

Publication Date: December 13, 2017
Revision 1 Date: September 20, 2018
PC Adoption Date: November 1, 2018
Revision 2 Date: August 23, 2019
BOS Adoption Date:

Final Mitigated Negative Declaration

Pursuant to Section 15071 of the State CEQA Guidelines, this summary of findings and the attached Initial Study and mitigations constitute the Final Mitigated Negative Declaration as proposed for or adopted by the County of Sonoma for the project described below:

Project Name: Gardner Minor Subdivision (MNS12-0004)

PRMD File #: MNS12-0004 **APN:** 019-080-003

Project Location Address: 245 Paula Lane, Petaluma, CA

General Plan Land Use Designation: RR (Rural Residential) 2-acres per dwelling unit

Zoning Designation: AR (Agricultural and Residential) 2-acre density and no combining zones

Lead Agency: Sonoma County Permit and Resource Management Department (Permit Sonoma)

Decision Making Body: Board of Supervisors

Project Applicant: Kim Gardner

Project Description: Request for a Minor Subdivision of 6.06 acres resulting in two lots of 1.53 ± acres in size each and a designated remainder of 3.0 ± acres and petition pursuant to Section 25-43 of the Sonoma County Code to increase the length to width ratio limitation required per Section 25-42(b) for a minor subdivision. A designated Common Area for use by the subdivision lot owners is located in the northwest corner of Lot 1.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or "Less than Significant with Mitigation" as indicated by the checklist on the following pages and in the summary table below.

Table 1. Summary of Topic Areas

CEQA Topic	Yes	No
Aesthetics	Yes	
Agricultural & Forest Resources		No
Air Quality	Yes	
Biological Resources	Yes	
Cultural Resources	Yes	
Geology and Soils	Yes	
Greenhouse Gas Emission		No
Hazards and Hazardous Materials	Yes	
Hydrology and Water Quality	Yes	
Land Use and Planning		No
Mineral Resources		No
Noise	Yes	
Population and Housing		No
Public Services		No
Recreation		No
Transportation and Traffic		No
Utility and Service Systems		No
Mandatory Findings of Significance		No

Incorporated Source Documents

In preparation of the Initial Study checklist, the following documents were prepared or referenced, and are hereby incorporated as part of the Initial Study. All documents are available in the project file or for reference at the Permit and Resource Management Department.

Source Document	Yes	No
Project Application and Description	Yes	
Initial Data Sheet	Yes	
County Planning Department's Source and Criteria Manual	Yes	
Sonoma County General Plan and Associated EIR	Yes	
West Petaluma Area Plan	Yes	
Sonoma County Zoning Code	Yes	
Project Referrals from Responsible Agencies	Yes	
State and Local Environmental Quality Acts (CEQA)	Yes	
Correspondence received on project	Yes	
Other technical reports (see Other Technical Reports in the Sources section at the end of this initial study)	Yes	

Environmental Finding:

Based on the evaluation in the attached Initial Study, I find that the project described above could not have a significant effect on the environment, and a Mitigated Negative Declaration is proposed.

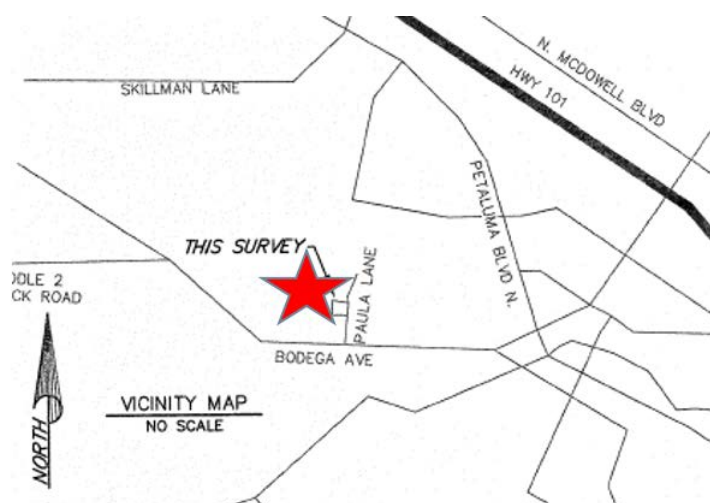
Based on the evaluation in the attached Initial Study, I find that the project described above will not have a significant adverse impact on the environment, provided that the mitigation measures identified in the Initial Study are included as conditions of approval for the project and a Mitigated Negative Declaration is proposed. The applicant has agreed in writing to incorporate identified mitigation measure into the project plans.

Prepared by: Georgia McDaniel

Date:

INTRODUCTION

The applicant, Kim Gardner, proposes to subdivide a $6.06 \pm$ acre parcel into two lots of $1.53 \pm$ and a designated remainder of $3.0 \pm$ acres. The Project site is located at 245 Paula Lane, a residential roadway off of Bodega Avenue just outside Petaluma city limits. An existing single-family residence and a 125-foot long barn will remain on the proposed Designated Remainder. The adjacent parcels to the north are owned by the City of Petaluma and protected by a conservation easement in favor of the Sonoma County Agricultural Preservation and Open Space District.



PROJECT LOCATION



PROJECT SITE

A referral packet which included a storm water management plan, fire management plan, assessor's parcel map, project location map, and tentative map was sent to the appropriate local, state and federal agencies and interest groups who may wish to comment on the project. Assembly Bill 52 Project Notifications were sent to the Lytton Rancheria of California, Middletown Rancheria Band of Pomo Indians, Mishewal Wappo Tribe of Alexander Valley, The Federated Indians of Graton Rancheria, Cloverdale Rancheria Band of Pomo Indians and Kashia Pomos Stewarts Point Rancheria.

This report is the Initial Study required by the California Environmental Quality Act (CEQA). The report was prepared by previous Project Review Planner, Misti Harris, and Georgia McDaniel, current Project Review Planner with the Permit Sonoma (PRMD), Project Review Division. Information on the project was provided by the Project Applicant, Hogan Land Services, project consultant, and Dana Riggs, project biologist. Technical studies referred to in this document are available for review at Permit Sonoma (PRMD).

This report was revised on August 27 2018. Additional information and the petition pursuant to Section 25-43 was added to the Project Description. The Planning Commission adopted the Initial Study/Mitigated Negative Declaration and approved the proposed Minor Subdivision on November 1, 2018. This report is revised again to address issues that were presented in the Appeal of the Planning Commission approval that was filed with the County of Sonoma on November 8, 2018. In addition, a Common Area was designated on the Tentative Map.

