy season (generally November). Some construction activities can take place during the rainy season if weather conditions permit.

The DEIR (pp. 206-208) reviews in detail the sources and likely duration of construction noise associated with the project: construction-related traffic noise, construction activities during site preparation, construction activities during construction of individual homes, and construction of offsite improvements. Noise from these sources is considered in light of the significance criterion cited above. The analysis concludes that it is unlikely that these activities would generate excessive noise levels (greater than 60dBA Leq and 5 dBA Leq above the ambient) at existing residential uses in the project vicinity for a period more than one construction season, and no adverse noise impact is found.

While noise criteria are not expected to be routinely exceeded, they may be periodically exceeded over the duration of construction. Noise levels would be temporarily elevated and could be annoying at times. The possibility of temporary elevations in the noise levels and the resulting annoyance is recognized by Impact J1 and mitigation, consisting of limitations on construction hours and application of best management practices to reduce noise levels, is set forth in Measure J1.

Noise from backup alarms is frequently a cause of complaints. Backup alarms are a safety feature of construction equipment: they alert construction personnel to an on-coming vehicle via a distinct sound that is audible in noisy construction environments. Construction vehicles must either be equipped with a backup alarm or an observer must be in place to signal the driver that it is safe to proceed when a driver’s view to the rear is obstructed.

Sounds from backup alarms are audible at considerable distances, especially in quiet noise environments. Typically the sounds of backup alarms are limited in duration as compared to the overall sound resulting from the entire construction operation and these individual noise sources are not significant in the calculation of an hourly average noise level. Noise generated by such alarms were factored into the noise level calculations at offsite receivers.

**D 10 Comment Summary:**

[Russell Schmidt] Attention needs to be paid to the wind. Typically during the summer, we get a prevailing wind from south-southwest – it is usually in excess of 10 miles an hour, sometimes it can be 20 miles an hour. We have had episodes of lawn equipment being blown away and umbrellas being blown off their stands. I do not know if the air quality standards that are being suggested as abatement address the wind conditions out there, and moving 700,000 cubic yards of soil is going to be a lot of dust in the air.

**Response:**

The generation of dust and particulate matter during construction is a health concern for nearby receptors that is addressed in the DEIR in Impact C-1. The DEIR imposes Mitigation Measures C1 in response to this impact. Measure C 1 (DEIR pp. 88-89) includes all appropriate dust control measures identified by the Bay Area Air Quality Management District for a project of this size and nature that may be constructed in areas subject to windy conditions. With the implementation of these measures, construction-related dust and PM<sub>10</sub> effects would be less than significant.

**D 11 Comment Summary:**

[Russell Schmidt] The DEIR (p. 74) presents “proposed mandatory design guidelines” to address the potential for adverse light and/or glare effects. The provisions, such as not permitting floodlights, would help avoid what otherwise would be a huge impact. It would be nice if they were not “proposed” mandatory, but they were mandatory, and it is not obvious whether the City enforces that through the Planning Commission or whether the developers themselves do.

**Response:**

DEIR pages 74 and 75 address the project’s potential nighttime lighting effects. The majority of the site (approximately 482 acres) would remain in open space, and would not constitute a new source of light or glare.

The Oak Grove Design Guidelines that are presented in DEIR Appendix G would become mandatory if the project is approved and the Design Guidelines are approved as part of the project. Part J of the Design Guidelines addresses lighting, including lighting styles that would be encouraged and those that would be prohibited in order to avoid excessive light effects and glare. The provisions of the Guidelines are intended to ensure that lighting on residential lots would be “low and unobtrusive.” Specific lighting provisions include a requirement that lighting attached to structures be shielded down-lights, low wattage step lights, or lighting located in the roof soffit, and that there be no lighting of sport courts or sport facilities.

These provisions address potential light sources that might otherwise create substantial, obtrusive light effects. In streets and public areas, lighting would be by pedestrian-scaled, pole-mounted lights, with fixtures to have bulb shields to direct the glow downward and to minimize glare. The street lighting plan is presented in the Design Guidelines.

Taking the placement and design of the lighting into account, and the extent of tree planting along the street frontages of lots, it is anticipated that street lighting, seen from off the site, would not be intrusive. For CEQA visual impact analysis

purposes, nighttime visual simulations of the project are not warranted given these less than substantial potential visual effects.

**D 12 Comment Summary:**

[Russell Schmidt] Commenter is concerned that establishment of the North EVA would attract pedestrian hikers and bikers to access the Oak Grove site (including its recreational trails) on that route, adding to a persistent trespassing problem. Signage to discourage this trespassing activity has been ripped down.

**Response:**

Comment noted.

**D 13 Comment Summary:**

[Russell Schmidt] My reading of the traffic impact was that most of the intersections that are going to be impacted are already very bad, so there is really no impact. I disagree with that strongly. I think that we still need to look at the impacts there.

**Response:**

The traffic analysis observes that many of the intersections affected by the project are projected to operate at congested levels whether or not the project is approved (DEIR, p. 260), but the DEIR does not conclude that there are no impacts. A detailed impact analysis was conducted by Dowling Associates, reported in DEIR Appendix F and summarized in the DEIR text as follows:

- Table 32 (DEIR p. 259) identifies 10 intersections that are projected to operate at unsatisfactory levels of service under “with project” conditions and five additional intersections with similar unsatisfactory results but that are exempt from Pleasanton LOS standards under the provisions of the Downtown Specific Plan.
- Table 50 (DEIR p. 393) provides comparable information under the “cumulative” conditions.
- Mitigation measures are proposed for all of these impacts: see Measure O1, DEIR pp. 262-264 for the “project” phase and Cumulative Measure 1a, DEIR pp. 394-395 for the “cumulative” phase.

The impacts about which the commenter expresses concern have been considered.

**D 14 Comment Summary:**

[Russell Schmidt] There is wildlife, including great horned owls and foxes, that did not show up in the survey.

**Response:**

The species mentioned in this comment are common wildlife species that may be found on the site. No significant impacts are expected to these species from project construction. Potential impacts to nesting owls are addressed in Mitigation Measure X10.

**D 15 Comment Summary:**

[Mary Roberts] It really annoyed me that the scoping did not take place in front of this body, and I did not have a chance to do any scoping.

**Response:**

A description of the public involvement process relating to the Oak Grove EIR is presented in the DEIR, Chapter 3. This process included Pleasanton's preparation of an Initial Study, distribution of the Initial Study with a Notice of Preparation announcing that an EIR would be prepared, and a public scoping session before a joint meeting of the City Council and the Planning Commission on February 8, 2005. Scoping comments were received by staff during the period between the preparation of the Initial Study (December 4, 2003) and the holding of the public scoping session in 2005; communications received by staff prior to preparation of the Initial Study were also made available to the EIR consultants.

**D 16 Comment Summary:**

[Mary Roberts] I thank all of those who worked on Alternative 4, and I know that was partially the neighbors and the developer, and I consider it an environmentally better solution. I would not say it was superior to all, but it is better.

**Response:**

Comment noted.

**D 17 Comment Summary:**

[Mary Roberts] About ridgeline development: like Kottinger Ranch, this is all on the ridges. I have an old photograph where you can just see those scars – fingers – going up the hills, and they were there for a long time.

**Response:**

Most likely the “scars” to which the commenter refers are areas that were in the process of being graded during site development. The approval of the project and tentative map conditions will mandate that measures be put in place to stabilize all graded areas for erosion control. These requirements will be part of the stormwater pollution prevention plan (SWPPP) that the project must prepare under Mitigation Measure H2a (DEIR, p. 179). The SWPPP will include “best management practices” (BMPs) to control erosion, one of which is to stabilize soil through hydroseeding (DEIR, p. 180). Hydroseeded areas will be green and look like grass; the seed mix can be made to blend with existing grasses on the site. The grass will be green when first established, because initially it will be irrigated. At the coming of the dry season, the grass will not be irrigated and it will brown like existing grasses. These treatments will result in earth “scars” of a minimum time duration.

**D 18 Comment Summary:**

[Mary Roberts] Nothing in the EIR discusses ridgeline or why it is a superior or a better environmental solution for this. If you were to take the houses and put them down lower, cut into the hill maybe so that there is a backdrop, this ridgeline is sky – sky behind all of these houses. And that is something that we have not done in this city, or we try not to do. There may be a good reason for doing it, a good environmental reason, but it is not discussed.

**Response:**

Environmental reasons for orienting development on upland sites are presented in the DEIR project description (DEIR, pp. 3 and 5). See also response D6.

**D 19 Comment Summary:**

[Mary Roberts] I did like the tree replacement discussion that they had, and it is superior to our ordinance, which is one per six. It is much better than that. I did not understand acorn buckets. And they have to be able to protect new trees, mitigated trees or the deer will eat them. It is not just cattle that are grazing, but deer will eat any little new oak tree coming up, and if it does get up a little bit higher, then they rub their antlers on them, circle the whole thing, and they are dead. So you need some protection.

**Response:**

Commenter evidently refers to Measure D7 (addressing loss of blue oak woodland) and Measure D10 (addressing Pleasanton's Tree Preservation Ordinance). In response to the commenter's questions:

- A gallon container of acorns is considered equivalent to one replacement tree. Table 10 indicates the number of gallon containers of acorns required to mitigate impact on oak trees of various sizes; the larger the tree, the more gallons of acorns would be required to offset the loss. (DEIR p. 118)
- Recognizing the potential that not all mitigation replacement trees will survive, the mitigation area is to be monitored by a qualified biologist twice annually for a minimum of seven years. (DEIR p. 118)

**D 20 Comment Summary:**

[Mary Roberts] Regarding the design guidelines for the project:

- (a) There should be a public hearing process relating to the design guidelines;
- (b) An argument can be made for not using FARs because some of these lots are two acres. Using an FAR would mean you build put a 20,000 square foot house up there, and the visual impacts would be rather amazing, as well as hardscape on the property.

**Response:**

Comments noted. The applicant proposes that the Design Guidelines prepared for the project be approved as part of the project approval process. Therefore, the public hearing process for the project would include the Design Guidelines.

**D 21 Comment Summary:**

[Mary Roberts] They did mention that they were not going to allow any irrigation on slopes, which is a very good idea. But their landscaping on big lots like this tend to be fully landscaped and use a lot of water. And as we found in the Vineyard Corridor, the water tank was not sized correctly and had to be bigger because someone did not realize how much water Ruby Hill used.

**Response:**

Comments noted.

**D 22 Comment Summary:**

[Mary Roberts] Alternative 3 would provide a new road going through the Berlogar property. This was proposed previously in 1991 or 1992; since that time, Berlogar



has had new structures built, some of which this Commission has approved. Providing a road along the Berlogar ridge would require amending the Vineyard Corridor Specific Plan.

**Response:**

Comments noted.

**D 23 Comment Summary:**

[Mary Roberts] Alternative 3 would place a road on a ridge. One thing that is not addressed in this whole EIR is noise – noise in canyons, noise that bounces off the hills. I am quite familiar with this. So, if you do a decibel study of a car going by, it has no relation to what kind of noise bounces back and forth in those hills.

**Response:**

The DEIR addresses noise associated with the proposed project on pp. 198 to 210. With regard to the effects of topography on noise transmission or intensification, see response I17 and Construction Noise Master Response in Appendix K.

**D 24 Comment Summary:**

[Mike Regan] In summary the primary issue is the traffic, and my concern that I have stated over the years is potential breakthrough to properties beyond Oak Grove. If in fact the project is approved, there should be a mitigation (easements, legal restrictions) that would make it impossible to develop lands beyond Oak Grove in the area served by Hearst Drive.

**Response:**

The DEIR (pp. 407-408) addresses potential growth-inducing impacts of the project. Citing the Initial Study, the DEIR points out that “the existence of the Urban Growth Boundary [UGB], which can only be amended by vote of the people, would preclude growth-inducing impacts.” The DEIR (p. 189) describes the UGB as forming “the edge of land planned for urban development” as distinguished “from areas generally suitable for the long-term protection of natural resources . . .”. The UGB is shown on the General Plan Map and also, in the DEIR, on the project maps (Figures 2 and 3, pp. 4 and 6). Figure 25 (DEIR p. 188) shows that the Oak Grove site has two General Plan classifications, and the area on the east side, generally the area outside the UGB, has the General Plan classification Public Health & Safety which in general bars development (see detail in DEIR Table 14, p. 189).

Areas west and north of the Oak Grove site are already developed, while areas immediately to the east and south would not be developable because they are beyond the UGB and in a General Plan designation that bars almost all development. Figure 25 shows only one adjacent area, a narrow triangle to the southwest, that has a General Plan designation that would allow development.

In addition to General Plan limitations, the infrastructure plan for Oak Grove would not support new development beyond the project site (DEIR p. 408).

The Development Agreement calls for 497 acres of land in open space to be owned by the City. An open space easement to the Tri-Valley Conservancy or a similar entity is expected to secure this area as open space in perpetuity. In addition, the

General Plan update now in process would revise the land use designations for the site to correspond to the open space plan.

**D 25 Comment Summary:**

[Mike Regan] I think what we need to look more at is the open space, the kind of specificity of what open space is, and how that remains open space.

**Response:**

The DEIR (p. 9) discusses project proposed open space and the potential future transfer of that space to the City of Pleasanton; see also response E1. The proposed Development Agreement between the City and the applicant calls for City ownership of open space on the Oak Grove site.

**D 26 Comment Summary:**

[Mike Regan] I do not see the sight lines on some of the views that were in the actual proposed project in the DEIR discussion of Alternative 4, which seems to be the option that is being considered most heavily right now. I think that is something we need to follow up on to help understand what that project looks like.

**Response:**

Visual simulations of Alternative 4 were prepared (DEIR Figures 38 and 39) for two of the five vantage points used for the proposed project (DEIR Figures 11 through 15). These viewpoints, (VP 8 from Grey Eagle Court and VP9 from Red Feather Court) were selected because they are both public vantage points which encompass a large enough portion of the project site to portray the difference between the project and Alternative 4 yet close enough to the site to discern where these differences are discernable. Refer to DEIR (p. 348) for an explanation of why the other three viewpoints were not selected. Appendix J, DEIR Errata, also corrects three erroneous viewpoint numbers on p. 348; the correct viewpoint numbers are 1, 4, and 14.

The DEIR (p. 347), in reviewing the visual characteristics of Alternative 4, identifies some ways in which this alternative might have fewer or less visible effects than the project described in DEIR Chapter 2: it provides fewer home sites (51 as opposed to 98); it has a larger average lot size, meaning that there would be more space between buildings; and it eliminates all the lots in the southernmost cluster proposed in the Chapter 2 project.

The more limited set of simulations did not impair the ability to consider impacts. Visual modeling from other viewpoints would not disclose any new impact.

**D 27 Comment Summary:**

[Mike Regan] It is important to resolve the EVA issue.

**Response:**

See response D1.

**D 28 Comment Summary:**

[Phil Blank] Vehicles travel on upper Hearst Drive at excessive speeds.

**Response:**

Excessive speed of existing traffic on Hearst Drive is an existing condition, rather than a project impact. The applicant has offered to work with the City and the Kot-

tinger Ranch Homeowners Association to identify solutions to this and other traffic problems on Hearst Drive. The DEIR (p. 9) states that the applicant “also offers to commit funds for traffic calming improvements on Hearst Drive along the principal access route to Oak Grove.”

**D 29 Comment Summary:**

[Phil Blank] I would encourage members of the Planning Commission to walk the project site, as has been done by the Commission in other locations with environmental sensitivities.

**Response:**

Comment noted.

**D 30 Comment Summary:**

[Phil Blank] We absolutely have to have better quality visual simulations. I think the picture quality in the EIR is extremely poor. I would like to see those supplied electronically and digitally.

**Response:**

The “Oak Grove DEIR Visual Re-Print Portfolio” (January 2007) is a reproduction of the visual figures from the DEIR on 11X17 inch sheets with large, high quality images. Copies are available for public review at the Pleasanton Planning Department.

**D 31 Comment Summary:**

[Phil Blank] A 28 mm lens is good for scuba diving, but it is terrible for pictures out in the open. It really does not do a good job of rendering accurately what you’re seeing.

**Response:**

Refer to Visual Master Response 1 which documents the suitability of wide angle photography for the purpose of EIR visual simulations.

**D 32 Comment Summary:**

[Phil Blank] I would encourage you to consider extending the comment period.

**Response:**

The public review period was extended from August 15 to August 29.

**D 33 Comment Summary:**

[Phil Blank] The issue of vibration has not been addressed in the DEIR. There have been foundation problems in the fill in Kottinger Ranch and on the ridgeline in Kottinger Ranch. So, the EIR should assess the impact of construction trucks going up and down Hearst Drive for a lengthy period of time. This could certainly be mitigated by reducing the size of the construction trucks.

**Response:**

As noted in response F1, the applicant has indicated that major equipment required for site preparation and infrastructure installation would be brought to the site and remain there throughout the construction period, without otherwise contributing to

daily traffic. Therefore, the majority of construction-related daily traffic would be construction workers and delivery vehicles, with about 10 percent of the traffic consisting of trucks.

Illingworth & Rodkin, noise and vibration specialists on the EIR team, have evaluated vibration effects of construction related traffic. They estimate that peak particle velocity (PPV)<sup>2</sup> levels from rubber tire construction trucks will be less than 0.08 in./sec. at a distance of 25 feet<sup>3</sup>. Research<sup>4</sup> indicates that a safe level of ground vibration is 0.75 in./sec. to avoid damage in a modern home. Bases on these estimates, they conclude that ground vibration levels from construction trucks would be orders of magnitude below safe vibration limits.

**D 34 Comment Summary:**

[Phil Blank] The DEIR does not discuss noise relating to the Livermore Airport, a facility that has a mixture of business jet and small aircraft operations that operates 24 hours a day, 365 days a year. Expansion of that airport has been proposed that would involve new hangars, an airport extension, and a runway extension. This expansion could affect the project site, which is closer than Kottinger Ranch is to the airport.

**Response:**

The DEIR did not consider noise relating to aircraft operations because the site is not located within an airport land use plan area or within the vicinity of a private airport (DEIR p. 203). The project site is located over two miles from the Livermore Airport. Aircraft noise would be intermittent and would not generate noise levels that would be incompatible with the proposed residential uses.

## **E. COMMENTS BY MEMBERS OF THE PUBLIC PLANNING COMMISSION HEARING, AUG. 23, 2006**

**E 1 Comment Summary:**

[Mary Roberts] Question regarding how the open space acreage would be transferred from a homeowners association to the City.

**Response:**

With the selection of Alternative 4 as the project, the arrangement for open space on the site as described in DEIR Chapter 2 have been clarified as follows:

The applicant would dedicate the open space to the City of Pleasanton by an irrevocable offer of dedication (IOD). Such an offer would be made as part of a Development Agreement for this project and could be incorporated as a condition on the Tentative Subdivision Map. The homeowner's association will not own the open space; it will be entirely owned by the City.

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<sup>2</sup> Peak Particle Velocity (PPV) – The maximum instantaneous positive or negative peak of the vibration signal. PPV is often used in the evaluation of potential building damage.

<sup>3</sup> National Cooperative Highway Research Program Synthesis 218, Mitigation of Nighttime Construction Noise Vibrations, and Other Nuisances, 1999.

<sup>4</sup> United States Department of the Interior, Bureau of Mines Report of Investigations/1980, Structure Response and Damage Produced by Ground Vibration From Surface Mine Blasting.

**E 2 Comment Summary:**

[Mary Roberts] Commenter expressed concerns about homeowner association ownership of the site's open space.

**Response:**

See response C15.

**E 3 Comment Summary:**

[Mary Roberts] A staging area at the proposed park in the Vineyard Corridor would encounter a methane problem relating to its history of ownership by the Pleasanton Garbage Service.

**Response:**

The community park site in the Vineyard Avenue Corridor was formerly owned by the Pleasanton Garbage Service, Inc., which operated a landfill on the site until 1976. The Vineyard Avenue Corridor Specific Plan (June, 1999, p. 13) recognizes that the site "presents potentially major constraints to development relative to land settling and the removal of methane gas." The possibility of developing a trail staging area on that site would be evaluated when the specific siting and development of that site is considered. The topic of methane problems would be evaluated at that time.

A staging area on the Oak Grove site is proposed as part of the 51-unit plan that is the currently-proposed project for the site.

**E 4 Comment Summary:**

[Mary Roberts] Concern was expressed about the considerable length of time that it would take for the trails to be developed.

**Response:**

The timing of development of the trail system for the Oak Grove site will depend on project approval, implementation of the proposed development agreement transferring ownership of the open space to the City (see response E1), completion of a trail plan for the site that takes into account the protection of the site's biological resources, and construction of the trail network.

**E 5 Comment Summary:**

[Mary Roberts] Considerations were raised about the potential staging area. Because the regional trail is proposed to run through the Berlogar property and the staging area is relative flat, the hiking ability may be limited. The comment suggests as an alternative that the staging area function be split between two locations, off of Hearst Drive and another off Vineyard Avenue: splitting the staging area would break it up enough to avoid traffic impacts in one place.

**Response:**

The first part of Comment E5 reflects a concern that hiking on the regional trail may be limited because of the difficult terrain between the Vineyard Avenue Corridor and Oak Grove. The steepness of this link of the regional trail may limit usage if there is no staging area at Oak Grove, since hiking up to the site from Vineyard Avenue and then back again would be beyond some potential users' capabilities or time availabil-

ity. A staging area at Oak Grove would, therefore, make the regional trail more accessible to a broader number of users.

Comment E5 also points to the benefit of having two staging areas, in that traffic and parking effects would be split between two areas instead of concentrated on one. The DEIR's estimate of trip generation relating to an onsite staging area at Oak Grove was about 60 daily trips with only a very few such trips (fewer than 5) taking place during the typical AM and PM peak periods (DEIR p. 255). This estimate was based on facilities proposed for a staging area at the Oak Grove site, and did not take into account the possibility of a staging area off Vineyard Avenue.

**E 6 Comment Summary:**

[Lee Fulton] Commenter reiterated his previous comments made at the July 12, 2006, Planning Commission hearing about (a) the quality of the DEIR visuals and (b) the need for additional visuals.

**Response:**

(a) The "Oak Grove DEIR Visual Re-Print Portfolio" (January 2007) is a reproduction of the visual figures from the DEIR on 11X17 inch sheets with large, high quality images. Copies are available for public review at the Pleasanton Planning Department. See also Visual Master Response 3 which includes a detailed description of methods employed to systematically document existing views of the site, including the incorporation of input received from members of the public and the City.

(b) Additional visuals have been prepared by the applicant for consideration at the project review stage. These additional visuals include views from 14 viewpoints that include existing and post-construction conditions (Year 15). The points of view are:

- |                         |                                       |
|-------------------------|---------------------------------------|
| 1. El Charro at I-580   | 8. Pleas. Middle School (Bernal Ave.) |
| 2. Hopyard at I-580     | 9. Grey Eagle Court                   |
| 3. Las Positas at I-680 | 10. Red Feather Court                 |
| 4. Bernal at I-680      | 11. Existing Terminus of Hearst Drive |
| 5. Sunol at I-680       | 12. Onsite, View A                    |
| 6. Augustin Bernal Park | 13. Onsite, View B                    |
| 7. Stanley at Bernal    | 14. Onsite, View C                    |

These simulations, prepared for the applicant by Dahlin Imaging Studio, will be made available to the Planning Commission.

**E 7 Comment Summary:**

[Lee Fulton] Commenter expressed concern that the parklands proposed would not be accessible to the public in the absence of a staging area at the Hearst Drive entrance to the site, noting that it would be a long hike from the other side.

**Response:**

The project proposes passive open space (not "parklands"), provision of a regional trail link, a staging area for the regional trail, and conceptual easements for community trails.

Alternative 4 proposes passive open space and a conceptual easement for the regional trail, but no staging area. A network of community trails would be provided

at a later time under City ownership of the open space as is proposed in the Development Agreement (see response E1).

**E 8 Comment Summary:**

[Lee Fulton] Commenter noted that residents [presumably of Oak Grove] might not like people parking in front of their homes in order to hike the trail.

**Response:**

Comment noted.

**E 9 Comment Summary:**

[Glen Fiderko] Commenter expressed concern about the visual impacts of the development on his views [presumably from his home on Crespi Court, a cul-de-sac extending north from Hearst Drive west of the proposed site].

**Response:**

Visual Master Response 3 includes a detailed description of methods employed to systematically document existing, publicly accessible, views of the project site. The DEIR (p. 33) concludes that the site is not generally seen from the existing residential area to the north/northwest. As stated in the DEIR (p. 71), visual change associated with the proposed project could be evident from some nearby private residential properties. Similar to views from much of Hearst Drive, the publicly-accessible areas of Crespi Court are lower in elevation than surrounding residential development; therefore, public views of the site are largely obstructed by intervening topography, vegetation, and/or residential development.

**E 10 Comment Summary:**

[Glen Fiderko] Commenter does not want dirt to be dumped in the canyon as occurred during the building of the Kottinger Ranch project, which led to an erosion problem.

**Response:**

Under Alternative 4, the environmentally superior alternative, 145 linear feet of the major drainage way would subject to fill, as compared with 2,905 linear feet under the project described in DEIR Chapter 2. This reduction in the amount of fill would have the effect of reducing the potential for erosion of fill materials.

**E 11 Comment Summary:**

[Glen Fiderko] Commenter noted that the canyon acts as an acoustic funnel, and expressed concern about abatement of construction noise.

**Response:**

See response I17 and also the Master Response Relating to Construction Noise.

## ***Comments by Members of the Public Provided via Letter or E-mail to the Planning Department***

### **F. ALBIN, GREG LETTER OF JULY 26, 2006**

#### **F 1 Comment Summary:**

If Oak Grove is approved, strict adherence to time limits on all construction activities should be enforced, including:

- Limits on the time construction equipment may travel up and down Hearst Drive (including no construction traffic before 8:00 AM);
- No work on Saturdays;
- Large financial penalties for any infractions; and
- Provision that penalties for infractions be payable to Hearst Drive residents (rather than subject to award by civil court).

#### **Response:**

The noise impact analysis presented in the DEIR was prepared by Illingworth & Rodkin (I&R), acoustical consultants on Pleasanton's EIR team. Information about the construction period is presented in the DEIR pp. 206-208 and also in the Construction Noise Master Response in Appendix K.

The comment raises issues relating to construction noise impacts and mitigation.

The DEIR indicates that construction period noise would not routinely exceed impact criteria; however, those criteria may occasionally be exceeded and temporary elevations in noise levels could be annoying (DEIR p. 208). Therefore the EIR includes Impact J1 relating to construction noise and addresses that impact with Mitigation Measure J2:

Incorporate noise reduction requirements, including limit on the hours of construction activity and best management practices for construction noise, into the PUD Development Plan conditions.

In discussing the specific elements of noise mitigation, the DEIR (p. 209) observes that, for a PUD development, noise-generating construction activity on the site would normally be limited to the hours between 8:00 AM to 5:00 PM (DEIR Errata, Appendix J clarifies that this applies to work days during the week, with no construction on weekends or holidays). The DEIR notes that the Planning Director may authorize exceptions to these limits upon reasonable request(s) by the applicant.

The commenter has asked for a ban on construction traffic before 8:00 AM. Such a ban would not be necessary from the perspective of noise impacts, considering that:

- Heavy equipment used during site preparation would in general remain on the site rather than being transported back and forth from some other location;
- The bulk of construction period traffic (estimated at 50 to 100 trips/day) will be construction workers reporting to work at the site; and



- Roughly 10 percent of the traffic will be trucks (the balance will be cars).

Once the project is completed, the 51 homes would generate on average 10 trips per day, or 500 trips. Thus, construction period traffic would be less than operations period traffic, for which the DEIR does not find an adverse noise impact.

The commenter's suggestion not to permit traffic before 8:00 AM would raise difficulties for the project since construction workers would generally be scheduled to arrive at the site between 6 and 7 AM. Movement of major pieces of construction equipment could, however, be made subject to such a condition. Sanctions to be imposed in the event such a condition were to be violated would be at the option of the City in imposing conditions of project approval.

Other best management practices to reduce noise under Mitigation Measure J1 are listed in the DEIR p. 209.

**F 2 Comment Summary:**

The previous history of fires in the neighborhood raises concerns about accessibility. Accessibility could be improved by provision of a second emergency vehicle access (EVA) road, such as from the end of Benedict Court.

**Response:**

The applicant's 98-unit plan as presented in DEIR Chapter 2 included two EVAs, which are shown in DEIR Figure 3, p. 6, as the West EVA/Benedict Court and the North EVA/Grey Eagle Court).

For the 51-unit Alternative 4, a single EVA is proposed, which would be the North EVA, exiting Oak Grove to Grey Eagle Court (DEIR pp. 346 and 375). For the 51-unit Alternative 4 project, the North EVA is superior to the West EVA because (1) the average distance to the offsite public street would be less than would be the case with the West EVA, and (2) the West EVA via Benedict Court provides a connection that loops back to Hearst Drive in Kottinger Ranch, whereas the North EVA would provide emergency egress along a different road network.

**F 3 Comment Summary:**

Two EVA roads, developed as normal streets, would alleviate traffic issues on Hearst Drive.

**Response:**

DEIR Alternative 3 analyzes the development of an alternative public road access to Oak Grove. The analysis concludes that the second-road-access alternative would not be successful in diverting enough projected traffic from Bernal Avenue to have a substantial effect in reducing future congestion on the part of Pleasanton's road network served by Bernal Avenue, as compared to the proposed single-public-access-road arrangement: diversion would not be sufficient to result in acceptable level of service at the key intersection of Bernal and Hearst Drive. The findings of the analysis of Alternative 3 are likely to apply to any alternative public access road to the site, given the distance of the development from major arterials other than Bernal Avenue.

## **G. BAPTISTE, JOHN AND PATRICIA LETTER OF JULY 26, 2006**

### **G 1 Comment Summary:**

The applicant, who attempted to develop this land previously, should have been aware of the zoning on the site. If they are allowed to develop this land, why can't I tear my house down and put up 10 condo units?

#### **Response:**

The proposed project is consistent with Pleasanton's existing General Plan and zoning designations:

- As described in the DEIR (pp. 186-190), the Pleasanton General Plan, 1996, designates 489 acres of the site (the portion of the site not designated Open Space – Public Health and Safety) for Residential – Rural Density. Under this designation, the allowable density is one unit per five gross acres, to be developed predominantly as detached single-family homes. Clustering of home sites on lots of one acre or larger is encouraged (General Plan p. II-5).
- The Pleasanton Zoning Ordinance designates the Oak Grove site as Planned Development – Rural Density Residential/Open Space.

## **H. CLOSE, KEVIN LETTER OF AUG. 29, 2006**

### **H 1 Comment Summary:**

My concern regarding this item is the number of average daily trips (ADT) used by this EIR, which is cited to the ITE (Institute of Traffic Engineers) Trip Generation Manual. In previous studies Pleasanton has used a higher ADT number for estate lots; for example, the Pleasanton Golf Course and Housing Development used an ADT of 12.8. This (higher) rate accounts for trips by service providers like landscapers, pool service, housekeepers, building contractors, etc.

#### **Response:**

Comment noted. The trip generation rates used were deemed appropriate based on the nature of the development proposed in the project application.

The average daily trips associated with the proposed project were calculated as about 938, representing 98 units with just under 9.6 trips a day per unit.

Commenter's view is that a higher trip generation rate might be appropriate for housing units that are larger and/or located on larger lots to account for a possible higher volume of service trips.

If the 12.8 trip rate cited by the commenter were applied to Alternative 4, which would have an average lot size over an acre, the total daily trips for the 51 lots would be about 653: less than the ADT estimated for the proposed project.

## I. FULTON, LEE

### COMMENTS RECEIVED BY PLEASANTON AUG. 23, 2006

#### I 1 **Comment Summary:**

Some visual-resources-related concerns of nearby residents and other members of the community are identified.

#### **Response:**

These concerns are cited in the DEIR, p. 21. These concerns are not the same as CEQA criteria for significant visual impacts, which are based on California's Guidelines for the Implementation of the California Environmental Quality Act [CEQA], as cited in the DEIR, p. 45.

#### I 2 **Comment Summary:**

The consultant used a 28mm wide angle lens to take the "representative" pictures. This approach makes things look more than twice as far away as they actually are.

#### **Response:**

Refer to Visual Master Response 1 which documents the suitability of wide angle photography for the purpose of EIR visual simulations.

#### I 3 **Comment Summary:**

In the presentation of images (site photos and project simulations) in the DEIR:

- (a) Commenter maintains that the visual simulation photos are not sized adequately for a person of average eyesight to see the photos when held at the distance from the eye as suggested in Appendix H to gain an optimal impression of the project scale, and
- (b) The images are printed at dimensions smaller than those specified in DEIR Appendix H. Visual Simulation Methods.

#### **Response:**

- (a) See Visual Master Response 1.
- (b) The "Oak Grove DEIR Visual Re-Print Portfolio" (January 2007) is a reproduction of the visual figures from the DEIR on 11X17 inch sheets with large, high quality images. Copies are available for public review at the Pleasanton Planning Department

#### I 4 **Comment Summary:**

Commenter questions the selection of Red Feather Court and Grey Eagle Court as viewpoint locations in view of the facts that:

- (a) proposed houses on Court 1 would be much closer to existing homes on Hearst Drive, Mataro Court, Chianti Court, and Brandy Court than to homes on Red Feather Court and Grey Eagle Court;
- (b) Court 1, Court 2, and Street A will be prominent as viewed from various more distant sites, and

- (c) the DEIR's statement (p. 33) that, with the exception of the views from Red Feather Court and Grey Eagle Court, the project is not generally seen from the existing residential area to the north/northwest, is not accurate.

**Response:**

- (a) Some homes in the Vintage Hills area (including Mataro, Navalle, Chianti and Ruby Courts) lie in closer proximity to the site (though roughly the same distance to the proposed project and to Alternative 4 lot sites) than those in the Grey Eagle Estates. Site visits were conducted to find views from this area; however, publicly accessible vantage points with views of the project are generally not available and, therefore, these locations were eliminated as candidates for simulation. See also response to I4(b) below.
- (b) Court 1, Court 2, and the northern section of Street A comprise lots 1 through 27 of the proposed project and lots 1 through 12 of Alternative 4. These lots may be visible from limited, more distant, locations such as "the Busch Property, Valley between Busch and Stanley, Bernal between Stanley and Nevada, and Stanley Boulevard" [quoted from commenter's letter]. However, given the distances of these vantage points (most are a mile or more from the site), proposed residential development will not appear prominently. Refer to DEIR Figures 15a through 15c for representative simulations from Bernal Avenue which lies about a mile from the project. In most cases landscape details will not be highly discernable. This fact is illustrated by the existing homes seen in Photo 15 (DEIR Figure 9a) taken from Stanley Boulevard. With respect to the project's potential visibility, it should be noted that, as proposed project landscaping matures, additional visual screening will be provided.
- (c) The DEIR correctly states that "the site is not generally seen from the existing residential area to the north/northwest". Two locations were chosen for visual simulation, one from Grey Eagle Court and the other from Red Feather Court, because they represent the primary public views available from the north/northwest. In the vicinity of Vintage Hills Park and Arbor Drive, intervening hills adjacent to the site screen the project from all but a handful of locations, and the presence of existing homes and vegetation further screens views from this area.

North of the Grey Eagle estates, the landform slopes downward toward the Chain of Lakes area and views of the site are obstructed until one reaches the area near Stanley Boulevard, which lies approximately one mile away.

**I 5 Comment Summary:**

It should have been very evident to staff what areas would have been affected if they had gone up to the project. Every street, park, yard, or window that they could see would see the project, but with greater impact because of the sizes of the houses and their proximity to ridgeline and horizon.

**Response:**

As part of the DEIR visual impact assessment a systematic evaluation of the site's potential visibility was conducted. Initial computer-assisted modeling helped define areas of potential visibility, after which a series of field visits were conducted, both to the site and to surrounding areas. Field observation and photography

focused on, but was not restricted to, areas described as having the most potential visibility. Photos taken from the site of the surrounding areas were employed as a method of identifying potentially affected areas. Further computer analysis and documentation was conducted to choose the most representative public views for visual simulation. The CEQA analysis is focused on views from publicly-accessible places such as streets and parks, rather than from private property.

The commenter's statement assumes no mitigation; e.g., intervening landscaping.

**I 6 Comment Summary:**

The simulations do not represent the maximum permitted house size for each lot.

**Response:**

A set of visual simulations has been produced based upon project design data and a set of technical assumptions developed in consultation with City staff. See Visual Master Response 2 which documents the technical assumptions regarding house size and other physical development parameters.

**I 7 Comment Summary:**

[This comment takes the form of a portfolio of images prepared by the commenter, presented in Part 3 of the Responses to Comments, Texts of Communications, as Figures A through H.]

**Response:**

The commenter's images do not represent valid comparisons with the DEIR simulations for the following reasons:

The images are not produced using a replicable technical method such as that described in Appendix H of the DEIR. It is apparent based on the commenter's own explanation that no topographic data or computer modeling was used to produce the images. Instead, a set of two-dimensional house images was "scaled" in size based on a cow and fencepost, and then inserted into the photographs. The commenter's images do not take into account site grading and finished lot elevations, nor do they adequately reflect controls on building placement based on the project Mandatory Design Guidelines summarized on DEIR pp. 42 and 43 and included as Appendix G of the DEIR.

Houses shown in the commenter's images are exaggerated in size and scale. According to commenter, the original rear-elevation house drawings were scaled up by more than 50 percent to represent a height of 60 feet. However, the maximum allowable rear-exposure height is 36 feet (see response C18); at most, where viewing distance allows, heights of 45 feet (considering upper portions of residences set back from the facades) could be seen. Therefore, the commenter has portrayed the size of the houses as larger than would ever be approved or built on the site. In addition, by simply scaling the rear façade of the house drawings to represent larger houses with greater floor areas, the images distort the houses, making them appear as if they were much closer to the viewer than the proposed project actually would be situated.

Although photographic camera or lens information was not provided with the comments, the photographs appear to have been taken with a telephoto lens. As out-

lined in the Visual Master Response 1, photographs taken with a telephoto lens narrow the field of view and omit the surrounding context. (Note that one of the reasons for using a 28 mm lens is to establish the foreground context of the project site.) The view from a telephoto lens appears to be magnified when compared to a normal lens; therefore, the houses appear magnified when compared to the actual viewing conditions at these viewpoints.

**I 8 Comment Summary:**

The DEIR denies that the Oak Grove site is in the Southeast Hills.

**Response:**

The Pleasanton General Plan map that labels the Southeast Hills (General Plan Figure 1-2. Existing Features, p. I-11) places that label well to the south of the area proposed for development in the Oak Grove development plan. The Southeast Hills represent a topographic formation extending from approximately Vineyard Avenue southward. Considerable development exists in this area now, including all of the developed lands on which viewpoints 4 through 13 are located (see DEIR Figure 6a, p. 26), which include Kottinger Ranch, Vintage Hills II, and Grey Eagle developments, adjacent to the Oak Grove site).

The DEIR identifies the Southeast Hills as one of three key topographic features in Pleasanton's visual setting (the other two are Pleasanton Ridge and Main Ridge, which is part of the northwest-trending ridge that, farther south, is identified as Pleasanton Ridge). All three of these features are labeled in General Plan Figure 1-2 as cited in the DEIR (p. 46).

The DEIR text (p. 69) states that "The Oak Grove site is on the margin of the Southeast Hills." More precisely, Oak Grove is an upland site lying below the highest elevations in this topographical area. The vast majority of the Oak Grove site is below the 1,000-foot elevation contour. The highest point on the site is a little over 1,080 feet both at the southernmost point and at the border with the Foley south property in the regional trail corridor. (This elevation information corrects the DEIR, p. 133, which states that the high point is 1,020 feet).

The General Plan does not bar development of areas within the topographic unit described, as evidenced by the fact that most of the Oak Grove site carries a General Plan designation of Rural Density Residential.

South of the Oak Grove site, elevations in excess of 1,000 feet are much more common. The elevation of the ridgeline of the Southeast Hills exceeds 1,200 feet in spots, with the maximum approximately 1,264 feet. Beyond that ridge, elevations drop toward Vallecitos Valley/SR 84 farther south.

**I 9 Comment Summary:**

Commenter cites DEIR as stating (p. 69) that "No scenic vistas of public importance have been identified with respect to views into the Oak Grove site." Commenter asks what about the EIR's citation of the General Plan with respect to "Scenic vistas identified as of particular community importance" which include the Southeast Hills.

**Response:**

The DEIR text cited relates specifically to views into the Oak Grove site, which would be close range views such as those from nearby streets. Views of that kind are not called out as “vistas” in the General Plan.

**I 10 Comment Summary:**

Comment cites DEIR as stating (p. 69) that, after development, “extensive tree planting program transforms an open, savannah-like landscape to a wooded landscape. This change is not considered an adverse impact.” Commenter expresses the view that the landscape would be transformed into a residential landscape with massive houses interspersed with trees. “Most people can tell the difference. Whether they consider it an adverse impact is a matter of personal taste.”

**Response:**

The language in the CEQA Guideline on scenic vistas is “substantial adverse impact on a scenic vista.” (DEIR p. 45) The DEIR analysis shows a change in the appearance of the site that would differ from one viewpoint to another, but does not support a finding of “substantial adverse impact on a scenic vista.” Change in site appearance does not in and of itself call for the finding of an adverse visual impact.

The substitution of Alternative 4 for the project would result in fewer homes (51 as opposed to 98) on larger lots that provide for more separation between buildings, and the applicant commits to the same level of mitigation tree planting as originally proposed (DEIR p. 347). The potential for substantial screening vegetation is, therefore, improved under Alternative 4. As with the project, substantial adverse impact on a scenic vista is not found.

**I 11 Comment Summary:**

The DEIR discussion of the CEQA Guideline *Potential to degrade the existing visual character of the surroundings* (DEIR p. 71) refers to the project as having visual elements in common with existing, adjacent development; specifically, comparable development type (single family residential) similar plan layout. Commenter disputes the DEIR’s characterization of comparability, stating that residences would be “three to five times the size” [of neighboring residences?] and the site plan would not avoid “building homes on ridge crests.”

**Response:**

Residences at Oak Grove may be larger than residences in existing nearby developments: single family homes generally have been increasing in average size over the last decade.

The Design Guidelines for the project provide a building envelope schedule (see Oak Grove Residence Lot Design Guidelines<sup>5</sup>) outlining the area within which the footprint of a building could be established. These footprints delineate the maximum ground level extent of a building within its applicable setbacks, but they do not imply that any residence proposed would occupy the entire footprint. Limita-

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<sup>5</sup> Oak Grove Residence Lot Design Guidelines, Berger Detmer Ennis, Architects, and M.D. Fotheringham, Inc. Landscape Architects, December 2006, p. 2.

tions on building size would also be effected via height limits, a limit to the number of stories, observations of the landform, restrictions on grading, and design strategies to reduce building mass and bulk (guidelines, pp. 4-5). Further limiting restrictions result from architectural design guidelines applicable by type of lot (see Residence Lot Design Guidelines, pp. 9-14). Review by the Oak Grove Design Review Board and the Planning Commission would presumably reference all these guidelines, and potentially add further limitations, to avoid structures of excessive size.

The DEIR (p. 5) observes that Oak Grove, like Grey Eagle Estates and the custom home portion of Kottinger Ranch, would avoid “table top grading” and pull most homes away from the crests of ridges. The DEIR project description (p. 4) notes that residential sites would be primarily in the relatively level areas near the ridgelines, offering the advantages of reduced disturbance of the site for development, offset by the disadvantage of increased visibility. The “high visibility” lots identified in the Residence Lot Design Guidelines are subject to special requirements (Residence Lot Design Guidelines, p. 10).

## **I 12 Comment Summary:**

The vast majority of houses in this project are sited in “too-prominent locations” and will be inadequately screened. Commenter notes the EIR recognizes the potential for an impact relating to structures on some lots being “undesirably prominent” (Impact A2, DEIR p. 71).

### **Response:**

CEQA criteria for finding adverse visual impacts are cited in the DEIR, p. 45. In the discussion of potential visual impacts, the DEIR (pp. 70-73) considers whether the project would “substantially degrade the existing visual character or quality of the site and its surroundings” (one of the four visual significance criteria).

The DEIR discussion considers the degree to which the development would be visible from public viewing areas close by and at a distance. Among the considerations taken into account is the general similarity of the project to other developments that are visible from similar distant viewpoints and the substantial level of screening landscaping that is proposed for the project, including 400 “mitigation” trees. The DEIR observes (p. 73) that, “over time, as the trees mature, new development would appear more integrated into the surrounding setting and less distinguishable from both the landscape and the residential areas that adjoin it.”

Nevertheless, the DEIR finds a possibility that some Oak Grove residences may appear undesirably prominent, and that care in siting buildings on the more visible lots would be important in diminishing their visibility. While the Residence Lot Design Guidelines identify some parcels as of high visibility and, through the mandatory components of the Design Guidelines, impose additional requirements on development of those parcels to minimize the appearance of bulk and height at those sites, the DEIR recommended the addition of two more parcels to the applicant’s list of “high visibility” lots. Under the 51-unit Alternative 4, the additional parcels identified for classification as “high visibility” and therefore subject to special controls under the Mandatory Design Guidelines are parcels 33 and 34. Mitigation Measure A2 for Alternative 4 (DEIR p. 356) provides this mitigation.



## **I 13 Comment Summary:**

Mitigation Measure A2 (DEIR p. 75), which addresses the potential for some buildings to be undesirably prominent by increasing the number of lots classified as “High Visibility Lots,” would be less than effective because

- (a) The Mandatory Design Guidelines in DEIR Appendix G (p. G5 for the 98-unit project; p. G17 for the 51 unit project) provide that “When a lot is given more than one site-specific classification, the building envelope for that lot has been generally defined as the least restrictive guideline.”
- (b) “Screening Planting” is the only mitigation for high visibility lots. This mitigation will not be effective because:
  - (b1) The height of a tree required to screen a three-story house with a 60-foot rear vertical exposure, planted at the edge of a sloped lot (where the property line is substantially lower than the foundation of the house) is taller than these trees will ever be capable of growing to. (Most of the very old oaks on the property are in the 30-35 feet tall range.)
  - (b2) The number of trees required to screen a house of the proportions proposed (8,000 to 22,708 sq. ft.) is not realistic.
  - (b3) These hills are not conducive to growing trees (so mitigation tree planting will not work, particularly if the trees are oaks).
  - (b4) Future residence owners have a negative incentive with respect to the screening effects of vegetation, because they want to preserve their views. There is no mechanism to insure that the trees remain alive, let alone that they achieve the predicted size, shape, or height, unless no construction is allowed until after the trees have reached their screening size and a tree replacement ordinance is in effect.
  - (b5) A mitigation measure that will not be in effect for (optimistically) 15 years is not a full mitigation, since it does not compensate for loss of a valued natural landscape feature subject to protection in the General Plan.

### **Response:**

- (a) The Design Guidelines state that, in the case of two site specific site classifications, the guidelines generally would allow the “least restrictive” guideline to be used. The use of the more generous standard might result in project residences that would have greater visual prominence than those evaluated in the EIR analysis (i.e., size of building dimensions might be larger than evaluated). In that event, during site design review, the City can require additional visual environmental analysis to determine whether new impacts would occur.
- (b) Screening planting is not the only mitigation proposed for high visibility lots. The Design Guidelines (DEIR Appendix G) build in mitigations for those lots, which include (DEIR pp. G17-G18) more restrictive building setbacks (rear yard setbacks and rear yard alignment) and (DEIR p. G25) specific landscape requirements. The DEIR (p. 356) identifies Impact A2 for the 51-unit Alternative 4, which calls for adding two lots (lots 33 and 34) to the set of lots identified in the Design Guidelines as potentially “high visibility.” It further calls for all lots in the matrix of high visibility lots to be subject to the more restrictive building setbacks and landscape requirements contained in the Mandatory Site Specific

Guidelines. The High Visibility Lots design criteria are to be implemented in conjunction with lot-specific design application.

As stated in the DEIR (p. 42 and in the Mandatory Design Guidelines, Appendix G), construction height is limited to 30 feet. Rear vertical exposure cannot be 60 feet as stated but would be limited to 36 feet. The visibility of this 36-foot maximum exposure would generally be minimized as seen from most vantage points because the Guidelines call for stepped back design in which the higher portion of the building massing is farther away from the viewer, thus diminishing the structure's apparent size. (See also response I7.)

(b1) As stated in the DEIR (p. G11), trees suggested for mitigation include Coast Live Oak, Valley Oak, and Blue Oak which can grow to maximum heights of between 50 and 65 feet. It should be noted that the purpose of tree planting and landscaping as mitigation measures is not to completely "conceal" the project (in commenter's terms), but to provide a measure of screening which will reduce its overall visibility.

Tree heights of approximately 21 to 43 feet were used in the visual simulations to depict 15 year landscape maturity. The tree height estimates were based upon a set of technical assumptions regarding initial tree height at installation, assumed yearly growth rate and maximum growth appropriate for the species. Tree height estimates are derived, in part, from data provided by "SelectTree: A Tree Selection Guide.", Reimer, Jeffrey L. and W. Mark (<http://selecttree.calpoly.edu>).

(b2) The average building envelope of those lots specified as "High Visibility" is approximately 11,000 square feet (sf). However, as explained in Visual Master Response 2, this would not result in a 11,000 sf buildable area or a 22,000 sf house because the lot specific development elements of the Mandatory Guidelines would restrict the actual buildable area. For example, Lot 20, the largest of the "High Visibility" lots with a 20,000 sf envelope, has a Heritage tree that would significantly reduce the buildable area. Also, it should be noted again that the purpose of tree planting and landscaping as a mitigation measure is not to completely conceal the project, but rather to provide a level of screening that will reduce its visibility.

(b3) The mitigation tree plan is subject to monitoring (DEIR, p. 118).

(b4) The mitigation tree plan applies to common areas; Heritage trees on individual parcels are required to be maintained by the purchaser of the parcel.

(b5) Mitigation trees and other common area landscaping would be put in place prior to the development of individual parcels. Since the buildout of the residential units is expected to take at least four years, and possibly up to eight, substantial tree growth will occur prior to construction of many of the homes. There will be a period during which trees will not have reached their mature height but, as the commenter observes, it will be temporary.

With respect to the effectiveness of screening planting, the comments represent the opinion of the commenter based on his choice of viewpoints and his opinion regarding the effectiveness of plants in minimizing visual impacts. These comments are apparently based on specifically selected views and further seem to suggest that only a solid wall of plant material can mitigate views of homes to a less

than significant level. In fact, from viewpoints below the homes, small or slow growing plant material can provide an effective screening of large homes. Plant material used to break up the view of the mass of the homes will be effective in reducing these impacts to a less-than-significant level. Lastly, regarding views of homes from within the boundary of the project, the Oak Grove Design Review Board and the City Planning Department will have the opportunity to prescribe plant materials effective in screening homes from neighbors.

**I 14 Comment Summary:**

The DEIR does not consider any alternatives to the project that would lessen the visual impact that “some lots may be undesirably prominent.” The alternative of putting some or all of the most visible or prominent houses on less visible or prominent parts of the property should be given consideration.

**Response:**

The comment arises from the DEIR’s concern that “some lots may be undesirably prominent” in suggesting that the EIR consider an alternative in which less potentially prominent sites be substituted.

First, CEQA Guidelines for visual analysis do not call for finding an adverse visual impact merely because a building is visible or located in a visually prominent location.

Second, the fact that a lot may be located in a place of potential prominence does not necessarily mean that a building on that lot would be visually prominent. The implementation of Design Guidelines would affect the placement, dimensions, and size of any building, and landscaping both of the lot and the common area would have mitigating effects.

Third, the DEIR does consider an alternative under which the visibility of buildings on the project’s 98 parcels would be diminished. Considering areas identified as potentially high visibility in the 98-unit project as compared with the 51-unit Alternative 4:

- In the area of the Court 1 cluster, the 51-unit alternative would have fewer parcels (and buildings) than the 98-unit project: the number of high visibility parcels in this area as identified either in the Design Guidelines or in the DEIR would drop from 20 to 7; and
- The 51-unit alternative would have larger parcels, providing greater flexibility for placing the footprint of development on the site or changing the dimensions of a potential unit so as to reflect visual concerns.

**I 15 Comment Summary:**

Short term measurements should have been taken from back yards to accurately reflect the impacts of construction noise.

**Response:**

The short term noise monitoring locations, selected in consultation with City staff, were the end of Navalle Court (ST-1) and the end of Smallwood Court (ST-4) (see DEIR Figure 27, p. 199). Noise measurements at these locations were predomi-

nately the result of distant traffic and occasional aircraft overflights. They were unaffected by vehicular traffic or other activities occurring at the front of homes in the vicinity and are, therefore, representative of the ambient noise environment in the rear yards of adjacent residences.

The speech interference significance threshold of 60 dBA Leq used in the construction noise analysis would apply whatever the ambient noise environment at monitoring locations.

**I 16 Comment Summary:**

The noise environment in the project vicinity is quieter than reported in the DEIR.

**Response:**

Information presented in the DEIR (p. 200) states that noise levels at the site “result primarily from local events in the neighborhood and are generally low.” The EIR noise consultants Illingworth & Rodkin collected long-term noise data during the City of Pleasanton 2002 City-Wide Monitoring Program showing that typical weekday noise levels are approximately 52 dBA Ldn in the rear yard of the residential property located at 3407 Brandy Court. The low ambient noise environment has no bearing on the speech interference significance threshold of 60 dBA Leq. The low ambient noise environment allows residents to hear sounds that would not normally be heard in a louder noise environment (e.g., adjacent to Interstate 580).

**I 17 Comment Summary:**

The terrain in the project vicinity (hills and valleys in relation to the nearest residential receptors) will create an “amphitheater or band shell effect” with respect to construction noise, magnifying sound because it is a combination of direct and reflected sound.

**Response:**

The “amphitheater effect” often cited by the public as intensifying noise effects in areas of varied topography is usually the result of hillside locations which afford an unobstructed view of the noise source. The noise analysis for the DEIR took topographical effects into consideration and, therefore, no adjustments were required to account for an “amphitheater effect.” See also Construction Noise Master Response (FEIR Appendix K).

**I 18 Comment Summary:**

DEIR (p. 208) states that construction activities would not yield noise levels greater than 60 dbA Leq or more for a period exceeding a year at the closest receivers to the west and north. Commenter believes this conclusion is incorrect. Commenter also notes that the DEIR finds a significant construction noise impact even though the DEIR analysis concludes that construction noise would not have a significant impact.

**Response:**

The DEIR (p. 203) establishes criteria for the evaluation of the significance of noise impacts. The state CEQA Guidelines are specifically cited; the project would be found to have a significant noise impact:

(1) [If it would result in] a substantial temporary or periodic increase in ambient noise in the project vicinity above the levels existing without the project.

For projects involving temporary noise impacts resulting from construction, criterion 3 is applied by the EIR consultants as follows:

If the project would cause prolonged interference (greater than one construction season) with normal outdoor activities in noise sensitive areas and exceed 60 dBA Leq and the ambient by 5 dBA Leq or more due to construction noise.

The construction noise analysis found that site preparation activities would not generate noise levels exceeding 60 dBA Leq when activities occurred at distances greater than 1,000 feet. The noise analysis also found that there are no locations where construction of multiple homes would occur within 350 feet of existing residences bordering the site to the north or west. The construction of several homes simultaneously could conceivably generate noise levels in excess of 60 dBA within approximately 350 feet of the construction site. Given that approximately 70 percent of the proposed lots are located at distances greater than 1,000 feet from existing residential receivers, grading activities within 1,000 feet of any existing residence are expected to last less than one construction season. Noise from home construction would not exceed 60 dBA Leq. Therefore, the total cumulative duration of construction noise levels exceeding 60 dBA Leq at any particular residence would be less than one construction season.

The project is not expected to generate construction noise levels in excess of the significance criterion; however, due to the temporary elevation of noise levels resulting from construction and the annoyance such noise may cause, a significant impact was found, facilitating the City's imposing mitigation measures on the project relating to construction noise (see DEIR, pp. 208-209).

Finally, this impact is found to be less than significant following mitigation. The Errata to the DEIR corrects a typographical error found on page S9 where this impact is characterized as significant following mitigation when, in fact, the text of the DEIR noise section (pp. 205 to 209) states that the post-mitigation impact is less than significant.

#### **I 19 Comment Summary:**

Construction noise mitigation proposed includes "best management practices for construction noise" which (as it relates to the biggest noise-generating equipment) includes "equip all internal-combustion-engine-driven equipment with appropriate mufflers." The consultant's assumptions about the equipment that would make the significant noise impact already assumed they would have appropriate mufflers. How can requiring them to have what you already assumed they had make them any quieter?

#### **Response:**

The commenter correctly observes that the applicant has already committed to use of appropriate mufflers. The full set of best management practices is cited for the purpose of identifying a complete construction noise mitigation package.

**I 20 Comment Summary:**

Commenter believes that the proposed mitigation will have minimal effect on the noise impact for the closest receptors and that construction activities would yield noise levels exceeding ambient noise conditions by 5 dbA Leq or more for a period far exceeding one cumulative year.

**Response:**

See response I18.

**I 21 Comment Summary:**

Commenter suggests revising the (Alternative 4) site plan to eliminate housing units on lots 1 through 11 and relocating those units farther back in the development because these lots are the source of the majority of the construction noise impact other than traffic on Hearst Drive.

**Response:**

- In the professional opinion of the DEIR noise consultants, Illingworth & Rodkin, the impact from construction activities is not significant given total cumulative duration of construction noise levels exceeding the noise level parameter of 60 dBA Leq. See response I18.
- However, construction sounds would be audible and could be annoying to some individuals. For this reason, time limits and best management practices were recommended as mitigation to reduce construction noise levels as low as reasonably possible. See response I19.
- For reasons explained in responses I19 and I20, no mitigation is necessary and the relocation of the units identified is not required to meet the cited noise standards.

**I 22 Comment Summary:**

Comment expresses belief that conclusions dealing with Aesthetics and Visual Resources should be declared inadequate because:

- Visual simulations were improperly done,
- Areas that might be visually affected were not adequately researched,
- Project was not considered part of the Southeast Hills that Pleasanton has expressed a desire to protect views of, and, therefore,
- Alternatives to address visual impacts were not considered.

**Response:**

As the responses in this Responses to Comments indicate, visual simulations were properly done, consistent with CEQA standards, including simulation of project topography and simulation of project buildings consistent with mandatory Design Guidelines:

- Areas of visibility were determined based on detailed analysis of topography and, while not every visible location was simulated from every conceivable public viewing location, viewpoints selected offer representative views of post-project

conditions. See responses I2 and I3 and Visual Master Responses 1 and 2 which document the technical assumptions and accuracy of the visual simulation methodology. See, also, responses I4 through I6 and Visual Master Response 3 regarding research of visually affected areas.

- The DEIR describes the project site as on the margin of the Southeast Hills, a location that includes neighboring areas as well (for example Kottinger Ranch); development in this area is not barred by the General Plan.
- The DEIR, in Alternative 4, considers a site plan that would diminish the visibility of residences on the project site by (1) reducing residential development overall from 98 to 51 units; (2) increasing parcel size, allowing greater flexibility in the location of building footprints and in adjusting building dimensions to respond to visibility concerns at the project review stage; and (3) reducing the number of residences on parcels characterized as “high visibility” from about 25 parcels to about 11 (counting in both cases both the Design Guidelines classification of sites and the DEIR’s recommendation of additional parcels).

**I 23 Comment Summary:**

Commissioners should visit the entire site and seek ways of balancing provision of residences on the site with reducing development on hilltops and ridgelines, even if such an approach might require additional grading and loss of existing additional trees.

**Response:**

Comment noted.

**I 24 Comment Summary:**

Approval of this project could “grandfather” a development plan that may prove to be in conflict with the General Plan update now in process.

**Response:**

The approval of the project requires a finding of consistency with the Pleasanton General Plan.

**I 25 Comment Summary:**

The “Southeast Hills” needs a more specific definition.

**Response:**

See response I8.

From page 15 of Communication I to the conclusion of that communication, the materials presented are not comments on the DEIR and, therefore, no responses have been provided.

## **J. HOWE, BOB**

### **LETTER OF JULY 12, 2006**

#### **J 1 Comment Summary:**

The project should be provided with a second public access road (in addition to Hearst Drive). This second access road should not be Red Feather Drive; it should be a route that would serve as a major alternative to Hearst Drive for traveling to and from the Oak Grove site.

#### **Response:**

The DEIR's investigation of such a route is represented by Alternative 3, as discussed in Chapter 4 of the DEIR. Alternative 3 is the Berlogar Ridge route. This route has the advantage of a point of origin within the project that is theoretically far enough east to be able to attract north- and east bound project trips in preference to Hearst Drive. The DEIR analysis indicated, however, that this route would not be effective in diverting sufficient traffic to warrant the effort (in terms of cost, dislocation, other environmental consequences, etc.). The commenter's suggested "higher speed route" might be effective in diverting more project traffic from Hearst Drive, but a broader justification for the provision of such a road would have to be demonstrated, particularly in view of the fact that the level of adverse impacts associated with either the 98-unit project or the smaller 51-unit Alternative 4 is small relative to background traffic levels.

#### **J 2 Comment Summary:**

Pleasanton already has a need for additional roadways to support the traffic that we have today, [particularly] "beltway" thoroughfares that would enable traffic to get from one side of town to the other, or to access the I-680 and I-580 freeways, without going through downtown. With the possible exceptions of parts of Bernal Avenue, Stoneridge Drive, and Owens Drive, Pleasanton's major boulevards do not serve this function, but operate as spokes going to the central hub of the city.

