

**ATTACHMENT 1 – MINUTE ORDER 01-2011
CEQA CERTIFICATION STATEMENT**

WHEREAS, Rancho Laguna, LLC ("Applicant"), owns approximately 180 acres of property within the Town of Moraga along Rheem Boulevard (more specifically referred to as APN: 256-040-024); and

WHEREAS, on February 25, 2005, the Applicant applied to the Town of Moraga for the development of its property, requesting approval of a Conditional Use Permit (CUP) and Conceptual Development Plan (CDP) for a 35 lot single-family residential project with associated open space and other public amenities, entitled Rancho Laguna II (Applicant's earlier Rancho Laguna I application had been withdrawn following completion of its Draft Environmental Impact Report and its circulation for public comments); and

WHEREAS, the Town retained Sponamore Associates, a well-qualified environmental consulting firm, to prepare an environmental impact report ("EIR") for the proposed Rancho Laguna II 35 lot project; and

WHEREAS, on June 4, 2002, the Town of Moraga adopted the Moraga 2002 General Plan which is a statement of community values and priorities; and

WHEREAS, the purpose of the Moraga General Plan is to provide a framework for development decision-making and directing the orderly growth of the Town, and to provide an adequate level of services to the community; and

WHEREAS, the Moraga 2002 General Plan was prepared as a strategic tool for guiding the physical development of the Town and governs the development of Rancho Laguna II project area site; and

WHEREAS, a Final EIR for the Rancho Laguna II project has been prepared in order to comply with the California Environmental Quality Act (CEQA) and provide information to facilitate the planning of a Rancho Laguna II project that, in meeting project objectives, avoids or mitigates to less than significant all significant environmental impacts, the thresholds of which are informed by the goals and policies of the 2002 Moraga General Plan; the process to complete that Environmental Impact Report is described below; and

WHEREAS, on September 13, 2005, the Town of Moraga published and circulated through October 10, 2005, a Notice of Preparation (NOP) regarding the preparation of an Environmental Impact Report (EIR) for the Rancho Laguna II project; and

WHEREAS, during the public circulation period for the NOP, on September 19, 2005, the Planning Commission held a public meeting regarding the preparation and scope of the Draft EIR; and

WHEREAS, the Rancho Laguna II Draft EIR was first published on July 11, 2006 and circulated for a public review period through September 25, 2006; and

WHEREAS, On July 17, 2006 and August 1, 2006, the Planning Commission held public hearings to receive comments on the Draft EIR; and

WHEREAS, on September 20, 2006, the Planning Commission held a study session regarding the Rancho Laguna II project to allow the Applicant and its consultants to make presentations and provide information regarding visual quality, slope stability, Rheem Boulevard stabilization, drainage, and hydrology, and to give the public the opportunity to provide testimony and ask questions concerning these and other topics of interest; and

WHEREAS, on August 18, 2008, the Town released for public review a Final Environmental Impact Report (Final EIR) for the 35 lot project pursuant to CEQA; and

WHEREAS, that Final EIR, consists of the following: (i) Draft EIR, (ii) its Appendices, (iii) Comments Received on the Draft EIR, Responses to Comments Document (Volumes 1-3), and (iv) Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, included in those documents are the contents required for an EIR as set forth in CEQA Guideline Section 15132 (a)-(d); and

WHEREAS, in compliance with Public Resources Code section 21092.5 (a), copies of the Responses to Comments, Volume 1, were provided to public agencies who commented on the Draft EIR; and Volumes 1-3 and the MMRP were provided to the Planning Commissioners; and the documents were posted on Town website and made available at the Planning Department for public review; and

WHEREAS, after that Final EIR was released, the Applicant modified the 35 lot project described therein, based on that environmental review and input received during the planning process from Town staff, EIR consultants, members of the public, and the Planning Commission; and

WHEREAS, on September 2, 2008 and September 15, 2008, the Planning Commission held public hearings on the project, in part to discuss that Final EIR and receive comments from the public and members of the Planning Commission on its content; and

WHEREAS, at the public hearing on the project on October 20, 2008, the Town EIR consultants responded to written and oral testimony provided by members of the public concerning the contents of that Final EIR, which responses are included as part of the administrative record but not incorporated in the Final EIR; and

WHEREAS, the Planning Commission directed additional project changes recommended by Town staff: (i) reducing the number of lots in the upper Rheem valley area to six in order to create wider and more spacious lots and locate the debris benches outside the lots, and (ii) stabilizing Rheem Boulevard along the entire project frontage by including a lower valley buttress; and

WHEREAS, Commissioners agreed with the Town Engineer that the prospect was very unlikely for the Town to secure funding for it to complete the alternative method of repair for that intervening unstable section, and Commissioners determined that a restored intermittent drainage represented high quality mitigation and an aesthetic improvement over the existing, degraded condition of that intermittent drainage; and that this alternative to be feasible in that it could be accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors; and

WHEREAS, the Planning Commission directed Town staff to come back at a later public hearing with a 27 lot project that includes the foregoing changes and to evaluate whether the remaining significant impact of the project, the change it makes in the visual character of the project site as seen from Rheem Boulevard, a scenic road, could be reduced to less than significant with different mitigation; and

WHEREAS, in response, the Applicant prepared the "Rheem Boulevard Visual Quality Mitigation Exhibits," comprised of the "27 Lot Preliminary Grading Plan for Rheem Boulevard Visual Quality Mitigation" (one sheet) by the Applicant's engineer dated January, 2009, and the "Rheem Boulevard Visual Quality Mitigation Exhibit" by the Applicant's landscape architect dated January, 26, 2009.

WHEREAS, the Rheem Boulevard Visual Quality Mitigation Exhibits ("Mitigation Exhibits") include the lower Rheem valley buttress and six wider lots on "D" Drive in the upper Rheem valley with the debris benches located outside the lots, as directed by the Planning Commission, and the subsequent design changes recommended by Town staff and the EIR consultant and design sub-consultant; and

WHEREAS, the fully mitigated project described above and as recommended for the Rancho Laguna property by the Planning Commission as the Rancho Laguna II PC 27 Lot Project" or the "PC 27 Lot Project;" and

WHEREAS, an Update for Final EIR (i.e., it updates the Final EIR released in August, 2008) has been prepared which describes the PC 27 Lot Project and the reduction in project impacts, and confirms that the changes to the 35 lot project do not result in any new significant impacts or an increase in the severity of any previously identified environmental impacts, that there is no feasible project alternative to clearly lessen the significant environmental impacts of the project and that a project alternative is not required to reduce all environmental impacts to less than significant; and

WHEREAS, a revised Mitigation Monitoring and Reporting Program ("revised PC MMRP" for the PPC 27 Lot Project has been prepared, pursuant to Public Resources Code Section 21081.6, to ensure compliance with Mitigation Measures and project Conditions of Approval during implementation and is incorporated by reference as part of the Update for the EIR and replaces the MMRP released in August, 2008; and

WHEREAS, the Significant Impacts and Mitigation Measures in the August, 2008 MMRP have been modified in the revised PC MMRP to better reflect the PC 27 Lot Project and for clarity (for example, see revised Mitigation Measure 3.35 #4); and

WHEREAS, the Update and revised PC MMRP for the PC 27 Lot Project were incorporated into the Final EIR for that project; and

WHEREAS, recirculation of that Final EIR for the PC 27 Lot Project, prior to its certification, was not required per the standards for such recirculation in CEQA Guideline 15088.5, for the reasons and based on the substantial evidence set forth in the Update for the Final EIR, this Resolution, the Staff Report, and the administrative record as a whole; and

WHEREAS, on or before August 10, 2009, the Update for the Final EIR, revised PC MMRP, and the Staff Report to the Planning Commission and its Attachments were released for review to interested public members and commenting agencies (and subsequently posted on the Town website) and copies made available for public review at the Town Planning Department), and hard copies were provided to Planning Commissioners.

WHEREAS, on August 17, 2009, the Planning Commission held a duly noticed public hearing and received testimony from the applicant and members of the public; and

WHEREAS, on August 17, 2009, the Planning Commission unanimously adopted Resolutions 10-2009, 11-2009 and 12-2009 certifying the Final EIR and approving the Conceptual Development Plan and Conditional Use Permit, respectively for the project; and

WHEREAS, on August 27, 2009, in accordance with the Municipal Code, an appellant group filed a timely appeal of the Planning Commission action described above with the Planning Department; and

WHEREAS, the Town Council has considered the above referenced appeal previously on October 28 2009, May 26, 2010, October 27, 2010, January 26, 2011 and considered and approved continuances on November 4, 2009, January 27, 2010, March 10, 2010, May 26, 2010, January 12, 2011, and received detailed input and testimony from appellants and Applicant, as well as others; and

WHEREAS, in response to direction of the Town Council received at its previous two public hearings in May and October, the PC 27 Lot Project that is the subject of this appeal has been revised, including the following changes:

- (1) Lot 23-27 have been relocated so there are 19 lots in the upper development area on the southern plateau and 8 lots in the upper valley across from Rheem Boulevard on realigned roads;
- (2) The grading plan, road configuration, lots, building heights and landscape plans for the upper development area have been modified so that none of the 19 homes, roads or new landscape there will be visible from Rheem Boulevard or the St. Mary's Road/Lafayette-Moraga Regional Trail viewpoint;
- (3) Screen landscaping is no longer required on open hillsides;
- (4) Cut grading in the upper development area has been significantly reduced along the north-south ridge in the upper development area, the developed acreage has been further reduced, all lot pads now include a natural contour line, and the closest lot on the north-south ridge is a greater distance from the defined, protected ridgeline above 800 feet elevation and 20% slope to the north of the residential development area;
- (5) The lower valley buttress has been replaced with a Rheem Boulevard stabilization alternative in the high risk area, to be completed with development of the project and which does not require filling the intermittent creek;
- (6) The private road access to the upper development area has been changed from 'A' Way, with its required hillside grading and intermittent creek crossing, to the Fay Hill Reservoir access alignment for the previous emergency vehicle access;
- (7) The revised access to the upper development area, as shown in the Access Road Sections dated December 30, 2010, has been determined by the Fire Marshall to provide sufficient fire protection and emergency access without the need for secondary access;
- (8) Homes on 'D' Drive are now located on its westerly side with the indoor and outdoor living area for those residences now oriented toward the wetland swale and its vegetated slope, providing an aesthetic improvement within that scenic corridor for both the homeowners and travelers on Rheem Boulevard;

(9) Through minor refinements to the revised preliminary grading plan, the final grading plan will be balanced cut and fill;

WHEREAS, these project revisions are incorporated and described in the Conceptual Development Plan Sheets dated December 16, 2010, as modified by the Access Road Sections dated December 30, 2010 (“CDP Sheets”), the preliminary landscape plans dated September 15, 2010 (as they will be modified consistent with the CDP Sheets), and related exhibits submitted by Applicant;

WHEREAS, Town staff and the EIR consultants have confirmed, and Town Council concurs, that with the project modifications in the CDP Sheets: (1) significant environmental impact of the project continue to be less than significant as mitigated (in fact, mitigation has been modified because potential significant impacts in the PC 27 Lot Project have been reduced in the revised 27 Lot Project); (2) the modified project results in no new significant impact and no increase in the severity of an existing significant impact; instead, the project changes further reduce impacts to the intermittent drainage in the lower valley and as to the visual quality of the project from public viewpoints of concern;

WHEREAS, Town staff and the EIR consultant have confirmed, and Town Council concurs, the visual impact from the public viewpoint at the St. Mary’s Road/Lafayette-Moraga Regional Trail location is less than significant with the revise 27 Lot Project, in that no road, homes or new landscape will be visible from that location;

WHEREAS, Town staff and the EIR consultants have confirmed, and Town Council concurs, that views of project development from the existing Old Moraga Ranch Trail, the Lafayette-Moraga Regional Trail near the Lafayette border, and potential future new public trails in the Palos Colorados residential project constitute an insignificant visual quality impact in the context of the entire viewshed, which is a combination of open space and residential development;

WHEREAS, an updated MMRP with some revised mitigation measures has been prepared, based on the revised 27 Lot Project presented to the Town Council and its reduced environmental impacts;

WHEREAS, as a result no further updated environmental review is required for certification of a Final EIR prior to final consideration and approval of the revised 27 Lot Project presented to the Town Council; and

WHEREAS, Public Notice of this January 26, 2011, public hearing having been provided, the Town Council opened the public hearing, took testimony from Town staff, the Applicant and the public on the Rancho Laguna II 27 Lot Project, its environmental review (including the opportunity to comment on the Final EIR and the revised Mitigation Monitoring and Reporting Program), and development of the property in general, then closed the public hearing; and

WHEREAS, the Town Council of the Town of Moraga makes the following findings and determinations with respect to the Final EIR for the proposed Rancho Laguna II 27 Lot Project:

- 1) The Final EIR has been prepared and completed in compliance with the provisions of CEQA and the State CEQA Guidelines; and
- 2) The Town Council has determined the Final EIR reflects the Town's independent judgment and analysis as to the environmental consequences of the revised 27 Lot Project; and
- 3) The Town Council, as the decision-making body, has considered the information and analysis in the Final EIR and all written documentation and public comments prior to taking action on the recommended project; and
- 4) The documents and other materials, including without limitation staff reports, memoranda, maps, letters and minutes of all relevant meetings, which constitute the administrative record of proceedings upon which the Town Council's decision is based are located at the Town of Moraga, Planning Department, 329 Rheem Boulevard, Moraga, California 94556. The custodian of records is the Town Planning Director; and
- 5) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR; and
- 6) Specific economic, legal, social, technological, and other considerations make infeasible certain project alternatives identified in the Final EIR; and
- 7) The project as approved will not have a significant effect on the environment; and

WHEREAS, the Town Council of the Town of Moraga hereby certifies the legal adequacy of the Final EIR for the Rancho Laguna II 27 Lot Project as revised and, if and when a Conceptual Development Plan and Conditional Use Permit for the project receive approval, directs the filing of a Notice of Determination with the County Clerk.

MITIGATION MONITORING and REPORTING PROGRAM

ENVIRONMENTAL IMPACT REPORT FOR THE RANCHO LAGUNA II 27 LOT PROJECT Moraga, California (Rancho Laguna, LLC is the Applicant/Project Sponsor)

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
3.10 LAND USE						
<p>Impact 3.10 #2. Conversion of Agricultural Land: The project site is designated in the 2005 Contra Costa General Plan as part of the Moraga Sphere of Influence. The most recent revision to the County's Urban Limit Line (ULL), adopted in 2002, includes this parcel within the Urban Limit Line. The County's agricultural lands map shows the property as Important Farmland. The property is not in a Williamson Act contract, nor will development conflict with any existing lands zoned for agricultural use.</p> <p>In support of Goal LU5 and Policy LU5.1, it is recommended that the property's agricultural values be protected by grazing. Continued grazing will also assist with fire suppression. However, grazing can be (and has been) destructive to vegetation and drainages. Unless an open space management plan and fencing is implemented, this ongoing impact will be exacerbated. This is a potentially significant impact.</p> <p>The On-Site Wetland and Special-Status Mitigation and Monitoring Plan dated December 16, 2005, by Sycamore Associates, LLC, for the 35 lot project (2005 Wetland/Special-Status Species Plan) includes a grazing management plan intended to preserve and enhance the</p>	<p>Mitigation Measure 3.10 #2: The open space areas of the property shall be subject to an Open Space Management Plan for the 27 Lot Project, that will ensure the undeveloped 162 acres of the property continue to be grazed as a means of fire protection and open space preservation, subject to the implementation of Mitigation Measure 3.55 #33 the purpose of which is to avoid long term degradation of open space and conservation habitats. The Open Space Management Plan, prepared by a qualified ecologist, shall be consistent with resource agency permit conditions, including jurisdictional and non-jurisdictional wetland and special status species monitoring, required by the USACE, RWQCB, and CDFG, in consultation with the USFWS. Those requirements shall be included in the final Wetland and Special-Status Species Mitigation and Monitoring Plan (Wetland/Special-Status Species Plan) prepared by a qualified restoration ecologist/biologist and incorporated in the Open Space Management Plan. The Plan shall be consistent with and incorporate the Fire Protection Plan described in</p>	<p>Town Council shall review and approve the Open Space Management Plan prior to final subdivision map approval.</p> <p>Moraga-Orinda Fire District shall review and approve the Open Space Management Plan for consistency with local fire control guidelines and Fire Protection Plan (see Mitigation Measure 3.61 #1) .</p> <p>Town shall be copied on Agency communications with Project Sponsor related to construction monitoring and compliance with agency permit conditions.</p> <p>Town Council shall be responsible for GHAD approval and implementation (see Mitigation Measure 3.20</p>	<p>Town Planning Department, Town biology monitor, and Moraga-Orinda Fire District, with input from the USACE, USFWS, RWQCB and CDFG.</p> <p>Town Council for the GHAD formation and monitoring and, with Planning Department assistance, Open Space Management Plan final Wetland/Special-Status Species Plan approval.</p>	<p>GHAD shall be formed and Open Space Management Plan approved prior to final subdivision map approval.</p> <p>GHAD monitoring is ongoing.</p>		

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<p>natural resources of the conserved open space, and provide for fire hazard management. That 2005 Wetland/Special-Status Species Plan addressed 136 acres of open space, while the mitigated 27 lot project (27 Lot Project)P includes approximately 162 acres of open space and 18 acres of development (lots and roads).</p> <p>The Project Sponsor proposes that the Town Council form a Geologic Hazard Abatement District (GHAD) for the project. It will be funded by the Project Sponsor initially and then by the project homeowners. One of its responsibilities will be open space management, including grazing. The GHAD's activities and the sufficiency of its financial resources will be subject to Town review and direction. A long term Open Space Management Plan for the 162 acres of open space in the 27 Lot Project, referencing a revised Wetland and Special-Status Species Mitigation and Monitoring Plan, should be prepared, for implementation by the GHAD.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.61 #1.</p> <p>The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be open space management, which shall include grazing.</p> <p><i>[Also included as CDP Condition VI.2]</i></p>	#5a).				
<p>Impact 3.10 #4. Density: The proposed density of the 35 lot project is one unit less than the maximum allowable by the General Plan, assuming the decision-making body determines that project adequately mitigates for potential risks. 9 units are allowed at the lowest density of 1 unit per 20 acres (180 acres per 1 unit per 20 acres). If the highest density (1 unit per 5 acres) is deemed appropriate by the Planning Commission, then 36 units are allowable (180 acres at 1 unit per 5 acres). However, the</p>	<p>Mitigation Measure 3.10 #4 in the Draft EIR is no longer necessary. No separate mitigation measure is required. This density impact of the 27 Lot Project as designed and otherwise mitigated is less than significant.</p>	N/A	N/A	N/A		

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<p>higher density is predicated upon design which must address:</p> <ul style="list-style-type: none"> • environmental constraints, • availability of public services, • site planning issues, and • provision of open space and recreation areas. <p>The 35 lot project layout has avoided most of the high risk areas/ environmentally constrained areas. Mitigation measures have been identified that will allow for the reduction of these potential impacts to levels of less than significant. There are adequate public services to accommodate development as discussed in Section 3.60 of the EIR. The 35 lot project does provide for open space (136 acres) as well as for trails and staging area. There remain a few site planning issues that necessitate a redesign of the project. These include:</p> <p>Relocation of the Water Quality Basin: The water quality basin is proposed to be located below Lot 25 in the 35 lot project on slopes that exceed 20%. Significant excavation would need to occur in order to construct the proposed basin.</p> <p>Slope Issues: Lot Numbers 13, 14 and 24 in the 35 lot project have slope issues. Lot Numbers 13 and 14 are located at the eastern end of "D" Drive and include slopes exceeding 25% slope at their connection with "D" Drive. It is unlikely that either a driveway or a house pad could be developed on slopes consistent with OS-PD criteria as slopes exceed 25%. The</p>						

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<p>same constraint is associated with Lot Number 24, located south of "C" Court. Development is inconsistent with criteria for development on non-MOSO lands.</p> <p>These two constraining issues in the 35 lot project would lead to development impacts that are potentially significant. The 27 Lot Project as mitigated eliminates the two constraining design issues. The water quality basin has been relocated to the southerly side of the "C" Court cul-de-sac and does not require significant excavation. Lots on the southern plateau have been reconfigured and the grading changed so that no pads or driveways have an average slope of 25% or more. The debris benches have been relocated outside the lots on shortened "D" Drive. Impacts on public views of the minor ridge, hillsides and valleys are less than significant. The amount of open space has been increased from 136 acres to 162 acres (90% of the property), with the open lower Rheem Valley and other project design changes.</p> <p>The 27 Lot Project as mitigated has no significant environmental impacts. As designed, the 27 Lot Project density of 1 unit per 6.6 acres is appropriate, because the mitigated project has reduced all environmental impacts to less than significant, all site constraints are addressed, its design as mitigated is in compliance with the General Plan and its applicable goals and policies, 90% of the site is in open space with public trails, and public services are available. This density impact is now less than significant.</p> <p>Draft EIR Mitigation Measure 3.10 #4 for the 35 lot project is no longer required because the 27</p>						

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<p>Lot Project has been redesigned consistent with the measure. Through project redesign and the other mitigation measures, all 27 Lot Project impacts have been reduced to less than significant, including Geotechnical and Soils Impacts 3.20, Hydrology, Drainage and Water Quality Impacts 3.30, Visual Quality, Parks, Recreation and Open Impacts 3.35 #1-7 and Biological Resources Impacts 3.55. Further reducing the lot count to any number less than 27 would not provide any additional, substantive reduction in environmental impacts and is not necessary to further address site or environmental constraints. Therefore, the impact of the 27 Lot Project as designed and otherwise mitigated is less than significant and Mitigation Measure 3.10 #4 for the 35 lot project is not necessary for the 27 Lot Project.</p>						
<p>Impact 3.10 #5. MOSO/Non-MOSO Land Use: In 1986, Measure A, the Moraga Open Space Initiative (MOSO), redefined hillside open space designated lands to include all lands designated private and public open space. The associated new open space designation is OS-M and OS-PD. All development on the subject property (as currently proposed) is located on lands designated OS-PD. Development density in OS-PD designated lands is 1 dwelling unit per 20, 10, or 5 acres, depending upon the Town's determinations concerning site and environmental constraints, including the mitigation of geotechnical risk to less than significant.</p> <p>The site and status determination information has been evaluated and it has been determined that risk can be reduced to less than significant after implementation of the other mitigation measures, identified by environmental impact in</p>	<p>Mitigation Measure 3.10 #5 in the Draft EIR is no longer necessary. No separate mitigation is required to address this impact. This MOSO/Non-MOSO impact of the 27 Lot Project as designed and otherwise mitigated is less than significant.</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>		

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<p>the text of this DEIR. A brief assessment of the seven high risk factors is contained in Sections 3.20 (Geology and Soils) and 3.30- (Hydrology, Drainage and Water Quality). This is a less than significant impact with the mitigation.</p> <p>Through implementation of Mitigation Measures 3.20 #1 - 3.20 #10 and 3.30 #1 - 3.30 #3, all impacts related to geotechnical and hydrologic constraints will be mitigated. Mitigation Measure 3.10 #5 is redundant and no longer included. The density of 1 unit per 5 acres is the appropriate maximum density to consider in evaluating development of the project site.</p> <p>This MOSO/Non-MOSO impact of the recommended 27 Lot Project is less than with the 35 lot project. All development is in the OS-PD part of the project site. The overall density of the 27 Lot Project as mitigated, 1 unit per 6.6 acres, is appropriate based on how it addresses site constraints and environmental impacts, and because it has been designed to comply with the General Plan and applicable goals and policies. All 27 Lot Project impacts have been reduced to less than significant, including Geology and Soils Impacts 3.20 #1-10, Visual Quality, Parks, Recreation and Open Impacts 3.35 #1-7 and Biological Resources Impacts 3.55.</p> <p>Geotechnical instability and other risk to new development in the recommended 27 Lot Project, as well as all other significant environmental impacts, have been reduced to the extent that a further reduction in the number of lots would not provide any additional environmental benefits under its General Plan designation or Open Space zoning district. Therefore, the impact of the 27 Lot Project as</p>						

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designed and otherwise mitigated is less than significant, and Mitigation Measure 3.10 #5 for the 35 lot project is not necessary for the 27 Lot Project.						
3.20 GEOLOGY AND SOILS						
<p>Impact 3.20 #1. Ground Shaking: Strong ground shaking associated with a major earthquake in the region is considered to be a significant impact on the planned development.</p> <p>The potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.20 #1: The new buildings and other improvements will be designed and built in accordance with the latest UBC, and other code requirements.</p> <p>[Note: buildings designed and constructed in accordance with these requirements, and the recommendations of the geotechnical report, may experience some damage during a major seismic event but are unlikely to collapse or result in the loss of life.] [Also included as CDP Condition VII.1]</p>	Town of Moraga shall review the grading, and building plans to ensure compliance with the latest UBC and other code requirements.	Town Engineer, Town geotechnical consultant, and Building Inspection Services.	Prior to approval of final grading plan, and issuance of building permits.		
<p>Impact 3.20 #3. Expansive Soils: The near surface clay soils and bedrock have a moderate to high plasticity and a high expansion potential as discussed in the ENGEO report. Expansive soils can detrimentally affect building foundations, slabs, pavements, retaining walls and other site improvements. The impacts due to soil expansion are, therefore, potentially significant.</p> <p>These potentially significant impacts of the 27 Lot Project are no more than with the 35 lot project, and the mitigation will still reduce the impacts to less than significant.</p>	<p>Mitigation Measure 3.20 #3: The ENGEO report provides recommended measures for mitigating the effects of expansive soils on the project improvements. These protective measures shall be implemented during the design and construction phase of the project and are to be documented by the project geotechnical engineer:</p> <ol style="list-style-type: none"> Overexcavation of cut and fill lots; Moisture conditioning of fills to over optimum; and, Presoaking slab subgrade areas. <p>The following additional measures can also be taken to minimize the effects of</p>	Prior to approval of the individual lot foundation plans and subdivision improvement plans, Town of Moraga shall review plans for compliance.	Town Engineer and Town geotechnical consultant.	Prior to approval of improvement plans for the subdivision and individual lots.		

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	expansive soils: d. Providing a layer of non-expansive granular materials beneath slabs-on-grade as a cushion against building slab movement; e. The use of aggregate base under exterior flatwork; and, f. Control of irrigation adjacent to the new buildings. <i>[Also included as CDP Condition VII.1]</i>					
<p>Impact 3.20 #4. Groundwater: The subsurface conditions reported in the preliminary ENGEO study included relatively shallow groundwater at some locations. Shallow groundwater can cause foundation and pavement problems, and lead to instability of cut and fill slopes. The impacts due to shallow groundwater are, therefore, potentially significant.</p> <p>These potentially significant impacts of the 27 Lot Project are no more than with the 35 lot project, and the mitigation will still reduce the impacts to less than significant.</p>	<p>Mitigation Measure 3.20 #4: The ENGEO report provides recommended measures for mitigating the effects of shallow groundwater on the project improvements. The following protective measures shall be implemented during the design and construction phase of the project and are to be documented by the project geotechnical engineer:</p> <p>a. Construction of subdrains in keyways, swales to be filled, overexcavation areas and at the toe of cut slopes;</p> <p>b. Construction of subdrains for reconstructed landslide areas and geogrid reinforced fill slopes; and</p> <p>c. Presoaking slab subgrade area. <i>[Included also as CDP Condition IV.3]</i></p>	Town of Moraga shall review and approve the grading plans and monitor construction for compliance.	Town Engineer and Town geotechnical consultant.	Prior to approval of final grading plan, and during the construction.		
<p>Impact 3.20 #5a. Landslides: A total of 44 landslides have been mapped on the subject property by ENGEO, with an additional 4 landslides mapped on the west side of Rheem</p>	<p>Mitigation Measure 3.20 #5a: The ENGEO report recommends that landslide mitigation methods such as providing setbacks from the slides using debris</p>	Prior to approval of final grading plan and subdivision improvement plans, Town of Moraga	Town Engineer and Town geotechnical	Prior to approval of Precise Development		

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<p>valley which extend below Rheem Boulevard onto the property. A number of these slides are mapped in the area of planned new lots and roads. Therefore, the impacts due to existing landslides on the proposed development are potentially significant.</p> <p>In the 27 Lot Project, no new slopes will exceed 3:1. Debris benches to mitigate for existing hillside surface slides will be relocated to outside the lots along "D" Drive per the direction of Town staff and Planning Commission.</p> <p>At the Project Sponsor's request, the mitigation also includes the formation of a Geologic Hazard Abatement District (GHAD) by the Town of Moraga, to be funded by the property owners within the project through district assessments, with initial funding by the Project Sponsor. The GHAD will have its own district engineer, among other professional consultants, and be responsible for management, monitoring and maintenance tasks: (i) geotechnical stability and erosion control; (ii) stormwater control and water quality basins; (iii) open space grazing, fire control, trails and EVA; and (iv) intermittent drainage, wetlands, and other biological resources. Land and soil instability that affects streets and homes is often attributable to poor maintenance and not undertaking protective measures that would avoid that condition. A professionally managed and well financed GHAD that is subject to the review and direction of the Town Council will avoid that situation. Through construction and post-construction professional management, and peer review by the Town's geotechnical engineers, geotechnical risks will be controlled and minimized consistent with best management practices.</p>	<p>benches up to 50 feet wide, removal and replacement of slide material and buttressing be used to mitigate the impact of existing landslides on the planned development. The mitigation measures identified by ENGEO shall be implemented.</p> <p>Cut and fill material shall be balanced on-site.</p> <p>The Project Sponsor shall request and the Town Council shall form a Geologic Hazard Abatement District (GHAD) (or other Town designated entity), to be funded in perpetuity by the property owners within the project through district assessments, with initial funding by the Project Sponsor</p> <p>The GHAD will own the open space parcel and have its own district engineer and other qualified professional consultants, including a qualified ecologist/biologist. The GHAD shall be responsible for the following management, monitoring and maintenance tasks: (i) geotechnical stability and erosion control,; (ii) stormwater control and water quality basins; (iii) open space grazing, fire protection and control, trails and EVA; and (iv) intermittent drainage, seasonal wetlands, seeps and biological resources.</p> <p>Those obligations shall include compliance with the final (i) Geotechnical Plan of Control, (ii) Drainage Plan, (iii) Open Space Management Plan, (iv) Public Trail System Plan, (v) Fire Protection Plan, (vi) Wetland/Special-Status Species</p>	<p>shall review plans for compliance.</p> <p>Town Council shall be responsible to approve and form the project GHAD, including the Geotechnical Plan of Control and thereafter, with assistance from the Town Engineer and Planning Department, monitor, direct and control GHAD actions, including the adequacy of funding initially from the Project Sponsor and later by project homeowners. The formation documents shall be submitted by the Project Sponsor.</p>	<p>consultant for review of plans.</p> <p>Town Council for GHAD formation.</p> <p>Planning Department, Town Engineer, and Town Council for GHAD monitoring.</p>	<p>Plan, and prior to approval of individual lot foundation plans and subdivision improvement plans.</p> <p>GHAD monitoring is ongoing.</p>		

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<p>These potentially significant impacts of the 27 Lot Project are less than with the 35 lot project, and the mitigation will still reduce the impacts to less than significant.</p>	<p>Plan, (vii) Rheem Valley Revegetation Plan, and (viii) Conservation Easement (or other appropriate deed restriction), which are more fully described in other mitigation measures.</p> <p>The actions of the GHAD in meeting its responsibilities, including the adequacy of permanent funding from the Project Sponsor and project homeowners, shall be subject to Town review, direction and control. All Town costs shall be paid by the GHAD. <i>[Also included as CDP Condition II.1]</i></p>					
<p>Impact 3.20 #5b. Landslides (Rheem Boulevard): Rheem Boulevard is geotechnically unstable along the project site frontage due to landslides and unstable soil under the street and on the hillside above it. That instability specifically affects the 35 lot project because it impacts proposed project access and homes and indirectly affects it because this arterial will be utilized by project homeowners. Rheem Boulevard at the "A" Way intersection section will be stabilized by slope stabilization and geogrid reinforcement. It is an area of low risk for movement. Rheem Boulevard north of "A" Way includes unstable areas of high risk for landslide movement and therefore requires more extensive stabilization measures.</p> <p>Of the three methods analyzed for stabilizing Rheem Boulevard above "A" Way, the valley buttress fill concept is included in the 35 lot project design. A comparable buttress would be required in order to develop "D" Drive and its 14 lots, including fill in the jurisdictional wetlands. The below grade retaining wall/tie back system</p>	<p>Mitigation Measure 3.20 #5b: Rheem Boulevard shall be stabilized with the valley buttress, and then repaired and repaved: (i) at "A" Way consistent with the method recommended by ENGEO in its reports; (ii) with an upper valley buttress to the specifications by ENGEO in its reports; (iii) with a lower valley buttress to ENGEO's specifications; and (iv) street repair and repavement per Town Engineer's specifications.</p> <p>As part of the mitigation: (i) the Town and the Project Sponsor will be co-applicants for and work together to secure the Section 404 and other resource agency permits necessary to construct the valley buttresses; (ii) the Town will be responsible for its own costs in processing that application (e.g., Town staff, attorney and consultant costs); and (iii) the lower valley buttress where the intermittent drainage is located need not be included in the Precise Development Plan project design if, during the course of that</p>	<p>Town officials shall actively participate as a co-applicant to secure the Section 404 and other resource agency permits.</p> <p>The Town Engineer and Town geotechnical consultant shall review and approve improvement plans for compliance with mitigation measures.</p>	<p>Town Engineer, Planning Director, Project Planner, Town Attorney and Town Manager for resource agency permits.</p> <p>Town Engineer for determination of resource agency permits feasibility and alternative nexus fee.</p> <p>Town Engineer and Town geotechnical consultant for final improvement</p>	<p>Prior to approval of Precise Development Plan, and thereafter approval of improvement plans.</p>		

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<p>and the keyway buttress methods of repair were not included in the project design by the Project Sponsor because buttress fill in the upper and lower valleys would still be needed to construct "D" Drive and the 14 lots. Thus, utilizing either of these two methods above "A" Way would be redundant for the 35 lot project.</p> <p>ENGEO's proposed valley buttress fill method was reviewed and accepted by the Town geotechnical engineers. The Rheem Boulevard landslides were analyzed with the buttress fill in place and its factor of safety was found to be the best of the three methods, as discussed in the ENGEO report. The stabilizing engineered fill will be designed to control development of longitudinal cracking resulting from soil creep associated with the existing buttress fill. Remedial subgrade work and installation of a new structural pavement section would then be performed.</p> <p>The 27 Lot Project includes the same engineered slope and geogrid measures to stabilize Rheem Boulevard in the "A" Way location as the 35 lot project. It also includes both an upper and lower valley buttress. The dual purpose of the upper valley buttress is to stabilize Rheem Boulevard and allow for the construction of shortened "D" Drive and its 6 lots. Unlike the 35 lot project, instability along Rheem Boulevard in the intervening section between "A" Way and shortened "D" Drive and its 6 lots in the upper Rheem Valley is not a geotechnical risk that must be corrected in order to develop the recommended project, because no development is proposed along that frontage.</p> <p>Thus, development of a 27 Lot Project with</p>	<p>application process, the Town Engineer makes the determination, in her discretion, that the prospect for its approval within a reasonable time and with feasible conditions is unlikely.</p> <p>If the Town Engineer makes that determination then instead of constructing the lower valley buttress and repairing, repaving and improving that section of street, the Project Sponsor shall pay the per unit, nexus fair share of the Town's cost to construct the buried retaining wall/tie back system, repair the paving and improve that section of Rheem Boulevard and improve it. That amount per unit shall be determined by the Town and paid at building permit.</p> <p>Improvement plans for the stabilization of Rheem Boulevard shall be reviewed and approved by the Town Engineer and Town geotechnical consultant and its construction monitored.</p> <p><i>[Also included as CDP Condition V.16]</i></p>		plans and monitoring construction.			

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<p>shortened "D" Drive requires, as its mitigation for the Rheem Boulevard instability impact, requires only that the Project Sponsor stabilize Rheem Boulevard at "A" Way and in the upper valley for "D" Drive and its 6 lots, and pay its fair share of the costs to stabilize the intervening section. That mitigation share would be based on a nexus formula similar to traffic circulation impact fees.</p> <p>Stabilization of Rheem Boulevard is an unfunded Town capital improvement project. A landslide on Rheem Boulevard is a distinct possibility and could force the long term closure of the major arterial to through traffic. If the Town is responsible for the stabilization of Rheem Boulevard above "A" Way and in the lower Rheem valley section, the buried retaining wall method is preferred by the Town Engineer, because it would not involve filling the intermittent drainage along that entire section, making the Section 404 permitting process less onerous, and Rheem Boulevard should remain open, subject only to intermittent closures on one side. The keyway buttress within Rheem Boulevard is not an acceptable method of repair to the Town Engineer, because it runs the risk of triggering an uphill landslide and also will require the extended closure of Rheem Boulevard.</p> <p>The Town does not have the funds to construct a capital improvement project to stabilize, repair and repave all or a portion of intervening 1070 lineal feet of lower Rheem Boulevard (approximately \$3 million). The Town Engineer considers remote the prospect to secure outside funding to stabilize all or any portion of Rheem Boulevard. Thus, including the lower valley buttress as part of the 27 Lot Project design is</p>						

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<p>the method of repair preferred by the Town Engineer, recommended by Town staff, and directed by the Planning Commission to be included as part of the 27 Lot Project.</p> <p>The Town and Project Sponsor will be co-applicants for and work diligently together to secure the Section 404 and other resource agency permits necessary to construct the valley buttresses; the Town will be responsible for its own costs in processing that application (e.g., Town staff, attorney and consultant costs); and the lower valley buttress where the intermittent drainage is located need not be included in the Precise Development Plan project design if, during the course of that application process, the Town Engineer makes the determination that prospects are unlikely for its approval within a reasonable time and with feasible conditions. The mitigation measure includes the foregoing provisions.</p> <p>Stabilization of Rheem Boulevard by the Project Sponsor at "A" Way by slope repair and geogrid reinforcement, and at "D" Drive by the upper valley buttress, mitigates the 27 Lot Project landslide impact in those two locations to less than significant. Construction of the lower valley buttress as part of the project development in order to stabilize Rheem Boulevard is more than the Project Sponsor's fair share contribution and represents an additional public benefit of the project.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project because no development is proposed in the lower Rheem valley between "A" Way and the shortened "D" Drive, and the mitigation still fully stabilizes Rheem Boulevard which will reduce</p>						

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the impact to less than significant.						
<p>Impact 3.20 #6. Soil Creep: Local areas of near surface clayey soils encountered at the site in the ENGEO study may be undergoing soil creep on the moderately inclined slopes found at the site. Creeping soils on slopes at the site present potentially significant impacts.</p> <p>These potentially significant impacts of the 27 Lot Project are no more than with the 35 lot project, and the mitigation will still reduce the impacts to less than significant.</p>	<p>Mitigation Measure 3.20 #6: The ENGEO report recommends that within proposed fill areas, soils subject to creep are to be removed prior to fill placement. Alternately, improvements should be set back from potential creep zones, or below grade retaining walls and deepened foundations could be used to minimize potential creep impacts. These measures, or other appropriate measures as recommended by the geotechnical engineer and subject to the review and approval by the Town Engineer, shall be incorporated onto the foundation and site improvement plans and shall be verified and tested by the project geotechnical consultant.</p> <p><i>[Also included as CDP Condition VIII.3]</i></p>	<p>Prior to approval of the individual lot foundation plans and subdivision improvement plans, Town Engineer and Town geotechnical consultant shall review plans for compliance.</p>	<p>Town Engineer and Town geotechnical consultant.</p>	<p>Prior to approval of individual lot foundation plans, final improvement plans, and ongoing during construction.</p>		
<p>Impact 3.20 #7. Erosion: The potential for erosion of the clayey surface soils on the project site is moderate to high. Erodible soils at the site present potentially significant impacts.</p> <p>These potentially significant impacts of the 27 Lot Project are no more than with the 35 lot project, and the mitigation will still reduce the impacts to less than significant.</p>	<p>Mitigation Measure 3.20 #7: The impacts from erosion can be mitigated by incorporating appropriate grading and drainage measures into the project design. The final grading plan (and the final Drainage Plan described below in Mitigation Measure 3.30 #3) shall provide for positive drainage on building pads and removal of water from foundation areas into area drains and closed pipe systems connected to a suitable drainage facility. The pads should be drained individually so that flow does not move from lot to lot. Slopes should be graded so that water is directed away from the slope face.</p>	<p>Prior to approval of the final grading plan, Drainage Plan, individual lot foundation plans and subdivision improvement plans, the Town Engineer and Town geotechnical consultant shall review plans for compliance.</p>	<p>Town Engineer and Town geotechnical consultant.</p>	<p>Prior to approval of final improvement plans and individual lot plans.</p>		

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	<p>Permanent slopes should be protected against erosion through the use of erosion resistant vegetation and jute netting. Temporary erosion control measures such as positive gradients away from slopes, straw bales, silt fences and swales should be used during construction. The implementation of drainage control, and temporary and permanent erosion control measures will result in a less than significant hazard of erosion. <i>[Also included as CDP Condition IV.4]</i></p>					
<p>Impact 3.20 #8. Cuts and Fills: The preliminary grading plan for the 35 lot project indicates finished slopes are to be 3:1 over most of the planned development with 2:1 (horizontal:vertical) fill slopes shown for the area below Lots 15 - 18 and Lots 24 and 25. These slopes are steeper than that stated in the Town of Moraga's Design Guidelines: "Neither cuts nor fills shall result in slopes steeper than 3:1 except where natural slopes are greater."</p> <p>ENGEO recommends that cut slopes and fill slopes 10 feet or greater in height be no steeper than 3:1, and that cut and fill slopes less than 10 feet high be no steeper than 2:1. Special mitigation measures, supported by the findings of additional slope stability analyses, would be required to demonstrate that the slopes shown on the preliminary grading plan meet the Town's minimum factor of safety requirements.</p> <p>In the 27 Lot Project all cut and fill slopes are no more than 3:1. The lots on the Southern Plateau where 2:1 slopes were modified to 3:1 in the 27 Lot Project are Lots 7-10 and 16-17. Therefore, this impact of the 27 Lot Project as designed is less than significant and Mitigation</p>	<p>The Cuts and Fill Impact is less than significant with the 27 Lot Project as designed (maximum 3:1 slopes), and therefore Mitigation Measure 3.20 #8 in the Draft EIR is not necessary.</p>	N/A	N/A	N/A		

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Measure 3.20 #8 for the 35 lot project is not necessary for the 27 Lot Project.						
<p>Impact 3.20 #9. Building Pads: In the 35 lot project, fills up to 40 feet deep will be placed in several swales to create level building pads and some building pads will be founded in both cut and fill. The impacts associated with building pads resting on deep fill and compound (cut and fill) lot pads include differential settlement resulting from fill settlement caused by the weight of the fill, particularly in deep swales where the greatest settlement occurs in the center of the swale, and where foundation support crosses the "daylight line" from cut to fill. Additionally, wetting induced collapse resulting from drainage, runoff and direct infiltration of precipitation into the fill can cause engineered fill to settle following construction.</p> <p>Eliminating development from the lower Rheem valley in the 27 Lot Project reduces the highest fill to create building pads from 40 feet to no more than 30 feet in the upper valley area for Lot 1 and averaging less than 20 feet for all 6 lots. This potentially significant impact of the 27 Lot Project is less with the 35 lot project and the mitigation will still reduce it to less than significant.</p>	<p>Mitigation Measure 3.20 #9: The ENGEO report recommends that deep fills be placed at a higher relative compaction and that the fill be moisture conditioned to above optimum moisture as determined from future design-level geotechnical testing and analysis. The placement of residence foundations on cut and fill building pads should utilize methods that will minimize differential settlements as determined by further study. Techniques that can be used to mitigate differential settlement on compound lots include such measures as overcutting and replacing the cut portion with an engineered fill cushion and the use of a rigid type foundation such as drilled pier and grade beam or structural slab. These measures shall be implemented during the design and construction phase.</p> <p><i>[Also included as CDP Condition V.2]</i></p>	Prior to approval of subdivision improvement plans and individual lot foundation plans, the Town Engineer, Town geotechnical consultant, and Building Inspection Services shall review plans for compliance.	Town Engineer, Town geotechnical consultant and Building Inspection Services.	Review of subdivision improvement plans and individual lot foundations.		
<p>Impact 3.20 #10. Foundations: Based on data collected during ENGEO's preliminary investigation, it is their opinion that the site is suitable for the proposed residential construction from a geotechnical engineering standpoint. ENGEO recommends that a drilled pier and grade beam system, which obtains support in stiff native soils and bedrock below expansive upper soils, be used for support of</p>	<p>Mitigation Measure 3.20 #10: The new residential construction and any other site improvements need to:</p> <p>a. Comply with the provisions of Title 24 of the California Administrative Code, and the most recent edition of the Uniform Building Code, Seismic Zone 4 standards, or local seismic</p>	Prior to approval of the subdivision grading plans, and ongoing during construction, Town Engineer, Town geotechnical consultant and Building Inspection Services shall confirm all mitigation measures have	Town Engineer, Town geotechnical consultant and Building Inspection Services.	Prior to approval of final grading plan, and individual lot foundations, and ongoing during		

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<p>the new structures. As an alternative, the report recommends a structural mat (conventional or post-tensioned) system.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>requirements, whichever is most stringent.</p> <p>b. Meet all of the recommendations included in the August 8, 2002 ENGEO preliminary soil investigation report including:</p> <ol style="list-style-type: none"> 1. Review of all plans and specifications including observation of foundation excavations; and, 2. Observation and testing of engineered fill, finish subgrade and aggregate base. <p><i>Also included as CDP Condition V.3]</i></p>	<p>been included on the plans.</p>		<p>construction.</p>		
3.25 HAZARDS AND HAZARDOUS MATERIALS						
<p>Impact 3.25 #2. Construction-Related Hazardous Materials: There is the potential for accidental release of oil, gasoline or diesel during construction. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.25 #2: The Project Sponsor shall comply with all Federal, State and local laws regarding use of hazardous materials at construction sites. The Project Sponsor shall comply with the Town of Moraga code provisions relating to the methods for reducing the potential for fuel spills during construction. <i>[Also included as CDP Condition IV.5]</i></p>	<p>Prior to approval of the subdivision grading plans and ongoing during construction, Town Engineer shall confirm compliance with all mitigation measures.</p>	<p>Town Engineer.</p>	<p>Prior to approval of final grading plan, and ongoing during construction.</p>		
3.30 HYDROLOGY, DRAINAGE AND WATER QUALITY						
<p>Impact 3.30. #1 Storm Drainage: The runoff from the 35 building pads will be collected to at least four separate drainage systems (Figure 3.30-1). Three enter the Rheem Boulevard</p>	<p>Mitigation Measure 3.30 #1a: Estimated increases in peak flows due to development can be reduced to the existing peaks with properly designed</p>	<p>Prior to approval of the Precise Development Plan, Town Engineer shall verify compliance with</p>	<p>Town Engineer.</p>	<p>Prior to approval of Precise Development</p>		

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<p>drainage from the access roads "A" Way and "D" Drive; the fourth enters the steep northeast ravine of a Las Trampas Creek tributary. The existing Rheem Boulevard drainage adjacent to "D" Drive is to be re-created under criteria for a stable fluvial system. Flows must pass under "D" Drive, "A" Way and the existing private culvert in the Rheem Glen subdivision. Post development peak flow rates, if unmitigated, could increase more than 20 percent.</p> <p>With the 27 Lot Project, there will be less impervious surface than with the 35 lot project and, therefore, the potentially significant storm drainage impact will be reduced. Water quality basins have been located and dimensions provided. The "A" Way arch culvert crossing of the intermittent drainage is the same. Water from the recreated wetland swale will be piped under "D" Drive to the recreated intermittent drainage below. Oversized storm drain pipes are proposed to retain storm water flows from impervious surfaces. The mitigation standard with respect to discharge of storm event peak flow off site is to limit it to pre-project conditions. The Project Sponsor has offered to reduce post development peak flow rates in the 10 through 100-year average recurrence storm events to less than the current conditions, to the extent feasible, as a benefit to the downstream homeowners on Rheem Boulevard. For smaller storms peak flow discharge off site will be no greater than existing conditions.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project because it includes less impervious surface and, if feasible, more detention capacity during large storm events than the preexisting condition, and the mitigation will still reduce the</p>	<p>settling/detention basins similar to the proposed "Conceptual Master Drainage Plan and Report, (ENGEO, 4/14/06), or the "Extended Detention Basins," TC5, contained in the California Storm Water, Best Management Practice Municipal Handbook. Typical design will retain the runoff from common storms (1"± /12 hr) for a 40 hour settling time and detain the additional development runoff discharged from the larger 2-year through 100-year average recurrence storms sufficiently to reduce the peak flows to reduce the peak flows to pre-existing conditions.</p> <p>For the approved 27 Lot Project the water quality facilities are shown as water quality basins on Sheet 1 of the "27 Lot Preliminary Grading Plan for Rheem Blvd. Visual Quality Mitigation" dated January, 2009. Detention shall be provided through oversized stormwater pipes and water quality basins.</p> <p>In order to determine whether or not there will be a net increase to off-site peak flows and volumes for the 27 Lot Project, an Expanded Master Drainage Plan (Drainage Plan) shall be prepared based upon the Precise Development Plan (which shall specifically identify all impervious surfaces, define the collection system, detention cells and outlets, and detail all BMPs). The Drainage Plan shall comply with the following Performance Standards:</p> <p>a. Provide parallel hydrologic and hydraulic analyses and calculations of Existing pre-development and of</p>	<p>CFCD and RWQCB permits, and review and approve the final Drainage Plan.</p> <p>During construction, Project Sponsor shall be responsible for compliance with, or implementation of, all measures, providing the Town Engineer with monthly compliance reports.</p>		<p>Plan, improvement plans, and ongoing during construction.</p>		

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<p>impact to less than significant.</p>	<p>Proposed post-development runoff flows and volumes from all tributary areas accounting for all changes in runoff characteristics and drainage area;</p> <p>b. Clearly identify differences between Existing and Proposed conditions by providing at identical or equivalent geographic points in the watersheds directly comparable tables of runoff analysis, tabulation of characteristics, and drainage maps;</p> <p>c. Demonstrate that the detention and BMP facilities have the required capacity and can be constructed at the proposed sites without exceeding grading, landscape and other project criteria;</p> <p>d. Show that any uncontrolled overflow of the facilities due to blockage or other malfunction will follow an identified flow path to the major channels and will result in no more than nuisance flooding;</p> <p>e. Demonstrate that individual lot grading will direct all drainage from the building pads to the street. No overland drainage from the pads or street shall be discharged into the fills or natural slopes;</p> <p>f. Confirm capacity of the existing system and evaluate whether the project's contribution exceeds the capacity of the existing (plus planned) drainage facilities, or contain those</p>					

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	<p>contributions in acceptable storm drains or non-erodible open channels;</p> <p>g. Confirm that any increase in the velocity and duration of erosive flows in the natural and recreated drainage ways within the project and downstream of project facilities do not aggravate erosion from storm runoff of 2-, 10- and 100-year average recurrence (50% through 1% annual probability);</p> <p>h. If the project's contribution to the existing peak flows and volumes exceeds capacity of the existing (plus planned) facilities (both on and off site) the Drainage Plan shall identify required drainage enhancements and long term (in perpetuity) finding for these enhancements. Numeric hydrologic modeling for the project will be performed in conformance with the Contra Costa County Flood Control Standards and Contra Costa Clean Water Program (CCCWP) C.3 Hydromodification Requirements. The modeling will verify that final hydrologic mitigation measures reduce 2-, 10- and 100-year average recurrence flow rates to pre-development levels at points of discharge and do not aggravate erosion in existing downstream channels for smaller flow rates as defined by the CCCWP C.3 Hydromodification standards.</p> <p>These enhancements shall include:</p> <ol style="list-style-type: none"> 1. Either on-site detention facilities 					

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	<p>which can be demonstrated to preclude any increase in the flows and volumes to pre-project conditions and thereby preclude increased flooding and erosion risks; and/or,</p> <p>2. Reduce the size of the Project. [Also included as CDP Condition II.2]</p> <p>Mitigation Measure 3.30 #1b: The Project Sponsor shall construct needed drainage improvements both on site and off site that meet the Performance Standards set forth in Mitigation Measure 3.30 #1a. The Drainage Plan and final improvement plans for the 27 Lot Project shall be consistent with these standards. [Also included as CDP Condition II.3]</p>					
<p>Impact 3.30 #2. Groundwater Recharge: Groundwater recharge, which supports the flow at the springs and seeps within and downslope of the project site, is contributed to by rainfall infiltration into the exposed and near surface bedrock outcrops along the ridge crests. The proposed development will decrease recharge by capping these areas with roads, structures and fills. Conversely, the development may increase the recharge due to deep lawn irrigation. The grading, as proposed, will divert approximately six acres of existing drainage from the Coyote Creek watershed which may further impact Coyote Creek springs.</p> <p>Small, undetectable leakage from the EBMUD Fay Hill Reservoir located on the high point of the ridge crest to the west could account for nearly all current recharge.</p>	<p>Mitigation Measure 3.30 #2: As part of the final Drainage Plan reviewed and approved by the Town Engineer, the Project Sponsor shall demonstrate that the existing springs and seeps are not dependent on the recharge from the developed area. However, if found to be dependent, a supplemental water supply shall be provided, possibly necessitating further environmental analysis and review by the Town of Moraga. [Also included as Condition II.5]</p>	<p>Prior to approval of Precise Development Plan, Town Engineer shall review and approve the final Drainage Plan, and thereafter confirm compliance with the Drainage Plan in the final improvement plans.</p>	<p>Town Engineer.</p>	<p>With Precise Development Plan and final improvement plans approval, and monitoring during construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>This potentially significant impact of the 27 Lot Project likely is less than with the 35 lot project because it includes less impervious surface, and the mitigation will still reduce the impact to less than significant.</p>						
<p>Impact 3.30 #3. Water Quality: Decreases in water quality are primarily attributable to:</p> <ul style="list-style-type: none"> a. Roadways; b. Erosion (both short and long term); c. Urban related pollutant contribution such as daily runoff and lawn irrigation from excess lawn fertilization; d. Increased population; and, e. Grazing. <p>Water quality impacts are both short term, associated with project construction, and long term, associated with daily runoff. Lawn irrigation may also introduce pollutants from excess lawn fertilization. On-site grading is a significant contributor to the existing erosion along the drainages and seeps. The final Drainage Plan will address water quality impacts of the 27 Lot Project.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project because it includes less impervious surface, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.30 #3: The final Drainage Plan shall identify appropriate BMPs for erosion and siltation control and be approved by the Town Engineer. A "Notice of Intent" shall be prepared which conforms to the RWQCB's general permit for storm water discharge under the National Pollutant Discharge Elimination System, including Provision C3, and Storm Water Pollution Prevention Plan. The following performance standards shall be met:</p> <ul style="list-style-type: none"> a. During project construction, all exposed soil and other fill shall be permanently stabilized at the earliest practicable date; b. All drainages shall be fenced to preclude grazing animals from entering into the drainages and exacerbating erosion; c. Suitable storm drainage control system and permanent landscaping shall be provided as part of the construction and ongoing operation of the project. If runoff is widely dispersed on the existing grasslands, potential pollutants common to a development of this size may be absorbed before reaching an active stream; 	<p>Prior to approval of final improvement plans, Town Engineer shall review and approve the final Drainage Plan, and RWQCB shall provide a water quality certification.</p>	<p>Town Engineer and RWQCB.</p>	<p>Prior to approval of final improvement plans.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>d. The project shall include recharge-contaminant interceptors (grease interceptors and storm drain filtration) as part of the SWPPP;</p> <p>e. The Drainage Plan shall be prepared by a registered Civil Engineer (or other licensed professional acceptable to the Town) and reviewed and approved by the Town Engineer, and it shall include, as a minimum, the following provisions that must be adhered to post construction:</p> <ol style="list-style-type: none"> 1. The Project Sponsor shall prepare a pavement cleaning and maintenance program, which shall, at a minimum, consist of regular street cleaning and asphalt maintenance program for all on-site roads and parking areas. 2. The Project Sponsor shall prepare a three-part program designed to limit direct disposal of contaminants into streets and storm drains that shall be monitored and maintained, in perpetuity by the HOA: <ul style="list-style-type: none"> • labeling all catch basins - "No Dumping - Drains to Creek"; • strictly limiting the use of non-biodegradable fertilizers or pesticides; and, • prohibiting the regular washing or maintenance of vehicles in paved areas that drain directly 					

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	<p style="text-align: center;">into the storm drain system. <i>[Also included as CDP Condition V.4]</i></p>					

3.35 VISUAL QUALITY, PARKS, RECREATION AND OPEN SPACE

<p>Impact 3.35 #1. Change in Community Character: The preliminary grading plan for the 35 lot project in the Draft EIR indicates finished slopes of generally 3:1 (horizontal:vertical) over most of the planned development with the exception of limited locations at the southern end of "C" and "B" Court where slopes are steeper at 2:1. The Town of Moraga's Design Guidelines states: <i>"Neither cut nor fills shall result in slopes steeper than 3:1."</i> Maps submitted pertaining to "Proposed BMPs and Drainage System" indicate drainage sub basins located in two locations along "D" Drive (SW1B and SW2B), one along Rheem Boulevard west of "A" Way ((SW3B) one along "B" Court at "A" Way (SW3A) and one at the eastern end of "C" Court (SW 4B). Significant grading will be needed to accommodate the basins, particularly SW3A and SW4B.</p> <p>As described above under Impact 3.20, the 27 Lot Project has no cut or fill slopes that exceed 3:1 and the water quality basins have been relocated and redesigned. Therefore, this potentially significant impact is removed with the design changes in the 27 Lot Project grading and landscape plans.</p> <p>Development of the project site will occur in phases, with the first phase consisting of rough grading of the entire site, site preparation, re-contouring for drainage, roadways, lots and pads, likely in one grading season; and the second phase will consist of minor finish</p>	<p>Mitigation Measure 3.35 #1: The two BMP water quality basins for the approved 27 Lot Project that are located in the valley area along Rheem Boulevard shall include low lying landscape that is consistent with the open views of the mitigated landscape plan for the project. The tops of the BMP water quality basins shall be open and accessible for maintenance with sufficient area available for one-way vehicular movement around the facility. The open section of the water quality basins shall be attractively landscaped with plant material appropriate for bioremediation purposes.</p> <p>Project Sponsor shall also comply with Mitigation Measures 3.35 #2, #3 and #4 to reduce the change in visual character of the project site to less than significant for the 27 Lot Project, as viewed from all public locations including Rheem Boulevard. <i>[Also included as CDP Condition III.3]</i></p>	<p>A final landscape plan will be reviewed and approved by Planning Commission as part of Precise Development Plan, with input from Design Review Board.</p> <p>Prior to approval of final grading plan and landscape plan for construction, Town Engineer and Planning Director shall confirm compliance with the mitigation measures.</p>	<p>Planning Commission, Design Review Board, Planning Director, and Town Engineer.</p>	<p>Prior to approval of Precise Development Plan, and prior to final grading plan and landscape plan for construction.</p>		
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Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>grading on the lots and construction of 27 homes. With the 35 lot project described in the Draft EIR, a portion of the site would be irreversibly altered from its current undeveloped character to a rural-residential site with the majority of natural vegetation intact. The Draft EIR did not identify sufficient mitigation to reduce this change in community character impact to less than significant.</p> <p>Visual quality impacts of the 35 lot project are addressed in detail in Response 3 of the Responses to Comments. It details the factors to be considered in determining whether the threshold of significance, as informed by the General Plan, has been exceeded. Subsequent to publication of the DEIR, the Project Sponsor has provided additional mitigation to reduce visual quality impacts of development areas (including a change in site characteristics). Response 3 confirms implementing the Project Sponsor's proposed visual quality mitigation measures in the final landscape plan will reduce to less than significant the visual quality impacts of project development (including the change in character of the project site), as seen from all seven public views except for views from Rheem Boulevard. Mitigation Measure 3.35 #2 includes those landscape design modifications.</p> <p>Response 3 concludes the change in character along Rheem Boulevard remains significant and unavoidable. Response 3 reconfirms the project development areas are not visible from any other public views.</p> <p>As described below under Impact 3.35 # 3 and 4, requiring the project to be redesigned to 27 lots consistent with the Rheem Boulevard Visual</p>						

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>Quality Mitigation Exhibits, as required in Mitigation Measure # 4, will reduce all project visual quality impacts as seen from Rheem Boulevard to less than significant, including the change in community character of the project site. Those landscape design modifications have been included in the preliminary landscape plan for the 27 Lot Project.</p> <p>This potentially significant visual quality impact of the 27 Lot Project is less than with the 35 lot project based on the mitigated design, and the mitigation will reduce the impact to less than significant.</p>						
<p>Impact 3.35 #2. Ridgeline Development: Development of the 35 lot project described in the Draft EIR would irreversibly alter the ridgeline character of the project site. The Draft EIR did not identify sufficient mitigation to reduce this ridgeline development impact to less than significant.</p> <p>As described above in Impact 3.35 #2, subsequent to publication of the DEIR the Project Sponsor has provided additional visual quality mitigation. Response 3 confirms that mitigation will reduce the impacts on ridgeline character of the project site to less than significant, as seen from all public views except Rheem Boulevard.</p> <p>Mitigation Measure 3.35 #2 includes the mitigation proposed by the Project Sponsor and reviewed in Response 3. That mitigation has been included in the preliminary landscape plan for the 27 Lot Project. However, the project impact on ridgeline views from Rheem Boulevard remains significant without additional mitigation.</p>	<p>Mitigation Measure 3.35 #2: All of the project components shall incorporate street configuration sensitive to the natural topography.</p> <p>Landscape buffering and screening shall be with broadleaf deciduous and conifer trees and shrubs planted so as to replicate the natural vegetation groupings on site.</p> <p>The landscape for the southern plateau development area and access street will be comprised of native evergreen and deciduous trees and shrubs, including oak trees, for a native woodland appearance. That landscape shall be in natural vegetation groupings, carefully designed to screen the houses and streets from this public view, and so the landscape will blend with the new trees in the foreground below and the existing trees in the ridgeline background.</p> <p>These details in the final landscape</p>	<p>A final landscape plan will be reviewed and approved by Planning Commission as part of Precise Development Plan, with input from Design Review Board. It must comply with the mitigation measures.</p> <p>Prior to approval of final grading plan and landscape plan for construction, the Town Engineer and Planning Director shall confirm compliance with the mitigation measures.</p>	<p>Planning Commission, Design Review Board, Planning Director, and Town Engineer.</p>	<p>Prior to approval of Precise Development Plan, and final grading plan and landscape plan before construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>The 27 Lot Project redesign in the upper and lower Rheem valleys, described below in Impacts 3.35 # 3 and 4, Mitigation Measure 3.35 #4 and the Rheem Boulevard Visual Quality Mitigation Exhibits described therein, address not only project impacts on valley views as seen from Rheem Boulevard (a scenic road); they also further reduce visual quality impacts of the project on ridgeline views, as seen from that scenic road, to less than significant.</p> <p>New project landscape in the upper and lower Rheem valleys has been located and species selected so as not to obstruct views of the upper hillsides and ridgelines as seen by those traveling along that scenic road, unlike the revised landscaping proposed by the Project Sponsor for the 35 lot project in Response 3. Also, pad elevations in the southern plateau are lower for the recommended project than in the 35 lot project.</p> <p>This potentially significant impact of the 27 Lot Project on ridgeline visual character is less than with the 35 lot project based on the mitigated design, and the mitigation measures will reduce the visual quality impact to less than significant for all public views of the project site and its development areas.</p>	<p>design shall be provided with the Precise Development Plan and approved by the Planning Commission with input from the Design Review Commission.</p> <p><u>Bollinger Canyon</u></p> <p>The landscape in the open space behind the southerly B Court cul-de-sac shall include native evergreen and deciduous trees and shrubs, including oak trees, to create a native woodland view. The landscape shall be in natural vegetation groupings, carefully designed to not only screen the homes from other public viewpoints but also to avoid a linear appearance along the skyline from this public view on Bollinger Canyon Road. The new groupings will compliment the existing oak woodland below on the hillside while maintaining some open hillside areas and skyline as seen from this public view.</p> <p><u>Fernwood Drive</u></p> <p>The open space landscape on the upper hillside west of Lots 7-12 shall include native evergreen and deciduous trees and shrubs, including oak trees, for a native woodland appearance. The landscape shall be in natural vegetation groupings, carefully designed to not only screen the houses but also grouped to give a woodland appearance while maintaining open hillside below. Native deciduous trees will be planted in locations where they are not necessary for screening purposes.</p>					

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	<p><u>Joseph Drive</u></p> <p>The landscape on the southern plateau shall include native evergreen and deciduous trees and shrubs, including oak trees, to provide a native woodland appearance. The open space landscape shall be in natural vegetation groupings, carefully designed to screen the homes from the upper Joseph Drive public view (to a greater extent than that illustrated in the DEIR simulation). The new groupings shall compliment the existing oak woodland elsewhere on the hillside, maintaining some open hillside areas as seen from this public view. The landscape will also blend effectively with the landscape on the ridgelines behind the southern plateau as seen from this public view. Native deciduous trees will be planted in locations where they are not necessary for screening purposes.</p> <p><u>Rheem Boulevard</u></p> <p>Comply with Mitigation Measure 3.35 #4.</p> <p><u>St. Mary's Road</u></p> <p>The open space landscape on the southern plateau (to the east) behind Lots 24-27 shall include native evergreen and deciduous trees and shrubs planted, including oak trees. The landscape shall be in natural vegetation groupings, carefully designed to screen the homes from the public view at this section of St. Mary's Road so that the tops of the houses will not be visible when the landscape matures after 15 years. Native</p>					

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	<p>deciduous trees will be planted in locations where they are not necessary for screening purposes.</p> <p><u>Birchwood Drive</u></p> <p>The open space landscape on the upper hillside below Lots 23-27 and "B" Court (to the west) shall include native evergreen and deciduous trees and shrubs, including oak trees, for a native woodland appearance. The landscape shall be in natural vegetation groupings instead of a more linear design, carefully designed to screen the houses so that their visibility from this public view along Birchwood Drive will be reduced to a greater extent than that illustrated in the DEIR simulation when the landscape matures after 15 years, and still maintain some open hillside below. Native deciduous trees will be planted in locations where they are not necessary for screening purposes.</p> <p><u>Rohrer Drive</u></p> <p>The open space landscape on the upper hillside (to the east) behind Lots 24-27 shall include native evergreen and deciduous trees and shrubs, including oak trees, for a native woodland appearance. The landscape shall be in natural vegetation groupings, carefully designed to not only screen the houses but also grouped to give a woodland appearance while maintaining open hillside below. Native deciduous trees will be planted in locations where they are not necessary for screening purposes.</p>					