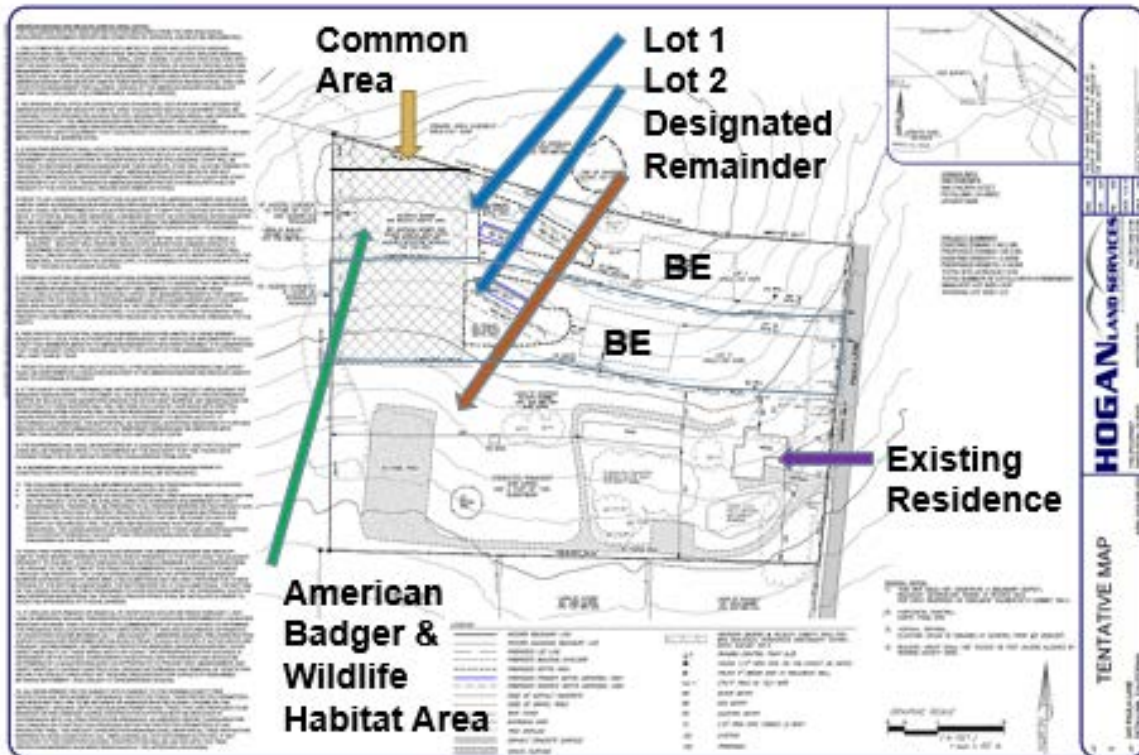
Please contact Georgia McDaniel, Planner III at Georgia.McDaniel@sonoma-county.org or (707) 565-4919, for more information.

PROJECT DESCRIPTION

The project site is one parcel located on the west side of Paula Lane, in an unincorporated area just outside Petaluma city limits. The applicant proposes dividing the subject parcel into two lots and a designated remainder per the proposed Tentative Map. Lot 1 is the northernmost parcel. It measures 1.53 ± acres and is undeveloped. Lot 2 is the central parcel, also measuring 1.53 ± acres and undeveloped. The remainder measures 3.0 ± acres and occupies the southern half of the subject site. It is developed with a single-family dwelling, a small storage shed, well, septic system, BMX bike track, a horse riding arena, a round pen and horse paddocks. Grading without

benefit of permits was performed on the proposed designated remainder since the project submittal date. This issue was resolved and is discussed in more detail in the appropriate sections of this document.

A 6,380 square-foot building envelope is proposed on Lot 1 and a 6,520 square-foot building envelope is proposed on Lot 2. The building envelopes are placed strategically to cluster the development within the center of the lots to minimize visual impacts and maintain the rural character. A 1-acre portion at the rear of the proposed Lots 1 and 2 would preserve American badger habitat that is located within the home range of badgers present on the adjacent parcel to the north. As shown on the American Badger and Wildlife Habitat Map on page 10, this 1-acre proposed badger habitat on the Project Site adjoins land to the north consisting of the Paula Lane Open Space Preserve, a City of Petaluma facility ("the Preserve") that in part protects American Badger habitat. The newly proposed badger habitat on the Project Site will be preserved in perpetuity so no development can occur on that portion of the Project Site. All of the restrictions and mitigation measures from the WRA Biological Resources Assessment Report are listed under American Badger and Wildlife Habitat Area Notes on the left side of the proposed Tentative Map below.



PROPOSED TENTATIVE MAP

A .07-acre open common area is designated in the northwestern corner of Lot 1 within the American Badger and Wildlife Habitat Area ("the Common Area"). The Common Area will be used only for passive recreational enjoyment of natural features and views by the owners of Lots 1 and 2 and the Designated Remainder. The Deed and Agreement By and Between the City of Petaluma and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights ("Conservation Easement") affects only the Preserve property and not the Project Site. However, at Section 2.3 of the Conservation Easement, it outlines uses for the Preserve which are similar to, but more intensive than provided for the proposed Common Area, and allows agricultural and residential use on the Preserve property, in addition to recreational use and habitat preservation. A proposed access easement

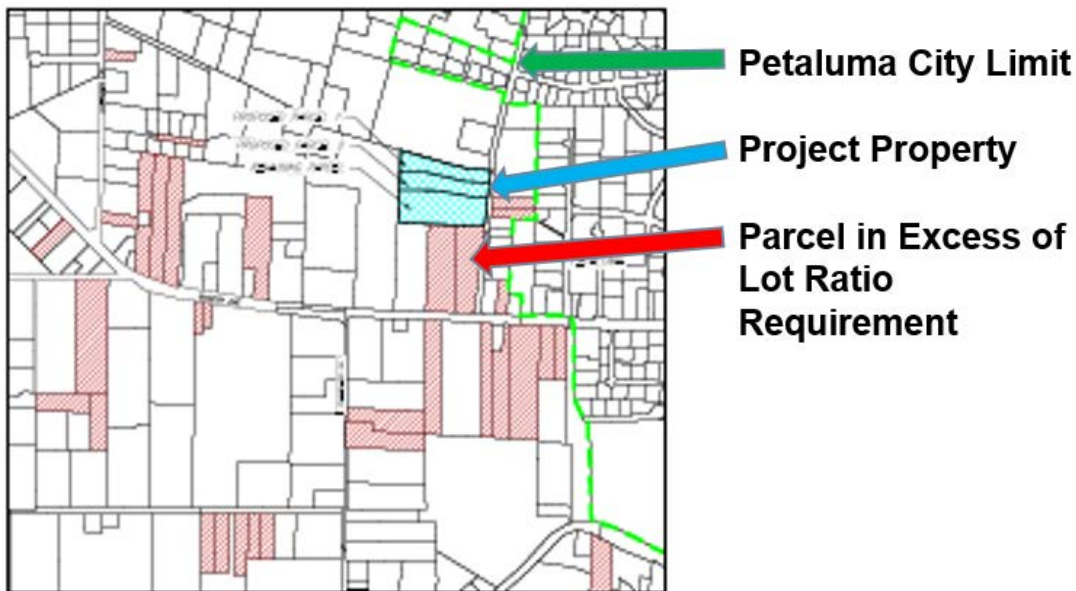
through the American Badger and Wildlife Habitat Area on the Project Site will provide access to the Common Area for Lot 2 and the Designated Remainder, with conditions to ensure it will not impede badger habitat values..

Petition for Reduction of Design and Improvement Standards

Section 25-42(b) of the Sonoma County Subdivision Ordinance states minimum lot requirements, including that lot depth shall not be greater than 3 times the width. However, the Planning Commission may approve lots exceeding the minimums and the Planning Commission approved the tentative map on November 1, 2018.

The applicant requested a reduction of the design and improvement standards pursuant to Section 25-43 of the Sonoma County Municipal Code. The request was to increase the length to width ratio limitation required per Section 25-42(b) of the Sonoma County Subdivision Ordinance. Reducing the standards requires the presentation of a map showing gross density is not increased, lot arrangements, shape plus size and street pattern and open common area.

