From: Paul and Karen Altamirano <
Sent: Monday, November 28, 2022 6:39 AM
To: Clerk of the Board
Subject: Public Comment for Nov 29 BOS meeting, Spieker Project

Attention Board of Supervisors:

My husband and I are current owners and residents on Club View Terrace in Walnut Creek, adjacent to the proposed Spieker project.

We oppose this project and cannot believe that the Board of Supervisors and City of Walnut Creek would want and allow a massive development like this to be put in an area currently zoned for residential development. The proposed project is an overly massive development that we feel will adversely impact the adjacent properties and surrounding neighborhood. The Spieker project serves wealthy seniors and does not provide affordable housing in Contra Costa County. The current project as proposed is a gated community, surrounded by walls that will be inaccessible to the public unless visiting current residents.

We strongly feel that any development on Seven Hills Ranch should include some component of public access, with hiking and bike trails that connect through to Heather Farms Park. An open design plan would be much more harmonious with the current community instead of this proposed closed off concrete compound. The adjacent properties to the one main entrance, and the proposed Independent Living Apartments will no doubt be adversely affected by this massive development. Imagine a Target in your back yard towering above your property.

The primary purpose of zoning as we understand it, is to segregate uses that are thought to be **incompatible**. In practice, zoning is also used to prevent new development from interfering with existing uses and/or to preserve the "character" of a community. The Spieker project as proposed is incompatible with the surrounding community, will definitely interfere with the existing community and will **completely** change the "character" of our community. Do you care?

We ask that you, the Board of Supervisors, **deny** the General Plan Amendment.

Thank you for your time.
Paul and Karen Altamirano

156

From: Moira Pyne <
Sent: Monday, November 28, 2022 9:39 AM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment

This is Public Comment on the Draft EIR for County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038, The Spieker Senior Continuing Care Retirement Project.

As a resident of Contra Costa County, I am concerned with the adverse impact upon the native wildlife, environment and irreplaceable scenic views the Spieker Proposal will have.

More specifically: the trees of Seven Hills Ranch serve as a home and migratory host for an abundance of bird species. The Ranch is located directly next to Heather Farm Park. The park is nationally recognized; so much so that it is a designated eBird 'hotspot'. The proposal for Seven Hills Ranch calls for the removal of 400 mature trees, including California Oaks. To allow such a massive removal of native trees and the resultant permanent impact it will have on avian life for the Ranch and the surrounding area is not acceptable, nor is the adverse climate impact from the reduction in trees.

In addition: I ask that the County recognize that the proposal for Seven Hills Ranch does not allow for any wildlife corridors but is instead a walled-off, inaccessible compound. The Ranch is home and habitat to a profusion of animal life; it is where they live and/or travel through to find resources, such as food and water. It is part of a wildlife corridor that stretches from Mt. Diablo and down through Shell Ridge, eventually following along the Walnut Creek to reach the delta. The Spieker proposal for Seven Hills Ranch cuts off a critical habitat along this route removing an essential food source resulting in unthinkable consequences for the lives of the animals.

We need housing. But is this the housing needed? This proposal does not fulfill a needed category of the RHNA - Regional Housing Needs Allocation - for Contra Costa County or Walnut Creek.
It's not "Moderate income" workforce or family housing, it's a special "Above-Moderate income" type of Senior housing, called a Continuing Care Retirement Community (CCRC). Both Contra Costa County and Walnut Creek have fulfilled more than the RHNA required Above-Moderate income category while the Moderate and lower category fulfillment falls short. Additionally, Walnut Creek not only has an abundance of Senior living options, but it also currently has 524 CCRC units open or opening soon.

Moira J Pyne

157

From: Save Seven Hills Ranch <SaveSevenHillsRanch@gmail.com>
Sent: Monday, November 28, 2022 9:54 AM
To: Clerk of the Board
Cc: John Kopchik
Subject: Request to speak in order for 11/29/22 BOS meeting Public Comment Item D1
Attachments: Names of Reader List - BOS 11.29.22.pdf

John Kopchick has informed us that the Chair for tomorrow's Board of Supervisor meeting is open to honoring requests to have a specified group of speakers be called in order for Public Comment for item D1, though each individual speaker will be given the same amount of time (2 minutes) that they cannot not cede to anyone else.

We appreciate this very much. However, we are not sure to whom and at what point in time we should submit our list. **Can you please advise on how we should proceed?**

Attached is our list of individuals we wish to have called in order.

Michele Sheehan
Save Seven Hills Ranch

Public Comment Speakers for *Save Seven Hills Ranch* to be called consecutively for Nov 29, 2022, Board of Supervisors meeting.

1. Paul Altarino
2. Nancy Vasko
3. Amy Ayala
4. Pat McGowen
5. Marian Harris
6. Jan Warren
7. Marilyn Thorne
8. Janet Mahoney
9. Brandon O'Sullivan
10. Lori Moirao
11. Steve Curtis
12. Melissa Pettit
13. Chuck Clancy
14. Olesya Epps
15. Sam Van Zandt
16. William Morrissey
17. Stephanie Dark
18. Claudia Soto
19. Stan Roe
20. Laura Lee
21. Jim Frey
22. Oz Kozaci
23. Dianne Yoder
24. Michele Sheehan

159

From: Bob Joe <
Sent: Monday, November 28, 2022 10:00 AM
To: Clerk of the Board
Subject: SAVE SEVEN HILLS RANACH

PLEASE SAVE SEVEN HILLS RANCH. DENY THE DEVELOPMENT, KEEP IT GREEN!

THANK YOU,
BOB

Robert Joe
BobJoeWC@gmail.com

160

From: Marcia Newey
Sent: Monday, November 28, 2022 10:19 AM
To: Clerk of the Board
Subject: Deny the General Plan Amendment for Seven Hills Ranch
Attachments: 2000 WC General Plan Vision2005 pg162 - Kinross Dr not connect.pdf; 2004 10-28-2004 WCPComm No Kinross Ext - Trail Promise-1.pdf; 2004 11.16.2004 Batch (4a) WCCC Staff Report and Attachments [Released Docs 2021 1.27.21].pdf

11/28/2022

To: Contra Costa County Board of Supervisors
Fr: Marcia Newey, Resident of Heather Farms HOA
Re: General Plan Amendment for Spieker Development

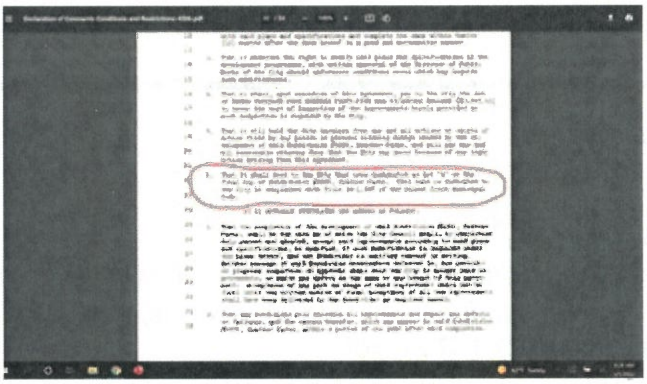
As a 37 year resident of Walnut Creek I am asking the Board of Supervisors to deny the applicant's request for a General Plan Amendment to change the land use designation. The proposed development is not in keeping with the residential neighborhoods that surround it and will additionally increase commercial-type traffic and stress on the community's streets and infrastructure.

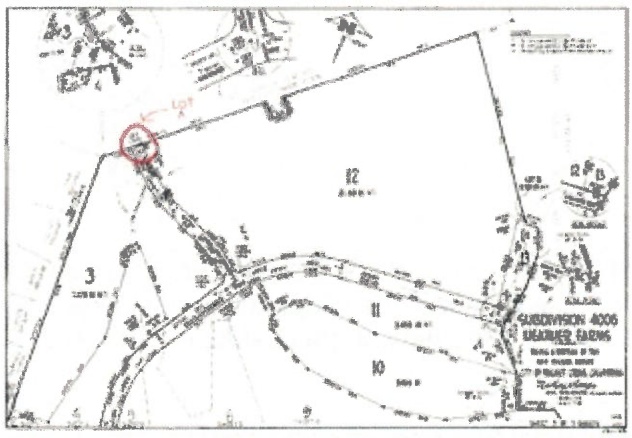
The Contra Costa General Plan states: 3-27, "Existing residential neighborhoods shall be protected form incompatible land uses and traffic levels exceeding adopted service standards." It goes on to say "Preservation and conservation of open space, wetlands, parks, hillsides and ridge lines should be encouraged as it is crucial to preserve the continued availability of unique habitats for wildlife and plants, protect unique scenery, and provide a wide range of recreational opportunities for county residents." While we recognize the huge push for housing we ask that it be sensible and incorporate accessible open space pathways. The proposal is for a massive closed-off gated compound with a guard shack entry planned. The City of Walnut Creek strongly discourages gated entries and we ask that the County recognize the impact on the Walnut Creek Community and ask for a proposal which meets the city's design standards.

In years past and in various City of Walnut Creek documents the City has undertaken various actions and repeatedly expressed that Kinross Dr. shall not be connected to Seven Hills Ranch. They sought to protect neighborhoods and their community from the dramatic change and additional impact that would come from such a thoroughfare. As another entrance to that property already existed and still exists they were not and are not denying access to the property. In my written comment I have included copies of the various City documents.

Traffic reports submitted to the County on this proposal do not account for the commercial traffic, the emergency traffic, the 225 part-time equivalent employees - which actually could be upwards of 500 employees - the accessory help and visitors. The proposal calls for 594 parking spaces, 80 of which are next to the Health Care Facility which will be open to the public. The reports are based on the belief that Senior residents of the development will not be driving outside the compound, an unproven hypothesis. Ygnacio Valley Road is impacted hourly regardless of the time of day. The developer has stated they want to locate in Walnut Creek because of the available amenities. People drive to these amenities and Seniors definitely drive. Please align your viewpoint with that of the City of Walnut Creek's historical records and deny this high-volume, high impact development to proceed in order to protect existing neighborhoods and community roadways.

Many of these impacts can be avoided by denying the General Plan Amendment request by the applicant. A less dense development means less impact in many ways including neighborhood disruption and roadway impacts.




12
3
11
10
SUBDIVISION 4006
MEADOWS FARMS

San Luis Road: San Luis Road should be improved to collector street status with the completion of frontage improvements between North Main Street and Buena Vista Avenue.

Walnut Boulevard: Walnut Boulevard needs several minor improvements along the entire street to provide additional safety measures. Exposed drainage ditches, particularly in the northern section of the street, should be covered. Other segments of the street need various safety improvements, but no widening beyond two lanes is proposed.

e. Local Street Recommendations and Improvements

Numerous improvements are needed to local streets within the planning area. Since individual local streets do not usually play an important role in the City's overall circulation system, no attempt has been made to evaluate these streets. However, in a few circumstances, local streets were discussed in the planning process because of external factors or changes from previous City policies. Because of the lack of arterials, local streets in some cases may be impacted by non-local traffic and may warrant traffic diverters or other protective devices.

Central Road: This road (formerly Crokaerts Road) should be retained as a service street between North Main Street and North Broadway. Access should be restricted to right turn in, right turn out at both ends. Once it is improved to City street standards it should be accepted into the City street system.

Commercial Lane: Commercial Lane should be maintained as a Service roadway providing delivery service to business on Main Street and Locust Street.

Kinross Drive: Kinross Drive shall not be connected to Seven Hills Ranch Road.

South Locust Street: South Locust Street should be extended south from Olympic Boulevard to Botelho Drive. *(Reso. 99-17 adopted 4/6/99)*

Wilson Lane: Wilson Lane should be extended as a service road between Lincoln and Duncan Streets to serve as a rear loading alley for business on Main Street and North Broadway.

f. Residential Collector Street Recommendations.

The City has received numerous complaints regarding automobiles exceeding the speed limits on residential collector streets such as Lancaster Road. In response to these citizen concerns, the City is

WALNUT CREEK PLANNING COMMISSION
REGULAR MEETING MINUTES October 28, 2004
7:00 p.m.

COMMISSIONERS PRESENT: Larsen, Jorgensen, Kaplan, Moore, Pickett, Silva, Simmons

COMMISSIONERS ABSENT: None

STAFF PRESENT: Planning Manager Sandra Meyer
Senior Planner Scott Harriman
Senior Planner Janice Stern
Associate Planner Alan Carreon
Assistant Planner Deborah Han
Assistant City Attorney Margaret Kotzebue

Chair Larsen called the Planning Commission meeting to order at 7:08 p.m. in the City Council Chambers, City Hall.

ADDITIONS/WITHDRAWALS/CONTINUANCES
None.

PUBLIC COMMUNICATIONS
None.

CONSENT CALENDAR

a. **Adopt Meeting Schedule for 2005**
b. **Approve minutes of September 23, 2004**

On motion of Commissioner Pickett, seconded by Commissioner Jorgensen, the Commission present voted unanimously to approve the Consent Calendar.

AYES: Pickett, Jorgensen, Kaplan, Larsen, Moore, Silva, Simmons.
NOES: None.
ABSENT: None.
ABSTAIN: Kaplan, Silva, Simmons (on item b only).

Motion passed.

PUBLIC HEARINGS

1. **GENERAL PLAN 2025** – Staff will provide a status report, and the Planning Commission may discuss and provide direction to staff on issues arising from the General Plan update.

Senior Planner Janice Stern presented the staff report, discussing the meeting this week that completed the review of goals, policies and actions. She gave highlights of the discussions on urban design and community support systems. She also reviewed the possible time schedule for the rest of the process before the Plan is passed on to the Planning Commission.

Commissioner Pickett asked when the community meetings would be held. Ms. Stern said Wednesday, November 17th in the evening and Saturday, November 20th in the morning, to discuss plan alternatives.

Chair Larsen encouraged public attendance and participation in the process.

2. **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course. The project is situated at the end of Kinross Drive, north of Marchbanks Drive. ZONING: P-D, Planned Development (PD 859)

Senior Planner Scott Harriman presented the staff report, reviewing the 12-lot subdivision (with one affordable unit), new private street, offsite utilities, drainage plan, rezoning requirements, location map, General Plan designation, zoning and the history of the application, including preliminary review by the Planning Commission. He noted that revised plans were provided at the dais tonight. He also discussed the site constraints that resulted in "no build" zones due to environmental concerns, landscaping, fencing, revised golf course planting area, and easements for offsite utilities and drainage.

Mr. Harriman reviewed the Mitigated Negative Declaration and summarized potential impacts and proposed mitigations, as well as public comments and responses. Staff recommends approval of the project.

Chair Larsen asked about maintenance of the "no build" zone. Mr. Harriman indicated that deed restrictions will require the owners to maintain the area.

Commissioner Silva asked about the natural fall of water runnoff from the rain. Mr. Harriman said that most of the water soaks in, although he acknowledged the occurrence of sheetflow through Kinross Drive at times of heavy rain. Development of the area should minimize the effects.

Commissioner Simmons asked whether Kinross Drive would be open to the public. Mr. Harriman said staff agrees it should be a public street. He also expressed his personal opinion that the street should not be narrowed.

Commissioner Simmons asked whether sewage would follow the same path as the storm drain. Mr. Harriman showed the routes of both the proposed sewage and storm drains.

Commissioner Simmons asked who would be responsible for necessary repairs. Mr. Harriman said it would be a private facility, maintained by the homeowners association.

Commissioner Simmons asked about the locations of open wire fencing. Mr. Harriman showed specific locations on the site plan.

Chair Larsen asked and Mr. Harriman confirmed that the narrowing of the street would be the responsibility of the applicant.

F

Commissioner Silva asked and Mr. Harriman showed the end location for the existing Kinross Drive.

Public hearing

Chair Larsen noted that the City Attorney had agreed that he did not need to recuse himself from the item.

ALAN CAMP, Delco Builders, said he had no problems with the conditions of approval. He offered to answer questions from the Commission.

Commissioner Pickett asked the yardage distance of the golf course green. Mr. Camp said it was between 140 – 150 feet. Commissioner Pickett asked and Mr. Camp confirmed the distance to the nearest house was about 100 feet. Mr. Camp also mentioned that it meets the standards for golf courses.

Commissioner Pickett asked who would be responsible for the maintenance of the landscaping along the green. Mr. Camp indicated the golf course would, since it will be on their property. Mr. Camp said the same situation would occur on the north side of the street, where the developer will supplement existing landscaping, and the Heather Farms Homeowners Association (HOA) will assume responsibility.

Commissioner Pickett asked how many private parcels will be crossed for the drainage system.

Engineer Vince D'Alo said it would only cross one parcel, and the rest of the system will be along private streets (Homestead and Seven Hills Ranch Road). He discussed the ownership of the roads by absentee heirs.

Commissioner Pickett questioned the complexity of obtaining the easements. Mr. Welm discussed the contract process and provision for maintenance of the system.

Commissioner Pickett asked if the public right-of-way would be changed. Mr. D'Alo said the entire cul-de-sac would be designated public right-of-way.

Commissioner Silva asked for clarification on the fence locations, which Mr. Camp provided, discussing the use of lattice, welded wire and solid board materials in various spots.

Commissioner Silva asked about a walk-thru to Seven Hills Ranch Road. Mr. Camp said it would be a continuation of an existing public trail, although it was not an improved trail.

DOYLE HEATON discussed the length of the application process and recent awards for best development in the City for another project, as well as the company's reputation for quality developments.

Mr. D'Alo clarified that a public trail will be established to Seven Hills Ranch Road, noting that there is not one currently. Commissioner Simmons asked where the trail would be, and Mr. D'Alo showed it on the map.

Mr. Harriman noted that the current General Plan says there shall be no connection from Kinross Spur to Seven Hills Ranch Road.

CHRIS CAIN, 955 Seven Hills Ranch Road, spoke in opposition to the rezoning, disputing staff's interpretation of the legality of converting golf course use to residential. He also disputed the description of the project as "infill development." He expressed concern about the impact of the offsite drainage on existing homes, noting that the pipes should be completely under the street. He also commented on engineering difficulties with the circular route to the creek around an existing oak tree.

Commissioner Kaplan asked the location of Mr. Cain's home, and Mr. Cain showed on the site map. Commissioner Kaplan asked for clarification about perceived precedence to allow further golf course conversion to residential use..

BRUCE HEROLD, 1556 Homestead, agreed with Mr. Cain's analysis of the history of the property. He noted that the property to the immediate west is zoned for ½-acre lots, and promises were made to the low-density neighbors that the golf course would serve as a buffer zone from higher density areas. He asked the Commission to consider ½-acre lots instead.

Mr. Herold also shared pictures of the cyclone fence along his property line, which is now covered in landscaping and his desire to keep it as such, in order to discourage deer. He also expressed concern about drainage to his lot from the natural contours of the land.

Commissioner Silva asked where the deer come in; Mr. Herold said from Homestead.

CHARLES HENDRIX, 2012 Walnut Street, said he was opposed to the development and the golf course should remain as an open space buffer zone. He commented on the impact on his property from drainage. He also commented on the multiple jurisdictions involved and the ultimate responsibility for maintenance. He questioned public posting of the project, construction traffic on Walnut Boulevard and the impact on natural wildlife in the area.

DOLLIE MALCEWICZ, President of Heather Farms Homeowners Association, questioned Mr. Camp's assertion that they will maintain the landscaping along the tennis courts, since a formal agreement has not been approved by them (or even discussed as far as she knows). Chair Larsen asked her position on the development. She indicated that some in the association were for it, and others were not, so the board was remaining neutral.

CARL SWANSON, 1515 Homestead, expressed concern about drainage and sewage and the ability of the new HOA to financially bear the responsibility. He also expressed concern about the new public trail and its impact on the quiet enjoyment of his home.

Commissioner Pickett asked about the sewer backup in his neighborhood. Mr. Swanson said he didn't know the details except that a neighbor had to leave his home for the past six months due to a break in the line.

Commissioner Silva asked the location of Mr. Swanson's home. He pointed it out on the area map.

STEVEN MEHLMAN, 2125 Oak Grove (attorney representing Robert Henderson of 1578 Siskiyou) discussed his prior experience on the Planning Commission and in the neighborhood. He commented on deficiencies in the Environmental Impact Report and agreed with Mr. Cain that this was not an infill project. He further discussed growth-inducing impacts of the development, and he also cautioned that the conditions of approval should include restriction of further development on the golf course.

Commissioner Jorgensen asked when the tennis courts were put in and confirmed they were part of the Heather Farm Planned Development in 1973.

Commissioner Jorgensen asked and Mr. Mehlman confirmed that the golf course area was originally intended as a buffer zone.

Commissioner Moore questioned whether a condition could be added restricting further development of the golf course, noting that a deed restriction or statement of intent in the findings might be more enforceable. Mr. Mehlman suggested both be done.

There was further discussion about the enforceability and legality of different options to convey the desire of the City that no more of the golf course be developed.

Commissioner Pickett asked about the location of the 7th fairway and the tennis courts, as opposed to the proposed location for this development. Mr. Mehlman discussed the original intent of the Planned Development for the golf course to serve as an open space buffer.

ROB HENDERSON, 1578 Siskiyou, discussed the history of the area and the original EIR for the property in 1984. He also read an excerpt discussing the precedence that would be set by allowing residential use on the site. He noted that legal action was being taken to block the proposed development.

JON ARCK, 509 Adirondack Way, said he had been opposed to high density development on the site, but he expressed support for this as a reasonable, well-thought-out proposal. He also encouraged the narrowing of the street to deter excessive parking in the area. He commented on his impressions of discussions with the Heather Farm HOA, noting he was a member as well.

Commissioner Jorgensen asked about the proposal to add landscaping along the tennis courts. Mr. Arck said he was familiar with the proposal but he had not seen an actual maintenance agreement.

Commissioner Kaplan confirmed the location of Mr. Arck's home. He also confirmed that Mr. Arck preferred some of the curb be red, for a no-parking area.

Commissioner Pickett confirmed that the homes on Siskiyou were in the same HOA that Mr. Arck was in. Mr. Arck said there were 359 homes in the HOA, although he acknowledged there were others in the area as well. Commissioner Simmons asked if the bylaws would allow the new residents to join the Heather Farm HOA. Mr. Arck said he was not sure.

Commissioner Simmons asked about money spent by the Heather Farm HOA for landscaping along Kinross. Mr. Arck said there is existing landscaping, but it could be improved.

ANTHONY NEWEY, 521 Adirondack, noted that 18 of 21 homeowners on his street support the project, and they live closer to the site than any other homes. He indicated that the developer has been extremely attentive to the neighbors' concerns.

In response to a question from Commissioner Kaplan, Mr. Newey said he had lived on Adirondack since 1985, and he was not involved with previous development applications for the site. Commissioner Simmons asked for clarification on when Mr. Newey talked with his neighbors about the project. Mr. Newey said it was more than two years ago.

DONNA SMITH, 1526 Siskiyou, expressed opposition to the project, commenting on possible traffic impacts on Ygnacio Valley Road.

Rebuttal

Mr. Camp discussed the flexibility of the General Plan, which allows for a review process and adjustment as the community needs change. He clarified that a landscape agreement has not been finalized with Heather Farms HOA yet, although it has been discussed with them at several community meetings with them. He apologized to Ms. Malkowitz for giving the wrong impression that a formal agreement has been completed. He expressed willingness to work with the neighbors to address their concerns. He noted that the proposed development would serve as a transition between high and low density areas.

Mr. D'Alo said that the Central Sanitary District was aware of the problem on Homestead and acknowledged that the developer will be responsible for enlarging and upgrading the equipment along the line. He noted that there would be peer review of the drainage plan as well.

Commissioner Pickett asked if the stormwater runoff into the creek would be bearable. Mr. D'Alo noted that 70% of the previous drainage to the creek had been diverted to the Walnut Creek channel, and thus the creek should be able to handle additional drainage from this development.

Chair Larsen asked and Mr. D'Alo confirmed that the applicant would be responsible for ensuring that the drainage lines would be adequate.

Commissioner Simmons asked the nature of the problem at the Homestead residence. There was some discussion of the type and size of pipes to be used for the drainage system.

Commissioner Pickett asked about the ability of the new HOA to address and repair later problems. Mr. Heaton discussed standard conditions for an HOA and the governance by the California Department of Real Estate (DRE) over homeowners associations. Commissioner Pickett confirmed that liquidity is built up over time, and the DRE will ensure there are adequate funds.

Commissioner Pickett asked about traffic impacts. Mr. Heaton noted that a traffic survey had been completed, indicating the new homes will have less impact than the ballfields at Heather Farm Park.

Commissioner Silva asked how many feet of sewer and drainage lines would be maintained by the HOA. Mr. Heaton said the HOA will maintain the storm drain, but the Central Sanitary District will maintain the sewer lines.

Commissioner Kaplan asked for staff response regarding the additional condition for no further development on the golf course. Mr. Harriman said the City could not place conditions affecting offsite land rights. City Attorney Margaret Kotzebue said the tentative map approval would only apply to this development, not the rest of the golf course.

Mr. Harriman suggested the findings for approval could address the issue. Ms. Kotzebue agreed.

Commissioner Kaplan asked about the traffic issue. Mr. Harriman discussed the traffic analysis done in 2001, which indicated minimal impacts from this development.

Commission Comment

Commissioner Moore said his support for the project had not changed from previous hearings. He said it was an appropriate land use for the site, and the Mitigated Negative Declaration adequately addressed environmental concerns. He expressed sympathy for the concerns of the neighbors, and he suggested that Mr. Herold's fence remain. He agreed that a statement in the findings could clarify the unique application to this site only, with no legal precedence intended. He also expressed appreciation to the applicant for his work with the neighbors.

Commissioner Pickett agreed with Commissioner Moore. He characterized the project as infill, relatively small in comparison with the neighborhood and not inconsistent with the original intent. He did not think approval of this development would set precedence, and he expressed support for the narrowing of Kinross and limiting parking to one side. He also indicated that the storm drain and sewer problems had been addressed by the City requirements, state regulations and oversight by the Central Sanitary District. He agreed the proximity to the golf course would not create significant impacts. He indicated his support for the project.

Commissioner Kaplan expressed appreciation for the community input. He encouraged the developer to continue to work with the neighbors to address their concerns. He indicated he supported the project with a clear statement of intent added to the findings.

Commissioner Simmons agreed the developer had done a reasonable job in responding to the neighbors. He expressed appreciation for the open wire fencing along lot one. He suggested the street should not be narrowed. He also expressed concern about adequate access to the storm drains at the end of Kinross when new vegetation is planted.

Commissioner Silva expressed appreciation to the public for their comments. She said she was sympathetic to their concerns, but she agreed that the drainage plan will be sufficient to meet the needs of the neighborhood. She too felt there would be no legal precedent, noting that it has taken 23 years for the project to reach this point with no proposal for further encroachment on the golf course.

Commissioner Jorgensen agreed the project was a reasonable proposal, especially compared to past proposals. He was especially appreciative of the affordable unit. He agreed Kinross should

not be narrowed. He indicated he would support the application, with a statement of intent in the findings.

Chair Larsen expressed agreement with the other Commissioners. He also agreed the street should not be narrowed.

On motion of Commissioner Pickett, seconded by Commissioner Jorgensen, the Commission voted unanimously to approve P-D Rezoning, Vesting Tentative Map 8457, Design Review Application No. Y03-003, with a statement of intent in the findings and agreement from the homeowners association for maintenance of the landscaping.

AYES: Pickett, Jorgensen, Kaplan, Larsen, Moore, Silva, Simmons.
NOES: None.
ABSENT: None.
ABSTAIN: None.

Motion passed.

Chair Larsen thanked the public for their attendance and comments.

The Commission recessed from 9:20 to 9:25.

3. **APPEAL OF A ZONING ADMINISTRATOR'S DECISION TO APPROVE A MINOR SUBDIVISION (MS 803-01), VARIANCE AND TREE REMOVAL PERMIT (PUBLIC HEARING)** The proposed two-lot subdivision is located at 1 Eckley Lane. ZONING: R-15 (Single Family Residential)

Senior Planner Janice Stern presented the staff report, reviewing the existing conditions at the site, zoning, General Plan designation, location map, subdivision map, zoning administrator approval and findings, and proposed tree removals. She summarized the grounds of the appeal by Gary and Judith Ginder, including the historic role of the Eckley family in Walnut Creek, inconsistencies with the Howe Homestead Park Master Plan, and the need for an environmental impact report. She also discussed staff's response to the appeal, including recommendation that the Zoning Administrator's decision be upheld.

Commissioner Jorgensen asked about the installation of curbs, streets and gutters. Ms. Stern clarified the related conditions.

Commissioner Simmons asked about other 2-story homes in the immediate area. Ms. Stern said there were none other than the Howe home, although others in the area could be upgraded to 2-story.

Commissioner Silva asked who has the responsibility to determine historical significance. Ms. Stern noted that in the absence of any City codes related to historic preservation, staff had sent a letter to the Walnut Creek Historical Society, whose response had indicated it was not a historic resource. She indicated that ultimate responsibility lies with the interested parties to bring forward significant information.

Public Hearing

SKIP BERGESEN, applicant, expressed satisfaction with the conditions of approval. He asked for Commission approval of the subdivision, noting that the aggregate size of the two lots exceeds the minimum requirement.

GARY GINDER, 549 La Vista Road, reviewed the basic issue of whether it is appropriate to destroy the Eckley home. He discussed the background of the application and research into the early family history. He also disputed staff's assertion that no new information had been brought related to the significance of the home.

JUDITH GINDER discussed the letter from the historical society about the inventory of potentially significant historic structures in the City, as well as the role of the Eckley family.

Mr. Ginder concluded with a discussion of the current list of historic structures, noting that not being on it does not preclude a structure from historic preservation. He also discussed the need for a City ordinance to address the issues. He asked the Commission to grant the appeal, sending the item back to staff to determine whether the house can be moved onto Howe Homestead Park. He also commented on the intent of the Howe Master Plan, and questioned why the City has done nothing to make the homestead into a public park.

Commissioner Simmons commended the Ginders for their careful research. He asked whether the Eckley home is unique in terms of structure or architectural style. Mr. Ginder said it wasn't, but he noted that there are other historic homes whose only significance is the person or people who lived there.

Commissioner Pickett asked if the possibility of moving the house was raised at the Zoning Administrator hearing. Mr. Ginder acknowledged it was not specifically discussed.

Chair Larsen asked who would be responsible for moving the house. Mr. Ginder said Mr. Bergesen could probably move it more cheaply than demolishing it.

ED HIRSHBERG discussed his experiences with moving structures. He indicated the building would probably not survive the move, or at best, would require extensive repair and renovation after moving it.

Commissioner Kaplan asked about the possibility of moving the structure, but not restoring it to habitable condition. Mr. Hirshberg said it would still need a lot of work.

DAVID SKINNER, 3018 Walnut Boulevard, discussed his 30 years experience with the city of Oakland Parks Department and the impact from the loss of open space. He said subdividing the lot would have a negative impact on Howe Park.

Commissioner Kaplan asked if Mr. Skinner thought the City should buy the property. Mr. Skinner said yes, the City should consider purchasing the property and adding it to the park space.

PRIMO FACCHINI, President of the Walnut Creek Historical Society, said Mr. Ginder's presentation was accurate and helpful. He noted that Mr. Ginder was a member of the Society

Commissioner Silva asked about the hours of operation, which the applicant reviewed. At the suggestion of Commissioner Silva, Planning Manager Sandra Meyer agreed the hours could be clarified in the conditions.

Mr. Boyers thanked Lieutenant Skinner for his assistance and attendance at the meeting.

Assistant City Attorney Margaret Kotzebue added a CEQA statement to the conditions.

Commission Comment

On motion by Commissioner Moore, seconded by Commissioner Kaplan, the Commission voted unanimously to approve Conditional Use Permit Application No. Y04-094, with clarification to the hours of operation.

AYES: Moore, Kaplan, Jorgensen, Larsen, Pickett, Silva, Simmons.
NOES: None.
ABSENT: None.
ABSTAIN: None.

Motion passed.

COMMISSION CONSIDERATIONS

None.

CORRESPONDENCE

None.

STAFF'S BRIEF ANNOUNCEMENT OR BRIEF REPORTS ON HIS OR HER ACTIVITIES

None.

COMMISSIONERS' BRIEF ANNOUNCEMENTS OR BRIEF REPORTS ON HIS OR HER ACTIVITIES

None.

ADJOURNMENT

Chair Larsen adjourned the Planning Commission meeting at 11:45 p.m. to the next special meeting November 4, 2004.

SANDRA MEYER, Secretary
Walnut Creek Planning Commission

CITY OF WALNUT CREEK

Agenda Item No. 5

AGENDA REPORT

DATE: NOVEMBER 16, 2004

TO: CITY COUNCIL

FROM: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING

SUBJECT: **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course situated at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006).

STATEMENT OF THE ISSUE:

The applicant is requesting that the City Council approve rezoning of a 3.58-acre site to allow for the development of a 12-unit residential subdivision on a vacant portion of the Diablo Hills Golf Course at the end of Kinross Drive, north of Marchbanks Drive. The proposed Kinross Terrace rezoning and tentative map has been reviewed at public hearings before the Planning and Design Review Commissions and has been revised a number of times in response to comments received by staff, the neighborhood, and Commissions. On October 28, 2004, the Planning Commission voted unanimously to recommend that the City Council adopt the Mitigated Negative Declaration and approve the Kinross Terrace rezoning.

RECOMMENDED ACTION:

The Planning Commission and staff recommend approval of the Mitigated Negative Declaration and the proposed P-D, Planned District rezoning.

DISCUSSION:

Background: The 3.58-acre project is situated within PD 859, which was adopted in 1966 as part of the Heather Farms development. PD 859 was approved with a mix of single and multi-family homes up to a maximum of 1,150 dwelling units, a nine-hole private golf course and clubhouse. The PD allowed clustering of homes on approximately 78-acres throughout the 150-acre site. The nine-hole golf course and accessory uses (parking, club house, driving range, etc) would occupy the remaining land area. PD 859 also set aside approximately 52 acres for a city park (future home of Heather Farms park). At some point in the mid 1970's the golf course was altered to shorten the 6th hole and redirect the 7th hole, eliminating the

proposed project site from active play. Shortly thereafter, three tennis courts were installed by the original developer at the northwest corner of Marchbanks and Kinross Drives in the proximity of the original 7th hole. Since that time, the remaining 3.58-acre portion of the site, where the 6th hole was originally located, has remained vacant.

In the mid-1980's, an application to develop the 3.58-acre site for a 51-unit condominium project was submitted. A draft environmental impact report was prepared and circulated on the proposed 51-unit project. The application was, however, withdrawn by the project sponsor prior to any city action. A proposal in 1996 for 20 units was also withdrawn prior to any city action.

Project Description: The project proposes construction of a 12-lot residential subdivision on a vacant 3.58-acre site consisting of 10 detached units and 2 attached units. Lot sizes for the 2 attached units are 3,916 and 4,992-sqaure feet. The other ten lots range from 5,476 (Lot 10) to 30,208-square feet (Lot 1). The average lot size is approximately 11,300-square feet.

The project is located on land that was previously filled for the 6th hole of the golf course as described above. Presently the site contains native grasses and a number of trees planted as part of the golf course. Surrounding land uses include single-family residences on the knoll above to the north, multi-family residences to the east (Stoneridge Apartments), golf course property to the south, and single-family residences below to the west. A portion of the project site is adjacent to the Seven Hills Ranch property, which is an unincorporated property.

General Plan Land Use and Zoning: The 3.58-acre project site is designated MFL, Multifamily Low (6 to 14 du/ac) in the General Plan. The multi-family low designation envisions higher densities in close proximity to commercial and job centers and to serve as transition between single-family neighborhoods and commercial or higher density areas. The proposed 12 detached dwellings on 3.58-acres represent a density of 3 units per acre when viewed independently. Within the context of the entire planned district, a density of 6.6 units per acres is achieved.

The current PD 859 zoning establishes a maximum density of 1,150 units on approximately 78-acres throughout the 150-acre development. Currently, the Planned District contains approximately 986 units which would increase by 12 to 998-units should the project gain approval. The PD allows for a mix of unit types clustered around the private golf course. The proposed 12-lot subdivision would not exceed the maximum allowable density as established in the existing PD district regulations and would be consistent with the Multi-Family Low General Plan designation of 6 to 14 units per acre.

Other General Plan policies that relate to the proposed project include: Residential Development Policy 3, allowing infill development consistent with character of existing neighborhoods; Policy 7, prohibiting land use changes in residential areas unless findings can be made that character and integrity of neighborhood is preserved; City Design Program 8.1, Discourage gated communities and private streets; and Local Street Recommendation and Improvements, which states that Kinross Drive shall not be connected to Seven Hills Ranch Road.

The project is subject to General Plan Housing Element Policy 13.21 which requires 10% of the units within a for-sale project to be affordable to moderate income households. Based on the provisions in effect during the project review, the project would be required to provide 1 affordable unit. The applicant has designated Lot 8 as the affordable unit.

Environmental Review: A proposed Mitigated Negative Declaration has been prepared and may be considered for recommendation to the City Council (Attachment 3). Pursuant to the City's Environmental Review Regulations, the City Council is responsible for adopting the proposed Mitigated Negative Declaration (MND) to be used in consideration of the proposed development and P-D, Planned Development Rezoning. The proposed MND was released for public review on September 28, 2004 and comments were solicited for a 30-day period ending on October 28, 2004.

The proposed MND evaluated the proposed project and concluded that the proposed project incorporates appropriate measures that would avoid or reduce potential impacts to a less-than-significant level and the project could not have a significant effect on the environment. Proposed mitigation measures have been incorporated into the Mitigated Negative Declaration for adoption as part of proposed project approval.

On October 19, 2004, a letter was received, signed by five area residents, requesting reconsideration of the decision to prepare a Mitigated Negative Declaration and specifying a number of concerns (Attachment 4). In review of the comments received, staff believes that no new information or substantial evidence is presented that the project may cause a significant impact on the environment. A response to these comments is provided (Attachment 5).

Based on the analysis and discussion contained in this staff report and the administrative record as a whole, staff and the Planning Commission believe that findings can be made to adopt the proposed MND.

Tree Preservation/Removal: A tree report, dated March 6, 2003, was prepared for the project by Treescapes, Inc. to evaluate on-site trees (Attachment 6). 52 trees were evaluated; 43 on-site and 9 on immediately adjacent off site properties. Of the 45 trees on site, the project proposes preservation of 20 trees and the removal of 23 . Compliance with the City's Tree Preservation Ordinance and the project's tree report have been incorporated in the projects through mitigation measures contained in the Mitigated Negative Declaration for the project. All on-site and off-site trees shown on the grading plans to be saved will be protected during construction and will be bonded as set forth by the Tree Preservation Ordinance.

A tree report, dated August 8, 2004, was prepared by Joseph McNeil, Consulting Arborist, to evaluate trees adjacent to the off-site storm drain and sanitary sewer lines under Homestead Avenue and Seven Hills Ranch Road (Attachment 7). The report concludes that no trees (other than 2 dead poplar trees) would be removed and that excavation within driplines of trees would be accomplished by hand or with water or air spade. Compliance with recommendations contained in this arborist report and bonding as required by the City's Tree Preservation Ordinance have been incorporated into the mitigated negative declaration.

Referral comments for the City Arborist indicate that of the 23 proposed on-site tree removals, 19 trees comply with criteria for removal and can be authorized by staff. The remaining 5 trees to be removed (474, 485, 488, 1814, 1815) are highly protected Valley Oaks and require City Council approval. These trees are identified as being in reasonably good health but would be impacted by the proposed development.

The City Council, as the highest approving body, must consider the Tree Removal and Dripline Encroachment Permit applications for trees that have not been approved by the City Arborist for removal. The City Council may approve the removal or dripline encroachment permit for, a highly protected tree only if it finds that the burden to the applicant in not removing or encroaching within the dripline greatly outweighs the benefit to the public and that not removing or encroaching within the dripline of the tree would severely reduce the scale or feasibility of the development.

The Planning Commission and staff believe that the City Council can make the required findings for removal of the 5 on-site trees and for the dripline encroachments due to the site constraints associated with preserving wet land areas and open spaces throughout the site, and removing the non-engineered fill soil that was installed in the 1960's with the development of the golf course. These constraints limit development of the site requiring greater land area to achieve desirable residential densities.

Preliminary landscape plans indicate that approximately 20 London Plane, 12 Flowering Pear tree in 24-inch box size. The plan also provides over 60 15-gallon trees throughout the site including Japanese Maple, Camphor, Evergreen Dogwood, Raywood Ash, Crape Myrtle, and Coast Redwood trees. The resulting tree planting will result in a net increase in tree cover. With the additional trees provided, the Commission believes that the proposed landscape plan will appropriately address the mitigation for the tree removals and provide tree plantings consistent with the surrounding neighborhood. Findings and conditions contained in the attached draft resolution support the tree removal, dripline encroachments, and preservation plan.

Sewer and Storm Water Drainage: In the initial phase of development review the project proposed a sewer pump and an on-site, underground storm water retention system. Referral comments from the City Engineering Division and the County Sanitation District recommended revisions to the proposed utility services to provide gravity systems. In response, the applicant has revised their plan to provide gravity systems to existing off-site facilities through easements on private property. A new 8-inch sewer line serving the proposed development would be routed to the west through an adjacent residential lot (Collins property), to an existing 6-inch sewer line in Homestead Avenue. A new 15-inch storm water pipe would be routed westerly, again through the Collins property, northerly along Homestead Avenue, then westerly along Seven Hills Ranch Road to discharge into an existing creek.

While these off-site utilities function hydraulically, the underground lines cross private property and require easements. The applicant has stated that they are working with the Collins property owners to secure an easement, although it has not been finalized or recorded. In addition, research has revealed that Homestead Avenue and Seven Hills Ranch Road, while appearing as public roads, have never been dedicated or accepted by either the City or County and remain privately held property. As specified in the Mitigated Negative Declaration, the City would not condemn off-site private properties to satisfy requirements for a private development. Mitigation measures require that the applicant secure the necessary off-site easements prior to approval of a final map.

Reduced width of Kinross Drive: In the applicant's initial discussions with neighbors in the vicinity of the project site, concerns about parking and inappropriate activities on the dead end portion of Kinross Drive were raised. There was a general consensus of surrounding neighbors that narrowing the roadway would reduce or eliminate the perceived nuisance. The applicant offered to reduce the width of the public street as part of this development proposal to eliminate parking on one side of the street.

Comments received from residents on the Mitigated Negative Declaration question the project's proposal to reduce the width of Kinross Drive citing the loss of street parking adjacent to neighborhood serving tennis courts. Staff noted that both the reduced and current widths are consistent with City roadway standards. The Planning Commission determined that the current street width was consistent with the surrounding streets and provided more street parking. The Commission also felt that the project provides an active use and would eliminate nuisance activities associated with the dead end street. In moving to approve the Tentative Map, the Planning Commission specified that the public Kinross Drive should remain at its current width.

Precedent for further golf course development: Comments from area residents received through out the review process expressed concern that this development proposal would set a precedent for further development of the private Diablo Hills Golf Course. Comments received on the Mitigated Negative Declaration requested that a condition be established with this development that would prohibit any further development of the golf course. While the Planning Commission acknowledged they could not place a condition on the private golf course with this application, they did add a finding to the proposed rezoning recommendation expressing strong support for preservation of the golf course and noting the context of the approval recommendation is based on the projects unique site characteristics along a dead end street and having been historically removed from active golf course use.

DOCUMENTS ATTACHED:

1. Location Map
2. Project Plans
3. Mitigated Negative Declaration and Initial Study
4. Comment Letters and Responses
5. Tree Report (on-site trees), prepared by Treescapes, Inc. dated March 2003
6. Tree Report (off-site trees), prepared by Joseph McNeil Consulting Arborist, dated August 2004
7. October 28, 2004 Planning Commission staff report
8. Planning Commission Resolution 3329 (Recommendation on Rezoning)
9. Planning Commission Resolution 3330 (Tent Map approval, subject to Council action)
10. Proposed P-D, Planned Development Ordinance
11. City Council Resolution (Mitigated Neg Dec and Tree Removal)

COUNCIL ACTION NEEDED:

1. Move to adopt the Resolution approving the Mitigated Negative Declaration and Tree Removal Permit, and
2. Move to introduce and waive further reading of the proposed Planned Development Ordinance and Rezoning

Prepared By: Scott Harriman, AICP

Planning Manager

Community Development Director

Approved By:
City Manager

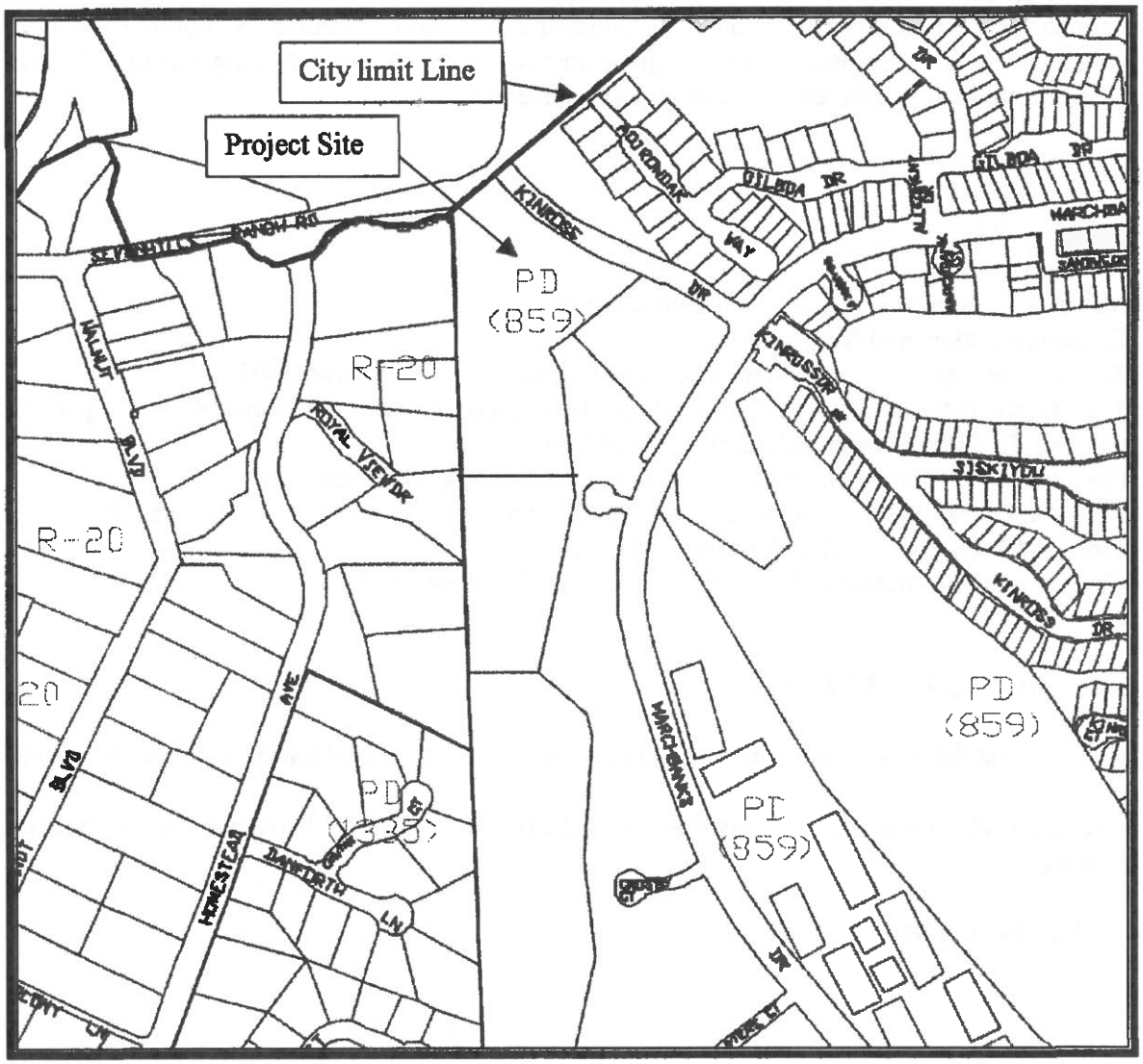
H:\Scott Harriman\Kinross Terrace Subdivision\CC Staff Report 11-16-04.doc

ATTACHMENT 1

City of Walnut Creek

Kinross Terrace Subdivision

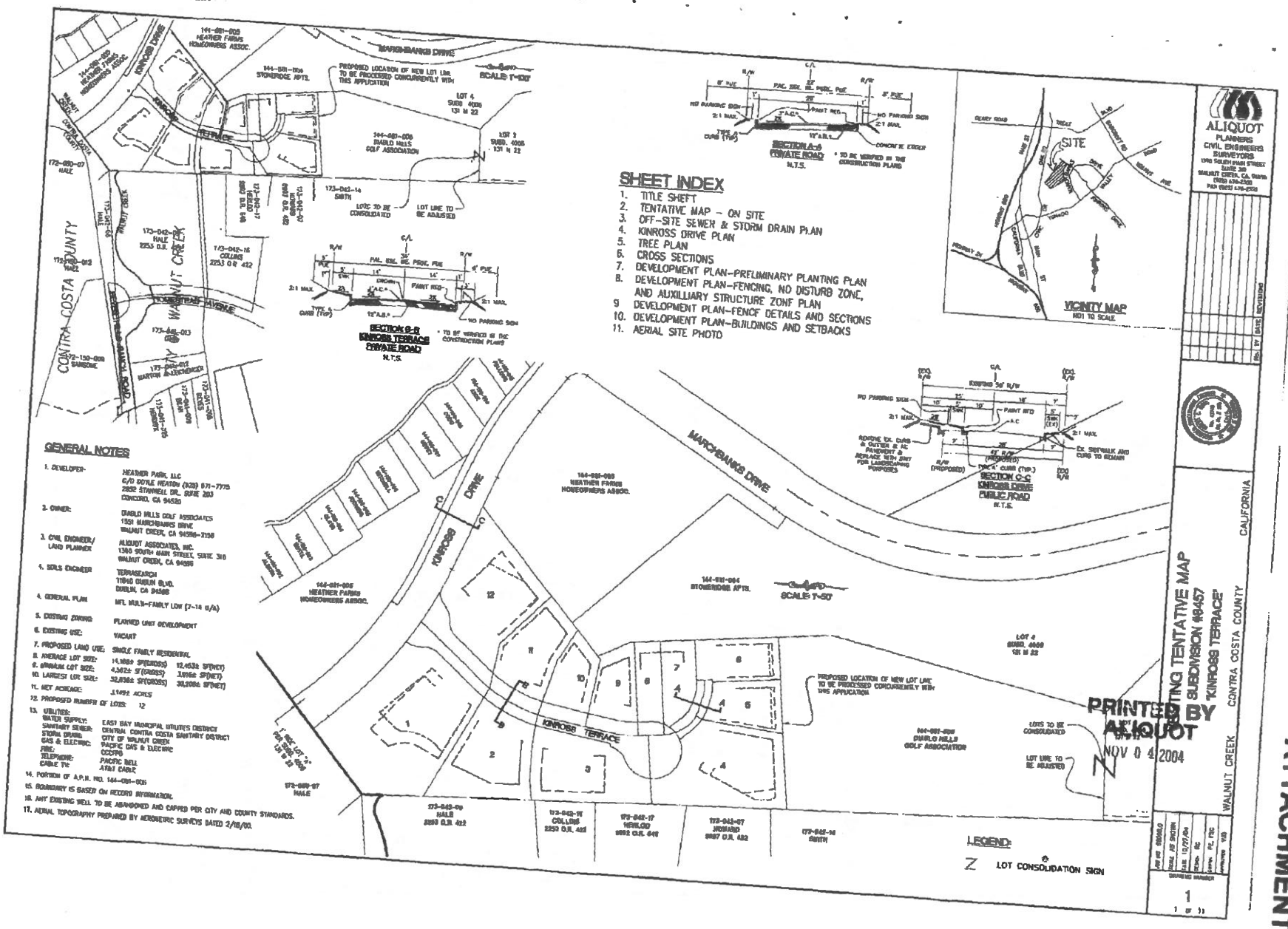
End of Kinross Drive, North of Marchbanks Drive



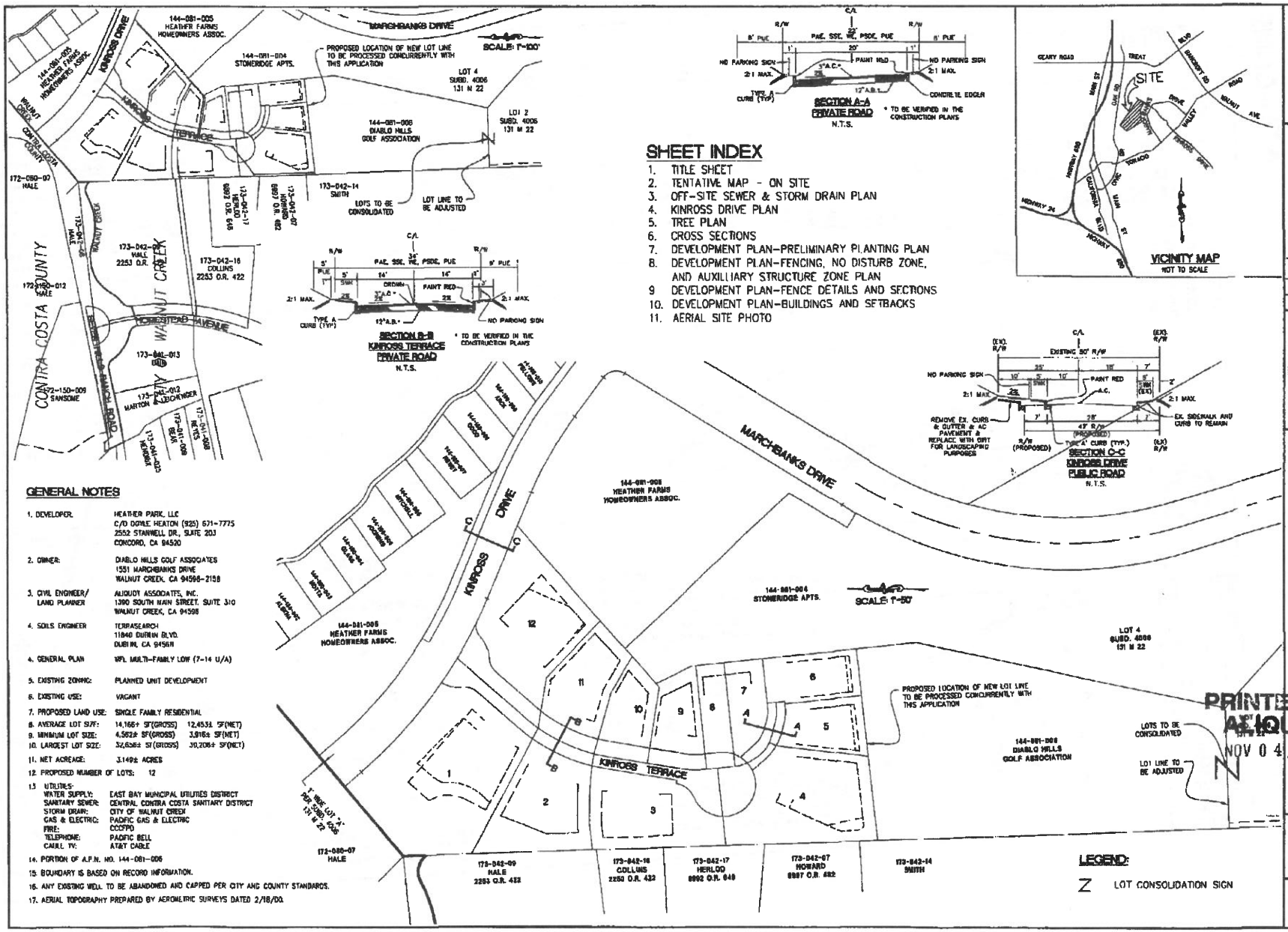
Location Map

Scale: 1" = 400'

N



ATTACHMENT 2



SHEET INDEX

1. TITLE SHEET
2. TENTATIVE MAP - ON SITE
3. OFF-SITE SEWER & STORM DRAIN PLAN
4. KINROSS DRIVE PLAN
5. TREE PLAN
6. CROSS SECTIONS
7. DEVELOPMENT PLAN-PRELIMINARY PLANTING PLAN
8. DEVELOPMENT PLAN-FENCING, NO DISTURB ZONE, AND AUXILLIARY STRUCTURE ZONE PLAN
9. DEVELOPMENT PLAN-FENCE DETAILS AND SECTIONS
10. DEVELOPMENT PLAN-BUILDINGS AND SETBACKS
11. AERIAL SITE PHOTO

GENERAL NOTES

1. DEVELOPER:	HEATHER PARK, LLC C/O DOYLE HEATON (925) 671-7775 2552 STANWELL DR., SUITE 203 CONCORD, CA 94520	
2. OWNER:	DIABLO HILLS GOLF ASSOCIATES 1551 MARCHBANKS DRIVE WALNUT CREEK, CA 94598-2158	
3. CIVIL ENGINEER/ LAND PLANNER	ALIQUOT ASSOCIATES, INC. 1390 SOUTH MAIN STREET, SUITE 310 WALNUT CREEK, CA 94598	
4. SOILS ENGINEER	TERRASEARCH 11840 DUBLIN BLVD. DUBLIN, CA 94568	
4. GENERAL PLAN	MFL MULTI-FAMILY LOW (7-14 U/A)	
5. EXISTING ZONING:	PLANNED UNIT DEVELOPMENT	
6. EXISTING USE:	VACANT	
7. PROPOSED LAND USE:	SINGLE FAMILY RESIDENTIAL	
8. AVERAGE LOT SIZE:	14,166± SF(GROSS)	12,453± SF(NET)
9. MINIMUM LOT SIZE:	4,562± SF(GROSS)	3,916± SF(NET)
10. LARGEST LOT SIZE:	32,636± SF(GROSS)	30,206± SF(NET)
11. NET ACREAGE:	3.149± ACRES	
12. PROPOSED NUMBER OF LOTS:	12	

13. UTILITIES:

WATER SUPPLY:	EAST BAY MUNICIPAL UTILITIES DISTRICT
SANITARY SEWER:	CENTRAL CONTRA COSTA SANITARY DISTRICT
STORM DRAIN:	CITY OF WALNUT CREEK
GAS & ELECTRIC:	PACIFIC GAS & ELECTRIC
FIRE:	CCCFPD
TELEPHONE:	PACIFIC BELL
CABLE TV:	AT&T CABLE

14. PORTION OF A.P.N. NO. 144-081-006
15. BOUNDARY IS BASED ON RECORD INFORMATION.
16. ANY EXISTING WELL TO BE ABANDONED AND CAPPED PER CITY AND COUNTY STANDARDS.
17. AERIAL TOPOGRAPHY PREPARED BY AEROMETRIC SURVEYS DATED 2/18/00.

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1390 SOUTH MAIN STREET
SUITE 310
WALNUT CREEK, CA. 94596
(925) 476-2300
FAX (925) 476-2556

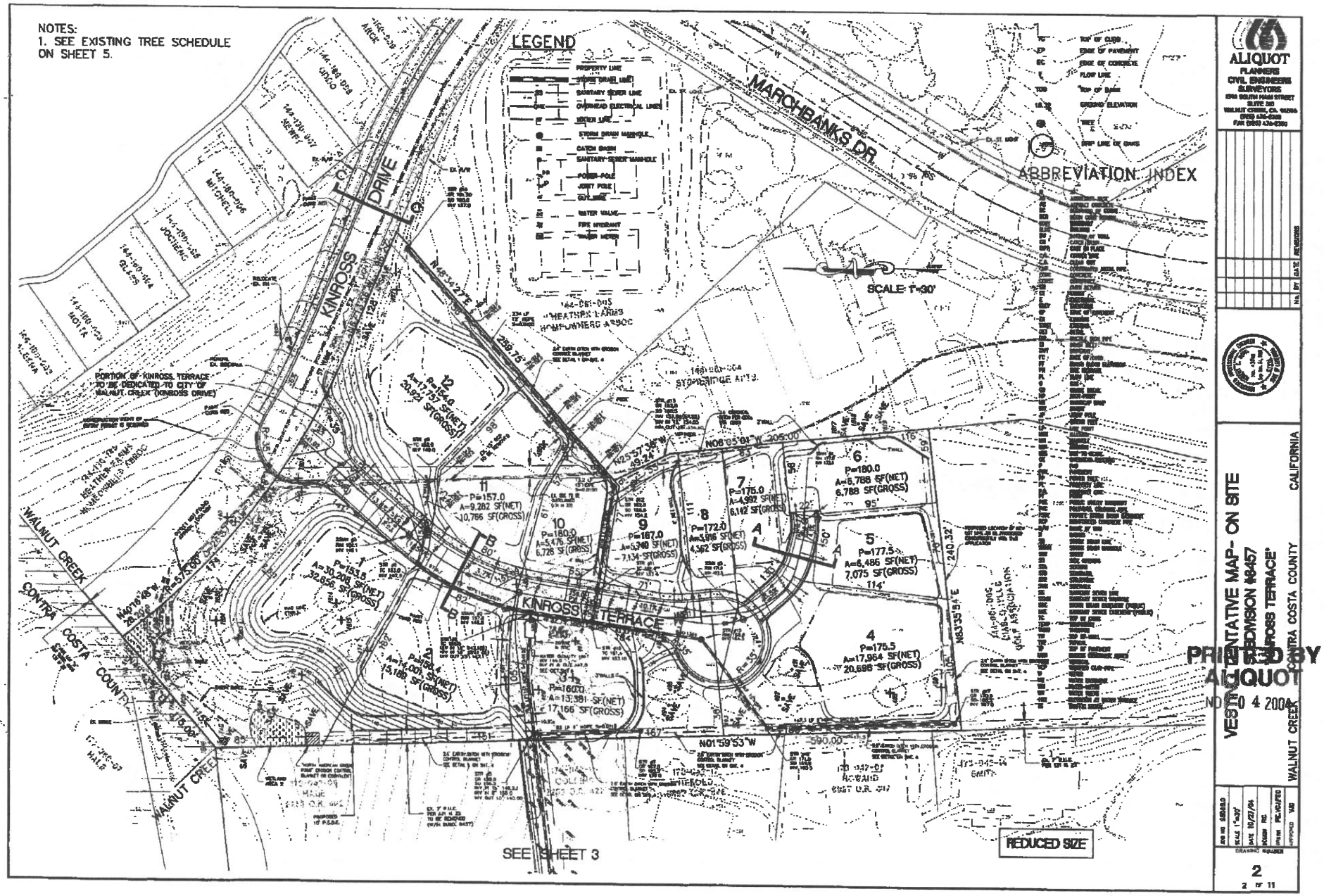
No.	BY	DATE	REVISIONS

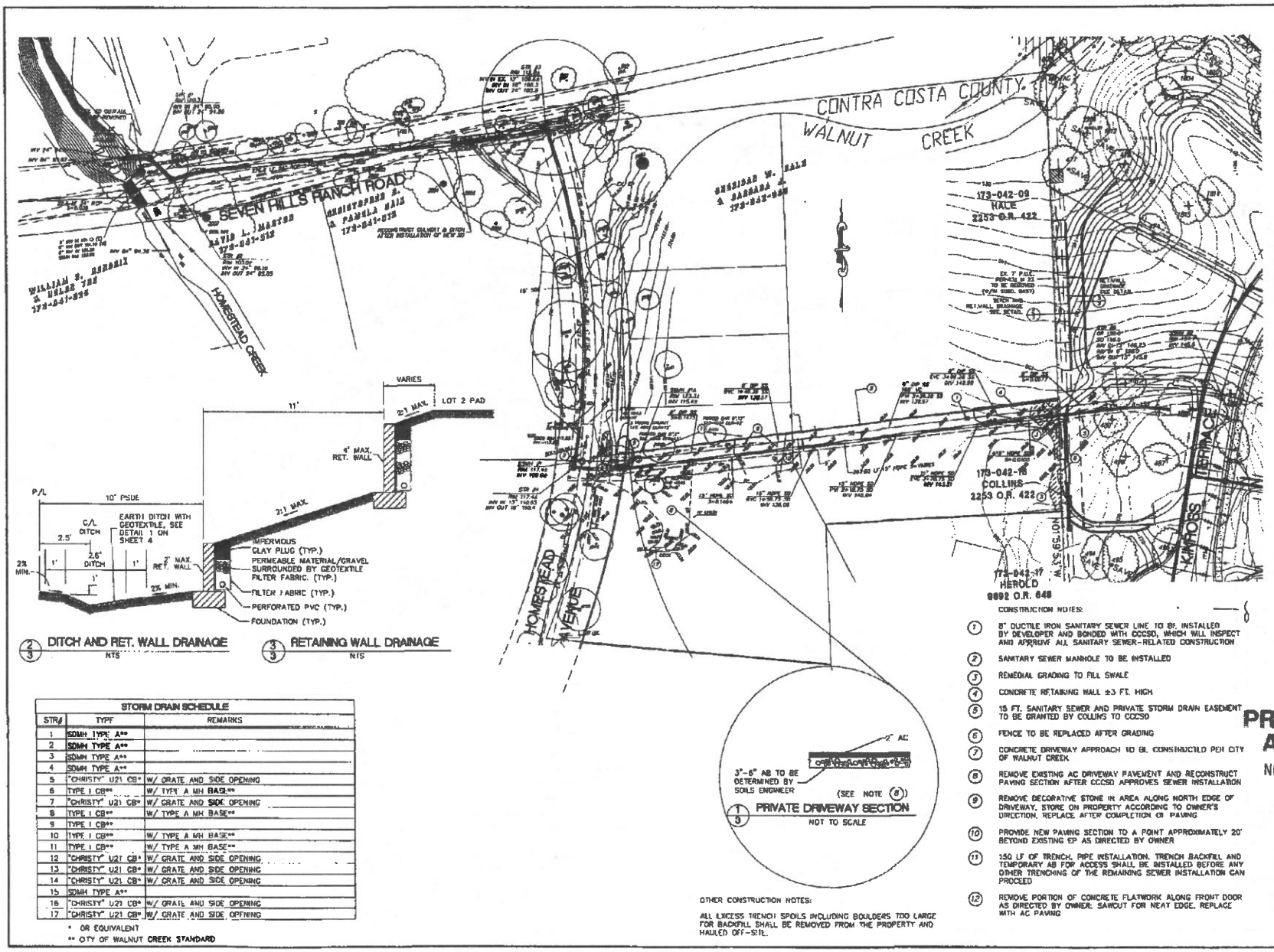
TENTATIVE MAP
SUBDIVISION #8457
"KINROSS TERRACE"
CONTRA COSTA COUNTY
CALIFORNIA
WALNUT CREEK

PRINTED BY ALIQUOT
NOV 04 2004

JOB NO.	9908.0
SCALE	AS SHOWN
DATE	10/27/04
DESIGN	RC
DRAWN	PS, FSC
APPROVED	V.O

DRAWING NUMBER
1
1 OF 11


NOTES:
1. SEE EXISTING TREE SCHEDULE ON SHEET 5.
LEGEND
MARCHBANKS DR.
KINROSS DRIVE
KINROSS TERRACE
WALNUT CREEK
CONTRA COSTA COUNTY
ABBREVIATION INDEX
SCALE 1"=30'
SEE SHEET 3
REDUCED SIZE
ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
VESTING TENTATIVE MAP- ON SITE
SUBDIVISION 8457
"KINROSS TERRACE"
CONTRA COSTA COUNTY CALIFORNIA
WALNUT CREEK
PRINTED BY
ALIQUOT
NOV 04 2004
2
2 OF 11



2/3 DITCH AND RET. WALL DRAINAGE
NTS

3/3 RETAINING WALL DRAINAGE
NTS

1/3 PRIVATE DRIVEWAY SECTION
NOT TO SCALE

STORM DRAIN SCHEDULE		
STR#	TYPE	REMARKS
1	SDMH TYPE A**	
2	SDMH TYPE A**	
3	SDMH TYPE A**	
4	SDMH TYPE A**	
5	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
6	TYPE I CB**	W/ TYPE A MH BASE**
7	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
8	TYPE I CB**	W/ TYPE A MH BASE**
9	TYPE I CB**	
10	TYPE I CB**	W/ TYPE A MH BASE**
11	TYPE I CB**	W/ TYPE A MH BASE**
12	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
13	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
14	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
15	SDMH TYPE A**	
16	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
17	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING

* OR EQUIVALENT
** CITY OF WALNUT CREEK STANDARD

OTHER CONSTRUCTION NOTES:

ALL EXCESS TRENCH SPOILS INCLUDING BOULDERS TOO LARGE FOR BACKFILL SHALL BE REMOVED FROM THE PROPERTY AND HAULED OFF-SITE.

CONSTRUCTION NOTES:

1. 8" DUCTILE IRON SANITARY SEWER LINE TO BE INSTALLED BY DEVELOPER AND BONDED WITH CCCSD, WHICH WILL INSPECT AND APPROVE ALL SANITARY SEWER-RELATED CONSTRUCTION
2. SANITARY SEWER MANHOLE TO BE INSTALLED
3. REMEDIAL GRADING TO FILL SWALE
4. CONCRETE RETAINING WALL ±3 FT. HIGH
5. 15 FT. SANITARY SEWER AND PRIVATE STORM DRAIN EASEMENT TO BE GRANTED BY COLLINS TO CCCSD
6. FENCE TO BE REPLACED AFTER GRADING
7. CONCRETE DRIVEWAY APPROACH TO BE CONSTRUCTED PER CITY OF WALNUT CREEK
8. REMOVE EXISTING AC DRIVEWAY PAVEMENT AND RECONSTRUCT PAVING SECTION AFTER CCCSD APPROVES SEWER INSTALLATION
9. REMOVE DECORATIVE STONE IN AREA ALONG NORTH EDGE OF DRIVEWAY, STORE ON PROPERTY ACCORDING TO OWNER'S DIRECTION, REPLACE AFTER COMPLETION OF PAVING
10. PROVIDE NEW PAVING SECTION TO A POINT APPROXIMATELY 20' BEYOND EXISTING EP AS DIRECTED BY OWNER
11. 150 LF OF TRENCH, PIPE INSTALLATION, TRENCH BACKFILL AND TEMPORARY AB FOR ACCESS SHALL BE INSTALLED BEFORE ANY OTHER TRENCHING OF THE REMAINING SEWER INSTALLATION CAN PROCEED
12. REMOVE PORTION OF CONCRETE FLATWORK ALONG FRONT DOOR AS DIRECTED BY OWNER. SAWCUT FOR NEAT EDGE. REPLACE WITH AC PAVING

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1380 SOUTH MAIN STREET
SUITE 310
WALNUT CREEK, CA. 94596
(925) 478-2300
FAX (925) 478-2350

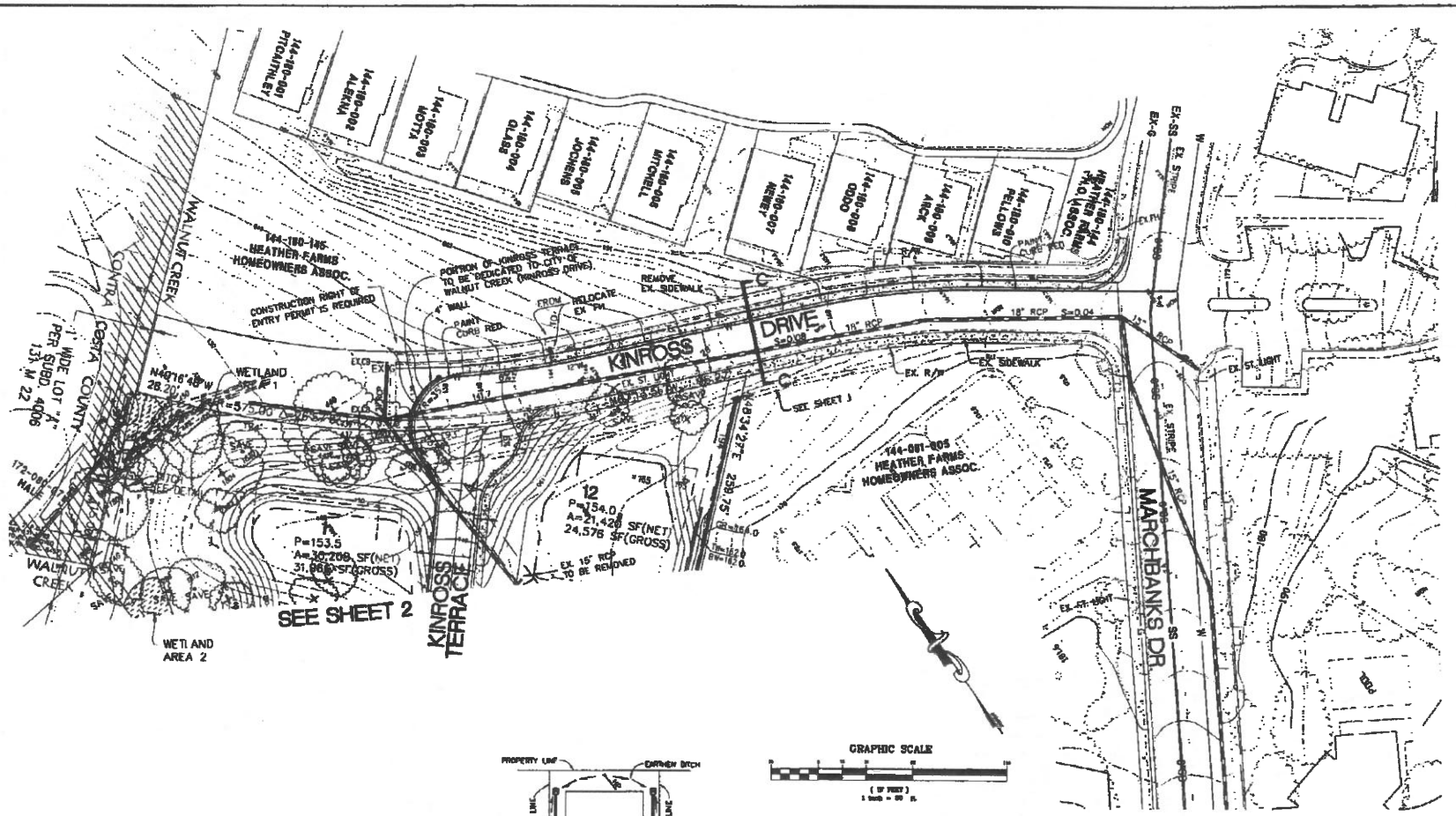
No.	BY	DATE	REVISIONS

PRINTED BY ALIQUOT
NOV 0 4 2004

OFF-SITE SEWER AND STORM DRAIN PLAN
SUBDIVISION #8457
"KINROSS TERRACE"
WALNUT CREEK CONTRA COSTA COUNTY CALIFORNIA

JOB NO.	95068.0
SCALE	1"=30'
DATE	10/27/04
DESIGN	RG
DRAWN	DCP
APPROVED	V.D.

DRAWING NUMBER
3
3 OF 11

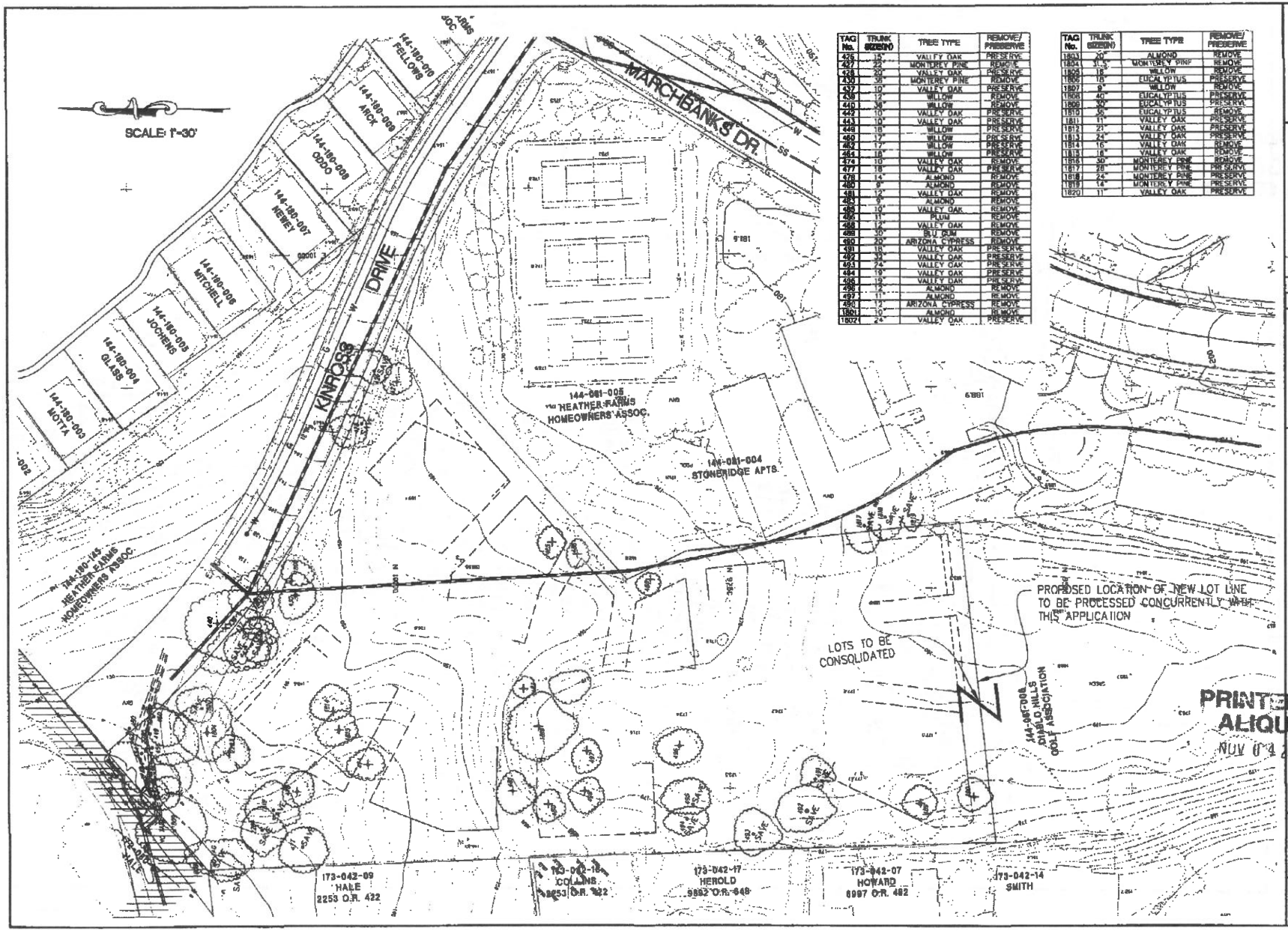


PRINTED BY ALIQUOT
NOV 0 4 2004

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1390 SOUTH MAIN STREET
SUITE 340
WALNUT CREEK, CA 94596
(925) 476-1300
FAX (925) 476-1310

KINROSS DRIVE PLAN
SUBDIVISION #8457
"KINROSS TERRACE"
WALNUT CREEK CONTRA COSTA COUNTY CALIFORNIA

DRAWING NUMBER
4
4 OF 11



TAG No.	TRUNK SIZE(IN)	TREE TYPE	REMOVE/ PRESERVE
425	15"	VALLEY OAK	PRESERVE
427	23"	MONTEREY PINE	REMOVE
428	20"	VALLEY OAK	PRESERVE
430	38"	MONTEREY PINE	REMOVE
437	10"	VALLEY OAK	PRESERVE
438	12"	WILLOW	REMOVE
440	36"	WILLOW	REMOVE
442	10"	VALLEY OAK	PRESERVE
443	10"	VALLEY OAK	PRESERVE
448	18"	WILLOW	PRESERVE
460	17"	WILLOW	PRESERVE
462	17"	WILLOW	PRESERVE
464	18"	WILLOW	PRESERVE
474	10"	VALLEY OAK	REMOVE
477	18"	VALLEY OAK	PRESERVE
478	14"	ALMOND	REMOVE
480	9"	ALMOND	REMOVE
481	14"	VALLEY OAK	REMOVE
483	9"	ALMOND	REMOVE
485	10"	VALLEY OAK	REMOVE
486	11"	PLUM	REMOVE
488	11"	VALLEY OAK	REMOVE
489	10"	BLU GUM	REMOVE
490	20"	ARIZONA CYPRESS	REMOVE
491	18"	VALLEY OAK	PRESERVE
492	30"	VALLEY OAK	PRESERVE
493	24"	VALLEY OAK	PRESERVE
494	19"	VALLEY OAK	PRESERVE
495	19"	VALLEY OAK	PRESERVE
496	11"	ALMOND	REMOVE
497	11"	ALMOND	REMOVE
498	12"	ARIZONA CYPRESS	REMOVE
1801	10"	ALMOND	REMOVE
1802	24"	VALLEY OAK	PRESERVE

TAG No.	TRUNK SIZE(IN)	TREE TYPE	REMOVE/ PRESERVE
1803	10"	ALMOND	REMOVE
1804	31.5"	MONTEREY PINE	REMOVE
1805	18"	WILLOW	REMOVE
1806	18"	EUCALYPTUS	PRESERVE
1807	9"	WILLOW	REMOVE
1808	40"	EUCALYPTUS	PRESERVE
1809	30"	EUCALYPTUS	PRESERVE
1810	35"	EUCALYPTUS	REMOVE
1811	11"	VALLEY OAK	PRESERVE
1812	23"	VALLEY OAK	PRESERVE
1813	24"	VALLEY OAK	PRESERVE
1814	16"	VALLEY OAK	REMOVE
1815	18"	VALLEY OAK	REMOVE
1816	30"	MONTEREY PINE	REMOVE
1817	28"	MONTEREY PINE	PRESERVE
1818	24"	MONTEREY PINE	PRESERVE
1819	14"	MONTEREY PINE	PRESERVE
1820	11"	VALLEY OAK	PRESERVE

PRINTED BY ALIQUOT
NOV 04 2004

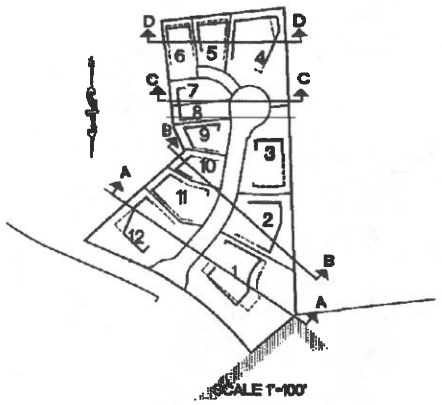
ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1340 SOUTH MAIN STREET
SUITE 205
WALNUT CREEK, CA 94596
(925) 476-2350
FAX (925) 476-2350

No.	By	DATE	REVISIONS

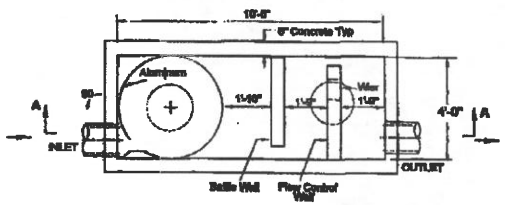
TREE PLAN
SUBDIVISION #8457
'KINROSS TERRACE'
WALNUT CREEK CONTRA COSTA COUNTY CALIFORNIA

JOB NO. 8504.0
SCALE 1"=30'
DATE 10/27/04
DESIGN RC
DRAWN PC
APPROVED VJD

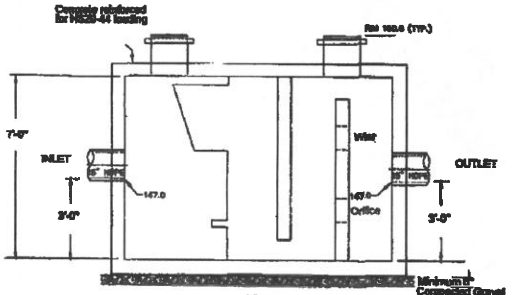
DRAWING NUMBER
5
5 OF 11



SCALE 1"=100'



PLAN VIEW



SECTION A-A

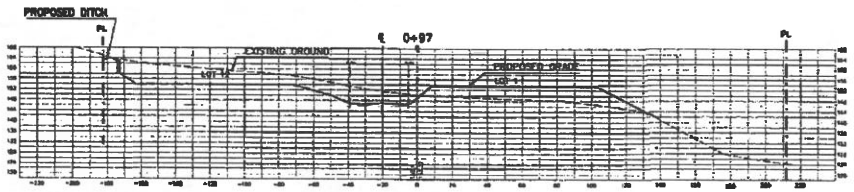
VORTECHS™ MODEL 2000

STORMWATER TREATMENT SYSTEM

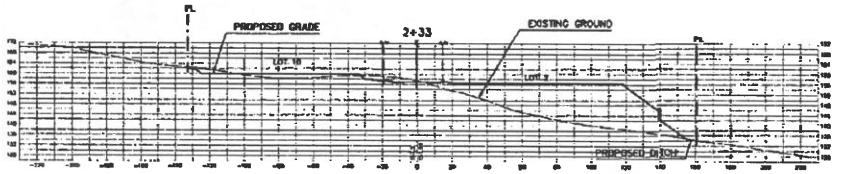
WATER QUALITY UNIT

NTS

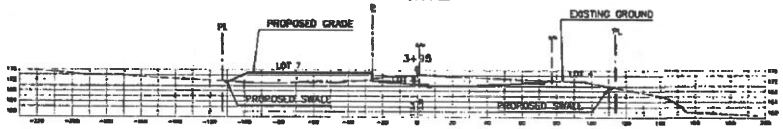
(SEE PLAN ON SHEET 2)



SECTION A-A

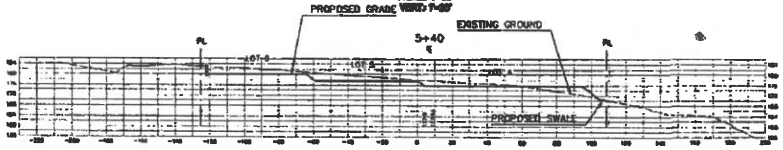
HORIZ: 1"=50'
VERT: 1"=5'

SECTION B-B

HORIZ: 1"=50'
VERT: 1"=5'



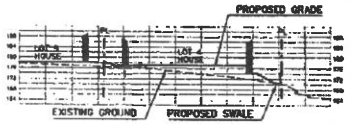
SECTION C-C

HORIZ: 1"=50'
VERT: 1"=5'



SECTION D-D

HORIZ: 1"=50'
VERT: 1"=5'



1 SECTION

HORIZ: 1"=50'
VERT: 1"=5'

2 SECTION

HORIZ: 1"=50'
VERT: 1"=5'

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1340 SOUTH MAIN STREET
SUITE 240
WALNUT CREEK, CA. 94596
PHONE 925-476-2000
FAX 925-476-2020

REG. BY DATE REVISIONS

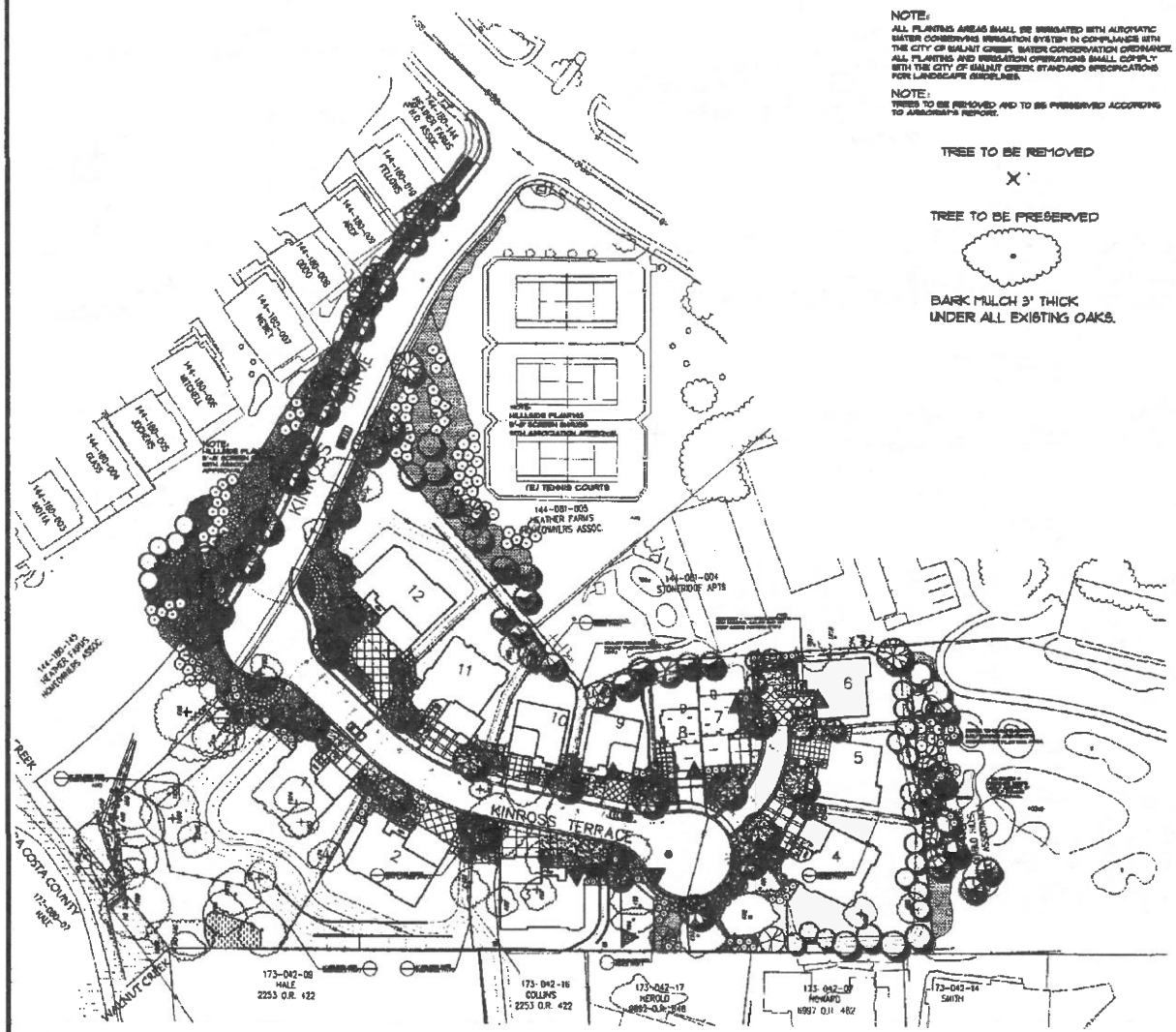
CROSS SECTIONS
SUBDIVISION #9457
"KINROSS TERRACE"
CONTRA COSTA COUNTY CALIFORNIA

PRINTED BY ALIQUOT
NOV 0 4 2004

WALNUT CREEK

JOB NO. 1999.8.8
SCALE AS SHOWN
DATE 09/27/04
DESIGN RG
DRAWN RN
APPROVED MD

DRAWING NUMBER
6
6 OF 11



NOTE:
ALL PLANTING AREAS SHALL BE IRRIGATED WITH AUTOMATIC WATER CONSERVING IRRIGATION SYSTEM IN COMPLIANCE WITH THE CITY OF WALNUT CREEK, WATER CONSERVATION ORDINANCE. ALL PLANTING AND IRRIGATION OPERATIONS SHALL COMPLY WITH THE CITY OF WALNUT CREEK STANDARD SPECIFICATIONS FOR LANDSCAPE GUIDELINES.

NOTE:
TREES TO BE REMOVED AND TO BE PRESERVED ACCORDING TO ARBORIST'S REPORT.

TREE TO BE REMOVED

X

TREE TO BE PRESERVED

BARK MULCH 3" THICK UNDER ALL EXISTING OAKS.

Proposed Landscape Legend

Symbol	Botanical Name	Common Name	Size
TREES			
	Acer palmatum	JAPANESE MAPLE	15 gallon
	Cinnamomum camphora	CAMPHOR TREE	15 gallon
	Cornus capitata	EVERGREEN DOGWOOD	15 gallon
	Prunus cerasus 'Mayacorn'	RAYWOOD ASH	15 gallon
	Lagerstroemia l. 'Cherokee'	CRAPE MYRTLE	15 gallon
	Malus floribunda	FLOWERING CRABAPPLE	24" box
	Platanus acerifolia 'Bloodgood'	LONDON PLANE TREE	24" box
	Pyrus calleryana 'Aristocrat'	FLOWERING PEAR	24" box
	Sequoia sempervirens	COAST REDWOOD	15 gallon
SHRUBS			
ARB UVA	Arbutus Unedo	STRAWBERRY TREE	15 gallon
AGA GEE	Agapanthus 'Queen Anne'	LILY OF THE NILE	1 gallon
ARB UNE	Arbutus unedo	STRAWBERRY SHRUB	15 gallon
ARC HOW	Arctostaphylos 'Howard McMin'	MANZANITA	5 gallon
CEA SPP	Ceanothus species	CALIFORNIA LILAC	5 gallon
CE PUR	Cistus purpureus	ORCHID ROCKROSE	1 gallon
DIE VEG	Dietes vegeta	FORTNIGHT LILY	1 gallon
ESC FRA	Escallonia 'Frades'	ESCALLONIA	5 gallon
ESC TER	Escallonia 'Terri'	DWARF PINK ESCALLONIA	5 gallon
HEM HYB	Hemerocallis hybrids	DAYLILY	1 gallon
LAV MUN	Lavandula a. 'Munstead'	ENGLISH LAVENDER	1 gallon
LAV THU	Lavatera thuringiaca 'Barnsley'	TREE MALLOW	1 gallon
RHA EVE	Rhamnus californica 'Eve Case'	COFFEEBERRY	5 gallon
ROS MAG	Rosa 'Magic Carpet'	GROUNDCOVER ROSE	1 gallon
ROS OFF	Rosmarinus officinalis	ROSEMARY	1 gallon
VIB TIN	Viburnus tinus 'Spring Bouquet'	LAURESTINUS	5 gallon
XYL CON	Xylosma congestum	SHINY XYLOSMA	5 gallon
GROUNDCOVER			
	Carpobrotus	SOUTH AFRICAN DAISY	1 gallon @ 5' o.c.
	Trachelospermum jasminoides	STAR JASMINE	1 gallon @ 3' o.c.
	Acacia redolens	ACACIA	1 gallon @ 5' o.c.
	Coprosma kirkii	COPROSMA	1 gallon @ 4' o.c.
	Fragaria chiloensis	WILD STRAWBERRY	12" o.c./ from flats
	Vinca minor	DWARF PERIWINKLE	12" o.c./ from flats
	verbena 'Tapien Blue'	VERBENA	12" o.c./ from flats
	Dwarf Boreal Fescue	TURF	SOD

FOR DETAILS AND SECTIONS SEE SHEET 9

PRINTED BY ALIQUOT
NOV 0 4 2004

0 20 40 80 120

REVISIONS	BY
8.6.03	DH
4.19.04	DH
10.26.04	TL
11.4.04	TL

camp & camp associates
planning & landscape architecture

DEVELOPMENT PLAN
PRELIMINARY
PLANTING PLAN

KINROSS TERRACE
SUBDIVISION #8457
Walnut Creek, CA

DRAWN: ADW, MA, DH
CHECKED: CIC3
DATE: 10/27/04
SCALE: 1"=40'-0"
JOB NO: 00-000
SHEET
7
OF 11 SHEETS

Revision											
BY											
DATE											

Cuming & Cuming associates

DEVELOPMENT PLAN
FENCING, NO DISTURB
ZONE, AND AUXILIARY
STRUCTURE ZONE PLAN

KINROSS TERRACE
SUBDIVISION #8467
Walnut Creek, CA

DRAWN: KDK, RJK	
CHECKED: CJC	
DATE: 9/23/04	
SCALE: 1"=40'	
JOB NO.: 9918	
SHEET	8
OF	11 SHEETS

FOR DETAILS AND SECTIONS SEE SHEET 9

NO DISTURB ZONE

BUILDING SETBACK AREA WHERE FUTURE ADDITIONS AND AUXILIARY STRUCTURES CAN OCCUR

NOTES:

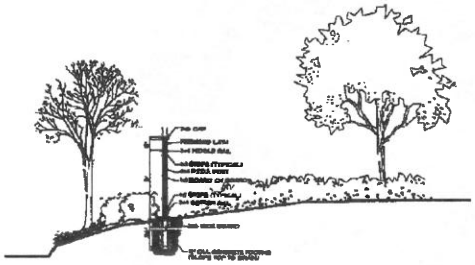
1) AREAS DESIGNATED TO BE ONE-STOREY SHALL BE NO HIGHER THAN EXISTING HOUSE. ALL OTHER ADDITIONS CAN COMPLY WITH THE R-15 HEIGHT LIMIT.

2) FRONT, REAR, [illegible] ARE THOSE OF THE R-15 ZONE.

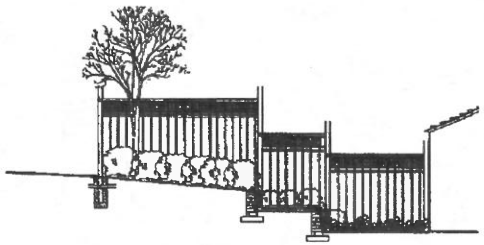
ALIQUOT

NOV 0 4 2004

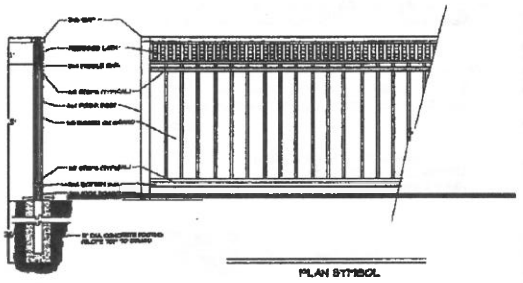
0 20 40 80 120



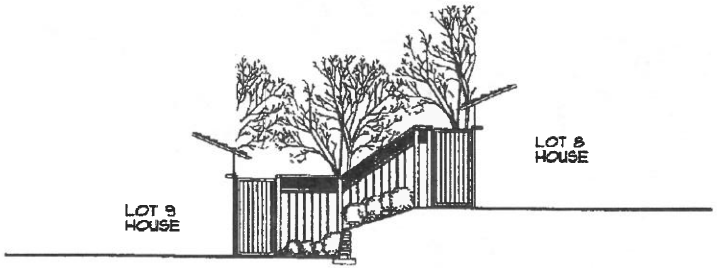
SECTION A-A SCALE 1/4"=1'



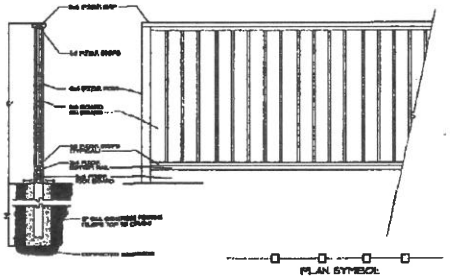
SECTION A1-A1 SCALE 1/4"=1'



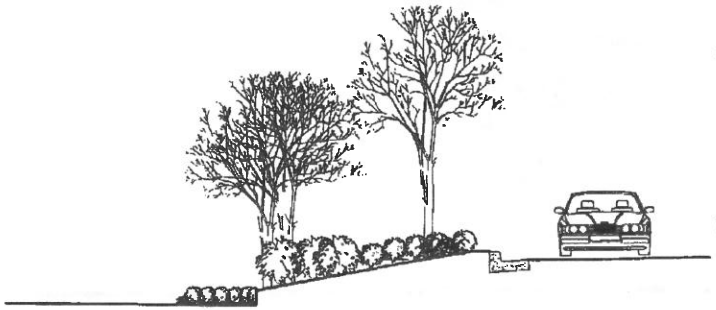
FRONT YARD FENCE (TYP.) SCALE:1/2"=1'



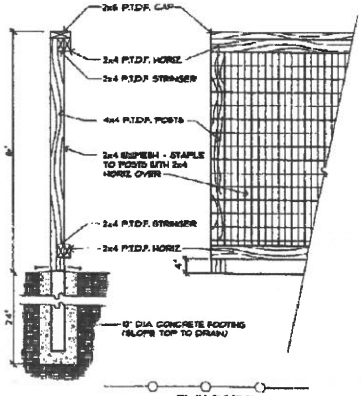
SECTION B-B SCALE: 1/4"=1'



GOOD NEIGHBOR FENCE (TYP.) SCALE: 1/2"=1'



SECTION C-C SCALE:1/4"=1'



6' WELDED WIRE VIEW FENCE
SCALE 3/4"=1'

PRINTED BY
ALIQUOT
NOV 0 4 2004

REVISIONS	BY
10.28.04	TL

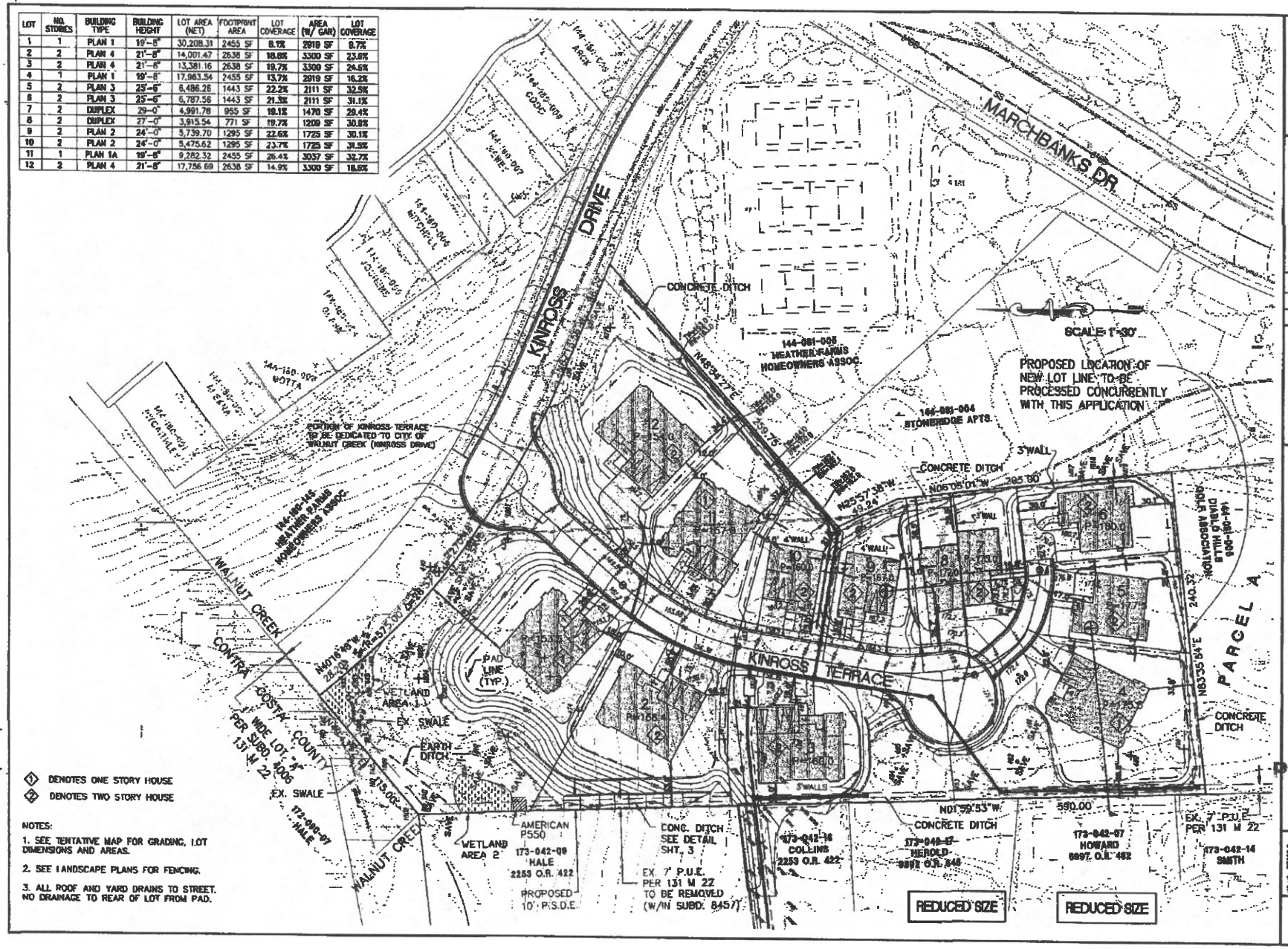
camp & camp associates

DEVELOPMENT PLAN
FENCE DETAILS
AND SECTIONS

KINROSS TERRACE
SUBDIVISION #8457
Walnut Creek, CA

DRAWN: SK
CHECKED: TC
DATE: 10/27/04
SCALE: AS NOTED
JOB NO. 99-000
SHEET
9
OF 11 SHEETS

LOT	NO. STORIES	BUILDING TYPE	BUILDING HEIGHT	LOT AREA (NET)	FOOTPRINT AREA	LOT COVERAGE	AREA (W/ GAR)	LOT COVERAGE
1	1	PLAN 1	19'-8"	30,208.31	2455 SF	8.1%	2919 SF	9.7%
2	2	PLAN 4	21'-8"	14,001.47	2638 SF	18.8%	3300 SF	23.6%
3	2	PLAN 4	21'-8"	13,381.16	2638 SF	19.7%	3300 SF	24.6%
4	1	PLAN 1	19'-8"	17,963.54	2455 SF	13.7%	2919 SF	16.2%
5	2	PLAN 3	25'-6"	8,486.26	1443 SF	22.2%	2111 SF	32.5%
6	2	PLAN 3	25'-6"	6,787.58	1443 SF	21.3%	2111 SF	31.1%
7	2	DUPLEX	29'-0"	4,991.78	955 SF	18.1%	1470 SF	29.4%
8	2	DUPLEX	27'-0"	3,915.54	771 SF	19.7%	1209 SF	30.8%
9	2	PLAN 2	24'-0"	5,739.70	1295 SF	22.6%	1725 SF	30.1%
10	2	PLAN 2	24'-0"	5,475.62	1295 SF	23.7%	1725 SF	31.5%
11	1	PLAN 1A	19'-8"	9,282.32	2455 SF	26.4%	3037 SF	32.7%
12	2	PLAN 4	21'-8"	17,756.69	2638 SF	14.9%	3300 SF	18.6%



① DENOTES ONE STORY HOUSE

② DENOTES TWO STORY HOUSE

NOTES:

1. SEE TENTATIVE MAP FOR GRADING, LOT DIMENSIONS AND AREAS.
2. SEE LANDSCAPE PLANS FOR FENCING.
3. ALL ROOF AND YARD DRAINS TO STREET. NO DRAINAGE TO REAR OF LOT FROM PAD.

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1990 SOUTH MAIN STREET
SUITE 250
WALNUT CREEK, CA. 94596
(925) 476-2000
FAX (925) 476-2299

No.	BY	DATE	REVISIONS

DEVELOPMENT PLAN-BUILDINGS, SETBACKS
SUBDIVISION 8457
"KINROSS TERRACE"
CONTRA COSTA COUNTY CALIFORNIA
WALNUT CREEK

PRINTED BY ALIQUOT
DEC 04 2014

JOB NO.	8308.0
SCALE	1"=30'
DATE	10/27/14
DESIGN	RG
DRAWN	RG, REC
APPROVED	MD

DRAWING NUMBER
10
10 OF 11

ALIQUOT
PLANNERS
CIVIL ENGINEERS
GEOTECHNICAL ENGINEERS
1340 SOUTH DE ANZA BOULEVARD, SUITE 202
SAN JOSE, CALIFORNIA 95129
(408) 996-8885 FAX (408) 996-8886
PREPARED BY
NO. BY DATE REVISIONS
GENERAL SITE PHOTO
SUBDIVISION #8457
TIGNROSS TERRACE
CONTRA COSTA COUNTY
CALIFORNIA
WALNUT CREEK
DATE 10/23/04
SCALE 1"=50'
DESIGN RC
DRAWN BCP
CHECKED MJD
JOB NO. 980840
SHEET NUMBER
11
11 OF 11
NOV 0 4 2004
PRINTED BY
ALIQUOT
MARCHBANKS DR
NOTE
1. SEE
DRIVE
CO
PROPERTY LINE
175-040-09
HALE
2168.01 A33

ATTACHMENT 3

CITY OF WALNUT CREEK
MITIGATED NEGATIVE DECLARATION

Project Name: Kinross Terrace
Work Order No.: Y03-003
Date to be Posted: September 28, 2004

1. PROJECT DESCRIPTION AND LOCATION:

Project proposes a 12-lot residential subdivision on a 3.58-acre site previously a portion of the Diablo Hills golf course. The project proposes site grading and installation of private roadway and utility infrastructure improvements including on and off-site sanitary sewer and storm water facilities. The project also proposes to reduce the pavement width of the Kinross Terrace, a public street, to eliminate street parking on the north side of the street. The project proposes the construction of 10 detached and 2 attached single-family dwellings and is subject to Planned District rezoning, tentative subdivision map, and design review.

2. THE COMMUNITY DEVELOPMENT DIRECTOR FINDS THAT the project as described above will not have a significant effect on the environment and therefore does not require an environmental impact report.

3. STATEMENT OF REASONS TO SUPPORT FINDING:

a. **AIR QUALITY**

Dust Control: The proposed project may result in temporary air quality impacts during project construction. Implementation of the following measures would reduce the impact to less than significant levels.

Mitigation Measures:

1. Water all active construction areas at least twice daily;
2. Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind;
3. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
4. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and construction staging areas;
5. Sweep daily with water sweepers all paved access roads, public streets, parking areas, and staging areas at construction sites;
6. Replant vegetation in disturbed areas as quickly as possible.

Mitigation Monitoring: The Engineering Division inspectors shall ensure field compliance during construction.

b. BIOLOGICAL RESOURCES

Rare Plants: This is an in-fill project in an established neighborhood. The site does not provide habitat for threatened or endangered species. No threatened or endangered species were observed during site surveys. Habitat suitable for rare plants is present on site. Twenty-two special-status plants have a low potential for occurrence on site. If present within the development envelope of the proposed project, individual plants could be negatively impacted by work conducted within the project area. Rare plant surveys are underway. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

> **Mitigation Measures:** Two rare plant surveys shall be conducted by a qualified biologist to determine if any special-status plant species are present within the study area. No rare plants were detected during the late season survey (Wood Biological 9/13/04). A spring survey shall be performed in April to coincide with the flowering period of potentially occurring plants. If rare plants are present within the development envelope of the proposed project, the feasibility of avoidance should be evaluated. If avoidance is infeasible, a mitigation plan, which may include revision of the tentative map, shall be developed and implemented.
>
> **Mitigation Monitoring:** The applicant shall commission a second rare plant survey to be performed in April 2005. City Planning Divisions will review spring plant survey to determine if rare plant species are present.

On-Site Trees: Project proposes removal of trees subject to the City of Walnut Creek's Tree Protection Ordinance. An arborist report prepared by Treescapes, Inc., dated March 6, 2003, identified and evaluated 52 trees located on the undeveloped project site. The project proposes removal of 26 trees (diameter 9" or greater) on site and dripline line encroachments on approximately 6 trees. 26 trees will be preserved throughout the site; 19 native species trees and 7 other non-native species within the designated wetland areas. The arborist report identifies 4 native species trees to be removed, 3 of which have poor vigor/structure. Only one tree, #474, a 10" Valley Oak, in good vigor would be removed.

The removal of any trees equal to or greater than 9 inches in diameter at breast height (4.5 feet above the ground surface) requires a tree removal permit from the City of Walnut Creek and compliance with the Tree Preservation Ordinance. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Off-site trees: The project proposes off-site underground sewer and storm water drain lines. An arborist report prepared by Joseph McNeil Consulting Arborist, dated August 8, 2004, evaluated 41 trees within the project zone. The report locates and identifies the pipe route and all trees within the proposed trench line. The report concludes that impacts to trees may occur as part of the proposed development and recommends actions to reduce potential impacts to trees to less than significant levels. The proposed storm drain alignment is subject to further review as specified in Section XVI, Utilities and Service Systems. Re-alignment of the off-site storm drain line closely following the existing roadway easement would not eliminate trenching within driplines of tree but would reduce the number of trees potentially impacted by the installation.

Mitigation Measures: The applicant shall obtain a tree removal or dripline encroachment permit prior to any grading or trenching activities and comply with all conditions as specified in the tree removal/dripline encroachment permit. The applicant shall comply with all tree preservation guidelines as contained in the Treescapes, Inc., report for on-site trees, and the Joseph McNeil Consulting Arborist report pertaining to off-site trees. Plans submitted for site development and building permits shall include a tree planting and preservation plan which shall include the location of all trees and the specified tree preservation guidelines. The applicant shall submit to the City Planning Department a signed and executed contract for arboricultural services during all phases of project development as specified in the tree preservation guidelines. The Map of (off-site) trees, contained in the Joseph McNeil arborist report, shall be revised to show the realigned storm water pipe and any revised recommendations to reduce impacts to trees.

Mitigation Monitoring: City Planning and Tree Divisions will ensure that the project is constructed in accordance with the landscape plan, arborist report and mitigation plan. Engineering Division inspectors shall ensure field compliance during construction.

Migratory Birds: Habitat for migratory birds and/or birds of prey is present on site. Construction of the project has the potential to result in a "take" of ground- or tree-nesting migratory birds and/or birds of prey. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation Measures: A condition shall be added to any tree removal or site development permit to require that if site disturbance commences between February 1 and August 31, a pre-construction survey shall be conducted by a qualified wildlife biologist. If nests of either migratory birds or birds of prey are detected on or adjacent to the site, the applicant shall consult with the CDFG to determine the size of a suitable buffer in which no new site disturbance is permitted until August 31, or the qualified biologist determines that the young are foraging independently. If more than 30 days elapses between the survey and site disturbance, the survey shall be repeated.

Mitigation Monitoring: City Planning Division will ensure that no tree removal or site development permits are issued without necessary biologist report.

Riparian Habitat: No development is proposed in the riparian habitat present on the Kinross Terrace project site. Riparian habitat is present at the proposed storm drain outfall location on Homestead Creek. Construction of the storm drain outfall to Homestead Creek may require the removal of riparian vegetation at and below the top of bank. Excavation and/or fill of waters of the U.S. and state may be required. Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation Measures: A condition shall be added requiring that a Streambed Alteration Agreement must be acquired prior to construction of the storm drain outfall to Homestead Creek. If the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.

A condition shall be required that replacement plantings of native riparian species shall be installed at a 3:1 ratio to offset the removal of any riparian trees and shrubs at the proposed outfall.

Mitigation Monitoring: City Planning and Tree Divisions will ensure that the project is constructed in accordance with the landscape plan, arborist report and mitigation plan. Engineering Division inspectors shall ensure field compliance during construction.

Wetland Habitat: The project site contains two designated wetland areas. No impacts to the federally protected wetlands on the Kinross Terrace project site are proposed. Other waters of the U.S. are present adjacent to the off-site storm drain alignment and outfall. Construction of the storm drain outfall to Homestead Creek may require the excavation and/or fill of waters of the U.S. and state. Implementation of the following mitigation measure would reduce the potential impact to less than significant levels.

Mitigation Measures: A condition shall be added to any site development requiring that if the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that necessary permits are obtained prior to outfall construction. Engineering Division inspectors shall ensure field compliance during construction.

c. **HYDROLOGY AND WATER QUALITY**

Erosion and Sediment Controls: The proposed project must comply with the standards of the Contra Costa County NPDES permit. Water quality in the unnamed tributary on site and Homestead Creek could be adversely affected during grading and site construction. Erosion associated with site disturbance may result in the introduction of sediment into the creek. Development of the site may have an adverse impact on downstream waters associated with increased human use of the site and the potential introduction of pollutants into the storm drain system. Runoff from the site may contain pollutants that would adversely affect downstream waters north of the project area. Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation Measures:

1. A site-specific SWPPP should be developed to prevent sedimentation and adverse impacts to water quality during construction in the unnamed tributary and Homestead Creek.

2. A post-construction storm water management plan that addresses and mitigates impacts to storm water quality, quantity and hydrology should be developed to prevent adverse impacts to downstream waters after construction.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that the project is constructed in accordance with the SWPPP, site development permit, and mitigation plan. Engineering Division inspectors shall ensure field compliance during and post construction.

d. LAND USE PLANNING

Off-site Easements: To facilitate construction of the proposed development, the applicant proposes off-site storm water drainage and sewer lines onto and across private property, which will necessitate acquisition of easements. The City cannot require easements for private development on other private property without the consent of the property owner. Nor would the City proceed with condemnation proceedings to acquire any off-site easements for the private development. The burden of acquiring any off-site easements shall be the responsibility of the applicant. Implementation of the following mitigation will reduce the potential impacts to less than significant.

Mitigation Measures: The applicant shall obtain all necessary off-site easements prior to recordation of the final map.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that recorded easements are in place prior to recordation of any final map.

e. UTILITIES

Off-site Utilities: The project proposes installation of approximately 890 linear feet of 15" and 24" storm drainpipe through private off-site property. Approximately 390-linear feet of underground pipe would be install within unincorporated Contra Costa County. As currently proposed, the underground pipe would be within the driplines of a number of significant trees and is not adjacent to the existing roadway. The City Engineering division has requested the underground pipe be relocated under or adjacent to the existing paved roadways to facilitate future maintenance and to substantially avoid the root systems of trees. Implementation of the following measure would reduce potential impacts to less than significant levels.

Mitigation Measures: A condition has been added requiring the applicant submit a revised underground storm drain plan that places the underground stormdrain line within or adjacent to the existing paved (Homestead Avenue and Seven Hill Ranch Road) roadways.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that plans showing the realignment of the off-site stormdrain line have been submitted prior to any approval of the tentative map.

4. IMPACTS FOUND NOT TO BE SIGNIFICANT. The following impacts were analyzed and found to be insignificant: Aesthetics, Agricultural Resources; Cultural Resources; Geology/Soils; Hazards & Hazardous Materials; Mineral Resources; Noise; Population/Housing; Public Services; Recreation; Transportation/Traffic.

5. INITIAL STUDY. The precise description of the land involved and a preliminary analysis of the environmental effects of this project may be obtained from Scott Harriman, AICP, of the Planning Division of the Community Development Department, City Hall, 1666 North Main Street, Walnut Creek, CA 9496, (925) 943-5899 x212 or by e-mail at harriman@walnut-creek.org.

6. PUBLIC COMMENT. Anyone who wishes to comment on the findings stated in the Negative Declaration must submit those comments in writing to the Community Development Director, City of Walnut Creek, 1666 North Main Street, Walnut Creek, 94596, within thirty (30) days of the posting date of this negative declaration.

7. RECONSIDERATION REQUEST. Anyone who wishes a reconsideration of the decision to prepare a negative declaration by the Community Development Director must request a reconsideration in writing and submit the request to the City of Walnut Creek Community Development Department, City Hall, 1666 North Main Street. The reconsideration request must be accompanied by any evidence or additional information substantiating the request to require an environmental impact report. The request for reconsideration must be filed with the Community Development Department within thirty (30) days of the posting date of this negative declaration. The decision reached by the Community Development Director upon reconsideration shall be final.

8. PROJECT REVIEW. THIS NEGATIVE DECLARATION DOES NOT SIGNIFY APPROVAL OR DISAPPROVAL OF THIS PROJECT BY CITY DECISION MAKING BODIES. THE FINAL DECISION MAKING BODY WILL CONSIDER THE PROPOSED NEGATIVE DECLARATION TOGETHER WITH ANY COMMENTS RECEIVED DURING THE PUBLIC REVIEW PROCESS TO DETERMINE WHETHER THE PROJECT WILL HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT.

SANDRA MEYER
Planning Manager

MODEL ENVIRONMENTAL CHECKLIST FORM
Revised 5/99 to conform with 1999 CEQA Guidelines

1.	**Project title:**	**Kinross Terrace Residential Subdivision**
2.	**Lead agency name and address:**	**City of Walnut Creek** **1666 North Main Street** **Walnut Creek, CA 94596**
3.	**Contact person and phone number:**	**Scott Harriman** **(925) 943-5834, ext. 212**
4.	**Project location:**	**End of Kinross Terrace, north of Marchbanks Drive**
5.	**Project Sponsor's Name and Address:**	**Delco Builders, Doyle Heaton** **2552 Stanwell, Ste 203** **Concord, CA 94520**
6.	**General plan designation:**	**MFL, Multi-Family Low (6 – 14 units/acre)**
7.	**Zoning:**	**P-D 859**

8. **Description of project:** Project proposes a 12-lot residential subdivision on a 3.58-acre site previously a portion of the Diablo Hills golf course. The project proposes site grading and installation of private roadway and utility infrastructure improvements including on and off-site sanitary sewer and storm water facilities. The project also proposes to reduce the pavement width of the Kinross Terrace, a public street, to eliminate street parking on the north side of the street. The project proposes the construction of 10 detached and 2 attached single-family dwellings and is subject to Planned District rezoning, tentative subdivision map, and design review.

9. **Surrounding Land Uses and Setting:** The project site, previously a portion of the Diablo Hills Golf Course, is situated in central Walnut Creek adjacent to single family homes to the west, multi-family development to the north and east, and golf course to the south. The project site's westerly property line is a boundary between the City of Walnut Creek and unincorporated Contra Costa County.

10. **Other public agencies whose approval is required:** The project proposes off-site storm water drainage facilities within unincorporated Contra Costa County. These facilities may be located within the dripline of a number of trees, which may be subject to County tree dripline encroachment permit. Additionally, the proposed off-site stormwater drain line would result in a new outfall into a creek, which would require a Streambed Alteration permit from the California Department of Fish and Game.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a Potentially Significant Impact as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture Resources	☑ Air Quality
☑ Biological Resources	☐ Cultural Resources	☐ Geology/Soils
☐ Hazards & Hazardous Materials	☑ Hydrology/Water Quality	☑ Land Use/Planning
☐ Mineral Resources	☐ Noise	☐ Population/Housing
☐ Public Services	☐ Recreation	☐ Transportation/Traffic
☑ Utilities/Service Systems	☐ Mandatory Findings of Significance	

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

☑ I find that although the proposed project **COULD** have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. **A MITIGATED NEGATIVE DECLARATION** will be prepared.

☐ I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

☐ I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **EIR** or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **EIR** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature _____ Date _____

Printed name _____ Title _____

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except □No Impact□ answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A □No Impact□ answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A □No Impact□ answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. □Potentially Significant Impact□ is appropriate if there is substantial evidence that an effect may be significant. If there are one or more □Potentially Significant Impact□ entries when the determination is made, and EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, □Earlier Analyses□, may be cross-referenced.

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has

been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

a) the significance criteria or threshold, if any, used to evaluate each question; and

b) the mitigation measure identified, if any, to reduce the impact to less than significance.

ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
I. AESTHETICS. *Would the project:*				
a. Have a substantial adverse effect on a scenic vista? (2,3)	☐	☐	☑	☐
Comment: The project site is not within a designated scenic corridor. The project is adjacent to an active golf, other single and multi-family developments and an open space area as designated on the General Plan Land Use Map. The project is subject is subject to design review which will insure implementation of adopted design standards. No further mitigation is necessary.				
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (1,2,3, 6;Figure 2-12)	☐	☐	☑	☐
Comment: Project is not within a state scenic highway and no historic buildings are within the project area. The project proposes tree removals and dripline encroachments which are subject to review as part of the standard development process. No further mitigation is necessary.				
c. Substantially degrade the existing visual character or quality of the site and its surroundings? (2,3,)	☐	☐	☑	☐
Comment: See (a) above.				
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (2,3,45)	☐	☐	☑	☐
Comment: Project proposes residential development which do not typically generate substantial light or glare.				
II. AGRICULTURE RESOURCES. *In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:*				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (4)	☐	☐	☐	☑
Comment: There is no designated farmland in Walnut Creek.				
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract? (4,9)	☐	☐	☐	☑
Comment: This land is not designated for agricultural uses in the zoning ordinance or through a Williamson Act contract.				
c. Involve other changes in the existing environment which due to their location or nature, could result in conversion of Farmland, to non-agricultural use? (na)	☐	☐	☐	☑
Comment: There is no designated farmland in Walnut Creek.				
III. AIR QUALITY. *Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:*				
a. Conflict with or obstruct implementation of the applicable air quality plan? (6; Table 5-3,16)	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation? (16)	☐	☑	☐	☐

Comments a - b: The proposed 12 lot residential subdivision will not create any measurable increase in air pollutants. To be considered significant a project would have to generate 80 lbs. per day of fine particulate matter and reactive organic gases and nitrogen oxides. According to Bay Area Air Quality Management District staff, a project would have to generate over 2,000 trips a day to trigger the need for further study. Cumulative impacts were evaluated in the EIR prepared for the 1989 General Plan. This project is consistent with the policies identified in Table 5-3 of the General Plan that were created to alleviate air quality impacts from cumulative development. Furthermore, the low volume of trips would not result in any measurable increase in overall region-wide emission of criteria pollutant, and therefore, would not contribute considerably to any cumulative air quality impacts.

However, the proposed project may result in temporary air quality impacts during project construction. Implementation of the following mitigation measures would reduce the emissions of particulate matter to less than significant levels.

Mitigation: Plans submitted for any Building or Site Development permit shall include the following notations.

1. Water all active construction areas at least twice daily;
2. Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind;
3. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
4. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and construction staging areas;
5. Sweep daily with water sweepers all paved access roads, public streets, parking areas, and staging areas at construction sites;
6. Replant vegetation in disturbed areas as quickly as possible.

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (6; page 5-24 and Table 5-3, 6a, 16)	☐	☐	☑	☐

Comment: Cumulative impacts were evaluated in the EIR prepared for the 1989 General Plan. This project is consistent with the policies identified in Table 5-3 of the General Plan that were created to alleviate air quality impacts from cumulative development.

d. Expose sensitive receptors to substantial pollutant concentrations? (1,16)	☐	☐	☐	☑

Comment: The proposed project does not include sensitive receptors such as hospitals and convalescent homes.

e. Create objectionable odors affecting a substantial number of people? (1,5)	☐	☐	☐	☑

Comment: Objectionable odors are not typically associated with nor likely to be generated by the proposed use.

IV. BIOLOGICAL RESOURCES. *Would the project:*

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (1,2,3,6; pages 5-20 and 21)	☐	☑	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact

Comment: This is an in-fill project in an established neighborhood. The site does not provide habitat for threatened or endangered species. No threatened or endangered species were observed during site surveys. Habitat suitable for rare plants is present on site. Twenty-two special-status plants have a low potential for occurrence on site. If present within the development envelope of the proposed project, individual plants could be negatively impacted by work conducted within the project area. Rare plant surveys are underway.

Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation: Two rare plant surveys shall be conducted by a qualified biologist to determine if any special-status plant species are present within the study area. No rare plants were detected during the late season survey (Wood Biological 9/13/04). A spring survey shall be performed in April to coincide with the flowering period of potentially occurring plants. If rare plants are present within the development envelope of the proposed project, the feasibility of avoidance should be evaluated. If avoidance is infeasible, a mitigation plan should be developed and implemented.

Comment: Habitat for migratory birds and/or birds of prey is present on site. Construction of the project has the potential to result in a "take" of ground- or tree-nesting migratory birds and/or birds of prey. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation: If site disturbance commences between February 1 and August 31, a pre-construction survey shall be conducted by a qualified wildlife biologist. If nests of either migratory birds or birds of prey are detected on or adjacent to the site, the applicant shall consult with the CDFG to determine the size of a suitable buffer in which no new site disturbance is permitted until August 31, or the qualified biologist determines that the young are foraging independently. If more than 30 days elapses between the survey and site disturbance, the survey shall be repeated.

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (2,3, 6; page 5-21)	☐	☑	☐	☐

Comment: No development is proposed in the riparian habitat present on the Kinross Terrace project site. Riparian habitat is present at the proposed storm drain outfall location on Homestead Creek. Construction of the storm drain outfall to Homestead Creek may require the removal of riparian vegetation at and below the top of bank. Excavation and/or fill of waters of the U.S. and state may be required.

Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation:

1. A Streambed Alteration Agreement must be acquired prior to construction of the storm drain outfall to Homestead Creek. If the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.
2. Replacement plantings of native riparian species shall be installed at a 3:1 ratio to offset the removal of any riparian trees

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
and shrubs at the proposed outfall.				
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (1,2,3, 6; page 5-22 and Figure 5-2)	☐	☑	☐	☐

Comment: The project site contains two designated wetland areas. No impacts to the federally protected wetlands on the Kinross Terrace project site are proposed. Other waters of the U.S. are present adjacent to the off-site storm drain alignment and outfall. Construction of the storm drain outfall to Homestead Creek may require the excavation and/or fill of waters of the U.S. and state.

Implementation of the following mitigation measure would reduce the potential impact to less than significant levels.

Mitigation: If the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (2, 3, 6; pages 5-20 and 5-21)	☐	☐	☐	☑

Comment: While native and migratory wildlife species may use the project site on occasion, it is not an established wildlife corridor or nursery site.

e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (6; page 5-12, 40)	☐	☑	☐	☐

Comment (On-site trees): Project proposes removal of trees subject to the City of Walnut Creek's Tree Protection Ordinance. An arborist report prepared by Treescapes, Inc., dated March 6, 2003, identified and evaluated 52 trees located on the undeveloped project site. The project proposes removal of 26 trees (diameter 9" or greater) on site and dripline line encroachments on approximately 6 other trees. 26 trees will be preserved throughout the site; 19 native species trees and 7 other non-native species within the designated wetland areas. The arborist report identifies 4 native species trees to be removed, 3 of which have poor vigor/structure. Tree #474 a 10" Valley Oak, is in good vigor and would be removed.

The removal of any trees equal to or greater than 9 inches in diameter at breast height (4.5 feet above the ground surface) will trigger the need for a tree removal permit from the City of Walnut Creek. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation:

1. A tree removal permit from the City of Walnut Creek is required for removal of any trees greater than 9 inches in diameter at breast height are to be removed.
2. The project shall comply with all preservation guidelines specified in the arborist report including, but not limited to, installation of temporary chain-link construction fence, hand digging within 1.5 times the driplines of trees.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact

Comment (Off-site trees): The project proposes off-site underground sewer and storm water drain lines. An arborist report prepared by Joseph McNeil Consulting Arborist, dated August 8, 2004, evaluated 41 trees within the project zone. The report locates and identifies the pipe route and all trees within the proposed trench line. The report concludes that impacts to trees may occur as part of the proposed development and recommends actions to reduce potential impacts to trees to less than significant levels. The report does not recommend removal of any trees. The proposed storm drain alignment is subject to further review as specified in Section XVI, Utilities and Service Systems, below. Re-alignment of the off-site storm drain line within the existing roadway easement would not eliminate trenching within driplines of tree but would reduce the number of trees potentially impacted by the installation.

Mitigation:

1. A dripline encroachment permit from the City of Walnut Creek is required prior to any construction or trenching activities.
2. The project shall comply with all preservation guidelines specified in the specified in the Joseph McNeil Arborist Report dated August 8, 2004.
3. The Map of trees, contained in the arborist report, shall be revised to show the realigned storm water pipe and any revised recommendations to reduce impacts to trees.

f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (6; page 5-12)	☐	☐	☐	☑

Comment: No HCPs or NCCPs have been approved for the project site.

V. CULTURAL RESOURCES. *Would the project:*

a. Cause a substantial adverse change in the significance of a historical resource as defined in Sec. 15064.5? (6; Table 2-6)	☐	☐	☐	☑
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Sec. 15064.5? (3)	☐	☐	☑	☐
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (3)	☐	☐	☑	☐
d. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☑	☐

Comments a - d: Referral comments for the Historical Resources Information System at Sonoma State University (CHRIS/NWIC) indicated, "there is a low possibility of historical/archaeological resources. Further study is not recommended." All site development permits issued by the City are subject to a general condition which requires developers who unearth potential archaeological resources to halt work and consult an archaeologist for recommended mitigation measures which are then to be followed. No project specific mitigation measures are deemed necessary in this area. (1,2)

VI. GEOLOGY AND SOILS. *Would the project:*

a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. (6; Figure 6-2)	☐	☐	☑	☐
ii) Strong seismic ground shaking? (6; Figure 6-2)	☐	☐	☑	☐
Comment: All parts of Walnut Creek can be expected to experience some level of seismic ground shaking during the life of a structure. All new buildings are required to be constructed in compliance with adopted building codes which incorporate seismic resistant design criteria. Seismic impacts on structures built to adopted building codes is considered within acceptable community levels.				
iii) Seismic-related ground failure, including liquefaction? (6; pages 6-10 through 6-12, Figure 6-2)	☐	☐	☐	☐
iv) Landslides? (6; page 6-10 and Figure 6-2)	☐	☐	☑	☐
Comment: The project site is not within an area shown on the General Plan Environmental Hazards map, Figure 6-2, subject to liquefaction or landslide.				
a. Result in substantial soil erosion or loss of topsoil? (3,21,24)	☐	☐	☐	☐
c. Result in the potential for water erosion based on slopes, soil types and soil stability. (3,21,24)	☐	☐	☑	☐
d. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, (excavation, grading, clearing, grubbing or fill) and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? (6; Figure 6-2)	☐	☐	☑	☐
e. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? (21,27)	☐	☐	☑	☐
f. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? (na)	☐	☐	☐	☑
VII. HAZARDS AND HAZARDOUS MATERIALS. *Would the project:*				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? (1, 6; pages 6-18 through 6-26)	☐	☐	☑	☐
Comment: The residential project is not considered a source of hazardous material.				
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (1)	☐	☐	☑	☐
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (1,4,9)	☐	☐	☑	☐
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
65962.5 and, as a result, would it create a significant hazard to the public or the environment? (51)				
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? (na)	☐	☐	☑	☐
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (na)	☐	☐	☑	☐
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (24)	☐	☐	☑	☐
h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (2,3,6; page 6-14 through 6-17)	☐	☐	☑	☐

Comment: The project is predominantly surrounded by existing single and multiple family developments and an active golf course. New homes would be approximately 50' from the back of seventh green. An evaluation by Neal Meagher, Golf Course Architect, dated December 30, 2003, concludes that the relatively short, 140 yard par three hole, in conjunction with proposed landscape mounds and tree plantings reduce the occurrence of errant balls on the three homes adjacent to the course to less than significant levels. Standard conditions of approval for homes next to golf courses require that homebuyers be notified of the possibility of errant golf balls as part of purchase disclosure. No further mitigation is necessary.

VIII. HYDROLOGY AND WATER QUALITY. *Would the project:*				
a. Violate any water quality standards or waste discharge requirements? (24)	☐	☑	☐	☐

Comments: The proposed project must comply with the standards of the Contra Costa County NPDES permit. Water quality in the unnamed tributary on site and Homestead Creek could be adversely affected during grading and site construction. Erosion associated with site disturbance may result in the introduction of sediment into the creek. Development of the site may have an adverse impact on downstream waters associated with increased human use of the site and the potential introduction of pollutants into the storm drain system. Runoff from the site may contain pollutants that would adversely affect downstream waters north of the project area. Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation:

1. A site-specific SWPPP should be developed to prevent sedimentation and adverse impacts to water quality during construction in the unnamed tributary and Homestead Creek.
2. A post-construction storm water management plan that addresses and mitigates impacts to storm water quality, quantity and hydrology should be developed to prevent adverse impacts to downstream waters after construction.

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (1,3,6; page 5-22,24)				
Comment: Project is served by public water services and no private wells are present or proposed. Site drainage has been designed to preserve the existing on-site wetland areas and direct runoff from new impervious surfaces into a stormwater drainage system. The project is subject to grading and site development permits to ensure compliance with approved plans. No further mitigation is necessary.				
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? (3,24)	☐	☑	☐	☐
Comment: The project proposes grading and construction which will alter existing drainage patterns on site. Erosion and siltation during construction could occur.				
See mitigation VIII(a) above				
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? (1,24)	☐	☐	☑	☐
Comments d: Project proposes grading activities which would alter on-site drainage patterns. Proposed landscape and Stormwater facilities would reduce the potential for flooding to less than significant levels.				
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (1,3,14,24)	☐	☐	☑	☐
Comment: The project proposes drainage facilities that collect and divert stormwater runoff to an existing creek that has capacity to accommodate the proposed development.				
f. Otherwise substantially degrade water quality? (24)	☐	☐	☑	☐
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (3, 6; Figure 6-3)	☐	☐	☐	☑
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (3, 6; Figure 6-3)	☐	☐	☐	☑
i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam? (6; Page 6-13 and 14, Figure 6-3)	☐	☐	☐	☑
j. Inundation by seiche, tsunami, or mudflow? (1,4, 6; Page 6-9 and Figure 6-2)	☐	☐	☐	☑
Comments g – i: According to the Flood Insurance Rate Map (FIRM) Floodplain Map, the project site is located within Area X, which indicates that the site is neither in a 100-year or 500-year floodplain. In addition, the project site is not located near a levee or dam. Thus, the proposed project will not expose people, structures, or property to significant risk nor impede or redirect flood flows.				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
k. Alterations of wetlands in any way? (1,3, 6; Figure 5-2)	☐	☐	☑	☐

Comment: Biotic Resources Report, prepared by Mosaic Associates, dated July 29, 2004, identifies approximately 0.051 acres of jurisdictional wetlands in two patches at the northern end of site. The project does not propose alteration of on-site wetland areas.

IX. LAND USE PLANNING. *Would the project:*

a. Physically divide an established community? (2,3)	☐	☐	☐	☑

Comment: Project is within an urbanized area and does not create any feature that would physically divide an established community.

b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (6,6a,8)	☐	☑	☐	☐

Comment: The General Plan designation of the 3.58-acre project site is MFL, Multi-Family Low, 6-14 units/acre. The proposed 12-unit project represents a density of 3.4-units per acre considered independently on the 3.58-acre site, and 6.6-units per acre within the context of the 150-acre planned district. A density of 6.6-units per acre is consistent with the Multi-Family Low density General Plan designation. The project would be subject to an affordable component of the Housing Element which requires 10% of the units to be available to moderate income households.

The project site is zoned P-D 859 which allows a maximum of 1,150 residential within the 150-acre planned district. There are currently approximately 986 residential units within the P-D boundaries. The addition of the 12 proposed units would result in 998 units, below the permitted zoning maximum. The current Planned District zoning did not anticipate residential development and would need to be revised (rezoned) to accommodate the residential project consistent with the goals and policies contained in the General Plan. The project including rezoning is consistent with the General Plan and would not conflict with adopted land use policies.

To facilitate construction of the proposed development, the applicant proposes off-site storm water drainage and sewer lines onto and across private property, which will necessitate acquisition of easements. The City cannot require easements for private development on other private property without the consent of the property owner. Nor would the City proceed with condemnation proceedings to acquire any off-site easements for the private development. The burden of acquiring any off-site easements shall be the responsibility of the applicant. Implementation of the following mitigation will reduce the potential impacts to less than significant.

Mitigation: The applicant shall obtain all necessary off-site easements prior to recordation of the final map.

c. Conflict with any applicable habitat conservation plan or natural community conservation plan? (1, 6; Page 5-21)	☐	☐	☐	☑

Comment: The project is not within a habitat or natural community conservation plan area.

X. MINERAL RESOURCES. *Would the project:*

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
(6; Page 5-22)				
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? (6; Page 5-22)	☐	☐	☐	☑

Comments a – b: The project is situated within an area which consists of existing residential and commercial development. The project site has no known existing mineral resources on site. The 12-lot residential development does not require or propose any quarrying, mining dredging or extraction of mineral resources on site, therefore, the proposed project will not substantially deplete or inhibit the extraction of a nonrenewable natural resource.