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	Project Sponsor shall also comply with Mitigation Measures #1,3 and 4 to reduce all visual quality impacts of the recommended 27 Lot Project to less than significant. <i>[Also included as CDP Condition III.1]</i>					
<p>Impact 3.35 #3. Site Characteristics: Development of the 35 lot project could alter the character of the project site from the current semi-rural open space to a suburban setting. The Moraga General Plan (Policy CD1.2) specifies site and building design that retains a low visual profile and dense landscaping to blend structures with the natural setting. The development plan submitted provides illustrations of architectural character and location of home sites. The architectural styles illustrate one and two story homes in the Mediterranean and Colonial styles. Square footages of the homes' footprint are not provided, but the minimum building pad size appears to be approximately 8,200 square feet. The Preliminary Landscape Plan for the 35 lot project in the Draft EIR illustrates an informal and "layered" tree planting pattern (a combination of deciduous, evergreen and broadleaf evergreen trees) on top of a 4H:1V berm along the southern edge of "B" Drive and "B" Court. Significant landscaping in naturalistic clusters occurs at the western end of "B" Court and "C" Court, and along "A" Way.</p> <p>Rheem Boulevard itself is situated on a portion of an active landslide that is currently destabilizing the integrity of the roadway. A landslide buttress has therefore been proposed within the existing Rheem Boulevard creek channel to buttress the toe of the landslide in order to prevent further movement of the</p>	<p>Mitigation Measure 3.35 #3: To ensure a project that is consistent with its surroundings and support the small town image, the Project Sponsor shall provide complete landscaping and building design that concentrates on the following distinct features:</p> <ol style="list-style-type: none"> a. Landscaping shall utilize existing oak trees and supplement them with medium-sized broadleaf deciduous street trees and shading canopy trees, but the tree species in the valley areas shall be selected to screen the "D" Drive residences but not grow so tall as to block upper hillside and skyline views from Rheem Boulevard.; b. Building height shall be restricted to a maximum of 35 feet to the highest point of the roof for two-story homes and 18 feet for single story homes (18-21 feet for the single story "D" Drive homes to provide some articulation). Not more than two two-story homes shall be placed side by side; and, c. Color selection for facades and roofs should be restricted to colors that blend with the landscape during the dry season (i.e., tans and light browns). 	<p>Final landscape plan and architectural design envelope will be reviewed and approved by Planning Commission as part of Precise Development Plan, with input from Design Review Board. They must comply with the mitigation measures.</p> <p>Prior to approval of final grading plan and landscape plan for construction, Town Engineer and Planning Director shall confirm compliance with the mitigation measures.</p>	<p>Planning Commission, Design Review Board, Planning Director, and Town Engineer.</p>	<p>Prior to approval of Precise Development Plan, and final grading plan and landscape plan before construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>roadway. The landslide buttress consists of engineered fill that will subsequently raise the existing creek channel up to 15 feet vertically from its existing alignment. The new creek illustrated in the Preliminary Landscape Plan (Figure 2.00-7) is associated with a dense planting of "riparian transition trees." On the east side of the channel, "D" Drive and the 14 building pads along "D" Drive are also situated atop this buttress with a "debris bench" indicated in the rear of the majority of the building pads. The debris bench is essentially a retaining wall that appears, in some locations, to be in excess of 15 feet high.</p> <p>The Draft EIR did not identify sufficient mitigation to reduce this change in site characteristics impact to less than significant. As described below under Impact 3.35 # 2, including the Project Sponsor's proposed visual quality mitigation measures in the Responses to Comments (see Master Response 3) for a redesign of 35 lot project landscaping reduces the change in site characteristics impact to less than significant, as seen from all public views, except for Rheem Boulevard.</p> <p>At the request of Town staff, the Project Sponsor's engineer and landscape architect have prepared preliminary landscape and grading exhibits for a 27 Lot Project intended to reduce the intensity of the change in site characteristics resulting from the project. They are referred to as the Rheem Boulevard Visual Quality Mitigation Exhibits. These exhibits are consistent with recommendations from the EIR consultant and Town staff, as more fully discussed below under Impact 3.35 #4.</p> <p>As described here and in Impacts 3.35 #2 and</p>	<p>Project Sponsor shall also comply with Mitigation Measures 3.35 #1, 2 and 4 to reduce all visual quality impacts to less than significant for the recommended 27 Lot Project.</p> <p><i>[Also included as CDP Condition III.2]</i></p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>4, requiring the project to be redesigned to 27 lots consistent with the Rheem Boulevard Visual Quality Mitigation Exhibits, as recommended, will reduce the change in character of the project site characteristics as seen from Rheem Boulevard to less than significant. The project site as developed will have a semi-rural or open appearance from all public views.</p> <p>This potentially significant impact of the change in site characteristics is less with the 27 Lot Project than with the 35 lot project based on the mitigated design, and the mitigation will reduce the impact to less than significant.</p>						
<p>Impact 3.35 #4. Scenic Corridors: General Plan Policy CD1.3 specifically addresses view impacts along scenic corridors and views both from within Moraga and from adjacent jurisdictions. Views from along Rheem Boulevard and St. Mary's Road would be irreversibly changed as a result of the 35 lot project analyzed in the Draft EIR. See also Policy CD3.4 regarding canyon and valley areas.</p> <p>The foreground view from along Rheem Boulevard, a designated scenic corridor in the Town of Moraga General Plan, will be irreversibly changed as a result of the 35 lot project (Figure 3.35-11) in the Draft EIR. That plan has 14 homes fronting onto a local street ("D" Drive) situated approximately 100 to 150 feet from Rheem Boulevard and above the grade of Rheem Boulevard. The preliminary landscape plan and grading plan for the 35 lot project in the Draft EIR illustrate the existing Rheem Boulevard intermittent drainage channel, wetland swale, and seasonal wetlands being filled and replaced</p>	<p>Mitigation Measure 3.35 #4: To mitigate the project's significant change in character of the site for travelers on Rheem Boulevard, a scenic road, by providing open views of the valley, hillsides, minor ridgeline and skyline, future project plans and maps shall be consistent with the 27 Lot Preliminary Grading Plan For Rheem Boulevard Visual Quality Mitigation (2 sheets) by CTA Engineers dated January, 2009, and Rheem Blvd. Visual Quality Mitigation Exhibit (2 sheets) by Land Architecture dated January 26, 2009. They are collectively referred to as the Rheem Boulevard Visual Quality Mitigation Exhibits. The plant palette and location shall be consistent with the recommendations of a restoration ecologist per Mitigation Measure 3.55 #3. The "D" Drive homes shall be single story (18-21 feet to provide articulation).</p> <p>The plant species for the recreated wetland swale and the intermittent</p>	<p>Final landscape plan shall be reviewed and approved by Planning Commission as part of Precise Development Plan, with input from Design Review Board. It must comply with the mitigation measures.</p> <p>Prior to approval of final grading plan and landscape plan for construction, Town Engineer and Planning Director shall confirm compliance with the mitigation measures.</p>	<p>Planning Commission, Design Review Board, Planning Director, Town Engineer, and Town biological monitor.</p>	<p>Prior to approval of Precise Development Plan, and then final grading plan and landscape plan before construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>with a landslide buttress (as discussed in Impact 3.35 #3). The resulting new intermittent drainage channel is approximately 1.2 acres and includes significant deciduous and conifer tree planting in dense, naturalistic patterns. The Proposed BMPs and Drainage System plan illustrates two drainage sub-basins within this area as well, though no detail is given in their design or landscaping. The tall riparian landscape and trees and the new "D" Drive and 14 homes along essentially the entire Rheem Boulevard frontage north of "A" Way makes the scenic corridor impact significant and unavoidable with the 35 lot project in the Draft EIR. The Draft EIR did not identify sufficient mitigation to reduce this change in the visual quality of scenic corridors impact to less than significant.</p> <p>Even with the landscape changes proposed by the Project Sponsor after the Draft EIR was completed and as set forth in Response 3 of the Responses to Comments (see description in Impact 3.35 #2 above), this scenic corridor impact remains significant as to Rheem Boulevard for the 35 lot project.</p> <p>In order to keep the lower valley open and thereby provide a semi-rural appearance of the project site as viewed from Rheem Boulevard, the Planning Commission suggested the project be revised by shortening "D" Drive to end at the southerly end of the upper Rheem Valley. The Project Sponsor submitted a revised conceptual site plan, preliminary grading plan and preliminary landscape plan for 31 lots with 10 narrow lots on a shortened "D" Drive. Subsequently, the Planning Commission concurred with Town staff that the number of lots on shortened "D" Drive should be reduced</p>	<p>drainage (grasses, shrubs and trees) in the final landscape plan shall be provided by the restoration ecologist for the project, subject to peer review by the Town biologist monitor, consistent with the letter dated March 10, 2009, from the Town's EIR biology subconsultant, Mike Wood.</p> <p>The placement of arroyo willows and other restoration trees required in Mitigation Measure 3.55 #5b shall be limited to the lower portion of the intermittent drainage to maintain the open views from the scenic road required in this mitigation measure. If necessary in order to maintain those open views from the scenic road, the remaining number of recommended willows and other restoration trees may be planted in Coyote Creek as part of the final landscape plan. The placement and type of restoration species proposed by the project restoration ecologist and landscape architect shall be reviewed by the Planning Department and Town biologist monitor for compliance with this mitigation measure and Mitigation Measure 3.55 #5b, to ensure that the dual objectives of mitigating visual impacts from Rheem Boulevard and ecological restoration are achieved.</p> <p>Project Sponsor shall also comply with Mitigation Measures 3.35 #1,2 and 3 to reduce all visual quality impacts to less than significant for the recommended 27 Lot Project.</p> <p><i>[Also included as CDP Condition III.4]</i></p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>to 6 wider, more spacious lots.</p> <p>Town staff concluded that even with only 6 homes on shortened "D" Drive lots, the scenic corridor impact of that development in the valley areas remained significant and unavoidable without limiting the height of those homes, reconfiguring "D" Drive, and modifying the 31 lot preliminary landscape plan. The landscaping would still block open views of the valley and the hillsides and skyline from the scenic road. This scenic corridor impact still exceeded the threshold of significance set forth in Response 3 and as informed by Policies CD1.3 and 4.</p> <p>Town staff and EIR consultants undertook to identify further design changes in the valley portion of the project that could mitigate its visual quality impacts as seen from Rheem Boulevard to less than significant. Those recommendations are set forth in the Visual Analysis and New 27 Lot Concept Memorandum by the EIR site design subconsultant, Community Design+Architect, dated October 27, 2008, and in the Town staff internal memorandum on the subject, dated November 5, 2008. In response, the Project Sponsor's engineer and landscape architect prepared and submitted the Rheem Boulevard Visual Quality Mitigation Exhibits for the 27 Lot Project. Town staff and EIR consultants suggested modifications to the plant palette in the wetland swale and intermittent drainage (in the lower valley area only), in order to provide improved consistency between visual quality mitigation to provide open valley, hillside and skyline views from the scenic road and ecological mitigation for filling these jurisdictional wetlands (see Mitigation Measure 3.55 #3).</p>						

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<p>In the Visual Quality Mitigation Exhibits, the "D" Drive entry is relocated to the south end of the upper valley buttress as suggested. The 6 wide lots are on flat pads and limited to single-story homes (18-21 feet to provide articulation). Only one 4 foot retaining is required behind the pads (on Lot 4). The debris benches behind those lots have slopes that do not exceed 10%. The residences will be single story, 18-21 feet in height to provide some articulation.</p> <p>The developed site will have open valley, hillside and skyline views of the site from Rheem Boulevard, per the Visual Quality Mitigation Exhibits included in Mitigation Measure 3.35 #4. The lower Rheem valley has no street or residences, just a narrow dirt public trail. The revised landscape plan for the upper and lower valleys includes low lying plants and grasses around the recreated wetland swale and intermittent drainage, in order to provide open views. The dense landscape with trees along the entire Rheem Boulevard frontage is removed. The landscape locations and palette will maintain the open cone of vision of the valley, hillsides, ridgeline and skyline on the project site, as identified by Town staff and EIR consultants for travelers on Rheem Boulevard, and provide for satisfactory ecological restoration.</p> <p>Tree and shrub landscape between the swale and "D" Drive and in the landscape easement on the residential side of the street will screen the residences but not be so tall as to block hillside and skyline views. A 7.5 landscape easement is provided in front of the "D" Drive homes for screen trees.</p> <p>With the project revisions and mitigation the site</p>						

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<p>as developed will have a semi-rural or open appearance viewed from Rheem Boulevard, consistent with the scenic corridor designation.</p> <p>The grading plan for the 35 lot project indicates that off-site grading occurs at the entry of "A" Way between the Rheem Boulevard right-of-way and the development's western boundary that is within MOSO land. This is another significant impact. The 27 Lot Project includes a revised preliminary grading plan that does not require off-site grading on MOSO land. The revised landscape plan for the recommended project includes native landscape planting on the southerly side of "A" Way to mitigate for on-site grading impacts in constructing the road.</p> <p>Mitigation Measure 3.35 #4 requires the general development plan and precise development plan to be consistent with Rheem Boulevard Visual Quality Mitigation Exhibits, modified as to plant species and location per the recommendations of a qualified ecologist per Mitigation Measure 3.55 #3. Thus, the 27 Lot Project will reduce all visual quality impacts from all public views to below the significance threshold in the EIR. That includes the significance impact threshold for Rheem Boulevard scenic corridor views as informed by General Plan Policies CD1.3 and 4. The project will be semi-rural in appearance from that scenic road, with open views provided of the site's valleys, hillsides, ridgeline and skyline.</p> <p>This potentially significant impact in a scenic corridor is less with the 27 Lot Project than with the 35 lot project based on the mitigated design, and the mitigation will reduce the impact to less than significant.</p>						

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>Impact 3.35 #5. Light and Glare: The 35 lot project will introduce new sources of light and glare into the study area and increase ambient light in the site vicinity. Effects will be visible from Rheem Boulevard, St. Mary's Road, Bollinger Canyon Road and several public streets and private residences in Moraga and Lafayette. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.35 #5: Project Sponsor shall comply with Mitigation Measure 3.35 #2, in order to significantly reduce the effect of light and glare. Additionally, Project Sponsor shall comply with the landscape measures in Mitigation Measure 3.55 #4 in order to significantly reduce the effects of light and glare visible from the designated scenic corridors.</p> <p>To minimize the reflective light and glare, and ensure long-term maintenance, the Project Sponsor shall implement prior to Final Design Review:</p> <ol style="list-style-type: none"> Use non-reflective material and finishes. Ensure that all exterior lighting used for pathways, internal streets and parking area lighting shall be reflected downward. If any monument signs are proposed, they shall be non-illuminated internally or externally. Provide safety lighting that incorporates low voltage lighting and/or treatments designed to reduce the amount of spill over into surrounding areas. Provide for a Homeowners Association that will undertake the responsibilities of the landscape lighting and distribution. <p><i>[Also included as Condition III.5]</i></p>	<p>Final landscape plan reviewed and approved by Planning Commission as part of Precise Development Plan, with input from Design Review Board, shall comply with the mitigation measure.</p> <p>Prior to approval of final improvement plans, Town Engineer and Planning Director shall confirm compliance with the mitigation measure.</p> <p>In its review, Design Review Board shall confirm compliance with this mitigation measure.</p>	<p>Planning Commission, Design Review Board, Planning Director, and Town Engineer.</p>	<p>With approval of the Precise Development Plan, final improvement plans, and final design review of homes.</p>		
<p>Impact 3.35 #6. Recreation & Trails: The 35 lot project will increase demand for public open space and trails. The trail connection between</p>	<p>Mitigation Measure 3.35 #6: The public trail system on the project site shall be as shown on the conceptual site</p>	<p>A final Public Trail System Plan shall be reviewed and approved</p>	<p>Planning Commission, Design Review</p>	<p>With Precise Development Plan approval,</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>“B” Court west (along Lot #35) and the connection to the Lafayette-Moraga Trail is very steep and could result in significant disturbance to Coyote Creek. These are potentially significant impacts.</p> <p>In the 27 Lot Project, the open space trail connection described above has been relocated to connect with the EVA on the minor ridge down to a future connection at the Lafayette-Moraga Trail, on topography that is less steep and appropriate for a narrow dirt trail, 1-3 feet wide (depending on topography) within a 20 foot easement. The EVA will serve as a public trail, too. Parking for trail users is provided at the end of “B” Drive.</p> <p>The northerly connection toward the Faye Hill Reservoir has been eliminated and instead replaced with a northerly connection to the Palos Colorados trail system at Coyote Creek.</p> <p>A trail in the valley from “A” Way to the EVA entry at Rheem Boulevard is provided as shown on the Rheem Boulevard Visual Quality Mitigation Exhibits.</p> <p>The public trails will be maintained by the Geologic Hazard Abatement District (GHAD) for the project as part of the Open Space Management Plan, eliminating the need for the East Bay Regional Park District or the Town to maintain them.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>plan dated August, 2008, as modified in the Rheem Boulevard Visual Quality Mitigation Exhibits with respect to the valley trail. The project dirt trails connecting the Lafayette-Moraga Regional Trail, the emergency vehicle access along the minor ridge, and the Palos Colorados trails shall be restricted to 1-3 feet wide, depending on topography, within a 20 foot easement. Public parking for trail users shall be provided at the end of “B” Drive. Public trail easements shall be granted to the Town of Moraga if requested. The paths in the Rheem valley shall be modified to instead include a 2-3 foot decomposed granite (dg) path along Rheem Boulevard behind the asphalt curb.</p> <p>Public trail use and maintenance shall be administered as part of the Open Space Management Plan described in Mitigation Measure 3.10 #2. The Open Space Management Plan shall include a final Public Trail System Plan. The Geologic Hazard Abatement District (GHAD) formed by the Town Council for the project shall be responsible for public trail maintenance and control.</p> <p><i>[Also included in CDP Conditon II.12]</i></p>	<p>by Planning Commission as part of Precise Development Plan, with input from Design Review Board. It must comply with the mitigation measure.</p> <p>Prior to approval of the final grading plan and landscape plan for construction, the Town Engineer and Planning Director shall confirm compliance with the mitigation measure.</p> <p>The Town Council shall review and approve the Open Space Management Plan prior to final subdivision map approval.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p>	<p>Board, Planning Director, Town Engineer for public trail system. Town Council for GHAD and Open Space Management Plan.</p>	<p>and then prior to final subdivision map approval.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>Impact 3.35 #7. Wetlands Restoration: The preliminary grading plan and preliminary landscape plan submitted for the 35 lot project include the construction of new intermittent drainage channel (approximately 1.2 acres in size) along Rheem Boulevard. In addition to the new channel and new tree planting, two drainage sub-basins are included in this area and illustrated in the Proposed BMPs and conceptual drainage system plan but not the preliminary landscape plan. Depending upon the design of the channel and drainage sub-basins, the development of the new channel might or might not have an adverse effect on the environment and therefore the impact is considered potentially significant.</p> <p>In the 27 Lot Project as mitigated, the existing wetland swale (0.13 acres/790 LF) in the upper Rheem valley is filled for the valley buttress and "D" Drive and a new wetland swale created (0.26 acres/991 LF). In the lower Rheem valley the existing intermittent drainage (0.33 acres/978 LF) is filled for the valley buttress and new intermittent drainage created (0.37 acres/995 LF). In addition, seasonal wetland (0.01 acres) and seep (0.05 acres) are filled for the valley buttress and the Project Sponsor proposes to create new seasonal wetland (minimum 0.01 acres) and new seep (minimum 0.05 acres) in the open space on the upper or lower valley buttress. Off site mitigation should not be necessary. With proper mitigation there will be no adverse effect on the environment.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.35 #7: Development shall comply with Mitigation Measure 3.35 #4 (Visual Quality, Parks, Recreation, & Open Space Visual), Mitigation Measure(s) 3.55 #3b, #4b, #5a, #5b and #5c (Biological Resources), and Mitigation Measure(s) 3.30 #1a, #2 and #3 (Hydrology, Drainage and Water Quality).</p> <p>In the lower Rheem valley, the existing intermittent drainage (0.33 acres/978 LF) filled for the 27 Lot Project shall be replaced on site with new intermittent drainage, minimum 0.37 acres/995+/-LF.</p> <p>In the upper Rheem valley, the existing wetland swale (0.13 acres/790+/-LF) filled for the 27 Lot Project shall be replaced on site with new wetland swale, minimum 0.26 acres/991+/-LF.</p> <p>The existing seasonal wetland (0.01 acres) filled for the 27 Lot Project shall be replaced on site with new seasonal wetland, minimum 0.01 acres.</p> <p>The existing seep (0.05 acres) filled for the 27 Lot Project shall be replaced on site with new seep, minimum 0.05 acres.</p> <p>Final details and conditions for filling jurisdictional waters of the U.S. shall be determined through the Section 404 permitting process with the Army Corps of Engineers.</p> <p>The wetland restoration for the 27 Lot Project shall be included in the final Wetland/Special-Status Species Plan and incorporated in the final landscape plan,</p>	<p>Final landscape plan will be reviewed and approved by Planning Commission as part of Precise Development Plan, with input from Design Review Board. It must comply with the mitigation measures.</p> <p>Prior to approval of final grading plan and landscape plan for construction, Town Engineer and Planning Director shall confirm compliance with the mitigation measures.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p>	<p>Planning Commission, Design Review Board, Planning Director, Town Engineer, Town biologist monitor, GHAD, and resource agencies.</p>	<p>With Precise Development Plan approval, then with final grading plan and landscape plan, and ongoing during construction and monitoring.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>and implemented under the direction of a qualified restoration ecologist for the project.</p> <p>The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be long-term management of wetlands. Restored wetlands shall be included in a conservation easement, or other appropriate deed restriction, and maintained in perpetuity by the GHAD. <i>[Also included as CDP Condition III.7]</i></p>					
3.40 TRAFFIC, TRANSPORTATION AND CIRCULATION						
<p>Impact 3.40 #2. Traffic Control Needs and Vehicle Queues at St. Mary's Road/ Rheem Boulevard: The current striping on the Rheem Boulevard approach includes a left-turn lane and a limited (2-3 car length) right-turn lane. The predominant flow on this approach is left turns, and the left-turn queues can occasionally block access to the right-turn lane. However, this situation does not appear to significantly impact the intersection's operation. It is also noted that sight distance to the north on St. Mary's Road is somewhat limited by foliage and the hillside. As noted with existing conditions, PM peak hour conditions could warrant a left-turn lane on northbound St. Mary's Road. The project would add 3-5% to existing left turn volumes, adding to the need for a left turn lane. This is considered a potentially significant impact.</p>	<p>Mitigation Measure 3.40 #2: The Project Sponsor shall contribute a proportional share toward the eventual construction of a northbound left turn lane from St. Mary's Road to Rheem Boulevard. The project's share of this left turn lane would be the average of the project's AM and PM peak hour volume shares. The fair share amount per unit shall be paid at building permit. <i>[Also included as CDP Condition VIII.7]</i></p>	<p>Prior to approval of the Precise Development Plan, the Town of Moraga will ensure that the Project Sponsor has committed to its share of the left turn lane improvement.</p>	<p>Planning Director and Town Engineer.</p>	<p>Amount determined prior to Precise Development Plan approval and then paid at building permit.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
This potentially significant impact of the 27 Lot Project is less than with the 35 lot project (fewer units), and the mitigation will still reduce the impact to less than significant.						
<p>Impact 3.40 #4. Access Intersection Design: Based on Caltrans design standards, the prevailing vehicle speeds on Rheem Boulevard (35-39 mph critical speed) near the proposed north access would require about 385 feet (north) and 430 feet (south) of “corner sight distance.” The Rheem Boulevard speeds near the proposed middle and south access points (42-44 mph critical speed) would require about 460 feet (south) and 485 feet (north) of “corner sight distance” (<i>Caltrans Highway Design Manual</i>). The Caltrans corner sight distance standards state that “a substantially clear line of sight should be maintained between the driver of a vehicle waiting at the cross road and the driver of an approaching vehicle in the right lane of the main highway.” Based on approximate field measurements and a review of the project plans, it is apparent that these corner sight distances could generally be provided. In the vicinity of the proposed middle and south accesses, there is substantial foliage along the project side of the roadway, and this foliage would need to be removed to provide the appropriate sight distance. At the proposed north access, visibility to the south is somewhat limited by the hill and foliage. However, it appears that minor grading and foliage trimming could provide the appropriate sight distance. To the north, sight distance is limited (by horizontal and vertical curves in Rheem Boulevard) to about 325 feet. It is not clear if this sight distance could be measurably increased. It is recommended that the corner sight distance be more precisely determined as</p>	Mitigation Measure 3.40 #4 in the Draft EIR is no longer necessary because of the relocation of the “D” Drive access intersection.	N/A	N/A	N/A		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>a part of the final site design. This would be considered a potentially significant impact.</p> <p>In the 27 Lot Project as mitigated, "D" Drive access has been relocated to the south, approximately 1,000 feet from its location analyzed in the Draft EIR. There are no sight distance concerns in the new location and it is not a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project as designed is less than significant and therefore Mitigation Measure 3.40 #4 in the Draft EIR is no longer necessary.</p>						
<p>Impact 3.40 #5. Internal Circulation: The Town generally adheres to the Contra Costa County street standards that require a 32 foot width on "minor streets" (<i>Contra Costa County, Contra Costa County Code; telephone discussion with Mr. Bob Dunn, Town Engineer, June 16, 2003</i>). The internal streets of the 35 lot project in the Draft EIR would be 32 feet in width. The Contra Costa Fire District requires a minimum width of 20 feet for access roads with a 28 foot roadway allowing parking on one side and a 36 foot roadway allowing parking on both sides. These standards suggest that the project's internal streets would be considered a potentially significant impact.</p> <p>Subsequently, the Town Engineer reviewed and found acceptable the road, court and EVA grading sections on Sheet 2 of the Preliminary Grading Plan by CTA Engineering dated August, 2008. The section standards are consistent with the recommendations of the Moraga-Orinda Fire District. Those sections were reviewed with the Planning Commission at its meeting on May 18, 2008. For "B" Court and "D" Drive: 36' right</p>	<p>Mitigation Measure 3.40 #5: Internal streets and EVA for the project shall be consistent with the Grading Sections on Sheet 2 of the Preliminary Grading Plan by CTA Engineering dated August, 2008, subject to approval of the final design by the Town Engineer and Moraga-Orinda Fire District.</p> <p><i>[Also included as CDP Condition II.6]</i></p>	<p>Prior to approval of the Precise Development Plan, the Town of Moraga will ensure that plans reflect the required design.</p>	<p>Town Engineer and Fire Marshall.</p>	<p>With Precise Development Plan approval.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>of way (ROW) with 13.5' driving aisles, curbs on both sides, parking and sidewalk on one side (signage and red curb if required by Fire District). For "C" Court: 32' ROW, same 13.5' driving aisle width, parking one side, but with no sidewalk. For "A" Way: 34' ROW, no parking either side, sidewalk one side. For "A" Way Entry: 12' driving aisles separated by 10 landscape strip. For EVA: 30' easement, 20' all weather surface (compacted gravel for new sections subject to Fire District review and approval).</p> <p>Roadway widths and parking are limited in order to reduce grading and the need for retaining walls. The private streets will be open to public use. Additional public parking for trail users is provided at the end of "B" Drive.</p> <p>With these private road sections as part of the project acceptable to the Town Engineer and Fire District, this impact is less than significant.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project, and the mitigation will reduce the impact to less than significant.</p>						
3.45 AIR QUALITY						
<p>Impact 3.45 #2. Construction Activities: Dust generation from short-term construction activities associated with development of the project site would cause potential health and nuisance air quality impacts to adjacent land uses. Although temporary, this would be a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot</p>	<p>Mitigation Measure 3.45 #2: Incorporate measures to reduce dust and equipment exhaust emissions into construction plans.</p> <p>a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences shall be kept damp at all times</p>	<p>All measures must be incorporated into the final grading plan.</p> <p>During grading, the Project Sponsor's Construction Manager, in consultation with Town Engineer and Building</p>	<p>Town Engineer and Building Inspection Services, and Construction Manager for Project Sponsor, and</p>	<p>Prior to approval of final grading plan, and during grading monthly.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<ul style="list-style-type: none"> b. Cover all hauling trucks or maintain at least two feet of freeboard. Dust-proof chutes shall be used, if appropriate, to load debris onto trucks during demolition. c. To prevent blowing dust, pave, or apply water three times daily or as necessary depending upon wind and temperature, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. To ensure that these emissions are less-than-significant, visible dust clouds should be prevented from extending beyond construction sites. d. Sweep daily (with vacuum sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with vacuum sweepers) if visible soil material is deposited onto the adjacent roads. If water sweepers are utilized, they shall meet the requirements of the SWPPP (such as filtering of runoff to prevent residual materials from entering the drainage system). e. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas that are inactive for 10 days or more). f. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles. 	<p>Inspection Services, shall be responsible for construction related air quality mitigation monitoring and implementation. The Construction Manager shall be responsible for compliance with the SWPPP (see Mitigation Measure 3.30 #3) and provide a monthly compliance report.</p>	<p>Town Engineer.</p>			

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>g. Provide signage to limit traffic speeds on any unpaved roads to 10 mph.</p> <p>h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</p> <p>i. Replant vegetation in disturbed areas as quickly as possible.</p> <p>j. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.</p> <p>k. Install wind breaks at the westerly or windward side(s) of construction areas.</p> <p>l. Suspend excavation and grading activity when winds exceed 25 mph and cause visible dust clouds that extend beyond construction boundaries. An on-site wind gauge shall be installed that can be monitored by inspection personnel.</p> <p>m. Properly maintain construction equipment and avoid unnecessary idling near residences.</p> <p>n. Designate a disturbance coordinator that would respond to complaints regarding construction-related air quality issues. The phone number for this disturbance coordinator shall be clearly posted at the construction sites.</p> <p><i>[Also included as CDP Condition IV.5]</i></p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
3.50 NOISE						
<p>Impact 3.50 #2. Construction Activities: During construction, there would be a temporary short-term increase in noise levels outside of residences surrounding the site. These noise level increases would represent a short-term significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.50 #2: The following construction mitigation shall be implemented:</p> <ul style="list-style-type: none"> a. Construction Scheduling: Limit noise-generating construction activities, including truck traffic coming to and from the site for any purpose, to daytime, weekdays, and non-holiday hours (8:00 am to 5:00 pm). No engine idling between 8 am or after shall be allowed. b. Construction Equipment Mufflers and Maintenance: Properly muffle and maintain all construction equipment powered by internal combustion engines. c. Equipment Location and Shielding: Locate all stationary noise-generating construction equipment, such as air compressors, as far as practical from existing nearby residences and other noise-sensitive land uses. Acoustically shield such equipment with temporary solid barriers (e.g., plywood). d. Quiet Equipment Selection: Select quiet construction equipment (e.g., equipment which includes noise control devices such as mufflers), particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order. 	<p>All measures must be incorporated into the final Improvement Plans.</p> <p>During grading and construction, the Project Sponsor's Construction Manager, in consultation with Town Engineer and Building Inspection Services, shall be responsible for construction related noise mitigation monitoring and implementation. The Construction Manager shall provide a monthly compliance report.</p>	<p>Town Engineer and Building Inspection Services.</p>	<p>Prior to approval of final improvement plans, and monthly during grading and construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>e. Notification: Notify neighbors located adjacent to the construction site of the construction schedule in writing. Notification shall be at least one week prior to commencement of construction.</p> <p>f. Disturbance Coordinator: Designate a "noise disturbance coordinator" (hired by the Town of Moraga and paid for by the Project Sponsor) who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.</p> <p><i>[Also included as CDP Condition V.5]</i></p>					
3.55 BIOLOGICAL RESOURCES						
<p>Impact 3.55 #3. Loss of USACE - Jurisdictional Wetlands: Grading for lots, roadways, slope repair and habitat mitigation/restoration for the 35 lot project in the Draft EIR would result in the loss of 0.66 acres of waters of the U.S. under the jurisdiction of the USACE (total existing jurisdictional acreage on site is 1.78 acres and total lineal footage is</p>	<p>Mitigation Measure 3.55 #3a: Impacts to waters of the U.S., including wetlands, are regulated by the USACE, CDFG, and RWQCB and will be subject to permit conditions imposed by these agencies. Prior to the placement of fill into waters of the U.S., the Project Sponsor is required to obtain permits under Section 404 and</p>	<p>Prior to approval of final grading plan, Town of Moraga shall review the final Wetland/Special-Status Species Plan and Rheem Valley Revegetation Plan for compliance with</p>	<p>Town Planning Department, Town Engineer, Town biological monitor, resource</p>	<p>(a) Prior to Precise Development Plan approval, prior to approval of final grading</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>10,069)). Impacts to wetlands are regulated under the Clean Water Act (Sections 401 and 404) and Section 1600, et seq. of the State Fish and Game Code. Specifically, project implementation would result in direct impacts to seeps, seasonal wetlands, wetland swale and vegetated and unvegetated intermittent drainages (0.66 acres; 2,042 lineal feet). A summary of all wetland impacts of the 35 lot project is provided in Table 3.55-2 of the Draft EIR. Impacts to waters of the U.S. are restricted to lands adjacent to the Rheem Boulevard drainage. Impacts would result from the construction of the proposed "A" Way access road over the intermittent drainage and related slope stabilization adjacent to Rheem Boulevard, and from placement of the valley buttress in the upper and lower Rheem valleys for construction of "D" Drive and its 14 homes and the stabilization of Rheem Boulevard. This is considered a potentially significant impact.</p> <p>Mitigation for the 35 lot project is detailed in the Revegetation and Monitoring Plan for the Re-Created Rheem Boulevard Creek dated December 23, 2005, by Sycamore Associates, LLC, and included as Attachment A to Master Response 7 in the Responses to Comments (2005 Rheem Valley Revegetation Plan).</p> <p>In the 27 Lot Project as mitigated, the loss of jurisdictional wetlands is less than in the 35 lot project, due to changes in the upper and lower valley areas. The total jurisdictional acreage loss is reduced to 0.52 acres. The preserved jurisdictional acreage is 1.26 acres.</p> <p>In the 27 Lot Project as mitigated, the existing wetland swale (0.13 acres/790 LF) in the upper Rheem valley is filled for the valley buttress and</p>	<p>Section 401 of the Clean Water Act, as well as Section 1600 et seq. of the state Fish and Game Code. The mitigation measures imposed on the project are subject to regulatory review and approval. Prior to the issuance of grading permits by the Town of Moraga, approvals by the USACE, CDFG, and RWQCB are required.</p> <p><i>[Also included as CDP Condition II.8]</i></p> <p>Mitigation Measure 3.55 #3b: On-site and/or off-site wetland mitigation is subject to the approval of the regulatory agencies, and project development is subject to the issuance of the appropriate wetland permits. The Project Sponsor intends to provide for all wetland mitigation on site for the 27 Lot Project. A final Rheem Valley Revegetation Plan shall be incorporated in the Wetland/Special-Status Species Plan, both updated to reflect the 27 Lot Project and specifically outlining mitigation measures for unavoidable impacts to 0.52 acre of wetlands and 790 lineal feet of wetland swale and 978 lineal feet of intermittent drainage.</p> <p>In the lower Rheem valley, the existing intermittent drainage (0.33 acres/978 LF) filled for the 27 Lot Project shall be replaced on site with new intermittent drainage, minimum 0.37 acres/995+/-LF.</p> <p>In the upper Rheem valley, the existing wetland swale (0.13 acres/790+/-LF) filled for the 27 Lot Project shall be replaced on site with new wetland swale, minimum 0.26 acres/991+/-LF.</p>	<p>mitigation measures.</p> <p>Mitigation plantings shall be monitored for no less than five years following completion of plant installation and seeding. Annual reports shall be submitted to the Town of Moraga, USACE, CDFG and RWCB.</p> <p>Preservation in perpetuity of jurisdictional wetlands and upland buffer, in a Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity and managed by GHAD.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p>	<p>agencies, and GHAD.</p>	<p>plan, and during grading; and</p> <p>(b) annually for five years; and</p> <p>(c) monitoring and maintenance in perpetuity through GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>“D” Drive and a new wetland swale created (0.26 acres/991 LF). In the lower Rheem valley the existing intermittent drainage (0.33 acres/978 LF) is filled for the valley buttress and new intermittent drainage created (0.37 acres/995 LF). In addition, seasonal wetland (0.01 acres) and seep (0.05 acres) are filled for the valley buttress and the Project Sponsor proposes to create new seasonal wetland (minimum 0.01 acres) and new seep (minimum 0.05 acres) in the open space on the upper or lower valley buttress.</p> <p>The 27 Lot Project includes the modified landscape plan for the recreated wetland swale and intermittent drainage in the Rheem Boulevard Visual Quality Mitigation Exhibits, intended to provide a lower visual profile to improve open views of the project site from the scenic road. The planting palette for these locations in Table 6 at Section 5.7.1 of the Rheem Valley Revegetation Plan and in the Visual Quality Mitigation Exhibits should be modified for the same purpose by a qualified restoration ecologist so that both objectives, providing open views of the project site from Rheem Boulevard, a scenic road, and creating a high quality wetland swale and intermittent drainage, are achieved. See Impact 3.35 #4 and Mitigation Measure 3.35 #4 for further discussion.</p> <p>With implementation of Mitigation Measures 3.55 #3a and 3b, this impact will be less than significant. Due to project design, no off-site mitigation is necessary as was initially discussed in the Draft EIR, but the final scope of project requirements and conditions, including the replacement jurisdictional acreage, will be determined through the 404</p>	<p>The existing seasonal wetland (0.01 acres) filled for the 27 Lot Project shall be replaced on site with new seasonal wetland, minimum 0.01 acres.</p> <p>The existing seep (0.05 acres) filled for the 27 Lot Project shall be replaced on site with new seep, minimum 0.05 acres.</p> <p>The Plans shall be prepared by a qualified restoration ecologist. The Plans shall provide for the re-creation and enhancement of approximately 2,000 linear feet of surface channel (wetland swale, 991 feet, and intermittent drainage, 995 feet), which will be revegetated with native species. The Plans shall be consistent with the Rheem Boulevard Visual Quality Mitigation Exhibits, subject to mitigation consistency adjustments as more fully described in Mitigation Measure 3.35 #4 and Mitigation Measure 3.55 #4b and #5b.</p> <p>The Plans shall be submitted for resource agency review. Final details and conditions for filling jurisdictional waters of the U.S. shall be determined through the Section 404 permitting process with the Army Corps of Engineers.</p> <p>The Plans shall detail wetland protection, replacement, and restoration. The Plans shall accurately identify the total wetlands and other jurisdictional areas affected by the project. The Plans shall provide for re-establishment, enhancement, and/or replacement of wetland habitat and vegetation “in-kind” at a minimum</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>permit and related resource agency processes</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>replacement ratio of 1:1, or as otherwise stipulated by and subject to review and approval by the USACE, RWQCB, and CDFG.</p> <p>Created or enhanced wetlands shall be monitored for no less than five years following completion of plant installation or as otherwise specified in the permit conditions. Annual reports shall be submitted to the Town of Moraga, USACE, CDFG, and RWQCB. At a minimum, details of the Plans should include the following:</p> <ul style="list-style-type: none"> a. The location(s) of mitigation areas, including the types and extent of each habitat type to be created; b. Mitigation for loss of existing wetlands shall be provided at a minimum "in-kind" replacement ratio of 1:1, or as otherwise stipulated by the USACE, CDFG and RWQCB, and shall result in created or restored wetlands with an equal or higher habitat value; c. A water budget (hydrological analysis) shall be prepared by the Project Sponsor analyzing water demand for each mitigation habitat type to be created and the ability of the watershed to support the target wetland habitats; d. The stated goal of the mitigation effort shall be to establish self-sustaining native riparian vegetation that shall not require long-term irrigation or maintenance; 					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>e. The mitigation site shall include the establishment of a vegetated upland buffer no less than 50 feet wide on all sides, where practicable; and</p> <p>f. A detailed mitigation and monitoring plan shall be prepared summarizing the total area of habitat to be restored, grading details, analysis of site hydrology and its ability to support the proposed riparian vegetation, location and quantities of all indigenous plant materials to be installed, the location, application rate, and minimum germination rates of all native seed mixes to be used on all bare ground surfaces, monitoring procedures and schedules, identification of remedial measures, and performance criteria to be used by the agencies to assess success or failure of the mitigation effort.</p> <p>The Plan shall be reviewed by the Town biologist monitor prior to submittal to the USACE, CDFG, and RWQCB for approval.</p> <p>The jurisdictional wetlands (recreated and preserved) shall be incorporated in the final landscape plan and mitigation implemented under the direction of a qualified restoration ecologist for the project.</p> <p>The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>#5a. One GHAD responsibility shall be long-term management of jurisdictional wetlands.</p> <p>All restored jurisdictional wetlands, along with an appropriate upland buffer, shall be placed in a permanent Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity, and managed by the GHAD.</p> <p>Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from the USACE, CDFG, and RWQCB. <i>[Also included as CDP Condition II.9]</i></p>					
<p>Impact 3.55 #4. Non-Corps Jurisdictional Wetlands: The 35 lot project in the Draft EIR would result in impacts to a total of 0.65 acre of riparian habitats not otherwise qualifying as federally regulated wetlands; i.e., Central Coast riparian scrub. Impacts to isolated wetlands and other aquatic habitats not specifically regulated by the USACE may be regulated separately under the Clean Water Act (Section 401) and Section 1600, et seq. of the California Fish and Game Code. Pursuant to Section 401 of the Clean Water Act, a water quality certification or waiver must be issued by the RWQCB before the USACE could issue a Section 404 permit to fill any wetlands. The RWQCB routinely consults with the CDFG for technical assistance regarding an assessment of appropriate mitigation measures for unavoidable impacts to isolated wetlands and riparian habitats.</p>	<p>Mitigation Measure 3.55 #4a: The Project Sponsor shall obtain permits under Section 401 of the Clean Water Act and Section 1600, et seq. of the State Fish and Game Code prior to site grading. These permits, administered by the RWQCB and CDFG, respectively, would identify specific mitigation measures to be imposed on the project as permit conditions. <i>[Also included as CDP Condition II.10]</i></p> <p>Mitigation Measure 3.55 #4b: The 2005 Rheem Valley Revegetation Plan provides details on revegetation goals and objectives, conceptual design and typical planting seeding plans, schedule, site preparation, invasive species control, soil salvage, planting and seeding specifications, maintenance, monitoring methodologies, performance standards,</p>	<p>The final Rheem Valley Revegetation Plan shall be completed prior to approval of any resource agency permit and the Precise Development Plan.</p> <p>Any replacement mitigation would be created simultaneous with, or prior to, incremental loss of wetlands on the site.</p> <p>Mitigation plantings shall be monitored for no less than five years following completion of plant installation. Annual reports shall be submitted</p>	<p>Town Planning Department, Town Engineer, Town biological monitor, resource agencies, and GHAD.</p>	<p>a) Prior to Precise Development Plan approval;</p> <p>b) prior to approval of final grading plan;</p> <p>c) during grading;</p> <p>d) annually for five years; and</p> <p>e) monitoring and maintenance in perpetuity</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>Impacts to Central Coast riparian scrub are restricted to habitat adjacent to the Rheem Boulevard drainage. Impacts would result from the construction of the proposed "A" Way access road, and from the placement of fill adjacent to Rheem Boulevard for slope stabilization purposes. This is a potentially significant impact.</p> <p>The 27 Lot Project includes the modified landscape plan for the recreated wetland swale and intermittent drainage in the Rheem Boulevard Visual Quality Mitigation Exhibits, intended to provide a lower visual profile to improve open views of the project site from the scenic road. The planting palette for these locations in Table 6 at Section 5.7.1 of the Rheem Valley Revegetation Plan and in the Visual Quality Mitigation Exhibits should be modified for the same purpose by a qualified restoration ecologist with respect to the coastal scrub, so that both objectives, providing open views of the project site from Rheem Boulevard, a scenic road, and creating a high quality wetland swale and intermittent drainage, are achieved. See Impact 3.35 #4 and Mitigation Measure 3.35 #4 for further discussion.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>reporting, contingency measures, and responsibilities and funding.</p> <p>The 2005 Rheem Valley Revegetation Plan shall be modified by a qualified restoration ecologist to reflect the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits and submitted to the RWQCB, CDFG, and the Town of Moraga for review and approval. The final Plan shall result in the establishment of at least 1.3 acres of Central Coast riparian scrub habitat, with its placement in the Rheem valley area and, if necessary, in the Coyote Creek area, subject to the open view requirements in Mitigation Measure 3.35 #4.</p> <p>Mitigation plantings shall be monitored for no less than five years following completion of plant installation or as otherwise specified in the permit conditions. Annual reports shall be submitted to the Town of Moraga, CDFG, and RWQCB.</p> <p>The final mitigation imposed on the project are subject to Agency review and must meet the requirements of the CDFG, and RWQCB. At a minimum, the final mitigation in the Plan shall include the following:</p> <ol style="list-style-type: none"> a. The total area of willow canopy impacted shall be replaced at a minimum ratio of at least two acres for each acre impacted, or a total of 1.3 acres of re-created Central Coast riparian scrub. Willow planting areas shall utilize a combination of pole 	<p>to the Town of Moraga, USACE, CDFG and RWQCB.</p> <p>Preservation in perpetuity of non-jurisdictional wetlands (scrub) and upland buffer, in a Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity and managed by GHAD.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p>		by GHAD.		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>cuttings collected from trees on site, in addition to 201 willow tree plantings (see also Mitigation Measures 3.55 #5b and 3.35 #4);</p> <p>b. A water budget (hydrological analysis) shall be prepared analyzing water demand for each mitigation habitat type and the ability of the watershed to support the target habitats;</p> <p>c. Impacted non-wetland native tree species associated with riparian corridors (e.g., coast live oak, valley oak, arroyo willow, California buckeye, black walnut) shall be replaced at a minimum of one 1½-gallon sized tree for every six inches of aggregate trunk diameter that is uprooted, using trees from East Bay stock (see Mitigation Measure 3.55 #5a, below);</p> <p>d. The stated goal of the mitigation effort shall be to establish self-sustaining native riparian vegetation that shall not require long-term irrigation or maintenance;</p> <p>e. The mitigation site shall include an upland buffer of no less than 50 feet on all sides.</p> <p>The Plan shall be reviewed by the Town biologist monitor prior to submittal to thCDFG and RWQCB for approval.</p> <p>The recreated non-jurisdictional wetlands shall be incorporated in the final</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>landscape plan and mitigation implemented under the direction of a qualified restoration ecologist for the project.</p> <p>The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be long-term management of non-jurisdictional wetlands.</p> <p>All restored non-jurisdictional wetlands, along with an appropriate upland buffer, shall be placed in a permanent conservation easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity, and managed by the GHAD.</p> <p>Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from the CDFG, and RWQCB. <i>[Also included as CDP Condition II.11]</i></p>					
<p>Impact 3.55 #5. Loss of Native Trees: The majority of impacts from the 35 lot project in the Draft EIR to mature native trees would occur along Rheem Boulevard. Impacts would result from the construction of the proposed "A" Way access road, and from the placement of fill adjacent to Rheem Boulevard for slope stabilization purposes. A total of 64 mature native trees (55 willows, nine upland trees) would be directly impacted by construction adjacent to Rheem Boulevard (see Table 3.55-</p>	<p>Mitigation Measure 3.55 #5a. Native Upland Trees: Potential direct impacts to a total of nine mature native trees (247 cumulative inches) including coast live oak, valley oak, California buckeye, and black walnut, could result from tree removal as well as grading or filling within the dripline. All direct impacts to native trees shall be mitigated through planting at least 42 container-grown trees (the minimum required in the 2005 Rheem</p>	<p>The Rheem Valley Revegetation Plan for the 27 Lot Project shall include appropriate tree protection and replacement programs, and completed prior to approval of any resource agency permit and the Precise Development Plan.</p>	<p>Town Planning Department, Town Engineer, Town biological monitor, resource agencies, and GHAD.</p>	<p>a) Prior to PDP approval; b) prior to approval of final grading plan; c) during grading;</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>3). A tree survey was prepared for all trees with a diameter of six inches or greater adjacent to the Rheem Boulevard drainage (Foothill 2002a). The EIR team mapped and measured trees on the east side of the ridge adjacent to lots 15, 16, 17, 18, and 24. A summary of tree impacts and proposed mitigation is provided in Table 3.55-3. Impacts to mature willows are also addressed separately in Mitigation Measure 3.55 #4, above. This is considered a potentially significant impact.</p> <p>In addition to direct removal of native trees, direct impacts to trees result when grading or trenching occurs within the dripline (defined as the area beneath the extent of a tree's canopy). Grading can sever main support roots and injury to branches and the trunk can result from equipment operating too close to the tree. Direct impacts from surface disturbances within the dripline may cause the ultimate death of a tree by reducing root support or root surface area, and by making a tree susceptible to disease or insect attack through limb injury. Trees were considered to be directly impacted if proposed grading or filling would encroach with the dripline. This is a considered to be a potentially significant impact.</p> <p>Additional impacts to native trees could result from the installation of a sewer line that would extend from the end of "C" Court through the existing woodland to the Lafayette-Moraga Regional Trail. Details of this potential project component have not been completed and impacts have not been quantified. If installation of this sewer line would require excavation of an open ditch is very likely to result in direct removal of native trees, as well as indirect effects on the root systems of native trees. One</p>	<p>Valley Revegetation Plan) in the designated open space preserve in the re-aligned lower Rheem Boulevard drainage corridor between "D" Drive and "A" Way, or elsewhere within the Conservation Easement. The locations for mitigation trees shall be identified in the final landscape plan and the final Rheem Valley Revegetation Plan.</p> <p>Direct impacts to native trees shall be mitigated by planting one 1½ gallon-sized tree or comparable for every six inches of aggregate trunk diameter that is impacted. Replacement trees shall be from local East Bay sources.</p> <p>As a measure of the successful implementation of this mitigation measure, the survivorship of container plantings shall be at least 80 percent by the third year and 75 percent by the fifth year. In addition, the health and vigor ratings for the tree plantings shall be an average of at least "2" at the end of the five-year monitoring period, as described in the 2005 Rheem Valley Revegetation Plan. <i>[Also included as CDP Condition IV.7]</i></p> <p>Mitigation Measure 3.55 #5b. Native Willows: Potential impacts to a total of 55 mature native arroyo willow (1,024 cumulative inches) shall be mitigated through planting of a minimum of 201 container-grown arroyo willows in order to provide at least 1.3 acres of new willow canopy. The location and number of new arroyo willows and other restoration trees planted in the lower Rheem valley shall be consistent with requirement to provide</p>	<p>Any replacement mitigation shall be created simultaneous with, or prior to, incremental loss of native trees on the site.</p> <p>Mitigation plantings shall be monitored for no less than five years following completion of plant installation. Annual reports shall be submitted to the Town of Moraga, USACE, CDFG and RWQCB.</p> <p>Preservation in perpetuity of native trees, in a Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity and managed by GHAD.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p>		<p>d) annually for five years; and</p> <p>e) monitoring and maintenance in perpetuity by GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>alternative to the use of an open ditch might include boring a tunnel down the wooded slope, thus avoiding the need to remove trees and, at least potentially, avoiding impacts to native tree root systems. Another alternative includes the construction of a lift station to pump wastewater upslope to the proposed gravity sewer line in "B" Drive, thus avoiding the need for tying the line into the main sewer line at the Lafayette-Moraga Regional Trail. This alternative mitigation measure is discussed in Mitigation Measure 3.65 #2a and #2b. Impacts to native trees would be considered potentially significant.</p> <p>In the 27 Lot Project, as mitigated by incorporating the Rheem Blvd. Visual Quality Mitigation Exhibit, native trees will not be planted in the recreated wetland swale and intermittent drainage in order to maintain open views of the project site from the scenic road. New riparian tree planting shall instead be located in other appropriate locations (e.g., Coyote Creek) proposed by a qualified restoration ecologist, subject to review and approval by the Town in consultation with its biological monitor.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>open views of the project site from Rheem Boulevard, a scenic road, as more fully set forth in Mitigation Measures 3.35 #4 and 3.55 #4b, with some trees planted in the Coyote Creek area if necessary and as identified in the Final Landscape Plan. A combination of pole cuttings and container plantings shall be incorporated in the revegetation.</p> <p>The survivorship of all willow container plantings shall be at least 80 percent by the third year and 75 percent by the fifth year. The health and vigor for the tree plantings shall be at least two inches at the end of the five-year monitoring period, as described in the 2005 Rheem Valley Revegetation Plan.</p> <p>Replacement trees shall be from local East Bay sources. Pole cuttings shall be collected from source trees on site and planting adjacent to existing or constructed water courses where the water table is no more than three feet below the soil surface. Willow pole cuttings shall be collected from dormant donor plants between November and the first of February. Cuttings shall be a minimum of three to five feet long, three-quarters to two inches in diameter at the lower end, and consist of non-succulent stems. To distinguish the top from the bottom, the root end should be cut at an angle during collection, with the top end cut squarely. This will also facilitate inserting the cuttings into the ground. The cuttings shall be planted the same day they are collected, or, if necessary, stored for up to two nights. During interim</p>					

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	<p>storage, cuttings will be kept cool and moist, but not wet. Pole cuttings should be stuck into wet ground at least two feet deep. <i>[Also included as CDP Condition IV.8]</i></p> <p>Mitigation Measure 3.55 #5c: The 2005 Rheem Valley Revegetation Plan provides for the planting and establishment of at least 243 1.5 gallon-sized native trees, as summarized in Table 3.55-3, above. The Plan provides detailed revegetation goals and objectives, conceptual design and typical planting seeding plans, schedule, site preparation, invasive species control, soil salvage, planting and seeding specifications, maintenance, monitoring methodologies, performance standards, reporting, contingency measures, and responsibilities and funding.</p> <p>The Plan shall be modified by a qualified restoration ecologist to be consistent with the approved 27 Lot Project and its Rheem Boulevard Visual Quality Exhibits; see Mitigation Measure 3.35 #4 and 3.55 #4b, with new trees limited to the lower Rheem valley and located so as not to eliminate open views from Rheem Boulevard, with some trees planted in Coyote Creek if necessary. All restoration trees and their locations shall be identified in the final landscape plan.</p> <p>Mitigation plantings shall be monitored for no less than five years following completion of plant installation or as otherwise specified in the permit conditions. Annual reports shall be submitted to the Town of Moraga, USACE,</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>CDFG, and RWQCB. The survivorship of container and willow plantings shall be at least 60 percent by the third year and 75 percent by the fifth year. The health and vigor for the tree plantings <u>shall be at least two (good) at the end</u> of the five-year monitoring period, as described in the 2005 Plan.</p> <p>Implementation of the mitigation measures imposed is subject to agency review by resource agencies and, specifically, must meet the requirements and conditions of the CDFG and RWQCB.</p> <p>The Plan shall be reviewed by the Town biological monitor prior to submittal to the RWQCB, CDFG, and RWQCB for approval.</p> <p>The areas planted with native trees shall be incorporated in the final landscape plan and mitigation implemented under the direction of a qualified restoration ecologist for the project.</p> <p>The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be long-term management of wetlands.</p> <p>All areas planted with native trees, along with an appropriate upland buffer, shall be placed in a permanent conservation easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity, and</p>					

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	<p>managed by the GHAD.</p> <p>Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from the CDFG and RWQCB. <i>[Also included as CDP Condition IV.9]</i></p>					
<p>Impact 3.55 #6. Loss of Native Trees on the East Slope: Trees located within the areas of disturbance and along the immediate edge of the limits of grading on the east side of the ridge for the 35 lot project in the Draft EIR were mapped and measured by the EIR team. Grading would encroach within the dripline of one mature valley oak at Lot 15. Additional tree impacts could result from grading on the east side of the ridge at Lot Numbers 15-18, 24, 25, and 29. This is a potentially significant impact.</p> <p>The lot numbers above are now Lots 7-12 and 16 and 17 in the 27 Lot Project. The preliminary grading plan on the southern plateau for the 27 Lot Project avoids impacts to many of these trees, in particular in the area of Lots 7-12. Therefore, the potentially significant impact of the 27 Lot Project is less than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #6a: Mitigation for grading within the dripline of a single mature valley oak at Lot 7 of the 27 Lot Project shall be provided with the final grading plan, as recommended by a qualified arborist and consistent with the applicable standards in Mitigation Measure 3.55 #5a. <i>[Also included in CDP Condition IV.10]</i></p> <p>Mitigation Measure 3.55 #6b: A tree survey of all trees located within 50 feet of the limits of grading on the east side of the ridge shall be prepared by a qualified arborist. Trees shall be tallied as being directly impacted wherever grading overlaps with a tree's dripline. Direct impacts to protected trees shall be mitigated per the recommendations of a qualified arborist, consistent with the applicable standards in Mitigation Measure 3.55 #5a. <i>[Also included in CDP Condition IV.10]</i></p> <p>Mitigation Measure 3.55 #6c: Prior to the issuance of a grading permit by the Town of Moraga, the Project Sponsor must develop a final plan to handle waste water for lots along "C" Court. If a sewer line extension between the lower end of "C" Court and the Lafayette-Moraga Regional Trail using open trench construction is</p>	<p>Prior to the approval of final grading plan, the Town of Moraga shall ensure it includes appropriate tree protection and replacement programs.</p>	<p>Town Engineer, and Town biological monitor.</p>	<p>Prior to approval of final grading plan.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>proposed, a detailed tree survey must be completed within 50 feet of the centerline of the sewer alignment. The alignment itself should be sited to minimize the need to remove native trees, to the maximum extent feasible. If the sewer line extension to the Lafayette-Moraga Regional Trail can be implemented by boring, thus eliminating the need for open trench construction, a detailed tree survey must be completed within 50 feet of the edge of all construction areas, included but not limited to temporary staging and access areas, boring and receiving pits, or other areas of surface disturbance. Construction-related work areas should be sited to minimize tree removals, grading or stockpiling of soil within the root protection zone of native trees, to the maximum extent feasible. If wastewater is to be handled by use of a lift station, thereby eliminating entirely the need to connect with the sewer main at the Lafayette-Moraga Regional Trail, no additional tree surveys or mitigation measures are needed. Trees shall be tallied as being directly impacted wherever grading overlaps with a tree's dripline. Direct impacts to protected native trees shall be mitigated, per the recommendations of a qualified arborist and consistent with the applicable standards in Mitigation Measure 3.55 #5a. [Also included as Condition IV.11]</p>					
<p>Impact 3.55 #9. California Red-Legged Frog: As proposed in the 35 lot project, the construction of the eastern access road from Rheem Boulevard, and filling to stabilize Rheem Boulevard would result in direct impacts to the</p>	<p>Mitigation Measure 3.55 #9a: As part of the Clean Water Act permitting process, the USACE must assess the potential for a project to have an adverse effect on endangered species. A general condition</p>	<p>Prior to approval of final grading plan, Town of Moraga shall review the final Wetland/Special-Status Species Plan</p>	<p>Town Engineer, Town biological monitor,</p>	<p>a) Prior to approval of final grading plan;</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>Rheem Boulevard drainage.</p> <p>The 2005 Wetland/Special Status Species Plan and the incorporated 2005 Rheem Valley Revegetation Plan shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated and more fully described in Impact 3.35 #4, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for long-term maintenance of the project open space, including any special status species habitat that may be present.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>of the authorization from the USACE to fill wetlands is that the proposed activities would not jeopardize any listed species. The USACE has been provided a copy of the CRLF Site Assessment (Wood Biological Consulting and Rana Resources 2003a). The USACE has initiated consultation with the USFWS. Before work could proceed, a permit would be required from the USACE. The permit would include conditions of approval intended to ensure no "take" of CRLF would result. In addition to the mitigation measures outlined below, additional mitigation in the form of habitat preservation, creation and/or enhancement might be warranted, based on review by USFWS. Evidence that the Project Sponsor has complied with the requirements of these agencies shall be submitted to the Town of Moraga prior to issuance of any grading or building permits.</p> <p><i>[Also included as CDP Condition IV.12]</i></p> <p>Mitigation Measure 3.55 #9b: The 2005 Wetland/Special-Status Species Plan to offset impacts to potential CRLF dispersal habitat shall be modified by a qualified biologist to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits. The Plan shall be submitted to the USACE, RWQCB, CDFG, USFWS, and the Town of Moraga for review and approval. At a minimum, all measures outlined in the Plan, including implementation of the grazing management plan, and invasive species control, shall be implemented. Additional mitigation measures may be required by</p>	<p>and Rheem Valley Revegetation Plan for compliance with mitigation measures.</p> <p>Evidence that the Project Sponsor has complied with the requirements of the USACE, RWQCB, CDFG, and USFWS shall be submitted to the Town of Moraga prior to issuance of final grading plan grading (verified on the final grading plan).</p> <p>Mitigation plantings shall be monitored for no less than five years following completion of plant installation and seeding. Annual reports shall be submitted to the Town of Moraga, USACE, CDFG and RWCB.</p> <p>Preservation in perpetuity of jurisdictional wetlands and upland buffer, in a Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity and managed by GHAD.</p> <p>Confirm permanent funding through GHAD and verify the</p>	<p>resource agencies, and GHAD.</p>	<p>b) prior to start of grading; and</p> <p>c) annually for five years.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>the regulatory agencies. The following measures shall be implemented as part of the final Wetland/Special-Status Species Plan::</p> <ol style="list-style-type: none"> 1. A total of 162 acres of grassland, scrub and oak woodland shall be designated as a permanent conservation easement, or other suitable deed restriction, and conveyed to the Town of Moraga or a third-party entity approved by the Town, USFWS and CDFG for preservation in perpetuity; 2. Enhance suitable CRLF dispersal habitat in the Coyote Creek corridor by implementation of the grazing management plan described in 2005 Plan; 3. The eastern edge of the Coyote Creek corridor shall be protected from grazing by a permanent fence to exclude livestock from the channel banks; 4. Existing springs within any areas proposed for grazing shall be fenced to exclude livestock. If access to water is required, water may be piped from the springs to water troughs outside of the enclosure fencing. 5. Adaptive management shall be utilized to identify and respond to problems that arise and which threaten to degrade potential CRLF dispersal habitat; 	<p>preconstruction biological surveys.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p> <p>A biological monitor shall be retained by the Town of Moraga and paid for by the Project Sponsor to review the necessary construction monitoring and the five-year mitigation monitoring by the Project Sponsor's biologist. The role of the biological monitor shall be to ensure the preservation of sensitive habitats and that individual animals are not harassed or harmed. The monitor shall be approved by the USFWS for any required handling of CRLF. The results of the monitoring shall be submitted in reports to the Town of Moraga, the USFWS and the CDFG.</p>				

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>6. Signs shall be installed identifying the site as a sensitive habitat area;</p> <p>7. Habitats within the Conservation Easement shall be monitored in the spring and fall for no less than five years following installation of fencing;</p> <p>8. An education brochure shall be produced for future homeowners describing the purpose of the conservation easement and other mitigation measures, the species and habitats being protected, prohibited activities, and homeowner responsibilities;</p> <p>9. Monitoring of the average grass height shall be conducted one month after "green-up" following the first inch of rain. Around mid-March, and monthly thereafter, average grass height shall be monitored to determine the residual dry matter level and timing of grazing cessation, adjusting grazing levels, or the need for supplemental feeding for no less than five years;</p> <p>10. Annual reports documenting observations made during monitoring visits shall be submitted to the USACE, RWQCB, CDFG, and USFWS, by the end of each calendar year for no less than five years;</p> <p>11. Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from all relevant regulatory agencies;</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>12. At the end of the five-year monitoring period, the Project Sponsor shall coordinate with the Town of Moraga, USACE, USFWS, CDFG and RWQCB to determine if the success standards have been achieved. If the permit conditions have not been met, the agencies will identify the appropriate remedial measures. The Project Sponsor shall be responsible for completing all remedial measures and achieving sign-off from the agencies.</p> <p>13. The final Wetland/Special-Status Species Plan shall provide details of on-going monitoring and maintenance to be implemented in perpetuity, as part of the Open Space Management Plan.</p> <p>14. As more fully described in Mitigation Measure 3.20 #5b, the Geologic Hazard Abatement District (GHAD) formed by the Town Council shall be responsible for the long-term management of the project open space, including special status species habitat that may be present. The GHAD shall have sufficient permanent funding for the estimated costs of the following functions: (a) monitoring and annual reporting, (b) weeding, trail maintenance, erosion control and repair, grazing management, and fence repair, and (c) a designated preserve manager to periodically visit the site and report to the District and the Town of Moraga. Funding sources for the GHAD may</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>include seed money provided by the Project Sponsor, annual contributions from homeowners, and income from grazing leases. The actions of the GHAD in meeting its responsibilities, including the adequacy of permanent funding from the Project Sponsor and project homeowners, shall be subject to Town review, direction and control. All Town costs shall be paid by the GHAD. Alternatively, the Project Sponsor shall establish an endowment to provide for its maintenance and monitoring. No grading or building permits shall be issued by the Town until the funding sources has been agreed upon and secured. <i>[Also included in CDP Condition IV.13]</i></p> <p>Mitigation Measure 3.55 #9c: Grading and filling of the Rheem Boulevard drainage could result in direct mortalities of CRLF present during construction. Construction within the tributary should be initiated after the peak season of CRLF dispersal (after May 1). Pre-construction surveys by a qualified wildlife biologist shall be conducted no more than 48 hours prior to clearing and grubbing the site (e.g., two night surveys immediately prior to construction), or as otherwise required by the USFWS. If CRLF are encountered, work must cease immediately and the USFWS must be contacted for further instructions. If no CRLF are encountered, the site may be considered ready for construction. <i>[Also included in CDP Condition IV.13]</i></p> <p>Mitigation Measure 3.55 #9d: All grading</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>in and around creeks and wetlands shall conform to permit conditions issued by USACE, CDFG, RWQCB, and USFWS, intended to preserve habitats, water quality, and avoid "take" of CRLF. <i>[Also included in CDP Condition IV.13]</i></p> <p>Mitigation Measure 3.55 #9e: Sensitive areas adjacent to but outside of the construction footprint shall be designated as such on construction plans, and shall be protected by orange construction fencing. <i>[Also included in CDP Condition IV.13]</i></p> <p>Mitigation Measure 3.55 #9f: Educational materials shall be prepared and provided to construction workers outlining measures to reduce or eliminate direct and indirect impacts to special-status species. Workers shall be required to sign a statement to the effect that they have received the educational materials regarding special-status species and that they understand that they will be responsible for impacts that occur as a result of worker negligence. <i>[Also included in CDP Condition IV.13]</i></p>					
<p>Impact 3.55 #10. Direct impacts to Alameda Whipsnake: The project site is located within an area proposed as Critical Habitat for AWS (Unit 2). Grading and construction activities for the 35 lot project would result in direct impacts to grasslands and other habitats potentially supporting dispersing or foraging individuals of AWS. Although habitats present on site are not considered optimal for AWS breeding, individuals could move onto the site from the habitat known to support the species (i.e.,</p>	<p>Mitigation Measure 3.55 #10a: As part of the Clean Water Act permitting process, the USACE must assess the potential for a project to have an adverse effect on endangered species. A general condition of the authorization from the USACE to fill wetlands is that the proposed activities would not jeopardize any listed species. The USACE shall be provided a copy of the AWS Site Assessment (Wood Biological Consulting and Rana Resources</p>	<p>Evidence that the Project Sponsor has complied with the requirements of the USACE, RWQCB, CDFG, and USFWS shall be submitted to the Town of Moraga prior to issuance of final grading plan (verified on the final grading plan).</p>	<p>Town Engineer, Town Biological Monitor, resource agencies, and GHAD.</p>	<p>a) Prior to approval of final grading plan; b) prior to start of grading; and c) annually for five years.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>Wilderness) Las Trampas Ridge Regional. Grading and construction on site could result in direct mortalities of AWS present at the time of construction. This is considered a potentially significant impact.</p> <p>The 2005 Wetland/Special-Status Species Plan shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space, including special status species habitat that may be present.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>2003b). The USACE has initiated consultation with the USFWS under Section 7 of the ESA. Before work could proceed, a permit is required from the USACE, and potentially the issuance of a Biological Opinion and/or incidental take permit by the USFWS. The permit and Biological Opinion will include conditions of approval intended to ensure no "take" of AWS would result. In addition to the mitigation measures outlined below, additional mitigation in the form of habitat preservation, creation and/or enhancement might be warranted, based on review by USFWS. Evidence that the Project Sponsor has complied with the requirements of these agencies shall be submitted to the Town of Moraga prior to issuance of any grading or building permits. <i>[Also included in CDP Condition IV.13]</i></p> <p>Mitigation Measure 3.55 #10b: The 2005 Wetland/Special-Status Species Plan shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits and submitted to the USACE, RWQCB, CDFG, USFWS, and the Town of Moraga for review and approval. At a minimum, all measures outlined in the Plan, including implementation of the grazing management plan, and invasive species control, shall be implemented. Additional mitigation measures may be required by the regulatory agencies. The following measures shall be implemented:</p> <ol style="list-style-type: none"> 1. A total of 162 acres of grassland, scrub and oak woodland shall be 	<p>Confirm permanent funding through GHAD and verify the preconstruction biological surveys.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p> <p>A biological monitor shall be retained by the Town of Moraga and paid for by the Project Sponsor to review the necessary construction monitoring and the five-year mitigation monitoring by the Project Sponsor's biologist. The role of the biological monitor shall be to ensure the preservation of sensitive habitats and that individual animals are not harassed or harmed. The monitor shall be approved by the USFWS for any required handling of CRLF. The results of the monitoring shall be submitted in reports to the Town of Moraga, the USFWS and the CDFG.</p>				