Many of the properties in this unincorporated area do not currently meet the strict length to width ratio limitation required per Section 25-42(b). As shown on the Neighborhood Context Map below, the petition to allow the proposed lots to exceed the length to width ratio would be consistent with the prevailing development pattern on the area. Also see the photos of residences along Paula Lane on page 15. Clustering the residences and retaining the symmetry of the lots (i.e. narrower frontages and deeper lots) maintains the development pattern. Wider parcels would create an interruption in the rhythm of the residential developments in the area. Maintaining the existing development pattern and rhythm will produce a more desirable and livable community. In addition, the proposed badger habitat and building envelopes will reduce the potential for erosion by limiting the amount of land disturbance, The Common Area is limited to use by the owners of Lots 1, 2 and the Remainder Parcel, and is limited to passive recreational use.

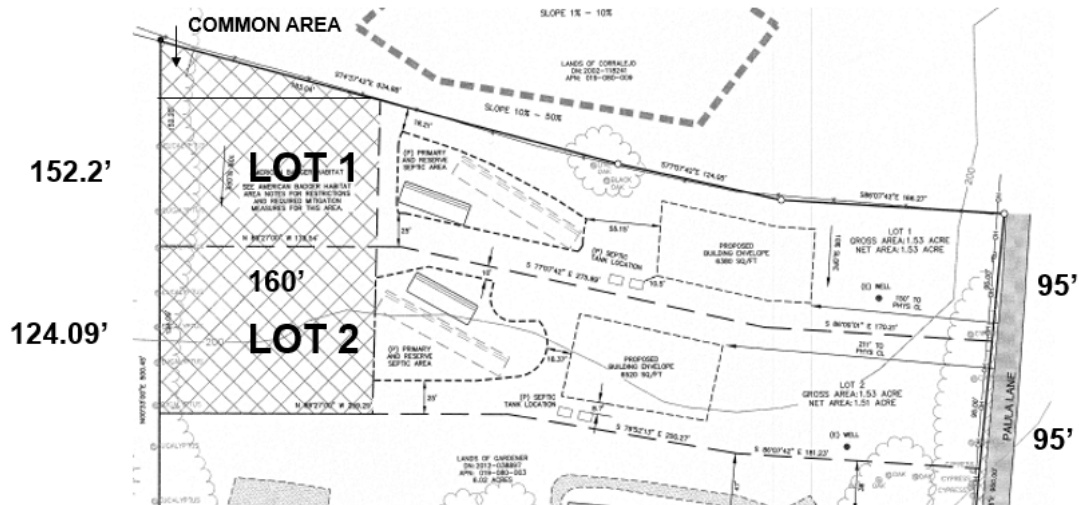


NEIGHBORHOOD CONTEXT MAP

The neighborhood context map above shows that the proposed lots would be in-line with the prevailing development pattern in the area. Many of the properties in this unincorporated area

(lots with red line hatching) do not currently meet the strict length to width ratio limitation per Section 25-42(b).

LOT LENGTH TO WIDTH RATIO



- **LENGTH OF LOT 1 (INCLUDING HABITAT AREA) IS 623'**
(90° TO BACK LOT LINE)
- **LENGTH OF LOT 2 (INCLUDING HABITAT AREA) IS 615'**
(90° TO BACK LOT LINE)

Land Use and Zoning:

The General Plan land use designation is RR (Rural Residential) 2 acres per dwelling unit with the principal permitted use detached single family homes. Lots 1 and 2 plus the designated remainder would be used to construct single family residences.

The land use designation on the West Petaluma Area Plan is Rural Residential 1.5 acres per dwelling unit. Under the Rural Residential category, it states that divisions or additional units should be allowed wherever water supply, septic capability and good access exist and where such divisions would not conflict with an existing agricultural operation.

The proposed lots are 1.53 acres each; each lot has its own existing well and a primary and reserve septic area. The proposed lots and Designated Remainder have direct access from Paula Lane, a County maintained road, which connects with Bodega Avenue. The residential development would not conflict with an existing agricultural operation.

The property is zoned AR Agricultural and Residential 2-acre density and there are no combining zones. The proposed lots are 1.53 acres each and the designated remainder is 3.0 acres which meets the minimum parcel size requirement of 1.5 acres in the AR zoning district for lots served by private wells and septic systems. All required setbacks from the property lines, wells and septic areas would be met. The building height limitation is 35 feet.

Surrounding Land Uses and Zoning:

North: AR (Agriculture and Residential) 2 acre density developed with two single-family residences. The adjacent parcel to the north is the City of Petaluma Paula Lane Open Space Preserve ("the Preserve").. The Preserve is protected by Conservation Easement

through a partnership between the city and the Sonoma County Agricultural Preservation and Open Space District (SCAPOS). The Conservation Easement protects the American badger habitat on that property, and the City is responsible for overall management of the preserve in conformance with the Conservation Easement. The Preserve also contains a building envelope and existing residential structures. Within the building envelope, there are two single-family residences consisting of the original farmhouse and a cottage, as well as an old milk shed and an old barn-shed. There is an old concrete foundation southwest of the building envelope (Paula Lane Open Space Preserve Conservation Easement Baseline Document, March 202).

South: AR (Agriculture and Residential) 1.5 acre density and LC (Limited Commercial). Multiple parcels are developed with single-family dwellings with related accessory structures and commercial buildings, respectively. Photos below show the commercial buildings along Bodega Ave.



Commercial buildings along Bodega Avenue south of the Project site.

East: Across Paula Lane, AR (Agriculture and Residential) 2 acre density. Multiple parcels are developed with a single-family residence and related accessory structures on each lot. See photos of residences on page 17.

West: AR (Agriculture and Residential) 1.5 to 2 acre density developed with multi-family structures. See photo of apartments on page 17.

Consistency with Sonoma County Agricultural Preservation and Open Space District (SCAPOS) Conservation Easement:

The current SCAPOS Conservation Easement does not restrict development on the Project Site or on any neighboring sites. As stated in the Project and Restoration Management Plan for the Paula Lane Nature Preserve (Management Plan), the Conservation Easement Policy states that “use of the Property is restricted solely to natural resource protection, habitat restoration and enhancement, recreational and educational, agricultural and residential uses as defined in this Section 5.2.” The Management Plan approved by the SCAPOS in January 29, 2013 permits agricultural and residential activities on the Preserve. Similar to the Preserve layout, the proposed Project places the two proposed new residences in similar locations as the Preserve structures along the eastern portion of the property, allowing wildlife to continue to move freely from north to south between the Preserve and the Project Site’s designated Badger Habitat Area in the western portions of the two properties. The proposed Project is consistent with surrounding development, including the Preserve and lower in density than other existing neighborhoods directly adjacent to the Preserve on the north and across Paula Lane.

The proposed project has adjacent areas on proposed Lots 1 and 2 which when combined are both adjacent to the Preserve and designated as American Badger and Wildlife Habitat. The American Badger and Wildlife Habitat areas on the Project Site will expand the habitat on the neighboring Preserve as shown on the American Badger and Wildlife Habitat Map below.



AMERICAN BADGER AND WILDLIFE HABITAT MAP

Common Area

A common area is designated in the northwestern corner of Lot 1 and the American Badger and Wildlife Habitat Area. As stated previously, the Common Area will be for passive recreational use and enjoyment of natural areas and views by the owners of Lots 1, 2 and the Designated Remainder. Although it is not governed by the Conservation Easement which limits use on the adjacent Preserve, Common Area use will be completely consistent with the Conservation Easement's allowed uses for the Preserve.