XI. NOISE. *Would the project result in:*

a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (6; Page 6-32, Table 6-5, Table 6-7 and Figure 6-4)	☐	☐	☑	☐
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (1)	☐	☐	☑	☐
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (5, 6; Page 36,39, Figure 6-7, 25)	☐	☐	☑	☐

Comment: The most significant source of noise in Walnut Creek is vehicular traffic. A project would need to increase traffic levels by 100% to generate a 3 dB(A) increase in noise. An increase of at least 5 dB(A) is required before increased noise is considered noticeable. Traffic from this project will not substantially increase ambient noise levels in the area. See section XV. (Transportation) below for project specific traffic counts.

d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (5, 44; Section 4-6.203)	☐	☐	☑	☐

Comment: The project will generate short-term noise impacts during the construction phase of this development. The City restricts construction hours of operation to Monday through Friday 7a.m. to 6 p.m. without special approval of the Community Development Director. Construction noises during normal business hours are to be expected in association with in-fill development. These short-term noise impacts are considered less than significant. No project specific mitigation is deemed necessary.

e. For a project located within an airport land use plan or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (na)	☐	☐	☐	☑
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (na)	☐	☐	☐	☑

XII. POPULATION AND HOUSING. *Would the project:*

a. Induce substantial population growth in an area either directly (for example, by proposing new homes and businesses or indirectly (for example, through extension of roads or other infrastructure)? (1,3)	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (2,3)	☐	☐	☐	☑
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (1,2,3)	☐	☐	☐	☑

XIII. PUBLIC SERVICES.

a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection? (28)	☐	☐	☑	☐
Police protection? (26)	☐	☐	☑	☐
Schools? (33,34,35)	☐	☐	☑	☐
Parks? (6; Chapter 5)	☐	☐	☑	☐
Maintenance of public facilities including roads or storm drain facilities? (24)	☐	☐	☑	☐

Comment: All public services are available and adequate to serve the proposed development.

XIV. RECREATION.

a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (5)	☐	☐	☑	☐
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment? (1)	☐	☐	☑	☐

Comments a – b: The project proposes 10 detached and 2 attached units on 3.58 acres. The project site is in the immediate vicinity of Heather Farm Park, a large City park. No new public recreation facilities are required as a result of the proposed project

XV. TRANSPORTATION/TRAFFIC. *Would the project:*

a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? (1,25)	☐	☐	☑	☐

Comment: A traffic analysis, dated February 2001, was prepared by George Nickelson, P.E., of Nickelson Associates. The report concludes that the proposed 12 lot residential project would generate 12 p.m. peak hour trips, well below the City and County minimum 100 trip threshold requiring further traffic analysis. Therefore, the proposed project is not expected to have significant impact on area wide traffic flow.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b. Exceed, either individually or cumulatively, a level of service standard established in the Growth Limitation Plan? (1,25,6; page 2-85)	☐	☐	☑	☐
Comment: See response above.				
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? (na)	☐	☐	☐	☑
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (3,25)	☐	☐	☑	☐
Comment: The project is situated at the end of an existing dead end street. Proposed improvements include adding a private roadway into the development from the existing dead end street and constructing a complying cul-de-sac turn around, thereby improving existing vehicular circulation.				
e. Result in inadequate emergency access? (3,24,25,26,28)	☐	☐	☑	☐
Comment: The project has been designed to allow for adequate emergency access.				
f. Result in inadequate parking capacity? (3,8,25)	☐	☐	☑	☐
Comment: Parking standards require 2 covered spaces per unit. The project proposes a mix of two and three car garages. Driveways are a minimum of 18-feet in length which would accommodate additional on-site parking. The private street is designed to accommodate street parking on one side. The project exceeds City single family residential parking standards.				
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (3,6; Chapter 4,8)	☐	☐	☑	☐
XVI. UTILITIES AND SERVICE SYSTEMS. *Would the project:*				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (24)	☐	☐	☑	☐
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (13)	☐	☐	☑	☐
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (14,24)	☐	☑	☐	☐
Comment: The project proposes installation of approximately 890 linear feet of 15" and 24" storm drain pipe through private off-site property. Approximately 390-linear feet of underground pipe would be install within unincorporated Contra Costa County. As currently proposed, the underground pipe would be within the driplines of a number of significant trees and is not adjacent to the existing roadway. The City Engineering division has requested the underground pipe be relocated under or adjacent to the existing paved roadways to facilitate future maintenance and to substantially avoid the root systems of trees. Implementation of the following measure would reduce potential impacts to less than significant levels.				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
Mitigation: The applicant shall submit a revised underground storm drain plan that places the underground stormdrain line within or adjacent to the existing paved (Homestead Avenue and Seven Hill Ranch Road) roadways.				
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (12,15)	☐	☐	☑	☐
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? (13)	☐	☐	☑	☐
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? (53)	☐	☐	☑	☐
g. Comply with federal, state, and local statutes and regulations related to solid waste? (13)	☐	☐	☑	☐
Comments d - g: All utilities are available and adequate to serve the proposed project.				
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☑	☐
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☑	☐
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☑	☐

H:\Scott Harriman\Kinross Terrace Subdivision\Kinross Initial Study 9-28-04.doc

INITIAL STUDY SOURCE LIST

1) Project Application Information
2) Field Inspection/Investigation
3) Project Plans
4) Planner's Knowledge of Area
5) Experience with Other Projects of this Size and Nature
6) City of Walnut Creek General Plan
6a) City of Walnut Creek General Plan EIR
7) City of Walnut Creek General Plan Land Use Map
8) City of Walnut Creek Zoning Ordinance
9) City of Walnut Creek Zoning Map
10) State of California, Special Studies Zones (Revised Official Map)
11) City Aerial Photos
12) East Bay Municipal Utility District
13) Central Contra Costa Sanitary District
14) Contra Costa County Flood Control District
15) Contra Costa Water District
16) Bay Area Air Quality Management District
17) Site Specific Geologic Report
18) Site Specific Arborist Report
19) Site Specific Archeological Reconnaissance
20) City Off-Street Parking Standards
21) USDA-SCS, "Soils of Contra Costa County"
22) Department of Fish and Game, Natural Diversity Database Maps and Reports
23) City of Walnut Creek Parks and Recreation Division
23a) City Arborist
24) City of Walnut Creek Engineering Division
25) City of Walnut Creek Transportation Division
26) City of Walnut Creek Police Department
27) City of Walnut Creek Building Division
28) Contra Costa County Fire Protection District
29) Contra Costa County Clean Water Program
30) City Standard Specifications
31) Caltrans Highway Design Manual
32) Caltrans Traffic Manual
33) Mount Diablo School District
34) Walnut Creek School District
35) Acalanes School District
36) County of Contra Costa
37) Association of Bay Area Governments (ABAG)
38) State Archaeological Clearinghouse, Sonoma State University
39) City of Walnut Creek Noise Ordinance
40) City of Walnut Creek Tree Preservation Ordinance
41) City of Walnut Creek Grading Ordinance
42) Uniform Building Code (UBC) and Appendices (as adopted by the City)
43) Contra Costa County Congestion Management Plan
44) Walnut Creek Municipal Code
45) Standard Design Review Conditions (DRC Resolution NO. 1326)

46) Site Specific Noise Study
47) Site Specific Wild Life/Habitat Study
48) Site Specific Hydrology Report
49) Design Review Commission
50) Design Review Guidelines
51) Contra Costa Environmental Health Department
52) City of Walnut Creek Subdivision Ordinance
53) Valley Waste Management
54) Preliminary Results, Botanical Survey, Kinross Terrace Subdivision Site (Wood Biological Consulting, September 13, 2004)
55) Wetland Delineation, Kinross Terrace, Off-Site Sewer and Storm Drain Plan, Walnut Creek (Wood Biological Consulting, August 18, 2004)
56) Biotic Resources Report, Kinross Terrace, Walnut Creek, Contra Costa County (Mosaic Associates, July 29, 2004)
57) Wetland Delineation, Heather Park, Walnut Creek, Contra Costa County (Live Oak Associates, Inc., September 8, 2000)

ATTACHMENT 4A

RECEIVED
OCT 19 2004
PLANNING DIVISION
CITY OF WALNUT CREEK

October 18, 2004

Ms. Valerie Barone, Director
City of Walnut Creek Community Development Department
1666 North Main Street
Walnut Creek. CA 94596

Dear Ms. Barone,

Ref. Notice of Intent to Adopt a Proposed Mitigated Negative Declaration
re Work Order N° YO3-003, Kinross Terrace Subdivision.

Would you please reconsider the decision publicly announced September 28, 2004 stating the Department's intent to adopt a Mitigated Negative Declaration for the above work order?

Many significant effects on the environment of Walnut Creek are not considered in the proposed Mitigated Negative Declaration for the project.

In 1984 when condominium and/or apartments were proposed for this exact same site, an ENVIRONMENTAL IMPACT REPORT (EIR) was required. Topics discussed include the status of the site as a buffer zone, the precedent for re-designation and development of the golf course (approximately 46 acres), loss of visual quality of the site, storm water drainage, sewage collection, and traffic and parking issues.

Today, the need for an EIR is even more necessary than in 1984.

Some of the items that the proposed Mitigated Negative Declaration does not address are:

* this rezoning application, if approved could set a precedent for more & maybe all of the golf course being developed for housing and the loss of one of Walnut Creek's premier leisure attractions.

* this rezoning application, if approved, would be in conflict with the Planning Commission and Council decisions made when the Planned Development 859 was originally approved. This 3.58-acre site is part of the open space that was then incorporated into PD 859, to offset the high density of units and housing that were then approved for construction.

* at the present time, when the population of Walnut Creek is increasing in leaps and bounds, it is not good for the community that recreation space be reduced. More homes will put more pressure on all the public park facilities that cannot be expanded accordingly. If we are not careful, Walnut Creek will become like Los Angeles, a city of just houses, cars and pollution. Already our Freeway Intersection 24/680 is like Los Angeles. The need for recreation land is as valid today as it was when the Planning Commission and Council Members originally zoned this land to be recreation land, in 1966/196.

* the deer, fox, coyote, etc. that presently depend upon this 3.58-acre open space to move between Shell Ridge Open Space and Seven Hills Ranch will have their trails between their two habitats blocked by the 12 homes. If built, these homes will force the animals to go onto Marchbanks Drive, which would be very dangerous for the motorists that frequent Marchbanks Drive.
At present the animals move to/from each open space stated, and road signs at St John Vianney Church and Homestead Ave forewarn motorists on Ygnacio Valley Rd of such. Many of the residents in the area can attest to the animals transiting the 3.58-acre site. Attachment A is an example.

* generally, houses are not built at the end of a fairway in the direct line of flight of the golf ball, but on the sides of a fairway. The Golf Course Safety Mitigation Report prepared for this 12 home development by Neal Meagher dated December 30, 2003, conflicts with an unbiased safety recommendation in an EIR Report prepared 1984 for this same 3.58-acre site. While Neal Meagher states "in the absence of an industry standard governing golf course dimensions, the proposed distance of 50' from the back of the green to the new property line would, in most cases, be sufficient to keep errant shots from exiting the golf course property," the 1984 EIR Report states "the buildings should be set back a minimum of 150 ft from a green, as golf balls can cause property damage and physical damage to persons", per Jones, Rees L & Guy L Rando. A copy of both statements is attached for reference. See Attachments B & C.

* if the houses are built and a safety problem later develops because some of the 12 homes are in the abnormal and dangerous situation of being in the direct line of flight of errant golf balls, the golf course owner could use such as an excuse to cease operating the 9 hole course, which would give him a reason to convert the rest of the links to housing, which would be very profitable for him but a big loss for the adjoining residents, the City of Walnut Creek and the communities nearby.

* the proposal to reduce the roadway width of the existing "Kinross Terrace", from Marchbanks Drive to the new private road into the project site so that the public cannot park on both sides of the road as they can at present, makes no sense. Presently, Kinross Terrace is wide enough for the public to park on either side and still operate as a road. To reduce the parking to one side only will reduce the benefit the public road presently offers the public, but achieve nothing for the public. Making this section of Kinross Terrace only 28' wide would not only reduce the public parking that is presently available on this public street but it would have the effect of converting a public road into a private road, while leaving the public to still maintain it. Presently, both sides of the street are often used by the public for parking purposes.
Example:- * when people are playing tennis at the adjoining tennis courts.
* when a large event is held at the Heather Farms Homeowners clubhouse at 1501 Marchbanks Drive.
* when a large event is held in Heather Farms Park like the Art & Wine Festival or the Walnut Festival.

* as a place to park a car by people who live nearby or choose to catch the County Connection bus from the adjoining bus stop.

Note, there have been no major public nuisance problems resulting from such over the years. Reference Attachment D.

* an artist's rendering of the proposed homes was presented Nov. 13, 2002 to the residents of the homes presently living on the other side of Kinross Terrace, (that front onto Adirondack Way), and it showed their views of the distant hills would still be seen from their back patios. However, the rendition was misleading as it only showed the proposed houses directly across the road, at the entrance to the new development, that were a max. of 23'-7" high. Had the houses at the back of the development proposed been considered instead, namely those to be built on pads approx. 24 ft higher in elevation to the entrance homes and their 28'-6" height overall been considered, it will surely be found that the existing residents views of the distant hills will be obstructed and lost. Also, since that presentation, one of the houses directly across the road shown in the rendition has increased in height from 23'-7" to 28'-6".

While the 3.58-acre site is no longer used for a golf course fairway, it is performing a very important function "as is", for the community of Walnut Creek. The site, which is partly riparian in nature, is providing a natural habitat for plants, animals, insects and birds that frequent Walnut Creek. It should be retained as a natural habitat area, like a few other small areas of the golf course are functioning as natural habitats. See Attachment E.

Also, rezoning these 3.58-acres will benefit only a very few people, but would be a great loss to both the fauna (deer etc) that use it to migrate between their habitats, and the present residents who bought their homes expecting to enjoy the open space of golf course zoning.

A wise decision would be to request an EIR then consider the Pros and Cons. I think you may find on reviewing an EIR for this project that it would be best to deny this application to build 12 homes on this open space. Then nobody will be any the worse off or better off than when they bought their properties. Everyone will continue to have what he or she bargained for when they purchased their properties. (the homeowners and the golf course owner)

In conclusion, the proposed Mitigated Negative Declaration leaves the following questions unanswered: -

* we do not know how the loss of this habitat will affect the animals that use it?
* the adjoining residents are not being correctly told how their views will be effected if this open space is built upon.
* this project will/won't be a precedent for other open spaces of the Diablo Hills Golf Course being built upon in the future?
* what are the long-term implications of adopting the proposed Mitigated Negative Declaration for the Diablo Hills Golf Course, the adjoining residents and the recreational sport of golfing in Walnut Creek?

If the answer is not stated in the proposed Mitigated Negative Declaration for any of these questions, we would suggest that an EIR is necessary to determine the answer.

Lastly, we believe that if the proposed Mitigated Negative Declaration is adopted in lieu of an EIR, it will create a precedent for easy conversion of more of the golf course property to housing, which would not be best for the people and fauna of Walnut Creek.

Frank J. Anderson
101 Shell Ridge Crt. Walnut Creek.

M. G. Klimes
1576 Siskiyou Dr. Walnut Creek.

Bob Henderson
1578 Siskiyou Dr. Walnut Creek.

Sheridan W. Hall
850 Seven Hills Ranch Rd
Walnut Creek.

(Fliehmann)
536 Adirondack Way
Walnut Creek.

CC. City of Walnut Creek Planning Commission, Chair & members. (Meeting Oct. 28, 2004)

W.J. Fliehmann. P.E.
536 Adirondack Way
Walnut Creek, CA 94598

7 January 2001

Mr. Paul Richardson, Planning Manager
Community Development Department
City of Walnut Creek
1666 North Main Street
Walnut Creek, CA 94596

Dear Mr. Richardson:

I recently signed as a participant in a group letter from a number of Past Presidents of the Heather Farms Homeowners Association regarding the Application pending for Subdivision 8457.

At this time I would like to present a more direct and personal request that this Application be rejected. To the best of my recollection the particular parcel of land involved was designated as being for Recreational use, That was part of an agreement between the City and the original Developer in his quest to use the Heather Farm area for high density development.

I have lived in Heather Farms for fifteen years and highly prize the rather rural nature found in the midst of the City. In years past we have frequently watched as deer cross over the property in question and along our side of the fence separating us from the Seven Hills Ranch. That area serves as a vital link for their movement to and from the secluded area just down in the draw from our back yard. Deer are not the only wild life to frequent that parcel, Just last week we heard Coyotes there in the area and have had foxes, skunks and raccoons in our backyard courtesy of the natural pathway provided by that parcel. I have never looked for the numerous small types of wild life that must dwell there but obviously it does exist.

Over the Years the City of Walnut Creek has been very active in preserving open space further up Shell Ridge and on Lime Ridge. It would seem a shame to now turn our collective backs on a relatively small parcel used by the wild life residing in those areas for transitory purposes. The area has been Zoned Recreational and it would appear logical to leave it so.

Yours truly,

W J Fliehmann P.E.

Attachment A

NEAL MEAGHER GOLF COURSE ARCHITECT

Golf Course Safety Mitigation Report
for
Kinross Terrace

December 30, 2003

The current application for the Kinross Terrace development by Delco Builders & Developers calls for the southern edge of the project to abut the existing seventh green of the Diablo Hills Golf Course. This report summarizes the conceptual recommendations for mitigating potential conflicts between the new home sites and the existing golf hole as shown on the attached Proposed Golf Course and Landscaping Concepts Plan.

The existing seventh hole is a par 3 hole measuring 140 yards from the Blue, or back tee, with the green slightly elevated. Generally speaking, it is quite rare for golfers to over club a green, especially a short par 3 hole like this one, and even more rare for that to happen on a slightly uphill shot. Therefore, in the absence of an industry standard governing golf course dimensions, the proposed distance of 50' from the back of the green to the new property line would, in most cases, be sufficient to keep errant shots from exiting the golf course property.

Additionally, the construction of a new sand bunker at the rear of the green will serve as a new hazard to any golfer who over hits this green reinforcing a more cautious approach to the play of this hole. This new bunker will be backed by a new series of 5' – 6' high mounds that will be densely planted with groundcover, shrubs and trees that will further help block any errant shots from exiting the golf course and entering the proposed new home sites. The proposed bunker as shown on the plan is in the same scale and design style as the existing bunkering on the golf course and utilizes the existing network of mounding that frames the rear of the green. It is important to maintain these existing mounds as they help define the hole from the tee and they also will work well with the new series of mounds that will parallel the new property line.

By planting redwood and Raywood ash trees along this property line, the view of the new homes will be softened from the golfer's perspective as well as serving as further protection from mis-hit golf shots.

While it is impossible to claim that an errant golf shot will never pose a hazard to a future homeowner, this proposal does endeavor to ameliorate such an occurrence as much as possible while creating a visually appealing landscape to both homeowner and the patron of the Diablo Hills Golf Course.

4457 LINDA WAY • PLEASANTON, CA 94566 • PHONE 925.417.7513 • FAX 925.417.7514 • NMGOLF@PACBELL.NET
AMERICAN SOCIETY OF GOLF COURSE ARCHITECTS

Attachment B

☐ 500 Newport Center Drive, Suite 600
Newport Beach, California 92660
phone (714) 640-6363

☐ 2606 Eighth Street
Berkeley, California 94710
phone (415) 841-6840

lsa

Community Planning ☐ Natural Resource Management ☐ Environmental Assessment

DRAFT

ENVIRONMENTAL IMPACT REPORT

REGENCY PARK

GENERAL PLAN AMENDMENT AND REZONING APPLICATION
NO. 8478

PREPARED FOR
CITY OF WALNUT CREEK

DECEMBER 1984

By
Larry Seeman Associates, Inc.
2606 Eighth Street
Berkeley, CA 94710
(415) 841-6840

LSA #84-046

Attachment C

Development of the project could disturb horses grazing on the Hale property and would indirectly diminish the rural character of this parcel.

Proximity to the golf course would be considered an asset by potential residents as it would provide open vistas and a recreational ambience, however, the units in the southern portion of the site would be subject to the hazards of golf balls being driven onto the site. These units would be approximately 130 feet from the center of the seventh green and would have balconies perpendicular to the fairway. According to site design criteria for golf courses, homes or other surrounding uses should be set back a minimum of 150 feet from the center of a green (Jones, Rees L. and Guy L. Rando, 1974). Golf balls can cause property damage and physical damage to persons. While the distance of the units from the golf course would be sufficient to prevent regular bombardment by golf balls, golf balls would strike these units often enough to result in a significant impact. If sufficient complaints regarding golf ball damage on the project site are received, it is possible that requests to shorten the hole would again be made. This would result in a potential for additional development on the golf course. The impacts of this possibility are discussed in the Growth Inducement section of this report.

In order to buffer adjacent uses from the project, the proposed landscape plan depicts a six-foot high wood fence along the portion of the west property line adjacent to the single-family homes, a four-foot high open wood fence along the south property line adjacent to the golf course, and retention of the existing cyclone fence along the portion of the east property line adjacent to the Stoneridge Apartments. This fence is approximately 15 feet high. Project boundaries adjacent to surrounding residences would also be buffered with both deciduous and evergreen trees.

Mitigation Measures. The following measures are recommended to offset potential adverse effects:

1. In order to minimize disturbance to adjacent uses, the setback from the property line adjacent to the Howard residence should be increased to at least 30 feet. In order to achieve this setback, the westernmost unit of Building Number 1 should be deleted.

2. In order to provide an effective and attractive buffer between the Stoneridge Apartments and the project, the existing cyclone fence should be removed and an eight-foot high earth-toned wood fence should be installed in its place.

Mr. Paul Richardson, Planning Manager
City of Walnut Creek
February 9, 2001

Dear Mr. Richardson:

Please refer to the following excerpt from the (undated) Subdivision 8457 Application Cover Letter submitted by Heather Park LLC of P.O. Box 131, Walnut Creek.

> The site is presently a nuisance and has been subject to trespassing. A walk of the Site reveals stone campfire rings, dumpings, and clippings from adjoining properties, Signs of unauthorized partying, and garbage. Neighbors have informed us of vagrancy complaints, and the presence of other various illegal activities, resulting in police visits. This summer, the Fire Department extinguished a fire on the site which could have resulted in the disastrous loss of existing homes. An amendment to the current PUD of Golf Course Rough to residential use will eliminate these problems and bring security to the neighborhood.

We are neighbors who, for more than fifteen years, have lived alongside the property described above. It is totally visible to us. We have never made "vagrancy reports," have never viewed "various illegal activities" nor have we seen "this summer . . . a fire on the site.". The attached photographs disclose no "dumpings, clippings and garbage," but, instead, show that this attractive greenbelt and buffer zone land is under continuous surveillance from our residences. We need this area as a refuge to get away from the pressures of modern living—to reflect, to restore and to recharge.

A review of the *The Walnut Creek Journal's* "Fire Log," for the period from June 1 to September 30, 2000, reveals no reportable fires on the property last summer. Discussions with Walnut Creek police confirm this and also disclose that for many years there have been no reportable police offenses on this land.

We do not need a Crusader/Developer to "bring security to the neighborhood." We already have it.

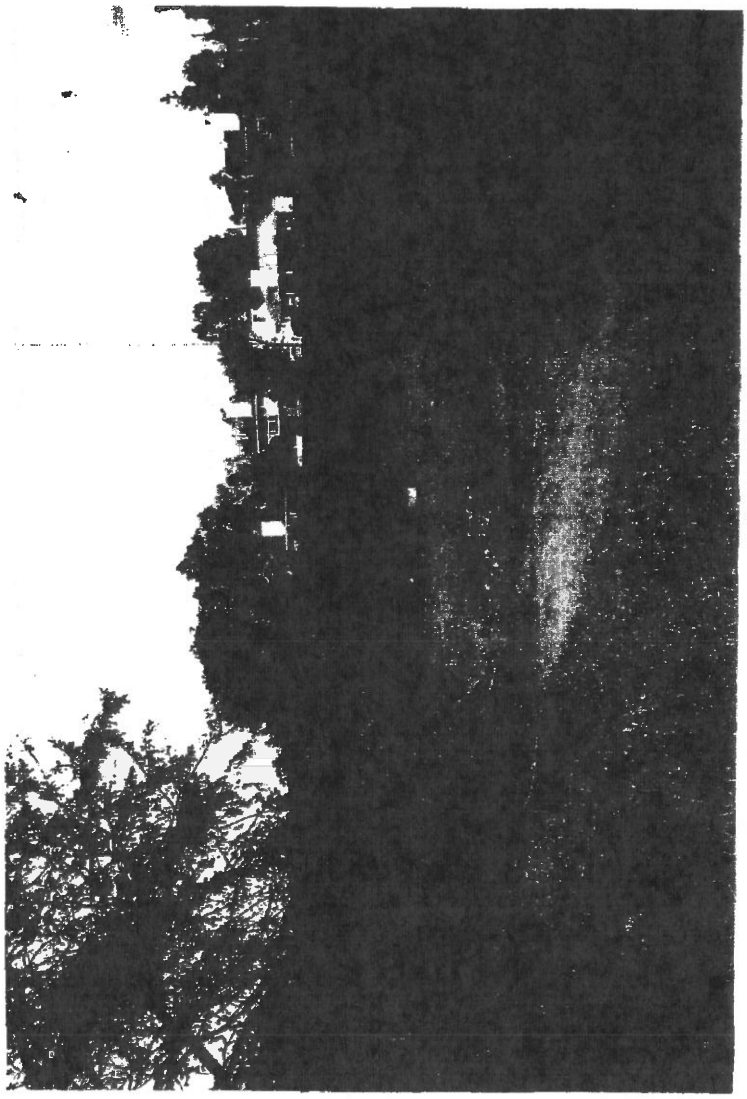
Sincerely,

Bunny Mitchell
525 Adirondack Way

Byron Fellows
503 Adirondack Way

Frank Anderson
101 Shell Ridge Court

Attachment D



Ken Hale
16300 West Ellendale Rd.
Dallas, OR 97338
Ph. 503-623-4368
E-mail otago@teleport.com

RECEIVED
OCT 05 2000
PLANNING DIVISION
CITY OF WALNUT CREEK

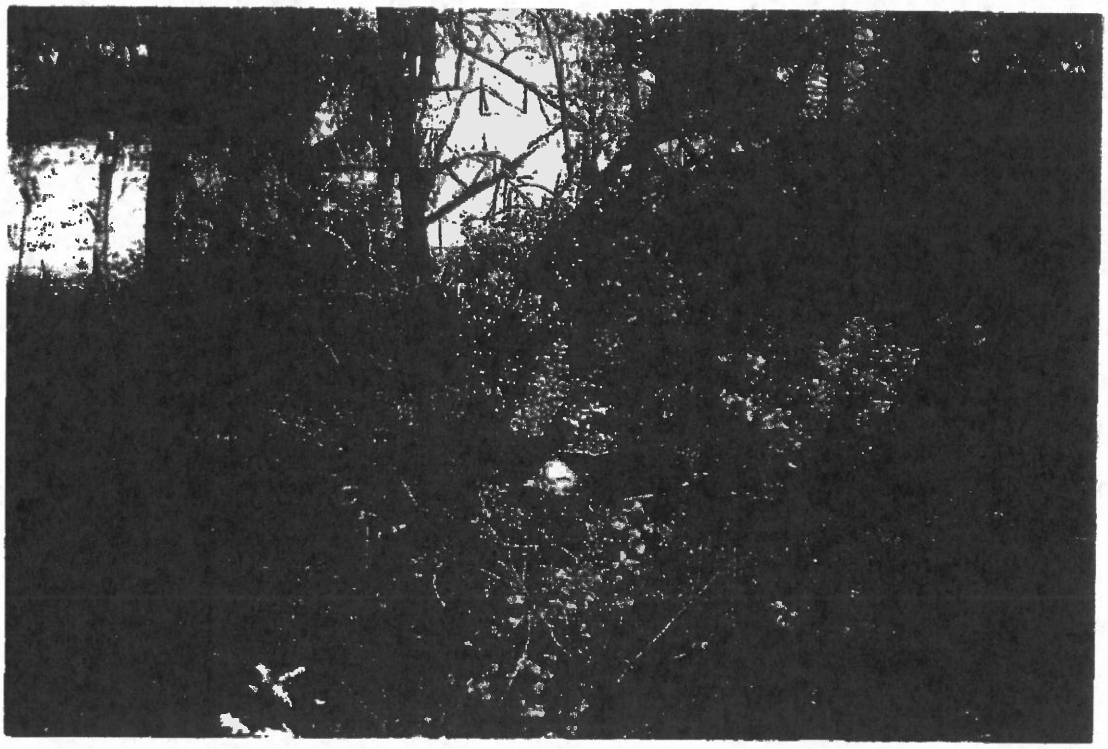
Alan Carreon, Assistant Planner
Community Development Department
City Hall
1666 North Main St.
Walnut Creek, California 94596

Dear Alan,

Would you see that this request gets to the appropriate departments and people? Thanks.

I am working with my father, Sheridan W. Hale, 850 Seven Hills Ranch Road, Walnut Creek concerning a potential subdivision development adjacent to his property. I am a professional natural resource technical planner. I would like some information on the development process and any hyrdological reviews you do during this process.

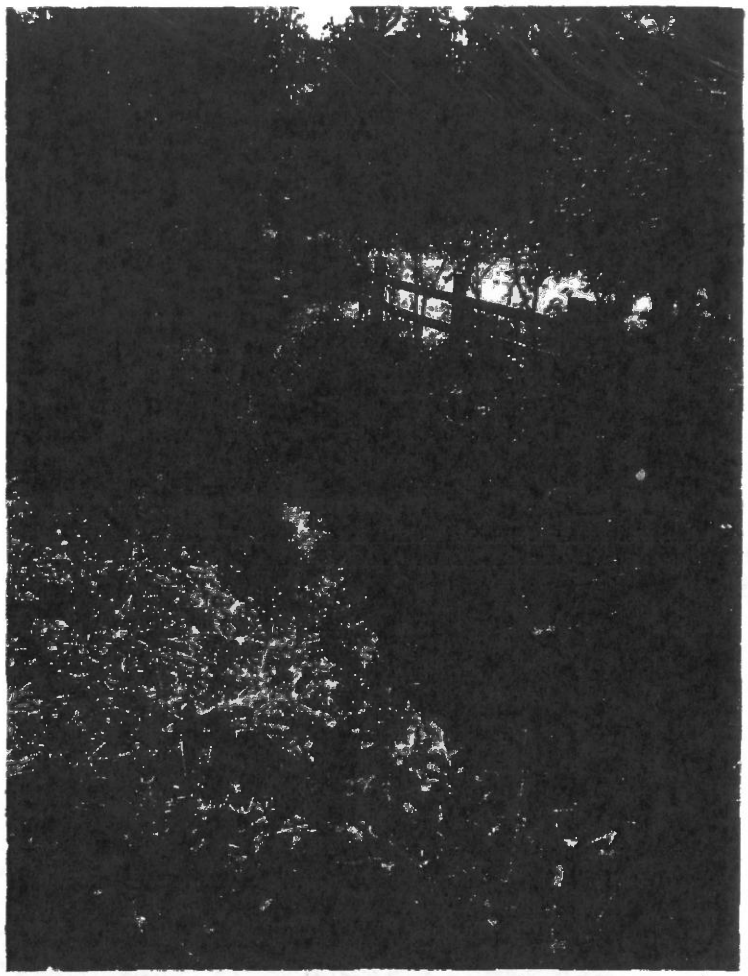
We have a concern witn the potential for change of hydrological conditions if the property is developed for housing. Currently, most of this property drains into Mr. Hale's property. The current cover of the land is grass and a few trees. During rainstorm events, water exits this property into Mr. Hale's property.



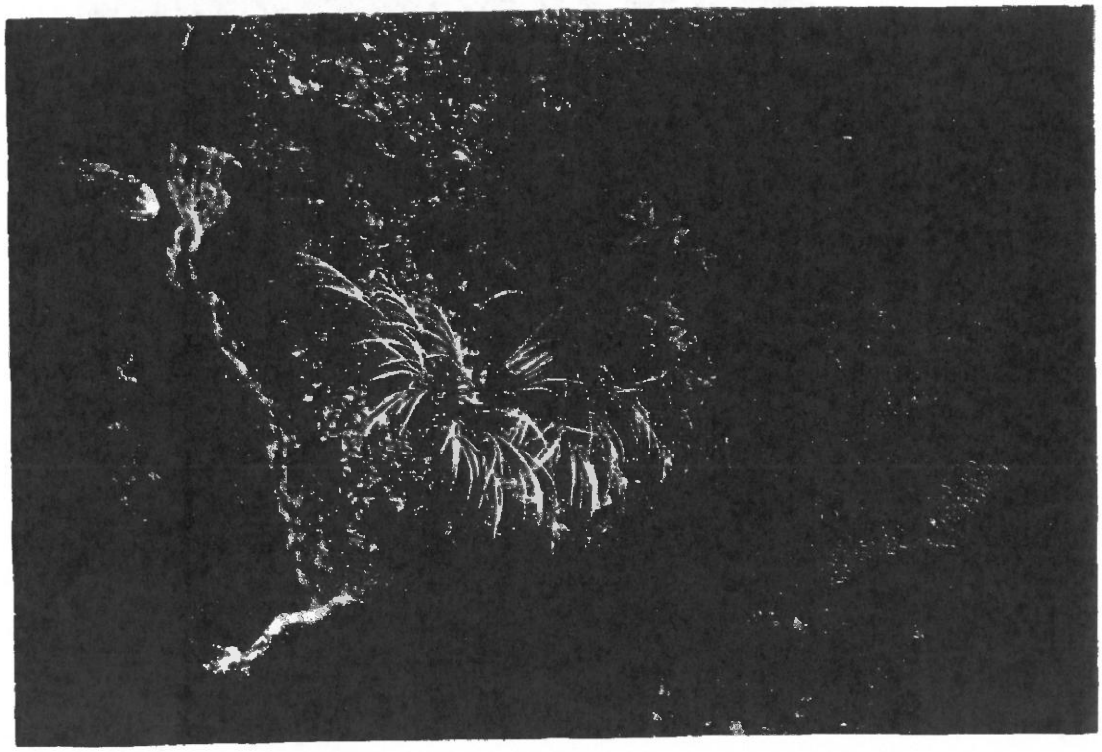
Attachment E

We are concerned about the amount impervious surfaces that will be increased when the land is developed (roofs, driveways, roads) and how this will increase the speed of run-off (drastically change the run-off curve) unless provision is made to hold the water on the development and release it at a speed comparable to the run-off from the current vegetative cover.

Also, drainage water from streets and roofs may have a lower water quality than the current water run-off from natural vegetation.



This drainage water then drains onto Mr. Hale's property and flows in a small drainway alongside his driveway, under the intersection of Seven Hills Ranch Road and Homestead Ave., alongside two other private residences along Seven Hills Ranch Road and finally exits into a small tributary of Walnut Creek. This drainage way is currently at full capacity during high rainfall events during the winter.



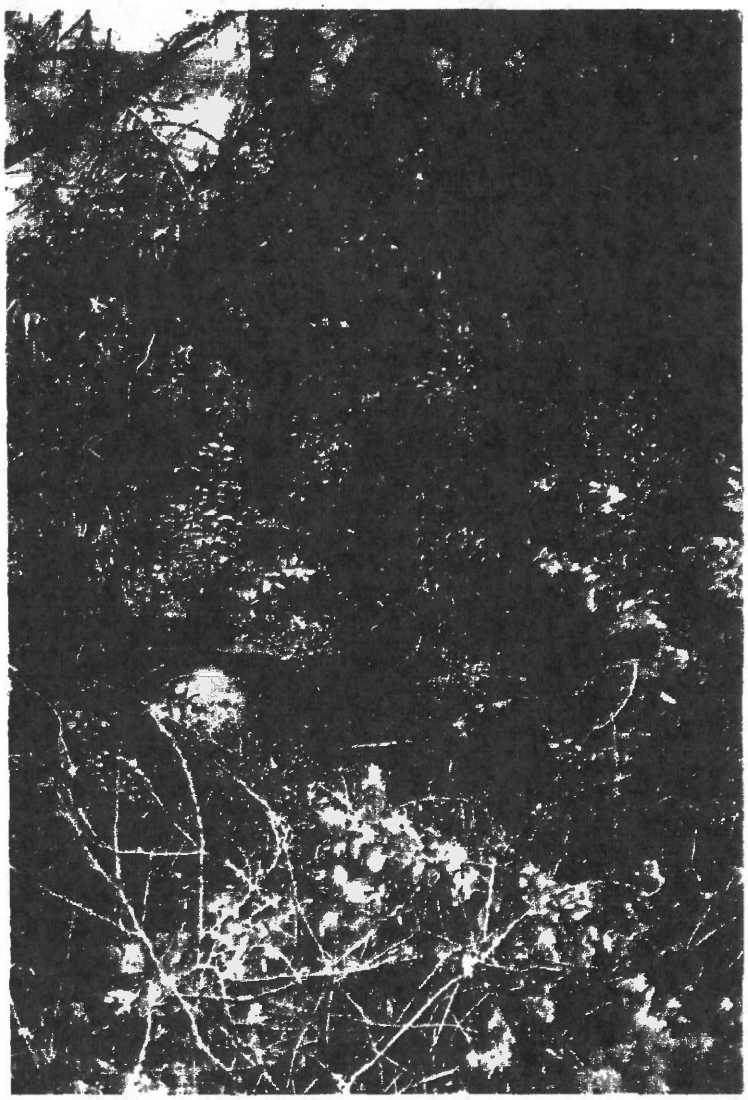
Mr. Hale has been a good steward of his land for over 50 years. Any hydrological changes could impact the small drainage ditch, his field and his driveway (as well as the downstream neighbors). He would like to continue to be able to be a good steward of this land. We appreciate your assistance in our inquiries about drainage and potential development adjacent to his property.

Thank you for your assistance. I look forward to hearing from you.

Sincerely,

Ken Hale
Certified Professional Erosion and Sediment Control Specialist
No. 649 (Soil and Water Conservation Society)

cc: Sheridan W. Hale



CITY OF
WALNUT
CREEK

ATTACHMENT 4A
RESPONSE

October 21, 2004

Frank Anderson
101 Shell Ridge Court
Walnut Creek, CA 94598

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Anderson,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 18, 2004. In addition, this letter responds to your request that the City reconsider its decision to prepare a negative declaration as opposed to an EIR for the project.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter response will be forwarded to the Planning Commission and City Council for their consideration when they review the project, scheduled on October 28 and November 16, 2004, respectively.

The following are responses to the comments outlined in your letter of October 18, 2004.

Rezoning Precedent

Your letter states that this rezoning could set a precedent for loss of more or all of the golf course and would be in conflict with the Planned District, P-D 859, zoning as adopted by the City Council. The project proposes to rezone a 3.58-acre portion of the approximately 48-acre golf course. The 3.58-acre site has been removed from active play since the early 1970's to reduce the propensity of errant balls being hit into adjacent residential areas. The project did not cause the reduction of golf course area, does not eliminate any active golf course area, or establish a precedent for the further elimination of the golf course. Any future proposal to amend the zoning district or development plan would be subject to a legislative action by the City Council based on facts and conditions present at the time of the zoning request.

Loss of Recreation Space

Your letter indicates that the loss of the recreation space is not good for the community. As previously stated, the project site was removed from the golf course in the 1970's in response to neighborhood concerns about errant gold balls. The Planning Commission noted in its preliminary review in April 2003, that the project site is a remnant parcel and does not eliminate any portion of the active golf course. Additionally, the project is subject to in-lieu parkland dedication fees pursuant to Section 10-1.602 of the Walnut Creek Subdivision Ordinance. The conversion of the unused 3.58-acre project site, adjacent to the 102-acre Heather Farm Park and private 48-acre golf course, does not constitute a significant loss of recreational space.

Wildlife

Your comments indicate that deer, fox coyote, etc., depend on the 3.58-acre project site. The Initial Study does not dispute that deer, fox or coyote may be seen on-site, but rather explains that the site is not an established wildlife corridor or nursery site. A biotic resource report of the site, prepared by Mosaic Associates, characterized the site as fill soils and low, sparse ruderal vegetation, with medium to small native and non-native trees sparsely distributed. The biotic report determined that the site lacks suitable habitat for special-status species. Your comments do not provide evidence that redevelopment of the site would cause a significant loss of habitat.

Proximity to Golf Course

Your letter indicates that the Golf Course Safety Mitigation Report, by Neal Meager dated December 30, 2003, conflicts with a 1984 EIR for the same project site. While the draft 1984 EIR was never certified, it evaluated a 51-unit condominium project placing approximately 12-units perpendicular to the western edge of the property, adjacent to the golf course. In that case, the 1984 EIR recommended a distance of 150-feet from the center of the green to the 12-units. The current Kinross Terrace project proposes three units adjacent to and not uniformly perpendicular to the western property line. Of these three homes, only one unit, on lot 5, is in-line with and approximately 130-feet from the center of the golf green. The other two homes on lots 4 and 6 are in excess of 150-feet from the central portion of the units to the center of the green. The 2003 Golf Course Safety Mitigation Report prepared for this project, states that the proposed distance of 50-feet from the back of the green to the new property line, along with construction of a new sand bunker and densely planted 5' – 6' high mounds as proposed, would in most cases be sufficient to keep errant shots from exiting the golf course property. The Initial Study does not assert that no errant balls will enter the project site, but rather that as designed and conditioned to inform potential homebuyers of the possibility of errant balls as part of the disclosure process, that the potential impact has been reduced to less than significant. Your comments do not raise evidence that this project, as proposed, would pose a significant hazard.

Kinross Drive Street Narrowing

Your letter indicates that reducing the width of Kinross Drive, a public street, eliminates the public benefit of street parking. While staff agrees that narrowing the street would eliminate parking on one side of the street, the concern does not constitute a significant impact. The proposed 28-foot paved street section is consistent with adopted City standards serving a development of this size and adequate street parking is available to serve the tennis courts. The applicant offered to reduce the width of the public street as a result of initial neighborhood concerns about parking and inappropriate activities on

that dead end portion of Kinross Drive. There was a general consensus of surrounding neighbors that narrowing the roadway would reduce or eliminate the perceived nuisance. Both the existing and reduced street configurations comply with city standards, provide adequate street parking and would not constitute a significant environmental impact. The Planning Commission may consider the preferred street configuration as part of the project review process.

Loss of Neighborhood Views

Your letter indicates that renderings of proposed homes were misleading, that current plans reflect taller homes on the lots adjacent to the entrance of the subdivision than were previously depicted, and that homes will block views. Your comments correctly identify an error in the latest tentative map submittal with respect to unit heights. The table of lots on page 7 of the proposed tentative map incorrectly lists the building heights that were depicted at the most recent Design Review Commission hearing in May 2004. The two lots at the subdivision entrance, Lots 1 and 12, should reflect building heights of 20' and 21'-6", respectively. These heights are lower than the originally proposed 23'-7" height. With respect to views, the project is not within a protected view corridor or ridgeline. The proposed homes are consistent with adopted height limits and other residential structures in the area. While the proposed homes will change the appearance of the site, visibility of the homes from the surrounding area, does not constitute a significant environmental impact.

In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is tentatively scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Michael Ryhmes, 1576 Siskiyou Dr, WC
Sheridan Hale, 850 Seven Hills Ranch Rd, WC
Bob Henderson, 1578 Siskiyou Dr, WC
W. Fliehman, 536 Adirondack Wy, WC

ATTACHMENT 4B

MEHLMAN ◆ TERBEEK LLP
Attorneys & Counselors At Law
2125 Oak Grove Road, Suite 125
Walnut Creek California 94598
Tel: (925) 935-3575
Fax: (925) 935-1789
e-mail: mehlman-terbeek@sbcglobal.net

Steven J Mehlman Marc L. TerBeek

October 28, 2004

By personal delivery:
Planning Commission
City of Walnut Creek
City Hall
1666 N. Main Street
Walnut Creek, CA 94596

Re: P-D Re-zoning, Vesting Tentative Map 8457–Kinross Terrace

Dear Planning Commission Members:

This firm has been retained to represent Robert Henderson, in connection with his opposition to the above-referenced re-zoning and vesting tentative map application. Mr. Henderson is the owner of property located at 1578 Siskiyou Drive, Walnut Creek, CA. 94598, which is within the P-D 859, a portion of which is being sought to be rezoned. His home is also adjacent to the Diablo Hills Golf Course in the vicinity of the Golf Course Club house and Greenery Restaurant, where other development applications have been pursued by the owner of the Diablo Hills Golf Course and potential developers of the golf course property. Mr. Henderson opposes this application based upon: 1) the financial expectation which owners purchasing property in the P-D 859 had and have that the golf course, and other open space and greenbelt areas of the P-D will be maintained based upon the original development plans, zoning, agreements, and other land use actions of the City, which led to the approval of this planned development and have been continuously followed by the City Planning Commission and City Council prior to this application; 2) the inadequacy of the mitigated negative declaration under the California Environmental Quality Act ("CEQA") for the reasons set forth in the letter dated October 18, 2004 and Attachments A through E, thereto (attached as Exhibit 6 to the staff report; and 3) the growth inducing impacts that development of this site may have and the precedent it will create for further development on the areas originally designated for golf course and on the open space and greenbelt buffer which was part of the original plans for this P.D.

HISTORY OF P-D 859

As set forth in the staff report at page 2, P-D 859 was adopted in 1966 with a mix of single and multi-family homes, a nine-hole private golf course and clubhouse. The P-D allowed clustering of homes on approximately 78 acres throughout the 150 acre site. P-D 859 also set aside approximately 53 acres for what is now Heather Farms Park. It also called for 771 apartments and 379 condominiums for a total of 1150 units, which was later reduced to 1000. Absent from the staff's discussion, however, was that this was apparently a very controversial proposal at the time to change property which was previously zoned single family R-1-15 to the conditional development plan for high density housing with a large number of apartments and condominiums. Mr. Henderson, who has extensively researched the history of this P-D, discovered that the original single family R-1-15 zoning would have allowed a maximum of 430 units. Ygnacio Valley at that time contained almost entirely single family units and a sizable segment of the

residents wanted it to remain that way, presenting at one point a 564 name petition to the City Council opposing the proposal.[1] After six years of conflict, the City Council and the developers reached an agreement whereby they approved the Conditional Development Plan for the Rezoning of the Heather Farm Property from R-1-15. See Ordinance No. 859, attached hereto as Exhibit "B".

Integral to the adoption of Ordinance No. 859, was the creation of a golf course and golf course rough, which would serve as open space and buffer areas to offset the significantly higher density of this project from surrounding areas. Indeed, condition 8, required the golf course construction to commence within a year of adoption of the ordinance. The golf course and golf course rough, shown on the development plan, included the entire area now proposed for development.

In the early 1970s families who bought condominiums in the area surrounding the Diablo Hills Golf Course were relying upon the open space / greenbelt features of Planned Development No. 859 which had been enacted in 1966. Likewise, when the Heather Farms Homeowners Association townhouse and patio development was constructed and sold, and individuals like our client, Mr. Henderson purchased their homes their, they too relied upon the commitment made by the City that the golf course, golf course rough and open space greenbelt areas would be maintained. Attached as Exhibit "C" to this letter is a copy of a newspaper article from the Contra Costa Times on November 21, 1972, which documented that the golf course operations were "an integral part" of the Heather Farms Homeowners Association subdivision. That article also verified the City's intent and concerns that the golf course land might be used for other less desirable uses.

In the thirty years since the purchase of their homes, the purchasers and residents of Diablo Hills have had the constant assurance that the City will maintain its agreements under PD 859 that the golf course land is open space/ greenbelt for the benefit of the homeowners residing in this community. As set forth in the History of Development Proposals on Diablo Hills Golf Course, prepared by Mr. Henderson and attached hereto as Exhibit "D", the City has consistently rejected proposals by the golf course owner to take portions of the golf course and golf course rough, and develop said property for uses which were contrary to the original intent.

The Kinross Terrace Proposal, is the latest iteration of the golf course owner's attempts to use portions of the golf course for development. As set forth in a Draft Environmental Impact Report for the Heather Park Condominium Project in December of 1984[2], for a 51 unit project on the same site, excerpts of which are attached hereto as Exhibit "E""

> "The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences." *Id. at pg. 8*

Approval of the Kinross Terrace proposal will repudiate the agreements leading to this

---

[1] See Contra Costa Times November 9, 1966 newspaper clipping, attached hereto as Exhibit "A".

[2] As set forth on page 2 in the October 21, 2004 letter of Valerie Barone to Frank Anderson, attached as Attachment 7 to your staff report, the draft EIR for the 51 unit project was never certified, and therefore other than providing additional support for the inadequacy of the current mitigated negative declaration, it cannot be used to satisfy CEQA requirements for this 12 unit project.

development, as well as the long history of the City in turning down development requests which will carve up the golf course and the open space areas and greenbelt buffers which were integral to this development. The approval will also run afoul of the investment expectations of the owners who purchased their homes in reliance on this P-D development plan, subjecting the owners and developers, and potentially the City, to judicial review. A recommendation to the City Council for the adoption of the Mitigated Negative Declaration will further subject the project to potential CEQA litigation. The approval of this project will create a precedent for the demise of the entire golf course, as it is carved up for additional development projects, as have been repeatedly proposed by its owner.

APPROVAL OF THIS PROJECT WILL UNDERMINE THE INVESTMENT OF THE OWNERS OF HOMES IN THE P-D, WHO HAVE RELIED ON THE INTEGRITY OF THE ZONING TO PRESERVE THE GOLF COURSE, GOLF COURSE ROUGH, AND OPEN SPACE AREAS IN PURCHASING THEIR HOMES

As set forth in the discussion above related to the history of P-D 859, the P-D zoning that designated certain areas for golf course, certain areas for golf course rough and open space, were critical in the development of this entire area. Each of the homeowners purchased their properties based upon the existence of the golf course and open space areas which were amenities to their homes. They relied on the fact that views of open space and Acalanes Ridge in the distance behind this project would be preserved, as well as views of wild life which frequently makes use of this area. Likewise, the owner of the golf course has benefitted from the people who have purchased their homes because of the golf course, which they could use.

Now the City staff has recommended approval of plans of the golf course owner and a developer to whom he has an agreement to sell a portion of the golf course, which would overturn the investment decisions of the other property owners in this P-D by taking away parts of this golf course. If this precedent is granted, the City can be sure that the golf course owner will pursue other developments which have been consistently turned down in the past. There is nothing to prevent him from seeking to put a motel on the property, a miniature golf course, an indoor driving range, a home next to the church, or a large expansion of his club and restaurant for large parties and events. Such actions could subject the project, the golf course owners, and the proposed developers, as well as the City, to judicial review based upon the damage this will do to the investments of people who have purchased their homes in the P-D in reliance upon the contractual and other commitments that the golf course would be preserved.

CEQA AND THE INADEQUACY OF THE MITIGATED NEGATIVE DECLARATION

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") except in certain *limited circumstances*. (*See, e.g.*, Pub. Res. Code § 21100 (emphasis added).) For example, a negative declaration may be prepared instead of an EIR when, after preparing an initial study, a lead agency determines that a project "would not have a significant effect on the environment." (*Id.*, § 21080(c).) However, such a determination may be made only if "[t]here is *no* substantial evidence in light of the whole record before the lead agency" that such an impact *may* occur. (*Id.*, § 21080(c)(1) (emphasis added).)

A negative declaration is improper, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur. Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR. (*Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) As a matter of law, "substantial evidence includes ... expert opinion." (Pub. Res. Code § 21080(e)(1); CEQA Guidelines § 15064(f)(5).)

Here, substantial evidence indicates that the Project is likely to cause significant impacts. Attached as Exhibit 6 to the Staff Report, and incorporated into this letter by reference, is a detailed letter to Valerie Barone setting forth substantial evidence, including in attached exhibits, that the project will have significant adverse environmental impacts warranting the preparation of a full EIR. While Ms. Barone summarily dismisses the evidence submitted in the letter and exhibits attached as Exhibit 6, sufficient evidence has been provided of adverse environmental impacts not identified in the Mitigated Negative Declaration, warranting a full environmental review. The City has simply failed to identify many of those impacts by:

1. Not addressing the precedential affect this approval may have on other areas of the golf course, golf course rough, and open space and greenbelt, given the many development proposals that have been pursued in the past.

2. Not adequately addressing the possible further shortening of greens which may be necessitated if complaints ensue as a result of errant golf balls, as occurred in the past, and caused this area to taken out of the existing fairways in the first place.

3. Not addressing the health, safety and property damage issues from errant golf balls.

4. Not addressing the parking issues, particularly at large events, such as the Art and Wine Festival and Walnut Festival at Heather Farms Park, which may result from narrowing of the roadway and elimination of parking.

5. Not fully addressing drainage issues.

Moreover, the Growth Inducing Impacts of this project, and the precedent that will be created for carving up the remainder of the golf course are not even discussed in the Mitigated Negative Declaration, or the proposed conditions for the Tentative Map approval. As noted in the 1984 EIR for the 51 unit proposed development on the same site, the redesignation of this site for homes and the construction of the project on what was formerly part of the golf course,

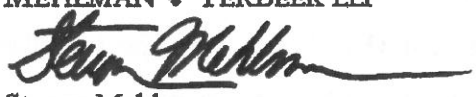
> "could set a precedent for redesignation and development of the remainder of the golf course. If the remainder of the golf course (approximately 46 acres) was redesignated for single family medium density development, it could be developed with 137 units. Development of the remainder of the golf course could also be precipitated if complaints regarding golf ball damage of the project necessitated further shortening of the course. Additional shortening of the course would make it less attractive to golfers and, consequently, would provide further economic pressure for residential development.
>
> Development of the remainder of the golf course would result in a loss of a recreational facility and further loss of an open space buffer between low and medium density uses. It would result in grading of existing topography, increases in runoff, removal of vegetation, alteration of views, traffic generation, and demands for public services and utilities. Residential development of the golf course would result in about 140 additional P.M. peak hour vehicle trips. ...Additional sewer and water line extensions and/or upgrading would be necessary to serve residential development of the golf course." *Id. at pg. 60*

An agency's avoidance of discussion of foreseeable future impacts can serve as grounds for invalidating a negative declaration and requiring preparation of a full EIR. Indeed, "[t]he agency [will] not be allowed to hide behind its own failure to gather relevant data. . . . CEQA places the burden of environmental investigation on government rather than the public." (*Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, at 1378-1379, *citing Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

Of course, the proponents of this project would argue that they are not seeking development of the entire golf course, but these cumulative effects, must be considered. Moreover, there is nothing in the conditions of development, along the lines recommended by the 1984 EIR that: "In order to prevent development of the remainder of the golf course, it is possible that a development limitation would be included as a condition of the approval for the subject of the project", expressing the intent to prohibit further development of other areas of the golf course, golf course rough and open space areas within the P-D. At the very least, an express condition should be included preventing future development on other parts of the golf course, and requiring a condition to that affect in a form that would run with the land, should as a minimum be required to address this impact, if after a full EIR, the City were to allow this project to go forward.

Very truly yours

MEHLMAN ❖ TERBEEK LLP



Steven Mehlman

Exhibit A

Contra Costa Times, November 9, 1966

Heather Plan Goes Through Over Petition

The development plan for the 200-acre Heather Farms property in Ygnacio Valley was opposed by a 564 - name petition Monday night as it came up for final approval before the Walnut Creek City Council.

A letter, addressed to "Mothers and Fathers" and bitterly opposing multiple development in the valley, was recently circulated among homeowners. It was noted that approval can be reversed by three council votes or a referendum petition.

Public hearings were closed on Lytton Savings and Loan's cluster plan Oct. 3 and an ordinance approving the plan passed by a 3 to 2 vote of the council.

THE COUNTIL removed the issue from its consent calendar Monday and permitted presentation of the petition but followed through, again on a 3 to 2 vote, with final adoption.

In presenting the petition, Mrs. James Bannister of 815 Spring Drive said opponents had done much "soul searching and tried to be fair."

The petition asks that the Conditional Development Plan zoning be reconsidered and denied and that revision of the former CDP be prevented. It requests new public hearings to determine appropriate residential zoning and claims residents weren't aware of the magnitude and impact of the development on the community.

THE COUNCIL also acknowledged receipt of letters from the Walnut Creek Homeowners Council and Lytton Savings.

The WCHC, representing several homeowner associations, said WCHC recognizes the difficulty in developing the property because of the topography and soil.

It said the WCHC accepts the need for unusual development and is pleased that the property is being developed as individually owned units. It agreed that the property isn't suitable for single family development.

Commending Lytton for meeting with the homeowners, WCHC said Lytton had voluntarily

(Continued on Page 2, Col. 6)

Heather Plan Goes Through Over Petition

(Continued from Page One)

agreed to reduce the density of the development.

WCHC URGED that future development of multiple units be prohibited in the valley or on surrounding hills but requested approval of Lytton's plan.

In a letter to City Manager Ralph Snyder, Lytton advised that it had met with the Rancho San Miguel Association on Oct. 15 following introducing of the zone ordinance because of the homeowners objection to the density.

Pointing out its desire to construct a development that "would be a credit to the city and a success to the landowner," Lytton said it had agreed to reduce the units from 1150 to 1000.

Stating that it intended for the letter to be binding "for ourselves and successors in interest" Lytton said it voluntarily commits itself to the reduction.

THE REDUCED density will be applied to the 625 units which were proposed for the west side of the development. Lytton is now proposing 338 apartment units on the western portion; 36 apartment units on four acres fronting Ygnacio Valley Road; and 570 townhouse units in the center of the property. A nine-hole golf course will traverse the property and Lytton has agreed to sell 53 additional acres to the city for a community park.

Edmund Regalia, attorney for Lytton and a resident of Ygnacio Valley, stressed Tuesday that all units will be owner-occupied and range from $25,000 to $40,000. Construction will be over a 10-year period with the golf course in the first stage.

In answer to the new petition, Councilman Douglas Page said that development of Heather has been a "terribly knotty problem."

HE ADDED that after eight years on the council he "firmly believes that Lytton's plan is the best possible solution within the range of possibilities..."

The letter circulated to Moms and Dads came under attack by Councilman Robert Schroder who called it "irresponsible."

Carrying the signatures of 10 homeowners, the letter said a few "well placed" people are leading a drive for urbanization. It claimed the main pressure for high density development is coming from a certain segment of the business district.

Councilman Ben Clarke said the petition represents some of the citizens who voted for him and he's willing to reconsider the zoning.

HE ADDED that it would take strong arguments to change the minds of the three councilmen who favored the plan and "I haven't seen these strong arguments neatly laid out."

Councilman Peter Howard agreed with Clarke's comments and said he has always felt the density of the development is too high.

Schroder said he is "thoroughly convinced that single family development would be far more detrimental to the property. Noting that step - type development could be applied and completely remove the hills, Schroder added, "I'm afraid such development wouldn't be commensurate with the housing in Ygnacio Valley."

Mayor Newell Case said it might appear that the wishes of the people are being ignored but that development of the property involves the entire city.

REFERRING to the number of signatures on the petition Case said that "perhaps 90 percent of the people in the city didn't have a chance to express themselves. The petition may bring exact opposite results in another part of the city," said Case.

"People in another part of the city would'nt be affected by the development. Why shouldn't they be for it?" asked Howard.

Howard and Clarke opposed the 3 to 2 approval.

Exhibit B

Motion by Mr. Fink, second by Mr. Mahler that the Walnut Creek Planning Commission recommend to the City Council that the zoning of the land subject to Rezoning Proposal No. 199-B be changed from interim R-1-15 to Conditional Development Plan District (C.D.P.) and that a Conditional Development permit be approved subject to the following conditions:

1. That except as otherwise provided herein, the land be developed substantially as shown on the plan displayed at the public hearing on September 13, 1966 which plans are a part of Rezoning Proposal No. 199-B on file in the office of the Planning Director, and are referred to herein as the official plan.

2. That except as otherwise provided herein, those areas delineated on said official plan with zoning symbols, be subject to all provisions of the Municipal Code relating to the land use district identified by said symbol, including the provisions for site plan review, and with the areas designated townhouse on said official plan being subject to all provisions of the R-M-3 District except that the density therein shall be as designated on said official map.

3. That no residential development shall occur on any portion of the subject land until a subdivision map approved pursuant to this zoning and Title 10, Chapter 1 of the Municipal Code shall have been recorded on said portion.

4. That the number of dwelling units shown on the official plan shall be used as a guide only with the total number of dwelling units not exceeding 1150.

5. That Ygnacio Valley Road be developed with full frontage improvements including conform paving and land for street widening as required by the Director of Public Works.

6. That no construction either residential or golf course, shall commence until a complete drainage plan for the entire parcel of land shall have been approved by the City Engineer.

7. That all grading shall be done in such a manner as to preserve, as nearly as practicable the natural topographical features of the land and to avoid excessive exposed cuts and fills. The grading plan shall be subject to approval by the Director of Public Works.

8. That construction of the golf course shall commence not later than one year subsequent to the effective date of this ordinance and all construction, once commenced, shall be diligently pursued to completion. In the absence of fulfillment of this or any of the other terms of this ordinance, this zoning shall be subject to amendment following rezoning procedures.

9. That the Board of Zoning Adjustment have authority pursuant to site plan review to allow buildings in the townhouse area with building height greater than permitted in the R-M-1 zone wherever any such building is to be constructed on ground with sufficient slope that only the down slope portion of such building exceeds said height limit, and to establish a maximum building height related to topography within those areas designated as R-M-1.5.

10. The land indicated on the official plan as driving-range may be designated as R-2 with the driving range being permitted elsewhere on the subject land the location and design being subject to site plan review.

11. That area consisting of approximately 52 acres and not colored on the official plan shall be labeled recreation.

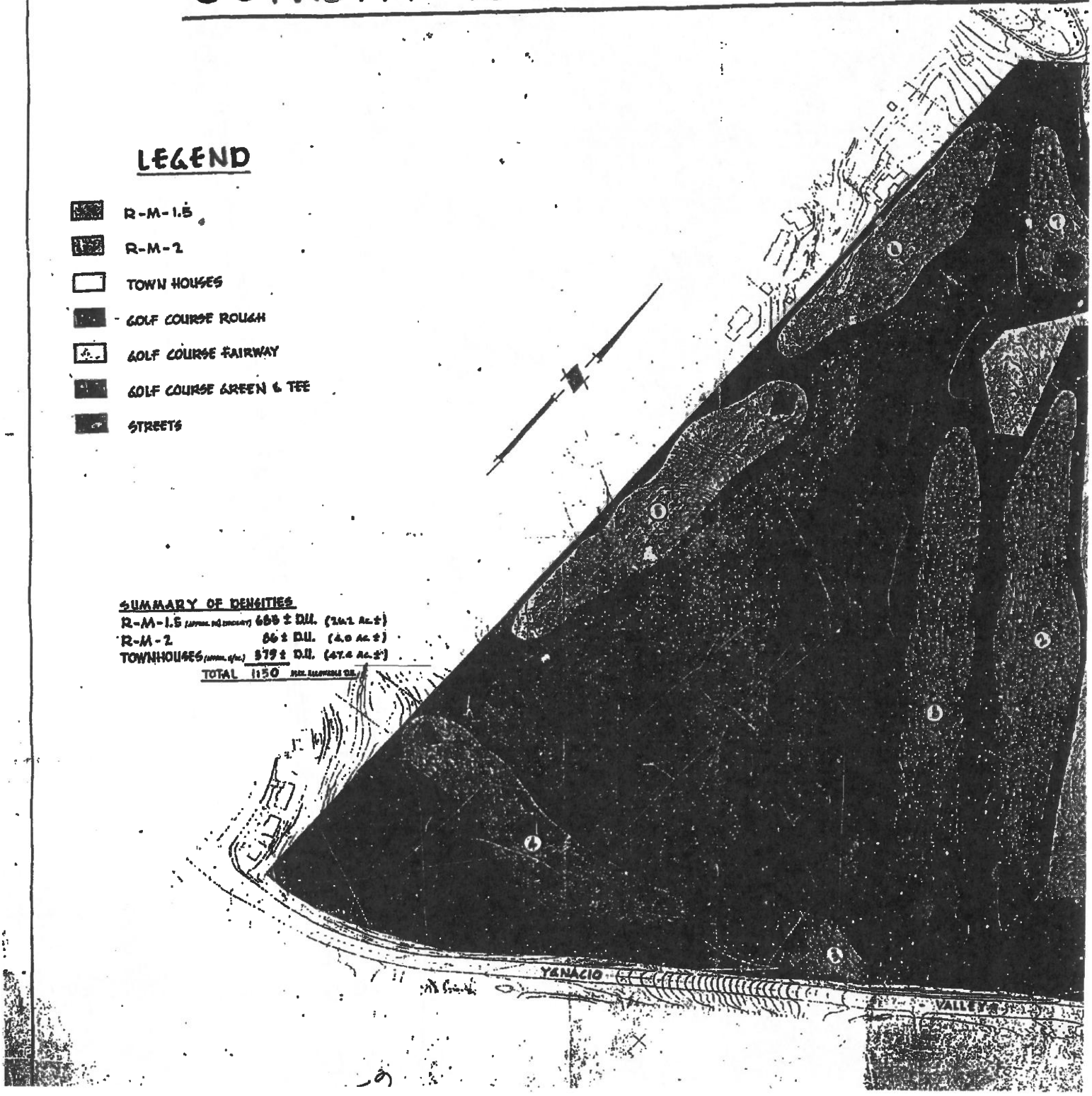
12. The final plans for the golf course shall be subject to site plan review.

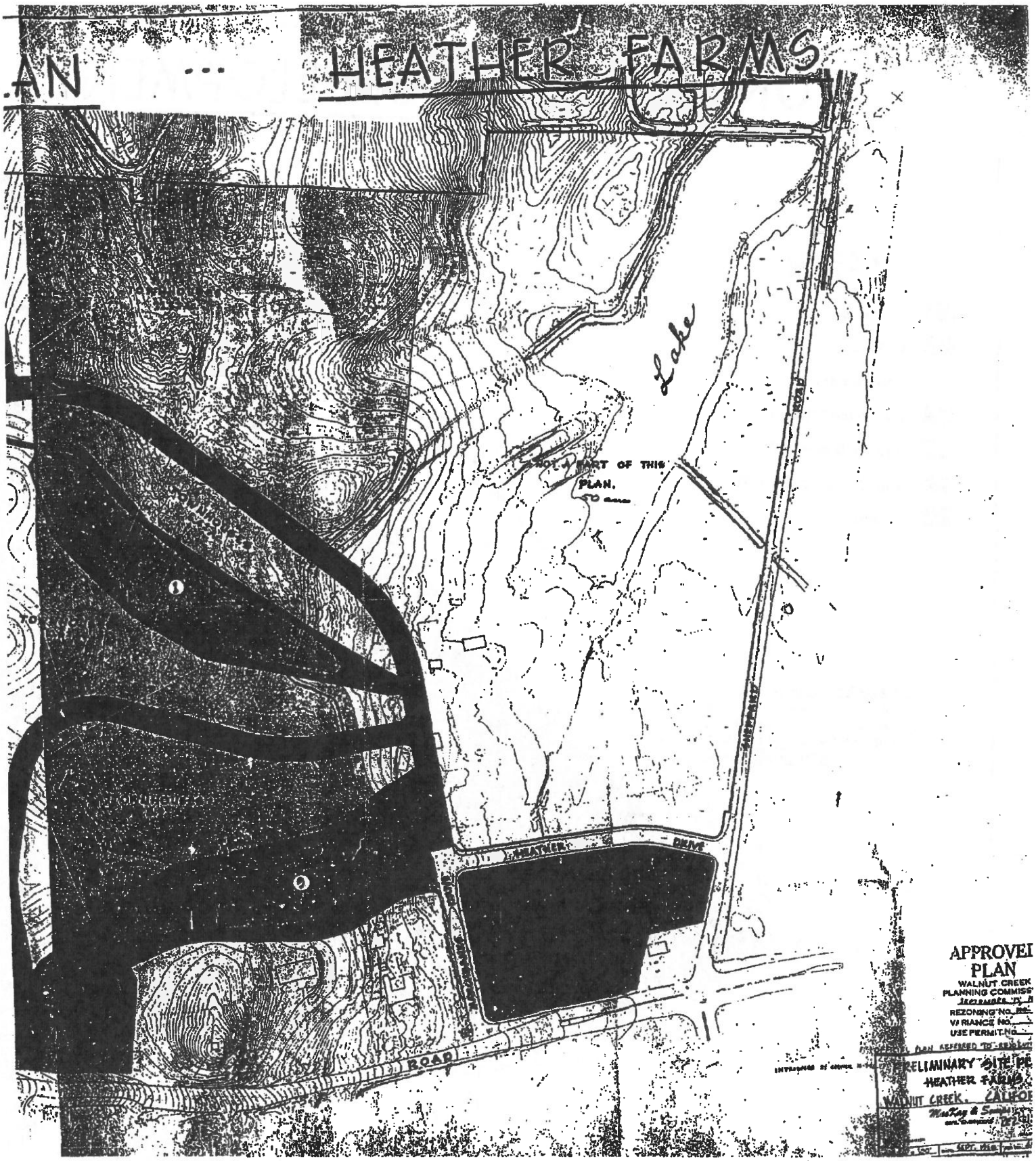
INTRODUCTION OF ORDINANCE - REZONING HEATHER FARM PROPERTY - FROM R-1-15 TO CDP

After considerable discussion, motion by Page, second by Mayor Case and carried to approve the plan for development as presented, with the stipulation that Ygnacio Valley Road be widened concurrently with construction of the golf course, said construction to commence not later than one year subsequent to the effective date of this ordinance and be completed within one year after the start of construction, and to introduce an ordinance as read by the City Attorney, title only, rezoning the subject property from interim zoning R-1-15 to Conditional Development Plan land use district.

AYES: Councilmen: Page, Mayor Case, Schroder
NOES: Councilmen: Howard, Clarke
ABSENT: Councilmen: None

CONDITIONAL DEVELOPMENT f




AN ... HEATHER FARMS
Lake
NOT A PART OF THIS PLAN.
HEATHER DRIVE
ROAD
APPROVEI
PLAN
WALNUT CREEK
PLANNING COMMISS
REZONING NO.
VARIANCE NO.
USE PERMIT NO.
RELIMINARY SITE PL
HEATHER FARMS
WALNUT CREEK, CALIFO

HEATHER FARM GOLF COURSE CHANGES HANDS
Al Reale (left), Bob Moon, Robert Schroder, Wayne Policz.

Golf Course Bought By Land Developers

Heather Farm Golf Course, closed down over two months ago by its disgruntled owners, has been sold to the developer of an adjacent subdivision.

Although he says he does not know the sale price, Al Reale, one of the former owners, said the facility probably went for around $1.5 million.

The price includes a restaurant and pro shop operation. The complex has been purchased by L.B. Nelson Corp., developer of the Diablo Hills condominium subdivision.

A spokesman for the firm says the complex will be made "an integral part" of the subdivision. Plans include expansion and complete redecoration of the restaurant and clubhouse.

The golf course, shut down in a state of disrepair, is to be reseeded and landscaped with new trees and shrubs. New traps and greens also are planned.

Reale and his partner, Louis McKnight of Los Angeles, shut down the golf course after they claimed subcontractors for the adjacent development broke water lines and damaged the greens, causing a decline in business.

They also alleged that construction crews piled building materials on part of the golf course and that dirt and dust from trucks made play at the course uncomfortable.

Announcement of the sale comes after weeks of negotiations by the Nelson Corp., the owners and the city of Walnut Creek.

City officials worried that if the golf course was sold, new owners might try to find another, less desirable, use for the land.

Although the bulk of the property is zoned for golf course use only, one parcel is zoned for duplex, maintenance shed or driving range use.

Currently, the city is attempting to rezone the parcel strictly as a golf course maintenance area, its present use. But the rezoning effort is delayed, pending completion of an environmental impact report on it.

Reale has said the Nelson Corp. was approached about purchase of the facility partly because it mentioned the golf course in advertising its nearby condominiums.

The new owners say the course will be open to the public as well as to residents of Diablo Hills. Reopening of the facility is set for the spring.

CC TIMES
11-21-72

Exhibit C

Exhibit D

DIABLO HILLS GOLF COURSE AND RESTAURANT/BAR

HISTORY OF DEVELOPMENT PROPOSALS ON DIABLO HILLS GOLF COURSE

1967—Golf course land leased by Equitable Savings & Loan Association to Golf Management Corporation.

1970—Golf course land sold by Equitable Savings & Loan to Willis McKnight.

1972—Golf course land sold by Willis McKnight to L.B. Nelson Corporation, developer of the Diablo Hills condominium subdivision.

1973—Hardev Singh becomes Manager of the golf course.

1973—The project site under consideration for development in 2004 is removed from the playing area of the seventh fairway to reduce golf ball hazard to life and property at the adjacent apartment units.

1980--Hardev Singh buys the Diablo Hills Golf Course from L.B.Nelson Corporation, the developer of homes in the Heather Farms area of Walnut Creek. In subsequent years Singh has the following proposals for commercial uses for the PD 859 zoned open space land located on Marchbanks Drive from the clubhouse/restaurant/bar East to the boundary of St. John Vianney Catholic Church.

1982—His Christmas tree lot sales operation in this greenbelt buffer zone is cancelled after complaints from the neighboring Heather Farms Homeowners Association (HOA).

1985—He inquired of the Community Development Department about putting a motel on the property.

1988—He talked to the HOA about building a minature golf course on the land, featuring castles and concrete structures with lighting and hours of operation ending at 10 p.m. The HOA had concerns about the visual impact, lighting and noise level. The project was abandoned.

1989—He filed for approval of an abbreviated golf driving range enclosed in netting. It would operate 365 days a year from 7 a.m. until l0 p.m.

with lights and considerable noise. The City Council refused to approve the project.

1989—Concurrent with the above he proposed to build a Caretaker's House next to the Church property, which was abandoned after opposition from the HOA.

1991—He proposed to build the same 1989 abbreviated golf driving range in a wooden structure. The City Council again refused to approve it.

1998—He unveils plans to more than double the floor space of his restaurant/bar to rival the size of police nuisance bars in downtown Walnut Creek—Johnny Love's, Arroyo Way and Masses. The Council disapproved.

2000—On a cold rainy winter night the unhappy crowd in the queue line at the "Rave Party" pulled out their guns. Police Chief Richard Gregson commented: "These were visitors to our area from parts unknown...pretty hard core, gang affiliated individuals...Our officers counted no fewer than 40 gunshots."

In the Kinross Spur area north of Marchbanks Drive, Singh created a three and one-half acre parcel of open space property out of land which was originally part of the seventh fairway and green. The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. He then tried three times to put housing upon it.

1982—A developer selected by Singh proposed to build a 51-unit apartment complex. After an unfavorable Environmental Impact Report was circulated his application was denied by the City Council.

1996—A second developer initiated and then withdrew a proposal to build twenty single residences on the property.

2000—Delco Builders unveiled a plan to put twelve residences in the area. Their proposal is still being processed.

Bob Henderson
October 28, 2004

Exhibit E

☐ 500 Newport Center Drive, Suite 600
Newport Beach, California 92660
phone (714) 640-6363

☐ 2606 Eighth Street
Berkeley, California 94710
phone (415) 841-6840

Community Planning ☐ Natural Resource Management ☐ Environmental Assessment

DRAFT
ENVIRONMENTAL IMPACT REPORT

HEATHER PARK
GENERAL PLAN AMENDMENT AND REZONING APPLICATION NO. 8478

PREPARED FOR
CITY OF WALNUT CREEK

DECEMBER 1984

By
Larry Seeman Associates, Inc.
2606 Eighth Street
Berkeley, CA 94710
(415) 841-6840

LSA #84-046

PROJECT DESCRIPTION

LOCATION

The 3.57-acre site is located on the south side of Kinross Drive at its terminus just north of Marchbanks Drive. The site is part of the Diablo Hills Golf Course planned neighborhood and is located about two miles northeast of the City center along Ygnacio Valley Road. The regional location is shown in Figure 1 and project site boundaries are shown in Figure 2.

The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences. Access to the site is provided by Kinross Drive which connects to Marchbanks Drive and Ygnacio Valley Road. The surrounding neighborhood was developed as a cohesive project under Planned Development zoning and contains some 1,000 dwelling units, the golf course, the Heather Farms City Park, and the St. John Vianney Catholic Church. Land uses surrounding the site include patio homes across Kinross Drive to the northeast, the Stoneridge apartment complex and tennis courts to the east, the golf course to the south, and single family homes to the west. Land to the north is unincorporated and zoned agriculture.

PROJECT SPONSOR OBJECTIVES

The project applicant, Ygnacio Homes, Inc., proposes to develop the site with 51 one- and two-bedroom condominium and/or apartment units. Whether units are sold or rented would depend on the type of financing obtained by the sponsor. Construction of the project would occur soon after the granting of approvals and would be performed by Ujdur Construction, Inc. Architects for the project are Hammarberg, Herman, and Johnson of Walnut Creek. The project would include an affordable housing program with 13 (25 percent) of the proposed units maintained affordable to moderate-income households (80 to 120 percent of median income) for a period of ten years. Rentals or payments on these units would range from $443 to $767 per month. The sponsor has stated that the remaining project units would be moderately priced relative to comparable units in the area. According to the sponsor, the goal for the project is to create an attractive development that will help to meet the housing needs of the City.

from improvement of drainage facilities at the base of Kinross Drive and along Seven Hills Ranch Road. The extension of Kinross Drive to the City limit would potentially benefit development of these properties if Kinross were extended to Seven Hills Ranch Road to serve as an accessway. Extension of water service to the site would be from an existing 12-inch line on Kinross Drive and would not benefit other development.

Granting of a General Plan Amendment to redesignate the site from its current designation of "Parks and Recreation: Private Golf Course" to "Medium Density Multiple Family" could set a precedent for redesignation and development of the remainder of the golf course. If the remainder of the golf course (approximately 46 acres) was redesignated for single family medium-density development, it could be developed with about 137 units. Development of the remainder of the golf course could also be precipitated if complaints regarding golf ball damage of the project necessitated further shortening of the course. Additional shortening of the course would make it less attractive to golfers and, consequently, would provide further economic pressure for residential development.

Development of the remainder of the golf course would result in a loss of a recreational facility and further loss of an open space buffer between low and medium density uses. It would result in grading of existing topography, increases in runoff, removal of vegetation, alteration of views, traffic generation, and demands for public services and utilities. Residential development of the golf course would result in about 140 additional P.M. peak hour vehicle trips. Projected traffic volumes on Marchbanks Drive would be within the capacity of this roadway. Additional sewer and water line extensions and/or upgrading would be necessary to serve residential development of the golf course.

In order to prevent development of the remainder of the golf course, it is possible that a development limitation could be included as a condition of approval for the subject project. Development of the remainder of the golf course would require a General Plan Amendment and Rezoning Application and would therefore require environmental review, public hearings, Planning Commission approval, and City Council approval. While development of the proposed project would not necessarily result in development of the remainder of the golf course, it could set a growth-inducing precedent.

The project, together with other cumulative development, would require improvement of the trunk sewer system and expansion of the CCCSD sewage treatment facilities. As sewer facility capacities cannot be expanded to provide for each development as it occurs, excess capacity would of necessity

CITY OF
WALNUT
CREEK

ATTACHMENT 4B
RESPONSE

November 8, 2004

Steven Mehlman
Mehlman-TerBeek, LLP
2125 Oak Grove Road, Suite 125
Walnut Creek, CA 94598

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Mehlman,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 28, 2004. In addition, this letter responds to your request that the City reconsider its decision to prepare a negative declaration as opposed to an EIR for the project.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter will be forwarded to the City Council for consideration when they review the project on November 16, 2004.

The following are responses to the comments outlined in your letter of October 28, 2004.

Financial Expectation

Your letter states "this project will undermine the investment of the owners of the homes in the P-D, who have relied upon the integrity of the zoning to preserve the golf course, golf course rough, and open space areas in purchasing their homes". Section 15064 of the California Environmental Quality Act (CEQA) guidelines specify that economic and social changes resulting from a project shall not be treated as significant effects on the environment. Physical changes to the site as a result of the project have been addressed in the Mitigated Negative Declaration. The project does not eliminate P-D 859, the requirement for a private golf course, or any active portion of the golf course.

Adequacy of the Mitigated Negative Declaration

Staff agrees with your statement for the standard for preparation of an EIR. However, we disagree with your assessment that the standard has been met and that an EIR must be prepared in connection with this project. After a careful review, we have determined that substantial evidence has not been presented that the Kinross Terrace project, as mitigated, may have a significant effect on the environment. Rather, the record supports the findings the project, as mitigated, reduces potential impacts to less than significant levels and would not have a significant effect on the environment.

Your letter references a previously submitted letter dated October 18, 2004 as evidence of the mitigated negative declarations inadequacy. Both the October 18th letter and City response were included in the Planning Commissions deliberations at their meeting of October 28, 2004. In this regard no new evidence has been provided to substantiate any inadequacy.

Your letter makes a number of references to a draft EIR prepared in 1984 for a withdrawn 51-unit project on the subject site. That draft EIR was never certified, evaluated a 51-unit project in 1984, and is not the subject of this review. Your comments provide no new evidence of substantial environmental impact associated with the Kinross Terrace proposal.

Growth Inducing Impacts

Your letter states the project would have a precedential affect on future proposals to reduce the golf course and requested a condition be added that would prohibit any future reduction of the private golf course. As discussed at the October 28th meeting, the Planning Commission was clear there is no nexus with this subdivision to restrict future land use proposal on other private property held by the golf course. However, the Commission did unanimously agree to add a finding to the rezoning recommendation to City Council expressing support for the preservation of the golf course and identifying the site's unique characteristics as a basis for their decision that the project would not set a precedent for further reduction of the golf course.

Other comments enumerated in your letter express safety concerns of errant golf balls, narrowing of Kinross Drive, and drainage concerns. All of these points were fully discussed and addressed at the Planning Commission hearing on October 28, 2004. The Planning Commission agreed with your assertion regarding the proposed narrowing of Kinross Drive and determined that the public road should remain at its existing width to maintain street parking at the current level. With respect to safety concerns from errant golf balls, the Commission reviewed plans, took testimony and determined that distance of 130 to150-feet between the homes and the green, coupled with the addition of off-site landscape berm with dense tree cover as proposed, was sufficient to reduce the potential impact to less than significant. With respect to drainage issues, your letter does not identify any new evidence that a significant impact would occur as a result of the proposed project.

In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Bob Henderson, 1578 Siskiyou Dr, WC

ATTACHMENT 4 C

Ken Hale
16300 West Ellendale Road
Dallas, Oregon 97338
503-623-4668
otago@teleport.com

October 26, 2004

Community Development Director
City of Walnut Creek
1666 North Main Street
Walnut Creek, California 94596

RE: Mitigated Negative Declaration on Kinross Terrace Project, Y03-003

I am making comment on the Mitigated Negative Declaration by the City of Walnut Creek on the proposed Kinross Terrace housing development.

I do not believe the Mitigated Negative Declaration is appropriate without the completion by the developers and assessment by the city of a post construction storm water management plan for this site.

I am working with my father, Sheridan W. Hale, 850 Seven Hills Ranch Road, Walnut Creek and make these comments on his behalf. I am a professional natural resource technical planner with over 25 years experience working with soil and water resources.

We have the following comments about the negative declaration by the city.

1. Under Hydrology and Water Quality, in the Model Environmental Checklist Form, the city responds to question (a) *Would the project violate any water quality standards or waste discharge requirements* by checking affirmative in the Potentially significant unless mitigation incorporated box.

   The city comments that development of the site may have an adverse impact on downstream waters associated with increased human use of the site and the potential introduction of pollutants into the storm drain system.

   I believe it will also affect downstream resources as storm water run off will leave the site much quicker due to the increase of impervious surfaces with development and may impact the small creek where the stormdrain will outlet as well as Mr. Hale's property.

   The mitigation proposed by the city (2.) is a post construction storm water management plan that addresses and mitigates impacts to storm water quality, quantity and hydrology should be developed to prevent adverse impacts to downstream waters after construction.

I understand the city storm water requirements to state that a development will be designed such that the post construction storm water run-off leaves the site no faster than the existing (pre development) conditions. This is often done in design by storm water retention structures, etc. A mitigation storm water management plan would need to address the quantity, quality and hydrology (specifically speed of run off) of storm water leaving the site via the new storm drain and any water that still leaves the property through the existing drainage through Mr. Hale's property.

I do not think the city should declare that implantation of this mitigation measure will reduce this *potentially significant impact* to less than significant level **without viewing and assessing the mitigation storm water management plan.** Until this plan is presented to the city and studied by city engineers, **how can the city declare it will reduce the impact to less than a significant level?** Whenever I complete a biological evaluation of a project, I assess the mitigation design PRIOR to declaring it to be "not a significant effect".

Until this storm water management plan is completed and assessed, I do not believe a "Mitigated Negative Declaration" by the city is appropriate.

2. Under the Utilities section, we wish to re-iterate that the developers do not have permission or an easement to locate the stormdrain line on or across Mr. Hale's property. This means the stormdrain line will need to be located west of Mr. Hale's property boundary on Homestead Road and south of Mr. Hale's property boundary on Seven Hills Ranch Road.

I apologize for the lateness of these comments, but my father did not receive the mitigated negative declaration report from the city until the middle of October and I first read it on October 22.

Thank you for considering our comments.

Sincerely,

Ken Hale

Ken Hale
Certified Professional Erosion and Sediment Control Specialist
No. 649 I(Soil and Water Conservation Society)

cc: Sheridan W. Hale

CITY OF
WALNUT
CREEK

ATTACHMENT 4C
RESPONSE

November 8, 2004

Ken Hale
16300 West Ellendale Road
Dallas, OR 97338

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Hale,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 26, 2004.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter will be forwarded to the City Council for their consideration when they review the project on November 16, 2004.

The following are responses to the comments outlined in your letter of October 26, 2004.

Post Construction Storm Water Management Plan

Your letter indicates that review of a post construction storm water management plan would be necessary prior to determining that potential impacts to the creek would be less than significant. In review of the project and potential water quality impacts, the City as lead agency, has determined that established Storm Water Pollution Prevention Plan (SWPPP) and Post-Construction Storm Water Management Plan requirements are feasible, and provide adequate and appropriate safeguards to reduce any potential water quality impacts. The plans to be prepared by the project team must meet state water quality standards to be accepted by the City of Walnut Creek. If it doesn't meet state water quality standards the condition will not be fulfilled and the project could not proceed until a satisfactory plan was submitted and accepted by the City. By meeting state and local water quality standards and receiving City approval, the impacts to water quality will be less than significant.

Easements on Hale Properties

Your letter reiterates that the project developers do not have permission or easement to locate the proposed stormdrain line on or across properties owned by Sheridan Hale. The Initial Study and Mitigated Negative Declaration prepared for the Kinross Terrace project responds to this concern

requiring that all off-site utilities be placed only on or across properties in which easements have been acquired and specifies that the City would not adversely condemn private property for easements to serve the project.

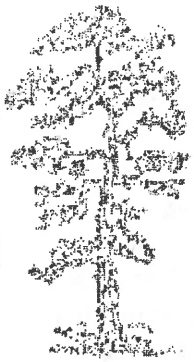
In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Sheridan Hale, 850 Seven Hills Ranch Rd, WC



TREESCAPES, Inc.

P.O. Box 13141, Oakland CA 94661 ◆ (800)675-0781 ◆ P.O. Box 1851, Lafayette CA 94549

March 6, 2003

Terry Camp
Camp & Camp Associates
35 Quail Court, Suite 200
Walnut Creek, CA 94596
(925)941-6488

RE: MarchBanks Subdivision, Walnut Creek, CA

Mr. Camp

I am responding to your request for an evaluation of trees located on an undeveloped parcel on Kinross Dr. The trees were inspected February 10, 2003. The intent of this report is to provide a Tree Survey plan as per the requirements of the City of Walnut Creek.

SUMMARY: Fifty-two trees were identified for inclusion in this survey. Thirty-three (33) trees are recommended for removal primarily due to the following factors: poor condition, poor longevity potential, undesirable or `weed' species. These include almond, Monterey pine, willow, *Eucalyptus*, Arizona cypress, and selected valley oaks (*Quercus lobata*).

Nineteen (19) trees merit strong preservation consideration. These trees consist primarily of valley oaks (*Quercus lobata*) which are indigenous to the area and are performing vigorously.

This plan emphasizes preserving the greatest number of trees (76% of the indigenous trees). Valley oak (#474, 488, 1814, 1815) are the only indigenous trees recommended for removal due primarily to construction conflict. All other trees indicated for removal are so recommended due either to `undesirable' species characteristics or poor condition. These include #427, 1801, 430, 439-40, 449, 1803-05, 460, 462, 464, 1806-07, 478, 480, 481, 1816, 483, 485-86, 489-90, 496-98, 1808-10 (numbers refer to provided site plan).

Seven trees (#1808-11, 1817-19) located on adjacent properties were included in this report, as portions of their driplines overhang the subject parcel. The Monterey pine trees (*Pinus radiata*) (#1817-19) were recommended for preservation as they will provide an important screen during the construction phase.

Preservation guidelines should be implemented for all trees to be retained. Trees #442-43 and #1817-19 merit close attention as they have the most potential to suffer significant construction impact due to construction within the dripline areas. While these trees should withstand such impacts, the following protective measures should be implemented to enhance long-term preservation:

1) Construct a temporary fence (chain-link) as far from the tree stem (trunk) as possible, completely surrounding the tree, and 6-8 feet in height. If appropriate, construct temporary (or permanent) retaining walls to prevent erosion and/or accumulation of excess soil over the tree dripline areas.

2) Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the `dripline' area of trees. Where root damage cannot be avoided, roots encountered over 1" diameter should be exposed approximately 12" beyond (towards tree stem) the area to be disturbed, by hand excavation, cut cleanly with hand pruners or power saw, and immediately backfilled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.

3) Avoid pruning immediately prior to, during, or immediately after construction impact. Perform only that pruning which is unavoidable due to conflicts with proposed development, or necessary to improve structural defects. Aesthetic pruning should not be performed for at least 1-2 years following completion of construction.

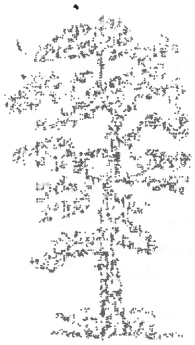
4) Trees which will be impacted by construction may benefit from moderate fertilization, prior to any construction activities. Ideally, perform fertilization in the fall and with not more than 6 lbs. of actual nitrogen per 1,000 square feet of accessible `dripline' area or beyond.

5) Mulch `rooting' area with 2-4" of an acidic, organic compost or mulch (e.g., Brush chips from tree trimming operations, 1/4" Coarse Fir Bark).

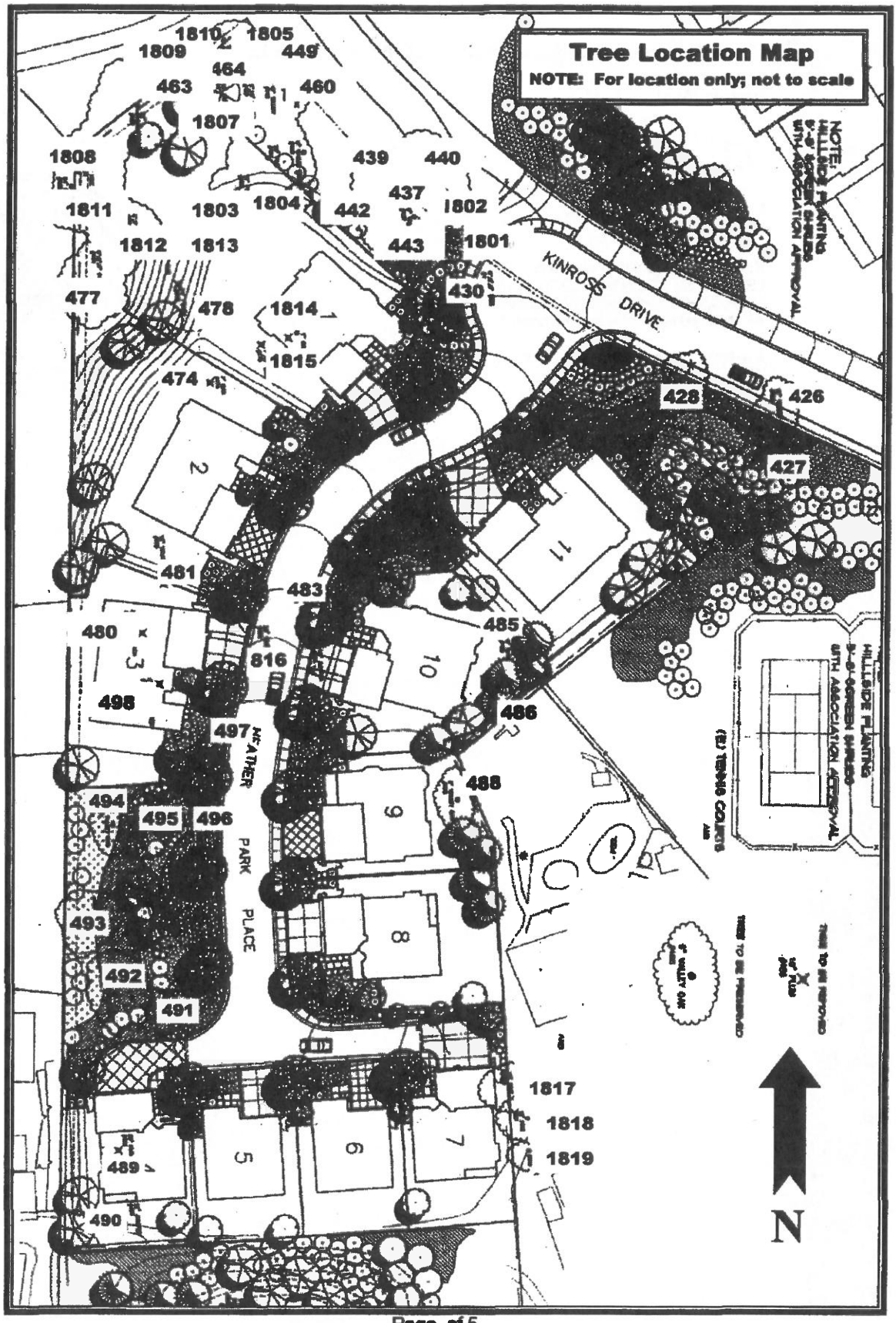
6) Arrange for periodic (Biannual/Quarterly) inspection of trees' condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.

OBSERVATIONS:

				Preserve	COMMENTS	W			
428	Valley oak	15.0		X	Vigorous; structure(+)	15	25	20	15
429	Valley oak	20.0		X	Codominant @ 3'	20	20	18	18
430	Monterey Pine	66.0	X		Multistem; poor structure(-)	25	15	25	20
437	Valley oak	10.0		X	20° southeast lean, good vigor	2	0	15	25
440	Willow	36.0	X		Structure(-);mistletoe(-)	25	25	30	35
443	Valley oak	10.0		X	Lean, vigorous	10	0	10	18
1805	Willow	16.0	X		Southeast lean	0	0	30	30
1803	Almond	20.0	X		Poor vigor & structure(+)	15	15	16	15
490	Willow	17.0	X		Good vigor & structure(+)	0	0	0	25
1807	Willow	9.0	X		Poor structure (-);on ground	0	0	28	15
1808	Eucalyptus	18.0	X		Codominant trunks, lean	0	0	33	25
1813	Valley oak	24.0		X	Structure(-);co-dominant trunks	15	20	22	18



1815	Valley oak	16.0	X		Sparse, poor vigor(-)	12	15	15	12
474	Valley				Good vigor & stru	10			10
477	Valley oak	18.0		X	Good vigor & structure(+)	20	10	15	15
478	Almond				Lean		10		
481	Valley oak	12.0	X		Poor structure(-), codominant trunks.	15	12	15	15
	Almond		X						
1816	Monterey Pine	30.0	X		30% fire damage.	25	22	25	28
	Almond				Poor	8			
484	———		———		Dead (previously removed)	15	15	15	15
					Codominant @ 12'				
486	Plum	11.0	X		Multistem; AAC.	12	10	10	12
488	Valley Oak					15			
489	Bluegum	30.0	X		Multi-trunk; AAC.	15	20	20	18
491	Valley Oak	18.0		X	20° eastern lean;	0	15	25	20
	Valley Oak			X	Codominant @ 5'; structural		30		
493	Valley Oak	23.0		X	10° lean, vigorous	20	20	28	30
494	Valley Oak			X	Good structure, vigor(+)	15		5	25
495	Valley Oak	19.0		X	30° eastern lean; good vigor(+).	5	20	20	12
496	Almond	12.0	X		Multistem; AAC.	12			12
497	Almond	11.0	X		Multistem, good balance(+).	15	10	10	10
1817	Monterey Pine	26.0		X	Sequoia pitch moth; stable.	27	20	12	15
15				X	Stable; buffer.				
1819	Monterey Pine	14.0		X	Stable; buffer.	15	5	6	15
					Good structure				
1808	Eucalyptus	40.0	X		Lean.	0	0	30	25
	Eucalyptus								
1810	Eucalyptus	36.0	X		Lean.	0	0	30	0


Tree Location Map
NOTE: For location only; not to scale
1810
1805
1809
449
464
463
460
1807
1808
439
440
437
1811
1803
1804
442
1802
1812
1813
443
1801
KINROSS DRIVE
477
478
430
1814
1815
474
428
426
427
481
483
485
480
816
486
498
497
HEATHER
488
494
495
496
PARK PLACE
493
492
491
1817
1818
1819
489
490
N

Please feel free to contact me with questions or comments.

Respectfully,

David W. Nelson

David W. Nelson, M.S.
Operations Manager

Registered Consulting Arborist No.: 325
I.S.A. Certified Arborist No.: WC-0133
CA P.C. Qualified License No.: 038698
AF Certified Natural Resource Expert

Master of Science, Natural Resources
Master of Urban Planning
Bachelor of Science, Forestry

JOSEPH McNEIL, CONSULTING ARBORIST

August 8, 2004

ASCA AMERICAN SOCIETY of CONSULTING ARBORISTS

R.J. Wilson
Delco Builders
2552 Stanwell Dr.
Suite 203
Concord, CA 94520

SUBJECT: Report on off-site trees along the current proposed storm drain and sanitary sewer at Kinross Terrace, Subdivision 8457.

BACKGROUND

A 15 inch storm drain and an 8 inch sanitary sewer will be constructed adjacent to the project, within the City of Walnut Creek, on an easement near the north edge of the Collins property, for a distance of about 360 feet, to Homestead Avenue. Four trees on the Collins and adjacent Hale properties may be affected, and are topics of this report. The sanitary sewer will be at about a 7 foot depth near the trees.

The storm drain, increased to 18 inch diameter, will then continue about 175 feet north along the west side of Homestead, then, increased to 24 inch, will angle to the northwest for about 135 feet, up to the south side of Seven Hills Ranch Road. It then proceeds west for about 175 feet, on the south side of the road. At that point it crosses the road, then angles into the existing drainage, just downstream of an existing 84 inch culvert. Most of the length of the storm drain line will be at a depth of 4-6 feet below grade.

Where the storm drain and nearby trees are within the city of Walnut Creek, trees of 9 inch diameter, with potential to be affected by this project, are included in this report. Where the storm drain is within Contra Costa County but nearby trees are within Walnut Creek, the same criteria are used. Where trees are within 50 feet of the project, and are also within Contra Costa County, the threshold of 20 inch trunk circumference at 4 ½ feet is used, and all such trees are addressed, consistent with County requirements. Walnut Creek trees are noted on the diagram by the suffix "WC" to their tree number.

POTENTIAL DISTURBANCE TO TREES

Damage to trees may occur directly, from mechanical injury to roots, trunks or limbs, or more indirectly, if soil characteristics, such as density, soil atmosphere or moisture content are altered. Manifestations of these injuries may occur immediately, or may be delayed for a number of years, resulting in progressive decline.

Many tree roots on most sites may be in the top 18 inches of soil, a zone which is easily altered by even minor grading, trenching, or material storage. Such alterations may occur during demolition, grading, or construction activities. Soil may become

3 HALTEN COURT • PLEASANT HILL, CALIFORNIA 94523 • 925/676-5232
Certified Arborist # WC0102
California State Contractors License # 482248 (Tree Care C-61 *D-49*, Landscaping C-27)
Registered Consulting Arborist #299, ASCA

compacted, soil oxygen may then become easily depleted, drainage patterns upon which trees have become dependent may be altered, so that trees become drought stressed. Any changes in grade, increase or decrease, compaction, or pavement may have this effect. Where cuts must be made for utilities, the soil may quickly dry out from the side of the cut and kill roots.

These realities must be considered when retaining trees. If sufficient area cannot reasonably and realistically be dedicated to the needs of tree roots, the trees should be removed.

HOW TO READ THE TABLE OF TREES

The specific information for each of the 41 trees assessed is found in the table on the last two pages. An example is below. Each tree is indicated on the attached site drawing by a number. Most trees are physically numbered with an aluminum tag. The trees are in order, starting upstream, ending downstream, at the outfall into the drainage.

4041	Black walnut	6, 4, 3	5	0	0	Moderate	Side of SS trench will be about 4 feet from the side of the tree. Protection measures for tree 4042 will protect this tree.
4042	Valley oak	12	7	5	6	Moderate	Side of SS trench will be about 4 1/2 feet from the side of this tree. Excavate the upper 18 inches of the trench by air for an 8 foot length. Avoid bruising injury to roots of two inch diameter or greater. Keep covered with double burlap, to protect from sunlight. Sever smaller roots cleanly. Cover the side of the trench with double layer of burlap, moisten every day. Or, if possible, tunnel for the SS, as for tree 4040. The trench at the tie-in point will have to be open to the surface. Irrigate remainder of the root system in summer to compensate for root loss.
4045	Coast redwood	9	8	9	7	Minimal	

The Species of each tree is noted in the second column, by common name. There are fifteen species lining the SD and SS locations.

COMMON NAME	LATIN NAME	COMMENTS
Almond	*Prunus dulcis*	Volunteers. Doing poorly or easily replaced.
California black walnut	*Juglans hindsii*	Intolerant of the disturbance of construction.
California pepper	*Schinus molle*	Actually, a South American tree.
Chamaecyparis sp.	*Chamaecyparis*	One of a large group of evergreens
Coast Redwood	*Sequoia sempervirens*	Coast redwood. Will benefit from supplemental summer irrigation.
Crabapple	*Malus sp.*	Large number of ornamental flowering trees
Lombardy poplar	*Populus nigra*	Fast growing, subject to decay if injured. Prolific and invasive root suckering, to some distance
Monterey pine	*Pinus radiata*	Out of it's natural range, susceptible to insect attack. Requires summer irrigation.
Mulberry	*Morus alba*	Tolerant of abuse, will heave pavement
Oregon ash	*Fraxinus latifolia*	Native into central California, found along creeks
Pecan	*Carya illinoensis*	Prefers irrigation in hot climate zone
River red gum	*Eucalyptus camaldulensis*	Widely planted, good for alkaline soil. Very susceptible to red gum lerp psyllid
Siberian elm	*Ulmus pumila*	Prone to mechanical failure
Valley oak	*Quercus lobata*	Native, less tolerant of development than live oak
Western cottonwood	*Populus fremontii*	Large, fast growing

The Diameter of the trunk, in inches, is given, measured at 54 inches, or if the trunk forks low to the ground, at the narrowest point below 54 inches. If there are several trunks, each is noted.

The Health of the tree and the Structure are rated in the next two columns. Both are rated on a scale of 1-10, with 10 being the most favorable. Health is a measure of the vigor of the tree. Lower ratings, (below 5) indicate that a tree is seriously declining in health.

Structure is a measure of the mechanical form and arrangement of the trunk and limbs. Trees with low structure ratings have failed mechanically in the past, or are at higher risk to do so in the future than trees with higher (better) structure rating.

Retention Index is an assessment of how desirable the retention of this tree is, independently of proposed design or site alterations. This rating is based on intrinsic features of the tree itself. It is a combination of:

- Species. Oaks are generally highly desirable. Eucalyptus are less, in some settings. Walnuts are not often realistically preserved.
- Health and Structure. Trees with defects or health problems do not warrant special effort to retain.
- Size. Even highly desirable species in good condition can be replaced if they are small enough. Their retention index is thus lower.

Generally, trees with an index of 8 or higher are worth some effort to preserve. This does not mean that they must be preserved, or that it is inappropriate to remove them. Realistic layout of a lot and cost of development may preclude retention of some otherwise desirable trees. The best use of the land may require removal of even trees with the highest retention index.

Trees with an index of 7 should be considered for retention.

Trees with an index of 5 or 6 should be retained only if there is an overriding need for a tree in that location, in the short term, and there is not time for a replacement tree to grow. They may be retained if there is no particular reason to remove them

For trees with indices lower than 5, no effort should be made to preserve. This does not mean they should not be retained, only that, unless there are other considerations, the project should not accommodate them.

Construction Impact is an estimate of the probable effects of proposed construction. It assumes that all possible care will be exercised within necessary constraints of the construction requirements as described in the tree table. These range from:

- "None".

- "Minimal". There may be some root injury which should not be manifest in the appearance of the tree if construction techniques are careful and the root zone is protected,
- "Slight". There is slightly more injury, and there may be some subtle injury response, but not to a serious degree,
- "Moderate". There may be visible signs, in the tree canopy, that root injury has occurred.
- "Remove". Retention of the tree is likely incompatible with the project.

Trees on this project have been rated in all categories.

The Comments column contains general observations about each tree. The terms codominant[1] and included bark[2] are explained below.

SPECIAL AREAS OF CONCERN

Trees adjacent to the easement along the north side of the Collins property are very close to the excavation that must be made to install the sanitary sewer. Details of root preservation across the trench are included in the Table of Trees, and should be observed. If roots across the SS trench are severed, the project arborist should be notified, and a decision made of whether to preserve the tree. Supplemental irrigation during the dry season will be necessary in any case, but will vary depending on the degree of root injury.

A similar situation exists by the storm drain junction into the existing culvert, at the far downstream end. Significant roots from oak tree 4940, the largest affected tree, will be found within the excavation. Excavation within 15 feet of the tree must be by water, using a Vactor truck to pick up the soil slurry, or by air, until enough root definition/location is determined, to select roots to remove, and allow workers to install the SD pipe below them. It is possible that the entire excavation very near the tree will have to be done in this manner, to the depth of the trench.

The storm drain at it's closest approach to tree 2007 is about 10 feet away, across a drainage ditch several feet deep, and is in the road. There may or may not be significant numbers of roots in the SD easement. Excavation for 30 feet, 15 feet either side of the tree trunk, should be as described in the previous paragraph, to avoid root injury.

---

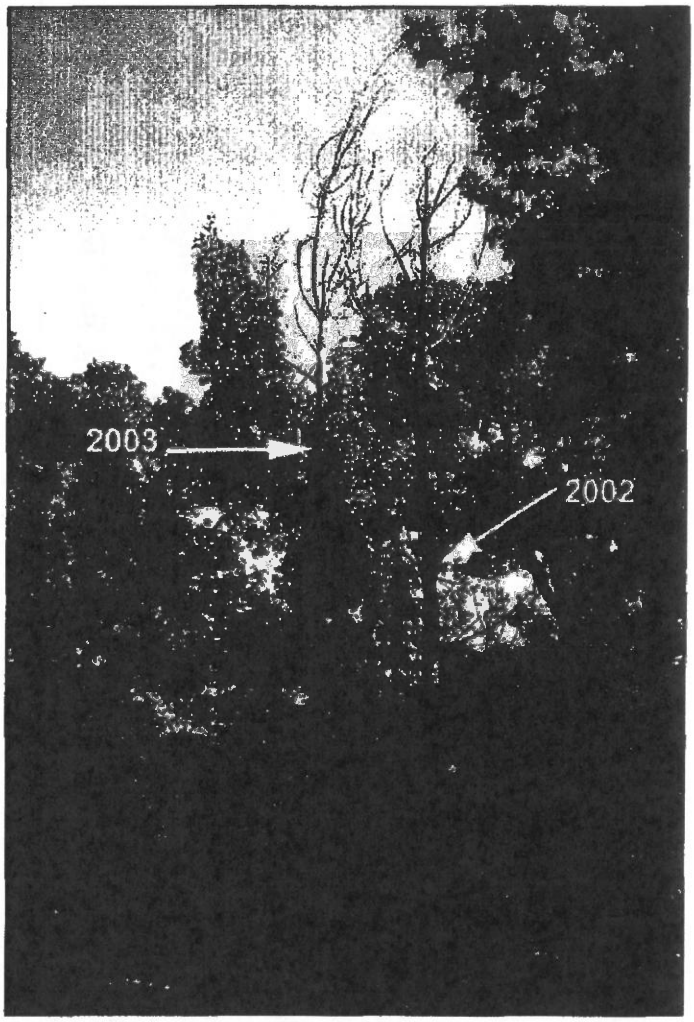
[1] Trunks of similar size on the same tree compete for dominance and are said to be codominant. As the trees grow larger these trunk attachments are increasingly prone to mechanical failure.

[2] Narrow stem crotches often prevent bark from sloughing off upward, and exiting the crotch as the two trunks expand toward one another. The bark becomes bound, or 'included' in the crotch, occupying the space that should be taken by wood, bridging the trunks. Because the bark isn't structurally competent, the attachment is weak, and prone to failure as the tree grows larger.

SITE MEETINGS WITH ARBORIST

The project arborist should have at least three meetings on site:

1. Preconstruction, with the contractor responsible for excavation of the SS and SD trenches, to review excavation near the trees.
2. Whenever a decision must be made which roots to sever, to allow room to place a pipe under roots to remain. This may occur at the trees on the Collins and Hale properties, but will certainly be necessary during excavation near trees 4940 and 2007.
3. To determine, based on observations by the arborist and the contractor, regarding the number and size of severed roots, the precise nature of any supplemental irrigation that might be required.



TREES 2002 AND 2003

These two trees will be removed. They are not in any way worth preserving, as they are actively dying back. Tree canopy spread was not included in the site map for these two. Their photo is below. Each is dead approximately above the arrow.

Please contact me if you have questions regarding this report.

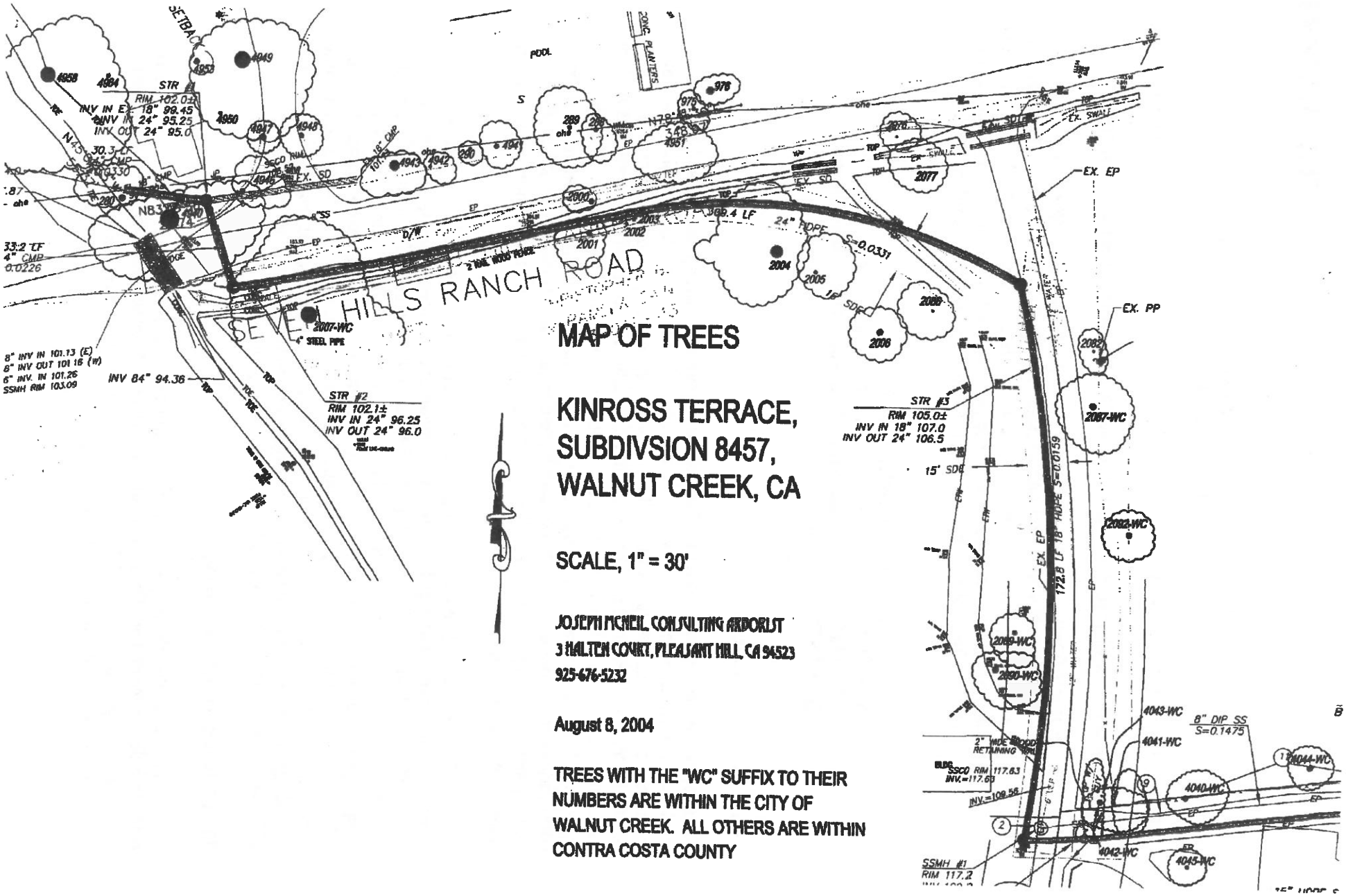
Sincerely,

Joseph McNeil
Certified Arborist #WC0102
Registered Consulting Arborist #299, ASCA
Contractors Lic. #482248 (Tree service C-61 *D-49*, Landscaping C-27, inactive)

Tree Number	Species	Diameter	Health	Structure	Retention Index	Impact	Comments
4044-WC	Valley oak	12, 8	8	6	7	Slight	Codominant trunks. Side of the SS trench will be 8-9 feet from the side of the tree. Dig, by hand, on the side of the SS trench toward the tree, a narrower trench, 18 inches deep, for an 8 foot length. Sever roots cleanly, over 1 inch diameter. Cover the side of the trench with double layer of burlap, moisten every day. Irrigate remainder of the root system in summer to compensate for root loss.
4040-WC	Valley oak	11, 5	8	7	7	Moderate	Side of SS trench will be less than 3 feet from the side of the tree. Excavate the upper 18 inches of the trench by air or water for an 8 foot length. Avoid bruising injury to roots of two inch diameter or greater. Keep covered with double burlap, to protect from sunlight. Sever smaller roots cleanly. Cover the side of the trench with double layer of burlap, moisten every day. Alternately, the SS line may be deep enough to allow tunneling by a backhoe, for the 8 foot distance. If possible this will be more efficient, and better for the tree. Irrigate remainder of the root system in summer to compensate for root loss.
4041-WC	Black walnut	5, 4, 3	5	0	0	Moderate	Side of SS trench will be about 4 feet from the side of the tree. Protection measures for tree 4042 will protect this tree.
4043-WC	Valley oak	9	5	4	0	Moderate	Protection measures for other trees will protect this one.
4042-WC	Valley oak	12	7	5	6	Moderate	Side of SS trench will be about 4 1/2 feet from the side of this tree. Excavate the upper 18 inches of the trench by air or water for an 8 foot length. Avoid bruising injury to roots of two inch diameter or greater. Keep covered with double burlap, to protect from sunlight. Sever smaller roots cleanly. Cover the side of the trench with double layer of burlap, moisten every day. Or, if possible, tunnel for the SS, as for tree 4040. The trench at the tie-in point will have to be open to the surface. Irrigate remainder of the root system in summer to compensate for root loss.
4045-WC	Coast redwood	9	8	9	7	Minimal	
2090-WC	Monterey pine	17	6	5	0	Minimal	
2089-WC	Western cottonwood	10	2	4	0	Minimal	Nearly dead
2092-WC	Valley oak	8, 6	7	5	6	None	
2087-WC	Valley oak	13, 6	6	6	6	None	Under primary lines.
2082	Valley oak	10	6	7	5	None	Under primary lines

Tree Number	Species	Diameter	Health	Structure	Retention Index	Impact	Comments
2086	Siberian elm	7, 5	6	6	6	Minimal	Side of SD trench will be more than 20 feet from the tree. Cleanly trim roots, if any, extending into the trench. If the trench will be open for more than one day cover the south side with a double layer of burlap, or straw matting, moisten every day, to prevent soil from drying directly from deeper layers.
2006	California pepper	9, 9	6	5	6	None	Crown dieback throughout, pruned back badly, possibly to removed dead limbs. Decayed at back, codominant trunks at base, included bark.
2005	Crabapple	4.4, 4, 3.7, 3.1	7	5	5	None	Full crown, but heavy scale insect infestation.
2004	Valley oak	23	7	6	8	Slight	Two trunks diverge at 6 1/2 feet, codominant, but form a "seam" down to ground level. This may represent structural weakness that will require mechanical support in the future. Sprouts along the main branches combined with thinning of foliage indicate the tree is under significant stress. The surrounding soil is dry and compacted, with open cracks, and lack of the normal organic buildup found under oak trees. Heavy mulching, with occasional deep irrigation would be beneficial. Cleanly trim roots extending into the trench. If the trench will be open for more than one day cover the south side with a double layer of burlap, or straw matting, moisten every day, to prevent soil from drying directly from deeper layers.
2077	Almond	5, 5, 3, 1	8	4	5	None	
2076	Valley oak	6, 6	7	4	6	None	Under primary lines, topped
976	Pecan	16	5	5	0	None	Substantial dieback on two sides, significant past root death, evidenced by lower trunk anomalies
975	River red gum	6, 5	6	4	0	None	Topped under primary power lines, lerp psyllid infestation
4951	River red gum	17	4	0	0	None	
2003	Lombardy poplar	7.2	4	4	0	Remove	The top of this tree is dead (see photo) Below City of Walnut Creek size consideration threshold
2002	Lombardy poplar	7.3	4	4	0	Remove	The top of this tree is dead (see photo) Below City of Walnut Creek size consideration threshold
288	California pepper	6, 4, 4	8	0	0	None	Decayed, failing
289	Pecan	10	8	7	6	None	Topped under primary power lines, will require repeated topping
2000	Valley oak	10	8	7	7	Moderate	Excavate the trench by air for a twelve foot distance centered on this tree and 2001. Place the SD below significant roots.
2001	Western cottonwood	11	8	7	6	Moderate	Excavate the trench by air for a twelve foot distance centered on this tree and 2000. Place the SD below significant roots.
4941	Valley oak	10	9	4	0	None	Topped under primary power lines, poor choice for this location.
290	Valley oak	6	8	4	0	None	Topped under primary power lines, poor choice for this location.
4942	Valley oak	6	8	4	0	None	Topped under primary power lines, poor choice for this location.
4943	River red gum	19, 8	7	0	0	None	Topped at 20 feet, very poor structure, poor choice here.
4948	*Chamaecyparis* sp.	10	5	0	0	None	1/2 dead, basal decay

Tree Number	Species	Diameter	Health	Structure	Retention Index	Impact	Comments
4947	*Chamaecyparis* sp.	13	5	5	0	None	Overmature
4949	Monterey pine	33	8	7	7	None	Leans, but short, stout, good trunk taper and low foliage distribution. Mature, not overmature. Roots in current driveway protrude 5 inches above existing surface.
4950	Valley oak	6	7	6	0	None	Repeating codominant trunks
4953	Mulberry	11	8	7	4	None	
4946	California pepper	10	6	4	0	None	Growing very slowly in edge of pavement. Decay at 8 feet, from low branch removal
2007-WC	Valley oak	29, 27	9	9	10	Slight	Encroachment is substantial under the tree canopy, but expected impact is slight, as the encroachment is across a paved area, and across the deep drainage swale from the tree. It is unknown whether there are significant numbers of roots in the road. The trench, for 30 feet, 15 feet either side of the tree, should be excavated by air, or hydraulically, to avoid root injury. Some roots, if present, may have to be removed to place the SD underneath. The project arborist must be on site to make these determinations. Base of tree is buried, should be uncovered and examined by the owner, for their own information and benefit. Structural rating assumes sound tree base.
4940	Valley oak	40	8	8	10	Moderate	Heavily side trimmed for primary power lines. Trunk has grown against and around culvert headwall, is integrated into trunk. Thin concrete surfacing of slope down from tree, to channel, is lifted and fractured, roots are replacing concrete as erosion barrier. Storm drain passes within root system on east and north. Manhole will be installed with the corner 8 feet from the side of the tree. All excavation within 15 feet of the tree must be hydraulic or air, exposing roots without injuring them. Some roots may have to be removed to place the SD underneath. The project arborist must be on site to make these determinations.
280	Oregon Ash	12	9	6	5	Remove	In edge of existing stream flow, in fractured concrete channel. Leans, suppressed under 4940, topped for primary lines. Outfall of SD will be adjacent to tree. It should be removed, as channel obstruction and primary line easement obstruction. The outfall will also impact the tree, further flooding it in wet weather.
4964	Oregon Ash	7	7	6	0	None	Suppressed under 4958
4958	Valley oak	28, 16	7	8	10	None	At top of slope. Roots to west follow steep slope of channel side. Lower roots on west side are severed by channel cleaning in past (1/2 dozen roots, 2"-3' diameter, not a threat to stability) Short shoot elongation may be signal of early stage decline and disturbance sensitivity.



MAP OF TREES

KINROSS TERRACE, SUBDIVSION 8457, WALNUT CREEK, CA

SCALE, 1" = 30'

JOSEPH MCNEIL CONSULTING ARBORIST
3 HALTEN COURT, PLEASANT HILL, CA 94523
925-676-5232

August 8, 2004

TREES WITH THE "WC" SUFFIX TO THEIR NUMBERS ARE WITHIN THE CITY OF WALNUT CREEK. ALL OTHERS ARE WITHIN CONTRA COSTA COUNTY

ATTACHMENT 7

WALNUT CREEK PLANNING COMMISSION
STAFF REPORT

AGENDA: OCTOBER 28, 2004 ITEM NO. 2

ORIGINATED BY: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING

SUBJECT: **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course. The project is situated at the end of Kinross Drive, north of Marchbanks Drive.

ZONING: P-D, Planned Development (PD 859)
GENERAL PLAN LAND USE: MFL, Multi Family Low, 6-14 du/ac
OWNER/APPLICANT: Diablo Hills Golf Associates / Doyle Heaton
CEQA STATUS: Pending.

STATEMENT OF ISSUES:

The applicant is seeking approval of a Planned Development District rezoning and 12-lot residential subdivision on a vacant 3.58-acre site. A project location map and subdivision plans are included as **Attachments 3 and 4**. The project site is formerly a part of the nine-hole Diablo Hill Golf Course established in 1966 as part of the Heather Farms development (PD 859). The applicant is requesting: 1) to amend the existing PD district (rezone) to accommodate the proposed 12-lot residential development , 2) to narrow Kinross Drive, from Marchbanks Drive northward to its terminus, to limit street parking to one side, and 3) install new storm water and sanitary sewer lines through private off-site property. Tree removal and dripline encroachment approval will also be required.

On April 24, 2003, the Planning Commission held a public hearing to review a preliminary 11-lot development plan. The April 24, 2003 staff report and minutes of that meeting are included as **Attachments 8 and 9**. Following the public hearing, the Planning Commission expressed support for the project noting that the development 1) is situated on a remnant parcel, 2) provides an appropriate transition between the existing multi-family housing to the north and east, and half-acre residences to the west, 3) could support additional units, and 4) would not undermine preservation of the golf course. Since that time, the applicant has revised the project to include 12 residential lots, has resolved sewer and storm water drainage issues, and is seeking an affirmative recommendation to City Council on the project.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission 1) approve a resolution forwarding an affirmative recommendation to the City Council on adoption of the Mitigated Negative Declaration and approval of the proposed Planned District Rezoning, and 2) Approve the Vesting Tentative Map subject to City Council adoption of the rezoning.

BACKGROUND:

The 3.58-acre project is situated within PD 859, which was adopted in 1966 as part of the Heather Farms development. PD 859 was approved with a mix of single and multi-family homes up to a maximum of 1,150 dwelling units, a nine-hole private golf course and clubhouse. The PD allowed clustering of homes on approximately 78-acres throughout the 150-acre site. The nine-hole golf course and accessory uses (parking, club house, driving range, etc) would occupy the remaining land area. PD 859 also set aside approximately 53 acres for a city park (future home of Heather Farms park). At some point in the mid 1970's the golf course was altered to shorten the 6th hole and redirect the 7th hole, eliminating the proposed project site from active play. Shortly thereafter, three tennis courts were installed by the original developer at the northwest corner of Marchbanks and Kinross Drives in the proximity of the original 7th hole. Since that time, the remaining 3.58-acre portion of the site, where the 6th hole was originally located, has remained vacant.

In the mid-1980's, an application to develop the 3.58-acre site for a 51-unit condominium project was submitted. A draft environmental impact report was prepared and circulated on the proposed 51-unit project. The application was, however, withdrawn by the project sponsor prior to any city action. A more recent proposal for 20 units was also withdrawn prior to any city action.

PROJECT AND SITE DESCRIPTION:

The project proposes construction of a 12-lot residential subdivision on a vacant 3.58-acre site consisting of 10 detached units and 2 attached units. Lot sizes for the 2 attached units are 3,916 and 4,992-sqaure feet, and range from 5,476 (Lot 10) to 30,208-square feet (Lot 1). The average lot size is approximately 11,300-square feet. The project proposes to narrow the existing Kinross Drive to preclude street parking on the one side, and install a new private 28-foot wide paved street to serve the 12 proposed dwellings. Sidewalk and parking would be provided on one side of the proposed private street.

The project is located on land that was previously graded and occupied as a golf course. Presently the site contains native grasses and a number of trees planted as part of the golf course. Surrounding land uses include single-family residences on the knoll above to the north, multi-family residences to the east (Stoneridge Apartments), Golf course property to the south, and single-family residences below to the west. A portion of the project site is adjacent to the Seven Hills Ranch property which is an unincorporated territory.

GENERAL PLAN CONSISTENCY AND CODE COMPLIANCE:

The 3.58-acre project site is designated MFL, Multifamily Low (6 to 14 du/ac) in the General Plan. The multi-family low designation envisions higher densities in close proximity to commercial and job centers and to serve as transition between single-family neighborhoods and commercial or higher density areas. The proposed 12 detached dwellings on 3.58-acres represent a density of 3 units per acre when viewed independently. Within the context of the entire planned district, a density of 6.6 units per acres is achieved.

The current PD 859 zoning establishes a maximum density of 1,150 units on approximately 78-acres throughout the 150-acre development. Currently, the Planned District contains approximately 986 units which would increase by 12 to 998-units should the project gain approval. The PD allows for a mix of unit types clustered around the private golf course. The proposed 12-lot subdivision would not exceed the maximum allowable density as established in the existing PD district regulations and would be consistent with the Multi-Family Low General Plan designation of 6 to 14 units per acre.

Other General Plan policies that relate to the proposed project include: Residential Development Policy 3, allowing infill development consistent with character of existing neighborhoods; Policy 7, prohibiting land use changes in residential areas unless findings can be made that character and integrity of neighborhood is preserved; City Design Program 8.1, Discourage gated communities and private streets; and Local Street Recommendation and Improvements, which states that Kinross Drive shall not be connected to Seven Hills Ranch Road.

The project is subject to General Plan Housing Element Policy 13.21 which requires 10% of the units within a for-sale project to be affordable to moderate income households. Based on the provisions in effect during the project review, the project would be required to provide 1 affordable unit. The applicant has designated Lot 8 as the affordable unit.

ENVIRONMENTAL REVIEW:

A proposed Mitigated Negative Declaration has been prepared and may be considered for recommendation to the City Council (**Attachment 5**). Pursuant to the City's Environmental Review Regulations, the City Council is responsible for adopting the proposed Mitigated Negative Declaration (MND) to be used in consideration of the proposed development and P-D, Planned Development Rezoning. The proposed MND was released for public review on September 28, 2004 and comments were solicited for a 30-day period ending on October 28, 2004.

The proposed MND evaluated the proposed project and concluded that the proposed project incorporates appropriate measures that would avoid or reduce potential impacts to a less-than-significant level and the project could not have a significant effect on the environment. Proposed mitigation measures have been incorporated into the Mitigated Negative Declaration for adoption as part of proposed project approval.

On October 19, 2004, a letter was received, signed by five area residents, requesting reconsideration of the decision to prepare a Mitigated Negative Declaration and specifying a number of concerns **(Attachment 6)**. In review of the comments received, staff believes that no new information or substantial evidence is presented that the project may cause a significant impact on the environment. A response to these comments is provided **(Attachment 7).**

Based on the analysis and discussion contained in this staff report and the administrative record as a whole, staff believes that findings can be made to adopt the proposed MND.

KEY ISSUES AND IMPACTS:

At the April 24, 2003 hearing, the Planning Commission expressed support for redevelopment of the vacant 3.58-acre site for housing and noted that although the site could accommodate more units, the project provides an appropriate compromise between the existing multi-family units to the north and east, and the more rural, one-half acre, residential lots to the west. The Commission also agreed that the dead-end portion of Kinross Drive could be reduced in width as desired by area residents, but should remain public.

Since that time, the project has been revised in response to Design Review Commission comments and to address sewer and drainage issues. In addition, a concern regarding reducing the pavement width of Kinross Drive has been raised in response to the Mitigated Negative Declaration. The following sections address these points.

Design Review Commission Comments

The project has been reviewed by the Design Review Commission (DRC) on four separate occasions in May and June, 2003, and February and May, 2004. The current development plan was reviewed by the Design Review Commission (DRC) in May 2004. At that time, the DRC was supportive of the revised lot pattern, roadway and drive alignments, and architectural character of the homes. The DRC forwarded an affirmative recommendation on the project to the Planning Commission and noted a few architectural revisions that could be handled during the final design review process.

Sewer and Storm Water Drainage

At the previous Planning Commission hearing in April 2003, the project proposed a sewer pump and an on-site, underground storm water retention system. Initial referral comments from the City Engineering Division and the County Sanitation District recommended revisions to the proposed utility services to provide gravity systems. In response, the applicant has revised their plan to provide gravity systems to existing off-site facilities through easements on private property. A new 8-inch sewer line serving the proposed development would be routed to the west through an adjacent residential lot (Collins property), to an existing 6-inch sewer line in Homestead Avenue. A new 15-inch storm water pipe would be routed westerly, again through the Collins property, northerly along Homestead Avenue, then westerly along Seven Hills Ranch Road to discharge into an existing creek.

While theses off-site utilities function hydraulically, the underground lines cross private and require easements. The applicant has stated that they are working with the Collins property owners to secure an easement, although it has not been finalized or recorded. In addition, research has revealed that Homestead Avenue and Seven Hills Ranch Road, while appearing as public roads, have never been dedicated or accepted by either the City or County and remain privately held property. As specified in the Mitigated Negative Declaration, the City would not condemn off-site private properties to satisfy requirements for a private development. Mitigation measures require that the applicant secure the necessary off-site easements prior to approval of a final map.

Reduced width of Kinross Drive

In the applicant's initial discussions with neighbors in the vicinity of the project site, concerns about parking and inappropriate activities on the dead end portion of Kinross Drive were raised. There was a general consensus of surrounding neighbors that narrowing the roadway would reduce or eliminate the perceived nuisance. The applicant offered to reduce the width of the public street as part of this development proposal. The reduced street width was discussed at the previous Planning Commission hearing in April 2003. At that time, Staff acknowledged that the reduced street width was proposed by the applicant in response to neighborhood concerns and that the reduced 28-foot paved street section is consistent with City standards.

Recently, comments received from residents on the Mitigated Negative Declaration question the project's proposal to reduce the width of Kinross Drive citing the loss of street parking adjacent to neighborhood serving tennis courts. In response to the comments on the Mitigated Negative Declaration, Staff contends that the street width, whether reduced or maintained at its current width, is not a significant environmental impact. The proposal to reduce Kinross Drive was based on neighborhood discussions that indicated that the dead end street was an attractive nuisance. However, both street configurations comply with city standards and provide adequate street parking to serve the tennis courts. The new subdivision and private street would likely eliminate nuisance activities associated with an unattended dead end street, and reduce the neighborhood concerns. Maintaining the street at its current width would require modification of the tentative map. Staff recommends that Planning Commission consider the street width as part of the project review.

COMMISSION ACTION REQUIRED:

Staff recommends the Planning Commission 1) approve a resolution forwarding an affirmative recommendation to the City Council on adoption of the Mitigated Negative Declaration and approval of the proposed Planned District Rezoning, and 2) Approve the Vesting Tentative Map subject to City Council adoption of the rezoning.

ATTACHMENTS:

1. Proposed Rezoning Resolution
2. Proposed Tentative Map Resolution
3. Vicinity Map and Aerial
4. Project Plans
5. Mitigated Negative Declaration and Initial Study
6. Comment Letter dated October 19, 2004 requesting reconsideration of Mit. Neg. Dec.
7. Response to Comment Letter
8. April 24, 2003 Planning Commission Staff Report
9. April 24, 2003 Planning Commission Minutes

Prepared by Scott Harriman, AICP, Senior Planner

ATTACHMENT 8

WALNUT CREEK PLANNING COMMISSION
RESOLUTION NO. 3329
P-D REZONING APPLICATION NO. Y03-003
KINROSS TERRACE RESIDENTIAL SUBDIVISION
END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE

Section 1. Findings.

1. On October 28, 2004, the Walnut Creek Planning Commission held a public hearing to consider P-D Rezoning/Tentative Map/Design Review Application No. Y03-003 filed January 8, 2003 by the Delco Builders; Doyle Heaton, representative, to change the zoning of a 3.58-acre portion of Assessors Parcel No. 144-081-006, situated at the end of Kinross Drive, north of Marchbanks Drive from P-D 859 to P-D, Planned District to facilitate construction of a 12-unit residential development.

2. At the conclusion of the October 28, 2004 public hearing, the Planning Commission voted unanimously to recommend that the City Council adopt a Mitigated Negative Declaration and approve the proposed Kinross Terrace P-D rezoning.

3. In recommending approval of the Kinross Terrace P-D Rezoning, the Planning Commission expressed strong support for the preservation of the adjacent golf course and found that the decision to allow the 12-lot subdivision is based on the project's unique site characteristics adjacent to the dead end of Kinross Drive, that the project site has historically not been an active part of the golf course, and that this action is not a precedent for further redevelopment of the golf course.

4. A Notice of Intent to adopt a Mitigated Negative Declaration was posted for this project on September 28, 2004, the Community Development Director having found that no substantial adverse impacts will occur as a result of this project. All mitigation measures are incorporated by reference into the project approval. Mitigation measures include dust control measures during construction; submittal of a second rare plant survey in April 2005 to determine rare plant species are present; and obtaining a tree removal/dripline encroachment permit and compliance with tree preservation guidelines contained in the project arborist reports; Requiring the developer to retain a qualified professional biologist prior to any tree removal occurring during nesting season (March 30 through August 31) if nests are observed; Obtaining a Streambed alteration agreement and a 404 permit from the Army Corp of Engineers and a 401 certification from the RWQCB prior to construction of the creek outfall; Preparation of sediment control plan; obtaining all necessary off-site easements; and revising off-site storm water alignment

5. The Design Review Commission has reviewed the proposed project at its May 9, 2004 meeting and has submitted its preliminary comments to the Planning Commission for its consideration. The project is subject to and would be required to receive final Design Review approval as part of any subsequent tentative map review.

6. The proposed project 12-unit subdivision is consistent with the General Plan designation of MFL, Multi-Family Low, 6-14 units per acre, achieving a density of 6.6 units per in context within the entire planned district.

7. The project site is presently zoned Planned Development, PD 859. The applicant proposes to rezone the project site to a Planned Development zoning district to accommodate the proposed 12-unit residential development.

8. The 3.58-acre project site is subject to height and development restrictions in place at the time Measure A, the Building Height Freeze Initiative was passed by the voters in 1985. In this case, the site contains a two-story, 25-foot height limit.

9. Tree removal and dripline encroach permits are required prior to any grading or construction activities. Mitigation measures adopted as part of the negative declaration establish tree protection criteria during construction.

10. The proposed P-D zoning district would adopt the development and site plan dated 10/14/04 reviewed and recommended to City council for adoption as the established development plan and zoning standards.

11. The 12-unit multi-family residential project is subject to Housing Element Policy 13.21 requiring at least 10-percent affordable units. The Planning Commission found that the applicant's proposal to provide 1 units plus an in-lieu fee for the fractional portion of the affordable housing requirement based on the current cost gap as provided in the Keyser Marston report is consistent with the Housing Element.

12. The Planning Commission has considered the proposed Mitigated Negative Declaration together with all comments received during the public review process. The Planning Commission finds on the basis of the whole record before it (including the Initial Study and all comments received) that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning commission's independent judgment and analysis. The documents and other material which constitute the record of proceedings upon which this decision is based are maintained by the custodian of records, the City Clerk, at 1666 N. Main St., Walnut Creek.

Section 2. Decision. Based on the findings set forth above, the Walnut Creek Planning Commission hereby recommends to the City Council that the property situated at the end of Kinross Drive, north of Marchbanks Drive (APN 144-081-006) be rezoned from P-D 859 to Planned Development in accordance with the attached Kinross Terrace plans labeled "Exhibit A of P-D Rezoning/Tentative Map/Design Review application No. Y03-003" subject to the following conditions.

1. The property shall be developed substantially the same as shown on the site plans labeled Exhibit A of Rezoning/Tentative Map/Design Review Application No. Y03-003. Any substantial change or revision as determined by the Planning Director to the site plan may be subject to public hearing and rezoning.

Uses

2. The proposed P-D zoning would permit the development of a 12-unit residential subdivision as depicted on Exhibit A, the adopted site plans. All future uses shall be governed by the R, Single Family Residential zoning district or any zoning district that is successor to the R District.

Development Standards

3. All development standards including, but not limited to, setbacks, parking, fencing, landscape area, and building footprints as shown on the adopted Development Plan, included within Exhibit A, shall constitute the established standards for the sites.

4. Accessory structures, home occupation, and childcare facilities shall be permitted pursuant to the R, Single Family Residential District.

5. The proposed Kinross Terrace development shall be constructed in substantial compliance with the attached site plans and as may be revised during City Council and final DRC review.

6. A tentative map shall be submitted for review and adoption by the Planning Commission, and subsequently recorded as a final map. The project shall be subject to all development requirements as established through the tentative map process.

7. An inspection and maintenance agreement shall be prepared and approved by the City Engineer to ensure maintenance of the private roadway improvement by the homeowners as part of the tentative map.

8. The project is subject to General Plan housing goal 13.21 which requires one unit within the for-sale project to be affordable to moderate income households. The applicant has offered the unit on Lot 8 as the affordable unit.

Section 3. Effective Date.

This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED ON October 28, 2004 by the Walnut Creek Planning Commission at a regular meeting thereof upon motion by Commissioner Pickett and seconded by Commissioner Jorgensen.

AYES: Pickett, Jorgensen, Larsen, Kaplan, Moore, Silva, Simmons
NOES: None
ABSENT: None

SANDRA MEYER, Secretary
Walnut Creek Planning Commission

ATTACHMENT 9

WALNUT CREEK PLANNING COMMISSION
RESOLUTION NO. 3330
P-D REZONING, TENTATIVE MAP, DESIGN REVIEW APPLICATION NO. Y03-003
VESTING TENTATIVE MAP 8457
KINROSS TERRACE RESIDENTIAL SUBDIVISION

Section 1. Findings.

On October 28, 2004 the Walnut Creek, Planning Commission held a public hearing to consider P-D Rezoning, Vesting Tentative Map No. 8457, Design review Application No. Y03-003, filed Delco Builders; Doyle Heaton, representative; in which it was requested that approval be granted to subdivide a 3.58-acre acre site located at the end of Kinross Drive, north of Marchbanks Drive to accommodate a 12-lot residential subdivision.