An example of a new roadway that would serve this function [in the judgment of the commenter] would be a major new boulevard between the east side of Pleasanton and Sunol Blvd. Each new development should mitigate its impact on Pleasanton's existing infrastructure by making a contribution to such "beltway" thoroughfares.

#### **Response:**

The commenter's suggestion for a new "beltway" system of thoroughfares in Pleasanton goes beyond the specific traffic issues that relating to the Oak Grove project, which are focused on Hearst Drive at Bernal Avenue and intersections closest to that location. Commenter's views are noted for the record.

#### **J 3 Comment Summary:**

Purchasing traffic lights as suggested in the EIR will only serve to worsen the existing traffic problem.

#### **Response:**

The DEIR (p. 259) notes that the operation of the Hearst Drive intersection with Bernal Avenue under the EXISTING+APPROVED PROJECTS with Oak Grove is unsatisfac-



tory at level of service [LOS] F in the evening peak period, with delay estimated at 27.4 seconds without the project and 55.7 seconds with the project (DEIR p. 259). The installation of traffic signals would improve the operation of that intersection to LOS B during the peak period, with delay reduced to 10.4 seconds (DEIR p. 263).

## **J. HOWE, DENISE**

### **LETTER OF JULY 26, 2006**

#### **K 1 Comment Summary:**

I am satisfied with the 51-home development (Alternative 4), a deduction from the 98-home development (the proposed project): I think it is a good compromise for everyone involved. I was happy to see that Alternative 4 would have a sidewalk on one side of the public streets (the proposed project does not). I am also very pleased with the open space and the option the City has to make it a public area with trails.

#### **Response:**

Both the proposed project and Alternative 4 would have a sidewalk along one side of every public street.

## **L. JACOBY, STEVEN AND CARROLL**

### **LETTER OF JULY 23, 2006**

#### **L 1 Comment Summary:**

The proposed project could have a significantly undesirable visual effect from my house.

#### **Response:**

Comment noted. Visual Master Response 3 includes a detailed description of methods employed to systematically document existing, publicly accessible, views of the project site. As stated in the DEIR (p. 71), visual change associated with the proposed project could be evident from some nearby private residential properties.

#### **L 2 Comment Summary:**

The views from Red Feather Court presented in the DEIR are distorted as they appear to have been taken using a wide angle lens which makes everything look smaller and further away.

#### **Response:**

Refer to Visual Master Response 1 which documents the suitability of wide angle photography for the purpose of EIR visual simulations.

#### **L 3 Comment Summary:**

We don't believe overly huge/high houses along the ridge line can be adequately masked with landscaping. We hope the Planning Commission will consider size and height limitations consistent with the square footage of the houses.

**Response:**

Comment noted. The project's Mandatory Design Guidelines (summarized in the DEIR pp. 42-43 and included as Appendix G) include setback requirements, a 30 foot maximum building height limit, and requirements for tree preservation that will restrict the overall building size. As stated in the DEIR (p. 43), prior to actual site development or home construction on individual lots, both Oak Grove Design Review Board (OGDRB) and City of Pleasanton Planning approvals including the City Design Review Board approval are required. Landscaping, while not meant to "mask" the project, will provide a level of screening which will reduce the overall visibility of residential development.

## **M. JENNINGS, JULIE AND DOUG LETTER OF JULY 3, 2006**

**M 1 Comment:**

The development would greatly increase residential and construction traffic on Hearst and Bernal.

**Response:**

*Residential Traffic.* The DEIR traffic analysis of the project's operations period includes both an intersection analysis and a residential street analysis. For the intersection analysis relating to Hearst and Bernal, see response J3.

The residential street analysis, as discussed in the DEIR (p. 261), concluded that Hearst Drive would operate acceptably with the addition of project traffic.

*Construction Traffic.* The construction traffic associated with the project would generate fewer trips than the completed project, and the majority of these trips would be outside of the AM and PM peak hours. See DEIR discussion, p. 261.

**M 2 Comment:**

Whether or not the proposed project is approved, the City should consider ways to alleviate the problems at the intersection of Hearst and Bernal. There is a non-stop flow of traffic on Bernal during business and school days between 6:00 and 9:00 AM and between 4:00 and 7:00 PM. The majority of those vehicles belong to residents who do not live in this area. This high volume of traffic creates a very dangerous situation for drivers trying to make left turns, either from Bernal onto Hearst or from Hearst onto Bernal.

**Response:**

See response J3 for a discussion of the project's proposed mitigation measure of installing a traffic signal at Bernal Avenue and Hearst Drive. The installation of a signal would alleviate the existing levels of congestion at that intersection. Under signalized conditions, the left turning movements from Bernal onto Hearst would be protected such that all other conflicting traffic at the intersection would be stopped while these lefts would go. Additionally, the left turning traffic from Hearst onto Bernal would

occur during a phase where the traffic on Bernal would be stopped. In both cases, the left turns would not have to rely on gaps in the uncontrolled Bernal through traffic before making their left turns. Traffic would move both more quickly and more safely.

**M 3 Comment:**

Not only are there lots of cars, but those cars travel way too fast coming down the hill on [Hearst Drive in the direction of] Bernal. Adding more vehicles will only exacerbate this problem.

**Response:**

See response D28.

**M 4 Comment:**

Hearst Drive would suffer damage due to heavy equipment and truck traffic. Who would bear the cost of repairing the street?

**Response:**

The transportation analysis conducted for the DEIR (DEIR p. 261) anticipates that major equipment required for site preparation and infrastructure installation would be brought to the site and remain there throughout the construction period. While construction is taking place, traffic generation would be about 50 to 100 trips per day, of which about 10 percent would be trucks. The types and volumes of construction period vehicles would not support a conclusion that construction related traffic would damage Hearst Drive. In any event, the City's encroachment permit process would call for the costs of any required project-related street repairs by the City Engineer to be borne by the project developer.

## **N. LIN FAMILY**

**LETTER OF AUG. 29, 2006**

[PREPARED BY WILLIAM CLARKE FOR  
MARTIN W. INDERBITZEN ON BEHALF OF THE APPLICANTS]

**N 1 Comment Summary:**

No Alameda whipsnake impacts would result from the project.

**Response:**

While no direct impacts to Alameda whipsnake are expected during project construction, the potential exists for this species to be present on site, and precautionary measures are necessary. According to the USFWS critical habitat designation for this species, Alameda whipsnake can move and forage in grassland, oak woodland, and riparian areas up to one mile from their core habitat. Core habitat is defined as home range areas where individuals find shelter, breed, hibernate, and spend the majority of their time foraging. Core habitat for this species is scrub and chaparral habitat plus a perimeter zone of all adjacent grassland, oak savannah, and oak woodland within 500 feet of this core habitat (USFWS 2000). The entire project area lies within this potential movement zone.

**N 2 Comment Summary:**

Mitigation measures for Alameda whipsnake protection are not clear.

**Response:**

Alameda whipsnake can move up to one mile from its core habitat as outlined in response N1. Installation of silt fencing as described in Measure D6 is intended to limit movement of this species from its potential core habitat at the south end of the Oak Grove site into the construction portion of the site. Recent USFWS fencing requirements for other projects adjacent to potential Alameda whipsnake habitat have placed the silt fencing closer to the project grading limit rather than immediately adjacent to the suitable core habitat. The USFWS is very likely to include fencing requirements for this species in their permit for this project, and they may require fencing that partly or completely encircles the entire southern edge of the project grading area. If this requirement is imposed by the USFWS, then the silt fencing described in Measure D6 would no longer be required.

**N 3 Comment Summary:**

An accurate boundary for the *Viola pedunculata* has not been determined; such a boundary should be determined.

**Response:**

This comment is appropriate. The 2005 *Viola pedunculata* mapping (DEIR Figure 18, p. 106) was never intended to be more than a general mapping of locations where this species is found on the Oak Grove site. A more precise mapping of this species' distribution on all portions of the site that lie within 1,000 feet of proposed project impact areas would be useful for accurately determining (1) potential habitat of the Callippe silverspot butterfly, as well as (2) potential project impacts to this butterfly species.

The revised language for Measure D3 includes the following:

A biologist experienced in the biology of the Callippe silverspot butterfly shall accurately map the distribution of the species' host plant (*Viola pedunculata*) on focused portions of the project site, including all areas to be impacted by proposed project activities and onsite areas that lie within 1,000 feet of the proposed impacts.

Revised Mitigation Measure D3 is presented in its entirety with response CC2.

**N 4 Comment Summary:**

Mitigation measures for Callippe silverspot butterfly should require either setback buffers or silt fencing but not both.

**Response:**

The 250-foot setback buffers proposed in the DEIR version of Measure D3 are imposed during the period when butterfly larvae or adults are active. At other times of the year, project grading may occur immediately adjacent to preserved butterfly habitat. It is during these periods that the need for some type of silt fencing exists. Typical construction fencing would not be adequate to prevent accidental soil spills or soil wash-outs into adjacent preserved habitat. If the preserved habitat lies at a higher elevation than the active grading areas, then a 24-inch high silt fence would be adequate. However, on this site most immediately adjacent preserved habitat lies at

lower elevations than adjacent graded areas, and a 48-inch high silt fence should be used in those areas. This silt fencing would appropriately be located where preserved butterfly habitat lies immediately adjacent to the project grading footprint. Such fencing could end up serving a dual purpose for other fencing requirements that may be imposed by the USFWS for species protection for Alameda whipsnake or California red-legged frog.

In Revised Mitigation Measure D3 (see response CC2), silt fencing is not specifically mandated, but it may be among the package of species protection measures required.

**N 5 Comment Summary:**

The property to be surveyed for the presence of burrowing owls is overly inclusive.

**Response:**

The first sentence of the second paragraph of Measure D5 should read:

If construction is scheduled during the nesting season (February 1-August 31), pre-construction surveys shall be conducted on focused portions of the project site, including all areas to be impacted by proposed project activities and onsite areas that lie within 500 feet of the proposed impacts.

**N 6 Comment Summary:**

Reference should be made to existing emergency vehicle access easement from the Oak Grove property to Grey Eagle Court. The paragraphs headed "Access Roads" in the DEIR (pp. 226 and 228) should be revised appropriately.

**Response:**

Three access roads would be provided. All three of these routes are proposed to be designed and constructed to LFPD standards.

"Street A," a public street that would be the continuation of Hearst Drive, would be the only public street access. Two emergency vehicle access (EVA) routes would be provided as shown in Figure 2 (p. 4).

A provision for the North EVA was made previously, since the need for an Oak Grove emergency access route was anticipated at the time of the Grey Eagle development, and an easement was approved with the Grey Eagle project. Specifically:

- The North EVA would connect to Grey Eagle Court from the end of cul-de-sac Court 3.
- The potential need for this EVA was anticipated at the time the Grey Eagle development was approved.
- An easement has been established effectuating this EVA access across the adjacent property to Grey Eagle court.

See also Response D1.

**N 7 Comment Summary:**

Referencing 12 percent as the LFPD's standard for the maximum EVA road grade is incorrect.

**Response:**

See response D2.

The DEIR on p. 228 has been corrected in Appendix J to delete the reference to a maximum grade of 12 percent.

**N 8 Comment Summary:**

The DEIR statement (p. 293) that Alternative 4 is the Environmentally Preferred Alternative is incomplete. The following are additional reasons supporting the designation of Alternative 4 as environmentally-preferred:

- The developed land area in Alternative 4 is only 66 acres which is approximately 12 percent of the site and 18 percent less than for the project.
- The removal of the valley fill construction areas will reduce biological resource impacts substantially and eliminate the need for sediment basins.
- The reduction in home sites from 98 in the project to 51 in Alternative 4 results in over a 45 percent decrease in peak hour traffic on Bernal Avenue near Hearst Drive.
- Construction of only 51 lots will decrease the construction noise and traffic impacts from those of the project or Alternatives 1 and 2.
- The reduction to 51 lots and the location of the removed lots will reduce visual impacts of the project – particularly to neighborhoods near the site.

We believe the FEIR would be improved by listing these, and potentially other, reasons for naming Alternative 4 the environmentally superior alternative.

**Response:**

The DEIR discusses the environmentally superior alternative in Chapter I, pp. S14-S16, which provides a summary topical review of the DEIR's conclusions with regard to the effect of substituting Alternative 4 for the project. Among the points of environmental superiority of the 51-unit project as compared with the 98-unit project is a 45 percent reduction in project trip generation. In general, Alternative 4 is found to have an improved environmental outcome in comparison to the original project.

The commenter is correct that impacts to biological resources such as ephemeral streams will be reduced under Alternative 4; however, there is the potential for increased impacts to Callippe silverspot habitat. Soil stockpiles proposed under this Alternative would be placed on areas containing *Viola pedunculata* that potentially support the Callippe silverspot butterfly.

**N 9 Comment Summary:**

The aesthetic impact of infrastructure construction under Alternative 4 will be reduced as compared with the project, and Impact A1 that applied to the project should not be applicable to Alternative 4.

**Response:**

While fewer homes are proposed under Alternative 4 than under the originally proposed project – 51 as opposed to 98 – the infrastructure requirements will be similar to those of the original project, since most of the same road and infrastructure network would be required. Impact A1 would still apply.

**N 10 Comment Summary:**

The DEIR does not credit the fact that LOS standards are improved at two impacted intersections. We note the Alternative 4 transportation impacts and mitigation text (DEIR pp. 377-378) indicates that there will be approximately 48 percent fewer PM peak hour trips with the 51-unit project than with the original 98-unit project.

**Response:**

Under Alternative 4 the project would consist of 51 units, instead of the 98 units of the original project definition. Due to the lower number of units under Alternative 4 (51 units), the trip generation would be less than that for the full project (98 units), as presented in Table 44 (DEIR p. 377) and discussed on DEIR pp. 377 and 378. Also, as discussed on DEIR p. 378, no separate traffic model had been run for this alternative.

In order to respond specifically to this comment, Dowling Associates, Pleasanton’s transportation consultants, analyzed the intersections of Bernal @ Angela and Bernal @ Hearst) under Alternative 4 PM peak hour conditions. The results of this analysis found the following:

<u>Intersection</u>	<u>Alternative 4 PM Peak Hour</u>	
	<u>Delay (seconds/vehicle)</u>	<u>LOS</u>
(1) Bernal/Angela	33.7	D
(5) Bernal/Hearst	40.1	E

Therefore, the intersection of Bernal @ Angela would operate at an acceptable LOS under EXISTING+APPROVED + Alternative 4 conditions. The impact at Bernal @ Hearst would be reduced to LOS E under EXISTING+APPROVED + Alternative 4 conditions (would be LOS F under EXISTING+APPROVED + PROJECT (98 units) conditions).

Note also that the DEIR erred in finding an adverse impact for the EXISTING+APPROVED PROJECT with Oak Grove scenario (DEIR p. 263) for intersection (6) Bernal @ I-680 southbound onramp. The DEIR inaccurately reported mitigated AM LOS as E (72 seconds of delay) and mitigated PM LOS as D (36.5 seconds of delay) – a conclusion that results in a significant unavoidable impact, as indicated by SU in the last column. The corrected information, as presented in Appendix J, is mitigated AM LOS of C (32.5 seconds of delay) and mitigated PM LOS of D (43.2 seconds of delay). Both of these mitigated LOS levels meet City operating criteria and, therefore, the post-mitigation impact is less than significant.

**N 11 Comment Summary:**

The cumulative analysis of three southeast Pleasanton projects – Oak Grove, Lund II, and Spotorno/Greenbriar – should be more clearly and accurately described.

**Response:**

During the public scoping period for the Oak Grove DEIR, it was noted that two other projects for lands in southeast Pleasanton were then in the planning stage: Lund II and Greenbriar/Spotorno (in the Happy Valley area). The DEIR team was asked to consider the joint cumulative impacts of the three projects. This analysis, as described in the DEIR (p. 385), is not required by CEQA but was expected to contribute to an informed discussion of subarea impacts in southeast Pleasanton to which the three projects might contribute. The analysis was therefore initiated, and

has been taken as far as information resources permitted, to respond to the expression of public interest.

The Oak Grove DEIR (pp. 399-405) contains a preliminary report on the work undertaken in response to the public's information request. The results as of the time the Oak Grove DEIR was published were fragmentary and do not represent a full joint consideration of the three projects.

At the time the environmental analysis of Oak Grove began, it was anticipated that, before the Oak Grove DEIR was published, the other two projects would have reached a state of review sufficient to allow the three-project analysis to produce meaningful results for the range of issues intended to be addressed. The progress on the other two projects, however, proceeded more slowly than Oak Grove. As of the preparation of the FEIR for Oak Grove, neither of the other two projects has completed a DEIR, and one of them (Greenbriar/Spotorno) lacks a full project description, since it requires amendment of the Happy Valley Specific Plan which has not yet been prepared (resolution of issues relating to the Bypass Road has not yet been accomplished). Therefore, the information presented in the Oak Grove DEIR for Lund II and for Greenbriar/Spotorno must be considered premature. At the present time, the level of detail and certainty about potential impacts of the other two projects makes it infeasible to evaluate the joint cumulative impacts of the three projects taken together.

Consistent with the requirements of CEQA (§15130(a)(1)), the Oak Grove DEIR addresses the cumulative impacts of Oak Grove in the broader context of its setting in Chapter 7, Part C1, beginning on DEIR p. 386. It is an analysis based primarily on land use and development as anticipated and described in the City of Pleasanton General Plan. Consideration of cumulative impacts of the 51-unit project currently proposed is addressed in response N12.

**N 12 Comment Summary:**

The DEIR should include a cumulative analysis of the alternatives.

**Response:**

The CEQA Guidelines do not require a cumulative impact analysis of alternatives and, therefore, no such analysis appears in the DEIR.

With the decision to proceed with the 51-unit Alternative 4 in lieu of the original 98-unit project, however, consideration of potential cumulative impacts of Alternative 4 is necessary to complete the CEQA analysis.

Because the larger and smaller projects are similar in development type and because Alternative 4 would occupy much of the same portion of the Oak Grove site as the original project, the types of project impacts are similar, and the potential for cumulative impacts is also similar, although the magnitude of some impacts is reduced for the smaller project.

The following discussions address Alternative 4's potential contributions to cumulative impacts on those environmental topics which the DEIR considered potentially relevant to the original project.

Aesthetics        The issue addressed for the 98-unit project in the DEIR (p. 387) is whether Oak Grove, if aesthetic impacts are mitigated as



recommended, might nevertheless, in combination with other similar proposed projects, combine to result in an overall cumulative aesthetic impact. The DEIR found this possibility unlikely because of the isolated site, the distance from typical public viewpoints, and the fact that other projects, like Oak Grove, would be scrutinized (and potentially revised) to avoid adverse aesthetic effects. The same considerations would apply to Alternative 4, and no adverse cumulative impact is found.

**Air Quality** The CEQA guideline for cumulative impacts on air quality is cited in the DEIR (p. 388); the analysis of the 98-unit project (DEIR p. 85) states that 80 pounds per day of criteria pollutants is the threshold for determination of cumulative regional impacts on air quality. Impacts of the 98-unit project would not rise to that threshold, and impacts of the 51-unit project would be well below the threshold. No adverse cumulative impact is found.

**Biology** The DEIR (p. 388) observes that the cumulative context for Oak Grove is the context established by the Pleasanton General Plan, under which the Oak Grove site has been designated for residential development for many years. Buildout of the General Plan would be expected to cause biological impact through the reduction in habitat for a variety of species. The DEIR analyzes a series of development scenarios for the Oak Grove property, identifying potential impacts on biological resources and providing mitigation for potential impacts that would reduce project impacts to the less-than-significant level. The project was found to contribute to one cumulative biological impact: loss of blue oak woodland. Although the Alternative 4 project has roughly half the number of housing units as the project originally proposed, this cumulative impact would remain, in view of the fact that the site plan would involve creation of development parcels in a similar pattern to the 98-unit project (the removal of the southernmost parcels is the principal difference). A cumulative biology impact would, therefore, result from Alternative 4 in the loss of blue oak woodland.

**Hydrology/  
Water Quality** The issue addressed in the cumulative analysis of water quality is salt loading of regional groundwater resulting primarily from use of irrigation water for landscaping. The DEIR (pp. 388-390) discusses this issue and finds that implementation of efforts already under way by Zone 7 and other cooperating agencies, funded by connection fees and user charges, are expected to provide regional mitigation of basin-wide cumulative water quality impact. No additional mitigation for new development projects is necessary and, therefore, the potential cumulative impact of the 51-unit Oak Grove project on water quality is less than significant.

**Noise** The DEIR (p. 390) states that, with the buildout of the Pleasanton General Plan, cumulative traffic noise levels are anticipated to increase substantially on some roadway segments identified in the project traffic impact analysis. However, the 51-unit project would

not measurably add to any substantial cumulative noise level increases identified in the plan area: anticipated increases in the cumulative noise level would result primarily from other projects expected in the buildout of the Pleasanton General Plan. The project's contribution to cumulative noise would be less than cumulatively considerable, and no cumulative noise impact is found.

**Transportation** The cumulative analysis of Oak Grove's impacts on traffic is based on buildout of the Pleasanton General Plan in the context of growth in the region. The DEIR (p. 391) notes that, under future cumulative traffic conditions, 10 intersections outside the downtown are projected to operate at unsatisfactory levels (DEIR Table 50, p. 393). The impact of the 51-unit Oak Grove project on delay at these intersections would be slight to negligible except at Bernal @ Hearst Drive.

The traffic model was not run for Alternative 4, the 51-unit Oak Grove project. Under Pleasanton's Level of Service Policy, however, the 51-unit project would be found to contribute to cumulative traffic impacts at this intersection, notwithstanding the fact that its traffic generation would be lower than that of the original (98-unit) project. As with the 98-unit project, signaling this intersection (the recommended mitigation) would reduce delay to under 20 seconds and enable the intersection to operate at a satisfactory LOS:

Although the cumulative condition at Bernal @ Hearst can be mitigated as indicated, the DEIR (p. 397) finds that some cumulative traffic impacts are not mitigatable: Bernal Avenue at the I-680 southbound onramp and Santa Rita Road @ Valley Avenue. These unmitigated impacts would remain, irrespective of Oak Grove development. These impacts are found to be significant and unavoidable.

## O. MURALI, MARY LETTER OF JULY 20, 2006

### O 1 Comment Summary:

The comment expresses concern over the impacts to the view from the commenter's home on Mataro Court.

#### **Response:**

Visual Master Response 3 includes a detailed description of methods employed to systematically document existing, publicly accessible, views of the project site. The DEIR (p. 33) concludes that the site is not generally seen from the existing residential area to the north/northwest. The publicly accessible areas of Arbor Drive, Bordeaux Street, and Hearst Drive, which lie in relatively close proximity to the site, including cul-de-sac and adjacent sidewalk areas, are lower in elevation than surrounding residential development; therefore, public views of the site are largely obstructed by intervening topography, vegetation and/or residential development. As stated in the DEIR (p. 71), visual change associated with the proposed project could be evident from some nearby private residential properties.

With respect to views from Mataro Court, Photo 13 (DEIR Figure 8c) illustrates existing visual conditions including intervening terrain as well as existing residences.

**O 2 Comment Summary:**

I worry about how the project will affect the value of my property.

**Response:**

The economic impacts of a project are not themselves physical impacts on the environment and, unless they result in indirect physical impacts on the environment, CEQA does not require that they be considered.

**O 3 Comment Summary:**

The project raises concerns of increased traffic . . .

**Response:**

The DEIR traffic analysis is presented in considerable detail in DEIR Appendix F and in summary form in DEIR Chapter 4, Part O (pp. 258-262). The analysis found that the project would cause an increase in traffic that would contribute to unsatisfactory levels of service at 10 intersections, considering traffic from existing development, projects already approved, and Oak Grove. The DEIR reported that impacts at nine of those 10 intersections would be mitigated to satisfactory levels by Mitigation Measure O1 (pp. 262-264). This FEIR corrects the DEIR, finding that Mitigation Measure O1 would mitigate project impacts at all 10 of the intersections (see Appendix J, DEIR Errata, reference to DEIR p. 263).

**O 4 Comment Summary:**

The project raises concerns of increased population and how that will impact the neighborhood and schools.

**Response:**

DEIR Chapter 4, Part M3, presents information on the schools operated by the Pleasanton Unified School District (PUSD), including a list of existing PUSD schools (Table 26, p. 236).

The DEIR notes (Table 24, p. 235) that the student generation rate for Pleasanton schools is approximately 1.03 for each medium- or large-single family house. The DEIR also notes (p. 236) that enrollment from these larger homes is generally concentrated in the secondary school grades. The proposed 51-unit project (DEIR Alternative 4) would have a total student yield of approximately 53 students of whom perhaps 15 to 20 would be at the high school level.

The DEIR found that Oak Grove's would have an impact on schools: Impact M3-1 states that housing provided by the project would contribute to facilities requirements of the Pleasanton Unified School District. (DEIR p. 239) This impact would be mitigated by Measure M3-1: Development shall pay applicable fees to support provision of school facilities.

Fees from development provide an important source of funding for new facilities, when needed. School expansions were in progress in 2006 at Amador Valley and Foothill High School. As the DEIR points out, PUSD also uses other strategies to address enrollment increases, including adjustment of attendance boundaries for

schools and utilization of modular classrooms to bridge periods when enrollment exceeds constructed capacity. Given the smaller number of students associated with the 51-unit project as compared with the 98-unit project that was the focus of the DEIR, impacts of the Oak Grove project would be reduced.

**O 5 Comment Summary:**

Noise is another concern because of the bowl effect that results when big slopes form a valley. The construction noise would be very intense.

**Response:**

See Master Response Relating to Construction Noise. See also response I17.

**O 6 Comment Summary:**

There would be a huge amount of settling of construction dust and dirt which is a health hazard.

**Response:**

See response D10.

## **P. NEWTON, CAROLYN LETTER OF AUG. 30, 2006**

**P 1 Comment Summary:**

The DEIR (pp. 206-208) states that “no adverse noise impact was found”; it also states that the noise will continue for 6 to 8 years and “could be annoying at times.” The DEIR also states that most of the noise will be in limited areas, with a limited area of impact. However, sound really carries from the tops of these hills. (Even when someone is talking normally, in the hills a couple of streets over, the sound carries so well that I can hear what they are saying.) So the distance from the construction area won’t diminish the level of noise to the surrounding area. Having construction noise for 6-8 years will definitely affect the quality of life for those in the area (including wildlife). The mitigations won’t make this impact “less than significant.”

**Response:**

See Construction Noise Master Response in Appendix K.

**P 2 Comment Summary:**

Pleasanton’s growth has made the remaining open space more precious: it is an irreplaceable natural resources that, once developed, is gone forever.

**Response:**

Comment noted.

**P 3 Comment Summary:**

The mitigation measures set forth in the DEIR (and summarized on pp. S2-S11) may have some beneficial impacts but not enough to compensate for the numerous and varied ways the project will adversely affect the environment. Because there are so many variables involved in predicting the future, how can one be certain that impacts evaluated as less-than-significant-after-mitigation will in fact be less than significant?

**Response:**

The environmental consultants undertake their work in accordance with established professional standards. They pursue their work consistent with the provisions of the California Environmental Quality Act (CEQA) and State guidelines for implementing CEQA, and with the objective of providing the public with sound information for decisionmaking.

The mitigation of impacts described in the DEIR depends on the implementation of the mitigation measures. A mitigation monitoring and reporting plan is prepared upon completion of the EIR, indicating when and by whom each mitigation measure is to be implemented. The MMRP is the primary vehicle for assuring that mitigation is completed as anticipated in the environmental analysis.

**P 4 Comment Summary:**

City decisionmakers, as stewards for this land, are encouraged to:

- (1) reduce the number of residences and maximize the amount of open space, and
- (2) place houses in the least obtrusive locations and keep those located on the higher, more visible sites to a single story.

**Response:**

Comments noted.

**Q. NEWTON, JEFF NEWTON  
LETTER OF AUG. 30, 2006**

- Q** This communication is identical to Communication P. No additional responses are needed.

**R. RAYMER, LAURA AND MARSHALL  
LETTER OF JULY 26, 2006**

**R 1 Comment Summary:**

The City should not rush to accept the proposed alternative for this project [DEIR Alternative 4], in view of the a neighbor's statement that houses can be up to 25 percent of the lot size. If the lot is 2 acres as in some cases, that is a huge home on the ridgeline.

**Response:**

The scale of residences is limited by the requirements of the mandatory Design Guidelines and may be further limited by the City of Pleasanton during the project review process. See response I11.

**R 2 Comment Summary:**

The photographs taken by the developer representing the view from Grey Eagle Estate should not be accepted by the City, which should supply its own photographs to make sure that homeowners' views from Grey Eagle are truly accurate.

**Response:**

The EIR consulting team was selected by the City of Pleasanton for the Oak Grove EIR, and the visuals presented in the DEIR are the work product of the DEIR team. Graphics in the EIR that are the developer's work product are identified as such. None of the EIR photographs or visual simulations were prepared by the developer.

**S. ROBERTS, ALLEN**

**LETTER OF JULY 11, 2006**

**[PREPARED BY MILLER STARR & REGALIA]**

**S 1 Comment Summary:**

The EVA to the north is to be located to access Grey Eagle Court via the extension of cul-de-sac Court 3 (DEIR, p. 8). This North EVA would cut across property owned by Mr. Roberts. Mr. Roberts has not given his consent, nor does he intend to give his consent in the future, to the applicant's locating an EVA on his property. Therefore, either the EIR must identify an alternative route for analysis under CEQA, or the City will have to initiate an eminent domain action against Mr. Roberts to obtain access through his land; the City also needs access over Grey Eagle Court, which is a private street.

**Response:**

See responses D1 and D2.

**S 2 Comment Summary:**

The proposed EVA to the north is proposed to be designed and constructed to LFPD standards, which include a maximum grade of 12 percent. The portion of Mr. Roberts' property for which he has granted an EVA to the City is steeper than 15 percent.

**Response:**

See response D2.

**S 3 Comment Summary:**

Mr. Roberts is not otherwise opposed to the proposed Oak Grove PUD.

**Response:**

Comment noted.

**T. SCOTT, BRYAN**

**LETTER OF JULY 3, 2006**

**LETTER OF JULY 14, 2006**

**T 1 Comment Summary:**

The correct name for one of the developments adjacent to the proposed project on the north is "Vintage Hills II," not "Vintage Heights I," as it was incorrectly referred to in the Notice of Public Hearing for the July 12 Planning Commission meeting. Vintage Heights I is north of the Lin site, but it does not abut the Oak Grove property.

**Response:**

Comment noted. The DEIR (pp. S1 and 5) indicates that properties neighboring the Oak Grove site include Kottinger Ranch, Vintage Hills II, and Grey Eagle Estates.

**T 2 Comment Summary:**

At the Planning Commission meeting of July 12, Allen Roberts said he owns property essential to implementing the North EVA. He said he did not want to sell the land or allow the EVA. He also said the grade was 18 percent, and the maximum standard for such roads is 12 percent, so the route is unsuitable for its purpose. Is this a problem?

**Response:**

See responses D1 and D2.

**T 3 Comment Summary:**

How difficult would it be to keep the 6.5-acre neighborhood park?

**Response:**

This comment relates to project planning; it does not raise a CEQA issue.

## **U. SMITH, KEN**

### **LETTER 1 OF JULY 25, 2006    LETTER 2 OF JULY 25, 2006**

**U 1 Comment Summary:**

[Commenter reports that several of the Oak Grove homes would be in direct view from his home at 3441 Brandy Court in the Vintage Hills development.]

Every one of the proposed Oak Grove homes will be located on the ridge tops of that parcel, meaning that one of the most dominant features of this valley will be lost.

**Response:**

Most of the parcels proposed for development are located wholly or in part in the relatively level areas near the ridge tops. For reasons discussed in DEIR Chapter 2 (pp. 3 and 5), some of the homes are likely to be located on the crest of a ridge. Whether that location is actually seen as a ridgetop depends on the location of the viewpoint from which the parcel is viewed. Ridges of higher elevations form the background for many views of the Oak Grove site, which means that from many or most viewpoints, buildings in the Oak Grove uplands would not be “profiled” against the sky. See also responses D4 and I8.

**U 2 Comment Summary:**

The Oak Grove development, as it is proposed with the building of homes on ridgelines, will degrade the views of many more residents than the EIR says will be affected.

**Response:**

The DEIR does not estimate the number of residents who will find their views affected as a result of the Oak Grove project. Many existing homes in Pleasanton appear along a “ridgeline” as seen from other locations.

**U 3 Comment Summary:**

There are very few places in Pleasanton or the entire valley that can NOT see the ridgelines involved in this project.

**Response:**

Visibility of the site varies considerably from different Pleasanton locations due to intervening buildings, landscaping and other vegetation, and topography. The fact that the site is visible does not necessarily mean that the visibility of buildings on the site is an adverse impact under CEQA. Impacts are evaluated according to criteria based on CEQA guidelines. See DEIR p. 45 for significance criteria applicable to aesthetic impacts.

**U 4 Comment Summary:**

I hope that the members of the Planning Commission will consider the current plan to be detrimental to the natural beauty of this area.

**Response:**

Comment noted.

**U 5 Comment Summary:**

If each of the new homes were to be below the natural ridgelines of the hills, few residents would have any objections to this project.

**Response:**

Comment noted.

## **V. SYMONS, LISA AND KEITH LETTER OF AUG. 29, 2006**

**V 1 Comment Summary:**

We have been following the progress of the Oak Grove Development as it goes through the approval process. Commenters [who live in Kottinger Ranch] state that they are strongly in favor of the plan and think that the Oak Grove development will be a great asset to Pleasanton.

**Response:**

Comment noted.



## ***Comments Provided by Other Public Agencies***

### **W. ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7 WATER AGENCY LETTER OF AUG. 14, 2006**

**W 1 Comment Summary:**

The Zone 7 Water Agency requests that the “Local and State agencies and potential interests” discussion in the DEIR, p. 16, be revised to include the interest of the Zone 7 Water Agency in the proposed detention basin operation and the collection of drainage fees for new impervious areas created by site development.

**Response:**

The first bullet item on page 16 of the DEIR shall be revised to read as follows:

- The Zone 7 Water Agency (“Zone 7”) would be the water supplier for the project, and the project will be liable to Zone 7 for payment of water connection fees. These fees are used, in part, to help pay for programs to reduce salt loading in groundwater. Zone 7 also has interests in (1) the use and operation of onsite detention basins and potential downstream impacts associated with operation of the basins; and (2) the collection of drainage fees for new impervious areas created by development of the site. These issues are discussed further in this DEIR.

**W 2 Comment Summary:**

The commenter requests that the entity that operates the existing detention basins on St. Mary’s Creek be identified.

**Response:**

The Kottinger Ranch HOA maintains and operates the existing detention basins on St Mary’s Creek in the vicinity of the project site. This HOA has provided the funding and oversight to dredge the basins, frequently on a yearly basis.

**W 3 Comment Summary:**

The commenter indicates that the preferred name for Zone 7 is the “Zone 7 Water Agency.”

**Response:**

The comment is noted for the record.

**W 4 Comment Summary:**

The DEIR indicates that the onsite basins to serve the Oak Grove project have been conceptually designed to detain 100-year runoff events. The comment indicates that the Zone 7 Water Agency discourages the construction of drainage and flood mitigation facilities designed to detain the 100-year flood event at the project level. Zone 7 prefers regional flood control solutions.

**Response:**

The DEIR addresses the potential for downstream impacts to flooding conditions. The commenter is referred to Mitigation Measure H1a (DEIR p. 177). The mitiga-

tion measures in the DEIR for detention of runoff (up to the 100-year event) have been provided in anticipation of Alameda County's adoption of NPDES permit criteria regulating project impacts associated with hydromodification (RWQCB "C.3" requirements).

**W 5 Comment Summary:**

The commenter indicates that if the detention basins are designed to retain up to the 100-year storm event, then they should be drained within 24-hours (rather than within 72 hours as stated in the DEIR) to allow capacity for back-to-back storms.

**Response:**

Please refer to response W4. As noted in that response, the mitigation measures in the DEIR for detention of runoff (up to the 100-year event) have been provided in anticipation of Alameda County's adoption of NPDES permit criteria regulating project impacts associated with hydromodification (RWQCB "C.3" requirements).

**W 6 Comment Summary:**

The commenter requests a modification in the DEIR text (p.173):

- Require new development to pay its fair share of the flood control improvement costs included in Zone 7's Master Plan (Program 6.1).

The Zone 7 Water Agency's proposed language:

- Require new development to pay its fair share of the flood control improvement costs through the assessment of Zone 7's current Special Drainage Area (SDA) 7-1) Drainage Fees and/or any future Zone 7 Stream Management Master Plan associated fees (Program 6.1).

**Response:**

This bullet item is drawn directly from the Pleasanton General Plan and the EIR cannot amend it. Zone 7's clarification is noted for the record. Zone 7's proposed language should be followed by language indicating timing:

. . . associated fees (Program 6.1), should the Program 6.1 fees be adopted by Zone 7 prior to approval of a Vesting Tentative Map or a Final Subdivision Map.

**W 7 Comment Summary:**

The commenter requests that language regarding the design of detention basins be modified.

**Response:**

The language cited in the comment [with Zone 7's proposed amendment in brackets] reads as follows:

- [With consultation from Zone 7, design flood water detention basins and arroyos] . . .
- DEIR text: Ensure that detention basins are designed . . . to allow for public amenities, recreation, natural habitat, and agriculture, where feasible.

This language, like the rest of the bullet points on p. 173, is taken from the Pleasanton General Plan, 1996, Program 6.2, and it is not amendable by a project EIR.

- W 8 Comment Summary:**  
The commenter requests additional details regarding the operation of the proposed detention basins and expresses concern that a private entity may not be able to adequately maintain the basins
- Response:**  
Specific detention basin operation guidelines have not yet been developed. These will be included, however, with the final hydraulic design plans for the basins and approved by the City. The success of the Kottinger Ranch HOA in maintaining the existing basins indicates that HOAs can effectively maintain these basins.
- W 9 Comment Summary:**  
The commenter states that the current regional drainage fee for new impervious area – \$0.685 per square foot.
- Response:**  
The DEIR text on pp. S8, 178, and 182 is hereby updated accordingly. The text on all three pages notes that the fee is subject to annual adjustment by Zone 7.
- W 10 Comment Summary:**  
The DEIR (p. 267) states that “Zone 7 treats SWP [State Water Project] imported water at one of two surface water treatment plants.” This sentence should be revised to read: “Zone 7 treats SWP imported water at their two surface water treatment plants.”
- Response:**  
The text is hereby revised as indicated.
- W 11 Comment Summary:**  
Commenter clarifies the current status of Zone 7’s ability to meet future water demand.
- Response:**  
The first sentence under (1) Long Term Supply and Demand on DEIR p. 268 is hereby modified as follows:
- Zone 7 has established that sufficient water supply is available to meet the needs of existing users and projected future development based on adopted plans for the service area.
- W 12 Comment Summary:**  
The commenter requests clarification regarding the design of the proposed drainage facilities (i.e., would they be designed to meet Provision C.3 requirements?)
- Response:**  
The drainage system has been designed, at a preliminary level, to meet C.3 requirements (i.e., provide for water quality treatment and mitigate potential hydromodification impacts). Implementation of Mitigation Measures H1 and H2 would ensure compliance with C.3 provisions.
- W 13 Comment Summary:**  
The commenter clarifies Zone 7’s characterization of the goals for the Chain of Lakes project, to include augmentation of the water supply (last bullet item on DEIR p. 286).

**Response:**

The last bullet point on DEIR p. 286 was erroneous (see Appendix J, DEIR Errata) and has been deleted from the DEIR. Zone 7's statement that it considers one of the main functions of the Chain of Lakes to be the augmentation of the water supply is, however, hereby noted for the record.

**W 14 Comment Summary:**

The commenter requests that the project sponsor and/or developer consult with Zone 7 prior to development of final drainage and detention basin facilities so that potential effects on the regional flood control system can be evaluated.

**Response:**

The City has the responsibility for implementing Zone 7's regional rules and requirements and will ensure that there are no flooding or hydromodification impacts when the City Engineer reviews the detailed hydraulic analysis prepared as part of the final grading and drainage plans for the project.

**X. STATE OF CALIFORNIA,  
DEPARTMENT OF FISH AND GAME  
LETTER OF JULY 26, 2006**

**X 1 Comment Summary:**

Impact D1 acknowledges reduction in dispersal capability and degradation of water quality and aquatic habitat, but these impacts are not accounted for in the impacted acreage estimate of one acre for the entire project site. Only impacts to potential upland habitat for CRLF within 300 feet of aquatic breeding habitat and 0.5 acres of dispersal habitat have been accounted for. DFG recommends that measures be implemented to avoid impacts to additional CRLF habitat within the project area.

**Response:**

Upland habitat for the CRLF in this EIR was defined as areas within 300 feet of aquatic habitat. This number came from the original critical habitat designation, which has since been remanded. The most recent critical habitat designation qualifies the area within 200 feet of aquatic habitat as potential upland habitat. The impact calculations to potential upland habitat are deemed adequate when referring to the most recent potential upland habitat buffer designation. Additional habitat within the project area would qualify as dispersal rather than upland habitat. In addition, there is no set standard mitigation for impacts to dispersal habitat. The main obstacle to dispersal to ponds east of the site would be the extension of Hearst Avenue, and appropriate design modifications were recommended. Culverts have been added beneath the road to allow CRLF and other terrestrial species to disperse. The distance from Ponds 1 and 2 to ponds to the east, and the series of steep ridges separating these offsite ponds from the onsite aquatic habitat, greatly lowers the likelihood that much, if any, CRLF dispersal occurs to the east. Dispersal corridors to closer ponds lying to the west will remain unimpeded by this project.

**X 2 Comment Summary:**

It is well understood that long-term sustainability of populations relies on a range of available and accessible aquatic features scattered throughout the upland areas. Permanent preservation of upland buffer habitat suitable for foraging and dispersal corridors should be required to reduce impacts to CRLF. Open space areas should be planned not only to preserve large tracts of land but to provide adequate dispersal corridors and estivation habitat for CRLF.

**Response:**

Existing CRLF aquatic breeding habitat is limited to Ponds 1 and 2 onsite, and the offsite detention basin. The proposed project and Alternative 4 will avoid these features by at least 300 feet. Both project alternatives would result in the preservation of over 400 acres of upland and dispersal habitat under a conservation easement. This permanent preservation of onsite upland habitat will provide suitable foraging habitat and dispersal corridors to ponds and seasonal pools located west, southwest, south, and southeast of the property. The nearest such feature to Pond 2 is 800 feet west. The nearest pond/seasonal pool to the east is approximately 4,000 feet east of Pond 1. Development to the north and northwest represent existing barriers to dispersal in that direction. The proposed project and Alternative 4 incorporate an approximately 400-foot-wide corridor along the ridgetop east of Pond 1, and further to the east, two corridors between parcels that are each approximately 200 feet wide. Assuming that CRLF may make straight-line movements, it is likely that some will utilize the corridors provided in the project design.

**X 3 Comment Summary:**

Four offsite ponds were discussed in the document. One pond is located 1.1 miles west of the site and connectivity is not compromised by the project. The 3 ponds located between 0.7 and 1.3 miles east of the site will be functionally isolated by current design of the development.

**Response:**

The proposed project and Alternative 4 incorporate an approximately 400-foot-wide corridor along the ridgetop east of Pond 1, and further to the east, two corridors between parcels that are each approximately 200 feet wide. The proposed project and Alternative 4 will result in limited dispersal corridors between Pond 1 and two ponds located 0.75 and 1.3 miles to the east. Alternative 4 will maintain a direct CRLF dispersal corridor between Ponds 1 and 2 and another pond located 1.0 mile to the southeast. An additional 15-20 ponds and seasonal pools are located within 1.25 miles west of Pond 1 and 2. No dispersal barriers will arise between these ponds from this project.

**X 4 Comment Summary:**

It is estimated that 2,905 linear feet of ephemeral drainage will be directly impacted by the project. Although CRLF are known to travel overland in straight-line movements, they are also known to frequently use these types of drainages for dispersal and foraging opportunities. The impacts to areas of these drainages which will remain intact but be functionally isolated by filling and culverting have not been accounted for. The linear design of the project, and the attempt to balance cut and

fill on the site have increased the extent of these impacts. Impacts to onsite drainages should be reduced by elimination of lots and elevation of roads.

**Response:**

The commenter correctly observes that the proposed project would lead to 2,905 linear feet of creek headwater filling at the southern end of the development site. The commenter should note that Alternative 4 was selected as the environmentally superior alternative in the DEIR. Alternative 4 substantially reduces the linear feet of creek fill from 2,905 to 145 linear feet, thereby preserving potential dispersal habitat. Elimination of all filling and culverting impacts to Drainage B have been implemented in Alternative 4, which will enable continued unimpeded movement from Pond 1 in a southeasterly direction.

**X 5 Comment Summary:**

California Tiger Salamander (*Ambystoma californiense*) is known to occur in and around the project area. There is documentation that CTS move long distances between breeding habitats and estivation sites. Effects of development should be considered from the perspective of fragmentation of habitat and blocking of movement corridors.

**Response:**

Potential estivation habitat (rodent burrows) on the site is concentrated along drainages, around Ponds 1 and 2, and near the offsite detention basin. Burrows are scarce away from these areas. Although CTS have been known to use uplands within 2,200 feet of breeding habitat, the distance between the upland and breeding sites depends on local topography and vegetation, and the distribution of rodent burrows. High densities of burrows are present within a few hundred feet of the two onsite breeding ponds, so a conservative distance of 1,000 feet from aquatic habitat was used for this site. CTS are likely to use suitable nearby underground refugia before they disperse up and over the steep slopes that separate the drainages. The DEIR addressed potential restrictions to existing movement corridors to the east by including culverts under the Hearst Avenue extension to facilitate movement of terrestrial species, such as CTS. Also see responses to Comments X2, X3, and X4 above.

**X 6 Comment Summary:**

The project has been designed to avoid direct impacts to the footprint of the suitable breeding habitat onsite. Impacts to dispersal and estivation habitat have been underestimated. The EIR acknowledged the loss of only 23 acres of potential upland CTS habitat within 1,000 feet of aquatic breeding habitat and 0.5 acres of potential dispersal habitat.

**Response:**

The 1,000-foot distance from breeding sites was based on the density of burrows immediately adjacent to the breeding ponds, and the scarcity of burrows on the surrounding steep slopes as discussed in the response to Comment X5. The 0.5 acres of potential impacts to dispersal habitat was based on a straight-line movement corridor from Pond 1 toward two ponds that are 0.75 and 1.3 miles east of Pond 1. This impact will be mitigated by construction of several culverts under a key portion of Hearst Avenue that will allow terrestrial wildlife movement.

**X 7 Comment Summary:**

The proposed mitigation for impacts to estivation habitat is preservation and management of 47 acres of suitable onsite upland habitat, all presumably within 1,000 feet of aquatic habitat since that criterion was used to define estivation habitat in the impact area. The proposed mitigation for impacts for loss of dispersal area to the 3 ponds to the east of the site is preservation of an approximately 200-foot [wide] corridor between lots 27 and 28 and installation of 3 wildlife culverts under the road which further constrains the already narrow area.

**Response:**

The impact to CTS estivation habitat was calculated as those areas where grading will occur within 1,000 feet of Pond 1, Pond 2, and the offsite detention pond. The selection of 1,000 feet is described in the response to Comment X5. The impacts totaled 23.5 acres, and 47 acres of necessary estivation habitat mitigation (2:1 ratio) were identified using current USFWS practices as a guideline. Both the proposed project and Alternative 4 (preferred alternative) would result in the preservation of more than 400 acres of upland and dispersal habitat under a conservation easement. This preserved land greatly exceeds the identified mitigation requirement. In addition to preserving land surrounding the three project area breeding ponds, this preserved land includes upland habitat that lies within 2,200 feet of ten offsite ponds west of the site and three ponds east of the site. In contrast to the proposed project, Alternative 4 (preferred project) preserves a direct dispersal connection to one of the three ponds east-southeast of the site.

**X 8 Comment Summary:**

DFG does not agree that the proposed mitigation will reduce the CTS impacts to a less-than-significant level. Based on established data, CDFG considers the size and configuration of the designated open space areas in the project area inadequate to minimize and mitigate impacts to local CTS populations. Open space areas should be planned not only to preserve large tracts of land but to provide adequate dispersal corridors and estivation habitat for CTS.

**Response:**

Alternative 4 would result in the preservation of nearly 500 acres of upland and dispersal habitat under a conservation easement.

**X 9 Comment Summary:**

In addition to bird surveys during the breeding season, surveys for nests should be conducted in suitable habitat at all times of the year. If a nest is identified for a species known to have high site fidelity, and if there will be direct take of the nest, DFG should be contacted and mitigation measures agreed upon before any action is taken. If disturbance occurs outside of the breeding season and there is not direct take of the nest site, no further action is required.

**Response:**

The grading window for this project is expected to be 4/15-10/15, which is concurrent with the breeding period of most local avian species. Pre-construction surveys within 30 days of the start of construction are recommended to avoid impacts to

all nesting bird species. The Bald and Golden Eagle Protection Act protects both of these high site fidelity species and their nests. There are no known occurrences of nests for either species in the project vicinity. Implementation of Mitigation Measure D4 would be sufficient to detect nests for either of these species as well as other nesting bird species, and the appropriate avoidance measures would then be taken in consultation with DFG.

**X 10 Comment Summary:**

Suitable habitat for western burrowing owl (*Athene cunicularia*) occurs in the project area and on adjacent parcels. The DEIR recommends pre-construction surveys for burrowing owls, but does not clearly define the level of effort required. DFG would like to provide clarification that pre-construction surveys are meant to supplement and not replace protocol level surveys on the project site. In order to determine whether or not owls breed on or near a site, a burrowing owl survey should be conducted between April 15 and July 15, according to the guidelines described in the *Burrowing Owl Survey Protocol and Mitigation Guidelines*, and a search of the CNDDDB and other local sources should be done.

**Response:**

The pre-construction surveys will be conducted in accordance with the CDFG protocol-level survey guidelines. If there are construction activities proposed during the breeding season, and if Western Burrowing Owl is observed on or within 250 feet of the project site during the pre-construction surveys, DFG and the City shall be notified and a protective buffer must be established with the placement of a barrier fence which shall remain in place for the duration of the breeding season. A protective buffer of 250 feet is generally recommended. DFG will rely on site-specific factors to determine an acceptable buffer distance after survey results have been submitted.

**X 11 Comment Summary:**

Because burrowing owls have previously been documented adjacent to the site, and the site is suitable and is in a location likely to support burrowing owls, the extent of burrowing owl habitat on the site should be delineated by a qualified ornithologist. If any part of the site has been altered to make it temporarily unsuitable for burrowing owls prior to the completion of a biological assessment, for example as a result of disking or clearing, the entire site acreage will be presumed to be suitable burrowing habitat.

**Response:**

Pre-construction protocol-level surveys following *Burrowing Owl Survey Protocol and Mitigation Guidelines* (CDFG 1995) shall be adequate to assess the site for owl habitat in addition to detecting owls or owl signs. If surveys confirm that the site is active nesting or foraging habitat, mitigation measures to minimize impacts to Western Burrowing Owl shall be incorporated.

**X 12 Comment Summary:**

A mitigation plan [burrowing owl] should be prepared and will be subject to the review and approval of DFG. An agreement that will bind the applicant to the conditions should be required. No evictions or destruction of habitat should be



allowed until the mitigation plan has been finalized and a binding agreement executed. The plan should identify the mitigation site and any activities necessary to enhance the site and to attract owls there.

**Response:**

Mitigation Measure D5 states that a Burrowing Owl Mitigation Plan shall be prepared if avoidance of occupied habitat is not feasible. Specific mitigation measures should follow the *Burrowing Owl Survey Protocol and Mitigation Guidelines* (CDFG 1995) and may include the project sponsor providing funding for the long-term management and monitoring of protected lands. No evictions or destruction of habitat shall occur until (1) DFG approves the Mitigation Plan and (2) DFG authorizes the eviction or destruction of occupied habitat on this site.

**X 13 Comment Summary:**

Mitigation (avoidance) for direct “take” of burrowing owls is required and can be accomplished by conducting pre-construction surveys for the species no more than 30 days prior to construction. Pre-construction surveys for burrowing owls should be done in conjunction with protocol level surveys during the wintering and breeding seasons. Pre-construction surveys alone are inadequate to determine impacts to western burrowing owl and their habitat. Project sites found to have burrowing owls present onsite during the pre-construction survey must have a biological monitor present during site disturbance. Pre-construction surveys results should be submitted to DFG for review and approval.

**Response:**

Protocol-level pre-construction surveys will be conducted no more than 30 days prior to construction to determine the status of burrowing owls in the project area as stated in the first paragraph of Measure D5. This measure also describes the requirement for a biological monitor to be on site if burrowing owls are present in the construction area.

**X 14 Comment Summary:**

DFG is opposed to the removal of trees in the project area which provide potentially suitable nesting sites for loggerhead shrike (*Lanius ludovicianus*), white-tailed kite (*Elanus caeruleus*), and other tree-nesting raptors which are protected under the Migratory Bird Treaty Act which have been observed on the project site. Golden eagles (*Aquila chrysaetos*) are also known to breed locally. Due to the scarcity of nesting sites in the area, removal of such trees will result in a significant temporal loss of potential nesting habitat and permanent loss if mitigation is not provided.

**Response:**

According to the tree report prepared for the Oak Grove site by Ralph Osterling Consultants, there are over 12,000 trees on the 562-acres site. The proposed project would remove approximately 135 trees and it was determined that this was a less than significant loss of potential nesting habitat.

**X 15 Comment Summary:**

Waters of the State differ from Waters of the United States. Any unavoidable impacts to Waters of the State should be measured by linear feet and acreage.

Unique and sensitive habitats typically require a minimum replacement ratio of 3:1 for direct impacts. Additional mitigation must be provided for unavoidable impacts to water quality and loss of connectivity.

**Response:**

The commenter is correct that waters of the state differ from waters of the U.S. On the Oak Grove site, all ephemeral and intermittent drainages are jurisdictional under both levels of government. There are several “isolated” wetlands that are only jurisdictional waters of the state and not waters of the U.S. These are summarized in Table 9 on page 108, and the need for mitigation for these isolated wetlands is included in Measure D8 on page 119. The typical onsite mitigation ratio for creek replacement is 1:1, but higher ratios are needed if mitigation takes place offsite.

**X 16 Comment Summary:**

Any unavoidable loss of areas known to currently or historically support listed plant species should require preservation, restoration, and salvage of seeds with replanting or seed banking as appropriate and with written approval by the resource agencies.

**Response:**

The commenter is correct on the appropriate mitigation for listed plant species. Protocol-level rare plant surveys conducted on the Oak Grove site in 2005 did not locate any listed or other special status plant species on the site, and there are no records of historic occurrences of such species either. Therefore no rare plant mitigation measure is needed in the DEIR for this project.

**X 17 Comment Summary:**

The project will likely impact waters in DFG’s jurisdiction. A Streambed Alteration Agreement (SAA) must be obtained from DFG prior to any work in a lake or stream corridor. Since the issuance of such an SAA is subject to CEQA review, disclosure and incorporation of mitigation measures requested by DFG is needed to meet the requirements of CEQA.

**Response:**

Any stream impacts planned for the Oak Grove project site will require a CDFG Section 1602 Streambed Alteration Agreement as described in Measure D8.

**X 18 Comment Summary:**

DFG generally recommends a minimum 100-foot buffer be established to protect waters. Larger buffers are required for waters which support sensitive species, such as those on this site. The buffer should be measured outward from the edge of any wetland, bank or riparian area. A re-created or preserved channel or waters surrounded by development are not expected to fully compensate for the functions and values of an impacted wetland feature occurring in open grassland.

**Response:**

Neither the proposed project nor Alternative 4 includes proposed grading closer than 100 feet to any preserved creek section. Ponds that support sensitive species are buffered by a minimum 275 feet setback as shown in Figure 17 (DEIR p. 97). There is no intention to use re-created or preserved channels as compensatory mitigation for impacts to 0.046 acres of project site wetlands.

**X 19 Comment Summary:**

The city should require pre-project efforts to reduce impacts to species in the plan area through more effective avoidance, preservation, and salvage programs.

**Response:**

All aquatic breeding habitat for CRLF and CTS on the Oak Grove site is avoided by the proposed project and Alternative 4. Mitigation Measures D1 and D2 require the preparation and approval of mitigation and monitoring plans for CRLF and CTS. These plans typically require the presence of a biological monitor during construction activities to further protect these species. If, during Section 7 consultation, the USFWS determines that salvage trapping is warranted, it will likely be required in the USFWS Biological Opinion.

## Y. STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION LETTER OF AUGUST 1, 2006

**Y 1 Comment:**

The impact on state facilities should be discussed in greater detail. The traffic operations impact of the Interstate 680 (I-680) mainline and ramps should be identified.

**Response:**

The addition of project trips to the I-680 mainline and ramps would be extremely small. During peak periods, the project would add at most 9 trips in the AM and 12 trips in the PM to I-680 mainline and/or ramps. Even using existing volumes (2005 volumes, Caltrans website) these added trips would represent only roughly 0.1 percent of the total volume on I-680; compared to future freeway volumes, project trips would represent an even smaller percentage. Therefore, the addition of project trips would not significantly change the operations of I-680.

**Y 2 Comment:**

The following additional intersections should be studied based on potential impacts:

- Bernal Avenue @ I-680 northbound, and
- Stoneridge Drive @ I-680 southbound.

**Response:**

These two intersections were not analyzed in this study for specific reasons:

- Bernal Avenue @ I-680 northbound:

The intersection of Bernal Avenue @ I-680 northbound would operate at LOS C (25.3 seconds of delay in the AM; 20.5 seconds of delay in the PM) under the Cumulative No Project scenarios. The number of project trips added to this intersection would be small, and it was determined (by City staff) that the addition of project trips at this intersection would not cause delays to increase significantly.

- Stoneridge Drive @ I-680 southbound:

The project would not add any traffic to any of the controlled movements at the intersection of Stoneridge Drive @ I-680 southbound (it would add 1 vehicle to the WB right turn onto the SB loop ramp onto I-680 in the PM peak hour, which is not controlled by the signal). This intersection would operate at LOS B (20.0 seconds of delay) and C (20.4 seconds of delay) in the AM and PM peak hours, respectively, under the Cumulative No Project scenarios.

**Y 3 Comment:**

Please indicate the level of “Significance After Mitigation” for intersection number 21 under section 5 in the table on page 55 of the Appendix F.

**Response:**

The significance after mitigation is “LS” (less than significant).

**Y 4 Comment:**

The traffic volumes shown on many figures in the Appendices such as Figures 10, 12, 13, 15, 16, 18, and 20 do not balance. Please correct.

**Response:**

These traffic volumes do not balance because (a) access/egress points exist between these study intersections and/or (b) the base year traffic counts did not balance due to various reasons (access/egress at mid-block locations, u-turns, etc.).

## **Z. CALIFORNIA, STATE OF, REGIONAL WATER QUALITY CONTROL BOARD LETTER OF AUG. 18, 2006**

**Z 1 Comment Summary:**

Water Board Staff recommend revising the title of subpart “d” (Regulatory Requirements for Wetlands and Waters of the U.S.) to clarify that the discussion on pages 100-102 applies to waters of the U.S. and waters of the State. In addition, the term, “jurisdictional” is used inconsistently in the DEIR. In some cases the DEIR clarifies that some features are not “Corps jurisdictional,” while in other places features are described as not being “jurisdictional waters.” Since these “non jurisdictional” waters appear to be jurisdictional waters of the State, the text should be revised to clarify that “non jurisdictional” waters are “non Corps jurisdictional waters,” but are jurisdictional under State law and regulation. Most of the features that are described as “non jurisdictional” on DEIR p. 101 (e.g., some of the drainages on the site, the two stock ponds, and the six isolated seep wetlands) appear to be waters of the State.

**Response:**

The commenter correctly notes that the title of subpart d. on page 100 should more accurately read “Regulatory Requirements for Waters of the U.S. and Waters of the State”. Additional statements should be added to clarify that the two stock ponds

and six “isolated” seep wetlands that are exempt from Corps jurisdiction are subject to regulation by the RWQCB as waters of the State.

**Z 2 Comment Summary:**

The current description of project impacts and mitigation on page 102 lacks the detail required in a DEIR. Proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. Mitigation measures to be identified at some future time are not acceptable. Based on the information provided in the DEIR, it is not possible to evaluate the extent of potential impacts to waters of the State, or the adequacy of mitigation measures to reduce the impacts of the project to a less than significant level.

**Response:**

The description on DEIR p. 102 is an introductory summary of onsite Corps and RWQCB jurisdiction, proposed impacts, and possible mitigation scenarios appropriate for the Setting section of a DEIR. A more detailed description of project impacts to wetlands and waters on the site is found on DEIR pp. 109-110, and specific mitigation measures are outlined on pp. 119-120. As described on p. 119, final precise project impacts would be calculated once more detailed project plans are prepared.

**Z 3 Comment Summary:**

The significance criteria cited in the DEIR (p. 103) include impacts to federally protected wetlands as defined by Section 404 of the Clean Water Act. As was discussed in Comment 1, the project site also contains wetlands and waters that are not federally protected, but are regulated as waters of the State. The significance criteria on page 103 should be revised to include impacts to all waters of the State.

**Response:**

The commenter correctly notes that Significance Criteria (3) on page 103 should more accurately read “...Section 404 and Section 401 of the Clean Water Act...” rather than just Section 404 alone.