Previous Grading:

In Sept 2012, a Grading/Drainage Violation was issued for stockpiling and importation of fill without a permit. In that same month, a grading permit was issued to legalize the grading and stockpiling.

In June 2013, a Grading/Drainage Violation was issued for grading of a parking lot and future riding arena and round pen without a permit. The next month, a grading permit was issued to legalize the grading and stockpiling.

In 2012 and 2013, the public expressed concerns regarding potential impacts to the American Badger and American Badger habitat on the project parcel and the adjacent Paula Lane Open Space Preserve due to the grading.

In March 2013, WRA Environmental Consultants performed an assessment of biological resources on the project parcel. The minor grading that occurred in 2013 in the designated

remainder was 250 feet from the nearest burrow showing signs of recent use. No active badger burrows were observed within 100 feet of the area where grading occurred.

The following extracts on wildlife are from the *Biological Resources Assessment Report*, dated August 2014, prepared by WRA Environmental Consultants (pages 25):

In April 2013, approximately three to four weeks following the initial site assessment the Applicant conducted some minor grading in the proposed remainder lot including partial construction of a riding arena, a round pen, a BMX bike path, and a small parking area. No active badger burrows were observed within 100 feet of the area where grading occurred; it is presumed the nearest burrow showing signs of recent use, was close to 250 feet from where the activity occurred. No evidence of nesting grassland bird species was observed at the time of the assessment. A single nesting raptor, red-shouldered hawk (*Buteo lineatus*) was observed nesting in a eucalyptus near to the northern boundary of the Project Area at the time of the March 2013 site visit. The bird was observed on the nest after April 15, 2013 following the grading activities indicating no disturbance occurred. It is unlikely any other raptors nested in the vicinity given the presence of this species.

In 2016, an encroachment permit was issued for construction of an rough graded entrance on each lot for the required well testing.

Access:

Access to the Project site is from Paula Lane which connects with Bodega Avenue. Both Lots 1 and 2 plus the Designated Remainder will be accessed from Paula Lane. Bodega Avenue connects the site with downtown Petaluma. In downtown Petaluma, Bodega Avenue becomes East Washington Street that provides direct access to and from State Highway 101.

Domestic Wastewater Disposal:

Domestic wastewater disposal for the existing residence is provided by the existing septic system located within the proposed remainder lot and designated on the proposed Tentative Map. The proposed primary and reserve septic area for each of the proposed Lots 1 and 2 are designated on the proposed Tentative Map. In 2017, a Septic Permit was issued and Well and Septic field reviews were conducted. These areas were designated after conducting the proper tests and reviews with Permit Sonoma Well and Septic Section.

Water Supply:

There are three existing wells located on the Project site. One well located on the proposed Designated Remainder supplies water to the existing residence. New wells were installed, one for each of the proposed Lots 1 and 2, after obtaining permits from the Permit Sonoma Well and Septic Section.

Storm Water Management:

In accordance with the Permit Sonoma Grading and Storm Water Section referral response, the following is a condition of approval:

NOTE ON MAP: "Prior to issuance of a grading or building permit, the property owner shall submit any and all required grading/site plans and drainage reports for proposed work to the Permit and Resource Management Department (PRMD) for review. Grading/site plans shall clearly indicate the nature and extent of the proposed work and include erosion prevention/sediment control measures, details, notes, and specifications to prevent damages and to minimize adverse impacts to the environment. Drainage improvements shall be designed in accordance with the Sonoma County Water Agency Flood Control Design Criteria, to maintain

off-site natural drainage patterns, and to limit post-development storm water levels and pollutant discharges in compliance with PRMD's best management practices guide. Grading and drainage improvements shall abide by all applicable standards and provisions of the Sonoma County Code and all other relevant laws and regulations."

Hedge or Wildlife-Friendly Fence Condition

The Planning Commission required that the following condition be added to the Conditions of Approval:

Prior to issuance of any building permit, a hedge shall be planted and maintained or a wildlife-friendly fence shall be constructed and maintained, subject to the prior written approval of PRMD, at the boundary between the American Badger and Wildlife Habitat Area and the remaining portions of each Lot 1 and Lot 2, so as to provide a physical separation between the American Badger and Wildlife Habitat Area and the remaining portions of Lots 1 and 2.

SETTING

The property is located approximately 200 feet west of Petaluma city limits in southern Sonoma County as shown on the aerial photo in the Introduction section above.

Topography and Soils:

The topography of the property and the top of the ridge on the adjacent property to the north is shown on the proposed Tentative Map.

The following extracts on topography and soils are from the *Biological Resources Assessment Report*, dated August 2014, prepared by WRA Environmental Consultants (pages 9-10).

The topography of the Project Area is moderately steep with slopes ranging from 5-15 percent. The general slope is from north to south, and elevations range from approximately 170 to 220 feet National Geodetic Vertical Datum (NGVD). The Sonoma County Soil Survey (USDA 1977) indicates that the Project Area is composed exclusively of the native soil Cotati fine sandy loam. This soil type is described in detail below.

Cotati fine sandy loam: This soil series consists of deep to very deep sandy loam soils formed in alluvium from weathered soft sedimentary rocks (e.g., mudstone, sandstone) which are located in hillside terrain at elevations ranging from 60 to 800 feet (USDA 1977). These soils are not considered hydric, and are moderately well drained with slow to rapid runoff, and moderately rapid to very slow permeability (USDA 2012, USDA 1977). Native and naturalized vegetation includes annual grasses with scattered coast live oak and California black oak (*Q. kelloggii*), and these soils are primarily utilized for pasture grazing, hay, small orchards, and Christmas tree production (USDA 1977).

A representative pedon of this series consists of an A-horizon of strongly acid (pH 5.3) dark grayish brown (10RY 4/2) when moist, fine sandy loam from approximately 0 to 19 inches. This is underlain by an E-horizon of strongly acid (pH 5.3) grayish brown (2.5Y 5/2) sandy loam from approximately 19 to 22 inches depth. This is underlain by a B-horizon of very strongly acid (pH 4.5) light olive brown (2.5Y 5/4) to olive (5Y 5/3), when moist, clay from approximately 22 to 55 inches depth. This is underlain by a C-horizon of very strongly acid (pH 4.5) dark brown (10YR 3/3), when moist, clay from approximately 55 to 68 inches depth.

Although these soils have a clay horizon in the upper two feet, they are located on relatively steep slopes (5 to 30 percent) and the upper horizons are composed of well drained sandy loams; therefore, these soils are unlikely to support wetlands without

natural or artificial barriers to surface/subsurface flow. These soils may support special-status plant species with an affinity for low pH (acidic) well-drained sands and sandy loams, and are unlikely to support plant species with an affinity for clay, alkali, sustained hydrology, serpentine, or ultramafic soils. Where not compacted, these soils are friable and thus may support special status wildlife that rely on fossorial mammals for food or cover. Field observations confirm that the soils on-site are consistent with those described in the Soil Survey of Sonoma County (1977).

Existing Vegetation:

The following extracts on vegetation are from the *Biological Resources Assessment Report*, dated August 2014, prepared by WRA Environmental Consultants (pages 8-9 and 13).