At the conclusion of the October 28, 2004 public hearing, the Planning Commission voted unanimously to 1) approve Resolution No. 3329, recommending that the City Council approved the Kinross Terrace P-D Rezoning, and 2) approved the Vesting Tentative Map subject to the City Council action on the rezoning.

On May 19, 2004, the Design Review Commission forwarded an affirmative recommendation on the subdivision and homes designs, subject to Planning Commission and City Council action on the subdivision and rezoning, and final design approval.

The proposed map is consistent with the General Plan and Zoning designations which regulate development on this site.

All governmental and utility agencies affected by this development have been notified and given the opportunity to respond thereto. Recommended conditions of approval have been incorporated where appropriate.

Based on the evidence presented at the meeting, the Walnut Creek Planning Commission hereby resolves that:

The Commission has reviewed the proposed subdivision, adopted Mitigated Negative Declaration, and the record as a whole.

The Commission has considered the design of this subdivision in relation to future passive or natural heating and cooling opportunities.

The Commission has considered the effects that approval of this subdivision will have on the housing needs of Central Contra Costa County.

The Commission finds that none of the conditions described in Government Section 66474, Subsections (a) through (g) inclusive, exists with respect to this Subdivision.

After reviewing the proposed subdivision together with its design and improvements, this Commission finds that this subdivision is consistent with all applicable General Plan and

Zoning policies and as recommended by this Commission to the City Council in Planning Commission Resolution No. 3329.

Section 2. Decision. Based on the findings set forth above, the Walnut Creek Planning Commission hereby approves the Kinross Terrace Vesting Tentative Map No. 8457 for property situated at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006) in accordance with the attached Kinross Terrace plans labeled "Exhibit A, Tentative Map 8457 Application No. Y03-003" subject to the following conditions.

Planning Division:

1. This subdivision shall comply with Title 10 of the Walnut Creek Municipal Code (Subdivision Ordinance) as determined by the City Engineer.

2. The final map shall not be recorded until there has been compliance with all conditions of approval.

3. The developer shall install house addresses and mail boxes in accordance with Post Office policy. The actual addresses will be assigned by City Planning staff prior to issuance of a building permit.

4. The Development plan shall be revised as recommended by the Design Review Commission to reverse the building footprint on Lot 4, to move Lot 5 building footprint forward approximately 5-feet, and to revise the Table on sheet 7 of 8 to reflect building heights as shown at the May 2004 DRC meeting.

5. Final approval of this Tentative Map is subject to an affirmative action by the City Council on the proposed P-D rezoning.

6. The design of the homes shall be subject to final Design Review approval by the Design Review Commission.

7. The project is subject to all mitigation measures as specified in Kinross Terrace Mitigated Negative Declaration, incorporated herein by reference.

8. The developer shall pay a fee in lieu of parkland dedication of $90,000, in accordance with Article 6 of the City's Subdivision Ordinance.

9. The project is subject to General Plan housing goal 13.21 which requires that one unit within the for-sale project to be affordable to moderate income households. The applicant has offered the unit on Lot 8 as the affordable. The applicant shall meet with the City's Housing Specialist and shall comply with all associated requirements.

10. The tentative map shall be revised to maintain the current width of Kinross Drive as directed by the Planning Commission at the October 28, 2004 hearing,

Engineering Division:

STREETS AND UTILITIES

11. The developer shall construct and dedicate to the public the proposed street improvements along Kinross Drive as shown on the tentative map, all to the satisfaction of the City Engineer. These improvements include new curb, gutter and sidewalk along the north side of Kinross Drive, utility and drainage improvements. The developer is proposing to modify the existing grades along the north side of Kinross Drive. Additional drainage and grading improvements may be required in this area to insure the area will drain properly at the completion of the project. The existing Kinross Drive street section shall be removed and replaced if the existing pavement is cracked or damaged in any way or if the structural section is determined by the City Engineer to be inadequate for the intended traffic. Cracked or damaged portions of the existing curb, gutter and sidewalk along the south side of Kinross Drive between the site and Marchbanks Drive shall be removed and replaced.

12. Public sidewalks shall comply with ADA and Title 24 requirements for cross slope at driveway approaches and curb ramps. The developer shall provide an accessible path of travel around the existing streetlight/utility poles and any other sidewalk obstructions to remain along the south side of Kinross Drive between the site and Marchbanks Drive.

13. The developer shall construct all the improvements on the two private streets, including pavement, curb, gutter, sidewalk, drainage, utility and landscaping improvements, or as may be required by the City Engineer.

14. The developer shall prepare a street and drainage maintenance agreement, for review and approval by the City Engineer, to insure ongoing inspection and maintenance of the private street improvements by the future property owners.

15. The street section for the private streets shall be designed by a registered civil engineer subject to approval by the City Engineer.

16. Install a "private street" sign at the entrance to Kinross Terrace.

17. The developer shall comply with all requirements of the Contra Costa Co. Fire Protection District, Contra Costa Water District, Central Contra Costa Sanitary District, East Bay Municipal Utility District, Pacific Gas and Electric Company, Pacific Bell, Comcast Cable Services and Astound Innovations, Inc.

18. All utilities shall be installed underground within the subdivision.

GRADING AND DRAINAGE

19. All on site surface drainage shall be collected and conveyed in an adequately designed underground storm drainage system in a manner to be approved by the City Engineer. The

downstream drainage system shall be analyzed and inadequacies, if any, corrected as determined by the City Engineer.

20. All building sites shall be graded to slope away from the building foundations with minimum slope of two percent (2%) or as required by the Soils Engineer.

21. The site shall be graded so that no additional runoff is directed to and so as not to impede runoff from adjacent properties.

22. A soils report shall be submitted and the grading, drainage swales and lot drainage shall be designed in accordance with the recommendations of the registered geotechnical/soils engineer. The registered geotechnical or soils engineer shall be retained during construction to observe all aspects of site preparation, stripping, grading, surface and sub-drainage installation, temporary cut slopes for construction of retaining walls, retaining wall foundation preparation, and retaining wall and utility trench backfill installation and to conduct material testing. A written agreement signed by the owner or his authorized agent for these services shall be submitted to the City for review and approval prior to issuance of the site development permit. Materials testing shall be performed by an accredited testing laboratory, which has been approved by the City of Walnut Creek. The geotechnical/soils engineer shall submit a letter report to the City at completion of construction certifying that grading, drainage and backfill installation was performed in general compliance with recommendations in the geotechnical report. All material testing reports shall be attached to the certification letter report.

23. Private drainage facilities shall be provided to intercept and direct the runoff from each lot to the proposed private underground drainage system, or as may be approved by the City Engineer.

24. Drainage swales and lot drainage for each lot shall be directed to the proposed private drainage system with a minimum gradient of one and one-half percent (1 ½ %), or as may required by the City Engineer.

25. The private storm drain system that empties into Homestead Creek at Seven Hill Ranch Road shall be provided with an adequately designed energy dissipater at its outfall in the creek in accordance with all applicable regulatory guidelines and approved by the City Engineer. Any trees removed from the creek for the construction of the outlet shall be replaced using native species at a ratio as required by the regulatory agencies and the City Engineer.

26. The street restoration requirements associated with the proposed private storm drain system will be a minimum of 4-feet on either side of the trench in the existing pavement areas.

27. The developer shall execute a Streambed Alteration Agreement with the Department of Fish and Game and obtain the necessary permits from the Regional Water Quality Control Board, Army Corps of Engineer and Contra Costa County, prior to commencement of any work on the private storm drain system or modification of the bed or bank of the creek. The capacity of the creek shall not be reduced.

28. The developer shall investigate and repair any structural defects in the existing storm drain system that drains from the end of Kinross Drive into the wetlands area.

29. The drainage system installed within this subdivision shall be privately maintained in its entirety to its outfall in Homestead Creek. The developer shall prepare a street and drainage maintenance agreement, for review and approval by the City Engineer, to insure ongoing inspection and maintenance of the drainage system and the stormwater pollution prevention device by the future property owners. The agreement will also allow the City to access the facilities to verify and insure completion of these activities. The agreement shall also include restrictions and monitoring requirements associated with the two wetlands areas.

30. The existing storm drain system that traverses the site and carries runoff from the adjacent property shall be completely removed and the drainage from the adjacent property shall be connected to the proposed private underground drainage system.

31. The foundation for any retaining wall that is proposed to be constructed across existing or proposed drainage or utility improvements shall be designed to span these improvements and to allow access to these improvements in the future without needing to disturb the wall.

32. The developer shall submit structural calculations and details for all of the proposed retaining walls for review and approval by the City Engineer.

33. Any work within the driplines of the protected trees or wetlands areas shall be performed under the supervision of a certified arborist and/or environmental consultant as appropriate to insure that all of the requirements associated with these environmental sensitive areas are followed.

EASEMENTS

34. The developer shall dedicate for public use an area at the intersection of Kinross Drive and Kinross Terrace to insure an appropriate turnaround at the end of the public street. The street improvements within this area shall be privately maintained.

35. The developer is proposing the abandonment of several easements that are currently located on the site. The developer must submit written documentation from these property owners indicating their agreement to relinquish their easement rights prior to the filing of the final map.

36. The developer shall record the private street, utility and drainage easements as shown on the tentative map and any additional easements that may be determined to be necessary by the City Engineer during the processing of the final map. The property owners (Homeowners Association) shall be responsible for maintaining the improvements contained within these easements. Responsibilities for inspection and maintenance shall be delineated within the street and drainage maintenance agreement.

37. The developer shall process a lot line adjustment/lot merger with the adjacent property owned by the Diablo Hills Golf Association prior to the filing of the final map.

38. All power poles whether existing or new shall be located behind the curb or sidewalk.

FEES AND OTHER STANDARD CONDITIONS

39. The subdivision shall comply with Title 10 of the Walnut Creek Municipal Code (Subdivision Ordinance) as determined by the City Engineer.

40. All site development shall comply with Title 9 Chapter 9 (Site Development) of the Walnut Creek Municipal Code as determined by the City Engineer.

41. The applicant is encouraged to contact the Engineering Division at 925-943-5839 to schedule a preapplication meeting prior to the first submittal of the subdivision map and improvement plans to discuss submittal requirements, project review timelines and fees associated with processing, filing and constructing this subdivision.

42. All habitable floors shall be constructed above the 100-year flood level.

43. An engineer's cost estimate for frontage and site improvements shall be submitted. Current fee for inspection is 8% of the estimated cost of improvements.

44. A current title report shall be submitted to identify current ownership, and any existing easements or land use restrictions.

45. The developer shall pay the adopted drainage fee for Drainage District 8 in effect at the time the final map is recorded. The current fee is $2,667 per acre.

46. The developer shall pay the adopted base map revision fee in effect at the time the final map is recorded. Current fee is $25 per lot.

47. The developer shall pay the traffic mitigation fee in effect at the time of issuance of the building permit. Current fee is $1,578 for single-family dwellings.

Section 3. Effective Date. This resolution shall take effect immediately upon and concurrently with the effective date of an ordinance by City Council approving the Kinross Terrace P-D Rezoning.

The foregoing resolution was adopted October 28, 2004 by the Walnut Creek Planning Commission at a regular meeting thereof upon motion by Commissioner Pickett and seconded by Commissioner Jorgensen.

Ayes: Pickett, Jorgensen, Larsen, Kaplan, Moore, Silva, Simmons
Noes: None
Absent: None
Abstain: None

SANDRA MEYER, Secretary
Walnut Creek Planning Commission

ATTACHMENT 10

CITY OF WALNUT CREEK
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WALNUT CREEK REZONING CERTAIN PROPERTIES LOCATED AT THE END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE FROM P-D 859 TO P-D, PLANNED DEVELOPMENT DISTRICT (REZONING APPLICATION NO. Y03-003 AND TENTATIVE MAP NO. 8457 – KINROSS TERRACE RESIDENTIAL SUBDIVISION) (A PORTION OF APN 144-081-006)

The City Council of the City of Walnut Creek does ordain as follows:

Section 1. Rezoning.

The Kinross Terrace property as shown in "Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003" which is hereby incorporated herein by reference, located at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006), is hereby rezoned from P-D 8599 to P-D, Planned Development subject to the following land use and property development regulations:

1. Uses

   The project is approved for the development of a 12-unit residential subdivision as shown on the approved P-D plan, Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003, hereinafter "Exhibit A". All future uses shall be governed by the R, Single Family Residential zoning district or any zoning district that is successor to the R District.

2. Development Standards

   a. All development standards including, but not limited to, building footprints for primary structures, setbacks for additions and accessory structures, building height, fencing, and landscape areas as established on the adopted Development Plan, included within Exhibit A, shall constitute the established P-D zoning standards for the sites.

   b. The property shall be developed substantially the same as shown on the plans labeled Exhibit A of Rezoning/Tentative Map Application No. Y03-003 and as required pursuant to Planning Commission Resolutions No. 3329 and 3330.

   c. Use regulations for accessory structures, home occupation, and childcare facilities shall be permitted pursuant to the R, Single Family Residential District.

   d. The proposed Kinross Terrace development shall be constructed in substantial compliance with the attached site plans and as may be revised during City Council and final Design Review Commission review.

   e. Development of the project is subject to all Engineering and Building Division conditions as determined through the tentative subdivision map process.

   f. An inspection and maintenance agreement shall be prepared and approved by the City Engineer to ensure maintenance of the private roadway and off-site storm water utility improvement by the homeowners as part of the tentative map.

g. The applicant will enter into an agreement with the City to sell one unit of housing (Lot 8) at sales prices affordable to moderate income households, pursuant to state and federally approved income limits, where households spend no more than 35% of their income on housing costs. The unit will be maintained as affordable for a 45-year period, through a deed of trust that will be executed by the eligible buyer. The deed of trust will have equity share repayment options, allowing some appreciation to accrue to the borrower. Terms of the agreement will be reviewed by city staff prior to issuance of a site development permit.

h. The project is subject to all mitigation measures contained in the adopted Mitigated Negative Declaration and the requirements in the City's tree ordinance found in Chapter 8 of Title 3 of the Municipal Code.

Section 2. Amendment of the Zoning Maps.

The Community Development Director is hereby directed to make the changes on the zoning maps of the City of Walnut Creek identifying the Planned Development District as provided by this ordinance.

Section 3. Effective Date.

This ordinance shall take effect on the 31st day after its adoption.

Revised 11-16-04

ATTACHMENT 10

CITY OF WALNUT CREEK
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WALNUT CREEK REZONING CERTAIN PROPERTIES LOCATED AT THE END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE FROM P-D 859 TO P-D, PLANNED DEVELOPMENT DISTRICT (REZONING APPLICATION NO. Y03-003 AND TENTATIVE MAP NO. 8457 – KINROSS TERRACE RESIDENTIAL SUBDIVISION) (A PORTION OF APN 144-081-006)

The City Council of the City of Walnut Creek does ordain as follows:

Section 1. Rezoning.

The Kinross Terrace property as shown in "Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003" which is hereby incorporated herein by reference, located at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006), is hereby rezoned from P-D 8599 to P-D, Planned Development subject to the following land use and property development regulations:

1. Uses

   The project is approved for the development of a 12-unit residential subdivision as shown on the approved P-D plan, Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003, hereinafter "Exhibit A". All future uses shall be governed by the R, Single Family Residential zoning district or any zoning district that is successor to the R District.

2. Development Standards

   a. All development standards including, but not limited to, building footprints for primary structures, setbacks for additions and accessory structures, building height, fencing, and landscape areas as established on the adopted Development Plan, included within Exhibit A, shall constitute the established P-D zoning standards for the sites.

   b. The property shall be developed substantially the same as shown on the plans labeled Exhibit A of Rezoning/Tentative Map Application No. Y03-003 and as required pursuant to Planning Commission Resolutions No. 3329 and 3330.

   c. Use regulations for accessory structures, home occupation, and childcare facilities shall be permitted pursuant to the R, Single Family Residential District.

   d. The proposed Kinross Terrace development shall be constructed in substantial compliance with the attached site plans and as may be revised during City Council and final Design Review Commission review.

   e. Development of the project is subject to all Engineering and Building Division conditions as determined through the tentative subdivision map process.

   f. An inspection and maintenance agreement shall be prepared and approved by the City Engineer to ensure maintenance of the private roadway and off-site storm water utility improvement by the homeowners as part of the tentative map.

g. The applicant will enter into an agreement with the City to sell one unit of housing (Lot 8) at sales prices affordable to moderate income households, pursuant to state and federally approved income limits, where households spend no more than 35% of their income on housing costs. The unit will be maintained as affordable for a 45-year period, through a deed of trust that will be executed by the eligible buyer. The deed of trust will have equity share repayment options, allowing some appreciation to accrue to the borrower. Terms of the agreement will be reviewed by city staff prior to issuance of a site development permit.

h. The project is subject to all mitigation measures contained in the adopted Mitigated Negative Declaration and the requirements in the City's tree ordinance found in Chapter 8 of Title 3 of the Municipal Code.

i. **New property owners shall be advised in deeds, CC & R's or other appropriate documents, of their proximity to:**
   (1) **The adjacent tennis courts, owned by the Heather Farms Homeowners Association, and all of its associated activities including individual tennis games, tennis tournaments, and all associated effects such as noise, lighting in the evening and potential for errant balls.**
   (2) **The Diablo Hills Golf Course, a private golf course, and all of its associated activities including early morning golf play, early morning lawn mowing/maintenance, and the potential for errant balls particularly relating to lots 4, 5, and 6.**

Section 2. Amendment of the Zoning Maps.

The Community Development Director is hereby directed to make the changes on the zoning maps of the City of Walnut Creek identifying the Planned Development District as provided by this ordinance.

Section 3. Effective Date.

This ordinance shall take effect on the 31st day after its adoption.

ATTACHMENT 11

WALNUT CREEK CITY COUNCIL
RESOLUTION NO. >

A RESOLUTION APPROVING THE TREE REMOVAL PERMIT AND MITIGATED NEGATIVE DECLARAION FOR REZONING APPLICATION NO. Y03-003 KINROSS TERRACE RESIDENTIAL SUBDIVISION END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE A PORTION OF APN: 144-081-006

Section 1. Background

1. On November 16, 2004, the Walnut Creek City Council held a public hearing to consider P-D Rezoning/Design Review Application No. Y03-003 and Tentative Map No. 8457, filed January 8, 2003 by the Delco Builders; Doyle Heaton, representative, to change the zoning of a 3.58-acre portion of Assessors Parcel No. 144-081-006, situated at the end of Kinross Drive, north of Marchbanks Drive from P-D 859 to P-D, Planned District to facilitate construction of a 12-unit residential subdivision.

2. The project has been reviewed by the Design Review Commission (DRC) on four separate occasions in May and June, 2003, and February and May, 2004. On May 9, 2004 the Walnut Creek Design Review Commission held a public meeting to consider the proposed site plan, landscaping and architectural details. The Design Review Commission was supportive of the project and requested that project refinements be brought back for final review and approval following Planning Commission and City Council review.

3. On October 28, 2004, the Planning Commission held a public hearing to consider the proposed P-D Rezoning/Design Review Application. At that time, the Planning Commission received public testimony from city staff, the applicant and the public. At the conclusion of the hearing, the Planning Commission found that the project is consistent with the General Plan and Zoning Code requirements relating to the residential use, density, height and setback requirements, voted unanimously to adopted Resolution No. 3329 recommending that the City Council adopt the proposed Mitigated Negative Declaration and approve the proposed Kinross Terrace P-D rezoning.

4. A Mitigated Negative Declaration was posted for this proposed project on September 28, 2004 and the public comment period ended on October 28, 2004. The Community Development Director found that no substantial adverse impacts would occur as a result of this project. Letters from area residents were received during the public comment period. Staff has prepared responses to comments, which concluded that no substantial evidence was presented that the project may cause a significant impact on the environment.

5. The 12-unit subdivision is consistent with the General Plan designation of MFL, Multi-Family Low, 6-14 units per acre, achieving a density of 6.6 units per in context within the entire planned district.

6. The project is consistent with the residential density as set forth in the existing P-D 859 Zoning District, which establishes a maximum density of 1,150 units throughout the 150-acre development. The Planned District, currently containing approximately 986 units, would increase by 12 to 998-units within the allowable density as established in the existing PD district regulations.

Section 2. CEQA Findings

1. The City Council has considered the proposed Mitigated Negative Declaration together with all comments received during the public review process. The City Council finds, on the basis of the whole record before it (including the Initial Study and all comments received) that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis. The documents and other material which constitute the record of proceedings upon which this decision is based are maintained by the custodian of records, the City Clerk, at 1666 N. Main Street, Walnut Creek.

2. When considering the record as a whole, there is no evidence before the City that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends.

Section 3. Adoption of Mitigated Negative Declaration

1. The City Council hereby adopts the Kinross Terrace Mitigated Negative Declaration and the mitigation monitoring program.

Section 4. Tree Removal Findings

The project is subject to the tree preservation ordinance pursuant to the Municipal Code Section 3-8.04. Required findings are shown in regular type. Reason(s) why the findings can be met are shown in **bold** type.

1. The reviewing body may approve a tree removal permit for the removal of a highly protected tree only if it finds that the burden to the applicant in preserving the Tree greatly outweighs the benefit to the public and that preserving the Tree would severely reduce the scale or feasibility of the development.

Tree reports, March 6, 2003 and August 8, 2004, evaluated 53 trees on or immediately adjacent to the project site and along the off-site utility line route. The site contains 45 trees, 23 of which would be removed to accommodate the proposed development. Of the 23 proposed tree removals, the City Arborist has authorized removal of 19 trees. The remaining 5 tree removals require City Council approval. The project site is constrained by wetland areas, the presence of non-engineered fill soil installed in the early 1970's with the development of the golf course, and neighboring residential units above and below the

site. These constraints prohibit development of portions of the site and create limitations for siting homes to ensure privacy for units in the surrounding area. Additionally, the preliminary landscape plans indicate that approximately 32-24-inch box trees (including London Plane, Flowering Pear trees) and over 60-15gallon trees (including Japanese Maple, Camphor, Evergreen Dogwood, Raywood Ash, Crape Myrtle, and Coast Redwood trees) will be planted throughout the site. The resulting tree planting will result in a net increase in tree cover. Provisions for tree preservation and re-planting incorporated into mitigation measures and conditions of approval provide appropriate measures to authorize the requested tree removals.

Section 5. Tree Removal Permit

A tree removal permit is hereby approved subject to the mitigation measures approved in the mitigated negative declaration and the conditions of approval in the PD ordinance rezoning the property.

PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA
County of Contra Costa

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the Contra Costa Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598.

And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of October 22, 1934. Case Number 19764.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

November 5

all in the year of 2004

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 5 day of November, 2004

.....
Signature

Contra Costa Times
P O Box 4147
Walnut Creek, CA 94596
(925) 935-2525

Proof of Publication of:
(attached is a copy of the legal advertisement that published)

CITY OF WALNUT CREEK
NOTICE OF PUBLIC HEARING
P-D REZONING, TENTATIVE MAP AND DESIGN REVIEW APPLICATION NO. Y03-003
End of Kinross Drive, North of Marchbanks Drive
Portion of APN 144-081-006
KINROSS TERRACE RESIDENTIAL SUBDIVISION

Notice is hereby given that on **Tuesday, November 16, 2004 at 7:00 p.m.**, in the Council Chamber of the City Hall, 1666 North Main Street, Walnut Creek, the Walnut Creek City Council will hold a public hearing pursuant to P-D Rezoning, Design Review and Subdivision Application No. Y03-003, filed January 14, 2003, by Doyle Heaton, owner; and Terrance Camp, applicant, in which it was requested that Title 10, Chapter 2 (Zoning Ordinance) of the Municipal Code of the City of Walnut Creek be amended as follows:

Proposed change: That the zoning of the following described property be changed from a classification of P-D (Planned Development 859) to a classification of P-D, Planned Development District to accommodate the development of a 3.58-acre site (formerly a part of the Diablo Hills Golf Course) for a 12-lot residential subdivision consisting of 10 detached and 2 attached single-family dwellings.

Property location: The 3.58-acre project site is located at the end of Kinross Drive, north of Marchbanks Drive.

All interested persons are invited to appear at the scheduled time and present testimony on the above-described subject. If you wish to inquire about, or arrange for, accommodations for individuals with disabilities, please contact the ADA Compliance Officer at (925) 943-5819 before noon on the Tuesday prior to the meeting.

If you challenge the rezoning application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

The building height of this project will not require approval by the electorate pursuant to the March 12, 1985 Building Height Freeze initiative measure.

This staff determination is appealable to the Planning Commission pursuant to the provisions of Section 10-2.4.504, Walnut Creek Municipal Code at any time on or before the public hearing date as specified in this notice.

The precise location of the land and/or building involved and other technical information may be obtained from Scott Harriman of the Planning Division, Community Development Department, 1666 North Main Street, Walnut Creek, at (925) 943-5899 ext. 212, through e-mail at harriman@walnut-creek.org or by

fax: (925) 256-3500.
CATHLEEN A. MCKAY, CMC
City Clerk

Legal CCT 1392
Publish November 5, 2004

CITY OF WALNUT CREEK

NOTICE OF PUBLIC HEARING

P-D REZONING, TENTATIVE MAP AND DESIGN REVIEW
APPLICATION NO. Y03-003
End of Kinross Drive, North of Marchbanks Drive
Portion of APN 144-081-006
KINROSS TERRACE RESIDENTIAL SUBDIVISION

Notice is hereby given that on **Tuesday, November 16, 2004 at 7:00 p.m.**, in the Council Chamber of the City Hall, 1666 North Main Street, Walnut Creek, the Walnut Creek City Council will hold a public hearing pursuant to P-D Rezoning, Design Review and Subdivision Application No. Y03-003, filed January 14, 2003, by Doyle Heaton, owner; and Terrance Camp, applicant, in which it was requested that Title 10, Chapter 2 (Zoning Ordinance) of the Municipal Code of the City of Walnut Creek be amended as follows:

Proposed change: That the zoning of the following described property be changed from a classification of P-D (Planned Development 859) to a classification of P-D, Planned Development District to accommodate the development of a 3.58-acre site (formerly a part of the Diablo Hills Golf Course) for a 12-lot residential subdivision consisting of 10 detached and 2 attached single-family dwellings.

Property location: The 3.58-acre project site is located at the end of Kinross Drive, north of Marchbanks Drive.

All interested persons are invited to appear at the scheduled time and present testimony on the above-described subject. If you wish to inquire about, or arrange for, accommodations for individuals with disabilities, please contact the ADA Compliance Officer at (925) 943-5819 before noon on the Tuesday prior to the meeting.

If you challenge the rezoning application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

The building height of this project will not require approval by the electorate pursuant to the March 12, 1985 Building Height Freeze initiative measure. This staff determination is appealable to the Planning Commission pursuant to the provisions of Section 10-2.4.504, Walnut Creek Municipal Code at any time on or before the public hearing date as specified in this notice.

The precise location of the land and/or building involved and other technical information may be obtained from Scott Harriman of the Planning Division, Community Development Department, 1666 North Main Street, Walnut Creek, at (925) 943-5899 ext. 212, through e-mail at harriman@walnut-creek.org or by fax: (925) 256-3500.

CATHLEEN A. MCKAY, CMC
City Clerk

Kinross X03003 5-7-04

144 081 002
Diablo Hills Golf Associates
1551 Marchbanks Dr
Walnut Creek, CA 94598

144 081 004
Walnut Creek Lp Stoneridge
18802 Bardeen Ave
Irvine, CA 92612

144 151 001
Lee Cuban
1487 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 002
Thomas & Kay Ng
2929 Azelia Ct
Union City, CA 94587

144 151 003
Carol Louisell
1487 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 004
Carole Minoot
1487 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 005
Ruben Silva
1485 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 006
Christian Jepsen
1485 Marchbanks Dr #3
Walnut Creek, CA 94598

144 151 007
Shannon Hodges
1485 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 008
Brenda Lipscomb
1485 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 009
Stephen Lopez
3700 Mosswood Dr
Lafayette, CA 94549

144 151 010
Richard & Judy Fiset
6 Roberts Ct
Danville, CA 94526

144 151 011
Agnes Smith
1483 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 012
Richard Hayes
3506 Perada Dr
Walnut Creek, CA 94598

144 151 013
Kent & Deanna Varble
35 Tiffin Ct
Clayton, CA 94517

144 151 014
Sheryl Lawrence
1493 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 015
Lisa Wiley
1493 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 016
Jon-michael Johnson
75 Fraser Dr
Walnut Creek, CA 94596

144 151 017
Myron & Patricia Gilbert
8945 N Seville Cir
Granite Bay, CA 95746

144 151 018
Neil Martin Johannessen
1491 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 019
Linda Mccargar
1491 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 020
Heather Decker
1491 Marchbanks Dr #3
Walnut Creek, CA 94598

144 151 021
Haron Rassiq
1489 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 022
Lynn Drinkwater
1489 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 023
Rowland Bernal Jr.
11 Fraser Ct
Walnut Creek, CA 94596

144 151 024
Timothy & Cynthia Zamborelli
6515 Pajaro Ct
San Jose, CA 95120

144 151 025
Denise Powers
1479 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 026
Ron Klemmedson
1479 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 027
Janet Louise Laston & Don & Glady La
1109 Cardigan Ct
Walnut Creek, CA 94596

144 151 028
Ken Haukaas
1479 Marchbanks Dr #3
Walnut Creek, CA 94598

03003 5/7/24

144-151-029
Salgado Camelo
1481 Marchbanks #2
Walnut Creek, CA 94598

144 151 030
Janice Lynn Scharnikow
74 Serene Ct
Danville, CA 94526

144 151 031
Bryan Duncan
1481 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 032
Mosche & Michelle Mor
11 Amber Ln
Lafayette, CA 94549

144 151 033
Martin Lysons
1475 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 034
Wanda C Louie
1475 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 035
Leslie Chan
PO Box 3762
Walnut Creek, CA 94598

144 151 036
John Cadwalader
1475 Marchbanks Dr #3
Walnut Creek, CA 94598

144 151 037
Linda Engler
180 Macalvey Dr
Martinez, CA 94553

144 151 038
Joseph Driscoll
1477 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 039
Roberto & Martha Benard
306 Judson Ave
San Francisco, CA 94112

144 151 040
Charles & Dorothy Winslow
168 Lilac Dr
Walnut Creek, CA 94595

144 180 001
Mairi Pitcaithley
545 Adirondack Way
Walnut Creek, CA 94598

144 180 002
Vitas & Dalia Alekna
2763 Hutchinson Ct
Walnut Creek, CA 94598

144 180 003
Jaime & Adelina Motta
537 Adirondack Way
Walnut Creek, CA 94598

144 180 004
Nancy Bolin Glass
Donavan & Nancy Glass
533 Adirondack Way
Walnut Creek, CA 94598

144 180 005
David & Robyn Reeves
529 Adirondack Way
Walnut Creek, CA 94598

144 180 006
Harry & Bernice Mitchell
525 Adirondack Way
Walnut Creek, CA 94598

144 180 007
Anthony & Marcia Newey
521 Adirondack Way
Walnut Creek, CA 94598

144 180 008
Carl Gerard Oddo & Beth Schecter
517 Adirondack Way
Walnut Creek, CA 94598

144 180 009
Jonathan Arck & Gloria Kellogg
1500 Gilboa Dr
Walnut Creek, CA 94598

144 180 010
Byron & Anne Fellows
503 Adirondack Way
Walnut Creek, CA 94598

144 180 011
Paul & Rita Guidry
500 Adirondack Way
Walnut Creek, CA 94598

144 180 012
Nina Chalmers
504 Adirondack Way
Walnut Creek, CA 94598

144 180 013
Kurt & Lory Billeter
1232 Sunset Loop
Walnut Creek, CA 94595

144 180 014
Heather Farms Homeowners
1501 Marchbanks Dr
Walnut Creek, CA 94598

144 180 015
Dennis & Mary Basiaga
516 Adirondack Way
Walnut Creek, CA 94598

144 180 016
Roy Tamiyo Yokote
520 Adirondack Way
Walnut Creek, CA 94598

144 180 136
Virginia Balesteri
1500 Gilboa Dr
Walnut Creek, CA 94598

144 180 137
Russell Simoni
524 Adirondack Way
Walnut Creek, CA 94598

Y08003 5-7-04

144 180 138
Seitz
528 Adirondack Way
Walnut Creek, CA 94598

144 180 139
Judith Steckbeck
532 Adirondack Way
Walnut Creek, CA 94598

144 180 140
Wilbur & Nelly Fliehmann
536 Adirondack Way
Walnut Creek, CA 94598

144 180 142
Dennis Whiteneck
420 Arbol Via
Walnut Creek, CA 94598

144 180 145
Heather Farms Homeowners Assn
1501 Marchbanks Dr
Walnut Creek, CA 94598

173 042 005
Mike Fakhimi
35 Royal View Dr
Walnut Creek, CA 94598

173 042 007
Thomas & Patricia Howard
1550 Homestead Ave
Walnut Creek, CA 94598

173 042 012
Peter P Q Lai & Y Y Ruby
100 Royal View Dr
Walnut Creek, CA 94598

173 042 013
Beatrice Cherene
1500 Homestead Ave
Walnut Creek, CA 94598

173 042 016
Edward & Arline Collins
1562 Homestead Ave
Walnut Creek, CA 94598

173 042 017
Bruce & Janine Herold
1556 Homestead Ave
Walnut Creek, CA 94598

173 042 018
Paul & Heidi Shankwiler
10 Royal View Dr
Walnut Creek, CA 94598

173 190 001
Valentine & Brenda Pianka
1100 Danforth Ln
Walnut Creek, CA 94598

173 190 002
Stephen & Marlene Pavlina Jr.
2506 19th Ave
Kingsburg, CA 93631

173 190 006
Somphol & Chalini Panchasarp
478 Gentry Ct
Walnut Creek, CA 94598

173 190 007
Spencer & Linda Lee
460 Gentry Ct
Walnut Creek, CA 94598

173 190 008
Kenneth & Ana Regalia
1150 Danforth Ln
Walnut Creek, CA 94598

173 190 009
Farhad & Dastmalchi Yass Ordukhani
1185 Danforth Ln
Walnut Creek, CA 94598

173 190 017
Warren & Erna Clifford
443 Gentry Ct
Walnut Creek, CA 94598

173 190 018
Aaron Simon
465 Gentry Simon
Walnut Creek, CA 94598

Michael Rhymes
1576 Siskiyou Drive
Walnut Creek, CA 94598

David and Ruth Smith
40 Royal View Drive
Walnut Creek, CA 94598

Lee and Nancy Simmons
80 Royal View Drive
Walnut Creek, CA 94598

Sheridan and Barbara Hale
850 Seven Hills Ranch
Walnut Creek, CA 94598

Ellen Ames
60 Royal View Drive
Walnut Creek, CA 94598

Paul Freitas
421 Gentry Court
Walnut Creek, CA 94598

Doyle Heaton
Delco Builders

Aliquot Associates
1395 S. Main St. #310
Walnut Creek, CA 94596

Terrance Camp
35 Quail Court #200
Walnut Creek, CA 94596

Bob Henderson
1578 Siskiyou Drive
Walnut Creek, CA 94598

172 150 008
Linda Mccune
980 Seven Hills Ranch Rd
Walnut Creek, CA 94598

172 150 023
Minnie Elizabeth Olsen
990 Seven Hills Ranch Rd
Walnut Creek, CA 94598

172 150 026
Dean Spellman
986 Seven Hills Ranch Rd
Walnut Creek, CA 94598

173 030 017
Betty Ann & John Parkerson
2011 Walnut Blvd
Walnut Creek, CA 94597

173 030 019
Vladimir Adler & Luba Adler
2049 Walnut Blvd
Walnut Creek, CA 94597

173 041 003
Richard & Kathleen Novak Sr.
PO Box 5332
Walnut Creek, CA 94596

173 041 004
Scott & Denise Whitacre
2072 Walnut Blvd
Walnut Creek, CA 94597

173 041 005
Suzanne Brown
1535 Homestead Ave
Walnut Creek, CA 94598

173 041 008
Diane Reyes
2036 Walnut Blvd
Walnut Creek, CA 94597

173 041 009
Caedmon & Eva Bear
2024 Walnut Blvd
Walnut Creek, CA 94597

173 041 012
David Marton & Teri Leichenger
961 Seven Hills Ranch Rd
Walnut Creek, CA 94598

173 041 013
Christopher & Pamela Cain
955 Seven Hills Ranch Rd
Walnut Creek, CA 94598

173 041 022
Charles & Anna Todd
2060 Walnut Blvd
Walnut Creek, CA 94597

✓173 041 025
William & Helen Hendrix
2012 Walnut Blvd
Walnut Creek, CA 94597

David & Yvonne Sansome
962 Seven Hills Ranch
Walnut Creek, CA 94598

Christopher Cain
955 Seven Hills Ranch
Walnut Creek, CA 94598

Doyle Heaton
Delco Builders
3480 Buskirk Ave, Ste. 260
Pleasant Hill, CA 94523

Rec'd at 11/16 2004 Council Mtg 7:35pm

MEHLMAN ❖ TERBEEK LLP
Attorneys & Counselors At Law
2125 Oak Grove Road, Suite 125
Walnut Creek California 94598
Tel: (925) 935-3575
Fax: (925) 935-1789
e-mail: mehlman-terbeek@sbcglobal.net

Steven J Mehlman Marc L. TerBeek

November 16, 2004

VIA PERSONAL DELIVERY

City Council
City of Walnut Creek
City Hall
166 N. Main Street
Walnut Creek, CA 94596

Re: P.D. Rezoning, besting Tentative Map 8457 - Kinross Terrace

Honorable members of the Walnut Creek City Council:

This letter is written to supplement a letter which I wrote to the Planning Commission on October 28, 2004 regarding this project, a copy of which is attached here to as Exhibit 1. In that letter, and its attached Exhibits "A" through "E", I provided a history of planned Development 859 and its golf course, golf course rough, and open space areas which were included to offset the high density housing in this area and to serve as a buffer between housing types within this planned development and single family zoning in adjacent areas. I also addressed the growth inducing impact of this project and its negative impact on the investment backed expectations of property owners within this neighborhood. Finally, I addressed the lack of a condition on this project to prevent development of the remainder of the golf course, which condition was recommended in a prior draft environmental impact report. Such a condition was recommended in that EIR to offset the growth inducing impacts of the project and potential further loss of golf course and buffer areas.

Rather than re-state that letter, I am attaching it hereto, and request that the facts and legal points made in that letter should be considered by the City Council. In this letter, I intend to supplement the points raised in that letter, particularly with respect to the "condition" sought concerning further development on this parcel, if subdivision of a portion of it is approved. I also will respond to a letter from Valerie Barone, Community Development Director of Walnut Creek to the undersigned dated November 8, 2004, a copy of which is attached hereto as Exhibit 2, which was written in response to my letter dated October 28, 2004 to the Planning Commission.

In Ms. Barone's letter, she responded to our clients' concerns and evidence presented that the approval of

the project would have a growth inducing impact and could lead to development on other areas of the golf course. In rejecting the condition which was proposed, that would restrict future development on other areas of the golf course, she asserted that:

> "the Planning Commission was clear that there is no nexus with this subdivision to restrict further land use proposal on other private property held by the golf course."

This statement reflected a misconception about the facts made by the planner, Scott Harriman, in his statements to the Planning Commission regarding whether a condition could be imposed in the remainder of the golf course, of which this development site is a part. After my public testimony before the Planning Commission, Mr. Kaplan inquired of Mr. Harriman of whether a condition of approval requiring the developer to give up development rights to the rest of the golf course. Mr. Harriman responded to the effect that they City can't require conditions for offsite improvements where the offsite owner would be required to give the City property rights because that would be a taking of land use rights. He further stated that it is not typical for a City to require the developer to take someone else's land rights away.

The inaccuracy with this statement is that the 3.58 piece of the seventh green proposed for development is part of the larger golf course parcel. The condition would not seek to take away private property rights from another property owner, but rather it would condition the grant of subdivision rights to that owner in order to eliminate adverse environmental consequences stemming form that owner's use of the remainder of his property.

A review of the planning commissions comments reflects that it was their intent not to allow development of the remainder of the golf course. However, because the was planning staff asserted that nexus did not exist to affect another private property owner's rights, the planning commission felt it could not impose such a condition, but rather only make a finding expressing their intent that the project would not set a precedent for further reduction of the golf course.

While we do not believe this subdivision should be approved, if it is not approved, we agree with the finding made by the Planning Commission, and believe it should be included in any resolution of the City Council approving the subdivision. However, we respectfully submit that the Planning Staff was incorrect with respect to the "nexus" issue and whether a condition restricting development on the rest of the property can be imposed.

Again, as a preliminary matter, it is critical to understand that the golf course property which is the subject of this zoning change and subdivision, is one property under common ownership. This is a proposal to subdivide that property to create 12 new parcels on what was formerly part of the seventh green and is presently part of the golf course and golf course rough. The individual planning commissioners mistakenly believed that the condition which I proposed dedicating or restricting development rights, was being applied to a neighboring property owner and not the very property that was being proposed for subdivision and development . In fact, the golf course is a single property in common ownership, until a subdivision is approved. Mr. Moore's comments highlight this error when he stated that he was concerned about developers chipping away (no pun intended) at the golf course, but they cannot bind adjacent property.

Here, both the site for the Kinross Terrace Development, and the remainder of the golf course is under Single Ownership, as defined by the City Municipal Code Sec. 10-2.1.303 A. 137, as well as legal title. Although there may be an agreement which proposes to sell a portion of the golf course that is the site of this development, until that contract is consummated, the golf course continues to be one property. Therefore, a condition, that would prohibit further development of the remainder of the site, for example, a condition requiring the golf course owner to deed to the City, the development rights to the remainder to the parcel to preserve open space envisioned by the planned unit development for this neighborhood, would not violate any zoning principal requiring nexus between the condition and the project, because the condition is not being applied to separate parcel, but rather to the same property which is being subdivided for this very project.

Turning to the legal issue regarding nexus, here clearly "nexus" does exist. "The California and United States supreme courts have long held that the regulation of land use does not effect a taking of property if the regulation substantially advances a legitimate governmental interest and does not deny the property owner economically viable use of the land. See Dolan v. City of Tigard (1994) 512 US 374....." Curtin, Daniel J. Jr. and Merritt, Robert E. California Subdivision Map Act And The Development Process 2d Ed. 2004 §6.6 ct pg 154. Here, imposing a condition requiring the remainder of the same parcel to be maintained as golf course or requiring the dedication of development rights to the City to accomplish this, would not constitute a taking, because the golf course owner is being granted the privilege of developing twelve lots and is still be allowed the continued economic use of operating the golf course which was on essential part of the planned development.

The issue then becomes whether the dedication requirement as a condition of the land use approval is constitution. As explained in California Subdivision Map Act And Development Process, supra at §6.7:

> "As a rule, courts will uphold the constitutionality of a dedication requirement as a condition of land use approval when:
>
> - The local agency is acting within its police power;
> - The condition furthers the same governmental purpose as that advanced as the justification for the condition (the nexus test);
> - The condition does not deny an owner economically viable use of the land; and
> - The condition substantially furthers a legitimate governmental interest." citing Nollan v California Coastal Commission (1987) 483 U.S. 825

Turning to the nexus test, it is essentially a two-pronged rule requiring that: (1) "the condition imposed by the local agency must address the same type of impact caused by the development" and (2) "the condition must be in reasonable proportion to the burden created by the new impact." See California Subdivision Map Act and Development Process §6.9; Dolan v. City of Tigard, supra and Nollan v. California Coastal Commission, supra.

Here there is no question that the proposed condition addresses the growth inducing impact this development would have, because for the first time after many attempts, the owner of the golf course would be allowed to develop a portion that the original planned development required to be kept in golf course and golf

course rough. By restricting further subdivision and development on other areas of this property, the City would directly, by this condition, address the potential growth inducing impacts of this subdivision and development.

The second prong of this test is likewise met because the condition is directed at a legitimate government purpose, preserving the open space buffer areas within this planned development which was the basis for the original higher density zoning in what was formerly a single family zoned area. The condition is roughly proportional because preserving the remainder of the golf course and golf course rough assures that sufficient buffer will exist for the anticipated impact of this development on this remainder of the Diablo Hills/Heather Farms planned development.

The position taken by City staff that we are imposing condition on a different parcel which cannot be done, as set forth above, is simply wrong. This is the same golf course property and the nexus exists because we are trying to preserve the golf course, rough and open space buffer within this planned development zoning.

One of the lead court cases on this issue involved the Walnut Creek ordinance back in 1971, which required subdividers to either dedicate park land or pay in lieu fees. The California Supreme Court in Associated Home Builders v. City of Walnut Creek (1971) 4 Cal. 3d 633 upheld that ordinance over contentions that it was arbitrary, unreasonable or unconstitutional, holding instead that it constituted "a valiant attempt to solve this urgent problem" of the "appalling rapid disappearance of open areas in and around out cities." Id. At 648.

Likewise, the County regularly imposes requirements of dedication of development rights or the imposition of conservation easements on the remainder of a parcel when a subdivision is approved over a portion of it, and the dedication is necessary to offset environmental impacts. This is exactly what we are asking here, if this project is approved.

SUBSTANTIAL EVIDENCE WAS PRESENTED BY THE NEIGHBORS WARRANTING AN ENVIRONMENTAL IMPACT REPORT.

In her letter of November 8, 2004, Ms. Barone acknowledges that "Staff agrees with [our] statement for the standard for preparation of an EIR" in our letter of October 28, 2004. She, however, disagreed with our conclusion that evidence was presented warranting preparation of an EIR.

We respectfully submit, that considering the record, Planning Staff is in error. "An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may significantly affect the environment." Kostka, Stephen L. and Zischke, Michael H. Practice Under The California Environmental Quality Act 2004 §6.29 at p. 274.

The CEQA Guidelines 14 Cal Code Regs §15384 (a) define "substantial evidence" as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion even though other conclusions might be reached."

"Reports prepared by the lead agencies staff apart from the initial study, may provide substantial evidence of a significant effect on the environment sufficient to require and EIR." Practice Under the Environmental Quality Act 2004 supra, at §6.32 pg. 280. In Stanislaus Audubon Society, Inc. v. Stanislaus (1995) 33 Cal. App. 4th 144, the Court held that an EIR was required for a stand-alone golf course project on the basis of various county statements and studies indicating that the project would have significant growth inducing impact.

Here, my letter of October 28, 2004, and my client Robert Henderson in his testimony at the Planning Commission on that date, cited such a prior study, to wit, the Draft Environmental Impact Report of December 1984 on this same site. However, Mr. Barone erroneously disregarded consideration of that draft EIR, even though it was prepared by an expert, LSA Associates, Inc. While that project involved a 51 unit development instead of a 12 unit development, the statements made in pages 59 through 61, that approval of the project "could set a precedent for redesignation and development of the remainder of the golf course", and thereby be growth inducing, represents substantial evidence. The growth inducing impact of this approval, however, was not considered whatsoever in the mitigated negative declaration.

Indeed the condition proposed in that EIR "to prevent development on the remainder of the golf course [through] a development limitation [which] could not be included as a condition of approval for the subject project," is also not part of the mitigation measures for this mitigated negative declaration.

This glaring deficiency alone, warrants the preparation of an EIR, even absent the substantial other evidence presented to the City on other adverse environmental impacts, such as the risk of injury and property damages from errant golf balls, and drainage problems created by the development. For the foregoing reasons, we respectfully submit that the Mitigated Negative Declaration should not be approved and that the applicant be directed to prepare an EIR.

If, however, the City goes ahead and approves this rezoning and subdivision, at the very least, a condition should be imposed restricting further development on the remainder of this parcel that is being subdivided in addition to adopting the finding that any approval is not a precedent for further development on the golf course, which is intended to be kept intact.

Very truly yours,

MEHLMAN ◆ TERBEEK LLP

Steven J. Mehlman

SJM:yb

MEHLMAN ◆ TERBEEK LLP
Attorneys & Counselors At Law
2125 Oak Grove Road, Suite 125
Walnut Creek California 94598
Tel: (925) 935-3575
Fax: (925) 935-1789
e-mail: mehlman-terbeek@sbcglobal.net

Steven J Mehlman Marc L. TerBeek

October 28, 2004

By personal delivery:
Planning Commission
City of Walnut Creek
City Hall
1666 N. Main Street
Walnut Creek, CA 94596

Re: P-D Re-zoning, Vesting Tentative Map 8457–Kinross Terrace

Dear Planning Commission Members:

This firm has been retained to represent Robert Henderson, in connection with his opposition to the above-referenced re-zoning and vesting tentative map application. Mr. Henderson is the owner of property located at 1578 Siskiyou Drive, Walnut Creek, CA. 94598, which is within the P-D 859, a portion of which is being sought to be rezoned. His home is also adjacent to the Diablo Hills Golf Course in the vicinity of the Golf Course Club house and Greenery Restaurant, where other development applications have been pursued by the owner of the Diablo Hills Golf Course and potential developers of the golf course property. Mr. Henderson opposes this application based upon: 1) the financial expectation which owners purchasing property in the P-D 859 had and have that the golf course, and other open space and greenbelt areas of the P-D will be maintained based upon the original development plans, zoning, agreements, and other land use actions of the City, which led to the approval of this planned development and have been continuously followed by the City Planning Commission and City Council prior to this application; 2) the inadequacy of the mitigated negative declaration under the California Environmental Quality Act ("CEQA") for the reasons set forth in the letter dated October 18, 2004 and Attachments A through E, thereto (attached as Exhibit 6 to the staff report; and 3) the growth inducing impacts that development of this site may have and the precedent it will create for further development on the areas originally designated for golf course and on the open space and greenbelt buffer which was part of the original plans for this P.D.

HISTORY OF P-D 859

As set forth in the staff report at page 2, P-D 859 was adopted in 1966 with a mix of single and multi-family homes, a nine-hole private golf course and clubhouse. The P-D allowed clustering of homes on approximately 78 acres throughout the 150 acre site. P-D 859 also set aside approximately 53 acres for what is now Heather Farms Park. It also called for 771 apartments and 379 condominiums for a total of 1150 units, which was later reduced to 1000. Absent from the staff's discussion, however, was that this was apparently a very controversial proposal at the time to change property which was previously zoned single family R-1-15 to the conditional development plan for high density housing with a large number of apartments and condominiums. Mr. Henderson, who has extensively researched the history of this P-D, discovered that the original single family R-1-15 zoning would have allowed a maximum of 430 units. Ygnacio Valley at that time contained almost entirely single family units and a sizable segment of the

residents wanted it to remain that way, presenting at one point a 564 name petition to the City Council opposing the proposal.[1] After six years of conflict, the City Council and the developers reached an agreement whereby they approved the Conditional Development Plan for the Rezoning of the Heather Farm Property from R-1-15. See Ordinance No. 859, attached hereto as Exhibit "B".

Integral to the adoption of Ordinance No. 859, was the creation of a golf course and golf course rough, which would serve as open space and buffer areas to offset the significantly higher density of this project from surrounding areas. Indeed, condition 8, required the golf course construction to commence within a year of adoption of the ordinance. The golf course and golf course rough, shown on the development plan, included the entire area now proposed for development.

In the early 1970s families who bought condominiums in the area surrounding the Diablo Hills Golf Course were relying upon the open space / greenbelt features of Planned Development No. 859 which had been enacted in 1966. Likewise, when the Heather Farms Homeowners Association townhouse and patio development was constructed and sold, and individuals like our client, Mr. Henderson purchased their homes their, they too relied upon the commitment made by the City that the golf course, golf course rough and open space greenbelt areas would be maintained. Attached as Exhibit "C" to this letter is a copy of a newspaper article from the Contra Costa Times on November 21, 1972, which documented that the golf course operations were "an integral part" of the Heather Farms Homeowners Association subdivision. That article also verified the City's intent and concerns that the golf course land might be used for other less desirable uses.

In the thirty years since the purchase of their homes, the purchasers and residents of Diablo Hills have had the constant assurance that the City will maintain its agreements under PD 859 that the golf course land is open space/ greenbelt for the benefit of the homeowners residing in this community. As set forth in the History of Development Proposals on Diablo Hills Golf Course, prepared by Mr. Henderson and attached hereto as Exhibit "D", the City has consistently rejected proposals by the golf course owner to take portions of the golf course and golf course rough, and develop said property for uses which were contrary to the original intent.

The Kinross Terrace Proposal, is the latest iteration of the golf course owner's attempts to use portions of the golf course for development. As set forth in a Draft Environmental Impact Report for the Heather Park Condominium Project in December of 1984[2], for a 51 unit project on the same site, excerpts of which are attached hereto as Exhibit "E""

> "The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences." *Id. at pg. 8*

Approval of the Kinross Terrace proposal will repudiate the agreements leading to this

---

[1] See Contra Costa Times November 9, 1966 newspaper clipping, attached hereto as Exhibit "A".

[2] As set forth on page 2 in the October 21, 2004 letter of Valerie Barone to Frank Anderson, attached as Attachment 7 to your staff report, the draft EIR for the 51 unit project was never certified, and therefore other than providing additional support for the inadequacy of the current mitigated negative declaration, it cannot be used to satisfy CEQA requirements for this 12 unit project.

development, as well as the long history of the City in turning down development requests which will carve up the golf course and the open space areas and greenbelt buffers which were integral to this development. The approval will also run afoul of the investment expectations of the owners who purchased their homes in reliance on this P-D development plan, subjecting the owners and developers, and potentially the City, to judicial review. A recommendation to the City Council for the adoption of the Mitigated Negative Declaration will further subject the project to potential CEQA litigation. The approval of this project will create a precedent for the demise of the entire golf course, as it is carved up for additional development projects, as have been repeatedly proposed by its owner.

APPROVAL OF THIS PROJECT WILL UNDERMINE THE INVESTMENT OF THE OWNERS OF HOMES IN THE P-D, WHO HAVE RELIED ON THE INTEGRITY OF THE ZONING TO PRESERVE THE GOLF COURSE, GOLF COURSE ROUGH, AND OPEN SPACE AREAS IN PURCHASING THEIR HOMES

As set forth in the discussion above related to the history of P-D 859, the P-D zoning that designated certain areas for golf course, certain areas for golf course rough and open space, were critical in the development of this entire area. Each of the homeowners purchased their properties based upon the existence of the golf course and open space areas which were amenities to their homes. They relied on the fact that views of open space and Acalanes Ridge in the distance behind this project would be preserved, as well as views of wild life which frequently makes use of this area. Likewise, the owner of the golf course has benefitted from the people who have purchased their homes because of the golf course, which they could use.

Now the City staff has recommended approval of plans of the golf course owner and a developer to whom he has an agreement to sell a portion of the golf course, which would overturn the investment decisions of the other property owners in this P-D by taking away parts of this golf course. If this precedent is granted, the City can be sure that the golf course owner will pursue other developments which have been consistently turned down in the past. There is nothing to prevent him from seeking to put a motel on the property, a miniature golf course, an indoor driving range, a home next to the church, or a large expansion of his club and restaurant for large parties and events. Such actions could subject the project, the golf course owners, and the proposed developers, as well as the City, to judicial review based upon the damage this will do to the investments of people who have purchased their homes in the P-D in reliance upon the contractual and other commitments that the golf course would be preserved.

CEQA AND THE INADEQUACY OF THE MITIGATED NEGATIVE DECLARATION

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") except in certain *limited circumstances*. (*See, e.g.*, Pub. Res. Code § 21100 (emphasis added).) For example, a negative declaration may be prepared instead of an EIR when, after preparing an initial study, a lead agency determines that a project "would not have a significant effect on the environment." (*Id.*, § 21080(c).) However, such a determination may be made only if "[t]here is *no* substantial evidence in light of the whole record before the lead agency" that such an impact *may* occur. (*Id.*, § 21080(c)(1) (emphasis added).)

A negative declaration is improper, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur. Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR. (*Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) As a matter of law, "substantial evidence includes ... expert opinion." (Pub. Res. Code § 21080(e)(1); CEQA Guidelines § 15064(f)(5).)

Here, substantial evidence indicates that the Project is likely to cause significant impacts. Attached as Exhibit 6 to the Staff Report, and incorporated into this letter by reference, is a detailed letter to Valerie Barone setting forth substantial evidence, including in attached exhibits, that the project will have significant adverse environmental impacts warranting the preparation of a full EIR. While Ms. Barone summarily dismisses the evidence submitted in the letter and exhibits attached as Exhibit 6, sufficient evidence has been provided of adverse environmental impacts not identified in the Mitigated Negative Declaration, warranting a full environmental review. The City has simply failed to identify many of those impacts by:

1. Not addressing the precedential affect this approval may have on other areas of the golf course, golf course rough, and open space and greenbelt, given the many development proposals that have been pursued in the past.

2. Not adequately addressing the possible further shortening of greens which may be necessitated if complaints ensue as a result of errant golf balls, as occurred in the past, and caused this area to taken out of the existing fairways in the first place.

3. Not addressing the health, safety and property damage issues from errant golf balls.

4. Not addressing the parking issues, particularly at large events, such as the Art and Wine Festival and Walnut Festival at Heather Farms Park, which may result from narrowing of the roadway and elimination of parking.

5. Not fully addressing drainage issues.

Moreover, the Growth Inducing Impacts of this project, and the precedent that will be created for carving up the remainder of the golf course are not even discussed in the Mitigated Negative Declaration, or the proposed conditions for the Tentative Map approval. As noted in the 1984 EIR for the 51 unit proposed development on the same site, the redesignation of this site for homes and the construction of the project on what was formerly part of the golf course,

> "could set a precedent for redesignation and development of the remainder of the golf course. If the remainder of the golf course (approximately 46 acres) was redesignated for single family medium density development, it could be developed with 137 units. Development of the remainder of the golf course could also be precipitated if complaints regarding golf ball damage of the project necessitated further shortening of the course. Additional shortening of the course would make it less attractive to golfers and, consequently, would provide further economic pressure for residential development.
>
> Development of the remainder of the golf course would result in a loss of a recreational facility and further loss of an open space buffer between low and medium density uses. It would result in grading of existing topography, increases in runoff, removal of vegetation, alteration of views, traffic generation, and demands for public services and utilities. Residential development of the golf course would result in about 140 additional P.M. peak hour vehicle trips. ...Additional sewer and water line extensions and/or upgrading would be necessary to serve residential development of the golf course." *Id. at pg. 60*

An agency's avoidance of discussion of foreseeable future impacts can serve as grounds for invalidating a negative declaration and requiring preparation of a full EIR. Indeed, "[t]he agency [will] not be allowed to hide behind its own failure to gather relevant data. . . . CEQA places the burden of environmental investigation on government rather than the public." (*Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, at 1378-1379, *citing Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

Of course, the proponents of this project would argue that they are not seeking development of the entire golf course, but these cumulative effects, must be considered. Moreover, there is nothing in the conditions of development, along the lines recommended by the 1984 EIR that: "In order to prevent development of the remainder of the golf course, it is possible that a development limitation would be included as a condition of the approval for the subject of the project", expressing the intent to prohibit further development of other areas of the golf course, golf course rough and open space areas within the P-D. At the very least, an express condition should be included preventing future development on other parts of the golf course, and requiring a condition to that affect in a form that would run with the land, should as a minimum be required to address this impact, if after a full EIR, the City were to allow this project to go forward.

Very truly yours

MEHLMAN ❖ TERBEEK LLP

Steven Mehlman

Contra Costa Times, November 9, 1966

Heather Plan Goes Through Over Petition

The development plan for the 200-acre Heather Farms property in Ygnacio Valley was opposed by a 564 - name petition Monday night as it came up for final approval before the Walnut Creek City Council.

A letter, addressed to "Mothers and Fathers", and bitterly opposing multiple developments in the valley, was recently circulated among homeowners. It was noted that approval can be reversed by three council votes or a referendum petition.

Public hearings were closed on Lytton Savings and Loan's cluster plan Oct. 3 and an ordinance approving the plan passed by a 3 to 2 vote of the council.

THE COUNTIL removed the issue from its consent calendar Monday and permitted presentation of the petition but followed through, again on a 3 to 2 vote, with final adoption.

In presenting the petition, Mrs. James Bannister of 815 Spring Drive said opponents had done much "soul searching and tried to be fair."

The petition asks that the Conditional Development Plan zoning be reconsidered and denied and that revision of the former CDP be prevented. It requests new public hearings to determine appropriate residential zoning and claims residents weren't aware of the magnitude and impact of the development on the community.

THE COUNCIL also acknowledged receipt of letters from the Walnut Creek Homeowners Council and Lytton Savings.

The WCHC, representing several homeowner associations, said WCHC recognizes the difficulty in developing the property because of the topography and soil.

It said the WCHC accepts the need for unusual development and is pleased that the property is being developed as individually owned units. It agreed that the property isn't suitable for single family development.

Commending Lytton for meeting with the homeowners, WCHC said Lytton had voluntarily

(Continued on Page 2, Col. 6)

Heather Plan Goes Through Over Petition

(Continued from Page One)

agreed to reduce the density of the development.

WCHC URGED that future development of multiple units be prohibited in the valley or on surrounding hills but requested approval of Lytton's plan.

In a letter to City Manager Ralph Snyder, Lytton advised that it had met with the Rancho San Miguel Association on Oct. 18 following introducing of the zone ordinance because of the homeowners objection to the density.

Pointing out its desire to construct a development that "would be a credit to the city and a success to the landowner," Lytton said it had agreed to reduce the units from 1150 to 1000.

Stating that it intended for the letter to be binding "for ourselves and successors in interest" Lytton said it voluntarily commits itself to the reduction.

THE REDUCED density will be applied to the 685 units which were proposed for the west side of the development. Lytton is now proposing 535 apartment units on the western portion; 96 apartment units on four acres fronting Ygnacio Valley Road; and 379 townhouse units in the center of the property. A nine-hole golf course will traverse the property and Lytton has agreed to sell 52 additional acres to the city for a community park.

Edmund Regalia, attorney for Lytton and a resident of Ygnacio Valley, stressed Tuesday that all units will be owner-occupied and range from $25,000 to $40,000. Construction will be over a 10-year period with the golf course in the first stage.

In answer to the new petition, Councilman Douglas Page said that development of Heather has been a "terribly knotty problem."

HE ADDED that after eight years on the council he "firmly believes that Lytton's plan is the best possible solution within the range of possibilities..."

The letter circulated to Moms and Dads came under attack by Councilman Robert Schroder who called it "irresponsible."

Carrying the signatures of 10 homeowners, the letter said a few "well placed" people are leading a drive for urbanization. It claimed the main pressure for high density development is coming from a certain segment of the business district.

Councilman Ben Clarke said the petition represents some of the citizens who voted for him and he's willing to reconsider the zoning.

HE ADDED that it would take strong arguments to change the minds of the three councilmen who favored the plan and "I haven't seen these strong arguments really laid out."

Councilman Peter Howard agreed with Clarke's comments and said he has always felt the density of the development is too high.

Schroder said he is "thoroughly convinced that single family development would be far more detrimental to the property. Noting that step - type development could be applied and completely remove the hills, Schroder added; "I'm afraid such development wouldn't be commensurate with the housing in Ygnacio Valley."

Mayor Newell Case said it might appear that the wishes of the people are being ignored but that development of the property involves the entire city.

REFERRING to the number of signatures on the petition Case said that "perhaps 90 percent of the people in the city didn't have a chance to express themselves. The petition may bring exact opposite results in another part of the city," said Case.

"People in another part of the city would'nt be affected by the development. Why shouldn't they be for it?" asked Howard.

Howard and Clarke opposed the 3 to 2 approval.

Motion by Mr. Fink, second by Mr. Mahler that the Walnut Creek Planning Commission recommend to the City Council that the zoning of the land subject to Rezoning Proposal No. 199-B be changed from interim R-1-15 to Conditional Development Plan District (C.D.P.) and that a Conditional Development permit be approved subject to the following conditions:

1. That except as otherwise provided herein, the land be developed substantially as shown on the plan displayed at the public hearing on September 13, 1966 which plans are a part of Rezoning Proposal No. 199-B on file in the office of the Planning Director, and are referred to herein as the official plan.

2. That except as otherwise provided herein, those areas delineated on said official plan with zoning symbols, be subject to all provisions of the Municipal Code relating to the land use district identified by said symbol, including the provisions for site plan review, and with the areas designated townhouse on said official plan being subject to all provisions of the R-M-3 District except that the density therein shall be as designated on said official map.

3. That no residential development shall occur on any portion of the subject land until a subdivision map approved pursuant to this zoning and Title 10, Chapter 1 of the Municipal Code shall have been recorded on said portion.

4. That the number of dwelling units shown on the official plan shall be used as a guide only with the total number of dwelling units not exceeding 1150.

5. That Ygnacio Valley Road be developed with full frontage improvements including conform paving and land for street widening as required by the Director of Public Works.

6. That no construction either residential or golf course, shall commence until a complete drainage plan for the entire parcel of land shall have been approved by the City Engineer.

7. That all grading shall be done in such a manner as to preserve, as nearly as practicable the natural topographical features of the land and to avoid excessive exposed cuts and fills. The grading plan shall be subject to approval by the Director of Public Works.

8. That construction of the golf course shall commence not later than one year subsequent to the effective date of this ordinance and all construction, once commenced, shall be diligently pursued to completion. In the absence of fulfillment of this or any of the other terms of this ordinance, this zoning shall be subject to amendment following rezoning procedures.

9. That the Board of Zoning Adjustment have authority pursuant to site plan review to allow buildings in the townhouse area with building height greater than permitted in the R-M-3 zone wherever any such building is to be constructed on ground with sufficient slope that only the down slope portion of such building exceeds said height limit, and to establish a maximum building height related to topography within those areas designated as R-M-1.5.

10. The land indicated on the official plan as driving-range may be designated as R-2 with the driving range being permitted elsewhere on the subject land the location and design being subject to site plan review.

11. That area consisting of approximately 52 acres and not colored on the official plan shall be labeled recreation.

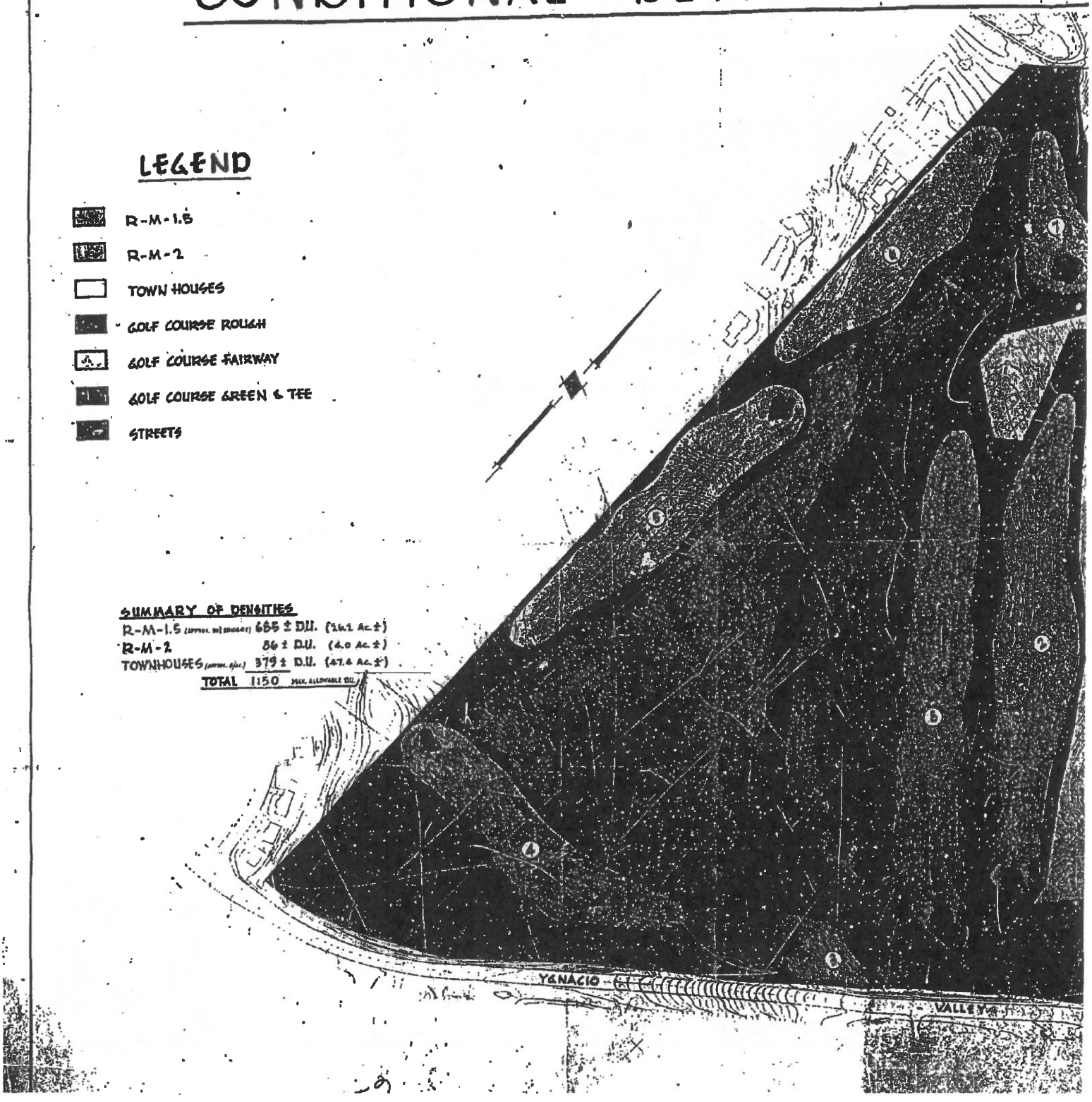
12. The final plans for the golf course shall be subject to site plan review.

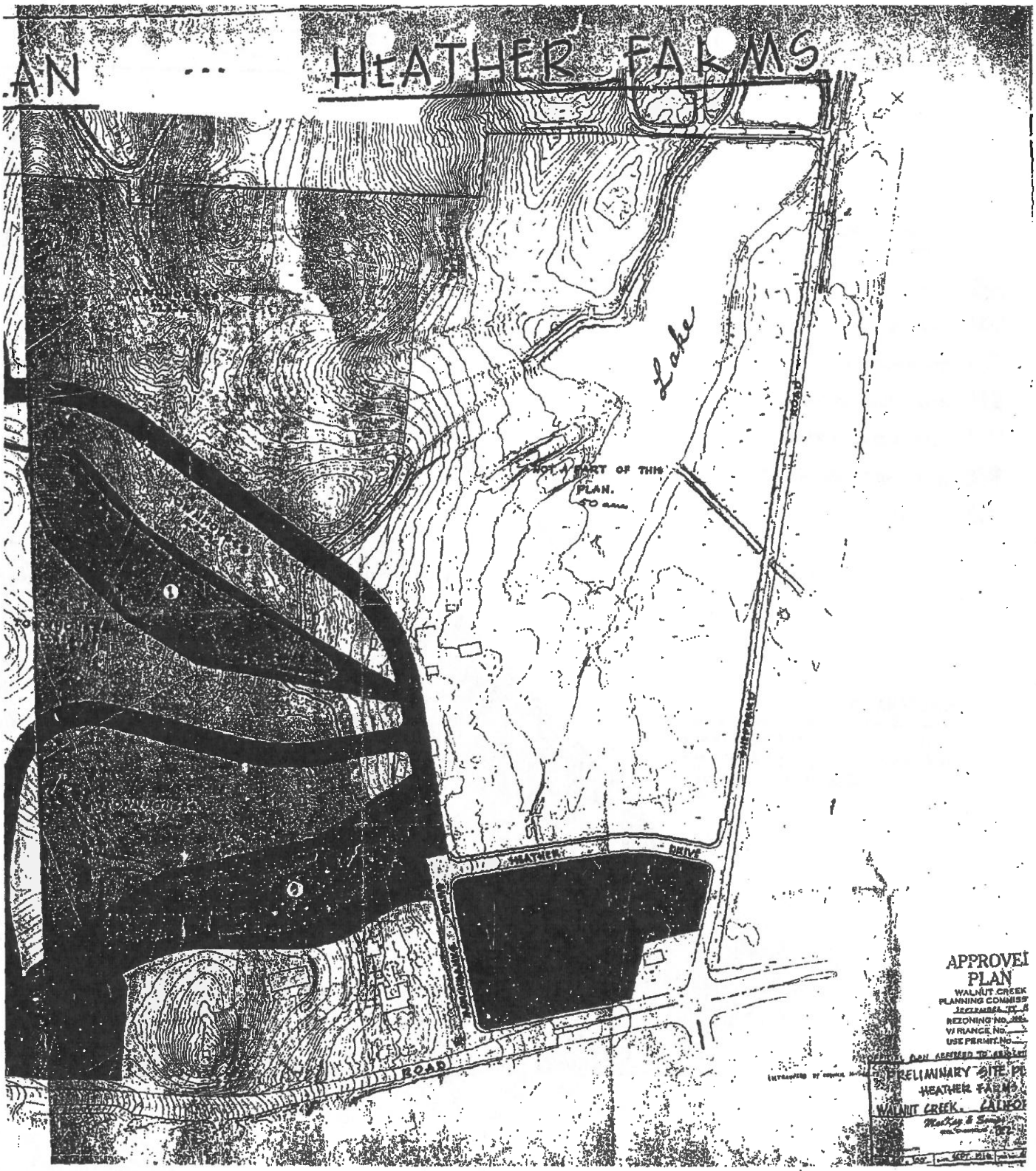
INTRODUCTION OF ORDINANCE - REZONING HEATHER FARM PROPERTY - FROM R-1-15 TO CDP

After considerable discussion, motion by Page, second by Mayor Case and carried to approve the plan for development as presented, with the stipulation that Ygnacio Valley Road be widened concurrently with construction of the golf course, said construction to commence not later than one year subsequent to the effective date of this ordinance and be completed within one year after the start of construction, and to introduce an ordinance as read by the City Attorney, title only, rezoning the subject property from interim zoning R-1-15 to Conditional Development Plan land use district.

AYES: Councilmen: Page, Mayor Case, Schroder
NOES: Councilmen: Howard, Clarke
ABSENT: Councilmen: None

CONDITIONAL DEVELOPMENT




AN
HEATHER FARMS
Lake
LOT 4 PART OF THIS PLAN.
HEATHER
DRIVE
ROAD
APPROVEI
PLAN
WALNUT CREEK
PLANNING COMMIS
REZONING NO.
VARIANCE NO.
USE PERMIT NO.
PRELIMINARY SITE PL
HEATHER FARM
WALNUT CREEK, CALIFO

HEATHER FARM GOLF COURSE CHANGES HANDS
Al Reale (left), Bob Moon, Robert Schroder, Wayne Policz.

Golf Course Bought By Land Developers

Heather Farm Golf Course, closed down over two months ago by its disgruntled owners, has been sold to the developer of an adjacent subdivision.

Although he says he does not know the sale price, Al Reale, one of the former owners, said the facility probably went for around $1.5 million.

The price includes a restaurant and pro shop operation. The complex has been purchased by L.B. Nelson Corp., developer of the Diablo Hills condominium subdivision.

A spokesman for the firm says the complex will be made "an integral part" of the subdivision. Plans include expansion and complete redecoration of the restaurant and clubhouse.

The golf course, shut down in a state of disrepair, is to be reseeded and landscaped with new trees and shrubs. New traps and greens also are planned.

Reale and his partner, Louis McKnight of Los Angeles, shut down the golf course after they claimed subcontractors for the adjacent development broke water lines and damaged the greens, causing a decline in business.

They also alleged that construction crews piled building materials on part of the golf course and that dirt and dust from trucks made play at the course uncomfortable.

Announcement of the sale comes after weeks of negotiations by the Nelson Corp., the owners and the city of Walnut Creek.

City officials worried that if the golf course was sold, new owners might try to find another, less desirable, use for the land.

Although the bulk of the property is zoned for golf course use only, one parcel is zoned for duplex, maintenance shed or driving range use.

Currently, the city is attempting to rezone the parcel strictly as a golf course maintenance area, its present use. But the rezoning effort is delayed, pending completion of an environmental impact report on it.

Reale has said the Nelson Corp. was approached about purchase of the facility partly because it mentioned the golf course in advertising its nearby condominiums.

The new owners say the course will be open to the public as well as to residents of Diablo Hills. Reopening of the facility is set for the spring.

CC TIMES
11-21-72

DIABLO HILLS GOLF COURSE AND RESTAURANT/BAR

HISTORY OF DEVELOPMENT PROPOSALS ON DIABLO HILLS GOLF COURSE

1967—Golf course land leased by Equitable Savings & Loan Association to Golf Management Corporation.

1970—Golf course land sold by Equitable Savings & Loan to Willis McKnight.

1972—Golf course land sold by Willis McKnight to L.B. Nelson Corporation, developer of the Diablo Hills condominium subdivision.

1973—Hardev Singh becomes Manager of the golf course.

1973—The project site under consideration for development in 2004 is removed from the playing area of the seventh fairway to reduce golf ball hazard to life and property at the adjacent apartment units.

1980--Hardev Singh buys the Diablo Hills Golf Course from L.B.Nelson Corporation, the developer of homes in the Heather Farms area of Walnut Creek. In subsequent years Singh has the following proposals for commercial uses for the PD 859 zoned open space land located on Marchbanks Drive from the clubhouse/restaurant/bar East to the boundary of St. John Vianney Catholic Church.

1982—His Christmas tree lot sales operation in this greenbelt buffer zone is cancelled after complaints from the neighboring Heather Farms Homeowners Association (HOA).

1985—He inquired of the Community Development Department about putting a motel on the property.

1988—He talked to the HOA about building a minature golf course on the land, featuring castles and concrete structures with lighting and hours of operation ending at 10 p.m. The HOA had concerns about the visual impact, lighting and noise level. The project was abandoned.

1989—He filed for approval of an abbreviated golf driving range enclosed in netting. It would operate 365 days a year from 7 a.m. until 10 p.m.

with lights and considerable noise. The City Council refused to approve the project.

1989—Concurrent with the above he proposed to build a Caretaker's House next to the Church property, which was abandoned after opposition from the HOA.

1991—He proposed to build the same 1989 abbreviated golf driving range in a wooden structure. The City Council again refused to approve it.

1998—He unveils plans to more than double the floor space of his restaurant/bar to rival the size of police nuisance bars in downtown Walnut Creek—Johnny Love's, Arroyo Way and Masses. The Council disapproved.

2000—On a cold rainy winter night the unhappy crowd in the queue line at the "Rave Party" pulled out their guns. Police Chief Richard Gregson commented: "These were visitors to our area from parts unknown...pretty hard core, gang affiliated individuals...Our officers counted no fewer than 40 gunshots."

In the Kinross Spur area north of Marchbanks Drive, Singh created a three and one-half acre parcel of open space property out of land which was originally part of the seventh fairway and green. The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. He then tried three times to put housing upon it.

1982—A developer selected by Singh proposed to build a 51-unit apartment complex. After an unfavorable Environmental Impact Report was circulated his application was denied by the City Council.

1996—A second developer initiated and then withdrew a proposal to build twenty single residences on the property.

2000—Delco Builders unveiled a plan to put twelve residences in the area. Their proposal is still being processed.

Bob Henderson
October 28, 2004

☐ 500 Newport Center Drive, Suite 600
Newport Beach, California 92660
phone (714) 640-6363

☐ 2606 Eighth Street
Berkeley, California 94710
phone (415) 841-6840

Community Planning ☐ Natural Resource Management ☐ Environmental Assessment

DRAFT
ENVIRONMENTAL IMPACT REPORT

HEATHER PARK
GENERAL PLAN AMENDMENT AND REZONING APPLICATION NO. 8478

PREPARED FOR
CITY OF WALNUT CREEK

DECEMBER 1984

By
Larry Seeman Associates, Inc.
2606 Eighth Street
Berkeley, CA 94710
(415) 841-6840

LSA #84-046

PROJECT DESCRIPTION

LOCATION

The 3.57-acre site is located on the south side of Kinross Drive at its terminus just north of Marchbanks Drive. The site is part of the Diablo Hills Golf Course planned neighborhood and is located about two miles northeast of the City center along Ygnacio Valley Road. The regional location is shown in Figure 1 and project site boundaries are shown in Figure 2.

The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences. Access to the site is provided by Kinross Drive which connects to Marchbanks Drive and Ygnacio Valley Road. The surrounding neighborhood was developed as a cohesive project under Planned Development zoning and contains some 1,000 dwelling units, the golf course, the Heather Farms City Park, and the St. John Vianney Catholic Church. Land uses surrounding the site include patio homes across Kinross Drive to the northeast, the Stoneridge apartment complex and tennis courts to the east, the golf course to the south, and single family homes to the west. Land to the north is unincorporated and zoned agriculture.

PROJECT SPONSOR OBJECTIVES

The project applicant, Ygnacio Homes, Inc., proposes to develop the site with 51 one- and two-bedroom condominium and/or apartment units. Whether units are sold or rented would depend on the type of financing obtained by the sponsor. Construction of the project would occur soon after the granting of approvals and would be performed by Ujdur Construction, Inc. Architects for the project are Hammarberg, Herman, and Johnson of Walnut Creek. The project would include an affordable housing program with 13 (25 percent) of the proposed units maintained affordable to moderate-income households (80 to 120 percent of median income) for a period of ten years. Rentals or payments on these units would range from $443 to $757 per month. The sponsor has stated that the remaining project units would be moderately priced relative to comparable units in the area. According to the sponsor, the goal for the project is to create an attractive development that will help to meet the housing needs of the City.

CITY OF
WALNUT
CREEK

RECEIVED
NOV 10 2004
BY:

November 8, 2004

Steven Mehlman
Mehlman-TerBeek, LLP
2125 Oak Grove Road, Suite 125
Walnut Creek, CA 94598

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Mehlman,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 28, 2004. In addition, this letter responds to your request that the City reconsider its decision to prepare a negative declaration as opposed to an EIR for the project.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter will be forwarded to the City Council for consideration when they review the project on November 16, 2004.

The following are responses to the comments outlined in your letter of October 28, 2004.

Financial Expectation

Your letter states "this project will undermine the investment of the owners of the homes in the P-D, who have relied upon the integrity of the zoning to preserve the golf course, golf course rough, and open space areas in purchasing their homes". Section 15064 of the California Environmental Quality Act (CEQA) guidelines specify that economic and social changes resulting from a project shall not be treated as significant effects on the environment. Physical changes to the site as a result of the project have been addressed in the Mitigated Negative Declaration. The project does not eliminate P-D 859, the requirement for a private golf course, or any active portion of the golf course.

Adequacy of the Mitigated Negative Declaration

Staff agrees with your statement for the standard for preparation of an EIR. However, we disagree with your assessment that the standard has been met and that an EIR must be prepared in connection with this project. After a careful review, we have determined that substantial evidence has not been presented that the Kinross Terrace project, as mitigated, may have a significant effect on the environment. Rather, the record supports the findings the project, as mitigated, reduces potential impacts to less than significant levels and would not have a significant effect on the environment.

Your letter references a previously submitted letter dated October 18, 2004 as evidence of the mitigated negative declarations inadequacy. Both the October 18th letter and City response were included in the Planning Commissions deliberations at their meeting of October 28, 2004. In this regard no new evidence has been provided to substantiate any inadequacy.

Your letter makes a number of references to a draft EIR prepared in 1984 for a withdrawn 51-unit project on the subject site. That draft EIR was never certified, evaluated a 51-unit project in 1984, and is not the subject of this review. Your comments provide no new evidence of substantial environmental impact associated with the Kinross Terrace proposal.

Growth Inducing Impacts

Your letter states the project would have a precedential affect on future proposals to reduce the golf course and requested a condition be added that would prohibit any future reduction of the private golf course. As discussed at the October 28th meeting, the Planning Commission was clear there is no nexus with this subdivision to restrict future land use proposal on other private property held by the golf course. However, the Commission did unanimously agree to add a finding to the rezoning recommendation to City Council expressing support for the preservation of the golf course and identifying the site's unique characteristics as a basis for their decision that the project would not set a precedent for further reduction of the golf course.

Other comments enumerated in your letter express safety concerns of errant golf balls, narrowing of Kinross Drive, and drainage concerns. All of these points were fully discussed and addressed at the Planning Commission hearing on October 28, 2004. The Planning Commission agreed with your assertion regarding the proposed narrowing of Kinross Drive and determined that the public road should remain at its existing width to maintain street parking at the current level. With respect to safety concerns from errant golf balls, the Commission reviewed plans, took testimony and determined that distance of 130 to150-feet between the homes and the green, coupled with the addition of off-site landscape berm with dense tree cover as proposed, was sufficient to reduce the potential impact to less than significant. With respect to drainage issues, your letter does not identify any new evidence that a significant impact would occur as a result of the proposed project.

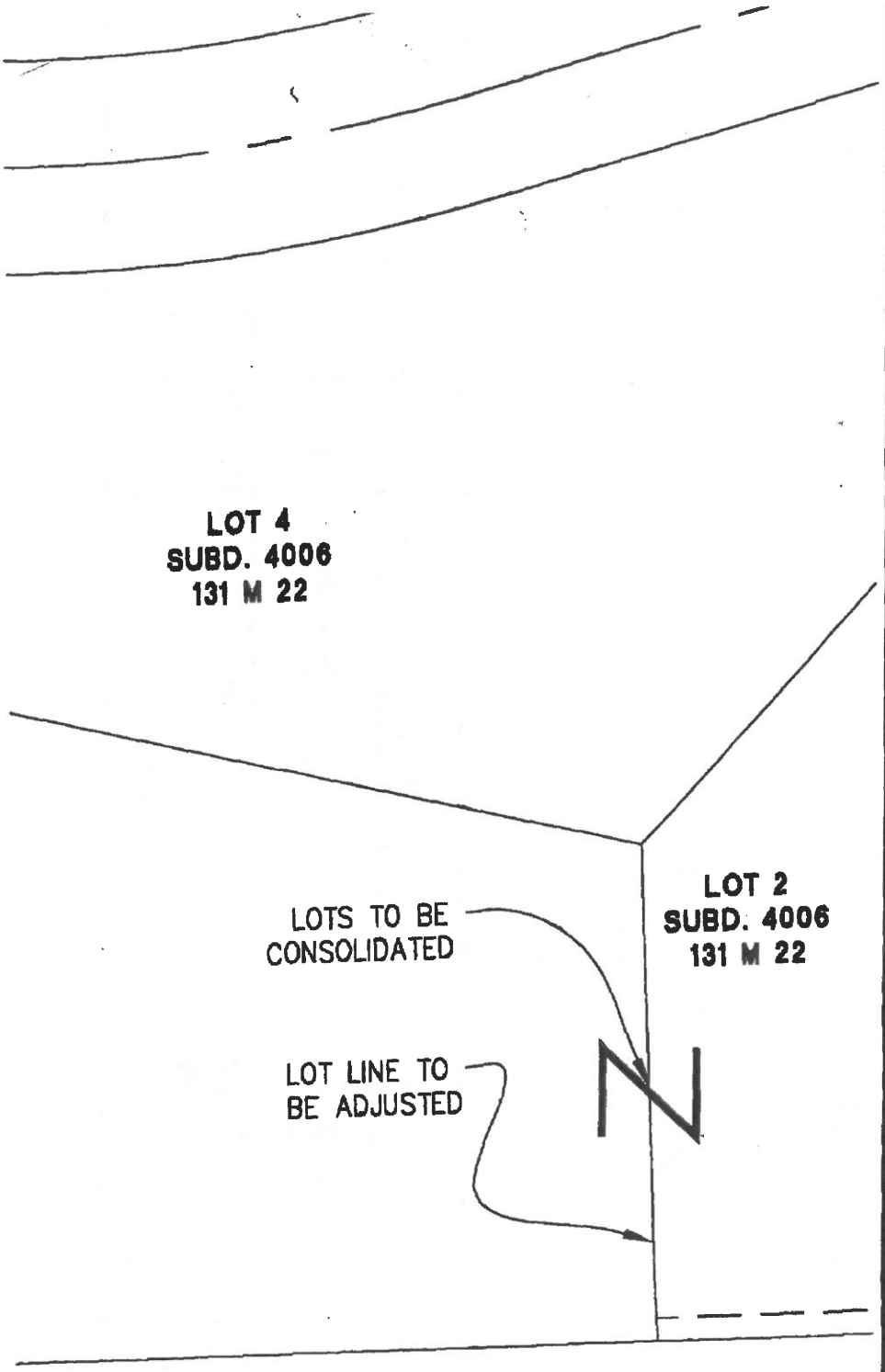
In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Bob Henderson, 1578 Siskiyou Dr, WC



VESTING TENTATIVE MAP
SUBDIVISION #8457
"KINROSS TERRACE"

WALNUT CREEK CONTRA COSTA COUNTY

PRINTED BY ALIQUOT
NOV 0 4 2004

JOB NO	98068.0
SCALE	AS SHOWN
DATE	10/27/04
DESIGN	RC
DRAWN	PE, FSC
APPROVED	VJD

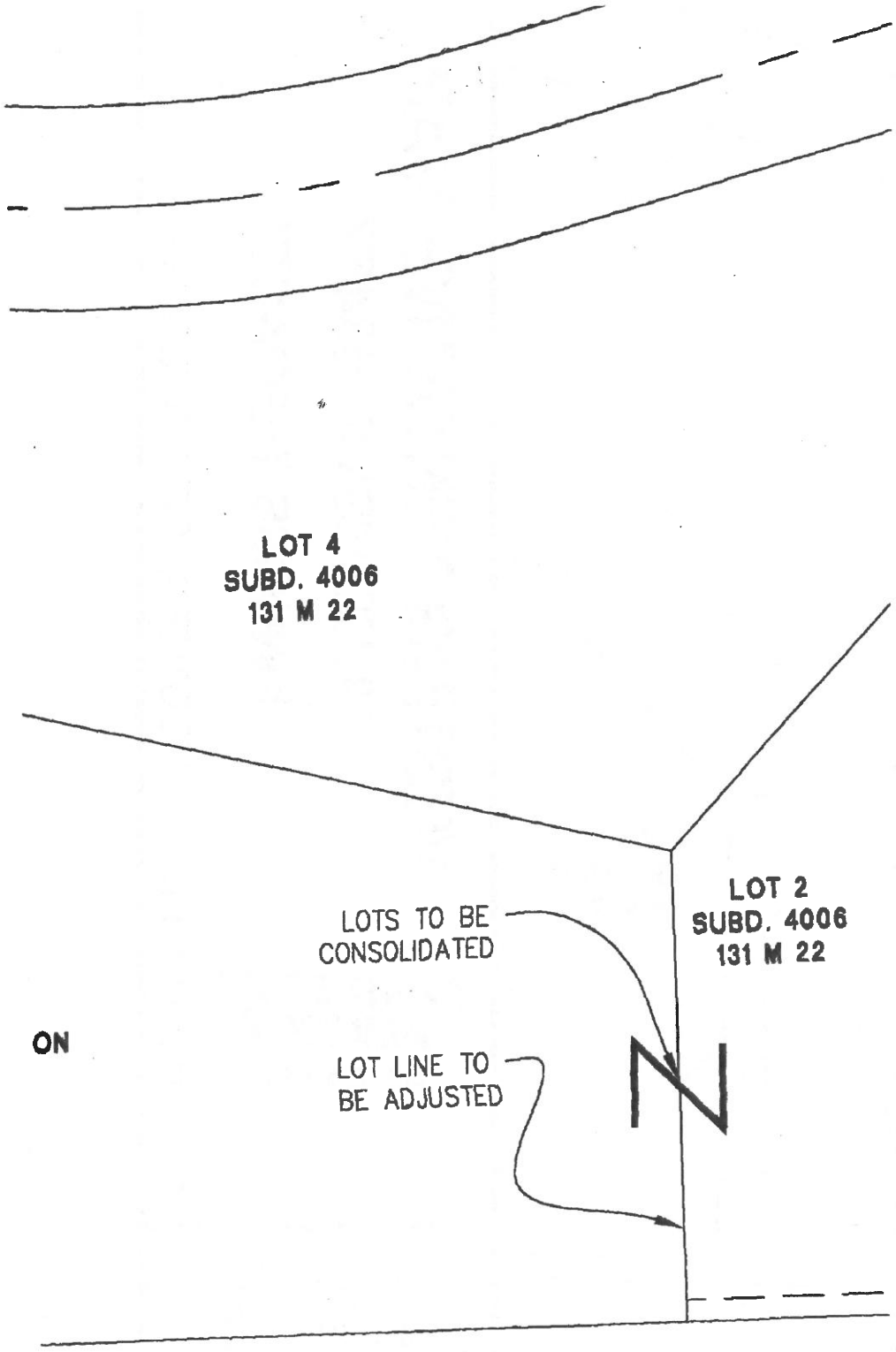
DRAWING NUMBER

1

1 OF 11

LEGEND:

Z LOT CONSOLIDATION SIGN



VESTING TENTATIVE MAP
SUBDIVISION #8457
"KINROSS TERRACE"

WALNUT CREEK CONTRA COSTA COUNTY CA

PRINTED BY ALIQUOT
NOV 0 4 2004

JOB NO 98068.0	SCALE AS SHOWN	DATE 10/27/04	DESIGN RC	DRAWN PE, FSC	APPROVED VJD

DRAWING NUMBER

1

1 OF 11

LEGEND:

Z LOT CONSOLIDATION SIGN

329 329

From: Linda Lamerdir
Sent: Monday, November 28, 2022 11:31 AM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment

Supervisors,
We are asking the Board of Supervisors to vote AGAINST the developer's request for a General Plan Amendment, recognizing that their request is for a **radical** change to the General Plan. We understand that the property is zoned for Single Family Homes. The developer is asking for a HUGE change in density bringing immense impacts to the property, the community and to the adjacent Heather Farm Park.

We strongly feel that any development on Seven Hills Ranch should include some component of public access, in particular a trail to the ridge, connecting to other nearby trails and Heather Farm Park. We would like the Board of Supervisors to recognize the need for improved habitat protection recognizing that the proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over of the site. We are asking for **Sensible not Supersized.**

Additionally, we find the FEIR to be inadequate and we stand by comments made in the draft EIR. We believe the public were not given adequate time to examine the 520 page FEIR and Staff report.

The proposed development is too massive for the surrounding community and would permanently alter the natural beauty, the habitat and wildlife of Seven Hills Ranch. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction. *Do not allow this intense change. Deny the General Plan Amendment.*

Sincerely,

Linda Lamerdin

Mike Young

Walnut Creek

330

From:	Rosalie and Barry Howarth <)m>
Sent:	Monday, November 28, 2022 11:41 AM
To:	Clerk of the Board
Cc:	Rosalie and Barry Howarth
Subject:	Public Comment for Nov 29 BOS meeting, Spieker Project

Attention Board of Supervisors:

The Spieker proposal for the Seven Hills Ranch parcel is not housing, which we desperately need. it is simply **a huge commercial enterprise** with over 225 employees, plunked down in the middle of residential areas, near a school and the nature area of a park. Why does it not require a zoning/land use change to commercial, not just high density? It is a commercial facility. **Please deny the General Plan amendment.**

This is NOT much-needed housing for workers and families. It serves only a very wealthy, very narrow age group. The homes its customers vacate to pay the 6-or 7- figure buy-in and thousands in monthly rent, will hardly be affordable homes for teachers and firefighters and secretaries

The developer pretends it is housing when it suits them. But then they are quick to point out that they are not bound by the kind of restrictions and amenities required of housing developments...because technically it is not housing; it is a commercial enterprise.

You can't have it both ways.

It is a private, gated facility; the public will not be allowed. How elitist that sounds this days when we expect development to include setback and buffers and community amenities like parks and trails or public art! If it were a housing a trail would connect it to the adjacent park.

Gated developments are not even allowed in the city of Walnut Creek, which almost entirely surrounds it. Walnut Creek citizens will bear ALL of the brunt of the negative impacts of this project.

You must NOT approve the general plan amendment until the developer works with civic groups and modifies the plan to fit into the community.

Thank you for your very important service to our County.

Rosalie Howarth

Walnut Creek CA 94598

331

From: Ann Hassett
Sent: Monday, November 28, 2022 12:14 PM
To: Clerk of the Board
Subject: Spieker project Seven Hills Ranch

This is Public Comment on the Draft EIR for County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038, The Spieker Senior Continuing Care Retirement Project

Dear Contra Costa Board of Supervisors,

I am writing to you with urgency regarding the Spieker project in Walnut Creek. It's an indisputable fact now that global warming is real and rapidly affecting our way of life. Massive flooding, out of control wildfires, pollution of air and water etc., loss of crops and animal species. "To combat climate risks urban planning and land developers around the globe are increasingly creating community designs that protect or incorporate open spaces, clean air and connections with other people." Examples of this are Boston's SCAPE project, New York's 550 Madison project preserving and providing access to the neighborhood's largest public green space. Progressive cities and their land developers are focused on preserving and incorporating open and green spaces as well as finding more sustainable designs and architecture. (you can find these projects by Googling)

The Spieker senior housing project is the antithesis of this current thinking and trend. It proposes to decimate the land by leveling the hills and eradicating 400 plus trees (some of which are over 100 years old). It will erect 26 foot walls around the annihilated earth keeping the public at bay clearly not promoting inclusion or well-being of the existing citizenry. It is "old school" development. **It negates the professed Walnut Creek city plan to go "green"** (as was presented and embraced in a recent Walnut Creek City Council meeting). Finally, we must care for the flora and fauna on that land. We fondly call this 30 acres the Serengeti of Walnut Creek as there are a variety of animals (in large numbers) that reside on that land (not just passing through). They inhabit that space because it is safe and free from their predators that live in the wilds of Mt. Diablo. I have just seen 3 fawns born into that space. It is a calm and peaceful place for all of us.

Walnut Creek already has Rossmoor and other senior housing that provide various levels of care. Surely we can develop this land in such a way that considers us all. If Contra Costa County is looking for additional senior housing then why not bring it to an overgrown field or some abandoned building spaces within our county that are already accessible.

Research shows that access to nature can improve mental and physical health and productivity. **Well-being is becoming a central topic in the development and transition to greener cities.** The Toyota "Woven City" project in Japan is a prime example of this. Surely this project needs to be reconsidered for some other place that will not be disruptive to a well-established way of life.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Sincerely,
Ann Hassett

Walnut Creek

338

From: Bob Simmons < om>
Sent: Monday, November 28, 2022 12:19 PM
To: Clerk of the Board
Subject: Written Comment on Item D.1 Spieker on November 29,2022 Public Hearing
Attachments: WCWC Letter to Board of Supervisors.docx

Attached are the written comments of the Walnut Creek Watershed Council.

Please include them in the record of the public hearing.

Thank you.

Bob Simmons

WALNUT CREEK WATERSHED COUNCIL

333

November 28, 2022

By Electronic Mail

Contra Costa County Board of Supervisors

SUBJECT: November 29, 2022. Item D.1 Hearing to Consider Approving Spieker Senior Continuing Care Retirement Community Project

The Walnut Creek Watershed Council is a 501(c)(3) corporation that was created "to restore, preserve and protect the creeks in the Walnut Creek Watershed as a natural and community resource". The Council submitted comments on the DEIR and submitted comments to the Planning Commission. Due to past practice, the Council is not taking a position on whether the Board should approve the requested General Plan Amendment, but the Council is submitting written comments on portions of this proposed action that affects the health of the Walnut Creek Watershed, the largest in Contra Costa County.

A major concern is protecting the ability of the County to implement the 50 Year Plan "From Channels to Creeks" that the Board approved in 2009. In a recent UC Berkeley study, the project site was identified as one of the best places to implement the 50 Year Plan. Since the decision of the Planning Commission, the proponent has offered to donate to the County a 2.4-mile strip (shown on Attachment P to the staff report) along the concrete channel. Since this is an area that wasn't going to be part of the construction footprint anyway, and it isn't clear if the strip is of sufficient width to allow modifications of the concrete channel, there is a lack of information on whether this action potentially benefits the watershed.

A second major concern involves the temporary and permanent impacts to riparian and wetland areas, and the inadequate mitigation for those impacts. There is no mitigation proposed for temporary impacts to riparian and wetland areas on the site. The grading, the soil movement, the construction of retaining walls on both sides of the central wetland and riparian area, and the four years of construction will definitely affect the riparian and wetland areas. Those impacts need to be acknowledged and mitigated.

For the permanent loss of wetlands, the staff report proposes MM BIO 3-2. This provision states that the applicant shall implement one of the following: "(a) Acquisition of equivalent wetlands and waters at a nearby site at a ratio of 2:1, on an acreage basis; (b) Purchase of mitigation credits at a mitigation bank; (c) Enhancement of seasonal wetlands and the perennial drainage to be preserved in the central portion of the site, as well as creation of seasonal wetland habitat, at a ratio of 2:1, on an acreage basis; (d) An alternative to be agreed upon with the WSACE and RWQCB."

The Council objects to inclusion of (a) (b) and part of (c) in this mitigation measure. In the DEIR, the County recognized that wetlands are regionally scarce. It is not possible to replace those losses by enhancing an existing riparian area, by putting money into a mitigation bank, or

by acquiring existing wetlands. More specifically, as to (a) the acquisition of existing wetlands is not appropriate because it results in a net loss of wetland areas. As to (b) the purchase of mitigation credits at a mitigation bank is not acceptable because the only mitigation bank is in the eastern portion of the County and it is outside the service area of the project site. It is also outside the boundaries of the Walnut Creek Watershed, and there is no guarantee it would be used to create new wetland areas. As to (c), the portion that refers to enhancement of the perennial drainage is not acceptable because the only acceptable response to the permanent loss of wetland habitat from this project is that new wetland areas need to be created. The portion of (c) that provides for creation of seasonal wetland habitat is the only acceptable response to the destruction of wetland areas. While this should be accomplished on-site, that cannot occur without modification of the project. If the General Plan Amendment is approved without modification to the project to protect the wetland areas, the Board should consider a higher replacement ratio than 2:1. The reasons are that wetland habitat is regionally scarce and that it won't be accomplished on the project site.

Please note that the RWQCB made similar objections to the proposed mitigation in its comments on the DEIR in its letter dated May 10, 2022. That letter states that the proposed approach to mitigation is unacceptable, that all mitigation should be accomplished on the site given its large 30-acre size, that no mitigation bank is available to service the area, and that the proposed development footprint will likely have to be reduced to accommodate the require replacement mitigation. The County has failed to properly respond to these comments.

The Council recognizes that the creation of a $3 million dollar community benefit fund is a positive step, albeit one that is long overdue. The Council requests that restoration of wetlands and riparian areas be specifically mentioned as a potential category for funds. The Council notes that the language could state more clearly that the County must give prior approval to any expenditure of funds for which the applicant wishes to seek credit. Lastly, the reference to 'local community' is undefined. It should not include the residents of the proposed project.
Respectfully submitted,

Bob Simmons

Bob Simmons
President, Walnut Creek Watershed Council
bobsim

335

From: crclancy _
Sent: Monday, November 28, 2022 12:27 PM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment
Attachments: spieker project feir bedrock comments cc county BOS meeting 11-29-2022 crclancy.pdf

CC County,

The attached public comment document is related to bedrock excavation issues at the proposed Spieker project at Seven Hills, and is for the information of the CC County Board of Supervisors
meeting on Nov 29, 2022 - Item D1.

Regards
Charles Clancy

Subject: Comments regarding issues with Bedrock excavation in the Spieker Senior Continuing Care Community Project - DEIR MM-GEO-1.1 and Impact GEO-1 and numerous places in the FEIR.

For: Nov 29 BOS Mtg Item D1 Public Comment

County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038
State Clearinghouse # 2021070517

Comments by Charles Clancy, November 28, 2022 6 Pages

I'm a retired GIS Analyst and I create geotechnical maps and other graphics to help Save Seven Hills Ranch understand the Spieker proposal and respond to the DEIR and FEIR. I'm also a 48-year Walnut Creek resident.

In Spieker's project description the potential methods and impacts of bedrock excavation are scarcely mentioned - in spite of significant discussion in the Baez Geotechnical Report, where the presence of bedrock is mapped and potential excavation methods and **difficulties** are discussed. This Baez report is Appendix G in the DEIR document package.

In the DEIR under MM GEO-1.1 bedrock is mentioned on page xiii and again on page 110: (Note that MM stands for Mitigation Measure)
"c) More detailed evaluation of the excavation characteristics of the sandstone and claystone bedrock underlying the site shall be performed. The excavation characteristics of the bedrock will impact cut grading and excavations for underground utilities and foundations."

In the Impact GEO-1 section on page xiii bedrock is not mentioned. But the DEIR GEO-1 impact statement concludes with the oft-repeated statement:
"Less than Significant Impact with Mitigation Incorporated"

This leads us to believe that critical evaluations of bedrock issues will not happen until after and if the project has been approved and is headed toward the permitting process, which takes place out of public view. There were numerous DEIR responder comments about this.

In the FEIR bedrock is mentioned throughout, mostly in comments submitted by responders to the DEIR. Under (County) Response 40.2 on FEIR page 84 it reads:
"With regards to bedrock excavation, the Draft EIR, in Section 3.7.2.1 Project Impacts under Impact GEO-1 (page 110), identifies mitigation measure MM GEO-1.1 which requires the project to prepare a site-specific, design-level geotechnical investigation and incorporate all identified recommendations into the final project design prior to issuance of construction permits. This includes a more detailed evaluation of the underlying bedrock and how it will impact cut grading and excavation."

We are taking issue with this because **bedrock excavation** necessitated by **extreme grading** would be **by far** the most impactful part of the site grading process, if not the entire construction process. Regardless of excavation method it would generate lots of noise, vibration, dust, and potentially hazardous air pollution. At times the construction site would resemble a working **rock quarry**. Bear in mind that the Seven Hills parcel is surrounded by residential neighborhoods, a school, and is next to an important Walnut Creek City park.

What has been missing up to this point from any comments or responses regarding bedrock is a **map** - and **media** that would help us all understand the sight and sound of rock excavation methods.

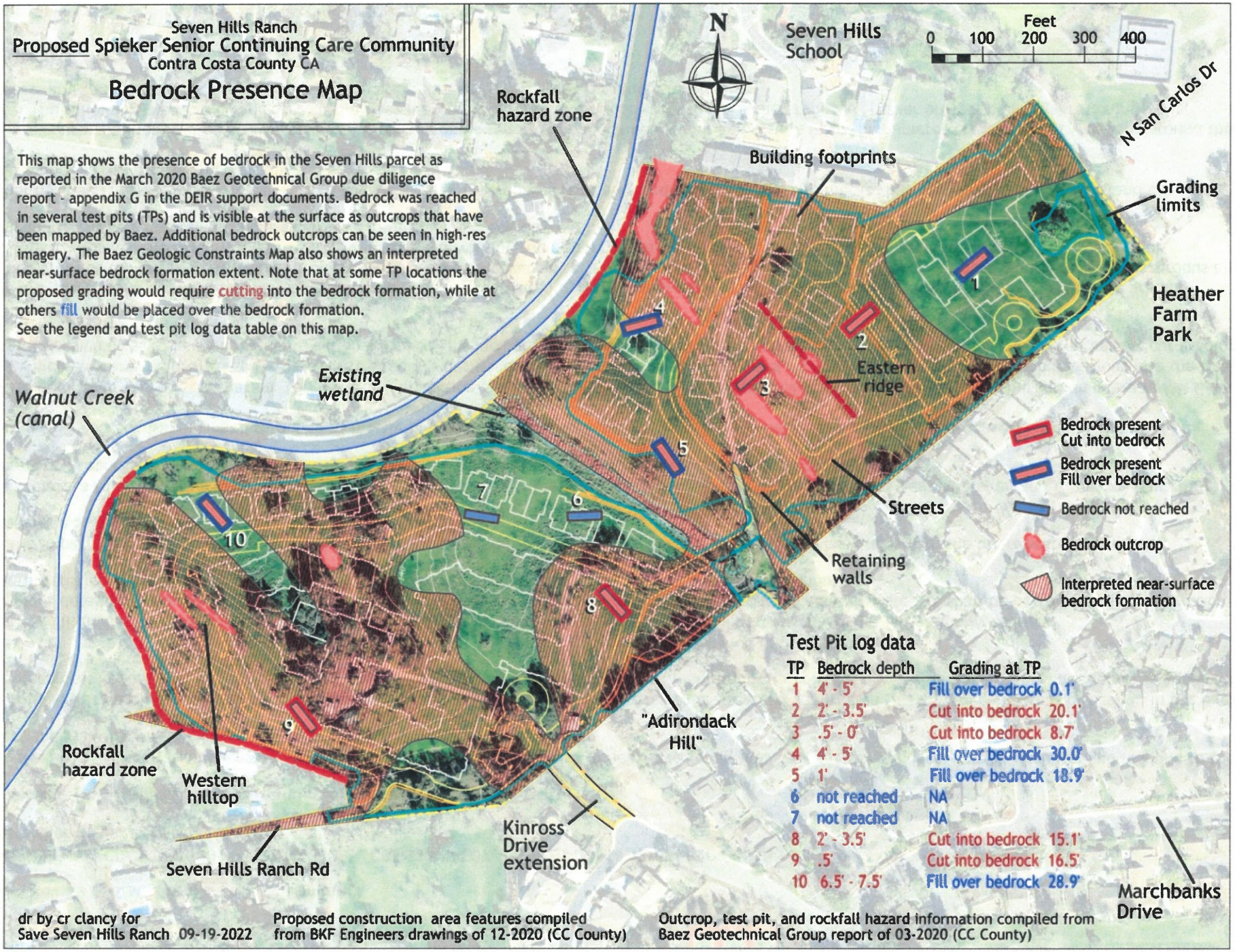
As previously mentioned the Baez Geotechnical Group issued a report which included a map and results from the numerous test pits that were dug around the site. The **following map** is a compilation of the Baez map, test pit results for bedrock, and all of the proposed Spieker project buildings, retaining walls, streets and the ultimate grading limits. See the caption under the title box for more clarification.

Continued next page

Seven Hills Ranch
Proposed Spieker Senior Continuing Care Community
Contra Costa County CA

Bedrock Presence Map

This map shows the presence of bedrock in the Seven Hills parcel as reported in the March 2020 Baez Geotechnical Group due diligence report - appendix G in the DEIR support documents. Bedrock was reached in several test pits (TPs) and is visible at the surface as outcrops that have been mapped by Baez. Additional bedrock outcrops can be seen in high-res imagery. The Baez Geologic Constraints Map also shows an interpreted near-surface bedrock formation extent. Note that at some TP locations the proposed grading would require cutting into the bedrock formation, while at others fill would be placed over the bedrock formation.
See the legend and test pit log data table on this map.



Test Pit log data

TP	Bedrock depth	Grading at TP
1	4' - 5'	Fill over bedrock 0.1'
2	2' - 3.5'	Cut into bedrock 20.1'
3	.5' - 0'	Cut into bedrock 8.7'
4	4' - 5'	Fill over bedrock 30.0'
5	1'	Fill over bedrock 18.9'
6	not reached	NA
7	not reached	NA
8	2' - 3.5'	Cut into bedrock 15.1'
9	.5'	Cut into bedrock 16.5'
10	6.5' - 7.5'	Fill over bedrock 28.9'

dr by cr clancy for
Save Seven Hills Ranch 09-19-2022

Proposed construction area features compiled from BKF Engineers drawings of 12-2020 (CC County)

Outcrop, test pit, and rockfall hazard information compiled from Baez Geotechnical Group report of 03-2020 (CC County)

Continued next page

Discussion:

In the FEIR Master Response 8 starting on page 27, MM NOI-1.1 writes about construction noise mitigation measures. When we consider the **extreme grading** operations for **leveling** the **western hill**, lowering and recontouring of the **eastern ridge**, and the cut for the **maintenance building**, it becomes increasingly difficult to believe that the proposed mitigation measures would actually keep noise and other factors below tolerable and/or legal limits.
For example, the bedrock cut to create the platform for the **maintenance building** at **"Adirondack Hill"** will be about **18 feet** - not including potential over-excavation for a 23 foot (max) retaining wall foundation.
The cutting operation would be taking place as little as **35 feet** from homes in the Heather Farm Residential development. In this case the homeowners deserve to know **now**, when the EIR is being considered in a public forum, exactly how the bedrock excavation near their home is going to be done so they know what impacts to expect. As it stands now they might not know until approached by a contractor or County official shortly before the operation is to be started.

There really is no mitigation that can reduce the extreme impact of such an operation. Only a less intrusive alternative site plan or alternative land use can eliminate it or make it tolerable

In case you're wondering how bad it could be, please check out these examples of common rock excavation methods:

Hydraulic hammers (aka Hoe rams)
https://www.youtube.com/watch?v=9Nvwirtrh5o
https://www.youtube.com/watch?v=N1RpgSVKq9Q

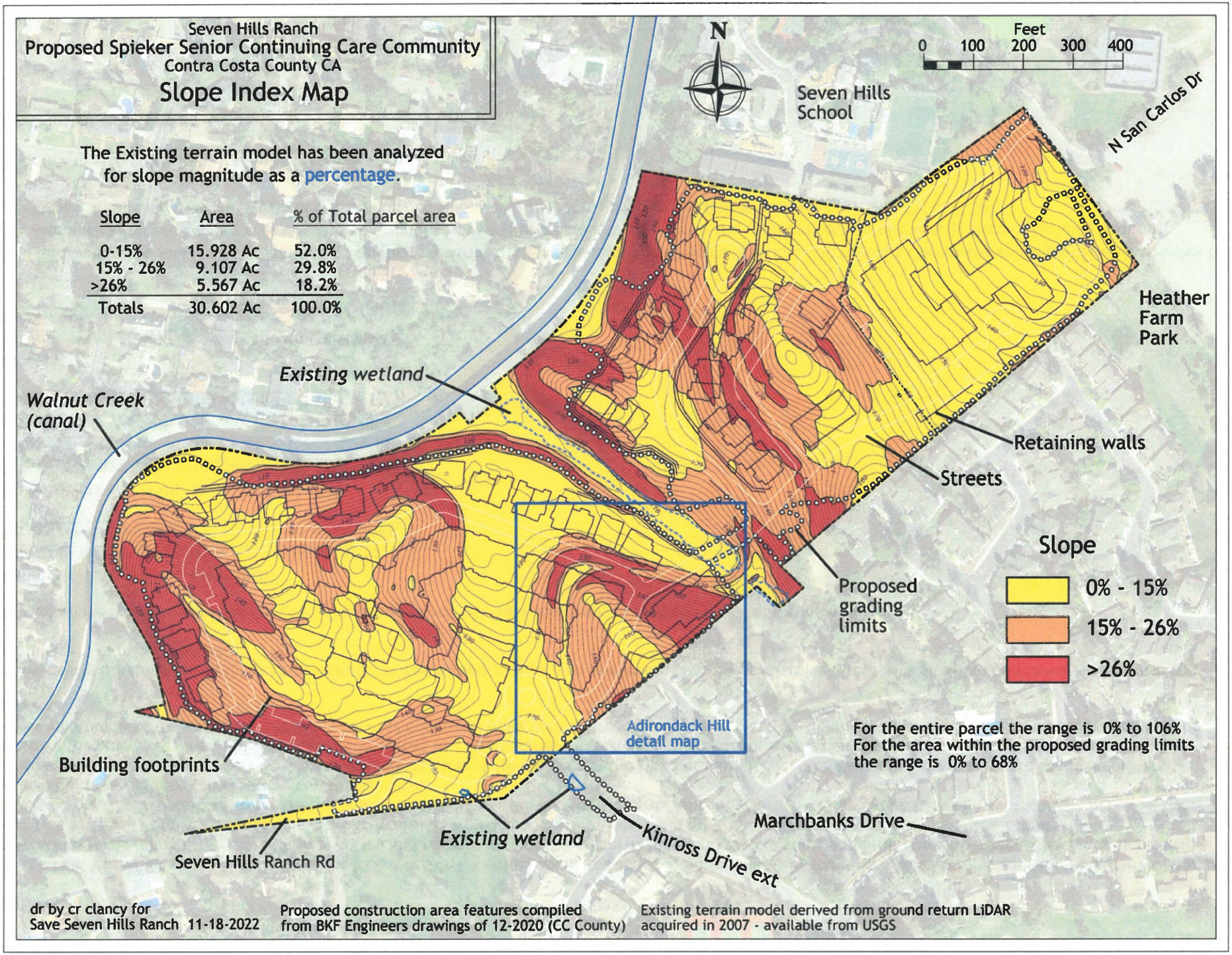
Drum cutters and mills - also used for trenches
https://www.youtube.com/watch?v=oFq7q0ZQPxc
https://www.youtube.com/watch?v=D-ncnxQ3kDU
https://www.youtube.com/watch?v=rUazv2Mu0Bw
https://www.youtube.com/watch?v=pH-E8lH1Y24

Rippers
https://www.youtube.com/watch?v=wpQ12H6nGdY
https://www.youtube.com/watch?v=M88Jfkb3Vns

The following **maps** show one of the **extreme grading** scenarios that involve significant bedrock cutting. The first is a map of the entire parcel with an index to the Adirondack Hill area where cuts into bedrock would be needed to create a level area for the southeast corner of the IL apartment building and the Maintenance building. This index map also shows terrain slopes over the whole parcel and areas where slopes exceed 15% and 26%.

The second map zooms into the Adirondack Hill area.

Continued next page



Continued next page

Seven Hills Ranch
Proposed Spieker Senior
Continuing Care Community
Contra Costa County CA

"Adirondack Hill"
Detail Map

The Existing terrain model has been analyzed for slope magnitude as a percentage.

- 0% - 15%
- 15% - 26%
- >26%

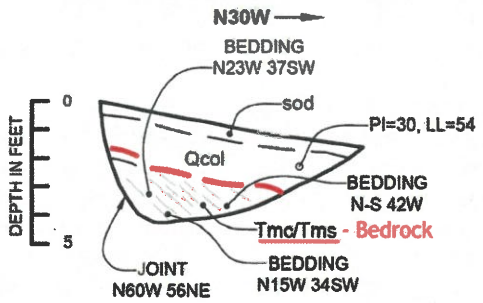
Maximum slope % in this map area is 43%
Existing terrain contour interval is 2 ft

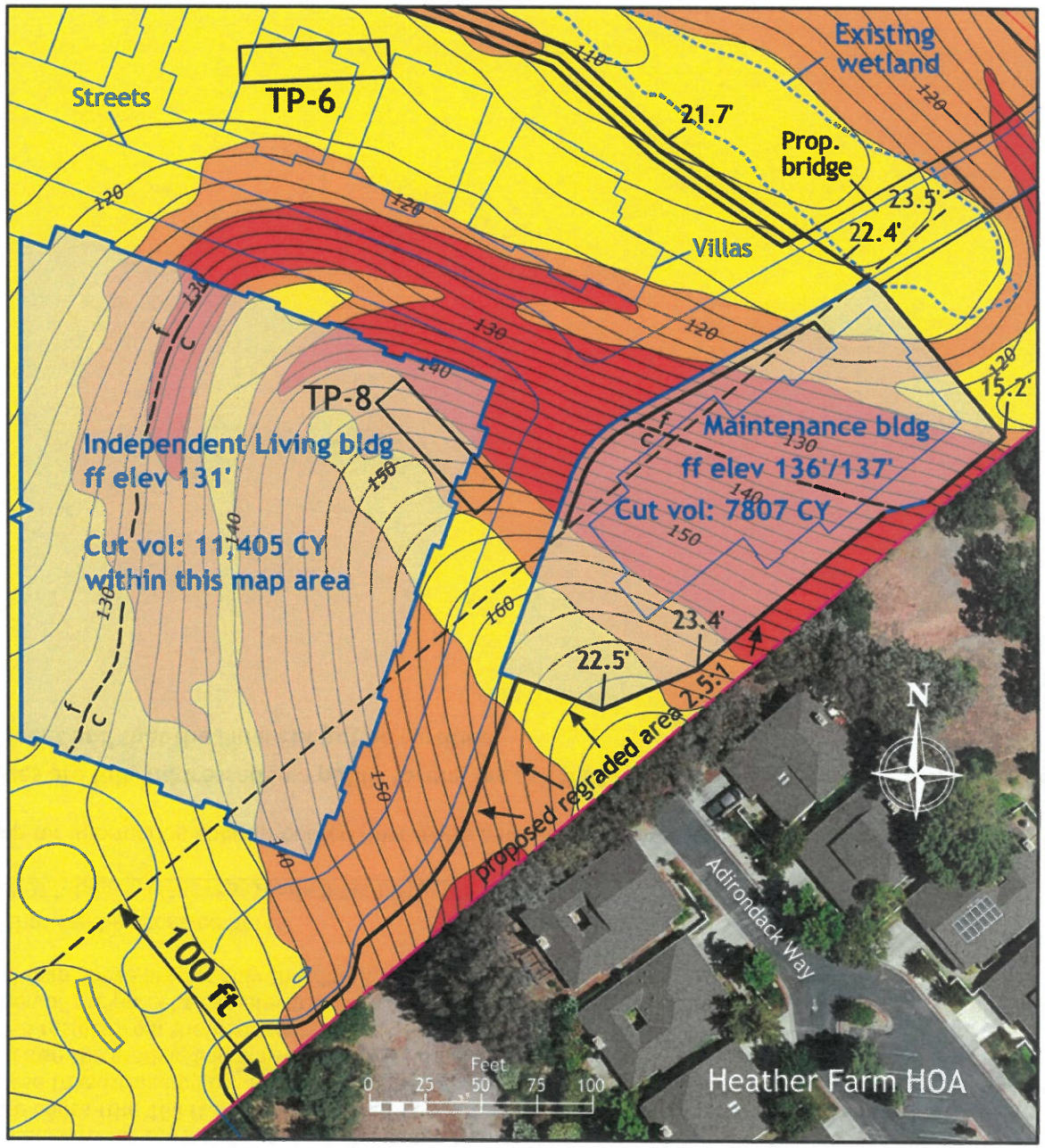
Volume calculation area

Ht — Proposed retaining wall with height shown on the low side of the wall - aggregate for tiered walls

f / c — Approximate cut - fill transition

Test Pit 8 (TP-8) profile
from Baez Geotechnical Report





dr by cr clancy for
Save Seven Hills Ranch 11-18-2022

Proposed construction area features compiled from BKF Engineers drawings of 12-2020 (CC County)

Existing terrain model derived from ground return LiDAR acquired in 2007 - available from USGS

Continued next page

Discussion:

"Adirondack Hill" is the name given here for the area at the end of Adirondack Drive in the adjacent Heather Farm HOA development. The proposed development plans call for cuts into this hill to create platforms for the Maintenance Building and the southeastern end of the IL apartment building. This map reveals in detail that 15% and 26% slope codes, and noise codes (the 100 ft dimension) have been disregarded. Additionally the map shows a case where extreme grading would involve bedrock removal very close to existing homes. The map also indicates where a proposed bridge over the Central Wetland would be located, how high its abutments would be, and how close the grading and construction would be to the wetland.
Test Pit 8 (TP-8) is shown on the map, as well as the TP-8 results from the Baez report.
Note that it's proposed to level the entire western portion of the parcel to an elevation of 131 feet to create a platform for the huge IL apartment building and the villas that surround it. The cut volumes in the detail map above are for only this detail map area.

The maps in this document are part of a map portfolio that can be accessed here:
https://static1.squarespace.com/static/5f677d0f45fe3d0977eb64cb/t/6337c6310ad428203b21969f/1664599617540/Map+Portfolio+Extended+9.30.22.pdf

See map 4 **Floor Levels Map** and map 5 **Cut and Fill Map** for information about proposed floor levels and the cut and fill amounts needed to obtain them.

Until bedrock excavation and extreme grading issues are fully addressed in a public forum, we ask that the CC County Board of Supervisors deny the Applicant's request for a General Plan Amendment and that the Final EIR not be certified.

Thank You

Charles Clancy

342

From: Heather Farms <[redacted]om>
Sent: Monday, November 28, 2022 12:51 PM
To: Clerk of the Board
Cc: Aaron Hayes; Andrea O'Toole; HFHA Board
Subject: November 29 BOS Mtg Item D1 Public Comment
Attachments: 4862-7179-4496,OTR Comments on Spieker County Comment Letter - FINAL.pdf; 4867-6507-6027,Letter to Planning re FEIR,1.pdf; HFHOA Comment on Draft EIR-Spieker SCCRP- County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038.pdf

Dear Board of Supervisors,
Please review the attached letter for tomorrow's public comment portion of the meeting. Thank you.

Regards,

Genine Kennedy CCAM

Headquarters: 500 Alfred Nobel Drive, Suite 250, Hercules, CA 94547

Walnut Creek Office: 1855 Olympic Blvd. Suite 150, Walnut Creek, 94596

Brentwood Office: 1120 2nd Street, Suite 118, Brentwood, CA 94513

o: 800-557-5179 ext 14 | www.collins-mgmt.com

This communication may be confidential. Unintended distribution or copying is prohibited.

Heather Farms Homeowners Association

1501 Marchbanks Drive, Walnut Creek, CA 94598

November 28, 2022

Contra Costa County Board of Supervisors
1025 Escobar Street
Martinez, California 94553
clerkoftheboard@cob.cccounty.us

Re: November 29, Board of Supervisors Item D1 Public Comment

Dear Contra Costa Board of Supervisors,

As the Board of Directors of the Heather Farms Homeowners Association ("Association"), we write on behalf of the Association's 359 homes and more than 1,000 residents who will be adversely impacted by the neighboring Spieker Senior Continuing Care Community Project (the "Project"). Our homes would be most directly affected by the proposed development, and we urge you to deny the proposed General Plan Amendment, and reject in its entirety the Project's EIR and related actions under CEQA.

We are attaching for your reference our previous letters to the Planning Commission in response to the inadequate and erroneous Draft Environmental Impact Report (DEIR) and Final Environmental Impact Report (FEIR) in which we detailed our concerns about the negative impact the Project would have on our community and the surrounding area.

This Project does not, to quote County Code 84-66.1406, "...fit harmoniously into and have no adverse effects upon the adjacent or surrounding development." The surrounding area consists of primarily one and two-story single family homes, in varying densities, as well as a school and a park. Existing structures nestle into the rolling hillsides, unlike the proposed Project which will level all but one of the Seven Hills.

This development will have adverse effects, among them:

- Traffic patterns characteristic of a commercial enterprise with hundreds of employees, daily and nightly shift changes, massive supply deliveries and people coming and going at all hours of the day;
- Extensive excavation and bedrock removal dangerously close to our homes, carried out over several years;
- Substantial grading that would require countless amounts of water to control airborne dust and debris at a time when our green spaces and landscaping die for lack of water; and
- Enormous buildings and towering retaining walls so close to our homes that they create an effective "city-scape" in what is now a vibrant suburban neighborhood.

The Project site's current Single Family - Medium Density land use plan avoids all these issues and provides several benefits, some of which are:

- An opportunity to provide workforce and moderate-income housing, a category in which the County is falling short;
- A possibility of developing this parcel in line with the Tree Protection and Preservation Ordinance;
- The potential to expand and enhance the County's trail system, enhancing recreation and alternative transportation options;
- Fostering development that will be less devastating to the existing topography, creating a neighborhood nestled into the gently rolling hills that currently exist, rather than leveling them; and
- Creating additional property tax revenue as well as local sales tax revenue when new resident families shop, dine and recreate in the community. This would be an on-going benefit, not a one-time infusion of cash.

Land is a finite resource and land use planning is one of the Supervisors' most important and lasting responsibilities. After listening to almost 7 hours of public comment and a careful reading of the developer's DEIR your own Planning Commission voted resoundingly to deny a General Plan Amendment. They noted that Spieker Senior Development Partners' EIR is fatally flawed and that there is little public good to be served by this Project in this location. The existing General Plan for Single Family - Medium Density housing will permit development in character with the surrounding area, in keeping with the need for residential housing, and in harmony with the environment.

The developer has approached us with a suggestion they might make minor, unspecified adjustments to the Project and cover some undetermined amount of damages to the community in exchange for withdrawing our opposition. However, the adjustments this Project necessitates are substantial and we must be clear that the suggestion of a monetary payment for damages cannot fully compensate our residents for the significant intrusion into their lives and the loss of value to their homes this Project will cause. A Single Family - Medium Density development would have none of these costly and permanent impacts.

If the Project is nonetheless permitted to proceed, at a minimum, the developer should be required to do the following:

- Design and maintain the height of the Project's Independent Living building such that it is no taller than sight lines from our homes;
- Relocating the Project's maintenance facilities further away from Association premises to minimize noise and other disruptions; and

- Compensate the Association for its actual damages and added expenses attributable to the Project.

We hope you will hear our concerns and deny the General Plan Amendment and the Spieker Project.

Sincerely,

HEATHER FARMS HOMEOWNERS ASSOCIATION
On behalf of the Board of Directors c/o

COLLINS MANAGEMENT
ACMC Accredited Community Management Company
1855 Olympic Blvd, Suite 150, Walnut Creek, CA 94596 (by appt)
500 Alfred Nobel Drive, Suite 250, Hercules, CA 94547 (corporate office)
Tel (800) 557-5179 www.collins-mgmt.com

Heather Farms Homeowners Association

1501 Marchbanks Drive, Walnut Creek, CA 94598

October 25, 2022

County Planning Commission
30 Muir Road
Martinez, California 94553
planninghearing@dcd.cccounty.us
sean.tully@dcd.cccounty.us

Re: Spieker Senior Continuing Care Community Project / Final EIR
County File Nos. CDGP20-00001, CDRZ20-03255, CDDP20-03018, CDLP20-02038, CDMS20-00007

Commissioners:

As the Board of Directors of the Heather Farms Homeowners Association ("Association"), we write on behalf of the Association's 359 homes and more than 1,000 residents who will be adversely impacted by the neighboring Spieker Senior Continuing Care Community Project (the "Project").

The Project's adverse impacts were detailed at length in our prior letters and numerous e-mails and communications from Association members over the past year. On May 10, 2022, the Association submitted extensive comments to the Project's Draft Environmental Impact Report ("DEIR"). That correspondence noted significant inadequacies in the proposed mitigation plan and highlighted numerous other impacts the DEIR failed to address.

To our great disappointment, the Final Environmental Impact Report ("FEIR") fails to respond to these prior comments with any specificity and instead circumvents the purpose of environmental impact review altogether by deferring responses to a post-approval phase. In short, the FEIR suffers from the DEIR's same flaws and fails to offer a realistic mitigation plan for the Project's permanent overburdening of local traffic, alteration of the area's natural topography, construction disruptions over several years, and the destruction of the site's sensitive natural habitat.

By this letter, the Association reiterates its objections to the Project on these grounds and reasserts its steadfast opposition to any amendment to the County's General Plan to approve construction of the Project rather than single-family, medium density homes consistent with the existing General Plan and the site's present zoning. We strongly urge the Commission to consider these issues in evaluating the Project and ensure approval is withheld until sufficient environmental impact review is completed and a proper FEIR submitted.

The Association appreciates your attention and consideration.

Respectfully submitted,

HEATHER FARMS HOMEOWNERS ASSOCIATION
On behalf of the Board of Directors c/o

COLLINS MANAGEMENT
ACMC California Association of Community Managers — Accredited Community Management Company

1855 Olympic Blvd, Suite 150, Walnut Creek, CA 94596 (by appt)
500 Alfred Nobel Drive, Suite 250, Hercules, CA 94547 (corporate office)
Tel (800) 557-5179 www.collins-mgmt.com

O'TOOLE ROGERS

May 10, 2022

VIA HAND DELIVERY AND ELECTRONIC MAIL
planninghearing@dcd.cccounty.us
sean.tully@dcd.cccounty.us

County Planning Commission
30 Muir Road
Martinez, California 94553

Re: Comments/Objections to Spieker Senior Continuing Care Community Project County File Nos. CDGP20-00001, CDRZ20-03255, CDDP20-03018, CDLP20-02038, CDMS20-00007

Commissioners:

We represent the Heather Farms Homeowners Association ("Association") and write on behalf of its more than 1000 residents and 359 homes. This letter follows on the numerous emails and other comments residents have submitted in opposition to the Spieker Senior Continuing Care Community Project (the "Project") as presently planned.

As discussed in detail in the enclosed attachment the Association prepared, the DEIR fails to adequately address numerous CEQA impacts, summarized below. Moreover, the Project itself is grossly disproportionate to the site's General Plan Land Use Designation and the proposed General Plan Amendment is based on a Draft Environmental Impact Report ("DEIR") that inadequately addresses the severe and substantial impacts the Project will create, which include:

- Impacts on aesthetics and an incompatible land use
  - Visual impact from over-sized development
  - Out of proportion and incongruent land use compared to surrounding land uses
  - An erroneous finding that the Project site is in an "urban" environment and the proposal is an "infill" project despite the area's obviously rural character
- Impacts from abundant, overly large and imposing retaining walls
  - Visual impact
  - Encroachment by the proposed Kinross Drive extension's retaining walls on Association property
  - Encroachment on Association property during construction, in particular during the construction of the Kinross Drive extension

- The completed Project will be a walled-off compound with no walkable public access
    - The Project eliminates the possibility of a future trail crossing on the Project site connecting Heather Farm Park, the vista point of Mt. Diablo and the Walnut Creek channel – a trail contemplated by the City of Walnut Creek's City plan
- Impacts on Air Quality
    - Construction produced emissions
    - Permanent impact from idling cars awaiting entrance at the Project's guard shack and gates
- Impacts on and loss of wildlife and trees - complete devastation of the existing natural topography, flora and fauna
- Impacts from Noise - construction and ongoing permanent from Project operations
- Impacts from Vibration during lengthy construction requiring bedrock drilling
- Impacts from Traffic
    - Construction and permanent traffic impacts on Kinross Dr., Marchbanks Dr., Heather Dr. and Ygnacio Valley Rd.
    - Use of private portion of Kinross Dr. by construction and permanent traffic
- Impacts on Water Supply
- Kinross Dr. extension: across "Lot A," a parcel historically designated by the City of Walnut Creek to remain in perpetuity; and the impact on wetlands at this location

These impacts and deficiencies in the DEIR are addressed with specificity in the enclosed attachment.

We trust the information presented in this letter and its accompanying attachment reflects both the significant concerns the Association and its residents have regarding the Project, as well as serious deficiencies in the DEIR. The Association respectfully requests you consider these concerns carefully.

Should the Planning Commission require additional information, we and the Association stand ready to provide the same.

Very truly yours,

O'TOOLE ROGERS, LLP

Aaron A. Hayes
ahayes@otoolerogers.com

The Heather Farms Homeowner Association (HFHOA)
Comment letter on the DEIR for the Spieker Development Proposal

The HFHOA is a community of 359 homes through which a private portion of Kinross Dr. runs between Ygnacio Valley Rd. and Marchbanks Dr. Residences for the HFHOA are located on both sides of Marchbanks Drive. The entrance for the proposed development is planned for the end of Kinross Dr, adjacent to the public portion that runs north of Marchbanks Drive.

We have many concerns at how this massive proposal, extremely out-of-proportion to the General Plan Land Use Designation and one that requires a General Plan Amendment by the County, will impact our community and we feel that the DEIR has inadequately addressed the impacts. We feel there must be revision to the DEIR document if it is to truly inform decision makers.

General Summary, Impacts of Concern to HFHOA

Following this general summary are our CEQA specific comments on the Draft EIR.

- Impacts on aesthetics and incompatible land use.
  - Visual impact from over-sized development
  - Out of proportion and incongruent land use compared to surrounding land uses.
  - The notion that ours is an "urban" environment and the proposal is an "infill" project.
- Impacts from abundant, overly large and imposing retaining walls.
  - Visual impact
  - Encroachment by the Kinross Dr. extension's retaining walls on HFHOA property.
  - Encroachment on HFHOA property during construction, in particular during the construction of the Kinross Dr. extension.
- The creation of a walled-off compound with no walkable public access.
  - The possibility for a trail crossing on the property from Heather Farm Park to the vista point of Mt. Diablo to the Walnut Creek channel is eliminated. This trail possibility has been and is noted in the City of Walnut Creek planning documents.
- Impacts on Air Quality
  - Construction produced emissions.
  - Permanent impact from idling cars awaiting entrance at the development's guard shack and gates.
- Impacts on and loss of Wildlife and Trees. The complete devastation of the existing natural topography, flora and fauna.
- Impacts from Noise - Construction and permanent
- Impacts from Vibration due to a lengthy construction, ie. driving through bedrock
- Impacts from Traffic.
  - Construction and permanent traffic impacts on Kinross Dr., Marchbanks Dr, Heather Dr. and Ygnacio Valley Rd.
  - The use of the Private portion of Kinross Dr. by construction and permanent traffic.
- Impacts on Water Supply
- Kinross Dr. extension: across "Lot A", a parcel historically designated by the City of Walnut Creek to remain in perpetuity; and the impact on wetlands at this location.

CEQA Specific HFHOA DEIR comments:

Section 2.0 Project Information and Description

2.2. Project Description.

The DEIR indicates a maximum of 225 "full-time equivalent" employees. The DEIR does not identify the maximum number of full-time, part-time, and on-demand employees. Hence, all project transportation impact findings are called into question. Inaccurate or incomplete information such as this may cloud decision makers' and the public's understanding of the project and impede informed decision making.

The information must be reexamined and accurate information included in the DEIR.

2.2.6 Landscape and Open Space Discrepancies:

Project descriptions and arborist reports previously indicate the project will remove 403 trees, 353 of which are "protected" status. DEIR references to removed trees follow the language found in the developer's description which states that the project "requires a permit for the removal of 353 protected trees" with no mention of the actual number of ALL trees to be removed. This language serves to ignore and minimize the true environmental impact, which is 403 trees removed - *an additional* 50 trees. Per the Preliminary Arborist report prepared for Spieker Development and dated July 2020 by Bartlett Consulting there are 485 trees on the site. Of these, 82 trees are slated for preservation, leaving 403 trees to be removed.

The DEIR states (p85)"...81 suitable protected trees are to be preserved, including **all** of the major Valley Oaks." This is incorrect, as the arborist report states, many of the 353 "protected" trees that will be demolished are major Valley Oaks, in fact there are 300 Valley Oaks on the site. (See **Tree Removal** map here, Figure 5)

Impact BIO-5 To find that there is a "less than significant impact" in regard to the project conflicting with "local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance" is a contradictory finding. The DEIR notes (p66) that the trees are protected by Contra Costa County 816-6 Ordinance Code | Contra Costa County, CA | Municode Library yet does not find the impact to be significant for the removal of 353 protected status trees.

The DEIR must be revised to correct the discrepancy carried forth from the developer's project description and declare the total number of trees removed will be 403, which is a greater number, and also indicate which of those are "protected" trees (353). Clearer reasoning as to why this is a less than significant impact must be given.
This must be done to ensure accuracy to assist decision makers and the public in evaluating environmental effects of the proposal.

- The section states (p9) "...Trails would be placed…to provide access to the open space…" and "...an existing knoll will be recontoured but remain as open space with a proposed trail allowing access to the knoll.."
    - The definition of open space is not clearly defined as this is in the area of wetlands to which access should be restricted.
    - The existing knoll is shown as being graded down at least 10 ft. in height in the developer's submitted documents. This reduction in height should be noted here.

- It is unclear that "trails" will be inaccessible to the general public but rather for the use of the development's residents only. The development will be walled with a guard shack and this should be stated in this section so as to give a clear representation of who will be allowed access to the top.

To ensure accuracy and understanding and provide useful, complete information for decision makers and the public when evaluating environmental effects the above information must be included in the DEIR.

2.2.8

The DEIR states that "*the wetlands enhancements would be made within the area south of the project Entry, opposite the Independent Living Building, to replace habitat disturbed within the existing Kinross Drive right-of-way.*"

- The DEIR must expound on how this replacement for habitat eliminated by the proposed Kinross entrance will mitigate the aesthetic and environmental loss of the wetlands and the habitat currently present at the site.