**Z 4 Comment Summary:**

The text addressing impacts in the DEIR pp. 108-110 discusses only impacts to federally protected waters and wetlands as defined by Section 404 of the Clean Water Act. As was discussed in Comment 1, the project site also contains wetlands and waters that are not federally protected, but are regulated as waters of the State. The discussion of impacts should be revised to include impacts to all waters of the State.

**Response:**

The discussion of wetlands and waters impacts on pages 108-110 includes a precise discussion of impacts to isolated wetlands on the site along with the discussion of Section 404 wetlands. As stated on page 110, “Impacts on waters of the U.S. and isolated wetlands also must be approved by the RWQCB through a Section 401 water quality permit.”

**Z 5 Comment Summary:**

The discussion of impacts and mitigation on pages 119-120 should be revised to include impacts to all waters of the State. Discussion of proposed mitigation lacks detail required for adequate CEQA document. The designs and locations of proposed mitigation ponds, wetlands, and stream channels should be presented in sufficient detail so that their probability of success can be evaluated by the resource agencies and other interested members of the public. Although the proposed mitigation ratios for wetlands account for temporal losses of habitat, they do not account for the uncertainty of mitigation project success. The proposed ratio for replacement of linear feet of channels does not account for either temporal losses or the uncertainty of mitigation project success. Proposed mitigation ratios should be increased to consistently reflect both temporal losses of habitat and mitigation project uncertainty.

**Response:**

The loss of 0.046 acres of wetlands discussed on DEIR p. 119 includes the 0.033 acres of isolated wetlands (waters of the State) proposed for filling. A specific set of elements makes up the wetlands and waters mitigation measure described on pp. 119-120. Final, precise impact numbers and mitigation location and design cannot be determined until a more detailed project design is prepared. Further specific critique of mitigation design and compensatory ratios is expected during the application review process for RWQCB, Corps, and CDFG permits.

**Z 6 Comment Summary:**

The discussion of impacts and mitigation on p 177-178 notes that post-project runoff will match pre-project runoff and that creek crossings shall be designed and constructed to minimize the potential for erosion. Based on the information provided in the DEIR, Water Board staff is not able to evaluate the extent to which the project can attain these goals. In the commenter's view, the DEIR does not provide sufficient detailed information regarding how the project would mitigate potential hydromodification impacts.

**Response:**

The preliminary engineering has been completed to evaluate and design conceptual mitigations for potential hydromodification impacts. However, during the preparation of the DEIR, the project layout was modified several times to address significant issues as they were identified. The preliminary water quality and runoff calculations analyzing potential hydromodification impacts were also revised several times during the environmental review process. At the time of DEIR publication, the preliminary storm water quality and storm runoff management report had not been updated and submitted to the City (these data and calculations were still in draft form). A technical memorandum that includes these data and results has been prepared since that time and submitted to the City. This Technical Memorandum by MacKay & Somps, dated October 20, 2006, is on file with the City and may be reviewed at the office of the Pleasanton Planning Department.

As noted in the DEIR (p. 169), the project would be subject to a NPDES C.3 permit, and a hydromodification plan would be completed with the Final Plan for RWQCB review and permitting.

**Z 7 Comment Summary:**

The commenter indicates that the DEIR does not provide sufficient detailed informa-

tion regarding how the project would mitigate potential stormwater quality impacts and comply with NPDES C.3 provisions. Specifically, the commenter requests additional information to determine whether adequate land area has been set aside to accommodate the correctly sized detention basins and other BMPs.

**Response:**

With regard to the provision of more details regarding basin sizing calculations, BMP selection and sizing, and compliance with C.3 requirements, see response Z6.

It should be noted that since the proposed detention basins would be located in undeveloped valleys, there are virtually no topographic constraints as to how large they could be. If final design indicates that the basins need to be larger than the preliminary calculations indicate, an increase in size could be accommodated at the site.

## **AA. DUBLIN SAN RAMON SERVICES DISTRICT LETTER OF AUG. 26, 2006**

**AA 1 Comment Summary:**

The Dublin San Ramon Services District (DSRSD) agrees with the determination under Section P2 (DEIR pp. 275-281) regarding the adequacy of wastewater treatment capacity, contingent upon the proposed development's not exceeding the projected planned treatment requirements. DSRSD finds no other impact related to the project or the ability to accommodate existing commitments at this time.

**Response:**

Comment noted.

## **BB. EAST BAY REGIONAL PARK DISTRICT LETTER OF AUG. 28, 2006**

**BB 1 Comment Summary:**

The DEIR should identify a potentially significant recreation impact and require, as mitigation, that a funding mechanism be established to ensure the long-term management and maintenance of the area in a manner that will not detract from the stewardship of other lands.

**Response:**

Significance criteria for determining the significance of potential impacts on recreation are presented in the DEIR, pp. 248-249. Since the site is currently in private ownership and does not contain any public recreational use, its development would not adversely affect such a use. The future population of the 51-unit project would not be large enough to constitute the potential for an adverse physical impact on existing offsite public recreation facilities.

The project as proposed under Alternative 4 would include a regional trail link. In the future, it may also include a network of community trails. As noted in response

C15, the open space land on the site would be dedicated to and acquired by the City. It would be devoted to passive open space rather than a park.

An easement for a regional trail is included as part of the Alternative 4 site plan. In addition, following the City's acceptance of dedication of open space on the site, the City may construct the community trails network. Trail easements and lands accommodating trails that are acquired by the City would be managed and maintained by the City. There would be no need for a further provision of funding or management mechanisms.

CEQA review of construction of the community trails would take place at a subsequent time when a trail plan for the site is prepared.

**BB 2 Comment Summary:**

The DEIR should not only identify relevant General Plan policies, but also discuss the project's consistency with the goals, policies, and programs included in the City's General Plan, including, but not limited to, the following:

- Land Use Element, Policy 12: Preserve scenic hillside and ridges views of the Pleasanton, Main, and Southeast Hills ridges. (General Plan, p. II-17)
- Conservation and Open Space Element, Policy 4: Protect all large continuous areas of open space, as designated on the General Plan map, from intrusion by urban development. (General Plan, p. VII-11)
- Conservation and Open Space Element, Policy 5: Preserve as permanent Open Space all areas of outstanding scenic qualities or areas which provide extraordinary views of natural and man-made objects. (General Plan, p. VII-12)
- Conservation and Open Space Element, Program 4.4: Preserve large blocks of open space land by encouraging the clustering of development. (General Plan, p. VII-11)

**Response:**

The DEIR summarizes Pleasanton General Plan policies and programs in the 74-page Appendix I and discusses them, as applicable, in topical sections of Chapter 4.

With respect to the particular policies referenced in the comment:

- Land Use Element, Policy 12: Preserve scenic hillside and ridges views of the Pleasanton, Main, and Southeast Hills ridges. (General Plan, p. II-17)

This policy (cited in the DEIR, p. 46, in the section on Aesthetic and Visual Resources) has an associated program, Program 12.2: Study the feasibility of preserving large open space acreage in the Southeast Hills by a combination of private open space and a public park system.

The proposed project responds to this policy, offering a large area (400+ acres) of potential open space, much of which would be located in the site's southern triangle where no development is proposed.

- Conservation and Open Space Element, Policy 4: Protect all large continuous areas of open space, as designated on the General Plan map, from intrusion by urban development. (General Plan, p. VII-11)

This policy addresses "areas of open space as designated on the General Plan map."



The General Plan map designates substantial areas west and south of developed Pleasanton in one of four open space land use categories: Parks and Recreation, Agriculture and Grazing, Public Health and Safety, and a Wildlands Overlay. Only a small portion of the Oak Grove site carries one of these designations: Public Health and Safety, as shown in DEIR Figure 25 (p. 188). The majority of the Oak Grove site is designated Rural-Density Residential, and the cited policy does not apply.

- Conservation and Open Space Element, Policy 5: Preserve as permanent Open Space all areas of outstanding scenic qualities or areas which provide extraordinary views of natural and man-made objects. (General Plan, p. VII-12)

This policy (cited in the DEIR, p. 46, in the section on Aesthetic and Visual Resources), has three programs associated with it for City implementation, of which two are potentially relevant to the Oak Grove project:

- Program 5.1. Develop a ridgeline preservation ordinance and scenic hillside design guidelines to improve safety and reduce the potential negative visual impacts of development in hilly areas.

As noted in the DEIR (p. 47), the ordinance called for in the 1996 General Plan has not been developed; therefore, the DEIR approach is to (1) identify visual resources of public concern and (2) to evaluate impacts under CEQA criteria.

- Program 5.3. Encourage developers to dedicate scenic/conservation easements for private open space areas possessing exceptional natural, scenic, and/or vegetation or wildlife habitat qualities.

The developer of the Oak Grove site has offered to make an irrevocable offer of dedication, as described in the DEIR (p. 9; also, see Applicant's Written Narrative, Appendix B). Acceptance of that offer is indicated in the Development Agreement between the applicant and the City.

- Conservation and Open Space Element, Program 4.4: Preserve large blocks of open space land by encouraging the clustering of development. (General Plan, p. VII-11)

This program is discussed in several EIR sections (Parts A, K, and I1), where it is pointed out that the Oak Grove development concept concentrates development along roadways, leaving substantial areas in open space.

The EIR does not find a conflict between the proposed Oak Grove project and the General Plan with respect to the examples raised by the commenter.

The DEIR points out that "open space" is not an identified topic of CEQA concern. Impacts on lands that happen to be open space are addressed where they are anticipated to occur; for example, impacts on habitats, wetlands and Heritage Trees are discussed in the biology portion of DEIR Chapter 4, and impacts on scenic resources in the aesthetic and visual resources portion of Chapter 4.

### **BB 3 Comment Summary:**

The proposed project would result in significant disturbance of ridgelines, extending access roads and placing home sites in a manner that that would significantly fragment the existing open space; in a number of instances, open space is fragmented and ridgelines compromised to accommodate the site and access road for a single home.

**Response:**

The CEQA issue here relates to the way the site plan, with development proposed in a linear pattern along roadways, interrupts otherwise continuous open space areas, potentially resulting in habitat areas that are not of optimal minimum size.

The extension of Hearst Drive will provide a barrier to some wildlife movement, as will some of the longer proposed driveways. Species that may be affected include the federal-listed California red-legged frog and California tiger salamander. Mitigation Measure D1 serves to reduce impacts to wildlife dispersal by providing an unimpeded movement corridor under Hearst Drive for these species as well as other more common small wildlife species. The protection of large portions of the site as open space, including the entire southern end of the site, also provides a sizeable area for wildlife movement to continue on and adjacent to the site.

**BB 4 Comment Summary:**

The plan includes a number of home sites that are located on the far fringes of the proposed development area in a manner that needlessly fragments the open space and would result in much greater wildland fire, geologic, aesthetic, and biologic impacts. The City should require that lots that would require substantial grading on steep slopes and prominent ridgelines for access roads and building pads located on the outer fringes of the development be removed or clustered in a manner that would decrease the amount of grading necessary, the fragmentation of open space, demands on public safety providers, and impacts to visually prominent ridgelines.

**Response:**

Three of the points raised in the comment have been reviewed in the DEIR and found either not to have significant effects or to have effects that can be mitigated:

- [Excessive] grading requirements attributed by the commenter to “fringe lots” and “substantial grading on steep slopes and prominent ridgelines for access roads and building pads.”

The grading requirements associated with the Oak Grove site plan – estimated as 0.7 million cu. yds. – are considerably less than the 3.0 million cu. yds. estimated for the 1992 Kottinger Hills project on the same site, for which a cluster development with a golf course was proposed. As noted in the DEIR (pp. 3-4), Oak Grove would locate residential parcels primarily in the relatively level areas near the ridgelines, where flatter areas are larger than in valley bottoms, where geological conditions are most stable, and where the potential for landslides is generally less than on hillsides.

- Demands on public safety providers.  
Pleasanton’s public safety providers were consulted in the preparation of the document and either found no significant adverse impacts or are satisfied that potential impacts are amenable to mitigation.
- Ridgeline development.

The applicant’s project concept places development along roads, calling for “only enough grading to accommodate the roads and narrow areas adjacent thereto for building pads.” While there would be development clusters concentrated around the cul-de-sacs provisionally called “Court 1, Court 2,” etc., the

primary pattern would be linear, offering the advantage that the area subject to disturbance by residential development and roads would be reduced. The applicant recognizes that, as the DEIR states “There is a corresponding disadvantage, however, in the increased visibility of development from offsite locations.” The extent to which this visibility would be an adverse impact under CEQA is discussed in the Chapter 4, Part A.

Finally, the commenter expresses concern, as noted above, that the site plan “needlessly fragments the open space” which could conceivably have biologic impacts. Examples of “fringe lots” cited by the commenter are 23, 24, 44, 65, and 90 through 98.

Some of the commenter’s concerns are addressed in response BB3. Of the 13 lots that the commenter cites as examples of fringe lots, nine will be eliminated under the Alternative 4 preferred alternative. In addition, lots 72-89 represent an additional 19 potentially fragmenting lots that will be eliminated under the preferred alternative. In addition to retaining potential wildlife movement corridors, these changes will have the secondary effect of increasing the amount of open space available for preservation in the south and southwest portions of the site. Overall, minimizing habitat fragmentation and maintaining important biological movement corridors such as Drainage B were a very important consideration in the selection of Alternative 4 as the preferred alternative.

## ***Comments Provided by Private Organizations***

### **CC. CALIFORNIA NATIVE PLANT SOCIETY LETTER OF AUG. 29, 2006**

#### **CC 1 Comment Summary:**

Development and filling of protected wetlands and important headwaters in the southern portion (southernmost 27 lots) of the Oak Grove project is environmentally insensitive and potentially will not be approved by regulatory agencies. Filling these wetlands will result in the loss of habitat for two federally protected species, the California Tiger Salamander and the California Red Legged Frog, which may also jeopardize agency approval of this project, even if the City approves it.

#### **Response:**

The commenter correctly observes that the 98-unit project addressed in the DEIR would lead to a substantial amount of creek headwater filling at the southern end of the development site. The commenter should note that Alternative 4 was selected as the environmentally superior alternative in the DEIR and is the project currently being considered by the applicant and the City. Alternative 4 substantially reduces the linear feet of creek fill from 2,905 to 145 linear feet, thereby preserving additional onsite aquatic habitat.

#### **CC 2 Comment Summary:**

[The DEIR contains an] inadequate environmental assessment of the impact of habitat fragmentation and direct mortality from new car traffic in the Oak Grove

development as it would affect the federally endangered Callippe silverspot butterfly (*Speyeria callippe callippe*) and the potential new subspecies that has been found on the site.

**Response:**

Direct impacts to the Callippe silverspot butterfly would be most likely to occur during site grading and construction. The mitigation of potential impacts to *Speyeria callippe callippe* (the species subject to protection under the Endangered Species Act) would be accomplished by Mitigation Measure D3.

This mitigation measure has been revised from the DEIR (pp. 114-115) to reflect the site plan for the 51-unit project and also to take into account uncertainties about species identification on the site. The identification of the species in question presents challenges to entomologists, and sometimes there is disagreement among experts in the field as to whether the particular individuals sighted at a project site have been accurately identified as the species categorized as special status (endangered or threatened). Although the DEIR's consultant made such an identification, it has been questioned by a second entomologist, engaged by the applicant to consider butterfly issues. Reports by the DEIR consultant, Dr. Richard Arnold, and by the consultant engaged by the applicant, Dr. Dennis Murphy, are presented in Appendix M.

Given the difficulty of identifying this species in the field, and uncertainties raised about the identification, additional analysis is warranted to confirm the identification of the silverspot butterfly species found on the Oak Grove site. This may include another year of intensive field surveys. Final resolution of this issue is likely to require input from the U.S. Fish and Wildlife Service during the permitting phase of the project. If the species on this site is confirmed to be a population of the listed Callippe silverspot butterfly, Mitigation Measure D3 as revised below would reduce potential impacts to this species to the less-than-significant level.

With respect to the issue of habitat fragmentation, note that the habitat of *Viola pedunculata*, host plant for the Callippe silverspot and other subspecies of *Speyeria callippe* in its larval stage, is discontinuous in the wild because the plant establishes itself selectively with respect to soils types and other growing conditions. DEIR Figure 18 (p. 106) shows that habitat areas on the Oak Grove site tend to be separate and detached from one another. If onsite mitigation succeeds in re-establishing displaced habitat as planned, then habitat fragmentation would be mitigated. However, if onsite mitigation proves not to be feasible, offsite mitigation is proposed to address impacts to this species and its habitat.

**Measure D3. Formulate a Callippe Mitigation Plan.**

Based on the surveys conducted to date, it has been determined that the project site supports *Viola pedunculata*, the larval host plant for the Callippe silverspot butterfly (*Speyeria callippe callippe*) and other subspecies of the species *Speyeria callippe*, and that butterflies which need this plant for part of their life cycles may occur on various portions of the project site. Based on these initial observations, it may be that *Speyeria callippe callippe* occurs on the site but, due to the similarities between *Speyeria callippe callippe* and other subspecies or hybrids, a positive identification has not yet been made.

**Measure D3, continued.**

Accordingly, the following plan is proposed to address any potential impacts to Callippe silverspot butterflies (*Speyeria callippe callippe*) should they be determined to exist at the project site:

The mitigation plan would be completed prior to the recordation of the Final Map and approved by the City prior to the issuance of a grading permit.

- A biologist experienced in the biology of Callippe silverspot butterfly shall accurately map the distribution of the species' host plant (*Viola pedunculata*) on focused portions of the project site, including all areas to be impacted by proposed project activities and onsite areas that lie within 1,000 feet of the proposed impacts.
- At the appropriate time of year, an entomologist experienced in the biology of the Callippe silverspot butterfly shall revisit the project site to allow for a positive identification of the type(s) of *Speyeria callippe* subspecies present onsite.
- If it is definitively determined that the endangered *Speyeria callippe callippe* butterfly is present on the project site the following steps shall be taken:
  - The footprint of the impact shall be defined in consultation with an experienced entomologist;
  - Appropriate onsite/offsite mitigation shall be implemented to protect existing Callippe silverspot butterfly habitat and to ensure the creation of Callippe silverspot butterfly habitat in amounts sufficient to replace the amount of habitat lost. These mitigation efforts, which shall be coordinated with USFWS, shall include:
    - Avoiding onsite habitat outside of the grading footprint
    - Managing construction activity to minimize impact (butterflies and their larvae are susceptible to injury from airborne contaminants such as dust that may be produced by site excavation grading, and vehicle movement.) The following management measures shall be implemented to negate or minimize the threat of construction operations on silverspot resources:
      - Limitation of grading activity to areas at least 250 feet outside identified butterfly habitat while Callippe silverspot adults and larvae are active
      - Application of appropriate best management practices (BMPs) and other provisions of the project Storm Water Pollution Prevention Plan (SWPPP) by grading contractors for the purpose of limiting dust generation and airborne movement
      - Retention of a qualified biologist and/or resource monitor to coordinate and monitor compliance with and effectiveness of the construction activity management measures. Monitoring shall take place daily throughout the period of excavation and grading operations with respect to buffer areas and weekly with respect to BMPs.
    - Provision of onsite and/or offsite mitigation by establishing replacement habitat for habitat eliminated as a result of site development. Such mitigation may take the form of:
      - Replacement of lost habitat onsite where impacted in the course of site development

**Measure D3, continued.**

- Expanding existing habitat areas onsite by enhancing marginal habitat and, where possible, establishing new habitat areas
- If onsite mitigation does not replace all habitat lost through site development, acquisition of replacement habitat offsite in amounts sufficient to replace remaining lost habitat. Offsite habitat shall be protected in perpetuity under a conservation easement.

**CC 3 Comment Summary:**

The project involves removal of about 100 percent more Heritage trees and blue oak woodland than needed if proper avoidance measures concerning removal of Heritage trees were adhered to by the developer. These policies are clearly promulgated in the City of Pleasanton's General Plan. Again, the grading and construction associated with the southern 27 lots causes the greatest impact on the landscape.

**Response:**

The commenter correctly observes that the project as described in Chapter 2 of the DEIR would lead to removal of 14.9 acres of blue oak woodland (Impact D7, DEIR p. 108) and 90 Heritage trees (Impact D10, DEIR p. 111). The commenter should note that Alternative 4 – which would not include the southernmost cluster of lots, around Court 5 – was selected as the environmentally superior alternative in the DEIR, and is the project currently under consideration. Alternative 4 reduces the loss of blue oak woodland and would reduce the number of Heritage trees removed from 90 to 32 (DEIR p. 360).

**CC 4 Comment Summary:**

From a biological and regulatory perspective, EBCNPS recommends that the City approve Project Alternative 2 or 4 of the Oak Grove project, which does not develop lots on the biologically important and geologically unstable southernmost 27 lots.

**Response:**

Alternative 4 is presented in the DEIR summary (Chapter 1) as the environmentally superior alternative. It would result in reduced biological impacts, including less fill of drainages, and it would avoid landslide area 3 as described in response A7.

## **DD. KOTTINGER RANCH HOMEOWNERS ASSOCIATION LETTER OF AUG. 29, 2006**

**DD 1 Comment Summary:**

We support the plan represented by Alternative 4, the environmentally superior alternative, which removes 8 lots from Court 1 and all but 1 lot beyond Court 4, which would result in more considerate sight lining from Kottinger Ranch.

**Response:**

Comment noted.

**DD 2 Comment Summary:**

We request that the Proposed Open Space offering allow for the agriculture use of grazing on the Open Space. This would mitigate a potential fire hazard.

**Response:**

Grazing could conceivably be a component of the Wildland/Urban Interface Management Plan that is required for the project.

**DD 3 Comment Summary:**

To reduce noise and inconvenience to the neighborhood: (a) construction hours should be limited to the hours of 8AM and 5PM Monday through Friday, and (b) conditions of approval should mandate mitigation of construction dirt, dust, and debris and provide for a developer funded clean-up of Hearst Drive with reasonable frequency.

**Response:**

(a) See response F1, which provides for construction hours limited as indicated unless a special exception is issued.

(b) This comment relates to a proposed project condition rather than to the DEIR.

**DD 4 Comment Summary:**

We request that the City take title to the offered dedication of open space, that the dedicated acreage should be held in perpetuity, and that a third party (Tri-Valley Conservancy or similarly competent authority) be given a conservation easement encumbering the Open Space land.

**Response:**

Comment noted. See Chapter 1 of this Responses to Comment document, p. 2.

**DD 5 Comment Summary:**

We ask that, as part of the General Plan update process, Hearst Drive and its feeder streets be removed from consideration for any future extension, tie-in, or use other than that of current use and that by the proposed 51-unit project.

**Response:**

See response DD8.

**DD 6 Comment Summary:**

There should be an Emergency Vehicle Access road (EVA) that connects the development site to Grey Eagle providing ingress and egress to the benefit of both the development site and Kottinger Ranch to prevent additional congestion on Hearst in the event of an emergency.

**Response:**

This comment expands on the benefits of the North EVA, which is part of the project and part of Alternative 4 as presented in the DEIR. Emergency access provision via this route would serve Kottinger Ranch as well as the Oak Grove development. (That

is not true of the West EVA, because that route accesses Oak Grove via Kottinger Ranch, forming a loop.)

**DD 7 Comment Summary:**

A single trail easement for the regional trail from Shadow Cliffs to the Callippe Preserve should be executed to minimize the impact to adjacent neighborhoods. These two areas are currently publicly owned spaces which are designed to handle the flow of public traffic. There should be no trail staging areas in Oak Grove or Kottinger Ranch.

**Response:**

The comment makes two points: (1) Oak Grove should have only a single trail easement for the regional trail, and no network of community trails; and (2) there should be no staging areas on the Oak Grove site.

With respect to the network of community trails, the network is shown conceptually in the DEIR in Figure 29, p. 245. All or portions of five community trails would be included in addition to the regional trail. This network corresponds closely to that envisioned in Pleasanton's Community Trails Master Plan (see discussion and citations in the DEIR, p. 244). The preference of the commenter not to implement the Community Trails Master Plan on the Oak Grove site is noted.

The question of the need for a regional trail staging area on the Oak Grove site is addressed in response E5.

**DD 8 Comment Summary:**

We are concerned about the significant impact that would be a consequence of an increase in traffic resultant from the combination of the development of the proposed Alternative 4 project and further use of Hearst Drive to service potential projects beyond the proposed site. To prohibit the use of Hearst Drive or its feeder streets from being used to provide service or access to potential projects beyond the proposed 51-unit project, we request that the City take title to the offered dedication of 500+ acres of open space. This offer should hold the land as open space in perpetuity. We also request that a third party intermediary (Tri-Valley Conservancy or similarly competent authority) be given a conservation easement encumbering the Open Space land.

**Response:**

If the project is approved, Hearst Drive will not be able to be extended beyond Oak Grove as all open space lands on the property will be placed in permanent open space and owned by the City or a conservation district. See Response C15 and also the discussion of open space dedication in Chapter 1 of this Comments and Responses document, p. 2.

**DD 9 Comment Summary:**

We ask for payment by the developer of \$1,000,000 in traffic mitigation fees to be used for a traffic signal at Bernal Avenue and Kottinger Avenue with the balance of the funds to be applied to traffic calming improvements on Hearst Drive as determined by the City in conjunction with the Kottinger Ranch Homeowners Association. These recommendations would mitigate potential pedestrian safety issues and the added noise due to the increased traffic associated with development under Alternative 4.



**Response:**

The installation of a traffic signal at the intersection of Bernal Avenue and Kottinger Drive has been identified as a mitigation measure in the DEIR. As noted in the discussion of that mitigation on DEIR p. 264, the developer would be required to commit to funding of such mitigating improvements in the amount of \$1,000,000.

**DD 10 Comment Summary:**

To provide for safety of school children during construction, a crossing guard should be placed at the intersection of Concord Street and Hearst Drive during each school day from 7:30 - 8:30 in the morning and 2:30 - 3:30 in the afternoon.

**Response:**

The DEIR recognizes a change in the volume and character of traffic on Hearst Drive during the construction period. Project conditions of approval will require that a school crossing guard be provided at applicant's expense to assure the safety of school children crossing Hearst Drive during the hours indicated.

**DD 11 Comment Summary:**

To prevent the significant burden of traffic associated with the use of a possible trail head there should be no staging area for trail access. Access to trails should be at Shadow Cliffs and at the Callippe Preserve.

**Response:**

Under the proposed 98-unit project, the trails and staging area are expected to generate about 60 daily trips, with fewer than 5 during the AM and PM peak hours, as described in the DEIR (p.255). Under the 51-unit site plan brought forward as the project for City consideration, a staging area for the regional trail would be included, and recreational trips associated with the trail regional trail would be anticipated as discussed in the DEIR.

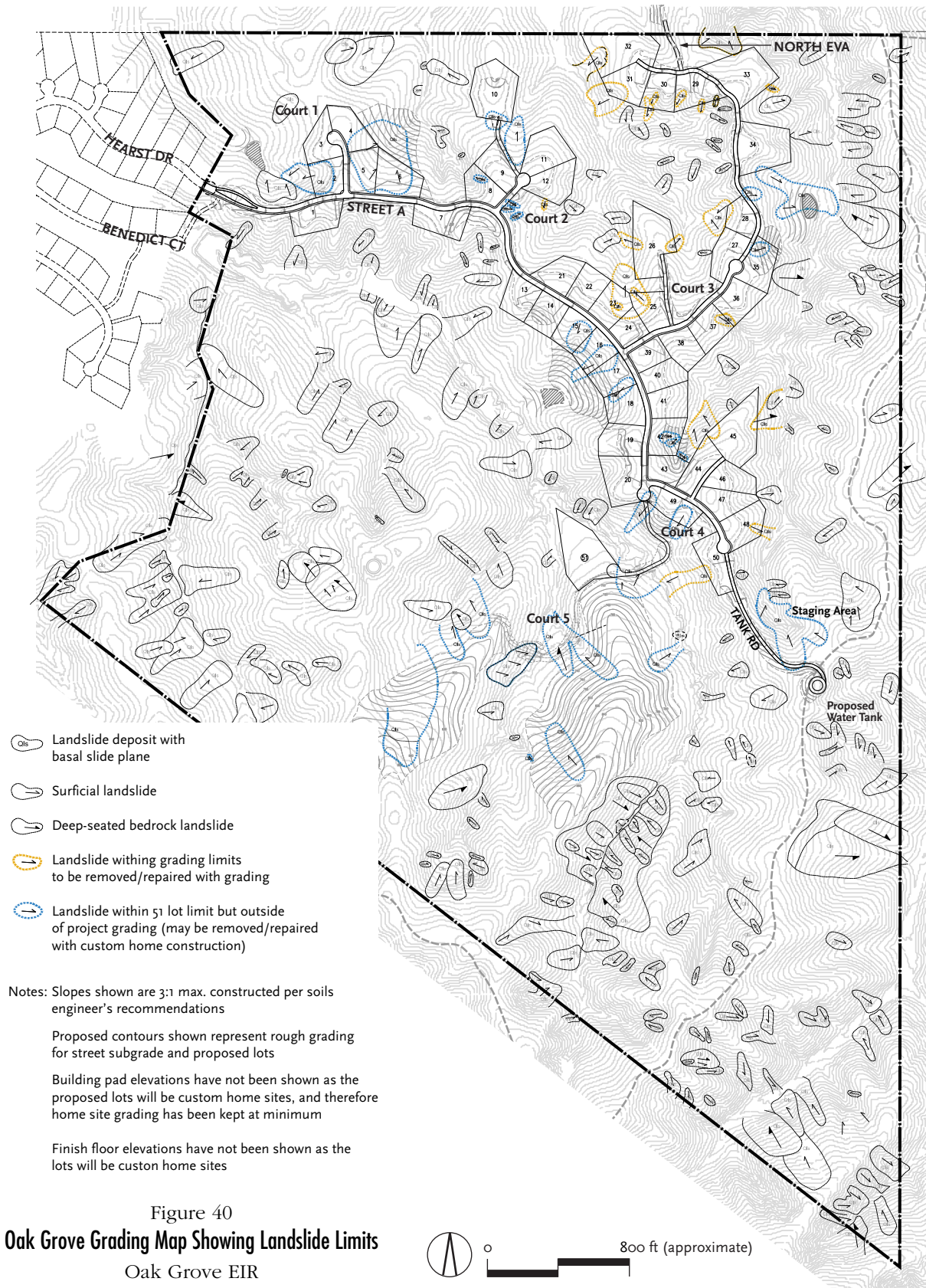
**DD 12 Comment Summary:**

We support the Alternative 4 project of 51 lots, which eliminates 47 lots resulting in a substantial reduction in project generated traffic from the "Proposed Project" and preservation of the most sensitive areas.

**Response:**

Comment noted.







## **CHAPTER 3 TEXTS OF COMMUNICATIONS**

The full texts of thirty communications received by the City of Pleasanton providing comments on the Oak Grove Draft Environmental Impact Report are presented on the pages that follow.

The communications are identified as “Communication A” through “Communication DD.”

Individual comments relating to the DEIR are numbered in the margins. Comment summaries and responses are presented in Chapter 2 of this document.

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## A. PLANNING COMMISSIONER COMMENTS—PUBLIC HEARING

JULY 12, 2006



## PLANNING COMMISSION MINUTES

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City Council Chambers  
200 Old Bernal Avenue, Pleasanton, CA 94566

DRAFT

Wednesday, July 12, 2006

### CALL TO ORDER

The Planning Commission meeting of July 12, 2006, was called to order at 7:05 p.m. by Chairperson Arkin.

#### 1. ROLL CALL

Staff Members Present: Donna Decker, Principal Planner; Janice Stern, Principal Planner; Julie Harryman, Assistant City Attorney; Wes Jost, Development Services Manager; Marion Pavan, Associate Planner; Steve Otto, Associate Planner; Michael Tassano, Acting City Traffic Engineer; and Cory Emberson, Recording Secretary.

Commissioners Present: Commissioners Brian Arkin, Phil Blank, Anne Fox, and Greg O'Connor.

Commissioners Absent: Commissioners Arne Olson and Jennifer Pearce.

Items not related to Oak Grove Application deleted.

b. **PUD-33, Jennifer Lin, Frederic Lin, and Kevin Lin**

Review of the Draft Environmental Impact Report for the Oak Grove Planned Unit Development for a 98-lot custom home development and to consider a 51-developable-lot environmentally preferred alternative on a 562-acre property located near the present terminus of Hearst Drive on the southerly sides of the Vintage Heights I and the Grey Eagle Estates developments. Zoning for the property is PUD-RDR/OS (Planned Unit Development – Rural Density Residential/Open Space) District.

Commissioner Blank stepped down from the dais due to a conflict of interest.

*Please see attached “Transcript of Discussion on PUD-33” at the end of the Minutes.*

This item was continued to July 26, 2006.

Commissioner Blank rejoined the Commissioners at the dais.



**TRANSCRIPT OF DISCUSSION ON  
PUD-33, JAMES TONG/CHARTER PROPERTIES  
JENNIFER LIN, FREDERIC LIN, AND KEVIN LIN  
Oak Grove Development  
(Planning Commission Meeting, July 12, 2006)**

Commissioner Phil Blank: Mr. Chairman, before we begin that discussion, I will be recusing myself.

Ms. Donna Decker: I would like to introduce the individuals here this evening who will be addressing the Commission in the consideration of this Draft Environmental Impact (DEIR) report, PUD-33. Mr. Marion Pavan, Associate Planner and the project planner, will be presenting the project; Mr. Mike Tassano, Acting City Traffic Engineer, who will answer any questions related to traffic, and Mr. Wes Jost, Development Services Manager, Department of Public Works, who will address infrastructure and Public Works issues.

With us also this evening are Ms. Roberta Mundie and Ms. Suzanne Lampert, from the City's EIR consulting firm, Mundie and Associates, who will answer any questions related to the DEIR, and Mr. Marty Inderbitzen, representing the applicant, who will be happy to address the Commission as well.

What we are doing this evening is looking at the DEIR and providing an opportunity for public comment. Mr. Pavan will provide an overview of the EIR process and the project, followed by a discussion, and a presentation by Mundie and Associates of the sections within the EIR/DEIR for consideration by the Commission.

Mr. Marion Pavan: Thank you, Chair Arkin and members of the Commission. I would like to add that Chief Bill Cody of the Fire Department is present to speak on fire-related issues pertaining to this project and to the DEIR.

The Oak Grove project, as proposed, is a 562-acre site surrounded by Vintage Hills II and Grey Eagle Estates along the north side, the Kottinger Ranch neighborhood to the west, the Vineyard Avenue Corridor Specific Plan area to the north, and unincorporated land to the east and to the southeast. These properties are the Foley property; to the southwest is the Lund Ranch II property and the City's golf course. A City water tank site is also located to the north where there are a series of emergency vehicle access (EVA) roads going off in this direction, and the Gray Fox/Grey Eagle developments connecting to the adjoining project here (*Mr. Pavan is referring to the overhead slides*).

The primary point of access is through Hearst Drive. The rationale of this project, which the applicant will go into, is that they located the development in the area because it poses the least impacts with respect to geology, trees, grading, and so forth. However, the EIR identified several significant impacts which staff felt should be mitigated. In the course of the discussions, we arrived at an environmentally preferred alternative – 51 units – that eliminates several aspects of the development, which caused the greatest concern from the

environmental standpoint, one being the fill of a stormwater swale area of approximate 2,000 feet, which was eliminated by pulling lots away from those areas.

Concerns were expressed by neighbors along the Arbor Drive area with respect to the development along this portion of the site, visual impacts, and so forth. As we can see now (*referring to overhead slides*), this court has been significantly reduced in density by reducing the number of lots. Almost all the lots have increased in size as a result of this new plan. The water tank is still located in this approximate area of the property.

The Draft EIR went into great detail under Alternative 4, the environmentally preferred alternative, discussed in Chapter 6 of the Draft EIR. Staff would like to note for the Commission and for the public that although the EIR evaluated this as the project, this environmentally superior alternative, which is Alternative 4, is the item that we will evaluate in the Planning Commission project staff report. In other words, conditions of approval dealing with the development which shall be recommended to your Commission will be pertaining to this [Alternative 4] project.

There are still ongoing discussions with the applicant. As stated in the staff report, we are still in the process of perfecting the Draft EIR aspects of the project. We are here to gather comments from the Commission and from the public which will be addressed in the Response to Comments section of the Final Environmental Impact Report. I would like to note that we published the Draft EIR on June 30<sup>th</sup>, thereby beginning the 45-day review period as fixed by California Environmental Quality Act (CEQA), so that if members of the public at the present time choose not to make a comment tonight, or for some reason, they may have missed this hearing, they still have the opportunity to comment on this Draft EIR, and we will accept written comments, postmarked, via email or hand-delivered, up until midnight of Monday, August 14<sup>th</sup>, which is when the review period ends, and it will get factored into the comments section of the Final Environmental Impact Report.

Chairperson Brian Arkin: Marion, while you are on that one topic, I have seen previously other public agencies that have extended the comment period, for example, the City of Livermore extended it for the airport. What would be the criteria for determining if the comment period is extended?

Mr. Pavan: Chair Arkin, I am unable at this point in time to comment as to what criteria the City would use to extend that time limit. Based upon my experience, we have always held to a 45-day review period.

Chairperson Arkin: You have in Pleasanton.

Mr. Pavan: However, I would defer to the City Attorney to if the City Attorney can provide any insight on that question.

Ms. Julie Harryman: Good evening, Chair Arkin. I do not know the answer offhand, but that is something we have some time to figure out, if the Planning Commission or the Council is so inclined to extend that period.

Chairperson Arkin: Thanks.

Commissioner Fox: I had a quick question about the process. If the Planning Commission wanted staff to go back and look at a different alternative rather than the four that were outlined in the Draft EIR, would that be a possibility and, if so, could that be a mechanism that the 45-day time window could be extended?

Mr. Pavan: From my understanding of CEQA, your Commission can direct staff to look at another alternative and give a definition as to what that alternative should be. Right now, I do not see that as being one of criteria for extending the 45-day review period; but once again, dovetailing on what Ms. Harryman has stated, we would have to look at and see exactly what CEQA states on that.

Commissioner Fox: Okay.

Mr. Pavan: Basically, I would have to say that the project description and explanation that I have given for you has been somewhat brief. Mainly what we would like to do is now turn this over to our environment consultant. As mentioned earlier, Mr. Tassano, Mr. Jost, and Chief Cody are here to speak and are available to answer any questions you have.

Chairperson Arkin: Any other questions of Marion?

Commissioner Fox: I have one more. Will staff be providing larger pictures of the photomontages? There are tiny pictures in the document that I can barely make out, things like trees and such. I am wondering if staff will be providing a photomontage that is usually the size of photos that we get, like 11 by 14?

Mr. Pavan: These photos, I believe, are digital photos, and I believe that we can do that. I would defer to Ms. Mundie, but if the Commission wants it, I will see to it that you get it.

Commissioner O'Connor: I do have one question for Marion – in the report, it looked like the proposal is going to be moving about 700,000 cubic yards of fill. Is that in the 98-home proposal, or the Alternative 4 proposal?

Mr. Pavan: I believe that is in the Alternative 4 proposal. What the 98-unit plan was proposing to do was to take the surplus dirt and place it in this area right here (*referring to overhead slides*), which is located within a stream, and it will be contoured, seeded, and so forth to blend in with the surrounding hillside. It is also an area of high sensitivity with respect to flora, fauna, and riparian habitat area.

Chairperson Arkin: So, when they put the road in, they are going to be basically taking off the top of a ridge and flattening it to put the road and homes. The prospect of putting the road in is not soil neutral.

Commissioner O'Connor: It is not just the road; it is the homes.

Mr. Pavan: I would defer to the project engineer, and he can speak on the grading aspects of the project.

Chairperson Arkin: So, regarding the process, we're going to have a hearing tonight where we can provide comment. And then, what's the next step?

Mr. Pavan: The next step is to follow the course of the process, complete the 45-day review period, and come back with everything spelled out in the Final EIR. Or, hypothetically, the Commission could take comments and continue the item to another hearing for more comments.

Commissioner O'Connor: The Council still needs to review this within the 45-day period.

Ms. Decker: I would like to clarify the process just a bit. The Draft EIR is under consideration for review and comment by the Planning Commission. It will move to the City Council as a final environment document and will do so with the project after a recommendation is provided from the Planning Commission. We have brought this to the Planning Commission two weeks after its actual publication date, realizing that this is the first step to have a public forum and review and comment period for both the public and the Planning Commission. Should the Planning Commission feel that it would like this item to return to the Commission for additional review or to have staff to report back on questions or concerns it may have, staff can certainly schedule it to come back, leaving this public review and comment period open. No action is intended this evening for this item.

Chairperson Arkin: The issue Anne brought up as far as another alternative, is that something that is possible?

Commissioner Fox: The reason I brought it up is because back in June of 2004 when we first started hearing about the EIR and waiting for some Minutes, the then Commissioner Sullivan, now Councilmember Sullivan – we have this unusual process where the developer requested the Council's involvement in the scoping session – made this comment, and I will read from the Minutes of that meeting:

“The Council had agreed with the developer's request. Commissioner Sullivan wished to make a statement of protest that this was not the proper process and sets a bad precedent of taking away from the Planning Commission's function in that process. He expressed concern that this precedent expressed a lack of trust in the Commission's ability to complete the EIR process or suggested that the Council had a preconceived notion of what the EIR should look like.”

And, you know, since February 8, 2005, we really have not had an opportunity to discuss this project with staff to come up with what the Commission might think would be a preferred alternative. And I think the Alternative 4 the staff is recommending as the preferred alternative is something that we are seeing for the relatively first time.



Ms. Decker: The answer to that is actually two-sided, and that is that through the CEQA process and the environmental review process, the Planning Commission and staff and the applicant are provided with a document that has evaluated what the environmental impacts of the proposal is, and then looks at preferred alternatives. Through that process, Alternative 4 is now the preferred alternative, but as you say, that has not yet come before the Planning Commission as the project. This evening, we are talking about the draft environmental document and how it arrived at having environmentally preferred alternatives, finding that the fourth alternative was preferred and mitigating many of the impacts and concerns that the project had within the area.

As you have indicated, there is always an opportunity for the Planning Commission to review and assess projects and determine what it likes and does not like, what it would like to condition or not. We would propose that the Planning Commission evaluate the Draft EIR this evening, and we can certainly bring the Alternative 4 plan to the Planning Commission as a study session prior to its coming back to you as a project, with the Final EIR, for action and recommendation to the City Council. This would provide a forum with which to have a detailed discussion about the project itself, which alternative would be preferred, and what changes, if any, the Planning Commission would like to discuss.

Chairperson Arkin: I guess I am still a little confused on the issue of the four alternatives that were evaluated. I do not remember the Planning Commission having any input into what the four alternatives would be, and so, going back to Anne's question, I guess I was wondering if this is the time we would say we like to have, for example, an Alternative 5, that is, certain characteristics.

Ms. Decker: I think it may be useful at this time if we could have Roberta Mundie address the Planning Commission in terms of the EIR process and take a look at how we walk through and find those alternatives. I think some of the questions will be answered in terms of how that investigation through the CEQA process and EIR process is, and then we can get to a project-specific discussion as well.

Ms. Roberta Mundie: Chairperson Arkin, members of the Commission, I am Roberta Mundie of Mundie & Associates, and I am here tonight to address the Environmental Impact Report on the Oak Grove project. With me is Suzanne Lampert. I am going to be the words, and she is going to be the pictures, if things go the way we have planned them.

My idea tonight is to review the main components of the Environmental Impact Report, understanding that this is your first hearing on the subject, both the structure and the content of the EIR; to review the main findings relating to impacts under the variety of CEQA topics that you are obliged to look at, to discuss the EIRs consideration of alternatives as Ms. Decker just described, and then to summarize the conclusions of the Environmental Impact Report and to tell you what we will be doing next after this evening's hearing is over.

All EIRs have a similar look because what goes into them is largely dictated by State law, and, therefore, these chapter titles and the table of contents look familiar to you. But while everybody has seen EIRs before, it is worthwhile to look at the structure of this one so that

when you are looking for information in it in the future, you can find it as easily as possible. This document has a two-volume format – you are looking at the Table of Contents for Volume 1, which is the EIR proper, and then Volume 2 in the darker cover, presents appendices to the EIR. And if you have looked through that, you will find that it has Pleasanton’s initial study as the first item, and the applicant’s written narrative that accompanied the original PUD application of November 2003, as the second item, along with a slightly amended written narrative that is associated with Alternative 4. It has technical background information on a variety of other topics, mostly methodological. It has information about the visual simulations that describe how they are done. The last item in there is a long section of excerpts from the Pleasanton General Plan, containing plans and policies that have some relevance to this topic.

All EIRs are required to provide a summary – that is Chapter 1. What we find when people read EIRs is that they open up the book with a great deal of energy, and they start the summary, and they immediately think, “Oh, I need more information about this,” and they start writing their comments all over the summary; whereas they should really be looking at the main text before they decide to write down their comments because their questions may well have been answered. So, when you read the summary, you will see that the page references you can look at for more information are given here, so that is where you should look first before you decide your question has not been answered.

Chapter 2, conventionally, is the project description, and we have three graphics there that present, first, the general location of the project; second, the site plan – this is a bit grayed out, so you cannot see the parcel lines here, but that is where they are; and then third, the development plan and Figure 3 in the EIR, shows not only where all the parcel lines are but some of the details of project development that are of importance, including the new water tank and the existing Kottinger water tank, the drainage features associated with the different segments of the project – each one of those sort of fan-shaped elements, a 6.5-acre park, and you will see that this spine, which is called “Street A” in the plan, is the main street of the project. It is a continuation of Hearst Drive, and each one of these courts — Court 1, Court 2, Court 3, Court 4, and Court 5 – are public roads up to the end of the court, where they are continued along private drives if they go farther.

Chapter 2 describes the proposed project under the original application submitted. As Marion’s comments indicate, this is not the project that would be going forward for Planning Commission consideration of the project, but the project that the EIR started with, and therefore, that to which most of the impact analysis initially conducted pertains.

Chapter 3 of the Environmental Impact Report describes the process of preparing and considering an Environmental Impact Report under California law. This is often called the CEQA process under the State law on which it is based. And at the end of Chapter 3 are a couple of pages describing the organization of the EIR as a whole, and in particular, the organization of Chapter 4, which is the main chapter in the EIR, the setting, impacts, and mitigation measures. As you will see, the topics that are covered run from A to P – these are topics that are included in the California CEQA guidelines – and “A” is “Aesthetics and Visual,” and it goes down to “P” which is “Utilities and Services.”

There is detail for each topic. It includes a framework for analysis as well as a description of the scoping comments made on this topic that were provided to us; a discussion of this setting, as it relates to that individual topic, and there, the focus is on the site. So, for example, if you were talking about geology, soils, and seismic conditions, the focus of the setting section and the specific conditions that relate to that topic would be in this chapter.

Then the third category in this chapter is the key project characteristics, the impacts, and the mitigation measure, and here, the focus is on the project – what will the project do to the site? That is discussed under several different categories. First of all, significance criteria: these mostly come from the California CEQA guidelines, and these provide our kind of bellwether indicator of whether a project has environmental impacts or not. This is our standard for determining whether impacts would exist and our way of making those determinations so that we are not reinventing significance criteria or going astray from what the State law intended.

Then we have impacts, and our impacts are lettered first, “A,” going with the “Aesthetics” section, and “A1,” which would be the first impact under “Aesthetics.” “C” happens to be “Air Quality,” and “C1” would be the first impact under “Air Quality.” “J” is “Noise;” “J1” would be the first impact under “J.” So they all have a topic letter and then an impact number. The mitigation measures are numbered exactly in the same way – mitigation measure “A1” would be the mitigation measure that is associated with “Aesthetic Impact 1” and so forth. At the end of each topical section is a Summary Table that lists both the impacts and the mitigation measures for that topic.

The first topic is “Aesthetics,” and this is a map showing the views of the site under the existing conditions. Each one of those little dots there has an arrow associated with it. The dot is the point from which the photograph was taken, and the arrow shows the direction in which the photograph was taken, so that you can orient yourself about where those views are. This map happens to show the close-in views – it is Figure 6A in the EIR. There is also a Figure 6B that shows the views that were taken from more distant locations.

The process of doing visual simulations is a process that involves a number of different steps. First of all, the selection was made of the viewpoint locations themselves. Those viewpoints were selected, first, by undertaking a general viewshed analysis. A viewshed analysis is a computer-based topography of all the lands between the viewpoint and the project and beyond, so what the computer is registering is all the geometry of all of those spaces you would see from any of the viewpoints.

The viewpoints that were selected for both the photographs and the visual simulations are viewpoints that are accessible to the public. We selected three nearby locations, one representative distant location, and then one on-site location that we thought, while not particularly relevant to views from off the site, was helpful to us in looking at the effect of possible loss of trees. It seemed to be useful to be a bit closer and on the site.

Chairperson Arkin: I have a question on that one topic, the selection of the view sites. Did you review that with City staff to make sure those would be the appropriate locations?

Ms. Mundie: Yes.

Commissioner Fox: Also, did you review what was requested at the February scoping session?

Ms. Mundie: I was present at the scoping session, and we had a list of all the points of view that people raised at that scoping session. And we went out with staff and looked at the site from all of those points of view and also studied them all, using the terrain model. Some of them could not be seen from distant locations because of intervening topography. That is actually fairly common, especially if you are not at a higher elevation to begin with, because there will be other hills and ridges between you and this site. Actually, it was fairly difficult to find distant locations from which substantial parts of the site are readily visible or on which individual landscape or built elements could be very easily distinguished from this setting in which they are. So, the sites that seemed most useful were then reviewed both by ourselves and by staff and by the applicants' representatives, and it was a consultative process to determine which ones seemed to be the most useful for the environmental analysis. We wanted to pick sites from which the most could be seen. Does that answer your questions, both of you?

Chairperson Arkin: Yes.

Commissioner Fox: So like, the Bernal property – was that one of the Downtown sites?

Ms. Mundie: Yes, it was.

Now, this process gives us a computer map based upon all the geometrical points determined by topography; what we do with that computer map is to register it to the photographs of the site, and then place on it and the landscaping and things that are associated with the project. Now you might ask, how can you do that, because the project is a custom home project and, in fact, does not have any buildings designed yet. That is one of the uses to which we put the project's design guidelines which were developed by the applicant. However, not wanting to misstate or unrealistically put any buildings on a site in a way in which they were unlikely to be actually placed when the real project comes forward to you – I mean a real house on a real lot – we used only the mandatory sections of the design guidelines in determining the shape, the size, and the footprint of the buildings that would actually be placed into the model for the purposes of the visual analysis.

Similarly, staff emphasized to us the importance of considering, as you look into the visual appearance of the project once it is built, the fact that landscaping is very hard to see in the very first years of the project, just because it either has not been placed yet or it has not grown into anything yet. So, in addition to looking at the existing view of the site, we were to look at the project in Year 0, which means it has just been constructed, and there is basically no landscaping there and looks pretty raw; five years after construction, in which case you can normally see some landscaping, but it is not very substantial yet; and then,



15 years out, when a substantial amount of the landscaping, including the mitigation trees that the applicant will be planting, will have reached enough maturity to get a better impression of what the finished project will actually look like after a number of years have passed.

So, what you're looking at here (*referring to overhead slides*) is the existing condition – it says Existing View there in the lower left. Here, we are looking from Gray Eagle Court, and the land mass that you see in the background is the southern edge of Pleasanton Ridge. The building on the left, the larger building, is not part of this project. So, we go from the existing view to just after construction, with landscaping at what we call zero years, and you can see quite a few houses there, although they are fairly low to the ground. Then after five years, you can see that there has been some screening as the vegetation is in place and is beginning to grow. And then after 15 years, you actually see a substantial amount of vegetation, and most of the houses are screened.

If you look on the far right toward where the vegetation ends, you can make out one house right there. Now, this is an example of a place where maybe more mitigation trees might be needed, and I want you to keep in mind where that house is because we will be coming back to it when we look at Alternative 4.

Now, these visual simulations are of assistance in a number of different ways, but I think the most important are, to give decision-makers an idea of what the completed project will look like, and then to give the EIR team one measure of determining whether there are significant aesthetic impacts associated with the project. In fact, Chapter 4, Part A did find significant impacts associated with the aesthetics and visual resources. In Impact A-1, we found that public uses and facilities, including new roads, need to be integrated into the surrounding landscape, primarily by landscape and plantings. And second, we recommended revising the mandatory design guidelines to put more lots into the category of “high visibility,” which would have the effect of placing more restrictive setbacks and landscape requirements on all the lots that would be added to this group.

I want to move along to other topics discussed in Chapter 4. In the case of agriculture, we found no adverse impacts. In the case of air quality, as you probably know, the methodology, the information, and the analysis are determined by regional agencies; and the regional criteria established by the Bay Area Air Management Quality Agency were observed, and only one impact was found related to those criteria, because the project was too small for the other impacts to reach those thresholds. The impact that was found was on dust generation primarily during construction, and an impact mitigation program was recommended to deal with that.

Section D of Chapter 4 is biology – this is the second large section of Chapter 4, and we have a series of graphics showing biological resources associated with the site. Among them are ponds – there is one down here, and then there is an offsite pond right here. There are wetlands; there are plant communities; there is a yellow background that shows substantial wooded areas on the site. This green area is the wooded area of the site, and this graphic actually shows up a little bit later. The dots in the center of the yellow area are the trees that

would be removed as a result of project grading. There are approximately 12,000 trees on this site at the present time, and about 950 trees would be removed about which about 90 would be trees that meet Pleasanton's heritage tree standards.

One thing I wanted to say about these ponds is that they are potential breeding habitats for the California Red-Legged Frog. California Red-Legged Frog and California Tiger Salamander have both been found on the site in association with these ponds. In addition, speaking of species of special status, this map shows in the purplish-blue areas which are the location where a certain plant called the Johnny Jump-up, or the *viola cornuta*, grows. This plant serves as the host plant for the Callippe Silverspot butterfly in its larval stage, so these plant areas are a very important part of the life cycle of that endangered species and an important biological resource of the site.

The biological section found ten biological resources, and proposed extensive mitigations for all of them, which are reported in the Environmental Impact Report.

Chairperson Arkin: Before you go on with the biological resources section, exactly how was the biological assessment done? Did you yourselves go out there or did you hire someone to do it?

A2

Ms. Mundie: I am glad you asked that question because in several of these technical areas, we work closely with specialists. In the aesthetic area, we used the services of a firm called Environmental Vision in Berkeley. They prepared these visual simulations, and you asked about getting higher quality reproductions of them at a larger size. We would be happy to do that – they exist, and they can be handed out to you. I am not too sure why the prints in the EIR did not turn out to be clearer than they are, but I can also see that they turned out a bit small to make out the detail.

In the biology area, we worked with the firm WRA Incorporated in San Rafael; they have done work for us in Pleasanton before. And their technique was, first of all, to use the information basis that are available to let biologists know where on a site of any kind they would be likely to find resources if they existed, and this is a combination of databases that show where animals and plants have been observed before, a knowledge of the soils and the climate that are associated with the site, and area photographs of the site that give further insight into what is on the site. That is followed up by field surveys in which they actually walk the site and look for the resources that they anticipate might reasonably be found there.

One of our earlier slides down in this area showed that darkish purple area, the Diablo Sage Scrub. This area is as far away from development on the site as you can get. This is a type of habitat in which you would sometimes find the Alameda Whip Snake. Just as there is a close relationship between the Johnny Jump-Up and the butterfly, there is also a close relationship between this kind of habitat and the possibility of the Alameda Whip Snake being located there. So what the biologist knows is what to find in tandem with what, and therefore, what to look for. Does that answer your question?

Chairperson Arkin: Partially. So, how many field surveys were done? When were they done? Do they have the dates?

Ms. Mundie: I believe the dates are cited in the Environmental Impact Report. It is possible for us to give you a table listing of all of the surveys and their dates. Surveys for special status plants or animals have to be done within the window of opportunity that has been determined by the regulatory agency, usually the U.S. Fish and Wildlife Service, because outside of those times, it is much more difficult to find the animal or plant if it is present. You want to do the survey when you have a maximum chance of finding it if it is really there. And so there are protocols for how to do these surveys, and those protocols are rigorously observed because the survey is a tremendous investment of time and money, and you want your survey results to be accepted by the agencies. So there are very careful rules, and they are very carefully observed.

A3

Chairperson Arkin: So again, all that information is in here and I just missed them?

Ms. Mundie: The surveys are mentioned, but they are never listed in summary form. We would be happy to do that.

Chairperson Arkin: Do you know if it is one or 20 or 50 surveys?

Ms. Mundie: It is not the number of surveys that matters; it is whether they have observed the protocols or not. For example, in some cases, the protocol requires that you do two surveys in successive years because they do not feel that just one survey is sufficient to rule out the possible presence of the animal or plant.

Chairperson Arkin: I understand what you said. There is one more question. So this company that actually did the survey, were they subcontracted to you, or did the City pick them? Did you pay them or did the City pay them?

A4

Ms. Mundie: We pay them.

Chairperson Arkin: So they were subcontracted to you?

Ms. Mundie: They were subcontracted to us. And in all cases but one, they have wildlife and plant specialists on their staff to cover all of the resources that are on this property. In one case, they hired a specialist, an etymologist, who is the person who has done the butterfly surveys because he is a butterfly expert.

Chairperson Arkin: Cool, very good.

Commissioner Fox: I had a follow-on question. How many hours does it take to do a survey of a 562-acre site? Do you go out and sample, or do you go out and cover the whole 562-acre site?

A5

Ms. Mundie: Different parts of the site support different habitat and vegetation sites, so, you would not have to look at all parts of the site for a particular plant or animal. Furthermore, for example, if you look at the ponds and you find Red-Legged Frogs there, you can stop looking, because you've gotten your "yes." As soon as you get a yes, you know you are under the jurisdiction of U.S. Fish and Wildlife for handling that endangered or threatened species, whatever it is. So you need go no further because you have answered the question. You would not have to look at all 562 acres once you find the species in question. And second, you would only have to, for any species, look at that portion of the site where you were reasonably sure that the species would be likely to be found.

Now, this goes back to the question of the time of year of the surveys. It is much easier to find the California Red-Legged Frog in its breeding habitat when it is breeding, because it is not going to go anywhere else. Once it has bred, they spread out all over upland areas, and they are much more difficult to find. So, the protocol calls for looking for them in the place where they are most likely to be when they are most likely to be there, to maximize your chance of finding them when they are there.

This is different from an archaeological survey in which you can find archaeological resources in lots of places on the site, and they usually walk it 10-, 20-, 50-foot transects and divide the property in stripes and absolutely cover it. It is a different strategy that is involved with biology.

Chairperson Arkin: So, every square foot of the site was not visually inspected.

A5

Ms. Mundie: That is correct. But we have other resources, too, like the California databases and reports of previous sightings, and the aerial views and so on.

For cultural resources, we found significant impacts not because we found cultural resources but because there is always a possibility they may be found during the course of site grading and site preparation, and you want to have mitigation measures in place if one of those circumstances arises.

After cultural, the next topic is soils, geology, and seismicity. There we were assisted by a firm in Emeryville and Petaluma called Baseline Environmental Consulting, again under contract to us. Baseline looked at three topics: soils, geology, and seismicity; hazards and hazardous materials; and also hydrology and water quality.

In the case of soils, geology, and seismicity, there were four different topics that come up under the CEQA guidelines: seismic risk, soil stability – that has to do with landslides, for example, expansive or corrosive soils, if they were under a building or a piece of infrastructure, or corrosive soils; if you had a sewer pipeline, it would be an issue; and potential for differential settlement.

What you do with any one of these is research the portion of the site that is proposed for development as closely as possible, and then develop mitigation measures to make sure you have taken that site condition into account when you do your site design and construction.

In addition, Pleasanton has a further safeguard in that your General Plan requires that there be a technical review and analysis and geotechnical studies by a qualified consulting engineer under contract to the City. And that person's recommendations are to be incorporated by engineers and to the project design. The firm of Cotton-Shires is the City's geotechnical consultant on this project, and it has been regularly consulted as the engineering of this project has gone forward.

Chairperson Arkin: Have there been any landslides on the site?

Ms. Mundie: Yes. The EIR mentions three areas of landslides, and I would love to be able to point them out to you, but I cannot; we should have done a landslide map, but we did not. But they are described in the report and methods for repairing – what they call repairing a landslide are indicated in the event any of those landslides would be...

Chairperson Arkin: So, how do they know how deep the landslide is?

Ms. Mundie: They do mapping, and they understand quite a bit of it from soils mapping, and then they do engineering borings to figure out what the layers are, and they determine whether it is something that can be repaired or not. If you want to pursue this question, maybe when our presentation is finished, the project engineer could probably answer those better than I can, and/or I will refer this question to our geotechnical consultant, and we can give you a more detailed answer on it later.

A6

Chairperson Arkin: I was interested in the process that was done and exactly what they found.

Commissioner O'Connor: Does the analysis take into account the 700,000 yards of soils that are going to be moved?

Ms. Mundie: The analysis looks at whether a building or infrastructure would be placed and the location where it would be constructed. So, some of the grading that takes place for a project of this kind is intentional grading in order to make sure that the building site at the end will be completely stable and risk-free. So I should say that the 700,000 cubic yards of graded soils represent a lot of movement of soils around the site to create building pads and to create infrastructure installations that people are sure will be stable when the project is finished.

Chairperson Arkin: Is that 100 percent risk-free?

Ms. Mundie: It is probably an exaggeration because nothing is absolutely risk-free. Let us say just minimized.