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>designated as a permanent conservation easement, and conveyed to a third-party entity approved by the USFWS and CDFG for preservation in perpetuity;</p> <ol style="list-style-type: none"> 2. Enhance suitable AWS dispersal habitat by implementation of the grazing management plan described in Sycamore (2005b); 3. A minimum of eight rock piles covering 25 square feet and 3-4 feet in height shall be created using sandstone boulders salvaged on site during excavation; 4. Bare soil areas associated with the boulder placement sites shall be broadcast seeded using the native shrub and grassland mix described in Sycamore (2005b); 5. Scrub habitat below the old ranch road shall be fenced with permanent fencing to exclude grazing livestock; 6. Existing springs within any areas proposed for grazing shall be fenced to exclude livestock. If access to water is required, water may be piped from the springs to water troughs outside of the enclosure fencing; 7. Adaptive management shall be utilized to identify and respond to problems that arise and which threaten to degrade potential AWS dispersal habitat; 					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>8. Signs shall be installed identifying the site as a sensitive habitat area;</p> <p>9. Habitats within the conservation easement shall be monitored in the spring and fall for no less than five years following installation of fencing and placement of boulder piles;</p> <p>10. An education brochure shall be produced for future homeowners describing the purpose of the conservation easement and other mitigation measures, the species and habitats being protected, prohibited activities, and homeowner responsibilities;</p> <p>11. Monitoring of the average grass height shall be conducted one month after "green-up" following the first inch of rain. Around mid-March, and monthly thereafter, average grass height shall be monitored to determine the residual dry matter level and timing of grazing cessation, adjusting grazing levels, or the need for supplemental feeding for no less than five years;</p> <p>12. Annual reports shall be submitted to the USACE, RWQCB, CDFG, and USFWS, by the end of each calendar year for no less than five years;</p> <p>13. Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from all relevant regulatory agencies;</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>14. At the end of the five-year monitoring period, the Project Sponsor shall coordinate with the USACE, USFWS, CDFG and RWQCB to determine if the success standards have been achieved. If the permit conditions have not been met, the agencies will identify the appropriate remedial measures. The Project Sponsor shall be responsible for completing all remedial measures and achieving sign-off from the agencies;</p> <p>15. The Plan shall provide details of on-going monitoring and maintenance to be implemented in perpetuity, as part of the Open Space Management Plan, as more fully described in Mitigation Measure 3.55 #9b, subsection 14. <i>[Also included in CDP Condition IV.14]</i></p> <p>Mitigation Measure 3.55 #10c: Brush clearing and grading could result in direct mortalities of AWS present during construction. Initial brush clearing and surface grading should be initiated after the peak season of AWS dispersal (after June 1). Pre-construction surveys by a qualified wildlife biologist shall be conducted no more than 24 hours prior to clearing and grubbing the site. If AWS should be encountered, the USFWS would be contacted for further instructions. If no AWS were encountered, the site could be considered ready for construction. A biologist shall be present to supervise brush removal until the site has been cleared of vegetation. The role of the biological monitor will be to ensure that no take of AWS occurs. The biological</p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>monitor shall also move other common wildlife species out of harm's way during removal of surface vegetation. Monthly construction monitoring reports shall be prepared by the biological monitor and submitted to the Town, USFWS, and CDFG. <i>[Also included as CDP Condition IV.15]</i></p> <p>Mitigation Measure 3.55 #10d: All grading and construction activities shall conform to permit conditions issued by USACE, CDFG, RWQCB, and USFWS, intended to preserve habitats and avoid "take" of AWS. <i>[Also included as CDP Condition IV.16]</i></p> <p>Mitigation Measure 3.55 #10e: Sensitive areas adjacent to but outside of the construction footprint shall be designated as such on construction plans, and shall be protected from encroachment by construction workers and equipment by orange construction fencing. <i>[Also included as CDP Condition IV.17]</i></p> <p>Mitigation Measure 3.55 #10f: Educational materials shall be prepared and provided to construction workers outlining measures to reduce or eliminate direct and indirect impacts to special-status species. Workers shall be required to sign a statement to the effect that they have received the educational materials regarding special-status species and that they understand that they shall be responsible for impacts that occur as a result of worker negligence. <i>[Also included as CDP Condition IV.18]</i></p>					

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<p>Impact 3.55 #12. Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, Occupied Nests, and Active Bat Roosts: Potential impacts include the destruction of occupied nests and roosts, direct mortalities of eggs and young, and causing breeding adults to abandon nests and roosts. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #12a: Active nesting sites of migratory birds including raptors are protected under the Migratory Bird Treaty Act and the California Fish and Game Code. In order to ensure that occupied nests of migratory birds are not impacted, land-clearing activities (grading, grubbing and clearing of vegetation, or the removal or trimming of trees) shall be performed between September 1 and January 30. <i>[Also included as CDP Condition IV.19]</i></p> <p>Mitigation Measure 3.55 #12b: If land-clearing activities are scheduled to commence between February 1 and August 31, a pre-construction survey for nesting migratory birds shall be conducted prior to any destruction of suitable nesting habitat. Depending on time of year and results of the pre-construction surveys, construction activities may require commencement within one week of the survey or, at a maximum, within 30 days, as recommended by the wildlife biologist. The survey area shall include all large trees, grassland and scrub habitat within a 250-foot buffer zone of the limits of work. The purpose of pre-construction surveys is to determine if occupied nests are present within a reasonable area that would be subject to direct impacts or disruption during construction. <i>[Also included as CDP Condition IV.20]</i></p> <p>Mitigation Measure 3.55 #12c: If occupied migratory bird nests are detected, grading and construction in the area may continue only after the nests are</p>	<p>Pre-construction surveys for raptors and other migratory birds shall be completed prior to issuance of a final grading plan, generally within 30 days of anticipated construction. The Project Sponsor shall provide copies of preconstruction survey reports, along with any recommendations by the biologist, to the Town before the initiation of any grading. If nest or roost buffers are needed, the Project Sponsor shall designate those areas on the final grading plan, to be submitted to the Town prior to the initiation of grading.</p>	<p>Town Engineer, and Town biological monitor.</p>	<p>Prior to grading.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>protected by an adequate setback (in general, 50 feet for passerines and 250 feet for raptors), approved by a qualified biologist, in consultation with the CDFG, or after young birds have fledged. Nest sites may only be impacted after a qualified biologist has verified that migratory birds have either 1) not begun egg-laying and incubation, or 2) that the juveniles from those nests are foraging independently and capable of independent survival at an earlier date. <i>[Also included as CDP Condition IV.21]</i></p> <p>Mitigation Measure 3.55 #12d: Prior to removing oak trees and large snags, pre-construction surveys should be conducted to check for the presence of bats. A pre-construction survey for bats shall be conducted no more than 30 days prior to the removal of any large tree. The survey shall be conducted by a qualified wildlife biologist. If no evidence of bat roosting is identified during the pre-construction survey, then no impacts to bats would be expected to occur from tree removal. If evidence of bat roosting is identified, a focused survey by a qualified wildlife biologist shall be performed to determine the species present, number of individuals present, and their reproductive status. Appropriate mitigation measures shall be developed to protect roosting bats in consultation with the CDFG. <i>[Also included as CDP Condition IV.22]</i></p> <p>Mitigation Measure 3.55 #12e: The presence of any maternity sites shall be reported to the California Natural Diversity Database (CNDDDB).</p>					

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	<i>[Also included as CDP Condition IV.23]</i>					
<p>Impact 3.55 #13. Direct Impacts on Sensitive Plant Communities: During grading and construction of the 35 lot project, inadvertent impacts to sensitive habitats such as oak woodland, riparian woodland, wetlands, seeps, springs, and scrub habitat could result. Inadvertent impacts include accidental grading or vehicle traffic outside the proposed limits of grading, stockpiling earth or construction materials, toxic spills, and fugitive dust. This is a potentially significant impact.</p> <p>The mitigation is consistent with the recommended 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #13a: All sensitive habitat areas to be avoided shall be clearly marked on project maps and provided to the contractor. These areas shall be designated as “no construction” or “limited construction” zones. These areas shall be flagged in the field, as approved by the project biologist, prior to the initiation of construction activities. In some cases, resources may need to be fenced or otherwise protected from direct or indirect impacts, as determined by the project biologist. Contractors shall be provided with copies of all state and federal permit conditions and shall be made aware of the consequences for non-compliance. <i>[Also included as CDP Condition IV.24]</i></p> <p>Mitigation Measure 3.55 #13b: Heavy equipment and construction activities shall be restricted to existing roadways and development areas, and vehicle access through creeks shall be prohibited, except where specifically authorized and permitted. Creeks, wetlands, woodland and scrub habitat not within the development envelope shall be designated as off-limits; their use for staging areas, equipment storage, and disposal or temporary placement of excess fill shall be prohibited. <i>[Also included as CDP Condition IV.25]</i></p> <p>Mitigation Measure 3.55 #13c: Equipment maintenance and fueling areas shall not be located within 100 feet of any</p>	Town of Moraga shall review and approve final grading plan, its erosion control plan, and Drainage Plan.	Town Engineer, and Town biological monitor.	With final grading plan, its erosion control plan, and Drainage Plan, and during grading.		

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	<p>creek or wetland. All fuel and hydraulic fluid spills shall be contained within the maintenance area and managed appropriately. Equipment maintenance areas shall be indicated on grading plans. <i>[Also included as CDP Condition IV.26]</i></p> <p>Mitigation Measure 3.55 #13d: Oak trees outside the impact area shall be protected with construction fencing where grading comes within 100 feet of the drip line. <i>[Also included as CDP Condition IV.27]</i></p> <p>Mitigation Measure 3.55 #13e: The primary indirect effects of construction projects adjacent to streams or drainages involve 1) increased erosion due to the clearing of existing vegetation and the exposure of the bare soil surface and 2) degradation of offsite (e.g., downstream) riparian or wetland habitat by excessive sedimentation. The effects of erosion can be decreased by collecting surface water runoff in desilting ponds before releasing the water into natural drainages. Erosion and sedimentation impacts can be further minimized by employing standard erosion control procedures such the use of sandbags, silt fences, hay bales, diversion ditches, desilting ponds, and undertaking stream bank stabilization procedures. Best Management Practices (BMPs) shall be in place during construction. All bare slopes shall be seeded with an appropriate seed mix to be reviewed and approved by a qualified restoration biologist. <i>[Also included as CDP Condition IV.28]</i></p>					

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>Mitigation Measure 3.55 #13f: Although there is little information on the effects of dust on plant life, there is some indication that excessive dust can reduce the overall vigor of some plant species by reducing their ability to photosynthesize and by increasing their susceptibility to pests or disease. While any noticeable adverse impact from dust would likely require long-term exposure, preventive measures shall be included in the construction documents for the project. Fugitive dust emissions caused by prolonged grading activities shall be mitigated by employing standard air quality control procedures as noted in Air Quality Mitigation Measure 3.45 #2. [Also included as CDP Condition 29]</p>					
<p>Impact 3.55 #15. Degradation of Wildlife Habitats and Decrease in the Carrying Capacity for Wildlife and Special-Status Species: Project implementation would result in increased human activity in and access to currently undeveloped wildlife habitats. These habitats include sensitive wetlands, regionally valuable oak woodlands, scrub, and wildflower fields, which could potentially support special-status wildlife species such as California red-legged frog, Alameda whipsnake, and migratory birds. Although the 27 Lot Project calls for the designation of 162 acres as permanently protected open space, without ecologically based management, the habitats could become degraded over time through benign neglect or abuse. Erosion, sedimentation of creeks, off-road vehicle activity, and invasive plant species could result in the permanent loss of the wildlife habitats that presently occupy the site. In addition, as homeowners move into the development, their personal interests and those</p>	<p>Mitigation Measure 3.55 #15a: A total of 162 acres of undeveloped land consisting of existing grasslands, oak woodland, intermittent channels, and seeps, would be designated as permanently preserved open space and placed into a conservation easement, appropriate deed restrictions, or as otherwise stipulated by the resource agencies. The 2005 Wetland/Special-Status Species Plan provides guidance on managing and monitoring preserved aquatic and upland habitat for special-status and common wildlife species. Details of the Plan and the required measures are outlined in Mitigation Measures 3.55 #9b and #10b, above. The Plan shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits. [Also included as CDP Condition IV.30]</p>	<p>See Monitoring Tasks for Mitigation Measures 3.55 #3, #9, #10 and #12.</p>	<p>Town Engineer, Town Biological Monitor, resource agencies, and GHAD.</p>	<p>Prior to issuance of final grading plan, during grading, and ongoing after construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>of the HOA could change over time, and come into conflict with the stated goals of preserving these habitats for the benefit of wildlife, biological diversity, and, ultimately, the residents and citizens of the area. This is a potentially significant impact.</p> <p>The 2005 Wetland/Special-Status Species Plan will modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space. This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #15b: The Project Sponsor shall retain the responsibility for these activities as the permittee until final sign off by the regulatory agencies and the Town of Moraga, presumably after five years. [Also included as CDP Condition IV.31]</p> <p>Mitigation Measure 3.55 #15c: The Wetland/Special-Status Species Plan shall provide details of on-going monitoring and maintenance to be implemented in perpetuity, and incorporated as part of the Open Space Management Plan, as more fully described in Mitigation Measure 3.55 #9b, subsection 14. [Also included as CDP Condition IV.32]</p>					
<p>Impact 3.55 #16. California Red-Legged Frog Habitat: Increased human habitation adjacent to occupied CRLF habitat could result in an increase in CRLF predators such as raccoons and skunks, which are attracted to dwellings by unsecured trash and outdoor pet food dishes. This is a potentially significant impact.</p> <p>The 2005 Wetland/Special-Status Species Plan modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #16a: An HOA or GHAD shall assume responsibility for ensuring proper management of secured waste receptacles. Future residents shall be provided with guidelines for safely co-existing with wildlife. Leaving pet food out-of-doors shall be prohibited, unless in a fully fenced kennel. In addition, trash receptacles shall have tight-fitting lids to discourage wildlife from using as forage. [Also included as CDP Condition IV.34]</p> <p>Mitigation Measure 3.55 #16b: The 2005 Wetland/Special-Status Species Plan has been developed to provide guidance on managing and monitoring preserved aquatic and upland habitat for special-status, including CRLF. It shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits. Details of the</p>	<p>The HOA and GHAD shall assume responsibility for ensuring proper management of secured waste receptacles. See Monitoring Task in Mitigation Measure 3.55 #9.</p>	<p>HOA and GHAD.</p>	<p>Ongoing after construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	Plan and the required measures relative to CRLF are outlined in Mitigation Measures 3.55 #9b, above. <i>[Also included as CDP Condition IV.35]</i>					
<p>Impact 3.55 #17. Indirect Recreational Effects on California Red-Legged Frog: Recreational activities along the proposed re-aligned Rheem Boulevard drainage wetland area and trail system in the 35 lot project could contribute to the likelihood of an unauthorized “take” of CRLF individuals by residents and visitors. Harassment and predation by people and pets could become a serious problem, particularly where creeks and movement corridors border residential development and improved parks. The creation of ponds in the mitigation area could attract CRLF, placing them in danger of predation, especially if the ponds were to become colonized by bullfrogs or other predators such as bass or western mosquitofish. This is a potentially significant impact.</p> <p>The 2005 Wetland/Special-Status Species Plan will be modified to be consistent with the recommended 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space. This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #17a: The proposed revegetation of the re-aligned Rheem Boulevard drainage shall not include the construction of perennial ponds or any year-round water features to avoid attracting CRLF. Mitigation habitats shall be consistent with those present on site currently, specifically, woody riparian, seasonal wetlands, and annual grasslands. Such habitats would continue to provide the same functions as those lost to construction. Dispersing CRLF would not be inclined to remain on site, reducing the likelihood that individuals would be subject to predation. <i>[Also included as CDP Condition IV.36]</i></p> <p>Mitigation Measure 3.55 #17b: The 2005 Special-Status Species Plan has been developed to provide guidance on managing and monitoring preserved aquatic and upland habitat for special-status, including CRLF. It shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits. Details of the Plan and the required measures relative to CRLF are outlined in Mitigation Measure 3.55 #9b, above. <i>[Also included as CDP Condition IV.36]</i></p>	<p>With approval of Rheem Valley Revegetation Plan, final grading plan and landscape plan, and final Wetland/Special-Status Species Plan.</p> <p>See Monitoring Tasks in Mitigation Measures 3.55 #3 and #9.</p>	<p>Town Engineer, Town Biological Monitor, resource agencies, and GHAD.</p>	<p>Prior to final grading plan approval, annually for five years, and ongoing by GHAD.</p>		
<p>Impact 3.55 #18. Indirect Impacts on California Red-Legged Frog Habitat: Grading and the intensification of human activities in the</p>	<p>Mitigation Measure 3.55 #18: Grading and filling of the Rheem Boulevard drainage could result in short-term</p>	<p>With approval of Rheem Valley Revegetation Plan, final grading plan and</p>	<p>Town Engineer, and Town</p>	<p>Prior to issuance of final grading</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>35 lot project could result in the degradation of water quality in the Rheem Boulevard drainage, thereby resulting in an indirect loss of CRLF habitat. While grading associated with the proposed re-aligned Rheem Boulevard drainage would ultimately serve to improve habitat, it could also contribute to short-term sedimentation and temporary loss of potential dispersal routes for CRLF. This is considered a potentially significant impact.</p> <p>The mitigation is modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>sedimentation and temporary loss of potential dispersal routes for CRLF. Appropriate sedimentation controls must be designed, installed, and maintained during construction to prevent the accumulation of sediment in the tributary downstream of the construction site. Grading shall be performed outside of the peak season of CRLF dispersal to reduce the likelihood of individuals migrating into the construction area. The optimal season for grading corresponds with the driest months of the year, before the onset of fall or winter rains. Periodic monitoring shall be performed by a qualified wildlife biologist, as required in permit conditions. A silt fence and construction fence barrier shall be erected around the site to prevent construction workers from straying outside the construction site and preventing frogs from potentially accessing the site. The fence shall be monitored weekly by a qualified wildlife biologist to make sure it is properly maintained. Additional permit conditions by the resource agencies could be imposed on the project. <i>[Also included as CDP Condition IV.37]</i></p>	<p>landscape plan, and final Wetland/Special-Status Species Plan.</p> <p>See Monitoring Tasks in Mitigation Measures 3.55 #3 and #9.</p>	<p>biological monitor, resource agencies, and GHAD.</p>	<p>plan, its erosion control plan and Drainage Plan, and during grading until its completion.</p>		
<p>Impact 3.55 #19. Indirect Effects on Alameda Whipsnake: Intensification of proposed residential use and human activity, and the associated degradation of upland habitats in the 35 lot project could cause indirect loss of AWS, occupied habitat, or suitable habitat unless protective measures are implemented and adequate mitigation is provided.</p> <p>The mitigation is consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect</p>	<p>Mitigation Measure 3.55 #19: The proposed revegetation of the re-aligned Rheem Boulevard drainage shall not include the construction of perennial ponds or any year-round water features, which would attract tree frogs or other AWS prey species. Mitigation habitats shall be consistent with those present on site currently, specifically, woody riparian, seasonal wetlands, and annual grasslands. Such habitats would continue to provide the same functions as those</p>	<p>With approval of Rheem Valley Revegetation Plan, final grading plan and landscape plan, and final Wetland/Special-Status Species Plan.</p> <p>See Monitoring Tasks in Mitigation Measures 3.55 #10.</p>	<p>Town Engineer, and Town biological monitor, resource agencies, and GHAD.</p>	<p>Prior to final grading plan approval, annually for five years, and ongoing by GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>the fact that the GHAD formed by the Town Council will control and be responsible for the project open space. This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>lost to construction. Dispersing AWS individuals would not be inclined to remain, reducing the likelihood that individuals would be more subject to predation. <i>[Also included in CDP Condition IV.38]</i></p>					
<p>Impact 3.55 #20. Recreational Impacts to Alameda Whipsnake: Recreational uses along the proposed wetland area and trail system in the 35 lot project could contribute to the likelihood of an unauthorized “take” of AWS individuals by residents and visitors. Harassment and predation by children and pets could become a serious problem, particularly where the creeks and movement corridors border residential development and improved parks. The creation of ponds in the mitigation area could attract AWS, placing them in danger of harm by visitors or pets. This is considered a potentially significant impact.</p> <p>The mitigation is modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #20a: The proposed revegetation of the re-aligned Rheem Boulevard drainage shall not include the construction of perennial ponds or any year-round water features, which would attract tree frogs or other AWS prey species. Mitigation habitats shall be consistent with those present on site currently, specifically, woody riparian, seasonal wetlands, and annual grasslands. Such habitats would continue to provide the same functions as those lost to construction. Dispersing AWS individuals would not be inclined to remain, reducing the likelihood that individuals would be more subject to predation.</p> <p>Creation of rock piles for AWS shall not be located near any high activity areas such as trail heads to lessen the chance of disturbance by humans. <i>[Also included in CDP Condition IV.38]</i></p> <p>Mitigation Measure 3.55 #20b: The 2005 Wetland/Special-Status Species Plan provides guidance on managing and monitoring preserved aquatic and upland habitat for special-status and common wildlife species (see Mitigation Measures 3.55 #9b and #10b). The Plan shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual</p>	<p>With approval of Rheem Valley Revegetation Plan, final grading plan and landscape plan, and final Wetland/Special-Status Species Plan.</p> <p>See Monitoring Tasks in Mitigation Measures 3.55 #10.</p>	<p>Town Engineer, Town biological monitor, resource agencies, and GHAD.</p>	<p>Prior to final grading plan approval, annually for five years, and ongoing by GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	and Quality Mitigation Exhibits. <i>[Included in CDP Condition IV.38]</i>					
<p>Impact 3.55 #21. Recreational Impacts to Wildlife and Wildlife Habitat: It is the desire of the Town to provide a trail link between the Lafayette-Moraga Regional Trail through the Coyote Creek canyon and across the Palos Colorados project site to connect to Moraga Road. However, a trail system through this protected open space could increase the effects of increased human activity and access to sensitive habitats. Introduction of pets and off-trail travel by pedestrians, bicycles, and horses could result in harassment and accidental mortalities of wildlife, as well as inhibition of wildlife activity and utilization of the preserved open space, in conflict with the stated goals of Town of Moraga General Plan. This is considered a potentially significant impact.</p> <p>The mitigation is modified to be consistent with the recommended 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #21a: The 2005 Wetland/Special-Status Species Plan has been developed provides guidance on managing and monitoring preserved aquatic and upland habitat for special-status and common wildlife species (see Mitigation Measures 3.55 #9b and #10b). The Plan shall be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual and Quality Mitigation Exhibits. The Open Space Management Plan shall include trail management that addresses this impact. <i>[Also included in CDP Condition II.12].</i></p> <p>Mitigation Measure 3.55 #21b: In order to minimize potential human impacts and preserve and enhance the existing habitats on site for wildlife, the proposed trail system shall be reoriented to be consistent with the of a single, unimproved dirt trails described in Mitigation Measure 3.35 #6. Imported substrate, such as decomposed granite or wood chips, shall not be used. Trail width shall not exceed three feet.</p> <p>Encroachments (e.g., paths, view points) leading from the trail into the riparian corridor within Coyote Creek shall be avoided. Trailheads at both ends shall be marked and stipulate that pets must be leashed, that bicycles are prohibited, and that off-trail foot travel is prohibited. No trash cans shall be provided as they can become attractive nuisances for wildlife and require increased human activity.</p>	<p>Town of Moraga approval of Open Space Management Plan and final Wetland/Special-Status Species Plan.</p> <p>See Monitoring Tasks in Mitigation Measure 3.55 # 3.</p>	<p>Town Council, Town Engineer Planning Department, and ongoing by GHAD.</p>	<p>Prior to approval of final grading plan, annually for five years, and ongoing by GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<i>[Also included in CDP Condition II.12]</i>					
<p>Impact 3.55 #22. Invasive Species: Grading and backfilling creates bare ground that can be colonized by invasive non-native plant species, potentially contributing to their spread. Invasive non-native species may compete with native species, particularly when the work area is at the interface with undeveloped hillsides and along riparian corridors. In addition, proposed landscaping of the development would likely include the use of both non-native and native species used in ornamental plantings, including a variety of trees, shrubs and groundcover. Non-native ornamentals can compete with native species in open space areas, particularly if highly invasive species are planted near the interface with undeveloped hillsides or along riparian corridors. Landscaping associated with the project could result in the introduction of invasive non-native plants that could colonize wetlands and open space areas, displacing desired native species. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #22a: Invasive non-native plant species known to invade wetlands and natural areas, as described in Table 3.55-4, shall not be used in either the subdivision or individual lot landscaping. Under no circumstances shall the revegetation of graded or filled areas include any species appearing on the California Invasive Plant Council's Invasive Plant Inventory (available at http://www.cal-ipc.org/pest_plant_list/). A deed restriction to this effect shall be included on each lot prior to the recordation of the final subdivision map and its enforcement monitored and controlled by the HOA and GHAD. <i>[Also included as CDP Condition III.6]</i></p> <p>Mitigation Measure 3.55 #22b: The 2005 Wetland/Special-Status Species Plan outlines measures to eradicate the existing infestation of artichoke thistle throughout the site, including the Conservation Easement or other appropriate deed restriction. The Plan also includes a grazing management plan intended to prevent over-grazing of the open space, which would aid in the control of detrimental invasive species. The measures outlined in the final Plan shall be paid for and administered by the Geologic Hazard Abatement District (GHAD) and confirmed in reports submitted to the Town by the ecologist monitor. <i>[Also included as CDP Condition IV.39]</i></p>	<p>Use of such species shall be expressly prohibited via a deed restriction and enforced by the HOA and Town for individual homes and by the GHAD and Town Council for open space. Incorporate mitigation in Open Space Management Plan.</p> <p>Monitoring of on-site management shall be the responsibility of the Project Sponsor with ongoing monitoring via annual reported submitted to the Town as called for in the Conservation Easement.</p> <p>Ongoing monitoring by the restoration ecologist for one rainy season after seeding with a report to the Town of Moraga.</p>	<p>Town Engineer, Town biological monitor, HOA, and GHAD.</p>	<p>Prior to Open Space Management Plan and final grading plan approval, for one year after one rainy season after seeding, and ongoing by HOA and GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>Mitigation Measure 3.55 #22c: All disturbed areas shall be visited by the restoration ecologist after one rainy season has passed since seeding. Site visits should be made during the spring, and each site shall be visited at least once. Sites shall be monitored for the revegetation. Sites that fail to show suitable vegetative cover shall be noted and mapped, and shall be re-seeded in the fall. The restoration ecologist shall make notes on the occurrence of particularly noxious non-native plant species, and make recommendations for their eradication. <i>[Also included in CDP Condition IX.1]</i></p>					
<p>Impact 3.55 #23. Habitat Loss and Fragmentation: Implementation of the 35 lot project would result in the permanent loss of 0.65 acres of riparian habitat and 27.89 acres of non-native annual grassland, as well as the potential degradation of habitat values of adjacent habitats by increased human activity including traffic, night lighting, noise, run-off containing noxious chemicals, increased risk of wildfires, and trampling. These plant communities provide suitable foraging, resting, and cover habitats and other benefits for a variety of native wildlife. The loss of and degradation to this habitat could potentially decrease local native biodiversity by decreasing the availability of these wildlife resources and could fragment existing communities. This is a potentially significant impact.</p> <p>With the 27 Lot Project, the development areas are reduced to 20 acres and the open space increased to 160 acres. Wetland impacts are reduced. A GHAD approved and controlled by</p>	<p>Mitigation Measure 3.55 #23a: The remaining natural habitat (approximately 90% of the project area) shall be preserved in a Conservation Easement (or other appropriate deed restriction) as open space publicly managed and preserved by the GHAD open space. The form of the Conservation Easement shall be approved concurrent with approval of the Precise Development Plan, and recorded with the Final Subdivision Map. <i>[Also included in CDP Condition II.7]</i></p> <p>Mitigation Measure 3.55 #23b: In order to prevent the incremental degradation of preserved habitats, the following measures shall be followed:</p> <p>a. All areas not proposed for development shall be protected from construction disturbance and left in existing vegetation. Construction fencing shall be installed to delineate the areas</p>	<p>Approval of Open Space Management Plan and its Fire Protection Plan, Wetland/Special-Status Species Plan, and Rheem Valley Revegetation Plan and final grading plan.</p> <p>See Monitoring Tasks in Mitigation Measure 3.55 #3.</p>	<p>Town Council, Town Engineer, Town biological monitor, Fire Marshall, and ongoing by GHAD.</p>	<p>Town Council, Town Engineer, Town biological monitor, Fire Marshall, and ongoing by GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>the Town of Moraga will manage the open space and fund that cost in perpetuity.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project because more contiguous open space is provided, and the mitigation will still reduce the impact to less than significant.</p>	<p>subject to disturbance and to protect native vegetation outside the limits of grading;</p> <p>b. Soil and other debris shall not be stockpiled in areas designated as preserved open space or for conservation;</p> <p>c. Security night lighting shall be minimized by facing lights (street lamps, parking lights, etc.) toward developed portions of the project and not toward native wildlife habitat or open space areas (construction hours shall be limited to 8AM to 5PM);</p> <p>d. Habitats within the conservation easement shall be managed according to the final Wetland/Special-Status Species Plan and Open Space Management Plan and summarized in Mitigation Measure 3.55 #9b and #10b. The Plans shall be consistent with the 27 Lot Project and its Rheem Boulevard Visual and Quality Mitigation Exhibits.</p> <p>e. Human encroachment and predation by domestic pets shall be minimized by the designation of trail access, informative signage regarding the sensitive nature of the native habitats and wildlife, homeowner education, and restrictions on pet access.</p> <p><i>[Also included as CDP Condition II.13]</i></p>					
<p>Impact 3.55 #24. Interruption to and Loss of Wildlife Movement Corridors: The staging area along Rheem Boulevard in the 35 lot project in the Draft EIR is relatively isolated and</p>	<p>Mitigation Measure 3.55 #24a: Habitat lost to accommodate the proposed stabilization of Rheem Boulevard and to provide access to the proposed</p>	<p>Approval of Open Space Management Plan and its Fire Protection Plan, Wetland/Special-Status</p>	<p>Town Council, Town Engineer, Town</p>	<p>Town Council, Town Engineer, Town</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>somewhat discontinuous from the rest of the open space. Terrestrial wildlife might have difficulty moving through this portion of the site. However, project implementation is not considered to result in the creation of any significant barriers to wildlife movement. The position of the residential development on the ridgeline might disrupt raptor and mammal foraging patterns in the immediate area. However, terrestrial and volant wildlife would be able to continue to utilize open space present surrounding the residential units. Project implementation is not considered likely to result in a significant restriction of movement of wildlife.</p> <p>The Rheem Boulevard drainage would be substantially altered to accommodate construction of an access road, and as a result of proposed filling to stabilize Rheem Boulevard. Approximately 2,042 linear feet of creek channel and 0.65 acre of associated riparian vegetation would be impacted with the 35 lot project. While the drainage and associated vegetation have value to wildlife, the tributary is not expected to currently function as an important wildlife connection between Las Trampas Creek and upland habitats on site or to the north. Nonetheless, the loss of mature woody riparian vegetation could disrupt wildlife movement out of the Las Trampas Creek corridor into the upper reaches of the tributary only. In addition, the proposed fill would result in a very steep gradient between the habitat restoration area and undisturbed riparian habitat downstream. The "A" Way crossing of the Rheem Boulevard drainage should not be a buried culvert. Installation of a buried culvert would represent an additional impediment to wildlife movement in the creek corridor. This is</p>	<p>development will be mitigated by the recreation of similar habitats at the same location, as specified in the 2005 Rheem Valley Revegetation Plan for re-aligned Rheem Boulevard drainage. The Plan will be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, subject the review and adjustment by a qualified restoration ecologist required in Mitigation Measure 3.55 #4b. The restored habitats will be contiguous with existing, undisturbed riparian habitat downstream of the proposed "A" Way crossing. <i>[Also included in CDP Condition II.14]</i></p> <p>Mitigation Measure 3.55 #24b: Final grading plans showing the interface between the fill area and the existing channel grade downstream shall consider and remediate the potential for disruption of wildlife movement along the Rheem Boulevard drainage corridor. The final design of the crossing at "A" Way shall include an arch culvert that spans the intermittent drainage channel and conform to permit conditions as specified by the CDFG and RWQCB. <i>[Also included as CDP Condition IV.40]</i></p>	<p>Species Plan, Rheem Valley Revegetation Plan, and final grading plan.</p> <p>See Monitoring Tasks in Mitigation Measure 3.55 #3.</p>	<p>biological monitor, Fire Marshall, and ongoing by GHAD.</p>	<p>biological monitor, Fire Marshall, and ongoing by GHAD.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>a potentially significant impact</p> <p>In the 27 Lot Project the lower Rheem valley is not developed. An arch culvert that spans the intermittent drainage channel is provided for the "A" Way crossing. The staging area at Rheem Boulevard has been eliminated. This potentially significant impact of the 27 Lot Project is less than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>						
<p>Impact 3.55 #25. Indirect Impacts of Domestic Animals On Wildlife: Implementation of the 35 lot project would result in an increase of domestic animals, which could result in impacts to special-status species and common wildlife species in preserved open space. Potential impacts to both special-status and common wildlife species from the anticipated increase of domestic animals include predation on wildlife, disturbance to wildlife, and disruption of wildlife breeding. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #25: The Project Sponsor shall prepare CC&Rs that shall prohibit unleashed pets outside of the owner's private property (e.g., within areas held in conservation easement or in open space). Signs shall be posted at the edges of open space areas identifying the areas as sensitive wildlife habitat and stating that leash laws are enforced by the HOA, GHAD, Contra Costa Animal Control, and the Moraga Police Department. This prohibition shall enforceable by the HOA, GHAD and Town. <i>[Also included as CDP Condition V.9]</i></p>	<p>Town Attorney shall approve CC&Rs.</p> <p>The HOA or GHAD shall be responsible for maintaining signs.</p>	<p>HOA, GHAD, Contra Costa Animal Control, and Moraga Police Department.</p>	<p>Approval of CC&Rs prior to final subdivision map approval.</p> <p>Ongoing by HOA and GHAD.</p>		
<p>Impact 3.55 #26. Grading Impacts: Grading of hillsides in the 35 lot project would result in the temporary loss of vegetative cover and could contribute to the degradation of upland habitats and downstream water quality. Grading of hillsides could lead to erosion, degrading water quality by the resulting in sedimentation of Coyote Creek and the Rheem Boulevard drainage. This is a potentially significant</p>	<p>Mitigation Measure 3.55 #26a: Erosion and sedimentation impacts shall be minimized by employing standard erosion control procedures such the use of sandbags, silt fences, hay bales, diversion ditches, desilting ponds, and undertaking stream bank stabilization procedures. Best Management Practices shall be in place during construction. All</p>	<p>Town of Moraga shall review and approve final grading plan, its erosion control plan, and Drainage Plan.</p>	<p>Town Engineer.</p>	<p>With final grading plan, its erosion control plan, and Drainage Plan, and during</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>bare slopes shall be seeded with an appropriate seed mix to be reviewed and approved by a qualified restoration biologist. <i>[Also included as CDP Condition IV.41]</i></p> <p>Mitigation Measure 3.55 #26b: Upon completion of surface disturbances, bare ground shall be seeded with a mixture of native species indigenous to the geographic region including native perennial grasses to increase the diversity of the grassland cover prior to the onset of fall rains. Highly invasive annuals often included in commercial erosion control mixes shall not be used. The proposed erosion control seed mix shall be reviewed and approved by a qualified restoration ecologist. Under no circumstances shall the revegetation effort include any species appearing on the California Invasive Plant Council's Invasive Plant Inventory (available at http://www.cal-ipc.org/pest_plant_list/) <i>[Also included as CDP Condition IV.42]</i></p>			grading.		
<p>Impact 3.55 #29. Pollutants: The use of fertilizers, herbicides, pesticides and other chemicals as well as urban runoff from streets and driveways could pollute Coyote Creek, the Rheem Boulevard drainage, and Las Trampas Creek. Runoff from residences and paved surfaces could contaminate downstream aquatic habitats. Pollutant runoff lowers water quality, adversely affecting aquatic invertebrates, amphibians, other aquatic wildlife and foraging mammals and birds. This represents a potentially significant indirect effect of the proposed project. This is a potentially significant impact.</p>	<p>Mitigation Measure 3.55 #29: The Project Sponsor shall incorporate Best Management Practices (BMPs) into the project design to minimize incremental contamination of downstream aquatic habitats. Specific measures addressing erosion and sedimentation, non-point source pollution, and peak runoff volumes will be required under Contra Costa County's C3 requirements and by the RWQCB as a condition of issuance of a water quality certification, pursuant to Section 401 of the Clean Water Act. (See 3.30, Hydrology and Drainage and Water</p>	<p>Prior to approval of any construction permit, Town of Moraga and the RWQCB shall review and approve plans for incorporation of BMPs. Approvals include final grading plan, its erosion control plan, and Drainage Plan.</p>	<p>Town Engineer.</p>	<p>Prior to approval of any construction permit.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Quality Mitigation Measure 3.30 #3.) [Also included in CDP Condition IV.43]</p>					
<p>Impact 3.55 #30. Long-Term Adverse Effects on Native Oak Trees: Standard landscaping designs and irrigation practices can be detrimental to the health of mature oak trees. Native oaks, which are adapted to long, dry summers, can be adversely affected by summer time irrigation of lawns and ornamental landscaping. Landscaping design can result in mortalities of mature oak trees. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #30: Mature native oaks shall be protected in the planning area, and disturbance within the tree drip line minimized, to the maximum extent feasible. Any incidental tree impacts shall be mitigated for as outlined above. Mature native oaks shall be protected from disturbance through restrictions on siting of structures and landscaping on each lot. Plans for house and landscape improvements shall be reviewed by a certified arborist to ensure that oaks are adequately protected and their long-term health not compromised. [Also included in CDP Condition IV.44]</p>	<p>Town of Moraga shall review and approve both final grading plan and landscape plan for subdivision and individual lot grading and landscape plans.</p>	<p>Town Engineer, and Planning Department.</p>	<p>Prior to approval of final grading plan and final landscape plans for subdivision and lots.</p>		
<p>Impact 3.55 #31. Impacts to Semaphore Grass Floating Water Primrose and Davy Mannagrass: Proposed grading would impact a single population each of semaphore grass, floating water primrose and Davy mannagrass, regionally significant species as identified in Lake (2004). The presence of these species at the project site represents unique resources. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #31: The preferred mitigation measure is to avoid impacts to populations populations of semaphore grass, floating water primrose and Davy mannagrass, regionally significant species as identified in Lake (2004). However, it is not known to what degree grading in the vicinity of the population would affect its long-term viability. Because grading is part of a larger slope stabilization effort, merely avoiding direct impacts are not likely to ensure their survival. Nonetheless, the first goal should be avoidance. Therefore, the Project Sponsor shall investigate the feasibility of avoiding <i>these</i> populations <u>and</u> maintaining the hydrologic conditions</p>	<p>Review final Rheem Valley Revegetation Plan and final grading plan, Town of Moraga for compliance with mitigation measure.</p> <p>Mitigation plantings shall be monitored for no less than three years following completion of plant installation and seeding or as otherwise required by the CDFG.</p> <p>Annual reports during monitoring shall be</p>	<p>Town Engineer, Town biological monitor, resource agencies, and GHAD.</p>	<p>Prior to approval of final grading plan, during grading and ongoing after construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>that support <i>them</i>.</p> <ul style="list-style-type: none"> • the population sizes shall be estimated during the spring when plants are in flower and readily identifiable; • it shall be determined if plants of <i>semaphore grass</i> on site are annuals or perennials; • seeds shall be collected <i>from all three species</i> and stored for subsequent sowing the following fall; • if determined to be perennial, plants of <i>semaphore grass</i> shall be salvaged and grown in containers for subsequent transplantation during the following winter; • <i>plants of the perennial species Davy mannagrass and floating water primrose shall be salvaged and grown in containers for subsequent transplantation during the following winter;</i> • seeds (and plants) shall be transferred to the existing wetland below lots 15-18, or other suitable <i>locations</i> on site; and, • specific methods for preparing the site, sowing, planting, and monitoring shall be prepared and submitted to the CDFG for review and approval as part of the Streambed Alteration Agreement. The mitigation plan shall include success standards and remedial measures that must be performed in the event the success standards are not met. 	<p>submitted by qualified biologist to Town of Moraga and CDFG, and USACE and RWCB if a condition of their permits.</p> <p>Preservation in perpetuity of any on-site mitigation areas, and upland buffer, in a Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity and managed by GHAD.</p> <p>Town Council shall be responsible for GHAD (see Mitigation Measure 3.20 #5a).</p>				

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	<i>[Also included as CDP Condition IV.45]</i>					
<p>Impact 3.55 #32. Off-Road Vehicle Activity: Improved access to the hillsides of the planning area could result in off-road vehicle activity through undeveloped land and designated open space, particularly during the construction phase of specific developments. Off-road vehicle activity could degrade sensitive habitats, disturb wildlife, and contribute to erosion of hillside areas and sedimentation in creeks. This is a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.55 #32: Physical barriers shall be installed by the Project Sponsor to prevent vehicles and motorcycles from traveling off designated roadways to minimize future disturbance to grassland cover and other vegetation in the surrounding undeveloped lands and open space. The HOA and GHAD shall be responsible for their maintenance and monitoring.</p> <p><i>[Also included as CDP Condition V.10]</i></p>	<p>The GHAD and the HOA shall be responsible for maintaining barriers, reporting violators, and repairing damage. Enforcement shall be the Moraga Police Department.</p>	<p>GHAD, HOA and Moraga Police Department.</p>	<p>Ongoing.</p>		
<p>Impact 3.55 #33. Long-Term Degradation of Open Space and Conserved Habitats: With project implementation, surrounding open spaces would need to be managed to prevent wildfires. Open space management strictly for fire control is frequently contrary to the ecological requirements of the habitats being preserved. Unmanaged grazing can reduce the risk of fire but can also result in the degradation of upland and aquatic habitats, reduced wildlife habitat values, and reduced water quality.</p> <p>The mitigation is modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual Quality Mitigation Exhibits, as mitigated, and to reflect the fact that the GHAD formed by the Town Council will control and be responsible for the project open space.</p> <p>This potentially significant impact of the 27 Lot</p>	<p>Mitigation Measure 3.55 #33: To ensure that open space lands are managed in an ecologically appropriate manner, the 2005 Wetland/Special-Status Species Plan has been developed. The Plan includes a grazing management plan intended to prevent over-grazing of the Conservation Easement or deed restricted lands, and a Fire Protection Plan. The measures outlined in the Plan shall be paid for and administered by the GHAD. The Plan will be modified to be consistent with the 27 Lot Project and its Rheem Boulevard Visual and Quality Mitigation Exhibits. Proper implementation of these measures shall be documented by the qualified biological and fire protection monitors for the GHAD and confirmed in reports submitted to the Town. As stated in</p>	<p>The Town of Moraga shall review and approve the GHAD, Open Space Management Plan, final Wetland/Special-Status Species Plan, and Fire Protection Plan prior to approval of final grading plan and any activity within the open space areas. The Plans shall comply with permit conditions prepared by the USACE, RWQCB, and CDFG, in consultation with the USFWS. The Moraga-Orinda Fire District shall review the Open Space Management Plan for consistency with</p>	<p>Town Engineer, Town biological monitor, resource, Moraga-Orinda Fire District, and GHAD.</p>	<p>Prior to final grading plan approval, any activity within the open space areas and ongoing.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.	Mitigation Measures 3.55 #9b and #10b, funding shall be provided to ensure the long-term management and maintenance of the conservation area. <i>[Also included as CDP Condition VI.2]</i>	local fire control guidelines and Fire Protection Plan (see Mitigation Measure 3.61 #1). Town of Moraga shall be copied all agency communications related to construction monitoring and compliance with permit conditions. See Monitoring Tasks in Mitigation Measure #3.				

3.61 FIRE PROTECTION

<p>Impact 3.61 #1. Wildland Fires: Much of the project site and the surrounding area include open and wooded grasslands. The location of residential units in the 35 lot project adjacent to undeveloped grasslands could increase the chance of wildland fires spreading to houses and house fires spreading into the wildland. The 35 lot project includes two paved accesses and one emergency access that meet Fire Code standards (project plans show residential streets at 32' wide). The hazard associated with a possible wildland fire adjacent to residential units would be considered a potentially significant project impact.</p> <p>The EVA and private roads and their grading sections on Sheet 2 of the August, 2008 Preliminary Grading Plan were presented to the Planning Commission at its hearing on May 18, 2008, having been previously reviewed and accepted by the Town Engineer. The sections</p>	<p>Mitigation Measure 3.61 #1: A Fire Protection Plan shall be included as part of the Open Space Management Plan. The following measures (identified by the Fire District) will reduce the risk of wildland fires and should be incorporated in the Fire Protection Plan:</p> <ol style="list-style-type: none"> Maximum grade for an emergency access road shall not exceed 20 percent. Emergency vehicle access (EVA) shall meet the requirements for fire department access as indicated in the Fire Code (minimum width of 20 feet with an all-weather road surface capable of supporting the imposed weight of fire department apparatus). The Fire District shall reserve the right to review the development plan as it relates to the existing fire trail system. 	<p>Approval of Fire Protection Plan by Town of Moraga as part of Open Space Management Plan.</p> <p>Moraga-Orinda Fire District review of the subdivision improvement plans and periodic site inspection of the subdivision and the individual lots by the MOFD.</p> <p>Maintenance of the Fire Protection Plan shall be the responsibility of the GHAD as to open space and HOA as to homes. An annual inspection report</p>	<p>Town Engineer, Fire Marshall, Town Council, and ongoing for GHAD (open space) and HOA (homes).</p>	<p>Prior to approval of Open Space Management Plan and final improvement plans; and annually thereafter for Project Sponsor, GHAD and HOA report and inspection.</p>		
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Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>are consistent with the standards provided by the Fire Marshall for the Moraga-Orinda Fire District. The final design in the subdivision improvement plans is subject to Town Engineer and Fire Marshall review and approval. See Internal Circulation Impact and Mitigation Measure 3.40 #5</p> <p>A Fire Protection Plan will be included as part of the Open Space Management Plan for the GHAD.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Firefighting equipment access shall be provided to all areas of the project site in accordance with fire access standards of the Fire District and the adopted Uniform Fire Code and the time of project approval.</p> <p>c. All housing shall be constructed with fire retardant roofing and interior sprinklers, fire resistant exterior material and landscaping around homes shall be designed to minimize the interface between grassland areas and residences (e.g., fire resistant vegetation).</p> <p>d. The Fire Protection Plan shall include a fire safety component (to keep fire risk at reasonable levels in open space areas) subject to the approval of the Fire District. The plan shall identify vegetation mitigation and control, maintenance intervals and responsibility, restrictions on vehicle access, water supply and long-term risk management and other criteria as required by the Fire Marshal. Minimum standards for plan review are available from the Fire District. An annual inspection report for compliance shall be submitted to the Fire Marshal for approval. Annual inspection fees shall be paid by the GHAD.</p> <p>e. EVA and private road cross sections shall be as shown on Sheet 2 of the August, 2008 preliminary grading plan for the project, subject to final review and approval by the Town Engineer and Fire District.</p>	<p>for compliance shall be submitted to the Fire Marshal for approval.</p>				

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<i>[Also included as CDP Condition V.6]</i>					
<p>Impact 3.61 #2. Fire Protection: Construction of the 35 lot project would increase the demand for fire protection services. It is anticipated that the project will not interfere with the Town's emergency evacuation plan as the Fire Department will review all development plans. While current facility personnel and equipment are adequate, the following measures, required by the Town, will ensure the impacts are less than significant.</p> <p>Revised "D" Drive has been shortened (now 801 lineal feet), the number of homes served by it reduced to 6 and the drive aisles are 13.5' within a 36' ROW, so an EVA connection to Rheem Boulevard is not required.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project (fewer homes on "D" Drive), and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.61 #2: The Project Sponsor shall provide a Fire Protection Plan that ensures that:</p> <ol style="list-style-type: none"> The project is designed to be consistent with the Town's emergency evacuation plan. The water lines serving the project shall provide continuous water flow and adequate pressure for fire suppression. All residences shall be no more than the distance required by the Uniform Fire Code from a fire hydrant. Project design, including street alignment, shall be such that emergency vehicles have full access to the site. Residential buildings shall be equipped with residential fire sprinklers per the Fire Code at the time of project approval. Water supply for fire flow water shall meet the most current Fire Code at the time of project approval. The project shall pay fire flow tax. The rate is based on fire protection systems and square footage. <p><i>[Also included as CDP Condition V.7]</i></p>	<p>Approval of Fire Protection Plan by Town of Moraga as part of Open Space Management Plan.</p> <p>Moraga-Orinda Fire District review of the subdivision improvement plans and periodic site inspection of the subdivision and the individual lots by the MOFD.</p> <p>Maintenance of the Fire Protection Plan shall be the responsibility of the GHAD as to open space and HOA as to homes. An annual inspection report for compliance shall be submitted to the Fire Marshal for approval.</p> <p>Building Inspection Services shall review and approve all individual lot building permits for compliance with the above conditions. The Moraga-Orinda</p> <p>Fire District shall review all fire flow calculations, improvement plans, fire</p>	<p>Town Building Inspection Services, Town Engineer, Fire Marshall, Town Council, EBMUD and ongoing for GHAD (open space) and HOA (homes).</p>	<p>Prior to approval of Open Space Management Plan and final improvement plans; and annually thereafter for Project Sponsor, GHAD and HOA report and inspection.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
		protection sprinkler plans. EBMUD shall review and approve water distribution plans.				
3.62 LAW ENFORCEMENT						
<p>Impact 3.62 #1. Police Protection: The Project would result in increased demand for police protection services that are provided by the Moraga Police Department. Current staffing levels are recognized as being lower than the standards of one officer per 1,000/population. The addition of 35 new homes will increase calls, potentially impacting the Department's ability to maintain response times. This is considered a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project (fewer homes), and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.62 #1: The Project Sponsor shall pay established development fees to offset cumulative impacts from the project, including the impact on police services which fee would be utilized to improve police services and response times. <i>[Also included in CDP Condition VIII.6]</i></p>	<p>Prior to issuance of each individual building permit, Town of Moraga will collect police protection mitigation fee.</p>	<p>Town Planning Department</p>	<p>Prior to issuance of individual building permit.</p>		
3.63 SCHOOLS						
<p>Impact 3.63 #1. School Capacity: The Project would result in the generation of approximately 30 new students as shown on Table 3.63-1. As the three schools all have residual capacity and with this payment of school fees, this contribution does not represent a significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project (fewer</p>	<p>Mitigation Measure 3.63 #1: The Project Sponsor will be responsible for the payment of school impact fees at the time of building permit. Assuming an average sized home of 4,000 square feet, and based upon the current fee rate, the impact fees would be approximately \$287,000 at 35 homes or \$221,400 at 27 homes. <i>[Also included in CDP Condition VIII.2]</i></p>	<p>Prior to issuance of each individual building permit, the permit issuance agency will collect school mitigation fees.</p>	<p>Town Planning Department.</p>	<p>Prior to issuance of individual building permit.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
homes), and the mitigation will still reduce the impact to less than significant.						
3.64 WATER SUPPLY						
<p>Impact 3.64 #1. Water Demand: The Rancho Laguna II project would increase demand for potable water by 64,705 gallons/day (gpd), during the summer months, as shown on Table 3.64-2.</p> <p>Unless conservation measures are implemented, impacts to water supply could be potentially significant.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project (fewer homes), and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.64 #1a: The Project Sponsor must commit to the following conservation measures for the project:</p> <ul style="list-style-type: none"> a. Installation of water efficient irrigation systems for residential units that include efficient sprinkler heads or drip irrigation. b. Installation of ultra-low flow toilets, as required by state law. c. Installation of drought-tolerant landscaping. d. The Town will refer the project to EBMUD and then determine whether to require dual piping and the use of recycled water for the project. e. The Project Sponsor shall comply with the Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). <p><i>[Also included in CDP Condition II.15]</i></p> <p>Mitigation Measure 3.64 #1b: The Project Sponsor shall commit to additional Demand Reduction Measures, commensurate with the amount of the</p>	<p>Town of Moraga and EBMUD shall ensure, prior to approval of the Precise Development Plan that, the conservation measures and Demand Reduction Measures have been included in project design. The Building Inspection Services shall monitor construction to ensure mitigation measures are implemented and fees have been collected.</p>	<p>Town Engineer, and Building Permit Services.</p>	<p>Prior to approval of final landscape plan, issuance of individual building permit, and during construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>project's water demand. The Project Sponsor shall be subject to the Water Service Regulations and Schedule of Rates and Charges.</p> <p><i>[Also included in CDP Condition II. 15]</i></p>					
<p>Impact 3.64 #2. Pressure Zones: EBMUD's Fay Hill Pressure Zone, with a service elevation range between 650 and 850 feet, will serve the proposed development, with site elevations ranging between approximately 700 and 790 feet. EBMUD owns and operates a distribution pipeline in Rheem Boulevard which provides continuous service to customers in the area. The integrity of this pipeline needs to be maintained at all times. Impacts to the pipeline are considered potentially significant.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.64 #2: Relocation of the existing pipeline in Rheem Boulevard, at the Project Sponsor's expense, may be required if modifications are made to Rheem Boulevard as part of the proposed development. A water main extension, also at the Project Sponsor's expense, will be required to serve the proposed development.</p> <p><i>[Also included in CDP Condition II. 17]</i></p>	<p>The Town of Moraga, prior to issuance of a grading permit, shall ensure that the appropriate waterline extensions and relocations (if necessary) are properly designed.</p>	<p>Town Engineer.</p>	<p>Prior to approval final grading plan.</p>		
<p>Impact 3.64 #3a. Encroachment into EBMUD Properties: EBMUD owns a piece of property and has four right-of-ways (R/W) that traverse the proposed development: Property CVC 304, R/Ws 745, 1806, 1807, and 1978 (see Figure 3.64-1). R/W 745 is a 50 foot wide easement that provides access to EBMUD's Property CC 30-4, a piece of land reserved for recycled water infrastructure. R/Ws 1806 and 1807 are 20 foot wide tunnel easements. R/W 1978 is a 50 foot wide easement that provides access to EBMUD's Fay Hill Reservoir located adjacent to the proposed development at the northwestern end of the project site. Encroachment into EBMUD properties is considered a significant impact.</p>	<p>Mitigation Measure 3.64 #3a: Development shall avoid EBMUD right-of-way. Prior to approval of the Precise Development Plan, the Town shall review the agreements that the Project Sponsor has with EBMUD. If off-site lands are disturbed by development, the Town shall conduct additional environmental review and certify the environmental analysis of those properties.</p> <p><i>[Also included as CDP Condition II. 16]</i></p>	<p>The Town of Moraga will confirm that no development will occur in the EBMUD ROW.</p>	<p>Town Planning Department.</p>	<p>Prior to approval of Precise Development Plan.</p>		

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<p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>						
<p>Impact 3.64 #3b. Fay Hill Access Road: The 35 lot project proposed a realignment of the access road to Fay Hill Reservoir, Right-Of-Way 1978. Impacts to the access road to Fay Hill Reservoir are considered potentially significant impacts.</p> <p>This potentially significant impact has been eliminated in the 27 Lot Project with the revised "D" Drive entry at Rheem Boulevard moved well south (approximately 1,000 feet) of the existing Fay Hill Reservoir access entry at Rheem Boulevard. Mitigation Measure 3.64 #3b in the Draft EIR is no longer necessary.</p>	<p>Mitigation Measure 3.64 #3b in the Draft EIR is no longer necessary because of the redesign of "D" Drive in the 27 Lot Project.</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>		
<p>Impact 3.64 #5. EBMUD Distribution System: EBMUD owns, operates and maintains pipelines in Rheem Boulevard. Potential improvements to Rheem Boulevard (including possible roadway stabilization, the development of bike lanes the addition of turning lanes near the proposed entrances) could impact the existing waterlines. These pipelines are extremely critical to EBMUD's water supply and distribution system and are necessary to provide continuous service to EBMUD's customers in the area. When modifications to the street occur, the pipelines may have to be relocated at the Project Sponsors' expense. Impacts to EBMUD's distribution system are considered potentially significant.</p> <p>This potentially significant impact of the 27 Lot</p>	<p>Mitigation Measure 3.64 #5: Measures to prevent any impacts to the existing pipeline, including those related to adequate pipeline cover and construction equipment wheel loads, shall be identified on the (offsite) Precise Development Plans if the Project Sponsor proposes construction within the public street. <i>[Also included in CDP Condition II.17</i></p>	<p>Prior to the approval of Precise Development Plan, Project Sponsor shall provide the Town of Moraga with verification that EBMUD has reviewed and approved the construction plans.</p>	<p>Town Engineer.</p>	<p>Prior to approval of Precise Development Plan.</p>		

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Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.						
3.65 WASTEWATER SERVICES						
<p>Impact 3.65 #2. Off-Site Sewer Line: The project proposes to service all lots within the subdivision by gravity flow. While most sewer lines would be located beneath streets, construction of a sewer line is proposed between the end of "C" Court and the existing manhole in the Lafayette-Moraga Trail right-of-way. This sewer line would cross over drainages to Coyote Creek (and possibly a cross over Coyote Creek). This is considered a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.65 #2a: The project shall be designed so that it allows wastewater to flow by gravity to the CCCSD system. The sewer line shall be located within public roads or a dedicated 15 foot wide easement, where appropriate. The easement shall have a minimum 10 foot wide all weather pavement at the manholes. To avoid disturbance to onsite drainages or Coyote Creek, CCCSD will allow the Project Sponsor to undertake directional drilling so that the sewer line undercross the drainages. The following conditions shall apply:</p> <ol style="list-style-type: none"> a. Construction shall be undertaken during the dry season; b. Undercrossing shall meet with USFW standards; c. Permits for riparian habitat disturbance shall be obtained from CDFG if needed; and, d. Construction shall comply with CCCSD's Hillside and Creek Area Sewer Policy. <p><i>[Also included in CDP Condition II.18]</i></p> <p>Mitigation Measure 3.65 #2b: If a gravity</p>		Town Engineer, and CCCSD.	Prior to approval of Precise Development Plan.		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	line is infeasible for Lots 13 - 22, a pumping system acceptable to CCCSD is an option, although not preferred. The lots will need to individually pump to the manhole (on "B" Drive) or possibly tie together in one sewer line managed by the HOA. <i>[Also included in CDP Condition II.18]</i>					
<p>Impact 3.65 #3. Transmission Facilities: The existing project area main sewers are adequate for the additional wastewater that will be generated by the Proposed Project based upon current conditions. Some downstream District facilities do not have adequate flow carrying capacity under the District's current design criteria for ultimate build out buildout conditions. Improvements to correct the deficiencies are in the District's Capital Improvement Plan and are expected to be completed prior to buildout. Improvements to the District's existing facilities that are required as a result of new development will be funded from applicable District fees and charges. This would be considered a less than significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.65 #3: The Project Sponsor shall be required to pay fees and charges at the time of connection to the sewer system. The Project Sponsor shall secure a will serve letter that address transmission capacity. <i>[Also included as CDP Condition II.19]</i></p>	<p>Prior to approval of the Precise Development Plan, the Project Sponsor shall provide the Town with a will serve letter that assures that adequate transmission capacity is available.</p>	<p>Town Engineer, and CCCSD.</p>	<p>Prior to approval of Precise Development Plan.</p>		
3.66 SOLID WASTE DISPOSAL						
<p>Impact 3.66 #2: Solid waste generated by the project is not expected to inhibit or impact Moraga's ability to maintain its 50 percent</p>	<p>Mitigation Measure 3.66 #2: The Project Sponsor shall be required to complete a construction debris recycling plan</p>	<p>The Town of Moraga shall review and approve the construction debris</p>	<p>Town Engineer.</p>	<p>Prior to approval of final grading</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
<p>diversion rate. However, construction and demolition activities necessary for project development could generate significant levels of solid waste, vegetative waste, and construction debris if proper mitigation measures are not implemented.</p> <p>This potentially significant impact of the 27 Lot Project is less than with the 35 lot project (fewer units), and the mitigation will still reduce the impact to less than significant.</p>	<p>indicating they comply with the Town's requirement for diversion of construction and demolition debris per the Town's ordinance. Compliance with this will help maintain the Town's 50 percent diversion. <i>[Also included as CDP Condition IV.46]</i></p>	<p>recycling plan prior to issuance of a grading permit.</p>		<p>plan.</p>		
3.70 CULTURAL RESOURCES						
<p>Impact 3.70 #1. Archaeological Resources: There is the possibility that buried archaeological deposits could be present and accidental discovery could occur, a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.70 #1: If archaeological remains are uncovered, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).</p> <p>All cultural materials recovered as part of</p>	<p>The Project Sponsor's construction manager shall be responsible for adherence to the above mitigations. The Town Engineer will require grading plans and construction contracts involving ground displacement to include a requirement that in the event remains are encountered, construction shall be temporarily halted and the Town Planning Department shall be notified immediately.</p>	<p>Town Engineer.</p>	<p>Prior to approval of final grading plan, and during construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>the monitoring program shall be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards.</p> <p>Prior to completion of the grading plan the Project Sponsor shall ensure that an archaeologist had evaluated the artifacts discovered by a neighbor. <i>[Also included as CDP Condition IV.47]</i></p>					
<p>Impact 3.70 #2. Fossils: The possibility exists that fossils may be encountered during grading operations, a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.70 #2: If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossils recovery, if warranted. <i>[Also included as CDP Condition IV.48]</i></p>	<p>The Town of Moraga will require grading plans and construction contracts involving ground displacement to include a requirement that in the event fossils are encountered, construction shall be temporarily halted, the Town of Moraga Planning Department shall be notified immediately, a qualified archaeologist shall evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken.</p>	<p>Town Engineer.</p>	<p>Prior to approval of final grading plan, and during construction.</p>		
<p>Impact 3.70 #3. Human Remains: There is the possibility that buried human remains could be uncovered, a potentially significant impact.</p> <p>This potentially significant impact of the 27 Lot Project is no more than with the 35 lot project, and the mitigation will still reduce the impact to less than significant.</p>	<p>Mitigation Measure 3.70 #3: If human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines the remains are Native American, the coroner will contact the Native American Heritage Commission.</p>	<p>The Project Sponsor construction manager shall be responsible for adherence to the above mitigations. The Town of Moraga will require grading plans and construction contracts</p>	<p>Town Engineer.</p>	<p>Prior to approval of final grading plan, and during construction.</p>		

Description of Potentially Significant Impact and Effect of Mitigation for 27 Lot Project	Mitigation Measure for 27 Lot Project	Monitoring Task	Responsible Division/ Agency	Timing of Monitoring Task	Monitor & Verify Initials/ Date	Status/ Notes
	<p>The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity.</p> <p><i>[Also included in CDP Condition IV.49]</i></p>	<p>involving ground displacement to include a requirement that in the event remains are encountered, construction shall be temporarily halted; the Town Planning Department shall be notified immediately.</p>				

**ATTACHMENT 3 – MINUTE ORDER 01-2011
CONCEPTUAL DEVELOPMENT PLAN
APPROVAL STATEMENTS AND FINDINGS**

WHEREAS, Rancho Laguna, LLC (“Applicant”), owns approximately 180 acres of property within the Town of Moraga along Rheem Boulevard (more specifically referred to as APN: 256-040-024); and

WHEREAS, on February 25, 2005, the Applicant applied to the Town of Moraga for the development of its property, requesting approval of a Conditional Use Permit (CUP) and Conceptual Development Plan (CDP) for a 35 lot single-family residential project with associated open space and other public amenities, entitled Rancho Laguna II; and

WHEREAS, on March 26, 2005, the Town sent an “Incomplete” letter to the Applicant requesting additional information in order to continue the review of the development applications; and

WHEREAS, on May 25, 2005, the Applicant provided additional information to the Town for its consideration; and

WHEREAS, on June 24, 2005, the Town again requested additional information (in a second “Incomplete” letter) which had not been previously submitted; and