Section 3.0 Environmental Setting, Impacts, and Mitigation

3.1 Aesthetics

3.1.1.1 Regulatory Framework

Senate Bill 743

(1). The project's aesthetic impacts must be considered significant. Senate Bill (SB) 743 is inaccurately cited as applying in the case of this development and may not be used to justify that aesthetic impacts need not be considered for the following reasons:

- As adamantly stressed by the developer themselves this proposal is NOT residential or mixed-use residential. "A CCRC or RCFE **is** a service arrangement that includes housing and **not** a mixed use project that includes residential housing." [1] Nor is it an employment center project. The *developer* has stated - *insisted* - it be defined as a "service arrangement", NOT residential.
- Additionally, the project is not located in an "infill" site (see next paragraph) within a transit priority area. The DEIR provides only a definition of a transit priority area (footnote 2, p31) but does not indicate how exactly the site fulfills the requirements to be defined as such. Exact quantification at such a conclusion must be included.

Decision makers and the public must be informed that the project's aesthetics must most certainly be considered and this should clearly be stated in the Draft EIR.

(2.) To describe this as an "infill" site within an "urban" area is an incorrect description of the site and such wording should be stricken from the DEIR document.

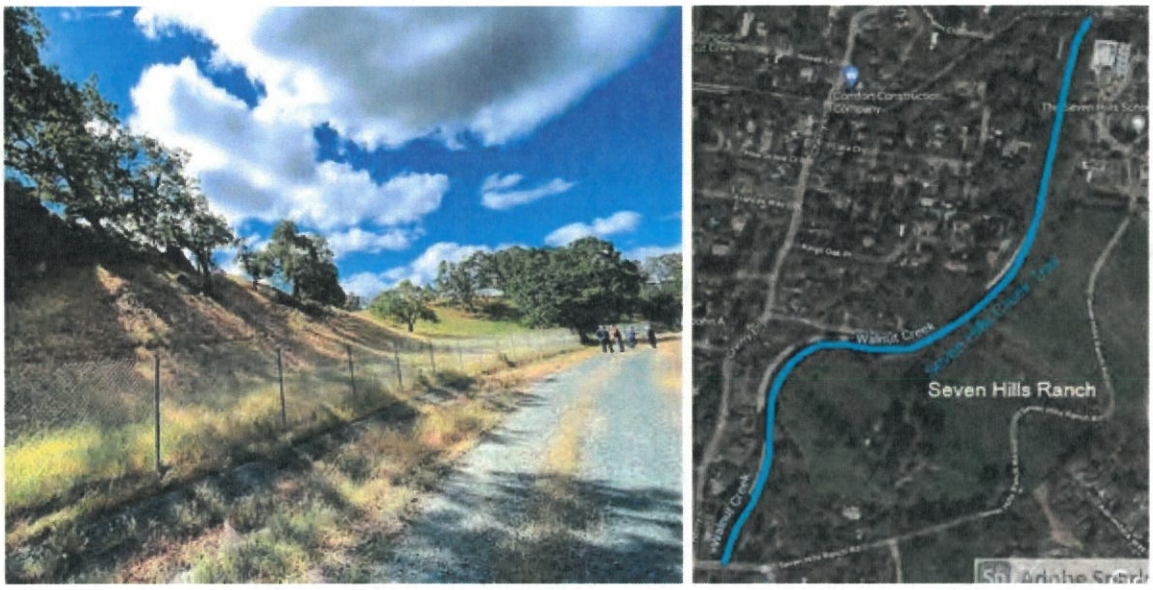
- The site does not fulfill the infill definition included in the DEIR itself (p 31 footnote 2) either by having been previously developed (no), or, if vacant (which for all intents and purposes Seven Hills Ranch is, having only a caretaker on the property) having 75% of its perimeter adjoining qualified urban uses (no) and located within a transit priority area (no).
  It predominantly adjoins a creek(W) (with an existing utility road along which a pedestrian nature trail has been proposed by the public, Seven Hills Creek Trail), empty parcel (SW), and Heather Farm Park (E & SE) all of which the DEIR must recognize as non-urban along with calculating and stating the percentage therein. In addition, the remaining

[1] Miller, Starr, Regalia 11/20/2020 response to CCCo Notice of Incomplete Application Submittal for Spieker Senior Senior Development Community Care and DEIR 2.2.1 Project Description

adjoining uses are neighborhoods of moderate density (SF-M) and a school. This is **not** a "lot" surrounded by "urban" development (see **AES-1** below in this comment document under Aesthetics **3.1.2.1**).

- In addition, the small percentage that is made up of surrounding residential is correctly described as "*consist(ing) of one- to two-story houses*" as stated in the DEIR (p 33), but incorrect when including "*and apartments*" to the statement. There are no apartments and to say so may give the impression that there are adjacent high-rises similar to the proposed project. There are no high-rises, nothing over 2-stories, anywhere near the vicinity of the property. The project desires to place a *550,000 square foot*, 3- and 4-story apartment building next to a decidedly non-urban and dissimilar residential area. As previously requested by HFHOA during the NOP comment period, the DEIR should indicate the distance to the nearest buildings of similar mass and height for purposes of studying the appropriateness of this proposal relative to the surrounding neighborhoods.

The DEIR gives decision makers and the public the false and misleading impression that this is an "infill" site surrounded by "urban" development and uses. The "infill" and "urban" labels should be deleted and replaced with proper descriptions in the DEIR as the purpose of the EIR is to fully and accurately inform.



Photos 1 Proposed Creek Trail on west side of Seven Hills Ranch, between the ranch and the creek.

(3) Senate Bill (SB) 743 ***does*** apply to the extent that "local governments retain their ability to regulate a project's aesthetic impacts outside of the CEQA process" as stated in SB743.

- This site, known as Seven Hills Ranch, while County property, is in the City of Walnut Creek's Sphere of Influence. It was the historical desire by the City and the City's residents that the property be included in their Open Space/ Hillside Protection Ordinance, Measure P, in 1991. While that goal was not achieved, the pursuit of it shows the recognition by the City, and its residents, that this is a property with natural features such as hillsides and a ridgeline which warrant protective measures whether that be full preservation or development in accordance with principles sensitive and respectful of its natural features.

  These facts can not be ignored in any discussion of SB 743 which the DEIR has sought to and should continue to include. SB 743 clearly indicates that there is a need to respect the local government's input on development proposals being considered and

this site's history with the City of Walnut Creek should be exposed in any DEIR wishing to be meaningful regarding the property and the proposal.

To fully inform decision makers and the public this information on the historical significance of the site to the City of Walnut Creek should clearly be stated in the DEIR when referencing SB 743.

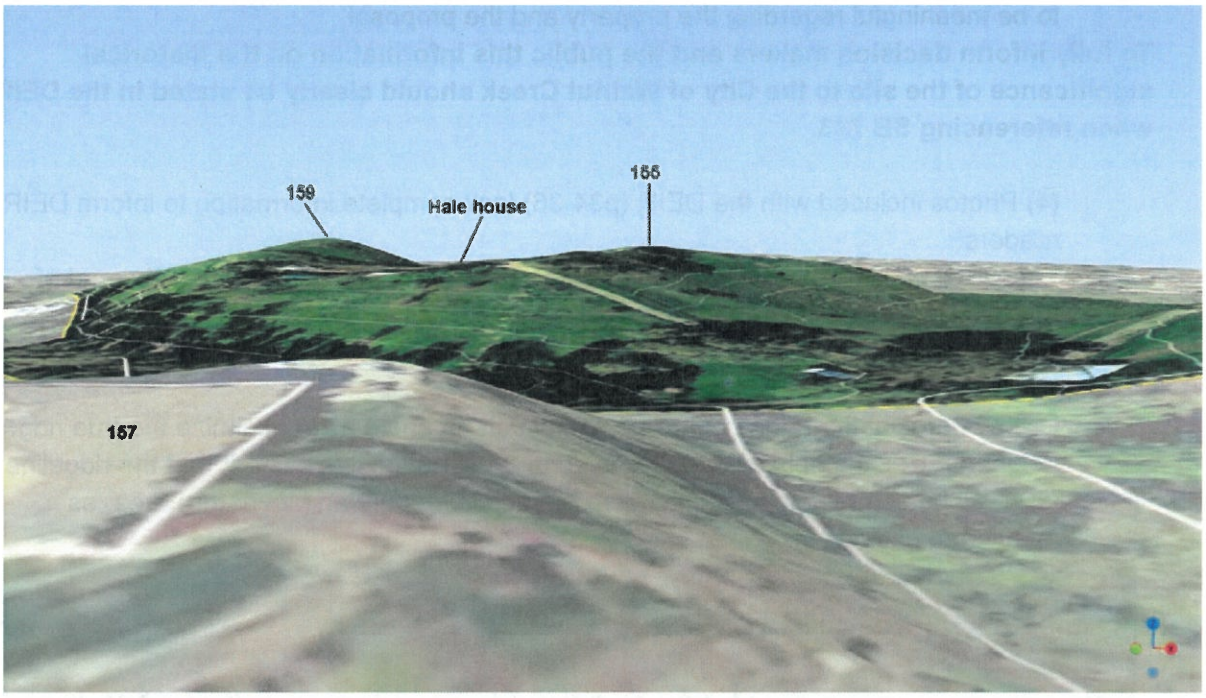
(4) Photos included with the DEIR (p34-36) lack complete information to inform DEIR readers.

- The close-up view of DEIR Photo 4 neglects to fully show the view from the end of Kinross Dr. (Photo 4) of the current existing oaks which will be destroyed or likely experience construction trauma and root restriction (retaining walls) such that they will not survive.
- DEIR Photos of the ridgeline are taken at such an angle as to minimize the true ridgeline height (DEIR Conceptual Photo Simulation 2), although it is evident that the ridgeline view will be completely obscured from the adjoining park and its nature area, as mentioned above.

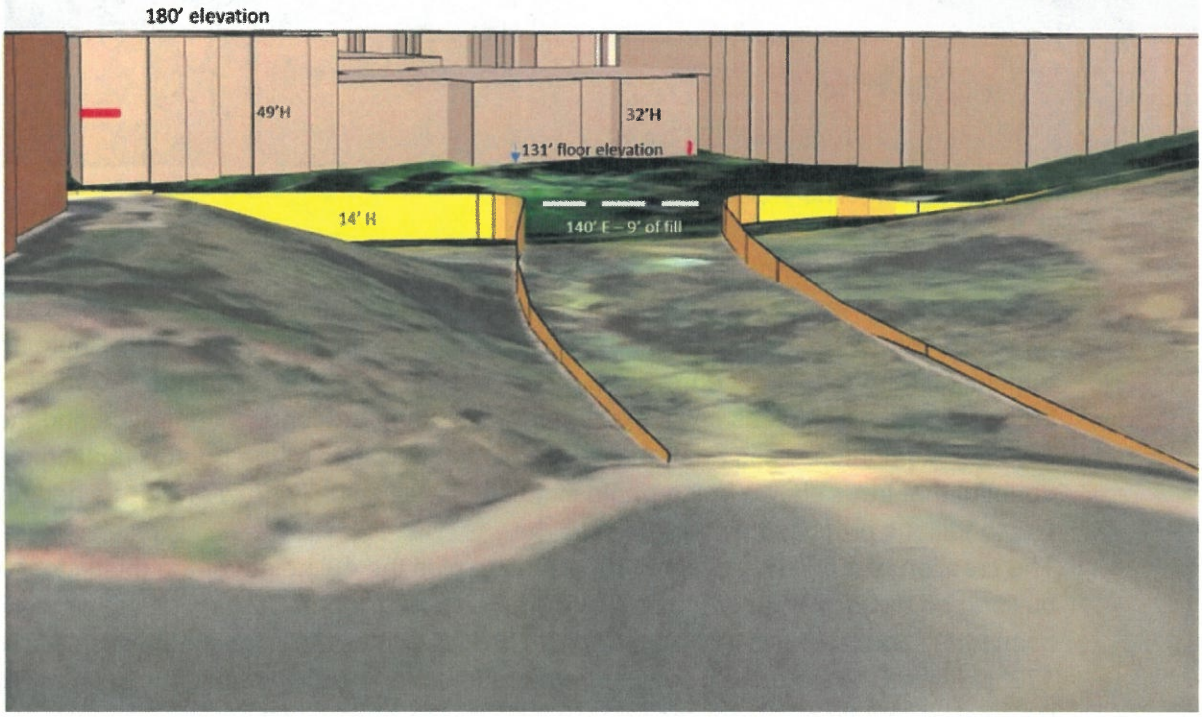
Photos 2 Current ridgeline views from Nature Trail

- DEIR Photo views from Kinross Dr. are questionable and proper visuals must be re-requested for the DEIR to be informative. The vegetation is imaginative yet not stated as so. To show trees growing over the 49 foot height of the building in DEIR Photo Simulation Figure 3.1-2 is unrealistic, just as are the large tree massings shown along the roadway. In fact, plans call for retaining walls along the roadway entrance and the area of the phantom trees and those walls are not indicated in the photo simulations. It is doubtful that trees shown in the photo simulations will actually grow or be retained under the conditions proposed by the project.
  The creation of a building pad at 130' elevation plus the 49' height of the multi-story building on the west side of the property creates a total top-of-building elevation of 179', completely eradicating vistas from nearby HFHOA homes, the highest of which sits at 170' elevation. The proposal does not adhere to either the City or County General Plan; the photo simulations do not realistically indicate the true impact of the proposal.

These photos and photo simulations must be re-requested, asking for more accurate depictions of the current and proposed scenarios. It is essential that decision makers understand clearly the visual impacts of this proposed project which is in actuality out of place with and jarringly impactful on its surroundings.

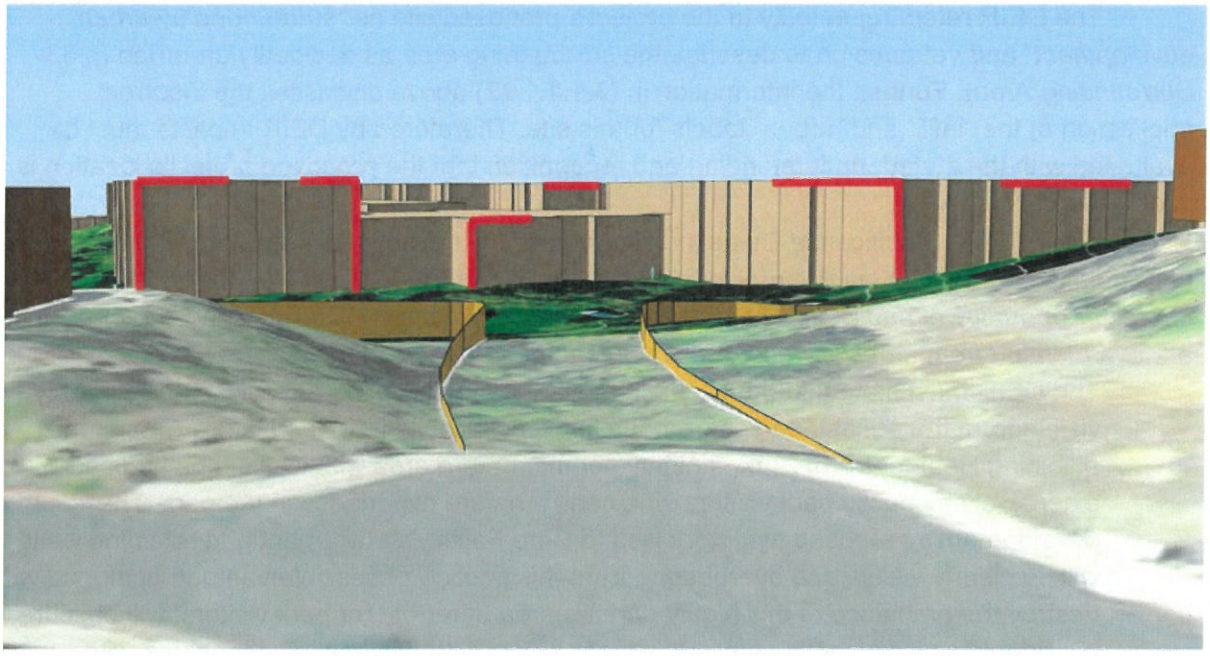


Before - Current GIS graphic generated view end of Kinross Drive

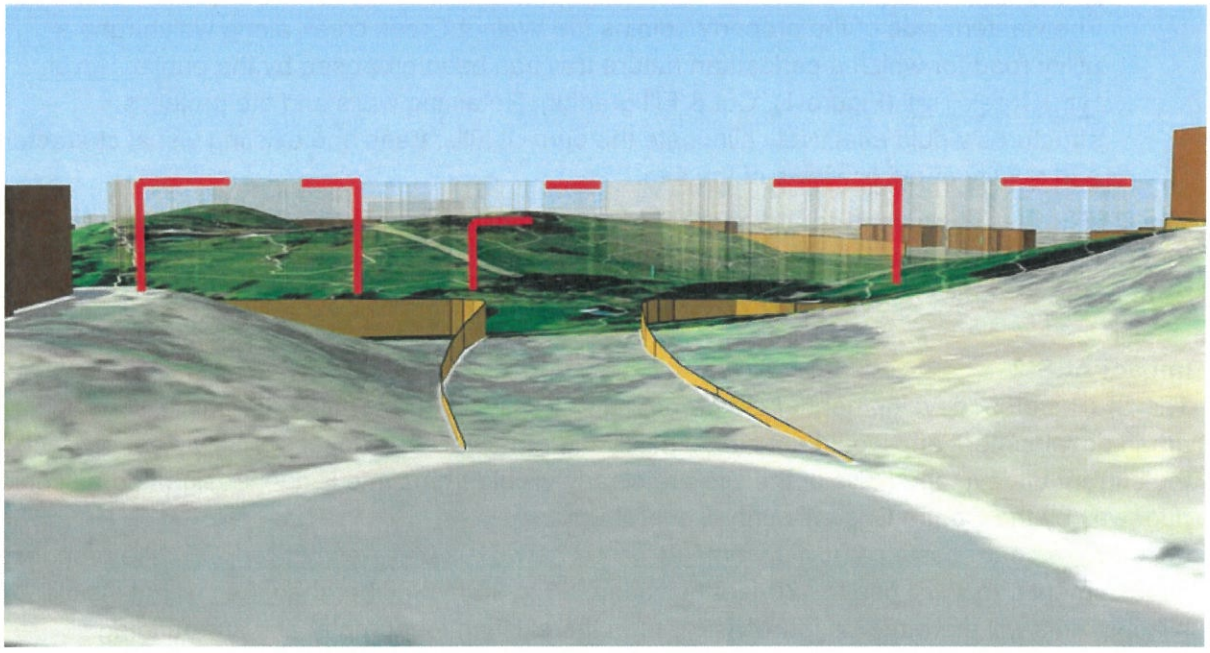


After - GIS View from Kinross Dr. if proposed development allowed to proceed. Surrounding community buildings average 25' height.

Photos 3



Transparent view of proposed IL building view from Kinross Dr.
Hills will be leveled down to create platform for proposed buildings.



Photos 4

3.1.2.1

Impact AES-1

The DEIR refers repeatedly to the project's proposed site as "*surrounded by urban development*" and yet goes on to describe the surrounding area as decidedly un-urban (p 33 *Surrounding Area*). Further, the information in (**3.1.1.1 #2**) above discusses the incorrect application of the "infill" and "urban" labels for this site. Therefore any DEIR impacts must be evaluated with the stated understanding and recognition that the proposed project's location is in a non-urbanized area.

The CEQA Significance Guideline for Aesthetics item I.c. asks whether the project (in a non-urbanized area such as this project is) would "*substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point).*

The DEIR must state that the scenic ridgeline of the proposed project's site is not only visible from the equestrian center, but also clearly visible from the Nature Area of the adjoining Heather Farm Park; a highly popular nature area with walking paths used extensively by public park visitors who seek a nature experience in the park. The development's proposed two-story Health Care Facility's placement and retaining walls will be clearly visible and overbearing from this publicly accessible vantage point and will destroy the ambiance of this highly popular area of retreat for park visitors, will obscure the ridgeline views and is completely incongruent with this adjoining land use. (See previous ridgeline Photos 2, pg 5 here)

Further, the ridgeline is protected by Contra Costa County ordinance 82-1.016 - Hillside protection.

The western side of the property adjoins *the* Walnut Creek creek along which runs a utility road for which a pedestrian nature trail has been proposed by the public, Seven Hills Creek Trail (Figure 1). Cut & Fill grading, Retaining walls and the project's structures would effectively eliminate the current hills, trees and existing visual character and quality of public views of the site.

The DEIR must be revised to indicate that the project, proposed for the non-urbanized location, would degrade public views of the site as described here and therefore has a Potentially Significant Impact in regard to Aesthetics item Ic.

Impact AES-2

The DEIR states "development of the proposed CCRC would be consistent with the surrounding urban development and would not substantially alter the view from local scenic vistas." In fact, the current undeveloped hills of the site are clearly visible from Lime Ridge, designated a scenic ridgeway by the Contra Costa County General Plan.
https://www.contracosta.ca.gov/DocumentCenter/View/61024/31-Aesthetics-PDF The proposed development's roof will rise to 180 feet elevation, 20 to 25 feet higher than the current visible hilltops. This will therefore be more visible than the existing topography and surrounding development, which the report inaccurately states is "urban", as noted in **3.1.1.1** (#2) in this comment document.)

The DEIR must re-evaluate and strive to accurately depict the aesthetic impacts and surrounding environs in order to provide decision makers and the public proper information.

3.3 Air Quality

3.3.1.1 Background Information - Sensitive Receptors

The DEIR fails to include the adjacent Heather Farm Park in any of its discussion of Air Quality impacts. This is a substantial oversight as the park gets over 1.5 million visitors annually and due to its shared eastern boundary with the proposed project site is subject to impacts from anything that happens on the project site. Runners, children and the elderly all use pathways and park spaces close enough to the project site to be impacted by construction's "fugitive dust" from the site.

In addition, the DEIR fails to address the impact on existing nearby residences from vehicles lined up and idling at the proposed guard shack entrance, while they wait for approval to enter and/or for the gates to open. It was requested in our NOP comment that this item be included in the DEIR.

To fully inform decision makers and the public, Heather Farm Park must be included in this section as an adjacent impacted area with sensitive receptors to the proposal's construction activities.

Impact from emissions due to vehicles idling as they await security checks and/or gate access must be calculated and included in the DEIR.

MMAir-1.1

The mitigation shown under i) "..average wind speeds exceed 20 mph..." while indicated as a best practice is inadequate for a site next to an elementary school with sensitive receptors. The Beaufort Wind Scale indicates that wind speed of 13-18mph "raises dust, leaves and paper".

The suggested mitigation of 20 mph as the point that all excavation, grading and/or demolition activities shall be suspended is inadequate for this site and must be adjusted downward to reduce the impact, in particular due to the extreme grading activities which will take place, to a safe level for nearby sensitive receptors in the park, the school, and the nearby residents.

Impact AIR-3

This section makes no reference to the location of Heather Farm Park, directly adjacent to the east side of the proposal site. Sensitive receptors (the public of all ages) come and go through the area, they are potential recipients of the construction pollution which would be generated by the project's lengthy and intense building process, in particular the grading activities, which raise dust, and the immense number of construction vehicles, and their emissions, to be employed over the entire course of construction. The horse arena and the nature area are particularly susceptible to impact and should not be ignored in the DEIR. 1.5 million people visit Heather Farm Park annually. Runners, children and the elderly all use pathways and park spaces close enough to the project site to be impacted by the extended construction time. The impact on them from this proposal should not be ignored.

To fully inform decision makers and the public, Heather Farm Park must be included in this section as an impacted area by all construction activities for this proposal.

3.4 Biological Resources

3.4.1.1 Regulatory Framework

The DEIR clearly outlines Federal and State protections for the Migratory Bird Treaty Act and Sensitive Habitat Regulations for wetland and riparian habitats (p65,66) and also the Contra Costa

County General Plan policies in regard to the protection and preservation of trees, significant ecological resource areas, hillsides, ridgelines, wetlands, and riparian habitat (p67-68).

3.4.2.1 Project Impacts
Impact BIO-1:
The project calls for the removal of 403 trees, including 353 of Contra Costa County's local "Protected Status" Oaks. The DEIR makes no mention of this special status species, as defined in the County's Tree Protection and Preservation Ordinance Chapter 816-6, (Ords. 94-59, 94-22).

As requested in our NOP comment, to make the DEIR a useful tool for understanding it must reference **both** City and County ordinances and policies for the site. While under County Jurisdiction, the property falls within the "Sphere of Influence" of the City of Walnut Creek. Additionally, the trees proposed to be removed from the end of Kinross Dr. are in the City and should be evaluated per City ordinance, Chapter 3-8 PRESERVATION OF TREES

The arborist report is lacking and contradictory in significant information; tree numbers and quantity are inconsistent.

Heather Farm Park is an eBird "Hotspot", a known site for an over-abundance of bird life. The connectivity for native and migratory bird species between the Park and the proposed development site is well established. No mention is made in the DEIR of this significant habitat connection and the reliance of the native and migratory bird population on the trees of Seven Hills Ranch.
If the DEIR is to serve as an authentic tool to inform decision makers and the public it must address the significant environmental impact from the removal of the 409 trees, 353 of them protected, along with the recognition of the interconnectivity of the site with Heather Farm Park's eBird Hotspot designation.
An independent peer review arborist report must be conducted.

MM BIO-3.1
Until actual mitigation plans are in place and approved by the USACE and the RWQCB, project approval by the County should not take place. Decision makers must understand that mitigation measures suggested may be inadequate and thereby the plan for an entrance road over a federally recognized and designated "wetlands" at the end of Kinross Dr, which will eliminate those wetlands, is not yet approved and the proposal must not proceed without approval.
The DEIR must note that until the approved plans for wetland impact is approved the project may not proceed.

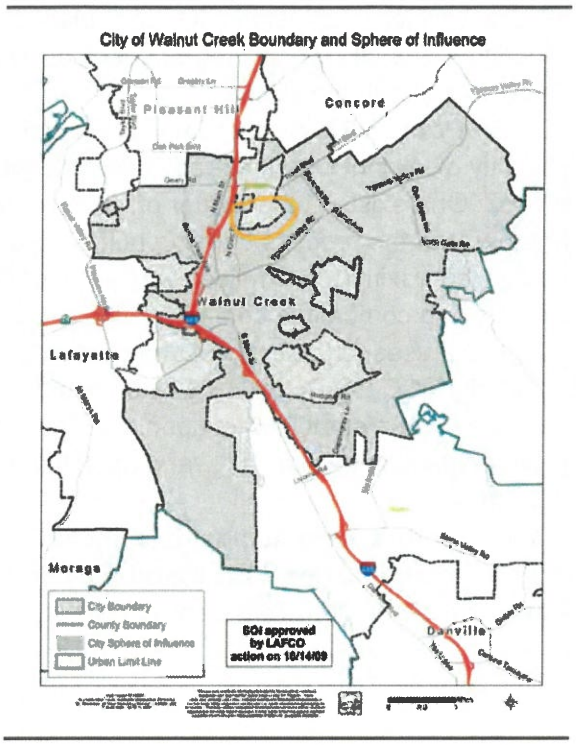
3.11 Land Use Planning

3.11.1.2 Existing Conditions

- The DEIR states "The A-2 zoning is inconsistent with SM General Plan land use designation. As the General Plan is controlling, the site is considered residential." It must be noted here that the proposal, as stated above in comments for **3.1.1.1** (#1) does not wish to be considered residential but rather a "service arrangement".

There are discrepancies in the DEIR as to when the residential use is applied as a justification for certain policies and when "non-residential" is used as justification.
The DEIR must avoid the turnabout in project description for the purpose of applying different land use policies. The project must be evaluated either as residential, a mixed-use

residential, or a service arrangement, but the designations may not be used interchangeably.



- The proposal property is located in the City of Walnut Creek's Sphere of Influence (map) and is approximately 50% bordered by properties in the City of Walnut Creek's jurisdiction.
The City's policies and ordinances must be highlighted in any informative discussion of development of the property and the environmental impacts therein, yet the information is absent from the DEIR document. In regard to the environment, the City of Walnut Creek's General Plan's stated purpose is that it "*preserves and manages the integrity of the natural environment and vistas, including vistas of and from the hills, and protects and expands access to natural resources, including the open spaces, trails, parks, and creeks that surround and connect the community.*"
The property is currently designated by the City as SF-very low and as noted above in section **3.1.1.1** (#3) was historically sought after to become open space.

The DEIR must include explanation of the City of Walnut Creek's influence and impact regarding the proposed site. Decision makers and the public must understand the entire picture of the existing property and its surroundings to adequately review this development.

Impact LU-2 (p142)
This impact as stated cites selective portions of General Plan policies. If taken in their entirety the policies cited clearly indicate the development proposal is not a candidate for the proposed site.

- It assumes the General Plan Amendment to Congregate Care land use designation will occur. Currently the proposal is in conflict with the SM land use designation. There is no guarantee the County decision makers will approve the **extreme leap in density** from approximately 120 units (net, after roadway, etc allowances. Gross is from 30 to 147 units) for the site to 450 units. To ask for almost 4 times the allowable density is a huge leap and out-of-sync with the surroundings. It is not and should not be a shoo-in.
- The DEIR claims the project site is designated for future urban uses and considered "urban infill", given the surrounding development. As noted in the comment above in this document for section **3.1.1.1** (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.
- While citing the County's General Plan policy 3-8 the DEIR does not properly state the policy, which says "Proposals that would prematurely extend development into areas lacking requisite services facilities and infrastructure shall be opposed." The 30-acre site is vacant with the exception of one house, now occupied by a caretaker. It does not have and has not had any infrastructure of the type necessary for this proposed scale of

development. This development proposal should seek out a re-purposed site to meet with the parameters of this policy.

The site requires a new road extension, which can only be achieved through the dedication of a piece of property (Lot A) in Walnut Creek which was historically put in place to precisely avoid a through road in that location. The citizens of Walnut Creek are opposed to the dedication of Lot A and this should be so noted in the DEIR.

To say that the proposal supports CCCo GP Policy 3-23 "A diversity of living options…while ensuring community compatibility.." The City of Walnut Creek already offers several options for this model of senior housing, the CCRC. One exists at the corner of Ygnacio Valley Rd and Oak Grove Rd (Viamonte), and another is in the process of being built for the Shadelands area, both locations being only approximately 2 miles away. Both of *these* locations are indeed surrounded by suitable and compatible commercial/business land uses, unlike the incompatible surrounding land uses to the proposed project site.

- It is disingenuous for the DEIR to cite partially CCC GP Policy 3-28 by stating "the project would not result in an unmitigated adverse environmental impact upon the environment…" (a questionable statement on its own) but neglecting to include "…and upon the existing community". This omission does not fully inform.

The DEIR must be as transparent, precise and as informative as possible, including all facts which may be relevant to decision makers and the public. For this reason the Land Use Planning section needs revisions and further inclusions as noted above.

3.13 Noise

MM NOI-1.1

- While the DEIR has produced much information and mitigation requirements there is no doubt that the lengthy construction phase for the proposal will be very difficult to mitigate as suggested.
    - The incessant back-up beeping from multiple construction vehicles at once has not been included in the document. In addition there is no mention of the impact from the back-up beeping from numerous construction vehicles at once. With the City of Walnut Creek planning for construction of a new pool facility very close by and adding to the cacophony of construction engines, grading and dumping activities and back-up beeping, the noise impact will be much greater than any measure included in the report.

The DEIR must note that additional construction by the City of Walnut Creek very likely will be taking place nearby and concurrently and this information must be calculated and the noise impact accurately assessed in the DEIR.

- If a *Construction Noise Management Plan* is to be prepared as mandated, the proposed entity that will confirm the plan's implementation and oversight should be included in the DEIR.
- The project would result in the generation of excessive groundborne vibration. Bedrock exists across the site, and close to existing residences. The DEIR must address how this bedrock will be broken up and how that will affect the nearby homes both short term and long term. Unlike soil, rock is too hard to simply excavate and has to be removed by drilling, hammering, pneumatic hammers or by blasting, none of which are mentioned in the DEIR. Without this information the impact can not be addressed.

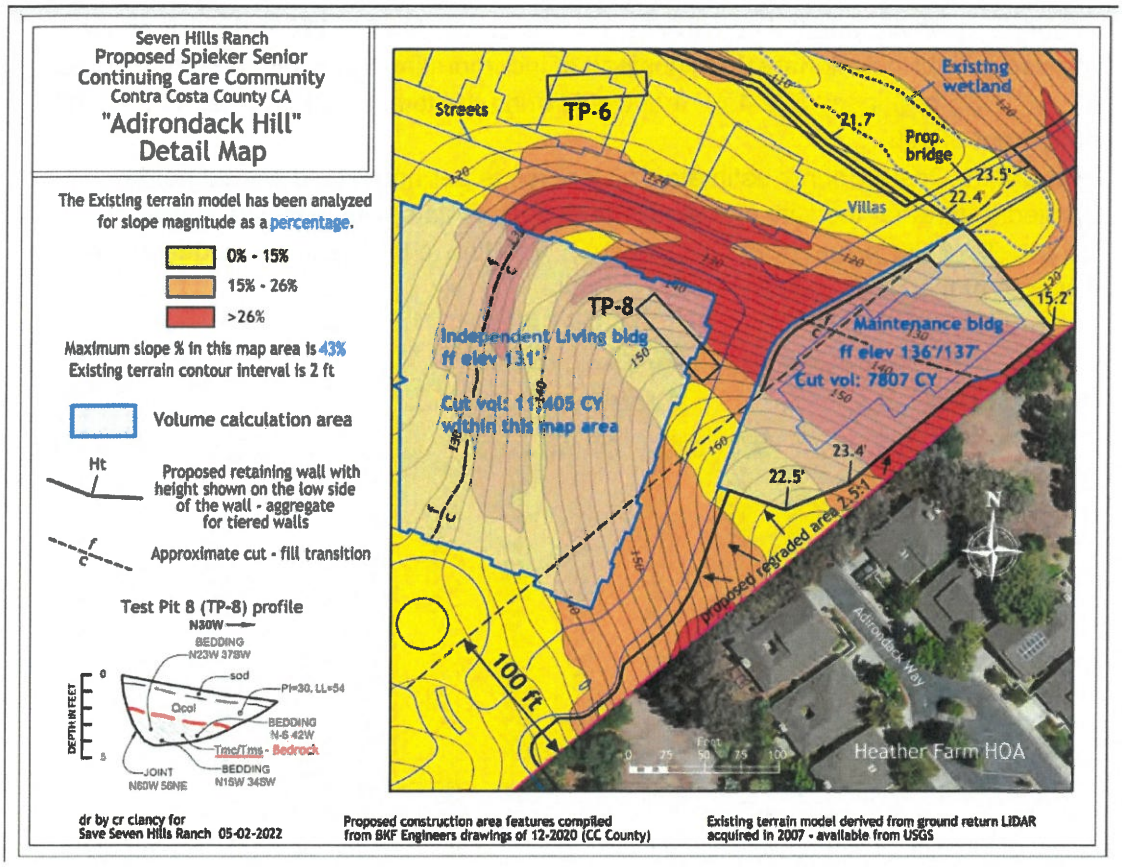


Figure 1 This map illustrates the extreme grading required for the proposed project's maintenance building and partially for the IL building. Grading will involve bedrock removal in extremely close proximity to existing residences.

- The DEIR must confirm that the tennis court will be used for tennis and not Pickleball. Pickleball is a noisy sport and will have noise impact if allowed on the proposed tennis courts. This must be written in any EIR should the proposal be allowed to proceed. Pickleball courts are available at many locations in the City of Walnut Creek and the County so the necessity of maintaining some on site is not necessary and should be prohibited due to the noise impact.

Decision makers and the public can not assess the proposal unless the DEIR :

- **acknowledges nearby construction plans are likely to occur concurrently within the project's construction timeline.**
- **states the authority that will manage monitoring and enforcing mitigation measures.**
- **reveals the method of and noise/vibration impacts from shattering bedrock.**
- **limits the sport court activity to Tennis, not Pickleball or any other sport.**

3.14 Population and Housing

3.14.2.1

Impact POP-1

The impact does apply and has significant impact for the following two reasons:

- (1) Per the calculations and corrected assumptions shown below, the total residents under the current SM Land Use Designation would be 295. The total for the CCRC proposal equals 558. Therefore, the proposal **does** induce population growth directly beyond what the current land use designation would induce; it very nearly doubles it. The DEIR calculation is faulty and needs to be corrected. The number of units and the number of

individuals per household used in calculations are both unsubstantiated numbers, throwing off the entire conclusion.

- The designation of SM applied to the property would yield, once roadways, openspace, environmental constraints, etc are accounted for, **120 units.** IF space allowed to *add* inclusionary units (instead of incorporating them into the 120 units) at 15% (CCCo ordinance 822-4.4), that would bring the total to **138**. (Versus the DEIR statement of 166).
- The Contra Costa County estimate of **2.9** persons per household should not be applied, but rather the City of Walnut Creek census data, which shows averages **2.13** to **2.14 per household** (US Census). The link to this data is included in the footnote of the DEIR (p207).

Table 2: E-5 City/County Population and Housing Estimates, 1/1/2021

	POPULATION			HOUSING UNITS							
County / City	Total	Household	Group Quarters	Total	Single Detached	Single Attached	Two to Four	Five Plus	Mobile Homes	Occupied	Vacancy Rate	Persons per Household
Antioch	115,142	114,412	730	36,946	28,719	1,734	1,492	4,562	408	35,739	3.3%	3.20
Brentwood	64,224	64,063	161	21,467	18,974	688	392	1,055	357	20,912	2.6%	3.06
Clayton	10,964	10,953	11	4,165	3,410	548	109	100	0	4,080	2.0%	2.68
Concord	124,755	123,216	1,539	47,819	27,572	3,225	3,474	11,581	1,767	45,821	3.8%	2.69
Danville	43,373	43,106	267	16,126	12,213	2,901	165	817	31	15,634	3.1%	2.76
El Cerrito	25,671	25,569	102	11,018	7,492	373	1,403	1,690	59	10,446	5.2%	2.45
Hercules	26,357	26,257	80	9,337	5,995	1,400	585	1,344	13	9,038	3.2%	2.91
Lafayette	25,217	25,108	109	10,013	7,894	307	683	1,320	8	9,494	5.2%	2.64
Martinez	37,195	36,103	1,092	16,368	9,842	2,236	1,339	2,136	15	14,843	3.4%	2.43
Moraga	17,206	15,311	1,895	5,948	3,956	686	307	799	0	5,713	4.0%	2.68
Oakley	43,627	43,514	113	13,558	12,348	239	131	459	381	13,220	2.5%	3.29
Orinda	19,496	19,449	47	7,274	6,747	186	11	330	0	6,997	3.8%	2.78
Pinole	18,819	18,744	75	7,112	5,016	511	495	954	36	6,866	3.5%	2.73
Pittsburg	75,788	75,468	320	24,111	16,982	1,348	1,274	3,742	765	23,393	3.0%	3.23
Pleasant Hill	34,335	33,826	509	14,479	8,678	1,574	1,019	3,128	83	13,943	3.7%	2.43
Richmond	114,643	113,225	1,418	40,468	22,445	2,409	6,418	9,032	164	38,606	4.6%	2.93
San Pablo	31,793	31,308	485	9,949	4,534	518	1,617	2,879	401	9,487	4.6%	3.30
San Ramon	84,226	84,093	133	29,294	18,393	3,058	1,141	6,665	37	28,493	2.7%	2.95
Walnut Creek	70,566	69,273	1,293	34,526	12,856	5,077	4,446	12,346	0	32,505	5.9%	2.13
Balance Of County	177,927	177,020	907	66,434	49,876	3,102	2,778	7,792	2,886	63,037	5.1%	2.81
Incorporated	983,397	973,008	10,389	358,778	233,464	29,316	26,501	64,967	4,525	345,230	3.8%	2.82

ESCountyState2020 ESCityCounty2020 ESCountyState2021 ESCityCounty2021 ESCountyState202...

California Department of Finance, "E-5 Population and Housing Estimates for Cities, Counties and the State

- (2) The proposal will induce substantial unplanned population growth due to the ceding of "Lot A" by the City of Walnut Creek to the developer, thereby removing an obstacle (p166) to population growth which was expressly put in place to avoid the impacts its removal would bring.
  - The Kinross Dr extension would require action by the City of Walnut Creek to cede "Lot A", a 1'x50' strip of land, to the new property owner. The express Public Purpose of this lot's purchase by the City of Walnut Creek in 1970 was that "*Kinross Drive shall not be connected to Seven Hills Ranch*" as stated in the General Plan at the time. It is clear that the City did not want Kinross Drive to become a through road, an intention now carried forward and implied in the more recent and current City of Walnut Creek General Plans.

3.17 Transportation

3.17.1.1 Regulatory Framework

(p180) Contra Costa County General Plan

The Draft EIR does not fully reveal that the proposal violates the Contra Costa County General Plan, Policy 5-31: "*Roads developed in hilly areas shall minimize disturbance of the slope and natural features of the land.*"

The project proposes massive excavation, to permanently flatten the entire site with the exception of one hill, eliminate natural slopes and natural features of the land, and to destroy 400+ trees, 350 of which are protected, and all wildlife. The proposal indicates no respect for the environment, no respect for the natural habitat, no respect for all wildlife. The proposed

entrance crosses over an existing wetlands and includes retaining walls due to grading in the area of the wetlands and adjacent hills.
To provide complete information the DEIR must revisit and clearly show the impacts and that the proposal IS NOT in accordance with the Contra Costa General Plan and the City of Walnut Creek with regard to slope and natural feature disturbance.

3.17.2.1 Project Impacts
Impact TRN-1
The DEIR is incorrect to state that "the project does not conflict with a ....plan...addressing the circulation system, including...bicycle lanes and pedestrian facilities."

- The Bicycle Facilities Map in the Transportation Element (p5-9) of the Walnut Creek General Plan in addition to the City of Walnut Creek Bicycle Plan 2011 (p47) include a proposed bicycle and pedestrian route following the extension of Seven Hills Ranch Road across the entire SHR site, which would logically link the Homestead and Walnut Boulevard neighborhoods to the southwest to Heather Farm Park to the northeast.

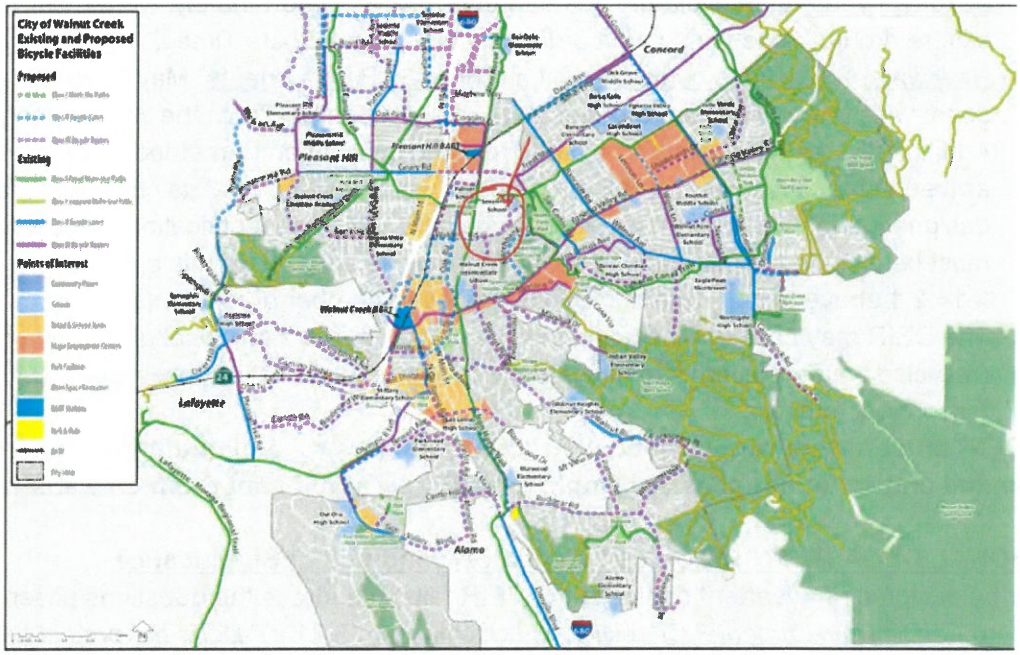


Figure 2 City of Walnut Creek Bicycle Plan 2011

- In the City of Walnut Creek Planning Commission Minutes of Oct 28, 2004 (p3) it is stated that "a public trail would be established to Seven Hills Ranch Road".

3.17.3 Intersection LOS, Appendix P, Fig 2 to 8.
The DEIR lists six intersections, but shows only four of them in Figures 2 to 8.This omission hides project impacts from public view.

3.17.3 Project Trip Generation.
Table 3.17-2 Weekday Project Vehicle Trip Generation
The DEIR documents proposed mixed land uses, but does not account for traffic generated by all land use components. The trip generation is flawed and must be properly restated.

Appendix P, Figures 6 and 7 Intersection Delay / LOS
The DEIR reports findings on vehicle delays and levels of service, but does not address peak hour queuing impacts. A longer queue requires a longer median left-turn lane, and also longer

green time. The traffic analysis is incomplete and inadequate and must be corrected and restated.

Appendix P Figure 4 Project Trip Distribution.
DEIR shows project traffic on Kinross Drive which is signed 15 mph and "PRIVATE STREETS". This private street has multiple stop signs and speed bumps. Project traffic should never be directed to use Kinross Drive. The traffic distribution is flawed and must be corrected and restated.

The above items must be re-evaluated with an eye to providing objective and thorough traffic information to the decision makers and public who must rely on the DEIR for accuracy.

3.19 Utilities and Service Systems

Impact UTL-2

- The DEIR reports that "CCWD will be able to meet demand during average, single-dry, and up to two years of multiple-dry years through 2045". Unfortunately, we are currently "in a severe drought extending into a 3rd summer" (Contra Costa Times, "California drought: New water restrictions coming to 1.4 million East Bay residents" May 3, 2022) It does not seem wise to proceed with a project that so significantly affects the water supply.
- Additionally, the DEIR states, without providing calculation or methodology as to how it has arrived at the conclusion, that if the property were developed at its current SM land use designation the water demand would remain the same. Quantification of these conclusions must be included in the DEIR to verify and provide support for this conclusion. (See section **3.14.2.1** above to calculate current vs. proposed number of residents.)
- The DEIR may consider including the suggestion that the proposal utilize "purple pipe" (recycled water) solutions to mitigate the taxing of the water supply system before allowing this project to proceed.

The DEIR must further report that construction will not proceed until the current drought has ended and water supplies are ample for this new significant drain on water resources.

ADDITIONAL CEQA ITEM: CEQA 3.21 Mandatory Findings of Significance

Either by design or inadvertent omission the DEIR fails to address the questions posed in the standard *CEQA Environmental Checklist*. Specifically item 3.21 a) "*Does the project have the potential to substantially degrade the quality of the environment…?*"
The project will alter very nearly the entire existing natural environment and landscape of the site. **Very, very few living creatures or natural features will remain.** It is a devastation of the existing topography, flora and fauna. It will be irrevocably and detrimentally altered:

- The grading required will level all the hills with the exception of one and fill in the valleys on the site. It will destroy the ridgeline which should be protected under the ordinances of the City of Walnut Creek, in which the property lies. Per the Spieker Development Project Description "*Overall cut volume is expected to be approximately 225,000 cubic yards, with roughly 150,000 CY of fill, resulting in the potential for export of up to 75,000 CY.*" This is a massive amount of earth movement. (See below, **Cut and Fill** map Figure 3) If completed the footprint of the project's IL building is larger than the footprint of the SF Warriors Chase Center Arena. (See Figure 4)
- 400+ trees will be removed from the site, 353 of which are "protected trees". (See below, **Tree Removal** map Figure 5) Furthermore, the excessive need for immense retaining walls brings into question whether the remaining 82 retained trees can survive. (See below **Retaining Walls** map Figure 6)

- The extensive and intrusive grading and need for encroaching retaining walls threatens the wetlands found on and near the property. Wetlands are a scarce resource and subject to mandated protective measures. See map and 3D below (Figures 7,8). The map indicates how close the project limits are to the west side of the central wetland, especially to the south end where the bridge is proposed. Damage from grading and construction equipment would be extensive; Kinross and the southern wetlands destroyed.

The project poses a huge, completely altering <u>impact to the environment</u>. The overall impact MUST be addressed and the DEIR MUST include this information and a *Mandatory Findings of Significance* section. To omit this section does not give decision makers and the public a true picture of this project's impacts.

Figure 3 **Cut & Fill.** This map indicates the extreme amount of grading and landscape altering which will be required should the project be allowed to proceed. With the exception of one, the hills will be leveled. 5.1.22

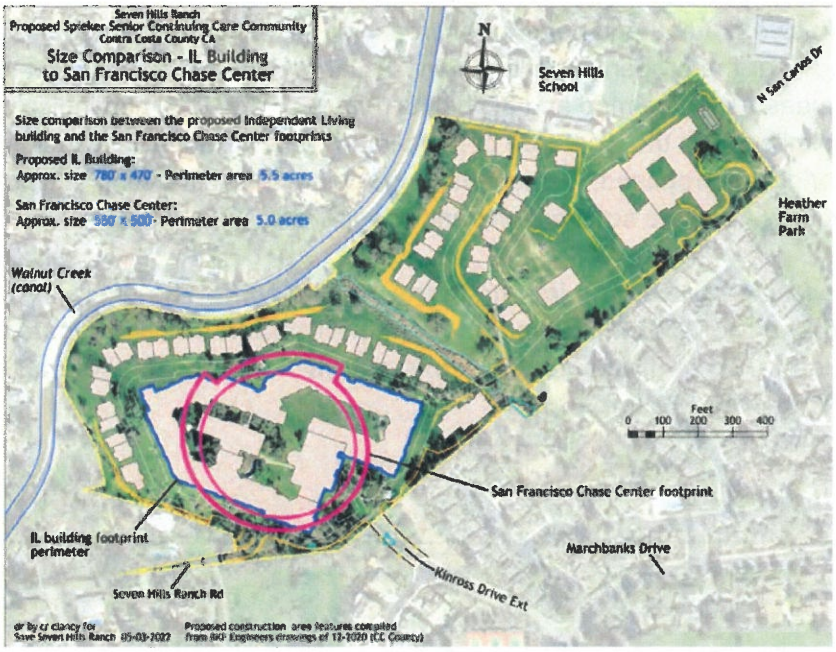


Figure 4
This figure shows the comparison between the footprint of the SF Warriors Chase Center Arena (purple) and the IL building (blue outline) of the proposed development.

The Chase Center footprint is superimposed over the proposal footprint.

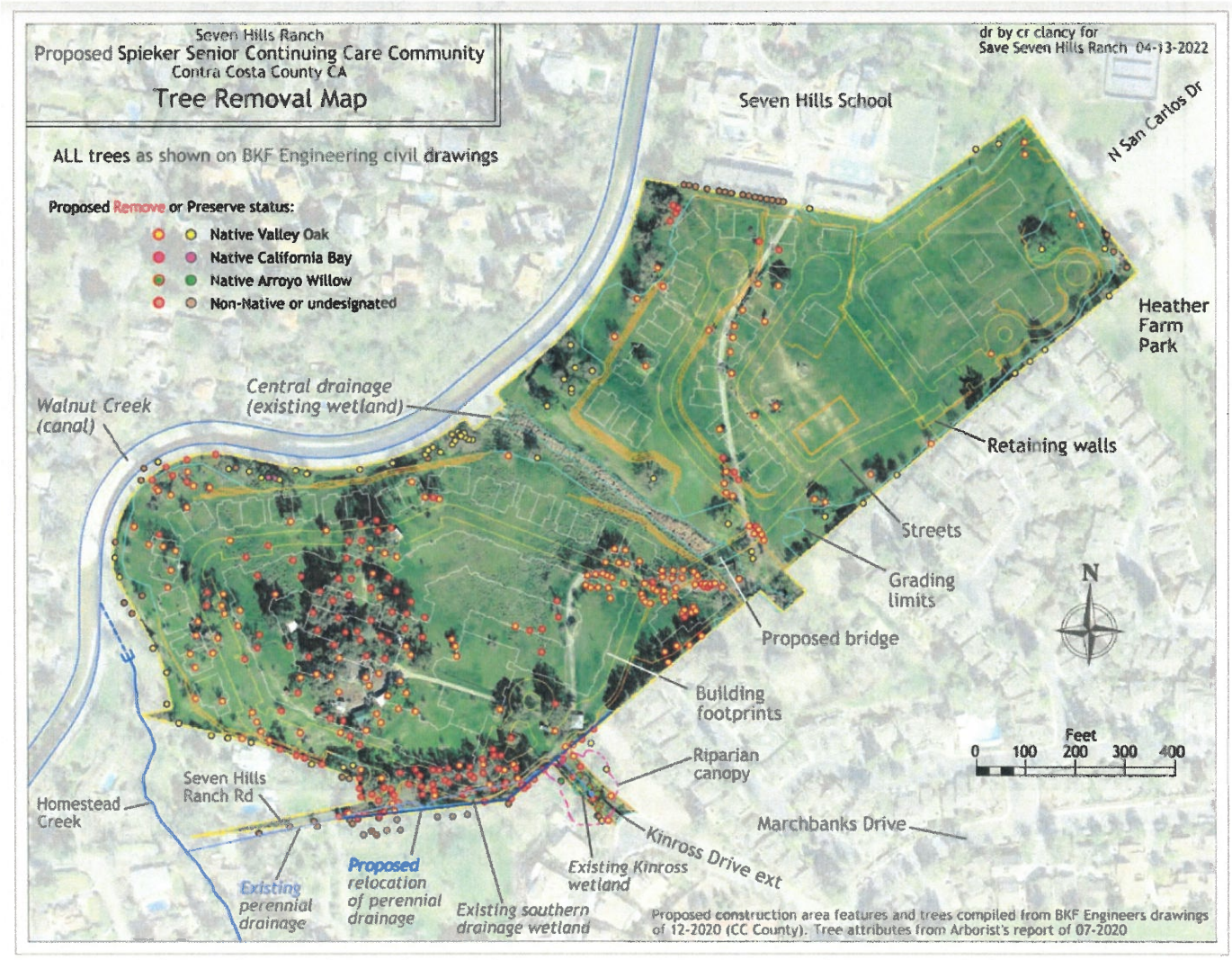


Figure 5 **Tree Removal** map . This map indicates the 400 trees to be removed should this project proceed, including the 350 "protected" status trees. Native trees are indicated.

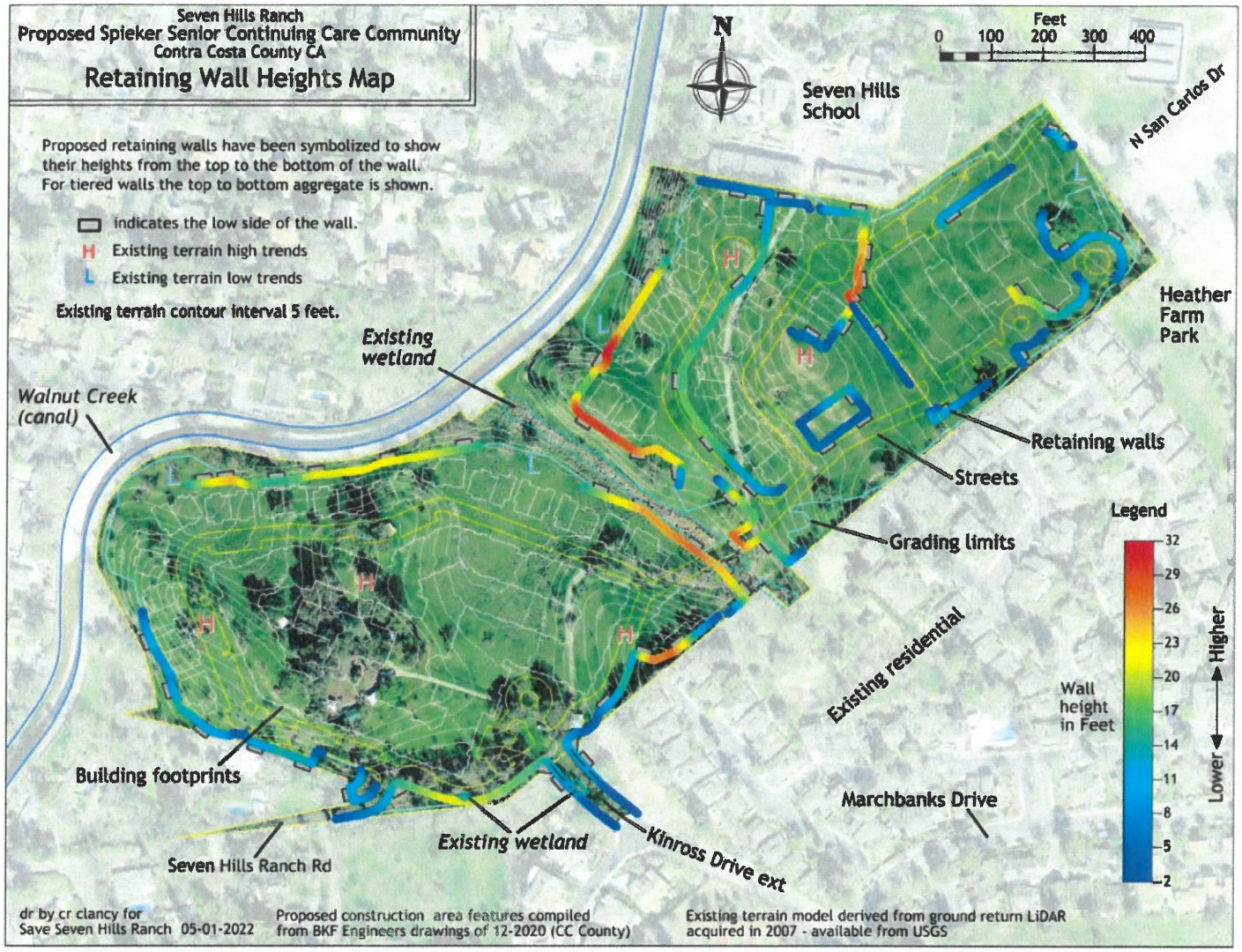


Figure 6 **Retaining Walls** map. This map indicates the location and color-coded heights of the required retaining walls should the project be allowed to proceed. The higher walls are tiered groupings. 5.1.22

Figure 7 **Wetlands Impact** map. Indicates the proximity of retaining walls (orange-yellow) and the wetlands (within dotted blue area). Proposed bridge location is shown over the wetlands, to the SE.

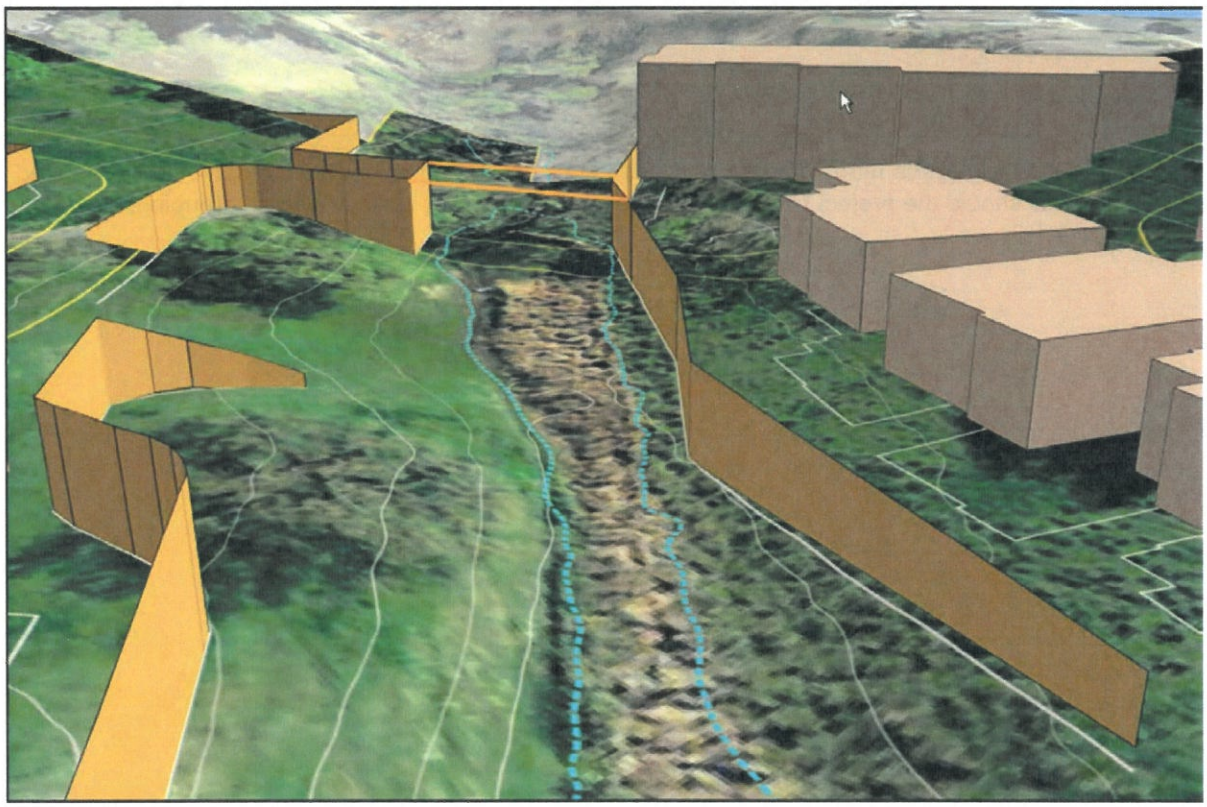


Figure 8 **Wetlands Impact** 3D graphic indicating the proximity of retaining walls (yellow) and the wetlands (within dotted blue area). Proposed bridge location is shown over the wetlands. Looking SE.

Section 4.0 Growth Inducing Impacts

Impact GRO-1

- The DEIR is not accurately representing the numbers of persons the proposal would serve, if approved, versus the number of persons that would reside on the property if it were developed in accordance with the General Plan, SF-M. This is evaluated previously in this comment document section **3.14.2.1 / Impact POP-1.** As noted there, the method for calculating how many units and the persons per household is flawed.

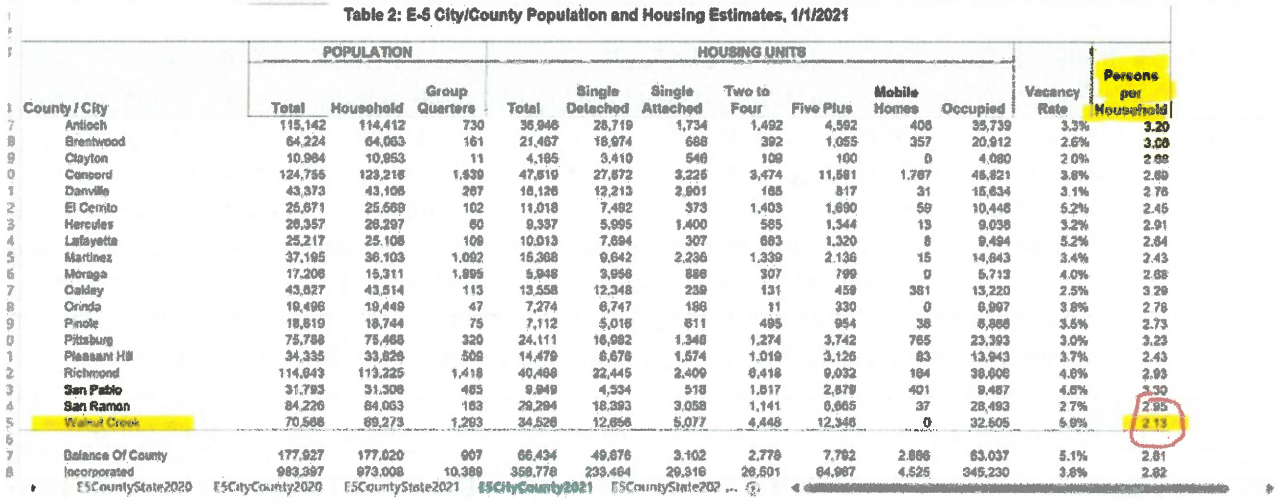


Table 2: E-5 City/County Population and Housing Estimates, 1/1/2021

	POPULATION			HOUSING UNITS								
County / City	Total	Household	Group Quarters	Total	Single Detached	Single Attached	Two to Four	Five Plus	Mobile Homes	Occupied	Vacancy Rate	Persons per Household
Antioch	115,142	114,412	730	36,946	28,719	1,734	1,492	4,592	408	35,739	3.3%	3.20
Brentwood	64,224	64,063	161	21,467	18,974	668	392	1,055	357	20,912	2.6%	3.06
Clayton	10,964	10,953	11	4,185	3,410	546	109	100	0	4,080	2.0%	2.68
Concord	124,755	123,216	1,539	47,819	27,672	3,225	3,474	11,581	1,767	46,821	3.8%	2.69
Danville	43,373	43,106	267	16,126	12,213	2,901	185	817	31	15,634	3.1%	2.76
El Cerrito	25,671	25,569	102	11,018	7,492	373	1,403	1,690	59	10,446	5.2%	2.45
Hercules	26,357	26,297	60	9,337	5,995	1,400	585	1,344	13	9,036	3.2%	2.91
Lafayette	25,217	25,108	109	10,013	7,694	307	663	1,320	6	9,494	5.2%	2.64
Martinez	37,195	36,103	1,092	15,368	9,642	2,236	1,339	2,136	15	14,643	3.4%	2.43
Moraga	17,206	15,311	1,895	5,948	3,958	886	307	799	0	5,713	4.0%	2.68
Oakley	43,627	43,514	113	13,558	12,348	239	131	459	381	13,220	2.5%	3.29
Orinda	19,496	19,449	47	7,274	6,747	186	11	330	0	6,997	3.8%	2.78
Pinole	18,819	18,744	75	7,112	5,016	611	495	954	36	6,866	3.5%	2.73
Pittsburg	75,788	75,468	320	24,111	16,982	1,346	1,274	3,742	765	23,393	3.0%	3.23
Pleasant Hill	34,335	33,826	509	14,479	8,678	1,574	1,019	3,126	83	13,943	3.7%	2.43
Richmond	114,643	113,225	1,418	40,466	22,445	2,409	6,416	9,032	164	38,606	4.6%	2.93
San Pablo	31,793	31,308	485	9,949	4,534	518	1,617	2,879	401	9,487	4.6%	3.30
San Ramon	84,226	84,063	163	29,294	18,393	3,058	1,141	6,665	37	28,493	2.7%	2.95
Walnut Creek	70,566	69,273	1,293	34,526	12,856	5,077	4,448	12,346	0	32,505	5.9%	2.13
Balance Of County	177,927	177,020	907	66,434	49,876	3,102	2,778	7,782	2,896	63,037	5.1%	2.81
Incorporated	983,397	973,008	10,389	358,778	239,464	29,316	26,501	64,987	4,525	345,230	3.8%	2.82

E5CountyState2020 E5CityCounty2020 E5CountyState2021 E5CityCounty2021 E5CountyState202 ...

- The DEIR seeks to compare against County data rather than the more relevant City of Walnut Creek statistics, as previously discussed in **3.14.2.1** here in this comment document. Therefore the conclusion that there would be a less than significant impact is based on a false premise. If calculated correctly the increase in residents from the proposal versus the increase should the site be developed in accordance with its current General Plan Land Use Designation SF-M would be ***approaching double.*** (558 versus 295)
- The DEIR again incorrectly suggests that this is an urban area on an infill site. As noted in the comment in this document for section **3.1.1.1** (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.

The DEIR must recalculate using accurate data to truly reflect that the project would foster a significant population growth and indirect growth-inducing impacts in the surrounding area.

Section 5.0 Significant and Irreversible Environmental Changes

5.1.2 Commitment of Future Generations to Similar Use

- As noted in this comment document for section **3.1.1.1** (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.

Section 6.0 Significant and Unavoidable Impacts

- Based on the entirety of facts in this comment document, the conclusion that the proposed project would not result in any significant and unavoidable impacts must be reexamined. The DEIR must be recirculated for reevaluation.

7.0 Alternatives

7.2 Project Objectives

- It must be noted that the project objective of being located "on an infill site and compatible with the surrounding community" can not be met by the project as currently proposed. This is discussed in this document in the following sections:
    - **Section 4.0, Impact GRO-1**
    - **3.1.2.1, Impact AES-1**
- To achieve the mass and height needed for this proposal, grading and recontouring will put the proposed IL building roof at 180 feet elevation, 20 to 25 feet higher than the current visible hilltops and approximately 25' higher than **any** surrounding residences. The Health Care facility will overshadow the existing adjacent Heather Farm Park. The creek with a proposed creek trail runs along the west side.
- The DEIR states that alternative suitable sites suggested would "*not reduce the identified significant and unavoidable construction noise impact, which is primarily due to the size of the project, duration of the construction schedule...*" The DEIR must restate and recognize that it is NOT the size and duration that make the current proposal site less attractive and unsuitable from a construction standpoint BUT the landscape itself is a huge contributing factor. The natural contours must be destroyed, an immense amount of bedrock and soil must be broken apart, rearranged or hauled away and the rolling hill landscape must be virtually leveled. This is the main contributing factor which brings on the lengthy and disruptive construction and the significant environmental impact associated with it. Were a relatively flat site to be located for this project, impacts would indeed be SIGNIFICANTLY reduced. To state otherwise would be less than correct.

7.1.1 & 7.2

While the project proposal meets the project objectives of providing a high quality, licensed CCRC community it does so at great environmental cost and, despite what the DEIR declares (p212), does not provide a retirement option not currently provided in Contra Costa County and specifically in the City of Walnut Creek. In addition, to claim the project will operate on an infill site compatible with the surrounding community is inaccurate as noted above in this comment document **3.1.1.1** (#2)

- The City of Walnut Creek already offers several options for the CCRC model of senior housing. One exists at the corner of Ygnacio Valley Rd and Oak Grove Rd, (Viamonte) and another is in the process of being built for the Shadelands area, both locations being only approximately 2 miles away from the proposal's site and which together will provide over 400 CCRC units for potential senior residents.. Both of *these* locations are level, in need of little grading, and indeed surrounded by suitable and compatible commercial/business land uses, unlike the incompatible surrounding land uses to the proposed project site.
- In addition, it should be noted that Walnut Creek offers an abundance of senior living options, one being Rossmoor, which consists of 6500 units available to seniors.

7.4.1.1 Location Alternative

- One of the developer's "sister" facilities, Stoneridge Creek, is located in Pleasanton, approx 25 miles south of Walnut Creek. The flat location is adjacent to mainly commercial environs and is well suited to this development proposal and expansion could be considered. Again, this developer's CCRC developments are self-sustaining with theaters, restaurants, recreation facilities, healthcare facilities, and more all within their walls. It is of no consequence to residents as to where the development is located.
- While the option may no longer be available, the 59 acres at Concord Village was recently available and may still be an option for this development. The recent availability provides evidence that there are options in the Contra Costa County which will offer in-place

infrastructure, would benefit from a senior facility in their midst, offer land use compatibility and would greatly minimize the environmental impact.

- Due to changes in work lifestyle due to the pandemic, many retail and office spaces have become available, even along the Ygnacio Valley Rd. corridor in Walnut Creek. The sites have existing infrastructure, are already level and would require little grading or major construction work. This would completely eliminate the massive environmental impact on the current site.

7.4.2.1 No Project Alternative

- The site could be developed in accordance with the General Plan land use designation. As discussed elsewhere in this comment document the DEIR has used faulty data to come to the conclusion that the proposal has equivalent or lesser impacts.
- The site could be preserved, resulting in no environmental impacts. Local conservation organizations could reevaluate its potential and become involved as the public sees great value in this property and once again expresses the desire to preserve it, just as they did in 1991.

7.4.2.2 Existing General Plan Development Alternative/Comparison of Env. Impacts

- An alternative use for the site at Seven Hills Ranch, a use in keeping with the current land use designation, would be workforce housing developed in accordance with the General Plan land use designation and compatible with the surrounding community. The site is a close-in location and workforce needs for transportation, recreation and employment opportunities could more easily be met on this site with less impact on the environment than workforce housing located further away from employment centers. Ostensibly, there is a greater need for workforce housing than the project's proposal whose objectives are already being met in the Walnut Creek Community.
  The proposed development is a self-contained compound offering all the amenities required for its residents, including health care, on site. There is no real need for this CCRC to be located in this location. It can be located anywhere. Given the substantial environmental impacts - including impacts on climate change- this site is better suited to either no development or workforce housing of a smaller scale that does not involve the complete destruction of the natural landscape through extensive grading and is compatible with the surrounding uses.
- The current proposal could be restructured and its project objectives modified, since the needs that the project hopes to serve are already being met in the community. A proposal in keeping with the surrounding community and within the General Plan land use designation is an alternative to be considered.
- This section misstates the number of units and therefore overstates the impact of the alternative of the property being developed in accordance with the current General Plan. The number of single-family units which would fit on the site and the Walnut Creek number of persons per household are both stated incorrectly and should be restated. See comments under **3.14.2.1, Impact POP-1** in this document.
- The DEIR's stated conclusion that to develop in accordance with the Existing General Plan Land Use Designation would have similar impacts is not adequately explained or logically proven and is based on incorrect calculations as stated above. The CEQA Guidelines discuss that "*alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project.*" (DEIR p211).

The conclusion that to develop in accordance with the current land use designation versus the proposal's extreme CCRC designation is similarly impactful is not based on enough

accurate analysis and proof to be definitive and useful. The DEIR must present more comprehensive information to put forth this conclusion and to provide decision makers and the public with the tools to fully understand the environmental impacts of the proposal.

Maps and graphics for this report were contributed by:

Charles Clancy, GIS Analyst for Chevron, Retired. Specializing in geospatial/geologic data mining and creation, cartography/presentation graphics, 2D & 3 D visualizations, data forensics.

LARGER VERSIONS OF THESE MAPS AVAILABLE UPON REQUEST FROM HFHOA.

END

From: yll@
Sent: Monday, November 28, 2022 1:37 PM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment.

For the sake of ALL the residents of Walnut Creek

PLEASE DENY APPROVAL OF

Spieker General Plan Amendment.

Dr Yvonne LaLanne

Walnut Creek 94598

From: Mariza Rocha <
Sent: Monday, November 28, 2022 1:41 PM
To: Clerk of the Board
Cc: Troy Bourne
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022
Attachments: 7. Hysinger to Lotito.pdf

Please see the **seventh** batch attached.
Best,

Mariza Rocha
Sales Operations Coordinator
Diablo Glen
(925) 979-5970
diabloglen.com

From: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Sent: Monday, November 28, 2022 12:11 PM
To: Mariza Rocha <RochaM@diabloglen.com>; Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Your correspondence has been received and will be provided to the Board of Supervisors.

June McHuen
Boardroom Secretary
Clerk of the Board
1025 Escobar Street
Martinez CA 94553
(925) 655-2003
June.McHuen@cob.cccounty.us

From: Mariza Rocha <RochaM@diabloglen.com>
Sent: Friday, November 25, 2022 11:45 AM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Thank you for the confirmation Ms. McHuen,
Please see the **sixth** batch attached.
Best,

Mariza Rocha
1(866)711-0885

From: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Sent: Wednesday, November 23, 2022 2:13 PM
To: Mariza Rocha <RochaM@diabloglen.com>; Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

I have received all 5 submissions for the Board. Thank you.

June McHuen
Boardroom Secretary
Clerk of the Board
1025 Escobar Street
Martinez CA 94553
(925) 655-2003
June.McHuen@cob.cccounty.us

From: Mariza Rocha <RochaM@diabloglen.com>
Sent: Wednesday, November 23, 2022 1:02 PM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Please see the **fifth** batch attached.
Best,

Mariza Rocha
Sales Operations Coordinator
Diablo Glen
(925) 979-5970
diabloglen.com

From: Mariza Rocha
Sent: Wednesday, November 23, 2022 11:51 AM
To: clerkoftheboard@cob.cccounty.us
Cc: Troy Bourne <BourneT@spk.com>
Subject: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Dear Ms. Boyd, Clerk of the Board,
I am the Sales Operations Coordinator for the new Diablo Glen community proposed in Walnut Creek.
I understand you've collected incoming communication from the public regarding the Spieker Senior Continuing Care Community Project in preparation for the Board of Supervisors Meeting scheduled for 11-29-2022. Our supporters have been sending messages directly to the Supervisor's email addresses. I've collected them here for your review and processing. I have separated the letters of support into several batches for your convenience. Please see the first batch attached.
Please let me know if you have any questions.
Wishing you a Happy Thanksgiving,

Mariza Rocha
Sales Operations Coordinator
Diablo Glen
(925) 979-5970
diabloglen.com

Where Residents & Employees Thrive

---------- CONFIDENTIALITY NOTICE: This electronic mail transmission and any documents accompanying this electronic mail transmission are intended by the sender for the use of the named addressee(s) to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmissions to, or receipt by, anyone other than the named addressee(s) (or a person authorized to deliver it to the named addressee(s)). It should not be copied or forwarded to any unauthorized persons. If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply e-mail.

Page	Date Received	Doc Dated	From	Description
1	11/25/2022		Hysinger, Vaughn	email (support)
2	11/25/2022		Benzler, Sylvia	email (support)
3	11/25/2022		Hirano, Daniel & Colleen	email (support)
4	11/25/2022		Hirano, Colleen	email (support)
5	11/25/2022		Brown, David & Carol	email (support)
6	11/26/2022		Pezzoli, Bob & Phyllis	email (support)
7	11/26/2022		Tanner, Anne (Wendy)	email (support)
8	11/26/2022		Miller, Gary & Maggi	email (support)
9	11/26/2022		Flessner, Jim & Susan	email (support)
10	11/26/2022		Weede, Bob & Diana	email (support)
11	11/27/2022		Carter, Tim	email (support)
12	11/27/2022		Dallimonti, Christy	email (support)
13	11/27/2022		Caton, Curt & Robin	email (support)
14	11/28/2022		Prager, Allan	email (support)
15	11/28/2022		Evans, Barbara & Bruce	email (support)
16	11/28/2022		Wegenka, Elaine & Dave	letter (support)
17	11/26/2022		Lotito, Luanne & Michael	email (support)

From: Vaughn
Sent: Friday, November 25, 2022 2:45 PM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: I ABSOLUTELY SUPPORT DIABLO GLEN...AND YOU SHOULD ALSO.

Dear Ms. Mitchoff,
The purpose of this email is to notify you of my 100% support for the Diablo Glen project. With Diablo Glen you have:

- A relatively small number of Senior Citizens, who are a valuable voting group,
- Who will now be able to spend money (and they have a lot I am told) at the local merchants,
- They also will have a limited traffic footprint…in fact many don't even drive,
- A small carbon footprint relative to the other alternatives,
- And on and on……

So, what are the alternatives:

- While the local residences would like to see open space. That won't happen for a multitude of reasons: costs, zoning, timing, sellers' motivations, etc.
- Does anyone really need another Strip Mall?
- Or a 750-unit apartment building?
- Or how about a car dealership?
- No, No and more NO!

Ms. Mitchoff I would hope you do your elected duty as Contra Costa Supervisor; vote FOR Diablo Glen. It is the most Fiscally, Environmentally, and Prudent thing to do.
I would hope we do this NOW! And BTW I live in Contra Costa County, pay exorbitant property taxes and I do VOTE in Supervisor Elections.
VOTE YES PLEASE!
Regards,

Vaughn

From: Sylvia Benzler
Subject: Hearing on Diablo Glen
Date: November 25, 2022 at 2:20:41 PM PST
To: supervisorandersen@bos.cccounty.us

Dear Supervisor Anderson,

I would like you to know that, ever since hearing about Diablo Glen, I have been excited about the possibility of the opportunity to move into Diablo Glen, if it is built. I am writing to you to let you know why this is important to me and many other seniors in our area and why I reserved a space.

1. Rossmoor is not an appealing place for Seniors who are looking for safety as they age. There are stairs all over the place with abundant opportunities for falling with dire consequences. It is also huge with a significant fire hazard. But is practically the only choice for those of us who want a zero lot line, downsized type of living.

2. In the Danville/Alamo/Walnut Creek are there is a lack of attractive condos or townhouses on **one level** that are built to attract downsizing Seniors (if you know that I am wrong, please send me the list). Other than Rossmoor, there are very few places for Seniors who want to stay locally and who want downsized residential with amenities.

3. Many Seniors including myself, want to stay in the area close to family but like the idea of living in a residential setting while having graduated care available once it is needed.

4. Diablo Glen is appealing because it is being built in a local residential area where I can be close to social activities I am used to, recreational activities, friends and family.

5. If Diablo Glen is not built in this area, it will probably be subdivided anyway, so I really cannot see the difference in terms of environmental impact.

Finally I would like to recommend that, in addition to approval of Diablo Glen, I would like to see the Planning Commission or county planners have some foresight in planning for the needs of seniors in the area. We are a "growing" population and Rossmoor simply does not fit the safety needs of many of us. I would even like to see the county consider approving some Senior condominiums in the unincorporated area of Alamo now that you are looking at expanding housing in that area.

Thank you for considering the approval of Diablo Glen which will be a great beginning in meeting the needs of Seniors who prefer to remain in the Walnut Creek area.

Sincerely,
Sylvia Benzler
Alamo

From: Dan Hirano
Date: Fri, Nov 25, 2022 at 4:27 PM
Subject: Support for Approval of Spieker Senior Continuing Care Community Project (Diablo Glen)
To: <supervisormitchoff@bos.cccounty.us>
Cc: <John_Gioia@bos.cccounty.us>, <supervisorandersen@bos.cccounty.us>, supervisor_burgis@bos.cccounty.us <supervisor_burgis@bos.cccounty.us>, district5@bos.cccounty.us <district5@bos.cccounty.us>

24 November 2022

RE: Support for Approval of Spieker Senior Continuing Care Community Project (Diablo Glen)

Dear Karen Mitchoff, Supervisor – Contra Costa County District IV.

My wife & I wish to add our support for the approval of building Diablo Glen. We have lived in Moraga for nearly 45 years, and in our senior years wish to remain in Contra Costa County (CCC). With Diablo Glen we will not only remain where we love and among those we love, but will enjoy a senior Life Plan community built by a successful development team that will offer retirement options otherwise unavailable in CCC. Diablo Glen will be an asset to CCC, Walnut Creek and beyond – look no further than Stoneridge Creek in Pleasanton for an example of this team's work.

Without a Diablo Glen we will be forced to relocate to another California county for an appropriate senior community. Moving away from our friends and Family would become an extreme hardship for us.

We listened to and understood the Seven Hills School (SHS) concerns. We also understand good faith discussions have taken place with adjustments made to the plan by the Diablo Glen team. These adjustments far exceed current CCC Planning Design & Zoning requirements. Should it come to that, we feel SHS concerns will be far exceeded if the property were developed instead with 166 homes (and possibly double that number with ADU's) should this property fail to become Diablo Glen.

We encourage & support your final approval of Diablo Glen.

Thank you.

Daniel and Colleen Hirano / Pre-Construction Depositors of Diablo Glen

From: Colleen Hirano
To: supervisormitchoff@bos.cccounty.us <supervisormitchoff@bos.cccounty.us>
Cc: John_Gioia@bos.cccounty.us <john_gioia@bos.cccounty.us>; supervisor_burgis@cccounty.us <supervisor_burgis@cccounty.us>; district5@bos.cccounty.us <district5@bos.cccounty.us>; supervisorandersen@bos.cccounty.us <supervisorandersen@bos.cccounty.us>
Sent: Friday, November 25, 2022 at 04:34:53 PM PST
Subject: Supporting Diablo Glen

Dear Karen Mitchoff,

I am one of the many senior citizens that are waiting for Diablo Glen to be built. As a long time resident of Moraga and a frequent shopper of Walnut Creek, Diablo Glen would be a great asset to the Walnut Creek community. Diablo Glen is a Continuing Care Retirement Community that will provide us seniors all four levels of care on one site as needed - independent, assisted, memory, and skilled nursing. As residents, we can live safely and have our health needs met while enjoying many social and physically active amenities right on site. This will mean less traffic on Ygnacio Valley Road than a single home development will bring. Also, many of the senior residents are retired teachers who will love to volunteer to assist teach at Seven Hills School. Those of us that garden can volunteer at Heather Farms. Diablo Glen will provide us seniors a place to socialize and volunteer in the community that we are familiar with and love. I have visited other Spieker CCRCs in California and they are well planned and beautifully maintained. I encourage you to approve the Spieker Diablo Glen development in Walnut Creek.

Respectfully yours,

Colleen Hirano

From: David Brown
Sent: Friday, November 25, 2022 8:39 PM
To: supervisormitchoff@bos.cccounty.us; John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: Voicing our support for Diablo Glen

To the Country Costa Board of Supervisors

My wife and I are in our late 70's, and have lived in the East Bay for over 50 years.

About a year ago we started thinking about how best maintain our independence. Subsequently, we have studied many, many alternatives, in and out of the area. We have concluded the proposed Diablo Glen project will best meet our needs. It is ideally suited for people in our stage of life. Their proposed grounds and living units will help us downsize. In addition, their services will help us realize the right time to take further steps.

I want to be clear. We don't plan to give up our active life style. We are both in very good health. We believe we will be taking full advantage of the cultural venues, stores, restaurants, and natural grounds of Contra Costa county.

We have had several meetings or talks with the staff of Diablo Glen, and their sister facility Stoneridge Creek. In all cases their attention to detail is remarkable. I am sure thy will operate a very successful facility, serving the needs of the residents and community.

We are pleased to endorse their project and hope the Board of Supervisors will give a green light so the project can proceed.

Thank you for your consideration of this request.

David & Carol Brown

From: Robert Pezzoli
Sent: Saturday, November 26, 2022 7:22 AM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: Diablo Glenn

Contra Costa County District IV Supervisors,

We request your full support for the Diablo Glenn project in Walnut Creek CA.

This project provides much needed support for senior citizens as they seek to provide for themselves in the future. This is a great organization, and a much needed concept for senior living in the Bay Area. Diablo Glenn can do nothing but improve senior living standards in the Bay Area.

We urge your support.

Bob & Phyllis Pezzoli

From: Wtanner41
To: supervisormitchoff@bos.cccounty.us <supervisormitchoff@bos.cccounty.us>
Cc: JohnGioia@bos.cccounty.us <JohnGioia@bos.cccounty.us>; supervisorandersen@bos.cccounty.us <supervisorandersen@bos.cccounty.us>; district15@boscccounty.us <district15@boscccounty.us>
Sent: Sat, Nov 26, 2022 9:58 am
Subject: My support for Diablo Glen

Dear Karen Mitchoff,

My name is Anne Tanner. My family and friends call me Wendy. I fully support Diablo Glen.

My family moved to Walnut Creek in 1960. I attended San Miguel Elementary School which is now Berean Christian High School. I attended Foothill Intermediate School, and Ygnacio Valley High School. I graduated from U.C. Davis. I have lived in Oakley, California and Antioch, California.

In 2014, I moved back into the family home in Walnut Creek to live with my mother. My mother was in good health for many years. She began to decline in 2017 and I became her caregiver. Mom's wish was to always stay in the family home and thankfully, her wish came true. Mom passed in 2021. I continue to live in the family home in Walnut Creek but am so excited that I will be able to move into Diablo Glen where I can thrive and age in place with others my age. I am so happy to give this gift to my sons and family members.

Thank you for your attention. Walnut Creek has always been home to me.

Sincerely,

Anne (Wendy) Tanner

From: Gary Miller
Date: Sat, Nov 26, 2022 at 2:41 PM
Subject: Diablo Glen Project, Walnut Creek
To: <district5@bos.cccounty.us>, <supervisor_burgis@bos.cccounty.us>, <supervisorandersen@bos.cccounty.us>, <John_Gioia@bos.cccounty.us>, <supervisormitchoff@bos.cccounty.us>

Nov 25,2022

Contra Costa Board of Supervisors

We have been excited about this project for some time now. We were one of the first people to sign up and reserve a spot for residence placement. There is definitely a need for this project and the design and developer's plans are first rate. The developer has already developed several projects all of which are desirable and successful. One of the local ones is in Pleasanton and has a considerable waiting list. There is a great need for this type of housing in the Central Contra Costa Area (see note 1) . Diablo Glens reservation list already exceeds the number of units they are building. Many Walnut Creek and surrounding areas residences have a population that is **aging out** of their homes and do not have a great selection of alternative housing.

This is a CCRC project, the only complete CCRC proposed in this area. This type of project is ideal with no concerns for yourself or your family of where the next move is as we age and require more assistance in our daily living. We are excited about this project and urge your approval .

Gary & Maggi Miller
Walnut Creek, CA 94595

(1) The population of the following cities in Central Contra County over the age of 65.

City	Population	over age 65	percentage
Walnut Creek	70,000	21,000	30%
Alamo	13,800	3,300	24%
Danville	43,200	8,200	19%
Moraga	16,600	3,600	22%
Orinda	19,400	4,200	23%
Totals	163,000	40,300	25%

We need his type of housing for our ageing population

Please pass this project

Thanks and remember that every day is a good day.

Gary & Maggi Miller

From: Jim Flessner
Date: Sat, Nov 26, 2022 at 3:08 PM
Subject: Please Approve the Diablo Glen Project
To: Karen Mitchoff <supervisormitchoff@bos.cccounty.us>
Cc: <John_Gioia@bos.cccounty.us>, Candace Andersen <supervisorandersen@bos.cccounty.us>, supervisor_burgis@bos.cccounty.us <supervisor_burgis@bos.cccounty.us>, district5@bos.cccounty.us <district5@bos.cccounty.us>

I am writing in support of the Diablo Glen Project. We have lived in the same house in Danville for 45 years. We are looking forward to living in a place that will help us stay physically active and take care of our health needs as we get older. Diablo Glen is to be located in a perfect location, close to medical care, near downtown Walnut Creek and in a beautiful setting. Please let this project go forward. Thank you for your consideration.

Jim and Susan Flessner
Danville, CA 94526

From: Robert Weede
Sent: Saturday, November 26, 2022 6:13 PM
To: supervisormitchoff@bos.cccounty.us
Cc: supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; John_Gioia@bos.cccounty.us
Subject: In support of Diablo Glen proposal

Dear Ms. Mitchoff:

My wife, Diana, and I are writing you in support of the Diablo Glen proposal and ask that you and the other supervisors please vote for its approval.

We grew up in Walnut Creek. Twenty-six years ago, our careers led us out of California and away from family and friends. Now that we are both retired, we are actively making plans come back to Walnut Creek. It's our home.

As life would have it, in the past 18 months, Diana and I have been blessed to help care for my aging parents, both in their nineties. (My father passed away in February 2022). But the journey is anguishing. We have experienced the best and the worst of assisted living, memory care, and adult care homes. Just before Thanksgiving last year, we removed my mother from her home and community because my father was gone, and she could no longer live alone. It was heartbreaking for my mother and our family.

Diablo Glen changes these possibilities as we age: a place to call home for as long as necessary, build community, and enter the last phases of life with dignity and as much independence as possible. To quote Atule Gawande in his book, *Being Mortal*, "...we have the opportunity to refashion our institutions, our culture, and our conversations in ways that transform the possibilities for the last chapters of everyone's lives."

Walnut Creek will be well-served by Diablo Glen. Done right, it should enrich lives, not just those of Diablo Glen's residences, but of the greater community. The neighboring schools, neighborhoods, and the Diablo Glen team and residents should work together to compromise and mitigate reasonable concerns - as a community.

With thanks and appreciation,

Bob and Diana Weede

Redmond, WA 98052

From: Tim Carter
Sent: Sunday, November 27, 2022 1:41 PM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: In Regards to the Diablo Glen development

To Karen Mitchoff

We encourage a yes vote in regards to the important Diablo Glen development. This project is important to me as I continue to prepare for one of life's last chapters. Although my wife and I are in good health today, we assume our needs will change in the future and communities such as Diablo Glen offer unique options for those in need of special care without relocating. I was born and raised in Contra Costa county (Walnut Creek and Orinda) and our entire family lives in, and loves the area. My family and I find the unique Diablo Glen option by far the best choice available to meet our needs for the future.

Thank you for your consideration, Tim Carter

From: Christy Dallimonti
Sent: Sunday, November 27, 2022 2:30 PM
To: supervisor_burgis@bos.cccounty.us; supervisoranderen@bos.cccounty; district5@bos.cccounty
Subject: Diablo Glen

To Whom It May Concern:

I was born and raised In this area and have lived here my whole life. My husband died of early dementia 2 years ago short of our 40th anniversary. I am left with a house to maintain which is overwhelming and it is not my desire to purchase another home and more headaches and problems.
Diablo Glen is the perfect solution, for moving into new accommodations, with activities, close to children, grandchildren, friends, the area I know and love, and has the needs for my future, so my kids will not have to be burdened or worry. Not only all this I would be surrounded by other seniors in the same boat.
What better solution is there? We are aging and living longer and need these types of places for our lifestyle and future years.
Please understand these needs and vote in a positive and affirmative way for us seniors.
Thank you for your time,
Christy Dallimonti

From: **Curtis Caton**
Date: Sun, Nov 27, 2022 at 6:52 PM
Subject: Urging Your Support of the Diablo Glen Project
To: <supervisormitchoff@bos.cccounty.us>
Cc: <John_Giola@bos.cccounty.us>, <supervisorandersen@bos.cccounty.us>, <supervisor_burgis@bos.cccounty.us>

Dear Supervisors

We write to ask your vote of approval for the Continuing Care Retirement Community proposed by Diablo Glen. As a couple with an 11 year age difference between us, it is very likely that the older of us will need to utilize the various alternative care options provided by the health care center contiguous to the residential portion of the development. It is a uniquely attractive prospect to move into a comfortable residence in good health in the familiar and lovely area we live in now, and be assured that neither of us will need to relocate to deal with whatever develops thereafter.

The other factor that invites our support is the proven track record of excellence and commercial success by the organization behind Diablo Glen. They have several other similar facilities throughout California, praised for beautiful and practical design and conscientious follow-through.

Thank you for your consideration of our views.

Curt and Robin Caton, residents of Lafayette

From: Allan Prager
Sent: Monday, November 28, 2022 10:52 AM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: In support of Diablo Glen

I write to encourage you to vote in favor of the Diablo Glen project. I am a 40+ year resident of Orinda looking forward to moving into the Diablo Glen facility when it is completed.

I served for 17 years on the board of Save Mount Diablo, and I understand when land should be preserved and when it should be developed to provide much-needed housing.

Thank you for your support.

Allan Prager
Orinda

From: Barbara Evans
Subject: SUPPORT FOR DIABLO GLEN
Date: November 28, 2022 at 11:22:17 AM PST
To: supervisormitchoff@bos.cccounty.us, John_Gioia@bos.cccounty.us, supervisorandersen@bos.cccounty.us, supervisor_burgis@bos.cccounty.us, district5@bos.cccounty.us

Dear Contra Costa County Supervisors:

We have lived in the beautiful Walnut Creek area for over 60 years. Now that we are older, we find that maintaining a home and garden, along with all other necessities, is becoming a challenge. We would like to remain in the area and hope that the Planning Commission will approve the plans for the much needed retirement development that Diablo Glen will offer older adults. After viewing many of the Spieker developments, **all of which are** carefully and beautifully designed, DiabloGlen will be an asset for Walnut Creek.

Your approval of the Diablo Glen Development is essential for an exponentially growing older population and to add a beautiful complex for the growing generation of those over 55 years of age. We are not ready yet ready for assisted living and would like to look forward to a safe and beautiful facility in which to grow older.

Thank you for your positive vote for this beautiful facility.

Sincerely,

Bruce and Barbara Evans

TO: The Contra Costa Board of Supervisors
RE: Diablo Glen

The Letter I Almost Didn't Write Because I Thought It Was OK to Not Cast My Vote. And We All Know the Consequences of That, Don't We?

It's 6:00 am, Saturday, November 26. I'm wrestling to explain to people I don't know why the possibility of this retirement facility is so important to me. How do I put a face to the decision you're about to make?

I've lived in Walnut Creek since I was 25 and was a 7th grade teacher at Foothill. I've absolutely loved this city. I'm now 75 and the decision maker of the family; the one in charge of my husband and myself and I'm scared.

We're facing the last part of our lives and I don't know how to plan for it. We live near Heather Farm. I cannot imagine packing us up, navigating a new community, making new connections, getting new doctors, let alone feeling safe. Lately I've noticed I'm not comfortable driving at night.

But I do know that what Diablo Glen is offering feels so well thought out. We'll be able to meet new people, have healthy food, get the care we need in a dignified manner. In short, we'll have options, even if it's just watching the leaves turn color. This age group I now find myself in is kinda scary. The decision you're about to make could provide us a sense of community, dignity and safety.

Please approve going forward with Diablo Glen.

In reflection of the opening comment, I wrestled so long about letting this letter not get written. We're seeing the result of not speaking up, aren't we? Politically, socially, morally it almost became ok to let others decide and then were dismayed at the result. I'm one voice, and you may not be affected by what I've written, but for me, I spoke up, and that's what matters.

Sincerely,
Elaine and Dave Wegenka

From: Luanne Lotito
Date: November 26, 2022 at 9:44:06 AM PST
To: supervisormitchoff@bos.cccounty.us
Cc: supervisorandersen@bos.cccounty.us, supervisorburgis@bos.cccounty.us, district5@bos.cccounty.us
Subject: Support for Diablo Glen Project

We are Michael and Luanne Lotito of Orinda. We have lived in the Bay Area for approximately 40 years. We urge the Board to approve the Diablo Glen project as it will be a significant benefit to the community and its residents for at least the following reasons.

1. Diablo Glen is a responsible company with a strong track record of designing, constructing and maintaining an excellent senior housing complex.

2. Diablo Glen communities are assets to their existing locations by being good neighbors which provide excellent employment opportunities for staff with an outstanding financial foundation.

3. The residents are almost exclusively from the Bay Area who wish to continue living close to family and friends while enjoying the many benefits of Contra Costa County.

4. Speaking for ourselves and likely many others, by living and being cared for at Diablo Glen, we relieve the county, state and federal governments from any obligations towards us at tax payer supported institutions which often fail to provide high levels of care. We wish to pay for ourselves at a location of our selection.

5. Due to the creative financing Diablo Glen provides, Michael and I are more likely to have inheritance funds available for the education of our two grandchildren (who live in Moraga) thereby assisting them to fully pay for college without assuming crushing debt.

6. Finally, we look forward to volunteering perhaps at the local school and other appropriate County non profits.

Thank you for your consideration.

Respectfully submitted,

Luanne and Michael Lotito

Orinda, CA 94563

PAGE	DATE RECEIVED	DOC DATED	From	DESCRIPTION
150	2022-11-27	2022-11-27	Wayne Willemsen	email (oppose)
151	2022-11-27	2022-11-27	Nancey Vasko	email (oppose)
152	2022-11-27	2022-11-27	Nancy Schott	email (oppose)
153	2022-11-27	2022-11-27	Barbara Ellen	email (oppose)
154	2022-11-27	2022-11-27	William Cottrell	email (oppose)
			Packet 5	
155	2022-11-28	2022-11-28	Paul and Karen Altamirano	email (oppose)
156	2022-11-28	2022-11-28	Moira Pyne	email (oppose)
157-158	2022-11-28	2022-11-28	Save Seven Hills Ranch	email (oppose)
159	2022-11-28	2022-11-28	Bob Joe	email (oppose)
160-328	2022-11-28	2022-11-28	Marcia Newey	email (oppose)
329	2022-11-28	2022-11-28	Linda Lamerdin	email (oppose)
330	2022-11-28	2022-11-28	roasalie and Barry Howarth	email (oppose)
331	2022-11-28	2022-11-28	Ann Hassett	email (oppose)
332-334	2022-11-28	2022-11-28	Bob Simmons	email (oppose)
3335-341	2022-11-28	2022-11-28	Charles Clancy	email (oppose)
342-372	2022-11-28	2022-11-28	Heather Farms	email (oppose)
373	2022-11-28	2022-11-28	Dr. Yvonne LaLanne	email (oppose)
374-394	2022-11-28	2022-11-28	Mariza Rocha, Diablo Glen [Hysinger, Vaughn; Benzler, Sylvia; Hiran, Daniel & Colleen; Hiran, Colleen; Brown, David & Carol; Pezzoli, Bob & Pyllis; Tanner, Anne(Wendy); Miller, Gary & Maggi; Flessner, Jim & Susan; Weede, Bob & Diana; Carter, Time; Dallimonti, Christy; Caton, Curt & Robin; Prager, Allan; Evans, Barbara & Bruce; Wegenk, Elaine & Dave; Lotito, Luanne & Michael]	email collection of letters in support (batch 7)

From: Paul and Karen Altamirano <
Sent: Monday, November 28, 2022 6:39 AM
To: Clerk of the Board
Subject: Public Comment for Nov 29 BOS meeting, Spieker Project

Attention Board of Supervisors:

My husband and I are current owners and residents on Club View Terrace in Walnut Creek, adjacent to the proposed Spieker project.

We oppose this project and cannot believe that the Board of Supervisors and City of Walnut Creek would want and allow a massive development like this to be put in an area currently zoned for residential development. The proposed project is an overly massive development that we feel will adversely impact the adjacent properties and surrounding neighborhood. The Spieker project serves wealthy seniors and does not provide affordable housing in Contra Costa County. The current project as proposed is a gated community, surrounded by walls that will be inaccessible to the public unless visiting current residents.

We strongly feel that any development on Seven Hills Ranch should include some component of public access, with hiking and bike trails that connect through to Heather Farms Park. An open design plan would be much more harmonious with the current community instead of this proposed closed off concrete compound. The adjacent properties to the one main entrance, and the proposed Independent Living Apartments will no doubt be adversely affected by this massive development. Imagine a Target in your back yard towering above your property.

The primary purpose of zoning as we understand it, is to segregate uses that are thought to be **incompatible**. In practice, zoning is also used to prevent new development from interfering with existing uses and/or to preserve the "character" of a community. The Spieker project as proposed is incompatible with the surrounding community, will definitely interfere with the existing community and will **completely** change the "character" of our community. Do you care?

We ask that you, the Board of Supervisors, **deny** the General Plan Amendment.

Thank you for your time.
Paul and Karen Altamirano

156

From: Moira Pyne <
Sent: Monday, November 28, 2022 9:39 AM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment

This is Public Comment on the Draft EIR for County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038, The Spieker Senior Continuing Care Retirement Project.

As a resident of Contra Costa County, I am concerned with the adverse impact upon the native wildlife, environment and irreplaceable scenic views the Spieker Proposal will have.

More specifically: the trees of Seven Hills Ranch serve as a home and migratory host for an abundance of bird species. The Ranch is located directly next to Heather Farm Park. The park is nationally recognized; so much so that it is a designated eBird 'hotspot'. The proposal for Seven Hills Ranch calls for the removal of 400 mature trees, including California Oaks. To allow such a massive removal of native trees and the resultant permanent impact it will have on avian life for the Ranch and the surrounding area is not acceptable, nor is the adverse climate impact from the reduction in trees.

In addition: I ask that the County recognize that the proposal for Seven Hills Ranch does not allow for any wildlife corridors but is instead a walled-off, inaccessible compound. The Ranch is home and habitat to a profusion of animal life; it is where they live and/or travel through to find resources, such as food and water. It is part of a wildlife corridor that stretches from Mt. Diablo and down through Shell Ridge, eventually following along the Walnut Creek to reach the delta. The Spieker proposal for Seven Hills Ranch cuts off a critical habitat along this route removing an essential food source resulting in unthinkable consequences for the lives of the animals.

We need housing. But is this the housing needed? This proposal does not fulfill a needed category of the RHNA - Regional Housing Needs Allocation - for Contra Costa County or Walnut Creek.
It's not "Moderate income" workforce or family housing, it's a special "Above-Moderate income" type of Senior housing, called a Continuing Care Retirement Community (CCRC). Both Contra Costa County and Walnut Creek have fulfilled more than the RHNA required Above-Moderate income category while the Moderate and lower category fulfillment falls short. Additionally, Walnut Creek not only has an abundance of Senior living options, but it also currently has 524 CCRC units open or opening soon.

Moira J Pyne

157

From: Save Seven Hills Ranch <SaveSevenHillsRanch@gmail.com>
Sent: Monday, November 28, 2022 9:54 AM
To: Clerk of the Board
Cc: John Kopchik
Subject: Request to speak in order for 11/29/22 BOS meeting Public Comment Item D1
Attachments: Names of Reader List - BOS 11.29.22.pdf

John Kopchick has informed us that the Chair for tomorrow's Board of Supervisor meeting is open to honoring requests to have a specified group of speakers be called in order for Public Comment for item D1, though each individual speaker will be given the same amount of time (2 minutes) that they cannot not cede to anyone else.

We appreciate this very much. However, we are not sure to whom and at what point in time we should submit our list. **Can you please advise on how we should proceed?**

Attached is our list of individuals we wish to have called in order.

Michele Sheehan
Save Seven Hills Ranch

Public Comment Speakers for *Save Seven Hills Ranch* to be called consecutively for Nov 29, 2022, Board of Supervisors meeting.

1. Paul Altarino
2. Nancy Vasko
3. Amy Ayala
4. Pat McGowen
5. Marian Harris
6. Jan Warren
7. Marilyn Thorne
8. Janet Mahoney
9. Brandon O'Sullivan
10. Lori Moirao
11. Steve Curtis
12. Melissa Pettit
13. Chuck Clancy
14. Olesya Epps
15. Sam Van Zandt
16. William Morrissey
17. Stephanie Dark
18. Claudia Soto
19. Stan Roe
20. Laura Lee
21. Jim Frey
22. Oz Kozaci
23. Dianne Yoder
24. Michele Sheehan

159

From: Bob Joe <
Sent: Monday, November 28, 2022 10:00 AM
To: Clerk of the Board
Subject: SAVE SEVEN HILLS RANACH

PLEASE SAVE SEVEN HILLS RANCH. DENY THE DEVELOPMENT, KEEP IT GREEN!

THANK YOU,
BOB

Robert Joe
BobJoeWC@gmail.com

160

From: Marcia Newey
Sent: Monday, November 28, 2022 10:19 AM
To: Clerk of the Board
Subject: Deny the General Plan Amendment for Seven Hills Ranch
Attachments: 2000 WC General Plan Vision2005 pg162 - Kinross Dr not connect.pdf; 2004 10-28-2004 WCPComm No Kinross Ext - Trail Promise-1.pdf; 2004 11.16.2004 Batch (4a) WCCC Staff Report and Attachments [Released Docs 2021 1.27.21].pdf

11/28/2022

To: Contra Costa County Board of Supervisors
Fr: Marcia Newey, Resident of Heather Farms HOA
Re: General Plan Amendment for Spieker Development

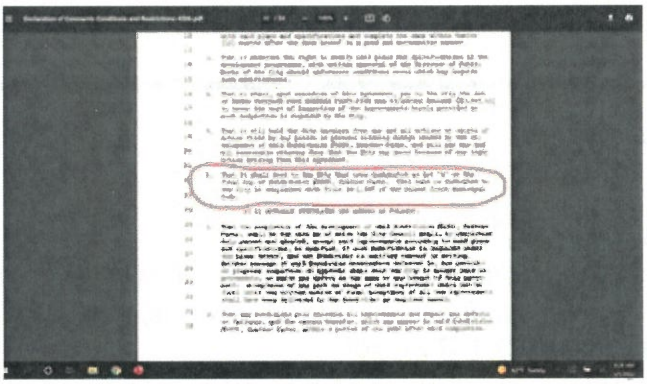
As a 37 year resident of Walnut Creek I am asking the Board of Supervisors to deny the applicant's request for a General Plan Amendment to change the land use designation. The proposed development is not in keeping with the residential neighborhoods that surround it and will additionally increase commercial-type traffic and stress on the community's streets and infrastructure.

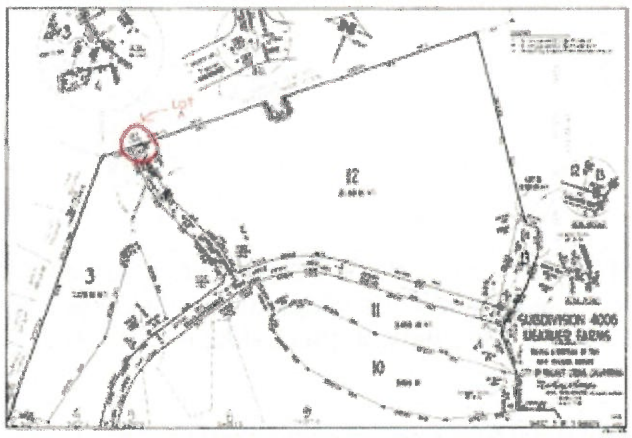
The Contra Costa General Plan states: 3-27, "Existing residential neighborhoods shall be protected form incompatible land uses and traffic levels exceeding adopted service standards." It goes on to say "Preservation and conservation of open space, wetlands, parks, hillsides and ridge lines should be encouraged as it is crucial to preserve the continued availability of unique habitats for wildlife and plants, protect unique scenery, and provide a wide range of recreational opportunities for county residents." While we recognize the huge push for housing we ask that it be sensible and incorporate accessible open space pathways. The proposal is for a massive closed-off gated compound with a guard shack entry planned. The City of Walnut Creek strongly discourages gated entries and we ask that the County recognize the impact on the Walnut Creek Community and ask for a proposal which meets the city's design standards.

In years past and in various City of Walnut Creek documents the City has undertaken various actions and repeatedly expressed that Kinross Dr. shall not be connected to Seven Hills Ranch. They sought to protect neighborhoods and their community from the dramatic change and additional impact that would come from such a thoroughfare. As another entrance to that property already existed and still exists they were not and are not denying access to the property. In my written comment I have included copies of the various City documents.

Traffic reports submitted to the County on this proposal do not account for the commercial traffic, the emergency traffic, the 225 part-time equivalent employees - which actually could be upwards of 500 employees - the accessory help and visitors. The proposal calls for 594 parking spaces, 80 of which are next to the Health Care Facility which will be open to the public. The reports are based on the belief that Senior residents of the development will not be driving outside the compound, an unproven hypothesis. Ygnacio Valley Road is impacted hourly regardless of the time of day. The developer has stated they want to locate in Walnut Creek because of the available amenities. People drive to these amenities and Seniors definitely drive. Please align your viewpoint with that of the City of Walnut Creek's historical records and deny this high-volume, high impact development to proceed in order to protect existing neighborhoods and community roadways.

Many of these impacts can be avoided by denying the General Plan Amendment request by the applicant. A less dense development means less impact in many ways including neighborhood disruption and roadway impacts.




12
3
11
10
SUBDIVISION 4006
MEADOWS FARMS

San Luis Road: San Luis Road should be improved to collector street status with the completion of frontage improvements between North Main Street and Buena Vista Avenue.

Walnut Boulevard: Walnut Boulevard needs several minor improvements along the entire street to provide additional safety measures. Exposed drainage ditches, particularly in the northern section of the street, should be covered. Other segments of the street need various safety improvements, but no widening beyond two lanes is proposed.

e. Local Street Recommendations and Improvements

Numerous improvements are needed to local streets within the planning area. Since individual local streets do not usually play an important role in the City's overall circulation system, no attempt has been made to evaluate these streets. However, in a few circumstances, local streets were discussed in the planning process because of external factors or changes from previous City policies. Because of the lack of arterials, local streets in some cases may be impacted by non-local traffic and may warrant traffic diverters or other protective devices.

Central Road: This road (formerly Crokaerts Road) should be retained as a service street between North Main Street and North Broadway. Access should be restricted to right turn in, right turn out at both ends. Once it is improved to City street standards it should be accepted into the City street system.

Commercial Lane: Commercial Lane should be maintained as a Service roadway providing delivery service to business on Main Street and Locust Street.

Kinross Drive: Kinross Drive shall not be connected to Seven Hills Ranch Road.

South Locust Street: South Locust Street should be extended south from Olympic Boulevard to Botelho Drive. *(Reso. 99-17 adopted 4/6/99)*

Wilson Lane: Wilson Lane should be extended as a service road between Lincoln and Duncan Streets to serve as a rear loading alley for business on Main Street and North Broadway.

f. Residential Collector Street Recommendations.

The City has received numerous complaints regarding automobiles exceeding the speed limits on residential collector streets such as Lancaster Road. In response to these citizen concerns, the City is

WALNUT CREEK PLANNING COMMISSION
REGULAR MEETING MINUTES October 28, 2004
7:00 p.m.

COMMISSIONERS PRESENT: Larsen, Jorgensen, Kaplan, Moore, Pickett, Silva, Simmons

COMMISSIONERS ABSENT: None

STAFF PRESENT: Planning Manager Sandra Meyer
Senior Planner Scott Harriman
Senior Planner Janice Stern
Associate Planner Alan Carreon
Assistant Planner Deborah Han
Assistant City Attorney Margaret Kotzebue

Chair Larsen called the Planning Commission meeting to order at 7:08 p.m. in the City Council Chambers, City Hall.

ADDITIONS/WITHDRAWALS/CONTINUANCES
None.

PUBLIC COMMUNICATIONS
None.

CONSENT CALENDAR

a. **Adopt Meeting Schedule for 2005**
b. **Approve minutes of September 23, 2004**

On motion of Commissioner Pickett, seconded by Commissioner Jorgensen, the Commission present voted unanimously to approve the Consent Calendar.

AYES: Pickett, Jorgensen, Kaplan, Larsen, Moore, Silva, Simmons.
NOES: None.
ABSENT: None.
ABSTAIN: Kaplan, Silva, Simmons (on item b only).

Motion passed.

PUBLIC HEARINGS

1. **GENERAL PLAN 2025** – Staff will provide a status report, and the Planning Commission may discuss and provide direction to staff on issues arising from the General Plan update.

Senior Planner Janice Stern presented the staff report, discussing the meeting this week that completed the review of goals, policies and actions. She gave highlights of the discussions on urban design and community support systems. She also reviewed the possible time schedule for the rest of the process before the Plan is passed on to the Planning Commission.

Commissioner Pickett asked when the community meetings would be held. Ms. Stern said Wednesday, November 17th in the evening and Saturday, November 20th in the morning, to discuss plan alternatives.

Chair Larsen encouraged public attendance and participation in the process.

2. **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course. The project is situated at the end of Kinross Drive, north of Marchbanks Drive. ZONING: P-D, Planned Development (PD 859)

Senior Planner Scott Harriman presented the staff report, reviewing the 12-lot subdivision (with one affordable unit), new private street, offsite utilities, drainage plan, rezoning requirements, location map, General Plan designation, zoning and the history of the application, including preliminary review by the Planning Commission. He noted that revised plans were provided at the dais tonight. He also discussed the site constraints that resulted in "no build" zones due to environmental concerns, landscaping, fencing, revised golf course planting area, and easements for offsite utilities and drainage.

Mr. Harriman reviewed the Mitigated Negative Declaration and summarized potential impacts and proposed mitigations, as well as public comments and responses. Staff recommends approval of the project.

Chair Larsen asked about maintenance of the "no build" zone. Mr. Harriman indicated that deed restrictions will require the owners to maintain the area.

Commissioner Silva asked about the natural fall of water runnoff from the rain. Mr. Harriman said that most of the water soaks in, although he acknowledged the occurrence of sheetflow through Kinross Drive at times of heavy rain. Development of the area should minimize the effects.

Commissioner Simmons asked whether Kinross Drive would be open to the public. Mr. Harriman said staff agrees it should be a public street. He also expressed his personal opinion that the street should not be narrowed.

Commissioner Simmons asked whether sewage would follow the same path as the storm drain. Mr. Harriman showed the routes of both the proposed sewage and storm drains.

Commissioner Simmons asked who would be responsible for necessary repairs. Mr. Harriman said it would be a private facility, maintained by the homeowners association.

Commissioner Simmons asked about the locations of open wire fencing. Mr. Harriman showed specific locations on the site plan.

Chair Larsen asked and Mr. Harriman confirmed that the narrowing of the street would be the responsibility of the applicant.

F

Commissioner Silva asked and Mr. Harriman showed the end location for the existing Kinross Drive.

Public hearing

Chair Larsen noted that the City Attorney had agreed that he did not need to recuse himself from the item.

ALAN CAMP, Delco Builders, said he had no problems with the conditions of approval. He offered to answer questions from the Commission.

Commissioner Pickett asked the yardage distance of the golf course green. Mr. Camp said it was between 140 – 150 feet. Commissioner Pickett asked and Mr. Camp confirmed the distance to the nearest house was about 100 feet. Mr. Camp also mentioned that it meets the standards for golf courses.

Commissioner Pickett asked who would be responsible for the maintenance of the landscaping along the green. Mr. Camp indicated the golf course would, since it will be on their property. Mr. Camp said the same situation would occur on the north side of the street, where the developer will supplement existing landscaping, and the Heather Farms Homeowners Association (HOA) will assume responsibility.

Commissioner Pickett asked how many private parcels will be crossed for the drainage system.

Engineer Vince D'Alo said it would only cross one parcel, and the rest of the system will be along private streets (Homestead and Seven Hills Ranch Road). He discussed the ownership of the roads by absentee heirs.

Commissioner Pickett questioned the complexity of obtaining the easements. Mr. Welm discussed the contract process and provision for maintenance of the system.

Commissioner Pickett asked if the public right-of-way would be changed. Mr. D'Alo said the entire cul-de-sac would be designated public right-of-way.

Commissioner Silva asked for clarification on the fence locations, which Mr. Camp provided, discussing the use of lattice, welded wire and solid board materials in various spots.

Commissioner Silva asked about a walk-thru to Seven Hills Ranch Road. Mr. Camp said it would be a continuation of an existing public trail, although it was not an improved trail.

DOYLE HEATON discussed the length of the application process and recent awards for best development in the City for another project, as well as the company's reputation for quality developments.

Mr. D'Alo clarified that a public trail will be established to Seven Hills Ranch Road, noting that there is not one currently. Commissioner Simmons asked where the trail would be, and Mr. D'Alo showed it on the map.

Mr. Harriman noted that the current General Plan says there shall be no connection from Kinross Spur to Seven Hills Ranch Road.

CHRIS CAIN, 955 Seven Hills Ranch Road, spoke in opposition to the rezoning, disputing staff's interpretation of the legality of converting golf course use to residential. He also disputed the description of the project as "infill development." He expressed concern about the impact of the offsite drainage on existing homes, noting that the pipes should be completely under the street. He also commented on engineering difficulties with the circular route to the creek around an existing oak tree.

Commissioner Kaplan asked the location of Mr. Cain's home, and Mr. Cain showed on the site map. Commissioner Kaplan asked for clarification about perceived precedence to allow further golf course conversion to residential use..

BRUCE HEROLD, 1556 Homestead, agreed with Mr. Cain's analysis of the history of the property. He noted that the property to the immediate west is zoned for ½-acre lots, and promises were made to the low-density neighbors that the golf course would serve as a buffer zone from higher density areas. He asked the Commission to consider ½-acre lots instead.

Mr. Herold also shared pictures of the cyclone fence along his property line, which is now covered in landscaping and his desire to keep it as such, in order to discourage deer. He also expressed concern about drainage to his lot from the natural contours of the land.

Commissioner Silva asked where the deer come in; Mr. Herold said from Homestead.

CHARLES HENDRIX, 2012 Walnut Street, said he was opposed to the development and the golf course should remain as an open space buffer zone. He commented on the impact on his property from drainage. He also commented on the multiple jurisdictions involved and the ultimate responsibility for maintenance. He questioned public posting of the project, construction traffic on Walnut Boulevard and the impact on natural wildlife in the area.

DOLLIE MALCEWICZ, President of Heather Farms Homeowners Association, questioned Mr. Camp's assertion that they will maintain the landscaping along the tennis courts, since a formal agreement has not been approved by them (or even discussed as far as she knows). Chair Larsen asked her position on the development. She indicated that some in the association were for it, and others were not, so the board was remaining neutral.

CARL SWANSON, 1515 Homestead, expressed concern about drainage and sewage and the ability of the new HOA to financially bear the responsibility. He also expressed concern about the new public trail and its impact on the quiet enjoyment of his home.

Commissioner Pickett asked about the sewer backup in his neighborhood. Mr. Swanson said he didn't know the details except that a neighbor had to leave his home for the past six months due to a break in the line.

Commissioner Silva asked the location of Mr. Swanson's home. He pointed it out on the area map.

STEVEN MEHLMAN, 2125 Oak Grove (attorney representing Robert Henderson of 1578 Siskiyou) discussed his prior experience on the Planning Commission and in the neighborhood. He commented on deficiencies in the Environmental Impact Report and agreed with Mr. Cain that this was not an infill project. He further discussed growth-inducing impacts of the development, and he also cautioned that the conditions of approval should include restriction of further development on the golf course.

Commissioner Jorgensen asked when the tennis courts were put in and confirmed they were part of the Heather Farm Planned Development in 1973.

Commissioner Jorgensen asked and Mr. Mehlman confirmed that the golf course area was originally intended as a buffer zone.

Commissioner Moore questioned whether a condition could be added restricting further development of the golf course, noting that a deed restriction or statement of intent in the findings might be more enforceable. Mr. Mehlman suggested both be done.

There was further discussion about the enforceability and legality of different options to convey the desire of the City that no more of the golf course be developed.

Commissioner Pickett asked about the location of the 7th fairway and the tennis courts, as opposed to the proposed location for this development. Mr. Mehlman discussed the original intent of the Planned Development for the golf course to serve as an open space buffer.

ROB HENDERSON, 1578 Siskiyou, discussed the history of the area and the original EIR for the property in 1984. He also read an excerpt discussing the precedence that would be set by allowing residential use on the site. He noted that legal action was being taken to block the proposed development.

JON ARCK, 509 Adirondack Way, said he had been opposed to high density development on the site, but he expressed support for this as a reasonable, well-thought-out proposal. He also encouraged the narrowing of the street to deter excessive parking in the area. He commented on his impressions of discussions with the Heather Farm HOA, noting he was a member as well.

Commissioner Jorgensen asked about the proposal to add landscaping along the tennis courts. Mr. Arck said he was familiar with the proposal but he had not seen an actual maintenance agreement.

Commissioner Kaplan confirmed the location of Mr. Arck's home. He also confirmed that Mr. Arck preferred some of the curb be red, for a no-parking area.

Commissioner Pickett confirmed that the homes on Siskiyou were in the same HOA that Mr. Arck was in. Mr. Arck said there were 359 homes in the HOA, although he acknowledged there were others in the area as well. Commissioner Simmons asked if the bylaws would allow the new residents to join the Heather Farm HOA. Mr. Arck said he was not sure.

Commissioner Simmons asked about money spent by the Heather Farm HOA for landscaping along Kinross. Mr. Arck said there is existing landscaping, but it could be improved.

ANTHONY NEWEY, 521 Adirondack, noted that 18 of 21 homeowners on his street support the project, and they live closer to the site than any other homes. He indicated that the developer has been extremely attentive to the neighbors' concerns.

In response to a question from Commissioner Kaplan, Mr. Newey said he had lived on Adirondack since 1985, and he was not involved with previous development applications for the site. Commissioner Simmons asked for clarification on when Mr. Newey talked with his neighbors about the project. Mr. Newey said it was more than two years ago.

DONNA SMITH, 1526 Siskiyou, expressed opposition to the project, commenting on possible traffic impacts on Ygnacio Valley Road.

Rebuttal

Mr. Camp discussed the flexibility of the General Plan, which allows for a review process and adjustment as the community needs change. He clarified that a landscape agreement has not been finalized with Heather Farms HOA yet, although it has been discussed with them at several community meetings with them. He apologized to Ms. Malkowitz for giving the wrong impression that a formal agreement has been completed. He expressed willingness to work with the neighbors to address their concerns. He noted that the proposed development would serve as a transition between high and low density areas.

Mr. D'Alo said that the Central Sanitary District was aware of the problem on Homestead and acknowledged that the developer will be responsible for enlarging and upgrading the equipment along the line. He noted that there would be peer review of the drainage plan as well.

Commissioner Pickett asked if the stormwater runoff into the creek would be bearable. Mr. D'Alo noted that 70% of the previous drainage to the creek had been diverted to the Walnut Creek channel, and thus the creek should be able to handle additional drainage from this development.

Chair Larsen asked and Mr. D'Alo confirmed that the applicant would be responsible for ensuring that the drainage lines would be adequate.

Commissioner Simmons asked the nature of the problem at the Homestead residence. There was some discussion of the type and size of pipes to be used for the drainage system.

Commissioner Pickett asked about the ability of the new HOA to address and repair later problems. Mr. Heaton discussed standard conditions for an HOA and the governance by the California Department of Real Estate (DRE) over homeowners associations. Commissioner Pickett confirmed that liquidity is built up over time, and the DRE will ensure there are adequate funds.

Commissioner Pickett asked about traffic impacts. Mr. Heaton noted that a traffic survey had been completed, indicating the new homes will have less impact than the ballfields at Heather Farm Park.

Commissioner Silva asked how many feet of sewer and drainage lines would be maintained by the HOA. Mr. Heaton said the HOA will maintain the storm drain, but the Central Sanitary District will maintain the sewer lines.

Commissioner Kaplan asked for staff response regarding the additional condition for no further development on the golf course. Mr. Harriman said the City could not place conditions affecting offsite land rights. City Attorney Margaret Kotzebue said the tentative map approval would only apply to this development, not the rest of the golf course.

Mr. Harriman suggested the findings for approval could address the issue. Ms. Kotzebue agreed.

Commissioner Kaplan asked about the traffic issue. Mr. Harriman discussed the traffic analysis done in 2001, which indicated minimal impacts from this development.

Commission Comment

Commissioner Moore said his support for the project had not changed from previous hearings. He said it was an appropriate land use for the site, and the Mitigated Negative Declaration adequately addressed environmental concerns. He expressed sympathy for the concerns of the neighbors, and he suggested that Mr. Herold's fence remain. He agreed that a statement in the findings could clarify the unique application to this site only, with no legal precedence intended. He also expressed appreciation to the applicant for his work with the neighbors.

Commissioner Pickett agreed with Commissioner Moore. He characterized the project as infill, relatively small in comparison with the neighborhood and not inconsistent with the original intent. He did not think approval of this development would set precedence, and he expressed support for the narrowing of Kinross and limiting parking to one side. He also indicated that the storm drain and sewer problems had been addressed by the City requirements, state regulations and oversight by the Central Sanitary District. He agreed the proximity to the golf course would not create significant impacts. He indicated his support for the project.

Commissioner Kaplan expressed appreciation for the community input. He encouraged the developer to continue to work with the neighbors to address their concerns. He indicated he supported the project with a clear statement of intent added to the findings.

Commissioner Simmons agreed the developer had done a reasonable job in responding to the neighbors. He expressed appreciation for the open wire fencing along lot one. He suggested the street should not be narrowed. He also expressed concern about adequate access to the storm drains at the end of Kinross when new vegetation is planted.

Commissioner Silva expressed appreciation to the public for their comments. She said she was sympathetic to their concerns, but she agreed that the drainage plan will be sufficient to meet the needs of the neighborhood. She too felt there would be no legal precedent, noting that it has taken 23 years for the project to reach this point with no proposal for further encroachment on the golf course.

Commissioner Jorgensen agreed the project was a reasonable proposal, especially compared to past proposals. He was especially appreciative of the affordable unit. He agreed Kinross should

not be narrowed. He indicated he would support the application, with a statement of intent in the findings.

Chair Larsen expressed agreement with the other Commissioners. He also agreed the street should not be narrowed.

On motion of Commissioner Pickett, seconded by Commissioner Jorgensen, the Commission voted unanimously to approve P-D Rezoning, Vesting Tentative Map 8457, Design Review Application No. Y03-003, with a statement of intent in the findings and agreement from the homeowners association for maintenance of the landscaping.

AYES: Pickett, Jorgensen, Kaplan, Larsen, Moore, Silva, Simmons.
NOES: None.
ABSENT: None.
ABSTAIN: None.

Motion passed.

Chair Larsen thanked the public for their attendance and comments.

The Commission recessed from 9:20 to 9:25.

3. **APPEAL OF A ZONING ADMINISTRATOR'S DECISION TO APPROVE A MINOR SUBDIVISION (MS 803-01), VARIANCE AND TREE REMOVAL PERMIT (PUBLIC HEARING)** The proposed two-lot subdivision is located at 1 Eckley Lane. ZONING: R-15 (Single Family Residential)

Senior Planner Janice Stern presented the staff report, reviewing the existing conditions at the site, zoning, General Plan designation, location map, subdivision map, zoning administrator approval and findings, and proposed tree removals. She summarized the grounds of the appeal by Gary and Judith Ginder, including the historic role of the Eckley family in Walnut Creek, inconsistencies with the Howe Homestead Park Master Plan, and the need for an environmental impact report. She also discussed staff's response to the appeal, including recommendation that the Zoning Administrator's decision be upheld.

Commissioner Jorgensen asked about the installation of curbs, streets and gutters. Ms. Stern clarified the related conditions.

Commissioner Simmons asked about other 2-story homes in the immediate area. Ms. Stern said there were none other than the Howe home, although others in the area could be upgraded to 2-story.

Commissioner Silva asked who has the responsibility to determine historical significance. Ms. Stern noted that in the absence of any City codes related to historic preservation, staff had sent a letter to the Walnut Creek Historical Society, whose response had indicated it was not a historic resource. She indicated that ultimate responsibility lies with the interested parties to bring forward significant information.

Public Hearing

SKIP BERGESEN, applicant, expressed satisfaction with the conditions of approval. He asked for Commission approval of the subdivision, noting that the aggregate size of the two lots exceeds the minimum requirement.

GARY GINDER, 549 La Vista Road, reviewed the basic issue of whether it is appropriate to destroy the Eckley home. He discussed the background of the application and research into the early family history. He also disputed staff's assertion that no new information had been brought related to the significance of the home.

JUDITH GINDER discussed the letter from the historical society about the inventory of potentially significant historic structures in the City, as well as the role of the Eckley family.

Mr. Ginder concluded with a discussion of the current list of historic structures, noting that not being on it does not preclude a structure from historic preservation. He also discussed the need for a City ordinance to address the issues. He asked the Commission to grant the appeal, sending the item back to staff to determine whether the house can be moved onto Howe Homestead Park. He also commented on the intent of the Howe Master Plan, and questioned why the City has done nothing to make the homestead into a public park.

Commissioner Simmons commended the Ginders for their careful research. He asked whether the Eckley home is unique in terms of structure or architectural style. Mr. Ginder said it wasn't, but he noted that there are other historic homes whose only significance is the person or people who lived there.

Commissioner Pickett asked if the possibility of moving the house was raised at the Zoning Administrator hearing. Mr. Ginder acknowledged it was not specifically discussed.

Chair Larsen asked who would be responsible for moving the house. Mr. Ginder said Mr. Bergesen could probably move it more cheaply than demolishing it.

ED HIRSHBERG discussed his experiences with moving structures. He indicated the building would probably not survive the move, or at best, would require extensive repair and renovation after moving it.

Commissioner Kaplan asked about the possibility of moving the structure, but not restoring it to habitable condition. Mr. Hirshberg said it would still need a lot of work.

DAVID SKINNER, 3018 Walnut Boulevard, discussed his 30 years experience with the city of Oakland Parks Department and the impact from the loss of open space. He said subdividing the lot would have a negative impact on Howe Park.

Commissioner Kaplan asked if Mr. Skinner thought the City should buy the property. Mr. Skinner said yes, the City should consider purchasing the property and adding it to the park space.

PRIMO FACCHINI, President of the Walnut Creek Historical Society, said Mr. Ginder's presentation was accurate and helpful. He noted that Mr. Ginder was a member of the Society

Commissioner Silva asked about the hours of operation, which the applicant reviewed. At the suggestion of Commissioner Silva, Planning Manager Sandra Meyer agreed the hours could be clarified in the conditions.

Mr. Boyers thanked Lieutenant Skinner for his assistance and attendance at the meeting.

Assistant City Attorney Margaret Kotzebue added a CEQA statement to the conditions.

Commission Comment

On motion by Commissioner Moore, seconded by Commissioner Kaplan, the Commission voted unanimously to approve Conditional Use Permit Application No. Y04-094, with clarification to the hours of operation.

AYES: Moore, Kaplan, Jorgensen, Larsen, Pickett, Silva, Simmons.
NOES: None.
ABSENT: None.
ABSTAIN: None.

Motion passed.

COMMISSION CONSIDERATIONS

None.

CORRESPONDENCE

None.

STAFF'S BRIEF ANNOUNCEMENT OR BRIEF REPORTS ON HIS OR HER ACTIVITIES

None.

COMMISSIONERS' BRIEF ANNOUNCEMENTS OR BRIEF REPORTS ON HIS OR HER ACTIVITIES

None.

ADJOURNMENT

Chair Larsen adjourned the Planning Commission meeting at 11:45 p.m. to the next special meeting November 4, 2004.

SANDRA MEYER, Secretary
Walnut Creek Planning Commission

CITY OF WALNUT CREEK

Agenda Item No. 5

AGENDA REPORT

DATE: NOVEMBER 16, 2004

TO: CITY COUNCIL

FROM: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING

SUBJECT: **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course situated at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006).

STATEMENT OF THE ISSUE:

The applicant is requesting that the City Council approve rezoning of a 3.58-acre site to allow for the development of a 12-unit residential subdivision on a vacant portion of the Diablo Hills Golf Course at the end of Kinross Drive, north of Marchbanks Drive. The proposed Kinross Terrace rezoning and tentative map has been reviewed at public hearings before the Planning and Design Review Commissions and has been revised a number of times in response to comments received by staff, the neighborhood, and Commissions. On October 28, 2004, the Planning Commission voted unanimously to recommend that the City Council adopt the Mitigated Negative Declaration and approve the Kinross Terrace rezoning.

RECOMMENDED ACTION:

The Planning Commission and staff recommend approval of the Mitigated Negative Declaration and the proposed P-D, Planned District rezoning.

DISCUSSION:

Background: The 3.58-acre project is situated within PD 859, which was adopted in 1966 as part of the Heather Farms development. PD 859 was approved with a mix of single and multi-family homes up to a maximum of 1,150 dwelling units, a nine-hole private golf course and clubhouse. The PD allowed clustering of homes on approximately 78-acres throughout the 150-acre site. The nine-hole golf course and accessory uses (parking, club house, driving range, etc) would occupy the remaining land area. PD 859 also set aside approximately 52 acres for a city park (future home of Heather Farms park). At some point in the mid 1970's the golf course was altered to shorten the 6th hole and redirect the 7th hole, eliminating the

proposed project site from active play. Shortly thereafter, three tennis courts were installed by the original developer at the northwest corner of Marchbanks and Kinross Drives in the proximity of the original 7th hole. Since that time, the remaining 3.58-acre portion of the site, where the 6th hole was originally located, has remained vacant.

In the mid-1980's, an application to develop the 3.58-acre site for a 51-unit condominium project was submitted. A draft environmental impact report was prepared and circulated on the proposed 51-unit project. The application was, however, withdrawn by the project sponsor prior to any city action. A proposal in 1996 for 20 units was also withdrawn prior to any city action.

Project Description: The project proposes construction of a 12-lot residential subdivision on a vacant 3.58-acre site consisting of 10 detached units and 2 attached units. Lot sizes for the 2 attached units are 3,916 and 4,992-sqaure feet. The other ten lots range from 5,476 (Lot 10) to 30,208-square feet (Lot 1). The average lot size is approximately 11,300-square feet.

The project is located on land that was previously filled for the 6th hole of the golf course as described above. Presently the site contains native grasses and a number of trees planted as part of the golf course. Surrounding land uses include single-family residences on the knoll above to the north, multi-family residences to the east (Stoneridge Apartments), golf course property to the south, and single-family residences below to the west. A portion of the project site is adjacent to the Seven Hills Ranch property, which is an unincorporated property.

General Plan Land Use and Zoning: The 3.58-acre project site is designated MFL, Multifamily Low (6 to 14 du/ac) in the General Plan. The multi-family low designation envisions higher densities in close proximity to commercial and job centers and to serve as transition between single-family neighborhoods and commercial or higher density areas. The proposed 12 detached dwellings on 3.58-acres represent a density of 3 units per acre when viewed independently. Within the context of the entire planned district, a density of 6.6 units per acres is achieved.

The current PD 859 zoning establishes a maximum density of 1,150 units on approximately 78-acres throughout the 150-acre development. Currently, the Planned District contains approximately 986 units which would increase by 12 to 998-units should the project gain approval. The PD allows for a mix of unit types clustered around the private golf course. The proposed 12-lot subdivision would not exceed the maximum allowable density as established in the existing PD district regulations and would be consistent with the Multi-Family Low General Plan designation of 6 to 14 units per acre.

Other General Plan policies that relate to the proposed project include: Residential Development Policy 3, allowing infill development consistent with character of existing neighborhoods; Policy 7, prohibiting land use changes in residential areas unless findings can be made that character and integrity of neighborhood is preserved; City Design Program 8.1, Discourage gated communities and private streets; and Local Street Recommendation and Improvements, which states that Kinross Drive shall not be connected to Seven Hills Ranch Road.

The project is subject to General Plan Housing Element Policy 13.21 which requires 10% of the units within a for-sale project to be affordable to moderate income households. Based on the provisions in effect during the project review, the project would be required to provide 1 affordable unit. The applicant has designated Lot 8 as the affordable unit.

Environmental Review: A proposed Mitigated Negative Declaration has been prepared and may be considered for recommendation to the City Council (Attachment 3). Pursuant to the City's Environmental Review Regulations, the City Council is responsible for adopting the proposed Mitigated Negative Declaration (MND) to be used in consideration of the proposed development and P-D, Planned Development Rezoning. The proposed MND was released for public review on September 28, 2004 and comments were solicited for a 30-day period ending on October 28, 2004.

The proposed MND evaluated the proposed project and concluded that the proposed project incorporates appropriate measures that would avoid or reduce potential impacts to a less-than-significant level and the project could not have a significant effect on the environment. Proposed mitigation measures have been incorporated into the Mitigated Negative Declaration for adoption as part of proposed project approval.

On October 19, 2004, a letter was received, signed by five area residents, requesting reconsideration of the decision to prepare a Mitigated Negative Declaration and specifying a number of concerns (Attachment 4). In review of the comments received, staff believes that no new information or substantial evidence is presented that the project may cause a significant impact on the environment. A response to these comments is provided (Attachment 5).

Based on the analysis and discussion contained in this staff report and the administrative record as a whole, staff and the Planning Commission believe that findings can be made to adopt the proposed MND.

Tree Preservation/Removal: A tree report, dated March 6, 2003, was prepared for the project by Treescapes, Inc. to evaluate on-site trees (Attachment 6). 52 trees were evaluated; 43 on-site and 9 on immediately adjacent off site properties. Of the 45 trees on site, the project proposes preservation of 20 trees and the removal of 23 . Compliance with the City's Tree Preservation Ordinance and the project's tree report have been incorporated in the projects through mitigation measures contained in the Mitigated Negative Declaration for the project. All on-site and off-site trees shown on the grading plans to be saved will be protected during construction and will be bonded as set forth by the Tree Preservation Ordinance.

A tree report, dated August 8, 2004, was prepared by Joseph McNeil, Consulting Arborist, to evaluate trees adjacent to the off-site storm drain and sanitary sewer lines under Homestead Avenue and Seven Hills Ranch Road (Attachment 7). The report concludes that no trees (other than 2 dead poplar trees) would be removed and that excavation within driplines of trees would be accomplished by hand or with water or air spade. Compliance with recommendations contained in this arborist report and bonding as required by the City's Tree Preservation Ordinance have been incorporated into the mitigated negative declaration.

Referral comments for the City Arborist indicate that of the 23 proposed on-site tree removals, 19 trees comply with criteria for removal and can be authorized by staff. The remaining 5 trees to be removed (474, 485, 488, 1814, 1815) are highly protected Valley Oaks and require City Council approval. These trees are identified as being in reasonably good health but would be impacted by the proposed development.