Along Paula Lane and surrounding the house is an assortment of mature cultivated trees. Although several of these trees are native, including coast live oak (*Quercus agrifolia*) and buckeye (*Aesculus californica*), many are non-native or invasive species including black wattle (*Acacia melanoxylon*) and European plum (*Prunus domestica*). The understory of the area immediately surrounding the house and on the northeastern half of the property is dominated by non-native and invasive species including milk thistle (*Silybum marianum*), ripgut brome (*Bromus diandrus*), and foxtail barley (*Hordeum murinum*). Past clearing and soil disturbance is evident here based on the presence of non-native weedy species compared with surrounding areas, and also compacted soils in these areas. Visual signatures on historic aerial photographs suggest minor grading or removal of topsoils in this area sometime between 1993 and 2004.

The western edge of the Project Area is occupied by a row of mature eucalyptus (*Eucalyptus globulus*) with an herbaceous layer comprised of non-native ruderal grasses including rip-gut brome, foxtail barley, and common wheat (*Triticum aestivum*), and native herbs including miner's lettuce (*Claytonia parviflora*). The remainder of the site is primarily non-native grassland composed of rip-gut brome, foxtail barley, sky lupine (*Lupinus nanus*), common mallow (*Malva neglecta*), and white stemmed fillaree (*Erodium moschatum*).

No special status plant species were observed during the site visit including those in bloom at the time of the site visit; a protocol-level survey was performed for those species that bloom in March. However, many species bloom in late spring and summer and were therefore not identifiable during the initial site visit. As such, a second protocol-level rare plant survey was conducted on June 13, 2013 by a WRA botanist during the blooming period of all potentially present special-status plant species. No special-status plant species were found within the Project Area.

Existing Wildlife:

The *American Badger Habitat Survey* for the Paula Lane Proposed Subdivision, dated January 2004, was prepared by Kimberley Fitts and Deriek Marshall. The Paula Lane Subdivision Project was a 21 home residential subdivision that was proposed 2 parcels equaling 11.22 acres at the southwest corner of Paula lane and Sunset Drive. The proposed development was to be located on the parcels that are currently the Open Space Preserve owned by the City of Petaluma. The survey documents American badger activity on the Open Space Preserve.

The *Biological Resources Assessment Report*, dated August 2014, was prepared by WRA Environmental Consultants. Dana Riggs was the Principal Biologist. The 2014 WRA Report was prepared for the Gardner Minor Subdivision Project Site.

The following extracts on badgers are from the *Soil Ecology* letter, dated May 29, 2019, prepared by Dana Riggs, Principal Biologist, formerly with WRA (pages 3, 4, 5 and 8).

No special-status wildlife species were observed in the Project Area during the site assessment conducted by WRA; however, signs of site use by one special-status species, American badger, were observed. There is one occurrence of American Badger on the property in 2009 that is the only documented occurrence in the statewide database within 5 miles of the site (CDFW 2014).

Surveys of the entire site were conducted in March 2013 by WRA and no evidence of recent use by badgers was found outside the northwest portion of the Property. A few inactive burrows (where no fresh dirt was present, mounds were grown over and/or cobwebs over the entrance were present) were found on the southwest corner of the site prior to current site development. A site walk conducted with Mr. Adam McKannay at CDFW confirmed that badgers were only present in the northwest corner of the Property, and that soil compaction (from historic uses) precluded badger activity elsewhere on the Property.

WRA's review of the statewide database, review of museum records, and a Project site evaluation by licensed qualified biologists yielded absolutely no evidence of badgers reproducing on the Project site. There are no entries citing evidence of natal activity, nor of any activity anywhere on the Project Site other than the northwest corner, and no documented occurrences anywhere in the vicinity in the last 10 years. Therefore, there is no scientific peer-reviewed evidence to support that badger natal territory is currently on the Project site. CDFW visited the site in 2012 and concluded there was no evidence of natal activity.

WRA performed a complete habitat assessment, surveys, and impact assessment in 2014 as described in the 2014 WRA Report, and according to the standard recommendations provided by CDFW. Following this, WRA contacted CDFW to work with the Department to establish appropriate mitigation measures as directed in the 2012 letter. In March 2014, Mr. McKannay of CDFW walked the site with the WRA Project biologist (Dana Riggs) to examine the site for evidence of use, and to confirm the limits of the extant population. It was concluded that only a small area of the site is currently used by badger (as of March 2014 and consistent with the findings from WRA's review of the site in 2013 and the records in the CNDDDB). At CDFW's direction, WRA prepared draft measures for CDFW to review; these measures were submitted to CDFW on June 3, 2014. CDFW provided an email response on July 18, 2014 approving all of the proposed measures with the addition of four added measures to include grading restrictions, environmental training, restrictions on disking, and limitations of fire protection activities. CDFW prepared a formal response approving the mitigation measures the biological impacts analysis and submitted the response to the County.

The findings of the Project biologist, Dana Riggs, have been affirmed by CDFW, the state agency tasked with oversight of all issues related to protected species and their habitat.

The following extracts on birds are from the *SoI Ecology* letter, dated May 29, 2019, prepared by Dana Riggs, Principal Biologist, formerly with WRA (page 6).

The Project biologist performed a complete review for special status birds in conformance with established scientific protocols and determined that as many as seven special status bird species may be present on the Project site. However, in accordance with CEQA.

Guidelines Section 15065, biologists determined that there were no potentially significant impacts to avian foraging habitat due to the relatively small size of the proposed development area compared with larger tracts of more suitable foraging habitat available on adjacent properties, which would ensure none of these populations would drop below self-sustaining levels. Furthermore, implementation of specific measures outlined in the MND Mitigation Measure BIO-13 will ensure impacts to nesting birds are avoided. The biological assessment was circulated to state agencies, including the California Department of Fish and Wildlife, without further comment from the agencies regarding nesting birds.

Wildlife Movement Corridors:

The proposed Lot 1 and 2 parcels are generally the same habitat and appear to have similar past land use patterns as the current Paula Lane Preserve area: that is, ecologically, they form a single, contiguous habitat unit, with badgers apparently actively using the westerly areas of proposed Lot 1 and 2, as well as areas of the Paula Lane Preserve. All of these areas together, represent a habitat “island” embedded in a rural residential matrix with municipal development of the City of Petaluma approaching from the east. Therefore, the area proposed for Lots 1 and 2 does not function as a “wildlife movement corridor.”

Existing Hydrology:

The site gently slopes down in a southerly direction and is accessed by Paula Lane. There are no creeks, ephemeral streams or other waters on the property. Drainage improvements will be designed to maintain off-site natural drainage patterns, and to limit post-development storm water levels and pollutant discharges.

Existing Noise:

The noise on the project site and in the neighborhood is typical of a residential neighborhood. The following noise may be heard on the project site:

- Noise generated by traffic traveling on Bodega Avenue,
- Noise generated by cars traveling up and down Paula Lane, and
- Noise generated by members of the public visiting the adjacent Open Space Preserve.

The Conditions of Approval include the following:

Agricultural activities occur in the area and noise, dust, odor, smoke and pesticide use may occur and are consistent with the Sonoma County General Plan Land Use designation for the area.

Noise shall be controlled in accordance with Table NE-2 (or an adjusted Table NE-2 with respect to ambient noise as described in General Plan 2020, Policy NE-1c,) as measured at the exterior property line of any affected residential or sensitive land use.