Chairperson Arkin: There are a lot of places where homes have slid down hills. Are any of the three current landslides in the area in the areas that they plan to construct homes?

A7



Ms. Mundie: I am sorry to say that I cannot answer that question exactly. I know that there are some landslide areas in the back of these because Alternative 4's decision not to build in this area frees it from concerns about the landslide in that area, but that is the only one of the three that comes to my mind at this moment.

Commissioner Fox: I have a question on geology as well. I am looking at page S12 in one of the alternatives, and it talks about the proposed tank road and about turning north along the property boundary across the adjacent Berlogar property to the north, as Berlogar Ridge Road. I am looking at the footnote on page 133 of the geology, soils, and seismology section, and it says that the group that actually performed the planning development level geologic and geotechnical investigation for the Lins in 2003 is Berlogar Geotechnical Consultants. Is that the same Berlogar, and is it not unusual to have a report prepared by an adjacent property owner? I know that whenever there is a project in an adjacent or nearby property owner for consideration by the Planning Commission or City Council, we have to recuse ourselves for conflict of interest. I am wondering what the process is in terms of who chooses what firm does particular studies are developers, and whether the City has any regulations if they are, in fact, adjacent property owners.

A8

Ms. Mundie: May I clarify that for just a moment, and then let staff answer the rest of it? Berlogar was not our consultant for the EIR, and I think that the text that you are referring to has to do with Alternative 3, which is the road to the north over the Berlogar property. That property was not given the same level of geological review as this site itself. And because the purpose of Alternative 3, which I will get to eventually, was mostly transportation mitigation, when we found that it did not work very well as a transportation mitigation, and would not be helpful, we did not do the detailed level of geological analysis that we would have done if we had found it was a good alternative to help transportation. So, that is an old report. We did not do it for the EIR; we only cited it for reference purposes.

Chairperson Arkin: So I am reading this; how am I supposed to know this is only for Option 3?

Commissioner Fox: It talks about the placement on portions of the project site of artificial fill deposits and sediment that have been relocated.

Ms. Mundie: What that means is that our geotechnical consultant took a look at that among other resources that they considered in doing their work.

Chairperson Arkin: I cannot tell by reading that.

Mr. Pavan: The footnote refers to a geotechnical report that was done for this property owner at a prior time. The private sector does not have the kinds of conflict of interest issues that the public sector has in hiring people, unless they are counterproductive. There is no reason to think that the Lins and the Berlogars would have different goals with respect to the development of their properties, so there is really no conflict of interest problem. But as Roberta suggested, in evaluating all the available resources for consideration of this 98-unit project, our geotechnical consultant simply looked at the historic work that had been done for this site.

Commissioner Fox: Who is the geotechnical consultant?

Ms. Mundie: Baseline Environmental Consulting.

Chairperson Arkin: How do we know how much they relied upon the Berlogar report versus what they did on their own?

Ms. Mundie: I think that is a fair question. What I can do is ask them how much they relied upon the Berlogar report and get back to you.

Chairperson Arkin: So there is some hillside development. Are all the homes going to be on cut or some going to be on fill?

Ms. Mundie: There will be a considerable amount of cut along the spine of Road A. Some of the lots which have hillside conditions in the back will have some fill in the back, but I cannot recite to you which of the lots those will be. That is a question that is better answered by the applicant or by our geotechnical consultant.

Chairperson Arkin: Is it possible to provide at a future meeting a map where the cut and where the fill are going to be?

Ms. Mundie: If you remember, Figure 3 includes the grading map, but it does not distinguish between cuts and fills. It sounds like what you would like is the map a shows cuts in red and fills in green. I am sure something like that could be prepared.

Chairperson Arkin: That would be great to help us understand. So some of the home structures would be on fills, to your knowledge.

Ms. Mundie: If they are on fills, they are on engineered fills that are placed, planned, and drained in a manner that is considered to be stable.

Chairperson Arkin: Are there any retaining walls on the project at all?

Ms. Mundie: Yes, there will be some retaining walls, but I do not have a map of them specifically. Where there are supposed to be retaining walls, the length and height of the retaining walls are limited under the design guidelines.

Chairperson Arkin: Are there retaining walls that are necessary for the stability of the homes, or are these just architectural retaining walls for landscaping and stuff?

Ms. Mundie: I think that retaining walls that are planned are primarily for stability purposes. But again, that's a good question I can pass on.

Chairperson Arkin: What is the height of the retaining walls?

A9

A10

A11

Ms. Mundie: I think it is five feet. That is in the design guidelines.

Chairperson Arkin: It seems like if they are for stability, they would be part of the infrastructure of the project rather than the design guidelines, would they not be?

A11

Ms. Mundie: They are, but it is important that the design guidelines weigh in on how large they are because otherwise, it would be possible to build a project that had a lot of very large retaining walls, and that would be an unattractive feature of a project, so you want to make sure that you do not design a project that requires that.

Chairperson Arkin: Given that concept, it seems like the number of retaining walls should be determined before we approve the project and not determined as a design guideline that will come house by house. You want the number of retaining walls now; you want a map that shows where all the retaining walls are going to be on the project.

A12

Ms. Mundie: I think one of the things that Marion mentioned in his presentation is that the strategy behind the site plan was to try to put the buildings on the most stable portions of the site. The idea was always to minimize the amount of cut-and-fill that would be needed and the amount of stabilization effort that would be involved. So, I am still putting this as an "if." If retaining walls are needed in certain situations, their dimensions would be limited. And if a retaining wall exceeded those dimensions, that would mean that was a site that could not be built on, at least not in the way that whoever was thinking about it had in mind. It becomes a constraint on development.

Commissioner O'Connor: Out of the preferred plan, the 51-lot plan, do you know how many of those lots would have had a grade of more than 25 percent before the cut for the pad of the house?

A13

Ms. Mundie: No, I do not know; but again, that is something that could be found out. Those sites on the 51-lot alternative are on larger lots, and, therefore, the building will be a smaller proportion of the total lot size. So you might think that possibly, some of those lots could have rather steeper slopes because that would be easier to avoid those slopes on a larger lot.

Commissioner O'Connor: I am more concerned with following our ordinances here in Pleasanton – regarding the pad itself, not the entire lot. I mean, the lot could have steeper slopes but I am more interested in the pad that the house would sit on, if they have to grade to take away the 25 percent slope in order to place a house on the building pad.

Ms. Mundie: We will inquire into that.

Commissioner Fox: At the top of page 140, it says that you relied upon that report to determine the stability and such. And it says that there is a fault one mile away, the Verona Fault. So, was there another consultant that you also used to look at the seismic impacts, or are you relying on the Berlogar report?

A14



Ms. Mundie: Again, I am going to ask Baseline Environmental Consulting to respond in part to that question. I would point out that while I know Mr. Berlogar is a property owner here in Pleasanton, I also know that he is the head of a geotechnical consulting firm, and that I am going to remind the Commission that the City of Pleasanton does have its own City-paid consultant, Cotton-Shires, to review the geotechnical reports, so even our consultant and everything he has to work with is not the only resource Pleasanton has to try to assure maximum safety of new building sites.

A14

Chairperson Arkin: So, did the City use the peer review in the generation of this EIR? Was their input used in this draft EIR?

Ms. Mundie: Their input was referred to by our consultant. They were in contact with each other and discussed it.

Chairperson Arkin: How far away was the earthquake fault?

Commissioner Fox: It said one mile, the Verona Fault, on page 136; but it also has a diagram that seemed to say that there is also another fault, the Las Positas Fault, that looks to be a little closer in the diagram.

Chairperson Arkin: In this site and design guidelines, are they allowed to have second units, a poolhouse, or things like that? And if so, has that been taken into account in the Draft EIR?

Ms. Mundie: The design guidelines do address accessory structures, and I would have to go over them again myself to answer your question, or we can ask the applicant at a later part of tonight's meeting. With second units, it is my understanding that Pleasanton does allow second units as part of its housing, but those would normally, as we understand, be part of the primary structure.

A15

Chairperson Arkin: Yes, we do encourage second units. As far as from a soil perspective, especially if there's fill, are there any issues regarding having a pool on a fill site, next to the edge of a hill?

Ms. Mundie: It is not a building for human habitation, but it is a building for human use. So, presumably there are some standards that apply to it, and again, it is something I can inquire further into.

Chairperson Arkin: So maybe people that have cut backyards can put a pool on people that had fill cannot.

Ms. Mundie: It could well depend upon the profile of the lot.

I was starting to talk about hazards and hazardous materials. Hazardous materials is a very regulated area, and your responsibility as a City is to simply make sure that all those regulations are met, and some of those regulations that have to do with this site would have

to do with making sure that use of hazardous materials is minimized and that escape of any hazardous materials into the environment, to the maximum degree possible, never happens.

On the subject of hazards, the major hazard of the site is wildfire, because this site is located at the urban-rural interface. The project design guidelines here also provide guidelines both for developed lots and for open space that are required to be met in order to minimize fire hazards. And second, the City requires an urban rural wildlands fire interface plan, which would be a required element of project implementation, again, to assure that wild land fire dangers are minimized – both the danger of a fire spreading to this property, once it got started, or the danger of fire starting on this property and spreading elsewhere.

Commissioner Fox: I was wondering if the applicant had received the letter that we received as a Commission this afternoon regarding the EVA and issues with granting EVA access.

A16

Ms. Mundie: Yes, they have. It was brought up to us at our project meeting.

Chairperson Arkin: The homes all have sprinkler systems in them, I assume.

A17

Ms. Mundie: Yes, they would be required to have sprinkler systems. In a few minutes, we will see the Fire Department's five-minute response to that, and we will discuss that.

Chairperson Arkin: I have never seen them using them in Northern California, but I lived in Southern California at the edge of a city, and they actually installed a sprinkler system on a hill, and it was made with probably three- or four-inch diameter pipes. And basically it looked like a traditional sprinkler system on steroids – it was massive. And the Fire Department could just turn it on – it went probably three or four hundred yards back from the homes. So, has that ever been done here, or it is something that could be done?

Ms. Mundie: I do not know whether that has ever been done in Pleasanton – it is not proposed for this project, but it is a concept that we could check into and get back to you.

Chairperson Arkin: I could tell you what street it is because I lived on it. It was in Simi Valley on Stoney Peak Court.

Commissioner O'Connor: On the EVA issue, are there other alternative EVA roads if the one going into Grey Eagle does not work out?

Ms. Mundie: The project, as proposed, has two EVAs – one would go out to the west toward Benedict Court, past the existing water tank; it is on the project map as Figures 2 and 3. The other one goes out to the north, as you say, the north EVA. Both of those would be included in the project.

For the alternatives, which do not have this cluster of houses (*referring to overhead slides*), only one EVA is planned, and that's the one that goes out to the north. There was a lot of discussion given to this point among the project team and on the EIR team as well, and a meeting with the staff of the Livermore-Pleasanton Fire Department. One of the concerns is

that you need to locate your EVAs where a reasonable number of people will think that is the best and quickest way to get out. And so, of course, the best and quickest way to get out is going to be on Hearst Drive. The EVAs would probably not be your logical source of exit unless there is some blockage here. So, the Fire Department takes that into consideration in figuring out where the best EVAs are. This one has the defect of being really far away from a lot of the residences on the site.

Commissioner O'Connor: On Alternative 4, that EVA would never be built?

Ms. Mundie: That is correct.

Commissioner O'Connor: So, if there are issues with the other EVA as far as access or ownership, is there a third proposal?

Ms. Mundie: There is no other proposal that has been studied by the EIR team at this time.

Commissioner Fox: So, if there is inability to use the Grey Eagle Court EVA, there is no other alternative that's being studied?

Ms. Mundie: I am not saying that no other alternative would come forward; I am just saying that is the only alternative that we have studied.

Chairperson Arkin: At what point will we be able to get more clarity on that issue?

Mr. Pavan: We can come back to the Planning Commission with an answer on that. Hypothetically, if this item is continued, we can bring it back then. Chair Arkin, Fire Chief Cody of the Fire Department is present to answer questions of the project.

Chairperson Arkin: Does the applicant mind if we talk to the Fire Department at this time?

Mr. Pavan: Excuse me, Chair Arkin. If I may request, can we take a five-minute break right now?

Chairperson Arkin: Wonderful, that sounds great. We will take a break for ten minutes.

[Recess]

Chairperson Arkin: So, after consultation with staff and given the volume of material to go through, I think what we want to do is continue the presentation, and at least get public comment from the people that are here. Donna, is that what we talked about?

Ms. Decker: There are a number of people in audience wishing to provide testimony for the review and comment period.

Ms. Mundie: So you'd like us to take our seats and come back later?

Chairperson Arkin: Yes. I find your presentation very interesting, but we want to hear from the public right now.

**THE PUBLIC HEARING WAS OPENED.**

*Comments by the public at this public hearing are presented in Part D.*

Then the public hearing was closed and the Planning Commission resumed its meeting.

Chairperson Arkin: I guess there is a lot more material in this EIR than we can cover in one meeting. It looks like we will have to have multiple meetings to go through this and stop in the middle and take public testimony and reschedule.

Ms. Decker: I would like to recommend that the Commission consider continuing to the July 26, 2006 meeting some or all of the rest of the presentation from the hazardous section of the DEIR. We do have vacations, but we do have a number of Commissioners who will be here, and then see how that process goes. Then the next hearing would be August 9<sup>th</sup>. I believe we would want to reconsider on the July 26<sup>th</sup> hearing date where we are with respect to the DEIR review and comment period.

Commissioner Fox: Could we also talk about some other alternatives that we would want staff perhaps to go out and investigate other than Alternative 4? Would that be appropriate tonight?

Ms. Decker: I think that may be premature at this particular time, not having covered all of the Draft EIR discussion topics to provide you with all of the information. And then we could have a study session about the preferred project and go more in-depth into the alternatives. I would recommend that discussion as far as a revision or additional alternatives be considered at that point, which could certainly take place sometime in August as well. Presumably, we would have a study session for the project itself proper on August 23<sup>rd</sup>.

Commissioner Fox: There are a lot of questions that I have, because that was done with Greenbriar and the development on the west side of I-680 that is part of the Bernal PUD. The inclusionary zoning ordinance was put in place, and they ended up having to build multiple duets – I think there were ten in a section of million-dollar homes. And I don't see any alternative that involves, say, 51 units with ten duets that would comply with the inclusionary zoning ordinance. I just see references to a 20-unit off-site development with no details. That really goes counter to what we try to do, which is to spread those units around town.

Also, you have been having a draft EIR where the preferred alternative or any of the alternatives is even discussed. I think that puts the City at risk from a legal standpoint. And also, in terms of the ridgeline development and some of the comments we have had tonight, with the grading, it is unclear to me what part is fill, and which part is not, although Commissioner Arkin has asked for a chart showing in green and red what is fill and what is not. I would like to see a map that shows the ridgelines of the property and what pieces of property are being proposed to be graded that are within 200 feet of the existing top of the ridge, similar to what we have talked about with the General Plan and the San Juan Capistrano Ridgeline Preservation Ordinance, what we have talked about with conservation and open space, potentially having a ridgeline preservation ordinance, where we would not allow grading within 200 feet of a ridgeline. From the topographical maps, I am not getting a sense as to whether 100 percent of the proposed 51 units is within that 200-foot top of the ridge thing, or whether there is a small portion. So I cannot really assess what the aesthetics are without that kind of information.

Ms. Decker: I think our goal, of course, is to bring back this specific information that you have directed our consultant, as well as staff, to look into and bring back to the Commission as a part of the review process for the DEIR. I would also like to provide assurances that this is not the only opportunity to have these discussions. This is a look at the preferred alternatives from a lotting standpoint, and how it impacts this particular site. Staff will bring back the information that you are asking for as far as the cut-and-fill diagrams, and we can bring those back also with a smaller scale so you can see Courts , 2 and 3, and so forth.

The additional information would also help in terms of the study session that we could have regarding the project. And then the Planning Commission would essentially move through that preferred Alternative 4 and go through the formal PUD the review process after that.

Commissioner Fox: We could also extend the review period to 120 days for people on vacation who want to comment, rather than having everything due by mid-August or in the summertime.

Chairperson Arkin: Donna is going to look into the process to extend the review period. because some other people have asked that. I am still a little confused on the whole process because the actual scoping and the selection of different alternatives was not done by the Planning Commission. This is the first time we have seen this. So, at what point in the process do we provide feedback that says we really want to see something between three and four, or we want to see what Anne is talking about regarding doing something different. Where does that fit into this process? This is not clear to me.

Ms. Decker: Again, that is a part of the process that would be evaluating the project. This portion, what is before you now is that the applicant has presented a project to the City, which is a 98-lot alternative. And through the course of the analysis for the EIR, there were several impacts. Each alternative has something that improves it in one regard or another, and to date, the preferred alternative is Alternative 4. But that does not mean that the Planning Commission does not have the opportunity to review and comment. Comments regarding the Draft EIR are to be provided to City staff prior to the end of the review period.

The project then continues through the process – this is just the first part of that process. And again, through the study session, looking at the project with this additional information that you have asked for, I think that the Planning Commission would have a better idea of how it does mitigate the concerns from the 98- to the 51-unit alternative or what other things the Planning Commission may be interested in.

After you [Planning Commission] have heard all of the presentation from the EIR consultant, you would direct the consultant and staff to bring back additional information to answer those questions, which would be a part of the Final EIR. We could have a study session to more definitely investigate how Alternative 4 has met many of the mitigation measures from the original project, and then move through it.



Chairperson Arkin: Anne's question is something that I have never thought about, the issue as far as doing some higher density something up there. That's something that has not even contemplated in any of these alternatives. So would there be a place in the process in which the Commission can say, we want another alternative that has these particular characteristics?

Commissioner Fox: Or else, for instance, in our scoping session?

Chairperson Arkin: I am just trying to understand, at what point we will be able to say, we also like Alternative 5 or 6, or whatever?

Ms. Decker: That would be, I believe, as with any other project, at a study or work session, where you would have that opportunity to comment on the project overall. And that is essentially after you have been informed as to the environmental impacts. This is the important first step in the process. And in relation to the inclusionary housing ordinance, that ordinance does not specifically state that they need to be built on-site. But that is a part of that conversation that the Planning Commission would certainly enter into and discuss, after we have all of the information from the environmental review process at hand, to be able to analyze and evaluate the project itself.

Chairperson Arkin: So, we are going to go through this process of hearing from the applicant, hearing the consultants, going through this EIR, and then hearing from the community. And then after we hear everything, if there are some other alternatives that we want to see, we can make the request and the consultant will go off and look at some other alternatives.

Ms. Decker: Correct.

Chairperson Arkin: So, there is no requirement that this has happen within these 45 days.

Ms. Decker: The 45-day review period is just the first review and comment period for the Draft EIR, and after that 45-day review period, to midnight of August 14<sup>th</sup>, those comments are built into another document that becomes the Final EIR, which is then distributed and rides with the project. What I am suggesting is that between that process, we take the time and look at the Alternative 4 project after knowing all of the environmental impacts of this site for development and have a discussion about the proposal.

Chairperson Arkin: so, after the 45 days, we cannot ask that another alternative be looked at?

Ms. Decker: No, you would still be able to do that.

Chairperson Arkin: The 45 days does not prohibit the Planning Commission from directing that other alternatives be looked at?

Commissioner O'Connor: My understanding is that the 45 days is just to comment on the EIR, not the development itself.

Chairperson Arkin: But if we want some other alternatives looked into the EIR, at what point do we lose that ability to make that request? Instead of Alternative 4, it is Alternative 5?

Commissioner Fox: Because I think at the scoping session in February 2005, I think there were some comments from the public, but also from some of the City Council members to have a small project, like 10 to 15 homes. So, I was surprised that that was not part of the alternatives, a project that would not need to conform to the inclusionary zoning ordinance, but that would be smaller scale. I would like to see an approach where it is not done at the ridgetop level but somewhere in the middle between the valley areas and the ridgetop level. I think we are looking at some of the diagrams in the grading and we are seeing houses built on steep slopes, and it looks as if there are almost three stories.

Chairperson Arkin: I have another way to get through this. Can you, offline, put together a memo explaining to us exactly what our options are, and how this project would work?

Ms. Decker: I would be happy to provide an outline as far as the process is concerned; and in the meantime, I would recommend that the Planning Commission continue this item to July 26<sup>th</sup> to continue the discussion of the EIR, and we can bring back additional information as to the process as well.

Chairperson Arkin: In this memo, we will be able to discuss when the appropriate time would be for us to discuss other options?

Ms. Decker: Correct.

Commissioner O'Connor: Just to summarize, we need to see if there are other options for the EVA access, if the one that is proposed is not going to work. I do want to see on the grading how many of the lot pads have to be graded in order to fit a house onto a lot that may have a 25 percent or greater slope. Which houses are going to be built on fill versus cut. I think that's about it.

Commissioner Fox: I would like to see what houses are being proposed to be built within 200 feet of a ridgeline. I would also like to see some better visual simulations that are not involving a 28-millimeter wide-angle lens, and I would like to see them blown up to be similar to the page size that we get here, versus the small ones in the EIR. I would also like to see some more information on what Commissioner Blank brought up regarding the vibration of construction trucks. I would also like to understand more about the issues of the visual simulation from the Busch property and the Vintage Hills locations. I would also like to find out more details about the 20-unit off-site development proposed by the developer to meet inclusionary zoning ordinance requirements; would like to know where that would be.

Chairperson Arkin: What Phil Blank suggested is a wonderful idea. I have not walked up there before. I think that I would like to see some process that staff puts in place that basically takes the Commissioners in groups of two to the site. I would also like it to be staked and marked before the site visit so we can see where the cuts are going to be. We have seen other projects in which they stake, and use different color stakes for whether there is going to be



cut or whether there is going to be fill. So, they may use a red stake to show that this is actually lower than what the final elevation's going to be, and a green stake to mean that the final elevation will be lower than this; and have that analysis of all the streets there so we can walk and see exactly what it is going to look like, because I need to walk the project, and I think that it's something that every Commissioner should walk it after it is staked.

I also would be interested in having some peer reviews done on the visuals and on the biological work. I think everything else is covered by different comments. That is it for me.

Ms. Decker: I think I have enough to work on, and we will report back and advise the Commissioners as far as a site visit, how best to handle that particular request in terms of when to go out, having the site staked, etc.

Chairperson Arkin: Okay, great. We are done with this item, and to the public, we will continue this at our next Planning Commission meeting, which is July 26<sup>th</sup>. Thank you, everyone who have been so patient.

*{end}*

## B. PLANNING COMMISSIONER COMMENTS—PUBLIC HEARING

AUGUST 23, 2006



## PLANNING COMMISSION MINUTES

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**City Council Chambers**  
200 Old Bernal Avenue, Pleasanton, CA 94566

**DRAFT**

**Wednesday, August 23, 2006**

### CALL TO ORDER

The Planning Commission meeting of August 23, 2006, was called to order at 7:05 p.m. by Chairperson Arkin.

#### 1. ROLL CALL

Staff Members Present: Jerry Iserson, Director of Planning and Community Development; Donna Decker, Principal Planner; Marion Pavan, Associate Planner; Steve Otto, Associate Planner; Julie Harryman, Assistant City Attorney; Phil Grubstick, City Engineer; Mike Tassano, Acting Traffic Engineer; and Cory Emberson, Recording Secretary.

Commissioners Present: Commissioners Brian Arkin, Phil Blank, Anne Fox, Greg O'Connor, Arne Olson, and Jennifer Pearce.

Commissioners Absent: None.

**Items not related to Oak Grove Application deleted.**

#### 6. PUBLIC HEARINGS AND OTHER MATTERS

##### a. PUD-33, James Tong/Charter Properties, Jennifer Lin, Frederic Lin, and Kevin Lin

Review of the Draft Environmental Impact Report for the Oak Grove Planned Unit Development for a 98-lot custom home development and to consider a 51-developable-lot environmentally preferred alternative on a 562-acre property located near the present terminus of Hearst Drive on the southerly sides of the Vintage Hills II and the Grey Eagle Estates developments. Zoning for the

property is PUD-RDR/OS (Planned Unit Development – Rural Density Residential/Open Space) District.

Commissioner Blank recused himself from the dais.

Ms. Decker summarized the staff report and noted that the City's consultant, Roberta Mundie, would not be able to make her presentation. However, in the staff report, she had provided an overview of the last remaining sections from the previous hearing, including traffic and noise, and a discussion of the differences of Alternatives 1 to 4. She noted that Alternatives 2 and 3 would not be discussed as thoroughly as the preferred Alternative 4. She noted that the public review process would end on August 29, 2006, and any comments received by that time would be forwarded to the consultant and addressed in the Final Environmental Impact Report (EIR). She advised that a transcript that had been approved earlier of the issues addressed would become part of the material addressed in the Final EIR.

Chairperson Arkin disclosed that he visited the site. He noted that visiting the project site provides for a better understanding of the project and is very helpful in the review process.

Commissioner Fox disclosed that she visited the site.

Commissioner Olson disclosed that he visited the site.

Martin Inderbitzen, representing the applicant, made a presentation to explain the overview of the project. He noted that they had not requested a General Plan Amendment and stated that as submitted, it was a 98-unit project. He noted that they intended to minimize the overall disturbance of the property. As a result, the project submittal resulted in the removal of approximately 120 trees out of a total of about 12,000 trees. He noted that the development concept was consistent with that of surrounding developments such as Kottinger Ranch and Grey Eagle Estates; they believed it was permitted and called for in the General Plan. They realized that the major issues would be view impacts and traffic. The traffic analysis indicated that the street can accommodate the buildout of 98 units, although it would have an impact to existing residents. They had been engaged in discussions for some time to mitigate the perceived impacts to the residents, which would entail a reduction from 98 to 51 units on the property as outlined in the environmentally preferred alternative. He displayed the lots that had been removed, particular the lots that had the most visual impact on the property. He noted that the impact on 2000 feet of lineal drainage was all but eliminated by the environmentally preferred alternative; that drainage will remain. The traffic impact to Hearst Drive would be reduced by nearly 50 percent by the removal of 47 units.

He noted that they intended to demonstrate how the lots lay into the existing landscape, how the grading would occur to drop lots lower on the site, and in relation to the existing tree canopy, the mature trees would be brought up to create better visual shielding. They would

also demonstrate how the tree mitigation plan would replace several hundred trees to buffer the future development. He noted that the mandatory design guidelines would be very strict.

Commissioner Fox noted that the simulations on the Oak Grove website were sharper and clearer than those in the Draft EIR and expressed concern about the lack of sharpness in the visuals in the Draft EIR.

Mr. Inderbitzen stated that the Final EIR and project approval would contain a series of visual analyses that would adhere to the project, as proposed, and to the design guidelines. He noted that the visuals would be of the quality as seen in the Austin property application.

Mr. Pavan concurred with the Commission that the quality of the visual could be better but could not speak to the reason at this time. He appreciated the Commission's comments in that regard and indicated that staff would ensure that the visuals provided to the Commission for the Final EIR would be 8 inches by 10 inches to 11 inches by 17 inches in size and as close to photographic quality as possible.

Chairperson Arkin requested a scoping meeting to address what the Commission would like to see in the visual analysis.

Ms. Decker noted that the transcript from the July 12, 2006 hearing included an apology by Roberta Mundie regarding the quality of the photovisuals contained in the Draft EIR and that she would repair that particular deficiency in the Final EIR. She noted that Commissioner Fox had requested 11-inch by 14-inch photos with better clarity; 11-inch by 17-inch photos would be available for the Commission. She noted that the scoping meeting suggested by Chairperson Arkin was not a typical response through the Final EIR process.

Mr. Iserson noted that it was important to bear in mind that comment on the Draft EIR was the primary focus of this particular item and that the legally defined comment period had been stretched out as far as legally possible, 60 days. Any comments received in that time period would be referred to staff and the consultants and responded to in the EIR. He noted that future workshops and site visits would be possible, but the EIR cutoff must occur by August 29, 2006. He did not see how a workshop in another month would be feasible that would then feed information into the EIR; however, it could be applicable to the PUD and the development plan.

Commissioner Olson suggested that the site visits and visual analyses be conducted from the viewpoints of the residents who commented, as was done for the Austin project.

Mr. Iserson replied that would be possible and added that Mr. Inderbitzen had indicated his willingness to conduct a detailed visual analysis.

Commissioner Fox noted that when Dublin did the IKEA project, they issued a Supplemental EIR; she inquired whether a Supplemental Draft EIR could be created.

Mr. Iserson replied that would not be possible unless a change occurred in the project after the Final EIR was approved.

Mr. Pavan detailed the traffic analysis and noted that the neighbors on Hearst Drive and Bernal Avenue preferred that a traffic signal not be installed. The environmentally preferred alternative mitigated a series of environmental impacts, primarily in the filling of the significant swale areas in this area of the project. He pointed out the Callipe silverspot butterfly habitat was being reviewed in conjunction with the Department of Fish and Game. The project's design guidelines are referenced in the Draft EIR and are reviewed by staff on an ongoing basis.

In response to Chairperson Arkin's concerns regarding the residents' attitudes towards driving six minutes to get to a main artery, Mr. Tassano noted that neighborhood peer pressure will slow the traffic and that drivers generally drove faster away from their own neighborhood. Chairperson Arkin inquired what could be done to slow people down on the arterial road. Mr. Tassano noted that a narrow road tended to slow drivers down. Chairperson Arkin suggested putting a landscape median on Hearst Drive. Mr. Tassano noted that was similar to the median on Montevino Drive.

Mr. Pavan had observed traffic at high speeds on Hearst Drive and added that the applicant had offered to contribute a sum of money to the Kottinger Homeowners Association to implement traffic calming measures on Hearst Drive to be identified at a later date. This could be addressed in the Final EIR as well as in the project analysis.

In response to Commissioner Fox's concerns regarding the regional trail, Ms. Decker replied that the open space acreage will be held in private until its transfer to the City. At that time, the City will evaluate and place on a work plan the timing for the trails and its connections, which will become available for public use.

In response to an observation by Commissioner Olson that the 51-lot alternative had larger lots than the 98-lot alternative, Mr. Pavan confirmed that was correct.

In response to an inquiry by Commissioner Olson regarding whether the 40 percent floor area ration (FAR) would be applied to the larger lots, Mr. Pavan replied that the FAR was a matter of concern to staff and neighbors. The guidelines specified a 25 -percent FAR with no floor area cap. He added that a larger house that was incorrectly designed would require significant grading. However, if a hillside house is designed correctly, the grading may not necessarily change. Staff still wants to pay careful attention to floor areas and FARs.

Ms. Decker noted that the City's policy was to closely examine the size of homes versus lot size. She noted that the Reznick project, for example, had large lots, but the developable area was constrained, and the lot size and floor area size were based on different criteria. She noted that the City was sensitive to actual land areas and looked closely at it with respect to its impacts on the PUD.

**THE PUBLIC HEARING WAS OPENED.**

***Comments by the public at this public hearing are presented in Part E.***

Then the public hearing was closed and the Planning Commission resumed its meeting.



In response to an inquiry by Commissioner Fox regarding where the preferred location for a staging area would be, Mr. Inderbitzen replied that the Draft EIR identified a number of potential staging areas. He believed one of the proposed sites was near the water tank.

In response to an inquiry by Commission Fox regarding whether this would be a gated community, Mr. Inderbitzen noted that the City prohibited gates through a General Plan policy. He noted that there had not been as large a gift of land as this occurrence, which brought many questions to the forefront. He noted that there was plenty of time in the future to address the parks and trails issues which did not relate to the environmental impact. He noted that they were dedicated to mitigating the traffic impacts in conjunction with the Hearst Drive residents.

In response to an inquiry by Commissioner Olson regarding whether the project had the support of the residents, Mr. Inderbitzen replied that he could not answer for all the neighbors but hoped they would present their opinions during the PUD hearings.

Ms. Harryman recalled Chairperson Arkin's comments that it may be difficult for the City to get a trailhead put in after new residents moved in. While the City would not be legally prohibited from doing that, it may be a good idea to consider that possibility during the PUD process, especially with respect to CC&Rs and disclosures.

No action was taken.

## C. WRITTEN COMMENTS—PLANNING COMMISSIONER FOX

AUGUST 29, 2006

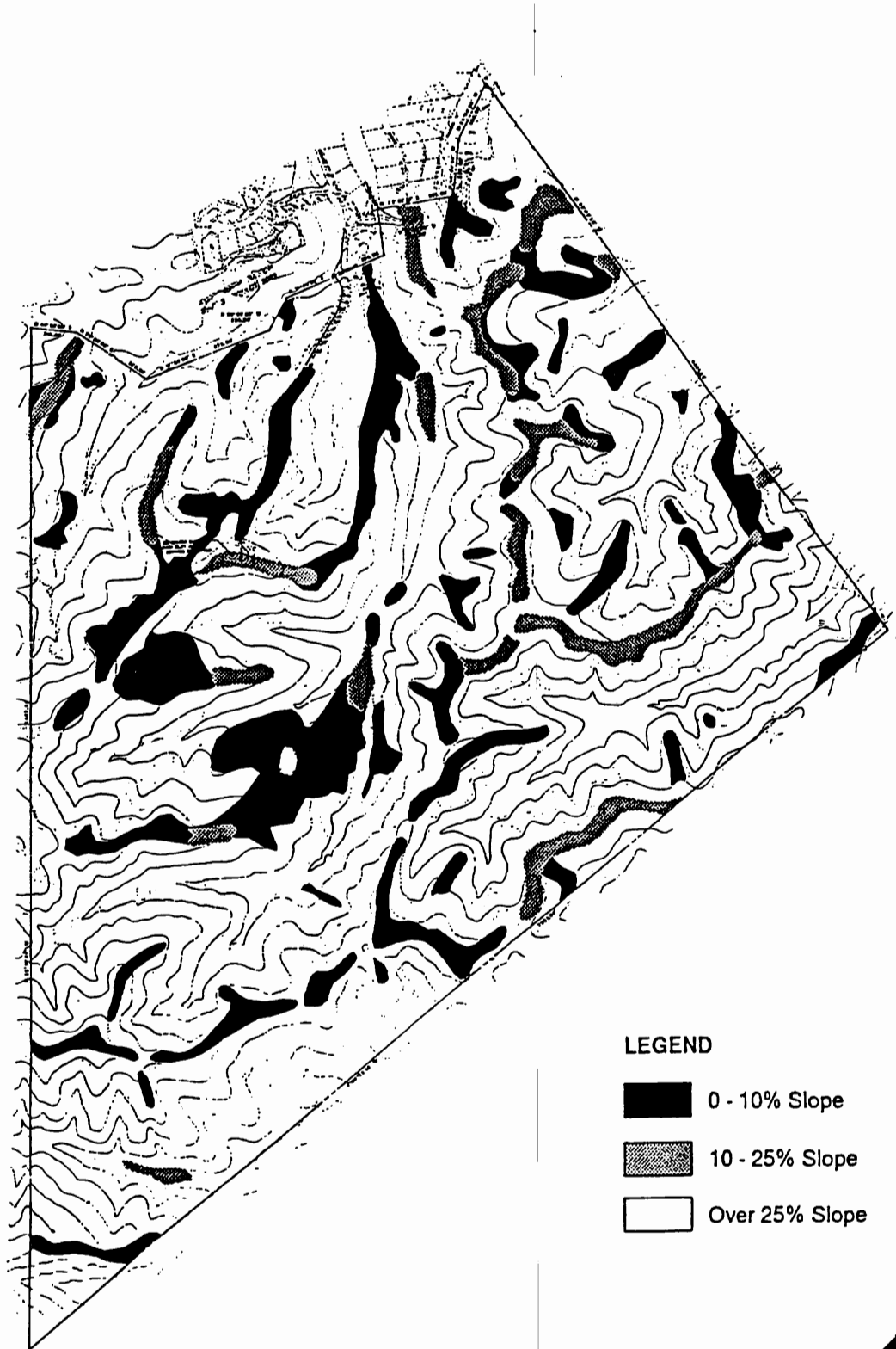
**TO:** Marion Pavan, Donna Decker  
**FROM:** Anne Fox  
**SUBJECT:** Oak Grove DEIR comments  
**DATE:** August 29, 2006

AUG 29 2006  
CITY OF PLEASANTON  
PLANNING DEPT.

### Comments:

1. Steepness of terrain – The previous Kottinger Hills EIR discussed the steepness of terrain and the limitation of building on 25% or greater slopes. There is text discussing Slope Stability on p. 140; however, there are limited visual representations. Using the previous EIR from Kottinger Hills, please overlay the 98 and 51 site maps with the maps provided on Figure 1-6 Slope Analysis showing regions of the property from 0-10% slope, 10-25% slope and greater than 25% slope as well as Figure 1-7 Selected Site Constraints showing areas with landslides, steep slopes and high visual sensitivity. Figures are attached. C1
2. Fill and grading and relation to existing topography – Please overlay a picture of the planned grading and fill locations with a visual representation of current slope and landslide areas. C2
3. As discussed in the Planning Commission meetings and multiple written communications, the visual analysis is inadequate to convey the proposed development, but also the existing appearance of the site. The photographs are blurry, grainy, taken with a wide angle lens, appear to have been printed/scanned/photocopied with faulty printers or at draft low resolution, appear to have not been printed with an adequate color cartridge in the printer, and are too small. Please revise and resubmit the Visual Analysis. C3
4. Provide visual simulations using a worst case scenario (each house built with floor space at 25% FAR), a ‘medium visibility perspective’ 50% of the houses at 10,000 sq ft and 50% below 6,000 sq ft and one where 100% of the houses are below 6,000 sq ft. Provide visual simulations showing the maximum possible building envelope (height and mass) to represent the worst-case effects. C4
5. Provide visual simulations to include the proposed water tank, as well as project glare, etc. from lighting at nighttime. C5
6. Some existing homes on hilltops have glass which produces excess reflected glare at sunrise/sunset so that the homes produce a reflective glow at certain times of day. Provide visual simulations for worst case scenarios that would show reflections of glass from homes from distant viewpoints in morning and evening hours. C6
7. Please provide replacement visual representations taken with 50mm lens in addition to a table of viewpoints to include the data – **Figure Number,** C7

Figure 1-6: SLOPE ANALYSIS



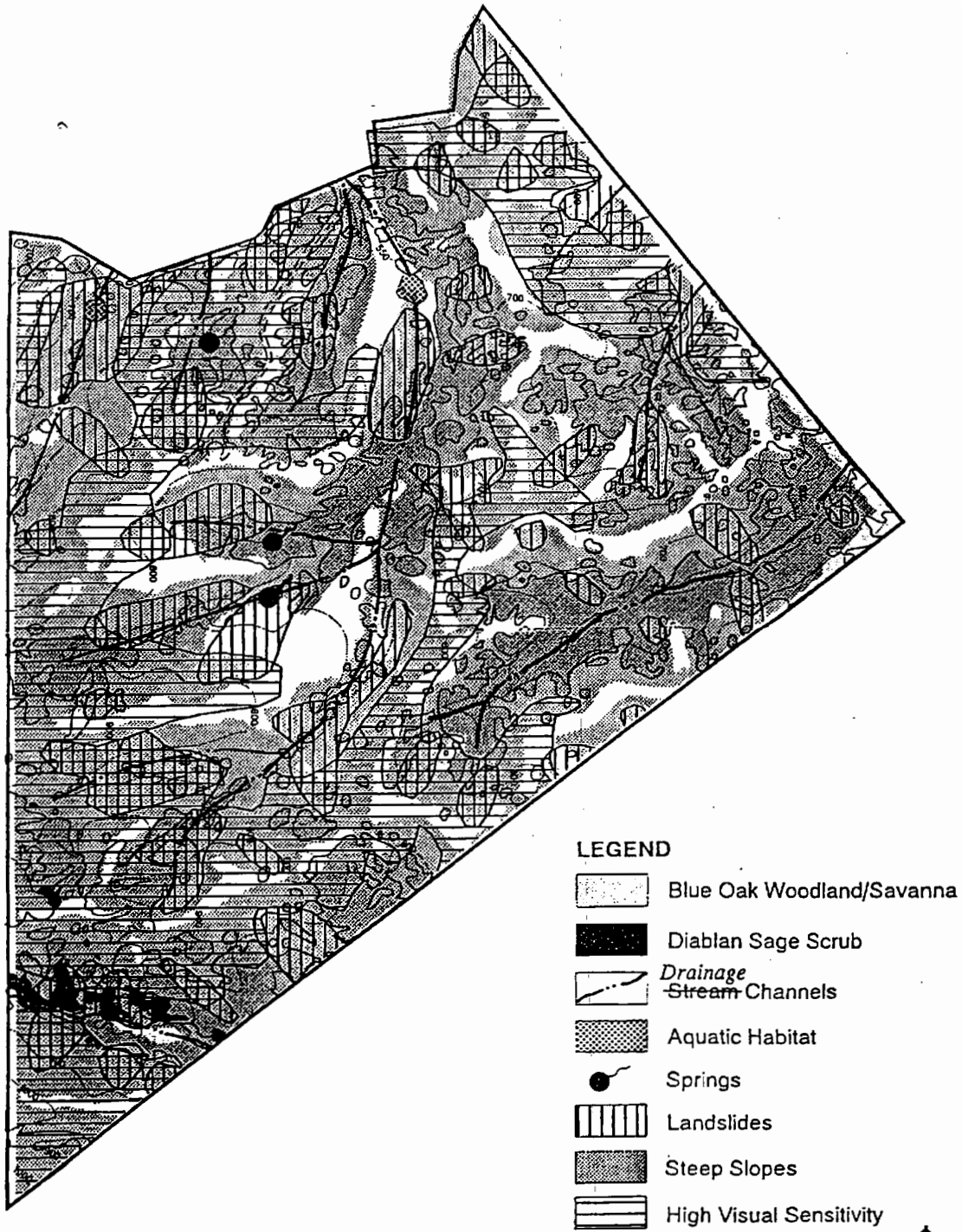
SOURCE: WPM Planning Team, Inc/MacKay & Soms



KOTTINGER HILLS EIR



Figure 1-7: SELECTED SITE CONSTRAINTS



**Location, Viewing Distance, Date/Time Taken.** Do not use a 28mm wide angle lens as was indicated in the Appendix was used in the DEIR as this distorts the position of foreground objects in relation to background objects to make background objects appear further away than how the eye would see them. The 50 mm lens represents objects as the eye would see them. Prepare them is at least 8 ½ by 11" format as was approved originally by the City Council in the Mundie and Associates Proposal -- EIR TASK 4 Page 3 -- Technical Specialists' Work Scope- Environmental Vision---"A set of twelve (12) draft and twelve (12) final simulation images will be submitted in 8.5 by 11 inch color format (one existing and one development footprint image per viewpoint)." If the 50mm lens will not show the entire project area site, take multiple pictures from a viewpoint location.

8. 2 inch by 3 ½ inch photographic representations are inadequate to assess the project site. Please replace visual representations such as the one below (from Bernal Property which is visible from at least one cul de sac planned on the project site) with clear images taken in 50mm format and printed at least in 8.5 by 11 inch format with similar photographic quality as this one taken by a resident –

C8



21. Looking southeast from Bernal Residential Development

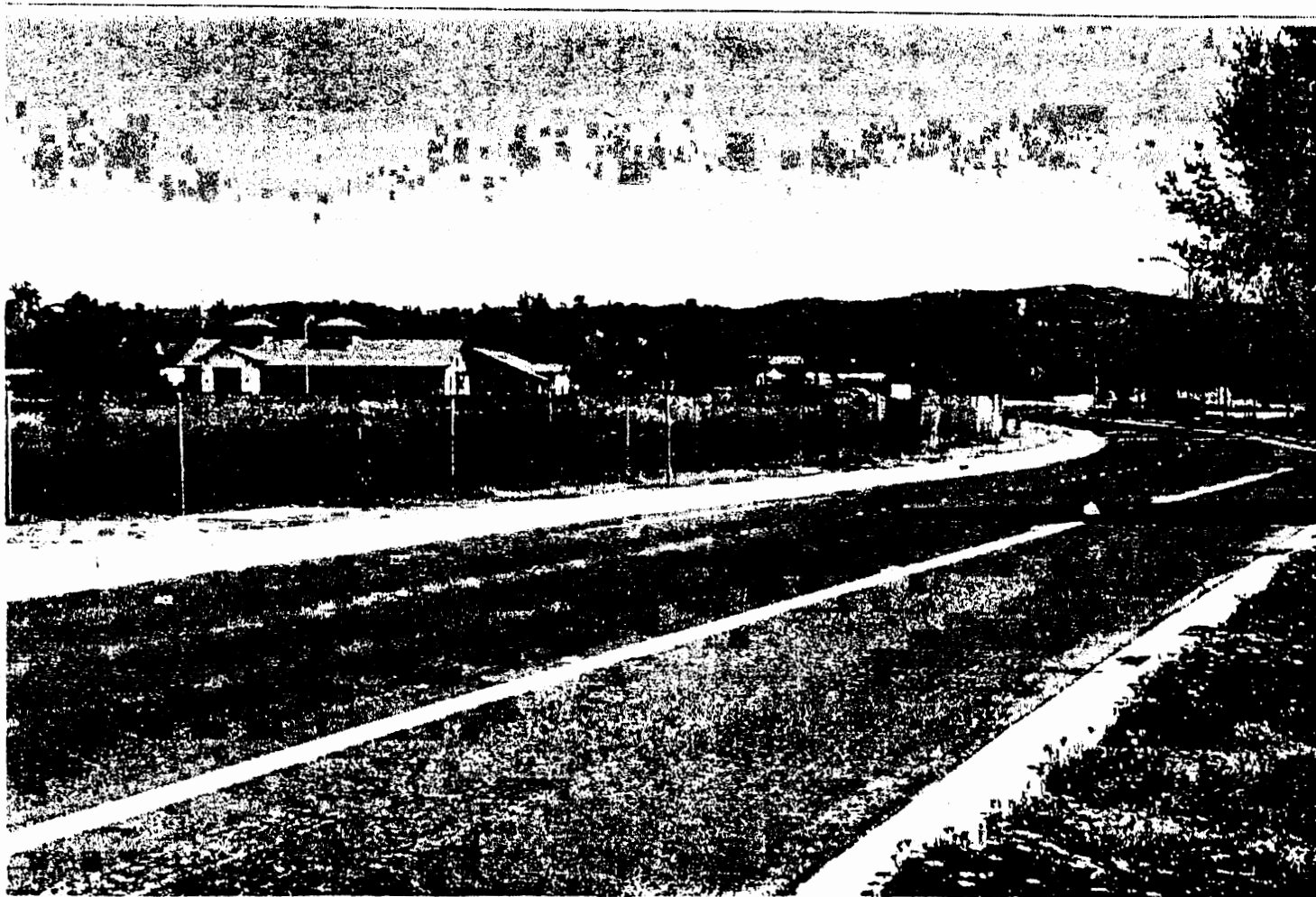


C-5



9. The Valley/Stanley/Bernal intersection photographs are blurry and at low resolution (see the gray squares in the roadway indicating low resolution) as is this image below. Please replace visual representations with more accurate representations (the Valley/Stanley/Bernal intersection is visible from almost all cul de sacs on the planned on the project site) with clear images taken in 50mm format and printed at least in 8.5 by 11 inch format with similar photographic quality as this one taken by a resident.

C9



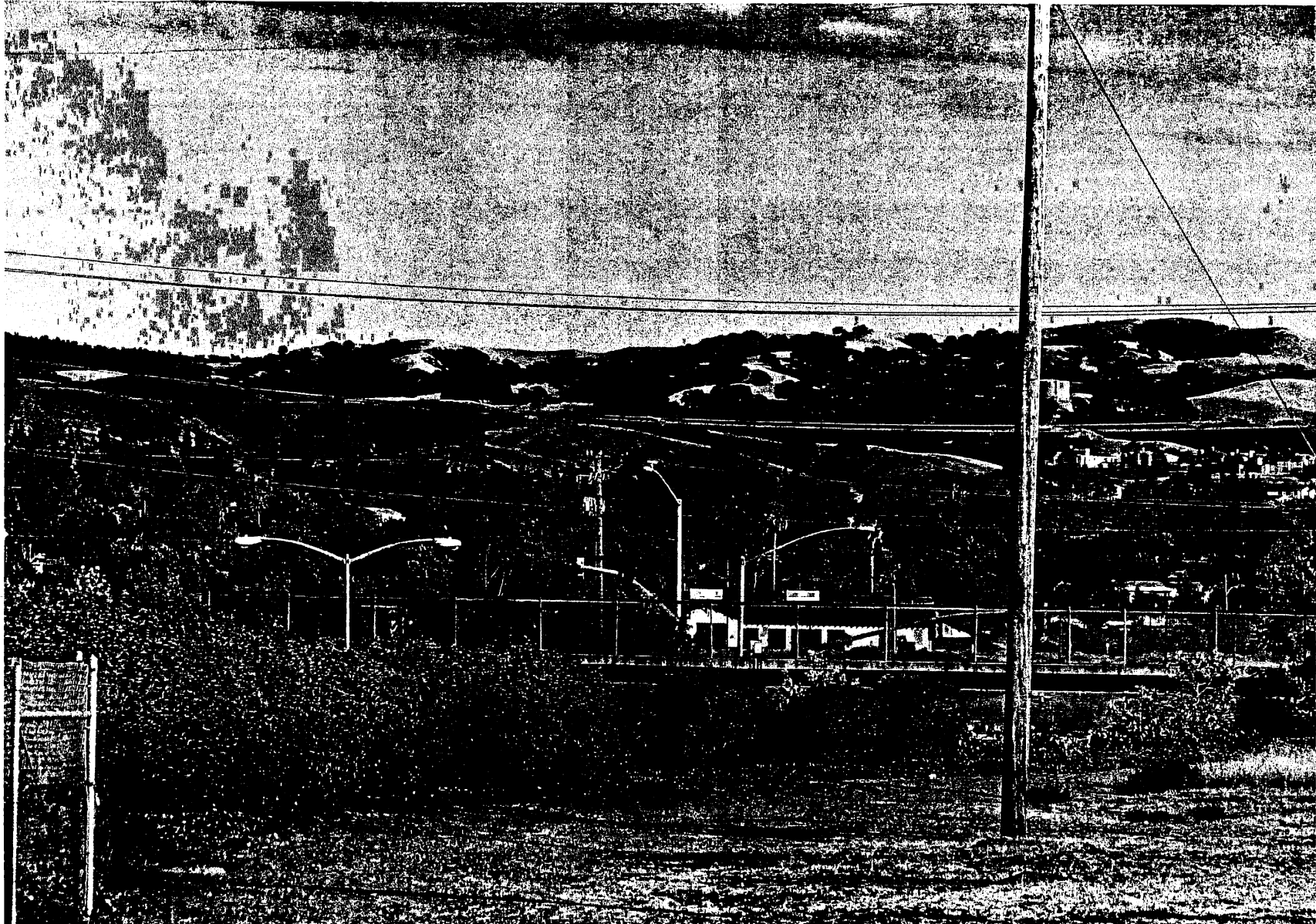
Existing View

Source: Environmental Vision

Figure 15a  
VP 14 - Bernal Avenue  
Oak Grove EIR



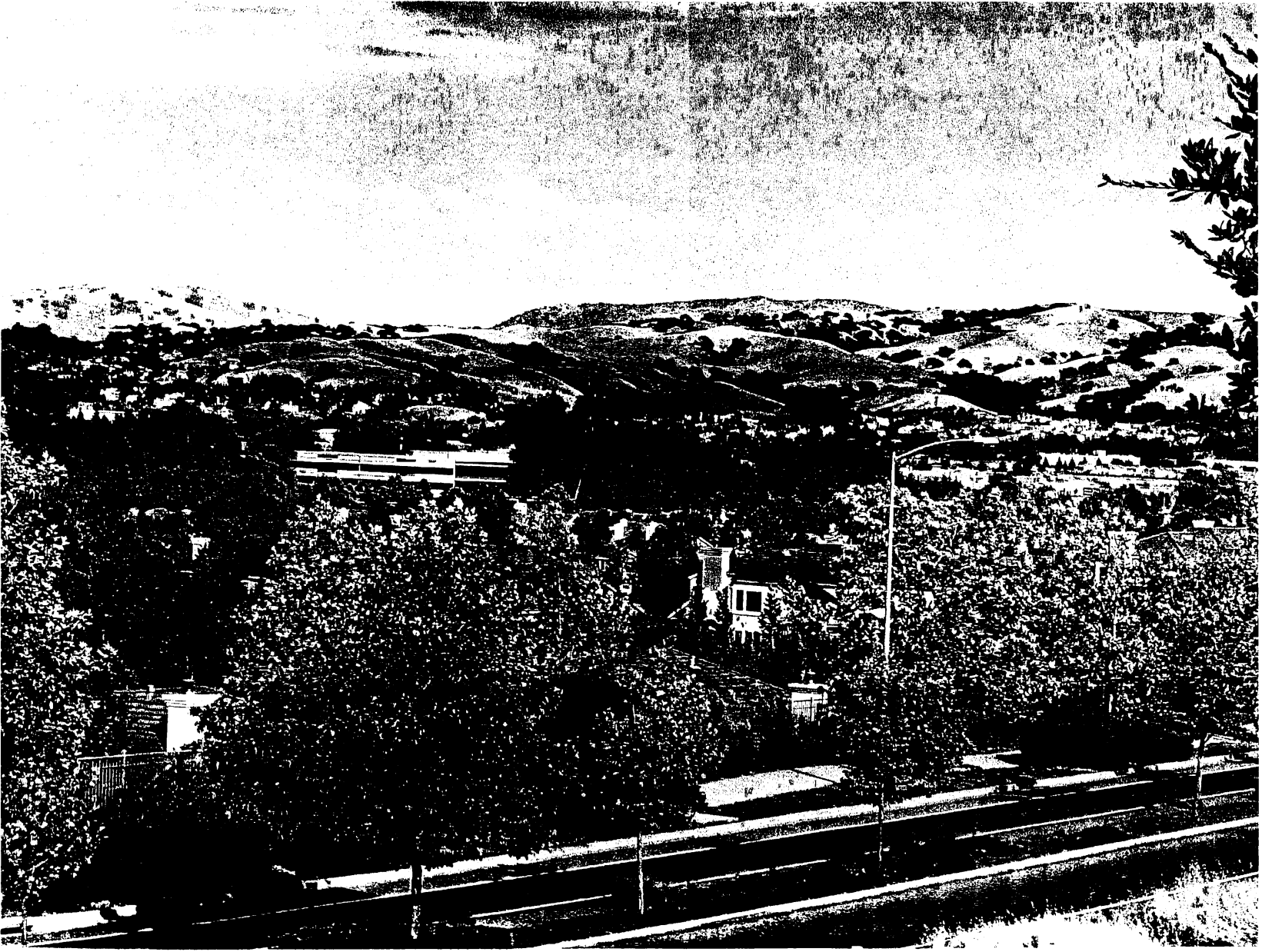
C-8



10. The DEIR contains no visuals from Foothill Road and other locations at high elevations within Pleasanton. Please prepare visual representations in areas that the site is visible including at a minimum, a site from Foothill Road (e.g., for example Racoon Hollow and Adobe Alviso park area – see photo attached), the 680 South flyover to 580 East (the existing DEIR had a confusing statement that said “The site is barely visible from downtown Pleasanton and I-680”), the Hacienda overpass of I-580, near the W.Las.Positas bridge over I-680, McKinley Park, the Iron Horse Trail, and at the entrance grate to Augustin Bernal Park. Also please retake the Chain of Lakes photograph to aim toward the project site. C10
11. Please discuss vibration impacts of existing houses and construction traffic. C11
12. Please discuss the impact of pedestrian safety related to the Open Space Design Guidelines description of no sidewalks. C12
13. The representations in the DEIR are inadequate to address the visual impact of grading. Please provide an environmental analysis of the visual impacts while the grading is occurring. C13
14. Please discuss the lack of proposed neighborhood recreation facilities in what is termed the ‘preferred and superior alternative’ in relation to meet the recreational needs for small children and the social opportunities of small children. The previous EIR discussed city guidelines that a neighborhood park be located so that each residence is within ½ mile of a neighborhood/community park. It also stated that the existing project site at the closest boundary is 1.5 miles from an existing park. The current EIR then stipulates that each residence in the proposed development plan is within 1.2 miles of the existing city neighborhood park (Vintage Hills) and that Kottinger Community Park is less than 1 mile away. Then in another section of the DEIR, it states that Vintage Hills Neighborhood Park is ½ mile away from the project site. Please reconcile these disparate figures and determine an accurate measure and place this in the Final EIR. Please discuss how the distance to access a nearby park is measured (by how a resident would walk via roads or from an aerial straight line viewpoint), and the discrepancies between these measurements in the versions of the EIR. Also please provide information on what the maximum distance would be for the farthest development in the property (lot furthest in the property) as well as the closest development in the property (lot near the existing Hearst Drive terminus) if this proposal has no neighborhood park. C14
15. Please discuss the public benefit which would be achieved or not achieved by having a large project where the open space has no trail access from trail heads/parking locations on site. The DEIR states “the absence of publicly-accessible trails on the site would reduce the public benefit of site development (not a CEQA impact).” Please discuss if the open space is not open and managed C15



C-10





by the City, whether the homeowners association plans to have a fire and security protection staff for essentially a 500 acre private park, or whether city resources will be used to maintain and manage a private homeowners association own private open space. Please discuss this in relation to the General Plan and Parks and Recreation policies.

16. Provide figures other than n.a. to show Maximum Capacity and Over Capacity for schools in Table 23 regarding school overcrowding. Show 2006 and 2007 data to include what school Ruby Hill residents are choosing (Valley View vs Vintage Hills) by grade. Replace n.a. in Table 27 as well with actual numbers. C16
17. The Table 27 has a figure of only 6 students with project (“6 (22 over)”) for Vintage Hills Elementary School appears to be in error. If the school has an enrollment of 642 and 42 students are added, is this not 684 students or an overcapacity of 84 students? Please correct this data or otherwise provide an explanation how each column is calculated, particularly “Student Enrollment with Project.” Explain what “Student Enrollment with Project” means and explain how the number 6 is determined and how 22 over is determined. C17
18. Building Heights—Explain how “the building height at the downslope portions of the structure may be 36’ “are still within the 30’ height maximum. Please provide any reference to the municipal code etc that indicates building heights are only measured at ‘street side height.’ C18

## D. PUBLIC COMMENTS — PLANNING COMMISSION HEARING

JULY 12, 2006

### THE PUBLIC HEARING WAS OPENED.

Allen Roberts: My name is Allen Roberts. I live at 16 Grey Eagle Court, and I own a piece of property at 29 Grey Eagle Court, which is a current vacant lot which is referenced in the EIR and one of the last lots to be developed in Grey Eagle.

I picked up a copy of the EIR, and noticed that there was an EVA planned through my property, and I have no agreement with the developer to allow siting an EVA through my property. And so, I had my attorney write a letter, which I guess you have all gotten. Apparently, the plan was to use an existing easement that I have with the City of Pleasanton, and it is my opinion and the opinion of my Counsel that that does not allow for an EVA; and even if it did, the EIR calls for a maximum grade of 12 percent for an EVA or fire truck access, as I understand it, to keep things from falling off the back of the truck if it goes up too steep of a hill. That hill is 18 percent, which, I have been told by the Fire Department, is too steep for a fire truck. So, that is the other issue associated with it. I just wanted to make sure that the issue of EVA through my property got flagged as part of the EIR, and I would be happy to answer any questions.

D1

D2

Lee Fulton: I am Lee Fulton, 3407 Brandy Court. One of the many wonderful things about living in Pleasanton is its horizon. From just about anywhere in town, you can look up and you can see unspoiled ridgelines as your horizon, whether it is the north Livermore hills, Mount Diablo, southern eastern hills, or our crown jewel, the Ridge, to make a hectic day more bearable, just glancing up from about anywhere in town. I was told by staff over a year-and-a-half ago, that ridgeline development was discouraged by the General Plan, so this plan, as proposed, probably would not be approved. Of course, this is the original Plan 1. So, I left my name and requested to be notified of any future developments on the project. Last December, in *The Independent*, there was the article stating that they had held numerous talks with concerned neighbors and were working on it then.

So again, I requested to be notified if anything was going forward on this project, and I got the card last week saying we got the Draft EIR done and show up here if you have any comments. So, many cities in the area prohibit ridgeline building – I know Danville and several others. You cannot build on a ridgeline – they protect them very diligently. The plan as presented to staff grossly misrepresents the visual impact using originally only six locations, and all of those were in Kottinger Ranch, as far as the visual impact of the project. I noticed that they included four other ones now, in Grey Eagle Court, Red Feather Court, and a few others. One of the reasons, Anne, you have problems with the pictures is that they use 28-millimeter wide angle lenses, and if you have ever done any photography, you know that is like taking a telescope and turning it around backwards – it makes everything look much more insignificant. That is on page H1 of the Appendix. That does not truly represent what the eye actually sees. If you have ever had just a point and shoot snap camera, the pictures look farther away than you actually saw them. With a 55-millimeter lens, that is only from Bernal Avenue. All the rest are 28-millimeter wide-angle lens, it says.

D3

If you ever had just a point and shoot, cheap old camera, and you took great pictures on your vacation, and then you will look at the picture and go, I was a lot closer than that! That does not give you the same visual impact that your eye actually sees. Anyway, the plan to put the road on top of the ridge, and then drop the houses down on either side, they say this will look much nicer. But from the rest of town, if you are looking up at a hill, even if the house has dropped down, and the road is on the ridge, your visual impact is going to be rooflines – it's not going to be a natural ridgeline.

D4

They did not show how the horizon of Mataro Court, Grey Eagle, Vintage Hills, Vintage Hills II, the views from the Busch property. I used to work for the City and from the Corporation Yard, you can see Hearst Drive, and all the houses on the north side of Hearst Drive will look like that will be that ridge. Court 1 – that is very prominent to even McDonald's – they'll look up and instead of seeing hillsides, they're going to see houses.