The City Council, as the highest approving body, must consider the Tree Removal and Dripline Encroachment Permit applications for trees that have not been approved by the City Arborist for removal. The City Council may approve the removal or dripline encroachment permit for, a highly protected tree only if it finds that the burden to the applicant in not removing or encroaching within the dripline greatly outweighs the benefit to the public and that not removing or encroaching within the dripline of the tree would severely reduce the scale or feasibility of the development.

The Planning Commission and staff believe that the City Council can make the required findings for removal of the 5 on-site trees and for the dripline encroachments due to the site constraints associated with preserving wet land areas and open spaces throughout the site, and removing the non-engineered fill soil that was installed in the 1960's with the development of the golf course. These constraints limit development of the site requiring greater land area to achieve desirable residential densities.

Preliminary landscape plans indicate that approximately 20 London Plane, 12 Flowering Pear tree in 24-inch box size. The plan also provides over 60 15-gallon trees throughout the site including Japanese Maple, Camphor, Evergreen Dogwood, Raywood Ash, Crape Myrtle, and Coast Redwood trees. The resulting tree planting will result in a net increase in tree cover. With the additional trees provided, the Commission believes that the proposed landscape plan will appropriately address the mitigation for the tree removals and provide tree plantings consistent with the surrounding neighborhood. Findings and conditions contained in the attached draft resolution support the tree removal, dripline encroachments, and preservation plan.

Sewer and Storm Water Drainage: In the initial phase of development review the project proposed a sewer pump and an on-site, underground storm water retention system. Referral comments from the City Engineering Division and the County Sanitation District recommended revisions to the proposed utility services to provide gravity systems. In response, the applicant has revised their plan to provide gravity systems to existing off-site facilities through easements on private property. A new 8-inch sewer line serving the proposed development would be routed to the west through an adjacent residential lot (Collins property), to an existing 6-inch sewer line in Homestead Avenue. A new 15-inch storm water pipe would be routed westerly, again through the Collins property, northerly along Homestead Avenue, then westerly along Seven Hills Ranch Road to discharge into an existing creek.

While these off-site utilities function hydraulically, the underground lines cross private property and require easements. The applicant has stated that they are working with the Collins property owners to secure an easement, although it has not been finalized or recorded. In addition, research has revealed that Homestead Avenue and Seven Hills Ranch Road, while appearing as public roads, have never been dedicated or accepted by either the City or County and remain privately held property. As specified in the Mitigated Negative Declaration, the City would not condemn off-site private properties to satisfy requirements for a private development. Mitigation measures require that the applicant secure the necessary off-site easements prior to approval of a final map.

Reduced width of Kinross Drive: In the applicant's initial discussions with neighbors in the vicinity of the project site, concerns about parking and inappropriate activities on the dead end portion of Kinross Drive were raised. There was a general consensus of surrounding neighbors that narrowing the roadway would reduce or eliminate the perceived nuisance. The applicant offered to reduce the width of the public street as part of this development proposal to eliminate parking on one side of the street.

Comments received from residents on the Mitigated Negative Declaration question the project's proposal to reduce the width of Kinross Drive citing the loss of street parking adjacent to neighborhood serving tennis courts. Staff noted that both the reduced and current widths are consistent with City roadway standards. The Planning Commission determined that the current street width was consistent with the surrounding streets and provided more street parking. The Commission also felt that the project provides an active use and would eliminate nuisance activities associated with the dead end street. In moving to approve the Tentative Map, the Planning Commission specified that the public Kinross Drive should remain at its current width.

Precedent for further golf course development: Comments from area residents received through out the review process expressed concern that this development proposal would set a precedent for further development of the private Diablo Hills Golf Course. Comments received on the Mitigated Negative Declaration requested that a condition be established with this development that would prohibit any further development of the golf course. While the Planning Commission acknowledged they could not place a condition on the private golf course with this application, they did add a finding to the proposed rezoning recommendation expressing strong support for preservation of the golf course and noting the context of the approval recommendation is based on the projects unique site characteristics along a dead end street and having been historically removed from active golf course use.

DOCUMENTS ATTACHED:

1. Location Map
2. Project Plans
3. Mitigated Negative Declaration and Initial Study
4. Comment Letters and Responses
5. Tree Report (on-site trees), prepared by Treescapes, Inc. dated March 2003
6. Tree Report (off-site trees), prepared by Joseph McNeil Consulting Arborist, dated August 2004
7. October 28, 2004 Planning Commission staff report
8. Planning Commission Resolution 3329 (Recommendation on Rezoning)
9. Planning Commission Resolution 3330 (Tent Map approval, subject to Council action)
10. Proposed P-D, Planned Development Ordinance
11. City Council Resolution (Mitigated Neg Dec and Tree Removal)

COUNCIL ACTION NEEDED:

1. Move to adopt the Resolution approving the Mitigated Negative Declaration and Tree Removal Permit, and
2. Move to introduce and waive further reading of the proposed Planned Development Ordinance and Rezoning

Prepared By: Scott Harriman, AICP

Planning Manager

Community Development Director

Approved By:
City Manager

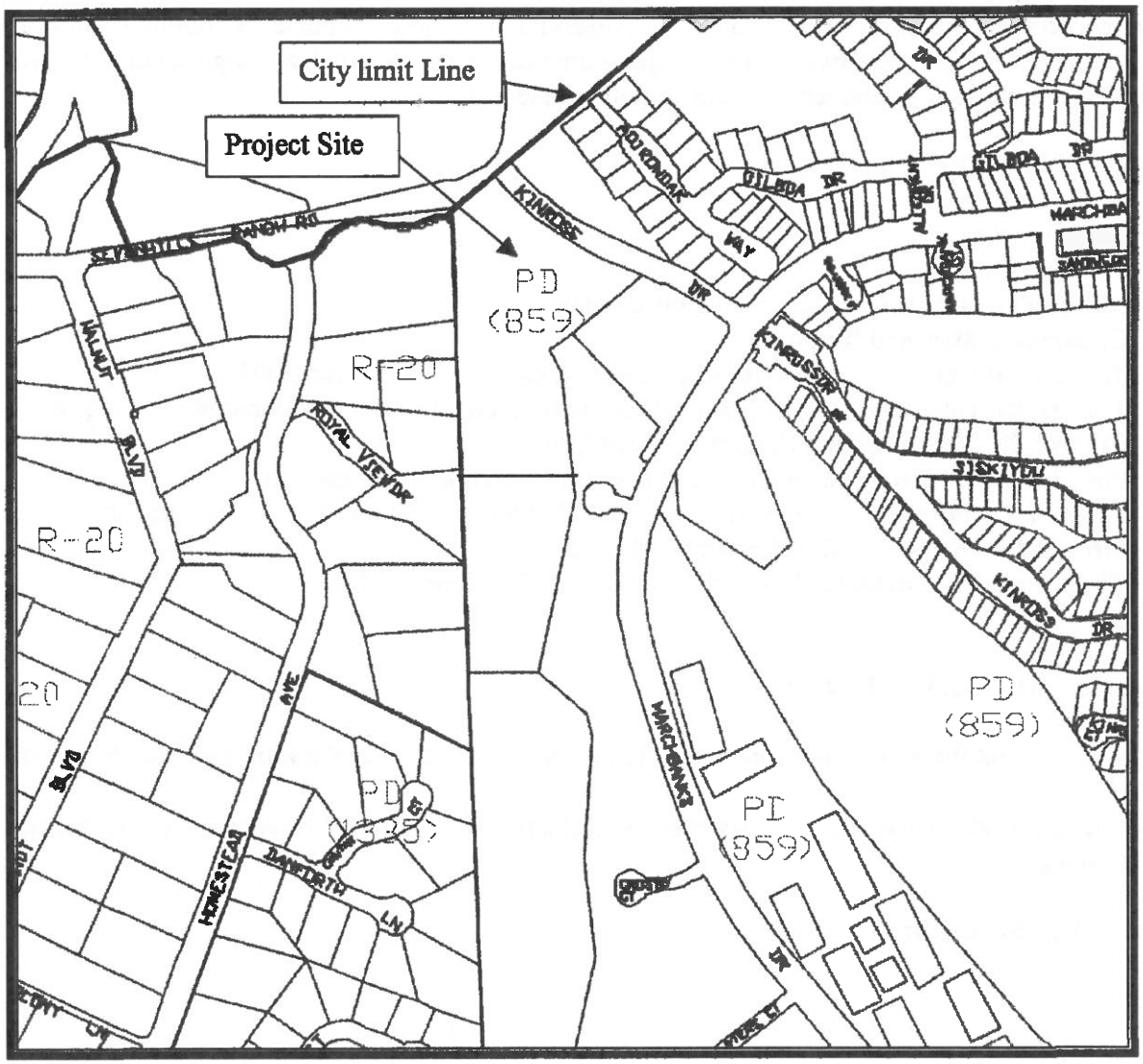
H:\Scott Harriman\Kinross Terrace Subdivision\CC Staff Report 11-16-04.doc

ATTACHMENT 1

City of Walnut Creek

Kinross Terrace Subdivision

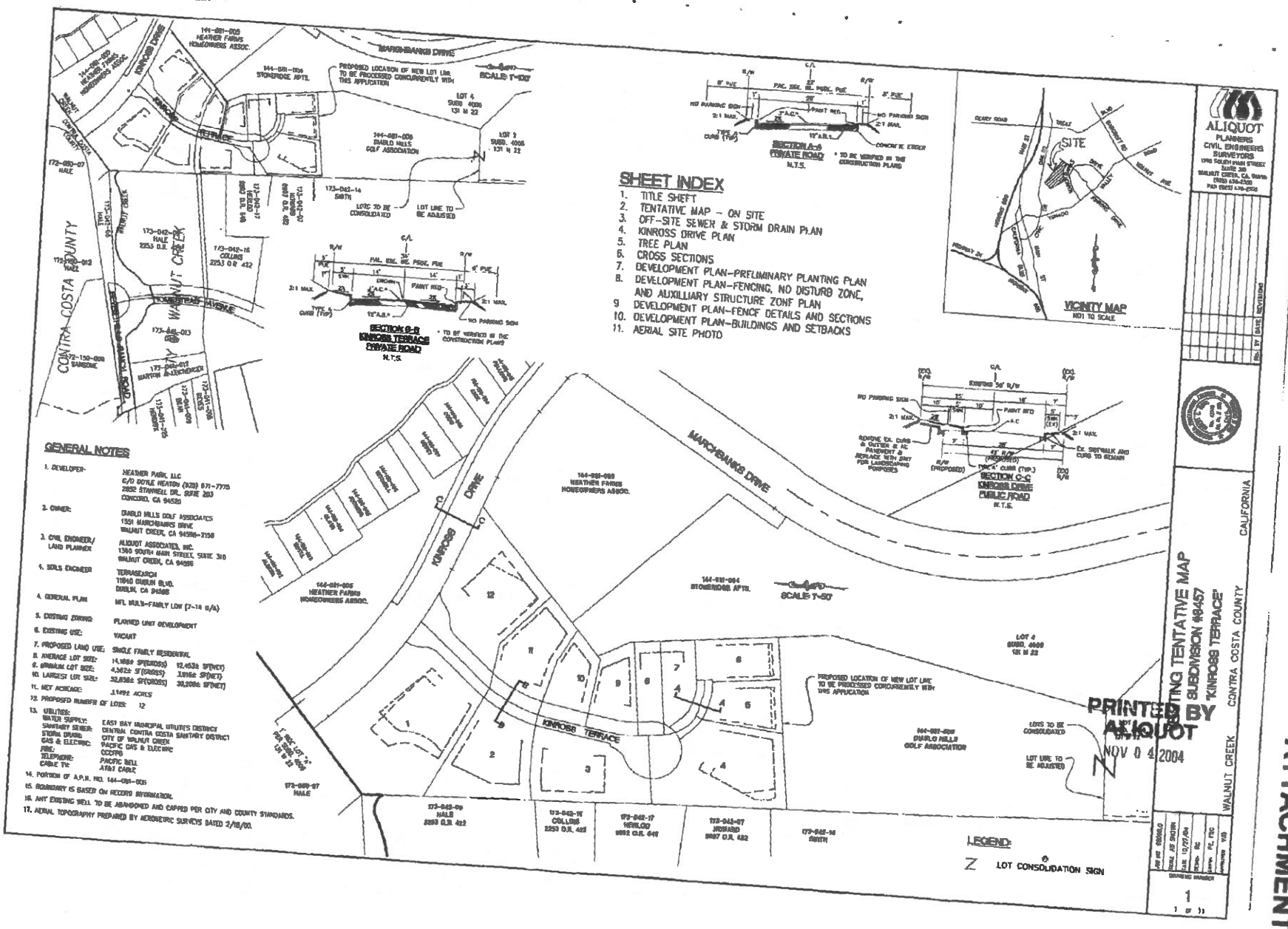
End of Kinross Drive, North of Marchbanks Drive



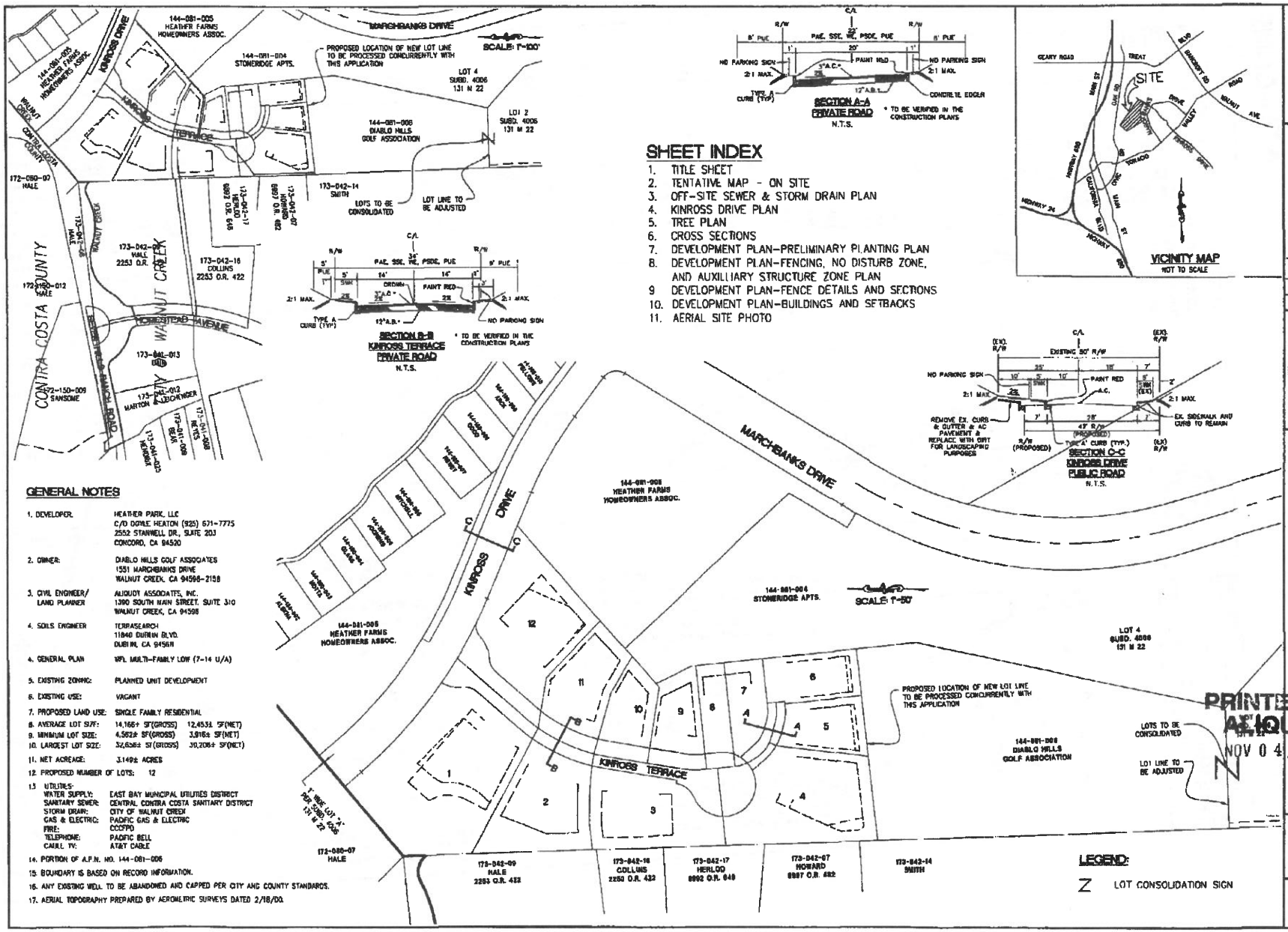
Location Map

Scale: 1" = 400'

N



ATTACHMENT 2



SHEET INDEX

1. TITLE SHEET
2. TENTATIVE MAP - ON SITE
3. OFF-SITE SEWER & STORM DRAIN PLAN
4. KINROSS DRIVE PLAN
5. TREE PLAN
6. CROSS SECTIONS
7. DEVELOPMENT PLAN-PRELIMINARY PLANTING PLAN
8. DEVELOPMENT PLAN-FENCING, NO DISTURB ZONE, AND AUXILLIARY STRUCTURE ZONE PLAN
9. DEVELOPMENT PLAN-FENCE DETAILS AND SECTIONS
10. DEVELOPMENT PLAN-BUILDINGS AND SETBACKS
11. AERIAL SITE PHOTO

GENERAL NOTES

1. DEVELOPER:	HEATHER PARK, LLC C/O DOYLE HEATON (925) 671-7775 2552 STANWELL DR., SUITE 203 CONCORD, CA 94520	
2. OWNER:	DIABLO HILLS GOLF ASSOCIATES 1551 MARCHBANKS DRIVE WALNUT CREEK, CA 94598-2158	
3. CIVIL ENGINEER/ LAND PLANNER	ALIQUOT ASSOCIATES, INC. 1390 SOUTH MAIN STREET, SUITE 310 WALNUT CREEK, CA 94598	
4. SOILS ENGINEER	TERRASEARCH 11840 DUBLIN BLVD. DUBLIN, CA 94568	
4. GENERAL PLAN	MFL MULTI-FAMILY LOW (7-14 U/A)	
5. EXISTING ZONING:	PLANNED UNIT DEVELOPMENT	
6. EXISTING USE:	VACANT	
7. PROPOSED LAND USE:	SINGLE FAMILY RESIDENTIAL	
8. AVERAGE LOT SIZE:	14,166± SF(GROSS)	12,453± SF(NET)
9. MINIMUM LOT SIZE:	4,562± SF(GROSS)	3,916± SF(NET)
10. LARGEST LOT SIZE:	32,636± SF(GROSS)	30,206± SF(NET)
11. NET ACREAGE:	3.149± ACRES	
12. PROPOSED NUMBER OF LOTS:	12	

13. UTILITIES:

WATER SUPPLY:	EAST BAY MUNICIPAL UTILITIES DISTRICT
SANITARY SEWER:	CENTRAL CONTRA COSTA SANITARY DISTRICT
STORM DRAIN:	CITY OF WALNUT CREEK
GAS & ELECTRIC:	PACIFIC GAS & ELECTRIC
FIRE:	CCCFPD
TELEPHONE:	PACIFIC BELL
CABLE TV:	AT&T CABLE

14. PORTION OF A.P.N. NO. 144-081-006
15. BOUNDARY IS BASED ON RECORD INFORMATION.
16. ANY EXISTING WELL TO BE ABANDONED AND CAPPED PER CITY AND COUNTY STANDARDS.
17. AERIAL TOPOGRAPHY PREPARED BY AEROMETRIC SURVEYS DATED 2/18/00.

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1390 SOUTH MAIN STREET
SUITE 310
WALNUT CREEK, CA. 94596
(925) 476-2300
FAX (925) 476-2556

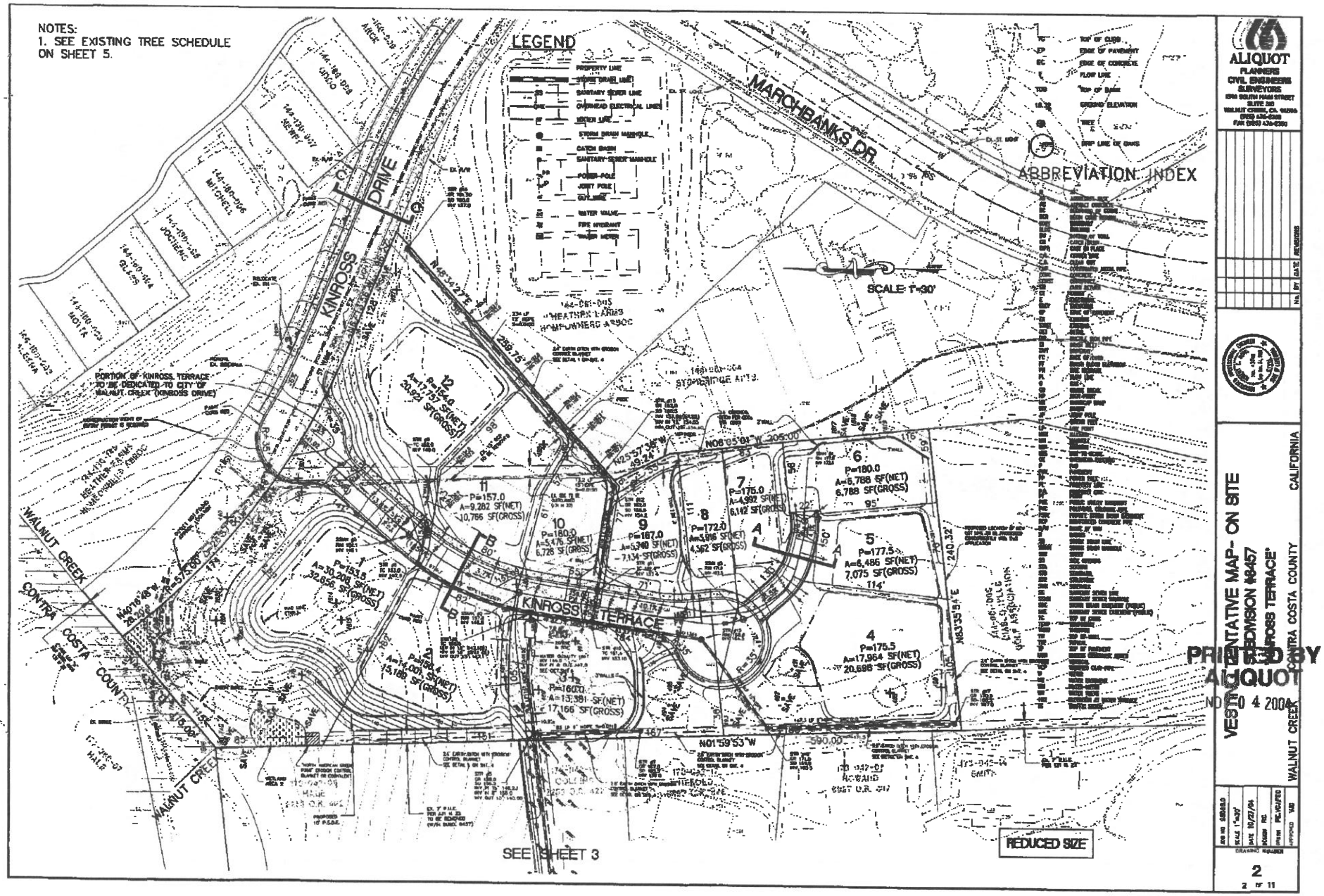
No.	BY	DATE	REVISIONS

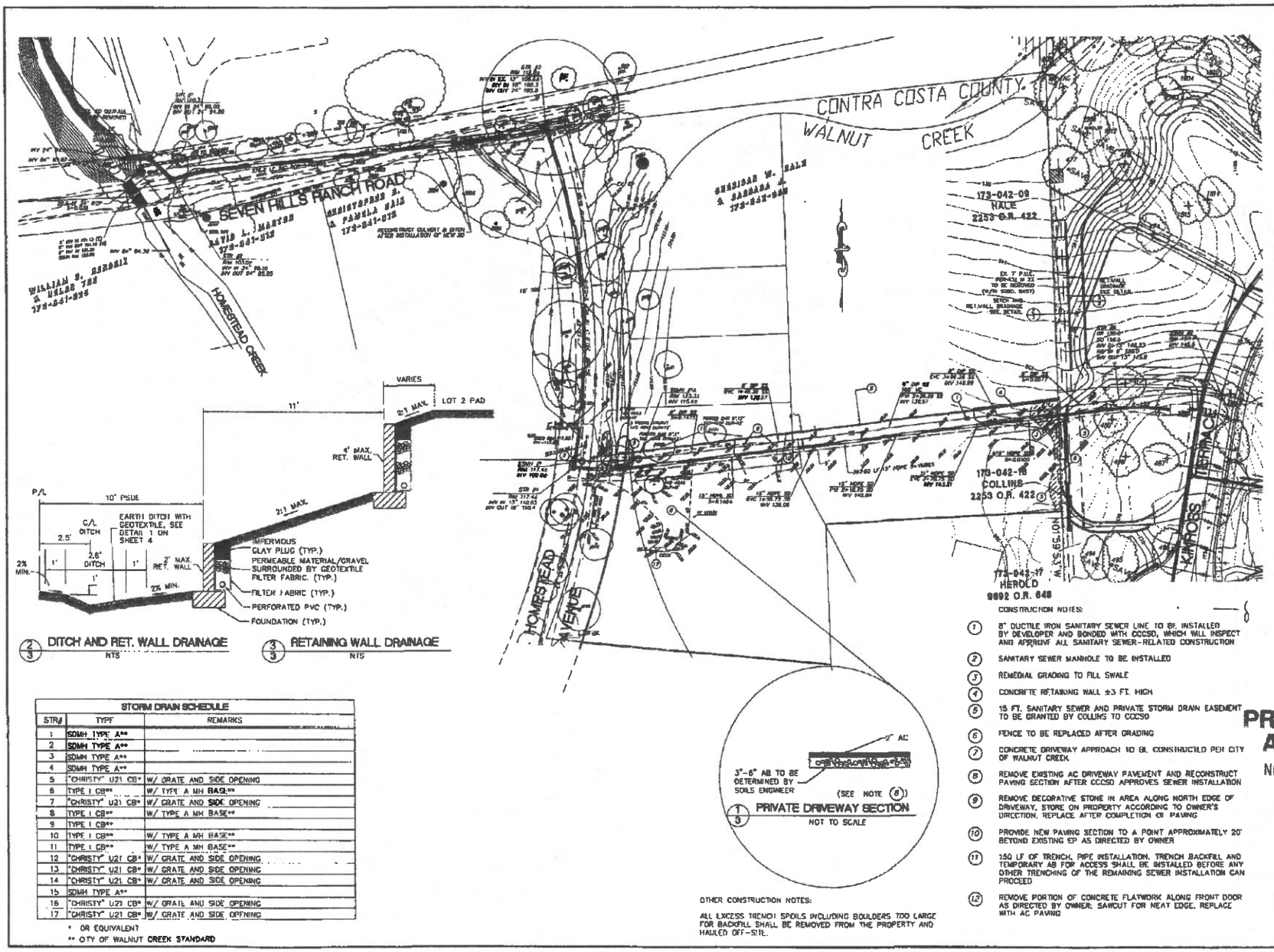
TENTATIVE MAP
SUBDIVISION #8457
"KINROSS TERRACE"
CONTRA COSTA COUNTY
CALIFORNIA
WALNUT CREEK

PRINTED BY ALIQUOT
NOV 04 2004

JOB NO.	9908.0
SCALE	AS SHOWN
DATE	10/27/04
DESIGN	RC
DRAWN	PS, FSC
APPROVED	V.O

DRAWING NUMBER
1
1 OF 11


NOTES:
1. SEE EXISTING TREE SCHEDULE ON SHEET 5.
LEGEND
MARCHBANKS DR.
KINROSS DRIVE
KINROSS TERRACE
WALNUT CREEK
CONTRA COSTA COUNTY
ABBREVIATION INDEX
SCALE 1"=30'
SEE SHEET 3
REDUCED SIZE
ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
VESTING TENTATIVE MAP- ON SITE
SUBDIVISION 8457
"KINROSS TERRACE"
CONTRA COSTA COUNTY CALIFORNIA
WALNUT CREEK
PRINTED BY
ALIQUOT
NOV 04 2004
2
2 OF 11



2/3 DITCH AND RET. WALL DRAINAGE
NTS

3/3 RETAINING WALL DRAINAGE
NTS

1/3 PRIVATE DRIVEWAY SECTION
NOT TO SCALE

STORM DRAIN SCHEDULE		
STR#	TYPE	REMARKS
1	SDMH TYPE A**	
2	SDMH TYPE A**	
3	SDMH TYPE A**	
4	SDMH TYPE A**	
5	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
6	TYPE I CB**	W/ TYPE A MH BASE**
7	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
8	TYPE I CB**	W/ TYPE A MH BASE**
9	TYPE I CB**	
10	TYPE I CB**	W/ TYPE A MH BASE**
11	TYPE I CB**	W/ TYPE A MH BASE**
12	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
13	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
14	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
15	SDMH TYPE A**	
16	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING
17	"CHRISTY" U21 CB*	W/ GRATE AND SIDE OPENING

* OR EQUIVALENT
** CITY OF WALNUT CREEK STANDARD

OTHER CONSTRUCTION NOTES:

ALL EXCESS TRENCH SPOILS INCLUDING BOULDERS TOO LARGE FOR BACKFILL SHALL BE REMOVED FROM THE PROPERTY AND HAULED OFF-SITE.

CONSTRUCTION NOTES:

1. 8" DUCTILE IRON SANITARY SEWER LINE TO BE INSTALLED BY DEVELOPER AND BONDED WITH CCCSD, WHICH WILL INSPECT AND APPROVE ALL SANITARY SEWER-RELATED CONSTRUCTION
2. SANITARY SEWER MANHOLE TO BE INSTALLED
3. REMEDIAL GRADING TO FILL SWALE
4. CONCRETE RETAINING WALL ±3 FT. HIGH
5. 15 FT. SANITARY SEWER AND PRIVATE STORM DRAIN EASEMENT TO BE GRANTED BY COLLINS TO CCCSD
6. FENCE TO BE REPLACED AFTER GRADING
7. CONCRETE DRIVEWAY APPROACH TO BE CONSTRUCTED PER CITY OF WALNUT CREEK
8. REMOVE EXISTING AC DRIVEWAY PAVEMENT AND RECONSTRUCT PAVING SECTION AFTER CCCSD APPROVES SEWER INSTALLATION
9. REMOVE DECORATIVE STONE IN AREA ALONG NORTH EDGE OF DRIVEWAY, STORE ON PROPERTY ACCORDING TO OWNER'S DIRECTION, REPLACE AFTER COMPLETION OF PAVING
10. PROVIDE NEW PAVING SECTION TO A POINT APPROXIMATELY 20' BEYOND EXISTING EP AS DIRECTED BY OWNER
11. 150 LF OF TRENCH, PIPE INSTALLATION, TRENCH BACKFILL AND TEMPORARY AB FOR ACCESS SHALL BE INSTALLED BEFORE ANY OTHER TRENCHING OF THE REMAINING SEWER INSTALLATION CAN PROCEED
12. REMOVE PORTION OF CONCRETE FLATWORK ALONG FRONT DOOR AS DIRECTED BY OWNER. SAWCUT FOR NEAT EDGE. REPLACE WITH AC PAVING

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1380 SOUTH MAIN STREET
SUITE 310
WALNUT CREEK, CA. 94596
(925) 478-2300
FAX (925) 478-2350

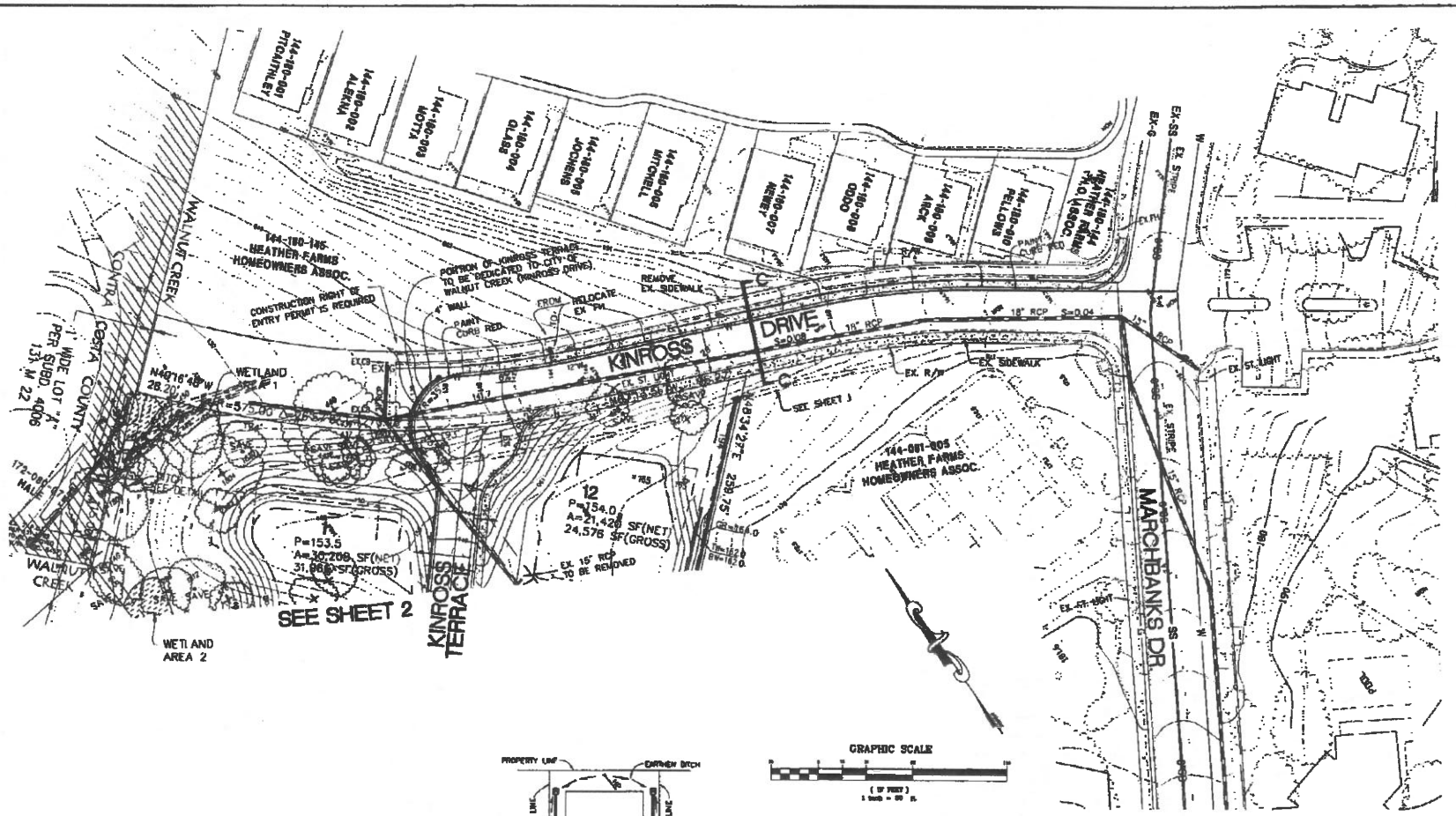
No.	BY	DATE	REVISIONS

PRINTED BY ALIQUOT
NOV 0 4 2004

OFF-SITE SEWER AND STORM DRAIN PLAN
SUBDIVISION #8457
"KINROSS TERRACE"
WALNUT CREEK CONTRA COSTA COUNTY CALIFORNIA

JOB NO.	95068.0
SCALE	1"=30'
DATE	10/27/04
DESIGN	RG
DRAWN	DCP
APPROVED	V.D.

DRAWING NUMBER
3
3 OF 11

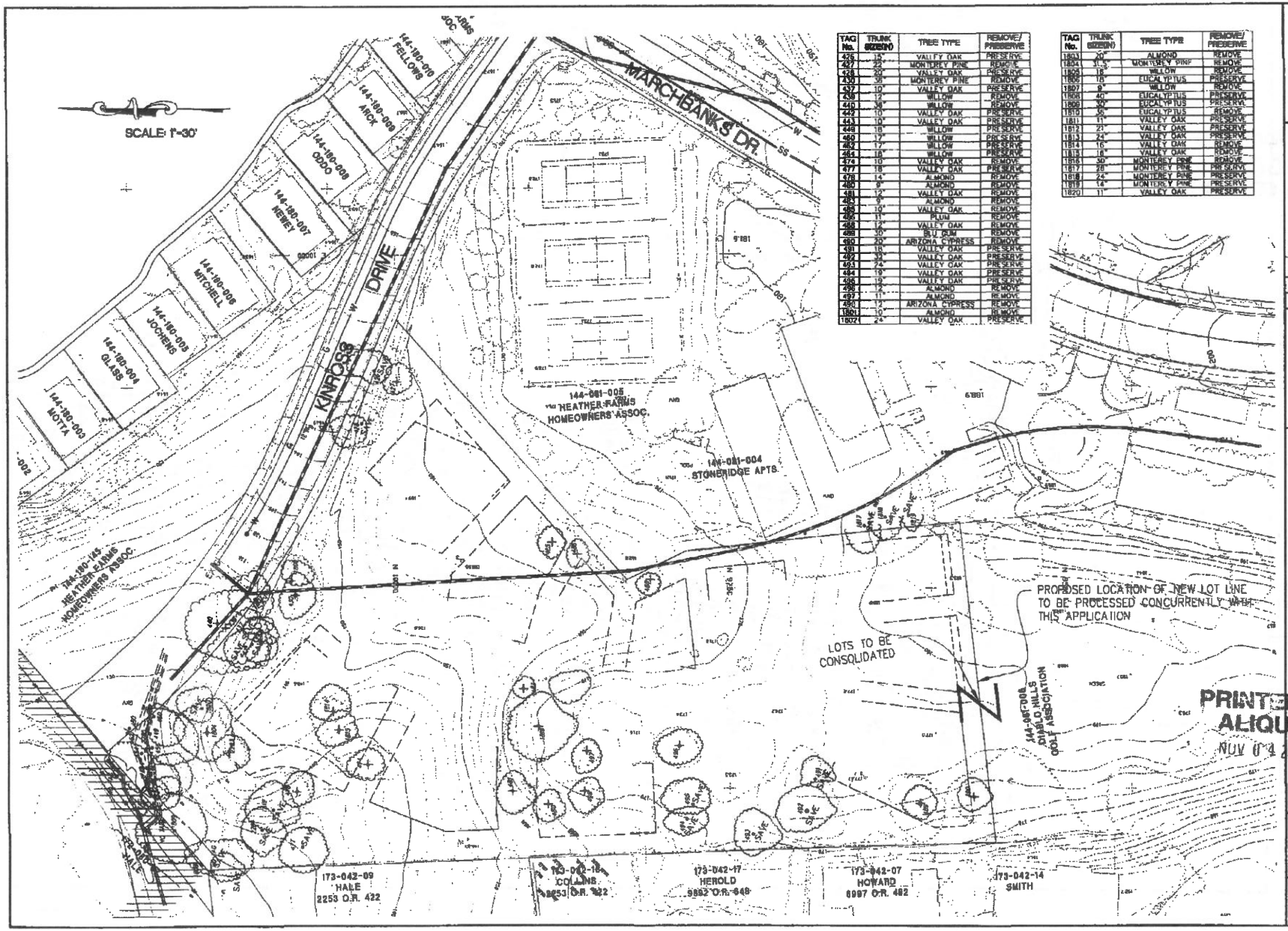


PRINTED BY ALIQUOT
NOV 0 4 2004

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1390 SOUTH MAIN STREET
SUITE 340
WALNUT CREEK, CA 94596
(925) 476-1300
FAX (925) 476-1310

KINROSS DRIVE PLAN
SUBDIVISION #8457
"KINROSS TERRACE"
WALNUT CREEK CONTRA COSTA COUNTY CALIFORNIA

DRAWING NUMBER
4
4 OF 11



TAG No.	TRUNK SIZE(IN)	TREE TYPE	REMOVE/ PRESERVE
425	15"	VALLEY OAK	PRESERVE
427	23"	MONTEREY PINE	REMOVE
428	20"	VALLEY OAK	PRESERVE
430	38"	MONTEREY PINE	REMOVE
437	10"	VALLEY OAK	PRESERVE
438	12"	WILLOW	REMOVE
440	36"	WILLOW	REMOVE
442	10"	VALLEY OAK	PRESERVE
443	10"	VALLEY OAK	PRESERVE
448	18"	WILLOW	PRESERVE
460	17"	WILLOW	PRESERVE
462	17"	WILLOW	PRESERVE
464	18"	WILLOW	PRESERVE
474	10"	VALLEY OAK	REMOVE
477	18"	VALLEY OAK	PRESERVE
478	14"	ALMOND	REMOVE
480	9"	ALMOND	REMOVE
481	14"	VALLEY OAK	REMOVE
483	9"	ALMOND	REMOVE
485	10"	VALLEY OAK	REMOVE
486	11"	PLUM	REMOVE
488	11"	VALLEY OAK	REMOVE
489	10"	BLU GUM	REMOVE
490	20"	ARIZONA CYPRESS	REMOVE
491	18"	VALLEY OAK	PRESERVE
492	30"	VALLEY OAK	PRESERVE
493	24"	VALLEY OAK	PRESERVE
494	19"	VALLEY OAK	PRESERVE
495	19"	VALLEY OAK	PRESERVE
496	11"	ALMOND	REMOVE
497	11"	ALMOND	REMOVE
498	12"	ARIZONA CYPRESS	REMOVE
1801	10"	ALMOND	REMOVE
1802	24"	VALLEY OAK	PRESERVE

TAG No.	TRUNK SIZE(IN)	TREE TYPE	REMOVE/ PRESERVE
1803	10"	ALMOND	REMOVE
1804	31.5"	MONTEREY PINE	REMOVE
1805	18"	WILLOW	REMOVE
1806	18"	EUCALYPTUS	PRESERVE
1807	9"	WILLOW	REMOVE
1808	40"	EUCALYPTUS	PRESERVE
1809	30"	EUCALYPTUS	PRESERVE
1810	35"	EUCALYPTUS	REMOVE
1811	11"	VALLEY OAK	PRESERVE
1812	23"	VALLEY OAK	PRESERVE
1813	24"	VALLEY OAK	PRESERVE
1814	16"	VALLEY OAK	REMOVE
1815	18"	VALLEY OAK	REMOVE
1816	30"	MONTEREY PINE	REMOVE
1817	28"	MONTEREY PINE	PRESERVE
1818	24"	MONTEREY PINE	PRESERVE
1819	14"	MONTEREY PINE	PRESERVE
1820	11"	VALLEY OAK	PRESERVE

PRINTED BY ALIQUOT
NOV 04 2004

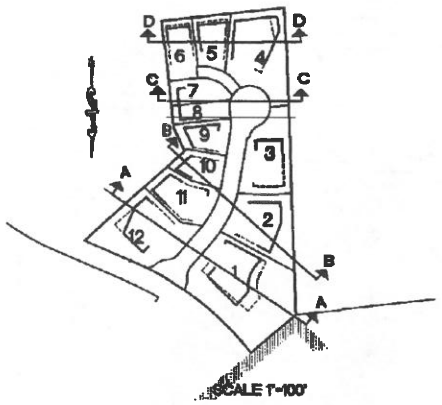
ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1340 SOUTH MAIN STREET
SUITE 205
WALNUT CREEK, CA 94596
(925) 476-2350
FAX (925) 476-2350

No.	By	DATE	REVISIONS

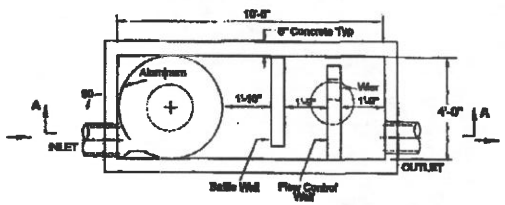
TREE PLAN
SUBDIVISION #8457
'KINROSS TERRACE'
WALNUT CREEK CONTRA COSTA COUNTY CALIFORNIA

JOB NO. 8504.0
SCALE 1"=30'
DATE 10/27/04
DESIGN RC
DRAWN PC
APPROVED VJD

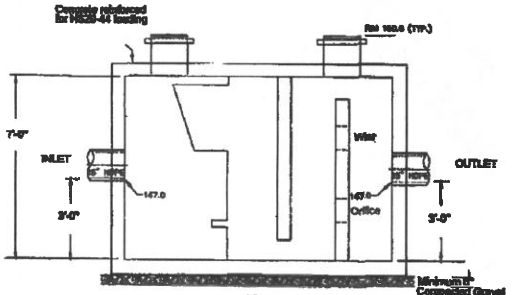
DRAWING NUMBER
5
5 OF 11



SCALE 1"=100'



PLAN VIEW



SECTION A-A

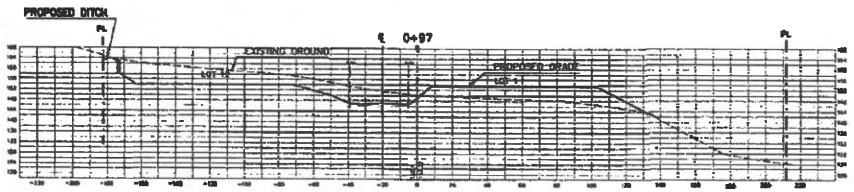
VORTECHS™ MODEL 2000

STORMWATER TREATMENT SYSTEM

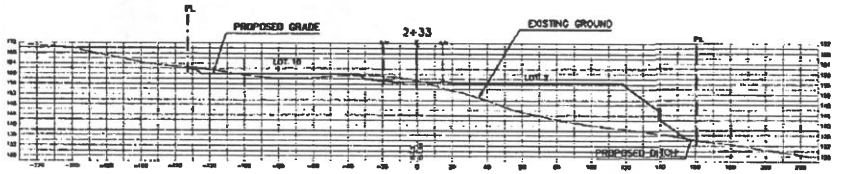
WATER QUALITY UNIT

NTS

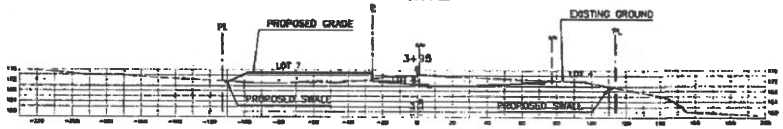
(SEE PLAN ON SHEET 2)



SECTION A-A

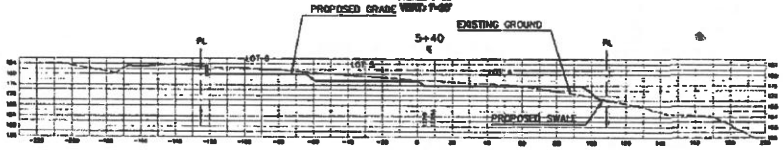
HORIZ: 1"=50'
VERT: 1"=5'

SECTION B-B

HORIZ: 1"=50'
VERT: 1"=5'



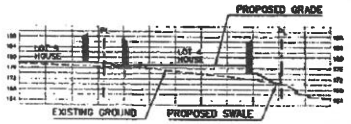
SECTION C-C

HORIZ: 1"=50'
VERT: 1"=5'



SECTION D-D

HORIZ: 1"=50'
VERT: 1"=5'



1 SECTION

HORIZ: 1"=50'
VERT: 1"=5'

2 SECTION

HORIZ: 1"=50'
VERT: 1"=5'

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1340 SOUTH MAIN STREET
SUITE 240
WALNUT CREEK, CA. 94596
PHONE 925-476-2000
FAX 925-476-2020

REG. BY DATE REVISIONS

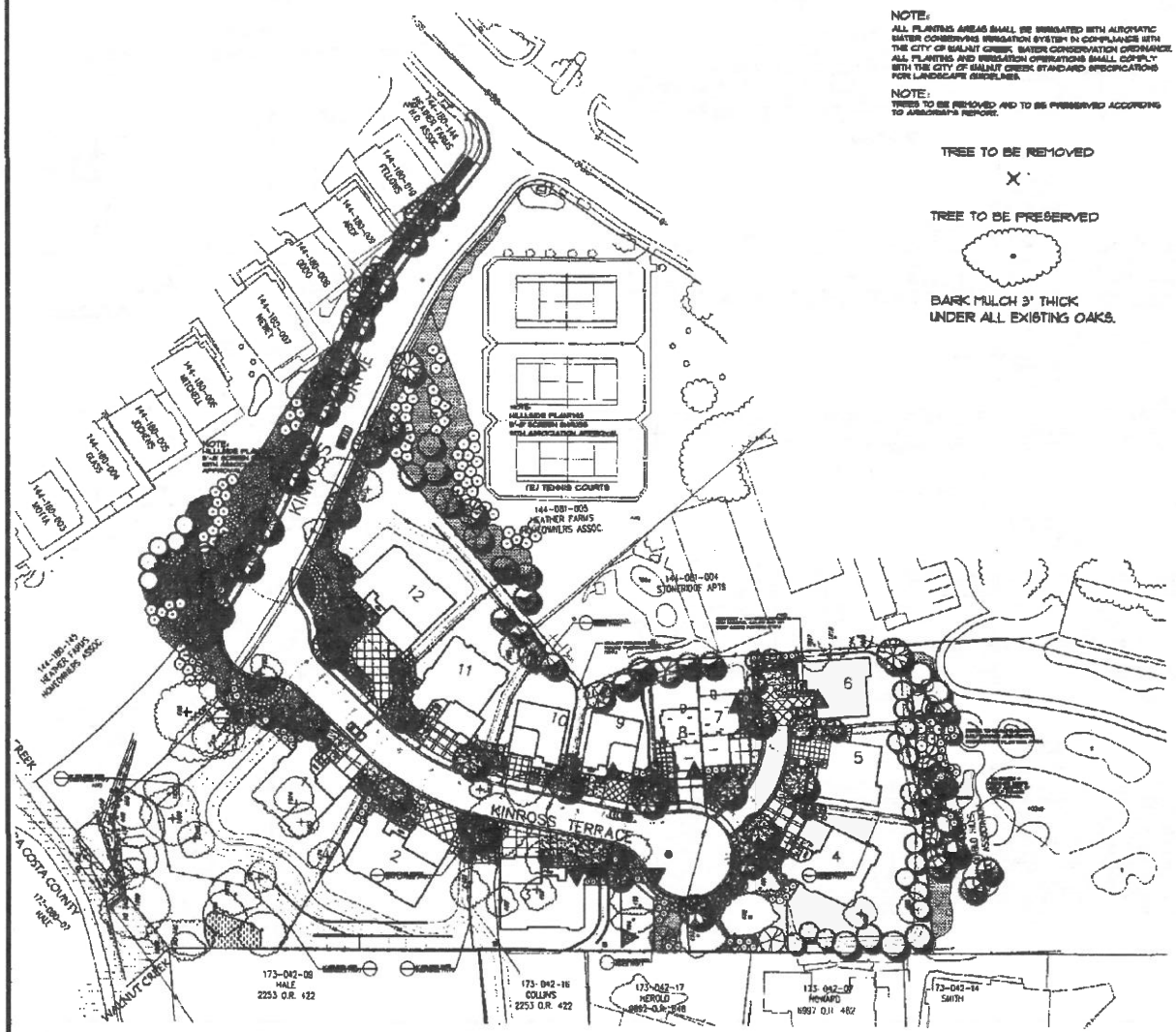
CROSS SECTIONS
SUBDIVISION #9457
"KINROSS TERRACE"
CONTRA COSTA COUNTY CALIFORNIA

PRINTED BY ALIQUOT
NOV 0 4 2004

WALNUT CREEK

JOB NO. 1999.8.8
SCALE AS SHOWN
DATE 09/27/04
DESIGN RG
DRAWN RN
APPROVED MD

DRAWING NUMBER
6
6 OF 11



NOTE:
ALL PLANTING AREAS SHALL BE IRRIGATED WITH AUTOMATIC WATER CONSERVING IRRIGATION SYSTEM IN COMPLIANCE WITH THE CITY OF WALNUT CREEK, WATER CONSERVATION ORDINANCE. ALL PLANTING AND IRRIGATION OPERATIONS SHALL COMPLY WITH THE CITY OF WALNUT CREEK STANDARD SPECIFICATIONS FOR LANDSCAPE GUIDELINES.

NOTE:
TREES TO BE REMOVED AND TO BE PRESERVED ACCORDING TO ARBORIST'S REPORT.

TREE TO BE REMOVED

X

TREE TO BE PRESERVED

BARK MULCH 3" THICK UNDER ALL EXISTING OAKS.

Proposed Landscape Legend

Symbol	Botanical Name	Common Name	Size
TREES			
	Acer palmatum	JAPANESE MAPLE	15 gallon
	Cinnamomum camphora	CAMPHOR TREE	15 gallon
	Cornus capitata	EVERGREEN DOGWOOD	15 gallon
	Prunus cerasus 'Mayacorn'	RAYWOOD ASH	15 gallon
	Lagerstroemia l. 'Cherokee'	CRAPE MYRTLE	15 gallon
	Malus floribunda	FLOWERING CRABAPPLE	24" box
	Platanus acerifolia 'Bloodgood'	LONDON PLANE TREE	24" box
	Pyrus calleryana 'Aristocrat'	FLOWERING PEAR	24" box
	Sequoia sempervirens	COAST REDWOOD	15 gallon
SHRUBS			
ARB UVA	Arbutus Unedo	STRAWBERRY TREE	15 gallon
AGA GEE	Agapanthus 'Queen Anne'	LILY OF THE NILE	1 gallon
ARB UNE	Arbutus unedo	STRAWBERRY SHRUB	15 gallon
ARC HOW	Arctostaphylos 'Howard McMin'	MANZANITA	5 gallon
CEA SPP	Ceanothus species	CALIFORNIA LILAC	5 gallon
CE PUR	Cistus purpureus	ORCHID ROCKROSE	1 gallon
DIE VEG	Dietes vegeta	FORTNIGHT LILY	1 gallon
ESC FRA	Escallonia 'Frades'	ESCALLONIA	5 gallon
ESC TER	Escallonia 'Terri'	DWARF PINK ESCALLONIA	5 gallon
HEM HYB	Hemerocallis hybrids	DAYLILY	1 gallon
LAV MUN	Lavandula a. 'Munstead'	ENGLISH LAVENDER	1 gallon
LAV THU	Lavatera thuringiaca 'Barnsley'	TREE MALLOW	1 gallon
RHA EVE	Rhamnus californica 'Eve Case'	COFFEEBERRY	5 gallon
ROS MAG	Rosa 'Magic Carpet'	GROUNDCOVER ROSE	1 gallon
ROS OFF	Rosmarinus officinalis	ROSEMARY	1 gallon
VIB TIN	Viburnus tinus 'Spring Bouquet'	LAURESTINUS	5 gallon
XYL CON	Xylosma congestum	SHINY XYLOSMA	5 gallon
GROUNDCOVER			
	Carpobrotus	SOUTH AFRICAN DAISY	1 gallon @ 5' o.c.
	Trachelospermum jasminoides	STAR JASMINE	1 gallon @ 3' o.c.
	Acacia redolens	ACACIA	1 gallon @ 5' o.c.
	Coprosma kirkii	COPROSMA	1 gallon @ 4' o.c.
	Fragaria chiloensis	WILD STRAWBERRY	12" o.c./ from flats
	Vinca minor	DWARF PERIWINKLE	12" o.c./ from flats
	verbena 'Tapien Blue'	VERBENA	12" o.c./ from flats
	Dwarf Boreal Fescue	TURF	SOD

FOR DETAILS AND SECTIONS SEE SHEET 9

PRINTED BY ALIQUOT
NOV 0 4 2004

0 20 40 80 120

REVISIONS	BY
8.6.03	DH
4.19.04	DH
10.26.04	TL
11.4.04	TL

camp & camp associates
planning & landscape architecture

DEVELOPMENT PLAN
PRELIMINARY
PLANTING PLAN

KINROSS TERRACE
SUBDIVISION #8457
Walnut Creek, CA

DRAWN: ADW, MA, DH
CHECKED: CIC3
DATE: 10/27/04
SCALE: 1"=40'-0"
JOB NO: 00-000
SHEET
7
OF 11 SHEETS

Revision											
BY											
DATE											

Cuming & Cuming associates

DEVELOPMENT PLAN
FENCING, NO DISTURB
ZONE, AND AUXILIARY
STRUCTURE ZONE PLAN

KINROSS TERRACE
SUBDIVISION #8467
Walnut Creek, CA

DRAWN: KDK, RJK	
CHECKED: CJC	
DATE: 9/23/04	
SCALE: 1"=40'	
JOB NO.: 9918	
SHEET	8
OF	11 SHEETS

FOR DETAILS AND SECTIONS SEE SHEET 9

NO DISTURB ZONE

BUILDING SETBACK AREA WHERE FUTURE ADDITIONS AND AUXILIARY STRUCTURES CAN OCCUR

NOTES:

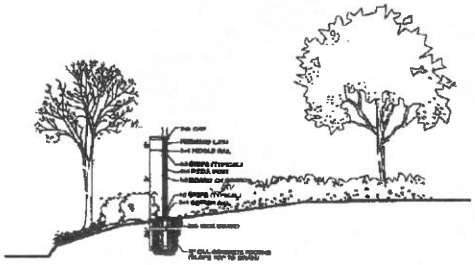
1) AREAS DESIGNATED TO BE ONE-STOREY SHALL BE NO HIGHER THAN EXISTING HOUSE. ALL OTHER ADDITIONS CAN COMPLY WITH THE R-15 HEIGHT LIMIT.

2) FRONT, REAR, [illegible] ARE THOSE OF THE R-15 ZONE.

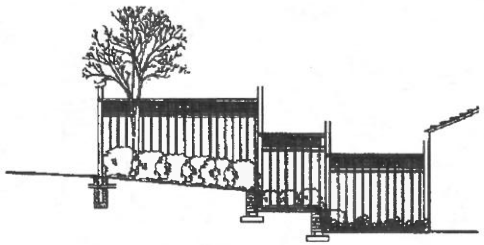
ALIQUOT

NOV 0 4 2004

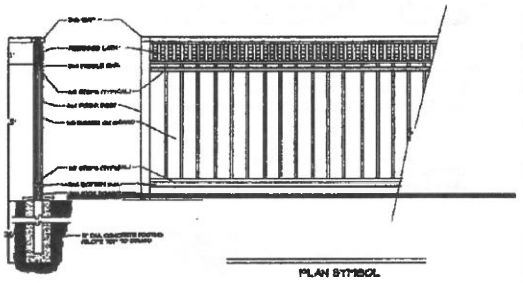
0 20 40 80 120



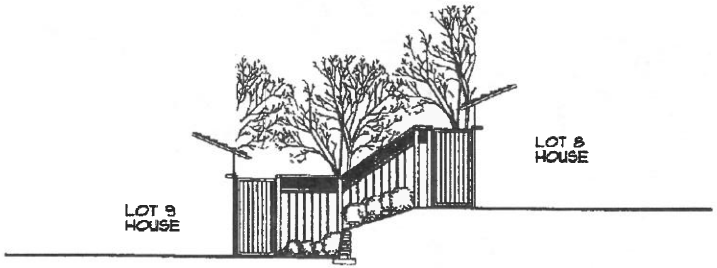
SECTION A-A SCALE 1/4"=1'



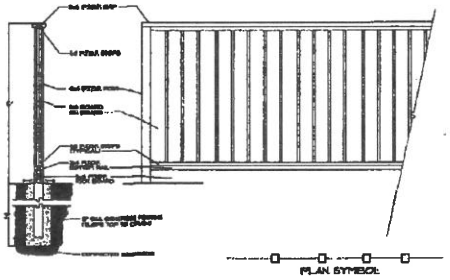
SECTION A1-A1 SCALE 1/4"=1'



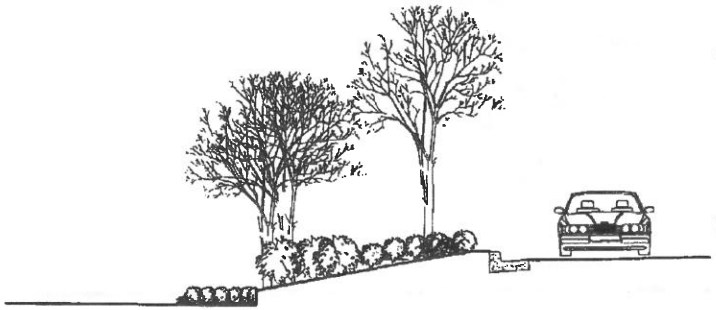
FRONT YARD FENCE (TYP.) SCALE:1/2"=1'



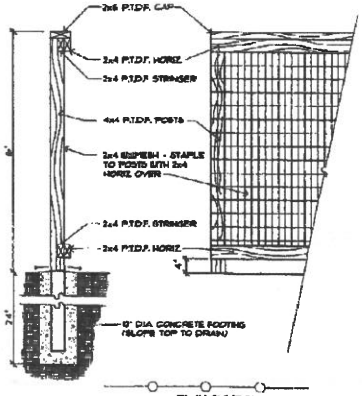
SECTION B-B SCALE: 1/4"=1'



GOOD NEIGHBOR FENCE (TYP.) SCALE: 1/2"=1'



SECTION C-C SCALE:1/4"=1'



6' WELDED WIRE VIEW FENCE
SCALE 3/4"=1'

PRINTED BY
ALIQUOT
NOV 0 4 2004

REVISIONS	BY
10.28.04	TL

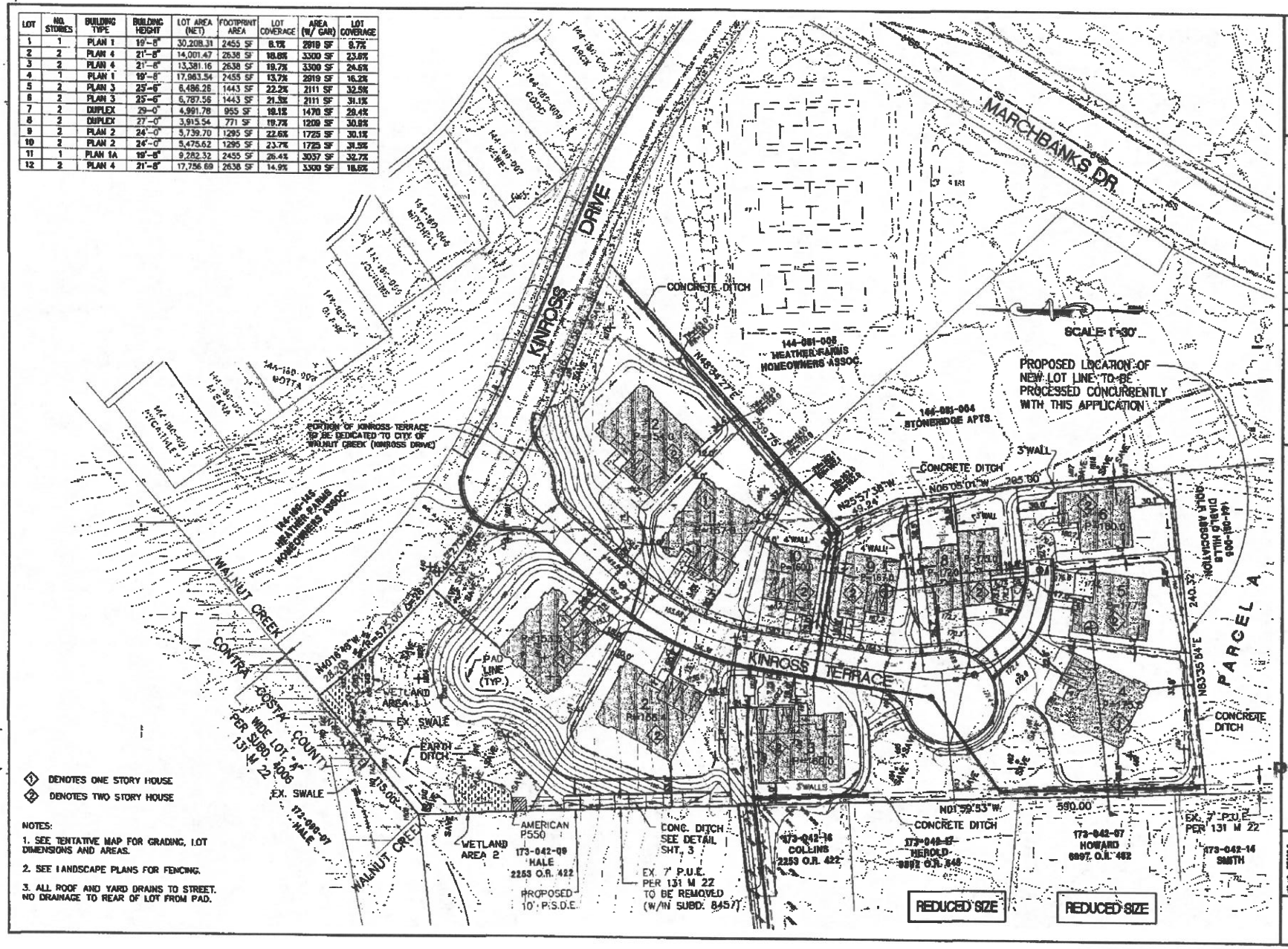
camp & camp associates

DEVELOPMENT PLAN
FENCE DETAILS
AND SECTIONS

KINROSS TERRACE
SUBDIVISION #8457
Walnut Creek, CA

DRAWN: SK
CHECKED: TC
DATE: 10/27/04
SCALE: AS NOTED
JOB NO. 99-000
SHEET
9
OF 11 SHEETS

LOT	NO. STORIES	BUILDING TYPE	BUILDING HEIGHT	LOT AREA (NET)	FOOTPRINT AREA	LOT COVERAGE	AREA (W/ GAR)	LOT COVERAGE
1	1	PLAN 1	19'-8"	30,208.31	2455 SF	8.1%	2919 SF	9.7%
2	2	PLAN 4	21'-8"	14,001.47	2638 SF	18.8%	3300 SF	23.6%
3	2	PLAN 4	21'-8"	13,381.16	2638 SF	19.7%	3300 SF	24.6%
4	1	PLAN 1	19'-8"	17,963.54	2455 SF	13.7%	2919 SF	16.2%
5	2	PLAN 3	25'-6"	8,486.26	1443 SF	22.2%	2111 SF	32.5%
6	2	PLAN 3	25'-6"	6,787.58	1443 SF	21.3%	2111 SF	31.1%
7	2	DUPLEX	29'-0"	4,991.78	955 SF	18.1%	1470 SF	29.4%
8	2	DUPLEX	27'-0"	3,915.54	771 SF	19.7%	1209 SF	30.8%
9	2	PLAN 2	24'-0"	5,739.70	1295 SF	22.6%	1725 SF	30.1%
10	2	PLAN 2	24'-0"	5,475.62	1295 SF	23.7%	1725 SF	31.5%
11	1	PLAN 1A	19'-8"	9,282.32	2455 SF	26.4%	3037 SF	32.7%
12	2	PLAN 4	21'-8"	17,756.69	2638 SF	14.9%	3300 SF	18.6%



① DENOTES ONE STORY HOUSE

② DENOTES TWO STORY HOUSE

NOTES:

1. SEE TENTATIVE MAP FOR GRADING, LOT DIMENSIONS AND AREAS.
2. SEE LANDSCAPE PLANS FOR FENCING.
3. ALL ROOF AND YARD DRAINS TO STREET. NO DRAINAGE TO REAR OF LOT FROM PAD.

ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1990 SOUTH MAIN STREET
SUITE 250
WALNUT CREEK, CA. 94596
(925) 476-2000
FAX (925) 476-2299

No.	BY	DATE	REVISIONS

DEVELOPMENT PLAN-BUILDINGS, SETBACKS
SUBDIVISION 8457
"KINROSS TERRACE"
CONTRA COSTA COUNTY CALIFORNIA
WALNUT CREEK

PRINTED BY ALIQUOT
DEC 04 2014

JOB NO.	8308.0
SCALE	1"=30'
DATE	10/27/14
DESIGN	RG
DRAWN	RG, REC
APPROVED	MD

DRAWING NUMBER
10
10 OF 11

ALIQUOT
PLANNERS
CIVIL ENGINEERS
GEOTECHNICAL ENGINEERS
1340 SOUTH DE ANZA BOULEVARD, SUITE 202
SAN JOSE, CALIFORNIA 95129
(408) 996-8885 FAX (408) 996-8886
PREPARED BY
NO. BY DATE REVISIONS
GENERAL SITE PHOTO
SUBDIVISION #8457
TIGNROSS TERRACE
CONTRA COSTA COUNTY
CALIFORNIA
WALNUT CREEK
DATE 10/23/04
SCALE 1"=50'
DESIGN RC
DRAWN BCP
CHECKED MJD
JOB NO. 980840
SHEET NUMBER
11
11 OF 11
NOV 0 4 2004
PRINTED BY
ALIQUOT
MARCHBANKS DR
NOTE
1. SEE
DRIVE
CO
PROPERTY LINE
175-040-09
HALE
2168.01 A33

ATTACHMENT 3

CITY OF WALNUT CREEK
MITIGATED NEGATIVE DECLARATION

Project Name: Kinross Terrace
Work Order No.: Y03-003
Date to be Posted: September 28, 2004

1. PROJECT DESCRIPTION AND LOCATION:

Project proposes a 12-lot residential subdivision on a 3.58-acre site previously a portion of the Diablo Hills golf course. The project proposes site grading and installation of private roadway and utility infrastructure improvements including on and off-site sanitary sewer and storm water facilities. The project also proposes to reduce the pavement width of the Kinross Terrace, a public street, to eliminate street parking on the north side of the street. The project proposes the construction of 10 detached and 2 attached single-family dwellings and is subject to Planned District rezoning, tentative subdivision map, and design review.

2. THE COMMUNITY DEVELOPMENT DIRECTOR FINDS THAT the project as described above will not have a significant effect on the environment and therefore does not require an environmental impact report.

3. STATEMENT OF REASONS TO SUPPORT FINDING:

a. **AIR QUALITY**

Dust Control: The proposed project may result in temporary air quality impacts during project construction. Implementation of the following measures would reduce the impact to less than significant levels.

Mitigation Measures:

1. Water all active construction areas at least twice daily;
2. Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind;
3. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
4. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and construction staging areas;
5. Sweep daily with water sweepers all paved access roads, public streets, parking areas, and staging areas at construction sites;
6. Replant vegetation in disturbed areas as quickly as possible.

Mitigation Monitoring: The Engineering Division inspectors shall ensure field compliance during construction.

b. BIOLOGICAL RESOURCES

Rare Plants: This is an in-fill project in an established neighborhood. The site does not provide habitat for threatened or endangered species. No threatened or endangered species were observed during site surveys. Habitat suitable for rare plants is present on site. Twenty-two special-status plants have a low potential for occurrence on site. If present within the development envelope of the proposed project, individual plants could be negatively impacted by work conducted within the project area. Rare plant surveys are underway. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

> **Mitigation Measures:** Two rare plant surveys shall be conducted by a qualified biologist to determine if any special-status plant species are present within the study area. No rare plants were detected during the late season survey (Wood Biological 9/13/04). A spring survey shall be performed in April to coincide with the flowering period of potentially occurring plants. If rare plants are present within the development envelope of the proposed project, the feasibility of avoidance should be evaluated. If avoidance is infeasible, a mitigation plan, which may include revision of the tentative map, shall be developed and implemented.
>
> **Mitigation Monitoring:** The applicant shall commission a second rare plant survey to be performed in April 2005. City Planning Divisions will review spring plant survey to determine if rare plant species are present.

On-Site Trees: Project proposes removal of trees subject to the City of Walnut Creek's Tree Protection Ordinance. An arborist report prepared by Treescapes, Inc., dated March 6, 2003, identified and evaluated 52 trees located on the undeveloped project site. The project proposes removal of 26 trees (diameter 9" or greater) on site and dripline line encroachments on approximately 6 trees. 26 trees will be preserved throughout the site; 19 native species trees and 7 other non-native species within the designated wetland areas. The arborist report identifies 4 native species trees to be removed, 3 of which have poor vigor/structure. Only one tree, #474, a 10" Valley Oak, in good vigor would be removed.

The removal of any trees equal to or greater than 9 inches in diameter at breast height (4.5 feet above the ground surface) requires a tree removal permit from the City of Walnut Creek and compliance with the Tree Preservation Ordinance. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Off-site trees: The project proposes off-site underground sewer and storm water drain lines. An arborist report prepared by Joseph McNeil Consulting Arborist, dated August 8, 2004, evaluated 41 trees within the project zone. The report locates and identifies the pipe route and all trees within the proposed trench line. The report concludes that impacts to trees may occur as part of the proposed development and recommends actions to reduce potential impacts to trees to less than significant levels. The proposed storm drain alignment is subject to further review as specified in Section XVI, Utilities and Service Systems. Re-alignment of the off-site storm drain line closely following the existing roadway easement would not eliminate trenching within driplines of tree but would reduce the number of trees potentially impacted by the installation.

Mitigation Measures: The applicant shall obtain a tree removal or dripline encroachment permit prior to any grading or trenching activities and comply with all conditions as specified in the tree removal/dripline encroachment permit. The applicant shall comply with all tree preservation guidelines as contained in the Treescapes, Inc., report for on-site trees, and the Joseph McNeil Consulting Arborist report pertaining to off-site trees. Plans submitted for site development and building permits shall include a tree planting and preservation plan which shall include the location of all trees and the specified tree preservation guidelines. The applicant shall submit to the City Planning Department a signed and executed contract for arboricultural services during all phases of project development as specified in the tree preservation guidelines. The Map of (off-site) trees, contained in the Joseph McNeil arborist report, shall be revised to show the realigned storm water pipe and any revised recommendations to reduce impacts to trees.

Mitigation Monitoring: City Planning and Tree Divisions will ensure that the project is constructed in accordance with the landscape plan, arborist report and mitigation plan. Engineering Division inspectors shall ensure field compliance during construction.

Migratory Birds: Habitat for migratory birds and/or birds of prey is present on site. Construction of the project has the potential to result in a "take" of ground- or tree-nesting migratory birds and/or birds of prey. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation Measures: A condition shall be added to any tree removal or site development permit to require that if site disturbance commences between February 1 and August 31, a pre-construction survey shall be conducted by a qualified wildlife biologist. If nests of either migratory birds or birds of prey are detected on or adjacent to the site, the applicant shall consult with the CDFG to determine the size of a suitable buffer in which no new site disturbance is permitted until August 31, or the qualified biologist determines that the young are foraging independently. If more than 30 days elapses between the survey and site disturbance, the survey shall be repeated.

Mitigation Monitoring: City Planning Division will ensure that no tree removal or site development permits are issued without necessary biologist report.

Riparian Habitat: No development is proposed in the riparian habitat present on the Kinross Terrace project site. Riparian habitat is present at the proposed storm drain outfall location on Homestead Creek. Construction of the storm drain outfall to Homestead Creek may require the removal of riparian vegetation at and below the top of bank. Excavation and/or fill of waters of the U.S. and state may be required. Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation Measures: A condition shall be added requiring that a Streambed Alteration Agreement must be acquired prior to construction of the storm drain outfall to Homestead Creek. If the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.

A condition shall be required that replacement plantings of native riparian species shall be installed at a 3:1 ratio to offset the removal of any riparian trees and shrubs at the proposed outfall.

Mitigation Monitoring: City Planning and Tree Divisions will ensure that the project is constructed in accordance with the landscape plan, arborist report and mitigation plan. Engineering Division inspectors shall ensure field compliance during construction.

Wetland Habitat: The project site contains two designated wetland areas. No impacts to the federally protected wetlands on the Kinross Terrace project site are proposed. Other waters of the U.S. are present adjacent to the off-site storm drain alignment and outfall. Construction of the storm drain outfall to Homestead Creek may require the excavation and/or fill of waters of the U.S. and state. Implementation of the following mitigation measure would reduce the potential impact to less than significant levels.

Mitigation Measures: A condition shall be added to any site development requiring that if the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that necessary permits are obtained prior to outfall construction. Engineering Division inspectors shall ensure field compliance during construction.

c. **HYDROLOGY AND WATER QUALITY**

Erosion and Sediment Controls: The proposed project must comply with the standards of the Contra Costa County NPDES permit. Water quality in the unnamed tributary on site and Homestead Creek could be adversely affected during grading and site construction. Erosion associated with site disturbance may result in the introduction of sediment into the creek. Development of the site may have an adverse impact on downstream waters associated with increased human use of the site and the potential introduction of pollutants into the storm drain system. Runoff from the site may contain pollutants that would adversely affect downstream waters north of the project area. Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation Measures:

1. A site-specific SWPPP should be developed to prevent sedimentation and adverse impacts to water quality during construction in the unnamed tributary and Homestead Creek.

2. A post-construction storm water management plan that addresses and mitigates impacts to storm water quality, quantity and hydrology should be developed to prevent adverse impacts to downstream waters after construction.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that the project is constructed in accordance with the SWPPP, site development permit, and mitigation plan. Engineering Division inspectors shall ensure field compliance during and post construction.

d. LAND USE PLANNING

Off-site Easements: To facilitate construction of the proposed development, the applicant proposes off-site storm water drainage and sewer lines onto and across private property, which will necessitate acquisition of easements. The City cannot require easements for private development on other private property without the consent of the property owner. Nor would the City proceed with condemnation proceedings to acquire any off-site easements for the private development. The burden of acquiring any off-site easements shall be the responsibility of the applicant. Implementation of the following mitigation will reduce the potential impacts to less than significant.

Mitigation Measures: The applicant shall obtain all necessary off-site easements prior to recordation of the final map.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that recorded easements are in place prior to recordation of any final map.

e. UTILITIES

Off-site Utilities: The project proposes installation of approximately 890 linear feet of 15" and 24" storm drainpipe through private off-site property. Approximately 390-linear feet of underground pipe would be install within unincorporated Contra Costa County. As currently proposed, the underground pipe would be within the driplines of a number of significant trees and is not adjacent to the existing roadway. The City Engineering division has requested the underground pipe be relocated under or adjacent to the existing paved roadways to facilitate future maintenance and to substantially avoid the root systems of trees. Implementation of the following measure would reduce potential impacts to less than significant levels.

Mitigation Measures: A condition has been added requiring the applicant submit a revised underground storm drain plan that places the underground stormdrain line within or adjacent to the existing paved (Homestead Avenue and Seven Hill Ranch Road) roadways.

Mitigation Monitoring: City Planning and Engineering Divisions will ensure that plans showing the realignment of the off-site stormdrain line have been submitted prior to any approval of the tentative map.

4. IMPACTS FOUND NOT TO BE SIGNIFICANT. The following impacts were analyzed and found to be insignificant: Aesthetics, Agricultural Resources; Cultural Resources; Geology/Soils; Hazards & Hazardous Materials; Mineral Resources; Noise; Population/Housing; Public Services; Recreation; Transportation/Traffic.

5. INITIAL STUDY. The precise description of the land involved and a preliminary analysis of the environmental effects of this project may be obtained from Scott Harriman, AICP, of the Planning Division of the Community Development Department, City Hall, 1666 North Main Street, Walnut Creek, CA 9496, (925) 943-5899 x212 or by e-mail at harriman@walnut-creek.org.

6. PUBLIC COMMENT. Anyone who wishes to comment on the findings stated in the Negative Declaration must submit those comments in writing to the Community Development Director, City of Walnut Creek, 1666 North Main Street, Walnut Creek, 94596, within thirty (30) days of the posting date of this negative declaration.

7. RECONSIDERATION REQUEST. Anyone who wishes a reconsideration of the decision to prepare a negative declaration by the Community Development Director must request a reconsideration in writing and submit the request to the City of Walnut Creek Community Development Department, City Hall, 1666 North Main Street. The reconsideration request must be accompanied by any evidence or additional information substantiating the request to require an environmental impact report. The request for reconsideration must be filed with the Community Development Department within thirty (30) days of the posting date of this negative declaration. The decision reached by the Community Development Director upon reconsideration shall be final.

8. PROJECT REVIEW. THIS NEGATIVE DECLARATION DOES NOT SIGNIFY APPROVAL OR DISAPPROVAL OF THIS PROJECT BY CITY DECISION MAKING BODIES. THE FINAL DECISION MAKING BODY WILL CONSIDER THE PROPOSED NEGATIVE DECLARATION TOGETHER WITH ANY COMMENTS RECEIVED DURING THE PUBLIC REVIEW PROCESS TO DETERMINE WHETHER THE PROJECT WILL HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT.

SANDRA MEYER
Planning Manager

MODEL ENVIRONMENTAL CHECKLIST FORM
Revised 5/99 to conform with 1999 CEQA Guidelines

1.	**Project title:**	**Kinross Terrace Residential Subdivision**
2.	**Lead agency name and address:**	**City of Walnut Creek** **1666 North Main Street** **Walnut Creek, CA 94596**
3.	**Contact person and phone number:**	**Scott Harriman** **(925) 943-5834, ext. 212**
4.	**Project location:**	**End of Kinross Terrace, north of Marchbanks Drive**
5.	**Project Sponsor's Name and Address:**	**Delco Builders, Doyle Heaton** **2552 Stanwell, Ste 203** **Concord, CA 94520**
6.	**General plan designation:**	**MFL, Multi-Family Low (6 – 14 units/acre)**
7.	**Zoning:**	**P-D 859**

8. **Description of project:** Project proposes a 12-lot residential subdivision on a 3.58-acre site previously a portion of the Diablo Hills golf course. The project proposes site grading and installation of private roadway and utility infrastructure improvements including on and off-site sanitary sewer and storm water facilities. The project also proposes to reduce the pavement width of the Kinross Terrace, a public street, to eliminate street parking on the north side of the street. The project proposes the construction of 10 detached and 2 attached single-family dwellings and is subject to Planned District rezoning, tentative subdivision map, and design review.

9. **Surrounding Land Uses and Setting:** The project site, previously a portion of the Diablo Hills Golf Course, is situated in central Walnut Creek adjacent to single family homes to the west, multi-family development to the north and east, and golf course to the south. The project site's westerly property line is a boundary between the City of Walnut Creek and unincorporated Contra Costa County.

10. **Other public agencies whose approval is required:** The project proposes off-site storm water drainage facilities within unincorporated Contra Costa County. These facilities may be located within the dripline of a number of trees, which may be subject to County tree dripline encroachment permit. Additionally, the proposed off-site stormwater drain line would result in a new outfall into a creek, which would require a Streambed Alteration permit from the California Department of Fish and Game.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a Potentially Significant Impact as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture Resources	☑ Air Quality
☑ Biological Resources	☐ Cultural Resources	☐ Geology/Soils
☐ Hazards & Hazardous Materials	☑ Hydrology/Water Quality	☑ Land Use/Planning
☐ Mineral Resources	☐ Noise	☐ Population/Housing
☐ Public Services	☐ Recreation	☐ Transportation/Traffic
☑ Utilities/Service Systems	☐ Mandatory Findings of Significance	

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

☑ I find that although the proposed project **COULD** have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. **A MITIGATED NEGATIVE DECLARATION** will be prepared.

☐ I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

☐ I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **EIR** or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **EIR** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature _____ Date _____

Printed name _____ Title _____

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except □No Impact□ answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A □No Impact□ answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A □No Impact□ answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. □Potentially Significant Impact□ is appropriate if there is substantial evidence that an effect may be significant. If there are one or more □Potentially Significant Impact□ entries when the determination is made, and EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, □Earlier Analyses□, may be cross-referenced.

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has

been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

a) the significance criteria or threshold, if any, used to evaluate each question; and

b) the mitigation measure identified, if any, to reduce the impact to less than significance.

ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
I. AESTHETICS. *Would the project:*				
a. Have a substantial adverse effect on a scenic vista? (2,3)	☐	☐	☑	☐
Comment: The project site is not within a designated scenic corridor. The project is adjacent to an active golf, other single and multi-family developments and an open space area as designated on the General Plan Land Use Map. The project is subject is subject to design review which will insure implementation of adopted design standards. No further mitigation is necessary.				
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (1,2,3, 6;Figure 2-12)	☐	☐	☑	☐
Comment: Project is not within a state scenic highway and no historic buildings are within the project area. The project proposes tree removals and dripline encroachments which are subject to review as part of the standard development process. No further mitigation is necessary.				
c. Substantially degrade the existing visual character or quality of the site and its surroundings? (2,3,)	☐	☐	☑	☐
Comment: See (a) above.				
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (2,3,45)	☐	☐	☑	☐
Comment: Project proposes residential development which do not typically generate substantial light or glare.				
II. AGRICULTURE RESOURCES. *In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:*				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (4)	☐	☐	☐	☑
Comment: There is no designated farmland in Walnut Creek.				
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract? (4,9)	☐	☐	☐	☑
Comment: This land is not designated for agricultural uses in the zoning ordinance or through a Williamson Act contract.				
c. Involve other changes in the existing environment which due to their location or nature, could result in conversion of Farmland, to non-agricultural use? (na)	☐	☐	☐	☑
Comment: There is no designated farmland in Walnut Creek.				
III. AIR QUALITY. *Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:*				
a. Conflict with or obstruct implementation of the applicable air quality plan? (6; Table 5-3,16)	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation? (16)	☐	☑	☐	☐

Comments a - b: The proposed 12 lot residential subdivision will not create any measurable increase in air pollutants. To be considered significant a project would have to generate 80 lbs. per day of fine particulate matter and reactive organic gases and nitrogen oxides. According to Bay Area Air Quality Management District staff, a project would have to generate over 2,000 trips a day to trigger the need for further study. Cumulative impacts were evaluated in the EIR prepared for the 1989 General Plan. This project is consistent with the policies identified in Table 5-3 of the General Plan that were created to alleviate air quality impacts from cumulative development. Furthermore, the low volume of trips would not result in any measurable increase in overall region-wide emission of criteria pollutant, and therefore, would not contribute considerably to any cumulative air quality impacts.

However, the proposed project may result in temporary air quality impacts during project construction. Implementation of the following mitigation measures would reduce the emissions of particulate matter to less than significant levels.

Mitigation: Plans submitted for any Building or Site Development permit shall include the following notations.

1. Water all active construction areas at least twice daily;
2. Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind;
3. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
4. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and construction staging areas;
5. Sweep daily with water sweepers all paved access roads, public streets, parking areas, and staging areas at construction sites;
6. Replant vegetation in disturbed areas as quickly as possible.

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (6; page 5-24 and Table 5-3, 6a, 16)	☐	☐	☑	☐

Comment: Cumulative impacts were evaluated in the EIR prepared for the 1989 General Plan. This project is consistent with the policies identified in Table 5-3 of the General Plan that were created to alleviate air quality impacts from cumulative development.

d. Expose sensitive receptors to substantial pollutant concentrations? (1,16)	☐	☐	☐	☑

Comment: The proposed project does not include sensitive receptors such as hospitals and convalescent homes.

e. Create objectionable odors affecting a substantial number of people? (1,5)	☐	☐	☐	☑

Comment: Objectionable odors are not typically associated with nor likely to be generated by the proposed use.

IV. BIOLOGICAL RESOURCES. *Would the project:*

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (1,2,3,6; pages 5-20 and 21)	☐	☑	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact

Comment: This is an in-fill project in an established neighborhood. The site does not provide habitat for threatened or endangered species. No threatened or endangered species were observed during site surveys. Habitat suitable for rare plants is present on site. Twenty-two special-status plants have a low potential for occurrence on site. If present within the development envelope of the proposed project, individual plants could be negatively impacted by work conducted within the project area. Rare plant surveys are underway.

Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation: Two rare plant surveys shall be conducted by a qualified biologist to determine if any special-status plant species are present within the study area. No rare plants were detected during the late season survey (Wood Biological 9/13/04). A spring survey shall be performed in April to coincide with the flowering period of potentially occurring plants. If rare plants are present within the development envelope of the proposed project, the feasibility of avoidance should be evaluated. If avoidance is infeasible, a mitigation plan should be developed and implemented.

Comment: Habitat for migratory birds and/or birds of prey is present on site. Construction of the project has the potential to result in a "take" of ground- or tree-nesting migratory birds and/or birds of prey. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation: If site disturbance commences between February 1 and August 31, a pre-construction survey shall be conducted by a qualified wildlife biologist. If nests of either migratory birds or birds of prey are detected on or adjacent to the site, the applicant shall consult with the CDFG to determine the size of a suitable buffer in which no new site disturbance is permitted until August 31, or the qualified biologist determines that the young are foraging independently. If more than 30 days elapses between the survey and site disturbance, the survey shall be repeated.

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (2,3, 6; page 5-21)	☐	☑	☐	☐

Comment: No development is proposed in the riparian habitat present on the Kinross Terrace project site. Riparian habitat is present at the proposed storm drain outfall location on Homestead Creek. Construction of the storm drain outfall to Homestead Creek may require the removal of riparian vegetation at and below the top of bank. Excavation and/or fill of waters of the U.S. and state may be required.

Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation:

1. A Streambed Alteration Agreement must be acquired prior to construction of the storm drain outfall to Homestead Creek. If the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.
2. Replacement plantings of native riparian species shall be installed at a 3:1 ratio to offset the removal of any riparian trees

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
and shrubs at the proposed outfall.				
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (1,2,3, 6; page 5-22 and Figure 5-2)	☐	☑	☐	☐

Comment: The project site contains two designated wetland areas. No impacts to the federally protected wetlands on the Kinross Terrace project site are proposed. Other waters of the U.S. are present adjacent to the off-site storm drain alignment and outfall. Construction of the storm drain outfall to Homestead Creek may require the excavation and/or fill of waters of the U.S. and state.

Implementation of the following mitigation measure would reduce the potential impact to less than significant levels.

Mitigation: If the placement of fill within waters of the U.S. is required for the outfall, a 404 permit from the USACE and a 401 certification from the RWQCB must be issued prior to the outfall construction.

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (2, 3, 6; pages 5-20 and 5-21)	☐	☐	☐	☑

Comment: While native and migratory wildlife species may use the project site on occasion, it is not an established wildlife corridor or nursery site.

e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (6; page 5-12, 40)	☐	☑	☐	☐

Comment (On-site trees): Project proposes removal of trees subject to the City of Walnut Creek's Tree Protection Ordinance. An arborist report prepared by Treescapes, Inc., dated March 6, 2003, identified and evaluated 52 trees located on the undeveloped project site. The project proposes removal of 26 trees (diameter 9" or greater) on site and dripline line encroachments on approximately 6 other trees. 26 trees will be preserved throughout the site; 19 native species trees and 7 other non-native species within the designated wetland areas. The arborist report identifies 4 native species trees to be removed, 3 of which have poor vigor/structure. Tree #474 a 10" Valley Oak, is in good vigor and would be removed.

The removal of any trees equal to or greater than 9 inches in diameter at breast height (4.5 feet above the ground surface) will trigger the need for a tree removal permit from the City of Walnut Creek. Implementation of the following mitigation measure would reduce the impact to a less than significant level.

Mitigation:

1. A tree removal permit from the City of Walnut Creek is required for removal of any trees greater than 9 inches in diameter at breast height are to be removed.
2. The project shall comply with all preservation guidelines specified in the arborist report including, but not limited to, installation of temporary chain-link construction fence, hand digging within 1.5 times the driplines of trees.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact

Comment (Off-site trees): The project proposes off-site underground sewer and storm water drain lines. An arborist report prepared by Joseph McNeil Consulting Arborist, dated August 8, 2004, evaluated 41 trees within the project zone. The report locates and identifies the pipe route and all trees within the proposed trench line. The report concludes that impacts to trees may occur as part of the proposed development and recommends actions to reduce potential impacts to trees to less than significant levels. The report does not recommend removal of any trees. The proposed storm drain alignment is subject to further review as specified in Section XVI, Utilities and Service Systems, below. Re-alignment of the off-site storm drain line within the existing roadway easement would not eliminate trenching within driplines of tree but would reduce the number of trees potentially impacted by the installation.

Mitigation:

1. A dripline encroachment permit from the City of Walnut Creek is required prior to any construction or trenching activities.
2. The project shall comply with all preservation guidelines specified in the specified in the Joseph McNeil Arborist Report dated August 8, 2004.
3. The Map of trees, contained in the arborist report, shall be revised to show the realigned storm water pipe and any revised recommendations to reduce impacts to trees.

f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (6; page 5-12)	☐	☐	☐	☑

Comment: No HCPs or NCCPs have been approved for the project site.

V. CULTURAL RESOURCES. *Would the project:*

a. Cause a substantial adverse change in the significance of a historical resource as defined in Sec. 15064.5? (6; Table 2-6)	☐	☐	☐	☑
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Sec. 15064.5? (3)	☐	☐	☑	☐
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (3)	☐	☐	☑	☐
d. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☑	☐

Comments a - d: Referral comments for the Historical Resources Information System at Sonoma State University (CHRIS/NWIC) indicated, "there is a low possibility of historical/archaeological resources. Further study is not recommended." All site development permits issued by the City are subject to a general condition which requires developers who unearth potential archaeological resources to halt work and consult an archaeologist for recommended mitigation measures which are then to be followed. No project specific mitigation measures are deemed necessary in this area. (1,2)

VI. GEOLOGY AND SOILS. *Would the project:*

a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. (6; Figure 6-2)	☐	☐	☑	☐
ii) Strong seismic ground shaking? (6; Figure 6-2)	☐	☐	☑	☐
Comment: All parts of Walnut Creek can be expected to experience some level of seismic ground shaking during the life of a structure. All new buildings are required to be constructed in compliance with adopted building codes which incorporate seismic resistant design criteria. Seismic impacts on structures built to adopted building codes is considered within acceptable community levels.				
iii) Seismic-related ground failure, including liquefaction? (6; pages 6-10 through 6-12, Figure 6-2)	☐	☐	☐	☐
iv) Landslides? (6; page 6-10 and Figure 6-2)	☐	☐	☑	☐
Comment: The project site is not within an area shown on the General Plan Environmental Hazards map, Figure 6-2, subject to liquefaction or landslide.				
a. Result in substantial soil erosion or loss of topsoil? (3,21,24)	☐	☐	☐	☐
c. Result in the potential for water erosion based on slopes, soil types and soil stability. (3,21,24)	☐	☐	☑	☐
d. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, (excavation, grading, clearing, grubbing or fill) and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? (6; Figure 6-2)	☐	☐	☑	☐
e. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? (21,27)	☐	☐	☑	☐
f. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? (na)	☐	☐	☐	☑
VII. HAZARDS AND HAZARDOUS MATERIALS. *Would the project:*				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? (1, 6; pages 6-18 through 6-26)	☐	☐	☑	☐
Comment: The residential project is not considered a source of hazardous material.				
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (1)	☐	☐	☑	☐
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (1,4,9)	☐	☐	☑	☐
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
65962.5 and, as a result, would it create a significant hazard to the public or the environment? (51)				
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? (na)	☐	☐	☑	☐
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (na)	☐	☐	☑	☐
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (24)	☐	☐	☑	☐
h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (2,3,6; page 6-14 through 6-17)	☐	☐	☑	☐

Comment: The project is predominantly surrounded by existing single and multiple family developments and an active golf course. New homes would be approximately 50' from the back of seventh green. An evaluation by Neal Meagher, Golf Course Architect, dated December 30, 2003, concludes that the relatively short, 140 yard par three hole, in conjunction with proposed landscape mounds and tree plantings reduce the occurrence of errant balls on the three homes adjacent to the course to less than significant levels. Standard conditions of approval for homes next to golf courses require that homebuyers be notified of the possibility of errant golf balls as part of purchase disclosure. No further mitigation is necessary.

VIII. HYDROLOGY AND WATER QUALITY. *Would the project:*				
a. Violate any water quality standards or waste discharge requirements? (24)	☐	☑	☐	☐

Comments: The proposed project must comply with the standards of the Contra Costa County NPDES permit. Water quality in the unnamed tributary on site and Homestead Creek could be adversely affected during grading and site construction. Erosion associated with site disturbance may result in the introduction of sediment into the creek. Development of the site may have an adverse impact on downstream waters associated with increased human use of the site and the potential introduction of pollutants into the storm drain system. Runoff from the site may contain pollutants that would adversely affect downstream waters north of the project area. Implementation of the following mitigation measures would reduce the impact to a less than significant level.

Mitigation:

1. A site-specific SWPPP should be developed to prevent sedimentation and adverse impacts to water quality during construction in the unnamed tributary and Homestead Creek.
2. A post-construction storm water management plan that addresses and mitigates impacts to storm water quality, quantity and hydrology should be developed to prevent adverse impacts to downstream waters after construction.

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (1,3,6; page 5-22,24)				
Comment: Project is served by public water services and no private wells are present or proposed. Site drainage has been designed to preserve the existing on-site wetland areas and direct runoff from new impervious surfaces into a stormwater drainage system. The project is subject to grading and site development permits to ensure compliance with approved plans. No further mitigation is necessary.				
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? (3,24)	☐	☑	☐	☐
Comment: The project proposes grading and construction which will alter existing drainage patterns on site. Erosion and siltation during construction could occur.				
See mitigation VIII(a) above				
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? (1,24)	☐	☐	☑	☐
Comments d: Project proposes grading activities which would alter on-site drainage patterns. Proposed landscape and Stormwater facilities would reduce the potential for flooding to less than significant levels.				
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (1,3,14,24)	☐	☐	☑	☐
Comment: The project proposes drainage facilities that collect and divert stormwater runoff to an existing creek that has capacity to accommodate the proposed development.				
f. Otherwise substantially degrade water quality? (24)	☐	☐	☑	☐
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (3, 6; Figure 6-3)	☐	☐	☐	☑
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (3, 6; Figure 6-3)	☐	☐	☐	☑
i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam? (6; Page 6-13 and 14, Figure 6-3)	☐	☐	☐	☑
j. Inundation by seiche, tsunami, or mudflow? (1,4, 6; Page 6-9 and Figure 6-2)	☐	☐	☐	☑
Comments g – i: According to the Flood Insurance Rate Map (FIRM) Floodplain Map, the project site is located within Area X, which indicates that the site is neither in a 100-year or 500-year floodplain. In addition, the project site is not located near a levee or dam. Thus, the proposed project will not expose people, structures, or property to significant risk nor impede or redirect flood flows.				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
k. Alterations of wetlands in any way? (1,3, 6; Figure 5-2)	☐	☐	☑	☐

Comment: Biotic Resources Report, prepared by Mosaic Associates, dated July 29, 2004, identifies approximately 0.051 acres of jurisdictional wetlands in two patches at the northern end of site. The project does not propose alteration of on-site wetland areas.

IX. LAND USE PLANNING. *Would the project:*

a. Physically divide an established community? (2,3)	☐	☐	☐	☑

Comment: Project is within an urbanized area and does not create any feature that would physically divide an established community.

b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (6,6a,8)	☐	☑	☐	☐

Comment: The General Plan designation of the 3.58-acre project site is MFL, Multi-Family Low, 6-14 units/acre. The proposed 12-unit project represents a density of 3.4-units per acre considered independently on the 3.58-acre site, and 6.6-units per acre within the context of the 150-acre planned district. A density of 6.6-units per acre is consistent with the Multi-Family Low density General Plan designation. The project would be subject to an affordable component of the Housing Element which requires 10% of the units to be available to moderate income households.

The project site is zoned P-D 859 which allows a maximum of 1,150 residential within the 150-acre planned district. There are currently approximately 986 residential units within the P-D boundaries. The addition of the 12 proposed units would result in 998 units, below the permitted zoning maximum. The current Planned District zoning did not anticipate residential development and would need to be revised (rezoned) to accommodate the residential project consistent with the goals and policies contained in the General Plan. The project including rezoning is consistent with the General Plan and would not conflict with adopted land use policies.

To facilitate construction of the proposed development, the applicant proposes off-site storm water drainage and sewer lines onto and across private property, which will necessitate acquisition of easements. The City cannot require easements for private development on other private property without the consent of the property owner. Nor would the City proceed with condemnation proceedings to acquire any off-site easements for the private development. The burden of acquiring any off-site easements shall be the responsibility of the applicant. Implementation of the following mitigation will reduce the potential impacts to less than significant.

Mitigation: The applicant shall obtain all necessary off-site easements prior to recordation of the final map.

c. Conflict with any applicable habitat conservation plan or natural community conservation plan? (1, 6; Page 5-21)	☐	☐	☐	☑

Comment: The project is not within a habitat or natural community conservation plan area.

X. MINERAL RESOURCES. *Would the project:*

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
(6; Page 5-22)				
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? (6; Page 5-22)	☐	☐	☐	☑

Comments a – b: The project is situated within an area which consists of existing residential and commercial development. The project site has no known existing mineral resources on site. The 12-lot residential development does not require or propose any quarrying, mining dredging or extraction of mineral resources on site, therefore, the proposed project will not substantially deplete or inhibit the extraction of a nonrenewable natural resource.

XI. NOISE. *Would the project result in:*

a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (6; Page 6-32, Table 6-5, Table 6-7 and Figure 6-4)	☐	☐	☑	☐
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (1)	☐	☐	☑	☐
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (5, 6; Page 36,39, Figure 6-7, 25)	☐	☐	☑	☐

Comment: The most significant source of noise in Walnut Creek is vehicular traffic. A project would need to increase traffic levels by 100% to generate a 3 dB(A) increase in noise. An increase of at least 5 dB(A) is required before increased noise is considered noticeable. Traffic from this project will not substantially increase ambient noise levels in the area. See section XV. (Transportation) below for project specific traffic counts.

d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (5, 44; Section 4-6.203)	☐	☐	☑	☐

Comment: The project will generate short-term noise impacts during the construction phase of this development. The City restricts construction hours of operation to Monday through Friday 7a.m. to 6 p.m. without special approval of the Community Development Director. Construction noises during normal business hours are to be expected in association with in-fill development. These short-term noise impacts are considered less than significant. No project specific mitigation is deemed necessary.

e. For a project located within an airport land use plan or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (na)	☐	☐	☐	☑
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (na)	☐	☐	☐	☑

XII. POPULATION AND HOUSING. *Would the project:*

a. Induce substantial population growth in an area either directly (for example, by proposing new homes and businesses or indirectly (for example, through extension of roads or other infrastructure)? (1,3)	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (2,3)	☐	☐	☐	☑
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (1,2,3)	☐	☐	☐	☑

XIII. PUBLIC SERVICES.

a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection? (28)	☐	☐	☑	☐
Police protection? (26)	☐	☐	☑	☐
Schools? (33,34,35)	☐	☐	☑	☐
Parks? (6; Chapter 5)	☐	☐	☑	☐
Maintenance of public facilities including roads or storm drain facilities? (24)	☐	☐	☑	☐

Comment: All public services are available and adequate to serve the proposed development.

XIV. RECREATION.

a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (5)	☐	☐	☑	☐
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment? (1)	☐	☐	☑	☐

Comments a – b: The project proposes 10 detached and 2 attached units on 3.58 acres. The project site is in the immediate vicinity of Heather Farm Park, a large City park. No new public recreation facilities are required as a result of the proposed project

XV. TRANSPORTATION/TRAFFIC. *Would the project:*

a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? (1,25)	☐	☐	☑	☐

Comment: A traffic analysis, dated February 2001, was prepared by George Nickelson, P.E., of Nickelson Associates. The report concludes that the proposed 12 lot residential project would generate 12 p.m. peak hour trips, well below the City and County minimum 100 trip threshold requiring further traffic analysis. Therefore, the proposed project is not expected to have significant impact on area wide traffic flow.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b. Exceed, either individually or cumulatively, a level of service standard established in the Growth Limitation Plan? (1,25,6; page 2-85)	☐	☐	☑	☐
Comment: See response above.				
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? (na)	☐	☐	☐	☑
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (3,25)	☐	☐	☑	☐
Comment: The project is situated at the end of an existing dead end street. Proposed improvements include adding a private roadway into the development from the existing dead end street and constructing a complying cul-de-sac turn around, thereby improving existing vehicular circulation.				
e. Result in inadequate emergency access? (3,24,25,26,28)	☐	☐	☑	☐
Comment: The project has been designed to allow for adequate emergency access.				
f. Result in inadequate parking capacity? (3,8,25)	☐	☐	☑	☐
Comment: Parking standards require 2 covered spaces per unit. The project proposes a mix of two and three car garages. Driveways are a minimum of 18-feet in length which would accommodate additional on-site parking. The private street is designed to accommodate street parking on one side. The project exceeds City single family residential parking standards.				
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (3,6; Chapter 4,8)	☐	☐	☑	☐
XVI. UTILITIES AND SERVICE SYSTEMS. *Would the project:*				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (24)	☐	☐	☑	☐
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (13)	☐	☐	☑	☐
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (14,24)	☐	☑	☐	☐
Comment: The project proposes installation of approximately 890 linear feet of 15" and 24" storm drain pipe through private off-site property. Approximately 390-linear feet of underground pipe would be install within unincorporated Contra Costa County. As currently proposed, the underground pipe would be within the driplines of a number of significant trees and is not adjacent to the existing roadway. The City Engineering division has requested the underground pipe be relocated under or adjacent to the existing paved roadways to facilitate future maintenance and to substantially avoid the root systems of trees. Implementation of the following measure would reduce potential impacts to less than significant levels.				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
Mitigation: The applicant shall submit a revised underground storm drain plan that places the underground stormdrain line within or adjacent to the existing paved (Homestead Avenue and Seven Hill Ranch Road) roadways.				
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (12,15)	☐	☐	☑	☐
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? (13)	☐	☐	☑	☐
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? (53)	☐	☐	☑	☐
g. Comply with federal, state, and local statutes and regulations related to solid waste? (13)	☐	☐	☑	☐
Comments d - g: All utilities are available and adequate to serve the proposed project.				
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☑	☐
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☑	☐
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☑	☐

H:\Scott Harriman\Kinross Terrace Subdivision\Kinross Initial Study 9-28-04.doc

INITIAL STUDY SOURCE LIST

1) Project Application Information
2) Field Inspection/Investigation
3) Project Plans
4) Planner's Knowledge of Area
5) Experience with Other Projects of this Size and Nature
6) City of Walnut Creek General Plan
6a) City of Walnut Creek General Plan EIR
7) City of Walnut Creek General Plan Land Use Map
8) City of Walnut Creek Zoning Ordinance
9) City of Walnut Creek Zoning Map
10) State of California, Special Studies Zones (Revised Official Map)
11) City Aerial Photos
12) East Bay Municipal Utility District
13) Central Contra Costa Sanitary District
14) Contra Costa County Flood Control District
15) Contra Costa Water District
16) Bay Area Air Quality Management District
17) Site Specific Geologic Report
18) Site Specific Arborist Report
19) Site Specific Archeological Reconnaissance
20) City Off-Street Parking Standards
21) USDA-SCS, "Soils of Contra Costa County"
22) Department of Fish and Game, Natural Diversity Database Maps and Reports
23) City of Walnut Creek Parks and Recreation Division
23a) City Arborist
24) City of Walnut Creek Engineering Division
25) City of Walnut Creek Transportation Division
26) City of Walnut Creek Police Department
27) City of Walnut Creek Building Division
28) Contra Costa County Fire Protection District
29) Contra Costa County Clean Water Program
30) City Standard Specifications
31) Caltrans Highway Design Manual
32) Caltrans Traffic Manual
33) Mount Diablo School District
34) Walnut Creek School District
35) Acalanes School District
36) County of Contra Costa
37) Association of Bay Area Governments (ABAG)
38) State Archaeological Clearinghouse, Sonoma State University
39) City of Walnut Creek Noise Ordinance
40) City of Walnut Creek Tree Preservation Ordinance
41) City of Walnut Creek Grading Ordinance
42) Uniform Building Code (UBC) and Appendices (as adopted by the City)
43) Contra Costa County Congestion Management Plan
44) Walnut Creek Municipal Code
45) Standard Design Review Conditions (DRC Resolution NO. 1326)

46) Site Specific Noise Study
47) Site Specific Wild Life/Habitat Study
48) Site Specific Hydrology Report
49) Design Review Commission
50) Design Review Guidelines
51) Contra Costa Environmental Health Department
52) City of Walnut Creek Subdivision Ordinance
53) Valley Waste Management
54) Preliminary Results, Botanical Survey, Kinross Terrace Subdivision Site (Wood Biological Consulting, September 13, 2004)
55) Wetland Delineation, Kinross Terrace, Off-Site Sewer and Storm Drain Plan, Walnut Creek (Wood Biological Consulting, August 18, 2004)
56) Biotic Resources Report, Kinross Terrace, Walnut Creek, Contra Costa County (Mosaic Associates, July 29, 2004)
57) Wetland Delineation, Heather Park, Walnut Creek, Contra Costa County (Live Oak Associates, Inc., September 8, 2000)

ATTACHMENT 4A

RECEIVED
OCT 19 2004
PLANNING DIVISION
CITY OF WALNUT CREEK

October 18, 2004

Ms. Valerie Barone, Director
City of Walnut Creek Community Development Department
1666 North Main Street
Walnut Creek. CA 94596

Dear Ms. Barone,

Ref. Notice of Intent to Adopt a Proposed Mitigated Negative Declaration
re Work Order N° YO3-003, Kinross Terrace Subdivision.

Would you please reconsider the decision publicly announced September 28, 2004 stating the Department's intent to adopt a Mitigated Negative Declaration for the above work order?

Many significant effects on the environment of Walnut Creek are not considered in the proposed Mitigated Negative Declaration for the project.

In 1984 when condominium and/or apartments were proposed for this exact same site, an ENVIRONMENTAL IMPACT REPORT (EIR) was required. Topics discussed include the status of the site as a buffer zone, the precedent for re-designation and development of the golf course (approximately 46 acres), loss of visual quality of the site, storm water drainage, sewage collection, and traffic and parking issues.

Today, the need for an EIR is even more necessary than in 1984.

Some of the items that the proposed Mitigated Negative Declaration does not address are:

* this rezoning application, if approved could set a precedent for more & maybe all of the golf course being developed for housing and the loss of one of Walnut Creek's premier leisure attractions.

* this rezoning application, if approved, would be in conflict with the Planning Commission and Council decisions made when the Planned Development 859 was originally approved. This 3.58-acre site is part of the open space that was then incorporated into PD 859, to offset the high density of units and housing that were then approved for construction.

* at the present time, when the population of Walnut Creek is increasing in leaps and bounds, it is not good for the community that recreation space be reduced. More homes will put more pressure on all the public park facilities that cannot be expanded accordingly. If we are not careful, Walnut Creek will become like Los Angeles, a city of just houses, cars and pollution. Already our Freeway Intersection 24/680 is like Los Angeles. The need for recreation land is as valid today as it was when the Planning Commission and Council Members originally zoned this land to be recreation land, in 1966/196.

* the deer, fox, coyote, etc. that presently depend upon this 3.58-acre open space to move between Shell Ridge Open Space and Seven Hills Ranch will have their trails between their two habitats blocked by the 12 homes. If built, these homes will force the animals to go onto Marchbanks Drive, which would be very dangerous for the motorists that frequent Marchbanks Drive.
At present the animals move to/from each open space stated, and road signs at St John Vianney Church and Homestead Ave forewarn motorists on Ygnacio Valley Rd of such. Many of the residents in the area can attest to the animals transiting the 3.58-acre site. Attachment A is an example.

* generally, houses are not built at the end of a fairway in the direct line of flight of the golf ball, but on the sides of a fairway. The Golf Course Safety Mitigation Report prepared for this 12 home development by Neal Meagher dated December 30, 2003, conflicts with an unbiased safety recommendation in an EIR Report prepared 1984 for this same 3.58-acre site. While Neal Meagher states "in the absence of an industry standard governing golf course dimensions, the proposed distance of 50' from the back of the green to the new property line would, in most cases, be sufficient to keep errant shots from exiting the golf course property," the 1984 EIR Report states "the buildings should be set back a minimum of 150 ft from a green, as golf balls can cause property damage and physical damage to persons", per Jones, Rees L & Guy L Rando. A copy of both statements is attached for reference. See Attachments B & C.

* if the houses are built and a safety problem later develops because some of the 12 homes are in the abnormal and dangerous situation of being in the direct line of flight of errant golf balls, the golf course owner could use such as an excuse to cease operating the 9 hole course, which would give him a reason to convert the rest of the links to housing, which would be very profitable for him but a big loss for the adjoining residents, the City of Walnut Creek and the communities nearby.

* the proposal to reduce the roadway width of the existing "Kinross Terrace", from Marchbanks Drive to the new private road into the project site so that the public cannot park on both sides of the road as they can at present, makes no sense. Presently, Kinross Terrace is wide enough for the public to park on either side and still operate as a road. To reduce the parking to one side only will reduce the benefit the public road presently offers the public, but achieve nothing for the public. Making this section of Kinross Terrace only 28' wide would not only reduce the public parking that is presently available on this public street but it would have the effect of converting a public road into a private road, while leaving the public to still maintain it. Presently, both sides of the street are often used by the public for parking purposes.
Example:- * when people are playing tennis at the adjoining tennis courts.
* when a large event is held at the Heather Farms Homeowners clubhouse at 1501 Marchbanks Drive.
* when a large event is held in Heather Farms Park like the Art & Wine Festival or the Walnut Festival.

* as a place to park a car by people who live nearby or choose to catch the County Connection bus from the adjoining bus stop.

Note, there have been no major public nuisance problems resulting from such over the years. Reference Attachment D.

* an artist's rendering of the proposed homes was presented Nov. 13, 2002 to the residents of the homes presently living on the other side of Kinross Terrace, (that front onto Adirondack Way), and it showed their views of the distant hills would still be seen from their back patios. However, the rendition was misleading as it only showed the proposed houses directly across the road, at the entrance to the new development, that were a max. of 23'-7" high. Had the houses at the back of the development proposed been considered instead, namely those to be built on pads approx. 24 ft higher in elevation to the entrance homes and their 28'-6" height overall been considered, it will surely be found that the existing residents views of the distant hills will be obstructed and lost. Also, since that presentation, one of the houses directly across the road shown in the rendition has increased in height from 23'-7" to 28'-6".

While the 3.58-acre site is no longer used for a golf course fairway, it is performing a very important function "as is", for the community of Walnut Creek. The site, which is partly riparian in nature, is providing a natural habitat for plants, animals, insects and birds that frequent Walnut Creek. It should be retained as a natural habitat area, like a few other small areas of the golf course are functioning as natural habitats. See Attachment E.

Also, rezoning these 3.58-acres will benefit only a very few people, but would be a great loss to both the fauna (deer etc) that use it to migrate between their habitats, and the present residents who bought their homes expecting to enjoy the open space of golf course zoning.

A wise decision would be to request an EIR then consider the Pros and Cons. I think you may find on reviewing an EIR for this project that it would be best to deny this application to build 12 homes on this open space. Then nobody will be any the worse off or better off than when they bought their properties. Everyone will continue to have what he or she bargained for when they purchased their properties. (the homeowners and the golf course owner)

In conclusion, the proposed Mitigated Negative Declaration leaves the following questions unanswered: -

* we do not know how the loss of this habitat will affect the animals that use it?
* the adjoining residents are not being correctly told how their views will be effected if this open space is built upon.
* this project will/won't be a precedent for other open spaces of the Diablo Hills Golf Course being built upon in the future?
* what are the long-term implications of adopting the proposed Mitigated Negative Declaration for the Diablo Hills Golf Course, the adjoining residents and the recreational sport of golfing in Walnut Creek?

If the answer is not stated in the proposed Mitigated Negative Declaration for any of these questions, we would suggest that an EIR is necessary to determine the answer.

Lastly, we believe that if the proposed Mitigated Negative Declaration is adopted in lieu of an EIR, it will create a precedent for easy conversion of more of the golf course property to housing, which would not be best for the people and fauna of Walnut Creek.

Frank J. Anderson
101 Shell Ridge Crt. Walnut Creek.

M. G. Klimes
1576 Siskiyou Dr. Walnut Creek.

Bob Henderson
1578 Siskiyou Dr. Walnut Creek.

Sheridan W. Hall
850 Seven Hills Ranch Rd
Walnut Creek.

(Fliehmann)
536 Adirondack Way
Walnut Creek.

CC. City of Walnut Creek Planning Commission, Chair & members. (Meeting Oct. 28, 2004)

W.J. Fliehmann. P.E.
536 Adirondack Way
Walnut Creek, CA 94598

7 January 2001

Mr. Paul Richardson, Planning Manager
Community Development Department
City of Walnut Creek
1666 North Main Street
Walnut Creek, CA 94596

Dear Mr. Richardson:

I recently signed as a participant in a group letter from a number of Past Presidents of the Heather Farms Homeowners Association regarding the Application pending for Subdivision 8457.

At this time I would like to present a more direct and personal request that this Application be rejected. To the best of my recollection the particular parcel of land involved was designated as being for Recreational use, That was part of an agreement between the City and the original Developer in his quest to use the Heather Farm area for high density development.

I have lived in Heather Farms for fifteen years and highly prize the rather rural nature found in the midst of the City. In years past we have frequently watched as deer cross over the property in question and along our side of the fence separating us from the Seven Hills Ranch. That area serves as a vital link for their movement to and from the secluded area just down in the draw from our back yard. Deer are not the only wild life to frequent that parcel, Just last week we heard Coyotes there in the area and have had foxes, skunks and raccoons in our backyard courtesy of the natural pathway provided by that parcel. I have never looked for the numerous small types of wild life that must dwell there but obviously it does exist.

Over the Years the City of Walnut Creek has been very active in preserving open space further up Shell Ridge and on Lime Ridge. It would seem a shame to now turn our collective backs on a relatively small parcel used by the wild life residing in those areas for transitory purposes. The area has been Zoned Recreational and it would appear logical to leave it so.

Yours truly,

W J Fliehmann P.E.

Attachment A

NEAL MEAGHER GOLF COURSE ARCHITECT

Golf Course Safety Mitigation Report
for
Kinross Terrace

December 30, 2003

The current application for the Kinross Terrace development by Delco Builders & Developers calls for the southern edge of the project to abut the existing seventh green of the Diablo Hills Golf Course. This report summarizes the conceptual recommendations for mitigating potential conflicts between the new home sites and the existing golf hole as shown on the attached Proposed Golf Course and Landscaping Concepts Plan.

The existing seventh hole is a par 3 hole measuring 140 yards from the Blue, or back tee, with the green slightly elevated. Generally speaking, it is quite rare for golfers to over club a green, especially a short par 3 hole like this one, and even more rare for that to happen on a slightly uphill shot. Therefore, in the absence of an industry standard governing golf course dimensions, the proposed distance of 50' from the back of the green to the new property line would, in most cases, be sufficient to keep errant shots from exiting the golf course property.

Additionally, the construction of a new sand bunker at the rear of the green will serve as a new hazard to any golfer who over hits this green reinforcing a more cautious approach to the play of this hole. This new bunker will be backed by a new series of 5' – 6' high mounds that will be densely planted with groundcover, shrubs and trees that will further help block any errant shots from exiting the golf course and entering the proposed new home sites. The proposed bunker as shown on the plan is in the same scale and design style as the existing bunkering on the golf course and utilizes the existing network of mounding that frames the rear of the green. It is important to maintain these existing mounds as they help define the hole from the tee and they also will work well with the new series of mounds that will parallel the new property line.

By planting redwood and Raywood ash trees along this property line, the view of the new homes will be softened from the golfer's perspective as well as serving as further protection from mis-hit golf shots.

While it is impossible to claim that an errant golf shot will never pose a hazard to a future homeowner, this proposal does endeavor to ameliorate such an occurrence as much as possible while creating a visually appealing landscape to both homeowner and the patron of the Diablo Hills Golf Course.

4457 LINDA WAY • PLEASANTON, CA 94566 • PHONE 925.417.7513 • FAX 925.417.7514 • NMGOLF@PACBELL.NET
AMERICAN SOCIETY OF GOLF COURSE ARCHITECTS

Attachment B

☐ 500 Newport Center Drive, Suite 600
Newport Beach, California 92660
phone (714) 640-6363

☐ 2606 Eighth Street
Berkeley, California 94710
phone (415) 841-6840

lsa

Community Planning ☐ Natural Resource Management ☐ Environmental Assessment

DRAFT

ENVIRONMENTAL IMPACT REPORT

REGENCY PARK

GENERAL PLAN AMENDMENT AND REZONING APPLICATION
NO. 8478

PREPARED FOR
CITY OF WALNUT CREEK

DECEMBER 1984

By
Larry Seeman Associates, Inc.
2606 Eighth Street
Berkeley, CA 94710
(415) 841-6840

LSA #84-046

Attachment C

Development of the project could disturb horses grazing on the Hale property and would indirectly diminish the rural character of this parcel.

Proximity to the golf course would be considered an asset by potential residents as it would provide open vistas and a recreational ambience, however, the units in the southern portion of the site would be subject to the hazards of golf balls being driven onto the site. These units would be approximately 130 feet from the center of the seventh green and would have balconies perpendicular to the fairway. According to site design criteria for golf courses, homes or other surrounding uses should be set back a minimum of 150 feet from the center of a green (Jones, Rees L. and Guy L. Rando, 1974). Golf balls can cause property damage and physical damage to persons. While the distance of the units from the golf course would be sufficient to prevent regular bombardment by golf balls, golf balls would strike these units often enough to result in a significant impact. If sufficient complaints regarding golf ball damage on the project site are received, it is possible that requests to shorten the hole would again be made. This would result in a potential for additional development on the golf course. The impacts of this possibility are discussed in the Growth Inducement section of this report.

In order to buffer adjacent uses from the project, the proposed landscape plan depicts a six-foot high wood fence along the portion of the west property line adjacent to the single-family homes, a four-foot high open wood fence along the south property line adjacent to the golf course, and retention of the existing cyclone fence along the portion of the east property line adjacent to the Stoneridge Apartments. This fence is approximately 15 feet high. Project boundaries adjacent to surrounding residences would also be buffered with both deciduous and evergreen trees.

Mitigation Measures. The following measures are recommended to offset potential adverse effects:

1. In order to minimize disturbance to adjacent uses, the setback from the property line adjacent to the Howard residence should be increased to at least 30 feet. In order to achieve this setback, the westernmost unit of Building Number 1 should be deleted.

2. In order to provide an effective and attractive buffer between the Stoneridge Apartments and the project, the existing cyclone fence should be removed and an eight-foot high earth-toned wood fence should be installed in its place.

Mr. Paul Richardson, Planning Manager
City of Walnut Creek
February 9, 2001

Dear Mr. Richardson:

Please refer to the following excerpt from the (undated) Subdivision 8457 Application Cover Letter submitted by Heather Park LLC of P.O. Box 131, Walnut Creek.

> The site is presently a nuisance and has been subject to trespassing. A walk of the Site reveals stone campfire rings, dumpings, and clippings from adjoining properties, Signs of unauthorized partying, and garbage. Neighbors have informed us of vagrancy complaints, and the presence of other various illegal activities, resulting in police visits. This summer, the Fire Department extinguished a fire on the site which could have resulted in the disastrous loss of existing homes. An amendment to the current PUD of Golf Course Rough to residential use will eliminate these problems and bring security to the neighborhood.

We are neighbors who, for more than fifteen years, have lived alongside the property described above. It is totally visible to us. We have never made "vagrancy reports," have never viewed "various illegal activities" nor have we seen "this summer . . . a fire on the site.". The attached photographs disclose no "dumpings, clippings and garbage," but, instead, show that this attractive greenbelt and buffer zone land is under continuous surveillance from our residences. We need this area as a refuge to get away from the pressures of modern living—to reflect, to restore and to recharge.

A review of the *The Walnut Creek Journal's* "Fire Log," for the period from June 1 to September 30, 2000, reveals no reportable fires on the property last summer. Discussions with Walnut Creek police confirm this and also disclose that for many years there have been no reportable police offenses on this land.

We do not need a Crusader/Developer to "bring security to the neighborhood." We already have it.

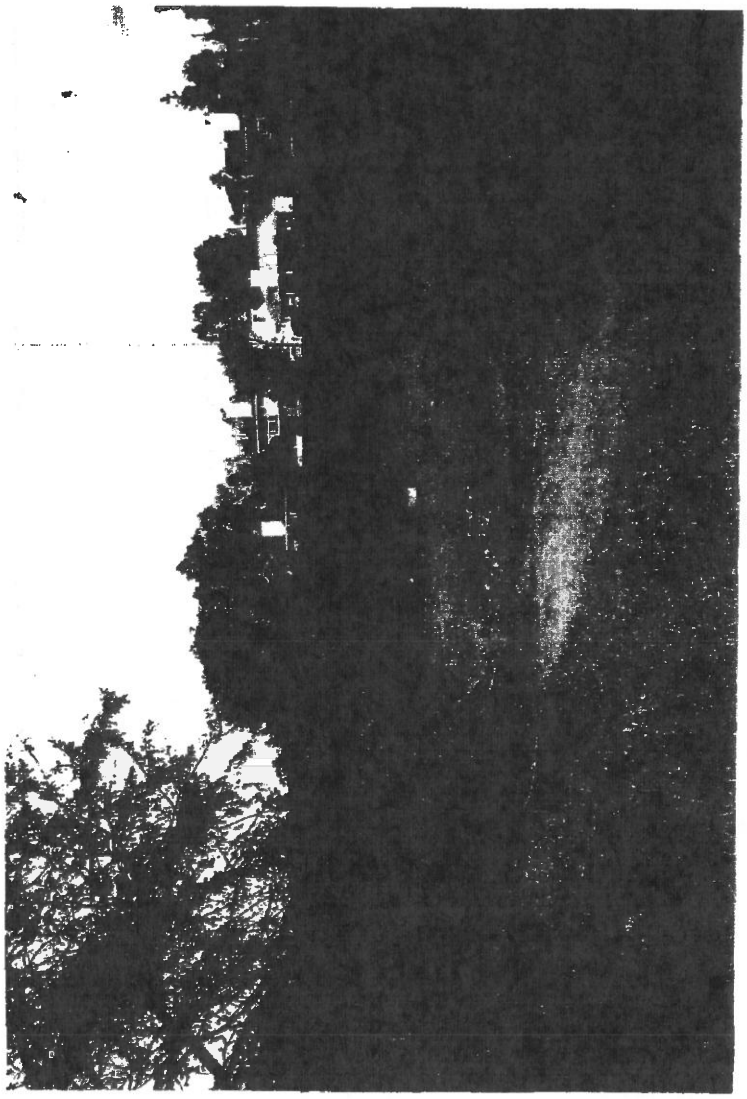
Sincerely,

Bunny Mitchell
525 Adirondack Way

Byron Fellows
503 Adirondack Way

Frank Anderson
101 Shell Ridge Court

Attachment D



Ken Hale
16300 West Ellendale Rd.
Dallas, OR 97338
Ph. 503-623-4368
E-mail otago@teleport.com

RECEIVED
OCT 05 2000
PLANNING DIVISION
CITY OF WALNUT CREEK

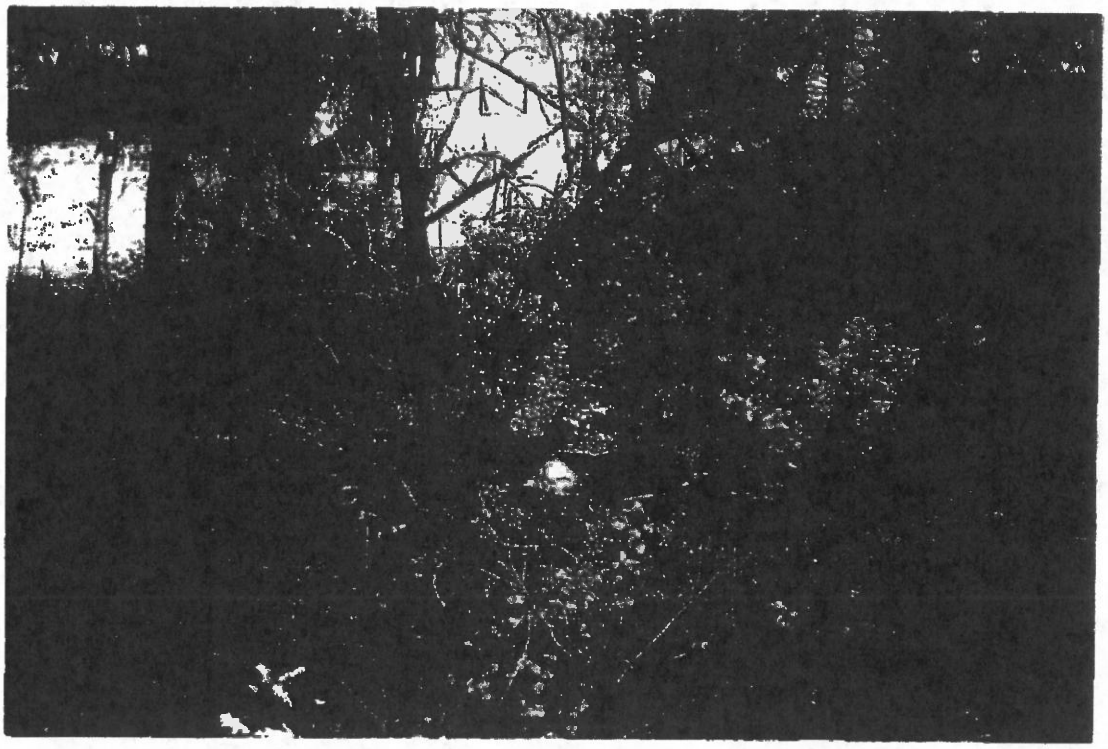
Alan Carreon, Assistant Planner
Community Development Department
City Hall
1666 North Main St.
Walnut Creek, California 94596

Dear Alan,

Would you see that this request gets to the appropriate departments and people? Thanks.

I am working with my father, Sheridan W. Hale, 850 Seven Hills Ranch Road, Walnut Creek concerning a potential subdivision development adjacent to his property. I am a professional natural resource technical planner. I would like some information on the development process and any hyrdological reviews you do during this process.

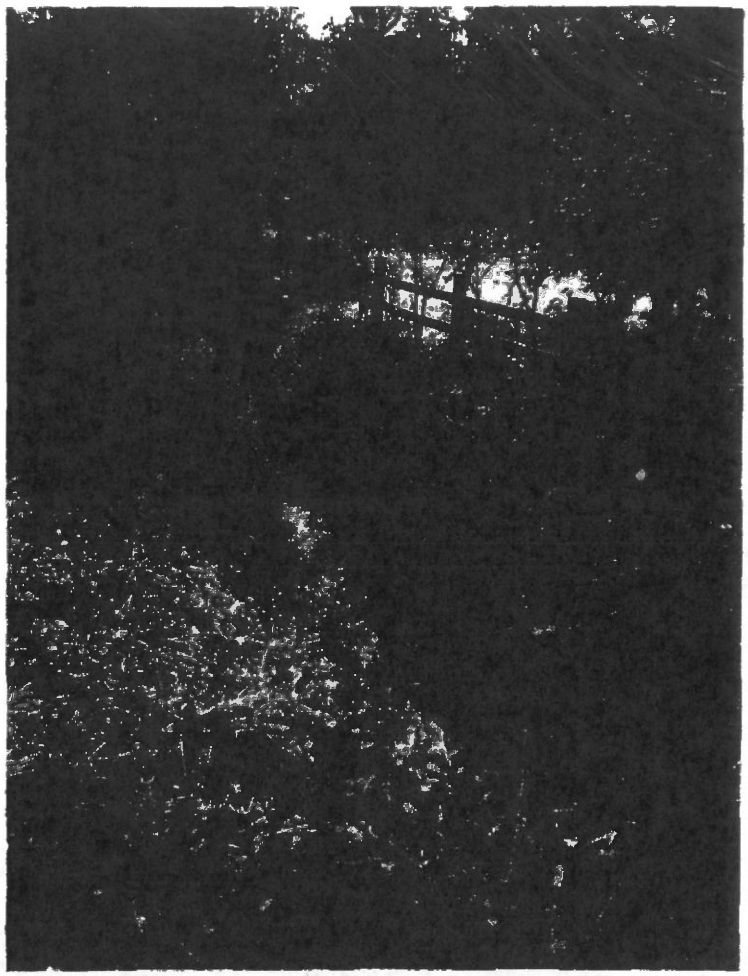
We have a concern witn the potential for change of hydrological conditions if the property is developed for housing. Currently, most of this property drains into Mr. Hale's property. The current cover of the land is grass and a few trees. During rainstorm events, water exits this property into Mr. Hale's property.



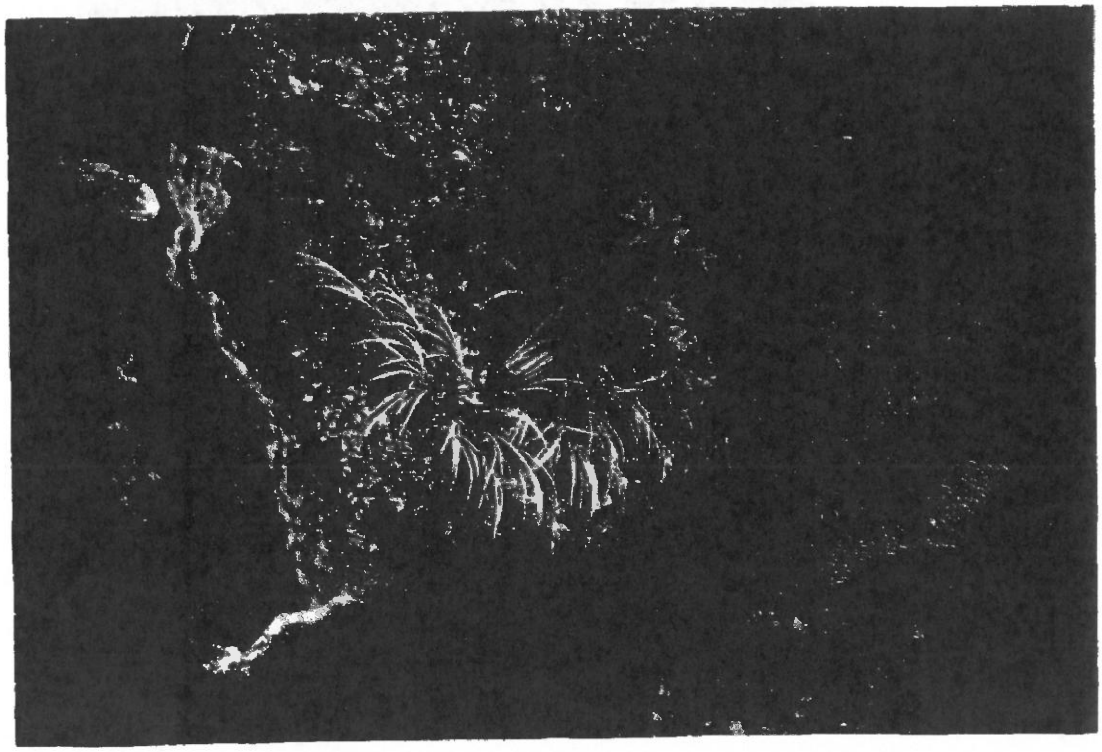
Attachment E

We are concerned about the amount impervious surfaces that will be increased when the land is developed (roofs, driveways, roads) and how this will increase the speed of run-off (drastically change the run-off curve) unless provision is made to hold the water on the development and release it at a speed comparable to the run-off from the current vegetative cover.

Also, drainage water from streets and roofs may have a lower water quality than the current water run-off from natural vegetation.



This drainage water then drains onto Mr. Hale's property and flows in a small drainway alongside his driveway, under the intersection of Seven Hills Ranch Road and Homestead Ave., alongside two other private residences along Seven Hills Ranch Road and finally exits into a small tributary of Walnut Creek. This drainage way is currently at full capacity during high rainfall events during the winter.



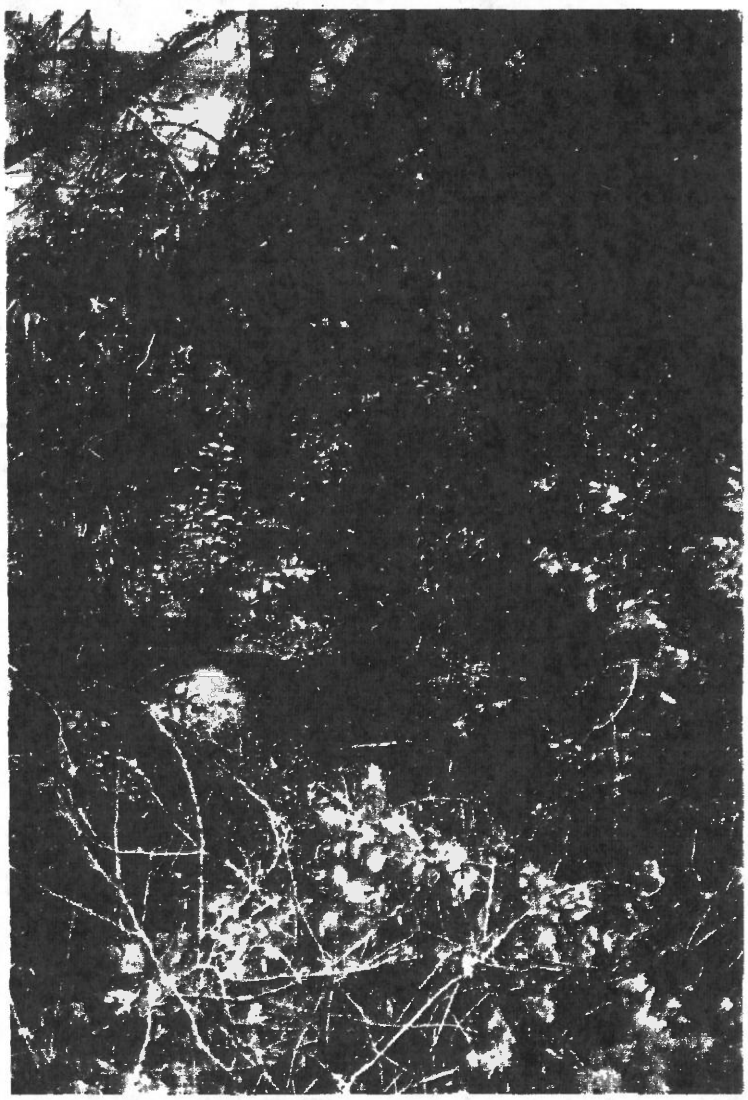
Mr. Hale has been a good steward of his land for over 50 years. Any hydrological changes could impact the small drainage ditch, his field and his driveway (as well as the downstream neighbors). He would like to continue to be able to be a good steward of this land. We appreciate your assistance in our inquiries about drainage and potential development adjacent to his property.

Thank you for your assistance. I look forward to hearing from you.

Sincerely,

Ken Hale
Certified Professional Erosion and Sediment Control Specialist
No. 649 (Soil and Water Conservation Society)

cc: Sheridan W. Hale



CITY OF
WALNUT
CREEK

ATTACHMENT 4A
RESPONSE

October 21, 2004

Frank Anderson
101 Shell Ridge Court
Walnut Creek, CA 94598

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Anderson,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 18, 2004. In addition, this letter responds to your request that the City reconsider its decision to prepare a negative declaration as opposed to an EIR for the project.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter response will be forwarded to the Planning Commission and City Council for their consideration when they review the project, scheduled on October 28 and November 16, 2004, respectively.

The following are responses to the comments outlined in your letter of October 18, 2004.

Rezoning Precedent

Your letter states that this rezoning could set a precedent for loss of more or all of the golf course and would be in conflict with the Planned District, P-D 859, zoning as adopted by the City Council. The project proposes to rezone a 3.58-acre portion of the approximately 48-acre golf course. The 3.58-acre site has been removed from active play since the early 1970's to reduce the propensity of errant balls being hit into adjacent residential areas. The project did not cause the reduction of golf course area, does not eliminate any active golf course area, or establish a precedent for the further elimination of the golf course. Any future proposal to amend the zoning district or development plan would be subject to a legislative action by the City Council based on facts and conditions present at the time of the zoning request.

Loss of Recreation Space

Your letter indicates that the loss of the recreation space is not good for the community. As previously stated, the project site was removed from the golf course in the 1970's in response to neighborhood concerns about errant gold balls. The Planning Commission noted in its preliminary review in April 2003, that the project site is a remnant parcel and does not eliminate any portion of the active golf course. Additionally, the project is subject to in-lieu parkland dedication fees pursuant to Section 10-1.602 of the Walnut Creek Subdivision Ordinance. The conversion of the unused 3.58-acre project site, adjacent to the 102-acre Heather Farm Park and private 48-acre golf course, does not constitute a significant loss of recreational space.