Permit Sonoma staff will investigate any noise complaints. If such investigation indicates that the appropriate noise standards have been or may have been exceeded, the permit holders shall be required to install, at their expense, additional professionally designed noise control measures. Failure to install the additional noise control measure(s) will be considered a violation of the use permit conditions. If noise complaints continue, Permit Sonoma shall investigate complaints. If

violations are found, Permit Sonoma shall seek voluntary compliance from the permit holder and thereafter may initiate an enforcement action and/or revocation or modification proceedings, as appropriate. (Ongoing)

Visual Analysis:

The project site is outside of the Scenic Corridor setback for Bodega Avenue. In terms of visual impact for CEQA purposes, only a small portion of the top floor of the existing residence on the designated remainder can be seen from Bodega Avenue, behind more substantial views of other existing buildings as shown in the two photos below. The exterior color of the residence is brown so it blends in with the tree tops and the surrounding trees. The building envelopes for the two new residences are located on portions of the new Lots 1 and 2 similar to the location of the existing residence on the overall Project Site. They are limited by zoning standards to a maximum height of 35 feet, and will be subject to design review, as part of the Project conditions of approval. Therefore, the new residences are expected to have a similar minimal visibility from Bodega Avenue. The portion of Bodega Avenue near the site is also developed with commercial properties, other residences and outbuildings.

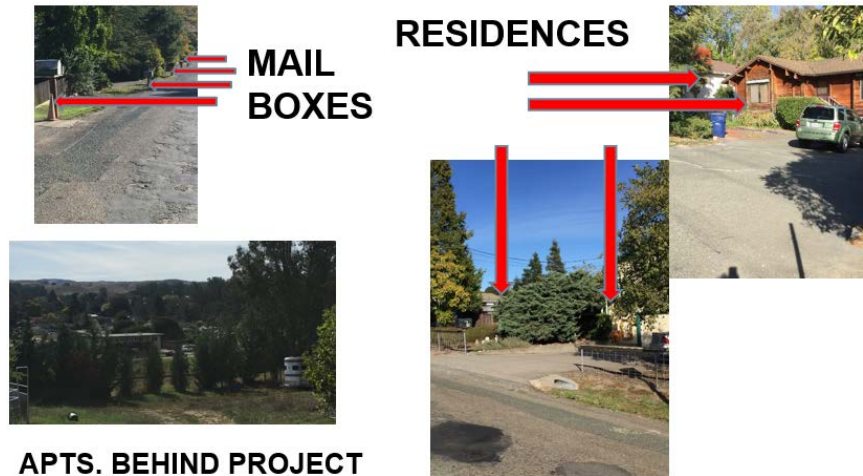
Views of the new residences from the Preserve are screened in large part by a ridge between the building envelopes and the Preserve. To the extent the new residences will be visible to public users of the Preserve, the views will be similar or less than visibility of other residential development adjacent to and across Paula Lane from the Preserve's public areas. The Preserve is not in an isolated rural area, but amid existing residential with nearby commercial development at the intersection of Bodega Avenue and Paula Lane.



These two photos were taken from Bodega Avenue west of Paula Lane.

The photos below along Paula Lane show the close proximity of the residences on narrow lots along the eastern side of the street. The mailboxes also indicate the narrowness of the residential lots. The photo below of the apartments behind the project site shows multi-family development

on the west side of the Project site, higher density development than proposed by the project.



ISSUES RAISED BY THE PUBLIC OR AGENCIES

A referral packet was drafted and circulated to inform and solicit comments from selected relevant local, State, and Federal agencies; and to special interest groups that were anticipated to take interest in the project.

Conditions were provided by the Grading and Storm Water Section, Project Review Health Specialist, Transportation & Public Works, County Surveyor, Fire Services, and the California Department of Fish and Wildlife. The following potential issues were raised as a result of the referral process: American Badger and its habitat, connection to City of Petaluma water, water quality of domestic well(s), and consistency with Petaluma General Plan 2025. These potential issues were addressed. The Final Conditions of Approval were approved by the Planning Commission.

The additional issues raised in the Appeal are: inadequate project description; inadequate project setting description including description of visual character, proximity of Bodega Avenue, ridgeline, existing hydrology, existing noise levels; existing trees impacts; and aesthetic impacts. Additional concerns regarding the American Badger were also raised. These additional issues have been addressed in this revised report.

The project description and project setting sections have been revised to include additional information. The proximity of Bodega Avenue is shown on maps and by photos. Topographic lines have been added to the tentative map and the top of the ridge has been labeled. Existing hydrology and noise levels have been added to the Setting section. Potential impacts are addressed in the Initial Study.

OTHER RELATED PROJECTS

There are no known private or public projects in the area that may affect the proposed project, especially any that could have cumulative impacts.

RESPONSIBLE AND TRUSTEE AGENCIES

Grading and building permits - Sonoma County Permit and Resource Management Department (Permit Sonoma) requires that grading and building permits be obtained for all new construction. The applicant will submit grading and drainage plans and obtain the permits prior to construction of the project.

If the future site development results in disturbance of more than one acre, then the State Water Resources Control Board (SWRCB) requires filing a Notice of Intent (NOI) with their agency to be covered under the National Pollutant Discharge Elimination System (NPDES) General Permit and preparation of a Storm Water Pollution Prevention Plan (SWPPP).

Since potential impacts to the American Badger, Burrowing Owl, and migratory birds will be avoided by the implementation of mitigation measures developed through consultation with the California Department of Fish and Wildlife (CDFW), no permits for impacts to these species will be required from the CDFW.

All required permits must be obtained prior to the occurrence of any new site development.

INITIAL STUDY CHECKLIST

This section analyzes the potential environmental impacts of this project based on the criteria set forth in the State CEQA Guidelines and the County's implementing ordinances and guidelines. For each item, one of four responses is given:

No Impact: The project would not have the impact described. The project may have a beneficial effect, but there is no potential for the project to create or add increment to the impact described.

Less Than Significant Impact: The project would have the impact described, but the impact would not be significant. Mitigation is not required, although the project applicant may choose to modify the project to avoid the impacts.

Potentially Significant Unless Mitigated: The project would have the impact described, and the impact could be significant. One or more mitigation measures have been identified that will reduce the impact to a less than significant level.

Potentially Significant Impact: The project would have the impact described, and the impact could be significant. The impact cannot be reduced to less than significant by incorporating mitigation measures. An environmental impact report must be prepared for this project.

Each question was answered by evaluating the project as proposed, that is, without considering the effect of any added mitigation measures. The Initial Study includes a discussion of the potential impacts and identifies mitigation measures to substantially reduce those impacts to a level of insignificance where feasible. All references and sources used in this Initial Study are listed in the Reference section at the end of this report and are incorporated herein by reference.

The Project Applicant has agreed to accept all mitigation measures listed in this checklist as conditions of approval of the proposed project and to obtain all necessary permits.

1. AESTHETICS:

Would the project:

a) Have a substantial adverse effect on a scenic vista?

Significance Level: No Impact

Comment: The project site is outside of the Scenic Corridor setback for Bodega Avenue. The project is not in an area designated as visually sensitive by the Sonoma County General Plan and the site is not part of a scenic vista.