D5

They sent out all these slick pamphlets saying that the reason for the ridgeline placement was for environmental reasons, but I would probably venture to guess it was equally balanced with it is cheaper to do because you do not have to move as much dirt, and you can sell each lot for twice as much because you have a killer view, at least from the house. From the rest of the town looking up at the houses, your view of the ridgelines is gone.

D6

We fought long and hard to save the ridge – I think we should be very careful with our only other ridgelines – we have very few left, and they are all in the southeast hills. I am not saying we should not build on any of them, but I am just saying we should take a real close look at it.

In the biological study, the area just west of Court 1 and north of Hearst Drive, that whole area that they were initially proposing for a park, that is daily hunted by hawk, kites, owls, vultures and fox at night, all the time. You are asking about landslides – that same area right below Court 1 has had several landslides over the years. It is really steep – so steep that kids used to go up there with their four-wheel drives and needed to be pulled out.

D7

D8

We have the opportunity to determine what our future horizons will be: ridgelines or rooflines. Personally, I vote for ridgelines. Thank you very much.

Chairperson Arkin: I have a question, Lee. So you live in Kottinger Ranch?

Mr. Fulton: No, I live in Vintage Hills. There would be like six houses looking straight into my bedroom window instead of the sunrise. Thank you very much.

Russell Schmidt: Russell Schmidt, 18 Grey Eagle Court. That puts me two existing houses down from the proposed exit to the EVA, so I am on the north boundary. I want to touch briefly on a few issues. The first is noise during construction. I read as much as I could digest of the noise section of the lengthy EIR, and what I do not find any reference to is comment about specific noise sources, like particularly the backup beepers on heavy construction equipment. I do see that they are planning or estimating the buildout period to

D9



be six to eight years. I do not know what the methodology was for evaluating the noise impact, but I know from experience that those sounds from the backup beepers are very piercing and carry a long way. I can often hear them from where I live. I can here them constantly from the Beratlis development, which is down the hill. So, I would like to flag that as an issue.

The EIR does say something that construction hours would be eight to five, but that does not say whether that includes Saturday and Sunday. My request would be that if this is approved, it be partially contingent on no backup beepers on Saturday and Sunday and anything that could be done to abate those sounds – turn them down, change the frequency, I do not know – during the other construction periods would be appreciated.

Dust and wind is the second issue. I do not know if you have visited the site, but typically during the summer, we get a prevailing wind from south-southwest – it is usually in excess of 10 miles an hour, sometimes it can be 20 miles an hour. We have had episodes of lawn equipment being blown away and umbrellas being blown off their stands. I do not know if the air quality standards that are being suggested as abatement address that kind of situation or not, but I wanted to flag that we have extreme wind conditions out there, and moving 700,000 cubic yards of soil is going to be a lot of dust in the air. So, attention needs to be paid to the wind.

D10

The next thing is impact on nighttime views and glare. There is a section in the draft EIR on page 74, I believe. There are four bullet items related to “proposed mandatory design guidelines.” It would be nice if they were not proposed mandatory, but they were mandatory, and it is not obvious whether the City enforces that through the Planning Commission or whether the developers themselves do. This has to do with directing lighting down onto the lot, and not having, for example, floodlights shining out, which will be a huge impact.

D11

The next issue is the EVA itself. There is language in there about “discouraging bikers and pedestrian hikers from using the EVA.” The experience that we have had in Grey Eagle is that we have a persistent trespassing problem, both up our private road and up the EVA that is already associated with it. It is a natural route for people who want to come up to a high point and look out. It has gotten to the point where I have posted additional signage on my part of the EVA about not trespassing and had it ripped down. So, my concern there is if the EVA allows bicycles and hikers to continue up the hill and connect to the new trail systems that is going to be up there, they are going to have yet more of that kind of issue that we are going to have, people coming up from Arbor Drive, up through the existing Grey Eagle, and into the trail system up there. I do support the trail system with the trail head. I myself hike – I think that’s a great idea – but I do not want people coming up our EVA to do it.

D12

The next thing is traffic impact. My reading of the traffic impact was that most of the intersections that are going to be impacted are already very bad, so there is really no impact. I disagree with that strongly. I think that we still need to look at the impacts there.

D13

And the last thing that I wanted to mention was that I know there is wildlife that did not show up in the survey. There are great horned owls there and foxes, and so I'm curious about the omission of those from the survey. Thanks.

D14

Mary Roberts: I want to thank Marion for giving me the draft EIR. I have not digested the whole thing yet, but I am remembering that by August 14<sup>th</sup>, I have to get all my comments in. And I did notice, thank you, Commissioner Fox, the scoping. It really annoyed me that the scoping did not take place in front of this body, and I did not have a chance to do any scoping. I thank all of those who worked on Alternative 4, and I know that was partially the neighbors and the developer, and I consider it an environmentally better solution. I would not say it was superior to all, but it is better. I do want to echo what Mr. Fulton said about ridgeline development. This is all on the ridges, as Kottinger Ranch was. I have an old photograph where you can just see those scars – fingers – going up the hills, and they were there for a long time.

D15

D16

D17

Nothing in the EIR discusses ridgeline or why it is a superior or a better environmental solution for this. If you were to take the houses and put them down lower, cut into the hill maybe so that there is a backdrop, this ridgeline is sky – sky behind all of these houses. And that is something that we have not done in this city, or we try not to do. There may be a good reason for doing it, a good environmental reason, but it is not discussed. I did like the tree replacement discussion that they had, and it is superior to our ordinance, which is one per six. It is much better than that. I did not understand acorn buckets. And they have to be able to protect new trees, mitigated trees or the deer will eat them. It is not just cattle that are grazing, but deer will eat any little new oak tree coming up, and if it does get up a little bit higher, then they rub their antlers on them, circle the whole thing, and they are dead. So you need some protection.

D18

D19

The design guidelines – perhaps a good starting place. I noticed that any public hearing is ignored in this, and I think that sometimes when you have groups doing their own approval of a design, sometimes these groups get rather clique-y. I think there should be some possibility of public hearing as was done with Callippe, and I think that you proposed that to happen on the Reznik property. You might want to get rid of FARs, because some of these lots are two acres. That means you could put a 20,000-square-foot house up there, and the visual impacts up there would be rather amazing, as well as hardscape on the property. You may want to do something else about that.

D20

They did mention that they were not going to allow any irrigation on slopes, which is a very good idea. But their landscaping on big lots like this tend to be fully landscaped and use a lot of water. And as we found in the Vineyard Corridor, the water tank was not sized correctly and had to be bigger because someone did not realize how much water Ruby Hills used.

D21

I want to get quickly into Alternate 3, which is the road going through the Berlogar property. This was proposed in 1991 or 1992, and I thought it was dead. Since that time, Berlogar has had new structures built, some of which this Commission has approved. You have to change the Vineyard Corridor Specific Plan, and you have a road on the ridge. One thing that they talk about that is not addressed in this whole EIR is noise – noise in canyons, noise that

D22

D23

bounces off the hills. I am quite familiar with this. So, if you do a decibel study of a car going by, it has no relation to what kind of noise bounces back and forth in those hills.

On page 300, it talks about Alternate 3 with the road going down to Vineyard Avenue – and says it is impossible; but then on page 336, “In short, Alternate 3’s effectiveness in shifting traffic,” which is the proposal for it, “is not very substantial, and the payoff in terms of reduced LOS is minor and limited.” Thank you.

Mike Regan: I have not had the chance to review the draft EIR in full; obviously it is a very comprehensive document. So, I would just like to make some select comments tonight, again, not really knowing what the flow of decision-making was to be out of this meeting. I just want to get a couple of things on the table, and then would follow up, hopefully in writing, with some other things. I think in terms of the summary issues that I read, the primary among them is the traffic, and my concern that I have stated over the years is potential breakthrough to properties even beyond the Oak Grove proposal. So, as we look at the mitigation issues, I would like to make sure that, if in fact the project goes through, there is a formal mitigation which includes easements and legal restrictions that would basically say that this is the end of any kind of development beyond Hearst Drive. So, I think that is important and I am not sure how that gets addressed in the mitigation, or what we need to do.

D24

On the environment issues, the mitigation typically in the reports used to be kind of a measure and monitor type of a response. I really think that what we need to look more at is the open space, the kind of specificity of what open space is, and how that remains open space. I am not sure whether that is a part of the EIR, or if that comes with a certificate of approval or not.

D25

Again, the aesthetics or the impact – the sight lines – I do not see the sight lines on some of the views that were in the actual proposed project in the Alternative 4, which seems to be the one that is being considered most heavily right now. I think that is something we need to follow up on to help understand what that project looks like.

D26

And then tonight, I have heard a lot of discussion about the EVA road, and I think that that is something that, if there is truly a concern about that impact on the project, we probably need to get fleshed out before moving forward. I have not had time to go through this in more detail – I just wanted to get a couple of topics out on the table tonight for consideration.

D27

Phil Blank: Phil Blank, 1339 Hearst Drive in Kottinger Ranch. I will make my comments hopefully relatively brief. A couple of issues to follow on the traffic – it is really an issue not just of volume, but of speed. Even today, the traffic on upper Hearst Drive is out of control. I have seen cars go whizzing by my house, and I have tried to calculate it and mark it off at 45 and 50 miles an hour, and I do not live that far from the end of Hearst Drive. I believe they are looking for cut-through because typically what they do is they go all the way down to the end to make a U-turn and then they *really* go blasting back the other way, and I believe these are people who are not familiar with the area. They think if they drive over Hearst Drive, they are going to somehow get through to Vineyard Avenue. I cannot figure out what they are doing. I think that is an issue that needs to be looked at.

D28



I would encourage you to visit the site if you have not been up there, and I am not just talking about driving to the end of Hearst Drive. Go to the end of Hearst, get out of your car, and walk the site. Look at what this is. We have done that as a Commission in other locations where it has been environmentally sensitive, and I would encourage you to do the same.

D29

We absolutely have to have better quality visual simulations. I think the picture quality in the EIR is extremely poor. I would like to see those supplied electronically and digitally. A 28-millimeter lens is good for scuba diving, but it is terrible for pictures out in the open. It really does not do a good job of rendering accurately what you're seeing.

D30  
D31

I would encourage you to consider extending the comment period. I do not believe that 45 days is sufficient time not only to gain public comment, but for you to visit the site, for people to really go back through and look at what is happening. Another reason that I think it should be extended is, there are discussions going on between the developer and the neighborhood, and I am not representing any party to those discussions, and I think we have to have a sufficient period of time for the written agreements to be put into place. I know the City has been a party to some of those negotiations, and I do not want that to be a rushed process, and I do not want either party to feel advantaged or disadvantaged by the march of the CEQA process.

D32

A couple of items I believe have been left out of the report, and these are items that have submitted in writing much, much earlier. One is vibration. There have been foundation problems in the fill in Kottinger Ranch and on the ridgeline in Kottinger Ranch. So, one of the items that some of us have requested be included in the EIR was an assessment of the impact of construction trucks going up and down Hearst Drive for a lengthy period of time. That could certainly be mitigated by reducing the size of the construction trucks. There is a lot of mitigation that could be happening, but the vibration itself is a concern by some of the neighbors in terms of its impact on the existing foundations, due to slippage and foundation problems that have already occurred there. I could not find it in the EIR if it was in there. They talked about noise, but I couldn't find vibration.

D33

The other thing that might be in there but I could not find it. There is a section of the EIR that talks about outside impacts on the project. And one of the things that was not discussed was the airport. This project, by its very nature, will be a lot closer from a noise perspective to the Livermore Airport than Kottinger Ranch is today. And I do not believe that that has been taken into account. I believe the traffic pattern at Livermore was recently approved – a substantial number of new hangars. They proposed an airport extension, a runway extension. They proposed a significant airport expansion, and I would like to see the impact of the fact that Livermore Airport is a mixture of business jet and small aircraft operations that operates 24 hours a day, 365 days a year. The fact that the City of Livermore has proposed a significant expansion of the airport, I think that needs to be looked at in terms of its potential impact on this property. And with that, I'm done.

D34

**THE PUBLIC HEARING WAS CLOSED.**

## **E. PUBLIC COMMENTS — PLANNING COMMISSION HEARING**

**AUGUST 23, 2006**

Mary Roberts, 1666 Froghill Lane, noted that she was extremely concerned about how the open space acreage would be transferred from a homeowners association to the City.

**E1**

She inquired about the environmental problems that will occur by a homeowners association owning all 500 acres. She believed there might be a danger that should be identified and that a staging area at the proposed park in the Vineyard Corridor would encounter a methane problem belonging to the Pleasanton Garbage Service. She was concerned about the considerable length of time that it would take for the trails to be developed. She noted that because the regional trail ran through the Berlager property and that the staging area was relatively flat, the hiking ability may be limited. She suggested that if the staging area was at the end of Hearst Drive, there could be two (one off of Vineyard Avenue and one off of Hearst Drive) that may be able to break it up enough to avoid traffic impacts in one place. She believed the EIR needed to identify the open space issue and the problems of that much open space being owned by a homeowners association.

**E2**

**E3**

**E4**

**E5**

Chairperson Arkin believed the open space would be deeded to the City.

Ms. Decker noted that there will be an irrevocable offer of dedication to the City, and the City would make the decision about the timing of taking possession of those lands.

Commissioner Olson believed the transfer of the open space to the City should be clarified before the Final Map stage of the project. He noted that if he were a prospective homeowner on this property, the possibility of maintaining 500 acres of open space would concern him a great deal.

Lee Fulton, 3407 Bradley Court, reiterated his previous comments made at the July 12, 2006 meeting with respect to the inadequacy of the visuals and to additional views being taken from specific neighborhoods in the area such as from Mataro Court, Grey Eagle Court, Vintage Hills, Vintage Hills II, and the Busch Property. He expressed concern that the parklands that they had been promised would not be accessible to the public without having a staging area from the Hearst Drive side. He noted that would be a long hike from the other side. He did not believe the neighbors would like people parking in front of their homes in order to hike the trail.

**E6**

**E7**

**E8**

Glen Fiderko, 3561 Crespi Court, expressed concern about the visual impacts of the development on his views. He did not want dirt to be dumped in the canyon as occurred during the building of Kottinger Ranch project, which led to an erosion problem. He noted that the canyon acts as an acoustic funnel, and was concerned about noise abatement during construction.

**E9**

**E10**

**THE PUBLIC HEARING WAS CLOSED.**



**F. ALBIN, GREG**

**JULY 26, 2006**

**Marion Pavan**

**From:** Greg Albin [greg@pacbrokers.com]  
**Sent:** Wednesday, July 26, 2006 2:22 PM  
**To:** Marion Pavan; Julie Harryman  
**Cc:** bing\_hadley@agilent.com  
**Subject:** Re-cap of our issues - PUD 33

Hi Marion,

may not be able to make the meeting tonight, so here is a re-cap of the issues we have with the project:

**CONSTRUCTION NOISE:** we moved to the KR development for, among other reasons, the peace and quiet it offers; now we are potentially being imposed upon with noise disturbances by the same developers who have already made a profit off of us; if this development is approved, we DEMAND strict adherence to the time limits imposed on ALL construction activities, specifically including limits on the time that construction equipment may travel up and down Hearst Drive, AND, we demand LARGE financial penalties payable to all of us on Hearst for infractions to the time constraints. We will have our digital / video cameras with time stamps ready if this becomes a problem. We want NO construction traffic on Hearst Drive BEFORE 8:00am. We want to have clearly understood financial penalties for any infractions, outside of civil court, and since we are the ones affected, payable to the residents on Hearst, not the city. Please work with the city attorney to get this done.  
and.....absolutely.....PLEASE.....no work on Saturdays.

F1

**FIRE.** There have been several fires in our neighborhood already, the most recent being on the early morning hours of 7/5/06 on the hillside on Smallwood Court. Previous to that, on Hearst earlier that evening; and, a very big one last September at the top of Smallwood. In speaking with the fire captain on the 5th, he stated that they have a lot of equipment, but they have a lot of concern about accessibility, especially if Hearst is extended and there is only one EVA access road. Per the captain, the fire at the top of Smallwood last September was particularly difficult. We suggest another EVA access road from the end of Benedict. We also would like these two EVA roads to be re-considered as normal streets to alleviate the traffic issues on Hearst.

F2

F3

We are going to be severely impacted in many ways if this project is approved, even with 51 homes. All I am attempting to do is alleviate the impacts on us and our community as best as possible.

You have my permission to place all of my emails into the record of the meeting.

Greg Albin  
1327 Hearst Drive  
Pleasanton, CA 94566  
1-925-551-7600

8/28/2006

## G. BAPTISTE, JOHN AND PATRICIA

JULY 7, 2006

**Marion Pavan**

---

**From:** jackandpatty@gmail.com  
**Sent:** Friday, July 07, 2006 10:01 AM  
**To:** Marion Pavan  
**Subject:** PUD-33, Jennifer Lin, Frederic Lin, and Kevin Lin

Hello,

We strongly urge the Planning Commission to turn down the Oak Grove Planned Unit Development or any other development above the present housing boundary. The Lin's have tried before. If they are allowed to develop this land then why can't I tear down my house (on a quad) and build condo units in my residential neighborhood? When the Lin's bought the land they knew what they were doing. I believe people who live far away should dictate the quality of life in my neighborhood. Even if they are politicians to do their bidding for them.

Thanks,

John and Patricia Baptiste  
1150 Catawba Ct  
Pleasanton, Ca

G1

## H. CLOSE, KEVIN

AUGUST 29, 2006

### Marion Pavan

---

**From:** oddball1 [oddball1@earthlink.net]  
**Sent:** Tuesday, August 29, 2006 5:15 PM  
**To:** Marion Pavan  
**Subject:** PUD-33 Draft EIR

Marion Pavan  
City Planner  
City of Pleasanton  
200 Old Bernal Avenue  
Pleasanton CA 94566

**Subject:** PUD - 33 Draft environmental Report  
SCH # 2004012013  
Section 4 Environmental Settings, Impacts, and Mitigation Measures  
Item O. Transportation and Traffic

Dear Mairon,

My concern regarding this item is the numbers and calculations used by this EIR, for the ADT (Average Daily Trips). They refer to the ITE (Institute of Traffic Engineers) Trip Generation Manual. The number for ADT used by this EIR appears to be 9.8 ADT the national average. Previous studies by the City of Pleasanton and Mundie & Associates has used a higher number for ADT, to calculate estate size lots, to accommodate the higher traffic generated by outside contractors and maintenance people needed to maintain the lots proposed. Reference the City of Pleasanton Golf Course and Housing Development, which used an ADT of 12.8, to accommodate for landscapers, pool service, housekeepers, building contractors etc...

Please make an effort to reflect more accurate numbers in future traffic numbers generated by this project or any other estate sized lot projects the City of Pleasanton may have in its pipeline.

Thank you

Kevin Close  
871 sycamore Road  
Pleasanton CA 94566  
Alameda County

H1

LEE FULTON

# COMMENTS ON OAK GROVE DEIR

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RECEIVED  
AUG 23 2006  
CITY OF PLEASANTON  
PLANNING DEPT.

## AESTHETICS AND VISUAL RESOURCES

In the scoping of this DEIR, concerns about the visual effects of the proposed project were raised both by nearby residents and by other members of the community. Those concerns focused on:

- Potential loss of ‘natural’ landscape
- Degree to which the project would encumber visible ridges with buildings
- Visibility of constructed project both from existing development nearby and from points of view throughout the community
- Need for realistic simulations of current and post development views

Aesthetic or visual resources were defined as the natural and built landscape features that can be seen.

## VISUAL SIMULATIONS

The principal vehicle for evaluating the impacts of the project on aesthetics and visual resources was the representation of current and future visual conditions provided by the computer simulations.(pg 68) . Staff states that “the intention is to make the views as realistic as possible.”

The consultant used a 28mm wide angle lens to take the “representative” pictures. Anyone in the visual imaging business would know that lens would make things look more than twice as far away as they actually are.

Instead of printing the photos at a size that replicates what the eye would see if at the given viewpoint, the consultant specified that the photos be printed at “9 inches wide and be viewed at a distance of 7 inches in order to gain an optimal impression of the projects scale.”(pg. H1 Appendices) The “near point of accommodation” is the closest an object can be

I1

I2

I3

placed to the eye and still remain sharply in focus. This distance is recognized to be about 10 inches in an adult with normal vision. After age 40 this distance generally increases. Even though it is possible to view things as close as 10 inches away, we don't do it because it causes considerable eye strain. Most people will choose to read or view a printed object or photo from about 20-22". (How far away from your eye are you holding this page?)

I3

Why would the consultant specify the photos be printed so small that they need to be viewed 3" closer than a healthy adult eye can focus on?

Why would they produce photos that need to be viewed 3 times closer than they know they will be viewed at?

When staff printed the DEIR, they chose to ignore the consultants instructions to print the photos at 9" wide. They chose to print the largest at 7" wide. This would require a viewing distance of 5 ¾ ". Many views such as the ones from Bernal and Utah or from the Bernal Property were printed at 3 ½ " wide requiring a viewing distance of 2 7/8". Clearly absurd and clearly deceptive.

The decision by staff to only address the visual impacts to Red Feather Court and Grey Eagle is very misleading. Existing homes on Hearst Drive, Mataro Court, Chianti Court, and Brandy Court are much closer to the proposed houses on Court 1. The ridge of Court 1 is the only hillside horizon for many of these homes. The proposed houses on Court 1 would be overpoweringly prominent when viewed from these locations. Court 1 can be seen prominently on the horizon from the northern portion of the proposed city park on the Bernal Property.

I4

Court 1, Court 2, and Street A as it goes up the ridge, will be prominent as viewed from the Busch Property, Valley between Busch and Stanley, Bernal between Stanley and Nevada, and from one of the major gateways to the city Stanley Blvd. This area is even visible from Santa Rita at 580. Staff completely ignored this by stating, "with the exception of the views discussed above (Red Feather Court and Grey Eagle) the project is not generally seen from the existing residential area to the north/northwest." (pg 33) They do not mention how prominent the houses on Court 1 would be when viewed from existing houses on Mataro Ct., Chianti Ct., and Brandy Ct..

It should have been very evident to staff what areas would have been affected if they had gone up to the project. Every street, park, yard, or window that they could see would see the project, but with greater impact because of the sizes of the houses and their proximity to ridgeline and horizons.

**I5**

In the computer generated project simulation, staff did not have the consultant represent the maximum permitted size houses for each lot. In Alternative 4, the house size can range from 8,000 sq. ft. to an obscene 22,708 sq. ft.!!! [30,290-90,834 sq. ft. lots (pg.345)] + [25% floor area ratio (4<sup>th</sup> bullet pg.347)] Some house are permitted to be 3 stories tall with over 60 feet of vertical rear exposure!!!! [ G-2 Height, page 2, and G-3 Number of Stories, page 3, Oak Grove Residence Lot Design Guidelines (attachment only available at Planning Department)] So much for trying to fit in with existing neighborhoods.

**I6**

A portfolio of images prepared by the commenter, preceded by a description of the methods used in the preparation of the images, is presented at the end of this communication.

**I7**

“ The Southeast Hills are a series of gently sloping hills reaching elevations of roughly 800 feet. This topographic feature extends south from Pleasanton into the Vallecitos Valley.”(pg. 24 DEIR) (See Maps ~~next~~ <sup>on the last</sup> two pages of this ~~document~~ <sup>communication</sup>.)

“These undeveloped ridgelines and hills provide valued open space as well as a scenic visual backdrop for the local urban development pattern which lies primarily on relatively flat land. As such, the hills and ridgelines are recognized and valued natural landscape features subject to protection in the City’s General Plan..” (pg.24 DEIR)

The General Plan addresses hillside development in many statements:

Develop a ridgeline preservation ordinance and scenic hillside design guidelines to reduce the potential negative impacts of development in hilly areas (Chapter 7, program 5.1)

Community Character Element Policies; Maintain the quality, character and distinctiveness of existing neighborhoods... Require the design of new residential development in hillside areas to complement the natural appearance of the open space.

Adopt hillside design standards (Chapter 10, Program 16.1)

Subregional Planning Element Policy; Enhance community identity through the protection of community separators, scenic hillsides and ridgelines . (chapter 12).

Some of the programs cited above call on the City to develop an ordinance (such as for ridgeline preservation) or establish design guidelines or standards (such as for scenic hillsides.)

“Because these directions have been articulated, the consideration of aesthetics and visual resources for a project in a hillside setting needs to recognize hillsides and ridgelines as resources of public importance.” (pg.47 DEIR)

Scenic vistas identified as of particular community importance are Pleasanton Ridge, Main Ridge, and the Southeast Hills. (General Plan pg.11-17)

Staff now takes an unbelievable approach. They deny that the Oak Grove site is in the Southeast Hills! Even though the project is in the hills that are in the south east of Pleasanton and



include hills and ridge tops that range from 600ft to over 1000ft (the majority of Pleasanton is at an altitude of approx. 350 ft.) and are the same uninterrupted set of hills that go from Pleasanton to the Vallecitos Valley.?? (Again see previous Maps)

Staff states: (all on pg. 69)

“The Oak Grove site is on the margin of the Southeast Hills.” ( Wrong! It comprises the Northeast quarter of the Southeast Hills and it the comprises a good portion of the visible Southeast Hills when viewed from anywhere east of Santa Rita -Valley-Bernal areas.)

“Viewpoints 8 and 9 are close-range viewpoints through the Oak Grove site toward the south. The views from those locations indicate that, at close range, the Southeast Hills cannot be seen due to the topography of the Oak Grove site itself.” (How absurd. Viewpoints 8 and 9 are in the Southeast Hills and so is everything else in those photos with the exception of the Pleasanton Ridge in the distance of photo 8.)

“Viewpoint 14 is a distant viewpoint that includes part of the Oak Grove site with the Southeast Hills beyond it. Development on the Oak Grove site would be visible...in part atop one of the ridges... that does not have any higher ridge behind it.” (Again implying that what ever you see is not important because it is not the Southeast Hills even though they are the only hills you see when looking to the South and you can’t see any past them unless you’re in Dublin)

“Taking these factors into account, NO adverse impact is found with respect to the Southeast Hills.” (It’s hard to imagine staff denying the existence of the entire Northeast face of the Southeast Hills. I guess they figure that the Southeast Hills only start half way to Vallecitos Rd. and only have a western exposure?)

“No scenic vistas of public importance have been identified with respect to views into the Oak Grove site.”(pg.69) (What happened to “Scenic vistas identified as of particular community importance are Pleasanton Ridge, Main Ridge, and the Southeast Hills (General Plan, p.11-17)” pg. 68????)

“In effect, the extensive tree planting program transforms an open, savannah-like landscape to a wooded landscape. This change is not considered an adverse impact.” (No. It transforms it into a

I9

I10

residential landscape with massive houses interspersed with trees. Most people can tell the difference. Whether they consider it an adverse impact is a matter of personal taste.)

I10

“No adverse impact is found with respect to scenic vistas.” (If you don’t know what one is, I guess you can’t tell if it will be impacted.)

On page 71 (Potential to Degrade the Existing Visual Character of the Surrounding.) staff states “The project as planned...has visual elements in common with existing, adjacent development” including:

I11

- “Comparable Type of Development. Single family residential.” (except three to five times the size homes)
- “Similar Plan Layout. Avoids mass grading and terracing and avoids building homes on ridge crests.” ??? (except on Street A, Court 1, Court 2, Court 3 etc.)
- 

“While the focus of the analysis is on visibility from public viewing areas, it is also expected that visual change associated with the proposed project could be evident from some nearby private residential properties. Such change would be potentially objectionable if structures are sited in too-prominent locations and/or prominently-sited structures are inadequately screened, resulting in visual discontinuities and excessive contrast with the development as a whole and its neighboring environment” (pg72) (The vast majority of houses in this project are sited in “too-prominent locations.” and will be inadequately screened)

I12

IMPACT

“Impact A2. There is a possibility that structures on some lots may be undesirably prominent.” (pg.71) (Especially structures on Court 1 when viewed from Mataro Court, Chianti Court, Brandy Court, Hearst Drive, Grey Eagle, Red Feather Court, even the Busch Property, Valley Ave., Bernal Ave. and the new city park on the Bernal property. At least they

finally recognized there might be an impact even though they were completely unaware where the worst impacts were or their extent.)

I12

Staff states in the CEQA significance criteria for aesthetic impact: “Impacts on aesthetics and visual resources would be significant: (3) [If the project would] substantially degrade the existing visual character or the quality of the site and its surroundings.” (pg45) They state that according to this criteria, “this impact is significant.” (pg.73)

## MITIGATION

The only mitigation measure proposed to address Impact A2 (the “possibility” that some structures “may” be undesirably prominent) is to revise the Site Constraint Matrix to increase the number of lots classified as “High Visibility Lots.” They claim that this would make the impact less than significant. (pg.76)

This proposed mitigation is less than effective for many reasons.

I13

Site Specific Guidelines (pg.G17 Appendices) states: “When a lot is given more than one site-specific classification the building envelope for that lot has been generally defined as the least restrictive guideline.” (??)

The only mitigation for High Visibility Lots is “Screening Planting.” The assumption that this will be effective is flawed for the following reasons:

The height of a tree, required to screen a three story tall house with a 60’ rear vertical exposure, planted at the edge of a sloped lot (where the property line is substantially lower than the foundation of the house) is taller than these trees will ever be capable of growing to. (Most of the very old oaks on the property are in the 30-35 ft. tall range

The number of trees required to screen a house of the proportions proposed (8,000 to 22,708 sq.ft.) is not realistic.

The worst assumption staff makes about this mitigation is “If you plant it, it will grow.” If these hills were so conducive to growing oak trees, they would be covered with them like the eastern slope of the Pleasanton Ridge or Niles Canyon. The fact is that the soil is generally low in nutrients and the moisture is not ideal near the ridges or the south and western slopes.

There is a negative incentive to insure the trees ever become an effective screening device. The applicant is selling very expensive VIEW LOTS. If the trees ever got so large or numerous so as to effectively screen the houses that are placed on top of these prominent ridges, they would severely limit or block the occupants view that he paid dearly for. There is no mechanism to insure that the trees remain alive, let alone that they achieve the predicted size, shape or height unless no construction is allowed until AFTER the trees have reached their screening size and a tree replacement ordinance is in effect.

The houses in the most prominent locations, like Court 1, instead of having their prominence screened by the trees to a point of being “less than significant”, will appear to be massive houses on top of the horizon with some nice trees planted around them.

Proposing a mitigation for a “significant impact” that even in its most optimistic (and unrealistic) results won’t start working for fifteen years is not a mitigation for fifteen years of loss of a valued natural landscape feature subject to protection in the City’s General Plan.

## ALTERNATIVES

Because staff failed to recognize the extent of the impacts on Aesthetic and Visual Resources, and overstated the effectiveness of the proposed mitigation to the “possibility that some lots may be undesirably prominent”, they did not consider any alternatives as required by CEQA to address those impacts. A deceptive or poorly researched DEIR should not relieve them of the legal requirement under CEQA to “consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.” CEQA Section 15126.6 (a)

“Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have ... the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even

I13

I14

if these alternatives would impede to some degree the attainment of the project objectives , or would be more costly.” CEQA 15126.6 (b)

“As noted in Chapter 4 of this EIR, the site plan (and all the alternatives) places most development in the relatively flat areas along the ridges, rather than on the slopes or in the valleys, in order to minimize grading and impacts of grading. (and cost) This approach results in the placement of buildings in locations that are more visible than would be the case if located along lower areas of slopes, where topography would be more likely to conceal them from offsite vantage points.” (pg. 387) The alternative of putting some or all of the most visible or prominent houses on less visible or prominent parts of the property is a “reasonable and feasible“ alternative that should be given consideration under CEQA 15126.6(f)

Again CEQA requires a “range of reasonable alternatives that foster informed decision making.” Staff should not only propose alternatives (or in this case have the applicant propose alternatives) that lower developer cost and increase profit but are essentially the same project. They should propose alternatives that are in keeping with the City’s, the General Plans, and the Citizen’s stated visions and goals.

## NOISE

The analysis of the potential noise impact from the construction activity has some oversights and errors.

### A. Existing Noise Conditions

The consultant took four ambient noise measurements at local sites other than Hearst Drive. These measurements were only ten minutes each and were taken on the street side of the houses. The noise from construction will effect most local receptors from the rear side of their houses where the ambient noise is much lower. For a more accurate estimation of ambient noise at the closer receptors, I suggest that the city wide noise survey that was conducted during the time or slightly after the Enron Power Plant proposal be referred to. This survey took readings for 1 week and had a sample spot in a rear yard on Brandy Court. The Ldn was significantly lower than what is suggested in this DEIR.

I15

I16

### B. Construction Activities

The consultant states: “note that construction generated noise levels drop off at a rate of about 6 dbA per doubling of distance between the source and the receptor.” This statement is generally true when terrain does not effect the equation. But the consultant did not take into consideration the terrain of the project site with relation to the nearest receptors (existing houses). The hills and valleys create an amphitheater or bandshell effect, greatly magnifying the sound carried because it is a combination of direct and reflected sound, not just direct sound that the consultants statement refers to.

I17

### C. Length of Construction Activities

The applicant states that site preparation (grading, trenching, piping, paving will take two years. The consultant states that typical hourly averages for that type of work are around 88 dbA and as high as 98 dbA.

I18

The applicant states that home construction would last 6 to 8 years. The consultant states that this type of work would range from 70 to 77 dbA.

The consultant concludes, (I believe incorrectly, based on A, B, and C above),  
That:

“construction activities would not yield noise levels greater than 60 dbA Leq or exceed ambient noise conditions by 5 dbA Leq or more for a period exceeding a year at the closest receivers to the west and north” (pg.208)

The consultant or staff still deems the impact Significant.

#### Mitigation

Staff proposes as mitigation “Best management practices for construction noise” which as it relates to the biggest noise generating equipment states “equip all internal combustion engine driven equipment with appropriate mufflers”. The consultants assumptions about the equipment that would make the significant noise impact already assumed they would have appropriate mufflers. How can requiring them to have what you already assumed they had make them any quieter?

I believe that the proposed mitigation will have minimal effect on the noise impact for the closest receptors and that construction activities would yield noise levels exceeding ambient noise conditions by 5 dbA Leq or more for a period far exceeding one cumulative year.

I suggest further mitigation relating to noise is required. I suggest siting alternatives as addressed in the following summary be considered to deal with construction noise impacts.

I18

I19

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I21

## SUMMARY

Because of the misleading effects of the improperly done visual simulations and the inadequate research involving what areas might be visually effected, plus staff's choice to consider the project not part of the Southeast Hills that the citizens of Pleasanton have expressed a desire to protect views of, I suggest that the entire section and conclusions dealing with Aesthetics and Visual Resources be declared inadequate.

I22

Because of poor methods, poor research, false assumptions, and over optimistic assumptions with regard to mitigation, the Aesthetics and Visual Resources element was given a Less than Significant impact determination.

Because of that determination, no CEQA required alternatives to address these impacts were considered.

I believe staff should be required to HONESTLY consider a couple of alternatives that would place the most visible lots on less visible parts of the property even though some additional grading and some additional loss of existing trees might be required. The balance between some extra grading and some tree loss (that would be replanted several fold) versus the potential loss of ridgeline and hillside views that help determine the character of our city should be determined by the City Council, the Planning Commission, The General Plan, and the Citizens of Pleasanton not by someone bowing to the profit motives of a developer.

I23

I suggest one of the alternatives consider eliminating lots 1-11 (Alt.4) and placing them further back in the development. As these lots are the source of all the close in visual impacts and some of the most objectionable far away visual impacts, relocating them would eliminate these impacts. These lots also are the source of the majority of the construction noise impact other than traffic on Hearst.

I21

I suggest that the planning commissioners go up to the project site and tour the entire property, not just the area in front of the gate at Court 1. It would be very apparent that there are several areas that would be appropriate for development that would not require the loss of the visible resource of our hilltops and ridgelines. Yes, it might require some additional cost

I23



in grading and require the replacement of some additional trees, and maybe a few more lots to make it profitable, but the possible long term loss of part of our city's character could be averted.

I23

Because the existing General Plan expresses a desire and a need for hillside and ridgeline development ordinances and preservation and the current General Plan update is nearing completion, I fear that any current action that might be in conflict with those policies or proposed direction, might be considered a "grandfathering in" of a project that is not in keeping with the goals of the City. I suggest further clarification of those goals and ordinances should be required before this project can be properly evaluated. At the very least there should be an agreement between staff and the citizens on where the Southeast Hills are! This should not be left up to staff.

I24

I25

I suggest that any lot considered to be a High Visibility lot be required to be "story poled" (all four corners of a possible building envelope) for the maximum permitted square footage for that lot and tallest configuration (3 story step down) for a period of four weeks to gather informed comments by affected neighbors, before that lot can be considered to be part of the project.

Thank you for considering this matter

If you have any comments or questions please call me

Lee Fulton

3407 Brandy Court

925 417-1974

## QUESTIONS FOR STAFF

- Who determined what viewpoints to be used in the evaluations?
- Who determined how many or how few viewpoints?
- Who decided to use a lens for the photos that distorted the true distances involved?
- Who decided to print the photos at such a size that they needed to be viewed at a closer distance than the adult eye can focus at?
- Who decided to ignore those sizes and print them in the EIR even smaller?
- Who determined that only Grey Eagle Court and Red Feather Court would be affected by this project?
- Who determined the size (sq. ft.) houses to be computer generated on these photos?
- Who determine where the Southeast Hills are?
- Who determined that this project is not in the Southeast Hills?
- Who determine that the views of these ridgelines are not worth protecting?
- Who decided to minimize all the concern that was raised during the scoping sessions regarding Potential loss of natural landscape, Degree to which the project would encumber visible ridges with buildings, Visibility of project both from nearby development and from points of view throughout the community, and Need for realistic simulations of current and post\_development views?
- Who decided to put the information regarding the proposed dimensions of these houses so deep in the DEIR, scattered between DEIR, appendices, and attachments that aren't even available with the main DEIR?
- Who decide that a mitigation that at best would take over fifteen years to start working is an appropriate measure to use for something that would tarnish a "recognized and valued landscape feature subject to protection by the General Plan" for those first fifteen years?
- Who actually believes that mitigation measure would actually work?
- Who decided to not investigate any alternative that would have put these lots on less prominent parts of the property?
- Who decide that protecting a few more trees (that can be replanted) on the back of the property that only a few hundred people a year will see is a higher priority that protecting the view of ridgelines and horizons that thousands see and appreciate every day?

## METHODS USED FOR PREPARING MY VISUAL REPRESENTATIONS

### PHOTOS

All photos that I have reproduced in this document are meant to be viewed at a distance of 20". They have been checked to insure when standing at the location the photo was taken from and held in front of the actual landscape at a distance of 20" from the viewers eye, the size of trees, fencepost and cows on the target ridge remains the same when photo is removed and the hill is viewed directly.

Photos from Grey Eagle, Red Feather and Bernal at Utah were taken from within 10' of the viewpoints used in the DEIR.

There are many many other viewpoints within the area that will be equally affected but I felt using some of the viewpoints that staff had chosen would highlight the errors in the consultants methods and using a few that staff did not chose would highlight the errors in their assumptions of who would not be affected.

### HOUSES

Houses used in my simulations are from "OAK GROVE RESIDENTIAL PROTOTYPES" prepared by Berger Detmer Ennis, Architects for the applicant. Only the rear exposures have been used. They were originally homes of approximately 7000 sq.ft. They have been scaled up on three of the models by approximately 50% to more accurately portray the maximum 3 story step-down rear exposure limits of 55-60 feet. They represent houses of approximately 10,000-12,000 sq.ft. Nowhere near the 16,000-18,000 sq.ft. that these lots would be approved for under this projects guidelines. The smaller model has been scaled to match the 30 ft. two story non-step-down limit. It represents a house of approximately 8,000 sq.ft.. I did not scale these houses up to the maximum size permitted on these lots as they started to look too cartoon-ish and they look unbelievably large even at these underscaled sizes. House scale was determined by comparing 4' tall fence posts and 5' tall cows on top of each respective distant ridge in the photos then making each house the appropriate number of fence posts high.

Houses were attempted to be placed on appropriate lots as shown by the Oak Grove Alternative 4 Project Map (pg.342). All houses shown are on Court 1 except the far left one in photos A and B. Houses were sited more on the face of the slope as the applicant has suggested that the roadway would be on the top of the ridges with substantial front setbacks. They encourage houses to step down slopes. The EIR simulation shows the houses on the far side of the ridge, where the houses on the other side of the street would be. They also show them at a less than realistic relative height.

#### PHOTO LEGEND

##### PHOTO A1, A2, A3                      GREY EAGLE COURT

This photo should be compared to Figure 38b on page 351 DEIR. The three houses on the right are on the east side of Court 1. The house on the left is on Court 2. Please go to the top of Grey Eagle Court (empty lawn covered lot second from top on right and compare these photos.

##### PHOTO B1, B2                      RED FEATHER COURT

This photo should be compared to Figure 39b on page 354 DEIR. The three houses on the right are on the east side of Court 1. The house on the left is on court 2. Please go to Red Feather Court where the dead end barricade shown in the photo is on your right and compare these photos.

##### PHOTO C                      VINTAGE HILL PARK

Compare this photo with #11 Figure 8c page 32 DEIR. Unlike stated in that caption, Street A and part of Court 1 ARE visible across the horizon. This photo was taken the Vintner Way edge of the park.

##### PHOTO D                      BERNAL Ave. at UTAH St.





A1



A2



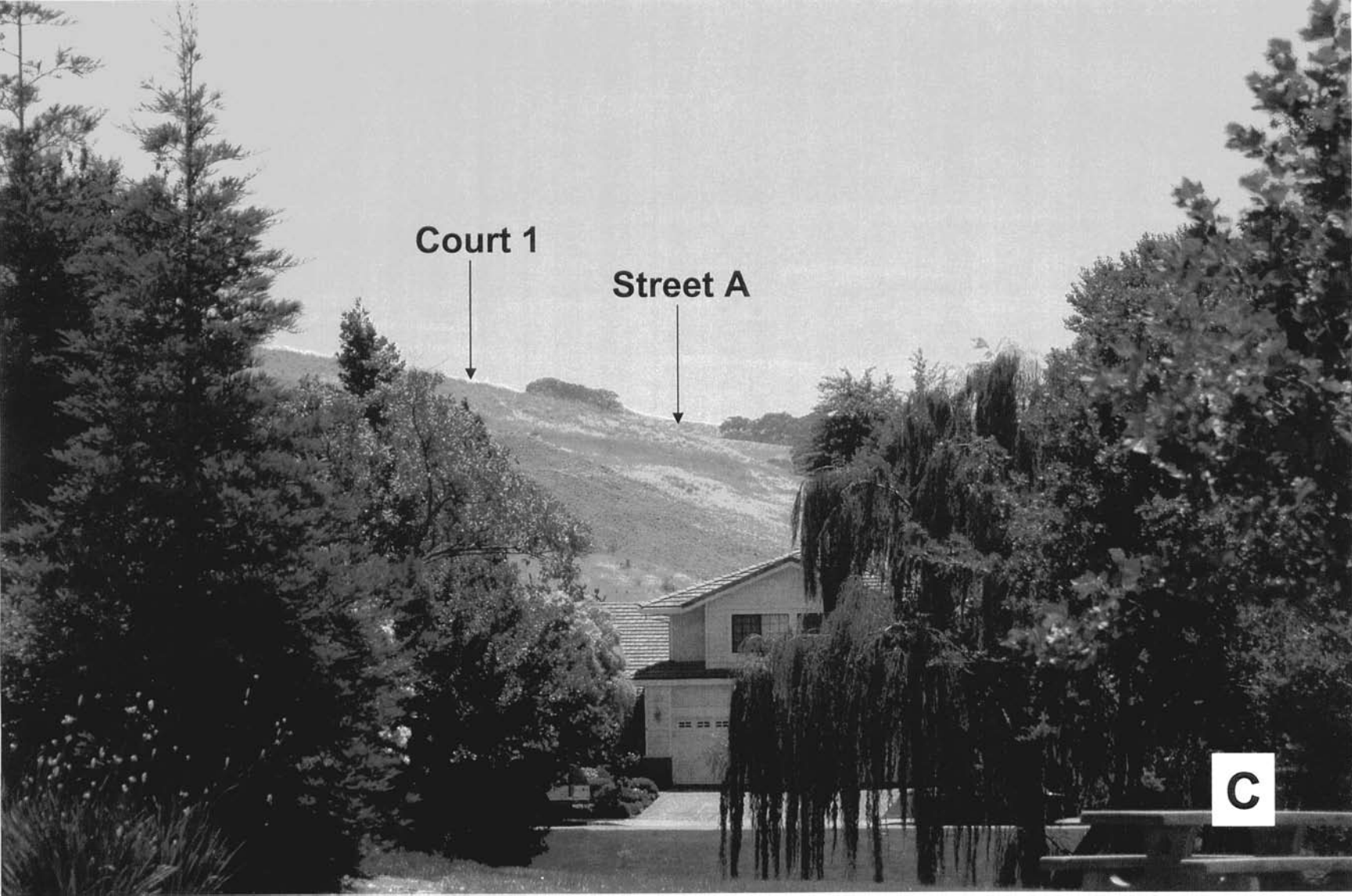
A3



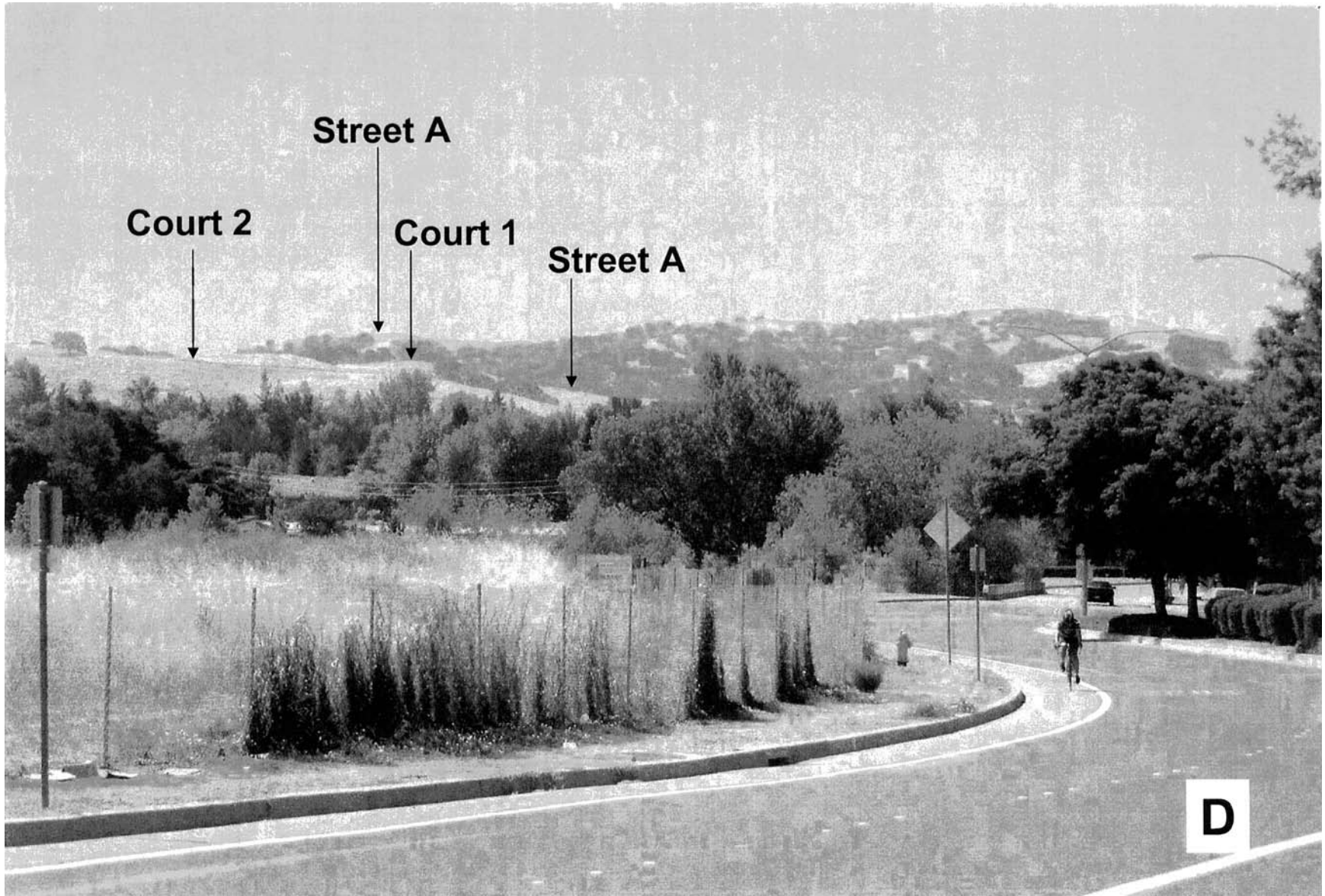




**B2**

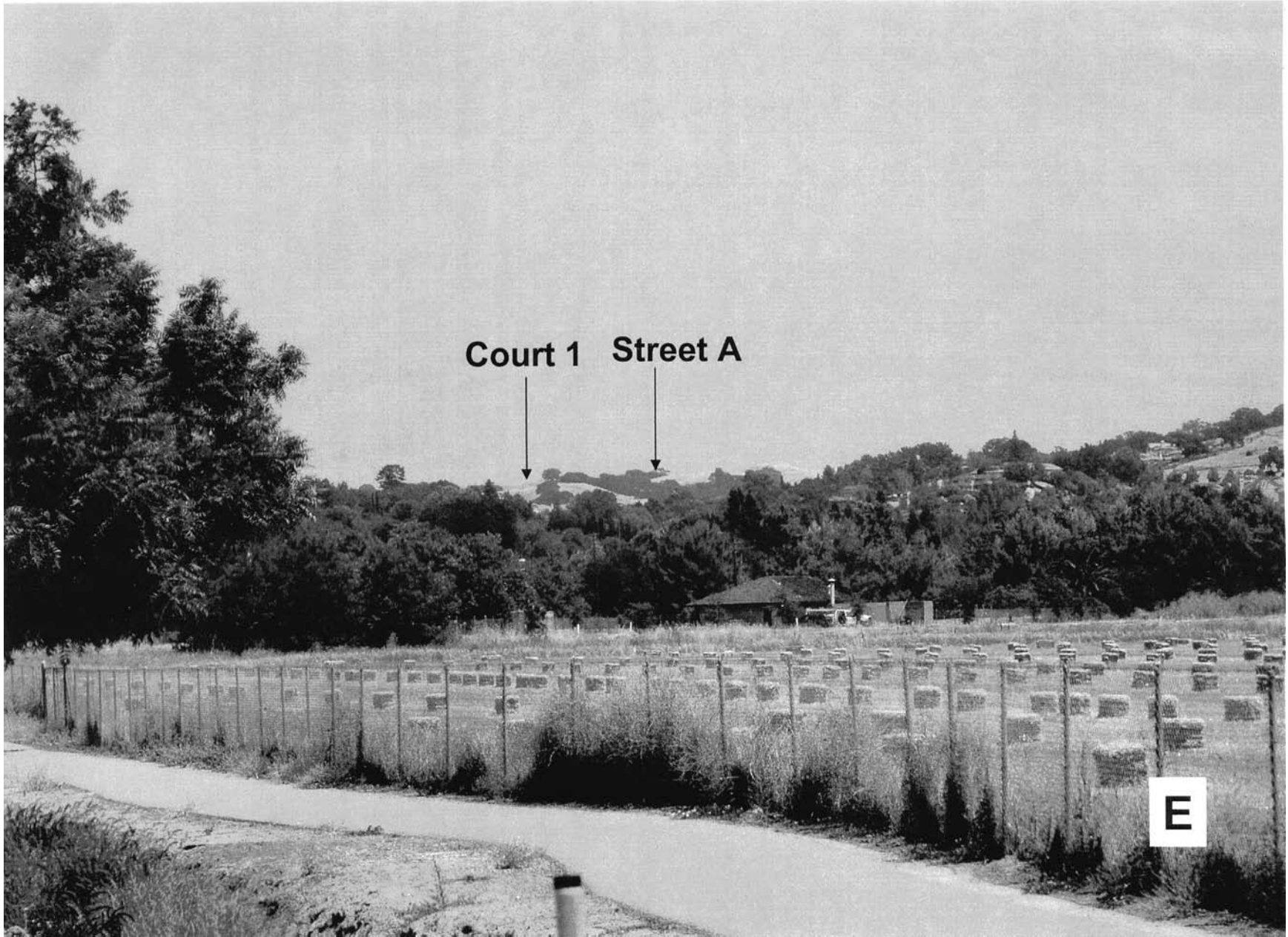


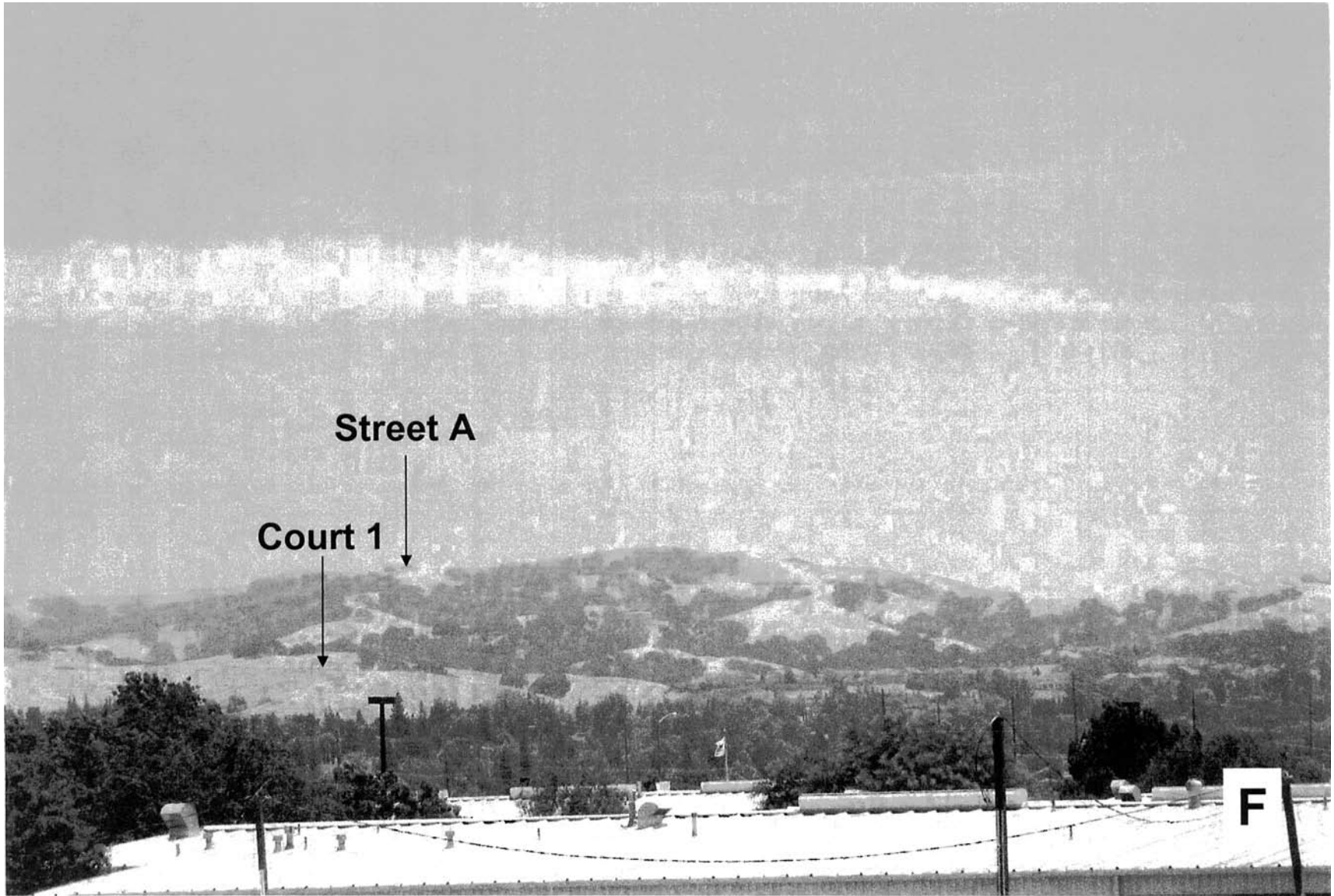
C



D

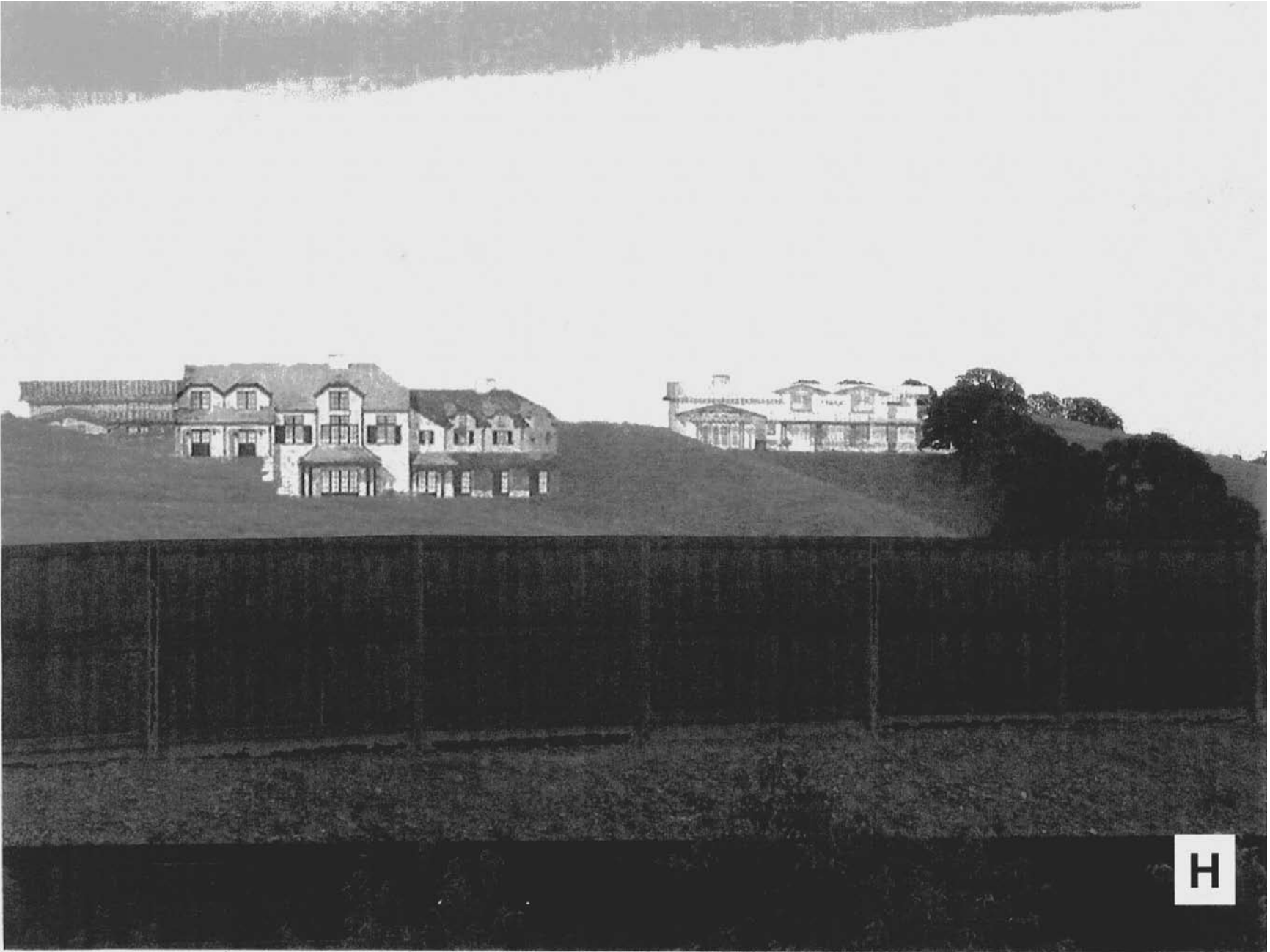








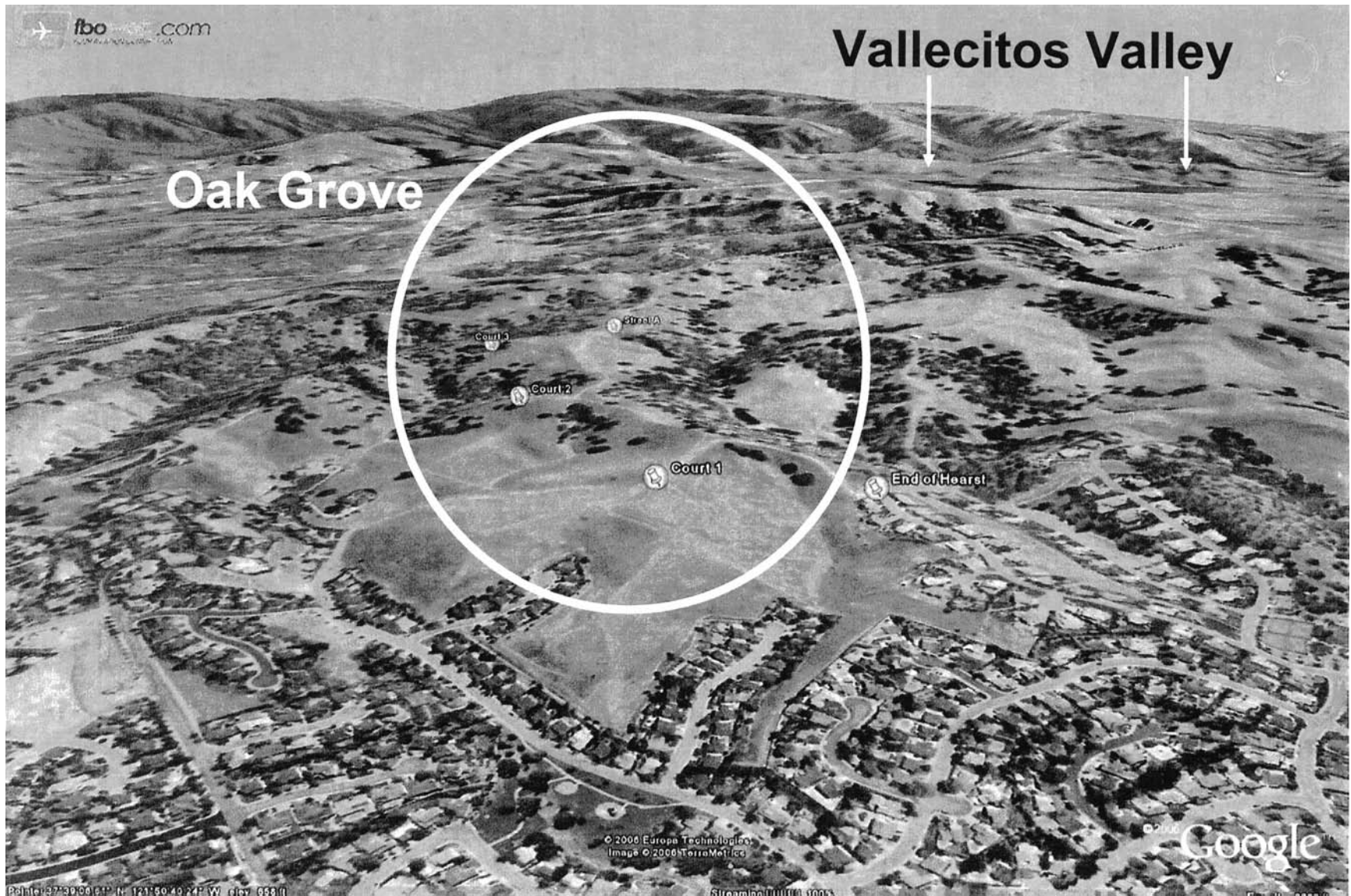
G



H







**J. HOWE, BOB**

**JULY 12, 2006**

Page 1 of 1

**Marion Pavan**

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**From:** Bob Howe [bobhowe3@comcast.net]  
**Sent:** Wednesday, July 12, 2006 5:39 PM  
**To:** Marion Pavan  
**Subject:** Oak Grove Development

Hi Marion,

It was a pleasure to speak with you earlier today. I appreciate your patience in listening to my concerns regarding the proposed Oak Grove Development and its impact on the already overloaded road system of Pleasanton.

