
MASTER RESPONSES TO COMMENTS

The City of Mill Valley received 103 letters and numerous petitions commenting on the Blithedale Terrace Project Draft EIR (SCH# 2006062040), which was completed in February 2010. Many of the comments that were submitted on the Draft EIR addressed the same or similar issues. Rather than respond to each of these comments several times throughout the chapter, they are addressed here as “master responses,” which are referred to in the responses provided for individual comments. Additionally, some of issues raised in comments on the Draft EIR relate to each other, and as such, the discussion of these related issues cross-reference each other in the responses below.

THRESHOLDS OF SIGNIFICANCE VS. PERCEIVED STANDARDS

Common to many of the individual letters that City staff has received on the Blithedale Terrace Project Draft EIR (SCH# 2006062040) is a perspective shared by many local citizens that the impacts of the proposed Project would be significant in a variety of respects (e.g., traffic, loss of views, neighborhood compatibility, etc.) whereas the Draft EIR found all such potential impacts to be less than significant after mitigation. Commenters understandably expect the analysis of a project’s impacts to reflect their sensitivity to local conditions; commenters are not as familiar with thresholds of significance used in CEQA documents as they are familiar with their own sense of what’s important to them in their home community which is based on their greater level of knowledge of the situation and therefore their opinion as to what should be called out as a ‘significant environmental effect.’ It is understandable that many of the comment letters infer or even assert a level of sensitivity that is much greater than the level of sensitivity (i.e., the threshold of significance) that is used for CEQA compliance. Consequently, many of the comment letters express a degree of outrage that the thresholds of significance used in the Draft EIR did not reflect or recognize or even acknowledge the higher level of sensitivity shared by the commenters and other local citizens. Thus, there is an inevitable disparity between what local citizens say about a particular matter and how that same matter is judged for CEQA purposes. As noted in many of the Master Responses to Comments that follow, the job of the EIR is to identify and characterize the level of significance of a given impact in terms of quantitative and recognized significance criteria as used in CEQA and to then leave it to the discretion of the local decision-making bodies to reconcile the difference between impact findings that comply with CEQA and the higher level of sensitivities of the public.

TRAFFIC AND CIRCULATION

Of those comments received by the City on the Draft EIR, by far the most prevalent issues raised pertain to concerns about traffic and circulation, specifically the impacts that the Project would have by generating new traffic that would be added to already congested traffic levels. The following responses provide direct replies to the various frequently raised traffic-related comments on the Draft EIR.

Master Response Traffic-1: Out of Date Traffic Data

Among the concerns expressed about how traffic impacts were addressed in the Draft EIR is criticism that the existing traffic conditions as presented in the Draft EIR are now so out of date as to no longer represent “current” conditions against which to compare the effects of the Project.

CEQA Guidance

CEQA Guidelines, Section 15125 indicates that; “An EIR must include a description of the physical environmental conditions in the vicinity of the project as they exist at the time of issuance of the notice of

preparation . . .” Section 15126.2 of the CEQA guidelines further states that; “In assessing the impacts of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published . . .”

In this case, the Notice of Preparation for the Draft EIR was published by the City of Mill Valley on June 2, 2006. The traffic data presented in the Draft EIR as representing “existing conditions” was based on traffic counts that were conducted in 2005. Although the 2005 traffic counts fairly represented existing traffic conditions as they existed at the time of publication of the June 2006 Notice of Preparation, publication of the Draft EIR did not occur until February 18, 2010. By the time the Draft EIR was published, traffic data was then four to five years old. However, given that there had been only limited new development within the general area studied in the traffic report, the Draft EIR relied on the 2005 data as still being representative of the “existing conditions”, even by 2010.

Traffic Data Update

In order to fully respond to the concern over whether the 2005 traffic data was still relevant and whether it still represented “current” traffic conditions, new traffic counts were conducted on October 19, 2010 at the intersections of East Blithedale/Camino Alto and East Blithedale/Lomita Drive-Roque Moraes Drive during both the AM and PM peak hour periods. New AM peak hour and mid-afternoon sample traffic counts and observations were also conducted at several other East Blithedale intersections in February of 2011. Additionally, mid-afternoon traffic counts were conducted at East Blithedale Avenue/Ryan Avenue and East Blithedale Avenue/Hilarita Avenue. Since the mid-afternoon period was not evaluated in the Draft EIR, all new counts were obtained. The October 2010 traffic counts and the February 2011 sample traffic counts were both conducted during the period of time while school was in session, and after the opening of the nearby Whole Foods grocery store.

The traffic counts collected in 2010 and 2011 have been compared to the 2005 traffic counts that were used in the Draft EIR. This comparison (as shown below in **Table 3-1**) reveals that traffic volumes during the AM peak hour have remained relatively constant (and in fact the earlier 2005 counts were actually slightly higher than the 2010/11 counts). Therefore, the AM peak period traffic conditions presented in the Draft EIR are still an accurate reflection of current conditions. The comparison also showed that a minor increase in PM peak hour volumes has occurred from 2005 to 2010/11, reflecting an approximately six percent (6%) increase in traffic volumes during this period. A comparison of the intersection levels of service for existing conditions as presented in Table 14.2 of the Draft EIR (based on 2005 data), and existing conditions based on 2010/11 updated traffic counts is shown in the following Table 3-1.

**Table 3-1: Summary Comparison of “Existing Traffic Conditions
(2005 vs. 2010/11)”**

Intersection	2005 Existing Conditions from Draft EIR		2010/2011 Existing Condition, based on Updated Traffic Counts		
	AM peak hour	PM peak hour	AM peak hour	PM peak hour	Mid-day hour
East Blithedale/Mesa Avenue-Hilarita Avenue					
Northbound Hilarita Approach	D (27.4)	C (15.3)	D (27.4)	C (16.1)	B (14.4)
Southbound Mesa Approach	F (105.6)	E (43.8)	F (105.6)	E (50.7)	E (49.5)
East Blithedale/Nelson Avenue					
Northbound Nelson Approach	D (28.6)	C (16.2)	D (28.6)	C (17.1)	C (17.3)
East Blithedale/Ryan Avenue					
Ryan Avenue Approach	C (17.8)	B (15.0)	C (17.8)	B (15.7)	C (15.4)
Westbound Left Turn	B (10.2)	A (9.6)	B (10.2)	A (9.8)	A (9.8)
Eastbound Left Turn					
Project Driveway					
East Blithedale/Camino Alto (Signal)	D (38.3)	C (33.8)	D (36.6)	D (38.6)	D (35.3)
East Blithedale/Lomita Drive (Signal)	C (22.3)	C (27.6)	C (24.8)	C (28.8)	C (29.3)

To determine whether the new traffic count data may show that traffic impacts of the Project may be more substantial than as presented in the Draft EIR, the Project Applicant’s traffic engineer (W-Trans) prepared an updated traffic impact study, reflecting the new traffic count data (including an extrapolation from the new 2010/11 traffic counts for those side-street intersections along East Blithedale Avenue that were not re-counted). That traffic study was peer-reviewed by the City’s independent third-party traffic engineer (Crane Transportation Group). A final Updated Traffic Study for the Blithedale Terrace Project was prepared by W-Trans on March 22, 2011, which responds to the peer-review comments (Updated Traffic Report, 2011). This final Updated Traffic Report is included in **Appendix B** of this Final EIR.

Based on the results of the more current traffic counts, the 2011 Updated Traffic Report concluded that the information presented in the Draft EIR was still accurate and representative of current conditions, and that the minor differences in traffic between 2005 and 2010/2011 would not significantly change any of the traffic impacts as identified in the Draft EIR. This new information would not result in any new significant traffic impacts, nor any significant increase in any previously identified significant traffic impacts from the Draft EIR. As such, the updated traffic report does not constitute significant new

information that would require recirculation of the Draft EIR,¹ and validates the conclusions of the Draft EIR regarding impacts.

MASTER RESPONSE TRAFFIC-2: INCOMPLETE CUMULATIVE TRAFFIC ASSUMPTIONS

Many commenters on the Draft EIR indicated that the projection of cumulative traffic conditions presented in the Draft EIR had not adequately and appropriately accounted for all other known cumulative projects in the vicinity, and thus did not portray an accurate projection of future traffic conditions. Commenters cited the Whole Foods project, the Edna Maguire School project and the Ring Mountain Day School project as known projects not included, and thus not accurately reflected in the cumulative traffic analysis of the Draft EIR.

CEQA Guidance

For cumulative analyses, CEQA Guidelines Section 15130(b) indicates that cumulative conditions should be defined as either:

- a. a list of past, present or probable future projects, or
- b. a summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified which evaluated area-wide conditions contributing to the cumulative effect.

Reliance on one or the other of these methods is permissible under CEQA, but could potentially result in different conclusions as to the extent of the cumulative increase in traffic. Therefore, the other key CEQA question is whether new information (which might be developed when using one method versus another) might indicate a new significant effect that was not identified in the Draft EIR or a substantial increase in the severity of any significant effect that was identified in the Draft EIR (CEQA Guidelines Section 15088.5).

Methodologies Used to Estimate Cumulative Traffic Conditions

The cumulative traffic analysis for the Project presented in the Draft EIR relied on projections of future traffic levels derived from a 2009 traffic study prepared for the city of Mill Valley for the Whole Foods Project in the “Alto Center” at East Blithedale and Lomita Drive. In general, the traffic study prepared for the Whole Foods project concluded that Mill Valley has limited potential for additional growth and development within its planning area, and assumed an increase in traffic volumes by a factor of one percent (1%) per year on East Blithedale Avenue and on Camino Alto. It also assumed that traffic volumes on all other intersecting streets leading into established neighborhoods would remain constant. The cumulative traffic analysis for the Project presented in the Draft EIR evaluated cumulative traffic conditions at a ten year horizon, based on these assumptions.

A 2011 Updated Traffic Study for this Project was completed in March of 2011. That study updated current traffic conditions to better reflect 2010/2011 conditions, and then applied the same methodology (an increase in traffic volumes by a factor of one percent (1%) per year) to arrive at projected future cumulative conditions. Since the Whole Foods project had been completed by the time the 2010/2011 traffic counts were undertaken, cumulative traffic attributable to Whole Foods was fully accounted for in that analysis. All other factors and methodologies used in the Draft EIR were similarly applied.