Wildlife

Your comments indicate that deer, fox coyote, etc., depend on the 3.58-acre project site. The Initial Study does not dispute that deer, fox or coyote may be seen on-site, but rather explains that the site is not an established wildlife corridor or nursery site. A biotic resource report of the site, prepared by Mosaic Associates, characterized the site as fill soils and low, sparse ruderal vegetation, with medium to small native and non-native trees sparsely distributed. The biotic report determined that the site lacks suitable habitat for special-status species. Your comments do not provide evidence that redevelopment of the site would cause a significant loss of habitat.

Proximity to Golf Course

Your letter indicates that the Golf Course Safety Mitigation Report, by Neal Meager dated December 30, 2003, conflicts with a 1984 EIR for the same project site. While the draft 1984 EIR was never certified, it evaluated a 51-unit condominium project placing approximately 12-units perpendicular to the western edge of the property, adjacent to the golf course. In that case, the 1984 EIR recommended a distance of 150-feet from the center of the green to the 12-units. The current Kinross Terrace project proposes three units adjacent to and not uniformly perpendicular to the western property line. Of these three homes, only one unit, on lot 5, is in-line with and approximately 130-feet from the center of the golf green. The other two homes on lots 4 and 6 are in excess of 150-feet from the central portion of the units to the center of the green. The 2003 Golf Course Safety Mitigation Report prepared for this project, states that the proposed distance of 50-feet from the back of the green to the new property line, along with construction of a new sand bunker and densely planted 5' – 6' high mounds as proposed, would in most cases be sufficient to keep errant shots from exiting the golf course property. The Initial Study does not assert that no errant balls will enter the project site, but rather that as designed and conditioned to inform potential homebuyers of the possibility of errant balls as part of the disclosure process, that the potential impact has been reduced to less than significant. Your comments do not raise evidence that this project, as proposed, would pose a significant hazard.

Kinross Drive Street Narrowing

Your letter indicates that reducing the width of Kinross Drive, a public street, eliminates the public benefit of street parking. While staff agrees that narrowing the street would eliminate parking on one side of the street, the concern does not constitute a significant impact. The proposed 28-foot paved street section is consistent with adopted City standards serving a development of this size and adequate street parking is available to serve the tennis courts. The applicant offered to reduce the width of the public street as a result of initial neighborhood concerns about parking and inappropriate activities on

that dead end portion of Kinross Drive. There was a general consensus of surrounding neighbors that narrowing the roadway would reduce or eliminate the perceived nuisance. Both the existing and reduced street configurations comply with city standards, provide adequate street parking and would not constitute a significant environmental impact. The Planning Commission may consider the preferred street configuration as part of the project review process.

Loss of Neighborhood Views

Your letter indicates that renderings of proposed homes were misleading, that current plans reflect taller homes on the lots adjacent to the entrance of the subdivision than were previously depicted, and that homes will block views. Your comments correctly identify an error in the latest tentative map submittal with respect to unit heights. The table of lots on page 7 of the proposed tentative map incorrectly lists the building heights that were depicted at the most recent Design Review Commission hearing in May 2004. The two lots at the subdivision entrance, Lots 1 and 12, should reflect building heights of 20' and 21'-6", respectively. These heights are lower than the originally proposed 23'-7" height. With respect to views, the project is not within a protected view corridor or ridgeline. The proposed homes are consistent with adopted height limits and other residential structures in the area. While the proposed homes will change the appearance of the site, visibility of the homes from the surrounding area, does not constitute a significant environmental impact.

In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is tentatively scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Michael Ryhmes, 1576 Siskiyou Dr, WC
Sheridan Hale, 850 Seven Hills Ranch Rd, WC
Bob Henderson, 1578 Siskiyou Dr, WC
W. Fliehman, 536 Adirondack Wy, WC

ATTACHMENT 4B

MEHLMAN ◆ TERBEEK LLP
Attorneys & Counselors At Law
2125 Oak Grove Road, Suite 125
Walnut Creek California 94598
Tel: (925) 935-3575
Fax: (925) 935-1789
e-mail: mehlman-terbeek@sbcglobal.net

Steven J Mehlman Marc L. TerBeek

October 28, 2004

By personal delivery:
Planning Commission
City of Walnut Creek
City Hall
1666 N. Main Street
Walnut Creek, CA 94596

Re: P-D Re-zoning, Vesting Tentative Map 8457–Kinross Terrace

Dear Planning Commission Members:

This firm has been retained to represent Robert Henderson, in connection with his opposition to the above-referenced re-zoning and vesting tentative map application. Mr. Henderson is the owner of property located at 1578 Siskiyou Drive, Walnut Creek, CA. 94598, which is within the P-D 859, a portion of which is being sought to be rezoned. His home is also adjacent to the Diablo Hills Golf Course in the vicinity of the Golf Course Club house and Greenery Restaurant, where other development applications have been pursued by the owner of the Diablo Hills Golf Course and potential developers of the golf course property. Mr. Henderson opposes this application based upon: 1) the financial expectation which owners purchasing property in the P-D 859 had and have that the golf course, and other open space and greenbelt areas of the P-D will be maintained based upon the original development plans, zoning, agreements, and other land use actions of the City, which led to the approval of this planned development and have been continuously followed by the City Planning Commission and City Council prior to this application; 2) the inadequacy of the mitigated negative declaration under the California Environmental Quality Act ("CEQA") for the reasons set forth in the letter dated October 18, 2004 and Attachments A through E, thereto (attached as Exhibit 6 to the staff report; and 3) the growth inducing impacts that development of this site may have and the precedent it will create for further development on the areas originally designated for golf course and on the open space and greenbelt buffer which was part of the original plans for this P.D.

HISTORY OF P-D 859

As set forth in the staff report at page 2, P-D 859 was adopted in 1966 with a mix of single and multi-family homes, a nine-hole private golf course and clubhouse. The P-D allowed clustering of homes on approximately 78 acres throughout the 150 acre site. P-D 859 also set aside approximately 53 acres for what is now Heather Farms Park. It also called for 771 apartments and 379 condominiums for a total of 1150 units, which was later reduced to 1000. Absent from the staff's discussion, however, was that this was apparently a very controversial proposal at the time to change property which was previously zoned single family R-1-15 to the conditional development plan for high density housing with a large number of apartments and condominiums. Mr. Henderson, who has extensively researched the history of this P-D, discovered that the original single family R-1-15 zoning would have allowed a maximum of 430 units. Ygnacio Valley at that time contained almost entirely single family units and a sizable segment of the

residents wanted it to remain that way, presenting at one point a 564 name petition to the City Council opposing the proposal.[1] After six years of conflict, the City Council and the developers reached an agreement whereby they approved the Conditional Development Plan for the Rezoning of the Heather Farm Property from R-1-15. See Ordinance No. 859, attached hereto as Exhibit "B".

Integral to the adoption of Ordinance No. 859, was the creation of a golf course and golf course rough, which would serve as open space and buffer areas to offset the significantly higher density of this project from surrounding areas. Indeed, condition 8, required the golf course construction to commence within a year of adoption of the ordinance. The golf course and golf course rough, shown on the development plan, included the entire area now proposed for development.

In the early 1970s families who bought condominiums in the area surrounding the Diablo Hills Golf Course were relying upon the open space / greenbelt features of Planned Development No. 859 which had been enacted in 1966. Likewise, when the Heather Farms Homeowners Association townhouse and patio development was constructed and sold, and individuals like our client, Mr. Henderson purchased their homes their, they too relied upon the commitment made by the City that the golf course, golf course rough and open space greenbelt areas would be maintained. Attached as Exhibit "C" to this letter is a copy of a newspaper article from the Contra Costa Times on November 21, 1972, which documented that the golf course operations were "an integral part" of the Heather Farms Homeowners Association subdivision. That article also verified the City's intent and concerns that the golf course land might be used for other less desirable uses.

In the thirty years since the purchase of their homes, the purchasers and residents of Diablo Hills have had the constant assurance that the City will maintain its agreements under PD 859 that the golf course land is open space/ greenbelt for the benefit of the homeowners residing in this community. As set forth in the History of Development Proposals on Diablo Hills Golf Course, prepared by Mr. Henderson and attached hereto as Exhibit "D", the City has consistently rejected proposals by the golf course owner to take portions of the golf course and golf course rough, and develop said property for uses which were contrary to the original intent.

The Kinross Terrace Proposal, is the latest iteration of the golf course owner's attempts to use portions of the golf course for development. As set forth in a Draft Environmental Impact Report for the Heather Park Condominium Project in December of 1984[2], for a 51 unit project on the same site, excerpts of which are attached hereto as Exhibit "E""

> "The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences." *Id. at pg. 8*

Approval of the Kinross Terrace proposal will repudiate the agreements leading to this

---

[1] See Contra Costa Times November 9, 1966 newspaper clipping, attached hereto as Exhibit "A".

[2] As set forth on page 2 in the October 21, 2004 letter of Valerie Barone to Frank Anderson, attached as Attachment 7 to your staff report, the draft EIR for the 51 unit project was never certified, and therefore other than providing additional support for the inadequacy of the current mitigated negative declaration, it cannot be used to satisfy CEQA requirements for this 12 unit project.

development, as well as the long history of the City in turning down development requests which will carve up the golf course and the open space areas and greenbelt buffers which were integral to this development. The approval will also run afoul of the investment expectations of the owners who purchased their homes in reliance on this P-D development plan, subjecting the owners and developers, and potentially the City, to judicial review. A recommendation to the City Council for the adoption of the Mitigated Negative Declaration will further subject the project to potential CEQA litigation. The approval of this project will create a precedent for the demise of the entire golf course, as it is carved up for additional development projects, as have been repeatedly proposed by its owner.

APPROVAL OF THIS PROJECT WILL UNDERMINE THE INVESTMENT OF THE OWNERS OF HOMES IN THE P-D, WHO HAVE RELIED ON THE INTEGRITY OF THE ZONING TO PRESERVE THE GOLF COURSE, GOLF COURSE ROUGH, AND OPEN SPACE AREAS IN PURCHASING THEIR HOMES

As set forth in the discussion above related to the history of P-D 859, the P-D zoning that designated certain areas for golf course, certain areas for golf course rough and open space, were critical in the development of this entire area. Each of the homeowners purchased their properties based upon the existence of the golf course and open space areas which were amenities to their homes. They relied on the fact that views of open space and Acalanes Ridge in the distance behind this project would be preserved, as well as views of wild life which frequently makes use of this area. Likewise, the owner of the golf course has benefitted from the people who have purchased their homes because of the golf course, which they could use.

Now the City staff has recommended approval of plans of the golf course owner and a developer to whom he has an agreement to sell a portion of the golf course, which would overturn the investment decisions of the other property owners in this P-D by taking away parts of this golf course. If this precedent is granted, the City can be sure that the golf course owner will pursue other developments which have been consistently turned down in the past. There is nothing to prevent him from seeking to put a motel on the property, a miniature golf course, an indoor driving range, a home next to the church, or a large expansion of his club and restaurant for large parties and events. Such actions could subject the project, the golf course owners, and the proposed developers, as well as the City, to judicial review based upon the damage this will do to the investments of people who have purchased their homes in the P-D in reliance upon the contractual and other commitments that the golf course would be preserved.

CEQA AND THE INADEQUACY OF THE MITIGATED NEGATIVE DECLARATION

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") except in certain *limited circumstances*. (*See, e.g.*, Pub. Res. Code § 21100 (emphasis added).) For example, a negative declaration may be prepared instead of an EIR when, after preparing an initial study, a lead agency determines that a project "would not have a significant effect on the environment." (*Id.*, § 21080(c).) However, such a determination may be made only if "[t]here is *no* substantial evidence in light of the whole record before the lead agency" that such an impact *may* occur. (*Id.*, § 21080(c)(1) (emphasis added).)

A negative declaration is improper, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur. Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR. (*Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) As a matter of law, "substantial evidence includes ... expert opinion." (Pub. Res. Code § 21080(e)(1); CEQA Guidelines § 15064(f)(5).)

Here, substantial evidence indicates that the Project is likely to cause significant impacts. Attached as Exhibit 6 to the Staff Report, and incorporated into this letter by reference, is a detailed letter to Valerie Barone setting forth substantial evidence, including in attached exhibits, that the project will have significant adverse environmental impacts warranting the preparation of a full EIR. While Ms. Barone summarily dismisses the evidence submitted in the letter and exhibits attached as Exhibit 6, sufficient evidence has been provided of adverse environmental impacts not identified in the Mitigated Negative Declaration, warranting a full environmental review. The City has simply failed to identify many of those impacts by:

1. Not addressing the precedential affect this approval may have on other areas of the golf course, golf course rough, and open space and greenbelt, given the many development proposals that have been pursued in the past.

2. Not adequately addressing the possible further shortening of greens which may be necessitated if complaints ensue as a result of errant golf balls, as occurred in the past, and caused this area to taken out of the existing fairways in the first place.

3. Not addressing the health, safety and property damage issues from errant golf balls.

4. Not addressing the parking issues, particularly at large events, such as the Art and Wine Festival and Walnut Festival at Heather Farms Park, which may result from narrowing of the roadway and elimination of parking.

5. Not fully addressing drainage issues.

Moreover, the Growth Inducing Impacts of this project, and the precedent that will be created for carving up the remainder of the golf course are not even discussed in the Mitigated Negative Declaration, or the proposed conditions for the Tentative Map approval. As noted in the 1984 EIR for the 51 unit proposed development on the same site, the redesignation of this site for homes and the construction of the project on what was formerly part of the golf course,

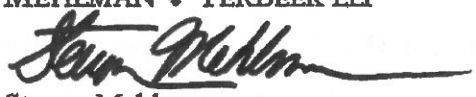
> "could set a precedent for redesignation and development of the remainder of the golf course. If the remainder of the golf course (approximately 46 acres) was redesignated for single family medium density development, it could be developed with 137 units. Development of the remainder of the golf course could also be precipitated if complaints regarding golf ball damage of the project necessitated further shortening of the course. Additional shortening of the course would make it less attractive to golfers and, consequently, would provide further economic pressure for residential development.
>
> Development of the remainder of the golf course would result in a loss of a recreational facility and further loss of an open space buffer between low and medium density uses. It would result in grading of existing topography, increases in runoff, removal of vegetation, alteration of views, traffic generation, and demands for public services and utilities. Residential development of the golf course would result in about 140 additional P.M. peak hour vehicle trips. ...Additional sewer and water line extensions and/or upgrading would be necessary to serve residential development of the golf course." *Id. at pg. 60*

An agency's avoidance of discussion of foreseeable future impacts can serve as grounds for invalidating a negative declaration and requiring preparation of a full EIR. Indeed, "[t]he agency [will] not be allowed to hide behind its own failure to gather relevant data. . . . CEQA places the burden of environmental investigation on government rather than the public." (*Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, at 1378-1379, *citing Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

Of course, the proponents of this project would argue that they are not seeking development of the entire golf course, but these cumulative effects, must be considered. Moreover, there is nothing in the conditions of development, along the lines recommended by the 1984 EIR that: "In order to prevent development of the remainder of the golf course, it is possible that a development limitation would be included as a condition of the approval for the subject of the project", expressing the intent to prohibit further development of other areas of the golf course, golf course rough and open space areas within the P-D. At the very least, an express condition should be included preventing future development on other parts of the golf course, and requiring a condition to that affect in a form that would run with the land, should as a minimum be required to address this impact, if after a full EIR, the City were to allow this project to go forward.

Very truly yours

MEHLMAN ❖ TERBEEK LLP



Steven Mehlman

Exhibit A

Contra Costa Times, November 9, 1966

Heather Plan Goes Through Over Petition

The development plan for the 200-acre Heather Farms property in Ygnacio Valley was opposed by a 564 - name petition Monday night as it came up for final approval before the Walnut Creek City Council.

A letter, addressed to "Mothers and Fathers" and bitterly opposing multiple development in the valley, was recently circulated among homeowners. It was noted that approval can be reversed by three council votes or a referendum petition.

Public hearings were closed on Lytton Savings and Loan's cluster plan Oct. 3 and an ordinance approving the plan passed by a 3 to 2 vote of the council.

THE COUNTIL removed the issue from its consent calendar Monday and permitted presentation of the petition but followed through, again on a 3 to 2 vote, with final adoption.

In presenting the petition, Mrs. James Bannister of 815 Spring Drive said opponents had done much "soul searching and tried to be fair."

The petition asks that the Conditional Development Plan zoning be reconsidered and denied and that revision of the former CDP be prevented. It requests new public hearings to determine appropriate residential zoning and claims residents weren't aware of the magnitude and impact of the development on the community.

THE COUNCIL also acknowledged receipt of letters from the Walnut Creek Homeowners Council and Lytton Savings.

The WCHC, representing several homeowner associations, said WCHC recognizes the difficulty in developing the property because of the topography and soil.

It said the WCHC accepts the need for unusual development and is pleased that the property is being developed as individually owned units. It agreed that the property isn't suitable for single family development.

Commending Lytton for meeting with the homeowners, WCHC said Lytton had voluntarily

(Continued on Page 2, Col. 6)

Heather Plan Goes Through Over Petition

(Continued from Page One)

agreed to reduce the density of the development.

WCHC URGED that future development of multiple units be prohibited in the valley or on surrounding hills but requested approval of Lytton's plan.

In a letter to City Manager Ralph Snyder, Lytton advised that it had met with the Rancho San Miguel Association on Oct. 15 following introducing of the zone ordinance because of the homeowners objection to the density.

Pointing out its desire to construct a development that "would be a credit to the city and a success to the landowner," Lytton said it had agreed to reduce the units from 1150 to 1000.

Stating that it intended for the letter to be binding "for ourselves and successors in interest" Lytton said it voluntarily commits itself to the reduction.

THE REDUCED density will be applied to the 625 units which were proposed for the west side of the development. Lytton is now proposing 338 apartment units on the western portion; 36 apartment units on four acres fronting Ygnacio Valley Road; and 570 townhouse units in the center of the property. A nine-hole golf course will traverse the property and Lytton has agreed to sell 53 additional acres to the city for a community park.

Edmund Regalia, attorney for Lytton and a resident of Ygnacio Valley, stressed Tuesday that all units will be owner-occupied and range from $25,000 to $40,000. Construction will be over a 10-year period with the golf course in the first stage.

In answer to the new petition, Councilman Douglas Page said that development of Heather has been a "terribly knotty problem."

HE ADDED that after eight years on the council he "firmly believes that Lytton's plan is the best possible solution within the range of possibilities..."

The letter circulated to Moms and Dads came under attack by Councilman Robert Schroder who called it "irresponsible."

Carrying the signatures of 10 homeowners, the letter said a few "well placed" people are leading a drive for urbanization. It claimed the main pressure for high density development is coming from a certain segment of the business district.

Councilman Ben Clarke said the petition represents some of the citizens who voted for him and he's willing to reconsider the zoning.

HE ADDED that it would take strong arguments to change the minds of the three councilmen who favored the plan and "I haven't seen these strong arguments neatly laid out."

Councilman Peter Howard agreed with Clarke's comments and said he has always felt the density of the development is too high.

Schroder said he is "thoroughly convinced that single family development would be far more detrimental to the property. Noting that step - type development could be applied and completely remove the hills, Schroder added, "I'm afraid such development wouldn't be commensurate with the housing in Ygnacio Valley."

Mayor Newell Case said it might appear that the wishes of the people are being ignored but that development of the property involves the entire city.

REFERRING to the number of signatures on the petition Case said that "perhaps 90 percent of the people in the city didn't have a chance to express themselves. The petition may bring exact opposite results in another part of the city," said Case.

"People in another part of the city would'nt be affected by the development. Why shouldn't they be for it?" asked Howard.

Howard and Clarke opposed the 3 to 2 approval.

Exhibit B

Motion by Mr. Fink, second by Mr. Mahler that the Walnut Creek Planning Commission recommend to the City Council that the zoning of the land subject to Rezoning Proposal No. 199-B be changed from interim R-1-15 to Conditional Development Plan District (C.D.P.) and that a Conditional Development permit be approved subject to the following conditions:

1. That except as otherwise provided herein, the land be developed substantially as shown on the plan displayed at the public hearing on September 13, 1966 which plans are a part of Rezoning Proposal No. 199-B on file in the office of the Planning Director, and are referred to herein as the official plan.

2. That except as otherwise provided herein, those areas delineated on said official plan with zoning symbols, be subject to all provisions of the Municipal Code relating to the land use district identified by said symbol, including the provisions for site plan review, and with the areas designated townhouse on said official plan being subject to all provisions of the R-M-3 District except that the density therein shall be as designated on said official map.

3. That no residential development shall occur on any portion of the subject land until a subdivision map approved pursuant to this zoning and Title 10, Chapter 1 of the Municipal Code shall have been recorded on said portion.

4. That the number of dwelling units shown on the official plan shall be used as a guide only with the total number of dwelling units not exceeding 1150.

5. That Ygnacio Valley Road be developed with full frontage improvements including conform paving and land for street widening as required by the Director of Public Works.

6. That no construction either residential or golf course, shall commence until a complete drainage plan for the entire parcel of land shall have been approved by the City Engineer.

7. That all grading shall be done in such a manner as to preserve, as nearly as practicable the natural topographical features of the land and to avoid excessive exposed cuts and fills. The grading plan shall be subject to approval by the Director of Public Works.

8. That construction of the golf course shall commence not later than one year subsequent to the effective date of this ordinance and all construction, once commenced, shall be diligently pursued to completion. In the absence of fulfillment of this or any of the other terms of this ordinance, this zoning shall be subject to amendment following rezoning procedures.

9. That the Board of Zoning Adjustment have authority pursuant to site plan review to allow buildings in the townhouse area with building height greater than permitted in the R-M-1 zone wherever any such building is to be constructed on ground with sufficient slope that only the down slope portion of such building exceeds said height limit, and to establish a maximum building height related to topography within those areas designated as R-M-1.5.

10. The land indicated on the official plan as driving-range may be designated as R-2 with the driving range being permitted elsewhere on the subject land the location and design being subject to site plan review.

11. That area consisting of approximately 52 acres and not colored on the official plan shall be labeled recreation.

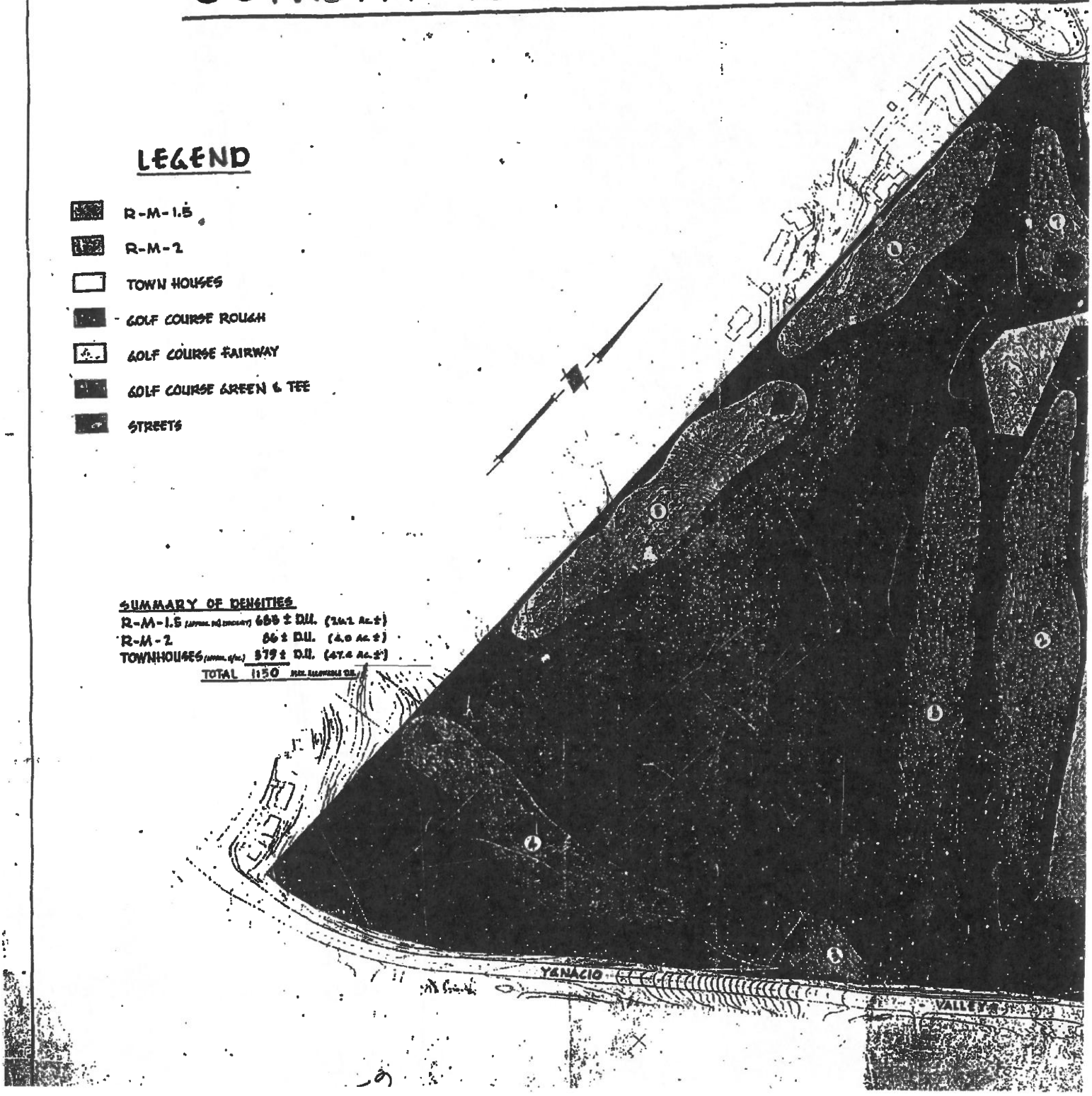
12. The final plans for the golf course shall be subject to site plan review.

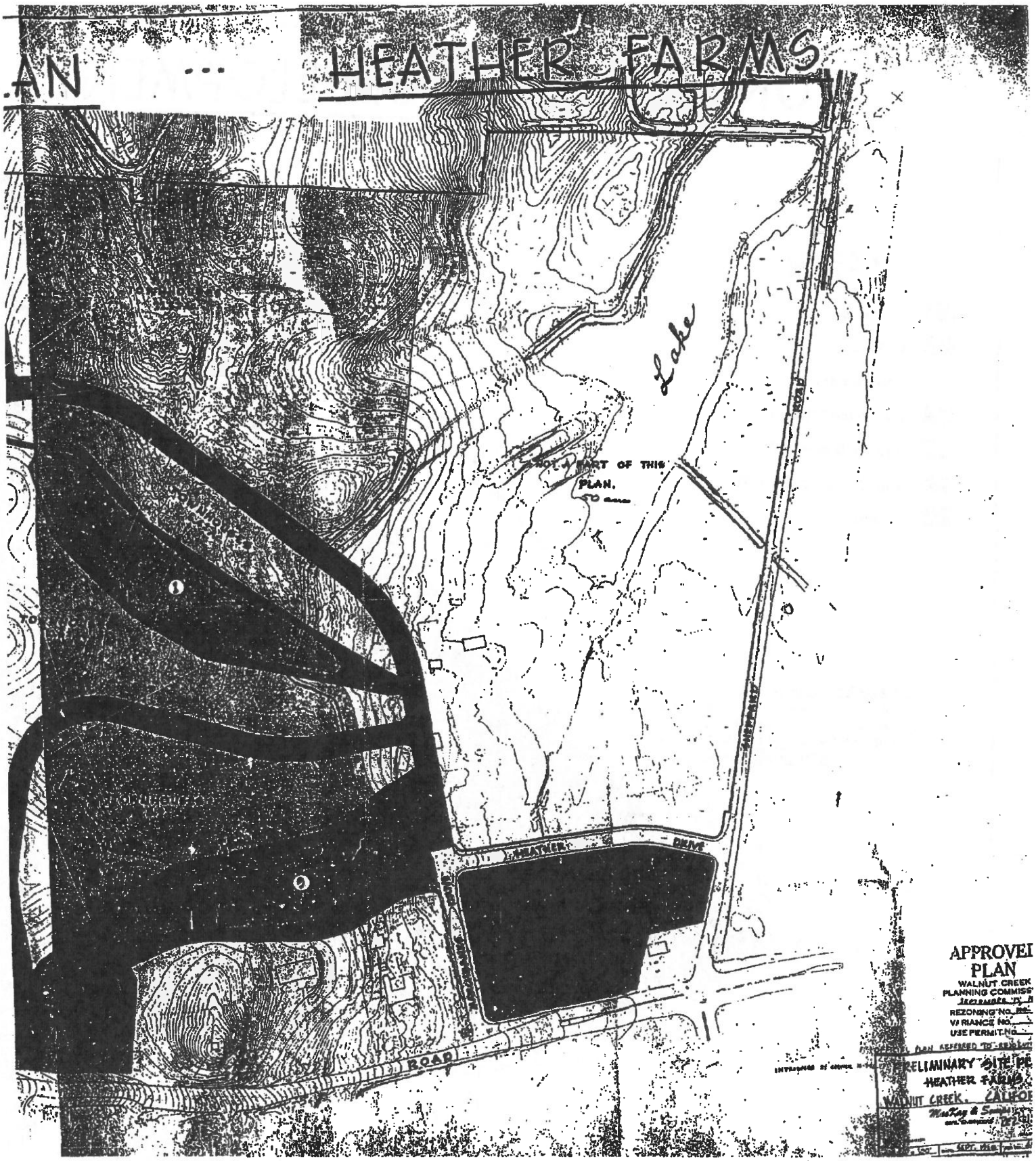
INTRODUCTION OF ORDINANCE - REZONING HEATHER FARM PROPERTY - FROM R-1-15 TO CDP

After considerable discussion, motion by Page, second by Mayor Case and carried to approve the plan for development as presented, with the stipulation that Ygnacio Valley Road be widened concurrently with construction of the golf course, said construction to commence not later than one year subsequent to the effective date of this ordinance and be completed within one year after the start of construction, and to introduce an ordinance as read by the City Attorney, title only, rezoning the subject property from interim zoning R-1-15 to Conditional Development Plan land use district.

AYES: Councilmen: Page, Mayor Case, Schroder
NOES: Councilmen: Howard, Clarke
ABSENT: Councilmen: None

CONDITIONAL DEVELOPMENT f




AN ... HEATHER FARMS
Lake
NOT A PART OF THIS PLAN.
HEATHER DRIVE
ROAD
APPROVEI
PLAN
WALNUT CREEK
PLANNING COMMISS
REZONING NO.
VARIANCE NO.
USE PERMIT NO.
RELIMINARY SITE PL
HEATHER FARMS
WALNUT CREEK, CALIFO

HEATHER FARM GOLF COURSE CHANGES HANDS
Al Reale (left), Bob Moon, Robert Schroder, Wayne Policz.

Golf Course Bought By Land Developers

Heather Farm Golf Course, closed down over two months ago by its disgruntled owners, has been sold to the developer of an adjacent subdivision.

Although he says he does not know the sale price, Al Reale, one of the former owners, said the facility probably went for around $1.5 million.

The price includes a restaurant and pro shop operation. The complex has been purchased by L.B. Nelson Corp., developer of the Diablo Hills condominium subdivision.

A spokesman for the firm says the complex will be made "an integral part" of the subdivision. Plans include expansion and complete redecoration of the restaurant and clubhouse.

The golf course, shut down in a state of disrepair, is to be reseeded and landscaped with new trees and shrubs. New traps and greens also are planned.

Reale and his partner, Louis McKnight of Los Angeles, shut down the golf course after they claimed subcontractors for the adjacent development broke water lines and damaged the greens, causing a decline in business.

They also alleged that construction crews piled building materials on part of the golf course and that dirt and dust from trucks made play at the course uncomfortable.

Announcement of the sale comes after weeks of negotiations by the Nelson Corp., the owners and the city of Walnut Creek.

City officials worried that if the golf course was sold, new owners might try to find another, less desirable, use for the land.

Although the bulk of the property is zoned for golf course use only, one parcel is zoned for duplex, maintenance shed or driving range use.

Currently, the city is attempting to rezone the parcel strictly as a golf course maintenance area, its present use. But the rezoning effort is delayed, pending completion of an environmental impact report on it.

Reale has said the Nelson Corp. was approached about purchase of the facility partly because it mentioned the golf course in advertising its nearby condominiums.

The new owners say the course will be open to the public as well as to residents of Diablo Hills. Reopening of the facility is set for the spring.

CC TIMES
11-21-72

Exhibit C

Exhibit D

DIABLO HILLS GOLF COURSE AND RESTAURANT/BAR

HISTORY OF DEVELOPMENT PROPOSALS ON DIABLO HILLS GOLF COURSE

1967—Golf course land leased by Equitable Savings & Loan Association to Golf Management Corporation.

1970—Golf course land sold by Equitable Savings & Loan to Willis McKnight.

1972—Golf course land sold by Willis McKnight to L.B. Nelson Corporation, developer of the Diablo Hills condominium subdivision.

1973—Hardev Singh becomes Manager of the golf course.

1973—The project site under consideration for development in 2004 is removed from the playing area of the seventh fairway to reduce golf ball hazard to life and property at the adjacent apartment units.

1980--Hardev Singh buys the Diablo Hills Golf Course from L.B.Nelson Corporation, the developer of homes in the Heather Farms area of Walnut Creek. In subsequent years Singh has the following proposals for commercial uses for the PD 859 zoned open space land located on Marchbanks Drive from the clubhouse/restaurant/bar East to the boundary of St. John Vianney Catholic Church.

1982—His Christmas tree lot sales operation in this greenbelt buffer zone is cancelled after complaints from the neighboring Heather Farms Homeowners Association (HOA).

1985—He inquired of the Community Development Department about putting a motel on the property.

1988—He talked to the HOA about building a minature golf course on the land, featuring castles and concrete structures with lighting and hours of operation ending at 10 p.m. The HOA had concerns about the visual impact, lighting and noise level. The project was abandoned.

1989—He filed for approval of an abbreviated golf driving range enclosed in netting. It would operate 365 days a year from 7 a.m. until l0 p.m.

with lights and considerable noise. The City Council refused to approve the project.

1989—Concurrent with the above he proposed to build a Caretaker's House next to the Church property, which was abandoned after opposition from the HOA.

1991—He proposed to build the same 1989 abbreviated golf driving range in a wooden structure. The City Council again refused to approve it.

1998—He unveils plans to more than double the floor space of his restaurant/bar to rival the size of police nuisance bars in downtown Walnut Creek—Johnny Love's, Arroyo Way and Masses. The Council disapproved.

2000—On a cold rainy winter night the unhappy crowd in the queue line at the "Rave Party" pulled out their guns. Police Chief Richard Gregson commented: "These were visitors to our area from parts unknown...pretty hard core, gang affiliated individuals...Our officers counted no fewer than 40 gunshots."

In the Kinross Spur area north of Marchbanks Drive, Singh created a three and one-half acre parcel of open space property out of land which was originally part of the seventh fairway and green. The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. He then tried three times to put housing upon it.

1982—A developer selected by Singh proposed to build a 51-unit apartment complex. After an unfavorable Environmental Impact Report was circulated his application was denied by the City Council.

1996—A second developer initiated and then withdrew a proposal to build twenty single residences on the property.

2000—Delco Builders unveiled a plan to put twelve residences in the area. Their proposal is still being processed.

Bob Henderson
October 28, 2004

Exhibit E

☐ 500 Newport Center Drive, Suite 600
Newport Beach, California 92660
phone (714) 640-6363

☐ 2606 Eighth Street
Berkeley, California 94710
phone (415) 841-6840

Community Planning ☐ Natural Resource Management ☐ Environmental Assessment

DRAFT
ENVIRONMENTAL IMPACT REPORT

HEATHER PARK
GENERAL PLAN AMENDMENT AND REZONING APPLICATION NO. 8478

PREPARED FOR
CITY OF WALNUT CREEK

DECEMBER 1984

By
Larry Seeman Associates, Inc.
2606 Eighth Street
Berkeley, CA 94710
(415) 841-6840

LSA #84-046

PROJECT DESCRIPTION

LOCATION

The 3.57-acre site is located on the south side of Kinross Drive at its terminus just north of Marchbanks Drive. The site is part of the Diablo Hills Golf Course planned neighborhood and is located about two miles northeast of the City center along Ygnacio Valley Road. The regional location is shown in Figure 1 and project site boundaries are shown in Figure 2.

The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences. Access to the site is provided by Kinross Drive which connects to Marchbanks Drive and Ygnacio Valley Road. The surrounding neighborhood was developed as a cohesive project under Planned Development zoning and contains some 1,000 dwelling units, the golf course, the Heather Farms City Park, and the St. John Vianney Catholic Church. Land uses surrounding the site include patio homes across Kinross Drive to the northeast, the Stoneridge apartment complex and tennis courts to the east, the golf course to the south, and single family homes to the west. Land to the north is unincorporated and zoned agriculture.

PROJECT SPONSOR OBJECTIVES

The project applicant, Ygnacio Homes, Inc., proposes to develop the site with 51 one- and two-bedroom condominium and/or apartment units. Whether units are sold or rented would depend on the type of financing obtained by the sponsor. Construction of the project would occur soon after the granting of approvals and would be performed by Ujdur Construction, Inc. Architects for the project are Hammarberg, Herman, and Johnson of Walnut Creek. The project would include an affordable housing program with 13 (25 percent) of the proposed units maintained affordable to moderate-income households (80 to 120 percent of median income) for a period of ten years. Rentals or payments on these units would range from $443 to $767 per month. The sponsor has stated that the remaining project units would be moderately priced relative to comparable units in the area. According to the sponsor, the goal for the project is to create an attractive development that will help to meet the housing needs of the City.

from improvement of drainage facilities at the base of Kinross Drive and along Seven Hills Ranch Road. The extension of Kinross Drive to the City limit would potentially benefit development of these properties if Kinross were extended to Seven Hills Ranch Road to serve as an accessway. Extension of water service to the site would be from an existing 12-inch line on Kinross Drive and would not benefit other development.

Granting of a General Plan Amendment to redesignate the site from its current designation of "Parks and Recreation: Private Golf Course" to "Medium Density Multiple Family" could set a precedent for redesignation and development of the remainder of the golf course. If the remainder of the golf course (approximately 46 acres) was redesignated for single family medium-density development, it could be developed with about 137 units. Development of the remainder of the golf course could also be precipitated if complaints regarding golf ball damage of the project necessitated further shortening of the course. Additional shortening of the course would make it less attractive to golfers and, consequently, would provide further economic pressure for residential development.

Development of the remainder of the golf course would result in a loss of a recreational facility and further loss of an open space buffer between low and medium density uses. It would result in grading of existing topography, increases in runoff, removal of vegetation, alteration of views, traffic generation, and demands for public services and utilities. Residential development of the golf course would result in about 140 additional P.M. peak hour vehicle trips. Projected traffic volumes on Marchbanks Drive would be within the capacity of this roadway. Additional sewer and water line extensions and/or upgrading would be necessary to serve residential development of the golf course.

In order to prevent development of the remainder of the golf course, it is possible that a development limitation could be included as a condition of approval for the subject project. Development of the remainder of the golf course would require a General Plan Amendment and Rezoning Application and would therefore require environmental review, public hearings, Planning Commission approval, and City Council approval. While development of the proposed project would not necessarily result in development of the remainder of the golf course, it could set a growth-inducing precedent.

The project, together with other cumulative development, would require improvement of the trunk sewer system and expansion of the CCCSD sewage treatment facilities. As sewer facility capacities cannot be expanded to provide for each development as it occurs, excess capacity would of necessity

CITY OF
WALNUT
CREEK

ATTACHMENT 4B
RESPONSE

November 8, 2004

Steven Mehlman
Mehlman-TerBeek, LLP
2125 Oak Grove Road, Suite 125
Walnut Creek, CA 94598

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Mehlman,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 28, 2004. In addition, this letter responds to your request that the City reconsider its decision to prepare a negative declaration as opposed to an EIR for the project.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter will be forwarded to the City Council for consideration when they review the project on November 16, 2004.

The following are responses to the comments outlined in your letter of October 28, 2004.

Financial Expectation

Your letter states "this project will undermine the investment of the owners of the homes in the P-D, who have relied upon the integrity of the zoning to preserve the golf course, golf course rough, and open space areas in purchasing their homes". Section 15064 of the California Environmental Quality Act (CEQA) guidelines specify that economic and social changes resulting from a project shall not be treated as significant effects on the environment. Physical changes to the site as a result of the project have been addressed in the Mitigated Negative Declaration. The project does not eliminate P-D 859, the requirement for a private golf course, or any active portion of the golf course.

Adequacy of the Mitigated Negative Declaration

Staff agrees with your statement for the standard for preparation of an EIR. However, we disagree with your assessment that the standard has been met and that an EIR must be prepared in connection with this project. After a careful review, we have determined that substantial evidence has not been presented that the Kinross Terrace project, as mitigated, may have a significant effect on the environment. Rather, the record supports the findings the project, as mitigated, reduces potential impacts to less than significant levels and would not have a significant effect on the environment.

Your letter references a previously submitted letter dated October 18, 2004 as evidence of the mitigated negative declarations inadequacy. Both the October 18th letter and City response were included in the Planning Commissions deliberations at their meeting of October 28, 2004. In this regard no new evidence has been provided to substantiate any inadequacy.

Your letter makes a number of references to a draft EIR prepared in 1984 for a withdrawn 51-unit project on the subject site. That draft EIR was never certified, evaluated a 51-unit project in 1984, and is not the subject of this review. Your comments provide no new evidence of substantial environmental impact associated with the Kinross Terrace proposal.

Growth Inducing Impacts

Your letter states the project would have a precedential affect on future proposals to reduce the golf course and requested a condition be added that would prohibit any future reduction of the private golf course. As discussed at the October 28th meeting, the Planning Commission was clear there is no nexus with this subdivision to restrict future land use proposal on other private property held by the golf course. However, the Commission did unanimously agree to add a finding to the rezoning recommendation to City Council expressing support for the preservation of the golf course and identifying the site's unique characteristics as a basis for their decision that the project would not set a precedent for further reduction of the golf course.

Other comments enumerated in your letter express safety concerns of errant golf balls, narrowing of Kinross Drive, and drainage concerns. All of these points were fully discussed and addressed at the Planning Commission hearing on October 28, 2004. The Planning Commission agreed with your assertion regarding the proposed narrowing of Kinross Drive and determined that the public road should remain at its existing width to maintain street parking at the current level. With respect to safety concerns from errant golf balls, the Commission reviewed plans, took testimony and determined that distance of 130 to150-feet between the homes and the green, coupled with the addition of off-site landscape berm with dense tree cover as proposed, was sufficient to reduce the potential impact to less than significant. With respect to drainage issues, your letter does not identify any new evidence that a significant impact would occur as a result of the proposed project.

In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Bob Henderson, 1578 Siskiyou Dr, WC

ATTACHMENT 4 C

Ken Hale
16300 West Ellendale Road
Dallas, Oregon 97338
503-623-4668
otago@teleport.com

October 26, 2004

Community Development Director
City of Walnut Creek
1666 North Main Street
Walnut Creek, California 94596

RE: Mitigated Negative Declaration on Kinross Terrace Project, Y03-003

I am making comment on the Mitigated Negative Declaration by the City of Walnut Creek on the proposed Kinross Terrace housing development.

I do not believe the Mitigated Negative Declaration is appropriate without the completion by the developers and assessment by the city of a post construction storm water management plan for this site.

I am working with my father, Sheridan W. Hale, 850 Seven Hills Ranch Road, Walnut Creek and make these comments on his behalf. I am a professional natural resource technical planner with over 25 years experience working with soil and water resources.

We have the following comments about the negative declaration by the city.

1. Under Hydrology and Water Quality, in the Model Environmental Checklist Form, the city responds to question (a) *Would the project violate any water quality standards or waste discharge requirements* by checking affirmative in the Potentially significant unless mitigation incorporated box.

   The city comments that development of the site may have an adverse impact on downstream waters associated with increased human use of the site and the potential introduction of pollutants into the storm drain system.

   I believe it will also affect downstream resources as storm water run off will leave the site much quicker due to the increase of impervious surfaces with development and may impact the small creek where the stormdrain will outlet as well as Mr. Hale's property.

   The mitigation proposed by the city (2.) is a post construction storm water management plan that addresses and mitigates impacts to storm water quality, quantity and hydrology should be developed to prevent adverse impacts to downstream waters after construction.

I understand the city storm water requirements to state that a development will be designed such that the post construction storm water run-off leaves the site no faster than the existing (pre development) conditions. This is often done in design by storm water retention structures, etc. A mitigation storm water management plan would need to address the quantity, quality and hydrology (specifically speed of run off) of storm water leaving the site via the new storm drain and any water that still leaves the property through the existing drainage through Mr. Hale's property.

I do not think the city should declare that implantation of this mitigation measure will reduce this *potentially significant impact* to less than significant level **without viewing and assessing the mitigation storm water management plan.** Until this plan is presented to the city and studied by city engineers, **how can the city declare it will reduce the impact to less than a significant level?** Whenever I complete a biological evaluation of a project, I assess the mitigation design PRIOR to declaring it to be "not a significant effect".

Until this storm water management plan is completed and assessed, I do not believe a "Mitigated Negative Declaration" by the city is appropriate.

2. Under the Utilities section, we wish to re-iterate that the developers do not have permission or an easement to locate the stormdrain line on or across Mr. Hale's property. This means the stormdrain line will need to be located west of Mr. Hale's property boundary on Homestead Road and south of Mr. Hale's property boundary on Seven Hills Ranch Road.

I apologize for the lateness of these comments, but my father did not receive the mitigated negative declaration report from the city until the middle of October and I first read it on October 22.

Thank you for considering our comments.

Sincerely,

Ken Hale

Ken Hale
Certified Professional Erosion and Sediment Control Specialist
No. 649 I(Soil and Water Conservation Society)

cc: Sheridan W. Hale

CITY OF
WALNUT
CREEK

ATTACHMENT 4C
RESPONSE

November 8, 2004

Ken Hale
16300 West Ellendale Road
Dallas, OR 97338

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Hale,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 26, 2004.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter will be forwarded to the City Council for their consideration when they review the project on November 16, 2004.

The following are responses to the comments outlined in your letter of October 26, 2004.

Post Construction Storm Water Management Plan

Your letter indicates that review of a post construction storm water management plan would be necessary prior to determining that potential impacts to the creek would be less than significant. In review of the project and potential water quality impacts, the City as lead agency, has determined that established Storm Water Pollution Prevention Plan (SWPPP) and Post-Construction Storm Water Management Plan requirements are feasible, and provide adequate and appropriate safeguards to reduce any potential water quality impacts. The plans to be prepared by the project team must meet state water quality standards to be accepted by the City of Walnut Creek. If it doesn't meet state water quality standards the condition will not be fulfilled and the project could not proceed until a satisfactory plan was submitted and accepted by the City. By meeting state and local water quality standards and receiving City approval, the impacts to water quality will be less than significant.

Easements on Hale Properties

Your letter reiterates that the project developers do not have permission or easement to locate the proposed stormdrain line on or across properties owned by Sheridan Hale. The Initial Study and Mitigated Negative Declaration prepared for the Kinross Terrace project responds to this concern

requiring that all off-site utilities be placed only on or across properties in which easements have been acquired and specifies that the City would not adversely condemn private property for easements to serve the project.

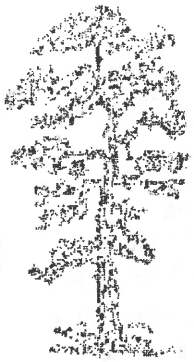
In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Sheridan Hale, 850 Seven Hills Ranch Rd, WC



TREESCAPES, Inc.

P.O. Box 13141, Oakland CA 94661 ◆ (800)675-0781 ◆ P.O. Box 1851, Lafayette CA 94549

March 6, 2003

Terry Camp
Camp & Camp Associates
35 Quail Court, Suite 200
Walnut Creek, CA 94596
(925)941-6488

RE: MarchBanks Subdivision, Walnut Creek, CA

Mr. Camp

I am responding to your request for an evaluation of trees located on an undeveloped parcel on Kinross Dr. The trees were inspected February 10, 2003. The intent of this report is to provide a Tree Survey plan as per the requirements of the City of Walnut Creek.

SUMMARY: Fifty-two trees were identified for inclusion in this survey. Thirty-three (33) trees are recommended for removal primarily due to the following factors: poor condition, poor longevity potential, undesirable or `weed' species. These include almond, Monterey pine, willow, *Eucalyptus*, Arizona cypress, and selected valley oaks (*Quercus lobata*).

Nineteen (19) trees merit strong preservation consideration. These trees consist primarily of valley oaks (*Quercus lobata*) which are indigenous to the area and are performing vigorously.

This plan emphasizes preserving the greatest number of trees (76% of the indigenous trees). Valley oak (#474, 488, 1814, 1815) are the only indigenous trees recommended for removal due primarily to construction conflict. All other trees indicated for removal are so recommended due either to `undesirable' species characteristics or poor condition. These include #427, 1801, 430, 439-40, 449, 1803-05, 460, 462, 464, 1806-07, 478, 480, 481, 1816, 483, 485-86, 489-90, 496-98, 1808-10 (numbers refer to provided site plan).

Seven trees (#1808-11, 1817-19) located on adjacent properties were included in this report, as portions of their driplines overhang the subject parcel. The Monterey pine trees (*Pinus radiata*) (#1817-19) were recommended for preservation as they will provide an important screen during the construction phase.

Preservation guidelines should be implemented for all trees to be retained. Trees #442-43 and #1817-19 merit close attention as they have the most potential to suffer significant construction impact due to construction within the dripline areas. While these trees should withstand such impacts, the following protective measures should be implemented to enhance long-term preservation:

1) Construct a temporary fence (chain-link) as far from the tree stem (trunk) as possible, completely surrounding the tree, and 6-8 feet in height. If appropriate, construct temporary (or permanent) retaining walls to prevent erosion and/or accumulation of excess soil over the tree dripline areas.

2) Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the `dripline' area of trees. Where root damage cannot be avoided, roots encountered over 1" diameter should be exposed approximately 12" beyond (towards tree stem) the area to be disturbed, by hand excavation, cut cleanly with hand pruners or power saw, and immediately backfilled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.

3) Avoid pruning immediately prior to, during, or immediately after construction impact. Perform only that pruning which is unavoidable due to conflicts with proposed development, or necessary to improve structural defects. Aesthetic pruning should not be performed for at least 1-2 years following completion of construction.

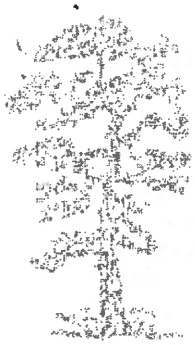
4) Trees which will be impacted by construction may benefit from moderate fertilization, prior to any construction activities. Ideally, perform fertilization in the fall and with not more than 6 lbs. of actual nitrogen per 1,000 square feet of accessible `dripline' area or beyond.

5) Mulch `rooting' area with 2-4" of an acidic, organic compost or mulch (e.g., Brush chips from tree trimming operations, 1/4" Coarse Fir Bark).

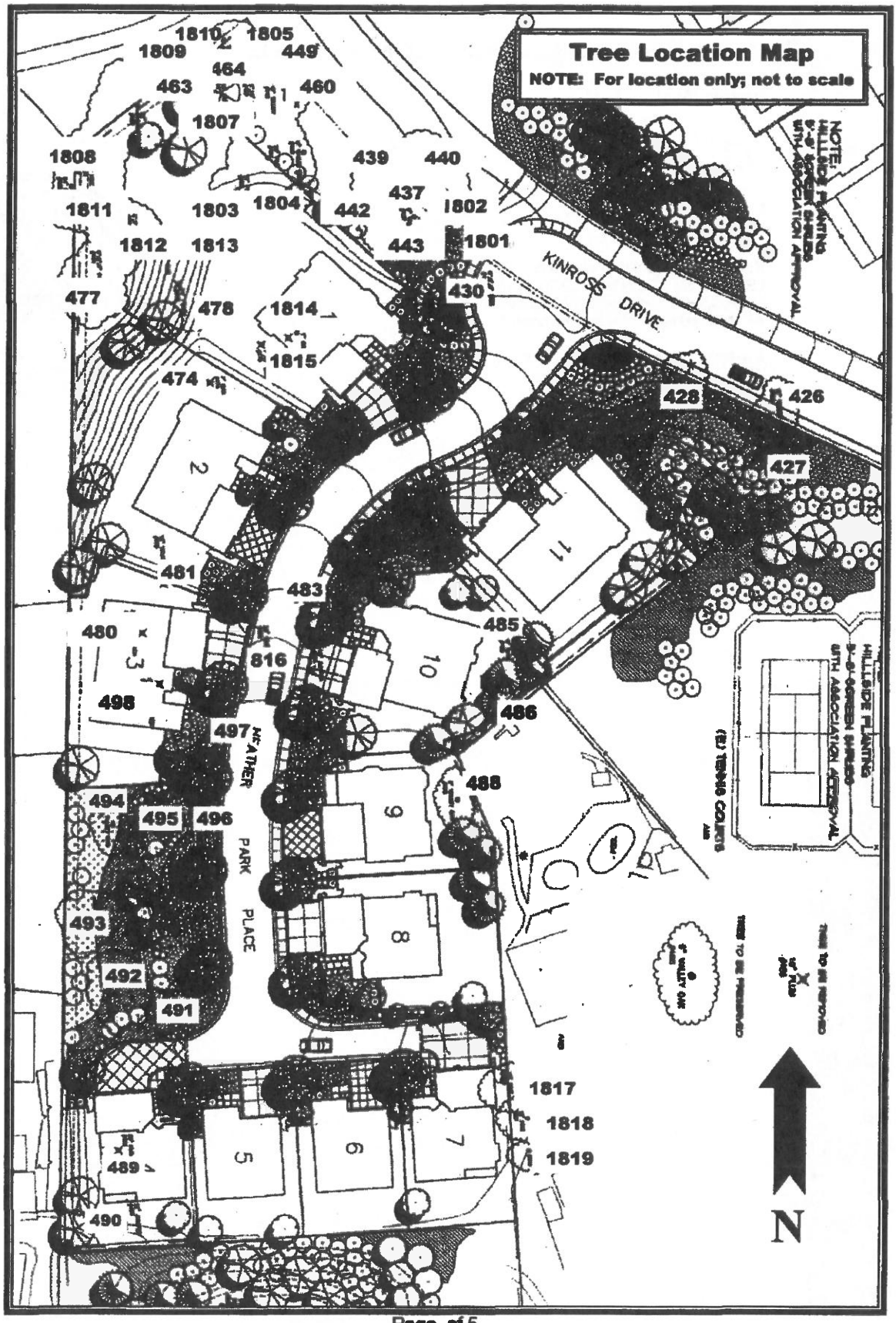
6) Arrange for periodic (Biannual/Quarterly) inspection of trees' condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.

OBSERVATIONS:

				Preserve	COMMENTS	W			
428	Valley oak	15.0		X	Vigorous; structure(+)	15	25	20	15
429	Valley oak	20.0		X	Codominant @ 3'	20	20	18	18
430	Monterey Pine	66.0	X		Multistem; poor structure(-)	25	15	25	20
437	Valley oak	10.0		X	20° southeast lean, good vigor	2	0	15	25
440	Willow	36.0	X		Structure(-);mistletoe(-)	25	25	30	35
443	Valley oak	10.0		X	Lean, vigorous	10	0	10	18
1805	Willow	16.0	X		Southeast lean	0	0	30	30
1803	Almond	20.0	X		Poor vigor & structure(+)	15	15	16	15
490	Willow	17.0	X		Good vigor & structure(+)	0	0	0	25
1807	Willow	9.0	X		Poor structure (-);on ground	0	0	28	15
1808	Eucalyptus	18.0	X		Codominant trunks, lean	0	0	33	25
1813	Valley oak	24.0		X	Structure(-);co-dominant trunks	15	20	22	18



1815	Valley oak	16.0	X		Sparse, poor vigor(-)	12	15	15	12
474	Valley				Good vigor & stru	10			10
477	Valley oak	18.0		X	Good vigor & structure(+)	20	10	15	15
478	Almond				Lean		10		
481	Valley oak	12.0	X		Poor structure(-), codominant trunks.	15	12	15	15
	Almond		X						
1816	Monterey Pine	30.0	X		30% fire damage.	25	22	25	28
	Almond				Poor	8			
484	———		———		Dead (previously removed)	15	15	15	15
					Codominant @ 12'				
486	Plum	11.0	X		Multistem; AAC.	12	10	10	12
488	Valley Oak					15			
489	Bluegum	30.0	X		Multi-trunk; AAC.	15	20	20	18
491	Valley Oak	18.0		X	20° eastern lean;	0	15	25	20
	Valley Oak			X	Codominant @ 5'; structural		30		
493	Valley Oak	23.0		X	10° lean, vigorous	20	20	28	30
494	Valley Oak			X	Good structure, vigor(+)	15		5	25
495	Valley Oak	19.0		X	30° eastern lean; good vigor(+).	5	20	20	12
496	Almond	12.0	X		Multistem; AAC.	12			12
497	Almond	11.0	X		Multistem, good balance(+).	15	10	10	10
1817	Monterey Pine	26.0		X	Sequoia pitch moth; stable.	27	20	12	15
15				X	Stable; buffer.				
1819	Monterey Pine	14.0		X	Stable; buffer.	15	5	6	15
					Good structure				
1808	Eucalyptus	40.0	X		Lean.	0	0	30	25
	Eucalyptus								
1810	Eucalyptus	36.0	X		Lean.	0	0	30	0


Tree Location Map
NOTE: For location only; not to scale
1810
1805
1809
449
464
463
460
1807
1808
439
440
437
1811
1803
1804
442
1802
1812
1813
443
1801
KINROSS DRIVE
477
478
430
1814
1815
474
428
426
427
481
483
485
480
816
486
498
497
HEATHER
488
494
495
496
PARK PLACE
493
492
491
1817
1818
1819
489
490
N

Please feel free to contact me with questions or comments.

Respectfully,

David W. Nelson

David W. Nelson, M.S.
Operations Manager

Registered Consulting Arborist No.: 325
I.S.A. Certified Arborist No.: WC-0133
CA P.C. Qualified License No.: 038698
AF Certified Natural Resource Expert

Master of Science, Natural Resources
Master of Urban Planning
Bachelor of Science, Forestry

JOSEPH McNEIL, CONSULTING ARBORIST

August 8, 2004

ASCA AMERICAN SOCIETY of CONSULTING ARBORISTS

R.J. Wilson
Delco Builders
2552 Stanwell Dr.
Suite 203
Concord, CA 94520

SUBJECT: Report on off-site trees along the current proposed storm drain and sanitary sewer at Kinross Terrace, Subdivision 8457.

BACKGROUND

A 15 inch storm drain and an 8 inch sanitary sewer will be constructed adjacent to the project, within the City of Walnut Creek, on an easement near the north edge of the Collins property, for a distance of about 360 feet, to Homestead Avenue. Four trees on the Collins and adjacent Hale properties may be affected, and are topics of this report. The sanitary sewer will be at about a 7 foot depth near the trees.

The storm drain, increased to 18 inch diameter, will then continue about 175 feet north along the west side of Homestead, then, increased to 24 inch, will angle to the northwest for about 135 feet, up to the south side of Seven Hills Ranch Road. It then proceeds west for about 175 feet, on the south side of the road. At that point it crosses the road, then angles into the existing drainage, just downstream of an existing 84 inch culvert. Most of the length of the storm drain line will be at a depth of 4-6 feet below grade.

Where the storm drain and nearby trees are within the city of Walnut Creek, trees of 9 inch diameter, with potential to be affected by this project, are included in this report. Where the storm drain is within Contra Costa County but nearby trees are within Walnut Creek, the same criteria are used. Where trees are within 50 feet of the project, and are also within Contra Costa County, the threshold of 20 inch trunk circumference at 4 ½ feet is used, and all such trees are addressed, consistent with County requirements. Walnut Creek trees are noted on the diagram by the suffix "WC" to their tree number.

POTENTIAL DISTURBANCE TO TREES

Damage to trees may occur directly, from mechanical injury to roots, trunks or limbs, or more indirectly, if soil characteristics, such as density, soil atmosphere or moisture content are altered. Manifestations of these injuries may occur immediately, or may be delayed for a number of years, resulting in progressive decline.

Many tree roots on most sites may be in the top 18 inches of soil, a zone which is easily altered by even minor grading, trenching, or material storage. Such alterations may occur during demolition, grading, or construction activities. Soil may become

3 HALTEN COURT • PLEASANT HILL, CALIFORNIA 94523 • 925/676-5232
Certified Arborist # WC0102
California State Contractors License # 482248 (Tree Care C-61 *D-49*, Landscaping C-27)
Registered Consulting Arborist #299, ASCA

compacted, soil oxygen may then become easily depleted, drainage patterns upon which trees have become dependent may be altered, so that trees become drought stressed. Any changes in grade, increase or decrease, compaction, or pavement may have this effect. Where cuts must be made for utilities, the soil may quickly dry out from the side of the cut and kill roots.

These realities must be considered when retaining trees. If sufficient area cannot reasonably and realistically be dedicated to the needs of tree roots, the trees should be removed.

HOW TO READ THE TABLE OF TREES

The specific information for each of the 41 trees assessed is found in the table on the last two pages. An example is below. Each tree is indicated on the attached site drawing by a number. Most trees are physically numbered with an aluminum tag. The trees are in order, starting upstream, ending downstream, at the outfall into the drainage.

4041	Black walnut	6, 4, 3	5	0	0	Moderate	Side of SS trench will be about 4 feet from the side of the tree. Protection measures for tree 4042 will protect this tree.
4042	Valley oak	12	7	5	6	Moderate	Side of SS trench will be about 4 1/2 feet from the side of this tree. Excavate the upper 18 inches of the trench by air for an 8 foot length. Avoid bruising injury to roots of two inch diameter or greater. Keep covered with double burlap, to protect from sunlight. Sever smaller roots cleanly. Cover the side of the trench with double layer of burlap, moisten every day. Or, if possible, tunnel for the SS, as for tree 4040. The trench at the tie-in point will have to be open to the surface. Irrigate remainder of the root system in summer to compensate for root loss.
4045	Coast redwood	9	8	9	7	Minimal	

The Species of each tree is noted in the second column, by common name. There are fifteen species lining the SD and SS locations.

COMMON NAME	LATIN NAME	COMMENTS
Almond	*Prunus dulcis*	Volunteers. Doing poorly or easily replaced.
California black walnut	*Juglans hindsii*	Intolerant of the disturbance of construction.
California pepper	*Schinus molle*	Actually, a South American tree.
Chamaecyparis sp.	*Chamaecyparis*	One of a large group of evergreens
Coast Redwood	*Sequoia sempervirens*	Coast redwood. Will benefit from supplemental summer irrigation.
Crabapple	*Malus sp.*	Large number of ornamental flowering trees
Lombardy poplar	*Populus nigra*	Fast growing, subject to decay if injured. Prolific and invasive root suckering, to some distance
Monterey pine	*Pinus radiata*	Out of it's natural range, susceptible to insect attack. Requires summer irrigation.
Mulberry	*Morus alba*	Tolerant of abuse, will heave pavement
Oregon ash	*Fraxinus latifolia*	Native into central California, found along creeks
Pecan	*Carya illinoensis*	Prefers irrigation in hot climate zone
River red gum	*Eucalyptus camaldulensis*	Widely planted, good for alkaline soil. Very susceptible to red gum lerp psyllid
Siberian elm	*Ulmus pumila*	Prone to mechanical failure
Valley oak	*Quercus lobata*	Native, less tolerant of development than live oak
Western cottonwood	*Populus fremontii*	Large, fast growing

The Diameter of the trunk, in inches, is given, measured at 54 inches, or if the trunk forks low to the ground, at the narrowest point below 54 inches. If there are several trunks, each is noted.

The Health of the tree and the Structure are rated in the next two columns. Both are rated on a scale of 1-10, with 10 being the most favorable. Health is a measure of the vigor of the tree. Lower ratings, (below 5) indicate that a tree is seriously declining in health.

Structure is a measure of the mechanical form and arrangement of the trunk and limbs. Trees with low structure ratings have failed mechanically in the past, or are at higher risk to do so in the future than trees with higher (better) structure rating.

Retention Index is an assessment of how desirable the retention of this tree is, independently of proposed design or site alterations. This rating is based on intrinsic features of the tree itself. It is a combination of:

- Species. Oaks are generally highly desirable. Eucalyptus are less, in some settings. Walnuts are not often realistically preserved.
- Health and Structure. Trees with defects or health problems do not warrant special effort to retain.
- Size. Even highly desirable species in good condition can be replaced if they are small enough. Their retention index is thus lower.

Generally, trees with an index of 8 or higher are worth some effort to preserve. This does not mean that they must be preserved, or that it is inappropriate to remove them. Realistic layout of a lot and cost of development may preclude retention of some otherwise desirable trees. The best use of the land may require removal of even trees with the highest retention index.

Trees with an index of 7 should be considered for retention.

Trees with an index of 5 or 6 should be retained only if there is an overriding need for a tree in that location, in the short term, and there is not time for a replacement tree to grow. They may be retained if there is no particular reason to remove them

For trees with indices lower than 5, no effort should be made to preserve. This does not mean they should not be retained, only that, unless there are other considerations, the project should not accommodate them.

Construction Impact is an estimate of the probable effects of proposed construction. It assumes that all possible care will be exercised within necessary constraints of the construction requirements as described in the tree table. These range from:

- "None".

- "Minimal". There may be some root injury which should not be manifest in the appearance of the tree if construction techniques are careful and the root zone is protected,
- "Slight". There is slightly more injury, and there may be some subtle injury response, but not to a serious degree,
- "Moderate". There may be visible signs, in the tree canopy, that root injury has occurred.
- "Remove". Retention of the tree is likely incompatible with the project.

Trees on this project have been rated in all categories.

The Comments column contains general observations about each tree. The terms codominant[1] and included bark[2] are explained below.

SPECIAL AREAS OF CONCERN

Trees adjacent to the easement along the north side of the Collins property are very close to the excavation that must be made to install the sanitary sewer. Details of root preservation across the trench are included in the Table of Trees, and should be observed. If roots across the SS trench are severed, the project arborist should be notified, and a decision made of whether to preserve the tree. Supplemental irrigation during the dry season will be necessary in any case, but will vary depending on the degree of root injury.

A similar situation exists by the storm drain junction into the existing culvert, at the far downstream end. Significant roots from oak tree 4940, the largest affected tree, will be found within the excavation. Excavation within 15 feet of the tree must be by water, using a Vactor truck to pick up the soil slurry, or by air, until enough root definition/location is determined, to select roots to remove, and allow workers to install the SD pipe below them. It is possible that the entire excavation very near the tree will have to be done in this manner, to the depth of the trench.

The storm drain at it's closest approach to tree 2007 is about 10 feet away, across a drainage ditch several feet deep, and is in the road. There may or may not be significant numbers of roots in the SD easement. Excavation for 30 feet, 15 feet either side of the tree trunk, should be as described in the previous paragraph, to avoid root injury.

---

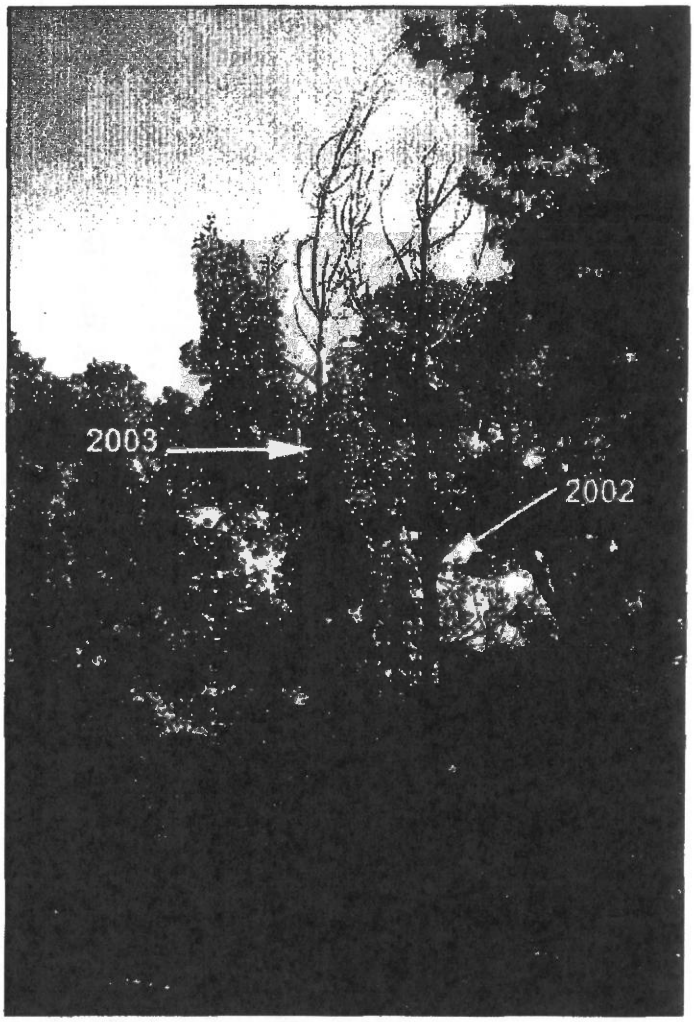
[1] Trunks of similar size on the same tree compete for dominance and are said to be codominant. As the trees grow larger these trunk attachments are increasingly prone to mechanical failure.

[2] Narrow stem crotches often prevent bark from sloughing off upward, and exiting the crotch as the two trunks expand toward one another. The bark becomes bound, or 'included' in the crotch, occupying the space that should be taken by wood, bridging the trunks. Because the bark isn't structurally competent, the attachment is weak, and prone to failure as the tree grows larger.

SITE MEETINGS WITH ARBORIST

The project arborist should have at least three meetings on site:

1. Preconstruction, with the contractor responsible for excavation of the SS and SD trenches, to review excavation near the trees.
2. Whenever a decision must be made which roots to sever, to allow room to place a pipe under roots to remain. This may occur at the trees on the Collins and Hale properties, but will certainly be necessary during excavation near trees 4940 and 2007.
3. To determine, based on observations by the arborist and the contractor, regarding the number and size of severed roots, the precise nature of any supplemental irrigation that might be required.



TREES 2002 AND 2003

These two trees will be removed. They are not in any way worth preserving, as they are actively dying back. Tree canopy spread was not included in the site map for these two. Their photo is below. Each is dead approximately above the arrow.

Please contact me if you have questions regarding this report.

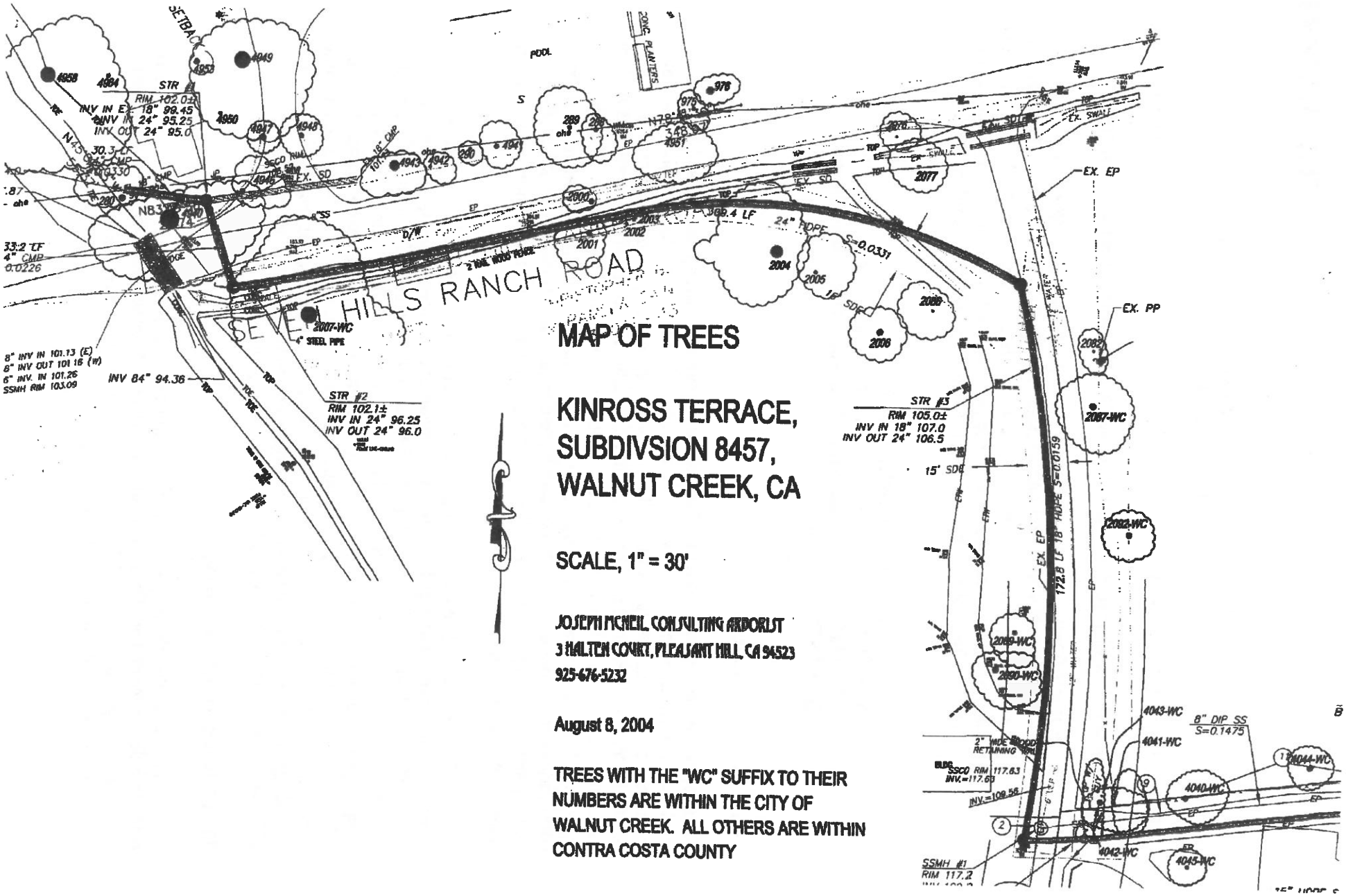
Sincerely,

Joseph McNeil
Certified Arborist #WC0102
Registered Consulting Arborist #299, ASCA
Contractors Lic. #482248 (Tree service C-61 *D-49*, Landscaping C-27, inactive)

Tree Number	Species	Diameter	Health	Structure	Retention Index	Impact	Comments
4044-WC	Valley oak	12, 8	8	6	7	Slight	Codominant trunks. Side of the SS trench will be 8-9 feet from the side of the tree. Dig, by hand, on the side of the SS trench toward the tree, a narrower trench, 18 inches deep, for an 8 foot length. Sever roots cleanly, over 1 inch diameter. Cover the side of the trench with double layer of burlap, moisten every day. Irrigate remainder of the root system in summer to compensate for root loss.
4040-WC	Valley oak	11, 5	8	7	7	Moderate	Side of SS trench will be less than 3 feet from the side of the tree. Excavate the upper 18 inches of the trench by air or water for an 8 foot length. Avoid bruising injury to roots of two inch diameter or greater. Keep covered with double burlap, to protect from sunlight. Sever smaller roots cleanly. Cover the side of the trench with double layer of burlap, moisten every day. Alternately, the SS line may be deep enough to allow tunneling by a backhoe, for the 8 foot distance. If possible this will be more efficient, and better for the tree. Irrigate remainder of the root system in summer to compensate for root loss.
4041-WC	Black walnut	5, 4, 3	5	0	0	Moderate	Side of SS trench will be about 4 feet from the side of the tree. Protection measures for tree 4042 will protect this tree.
4043-WC	Valley oak	9	5	4	0	Moderate	Protection measures for other trees will protect this one.
4042-WC	Valley oak	12	7	5	6	Moderate	Side of SS trench will be about 4 1/2 feet from the side of this tree. Excavate the upper 18 inches of the trench by air or water for an 8 foot length. Avoid bruising injury to roots of two inch diameter or greater. Keep covered with double burlap, to protect from sunlight. Sever smaller roots cleanly. Cover the side of the trench with double layer of burlap, moisten every day. Or, if possible, tunnel for the SS, as for tree 4040. The trench at the tie-in point will have to be open to the surface. Irrigate remainder of the root system in summer to compensate for root loss.
4045-WC	Coast redwood	9	8	9	7	Minimal	
2090-WC	Monterey pine	17	6	5	0	Minimal	
2089-WC	Western cottonwood	10	2	4	0	Minimal	Nearly dead
2092-WC	Valley oak	8, 6	7	5	6	None	
2087-WC	Valley oak	13, 6	6	6	6	None	Under primary lines.
2082	Valley oak	10	6	7	5	None	Under primary lines

Tree Number	Species	Diameter	Health	Structure	Retention Index	Impact	Comments
2086	Siberian elm	7, 5	6	6	6	Minimal	Side of SD trench will be more than 20 feet from the tree. Cleanly trim roots, if any, extending into the trench. If the trench will be open for more than one day cover the south side with a double layer of burlap, or straw matting, moisten every day, to prevent soil from drying directly from deeper layers.
2006	California pepper	9, 9	6	5	6	None	Crown dieback throughout, pruned back badly, possibly to removed dead limbs. Decayed at back, codominant trunks at base, included bark.
2005	Crabapple	4.4, 4, 3.7, 3.1	7	5	5	None	Full crown, but heavy scale insect infestation.
2004	Valley oak	23	7	6	8	Slight	Two trunks diverge at 6 1/2 feet, codominant, but form a "seam" down to ground level. This may represent structural weakness that will require mechanical support in the future. Sprouts along the main branches combined with thinning of foliage indicate the tree is under significant stress. The surrounding soil is dry and compacted, with open cracks, and lack of the normal organic buildup found under oak trees. Heavy mulching, with occasional deep irrigation would be beneficial. Cleanly trim roots extending into the trench. If the trench will be open for more than one day cover the south side with a double layer of burlap, or straw matting, moisten every day, to prevent soil from drying directly from deeper layers.
2077	Almond	5, 5, 3, 1	8	4	5	None	
2076	Valley oak	6, 6	7	4	6	None	Under primary lines, topped
976	Pecan	16	5	5	0	None	Substantial dieback on two sides, significant past root death, evidenced by lower trunk anomalies
975	River red gum	6, 5	6	4	0	None	Topped under primary power lines, lerp psyllid infestation
4951	River red gum	17	4	0	0	None	
2003	Lombardy poplar	7.2	4	4	0	Remove	The top of this tree is dead (see photo) Below City of Walnut Creek size consideration threshold
2002	Lombardy poplar	7.3	4	4	0	Remove	The top of this tree is dead (see photo) Below City of Walnut Creek size consideration threshold
288	California pepper	6, 4, 4	8	0	0	None	Decayed, failing
289	Pecan	10	8	7	6	None	Topped under primary power lines, will require repeated topping
2000	Valley oak	10	8	7	7	Moderate	Excavate the trench by air for a twelve foot distance centered on this tree and 2001. Place the SD below significant roots.
2001	Western cottonwood	11	8	7	6	Moderate	Excavate the trench by air for a twelve foot distance centered on this tree and 2000. Place the SD below significant roots.
4941	Valley oak	10	9	4	0	None	Topped under primary power lines, poor choice for this location.
290	Valley oak	6	8	4	0	None	Topped under primary power lines, poor choice for this location.
4942	Valley oak	6	8	4	0	None	Topped under primary power lines, poor choice for this location.
4943	River red gum	19, 8	7	0	0	None	Topped at 20 feet, very poor structure, poor choice here.
4948	*Chamaecyparis* sp.	10	5	0	0	None	1/2 dead, basal decay

Tree Number	Species	Diameter	Health	Structure	Retention Index	Impact	Comments
4947	*Chamaecyparis* sp.	13	5	5	0	None	Overmature
4949	Monterey pine	33	8	7	7	None	Leans, but short, stout, good trunk taper and low foliage distribution. Mature, not overmature. Roots in current driveway protrude 5 inches above existing surface.
4950	Valley oak	6	7	6	0	None	Repeating codominant trunks
4953	Mulberry	11	8	7	4	None	
4946	California pepper	10	6	4	0	None	Growing very slowly in edge of pavement. Decay at 8 feet, from low branch removal
2007-WC	Valley oak	29, 27	9	9	10	Slight	Encroachment is substantial under the tree canopy, but expected impact is slight, as the encroachment is across a paved area, and across the deep drainage swale from the tree. It is unknown whether there are significant numbers of roots in the road. The trench, for 30 feet, 15 feet either side of the tree, should be excavated by air, or hydraulically, to avoid root injury. Some roots, if present, may have to be removed to place the SD underneath. The project arborist must be on site to make these determinations. Base of tree is buried, should be uncovered and examined by the owner, for their own information and benefit. Structural rating assumes sound tree base.
4940	Valley oak	40	8	8	10	Moderate	Heavily side trimmed for primary power lines. Trunk has grown against and around culvert headwall, is integrated into trunk. Thin concrete surfacing of slope down from tree, to channel, is lifted and fractured, roots are replacing concrete as erosion barrier. Storm drain passes within root system on east and north. Manhole will be installed with the corner 8 feet from the side of the tree. All excavation within 15 feet of the tree must be hydraulic or air, exposing roots without injuring them. Some roots may have to be removed to place the SD underneath. The project arborist must be on site to make these determinations.
280	Oregon Ash	12	9	6	5	Remove	In edge of existing stream flow, in fractured concrete channel. Leans, suppressed under 4940, topped for primary lines. Outfall of SD will be adjacent to tree. It should be removed, as channel obstruction and primary line easement obstruction. The outfall will also impact the tree, further flooding it in wet weather.
4964	Oregon Ash	7	7	6	0	None	Suppressed under 4958
4958	Valley oak	28, 16	7	8	10	None	At top of slope. Roots to west follow steep slope of channel side. Lower roots on west side are severed by channel cleaning in past (1/2 dozen roots, 2"-3' diameter, not a threat to stability) Short shoot elongation may be signal of early stage decline and disturbance sensitivity.



MAP OF TREES

KINROSS TERRACE, SUBDIVSION 8457, WALNUT CREEK, CA

SCALE, 1" = 30'

JOSEPH MCNEIL CONSULTING ARBORIST
3 HALTEN COURT, PLEASANT HILL, CA 94523
925-676-5232

August 8, 2004

TREES WITH THE "WC" SUFFIX TO THEIR NUMBERS ARE WITHIN THE CITY OF WALNUT CREEK. ALL OTHERS ARE WITHIN CONTRA COSTA COUNTY

ATTACHMENT 7

WALNUT CREEK PLANNING COMMISSION
STAFF REPORT

AGENDA: OCTOBER 28, 2004 ITEM NO. 2

ORIGINATED BY: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING

SUBJECT: **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course. The project is situated at the end of Kinross Drive, north of Marchbanks Drive.

ZONING: P-D, Planned Development (PD 859)
GENERAL PLAN LAND USE: MFL, Multi Family Low, 6-14 du/ac
OWNER/APPLICANT: Diablo Hills Golf Associates / Doyle Heaton
CEQA STATUS: Pending.

STATEMENT OF ISSUES:

The applicant is seeking approval of a Planned Development District rezoning and 12-lot residential subdivision on a vacant 3.58-acre site. A project location map and subdivision plans are included as **Attachments 3 and 4**. The project site is formerly a part of the nine-hole Diablo Hill Golf Course established in 1966 as part of the Heather Farms development (PD 859). The applicant is requesting: 1) to amend the existing PD district (rezone) to accommodate the proposed 12-lot residential development , 2) to narrow Kinross Drive, from Marchbanks Drive northward to its terminus, to limit street parking to one side, and 3) install new storm water and sanitary sewer lines through private off-site property. Tree removal and dripline encroachment approval will also be required.

On April 24, 2003, the Planning Commission held a public hearing to review a preliminary 11-lot development plan. The April 24, 2003 staff report and minutes of that meeting are included as **Attachments 8 and 9**. Following the public hearing, the Planning Commission expressed support for the project noting that the development 1) is situated on a remnant parcel, 2) provides an appropriate transition between the existing multi-family housing to the north and east, and half-acre residences to the west, 3) could support additional units, and 4) would not undermine preservation of the golf course. Since that time, the applicant has revised the project to include 12 residential lots, has resolved sewer and storm water drainage issues, and is seeking an affirmative recommendation to City Council on the project.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission 1) approve a resolution forwarding an affirmative recommendation to the City Council on adoption of the Mitigated Negative Declaration and approval of the proposed Planned District Rezoning, and 2) Approve the Vesting Tentative Map subject to City Council adoption of the rezoning.

BACKGROUND:

The 3.58-acre project is situated within PD 859, which was adopted in 1966 as part of the Heather Farms development. PD 859 was approved with a mix of single and multi-family homes up to a maximum of 1,150 dwelling units, a nine-hole private golf course and clubhouse. The PD allowed clustering of homes on approximately 78-acres throughout the 150-acre site. The nine-hole golf course and accessory uses (parking, club house, driving range, etc) would occupy the remaining land area. PD 859 also set aside approximately 53 acres for a city park (future home of Heather Farms park). At some point in the mid 1970's the golf course was altered to shorten the 6th hole and redirect the 7th hole, eliminating the proposed project site from active play. Shortly thereafter, three tennis courts were installed by the original developer at the northwest corner of Marchbanks and Kinross Drives in the proximity of the original 7th hole. Since that time, the remaining 3.58-acre portion of the site, where the 6th hole was originally located, has remained vacant.

In the mid-1980's, an application to develop the 3.58-acre site for a 51-unit condominium project was submitted. A draft environmental impact report was prepared and circulated on the proposed 51-unit project. The application was, however, withdrawn by the project sponsor prior to any city action. A more recent proposal for 20 units was also withdrawn prior to any city action.

PROJECT AND SITE DESCRIPTION:

The project proposes construction of a 12-lot residential subdivision on a vacant 3.58-acre site consisting of 10 detached units and 2 attached units. Lot sizes for the 2 attached units are 3,916 and 4,992-sqaure feet, and range from 5,476 (Lot 10) to 30,208-square feet (Lot 1). The average lot size is approximately 11,300-square feet. The project proposes to narrow the existing Kinross Drive to preclude street parking on the one side, and install a new private 28-foot wide paved street to serve the 12 proposed dwellings. Sidewalk and parking would be provided on one side of the proposed private street.

The project is located on land that was previously graded and occupied as a golf course. Presently the site contains native grasses and a number of trees planted as part of the golf course. Surrounding land uses include single-family residences on the knoll above to the north, multi-family residences to the east (Stoneridge Apartments), Golf course property to the south, and single-family residences below to the west. A portion of the project site is adjacent to the Seven Hills Ranch property which is an unincorporated territory.

GENERAL PLAN CONSISTENCY AND CODE COMPLIANCE:

The 3.58-acre project site is designated MFL, Multifamily Low (6 to 14 du/ac) in the General Plan. The multi-family low designation envisions higher densities in close proximity to commercial and job centers and to serve as transition between single-family neighborhoods and commercial or higher density areas. The proposed 12 detached dwellings on 3.58-acres represent a density of 3 units per acre when viewed independently. Within the context of the entire planned district, a density of 6.6 units per acres is achieved.

The current PD 859 zoning establishes a maximum density of 1,150 units on approximately 78-acres throughout the 150-acre development. Currently, the Planned District contains approximately 986 units which would increase by 12 to 998-units should the project gain approval. The PD allows for a mix of unit types clustered around the private golf course. The proposed 12-lot subdivision would not exceed the maximum allowable density as established in the existing PD district regulations and would be consistent with the Multi-Family Low General Plan designation of 6 to 14 units per acre.

Other General Plan policies that relate to the proposed project include: Residential Development Policy 3, allowing infill development consistent with character of existing neighborhoods; Policy 7, prohibiting land use changes in residential areas unless findings can be made that character and integrity of neighborhood is preserved; City Design Program 8.1, Discourage gated communities and private streets; and Local Street Recommendation and Improvements, which states that Kinross Drive shall not be connected to Seven Hills Ranch Road.

The project is subject to General Plan Housing Element Policy 13.21 which requires 10% of the units within a for-sale project to be affordable to moderate income households. Based on the provisions in effect during the project review, the project would be required to provide 1 affordable unit. The applicant has designated Lot 8 as the affordable unit.

ENVIRONMENTAL REVIEW:

A proposed Mitigated Negative Declaration has been prepared and may be considered for recommendation to the City Council (**Attachment 5**). Pursuant to the City's Environmental Review Regulations, the City Council is responsible for adopting the proposed Mitigated Negative Declaration (MND) to be used in consideration of the proposed development and P-D, Planned Development Rezoning. The proposed MND was released for public review on September 28, 2004 and comments were solicited for a 30-day period ending on October 28, 2004.

The proposed MND evaluated the proposed project and concluded that the proposed project incorporates appropriate measures that would avoid or reduce potential impacts to a less-than-significant level and the project could not have a significant effect on the environment. Proposed mitigation measures have been incorporated into the Mitigated Negative Declaration for adoption as part of proposed project approval.

On October 19, 2004, a letter was received, signed by five area residents, requesting reconsideration of the decision to prepare a Mitigated Negative Declaration and specifying a number of concerns **(Attachment 6)**. In review of the comments received, staff believes that no new information or substantial evidence is presented that the project may cause a significant impact on the environment. A response to these comments is provided **(Attachment 7).**

Based on the analysis and discussion contained in this staff report and the administrative record as a whole, staff believes that findings can be made to adopt the proposed MND.

KEY ISSUES AND IMPACTS:

At the April 24, 2003 hearing, the Planning Commission expressed support for redevelopment of the vacant 3.58-acre site for housing and noted that although the site could accommodate more units, the project provides an appropriate compromise between the existing multi-family units to the north and east, and the more rural, one-half acre, residential lots to the west. The Commission also agreed that the dead-end portion of Kinross Drive could be reduced in width as desired by area residents, but should remain public.

Since that time, the project has been revised in response to Design Review Commission comments and to address sewer and drainage issues. In addition, a concern regarding reducing the pavement width of Kinross Drive has been raised in response to the Mitigated Negative Declaration. The following sections address these points.

Design Review Commission Comments

The project has been reviewed by the Design Review Commission (DRC) on four separate occasions in May and June, 2003, and February and May, 2004. The current development plan was reviewed by the Design Review Commission (DRC) in May 2004. At that time, the DRC was supportive of the revised lot pattern, roadway and drive alignments, and architectural character of the homes. The DRC forwarded an affirmative recommendation on the project to the Planning Commission and noted a few architectural revisions that could be handled during the final design review process.

Sewer and Storm Water Drainage

At the previous Planning Commission hearing in April 2003, the project proposed a sewer pump and an on-site, underground storm water retention system. Initial referral comments from the City Engineering Division and the County Sanitation District recommended revisions to the proposed utility services to provide gravity systems. In response, the applicant has revised their plan to provide gravity systems to existing off-site facilities through easements on private property. A new 8-inch sewer line serving the proposed development would be routed to the west through an adjacent residential lot (Collins property), to an existing 6-inch sewer line in Homestead Avenue. A new 15-inch storm water pipe would be routed westerly, again through the Collins property, northerly along Homestead Avenue, then westerly along Seven Hills Ranch Road to discharge into an existing creek.

While theses off-site utilities function hydraulically, the underground lines cross private and require easements. The applicant has stated that they are working with the Collins property owners to secure an easement, although it has not been finalized or recorded. In addition, research has revealed that Homestead Avenue and Seven Hills Ranch Road, while appearing as public roads, have never been dedicated or accepted by either the City or County and remain privately held property. As specified in the Mitigated Negative Declaration, the City would not condemn off-site private properties to satisfy requirements for a private development. Mitigation measures require that the applicant secure the necessary off-site easements prior to approval of a final map.

Reduced width of Kinross Drive

In the applicant's initial discussions with neighbors in the vicinity of the project site, concerns about parking and inappropriate activities on the dead end portion of Kinross Drive were raised. There was a general consensus of surrounding neighbors that narrowing the roadway would reduce or eliminate the perceived nuisance. The applicant offered to reduce the width of the public street as part of this development proposal. The reduced street width was discussed at the previous Planning Commission hearing in April 2003. At that time, Staff acknowledged that the reduced street width was proposed by the applicant in response to neighborhood concerns and that the reduced 28-foot paved street section is consistent with City standards.

Recently, comments received from residents on the Mitigated Negative Declaration question the project's proposal to reduce the width of Kinross Drive citing the loss of street parking adjacent to neighborhood serving tennis courts. In response to the comments on the Mitigated Negative Declaration, Staff contends that the street width, whether reduced or maintained at its current width, is not a significant environmental impact. The proposal to reduce Kinross Drive was based on neighborhood discussions that indicated that the dead end street was an attractive nuisance. However, both street configurations comply with city standards and provide adequate street parking to serve the tennis courts. The new subdivision and private street would likely eliminate nuisance activities associated with an unattended dead end street, and reduce the neighborhood concerns. Maintaining the street at its current width would require modification of the tentative map. Staff recommends that Planning Commission consider the street width as part of the project review.

COMMISSION ACTION REQUIRED:

Staff recommends the Planning Commission 1) approve a resolution forwarding an affirmative recommendation to the City Council on adoption of the Mitigated Negative Declaration and approval of the proposed Planned District Rezoning, and 2) Approve the Vesting Tentative Map subject to City Council adoption of the rezoning.

ATTACHMENTS:

1. Proposed Rezoning Resolution
2. Proposed Tentative Map Resolution
3. Vicinity Map and Aerial
4. Project Plans
5. Mitigated Negative Declaration and Initial Study
6. Comment Letter dated October 19, 2004 requesting reconsideration of Mit. Neg. Dec.
7. Response to Comment Letter
8. April 24, 2003 Planning Commission Staff Report
9. April 24, 2003 Planning Commission Minutes

Prepared by Scott Harriman, AICP, Senior Planner

ATTACHMENT 8

WALNUT CREEK PLANNING COMMISSION
RESOLUTION NO. 3329
P-D REZONING APPLICATION NO. Y03-003
KINROSS TERRACE RESIDENTIAL SUBDIVISION
END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE

Section 1. Findings.

1. On October 28, 2004, the Walnut Creek Planning Commission held a public hearing to consider P-D Rezoning/Tentative Map/Design Review Application No. Y03-003 filed January 8, 2003 by the Delco Builders; Doyle Heaton, representative, to change the zoning of a 3.58-acre portion of Assessors Parcel No. 144-081-006, situated at the end of Kinross Drive, north of Marchbanks Drive from P-D 859 to P-D, Planned District to facilitate construction of a 12-unit residential development.

2. At the conclusion of the October 28, 2004 public hearing, the Planning Commission voted unanimously to recommend that the City Council adopt a Mitigated Negative Declaration and approve the proposed Kinross Terrace P-D rezoning.

3. In recommending approval of the Kinross Terrace P-D Rezoning, the Planning Commission expressed strong support for the preservation of the adjacent golf course and found that the decision to allow the 12-lot subdivision is based on the project's unique site characteristics adjacent to the dead end of Kinross Drive, that the project site has historically not been an active part of the golf course, and that this action is not a precedent for further redevelopment of the golf course.

4. A Notice of Intent to adopt a Mitigated Negative Declaration was posted for this project on September 28, 2004, the Community Development Director having found that no substantial adverse impacts will occur as a result of this project. All mitigation measures are incorporated by reference into the project approval. Mitigation measures include dust control measures during construction; submittal of a second rare plant survey in April 2005 to determine rare plant species are present; and obtaining a tree removal/dripline encroachment permit and compliance with tree preservation guidelines contained in the project arborist reports; Requiring the developer to retain a qualified professional biologist prior to any tree removal occurring during nesting season (March 30 through August 31) if nests are observed; Obtaining a Streambed alteration agreement and a 404 permit from the Army Corp of Engineers and a 401 certification from the RWQCB prior to construction of the creek outfall; Preparation of sediment control plan; obtaining all necessary off-site easements; and revising off-site storm water alignment

5. The Design Review Commission has reviewed the proposed project at its May 9, 2004 meeting and has submitted its preliminary comments to the Planning Commission for its consideration. The project is subject to and would be required to receive final Design Review approval as part of any subsequent tentative map review.

6. The proposed project 12-unit subdivision is consistent with the General Plan designation of MFL, Multi-Family Low, 6-14 units per acre, achieving a density of 6.6 units per in context within the entire planned district.

7. The project site is presently zoned Planned Development, PD 859. The applicant proposes to rezone the project site to a Planned Development zoning district to accommodate the proposed 12-unit residential development.

8. The 3.58-acre project site is subject to height and development restrictions in place at the time Measure A, the Building Height Freeze Initiative was passed by the voters in 1985. In this case, the site contains a two-story, 25-foot height limit.

9. Tree removal and dripline encroach permits are required prior to any grading or construction activities. Mitigation measures adopted as part of the negative declaration establish tree protection criteria during construction.

10. The proposed P-D zoning district would adopt the development and site plan dated 10/14/04 reviewed and recommended to City council for adoption as the established development plan and zoning standards.

11. The 12-unit multi-family residential project is subject to Housing Element Policy 13.21 requiring at least 10-percent affordable units. The Planning Commission found that the applicant's proposal to provide 1 units plus an in-lieu fee for the fractional portion of the affordable housing requirement based on the current cost gap as provided in the Keyser Marston report is consistent with the Housing Element.

12. The Planning Commission has considered the proposed Mitigated Negative Declaration together with all comments received during the public review process. The Planning Commission finds on the basis of the whole record before it (including the Initial Study and all comments received) that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning commission's independent judgment and analysis. The documents and other material which constitute the record of proceedings upon which this decision is based are maintained by the custodian of records, the City Clerk, at 1666 N. Main St., Walnut Creek.

Section 2. Decision. Based on the findings set forth above, the Walnut Creek Planning Commission hereby recommends to the City Council that the property situated at the end of Kinross Drive, north of Marchbanks Drive (APN 144-081-006) be rezoned from P-D 859 to Planned Development in accordance with the attached Kinross Terrace plans labeled "Exhibit A of P-D Rezoning/Tentative Map/Design Review application No. Y03-003" subject to the following conditions.

1. The property shall be developed substantially the same as shown on the site plans labeled Exhibit A of Rezoning/Tentative Map/Design Review Application No. Y03-003. Any substantial change or revision as determined by the Planning Director to the site plan may be subject to public hearing and rezoning.

Uses

2. The proposed P-D zoning would permit the development of a 12-unit residential subdivision as depicted on Exhibit A, the adopted site plans. All future uses shall be governed by the R, Single Family Residential zoning district or any zoning district that is successor to the R District.

Development Standards

3. All development standards including, but not limited to, setbacks, parking, fencing, landscape area, and building footprints as shown on the adopted Development Plan, included within Exhibit A, shall constitute the established standards for the sites.

4. Accessory structures, home occupation, and childcare facilities shall be permitted pursuant to the R, Single Family Residential District.

5. The proposed Kinross Terrace development shall be constructed in substantial compliance with the attached site plans and as may be revised during City Council and final DRC review.

6. A tentative map shall be submitted for review and adoption by the Planning Commission, and subsequently recorded as a final map. The project shall be subject to all development requirements as established through the tentative map process.

7. An inspection and maintenance agreement shall be prepared and approved by the City Engineer to ensure maintenance of the private roadway improvement by the homeowners as part of the tentative map.

8. The project is subject to General Plan housing goal 13.21 which requires one unit within the for-sale project to be affordable to moderate income households. The applicant has offered the unit on Lot 8 as the affordable unit.

Section 3. Effective Date.

This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED ON October 28, 2004 by the Walnut Creek Planning Commission at a regular meeting thereof upon motion by Commissioner Pickett and seconded by Commissioner Jorgensen.

AYES: Pickett, Jorgensen, Larsen, Kaplan, Moore, Silva, Simmons
NOES: None
ABSENT: None

SANDRA MEYER, Secretary
Walnut Creek Planning Commission

ATTACHMENT 9

WALNUT CREEK PLANNING COMMISSION
RESOLUTION NO. 3330
P-D REZONING, TENTATIVE MAP, DESIGN REVIEW APPLICATION NO. Y03-003
VESTING TENTATIVE MAP 8457
KINROSS TERRACE RESIDENTIAL SUBDIVISION

Section 1. Findings.

On October 28, 2004 the Walnut Creek, Planning Commission held a public hearing to consider P-D Rezoning, Vesting Tentative Map No. 8457, Design review Application No. Y03-003, filed Delco Builders; Doyle Heaton, representative; in which it was requested that approval be granted to subdivide a 3.58-acre acre site located at the end of Kinross Drive, north of Marchbanks Drive to accommodate a 12-lot residential subdivision.

At the conclusion of the October 28, 2004 public hearing, the Planning Commission voted unanimously to 1) approve Resolution No. 3329, recommending that the City Council approved the Kinross Terrace P-D Rezoning, and 2) approved the Vesting Tentative Map subject to the City Council action on the rezoning.

On May 19, 2004, the Design Review Commission forwarded an affirmative recommendation on the subdivision and homes designs, subject to Planning Commission and City Council action on the subdivision and rezoning, and final design approval.

The proposed map is consistent with the General Plan and Zoning designations which regulate development on this site.

All governmental and utility agencies affected by this development have been notified and given the opportunity to respond thereto. Recommended conditions of approval have been incorporated where appropriate.

Based on the evidence presented at the meeting, the Walnut Creek Planning Commission hereby resolves that:

The Commission has reviewed the proposed subdivision, adopted Mitigated Negative Declaration, and the record as a whole.

The Commission has considered the design of this subdivision in relation to future passive or natural heating and cooling opportunities.

The Commission has considered the effects that approval of this subdivision will have on the housing needs of Central Contra Costa County.

The Commission finds that none of the conditions described in Government Section 66474, Subsections (a) through (g) inclusive, exists with respect to this Subdivision.

After reviewing the proposed subdivision together with its design and improvements, this Commission finds that this subdivision is consistent with all applicable General Plan and

Zoning policies and as recommended by this Commission to the City Council in Planning Commission Resolution No. 3329.

Section 2. Decision. Based on the findings set forth above, the Walnut Creek Planning Commission hereby approves the Kinross Terrace Vesting Tentative Map No. 8457 for property situated at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006) in accordance with the attached Kinross Terrace plans labeled "Exhibit A, Tentative Map 8457 Application No. Y03-003" subject to the following conditions.

Planning Division:

1. This subdivision shall comply with Title 10 of the Walnut Creek Municipal Code (Subdivision Ordinance) as determined by the City Engineer.

2. The final map shall not be recorded until there has been compliance with all conditions of approval.

3. The developer shall install house addresses and mail boxes in accordance with Post Office policy. The actual addresses will be assigned by City Planning staff prior to issuance of a building permit.

4. The Development plan shall be revised as recommended by the Design Review Commission to reverse the building footprint on Lot 4, to move Lot 5 building footprint forward approximately 5-feet, and to revise the Table on sheet 7 of 8 to reflect building heights as shown at the May 2004 DRC meeting.

5. Final approval of this Tentative Map is subject to an affirmative action by the City Council on the proposed P-D rezoning.

6. The design of the homes shall be subject to final Design Review approval by the Design Review Commission.

7. The project is subject to all mitigation measures as specified in Kinross Terrace Mitigated Negative Declaration, incorporated herein by reference.

8. The developer shall pay a fee in lieu of parkland dedication of $90,000, in accordance with Article 6 of the City's Subdivision Ordinance.

9. The project is subject to General Plan housing goal 13.21 which requires that one unit within the for-sale project to be affordable to moderate income households. The applicant has offered the unit on Lot 8 as the affordable. The applicant shall meet with the City's Housing Specialist and shall comply with all associated requirements.

10. The tentative map shall be revised to maintain the current width of Kinross Drive as directed by the Planning Commission at the October 28, 2004 hearing,

Engineering Division:

STREETS AND UTILITIES

11. The developer shall construct and dedicate to the public the proposed street improvements along Kinross Drive as shown on the tentative map, all to the satisfaction of the City Engineer. These improvements include new curb, gutter and sidewalk along the north side of Kinross Drive, utility and drainage improvements. The developer is proposing to modify the existing grades along the north side of Kinross Drive. Additional drainage and grading improvements may be required in this area to insure the area will drain properly at the completion of the project. The existing Kinross Drive street section shall be removed and replaced if the existing pavement is cracked or damaged in any way or if the structural section is determined by the City Engineer to be inadequate for the intended traffic. Cracked or damaged portions of the existing curb, gutter and sidewalk along the south side of Kinross Drive between the site and Marchbanks Drive shall be removed and replaced.

12. Public sidewalks shall comply with ADA and Title 24 requirements for cross slope at driveway approaches and curb ramps. The developer shall provide an accessible path of travel around the existing streetlight/utility poles and any other sidewalk obstructions to remain along the south side of Kinross Drive between the site and Marchbanks Drive.

13. The developer shall construct all the improvements on the two private streets, including pavement, curb, gutter, sidewalk, drainage, utility and landscaping improvements, or as may be required by the City Engineer.

14. The developer shall prepare a street and drainage maintenance agreement, for review and approval by the City Engineer, to insure ongoing inspection and maintenance of the private street improvements by the future property owners.

15. The street section for the private streets shall be designed by a registered civil engineer subject to approval by the City Engineer.

16. Install a "private street" sign at the entrance to Kinross Terrace.

17. The developer shall comply with all requirements of the Contra Costa Co. Fire Protection District, Contra Costa Water District, Central Contra Costa Sanitary District, East Bay Municipal Utility District, Pacific Gas and Electric Company, Pacific Bell, Comcast Cable Services and Astound Innovations, Inc.

18. All utilities shall be installed underground within the subdivision.

GRADING AND DRAINAGE

19. All on site surface drainage shall be collected and conveyed in an adequately designed underground storm drainage system in a manner to be approved by the City Engineer. The

downstream drainage system shall be analyzed and inadequacies, if any, corrected as determined by the City Engineer.

20. All building sites shall be graded to slope away from the building foundations with minimum slope of two percent (2%) or as required by the Soils Engineer.

21. The site shall be graded so that no additional runoff is directed to and so as not to impede runoff from adjacent properties.

22. A soils report shall be submitted and the grading, drainage swales and lot drainage shall be designed in accordance with the recommendations of the registered geotechnical/soils engineer. The registered geotechnical or soils engineer shall be retained during construction to observe all aspects of site preparation, stripping, grading, surface and sub-drainage installation, temporary cut slopes for construction of retaining walls, retaining wall foundation preparation, and retaining wall and utility trench backfill installation and to conduct material testing. A written agreement signed by the owner or his authorized agent for these services shall be submitted to the City for review and approval prior to issuance of the site development permit. Materials testing shall be performed by an accredited testing laboratory, which has been approved by the City of Walnut Creek. The geotechnical/soils engineer shall submit a letter report to the City at completion of construction certifying that grading, drainage and backfill installation was performed in general compliance with recommendations in the geotechnical report. All material testing reports shall be attached to the certification letter report.

23. Private drainage facilities shall be provided to intercept and direct the runoff from each lot to the proposed private underground drainage system, or as may be approved by the City Engineer.

24. Drainage swales and lot drainage for each lot shall be directed to the proposed private drainage system with a minimum gradient of one and one-half percent (1 ½ %), or as may required by the City Engineer.

25. The private storm drain system that empties into Homestead Creek at Seven Hill Ranch Road shall be provided with an adequately designed energy dissipater at its outfall in the creek in accordance with all applicable regulatory guidelines and approved by the City Engineer. Any trees removed from the creek for the construction of the outlet shall be replaced using native species at a ratio as required by the regulatory agencies and the City Engineer.

26. The street restoration requirements associated with the proposed private storm drain system will be a minimum of 4-feet on either side of the trench in the existing pavement areas.

27. The developer shall execute a Streambed Alteration Agreement with the Department of Fish and Game and obtain the necessary permits from the Regional Water Quality Control Board, Army Corps of Engineer and Contra Costa County, prior to commencement of any work on the private storm drain system or modification of the bed or bank of the creek. The capacity of the creek shall not be reduced.

28. The developer shall investigate and repair any structural defects in the existing storm drain system that drains from the end of Kinross Drive into the wetlands area.

29. The drainage system installed within this subdivision shall be privately maintained in its entirety to its outfall in Homestead Creek. The developer shall prepare a street and drainage maintenance agreement, for review and approval by the City Engineer, to insure ongoing inspection and maintenance of the drainage system and the stormwater pollution prevention device by the future property owners. The agreement will also allow the City to access the facilities to verify and insure completion of these activities. The agreement shall also include restrictions and monitoring requirements associated with the two wetlands areas.

30. The existing storm drain system that traverses the site and carries runoff from the adjacent property shall be completely removed and the drainage from the adjacent property shall be connected to the proposed private underground drainage system.

31. The foundation for any retaining wall that is proposed to be constructed across existing or proposed drainage or utility improvements shall be designed to span these improvements and to allow access to these improvements in the future without needing to disturb the wall.

32. The developer shall submit structural calculations and details for all of the proposed retaining walls for review and approval by the City Engineer.

33. Any work within the driplines of the protected trees or wetlands areas shall be performed under the supervision of a certified arborist and/or environmental consultant as appropriate to insure that all of the requirements associated with these environmental sensitive areas are followed.

EASEMENTS

34. The developer shall dedicate for public use an area at the intersection of Kinross Drive and Kinross Terrace to insure an appropriate turnaround at the end of the public street. The street improvements within this area shall be privately maintained.

35. The developer is proposing the abandonment of several easements that are currently located on the site. The developer must submit written documentation from these property owners indicating their agreement to relinquish their easement rights prior to the filing of the final map.

36. The developer shall record the private street, utility and drainage easements as shown on the tentative map and any additional easements that may be determined to be necessary by the City Engineer during the processing of the final map. The property owners (Homeowners Association) shall be responsible for maintaining the improvements contained within these easements. Responsibilities for inspection and maintenance shall be delineated within the street and drainage maintenance agreement.

37. The developer shall process a lot line adjustment/lot merger with the adjacent property owned by the Diablo Hills Golf Association prior to the filing of the final map.

38. All power poles whether existing or new shall be located behind the curb or sidewalk.

FEES AND OTHER STANDARD CONDITIONS

39. The subdivision shall comply with Title 10 of the Walnut Creek Municipal Code (Subdivision Ordinance) as determined by the City Engineer.

40. All site development shall comply with Title 9 Chapter 9 (Site Development) of the Walnut Creek Municipal Code as determined by the City Engineer.

41. The applicant is encouraged to contact the Engineering Division at 925-943-5839 to schedule a preapplication meeting prior to the first submittal of the subdivision map and improvement plans to discuss submittal requirements, project review timelines and fees associated with processing, filing and constructing this subdivision.

42. All habitable floors shall be constructed above the 100-year flood level.

43. An engineer's cost estimate for frontage and site improvements shall be submitted. Current fee for inspection is 8% of the estimated cost of improvements.

44. A current title report shall be submitted to identify current ownership, and any existing easements or land use restrictions.

45. The developer shall pay the adopted drainage fee for Drainage District 8 in effect at the time the final map is recorded. The current fee is $2,667 per acre.

46. The developer shall pay the adopted base map revision fee in effect at the time the final map is recorded. Current fee is $25 per lot.

47. The developer shall pay the traffic mitigation fee in effect at the time of issuance of the building permit. Current fee is $1,578 for single-family dwellings.

Section 3. Effective Date. This resolution shall take effect immediately upon and concurrently with the effective date of an ordinance by City Council approving the Kinross Terrace P-D Rezoning.

The foregoing resolution was adopted October 28, 2004 by the Walnut Creek Planning Commission at a regular meeting thereof upon motion by Commissioner Pickett and seconded by Commissioner Jorgensen.

Ayes: Pickett, Jorgensen, Larsen, Kaplan, Moore, Silva, Simmons
Noes: None
Absent: None
Abstain: None

SANDRA MEYER, Secretary
Walnut Creek Planning Commission

ATTACHMENT 10

CITY OF WALNUT CREEK
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WALNUT CREEK REZONING CERTAIN PROPERTIES LOCATED AT THE END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE FROM P-D 859 TO P-D, PLANNED DEVELOPMENT DISTRICT (REZONING APPLICATION NO. Y03-003 AND TENTATIVE MAP NO. 8457 – KINROSS TERRACE RESIDENTIAL SUBDIVISION) (A PORTION OF APN 144-081-006)

The City Council of the City of Walnut Creek does ordain as follows:

Section 1. Rezoning.

The Kinross Terrace property as shown in "Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003" which is hereby incorporated herein by reference, located at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006), is hereby rezoned from P-D 8599 to P-D, Planned Development subject to the following land use and property development regulations:

1. Uses

   The project is approved for the development of a 12-unit residential subdivision as shown on the approved P-D plan, Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003, hereinafter "Exhibit A". All future uses shall be governed by the R, Single Family Residential zoning district or any zoning district that is successor to the R District.

2. Development Standards

   a. All development standards including, but not limited to, building footprints for primary structures, setbacks for additions and accessory structures, building height, fencing, and landscape areas as established on the adopted Development Plan, included within Exhibit A, shall constitute the established P-D zoning standards for the sites.

   b. The property shall be developed substantially the same as shown on the plans labeled Exhibit A of Rezoning/Tentative Map Application No. Y03-003 and as required pursuant to Planning Commission Resolutions No. 3329 and 3330.

   c. Use regulations for accessory structures, home occupation, and childcare facilities shall be permitted pursuant to the R, Single Family Residential District.

   d. The proposed Kinross Terrace development shall be constructed in substantial compliance with the attached site plans and as may be revised during City Council and final Design Review Commission review.

   e. Development of the project is subject to all Engineering and Building Division conditions as determined through the tentative subdivision map process.

   f. An inspection and maintenance agreement shall be prepared and approved by the City Engineer to ensure maintenance of the private roadway and off-site storm water utility improvement by the homeowners as part of the tentative map.

g. The applicant will enter into an agreement with the City to sell one unit of housing (Lot 8) at sales prices affordable to moderate income households, pursuant to state and federally approved income limits, where households spend no more than 35% of their income on housing costs. The unit will be maintained as affordable for a 45-year period, through a deed of trust that will be executed by the eligible buyer. The deed of trust will have equity share repayment options, allowing some appreciation to accrue to the borrower. Terms of the agreement will be reviewed by city staff prior to issuance of a site development permit.

h. The project is subject to all mitigation measures contained in the adopted Mitigated Negative Declaration and the requirements in the City's tree ordinance found in Chapter 8 of Title 3 of the Municipal Code.

Section 2. Amendment of the Zoning Maps.

The Community Development Director is hereby directed to make the changes on the zoning maps of the City of Walnut Creek identifying the Planned Development District as provided by this ordinance.

Section 3. Effective Date.

This ordinance shall take effect on the 31st day after its adoption.

Revised 11-16-04

ATTACHMENT 10

CITY OF WALNUT CREEK
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WALNUT CREEK REZONING CERTAIN PROPERTIES LOCATED AT THE END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE FROM P-D 859 TO P-D, PLANNED DEVELOPMENT DISTRICT (REZONING APPLICATION NO. Y03-003 AND TENTATIVE MAP NO. 8457 – KINROSS TERRACE RESIDENTIAL SUBDIVISION) (A PORTION OF APN 144-081-006)

The City Council of the City of Walnut Creek does ordain as follows:

Section 1. Rezoning.

The Kinross Terrace property as shown in "Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003" which is hereby incorporated herein by reference, located at the end of Kinross Drive, north of Marchbanks Drive (a portion of APN 144-081-006), is hereby rezoned from P-D 8599 to P-D, Planned Development subject to the following land use and property development regulations:

1. Uses

   The project is approved for the development of a 12-unit residential subdivision as shown on the approved P-D plan, Exhibit A of P-D Rezoning/Tentative Map application No. Y03-003, hereinafter "Exhibit A". All future uses shall be governed by the R, Single Family Residential zoning district or any zoning district that is successor to the R District.

2. Development Standards

   a. All development standards including, but not limited to, building footprints for primary structures, setbacks for additions and accessory structures, building height, fencing, and landscape areas as established on the adopted Development Plan, included within Exhibit A, shall constitute the established P-D zoning standards for the sites.

   b. The property shall be developed substantially the same as shown on the plans labeled Exhibit A of Rezoning/Tentative Map Application No. Y03-003 and as required pursuant to Planning Commission Resolutions No. 3329 and 3330.

   c. Use regulations for accessory structures, home occupation, and childcare facilities shall be permitted pursuant to the R, Single Family Residential District.

   d. The proposed Kinross Terrace development shall be constructed in substantial compliance with the attached site plans and as may be revised during City Council and final Design Review Commission review.

   e. Development of the project is subject to all Engineering and Building Division conditions as determined through the tentative subdivision map process.

   f. An inspection and maintenance agreement shall be prepared and approved by the City Engineer to ensure maintenance of the private roadway and off-site storm water utility improvement by the homeowners as part of the tentative map.

g. The applicant will enter into an agreement with the City to sell one unit of housing (Lot 8) at sales prices affordable to moderate income households, pursuant to state and federally approved income limits, where households spend no more than 35% of their income on housing costs. The unit will be maintained as affordable for a 45-year period, through a deed of trust that will be executed by the eligible buyer. The deed of trust will have equity share repayment options, allowing some appreciation to accrue to the borrower. Terms of the agreement will be reviewed by city staff prior to issuance of a site development permit.

h. The project is subject to all mitigation measures contained in the adopted Mitigated Negative Declaration and the requirements in the City's tree ordinance found in Chapter 8 of Title 3 of the Municipal Code.

i. **New property owners shall be advised in deeds, CC & R's or other appropriate documents, of their proximity to:**
   (1) **The adjacent tennis courts, owned by the Heather Farms Homeowners Association, and all of its associated activities including individual tennis games, tennis tournaments, and all associated effects such as noise, lighting in the evening and potential for errant balls.**
   (2) **The Diablo Hills Golf Course, a private golf course, and all of its associated activities including early morning golf play, early morning lawn mowing/maintenance, and the potential for errant balls particularly relating to lots 4, 5, and 6.**

Section 2. Amendment of the Zoning Maps.

The Community Development Director is hereby directed to make the changes on the zoning maps of the City of Walnut Creek identifying the Planned Development District as provided by this ordinance.

Section 3. Effective Date.

This ordinance shall take effect on the 31st day after its adoption.

ATTACHMENT 11

WALNUT CREEK CITY COUNCIL
RESOLUTION NO. >

A RESOLUTION APPROVING THE TREE REMOVAL PERMIT AND MITIGATED NEGATIVE DECLARAION FOR REZONING APPLICATION NO. Y03-003 KINROSS TERRACE RESIDENTIAL SUBDIVISION END OF KINROSS DRIVE, NORTH OF MARCHBANKS DRIVE A PORTION OF APN: 144-081-006

Section 1. Background

1. On November 16, 2004, the Walnut Creek City Council held a public hearing to consider P-D Rezoning/Design Review Application No. Y03-003 and Tentative Map No. 8457, filed January 8, 2003 by the Delco Builders; Doyle Heaton, representative, to change the zoning of a 3.58-acre portion of Assessors Parcel No. 144-081-006, situated at the end of Kinross Drive, north of Marchbanks Drive from P-D 859 to P-D, Planned District to facilitate construction of a 12-unit residential subdivision.

2. The project has been reviewed by the Design Review Commission (DRC) on four separate occasions in May and June, 2003, and February and May, 2004. On May 9, 2004 the Walnut Creek Design Review Commission held a public meeting to consider the proposed site plan, landscaping and architectural details. The Design Review Commission was supportive of the project and requested that project refinements be brought back for final review and approval following Planning Commission and City Council review.

3. On October 28, 2004, the Planning Commission held a public hearing to consider the proposed P-D Rezoning/Design Review Application. At that time, the Planning Commission received public testimony from city staff, the applicant and the public. At the conclusion of the hearing, the Planning Commission found that the project is consistent with the General Plan and Zoning Code requirements relating to the residential use, density, height and setback requirements, voted unanimously to adopted Resolution No. 3329 recommending that the City Council adopt the proposed Mitigated Negative Declaration and approve the proposed Kinross Terrace P-D rezoning.

4. A Mitigated Negative Declaration was posted for this proposed project on September 28, 2004 and the public comment period ended on October 28, 2004. The Community Development Director found that no substantial adverse impacts would occur as a result of this project. Letters from area residents were received during the public comment period. Staff has prepared responses to comments, which concluded that no substantial evidence was presented that the project may cause a significant impact on the environment.

5. The 12-unit subdivision is consistent with the General Plan designation of MFL, Multi-Family Low, 6-14 units per acre, achieving a density of 6.6 units per in context within the entire planned district.

6. The project is consistent with the residential density as set forth in the existing P-D 859 Zoning District, which establishes a maximum density of 1,150 units throughout the 150-acre development. The Planned District, currently containing approximately 986 units, would increase by 12 to 998-units within the allowable density as established in the existing PD district regulations.

Section 2. CEQA Findings

1. The City Council has considered the proposed Mitigated Negative Declaration together with all comments received during the public review process. The City Council finds, on the basis of the whole record before it (including the Initial Study and all comments received) that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis. The documents and other material which constitute the record of proceedings upon which this decision is based are maintained by the custodian of records, the City Clerk, at 1666 N. Main Street, Walnut Creek.

2. When considering the record as a whole, there is no evidence before the City that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends.

Section 3. Adoption of Mitigated Negative Declaration

1. The City Council hereby adopts the Kinross Terrace Mitigated Negative Declaration and the mitigation monitoring program.

Section 4. Tree Removal Findings

The project is subject to the tree preservation ordinance pursuant to the Municipal Code Section 3-8.04. Required findings are shown in regular type. Reason(s) why the findings can be met are shown in **bold** type.

1. The reviewing body may approve a tree removal permit for the removal of a highly protected tree only if it finds that the burden to the applicant in preserving the Tree greatly outweighs the benefit to the public and that preserving the Tree would severely reduce the scale or feasibility of the development.

Tree reports, March 6, 2003 and August 8, 2004, evaluated 53 trees on or immediately adjacent to the project site and along the off-site utility line route. The site contains 45 trees, 23 of which would be removed to accommodate the proposed development. Of the 23 proposed tree removals, the City Arborist has authorized removal of 19 trees. The remaining 5 tree removals require City Council approval. The project site is constrained by wetland areas, the presence of non-engineered fill soil installed in the early 1970's with the development of the golf course, and neighboring residential units above and below the

site. These constraints prohibit development of portions of the site and create limitations for siting homes to ensure privacy for units in the surrounding area. Additionally, the preliminary landscape plans indicate that approximately 32-24-inch box trees (including London Plane, Flowering Pear trees) and over 60-15gallon trees (including Japanese Maple, Camphor, Evergreen Dogwood, Raywood Ash, Crape Myrtle, and Coast Redwood trees) will be planted throughout the site. The resulting tree planting will result in a net increase in tree cover. Provisions for tree preservation and re-planting incorporated into mitigation measures and conditions of approval provide appropriate measures to authorize the requested tree removals.

Section 5. Tree Removal Permit

A tree removal permit is hereby approved subject to the mitigation measures approved in the mitigated negative declaration and the conditions of approval in the PD ordinance rezoning the property.

PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA
County of Contra Costa

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the Contra Costa Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598.

And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of October 22, 1934. Case Number 19764.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

November 5

all in the year of 2004

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 5 day of November, 2004

.....
Signature

Contra Costa Times
P O Box 4147
Walnut Creek, CA 94596
(925) 935-2525

Proof of Publication of:
(attached is a copy of the legal advertisement that published)

CITY OF WALNUT CREEK
NOTICE OF PUBLIC HEARING
P-D REZONING, TENTATIVE MAP AND DESIGN REVIEW APPLICATION NO. Y03-003
End of Kinross Drive, North of Marchbanks Drive
Portion of APN 144-081-006
KINROSS TERRACE RESIDENTIAL SUBDIVISION

Notice is hereby given that on **Tuesday, November 16, 2004 at 7:00 p.m.**, in the Council Chamber of the City Hall, 1666 North Main Street, Walnut Creek, the Walnut Creek City Council will hold a public hearing pursuant to P-D Rezoning, Design Review and Subdivision Application No. Y03-003, filed January 14, 2003, by Doyle Heaton, owner; and Terrance Camp, applicant, in which it was requested that Title 10, Chapter 2 (Zoning Ordinance) of the Municipal Code of the City of Walnut Creek be amended as follows:

Proposed change: That the zoning of the following described property be changed from a classification of P-D (Planned Development 859) to a classification of P-D, Planned Development District to accommodate the development of a 3.58-acre site (formerly a part of the Diablo Hills Golf Course) for a 12-lot residential subdivision consisting of 10 detached and 2 attached single-family dwellings.

Property location: The 3.58-acre project site is located at the end of Kinross Drive, north of Marchbanks Drive.

All interested persons are invited to appear at the scheduled time and present testimony on the above-described subject. If you wish to inquire about, or arrange for, accommodations for individuals with disabilities, please contact the ADA Compliance Officer at (925) 943-5819 before noon on the Tuesday prior to the meeting.

If you challenge the rezoning application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

The building height of this project will not require approval by the electorate pursuant to the March 12, 1985 Building Height Freeze initiative measure.

This staff determination is appealable to the Planning Commission pursuant to the provisions of Section 10-2.4.504, Walnut Creek Municipal Code at any time on or before the public hearing date as specified in this notice.

The precise location of the land and/or building involved and other technical information may be obtained from Scott Harriman of the Planning Division, Community Development Department, 1666 North Main Street, Walnut Creek, at (925) 943-5899 ext. 212, through e-mail at harriman@walnut-creek.org or by

fax: (925) 256-3500.
CATHLEEN A. MCKAY, CMC
City Clerk

Legal CCT 1392
Publish November 5, 2004

CITY OF WALNUT CREEK

NOTICE OF PUBLIC HEARING

P-D REZONING, TENTATIVE MAP AND DESIGN REVIEW
APPLICATION NO. Y03-003
End of Kinross Drive, North of Marchbanks Drive
Portion of APN 144-081-006
KINROSS TERRACE RESIDENTIAL SUBDIVISION

Notice is hereby given that on **Tuesday, November 16, 2004 at 7:00 p.m.**, in the Council Chamber of the City Hall, 1666 North Main Street, Walnut Creek, the Walnut Creek City Council will hold a public hearing pursuant to P-D Rezoning, Design Review and Subdivision Application No. Y03-003, filed January 14, 2003, by Doyle Heaton, owner; and Terrance Camp, applicant, in which it was requested that Title 10, Chapter 2 (Zoning Ordinance) of the Municipal Code of the City of Walnut Creek be amended as follows:

Proposed change: That the zoning of the following described property be changed from a classification of P-D (Planned Development 859) to a classification of P-D, Planned Development District to accommodate the development of a 3.58-acre site (formerly a part of the Diablo Hills Golf Course) for a 12-lot residential subdivision consisting of 10 detached and 2 attached single-family dwellings.

Property location: The 3.58-acre project site is located at the end of Kinross Drive, north of Marchbanks Drive.

All interested persons are invited to appear at the scheduled time and present testimony on the above-described subject. If you wish to inquire about, or arrange for, accommodations for individuals with disabilities, please contact the ADA Compliance Officer at (925) 943-5819 before noon on the Tuesday prior to the meeting.

If you challenge the rezoning application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

The building height of this project will not require approval by the electorate pursuant to the March 12, 1985 Building Height Freeze initiative measure. This staff determination is appealable to the Planning Commission pursuant to the provisions of Section 10-2.4.504, Walnut Creek Municipal Code at any time on or before the public hearing date as specified in this notice.

The precise location of the land and/or building involved and other technical information may be obtained from Scott Harriman of the Planning Division, Community Development Department, 1666 North Main Street, Walnut Creek, at (925) 943-5899 ext. 212, through e-mail at harriman@walnut-creek.org or by fax: (925) 256-3500.

CATHLEEN A. MCKAY, CMC
City Clerk

Kinross X03003 5-7-04

144 081 002
Diablo Hills Golf Associates
1551 Marchbanks Dr
Walnut Creek, CA 94598

144 081 004
Walnut Creek Lp Stoneridge
18802 Bardeen Ave
Irvine, CA 92612

144 151 001
Lee Cuban
1487 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 002
Thomas & Kay Ng
2929 Azelia Ct
Union City, CA 94587

144 151 003
Carol Louisell
1487 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 004
Carole Minoot
1487 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 005
Ruben Silva
1485 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 006
Christian Jepsen
1485 Marchbanks Dr #3
Walnut Creek, CA 94598

144 151 007
Shannon Hodges
1485 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 008
Brenda Lipscomb
1485 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 009
Stephen Lopez
3700 Mosswood Dr
Lafayette, CA 94549

144 151 010
Richard & Judy Fiset
6 Roberts Ct
Danville, CA 94526

144 151 011
Agnes Smith
1483 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 012
Richard Hayes
3506 Perada Dr
Walnut Creek, CA 94598

144 151 013
Kent & Deanna Varble
35 Tiffin Ct
Clayton, CA 94517

144 151 014
Sheryl Lawrence
1493 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 015
Lisa Wiley
1493 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 016
Jon-michael Johnson
75 Fraser Dr
Walnut Creek, CA 94596

144 151 017
Myron & Patricia Gilbert
8945 N Seville Cir
Granite Bay, CA 95746

144 151 018
Neil Martin Johannessen
1491 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 019
Linda Mccargar
1491 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 020
Heather Decker
1491 Marchbanks Dr #3
Walnut Creek, CA 94598

144 151 021
Haron Rassiq
1489 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 022
Lynn Drinkwater
1489 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 023
Rowland Bernal Jr.
11 Fraser Ct
Walnut Creek, CA 94596

144 151 024
Timothy & Cynthia Zamborelli
6515 Pajaro Ct
San Jose, CA 95120

144 151 025
Denise Powers
1479 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 026
Ron Klemmedson
1479 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 027
Janet Louise Laston & Don & Glady La
1109 Cardigan Ct
Walnut Creek, CA 94596

144 151 028
Ken Haukaas
1479 Marchbanks Dr #3
Walnut Creek, CA 94598

03003 5/7/24

144-151-029
Salgado Camelo
1481 Marchbanks #2
Walnut Creek, CA 94598

144 151 030
Janice Lynn Scharnikow
74 Serene Ct
Danville, CA 94526

144 151 031
Bryan Duncan
1481 Marchbanks Dr #1
Walnut Creek, CA 94598

144 151 032
Mosche & Michelle Mor
11 Amber Ln
Lafayette, CA 94549

144 151 033
Martin Lysons
1475 Marchbanks Dr #2
Walnut Creek, CA 94598

144 151 034
Wanda C Louie
1475 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 035
Leslie Chan
PO Box 3762
Walnut Creek, CA 94598

144 151 036
John Cadwalader
1475 Marchbanks Dr #3
Walnut Creek, CA 94598

144 151 037
Linda Engler
180 Macalvey Dr
Martinez, CA 94553

144 151 038
Joseph Driscoll
1477 Marchbanks Dr #4
Walnut Creek, CA 94598

144 151 039
Roberto & Martha Benard
306 Judson Ave
San Francisco, CA 94112

144 151 040
Charles & Dorothy Winslow
168 Lilac Dr
Walnut Creek, CA 94595

144 180 001
Mairi Pitcaithley
545 Adirondack Way
Walnut Creek, CA 94598

144 180 002
Vitas & Dalia Alekna
2763 Hutchinson Ct
Walnut Creek, CA 94598

144 180 003
Jaime & Adelina Motta
537 Adirondack Way
Walnut Creek, CA 94598

144 180 004
Nancy Bolin Glass
Donavan & Nancy Glass
533 Adirondack Way
Walnut Creek, CA 94598

144 180 005
David & Robyn Reeves
529 Adirondack Way
Walnut Creek, CA 94598

144 180 006
Harry & Bernice Mitchell
525 Adirondack Way
Walnut Creek, CA 94598

144 180 007
Anthony & Marcia Newey
521 Adirondack Way
Walnut Creek, CA 94598

144 180 008
Carl Gerard Oddo & Beth Schecter
517 Adirondack Way
Walnut Creek, CA 94598

144 180 009
Jonathan Arck & Gloria Kellogg
1500 Gilboa Dr
Walnut Creek, CA 94598

144 180 010
Byron & Anne Fellows
503 Adirondack Way
Walnut Creek, CA 94598

144 180 011
Paul & Rita Guidry
500 Adirondack Way
Walnut Creek, CA 94598

144 180 012
Nina Chalmers
504 Adirondack Way
Walnut Creek, CA 94598

144 180 013
Kurt & Lory Billeter
1232 Sunset Loop
Walnut Creek, CA 94595

144 180 014
Heather Farms Homeowners
1501 Marchbanks Dr
Walnut Creek, CA 94598

144 180 015
Dennis & Mary Basiaga
516 Adirondack Way
Walnut Creek, CA 94598

144 180 016
Roy Tamiyo Yokote
520 Adirondack Way
Walnut Creek, CA 94598

144 180 136
Virginia Balesteri
1500 Gilboa Dr
Walnut Creek, CA 94598

144 180 137
Russell Simoni
524 Adirondack Way
Walnut Creek, CA 94598

Y08003 5-7-04

144 180 138
Seitz
528 Adirondack Way
Walnut Creek, CA 94598

144 180 139
Judith Steckbeck
532 Adirondack Way
Walnut Creek, CA 94598

144 180 140
Wilbur & Nelly Fliehmann
536 Adirondack Way
Walnut Creek, CA 94598

144 180 142
Dennis Whiteneck
420 Arbol Via
Walnut Creek, CA 94598

144 180 145
Heather Farms Homeowners Assn
1501 Marchbanks Dr
Walnut Creek, CA 94598

173 042 005
Mike Fakhimi
35 Royal View Dr
Walnut Creek, CA 94598

173 042 007
Thomas & Patricia Howard
1550 Homestead Ave
Walnut Creek, CA 94598

173 042 012
Peter P Q Lai & Y Y Ruby
100 Royal View Dr
Walnut Creek, CA 94598

173 042 013
Beatrice Cherene
1500 Homestead Ave
Walnut Creek, CA 94598

173 042 016
Edward & Arline Collins
1562 Homestead Ave
Walnut Creek, CA 94598

173 042 017
Bruce & Janine Herold
1556 Homestead Ave
Walnut Creek, CA 94598

173 042 018
Paul & Heidi Shankwiler
10 Royal View Dr
Walnut Creek, CA 94598

173 190 001
Valentine & Brenda Pianka
1100 Danforth Ln
Walnut Creek, CA 94598

173 190 002
Stephen & Marlene Pavlina Jr.
2506 19th Ave
Kingsburg, CA 93631

173 190 006
Somphol & Chalini Panchasarp
478 Gentry Ct
Walnut Creek, CA 94598

173 190 007
Spencer & Linda Lee
460 Gentry Ct
Walnut Creek, CA 94598

173 190 008
Kenneth & Ana Regalia
1150 Danforth Ln
Walnut Creek, CA 94598

173 190 009
Farhad & Dastmalchi Yass Ordukhani
1185 Danforth Ln
Walnut Creek, CA 94598

173 190 017
Warren & Erna Clifford
443 Gentry Ct
Walnut Creek, CA 94598

173 190 018
Aaron Simon
465 Gentry Simon
Walnut Creek, CA 94598

Michael Rhymes
1576 Siskiyou Drive
Walnut Creek, CA 94598

David and Ruth Smith
40 Royal View Drive
Walnut Creek, CA 94598

Lee and Nancy Simmons
80 Royal View Drive
Walnut Creek, CA 94598

Sheridan and Barbara Hale
850 Seven Hills Ranch
Walnut Creek, CA 94598

Ellen Ames
60 Royal View Drive
Walnut Creek, CA 94598

Paul Freitas
421 Gentry Court
Walnut Creek, CA 94598

Doyle Heaton
Delco Builders

Aliquot Associates
1395 S. Main St. #310
Walnut Creek, CA 94596

Terrance Camp
35 Quail Court #200
Walnut Creek, CA 94596

Bob Henderson
1578 Siskiyou Drive
Walnut Creek, CA 94598

172 150 008
Linda Mccune
980 Seven Hills Ranch Rd
Walnut Creek, CA 94598

172 150 023
Minnie Elizabeth Olsen
990 Seven Hills Ranch Rd
Walnut Creek, CA 94598

172 150 026
Dean Spellman
986 Seven Hills Ranch Rd
Walnut Creek, CA 94598

173 030 017
Betty Ann & John Parkerson
2011 Walnut Blvd
Walnut Creek, CA 94597

173 030 019
Vladimir Adler & Luba Adler
2049 Walnut Blvd
Walnut Creek, CA 94597

173 041 003
Richard & Kathleen Novak Sr.
PO Box 5332
Walnut Creek, CA 94596

173 041 004
Scott & Denise Whitacre
2072 Walnut Blvd
Walnut Creek, CA 94597

173 041 005
Suzanne Brown
1535 Homestead Ave
Walnut Creek, CA 94598

173 041 008
Diane Reyes
2036 Walnut Blvd
Walnut Creek, CA 94597

173 041 009
Caedmon & Eva Bear
2024 Walnut Blvd
Walnut Creek, CA 94597

173 041 012
David Marton & Teri Leichenger
961 Seven Hills Ranch Rd
Walnut Creek, CA 94598

173 041 013
Christopher & Pamela Cain
955 Seven Hills Ranch Rd
Walnut Creek, CA 94598

173 041 022
Charles & Anna Todd
2060 Walnut Blvd
Walnut Creek, CA 94597

✓173 041 025
William & Helen Hendrix
2012 Walnut Blvd
Walnut Creek, CA 94597

David & Yvonne Sansome
962 Seven Hills Ranch
Walnut Creek, CA 94598

Christopher Cain
955 Seven Hills Ranch
Walnut Creek, CA 94598

Doyle Heaton
Delco Builders
3480 Buskirk Ave, Ste. 260
Pleasant Hill, CA 94523

Rec'd at 11/16 2004 Council Mtg 7:35pm

MEHLMAN ❖ TERBEEK LLP
Attorneys & Counselors At Law
2125 Oak Grove Road, Suite 125
Walnut Creek California 94598
Tel: (925) 935-3575
Fax: (925) 935-1789
e-mail: mehlman-terbeek@sbcglobal.net

Steven J Mehlman Marc L. TerBeek

November 16, 2004

VIA PERSONAL DELIVERY

City Council
City of Walnut Creek
City Hall
166 N. Main Street
Walnut Creek, CA 94596

Re: P.D. Rezoning, besting Tentative Map 8457 - Kinross Terrace

Honorable members of the Walnut Creek City Council:

This letter is written to supplement a letter which I wrote to the Planning Commission on October 28, 2004 regarding this project, a copy of which is attached here to as Exhibit 1. In that letter, and its attached Exhibits "A" through "E", I provided a history of planned Development 859 and its golf course, golf course rough, and open space areas which were included to offset the high density housing in this area and to serve as a buffer between housing types within this planned development and single family zoning in adjacent areas. I also addressed the growth inducing impact of this project and its negative impact on the investment backed expectations of property owners within this neighborhood. Finally, I addressed the lack of a condition on this project to prevent development of the remainder of the golf course, which condition was recommended in a prior draft environmental impact report. Such a condition was recommended in that EIR to offset the growth inducing impacts of the project and potential further loss of golf course and buffer areas.

Rather than re-state that letter, I am attaching it hereto, and request that the facts and legal points made in that letter should be considered by the City Council. In this letter, I intend to supplement the points raised in that letter, particularly with respect to the "condition" sought concerning further development on this parcel, if subdivision of a portion of it is approved. I also will respond to a letter from Valerie Barone, Community Development Director of Walnut Creek to the undersigned dated November 8, 2004, a copy of which is attached hereto as Exhibit 2, which was written in response to my letter dated October 28, 2004 to the Planning Commission.