In terms of visual impacts on Bodega Avenue for CEQA purposes, only a small portion of the top floor of the existing residence on the designated remainder can be seen from Bodega Avenue, behind more substantial views of other existing buildings. The exterior color of the existing residence is brown so it blends in with the tree tops and the surrounding trees. The building envelopes for the two new residences are located on portions of the new Lots 1 and 2 similar to the location of the existing residence on the overall Project Site. They are limited by zoning standards to a maximum height of 35 feet, and will be subject to design review, as part of the Project conditions of approval. Therefore, the new residences are expected to have similar minimal visibility from Bodega Avenue. The portion of Bodega Avenue near the site is also developed with commercial properties, other residences and outbuildings.

b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

Significance Level: No Impact

Comment: The parcel is not located on a site visible from a state scenic highway.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

Significance Level: Less than Significant with Mitigation Incorporation

Comment: The site is not located within a Scenic Resources area. However, it is within the boundaries of the West Petaluma Area Plan. This Area Plan includes a goal to “maintain or enhance existing views” through the following policies:

Policy 2.3.1 Protect visually vulnerable landscapes, such as ridgelines, unique scenic areas, and areas essential for defining the form of development in Petaluma.

Policy 2.3.2 Review new developments to minimize the impact on scenic quality and to insure landscape integrity is maintained.

Policy 2.3.3 Educate land owners about the advantages of scenic easements.

The project was reviewed for compliance with the first two policies and, as result, building envelopes were added to proposed Lots 1 and 2. These building envelopes place new structures generally behind the existing house, barn, and trees on the eastern boundary to maintain a sense of openness and reduce disruption of the ridgeline as seen from Bodega Highway and Paula Lane. The photos on page 16 illustrate how the existing structures located in front of the building envelopes on Lots 1 and 2 will provide substantial screening of the view from Bodega Avenue. The building envelopes are located below the top of the ridge and the maximum building height is 35 feet. The Planning Commission added the following Condition of Approval: “The proposed

residences on Lots 1 and 2 shall be subject to design review.”

Views of the new residences from the Preserve are screened in large part by a ridge between the building envelopes and the Preserve. To the extent the new residences will be visible to public users of the Preserve, the views will be similar or less than visibility of other residential development adjacent to and across Paula Lane from the Preserve’s public areas. The Preserve is not in an isolated rural area, but amid existing residential with nearby commercial development at the intersection of Bodega Avenue and Paula Lane.

With incorporation of the following mitigation measure, potential visual impacts will be reduced to a less than significant level.

Allowing the proposed lots to exceed the length to width ratio would be consistent with the prevailing development pattern on the area. Clustering the residences and retaining the symmetry of the lots (i.e. narrower frontages and deeper lots) maintains the development pattern and rural character of the area.

Mitigation:

Mitigation Measure AES-1: The following note will be placed on the map to ensure that all building occurs within the building envelopes or a modification is filed and reviewed:

NOTE ON MAP: “No building construction shall occur outside the building envelopes unless a Certificate of Modification is filed and approved. The scenic quality and landscape integrity for any changes to building envelope(s) must be consistent with the West Petaluma Area Plan.”

Mitigation Monitoring:

Mitigation Monitoring AES-1:

Prior to approving the subdivision map for recordation, Permit Sonoma will ensure that the note appears on the map.

d) *Create a new source of substantial light or glare which would adversely affect day or nighttime view in the area?*

Significance Level: Less than Significant Impact

Comment: The subdivision will result in two new parcels that could be developed with new residential uses consistent with residential uses in the immediate area. The site is not located within a Scenic Resources area. However, exterior lighting must be shielded as part of biological mitigation. See a complete discussion in the Biological Resources section of this document.

2. AGRICULTURE AND FOREST RESOURCES:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:

- a) *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?***

Significance Level: No Impact

Comment: According to the Sonoma County Important Farmlands Map, the project site has 4.60 +/- acres of Farmland of Local Importance and 1.43 +/- acres of Other Land. There is no Prime, Unique, or Farmland of Statewide Importance on the site.

- b) *Conflict with existing zoning for agricultural use, or Williamson Act Contract?***

Significance Level: No Impact

Comment: See response to 2.a. The project site is in the Agricultural and Residential zoning district which allows agricultural uses and the property is not included in a Williamson Act contract.

- c) *Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 4526) or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?***

Significance Level: No Impact

Comment: The property is not defined as forestland, timberland, or Timberland Production as defined by the California Code. The site is gently sloped and primarily open grassland.

- d) *Result in the loss of forest land or conversion of forest land to non-forest use?***

Significance Level: No Impact

Comment: See 2.c. above.

- e) *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use?***

Significance Level: No Impact

Comment: The project does not involve other changes in the environment that could result in conversion of farmland to non-agricultural use or forest land to non-forest use.

3. AIR QUALITY:

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

- a) *Conflict with or obstruct implementation of the applicable air quality plan?***

Significance Level: No Impact

Comment: The project consists of the creation of two new residential lots. No emissions shall occur other than that from normal residential traffic generated from two new residential lots.

Traffic generated from this project will be far below the thresholds for significant emissions under the Bay Area Air Quality Management District (BAAQMD).

The project is within the jurisdiction of the Bay Area Air Quality Management District. The District does not meet the Federal or State standards for ozone, and has adopted an ozone Attainment Plan and a Clean Air Plan in compliance with Federal and State Clean Air Acts. These plans include measures to achieve compliance with both ozone standards. The plans deal primarily with emissions of ozone precursors (nitrogen oxides and volatile organic compounds). The project will not conflict with the District's air quality plan because the proposed use will not emit significant quantities of ozone precursors or involve construction of transportation facilities that are not addressed in the adopted transportation plan.

b) *Violate any air quality standard or contribute substantially to an existing or projected air quality violation?*

Significance Level: Less than Significant Impact

Comment: See response to 3.a. No existing or projected air quality violations have been identified in the area. Because it will not cause significant long-term emissions of criteria pollutants, the project will not violate any air quality standard.

State and federal standards have been established for "criteria pollutants:" ozone precursors, carbon monoxide, sulfur dioxide and particulates (PM₁₀ and PM_{2.5}). The pollutants NO_x (nitrogen oxides) and hydrocarbons form ozone in the atmosphere in the presence of sunlight. Significance thresholds for ozone precursors, carbon monoxide and particulates have been established by BAAQMD. The principal source of ozone precursors is vehicle emissions, although stationary internal combustion engines must also be considered. BAAQMD generally does not recommend detailed NO_x and hydrocarbon air quality analysis for projects generating less than 2,000 vehicle trips per day. Given the low traffic generation of the project relative to the screening criteria, ozone precursor emissions would be less than significant.

Detailed air quality analysis for carbon monoxide is generally not recommended unless a project would generate 10,000 or more vehicle trips a day, or contribute more than 100 vehicles per hour to intersections operating at LOS D, E or F with project traffic. Given the low traffic generation of the project relative to the screening criteria, carbon monoxide emissions would be less than significant.

Wood smoke from fireplaces and wood stoves are sources of pollutants receiving increasing scrutiny and generating numerous complaints to the BAAQMD. Although constituting a very small percentage of the total PM₁₀ emissions on an annual basis, wood smoke is a major contributor to reduced visibility and reduced air quality on winter evenings in both urban and rural areas. Sonoma County building regulations restrict fireplaces to natural gas fireplaces, pellet stoves and EPA-Certified wood burning fireplaces or stoves. With the restriction on fireplace design, this would be a less than significant impact.

c) *Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable Federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?*

Significance Level: Less than Significant with Mitigation Incorporated

Comment: The BAAQMD is a non-attainment area for ozone precursors and PM₁₀ (fine particulate matter). See 3.b. for a discussion of ozone emissions. The project will not have a significant long-term effect on PM₁₀, because the use of the site will remain residential with potential small-scale agricultural uses.