Approximately one month later (in April 2011), the Traffic Impact Analysis for the Edna Maguire Elementary School project was published by the Mill Valley School District (Parisi Associates, April 2011). Unlike the traffic studies prepared for this Project or the Whole Foods project, the cumulative traffic scenario for the Edna Maguire Elementary School project relied on a combination of the “projection” method and the “list” method of past, present or probable future projects. Cumulative

¹ CEQA *Guidelines*, Section 15088.5(a).

conditions assumed in the Edna Maguire Elementary School traffic study assumed background traffic growth over the next 10 years to include an assumed one percent per year increase in peak hour traffic volumes along East Blithedale Avenue and Camino Alto (similar to the analysis for this Project). It also contained a list of other projects including the East Blithedale Terrace proposal (this Project, estimated to generate 15 vehicle trips during the weekday morning and afternoon peak periods), a 30-student increase in enrollment at the Ring Mountain Day School (up to 130 students), and its own addition of a net increased student enrollment of 33 students across the Edna Maguire, Robin's Nest and Marin Day Schools.

Between the Edna Maguire Elementary School traffic study and the traffic studies prepared for this Project, there are only two intersections studied in both reports. These two intersections are East Blithedale Avenue/Camino Alto, and East Blithedale Avenue/Lomita Drive. A comparison of the projected cumulative traffic conditions at each of these intersections as presented in the Draft EIR, the 2011 Updated Traffic Study and the Edna Maguire Elementary School Traffic Study, are shown in **Table 3-2** below.

TABLE 3-2: SUMMARY COMPARISON OF FUTURE CUMULATIVE TRAFFIC CONDITIONS

Intersection	AM Peak	PM Peak	Mid-Day Peak
East Blithedale Avenue/Camino Alto			
From Draft EIR	D (47.3)	D (37.6)	N/A
From 2011 Updated Traffic Study	D (42.1)	D (45.5)	D (40.5)
From Edna Maguire Elementary School Traffic Study	D (40.7)	N/A	D (44.9)
East Blithedale Avenue/Lomita Drive			
From Draft EIR	C (22.6)	C (29.4)	N/A
From 2011 Updated Traffic Study	C (25.1)	C (30.3)	C (31.9)
From Edna Maguire Elementary School Traffic Study	C (30.9)	N/A	C (31.8)

Note: All scenarios present future cumulative plus respective Project traffic

As shown in the table above, each of the three different studies concluded that the level of service at the East Blithedale Avenue/Camino Alto intersection would remain at LOS D throughout the day under future cumulative plus Project conditions, and that the level of service at the East Blithedale Avenue/Lomita Drive intersection would remain at LOS C throughout the day under future cumulative plus Project conditions. While there are variations among the projected delay times at these intersections, none of these studies show a significant or significantly different impact conclusion.

Project-generated traffic would not contribute either AM or PM peak hour trips that would significantly decrease the level of service at these study area intersections. Project-generated traffic would not significantly impact through movement delay along East Blithedale under future cumulative conditions. These intersections will operate at nearly identical levels of service under future cumulative plus Project conditions as they do today. Therefore, the proposed Project's contribution to any cumulative impacts would be less than significant. Furthermore, the new information (derived from both the 2011 Updated Traffic Study and the Edna Maguire Elementary School Traffic Study) does not indicate any new

significant effect that was not identified in the Draft EIR or a substantial increase in the severity of any significant effect that was identified in the Draft EIR. As such, neither of these recent traffic studies constitutes significant new information that would require re-circulation of the Draft EIR.

Master Response Traffic-3: Near Term and Cumulative Traffic Congestion along East Blithedale Avenue

Many comments received by the City expressed concern that East Blithedale Avenue is already highly congested, that there are no plans for addressing this existing traffic problem, and that the Project would only add more traffic, further exacerbating this problem in both the near term and future cumulative conditions. Commenters expressed the opinion that, based on the already existing traffic problem, no new traffic (such as that generated by the Project) should be added to East Blithedale Avenue, at least until there is a solution to the current traffic congestion problems that already exists.

CEQA Guidance

CEQA Guidelines Section 15064 provides guidance for determining the significance of environmental effects caused by a project, particularly within a cumulative context (such as the cumulative traffic conditions along East Blithedale Avenue). It defines the cumulative condition as including the effects of past projects, the effects of other current projects, and the effects of probable future projects. Specifically, Section 15064 (h) (1) states that; “. . . the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. . . Cumulatively considerable means that the incremental effects of an individual project are significant when viewed in connection with the effects of those past projects, the effects of other current projects, and the effects of probable future projects. The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project’s incremental effects are cumulatively considerable.”

Thus, the key CEQA question is whether or not the Project’s incremental addition of traffic to the existing and projected future cumulative traffic volumes on East Blithedale Avenue is individually significant. The thresholds relied upon in the Draft EIR to determine whether the Project’s incremental addition of traffic is significant are listed below. The Project’s incremental addition of traffic would have a significant impact under “Existing plus Project” and “Future Cumulative plus Project” conditions if:

- Project traffic deteriorates a signal-controlled intersection from LOS C or better to LOS D or worse, or
 - if the intersection is already operating at LOS D or worse, project traffic increases the average motorist delay for the overall intersection by two seconds or more (this criterion pertains to all signalized intersections within Mill Valley, except for East Blithedale Avenue/Camino Alto).
- Project traffic deteriorates the East Blithedale Avenue/Camino Alto signal-controlled intersection from LOS D or better to LOS E or worse, or
 - if the intersection is already operating at LOS E or worse, project traffic increases the average motorist delay for the overall intersection by two seconds or more.
- Project traffic deteriorates an all-way-stop sign controlled intersection from LOS D or better to LOS E or worse, or,
 - if the intersection is already operating at LOS E or worse, project traffic increases the average motorist delay for the overall intersection by two seconds or more.
- Project traffic deteriorates stop sign-controlled traffic at a one-way or two-way stop sign-controlled intersection from LOS D or better to LOS E or worse, or
 - if the stop sign-controlled traffic is already operating at LOS E or worse, project traffic increases stop sign-controlled motorist delay by an average of five seconds or more.

Total Project Trips

The Draft EIR reported that the Project would generate a total of 170 daily, two-way trips (85 inbound and 85 outbound), based on standard trip generation rates applied to 14 single-family units and six (6) condominium units. A more conservative approach was utilized in the 2011 Updated Traffic Report, which assumed that all 20 units within the Project would be single-family units. Since single-family residential units generate more vehicle trips than do condominiums, the 2011 Updated Traffic Report estimates that the Project would generate a total of 192 daily trips.

Traffic Effects along East Blithedale Avenue – Existing plus Project

Both the Draft EIR (see **Table 3-3**) and the 2011 Updated Traffic Study (see **Table 3-4**) determined that all study intersections along East Blithedale Avenue would continue operating at their existing Level of Service with the addition of Project-generated traffic (i.e., no deterioration in level of service), and that average delay at intersections would be expected to increase by 1.2 seconds or less at all intersections for all travel movements (i.e., less than the 2-second and 5-second increase thresholds). Thus, the Project's incremental addition of traffic would have a less than significant impact along East Blithedale Avenue under "Existing plus Project" conditions.

**Table 3-3: Summary Comparison of Existing plus Project Traffic Conditions
(based on 2005 data presented in the Draft EIR)**

Intersection	2005 Existing Conditions from Draft EIR		Existing Plus Project (from Draft EIR)		Change Due to Project	
	AM peak hour	PM peak hour	AM peak hour	PM peak hour	AM peak hour	PM peak hour
East Blithedale/Mesa Avenue- Hilarita Avenue						
Northbound Hilarita Approach	D (27.4)	C (15.3)	D (27.5)	C (15.3)	- (+0.1)	- (0.0)
Southbound Mesa Approach	F (105.6)	E (43.8)	F (106.8)	E (44.0)	- (+1.2)	- (0.2)
East Blithedale/Nelson Avenue						
Northbound Nelson Approach	D (28.6)	C (16.2)	D (28.7)	C (16.3)	- (+0.1)	- (+0.1)
East Blithedale/Ryan Avenue						
Ryan Avenue Approach	C (17.8)	B (15.0)	C (17.8)	B (15.0)	- (0.0)	- (0.0)
Westbound Left Turn	B (10.2)	A (9.6)	B (10.2)	A (9.6)	- (0.0)	- (0.0)
Eastbound Left Turn	NA	NA	A (9.2)	A (9.6)		
Project Driveway	NA	NA	F (68.4)	F (56.5)		
East Blithedale/Camino Alto (Signal)	D (38.3)	C (33.8)	D (38.4)	C (33.9)	- (+0.1)	- (+0.1)
East Blithedale/Lomita Drive (Signal)	C (22.3)	C (27.6)	C (22.3)	C (27.6)	- (0.0)	- (0.0)

**Table 3-4: Comparison of Existing plus Project Traffic Conditions
(based on data presented in the 2010/2011 Updated Traffic Study)**

Intersection	Existing Conditions		Existing Plus Project		Change Due to Project	
	AM peak hour	PM peak hour	AM peak hour	PM peak hour	AM peak hour	PM peak hour
East Blithedale/Mesa Avenue-Hilarita Avenue						
Northbound Hilarita Approach	D (27.4)	C (16.1)	D (27.5)	C (16.2)	- (+0.1)	- (+0.1)
Southbound Mesa Approach	F (105.6)	E (50.7)	F (106.8)	E (51.1)	- (+1.2)	- (+0.4)
East Blithedale/Nelson Avenue						
Northbound Nelson Approach	D (28.6)	C (17.1)	D (28.7)	C (17.2)	- (+0.1)	- (+0.1)
East Blithedale/Ryan Avenue						
Ryan Avenue Approach	C (17.8)	B (15.7)	C (17.8)	B (15.7)	- (0.0)	- (0.0)
Westbound Left Turn	B (10.2)	A (9.8)	B (10.2)	A (9.8)	- (0.0)	- (0.0)
Eastbound Left Turn			A (9.3)	A (9.9)		
Project Driveway			F (71.1)	F (69.9)		
East Blithedale/Camino Alto (Signal)	D (36.6)	D (38.6)	D (36.8)	D (38.7)	- (+0.3)	- (+0.1)
East Blithedale/Lomita Drive (Signal)	C (24.8)	C (28.8)	C (24.7)	C (28.8)	- (0.0)	- (0.0)

This information shows that existing traffic flow along East Blithedale Avenue in the vicinity of the Project generally operates at acceptable LOS C or better conditions, except at the intersection of Camino Alto, where LOS D prevails. It also shows that traffic arriving at stop-controlled intersections leading onto East Blithedale Avenue generally operate at acceptable LOS D or better conditions, except at southbound Mesa/East Blithedale Avenue, where LOS E and F conditions prevail.