WHEREAS, on July 5, 2005, the Applicant provided the requested information as stated in that second “Incomplete” letter; and

WHEREAS, on August 3, 2005, the Town deemed the application “Complete” for processing and proceeded with the review of the proposed project; and

WHEREAS, on September 13, 2005 the Town issued a Notice of Preparation (for the preparation of an Environmental Impact Report (EIR)) for the project pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Town Council hereby incorporates by reference in these recitals the recitals to Resolution 10-09 PC regarding the preparation and circulation of the Draft Environmental Impact Report; and

WHEREAS, on June 4, 2002, the Town of Moraga adopted the Moraga 2002 General Plan which is a statement of community values and priorities; and

WHEREAS, the purpose of the Moraga General Plan is to provide a framework for development decision making and directing the orderly growth of the Town, and to provide an adequate level of services to the community; and

WHEREAS, the Moraga 2002 General Plan was prepared as a strategic tool for guiding the physical development of the Town and governs the development of the Rancho Laguna II project area site; and

WHEREAS, Title 8 of the Moraga Municipal Code guides the development of the Town regarding Planning and Zoning; and

WHEREAS, Chapter 8.48 of the Municipal Code contains standards and development regulations for private development projects; and

WHEREAS, on September 20, 2006, the Planning Commission held a study session regarding the Rancho Laguna II project to allow the Applicant and its consultants to make presentations and provide information regarding visual quality, slope stability, Rheem Boulevard stabilization, drainage, and hydrology, and to give the public the opportunity to provide testimony and ask questions concerning these and other topics of interest; and

WHEREAS, prior to the Planning Commission meetings held on January 22, 2008, February 4, 2008, February 19, 2008, March 17, 2008, April 21, 2008 and May 19, 2008, Town staff mailed, in the manner and time prescribed by law, public notices to all property owners within 300 feet of the Rancho Laguna II property and to members of the public who had spoken at prior Planning Commission meetings and provided address information and a requested notification (“Public Notice”); and

WHEREAS, on January 22, 2008, February 4, 2008, February 19, 2008, March 17, 2008, April 21, 2008 and May 19, 2008, the Planning Commission held public meetings (study sessions) on the Rancho Laguna II project and received testimony from interested parties and from the Applicant and the Applicant’s consultants; and

WHEREAS, on August 18, 2008, the Town released for public review a Final Environmental Impact Report (Final EIR) for the 35 lot project pursuant to CEQA; and

WHEREAS, that Final EIR consists of the following volumes: (i) Draft EIR, (ii) its Appendices, and (iii) Comments Received on the Draft EIR and Responses to Comments Document (Volumes 1-3) and (iv) Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, included in the Final EIR are the contents required for a Final EIR as set forth in CEQA Guideline Section 15132 (a)-(d); and

WHEREAS, in compliance with Public Resources Code section 21092.5 (a), copies of the Responses to Comments, Volume 1, were provided to public agencies who commented on the Draft EIR; and copies of Volumes 1-3 and the MMRP were provided to the Planning Commissioners; and the documents were posted on the Town website and made available at the Planning Department for public review and comment; and

WHEREAS, the Applicant revised the 35 lot project described in that Final EIR, based on its environmental review and input received during the planning process from Town staff, EIR consultants, members of the public, and the Planning Commission; and

WHEREAS, the revised conceptual development plan submitted to the Town by the Applicant in late August, 2008, was comprised of the following plans: Conceptual Site Plan (one sheet) and Preliminary Grading Plan (two sheets, the second one shows grading sections for streets and lots) dated August, 2008, and Preliminary Landscape Plan (one sheet) dated August 19, 2008; and

WHEREAS, the revised project submitted to the Town by the Applicant proposed 31 lots, with 21 reconfigured lots in the southern plateau area and 10 clustered lots in the upper Rheem valley area; it included a revised preliminary landscape plan and other changes intended to address environmental impacts and planning concerns; it did not include a lower valley buttress because no homes were proposed there and the lower valley buttress was not required in order to develop the project, and the Planning Commission expressed at earlier meetings an interest in preserving the lower valley in essentially its current condition, with that section of Rheem Boulevard to be stabilized by the Town in the future by a buried retaining wall/tie-back system and geogrid slope reinforcement; and

WHEREAS, on September 2, 2008 and September 15, 2008, the Planning Commission held noticed public hearings to consider the Rancho Laguna II residential development and the Applicant's associated request for the approval of a Conceptual Development Plan and Conditional Use Permit, and to hear and consider any comments regarding the Final EIR; and

WHEREAS, at the public hearing on the project on October 20, 2008, the Town EIR consultants responded to written and oral testimony provided by members of the public concerning the contents of that Final EIR, which responses are included as part of the administrative record but are not incorporated in the Final EIR; and

WHEREAS, the Town staff and EIR consultants concluded that the 31 lot project with the mitigations in the August, 2008 Final EIR reduced to less than significant the visual quality impacts with respect to change in community character (Impact 3.35 # 1), ridgeline development (Impact 3.35 #2) and site characteristics (3.35 #3), but that the visual quality impact of the project as seen from Rheem Boulevard, a scenic road (Impact 3.35 #4), while less than before, remained significant; and

WHEREAS, at its public hearing on October 20, 2008, the Planning Commission took public testimony and considered the 31 lot conceptual development plan proposed by the Applicant; and

WHEREAS, the Planning Commission directed additional project changes recommended by Town staff: (i) reducing the number of lots in the upper Rheem valley area to six in order to create wider and more spacious lots to be more consistent with General Plan policy, and locate the debris benches outside the lots, and (ii) stabilizing Rheem Boulevard along the entire project frontage by including a lower valley buttress; Commissioners agreed with the Town Engineer that the prospect was very unlikely for the Town to secure funding for it to complete the alternative method of repair for that intervening unstable section, and Commissioners believed a restored intermittent drainage represented high quality mitigation and an aesthetic improvement over the existing, degraded condition of that intermittent drainage; and

WHEREAS, the Planning Commission directed Town staff to return at a later public hearing with a project that includes the foregoing changes and to evaluate whether the remaining significant impact of the project, the change it makes in the visual character of the project site as seen from Rheem Boulevard, a scenic road, could be reduced to less than significant with different mitigation; and

WHEREAS, Town staff and EIR consultants further analyzed the 31 lot project and prepared memoranda with recommendations to the Applicant on design changes in the project, including reconfiguration of “D” Drive and landscape modifications to maintain open views of the valleys, hillsides and ridgeline as seen by travelers along Rheem Boulevard and still screen the six single-story homes on “D” Drive); and

WHEREAS, in response the Applicant prepared the “Rheem Boulevard Visual Quality Mitigation Exhibits,” comprised of the “27 Lot Preliminary Grading Plan for Rheem Boulevard Visual Quality Mitigation” (one sheet) by the Applicant’s engineer dated January, 2009, and the “Rheem Boulevard Visual Quality Mitigation Exhibit” by the Applicant’s landscape architect dated January, 26, 2009; and

WHEREAS, the Rheem Boulevard Visual Quality Mitigation Exhibits (“Mitigation Exhibits”) include the lower Rheem valley buttress and six wider lots on “D” Drive in the upper Rheem valley with the debris benches located outside the lots, as directed by the Planning Commission, and the subsequent design changes recommended by Town staff and the EIR consultant and design sub-consultant; and

WHEREAS, on or before August 10, 2009, the Update for Final EIR, revised MMRP, Staff Report and its Attachments were released for review to interested public members and commenting agencies (and subsequently posted on the Town website) and making

copies available for public review at the Town Planning Department), and hard copies were provided to Planning Commissioners; and

WHEREAS, in the Staff Report, dated August 17, 2009, for the public hearing, recommendations were made for (i) certification of the Final Environmental Impact Report, (ii) adoption of the revised Mitigation Monitoring and Reporting Program for the Rancho Laguna II 27 Lot Project, (iii) adoption of findings of the Conceptual Development Plan and Conditional Use Permit for the 27 Lot Project, and (iv) approval of the Conceptual Development Plan and Conditional Use Permit for the 27 Lot Project subject to adopted Conditions of Approval and Mitigation Measures; and

WHEREAS, Public Notice of the August 17, 2009, public hearing having been provided on August 7, 2009, the Planning Commission opened the public hearing, took testimony from Town staff, the Applicant and the public on the recommended Rancho Laguna II 27 Lot Project, its environmental review and development of the property in general, then closed the public hearing; and

WHEREAS, on August 17, 2009, the Planning Commission unanimously adopted Resolutions 10-2009, 11-2009 and 12-2009 certifying the Final Environmental Impact Report and approving the Conceptual Development Plan and Conditional Use Permit, respectively for the project; and

WHEREAS, on August 27, 2009, in accordance with the Municipal Code, an appellant group filed a timely appeal of the Planning Commission action described above with the Planning Department; and

WHEREAS, the Town Council commenced its review of the appeal on October 28, 2009; and

WHEREAS, the Town Council at the conclusion of the May 26th public hearing directed the Applicant to modify the project as approved by the Planning Commission to remove the lower valley buttress engineering design for Rheem Boulevard (thus preserving more of the intermittent drainage that runs parallel to Rheem Boulevard); and

WHEREAS, the Town Council also required the Applicant to modify the project as approved by the Planning Commission to address concerns about the visibility of certain project homes from Rheem Boulevard and from the Lafayette-Moraga Regional Trail/St. Mary's Road view point, and to do so without relying on new landscape screening); and

WHEREAS, in response to direction of the Town Council, the Applicant prepared new plan sheets and exhibits, all dated September 15, 2010, comprised of a Conceptual Development Plan Sheets 1-4 (Conceptual Development Plan Site Plan, Lot Summaries and Street Cross Sections, 27 Lot Preliminary Grading Plan, and Grading Sections), Preliminary Landscape Plan Sheets 1-3, Slope Map Exhibit, Corrective Grading Exhibit,

and Grading Sections Comparison between January 28, 2010 Grading Plan and September 15, 2010 Grading Plan; and

WHEREAS, in response to direction of the Town Council following the public hearing on October 27, 2010, the Applicant prepared the Conceptual Development Plan Sheets dated December 16, 2010 (“CDP Sheets”), and related exhibits; and

WHEREAS, the CDP Sheets and related exhibits reflect and incorporate the changes required by the Town Council, which were to: (1) relocate or eliminate lots 23 – 26 as depicted on the plans dated September 2010, thus ensuring that the character of the existing landform is preserved; (2) provide access to the proposed development on ‘B’ Court and “C” Court via the existing Fay Hill Road so as to eliminate the grading and visual impacts of ‘A’ Way on the hillside as viewed from Rheem Boulevard; (3) ensure that there shall not be any valley buttress fill in the lower portion of the intermittent stream; and 4) ensure that Lot 7 is developed without the need for retaining walls and oak tree removal; and

WHEREAS, these last changes in the above-referenced plans are more fully described in the Staff Report for this hearing and include: (1) eliminating ‘A’ Way in its entirety and including ‘E’ Street as the access to the upper development area that is satisfactory to the Fire Marshal; (2) reconfiguring the streets and lots in the upper development area to reduce cut grading and relocate two lots within that reconfigured development area; and (3) provide for 8 lots along ‘D’ Drive and relocate the lots and homes to allow for a more aesthetically pleasing streetscape along Rheem Boulevard with the added benefit of having the outdoor and indoor living areas face and benefit from the recreated wetland swale/drainage area within the scenic corridor; and

WHEREAS, the Town Council has considered the above referenced appeal previously on October 28, 2009, November 4, 2009, January 27, 2010, March 10, 2010, May 12, 2010, May 26, 2010, and October 27, 2010; and

WHEREAS, the administrative record of the foregoing proceedings consists only of those materials submitted to and considered by the Planning Commission and Town Council and includes, without limitation, the administrative record materials described in Resolution 11-2009 for approval of the Conceptual Development Plan for the Rancho Laguna II 27 Lot Project.

WHEREAS, Public Notice of the January 12, 2011, public hearing having been provided, the Town Council opened the public hearing, took testimony from Town staff, the Applicant and the public on the Rancho Laguna II 27 Lot Project, its environmental review and development of the property in general, then closed the public hearing; and

WHEREAS, the administrative record of the foregoing proceedings consists only of those materials submitted to and considered by the Planning Commission and Town

Council and includes, without limitation, the following materials which are kept with the Town's custodian of records at the Town of Moraga Planning Department, 329 Rheem Boulevard, Moraga, CA 94556:

1. The certified Final Environmental Impact Report for the Rancho Laguna II 27 Lot Project, dated September, 2010; and
2. All applications, maps, diagrams, schematics, other documents and testimony submitted on behalf of Rancho Laguna, LLC relating to the project and its Final Environmental Impact Report; and
3. All staff reports, maps, diagrams, schematics, other documents and testimony generated by Town staff relating to the project and its Final Environmental Impact Report; and
4. All written and oral evidence received at all public meetings relating to the project and its Final Environmental Impact Report; and
5. The agendas and minutes for all public meetings relating to the project and its Final Environmental Impact Report and the Update/Addendum to the Final EIR; and
6. All applicable Town ordinances, resolutions and planning documents, including without limitation the Moraga General Plan; and
7. The content of this Minute Order and its Attachments.

WHEREAS, the plan sheets and exhibits referenced above reflect and incorporate changes required by the Town Council in the Conceptual Development Plan and in the Conditions of Approval and the adopted Mitigation Monitoring and Reporting Program as approved by the Planning Commission; and

WHEREAS, in this Minute Order and prior to consideration and adoption of the Conceptual Development Plan, the Town Council certifies the Final Environmental Impact Report as adequate for consideration of the recommended Rancho Laguna II 27 Lot Project; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Moraga incorporates by reference the above recitals and the administrative record they describe, which it has relied upon, and makes the following findings and determinations with respect to the Rancho Laguna II 27 Lot Project, the Conceptual Development Plan and the certified Final Environmental Impact Report;

- A. Pursuant to Moraga Municipal Code Section 8.48.100, the Town Council adopts the Findings for Approval of the 27 Lot Conceptual Development Plan as mitigated and the General Plan Consistency Statement and Matrix, included in this Minute Order and incorporated herein by this reference; and
- B. Pursuant to Public Resources Code Sections 21081 and CEQA Guidelines Sections 15091 through 15093, the Town Council adopts the “CEQA Findings Required to Approve the 27 Lot Project,” included in this Minute Order and incorporated herein by this reference.

BE IT FURTHER RESOLVED, Title Eight (Planning and Zoning) of the Town of Moraga Municipal Code provides a three stage design and approval process for projects in the Planned Development District (Chapter 8.48). These three stages are defined as the Conceptual Development Plan, General Development Plan and Precise Development Plan (see Chapter 8.48.090, 8.48.110 and 8.48.120 respectively). Each succeeding stage of the development process requires a greater level of detail and specificity than the previous stage. In order to approve a Conceptual Development Plan, Chapter 8.48.100 of the Municipal Code requires that the Town Council make seven findings relating to the project.

BE IT FURTHER RESOLVED, the Town Council of the Town of Moraga makes the following Findings for approval of the 27 Lot Conceptual Development Plan as mitigated and each Finding is followed by a brief summary or roadmap of facts and analysis to support the Finding. Further support is found in the Administrative Record.

1. *The total development and each unit of development can exist as an independent unit capable of creating an environment of sustained desirability and stability or adequate assurance will be provided that this objective will be attained and that the uses proposed will not be detrimental to present and potential surrounding uses.*

The following facts and reasons, among others in the Administrative Record, are the basis for this Finding:

The 27 Lot Project is designed as an independent neighborhood unit in an environment of sustained desirability and stability and without any significant environmental impacts. It will be semi-rural in nature with more than 90% of the 180 acre site maintained by the Geologic Hazard Abatement District (GHAD) as permanent open space (162 acres). The residential development (lots and roads) is 17.3 acres, comprised of the upper Rheem valley area with 8 lots and ‘D’ Drive and a southern plateau/upper development area with 19 lots connected to Rheem Blvd. by ‘E’ Street. The lots sizes are large on flat, sloped or split pads, ranging from approximately 16,000 to 43,000 square feet.

The open space will be preserved in a conservation easement and includes public trails. The Minor Ridgeline and Coyote Creek areas in MOSO Open Space are preserved in their entirety.

Residential development in the valley will be limited to a shortened 'D' Drive with 8 wide, spacious residential lots. The Final Landscape Plan in the upper and lower valleys will buffer the single-story homes and maintain open views of the valley, hillsides and ridgelines for travelers on Rheem Boulevard, a scenic road. All visual quality impacts of the 27 Lot Project as viewed from Rheem Boulevard will be less than significant. Due to their location, the grading plan and the surrounding topography, the 19 homes clustered on the southern plateau will have beautiful views but at the same time, views of that new development from public locations will be limited and any significant visual quality impacts will be mitigated.

The homes and lot landscaping will be subject to design review and designed with varied building heights, styles and setbacks so the neighborhood blends with the environment instead of overpowering it.

The development areas (lots and roads) on the 27 Lot Project will be geotechnically stabilized. They will be located a safe distance from and protected against the landslide areas in the open space. Stormwater drainage will be designed to maintain that stability. Stormwater peak runoff off site will be no more than the existing condition, and potentially less than existing conditions during large storm events. Stormwater water quality features are designed into the project. Improved emergency vehicle access and GHAD implementation of the Fire Hazard Management Plan will enhance long term neighborhood safety.

Implementation of the Mitigation Measures and Conditions of Approval of the 27 Lot Project as approved by the Town Council, incorporated and referenced herein, will assure the 27 Lot Project as a whole, and each of its units, can exist independently in a sustained and stable environment. The GHAD will manage the 162 acres of open space in all respects. It will monitor and maintain the geotechnical integrity of the 27 Lot Project and each of its units. The Homeowners Association (HOA) will manage and maintain the private roads and street landscape. The actions of the GHAD and HOA will be subject to review and control of the Town. Seed funding for the GHAD and HOA will be provided by the Applicant and thereafter in perpetuity through homeowner assessments. The sustainable green building design for each home must provide at least 90% of its electrical energy target load through a combination of photovoltaic cells and construction design, and include solar water heating.

The 27 Lot Project will not be detrimental to surrounding existing and future uses. The two residential development clusters are compatible with present surrounding residential uses. The total development is compatible with the recently approved and nearby Palos Colorados project. There is no other undeveloped land in the area, residential or non-

residential, which may create future potential conflicts. The project has been designed to create two distinct residential clusters, linked to desirable open space areas via trails. Key open space features of the site are either preserved in their current condition (minor ridgeline and Coyote Creek area) or enhanced (Rheem valley areas). That some of the homes and roads in the 27 Lot Project may be visible from some existing homes does not make the project detrimental to those uses.

2. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the development.

The following facts and reasons, among others in the Administrative Record, are the basis for this Finding:

The private streets within the 27 Lot Project have been designed to the satisfaction of the Town Engineer and the Fire Marshal for the Moraga Orinda Fire District, including road widths, travel lanes, parking, and sidewalks. A turn lane on Rheem Boulevard at the 'D' Drive entry will provide protected turning movements and avoid effects from through traffic.

With respect to the street network outside the 27 Lot Project, the Town recently completed a study to identify cumulative impacts from new development, and adopted new development impact fees based on that nexus study. A traffic fee is included. The Applicant will pay that traffic impact fee, as it may be updated, prior to issuance of each building permit. The Town will be responsible to complete the necessary traffic improvements. The cumulative effect of the new density in the 27 Lot Project will not overload the street network based on the Town's study and the analysis in the certified Final EIR.

Automobile traffic (associated with a single family residential land use) is typically based on trip generation rates compiled by the Institute of Transportation Engineers (ITE). To be very conservative, the generation rates listed within the ITE studies were increased by 20% in the EIR to account for the projected units having the potential for having a higher than average usage pattern. As modeled, the project will not negatively affect the traffic patterns in the vicinity and further, will not adversely affect the road system in the region. The Town's Level of Service (LOS) standards will be met as a result of construction of the project and fees will be paid to the Town in an amount that represents the project's share of cumulative impacts. The EIR identifies the cumulative impact need for a northbound left turn lane from St. Mary's Road to Rheem Boulevard. The project is anticipated to add between 3 – 5% of additional traffic to the left turn movement to Rheem Boulevard from St. Mary's Road. This impact is not considered an overload of that intersection.

Stabilizing, repairing and improving the upper valley area of Rheem Boulevard along the project frontage as part of the 27 Lot Project will improve the safety and traffic flow on that arterial, and avoid the future possibility that its closure would be required in the event of a landslide failure. A turn pocket for 'D' Drive will allow for safe turning movements. Traffic circulation will be improved on Rheem Boulevard with the 27 Lot Project over the long term compared to the current condition of the road section and its instability. The Applicant will pay for the cost to stabilize and improve the upper portion of Rheem Boulevard along its frontage necessary to support development there. The Town Council will provide some of the funding to stabilize the high risk lower valley frontage of Rheem Boulevard. The design and timing of said stabilization will be coordinated with the Applicant, per Condition V.16. No Town capital outlay is otherwise needed for the project.

3. Development other than single-family residential can be properly justified and is consistent with the general plan.

The following facts and reasons, among others in the Administrative Record, are the basis for this Finding:

The proposed project is a single-family residential development, and does not include development other than single-family residential.

4. Any proposed exception from standard ordinance requirements is warranted by the design and amenities incorporated in the conceptual development plan, in accord with adopted policy of the planning commission and town council.

The following facts and reasons, among others in the Administrative Record, are the basis for this Finding:

No variance to standard ordinance requirements in the Moraga Municipal Code is proposed or sought by the Applicant in order to develop the property. The 27 Lot Project as designed complies with the standard ordinance requirements of the Open Space District and the Planned Development District.

There is one correction to the Moraga Municipal Code that is required. Section 8.48.040 includes a minimum lot size for the N-OS-PD zoning classification that is not in compliance with Policy UL1.6 of the Moraga 2002 General Plan. The 27 Lot Project minimum lot size is consistent with the General Plan minimum for a project with outdoor recreational facilities open to the public, like public trails. The Town's anticipated

updating of the code section will mean the 27 Lot Project is in compliance with its standard ordinance requirements and a variance will not be required.

The general provisions for issuance of a conditional use permit in Chapter 8.16 do not include standard ordinance requirements, only procedural requirements. Development standards are addressed in the specific zoning districts.

The general provisions in the Planned Development District at Chapter 8.48 do not include specific standard ordinance requirements, only submittal and procedural requirements. Section 8.48.130 includes a general standard which allows the Planning Commission/Town Council to approve such conditions and requirements necessary to carry out the purpose of the district, preserve open space, and assure the timely completion of public improvements. These general standards are achieved with the 27 Lot Project as conditioned and mitigated.

No variance or exception to the site and density standard ordinance requirements for this property is being requested. The Open Space District at Chapter 8.52 includes general standards for MOSO and Non- MOSO properties. Site and density standards are described at Municipal Code Sections 8.52.050 and 060: density, lot area, frontage, front, side and rear setbacks, building height and site coverage requirements are set based upon "site constraints."

The approved density for the 27 Lot Project does not require a variance or exception to the standard ordinance requirements for Open Space lands. The proposed homes and private roads, and grading for them, are located on the Non-MOSO portion of the property and clustered in two areas on less than 10 % of the site.

Municipal Code Section 8.52.060 requires that Open Space density be based upon site constraints of the particular property and the project's compliance with the Goals and Policies in the Moraga 2002 General Plan. Policy LU1.2 identifies the maximum allowed density under Policy LU1.2 for Open Space lands at one unit per 5 acres and the minimum at one unit per 20 acres. Thus, the maximum density for this 180 acre Open Space property is 36 units. Policy LU1.2 further requires that the density on a particular property, including Open Space lands, be determined based on: "review of environmental constraints, the availability of public services and acceptable levels of service, proper site planning and the provision of suitable open space and recreational areas consistent with applicable goals and policies of the General Plan." These standards are similar to the zoning standards in Municipal Code Sections 8.52.050 and 8.52.060. The 27 Lot Project has been designed and the density (one unit per 6.7 acres) determined based on this criteria. No density standards exception is being requested.

5. The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development.

The following facts and reasons, among others in the Administrative Record, are the basis for this Finding:

With the exception of the approved Palos Colorados project, the project site is the last undeveloped large parcel in the immediate vicinity. The open space, Coyote Creek preservation, and public trail system in the 27 Lot Project is coordinated with adjoining open space provisions in the Palos Colorados project. The two projects are consistent and compatible.

6. The development conforms with the general plan.

The following facts and reasons, among others in the Administrative Record, are the basis for this Finding:

The General Plan Consistency Statement and General Plan Goals and Policies Matrix, incorporated as part of the Administrative Record, and the analysis in the staff reports, demonstrate that the 27 Lot Project, as designed and with its Mitigation Measures and Conditions of Approval, complies with the Moraga 2002 General Plan as a whole. The Matrix demonstrates the Project conforms to each applicable goal and policy in the General Plan. See also the finding and reasons set forth in Finding 5 above with respect to density.

7. Existing or proposed utility services will be adequate for the population densities proposed.

The following facts and reasons, among others in the Administrative Record, are the basis for this Finding:

The analysis in the certified Final EIR confirm, with the adopted Mitigation Measures and Conditions of Approval, that existing or proposed utility services for the 27 Lot Project will be adequate for its population densities. All impacts on public services are less than significant, including utility services from PG&E, EBMUD, and CCCSD.

ATTACHMENT 5 – MINUTE ORDER 01-2011
CONDITIONS OF APPROVAL
FOR THE RANCHO LAGUNA II
27 LOT PROJECT

CONDITIONS AND TIMING
Rancho Laguna II

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Note 1: Rancho Laguna, LLC is referred to as “Applicant,” “Project Sponsor” or “Applicant/Owner.”

Note 2: All Mitigation Measures in the MMRP are included also as Conditions of Approval.

Note 3: Mitigation Measures/Conditions that must be addressed, in whole or in part, at more than one development stage approval (e.g., with both Precise Development Plan and improvement plans for Final

Subdivision Map) are listed only once but shall continue to apply until the last applicable development stage approval is secured as identified herein or as provided in the Mitigation, Monitoring and Reporting Program.

Note 4: The following final plans required to be completed by Mitigation Measures, consistent with the performance standards therein, are also identified and required in Conditions: (a) Open Space Management Plan; (b) Public Trail System Plan; (c) Wetland and Special-Status Species Mitigation and Monitoring Plan (“Wetland and Special-Status Species Plan”); (d) Fire Protection Plan; (e) Geotechnical Plan of Control; (e) Expanded Master Drainage Plan (“Drainage Plan”); (f) Final Landscape Plan, and (g) Rheem Valley Re-vegetation Plan.

Note 5: All references in the following conditions and in the Mitigation Monitoring & Reporting Program (MMRP) to the formation of a Geologic Hazard Abatement District (GHAD) shall be interpreted to mean a GHAD or any other entity as designated by the Town.

Note 6: The approved project is referred to as the “Rancho Laguna II Project,” the “27 Lot Project,” “Project” or “project.” The approved conceptual development plan is referred to as the “CDP,” “CDP Sheets” or “CDP Sheets dated December 16, 2010.” The approved CDP Sheets include the southern plateau “Access Road Sections” Exhibit dated December 30, 2010.”

CONDITIONS FOR RANCHO LAGUNA II CONCEPTUAL DEVELOPMENT PLAN

I. Conditions that must be satisfied prior to approval of the General Development Plan

1. The Rancho Laguna Project in the General Development Plan shall include 27 lots for single-family residences, with 19 lots on the southern plateau and eight lots along 'D' Drive. The General Development Plan filed by the Applicant shall be in substantial conformance with the Conceptual Development Plan approved by the Town Council on **January 26, 2011**, as more fully described in **Minute Order 01-2011** and its Attachments. Conditions of Approval required at subsequent project stages need not be satisfied prior to approval of the General Development Plan but shall continue to be required at subsequent development stages as provided herein, unless a Condition or the timing for its satisfaction is modified at the request of the Applicant and with the approval of the Planning Commission.

2. Section 8.48.040 of the Moraga Municipal Code with respect to the minimum lot size on land with an N-OS-PD zoning classification shall be amended by the Town to allow for a minimum lot size of 15,000 square feet if the overall project includes outdoor recreational facilities (e.g., public trails) with guaranteed permanent access to the general public. That amendment will bring this code section into conformance with Policy LU1.6 in the Moraga 2002 General Plan.

II. Conditions that must be satisfied prior to approval of the Precise Development Plan

1. The mitigation measures identified by ENGEO shall be implemented. Cut and fill material shall be balanced on site.

The Project Sponsor shall request and the Town Council shall form a Geologic Hazard Abatement District (GHAD) or other Town designated entity, to be funded in perpetuity by the property owners within the project through district assessments, with initial funding by the Project Sponsor

The GHAD will own the open space parcel and have its own district engineer and other qualified professional consultants, including a qualified ecologist/biologist. The GHAD shall be responsible for the following management, monitoring and maintenance tasks: (i) geotechnical stability and erosion control; (ii) stormwater control and water quality basins; (iii) open space grazing, fire protection and control, and trails; and (iv) intermittent drainage, seasonal wetlands, seeps and biological resources.

Those obligations shall include compliance with the final (i) Geotechnical Plan of Control, (ii) Drainage Plan, (iii) Open Space Management Plan, (iv) Public Trail System Plan, (v) Fire Protection Plan, (vi) Wetland/Special-Status Species Plan, (vii) Rheem Valley Revegetation Plan, and (viii) Conservation Easement (or other appropriate deed restriction), which are more fully described in other mitigation measures.

The actions of the GHAD in meeting its responsibilities, including the adequacy of permanent funding from the Project Sponsor and project homeowners, shall be subject to Town review, direction and control. All Town costs shall be paid by the GHAD. **[Mitigation Measure 3.20 #5a (for “Landslides Impact”)]**

2. The water quality facilities for the approved 27 Lot Project are the water quality basins and mechanical water quality treatment vault on the 27 Lot Preliminary Grading Plan, dated December 16, 2010. A water quality basin adjoining Lot 17 along the cul-de-sac may replace the treatment vault. Detention shall be provided through oversized stormwater pipes and water quality basins.

In order to determine whether or not there will be a net increase to off-site peak flows and volumes for the 27 Lot Project, an Expanded Master Drainage Plan (Drainage Plan) shall be prepared based upon the Precise Development Plan (which shall specifically identify all impervious surfaces, define the collection system, detention cells and outlets, and detail all BMPs). The Drainage Plan shall comply with the following Performance Standards:

a. Provide parallel hydrologic and hydraulic analyses and calculations of Existing pre-development and of Proposed post-development runoff flows and volumes from all tributary areas accounting for all changes in runoff characteristics and drainage area;

b. Clearly identify differences between Existing and Proposed conditions by providing at identical or equivalent geographic points in the watersheds directly comparable tables of runoff analysis, tabulation of characteristics, and drainage maps;

c. Demonstrate that the detention and BMP facilities have the required capacity and can be constructed at the proposed sites without exceeding grading, landscape and other project criteria;

d. Show that any uncontrolled overflow of the facilities due to blockage or other malfunction will follow an identified flow path to the major channels and will result in no more than nuisance flooding;

e. Demonstrate that individual lot grading will direct all drainage from the building pads to the street. No overland drainage from the pads or street shall be discharged into the fills or natural slopes;

f. Confirm capacity of the existing system and evaluate whether the project's contribution exceeds the capacity of the existing (plus planned) drainage facilities, or contain those contributions in acceptable storm drains or non-erodible open channels;

g. Confirm that any increase in the velocity and duration of erosive flows in the natural and recreated drainage ways within the project and downstream of project facilities do not aggravate erosion from storm runoff of 2-, 10- and 100-year average recurrence (50% through 1% annual probability);

h. If the project's contribution to the existing peak flows and volumes exceeds capacity of the existing (plus planned) facilities (both on and off site) the Drainage Plan shall identify required drainage enhancements and long term (in perpetuity) funding for these enhancements. Numeric hydrologic modeling for the project will be performed in conformance with the Contra Costa County Flood Control Standards and Contra Costa Clean Water Program (CCCWP) C.3 Hydromodification Requirements. The modeling will verify that final hydrologic mitigation measures reduce 2-, 10- and 100-year average recurrence flow rates to pre-development levels at points of discharge and do not aggravate erosion in existing downstream channels for smaller flow rates as defined by the CCCWP C.3 Hydromodification standards.

These enhancements shall include:

a. Either on-site detention facilities which can be demonstrated to preclude any increase in the flows and volumes to pre-project conditions and thereby preclude increased flooding and erosion risks; and/or,

b. A reduction in the size of the Project.

[Mitigation Measure 3.30 #1a (for "Storm Drainage Impact")]

3. The Project Sponsor shall construct needed drainage improvements both on site and off site that meet the Performance Standards set forth in Condition II.2 and Mitigation Measure 3.30 #1a. The Drainage Plan and final improvement plans for the 27 Lot Project shall be consistent with these standards. **[Mitigation Measure 3.30 #1b (for "Storm Drainage Impact")]**

4. For the larger 10-year through 100-year average recurrence storms, the Project Sponsor has agreed, to the extent feasible with the 27 Lot Project, to reduce the peak flows discharged into the off site intermittent drainage below where "A" Way was once proposed, to less than existing conditions, utilizing oversized stormwater pipes. The Project Sponsor shall commit to work with interested homeowners in securing permits to construct grade control structures (i.e. small sections of buried riprap) at strategic locations identified by its hydrology engineer on the intermittent drainage banks behind their homes, and help them to secure the required permits from the resource agencies. Assuming the

permits do not require replacement mitigation (e.g., one to one wetland mitigation off site), the Project Sponsor will install the buried riprap at its cost.

5. As part of the Drainage Plan reviewed and approved by the Town of Moraga, the Applicant shall demonstrate that the existing springs and seeps are not dependent on the recharge from the developed area. However, if found to be dependent, a supplemental water supply shall be provided, possibly necessitating further environmental analysis and review by the Town of Moraga. **[Mitigation Measure 3.30 #2 (for “Groundwater Recharge Impact”)]**

6. Internal streets and emergency vehicle access for the project shall be consistent with the Street Sections in CDP Sheet 2, Lot Summaries and Sections, dated December 16, 2010. Provided however, in further consultation with the Fire Marshall, the sections for ‘E’ Street and ‘E’ Street/Fay Hill Road in Sheet 2 are replaced with the sections in the southern plateau Access Sections Exhibit dated December 30, 2010. Based on these street modifications, and changes to Condition V.6.c below with respect to the Fire Protection Plan, the Fire Marshall has approved the dead end roads to the southern plateau, consistent with provisions in the state and local fire code. The final design shall be approved by the Town Engineer and Moraga-Orinda Fire District, which shall be consistent with this preliminary design. **[Mitigation Measure 3.40 #5 (for “Internal Circulation Impact”)]**

7. The remaining natural habitat of approximately 163 acres (approximately 89% of the project area) shall be preserved in a Conservation Easement (or other appropriate deed restriction) as open space publicly managed and preserved by the GHAD. The form of the Conservation Easement shall be approved concurrent with approval of the Precise Development Plan, and recorded with the Final Subdivision Map. **[Mitigation Measure 3.55 #23a (for “Habitat Loss and Fragmentation Impact”)]**

8. Impacts to waters of the U.S., including wetlands, are regulated by the USACE, CDFG, and RWQCB and will be subject to permit conditions imposed by these agencies. Prior to the placement of fill into waters of the U.S., the Project Sponsor is required to obtain permits under Section 404 and Section 401 of the Clean Water Act, as well as Section 1600 et seq. of the state Fish and Game Code. The Mitigation Measures imposed on the project are subject to regulatory review and approval.

Prior to the issuance of grading permits by the Town of Moraga, approvals by the USACE, CDFG, and RWQCB are required. **[Mitigation Measure 3.55 #3a (for “Loss of USACE – Jurisdictional Wetlands Impact”)]**

9. On-site and/or off-site wetland mitigation is subject to the approval of the regulatory agencies, and project development is subject to the issuance of the appropriate wetland permits. The Project Sponsor intends to provide for all wetland mitigation on site for the 27 Lot Project. A final Rheem Valley Revegetation Plan shall be incorporated in the Wetland/Special-Status Species Plan, both updated to reflect the 27 Lot Project and

specifically outlining mitigation measures for unavoidable impacts to wetlands and the wetland swale. The Plans shall be prepared by a qualified restoration ecologist and shall be consistent with the preliminary landscape plans dated September 15, 2010, subject to adjustments to reflect the CDP Sheets dated December 16, 2010 and mitigation consistency adjustments as more fully described in Mitigation Measure 3.35 #4 and Mitigation Measure 3.55 #4b and #5b.

The Plans shall be submitted for resource agency review. Final details and conditions for filling jurisdictional waters of the U.S. shall be determined through the Section 404 permitting process with the Army Corps of Engineers.

The Plans shall detail wetland protection, replacement, and restoration. The Plans shall accurately identify the total wetlands and other jurisdictional areas affected by the project. The Plans shall provide for re-establishment, enhancement, and/or replacement of wetland habitat and vegetation "in-kind" at a minimum replacement ratio of 1:1, or as otherwise stipulated by and subject to review and approval by the USACE, RWQCB, and CDFG.

Created or enhanced wetlands shall be monitored for no less than five years following completion of plant installation or as otherwise specified in the permit conditions. Annual reports shall be submitted to the Town of Moraga, USACE, CDFG, and RWQCB. At a minimum, details of the Plans should include the following:

- a. The location(s) of mitigation areas, including the types and extent of each habitat type to be created;
- b. Mitigation for loss of existing wetlands shall be provided at a minimum "in-kind" replacement ratio of 1:1, or as otherwise stipulated by the USACE, CDFG and RWQCB, and shall result in created or restored wetlands with an equal or higher habitat value;
- c. A water budget (hydrological analysis) shall be prepared by the Project Sponsor analyzing water demand for each mitigation habitat type to be created and the ability of the watershed to support the target wetland habitats;
- d. The stated goal of the mitigation effort shall be to establish self-sustaining native riparian vegetation that shall not require long-term irrigation or maintenance;
- e. The mitigation site shall include the establishment of a vegetated upland buffer no less than 50 feet wide on all sides, where practicable; and
- f. A detailed mitigation and monitoring plan shall be prepared summarizing the total area of habitat to be restored, grading details, analysis of site hydrology and its ability to support the proposed riparian vegetation, location and quantities of all indigenous plant materials to be installed, the location, application rate,

and minimum germination rates of all native seed mixes to be used on all bare ground surfaces, monitoring procedures and schedules, identification of remedial measures, and performance criteria to be used by the agencies to assess success or failure of the mitigation effort.

The Plans shall be reviewed by the Town biologist monitor prior to submittal to the USACE, CDFG, and RWQCB for approval.

The jurisdictional wetlands (recreated and preserved) shall be incorporated in the final landscape plan and mitigation implemented under the direction of a qualified restoration ecologist for the project.

The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be long-term management of jurisdictional wetlands.

All restored jurisdictional wetlands, along with an appropriate upland buffer, shall be placed in a permanent Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity, and managed by the GHAD.

Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from the USACE, CDFG, and RWQCB. **[Mitigation Measure 3.55 #3b (for “Loss of USACE - Jurisdictional Wetlands Impact”)]**

10. The Project Sponsor shall obtain permits under Section 401 of the Clean Water Act and Section 1600, et seq. of the state Fish and Game Code prior to site grading. These permits, administered by the RWQCB and CDFG, respectively would identify specific mitigation measures to be imposed on the project as permit conditions. **[Mitigation Measure 3.55 #4a (for “Non-Corp Jurisdictional Wetlands Impact”)]**

11. The 2005 Rheem Valley Revegetation Plan shall be modified by a qualified restoration ecologist to reflect the 27 Lot Project and its CDP Sheets dated December 16, 2010, and submitted to the RWQCB, CDFG, and the Town of Moraga for review and approval. The 2005 Rheem Valley Revegetation Plan provides details on revegetation goals and objectives, conceptual design and typical planting seeding plans, schedule, site preparation, invasive species control, soil salvage, planting and seeding specifications, maintenance, monitoring methodologies, performance standards, reporting, contingency measures, and responsibilities and funding. The final Plan shall result in the enhancement of the intermittent stream corridor in the lower Rheem valley, subject to the open view requirements in Mitigation Measure 3.35 #4.

Mitigation plantings shall be monitored for no less than five years following completion of plant installation or as otherwise specified in the permit conditions. Annual reports shall be submitted to the Town of Moraga, CDFG, and RWQCB.

The final mitigation imposed on the project is subject to Agency review and must meet the requirements of the CDFG, and RWQCB. At a minimum, the final mitigation in the Plan shall include the following:

a. The total area of willow canopy impacted shall be replaced at a minimum ratio of at least two acres for each acre impacted. The impact is substantially reduced as a result of the removal of the lower valley buttress and the 'A' Way crossing in the CDP Sheets approved by the Town Council. The only remaining impact with respect to the riparian corridor in the lower valley intermittent stream relates to the engineered slope below 'D' Drive as shown on CDP Sheet 3, Preliminary Grading Plan. Any required willow planting areas shall utilize a combination of pole cuttings collected from trees on site (see also Mitigation Measures 3.55 #5b and 3.35 #4);

b. A water budget (hydrological analysis) shall be prepared analyzing water demand for each mitigation habitat type and the ability of the watershed to support the target habitats;

c. Impacted non-wetland native tree species associated with riparian corridors (e.g., coast live oak, valley oak, arroyo willow, California buckeye, black walnut) shall be replaced at a minimum of one 1½-gallon sized tree for every six inches of aggregate trunk diameter that is uprooted, using trees from East Bay stock (see Mitigation Measure 3.55 #5a);

d. The stated goal of the mitigation effort shall be to establish self-sustaining native riparian vegetation that shall not require long-term irrigation or maintenance; and

e. The mitigation site shall include an upland buffer of no less than 50 feet on all sides, where practicable.

The Plan shall be reviewed by the Town biologist monitor prior to submittal to the CDFG and RWQCB for approval.

The recreated non-jurisdictional wetlands shall be incorporated in the Final Landscape Plan and mitigation implemented under the direction of a qualified restoration ecologist for the project.

The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be long-term management of non-jurisdictional wetlands.

All restored non-jurisdictional wetlands, along with an appropriate upland buffer, shall be placed in a permanent conservation easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity, and managed by the GHAD.

Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from the CDFG, and RWQCB. [**Mitigation Measure 3.55 #4b** (for “*Non-Corp Jurisdictional Wetlands Impact*”)]

12. The public trail system on the project site is shown on the CDP Sheets dated December 16, 2010. The project dirt trails connecting the Lafayette-Moraga Regional Trail and the Palos Colorados trails shall be restricted to 1-3 feet wide, depending on topography, within a 20 foot easement. Public trail easements shall be granted to the Town of Moraga if requested. The paths in the Rheem valley are limited to a 3 foot decomposed granite (dg) path along the easterly side of Rheem Boulevard as shown on that street section in the CDP Sheets.

Public trail use and maintenance shall be administered as part of the Open Space Management Plan described in Mitigation Measure 3.10 #2. The Open Space Management Plan shall include a final Public Trail System Plan. The Geologic Hazard Abatement District (GHAD) formed by the Town Council for the project shall be responsible for public trail maintenance and control.

[**Mitigation Measure 3.35 #6** (for “*Recreation & Trails Impact*”)]

The 2005 Wetland/Special-Status Species Plan provides guidance on managing and monitoring preserved aquatic and upland habitat for special-status and common wildlife species (see Mitigation Measures 3.55 #9b and #10b). The Plan shall be modified to be consistent with the 27 Lot Project and its CDP Sheets dated December 16, 2010, and with the preliminary landscape plan dated September 15, 2010, as modified to be consistent with the new CDP. The Open Space Management Plan shall include trail management that addresses this impact.

[**Mitigation Measure 3.35 #21a** (for “*Recreational Impacts to Wildlife and Wildlife Habitat*”)]

In order to minimize potential human impacts and preserve and enhance the existing habitats on site for wildlife, the proposed trail system shall be reoriented to be consistent with the dirt trails described in Mitigation Measure 3.35 #6. Imported substrate, such as decomposed granite or wood chips, shall not be used except for the decomposed granite trail along Rheem Boulevard. Trail widths shall not exceed 3 feet.

Encroachments (e.g., paths, view points) leading from the trail into the riparian corridor within Coyote Creek shall be avoided. Trailheads at both ends shall be marked and stipulate that pets must be leashed, that bicycles are prohibited, and that off-trail foot travel

is prohibited. No trash cans shall be provided as they can become attractive nuisances for wildlife and require increased human activity. [**Mitigation Measure 3.55 #21b (for “Recreational Impacts to Wildlife and Wildlife Habitat Impact”)**]

13. In order to prevent the incremental degradation of preserved habitats, the following measures shall be followed:

a. All areas not proposed for development shall be protected from construction disturbance and left in existing vegetation. Construction fencing shall be installed to delineate the areas subject to disturbance and to protect native vegetation outside the limits of grading;

b. Soil and other debris shall not be stockpiled in areas designated as preserved open space or for conservation;

c. Security night lighting shall be minimized by facing lights (street lamps, parking lights, etc.) toward developed portions of the project and not toward native wildlife habitat or open space areas (construction hours shall be limited to 8AM to 5PM);

d. Habitats within the conservation easement shall be managed according to the final Wetland/Special-Status Species Plan and Open Space Management Plan and summarized in Mitigation Measure 3.55 #9b and #10b. The Plans shall be consistent with the 27 Lot Project preliminary landscape plans dated September 15, 2010, modified to be consistent with the CDP Sheets dated December 16, 2010;

e. Human encroachment and predation by domestic pets shall be minimized by the designation of trail access, informative signage regarding the sensitive nature of the native habitats and wildlife, homeowner education, and restrictions on pet access.

[**Mitigation Measure 3.55 #23b (for “Habitat Loss and Fragmentation Impact”)**]

14. Habitat lost to accommodate the proposed stabilization of the upper valley of Rheem Boulevard and to provide access to the proposed development will be mitigated by the recreation of similar habitats at the same location, as specified in the 2005 Rheem Valley Revegetation Plan. The Plan will be modified to be consistent with the 27 Lot Project and its CDP Sheets dated December 16, 2010, and the preliminary landscape plan dated September 15, 2010 (as modified to be consistent with the new CDP), subject the review and adjustment by a qualified restoration ecologist required in Mitigation Measure 3.55 #4b. The restored habitats will be contiguous with existing, undisturbed riparian habitat downstream of the formerly proposed “A” Way crossing. [**Mitigation Measure 3.55 #24a (for “Interruption to and Loss of Wildlife Movement Corridors Impact”)**]

15. The Project Sponsor must commit to the following conservation measures for the project:

- a. Installation of water efficient irrigation systems for residential units that include efficient sprinkler heads or drip irrigation.
- b. Installation of ultra-low flow toilets, as required by state law.
- c. Installation of drought-tolerant landscaping.
- d. The Town will refer the project to EBMUD and then determine whether to require dual piping and the use of recycled water for the project's common areas.
- e. The Project Sponsor shall comply with the Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). [**Mitigation Measure 3.64 #1a (for "Water Demand Impact")**]

The Project Sponsor shall commit to additional Demand Reduction Measures, commensurate with the amount of the project's water demand. The Project Sponsor shall be subject to the Water Service Regulations and Schedule of Rates and Charges. [**Mitigation Measure 3.64 #1b (for "Water Demand Impact")**]

16. The Project as developed shall continue to maintain EBMUD access to Fay Hill Reservoir as provided in the CDP Sheets. Project Sponsor shall secure an agreement with EBMUD with respect to grading on its parcel and easement on the hillside below 'B' Court. Prior to approval of the Precise Development Plan, the Town shall review the agreements that the Project Sponsor has with EBMUD. If off-site lands are disturbed by development, the Town shall conduct additional environmental review and certify the environmental analysis of those properties. [**Mitigation Measure 3.64 #3a (for "Encroachment into EBMUD Properties Impact")**]

17. Measures to prevent any impacts to the existing pipeline, including those related to adequate pipeline cover and construction equipment wheel loads, shall be identified on the (offsite) Precise Development Plan if the Project Sponsor proposes construction within the public street. [**Mitigation Measure 3.64 #5 (for "EBMUD Distribution System Impact")**]

Relocation of the existing pipeline in Rheem Boulevard, at the Project Sponsor's expense, may be required if modifications are made to Rheem Boulevard as part of the proposed development. A water main extension, also at the Project Sponsor's expense, will be required to serve the proposed development. [**Mitigation Measure 3.64 #2 (for "Pressure Zone Impact")**]

18. The project shall be designed so that it allows wastewater to flow by gravity to the CCCSD system. Provided however, a pump station is required for a sewer line constructed in or along 'E' Street serving the southern plateau development area. The sewer line shall be located within public/private roads, or a dedicated 15 foot wide easement where appropriate. The easement shall have a minimum 10 foot wide all weather pavement at the manholes. To avoid disturbance to onsite drainages or Coyote Creek, CCCSD will allow the Project Sponsor to undertake directional drilling so that the sewer line undercross the drainages. The following conditions shall apply:

- a. Construction shall be undertaken during the dry season;
- b. Undercrossing shall meet with USFW standards;
- c. Permits for riparian habitat disturbance shall be obtained from CDFG if needed; and,
- d. Construction shall comply with CCCSD's Hillside and Creek Area Sewer Policy. [**Mitigation Measure 3.65 #2a (for "Off-Site Sewer Line Impact")**]

Lots on 'C' Court and 'B' Court shall be served by a pumping system acceptable to CCCSD to a sewer line from 'E' Street to Rheem Boulevard, or alternatively, if feasible, a gravity line off 'C' Court and 'B' Court down the hillside to the east and then connecting to the main line in St. Mary's Road. [**Mitigation Measure 3.65 #2b (for "Off-Site Sewer Line Impact")**]

19. The Project Sponsor is required to pay fees and charges at the time of connection to the sewer system. The Project Sponsor shall secure a will serve letter that address transmission capacity. [**Mitigation Measure 3.65 #3 (for "Transmission Facilities Impact")**]

III. Conditions that must be satisfied prior to approval of design review of the Precise Development Plan

1. All of the project components shall incorporate street configuration sensitive to the natural topography, as per the CDP Sheets.

Landscape buffering and screening for the 'D' Drive development shall be with broadleaf deciduous and conifer trees and shrubs planted so as to replicate the natural vegetation groupings on site.

Landscaping in the southern plateau neighborhood along 'E' Street and 'C' and 'B' Court shall not include trees that will mature to a height that exceed the height of the homes such that the trees protrude above and alter the skyline from public views of concern, in

particular Rheem Boulevard. Landscape on open space hillsides is to be avoided. The visual impact mitigation measures for particular public view points described below shall comply with this standard. The intent of this condition herein is to maintain open hillsides and to keep landscape on and around the streets and homes on the southern plateau low enough in height so as not to protrude above the skyline from, for example, Rheem Blvd.

These details in the final landscape design shall be provided with the Precise Development Plan and approved by the Planning Commission with input from the Design Review Commission.

Joseph Drive

The landscape in the southern plateau shall include native evergreen and deciduous trees and shrubs to compliment the existing oak woodland elsewhere on the hillside. Trees species shall not be of such a height that they protrude above the skyline from public views of concern.

Rheem Boulevard

Applicant shall comply with Mitigation Measure 3.35 #4 (CDP Condition III.4), with respect to maintaining open valley, hillside and ridgeline views. With the elimination of the lower valley buttress and 'A' Way, and the modifications to the southern plateau development area so that none of the homes there will be visible from Rheem Boulevard, landscape mitigation for visual quality have been substantially reduced, limited to the 'D' Drive area. Lots 1-6 on 'D' Drive must still be single story in order to maintain open hillside views.

St. Mary's Road

No open space landscape on the southern plateau development area is required to address this viewpoint, as a result of changes in the Project through the CDP Sheets dated December 16, 2010. Any native evergreen and deciduous trees planted within the southern plateau neighborhood shall be species of such a height that they do not protrude above the skyline from public views of concern.

Birchwood Drive

No open space landscape on the southern plateau development area is required to address this viewpoint, as a result of changes in the Project through the CDP Sheets dated December 16, 2010. Any native evergreen and deciduous trees planted within the southern plateau neighborhood shall be species of such a height that they do not protrude above the skyline from public views of concern.

Rohrer Drive

No open space landscape on the southern plateau development area is required to address this viewpoint, as a result of changes in the Project through the CDP Sheets dated December 16, 2010. Any native evergreen and deciduous trees planted within the southern plateau neighborhood shall be species of such a height that they do not protrude above the skyline from public views of concern.

Project Sponsor shall also comply with Mitigation Measures 3.35 #1, 3 and 4 to reduce all visual quality impacts of the 27 Lot Project to less than significant. [**Mitigation Measure 3.35 #2 (for “Ridgeline Development Visual Quality Impact”)**]

2. To ensure a project that is consistent with its surroundings and support the small town image, the Project Sponsor shall provide complete landscaping and building design that concentrates on the following distinct features:

a. Landscaping shall utilize existing oak trees and supplement them with medium-sized broadleaf deciduous street trees and shading canopy trees, but the tree species in the valley areas shall be selected to screen the ‘D’ Drive residences but not grow so tall as to block upper hillside and skyline views from Rheem Boulevard;

b. Building height shall be restricted to a maximum of 35 feet to the highest point of the roof for two-story homes and 18 feet for single story homes (18-21 feet for single story ‘D’ Drive homes to provide some articulation); and

c. Color selection for facades and roofs should be restricted to colors that blend with the landscape during the dry season (i.e., earth tones - tans and light browns).

Project Sponsor shall also comply with Mitigation Measures 3.35 #1, 2 and 4 so that all project visual quality impacts not fully addressed by the revised CDP Sheets dated December 16, 2010, are reduced to less than significant for the approved 27 Lot Project through the final landscape plan. [**Mitigation Measure 3.35 #3 (for “Site Characteristics Visual Quality Impact”)**]

3. BMP water quality basin for the approved 27 Lot Project that are located in the valley area along Rheem Boulevard shall include low lying landscape that is consistent with the open views of the mitigated landscape plan for the project. The tops of the BMP water quality basin shall be open and accessible for maintenance with sufficient area available for one-way vehicular movement around the facility. The open section of the water quality basin shall be attractively landscaped with plant material appropriate for bioremediation purposes.

Project Sponsor shall also comply with Mitigation Measures 3.35 #2, #3 and #4 to reduce the change in visual character of the project site to less than significant for the 27 Lot Project, as viewed from all public locations of concern including Rheem Boulevard. **[Mitigation Measure 3.35 #1 (for “Change in Community Character Visual Quality Impact”)]**

To mitigate the project’s significant change in character of the site for travelers on Rheem Boulevard, a scenic road, by providing open views of the valley, hillsides, protected ridgeline and skyline, future project plans and maps shall be consistent with the CDP Sheets dated December 16, 2010, and the preliminary landscape plans dated September 15, 2010, modified to be consistent with the CDP Sheets. The plant palette and location shall be consistent with the recommendations of a restoration ecologist per Mitigation Measure 3.55 #3.

The plant species for the recreated wetland swale and enhancements to the intermittent drainage (grasses, shrubs and trees) in the final landscape plan shall be provided by the restoration ecologist for the project, subject to peer review by the Town biologist monitor, consistent with the letter dated May 13, 2010, from the Town’s EIR biology subconsultant, Mike Wood.

The placement of arroyo willows and other restoration trees required in Mitigation Measure 3.55 #5b shall be generally limited to the lower portion of the intermittent drainage, as may be necessary to maintain the open views from the scenic road required in this mitigation measure. If necessary in order to maintain those open views from the scenic road, the remaining number of recommended willows and other restoration trees may be planted along Coyote Creek as part of the final landscape plan. The placement and type of restoration species proposed by the project restoration ecologist and landscape architect shall be reviewed by the Planning Department and Town biologist monitor for compliance with this mitigation measure and Mitigation Measure 3.55 #5b, to ensure that the dual objectives of mitigating visual impacts from Rheem Boulevard and ecological restoration are achieved.

Project Sponsor shall also comply with Mitigation Measures 3.35 #1, 2 and 3 to reduce all visual quality impacts to less than significant for the approved 27 Lot Project. **[Mitigation Measure 3.35 #4 (for “Scenic Corridors Impact”)]**

4. The Project Sponsor shall comply with Mitigation Measure 3.35 #2, in order to significantly reduce the effect of light and glare. Additionally, the Project Sponsor shall comply with the landscape measures in Mitigation Measure 3.35 #4 in order to significantly reduce the effects of light and glare visible from the designated scenic corridors.

To minimize the reflective light and glare, and ensure long-term maintenance, the Project Sponsor shall implement the following prior to Final Design Review:

- a. Use non-reflective material and finishes.
- b. No street lighting is included in the project. Common area landscape shall not be lighted. Ensure through design review and the Homeowners Association that all exterior lighting on residential lots shall be reflected downward. If any monument signs are proposed, they shall be non-illuminated internally or externally.
- c. Any safety lighting shall incorporate low voltage lighting and/or treatments designed to reduce the amount of spill over into surrounding areas. **[Mitigation Measure 3.35 #5 (for “Light and Glare Visual Quality Impact”)]**

5. Invasive non-native plant species known to invade wetlands and natural areas, as described in Table 3.55-4, shall not be used in either the subdivision or individual lot landscaping. Under no circumstances shall the revegetation of graded or filled areas include any species appearing on the California Invasive Plant Council’s Invasive Plant Inventory (available at <http://www.cal-ipc.org/ip/inventory/weedlist.php>). A deed restriction to this effect shall be recorded on each lot prior to the recordation of the final subdivision map and its enforcement monitored and controlled by the HOA and GHAD. **[Mitigation Measure 3.55 #22a (for “Invasive Species Impact”)]**

6. Development shall comply with Mitigation Measure 3.35 #4 (Visual Quality, Parks, Recreation, & Open Space Visual), Mitigation Measure(s) 3.55 #3b, #4b, #5a, #5b and #5c (Biological Resources), and Mitigation Measure(s) 3.30 #1a, #2 and #3 (Hydrology, Drainage and Water Quality), as modified to reflect the CDP Sheets dated December 16, 2010.

Final details and conditions for filling jurisdictional waters of the U.S. shall be determined through the Section 404 permitting process with the Army Corps of Engineers.

The wetland restoration for the 27 Lot Project shall be included in the final Wetland/Special-Status Species Plan and incorporated in the final landscape plan, and implemented under the direction of a qualified restoration ecologist for the project.

The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be long-term management of wetlands. Restored wetlands shall be included in a conservation easement, or other appropriate deed restriction, and maintained in perpetuity by the GHAD. **[Mitigation Measure 3.35 #7 (for “Wetlands Restoration Visual Quality Impact”)]**

7. Architectural design standards and specifications shall be provided for the custom and semi-custom homes in this project. They shall include that homes in the project have varied building heights, styles and setbacks, with the objective that the neighborhood blends in with the environment instead of overpowering it. Applicant shall have the option of single story or two story homes on those lots identified as two story in the Lot Summaries and Street Section CDP Sheet, and all other homes shall be single story. On 'D' Drive the living area shall be oriented toward the back yard outdoor living area, and that architectural elevation will be high quality in design, to the benefit of the homeowners and as viewed from Rheem Boulevard as part of the scenic corridor. The design standards and specifications shall take into account the Town's Design Guidelines and be included as part of the design review of the Precise Development Plan by the Planning Commission with input from the Design Review Board. Subsequent design review of individual homes and landscape shall be consistent with the approved architectural design standards and specifications, unless amended for a particular home and landscape by the Planning Commission and Design Review Board.

8. The design review for the Precise Development Plan shall include a review of its Green Building Program components, which shall demonstrate how it is expected the project will obtain a score of 90 points (at a minimum) pursuant to the Town's "Build it Green Program." In so doing, the green building design components for each home shall provide at least 90% of its electrical energy target load through a combination of photovoltaic cells and construction design, and shall include solar water heating.

10. The Applicant shall obtain a Conditional Use Permit for each lot that is being developed prior to commencing the design review process. The Conditional Use Permit for each lot will identify its development standards.

IV. Conditions that must be included on the grading plans and be satisfied prior to approval of grading plans

1. The new buildings and other improvements will be designed and built in accordance with the latest UBC, and other code requirements. [**Mitigation Measure 3.20 #1 (for "Ground Shaking Impact")**]

2. The new residential construction and any other site improvements shall:

a. Comply with the provisions of Title 24 of the California Administrative Code, and the most recent edition of the Uniform Building Code, Seismic Zone 4 standards, or local seismic requirements, whichever is most stringent.

b. Meet all of the recommendations included in the August 8, 2002 ENGEO preliminary soil investigation report including:

i. Review of all plans and specification including observation of foundation excavations; and,

ii. Observation and testing of engineering fill, finish subgrade and aggregate base. **[Mitigation Measure 3.20 #10 (for “Expansive Soils Impact”)]**

3. The ENGEO report provides recommended measures for mitigating the effects of shallow groundwater on the project improvements. The following protective measures are to be implemented during the design and construction phase of the project and are to be documented by the project geotechnical engineer:

a. Construction of subdrains in keyways, swales to be filled, overexcavation areas and at the toe of slopes;

b. Construction of subdrains for reconstructed landslide areas and geogrid reinforced slopes; and,

c. Presoaking of slab subgrade area. **[Mitigation Measure 3.20 #4 (for “Groundwater Impact”)]**

4. The impacts from erosion can be mitigated by incorporating appropriate grading and drainage measures into the project design. The final grading plan (and the final Drainage Plan described in Mitigation Measure 3.30 #3) shall provide for positive drainage on building pads and removal of water from foundation areas into area drains and closed pipe systems connected to a suitable drainage facility. The pads should be drained individually so that flow does not move from lot to lot. Slopes should be graded so that water is directed away from the slope face.

Permanent slopes should be protected against erosion through the use of erosion resistant vegetation and jute netting. Temporary erosion control measures such as positive gradients away from slopes, straw bales, silt fences and swales should be used during construction. The implementation of drainage control, and temporary and permanent erosion control measures will result in a less than significant hazard of erosion. **[Mitigation Measure 3.20 #7 (for “Erosion Impact”)]**

5. The Project Sponsor shall comply with all Federal, State and local laws regarding use of hazardous materials at construction sites. The Project Sponsor shall comply with the Town of Moraga code provisions relating to the methods for reducing the potential for fuel spills during construction. **[Mitigation Measure 3.25 #2 (for “Construction-Related Hazardous Materials Impact”)]**

[Note that previous Mitigation Measure 3.35 #1 re 35 lot project water quality basins is not necessary as mitigation for 27 Lot Project as designed, so not a required condition.]

6. The Project Sponsor shall incorporate measures to reduce dust and equipment exhaust emissions into construction plans.

a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences shall be kept damp at all times.

b. Cover all hauling trucks or maintain at least two feet of freeboard. Dust-proof chutes shall be used, if appropriate, to load debris onto trucks during demolition.

c. To prevent blowing dust, pave, or apply water three times daily or as necessary depending upon wind and temperature, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. To ensure that these emissions are less-than-significant, visible dust clouds should be prevented from extending beyond construction sites.

d. Sweep daily (with vacuum sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with vacuum sweepers) if visible soil material is deposited onto the adjacent roads. If water sweepers are utilized, they shall meet the requirements of the SWPPP (such as filtering of runoff to prevent residual materials from entering the drainage system).

e. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas that are inactive for 10 days or more).

f. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.

g. Provide signage to limit traffic speeds on any unpaved roads to 10 mph.

h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

i. Replant vegetation in disturbed areas as quickly as possible.

j. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.

k. Install wind breaks at the westerly or windward side(s) of construction areas.

l. Suspend excavation and grading activity when winds exceed 25 mph and cause visible dust clouds that extend beyond construction boundaries. An on-site wind gauge shall be installed that can be monitored by inspection personnel.

m. Properly maintain construction equipment and avoid unnecessary idling near residences.

n. Designate a disturbance coordinator that would respond to complaints regarding construction-related air quality issues. The phone number for this disturbance coordinator shall be clearly posted at the construction sites. **[Mitigation Measure 3.45 #2 (for “Construction Activities Impact”)]**

7. In the CDP approved by the Planning Commission, potential direct impacts to a total of nine mature native trees (247 cumulative inches) including coast live oak, valley oak, California buckeye, and black walnut, could result from tree removal as well as grading or filling within the dripline. Mitigation for all direct impacts to native trees from that plan were to be mitigated through planting at least 42 container-grown trees (the minimum required in the 2005 Rheem Valley Revegetation Plan) in the designated open space preserve in the re-aligned lower Rheem Boulevard drainage corridor south of “D” Drive or elsewhere within the Conservation Easement. With the CDP Sheets dated December 16, 2010, the direct impacts have been reduced, so the number of container-grown trees required shall be proportionally reduced, too. The locations for mitigation trees shall be identified in the Final Landscape Plan and the final Rheem Valley Revegetation Plan.

Direct impacts to native trees shall be mitigated by planting one 1½ gallon-sized tree or comparable for every six inches of aggregate trunk diameter that is impacted. Replacement trees shall be from local East Bay sources.

As a measure of the successful implementation of this mitigation measure, the survivorship of container plantings shall be at least 80 percent by the third year and 75 percent by the fifth year. In addition, the health and vigor ratings for the tree plantings shall be an average of at least “2” (a good rating) at the end of the five-year monitoring period, as described in the 2005 Rheem Valley Revegetation Plan. **[Mitigation Measure 3.55 #5a (for “Loss of Native Upland Trees”)]**

8. In the CDP approved by the Planning Commission, potential impacts to a total of 55 mature native arroyo willows (1,024 cumulative inches) were to be mitigated through planting of a minimum of 201 container-grown arroyo willows in order to provide at least 1.3 acres of new willow canopy. These mitigation numbers for willows and acreage canopy mitigation shall be reduced proportionally, based on the extent to which the CDP dated December 16, 2010, reduces impacts to willows compared to the Planning Commission plan. The location and number of new arroyo willows and other restoration trees planted in the lower Rheem valley shall be consistent with requirement to provide open views of the project site from Rheem Boulevard, a scenic road, as more fully set forth

in Mitigation Measures 3.35 #4 and 3.55 #4b, with some trees planted in the Coyote Creek area if necessary and as identified in the Final Landscape Plan. A combination of pole cuttings and container plantings shall be incorporated in the revegetation.

The survivorship of all willow container plantings shall be at least 80 percent by the third year and 75 percent by the fifth year. The health and vigor for the tree plantings shall be at least two inches at the end of the five-year monitoring period, as described in the 2005 Rheem Valley Revegetation Plan.