In Ms. Barone's letter, she responded to our clients' concerns and evidence presented that the approval of

the project would have a growth inducing impact and could lead to development on other areas of the golf course. In rejecting the condition which was proposed, that would restrict future development on other areas of the golf course, she asserted that:

> "the Planning Commission was clear that there is no nexus with this subdivision to restrict further land use proposal on other private property held by the golf course."

This statement reflected a misconception about the facts made by the planner, Scott Harriman, in his statements to the Planning Commission regarding whether a condition could be imposed in the remainder of the golf course, of which this development site is a part. After my public testimony before the Planning Commission, Mr. Kaplan inquired of Mr. Harriman of whether a condition of approval requiring the developer to give up development rights to the rest of the golf course. Mr. Harriman responded to the effect that they City can't require conditions for offsite improvements where the offsite owner would be required to give the City property rights because that would be a taking of land use rights. He further stated that it is not typical for a City to require the developer to take someone else's land rights away.

The inaccuracy with this statement is that the 3.58 piece of the seventh green proposed for development is part of the larger golf course parcel. The condition would not seek to take away private property rights from another property owner, but rather it would condition the grant of subdivision rights to that owner in order to eliminate adverse environmental consequences stemming form that owner's use of the remainder of his property.

A review of the planning commissions comments reflects that it was their intent not to allow development of the remainder of the golf course. However, because the was planning staff asserted that nexus did not exist to affect another private property owner's rights, the planning commission felt it could not impose such a condition, but rather only make a finding expressing their intent that the project would not set a precedent for further reduction of the golf course.

While we do not believe this subdivision should be approved, if it is not approved, we agree with the finding made by the Planning Commission, and believe it should be included in any resolution of the City Council approving the subdivision. However, we respectfully submit that the Planning Staff was incorrect with respect to the "nexus" issue and whether a condition restricting development on the rest of the property can be imposed.

Again, as a preliminary matter, it is critical to understand that the golf course property which is the subject of this zoning change and subdivision, is one property under common ownership. This is a proposal to subdivide that property to create 12 new parcels on what was formerly part of the seventh green and is presently part of the golf course and golf course rough. The individual planning commissioners mistakenly believed that the condition which I proposed dedicating or restricting development rights, was being applied to a neighboring property owner and not the very property that was being proposed for subdivision and development . In fact, the golf course is a single property in common ownership, until a subdivision is approved. Mr. Moore's comments highlight this error when he stated that he was concerned about developers chipping away (no pun intended) at the golf course, but they cannot bind adjacent property.

Here, both the site for the Kinross Terrace Development, and the remainder of the golf course is under Single Ownership, as defined by the City Municipal Code Sec. 10-2.1.303 A. 137, as well as legal title. Although there may be an agreement which proposes to sell a portion of the golf course that is the site of this development, until that contract is consummated, the golf course continues to be one property. Therefore, a condition, that would prohibit further development of the remainder of the site, for example, a condition requiring the golf course owner to deed to the City, the development rights to the remainder to the parcel to preserve open space envisioned by the planned unit development for this neighborhood, would not violate any zoning principal requiring nexus between the condition and the project, because the condition is not being applied to separate parcel, but rather to the same property which is being subdivided for this very project.

Turning to the legal issue regarding nexus, here clearly "nexus" does exist. "The California and United States supreme courts have long held that the regulation of land use does not effect a taking of property if the regulation substantially advances a legitimate governmental interest and does not deny the property owner economically viable use of the land. See Dolan v. City of Tigard (1994) 512 US 374....." Curtin, Daniel J. Jr. and Merritt, Robert E. California Subdivision Map Act And The Development Process 2d Ed. 2004 §6.6 ct pg 154. Here, imposing a condition requiring the remainder of the same parcel to be maintained as golf course or requiring the dedication of development rights to the City to accomplish this, would not constitute a taking, because the golf course owner is being granted the privilege of developing twelve lots and is still be allowed the continued economic use of operating the golf course which was on essential part of the planned development.

The issue then becomes whether the dedication requirement as a condition of the land use approval is constitution. As explained in California Subdivision Map Act And Development Process, supra at §6.7:

> "As a rule, courts will uphold the constitutionality of a dedication requirement as a condition of land use approval when:
>
> - The local agency is acting within its police power;
> - The condition furthers the same governmental purpose as that advanced as the justification for the condition (the nexus test);
> - The condition does not deny an owner economically viable use of the land; and
> - The condition substantially furthers a legitimate governmental interest." citing Nollan v California Coastal Commission (1987) 483 U.S. 825

Turning to the nexus test, it is essentially a two-pronged rule requiring that: (1) "the condition imposed by the local agency must address the same type of impact caused by the development" and (2) "the condition must be in reasonable proportion to the burden created by the new impact." See California Subdivision Map Act and Development Process §6.9; Dolan v. City of Tigard, supra and Nollan v. California Coastal Commission, supra.

Here there is no question that the proposed condition addresses the growth inducing impact this development would have, because for the first time after many attempts, the owner of the golf course would be allowed to develop a portion that the original planned development required to be kept in golf course and golf

course rough. By restricting further subdivision and development on other areas of this property, the City would directly, by this condition, address the potential growth inducing impacts of this subdivision and development.

The second prong of this test is likewise met because the condition is directed at a legitimate government purpose, preserving the open space buffer areas within this planned development which was the basis for the original higher density zoning in what was formerly a single family zoned area. The condition is roughly proportional because preserving the remainder of the golf course and golf course rough assures that sufficient buffer will exist for the anticipated impact of this development on this remainder of the Diablo Hills/Heather Farms planned development.

The position taken by City staff that we are imposing condition on a different parcel which cannot be done, as set forth above, is simply wrong. This is the same golf course property and the nexus exists because we are trying to preserve the golf course, rough and open space buffer within this planned development zoning.

One of the lead court cases on this issue involved the Walnut Creek ordinance back in 1971, which required subdividers to either dedicate park land or pay in lieu fees. The California Supreme Court in Associated Home Builders v. City of Walnut Creek (1971) 4 Cal. 3d 633 upheld that ordinance over contentions that it was arbitrary, unreasonable or unconstitutional, holding instead that it constituted "a valiant attempt to solve this urgent problem" of the "appalling rapid disappearance of open areas in and around out cities." Id. At 648.

Likewise, the County regularly imposes requirements of dedication of development rights or the imposition of conservation easements on the remainder of a parcel when a subdivision is approved over a portion of it, and the dedication is necessary to offset environmental impacts. This is exactly what we are asking here, if this project is approved.

SUBSTANTIAL EVIDENCE WAS PRESENTED BY THE NEIGHBORS WARRANTING AN ENVIRONMENTAL IMPACT REPORT.

In her letter of November 8, 2004, Ms. Barone acknowledges that "Staff agrees with [our] statement for the standard for preparation of an EIR" in our letter of October 28, 2004. She, however, disagreed with our conclusion that evidence was presented warranting preparation of an EIR.

We respectfully submit, that considering the record, Planning Staff is in error. "An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may significantly affect the environment." Kostka, Stephen L. and Zischke, Michael H. Practice Under The California Environmental Quality Act 2004 §6.29 at p. 274.

The CEQA Guidelines 14 Cal Code Regs §15384 (a) define "substantial evidence" as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion even though other conclusions might be reached."

"Reports prepared by the lead agencies staff apart from the initial study, may provide substantial evidence of a significant effect on the environment sufficient to require and EIR." Practice Under the Environmental Quality Act 2004 supra, at §6.32 pg. 280. In Stanislaus Audubon Society, Inc. v. Stanislaus (1995) 33 Cal. App. 4th 144, the Court held that an EIR was required for a stand-alone golf course project on the basis of various county statements and studies indicating that the project would have significant growth inducing impact.

Here, my letter of October 28, 2004, and my client Robert Henderson in his testimony at the Planning Commission on that date, cited such a prior study, to wit, the Draft Environmental Impact Report of December 1984 on this same site. However, Mr. Barone erroneously disregarded consideration of that draft EIR, even though it was prepared by an expert, LSA Associates, Inc. While that project involved a 51 unit development instead of a 12 unit development, the statements made in pages 59 through 61, that approval of the project "could set a precedent for redesignation and development of the remainder of the golf course", and thereby be growth inducing, represents substantial evidence. The growth inducing impact of this approval, however, was not considered whatsoever in the mitigated negative declaration.

Indeed the condition proposed in that EIR "to prevent development on the remainder of the golf course [through] a development limitation [which] could not be included as a condition of approval for the subject project," is also not part of the mitigation measures for this mitigated negative declaration.

This glaring deficiency alone, warrants the preparation of an EIR, even absent the substantial other evidence presented to the City on other adverse environmental impacts, such as the risk of injury and property damages from errant golf balls, and drainage problems created by the development. For the foregoing reasons, we respectfully submit that the Mitigated Negative Declaration should not be approved and that the applicant be directed to prepare an EIR.

If, however, the City goes ahead and approves this rezoning and subdivision, at the very least, a condition should be imposed restricting further development on the remainder of this parcel that is being subdivided in addition to adopting the finding that any approval is not a precedent for further development on the golf course, which is intended to be kept intact.

Very truly yours,

MEHLMAN ◆ TERBEEK LLP

Steven J. Mehlman

SJM:yb

MEHLMAN ◆ TERBEEK LLP
Attorneys & Counselors At Law
2125 Oak Grove Road, Suite 125
Walnut Creek California 94598
Tel: (925) 935-3575
Fax: (925) 935-1789
e-mail: mehlman-terbeek@sbcglobal.net

Steven J Mehlman Marc L. TerBeek

October 28, 2004

By personal delivery:
Planning Commission
City of Walnut Creek
City Hall
1666 N. Main Street
Walnut Creek, CA 94596

Re: P-D Re-zoning, Vesting Tentative Map 8457–Kinross Terrace

Dear Planning Commission Members:

This firm has been retained to represent Robert Henderson, in connection with his opposition to the above-referenced re-zoning and vesting tentative map application. Mr. Henderson is the owner of property located at 1578 Siskiyou Drive, Walnut Creek, CA. 94598, which is within the P-D 859, a portion of which is being sought to be rezoned. His home is also adjacent to the Diablo Hills Golf Course in the vicinity of the Golf Course Club house and Greenery Restaurant, where other development applications have been pursued by the owner of the Diablo Hills Golf Course and potential developers of the golf course property. Mr. Henderson opposes this application based upon: 1) the financial expectation which owners purchasing property in the P-D 859 had and have that the golf course, and other open space and greenbelt areas of the P-D will be maintained based upon the original development plans, zoning, agreements, and other land use actions of the City, which led to the approval of this planned development and have been continuously followed by the City Planning Commission and City Council prior to this application; 2) the inadequacy of the mitigated negative declaration under the California Environmental Quality Act ("CEQA") for the reasons set forth in the letter dated October 18, 2004 and Attachments A through E, thereto (attached as Exhibit 6 to the staff report; and 3) the growth inducing impacts that development of this site may have and the precedent it will create for further development on the areas originally designated for golf course and on the open space and greenbelt buffer which was part of the original plans for this P.D.

HISTORY OF P-D 859

As set forth in the staff report at page 2, P-D 859 was adopted in 1966 with a mix of single and multi-family homes, a nine-hole private golf course and clubhouse. The P-D allowed clustering of homes on approximately 78 acres throughout the 150 acre site. P-D 859 also set aside approximately 53 acres for what is now Heather Farms Park. It also called for 771 apartments and 379 condominiums for a total of 1150 units, which was later reduced to 1000. Absent from the staff's discussion, however, was that this was apparently a very controversial proposal at the time to change property which was previously zoned single family R-1-15 to the conditional development plan for high density housing with a large number of apartments and condominiums. Mr. Henderson, who has extensively researched the history of this P-D, discovered that the original single family R-1-15 zoning would have allowed a maximum of 430 units. Ygnacio Valley at that time contained almost entirely single family units and a sizable segment of the

residents wanted it to remain that way, presenting at one point a 564 name petition to the City Council opposing the proposal.[1] After six years of conflict, the City Council and the developers reached an agreement whereby they approved the Conditional Development Plan for the Rezoning of the Heather Farm Property from R-1-15. See Ordinance No. 859, attached hereto as Exhibit "B".

Integral to the adoption of Ordinance No. 859, was the creation of a golf course and golf course rough, which would serve as open space and buffer areas to offset the significantly higher density of this project from surrounding areas. Indeed, condition 8, required the golf course construction to commence within a year of adoption of the ordinance. The golf course and golf course rough, shown on the development plan, included the entire area now proposed for development.

In the early 1970s families who bought condominiums in the area surrounding the Diablo Hills Golf Course were relying upon the open space / greenbelt features of Planned Development No. 859 which had been enacted in 1966. Likewise, when the Heather Farms Homeowners Association townhouse and patio development was constructed and sold, and individuals like our client, Mr. Henderson purchased their homes their, they too relied upon the commitment made by the City that the golf course, golf course rough and open space greenbelt areas would be maintained. Attached as Exhibit "C" to this letter is a copy of a newspaper article from the Contra Costa Times on November 21, 1972, which documented that the golf course operations were "an integral part" of the Heather Farms Homeowners Association subdivision. That article also verified the City's intent and concerns that the golf course land might be used for other less desirable uses.

In the thirty years since the purchase of their homes, the purchasers and residents of Diablo Hills have had the constant assurance that the City will maintain its agreements under PD 859 that the golf course land is open space/ greenbelt for the benefit of the homeowners residing in this community. As set forth in the History of Development Proposals on Diablo Hills Golf Course, prepared by Mr. Henderson and attached hereto as Exhibit "D", the City has consistently rejected proposals by the golf course owner to take portions of the golf course and golf course rough, and develop said property for uses which were contrary to the original intent.

The Kinross Terrace Proposal, is the latest iteration of the golf course owner's attempts to use portions of the golf course for development. As set forth in a Draft Environmental Impact Report for the Heather Park Condominium Project in December of 1984[2], for a 51 unit project on the same site, excerpts of which are attached hereto as Exhibit "E""

> "The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences." *Id. at pg. 8*

Approval of the Kinross Terrace proposal will repudiate the agreements leading to this

---

[1] See Contra Costa Times November 9, 1966 newspaper clipping, attached hereto as Exhibit "A".

[2] As set forth on page 2 in the October 21, 2004 letter of Valerie Barone to Frank Anderson, attached as Attachment 7 to your staff report, the draft EIR for the 51 unit project was never certified, and therefore other than providing additional support for the inadequacy of the current mitigated negative declaration, it cannot be used to satisfy CEQA requirements for this 12 unit project.

development, as well as the long history of the City in turning down development requests which will carve up the golf course and the open space areas and greenbelt buffers which were integral to this development. The approval will also run afoul of the investment expectations of the owners who purchased their homes in reliance on this P-D development plan, subjecting the owners and developers, and potentially the City, to judicial review. A recommendation to the City Council for the adoption of the Mitigated Negative Declaration will further subject the project to potential CEQA litigation. The approval of this project will create a precedent for the demise of the entire golf course, as it is carved up for additional development projects, as have been repeatedly proposed by its owner.

APPROVAL OF THIS PROJECT WILL UNDERMINE THE INVESTMENT OF THE OWNERS OF HOMES IN THE P-D, WHO HAVE RELIED ON THE INTEGRITY OF THE ZONING TO PRESERVE THE GOLF COURSE, GOLF COURSE ROUGH, AND OPEN SPACE AREAS IN PURCHASING THEIR HOMES

As set forth in the discussion above related to the history of P-D 859, the P-D zoning that designated certain areas for golf course, certain areas for golf course rough and open space, were critical in the development of this entire area. Each of the homeowners purchased their properties based upon the existence of the golf course and open space areas which were amenities to their homes. They relied on the fact that views of open space and Acalanes Ridge in the distance behind this project would be preserved, as well as views of wild life which frequently makes use of this area. Likewise, the owner of the golf course has benefitted from the people who have purchased their homes because of the golf course, which they could use.

Now the City staff has recommended approval of plans of the golf course owner and a developer to whom he has an agreement to sell a portion of the golf course, which would overturn the investment decisions of the other property owners in this P-D by taking away parts of this golf course. If this precedent is granted, the City can be sure that the golf course owner will pursue other developments which have been consistently turned down in the past. There is nothing to prevent him from seeking to put a motel on the property, a miniature golf course, an indoor driving range, a home next to the church, or a large expansion of his club and restaurant for large parties and events. Such actions could subject the project, the golf course owners, and the proposed developers, as well as the City, to judicial review based upon the damage this will do to the investments of people who have purchased their homes in the P-D in reliance upon the contractual and other commitments that the golf course would be preserved.

CEQA AND THE INADEQUACY OF THE MITIGATED NEGATIVE DECLARATION

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") except in certain *limited circumstances*. (*See, e.g.*, Pub. Res. Code § 21100 (emphasis added).) For example, a negative declaration may be prepared instead of an EIR when, after preparing an initial study, a lead agency determines that a project "would not have a significant effect on the environment." (*Id.*, § 21080(c).) However, such a determination may be made only if "[t]here is *no* substantial evidence in light of the whole record before the lead agency" that such an impact *may* occur. (*Id.*, § 21080(c)(1) (emphasis added).)

A negative declaration is improper, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur. Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR. (*Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) As a matter of law, "substantial evidence includes ... expert opinion." (Pub. Res. Code § 21080(e)(1); CEQA Guidelines § 15064(f)(5).)

Here, substantial evidence indicates that the Project is likely to cause significant impacts. Attached as Exhibit 6 to the Staff Report, and incorporated into this letter by reference, is a detailed letter to Valerie Barone setting forth substantial evidence, including in attached exhibits, that the project will have significant adverse environmental impacts warranting the preparation of a full EIR. While Ms. Barone summarily dismisses the evidence submitted in the letter and exhibits attached as Exhibit 6, sufficient evidence has been provided of adverse environmental impacts not identified in the Mitigated Negative Declaration, warranting a full environmental review. The City has simply failed to identify many of those impacts by:

1. Not addressing the precedential affect this approval may have on other areas of the golf course, golf course rough, and open space and greenbelt, given the many development proposals that have been pursued in the past.

2. Not adequately addressing the possible further shortening of greens which may be necessitated if complaints ensue as a result of errant golf balls, as occurred in the past, and caused this area to taken out of the existing fairways in the first place.

3. Not addressing the health, safety and property damage issues from errant golf balls.

4. Not addressing the parking issues, particularly at large events, such as the Art and Wine Festival and Walnut Festival at Heather Farms Park, which may result from narrowing of the roadway and elimination of parking.

5. Not fully addressing drainage issues.

Moreover, the Growth Inducing Impacts of this project, and the precedent that will be created for carving up the remainder of the golf course are not even discussed in the Mitigated Negative Declaration, or the proposed conditions for the Tentative Map approval. As noted in the 1984 EIR for the 51 unit proposed development on the same site, the redesignation of this site for homes and the construction of the project on what was formerly part of the golf course,

> "could set a precedent for redesignation and development of the remainder of the golf course. If the remainder of the golf course (approximately 46 acres) was redesignated for single family medium density development, it could be developed with 137 units. Development of the remainder of the golf course could also be precipitated if complaints regarding golf ball damage of the project necessitated further shortening of the course. Additional shortening of the course would make it less attractive to golfers and, consequently, would provide further economic pressure for residential development.
>
> Development of the remainder of the golf course would result in a loss of a recreational facility and further loss of an open space buffer between low and medium density uses. It would result in grading of existing topography, increases in runoff, removal of vegetation, alteration of views, traffic generation, and demands for public services and utilities. Residential development of the golf course would result in about 140 additional P.M. peak hour vehicle trips. ...Additional sewer and water line extensions and/or upgrading would be necessary to serve residential development of the golf course." *Id. at pg. 60*

An agency's avoidance of discussion of foreseeable future impacts can serve as grounds for invalidating a negative declaration and requiring preparation of a full EIR. Indeed, "[t]he agency [will] not be allowed to hide behind its own failure to gather relevant data. . . . CEQA places the burden of environmental investigation on government rather than the public." (*Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, at 1378-1379, *citing Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

Of course, the proponents of this project would argue that they are not seeking development of the entire golf course, but these cumulative effects, must be considered. Moreover, there is nothing in the conditions of development, along the lines recommended by the 1984 EIR that: "In order to prevent development of the remainder of the golf course, it is possible that a development limitation would be included as a condition of the approval for the subject of the project", expressing the intent to prohibit further development of other areas of the golf course, golf course rough and open space areas within the P-D. At the very least, an express condition should be included preventing future development on other parts of the golf course, and requiring a condition to that affect in a form that would run with the land, should as a minimum be required to address this impact, if after a full EIR, the City were to allow this project to go forward.

Very truly yours

MEHLMAN ❖ TERBEEK LLP

Steven Mehlman

Contra Costa Times, November 9, 1966

Heather Plan Goes Through Over Petition

The development plan for the 200-acre Heather Farms property in Ygnacio Valley was opposed by a 564 - name petition Monday night as it came up for final approval before the Walnut Creek City Council.

A letter, addressed to "Mothers and Fathers", and bitterly opposing multiple developments in the valley, was recently circulated among homeowners. It was noted that approval can be reversed by three council votes or a referendum petition.

Public hearings were closed on Lytton Savings and Loan's cluster plan Oct. 3 and an ordinance approving the plan passed by a 3 to 2 vote of the council.

THE COUNTIL removed the issue from its consent calendar Monday and permitted presentation of the petition but followed through, again on a 3 to 2 vote, with final adoption.

In presenting the petition, Mrs. James Bannister of 815 Spring Drive said opponents had done much "soul searching and tried to be fair."

The petition asks that the Conditional Development Plan zoning be reconsidered and denied and that revision of the former CDP be prevented. It requests new public hearings to determine appropriate residential zoning and claims residents weren't aware of the magnitude and impact of the development on the community.

THE COUNCIL also acknowledged receipt of letters from the Walnut Creek Homeowners Council and Lytton Savings.

The WCHC, representing several homeowner associations, said WCHC recognizes the difficulty in developing the property because of the topography and soil.

It said the WCHC accepts the need for unusual development and is pleased that the property is being developed as individually owned units. It agreed that the property isn't suitable for single family development.

Commending Lytton for meeting with the homeowners, WCHC said Lytton had voluntarily

(Continued on Page 2, Col. 6)

Heather Plan Goes Through Over Petition

(Continued from Page One)

agreed to reduce the density of the development.

WCHC URGED that future development of multiple units be prohibited in the valley or on surrounding hills but requested approval of Lytton's plan.

In a letter to City Manager Ralph Snyder, Lytton advised that it had met with the Rancho San Miguel Association on Oct. 18 following introducing of the zone ordinance because of the homeowners objection to the density.

Pointing out its desire to construct a development that "would be a credit to the city and a success to the landowner," Lytton said it had agreed to reduce the units from 1150 to 1000.

Stating that it intended for the letter to be binding "for ourselves and successors in interest" Lytton said it voluntarily commits itself to the reduction.

THE REDUCED density will be applied to the 685 units which were proposed for the west side of the development. Lytton is now proposing 535 apartment units on the western portion; 96 apartment units on four acres fronting Ygnacio Valley Road; and 379 townhouse units in the center of the property. A nine-hole golf course will traverse the property and Lytton has agreed to sell 52 additional acres to the city for a community park.

Edmund Regalia, attorney for Lytton and a resident of Ygnacio Valley, stressed Tuesday that all units will be owner-occupied and range from $25,000 to $40,000. Construction will be over a 10-year period with the golf course in the first stage.

In answer to the new petition, Councilman Douglas Page said that development of Heather has been a "terribly knotty problem."

HE ADDED that after eight years on the council he "firmly believes that Lytton's plan is the best possible solution within the range of possibilities..."

The letter circulated to Moms and Dads came under attack by Councilman Robert Schroder who called it "irresponsible."

Carrying the signatures of 10 homeowners, the letter said a few "well placed" people are leading a drive for urbanization. It claimed the main pressure for high density development is coming from a certain segment of the business district.

Councilman Ben Clarke said the petition represents some of the citizens who voted for him and he's willing to reconsider the zoning.

HE ADDED that it would take strong arguments to change the minds of the three councilmen who favored the plan and "I haven't seen these strong arguments really laid out."

Councilman Peter Howard agreed with Clarke's comments and said he has always felt the density of the development is too high.

Schroder said he is "thoroughly convinced that single family development would be far more detrimental to the property. Noting that step - type development could be applied and completely remove the hills, Schroder added; "I'm afraid such development wouldn't be commensurate with the housing in Ygnacio Valley."

Mayor Newell Case said it might appear that the wishes of the people are being ignored but that development of the property involves the entire city.

REFERRING to the number of signatures on the petition Case said that "perhaps 90 percent of the people in the city didn't have a chance to express themselves. The petition may bring exact opposite results in another part of the city," said Case.

"People in another part of the city would'nt be affected by the development. Why shouldn't they be for it?" asked Howard.

Howard and Clarke opposed the 3 to 2 approval.

Motion by Mr. Fink, second by Mr. Mahler that the Walnut Creek Planning Commission recommend to the City Council that the zoning of the land subject to Rezoning Proposal No. 199-B be changed from interim R-1-15 to Conditional Development Plan District (C.D.P.) and that a Conditional Development permit be approved subject to the following conditions:

1. That except as otherwise provided herein, the land be developed substantially as shown on the plan displayed at the public hearing on September 13, 1966 which plans are a part of Rezoning Proposal No. 199-B on file in the office of the Planning Director, and are referred to herein as the official plan.

2. That except as otherwise provided herein, those areas delineated on said official plan with zoning symbols, be subject to all provisions of the Municipal Code relating to the land use district identified by said symbol, including the provisions for site plan review, and with the areas designated townhouse on said official plan being subject to all provisions of the R-M-3 District except that the density therein shall be as designated on said official map.

3. That no residential development shall occur on any portion of the subject land until a subdivision map approved pursuant to this zoning and Title 10, Chapter 1 of the Municipal Code shall have been recorded on said portion.

4. That the number of dwelling units shown on the official plan shall be used as a guide only with the total number of dwelling units not exceeding 1150.

5. That Ygnacio Valley Road be developed with full frontage improvements including conform paving and land for street widening as required by the Director of Public Works.

6. That no construction either residential or golf course, shall commence until a complete drainage plan for the entire parcel of land shall have been approved by the City Engineer.

7. That all grading shall be done in such a manner as to preserve, as nearly as practicable the natural topographical features of the land and to avoid excessive exposed cuts and fills. The grading plan shall be subject to approval by the Director of Public Works.

8. That construction of the golf course shall commence not later than one year subsequent to the effective date of this ordinance and all construction, once commenced, shall be diligently pursued to completion. In the absence of fulfillment of this or any of the other terms of this ordinance, this zoning shall be subject to amendment following rezoning procedures.

9. That the Board of Zoning Adjustment have authority pursuant to site plan review to allow buildings in the townhouse area with building height greater than permitted in the R-M-3 zone wherever any such building is to be constructed on ground with sufficient slope that only the down slope portion of such building exceeds said height limit, and to establish a maximum building height related to topography within those areas designated as R-M-1.5.

10. The land indicated on the official plan as driving-range may be designated as R-2 with the driving range being permitted elsewhere on the subject land the location and design being subject to site plan review.

11. That area consisting of approximately 52 acres and not colored on the official plan shall be labeled recreation.

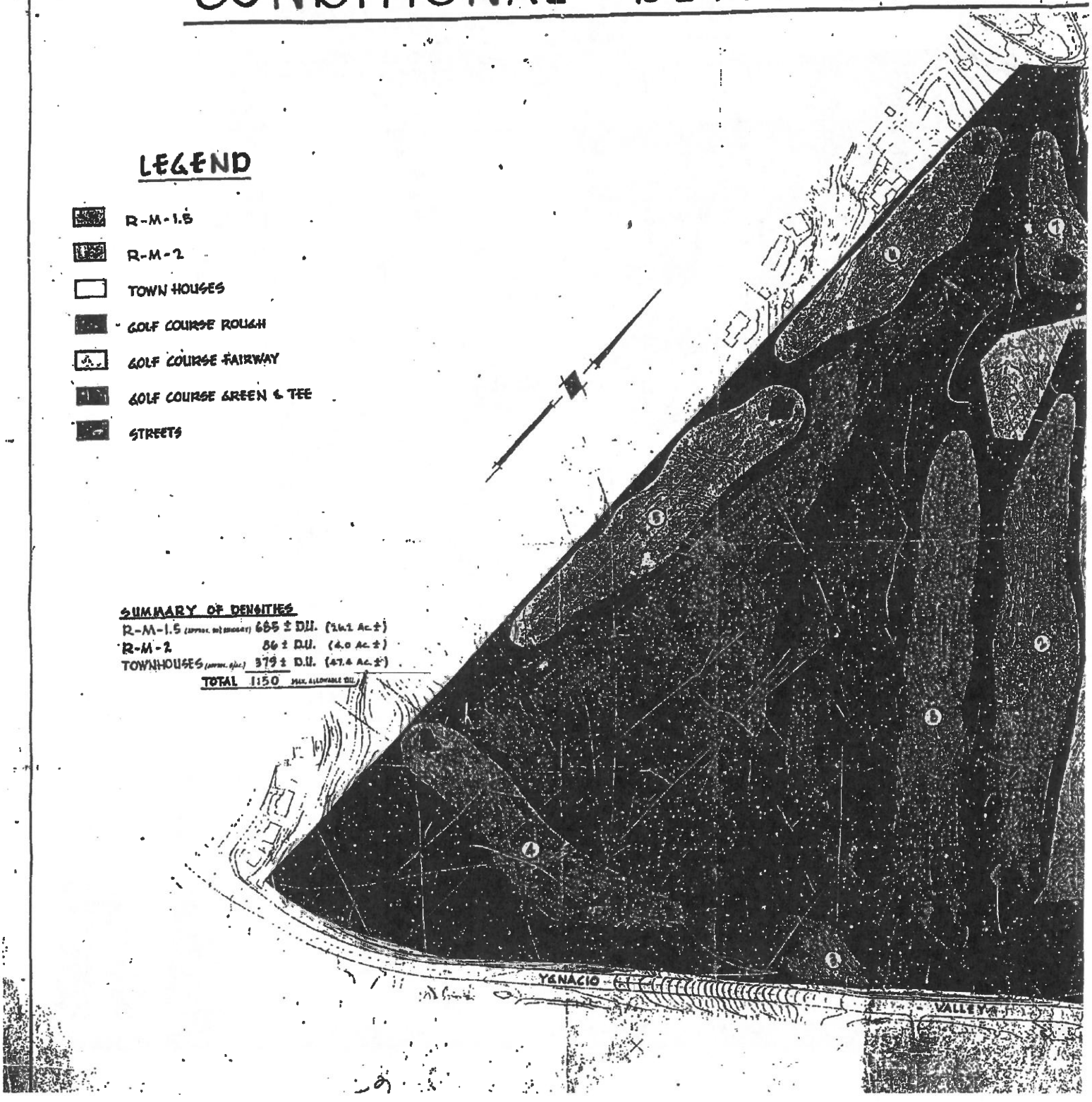
12. The final plans for the golf course shall be subject to site plan review.

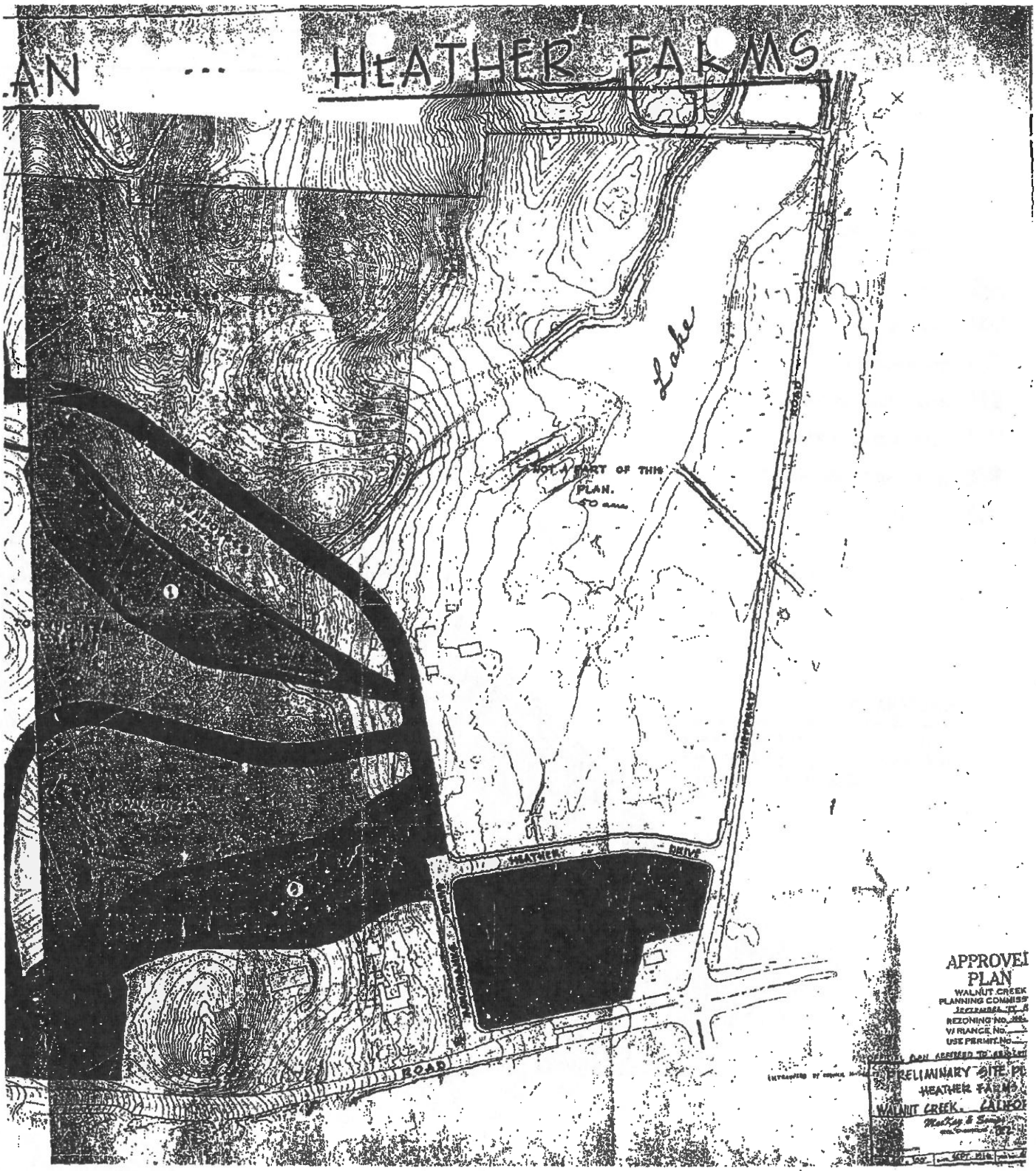
INTRODUCTION OF ORDINANCE - REZONING HEATHER FARM PROPERTY - FROM R-1-15 TO CDP

After considerable discussion, motion by Page, second by Mayor Case and carried to approve the plan for development as presented, with the stipulation that Ygnacio Valley Road be widened concurrently with construction of the golf course, said construction to commence not later than one year subsequent to the effective date of this ordinance and be completed within one year after the start of construction, and to introduce an ordinance as read by the City Attorney, title only, rezoning the subject property from interim zoning R-1-15 to Conditional Development Plan land use district.

AYES: Councilmen: Page, Mayor Case, Schroder
NOES: Councilmen: Howard, Clarke
ABSENT: Councilmen: None

CONDITIONAL DEVELOPMENT




AN
HEATHER FARMS
Lake
LOT 4 PART OF THIS PLAN.
HEATHER
DRIVE
ROAD
APPROVEI
PLAN
WALNUT CREEK
PLANNING COMMIS
REZONING NO.
VARIANCE NO.
USE PERMIT NO.
PRELIMINARY SITE PL
HEATHER FARM
WALNUT CREEK, CALIFO

HEATHER FARM GOLF COURSE CHANGES HANDS
Al Reale (left), Bob Moon, Robert Schroder, Wayne Policz.

Golf Course Bought By Land Developers

Heather Farm Golf Course, closed down over two months ago by its disgruntled owners, has been sold to the developer of an adjacent subdivision.

Although he says he does not know the sale price, Al Reale, one of the former owners, said the facility probably went for around $1.5 million.

The price includes a restaurant and pro shop operation. The complex has been purchased by L.B. Nelson Corp., developer of the Diablo Hills condominium subdivision.

A spokesman for the firm says the complex will be made "an integral part" of the subdivision. Plans include expansion and complete redecoration of the restaurant and clubhouse.

The golf course, shut down in a state of disrepair, is to be reseeded and landscaped with new trees and shrubs. New traps and greens also are planned.

Reale and his partner, Louis McKnight of Los Angeles, shut down the golf course after they claimed subcontractors for the adjacent development broke water lines and damaged the greens, causing a decline in business.

They also alleged that construction crews piled building materials on part of the golf course and that dirt and dust from trucks made play at the course uncomfortable.

Announcement of the sale comes after weeks of negotiations by the Nelson Corp., the owners and the city of Walnut Creek.

City officials worried that if the golf course was sold, new owners might try to find another, less desirable, use for the land.

Although the bulk of the property is zoned for golf course use only, one parcel is zoned for duplex, maintenance shed or driving range use.

Currently, the city is attempting to rezone the parcel strictly as a golf course maintenance area, its present use. But the rezoning effort is delayed, pending completion of an environmental impact report on it.

Reale has said the Nelson Corp. was approached about purchase of the facility partly because it mentioned the golf course in advertising its nearby condominiums.

The new owners say the course will be open to the public as well as to residents of Diablo Hills. Reopening of the facility is set for the spring.

CC TIMES
11-21-72

DIABLO HILLS GOLF COURSE AND RESTAURANT/BAR

HISTORY OF DEVELOPMENT PROPOSALS ON DIABLO HILLS GOLF COURSE

1967—Golf course land leased by Equitable Savings & Loan Association to Golf Management Corporation.

1970—Golf course land sold by Equitable Savings & Loan to Willis McKnight.

1972—Golf course land sold by Willis McKnight to L.B. Nelson Corporation, developer of the Diablo Hills condominium subdivision.

1973—Hardev Singh becomes Manager of the golf course.

1973—The project site under consideration for development in 2004 is removed from the playing area of the seventh fairway to reduce golf ball hazard to life and property at the adjacent apartment units.

1980--Hardev Singh buys the Diablo Hills Golf Course from L.B.Nelson Corporation, the developer of homes in the Heather Farms area of Walnut Creek. In subsequent years Singh has the following proposals for commercial uses for the PD 859 zoned open space land located on Marchbanks Drive from the clubhouse/restaurant/bar East to the boundary of St. John Vianney Catholic Church.

1982—His Christmas tree lot sales operation in this greenbelt buffer zone is cancelled after complaints from the neighboring Heather Farms Homeowners Association (HOA).

1985—He inquired of the Community Development Department about putting a motel on the property.

1988—He talked to the HOA about building a minature golf course on the land, featuring castles and concrete structures with lighting and hours of operation ending at 10 p.m. The HOA had concerns about the visual impact, lighting and noise level. The project was abandoned.

1989—He filed for approval of an abbreviated golf driving range enclosed in netting. It would operate 365 days a year from 7 a.m. until 10 p.m.

with lights and considerable noise. The City Council refused to approve the project.

1989—Concurrent with the above he proposed to build a Caretaker's House next to the Church property, which was abandoned after opposition from the HOA.

1991—He proposed to build the same 1989 abbreviated golf driving range in a wooden structure. The City Council again refused to approve it.

1998—He unveils plans to more than double the floor space of his restaurant/bar to rival the size of police nuisance bars in downtown Walnut Creek—Johnny Love's, Arroyo Way and Masses. The Council disapproved.

2000—On a cold rainy winter night the unhappy crowd in the queue line at the "Rave Party" pulled out their guns. Police Chief Richard Gregson commented: "These were visitors to our area from parts unknown...pretty hard core, gang affiliated individuals...Our officers counted no fewer than 40 gunshots."

In the Kinross Spur area north of Marchbanks Drive, Singh created a three and one-half acre parcel of open space property out of land which was originally part of the seventh fairway and green. The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. He then tried three times to put housing upon it.

1982—A developer selected by Singh proposed to build a 51-unit apartment complex. After an unfavorable Environmental Impact Report was circulated his application was denied by the City Council.

1996—A second developer initiated and then withdrew a proposal to build twenty single residences on the property.

2000—Delco Builders unveiled a plan to put twelve residences in the area. Their proposal is still being processed.

Bob Henderson
October 28, 2004

☐ 500 Newport Center Drive, Suite 600
Newport Beach, California 92660
phone (714) 640-6363

☐ 2606 Eighth Street
Berkeley, California 94710
phone (415) 841-6840

Community Planning ☐ Natural Resource Management ☐ Environmental Assessment

DRAFT
ENVIRONMENTAL IMPACT REPORT

HEATHER PARK
GENERAL PLAN AMENDMENT AND REZONING APPLICATION NO. 8478

PREPARED FOR
CITY OF WALNUT CREEK

DECEMBER 1984

By
Larry Seeman Associates, Inc.
2606 Eighth Street
Berkeley, CA 94710
(415) 841-6840

LSA #84-046

PROJECT DESCRIPTION

LOCATION

The 3.57-acre site is located on the south side of Kinross Drive at its terminus just north of Marchbanks Drive. The site is part of the Diablo Hills Golf Course planned neighborhood and is located about two miles northeast of the City center along Ygnacio Valley Road. The regional location is shown in Figure 1 and project site boundaries are shown in Figure 2.

The project site was formerly part of the playing area for the Golf Course but was removed from the playing area of the course in 1973 as part of a redesign effort to reduce golf ball hazard to life and property. The site is undeveloped and acts as a buffer between the seventh hole and surrounding residences. Access to the site is provided by Kinross Drive which connects to Marchbanks Drive and Ygnacio Valley Road. The surrounding neighborhood was developed as a cohesive project under Planned Development zoning and contains some 1,000 dwelling units, the golf course, the Heather Farms City Park, and the St. John Vianney Catholic Church. Land uses surrounding the site include patio homes across Kinross Drive to the northeast, the Stoneridge apartment complex and tennis courts to the east, the golf course to the south, and single family homes to the west. Land to the north is unincorporated and zoned agriculture.

PROJECT SPONSOR OBJECTIVES

The project applicant, Ygnacio Homes, Inc., proposes to develop the site with 51 one- and two-bedroom condominium and/or apartment units. Whether units are sold or rented would depend on the type of financing obtained by the sponsor. Construction of the project would occur soon after the granting of approvals and would be performed by Ujdur Construction, Inc. Architects for the project are Hammarberg, Herman, and Johnson of Walnut Creek. The project would include an affordable housing program with 13 (25 percent) of the proposed units maintained affordable to moderate-income households (80 to 120 percent of median income) for a period of ten years. Rentals or payments on these units would range from $443 to $757 per month. The sponsor has stated that the remaining project units would be moderately priced relative to comparable units in the area. According to the sponsor, the goal for the project is to create an attractive development that will help to meet the housing needs of the City.

CITY OF
WALNUT
CREEK

RECEIVED
NOV 10 2004
BY:

November 8, 2004

Steven Mehlman
Mehlman-TerBeek, LLP
2125 Oak Grove Road, Suite 125
Walnut Creek, CA 94598

RE: KINROSS TERRACE RESIDENTIAL SUBDIVISION – RESPONSE TO COMMENTS

Dear Mr. Mehlman,

Thank you for taking the time to express your concerns regarding the Kinross Terrace residential subdivision. This letter responds to those concerns and comments on the Mitigated Negative Declaration and Initial Study identified in your letter of October 28, 2004. In addition, this letter responds to your request that the City reconsider its decision to prepare a negative declaration as opposed to an EIR for the project.

I have reviewed the evidence and information that you have submitted and have determined that the comments do not present substantial evidence that the project may cause a significant impact on the environment. Therefore, the mitigated negative declaration is the appropriate environmental review document. Your comments and the response to comments contained in this letter will be forwarded to the City Council for consideration when they review the project on November 16, 2004.

The following are responses to the comments outlined in your letter of October 28, 2004.

Financial Expectation

Your letter states "this project will undermine the investment of the owners of the homes in the P-D, who have relied upon the integrity of the zoning to preserve the golf course, golf course rough, and open space areas in purchasing their homes". Section 15064 of the California Environmental Quality Act (CEQA) guidelines specify that economic and social changes resulting from a project shall not be treated as significant effects on the environment. Physical changes to the site as a result of the project have been addressed in the Mitigated Negative Declaration. The project does not eliminate P-D 859, the requirement for a private golf course, or any active portion of the golf course.

Adequacy of the Mitigated Negative Declaration

Staff agrees with your statement for the standard for preparation of an EIR. However, we disagree with your assessment that the standard has been met and that an EIR must be prepared in connection with this project. After a careful review, we have determined that substantial evidence has not been presented that the Kinross Terrace project, as mitigated, may have a significant effect on the environment. Rather, the record supports the findings the project, as mitigated, reduces potential impacts to less than significant levels and would not have a significant effect on the environment.

Your letter references a previously submitted letter dated October 18, 2004 as evidence of the mitigated negative declarations inadequacy. Both the October 18th letter and City response were included in the Planning Commissions deliberations at their meeting of October 28, 2004. In this regard no new evidence has been provided to substantiate any inadequacy.

Your letter makes a number of references to a draft EIR prepared in 1984 for a withdrawn 51-unit project on the subject site. That draft EIR was never certified, evaluated a 51-unit project in 1984, and is not the subject of this review. Your comments provide no new evidence of substantial environmental impact associated with the Kinross Terrace proposal.

Growth Inducing Impacts

Your letter states the project would have a precedential affect on future proposals to reduce the golf course and requested a condition be added that would prohibit any future reduction of the private golf course. As discussed at the October 28th meeting, the Planning Commission was clear there is no nexus with this subdivision to restrict future land use proposal on other private property held by the golf course. However, the Commission did unanimously agree to add a finding to the rezoning recommendation to City Council expressing support for the preservation of the golf course and identifying the site's unique characteristics as a basis for their decision that the project would not set a precedent for further reduction of the golf course.

Other comments enumerated in your letter express safety concerns of errant golf balls, narrowing of Kinross Drive, and drainage concerns. All of these points were fully discussed and addressed at the Planning Commission hearing on October 28, 2004. The Planning Commission agreed with your assertion regarding the proposed narrowing of Kinross Drive and determined that the public road should remain at its existing width to maintain street parking at the current level. With respect to safety concerns from errant golf balls, the Commission reviewed plans, took testimony and determined that distance of 130 to150-feet between the homes and the green, coupled with the addition of off-site landscape berm with dense tree cover as proposed, was sufficient to reduce the potential impact to less than significant. With respect to drainage issues, your letter does not identify any new evidence that a significant impact would occur as a result of the proposed project.

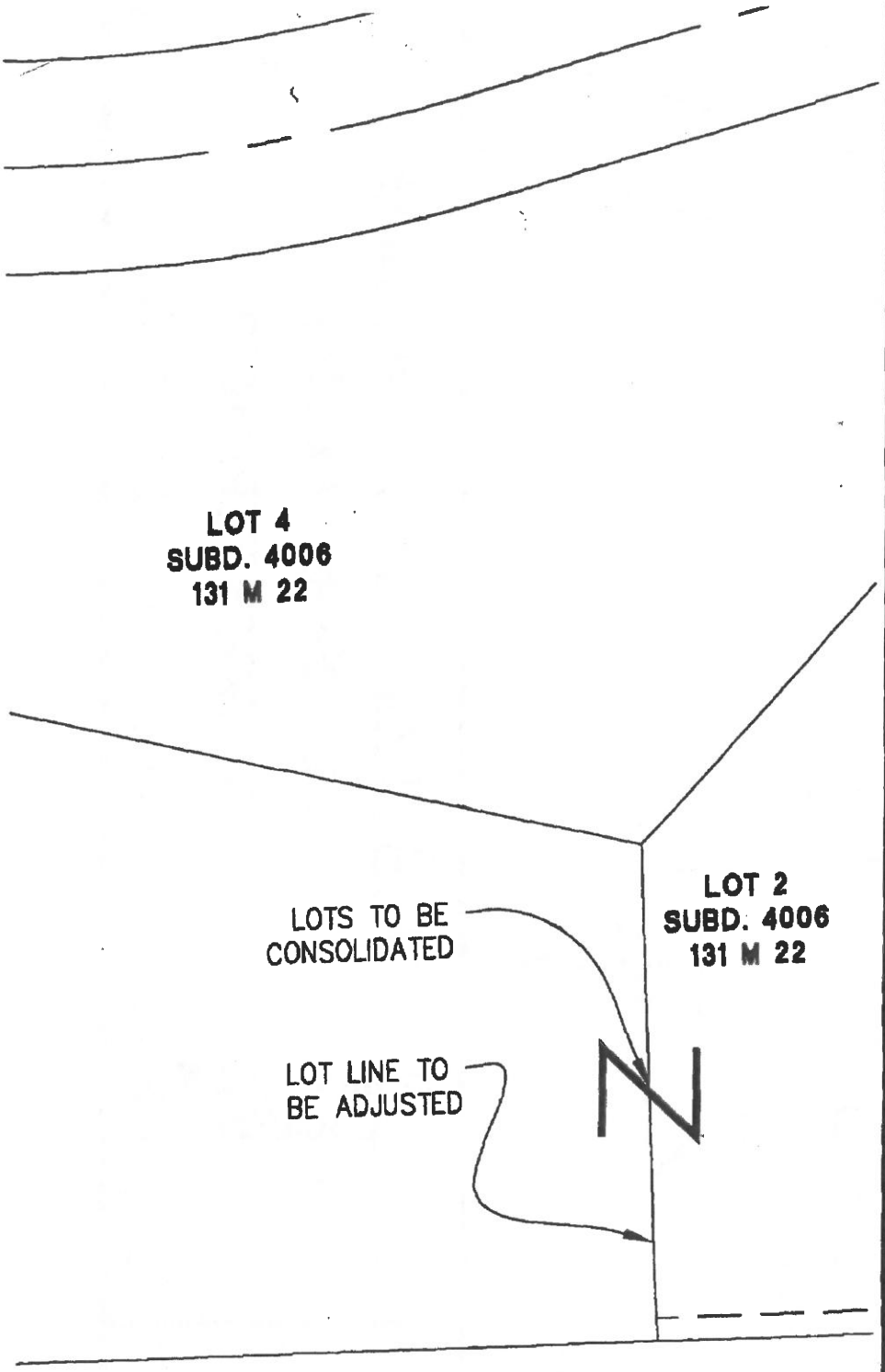
In conclusion, the comments received object to the evidence presented in the Initial Study and supporting technical reports, but do not present substantial new evidence that the project may cause a significant impact on the environment. Based on the analysis provided herein, I find that the decision to prepare a Mitigated Negative Declaration is correct and appropriate. The City Council is scheduled to consider the project, Initial Study and Mitigated Negative Declaration at their November 16, 2004 meeting.

Again, thank you for your comments concerning the Kinross Terrace Initial Study and Mitigated Negative Declaration. If you have any questions on this letter please contact Scott Harriman, project planner, at (925) 943-5899 ext 212 or myself at (925) 943-5899 ext 535.

Sincerely,

Valerie Barone
Community Development Director

Cc Bob Henderson, 1578 Siskiyou Dr, WC



VESTING TENTATIVE MAP
SUBDIVISION #8457
"KINROSS TERRACE"

WALNUT CREEK CONTRA COSTA COUNTY

PRINTED BY ALIQUOT
NOV 0 4 2004

JOB NO	98068.0
SCALE	AS SHOWN
DATE	10/27/04
DESIGN	RC
DRAWN	PE, FSC
APPROVED	VJD

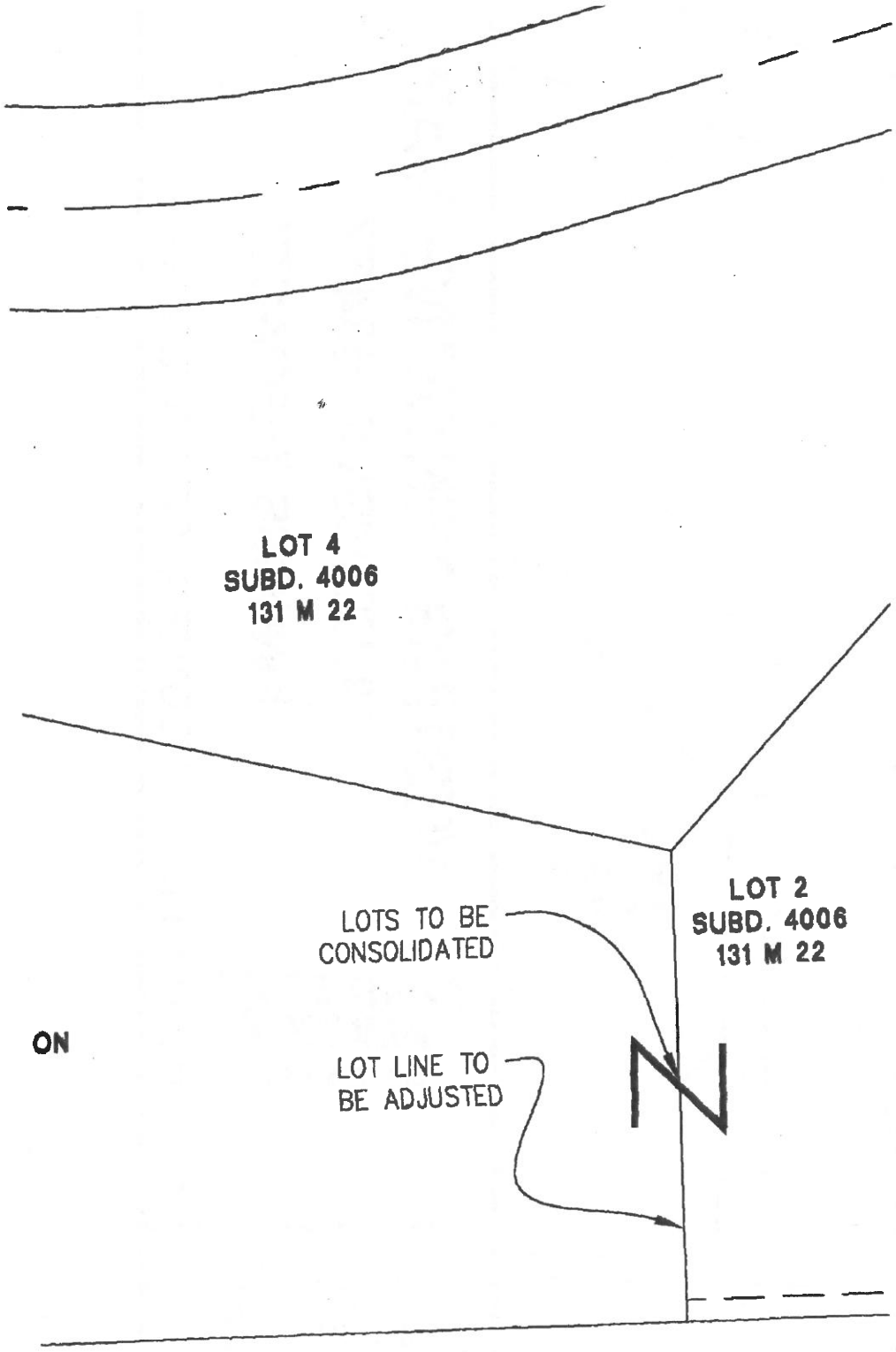
DRAWING NUMBER

1

1 OF 11

LEGEND:

Z LOT CONSOLIDATION SIGN



VESTING TENTATIVE MAP
SUBDIVISION #8457
"KINROSS TERRACE"

WALNUT CREEK CONTRA COSTA COUNTY CA

PRINTED BY ALIQUOT
NOV 0 4 2004

JOB NO 98068.0	SCALE AS SHOWN	DATE 10/27/04	DESIGN RC	DRAWN PE, FSC	APPROVED VJD

DRAWING NUMBER

1

1 OF 11

LEGEND:

Z LOT CONSOLIDATION SIGN

329 329

From: Linda Lamerdir
Sent: Monday, November 28, 2022 11:31 AM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment

Supervisors,
We are asking the Board of Supervisors to vote AGAINST the developer's request for a General Plan Amendment, recognizing that their request is for a **radical** change to the General Plan. We understand that the property is zoned for Single Family Homes. The developer is asking for a HUGE change in density bringing immense impacts to the property, the community and to the adjacent Heather Farm Park.

We strongly feel that any development on Seven Hills Ranch should include some component of public access, in particular a trail to the ridge, connecting to other nearby trails and Heather Farm Park. We would like the Board of Supervisors to recognize the need for improved habitat protection recognizing that the proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over of the site. We are asking for **Sensible not Supersized.**

Additionally, we find the FEIR to be inadequate and we stand by comments made in the draft EIR. We believe the public were not given adequate time to examine the 520 page FEIR and Staff report.

The proposed development is too massive for the surrounding community and would permanently alter the natural beauty, the habitat and wildlife of Seven Hills Ranch. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction. *Do not allow this intense change. Deny the General Plan Amendment.*

Sincerely,

Linda Lamerdin

Mike Young

Walnut Creek

330

From:	Rosalie and Barry Howarth <)m>
Sent:	Monday, November 28, 2022 11:41 AM
To:	Clerk of the Board
Cc:	Rosalie and Barry Howarth
Subject:	Public Comment for Nov 29 BOS meeting, Spieker Project

Attention Board of Supervisors:

The Spieker proposal for the Seven Hills Ranch parcel is not housing, which we desperately need. it is simply **a huge commercial enterprise** with over 225 employees, plunked down in the middle of residential areas, near a school and the nature area of a park. Why does it not require a zoning/land use change to commercial, not just high density? It is a commercial facility. **Please deny the General Plan amendment.**

This is NOT much-needed housing for workers and families. It serves only a very wealthy, very narrow age group. The homes its customers vacate to pay the 6-or 7- figure buy-in and thousands in monthly rent, will hardly be affordable homes for teachers and firefighters and secretaries

The developer pretends it is housing when it suits them. But then they are quick to point out that they are not bound by the kind of restrictions and amenities required of housing developments...because technically it is not housing; it is a commercial enterprise.

You can't have it both ways.

It is a private, gated facility; the public will not be allowed. How elitist that sounds this days when we expect development to include setback and buffers and community amenities like parks and trails or public art! If it were a housing a trail would connect it to the adjacent park.

Gated developments are not even allowed in the city of Walnut Creek, which almost entirely surrounds it. Walnut Creek citizens will bear ALL of the brunt of the negative impacts of this project.

You must NOT approve the general plan amendment until the developer works with civic groups and modifies the plan to fit into the community.

Thank you for your very important service to our County.

Rosalie Howarth

Walnut Creek CA 94598

331

From: Ann Hassett
Sent: Monday, November 28, 2022 12:14 PM
To: Clerk of the Board
Subject: Spieker project Seven Hills Ranch

This is Public Comment on the Draft EIR for County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038, The Spieker Senior Continuing Care Retirement Project

Dear Contra Costa Board of Supervisors,

I am writing to you with urgency regarding the Spieker project in Walnut Creek. It's an indisputable fact now that global warming is real and rapidly affecting our way of life. Massive flooding, out of control wildfires, pollution of air and water etc., loss of crops and animal species. "To combat climate risks urban planning and land developers around the globe are increasingly creating community designs that protect or incorporate open spaces, clean air and connections with other people." Examples of this are Boston's SCAPE project, New York's 550 Madison project preserving and providing access to the neighborhood's largest public green space. Progressive cities and their land developers are focused on preserving and incorporating open and green spaces as well as finding more sustainable designs and architecture. (you can find these projects by Googling)

The Spieker senior housing project is the antithesis of this current thinking and trend. It proposes to decimate the land by leveling the hills and eradicating 400 plus trees (some of which are over 100 years old). It will erect 26 foot walls around the annihilated earth keeping the public at bay clearly not promoting inclusion or well-being of the existing citizenry. It is "old school" development. **It negates the professed Walnut Creek city plan to go "green"** (as was presented and embraced in a recent Walnut Creek City Council meeting). Finally, we must care for the flora and fauna on that land. We fondly call this 30 acres the Serengeti of Walnut Creek as there are a variety of animals (in large numbers) that reside on that land (not just passing through). They inhabit that space because it is safe and free from their predators that live in the wilds of Mt. Diablo. I have just seen 3 fawns born into that space. It is a calm and peaceful place for all of us.

Walnut Creek already has Rossmoor and other senior housing that provide various levels of care. Surely we can develop this land in such a way that considers us all. If Contra Costa County is looking for additional senior housing then why not bring it to an overgrown field or some abandoned building spaces within our county that are already accessible.

Research shows that access to nature can improve mental and physical health and productivity. **Well-being is becoming a central topic in the development and transition to greener cities.** The Toyota "Woven City" project in Japan is a prime example of this. Surely this project needs to be reconsidered for some other place that will not be disruptive to a well-established way of life.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Sincerely,
Ann Hassett

Walnut Creek

338

From: Bob Simmons < om>
Sent: Monday, November 28, 2022 12:19 PM
To: Clerk of the Board
Subject: Written Comment on Item D.1 Spieker on November 29,2022 Public Hearing
Attachments: WCWC Letter to Board of Supervisors.docx

Attached are the written comments of the Walnut Creek Watershed Council.

Please include them in the record of the public hearing.

Thank you.

Bob Simmons

WALNUT CREEK WATERSHED COUNCIL

333

November 28, 2022

By Electronic Mail

Contra Costa County Board of Supervisors

SUBJECT: November 29, 2022. Item D.1 Hearing to Consider Approving Spieker Senior Continuing Care Retirement Community Project

The Walnut Creek Watershed Council is a 501(c)(3) corporation that was created "to restore, preserve and protect the creeks in the Walnut Creek Watershed as a natural and community resource". The Council submitted comments on the DEIR and submitted comments to the Planning Commission. Due to past practice, the Council is not taking a position on whether the Board should approve the requested General Plan Amendment, but the Council is submitting written comments on portions of this proposed action that affects the health of the Walnut Creek Watershed, the largest in Contra Costa County.

A major concern is protecting the ability of the County to implement the 50 Year Plan "From Channels to Creeks" that the Board approved in 2009. In a recent UC Berkeley study, the project site was identified as one of the best places to implement the 50 Year Plan. Since the decision of the Planning Commission, the proponent has offered to donate to the County a 2.4-mile strip (shown on Attachment P to the staff report) along the concrete channel. Since this is an area that wasn't going to be part of the construction footprint anyway, and it isn't clear if the strip is of sufficient width to allow modifications of the concrete channel, there is a lack of information on whether this action potentially benefits the watershed.

A second major concern involves the temporary and permanent impacts to riparian and wetland areas, and the inadequate mitigation for those impacts. There is no mitigation proposed for temporary impacts to riparian and wetland areas on the site. The grading, the soil movement, the construction of retaining walls on both sides of the central wetland and riparian area, and the four years of construction will definitely affect the riparian and wetland areas. Those impacts need to be acknowledged and mitigated.

For the permanent loss of wetlands, the staff report proposes MM BIO 3-2. This provision states that the applicant shall implement one of the following: "(a) Acquisition of equivalent wetlands and waters at a nearby site at a ratio of 2:1, on an acreage basis; (b) Purchase of mitigation credits at a mitigation bank; (c) Enhancement of seasonal wetlands and the perennial drainage to be preserved in the central portion of the site, as well as creation of seasonal wetland habitat, at a ratio of 2:1, on an acreage basis; (d) An alternative to be agreed upon with the WSACE and RWQCB."

The Council objects to inclusion of (a) (b) and part of (c) in this mitigation measure. In the DEIR, the County recognized that wetlands are regionally scarce. It is not possible to replace those losses by enhancing an existing riparian area, by putting money into a mitigation bank, or

by acquiring existing wetlands. More specifically, as to (a) the acquisition of existing wetlands is not appropriate because it results in a net loss of wetland areas. As to (b) the purchase of mitigation credits at a mitigation bank is not acceptable because the only mitigation bank is in the eastern portion of the County and it is outside the service area of the project site. It is also outside the boundaries of the Walnut Creek Watershed, and there is no guarantee it would be used to create new wetland areas. As to (c), the portion that refers to enhancement of the perennial drainage is not acceptable because the only acceptable response to the permanent loss of wetland habitat from this project is that new wetland areas need to be created. The portion of (c) that provides for creation of seasonal wetland habitat is the only acceptable response to the destruction of wetland areas. While this should be accomplished on-site, that cannot occur without modification of the project. If the General Plan Amendment is approved without modification to the project to protect the wetland areas, the Board should consider a higher replacement ratio than 2:1. The reasons are that wetland habitat is regionally scarce and that it won't be accomplished on the project site.

Please note that the RWQCB made similar objections to the proposed mitigation in its comments on the DEIR in its letter dated May 10, 2022. That letter states that the proposed approach to mitigation is unacceptable, that all mitigation should be accomplished on the site given its large 30-acre size, that no mitigation bank is available to service the area, and that the proposed development footprint will likely have to be reduced to accommodate the require replacement mitigation. The County has failed to properly respond to these comments.

The Council recognizes that the creation of a $3 million dollar community benefit fund is a positive step, albeit one that is long overdue. The Council requests that restoration of wetlands and riparian areas be specifically mentioned as a potential category for funds. The Council notes that the language could state more clearly that the County must give prior approval to any expenditure of funds for which the applicant wishes to seek credit. Lastly, the reference to 'local community' is undefined. It should not include the residents of the proposed project.
Respectfully submitted,

Bob Simmons

Bob Simmons
President, Walnut Creek Watershed Council
bobsim

335

From: crclancy _
Sent: Monday, November 28, 2022 12:27 PM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment
Attachments: spieker project feir bedrock comments cc county BOS meeting 11-29-2022 crclancy.pdf

CC County,

The attached public comment document is related to bedrock excavation issues at the proposed Spieker project at Seven Hills, and is for the information of the CC County Board of Supervisors
meeting on Nov 29, 2022 - Item D1.

Regards
Charles Clancy

Subject: Comments regarding issues with Bedrock excavation in the Spieker Senior Continuing Care Community Project - DEIR MM-GEO-1.1 and Impact GEO-1 and numerous places in the FEIR.

For: Nov 29 BOS Mtg Item D1 Public Comment

County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038
State Clearinghouse # 2021070517

Comments by Charles Clancy, November 28, 2022 6 Pages

I'm a retired GIS Analyst and I create geotechnical maps and other graphics to help Save Seven Hills Ranch understand the Spieker proposal and respond to the DEIR and FEIR. I'm also a 48-year Walnut Creek resident.

In Spieker's project description the potential methods and impacts of bedrock excavation are scarcely mentioned - in spite of significant discussion in the Baez Geotechnical Report, where the presence of bedrock is mapped and potential excavation methods and **difficulties** are discussed. This Baez report is Appendix G in the DEIR document package.

In the DEIR under MM GEO-1.1 bedrock is mentioned on page xiii and again on page 110: (Note that MM stands for Mitigation Measure)
"c) More detailed evaluation of the excavation characteristics of the sandstone and claystone bedrock underlying the site shall be performed. The excavation characteristics of the bedrock will impact cut grading and excavations for underground utilities and foundations."

In the Impact GEO-1 section on page xiii bedrock is not mentioned. But the DEIR GEO-1 impact statement concludes with the oft-repeated statement:
"Less than Significant Impact with Mitigation Incorporated"

This leads us to believe that critical evaluations of bedrock issues will not happen until after and if the project has been approved and is headed toward the permitting process, which takes place out of public view. There were numerous DEIR responder comments about this.

In the FEIR bedrock is mentioned throughout, mostly in comments submitted by responders to the DEIR. Under (County) Response 40.2 on FEIR page 84 it reads:
"With regards to bedrock excavation, the Draft EIR, in Section 3.7.2.1 Project Impacts under Impact GEO-1 (page 110), identifies mitigation measure MM GEO-1.1 which requires the project to prepare a site-specific, design-level geotechnical investigation and incorporate all identified recommendations into the final project design prior to issuance of construction permits. This includes a more detailed evaluation of the underlying bedrock and how it will impact cut grading and excavation."

We are taking issue with this because **bedrock excavation** necessitated by **extreme grading** would be **by far** the most impactful part of the site grading process, if not the entire construction process. Regardless of excavation method it would generate lots of noise, vibration, dust, and potentially hazardous air pollution. At times the construction site would resemble a working **rock quarry**. Bear in mind that the Seven Hills parcel is surrounded by residential neighborhoods, a school, and is next to an important Walnut Creek City park.

What has been missing up to this point from any comments or responses regarding bedrock is a **map** - and **media** that would help us all understand the sight and sound of rock excavation methods.

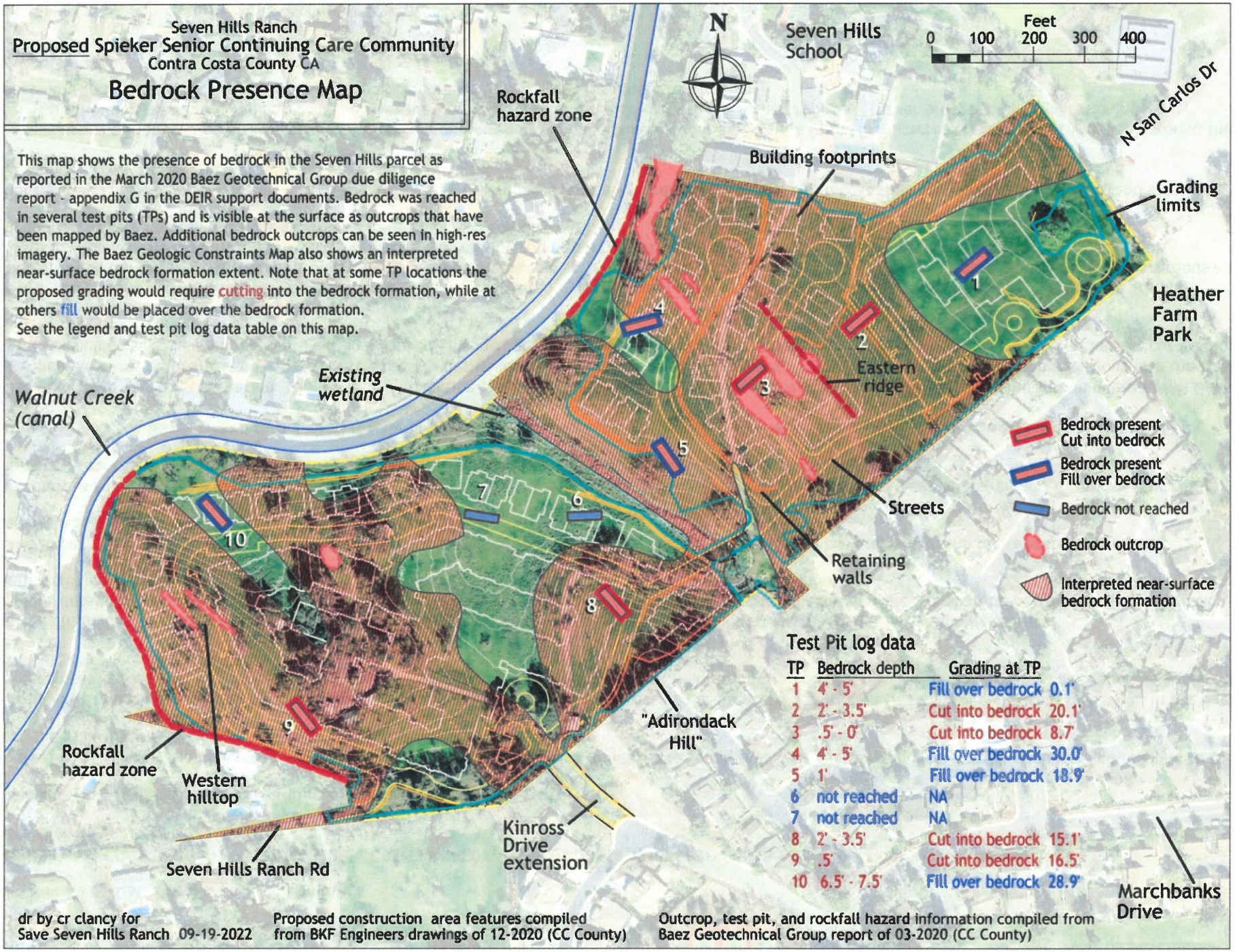
As previously mentioned the Baez Geotechnical Group issued a report which included a map and results from the numerous test pits that were dug around the site. The **following map** is a compilation of the Baez map, test pit results for bedrock, and all of the proposed Spieker project buildings, retaining walls, streets and the ultimate grading limits. See the caption under the title box for more clarification.

Continued next page

Seven Hills Ranch
Proposed Spieker Senior Continuing Care Community
Contra Costa County CA

Bedrock Presence Map

This map shows the presence of bedrock in the Seven Hills parcel as reported in the March 2020 Baez Geotechnical Group due diligence report - appendix G in the DEIR support documents. Bedrock was reached in several test pits (TPs) and is visible at the surface as outcrops that have been mapped by Baez. Additional bedrock outcrops can be seen in high-res imagery. The Baez Geologic Constraints Map also shows an interpreted near-surface bedrock formation extent. Note that at some TP locations the proposed grading would require cutting into the bedrock formation, while at others fill would be placed over the bedrock formation.
See the legend and test pit log data table on this map.



Test Pit log data

TP	Bedrock depth	Grading at TP
1	4' - 5'	Fill over bedrock 0.1'
2	2' - 3.5'	Cut into bedrock 20.1'
3	.5' - 0'	Cut into bedrock 8.7'
4	4' - 5'	Fill over bedrock 30.0'
5	1'	Fill over bedrock 18.9'
6	not reached	NA
7	not reached	NA
8	2' - 3.5'	Cut into bedrock 15.1'
9	.5'	Cut into bedrock 16.5'
10	6.5' - 7.5'	Fill over bedrock 28.9'

dr by cr clancy for
Save Seven Hills Ranch 09-19-2022

Proposed construction area features compiled from BKF Engineers drawings of 12-2020 (CC County)

Outcrop, test pit, and rockfall hazard information compiled from Baez Geotechnical Group report of 03-2020 (CC County)

Continued next page

Discussion:

In the FEIR Master Response 8 starting on page 27, MM NOI-1.1 writes about construction noise mitigation measures. When we consider the **extreme grading** operations for **leveling** the **western hill**, lowering and recontouring of the **eastern ridge**, and the cut for the **maintenance building**, it becomes increasingly difficult to believe that the proposed mitigation measures would actually keep noise and other factors below tolerable and/or legal limits.
For example, the bedrock cut to create the platform for the **maintenance building** at **"Adirondack Hill"** will be about **18 feet** - not including potential over-excavation for a 23 foot (max) retaining wall foundation.
The cutting operation would be taking place as little as **35 feet** from homes in the Heather Farm Residential development. In this case the homeowners deserve to know **now**, when the EIR is being considered in a public forum, exactly how the bedrock excavation near their home is going to be done so they know what impacts to expect. As it stands now they might not know until approached by a contractor or County official shortly before the operation is to be started.

There really is no mitigation that can reduce the extreme impact of such an operation. Only a less intrusive alternative site plan or alternative land use can eliminate it or make it tolerable

In case you're wondering how bad it could be, please check out these examples of common rock excavation methods:

Hydraulic hammers (aka Hoe rams)
https://www.youtube.com/watch?v=9Nvwirtrh5o
https://www.youtube.com/watch?v=N1RpgSVKq9Q

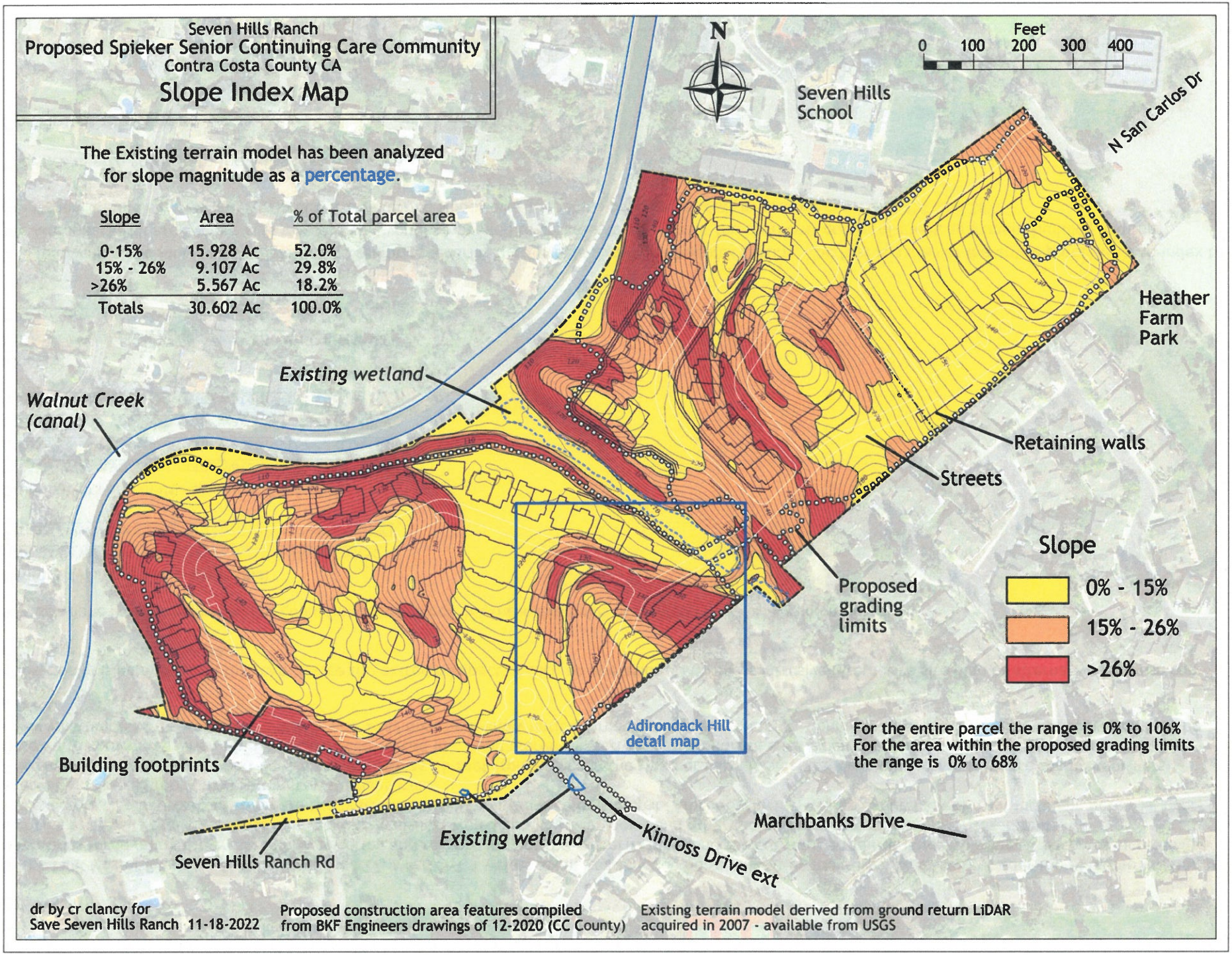
Drum cutters and mills - also used for trenches
https://www.youtube.com/watch?v=oFq7q0ZQPxc
https://www.youtube.com/watch?v=D-ncnxQ3kDU
https://www.youtube.com/watch?v=rUazv2Mu0Bw
https://www.youtube.com/watch?v=pH-E8lH1Y24

Rippers
https://www.youtube.com/watch?v=wpQ12H6nGdY
https://www.youtube.com/watch?v=M88Jfkb3Vns

The following **maps** show one of the **extreme grading** scenarios that involve significant bedrock cutting. The first is a map of the entire parcel with an index to the Adirondack Hill area where cuts into bedrock would be needed to create a level area for the southeast corner of the IL apartment building and the Maintenance building. This index map also shows terrain slopes over the whole parcel and areas where slopes exceed 15% and 26%.

The second map zooms into the Adirondack Hill area.

Continued next page



Continued next page

Seven Hills Ranch
Proposed Spieker Senior
Continuing Care Community
Contra Costa County CA

"Adirondack Hill"
Detail Map

The Existing terrain model has been analyzed for slope magnitude as a percentage.

- 0% - 15%
- 15% - 26%
- >26%

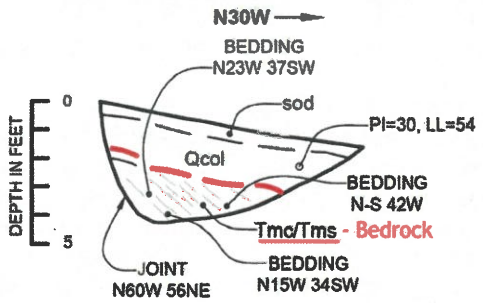
Maximum slope % in this map area is 43%
Existing terrain contour interval is 2 ft

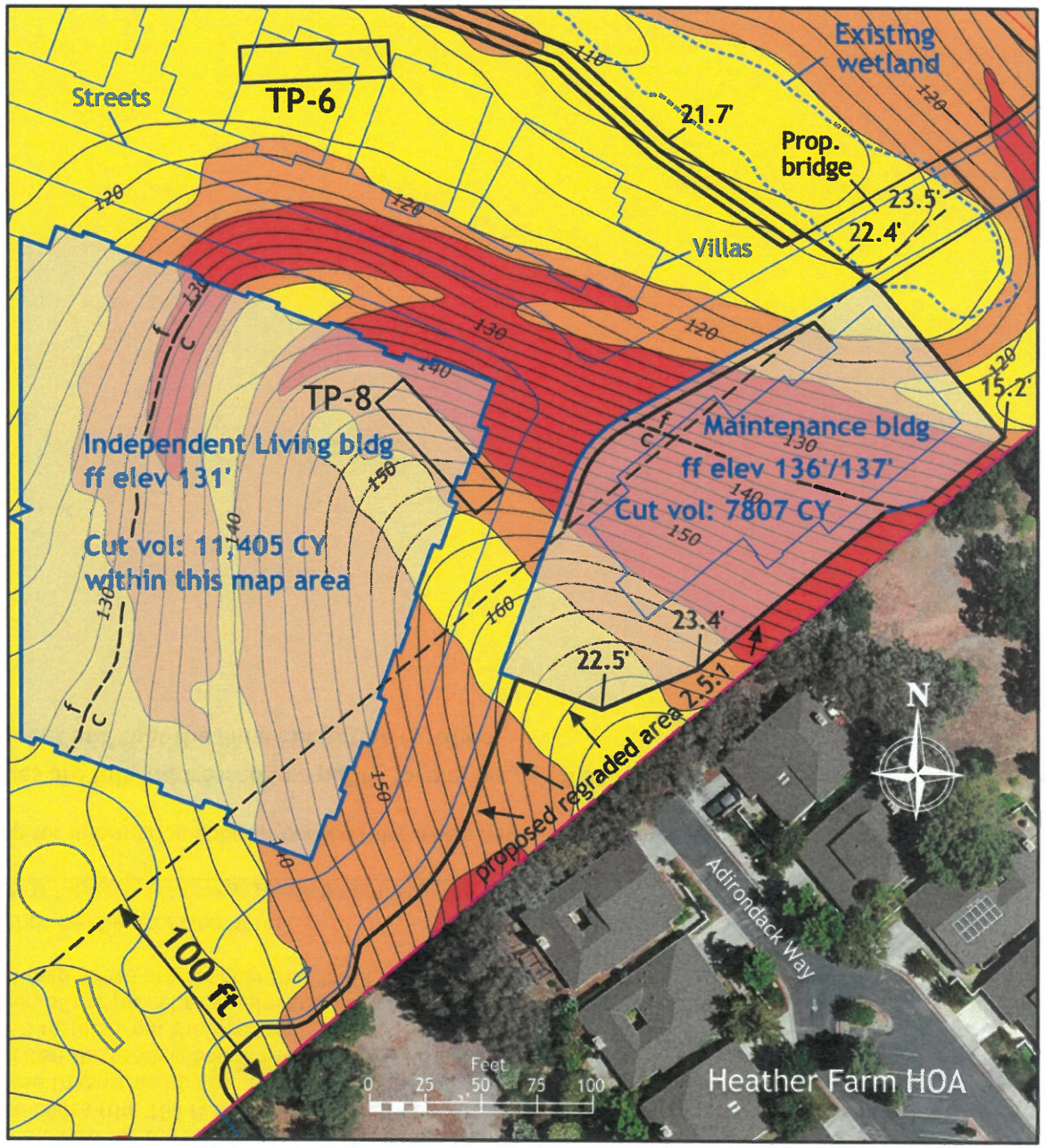
Volume calculation area

Ht — Proposed retaining wall with height shown on the low side of the wall - aggregate for tiered walls

f / c — Approximate cut - fill transition

Test Pit 8 (TP-8) profile
from Baez Geotechnical Report





dr by cr clancy for
Save Seven Hills Ranch 11-18-2022

Proposed construction area features compiled from BKF Engineers drawings of 12-2020 (CC County)

Existing terrain model derived from ground return LiDAR acquired in 2007 - available from USGS

Continued next page

Discussion:

"Adirondack Hill" is the name given here for the area at the end of Adirondack Drive in the adjacent Heather Farm HOA development. The proposed development plans call for cuts into this hill to create platforms for the Maintenance Building and the southeastern end of the IL apartment building. This map reveals in detail that 15% and 26% slope codes, and noise codes (the 100 ft dimension) have been disregarded. Additionally the map shows a case where extreme grading would involve bedrock removal very close to existing homes. The map also indicates where a proposed bridge over the Central Wetland would be located, how high its abutments would be, and how close the grading and construction would be to the wetland.
Test Pit 8 (TP-8) is shown on the map, as well as the TP-8 results from the Baez report.
Note that it's proposed to level the entire western portion of the parcel to an elevation of 131 feet to create a platform for the huge IL apartment building and the villas that surround it. The cut volumes in the detail map above are for only this detail map area.

The maps in this document are part of a map portfolio that can be accessed here:
https://static1.squarespace.com/static/5f677d0f45fe3d0977eb64cb/t/6337c6310ad428203b21969f/1664599617540/Map+Portfolio+Extended+9.30.22.pdf

See map 4 **Floor Levels Map** and map 5 **Cut and Fill Map** for information about proposed floor levels and the cut and fill amounts needed to obtain them.

Until bedrock excavation and extreme grading issues are fully addressed in a public forum, we ask that the CC County Board of Supervisors deny the Applicant's request for a General Plan Amendment and that the Final EIR not be certified.

Thank You

Charles Clancy

342

From: Heather Farms <[redacted]om>
Sent: Monday, November 28, 2022 12:51 PM
To: Clerk of the Board
Cc: Aaron Hayes; Andrea O'Toole; HFHA Board
Subject: November 29 BOS Mtg Item D1 Public Comment
Attachments: 4862-7179-4496,OTR Comments on Spieker County Comment Letter - FINAL.pdf; 4867-6507-6027,Letter to Planning re FEIR,1.pdf; HFHOA Comment on Draft EIR-Spieker SCCRP- County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038.pdf

Dear Board of Supervisors,
Please review the attached letter for tomorrow's public comment portion of the meeting. Thank you.

Regards,

Genine Kennedy CCAM

Headquarters: 500 Alfred Nobel Drive, Suite 250, Hercules, CA 94547

Walnut Creek Office: 1855 Olympic Blvd. Suite 150, Walnut Creek, 94596

Brentwood Office: 1120 2nd Street, Suite 118, Brentwood, CA 94513

o: 800-557-5179 ext 14 | www.collins-mgmt.com

This communication may be confidential. Unintended distribution or copying is prohibited.

Heather Farms Homeowners Association

1501 Marchbanks Drive, Walnut Creek, CA 94598

November 28, 2022

Contra Costa County Board of Supervisors
1025 Escobar Street
Martinez, California 94553
clerkoftheboard@cob.cccounty.us

Re: November 29, Board of Supervisors Item D1 Public Comment

Dear Contra Costa Board of Supervisors,

As the Board of Directors of the Heather Farms Homeowners Association ("Association"), we write on behalf of the Association's 359 homes and more than 1,000 residents who will be adversely impacted by the neighboring Spieker Senior Continuing Care Community Project (the "Project"). Our homes would be most directly affected by the proposed development, and we urge you to deny the proposed General Plan Amendment, and reject in its entirety the Project's EIR and related actions under CEQA.

We are attaching for your reference our previous letters to the Planning Commission in response to the inadequate and erroneous Draft Environmental Impact Report (DEIR) and Final Environmental Impact Report (FEIR) in which we detailed our concerns about the negative impact the Project would have on our community and the surrounding area.

This Project does not, to quote County Code 84-66.1406, "...fit harmoniously into and have no adverse effects upon the adjacent or surrounding development." The surrounding area consists of primarily one and two-story single family homes, in varying densities, as well as a school and a park. Existing structures nestle into the rolling hillsides, unlike the proposed Project which will level all but one of the Seven Hills.

This development will have adverse effects, among them:

- Traffic patterns characteristic of a commercial enterprise with hundreds of employees, daily and nightly shift changes, massive supply deliveries and people coming and going at all hours of the day;
- Extensive excavation and bedrock removal dangerously close to our homes, carried out over several years;
- Substantial grading that would require countless amounts of water to control airborne dust and debris at a time when our green spaces and landscaping die for lack of water; and
- Enormous buildings and towering retaining walls so close to our homes that they create an effective "city-scape" in what is now a vibrant suburban neighborhood.

The Project site's current Single Family - Medium Density land use plan avoids all these issues and provides several benefits, some of which are:

- An opportunity to provide workforce and moderate-income housing, a category in which the County is falling short;
- A possibility of developing this parcel in line with the Tree Protection and Preservation Ordinance;
- The potential to expand and enhance the County's trail system, enhancing recreation and alternative transportation options;
- Fostering development that will be less devastating to the existing topography, creating a neighborhood nestled into the gently rolling hills that currently exist, rather than leveling them; and
- Creating additional property tax revenue as well as local sales tax revenue when new resident families shop, dine and recreate in the community. This would be an on-going benefit, not a one-time infusion of cash.

Land is a finite resource and land use planning is one of the Supervisors' most important and lasting responsibilities. After listening to almost 7 hours of public comment and a careful reading of the developer's DEIR your own Planning Commission voted resoundingly to deny a General Plan Amendment. They noted that Spieker Senior Development Partners' EIR is fatally flawed and that there is little public good to be served by this Project in this location. The existing General Plan for Single Family - Medium Density housing will permit development in character with the surrounding area, in keeping with the need for residential housing, and in harmony with the environment.

The developer has approached us with a suggestion they might make minor, unspecified adjustments to the Project and cover some undetermined amount of damages to the community in exchange for withdrawing our opposition. However, the adjustments this Project necessitates are substantial and we must be clear that the suggestion of a monetary payment for damages cannot fully compensate our residents for the significant intrusion into their lives and the loss of value to their homes this Project will cause. A Single Family - Medium Density development would have none of these costly and permanent impacts.

If the Project is nonetheless permitted to proceed, at a minimum, the developer should be required to do the following:

- Design and maintain the height of the Project's Independent Living building such that it is no taller than sight lines from our homes;
- Relocating the Project's maintenance facilities further away from Association premises to minimize noise and other disruptions; and

- Compensate the Association for its actual damages and added expenses attributable to the Project.

We hope you will hear our concerns and deny the General Plan Amendment and the Spieker Project.

Sincerely,

HEATHER FARMS HOMEOWNERS ASSOCIATION
On behalf of the Board of Directors c/o

COLLINS MANAGEMENT
ACMC Accredited Community Management Company
1855 Olympic Blvd, Suite 150, Walnut Creek, CA 94596 (by appt)
500 Alfred Nobel Drive, Suite 250, Hercules, CA 94547 (corporate office)
Tel (800) 557-5179 www.collins-mgmt.com

Heather Farms Homeowners Association

1501 Marchbanks Drive, Walnut Creek, CA 94598

October 25, 2022

County Planning Commission
30 Muir Road
Martinez, California 94553
planninghearing@dcd.cccounty.us
sean.tully@dcd.cccounty.us

Re: Spieker Senior Continuing Care Community Project / Final EIR
County File Nos. CDGP20-00001, CDRZ20-03255, CDDP20-03018, CDLP20-02038, CDMS20-00007

Commissioners:

As the Board of Directors of the Heather Farms Homeowners Association ("Association"), we write on behalf of the Association's 359 homes and more than 1,000 residents who will be adversely impacted by the neighboring Spieker Senior Continuing Care Community Project (the "Project").

The Project's adverse impacts were detailed at length in our prior letters and numerous e-mails and communications from Association members over the past year. On May 10, 2022, the Association submitted extensive comments to the Project's Draft Environmental Impact Report ("DEIR"). That correspondence noted significant inadequacies in the proposed mitigation plan and highlighted numerous other impacts the DEIR failed to address.

To our great disappointment, the Final Environmental Impact Report ("FEIR") fails to respond to these prior comments with any specificity and instead circumvents the purpose of environmental impact review altogether by deferring responses to a post-approval phase. In short, the FEIR suffers from the DEIR's same flaws and fails to offer a realistic mitigation plan for the Project's permanent overburdening of local traffic, alteration of the area's natural topography, construction disruptions over several years, and the destruction of the site's sensitive natural habitat.

By this letter, the Association reiterates its objections to the Project on these grounds and reasserts its steadfast opposition to any amendment to the County's General Plan to approve construction of the Project rather than single-family, medium density homes consistent with the existing General Plan and the site's present zoning. We strongly urge the Commission to consider these issues in evaluating the Project and ensure approval is withheld until sufficient environmental impact review is completed and a proper FEIR submitted.

The Association appreciates your attention and consideration.

Respectfully submitted,

HEATHER FARMS HOMEOWNERS ASSOCIATION
On behalf of the Board of Directors c/o

COLLINS MANAGEMENT
ACMC California Association of Community Managers — Accredited Community Management Company

1855 Olympic Blvd, Suite 150, Walnut Creek, CA 94596 (by appt)
500 Alfred Nobel Drive, Suite 250, Hercules, CA 94547 (corporate office)
Tel (800) 557-5179 www.collins-mgmt.com

O'TOOLE ROGERS

May 10, 2022

VIA HAND DELIVERY AND ELECTRONIC MAIL
planninghearing@dcd.cccounty.us
sean.tully@dcd.cccounty.us

County Planning Commission
30 Muir Road
Martinez, California 94553

Re: Comments/Objections to Spieker Senior Continuing Care Community Project County File Nos. CDGP20-00001, CDRZ20-03255, CDDP20-03018, CDLP20-02038, CDMS20-00007

Commissioners:

We represent the Heather Farms Homeowners Association ("Association") and write on behalf of its more than 1000 residents and 359 homes. This letter follows on the numerous emails and other comments residents have submitted in opposition to the Spieker Senior Continuing Care Community Project (the "Project") as presently planned.

As discussed in detail in the enclosed attachment the Association prepared, the DEIR fails to adequately address numerous CEQA impacts, summarized below. Moreover, the Project itself is grossly disproportionate to the site's General Plan Land Use Designation and the proposed General Plan Amendment is based on a Draft Environmental Impact Report ("DEIR") that inadequately addresses the severe and substantial impacts the Project will create, which include:

- Impacts on aesthetics and an incompatible land use
  - Visual impact from over-sized development
  - Out of proportion and incongruent land use compared to surrounding land uses
  - An erroneous finding that the Project site is in an "urban" environment and the proposal is an "infill" project despite the area's obviously rural character
- Impacts from abundant, overly large and imposing retaining walls
  - Visual impact
  - Encroachment by the proposed Kinross Drive extension's retaining walls on Association property
  - Encroachment on Association property during construction, in particular during the construction of the Kinross Drive extension

- The completed Project will be a walled-off compound with no walkable public access
    - The Project eliminates the possibility of a future trail crossing on the Project site connecting Heather Farm Park, the vista point of Mt. Diablo and the Walnut Creek channel – a trail contemplated by the City of Walnut Creek's City plan
- Impacts on Air Quality
    - Construction produced emissions
    - Permanent impact from idling cars awaiting entrance at the Project's guard shack and gates
- Impacts on and loss of wildlife and trees - complete devastation of the existing natural topography, flora and fauna
- Impacts from Noise - construction and ongoing permanent from Project operations
- Impacts from Vibration during lengthy construction requiring bedrock drilling
- Impacts from Traffic
    - Construction and permanent traffic impacts on Kinross Dr., Marchbanks Dr., Heather Dr. and Ygnacio Valley Rd.
    - Use of private portion of Kinross Dr. by construction and permanent traffic
- Impacts on Water Supply
- Kinross Dr. extension: across "Lot A," a parcel historically designated by the City of Walnut Creek to remain in perpetuity; and the impact on wetlands at this location

These impacts and deficiencies in the DEIR are addressed with specificity in the enclosed attachment.

We trust the information presented in this letter and its accompanying attachment reflects both the significant concerns the Association and its residents have regarding the Project, as well as serious deficiencies in the DEIR. The Association respectfully requests you consider these concerns carefully.

Should the Planning Commission require additional information, we and the Association stand ready to provide the same.

Very truly yours,

O'TOOLE ROGERS, LLP

Aaron A. Hayes
ahayes@otoolerogers.com

The Heather Farms Homeowner Association (HFHOA)
Comment letter on the DEIR for the Spieker Development Proposal

The HFHOA is a community of 359 homes through which a private portion of Kinross Dr. runs between Ygnacio Valley Rd. and Marchbanks Dr. Residences for the HFHOA are located on both sides of Marchbanks Drive. The entrance for the proposed development is planned for the end of Kinross Dr, adjacent to the public portion that runs north of Marchbanks Drive.

We have many concerns at how this massive proposal, extremely out-of-proportion to the General Plan Land Use Designation and one that requires a General Plan Amendment by the County, will impact our community and we feel that the DEIR has inadequately addressed the impacts. We feel there must be revision to the DEIR document if it is to truly inform decision makers.

General Summary, Impacts of Concern to HFHOA

Following this general summary are our CEQA specific comments on the Draft EIR.

- Impacts on aesthetics and incompatible land use.
  - Visual impact from over-sized development
  - Out of proportion and incongruent land use compared to surrounding land uses.
  - The notion that ours is an "urban" environment and the proposal is an "infill" project.
- Impacts from abundant, overly large and imposing retaining walls.
  - Visual impact
  - Encroachment by the Kinross Dr. extension's retaining walls on HFHOA property.
  - Encroachment on HFHOA property during construction, in particular during the construction of the Kinross Dr. extension.
- The creation of a walled-off compound with no walkable public access.
  - The possibility for a trail crossing on the property from Heather Farm Park to the vista point of Mt. Diablo to the Walnut Creek channel is eliminated. This trail possibility has been and is noted in the City of Walnut Creek planning documents.
- Impacts on Air Quality
  - Construction produced emissions.
  - Permanent impact from idling cars awaiting entrance at the development's guard shack and gates.
- Impacts on and loss of Wildlife and Trees. The complete devastation of the existing natural topography, flora and fauna.
- Impacts from Noise - Construction and permanent
- Impacts from Vibration due to a lengthy construction, ie. driving through bedrock
- Impacts from Traffic.
  - Construction and permanent traffic impacts on Kinross Dr., Marchbanks Dr, Heather Dr. and Ygnacio Valley Rd.
  - The use of the Private portion of Kinross Dr. by construction and permanent traffic.
- Impacts on Water Supply
- Kinross Dr. extension: across "Lot A", a parcel historically designated by the City of Walnut Creek to remain in perpetuity; and the impact on wetlands at this location.

CEQA Specific HFHOA DEIR comments:

Section 2.0 Project Information and Description

2.2. Project Description.

The DEIR indicates a maximum of 225 "full-time equivalent" employees. The DEIR does not identify the maximum number of full-time, part-time, and on-demand employees. Hence, all project transportation impact findings are called into question. Inaccurate or incomplete information such as this may cloud decision makers' and the public's understanding of the project and impede informed decision making.

The information must be reexamined and accurate information included in the DEIR.

2.2.6 Landscape and Open Space Discrepancies:

Project descriptions and arborist reports previously indicate the project will remove 403 trees, 353 of which are "protected" status. DEIR references to removed trees follow the language found in the developer's description which states that the project "requires a permit for the removal of 353 protected trees" with no mention of the actual number of ALL trees to be removed. This language serves to ignore and minimize the true environmental impact, which is 403 trees removed - *an additional* 50 trees. Per the Preliminary Arborist report prepared for Spieker Development and dated July 2020 by Bartlett Consulting there are 485 trees on the site. Of these, 82 trees are slated for preservation, leaving 403 trees to be removed.

The DEIR states (p85)"...81 suitable protected trees are to be preserved, including **all** of the major Valley Oaks." This is incorrect, as the arborist report states, many of the 353 "protected" trees that will be demolished are major Valley Oaks, in fact there are 300 Valley Oaks on the site. (See **Tree Removal** map here, Figure 5)

Impact BIO-5 To find that there is a "less than significant impact" in regard to the project conflicting with "local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance" is a contradictory finding. The DEIR notes (p66) that the trees are protected by Contra Costa County 816-6 Ordinance Code | Contra Costa County, CA | Municode Library yet does not find the impact to be significant for the removal of 353 protected status trees.

The DEIR must be revised to correct the discrepancy carried forth from the developer's project description and declare the total number of trees removed will be 403, which is a greater number, and also indicate which of those are "protected" trees (353). Clearer reasoning as to why this is a less than significant impact must be given.
This must be done to ensure accuracy to assist decision makers and the public in evaluating environmental effects of the proposal.

- The section states (p9) "...Trails would be placed…to provide access to the open space…" and "...an existing knoll will be recontoured but remain as open space with a proposed trail allowing access to the knoll.."
    - The definition of open space is not clearly defined as this is in the area of wetlands to which access should be restricted.
    - The existing knoll is shown as being graded down at least 10 ft. in height in the developer's submitted documents. This reduction in height should be noted here.

- It is unclear that "trails" will be inaccessible to the general public but rather for the use of the development's residents only. The development will be walled with a guard shack and this should be stated in this section so as to give a clear representation of who will be allowed access to the top.

To ensure accuracy and understanding and provide useful, complete information for decision makers and the public when evaluating environmental effects the above information must be included in the DEIR.

2.2.8

The DEIR states that "*the wetlands enhancements would be made within the area south of the project Entry, opposite the Independent Living Building, to replace habitat disturbed within the existing Kinross Drive right-of-way.*"

- The DEIR must expound on how this replacement for habitat eliminated by the proposed Kinross entrance will mitigate the aesthetic and environmental loss of the wetlands and the habitat currently present at the site.

Section 3.0 Environmental Setting, Impacts, and Mitigation

3.1 Aesthetics

3.1.1.1 Regulatory Framework

Senate Bill 743

(1). The project's aesthetic impacts must be considered significant. Senate Bill (SB) 743 is inaccurately cited as applying in the case of this development and may not be used to justify that aesthetic impacts need not be considered for the following reasons:

- As adamantly stressed by the developer themselves this proposal is NOT residential or mixed-use residential. "A CCRC or RCFE **is** a service arrangement that includes housing and **not** a mixed use project that includes residential housing." [1] Nor is it an employment center project. The *developer* has stated - *insisted* - it be defined as a "service arrangement", NOT residential.
- Additionally, the project is not located in an "infill" site (see next paragraph) within a transit priority area. The DEIR provides only a definition of a transit priority area (footnote 2, p31) but does not indicate how exactly the site fulfills the requirements to be defined as such. Exact quantification at such a conclusion must be included.

Decision makers and the public must be informed that the project's aesthetics must most certainly be considered and this should clearly be stated in the Draft EIR.

(2.) To describe this as an "infill" site within an "urban" area is an incorrect description of the site and such wording should be stricken from the DEIR document.

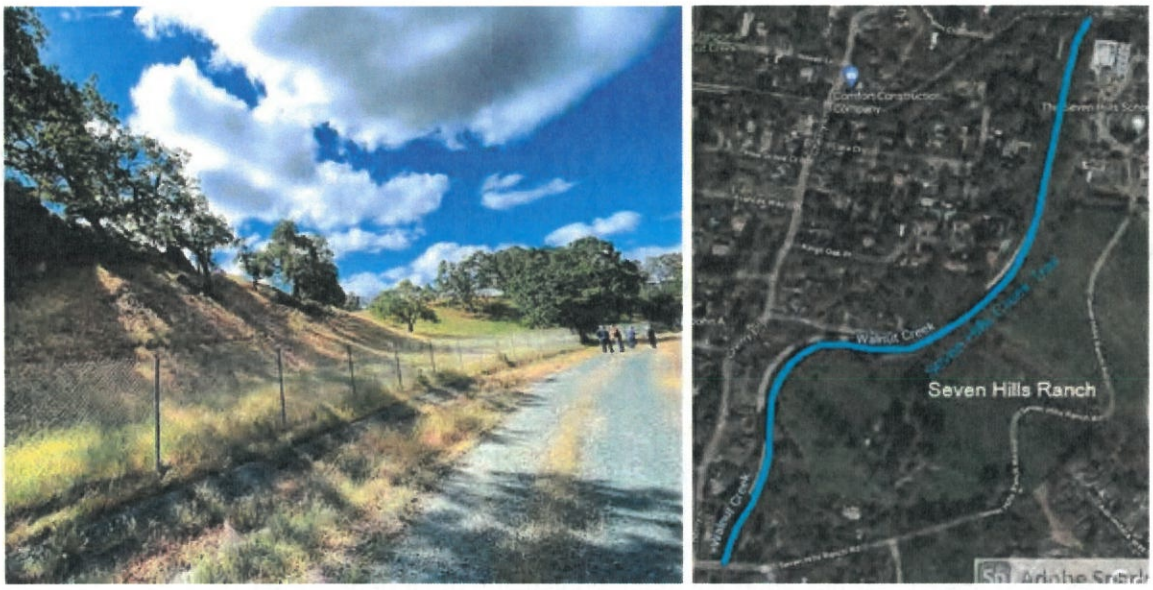
- The site does not fulfill the infill definition included in the DEIR itself (p 31 footnote 2) either by having been previously developed (no), or, if vacant (which for all intents and purposes Seven Hills Ranch is, having only a caretaker on the property) having 75% of its perimeter adjoining qualified urban uses (no) and located within a transit priority area (no).
  It predominantly adjoins a creek(W) (with an existing utility road along which a pedestrian nature trail has been proposed by the public, Seven Hills Creek Trail), empty parcel (SW), and Heather Farm Park (E & SE) all of which the DEIR must recognize as non-urban along with calculating and stating the percentage therein. In addition, the remaining

[1] Miller, Starr, Regalia 11/20/2020 response to CCCo Notice of Incomplete Application Submittal for Spieker Senior Senior Development Community Care and DEIR 2.2.1 Project Description

adjoining uses are neighborhoods of moderate density (SF-M) and a school. This is **not** a "lot" surrounded by "urban" development (see **AES-1** below in this comment document under Aesthetics **3.1.2.1**).

- In addition, the small percentage that is made up of surrounding residential is correctly described as "*consist(ing) of one- to two-story houses*" as stated in the DEIR (p 33), but incorrect when including "*and apartments*" to the statement. There are no apartments and to say so may give the impression that there are adjacent high-rises similar to the proposed project. There are no high-rises, nothing over 2-stories, anywhere near the vicinity of the property. The project desires to place a *550,000 square foot*, 3- and 4-story apartment building next to a decidedly non-urban and dissimilar residential area. As previously requested by HFHOA during the NOP comment period, the DEIR should indicate the distance to the nearest buildings of similar mass and height for purposes of studying the appropriateness of this proposal relative to the surrounding neighborhoods.

The DEIR gives decision makers and the public the false and misleading impression that this is an "infill" site surrounded by "urban" development and uses. The "infill" and "urban" labels should be deleted and replaced with proper descriptions in the DEIR as the purpose of the EIR is to fully and accurately inform.



Photos 1 Proposed Creek Trail on west side of Seven Hills Ranch, between the ranch and the creek.

(3) Senate Bill (SB) 743 ***does*** apply to the extent that "local governments retain their ability to regulate a project's aesthetic impacts outside of the CEQA process" as stated in SB743.

- This site, known as Seven Hills Ranch, while County property, is in the City of Walnut Creek's Sphere of Influence. It was the historical desire by the City and the City's residents that the property be included in their Open Space/ Hillside Protection Ordinance, Measure P, in 1991. While that goal was not achieved, the pursuit of it shows the recognition by the City, and its residents, that this is a property with natural features such as hillsides and a ridgeline which warrant protective measures whether that be full preservation or development in accordance with principles sensitive and respectful of its natural features.

  These facts can not be ignored in any discussion of SB 743 which the DEIR has sought to and should continue to include. SB 743 clearly indicates that there is a need to respect the local government's input on development proposals being considered and

this site's history with the City of Walnut Creek should be exposed in any DEIR wishing to be meaningful regarding the property and the proposal.

To fully inform decision makers and the public this information on the historical significance of the site to the City of Walnut Creek should clearly be stated in the DEIR when referencing SB 743.

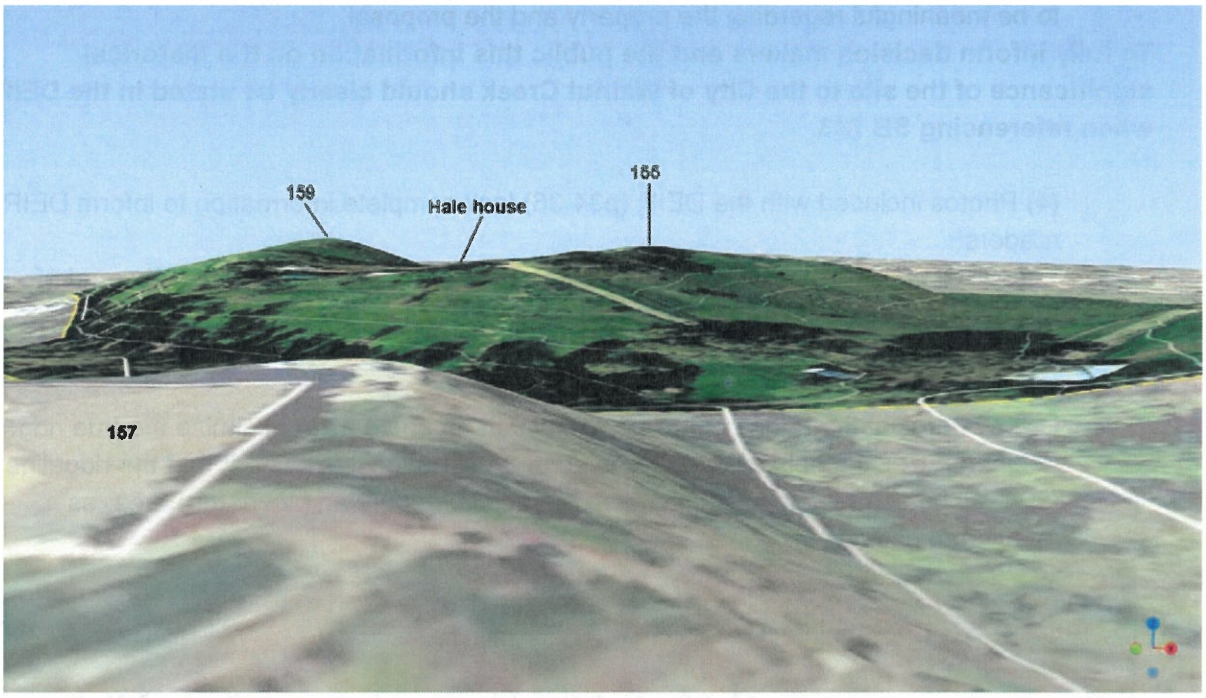
(4) Photos included with the DEIR (p34-36) lack complete information to inform DEIR readers.

- The close-up view of DEIR Photo 4 neglects to fully show the view from the end of Kinross Dr. (Photo 4) of the current existing oaks which will be destroyed or likely experience construction trauma and root restriction (retaining walls) such that they will not survive.
- DEIR Photos of the ridgeline are taken at such an angle as to minimize the true ridgeline height (DEIR Conceptual Photo Simulation 2), although it is evident that the ridgeline view will be completely obscured from the adjoining park and its nature area, as mentioned above.

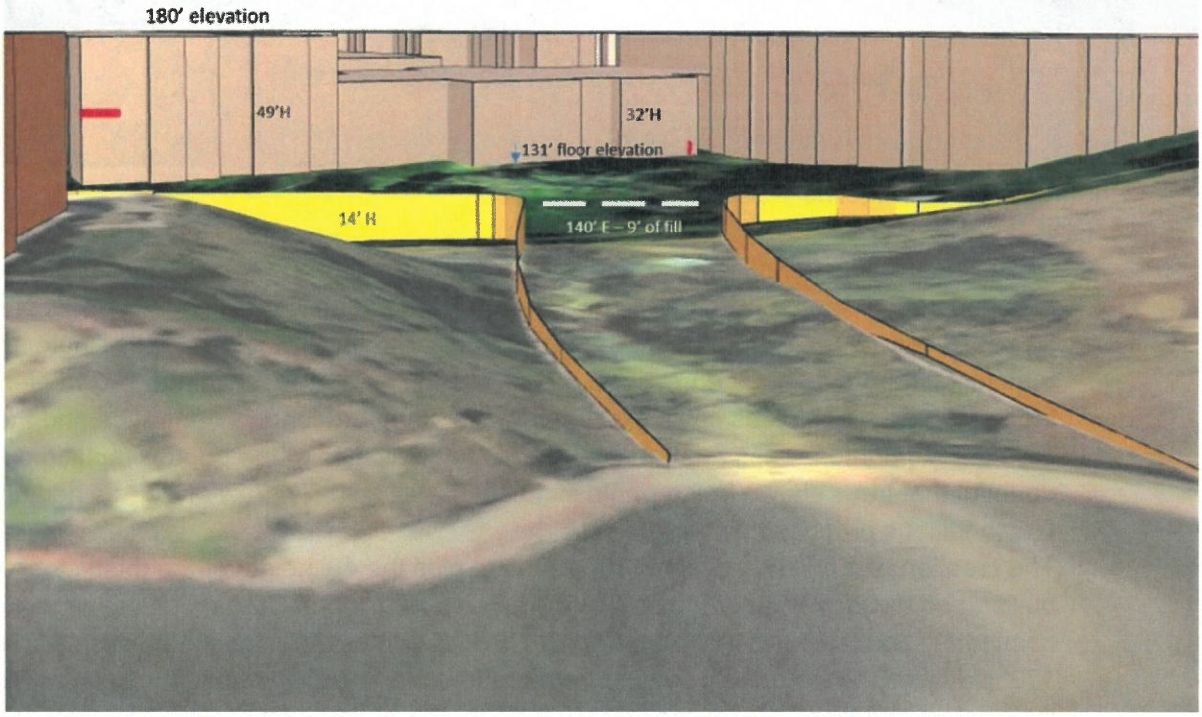
Photos 2 Current ridgeline views from Nature Trail

- DEIR Photo views from Kinross Dr. are questionable and proper visuals must be re-requested for the DEIR to be informative. The vegetation is imaginative yet not stated as so. To show trees growing over the 49 foot height of the building in DEIR Photo Simulation Figure 3.1-2 is unrealistic, just as are the large tree massings shown along the roadway. In fact, plans call for retaining walls along the roadway entrance and the area of the phantom trees and those walls are not indicated in the photo simulations. It is doubtful that trees shown in the photo simulations will actually grow or be retained under the conditions proposed by the project.
  The creation of a building pad at 130' elevation plus the 49' height of the multi-story building on the west side of the property creates a total top-of-building elevation of 179', completely eradicating vistas from nearby HFHOA homes, the highest of which sits at 170' elevation. The proposal does not adhere to either the City or County General Plan; the photo simulations do not realistically indicate the true impact of the proposal.

These photos and photo simulations must be re-requested, asking for more accurate depictions of the current and proposed scenarios. It is essential that decision makers understand clearly the visual impacts of this proposed project which is in actuality out of place with and jarringly impactful on its surroundings.

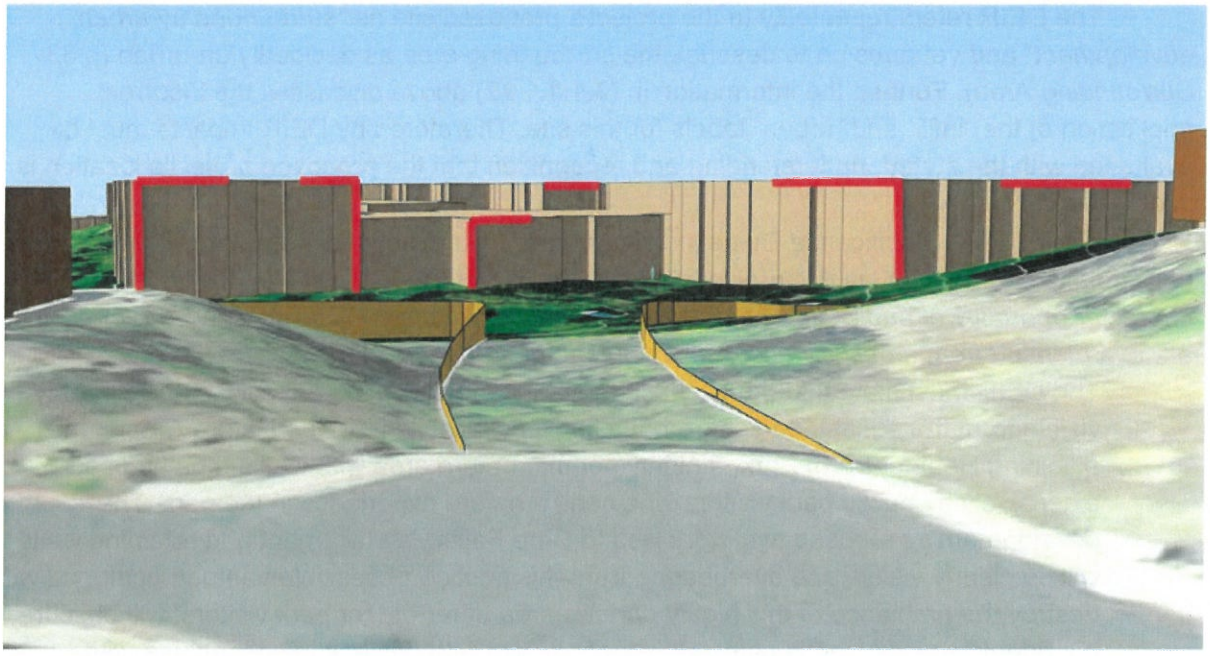


Before - Current GIS graphic generated view end of Kinross Drive

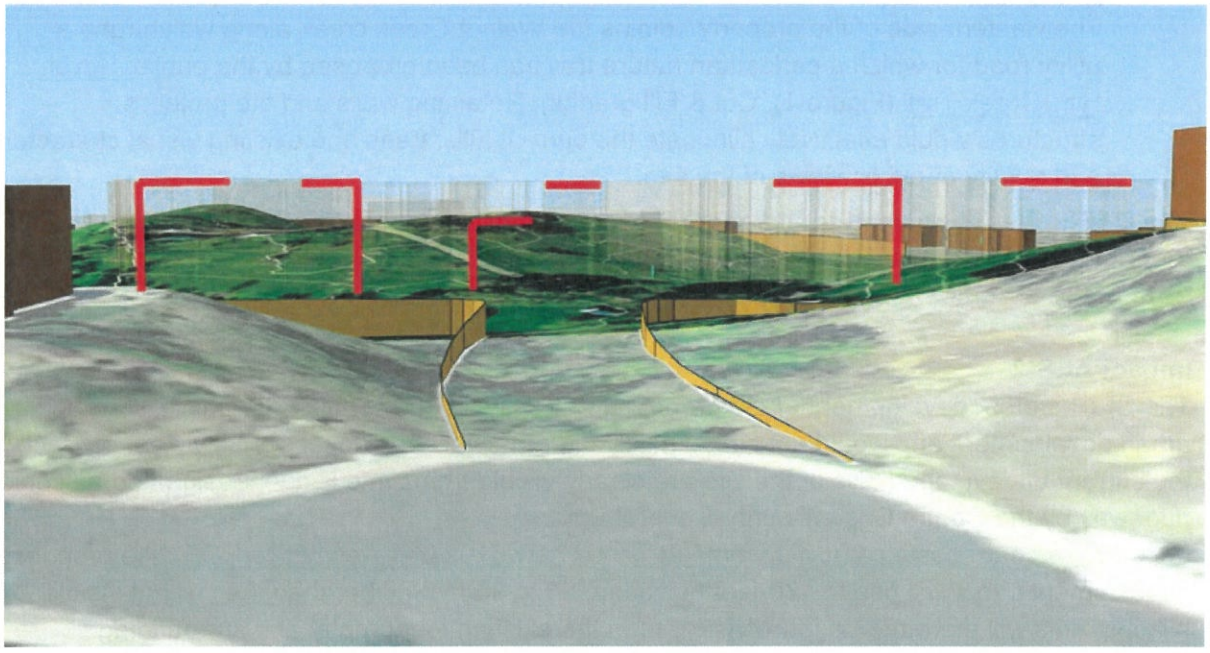


After - GIS View from Kinross Dr. if proposed development allowed to proceed. Surrounding community buildings average 25' height.

Photos 3



Transparent view of proposed IL building view from Kinross Dr.
Hills will be leveled down to create platform for proposed buildings.



Photos 4

3.1.2.1

Impact AES-1

The DEIR refers repeatedly to the project's proposed site as "*surrounded by urban development*" and yet goes on to describe the surrounding area as decidedly un-urban (p 33 *Surrounding Area*). Further, the information in (**3.1.1.1 #2**) above discusses the incorrect application of the "infill" and "urban" labels for this site. Therefore any DEIR impacts must be evaluated with the stated understanding and recognition that the proposed project's location is in a non-urbanized area.

The CEQA Significance Guideline for Aesthetics item I.c. asks whether the project (in a non-urbanized area such as this project is) would "*substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point).*

The DEIR must state that the scenic ridgeline of the proposed project's site is not only visible from the equestrian center, but also clearly visible from the Nature Area of the adjoining Heather Farm Park; a highly popular nature area with walking paths used extensively by public park visitors who seek a nature experience in the park. The development's proposed two-story Health Care Facility's placement and retaining walls will be clearly visible and overbearing from this publicly accessible vantage point and will destroy the ambiance of this highly popular area of retreat for park visitors, will obscure the ridgeline views and is completely incongruent with this adjoining land use. (See previous ridgeline Photos 2, pg 5 here)

Further, the ridgeline is protected by Contra Costa County ordinance 82-1.016 - Hillside protection.

The western side of the property adjoins *the* Walnut Creek creek along which runs a utility road for which a pedestrian nature trail has been proposed by the public, Seven Hills Creek Trail (Figure 1). Cut & Fill grading, Retaining walls and the project's structures would effectively eliminate the current hills, trees and existing visual character and quality of public views of the site.

The DEIR must be revised to indicate that the project, proposed for the non-urbanized location, would degrade public views of the site as described here and therefore has a Potentially Significant Impact in regard to Aesthetics item Ic.

Impact AES-2

The DEIR states "development of the proposed CCRC would be consistent with the surrounding urban development and would not substantially alter the view from local scenic vistas." In fact, the current undeveloped hills of the site are clearly visible from Lime Ridge, designated a scenic ridgeway by the Contra Costa County General Plan.
https://www.contracosta.ca.gov/DocumentCenter/View/61024/31-Aesthetics-PDF The proposed development's roof will rise to 180 feet elevation, 20 to 25 feet higher than the current visible hilltops. This will therefore be more visible than the existing topography and surrounding development, which the report inaccurately states is "urban", as noted in **3.1.1.1** (#2) in this comment document.)

The DEIR must re-evaluate and strive to accurately depict the aesthetic impacts and surrounding environs in order to provide decision makers and the public proper information.

3.3 Air Quality

3.3.1.1 Background Information - Sensitive Receptors

The DEIR fails to include the adjacent Heather Farm Park in any of its discussion of Air Quality impacts. This is a substantial oversight as the park gets over 1.5 million visitors annually and due to its shared eastern boundary with the proposed project site is subject to impacts from anything that happens on the project site. Runners, children and the elderly all use pathways and park spaces close enough to the project site to be impacted by construction's "fugitive dust" from the site.

In addition, the DEIR fails to address the impact on existing nearby residences from vehicles lined up and idling at the proposed guard shack entrance, while they wait for approval to enter and/or for the gates to open. It was requested in our NOP comment that this item be included in the DEIR.

To fully inform decision makers and the public, Heather Farm Park must be included in this section as an adjacent impacted area with sensitive receptors to the proposal's construction activities.

Impact from emissions due to vehicles idling as they await security checks and/or gate access must be calculated and included in the DEIR.

MMAir-1.1

The mitigation shown under i) "..average wind speeds exceed 20 mph..." while indicated as a best practice is inadequate for a site next to an elementary school with sensitive receptors. The Beaufort Wind Scale indicates that wind speed of 13-18mph "raises dust, leaves and paper".

The suggested mitigation of 20 mph as the point that all excavation, grading and/or demolition activities shall be suspended is inadequate for this site and must be adjusted downward to reduce the impact, in particular due to the extreme grading activities which will take place, to a safe level for nearby sensitive receptors in the park, the school, and the nearby residents.

Impact AIR-3

This section makes no reference to the location of Heather Farm Park, directly adjacent to the east side of the proposal site. Sensitive receptors (the public of all ages) come and go through the area, they are potential recipients of the construction pollution which would be generated by the project's lengthy and intense building process, in particular the grading activities, which raise dust, and the immense number of construction vehicles, and their emissions, to be employed over the entire course of construction. The horse arena and the nature area are particularly susceptible to impact and should not be ignored in the DEIR. 1.5 million people visit Heather Farm Park annually. Runners, children and the elderly all use pathways and park spaces close enough to the project site to be impacted by the extended construction time. The impact on them from this proposal should not be ignored.

To fully inform decision makers and the public, Heather Farm Park must be included in this section as an impacted area by all construction activities for this proposal.

3.4 Biological Resources

3.4.1.1 Regulatory Framework

The DEIR clearly outlines Federal and State protections for the Migratory Bird Treaty Act and Sensitive Habitat Regulations for wetland and riparian habitats (p65,66) and also the Contra Costa

County General Plan policies in regard to the protection and preservation of trees, significant ecological resource areas, hillsides, ridgelines, wetlands, and riparian habitat (p67-68).

3.4.2.1 Project Impacts
Impact BIO-1:
The project calls for the removal of 403 trees, including 353 of Contra Costa County's local "Protected Status" Oaks. The DEIR makes no mention of this special status species, as defined in the County's Tree Protection and Preservation Ordinance Chapter 816-6, (Ords. 94-59, 94-22).

As requested in our NOP comment, to make the DEIR a useful tool for understanding it must reference **both** City and County ordinances and policies for the site. While under County Jurisdiction, the property falls within the "Sphere of Influence" of the City of Walnut Creek. Additionally, the trees proposed to be removed from the end of Kinross Dr. are in the City and should be evaluated per City ordinance, Chapter 3-8 PRESERVATION OF TREES

The arborist report is lacking and contradictory in significant information; tree numbers and quantity are inconsistent.

Heather Farm Park is an eBird "Hotspot", a known site for an over-abundance of bird life. The connectivity for native and migratory bird species between the Park and the proposed development site is well established. No mention is made in the DEIR of this significant habitat connection and the reliance of the native and migratory bird population on the trees of Seven Hills Ranch.
If the DEIR is to serve as an authentic tool to inform decision makers and the public it must address the significant environmental impact from the removal of the 409 trees, 353 of them protected, along with the recognition of the interconnectivity of the site with Heather Farm Park's eBird Hotspot designation.
An independent peer review arborist report must be conducted.

MM BIO-3.1
Until actual mitigation plans are in place and approved by the USACE and the RWQCB, project approval by the County should not take place. Decision makers must understand that mitigation measures suggested may be inadequate and thereby the plan for an entrance road over a federally recognized and designated "wetlands" at the end of Kinross Dr, which will eliminate those wetlands, is not yet approved and the proposal must not proceed without approval.
The DEIR must note that until the approved plans for wetland impact is approved the project may not proceed.

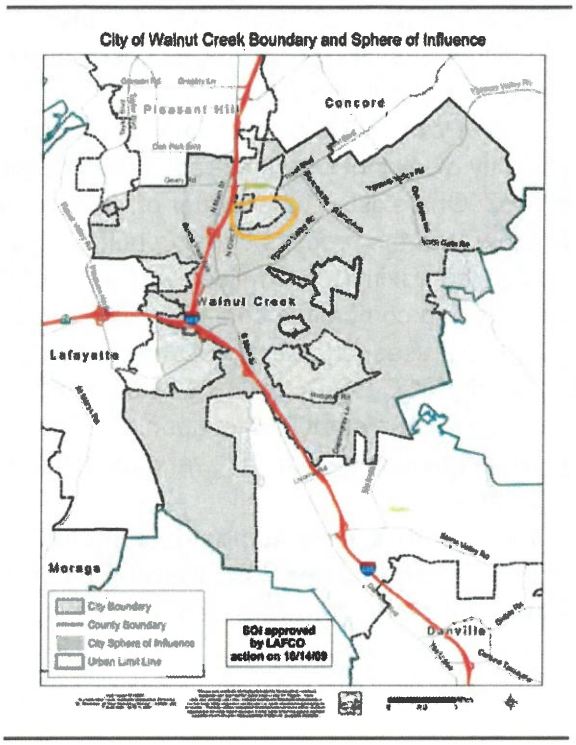
3.11 Land Use Planning

3.11.1.2 Existing Conditions

- The DEIR states "The A-2 zoning is inconsistent with SM General Plan land use designation. As the General Plan is controlling, the site is considered residential." It must be noted here that the proposal, as stated above in comments for **3.1.1.1** (#1) does not wish to be considered residential but rather a "service arrangement".

There are discrepancies in the DEIR as to when the residential use is applied as a justification for certain policies and when "non-residential" is used as justification.
The DEIR must avoid the turnabout in project description for the purpose of applying different land use policies. The project must be evaluated either as residential, a mixed-use

residential, or a service arrangement, but the designations may not be used interchangeably.



- The proposal property is located in the City of Walnut Creek's Sphere of Influence (map) and is approximately 50% bordered by properties in the City of Walnut Creek's jurisdiction.
The City's policies and ordinances must be highlighted in any informative discussion of development of the property and the environmental impacts therein, yet the information is absent from the DEIR document. In regard to the environment, the City of Walnut Creek's General Plan's stated purpose is that it "*preserves and manages the integrity of the natural environment and vistas, including vistas of and from the hills, and protects and expands access to natural resources, including the open spaces, trails, parks, and creeks that surround and connect the community.*"
The property is currently designated by the City as SF-very low and as noted above in section **3.1.1.1** (#3) was historically sought after to become open space.

The DEIR must include explanation of the City of Walnut Creek's influence and impact regarding the proposed site. Decision makers and the public must understand the entire picture of the existing property and its surroundings to adequately review this development.

Impact LU-2 (p142)
This impact as stated cites selective portions of General Plan policies. If taken in their entirety the policies cited clearly indicate the development proposal is not a candidate for the proposed site.

- It assumes the General Plan Amendment to Congregate Care land use designation will occur. Currently the proposal is in conflict with the SM land use designation. There is no guarantee the County decision makers will approve the **extreme leap in density** from approximately 120 units (net, after roadway, etc allowances. Gross is from 30 to 147 units) for the site to 450 units. To ask for almost 4 times the allowable density is a huge leap and out-of-sync with the surroundings. It is not and should not be a shoo-in.
- The DEIR claims the project site is designated for future urban uses and considered "urban infill", given the surrounding development. As noted in the comment above in this document for section **3.1.1.1** (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.
- While citing the County's General Plan policy 3-8 the DEIR does not properly state the policy, which says "Proposals that would prematurely extend development into areas lacking requisite services facilities and infrastructure shall be opposed." The 30-acre site is vacant with the exception of one house, now occupied by a caretaker. It does not have and has not had any infrastructure of the type necessary for this proposed scale of

development. This development proposal should seek out a re-purposed site to meet with the parameters of this policy.

The site requires a new road extension, which can only be achieved through the dedication of a piece of property (Lot A) in Walnut Creek which was historically put in place to precisely avoid a through road in that location. The citizens of Walnut Creek are opposed to the dedication of Lot A and this should be so noted in the DEIR.

To say that the proposal supports CCCo GP Policy 3-23 "A diversity of living options…while ensuring community compatibility.." The City of Walnut Creek already offers several options for this model of senior housing, the CCRC. One exists at the corner of Ygnacio Valley Rd and Oak Grove Rd (Viamonte), and another is in the process of being built for the Shadelands area, both locations being only approximately 2 miles away. Both of *these* locations are indeed surrounded by suitable and compatible commercial/business land uses, unlike the incompatible surrounding land uses to the proposed project site.

- It is disingenuous for the DEIR to cite partially CCC GP Policy 3-28 by stating "the project would not result in an unmitigated adverse environmental impact upon the environment…" (a questionable statement on its own) but neglecting to include "…and upon the existing community". This omission does not fully inform.

The DEIR must be as transparent, precise and as informative as possible, including all facts which may be relevant to decision makers and the public. For this reason the Land Use Planning section needs revisions and further inclusions as noted above.

3.13 Noise

MM NOI-1.1

- While the DEIR has produced much information and mitigation requirements there is no doubt that the lengthy construction phase for the proposal will be very difficult to mitigate as suggested.
    - The incessant back-up beeping from multiple construction vehicles at once has not been included in the document. In addition there is no mention of the impact from the back-up beeping from numerous construction vehicles at once. With the City of Walnut Creek planning for construction of a new pool facility very close by and adding to the cacophony of construction engines, grading and dumping activities and back-up beeping, the noise impact will be much greater than any measure included in the report.

The DEIR must note that additional construction by the City of Walnut Creek very likely will be taking place nearby and concurrently and this information must be calculated and the noise impact accurately assessed in the DEIR.

- If a *Construction Noise Management Plan* is to be prepared as mandated, the proposed entity that will confirm the plan's implementation and oversight should be included in the DEIR.
- The project would result in the generation of excessive groundborne vibration. Bedrock exists across the site, and close to existing residences. The DEIR must address how this bedrock will be broken up and how that will affect the nearby homes both short term and long term. Unlike soil, rock is too hard to simply excavate and has to be removed by drilling, hammering, pneumatic hammers or by blasting, none of which are mentioned in the DEIR. Without this information the impact can not be addressed.

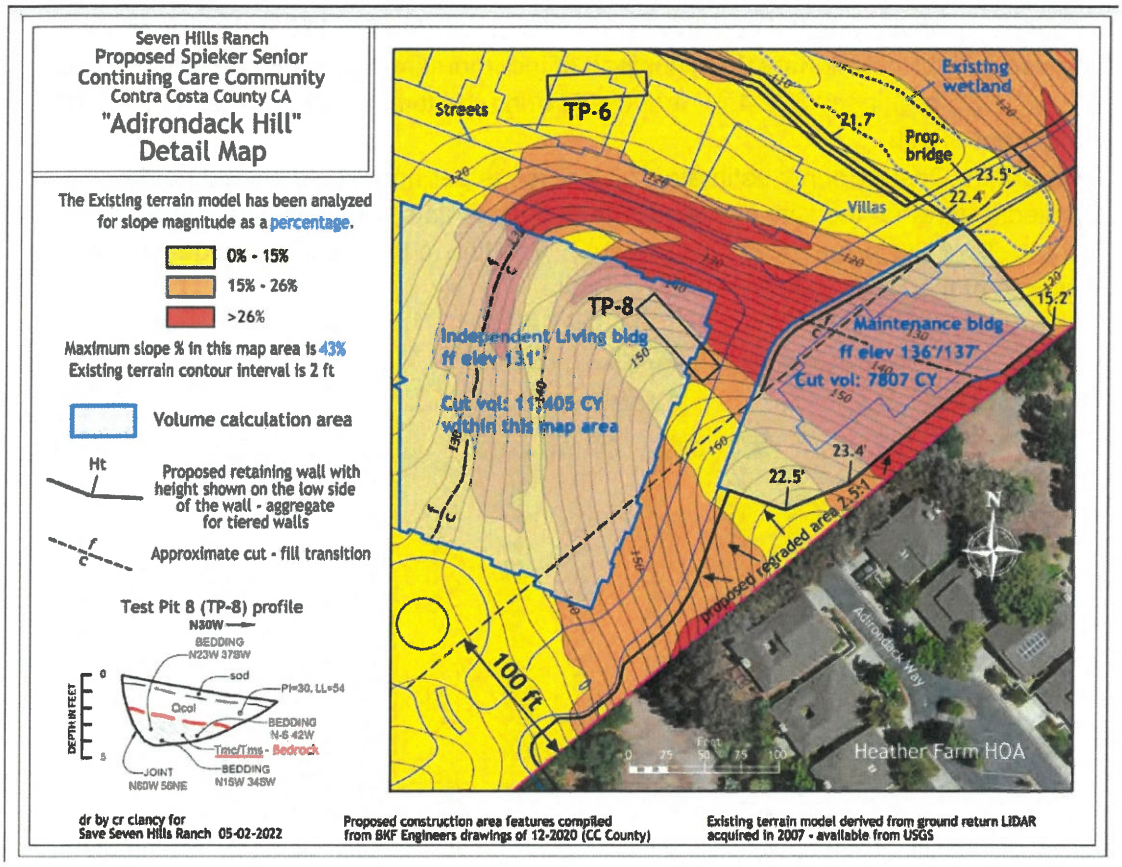


Figure 1 This map illustrates the extreme grading required for the proposed project's maintenance building and partially for the IL building. Grading will involve bedrock removal in extremely close proximity to existing residences.

- The DEIR must confirm that the tennis court will be used for tennis and not Pickleball. Pickleball is a noisy sport and will have noise impact if allowed on the proposed tennis courts. This must be written in any EIR should the proposal be allowed to proceed. Pickleball courts are available at many locations in the City of Walnut Creek and the County so the necessity of maintaining some on site is not necessary and should be prohibited due to the noise impact.

Decision makers and the public can not assess the proposal unless the DEIR :

- **acknowledges nearby construction plans are likely to occur concurrently within the project's construction timeline.**
- **states the authority that will manage monitoring and enforcing mitigation measures.**
- **reveals the method of and noise/vibration impacts from shattering bedrock.**
- **limits the sport court activity to Tennis, not Pickleball or any other sport.**

3.14 Population and Housing

3.14.2.1

Impact POP-1

The impact does apply and has significant impact for the following two reasons:

- (1) Per the calculations and corrected assumptions shown below, the total residents under the current SM Land Use Designation would be 295. The total for the CCRC proposal equals 558. Therefore, the proposal **does** induce population growth directly beyond what the current land use designation would induce; it very nearly doubles it. The DEIR calculation is faulty and needs to be corrected. The number of units and the number of

individuals per household used in calculations are both unsubstantiated numbers, throwing off the entire conclusion.

- The designation of SM applied to the property would yield, once roadways, openspace, environmental constraints, etc are accounted for, **120 units.** IF space allowed to *add* inclusionary units (instead of incorporating them into the 120 units) at 15% (CCCo ordinance 822-4.4), that would bring the total to **138**. (Versus the DEIR statement of 166).
- The Contra Costa County estimate of **2.9** persons per household should not be applied, but rather the City of Walnut Creek census data, which shows averages **2.13** to **2.14 per household** (US Census). The link to this data is included in the footnote of the DEIR (p207).