The Project's incremental addition of traffic to the existing traffic conditions along East Blithedale Avenue would be individually less than significant:

- Project traffic would not deteriorate the signal-controlled intersection at East Blithedale Avenue/Lomita Drive (Intersection #5) from LOS C, to LOS D or worse.
- Project traffic would not deteriorate the East Blithedale Avenue/Camino Alto signal-controlled intersection (Intersection #4) from LOS D, to LOS E or worse.

- Project traffic would not deteriorate the stop sign-controlled traffic at the northbound Hilarita approach to East Blithedale/Mesa Avenue-Hilarita Avenue (Intersection #1) from LOS D or better, to LOS E or worse.
- Project traffic would not deteriorate the stop sign-controlled traffic at the northbound Nelson approach to East Blithedale/Nelson Avenue (Intersection #2) from LOS D or better, to LOS E or worse.
- Project traffic would not deteriorate the stop sign-controlled traffic at the Ryan Avenue approach or the westbound turn lane at East Blithedale/Ryan Avenue (Intersection #3) from LOS D or better, to LOS E or worse.
- Project traffic would not deteriorate the stop sign-controlled traffic at the southbound Mesa approach to East Blithedale/Mesa Avenue-Hilarita Avenue (Intersection #1), where the stop sign-controlled traffic is already operating at LOS E or worse, such that it would increase stop sign-controlled motorist delay by an average of five seconds or more.

The proposed Project would have a less than significant impact on existing traffic conditions as related to intersection LOS, peak period impacts and overall traffic progression/flow along East Blithedale Avenue.

Traffic Effects along East Blithedale Avenue – Cumulative plus Project

As described in Master Response Traffic-2 above, the cumulative traffic analysis for the Project relies on projections of future traffic levels as derived from the traffic study prepared for the Whole Foods project. That study assumed that traffic volumes on East Blithedale Avenue and on Camino Alto would increase by a factor of one percent (1%) per year, and that traffic volumes on all other intersecting streets leading into established neighborhoods would remain constant. The cumulative traffic analysis for the Project evaluated cumulative traffic conditions at a ten year horizon using these assumptions.

The Draft EIR concluded that under this future cumulative condition (without the Project), all of the study area intersections would continue to operate at acceptable levels of service, except for the southbound Mesa Avenue approach to East Blithedale Avenue. That intersection would continue to operate at LOS F during all three peak periods, as it currently operates. When Project-generated traffic volumes are added to these future cumulative baseline traffic volumes, all study area intersections would continue to operate at the same levels of service as under future cumulative baseline (without Project) conditions, including the southbound Mesa Avenue approach to East Blithedale Avenue. The analysis also determined that the average delay for through movements along East Blithedale Avenue at Camino Alto would remain exactly the same with the Project as without it (see **Table 3-5**).

As shown in **Table 3-6**, the 2010/2011 Updated Traffic Study confirms the conclusions arrived at in the Draft EIR.

Table 3-5: Comparison of “Cumulative” and “Cumulative plus Project” Traffic Conditions (based on 2005 data presented in the Draft EIR)

Intersection	Future Cumulative Conditions		Cumulative Plus Project		Change Due to Project	
	AM peak hour	PM peak hour	AM peak hour	PM peak hour	AM peak hour	PM peak hour
East Blithedale/Mesa Avenue-Hilarita Avenue						
Northbound Hilarita Approach	E (39.3)	C (17.7)	E (39.6)	C (17.7)	- (+0.3)	- (0.0)
Southbound Mesa Approach	> F (120)	F (65.3)	> F (120)	F (65.7)	- (0.0)	- (0.4)
East Blithedale/Nelson Avenue						
Northbound Nelson Approach	D (30.1)	C (18.6)	D (30.2)	C (18.7)	- (+0.1)	- (+0.1)
East Blithedale/Ryan Avenue						
Ryan Avenue Approach	C (18.8)	C (16.4)	C (18.8)	C (16.4)	- (0.0)	- (0.0)
Westbound Left Turn	B (10.5)	A (10.0)	B (10.5)	A (10.0)	- (0.0)	- (0.0)
Eastbound Left Turn			A (9.4)	B (10.1)		
Project Driveway			F (79.8)	F (76.9)		
East Blithedale/Camino Alto (Signal)	D (47.1)	D (37.5)	D (47.3)	D (37.6)	- (+0.2)	- (+0.1)
East Blithedale/Lomita Drive (Signal)	C (22.7)	C (29.4)	C (22.6)	C (29.4)	- (0.0)	- (0.0)

Table 3-6: Comparison of “Cumulative” and “Cumulative plus Project” Traffic Conditions (based on data presented in the 2010/2011 Updated Traffic Study)

Intersection	Future Cumulative Conditions		Future Cumulative Plus Project Conditions		Change Due to Project	
	AM peak hour	PM peak hour	AM peak hour	PM peak hour	AM peak hour	PM peak hour
#1 - East Blithedale/Mesa Avenue-Hilarita Avenue						
Northbound Hilarita Approach	D (27.4)	C (16.1)	D (27.5)	C (16.2)	- (+0.1)	- (+0.1)
Southbound Mesa Approach	F (105.6)	E (50.7)	F (106.8)	E (51.1)	- (+1.2)	- (+0.4)
#2 - East Blithedale/Nelson Avenue						
Northbound Nelson Approach	D (28.6)	C (17.1)	D (28.7)	C (17.2)	- (+0.1)	- (+0.1)
#3 - East Blithedale/Ryan Avenue						
Ryan Avenue Approach	C (17.8)	B (15.7)	C (17.8)	B (15.7)	- (0.0)	- (0.0)
Westbound Left Turn	B (10.2)	A (9.8)	B (10.2)	A (9.8)	- (0.0)	- (0.0)
Eastbound Left Turn			A (9.3)	A (9.9)		
Project Driveway			F (71.1)	F (69.9)		
#4 - East Blithedale/Camino Alto (Signal)						
	D (36.6)	D (38.6)	D (36.8)	D (38.7)	- (+0.3)	- (+0.1)
#5 - East Blithedale/Lomita Drive (Signal)						
	C (24.8)	C (28.8)	C (24.7)	C (28.8)	- (0.0)	- (0.0)

This information shows that predicted future cumulative traffic flow along East Blithedale Avenue in the vicinity of the Project would generally continue to operate at acceptable LOS C or better conditions, except at the intersection of Camino Alto, where LOS D will continue to prevail. It also shows that traffic arriving at stop-controlled intersections leading onto East Blithedale Avenue will generally operate at acceptable LOS D or better conditions, except at southbound Mesa/East Blithedale Avenue, where LOS E and F conditions will continue to prevail.

The Project’s incremental addition of traffic to the projected future cumulative traffic volumes on East Blithedale Avenue would be individually less than significant, even if the overall change in cumulative traffic conditions is significant:

- Project traffic would not deteriorate the signal-controlled intersection at East Blithedale Avenue/Lomita Drive (Intersection #5) from a future baseline condition of LOS C, to LOS D or worse
- Project traffic would not deteriorate the East Blithedale Avenue/Camino Alto signal-controlled intersection (Intersection #4) from a future baseline condition of LOS D, to LOS E or worse
- Project traffic would not deteriorate the stop sign-controlled traffic at the northbound Hilarita approach to East Blithedale/Mesa Avenue-Hilarita Avenue (Intersection #1) from a future baseline condition of LOS D or better, to LOS E or worse
- Project traffic would not deteriorate the stop sign-controlled traffic at the northbound Nelson approach to East Blithedale/Nelson Avenue (Intersection #2) from a future baseline condition of LOS D or better, to LOS E or worse
- Project traffic would not deteriorate the stop sign-controlled traffic at the Ryan Avenue approach or the westbound turn lane at East Blithedale/Ryan Avenue (Intersection #3) from a future baseline condition of LOS D or better, to LOS E or worse
- Project traffic would not deteriorate the stop sign-controlled traffic at the southbound Mesa approach to East Blithedale/Mesa Avenue-Hilarita Avenue (Intersection #1), where the stop sign-controlled traffic under the future baseline condition will already operate at LOS E or worse, such that it would increase stop sign-controlled motorist delay by an average of five seconds or more.

The proposed Project would have a less than cumulatively significant impact on existing traffic conditions as related to intersection LOS, peak period impacts and overall traffic progression/flow along East Blithedale Avenue.

Master Response Traffic-4: Cut-Through Traffic in the Sycamore Triangle

Several comments asserted that the proposed Project would increase the number of cars cutting through the “Sycamore triangle” neighborhood via Nelson, Amicita and Hilarita Avenues, and that this cut-through traffic impact would be significant and was not adequately described as such in the Draft EIR.

CEQA Guidance

CEQA Guidelines, Section 15064.7 regarding thresholds of significance provides the following: “Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.”

Generally, thresholds should be based on legal standards, studies, surveys, reports, or other data which can identify that point at which a given environmental effect becomes significant. Thresholds are intended to be analytic tools to assist in significance determinations, not rigid standards, and they should not result in de facto policy making.²

According to CEQA Statutes at Section 21082.2:

- The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.

² California Governor’s Office of Planning and Research, *Thresholds of Significance, Criteria for Defining Environmental Significance*, CEQA Technical Advice Series, 1994

- The existence of public controversy over the environmental effects of a project shall not require the preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the agency that the project may have a significant effect on the environment.
- Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.
- If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an environmental impact report shall be prepared.
- Statements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment.

This key decision as to whether a project may have a significant effect must be based on substantial evidence in the record. Section 15384 of the CEQA Guidelines defines "substantial evidence" to include facts, reasonable assumptions predicted upon facts, and expert opinion supported by facts. If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant . . ."

Determination of Cut-Through Traffic Volumes

The analysis contained in the Draft EIR indicated that it would be unlikely that Project-generated traffic initially attempting to make a left turn from the Project site onto East Blithedale Avenue would be unwilling to wait for a gap in eastbound traffic flow, and instead would make a right turn from the Project site onto westbound East Blithedale Avenue and then a left turn either on Nelson, Amicita or Hilarita Avenues to return back to East Blithedale. The Draft EIR concluded that this would be a less than significant impact, and the traffic study did not anticipate in its projections of Project-generated traffic volumes (Figure 14-4) that any Project traffic would be expected to follow this route.