My principal concerns as you and other Planners review the EIR for this development are that the developer 1) provide adequate project access roads that do not adversely effect adjacent neighborhoods, and 2) contribute its share of land-dedication and road construction for a major boulevard that we need very much from Vineyard Avenue to Sunol Boulevard near I-680.

For the first item, my primary concern is that Red Feather Drive not be opened to this development, and that a secondary road (in addition to Hearst Drive) be provided to share the traffic load. As I understand the EIR, this is being addressed through a road that connects with the Old Vineyard Avenue through Berlogar Ridge. The two mile length of this road and the exit location do not seem to me to serve the residents of the proposed development. J1

A route through the Foley property is clearly a more useful one, although I understand that this is not something that the owner of that property wishes. Perhaps a higher speed route, outside the Foley property, would work in spite of its longer length. The City should probably share some of the cost for something that major since it would serve other developments besides this one.

Regarding my second concern, I believe that Pleasanton already has a need for additional roadways to support the traffic that we have today. For this reason, I think it is imperative that each new development help to alleviate this problem by mitigating its incremental load on the existing infrastructure through a contribution to this and other much needed "beltway" thoroughfares in Pleasanton. Purchasing traffic lights as suggested in the EIR will only serve to worsen the existing problem. J2

Too much traffic is forced to go deep into the center of Pleasanton when the drivers are simply attempting to get from one side of town to the other, or to access the I-680 and I-580 freeways. To date only part of Bernal Road, and perhaps parts of Stoneridge Drive and Owens Drive, serve this beltway function. Most other major boulevards in this city function as spokes going to the central hub of the city.

Thank you for considering my concerns regarding the Oak Grove Development and the larger issue of our road infrastructure.

Bob Howe  
228 Arbor Drive  
Pleasanton, CA 94566  
(925) 484-4214  
[bobhowe3@comcast.net](mailto:bobhowe3@comcast.net)

7/28/2006

# K. HOWE, DENISE

JULY 26, 2006

Page 1 of 1

## Marion Pavan

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**From:** Denise Howe [denisehowe2@comcast.net]  
**Sent:** Wednesday, July 26, 2006 9:29 AM  
**To:** Marion Pavan  
**Subject:** Oak Grove

Hi Marion,

I looked over the Oak Grove DEIR and I'm very satisfied with the 51-home development, a reduction from the 98-home initial proposal. I think it is a good compromise for everyone involved. I was happy to see that there would be a sidewalk on one side of the public streets, as a previous proposal had no sidewalks. I am also very pleased with the open space and the option the city has to make it a public area with trails.

Denise

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Denise Howe  
1228 Arbor Drive  
Pleasanton

K1

8/28/2006

K-1

# L. JACOBY, STEVEN AND CARROLL

JULY 23, 2006

**Marion Pavan**

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**From:** Steven Jacoby [srjacob@comcast.net]  
**Sent:** Sunday, July 23, 2006 12:52 PM  
**To:** Marion Pavan  
**Cc:** Jacoby DDS  
**Subject:** Oak Grove Development

Dear Ms Pavan,

As long time residents of Red Feather Court the new proposal that is before the planning commission could have a significantly undesirable visual effect from my house. The pictures in the EIR report from Red Feather are distorted as they appear to have been taken using a wide angle lens which makes everything look smaller and further away. We don't believe overly huge/ high houses along the ridge line can be adequately masked with landscaping. We hope the planning commission will consider size and height limitations consistent with the square footage of the houses in the area.

L1

Very Truly Yours

Steven and Carroll Jacoby

3 Red Feather Court

Pleasanton, CA

srjacob@comcast.net



# M. JENNINGS, JULIE AND DOUG

JULY 3, 2006

July 3, 2006

Jerry Iserson  
Planning Director  
Pleasanton Planning Commission

RE: PUD-33, Jennifer Lin, Frederic Lin, and Kevin Lin

Dear Jerry,

This letter is to address concerns held by Doug and Julie Jennings of 4125 Garibaldi Place, Pleasanton, in regard to the above-mentioned hearing to be held on July 12, 2006.

We have lived in our home on Garibaldi Place since December 1992. We have seen an **enormous** increase in the amount of traffic that flows by our home each day. Our master bedroom faces the corner of Bernal and Hearst Drive and allows us to easily see all the traffic. In addition, we very clearly hear the **noise** created by this increase in auto and truck traffic.

We are both opposed to the Lin Development, and following are a number of concerns we would like to be brought before the Planning Commission to support our opposition:

1. The development would greatly increase residential and construction traffic on Hearst and Bernal. We already have seen a huge increase of traffic on Bernal since Ruby Hill and Livermore have increased their home density, and this would simply add to the problem. Even if this development does not go through, the City of Pleasanton should consider ways to alleviate the problems at this dangerous intersection. M1
  - Between 6:00 a.m. – 9:00 a.m. and again between 4:00 p.m. – 7:00 p.m. there is a non-stop flow of traffic on Bernal during business and school days. The majority of those vehicles belong to residents who do not live in this area. M2
  - This high volume of traffic creates a very dangerous situation for drivers trying to turn left from Bernal onto Hearst or trying to turn left from Hearst onto Bernal. Not only are there lots of cars, but those cars travel way too fast coming down the hill on Bernal. Not a day goes by without hearing incidences of squealing tires and seeing near misses of people trying to get through the intersection. Adding more vehicles, if this project is approved, will only **exacerbate** the problems! M3
2. Hearst Drive would suffer damage due to heavy equipment and truck traffic. Who would bear the cost of repairing the street? – the taxpayers, not the Lin family. M4
3. This development would forever destroy more of our beautiful hillsides.

Please take into consideration our concerns, and deny this development.

Respectfully,

Julie and Doug Jennings

## N. LIN FAMILY (APPLICANTS)

AUGUST 29, 2006

August 29, 2006

*sent via fax and email*

Mr. Marion Pavon  
Community Development Department  
City of Pleasanton  
200 Old Bernal Avenue  
P.O. Box 520  
Pleasanton, California 94566

Subject: **Lin Comments on Draft Environmental Impact Report for the Oak Grove Project**

Dear Mr. Pavon,

On behalf of the Lin's I would like to thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Oak Grove Planned Unit Development dated June 30, 2006. We appreciate the excellent job City Staff and the EIR Consultant have done on the DEIR, and we believe it adequately addresses the potential impacts of the Project. We do however have a few comments that we request be addressed in the Final Environmental Impact Report (FEIR).

#### 4. ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION MEASURES

##### *Biological Resources*

***There are no Alameda whipsnake impacts and mitigation measures as written are unclear.*** The DEIR (p. 99/100) the text notes that while no Alameda whipsnakes have been observed on the site, the Diablan sage scrub at the southern tip of the property does provide suitable habitat for the snake. The habitat map on Figure 16 (p. 93) shows the nearest sage scrub area to be approximately 2,000 feet from any proposed construction activities. The impact discussion (page 107) and Mitigation Measure D6 (p. 117) indicate that the closest known whipsnake occurrence is some three miles south of the project site and that the snake is not likely to be found on site in areas other than the Diablan sage scrub habitat. Because suitable habitat conditions exist on the property, the mitigation measure requires exclusionary fencing to be installed along the border of scrub habitat areas prior to ground disturbance activities to prevent any incidental movement of the snake into the vicinity of the proposed development area.

We believe it is incorrect to describe the project as having an impact on the Alameda whipsnake. As the text of the DEIR points out the nearest Diablan sage scrub area is over 2,000 feet distant and the closest known whipsnake is some three miles away. Further we question whether the Resource Agencies would want the project developer to go from 2,000 feet to nearly 4,000 feet into other habitat areas to fence the border of the Diablan sage scrub. In the event the author insists on describing this as an impact we would point out that it is not clear what border is this mitigation measure addressing. There are two small sage areas are about 2,000 feet from development but the majority of the sage is located beyond a ridge and perhaps 4,000 feet away. Does this measure require fencing entirely around the small outcrops and all along the north side of the distant sage areas? If the

N1

N2

author believes that whipsnake mitigation is necessary the following mitigation measure is suggested:

Measure D6 Prior to construction verify the limit of on site Diablan sage scrub areas. Limit grading activity to areas at least 250 feet beyond the boundary of the Diablan sage scrub.

---

*An accurate boundary for the viola pedunculata has not been determined and such a boundary should be established.* On page 114, Mitigation Measure D3 establishes the requirement to prepare a Callippe Mitigation Plan. The first paragraph of Topic D3a says an entomologist shall confirm the Callippe silverspot butterfly habitat and the second paragraph it says this verification has been done in June 2006. It is our understanding that WRA, the DEIR biology consultant, has done a generalized boundary assessment and those boundaries are shown on DEIR Figure 18. We further understand that this year Dr. Arnold, a Callippe silverspot butterfly expert, looked over the site and agreed that the WRA mapping established reasonable boundaries. In neither case were accurate (GPS based) boundaries defined. Based on this history we request Topic D3a continue to require accurate boundary delineations. We also request that the extent of such surveys be limited to areas to be disturbed by construction plus a generous boundary. Our suggested edit follows:

**D3a. Verify species habitat.** An entomologist experienced in the biology of the Callippe silverspot butterfly shall accurately confirm habitat of the Viola pedunculata, the butterfly host plant, on the entire 562-acre portion of project site that is to be disturbed by construction plus a 1,000 buffer. Figure 18 (p. 106) shows the generalized habitat boundaries map delineated in March, 2005 and June 2006.

~~Verification of the habitat map has been completed in the current (June, 2006) survey.~~

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*Callippe silverspot butterfly mitigation should require either setback buffers or silt fencing; but not both.* In a continuation of Mitigation Measure D3 paragraph D3d (p. 115) requires a 250' buffer between grading activity and the edge of the mapped butterfly habitat and further requires a 48" high silt fence at the edge of the graded area. It is our understanding that the requirement is sometimes imposed to require one or the other, but not both, of these measures. It is also our understanding that the 48" high fence would not be necessary in areas where we are more than 250' from the habitat boundary. We request the mitigation measure be modified requiring either the physical separation or the 48" silt fence.



***The property to be surveyed for the presence of burrowing owls is overly inclusive.*** The text of Mitigation Measure D5 (second paragraph, p. 116) indicates that burrowing owl "...pre-construction surveys shall be conducted on the entire project site and within 500 feet of the project area." The develop portion of the site is but a small portion of the overall property and this is an excessive amount of pre-construction surveying. This mitigation measure should be revised to require surveying only for the disturbed portion of the site and an adequate buffer (500'?) beyond the limit of that disturbed area.

N5

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***Public Services, Fire Protection***

***Reference should be made to existing emergency vehicle access easement from Oak Grove property to Grey Eagle Court.*** Emergency vehicle access (EVA) is discussed in the "Access roads" paragraph at page 226/228. This is the main place in the document for a discussion of EVA's. This description should point out that the need for an Oak Grove emergency access route was anticipated at the time the Grey Eagle development and that such an easement was approved with the Grey Eagle project. This easement today exists to accommodate what this DEIR calls the North EVA. The Access roads paragraph should be revised to indicate the following:

N6

1. The North EVA would connect to Grey Eagle Court from the end of cul-de-sac Court 3.
2. The potential need for this EVA was anticipated at the time the Grey Eagle development was approved.
3. An easement has been established effectuating this EVA access across the adjacent property to Grey Eagle Court.

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***Referencing a 12% maximum EVA road grade as a LPFD standard is incorrect.*** On page 228 the Access road paragraphs go on to state that the LPFD EVA road grade standard is a maximum of 12%. Mr. Eric Carlson, the LPFD Fire Marshal, is on record as stating this maximum grade to be 15%. The reference here should be changed from 12% to 15%.

N7

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***Reasons why Alternative 4 is the Environmentally Preferred Alternative.*** We agree that Alternative 4 is the superior alternative and deserves the title Environmentally Preferred Alternative (p. 293). We offer the following as some of the reasons why we believe this to be true.

N8

- The developed land area in Alternative 4 is only 66 acres which is approximately 12% of the site and 18% less than for the project.
- The removal of the valley fill construction areas will reduce biological resource impacts substantially and eliminate the need for sediment basins.
- The reduction in home sites from 98 in the project to 51 in Alternative 4 results in over a 45% decrease in peak hour traffic on Bernal Avenue near Hearst Drive.

- Construction of only 51 lots will decrease the construction noise and traffic impacts from those of the project or Alternatives 1 and 2.
- The reduction to 51 lots and the location of the removed lots will reduce visual impacts of the project – particularly to neighborhoods near the site.

We believe the FEIR would be improved by listing these, and potentially other, reasons for naming Alternative 4 the Environmentally Superior Alternative.

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***Aesthetic impact of infrastructure construction under Alternative 4 will not be the same as for the project.*** We disagree with the conclusion (final paragraph, p. 349) that the visual impacts resulting from the inadequate screening of infrastructure elements under Alternative 4 would be the same as those for the project. The infrastructure road referenced here will not be constructed in Alternative 4. Further the text states that under Alternative 4 the view of the no longer existent infrastructure road from onsite viewpoint would be obscured by the balance fill area. This described impact should be deleted from the FEIR discussion for Alternative 4.

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N9

## 6. ALTERNATIVE 4

### *Transportation*

***The DEIR does not credit the fact that LOS standards are improved at two impacted intersections.*** We note the Alternative 4 transportation impacts and mitigation text (p. 377/378) indicates that there will be approximately 48% fewer pm peak hour trips than the project. Applying this reduction to the data in Table 32 on page 259 for the project one finds the following:

Intersection	Existing + Approved pm Peak Hr	Project pm Peak Hr	Project LOS	Alt. 4 pm Peak Hr	Alt 4 LOS
Bernal/Angela	31.3	35.2	E	33.2	<b>D</b>
Bernal/Hearst	27.4	55.7	F	41.0	<b>E</b>

N10

The FEIR should state that although a traffic model has not been run for Alternative 4 one can conclude from the reduced trips that traffic at Bernal and Angela would be at an acceptable LOS D under this alternative. The document should also state that the impact at Hearst and Bernal would be reduced from LOS F to the midrange of LOS E.

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## 7. CUMULATIVE IMPACTS

*Lack of clarity in describing analysis of three Southeast Pleasanton Projects.* The DEIR evaluates the impact of the Oak Grove project in concert with two other projects proposed in Southeast Pleasanton. First the text (p. 398) states that the cumulative impact of the Lund II, Spotorno/Greenbriar and Oak Grove projects are to be analyzed in another document. Contrary to this statement the DEIR analyzed these impacts in the text on pages 399 through 405. The text should be revised to clearly state that the cumulative analysis is included here. A document which does not exist and which may contain information as yet unknown about other projects in Southeast Pleasanton is not relevant to this EIR.

N11

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*The DEIR should include a cumulative analysis considering the impacts of the Alternatives.* While we find an excellent cumulative analysis of the project when considered in concert with other development projects the DEIR (p. 408). This is the only cumulative analysis presented; no cumulative analysis is provided for the situation where the project is replaced with one of the alternatives. Clearly impacts for Alternative 4, which is of lower development intensity, will be lesser than those evaluated for the project however an analysis considering the alternatives plus the other cumulative projects should be provided in the FEIR.

N12

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Again, thank you for the opportunity to comment.

Respectfully submitted,

  
FOR Martin W. Inderbitzen

cc:

**O. MURALI, MARY**

**JULY20, 2006**

**Marion Pavan**

---

**From:** K Murali [muraliandmary@yahoo.com]  
**Sent:** Thursday, July 20, 2006 9:32 PM  
**To:** Marion Pavan  
**Cc:** Maria Hoey  
**Subject:** Please Distribute Letter from Resident to all Planning Commssioners: Relates to Proposed Oak Grove Development

Dear Planning Commissioners,

I am a resident on Mataro Court. I am very worried about the proposal for the new housing development near Kottinger Ranch. I have an incredible view from the back of my house and my backyard. My horizon that I see every morning is of open hills. It is a very peaceful view. It was the reason my husband and I purchased this particular house. I dread the thought of losing the beautiful view that my neighbors and I enjoy. And it does not seem fair to the residents that are already here and bought their homes based on the surrounding environment. I also worry how this will effect the value of my property. Of course there are also concerns of increased traffic and people and how that will impact are neighborhood and schools.

O1

O2  
O3  
O4

Another concern is the bowl effect that occurs because of the way the big slopes form a valley. This bowl effect makes all sounds amplified. The construction noise would be very intense. And I think there also would be a huge amount of settling of construction dust and dirt which is a health hazard.

O5  
O6

If this project or a similar project must go through, I beg you to consider other possibilities so that my neighbors and I will still have the beautiful view and peacefulness.

Sincerely,

Mary Murali  
.159 Mataro CT

---

Yahoo! Messenger with Voice. Make PC-to-Phone Calls to the US (and 30+ countries) for 2¢/min or less.

**P. NEWTON, CAROLYN**

**JULY 30, 2006**

**Marion Pavan**

**From:** CEEN3@aol.com  
**Sent:** Wednesday, August 30, 2006 1:08 AM  
**To:** Marion Pavan  
**Subject:** DEIR for PUD-33

Dear Mr. Pavan:

RE: Oak Grove Development DEIR

I was uncertain whether to send my concerns, since I have made comments regarding development on Pleasanton's East Side and PUD-33 at other times during this process. However, I found some of the conclusions in the DEIR to be very troubling...and I couldn't sleep...

1. **Noise** On pages 206-208 it was stated repeatedly that "no adverse noise impact was found." However, it states that the noise will be "annoying" and will continue for 6-8 years!!! It further states that most of the noise will be in limited areas, with a limited area of impact. However, sound really carries from the tops of these hills. (Even when someone is talking normally, in the hills a couple streets over, the sound carries so well, that I can hear what they are saying.) So the distance from the construction area won't diminish the level of noise to the surrounding area. Having construction noise for 6-8 years will definitely affect the quality of life for those in the area (and that includes wildlife). Would any of you want to have to watch and listen to these beautiful hills being destroyed day after day and year after year? (We moved here to hear the birds, breezes and quietness!) The mitigations won't make this impact "less than significant".

P1

2. **Open Space** Since the developer purchased this land and anticipated it's future use within Pleasanton's General Plan, things have changed. The city has grown and developed and the impacts of such a development are more critical. As more open space has been lost to other housing developments, the remaining open space has become more precious to the vast majority of residents. It is truly an irreplaceable natural resource and we are responsible for what happens to it for future generations. Once it is developed, it is gone forever. The mitigations discussed may have some beneficial impacts, but not enough to compensate for the numerous and varied ways this development will adversely affect the environment. (pages S2-S11). I find it difficult to understand how the "Significance After Mitigation" can be so certain, since there are so many variables involved in predicting the future. How do they know how the "mitigation and monitoring plan" will affect the Tiger Salamander and that it will be "less than significant"? How can they state that the visual impact of seeing houses on the hills, instead of cows, will be "less than significant"? (I could give dozens more examples.) There are no guarantees that the mitigations will have the proposed/anticipated outcomes!!! And if they don't, there are no "do-overs".

P2

P3

I know that preventing Oak Grove is unlikely, so I want to encourage you to use your position as stewards for this precious land to do whatever you can to reduce the number of homes to the bare minimum, and maximize the amount of open space left alone. (Hopefully, fewer houses can be positioned in locations which are least obtrusive and perhaps those in the higher elevations could be one-story, to reduce the visual impact.)

P4

Thank you for your consideration. I appreciate all of the time and energy you invest in Pleasanton's future.

Sincerely,  
Carolyn Newton  
Smallwood Ct.

8/30/2006

## Q. NEWTON, JEFF

AUGUST 30, 2006

Marion Pavan

---

**From:** Maria Hoey  
**Sent:** Wednesday, August 30, 2006 8:06 AM  
**To:** Marion Pavan  
**Subject:** FW: DEIR PUD-33

Communication identical  
to communication P.

-----Original Message-----

**From:** Jeff Newton [mailto:jnewton@lsicorp.com]  
**Sent:** Wednesday, August 30, 2006 1:06 AM  
**To:** Maria Hoey  
**Subject:** DEIR PUD-33

Dear Planning Commissioners:

RE: DEIR for Oak Grove Development

I was uncertain whether to send my comments, since I have sent concerns regarding development on Pleasanton's East Side an PUD-33 at other times during this process.

However, I found some of the conclusions in the DEIR to be very troubling..and I couldn't sleep...

1. **Noise** On pages 206-208 it was stated repeatedly that "no adverse noise impact was found." However, it states that the noise will be "annoying" and will continue for 6-8 years!!! It further states that most of the noise will be in limited areas, with a limited area of impact. However, sound really carries from the tops of these hills. (Even when someone is talking normally, in the hills a couple streets over, the sound carries so well, that I can hear what they are saying.) So the distance from the construction area won't diminish the level of noise to the surrounding area. Having construction noise for 6-8 years will definitely affect the quality of life for those in the area (and that includes wildlife). Would any of you want to have to watch and listen to these beautiful hills being destroyed day after day and year after year? (We moved here to hear the birds, breezes and quietness!) The mitigations won't make this impact "less than significant".

2. **Open Space** Since the developer purchased this land and anticipated it's future use within Pleasanton's General Plan, things have changed. The city has grown and developed and the impacts of such a development are more critical. As more open space has been lost to other housing developments, the remaining open space has become more precious to the vast majority of residents. It is truly an irreplaceable natural resource and we are responsible for what happens to it for future generations. Once is developed, it is gone forever. The mitigations discussed may have some beneficial impacts, but not enough to compensate for the numerous and varied ways this development will adversely affect the environment, (pages S2-S11). I find it difficult to understand how the "Significance After Mitigation" can be so certain, since there are so many variables involved in predicting the future. How do they know how the "mitigation and monitoring plan" will affect the Tiger Salamander and that it will be "less than significant"? How can they state that the visual impact of seeing houses on the hills, instead of cows, will be "less than significant"? (I could give dozens more examples.) There are no guarantees that the mitigations will have the proposed/anticipated outcomes!!! And if they don't, there are no "do-overs".

I know that preventing Oak Grove is unlikely, so I want to encourage you to use your position as stewards for this precious land to do whatever you can to reduce the number of homes to the bare minimum, and maximize the amount of open space left alone. (Hopefully, fewer houses can be positioned in locations which are least obtrusive and perhaps those in the higher elevations could be one-story, to reduce the visual impact.)

Thank you for your consideration. I appreciate all of the time and energy you invest in Pleasanton's future.

Sincerely,  
Carolyn Newton  
Smallwood Ct.

8/30/2006

# R. RAYMER, LAURA AND MARSHALL

JULY 26, 2006

Page 1 of 1

## Marion Pavan

---

**From:** lauraraymer@comcast.net  
**Sent:** Wednesday, July 26, 2006 10:11 AM  
**To:** Marion Pavan  
**Subject:** PUD-33

Mr. Pavan - My husband and I live at 4 Red Feather Ct., Pleasanton. We understand that tonight, the City Council is considering the development for Oak Grove. We are unable to attend the meeting, but would like to express our concern that the Council not rush to accept the proposed alternative for the property. We have received information from another neighbor that the houses can be up to 25 % of the lot size. If the lot is 2 acres as in some cases, that is a huge home on the ridgeline. We also heard that the Council is accepting the photographs taken by the developer as to the view from Grey Eagle Estates without taking photographs themselves. We think it is important that the City research the site plan very carefully to ensure that what the developer is showing in their photograph is truly the accurate view for the homeowners living in Grey Eagle. We urge the Council to do it's due diligence to ensure that the final proposal is complete and accurate for the homeowners affected by the development. Thank you,

R1

R2

Laura and Marshall Raymer  
1 Red Feather Ct.  
Pleasanton, CA 94566  
(925) 398-6336 phone  
(925) 292-1053 fax

7/28/2006

R-1

**S. ROBERTS, ALLEN**

**JULY 11, 2006**

**MILLER  
STARR  
REGALIA &**  
A PROFESSIONAL  
LAW CORPORATION

300 HAMILTON AVENUE  
THIRD FLOOR  
PALO ALTO, CALIFORNIA 94301  
FACSIMILE (650) 462-1010  
TELEPHONE (650) 463-7800

**ROBIN B. KENNEDY**

**RBK@MSANDR.COM**

July 11, 2006

**VIA HAND DELIVERY**

Chairman Brian Arkin  
Vice-Chair Anne Fox  
Member Philip Blank  
Member Arne F. Olson  
Member Jennifer Pearce  
Alternate Member Gregory M. O'Connor  
Planning Commission  
City of Pleasanton  
P.O. Box 520  
Pleasanton, California 94566

Re: PUD-33, Draft Environmental Impact Report

Dear Chairman Arkin, Vice Chair Fox and Members of the Planning Commission:

We represent Mr. Allen Roberts, who owns that certain real property located at 29 Grey Eagle Court in Pleasanton. I write on his behalf to comment on one aspect of the Draft Environmental Impact Report dated June 30, 2006 for the Oak Grove Planned Unit Development, prepared by Mundie & Associates (the "DEIR").

In the proposed project, as well as in all three alternatives considered in the DEIR (excluding the no-project alternative), the proposed residences in the Oak Grove PUD will be located beyond the Fire Department's five-minute response time which, according to the DEIR, could affect emergency access to the site. This distance and the associated time delay constitute

RBRT\39185\668192.1

◊ WALNUT CREEK ◊ WWW.MSANDR.COM ◊ PALO ALTO ◊



Chairman Brian Arkin  
Vice-Chair Anne Fox  
Member Philip Blank  
Member Arne F. Olson  
Member Jennifer Pearcc  
Alternate Member Gregory M. O'Connor  
July 11, 2006  
Page 2

a significant adverse environmental impact under CEQA. (DEIR p. 230.) A required mitigation measure for the proposed project and the three alternatives is, therefore, ensuring adequate emergency access to the site.

The proposed project addresses these concerns by providing, in addition to the public road access, for two Emergency Vehicle Access routes ("EVAs"), one to the west and one to the north. (DEIR p. S14.) The three alternatives, including Alternative #4, provide only one EVA – the one to the north. (DEIR p. S14.)

The EVA to the north is to be located, via the extension of cul-de-sac Court 3, to Grey Eagle Court. (DEIR, p. 8.) More specifically, the EVA would cut across Mr. Roberts' property at 29 Grey Eagle Court! Furthermore, the proposed EVA to the north is proposed to be designed and constructed to LFPD standards, which standards include a maximum grade of 12%. (DEIR, p. 228.) The portion of Mr. Roberts' property for which he has granted an EVA to the City is steeper than 15%. S1  
S2

Mr. Roberts has not given his consent, nor does he intend to give his consent in the future, to the applicant's locating an EVA on his property. Because the proposed EVA route is not enforceable through permit conditions or otherwise (as required by Public Resources Code Section 21081.6(b)), the applicant must identify another EVA route, which then must be properly analyzed under CEQA. Alternatively, so long as the eminent domain reform initiative that is on California's November ballot as a reaction to the U.S. Supreme Court's ruling in *Kelo v. City of New London* is not approved by the voters, the City will have to initiate an eminent domain action against Mr. Roberts (and, subsequently, pay to Mr. Roberts the full fair market value of his property). In the event the initiative passes, California cities and counties will be able to initiate eminent domain actions only for a public purpose. S1

The Oak Grove PUD EVA to the north presumes not only access across Mr. Roberts' property, but also access over Grey Eagle Court. Even if Mr. Roberts were to grant his consent or his property were to be taken by eminent domain, Grey Eagle Court is a private street, owned by members of the Grey Eagle Homeowners Association, a California non-profit mutual benefit corporation. Its consent to the use of the private street would need to be granted as well.

On the basis of the foregoing analysis, we are convinced you must conclude that a significant adverse environmental impact identified in the DEIR is not susceptible to feasible mitigation, since one of the three required mitigation measures (M2-1) cannot be effected in the absence of an eminent domain action against our client.

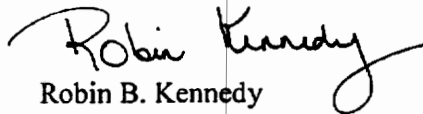
Chairman Brian Arkin  
Vice-Chair Anne Fox  
Member Philip Blank  
Member Arne F. Olson  
Member Jennifer Pearce  
Alternate Member Gregory M. O'Connor  
July 11, 2006  
Page 3

Please be advised that our client is not otherwise opposed to the proposed Oak Grove PUD.

S3

Very truly yours,

MILLER, STARR & REGALIA

  
Robin B. Kennedy

cc: Michael Roush, Esq. (via email [mroush@ci.pleasanton.ca.us](mailto:mroush@ci.pleasanton.ca.us))  
Martin Inderbitzen, Esq. (via email [ndrbtzn@hotmail.com](mailto:ndrbtzn@hotmail.com))  
Marion Pavan, Staff Planner (via email [mpavan@ci.pleasanton.ca.us](mailto:mpavan@ci.pleasanton.ca.us))  
Allen Roberts (via email)

**T. SCOTT, BRYAN**

**JULY 14, 2006**

**Marion Pavan**

**From:** Bryan Scott [bryan@ppi-ca.com]  
**Sent:** Friday, July 14, 2006 6:58 AM  
**To:** ndrbtn@hotmail.com  
**Cc:** Marion Pavan  
**Subject:** Oak Grove-

hello Marty-  
received your July 12th letter yesterday, and I'm glad to see things are moving forward. I have a couple of questions.

. At the Planning Commission meeting 7/13/06 Alan Roberts said he owns property essential to implementing the North EVA. He said he did not want to sell the land or allow the EVA. He also said the grade was 18%, and the maximum standard for such roads is 12%, so the route was unsuitable for its purpose. Is this a problem? T1

.. How difficult would it be to keep the 6.5 acre neighborhood park? The city as a whole would benefit, I believe, and keeping the neighborhood park in the plan would perhaps reduce the usage pressure on other nearby neighborhood and community parks, such as Vintage Hills Park and Kottinger Park. It would also appear that keeping the park in the plans would be in line with City service goals. T2

Thanks.

-Bryan Scott  
248 Arbor Drive

\*\*\*\*\*  
Bryan Scott  
Pacific Partners International  
Phone: 925-484-2025  
Fax: 924-484-5667  
Email: [bryan@ppi-ca.com](mailto:bryan@ppi-ca.com)  
\*\*\*\*\*

**Marion Pavan**

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**From:** Bryan Scott [bryan@ppi-ca.com]  
**Sent:** Monday, July 03, 2006 10:39 AM  
**To:** Marion Pavan  
**Subject:** PUD-33 Jennifer Lin, Frederic Lin, Kevin Lin

Hi Marion-  
received the Notice of Public Hearing related to this project over the weekend. I'd like to point out a mistake, one that has been made before.

In the section describing the location of the project you describe the project as being on the southerly side of "Vintage Heights I" development. The correct name for one of the developments adjacent to the north of the proposed project is "Vintage Hills II." Vintage Heights I is not adjacent to the Lin project, although it is to the North of the project. So technically the statement is correct, just as you could say the development is south of Stanley Blvd.or Interstate 580. The development adjacent to the project on the north side is Vintage Hills II.

T3

I've made this correction before, so I'm wondering if there is some motivation for mis-naming the developments surrounding the proposed project, or at least our development. Perhaps it's just an honest mistake that keeps reoccurring. But thanks for correcting it in future communications.

-Bryan

\*\*\*\*\*  
Bryan Scott  
Pacific Partners International  
Phone: 925-484-2025  
Fax: 924-484-5667  
Email: [bryan@ppi-ca.com](mailto:bryan@ppi-ca.com)  
\*\*\*\*\*

7/28/2006

# U. SMITH, KEN

JULY 25, 2006

Page 1 of 1

Marion Pavan

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**From:** Ken Smith [ken.smith1@comcast.net]  
**Sent:** Tuesday, July 25, 2006 6:17 PM  
**To:** Marion Pavan  
**Subject:** Oak Grove Development

City of Pleasanton  
Planning Commission  
July 26, 2006

Dear Members:

My home is separated from the Oak Grove planned development by several building lots, but the location of these proposed new homes are in direct view from my home. My address is 3441 Brandy Court. I have personal concerns about this development, but I hope that you will apply deep concern and take great care when you consider the impact that this development will make upon our community.

As a founding member at the incorporation of the Vintage Hills Home Owners Association during the seventies, I have watched major decisions in Pleasanton take place. As a past President as well as a past Board Chairman of the Association, I worked with many of those located in the original Vintage Hills tract, to rectify those impending decisions that threatened the sanctity of our wonderful community. I do not oppose development in general; development that allows our beautiful city to grow responsibly. After all, it had to grow some to allow my family to move here. I do, however, oppose development that reduces the serenity and beauty of the area as much as the Oak Grove development would. It is that serenity and beauty of Pleasanton that brings people here in the first place, and keeps the rest of us here in the second place.

Building fifty one homes on more than five hundred acres would usually be a good idea, but every one of these homes will be located on all of the ridge-tops in that parcel. That will mean that one of the most dominant features of this valley will be lost. I hope that we can continue to avoid the placement of homes on the tops of our ridges. There should be little objection from neighbors to the placing of those homes so that the ridgelines of the new homes will be below the NATURAL ridgelines of the surrounding hills.

The ridgelines that surround Pleasanton have long been an important issue, and many long battles have occurred to prevent their loss. Even our BART station on highway 580 was considered to be an infringement of our natural ridgelines, and BART was required to build the undulating roofline on the station that we can see from our home, up here next to the Oak Grove development. The ridgelines included in the Oak Grove development will be very visible to all who ride BART through our city.

I encourage you to work together to retain the beauty of our natural ridgelines. We have only to look to our neighbor to the North to see how the loss of the natural ridges will impact the quality of the city. The home / building that is located at the terminus of Santos Ranch Road (and 'fondly' referred to as The Hayward Hotel) is another example of the impact ridgeline development can have on Pleasanton. That building on Santos Ranch Road is visible from any location in town, and the hills South of Hearst Street are also visible from anywhere in town or the valley. Oak Grove development, as it is proposed today (with the building of homes on the ridge lines) will degrade the views of many more residents than the EIR says will be affected, by the addition of these homes.

Pleasanton and the people that control Pleasanton's future have generally made good decisions in the past, to avoid the degradation of the beauty of the Pleasanton area. I have confidence that you, as current members of the Pleasanton City Planning Commission will continue to uphold that record and maintain the beauty of the area by preventing Oak Grove development from building homes on the ridgelines of the hills included in the Oak Grove Development.

Thank you very much for the work that you have done for this, our city, and thank you for allowing me to contribute to this issue.

Respectfully Submitted,

Ken L. Smith

1441 Brandy Ct.  
Pleasanton, CA  
ken.smith1@comcast.net  
925) 846-8594 (No phone response necessary)

3/28/2006

U1

U2

**Mañion Pávan**

---

**From:** Maria Hoey  
**Sent:** Tuesday, July 25, 2006 6:46 PM  
**To:** Anne Fox (E-mail); Arne F. Olson (E-mail); Brian Arkin (E-mail); Gregory M. O'Connor (E-mail); Jennifer Pearce (E-mail); Phil Blank (E-mail)  
**Cc:** Marion Pavan; Donna Decker  
**Subject:** FW: [PLSWEB] Oak Grove Development

-----Original Message-----

From: webmaster@ci.pleasanton.ca.us  
[mailto:webmaster@ci.pleasanton.ca.us]  
Sent: Tuesday, July 25, 2006 6:38 PM  
To: Maria Hoey  
Subject: [PLSWEB] Oak Grove Development

City of Pleasanton Website - Contact Us Online

Name: Ken Smith

Email: Ken.smith1@comcast.net

Category: Planning Commission

Subject: Oak Grove Development

Comment:

Dear Members:

Please consider the fact that there are very few places in Pleasanton or the entire valley that can NOT see the ridgelines involved in this project. Many more than the EIR mentions. The natural ridgelines have been the subject of many battles and many major decisions in this valley, and I hope that you will consider the current plan to be detrimental to the natural beauty of this area. If the ridgeline of each of the new homes were to be below the natural ridgelines of the hills, few residents would have any objections to this project. Please reject this project as it stands, or any other rejuvenation of this project, if it allows homes to be on or above the natural ridgelines.

Thank You

Ken L. Smith  
ken.smith1@comcast.net  
3441 Brandy Ct.

U3  
U4  
U5

## V. SYMONS, LISA AND KEITH

AUGUST 29, 2006

**Marion Pavan**

---

**From:** Maria Hoey  
**Sent:** Tuesday, August 29, 2006 2:44 PM  
**To:** Marion Pavan  
**Subject:** FW: Oak Grove

-----Original Message-----

**From:** Lisa Symons [mailto:symons4@pacbell.net]  
**Sent:** Tuesday, August 29, 2006 2:01 PM  
**To:** Maria Hoey  
**Subject:** Oak Grove

Just wanted to let you know we have been following the progress of the Oak Grove Development as it goes through the approval process and that we are strongly in favor of the plan. We live in Kottinger Ranch and think this development will be a great asset to Pleasanton.

Thanks,

-Lisa and Keith Symons  
1080 Hearst Dr.

8/30/2006

V1

W. ALA. CO. FLOOD CONTROL & WATER CONS. DIST., ZONE 7

AUGUST 14, 2006



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

100 NORTH CANYONS PARKWAY, LIVERMORE, CA 94551      PHONE (925) 454-5000

August 14, 2006

Mr. Marion Pavan  
Planning and Community Development  
City of Pleasanton  
200 Old Bernal Avenue  
Pleasanton, CA 94566

**Re: Draft Environmental Impact Report for the Oak Grove Planned Unit Development**

Dear Mr. Pavan,

Zone 7 has reviewed the referenced CEQA document in the context of Zone 7's mission to provide drinking water, non-potable water for agriculture and irrigated turf, flood protection, and groundwater and stream management within the Livermore-Amador Valley. Our comments are as follows.

1. On page 16, under the first bullet, Zone 7's potential interests in the Oak Grove project also include the following: 1) the use and operation of onsite detention basins and potential downstream impacts associated with the operation of the basins; and 2) the collection of drainage fees for new impervious areas created by development of the site. We recommend this text be added to the first bullet. W1
2. On page 168, second paragraph, please identify the party responsible for the operation of the existing detention basins installed on St. Mary's Creek. W2
3. On page 170, the first sentence under (2) Groundwater makes references to the Alameda County Water District, Zone 7. This reference should be revised to the Zone 7 Water Agency. W3
4. Pages 170-171 and the first paragraph on page 176 describe the proposed drainage detention basins to be installed on site. These detention basins have been conceptually sized to detain up to 100-year flows. The use of onsite detention basins to detain 100-year storm events is not recommended by Zone 7, due to the intricacy of operating this type of detention basin so as not to cause downstream impacts. Zone 7 recommends regional storage solutions over privately operated detention basins. W4
5. On page 172, the last sentence under Criterion 7 states that a properly designed detention basins typically drain completely within 72 hours. However, if the detention basin is designed for a 100-year storm event, 72-hour detention is not recommended, as back-to-back 24-hour storm events could cause a backup in the basin and result in flooding. Zone 7 recommends the basin to drain within a 24-hour period. W5

RECEIVED

AUG 16 2006

CITY OF PLEASANTON  
PLANNING DEPT.



6. On page 173 and page 286, Zone 7 recommends revising the fifth bullet to read as follows: W6  
“Require new development to pay its fair share of the flood control improvement costs through the assessment of Zone 7’s current Special Drainage Area (SDA) 7-1 Drainage Fees and/or any future Zone 7 Stream Management Master Plan associated fees.”
7. On page 173 and page 286, Zone 7 recommends adding to the following to beginning of the sixth bullet: “With consultation from Zone 7, design flood water detention basins and arroyos...” Zone 7 requests that project proponents consult with Zone 7 on the design of such facilities to determine their regional impacts and provide consistency in design with like facilities installed in the area. W7
8. On page 178, under item 4, what will the standards be for operation and maintenance of the proposed detention basins? Zone 7 is concerned that a private entity will not be able to sustain the same level of service a municipality would in the operation and maintenance of the detention basins. W8
9. Mitigation measure H1.b (on pages S8, 178 and 182) state that the regional drainage fee is \$0.622 per square foot of new impervious area. The current Special Drainage Area 7-1 drainage fee is \$0.685 per square foot. We recommend the text be revised accordingly. W9
10. On page 267, the first sentence of the second paragraph, should be revised to read as follows: W10  
“Zone 7 treats SWP imported water at their two surface water treatment plants.” The existing text assumes that only one of the two treatment plants treats SWP imported water.
11. On page 268, the first sentence under the Long Term Supply and Demand section, states that “the 1996 General Plan projects that Zone 7 will have sufficient water supply to satisfy demand from development through 2013.” This is an inaccurate statement. Zone 7 has adequate water supplies to meet average day water demands for development through 2030. However, Zone 7 did not have sustainable water supplies to meet dry-year demands after 2013. At the Zone 7 Board of Directors regularly scheduled meeting on the June 21, 2006, the Zone 7 Board approved the Cawelo Water Banking & Exchange Program. This program would allow Zone 7 to store up to 120,000 acre-feet of surplus water in the Kern County area under a two-for-one exchange arrangement. Zone 7 would be able to retrieve a guaranteed amount of 10,000 acre-feet per annum during a dry year. This program will allow Zone 7 to have its water supplies in order to meet dry-year demands through buildout. We recommend that the text in the Long Term Supply Demand section be revised to reflect that Zone 7 has sufficient water supplies to meet development, based on adopted plans within the service area. W11
12. Pages 282 – 285 describe the proposed site drainage areas and the proposed drainage facilities. Please clarify what storm events the drainage basins will be designed for (i.e. Will they be designed to meet Provision C.3 requirements or will it be more conservative?). W12
13. The DEIR briefly mentions the Chain of Lakes (COL) in the last bullet on page 286 and characterizes it as providing flood control, sediment diversion, and recreation. Zone 7 W13

Mr. Marion Pavan  
Planning and Community Development  
City of Pleasanton  
August 14, 2006  
Page 3 of 3

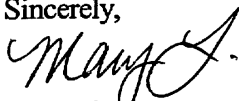
recommends the characterization of the Chain of Lakes be revised to show that the lakes will augment water supply (storage), and provide flood protection and other beneficial uses, like recreation.

14. Zone 7 requests to review any existing hydrology and/or hydraulic studies for this development to determine impacts on Zone 7's regional flood control system prior to approval of these studies. Recent findings in the development of Zone 7's Stream Management Master Plan (SMMP) indicate the need for consideration and analysis of the impacts of development to the regional flood control system and the identification of appropriate mitigations. Therefore, the project sponsor and/or the Developer should consult with Zone 7 prior to undertaking the impact and mitigation analysis during the interim period before full implementation of the regional water storage plan as contemplated by the SMMP. Future improvements to the flood control system are planned, thus, it is imperative that the Developer provide a technical analysis to identify any impacts to the regional flood control system that may occur downstream of proposed project in the interim period.

W14

We appreciate the opportunity to comment on this document. If you have any questions or comments, please feel free to contact me at your earliest convenience by phone at (925) 454-5036 or via email at [m\\_lim@zone7water.com](mailto:m_lim@zone7water.com).

Sincerely,



Mary Lim  
Environmental Services Program Manager

cc: Karla Nemeth, Environmental & Public Affairs Manager, Zone 7  
Jim Horen, Principal Engineer, Zone 7  
Matt Katen, Senior Engineer, Zone 7  
Joe Seto, Senior Engineer, Zone 7  
Jeff Tang, Associate Civil Engineer, Zone 7  
Carol Mahoney, Assistant Engineer, Zone 7

**X. CALIF. DEPT. OF FISH & GAME**

**JULY 26, 2006**



State of California – The Resources Agency

**ARNOLD SCHWARZENEGGER, Governor**

**DEPARTMENT OF FISH AND GAME**

<http://www.dfg.ca.gov>

POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500



July 26, 2006

Ms. Marion Pavan  
City of Pleasanton, Planning Division  
PO Box 520  
Pleasanton, CA 94566

Dear Ms. Pavan:

Subject: Oak Grove Planned Unit Development Draft Environmental Impact Report  
Pleasanton, Alameda County

Department of Fish and Game (DFG) personnel have reviewed the Oak Grove Planned Unit Development Draft Environmental Impact Report (DEIR). The proposed residential development is located on a 562-acre site beyond the city limits north of Highway 84 and south of Stanley Boulevard. The site is bordered to the east and south by agricultural/ grazing land.

The impact analysis and mitigation measures for biological resources on the site are inadequate.

California red-legged frog (CRLF): The project area supports dispersal, breeding, and foraging habitat of CRLF. Development of this area as proposed will result in fragmentation of habitat and blocking of movement corridors of the CRLF. Surveys and mitigation measures for CRLF should follow established U. S. Fish and Wildlife Service Guidelines.

Impact D1 acknowledges reduction in dispersal capability and degradation of water quality and aquatic habitat, but these impacts are not accounted for in the impacted acreage estimate of one acre for the entire project site. Only impacts to potential upland habitat for CRLF within 300 feet of aquatic breeding habitat and 0.5 acres of dispersal habitat have been accounted for. It is true that CRLF frequently utilize upland habitat adjacent to water features. CRLF regularly move between 200 to 300 feet from the edge of occupied creeks; however, several frogs in one study were documented moving over 1.5 miles during dispersal. DFG recommends that measures be implemented to avoid impacts to additional CRLF habitat within the project area.

X1

It is well understood that long term sustainability of populations relies on a range of available and accessible aquatic features scattered throughout the upland areas. Open space including existing intermittent creeks and ponds should be preserved and managed to provide habitat for continued existence of this species in the planning area. Permanent preservation of upland buffer habitat suitable for foraging and dispersal corridors should be required to reduce impacts to CRLF. The buffer should be measured outward from the top of each stream bank or the edge of any wetland. Open space areas should be planned not only to preserve large tracts of land but to provide adequate dispersal corridors and estivation habitat for CRLF.

X2

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JUL 31 2006

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PLANNING DEPT.



Four off-site ponds were discussed in the document. One pond is located 1.1 miles west of the site and connectivity is not compromised by the project. The 3 ponds located between 0.7 and 1.3 miles east of the site will be functionally isolated by current design of the development. X3

It is also estimated that 2,905 linear feet of ephemeral drainages will be directly impacted by the project. Although CRLF are known to travel overland in straight line movements, they are also known to frequently use these types of drainages for dispersal and foraging opportunities. The impacts to areas of these drainages which will remain intact but be functionally isolated by filling and culverting have not been accounted for. The linear design of the project, and the attempt to balance cut and fill on the site have increased the extent of these impacts. Impacts to on site drainages should be reduced by elimination of lots and elevation of roads. X4

California Tiger Salamander (*Ambystoma californiense*): This species is known to occur in and around the project area. There is documentation that CTS move long distances between breeding habitats and estivation sites. Effects of development should be considered from the perspective of fragmentation of habitat and blocking of movement corridors. X5

The project has been designed to avoid direct impacts to the footprint of the suitable breeding habitat on site. Impacts to dispersal and estivation habitat have been underestimated. In the EIR, Wetlands Research and Associates acknowledged the loss of only 23 acres of potential upland CTS habitat within 1,000 feet of aquatic breeding habitat and 0.5 acres of potential dispersal habitat. X6

The proposed mitigation for impacts to estivation habitat is preservation and management of 47 acres of suitable onsite upland habitat, all presumably within 1,000 feet of aquatic habitat since that criterion was used to define estivation habitat in the impact area. The proposed mitigation for impacts for loss of dispersal area to the 3 ponds to the east of the site is preservation of an approximately 200-foot corridor between lots 27 and 28 and installation of 3 wildlife culverts under the road which further constrains the already narrow area. X7

DFG does not agree that the mitigation as proposed will reduce the impacts to CTS to a level of less-than-significant. Research conducted by Mr. Peter Trenham for completion of his doctorate requirements at U. C. Davis, document CTS movements up to 670 meters (2,200 feet) from breeding ponds. Other local studies show substantial terrestrial movements of CTS one kilometer (3,280 feet) and further from known breeding locations. Movements away from ponds may occur in stages over multiple seasons emphasizing the importance of a continuous area of estivation habitat connecting various types of aquatic features in the landscape. Based on this data, DFG considers the size and configuration of the designated open space areas in the project area inadequate to minimize and mitigate impacts to local CTS populations. Open space areas should be planned not only to preserve large tracts of land but to provide adequate dispersal corridors and estivation habitat for CTS. X8

**Nesting Raptors:** In addition to bird surveys during the breeding season, surveys for nests should be conducted in suitable habitat at all times of the year. If a nest is identified for a species known to have high site fidelity and if there will be direct take of the nest, DFG should be contacted and mitigation measures agreed upon before any action is taken.

X9

If disturbance occurs outside of the breeding season and there is not direct take of the nest site, no further action is required. The following is a partial list of birds known to reuse nest sites.

SPECIES	NEST HABITAT	REPEATED USE OF NEST/SITE
Burrowing owl	ground squirrel burrows	yes
Red-shouldered hawk	mature lowland forest (eucalyptus groves)	yes
Red-tailed hawk	large tall trees	yes
Ferruginous hawk	variable	yes
Golden eagle	large platform in cliffs and large trees	yes
Barn owl	ledges, tree cavities, man made structures	yes
Tri-colored blackbird	Aquatic vegetation/	yes

**Burrowing Owl:** Suitable habitat for burrowing owl (*Athene cunicularia*) occurs in the project area and they occur on adjacent parcels. The DEIR recommends pre construction surveys for burrowing owls but does not clearly define the level of effort that will be required. DFG would like to provide clarification that pre-construction surveys are meant to supplement and not replace protocol level surveys on the project site.

X10

The burrowing owl has been identified as a State Species of Special Concern because of declines of suitable habitat and both localized and statewide population declines. Guidelines for the implementation of the California Environmental Quality Act (CEQA) provide that the species be considered endangered or "rare" for the purposes of CEQA (Guidelines, Section 15380). The CEQA requires a mandatory finding of significance if impacts to rare, threatened, or endangered species are likely to occur. To be legally adequate, mitigation measures must be capable of "avoiding the impact altogether by not taking certain action or parts of an action," "minimizing impacts by limiting the degree of magnitude of the action or

its implementation," "rectifying the impact by repairing, rehabilitating or restoring the impacted environment," "reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action," or "compensating for the impacts by replacing or providing substitute resources or environments" (Guidelines, Section 15370).

It is unlawful to take, possess, or destroy burrowing owls, their nests, or their eggs, pursuant to Section 3503.5 of the Fish and Game Code and the Federal Migratory Bird Treaty Act. Any impacts to the species during the breeding season (February 1 to August 31) must be avoided; unavoidable impacts during the non-breeding season shall be mitigated through perpetual preservation of occupied or adjacent burrowing owl habitat. If there are construction activities proposed during the breeding season, and if burrowing owls are observed on or within 250 feet of the project site during protocol or the follow-up pre-construction surveys, DFG and the City should be notified and a protective buffer must be established with the placement of a barrier fence which shall remain in place for the duration of the breeding season. A protective buffer of 250 feet is generally recommended. DFG will rely on site-specific factors to determine an acceptable buffer distance after survey results have been submitted.

There are two types of mitigation for impacts to burrowing owls: 1) Permanent conservation to mitigate for loss of breeding and foraging habitat, including burrows; and 2) actions intended to avoid "take" of individual burrowing owls and their nest sites. In order to determine whether or not owls breed on or near a site, a burrowing owl survey should be conducted between April 15 and July 15, according to the guidelines described in the *Burrowing Owl Survey Protocol and Mitigation Guidelines*, and a search of the California Natural Diversity Data Base and other local sources should be done.

Because burrowing owls have previously been documented adjacent to the site, and the site is suitable and is in a location likely to support burrowing owls, the extent of burrowing owl habitat on the site should be delineated by a qualified ornithologist. If any part of the site has been altered to make it temporarily unsuitable for burrowing owls prior to the completion of a biological assessment, for example as a result of discing or clearing, the entire site acreage will be presumed to be suitable burrowing habitat.

X11

A mitigation plan should be prepared and will be subject to the review and approval of DFG. An agreement that will bind the applicant to the conditions should be required. No evictions or destruction of habitat should be allowed until the mitigation plan has been finalized and a binding agreement executed.

X12

The plan should identify the mitigation site and any activities necessary to enhance the site and to attract owls there. Construction of artificial burrows may be included as a temporary measure. The plan should also include a description of monitoring and management methods proposed at the mitigation site. Funding must be provided for monitoring and maintenance of any lands identified for mitigation purposes in perpetuity. An annual report should be prepared and submitted to DFG by December 31 of each year. Contingency measures for any anticipated problems should be identified within the plan.

To mitigate permanent impacts to burrowing owl habitat, alternate areas of burrowing owl habitat shall be conserved at a ratio of 1:1, generally with a minimum of 6.5 acres. Land identified to off-set impacts to burrowing owls should be identified in the vicinity of the project site when feasible and must be protected and managed in perpetuity either by a conservation easement or fee title acquisition and establishment of a non-wasting principle endowment. This land should be occupied by burrowing owls or be adjacent to occupied habitat and its suitability enhanced for burrowing owls.

In addition to the above measures, mitigation (avoidance) for direct "take" of burrowing owls is required and can be accomplished by conducting pre-construction surveys for the species no more than 30 days prior to construction. Pre-construction surveys for burrowing owls should be done in conjunction with protocol level surveys during the wintering and breeding seasons. Pre construction surveys alone are inadequate to determine impacts to Western burrowing owl and their habitat.

X13

Project sites found to have burrowing owls present on-site during the pre-construction survey must have a biological monitor present during site disturbance. Pre-construction surveys results should be submitted to DFG for review and approval.

If pre-construction surveys are conducted during the non-breeding season and burrowing owls are observed on the site, DFG will recommend buffer distance or, if necessary, authorize owl eviction during the non-breeding season after the habitat management plan and mitigation agreement have been finalized.

#### Other Concerns

DFG is opposed to the removal of trees in the project area which provide potentially suitable nesting sites for loggerhead shrike (*Lanius ludovicianus*), white-tailed kite (*Elanus caeruleus*), and other tree-nesting raptors which are protected under the Migratory Bird Treaty Act which have been observed on the project site. Golden eagles (*Aquila chrysaetos*) are also known to breed locally. Due to the scarcity of nesting sites in the area, removal of such trees will result in a significant temporal loss of potential nesting habitat and permanent loss if mitigation is not provided. Waters of the State differ from Waters of the United States. Any unavoidable impacts to Waters of the State should be measured by linear feet and acreage. Unique and sensitive habitats typically require a minimum replacement ratio of 3:1 for direct impacts. Additional mitigation must be provided for unavoidable impacts to water quality and loss of connectivity. Proposals should be submitted to the resource agencies for written approval.

X14

X15

Any unavoidable loss of areas known to currently or historically support listed plant species should require preservation, restoration, and salvage of seeds with replanting or seed banking as appropriate and with written approval by the resource agencies.

X16

Ms. Marion Pavan  
July 27, 2006  
Page 6

The project will likely impact waters in DFG's jurisdiction. A Streambed Alteration Agreement (SAA) must be obtained from DFG prior to any work in a lake or stream corridor. Since the issuance of such an SAA is subject to CEQA review, disclosure and incorporation of mitigation measures requested by DFG is needed to meet the requirements of CEQA. It is the policy of DFG that a project should cause no net loss of either acreage or habitat value. DFG generally recommends a minimum 100-foot buffer be established to protect waters.

X17

Larger buffers are required for waters which support sensitive species, such as those on this site. The buffer should be measured outward from the edge of any wetland, bank or riparian area. A recreated or preserved channel or waters surrounded by development are not expected to fully compensate for the functions and values of an impacted wetland feature occurring in open grassland.

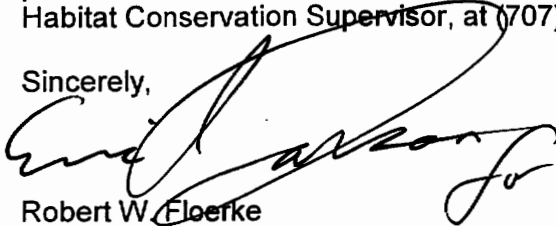
X18

The City should require pre-project effort to reduce impacts to species in the plan area through more effective avoidance, preservation, and salvage programs.

X19

DFG personnel are available to address our concerns in more detail. To arrange a meeting, please contact Janice Gan, Environmental Scientist, at (209) 835-6910; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,



Robert W. Floerke  
Regional Manager  
Central Coast Region

cc: Mr. Ryan Olah  
U. S. Fish and Wildlife Service  
2800 Cottage Way, W-2605  
Sacramento, CA 95825

State Water Resources Control Board  
Post Office Box 2000  
Sacramento, CA 95812





DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500



July 27, 2006

Ms. Marion Pavan  
City of Pleasanton  
Planning and Community Development  
200 Old Bernal Avenue  
Pleasanton, CA 94566

Dear Ms. Pavan:

Subject: GPA-11, PUD-58, and PTR-7813, Charles Austin and Scott Austin, 3459 Old Foothill Road, Pleasanton, Alameda County,

The Department of Fish and Game (DFG) has reviewed the document for the subject project. Please be advised this project may result in changes to fish and wildlife resources as described in the California Code of Regulations, Title 14, Section 753.5(d)(1)(A)-(G). Therefore, a de minimis determination is not appropriate, and an environmental filing fee as required under Fish and Game Code Section 711.4(d) should be paid to the Alameda County Clerk on or before filing of the Notice of Determination for this project.

Please note that the above comment is only in regard to the need to pay the environmental filing fee and is not a comment by DFG on the significance of project impacts or any proposed mitigation measures.

If you have any questions, please contact Mr. Carl Wilcox, Habitat Conservation Manager, at (707) 944-5525.

Sincerely,

Robert W. Floerke  
Regional Manager  
Central Coast Region

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JUL 31 2006

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PLANNING DEPT.

*Conserving California's Wildlife Since 1870*



**Y. CALIF. DEPT. OF TRANSPORTATION**

**AUGUST 1, 2006**

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 286-5505  
FAX (510) 286-5559  
TTY (800) 735-2929



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August 1, 2006

ALA680325  
ALA-680-R16.75  
SCH 2004012013

Ms. Marion Pavan  
City of Pleasanton  
P.O. Box 520  
Pleasanton, CA 94566-0802

Dear Ms. Pavan:

**Oak Grove Planned Unit Development (PUD-33) – Draft Environmental Impact Report**

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review for the proposed project. The comments presented below are based on the Draft Environmental Impact Report (DEIR) for the Oak Grove Planned Unit Development (PUD-33). As lead agency, the City of Pleasanton is responsible for all project mitigation, including improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. Any required roadway improvements should be completed prior to certificate of occupancy. While an encroachment permit is only required when the project involves work in the State Right of Way (ROW), the Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's concerns prior to submittal of an encroachment permit application. Further comments will be provided during the encroachment permit process; see the end of this letter for more information regarding encroachment permits.