Replacement trees shall be from local East Bay sources. Pole cuttings shall be collected from source trees on site and planting adjacent to existing or constructed water courses where the water table is no more than three feet below the soil surface. Willow pole cuttings shall be collected from dormant donor plants between November and the first of February. Cuttings shall be a minimum of three to five feet long, three-quarters to two inches in diameter at the lower end, and consist of non-succulent stems. To distinguish the top from the bottom, the root end should be cut at an angle during collection, with the top end cut squarely. This will also facilitate inserting the cuttings into the ground. The cuttings shall be planted the same day they are collected, or, if necessary, stored for up to two nights. During interim storage, cuttings will be kept cool and moist, but not wet. Pole cuttings should be stuck into wet ground at least two feet deep. **[Mitigation Measure 3.55 #5b (for “Loss of Native Willows Impact”)]**

9. The 2005 Rheem Valley Revegetation Plan provides for the planting and establishment of at least 243 1.5 gallon-sized native trees. The Plan provides detailed revegetation goals and objectives, conceptual design and typical planting seeding plans, schedule, site preparation, invasive species control, soil salvage, planting and seeding specifications, maintenance, monitoring methodologies, performance standards, reporting, contingency measures, and responsibilities and funding.

The Plan shall be modified by a qualified restoration ecologist to be consistent with the approved CDP Sheets dated December 16, 2010, and the preliminary landscape plan dated September 15, 2010, as it will be modified to be consistent with the CDP. See Mitigation Measure 3.35 #4 and 3.55 #4b, with new trees limited to the lower Rheem valley and located so as not to eliminate open views from Rheem Boulevard, with some trees planted in Coyote Creek if necessary. All restoration trees and their locations shall be identified in the final landscape plan.

Mitigation plantings shall be monitored for no less than five years following completion of plant installation or as otherwise specified in the permit conditions. Annual reports shall be submitted to the Town of Moraga, USACE, CDFG, and RWQCB. The survivorship of container and willow plantings shall be at least 80 percent by the third year and 75 percent by the fifth year. The health and vigor for the tree plantings shall be at least “2” (good) at the end of the five-year monitoring period, as described in the 2005 Plan.

Implementation of the mitigation measures imposed is subject to agency review by resource agencies and, specifically, must meet the requirements and conditions of the CDFG and RWQCB.

The Plan shall be reviewed by the Town biological monitor prior to submittal to the RWQCB, CDFG, and RWQCB for approval.

The areas planted with native trees shall be incorporated in the Final Landscape Plan and mitigation implemented under the direction of a qualified restoration ecologist for the project.

The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be long-term management of wetlands.

All areas planted with native trees, along with an appropriate upland buffer, shall be placed in a permanent conservation easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity, and managed by the GHAD.

Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from the CDFG and RWQCB. **[Mitigation Measure 3.55 #5c (for “Loss of Native Trees Impact”)]**

10. A tree survey of all trees located within 50 feet of the limits of grading on the east side of the ridge shall be prepared by a qualified arborist. Trees shall be tallied as being directly impacted wherever grading overlaps with a tree’s dripline. Direct impacts to protected trees shall be mitigated per the recommendations of a qualified arborist, consistent with the applicable standards in Mitigation Measure 3.55 #5a. **[Mitigation Measure 3.55 #6b (for “Loss of Native Trees on the East Slope”)]**

The final grading plan shall not include grading within the dripline of the single mature valley oak at Lot 7 of the 27 Lot Project, the location of which shall be confirmed by a qualified arborist and consistent with the applicable standards in Mitigation Measure 3.55 #5a. **[Mitigation Measure 3.55 #6a (for “Loss of Native Trees on the East Slope Impact”)]**

11. Prior to the issuance of a grading permit by the Town of Moraga, the Applicant must develop a final plan to handle waste water for lots along ‘C’ Court and ‘B’ Court. If a sewer line extension between the lower end of ‘C’ Court and ‘B’ Court and the Lafayette-Moraga Regional Trail using open trench construction is proposed, a detailed tree survey must be completed within 50 feet of the centerline of the sewer alignment. The alignment itself should be sited to minimize the need to remove native trees, to the maximum extent feasible. If the sewer line extension to the Lafayette-Moraga Regional Trail can be implemented by boring, thus eliminating the need for open trench

construction, a detailed tree survey must be completed within 50 feet of the edge of all construction areas, included but not limited to temporary staging and access areas, boring and receiving pits, or other areas of surface disturbance. Construction-related work areas should be sited to minimize tree removals, grading or stockpiling of soil within the root protection zone of native trees, to the maximum extent feasible. If wastewater is to be handled by use of a lift station to a sewer line on 'E' Street, thereby eliminating entirely the need to connect with the sewer main at the Lafayette-Moraga Regional Trail, no additional tree surveys or mitigation measures are needed. Trees shall be tallied as being directly impacted wherever grading overlaps with a tree's dripline. Direct impacts to protected native trees shall be mitigated, per the recommendations of a qualified arborist and consistent with the applicable standards in Mitigation Measure 3.55 #5. **[Mitigation Measure 3.55 #6c (for "Loss of Native Trees on the East Slope Impact")]**

12. As part of the Clean Water Act permitting process, the USACE must assess the potential for a project to have an adverse effect on endangered species. A general condition of the authorization from the USACE to fill wetlands is that the proposed activities would not jeopardize any listed species. The USACE has been provided a copy of the CRLF Site Assessment (Wood Biological Consulting and Rana Resources 2003a). The USACE has initiated consultation with the USFWS. Before work could proceed, a permit would be required from the USACE. The permit would include conditions of approval intended to ensure no "take" of CRLF would result. In addition to the mitigation measures outlined below, additional mitigation in the form of habitat preservation, creation and/or enhancement might be warranted, based on review by USFWS. Evidence that the Project Sponsor has complied with the requirements of these agencies shall be submitted to the Town of Moraga prior to issuance of any grading or building permits. **[Mitigation Measure 3.55 #9a (for "California Red-Legged Frog Impact")]**

13. The 2005 Wetland/Special-Status Species Plan to offset impacts to potential CRLF dispersal habitat shall be modified by a qualified biologist to be consistent with the CDP Sheets dated December 16, 2010, and the preliminary landscape plans dated September 15, 2010, as modified to be consistent with the CDP Sheets. The Plan shall be submitted to the USACE, RWQCB, CDFG, USFWS, and the Town of Moraga for review and approval. At a minimum, all measures outlined in the Plan, including implementation of the grazing management plan, and invasive species control, shall be implemented. Additional mitigation measures may be required by the regulatory agencies. The following measures shall be implemented as part of the final Wetland/Special-Status Species Plan:

a. A total of approximately 163 acres of grassland, scrub and oak woodland shall be designated as a permanent conservation easement, or other suitable deed restriction, and conveyed to the Town of Moraga or a third-party entity approved by the Town, USFWS and CDFG for preservation in perpetuity;

b. Enhance suitable CRLF dispersal habitat in the Coyote Creek corridor by implementation of the grazing management plan described in 2005 Plan;

- c. The eastern edge of the Coyote Creek corridor shall be protected from grazing by a permanent fence to exclude livestock from the channel banks;
- d. Existing springs within any areas proposed for grazing shall be fenced to exclude livestock. If access to water is required, water may be piped from the springs to water troughs outside of the enclosure fencing.
- e. Adaptive management shall be utilized to identify and respond to problems that arise and which threaten to degrade potential CRLF dispersal habitat;
- f. Signs shall be installed identifying the site as a sensitive habitat area;
- g. Habitats within the Conservation Easement shall be monitored in the spring and fall for no less than five years following installation of fencing;
- h. An education brochure shall be produced for future homeowners describing the purpose of the conservation easement and other mitigation measures, the species and habitats being protected, prohibited activities, and homeowner responsibilities;
- i. Monitoring of the average grass height shall be conducted one month after “green-up” following the first inch of rain. Around mid-March, and monthly thereafter, average grass height shall be monitored to determine the residual dry matter level and timing of grazing cessation, adjusting grazing levels, or the need for supplemental feeding for no less than five years;
- j. Annual reports documenting observations made during monitoring visits shall be submitted to the USACE, RWQCB, CDFG, and USFWS, by the end of each calendar year for no less than five years;
- k. Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from all relevant regulatory agencies;
- l. At the end of the five-year monitoring period, the Project Sponsor shall coordinate with the Town of Moraga, USACE, USFWS, CDFG and RWQCB to determine if the success standards have been achieved. If the permit conditions have not been met, the agencies will identify the appropriate remedial measures. The Project Sponsor shall be responsible for completing all remedial measures and achieving sign-off from the agencies;
- m. The final Wetland/Special-Status Species Plan shall provide details of on-going monitoring and maintenance to be implemented in perpetuity, as part of the Open Space Management Plan.

n. The Geologic Hazard Abatement District (GHAD) formed by the Town Council shall be responsible for the long-term management of the project open space, including special status species habitat that may be present. Its formation is more fully described in Mitigation Measure 3.20 #5a. The GHAD shall have sufficient permanent funding for the estimated costs of the following functions: (a) monitoring and annual reporting, (b) weeding, trail maintenance, erosion control and repair, grazing management, and fence repair, and (c) a designated preserve manager to periodically visit the site and report to the District and the Town of Moraga. Funding sources for the GHAD may include seed money provided by the Project Sponsor, annual contributions from homeowners, and income from grazing leases. The actions of the GHAD in meeting its responsibilities, including the adequacy of permanent funding from the Project Sponsor and project homeowners, shall be subject to Town review, direction and control. All Town costs shall be paid by the GHAD. Alternatively, the Project Sponsor shall establish an endowment to provide for its maintenance and monitoring. No grading or building permits shall be issued by the Town until the funding sources has been agreed upon and secured. **[Mitigation Measure 3.55 #9b (for “Red-Legged Frog Impact”)]**

If any grading and filling of the Rheem Boulevard drainage is necessary, it could result in direct mortalities of CRLF present during construction. Construction within the tributary should be initiated after the peak season of CRLF dispersal (after May 1). Pre-construction surveys by a qualified wildlife biologist shall be conducted no more than 48 hours prior to clearing and grubbing the site (e.g., two night surveys immediately prior to construction), or as otherwise required by the USFWS. If CRLF are encountered, work must cease immediately and the USFWS must be contacted for further instructions. If no CRLF are encountered, the site may be considered ready for construction. **[Mitigation Measure 3.55 #9c (for “Red-Legged Frog Impact”)]**

All grading in and around creeks and wetlands shall conform to permit conditions issued by USACE, CDFG, RWQCB, and USFWS, intended to preserve habitats, water quality, and avoid “take” of CRLF. **[Mitigation Measure 3.55 #9d (for “Red-Legged Frog Impact”)]**

Sensitive areas adjacent to but outside of the construction footprint shall be designated as such on construction plans, and shall be protected by orange construction fencing. **[Mitigation Measure 3.55 #9e (for “Red-Legged Frog Impact”)]**

Educational materials shall be prepared and provided to construction workers outlining measures to reduce or eliminate direct and indirect impacts to special-status species. Workers shall be required to sign a statement to the effect that they have received the educational materials regarding special-status species and that they understand that they will be responsible for impacts that occur as a result of worker negligence. **[Mitigation Measure 3.55 #9f (for “Red-Legged Frog Impact”)]**

14. As part of the Clean Water Act permitting process, the USACE must assess the potential for a project to have an adverse effect on endangered species. A general condition of the authorization from the USACE to fill wetlands is that the proposed activities would not jeopardize any listed species. The USACE shall be provided a copy of the AWS Site Assessment (Wood Biological Consulting and Rana Resources 2003b). The USACE has initiated consultation with the USFWS under Section 7 of the ESA. Before work could proceed, a permit is required from the USACE, and potentially the issuance of a Biological Opinion and/or incidental take permit by the USFWS. The permit and Biological Opinion will include conditions of approval intended to ensure no “take” of AWS would result. In addition to the mitigation measures outlined below, additional mitigation in the form of habitat preservation, creation and/or enhancement might be warranted, based on review by USFWS. Evidence that the Project Sponsor has complied with the requirements of these agencies shall be submitted to the Town of Moraga prior to issuance of any grading or building permits. [**Mitigation Measure 3.55 #10a (for “Direct Impacts to Alameda Whipsnake”)**]

The 2005 Wetland/Special-Status Species Plan shall be modified to be consistent with the CDP Sheets dated December 16, 2010, and the preliminary landscape plans dated September 15, 2010, as modified to be consistent with the December CDP Sheets, and submitted to the USACE, RWQCB, CDFG, USFWS, and the Town of Moraga for review and approval. At a minimum, all measures outlined in the Plan, including implementation of the grazing management plan, and invasive species control, shall be implemented. Additional mitigation measures may be required by the regulatory agencies. The following measures shall be implemented:

- a. A total of approximately 163 acres of grassland, scrub and oak woodland shall be designated as a permanent conservation easement, and conveyed to a third-party entity approved by the USFWS and CDFG for preservation in perpetuity;
- b. Enhance suitable AWS dispersal habitat by implementation of the grazing management plan described in Sycamore (2005b);
- c. A minimum of eight rock piles covering 25 square feet and 3-4 feet in height shall be created using sandstone boulders salvaged on site during excavation;
- d. Bare soil areas associated with the boulder placement sites shall be broadcast seeded using the native shrub and grassland mix described in Sycamore (2005b);
- e. Scrub habitat below the old ranch road shall be fenced with permanent fencing to exclude grazing livestock;
- f. Existing springs within any areas proposed for grazing shall be fenced to exclude livestock. If access to water is required, water may be piped from the springs to water troughs outside of the enclosure fencing;

g. Adaptive management shall be utilized to identify and respond to problems that arise and which threaten to degrade potential AWS dispersal habitat;

h. Signs shall be installed identifying the site as a sensitive habitat area;

i. Habitats within the conservation easement shall be monitored in the spring and fall for no less than five years following installation of fencing and placement of boulder piles;

j. An education brochure shall be produced for future homeowners describing the purpose of the conservation easement and other mitigation measures, the species and habitats being protected, prohibited activities, and homeowner responsibilities;

k. Monitoring of the average grass height shall be conducted one month after “green-up” following the first inch of rain. Around mid-March, and monthly thereafter, average grass height shall be monitored to determine the residual dry matter level and timing of grazing cessation, adjusting grazing levels, or the need for supplemental feeding for no less than five years;

l. Annual reports shall be submitted to the USACE, RWQCB, CDFG, and USFWS, by the end of each calendar year for no less than five years;

m. Prior to the issuance of grading permits by the Town of Moraga, the Project Sponsor shall provide evidence of the required approvals from all relevant regulatory agencies;

n. At the end of the five-year monitoring period, the Project Sponsor shall coordinate with the USACE, USFWS, CDFG and RWQCB to determine if the success standards have been achieved. If the permit conditions have not been met, the agencies will identify the appropriate remedial measures. The Project Sponsor shall be responsible for completing all remedial measures and achieving sign-off from the agencies;

o. The Plan shall provide details of on-going monitoring and maintenance to be implemented in perpetuity, as part of the Open Space Management Plan, as more fully described in Mitigation Measure 3.55 #9b, subsection 14. **[Mitigation Measure 3.55 #10b (for “Direct Impacts to Alameda Whipsnake”)]**

15. Brush clearing and grading could result in direct mortalities of AWS present during construction. Initial brush clearing and surface grading should be initiated after the peak season of AWS dispersal (after June 1). Pre-construction surveys by a qualified wildlife biologist shall be conducted no more than 24 hours prior to clearing and grubbing the site. If AWS should be encountered, the USFWS would be contacted for further instructions. If no AWS were encountered, the site could be considered ready for construction. A biologist shall be present to supervise brush removal until the site has

been cleared of vegetation. The role of the biological monitor will be to ensure that no take of AWS occurs. The biological monitor shall also move other common wildlife species out of harm's way during removal of surface vegetation. Monthly construction monitoring reports shall be prepared by the biological monitor and submitted to the Town, USFWS, and CDFG. [**Mitigation Measure 3.55 #10c** (for "*Direct Impacts to Alameda Whipsnake*")]

16. All grading and construction activities shall conform to permit conditions issued by USACE, CDFG, RWQCB, and USFWS, intended to preserve habitats and avoid "take" of AWS. [**Mitigation Measure 3.55 #10d** (for "*Direct Impacts to Alameda Whipsnake*")]

17. Sensitive areas adjacent to but outside of the construction footprint shall be designated as such on construction plans, and shall be protected from encroachment by construction workers and equipment by orange construction fencing. [**Mitigation Measure 3.55 #10e** (for "*Direct Impacts to Alameda Whipsnake*")]

18. Educational materials shall be prepared and provided to construction workers outlining measures to reduce or eliminate direct and indirect impacts to special-status species. Workers shall be required to sign a statement to the effect that they have received the educational materials regarding special-status species and that they understand that they shall be responsible for impacts that occur as a result of worker negligence. [**Mitigation Measure 3.55 #10f** (for "*Direct Impacts to Alameda Whipsnake*")]

19. Active nesting sites of migratory birds including raptors are protected under the Migratory Bird Treaty Act and the California Fish and Game Code. In order to ensure that occupied nests of migratory birds are not impacted, land-clearing activities (grading, grubbing and clearing of vegetation, or the removal or trimming of trees) shall be performed between September 1 and January 30. [**Mitigation Measure 3.55 #12a** (for "*Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, and Occupied Nests*")]

20. If land-clearing activities are scheduled to commence between February 1 and August 31, a pre-construction survey for nesting migratory birds shall be conducted prior to any destruction of suitable nesting habitat. Depending on time of year and results of the pre-construction surveys, construction activities may require commencement within one week of the survey or, at a maximum, within 30 days, as recommended by the wildlife biologist. The survey area shall include all large trees, grassland and scrub habitat within a 250-foot buffer zone of the limits of work. The purpose of pre-construction surveys is to determine if occupied nests are present within a reasonable area that would be subject to direct impacts or disruption during construction. [**Mitigation Measure 3.55 #12b** (for "*Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, and Occupied Nests*")]

21. If occupied migratory bird nests are detected, grading and construction in the area may continue only after the nests are protected by an adequate setback (in general, 50 feet for passerines and 250 feet for raptors) approved by a qualified biologist in consultation with the CDFG, or after young birds have fledged. Nest sites may only be impacted after a qualified biologist has verified that migratory birds have either 1) not begun egg-laying and incubation, or 2) that the juveniles from those nests are foraging independently and capable of independent survival at an earlier date. **[Mitigation Measure 3.55 #12c (for “Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, and Occupied Nests”)]**

22. Prior to removing oak trees and large snags, pre-construction surveys shall be conducted to check for the presence of bats. A pre-construction survey for bats shall be conducted no more than 30 days prior to the removal of any large tree. The survey shall be conducted by a qualified wildlife biologist. If no evidence of bat roosting is identified during the pre-construction survey, then no impacts to bats would be expected to occur from tree removal. If evidence of bat roosting is identified, a focused survey by a qualified wildlife biologist shall be performed to determine the species present, number of individuals present, and their reproductive status. Appropriate mitigation measures shall be developed to protect roosting bats in consultation with the CDFG. **[Mitigation Measure 3.55 #12d (for Direct Impacts to Active Bat Roosts”)]**

23. The presence of any maternity sites shall be reported to the California Natural Diversity Database (CNDDDB). **[Mitigation Measure 3.55 #12e (for “Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, Occupied Nests, and Active Bat Roosts”)]**

24. All sensitive habitat areas to be avoided shall be clearly marked on project maps and provided to the contractor. These areas shall be designated as “no construction” or “limited construction” zones. These areas shall be flagged in the field, as approved by the project biologist, prior to the initiation of construction activities. In some cases, resources may need to be fenced or otherwise protected from direct or indirect impacts, as determined by the project biologist. Contractors shall be provided with copies of all state and federal permit conditions and shall be made aware of the consequences for non-compliance. **[Mitigation Measure 3.55 #13a (for “Direct Impacts on Sensitive Plant Communities”)]**

25. Heavy equipment and construction activities shall be restricted to existing roadways and development areas, and vehicle access through creeks shall be prohibited, except where specifically authorized and permitted. Creeks, wetlands, woodland and scrub habitat not within the development envelope shall be designated as off-limits; their use for staging areas, equipment storage, and disposal or temporary placement of excess fill shall be prohibited. **[Mitigation Measure 3.55 #13b (for “Direct Impacts on Sensitive Plant Communities”)]**

26. Equipment maintenance and fueling areas shall not be located within 100 feet of any creek or wetland. All fuel and hydraulic fluid spills shall be contained within the maintenance area and managed appropriately. Equipment maintenance areas shall be indicated on grading plans. **[Mitigation Measure 3.55 #13c (for “Direct Impacts on Sensitive Plant Communities”)]**

27. Oak trees outside the impact area shall be protected with construction fencing where grading comes within 100 feet of the drip line. **[Mitigation Measure 3.55 #13d (for “Direct Impacts on Sensitive Plant Communities”)]**

28. The primary indirect effects of construction projects adjacent to streams or drainages involve 1) increased erosion due to the clearing of existing vegetation and the exposure of the bare soil surface and 2) degradation of offsite (e.g., downstream) riparian or wetland habitat by excessive sedimentation. The effects of erosion can be decreased by collecting surface water runoff in desilting ponds before releasing the water into natural drainages. Erosion and sedimentation impacts can be further minimized by employing standard erosion control procedures such the use of sandbags, silt fences, hay bales, diversion ditches, desilting ponds, and undertaking stream bank stabilization procedures. Best Management Practices (BMPs) shall be in place during construction. All bare slopes shall be seeded with an appropriate seed mix to be reviewed and approved by a qualified restoration biologist. **[Mitigation Measure 3.55 #13e (for “Direct Impacts on Sensitive Plant Communities”)]**

29. Although there is little information on the effects of dust on plant life, there is some indication that excessive dust can reduce the overall vigor of some plant species by reducing their ability to photosynthesize and by increasing their susceptibility to pests or disease. While any noticeable adverse impact from dust would likely require long-term exposure, preventive measures shall be included in the construction documents for the project. Fugitive dust emissions caused by prolonged grading activities shall be mitigated by employing standard air quality control procedures as noted in Air Quality (Mitigation Measure 3.45 #2). **[Mitigation Measure 3.55 #13f (for “Direct Impacts on Sensitive Plant Communities”)]**

30. A total of approximately 163 acres of undeveloped land consisting of existing grasslands, oak woodland, intermittent channels, and seeps, would be designated as permanently preserved open space and placed into a conservation easement, appropriate deed restrictions, or as otherwise stipulated by the resource agencies. The 2005 Wetland/Special-Status Species Plan provides guidance on managing and monitoring preserved aquatic and upland habitat for special-status and common wildlife species. Details of the Plan and the required measures are outlined in Mitigation Measures 3.55 #9b and #10b, above. The Plan shall be modified to be consistent with the 27 Lot Project preliminary landscape plans, dated September 15, 2010, as shall be modified to be consistent with the CDP Sheets dated December 16, 2010. **[Mitigation Measure 3.55**

#15a (for “Degradation of Wildlife Habitats and Decrease in the Carrying Capacity for Wildlife and Special-Status Species Impact”)]

31. The Project Sponsor shall retain the responsibility for these activities as the permittee until final sign off by the regulatory agencies and the Town of Moraga, presumably after five years. **[Mitigation Measure 3.55 #15b (for “Degradation of Wildlife Habitats and Decrease in the Carrying Capacity for Wildlife and Special-Status Species Impact”)]**

32. The Wetland/Special-Status Species Plan shall provide details of on-going monitoring and maintenance to be implemented in perpetuity, and incorporated as part of the Open Space Management Plan, as more fully described in Mitigation Measure 3.55 #9b, subsection 14. **[Mitigation Measure 3.55 #15c (for “Degradation of Wildlife Habitats and Decrease in the Carrying Capacity for Wildlife and Special-Status Species Impact”)]**

33. To ensure the long-term management of the open space, the Project Sponsor shall request the Town Council to approve a Geologic Hazard Abatement District (GHAD) to provide for the maintenance and monitoring of sensitive plant communities. The GHAD shall provide sufficient funding in perpetuity for the following, among its other, functions: (i) monitoring and annual reporting, (ii) weeding, trail maintenance, erosion control/repair, and fence repair, and (iii) retaining a designated biologist to periodically visit the site and report to the Town of Moraga. **[Mitigation Measure 3.55 #22a (for “Invasive Plant Species Impact”)]**

34. An HOA or GHAD shall assume responsibility for ensuring proper management of secured waste receptacles. Future residents shall be provided with guidelines for safely co-existing with wildlife. Leaving pet food out-of-doors shall be prohibited, unless in a fully fenced kennel. In addition, trash receptacles shall have tight-fitting lids to discourage wildlife from using as forage. **[Mitigation Measure 3.55 #16a (for “California Red-Legged Frog Impact”)]**

35. The 2005 Wetland/Special-Status Species Plan has been developed to provide guidance on managing and monitoring preserved aquatic and upland habitat for special-status, including CRLF. It shall be modified to be consistent with the 27 Lot Project preliminary landscape plans, dated September 15, 2010, as modified to be consistent with the CDP Sheets dated December 16, 2010. Details of the Plan and the required measures relative to CRLF are outlined in Mitigation Measures 3.55 #9b, above. **[Mitigation Measure 3.55 #16b (for “California Red-Legged Frog Impact”)]**

36. Any proposed revegetation of the Rheem Boulevard drainage shall not include the construction of perennial ponds or any year-round water features to avoid attracting CRLF. Mitigation habitats shall be consistent with those present on site currently, specifically, woody riparian, seasonal wetlands, and annual grasslands. Dispersing CRLF would not be inclined to remain on site, reducing the likelihood that

individuals would be subject to predation. [**Mitigation Measure 3.55 #17a (for “Indirect Recreational Effects on California Red-Legged Frog Impact”)**]

37. Although not proposed in the 27 Lot Project, grading and filling of the Rheem Boulevard drainage could result in short-term sedimentation and temporary loss of potential dispersal routes for CRLF. Appropriate sedimentation controls shall be designed, installed, and maintained during construction to prevent the accumulation of sediment in the tributary downstream of the construction site. Grading shall be performed outside of the peak season of CRLF dispersal to reduce the likelihood of individuals migrating into the construction area. The optimal season for grading corresponds with the driest months of the year, before the onset of fall or winter rains. Periodic monitoring shall be performed by a qualified wildlife biologist, as required in permit conditions. A silt fence and construction fence barrier shall be erected around the site to prevent construction workers from straying outside the construction site and preventing frogs from potentially accessing the site. The fence shall be monitored weekly by a qualified wildlife biologist to make sure it is properly maintained. Additional permit conditions by the resource agencies could be imposed on the project. [**Mitigation Measure 3.55 #18 (for “Indirect Impacts to California Red-Legged Frog Habitat”)**]

38. Any proposed revegetation of the Rheem Boulevard drainage shall not include the construction of perennial ponds or any year-round water features, which would attract tree frogs or other AWS prey species. Mitigation habitats shall be consistent with those present on site currently, specifically, woody riparian, seasonal wetlands, and annual grasslands. Such habitats would continue to provide the same functions as those lost to construction. Dispersing AWS individuals would not be inclined to remain, reducing the likelihood that individuals would be more subject to predation. [**Mitigation Measure 3.55 #19 (for “Indirect Effects on Alameda Whipsnake Impact”)**]

The proposed revegetation of the re-aligned Rheem Boulevard drainage shall not include the construction of perennial ponds or any year-round water features, which would attract tree frogs or other AWS prey species. Mitigation habitats shall be consistent with those present on site currently, specifically, woody riparian, seasonal wetlands, and annual grasslands. Such habitats would continue to provide the same functions as those lost to construction. Dispersing AWS individuals would not be inclined to remain, reducing the likelihood that individuals would be more subject to predation.

Creation of rock piles for AWS shall not be located near any high activity areas such as trail heads to lessen the chance of disturbance by humans. [**Mitigation Measure 3.55 #20a (for “Recreational Impacts on Alameda Whipsnake”)**]

Mitigation Measure 3.55 #20b: The 2005 Wetland/Special-Status Species Plan provides guidance on managing and monitoring preserved aquatic and upland habitat for special-status and common wildlife species (see Mitigation Measures 3.55 #9b and #10b). The Plan shall be modified to be consistent with the 27 Lot Project preliminary landscape

plans, dated September 15, 2010, as modified to be consistent with the CDP Sheets dated December 15, 2010.

[Mitigation Measure 3.55 #20b (for “Recreational Impacts on Alameda Whipsnake”)]

39. The 2005 Wetland/Special-Status Species Plan outlines measures to eradicate the existing infestation of artichoke thistle throughout the site, including the conservation easement or other appropriate deed restrictions. The plan also includes a grazing management plan intended to prevent over-grazing of the conservation easement lands, which would aid in the control of detrimental invasive species. The measures outlined in the final Plan shall be paid for and administered by the Geologic Hazard Abatement District (GHAD) and confirmed in reports to the Town by the ecologist monitor. **[Mitigation Measure 3.55 #22b (for “Invasive Species Impact”)]**

40. Final grading plans showing the interface between the fill area for the ‘D’ Drive entry and on the slope below ‘D’ Drive and the existing channel grade downstream shall consider and remediate the potential for disruption of wildlife movement along the Rheem Boulevard drainage corridor. **[Mitigation Measure 3.55 #24b (for “Interruption to and Loss of Wildlife Movement Corridors”)]**

41. Erosion and sedimentation impacts shall be minimized by employing standard erosion control procedures such the use of sandbags, silt fences, hay bales, diversion ditches, desilting ponds, and undertaking stream bank stabilization procedures. Best Management Practices shall be in place during construction. All bare slopes shall be seeded with an appropriate seed mix to be reviewed and approved by a qualified restoration biologist. **[Mitigation Measure 3.55 #26a (for “Grading Impacts on Biological Resources”)]**

42. Upon completion of surface disturbances, bare ground shall be seeded with a mixture of native species indigenous to the geographic region including native perennial grasses to increase the diversity of the grassland cove prior to the onset of fall rains. Highly invasive annuals often included in commercial erosion control mixes shall not be used. The proposed erosion control seed mix shall be reviewed and approved by a qualified restoration ecologist. Under no circumstances shall the revegetation effort include any species appearing on the California Invasive Plant Council’s Invasive Plant Inventory (available at <http://www.cal-ipc.org/ip/inventory/weedlist.php>). **[Mitigation Measure 3.55 #26b (for “Grading Impacts on Biological Resources”)]**

43. The Project Sponsor shall incorporate Best Management Practices (BMPs) into the project design to minimize incremental contamination of downstream aquatic habitats. Specific measures addressing erosion and sedimentation, non-point source pollution, and peak runoff volumes will be required under Contra Costa County’s C3 requirements and by the RWQCB as a condition of issuance of a water quality certification, pursuant to Section 401 of the Clean Water Act. (See 3.30, Hydrology and

Drainage and Water Quality Mitigation Measure 3.30 #3.) [**Mitigation Measure 3.55 #29**
(for “*Pollutants Impacts on Biological Resources*”)]

44. Mature native oaks shall be protected in the planning area, and disturbance within the tree drip line minimized, to the maximum extent feasible. Any incidental tree impacts shall be mitigated. Mature native oaks shall be protected from disturbance through restrictions on siting of structures and landscaping on each lot. Plans for house and landscape improvements shall be reviewed by a certified arborist to ensure that oaks are adequately protected and their long-term health not compromised. [**Mitigation Measure 3.55 #30** (for “*Long-Term Adverse Effects on Native Oak Trees*”)]

45. The preferred mitigation measure is to avoid impacts to populations of semaphore grass, floating water primrose and Davy manna grass, regionally significant species as identified in Lake (2004). However, it is not known to what degree grading in the vicinity of the population would affect its long-term viability. Because grading is part of a larger slope stabilization effort, merely avoiding direct impacts are not likely to ensure their survival. Nonetheless, the first goal should be avoidance. Therefore, the Project Sponsor shall investigate the feasibility of avoiding these populations and maintaining the hydrologic conditions that support them.

- the population sizes shall be estimated during the spring when plants are in flower and readily identifiable;
- it shall be determined if plants of semaphore grass on site are annuals or perennials;
- seeds shall be collected from all three species and stored for subsequent sowing the following fall;
- if determined to be perennial, plants of semaphore grass shall be salvaged and grown in containers for subsequent transplantation during the following winter;
- plants of the perennial species Davy manna grass and floating water primrose shall be salvaged and grown in containers for subsequent transplantation during the following winter;
- seeds (and plants) shall be transferred to the suitable locations on site; and,
- specific methods for preparing the site, sowing, planting, and monitoring shall be prepared and submitted to the CDFG for review and approval as part of the Streambed Alteration

Agreement. The mitigation plan shall include success standards and remedial measures that must be performed in the event the success standards are not met. [**Mitigation Measure 3.55 #31 (for “Impacts to Semaphore, Floating Water Primrose and Davy Mannagrass”)**]

46. The Project Sponsor shall be required to complete a construction debris recycling plan indicating that they will comply with the Town’s requirement for diversion of construction and demolition debris per the Town’s ordinance. Compliance with this will help maintain the Town’s 50 percent diversion. [**Mitigation Measure 3.66 #2 (for “Solid Waste Disposal Impact”)**]

47. If archaeological remains are uncovered, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).

All cultural materials recovered as part of the monitoring program shall be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards.

Prior to completion of the grading plan the Project Sponsor shall ensure that an archaeologist had evaluated the artifacts discovered by a neighbor. [**Mitigation Measure 3.70 #1 (for “Archeological Resources Impact”)**]

48. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossils recovery, if warranted. [**Mitigation Measure 3.70 #2 (for “Archeological Resources Impact”)**]

49. If human remains are encountered, excavation or disturbance of the location shall be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines the remains are Native American, the coroner will contact the Native American Heritage Commission. The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity. [**Mitigation Measure 3.70 #3 (for Archeological Resources Impact”)**]

V. Conditions that must be satisfied prior to approval of improvement plans for the Final Subdivision Map

1. The ENGEO report recommends that within proposed fill areas, soils subject to creep are to be removed prior to fill placement. Alternately, improvements should be set back from potential creep zones, or below grade retaining walls and deepened foundations could be used to minimize potential creep impacts. These measures, or other appropriate measures as recommended by the geotechnical engineer and subject to the review and approval by the Town Engineer, shall be incorporated onto the foundation and site improvement plans and shall be verified and tested by the project geotechnical consultant. **[Mitigation Measure 3.20 #6 (for “Soil Creep Impact”)]**

2. The Project Sponsor shall follow the recommendations contained in the ENGEO report that deep fills be placed at a higher relative compaction and that the fill be moisture conditioned to above optimum moisture as determined from future design-level geotechnical testing and analysis. The placement of residence foundations on cut and fill building pads should utilize methods that will minimize differential settlements as determined by further study. Techniques that can be used to mitigate differential settlement on compound lots include such measures as overcutting and replacing the cut portion with an engineered fill cushion and the use of a rigid type foundation such as drilled pier and grade beam or structural slab. These measures shall be implemented during the design and construction phase. **[Mitigation Measure 3.20 #9 (for “Geology and Soils Impact on Building Pads”)]**

3. The new residential construction and any other site improvements shall:

a. Comply with the provisions of Title 24 of the California Administrative Code, and the most recent edition of the Uniform Building Code, Seismic Zone 4 standards, or local seismic requirements, whichever is most stringent.

b. Meet all of the recommendations included in the August 8, 2002 ENGEO preliminary soil investigation report including:

i. Review of all plans and specification including observation of foundation excavations; and,

ii. Observation and testing of engineering fill, finish subgrade and aggregate base. **[Mitigation Measure 3.20 #10 (for “Geology and Soils Impact on Building Foundations”)]**

4. The final Drainage Plan shall identify appropriate BMPs for erosion and siltation control. A “Notice of Intent” shall be prepared which conforms to the

SFBWQCB's general permit for storm water discharge under the National Pollutant Discharge Elimination System, including Provision C3, and Storm Water Pollution Prevention Plan. The following performance standards shall be met:

a. During project construction, all exposed soil and other fill shall be permanently stabilized at the earliest practicable date;

b. All drainages shall be fenced to preclude grazing animals from entering into the drainages and exacerbating erosion;

c. Suitable storm drainage control system and permanent landscaping shall be provided as part of the construction and ongoing operation of the project. If runoff is widely dispersed on the existing grasslands, potential pollutants common to a development of this size may be absorbed before reaching an active stream;

d. The project shall include recharge-contaminant interceptors (grease interceptors and storm drain filtration) as part of the SWPPP;

e. The final Drainage Plan shall be prepared by a registered Civil Engineer (or other licensed professional acceptable to the Town) and reviewed and approved by the Town Engineer, and it shall include, as a minimum, the following provisions that must be adhered to post construction:

i. The Project Sponsor shall prepare a pavement cleaning and maintenance program, which shall, at a minimum, consist of regular street cleaning and asphalt maintenance program for all on-site roads and parking areas.

ii. The Project Sponsor shall prepare a three-part program designed to limit direct disposal of contaminants into streets and storm drains that shall be monitored and maintained, in perpetuity by the HOA:

- labeling all catch basins - "No Dumping - Drains to Creek";
- strictly limiting the use of non-biodegradable fertilizers or pesticides; and,
- prohibiting the regular washing or maintenance of vehicles in paved areas that drain directly into the storm drain system. [**Mitigation Measure 3.30 #3 (for "Water Quality Impact")**]

5. The following construction mitigation shall be implemented:

a. Construction Scheduling: Limit noise-generating construction activities, including truck traffic coming to and from the site for any purpose, to daytime, weekdays, and non-holiday hours (8:00 am to 5:00 pm). No engine idling between 8 am or after shall be allowed.

b. Construction Equipment Mufflers and Maintenance: Properly muffle and maintain all construction equipment powered by internal combustion engines.

c. Equipment Location and Shielding: Locate all stationary noise-generating construction equipment, such as air compressors, as far as practical from existing nearby residences and other noise-sensitive land uses. Acoustically shield such equipment with temporary solid barriers (e.g., plywood).

d. Quiet Equipment Selection: Select quiet construction equipment (e.g., equipment which includes noise control devices such as mufflers), particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order.

e. Notification: Notify neighbors located adjacent to the construction site of the construction schedule in writing. Notification shall be at least one week prior to commencement of construction.

f. Disturbance Coordinator: Designate a "noise disturbance coordinator" (hired by the Town of Moraga and paid for by the Applicant) who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. [**Mitigation Measure 3.50 #2 (for "Construction Activities Impact on Noise Levels")**]

6. A Fire Protection Plan shall be included as part of the Open Space Management Plan. The following measures (identified by the Fire District) will reduce the risk of wildland fires and should be incorporated in the Fire Protection Plan.

a. Maximum grade for an emergency access road (if one is proposed) shall not exceed 20 percent. Emergency vehicle access (EVA) shall meet the requirements for fire department access as indicated in the Fire Code (minimum width of 20 feet with an all-weather road surface capable of supporting the imposed weight of fire department apparatus).

b. The Fire District shall reserve the right to review the development plan as it relates to the existing fire trail system. Firefighting equipment access shall be

provided to all areas of the project site in accordance with fire access standards of the Fire District and the adopted Uniform Fire Code at the time of project approval.

c. All housing shall be constructed with fire retardant roofing, interior sprinklers, and ignition resistant construction features as defined in Chapter 7A of the California Building Code. Landscaping around homes shall be designed to minimize the interface between grassland areas and residences (e.g., fire resistant vegetation).

d. The Fire Protection Plan shall include a fire safety component (to keep fire risk at reasonable levels in open space areas) subject to the approval of the Fire District. The plan shall identify vegetation mitigation and control, maintenance intervals and responsibility, restrictions on vehicle access, water supply and long-term risk management and other criteria as required by the Fire Marshal. Minimum standards for plan review are available from the Fire District. An annual inspection report for compliance shall be submitted to the Fire Marshal for approval. Annual inspection fees shall be paid by the GHAD.

e. Private road cross sections shall be as shown on CDP Sheet 2, Lot Summaries and Street Sections, dated December 16, 2010, other than for 'E' Street and 'E' Street/Fay Hill Road. That access road shall be as shown on the southern plateau Access Road Sections dated December 30, 2010, which shows a 34 ft. all weather drivable surface, no grades in excess of 20%, requires a grooved concrete surface for the short section with a grade between 16% and 20%, and prohibits parking on either side of the road. This plan sheet is incorporated as part of the CDP Sheets approved by the Town Council. With these revised street sections and the requirements in the Fire Protection Plan, the Fire Marshall has confirmed the Fire District does not require a secondary emergency vehicle access for the southern plateau development area. The Town Engineer and Fire District shall approve the final private road improvements to confirm consistency with the CDP approvals with respect to private roads.

[Mitigation Measure 3.61 #1 (for "Wildland Fires Impact")]

7. The Project Sponsor shall provide a Fire Protection Plan that ensures that:
 - a. The project is designed to be consistent with the Town's emergency evacuation plan.
 - b. The water lines serving the project shall provide continuous water flow and adequate pressure for fire suppression.
 - c. All residences shall be no more than the distance required by the Uniform Fire Code from a fire hydrant.
 - d. Project design, including street alignment, shall be such that emergency vehicles have full access to the site.

- e. Residential buildings shall be equipped with residential fire sprinklers per the Fire Code at the time of project approval.
- f. Water supply for fire flow water shall meet the most current Fire Code at the time of project approval.
- g. The project shall pay fire flow tax. The rate is based on fire protection systems and square footage.

[Mitigation Measure 3.61 #2 (for “Fire Protection Impact”)]

8. The storm drainage design in the improvement plans shall provide for at least no net increase in peak hour stormwater discharge off site under post-development conditions compared to the existing conditions, as outlined in Conditions II.2-4 above.

9. The Project Sponsor shall prepare CC&Rs that shall prohibit unleashed pets outside of the owner’s private property (e.g., within areas held in conservation easement or in open space). Signs shall be posted at the edges of open space areas identifying the areas as sensitive wildlife habitat and stating that leash laws are enforced by the HOA, GHAD, Contra Costa Animal Control, and the Moraga Police Department. This prohibition shall enforceable by the HOA, GHAD and Town. **[Mitigation Measure 3.55 #25 (for “Interruption to and Loss of Wildlife Movement Corridors Impact”)]**

10. Physical barriers shall be installed by the Project Sponsor to prevent vehicles and motorcycles from traveling off designated roadways to minimize future disturbance to grassland cover and other vegetation in the surrounding undeveloped lands and open space. The HOA and GHAD shall be responsible for their maintenance and monitoring. **[Mitigation Measure 3.55 #32 (for Off-Road Vehicle Activity Impact”)]**

11. Public and private improvements, including roadways, curbs, gutters, bicycle lanes and trails, streetlights, underground infrastructure and all other improvements shall be provided in accordance with sections provided with the approved CDP Sheets and otherwise with the improvement standards that the Town uses. Provided, however, rolled curbs shall be provided where feasible to assist in wildlife movement. All necessary rights-of-way and/or easements within the project site shall be dedicated to the Town for these improvements. If necessary, right-of-way within the project site along the Rheem Boulevard frontage shall be shown and on improvement plans dedicated with the filing of the Final Map. Streets within the development are to be private but open to public use, and are not to be dedicated to the Town.

12. The Applicant/Owner shall disclose to the homebuyer in the Conditions, Covenants, and Restrictions and in the Department of Real Estate Public Report that pedestrian trails and staging areas are planned in and around the project area, and that the public use associated with such trails and recreational facilities (and the private roads) will be present during various times, including but not limited to evening and nighttime hours.

13. The Applicant/Owner shall submit water, sewer and drainage studies to the satisfaction of the Town Engineer and provide sanitary sewer, water and storm drainage improvements with corresponding easements, as necessary, in accordance with these studies and the improvement standards of the Town.

14. Intentionally left blank.

15. The Open Space parcels shall be included in a recorded covenant to be used only for Open Space (as defined in the Open Space Management Plan) in perpetuity as enforceable by the Town. Said instrument shall be recorded with the Final Map for the project.

16. Following further discussions with the Town Manager, Town Engineer, Planning Director and Town Attorney prior to the January 26, 2011 public hearing on the project, Applicant has agreed to work jointly with the Town to cooperatively provide for the construction and financing for the stabilization, repair and improvement of Rheem Boulevard adjacent to the project frontage. Applicant and Town agree to implement their shared responsibilities as follows:

- a. Instead of the Town constructing the geogrid reinforced buttress fill to correct the areas of high risk for landslide movement on Rheem Boulevard along the lower valley frontage (Landslides B and C as shown on the ENGEO Preliminary Corrective Grading Plan dated September 15, 2010 and conceptually depicted in Cross Section 'C-C' referenced in that plan; approximately 680 lineal feet) work, as previously negotiated, Applicant will now engineer and construct such work as part of its overall construction project.
- b. Included in this additional lower valley construction area undertaken by Applicant as part of the overall project construction shall be the 680 lineal feet of removal and replacement of the existing road (AC/AB) in this high risk section, and necessary removal and replacement for a fully reconstructed roadway (AC/AB) to the south (up to approximately 300 lineal feet). The southern 300 lineal feet of roadway reconstruction shall be designed so as to not impact the creek and scrub oaks east of the roadway. The work described in subsection a. and this subsection is collectively referred to as the "Lower Rheem Stabilization & Road Repair."
- c. The Town Manager shall approve the soils engineer selected by Applicant for the Lower Rheem Stabilization and Road Repair.
- d. The portion of Applicant's overall contract for grading and infrastructure improvements, and the extent of road removal and replacement to the south of the high risk area, shall be subject to review and approval by the Town Manager, Town Attorney and Town Engineer to confirm compliance.

- e. Notwithstanding any other provisions described herein, Applicant shall be responsible for the first \$500,000 in engineering, project management and construction costs (collectively, "construction costs") for the Lower Rheem Stabilization & Road Repair ("Applicant Contribution"). This \$500,000 contribution by Applicant (and its other financial contributions described below related to that construction) represent a further public benefit to the Town, and one that is not required to mitigate project impacts.
- f. Subject to the provisions of subsection j. below, the Town shall be responsible to pay the balance of the construction costs for the Lower Rheem Stabilization & Road Repair. Provided, however, if the total actual cost of construction exceeds \$1,507,176 ("Projected Stabilization/Repair Cost"), then responsibility for payment of the amount in excess of the Projected Stabilization/Repair Cost shall be split 50/50 between the Town and Applicant.
- g. If the overall construction project is not commenced by the end of 2015 and the total cost for the Lower Rheem Stabilization & Road Repair exceeds the Projected Stabilization/Repair Cost, then the outside cost estimate after which the excess cost is split 50/50 shall be adjusted by taking into account annual increases in the Engineering News Record's Construction Cost Index beyond that date and until commencement of construction. Town Manager and Applicant may agree on an alternative method to address any potential inflationary increases after 2015 of concern.
- h. If the Town Council has the authority to and does waive the project's development impact fees and the Quimby Act fee for in lieu park land acreage for the property and project, then Applicant shall be responsible for an additional \$472,365 of the construction costs for the Lower Rheem Stabilization & Road Repair beyond the Applicant Contribution. This is the amount of those combined fees currently in effect. Provided however, that the portion of the additional amount of Applicant's responsibility to pay for construction costs attributable to the waiver of the Quimby Act fee (currently \$234,090) shall be adjusted to reflect any credit by ordinance to Applicant for its on site recreational improvements. This adjusted total amount shall be applied to the construction costs by Applicant before the Town is responsible to pay the balance as provided in subsection f. above. This additional early expenditure of funds by Applicant, otherwise paid later at the time of building permits, represents a further public benefit to the Town, and one that is not required to mitigate project impacts.
- i. If the Town Council waives the project's development impact fees and the Quimby Act fee as described above in subsection h., Applicant shall receive a full credit on all standard development impact fees and the Quimby Act fee for

single family detached residences that are applicable to this property at the time of project final map, grading permit and residential construction. This credit is in consideration for Applicant's commitments to apply in advance the present amount of applicable fees toward the cost of the Lower Rheem Stabilization & Road Repair, as well as to advance other necessary funds as described below in subsection j.

- j. In the event the full amount of Town funding estimated to be necessary has not been secured or set aside by the Town when Applicant is ready to commence the on site project construction, then Applicant will advance the balance as needed for it to complete the Lower Rheem Stabilization & Road Repair portion of that construction. The objectives of this advancement are to allow for: coordinated construction of the Rheem stabilization, repair and improvements along the project frontage, a reduction in construction costs, the best opportunity to limit road closures to one grading season, and the residential project to proceed without delay. This additional early expenditure of funds by Applicant represents a further public benefit to the Town, and one that is not required to mitigate project impacts.
- k. The Town is to reimburse Applicant any funds advanced by way of a non-recourse promissory note at a reasonable rate of interest (not to exceed the Applicant's cost of borrowing funds). Terms should provide for repayment at the earliest reasonable opportunity, but in no event will the payment schedule exceed ten years from the date of completion of construction.
- l. Further details with respect to construction of the Lower Rheem Stabilization & Road Repair, implementation of its cost sharing, off site grading licenses from an adjoining property owner(s), and related matters will be provided by agreement(s) between the Town and Applicant, to be completed prior to issuance of a grading permit.
- m. Applicant is responsible to stabilize at its cost Rheem Boulevard along the upper valley frontage with the valley buttress as shown on the ENGEO Corrective Grading Plan dated January 2011.
- n. Applicant is responsible at its cost to construct the fully improved Rheem Boulevard Section in Sheet 2 of the Conceptual Development Plan dated December 16, 2010, for the upper valley frontage and its 'D' Drive intersection improvements. Applicant is responsible at its cost to construct the separated three-foot trail on the west side of the entire Rheem Boulevard frontage. These required Rheem Boulevard improvements are more fully described in Condition V.17 below.

- o. The Town and Applicant will be co-applicants and work together for the necessary approvals from resource agencies for the project, with each party responsible for its respective staff, attorney and consultant costs in processing those approvals. They will work together to lower their respective construction costs for the Lower Rheem Stabilization & Road Repair to the extent feasible, as well as other project costs.

[Mitigation Measure 3.20 #5b (for “Rheem Boulevard Landslide Impact”)]

17. After the upper valley buttress stabilization is completed, the Project Sponsor shall repave that Rheem Boulevard frontage and make improvements to that road section and construct a dg trail, consistent with the CDP Sheets and its Sheet 2, Lot Summaries and Street Sections. The travel lanes and/or turn pockets may be reduced from 12 to 11 feet in width, as determined by the Town Engineer.

18. Applicant and its visual consultant shall reconfirm at the General Development Plan stage that none of the 19 homes in the southern plateau development area will be visible above the ridge skyline as seen from the Rheem Boulevard viewpoints or from the St. Mary’s Road/Lafayette-Moraga Regional Trail viewpoint addressed during the appeal process.

VI. Conditions that must be satisfied prior to any activity in the open space areas

1. The open space areas of the property shall be subject to an Open Space Management Plan for the 27 Lot Project, that will ensure the undeveloped 163 acres of the property continue to be grazed as a means of fire protection and open space preservation, subject to the implementation of Mitigation Measure 3.55 #33 the purpose of which is to avoid long term degradation of open space and conservation habitats. The Open Space Management Plan, prepared by a qualified ecologist, shall be consistent with resource agency permit conditions, including jurisdictional and non-jurisdictional wetland and special status species monitoring, required by the USACE, RWQCB, and CDFG, in consultation with the USFWS. Those requirements shall be included in the final Wetland and Special-Status Species Mitigation and Monitoring Plan (Wetland/Special-Status Species Plan) prepared by a qualified restoration ecologist/biologist and incorporated in the Open Space Management Plan. The Plan shall be consistent with and incorporate the Fire Protection Plan described in Mitigation Measure 3.61 #1.

The Project Sponsor shall request formation of and the Town Council shall form a Geologic Hazard Abatement District (GHAD) for the project, as more fully set forth in Mitigation Measure 3.20 #5a. One GHAD responsibility shall be open space management, which shall include grazing. **[Mitigation Measure 3.10 #2 (for “Conversion of Agricultural Land Impact”)]**

2. To ensure that open space lands are managed in an ecologically appropriate manner, the 2005 Wetland/Special-Status Species Plan has been developed. The Plan includes a grazing management plan intended to prevent over-grazing of the Conservation Easement or deed restricted lands, and a Fire Protection Plan. The measures outlined in the Plan shall be paid for and administered by the GHAD. The Plan will be modified to be consistent with the 27 Lot Project preliminary landscape plans, dated September 15, 2010, modified to be consistent with the CDP Sheets dated December 16, 2010. Proper implementation of these measures shall be documented by the qualified biological and fire protection monitors for the GHAD and confirmed in reports submitted to the Town. As stated in Mitigation Measures 3.55 #9b and #10b, funding shall be provided to ensure the long-term management and maintenance of the conservation area. [**Mitigation Measure 3.55 #33 (for “Long-Term Degradation of Open Space and Conserved Habitats Impact”)**]

VII. Conditions that must be satisfied prior to issuance of building permits

1. The new buildings and other improvements will be designed and built in accordance with the latest UBC, and other code requirements. [**Mitigation Measure 3.20 #1 (for “Ground Shaking Impact”)**]

2. The Applicant/Owner agrees to pay to the School District the maximum fee authorized by law for the construction and/or reconstruction of school facilities. The applicable fee shall be the fee established by the School District that is in effect at the time of the issuance of a building permit. Specifically, the Applicant/Owner agrees to pay any and all fees and charges and comply with any and all dedications or other requirements authorized under Section 17620 of the Education Code; Chapter 4.7 (commencing with Section 65970) of the Government Code; and Sections 65995, 65995.5 and 65995.7 of the Government Code.

3. Prior to the issuance of any building permits, the Applicant/Owner shall have a geotechnical report prepared by an appropriately licensed engineer that includes an analysis of site suitability, proposed foundation design for all proposed structures, and roadway and pavement design.

4. The Applicant shall submit a plan for recycling building and construction materials that are generated from the waste materials from the construction of the Project. The plan shall be subject to review and approval by the Town prior to the issuance of any building permits. Prior to the issuance of each certificate of occupancy, the Applicant shall submit documentation to the Planning Department that the materials have been recycled in accordance with the approved plan.

VIII. Conditions that must be satisfied prior to approval of individual lot building plans

1. The ENGEO report provides recommended measures for mitigating the effects of expansive soils on the project improvements. These protective measures shall be implemented during the design and construction phase of the project and are to be documented by the project geotechnical engineer:

- a. Overexcavation of cut and fill lots;
- b. Moisture conditioning of fills to over optimum; and,
- c. Presoaking slab subgrade areas.
- d. The following additional measures can also be taken to minimize the effects of expansive soils:
 - e. Providing a layer of non-expansive granular materials beneath slabs-on-grade as a cushion against building slab movement;
 - f. The use of aggregate base under exterior flatwork; and,
 - g. Control of irrigation adjacent to the new buildings. **[Mitigation Measure 3.20 #3 (for “Expansive Soils Impact”)]**

2. The Project Sponsor will be responsible for the payment of school impact fees at the time of building permit. Assuming an average sized home of 4,000 square feet, and based upon the current fee rate, the total impact fees would be approximately \$287,000 at 35 homes or \$221,400 at 27 homes. **[Mitigation Measure 3.63 #1 (for “School Capacity Impact”)]**

3. The ENGEO report recommends that within proposed fill areas, soils subject to creep are to be removed prior to fill placement. Alternately, improvements should be set back from potential creep zones, or below grade retaining walls and deepened foundations could be used to minimize potential creep impacts. These measures, or other appropriate measures as recommended by the geotechnical engineer and subject to the review and approval by the Town Engineer, shall be incorporated onto the foundation and site improvement plans and shall be verified and tested by the project geotechnical consultant. **[Mitigation Measure 3.20 #6 (for “Soil Creep Impact”)]**

4. Invasive non-native plant species known to invade wetlands and natural areas, as described in Table 3.55-4 of the DEIR, shall not be used in either the subdivision or individual lot landscaping. Under no circumstances shall the revegetation of graded or filled areas include any species appearing on the California Invasive Plant Council’s Invasive Plant Inventory (available at <http://www.cal-ipc.org/ip/inventory/weedlist.php>).

A deed restriction to this effect shall be included on each lot prior to the recordation of the final subdivision map and its enforcement monitored and controlled by the HOA and GHAD. [**Mitigation Measure 3.55 #22a (for “Invasive Species Impact”)**]

5. Prior to approval of design review and issuance of a building permit for a residence, the Applicant shall demonstrate how that home will obtain a score of 90 points (at a minimum) pursuant to the Town’s “Build it Green Program.” Build it Green Program components in the approved Precise Development Plan may be included to obtain the necessary score. In so doing, the green building design for each home shall provide at least 90 % of its electrical energy target load through a combination of photovoltaic cells and construction design, and shall include solar water heating.

6. This project shall be subject to all Town-wide development impact fees. The fees shall be calculated at the fee rate in effect at the time of building permit issuance and be consistent with the terms and conditions of Attachment C to the Minute Order dated January 26, 2011, and/or any future agreements regarding same.

Project Sponsor shall pay established development impact fees to offset cumulative impacts from the project, including the impact on police services which fee would be utilized to improve police services and response times. [**Mitigation Measure 3.62 #1 (for “Police Protection Impact”)**]

7. The Project Sponsor shall contribute a proportional share toward the eventual construction of a northbound left turn lane from St. Mary’s Road to Rheem Boulevard. The project’s share of this left turn lane would be the average of the project’s AM and PM peak hour volume shares compared to overall average volumes at those times. The fair share amount per unit shall be paid at building permit as part of the Traffic development fee or as a separate fee. [**Mitigation Measure 3.40 #2 (for “Traffic Control Needs and Vehicle Queues at St. Mary’s Road/Rheem Boulevard Impact”)**]

IX. Other conditions that apply

1. All disturbed areas shall be visited by a restoration ecologist after one rainy season has passed since seeding. Site visits should be made during the spring, and each site shall be visited at least once. Sites shall be monitored for the revegetation. Sites that fail to show suitable vegetative cover shall be noted and mapped, and shall be re-seeded in the fall. The restoration ecologist shall make notes on the occurrence of particularly noxious non-native plant species, and make recommendations for their eradication. [**Mitigation Measure 3.55 #22c (for “Invasive Species Impact”)**]

2. The project CDP and CUP approval shall remain in effect for seven years from the date of approval of the Town Council. If a General Development Plan application is not submitted to the Town for processing prior to the expiration date and the Applicant has not demonstrated substantial progress towards development of the project, the approval shall be considered null and void. The Applicant/Owner may file an extension with the

Planning Department for an extension not less than 30 days prior to the expiration date of the Conceptual Development Plan, along with appropriate fees and necessary submittal requirements.

3. The Applicant/Owner shall be required to participate in a mitigation monitoring and reporting program pursuant to Public Resources Code 21081.6. The mitigation monitoring and reporting measures identified in the Final Environmental Impact Report (FEIR) prepared for this project are hereby incorporated into these conditions of approval in order to mitigate or avoid significant effects on the environment.

4. The Applicant/Owner shall defend, indemnify, and hold harmless the Town and its agents, officers and employees from any claim, action or proceeding against the Town or its agents, officers or employees to attack, review, set aside, void, or annul any approval by the Town or any of its agencies, departments, commissions, agents, officers, employees, or legislative or advisory body concerning or in any way related to the Project. The Town will promptly notify the Applicant/Owner of any such claim, action or proceeding, and will cooperate fully in the defense.

5. If the Town utilizes the services of consultants to prepare special studies or provide specialized design review or inspection services for the project, the Applicant shall reimburse the Town for actual costs it incurs in utilizing these services, including administrative costs for town personnel. A deposit for these services shall be provided prior to initiating review of the General Development Plan, or any other subsequent plans and maps for the project submitted to the Town by the Applicant and requiring Town review.

6. No final inspection shall be performed by the Town for any residence until the landscaping is installed or a bond is issued to the Town for the value of the landscape improvements, in an amount as determined by the Town.

7. The Homeowner's Articles of Incorporation and Conditions, Covenants and Restrictions (CC&R's) shall be submitted for review and approval by the Town Attorney. The Homeowners Association shall maintain all private streets at a minimum Pavement Condition Index of 70 as determined using the Metropolitan Transportation Commission (MTC) Pavement Management Condition (PMC) Rating System rating system.

8. The Applicant shall obtain an encroachment permit from the Town prior to performing any work within the public right-of-way.

9. The Applicant shall underground all new on site utilities related to the proposed project, per the provisions of Section 96-10.006 of the Town Subdivision Ordinance.

10. All streets shall be described as parcels and shall have a public access easement thereon.

11. Prior to approval of the Precise Development Plan (PDP), the Applicant or its successors shall provide a plan for the implementation of and verification of implementation of the Conditions of Approval
12. Prior to the installation of any lighting, the Applicant shall obtain approval from the Town and ensure that night lights (street lamps, park lighting, etc.) associated with the proposed project shall be directed “inward”, away from off-site and open space areas, to minimize disruption to nocturnal wildlife activity. Night lighting shall not be used to spotlight natural features within designated open space areas.
13. Prior to the issuance of the first certificate of occupancy, the Applicant shall include on-site signage and shall provide brochure information to all new home buyers that promotes the use of public transit. The number and location of signs shall be reviewed and approved by the Design Review Board.
14. Prior to the issuance of the first certificate of occupancy, Town approved stencils shall be applied to storm drain inlets informing the public of direct connection between storm drain system and downstream creeks. This would be intended to reduce intentional spills into storm drains.
15. All residential street addresses shall be placed in a location where they are readily visible from the street.
16. Streetlights shall be installed and operational prior to the issuance of a Certificate of Occupancy for the first home in the Project.
17. During construction, debris, waste dirt, or rubble shall not be deposited on adjacent habitats designated as open space areas.
18. The MMRP in Attachment C2 to Minute Order 01-2011, dated January 26, 2011 shall be updated to reflect the project that the Town Council approved on January 26, 2011

ATTACHMENT 6 – MINUTE ORDER 01-2011

STATEMENT CONFIRMING RANCHO LAGUNA II 27 LOT PROJECT CONSISTENCY WITH MORAGA 2002 GENERAL PLAN (AND ITS APPLICABLE COMMUNITY VALUES, GUIDING PRINCIPLES, GOALS AND POLICIES) AS A WHOLE

The Moraga 2002 General Plan (“2002 General Plan” or “General Plan”) is a policy document that was envisioned, when approved, to be a “framework for development decision making for the next ten to twenty years.” Development of a Ranch Laguna II residential project is within this time frame.

The 2002 General Plan was created with extensive public participation and focused on core values that define Moraga as a community. The 2002 General Plan is a statement of community values and priorities. It relies on fourteen guiding principles that serve as “overarching goals” relating to the following eight Elements of the General Plan: Environmental Preservation, Community Design and Character, Mobility, Shopping and Services, Housing, Community Services, Public Safety and Community Decision-making. Importantly, the 2002 General Plan updated the Town’s 1990 General Plan by adding new policies and actions to reduce “maximum potential densities in environmentally sensitive” areas and “programs” to create a “stronger emphasis on open space preservation.”

The 2002 General Plan includes a chapter that describes the community values and guiding principles that were developed through the public participation process, which provide the basic foundation for its goals, policies and implementing programs.

The 2002 General Plan contains 35 goals (general statements of values and aspirations) and over 250 policies (more precise expressions regarding the community’s position on a particular matter or how a particular goal will be interpreted or implemented). With respect to providing direction on new residential development on open space lands, the General Plan contains many applicable goals and policies within its Elements.

In order to approve a development project, the Town Council must find it is consistent with the 2002 General Plan. General plan consistency does not mean perfect conformity of a project with each and every general plan policy. Rather, a project is consistent if it is in agreement or harmony with the general plan considered as a whole. In other words, a project may not strictly or substantially conform to a particular general plan policy or policies but still be in agreement or harmony with the general plan as a whole.

A staff report examining the Rancho Laguna II 35 lot project reviewed in the Draft EIR for consistency with General Plan goals and policies was originally presented to the Planning Commission on January 22, 2008. Subsequently, in response to comments from the public and Planning Commissioners, the analysis was revised and presented to the Planning Commission on March 17, 2008 and September 15, 2008. The Planning Commission approved the project on

August 17, 2009 by adopting three approval Resolutions. A timely appeal was submitted to the Town by an appellant group. The Town Council commenced its review of the appeal on October 28, 2009. Council members requested additional information and analysis from the Applicant and its consultants, including additional visual simulations based on the project as approved and mitigated by the Planning Commission.

The Staff Report for the public hearing on May 27, 2010, addressed the revised plans from Applicant considered at that hearing and their consistency with the General Plan. A majority of the Town Council requested that the project as approved by the Planning Commission be modified by eliminating the northern most lot in the upper development area, and to make other grading changes, lot modifications and house elevation changes as may be necessary so that no homes would be visible from Rheem Boulevard and the St. Mary's Road/Lafayette-Moraga Regional Trail. The Town Council also requested that the lower valley buttress be removed in order to substantially preserve the intermittent stream there, and requested Applicant to work with the Town Manager in reaching an agreement to stabilize the high risk area in the lower valley section of Rheem Boulevard with a geogrid reinforced buttress fill. That alternative method of repair was evaluated by the Town's geotechnical engineering consultants for that hearing.

On October 27, 2010, the Town Council reviewed the Applicant's modified plans dated September 15, 2010. The Staff Report and staff's oral presentations for that hearing analyzed those plans and addressed General Plan issues of concern.

Following the close of the public hearing, a majority of the council members requested that additional changes be made September 15, 2010 Conceptual Development Plan Sheets. They requested that Lots 23-26 be relocated in order to provide better protection for the defined Non-MOSO ridgeline to the north (above 800 feet elevation and more than 20% slope) and for improved hillside grading design. They requested that 'A' Way be eliminated, that road access to the upper development area be provided along the Fay Hill Road alignment, and that no secondary emergency vehicle access be included (subject to confirmation that the new road access provided sufficient fire safety per the Fire Marshal). No final action was taken.

For the public hearing on January 26, 2011, the Applicant presented a modified project per the December 16, 2010 Conceptual Development Plan Sheets, as supplemented by the Access Road Sections dated December 30, 2010 ("CDP" Sheets), along with related exhibits. These plans have been fully analyzed in the Staff Report for this hearing. Conditions of Approval and Mitigation Measures have been updated consistent with these CDP Sheets, and an agreement reached between Town staff and the Applicant with respect to Rheem Boulevard. The CDP Sheets address the requests at the last hearing by reconfiguring the streets and lots in the upper development area. Cut grading has been reduced and 19 lots have been clustered along reconfigured 'C' Court and 'B' Court. Lots along the north-south ridge are limited to Lots 9-11 on 'B' Court. 8 lots are now located on the west side of 'D' Drive, with the indoor and outdoor living areas of the homes oriented toward the trees and wetland swale.

The project before the Town Council is referred to as the 27 Lot Project. It has been evaluated by Town staff within the context of the 24 goals and 122 policies in the 2002 General Plan that are applicable to the Project. To facilitate a review of the 27 Lot Project's consistency with the General Plan, the relevant goals and policies have been arranged in a matrix format along with a comment describing how the Project addresses the goal or policy. The Matrix is attached to and made a part of this Finding of Rancho Laguna II 27 Lot Project Consistency with Moraga 2002 General Plan ("General Plan Consistency Finding" or "Finding").

The Matrix analysis looks at the General Plan goal by applicable goal and policy by applicable policy. It confirms the 27 Lot Project substantially achieves each applicable goal and substantially conforms to each applicable policy. The Matrix summary for each such goal and policy is not intended to be an exhaustive review of Project consistency with the General Plan. The analysis and factual basis for that Finding is also found elsewhere in the administrative record, including the staff reports and Final EIR. The goals and policies that do not apply to the 27 Lot Project are not included in the matrix. For example the policies related to commercial or multi-family development are not applicable to a single-family project on open space lands.