However, based on the public comments received, further consideration of this issue has been conducted. According to the 2011 Updated Traffic Report, the Project would generate a total of 192 daily trips. Of this total, the Project would generate 15 AM peak hour trips (11 out-bound and 4 in-bound), and 20 PM peak hour trips (7 out-bound and 13 in-bound). Since the Project driveway does not currently exist, there is no factual basis for estimating how many of the 11 out-bound AM peak drivers might be unwilling to wait for a gap in eastbound traffic flow, and instead make this cut-through route. However, observations of traffic movements in the area were made during a two-hour AM peak period on February 15, 2011. During that period, it was noted that;

“Drivers turning left into Nelson Avenue were routinely accorded the courtesy of turning through a queue of stopped traffic. Of the dozens of left-turns observed at Nelson Avenue over the course of more than two hours, only once did a driver have to wait for more than ten seconds, causing a queue to develop to the east.

This observation suggests that, at least for left turns across East Blithedale Avenue, drivers did routinely enable gaps in the queue of stopped traffic so that left turns could be made. Given this observation, both the applicant’s traffic engineer and the City’s peer review consultant (Crane Transportation Group) developed a “worst-case” assumption that up to six of these 11 out-bound trips (more than 50%) might be assumed to turn right on East Blithedale from the Project site, then cut-through Nelson, Amicita or Hilarita Avenues.

Nelson Avenue is the most likely choice for such cut-through traffic because it is closest to the Project site driveway. Nelson Avenue currently has the highest traffic flow of the three streets, with an existing two-way traffic flow of 146 trips during the AM peak hour. Under a worst-case scenario, if each of the

maximum number of six trips exiting the Project site were to choose Nelson, the traffic volumes on Nelson would increase by four percent. This increase would be nearly imperceptible.

If Amicita or Hilarita Avenues were instead chosen as a cut-through by all six cars, the AM peak period traffic on these streets would increase by 10 percent. This increase in traffic would likely be perceived by residents on these streets, although this increase in traffic would average one new car every 10 minutes. For this “worst-case” condition to occur, each of the six cut-through trips originating from the Project would need to choose the same street (either Amicita or Hilarita), which would be a highly unlikely occurrence. A more likely scenario is that Project trips cutting through this neighborhood would be distributed among Nelson, Amicita and Hilarita Avenues.

Even based on the worst case of this worst case scenario (whereby more than 50% of the outbound trips choose the cut-through route, and all of these cut through trips use the same local street), the amount of additional traffic on these local streets (as shown in **Table 3-7**) would not rise to the level of a significant impact, based on the expert opinions (supported by the reasonable assumptions presented here, and the facts as available) of the traffic engineers involved in this study.

Table 3-7: AM Peak Hour Volumes – Possible Cut-Through Traffic

Street	Two-Way Existing Traffic Flow	Project Traffic Increment Possibilities and % Increase in Existing Traffic			
		+6 Vehicles**	+3 Vehicles***	+2 Vehicles	+1 Vehicle
Nelson Ave.	146 vehicles	4%	2%	1%	<1%
Amicita Ave.	59* vehicles	10%	5%	3%	2%
Hilarita Ave.	59 vehicles	10%	5%	3%	2%

*Not counted, assumed same traffic levels as Hilarita

** Would only occur on one of the three streets.

*** Would only occur on two of the three streets.

Source: Crane Transportation Group

Master Response Traffic-5: Site Access and the Ability to Make a Left Turn from the Site onto Eastbound East Blithedale Avenue

Several comments raised concerns about whether motorists would be able to exit the Project site and make a left turn onto eastbound East Blithedale Avenue, particularly during peak traffic periods. These concerns were often submitted in tandem with the concerns discussed above about cut-through traffic. Of particular concern is the ability for Project-generated traffic to make a left turn onto eastbound East Blithedale when the eastbound traffic queue from the East Blithedale/Camino Alto intersection extends past the Project entrance at Ryan Avenue.

CEQA Guidance

As discussed above, the key question to be addressed regarding this issue is whether there is "substantial evidence" based on facts, reasonable assumptions predicted upon facts, and expert opinion supported by facts, that the Project would introduce a circumstance wherein the probability exists that Project drivers will need to conduct an illegal movement or act in order to enter or exit the Project site. This impact

would be further significant if, in the opinion of a registered traffic engineer, a significant safety concern is created or an existing safety concern is significantly aggravated by such an illegal traffic movement.

Current Observations and Analysis

There is currently a “Keep Clear” pavement legend on eastbound East Blithedale Avenue across the Ryan Avenue intersection, and that legend would be opposite the location of the Project’s main driveway. The Draft EIR identified as a potentially significant impact the potential for Project motorists to illegally use the “Keep Clear” area as a temporary refuge area when attempting to make a left turn onto eastbound Blithedale Avenue (Impact 14-2). The Draft EIR found that Project vehicles would likely “rest” in this area until eastbound traffic receives a green signal at Camino Alto and the platoon of queued vehicles east of the “Keep Clear” zone proceeds, allowing the Project vehicle to move. Project vehicles in the “Keep Clear” zone could also be positioned diagonally across the lane with the back part of the vehicle extending into the westbound travel lane. A vehicle stopped in the “Keep Clear” zone would be doing so illegally, and emergency vehicle access along westbound East Blithedale Avenue could be blocked.

The Draft EIR recommended two alternative mitigation measures to address this potential impact:

- Mitigation Measure 14-2a called for the Project applicant to provide an egress driveway connection to Camino Alto whereby Project vehicles could join eastbound traffic at the Camino Alto signalized intersection in a legal and controlled manner. However, after further review and efforts by the Project applicant, Mitigation Measure 14.2a has been determined to be infeasible because access to Camino Alto would require obtaining an easement over another private parcel, and the owner of that other parcel is not willing to provide such an easement.
- Mitigation Measure 14-2b, anticipating that access to Camino Alto might not be possible, called for the Project applicant to move the Project driveway’s connection to East Blithedale Avenue further to the westerly end of the Project site. Further study has been conducted to assess the actual benefit of moving the Project driveway further to the west end of the Project site. On the positive side, this would move the driveway out of the “Keep Clear” zone and thereby eliminate concerns about drivers illegally waiting in this area to enter traffic, and would also move the driveway further from an existing merge area for westbound East Blithedale Avenue. However, if the driveway was located at the westerly side of the Project site, then the driveway would create an off-set intersection with Ryan Avenue and traffic exiting the site as a left-turn would potentially conflict with left and right turns from Ryan Avenue. For this reason, this Mitigation Measure 14.2b is no longer recommended.

Consideration has also been given to relocating the Project driveway to the far eastern end of the site, near the point where the two westbound lanes on East Blithedale Avenue merge to one. While this alternative would have potential safety benefit as drivers would only be starting to merge (and so would have their full attention on the movements of traffic around them), it also has the negative effect of creating an offset intersection with Ryan Avenue. Furthermore, this location would be more likely to affect operations at the East Blithedale Avenue/Camino Alto intersection, as eastbound queues currently extend well back toward Ryan Avenue and past this merge point.

Based on the review performed, it appears that the location with the least potential for adverse conflicts and the greatest potential for acceptable traffic operation is the proposed location opposite Ryan Avenue.

However, the concern remains that a driveway at this location may still result in Project vehicles “resting” in the “Keep Clear” area until eastbound traffic proceeds. Therefore, additional and more detailed information regarding the likelihood of Project vehicles needing to stop in the “Keep Clear” zone has been obtained and reviewed.

Field observations conducted in February 2011 during the 2-hour AM peak period indicated that eastbound traffic on East Blithedale Avenue stacks in a queue, backing up from the Camino Alto intersection to beyond the Nelson Avenue intersection from about 7:55 to 8:35 AM, and that the queue extends to beyond the further Amicita Avenue intersection from about 8:15 to 8:30 AM. Field

observations made in 2011 also found that, at the intersection of East Blithedale/Ryan during the hour of peak congestion, there were no more than two instances where westbound drivers turning left across traffic on East Blithedale Avenue encroached into the “Keep Clear” area. Drivers turning right onto East Blithedale from northbound Nelson or Amicita Avenues generally experienced less than ten seconds of delay, even when vehicle queuing extended beyond the intersection. When queues did extend beyond these intersections, drivers on East Blithedale were observed leaving the intersections clear about 90 percent of the time, allowing other drivers to turn left into or out of the side streets, and also to turn right onto East Blithedale Avenue. Existing private driveways on the north side of East Blithedale Avenue between Ryan Avenue and Amicita Avenue were also observed for more than two hours, during which time only three drivers left their homes. One driver backed out into the westbound lanes facing east, one driver exited forward and turned left into a gap in traffic, and one driver backed out into the eastbound lanes using a gap in traffic. Drivers leaving between 8:15 and 8:30 AM were likely to experience difficulty entering East Blithedale Avenue, but those living west of Nelson Avenue were generally able to find an adequate gap in traffic to exit their driveway in less than a minute, regardless of which direction they were coming from or going to.

Despite the congestion, existing drivers were observed exhibiting generally lawful behavior and being able to merge into the eastbound traffic flow safely and without undue conflicts. These observations have led the City’s traffic engineer to reconsider whether Impact 14-2 in the Draft EIR is, in fact, a ‘significant impact,’ particularly since there is no engineering standard or accepted quantitative basis for considering the “left out” turning movement as a “significant impact” of the Project. Reconsideration of this issue has focused on and acknowledged that the original concern underlying Impact 14-2 in the Draft EIR was not so much one of safety or the potential to conflict with the flow of traffic at that location but with the possibility that Project vehicles would be tempted to encroach into the “Keep Clear” zone and commit an illegal movement. In addition, it has been recognized that preventing such illegal movements is more a matter for the City of Mill Valley Police Department to address through enforcement of existing traffic laws than something to be considered as an environmental impact. Consequently, and based on the professional opinion of the City’s traffic engineer, Impact 14-2 is no longer considered “significant” and therefore, no mitigation is required. The Draft EIR is revised as shown in Chapter 5, Revisions to Draft EIR.