Table 2: E-5 City/County Population and Housing Estimates, 1/1/2021

	POPULATION			HOUSING UNITS							
County / City	Total	Household	Group Quarters	Total	Single Detached	Single Attached	Two to Four	Five Plus	Mobile Homes	Occupied	Vacancy Rate	Persons per Household
Antioch	115,142	114,412	730	36,946	28,719	1,734	1,492	4,562	408	35,739	3.3%	3.20
Brentwood	64,224	64,063	161	21,467	18,974	688	392	1,055	357	20,912	2.6%	3.06
Clayton	10,964	10,953	11	4,165	3,410	548	109	100	0	4,080	2.0%	2.68
Concord	124,755	123,216	1,539	47,819	27,572	3,225	3,474	11,581	1,767	45,821	3.8%	2.69
Danville	43,373	43,106	267	16,126	12,213	2,901	165	817	31	15,634	3.1%	2.76
El Cerrito	25,671	25,569	102	11,018	7,492	373	1,403	1,690	59	10,446	5.2%	2.45
Hercules	26,357	26,257	80	9,337	5,995	1,400	585	1,344	13	9,038	3.2%	2.91
Lafayette	25,217	25,108	109	10,013	7,894	307	683	1,320	8	9,494	5.2%	2.64
Martinez	37,195	36,103	1,092	16,368	9,842	2,236	1,339	2,136	15	14,843	3.4%	2.43
Moraga	17,206	15,311	1,895	5,948	3,956	686	307	799	0	5,713	4.0%	2.68
Oakley	43,627	43,514	113	13,558	12,348	239	131	459	381	13,220	2.5%	3.29
Orinda	19,496	19,449	47	7,274	6,747	186	11	330	0	6,997	3.8%	2.78
Pinole	18,819	18,744	75	7,112	5,016	511	495	954	36	6,866	3.5%	2.73
Pittsburg	75,788	75,468	320	24,111	16,982	1,348	1,274	3,742	765	23,393	3.0%	3.23
Pleasant Hill	34,335	33,826	509	14,479	8,678	1,574	1,019	3,128	83	13,943	3.7%	2.43
Richmond	114,643	113,225	1,418	40,468	22,445	2,409	6,418	9,032	164	38,606	4.6%	2.93
San Pablo	31,793	31,308	485	9,949	4,534	518	1,617	2,879	401	9,487	4.6%	3.30
San Ramon	84,226	84,093	133	29,294	18,393	3,058	1,141	6,665	37	28,493	2.7%	2.95
Walnut Creek	70,566	69,273	1,293	34,526	12,856	5,077	4,446	12,346	0	32,505	5.9%	2.13
Balance Of County	177,927	177,020	907	66,434	49,876	3,102	2,778	7,792	2,886	63,037	5.1%	2.81
Incorporated	983,397	973,008	10,389	358,778	233,464	29,316	26,501	64,967	4,525	345,230	3.8%	2.82

ESCountyState2020 ESCityCounty2020 ESCountyState2021 ESCityCounty2021 ESCountyState202...

California Department of Finance, "E-5 Population and Housing Estimates for Cities, Counties and the State

- (2) The proposal will induce substantial unplanned population growth due to the ceding of "Lot A" by the City of Walnut Creek to the developer, thereby removing an obstacle (p166) to population growth which was expressly put in place to avoid the impacts its removal would bring.
  - The Kinross Dr extension would require action by the City of Walnut Creek to cede "Lot A", a 1'x50' strip of land, to the new property owner. The express Public Purpose of this lot's purchase by the City of Walnut Creek in 1970 was that "*Kinross Drive shall not be connected to Seven Hills Ranch*" as stated in the General Plan at the time. It is clear that the City did not want Kinross Drive to become a through road, an intention now carried forward and implied in the more recent and current City of Walnut Creek General Plans.

3.17 Transportation

3.17.1.1 Regulatory Framework

(p180) Contra Costa County General Plan

The Draft EIR does not fully reveal that the proposal violates the Contra Costa County General Plan, Policy 5-31: "*Roads developed in hilly areas shall minimize disturbance of the slope and natural features of the land.*"

The project proposes massive excavation, to permanently flatten the entire site with the exception of one hill, eliminate natural slopes and natural features of the land, and to destroy 400+ trees, 350 of which are protected, and all wildlife. The proposal indicates no respect for the environment, no respect for the natural habitat, no respect for all wildlife. The proposed

entrance crosses over an existing wetlands and includes retaining walls due to grading in the area of the wetlands and adjacent hills.
To provide complete information the DEIR must revisit and clearly show the impacts and that the proposal IS NOT in accordance with the Contra Costa General Plan and the City of Walnut Creek with regard to slope and natural feature disturbance.

3.17.2.1 Project Impacts
Impact TRN-1
The DEIR is incorrect to state that "the project does not conflict with a ....plan...addressing the circulation system, including...bicycle lanes and pedestrian facilities."

- The Bicycle Facilities Map in the Transportation Element (p5-9) of the Walnut Creek General Plan in addition to the City of Walnut Creek Bicycle Plan 2011 (p47) include a proposed bicycle and pedestrian route following the extension of Seven Hills Ranch Road across the entire SHR site, which would logically link the Homestead and Walnut Boulevard neighborhoods to the southwest to Heather Farm Park to the northeast.

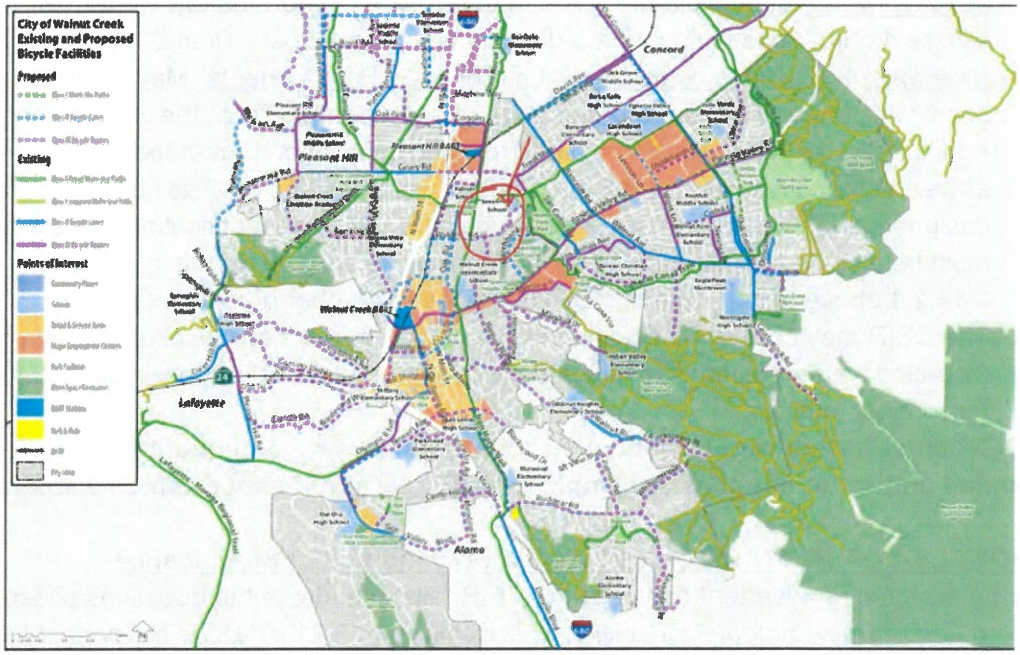


Figure 2 City of Walnut Creek Bicycle Plan 2011

- In the City of Walnut Creek Planning Commission Minutes of Oct 28, 2004 (p3) it is stated that "a public trail would be established to Seven Hills Ranch Road".

3.17.3 Intersection LOS, Appendix P, Fig 2 to 8.
The DEIR lists six intersections, but shows only four of them in Figures 2 to 8.This omission hides project impacts from public view.

3.17.3 Project Trip Generation.
Table 3.17-2 Weekday Project Vehicle Trip Generation
The DEIR documents proposed mixed land uses, but does not account for traffic generated by all land use components. The trip generation is flawed and must be properly restated.

Appendix P, Figures 6 and 7 Intersection Delay / LOS
The DEIR reports findings on vehicle delays and levels of service, but does not address peak hour queuing impacts. A longer queue requires a longer median left-turn lane, and also longer

green time. The traffic analysis is incomplete and inadequate and must be corrected and restated.

Appendix P Figure 4 Project Trip Distribution.
DEIR shows project traffic on Kinross Drive which is signed 15 mph and "PRIVATE STREETS". This private street has multiple stop signs and speed bumps. Project traffic should never be directed to use Kinross Drive. The traffic distribution is flawed and must be corrected and restated.

The above items must be re-evaluated with an eye to providing objective and thorough traffic information to the decision makers and public who must rely on the DEIR for accuracy.

3.19 Utilities and Service Systems

Impact UTL-2

- The DEIR reports that "CCWD will be able to meet demand during average, single-dry, and up to two years of multiple-dry years through 2045". Unfortunately, we are currently "in a severe drought extending into a 3rd summer" (Contra Costa Times, "California drought: New water restrictions coming to 1.4 million East Bay residents" May 3, 2022) It does not seem wise to proceed with a project that so significantly affects the water supply.
- Additionally, the DEIR states, without providing calculation or methodology as to how it has arrived at the conclusion, that if the property were developed at its current SM land use designation the water demand would remain the same. Quantification of these conclusions must be included in the DEIR to verify and provide support for this conclusion. (See section **3.14.2.1** above to calculate current vs. proposed number of residents.)
- The DEIR may consider including the suggestion that the proposal utilize "purple pipe" (recycled water) solutions to mitigate the taxing of the water supply system before allowing this project to proceed.

The DEIR must further report that construction will not proceed until the current drought has ended and water supplies are ample for this new significant drain on water resources.

ADDITIONAL CEQA ITEM: CEQA 3.21 Mandatory Findings of Significance

Either by design or inadvertent omission the DEIR fails to address the questions posed in the standard *CEQA Environmental Checklist*. Specifically item 3.21 a) "*Does the project have the potential to substantially degrade the quality of the environment…?*"
The project will alter very nearly the entire existing natural environment and landscape of the site. **Very, very few living creatures or natural features will remain.** It is a devastation of the existing topography, flora and fauna. It will be irrevocably and detrimentally altered:

- The grading required will level all the hills with the exception of one and fill in the valleys on the site. It will destroy the ridgeline which should be protected under the ordinances of the City of Walnut Creek, in which the property lies. Per the Spieker Development Project Description "*Overall cut volume is expected to be approximately 225,000 cubic yards, with roughly 150,000 CY of fill, resulting in the potential for export of up to 75,000 CY.*" This is a massive amount of earth movement. (See below, **Cut and Fill** map Figure 3) If completed the footprint of the project's IL building is larger than the footprint of the SF Warriors Chase Center Arena. (See Figure 4)
- 400+ trees will be removed from the site, 353 of which are "protected trees". (See below, **Tree Removal** map Figure 5) Furthermore, the excessive need for immense retaining walls brings into question whether the remaining 82 retained trees can survive. (See below **Retaining Walls** map Figure 6)

- The extensive and intrusive grading and need for encroaching retaining walls threatens the wetlands found on and near the property. Wetlands are a scarce resource and subject to mandated protective measures. See map and 3D below (Figures 7,8). The map indicates how close the project limits are to the west side of the central wetland, especially to the south end where the bridge is proposed. Damage from grading and construction equipment would be extensive; Kinross and the southern wetlands destroyed.

The project poses a huge, completely altering <u>impact to the environment</u>. The overall impact MUST be addressed and the DEIR MUST include this information and a *Mandatory Findings of Significance* section. To omit this section does not give decision makers and the public a true picture of this project's impacts.

Figure 3 **Cut & Fill.** This map indicates the extreme amount of grading and landscape altering which will be required should the project be allowed to proceed. With the exception of one, the hills will be leveled. 5.1.22

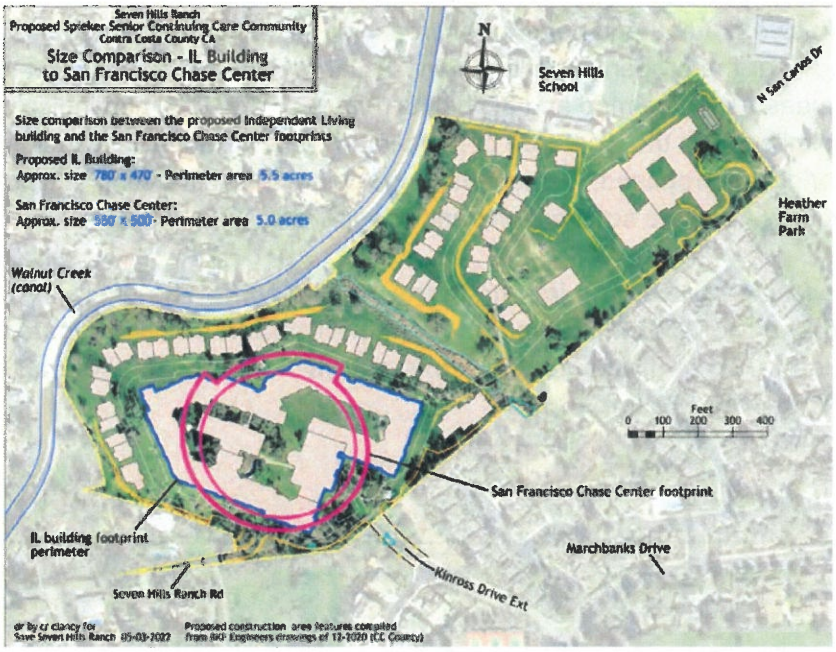


Figure 4
This figure shows the comparison between the footprint of the SF Warriors Chase Center Arena (purple) and the IL building (blue outline) of the proposed development.

The Chase Center footprint is superimposed over the proposal footprint.

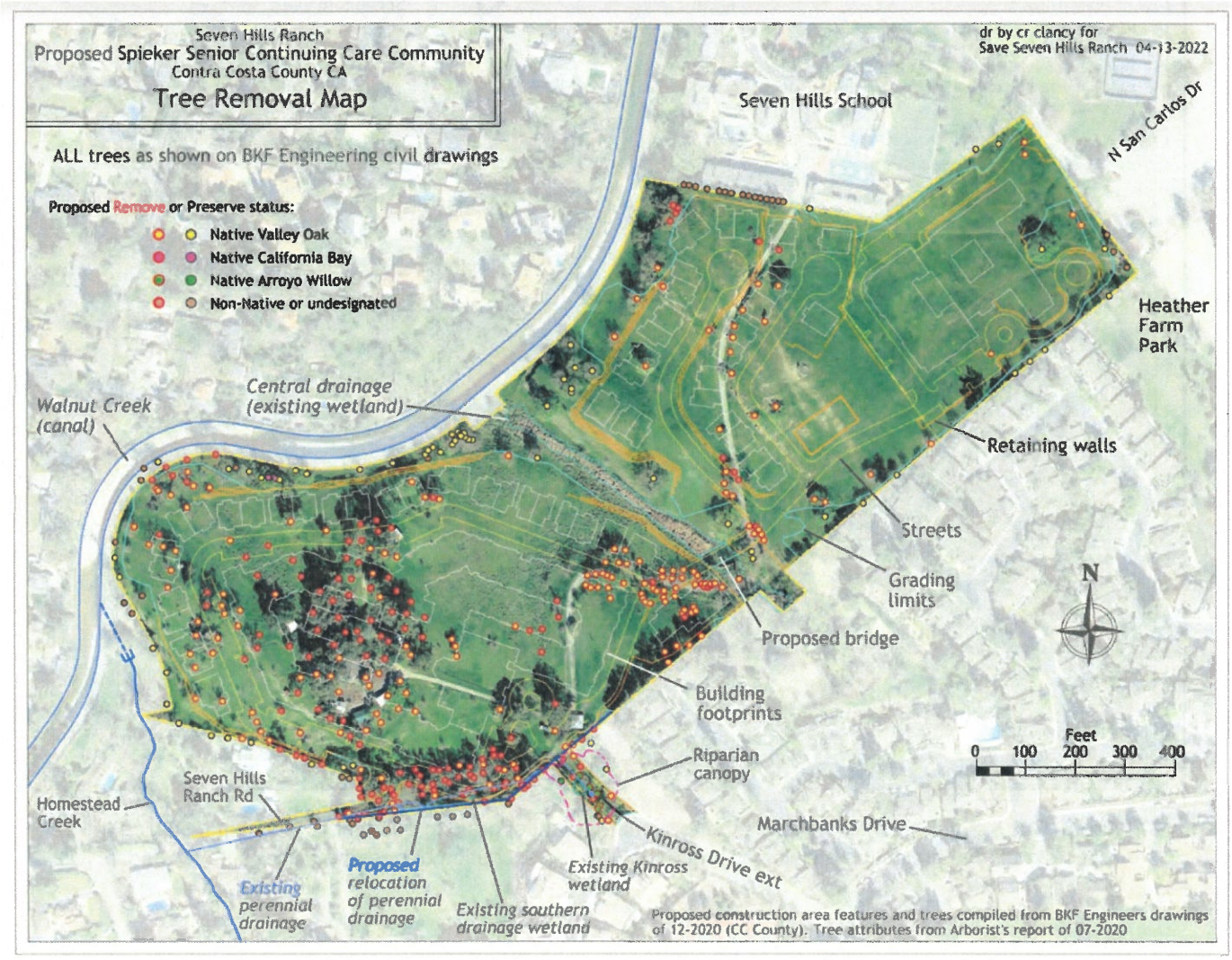


Figure 5 **Tree Removal** map . This map indicates the 400 trees to be removed should this project proceed, including the 350 "protected" status trees. Native trees are indicated.

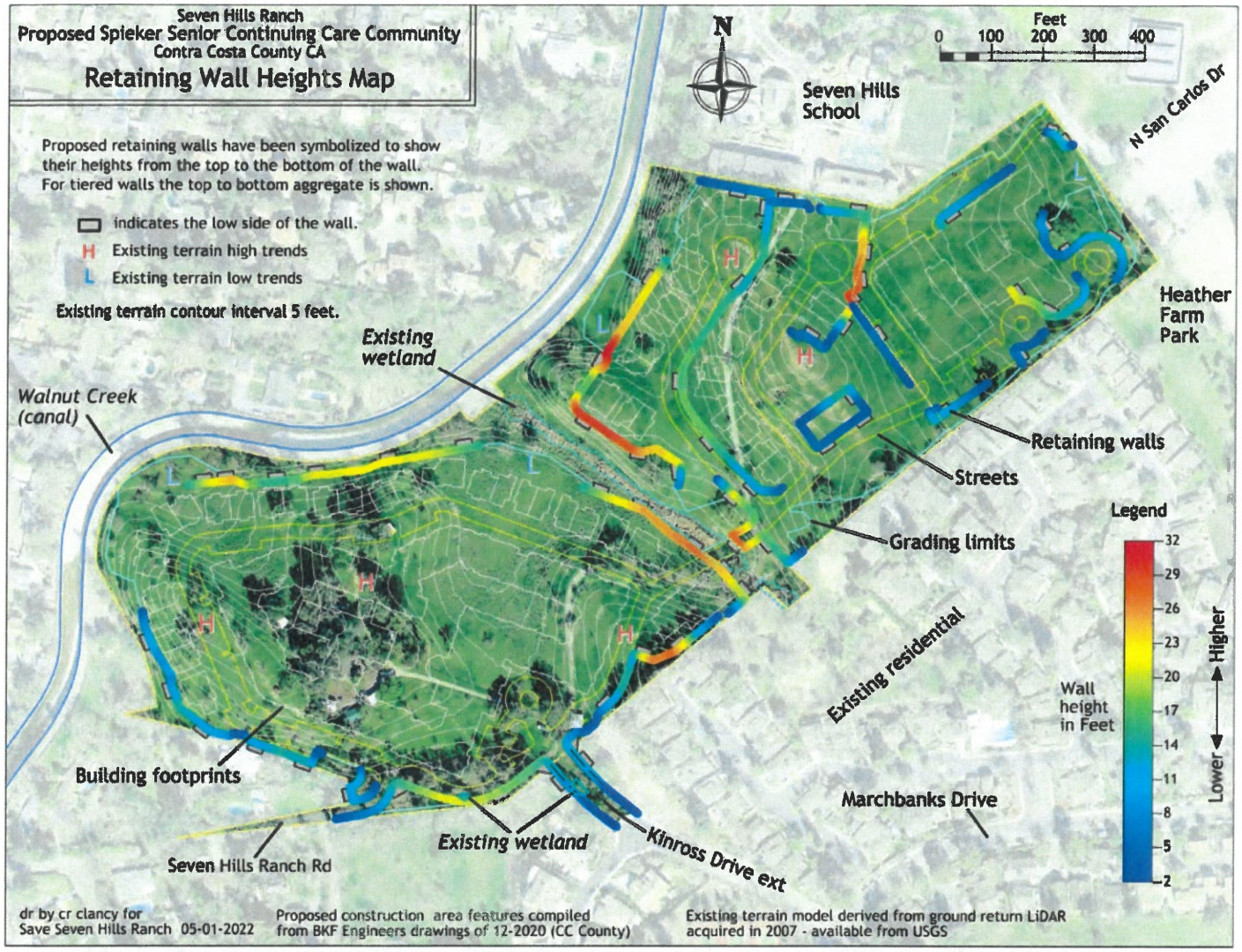


Figure 6 **Retaining Walls** map. This map indicates the location and color-coded heights of the required retaining walls should the project be allowed to proceed. The higher walls are tiered groupings. 5.1.22

Figure 7 **Wetlands Impact** map. Indicates the proximity of retaining walls (orange-yellow) and the wetlands (within dotted blue area). Proposed bridge location is shown over the wetlands, to the SE.

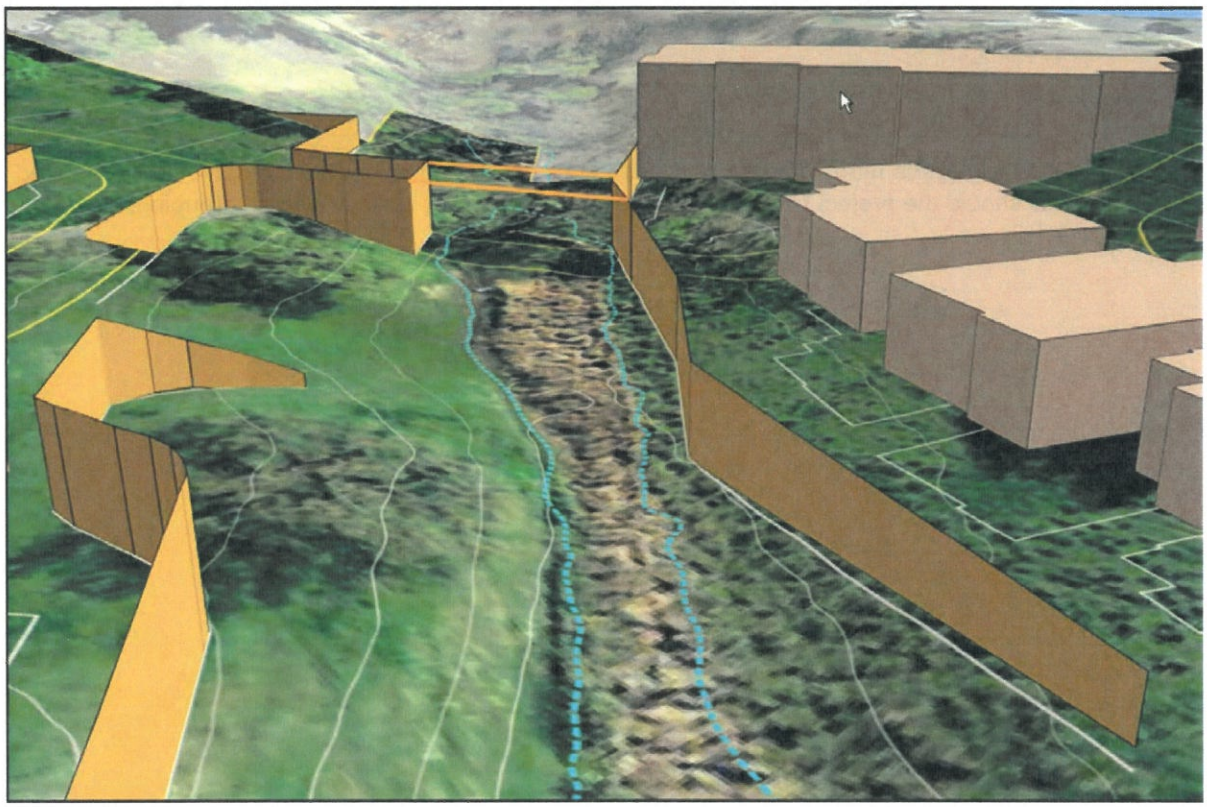


Figure 8 **Wetlands Impact** 3D graphic indicating the proximity of retaining walls (yellow) and the wetlands (within dotted blue area). Proposed bridge location is shown over the wetlands. Looking SE.

Section 4.0 Growth Inducing Impacts

Impact GRO-1

- The DEIR is not accurately representing the numbers of persons the proposal would serve, if approved, versus the number of persons that would reside on the property if it were developed in accordance with the General Plan, SF-M. This is evaluated previously in this comment document section **3.14.2.1 / Impact POP-1.** As noted there, the method for calculating how many units and the persons per household is flawed.

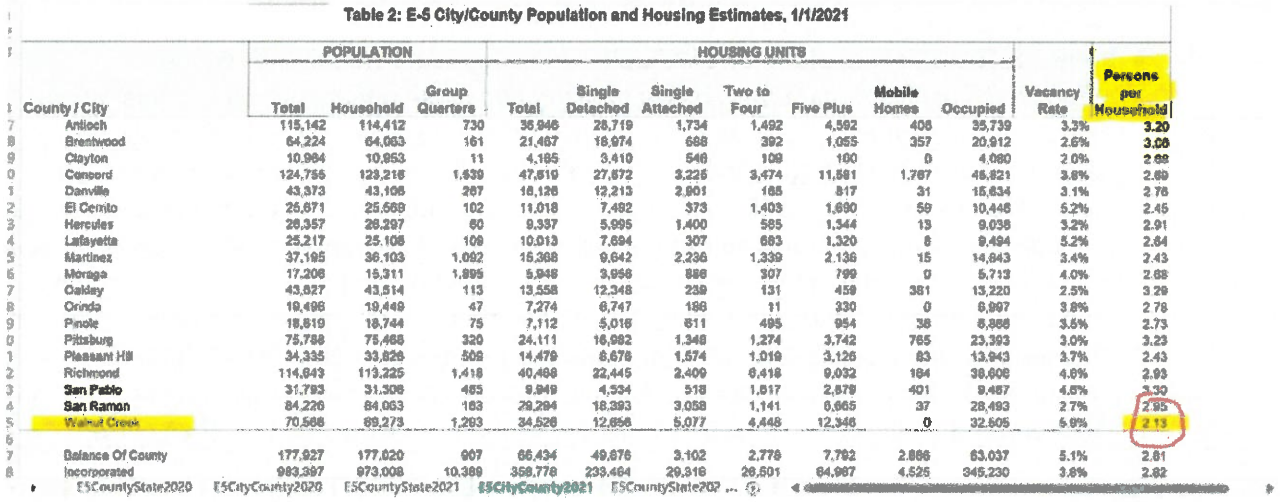


Table 2: E-5 City/County Population and Housing Estimates, 1/1/2021

	POPULATION			HOUSING UNITS								
County / City	Total	Household	Group Quarters	Total	Single Detached	Single Attached	Two to Four	Five Plus	Mobile Homes	Occupied	Vacancy Rate	Persons per Household
Antioch	115,142	114,412	730	36,946	28,719	1,734	1,492	4,592	408	35,739	3.3%	3.20
Brentwood	64,224	64,063	161	21,467	18,974	668	392	1,055	357	20,912	2.6%	3.06
Clayton	10,964	10,953	11	4,185	3,410	546	109	100	0	4,080	2.0%	2.68
Concord	124,755	123,216	1,539	47,819	27,672	3,225	3,474	11,581	1,767	46,821	3.8%	2.69
Danville	43,373	43,106	267	16,126	12,213	2,901	185	817	31	15,634	3.1%	2.76
El Cerrito	25,671	25,569	102	11,018	7,492	373	1,403	1,690	59	10,446	5.2%	2.45
Hercules	26,357	26,297	60	9,337	5,995	1,400	585	1,344	13	9,036	3.2%	2.91
Lafayette	25,217	25,108	109	10,013	7,694	307	663	1,320	6	9,494	5.2%	2.64
Martinez	37,195	36,103	1,092	15,368	9,642	2,236	1,339	2,136	15	14,643	3.4%	2.43
Moraga	17,206	15,311	1,895	5,948	3,958	886	307	799	0	5,713	4.0%	2.68
Oakley	43,627	43,514	113	13,558	12,348	239	131	459	381	13,220	2.5%	3.29
Orinda	19,496	19,449	47	7,274	6,747	186	11	330	0	6,997	3.8%	2.78
Pinole	18,819	18,744	75	7,112	5,016	611	495	954	36	6,866	3.5%	2.73
Pittsburg	75,788	75,468	320	24,111	16,982	1,346	1,274	3,742	765	23,393	3.0%	3.23
Pleasant Hill	34,335	33,826	509	14,479	8,678	1,574	1,019	3,126	83	13,943	3.7%	2.43
Richmond	114,643	113,225	1,418	40,466	22,445	2,409	6,416	9,032	164	38,606	4.6%	2.93
San Pablo	31,793	31,308	485	9,949	4,534	518	1,617	2,879	401	9,487	4.6%	3.30
San Ramon	84,226	84,063	163	29,294	18,393	3,058	1,141	6,665	37	28,493	2.7%	2.95
Walnut Creek	70,566	69,273	1,293	34,526	12,856	5,077	4,448	12,346	0	32,505	5.9%	2.13
Balance Of County	177,927	177,020	907	66,434	49,876	3,102	2,778	7,782	2,896	63,037	5.1%	2.81
Incorporated	983,397	973,008	10,389	358,778	239,464	29,316	26,501	64,987	4,525	345,230	3.8%	2.82

E5CountyState2020 E5CityCounty2020 E5CountyState2021 E5CityCounty2021 E5CountyState202 ...

- The DEIR seeks to compare against County data rather than the more relevant City of Walnut Creek statistics, as previously discussed in **3.14.2.1** here in this comment document. Therefore the conclusion that there would be a less than significant impact is based on a false premise. If calculated correctly the increase in residents from the proposal versus the increase should the site be developed in accordance with its current General Plan Land Use Designation SF-M would be ***approaching double.*** (558 versus 295)
- The DEIR again incorrectly suggests that this is an urban area on an infill site. As noted in the comment in this document for section **3.1.1.1** (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.

The DEIR must recalculate using accurate data to truly reflect that the project would foster a significant population growth and indirect growth-inducing impacts in the surrounding area.

Section 5.0 Significant and Irreversible Environmental Changes

5.1.2 Commitment of Future Generations to Similar Use

- As noted in this comment document for section **3.1.1.1** (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.

Section 6.0 Significant and Unavoidable Impacts

- Based on the entirety of facts in this comment document, the conclusion that the proposed project would not result in any significant and unavoidable impacts must be reexamined. The DEIR must be recirculated for reevaluation.

7.0 Alternatives

7.2 Project Objectives

- It must be noted that the project objective of being located "on an infill site and compatible with the surrounding community" can not be met by the project as currently proposed. This is discussed in this document in the following sections:
    - **Section 4.0, Impact GRO-1**
    - **3.1.2.1, Impact AES-1**
- To achieve the mass and height needed for this proposal, grading and recontouring will put the proposed IL building roof at 180 feet elevation, 20 to 25 feet higher than the current visible hilltops and approximately 25' higher than **any** surrounding residences. The Health Care facility will overshadow the existing adjacent Heather Farm Park. The creek with a proposed creek trail runs along the west side.
- The DEIR states that alternative suitable sites suggested would "*not reduce the identified significant and unavoidable construction noise impact, which is primarily due to the size of the project, duration of the construction schedule...*" The DEIR must restate and recognize that it is NOT the size and duration that make the current proposal site less attractive and unsuitable from a construction standpoint BUT the landscape itself is a huge contributing factor. The natural contours must be destroyed, an immense amount of bedrock and soil must be broken apart, rearranged or hauled away and the rolling hill landscape must be virtually leveled. This is the main contributing factor which brings on the lengthy and disruptive construction and the significant environmental impact associated with it. Were a relatively flat site to be located for this project, impacts would indeed be SIGNIFICANTLY reduced. To state otherwise would be less than correct.

7.1.1 & 7.2

While the project proposal meets the project objectives of providing a high quality, licensed CCRC community it does so at great environmental cost and, despite what the DEIR declares (p212), does not provide a retirement option not currently provided in Contra Costa County and specifically in the City of Walnut Creek. In addition, to claim the project will operate on an infill site compatible with the surrounding community is inaccurate as noted above in this comment document **3.1.1.1** (#2)

- The City of Walnut Creek already offers several options for the CCRC model of senior housing. One exists at the corner of Ygnacio Valley Rd and Oak Grove Rd, (Viamonte) and another is in the process of being built for the Shadelands area, both locations being only approximately 2 miles away from the proposal's site and which together will provide over 400 CCRC units for potential senior residents.. Both of *these* locations are level, in need of little grading, and indeed surrounded by suitable and compatible commercial/business land uses, unlike the incompatible surrounding land uses to the proposed project site.
- In addition, it should be noted that Walnut Creek offers an abundance of senior living options, one being Rossmoor, which consists of 6500 units available to seniors.

7.4.1.1 Location Alternative

- One of the developer's "sister" facilities, Stoneridge Creek, is located in Pleasanton, approx 25 miles south of Walnut Creek. The flat location is adjacent to mainly commercial environs and is well suited to this development proposal and expansion could be considered. Again, this developer's CCRC developments are self-sustaining with theaters, restaurants, recreation facilities, healthcare facilities, and more all within their walls. It is of no consequence to residents as to where the development is located.
- While the option may no longer be available, the 59 acres at Concord Village was recently available and may still be an option for this development. The recent availability provides evidence that there are options in the Contra Costa County which will offer in-place

infrastructure, would benefit from a senior facility in their midst, offer land use compatibility and would greatly minimize the environmental impact.

- Due to changes in work lifestyle due to the pandemic, many retail and office spaces have become available, even along the Ygnacio Valley Rd. corridor in Walnut Creek. The sites have existing infrastructure, are already level and would require little grading or major construction work. This would completely eliminate the massive environmental impact on the current site.

7.4.2.1 No Project Alternative

- The site could be developed in accordance with the General Plan land use designation. As discussed elsewhere in this comment document the DEIR has used faulty data to come to the conclusion that the proposal has equivalent or lesser impacts.
- The site could be preserved, resulting in no environmental impacts. Local conservation organizations could reevaluate its potential and become involved as the public sees great value in this property and once again expresses the desire to preserve it, just as they did in 1991.

7.4.2.2 Existing General Plan Development Alternative/Comparison of Env. Impacts

- An alternative use for the site at Seven Hills Ranch, a use in keeping with the current land use designation, would be workforce housing developed in accordance with the General Plan land use designation and compatible with the surrounding community. The site is a close-in location and workforce needs for transportation, recreation and employment opportunities could more easily be met on this site with less impact on the environment than workforce housing located further away from employment centers. Ostensibly, there is a greater need for workforce housing than the project's proposal whose objectives are already being met in the Walnut Creek Community.
  The proposed development is a self-contained compound offering all the amenities required for its residents, including health care, on site. There is no real need for this CCRC to be located in this location. It can be located anywhere. Given the substantial environmental impacts - including impacts on climate change- this site is better suited to either no development or workforce housing of a smaller scale that does not involve the complete destruction of the natural landscape through extensive grading and is compatible with the surrounding uses.
- The current proposal could be restructured and its project objectives modified, since the needs that the project hopes to serve are already being met in the community. A proposal in keeping with the surrounding community and within the General Plan land use designation is an alternative to be considered.
- This section misstates the number of units and therefore overstates the impact of the alternative of the property being developed in accordance with the current General Plan. The number of single-family units which would fit on the site and the Walnut Creek number of persons per household are both stated incorrectly and should be restated. See comments under **3.14.2.1, Impact POP-1** in this document.
- The DEIR's stated conclusion that to develop in accordance with the Existing General Plan Land Use Designation would have similar impacts is not adequately explained or logically proven and is based on incorrect calculations as stated above. The CEQA Guidelines discuss that "*alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project.*" (DEIR p211).

The conclusion that to develop in accordance with the current land use designation versus the proposal's extreme CCRC designation is similarly impactful is not based on enough

accurate analysis and proof to be definitive and useful. The DEIR must present more comprehensive information to put forth this conclusion and to provide decision makers and the public with the tools to fully understand the environmental impacts of the proposal.

Maps and graphics for this report were contributed by:

Charles Clancy, GIS Analyst for Chevron, Retired. Specializing in geospatial/geologic data mining and creation, cartography/presentation graphics, 2D & 3 D visualizations, data forensics.

LARGER VERSIONS OF THESE MAPS AVAILABLE UPON REQUEST FROM HFHOA.

END

From: yll@
Sent: Monday, November 28, 2022 1:37 PM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment.

For the sake of ALL the residents of Walnut Creek

PLEASE DENY APPROVAL OF

Spieker General Plan Amendment.

Dr Yvonne LaLanne

Walnut Creek 94598

From: Mariza Rocha <
Sent: Monday, November 28, 2022 1:41 PM
To: Clerk of the Board
Cc: Troy Bourne
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022
Attachments: 7. Hysinger to Lotito.pdf

Please see the **seventh** batch attached.
Best,

Mariza Rocha
Sales Operations Coordinator
Diablo Glen
(925) 979-5970
diabloglen.com

From: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Sent: Monday, November 28, 2022 12:11 PM
To: Mariza Rocha <RochaM@diabloglen.com>; Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Your correspondence has been received and will be provided to the Board of Supervisors.

June McHuen
Boardroom Secretary
Clerk of the Board
1025 Escobar Street
Martinez CA 94553
(925) 655-2003
June.McHuen@cob.cccounty.us

From: Mariza Rocha <RochaM@diabloglen.com>
Sent: Friday, November 25, 2022 11:45 AM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Thank you for the confirmation Ms. McHuen,
Please see the **sixth** batch attached.
Best,

Mariza Rocha
1(866)711-0885

From: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Sent: Wednesday, November 23, 2022 2:13 PM
To: Mariza Rocha <RochaM@diabloglen.com>; Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

I have received all 5 submissions for the Board. Thank you.

June McHuen
Boardroom Secretary
Clerk of the Board
1025 Escobar Street
Martinez CA 94553
(925) 655-2003
June.McHuen@cob.cccounty.us

From: Mariza Rocha <RochaM@diabloglen.com>
Sent: Wednesday, November 23, 2022 1:02 PM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Troy Bourne <BourneT@spk.com>
Subject: RE: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Please see the **fifth** batch attached.
Best,

Mariza Rocha
Sales Operations Coordinator
Diablo Glen
(925) 979-5970
diabloglen.com

From: Mariza Rocha
Sent: Wednesday, November 23, 2022 11:51 AM
To: clerkoftheboard@cob.cccounty.us
Cc: Troy Bourne <BourneT@spk.com>
Subject: Spieker Senior Continuing Care Community Project BOS Meeting 11-29-2022

Dear Ms. Boyd, Clerk of the Board,
I am the Sales Operations Coordinator for the new Diablo Glen community proposed in Walnut Creek.
I understand you've collected incoming communication from the public regarding the Spieker Senior Continuing Care Community Project in preparation for the Board of Supervisors Meeting scheduled for 11-29-2022. Our supporters have been sending messages directly to the Supervisor's email addresses. I've collected them here for your review and processing. I have separated the letters of support into several batches for your convenience. Please see the first batch attached.
Please let me know if you have any questions.
Wishing you a Happy Thanksgiving,

Mariza Rocha
Sales Operations Coordinator
Diablo Glen
(925) 979-5970
diabloglen.com

Where Residents & Employees Thrive

---------- CONFIDENTIALITY NOTICE: This electronic mail transmission and any documents accompanying this electronic mail transmission are intended by the sender for the use of the named addressee(s) to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmissions to, or receipt by, anyone other than the named addressee(s) (or a person authorized to deliver it to the named addressee(s)). It should not be copied or forwarded to any unauthorized persons. If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply e-mail.

Page	Date Received	Doc Dated	From	Description
1	11/25/2022		Hysinger, Vaughn	email (support)
2	11/25/2022		Benzler, Sylvia	email (support)
3	11/25/2022		Hirano, Daniel & Colleen	email (support)
4	11/25/2022		Hirano, Colleen	email (support)
5	11/25/2022		Brown, David & Carol	email (support)
6	11/26/2022		Pezzoli, Bob & Phyllis	email (support)
7	11/26/2022		Tanner, Anne (Wendy)	email (support)
8	11/26/2022		Miller, Gary & Maggi	email (support)
9	11/26/2022		Flessner, Jim & Susan	email (support)
10	11/26/2022		Weede, Bob & Diana	email (support)
11	11/27/2022		Carter, Tim	email (support)
12	11/27/2022		Dallimonti, Christy	email (support)
13	11/27/2022		Caton, Curt & Robin	email (support)
14	11/28/2022		Prager, Allan	email (support)
15	11/28/2022		Evans, Barbara & Bruce	email (support)
16	11/28/2022		Wegenka, Elaine & Dave	letter (support)
17	11/26/2022		Lotito, Luanne & Michael	email (support)

From: Vaughn
Sent: Friday, November 25, 2022 2:45 PM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: I ABSOLUTELY SUPPORT DIABLO GLEN...AND YOU SHOULD ALSO.

Dear Ms. Mitchoff,
The purpose of this email is to notify you of my 100% support for the Diablo Glen project. With Diablo Glen you have:

- A relatively small number of Senior Citizens, who are a valuable voting group,
- Who will now be able to spend money (and they have a lot I am told) at the local merchants,
- They also will have a limited traffic footprint…in fact many don't even drive,
- A small carbon footprint relative to the other alternatives,
- And on and on……

So, what are the alternatives:

- While the local residences would like to see open space. That won't happen for a multitude of reasons: costs, zoning, timing, sellers' motivations, etc.
- Does anyone really need another Strip Mall?
- Or a 750-unit apartment building?
- Or how about a car dealership?
- No, No and more NO!

Ms. Mitchoff I would hope you do your elected duty as Contra Costa Supervisor; vote FOR Diablo Glen. It is the most Fiscally, Environmentally, and Prudent thing to do.
I would hope we do this NOW! And BTW I live in Contra Costa County, pay exorbitant property taxes and I do VOTE in Supervisor Elections.
VOTE YES PLEASE!
Regards,

Vaughn

From: Sylvia Benzler
Subject: Hearing on Diablo Glen
Date: November 25, 2022 at 2:20:41 PM PST
To: supervisorandersen@bos.cccounty.us

Dear Supervisor Anderson,

I would like you to know that, ever since hearing about Diablo Glen, I have been excited about the possibility of the opportunity to move into Diablo Glen, if it is built. I am writing to you to let you know why this is important to me and many other seniors in our area and why I reserved a space.

1. Rossmoor is not an appealing place for Seniors who are looking for safety as they age. There are stairs all over the place with abundant opportunities for falling with dire consequences. It is also huge with a significant fire hazard. But is practically the only choice for those of us who want a zero lot line, downsized type of living.

2. In the Danville/Alamo/Walnut Creek are there is a lack of attractive condos or townhouses on **one level** that are built to attract downsizing Seniors (if you know that I am wrong, please send me the list). Other than Rossmoor, there are very few places for Seniors who want to stay locally and who want downsized residential with amenities.

3. Many Seniors including myself, want to stay in the area close to family but like the idea of living in a residential setting while having graduated care available once it is needed.

4. Diablo Glen is appealing because it is being built in a local residential area where I can be close to social activities I am used to, recreational activities, friends and family.

5. If Diablo Glen is not built in this area, it will probably be subdivided anyway, so I really cannot see the difference in terms of environmental impact.

Finally I would like to recommend that, in addition to approval of Diablo Glen, I would like to see the Planning Commission or county planners have some foresight in planning for the needs of seniors in the area. We are a "growing" population and Rossmoor simply does not fit the safety needs of many of us. I would even like to see the county consider approving some Senior condominiums in the unincorporated area of Alamo now that you are looking at expanding housing in that area.

Thank you for considering the approval of Diablo Glen which will be a great beginning in meeting the needs of Seniors who prefer to remain in the Walnut Creek area.

Sincerely,
Sylvia Benzler
Alamo

From: Dan Hirano
Date: Fri, Nov 25, 2022 at 4:27 PM
Subject: Support for Approval of Spieker Senior Continuing Care Community Project (Diablo Glen)
To: <supervisormitchoff@bos.cccounty.us>
Cc: <John_Gioia@bos.cccounty.us>, <supervisorandersen@bos.cccounty.us>, supervisor_burgis@bos.cccounty.us <supervisor_burgis@bos.cccounty.us>, district5@bos.cccounty.us <district5@bos.cccounty.us>

24 November 2022

RE: Support for Approval of Spieker Senior Continuing Care Community Project (Diablo Glen)

Dear Karen Mitchoff, Supervisor – Contra Costa County District IV.

My wife & I wish to add our support for the approval of building Diablo Glen. We have lived in Moraga for nearly 45 years, and in our senior years wish to remain in Contra Costa County (CCC). With Diablo Glen we will not only remain where we love and among those we love, but will enjoy a senior Life Plan community built by a successful development team that will offer retirement options otherwise unavailable in CCC. Diablo Glen will be an asset to CCC, Walnut Creek and beyond – look no further than Stoneridge Creek in Pleasanton for an example of this team's work.

Without a Diablo Glen we will be forced to relocate to another California county for an appropriate senior community. Moving away from our friends and Family would become an extreme hardship for us.

We listened to and understood the Seven Hills School (SHS) concerns. We also understand good faith discussions have taken place with adjustments made to the plan by the Diablo Glen team. These adjustments far exceed current CCC Planning Design & Zoning requirements. Should it come to that, we feel SHS concerns will be far exceeded if the property were developed instead with 166 homes (and possibly double that number with ADU's) should this property fail to become Diablo Glen.

We encourage & support your final approval of Diablo Glen.

Thank you.

Daniel and Colleen Hirano / Pre-Construction Depositors of Diablo Glen

From: Colleen Hirano
To: supervisormitchoff@bos.cccounty.us <supervisormitchoff@bos.cccounty.us>
Cc: John_Gioia@bos.cccounty.us <john_gioia@bos.cccounty.us>; supervisor_burgis@cccounty.us <supervisor_burgis@cccounty.us>; district5@bos.cccounty.us <district5@bos.cccounty.us>; supervisorandersen@bos.cccounty.us <supervisorandersen@bos.cccounty.us>
Sent: Friday, November 25, 2022 at 04:34:53 PM PST
Subject: Supporting Diablo Glen

Dear Karen Mitchoff,

I am one of the many senior citizens that are waiting for Diablo Glen to be built. As a long time resident of Moraga and a frequent shopper of Walnut Creek, Diablo Glen would be a great asset to the Walnut Creek community. Diablo Glen is a Continuing Care Retirement Community that will provide us seniors all four levels of care on one site as needed - independent, assisted, memory, and skilled nursing. As residents, we can live safely and have our health needs met while enjoying many social and physically active amenities right on site. This will mean less traffic on Ygnacio Valley Road than a single home development will bring. Also, many of the senior residents are retired teachers who will love to volunteer to assist teach at Seven Hills School. Those of us that garden can volunteer at Heather Farms. Diablo Glen will provide us seniors a place to socialize and volunteer in the community that we are familiar with and love. I have visited other Spieker CCRCs in California and they are well planned and beautifully maintained. I encourage you to approve the Spieker Diablo Glen development in Walnut Creek.

Respectfully yours,

Colleen Hirano

From: David Brown
Sent: Friday, November 25, 2022 8:39 PM
To: supervisormitchoff@bos.cccounty.us; John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: Voicing our support for Diablo Glen

To the Country Costa Board of Supervisors

My wife and I are in our late 70's, and have lived in the East Bay for over 50 years.

About a year ago we started thinking about how best maintain our independence. Subsequently, we have studied many, many alternatives, in and out of the area. We have concluded the proposed Diablo Glen project will best meet our needs. It is ideally suited for people in our stage of life. Their proposed grounds and living units will help us downsize. In addition, their services will help us realize the right time to take further steps.

I want to be clear. We don't plan to give up our active life style. We are both in very good health. We believe we will be taking full advantage of the cultural venues, stores, restaurants, and natural grounds of Contra Costa county.

We have had several meetings or talks with the staff of Diablo Glen, and their sister facility Stoneridge Creek. In all cases their attention to detail is remarkable. I am sure thy will operate a very successful facility, serving the needs of the residents and community.

We are pleased to endorse their project and hope the Board of Supervisors will give a green light so the project can proceed.

Thank you for your consideration of this request.

David & Carol Brown

From: Robert Pezzoli
Sent: Saturday, November 26, 2022 7:22 AM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: Diablo Glenn

Contra Costa County District IV Supervisors,

We request your full support for the Diablo Glenn project in Walnut Creek CA.

This project provides much needed support for senior citizens as they seek to provide for themselves in the future. This is a great organization, and a much needed concept for senior living in the Bay Area. Diablo Glenn can do nothing but improve senior living standards in the Bay Area.

We urge your support.

Bob & Phyllis Pezzoli

From: Wtanner41
To: supervisormitchoff@bos.cccounty.us <supervisormitchoff@bos.cccounty.us>
Cc: JohnGioia@bos.cccounty.us <JohnGioia@bos.cccounty.us>; supervisorandersen@bos.cccounty.us <supervisorandersen@bos.cccounty.us>; district15@boscccounty.us <district15@boscccounty.us>
Sent: Sat, Nov 26, 2022 9:58 am
Subject: My support for Diablo Glen

Dear Karen Mitchoff,

My name is Anne Tanner. My family and friends call me Wendy. I fully support Diablo Glen.

My family moved to Walnut Creek in 1960. I attended San Miguel Elementary School which is now Berean Christian High School. I attended Foothill Intermediate School, and Ygnacio Valley High School. I graduated from U.C. Davis. I have lived in Oakley, California and Antioch, California.

In 2014, I moved back into the family home in Walnut Creek to live with my mother. My mother was in good health for many years. She began to decline in 2017 and I became her caregiver. Mom's wish was to always stay in the family home and thankfully, her wish came true. Mom passed in 2021. I continue to live in the family home in Walnut Creek but am so excited that I will be able to move into Diablo Glen where I can thrive and age in place with others my age. I am so happy to give this gift to my sons and family members.

Thank you for your attention. Walnut Creek has always been home to me.

Sincerely,

Anne (Wendy) Tanner

From: Gary Miller
Date: Sat, Nov 26, 2022 at 2:41 PM
Subject: Diablo Glen Project, Walnut Creek
To: <district5@bos.cccounty.us>, <supervisor_burgis@bos.cccounty.us>, <supervisorandersen@bos.cccounty.us>, <John_Gioia@bos.cccounty.us>, <supervisormitchoff@bos.cccounty.us>

Nov 25,2022

Contra Costa Board of Supervisors

We have been excited about this project for some time now. We were one of the first people to sign up and reserve a spot for residence placement. There is definitely a need for this project and the design and developer's plans are first rate. The developer has already developed several projects all of which are desirable and successful. One of the local ones is in Pleasanton and has a considerable waiting list. There is a great need for this type of housing in the Central Contra Costa Area (see note 1) . Diablo Glens reservation list already exceeds the number of units they are building. Many Walnut Creek and surrounding areas residences have a population that is **aging out** of their homes and do not have a great selection of alternative housing.

This is a CCRC project, the only complete CCRC proposed in this area. This type of project is ideal with no concerns for yourself or your family of where the next move is as we age and require more assistance in our daily living. We are excited about this project and urge your approval .

Gary & Maggi Miller
Walnut Creek, CA 94595

(1) The population of the following cities in Central Contra County over the age of 65.

City	Population	over age 65	percentage
Walnut Creek	70,000	21,000	30%
Alamo	13,800	3,300	24%
Danville	43,200	8,200	19%
Moraga	16,600	3,600	22%
Orinda	19,400	4,200	23%
Totals	163,000	40,300	25%

We need his type of housing for our ageing population

Please pass this project

Thanks and remember that every day is a good day.

Gary & Maggi Miller

From: Jim Flessner
Date: Sat, Nov 26, 2022 at 3:08 PM
Subject: Please Approve the Diablo Glen Project
To: Karen Mitchoff <supervisormitchoff@bos.cccounty.us>
Cc: <John_Gioia@bos.cccounty.us>, Candace Andersen <supervisorandersen@bos.cccounty.us>, supervisor_burgis@bos.cccounty.us <supervisor_burgis@bos.cccounty.us>, district5@bos.cccounty.us <district5@bos.cccounty.us>

I am writing in support of the Diablo Glen Project. We have lived in the same house in Danville for 45 years. We are looking forward to living in a place that will help us stay physically active and take care of our health needs as we get older. Diablo Glen is to be located in a perfect location, close to medical care, near downtown Walnut Creek and in a beautiful setting. Please let this project go forward. Thank you for your consideration.

Jim and Susan Flessner
Danville, CA 94526

From: Robert Weede
Sent: Saturday, November 26, 2022 6:13 PM
To: supervisormitchoff@bos.cccounty.us
Cc: supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; John_Gioia@bos.cccounty.us
Subject: In support of Diablo Glen proposal

Dear Ms. Mitchoff:

My wife, Diana, and I are writing you in support of the Diablo Glen proposal and ask that you and the other supervisors please vote for its approval.

We grew up in Walnut Creek. Twenty-six years ago, our careers led us out of California and away from family and friends. Now that we are both retired, we are actively making plans come back to Walnut Creek. It's our home.

As life would have it, in the past 18 months, Diana and I have been blessed to help care for my aging parents, both in their nineties. (My father passed away in February 2022). But the journey is anguishing. We have experienced the best and the worst of assisted living, memory care, and adult care homes. Just before Thanksgiving last year, we removed my mother from her home and community because my father was gone, and she could no longer live alone. It was heartbreaking for my mother and our family.

Diablo Glen changes these possibilities as we age: a place to call home for as long as necessary, build community, and enter the last phases of life with dignity and as much independence as possible. To quote Atule Gawande in his book, *Being Mortal*, "...we have the opportunity to refashion our institutions, our culture, and our conversations in ways that transform the possibilities for the last chapters of everyone's lives."

Walnut Creek will be well-served by Diablo Glen. Done right, it should enrich lives, not just those of Diablo Glen's residences, but of the greater community. The neighboring schools, neighborhoods, and the Diablo Glen team and residents should work together to compromise and mitigate reasonable concerns - as a community.

With thanks and appreciation,

Bob and Diana Weede

Redmond, WA 98052

From: Tim Carter
Sent: Sunday, November 27, 2022 1:41 PM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: In Regards to the Diablo Glen development

To Karen Mitchoff

We encourage a yes vote in regards to the important Diablo Glen development. This project is important to me as I continue to prepare for one of life's last chapters. Although my wife and I are in good health today, we assume our needs will change in the future and communities such as Diablo Glen offer unique options for those in need of special care without relocating. I was born and raised in Contra Costa county (Walnut Creek and Orinda) and our entire family lives in, and loves the area. My family and I find the unique Diablo Glen option by far the best choice available to meet our needs for the future.

Thank you for your consideration, Tim Carter

From: Christy Dallimonti
Sent: Sunday, November 27, 2022 2:30 PM
To: supervisor_burgis@bos.cccounty.us; supervisoranderen@bos.cccounty; district5@bos.cccounty
Subject: Diablo Glen

To Whom It May Concern:

I was born and raised In this area and have lived here my whole life. My husband died of early dementia 2 years ago short of our 40th anniversary. I am left with a house to maintain which is overwhelming and it is not my desire to purchase another home and more headaches and problems.
Diablo Glen is the perfect solution, for moving into new accommodations, with activities, close to children, grandchildren, friends, the area I know and love, and has the needs for my future, so my kids will not have to be burdened or worry. Not only all this I would be surrounded by other seniors in the same boat.
What better solution is there? We are aging and living longer and need these types of places for our lifestyle and future years.
Please understand these needs and vote in a positive and affirmative way for us seniors.
Thank you for your time,
Christy Dallimonti

From: **Curtis Caton**
Date: Sun, Nov 27, 2022 at 6:52 PM
Subject: Urging Your Support of the Diablo Glen Project
To: <supervisormitchoff@bos.cccounty.us>
Cc: <John_Giola@bos.cccounty.us>, <supervisorandersen@bos.cccounty.us>, <supervisor_burgis@bos.cccounty.us>

Dear Supervisors

We write to ask your vote of approval for the Continuing Care Retirement Community proposed by Diablo Glen. As a couple with an 11 year age difference between us, it is very likely that the older of us will need to utilize the various alternative care options provided by the health care center contiguous to the residential portion of the development. It is a uniquely attractive prospect to move into a comfortable residence in good health in the familiar and lovely area we live in now, and be assured that neither of us will need to relocate to deal with whatever develops thereafter.

The other factor that invites our support is the proven track record of excellence and commercial success by the organization behind Diablo Glen. They have several other similar facilities throughout California, praised for beautiful and practical design and conscientious follow-through.

Thank you for your consideration of our views.

Curt and Robin Caton, residents of Lafayette

From: Allan Prager
Sent: Monday, November 28, 2022 10:52 AM
To: supervisormitchoff@bos.cccounty.us
Cc: John_Gioia@bos.cccounty.us; supervisorandersen@bos.cccounty.us; supervisor_burgis@bos.cccounty.us; district5@bos.cccounty.us
Subject: In support of Diablo Glen

I write to encourage you to vote in favor of the Diablo Glen project. I am a 40+ year resident of Orinda looking forward to moving into the Diablo Glen facility when it is completed.

I served for 17 years on the board of Save Mount Diablo, and I understand when land should be preserved and when it should be developed to provide much-needed housing.

Thank you for your support.

Allan Prager
Orinda

From: Barbara Evans
Subject: SUPPORT FOR DIABLO GLEN
Date: November 28, 2022 at 11:22:17 AM PST
To: supervisormitchoff@bos.cccounty.us, John_Gioia@bos.cccounty.us, supervisorandersen@bos.cccounty.us, supervisor_burgis@bos.cccounty.us, district5@bos.cccounty.us

Dear Contra Costa County Supervisors:

We have lived in the beautiful Walnut Creek area for over 60 years. Now that we are older, we find that maintaining a home and garden, along with all other necessities, is becoming a challenge. We would like to remain in the area and hope that the Planning Commission will approve the plans for the much needed retirement development that Diablo Glen will offer older adults. After viewing many of the Spieker developments, **all of which are** carefully and beautifully designed, DiabloGlen will be an asset for Walnut Creek.

Your approval of the Diablo Glen Development is essential for an exponentially growing older population and to add a beautiful complex for the growing generation of those over 55 years of age. We are not ready yet ready for assisted living and would like to look forward to a safe and beautiful facility in which to grow older.

Thank you for your positive vote for this beautiful facility.

Sincerely,

Bruce and Barbara Evans

TO: The Contra Costa Board of Supervisors
RE: Diablo Glen

The Letter I Almost Didn't Write Because I Thought It Was OK to Not Cast My Vote. And We All Know the Consequences of That, Don't We?

It's 6:00 am, Saturday, November 26. I'm wrestling to explain to people I don't know why the possibility of this retirement facility is so important to me. How do I put a face to the decision you're about to make?

I've lived in Walnut Creek since I was 25 and was a 7th grade teacher at Foothill. I've absolutely loved this city. I'm now 75 and the decision maker of the family; the one in charge of my husband and myself and I'm scared.

We're facing the last part of our lives and I don't know how to plan for it. We live near Heather Farm. I cannot imagine packing us up, navigating a new community, making new connections, getting new doctors, let alone feeling safe. Lately I've noticed I'm not comfortable driving at night.

But I do know that what Diablo Glen is offering feels so well thought out. We'll be able to meet new people, have healthy food, get the care we need in a dignified manner. In short, we'll have options, even if it's just watching the leaves turn color. This age group I now find myself in is kinda scary. The decision you're about to make could provide us a sense of community, dignity and safety.

Please approve going forward with Diablo Glen.

In reflection of the opening comment, I wrestled so long about letting this letter not get written. We're seeing the result of not speaking up, aren't we? Politically, socially, morally it almost became ok to let others decide and then were dismayed at the result. I'm one voice, and you may not be affected by what I've written, but for me, I spoke up, and that's what matters.

Sincerely,
Elaine and Dave Wegenka

From: Luanne Lotito
Date: November 26, 2022 at 9:44:06 AM PST
To: supervisormitchoff@bos.cccounty.us
Cc: supervisorandersen@bos.cccounty.us, supervisorburgis@bos.cccounty.us, district5@bos.cccounty.us
Subject: Support for Diablo Glen Project

We are Michael and Luanne Lotito of Orinda. We have lived in the Bay Area for approximately 40 years. We urge the Board to approve the Diablo Glen project as it will be a significant benefit to the community and its residents for at least the following reasons.

1. Diablo Glen is a responsible company with a strong track record of designing, constructing and maintaining an excellent senior housing complex.

2. Diablo Glen communities are assets to their existing locations by being good neighbors which provide excellent employment opportunities for staff with an outstanding financial foundation.

3. The residents are almost exclusively from the Bay Area who wish to continue living close to family and friends while enjoying the many benefits of Contra Costa County.

4. Speaking for ourselves and likely many others, by living and being cared for at Diablo Glen, we relieve the county, state and federal governments from any obligations towards us at tax payer supported institutions which often fail to provide high levels of care. We wish to pay for ourselves at a location of our selection.

5. Due to the creative financing Diablo Glen provides, Michael and I are more likely to have inheritance funds available for the education of our two grandchildren (who live in Moraga) thereby assisting them to fully pay for college without assuming crushing debt.

6. Finally, we look forward to volunteering perhaps at the local school and other appropriate County non profits.

Thank you for your consideration.

Respectfully submitted,

Luanne and Michael Lotito

Orinda, CA 94563

395

From: Patricia Sullivan
Sent: Monday, November 28, 2022 2:09 PM
To: Clerk of the Board
Subject: Nov 29 BOS Item D1 Public Comment

Dear Contra Costa County Supervisors -

I'm writing today to voice my concern about the proposed Spieker proposed development for the Seven Hills Ranch property in the Walnut Creek area. The proposed development is completely out of character with the surrounding area. In addition, it is incredibly destructive. It will destroy over 350 trees, including majestic protected oaks; would level hills; and eliminate native habitat. Although there is a need for housing in the Walnut Creek area, this development would do nothing to alleviate that need. This commercial style development is for a select few seniors who have adequate funds. Not to mention there are many other options for seniors, including Rossmoor and other senior developments already in the area.

I urge the County Supervisors to vote against the General Plan Amendment (GPA) that would rezone this property to allow this commercial development (in a residential area I might add); and no to this development. There are so many much more suitable, smaller scale developments (or even open space) that are more appropriate for this amazing property. I would urge you to redirect the Spieker project to a flat parcel without so many amazing majestic trees! The Seven Hills Ranch property is absolutely the wrong location for this huge development!

Respectfully submitted:

Patricia Sullivan
[redacted]00
Walnut Creek, CA 94597

396

From: crclancy
Sent: Monday, November 28, 2022 2:35 PM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment
Attachments: spieker project feir photo simulation comments cc county BOS meeting 11-29-2022 crclancy.pdf

CC County,

The attached public comment document is related to photo simulation issues at the proposed Spieker project at Seven Hills, and is for the information of the CC County Board of Supervisors
meeting on Nov 29, 2022 - Item D1.

Regards
Charles Clancy

Subject: Comments regarding issues with Photo Simulations in the DEIR for the Spieker Senior Continuing Care Community Project - Section 3.1 Aesthetics - the photo simulations, and in the FEIR.

County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038
State Clearinghouse # 2021070517

For: Nov 29 BOS Mtg Item D1 Public Comment

Comments by Charles Clancy, November 28, 2022 **4 pages**

I'm a retired GIS Analyst and I create geotechnical maps and other graphics to help Save Seven Hills Ranch understand the Spieker proposal and respond to the DEIR and FEIR. I'm also a 48-year Walnut Creek resident.

The photo simulations in the DEIR were **not realistic** because they all used wide-angle perspectives that made distant objects look much smaller than they would appear to the eye in reality. More about this in the **Discussion** that follows the graphics below.

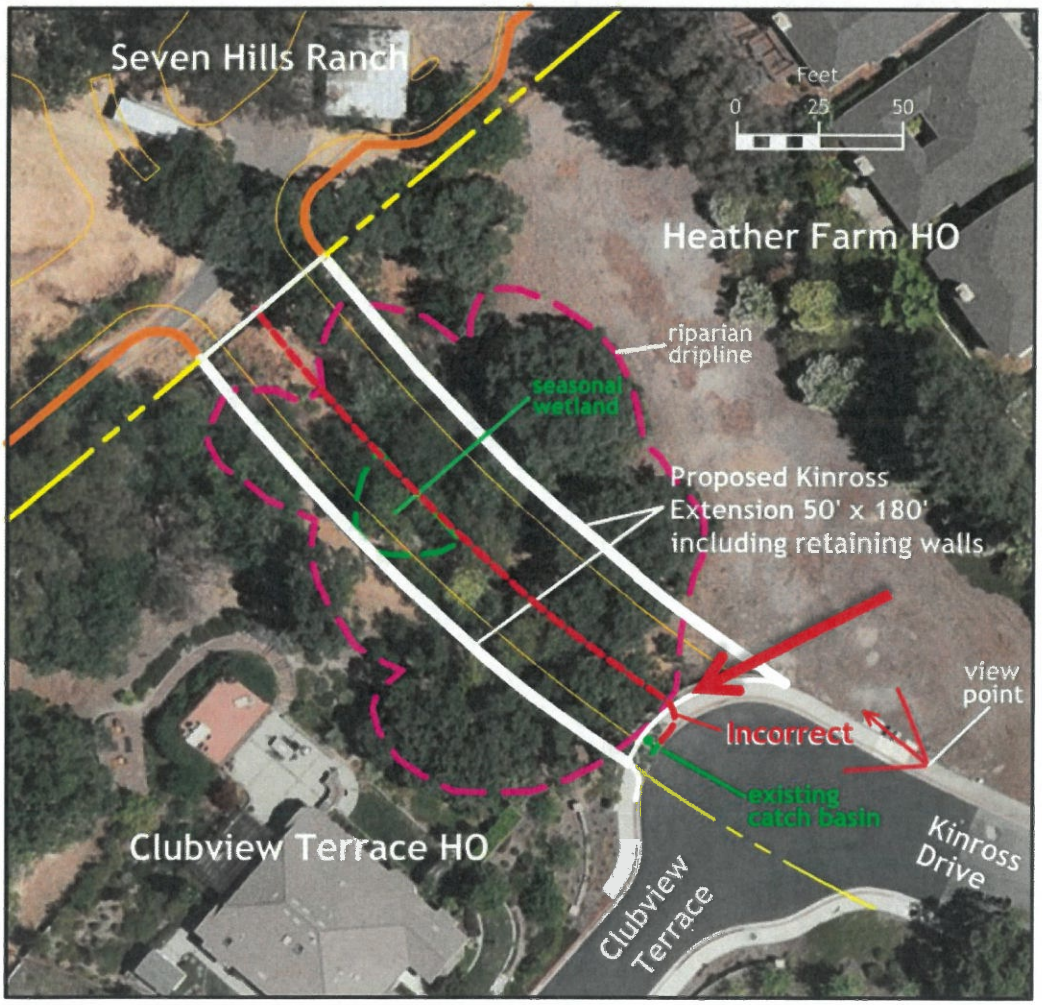
This comment features Location 11, which is the proposed project access route known as the Kinross Extension. In addition to the wide-angle perspective issue there is a **gross geometry error** in the location of the left side (looking northwest) of the proposed road that significantly changes one's perception regarding the fate of the existing wetland and riparian environment that would be **buried** by the proposed roadway.

This map shows the area and the issue. The bold white lines represent the proposed roadway retaining walls as shown on engineering drawings. The dashed red line is the location of the left side of the roadway as incorrectly depicted in the Location 11 **Proposed** photo simulation. See the following pages.

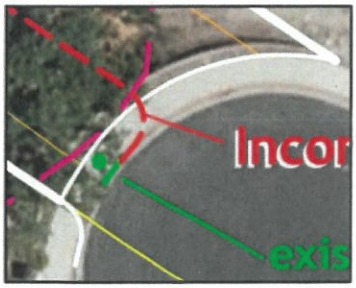
Seven Hills Ranch
Proposed Spieker Senior Continuing Care Community
Contra Costa County CA

Kinross Extension Limits Map

This map shows a comparison between the Spieker proposed Kinross Extension limits and the incorrect limits as depicted in Spieker Senior Care DEIR photo simulation Fig. 3.1-2 Proposed View



Enlargement



dr by cr clancy for
Save Seven Hills Ranch 10-07-2022

Proposed construction area features compiled from BKF Engineers drawings of 12-2020 (CC County)

This is a photo of the **Existing** conditions at the proposed Kinross Extension area that was used by the project consultants. In the DEIR it is the top half of figure 3.1-2. The green arrow that I've added points to an existing catch basin that is a key reference point in the next picture.

EXISTING

Continued next page

This is the **photo simulation** that was created by project consultants to show the **Proposed** Kinross Extension with the proposed project buildings and proposed new landscaping depicted in the background. In the DEIR it is the bottom half of figure 3.1-2 and is also labeled CONCEPTUAL PHOTO SIMULATION 1.

PROPOSED

Discussion:

In the **Proposed** photo simulation the left side of the extension is incorrectly depicted at least 20 feet too far to the right. It's shown on the wrong side of the catch basin. If the proposed design were to be built as shown on engineering and landscaping drawings the existing catch basin and the arrow sign would actually be gone. See the map at the top of this document for clarification.

The Proposed simulation conveys the impression that much of the existing wetland and riparian canopy would be preserved, and that existing trees in the background would serve to screen the mass of the big apartment building behind. The bottom line is that most of the trees shown to the left of the road and in the background in the simulation would **not be preserved**. This includes the existing multi-trunk oak tree #466 (blue arrows), which is a major visual feature in this simulation, as well as tall existing trees in the background (green arrow), that are also slated for removal.

The location problem with the left side of the proposed road is either the result of a blunder - Or it was intentionally depicted this way to allow for trees that would otherwise be removed to remain in the simulation. With the left side of the road so far out of position there had to be some improvising done to create a believable image. The problem persists in the supplemental Location 40 Proposed simulation dated Nov 16, 2022.

In any event this simulation is **not** an acceptable depiction of how the Spieker project Kinross entrance would look (on many levels) and should be properly redone by an independent and objective professional architectural visualization specialist.

Continued next page

About the Spieker photo simulations in general:

Photo simulations can be invaluable in helping to convey a reasonably realistic impression of what a proposed project is going to look like when built. They require special tools, graphics application expertise, 3d CAD and GIS familiarity, quality data, appropriate photos of the existing conditions, and some artistic discernment.

When those of us who are familiar with the site and the proposed project saw the photo simulations in the DEIR, we were alarmed at how deceptive they are. All three of them have multiple issues. We registered our comments which can be found in **Appendix A Draft EIR Comments.pdf** in the FEIR document package on pages 327 - 331 and in many other locations in the DEIR comments.

The existing condition photos that were used for the three simulations that appear in the DEIR were all taken using a wide angle lens such as 35mm or the digital/optical equivalent. Such lenses are good for capturing more peripheral and foreground information. But they are problematic in this application because objects that are in the center of the field of view, and are in the distance, appear **far smaller** than they would when observed in person. So distant objects that are drawn from CAD, GIS and/or engineering data and projected into the photo's perspective would appear unrealistically small.
That's a problem in any project, but especially one like this where there are aesthetic concerns about packing so many buildings, including two very large ones, onto a largely pristine undeveloped rolling site. It would have been better to use a 50mm "normal" lens for the simulations. Normal lenses don't capture as much foreground or peripheral information, but they do more closely approximate what we would see in person.

It is the large medical center and the very large IL apartment building in this proposed CCRC project that make this development **aesthetically incompatible** with the surrounding community. From the proposed Kinross entrance and the North San Carlos approach the development would look more like a large business development rather than a neighborhood community because those big buildings are all you can see from those viewpoints.

Unrealistic or erroneous photo simulations can cause headaches for all parties involved. Decision makers such as the County Planning Commission and Board of Supervisors don't get the best information as to how a project will aesthetically impact the community in which it is built. The public is given a false impression as to the project's aesthetic impact and gets a nasty surprise when the project is built.

In the FEIR under Master Response 5: Aesthetics, starting on page 22, to address the several DEIR comments and concerns about the photo simulations, the County chose to double down on how faithful the original (flawed) simulations are to engineering, architectural, and landscaping data. The FEIR further states **"Based on the aesthetics evaluation, including these visual simulations, the County concluded that the proposed project would result in a less than significant aesthetics impact."**

One might argue that photo simulations are just "artistic fluff" to sell the project to investors and promote the development to prospective residents. They are **far more** consequential than that.
In this case the misleading photo simulations may have influenced or allowed the County to minimize the aesthetic impact of the proposed development and to mislead the public about the aesthetic impact of the project.

All three Spieker project photo simulations should be redone by an independent and objective architectural visualization specialist before this project proceeds any farther.
Until that is done we ask that the CC County Board of Supervisors deny the Applicant's request for a General Plan Amendment and that the Final EIR not be certified.

Addendum:
The supplemental simulations dated Nov 16, 2022 do not address our concerns with the original 3 simulations in the DEIR. These supplemental simulations were produced well after the Oct 2022 FEIR was generated with the County's conclusion of "less than significant aesthetic impact".

Charles Clancy

401

June McHuen

From:	Jim Frey
Sent:	Monday, November 28, 2022 2:52 PM
To:	Clerk of the Board
Subject:	Nov 29 BOS Mtg Item D1 Public Comment

The following are my written comments to the Board of Supervisors:

My name is Jim Frey. I would like to share the following information from Save Seven Hills Ranch:

Your Planning Commission rightly questioned why no plans have been prepared for the off-site access improvements.

More than 6,000 truckloads of soil and bedrock are to be hauled off-site but there is no discussion of how, or where, or if there will be any restrictions to this activity over City streets. Also, the EIR doesn't address how many more code-protected trees will have to be removed nor how the staging and construction-related activities on Kinross Dr. will impact the significant wetland and riparian habitat found there.

There will be significant impacts on Walnut Creek City streets and communities outside the boundaries of Seven Hills Ranch. Until those impacts are more clearly accounted for and more precise information is given on how the applicant will manage those impacts, the Board must ask for a more precise EIR and deny the General Plan Amendment.

Finally, speaking for myself I would like to say that we residents in the Heather Farms neighborhood will bear the brunt of this massive construction project and its disruption to our daily lives. We ask that the Board hear and recognize our continued objection to the proposed project. Thank you.

Jim Frey

Walnut Creek resident

462

From: Joanna Santoro <
Sent: Monday, November 28, 2022 2:57 PM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment

Dear Board of Supervisors:
I am respectfully asking you today to honor the recommendation of the County Planning Commission and to DENY the proposed General Plan amendment. As pointed out in the October 26, 2022 Public Hearing, the proposed project offers no public benefit that would justify such a radical amendment. The Spieker proposal does not increase the general housing supply in the county or integrate with the surrounding neighborhoods. It is a walled-off, commercial enterprise with one beneficiary. It is structured not to contribute fees for public works in the county and is a self-contained enterprise that will not generate an economic stimulus in the area. The additional project benefits (COA 35, 71, and 43) are severely inadequate. The public costs of the project including air and noise pollution, inadequate emergency ingress/egress which cannot be feasibly solved, traffic congestion, mature tree decimation and with it the destruction of habitat and razing of natural, hilly landscape have no offsetting public good. One does not necessarily need to be an architect, engineer, or other technical professional to use common sense and see the flaws in the conclusions and the remaining gaps in the FEIR. **Please ensure you have performed a thorough in-person reality check of the mitigation measures and other promises made by the applicant in the FEIR, especially emergency evacuation ingress/egress. The Planning Commission was right to challenge these numerous gaps.**

The County deserves to see an alternate proposal for the site in accordance with the current zoning in the General Plan. **Please pause to fully run the numbers on alternate, TRUE residential development in accordance with the current zoning in the General Plan.** A true housing proposal could integrate and provide public access via sidewalk and trail connections, reduce the severe grading proposed, reduce the developed square footage, and preserve more trees/habitat. However, the concerns and deficiencies in the FEIR (e.g. regarding traffic and emergency ingress/egress) still need to be solved.

I'm a 9 year resident of Walnut Creek. A renter. I can walk the trail to Heather Farms park which is widely used by many in the county community. Like me, many live in high density housing and while we do not have our own backyards, we can easily walk, bike, or drive to utilize the park for swimming, tennis, the gardens, picnicking, and grilling. While future Spieker residents wait in their large homes in places like Orinda and Clayton as their new, exclusive community is built, we would endure the noise, air pollution, vibration, and construction traffic as the land is destroyed and wildlife is killed. I'm originally from the east coast and I urge you to consider the unique topography and environmental beauty of this site. As others stated, while open space preservation is ideal, sensible development in accordance with current zoning needs to be examined as a viable alternative. I, like many others, would love the opportunity to become a homeowner in the county; it is unrealistic to believe that could be in one of the homes vacated by wealthy, prospective Spieker residents. This group is incorrectly characterized as "underserved." Regional Housing Needs Assessment (RHNA) Above-Moderate Income unit requirements are more than met; Moderate Income and RHNA Lower Income unit requirements fall short.

Walnut Creek takes good care of its *Above-Moderate income* Seniors. What about everyone else?

In talking to fellow Walnut Creek, Contra Costa, and other Bay Area citizens about the project, there is a general lack of awareness about the project in general and people are shocked that:
a) the project site is not already protected open space
b) the site's current zoning could allow a better plan for housing with some component of public access, in particular a trail to the ridge, connecting to other nearby trails and Heather Farm Park as well as improved habitat protection, including saving over 300 protected trees and minimizing changes to topography and bedrock
c) a commercial use enterprise larger in size and scale than the Chase Center or Oakland Coliseum is being planned inside this neighborhood.

Particularly upsetting is that there are thousands of square feet of available commercial, medical real estate space for lease in the immediate vicinity of the project on Ygnacio Valley Road adjacent to the John Muir medical facility in addition to the City of Walnut Creek and other accessible locations in the County. Citizens want to see smart development that makes use of these ghost properties that are languishing BEFORE decimating a site with unique natural, environmental qualities. The benefit of this project goes to few; the costs and consequences to many. I stand by the issues raised re: the DEIR and FEIR, including those raised by the Planning Commission, and ask the Supervisors to make a well-thought out decision for the benefit of County citizens.

Sincerely,
Joanna Santoro

403

From: Stephanie Dark <[redacted]n>
Sent: Monday, November 28, 2022 3:07 PM
To: Clerk of the Board
Cc: Save Seven Hills Ranch
Subject: Nov 29 BOS Mtg Item D1 Public Comment.

I would like to share the following information from Save Seven Hills Ranch:

1.
2.
3. You probably don't think about retaining walls very often. But today you will want to consider Spieker's proposed reliance on retaining walls, what that means and why this is a concern to this group.
4.
5. The developer's design plan and proposal requires a flat location on which to build. This 30-acre location is not flat but in fact very hilly, so it must be made flat through the use of excavation, leveling, and dependence on extensive tall retaining walls. If you consider the tiered sections in this proposal as one retaining wall and were to put all of them end to end, you would have a mile and a half long retaining wall. More than half of the walls are over 10 feet tall, the tallest rising 32 feet in height. There is no construction anywhere near the site that requires such height or quantity of retaining walls.
6.
7. In defiance of both the County's *Hillside Protection ordinance* and its *General Plan Open Space Element* this development relies heavily on extreme "cut and fill" excavation which means leveling the hills and filling in the valleys. We have sent you easily understandable maps of the retaining walls, and ask for a development less impactful than one that is dependent on the near-complete alteration of the existing landscape.
8.
9. With respect, we ask that you deny the GPA.

Sincerely,
Stephanie Dark, Walnut Creek, CA

From: Save Seven Hills Ranch < _ _)gmail.com>
Sent: Monday, November 28, 2022 3:44 PM
To: Clerk of the Board
Subject: Public Comment BOS mtg 11/29/22 item D1
Attachments: _11_29_22 Item D1 BOS SHSRanch Public comment .pdf

Please see attached public comment for 11/29/22 BOS mgt Item D1.

Thank you!

Michele Sheehan
Save Seven Hills Ranch

November 29.2022 Public Comments for Board of Supervisor Meeting Item D1
Supplemental *Save Seven Hills Ranch* Public Comments based on spoken comments

1. [redacted]Harmony w/ surroundings

The footprint for the proposed large, Independent Living apartment building is larger than the Oakland Coliseum footprint or the SF Chase Center footprint. The 3 and 4-story building dwarfs any building in the neighboring vicinity. Seven Hills Ranch has sent you a map which graphically shows these comparisons.

Any development for Seven Hills Ranch should be in harmony with its surroundings. This directive is found in County Code 84-66.1406 [84 dash 66 point 1406] which states that any development "will be in harmony with the character of the surrounding neighborhood and community" and "...will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development".

This is a commercial enterprise, a cruise ship really, asking to be placed among low-lying residential neighborhoods and a park. You can rely on your established County code which is based on 'best practices' for compatible development to deny the applicant's request for a General Plan Amendment.

2. [redacted]Harmony w/ surroundings

The proposal before you is for buildings more than two to four times the height of the adjacent neighborhoods and includes an 85,000 square foot Health Care Facility which will overshadow the City Park.

How big is 85,000 sq feet? The footprint for the Health Care Facility is 2 and 1/2 times the size of the footprint of the building you are in right now.

The Health Care Facility will be open to the public as space allows. With its size and 100 bed units it seems space will be available quite often. This is a large, commercial-type building flanked by 80 non-reserved parking spaces. It does not match the adjacent park or low-lying community.

Any development for Seven Hills Ranch should be in harmony with its surroundings. This is <u>not</u> just based on feelings or opinion about what is the right thing to do. It is based on County Code 84-66.1406 [84 dash 66 point 1406] which states that any development "will be in harmony with the character of the surrounding neighborhood and community" and "...will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development". You can rely on your established code which is based on 'best practices' for development to deny the applicant's request for a General Plan Amendment.

3. [redacted]Surroundings

While the EIR and Staff Report state that the proposed development "will be in harmony with the character of the surrounding neighborhood and community", we want to point out that there is NO surrounding use or any development within at least one and a half miles that has a building that has three and four stories in height as the Spieker project proposes. Nor does any nearby development have a footprint as large as the proposed development's Independent Living building, which covers an area equal to the Oakland Coliseum. The comparison streets in the Final EIR do not have any buildings similar to the proposal's enormous main building. In addition, the EIR description omits that the Health Care Facility will loom over the adjacent public park. The development will NOT be similar to its surroundings.

This proposal is for a large, dominating design filling a space the size of Walnut Creek's downtown Broadway Plaza area and completely out of proportion with adjacent and nearby surroundings.

We ask the County to deny the General Plan Amendment request from the applicant and insure a less overwhelming design, in harmony and balance with the character of its surroundings, and which can result in a better community for all.

4. ■CCRC -Residential yet ignores Co. requirements

Seven Hills Ranch is designated for residential housing in the County General Plan. The Spieker Project Description states that the proposed project "does not contain any residential component." It states that there will be "354 independent living units for residents" and that 500-700 people will reside at the project. But despite this, the developer insists and the County now views CCRC living units as "an amenity of the institutional use" and NOT residences or housing. This gives the applicant free reign to ignore County requirements for residential development. Specifically, the applicant can disregard the county Park Dedication Standards[1] and the Inclusionary Housing ordinance[2] both of which are required of all Contra Costa County residential housing developments.

The applicant asks you to believe this is not residential and they cite the legal reasons for doing so. However, you do not have to accept a proposal from a developer unwilling to incorporate these valid and beneficial County residential requirements, regardless of whether they are legally required to do so or not.

Join your public in recognizing that any development of 30 undeveloped acres should include a reasonable amount of incorporated publicly accessible green space and that a development of 350 living units should include some affordable units. An applicant's that is so adamantly opposed to including those "good neighbor" features in their design gesture to set aside $2m in subsidies for low-income seniors to live at this facility is a minor gesture, less than 25% of the $8.5 million housing fee required by our County's Inclusionary Ordinance for a residential development of this size. The subsidy should be triple the amount they have offered. Thedeveloper should not be rewarded with a tailor-made General Plan Amendment which is all rewards for them and such small contributions for your community.

We request that the County deny the General Plan amendment and remain consistent with your current General Plan or the Envision Contra Costa 2040 land use plan and keep the residential land use designation for this site, Thank you.

■NOT in a needed RHNA <u>category</u>

It seems that, although the applicant insists this is <u>not</u> a residential development, this proposal may be counted toward fulfillment of the County unincorporated area's RHNA quotas.

The Spieker proposal is for acutely *Above-Moderate income* residents; a RHNAcategory amply fulfilled in both Unincorporated Contra Costa County and the City of Walnut Creek jurisdictions, the proposal's desired location, whereas the *Moderate income* category comes up quite short, especially when considered over the 8 year RHNA [Ree-nah] cycle.

[Data link]

Government Code section 65585 states that "the County must maintain adequate sites to meet its RHNA [Ree-nah] requirements *<u>by each category</u>* …". This contributes to the community's well-being by avoiding the over-offering of housing in an overfilled RHNA [Ree-nah] income category while other grossly under-filled categories go seriously wanting. By denying the General Plan Amendment request you create an opportunity to add needed housing to the appropriate County RHNA [Ree-nah] category.

5. [redacted]RHNA [Ree-nah] open space to development area

It appears this development's units will be counted towards the County fulfillment of their residential housing or RHNA quotas.

However, while it is considered residential for the purposes of RHNA the development is considered "Institutional" and a "Service Community" as it is a Continuing Care Community.

What this means for the community is that the developer does not have to fulfill the usual County residential development requirements in regard to *floor to open area ratios* nor the County's *Park Dedications Division 920* Ordinance. This 30 acre site begs you to honor these residential requirements. It is ideally suited to do so.

These requirements have been put into place so that our communities' residential developments include some open space in their designs and there is connectivity in residential areas. This is particularly relevant for a property the size of this one.

A walled-off compound that counts under RHNA [Ree-nah] should not be allowed to proceed unless held to the residential standards of development the County has established.

We ask the County to deny the General Plan Amendment request so that this site can be open to a sensible, less impactful development design that easily accommodates integrated green space and natural habitat in accordance with the County's established 'best practices' for its residential, suburban, unincorporated areas.

6. [redacted]Walnut Creek Senior housing options

We understand the pressures for housing on the County. But this proposal is not ***needed*** housing. There is an abundance of Senior housing options in Walnut Creek, including two Continuing Care facilities: a 174 unit facility with vacancy and another 350 unit facility under construction. Rossmoor provides for 10,000 senior residents. Walnut Creek has a large Senior population BECAUSE it already offers a variety of and plentiful Senior housing options!

Meanwhile, bidding wars ensue for workforce and family housing in the community.

The applicant's proposal provides for only a small segment of the community - restricted by income and age. Keeping the General Plan as it is ensures the site could alternatively be used productively to bring needed and in-demand housing to the community.

7. [redacted]Senior Options in Walnut Creek

Walnut Creek takes good care of its Senior Citizens. 35% of the City's population is over age 60 versus the overall County which stands at only 20%. Why? Because Walnut Creek offers an abundant variety of Senior living options and therefore has more Seniors living there!

525 "age-in-place" Continuing Care Senior housing units, similar to the Spieker proposal, exist or are currently under construction in the city. For this reason you should not feel you are eliminating options for Seniors in the Walnut Creek area should you find this development is inappropriate for other reasons. Walnut Creek takes care of its Seniors by *already* offering a variety of living options.

In addition, this is a very expensive living option. You will hear the argument that Seniors will move out and leave their affordable homes behind to move into this development. The reality is that individuals moving into these residences must, out of necessity, be high-income and from affluent communities. Homes that they leave behind will not be considered "affordable".

This development will not solve the affordable housing crisis nor offer any option to Walnut Creek and County residents that they don't already have.

8. [redacted]Costs, no affordable component

Understand the price structure and the target audience for this proposed development. The applicant does not conduct presentations in Concord or Walnut Creek to gather $1,000 [one-thousand dollar] fully refundable deposits but instead holds them in Lafayette and Orinda. Not surprisingly, the majority of refundable move-in deposits supporting this development are from individuals residing in affluent communities such as Alamo, Lafayette and Orinda. We mention this because these prospective residents will not be leaving behind affordable housing for young families to move into. Let me repeat this: They will not be leaving behind affordable housing for young families to move into. This is a false narrative meant to make you feel better about approving this very expensive Senior community.T he least expensive studio units will be available only in the Health Care Facility.

If you truly want residential housing for an age and income-diverse community then deny the General Plan Amendment request.

9. [redacted]Cost structure for residency - housing needs

There is nothing wrong with expensive communities, but considering that the County wants to supply ***needed*** housing to its communities the RHNA [Rhee-Nah] income level category for this housing request should be taken into consideration before approval.

Unincorporated Contra Costa County has **more than** fulfilled its RHNA quotas for *above-moderate income* housing while the *moderate-income category* goes wanting. This proposal is for an *above-moderate income* development. Adding this development to the County's housing stock will not be helpful in solving the County's housing crisis.

The costs for residents to move in and live in the Spieker "Diablo Glen" proposal involve an initial entrance fee and monthly "rent" or what the developer calls " a service fee". For example, a two bedroom, two bath unit will have an entrance fee of between $900,000 to $1.6 million. 75% of this entrance fee is returned to the resident or their heirs upon departure. There are no capital gains or interest earned on the entrance fee.

In addition, the resident of that 2 bedroom, 2 bath apartment will pay between $5,500 to over $6,500 **a month** for the "service fee" or rent. An additional $2,000 per month is added for a second person in the same apartment.

Due to the high move-in and additional monthly "service' fees or rent associated with this development it is unreasonable to think that prospective residents will leave behind affordable, workforce or family housing. They will need to get top-dollar on sales of their previous homes and considering the monthly "rent" needed will likely be moving from affluent not *moderate-income* communities. Again, this does nothing to help the housing shortage situation.

Given this information we ask that you deny the General Plan Amendment requested and look for a proposal that truly addresses the County's housing needs.

10. [redacted]Number of units / Density

The General Plan Amendment should not be approved and the land use designation should remain as Single Family Medium Density because "Leapfrog" zoning changes such as this dangerously undermine the usefulness and effectiveness of the Planning Process for the County and all of the Cities in it by setting a precedence for any zoning anyone wants.
the current General Plan designation of single-family-medium-density creates a logical and necessary transition zoning between the higher density of six to 10 units/acre in the adjoining HOA and the low-density single family to the west of the property across the channeled creek. The proposed zoning and General Plan changes needed for this development to proceed simply do not create this transition and this proposed development should be denied.

Furthermore, there is not a single structure of this size and scale (roughly 480 ft x 800 ft, 4 stories high and 14 units/acre) located within any community or anywhere in Contra Costa County that is not located within either a transit corridor or a downtown district The proposed plan for the site is inappropriate and denying the General Plan Amendment request opens the door for a proposal that more closely aligns with the surrounding community and better respects the natural environment. I urge you to read the email I sent each of you showing that the hills and open space can be preserved while providing as many as 133 single family detached homes plus up to 43 ADU condos … that would be priced in this market at between $490,000 and $1,300,000

11. ■The petition

Our petition entitled "*Saved and Sensible NOT Supersized*" has gathered over 4,000 signatures, some online, some on paper. Of those, more than three quarters of the signatures are from Walnut Creek addresses, with the remaining coming mainly from Contra Costa County residents. You can verify this with the petition copies you recently received from us.

The petition asks that the Board of Supervisors deny the developer's application for a land use designation change and that the property be saved from over-development. It is worthwhile for Supervisors to read the comments added by the signers, which are included in the copy you received. It is very revealing as to the level of passion people have regarding the extreme change the applicant is asking for and the severe impacts that change will bring.

In general, the concerns mentioned by petition signers most often and how often they were mentioned are: Environmental Impact: 40% of the time, Traffic & noise: 30%, Overdevelopment of the site, Inappropriate for surroundings and General Plan inconsistency were mentioned 40% of the time, and Safety 4%.

Safety concerns revolved around construction and delivery trucks exiting to the east down Marchbanks and winding through Heather Farm Park to get to Ygnacio Valley Road, endangering pedestrians, bikers, skate park and tennis court users, children at the playground and general park users.

Please take a look at the petition copies sent to you to truly hear the voice of the community's concerns. A denial of the applicant's request for a General Plan Amendment would address the concerns expressed.

12. ■Trees 1

There has been much discussion and dismay over the extreme loss of mature, code-protected trees that this development will bring. For this development to require that 80% of the 481 trees on the property be destroyed should give everyone pause as to whether this is the proper development choice for this site.

Of the 400 trees to be removed, 350 of them are "protected" as defined by the County's own Tree Protection and Preservation Ordinance. Protected means just that - the County has decided that certain trees deserve protection and the ordinance specifically states that, "trees are a vital part of a visually pleasing, healthy environment for the unincorporated area of this county" , and they "provide soil stability, improve drainage conditions, provide habitat for wildlife and provide aesthetic beauty…"

Even the few remaining trees not marked for removal are at risk due to the development's abundance of retaining walls and excessive excavation activities which are likely to intrude into those trees' root zones and reduce their survival chances. Before proceeding with this chainsaw massacre of 400 trees, deny the General Plan Amendment so that a much, much greater number of them may be saved.

13. ■Trees 2

Examine carefully the developer's promise that they will plant 1,100 replacement trees at a 3 to 1 ratio. Most of the replacement trees will be potted or podium plants in courtyards and landscaped areas. These are a weak substitute and certainly not replacements for hundreds-of-years-old, mature, deep rooted, County code-protected trees.

The California Department of Fish and Wildlife has called for a realistic native oak replacement ratio but much of the site will be occupied by buildings and other infrastructure and it becomes obvious that there is insufficient area to accommodate true replacement trees.

Give the existing trees more of a chance at survival by denying the General Plan Amendment. This will keep development reasonable, limit the site's destruction and consequently allow for greater tree protection, just as called for in the County's Tree Protection and Preservation Ordinance.

14. ■Trees 3

All the reports you have received indicate that 353 trees are to be removed from the site. We want to clarify that those reports are only stating the number of trees for which a permit is required for their removal because they are County "code-protected" trees. In reality, 403 trees will be removed from the site. That is an additional 50 trees which will be removed but are not noted in the FEIR or the Staff Report.

Minor alterations could be incorporated into the proposal's site design to easily preserve greater areas of desirable natural habitat out of the 30 acres. By denying the General Plan Amendment request you are asking the applicant to come up with a much less impactful design.

15. ■Retaining Walls 1

You probably don't think about retaining walls very often. But today you will want to consider the Spieker [Speaker] proposal's reliance on retaining walls, what that means and why it is so.

If you were to put all of the retaining walls required for this proposal end to end you would have a mile and a half long retaining wall. (For our purposes here, we are considering the tiered sections as one length of retaining wall.)

For perspective on how long a mile and a half is, if you walked out of the back of this building, along Marina Vista and Berrellesa [Barrel-ee-sah] all the way to Alhambra High School that would be the total length of the retaining walls required for the applicant's proposal.

And more than half of the walls are over 10 feet tall, the tallest tiered section rising 32 feet in height. There is no construction anywhere near the site that requires such height or quantity of retaining walls.

In defiance of both the County's *Hillside Protection ordinance* and its *General Plan Open Space Element* this development relies heavily on extreme "cut and fill" excavation which means leveling the hills and filling in the valleys. It is a design plan and proposal in search of a flat location and this 30-acre location is not flat but in fact very hilly, so it must be made flat through the use of excavation, leveling and extensive, tall retaining walls.

We have sent you easily understandable maps of the retaining walls. You may see for yourself the extent and heights of the needed walls.

By denying the General Plan Amendment request for this proposal you ask for a development less impactful than one dependent on the near-complete alteration of the existing landscape.

16. ■Retaining Walls 2

You have already heard or will hear that the proposal will require close to one and a half miles of retaining walls. The applicant has said that some of the walls will be "living walls" with plants covering their surface. When you hear this you will want to ask if those plants will require water. If so, will it be recycled water?

You may also observe the "living wall" along Ygnacio Valley Rd between San Carlos Dr. and the John Muir Hospital entrance to see the potential future dismal look for "living" retaining walls.

Also, we would like you to be aware that several of the proposed development's single tier or one piece retaining walls are over 20 feet in height. For example, there are walls near the Maintenance Building and the Medical Facility of 23 feet and 26 feet respectively and 23 foot walls beneath the bridge over the wetlands. The 23 foot Maintenance Building wall holds back soil from established neighboring homes which stand less than 40 feet away.

17. ■Soil and Bedrock removal

You have most likely heard of the need to remove 6,000 dump trucks worth of soil and bedrock from the project site, down Marchbanks Drive and Ygnacio Valley Road.

In addition, you are probably aware of the 12,000 dump trucks worth of soil and bedrock that will be rearranged on site during the excavation and the "cut and fill" operations which will level, recontour and reshape the site's landscape. This will result in some of the finished construction sitting atop 30 feet of fill. Understanding the enormous quantity of earthwork required for this proposal sheds light on why there must be a reliance on more than a mile and a half's worth of retaining walls ranging from 2 feet in height to more than 30 feet.

We ask that you deny the General Plan Amendment and eliminate the significant impacts which radiate out into the community from such an extensive and excessive operation. [Optional and if there is time add, *"And speaking for myself I would like to say ...."*]

18. ■Access points.

Your Planning Commission rightly questioned why no plans have been prepared for the off-site access improvements on North Sam Carlos, Seven Hills Ranch Road and Kinross Drive. 6,000 truckloads of soil and bedrock are to be hauled off-site but there is no discussion of how or where or if there will be any restrictions to this activity over City streets, regardless of the decision on primary access. Also, the EIR [E-I-R] doesn't address how many more code-protected trees will have to be removed nor how the staging and construction-related activities on Kinross Dr. will impact the significant wetland and riparian habitat found there.

There will be significant impacts on Walnut Creek City streets and communities outside the boundaries of Seven Hills Ranch. Until those impacts are more clearly accounted for and more precise information is given on how the applicant will manage those impacts the Board must deny the proposal, ask for a more precise EIR [E-I-R] and deny the General Plan Amendment. [Note to reader: EIR stands for *Environmental Impact Report*]

19. ■Maintenance Building

To construct the 10,000 square foot Maintenance Building for this development proposal requires excavation into the bedrock of a slope which is over the 26% allowed by the County Hillside Protection ordinance which reads "*Development on open hillsides and significant ridgelines throughout the county shall be restricted and hillsides with a* ***grade of twenty-six percent (26%) or greater*** *shall be protected ...*". Hard bedrock must be excavated and a 23 foot retaining wall put in place a scant **37 feet** from existing neighboring homes to create the building pad for this building. If ever a County hillside needed protecting it is this one and this is

a prime example of why the ordinance was established in the first place. This is but one instance of slope intrusion planned by this project.

This is a design plan and proposal in search of a flat location and the chosen 30-acre location is not flat but in fact very hilly - it must be excavated and leveled to make it flat without regard to slope protection requirements.

Either deny the General Plan Amendment so that a proposal can be put in place that respects the County's existing protective measures or ask that the developer relocate the Maintenance Building elsewhere on the 30 acres in accordance with County requirements.

20. ■Trails and Open Space

We ask that you deny the General Plan Amendment until the public benefit from the proposal can be better established and suggest that the following simple modification to the development plan would be a useful start.

In exchange for the lack of meeting the County residential *Park Dedication Standards* the developer has offered to provide a 2.4 acre area along the westerly site boundary adjacent to the Walnut Creek Channel. This is an empty offer. The acreage is extremely steep and unusable for the public open space or trails the developer and staff report suggests it could be used for. In addition, a public utility road already runs along the creek channel in that location; the public doesn't need anything from the developer to create a trail there.

This "gift" from the developer does not address the public's desires nor recognize the City of Walnut Creek's "Sphere of Influence" status when considering the City's request for a connective walking trail across the Ranch, as found in the City's *10 Year Parks Plan*. Despite what the developer claims, such a trail from Heather Farm Park to the Ranch ridge and its scenic vista is <u>easily</u> achievable within the current development plans and is one way this applicant can confirm their desire to be a good neighbor.

While Seven Hills Ranch has never been accessible to the public, we note that most parks or public trails were not accessible before they were established. We have sent you maps which illustrate the simple possibilities for this cooperative effort.

Please take the developer at their word that they would like to dedicate 2.4 acres of open space and trails but ask that the dedication actually be usable space.

■RHNA & "Urban Infill"

The proposal before you asks for substantial and numerous exceptions to what are in essence "good neighbor" policies put in place by the County. We strongly believe in private property rights but these policies are established to protect us all from incompatible design plans or enterprises being plunked down in our communities.

The footprint for the proposed Independent Living building alone is 359,000 square feet. It dwarfs the footprint of an aircraft carrier which is only about three-quarters of that size.

It should be with deep regret that this proposal is accepted and developed contrary to all the County's established good practices. In particular with regard to housing.

- This proposal creates further [Ree-nah] RHNA category disparity. It does not provide for the acutely needed and yet shortchanged category of *moderate-income* workforce and family housing. Instead it fulfills the *above-income* housing category that is already MORE than satisfied for the unincorporated County.

- In addition, Walnut Creek has an abundance of Senior Housing options including 525 Continuing Care Senior housing units about 2 miles away - with vacancy.
- Despite efforts to paint it as "urban infill" the proposal is actually an urban development in a suburban setting. This development alone creates the urban environment, adding all the urban impacts of: lighting, overbearing high-rise design, delivery and employee traffic, noise, restaurant odors, large concrete walls, no accessible greenbelts or walkways, and lack of connectivity with neighboring properties, including the park. That's urban and nothing in its surroundings is like it.

Developing as currently designated would NOT require the same amount of excavation, earthwork, leveling, fill and retaining walls as required for this project. One need only look at the adjacent hilly neighborhood to realize this.

By denying the General Plan amendment you need not make the numerous requested development exceptions and instead can make way for a development compatible to and appropriate for the surroundings and for one truly needed by the community.

You are the one last protection standing between your community's well-being and ill-suited encroachment.

4/4

From: James Martin
Sent: Monday, November 28, 2022 3:48 PM
To: Clerk of the Board
Subject: Nov 29 BOS Mtg Item D1 Public Comment
Attachments: wc sshr FEIR Biological Resources comments to BOS 11-28-22 with attachment.pdf

Dear Clerk of the Board of Supervisors,

Attached are my comments on the inadequacy of the FEIR for the Spieker Project regarding Biological Resources.

I'm hoping you can please forward these to the BOS as soon as possible given tomorrows hearing date is fast approaching.

Please let me know if you have any questions or trouble opening the attached pdf file.

Thank you in advance...

Jim

James A. Martin
Environmental Collaborative

SUBJECT: **Comments to the Contra Costa County Board of Supervisors (BOS)**
Related to Inadequate Biological Resources Section of FEIR
Spieker Senior Continuing Care Community Project Hearing on
November 29, 2022
CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038
State Clearinghouse No. 2021070517

Submitted by Jim Martin, Principal of Environmental Collaborative on November 28. 2022

Summary and Request to BOS

I am a consulting biologist with over 40 years of experience in Northern California and the Bay Area, including considerable work for Contra Costa County and other local agencies in the county. This includes work as the consulting biologist to the County on the highly controversial TVPOA Project and the Tassajara Cemetery Project, and the Terraces Project for the City of Lafayette.

I submitted detailed comments on the DEIR for the Spieker application related to biological resources and have reviewed the responses in the FEIR. Unfortunately, most of the major issues raised in my comments on the DEIR were not addressed in any substantive way in the FEIR. My comments from the DEIR related to biological resources were captured under Comments 143-1 through 143-22 in the FEIR. As a result of the lack of adequate response in the FEIR, I stand by my comments on the DEIR and request that they be reconsidered before the FEIR is certified by the County.

I also provided written comments to the Planning Commission in advance of their public hearing on the project on October 26, 2022 addressing the inadequacy of the FEIR. My comments to the Planning Commission focused on one primary issue – project impacts on oak woodlands and regulated trees – to demonstrate how the DEIR and FEIR are inadequate. I requested that the Planning Commission direct staff and the EIR consultant to revisit these issues, that new mapping of trees and woodlands be prepared by a qualified biologist to provide an accurate assessment of the proposed project, that the FEIR be revised accordingly to provide mitigation for impacts on oak woodlands and regulated trees, and report back at a future hearing with sufficient advanced public notice to allow for a meaningful public review.

As explained in my comments to the Planning Commission (please see my attached detailed comments from October 26, 2022), the loss of over 350 protected trees should have been identified as a significant impact and mitigation should be required by the County, including further avoidance of large groves of native trees and ensuring there is sufficient land area available to provide adequate compensatory mitigation. Contrary to the assertion in the FEIR that the larger trees would be avoided as part of the project, many of the over 350 protected trees to be removed are mature, an estimated 20 of which qualify as "heritage" sized trees under County Ordinance which was not disclosed in the FEIR. The FEIR and staff report to the Planning Commission assert that impacts on tree resources, the loss of over 350 protected

trees would not be a significant impact or require any type of mitigation, simply because a Tree Removal Permit is part of the project application.

Typically an EIR would assess the location of protected trees and evaluate options to provide for their retention, which could include adjustments to the limits of proposed grading and development, where feasible. But this was not provided in the DEIR or FEIR for the Spieker Project. Because the applicant was requesting removal of protected trees and would be required to "comply" with County Ordinance regarding Protected Trees as part of their application, the loss of over 350 protected trees was considered "less than significant" in the DEIR. No mitigation of any kind was required in the DEIR or FEIR.

The assertion was that the planting of 1,080 trees as part of the proposed Landscape Plan would address this impact. However, a review of the proposed Landscape Plan indicates that only 281 valley or coast live oaks would be planted, with the rest primarily non-native ornamental species used in landscaping. We also analyzed the available land area for native tree replacement planting and found that because of the extent of proposed development on the site there is insufficient planting area to install even the proposed 281 oaks. As currently proposed the project would not achieve even a 1:1 replacement for the loss of protected trees or native oaks. This approach to allowing any requested tree removal without some focused assessment on their location and feasibility of preservation completely defeats the purpose of review that is typically applied in an application for a Tree Removal Permit.

Which raises the following questions to the BOS...

> **When has the County ever allowed the removal of over 350 protected trees as part of a proposed project application? Including over 250 native valley oak trees and as many as 20 trees which qualify as "heritage" size.**
>
> **Why wasn't there an analysis in the DEIR on the location of "protected" trees and opportunities to provide for further avoidance through adjustments to the proposed limits of development?**

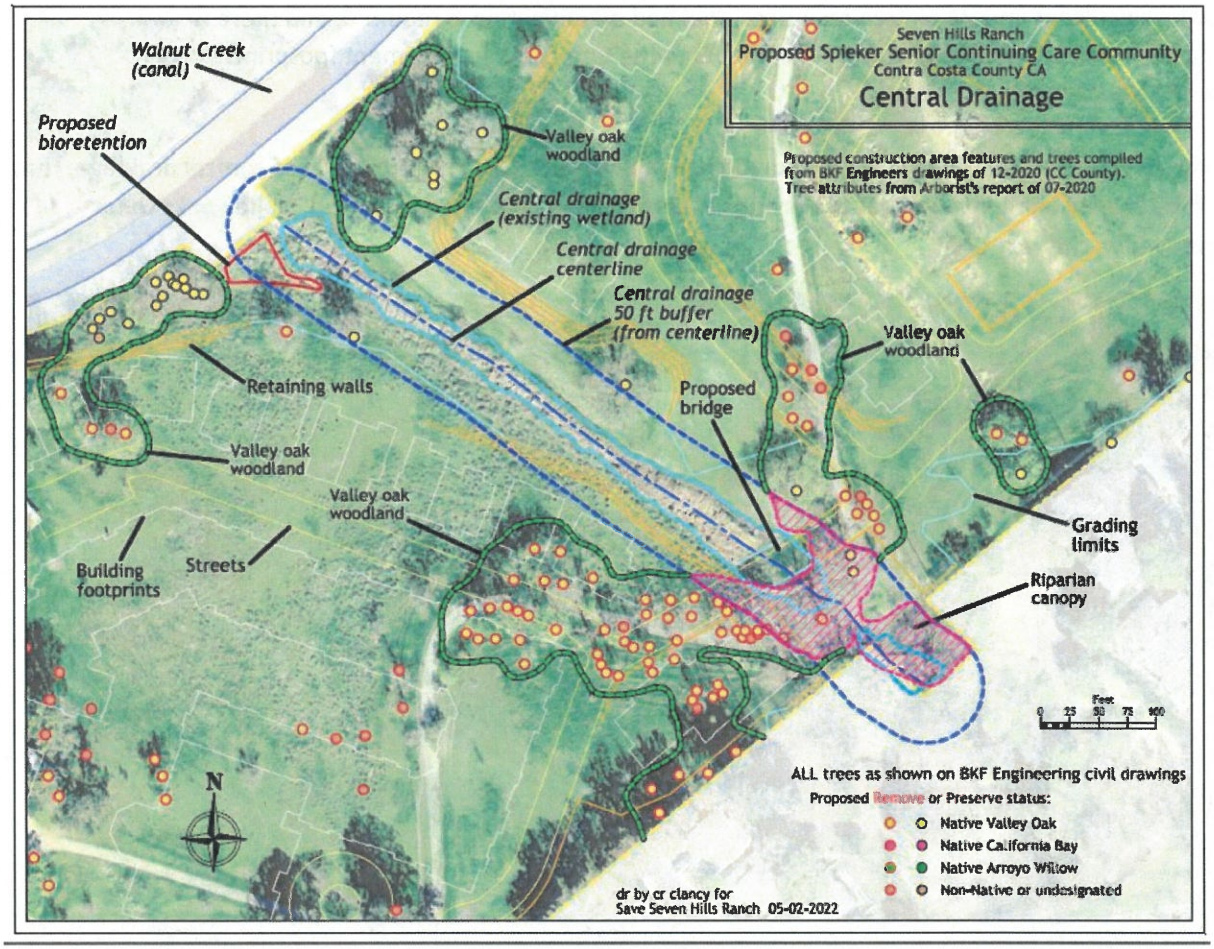
This project involves a General Plan amendment and warrants careful deliberation by the BOS to ensure it has been thoroughly and accurately assessed, that the potential impacts have been accurately described, and that meaningful mitigation is provided for the significant impacts, including protected trees.

Our comments on the DEIR provided detailed mapping of the location of oak woodlands, protected trees, and heritage trees, and made recommendations for how the footprint of proposed development could be adjusted to provide additional protection of native trees. Of particular concern was the large stand of valley oaks at the headwaters of the central drainage, within the footprint of the proposed Maintenance/Office Building and new bridge crossing, which are shown in the map below that was provided in our comments on the DEIR. The photograph below shows the oak woodland at the upper end of the central drainage on the

site where over 70 protected valley oak trees could be preserved by relocating these two components of the proposed project. This includes riparian woodlands that are likely State waters regulated by CDFW and RWQCB that we pointed out in our comments on the DEIR, but were completely ignored in the FEIR. The assertion is that because the DEIR concludes there is not a significant impact on tree resources, that and no mitigation is required, and there is therefore no basis for evaluating adjustments to the proposed development footprint. All of which we dispute.

View to southwest of dense valley oak woodlands and wetlands at headwaters of central drainage, that will be largely eliminated under the proposed project, with over 70 "protected" valley oaks to be removed in this location.

Map of Central Perennial Drainage - showing incursion into oak woodland, riparian woodland, and protected trees that could be avoided by relocating proposed bridge outside of tree canopy and relocating Maintenance/Office building outside the stand of oak woodlands



Conclusions and Need for Further Assessment of Project Impacts on Biological Resources

The DEIR and FEIR provide an inadequate assessment on the potential impacts of the proposed project on biological resources, including oak woodlands and protected tree resources. But many other potentially significant issues as well, such as the potential for presence of the federally-threatened California red-legged frog on the site. The loss of over 350 protected trees should be identified as a significant impact given the insufficient land area to provide replacement plantings as part of the proposed landscape plan.

The CDFW and RWQCB have also expressed substantive concerns over loss of native trees and impacts on riparian woodlands associated with the proposed project that were not addressed in

the DEIR or FEIR. The RWQCB provided comments on the inadequacy of the DEIR in their letter dated May 10, 2022, where they point out that the DEIR does not map or describe impacts on State Waters including riparian woodlands. In their comments on the DEIR, the RWQCB requested 1) further description and mapping of the extent of State Waters on the project site to fully understand the limits of jurisdictional waters, 2) completion of the "Riparian and Aquatic Habitat and Monitoring Plan" called for in Mitigation Measure BIO-2.2 to allow for a review of its adequacy, and 3) adjustments to proposed development on the 30-acre site to provide greater avoidance of regulated waters and sufficient area to fully mitigate unavoidable impacts on-site, none of which was addressed in the FEIR. In their comment letter on the NOP for the project CDFW dated August 30, 2021 concerns were expressed over possible tree loss and CDFW recommended native oak replacement ratios of up to 6:1.

Both the CDFW and RWQCB have regulatory authority over State Waters on the site, and both agencies have expressed major concerns over the proposed Spieker application and the inadequacy of the DEIR and FEIR in addressing potential impacts and providing adequate mitigation. Given their regulatory authority and question raised about the feasibility of the proposed project if they require further avoidance of regulated habitat, it is critical that the concerns of these agencies be fully addressed as part of the EIR review process. This could be accomplished through informal consultation to better understand their regulatory authority and modifications to the proposed project needed to secure their authorizations. Obviously, permits would not be issued until the applicant submits formal applications/notifications to each of these agencies, but this would ensure that the major concerns have been identified and addressed as part of the CEQA review.

I ask that the BOS find the FEIR inadequate and not certify the document. That you direct staff and the EIR consultant to revisit these issues, that new mapping of trees and woodlands be prepared by a qualified biologist and included in the FEIR to provide an accurate assessment of the proposed project, that the FEIR be revised accordingly to provide mitigation for impacts on oak woodlands and regulated trees, and report back at a future hearing with sufficient advanced public notice to allow for a meaningful review.

That unless further adjustments are made to the proposed project to avoid additional protected trees, provide sufficient land area to achieve on-site mitigation, and address the other substantive concerns raised in my comments on the DEIR that the proposed GPA be denied by the BOS.

ATTACHMENT A

Comments to Planning Commission on October 26, 2022

SUBJECT: **Comments to the Contra Costa County Planning Commission**

Related to Inadequate Biological Resources Section of FEIR Special Meeting on

Spieker Senior Continuing Care Community Project

October 26, 2022

CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038

State Clearinghouse No. 2021070517

Submitted by Jim Martin, October 26 2022

Summary and Request to Planning Commission

I submitted detailed comments on the DEIR for the above application and have quickly reviewed the responses in the FEIR. Unfortunately most of the major issues raised in my comments on the DEIR were not addressed in any substantive way in the FEIR. My comments from the DEIR related to biological resources were captured under Comments 143-1 through 143-22 in the FEIR. As a result of the lack of adequate response in the FEIR, I stand by my comments on the DEIR and request that they be reconsidered.

REQUEST: I ask that the Planning Commission direct staff and the EIR consultant to revisit these issues, that new mapping of trees and woodlands be prepared by a qualified biologist and included in the FEIR to provide an accurate assessment of the proposed project, that the FEIR be revised accordingly to provide mitigation for impacts on oak woodlands and regulated trees, and report back at a future hearing with sufficient advanced public notice to allow for a meaningful review.

Given the short amount of time to provide a thorough review and the volume of information before each of you, I am going to focus on just one primary issue raised in my comments on the DEIR – project impacts on oak woodlands and regulated trees - to demonstrate how my comments were not addressed in any substantive way in the FEIR.

I want to explain to the Commission that I am an environmental consultant by profession, with over 40 years of experience, including work on many projects for Contra Costa County and for other jurisdictions in the county. I also served on the Emeryville Planning Commission for almost 10 years, so I understand the important work before you in reviewing the Spieker application, receiving public comment and deliberating next steps. Again, given the magnitude of the errors and omissions in the FEIR, **I am requesting that the Commission hold off making recommendations for certification of the FEIR and approval of the proposed applications until these issues have been adequately addressed and presented to you at a future meeting.**

This project involves a General Plan amendment and warrants careful deliberation by the Commission to ensure it has been thoroughly and accurately assessed, that the potential impacts have been accurately described, and that meaningful mitigation is provided for the significant impacts on regulated habitat, valley oak woodlands which are recognized by the California Department of Fish and Wildlife (CDFW) as a sensitive natural community subject to special consideration as part of CEQA review, and loss of both "protected" and "heritage" trees regulated under the County's Tree Protection Ordinance.

Inaccurate Characterization of Oak Woodlands and Inadequate Assessment of Tree in the DEIR

My comments on the inadequacy of the DEIR ranged from lack of accurate data on regulated waters, need for surveys to confirm presence or absence of special-status species such as the federally-listed California red-legged frog, to mischaracterization of the existing native oak woodlands on the site and misrepresentation of the proposed project's impacts on regulated trees. Given the lack of information provided in the DEIR, we submitted detailed information on known or suspected resources to demonstrate the need for additional followup surveys and mapping, and even prepared detailed maps that show the location of oak woodlands, protected trees and heritage trees on the site. All of these concerns were basically dismissed in the FEIR. The County had the applicants' biologist (instead of the independent peer review biologist used in preparation of the DEIR) conduct a followup field reconnaissance of the site, but no detailed surveys or mapping or tree resources was provided in the FEIR. Evidence was provided in my comments on the DEIR that the oak woodlands on the site qualify a "Valley Oak Woodlands" are a sensitive natural community type that have a rarity ranking of G3S3 under the CDFW Natural Communities Program https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities). Basically, all Natural Communities with a State rank of S1-S3 are considered a sensitive natural community type. Instead, or recognizing the presence of this sensitive natural community type on the site, the FEIR contends that because none of the site was mapped as oak woodland in the deficient DEIR, that none is present. That

> "while oak trees are present on the site, they are spread out and solitary or in small clusters that do not meet the definition of oak woodland; therefore, Public Resources Code Section 21083.4 is not applicable to the project."

This can't be further from the truth!

Below a few photographs of some of the oak woodlands on the site. These include well-developed stands of mature oaks, with an understory of native grasses and forbs in some location. Not "spread out and solitary or in small clusters" as claimed in the responses to comments in the FEIR. In some stands, like the one at the headwaters of the central drainage, there are more than 100 valley oaks present that qualify as a "protected" tree under the County's Tree Protection Ordinance. These stands without question meet the definition of oak woodlands used by CDFW and defined in vegetation manuals used by professionals, which typically assume a minimum 10 percent tree cover to qualify as woodland. These larger stands of oak woodlands have a near 100 percent tree cover.

Representative Photographs of Oak Woodland on Site

View to northeast of dense oak woodlands along southwestern edge of site as seen from maintenance road along Walnut Creek channel at confluence with Homestead Creek

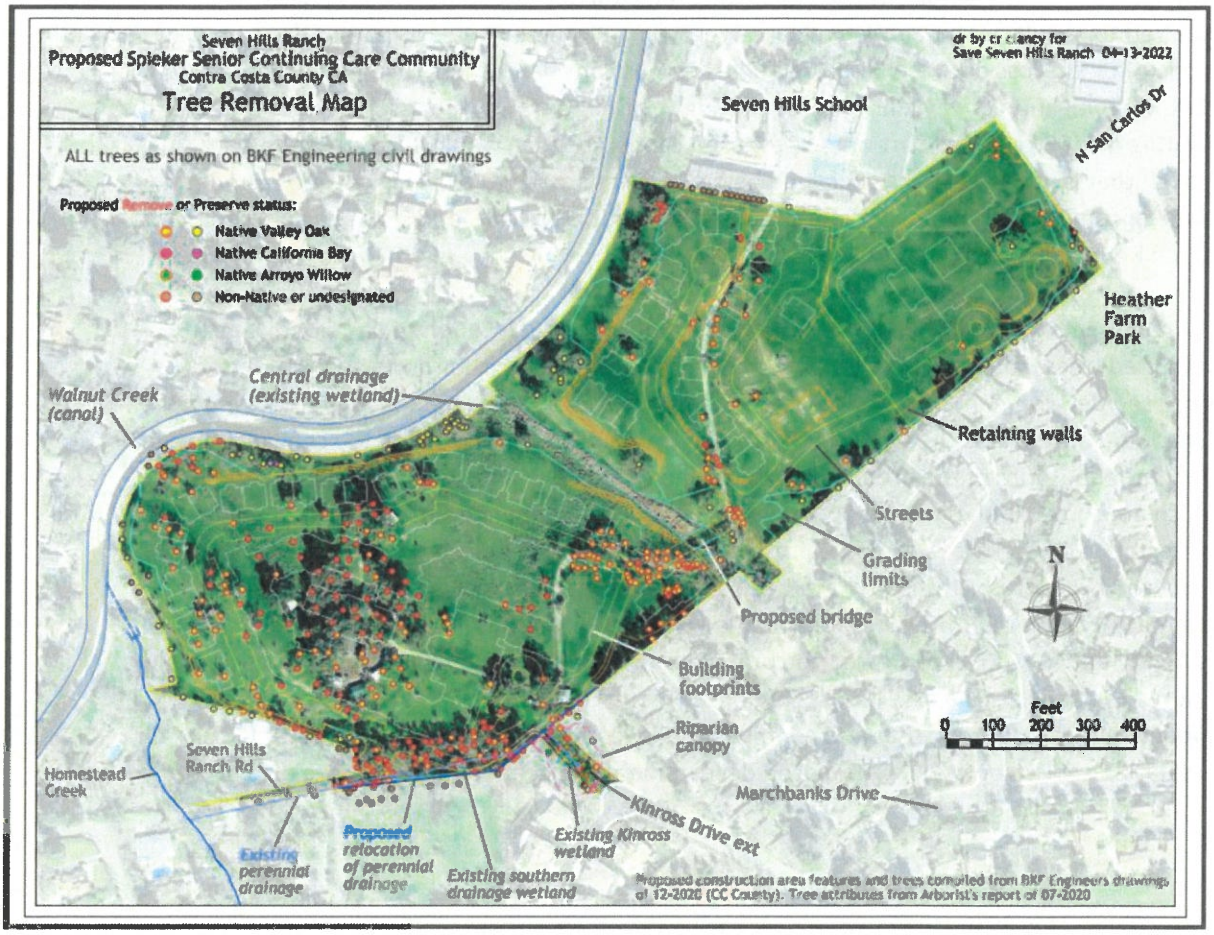
View to southeast of dense oak woodlands along western edge of site as seen from maintenance road along Walnut Creek channel downstream of confluence with central drainage from the site.

View to southwest of dense valley oak woodlands at headwaters of central drainage, that will be largely eliminated under the proposed project, with over 70 "protected" valley oaks to be removed in this location.

Mapping provided in our comments on the DEIR shows the extend of oak woodlands, together with the location of "protected" and "heritage" trees based on the available information from the applicant's Arborist Report and Civil Plans. We pointed out substantial errors and omissions between these two mapping sources, which likely means that as many as 58 may have been mis-mapped or are missing, all of which was dismissed in the responses to the FEIR.

Below is a detailed map of trees proposed for removal that we prepared from available data and submitted in comments on the DEIR showing the location of protected trees proposed for removal. Contrary to the repeated assertion in the FEIR that most of the major trees on the site would be retained, most of the over 400 trees on the site would be removed to accommodate development. These consist of over 350 trees considered "protected" under County Ordinance, of which over 250 are native valley oaks. Over 20 threes considered "heritage" under County Ordinance would be removed or in such close proximity to grading and development that they likely would face severe decline and death.

Tree Removal Map – showing impacts of Proposed Project based on verifiable data



The FEIR and Staff Report to the Planning Commission assert that impacts on tree resources, the loss of over 350 protected trees would not be a significant impact or require any type of mitigation, simply because a Tree Removal Permit is part of the project application.

Which raises the following questions to the Planning Commission...

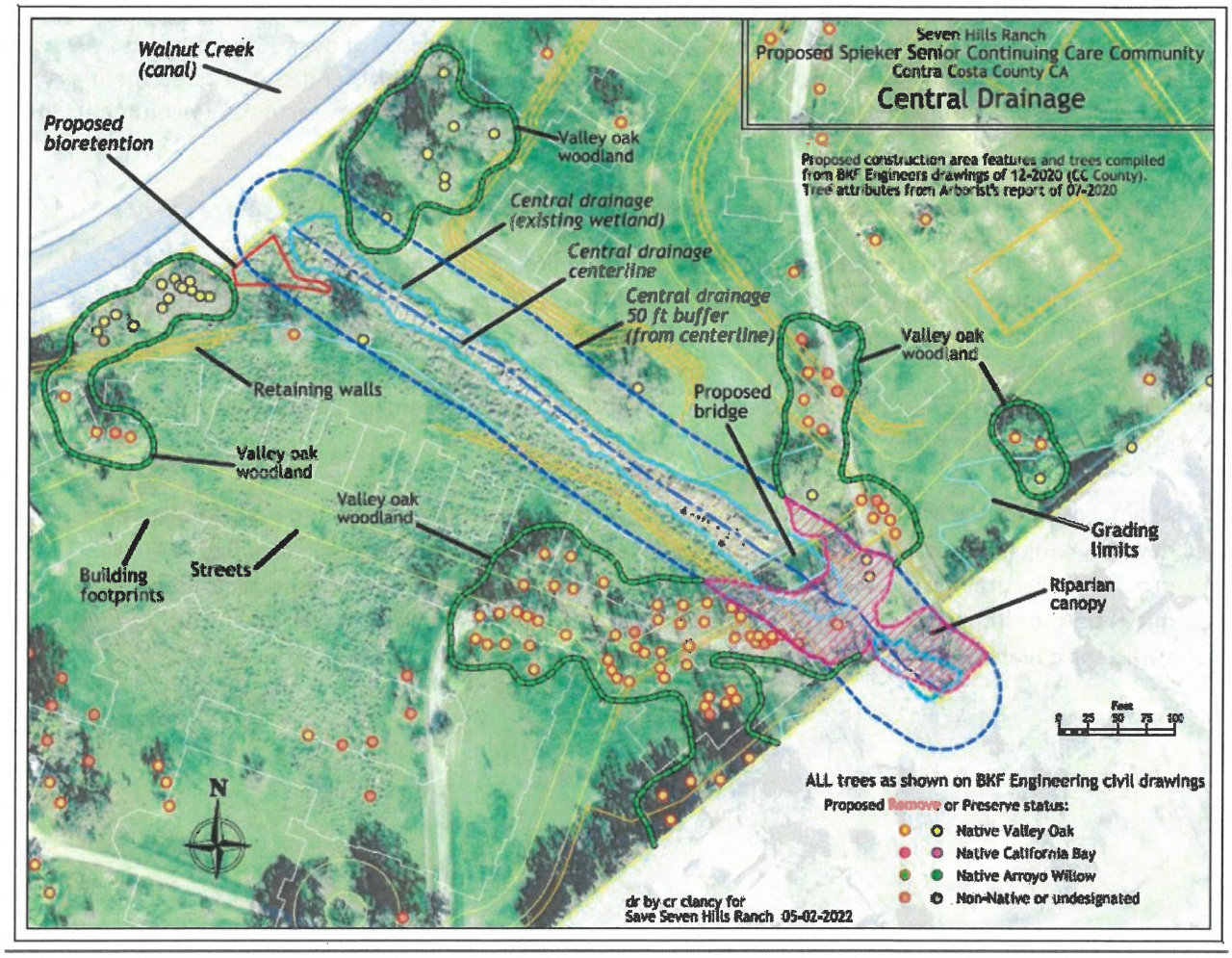
> **When has the County ever allowed the removal of over 350 protected trees as part of a proposed project application? Including over 250 native valley oak trees and as many as 20 which qualify as "heritage" size.**
>
> **Why wasn't there an analysis in the DEIR on the location of "protected" trees and opportunities to provide for further avoidance through adjustments to the proposed limits of development?**

Typically an EIR would assess the location of protected trees and evaluate options to provide for their retention, which could include adjustments to the limits of proposed grading and

development, where feasible. But this was not provided in the DEIR or FEIR for the Spieker Project. Because the applicant was requesting removal of protected trees and would be required to comply with County Ordinance regarding Protected Trees as part of their application, the loss of over 350 protected trees was considered "less than significant" in the DEIR. No mitigation of any kind was required in the DEIR or FEIR. The assertion was that the planting of 1,080 trees as part of the proposed Landscape Plan would address this impact, though that is not the case as explained below. This approach to allowing any requested tree removal completely defeats the purpose of review that is typically applied in an application for a Tree Removal Permit.

Our comments on the DEIR provided detailed mapping of the location of oak woodlands, protected trees, and heritage trees, and made recommendations for how the footprint of proposed development could be adjusted to provide additional protection of native trees. Of particular concern was the large stand of valley oaks at the headwaters of the central drainage, within the footprint of the proposed Maintenance/Office Building and new bridge crossing, which are shown in the map below that was provided in our comments on the DEIR. Over 70 protected valley oak trees could be preserved by relocating these two components of the proposed project, which should have been addressed as part of a Modified Project Design Alternative in the DEIR. This includes riparian woodlands that are likely State waters regulated by CDFW and RWQCB that we pointed out in our comments on the DEIR, but were completely ignored in the FEIR. The assertion is that because the DEIR concludes there is not a significant impact on tree resources, that and no mitigation is required, and there is therefore no basis for evaluating adjustments to the proposed development footprint. All of which we dispute.

Map of Central Perennial Drainage - showing incursion into oak woodland, riparian woodland, and protected trees that could be avoided by relocating proposed bridge outside of tree canopy and relocating Maintenance/Office building outside the stand of oak woodlands



Compounding this inadequate assessment of impacts on woodlands and tree resources is the reliance on replacement plantings as part of the proposed Landscape Plan to address the loss of protected trees. The DEIR and FEIR assert that the planting of 1,080 trees would serve to adequately address the loss of over 350 protected trees and ensure compliance with the County Ordinance. But there is no analysis in the DEIR or the FEIR on whether this would really serve as adequate replacement. Most of the trees to be planted as part of the proposed Landscaping Plan are non-native ornamental species and would not address the loss of native protected oaks.

The proposed Landscape Plan calls for planting of a total of 281 coast live oak and valley oaks on the site.

However, if the DEIR or FEIR had done a reasonable assessment of the feasibility of accommodating 281 native oaks on the site, it would have demonstrated that insufficient area is available because of the extent of proposed development, biofiltration basins and other constraints. Even if sufficient land area was available, this would provide barely a 1:1 replacement ratio for protected trees, including as many of 20 that would qualify at heritage trees with trunk diameters exceeding 22 inches diameter at breast height. How could this be considered adequate replacement for the loss of over 350 protected trees, over 250 native valley oaks and up to 20 heritage trees. All of this requires further detailed assessment as we requested in our comments on the DEIR, which were basically ignored in the response to comments in the FEIR.

Conclusions and Need for Further Assessment of Project Impacts on Biological Resources

The DEIR and FEIR provide an inadequate assessment on the potential impacts of the proposed project on biological resources, including oak woodlands and tree resources. But many other potentially significant issues as well, such as the potential for presence of the federally-threatened California red-legged frog on the site. The loss of over 350 protected trees should be identified as a significant impact given the insufficient land area to provide replacement plantings as part of the proposed landscape plan.

Again, I ask that the Planning Commission direct staff and the EIR consultant to revisit these issues, that new mapping of trees and woodlands be prepared by a qualified biologist and included in the FEIR to provide an accurate assessment of the proposed project, that the FEIR be revised accordingly to provide mitigation for impacts on oak woodlands and regulated trees, and report back at a future hearing with sufficient advanced public notice to allow for a meaningful review.

6/28

From: Laura Lee <l :com>
Sent: Monday, November 28, 2022 4:01 PM
To: Clerk of the Board
Subject: Attention: Board of Supervisors. - Seven Hills Ranch development

Hello. My name is Laura Lee and I would like to share the following information from Save Seven Hills Ranch:

You have most likely heard of the need to remove 6,000 dump trucks worth of soil and bedrock from the project site, down Marchbanks Drive and Ygnacio Valley Road. In addition, you are probably aware of the 12,000 dump trucks worth of soil and bedrock that will be rearranged on site during the excavation and the "cut and fill" operations which will level, recontour and reshape the site's landscape. This will result in some of the finished construction sitting atop 30 feet of fill. Understanding the enormous quantity of earthwork required for this proposal sheds light on why there must be a reliance on more than a mile and a half's worth of retaining walls ranging from 2 feet in height to more than 30 feet.

We ask that you deny the General Plan Amendment and eliminate the significant impacts which radiate out into the community from such an extensive and excessive operation.

And speaking for myself I would like to say as a 20 year resident of Walnut Creek, I can tell you that Ygnacio Valley Road currently has more daily traffic than the San Francisco Golden Gate Bridge. That is a fact. We don't need nor want more cars on our roads. Furthermore, the wildlife in this area will be decimated. My property is just a few houses from 7 Hills Ranch Rd. The amazing and numerous wildlife we have visit from that area into our own backyard include, but are not limited to, adult and baby deer, turkeys, bobcat, fox, coyote, raccoon, skunk, and the birds, such as owl's that nest in the trees. It brings tears to my eyes just thinking of their habitats being destroyed and thus they will die. You can't replace them. This project in its entirety is a disaster. For all of these reasons, again, please DENY this General Plan Amendment. Thank you.

From: Victor Flores [redacted]g>
Sent: Monday, November 28, 2022 4:04 PM
To: John_Gioia; Supervisor Candace Andersen; Supervisor_Burgis; SupervisorMitchoff; District5; Clerk of the Board
Cc: Zoe Siegel
Subject: Letter in Support: Spieker Senior Homes
Attachments: November 2022 Spieker Senior Home Endorsement Letter.pdf; November 2022 Spieker Senior Home Endorsement Letter.pdf

Good evening Honorable Contra Costa Board of Supervisors,

Thank you for your work and consideration of this project. We look forward to your discussion of the item at tomorrow's meeting.

Attached is our letter of support for the Spieker SeniorContinuing Care Community Project.

--
Victor Flores (he/him/his)
Resilience Manager, East Bay | **Greenbelt Alliance**
(415) 543-6771 x313 | *Let's connect on LinkedIn | Calendly*
greenbelt.org | Facebook | Instagram | Twitter

This holiday season, become a Greenbelt Alliance monthly donor and get *Bay Area Flora & Fauna: A Guide to Native Plants & Animals Around the Region*, the perfect pocket book to explore the region.

GREENBELT ALLIANCE

November 28th, 2022

RE: Endorsement of Spieker Senior Continuing Care Community

Dear Contra Costa County Board of Supervisors,

For over 60 years, Greenbelt Alliance has helped create cities and neighborhoods that make the Bay Area a better place to live—healthy places where people can walk and bike; communities with parks, shops, transportation options; homes that are affordable and resilient to the impacts of climate change. Greenbelt Alliance's Climate SMART—Sustainable, Mixed, Affordable, Resilient, Transit-Oriented—Development Endorsement Program provides support for projects that advance the right kind of development in the right places.

After careful review, Greenbelt Alliance is pleased to endorse the proposed Spieker Senior Continuing Care Community project.

As an environmental organization, we understand the critical need to increase our housing supply so we can reduce our greenhouse gas (GHG) emissions from commuters living far from jobs. This site is well served by transit (bus lines and Pleasant Hill BART), grocery-based retail, and the incredible Heather Farm park. Seniors, children and their families will be able to enjoy the park together. John Muir Medical Center and downtown Walnut Creek are also located within a short 1 mile radius. The close proximity to transit and downtown would allow for further contribution to the County's ambitious Climate Action Plan. This 354 unit project will not only provide new transit accessible jobs for Contra Costa County residents, but also affordable housing for seniors to enjoy and thrive in.

The proposals' close proximity to transit, commitment to affordability, and sustainable design aligns with the County's Sustainable Development Goals. We understand the tradeoff of losing open space is a concern. We cannot meet our climate goals without building more dense housing for a variety of demographics, including senior housing. After hearing comments at the Planning Commission in October, it appears that the alternative future for this site is a development of single family homes which will house less people while producing greater GhG emissions and potentially forcing these senior homes to be built farther away from the communities residents originate from.

The Spieker Senior Continuing Care Community boasts numerous sustainable features embedded into the design of the project. This includes drought tolerant landscaping, construction and operational setbacks from jurisdictional wetlands, recycled water lines for landscape irrigation, and use of green building materials. Additionally, the developers are making strides to reduce vehicle miles traveled (VMT) and further contribute to the County's long term sustainability goals through an employee transportation incentive reimbursement program providing funding for carpooling, cycling, walking, or use of public transportation as well as Neighborhood Electric Vehicles (NEV) to be utilized by employees. This will result in an overall reduction of greenhouse gas emissions (GhG) emissions and contribute to the resiliency of the community.

This is the kind of climate-smart development that we need in the Bay Area to meet our housing goals, reduce GHG emissions, and make sure that residents of all ages are able to grow and thrive in their own communities. Through building more housing, we make a significant step in enabling seniors to age in their community near family. We hope your approval of this project will inspire communities around the Bay Area to redouble their efforts to meet our housing and climate goals.

Victor Flores

Resilience Manager- East Bay, Greenbelt Alliance

GREENBELT ALLIANCE

November 28th, 2022

RE: Endorsement of Spieker Senior Continuing Care Community

Dear Honorable Contra Costa County Board of Supervisors,

For over 60 years, Greenbelt Alliance has helped create cities and neighborhoods that make the Bay Area a better place to live—healthy places where people can walk and bike; communities with parks, shops, transportation options; homes that are affordable and resilient to the impacts of climate change. Greenbelt Alliance's Climate SMART—Sustainable, Mixed, Affordable, Resilient, Transit-Oriented—Development Endorsement Program provides support for projects that advance the right kind of development in the right places.

After careful review, Greenbelt Alliance is pleased to endorse the proposed Spieker Senior Continuing Care Community project.

As an environmental organization, we understand the critical need to increase our housing supply so we can reduce our greenhouse gas (GHG) emissions from commuters living far from jobs. This site is well served by transit (bus lines and Pleasant Hill BART), grocery-based retail, and the incredible Heather Farm park. Seniors, children and their families will be able to enjoy the park together. John Muir Medical Center and downtown Walnut Creek are also located within a short 1 mile radius. The close proximity to transit and downtown would allow for further contribution to the County's ambitious Climate Action Plan. This 354 unit project will not only provide new transit accessible jobs for Contra Costa County residents, but also affordable housing for seniors to enjoy and thrive in.

The proposals' close proximity to transit, commitment to affordability, and sustainable design aligns with the County's Sustainable Development Goals. We understand the tradeoff of losing open space is a concern. We cannot meet our climate goals without building more dense housing for a variety of demographics, including senior housing. After hearing comments at the Planning Commission in October, it appears that the alternative future for this site is a development of single family homes which will house less people while producing greater GhG emissions and potentially forcing these senior homes to be built farther away from the communities residents originate from.

The Spieker Senior Continuing Care Community boasts numerous sustainable features embedded into the design of the project. This includes drought tolerant landscaping, construction and operational setbacks from jurisdictional wetlands, recycled water lines for landscape irrigation, and use of green building materials. Additionally, the developers are making strides to reduce vehicle miles traveled (VMT) and further contribute to the County's long term sustainability goals through an employee transportation incentive reimbursement program providing funding for carpooling, cycling, walking, or use of public transportation as well as Neighborhood Electric Vehicles (NEV) to be utilized by employees. This will result in an overall reduction of greenhouse gas emissions (GhG) emissions and contribute to the resiliency of the community.

This is the kind of climate-smart development that we need in the Bay Area to meet our housing goals, reduce GHG emissions, and make sure that residents of all ages are able to grow and thrive in their own communities. Through building more housing, we make a significant step in enabling seniors to age in their community near family. We hope your approval of this project will inspire communities around the Bay Area to redouble their efforts to meet our housing and climate goals.

Victor Flores

Resilience Manager- East Bay, Greenbelt Alliance