After considering the information and analysis in this Statement, the Matrix and the administrative record, the Town Council hereby finds the 27 Lot Project as modified on this appeal is consistent with the 2002 General Plan; i.e., the Project is in agreement and harmony with the General Plan as a whole.

Conformance with a particular policy should be considered in the context of the objective to conform to other policies. For example, Environmental Quality Policy OS2.2 calls for preservation of creeks, streams and other waterways (such as the intermittent drainage in the lower Rheem valley and the wetland swale in the upper Rheem valley) in their natural state whenever possible. Public Safety Policy PS1.6 gives the highest priority to public improvements that are related to public safety (e.g., making a 2-lane arterial road like Rheem Boulevard safe for vehicular travel). Circulation Policy C1.1 calls for the design, construction and maintenance of roadways to make them safe. The 27 Lot Project is in conformance with the waterway preservation policy, as informed by the effort to meet the objective of the public safety and circulation policies as they relate to this Project, as more fully discussed below. Stabilization of the lower valley with a valley buttress and replacing the filled intermittent drainage with a recreated one would be consistent with the General Plan in balancing these policies. However, the Town Council prefers instead to preserve that intermittent drainage even further by undertaking the responsibility to stabilize the high risk sections of Rheem Boulevard in the lower valley with a geogrid reinforced fill and repair the road. The Applicant has agreed to undertake that work concurrent with construction of its subdivision improvements and provide a financial contribution toward the cost of that work, as set forth in Condition V.16. Rheem Boulevard along the entire frontage will be made safer for all users. This improved section is in keeping with the semi-rural character of the location.

The 27 Lot Project on this 180 acre site is in harmony with the General Plan as a whole, in large part due to the amount, location and environmental features of the Project's permanent, publicly accessible open space that is preserved, the design and location of the two development clusters

on the site, and the visual quality of public and scenic corridor views of the Project as designed and mitigated, in combination with other elements of the Project including the avoidance/mitigation of geotechnical risk, the stabilization, repair and improvement of the upper valley of Rheem Boulevard, the preservation of the intermittent drainage and recreated wetland swale in the upper valley, and the Project's "green design." The Project will be semi-rural in appearance given the extent and quality of open space being preserved and the comparatively low density of its residential development clusters, which will be landscaped and designed to blend with the environment. That the 27 Lot Project as mitigated has no significant environmental impacts is strong evidence of its General Plan consistency. The following analysis provides further support for this General Plan Consistency Finding.

The Project preserves more than 90% of the Rancho Laguna property as permanent open space with public trails that may connect to off site public trails and vehicular parking provided near the south end of the minor ridgeline. The open space includes the visually and environmentally most important portions of the property: Coyote Creek, oak woodland, minor ridgeline, wetland swale in the upper Rheem valley, and intermittent drainage in the lower Rheem valley. The GHAD will manage the open space in all respects at no cost to the Town.

The two small development clusters (17.3 acres) and street and open space landscape are designed such that the visual impacts of the Project as seen from public views are less than significant, as that significance factor is informed by the General Plan policies related to visual quality.

The development cluster on the southern plateau will have an insignificant visual quality impact on public views, due in large part to its location, the design and grading for the lots and streets, and design review of the homes. Hillsides remain open and new trees will not protrude above the skyline. The location of the southern plateau and surrounding topography are such that views of the development cluster on the southern plateau from public vantage points of concern are avoided. For example, the Non MOSO protected ridgeline to the north of the southern plateau is part of the predominant view from the few public locations to the east in Lafayette that can see a portion of the Rancho Laguna site. In addition, the development cluster on the southern plateau has been designed and mitigated so its visual quality impact as seen from those limited public views is less than significant, as that threshold is informed by the General Plan policies to protect visual quality of open space lands.

The upper and lower Rheem valleys on the Rancho Laguna site are within the Rheem Boulevard scenic corridor. 8 homes and "D" Drive in the upper Rheem valley will be located on what is now un-engineered fill with a degraded wetland swale. The valley portion of the Project includes placement of a valley buttress in the upper Rheem valley, with 8 homes and 'D' Drive separated from Rheem Boulevard by open space and a recreated wetland swale. The lower valley will be preserved in its existing condition with its intermittent drainage. The new landscape in the valleys as designed and mitigated will maintain open views of the valley, hillsides and ridges as seen from Rheem Boulevard, a scenic road. As such, the visual quality impact of the Project as seen from Rheem Boulevard is insignificant. The significance threshold

in the Final EIR is informed by the General Plan development policies in open space lands and within a scenic corridor.

That some existing residences in Moraga and Lafayette will see some of the new streets and/or homes in the Project is not a General Plan visual quality issue. The new homes are so far away from existing homes their private views will not be blocked. From these private locations, the predominant view of the Rancho Laguna site and surrounding properties will still be semi-rural. For example, with the Project's development the semi-rural views from the backyards of homes on the westerly side of Birchwood Drive will be comprised of open space, existing homes/streets and landscape, and new homes/streets and landscape. The Community Design Element policies require high quality design of a new residential neighborhood. The 27 Lot Project and its homes will blend with its environment and meet this standard.

The GHAD will professionally monitor and maintain the safe geologic and hydrologic condition of the entire property, and be responsible for any future repairs that may be required. Both the Applicant's and Town's geotechnical engineers are in agreement the Project's design and mitigation measures will protect the new development and residents from geotechnical risk. The 27 Lot Project both preserves important environmental features and protects public safety consistent with General Plan policies.

Under the General Plan, development on open space lands is limited to very low densities, between one unit per five acres and twenty acres, subject to site-specific review and protections to protect ridgelines, steep slopes, and high risk areas (see Land Use Policy LU1.2 and its footnote 3). Consistent with applicable General Plan goals and policies (Policy LU1.2), the actual density on the Rancho Laguna site is determined through the application process and based on environmental constraints, site-specific review, public services availability, open space and recreational considerations.

The maximum density on this 180 acre open space site is 36 units. The development clusters are not located on the MOSO portion of the Rancho Laguna site. Thus no development is proposed on MOSO land that could be identified as high risk under that initiative ordinance and the MOSO Guidelines. In conformance with LU1.2, the development clusters on the non-MOSO portion, as designed, will not be constructed on high risk areas or on steep slopes (or on moderate risk areas).

The southern plateau development area is within Non-MOSO Open Space. The crest of the ridge on the Non-MOSO portion of the property is adjacent to and extending into the adjoining MOSO portion of the project site. The southern plateau development is not on a Non-MOSO minor ridgeline as defined in the General Plan at Appendix D, Definitions (more than 800 feet in elevation and more than 20% slope). None of the lots are located on where the existing elevation is more than 800 feet above mean sea level, only portions of 'E' Street, which is permitted under the General Plan and MOSO. See the staff report for the October 27, 2010 public hearing for further analysis and explanation of the General Plan principles, goals and policies related to ridgelines.

Thus, whether or not to develop the southern plateau, and the extent of that development, depends on other factors, such as the geotechnical safety of such development, aesthetics, and its visibility from off site public views. Geotechnical risk of the development is mitigated to less than significant, as that threshold is informed by General Plan policies in the Public Safety element. The visual quality impact of the southern plateau development as seen from public views is also insignificant as mitigated through project design.

The 27 Lot Project stabilizes, repairs and improves the upper valley segment of Rheem Boulevard and, at the same time, results in no significant environmental impacts, including visual quality, and preserves more than 90% of the Rancho Laguna property as open space. The Project grading balances on site, with the southern plateau cut used to create the upper valley buttress.

As encouraged in Public Safety Policy PS5.5, existing downstream flooding and erosion behind the Rheem Boulevard homes during large storm events will be reduced to the extent feasible. The Applicant will utilize oversized storm drain pipes in the development of the Project. The Applicant has volunteered to work with interested homeowner to secure permits for and construct erosion control features (short sections of strategically placed buried rip rap) behind their homes.

The homes will be designed to blend with the environment instead of overpowering it, per Condition III.8. Each home is required to achieve at least 90 points in the Town's "Green Building Program," and in so doing satisfy 90 % of its typical energy consumption through photovoltaic cells solar heating, design and construction standards. This green building standard in Condition III.9 represents a significant energy conservation precedent for residential projects in Moraga.

The Project density of one unit per 6.7 acres is appropriate on this particular site and for this particular 27 Lot Project design.

The 27 Lot Project, as designed, mitigated and conditioned, is in keeping with the applicable community values and guiding principles in the 2002 General Plan regarding Environmental Preservation, Community Design and Character, Mobility, and Public Safety (see General Plan Chapter 2). 90% of the Rancho Laguna site is preserved in perpetuity, including the MOSO ridgeline and other open space resources like Coyote Creek, and with public trails for natural recreational opportunities. The Project design and quality contributes to a positive community aesthetic, including within a scenic corridor, all in keeping with Moraga's natural setting and high standards for good design. The Project maintains the single family, semi-rural setting of the area. Public health and safety is protected through Project design and mitigation, most importantly with respect to geologic risk (within the new development and on Rheem Boulevard) and peak storm flows.

The 27 Lot Project, as designed, mitigated and conditioned, conforms to each applicable principle, goal and policy in the 2002 General Plan, as summarized in the attached Matrix. Refer to the 2002 General Plan for the text of the applicable goals and policies.

**ATTACHMENT 6 – MINUTE ORDER 01-2011
MATRIX RE: CONFORMANCE WITH MORAGA 2002 GENERAL PLAN APPLICABLE GOALS AND POLICIES**

RANCHO LAGUNA II 27 LOT PROJECT

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project (“Project”)		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
Chapter 3			
Land Use	Residential LU1 Goal		Project is a “high quality residential environment” as 90% of site preserved as permanent open space, including all MOSO land, minor ridgeline, oak woodland, Coyote Creek, and intermittent drainage. The new homes and landscape will be designed to blend with the environment.
	LU1.1 Neighborhood Preservation	1	Project as designed, conditioned and mitigated has no adverse impacts on existing residential neighborhoods. All environmental impacts are less than significant. Project density is less than nearby neighborhoods. Lot sizes are comparable (some larger, some smaller) and more of the new neighborhood is preserved as open space than the existing ones. Private view of new homes and streets, in and of itself, is not inconsistent with General Plan policies. Some Birchwood residences are at a higher elevation than the new southern plateau development. In General Plan context, their private views will not be adversely impacted by a view of some of the Project’s new homes and streets in combination its new landscape and preserved open space.
	LU1.2 Residential Densities	2	Project is within the residential density range for open space lands (one unit per 5 to 20 acres). Per policy, density is to be determined in application process and based on environmental and site constraints, among other factors. Density of one unit per 6.7 acres is appropriate for Project as designed and mitigated (see Statement for further discussion).
	LU1.3 Residential Building Height	3	Residential building heights of 8 homes in upper Rheem valley will not negatively impact the hillside views for travelers on Rheem Boulevard. Building heights on southern plateau also take into account visibility from public views (single story on flat pads of lots along “B” Court and “B” Court), which will also benefit private views. None of the new homes will block views of existing residences so the focus is on the limited public views of the development clusters.
	LU1.4 Housing Types	4	Project is limited to conventional detached single-family homes, which is appropriate on open space lands.
	LU1.5 Development Densities Open space Lands	5	Policy wording comes from MOSO initiative and addresses densities on MOSO open space. Project does not include lots on MOSO portion of property. Project density conforms to LU1.2 density standards.
	LU1.6 Minimum Lot Sizes and Percentage Mix for Single Family Developments	6	Project includes trails with guaranteed permanent public access. Lots exceed the 15,000 sq.ft. minimum size for a project with such recreational facilities. Density on MOSO portion of property is not altered by the implementation of this policy.
	a. Additional lots for TDRs and density bonuses		No TDR or density bonus is being requested.
	b. Variation in the mix of lot sizes		Project includes variation in lot sizes (18,472 sqft to 43,496 sq.ft.). Lot size variation does not require Town Council approval.

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	c. Clustering on smaller lot sizes		Policy not applicable to open space lands, but clustering concept is implemented in Project without the need to reduce lot sizes below the 15,000 sq.ft. minimum.
	d. Lot size and slope		Project lot sizes need not be increased any further to mitigate negative visual impacts and/or geologic hazards. Clustering the lots in two locations and mitigation measures reduce those impacts to less than significant.
	e. Lot sizes in Open Space areas		See summary above for Policy LU1.6 regarding 15,000 sq.ft. minimum lot size for Project.
	LU1.8 Slope Restrictions	7	Project does not require or include development on MOSO portion of property, other than dirt trails and potentially a sewer line off "C" Court. Development on the Non-MOSO portion of the project site over 800 feet in elevation is on average slopes that do not exceed 20%. On non-MOSO portion all grading is supported by site-specific analysis that confirms geological risk is mitigated to an insignificant level. Average slopes on all building pads (after-graded slope) are less than 25%. The average slope over the entire graded area is less than 25%. Grading in those locations is the minimum required in order to create the development clusters in a manner that is "in the spirit of, and not incompatible with, the intention and purpose of all other policies of the General Plan." For example, the extent of grading on the southern plateau has varied yet compatible purposes: create mostly flat building pads, provide for adequate road sections, reduce pad and street elevations and construct a berm to limit visibility of the homes, and generate cut material to create the valley buttress required to stabilize Rheem Boulevard. Grading in the Rheem valley is the minimum necessary to create the valley buttress and flat pads on wide lots for 8 homes. The Project as designed and graded conforms to General Plan policies and as mitigated has no significant environmental impacts. The significance standards used in the EIR are informed by the applicable General Plan policies.
	LU1.9 Cluster Housing to Protect Open Space	8	Housing is clustered in two locations, the southern plateau and upper Rheem valley, on less than 10% of the property's 180 acres. This results in permanent preservation and protection of 162 open space acres. The development clusters, as located, designed and mitigated, are not visually prominent as seen from Rheem Boulevard, a scenic corridor road, or from any other public view. The prominent view of the property from Rheem Boulevard is its valleys, hillside and ridgeline as a whole. For travelers on Rheem Boulevard, the prominent view of the Project as designed and mitigated will be the same. The 8 homes will be screened by trees and separated from Rheem Boulevard by the open wetland swale. The southern plateau homes and streets will be screened by the berm on its westerly side in combination with native trees and shrubs planted on portions of the hillside in natural clusters. The intermittent drainage in the lower Rheem valley will be preserved in its current condition to maintain open views for Rheem Boulevard travelers. Predominant views from the east will be of the minor

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
			ridgeline on the MOSO portion of the property, the Non-MOSO ridge adjacent to it, and the ridgelines to the north of the property.
	LU1.10 Planned District Zoning	9	The non-MOSO portion of the property is zoned Planned District. MOSO open space is not zoned Planned District. The application to develop the property is being processed in a manner consistent with Chapter 8.48 of the Moraga Municipal Code and thus requires approval of a conceptual development plan.
Chapter 4			
Community Design	Natural Setting CD1 Goal		Project as designed and mitigated protects and preserves the natural scenic qualities of the property. 90% is protected and managed as permanent open space. Coyote Creek, oak woodlands and the minor ridgeline are preserved. The recreated wetland swale in the upper valley and the preserved intermittent drainage in the lower valley will be natural in appearance and enhanced scenic quality, as will the new native landscape clusters on the hillsides. Open views of the valley, hillsides and ridgeline will be maintained.
	CD1.1 Location of New Development	10	Development on the property has been located in areas that are the least sensitive in terms of environmental and visual resources, to the extent possible. The upper valley cluster is located in a small, degraded area of previously placed fill. Visibility of the southern plateau from public views is limited. It does not include oak woodland or other significant environmental resources. The stabilization and repair of Rheem Boulevard in the upper valley as part of the development is not possible without the valley buttress, but the environmental and visual quality of the recreated wetland swale will be enhanced.
	CD1.2 Site Planning, Building Design and Landscaping	11	Limiting the two development clusters to the upper Rheem valley and southern plateau retains natural topographic features and visual qualities of the property. The recreated wetland swale on the upper valley buttress will be natural and enhanced quality in function and appearance. New landscape will blend new structures and streets with the environment. Condition III.8 requires architectural design to be low profile, blending with the environment.
	CD1.3 View Protection	12	Project as designed and mitigated maintains the Town's semi-rural character and protects important elements of its natural setting, with 90% protected and maintained as permanent open space, including the important elements of Coyote Creek, minor ridgeline, oak woodlands, and open valleys. Open valley, hillside and skyline views from Rheem Boulevard, a scenic road, are maintained. Views from St. Mary's Road, in particular in the section across from the Lafayette-Moraga Regional Trail adjoining the parking lot, are protected by changes in the project design in the upper development area. The recreated wetland swale in the upper valley and preserved intermittent drainage will be of natural and enhanced visual quality. The predominant higher elevation view of the property from Moraga and Lafayette is the protected minor

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
			ridgeline and its upper hillside and the Non-MOSO ridge, in some instances in combination with the ridgelines to the north. Visual quality impacts of the Project from public views in Moraga and Lafayette have been mitigated to less than significant. View protection with respect to the upper valley is being provided without the need for landscape screening there.
	CD1.4 Canyon and Valley Areas	13	The scenic and environmental qualities of the two valley areas on the property are protected. Substantial preservation and enhancement of the intermittent drainage and its topography in the lower valley has been required by the Town Council. Coyote Creek is included in the permanent open space, as well as the recreated wetland swale in the upper valley and the preserved intermittent drainage in the lower Rheem valley. The scenic qualities and views of Coyote Creek and the oak woodland on the adjacent hillsides, now mostly unavailable to the public, will be seen from the Project's public trails. Along Rheem Boulevard, significant linear open space will be preserved following construction of the upper valley buttress, and including the preserved intermittent drainage, wetland swale, natural grasses and low riparian vegetation as a visual focus. Native trees and shrubs will be placed and species planted to maintain open views of the valley and minor ridgeline, as well as a natural hillside landscape comprised of native trees and open grassland. As such, the upper valley buttress will not adversely affect the scenic and environmental qualities of the Rheem valley area. The residential development in the upper Rheem valley at the bottom of the hillside, limited to 8 homes on wide lots, is semi-rural in character. The location of "D" Drive and the 8 homes, separated and screened from Rheem Boulevard, will not adversely affect the environmental and scenic qualities and public views of the valley or the hillside and ridgeline behind them.
	CD1.5 Ridgelines and Hillside Areas	14	The General Plan defines ridgelines as the identified major and minor ridgelines under MOSO. The Non-MOSO southern plateau development area is not part of the property's minor ridgeline because its elevation is less than 800 feet or, where it is above that elevation, the average slope on the development area does not exceed 20%. That development area is limited to approximately 17 acres, preserves significant oak woodland and grasslands, and minimizes visual impacts. Homes on the southern plateau will be low profile and designed to blend with the environment, per Condition III.8. Native trees and shrubs will be placed and species selected to blend hillside improvements with the environmental setting.
	CD1.6 Vegetation	15	New project landscape in open space is comprised of native trees, shrubs and grasses suitable for the particular locations, hillside or riparian. The identified native species in the open space and along streets are drought tolerant and fire resistant. The same will be required for landscape on individual lots during the design review process for those homes.

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	CD1.8 Utility Lines	16	New electrical and other utility lines in the Project will be underground in the private streets. The new electrical utility lines will connect to existing overhead lines located on the non-project side of Rheem Boulevard.
	Public Places CD2 Goal		Project includes pedestrian connections to existing and future pedestrian trails and to Moraga Road and St. Mary's Road. Stabilization, repair and improvement of Rheem Boulevard along the project frontage in both the upper and lower valley will protect and maintain vehicular connections between St. Mary's Road and Moraga Road area, including St. Mary's College and commercial areas in Rheem.
	CD2.1 Public Places as Focal Points	17	Project includes an integrated pedestrian path system throughout the site, which can link to the Lafayette-Moraga Regional Trail and the future Palos Colorados trails. Included is a public trail on the project side of Rheem Boulevard and a sidewalk on the non-project side which connects to the existing sidewalk extending to Moraga Road.
	CD2.5 Connections	18	See summary above for preceding policy which also applies to this policy.
	Scenic Corridors CD2 Goal		With the Project as designed and mitigated, this frontage of Rheem Boulevard as a scenic roadway through Town reflects Moraga's semi-rural character. The enhanced open space as viewed from Rheem Boulevard, managed in perpetuity by the GHAD to maintain its visual quality, strengthens community identity, as does the stabilization, repair and improvement of the road along the upper valley itself. See also the summary for Policy CD3.2 below and other policies that address visual character, like Policy CD1.5 regarding view protection.
	CD3.1 Designation of Scenic Corridors	19	Rheem Boulevard and St. Mary's Road are designated scenic corridors consistent with this policy and the Project has been designed and mitigated with that in mind.
	CD3.2 Visual Character	20	Improvements to the visual character of the Rheem Boulevard scenic corridor include the elimination of uneven pavement and evidence of earth movement and an improved road section with a pedestrian path (decomposed granite) on the project side. The scope of improvements in the upper valley is consistent with the semi-rural character of this location along Rheem Boulevard. A wetland swale will be recreated on the upper valley butress (a visual improvement over the existing visually degraded conditions), which will transition to the intermittent drainage in the lower valley. Native trees and shrubs will also improve the visual character of the scenic corridor and planted in locations that will not obstruct open views of the valleys, hillsides and skyline. The GHAD's long term management of the open space will preserve the visual character of the scenic corridor. The westerly edge of "D" Drive in the upper valley is set back from Rheem Boulevard 120-140 feet and will be screened by trees and shrubs in the open space and in an easement in front of the homes, so that the 8 homes as designed will not adversely affect the visual character of the scenic corridor. Lighting and signage is not included because it would not improve the visual character of the scenic corridor.
	CD3.5 Landscaping and Amenities	21	See summary above for preceding policy which also applies to this policy.

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	CD3.6 Development Standards and Design Guidelines	22	Town has not adopted specific implementing programs for scenic corridors. Project design with respect to scenic corridors has been developed through the application and environmental review process, and which focuses on visual quality.
	CD3.7 Underground Utilities in Scenic Corridors	23	New electrical and other utility lines in the Project will be underground in the private streets, including "D" Drive visible from Rheem Boulevard. The on site electrical utility lines will connect to existing overhead lines located on the non-project side of Rheem Boulevard.
	Single Family Neighborhoods CD4 Goal		To the extent the Project is considered part of the existing neighborhood on Rheem Boulevard above St. Mary's Road, as designed and mitigated the Project preserves the existing scale, character and quality of the neighborhood. 90% of the property is permanently preserved as high quality open space, managed and protected by the GHAD. The density is much lower than present in the existing neighborhood. Homes are clustered on large lots and, per Condition III.8, designed to blend with the environment. The pedestrian trails and sidewalks will promote walking and biking between neighborhoods. See summaries in neighborhood polices below for further discussion applicable to this policy.
	CD4.1 Property Development Standards	24	PD and non-MOSO development standards applied to this Project are more restrictive than existing neighborhood, and are enforced through planned development, environmental review and design review processes, including mitigation measures and conditions of approval.
	CD4.2 Neighborhood Character and Improvements	25	Project as designed and mitigated strengthens and enhances neighborhood character. Rheem Boulevard is stabilized, repaired and improved along the entire project frontage. Significant open space is preserved and managed. Pedestrian trails and sidewalks for neighborhood public use are provided. Homes on large lots will be designed to blend with the environment. The two development clusters are located where they will not adversely affect the existing neighborhood.
	CD4.4 New Residential Developments	26	Project as designed respects the site topography and natural features. Coyote Creek, oak woodlands and minor ridgeline. A recreated wetland swale in the upper valley with new landscape will be an enhanced natural feature and will connect to the preserved intermittent drainage channel in the lower valley. Lot sizes and shapes on the southern plateau are not standard and instead reflect the topography. Public trails will link nearby neighborhoods in Palos Colorados and along the Lafayette-Rheem Regional Trail. The pedestrian path on Rheem Boulevard also helps provide linkage to the Rheem Boulevard and Moraga Road neighborhoods.
Chapter 5			
Housing	Housing & Neighborhood Quality H1 Goal		Project as designed and mitigated is a "high-quality, safe and livable" residential neighborhood, in and of itself and as part of the larger neighborhood.
	H1.3 Design for safety	27	Project has two development clusters, so homes will not be isolated and less likely to be

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			subject to unnoticed criminal activity. GHAD will be responsible to minimize vandalism or other criminal activity in the open space through its management.
	H1.4 Design Excellence	28	Project as designed and mitigated is compatible with the scale and character of nearby neighborhoods and the semi-rural character of the Town as a whole, as more fully discussed under other policies. Houses will be designed to blend with the environment per Condition III.8.
	Housing Mix and Affordability H2 Goal		Custom and semi-custom homes on large lots are the appropriate variety of housing for non-MOSO open space on this property. The extent and type of housing on this property must take into account the objective to preserve a significant amount of open space, limit housing to low density and maintain a semi-rural character. In that context, the Project will assist the Town in meeting its housing needs to the extent possible.
	Housing Variety	29	See the summary above for Goal H2 which applies to this policy.
	Secondary Living Units	30	A future lot owner has the opportunity to submit a secondary living unit application. The secondary living unit in combination with the primary unit must meet the design criteria in Condition III.8 (e.g., blend with the environment) and meet the standards in this policy.
Circulation	Traffic Circulation and Safety C1 Goal		Project as mitigated and conditioned improves reasonable and safe access to the Town on Rheem Boulevard, through its stabilization, repair and improvement along the project frontage. The turn pocket for "D" Drive provides a safe Project ingress and egress. Internal project movement meets Town private road standards and the requirements of the Fire Marshall.
	C1.1 Roadway Engineering & Maintenance	31	Applying standard engineering principles, the roadways within the Project and the Rheem Boulevard frontage are designed to be safe for all users (except perhaps equestrians; this circulation location is not appropriate for horses). Roads will be geologically stable, consistent with the mitigation recommended by the Applicant's geotechnical engineers, ENGEO, and supported by the Town's geotechnical consultant and EIR geotechnical sub-consultant. Private street widths have been narrowed to the extent allowed by the Town Engineer and Fire Marshall and still achieve public safety. Sidewalks and public trails are included in the Project. The private roads in the Project will be maintained by the HOA and open to public use.
	C1.2 Traffic Impact Costs	32	Traffic impact fees will be paid by Applicant.
	C1.3 Effective Mitigation Measures	33	Feasible and effective traffic mitigation measures and conditions have been adopted. The most notable measure is the stabilization, repair and improvement of Rheem Boulevard along the project frontage. It will assure long term, safe use of this arterial.
	C1.4 Private Streets	34	Private streets in Project meet Town standards and Fire Marshall requirements. They will be open to the public. A gate or similar restriction is not included for any streets in the Project.
	C1.5 Collector Street Buffering	35	The streets in the project are considered "local" streets.

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	C1.6 Street Maintenance	36	A homeowners association (HOA) is required for the Project. The HOA will be required to conduct private street maintenance at "reasonably high standards" per Condition V.18. The GHAD will be responsible for geological stability of the private streets.
	C1.8 Priority Roadway Improvements	37	Stabilization, repair and improvement of Rheem Boulevard is a priority Town capital improvement. This safety related project will be completed by the Applicant at its cost in the upper valley of Rheem Boulevard along its frontage.
	C1.11 Emergency Vehicle Access	38	Improved access for emergency vehicles closer to Coyote Creek and adjoining open space is provided in this Project.
	Regional Coordination C2 Goal		Rheem Boulevard is part of the regional circulation system. Its long term stability makes it safer and assures it remains open, which meets the expectations and needs of Lamorinda residents.
	C2.1 Regional Collaboration & problem-solving	39	Project development will not exceed established LOS standards along roads leading from Moraga. Payment of applicable traffic fees is sufficient to address cumulative traffic impacts. The full stabilization of Rheem Boulevard will be accomplished by the Applicant and Town in a coordinated effort.
	C2.2 Regional Transportation Improvements	40	See the summary in the above policy which also applies to this policy.
	Pedestrians, Bicycles & Transit C4 Goal		
	C4.1 Pedestrian Circulation	41	Public trails in open space may connect to other public trails in Palos Colorados and the Lafayette-Moraga Regional Trail. A public trail is also included along the project side of Rheem Boulevard.
	C4.2 Bicycle Circulation	42	Striped shoulders on Rheem Boulevard will assist bicycle circulation.
Chapter 7			
Open Space and Conservation	Open Space Preservation OS1 Goal		Project as designed preserves as much open space as possible, including the minor ridgeline, with public trails and parking provided to help meet the recreational needs of Project residents and the public.
	OS1.1 Open Space Preservation	43	90% of the property is preserved as open space accessible to the public and managed at no cost to the Town. See also the summary above for Goal OS1.
	OS1.2 Major Ridgelines	44	No development will occur on lands designated MOSO on the General Plan diagram. The property does not include a major ridgeline.
	OS1.3 Development Densities in Open Space Areas	45	This policy addresses development on MOSO land. No development is proposed on the MOSO portion of the property, with the potential exception of a sewer line off "C" Court.
	OS1.4 Private Ownership and Use of Open Space Areas	46	Project open space will be owned and managed by the GHAD, a public entity, under the direction of the Town Council. The open space will be accessible to the public through public trails.
	OS1.5 Development on Slopes and Ridgelines in Open Space lands	47	Project includes no development on the MOSO portion of the property, except for trails and potentially a sewer line off "C" Court. Environmental and site constraints limit the

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			development to the two development clusters, plus grading for the upper valley buttress to stabilize Rheem Boulevard and other limited grading for slope stability and road construction. There is no environmental impact, site constraint and/or other factor, including conformity to General Plan policies, which warrants a reduction in the number of units, density or extent of the development provided in the Project as designed and mitigated.
	OS1.8 Open Space Access and Recreational Use	48	Public trails in the Project open space are included, which may connect to the Lafayette-Moraga Regional Trail and Palos Colorados trails
	OS1.9 Open Space Management	49	Project open space will be preserved in perpetuity by a conservation easement or other appropriate deed restriction in favor of the Town. It will be managed by the GHAD consistent with the applicable mitigation measures, and subject to review and direction from the Town.
	OS1.10 Open Space Grazing	50	Per the Project mitigation, open space grazing will be part of the open space management by the GHAD. Grazing will be controlled so as not to degrade the environment. For example, grazing in and around the recreated wetland swale and the preserved intermittent drainage will be avoided.
	Environmental Quality OS2 Goal		Project as designed and mitigated, with 90% of the property in managed open space in perpetuity, a recreated and enhanced wetland swale and preserved intermittent drainage in a geologically stable condition, will help make the Town's "environmental quality in the future as good or better than today."
	OS2.1 Protection of Wildlife Areas	51	Project design, with 90% of the property preserved as permanent open space, and implementation of the final EIR mitigation measures with respect to wildlife protection, including open space management by the GHAD, results in the Project not adversely affecting wildlife areas.
	OS2.2 Preservation of Riparian Environments	52	The most valuable riparian resource on the property is Coyote Creek, which will be preserved and managed in perpetuity and not affected by Project development. It is not possible to preserve the wetlands in the upper Rheem valley, and create the valley buttress required to stabilize, repair and improve Rheem Boulevard, for the reasons fully discussed elsewhere. The recreated wetland swale and its permanent preservation and management in a natural state, conforms to the objective of this policy. The intermittent drainage in the lower valley will be preserved in its current condition, also in conformance with this policy.
	OS2.3 Natural Carrying Capacity	53	The natural carrying capacity of Coyote Creek will not be changed by the Project development. For the reasons discussed above a valley buttress will be constructed and a wetland swale in the upper Rheem valley. The intermittent stream in the lower Rheem valley will be substantially preserved and enhanced. Their carrying capacity will be designed or enhanced to include water from the Project development, and the natural environment of those waterways will be maintained by the GHAD.

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	OS2.4 Areas of Natural Significance	54	Project areas of natural significance that are preserved and managed in perpetuity in the Project include Coyote Creek, oak woodland and open hillsides on the easterly side, minor ridgeline, and hillsides on the Rheem Boulevard side. The existing wetland in the upper Rheem valley cannot be preserved for the reasons discussed elsewhere. The recreated and enhanced wetland swale will be preserved and managed in perpetuity in its natural environment. The intermittent drainage in the lower valley will be substantially preserved and enhanced per the direction of the Town Council.
	OS2.5 Wildlife Corridors	55	Mitigation measures to protect and manage wildlife areas and movement corridors, and avoid fragmentation, are included. They will reduce any wildlife corridor impacts to less than significant.
	OS2.6 Reintroduction of Wildlife Species	56	Reintroduction of certain species (i.e., red legged frog and Alameda Whipsnake) is avoided by Project mitigation measures in order to protect those species from predators in the recreated wetland swale and preserved intermittent drainage areas. The extent and location of Project open space, and the recreated wetland swale and preserved intermittent drainage, all professionally managed by the GHAD, may be such that other wildlife species will be reintroduced to the property and surrounding open space.
	OS2.7 Reintroduction of Native Plant Species	57	Project landscape design and mitigation measures provide for the reintroduction of native plant species, professionally managed by the GHAD in perpetuity.
	OS2.8 Tree Preservation	58	Oak woodland on the property is preserved. One or more oak trees on the east slope may be removed for some of the southern plateau lots. Arroyo willows and other native trees will need to be removed to create the upper valley buttress. Replacement trees will be planted for mitigation at or above the required ratio, in addition to native trees and shrubs planted on hillsides for visual mitigation. The new trees will contribute to the beauty and environmental quality of the Town.
	OS2.9 Tree Covered Area	59	Coyote Creek tree cover and nearby oak woodlands will be preserved in perpetuity.
	OS2.11 Recycling and Source Reduction	60	A construction debris recycling plan is required for the Project.
	Water Quality & Conservation OS3 Goal		The final Drainage Plan for the Project must address the effect, if any, of new development in the upper and lower Rheem valley areas on the recharge of existing springs and seeps. Coyote Creek is maintained in its natural condition in perpetuity. The recreated wetland swale will be maintained in its natural condition in perpetuity. Mitigation measures include water conservation requirements. The intermittent drainage in the lower valley will be substantially preserved and enhanced.
	OS3.1 Sewer Connections	61	CCCSD sewer connections required.
	OS3.2 Polluting Materials	62	Per Project mitigation measures, watercourses and drainage facilities will be professionally managed by the GHAD. Polluting materials on open space, streets, and residential lots that could impact watercourses will be limited through management by the GHAD and HOA.
	OS3.3 Street and Gutter Maintenance	63	See summary in above policy, which is applicable to this policy.

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
	OS3.4 Watercourse Capacity	64	Mitigation measures require that design capacity of the recreated wetland swale and preserved intermittent drainage during peak runoff not be exceeded. Coyote Creek peak runoff will not be increased by Project development.
	OS3.5 Watercourse Preservation	65	Coyote Creek will be preserved in perpetuity. It is not possible to preserve the wetland swale in the upper Rheem valley for the reasons discussed elsewhere (i.e., the upper valley buttress required for Rheem Boulevard stabilization and safe development of "D: Drive and the 8 homes there). That degraded watercourse will be replaced with an enhanced wetland swale which connects to the preserved intermittent drainage. The flora and fauna required as part of that replacement meets the objective of this policy, and will be professionally maintained in perpetuity by the GHAD.
	OS3.6 Run-off from New Developments	66	Mitigation measures require peak storm runoff from property with new development be reduced to at or below existing conditions at point of discharge off site. Water quality control basins are included in the Project design. All runoff impacts are less than significant.
	OS3.7 Water Conservation Measures	67	Required Project water conservation includes drought-tolerant landscape, water efficient irrigation systems, compliance with Model Water Efficient Landscape Ordinance, ultra-low flow toilets, and such additional Demand Reduction Measures that EBMUD and the Town may consider appropriate commensurate with Project's water demand. Dual piping for use of recycled water may be required by EBMUD if its use seems likely in the future.
	OS3.8 Water Recycling	68	Dual piping for use of recycled water may be required by EBMUD for the Project (one pipe for residences' water and one for irrigation) if the availability of recycled water seems likely in the future.
	Air Quality OS4 Goal		Air quality is preserved and maintained by the Project through mitigation measures to reduce dust and equipment exhaust emissions during construction, the preservation of oak woodland, linked public trails to encourage walking, improved bicycle access on Rheem Boulevard, gas and electrical energy conservation in the design of new homes, and a relatively small number of new homes.
	OS4.1 Development Design	69	See the summary above in Goal OS4 which is applicable to this policy. Condition III.9 requires significant energy conservation in the design, construction and use of new homes.
	OS4.2 Development Approvals & Mitigation	70	Project does not exceed regional and local air quality standards.
	OS4.3 Development Setbacks	71	Project homes on "D" Drive are set back approximately 150 feet from Rheem Boulevard.
	OS4.5 Alternate Transportation Modes	72	Project includes linked public trails and Applicant will construct improved pedestrian and bicycle access on Rheem Boulevard to link with the St. Mary's Road and Moraga Road

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
			areas.
	Energy Conservation OS5 Goal		Condition III.9 requires new homes to achieve at least 90 points on the Town's Green Building Program. The green building design components of each home must provide at least 90% of its energy target load through a combination of photovoltaic cells and construction design, and must include solar water heating. This is the highest standard ever required in Moraga for new single family homes.
	OS5.1 Building Standards	73	Building energy efficiency standards exceed California Building Code standards in Title 24, with the implementation of Condition III.9.
	OS5.2 Energy Conservation	74	The summary above for Goal OS5 applies to this policy.
	OS5.3 Trip Reduction	75	Project includes linked public trails. Applicant will construct improved pedestrian and bicycle access on Rheem Boulevard.
	Noise OS6 Goal		Homes in the Project will be surrounded by significant open space and well set back from Rheem Boulevard, such that noise levels will be low. The new Project homes and streets will not adversely affect noise levels at existing homes. Construction noise will be mitigated to less than significant.
	OS6.4 Noise Impacts of New Development	76	Noise from Project will not raise noise levels above acceptable levels on any Town arterials or major streets, per analysis in the final EIR.
	OS6.5 Acoustical Data with Development Applications	77	The final EIR includes sufficient acoustical data so that noise impacts of the Project are properly evaluated and mitigated. A detailed mitigation measure to reduce construction noise is included.
Chapter 8			
Public Safety	General Public Safety PS1 Goal		Project as designed and mitigated will be a semi-rural environment that is relatively free from hazards and as safe as practicable. Final EIR confirms that, with implementation of mitigation measures, hazards such as geotechnical and fire risk are insignificant for the new development in the Project as designed. After the Project is developed, the GHAD will continue to control those risks through its professional management of the property.
	PS1.1 Assessment of Risk	78	The final EIR and studies conducted for the Project referenced therein have sufficiently assessed and mitigated natural hazard risks to that development. Those studies are sufficient for this stage in the development process. With implementation of the mitigation measures, the level of natural hazard risks is less than significant and acceptable in terms of effect on life and property. Ongoing protection against natural hazard risks will be provided by the GHAD's professional management of the property, including geotechnical, peak storm and wildfire risks. GHAD management will be subject to review and direction from the Town. Risk management by the GHAD will be paid for through homeowner assessments, not public funds.
	PS1.2 Public Review of Risk Data	79	The environmental and planning review process for the Project has provided for sufficient opportunity for public review of risk data and the evaluation of existing and

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
			potential hazards.
	PS1.3 High Risk Areas	80	No finished lots, homes, streets or water quality basins in the Project will be constructed within a "high risk" area in terms of land instability or other risk factors. Approved mitigation measures will be implemented in the design and construction of the Project to eliminate high or moderate risks in the Project development clusters. For example, debris benches on "D" Drive will eliminate high or moderate risk to those homes from inactive landslides above those debris benches. All streets, buildings pads, and foundations will be on engineered soil. They will be protected against the potential for future landslide activity within the surrounding open space, and from the potential adverse effects of soil creep, shallow groundwater, erosion, and storm runoff.
	PS1.4 Moderate Risk Areas	81	No finished lots, homes, streets or water quality basins in the Project will be constructed within a "moderate risk" area per the summary in the policy above, which also applies to this policy.
	PS1.6 Public Safety Improvements	82	The stabilization, repair and improvement of Rheem Boulevard is a high priority improvement identified by the Town Council. This public improvement will benefit the Town for many years to come.
	PS1.7 Hazardous Wastes	83	Mitigation measure requires use and disposal of hazardous materials used in the course of construction to comply with all State and Federal regulations.
	Police and Emergency Services PS2 Goal		Project homes will pay applicable Town development fee for cumulative impact of new development on police services.
	PS2.1 Police Services	84	Summary for Goal PS2 above applies to this policy to maintain adequate police services.
	PS2.2 Address Visibility	85	Home address visibility will be required at the building permit stage of development.
	Fire Safety and Emergency Services PS3 Goal		Project contributes to a high level of fire and life safety through improved emergency vehicle access and GHAD management of open space to reduce the risk of wildfire hazard, among other mitigation measures as implemented through the Project's Fire Protection Plan described in mitigation measures. The Plan will be approved by the Town Engineer and Fire Marshall.
	PS3.4 Fire Flows	86	Mitigation measures require water lines serving the Project provide continuous water flow and adequate pressure for fire suppression, and that fire flows meet the latest Fire Code requirements. Compliance will be confirmed by the Fire Marshall.
	PS3.5 Development Review for Emergency Response Needs	87	Project as designed and mitigated provides sufficient emergency response per Town Engineer and Fire Marshall review.
	PS3.6 Fire Vehicle Access	88	Project as designed and mitigated provides sufficient fire vehicle access per Town Engineer and Fire Marshall.
	PS3.8 Fire Safety Devices in Buildings	89	Project mitigation measures require a residential fire sprinkler system in each home, as well as fire retardant roofing and other fire resistant exterior materials. Landscaping will be fire resistant.

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
	PS3.10 Fire Protections Systems	90	The summary for the above policy also applies to this policy.
	PS3.11 Development Review by the Moraga-Orinda Fire District	91	Fire Marshall has reviewed street access for the Project and other fire safety impacts and mitigation. Final review will be provided when subdivision improvement plans are completed.
	PS3.12 Hazardous Fire Areas	92	Project Fire Protection Plan must be reviewed and approved by the Town Engineer and Fire Marshall. Dry grass and brush in the open space will be controlled by the GHAD, in part through grazing. The proposed project streets as designed will support fire-fighting vehicles. Adequate water supplies for fire control will be provided. Individual lot landscape will be subject to design review for fire protection.
	PS3.13 Dry Grass and Brush Control	93	Project Fire Protection Plan will require control of dry grass and brush control during and after construction.
	PS3.14 Fire Retardant Roofing	94	Fire retardant roofing is required for each new home.
	PS3.15 Fire Roads and Trails	95	The subject property is served by existing and adequate fire access roads to open space areas. The proposed project does not impact them.
	Seismic and Geologic Hazards PS4 Goal		Project as designed and mitigated presents minimal risk to lives and property due to earthquakes and other geologic hazards. The Project geotechnical engineer, Town geotechnical consultant and EIR geotechnical sub-consultant all concur. GHAD management of the property and its geotechnical and storm drainage features will assure that minimal risk will not increase over time or through neglect.
	PS4.1 Development in Geologic Hazard Areas	96	Where finished lots, homes, streets and water quality basins are developed geologic hazards that could adversely affect them will be eliminated, corrected or mitigated to a level of insignificance. That is also true with respect to the stabilization of Rheem Boulevard with a valley buttress in the upper valley area prior to its improvement. This is the conclusion of the EIR geotechnical sub-consultant and the Town's geotechnical consultant in their technical evaluation of the proposed development, including their evaluation of the geotechnical studies and recommendations by ENGEO. All geology and soils mitigation measures in the final EIR will be implemented.
	PS4.2 Development Review for Geologic Hazards	97	Technical reports addressing the geologic hazards on the site have been prepared by ENGEO, a licensed soil engineering and geology firm for the Applicant and accepted by the Town, as well as the EIR geotechnical sub-consultant in the geology and soils section and analysis of the EIR. Town staff and its geotechnical consultant has found all the technical reports to be complete for approval of the conceptual development plan and conditional use permit.
	PS4.3 Development Densities in Hazard Areas	98	Finished lots, homes, streets and water quality basins will not be developed in areas that will be prone to seismic and other geotechnical hazards. A density of one unit per 6.7 acres, restricted to 27 lots in two development clusters on less than 10% of the property, conforms to the objective of this policy to minimize density to avoid such hazards.

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
	PS4.6 Construction Standards	99	Seismic and geologic safety construction standards will be required prior to issuance of a building permit.
	PS4.7 Construction Oversight	100	Implementation of the Project mitigation measures will ensure that all new construction in the Project is built to established standards with respect to seismic and geologic safety.
	PS4.10 Grading	101	Grading of the site must be substantially consistent with the preliminary grading plan approved as part of the Project conceptual development plan. That plan, implemented consistent with the Project mitigation measures, will result in a geologically safe development that is aesthetically consistent with the Town's Design Guidelines. There will be no significant environmental impacts, including visual quality impacts. The preliminary grading plan approved with the conceptual development plan shows the limits of average slope grading. See the summary in Policy LU1.8 on slope restrictions for permitting development on predevelopment average slopes that are 25% or greater. It also applies to this policy. The average predevelopment slope of the entire graded area of the project is less than 25%.
	PS4.11 Retaining Walls	102	Project does not include retaining walls or other man-made features for the purpose of mitigating geologic hazards, except for the two debris benches along "D" Drive. This grading feature is permitted because: (i) it is designed to catch any potential debris flow from the inactive landslides on the hillside before it reaches "D Drive or on any lot and creates property damage; (ii) it will blend with the terrain; (iii) it will be screened from view by the homes in front of them and rear yard landscape and fences; and (iv) it is designed to ensure minimal GHAD maintenance costs. The retaining walls on nine lots throughout the project (3 - 6 foot maximum height) are intended to increase the size of the useable yards, not as mitigation for geologic hazards
	PS4.12 Maintenance of Hillside Areas	103	Hillside areas, along with the rest of the property, will be under the permanent, professional management of the GHAD.
	Flooding and Streambank Erosion PS5.		Project as designed, mitigated and conditioned will create minimal risk due to flooding and streambank erosion.
	PS5.2 Development in Floodways	104	Property is not within the FEMA 100-year floodplain or the 500-year floodplain.
	PS5.3 New Structures in Flood Hazard Areas	105	No new homes will be placed in potentially hazardous areas along stream courses. Coyote Creek area is not developed. No homes are included in the lower Rheem valley where the preserved intermittent drainage is located.
	PS5.5 Streambank Erosion and Flooding Potential	106	Project as designed, mitigated and conditioned will reduce the potential for future streambank erosion and flooding. Coyote Creek drainage will not be affected. The recreated wetland swale in the upper valley will be designed so that bank erosion is avoided. The Project storm drainage will be designed so that, at a minimum, off site discharge will not exceed existing conditions. The Applicant has further agreed, to the extent feasible using oversized underground storm drain pipes, to reduce peak flows

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
			during the 10 year and 100 year storm events to less than existing conditions to help reduce bank erosion and flooding in the intermittent drainage channel behind the existing Rheem Boulevard homes. The Applicant has further agreed to work with interested homeowners to secure permits for and place buried riprap in strategic locations identified by ENGEO in order to reduce bank erosion behind their homes.
	PS5.6 On-Site Storm Water Retention	107	On-site storm water retention will be retained to the extent necessary as described in the summary for the above policy
Chapter 9			
Community Facilities & Services	Schools FS2 Goal		Project will not impede the goal of continued high quality schools.
	FS2.1 Population Growth and School Capacity	108	The three public schools that will serve Project students have residual capacity. Project mitigation is required by State law: payment of school impact fees per home collected prior to issuance of a building permit. Fee amounts are set by the school district in accordance with a State law formula.
	FS2.2 Pace of Growth	109	Timing and location of the Project does not impact school facilities.
	FS2.3 School Impact Fees	110	The summary for the policy above applies to this policy.
	Parks and Recreation FS3 Goal		Public trails in the Project open space respond to community needs and priorities and are consistent with the Town resources, managed by the GHAD at no cost to the Town
	FS3.1 Parks & Recreation Commission	111	Parks & Recreation Commission has had the opportunity to comment on the proposed public trail system in the Project. Further opportunity is available through the ongoing development process.
	FS3.2 Parks & Recreation Facilities in New Developments	112	Public trails in the Project open space, managed by the GHAD, are adequate recreational facilities for this location.
	FS3.3 Park Dedication Requirements	113	Park dedication requirements will be satisfied consistent with ordinance requirements and subject to consideration of credit for on site recreational facilities.
	FS3.7 Parking at Parks and Recreational Facilities	114	Convenient public parking for trail users is proposed at the junction of "E" Street and the Fay Hill Road split to the reservoir.
	FS3.10 Land Management	115	The Project Open Space Management Plan will require GHAD to professionally manage the Project open space in accordance with recognized land management principles, as outlined in mitigation measures applicable to the open space.
	FS3.21 Trails and Maintenance	116	Project trails have been located and designed for a minimum adverse environmental impact. For example, narrow dirt trails are located on the steeper, easterly open space slopes. Maintenance will be the GHAD responsibility, not the Town. Trail routes and motor routes are separate, except for the access to Fay Hill Reservoir which has nominal EBMUD vehicle use. The public trail on the project side of Rheem Boulevard will be separated from the road.

Chapter	General Plan Goal or Policy Applicable to Rancho Laguna II 27 Lot Project ("Project")		Rancho Laguna II 27 Lot Project Conformance to Specific General Plan Goal or Policy
Chapter 10			
Growth Management	Growth Management GM1 Goal		Project development will not impede the Town in maintaining approved Performance Standards for Town facilities, services and infrastructure.
	GM1.4 Traffic Service Standards	117	LOS standard for all Moraga roads will not be exceeded with this Project. Cumulative impact is addressed by payment of applicable traffic fees.
	GM1.5 Other Performance Standards	118	Other Performance Standards will not be exceeded with this Project, including parks, fire, police, sanitary facilities, water, and flood control, as detailed in the EIR and applicable mitigation measures.
	GM1.6 Development Impacts and Share of Costs	119	Payment of development impact fees, per Town ordinance and its nexus study, as a fair share contribution toward capital improvements undertaken by the Town to meet Performance Standards, will address the cumulative development impact of this Project. The Town has elected to apply those fees toward its share of the cost to stabilize Rheem Boulevard in the lower valley at high risk for landslide movement. The Town will address the project's share of other development capital improvement costs with alternative funding.
	GM1.7 Development Review and Approval	120	Mitigation Measures and Conditions relating to traffic and facility/service performance are being approved.
	GM1.9 Concurrency	121	Rheem Boulevard will be stabilized, repaired and improved prior to completion of the Project by the applicant and Town in a coordinated effort. The applicant will be stabilizing the upper valley of Rheem Boulevard at no cost to the Town.
	GM1.10 Findings of Consistency	122	Adopted Level of Service standards for Lamorinda will not be exceeded with development of the Project. The Project is consistent with and will not adversely affect approved action plans for Lamorinda. These "Findings of Consistency" are supported by the traffic and circulation analysis in the final EIR.

ATTACHMENT 7 TO MINUTE ORDER 01-2011

**APPROVING THE RANCHO LAGUNA II
CONCEPTUAL DEVELOPMENT PLAN AND
CONDITIONAL USE PERMIT**

JANUARY 26, 2011

**FINDINGS RELATED TO THE CERTIFIED FINAL ENVIRONMENTAL IMPACT
REPORT FOR APPROVAL OF THE 27 LOT RANCHO LAGUNA II PROJECT AS
MODIFIED BY TOWN COUNCIL ON APPEAL**

CEQA FINDINGS
Rancho Laguna II

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**FINDINGS RELATED TO THE FINAL CERTIFIED ENVIRONMENTAL IMPACT
REPORT FOR APPROVAL OF THE 27 LOT RANCHO LAGUNA II PROJECT AS
MODIFIED BY THE TOWN COUNCIL ON APPEAL**

JANUARY 26, 2011

This Town Council (“Council”) of the Town of Moraga (“Town”) pursuant to the requirements of the California Environmental Quality Act (“CEQA”) hereby adopts and makes the following findings (“CEQA Findings,” “Findings” or singularly “Finding”) relating to its approval of the recommended 27 lot Rancho Laguna II Project (“Project” or “27 Lot Project”) under CEQA and its certification for adequacy of the Final environmental impact report (“EIR”), prepared for and relied on by the Council in its consideration of the Project. Rancho Laguna, LLC is the “Project Sponsor” (also referred to as the “Applicant”).

PART I.

INTRODUCTION AND PROCEDURAL HISTORY

To assist the reader in understanding the course of events leading to the Council’s approval of the 27 Lot Project and certification of the EIR, and in understanding the format and content of these Findings, references are made herein to documents in the administrative record for this Project. The 27 Lot Project is based on the Conceptual Development Plan Sheets dated December 16, 2010, as modified by the Access Road Sections Exhibit dated December 30, 2010 (“CDP Sheets”) considered by the Town Council at its public hearing on January 26, 2011. The administrative record sets forth the history of the Rancho Laguna planning and environmental review processes leading to preparation and certification of the EIR, adoption of these Findings, and approval of the Project. The specific materials which constitute the administrative record for this Project are described below, and generally consist of the EIR, staff reports, hearing minutes, map, exhibits and correspondence. All of those documents in the administrative record and public testimony throughout the public planning process have been reviewed and considered by the Council. To avoid duplication and unnecessarily longer Findings, where possible brief summaries are made instead of repeating descriptions, analysis or facts in the administrative record, and reference is made to the locations in the administrative record where more detailed discussion is available to the reader. All references to mitigation measures are to the mitigation measures in the Mitigation Monitoring and Reporting Program for the 27 Lot Project (“MMRP”).

As set forth in the administrative record, the Project being approved is a residential development of 27 lots on a 180 acre site located on the east side of Rheem Boulevard between Via Barcelona and Fernwood Drive in the Town of Moraga. The Project being approved and as mitigated is different from the 35 lot Rancho Laguna II project proposed by the Applicant and analyzed in the Draft EIR and Responses to Comments. The modifications are the result of efforts in the

environmental review and planning process at the Planning Commission and Town Council to reduce all environmental impacts to less than significant, to better comply with applicable General Plan Principles, Goals and Policies, and meet Town objectives. The improvements to the Project as revised and its modified impacts and mitigation measures are more fully described in the Staff Report for this public hearing, the Update for Final EIR prepared for the Planning Commission, and the revised MMRP prepared for the Town Council for the 27 Lot Project, each of which is incorporated by this reference.

1. DESCRIPTION OF 27 LOT PROJECT

The Project as mitigated includes 27 single-family residences on large lots in two development areas: the upper Rheem valley (also referred to as the upper valley area) and the southern plateau (also referred to as the upper development area). The 8 upper valley lots range in size from approximately 18-20,000 sq. ft. The 19 southern plateau lots range in size from approximately 15,000 to 38,500 sq. ft. All the pads are essentially flat, except for the split pads on Lots 8-10 and the sloped pads on Lots 7 and 25. The two development areas comprise 17.3 acres, 9.6% of the property. The rest of the property will be permanently preserved as open space with public trails, which will be maintained by a Geologic Hazard Abatement District (“GHAD”) formed by the Town Council and paid for by the Applicant and homeowners. The graded area in the open space limited, less than 7.5 acres. No grading is proposed in the MOSO portion of the property.

The development areas have separate private roads and access off Rheem Boulevard. As part of the Project development, Rheem Boulevard will be stabilized along the Project frontage, utilizing an engineered valley buttress in the upper valley and a geo-grid reinforced buttress fill in the areas of high risk for landslide movement in the lower valley. Rheem Boulevard will be repaved and the section improved with 12 foot travel lanes, a turn pocket at “D” Drive, dirt shoulders and a 2-3 foot decomposed granite path on the easterly project side.

Any filled wetlands will be recreated in the open space on the upper valley buttress or in the lower valley outside the intermittent drainage. All geologic hazards on the property that may impact development areas will be mitigated consistent with the studies and recommendations of the Applicant’s geotechnical engineers, which have been reviewed and approved by the Town and EIR geotechnical engineers and Town Engineer. Stormwater peak flows and water quality of runoff are fully mitigated, primarily through oversized storm drain pipes and water quality basins.

The Project will be a sustainable green community that mitigates all its environmental impacts and achieves at least 90 Green Points under the Town’s Green Building Program. The green building design of each home will provide at least 90% of its electrical energy target load through a combination of photovoltaic cells and construction design, and include solar water heating.

With the mitigated grading plan and landscape plan for the 27 Lot Project, the visual quality of the Project site as seen from all public views, including Rheem Boulevard (a scenic corridor road) along and just south of the project frontage and St. Mary’s Road (also a scenic corridor

road) just west of its intersection with Rheem Boulevard across from the Lafayette-Moraga Regional Trail and its parking lot is less than significant. That is also true from the Regional Trail itself in that and other public trail locations. With the Project as developed and mitigated, the Rancho Laguna property will have a semi-rural appearance.

2. LOCATION OF PROJECT

The Project is located in the northeastern part of the Town of Moraga on the easterly side of Rheem Boulevard between St. Mary's Road and the EBMUD Fay Hill Reservoir. The City of Lafayette boundary is located near the easterly side of the Project.

3. APPROVALS FOR 27 LOT PROJECT

The Town of Moraga's discretionary approvals for this Project include but are not limited to the following which are subject to appeal to the Council:

- Approval of a Conditional Use Permit and Conceptual Development Plan by the Planning Commission.
- Approval of a General Development Plan by the Planning Commission.
- Approval of the Precise Development Plan by the Planning Commission.
- Approval of a Tentative Subdivision Map by the Planning Commission.
- Approval of Design Review for the Precise Development Plan and the homes by the Design Review Board.

4. OBJECTIVES OF 27 LOT PROJECT

The following objectives for development of the Rancho Laguna property have been identified by the Town of Moraga Draft EIR, and by Town staff, the Planning Commission and the Town Council:

- (1) Ensure development is consistent with the Moraga 2002 General Plan considered as a whole, and has a semi-rural character;
- (2) Preserve a significant amount of open space with public trails in perpetuity and professionally managed at no cost to the Town;

- (3) Help to meet the housing goals established by the Moraga 2002 General Plan;
- (4) Provide for a development that is not a drain on the Town's fiscal resources;
- (5) Stabilize Rheem Boulevard along the Rancho Laguna frontage concurrent with the project development and remove and replace damaged road surface to the extent feasible and at reasonable cost to the Town, and maintain a semi-rural cross section of improvements;
- (6) Reduce to the extent feasible the volume of peak stormwater discharge into the intermittent drainage behind the downstream homes along Rheem Boulevard;
- (7) Include an effective green building program as part of the project development;
- (8) Not significantly impact public views of the project site, including from Rheem Boulevard, a scenic road;
- (9) Protect new development from geologic hazards through adoption of geotechnical mitigation measures, peer reviewed and approved by the Town's geotechnical consultants, and through the long term management of the project site; and
- (10) Limit all environmental impacts of the project as designed and mitigated to less than significant, to the extent feasible.

Project objectives have also been identified by the Project Sponsor as set forth below:

- (1) Develop a large lot, single-family residential community on its property that is semi-rural in character and compatible with the overall high quality of the Town of Moraga;
- (2) Develop a residential community that has a special identity within the Town of Moraga as a well-designed, environmentally sound and attractive development;
- (3) Develop a residential community consistent with the Moraga 2002 General Plan as a whole, zoning regulations and development standards; and

- (4) Complete a residential development on its property that is economically feasible.

5. SCOPE OF FINDINGS FOR 27 LOT PROJECT

These CEQA Findings are adopted pursuant to Public Resources Code §21000 et seq. (CEQA) and the CEQA Guidelines," California Code of Regulations, Title 14, §15000, et seq. CEQA §21081 and CEQA Guidelines §15091 require that a project's significant environmental impacts identified in an EIR must be addressed by one of three findings, as set forth at §15091(a) (1)-(3). These Findings describe the disposition of each significant environmental impact of the 27 Lot Project, indicating generally: if the impact is reduced to a less than significant level through mitigation adopted by the Town Council; if the impact could be reduced through mitigation that can and should be adopted by another public agency (other than the Town); or if the impact is significant and unavoidable. To ensure that all Project impacts are identified and necessary findings made, these CEQA Findings will identify the Project impacts and mitigation measures set forth in the EIR (see the updated mitigation measures in the MMRP dated January 26, 2011, for the 27 Lot Project) and set forth the corresponding required Findings and rationale, with appropriate references to the administrative record.

Mitigation measures in the Draft EIR have been modified by the Council, at the recommendation of Town staff, to more accurately reflect changes in the 27 Lot Project design as compared to both the 35 lot project reviewed in the Draft EIR and the project as approved by the Planning Commission. In each instance the revised mitigation measure provides the same or better mitigation than previous ones and reduces to less than significant any otherwise significant environmental impacts. Each mitigation measure is also included as a condition of approval of the Conceptual Development Plan for the 27 Lot Project. Each corresponding condition number is included the MMRP.

6. DESCRIPTION OF ADMINISTRATIVE RECORD

For the purposes of CEQA and these Findings, the administrative record (also "record") before this Council relating to the Project includes, without limitation, the following documents: They include:

- (1) The 2002 Moraga General Plan and the Moraga Zoning Ordinance;
- (2) The Final Environmental Impact Report for the Rancho Laguna II Project, which consists of:
 - (a) The Final EIR dated August, 2008, comprised of the Draft EIR and Appendices, dated July, 2006 ("DEIR"),

Comments on the Draft EIR, Responses to Comments on the Draft EIR,

- (b) Update for Final EIR presented to the Planning Commission, and
- (c) Revised MMRP for 27 Lot Project;
- (3) The Staff Reports to the Planning Commission and Council, with attachments;
- (4) Minutes of Planning Commission and Council public meetings and hearings on the Project; and
- (5) All documents, exhibits, maps and drawings submitted from time to time as part of the Project application as revised and by the Applicant at public meetings, and all studies, reports, and materials accompanying or referenced in the application as revised and for proposed development of the Rancho Laguna property by the Applicant. Included as attachments to the Staff Reports are all written documents submitted by the public, other public officials, and the Applicant to the Planning Commission and Council, through the public planning process. The documents which constitute the administrative record are located at the Town of Moraga Planning Department, 329 Rheem Boulevard, Moraga, pursuant to CEQA §21081.6.

7. GENERAL CONSIDERATIONS

- A. Reliance on the Record.** Each and all of the Findings and determinations herein are based upon competent and substantial evidence, both written and as reflected in the detailed minutes, contained in the entire record relating to development of the Rancho Laguna property and the Project. The Findings and determinations constitute the independent Findings and determinations of the Council in all respects and are supported by substantial evidence in the record as a whole.
- B. Nature of Findings.** Any Finding made by the Council shall be deemed made regardless of where it appears in this document and the other approval documents. All of the language included in this document and the other approval documents constitute Findings by the Council, whether or not any particular sentence or clause includes a statement to this effect. The Council intends that the Findings and the other approval documents be considered as an integrated whole and, whether or not any part of these Findings fails to cross-reference or incorporate by reference any other part of these Findings, that any Finding required or permitted to be made by

the Council with respect to any particular subject matter of the Project shall be deemed made if it appears in any portion of these Findings or the other approval documents.

- C. **Limitations.** The Council's analysis and evaluation of the Project is based on the best information currently and reasonably available to the Town.

- D. **Summaries of Impacts, Mitigation Measures, Alternatives, and other Matters.** All summaries of information related to the Project are based on the referenced environmental documents and/or other evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular Finding is not based in part on that fact. This document includes only as much detail as may be reasonably necessary in the judgment of the Council to show the basis for each Finding as set forth below. Citations to the EIR and its MMRP have been included for these Findings. The reader should refer directly to the referenced documents and other evidence in the record for more precise information regarding the facts on which a summary is based. That a cross reference or citation to a particular relevant portion of the administrative record has not been made in this document does not mean it has not been relied on by the Council as part of the substantial evidence to support a particular Finding or its decision to approve the Project. The Council has relied on the record as a whole to make each and every Finding and determination in approving the Project.

- E. **Adoption of Mitigation Measures and Conditions of Approval.** These Findings are based upon the mitigation measures required for the 27 Lot Project recommended by the EIR as included in the MMRP (or as may have been thereafter modified by the Council), or as already having been incorporated into the design of the Project by the Applicant. The Council is hereby adopting and incorporating into the 27 Lot Project those mitigation measures in the MMRP which have not already been incorporated into the Project as designed. The Council finds that all mitigation measures approved for the 27 Lot Project, (or previously incorporated in its design) are desirable and feasible and shall be timely implemented in accordance with the adopted MMRP and conditions of approval.

- F. **Specific and General Mitigation.** For each potentially significant impact of the Project, the EIR in its MMRP for the 27 Lot Project generally identifies one or more corresponding mitigation measure(s) to lessen or avoid such impact. For ease of reference to the EIR documents, this document is organized in a manner that corresponds to the MMRP. However, the Council recognizes that any of the mitigation measures

described below may lessen or avoid other impacts in addition to those identified impacts for which they are specifically proposed.

In light of the above, the Council finds that:

(a) each mitigation measure adopted by the Council or already incorporated into the Project may avoid or substantially lessen more than one potentially significant; and

(b) each significant impact identified by the EIR may be mitigated both by its corresponding mitigation measures to the extent set forth in such documents or below ("Specific Mitigation") and by other, non-corresponding mitigation measures, conditions of approval or required Project redesign adopted by the Council or already incorporated into the Project ("General Mitigation"). These Findings of General Mitigation shall be applicable wherever supported by the evidence in the record regardless of whether a specific Finding of an instance of such General Mitigation is made.

G. Judgment of Town Council and Reliance on Professionals. The Council acknowledges that development of Rancho Laguna I as first proposed and Rancho Laguna II as thereafter proposed, as well as the approved 27 Lot Project, have been and will continue to be of interest within the community. Many individuals oppose the Project as approved and disagree with some of the analyses and conclusions in the EIR, Staff Reports and the administrative record. Furthermore, the Council acknowledges that individuals in the community with professional expertise disagree with the professional analyses, conclusions and determinations of Town staff, peer review consultants retained by the Town, and the EIR consultants and sub-consultants, as well as the judgement and expertise of the Planning Commission. The Council further acknowledges that opponents to the Project are skeptical about and disagree that the efforts by the Applicant and its professional consultants to design the Project, in part in response to community, staff and Planning Commission and Council concerns and suggestions, will result in a sensitively designed neighborhood that will fit well on the site and provide for a sustainable, beneficial and safe combination of residential and open space uses for both new residents there and the public. The Council recognizes that some Project opponents do not believe this property can reasonably accommodate the proposed density of development. The Council has carefully considered these concerns and opinions, while at the same time recognizing that, under Public Resources Code Section 21082.2 (c), substantial evidence of the significance of an environmental effect is not demonstrated by mere public controversy alone.