Master Response Traffic-6: Other Potential Traffic Conflicts Associated with the Proposed Driveway Location

Several comments raised concerns that the location of the Project’s proposed access driveway would adversely impact the ability of drivers at the northbound approach on Ryan Avenue to turn in either direction onto East Blithedale Avenue.

CEQA Guidance

The primary CEQA considerations relative to this concern are whether the Project would either introduce the probability that drivers would need to conduct an illegal traffic movement in order to enter or exit the Project site (see discussion above); whether, in the opinion of a registered traffic engineer, a significant safety concern is created or an existing safety concern is significantly aggravated, or whether an intersection would operate at an unacceptably poor level of service.

Response to Potential Traffic Conflicts

At its currently proposed location, the Project’s access driveway would function as the fourth leg of the Ryan Avenue/East Blithedale Avenue intersection. According to standard traffic regulations, left turns from East Blithedale Avenue into Ryan Avenue and right turns from Ryan Avenue to eastbound East Blithedale Avenue would have priority over left turns from the Project site to eastbound East Blithedale Avenue. Since there are virtually no left turns from Ryan Avenue to westbound East Blithedale Avenue (no more than one vehicle was observed making this movement during any of the three peak traffic hours observed in 2011), right turns to/from the Project site, or left turns from westbound East Blithedale

Avenue into the Project site, are not expected to adversely impact any significant level of traffic turning movements at the intersection of Ryan Avenue/East Blithedale Avenue. Additionally, the signal timing at the East Blithedale/Camino Alto intersection creates “ platoons” of westbound traffic leaving the Camino Alto signal. This creates adequate gaps and opportunities for drivers from both the Project and from Ryan Avenue to turn across the traffic on eastbound and westbound East Blithedale.

If the Project’s driveway was located further west along East Blithedale Avenue, then the driveway would create an off-set intersection with Ryan Avenue, and traffic exiting the Project site as a left-turn would potentially cause a safety conflict with left and right turns from Ryan Avenue. If the Project driveway was located further east along East Blithedale Avenue, it would similarly create a potentially unsafe offset intersection with Ryan Avenue, and would also be more likely to affect traffic operations at the East Blithedale Avenue/Camino Alto intersection. Based on the traffic engineers’ observations and professional opinion, the location for the Project driveway presenting the least potential for adverse safety conflicts and the greatest potential for acceptable traffic operation is the proposed location opposite Ryan Avenue.

Master Response Traffic-7: Adequacy of On-Site Parking

Several comments on the Draft EIR suggested that the Project’s proposed parking plan was inadequate to accommodate the parking needs of the Project, and that the Draft EIR did not appropriately address this concern.

CEQA Guidance

The California Court of Appeals has held that parking is not part of the permanent physical environment, that parking conditions change over time as people change their travel patterns, and that unmet parking demand created by a project need not be considered a significant environmental impact under CEQA, unless it would cause significant secondary effects.³ Similarly, the December 2009 amendments to the State CEQA Guidelines (which became effective March 18, 2010) removed parking from the state’s Environmental Checklist (Appendix G of the CEQA Guidelines) as an environmental factor to be considered under CEQA.

However, the City of Mill Valley has included an analysis of parking in its review of the proposed Project to ensure that the Project’s provision of parking spaces would result in minimal adverse effects to Project occupants and visitors, and that any secondary effects (such as on air quality due to drivers searching for parking spaces) would be minimized. As such, although not required by CEQA, parking conditions were evaluated in the Draft EIR, and parking comments responded to in this document for informational purposes.

Proposed versus Required Parking Spaces

The number of vehicle trips assumed to be generated by the Project and used in the traffic analysis was generated based on a conservative application of single-family residential trip rates applied to the entire project. However, the parking demand analysis of the Project is more specifically calculated based on application of City requirements for multi-family dwellings. The Project is actually a condominium project, and not a series of single-family homes.

The Mill Valley Municipal Code, *Title 20, Zoning, Dwellings* states that multi-family dwellings “must provide parking at the rate of two parking spaces per dwelling, plus one-quarter of a parking space for each unit for guest parking when on-street parking is not available along the immediate frontage of the property. In development of more than four units, the guest parking shall be provided on-site.” For the proposed 20-unit Project, this requirement equates to 40 resident parking spaces (at 2 spaces per unit),

³ San Franciscans Upholding the Downtown Plan v. the City and County of San Francisco (2002) 102 Cal. App. 4th, 656

plus 5 guest parking spaces (at 1/4 parking space per every unit), or a minimum parking requirement for the Project of 45 spaces. Under the State Density Bonus Law (Senate Bill 435), a minimum of two parking spaces per unit must be provided for affordable housing projects but no guest parking is required. The Project proposes to provide a total of 45 on-site parking spaces within the Project area. Therefore, the Project meets the City's Municipal Code parking requirements and exceeds the parking required under SB 435. As was determined in the Draft EIR (page 14.32), the Project's provision of parking spaces is adequate to support its proposed use.

Notwithstanding the Project's compliance with parking standards, there are likely to be occasions when residents of the complex invite guests for special events or parties, resulting in a need for additional parking exceeding the number of guest spaces available. At these times, and as is the case in any parking-constrained neighborhood, the host would have several options available for addressing the need for additional guest parking: guests could be advised to car pool, the host could arrange a shuttle service from another parking location, or guests could be advised to seek parking on local nearby streets. Parking issues caused by occasional events or parties do not constitute a significant impact under CEQA.

Master Response Traffic-8: Pedestrian and Bicycle Safety

Several comments on the Draft EIR suggested that the Project would cause a significant safety issue associated with pedestrian and bicycle use along East Blithedale Avenue, and that the Draft EIR did not appropriately address this concern.

Subsequent Pedestrian and Bicycle Observations and Analysis

The Draft EIR examined pedestrian safety issues associated with the Project, and concluded that the Project's impacts to pedestrian safety would be less than significant.⁴ The Draft EIR indicated that a 4-foot wide sidewalk is currently provided along the Project site's entire East Blithedale Avenue frontage, and that this sidewalk exceeds minimum ADA requirements for a 3-foot wide sidewalk.

To provide further analysis relative to the comments on the Draft EIR, particularly as pertaining to bicycle safety, the Project's frontage along East Blithedale Avenue was surveyed for two hours during the AM peak period on February 15, 2011. Pedestrians and bicyclists were counted during the two-hour period. The study was conducted on a sunny day and the weather was relatively warm. Between 7:00 and 8:00 AM, a total of two pedestrians were observed on the north (Project) side of East Blithedale Avenue between Ryan Avenue and Amicita Avenue, and there were nine pedestrians on the south side of East Blithedale Avenue. During this same period, seven cyclists (total, both directions) were observed. During the 8:00 to 9:00 AM hour, there were four pedestrians on the north (Project) side of the street, five on the south side, and twelve cyclists (total, both directions).

The proposed Project would generate a low volume of traffic in relation to existing traffic levels on East Blithedale Avenue. The 2011 peak-period pedestrian and bicycle observations do not suggest any new significant bicycle or pedestrian safety hazards. As such, the updated pedestrian and bicycle counts do not constitute significant new information that would require recirculation of the Draft EIR, and validate the conclusions of the Draft EIR regarding impacts.

Master Response Traffic-9: Emergency Response Times

Several comments on the Draft EIR raised concerns about Impact 13-2 in the Draft EIR – namely, that traffic congestion on the major arterials and generally within Mill Valley, and particularly at the East Blithedale/Camino Alto intersection, could result in increased response times by the Mill Valley Fire and Police Departments. Comments questioned whether Mitigation Measure 13-2 represented an effective or adequate mitigation measure for Impact 13-2.

⁴ DEIR, p. 14-33.

CEQA Guidance

The CEQA Initial Study Checklist asks whether a project would result in inadequate emergency access.

Subsequent Review of Impact 13-2 and Mitigation Measure 13-2

The Draft EIR identified a potential adverse effect related to increased response times for emergency services from the Fire and Police Departments as a result of cumulative growth along Miller Avenue and associated cumulative increase in traffic on major arterials in Mill Valley. However, the updated 2011 traffic study discussed above under Traffic-1 and 2 confirms that the Project's contribution to localized traffic levels, including on a cumulative basis, would be minor and would not result in degrading the Level of Service at local intersections from current and future levels. As a result of this conclusion, there would be no basis to believe that traffic from the Project would be the cause for emergency fire equipment not being able to reach the Project site in approximately the same amount of time as would be the case without the Project. Consequently, Impact 13-2 is no longer considered to be a potentially significant impact requiring mitigation and thus, Mitigation Measure 13-2 is deleted from the Draft EIR. See Chapter 5, Revisions to Draft EIR.

AESTHETICS

Master Response Aesthetic-1: Existing Visual Character

Of those comments received by the City on the Draft EIR, there were a large number of concerns pertaining to the proposed Project's impacts on the overall character of the community and strong opinions that the Project's design was not consistent with the surrounding visual character of surrounding development, and would adversely affect the aesthetics of the neighborhood. The following responses provide direct replies to the various frequently raised aesthetic-related comments on the Draft EIR.

General Plan Guidance and Design Review

The Mill Valley General Plan was adopted by the City Council in December 1989 to guide the City's inevitable change during the 1990's and beyond and, in doing so, to protect the community's small town character, scenic beauty and population diversity. As was clearly noted in the 1989 General Plan,

*"As is the case with most other cities, Mill Valley historically used density (units per acre) and parking, setback, height and coverage standards to limit the size of multi-family projects. It is generally accepted that the previous system did not work for anyone involved in the planning process including the applicants, realtors, prospective purchasers of the property, the neighbors and the local decision makers".*⁵

As a result, the General Plan revised the City's approach to establishing multi-family residential densities. The residential building intensity standards contained in the General Plan involved a totally new approach to many of the basic zoning restrictions in the City, intended not only to address the problems which were identified with the previous regulations, but also to do so in a way that would be considerably easier to convey to the public. These regulations create a relatively simple three-tier approach to determining the maximum size of new homes or multi-family projects and additions to existing buildings in all conventional residential zoning districts:

- Single-Family - 35 percent adjusted F.A.R. for lots up to 8,000 square feet in size, then a sliding scale to a maximum of 7,000 sq. ft. of adjusted floor area,
- Lower Density Multi-Family - 35 percent adjusted F.A.R.; and
- Higher Density Multi-Family - 40 percent adjusted F.A.R.