The impact on state facilities should be discussed in greater detail. The traffic operations impact on the Interstate 680 (I-680) mainline and ramps should be identified with appropriate mitigation measures identified.

Y1

The following additional intersections should be studied based on potential impacts:

Y2

- Bernal Avenue @ I-680 northbound
- Stoneridge Drive @ I-680 southbound.

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PLANNING DEPT.

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Please indicate the level of "Significance After Mitigation" for intersection number 21 under section 5 in the table on page 55 of the Appendices.

Y3

The traffic volumes shown on many figures in the Appendices such as figure 10, 12, 13, 15, 16, 18, and 20 do not balance. Please correct.

Y4

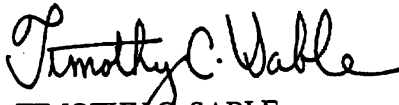
**Encroachment Permit**

Any work or traffic control within the State ROW requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans (in metric units) which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Office of Permits.

Should you require further information or have any questions regarding this letter, please call Lisa Carboni of my staff at (510) 622-5491.

Sincerely,



TIMOTHY C. SABLE  
District Branch Chief  
IGR/CEQA

c: Scott Morgan, State Clearinghouse

# Z. CALIF. REGIONAL WATER QUALITY CONTROL BOARD

AUGUST 18, 2006



## California Regional Water Quality Control Board San Francisco Bay Region



Linda S. Adams  
Secretary for  
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612  
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<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger  
Governor

August 18, 2006  
File No. 2198.09 (BKW)

Marion Pavan  
City of Pleasanton, Planning Division  
PO Box 520  
Pleasanton, CA 94566

**Re: Comments on the Draft Environmental Impact Report for the Oak Grove Planned Unit Development (PUD-33)  
SCH No.: 2004012013**

Dear Mr. Pavan:

Regional Water Quality Control Board (Water Board) staff have reviewed the June 30, 2006 *Draft Environmental Impact Report for the Oak Grove Planned Unit Development (PUD-33) (DEIR)*. The DEIR assesses the expected environmental impacts resulting from the proposed residential development of a 562-acre site, located beyond the Pleasanton city limits north of Highway 84 and south of Stanley Boulevard. Water Board staff have the following comments on the DEIR.

### Comment 1.

**Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, D. Biological Resources, 2. Setting, d. Regulatory Requirements for Wetlands and Waters of the U.S. Pages 100 to 102.**

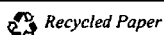
Text in this section of the DEIR discusses the regulation of wetlands and waters of the U.S. Although the title of the section only refers to "waters of the U.S.", as the text of this section, especially subsection d(3), notes, some features at the project site that are not subject to federal jurisdiction under the Clean Water Act are jurisdictional features as waters of the State, under the authority of the State of California's Porter-Cologne Water Quality Control Act.

The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in combination with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs) from the Water Board.

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Water Board staff recommend revising the title of subpart “d” to clarify that the discussion applies to waters of the U.S. and waters of the State. In addition, the term “jurisdictional” is used inconsistently in the DEIR. In some cases, the DEIR clarifies that some features are not “Corps jurisdictional”, while in other places features are described as not being “jurisdictional waters”. Since these “non jurisdictional” waters appear to be jurisdictional waters of the State, the text should be revised to clarify that “non jurisdictional” waters are “non Corps jurisdictional”, but are jurisdictional under State law and regulations. Most of the features that are described as “non jurisdictional on page 101 (e.g., some of the drainages on the site, the two stock ponds, and the six isolated seep wetlands) appear to be waters of the State.

**Comment 2.**

**Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, D. Biological Resources, 2. Setting, d. Regulatory Requirements for Wetlands and Waters of the U.S. (3). Applicable Regulatory Requirements, Page 102.**

**Z2**

Text in this section of the DEIR states, “[T]he type of permit(s) needed will be determined following preparation of the final project construction plans. If required as a result of permit conditions, wetland mitigation measures would be documented in a formal Wetland Mitigation and Monitoring Plan that would be submitted to the Corps as an appendix to a Pre-Construction Notification.” The current description of project impacts and mitigation lacks the detail required in a DEIR.

Proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. In an adequate CEQA document, mitigation measures must be feasible and fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4). Mitigation measures to be identified at some future time are not acceptable. It has been determined by court ruling that such mitigation measures would be improperly exempted from the process of public and governmental scrutiny which is required under the California Environmental Quality Act. Based on the information provided in the DEIR, it is not possible to evaluate the extent of potential impacts to waters of the State, or the adequacy of mitigation measures to reduce the impacts of the project to a less than significant level.

**Comment 3.**

**Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, D. Biological Resources, 3. Key Project Characteristics, b. Significance Criteria, Page 103.**

**Z3**

The significance criteria include impacts to federally protected wetlands as defined by Section 404 of the Clean Water Act. As was discussed in Comment 1, above, the project site also contains wetlands and waters that are not federally protected, but are regulated as waters of the State. The significance criteria should be revised to include impacts to all waters of the State.

**Comment 4.**

**Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, D. Biological Resources, 3. Key Project Characteristics, c. Impacts, (3) waters of the U.S. and Impact D.8. Pages 108 through 110.**

**Z4**

The discussion of impacts only discusses impacts to federally protected waters and wetlands as defined by Section 404 of the Clean Water Act. As was discussed in Comment 1, above, the project site also

contains wetlands and waters that are not federally protected, but are regulated as waters of the State. The discussion of impacts should be revised to include impacts to all waters of the State.

**Comment 5.**

**Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, D. Biological Resources, 3. Key Project Characteristics, d. Mitigation Measures, Measure D.8. Pages 119 through 120.**

**Z5**

The discussion of impacts and mitigation only discusses impacts to federally protected waters and wetlands as defined by Section 404 of the Clean Water Act. As was discussed in Comment 1, above, the project site also contains wetlands and waters that are not federally protected, but are regulated as waters of the State. The discussion of impacts and mitigation should be revised to include impacts to all waters of the State.

Also, as discussed in Comment 2, above, the discussion of proposed mitigation actions lacks the detail required for an adequate CEQA document. At this stage of the CEQA review, the designs and locations of proposed mitigation ponds, wetlands, and stream channels should be presented in sufficient detail so that their probability of success can be evaluated by the resource agencies and other interested members of the public.

Finally, although the proposed mitigation ratios for wetlands account for temporal losses of habitat, they do not account for the uncertainty of mitigation project success. The proposed ratio for replacement of linear feet of channels does not account for either temporal losses or the uncertainty of mitigation project success. Proposed mitigation ratios should be increased to consistently reflect both temporal losses of habitat and mitigation project uncertainty.

**Comment 6.**

**Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, H. Water Quality, 3. Key Project Characteristics, d. Mitigation Measures, Measure H1a. Pages 177 through 178.**

**Z6**

The discussion of impacts and mitigation notes states that post-project runoff will match pre-project runoff and that creek crossings shall be designed and constructed to minimize the potential for erosion. Based on the information provided in the DEIR, Water Board staff are not able to evaluate the extent to which the project can attain these goals.

**Comment 7.**

**Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, H. Water Quality, 3. Key Project Characteristics, d. Mitigation Measures, Measure H2b. Pages 180 through 181.**

**Z7**

Text in this section of the DEIR notes that the project will attain the post-construction treatment requirements of Section C.3 of the Alameda County Clean Water Program’s National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit (Order R2-2003-0021; NPDES Permit No. CAS0029831). However, in the absence of a complete set of proposed stormwater treatment measures, and the proposed locations on the Project site layout, it is not possible to evaluate whether or not the Project can attain the treatment requirements of the Alameda County Clean Water Program’s NPDES Municipal Stormwater Permit.

At this stage of the CEQA process, sufficient design detail should be provided to ensure that the Project has set aside sufficient land area for appropriately sized treatment measures. As was stated above in Comment 2, proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. In an adequate CEQA document, mitigation measures must be feasible and fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4).

If you have any questions, please contact me at (510) 622-5680, or via e-mail at [bwines@waterboards.ca.gov](mailto:bwines@waterboards.ca.gov).

Sincerely,



Brian Wines  
Water Resources Control Engineer  
South and East Bay Watershed Section

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044  
USACE, San Francisco District, Attn: Regulatory Branch, 333 Market Street, San Francisco, CA 94105 -2197  
CDFG, Central Coast Region, Attn: Robert Floerke, Regional Manager, P.O. Box 47, Yountville, CA 94599  
United States Department of the Interior, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Attn: Kim Squires, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825-1846

**AA. DUBLIN SAN RAMON SERVICES DIST.**

**IULY 26. 2006**

**DUBLIN  
SAN RAMON  
SERVICES  
DISTRICT**



7051 Dublin Boulevard  
Dublin, California 94568  
Phone: 925 828 0515  
FAX: 925 829 1180  
www.dsrtd.com

July 26, 2006

Mr. Marion Pavan  
City of Pleasanton – Department of Planning  
200 Old Bernal Avenue  
Pleasanton, CA 94566


Subject: Draft EIR for the Oak Grove Planned Unit Development PUD-33

Dear Mr. Pavan:

Thank you for allowing Dublin San Ramon Services District (DSRSD) the opportunity to comment on the above subject document. We agree with the determination under Section P2 Wastewater Collection and Treatment regarding the adequacy of wastewater treatment capacity, contingent upon the proposed development not exceeding the projected planned treatment requirements. DSRSD finds no other impacts related to the project or the ability to accommodate existing commitments at this time.

A1

Thank you for consideration in this matter. If you have any questions or need additional information please contact me at (925) 875-2255.

Sincerely,  
  
RHODORA BIAGTAN  
Senior Civil Engineer

ATJ/RNB:es  
cc: Dave Requa  
David Behrens  
Chron/File: City of Pleasanton

**RECEIVED**

**JUL 29 2006**

**CITY OF PLEASANTON  
PLANNING DEPT.**



**BB. EAST BAY REGIONAL PARK DIST.**

**AUGUST 28, 2006**

**EAST BAY REGIONAL PARK DISTRICT**



August 28, 2006

Marion Pavan  
Associate Planner  
City of Pleasanton  
P.O. Box 520  
Pleasanton, Ca 94566

**Subject: Oak Grove Planned Unit Development (PUD-33) – Draft Environmental Impact Report**

Dear Mr. Pavan:

The East Bay Regional Park District (the 'District') has received and reviewed the Draft Environmental Impact Report (DEIR) for the Oak Grove Planned Unit Development project. The project proposes a 98-lot custom home development and includes a 6.5 acre public park and 482 acres of protected open space with recreational trails.

The District is interested in the project in that a substantial amount of land will be preserved as open space. Additionally, the project will be developed on open space land and ridgelines in the south eastern portion of the City of Pleasanton.

**Open Space and Recreation Land Management and Maintenance**

The California Environmental Quality Act (CEQA) Guidelines state that a project would be considered to have a significant impact if it is determined that it would include recreational facilities which might have an adverse physical effect on the environment.

The proposed project includes a 6.5-acre park and 482-acres of recreational open space. The project proposes to include a Class A Regional Trail and a number of Class C Trails within the project site. Additionally, three staging areas are proposed on the proposed project site.

Long term funding for the management and maintenance of the park, open space, trails, and staging areas need to be included by establishing a zone of benefit, special assessment, or some other funding mechanism.

A lack of funding for long-term management and maintenance of the park, open space, trails, and staging areas would potentially result in an adverse physical impact on the environment by increasing the management and maintenance demands of the entity that will eventually manage the area, and potentially resulting lack of sufficient funds to

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BB1



ensure the proper stewardship of other open space and/or recreational areas managed by the entity.

The DEIR should identify a potentially significant recreation impact and require, as mitigation, that a funding mechanism is established to ensure the long-term management and maintenance of the area in a manner that will not detract from the stewardship of other lands.

BB1

**General Plan Consistency**

Chapter 4, Section I – Land Use and Planning, of the DEIR fails to identify relevant General Plan policies with which the proposed project may conflict. The City’s General Plan includes a number of policies that development of the project as currently proposed would potentially conflict with.

The DEIR does identify relevant General Plan policies in the appropriate topical section; however, it does not discuss the projects consistency with the policy. Rather, a simple conclusory statement is provided with no supporting statements or facts. The DEIR should not only identify these policies, but also discuss the projects consistency with the goals, policies, and programs included in the City’s General Plan including, but not limited to, the following:

BB2a

- Land Use Element, Policy 12 – “Preserve scenic ridges and views of the Pleasanton, Main, and Southeast Hills ridges”.
- Conservation and Open Space Element, Policy 4 – “Protect all large continuous areas of open space, as designated on the General Plan map, from intrusion by urban development.
- Conservation and Open Space Element, Policy 5 – “Preserve as permanent open space all areas of outstanding scenic qualities or areas which provide extraordinary views of natural and man-made objects.”
- Conservation and Open Space Element, Program 4.4 – “Preserve large blocks of open space land by encouraging the clustering of development.”

The proposed project is planned in a manner that would substantially fragment the existing open space and result in significant disturbance of scenic ridgelines in the Southeast Hills. The proposed project would extend access roads through steep hillsides and place home sites on prominent ridgelines, in a manner that would significantly fragment the existing open space. In a number of instances, open space is fragmented and ridgelines comprised to accommodate the home site and access road for a single home.

BB3

The DEIR should thoroughly review the projects consistency with the General Plan goals, policies, and programs, and in instances where there appears to be a conflict, identify mitigation measures to reduce any potential impacts to a less than significant level.

BB2b

### **Fringe Lots**

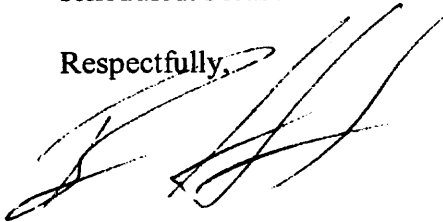
The plan includes a number of home sites that are located on the far fringes of the proposed development area in a manner that needlessly fragments the open space and would result in much greater wildland fire, geologic, aesthetic, and biologic impacts. The increased potential for impacts through development of these “fringe lots” would far exceed the minimal benefits received.

The lots that would be the most egregious examples of these “fringe lots” that the City should reconsider permitting would be lots 23, 24, 44, 65, 90, 91, 92, 93, 94, 95, 96, 97, and 98 as shown on Figure 3 of the DEIR.

The City should require that those lots that would require substantial grading on steep slopes and prominent ridgelines for access roads and building pads located on the outer fringes of the development, be removed or clustered in a manner that would decrease the amount of grading necessary, the fragmentation of open space, demands on public safety providers, and impacts to visually prominent ridgelines.

Thank you for the opportunity to review the DEIR and provide comments. We would like to be kept informed as additional project details become available and hearings are scheduled. Please feel free to contact us should you need any additional information.

Respectfully,



Brian W. Holt  
Senior Planner

Cc: L. Tong – Interagency Planning Manager (EBRPD)

BB4

AUGUST 29, 2006

# California Native Plant Society

East Bay Chapter

P.O. Box 5597, Elmwood Station, Berkeley, CA 94705

August 29, 2006

Marion Pavan, Associate Planner  
City of Pleasanton  
P.O. Box 520  
Pleasanton, CA 94566  
(925) 931 - 5610

**Re: Comments on Draft Environmental Impact Report for Oak Grove Planned Unit Development (OGPUD) for City of Pleasanton**

Dear Marion Pavan and the City of Pleasanton Planning Commission:

The East Bay Chapter of the California Native Plant Society appreciates the opportunity to comment on the DEIR for the Oak Grove Planned Unit Development (OGPUD). The California Native Plant Society (CNPS) is a non-profit organization of more than 10,000 laypersons and professional botanists organized into 32 chapters throughout California, with members in Pleasanton. The mission of the CNPS is to increase the understanding and appreciation of California's native plants and to preserve them in their natural habitat through scientific activities, education, and conservation.

The proposed OGPUD is a great improvement over 1992's Kottinger Hills Planned Unit Development project in the same area. Please recall that although the City approved that project, its approval was subsequently rescinded by a public referendum vote. In this case, the developer has been sensitive to the environmental constraints of the site, but has fallen short on several key issues. Given the reasons below, from a biological and regulatory perspective, EBCNPS recommends that the *City approve Project Alternative 2 or 4 of the OGPUD*, which does not develop lots on the biologically important and geologically unstable southernmost 27 lots.

Pursuant to the mission of protecting California's native flora and vegetation, EBCNPS submits the following comments on the OGPUD DEIR. Comments are listed here and then further explained in the text below:

1. Development and filling of protected wetlands and important headwaters in the southern portion (southernmost 27 lots) of the OGPUD is environmentally insensitive and potentially will not be approved by regulatory agencies. Filling these wetlands will result in the loss of habitat for two federally protected species, the California Tiger Salamander, and the California Red Legged Frog, which may also jeopardize agency approval of this project, even if the City approves it.

CC1



*Dedicated to the preservation of California native flora*

# California Native Plant Society

2. Development of housing on the southern portion of the OGPUD, which is a geologically unstable and inappropriate site, could result in future litigation with the City should severe erosion occur on the site.
3. Inadequate environmental assessment of impact of habitat fragmentation and direct mortality from new car traffic in the OGPUD as affecting the federally endangered callippe silverspot butterfly (*Speyeria callippe callippe*), a federally endangered species population, and the potential new subspecies that has been found on site. CC2
4. Removal of about 100% more heritage trees and blue oak woodland, than needed if proper *avoidance* measures concerning removal of heritage trees were adhered to by the developer. These policies are clearly promulgated in the City of Pleasanton's General Plan. Again, the grading and construction associated with the southern 27 lots causes the greatest impact on the landscape. CC3

The following is a detailed analysis of EBCNPS's comments:

1. Alameda County has recently passed a moratorium on all development in certain portions of the county in creeks and 50 feet from the top of bank. Although the OGPUD parcel is not within this jurisdiction, this moratorium was spurred by rampant and insensitive development of creeks and riparian areas throughout the county. Too many individual variances were approved by the Planning department resulting in the marring of the "big picture" landscape. In light of these political developments, EBCNPS believes that the outlined OGPUD project does not utilize best "avoidance" practices. In fact, trickle-down, or watershed level effects on water quality, water availability, sedimentation, etc. caused by this development of these upland sites need to be considered for the following water users: the City of Pleasanton and everyone downstream of this upland area. People living in the Alameda Creek watershed depend on this water to help maintain natural riparian areas and streams. In this current climate, the issuance of permits for wetland filing will be more tightly regulated and observed.

Alternative 4 removes drainages B, C, D, and E, as well as wetlands 2, 3 and 4 from the project impacts. This removal would cut linear and area impacts several fold, while removing only a small number of homes from the project.

We believe that it is only prudent to support Alternative 4, which reduces housing by about 1/3, but subsequently reduces environmental impacts to seeps and streams by about 80%, is simpler, safer, more cost and time effective. CC4

2. All three soil types within the development footprint are classified as either a **SEVERE** or **VERY SEVERE** "Erosion Hazard" by the USDA<sup>1</sup>. In addition, notes are presented on lots 75-81, which show additional erosion and

<sup>1</sup> USDA. 1966. *Soil Survey of Alameda, CA*. Washington, D.C.



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CC4

geological hazards (p. 146, DEIR). These lots are part of the 27 southernmost lots which also have wetland and heritage tree issues. The removal of mature trees, combined with disturbance of a slowly, organically created soil pedology/ecology is asking for disaster. Soil engineering is a relatively new field that can easily overlook all factors involved in correctly stabilizing soils through anthropogenic means. The high risk activity of placing people in houses on lots atop of “engineered soils”, will end up in complaints, a potential lawsuit, or even worse, a loss of property and/or life. Is the City willing to assume this risk and liability on this site?

3. Although Impact D3 does consider many aspects of effects on the callippe silverspot, two important aspects are overlooked:
  - a. Habitat fragmentation is one of the most prevalent threats to biodiversity protection in the world<sup>2</sup>. The introduction of a “direct mortality factor” (e.g. the automobile) into known habitat for this species needs to be considered in the EIR. The southern portion of the site creates a “vein” of development further fragmenting the callippe’s habitat, and assuredly will increase the risk of individuals being killed by cars. Why is there no mention of this direct mortality factor in the EIR, and its abatement?
  - b. The second factor is that the discovery of a potentially new subspecies of butterfly should be carefully considered, and even celebrated. With this new finding, development should be more sensitive to ALL mortality factors and consider minimizing habitat fragmentation. We ask that Pleasanton take this as an opportunity to seek federal funding to study and help preserve this unique species and subspecies. EBCNPS will recommend supporting Alternative 4 and renaming the area *Callippe Meadows*. EBCNPS is encouraged that the City of Pleasanton’s Callippe Preserve Golf Course salvaged a “30 acre habitat”<sup>3</sup> for this endangered species, but a much better opportunity is presented here, where hundreds of acres of habitat can be preserved in perpetuity.
4. Heritage trees are intended to be protected as promulgated in the City of Pleasanton’s Tree Preservation Ordinance<sup>4</sup>. The loss of 90 heritage trees is a significant impact. Again, Alternative 4 removes a significantly smaller portion of the heritage trees indicated in the surveys. Mature blue oak woodlands are effective in minimizing erosion, while providing aesthetic, wildlife, and air quality values. These groves take many years to grow, especially in drier climates like those in the Pleasanton area. Blue Oak

<sup>2</sup> Groom, M; G. Meffe; R. Carroll. 2006. *Principles of Conservation Biology*, 3<sup>rd</sup> Edition. Sinauer Associates, MA.

<sup>3</sup> City of Pleasanton, Callippe Preserve Golf Course, from <http://www.ci.pleasanton.ca.us/services/recreation/kallippe-preserve.html>, accessed August, 29, 2006.

<sup>4</sup> City of Pleasanton. 1996. *General Plan*. Adopted Aug. 6, 1996. Pleasanton, CA.



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woodlands are considered an imperiled community by the California Department of Fish and Game. EBCNPS hopes that Pleasanton will abide by its environmental ordinances and not remove entire groves of trees (mostly in the southernmost 27 lots) for the benefit of a few extra home lots.

Thank you for the opportunity to participate in this important process. If you have any questions, please contact me at 510-734-0335.

Sincerely,

Lech Naumovich  
East Bay Conservation Analyst  
California Native Plant Society

CC:  
Laura Baker, Conservation Chair EBCNPS  
Professor Jerry Powell, ESPM UC Berkeley  
Robert Floerke, CA Department of Fish and Game  
Jennifer Hosterman, Mayor City of Pleasanton  
Roberta Mundie, Mundie and Associates  
James Tong, Charter Properties



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# DD. KOTTINGER RANCH HOMEOWNERS ASSOCIATION

AUGUST 29, 2006

## Kottinger Ranch HOA response to Draft EIR for PUD-33

The 51-lot site plan submitted by the applicant was reviewed by the Kottinger Ranch HOA. Pending compliance with the terms of the agreement between the HOA and the Developer (the Lin Family), the proposed 51 unit project responds to our concerns regarding prohibition of future extension or tie-ins to Hearst Drive beyond the units of the proposed 51 unit project, the pledge to mitigate traffic impacts, considerate sight-lining, setting back of all homes from existing development and elimination of the previously proposed homes abutting the top of Hearst Drive.

Although the Kottinger Ranch HOA supports the proposed Environmentally Superior Alternative (ESA) of 51 units, it is against (does not support) the 98 unit project that was studied.

The following are specific responses to the DEIR:

### Aesthetics/Visual Resources:

1. We support the ESA site plan removing the first 5 lots at the current terminus of Hearst Drive, removing 8 lots from court 1, and removing all but 1 lot beyond court 4, all of which results in more considerate sight lining from Kottinger Ranch. **DD1**

### Agriculture

2. We request that the Proposed Open Space offering allow for the agriculture use of grazing on the Open Space. This would mitigate a potential fire hazard. **DD2**

### Noise

3. To reduce noise and inconvenience to the neighborhood, construction hours should be limited to the hours of 8AM and 5PM Monday through Friday. Additionally, conditions of approval should mandate mitigation of construction dirt, dust and debris and provide for a developer funded clean-up of Hearst Drive on a reasonable frequency. **DD3**

### Open Space

4. We request that the City take title to the offered dedication of 500 plus acres of open space. This offer should hold the land as open space in perpetuity. We also request that a third party (Tri-Valley Conservancy or similarly competent authority) be given a conservation easement encumbering the Open Space land. **DD4**
5. We ask that, as part of the General Plan update process, Hearst Drive and its feeder streets be removed from consideration for any future extension, tie-in or use other than that of current use and that by the proposed 51 unit ESA. **DD5**

### Public Services

6. There should be an Emergency Vehicle Access road that connects the proposed ESA to Grey Eagle providing ingress and egress to the benefit of both the ESA and Kottinger Ranch to prevent additional congestion on Hearst in the event of an emergency. **DD6**

### Recreation



7. A single trail easement for the proposed regional trail from Shadow Cliffs to the Callippe preserve should be executed to minimize the impact to adjacent neighborhoods. These two areas are currently publicly owned spaces which are designed to handle the flow of public traffic. There should be no trail staging areas in Oak Grove or Kottinger Ranch. **DD7**

Transportation and Traffic:

8. We are concerned about the significant impact that would be a consequence of an increase in traffic resultant from the combination of the development of the proposed ESA and further use of Hearst Drive to service potential projects beyond the proposed ESA. To prohibit the use of Hearst Drive or its feeder streets from being used to provide service or access to potential projects beyond the proposed ESA of a 51 unit project, we request that the City take title to the offered dedication of 500 plus acres of open space. This offer should hold the land as open space in perpetuity. We also request that a third party intermediary (Tri-Valley Conservancy or similarly competent authority) be given a conservation easement encumbering the Open Space land. **DD8**
9. We ask for payment by the developer of \$1,000,000 in traffic mitigation fees to be used for a traffic signal at Bernal Avenue and Kottinger Avenue with the balance of the funds to be applied to traffic calming improvements on Hearst Drive as determined by the City in conjunction with the KRHOA. These recommendations mitigate potential pedestrian safety issues and the added noise due to the increased traffic associated with the proposed ESA. **DD9**
10. To provide for safety of school children during construction, a crossing guard should be placed at the intersection of Concord Street and Hearst Drive during each school day from 7:30-8:30 in the morning and 2:30-3:30 in the afternoon. **DD10**
11. To prevent the significant burden of traffic associated with use of a possible trail head, there should be no staging area for trail access. Access to trails shall be via Shadow Cliffs and at Callippe. **DD11**
12. We support the ESA of 51 lots, which eliminate 47 lots resulting in a substantial reduction in project generated traffic from the "Proposed Project" and preservation of the most sensitive areas. **DD12**

This is submitted on behalf of the Kottinger Ranch Homeowners Association.

**Marion Pavan**

---

**From:** Mike Regan [mregan@emphasysmedical.com]  
**Sent:** Tuesday, August 29, 2006 2:03 PM  
**To:** Marion Pavan  
**Subject:** FW: PUD 33: DEIR inputs from Kottinger Ranch Homeowners Association

Marion:

I concur with the comments submitted on behalf of the Kottinger Ranch Homeowners regarding the DEIR for PUD 33.

Thanks  
Mike

---

**From:** bing\_hadley@agilent.com [mailto:bing\_hadley@agilent.com]  
**Sent:** Tuesday, August 29, 2006 1:36 PM  
**To:** mpavan@ci.pleasanton.ca.us  
**Cc:** Mike Regan; KBrownBel@aol.com  
**Subject:** PUD 33: DEIR inputs from Kottinger Ranch Homeowners Association

Hi Marion,

Attached are DEIR comments from Kottinger Ranch Homeowners Association for PUD 33 (aka Oak Grove).

Thanks for compiling all these inputs. Have a great day.

Bing Hadley  
President  
Kottinger Ranch HOA  
925 924-5223

8/30/2006

# APPENDIX J DEIR ERRATA

This FEIR includes corrections to the DEIR. In the following list, deletion of text is indicated by a strikethrough (~~deleted text~~) and insertion of text is indicated by underlining (inserted text).

Page *location*  
S9 *right column* Under J. Noise, Significance After Mitigation: ~~§~~ LS

S10 <i>Row O1, column under Mitigation Measures, paragraph 1</i>	<b>Text as printed in the DEIR:</b> At 9 of the 10 intersections to which Pleasanton’s LOS standard is applicable, implementing intersection improvements described under Measure O1 would maintain LOS D or better conditions under the EXISTING+APPROVED PROJECTS with Oak Grove project scenario.	<b>Corrected text:</b> At all 10 of the intersections to which Pleasanton’s LOS standard is applicable, implementing intersection improvements described under Measure O1 would maintain LOS D or better conditions under the EXISTING+APPROVED PROJECTS with Oak Grove project scenario.
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S11 **Cumulative Impacts** Add the following rows at end of Summary Table :

**Biology** The project would contribute to one cumulative biological impact:  
loss of blue oak woodland.  
For additional detail, see p. 108.

**Transportation** The project would contribute to one cumulative transportation impact:  
At two intersections, Bernal Avenue @ I-680 southbound onramps and Santa Rita Road @ Valley Avenue, project traffic together with other future traffic would result in unsatisfactory operating conditions for which no feasible mitigation has been identified.  
For additional detail, see p. 397 as corrected in **Appendix J. DEIR Errata**.

16 *1st bullet* The first bullet item on page 16 of the DEIR shall be revised to read as follows:

- Alameda County Flood Control and Water Conservation District, Zone 7 (Zone 7) would be the water supplier for the project, and the project will be liable to Zone 7 for payment of water connection fees. These fees are used, in part, to help pay for programs to reduce salt loading in groundwater. Zone 7 also has interests in (1) the use and operation of onsite detention basins and potential downstream impacts associated with operation of the basins; and (2) the collection of drainage fees for new impervious areas created by development of the site. These issues are discussed further in this DEIR.

33 *paragraph 5* Most PUSD schools have student enrollments that are below maximum capacity. In 2005, five of the 16 schools were reported to have enrollments above their maximum capacities: two elementary schools, one middle school, and two high schools. Capacity exceedances at the middle and elementary schools were minor (less than five percent), and PUSD staff report

that proposed development projects anticipated in the existing Pleasanton General Plan are provided for in District facilities planning. Both high schools have sufficient rooms, including portables, to house and provide a proper program for every student. Oak Grove, at a total student generation of 50-53, would not have an adverse impact on the schools ~~but Amador Valley and Foothill High Schools were reported to be operating beyond maximum capacity by 20 and 56 percent, respectively.~~

38 *paragraph 2* Photo 22 is a view looking west toward the project site from Vineyard Avenue near Isabel Avenue. Portions of the site ~~are~~ may be visible below along the ridgeline ~~in the distance toward the right side of the photo~~ within the center third of the photo.

38 *paragraph 3* Photo 23 is taken from Stanley Boulevard at Isabel Avenue, a distance of about 2 miles away. From this location, the site ~~is visible,~~ appearing as part of the hillside ~~below the distant ridgeline~~ near the center of photo.

45 *paragraph 1* The EIR visual simulations portray two-story houses (maximum 30 feet tall), which ~~are~~ average approximately ~~7,500 to 10,000~~ 6,700 square feet in size and which generally conform to the mandatory design guidelines summarized in Table 2.

68 *Table 3* Row for Onsite views is amended as follows:

Viewpoint Location <sup>a</sup>	Visible Development by Lot Number <sup>b</sup>	EIR Figure
<b>Onsite</b>		
Future Recreation Trail Viewpoint 1	38, 69, 70, 71, 72, 73, 74, 75, 76, 83, 84, 85, 86, 87, 88, 89, (92) <u>19, 20, 27, 30, 31, 38, 44, 54-57, 62, 63, 65, 66, 67, 68, 69-76, 81, 82, 83-89, (36, 37, 52, 58-61, 68, 92)</u>	11a-d

72 *paragraph 3* The proposed project would affect views from a limited segment of Grey Eagle Court, near the end of the cul-de-sac, as shown in Figure 13 (pp. 56-59). From this viewpoint, portions of 13 homes on lots 10-14, 16-19, 22, ~~and 22-24,~~ 24, and 25 would be visible.

72 *paragraph 4* The new development would not obstruct ~~views~~ currently available views of Pleasanton Ridge

116 *2nd paragraph* The first sentence of the second paragraph of Measure D5 should read:  
If construction is scheduled during the nesting season (February 1-August 31), pre-construction surveys shall be conducted on the entire project area and within 500 feet of the grading footprint prior to any ground disturbance.

133 *first line* "... highest elevations (up to about ~~1,020~~ 1,080) above mean sea level (msl))"

173 *bullet list* The 5th and 6th bullet points are incompletely cited. They should be cited as Program 6.1 and Program 6.2.

209 *paragraph 1* For a PUD, the period of noise generating construction activity on the site would normally be limited to 8:00 am to 5:00 pm ~~daily~~ on work days during the week, with no construction on weekends or holidays.

226/228 *bullet* The text on p. 228 at the top of the page states that the maximum grade for an EVA is 12 percent. This is inaccurate. As noted in the Response to Comments, response D2, the maximum grade is determined according to specific conditions of the site and the development. The DEIR text on p. 228 is amended as follows:

The minimum vertical clearance is 13.5 feet ~~and maximum grade is 12 percent.~~

249 *footnote 131* The 1994 development plan for Oak Grove (then called Kottinger Hills) did not propose a public park. In discussing the absence of a park and the possible compensating presence of substantial open space, this footnote relates to that earlier draft project rather than to the Oak Grove project addressed in the DEIR. The footnote observation would, however, apply to Alternative 4 if it does not contain a public park.

250 *paragraph 4* [Last sentence] Courts ~~1, 2, 3 and 4~~ 1 through 5 are also planned to be public streets with a sidewalk on one side.

250 *paragraph 4* ~~The proposed project area lies within one half mile of the nearest neighborhood park, Vintage Hills Park, further meeting Pleasanton's objective of having a neighborhood park within one half mile of all residences.~~

259 Table 32 Amend title:  
Intersections Projected to Operate at Unsatisfactory Levels of Service (LOS) under EXISTING+APPROVED PROJECTS Scenario With Oak Grove Development

263 *location* The text on p. 263 describes Measure O1: the improvements required to maintain LOS D or better conditions under the EXISTING+APPROVED WITH PROJECT. In the column on the post-mitigation condition, the initial and corrected texts for intersection (6) Bernal @ I-680 southbound onramp are as follows:

*column on post-mitigation condition, intersection (6)*

<b>Text as printed in the DEIR:</b>	<b>Corrected text:</b>
LOS E (72.0 seconds of delay) and LOS D (36.5 seconds of delay) for the AM and PM peak hours. <b>SU</b>	LOS C (32.5 seconds of delay) and LOS D (43.2 seconds of delay) for the AM and PM peak hours. <b>LS</b>

The impact on this intersection was found in the DEIR to be significant and unavoidable. The correction alters this conclusion: for the EXISTING+APPROVED with Oak Grove scenario, the impact at this intersection would be mitigated by Measure O1.

264 *3rd ¶ from bottom of page* **Significance after mitigation:** For all 10 of the ~~8~~ intersections ~~above~~ to which Measure O1 applies, the mitigation would reduce the forecast impact to the less-than-significant level.

~~At one remaining intersection, mitigation measures available would not be adequate to meet Pleasanton's LOS standard.~~

~~(6) Bernal @ I-680 SB on ramp. Traffic improvements identified for this intersection under the EXISTING + APPROVED PROJECTS scenario with the Oak Grove project would not be sufficient to mitigate this intersection to a level that would meet Pleasanton's LOS standard. The AM LOS would be D for all movements except for the off-ramp right turn movement. Capacity for that movement would act as a constrained gateway. (Note: This condition also exists in the EXISTING + APPROVED PROJECTS scenario without the Oak Grove project.)~~

*Significance after mitigation:* ~~Significant and unavoidable~~, less than significant.

265 **e. Summary of Impacts and Mitigation Measures**

*Summary table* Column 2 of this table is hereby corrected to read as follows:

- O1. At all 10 of the intersections to which Pleasanton's LOS standard is applicable, implementing intersection improvements described under Measure O1 would maintain LOS D or better conditions under the EXISTING + APPROVED WITH PROJECT scenario.

265 *summary box* The summary provided for Mitigation Measure O1 is corrected as follows:

<b>O. Transportation and Traffic</b>		
O1. The project will cause an increase in traffic which would contribute to unsatisfactory levels of service at 10 intersections under the EXISTING + APPROVED PROJECTS scenario with Oak Grove development.	O1. At <del>9 of the</del> all 10 of the intersections to which Pleasanton's LOS standard is applicable, implementing intersection improvements described under Measure O1 would maintain LOS D or better conditions under the EXISTING + APPROVED PROJECTS scenario with Oak Grove development.	LS

286 *paragraph 5* The text in the paragraph beginning "Public Facilities Element . . ." states erroneously that the 1996 Pleasanton General Plan text has been superseded. While the preparation a General Plan update is under way, the existing policy framework remains in effect. Therefore, the 6th paragraph of DEIR p. 286 should read: "The General Plan identified the following programs for implementing Pleasanton's stormwater and flood control policies:"

In the bullet list that follows, most of the language presented in the bullet list on DEIR p. 286 relating to programs remains accurate, since these policies are part of the existing Pleasanton General Plan; only the program numbers require revision, and they are revised in the list below. The single exception (the final bullet point) is noted:

- Require new development to pay its fair share of the storm drainage system improvement costs (Program ~~10.1~~ 5.1).
- Design local storm drainage improvements to carry appropriate design year flows resulting from buildout of the General Plan (Program ~~10.2~~ 5.2).

- Work with Zone 7 to complete planned, regional storm drainage improvements (Program ~~10.3~~ 5.3).
- As determined by the City Engineer, require new development to improve local storm drainage systems to accept appropriate design year flows resulting from new development (Program ~~10.4~~ 5.4).
- Require new development to pay its fair share of the flood control improvement costs included in Zone 7's Master Plan (Program ~~11.1~~ 6.1).
- Design flood water detention basins and arroyos to allow for public amenities, recreation, natural habitat, and agriculture, where feasible (Program ~~11.2~~ 6.2).

The following policy was not part of the 1996 General Plan and is hereby deleted from the DEIR text:

~~▪ Support Zone 7's plan to establish the Chain of Lakes for flood control, sediment diversion, and recreation. Include a public awareness program about the need for the Chain of Lakes resource (Program 11.3).~~

295 *paragraph 2* The principal impact on the transportation system resulting from the project is on traffic congestion at intersections:

348 *viewpoints* The text and the viewpoint numbers associated with the explanation of the viewpoints not selected for visual simulations of Alternative 4 is amended to read as follows:

Of the five viewpoints based on which visual simulations of the 98-unit project were prepared (and are presented in Chapter 4), three were not selected for visual simulations of Alternative 4 for the following reasons:

- Viewpoint 1 (the community trail) was not chosen because it is an onsite location, and there was greater concern to evaluate visual impacts from offsite viewpoints;
- Viewpoint 4 (Hearst Drive entrance to the site) was not chosen, because the view from this location covers a more limited area of the site than the views from viewpoints 8 and 9.
- Viewpoint 14 (Bernal Avenue near Utah Street) was not chosen because, as illustrated in the Chapter 4 simulations (Figures 15 a-15d), at public locations at a significant distance, details of buildings and landscape are difficult to discern once landscaping has matured.

349 *Table 43* Row for Grey Eagle Court views is amended as follows:

Alternative 4			
Grey Eagle Court	Viewpoint 8	5, 6, 7, 8, 9, 10, 11, (2, 3, 4, 12, 14-16, 21, 32,)	38a-c
		<u>4</u> , 5, 6, 7, <del>8</del> , 9, 10, 11 ( <del>2</del> , 3, <del>4</del> , <u>8</u> , 12, <del>14-16</del> , 21, 32)	

349 *paragraph 3* **Pleasanton Ridge.** The view toward the southern reach of Pleasanton Ridge from viewpoint 8 (Grey Eagle Court) shows fewer residences than under the

project (the elimination of development in the Court 5 1cluster (this cluster of buildings would be seen at the right hand side of Figures 13b through 13d and comprise lots numbers 7 through 11 in Alternative 4) removes some buildings that would otherwise be visible from this viewpoint).

378 paragraph 1 . . .be about ~~44~~ 48 percent lower.

378 paragraph 5 . . . the project transportation analysis identified additional topics for consideration of potential impacts:

393 location  
Table 50 In the second column, CUMULATIVE WITHOUT PROJECT, intersection (6) should be revised as follows:

<b>Text as printed in the DEIR:</b> LOS F in AM.	<b>Corrected text:</b> LOS E in AM.
---	--

Under Cumulative Impact 1, the text on p. 397 identifies two intersections as not mitigatable, intersections (6) and (19).

Page location  
397 Intersection (6) Bernal @ I-680 SB Onramp.

For the scenario without Stoneridge extension:

<i>column under (6) Cumulative Impacts Found Not to be Mitigatable</i>	<b>Text as printed in the DEIR:</b> LOS D (69.5 seconds of delay) and LOS E (41.3 seconds of delay) for the AM and PM peak hours.	<b>Corrected text:</b> LOS E (69.5 seconds of delay) and LOS D (41.3 seconds of delay) for the AM and PM peak hours.
--	--	---

The impact on this intersection was found in the DEIR to be significant and unavoidable, and this conclusion is not affected by the correction.

For the scenario with Stoneridge extension:

<b>Text as printed in the DEIR:</b> LOS E (85.5 seconds of delay) and LOS D (50.4 seconds of delay) for the AM and PM peak hours.	<b>Corrected text:</b> LOS F (85.5 seconds of delay) and LOS D (50.4 seconds of delay) for the AM and PM peak hours.
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The impact on this intersection was found in the DEIR to be significant and unavoidable, and this conclusion is not affected by the correction.

Intersection (19) Santa Rita Road @ Valley Ave.

For the scenario with Stoneridge extension:

<i>column under (6) Cumulative Impacts Found Not to be Mitigatable</i>	<b>Text as printed in the DEIR:</b> LOS E (44.2 seconds of delay) and LOS D (63.8 seconds of delay) for the AM and PM peak hours.	<b>Corrected text:</b> LOS D (44.2 seconds of delay) and LOS E (63.8 seconds of delay) for the AM and PM peak hours.
--	--	---

The impact on this intersection was found in the DEIR to be significant and unavoidable, and this conclusion is not affected by the correction.

398 paragraph 1 ~~The An~~ assessment of cumulative impacts of Oak Grove ~~will be~~ is addressed ~~in depth~~ in conjunction with the environmental impacts of two other proposed residential projects in southeast Pleasanton: Lund II and Greenbriar/Spotorno. ~~The assessment of cumulative impacts of these three projects will be available in a separate document. A review of the cumulative impacts of those projects collectively has been undertaken by the EIR~~



consultant. The project EIRs for each of the three projects will present a discussion of the findings. A summary of the cumulative impacts of the three proposed projects is ~~which are~~ presented below.

p. 408

**Part B** The text is hereby amended as follows:

This section of the DEIR identifies significant environmental effects resulting from the development of the proposed project in Chapter 4. The following significant environmental effects are unavoidable.

- Transportation and Traffic.

At two intersections, under some scenarios, no feasible mitigation measures are identified that can fully reduce the impacts to a less-than-significant level. At these intersections, the project would contribute to unmitigatable impacts.

See p. 397 for a detailed review of intersections 6 and 19 (respectively, Bernal Avenue @ I-680 southbound onramp and Santa Rita Road @ Valley Avenue). Unsatisfactory conditions at these intersections can be mitigated only partially; therefore, adverse impacts cannot be avoided.

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# APPENDIX K

## MASTER RESPONSES RELATING TO DEIR TOPICS

This appendix contains “master responses” relating to several DEIR issues. A master response serves the purpose of presenting a single, thorough response to related questions raised by multiple commenters.

### A. VISUAL MASTER RESPONSE 1: PHOTOGRAPHIC METHODS FOR VISUAL SIMULATION

#### Background

Comments on the visual analysis presented in the Oak Grove DEIR included several questioning the use of a 28mm lens camera for the purpose of producing the visual simulations:

- Comment C7b disputes the use of a 28mm camera lens for visual representations, maintaining that it distorts the position of foreground objects in relation to background objects. Commenter requests the use of only 50mm camera lenses.
- Comment D3 contests the use of a 28mm lens, asserting that it “does not truly represent what the eye actually sees.”
- Comment D31 challenges the utilization of a 28mm lens, claiming it really does not do a good job of “rendering accurately what you’re seeing.”
- Comment I2 challenges the usefulness of 28mm wide angle lens to take the “representative” pictures, stating that this approach “makes things look more than twice as far away as they actually are.”
- Comment I7 This comment takes the form of a portfolio of images prepared by the commenter.
- Comment L2 states that views from Red Feather Court appear to be distorted and that using a wide angle lens “makes everything look smaller and further away.”

These comments state, or imply, that DEIR visual simulations would more appropriately have been prepared with a different lens.

This Master Response cites precedent for the use of 28mm camera lenses in simulation photography, outlines the appropriate technical parameters for the use, and documents that Environmental Vision correctly applied appropriate technical methods and procedures with respect to the use of 28mm lens photography for the Oak Grove DEIR visual simulations.

#### Camera Lenses for Simulation Photography

The practice of using wide angle photographs for visual simulation purposes is not uncommon and clearly falls within accepted professional visual simulation practice techniques and methods. As described below, the visual simulations contained in the DEIR

which incorporate photographs taken with the equivalent<sup>1</sup> of a 28 millimeter (mm) or wide-angle lens are appropriate and have been produced using technically sound methods. The images provide an accurate and reasonable portrayal of “before” and “after” visual conditions.

There is a precedent for the effective use of wide angle lens photographs for EIR visual simulation purposes.<sup>2</sup> As with simulation photographs taken with a 50mm lens, correct technical methods and procedures must be employed throughout the simulation process in order to ensure that the visual simulation images are technically sound. The requisite procedures include (a) systematic documentation of camera lens and photo viewpoints, (b) accurate computer modeling and rendering based on verifiable data, and (c) appropriate format for presentation of simulation images. DEIR Appendix H documents the process by which Environmental Vision systematically and correctly applied these methods to produce the set of DEIR visual simulations showing the proposed Oak Grove project.

It should be noted that the horizontal view angle captured by a 50 mm or “normal” lens is approximately 40 degrees. This “normal” cone of vision is what a person sees using both eyes when maintaining in a stationary position with no movement of the head or the eyes. In addition, a 50mm lens equivalent represents a person’s “normal” vertical cone of vision. For visual simulation purposes, therefore, a 50mm photograph generally provides an appropriate view representation. By contrast, a photo taken with a lens greater than 50mm (a “telephoto lens”) is generally not a good representation because it narrows the normal horizontal field-of-view and omits the surrounding context. Thus, the view appears to be “magnified” or enlarged in comparison to a “normal” lens view when both images are reproduced at the same size.

For simulation purposes, the use of a 28mm, wide-angle lens can be appropriate for several reasons. By turning one’s head or moving one’s eyes to either side, the horizontal cone of vision becomes wider than 40 degrees. The perception of a wider-than-40-degree cone of vision occurs routinely in landscape observation. For example, in foreground views (i.e., views seen from about a quarter mile or closer) a wide angle view can be appropriate to portray an object or a project within a meaningful visual context; that is to say, a context that conveys the object’s scale and appearance relative to existing landscape features. This is the case with the DEIR simulation views of the Oak Grove project from Hearst Drive, Red Feather Court and Grey Eagle Estates.

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<sup>1</sup> The term “equivalent” refers to the focal length of a lens mounted on a 35mm film, single lens reflex (SLR) camera. For example, an equivalent of a 50mm lens captures a picture that is essentially equivalent to the image area of a photo which was shot with a 50mm lens mounted on a 35mm SLR film camera. Given the advent of digital cameras and wide spread “zoom” lens use, this equivalency provides a useful metric for identifying the focal length of a camera lens.

<sup>2</sup> Examples of certified EIR documents which contain visual simulations based on photographs taken with the equivalent of a 28mm or wide-angle lens include the Arana Gulch Master Plan EIR in the City of Santa Cruz, the Old Mill Village EIR in San Ramon, the Fallon Village EIR in Dublin, and the Oak to Ninth EIR in Oakland.

## Oak Grove DEIR Visual Simulation Photographs

The Oak Grove DEIR includes five visual simulations taken from representative vantage points. All of the simulation photographs were shot with a Canon EOS digital Single Lens Reflex (SLR) camera. Four of the photos were taken using the equivalent of a 28 mm lens whereas the equivalent of a 50mm lens was employed for one of the photos. These lenses have a horizontal field-of-view of approximately 64 degrees and 40 degrees respectively.

The Oak Grove DEIR visual simulations are intended to convey a reasonable impression of the “before” and “after” visual conditions at the project site for purposes of supporting the CEQA visual impact assessment. Because the Oak Grove project occupies more than 500 acres of undulating terrain, it represents a relatively large scale landscape. One’s visual impression of a large scale landscape setting such as the Oak Grove site is often gained through perception of panoramic landscape views. The perception of such landscapes typically requires a horizontal view angle that is greater than 40 degrees at closer range distances of less than one quarter mile. In the case of the Oak Grove project, a wider horizontal view cone is useful to convey a visual impression of the project as it would appear within its landscape context, particularly as seen from nearby community vantage points. The methods for photographing and simulating these views are outlined below.

- Location data for each Oak Grove DEIR simulation photograph was collected using global positioning system (GPS) equipment, base map annotation, and photo log sheet recording.
- The digital location data for photo viewpoints was incorporated into a three-dimensional (3D) digital model.
- Existing GIS topographic and site data and digital aerial photographs supplied by the project engineers (MacKay & Somps) provided the basis for developing an initial digital model.
- A 3D model of the proposed grading, building prototypes, and landscape improvements was also developed using design data supplied by the design team (Berger Detmer Ennis Architects; MD Fotheringham, Landscape Architects and MacKay & Somps, Engineers).
- The 3D computer model of the proposed project elements was combined with the digital site model to produce a complete computer model of the proposed project.
- For each of the simulation viewpoints, GPS viewer location data was added to the 3D digital model using 5 feet as the assumed eye level.
- Computer "wireframe" perspective plots were overlaid on photographs to verify scale and viewpoint location.
- Digital visual simulation images were then produced based on computer renderings of the 3-D model combined with digital versions of the selected site photographs.

The Oak Grove DEIR visual simulations are presented in a manner that clearly and reasonably depicts the location, scale, and general appearance of the project as seen within its landscape context. With respect to DEIR Figures 11a through 14d (existing conditions and visual simulations at three time intervals), the image height to width ratio, known as the aspect ratio, is appropriately formatted for the corresponding camera lens used to shoot the

simulation photograph. With respect to DEIR Figures 15a through 15d, the aspect ratio of the 50mm photo is 2 to 3 which corresponds to the proportion of a 35mm film negative. In comparison, the Figure 11 through 14 visual simulation images which incorporate photos shot with the equivalent of a 28mm lens, are presented with approximately a 1 to 3 aspect ratio. The 28mm photos are therefore presented in a format that corresponds correctly to the wider horizontal view angle. In addition, the vertical view angle included in these photographs is approximately equivalent to a 50mm lens: a comparable result would be obtained by combining multiple 50mm photos into a wide-angle view.

## **B. VISUAL MASTER RESPONSE 2: USE OF MANDATORY DESIGN GUIDELINES IN PREPARATION OF VISUAL SIMULATIONS**

### **Background**

Comments on the visual analysis presented in the Oak Grove DEIR included several regarding house size and development assumptions used for preparing the visual simulations:

- Comment C4 suggests that visual simulations be provided for three different house size scenarios.
- Comment I6 contests the simulations, stating that they do not represent the maximum permitted house size for each lot.
- Comment I13 (b2) challenges the effectiveness of Mitigation Measure A2, claiming that “The number of trees required to screen a house of the proportions proposed (8,000 to 22,708 sq. ft.) is not realistic.”

### **Site Development Assumptions for Visual Simulation Purposes**

As noted in the DEIR (pp. 43 and 45), site-specific architectural design data for future Oak Grove homes was not available at the time the EIR visual analysis was performed because the project proposes custom single family lots that will be developed by individual owners in the future. The DEIR indicates that, prior to actual construction the development including each individual home is subject to both Oak Grove Design Review Board (OGDRB) and City of Pleasanton Planning approvals. As part of the City’s approval process, City Design Review Board approval is also required.

The DEIR visual simulations are based on a combination of project design data and technical assumptions that set reasonable physical development parameters. The computer modeling for the Oak Grove DEIR visual simulations are based in part on digital design data provided to Environmental Vision including:

- existing site topography and proposed site grading prepared by McKay & Somps,
- proposed road and lot layout plans prepared by McKay & Somps, and
- the project Landscape Concept Plan (DEIR Figure 10, p. 44) prepared by MD Fotheringham Landscape Architects.

The DEIR visual simulations portray “prototype” houses which generally conform to the Oak Grove Mandatory Design Guidelines, as summarized in DEIR Table 2 (pp. 42-43) and as included in DEIR Appendix G. Using side, rear, and front setbacks from the mandatory Design Guidelines, a building envelope for each lot was developed. This envelope describes the maximum allowable building footprint for a given lot, without taking into consideration the additional constraints of vegetation (Heritage trees) and topography. The average building envelope was determined to be approximately 11,600 square feet, with a range throughout the 98 lots of about 5,000 to 33,500 square feet.

For purposes of producing visual simulations that reasonably reflect “real world” planning and development conditions, assumptions regarding the size and conceptual appearance of future Oak Grove houses were then developed. In consultation with the City and the project applicant, Environmental Vision developed a set of building prototype models based principally on house designs provided by Miles Berger Detmer Ennis Architects and the Dahlin Group Architects. The residential building prototypes assume a maximum height of 30 feet based on height restrictions outlined in the mandatory Design Guidelines. The house prototypes have an average size of 6,700 square feet. Based on the same lot sizes, it is estimated that a 25 percent FAR for the proposed Oak Grove development would yield houses with an average size of 6,192 square ft.

## **C. VISUAL MASTER RESPONSE 3: SELECTION OF VIEWPOINTS FOR VISUAL SIMULATION**

### **Background**

Comments on the visual analysis presented in the Oak Grove DEIR included several regarding selection of photos used for visual simulation:

Comment C10 requests additional “visuals” from listed locations within Pleasanton.

Comment D5 challenges the selection of photos, mentioning various locations north of the site not included in the DEIR.

Comment E6 (b) reiterates a request for additional “visuals” (as in Comment D5).

Comment E9 expresses the belief that areas that might be visually affected were not adequately researched.

Comment I22 expresses the belief that areas that might be visually affected were not adequately researched.

Comment L1 expresses concern that the proposed project could have a significantly undesirable visual effect from his house.

Comment O1 expresses concern over the impacts to the view from the commenter’s home on Mataro Court.

This Master Response addresses comments regarding selection of photos used for Visual Simulation. The response outlines the technical approach and methodology employed by Environmental Vision in selecting simulation vantage points. It also documents the process

by which Environmental Vision received input from City staff as well as members of the public and the City of Pleasanton Planning Commission regarding potentially sensitive community views.

## **Selection of Visual Simulation Photos**

As part of the DEIR visual impact assessment Environmental Vision conducted a systematic evaluation the site's potential visibility. The assessment is based on an iterative process that includes review of topographic maps and aerial and ground level photos, site observation, and computer modeling of topographic and built features.

The methods and procedures outlined below conform with standard professional practice for visual impact assessment. The implementation of this technical approach draws on Environmental Vision's considerable experience completing a wide variety of visual impact studies for numerous certified EIRs. The approach is consistent with the scope of work outlined in the City's consultant contract for the Oak Grove EIR. It should be noted that the information included in the visual setting and analysis reflects both computer modeling results and professional judgment as well as input received during the EIR public scoping process.

## **Initial Computer Modeling and Site Photography**

The technical work included preliminary computer-assisted terrain modeling of the project site and surrounding areas. The purpose of this task was to determine the most likely potential views of the project, based on patterns of intervening topographic features which block views of the site.

Following this initial computer modeling work, field studies were conducted. Environmental Vision's field work included observing and photographing a variety of potential vantage points located both within the project site and at numerous off site areas within the community. The purpose of the field work included (a) observing existing visual conditions, (b) documenting the project's visual setting, and (c) identifying potential key viewing locations for purposes of preparing visual simulations.

The results of the visual setting photo documentation work are presented in the DEIR as a set 25 photographs accompanied by text describing existing visual conditions (see DEIR pp. 22-38 and the Visual Figure Re-Print Portfolio, Sheets1 through 9).

The DEIR photographs include photos taken both from within the project site (onsite) and photos showing public views of the site from a variety of community locations. The DEIR also presents two maps, Figures 6a and 6b (DEIR pp. 26-27), which note the photo viewpoint locations on an aerial photograph which shows the project site boundary.

While the DEIR does not claim to evaluate every vantage point from which the project would be seen, the information presented in the DEIR contains a systematic characterization of the visual setting in terms of representative public views that would potentially be affected by the Oak Grove project. The narrative text and photographic description of the visual setting



represents a reasonable level of information and detail for purposes of the CEQA visual analysis.

### **Visibility Studies of Proposed Development**

Computer modeling was used to analyze photographs taken from a number of the potentially affected viewpoints. Computer modeling of existing terrain and proposed grading and prototype development was employed to study the potential visibility of the Oak Grove project. A set of computer-generated perspective images were evaluated on screen, using 3D “wireframe” view studies. The results of this preliminary visual analysis work were submitted to the City in December 2004 and in January 2005. The material presenting the initial evaluation of candidate simulation views included a set of 11 by 17 inch sheets with annotated photographs and viewpoint maps which addressed a variety of representative public vantage points chosen to show the project within its landscape setting from varied perspectives and viewing distances. The vantage points included:

- Stanley Boulevard,
- Bernal Avenue near Utah Street,
- Smallwood Court,
- Hearst Drive near the project boundary,
- Red Feather Court, and
- Grey Eagle Court.

Preliminary computer visibility modeling was also completed for several other viewing locations including Hearst Drive at Concord Street, Rhine Way at Crellin Court, Mataro Court, and Vintage Hills Park. Studies showing the six vantage points were made available to the City for review and comment.

Environmental Vision conducted additional field work and site photography to document potential views of the site from additional locations based on public comments received at the February 8, 2005 project EIR scoping session held jointly by the City Council and the Planning Commission. The additional viewing locations include the following:

- “internal” views taken from various locations within the project site boundaries;
- the Stoneridge Mall parking lot;
- the chain of lakes area;
- inbound Stanley Boulevard;
- Interstate 680;
- Vineyard Avenue,
- the Staples Ranch property; and
- downtown Pleasanton.

### **Selection of Visual Simulation Photos**

Four vantage points were selected for purposes of producing visual simulations showing the appearance of the proposed project. These existing conditions photos plus visual simulations at three time intervals are presented in the DEIR as Figures 12a-d, 13a-d, 14a-d,

and 15a-d (DEIR pp. 48-67) and in Re-Print Portfolio, Sheets 10 through 21. These simulation viewpoints were selected from among the candidate view studies and additional site photographs, in consultation with City staff, to include representative public views of the project within its landscape setting and from varied perspectives. The following visual simulation views were selected:

- |                                 |  |
|---------------------------------|--|
| Hearst Drive                    | This view shows the project entry from the west from a close range. The viewpoint is located about 85 ft. from the site boundary and lies approximately 570 ft. from the closest proposed residential lot. This portion of Hearst Drive is the only public view from a location directly adjacent to proposed Oak Grove project features. It shows in good detail the proposed continuation of the existing street and proposed new development at the western edge of the property. |
| Grey Eagle Court                | This is a representative view from the Grey Eagle Estates residential area located to the northeast. This vantage point is located about 770 ft. from both the site boundary and the closest proposed residential lot. This view clearly shows proposed development and grading along the northern portion of the site.  |
| Red Feather Court               | The view from the turn around at the end of Red Feather Court provides a public view of the proposed development from an established residential area to the north. This viewpoint is located about 500 ft. from the site boundary and approximately 820 ft. from the closest proposed residential lot. It provides a view looking up the small ravine toward the proposed development on the northern side of the site.   |
| Bernal Avenue<br>at Utah Street | This view shows the project from about a mile away to the northwest. The viewpoint is located approximately 1.2 miles from the closest proposed residential lot. Selected because it represents a more distant location from which expansive views of the project site are available, this viewing location lies close enough so that it is possible to portray some degree of discernable project detail in the visual simulation.  |

At the request of city staff, an additional simulation view was included in the DEIR to show the proposed Oak Grove residential development from an onsite location. Photographs were shot during an additional site visit and the simulation photo was selected in consultation with city staff (DEIR Figure 11a). The onsite (non-public) simulation view is provided to portray the effects of proposed tree removal as well as proposed residential development.

## D. MASTER RESPONSE RELATING TO CONSTRUCTION NOISE

A construction noise analysis was completed to evaluate the significance of noise impacts resulting from project construction activities.

### 1. Background

Comments on the noise analysis presented in the Oak Grove DEIR included a number expressing views about construction noise:

Comment D9 expresses concern about specific noise sources (backup beepers) during construction and asks that, if construction is allowed on Saturdays and Sundays, this noise source be prohibited.

Comment D23 finds no reference in the DEIR to the noise levels that result from noise that bounces off the hills.

Comment E11 observes that a canyon acts as an acoustic funnel; expresses concern about abatement of construction noise.

Comment I15 believes that short term measurements should have been taken from back yards to reflect more accurately the impacts of construction noise. [This comment is addressed by response I15.]

Comment I17 states that terrain in the project vicinity (hills and valleys in relation to the nearest residential receptors) will create an “amphitheater or band shell effect” with respect to construction noise, magnifying sound because it is a combination of direct and reflected sound.