With the foregoing in mind, the Council has carefully and critically reviewed the analyses and conclusions by the Applicant's consultants, Town staff, peer review consultants, and the EIR consultants and sub-consultants. The Council accepts their professional

analyses, conclusions and opinions and determines that they have reasonably and consistently addressed and responded to specific questions and criticisms during this long and thorough planning process. Where there is a disagreement among professionals, the Council has therefore elected, after careful evaluation, to rely on, accept, and endorse the analyses, conclusions and assessment of the Project by Town staff and consultants, Planning Commissioners, and the Applicant's consultants. The Council endorses their general conclusion that, with the Conceptual Development Plan as approved and with further detailed review and consideration of the 27 Lot Project as the planning and development process continues, the Project has been and will continue to be sensitively and well designed for the site, and there is no substantial evidence to justify a further reduction in the number of lots or a change in the location of lots due to site or environmental constraints or General Plan considerations. The Project as designed and mitigated reduces all environmental impacts to below the thresholds of significance, as informed by the General Plan. The analyses, opinions and conclusions to the contrary by project opponents, including those with a professional background, are not supported by substantial evidence in the record.

The Council recognizes that others may disagree and respects their judgments and opinions about the Project and its environmental effects. However, as to some impacts where there is a professional or public disagreement over the effectiveness of mitigation measures and Project design to reduce environmental impacts to less than significant, there is no substantial evidence in the record to support the opinions expressed by some opponents these measures will not work. Examples include their opinions as to the effectiveness of the mitigation and project design to protect new development from geotechnical hazards, of the valley buttress plan to stabilize the upper and/or lower valley areas of Rheem Boulevard, of the biological resources mitigation measures, and of visual quality impacts from public viewpoints, including existing and future public trails.

As a more detailed example, there is no substantial evidence in the record to support the opinion expressed by some opponents that development of the 27 Lot Project as designed and mitigated will have unavoidable significant impacts on public views, which are limited in location, extent of Project development viewed, the number of people who see it, and/or the change in character or site characteristics as to the particular view. No homes or new trees in the upper development area will be visible from the two key public views, Rheem Boulevard and the St. Mary's Road/Lafayette-Moraga Regional Trail location. The grading for the upper development area is not a significant change in visual quality from public viewpoints. The other existing and potential future public trail views of developed portions of the project site are an insignificant visual quality impacts in the context of the entire viewshed which is comprised of both open space and residential development. The analysis and opinions by visual consultants retained by appellants to the contrary are not supported by the Town. The Town's obligation is to address public views, not private views. Under the circumstances and as the Project is designed and mitigated, it is not appropriate for the

Town to reduce density in order to avoid seeing new homes on this site from other private property.

The Council also recognizes the consistent participation by project opponents in the Rancho Laguna II planning process has resulted over the past few years in a very critical and careful review of the Applicant's project submittals by the Council, Staff, and the Town's professional and environmental consultants, and have resulted in project revisions and mitigation as part of the 27 Lot Project that reduce or avoid all significant environmental impacts. In the Council's judgment, this active participation by project opponents, along with the efforts by the Applicant and its consultants and Town staff and consultants to respond to their testimony, and to the comments and suggestions of Planning Commissioners and Council members, has resulted in a better 27 Lot Project, as designed and mitigated, than the 35 lot project analyzed in the Draft EIR and the project as approved by the Planning Commission.

PART II.

1. FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR APPROVAL OF THE 27 LOT RANCHO LAGUNA II PROJECT

A. A Guide to CEQA Findings.

These Findings are made pursuant to the requirements of CEQA, as set forth at Cal. Public Resources Code §21000 *et seq.* In §21081, CEQA provides that:

No public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant environmental effects that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:*
 - (1) Changes or alterations have been required in, or incorporated into, the project, which mitigate or avoid the significant effects on the environment.*
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.*
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment*

opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

- (b) *With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.*

Because the EIR identified significant effects which would occur as a result of the Project, and in accordance with the provisions of CEQA, the Council hereby adopts these Findings as part of the approval of the Rancho Laguna II 27 Lot Project.

B. Organization of Findings.

These CEQA Findings are set forth as follows. Section 2 identifies the 27 Lot Project's potentially significant impacts and necessary corresponding mitigation measures and sets forth the required CEQA Findings. The sequence of the discussion of impacts in Section 2 corresponds to the impacts sequence in the MMRP for the 27 Lot Project. Following each potentially significant impact are the Findings required by CEQA (§21081) and CEQA Guidelines (§15091(a)(1)-(3)). Each Finding and rationale is based on and supported by substantial evidence in the record as a whole.

C. Less Than Significant Impacts.

As previously described, CEQA findings are made on impacts that are considered significant. Such findings describe the disposition of the impact following application of feasible and adopted mitigation measures. CEQA findings are not required to be made on impacts that were found to be less than significant without mitigations. The Final EIR already addresses the disposition of these impacts; mitigation is not required to reduce the magnitude of these impacts any further. Consequently, the Council need not make any further findings with respect to these impacts. For example, the City of Lafayette's previous contention there are other City locations with public views of the Project that may constitute a significant visual quality impact was demonstrated to be incorrect, due to topographic features between the Project site and the view point. That determination was made by visiting the locations and through photosimulations.

As another example, portions of the Project may be visible from public dirt trails. That is not considered a less than significant impact due to the somewhat limited use of the trails and/or the overall context of that view that includes portions of the Project. Many other homes and streets also come into view walking on those trails. Since such trail view impacts are less than significant to begin with there is no need for Project design changes or mitigation to address them.

In making this determination on the impacts of the 27 Lot Project that are less than significant without mitigation, the Council has reviewed the entire administrative record, and concurs with the analyses in the certified EIR with respect to conclusions on

significance of the 27 Lot Project impacts as mitigated. Individual impacts that were potentially significant for the 35 lot project in the Draft EIR, but are no longer significant based on the design of the 27 Lot Project, are also discussed below.

2. MITIGATION OF POTENTIALLY SIGNIFICANT IMPACTS

LAND USE

(DEIR, Section 3.10)

Impact 3.10 #2. Conversion of Agricultural Land (reviewed in DEIR, pp. 3.10 – 11 and MMRP, pp.1-2).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant land use effects on the environment with respect to “Conversion of Agricultural Land.” This Impact 3.10 #2 is less than significant with the implementation of Mitigation Measure 3.10 #2 for the 27 Lot Project as designed.

In Support of Finding: The adverse land use effects of the Project with respect to conversion of agricultural land are avoided by the preservation of open space on the Project site and the continuation of grazing after Project development. Grazing is the historical agricultural use of this hillside property. In the Project as designed more than 90% of the 180 acre site is preserved as permanent open space. The open space will be professionally managed by the GHAD, consistent with an Open Space Management Plan. Grazing is appropriate on most of the 162 acres of open space. Grazing will be managed by the GHAD consistent with the other Plan objectives and mitigation measures for fire protection and to avoid the degradation of preserved or enhanced environmental resources, in particular Coyote Creek and the Rheem valley areas. Conversion of a portion of the property from grazing use is a less than significant impact.

Impact 3.10 #4. Density (reviewed in DEIR, pp. 3.10 – 14, Responses to Comments, Master Responses 2 and 3, and MMRP, pp.2-5).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant land use effects on the environment with respect to its “Density.” This Impact 3.10 #4 is less than significant for the 27 Lot Project as designed, without the need for an additional, separate mitigation measure.

In Support of Finding: The adverse land use effects of 27 lots on the 180 acre Project site, in terms of its density, are avoided by the design of the 27 Lot Project in two

development clusters that total 17.3 acres in size. The density and design of the 35 lot project analyzed in the Draft EIR resulted in potentially significant effects on the environment. The proposed water quality basin at the end of “C” Court on the southern plateau required significant excavation. The grading plan created slope issues on some of the lots, inconsistent with the OS-PD requirement that pads and driveways be developed on average slopes of less than 25%. The project resulted in significant visual quality impacts as seen from public views. As redesigned, the 27 Lot Project includes either a mechanical water quality treatment vault in the cul-de-sac or, alternatively, a relocated water quality basin at the end of “C” Court adjoining Lot 17 that does not require significant excavation or any other adverse environmental effect. All pads and driveways meet OS-PD average slope standards.

As redesigned and mitigated, all visual quality impacts are less than significant. For example, valley development is limited to a shortened “D” Drive and 8 lots and a revised mitigation measure requires the new landscape be placed so as to preserve open views as seen from Rheem Boulevard, a scenic road. The 27 Lot Project as designed and mitigated has no significant environmental impacts. Its overall density of one unit per 6.7 acres (75% of the maximum density) is determined to be appropriate based on site characteristics, site-specific analysis and Project design and mitigation, and does not result in any significant impacts, as those significance thresholds are informed by the General Plan.

Impact 3.10 #5. MOSO/Non-MOSO Land Use (reviewed in DEIR, pp. 3.10 – 15, Responses to Comments, Master Responses 2 and 3, and MMRP, pp.5-7).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant land use effects on the environment with respect to its “MOSO/Non-MOSO Land Use” designation. This Impact 3.10 #5 is less than significant for the 27 Lot Project as designed, without the need for an additional, separate mitigation measure.

In Support of Finding: The adverse land use effects of development on MOSO and Non-MOSO land are avoided by the 27 Lot Project as designed and mitigated. Through implementation of Mitigation Measures 3.20 #1 - 3.20 #10 and 3.30 #1 – 3.30 #3 all impacts related to geotechnical and hydrologic constraints will be mitigated. No streets or homes are located on MOSO land, let alone in designated high risk areas on MOSO land. No streets or homes as developed on Non-MOSO land will be subject to high or moderate geologic risk. All risk has been minimized to an acceptably low level.

No development, including grading, is proposed on the MOSO portion of the property, other than dirt public trails and potentially a portion of a sewer lines off “C” Court or “B” Court. Completion of the two development clusters, comprised of 17.3 acres of the Non-MOSO portion of the property, as designed and mitigated will result in no significant environmental impacts (including visual quality impacts). The Project is in harmony with the General Plan considered as a whole, including the Open Space Lands goals and

policies (see Attachment 6 - the General Plan Consistency Finding in Exhibit C to Resolution 11-09 PC). The public trails in the permanent open space are outdoor recreational facilities that permit lot sizes down to 15,000 square feet. The 27 Lot Project as designed and mitigated meets the land use requirements of its MOSO/Non-MOSO designation, without the need for an additional, separate mitigation measure.

GEOLOGY AND SOILS

(DEIR, Section 3.20)

Impact 3.20 #1. Ground Shaking (DEIR, pp. 3.20 – 14, Responses to Comments, Master Response 4, and MMRP, p. 7).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to “Ground Shaking.” This Impact 3.20 #1 is less than significant with the implementation of Mitigation Measure 3.20 #1.

In Support of Finding: The adverse geology and soils effects of the Project with respect to ground shaking are avoided by the design and construction of buildings and other improvements in accordance with the latest UBC and other code requirements.

Impact 3.20 #3. Expansive Soils (DEIR, pp. 3.20 – 15, Responses to Comments, Master Response 4, and MMRP, pp. 7-9).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to “Expansive Soils.” This Impact 3.20 #3 is less than significant with the implementation of Mitigation Measure 3.20 #3.

In Support of Finding: The adverse geology and soils effects of the Project with respect to expansive soils are avoided by the implementation of protective measures for Project improvements, set forth in Mitigation Measure 3.20 #3, during the design and construction phase of the Project. Those measures include overexcavation of cut and fill lots and moisture conditioning of fills to over optimum. Documentation by the Project geotechnical engineer, submitted to the Town’s geotechnical consultant, will help assure that implementation.

Impact 3.20 #4. Groundwater (DEIR, pp. 3.20 – 16, Responses to Comments, Master Response 4, and MMRP, p. 8).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to “Groundwater.” This Impact 3.20 #4 is less than significant with implementation of Mitigation Measure 3.20 #4.

In Support of Finding: The adverse geology and soils effects of the Project with respect to shallow groundwater are avoided by the implementation of protective measures for Project improvements, set forth in Mitigation Measure 3.20 #4, during the design and construction phase of the Project. Those measures include construction of subdrains in keyways and reconstructed landslide areas. Documentation by the Project geotechnical engineer, submitted to the Town’s geotechnical consultant, will help assure that implementation.

Impact 3.20 #5a. Landslides (DEIR, pp. 3.20 – 17, Responses to Comments, Master Response 4, and MMRP, pp. 8-10).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to “Landslides.” This Impact 3.20 #5a is less than significant with implementation of Mitigation Measure 3.20 #5a.

In Support of Finding: The adverse geology and soils effects of the Project with respect to landslides are avoided by placing the two residential development clusters in locations that are most suitable for stabilization, and by the implementation of protective measures, set forth in Mitigation Measure 3.20 #5a, during the design and construction phase of the Project. Prior to approval of the Precise Development Plan, a final Geotechnical Plan of Control and a final Drainage Plan will be completed and approved. Formation of the GHAD will provide for professional management of geologic and hydrologic conditions on the property after it is developed, consistent with those Plans, so that Project improvements are protected long term. Permanent GHAD funding will be provided by lot owners through assessments, both for routine maintenance and specific repairs.

Impact 3.20 #5b. Landslides (Rheem Boulevard) (DEIR, pp. 3.20 – 17, Responses to Comments, Master Response 4, and MMRP, pp. 10-14).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology effects on the environment with respect to “Rheem Boulevard Landslides.” This Impact 3.20 #5b is less than significant with implementation of Mitigation Measure 3.20 #5b.

In Support of Finding: The adverse geology and soils effects of the Project with respect to landslides under Rheem Boulevard along the Project frontage are avoided by the measures that will be undertaken by the Project Sponsor and the Town to stabilize that frontage. Following its stabilization, the Project Sponsor will repair and improve Rheem

Boulevard. The GHAD will monitor and maintain these stabilization improvements on the Project site once completed.

The Council would prefer to avoid filling substantial portions of the lower valley intermittent drainage and instead has decided that the Town would undertake stabilization of Rheem Boulevard of the lower valley section (680 lf) at high risk for landslide movement with a geogrid reinforced buttress fill as recommended by the Town's geotechnical engineers. The sharing of responsibilities and costs by the Town and Applicant with respect to the stabilization, repair and improvement are set forth in the staff report for this public hearing and Condition V.16. Mitigation Measure 3.20 #5b has been modified accordingly.

Impact 3.20 #6. Soil Creep (DEIR, pp. 3.20 – 18 and MMRP, p. 14).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to "Soil Creep." This Impact 3.20 #6 is less than significant with implementation of Mitigation Measure 3.20 #6.

In Support of Finding: The adverse geology and soils effects of the Project with respect to soil creep are avoided by the implementation of protective measures for Project improvements, set forth in Mitigation Measure #6, during the design and construction phase of the Project. These measures include excavation and compaction of soils in development areas that is subject to creep. The effectiveness of the measures used will be verified and tested by the Project geotechnical consultant, and submitted to the Town's geotechnical consultant, during that phase.

Impact 3.20 #7. Erosion (DEIR, pp. 3.20 – 18, Response to Comments, Master Responses 4 and 5, and MMRP, pp. 14-15).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to "Erosion." This Impact 3.20 #7 is less than significant with implementation of Mitigation Measure 3.20 #7.

In Support of Finding: The adverse geology and soils effects of the Project with respect to erosion are avoided by the implementation of the erosion control measures during construction and the permanent measures incorporated into the design and grading of the Project, described in Mitigation Measure 3.20 #7. Those design measures include providing positive drainage from building pads. The recreated wetland swale and intermittent drainage on the upper valley buttress and its slope will be designed, and the intermittent drainage in the lower valley will be enhanced, to minimize erosion on their banks. In addition, the Project Sponsor has agreed to Condition II.4 of the Conceptual Development Plan, whereby it will work with interested homeowners along Rheem Boulevard to help secure permits for the placement of buried sections of riprap in

strategic locations in the intermittent drainage on their lots in order to reduce erosion. The Project Sponsor will construct the buried riprap at its cost, assuming the permits do not require replacement mitigation. The homeowner will be responsible to maintain the riprap on his/her lot.

Impact 3.20 #8. Cuts and Fills (DEIR, pp. 3.20 – 19, Update for Final EIR, and MMRP, pp.15-16).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to “Cuts and Fills.” This Impact 3.20 #8 is less than significant based on the design of the 27 Lot Project.

In Support of Finding: The adverse geology and soils effects of the Project with respect to cuts and fills are avoided by the redesign of the 27 Lot Project, in which all slopes are limited to a maximum grade of 3:1. any increase in grade up to 2:1 of short slopes between pads in lieu of retaining walls will be subject to further review and approval. Thus, Mitigation Measure 3.20 #8 in the Draft EIR is no longer necessary.

Impact 3.20 #9. Building Pads (DEIR, pp. 3.20 – 20 and MMRP, p. 16).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant effects on the environment with respect to “Building Pads.” This Impact 3.20 #9 is less than significant with implementation of Mitigation Measure 3.20 #9.

In Support of Finding: The adverse geology and soils effects of the Project with respect to its building pads are avoided by implementation of protective measures for building pads, set forth in Mitigation Measure 3.20 #9, during the design and construction of the Project. Those measures to minimize settlement include deep fills being placed at a higher relative compaction and conditioned to above optimum moisture. Techniques to minimize differential settlement include replacement of cut with engineered fill and use of a rigid type foundation such as drilled pier and grade beam.

Impact 3.20 #10. Foundations (DEIR, pp. 3.20 – 21 and MMRP, p. 17).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant geology and soils effects on the environment with respect to “Foundations” of buildings. This Impact 3.20 #10 is less than significant with implementation of Mitigation Measure 3.20 #10.

In Support of Finding: The adverse geology and soils effects of the Project with respect to its building foundations are avoided by implementation of protective measures, set forth in Mitigation Measure 3.20 #10, in the design and construction of the Project. Those measures include meeting all recommendations by ENGEO in its preliminary soil investigation report. Observation and testing by the Project geotechnical engineer,

submitted to the Town's geotechnical consultant, will help assure that implementation.

HAZARDS AND HAZARDOUS MATERIALS

(DEIR, Section 3.25)

Impact 3.25 #2. Construction-Related Hazardous Materials (DEIR, pp. 3.25 – 3 and MMRP, pp. 17-18).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant effects on the environment with respect to “Construction-Related Hazardous Materials.” This Impact 3.25 #2 is less than significant with implementation of Mitigation Measure 3.25 #2.

In Support of Finding: The adverse hazards and hazardous materials effects of the Project with respect to construction-related hazardous materials used in the course of Project construction are avoided by the implementation of Mitigation Measure 3.25 #2. It requires compliance with all Federal, State and local laws regarding use of hazardous materials at construction sites.

HYDROLOGY, DRAINAGE AND WATER QUALITY

(DEIR, Section 3.30)

Impact 3.30 #1. Storm Drainage (DEIR, pp. 3.30 – 8, Responses to Comments, Master Response 5, and MMRP, pp. 18-21).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant hydrology, drainage and water quality effects on the environment with respect to “Storm Drainage.” This Impact 3.30 #1 is less than significant with implementation of Mitigation Measure 3.30 #1 and #2.

In Support of Finding: The adverse hydrology, drainage and water quality effects of the Project with respect to stormwater drainage are avoided by the implementation of the performance standards, set forth in Mitigation Measure 3.30 #1, in the design and construction of the Project, as required in Mitigation Measure 3.30 #2. Peak stormwater flow increases resulting from the Project's impervious surface will be reduced to existing peak flows at the points of off site discharge by the implementation of those performance standards. The required detention will be provided through oversized underground stormdrain pipes and water quality basins. The water quality of stormwater discharges from those basins will meet Regional Water Quality Control Board (“RWQCB”) standards. The performance standards and required design details will be set forth in the final Drainage Plan for the Project, which must be approved by the Town Engineer. Although not required to mitigate the storm drainage impact to less than significant, the Project Sponsor has agreed to Condition II.4 of the Conceptual Development Plan,

whereby it will increase the size of stormwater pipes with the objective to the reduce off site discharge during the larger 10-year through 100-year average recurrence storms to less than existing conditions, to the extent reasonably feasible.

Impact 3.30 #2. Groundwater Recharge (DEIR, pp. 3.30 – 12 and MMRP, pp. 21-22).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant hydrology, drainage and water quality effects on the environment with respect to “Groundwater Recharge.” This Impact 3.30 #2 is less than significant with implementation of Mitigation Measure 3.30 #2.

In Support of Finding: The adverse hydrology, drainage and water quality effects of the Project with respect to groundwater recharge are avoided by implementation of the performance standard in Mitigation Measure 3.30 #2 in the final design of the Project. The final Drainage Plan must demonstrate that existing springs and seeps are not dependent on the existing rainwater recharge from the Project development cluster areas. Details in the final grading plan and Precise Development Plan must be completed to demonstrate this lack of dependency. The final Drainage Plan, including this element of it, must be reviewed and approved by the Town Engineer. In the event spring and seep recharge is reduced by the final design of the development clusters and their impervious surfaces, and a supplemental water supply is needed to provide adequate recharge, further environmental analysis may be necessary. That will not be known until the final details of the Project design are completed. The performance standard to be applied to that final design is established by Mitigation Measure 3.30 #2.

Impact 3.30 #3. Water Quality (DEIR, pp. 3.30 – 13, Responses to Comments, Master Response 5, and MMRP, pp. 22-24).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant hydrology, drainage and water quality effects on the environment with respect to the “Water Quality” of storm and irrigation runoff. This Impact 3.30 #3 is less than significant with implementation of Mitigation Measure 3.30 #3.

In Support of Finding: The adverse hydrology, drainage and water quality effects of the Project with respect to the water quality of storm and irrigation runoff are avoided by implementation of performance standards, set forth in Mitigation Measure 3.30 #3, in the design, construction and maintenance of the Project. The final Drainage Plan will identify appropriate BMPs for erosion and siltation control during construction. The water quality basins will be designed to maintain runoff water quality consistent with regulatory standards, including the Contra Costa Clean Water Program Provision C.3 stormwater standards and the National Pollution Discharge Elimination System (NPDES) standards. RWQCB water quality certification is required. Fencing will be provided if needed to prevent grazing animals from entering drainage areas subject to these

regulations (e.g. water quality basins; wetland swale and intermittent drainage in the Rheem valley areas). The GHAD will be responsible for long term maintenance of the water quality basins and other drainage features of the Project, as well as enforcement of restrictions and requirements imposed on individual lots and with respect to street maintenance and use. The final Drainage Plan will incorporate the final C3 Stormwater Control Plan, and must be reviewed and approved by the Town Engineer. At a minimum, the performance standards in Mitigation Measure 3.30 #3 must be satisfied in the final Drainage Plan and its implementation.

VISUAL QUALITY, PARKS, RECREATION AND OPEN SPACE

(DEIR, Section 3.35)

The Council requested the Applicant to implement the mitigation measures and Conditions of Approval adopted by the Planning Commission in its approval of a 27 lot project by incorporating them in an updated preliminary grading plan and landscape plans and to evaluate those plans through additional photo and video simulations and other review. As a result of that additional work during the appeal process it was determined that much of the hillside landscape was not necessary to screen new homes and reduce visual impacts. Minor refinements in the grading plan for the upper development and limiting some homes to single story, 18 feet, avoided the need for new tree and shrub clusters on project hillsides described in mitigation measures adopted by the Commission to reduce impacts to less than significant. The Council prefers to retain the appearance of the project hillsides without additional tree clusters so some of the mitigation measures below will be modified to conform to that preference. The visual quality impacts are described first based on the 27 lot project approved by the Planning Commission and then differences based on the Project approved by the Council are addressed. In both cases, the impacts are reduced to less than significant.

Impact 3.35 #1. Change in Community Character (DEIR, pp. 3.35 - 7, Responses to Comments, Master Response 3, Update for Final EIR, and MMRP, pp. 24-26).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant visual quality effects on the environment with respect to “Change in Community Character.” This Impact 3.35 #1 is less than significant with implementation of Mitigation Measure 3.35 #1, as well as other visual quality mitigation measures.

In Support of Finding: Planning Commission approved 27 lot project. The adverse visual quality effects of the Project with respect to a change in community character are avoided by implementation of Mitigation Measure 3.35 #1, as well as other visual quality mitigation measures. This impact concerns change in community character of the Project site as seen from public views. The change in community character caused by the Project as mitigated must be adverse to be significant and unavoidable. In other words, just because there is some change in community character does not mean the change is

significant. The significance thresholds for visual quality impacts are informed by applicable General Plan policies. Under CEQA, the significance threshold for visual quality impacts, as informed by General Plan policies, addresses the impact of the Project with respect to public views of the Project site in the context of that whole particular public view.

For further support of Findings with respect to visual quality, see generally also the MMRP summary discussion in Impacts 3.35 #1-4, discussion of applicable General Plan goals and policies in the General Plan Consistency Statement and Matrix, and the discussion for the other visual quality Findings. Implementation of Mitigation Measures 3.55 #2, #3 and #4 also reduces the change in community character to less than significant.

Impacts on views of this private property as seen from other private properties are not environmental impacts considered under CEQA. This is not a situation where new development adversely obstructs views from existing private homes of other important scenery on or off the Project site (e.g., Mt. Diablo or ridgeline background behind the Project site). Existing homes are not in close proximity to the new homes. The Project merely changes the current appearance of less than 10% of the 180-acre Project site, and only some of that limited development area is seen from some existing homes. That is a private matter, not a public matter in terms of environmental impacts.

In fact, the number of such views from private homes is relatively small based on intervening topography and existing landscape, as confirmed by photosimulations prepared by the Project Sponsor's photovisualist and included in his slide presentations. In any event, the appearance of the Project site and its vicinity as seen from those existing homes that see it after development of the 27 Lot Project will be open space trees, hillsides and ridgelines (e.g., from some homes on the westerly side of Birchwood Drive and some homes in Lafayette). Thus, the design and mitigation of the 27 Lot Project included to reduce to less than significant its impacts on public views, also benefits private views that include portions of the Project site.

Where new natural groupings of native evergreen trees are being planted to screen the view of some of the new homes from public views, the screening will not be effective for approximately 15 years (deciduous trees will be planted in locations not required for screening). The short term impact of seeing those homes or their rooftops without vegetative screening is not significant given their location and context as part of the overall public views. Most of those public views looking toward the Project site will continue to be of Project open space, and off site open space, trees and homes. The new homes will be designed to blend with the environment. Only a few new homes will be visible from any one public view location. Portions of the new streets, where visible from public views in the short term until the landscape screening matures (Rheem Boulevard and Joseph Drive), represent a relatively small part of those views.

The design of the water quality basins in the 27 Lot Project eliminates the significant grading required to create some of them in the 35 lot project. Low lying landscape around and in the open area of the water quality basins in the upper and lower Rheem valley will not impede open views of the valley, hillsides and ridgeline.

The public views of the Project site as developed will be predominately its open valley, hillsides and/or minor ridgeline. In the 27 Lot Project, the most direct view for travelers on Rheem Boulevard will continue to be one that includes an open view of the upper valley wetland swale, the open lower valley and intermittent drainage, and the hillsides and ridgeline. In contrast, the 35 lot project obstructs those views with tall trees and shrubs in close proximity to Rheem Boulevard and “D” Drive, lots extending into the lower Rheem valley, and two-story homes. “A” Way landscape has been changed to natural groupings of native evergreen trees and shrubs on both sides instead of the previous linear appearance. The valley butress in the upper and lower Rheem valleys does not adversely change the character of views from Rheem Boulevard, compared to the existing conditions. Restricting the lower valley above “A” Way to permanent open space use, instead of open space plus houses, maintains a key character element of the current open view along this scenic road.

The predominant views for travelers on Rheem Boulevard will be open valleys with recreated wetland swale and intermittent drainage, trees and shrubs that screen the single-story homes and much of “D” Drive, native evergreen tree groupings in the area of “A” Way, and open hillsides and ridgeline. The enhanced new wetland swale and intermittent drainage represent a visual improvement to the degraded character of the existing swale on fill in the upper valley and the intermittent drainage in the lower valley.

Travelers at the bottom of Fernwood looking up at the Project site will see a hillside with natural groupings of native trees (instead of linear trees at the top of the hill as proposed for the 35 lot project). Similar changes in the landscape mitigation for Joseph Drive, Bollinger Canyon and St. Mary’s Road public views are provided. These public views of new homes on the southern plateau are limited in the number of homes and their small part in the overall view, the duration of the view, and/or the number of people who see them. Views from the top of Rohrer Drive and the nearby dirt trail to Lafayette Park include portions of 4 homes, which will be screened by new trees in natural groupings in the open space behind the lots. Those new homes and trees represent only a small part of the hillside and ridgeline view from those two locations.

Photosimulations by the Project Sponsor’s photovisualist support the determination that the impacts of the 27 Lot Project as designed and mitigated will have a less than significant effect on public views. The accuracy of the photosimulations and the photovisualist’s determination and investigation with respect to the number of public viewpoints and the impacts are supported by Town staff and EIR consultants in field investigations conducted after Comments to the Draft EIR were received. Based on that additional analysis and revisions to the 35 lot project and its landscape plan, the Commission concurs with Town staff and EIR consultants that visual quality impacts

previously identified as significant and unavoidable for the 35 lot project are reduced to less than significant for the 27 Lot Project as designed and with implementation of the revised visual quality mitigation measures in the MMRP.

With 90% of the site (162 acres) preserved as permanent open space, the overall character of the 27 Lot Project as designed and mitigated will be semi-rural in appearance, with development limited to two relatively small clusters and the predominant character of the Project site its rural, contiguous open space component. The change in community character is less than significant with the 27 Lot Project as designed and mitigated, unlike the 35 lot project.

Town Council approved 27 Lot Project. The water quality basin in the lower valley is no longer included with the elimination of the lower valley buttress and ‘A’ Way, so landscaping it need not be addressed. Hillside landscape clusters are no longer necessary to mitigated visual quality impacts with respect to the upper development area as revised and due to the elimination of ‘A’ Way. From the public view points on Fernwood Drive and Bollinger Canyon, homes will not be visible. Landscape on the streets and cul de sacs in the southern plateau development is sufficient landscape to soften the view of the new homes as seen from Joseph Drive and Birchwood. Single story homes on Lot 24 and 25 and the relocation of previous Lots 23-26 and make it unnecessary to screen for the distant public view from Rohrer Drive and the path to Lafayette Park. Homes along ‘B’ and ‘C’ Courts will not be visible from Rheem Boulevard, so the hillside landscape to screen them is no longer necessary. Town staff has been directed to modify the MMRP and its mitigation measures regarding visual quality accordingly.

Impact 3.35 #2. Ridgeline Development (DEIR, pp. 3.35 - 8, Responses to Comments, Master Response 3, Update for Final EIR, and MMRP, pp. 26-30).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant visual quality effects on the environment with respect to “Ridgeline Development.” This Impact 3.35 #2 is less than significant with implementation of Mitigation Measure 3.35 #2, as well as other visual quality mitigation measures.

In Support of Finding: Planning Commission approved 27 lot project. The adverse visual quality effects of the Project approved by the Planning Commission with respect to ridgeline development are avoided by implementation of Mitigation Measure 3.35 #2, as well as other visual quality mitigation measures. For further support of visual quality Findings, see generally also the MMRP summary discussion in Impacts 3.35 #1-4, discussion of applicable General Plan goals and policies in the General Plan Consistency Statement and Matrix, and the discussion on the other visual quality Findings. Implementation of Mitigation Measures 3.55 #1, #3 and #4 also reduces the ridgeline development visual quality impact to less than significant.

The minor ridgeline is not being developed with homes, unlike the original Rancho Laguna I project. 21 homes are located on the southern plateau the large majority of which is not above 800 feet in elevation, so it is not a Non-MOSO minor ridgeline under the General Plan definition of ridgelines. Portions of the 'B' Street cul de sac and street and Lots 25, 26 and 27 are a few feet above the 800 foot elevation, and the EVA is entirely above 800 feet. However, the average slope in that portion of the development does not exceed 20% so it is not located on a minor ridgeline adjacent to and extending into MOSO Open Space, as also defined in the General Plan. The term "southern plateau" is used to avoid confusion with the MOSO and Non-MOSO "minor ridgeline" definition.

In a CEQA context the southern plateau is the wider, bottom end of a two ridges. The CEQA issue is whether or not the proposed development cluster there results in a significant visual quality impact, based on the significance threshold informed by the General Plan.

Public views of the minor ridgeline are more significant than public views of the southern plateau based on the topography of the Project site in relationship to off site public views and surrounding elements of those views. The view from the dirt trail off Rohrer Drive to Lafayette Park is a good example in that regard, where the minor ridgeline is the predominant view along with higher ridgelines to the north. No public views of the southern plateau development cluster include more than a few of the homes. Topographic and existing landscape blocks fuller views of the southern plateau development cluster as seen from public views in Lafayette and Moraga.

Views of southern plateau homes from Rheem Boulevard and the bottom of Fernwood Drive are restricted to a few rooftops. This is the case because the building pad elevations are behind and below the top of the naturally contoured edge of the easterly hillside, which performs as a berm. Homes will be designed to blend with the environmental setting. Those short term views are thus not significant visual quality impacts. Long term views of those rooftops may be mitigated by locating natural groupings of evergreen native trees.

More of the southern plateau homes will be seen from the short public view toward the top of Joseph Drive, a cul-de-sac. A relatively small number of people will see that public view for a few seconds. Natural groupings of native evergreen trees in the open space on the southeasterly side of the development cluster are sufficient mitigation in light of those facts. The same is true with respect to the short view from an opening on an undeveloped lot on the easterly side of Birchwood Drive (natural tree groupings will be planted on the westerly side of Lots 23-27 and "B" Court).

Public views of an unnatural line of tree on the southern plateau ridgeline, as seen from the bottom of Fernwood Drive and from Birchwood Drive, are avoided by planting screen trees in natural groupings. All ridgeline and hillside screen mitigation trees will be

planted in permanent open space, managed and maintained by the GHAD. There is no reliance on trees that may be planted on individual lots for screen mitigation.

Town Council Approved 27 Lot Project. As described above under Impact 3.35 #1, with the 27 Lot Project approved by the Council, the hillside clusters of screen trees are no longer necessary from the public view points on Rohrer Drive, Bollinger Canyon, St. Mary's Road, Fernwood Drive, Rheem Boulevard, and from the additional public view from St. Mary's Road/Lafayette Regional Trail. Trees and shrubs along the streets in the southern plateau development will be sufficient to buffer view of the southern plateau development portion as seen from Birchwood Drive and Joseph Drive public view points. This Mitigation Measure 3.35 #2 shall be revised accordingly.

The other Lafayette-Moraga Regional Trail view identified by one project opponent will have a less than significant view of a portion of one home as seen through the oak woodland understory. Views from public dirt trails (including but not limited to future Palos Colorado trail views) are less than significant based on the criteria for significance in the Final EIR. Seeing additional homes from such trails is not a significant impact in the context of the entire viewshed for those walkers.

Impact 3.35 #3. Site Characteristics (DEIR, pp. 3.35 - 9, Responses to Comments, Master Response 3, Update for Final EIR, and MMRP, pp. 30-32).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant visual quality effects on the environment with respect to "Site Characteristics." This Impact 3.35 #3 is less than significant with implementation of Mitigation Measure 3.35 #3, as well as other visual quality mitigation measures.

In Support of Finding: Planning Commission approved 27 lot project. The adverse visual quality effects of the Project with respect to site characteristics are avoided by implementation of Mitigation Measure 3.35 #3, as well as other visual quality mitigation measures. For further support of visual quality Findings, see generally also the MMRP summary discussion in Impacts 3.35 #1-4, discussion of applicable General Plan goals and policies in the General Plan Consistency Statement and Matrix, and the discussion on the other visual quality Findings. Implementation of Mitigation Measures 3.35 #1, #2 and #4 also reduces the ridgeline development visual quality impact to less than significant.

The visual quality impact with respect to site characteristics involves an analysis similar to that for a change in community character. The 35 lot project changed the site characteristics from a semi-rural open setting to a suburban one, in particular along Rheem Boulevard. The 27 Lot Project as designed and mitigated maintains an open, semi-rural view of the valley, hillsides and ridgeline as seen from Rheem Boulevard. The tall retaining walls behind "D" Drive homes in the 35 lot project are eliminated. "D" Drive is shortened to the upper valley and homes are single-story. The recreated wetland

swale and intermittent drainage on the valley buttness, which will have a natural contoured appearance, is a site characteristic comparable to the existing valley features, albeit in an enhanced visual condition compared to the existing degraded condition.

The most important upper elevation characteristic of the site, as seen from public views, is the minor ridgeline and its associated westerly and easterly slopes. Those public views are preserved. As discussed in the other visual quality Findings, the natural grouping of native evergreen trees planted in Project open space between any new homes and any of the seven public viewpoints reduce any long term impact to less than significant. The short term views of those homes which will be designed to blend with the environment, prior to maturation of screen trees, is not a significant site characteristic visual impact in the full context of those public views (duration of view, number of people who see it, and/or small part of overall view).

90% of the site will be permanent open space. Professionally managed by the GHAD, its visual quality site characteristics will be improved. New groupings of native trees and the new wetland swale and intermittent drainage will be visual enhancements of that open space. The two development clusters as designed and mitigated will blend with that predominantly open space setting. The Project will be semi-rural in appearance.

Town Council Approved 27 Lot Project. The two story maximum building height is changed from 35 feet to 28 feet. The homes on “C” Court (lots 14 – 23) will be two story and the homes on “B” Court flat pads shall be single story, 18 feet maximum height (along with lots 24 and 25). Homes on the split pads (lots 8 – 10) will have a single story elevation in front and a maximum rear pad height of 28 feet. The mitigation measure will be revised accordingly.

Impact 3.35 #4. Scenic Corridors (DEIR, pp. 3.35 - 10, Responses to Comments, Master Response 3, Update for Final EIR, and MMRP, pp. 32-37).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant visual quality effects on the environment with respect to “Scenic Corridors.” This Impact 3.35 #4 is less than significant with implementation of Mitigation Measure 3.35 #4, as well as other visual quality mitigation measures.

In Support of Finding: Planning Commission approved 27 lot project. The adverse visual quality effects of the Project with respect to scenic corridors are avoided by implementation of Mitigation Measure 3.35 #4, as well as other visual quality mitigation measures. For further support of visual quality Findings, see generally also the MMRP summary discussion in Impacts 3.35 #1-4, discussion of applicable General Plan goals and policies in the General Plan Consistency Statement and Matrix, and the discussion on the other visual quality Findings. Implementation of Mitigation Measures 3.55 #1, #2 and #3 also reduces the scenic corridors visual quality impact to less than significant.

The public view of development on the Project site from only one location on St. Mary's Road is restricted to a few rooftops on the southern plateau (Lots 24-27, and the view is very brief, indirect and a minor part of the view from that location. Planting natural groups of native evergreen trees in the Project open space between those homes and that viewpoint to screen those rooftops is sufficient to mitigate this scenic corridor impact to less than significant. The short term impact is not significant in the full context of this public view (short duration, indirect view, small part of overall view, four rooftops).

The public view of the Project site as seen by travelers along Rheem Boulevard in that scenic corridor represents the longest view time of the largest amount of the development seen by the most people. The Project site is the predominant view looking toward the east when traveling along the Rancho Laguna frontage.

In the 35 lot project, the Project Sponsor proposed 14 homes on "D" Drive along the entire length of the upper and lower valley butress. A recreated intermittent drainage was proposed between "D" Drive and Rheem Boulevard with tall riparian landscape as well as Rheem Boulevard frontage trees. With that proposal, open views of the upper and lower valley would be effectively blocked from public view along Rheem Boulevard. To a certain extent hillside and ridgeline views would at least be partially blocked by the Rheem Boulevard trees. Two story homes and the high retaining walls behind those homes would adversely affect the views of the lower hillside.

In the 27 Lot Project the lower valley butress is included, but there are no homes in order to maintain the most significant open valley view above the "A" Way crossing. The 6 homes on shortened "D" Drive will be single story on wide lots with room for buffer landscaping, including evergreen trees in the landscape easement along "D" Drive in front of the homes. Those trees and the ones on the other side of "D" Drive will be native species that grow tall enough to screen the homes but not so tall as to block hillside views. The relatively flat debris benches behind the 6 lots will be screened from view along Rheem Boulevard by the landscape and the homes. The tall retaining walls in the 35 lot project have been eliminated. A wetland swale will be recreated between "D" Drive and Rheem Boulevard with no tall landscape. The existing swale condition likewise does not include trees or any tall shrubs. "D" Drive entry has been relocated to the south which will eliminate the entry landscape necessary to screen the graded slopes and retaining wall required for an entry at the northerly end. Natural groupings of native evergreen trees will screen "A" Way for south bound travelers, without creating a suburban linear appearance. Travelers heading north and south on Rheem Boulevard will have open "cones of vision" for valley, hillside and ridgeline views.

The short term scenic corridor visual impact is not significant. The homes will be designed to blend with the environment. The recreated wetland swale and intermittent drainage Rheem valley areas, the hillsides and minor ridgeline will be the predominant views for travelers on Rheem Boulevard, both in the short term and long term. Thus, the public view of the Project side of the Rheem Boulevard scenic corridor will be open and semi-rural in appearance, with the open space views being prominent.

Town Council Approved 27 Lot Project. The 8 homes on ‘D’ Drive and the upper valley landscape as designed will maintain the “cone of vision” for travelers on Rheem Boulevard as to open valley, hillside and skyline views. The intermittent drainage in the lower valley will be substantially preserved and enhanced as part of the valley view. Removing the woodland clusters, relocating Lots 26 and 27 in the Planning Commission approved Project and restricting homes on Lots 7, 11 – 13, 24 and 25 to single story, 18 feet, makes that tree screening unnecessary, because they will be below the skyline. Split pad lots 8 – 10 will also be below the skyline with 18’ height limits along the front of ‘B’ Court. The applicable mitigation measures shall be revised accordingly.

The St. Mary’s Road scenic corridor visual quality is not significantly impacted by the view described in the Draft EIR. The view impact from the St. Mary’s Road section south of the Rheem Boulevard intersection and the adjoining Lafayette-Moraga Regional Trail near the parking lot, which was analyzed during this appeal at the request of Council, is insignificant. No road or home will be visible. The Town Council preferred to avoid seeing any home or road on the southern plateau from that view point and the grading plan was revised accordingly. No mitigation is required.

Impact 3.35 #5. Light and Glare (DEIR, pp. 3.35 – 12 and MMRP, pp. 37-38).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant visual quality effects on the environment with respect to “Light and Glare.” This Impact 3.35 #5 is less than significant with implementation of Mitigation Measure 3.35 #5 (as well as Mitigation Measure 3.35 #2 as revised based on the 27 Lot Project approved by the Council) .

In Support of Finding: The adverse visual quality effects of the Project with respect to light and glare are avoided by implementation of Mitigation Measure 3.35 #5 in the final design review of the Project, as well as revised Mitigation Measure 3.35 #2 with respect to the final landscape plan for the Project. Landscape in the open space between ‘D’ Street homes and Rheem Boulevard will also have the effect of limiting the off site visibility of residential lighting. Residences along ‘D’ Drive will be single story. No street lights are included in the Project. Design features to limit light and glare include use of non-reflective material and finishes and downward, low-voltage exterior lighting (e.g., for driveways and yard areas). The HOA will be responsible to enforce these restrictions in the long term. The distances and topographic differences between the development clusters and existing residences or public views are such that these landscape and design features will be sufficient mitigation.

Impact 3.35 #6. Recreation & Trails (DEIR, pp. 3.35 – 13, Update for Final EIR, and MMRP, pp. 38-39).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant visual quality, parks, recreation and open space effects on the environment with respect to “Recreation and Trails” in open space.

This Impact 3.30 #6 is less than significant with implementation of Mitigation Measure 3.35 #6.

In Support of Finding: The adverse environmental effects of the Project with respect to open space recreation opportunities are avoided by implementation of Mitigation Measure 3.30 #6 to establish and maintain public trails and public parking in the Project. The internal trail system is depicted on the CDP Sheets. Dirt trails are narrow and suitable for steeper slopes. A decomposed granite path is included along Rheem Boulevard on the Project side. Public parking spaces are provided at the north end of “E” Street in front of an EBMUD access road gate. Public use of the private roads is provided. The opportunity is present to connect Project trails on the Coyote Creek side to future trails in Palos Colorados and to the Lafayette-Moraga Regional Trail. Public trails and parking will be maintained by the GHAD. The trails, parking location and internal roads will be open to public use in perpetuity, per Mitigation Measure 3.40 #5. A recorded covenant will so provide. Public views of open space within the site will be expanded by the trail access and locations.

Impact 3.35 #7. Wetlands Restoration (DEIR, pp. 3.35 – 13, Update for Final EIR, and MMRP 3.35 #7, pp.39-40).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant visual quality and open space effects on the environment with respect to “Wetlands Restoration.” This Impact 3.35 #7 is less than significant with implementation of Mitigation Measure 3.35 #7 and the other mitigation measures referenced therein.

In Support of Finding: The adverse visual quality and open space effects of the Project with respect to restoration of wetlands as mitigation for filling existing wetlands are avoided by implementation of Mitigation Measure 3.35 #7, as well as the other mitigation measures referenced therein, and the visual quality mitigation measures. The 27 Lot Project as designed and mitigated addresses both biological resources impacts and visual quality impacts. The wetland restoration will include a wetland swale in the upper valley, replacing the existing one, and substantially preserved and enhanced intermittent drainage in the lower valley. New seasonal wetlands will be provided in the lower valley. They will be visual enhancements over the existing wetlands and revegetated in a manner to maintain open valley, hillside and skyline views.

TRAFFIC, TRANSPORTATION AND CIRCULATION

(DEIR, Section 3.40)

Impact 3.40 #2. Traffic Control Needs and Vehicle Queues at St. Mary’s Road/Rheem Boulevard (DEIR, pp. 3.40 – 10, Responses to Comments, Master Response 8, and MMRP, pp. 40-41).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant traffic, transportation and circulation effects on the environment with respect to “Traffic Control Needs and Vehicle Queues at St. Mary’s Road/Rheem Boulevard.” This Impact 3.40 #2 is less than significant with implementation of Mitigation Measure 3.40 #2.

In Support of Finding: The adverse traffic, transportation and circulation effects of the Project with respect to traffic control needs and vehicle queues at St. Mary’s/Rheem Boulevard are avoided by implementation of Mitigation Measure 3.40 #2. The Project traffic plus baseline (existing) traffic is less than with the 35 lot project but may still add to the need for a northbound left turn lane from St. Mary’s Road to Rheem Boulevard, at least during PM peak hour conditions. Since Project traffic does not create the need for that left turn lane, the appropriate mitigation is payment at building permit to the Town of a fair share of its costs to construct the intersection improvement. That fair share would be 2.8% by current calculation based on 27 lots (previously 3.6% for 35 lots), which is the same as the Project’s average share of current cumulative traffic during AM and PM peak hours based on EIR traffic counts. The Town Engineer will determine the fair share contribution prior to issuance of building permits, unless the contribution toward that impact has already been included by ordinance as part of the standard traffic mitigation fee for new development in Moraga.

Impact 3.40 #4. Access Intersection Design (DEIR, pp. 3.40 – 11, Responses to Comments, Master Response 8, Update for Final EIR, and MMRP, pp. 41-42).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant traffic, transportation and circulation effects on the environment with respect to “Access Intersection Design.” This Impact 3.40 #4 is less than significant with the relocation of the “D” Drive intersection in the 27 Lot Project.

Facts in Support of Finding: The adverse traffic, transportation and circulation effects of the Project with respect to the “D” Drive access intersection design are avoided by the relocation of that intersection to the south. The sight distance concerns with the previous northerly entry where the Fay Hill Reservoir access intersection is located are not present with the southerly location. Access to the homes on “B” Court and “C” Court is along “E” Street which intersects Rheem Boulevard at a proposed three-way stop. Mitigation Measure 3.40 #4 in the Draft EIR is no longer required.

Impact 3.40 #5. Internal Circulation (DEIR, pp. 3.40 – 12, Update for Final EIR, and MMRP, pp. 42-43).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant traffic, transportation and circulation effects on the environment with respect to “Internal Circulation.” This Impact 3.40 #5 is less than significant with implementation of Mitigation Measure 3.40 #5.

Facts in Support of Finding: The adverse effects on traffic, transportation and circulation of the Project with respect to internal circulation are avoided with implementation of Mitigation Measure 3.40 #5. The road and court grading sections of the CDP Sheets and the Access Road Sections have been reviewed by and are acceptable to the Town Engineer and the Fire Marshal for the Moraga-Orinda Fire District (“Fire District”). They meet or exceed Town and Fire District standards for private roads. Roadway widths and parking have been limited in order to reduce the grading and need for retaining walls. Mitigation Measure 3.40 #5 requires their final design to be consistent with those grading sections.

AIR QUALITY

(DEIR, Section 3.45)

Impact 3.45 #2. Construction Activities (DEIR, pp. 3.45 – 12 and MMRP, pp.43-45).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant air quality effects on the environment with respect to “Construction Activities.” This Impact 3.45 #2 is less than significant with implementation of Mitigation Measure 3.45 #2.

Facts in Support of Finding: The adverse short-term effects on air quality of the Project during its construction are avoided by implementation of Mitigation Measure 3.45 #2. It requires measures to reduce dust and equipment exhaust emissions be incorporated into construction plans and final grading plans. The consistent implementation of these measures during the course of construction will be the responsibility of the Project Sponsor’s Construction Manager, subject to review and oversight by the Town Engineer and Building Inspection Services. Measures include watering all active construction areas, hydroseeding graded areas, and monitoring wind conditions to limit short-term dust, and properly maintain construction equipment to limit short-term exhaust emissions. The Project Sponsor will also need to comply with the Bay Area Air Quality Management District regulations applicable to construction sites, as they may be updated.

The Responses to Comments at Section C.3.b include an analysis and discussion of greenhouse gas emissions (“GHG” emissions) associated with the 35 lot project. GHG emissions are so small as to be virtually non-measurable. The 27 Lot Project GHG emissions are even less. There are fewer homes and, per

Condition II.9, each of them must be designed to achieve 90 points in the Town’s “Greenbuilding Program.” In so doing, each home must provide at least 90% of its electrical energy target load through photovoltaic cells and construction design and must include solar water heating. Thus, GHG emissions and climate change impacts of the 27 Lot Project are insignificant, both on a project and cumulative level.

NOISE

(DEIR, Section 3.50)

Impact 3.50 #2. Construction Activities (DEIR, pp. 3.50 – 6 and MMRP, pp.46-47).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant noise effects on the environment with respect to “Construction Activities.” This Impact 3.50 #2 is less than significant with implementation of Mitigation Measure 3.50 #2.

Facts in Support of Finding: The adverse short-term effects on noise of the Project during its construction are avoided by implementation of Mitigation Measure 3.5 #2. It requires measures to reduce construction noise be implemented during construction and as part of the construction plans. Measures include construction scheduling limitations, equipment muffler maintenance, and equipment location and shielding. The Project Sponsor must retain a Disturbance Coordinator to receive and timely respond to noise complaints

BIOLOGICAL RESOURCES

(DEIR, Section 3.55)

Impact 3.55 #3. Loss of USACE - Jurisdictional Wetlands (DEIR, pp. 3.55 – 32, Responses to Comments, Master Responses 5, 6 and 7, Update for Final EIR, and MMRP, pp. 48-52).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Loss of USACE – Jurisdictional Wetlands.” This Impact 3.55 #3 is less than significant with implementation of Mitigation Measures #3.55 #3a and #3b.

In Support of Finding: Planning Commission approved 27 lot project. The adverse biological resources effects of the Project with respect to loss of USACE jurisdictional wetlands are avoided by implementation of Mitigation Measures 3.55 #3a and #3b. The Project requires the filling of jurisdictional wetlands in the upper Rheem valley to create the valley buttress in order to stabilize that section of Rheem Boulevard and develop 6 residential lots, and in the lower Rheem valley to create

the valley buttress required to stabilize that section of Rheem Boulevard. There is no practicable alternative to filling those jurisdictional wetlands and still meet a key Project objective of the Town: stabilization, repair and improvement of Rheem Boulevard along the entire Project frontage. Completion of that repair by the Project Sponsor with a full valley buttress is the only economically feasible way for the Town to accomplish this objective.

The mitigation measures require creation of a new wetland swale, intermittent drainage, seasonal wetland and seeps on the new valley buttress. The measures set forth performance standards necessary to accomplish that mitigation. Unlike the 35 lot project, the Project Sponsor is not relying on an off site location to provide mitigation for the loss of jurisdictional wetlands in the 27 Lot Project, because without the homes in the lower valley there should be sufficient acreage to fully mitigate on site. Off site mitigation is a back up to be used only if determined necessary, at the more detailed design stage and as part of the 404 permitting process, to satisfy performance standards.

A final Rheem Valley Revegetation Plan and final Wetland/Special-Status Species Plan shall demonstrate how those performance standards will be met. The Plans must be prepared by a qualified restoration ecologist. Final details and conditions for filling the jurisdictional waters of the U.S. will be determined through the Section 404 permitting process with the Army Corps of Engineers. The GHAD formed by the Town for the Project will be responsible for long-term professional monitoring and management of the new wetlands.

Town Council Approved 27 Lot Project. The lower valley buttress is no longer included as part of the grading plan for the 27 Lot Project so the mitigation acreages and lineal footages shall be adjusted accordingly.

Impact 3.55 #4. Non-Corps Jurisdictional Wetlands (DEIR, pp. 3.55 – 34, Master Responses 5, 6 and 7, and MMRP, pp.52-55).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Non-Corps Jurisdictional Wetlands.” This Impact 3.55 #4 is less than significant with implementation of Mitigation Measures #4a and #4b.

In Support of Finding: The adverse biological resources effects of the Project with respect to riparian habitats not otherwise qualifying as federally regulated wetlands (i.e., Central Coast riparian scrub habitat) are avoided by implementation of Mitigation Measures #4a and #4b. The Central Coast riparian scrub removal is required to construct the Project in the lower Rheem valley, including the stabilization of Rheem Boulevard and construction of ‘A’ Way. The mitigation measures require the creation of new Central Coast riparian scrub habitat on the lower valley buttress and, if necessary, in the Coyote Creek area. The measures set

forth performance standards to accomplish that mitigation. A final Rheem Valley Revegetation Plan shall demonstrate how those performance standards will be met. The Plan must be prepared by a qualified restoration ecologist. Final details and conditions for removal of the Central Coast riparian scrub will be subject to the requirements of the California Department of Fish and Game (“CDFG”) and the RWQCB. The GHAD formed by the Town for the Project will be responsible for long-term professional monitoring and management of the new wetlands.

Town Council Approved 27 Lot Project. Without the lower valley buttress and the elimination of ‘A’ Way, the amount of Central Coast riparian scrub being removed is reduced and the mitigation acreage shall be adjusted accordingly.

Impact 3.55 #5. Loss of Native Trees (DEIR, pp. 3.55 – 37 and MMRP, pp. 55-60).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Loss of Native Trees” in the lower Rheem valley. This Impact 3.55 #5 is less than significant with implementation of Mitigation Measures 3.55 #5a, #5b and #5c.

In Support of Finding: The adverse biological resources effects of the Project with respect to loss of 64 mature native trees (55 arroyo willows and 9 upland trees) in the lower Rheem valley are avoided by implementation of Mitigation Measures 3.55 #5a, #5b and #5c. The mitigation measures require replacement arroyo willow trees be planted (201 trees) in the lower Rheem valley and the Coyote Creek area, and replacement upland trees planted (42 trees) in the permanent open space. The final Rheem Valley Revegetation Plan shall demonstrate how the performance standards in the mitigation measures will be met. The GHAD formed by the Town for the Project will be responsible for long-term professional monitoring and management of the new trees.

Town Council Approved 27 Lot Project. Without the lower valley buttress and the elimination of ‘A’ Way, fewer mature trees will be lost. The replacement ratios shall be adjusted accordingly.

Impact 3.55 #6. Loss of Native Trees on the East Slope (DEIR, pp. 3.55 – 40 and MMRP, pp. 60-67).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Loss of Native Trees on the East Slope.” This Impact 3.55 #6 is less than significant with implementation of Mitigation Measures 3.55 #6a, #6b and #6c.

In Support of Finding: The adverse biological resources effects of the Project with respect to loss of native trees on the east slope (southern plateau) are avoided by implementation of Mitigation Measures 3.55 #6a, #6b and #6c. Measure #6a requires the recommendations of a qualified arborist for protection of the single mature valley oak at Lot 7 be implemented in the final grading plan for any necessary grading within its dripline. The applicant proposes to save the tree from removal. The revised grading plan for the 27 Lot Project in the area of Lots 7-12 and Lots 16 and 17 avoids impacts to several native trees impacted by the grading plan for the 35 lot project. Measure #6b requires a survey of all trees within 50 feet of the limits of grading for the southern plateau development cluster and any direct impacts to trees (i.e., grading overlaps with driplines) be mitigated per the recommendations of a qualified arborist included with the final grading plan. Measure #6c will be implemented only if a sewer line for Lots 13-22 is extended from the end of “C” Court through open space to a manhole in the Lafayette-Moraga Regional Trail.

Impact 3.55 #9. California Red-Legged Frog (“CRLF”) (DEIR, pp. 3.55 – 42, Responses to Comments, Master Response 6, and MMRP, pp. 62-67).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “CRLF” direct impacts. This Impact 3.55 #9 is less than significant with implementation of Mitigation Measures 3.55 #9a – f.

In Support of Finding: The adverse biological resources effects of the Project with respect to CRLF direct impacts are avoided by implementation of Mitigation Measures 3.55 #9a – f. The Project site is not within designated CRLF “critical habitat.” It includes no suitable CRLF breeding habitat. The Coyote Creek portion of the Project site is a likely CRLF dispersal area, because the breeding populations have been documented in ponds in the upper watershed of Coyote Creek (Palos Colorados site) and suitable habitat occurs in nearby Las Trampas Creek. The potential for CRLF dispersal in the upper and lower Rheem valley areas is low due to lack of vegetative cover and standing water for nine months of the year. Habitat replacement mitigation is not required. A permit will be required from the United States Fish and Wildlife Service (“USFWS”) based on the dispersal potential in order to avoid a CRLF “take.” The final Wetland/Special-Status Species Plan for the 27 Lot Project will be submitted for approval as part of that permit review. Mitigation is included to protect CRLF movement in the Coyote Creek dispersal area. Those measures include fencing off the Coyote Creek banks and monitoring average grass height. Mitigation is included to avoid CRLF direct mortalities in the course of construction in the Rheem valley area, even though the potential is low. Those measures include restricting grading in that area until after the peak season of CRLF dispersal (May 1) and to require night surveys by a qualified wildlife biologist no more than 48 hours from the time clearing and grubbing is commenced. The final Wetland/Special Status Species Plan must demonstrate that performance

standards in the mitigation measures will be met. The GHAD formed by the Town Council will be responsible for long-term professional monitoring and management of the open space to protect its CRLF dispersal locations confirmed by the USFWS.

Impact 3.55 #10. Direct Impacts to Alameda Whipsnake (“AWS”) (DEIR, pp. 3.55 – 46, Responses to Comments, Master Response 6, and MMRP, pp. 67-72).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Direct Impacts to Alameda Whipsnake.” This Impact 3.55 #10 is less than significant with implementation of Mitigation Measures 3.55 #10a – f.

In Support of Finding: The adverse biological resources effects of the Project with respect to direct impacts to the AWS are avoided by implementation of Mitigation Measures 3.55 #10a – f. The Project site is located within an area proposed to be AWS “critical habitat.” The site has some suitable habitat for foraging and dispersal of AWS individuals. The potential for that occurrence is low and the site is not suitable for a breeding population. A permit will be required from the USFWS based on the dispersal potential in order to avoid an AWS “take.” The final Wetland/Special-Status Species Plan for the 27 Lot Project will be submitted for approval as part of that permit review. Mitigation is included to protect potential AWS dispersal and foraging habitat, such as creation of rock piles, grazing management that retains suitable grassland habitat, and the permanent preservation of open space. Mitigation is included to avoid direct mortalities during construction, such as by initiating brush clearing and grading only after the peak season of AWS dispersal (June 1) and conducting surveys no more than 24 hours before commencement of that work. The final Wetland/Special Status Species Plan must demonstrate that performance standards in the mitigation measures will be met. The GHAD formed by the Town Council will be responsible for long-term professional monitoring and management of the open space to protect its AWS dispersal and foraging locations.

Impact 3.55 #12. Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, Occupied Nests, and Active Bat Roosts (DEIR, pp. 3.55 – 50, Responses to Comments, Master Response 6, and MMRP, pp. 73-75).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, Occupied Nests, and Active Bat Roosts.” This Impact 3.55 #12 is less than significant with implementation of Mitigation Measures 3.55 #12a – e.

In Support of Finding: The adverse biological resources effects of the Project with respect to direct impacts on nesting raptors and other nesting migratory birds, occupied nests, and active bat roosts are avoided by implementation of Mitigation Measures 3.55 #12a – e. Measures to avoid direct impacts to birds include limitation on the months in which land clearing activities may be conducted, or the requirement of pre-construction surveys by a qualified biologist to determine if occupied nests are present and the protection of any such nests, fledglings and young birds. Measures to avoid direct impacts to bats include pre-construction surveys of large trees and snags by a qualified wildlife biologist and protection of identified bat roosts.

Impact 3.55 #13. Direct Impacts on Sensitive Plant Communities (DEIR, pp. 3.55 – 51 and MMRP, pp. 75-77).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Direct Impacts on Sensitive Plant Communities.” This Impact 3.55 #13 is less than significant with implementation of Mitigation Measures #13a – f.

In Support of Finding: The adverse biological resources effects of the Project with respect to direct, inadvertent impacts on sensitive plant communities are avoided by implementation of Mitigation Measures #13a – f. Those sensitive plant communities that are not removed as part of the Project construction will be protected from inadvertent impacts such as accidental grading, vehicle traffic, stockpiling of materials and fugitive dust by mitigation measures undertaken during the course of construction. Those measures include fencing plant communities and erosion control.

Impact 3.55 #15. Degradation of Wildlife Habitats and Decrease in the Carrying Capacity for Wildlife and Special-Status Species (DEIR, pp. 3 55 – 53, Responses to Comments, Master Response 6, and MMRP, pp. 77-78).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Degradation of Wildlife Habitats and Decrease in the Carrying Capacity for Wildlife and Special-Status Species.” This Impact 3.55 #15 is less than significant with implementation of Mitigation Measures 3.55 #15a – c.

In Support of Finding: The adverse biological resources effects of the Project with respect to degradation of wildlife habitats and decrease in the carrying capacity for wildlife and special-status species are avoided by implementation of Mitigation Measures #15a – c, as well as other biological resources mitigation measures. The final Wetland/Special-Status Species Plan will be included as part of the final Open Space Management Plan for the 27 Lot Project. Those Plans will provide for

ecologically based management of the habitats in the 162 acres of Project permanent open space. The Plans will be reviewed and approved by the Town and resource agencies, and must demonstrate that, through their implementation, performance standards in the applicable mitigation measures will be achieved. The GHAD formed by the Town Council will fund and provide that professional management in perpetuity. Otherwise, these habitats could degrade over time through benign neglect, in part through increased human interface (public trails and nearby new homes). With implementation of these Plans, the habitats on the Project site should permanently be improved, compared to the existing condition of benign neglect.

Impact 3.55 #16. California Red-Legged Frog Habitat (DEIR, pp. 3.55 – 54, Responses to Comments, Master Response 6, and MMRP, pp. 78-79).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “CRLF Habitat.” This Impact 3.55 #16 is less than significant with implementation of Mitigation Measures 3.55 #16a and #16b.

In Support of Finding: The adverse biological resources effects of the Project with respect to CRLF habitat are avoided by implementation of Mitigation Measures 3.55 #16a and #16b, as well as other biological resources mitigation measures. The measures to protect and maintain CRLF dispersal habitat will be implemented through the final Wetland/Special-Status Species Plan as part of the final Open Space Management Plan for the 27 Lot Project. Those measures include steps to be implemented by homeowners and enforced by the GHAD or HOA, so that new homes do not attract increased numbers of CRLF predators, such as raccoons and skunks, to the habitat areas (e.g., secured waste receptacles, homeowner guidelines for safely co-existing with wildlife).

Impact 3.55 #17. Indirect Recreational Effects on California Red-Legged Frog (DEIR, pp. 3.55 – 55 and MMRP, p. 79).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Indirect Recreational Effects on CRLF.” This Impact 3.55 #17 is less than significant with implementation of Mitigation Measures 3.55 #17a and #17b.

In Support of Finding: The adverse biological resources effects of the Project with respect to indirect recreational effects on CRLF are avoided by implementation of Mitigation Measures 3.55 #17a and #17b, as well as other biological resources mitigation measures. The final Wetland/Special-Status Species Plan for the 27 Lot Project will include required measures relative to CRLF protection and managing its

preserved aquatic and upland habitat. Year-round water features are not allowed as part of the recreated wetland swale and intermittent drainage or elsewhere in the open space, in order to avoid attracting and keeping individual CRLF on site and subject to predation. Mitigation habitats should be the same as presently on site for that reason. Recreational features in habitat areas are limited to narrow dirt trails. Habitat signage and education brochures will identify the CRLF habitat, as well as the prohibited activities and homeowner responsibilities related to that habitat. Recreational uses in the habitat areas will be limited to public use of narrow pedestrian dirt trails in specific, limited locations and the EVA trail.

Impact 3.55 #18. Indirect Impacts on California Red-Legged Frog Habitat (DEIR, pp. 3.55 -56 and MMRP, p. 80).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Indirect Impacts on CRLF Habitat.” This Impact 3.55 #18 is less than significant with implementation of Mitigation Measure 3.55 18.

In Support of Finding: The adverse biological resources effects of the Project with respect to indirect impacts on CRLF habitat are avoided by implementation of Mitigation Measure 3.55 #18, as well as other biological resources mitigation measures. Grading, filling and construction of the recreated wetland swale and intermittent drainage could temporarily affect CRLF dispersal routes. Measures to avoid that potential impact include grading outside the peak season of CRLF dispersal, sediment control, silt and construction fencing, and periodic monitoring by a qualified wildlife biologist. These measures will be implemented in part through the final Rheem Valley Revegetation Plan and final Wetland/Special-Status Species Plan for the 27 Lot Project.

Impact 3.55 #19. Indirect Effects on Alameda Whipsnake (DEIR, pp. 3.55 – 57 and MMRP, pp.80-81).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Indirect Effects on AWS.” This Impact 3.55 #19 is less than significant with implementation of Mitigation Measure 3.55 #19.

In Support of Finding: The adverse biological resources effects of the Project with respect to indirect effects on AWS are avoided by implementation of Mitigation Measure 3.55 #19, as well as other biological resources mitigation measures. Measures include maintaining AWS dispersal habitat similar to what exists now and not allowing year-round water features that will attract AWS prey species.

Impact 3.55 #20. Recreational Impacts to Alameda Whipsnake (DEIR, pp. 3.55 – 57 and MMRP, pp.81-82).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Recreational Impacts to AWS.” This Impact 3.55 #20 is less than significant with implementation of Mitigation Measures 3.55 #20a and #20b.