⁵ City of Mill Valley General Plan, Land Use Element, 1989, pg. 24

Under this approach all basic residential zoning restrictions, with the exception of minimum lot size for purposes of subdivisions, are based on the size of the parcel. However, the General Plan also recognizes that;

*“Given the diversity that exists in a community like Mill Valley, there is no single formula that will fit every situation and guarantee that all new homes and additions to existing homes are appropriately sized, designed and sited for and respect the environmental sensitivity of every site. **This can only be achieved through a subjective review process** (emphasis added), which is why this Plan requires Design Review approval for all new homes and all major additions to existing homes. The building intensity standards described in this section of the Plan should, however, considerably narrow the scope of the recent debate and should provide a better indication to everyone involved in the planning process.”⁶*

Specifically, Policy R-1 of the General Plan indicates that;

“Development shall be compatible with, integrated into, and subordinate to its natural setting by striving to preserve, protect and promote unique environmental community and scenic attributes of its setting.” To implement this policy, the general Plan also provides that; “The City will require Design Review approval for all new single and multi-family residential buildings . . . The City shall establish site planning, building design and landscape guidelines to utilize during the Design Review process. In projects which involve Master Plan and/or Tentative Subdivision Map approvals, more specific design guidelines may be incorporated into the conditions of approval (Program R-1-1).

As the General Plan specifically indicates, the City’s Design Review process (required pursuant to Chapter 20.66 of the City Zoning Code) is a subjective review intended to determine whether a proposed project is appropriately sized, designed and sited in such a manner as to respect the environmental sensitivity of its location. The building intensity standards of the General Plan (which have since been incorporated into the City’s Zoning Code and adopted Residential Design Guidelines), are intended to narrow the scope of this subjective debate.

CEQA Guidance

Unlike the subjective review provided for under the City’s Design Review process, CEQA Guidelines Section 15064 provides that; *“the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency, based to the extent possible on scientific and factual data.”*

In order to address the CEQA question of whether or not the Project would substantially degrade the existing visual character or quality of the site and its surroundings, the Draft EIR relied upon the regulations established under the City’s Municipal Code (Chapter 20.24: RM Districts, Multi-Family), as well as the guidelines found in the City of Mill Valley’s 2005 *Residential Design Review Handbook*. The City developed the residential design guidelines to facilitate appropriate and environmentally sensitive development review. These guidelines are based on an approach that takes into consideration the interrelationship of individual houses within the neighborhood; the relationship of one neighborhood to another; and with the way each of these components affects the environment. These residential design guidelines provide objective, measurable and quantifiable thresholds against which to assess whether the proposed Project’s building height, mass and bulk would adversely affect visual character.

Summary

The Draft EIR recognized that the character of the site and its surroundings would change substantially if the proposed Project were to be implemented, and identifies that the proposed residential use on the Project site would represent a more intensive land use than nearby land uses to the north, west and south of the site. This is particularly true since the site is currently vacant. However, a more intense use is not

⁶ City of Mill Valley General Plan, Land Use Element, 1989, pg. 24

necessarily a negative impact to the overall character of the surrounding community. Whether the proposed Project would or would not be consistent and compatible with the surrounding visual character of the neighborhood is therefore a two-tiered consideration:

- The first consideration, assessed pursuant to the Draft EIR, is whether the proposed Project would be consistent with the objective, measurable and quantifiable metrics established under the City's Municipal Code and the Residential Design Review Handbook.
- The second and conclusive determination is made by the Planning Commission and the City Council, based on the City's more subjective Design Review process. That process is specifically intended to ascertain whether the Project protects and promotes those unique environmental, community and scenic attributes of its setting. That determination should be informed by the conclusions of the EIR, but is not limited solely by a reliance on the objective criteria used in the EIR.

Since the City has discretionary review over the proposed Project, the Planning Commission and City Council may impose more restrictive size and height limitations and may require greater setbacks that they may consider necessary and appropriate to ensure that the Project is consistent and compatible with its site-specific circumstances.

Master Response Aesthetics-2: Building Height, Mass and Bulk

Many comments were submitted, taking issue with the Draft EIR's analysis pertaining to the proposed Project's consistency with City's regulations and guidelines pertaining to building height, mass and bulk. The following response provides specific information about the Project's relationship to these regulations and guidelines, and provides further information to support the conclusions reached in the Draft EIR.

CEQA Guidance and Approach

The Mill Valley General Plan, Policy C-8-2 indicates that the Project site (the currently undeveloped parcel on the hillside next to 619 East Blithedale Avenue/Kostic), now zoned for office use, is inappropriate for office use and should be rezoned to the Lower Density Multi-Family zoning designation. As part of the Project application, the applicant has requested a General Plan amendment and rezoning of the site to Lower Density Multi-Family Residential (RM 3.0). Therefore, the EIR has assessed the Project's consistency with regulations established under the City's Municipal Code (Chapter 20.24) for the RM: Residential Multi-Family district, as well as the guidelines found in the City of Mill Valley's 2005 Residential Design Review Handbook. As indicated above, this assessment does not conclusively determine whether the Project protects and promotes those unique environmental, community and scenic attributes of its setting, but is only a component of the determination based upon whether the Project would be consistent with those metrics established under the City's Municipal Code and the Residential Design Review Handbook that would become applicable to the site should the proposed General Plan and rezoning be approved.

Guideline 1 - Integration with Topography

- "New residential buildings and additions to existing residential buildings constructed on sloping land should be designed to relate to the existing landforms in order to minimize the building's mass and bulk and integrate the building with the site (for example, step with the slope)."

The site slopes approximately 60 feet from its low point at street-level on East Blithedale Avenue to its high point at its northern boundary adjacent to the Camino Alto neighborhood. The Project's proposed buildings step-up from the street level in a series of terraces, which integrate the buildings with the site and avoids creation of a walled façade along the street edge. Based upon these criteria, the Project's design does generally conform to the topography of the site.

Guideline 2 - Relationship of Building Size to Slope

- "Slope conditions can exaggerate height, bulk and mass. A building shall be in scale with its surroundings. Special attention shall be given to minimize the height, bulk and mass on steep sites.

When a lot has steep slopes, floor area ratio (FAR) may be substantially reduced to mitigate impact (see Mill Valley Municipal Code Section 20.66.045).”

To determine whether the Project’s design is of an appropriate scale, the dimensions of the Project have been compared to the minimum and maximum standards of the RM-3.0 zoning district:

- o The applicable minimum exterior yard setback (i.e., the setback from the street at East Blithedale Avenue) is 15 feet, whereas the Project is designed with a setback from East Blithedale Avenue of 30 feet.
- o The applicable minimum interior setbacks (i.e., not from a street) are 10 feet, whereas the Project is designed with a western side setback of 15 feet, an easterly side setback of 15 feet, and a minimum rear yard (northern) setback of 10 feet.
- o The applicable maximum building height in the RM 3.0 zone (given that the Project’s exterior setback is twice the minimum required), is 35 feet. The Project’s buildings are designed at 33 and 34 feet in height at the front elevations along East Blithedale Avenue.
- o The applicable maximum lot coverage in the RM 3.0 zone is 40%, whereas the Project is designed with 37% lot coverage.

Based upon these criteria, the Project’s design does generally conform to, and is smaller than the maximum scale and dimensions allowed under applicable regulations and guidelines, consistent with that recommended for hillside sites.

Guideline 17 - Scale, Mass and Height

- “All buildings should be designed to avoid monumental or massive buildings that are out of scale with their setting and detract from the neighborhood character. Buildings should not have large expanses of a material on a single plane. Sizable roof overhangs (exceeding the requirement for sun screening), decks and upper story cantilevers should be avoided if the resulting building form unnecessarily increases the bulk of the construction. Buildings should be located and designed to minimize the obstruction of any ridge silhouette when viewed from off-site locations.”

As shown on Figure 4.3 of the Draft EIR, the design of the Project’s buildings does not have large expanses of material on a single plane. The buildings have recessed lower level garages, protruding balconies and porches, and varied roof lines and pitches which provide articulation and variation along their façades. As shown in Figures 4.3, 4.4 and 4.5 of the Draft EIR, the Project’s design does not include sizeable overhangs, large decks or upper story cantilevers that unnecessarily increase the bulk of the construction. The eave-lines of the tallest buildings toward the northern upslope portion of the site do not break the ridgeline of the crest of the hill when viewed from off-site locations. Therefore, the proposed Project would not extend any taller than the hill that currently exists.

Conclusions

With respect to building height, mass and bulk, the Project’s design is consistent with the Lower Density Multi-Family Residential (RM 3.0) zoning standards as found in the Mill Valley Zoning Code, which would apply to the site if the proposed General Plan and rezoning were to be approved. The Project is also consistent with *Mill Valley Residential Design Review Handbook’s* guidelines pertaining to integration with topography and the relationship of building size to slope. As concluded in the Draft EIR, the Project is designed to integrate into the topography and special attention has been given to minimize the height, bulk and mass on the steep site by staggering the building terraces and by not breaking the ridgelines with building eave-lines.

Based on these conclusions, the Draft EIR determined that the Project’s impact on community character would not be significant under CEQA. Notwithstanding this determination, the Project will be reviewed through the City’s Design Review approval process, which allows the City Planning Commission and

City Council to implement further design standards and features as it may feel necessary to maintain the community character of the Project site in its surroundings.

Master Response Aesthetics - 3: Views, Viewsheds and Open Space

Several commenters asserted that the Project would adversely affect views and viewsheds, and that the Draft EIR had not correctly taken these impacts into consideration.

CEQA Guidelines

The CEQA Initial Study Checklist simply asks whether a project would have a substantial adverse effect on a scenic vista. However, in the absence of General Plan, specific plan, zoning code or other planning document guidance, there is no clear cut definition of what constitutes a scenic vista. In *Mira Mar Mobile Community v. City of Oceanside*, the Court of Appeal, Fourth District determined that "under CEQA, the question is whether a project will affect the environment of persons in general, not whether a project will affect particular persons."

Protected Views and Vistas

Based on this court decision, impacts of the Project on private views (i.e., views from individual homes and properties) were not analyzed, and the Draft EIR's assessment instead focused on the Project's potential to impact protected public views and vistas.