Comment I18 doubts that the DEIR statement (p. 208) that construction activities would not yield noise levels greater than 60 dBA Leq or more for a period exceeding a year at the closest receivers to the west and north.

Comment I20 believes that the proposed mitigation will have minimal effect on the noise impact for the closest receptors and that construction activities would yield noise levels exceeding ambient noise conditions by 5 dBA Leq or more for a period far exceeding one cumulative year.

Comment I21 proposes mitigating construction noise by a revision in the site plan. [The comment is addressed by response I21.]

Comment O5 expresses concern because of the bowl effect that results when big slopes form a valley – the construction noise would be very intense.

Comment P1 observes that sound really carries from the tops of these hills so the distance from the construction area won't diminish the level of noise to the surrounding area.

Noise is an inescapable part of community life: persons generate and receive noise daily. Perceptions of and reactions to noise are individual and subjective. While some people may ignore sounds, others can become sensitized to certain noises and may find the offensive noise source increasingly irritating as the intrusion recurs. Noise can be annoying and disruptive, especially when people cannot control the noise source or do not know when the

offensive noise will end. Like all types of noise, construction related noise is also perceived subjectively. Some individuals object only to the loudest construction sounds while others may object to the more repetitive and continuous sounds, even though those sounds are at relatively lower levels.

Construction noise is an effect of new project development and of the repair of, or modifications to, existing buildings. Depending on the size of the project, construction noise can last days, weeks, months, or years. Construction noise affects almost everyone at some point whether it is a small residential repair project at a neighboring property or a large developing area adjacent to existing residential neighborhoods. Noise generated by construction primarily includes the sounds of construction workers and their equipment on site. Noise can also result from construction related auto and truck traffic. The loudest noise normally occurs when heavy machinery is operate and is most often noticed when the machinery is operated in close proximity to adjacent noise-sensitive land uses. The most frequent cause of noise complaints are not necessarily the loudest sounds, but the sounds that are clearly distinguishable and repetitive. One example of such a construction noise source is back-up alarms on mobile equipment.

Construction noise is normally most intrusive in the early morning, evening, and nighttime hours, but construction noise can also intrude on people who are normally home during daytime hours or those who work near the construction site. When construction activities on a site are located close to a particular receiver or group of receivers, perceptions of noise intrusiveness increase. As construction proceeds farther away from receivers, the perceived intrusiveness of such sounds diminishes.

## **2. Approach**

The construction noise analysis in the DEIR identifies noise levels expected during phases of construction and the time period that these levels will affect a particular receiver. Construction-generated noise levels would vary at a particular receiver depending on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, the distance between construction noise sources and noise sensitive receptors, and the presence or lack of intervening structures or terrain.

### **a. Significance Criteria for Construction Noise Impacts**

The relevant CEQA significance criterion (a question on the CEQA checklist) is, “Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?”

The terms “substantial”, “temporary”, and “periodic” are not defined by CEQA.

Illingworth & Rodkin, Inc., long-time noise consultants on Pleasanton plans and EIRs and the noise consultant on the City’s Oak Grove EIR team, defines a “substantial temporary or periodic” noise increase as:

. . . construction-generated noise levels that are greater than 60 dBA Leq and at least 5 dBA Leq above the ambient for a cumulative duration of one construction season (one year). In the Bay Area, construction can normally occur year-round

excluding brief periods when weather (i.e., substantial rain storm) makes construction activities impossible or impractical.

The 60 dBA Leq noise level limit is receiver-based, and this noise level is the level at which speech interference begins to occur outdoors. One year is considered a reasonable duration that allows most construction projects to be built, recognizing that noise from construction activities will be short-term and there is a definitive end date to the construction activities. These thresholds were used to determine the significance of construction noise impacts from the Oak Grove project.

## **b. Application of Significance Criteria**

Noise levels generated by different phases of construction were calculated at receiving properties using the noise source data developed by Illingworth & Rodkin, Inc., and data contained in published documents, and standard attenuation rates with distance excluding any possible additional attenuation resulting from intervening structures or terrain. The DEIR analysis took into account the distance of receptors from sources of construction noise and the distance at which an exceedance of the 60 dBA Leq noise level would occur. The analysis then evaluated the time frame during which those exceedances would occur at receivers..

For grading and site preparation activities, the applicable noise generation level at a distance of 1,000 feet is 60 dBA Leq.

For construction of individual residential units, the applicable noise generation level at a distance of 350 feet is 55 dBA Leq. The construction of several homes simultaneously could conceivably generate noise levels in excess of 60 dBA Leq within approximately 350 feet of the construction site.

## **3. Evaluation of Construction Noise Impacts**

### **a. Data Sources**

The noise data used in the DEIR analysis were based on data published by the United States Environmental Protection Agency.<sup>3</sup> The data show variations in noise levels for construction phases including ground clearing, excavation, foundations, building construction, and finishing.

The EPA data provide typical ranges of energy equivalent noise levels (Leq) that would be expected with the construction of the project at a distance of 50 feet from a construction site. Construction generated noise levels drop off at a rate of about 6 dBA per doubling of distance between the source and receptor. This attenuation rate is conservative: it does not take into account the further attenuation normally experienced as a result of ground absorption and atmospheric absorption for distances greater than 1,000 feet, or additional attenuation provided by intervening structures or terrain.

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<sup>3</sup> U.S. EPA, Legal Compilation on Noise, Vol. 1, p. 2-104, 1973.

## **b. Project Information**

Information about construction phasing is typically very limited during environmental review. Oftentimes, the overall construction duration is known. In the case of the Oak Grove project, the overall construction duration is anticipated to be 6 to 8 years. Site preparation activities are anticipated to last approximately two years. The majority of site preparation activities, approximately 70 percent, would occur over 1,000 feet from existing residential land uses. Individual custom homes would be built over a 4 to 6 year period after the completion of site preparation activities.

## **c. Findings of the Analysis**

Noise levels generated by different phases of construction were calculated at receiving properties using the noise source and attenuation assumptions described above. The DEIR analysis took into account the distance of receptors from sources of construction noise and, if an exceedance of the 60 dBA Leq noise level is likely to occur, the analysis also accounted for the time frame during which the exceedances would occur is taken into account.

Noise generation would be considered adverse if it exceeds 60 dBA Leq and would last for more than one construction season (a year).

With respect to grading and site preparation activities, grading activities may temporarily result in noise levels exceeding 60 dBA Leq. These noise levels would not be found to have significant noise impacts given that approximately 70 percent of the proposed lots are located at distances greater than 1,000 feet from existing residential receivers and, therefore, grading activities within 1,000 feet of any existing residence would be expected to last less than one year.

With respect to construction of individual residential units, the analysis notes that (a) noise from the construction of individual homes would not exceed 60 dBA Leq, but (b) the construction of several homes simultaneously could conceivably generate noise levels in excess of 60 dBA within approximately 350 feet of the construction site. However, adverse impacts relating to construction of multiple homes in the same area in the same time frame were not found to result in adverse noise impacts because (a) the total cumulative duration of construction noise levels exceeding 60 dBA Leq at any particular residence would be less than one year, and (b) the noise analysis found that there are no locations where construction of multiple homes would occur within 350 feet of existing residences bordering the site.

## **d. Observations on the Findings**

In the professional opinion of the noise consultants, as stated in the DEIR, the impact from construction activities is not significant given that the total cumulative duration of construction noise levels exceeding the noise level parameter of 60 dBA Leq would not exceed one year in duration at any particular receiver or group of receivers.

### ***(1) Mitigation Measures***

Construction sounds would be audible and could be annoying to some individuals. For this reason, time limits and best management practices are recommended as mitigation to reduce construction noise levels as low as reasonably possible. The best management practices identify specific noise limits for equipment and at receiving properties (presented in the municipal code) and other standard construction noise control measures. The implementation of these measures will reduce the potential for residents to be annoyed or disturbed by the construction noise.

### ***(2) Role of Topography in Noise Levels***

Some observers, who have raised the possibility that construction noise levels might be amplified because of the pattern of hills and valleys (canyons) on the site.

An “amphitheater effect” involves reflections off of acoustically hard surfaces that increase noise levels at receivers within the amphitheater. Sounds in an amphitheater are normally reflected off of a band shell behind the stage and orchestra (a large concrete cover with many vertical reflecting surfaces) and from the sides of the amphitheater.

The noise consultants observe that, while hillsides on the site could reflect some sounds, these reflections would be minimal given the nature of the reflecting materials (trees, shrubs, soft ground, etc.) and the fact that the hillsides do not focus the acoustical energy to the center of the “amphitheater” or, in this case, a particular residence. Noise often cited by the public as arising from the “amphitheater effect” is typically not the result of sound amplification within valleys and canyons, but rather the result of line-of-sight noise transmission directly between the noise source and an exposed receptor on a hillside location afforded an unobstructed view of the noise source. The noise consultants took such topographical effects into account in the noise analysis, but did not increase noise levels as a result of the public’s suggestion of an “amphitheater effect”.

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# APPENDIX L

## OVERVIEW OF SELECTED EIR SECTIONS

### EXHIBIT 9

### HANDOUT Relating to the DEIR on the Oak Grove Development Plan

Pleasanton Planning Commission  
Hearing, August 23, 2006

#### Commission Members

Brian Arkin – Chair  
Arne F. Olson

Anne Fox – Vice Chair  
Jennifer Pearce

Philip Blank  
Gregory M. O'Connor (Alt)

### BACKGROUND

Mundie & Associates (M&A) is under contract to the City of Pleasanton to prepare the Draft Environmental Impact Report (DEIR) on the Oak Grove Planned Unit Development and to support the City's environmental review process. That process will include preparation of Responses to Comments on the DEIR (which will be part of the Final EIR on the project) and other documents relating to environmental and project review.

At the Planning Commission's meeting on July 12:

- Staff introduced the Oak Grove project and the requirements of the California Environmental Quality Act (CEQA) under which the Oak Grove EIR is being prepared.
- M&A began a review of the DEIR findings.
- Planning Commissioners addressed questions to the consultant and the staff.
- Some comments were received from members of the public.

This handout has been prepared by the consultants to complete the summary review of Draft EIR findings in lieu of a formal presentation, in view of the fact that the consultants are unable to be present at the August 23 meeting.

The previous presentation included (1) an introduction to the DEIR and (2) a review of the approach and findings, focusing on two CEQA topics: visual and aesthetic considerations and biology.

This handout continues the focus on topics of strong public interest:

- noise
- traffic
- open space and recreation

This handout also describes how the EIR addresses CEQA requirements for consideration of two other topics:

- alternatives
- cumulative analysis

Comments relating to the DEIR that are submitted prior to the closing of the public review period will be addressed in writing as part of the Final Environmental Impact Report (FEIR). Comments can be made orally at the public hearings or in writing directed to the Planning Department. Hearings are recorded. Once a comment has been made, there is no need to repeat it.

**NOISE** issues raised by the public during the scoping process included:

- Project traffic noise on Hearst and other neighborhood streets
- Construction-related traffic on Hearst
- Other construction noise

The evaluation of noise conditions and the estimation of project noise impacts was undertaken by a noise specialist firm, Illingworth & Rodkin. The noise analysis and conclusions are fully presented in the DEIR; there is no separate, free-standing noise report.

- The DEIR noise review is presented in several sections:
- Appendix E provides a general background on environmental acoustics and noise measurement.
- Chapter 4, Part J presents information on existing noise conditions at and near the site, the potential impacts of the project on noise, and mitigation of potential noise impacts.
- Chapters 5 and 6 present noise impacts and mitigations relating to project alternatives.

Exhibit 1 (p. 11) shows the locations at which short-term and long-term noise monitoring was conducted to establish environmental noise conditions in the vicinity of the project site.

Exhibit 2 (p. 12) identifies the types of noise impacts analyzed in the DEIR, both for the operations period and the construction period of the project.

The conclusions of the noise analysis, in summary:

#### **Operations Period**

- The analysis found that, from the perspective of noise, the site is suitable for residential use.
- The analysis used the traffic projections prepared by the City's traffic consultant, estimating the increases in noise associated with project traffic. It found that traffic associated with the proposed future residences would not result in measurable increases in noise along access routes.

#### **Construction Period**

- Noise during project construction would come from several types of activities: traffic relating to construction work, site preparation, construction of individual homes, and construction in nearby offsite areas where changes in public facilities (particularly for water supply) would be undertaken.

An important consideration relating to the noise analysis is that the heaviest construction equipment, to be used mostly in site preparation, is expected to be placed on the site for the duration of that phase of the work and would not be going back and forth to the site. Therefore the bulk of construction period traffic would be mostly workers driving to the site in their vehicles, and trucks used for materials delivery. The volume of traffic for these purposes is projected to be lower than the volume of traffic for the project during the operations period.

- Not all of the site will be under development at any one time; therefore, during site preparation and individual home construction, the source of noise will be moving around the project site. The noise analysis found that noise criteria are not expected to be routinely exceeded, and no single area is expected to experience prolonged exposure to excessive noise.

- The noise analysis observes that the noise criteria might be occasionally exceeded during construction. There would be times when noise levels associated with construction would be temporarily elevated and, even if the noise level would not exceed noise impact criteria, the noise could be annoying.
- Therefore, the EIR identifies a potential adverse noise impact, and recommends implementation of noise control measures. These consist basically of best management practices for noise, which include limits on the hours of construction activity (normally between the hours of 8 and 5 on work days) and other controls that are listed in the DEIR (p. 209).
- Activity involved in the provision of offsite improvements, primarily relating to upgrades of the City water system that would be put in place in conjunction with the project, was not found to have a significant adverse noise impact.

In summary, an adverse impact was found relating to construction noise, and the mitigations recommended would reduce the construction noise impact to the less-than-significant level.

The DEIR Chapter 1 Summary has a typographical error in summarizing noise impact. In the last column on p. S9, the post-mitigation noise impact should be indicated as “LS” (less than significant after mitigation) rather than stated as “S,” as is shown in the document.

## TRANSPORTATION

The transportation analysis conducted by the City’s traffic consultant, Dowling Associates, is presented in EIR Appendix F. The DEIR transportation text is drawn from Appendix F.

The DEIR traffic analysis considers 27 key Pleasanton intersections. The level of detail of the analysis is illustrated in this handout by two exhibits.

Exhibit 3 (p. 13) shows the 27 intersections at which existing and future traffic levels were estimated under existing conditions and a series of planning scenarios. These are referred to as the “study intersections.”

Exhibit 4 (p. 14) is an inset of the intersection at Valley Avenue @ Stanley Blvd. showing detailed vehicle movements under one of the planning scenarios.

DEIR Chapter 4, Part O. Transportation includes the following:

- The approach to analyzing traffic impacts is summarized.
- Significance criteria for traffic impacts are discussed:
  - The City of Pleasanton’s generally-applicable level of service criterion is Level of Service D. Intersections operating at LOS E or F do not meet this criterion and are considered to be operating at an “unsatisfactory” level.
  - Intersections within the Downtown Specific Plan area are exempt from the LOS D criterion.
  - A project that adds traffic to an intersection causing LOS to change from D (satisfactory) to E or F (unsatisfactory) would be found to have an adverse traffic impact.

- A project that adds traffic – even if that addition is only one trip – to an intersection projected to operate at LOS E or F without the project would be found to have an adverse traffic impact.
- Information is provided on Pleasanton’s existing traffic conditions. The DEIR notes that a number of intersections operate at unsatisfactory levels of service (LOS E or F) under existing conditions (City’s Baseline Traffic Report). Seven of these intersections with existing unsatisfactory operations are among the 27 intersections analyzed in the EIR traffic study. These are listed in the DEIR (Table 29, p. 254).
- Information is provided on future traffic conditions at the study 27 intersections under a scenario that includes EXISTING TRAFFIC + APPROVED PROJECTS traffic without the Oak Grove project.
- Estimates of the effects of the Oak Grove project’s contribution to future traffic at the 27 study intersections have been made (Appendix F) and the outcome in terms of LOS and delay have been calculated taking project traffic into account. The findings:
  - Of the 27 study intersections, there are 15 at which future intersection conditions would not meet the Pleasanton level-of-service standard under the EXISTING TRAFFIC + APPROVED PROJECTS scenario with the Oak Grove project. These are listed in the DEIR (pp. 262-264).
  - At 8 of these 15 intersections, operations would be unsatisfactory (LOS E or F) without the project (DEIR, Table 31, p. 258).
  - At most of the intersections, the increase in delay would be less than two percent.
  - At the closest study intersection, Bernal @ Hearst, PM peak hour delay would roughly double, from 27.4 seconds without the project to 55.7 seconds with the project.
  - Five of the 15 intersections – those in the Downtown Specific Plan area – are exempt from the City’s LOS standard, so no mitigation measures are provided.
  - At the 10 intersections outside the Downtown Specific Plan area, mitigation measures to improve intersection operations and reduce delay are identified and listed.
  - At 9 of the 10 intersections, these mitigation measures would result in conformity to the City’s LOS standard.
  - At 1 of these intersections, Bernal Avenue @ I-680 southbound on-ramp, mitigation would not be sufficient to meet the LOS standard.
- Other impact criteria, separate from the LOS standard, are identified and discussed. No adverse impacts relating to those criteria were found (DEIR, pp. 261-262).

The traffic analysis also looked at several scenarios under future conditions with buildout of the General Plan, as discussed below in the review of the project’s cumulative impacts.

## **OPEN SPACE AND RECREATION**

**OPEN SPACE** (Part K of DEIR Chapter 4) is not a CEQA topic, but is included in the DEIR for informational purposes.

The Oak Grove site plan shows a developed area that would occupy less than 100 acres of the 562-acre site. The portion of the site that would not be developed would remain in open space.

The EIR describes the applicant's approach to future open space ownership and management in Appendix B (Written Narrative) and Chapter 2 (p. 9): the applicant would transfer ownership of the open space to the City of Pleasanton by an Irrevocable Offer of Dedication.

The EIR text describes briefly how this offer could be implemented. Such a transfer offers a mechanism for securing the open space over the long term future.

The applicant has raised the possibility that some or all of the open space could be used as a passive activity park, similar to Augustin Bernal Park on Pleasanton Ridge (DEIR, p. 247).

**RECREATION** (Part N of DEIR Chapter 4) is a CEQA topic that focuses on parks and trails.

- The project would include a neighborhood park of approximately 6.5 acres, located at the western end of Street A, adjacent to the Kottinger Ranch development. The features of the park are described in the DEIR (p. 247).
- The project would include the following community routes components:
  - A portion of the Class A regional trail.

Pleasanton's Community Trails Map of 1993 (DEIR, Figure 29) shows where the Class A regional trail would cross the Oak Grove site. The Oak Grove site plan, consistent with current City guidance, would accommodate the full regional trail link between the Foley property on the south and the Vineyard Corridor Specific Plan Area on the north, by redesignating a portion of the C2 community trail route (conceptual alignment shown in DEIR Figure 29) as the northward link of the Class A regional trail.
  - A staging area for the Class A regional trail.

A staging area for the trail is proposed in the development plan to be located east of the proposed new water tank, accessible from the Class A regional trail. Facilities proposed for the staging area are described in the DEIR (p. 248).
  - Sufficient open space to accommodate Class C community trails.
  - Public walkways consisting of sidewalks on one side of each of the public streets (Street A and Courts 1 through 5).

The DEIR identifies no significant impacts on recreation.

## **ALTERNATIVES**

The DEIR devotes two chapters to the consideration of alternatives:

- Chapter 5 discusses three alternatives: Alternatives 1, 2, and 3.
- Chapter 6 discusses Alternative 4.

## **THE RELATIONSHIP OF ALTERNATIVES TO THE PROPOSED PROJECT**

The introduction to Chapter 5 provides a discussion of CEQA guidance relating to project alternatives. Two key considerations identified are:

- A goal of an EIR alternative is to mitigate some impacts of the project, but not necessarily all of them.
- An EIR alternative is to respond to project objectives, but need not satisfy all those objectives in their entirety.

The formulation of a development plan takes into account both the project sponsor's objectives and the site characteristics that development may affect.

In many cases, site plans attempt to "build in" mitigation for some impacts, but "building in" full mitigation is often not possible because mitigation for one impact may incidentally adversely affect some other environmental condition.

In the case of Oak Grove, the applicant has several conditions to consider simultaneously. The choices reflected in the development plan for this project are described in the DEIR as part of the discussion of Site Characteristics (Chapter 2, pp. 3-4). In essence, the site plan reflects a decision to build in the upland areas of the site because those areas are flatter, geological conditions are more stable, and less earth movement would be required. Under this site plan strategy:

- The potential for landslides would be less than with a plan that proposed building on hillsides,
- The amount of grading for buildings and roads would be reduced as compared with hillside development, and
- Tree removal would be considerably less than would be the case if development were planned for valleys or the lower slopes of hills.

All of these are advantages from the environmental perspective.

The main disadvantage is that the development would be more visible.

## **DEFINING ALTERNATIVES CAPABLE OF MITIGATING PROJECT IMPACTS**

When the environmental analysis was substantially completed, it became clear that significant impacts of the development plan were predominantly of two types: biology (impacts on drainages and wetland associated with fill) and transportation (intersection levels of service). Therefore, the effort to define project alternatives focused on:

- reduction of fill affecting drainages and wetlands and
- changes in project-related traffic patterns capable of reducing congestion at affected intersections.

## **DESCRIPTION OF EIR ALTERNATIVES 1, 2, AND 3**

Three alternatives were formulated in response to the desire to (1) reduce biology impacts on drainages and wetlands and (2) reduce traffic impacts at the intersections project residents would be most likely to pass through, including the Hearst @ Bernal intersection.

Alternatives 1 and 2 respond to the objective of reducing the project's impacts on drainages and wetlands and Alternative 3 responds to the objective of reducing project traffic on Bernal Avenue, particularly at Hearst.

### ***Alternatives Requiring Less Fill of Drainages and Resulting in Reduced Impacts on Wetlands***

The Oak Grove site plan represents a substantial reduction of grading as compared to the Kottinger Hills project proposed for the site in the early 1990s.

It also “builds in” a grading mitigation, which is onsite fill balance: no hauling of soils to or from the site, so as to avoid adverse traffic and noise impacts associated with haul traffic. To achieve onsite fill balance, it is necessary to find locations on the site where excess soils from grading can be placed.

Filling drainages is not desirable from the biological perspective, because drainages can be valuable areas for plant and animal life.

The project site plan proposes placing surplus grading soils primarily in one of the long drainages on the site, generally in the Court 5 cluster (the southernmost area of the site proposed for development). Alternatives 1 and 2 were developed to meet the biological objective of providing greater protection for these drainage ways and other wetlands.

Exhibit 5 (p. 15) shows the site plan as proposed.

Exhibit 6 (p. 16) shows the site plan for Alternative 1.

Exhibit 7 (p. 17) shows the site plan for Alternative 2.

Key differences between the alternatives and the project are:

- The Court 5 cluster would be eliminated.
- The reduction in housing units in Court 5 would be offset in several ways:
  - Alternative 1 would substitute some 4-plex units in the Court 1 cluster and provide 5 estate lots east and north of the new water tank, retaining a total of 98 housing units.
  - Alternative 2 would provide the same five estate lots proposed under Alternative 1. The residential development pattern would otherwise be the same as the project minus the Court 5 cluster, meaning that the total number of housing units would be only 80.
- Elimination of the Court 5 cluster would mean much less fill of drainageways.

Specifically, two seeps would not be filled and, of the 2,900 lineal feet of drainages proposed for fill under the project, some 2,750 lineal feet would not be filled under Alternatives 1 and 2: a major reduction in project impacts.
- Instead of placing surplus grading soils in the drainages, Alternatives 1 and 2 would place the soils surplus on top of two mounds south of the developed area and would provide a temporary haul road to these “balance fill” areas during the site preparation phase.

The two “balance fill” sites would not have a visual impact: from most publicly-accessible offsite locations considered in the DEIR they would not be visible, and the restoration plan proposed for them would result in a post-development appearance that would be “natural looking”: compatible in contours and vegetation with the rest of the Oak Grove site.

These “balance fill” sites would, however, occupy lands that have been determined to be within the delineated butterfly habitat, thus enlarging the area to which the restoration and replacement plan described in the biology portion of the project analysis would apply.

Alternatives 1 and 2 have other characteristics that also should be recognized:

- The 5 estate lots at the eastern edge of the developed area would be hard to serve with utilities and fire protection, and that might raise issues about soils stability.
- There would be no neighborhood park.
- Although the potential for the Class A regional trail would be retained, no staging area would be provided.

#### ***Alternative Proposed to Reduce Traffic Impacts on Bernal Avenue***

The third alternative was formulated to determine whether a second public access route to the Oak Grove site might divert enough project traffic from Hearst Drive to reduce traffic impacts at the intersection of Hearst @ Bernal and, possibly, at other locations along Bernal.

Exhibit 8 (p. 18) shows a conceptual public access road to Oak Grove through the Vineyard Avenue Corridor Specific Plan area.

The Alternative 3 access would extend from the eastern end of Court 4 to the proposed new water tank, and then along the route that would serve the five estate lots proposed for Alternatives 1 and 2; it would continue northward beyond the Oak Grove site to an upland corridor (the conceptual “Berlogar Ridge Road” as labeled in Exhibit 8) to connect with Old Vineyard Avenue farther north.

This route was selected from among a range of theoretical routes (DEIR Table 38, p. 300). The selection targeted routes that would be most effective in reducing the traffic load on Hearst Drive and the Hearst/Bernal intersection. While this logic is sound, the traffic analysis found that this alternative would not result in enough of a diversion of traffic from Hearst Drive to substantially reduce impacts as compared with those of the project.

When the EIR team concluded that the objective of this alternative would not be met, in-depth consideration of other aspects of Alternative 3 was not pursued.

#### **DESCRIPTION OF EIR ALTERNATIVE 4**

While the EIR team was reviewing Alternatives 1, 2, and 3, a fourth alternative was in the works: a 51-unit project. That alternative is considered in Chapter 6.

Exhibit 9 (p. 19) shows the site plan of Alternative 4.



Alternative 4 has some features in common with the project, and some in common with Alternatives 1 and 2.

- The road network and the layout of the residential areas are basically similar to those of the proposed project and Alternatives 1 and 2, but:
  - Alternative 4 does not have the Court 5 development cluster proposed for the project,
  - Alternative 4 does not have the five eastern estate lots proposed for Alternatives 1 and 2,
  - Alternative 4 does not have the 4-plexes in the Court 1 cluster proposed for Alternative 1, and
  - Alternative 4 does not have the public park or the staging area for the Class A regional trail proposed for the project; the regional trail would be accommodated by an easement rather than constructed as part of the alternative. (The easement is shown conceptually in DEIR Figure 36, p. 342.) The substantial provision of open space would, however, accommodate a network of community trails.
- The applicant's intention to make an irrevocable offer of dedication of open space also applies to Alternative 4. Under this alternative, less than 70 acres would be proposed for development (compared to 80 acres for the project). Because the site is more than 560 acres, the amount of open space potentially subject to the offer is in the hundreds of acres.

The most obvious difference between the proposed project and Alternative 4 is that Alternative 4 would have fewer housing units: 51 as opposed to 98.

Anticipating a possibility that this alternative might form the basis for an approvable project in lieu of the proposed project described in Chapter 2, a more detailed environmental analysis went forward with this alternative. The analysis found that Alternative 4 would satisfy the key objectives identified for the EIR alternatives:

- Alternative 4 would greatly reduce fill of drainageways in comparison to the project. "Balance fill" on the mounds, as in Alternatives 1 and 2, would be used instead of drainage ways for surplus grading soil.
- Alternative 4 would reduce project trip generation by approximately 44 percent in the AM peak period and approximately 48 percent in the PM peak period.

The DEIR finds that Alternative 4 would be environmentally superior both to the proposed project and to Alternatives 1 and 2 because its pre-mitigation environmental impacts are of a lesser degree than those of the other site plans (see DEIR discussion, p. S15).

## **CUMULATIVE IMPACTS**

Cumulative impacts are impacts that result from the combination of the project evaluated in the DEIR together with other projects causing related impacts.

Cumulative impacts are considered in light of Pleasanton's future growth. Chapter 7 of the DEIR discusses this issue in two parts: overall growth planned for the city and growth planned for the southeastern area of the city.

## **CUMULATIVE IMPACTS IN THE CONTEXT OF PLEASANTON'S FUTURE GROWTH**

As required by CEQA, The DEIR looks at the project in the context of Pleasanton future growth – in this case, Pleasanton's buildout under the 1996 General Plan.

Cumulative impacts are found as follows:

- Biology: Cumulative loss of blue oak woodland
- Transportation: Identified mitigation measures would be insufficient to fully mitigate cumulative impacts at two study intersections: Bernal Avenue @ I-680 SB onramp and Santa Rita Road @ Valley Avenue.

## **CUMULATIVE IMPACTS IN THE CONTEXT OF FUTURE GROWTH IN SOUTHEAST PLEASANTON**

Chapter 7 also addresses a second set of cumulative impacts, not required by State law. This second part of Chapter 7 considers Oak Grove in the context of other proposed projects in southeast Pleasanton – the Lund II development and development on the Spotorno property in the Happy Valley Specific Plan area – to evaluate the collective impacts of these three proposed developments. Chapter 7 presents the initial findings of this analysis.

## **APPENDIX M**

### **CALLIPPE SILVERSPOT BUTTERFLY**

This appendix contains reports pertaining to the Oak Grove site and its use by the callippe silverspot butterfly and, more specifically, by the *Speyeria callippe callippe*, which was listed by the U. S. Fish and Wildlife Service in 1997 as an endangered species under the federal Endangered Species Act.

The first of the reports, by Dr. Richard Arnold, was prepared under contract to the EIR's biology consultant, WRA, Inc. The second of the reports, by Dr. Dennis Murphy, was prepared at the initiative of the applicant. Both documents are included in the Oak Grove EIR because they represent different professional judgments relating to the possible presence of the listed species on the Oak Grove site.

Brief qualifications of the two professional entomologists are as follows:

#### **Background on Richard A. Arnold**

Dr. Arnold is the principal of Entomological Consulting Services, Ltd.

The firm was founded by Dr. Arnold in 1977 to assist government agencies and private industry in environmental, forestry, and technical matters that deal with insects and other types of invertebrates, such as crustaceans, arachnids, and snails.

His educational background:

- Ph.D. in Entomology, University of California, Berkeley
- M.S. in Entomology, Michigan State University
- B.S. in Biology, Cornell University

#### **Background on Dennis D. Murphy**

Dr. Murphy is Research Professor, University of Nevada, Reno, in the Department of Biology, and former Director of the Center for Conservation Biology at Stanford University.

His educational background:

- Ph.D. in Biological Sciences, Stanford University
- B.S. in Entomology, University of California at Berkeley

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20 September 2006

Tom Fraser, Botanist  
WRA, Inc.  
2169-G East Francisco Blvd.  
San Rafael, CA 94901

Re: Oak Grove Project Site in Pleasanton, CA  
Report on Callippe Silverspot Butterfly

Dear Tom:

This letter reports on the findings of my recent surveys for the endangered Callippe Silverspot butterfly at the Oak Grove property located in Pleasanton, California. Briefly, I can summarize the findings of my surveys by stating that adults of the Callippe Silverspot were observed at several locations scattered throughout the property. The remainder of this letter provides pertinent background information on the silverspot, plus describes my survey methods, findings, and recommendations for project planning in more detail.

## BACKGROUND INFORMATION

*Speyeria callippe callippe* is a nymphalid butterfly that occurs in coastal grasslands where its larval food plant, *Viola pedunculata*, grows. It was recognized as endangered by the U.S. Fish & Wildlife Service (USFWS) in 1997.

Although it was formerly widely distributed throughout the San Francisco Bay Area, today the butterfly is known only from San Bruno Mountain in San Mateo County, Joaquin Miller and Redwood Regional Park areas in Oakland (Arnold 1981). Populations that are somewhat intermediate between the Callippe Silverspot and a related subspecies (*Speyeria callippe comstocki*) are known from the Sunol, Pleasanton, and Livermore areas, plus the hills (Lake Herman to I-80) of southwestern Solano County and the American Canyon area in southeastern Napa County (Arnold 1983 and 1985). However, the USFWS generally treats these populations as the endangered butterfly because some individuals in these populations exhibit the phenotypic characteristics of the endangered nominate subspecies. Even though it has not been observed there in several decades, historical records for the Callippe Silverspot indicate that it formerly occurred on Twin Peaks in San Francisco.

The Callippe Silverspot is univoltine, i.e., it has a single generation per year. The adult flight season is usually about mid- to late May through mid-July, although some variation in this timing between years and places is common. Adults are particularly fond of various thistles

(especially *Cirsium* and *Silybum*), buckeye (*Aesculus*), and mint (*Monardella*) species for nectar. Adults congregate at hilltops to locate their mates. Thus, suitable habitat for the Callippe Silverspot consists of grassland that often is interspersed among sparse groves of oak woodland (including buckeyes), with hilly topography, and scattered rocky areas (where *Monardella* grows). The oak woodland may include Coast Live Oak (*Quercus agrifolia*) woodland, Blue Oak (*Quercus douglasii*) woodland, or a mixture of these two oak species.

Females lay their eggs on or near the larval food plant. After about one week, the larvae hatch from the egg, eat the eggshell, and then spin a small silken pad which shelters them throughout the remaining summer, fall, and winter months. No other feeding occurs until the following spring, when the larvae feed on the new leaves and flowers of their violet food plant. After feeding for several weeks, they transform into a pupal stage, and the adult butterfly emerges about two weeks later.

The butterfly's population numbers vary from year to year. As you may have read earlier this year in various newspaper accounts, 2006 has been a poor year for many butterfly taxa, with lower numbers than are usually seen during most years. In my experience with several butterfly taxa this year, it seems that univoltine taxa that overwinter as larvae, such as the Callippe Silverspot, were particularly affected by the record rainfall of last winter. The added moisture results in a greater prevalence of various pathogens and diseases that can be fatal to larvae. Thus population numbers of the Callippe Silverspot were probably lower during its 2006 flight season than in a year of normal or below normal rainfall.

## SURVEY METHODS AND FINDINGS

In 2005 I visited the Oak Grove site late in the Callippe Silverspot's flight season and observed a couple of tattered individuals. These individuals were so worn that I could only confirm that they were *Speyeria callippe* as the markings necessary to determine their subspecific identities had been damaged by wing wear (i.e., faded wing colors and frayed wings) that accumulates with age. Thus in 2006 my survey methodology was designed to visually confirm that *Viola pedunculata* still grew in the locations where it had previously been mapped by WRA, Inc. during 2005 and to search for adults of the endangered Callippe Silverspot throughout its full flight season to determine those portions of the Oak Grove project site that the butterfly utilized.

Field visits in 2006 occurred on seven dates from May 8<sup>th</sup> through July 12<sup>th</sup>, at approximately 7-10 day intervals depending upon the weather. The first visit was to check for *Viola pedunculata*. I confirmed that the distribution of *V. pedunculata* in 2006 was essentially identical to its occurrence as your firm had mapped in 2005. Subsequent visits were to observe adult Callippe Silverspots and how they utilized the site. During each site visit I hiked throughout the property to observe the Callippe Silverspots and their behaviors.

Adult Callippe Silverspots were observed during five of the six butterfly visits. A total of 58 individuals, including 39 males and 17 females were observed. Considerable variation in the adult phenotype was noted, primarily in the brownish-orange ground color of the wing surfaces and the degree of black overscaling along the dorsal wing veins and basally near the thorax.

Nonetheless, at least 12 of the adults observed exhibited the phenotype of the endangered Callippe Silverspot, *Speyeria callippe callippe*. Phenotypes of 14 adults more closely resembled the lighter-colored *Speyeria callippe comstocki*, which is better known from interior locations in the Coast Range. The remaining observed adults exhibited phenotypes that were intermediate in appearance between these two subspecific taxa.

The following adult behaviors were observed: flying, patrolling (a search behavior of males for females), foraging, mate location, courtship, mating, and oviposition (i.e., egg laying). Adults were observed in the grasslands, on hilltops, nectaring at buckeye trees usually growing at the margins of small oak groves, and nectaring at thistles, especially milk thistle (*Silybum marianum*) growing alongside of trails, adjacent to oaks, and in other disturbed areas on the property.

The Oak Grove project site is characterized by three terrestrial habitat types, including annual grassland, Blue Oak woodland, and Diablan sage scrub. Callippe Silverspot adults were observed in the annual grassland, both on the slopes and hill tops, and nectaring on buckeyes growing in association with the Blue Oak woodlands at widely scattered locations throughout the property. The topographic diversity at the project site resulted in early blooming by buckeyes growing on southern and western facing aspects, with later blooming by buckeyes growing on eastern and northern aspects. One adult was observed attempting to nectar at an unidentified flower growing in the Diablan sage scrub portion of the site. Thus, adults of the Callippe Silverspot were observed throughout the project site.

## EVALUATION OF POTENTIAL PROJECT IMPACTS

Although I have not reviewed the full environmental impact report, you asked me to evaluate potential impacts to the Callippe Silverspot and its habitat for Alternative #1 and Alternative #4 site plans. I understand that Alternative #1 is the proposed project, while Alternative #4 is the preferred alternative.

Both alternative site plans are likely to cause substantial adverse impacts to the endangered butterfly's life stages, food plants (both larval and adult), and its habitat. Since I do not have the site plans and grading plans in a geographic information system, I can only address these impacts in general terms rather than provide any quantitative differences between the two alternatives. Regardless, both site plans would permanently remove or temporarily alter substantial areas of where larval food plant now grows, as well as mate location habitat (i.e., hilltops and upper slopes) for adults. To a lesser degree, foraging habitat for adults, primarily thistles and possibly buckeyes, would also be affected. It is my understanding that of the several thousand trees that occur on site, less than 100 will actually be removed, but I don't know how many of the trees proposed for removal are buckeyes and their locations on the site. Even though most of the resident trees will be avoided, the proximity of new residences, yards, and increased human activity could still adversely affect the Callippe Silverspot's use of retained buckeye trees.

Alternative #4 also proposes to stockpile dirt in two locations at the project site. The stockpile locations are situated where *Viola pedunculata* grows. This action would not only

crush or suffocate any immature life stages of the Callippe Silverspot, but may also alter conditions to such a degree that the larval food plant could no longer grow there after the stockpiles are removed.

Finally, I should note that adults of the Callippe Silverspot were observed flying across the property boundaries of the Oak Grove site, so the population of the endangered butterfly likely extends onto neighboring property. In other words, the Callippe Silverspot population is not limited to just the Oak Grove project site. In a worst case scenario, impacts to the Callippe Silverspot and its habitat that occur on the Oak Grove project site may also affect the population on the neighboring properties. However, such an evaluation is beyond the scope of this survey as I did not have permission to access the neighboring properties to determine the full distribution of the Callippe Silverspot population.

## CONCLUSIONS AND RECOMMENDATIONS

Based on my observations from these surveys, I expect that the U.S. Fish & Wildlife Service will treat the Callippe Silverspot population that occurs at the Oak Grove project site as the endangered butterfly. Both site plans, alternatives #1 and #4, will significantly impact portions of the Oak Grove project site that currently support the Callippe Silverspot's larval food plant, *Viola pedunculata*. Unfortunately, the siting of the proposed homes for both alternatives, and other aspects of both site plans are proposed to occur in portions of the Oak Grove site that are essential for maintenance of the Callippe Silverspot population there. Depending upon the time of year when clearing of vegetation and grading occur, egg, larval, and/or pupal life stages of the endangered butterfly could be directly impacted. If these activities occur during the adult flight season, then adults of the Callippe Silverspot may also be directly impacted, or indirectly by dust generated from these activities. Nectar plants visited by foraging adults may be removed by these activities, or indirectly impacted by dust. Several of the upper slopes and hilltops where proposed homes have been sited in both alternative projects are used by adult males and females for mate location. After construction has been completed and the new homes are occupied, continued and ongoing impacts to the Callippe Silverspot may occur due to use of insecticides and herbicides, as well as alteration of habitat, and increased human activity which could prevent the butterfly from visiting food plants (both larval and adult) that grow in close proximity to the new homes.

Collectively, these impacts will substantially reduce the overall habitat values important for maintenance of a Callippe Silverspot population at the Oak Grove project site. Because of the loss and alteration of key features of the site that are important to the butterfly, it will be very difficult to mitigate for these impacts on-site and reduce the impacts to a less than significant level. At this time, avoidance may be the best mitigation strategy, as propagation and re-establishment of *Viola pedunculata* at other sites has proven to be very difficult. Several of the remaining grassland portions of the site appear to support more annuals that would need to be greatly reduced and may have soil types that do not support *Viola pedunculata*. Although thistles can be quickly and easily established, because they are non-native plants, they are often not considered good candidates for revegetation and habitat restoration. Although native, young buckeye trees require several years of growth to produce the numbers of flowers of a mature tree



that provide the best foraging value to the Callippe Silverspot. Thus mitigation monitoring may need to continue for a few decades to adequately demonstrate that such mitigation is truly successful. For all of these reasons, acquisition and protection of off-site habitat supporting the Callippe Silverspot may be the best mitigation solution.

Unlike the California Environmental Quality Act, which considers the level of significance of potential impacts, under the federal Endangered Species Act, any identified impacts generally require a permit for incidental take of the endangered species and its habitat regardless of the degree of impact. I recommend that you informally consult with the Sacramento office of the U.S. Fish & Wildlife Service to determine the need for such a permit for the endangered Callippe Silverspot at the Oak Grove project site. If mitigation measures can be identified to satisfy this federal agency, then the CEQA issues should also be satisfactorily resolved.

#### REFERENCES CITED

Arnold, R.A. 1981. Distribution, life history, and status of three California lepidoptera proposed as endangered or threatened species. Calif. Dept. of Fish & Came, Inland Fisheries Branch. Final report for contract #S-1620. 39 pp.


Arnold, R.A. 1983. *Speyeria callippe* (Lepidoptera: Nymphalidae): application of information-theoretical and graph-clustering techniques to analyses of geographic variation and evaluation of classifications. Ann. Entomol. Soc. Amer. 76:929-941.

Arnold, R.A. 1985. Geographic variation in natural populations of *Speyeria callippe* (Boisduval) (Lepidoptera: Nymphalidae). Pan-Pac. Entomol. 61:1-23.

U.S. Fish & Wildlife Service. 1997. Determination of endangered status for the Callippe Silverspot butterfly and the Behrens Silverspot butterfly and threatened status for the Alameda Whipsnake. Federal Register 62:64306-64320.

If you have any questions regarding my report, please contact me.

Sincerely,



Richard A. Arnold, Ph.D.  
President

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## MEMORANDUM

Date: 6 December 2006

To: Bob Harris, Robert Harris and Associates

From: Dennis Murphy, Professor, University of Nevada, Reno

Re: The presence of *Speyeria callippe callippe* on the Oak Grove property in Pleasanton

I have taken the opportunity to review the environmental documents regarding the callippe silverspot butterfly that you forwarded to me. I have several comments on the observations made of butterflies on the Oak Grove property in Pleasanton, California, and assertions made about those butterflies by Richard Arnold. Those follow, but first I have to admit to being baffled by the contention that you have the federally protected, endangered callippe silverspot butterfly on the property at all. I do not believe that you do.

My understanding is that the listed callippe silverspot butterfly – *Speyeria callippe callippe* -- is restricted to just two locations directly adjacent to San Francisco Bay—one on San Bruno Mountain, the other in and adjacent to Joaquin Miller Park, in the hills above Oakland. Indeed the final listing notice for the butterfly, which appeared in the Federal Register in 1997, identifies those two sites as the only locations that support it. Interestingly, colleagues and I confirmed the presence of *Speyeria callippe* populations in the southernmost hills above the bay in Solano and Sonoma counties in 1991, and suggested that butterflies from there might be assignable to the subspecies *Speyeria callippe callippe*. That information was available to the U.S. Fish and Wildlife Service well before the listing of the callippe silverspot, and was apparently rejected. Neither north-bay populations of the species, nor any populations east of the known Oakland hills population, were identified as *Speyeria callippe callippe* and conferred protection under the 1997 Endangered Species Act listing action. I concluded at that time that the restriction of protection to the two populations was both intentional and well considered by the Fish and Wildlife Service.

The species *Speyeria callippe* has long been known from Mount Diablo south along the eastern edge of the Inner Coast Range in Contra Costa and Alameda counties, but those populations have been normally been assigned to the subspecies *Speyeria callippe comstocki* in recognition that dorsal wing colors on those butterflies are generally lighter than those on butterflies from populations directly adjacent to the bay. Lighter wing markings are typical on callippe silverspot butterflies from Contra Costa County south to beyond Santa Clara County.

When and on what basis did the Fish and Wildlife Service assert its authority over Pleasanton silverspot butterflies by considering them *Speyeria callippe callippe*, rather than *Speyeria callippe comstocki*? After the discovery of the violet species that is used as larval host plant both by the listed subspecies near San Francisco Bay, and by unlisted subspecies elsewhere, during environmental assessments in support of a proposed Pleasanton Municipal Golf Course, the Service stated in its formal consultation document (dated 20 March 2001, to C.C. Fong of the U.S. Army Corps of Engineers regarding Section 404 permit No. 23275S) that it “allowed Dr. Richard Arnold to capture silverspot butterflies to determine whether they were callippe silverspots.” After performing “a visual examination of their morphological characteristics,” Arnold apparently “advised the City to consider the population to be near callippe.” In other words, because some individuals from the site, according to Arnold, exhibited wing markings that approach the phenotype typical of *Speyeria callippe callippe*, Pleasanton-area butterflies can be considered to be the protected subspecies. The Service’s acceptance of that interpretation of the taxonomic status for those butterflies, for which I can find no formal explanation or reference, is a highly irregular one, and is inconsistent with previous interpretations of listed species identities in other protected butterfly species in California and adjacent states – of which there are many. This odd and inappropriate assignment of taxonomic identity was repeated in the only draft I have seen of the Service’s unreleased and apparently still draft, recovery plan for the callippe silverspot butterfly. The authors of that document made no taxonomic judgment, nor explained the rationale for including Pleasanton populations in the plan. There is no technical source information available from which justification for including Pleasanton populations in *Speyeria callippe callippe* can be drawn; there are no “scientific” treatments of the species that support the assignment of Pleasanton butterflies to that listed taxon.

It appears that the City of Pleasanton accepted, without argument or corroboration, the contention from its environmental consultants – a contention that was apparently at least passively supported by the Service – that the federally protected subspecies of *Speyeria callippe callippe* occurred on the land to be developed in its jurisdiction. The city then redesigned a golf course footprint to avoid impacts on the butterfly and its violet host plants, as well as California tiger salamanders and red-legged frogs. That response and the appearance of acceptance of regulatory authority by the Service regarding the silverspot butterfly at that location has led subsequent consultants and planners to assume that silverspot butterfly populations in the Pleasanton area are federally protected. But just because the Service enters into discussions of habitat avoidance and mitigation for a species does not mean that the agency would otherwise invoke their authority to prohibit take under Section 9 of the Endangered Species Act. After all, tiger salamander populations were not protected under the Act at that location either.

The decision by Pleasanton to protect the butterfly five years ago apparently served to unintentionally set informal taxonomic and regulatory precedent, and to misinform, not only consultants and planners, but recovery planners as well. In the meantime, these biological circumstances have received no critical review, and no scientific guidance in the matter is available. Arnold and perhaps others who have encountered silverspot butterflies in and around Pleasanton have observed that some individuals are darker than

the average individuals in the population(s), while others are much lighter, and, not surprisingly, many others exhibit wing coloration in between the extremes. That situation is not atypical in any way. Butterfly populations that occur anywhere near the boundaries between well-differentiated subspecies always include at least some individuals with wing markings that approach those of individuals in adjacent areas. But, no observers have disagreed that the average wing color on individuals from Pleasanton populations is substantially lighter than that of the populations listed as *Speyeria callippe callippe*; and Arnold offers no evidence, other than his unsubstantiated assertion, that Pleasanton wing colors do not better approximate those of populations assigned to *Speyeria callippe comstocki*.

The unusual deference by the Service to a clearly inadequate assessment of taxonomic identity, and their involvement in what appears to be a precedent-setting interpretation of the Act to protect a population that they acknowledge is not *Speyeria callippe callippe*, but merely includes some individuals that rather look like it, is vexing to say the least. Certainly a contributing element to their action was the fact that the taxonomic interpretation came from the permit applicant's consultant team. At the time no one who was involved questioned the substance and circumstances of the decision. And, perhaps without acknowledgement, the Service was taking guidance from their "intercross policy," a proposed, but never finalized rule, that was promulgated in the Federal Register in 1997. It addresses organisms that may share the morphological or genetic characteristics of a listed and an unlisted species. The proposed rule was clearly meant to guide regulatory decisions that involve hybrid individuals that exhibit the characteristics of two distinct biological species; but it might be interpreted as pertaining to individuals that exhibit the characteristics of both a listed subspecies and an unlisted subspecies (a circumstance that is not referred as hybridization). The rule states that the Service believes that "responsibility to conserve endangered and threatened species extends to those intercross progeny if... the progeny more closely resemble the listed parent's taxon than an entity intermediate between it and the other known or suspected non-listed parental stock." Ignoring the more obvious direct application to true hybrid situations, the Pleasanton populations of *Speyeria callippe* still do not meet the criterion. Those butterflies are at best intermediate between the listed and unlisted entities, and may in fact have wing markings that place them between intermediates and *Speyeria callippe comstocki*, the unlisted subspecies. Moreover, the proposed policy is intended to be applied "where recommended in an approved recovery plan, supported in an approved genetics management plan (which may or may not be part of an approved recovery plan), implemented in a scientifically controlled and approved manner, and undertaken to compensate for a loss of genetic variability in listed taxa that have been genetically isolated in the wild as a result of human activity." No approved recovery plan exists for the callippe silverspot butterfly; and, the other criteria are not met. If the Service took guidance from the intercross policy in its interpretation of the situation in Pleasanton, it did so inappropriately.

The Fish and Wildlife Service cannot possibly intend to reset its policy by conferring protection to populations that include a fraction of individuals that have one or several physical characteristics that are consistent or at least very frequent in individuals from

populations of subspecies that are listed. Should it do so in this situation, and follow in suit with other listed butterflies in California, it would have to expand the current regulatory footprint for more than half of them -- the mission blue butterfly into northern Marin and Sonoma counties, and well down the San Francisco peninsula; the bay checkerspot from Santa Clara County south into San Luis Obispo County or beyond; Smith's blue butterfly to perhaps twice its current expansive range; the Palos Verdes blue deep into the counties that surround Los Angeles; the three listed zerene silverspot butterflies from just several sites on the immediate north coast of the state into dozens of sites that would extend well into the inland mountains – and, many more examples can be identified. A formal statement from the Service that actually they have authority to prohibit take of *Speyeria callippe* in Pleasanton would be dramatic and utterly unexpected exercise of their authority.

Although I do not believe that the silverspot butterflies that may inhabit your Oak Grove property are protected under the federal Endangered Species Act, there is the issue of the “report” from Arnold (dated 20 September 2006), which describes his observations from the site and his conclusions based on those observations. In an inexplicably informal description of circumstances on the property, based on six visits from May through July, 2006, Arnold reports observing 58 silverspot butterflies (including 39 males and 17 females - with no explanation for the two apparent unaccounted-for individuals). He states that “at least 12 of the adults observed exhibited the phenotype of the endangered Callippe Silverspot, *Speyeria callippe callippe*. Phenotypes of 14 adults more closely resembled the lighter-colored *Speyeria callippe comstocki*” ... and the “remaining individuals exhibited phenotypes that were intermediate in appearance between these two subspecific taxa.” He closes his “findings” with the statement that “adults of the Callippe Silverspot were observed throughout the project site.”

No repeatable sampling techniques, no temporal context to the sparse data, no map of observations is presented, no discussion of butterfly resighting probabilities (which would suggest that the 58 observations undoubtedly include multiple repeats), no appropriate disclaimer regarding the in-the-field and on-wing phenotype assessment. So it is hard to know where to start. The information is so vague as to appear made up. The statement that butterflies were “observed throughout the site” is belied by the plain numbers of Arnold’s putative observations – 58 adult butterflies on five separate dates across 562 acres. That indicates that on average on each date one silverspot butterfly was observed per 50 acres; a record low density for a silverspot species in my experience, and completely counter to his conclusion that “it will be very difficult to mitigate for these impacts on site.” His contention that he identified all of the adult butterflies that he observed to their sex as they flew past him, and presumably sometimes landing, is absurd; silverspots show substantial sexual dimorphism, but not so much that all individuals can be discriminated by sex without capture in a field situation. More incredible is Arnold’s contention that he could assess color characteristics of each individual (which, by the way, must be assessed from less often-exposed dorsal wing surfaces) and categorize them into three character states in a field situation, with presumably no in-hand vouchers for comparison. The numbers and categorization are not

credible. I interpret his ad hoc taxonomic assessment as lacking any reliability whatsoever.

What can be harvested from Arnold's report? Butterflies of the "full" species *Speyeria callippe* and the larval host plants that they use apparently do exist on the Oak Grove property. No other contentions or suppositions by Arnold are supported by information in the document. His categorization of adult butterflies into three phenotypic groups cannot be used to assess the taxonomic status of the presumptive resident population. That stated, a population of butterflies in which about a fifth of individuals approach the wing coloration of a given named subspecies is normally not accorded that name. In my professional judgment, no evidence exists that supports the position that the name *Speyeria callippe callippe* is appropriate for the silverspot butterfly population that exists on and near the Oak Grove site. I do not believe that development on the Oak Grove site will result in the take of the endangered callippe silverspot butterfly.

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**APPENDIX N**  
**PUD-33, Oak Grove**  
**Draft Environmental Impact Report Distribution List**

*Note: The following does not include the names of the individuals that spoke at the August 23, 2006 Planning Commission public hearing on the Draft Environmental Impact Report. Information is forthcoming.*

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Airport Land Use Commission Attn: Cindy Horvath 224 West Winton Avenue Hayward, California 94544	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Alameda County Flood Control District Zone 7 Attn: John Koltz 100 North Canyon Parkway Livermore, California 94551	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	Letter 08/14/06
Congestion Management Agency 1333 Broadway, Suite 220 Oakland, California 94612	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
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Caltrans/District 4 Environmental Analysis Branch 111 Grand Avenue Oakland, California 94612	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	Letter 08/01/06
Caltrans/District 4 Transport Planning Attn: Kit Curtiss P.O. Box 23660 Oakland, California 94623-0660	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Department of Conservation 801 "K" Street Sacramento, California 95814	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline

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Department of Transportation P.O. Box 942873 Sacramento, California 94273	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
California Regional Water Quality Control Board Attn: Brian Wines, Water Resources Control Engineer South and East Bay Watershed Region 1515 Clay Street Oakland, California 94612	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	Letter 08/18/06
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Secretary for Resources 1416 Ninth Street, Suite 1311 Sacramento, California 95814	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
State Clearinghouse Office of Planning and Research 1400 Tenth Street, Suite 121 Sacramento, California 95814	15 hardbound 15 CDs	06/30/06	Bill Clark, Applicant's Consultant	No comments received by 8/29/06 deadline
Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, California 94612	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline

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Wes Jost Development Services Manager	1 hardbound	07/10/06	Marion Pavan, Associate Planner	No comments received by 8/29/06 deadline

**City of Pleasanton Residents**

Allen Roberts 29 Grey Eagle Court Pleasanton, California 94566	1 hardbound	07/10/06	Terry Snyder for Marion Pavan	PC Testimony 07/12/06 Letter 07/11/06
Anne Fox (Planning Commissioner)	1 hardbound 1 CD	06/30/06	Central Services for Marion Pavan	PC Testimony 07/12/06 08/23/06 Letter 08/29/06
Bing and Laura Hadley 1210 Hearst Drive bing_hadley@agilent.com (925) 417-1579	1 hardbound 1 CD	07/05/06	Marion Pavan, Associate Planner	Email 08/29/06
Bob and Denise Howe 3228 Arbor Drive bobhowe3@comcast.net denisehowe2@comcast.net (925) 484-4214	1 hardbound	07/07/06	Marion Pavan, Associate Planner	Emails 07/12/06 07/26/06

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Jeff and Carolyn Newton 3793 Smallwood Court Pleasanton, California 94566 CEEN3@aol.com	1 hardbound	08/23/06	Marion Pavan, Associate Planner	Email 08/30/06 (01:08 a.m.)
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Louis and Susan Astbury 1375 Hearst Drive Pleasanton, California 94566 (925) 417-5957 <a href="mailto:lou.astbury@hydro.com">lou.astbury@hydro.com</a> <a href="mailto:SuduA@aol.com">SuduA@aol.com</a>	1 hardbound	07/11/06	Marion Pavan, Associate Planner	No comments received by 8/29/06 deadline
Mary Murali 1159 Mataro Court Pleasanton, California 94566 <a href="mailto:muraliandmary@yahoo.com">muraliandmary@yahoo.com</a>				Email 07/20/06
Michael and Teresa Regan 1363 Hearst Drive Pleasanton, California 94566 <a href="mailto:mregan@emphasysmedical.com">mregan@emphasysmedical.com</a> <a href="mailto:thregan@aol.com">thregan@aol.com</a> (925) 485-7992	1 hardbound 1 CD	07/05/06	Bing Hadley for Marion Pavan	PC Testimony 07/12/06 Email 08/29/06
Peggy Santora 4201 Grant Court Pleasanton, California 94566 (925) 426-1058 <a href="mailto:pegsantora@aol.com">pegsantora@aol.com</a>	1 hardbound	07/11/06	Marion Pavan, Associate Planner	No comments received by 8/29/06 deadline
Phil Blank (as himself) 1339 Hearst Drive Pleasanton, California 94566				PC Testimony 07/12/06
Rich Cimino 1281 Ridgewood Road Pleasanton, California 94566	1 hardbound	07/10/06	Steve Otto for Marion Pavan	No comments received by 8/29/06 deadline
Russell Schmidt 18 Grey Eagle Court Pleasanton, California 94566				PC Testimony 07/12/06
Steven Jacoby 3 Red Feather Court Pleasanton, California 94566 <a href="mailto:srjacoby@comcastnet">srjacoby@comcastnet</a>				Email 08/07/23/06

#### **Federal Departments/Agencies**

Army Corps of Engineers Attn: Calvin Fong/Regulatory Branch 333 Market Street, 8 <sup>th</sup> Floor San Francisco, California 94105-2197	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Federal Aviation Administration (FAA) 831 Mitten Road Burlingame, California 94010	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline

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United States Fish and Wildlife Service Sacramento Office Attn: Rylan Olah, Chief of the Coast Bay Delta Branch 2800 Cottage Way, Room W-2605 Sacramento, California 95825	1 hardbound	07/21/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline

**Media**

Pleasanton Weekly Attn: Jeb Bing 5506 Sunol Boulevard, Suite 100 Pleasanton, California 94566	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
The Independent Attn: Janet Armantrout P.O. Box 1198 Livermore, California 94550	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
The Valley Times Attn: Chris Metinko P.O. Box 607 Pleasanton, California 94566	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Tri-Valley Herald 4770 Willow Road Pleasanton, California 94588	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline

**Miscellaneous**

Adams, Broadwell, Joseph, and Car-doza Attn: Casey J. Sondgeroth 601 gateway Boulevard, Suite 1000 South San Francisco, California 94080	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Marty Inderbitzen, Applicant's Representative	10 hardbound 1 CD	07/07/06	Marion Pavan, Associate Planner	Email 08/29/06
Melissa Holmes Greenbriar Homes 43160 Osgood Road Fremont, California 94539 (510) 497-8200	1 hardbound	07/11/06	Marion Pavan, Associate Planner	No comments received by 8/29/06 deadline

**Public/Private Committees, Organizations, and Societies**

Andrew Galvin Native American Indian Consultant P.O. Box 3152 Mission San Jose, California 94539	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
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California Native Plant Society East Bay Chapter Attn: Lech Naumovich Conservation Analyst P.O. Box 5597 Elmwood Station Berkeley, California 94705 lechroy@gmail.com	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	Email 08/29/06
Preserve Area Ridglands Committee (PARC) 1262 Madison Street Livermore, California 94550	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Pleasanton Chamber of Commerce Attn: David Bouchard 777 Peters Avenue Pleasanton, California 94566	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
<b>Public Utilities</b>				
Dublin San Ramon Services District (DSRSD) Attn: Nancy Gamble Hatfield 7051 Dublin Boulevard Dublin, California 94568	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	Letter 7/26/06
Pacific Bell Attn: Millie Tabayoyon 2600 Camino Ramon, Room 3N700	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Pacific Gas & Electric 998 Murrieta Boulevard Livermore, California 94550	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
<b>Regional Agencies and Special Districts</b>				
Association of Bay Area Governments (ABAG) Local Clearing House P.O. Box 2050 Oakland, California 94604-2050	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
East Bay Regional Park District Attn: Brian W. Holt Senior Planner P.O. Box 5381 Oakland, California 94605-0381	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	Letter 08/28/06
Livermore-Amador Valley Transit Authority 1362 Rutan Court, Suite 100 Livermore, California 94551	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline

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Pleasanton Unified School District Attn: Sandra Lemmons 4665 Bernal Avenue Pleasanton, California 94566	1 hardbound	07/06/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
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Tri-Valley Agricultural Commission 224 West Winton Avenue, Suite 2184 Livermore, California 94544	1 hardbound	07/11/06	Terry Snyder for Marion Pavan	No comments received by 8/29/06 deadline
Tri-Valley Conservancy Attn: Sharon Burnham, Executive Director 1736 Homes Street, Building B Livermore, California 94550	1 hardbound	07/19/06	Mary Lu Campbell for Marion Pavan	No comments received by 8/29/06 deadline

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