In Support of Finding: The adverse biological resources effects of the Project with respect to recreational impacts to AWS are avoided by implementation of Mitigation Measures 3.55 #20a and #20b. Measures include those described above regarding indirect effects on AWS, as well as locating AWS rockpiles away from high activity areas like trails. The final Wetland/Special-Status Species Plan for the 27 Lot Project will include measures described elsewhere herein to limit the effects of human activity on AWS and other species (e.g., signage, homeowner guidelines). Recreational activities in the habitat areas will be limited to public use of narrow pedestrian dirt trails in specific, limited locations and the EVA trail.

Impact 3.55 #21. Recreational Impacts to Wildlife and Wildlife Habitat (DEIR, pp. 3.55 – 58 and MMRP, pp.82-83).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid the significant biological resources effects on the environment with respect to “Recreational Impacts to Wildlife and Wildlife Habitat.” This Impact 3.55 #21 is less than significant with implementation of Mitigation Measures 3.55 #21a and #21b.

In Support of Finding: The adverse biological resources effects of the Project with respect to recreational impacts to wildlife and wildlife habitat are avoided by implementation of Mitigation Measures 3.55 #21a and #21b. Recreational facilities in the open space are limited to public use of narrow dirt trails in the limited locations shown on the Conceptual Development Plan dated August, 2008, and the EVA trail, with future connections limited to the Lafayette-Moraga Regional Trail and new trails in Palos Colorados. Trails do not branch off into Coyote Creek or the new wetland swale and intermittent drainage. Public use and activities in the open space outside trails will not be allowed. Dirt trailheads will be marked. Posted signs will require pets to be leashed and prohibit bicyclists. No trash cans are allowed. The final Open Space Management Plan for the 27 Lot Project shall include provisions for public trail management by the GHAD consistent with such measures in perpetuity.

Impact 3.55 #22. Invasive Species (DEIR, pp. 3.55 – 59 and MMRP, pp. 83-84).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the

environment with respect to “Invasive Species.” This Impact 3.55 #22 is less than significant with implementation of Mitigation Measures 3.55 #22a – c.

In Support of Finding: The adverse biological resources effects of the Project with respect to invasive non-native plant species are avoided by implementation of Mitigation Measures 3.55 #21a – c. Use of non-native species known to invade wetlands and natural areas are prohibited in landscaping for streets, open space and residential lots. See the California Invasive Plant Council’s Invasive Plant Inventory. A deed restriction on each residential lot will so provide (enforceable by the GHAD and HOA), as will CC&Rs for the HOA and the final Open Space Management Plan and Landscape Plan for the 27 Lot Project. The final Wetland/Special-Status Species Plan will include measures to eradicate existing artichoke thistle infestation. The Grazing Management Plan will include measures to prevent overgrazing. A restoration ecologist will monitor the site and make recommendations for locations that fail to show suitable vegetative cover. Long - term professional management to avoid invasive species on the Project site will be undertaken by the GHAD.

Impact 3.55 #23. Habitat Loss and Fragmentation (DEIR, pp. 3.55 – 62, Responses to Comments, Master Response 6, and MMRP, pp. 84-86)

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Habitat Loss and Fragmentation.” This Impact 3.55 #23 is less than significant with implementation of Mitigation Measures 3.55 #23a – c.

In Support of Finding: The adverse biological resources effects of the Project with respect to habitat loss and fragmentation are avoided by implementation of Mitigation Measures 3.55 #23a – c, as well as other biological resources mitigation measures. With the 27 Lot Project, fragmentation of the Project open space has been reduced compared to the 35 lot project which included homes in the lower Rheem valley. 90% of the Project site will now be permanent open space. Measures to prevent incremental degradation of habitat, in addition to other mitigation measures described herein, include a prohibition on stockpiling of soil in open space areas to be preserved, construction fencing, and long term management of preserved open space by the GHAD.

Impact 3.55 #24. Interruption to and Loss of Wildlife Movement Corridors (DEIR, pp. 3.55 – 63, Responses to Comments, Master Response 6, and MMRP, pp. 86-87).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Interruption to and Loss of Wildlife Movement Corridors.” This Impact 3.55 #24 is less than significant with implementation of Mitigation Measures 3.55 #24a and #24b.

In Support of Finding: The adverse biological resources effects of the Project with respect to interruption to and loss of wildlife movement corridors are avoided by implementation of Mitigation Measures 3.55 #24a and #24b, as well as other biological resources mitigation measures. Lost habitats in the Rheem valley areas will be recreated, per the final Rheem Valley Revegetation Plan for the 27 Lot Project. Fragmentation of open space and thus interruption of wildlife corridors has been reduced in the 27 Lot Project compared to the 35 lot project, with no homes in the lower Rheem valley (or the construction of “A” Way) and no staging area along Rheem Boulevard.

Impact 3.55 #25. Indirect Impacts of Domestic Animals on Wildlife (DEIR, pp. 3.55 – 64 and MMRP, p. 87).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Indirect Impacts of Domestic Animals on Wildlife.” This Impact 3.55 #25 is less than significant with implementation of Mitigation Measure 3.5525.

In Support of Finding: The adverse biological resources effects of the Project with respect to the indirect impacts of domestic animals on wildlife are avoided by implementation of Mitigation Measure 3.55 #25. That measure requires a recorded restrictive covenant prohibiting unleashed pets in the Project open space, enforceable by the HOA, GHAD and Town. Signs will be posted to that effect.

Impact 3.55 #26. Grading Impacts (DEIR, pp. 3.55 – 65 and MMRP, pp. 87-88).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Grading Impacts.” This Impact 3.55 #26 is less than significant with implementation of Mitigation Measures 3.55 #26a and #26b.

In Support of Finding: The adverse biological resources effects of the Project with respect to grading are avoided by implementation of Mitigation Measures 3.55 #26a and #26b. In order to avoid degradation of upland habitats and downstream water quality impacts during Project grading and construction, these measures require standard erosion control procedures (e.g., silt fences, diversion ditches) and seeding bare ground upon completion of surface disturbance. The seed mix must be approved by a qualified restoration ecologist.

Impact 3.55 #29. Pollutants (DEIR, pp. 3.55 – 66 and MMRP, pp. 88-89).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Pollutants.” This Impact 3.55 #29 is less than significant

with implementation of Mitigation Measure 3.55 #29, as well as other measures (see Mitigation Measure 3.30 #3).

In Support of Finding: The adverse biological resources effects of the Project with respect to pollutants from urban runoff are avoided by implementation of Mitigation Measures 3.55 #29 and 3.30 #3. The Project Sponsor must employ Best Management Practices in the Project design and maintenance that meet Contra Costa County's C3 requirements for runoff water quality and RWQCB water quality certification requirements, in order to protect against degrading pollutants entering the recreated Rheem valley wetland swale and intermittent drainage and Coyote Creek. Water Quality basins and other water quality features will be professionally managed and maintained and/or enforced by the GHAD. The GHAD will have the authority to enforce urban runoff pollution control restrictions and maintenance in common areas and on individual lots within the Project.

Impact 3.55 #30. Long-Term Adverse Effects on Native Oak Trees (DEIR, pp. 3.55 – 67 and MMRP, p. 89).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Long-Term Adverse Effects on Native Oak Trees.” This Impact is less than significant with implementation of Mitigation Measure 3.55 #30.

In Support of Finding: The adverse biological resources effects of the Project with respect to long-term adverse effects on native oak trees are avoided by implementation of Mitigation Measure 3.55 #30. Measures to protect native oak trees in the design and construction of streets, finished lots and the lower valley buttress are set forth in Mitigation Measures 3.55 #5 and #6. Measure 3.35 #30 addresses, after the finished lots are completed, the long-term protection of any native oak trees located on or near a finished lot against the adverse effects of nearby ornamental landscaping, irrigation and location, as well as the siting of structures on the finished lot. During the course of design review on lots associated with native oak trees, the plans and siting for house and landscape design must be reviewed by certified arborist.

Impact 3.55 #31. Impacts to Semaphore Grass, Floating Water Primrose and Davy Mannagrass (DEIR, pp. 3.55 – 67 and MMRP, pp. 89-91).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Impacts to Semaphore Grass, Floating Water Primrose and Davy Mannagrass.” This Impact 3.55 #31 is less than significant with implementation of Mitigation Measure 3.55 #31.

In Support of Finding: The adverse biological resources effects of the Project with respect to impacts on Semaphore Grass, Floating Water Primrose and Davy Mannagrass are avoided by implementation of Mitigation Measure 3.55 #31. These unique resources on the Project site are to be avoided if feasible. If grading in their location is required for the 27 Lot Project in its final design, or it is not feasible to maintain their hydrologic conditions, then seeds will be collected, plants grown, and seeds and plants transferred to suitable locations on the Project site. The mitigation plan will include success standards and remedial measures submitted for review and approval by CDFG as part of its Streambed Alteration Agreement. The GHAD will professionally manage and maintain these plant populations.

Impact 3.55 #32. Off-Road Vehicle Activity (DEIR, pp. 3.55 – 69 and MMRP, p. 91).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Off-Road Vehicle Activity.” This Impact 3.55 #32 is less than significant with implementation of Mitigation Measure 3.55 #32.

In Support of Finding: The adverse biological resources effects of the Project with respect to off-road vehicle activity in the preserved open space are avoided by implementation of Mitigation Measure 3.55 #32. Physical barriers will be installed where appropriate to prevent vehicles and motorcycles from driving in the open space, in particular during grading and construction of the Project. Prevention of such trespass activities in the long term will be part of the Open Space Management Plan and the responsibility of the GHAD.

Impact 3.55 #33. Long-Term Degradation of Open Space and Conserved Habitats (DEIR, pp. 3.55 – 69, Responses to Comments, Master Response 6, and MMRP, pp. 91-92).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant biological resources effects on the environment with respect to “Long-Term Degradation of Open Space and Conserved Habitats.” This Impact 3.55 #33 is less than significant with implementation of Mitigation Measure 3.55 #33.

In Support of Finding: The adverse biological resources effects of the Project with respect to long-term degradation of open space and conserved habitats are avoided by implementation of Mitigation Measure 3.55 #33, as well as other biological resources mitigation measures. The Open Space Management Plan for the 27 Lot Project will include the final Fire Protection Plan, Grazing Management Plan, and Wetland/Special-Status Species Plan as compatible components. The GHAD will employ qualified biological and fire protection monitors to assure

implementation of fire protection and grazing plans is consistent with biological protection. Reports will be submitted to the Town confirming that determination by the monitors.

FIRE PROTECTION

(DEIR, Section 3.61)

Impact 3.61 #1. Wildland Fires (DEIR, pp. 3.61 – 4 and MMRP, pp. 92-94).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant fire protection effects on the environment with respect to “Wildland Fires.” This Impact 3.61 #1 is less than significant with implementation of Mitigation Measure 3.61 #1.

In Support of Finding: The adverse fire protection effects of the Project with respect to wildland fires are avoided with implementation of Mitigation Measure 3.61 #1. It requires a Fire Protection Plan be included as part of the Open Space Management Plan. The Fire Protection Plan must be reviewed and approved by the Fire District. The Plan will be managed by the GHAD, which must submit annual compliance reports to the Fire District. The Plan must include measures to keep fire risk in open space at reasonable levels, including vegetation mitigation and control and established maintenance intervals. The Plan must be compatible with protection of biological resources. Housing must be constructed with fire resistant materials. The road and court sections meet Fire District standards and will improve access to open space on and near the property, compared to current access.

Impact 3.61 #2. Fire Protection (DEIR, pp. 3.61 – 5 and MMRP, pp. 94-95).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant effects on the environment with respect to “Fire Protection” of the new residents and homes. This Impact 3.61 #2 is less than significant with implementation of Mitigation Measure 3.61 #2.

In Support of Finding: The adverse effects of the Project with respect to fire protection of the new residents and homes are avoided by implementation of Mitigation Measure 3.61 #2. It requires the Fire Protection Plan to incorporate the identified protection measures, such as residential fire sprinklers, fire hydrants at the accepted distances from homes, and fire flows that meet the most current Fire Code standards. The addition to the Plan requested by the Fire Marshal, that has been added to the measure that the housing be constructed with ignition resistant construction features as defined in Chapter 7A of the Building Code.

LAW ENFORCEMENT

(DEIR, Section 3.62)

Impact 3.62 #1. Police Protection (DEIR, pp. 3.62 – 2 and MMRP, p. 95).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant law enforcement effects on the environment with respect to “Police Protection.” This Impact 3.62 #1 is less than significant with implementation of Mitigation Measure 3.62 #1.

In Support of Finding: The adverse law enforcement effects of the Project with respect to police protection in the Town are avoided by implementation of Mitigation Measure 3.62 #1. The Town has established by ordinance development impact fees to offset cumulative impacts from new development, including the impact on police services. The police services portion of the development fees for the Project, paid at issuance of building permits, will be used by the Town to improve police services and response times. Ongoing revenues collected by the Town as a result of the Project after its full occupancy will be more than Town’s ongoing costs as a result of the Project, including police services.

SCHOOLS

(DEIR, Section 3.63)

Impact 3.63 #1. School Capacity (DEIR, pp. 3.63 – 3 and MMRP, pp. 95-96).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid the significant effects on the environment with respect to “Schools.” This Impact 3.63 #1 is less than significant with implementation of Mitigation Measure 3.63 #1.

In Support of Finding: The adverse effects of the Project with respect to schools are avoided by implementation of Mitigation Measure 3.63 #1. It requires the payment of the applicable school impact fees established by the Moraga School District and Acalanes Union School District. In accordance with State law those fees sufficiently mitigate school impacts of a residential project. The fees will be collected at building permit issuance.

WATER SUPPLY

(DEIR, Section 3.64)

Impact 3.64 #1. Water Demand (DEIR, pp. 3.64 – 7 and MMRP, pp. 96-97).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant water supply effects on the environment with respect to its “Water Demand.” This Impact 3.64 #1 is less than significant with implementation of Mitigation Measure 3.64 #1a and #1b.

In Support of Finding: The adverse water supply effects of the Project with respect to its water demand are avoided by implementation of the water conservation measures in Mitigation Measure 3.64 #1. Those required measures include drought-tolerant landscaping, efficient irrigation systems, and additional Demand Reduction Measures identified by the East Bay Municipal Utilities District (“EBMUD”) for the Project based on its water demand. The Project Sponsor will also be subject to the EBMUD Water Service Regulations and Schedule of Rates and Charges.

Impact 3.64 #2. Pressure Zones (DEIR, pp. 3.64 – 9 and MMRP, p. 97).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant water supply effects on the environment with respect to “Pressure Zones.” This Impact 3.64 #2 is less than significant with implementation of Mitigation Measure 3.64 #2.

In Support of Finding: The adverse water supply effects of the Project with respect to pressure zones are avoided by implementation of Mitigation Measure 3.64 #2. It requires the Project Sponsor to extend the existing main to the Project and to maintain the integrity of the existing main pipeline in Rheem Boulevard at all times during construction of the Project. The existing EBMUD reservoirs are sufficient to accommodate this Project in its pressure zones.

Impact 3.64 #3a. Encroachment into EBMUD Properties (DEIR, pp. 3.64 – 10 and MMRP, pp. 97-98).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant water supply effects on the environment with respect to “Encroachment into EBMUD Properties.” This Impact 3.64 #3a is less than significant with implementation of Mitigation Measure 3.64 #3a.

In Support of Finding: The adverse water supply effects of the Project with respect to encroachment on EBMUD properties are avoided by implementation of Mitigation Measure 3.64 #3a. The Project Sponsor must work with EBMUD and demonstrate the Project will not affect the existing or future use of EBMUD

property. Based on the design of the 27 Lot Project, it does not appear that adverse effect will be present. For example, access to Fay Hill Reservoir through the EBMUD right-of-way on the Project site will not be adversely affected by creating the revised access to the 19 lots along 'B' and 'C' Courts.

Impact 3.64 #3b. Fay Hill Access Road (DEIR, pp. 3.64 – 10 and MMRP, p.98).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant water supply effects on the environment with respect to "Fay Hill Access Road." This Impact 3.64 #3b is less than significant as a result of the design of the 27 Lot Project.

In Support of Finding: The adverse water supply effects of the Project with respect to Fay Hill Reservoir access are avoided by design and grading changes incorporated in the 27 Lot Project, which leave the Fay Hill Reservoir access in its existing location and with an improved surface condition. Mitigation Measure 3.64 #3b in the Draft EIR is no longer necessary.

Impact 3.64 #5. EBMUD Distribution System (DEIR, pp. 3.64 – 11 and MMRP, pp. 98-99).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant water supply effects on the environment with respect to the "EBMUD Distribution System." This Impact 3.64 #5 is less than significant with implementation of Mitigation Measure 3.64 #5.

In Support of Finding: The adverse water supply effects of the Project with respect to the EBMUD distribution system are avoided by implementation of Mitigation Measure 3.64 #5. It requires the Project Sponsor to prevent any impacts to the existing main pipeline in Rheem Boulevard when modifications to the road occur.

WASTEWATER SERVICES

(DEIR, Section 3.65)

Impact 3.65 #2. Off-Site Sewer Line (DEIR, pp. 3.65 – 3 and MMRP, pp. 99-100).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant wastewater services effects on the environment with respect to an "Off-Site Sewer Line." This Impact 3.65 #2 is less than significant with implementation of Mitigation Measure 3.65 #2, as well as Mitigation Measure 3.55 #6c.

In Support of Finding: The adverse wastewater services effects of the Project with respect to a possible sewer line at the end of 'C' Court are avoided by

implementation of Mitigation Measure 3.65 #2, as well as Mitigation Measure 3.55 #6c. If a gravity sewer line is used in 'C' Court, it must be extended through the Project open space and connect off site to the main sewer line at a manhole in the Lafayette-Moraga Trail. Per Mitigation Measures 3.65 #2 and 3.55 #6c. Construction of that off-site sewer line must meet identified performance standards. The standards vary depending on the manner of construction in the particular location, open trench or boring. Common standards include a detailed tree survey within 50 feet of the centerline of the proposed sewer easement, tree protection measures, and the avoidance of tree removal to the maximum extent feasible. Alternatively, a pumping system such as a lift station on 'C' Court for a sewer line that connects to the uphill gravity sewer line in 'B' Court will be utilized. That pump system must be reviewed and approved by the Contra Costa Central Sanitary District ("CCSD").

Impact 3.65 #3. Transmission Facilities (DEIR, pp. 3.65 – 4 and MMRP, pp. 100).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant wastewater services effects on the environment with respect to "Transmission Facilities." This Impact 3.65 #3 is less than significant with implementation of Mitigation Measure 3.65 #3.

In Support of Finding: The adverse wastewater services effects of the Project with respect to CCSD sewage transmission facilities are avoided by implementation of Mitigation Measure 3.65 #3. The Project Sponsor must secure a will serve letter from the CCSD and pay all fees and charges required by CCSD. The CCSD plans to make corrections to deficiencies in its downstream transmission as part of its Capital Improvement Program, and expects to complete them prior to Project buildout. Fees and charges paid by the Project Sponsor will include the Project's fair share of those costs to the extent determined necessary by CCSD.

SOLID WASTE DISPOSAL

(DEIR, Section 3.66)

Impact 3.66 #2: Solid Waste (DEIR, pp. 3.66 – 2 and MMRP, pp. 100-101).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant solid waste disposal effects on the environment with respect to generation of "Solid Waste." This Impact 3.66 #2 is less than significant with implementation of Mitigation Measure 3.66 #2.

In Support of Finding: The adverse solid waste disposal effects of the Project with respect to its generation solid waste are avoided by implementation of Mitigation Measure 3.66 #2. Solid waste generated by the Project will not inhibit the Town's ability to maintain its 50% diversion rate. The Project Sponsor must

complete and implement a Construction Debris Recycling Plan that complies with the Town's ordinance requirements for diversion of such debris.

CULTURAL RESOURCES

(DEIR, Section 3.70)

Impact 3.70 #1. Archaeological Resources (DEIR, pp. 3.70 – 6 and MMRP, pp. 101-102).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant cultural resources effects on the environment with respect to “Archeological Resources.” This Impact 3.70 #1 is less than significant with implementation of Mitigation Measure 3.70 #1.

In Support of Finding: The adverse cultural resources effects of the Project with respect to archeological resources are avoided by implementation of Mitigation Measure 3.70 #1. There are no known archeological resources on the Project site, based on Native American consultations, archival research, and field survey. Mitigation Measure 3.70 #1 is the standard protocol to be followed when there is an accidental discovery of buried archeological deposits during the course of grading and construction operations. It requires an immediate halt in construction activities pending evaluation of the find by a qualified archeologist. Prehistoric archeological site indicators are listed. In addition, prior to completion of the final grading plan, a qualified archeologist will evaluate any artifact that may be provided to the Project Sponsor by the neighbor who said in public testimony he recovered one from the Rheem valley portion of the Project site.

Impact 3.70 #2. Fossils (DEIR, pp. 3.70 – 7 and MMRP, p. 102).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant cultural resources effects on the environment with respect to “Fossils.” This Impact 3.79 #2 is less than significant with implementation of Mitigation Measure 3.70 #2.

In Support of Finding: The adverse cultural resources effects of the Project with respect to the discovery of fossils are avoided by implementation of Mitigation Measure 3.70 #2. Per standard protocol, upon the accidental discovery of a fossil it requires a suspension in grading operations in the vicinity of the find, pending its evaluation for scientific significance and recovery, if warranted.

Impact 3.70 #3. Human Remains (DEIR, pp. 3.70 – 7 and MMRP, pp. 102-103).

Finding: Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid its significant cultural resources effects on the

environment with respect to “Human Remains.” This Impact 3.70 #3 is less than significant with implementation of Mitigation Measure 3.70 #3.

In Support of Finding: The adverse cultural resources effects of the Project with respect to the discovery of human remains are avoided by implementation of Mitigation Measure 3.70 #3. Per standard protocol, it requires a halt in construction in the vicinity of the find, contacting the Native American Heritage Commission, and identifying the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity.

PART III.

LIST OF 27 LOT PROJECT IMPACTS, ALTERNATIVES TO 27 LOT PROJECT, BENEFITS OF 27 LOT PROJECT, AND CONCLUSION

1. LIST OF 27 LOT PROJECT IMPACTS

The certified Final EIR identified potential environmental impacts associated with implementation of the project. These impacts include the areas shown below:

3.10 LAND USE

Impact 3.10 #2 Conversion of Agricultural Land

3.20 GEOLOGY AND SOILS

Impact 3.20 #1 Ground Shaking
Impact 3.20 #3 Expansive Soils
Impact 3.20 #4 Groundwater
Impact 3.20 #5a Landslides
Impact 3.20 #5b Landslides (Rheem Boulevard)
Impact 3.20 #6 Soil Creep
Impact 3.20 #7 Erosion
Impact 3.20 #9 Building Pads
Impact 3.20 #10 Foundations

3.25 HAZARDS AND HAZARDOUS MATERIALS

Impact 3.25 #2 Construction-Related Hazardous Materials

3.30 HYDROLOGY, DRAINAGE AND WATER QUALITY

Impact 3.30 #1 Storm Drainage

- Impact 3.30 #2 Groundwater Recharge
- Impact 3.30 #3 Water Quality

3.35 VISUAL QUALITY, PARKS, RECREATION AND OPEN SPACE

- Impact 3.35 #1 Change in Community Character
- Impact 3.35 #2 Ridgeline Development
- Impact 3.35 #3 Site Characteristics
- Impact 3.35 #4 Scenic Corridors
- Impact 3.35 #5 Light and Glare
- Impact 3.35 #6. Recreation & Trails
- Impact 3.35 #7 Wetlands Restoration

3.40 TRAFFIC, TRANSPORTATION AND CIRCULATION

- Impact 3.40 #2 Traffic Control Needs and Vehicle Queues at St. Mary’s Road/Rheem Boulevard
- Impact 3.40 #5 Internal Circulation

3.45 AIR QUALITY

- Impact 3.45 #2 Construction Activities

3.50 NOISE

- Impact 3.50 #2 Construction Activities

3.55 BIOLOGICAL RESOURCES

- Impact 3.55 #3 Loss of USACE - Jurisdictional Wetlands
- Impact 3.55 #4 Non-Corps Jurisdictional Wetlands
- Impact 3.55 #5 Loss of Native Trees
- Impact 3.55 #6 Loss of Native Trees on the East Slope
- Impact 3.55 #9 Direct Impacts on California Red-Legged Frog
- Impact 3.55 #10 Direct Impacts to Alameda Whipsnake
- Impact 3.55 #1 Direct Impacts to Nesting Raptors and Other Nesting Migratory Birds, Occupied Nests, and Active Bat Roosts
- Impact 3.55 #13 Direct Impacts on Sensitive Plant Communities
- Impact 3.55 #15 Degradation of Wildlife Habitats and Decrease in the Carrying Capacity for Wildlife and Special-Status Species
- Impact 3.55 #16 California Red-Legged Frog Habitat
- Impact 3.55 #17 Indirect Recreational Effects on California Red-Legged Frog
- Impact 3.55 #18 Indirect Impacts on California Red-Legged Frog Habitat
- Impact 3.55 #19 Indirect Effects on Alameda Whipsnake
- Impact 3.55 #20 Recreational Impacts to Alameda Whipsnake

Impact 3.55 #21	Recreational Impacts to Wildlife and Wildlife Habitat
Impact 3.55 #22	Invasive Species
Impact 3.55 #2.	Habitat Loss and Fragmentation
Impact 3.55 #24	Interruption to and Loss of Wildlife Movement Corridors
Impact 3.55 #25	Indirect Impacts of Domestic Animals On Wildlife
Impact 3.55 #26	Grading Impacts
Impact 3.55 #29	Pollutants
Impact 3.55 #30.	Long-Term Adverse Effects on Native Oak Trees
Impact 3.55 #31	Impacts to Semaphore Grass Floating Water Primrose and Davy Mannagrass
Impact 3.55 #32	Off-Road Vehicle Activity
Impact 3.55 #33	Long-Term Degradation of Open Space and Conserved Habitats

3.61 FIRE PROTECTION

Impact 3.61 #1	Wildland Fires
Impact 3.61 #2	Fire Protection

3.62 LAW ENFORCEMENT

Impact 3.62 #1	Police Protection
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3.63 SCHOOLS

Impact 3.63 #1	School Capacity
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3.64 WATER SUPPLY

Impact 3.64 #1	Water Demand
Impact 3.64 #2	Pressure Zones.
Impact 3.64 #3a	Encroachment into EBMUD Properties
Impact 3.64 #5	EBMUD Distribution System

3.65 WASTEWATER SERVICES

Impact 3.65 #2	Off-Site Sewer Line
Impact 3.65 #3	Transmission Facilities

3.66 SOLID WASTE DISPOSAL

Impact 3.66 #2	Solid Waste
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3.70 CULTURAL RESOURCES

Impact 3.70 #1	Archaeological Resources
Impact 3.70 #2	Fossils
Impact 3.70 #3	Human Remains

Planning Commission approved 27 lot project. These potential impacts listed above will be mitigated to levels of less than significant by the mitigation measures adopted in the MMRP and conditions of approval adopted for the 27 Lot Project Conceptual Development Plan and Conditional Use Permit. Other potential impacts of the 35 lot project reviewed in the Draft EIR were determined to be less than significant for that project. They are also insignificant for the 27 Lot Project, which includes less development acreage than the 35 lot project, no grading outside the limits of grading for that project, and fewer residential units. The 27 Lot Project does not increase the severity of any potentially significant impacts of the 35 lot project analyzed in the Draft EIR and Responses to Comments. Rather, a primary objective of the design changes to the 35 lot project was to reduce impacts identified in the Draft EIR or the Responses to Comments, as those thresholds are informed by the General Plan.

As a result of additional analysis since the preparation of the Draft EIR, changes made to the 35 lot project in the Draft EIR by the Project Sponsor, and by the identification of modified mitigation measures included in the Responses to Comments and the MMRP, the following visual quality impacts were reduced from levels of significant and unavoidable for the 35 lot project to less than significant for the 27 lot project (see Responses to Comments, Vol. 1, Chapter II – Section C.1 page 16 and 17 and Master Response 3):

- Impact 3.35 #1 Change in Community Character
- Impact 3.35 #2 Ridgeline Development
- Impact 3.35 #3 Site Characteristics
- Impact 3.35 #4 Scenic Corridors

In addition, with the redesign of the 35 lot project in the Draft EIR to the 27 Lot Project, other mitigation measures in the Draft EIR have been modified and, in some cases, no longer required in order to mitigate Project impacts to less than significant. None of the changes in mitigation measures, compared to those set forth in the Draft EIR, result in new significant environmental impacts or an increase in the severity of significant impacts identified in the Draft EIR.

Town Council Approved 27 Lot Project. Certain environmental impacts that were less than significant with the Planning Commission approved project are reduced even more with the Town Council approved project. This results, among other factors, from the removal of the lower valley buttress, the elimination of ‘A’ Way, the relocation of Lots 26 and 27 to ‘D’ Drive and the reorientation of the lots there, the reduction in building heights for homes on ‘C’ Court and ‘B’ Court, refinements in the grading plan for the upper development area are including the reduction in the amount and depth of cut and the reconfiguration of roads there, and the elimination of unnecessary hillside tree screening,

2. ALTERNATIVES TO 27 LOT PROJECT

6 alternatives to the Rancho Laguna II 35 lot project are discussed in the Draft EIR. 3 other alternative layouts were presented and evaluated in the Responses to Comments at Master

Response 10. Alternatives to the valley buttress method to stabilize Rheem Boulevard were also addressed in Master Response 10. None of the alternatives are necessary to mitigate all project impacts to less than significant levels, because the project as approved by the Planning Commission does that (see Update for Final EIR). The Commission considered and rejected each of the alternatives as discussed below in making its approval decision. The Town Council rejected each of the alternatives as discussed below, and instead determined to approve the 27 Lot Project as designed and mitigated. Each of the alternatives in the Final EIR is summarized below:

1. The No Project Alternative assumes the project site would maintain existing conditions and remain undeveloped so that no new environmental impacts would occur.
2. The General Plan Minimum Density Alternative is a variation of the No Project Alternative and assesses development allowable under the General Plan and zoning with a density of one unit per 20 acres; i.e., 9 units. No particular development plan to locate those 9 units is included.
3. Alternative Sites is an alternative which evaluates alternative sites within the Town of Moraga that potentially may meet the stated project objectives of the Project Sponsor and the Town.
4. The Mitigated Plan Alternative is a development plan that reduces impacts as compared to those associated with the Rancho Laguna II 35 lot project, based in large part on application of mitigation measures in the Draft EIR.
5. The Rheem Boulevard Alternative with Frontage Road is a development plan that eliminates all development on the southern plateau and expands the development area and number of lots in the upper and lower Rheem valleys.
6. The Rheem Boulevard Alternative with Modified “D” Drive limits project development to 9 lots in the upper valley, with 2 of the lots on the northerly side of the Fay Hill Reservoir access road, and no development on the southern plateau.
7. Layout Alternatives in Master Response 10 are intended to be modifications to the Mitigation Plan Alternative. One is for 17 lots with no valley lots and no lower valley buttress. One is for 21 lots with 4 upper valley lots and no lower valley buttress. The last one is for 23 lots with 6 valley lots and a partial lower valley buttress.
8. Rheem Boulevard Stabilization Alternatives. Two alternatives to the valley buttress method to stabilize Rheem Boulevard are further discussed in Master Response 10.

Under CEQA, the Town Council must at least consider the alternatives evaluated in the EIR, even though the 27 Lot Project reduces all environmental impacts to less than significant. The Town Council has considered these alternatives and finds none of them to be an acceptable alternative to the 27 Lot Project as more fully discussed below:

1. No Project Alternative. While there are no new environmental impacts with this alternative (because land use of the site does not change from its current use for grazing), it does not meet any of the objectives of the Town or Project Sponsor, and is not justified under the General Plan. It is not an economically feasible use of the property for residential development, one of the Project Sponsor's objectives. It does not stabilize, repair and improve Rheem Boulevard, one of the Town's objectives. It will not result in the long-term professional management of the biological and open space resources of the property, enhance fire protection, or make the open space available for public use through a public trail system.

2. The General Plan Minimum Density Alternative. With all environmental impacts reduced to less than significant by the 27 Lot Project, as designed and mitigated, requiring the number of units to be restricted to the General Plan minimum of 9 is not justified based on site constraints or characteristics, or for purposes of compliance with CEQA and/or the General Plan. The benefits of lowering the density from 27 lots to further increase the amount of open space and/or reduce the graded area are insignificant. Developing the project site at the minimum density of one unit per 20 acres is not justified on geotechnical safety grounds. The risk to new development in the 27 Lot Project, as designed and mitigated, has been professionally assessed and is acceptably low. It does not include development in "high risk" or "moderate risk" areas as defined in the General Plan, or on MOSO land designated as "high risk," so one dwelling unit per 20 acres is not the maximum density for the Project site. The 27 Lot Project is 75% of the maximum density of 36 units, and a further reduction in density is not warranted.

Restricting the site development to 9 units means Rheem Boulevard will not be stabilized as part of the Project, inconsistent with an important Town objective. As part of the 27 Lot Project, the Project Sponsor will stabilize the upper valley section of Rheem Boulevard at its cost with a valley buttress. Per Condition of Approval V.16, the Project Sponsor has agreed to construct a geogrid reinforced buttress fill to stabilize the high risk area in the lower valley section of Rheem Boulevard and remove and replace the road in the lower valley frontage, and share that cost with the Town, even though the 27 Lot Project may be safely developed without that additional work.

The 27 Lot Project preserves over 90% of the project site as permanent open space with public trails. The open space will be professionally managed in all environmental respects by the GHAD, which will be funded by the 27 homeowners. The Project Sponsor will not commit 9 homeowners to maintain the vast majority of the project site as managed open space with public access. To require permanent funding by so few homeowners to manage that significant amount of open space, through a GHAD or HOA, is not reasonable or realistic.

The minimum General Plan density of one unit per 20 acres is not warranted for geologic safety reasons or due to other site characteristics, as discussed above. In fact, it would eliminate an important geologic safety repair for Rheem Boulevard. The 27 Lot Project is superior to the General Plan Minimum Alternative because it reduces all environmental impacts to less than significant and, at the same time and unlike the General Plan Minimum Alternative, it provides among other public benefits: (i) preservation of over 90% of the site as permanent open space that is professionally managed by a GHAD funded by its 27 lot owners, and which includes

public trails; and (ii) stabilization, repair and improvement of Rheem Boulevard at reduced cost to the Town. The General Plan Minimum Alternative is an inferior and unreasonable alternative given the public benefits of the 27 Lot Project, its consistency with the Moraga 2002 General Plan as a whole, and its mitigation of all significant environmental impacts.

3. Alternative Sites. After analyzing the available properties that may meet, or closely meet, the stated project objectives, it is evident that only the Rancho Laguna II site could accommodate the Project in or near the Town of Moraga. The Rancho Laguna II site meets the Town's policies with respect to development and preservation of open space. It is located within the designated Urban Limit Line. It includes the minimum acreage required. It is controlled by the Project Sponsor. No other location is controlled by the Project Sponsor, or is expected to be controlled by the Project Sponsor in the reasonably foreseeable future. For example, other properties that might be considered somewhat appropriate for the Project Sponsor's proposed use have long been owned by the Bruzzone family with the objective of developing them on their own. No other location is suitable compared to the Project site.

All environmental constraints and impacts of the 27 Lot Project on the Rancho Laguna II site can and will be reduced to less than significant. It is speculative to think that would be the case at any other locations. The Rancho Laguna II site is the only location that may be utilized to stabilize Rheem Boulevard with a valley buttress in along the upper valley frontage and a geogrid reinforced buttress fill in the high risk area along the lower valley frontage, at reduced cost to the Town. Use of this site owned by the Project Sponsor is the only practicable and feasible location available to the Project Sponsor and that meets all its stated objectives, and those of the Town.

4. The Mitigated Plan Alternative. As a result of continued efforts by the Town staff, Commission, Town Council, and Project Sponsor since the Draft EIR was released, the 27 Lot Project, as designed and mitigated, reduces all environmental impacts to less than significant. The 27 Lot Project is essentially a mitigated plan alternative that meets the project objectives of the Project Sponsor and the Town. The Draft EIR Mitigated Plan Alternative includes several changes to the 35 lot project to make it environmentally superior. A primary objective of those changes is to incorporate Draft EIR mitigation measures into its design, or otherwise address significant impacts of the 35 lot project. The 27 Lot Project has that same objective, but in some respects achieves them in a different manner than does the Mitigated Plan Alternative.

All finished slopes are no steeper than 3:1 in both plans. The potential water quality basin at the end of 'C' Court in both plans has been changed to a location that does not require the extensive grading necessary at the location in the 35 lot project.

Like the Mitigated Plan Alternative, the public trail system of the 27 Lot Project has been revised to eliminate the trails of concerns in the Draft EIR. The staging area in the valley is eliminated. Parking is instead provided at the end of "B" Drive. Multi-use trails to accommodate bicyclists are proposed for the Mitigated Plan Alternative. Such trails in this open space could result in biological resources and erosion impacts, and would be difficult to maintain on steep terrain. The narrow dirt trails in the 27 Lot Project are part of an environmentally superior trail plan.

The reconfiguration of a shortened 'D' Drive with the southerly access, as provided in the 27 Lot Project, is superior to the Mitigated Plan Alternative configuration. Its northerly access requires more grading, including changes to the Fay Hill Reservoir access road. Line of sight concerns are no longer applicable with the three way stop signs for the intersection of Rheem Boulevard with 'E' Street/Fay Hill Road. Reconfigured and shortened 'D' Drive with the southerly access does not require the second access an EVA or traffic calming features still necessary in the Mitigated Plan Alternative.

In the upper valley, a landscape easement for trees to buffer the 'D' Drive homes as seen from Rheem Boulevard is provided in the 27 Lot Project. Lots are widely spaced. The 27 Lot Project does not include high retaining walls behind those homes, so landscape easements are not required between the homes to screen those walls. The number of homes is reduced to 8. Single story homes are required on 6 of those lots. Reconfiguration of 'D' Drive eliminates the landscape around the northerly entry that blocks valley and hillside views for those traveling south on Rheem Boulevard. The Mitigated Plan Alternative does not include any of these visual quality features.

In the southern plateau development area, the Mitigated Plan Alternative does not include the landscape mitigation measures incorporated into the 27 Lot Project design for the wetland swale and slope in the upper valley development area along 'D' Drive. The visual quality impacts of the 27 Lot Project have all been reduced to less than significant, including within the Rheem Boulevard scenic corridor. The visual quality impacts of the 27 Lot Project as seen by travelers along Rheem Boulevard are less than significant with mitigation. In the Mitigated Plan Alternative homes are included in the lower valley which, along with the landscape plan design and other features, causes these impacts to remain significant and unavoidable.

The Mitigated Plan Alternative calls for Class 1 bike trails in an improved Rheem Boulevard section. There are no Class 1 bike trails on either end of the project frontage. Separated pedestrian path/sidewalk, Class 1 bike trails, and new turn pockets will result in a new Rheem Boulevard section that is too wide for this relatively narrow right-of-way, even with dedication of additional right-of-way from the Project site. The significant realignment of the existing centerline required for this new section would create connection and alignment constraints on the northerly and southerly end of the frontage. Such a wide road section is not representative of the semi-rural character of the area. The improved section in the 27 Lot Project is a better engineering and semi-rural fit.

Both plans require an upper valley buttress for the stabilization of Rheem Boulevard and the development along "D" Drive. The Mitigated Plan Alternative includes homes in the lower valley on a buttress. The 27 Lot Project stabilizes the high risk area of Rheem Boulevard without the lower valley buttress filling the intermittent drainage. Therefore, its wetland mitigation may be created on site: a recreated wetland swale in the upper valley and recreated intermittent drainage, seasonal wetland and seeps in the lower valley. The wetland restoration plan for the 27 Lot Project helps to mitigate visual quality impacts along Rheem Boulevard to

less than significant, unlike in the Mitigated Plan Alternative, which includes tall riparian trees in both the upper and lower valleys that will obstruct open views for travelers on this arterial road.

Hydrology, drainage and water quality impacts of the 27 Lot Project are mitigated to a greater extent than the Mitigated Plan Alternative. The 27 Lot Project includes oversized stormwater pipes to reduce off site peak discharge below “A” Way to less than existing conditions during large storm events. Provided the appropriate permits can be secured, downstream neighbors along Rheem Boulevard will be given the opportunity to have the Project Sponsor place buried riprap in strategic locations along the intermittent drainage on the back side of their lots to reduce erosion. The Mitigated Plan Alternative includes no such extra mitigation.

The Mitigated Plan Alternative includes one lot more than the 27 Lot Project. For any of the impacts the significance of which is based on the number of residential units, the effects are essentially the same with both plans: traffic levels of service, air quality, noise, public services and utilities, and cultural resources.

Duplex units are suggested for some of the Mitigated Plan Alternative lots but not shown on the Draft EIR illustration. Duplex units are not consistent with the semi-rural development of the project site on Non-MOSO land and near neighborhoods that are limited to single-family homes. In that regard, the 27 Lot Project is superior in neighborhood compatibility.

As a result of the Planning Commission and Town Council review, the 27 Lot Project substantially improves upon the Mitigated Plan Alternative. That has been accomplished without the need to reduce the upper development area cluster from 19 to 17 units, as proposed in the Mitigated Plan Alternative. Thus, the only added accomplishment in the 17 units in the Mitigated Plan Alternative is to create somewhat wider and larger lots. That is unnecessary because the building pads in the 27 Lot Project are sufficient to accommodate a residence of reasonable size designed, per Condition III.8, to blend with the environment instead of overpowering it.

The Draft EIR identified the Mitigated Plan Alternative as the environmentally superior alternative. With that plan, visual quality impacts were still considered significant and unavoidable. Unlike the Mitigated Plan Alternative, the 27 Lot Project mitigates those visual quality impacts to less than significant. It accomplishes other environmental objectives of the Mitigated Plan Alternative, as described above. The Mitigated Plan Alternative with 28 lots does not reduce any significant environmental impacts to a greater extent than does the 27 Lot Project. Thus, the Town Council considers the 27 Lot Project, as designed and mitigated, to be the environmentally superior alternative. Further reductions in density or development acreages are not warranted for purposes of CEQA or General Plan compliance, or for any other planning reason.

5. The Rheem Boulevard Alternative with Frontage Road. This alternative significantly expands the number of residential units (from 14 to 23) and the amount of development acreage in the Rheem valley area, with the goal of eliminating the significant environmental impacts of grading and development on the southern plateau. More of the

intermittent drainage is filled to accommodate the additional lower valley lots, so the biological resources impacts are greater with this alternative. Providing for development on the southern plateau, as in the 27 Lot Project, is a less environmentally damaging alternative to filling even more of the intermittent drainage in the lower valley than approved by the Planning Commission. With the 27 Lot Project all significant impacts are less than significant.

The significant visual quality impacts of this Rheem Boulevard alternative are unavoidable, because open valley and hillside view as seen from this scenic road are essentially blocked along the entire frontage. Unlike the 35 lot project to which the Rheem Boulevard Alternative with Frontage Road was compared, the visual quality impacts of the southern plateau development in the 27 Lot Project, as designed and mitigated, are less than significant. Therefore, the increased visual quality and biological resources impacts of this alternative in the Rheem Boulevard scenic corridor do not justify removing the southern plateau grading and development.

With this alternative, stabilizing, repairing and improving Rheem Boulevard is not feasible. The upper valley butress is created with fill from the southern plateau grading and development. Project fill for the geogrid reinforced butress fill to stabilize the high risk area in the lower valley frontage is also required. The importation by trucks of substantial amounts of fill would be required, because the southern plateau is not being graded for development in this alternative. It is inferior to the 27 Lot Project for that reason alone. The cost to stabilize Rheem Boulevard as a public capital improvement project is unreasonably high and the impacts on public roads, safety and circulation too great as a result of that importation..

The 27 Lot Project is environmentally superior to the Mitigated Plan Alternative, with respect to the design of and mitigation for both the southern plateau and Rheem valley development. The Mitigated Plan Alternative is environmentally superior to the Rheem Boulevard Alternative with Frontage Road Alternative. The 27 Lot Project fixes Rheem Boulevard. Thus, the 27 Lot Project is superior to that Rheem Boulevard Alternative.

6. Rheem Boulevard Alternative with Modified 'D' Drive. This alternative creates 9 lots in the upper valley. It is one version of the General Plan Minimum Density Alternative. The valley butress is not extended to the lower valley in order to preserve it in its current condition. The reconfigured 'D' Drive and its 8 lots in the 27 Lot Project is superior to the modified 'D' Drive and its 9 lots in this alternative. The northerly access for this alternative has sight distance and visual quality limitations. Its required grading potentially affects the Fay Hill Reservoir access. 8 single-story homes on a reconfigured 'D' Drive are visually preferable to 9 homes on a longer "D" Drive, some or all of which could be two stories. The Rheem Boulevard visual quality impacts of this alternative are still, at best, at a level of insignificance comparable to the 27 Lot Project.

As with the other Rheem Boulevard alternative, the importation of significant cubic yards of fill would be required to include the create the necessary upper valley butress in this alternative. This alternative is inferior to the 27 Lot Project for that reason alone. That cost is unreasonable and the impact on public roads is not acceptable.

The Town objectives to fully stabilize Rheem Boulevard and preserve in perpetuity professionally managed open space that includes public trails would not be achieved with this alternative. The Project Sponsor has stated its unwillingness to absorb the cost of stabilizing the lower valley for a project with only 9 lots, or commit 9 homeowners to be responsible to manage even more open space than set aside in the 27 Lot Project, and maintain its public trails.

As a variation of the General Plan Minimum Density Alternative, the Rheem Boulevard Alternative with Modified 'D' Drive is an inferior and unreasonable alternative given the public benefits of the 27 Lot Project, and the fact that development of the 19 lots on the southern plateau, as designed and mitigated, has no significant environmental impacts and is consistent with the Moraga 2002 General Plan. Removing all development from the southern plateau as provided in this minimum density alternative is not warranted.

7. Layout Alternatives in Master Response 10. In the Responses to Comments at Master Response 10, three new lot layout alternatives were provided and evaluated. Each of them is a variation on the Mitigated Plan Alternative. One option includes 17 lots, another 21 lots and the third 23 lots. Each of them includes the 17 lot plan for the southern plateau development cluster that is part of the Mitigated Plan Alternative. Each of them includes the landscape mitigation described in Master Response 3 that reduces the visual quality impacts of southern plateau development to less than significant. Per the discussion above, this 17 lot plan for the southern plateau has environmental impacts comparable to the 21 lots in the 27 Lot Project. In other words, the reduction by 4 lots is environmentally insignificant.

None of the three layout options include the landscape refinements and other project modifications in the Visual Quality Mitigation Exhibits that further address visual quality impacts of the project as seen from Rheem Boulevard. Those exhibits were completed after the Responses to Comments were released. Including similar project modifications in the 17 lot option and 21 lot option (tailored to fit each option) could reduce visual quality impacts of these options along Rheem Boulevard to less than significant, like the 27 Lot Project. With no homes in the upper valley in the 17 lot option, the insignificant visual quality impacts would be even smaller. With respect to the 21 lot option compared to the 27 Lot Project, it is hard to discern a difference the fewer lots on 'D' Drive would make. The 23 lot option impact would still be greater than the 27 Lot Project, because 'D' Drive would extend into the lower valley, the most important element of the Rheem Boulevard view and with respect to riparian biological resources. 8 lots in the upper valley, as provided in the 27 Lot Project, is preferable to 6 even wider lots on a 'D' Drive that extends 400 feet into the lower valley, and requires more filling of the intermittent drainage there.

None of the three options fully stabilize the Rheem Boulevard frontage. The 17 lot and 21 lot options stabilize only the upper valley frontage. The 23 lot option stabilizes the upper valley frontage and some, but not all, of the lower valley frontage. The 27 Lot Project is the superior alternative because it includes stabilization, repair and improvement of the entire Rheem Boulevard frontage, and does so while also reducing all environmental impacts to less than significant and achieving General Plan consistency.

The three layouts are inferior to the 27 Lot Project, because they do not achieve the Town objective of stabilizing, repairing and improving Rheem Boulevard, and it is financially infeasible for the Town to do so as a capital improvement project. The Project Sponsor has stated its unwillingness to be solely responsible for the costs to complete the upper valley buttress if no lots are included there (the 17 lot option). The same is true if the southern plateau development was limited to 21 lots as provided in the 27 Lot Project. The full stabilization of the lower valley is not required for any of the residential development in those options.

8. Rheem Boulevard Stabilization Alternatives. When the Planning Commission evaluated the Rancho Laguna II project, two engineering alternatives to the valley buttress method of stabilizing Rheem Boulevard were presented. One is a combination of a buried retaining wall/tie back system (high risk frontage) and geogrid/engineered slopes (moderate risk frontage). The other is a combination of roadway keyway (high risk) and geogrid/engineered slopes (moderate risk). Neither one has the high safety factor of the valley buttress fix. The valley buttress method is feasible only if the fill comes from the project site. Importation of fill as part of a capital improvement project is too expensive and its impacts too great, as discussed above.

The Town Engineer said to the Commission she would recommend the buried retaining wall approach if the Town was to make this repair as a capital improvement project, whether for only the lower valley or the entire frontage. The reasons for that selection are: (i) the high cost of importing fill, (ii) the desire to avoid filling jurisdictional and non-jurisdictional wetlands and the permitting and mitigation costs involved, and (ii) the fact that the keyway alternative requires road closure and could trigger an uphill landslide during excavation. However, with the buried retaining wall and keyway alternatives, most of the non-jurisdictional riparian trees and coastal scrub habitat on the slope between the intermittent drainage and Rheem Boulevard still must be removed in order to make the repair, and portions of the jurisdictional drainage closest to Rheem Boulevard may have to be graded. That includes removal of the trees and scrub habitat on the slope where 'A' Way would be constructed.

The Project Sponsor stated that it will not construct the other methods of repair or be responsible for their success; the Project Sponsor would instead only pay its nexus fair share toward one of those methods of repair. The Town does not have the resources (grants, development fees and/or general fund) to cover the rest. The only feasible method of repair for the Town presented to the Planning Commission was the valley buttress as part of the 27 Lot Project.

During the Town Council appeal process and at the request of the Town Manager, additional analysis was performed by the Town's geotechnical engineer with respect to stabilization alternatives for the high risk areas in the lower valley section of Rheem Boulevard that did not require fill in the intermittent drainage. The geotechnical engineer recommended stabilization of those landslides in Rheem by closing the road, excavating the slide and construction of a geogrid reinforced buttress fill. While more costly than the buttress fill alternative previously considered as an alternative, it has a higher factor of safety. The Council stated its preference to stabilize those landslide conditions with that alternative because of its interest in preserving more of the lower

**ATTACHMENT 8 – MINUTE ORDER 01-2011
CONDITIONAL USE PERMIT APPROVAL STATEMENTS**

WHEREAS, Rancho Laguna, LLC (“Applicant”), owns approximately 180 acres of property within the Town of Moraga along Rheem Boulevard (more specifically referred to as APN: 256-040-024); and

WHEREAS, on February 25, 2005, the Applicant applied to the Town of Moraga for the development of its property requesting approval of a Conditional Use Permit and Conceptual Development Plan for a 35 lot single-family residential project with associated open space and other public amenities, entitled Rancho Laguna II; and

WHEREAS, the Applicant’s property is zoned MOSO (OS) and Non-MOSO (N-OS) Open Space Districts and Planned Development District (N-OS-PD), with the residential development proposed in the Non-MOSO Open Space District portion of the property; and

WHEREAS, a Conditional Use Permit for single-family residential uses within the Non-MOSO Open Space District is required per Moraga Municipal Code Section (MMC) 8.52.040, subject to certification of an environmental review of the project per the California Environmental Quality Act (CEQA), and adoption of the required findings for such a permit being made by the Planning Commission per MMC 8.12.130, as well as the required findings under CEQA; and

WHEREAS, the recitals to Resolution No. 11-2009 concerning the process to determine the application to be complete, are incorporated by reference as if set forth herein; and

WHEREAS, the recitals to Resolution No. 11-2009 concerning the Moraga 2002 General Plan are incorporated by reference as if set forth herein; and

WHEREAS, the recitals to Resolution No. 10-2009 concerning the environmental review process and completion of a Final Environmental Impact Report (EIR) for the Rancho Laguna II 27 Lot Project are incorporated by reference as if set forth herein; and

WHEREAS, the recitals to Resolution No. 11-2009 concerning the planning process for the application for the Rancho Laguna II 35 lot project and its evolution to the 27 Lot Project are incorporated by reference as if set forth herein; and

WHEREAS, the fully mitigated project recommended for the Rancho Laguna property, and as described in Resolution No. 11-2009 for approval of the Conceptual Development Plan, is referred to in this Resolution as the “Rancho Laguna II 27 Lot Project” or the “27 Lot Project;” and

WHEREAS, on or before August 10, 2009, the Update for the Final EIR and revised Mitigation Monitoring and Reporting Program for the Rancho Laguna II 27 Lot Project, and the Staff Report for the Planning Commission meeting and its Attachments, were released for review by interested public members and commenting agencies (and subsequently posted on the Town website) and making copies available for public review at the Town Planning Department), and hard copies were provided to Planning Commissioners; and

WHEREAS, in the Planning Commission Staff Report, dated August 17, 2009, for the public hearing, recommendations were made for (i) certification of the Final Environmental Impact Report, (ii) adoption of the revised Mitigation Monitoring and Reporting Program for the Rancho Laguna II 27 Lot Project, (iii) adoption of findings of the Conceptual Development Plan and Conditional Use Permit for the 27 Lot Project, and (iv) approval of the Conceptual Development Plan and Conditional Use Permit for the 27 Lot Project subject to adopted Conditions of Approval and Mitigation Measures; and

WHEREAS, Public Notice of the August 17, 2009, public hearing having been provided on August 7, 2009, the Planning Commission opened the public hearing, took testimony from Town staff, the Applicant and the public on the recommended Rancho Laguna II 27 Lot Project, its environmental review (including the opportunity to comment on the Update for the Final EIR and the revised Mitigation Monitoring and Reporting Program), and development of the property in general, then closed the public hearing; and

WHEREAS, on August 17, 2009, the Planning Commission unanimously adopted Resolutions 10-2009, 11-2009 and 12-2009 certifying the Final Environmental Impact Report and approving the Conceptual Development Plan and Conditional Use Permit, respectively for the project; and

WHEREAS, on August 27, 2009, in accordance with the Municipal Code, an appellant group filed a timely appeal of the Planning Commission action described above with the Planning Department; and

WHEREAS, the administrative record of the foregoing proceedings consists only of those materials submitted to and considered by the Planning Commission and Town Council and includes, without limitation, the administrative record materials described in Resolution 11-2009 for approval of the Conceptual Development Plan for the Rancho Laguna II 27 Lot Project.

WHEREAS, the Town Council has considered the above referenced appeal previously on October 28, 2009, November 4, 2009, January 27, 2010, March 10, 2010, May 12, 2010, May 26, 2010, October 27, 2010 and January 12, 2011; and

WHEREAS, Public Notice of the January 12, 2011, public hearing having been provided, the Town Council opened the public hearing, took testimony from Town staff, the Applicant and the public on the Rancho Laguna II 27 Lot Project, its environmental review and development of the property in general, then closed the public hearing; and

NOW THEREFORE BE IT RESOLVED, that the Town Council of the Town of Moraga adopts the following findings as required by Chapter 8.12.120 of the Town of Moraga Municipal Code which are necessary for the issuance of a Conditional Use Permit for single-family residential uses within the Non-MOSO (N-OS) Open Space District that are consistent with the Rancho Laguna II 27 Lot Project:

The Town Council of the Town of Moraga finds and determines the proposed use:

1. Is appropriate to the specific location

Development of the 27 Lot Project as mitigated will have no significant environmental impacts, as the thresholds of significance for such impacts are informed by the Goals and Policies in the Moraga 2002 General Plan (General Plan). No residential development within the MOSO Open Space District portion of the property is proposed, only public trails. More than 90% of the property is preserved in open space use in perpetuity, owned and managed by a Geologic Hazard Abatement District (GHAD), subject to direction from the Town Council. Included in the construction of the project is correction of a long-standing deficiency in this location: the instability and unsafe condition of Rheem Boulevard along the project frontage.

The visual quality of this scenic corridor and open views of the valleys, hillsides and ridgelines as seen from Rheem Boulevard, a scenic road, are preserved. The visual quality impact from all other public views of the property as developed is also mitigated to less than significant. The lot sizes and proposed residential use are consistent with other residential uses within the vicinity, albeit at a lower density. The visibility of development areas of the project from some other residences does not make the proposed residential use of the property inappropriate.

The proposed use is appropriate to this location because the project is in harmony and consistent with the General Plan as a whole. No general plan amendment for the property is being requested by the Applicant. At a later point in the PD process for the project, however, the Town will need to amend the Zoning Ordinance to correct a technical inconsistency between General Plan Policy LU1.6(e), relating to minimum lot sizes, and the development standards contained in Chapter 8.48.040 B. That correction is required per Condition of Approval I.2 for the Conceptual Development Plan. The project is consistent with General Plan Policy LU1.6(e).

2. Is not detrimental to the health, safety, and general welfare of the Town

The development of the 27 Lot Project and the proposed uses will have no detrimental effects on the health, safety or general welfare of the Town. The project has been safely designed; for example, potentially significant impacts regarding water quality, stormwater flows, and geological hazards are mitigated to less than significant. Mitigation includes management of the property by a GHAD to protect against future health or safety hazards relating to the property features it manages.

The 27 Lot Project will increase public safety by stabilizing, repairing and improving Rheem Boulevard along the entire project frontage to the benefit of the Town's fiscal and general welfare. In the upper Rheem valley that stabilization, repair and improvement will be at the Applicant's sole cost. Stabilization of the high risk area and repair of Rheem Boulevard in the lower valley frontage will be a shared responsibility of Town and Applicant per Condition V.16. The fiscal welfare of the Town is not detrimentally affected by the proposed use; annual income to the Town and local service providers exceeds the cost to provide services. Private roads within the project will include public use at no maintenance cost to the Town. The Town benefits by Applicant's voluntary agreement to construct the stabilization of the high risk area and remove and replace the existing damaged road in the lower valley and share in that cost with the Town. The Town avoids a significant capital outlay to complete that work on its own.

Preservation of more than 90% of the property in permanent open space and with public trails, managed by the GHAD at no cost to the Town, benefits the general welfare of the Town. Further reducing the development acreage (17.3 acres in the 27 Lot Project), or the number of single-family residences being developed, does not increase the health, safety or general welfare benefits to the Town.

The visibility of development areas of the project as seen from some other Moraga residences does not make the proposed residential use detrimental to the general welfare of the Town. Measures have been taken to reduce the visual quality impacts of the proposed use from public views to less than significant.

3. Will not adversely affect the orderly development of property within the Town

The proposed uses in the 27 Lot Project represent orderly development of property and will not adversely affect the orderly development of other property in the Town. For example, the open space on this property adjoins the Palos Colorados open space along Coyote Creek and the public trails will connect. Other nearby properties that have yet to be developed will not be affected by the development of less than 10% of this property, or the preservation of the balance as permanent open space.

The points of access on Rheem Boulevard are designed to provide for safe turning movements. Stabilizing Rheem Boulevard in the upper Rheem valley and completing full frontage improvements in that area on the project side of that road assists in orderly development. Detaining stormwater runoff during peak flows to at or below existing levels, and the stormwater quality protection measures, benefit downstream orderly development. Utility connections for the project have no adverse effect on the development of other properties. Payment of Town development fees promotes orderly development and is consistent with Town practices.

The General Plan land use diagram and the Zoning Map provide an orderly distribution of compatible land uses throughout the Town, directing the placement of compatible uses. Specific development standards within each zoning district provide for orderly development.

Orderly development in the context of MOSO and Non-MOSO Open Space on this property means: (i) preserving and protecting the MOSO Open Space, with its Coyote Creek and Minor Ridgeline, (ii) locating development to the southern plateau area where it can be designed so that the visual quality of public views of the property are not adversely impacted and grading is consistent with the General Plan provisions for ridgeline protection and hillside development (no homes will be visible on 'B' Court or 'C' Court from the Rheem Boulevard scenic corridor or from the Lafayette-Moraga Regional Trail0, and (iii) designing the upper valley development along 'D' Drive so that Rheem Boulevard is stabilized, restored wetlands and intermittent drainage are preserved, new landscape planted, and open views of the valleys, hillsides and ridgelines are provided for travelers on Rheem Boulevard (a scenic road), while also screening the new residences. New residences in the 27 Lot Project will be designed to blend with the environment rather than dominate it.

4. Will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the Town

Two financial reports have been prepared by Economic Planning Systems (EPS) on behalf of the Town to analyze the project's fiscal impacts to the Town and service providers (fire and schools). The net impact is a benefit to the Town and its service providers on an annual (recurring) basis. The addition of new single-family residences will add to the value of the property and thus the tax base of the Town. The conclusion is the same for the 27 Lot Project. Revenue and costs change proportionally. Moreover, since the financial reports were completed, the Town has adopted a new development impact fee ordinance which provides more Town revenue from new development to pay for infrastructure and services required for that development. No other substantial revenue sources are affected by the proposed uses in the 27 Lot Project

There is no credible evidence that preservation of property values of other properties in Town will be adversely affected by the proposed uses in the Rancho Laguna II 27 Lot

Project. Preservation of more than 90% of the property as open space, managed by a GHAD and with public access at no cost to the Town, is a public amenity. Downstream residential properties below the project site on Rheem Boulevard will benefit by the stormwater runoff detention and water quality protection measures included in the project. The views from a relatively small number of residential properties from which development areas of the project are visible will be altered, but the distances are such that most of their viewshed will remain the same. The new residences will not block any views.

5. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan

The 27 Lot Project has been reviewed for conformity with relevant Goals and Policies in the General Plan. The proposed uses and density meet the standards in the land use designations for the property. The project is in harmony and consistent with the General Plan as a whole. The General Plan, its Goals, Policies and land use diagram provide for a mixture of land uses that promotes a high quality environment. The combination of preserved open space, enhanced riparian corridor and limited areas of clustered development provides that environment and is consistent with General Plan. Further reducing the acreage being developed and/or the number of single-family residences in the proposed use is not necessary to achieve that consistency.

There is no Specific Plan applicable to the property.

6. Will not create a nuisance or enforcement problem within the neighborhood

The 27 Lot Project has been designed in a manner that provides neighborhood layouts in two distinct geographical areas on relatively small portions of the property. With 90% of the project preserved as permanent open space that includes public trails, its management by the GHAD is an important requirement to avoid creating a nuisance or enforcement problem within the new neighborhood or for nearby residences. The GHAD is controlled by the Town Council. The Rancho Laguna Homeowners Association will have control over uses and activities within the development areas that could be considered a nuisance. Nuisance and enforcement problems will not be created by the 27 Lot Project.

7. Will not encourage marginal development within the neighborhood

The new single-family residences in the 27 Lot Project will add significant value to the otherwise undeveloped property, which has been used for grazing for many years. The homes will be custom and semi-custom. Preservation of more than 90% of the project site as permanent open space, managed by a GHAD in a professional and orderly manner, is not marginal. The private roads and road landscape will be maintained by the Rancho

Laguna Homeowners Association. All maintenance requirements of the GHAD and Homeowners Association will be enforceable by the Town.

8. Will not create a demand for public services within the Town beyond that of the ability of the Town to meet in the light of taxation and spending constraints imposed by law

The Town will receive more revenue from the 27 Lot Project than it costs to provide services on an annual basis. This is also true for the Fire District. The project will be paying its required fees for impacts to schools as established by the State Legislature. The project roads will be maintained by the Rancho Laguna Homeowners Association. The open space will be managed in all respects by the GHAD, including all stormwater runoff and water quality facilities.

9. Is consistent with the Town's approved funding priorities

Projected Town revenues exceed projected Town expenses on annual basis from the 27 Lot Project. No Town capital outlay is needed for the project other than a contribution toward stabilization of the high risk area on Rheem Boulevard and repair of that road in the lower valley frontage. The Applicant will pay for the cost to stabilize and improve the upper portion of Rheem Boulevard along its frontage necessary to support development there. The Town benefits by Applicant's voluntary agreement to construct the stabilization of the high risk area and remove and replace the existing damaged road in the lower valley and share in that cost with the Town. The Town avoids a significant capital outlay to complete that capital improvement project on its own.

In further support of the above determinations, see also the Minute Order of the Town Council, dated January 26, 2011, Conceptual Development Plan Findings, CEQA Findings, and other Conditional Use Permit Findings, and the Planning Commission approvals on August 17, 2009, among other portions of the administrative record.

valley intermittent drainage. The Council directed the Town Manager to work with the Applicant in an effort to reach agreement on sharing the responsibilities to stabilize, repair and improve Rheem Boulevard. That agreement on respective construction responsibilities and cost sharing is reflected in Condition V.16.

Toward the conclusion of the appeal process, appellants and other project opponents have presented an additional sketched alternative for both the upper development area and the upper Rheem valley area. This alternative is inferior to the 27 Lot Project due to its increase grading in open space in the upper development area, which impact a wetland swale and oak trees and, in the upper valley area, due to its increased impacts with respect to grading, retaining walls, unsafe intersections, the wetland swale and visual quality impacts in the upper Rheem valley area. The Town Council concurs with the response of Town staff with respect to this sketched alternative.

3. CONCLUSIONS REGARDING AND BENEFITS OF 27 LOT PROJECT

The Town Council has reviewed the Final EIR, Staff Reports, correspondence, public meeting and hearing testimony, and other documents contained in the administrative record. After careful consideration, the Town Council has reached each of the conclusions described above and provided below.

The Town Council determines the adopted mitigation measures will reduce all significant environmental impacts of the 27 Lot Project to less than significant. Thus, the 27 Lot Project will have no significant adverse unavoidable impacts. The Project will have no growth inducing impacts given its location and design. Cumulative impacts of the Project are addressed through some of the mitigation measures for Project impacts (e.g., traffic, police services, greenhouse gas emissions; see also Responses to Comments, Master Response 10).

CEQA at Public Resources Code Section 21081 and Guideline 15093 requires a lead agency to adopt a Statement of Overriding Considerations in which it explains why the benefits of the project it intends to approve outweigh any unavoidable significant adverse environmental impacts. Since all environmental impacts of the 27 Lot Project have been avoided or reduced to less than significant with mitigation, a Statement of Overriding Considerations is not required for its approval by the Town Council. In any event, the Town Council specifically agrees that the Staff Report for this public hearing, and the documents approving the Project, accurately describe the several public benefits of the 27 Lot Project as fully mitigated, and that the Project objectives described above for the Project Sponsor and the Town have been achieved.