The site is not designated as Open Space in the General Plan, nor is it located within a protected designated scenic viewshed.⁷ The General Plan does provide a number of policies and programs which focus on the long-term protection of remaining undeveloped lands that are candidates for some form of acquisition, dedication or regulation as open space. These policies are specifically intended to accomplish the following:

- To protect and restore the waters, marshlands and adjacent shoreline habitats of upper Richardson Bay which constitute some of the most significant biotic and wildlife habitat resources of the area and that serve as major visual, recreational and educational resources and form a natural link to the Richardson Bay and San Francisco Bay ecosystem. The Project site does not contain, nor is it adjacent to the waters, marshlands and adjacent shoreline habitats of upper Richardson Bay.
- To protect and restore the stream corridors and drainage network of the Mill Valley watershed, from their origins along the ridgelines, to the principal points of discharge in upper Richardson Bay. The Project site does not contain a stream corridor or drainage network.
- To create and enhance opportunities for enjoyment of scenic vistas of natural areas, including the Bay, Mt. Tamalpais, and riparian corridors. The Project would not obstruct scenic vistas of the Bay, of Mount Tamalpais, or of any riparian corridors.
- To protect, where possible within the urbanized community of Mill Valley, the populations, stands (groves), and heritage specimens of native species. These species include coast live oak, redwood, and madrone, and the habitats for common and familiar wildlife that they support. Aside from the one heritage tree on the Project site (see discussion below), the Project site does not support substantial stands of native tree species or habitat for any protected or sensitive plant or animal species.

The proposed Project will not have a significant impact to any of these specifically identified public views or scenic vistas as identified in the General Plan.

⁷ DEIR, p. 4-10.

BIOLOGICAL RESOURCES

Master Response Biology-1: Special Status Species and Special Status Habitat

Several comments suggest that the Draft EIR should have included special status species surveys consistent with the California Department of Fish and Game's (CDFG) Protocols for Surveying and Evaluating Impacts.

Applicability of Protocol Surveys

The California Natural Resources Agency Department of Fish and Game has established Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. The purpose of these protocols is to facilitate a consistent and systematic approach to the survey and assessment of special status native plants and natural communities so that reliable information is produced, and the potential of locating a special status plant species or natural community is maximized. According to the Protocols, it is appropriate to conduct a protocol survey when:

- Natural (or naturalized) vegetation occurs on the site, and it is unknown if special status plant species or natural communities occur on the site, and the project has the potential for direct or indirect effects on vegetation; or
- Special status plants or natural communities have historically been identified on the project site; or
- Special status plants or natural communities occur on sites with similar physical and biological properties as the project site.

Site Assessment

A reconnaissance visit was conducted at the Project site by a qualified professional biologist in November 2005. The site reconnaissance revealed evidence of past grazing activity and remnants of a former ranch that occupied the site. As indicated in the Draft EIR, the reconnaissance survey also found that “. . . non-native annual grassland is the predominant vegetation type,” but that it was also “becoming overgrown by weedy species such as French and Scotch broom, teasel and fennel.”⁸ An observed species list was included in Appendix B of the Draft EIR. No special status species or evidence of special status species was observed during the reconnaissance visit. The biological assessment also noted that none of the Project site's habitat types or soils is associated with the distinct and specialized habitat types that accommodate sensitive plant species as identified by the CDFG or the US Fish and Wildlife Service (USFWS).⁹ A portion of the Project site that is mowed regularly by the Mill Valley Fire Department does support some native species, but these native species are not numerous, diverse or dense enough to be considered “native grassland.” None of the observed native plant species have “special” status.

The California Department of Fish and Game's Natural Diversity Database (CNDDDB) was also consulted for records of reported occurrences of sensitive plants, animals and natural communities of concern at the Project site and within its vicinity.¹⁰ The CNDDDB contains no reported record of any plants, animals, or natural communities on or adjacent to the Project site. The lack of reported records of special status species in the CNDDDB is consistent with the absence of any observed special status species during the site reconnaissance.

The Project site has a history of ranching use and grazing activities, is surrounded on all sides by urban development or infrastructure, and does not contain any special status species or habitats. The CNDDDB contains no reported records of special status species or habitats on the Project site or in its vicinity. For

⁸ DEIR, p. 6-7

⁹ DEIR, p. 6-14

¹⁰ DEIR, p. 6-8

these reasons, CDFG protocol-level surveys are not warranted and the impact remains less than significant.

Master Response Biology-2: Habitat Reduction

Comments on the Draft EIR suggest that development of the Project site will result in a significant impact on habitat for native resident and migratory wildlife species, and that this potential impact was not identified in the Draft EIR.

CEQA Guidance

The established CEQA thresholds for measuring a Project's biological resource impacts indicate that a project would have a significant effect if it would interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

Biological Characteristics of the Site

The biological assessment prepared for this EIR found no records of migratory fish or wildlife species on the Project site, nor any indication that the site is part of a native wildlife corridor or contains a nursery site.¹¹

Implementation of the Project would require removal of trees, and these trees may provide nesting habitat for migratory songbirds, which are protected under the U.S. Migratory Bird Treaty Act. For this reason, Mitigation Measure 6-1 is recommended, which requires pre-construction surveys for nesting birds and requires all tree work to occur outside the nesting season.

Should the Project be approved, development of the site would include landscaping with a variety of tree and shrub species. The species list has not been finalized yet, but the Preliminary Landscape Plan is included in the Draft EIR as Figure 4-1. As the landscaping matures, the Project site will once again become habitat for resident and migratory birds and other species. Because the biological assessment found no evidence of the Project site being utilized by native or migratory wildlife species, nor any indication of its use as a nursery site, implementation of Mitigation Measure 6-1 is adequate to reduce any potential impacts to nesting birds to a level considered less than significant.

Master Response Biology-3: Removal of Heritage Oak

Many comments submitted on the Draft EIR assert that removal of trees from the Project site, especially the one heritage coast live oak tree in the center of the site, would be a significant and unavoidable impact of the Project, not identified as such in the Draft EIR.

CEQA Guidance

The established CEQA thresholds for measuring a Project's biological resource impacts indicate that a project would have a significant effect if it would:

- have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (CDFG) or U.S. Fish and Wildlife Service (USFWS).

A total of 27 trees are located on the Project site, including 9 silver wattle acacias, 13 Monterey pines, 1 canyon live oak, 1 cork oak and 3 coast live oaks. The silver wattle acacia are non-native species and the Monterey pine, although native to areas along the central California coast, are not native to Marin County. The coast live oak present at the site is a native species. None of these tree species are identified as

¹¹ DEIR, p. 6-15.

candidate, sensitive or special status species and it is extremely unlikely that these trees provide habitat for any sensitive animal species. Removal of these trees would not be a significant CEQA impact under this threshold.

- have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFG or USFWS

None of the existing on-site trees are part of any riparian habitat, wetland or other sensitive natural community identified in local or regional plans, policies or regulations or by the CDFG or USFWS. Removal of these trees would not be a significant CEQA impact under this threshold.

- interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites

None of the existing on-site trees are part of any established native resident or migratory wildlife corridor or native wildlife nursery site. Removal of these trees would not have biologically significant impacts under these CEQA thresholds. However, construction at the Project site would require removal of 25 of the 27 trees existing on the site, all of which should be considered potential nesting habitat for migratory songbirds, which are protected by the U.S. Migratory Bird Treaty Act. Pursuant to recommended Mitigation Measure Bio 6-1, all proposed tree work would need to be scheduled to take place outside the bird nesting season, and/or nesting surveys are required to determine the presence of active nests, with no disturbance of active nests allowed. Implementation of this mitigation measure would reduce such potential impacts to a level of less than significant.

- conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

This issue is addressed more fully below.

Mill Valley Tree Preservation Ordinance

The City of Mill Valley Municipal Code Chapter 20.67 regulates the preservation of heritage trees and other trees that have value to the community, stating that it is in the interest of the community health, safety and general welfare to protect and preserve heritage trees by regulating their removal and, where appropriate, encouraging their replacement.

The Mill Valley Municipal Code, Section 20.67.020 defines “heritage trees” to include (among others) oak trees (*Quercus* species) with a 75-inch circumference or an approximately 24-inch diameter. Removal of a heritage tree requires a tree removal permit from the City. In addition, according to the City’s tree preservation regulations, no tree over 12½ inch circumference (approximately 4 inch diameter), measured at a point 4½ feet above the ground and located on a vacant lot (such as the Project site) may be removed without an approved tree removal permit. These provisions would apply to all 25 of the trees proposed for removal under the Project, including the one heritage coast live oak (Tree #121).

Mill Valley Municipal Code Section 20.67.090 provides the criteria that must be met in order for a tree removal permit to be granted. According to these criteria, a tree removal permit may be granted upon a finding that the tree removal is necessary to accomplish any one or more of the following objectives:

- To protect the public health and safety by reducing or eliminating fire danger and other potential hazards to persons or property.
- To prevent obstruction or interference with public utility facilities, sanitary sewer facilities, storm drains, or water supply facilities, or watercourses.
- To ensure reasonable preservation of views and sunlight.
- To enhance the health of the subject tree or adjacent trees.

- To allow the owner to reasonably develop and use the subject property.

The Mill Valley Municipal Code Section 20.67.100 provides the criteria for the denial of a tree removal permit. A tree removal permit may be denied if any one or more of the following findings is made:

- Removal of a healthy heritage tree or multiple trees could be avoided by reasonable alternatives such as trimming, pruning, thinning, or other reasonable treatment.
- Revisions to a proposed project would allow an owner to reasonably develop and use the subject property without requiring removal of a healthy heritage tree or multiple trees.
- Adequate provisions for drainage, erosion control, land stability, avoiding adverse visual impacts and wind screening have not been made in situations where problems are anticipated as a result of tree removal.

Proposed Tree Removal

As detailed in Chapter 6: Biological Resources and in the Arborist's Report (Appendix C) of the Draft EIR, 25 of the 27 existing trees on the Project site would be removed under the Project. Of the 25 trees to be removed, the Arborist's Report recommends removal of 9 silver wattles for fire hazard mitigation and removal of 4 dead or dying Monterey pines. Removal of these trees would require approval of a tree removal permit pursuant to the findings that their removal would protect the public health and safety by reducing or eliminating fire danger and other potential hazards to persons or property.

All of the other 12 trees proposed for removal in order to implement the Project would also require approval of a tree removal permit, including the removal of the heritage coast live oak (tree #121 on the Project site, See **Figure 20-1**). Removal of these 12 trees could only occur with approval of a tree removal permit.

Recommended Mitigation Measure

Under CEQA (Section 15370), mitigation measures are defined to include all of the following:

- Avoiding the impact altogether by not taking a certain action or parts of an action (i.e., by not removing any protected trees).
- Minimizing the impact by limiting the degree or magnitude of the action and its implementation (i.e., by reducing the number of trees that are proposed to be removed).
- Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action (i.e., by implementing tree protection measures for any trees to remain).
- Compensating for the impact by replacing or providing substitute resources or environments (i.e., by replacing the lost trees with new replacement tree plantings).

This definition provides several alternative forms of mitigation, which are generally considered in sequence (i.e., avoidance first and compensation last). The City of Mill Valley's Tree Removal Permit process is intended to enable consideration of the applicability of each of these forms of mitigation as they apply to the proposed Project. For example:

1. The Planning Commission and/or City Council may find that revisions to the proposed Project are feasible that would allow the owner to reasonably develop and use the property without requiring removal of any trees other than those necessary to protect the public health and safety, such that avoidance of tree removal is the preferred mitigation. In this case, the City could deny any tree removal permit; or
2. The Planning Commission and/or City Council may find that revisions to the proposed Project are feasible that would allow the owner to reasonably develop and use the property without requiring

removal of all of the trees, in particular the removal of the heritage coast live oak tree, such that minimizing or limiting the amount of tree removal is the preferred mitigation. In this case, the City could deny a tree removal permit for the heritage coast live oak tree (and potentially for other trees as well), while approving tree removal permits for certain other trees; or

3. The Planning Commission and/or City Council may find that the property could not be reasonably developed as a residential multi-family project without removal all of those trees that are proposed for removal (i.e., that avoidance or limiting the degree of impacts is infeasible), and that compensation for the loss of trees through replacement plantings is the preferred mitigation. In this case, the City could approve the tree removal permit, subject to approval of a tree replacement plan.

Under either of these scenarios, compliance with the City's Tree Protection Ordinance would occur, and mitigation pursuant to that ordinance would be required to avoid, minimize or compensate for the impact. To clarify the City's Tree Removal Permit process and its potential outcomes, Mitigation Measure 6-2 from the Draft EIR is amended with the following additions and deletions (as shown in underline and ~~strikeout text~~ below):

MM 6-2:

Approval of a Tree Removal Permit. In conjunction with the City's ~~As part of the~~ Design Review process for the Project, the applicant shall be required to apply for and obtain approval for a tree removal permit prior to removal of for the heritage coast live oak and the 24 other on-site trees that are subject to Section 20.67 of the Mill Valley Municipal Code. The criteria for issuance of a tree removal permit are outlined in Section 20.67.090 of the Municipal Code. ~~In accordance with the recommendation of the applicant's biological and arboricultural reports, should tree replacement be required, at least some of the replacement trees should be species native to the area, including but not necessarily limited to: coast live oak, black oak, Oregon ash, and big-leafed maple. The City shall review the applicant's landscape plan during the Design Review process, and shall provide the applicant with a list of any specific tree types it wants included on the Project site.~~

Should the City find that tree removal is necessary to allow the owner to reasonably develop and use the subject property, the tree removal permit should include additional conditions regarding tree protection measures and new tree replacement plantings.

- a. Tree protection measures for those trees to remain shall be in accordance with the recommendations of the applicant's biological and arboricultural reports.
 - b. The planting of new replacement trees shall also be in accordance with the recommendations of the applicant's biological and arboricultural report.
 - c. Replacement trees should be species native to the area including but not necessarily limited to coast live oak, black oak, Oregon ash, and big-leafed maple.
 - d. The City shall review the applicant's landscape plan during the Design Review process, and shall provide the applicant with a list of any specific tree types it wants included on the Project site.
2. Should the City find that revisions to the proposed Project are feasible that would allow the owner to reasonably develop and use the property without requiring removal of the heritage coast live oak tree (or potentially other trees as well), tree

removal permits for such trees shall be denied, and the Project would need to be re-designed to avoid removal.

Because consideration of the Project's tree removal permit will be held in conjunction with consideration of Project approvals before the Planning Commission and City Council, the Planning Commission and Council will make their own independent findings regarding approval or denial of the tree removal permit. The EIR is not intended to pre-suppose these findings, but to provide information upon which the Planning Commission and City Council can make an informed decision.

HYDROLOGY

Master Response Hydrology-1: Peak Runoff and Impervious Surface

Several comments indicated that the peak stormwater runoff from the Project site post-construction would adversely affect downstream drainages, and that this issue was not adequately presented in the Draft EIR.

CEQA Guidance

Pursuant to the CEQA Initial Study Guidelines, the key CEQA question regarding increased storm water runoff is: would the Project create or contribute substantial runoff which would exceed the capacity of existing or planned storm water drainage systems?

Increased Runoff versus Capacity

The hydrology study prepared for the Project and presented in the Draft EIR estimates that post-development peak runoff from the site would increase by 23% over existing conditions. This increase in storm water flows was considered to be a moderate increase due to the existing shallow soils and moderate slopes on the site. The study also found that the existing municipal storm drain system can accommodate a 23% increase in peak runoff from the Project site.

A final drainage plan will need to be prepared for the Project prior to building permit approval. That final drainage plan is required to have a more refined calculation of expected runoff, and must demonstrate compliance with the City of Mill Valley's Drainage Design Guidelines and the Marin County Stormwater Management Plan. The final drainage plan is required of the Project pursuant to Mitigation Measure Hydrology 9-3, which requires the design and implementation of a final drainage plan that conforms to the City of Mill Valley Drainage Design Guidelines and the Marin County Stormwater Management Plan. Among the requirements necessary to conform with these guidelines and plans, the final drainage plan must demonstrate how impervious surface areas shall be minimized, how surface waters will be diverted away from recently excavated slopes, and how flow retarding devices such as detention ponds and drainage swales will be implemented to limit the volume and rate of runoff from the developed Project site.

Based on the ability of the surrounding drainage system to accommodate a 23% increase in runoff from the site, and the requirements for reducing peak flows pursuant to MM Hydrology 9-3, this impact would be reduced to a level of less than significant. The Project would not create or contribute substantial runoff, and the volume of expected runoff would not exceed the capacity of existing or planned storm water drainage systems once implementation of the recommended mitigation measures occurs.

Master Response Hydrology-2: Polluted Storm Water Runoff

Several comments suggested that the stormwater runoff leaving the Project site after the Project is constructed would be polluted with oils, grease and other surface water contaminants that are not currently present, and that this impact would be a significant effect on downstream surface water quality.

CEQA Guidance

Pursuant to the CEQA Initial Study Guidelines, the key CEQA question regarding increased pollution within storm water runoff is: would the Project create or contribute substantial runoff which would be an

additional source of polluted runoff? If the Project might create an additional source of runoff, are mitigation measures capable of reducing this impact to a less than significant level?

National Pollution Discharge Elimination System Requirements

As described in the Draft EIR, the proposed Project would be subject to the National Pollution Discharge Elimination System (NPDES) program and its associated permit requirements. Under this program, the Project will be required to demonstrate compliance with two NPDES permit requirements: General Construction Permit Requirements which apply to clearing, grading and disturbances to the ground during construction activities; and the requirements of the NPDES Phase 2 program (or the C.3 provisions), which require on-site treatment of post-construction runoff prior to discharge into the municipal storm drainage system.¹² These requirements are identified and recommended as mitigation measures in the Draft EIR.

Mitigation Measure 9-1 requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP), including the implementation of an erosion control plan consistent with Mill Valley Municipal Code Section 14.32.060. Mitigation Measure 9-2 requires post-development maintenance to ensure local receiving waters, including Richardson Bay and San Francisco Bay, aren't adversely impacted by non-point source pollution runoff.

Based on the requirements to reduce and control polluted runoff from the Project site pursuant to the required NPDES permits, this potential impact would be reduced to a level of less than significant. The Project would not create or contribute substantial runoff which would be an additional source of polluted runoff once implementation of the recommended mitigation measures occurs.

LAND USE

Master Response Land Use-1: General Plan Land Use and Zoning Designation

Several commenters questioned why the Draft EIR had assessed the Project for its consistency with policies and regulations of the General Plan and the Municipal Code pertaining to residential land use, when the site is currently designated under the General Plan for office use. Comments also questioned the process by which the site had become a "target" for residential development.

CEQA Guidance

CEQA Guidelines, Section 15125 stipulates that an EIR shall "discuss any inconsistencies between the proposed project and applicable general plans."

Applicable Land Use and Zoning Designations

As indicated in the Draft EIR (page 10-1) the Project site is currently designated under the Mill Valley General Plan as Professional-Administrative Office, and is zoned PA (Professional Administrative Office).

However, General Plan Policy C-8-2 states; "The following currently undeveloped parcel that is now zoned for office use is inappropriate for office use, and should be rezoned to the Lower Density Multi-Family zoning designation: the hillside next to 619 East Blithedale/Kostic" (i.e., the Project site). The General Plan Housing Element (adopted September 2003) also identifies the Project site as a potential 20-unit housing site (pursuant to Implementing Program H3.L), and anticipates the need for a General Plan amendment and rezoning to Lower Density Multi-Family to achieve this potential.

As part of the proposed Project, the applicant has requested a General Plan Amendment and rezoning to Lower Density Multi-Family Residential (RM 3.0) designation, consistent with General Plan Policy C-8-2 and the Housing Element. Based upon this proposal, the EIR analyzed whether the specifics of the

¹² DEIR, p. 9-6.

proposed Project would be consistent with the General Plan policies and zoning regulations that would become applicable to the site, should the General Plan amendment and rezoning be approved. The EIR itself does not enact the General Plan amendment or rezoning, as this action could only be considered by the City Council based on a recommendation by the Planning Commission. The EIR needs to inform these decision-making bodies of the environmental consequences that may be associated with such an action.

Analysis of the previous policy-making process by which the General Plan identified this site as appropriate for residential development is not a matter for environmental review of this Project. However, the following chapter of this Final EIR includes a description and comparative environmental analysis of an Office Alternative that would be consistent with the current General Plan land use designation and current zoning applicable to the site. This Office Alternative represents a CEQA-mandated “No Project alternative”, which could be considered the likely result of no action or denial of the currently proposed Project.