However, there could be a significant short-term emission of dust (which would include PM₁₀) during construction of public improvements and private improvements on Lots 1 and 2. These emissions could be significant at the project level, and would also contribute to a cumulative impact. The impact could be reduced to less than significant by including dust control as described in the following mitigation measure:

Mitigation:

Mitigation Measure AIR-1: NOTE ON MAP: The following dust control measures will be included in the project:

- i. Water or alternative dust control method shall be sprayed to control dust on construction areas, soil stockpiles, and staging areas during construction as directed by the County.
- ii. Trucks hauling soil, sand and other loose materials over public roads will cover the loads, or will keep the loads at least two feet below the level of the sides of the container, or will wet the load sufficiently to prevent dust emissions.
- iii. Paved roads will be swept as needed to remove soil that has been carried onto them from the project site.

Mitigation Monitoring:

Mitigation Monitoring AIR-1: Permit Sonoma shall ensure that the measures are listed on all site alteration, grading, or improvement plans, prior to issuance of grading or building permits. After the mitigation measure is reviewed at plan check, implementation of the mitigation measures will be subject to inspection by Permit Sonoma.

d) *Expose sensitive receptors to substantial pollutant concentrations?*

Significance Level: No Impact

Comment: See responses to 3.a, 3.b and 3.c. There are no sensitive uses adjacent to or near this site. The project will not expose sensitive receptors to substantial pollutant concentrations.

e) *Create objectionable odors affecting a substantial number of people?*

Significance Level: Less than Significant with Mitigation Incorporated

Comment: Construction equipment may generate odors during project construction. The impact would be less than significant and it would be a short-term impact that ceases upon completion of the project. (5,2)

Mitigation:

Mitigation Measure AIR-2: NOTE ON PLANS: The use of diesel equipment will be minimized by turning machinery off when not in use, and equipment will be properly maintained. All portable equipment with independent generation capacity on site will be registered with the California Air Resources Board.

Mitigation Monitoring:

Mitigation Monitoring AIR-2: Permit Sonoma staff shall ensure that the measures are listed on all site alteration or grading plans, prior to issuance of grading permits

4. BIOLOGICAL RESOURCES:

Special-Status Species

Special status species are afforded special recognition and protection under state and federal regulations. Special Status species are defined as those plants and animals that are listed by

federal, state, or local resource conservation agencies and organizations, such as U.S. Fish and Wildlife Service (USFWS), NOAA's National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), or the California Native Plant Society (CNPS). At the Federal level, species are officially listed as Threatened (FT) or Federally Endangered (FE), or are considered candidates for listing by the USFWS or NMFS. At the State level, species are officially listed as Rare (CR), Threatened (CT), Endangered (CE), or Species of Special Concern (CSC) by the CDFW. Also included are species recognized by CNPS as rare, endangered or threatened in California and elsewhere (1B); rare, threatened or endangered in California but more common elsewhere (2); plant species for which additional information is required to make a determination (3); or plants of limited distribution that are considered vulnerable and potential candidates for special status (4). (CNPS 2016).

Would the project:

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

Significance Level: Less than Significant with Mitigation Incorporated

Comment: The *American Badger Habitat Survey* for the Paula Lane Proposed Subdivision, dated January 2004, was prepared by Kimberley Fitts and Deriek Marshall. The Paula Lane Subdivision Project was a 21 home residential subdivision that was proposed 2 parcels equaling 11.22 acres at the southwest corner of Paula lane and Sunset Drive. The proposed development was to be located on the parcels that are currently the Open Space Preserve owned by the City of Petaluma north of the Project site. The survey documents American badger activity on the Open Space Preserve.

In December 2012, a letter to Permit Sonoma from Scott Wilson at CDFW (formerly California Department of Fish and Game) states under recommendations: "DFG recommends the County of Sonoma and applicant evaluate whether the Project will result in impacts to badgers and burrowing owls. The information gained from these steps will inform any subsequent avoidance, minimization and mitigation measures...If the Project will impact badgers, burrowing owls or their habitat, adequate mitigation to protect and restore existing habitat that can support badger and burrowing owls should be required."

In March 2013, WRA Environmental Consultants, Inc. performed an assessment of biological resources. A Biological Resources Assessment Report, dated August 2014, was prepared by. Although no special-status species were observed in the Project Area during the site assessment, signs of use by the American badger were observed. Recent badger activity (burrows or digs) was observed and mapped in the northwestern portion of the project area, east of the eucalyptus and northwest of the large barn, at the time of the site visit. No evidence of badger use was found outside this area, including the eastern portion of the property where limited residential development is proposed. The American badger is a CDFW Species of Special Concern. Loss of annual grasslands and competition from non-native or domestic animals, including feral cats, are the primary threats to badger foraging habitat. The WRA biologist noted that large numbers of feral cats were present on the adjacent Paula Lane Open Space Preserve. The feral cats on this adjacent open space preserve can reduce the availability of prey for the badgers and are a primary source of disease transmission to wildlife.

In April 2013, some minor grading was conducted in the proposed remainder lot including partial construction of a riding arena, a round pen, a BMX bike path, and a small parking area. The nearest burrow showing signs of recent use, was close to 250 feet from where the grading occurred. Within 100 feet of the area where grading occurred, no active badger burrows were observed.

The activity on the proposed remainder lot that may 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 CDFW or USFWS is the presence of feeding bowls and a watering bucket for the feral cats immediately adjacent to the American badger habitat on the project property. Feeding bowls also attract "urban" wildlife that compete with badgers for food, such as raccoons, skunks, common raven and domestic cats.

There is a conservation easement on the adjacent Paula Lane Open Space Preserve to protect the American badger and their habitat. Under the Sonoma County Agricultural Preservation and Open Space District Conservation Easement (SCAPOSD), the American badger is listed under natural resources, which are one of the conservation values. The purpose of the easement is to protect conservation values and ensure the preservation of natural resources. The City of Petaluma must comply with the SCAPOSD Conservation Easement. The presence and feeding of the large number of feral cats is out of compliance with the easement and is a threat to the American Badger on the Project property.

Based on the conclusions of the WRA biological report, the project area likely represents the southeastern extent of a single territory for one badger pair. Only a very small amount (less than one percent) of the total available foraging habitat within a typical territory would be modified by development of the property. An American Badger Habitat Area has been designated on the southeastern portions of Lots 1 and 2. See American Badger and Wildlife Habitat Area Map on page 9. Mitigation measures were developed through consultation with the CDFW including a site visit attended by WRA and Adam McKannay, CDFW, on May 21, 2014.

Impacts to any listed species would be reduced to less than significant with the following use restrictions and mitigation measures from the WRA biological report incorporated into the project. These restrictions and mitigation measures have been added to the Tentative Map in American Badger and Wildlife Habitat Area Notes. See Existing Wildlife on page 13 for additional information.

Mitigation:

Mitigation Measure BIO-1: NOTE ON PLANS AND MAP: "Only compatible uses such as but not limited to: horse and livestock grazing; agricultural uses; passive recreational related uses (that do not include grading); rural/permit exempt structures (e.g. small shed, gazebo, livestock rain shelter) with dirt or raised flooring; vegetation management (control of invasive species and fire management); or similar uses shall be allowed in the designated American Badger and Wildlife Habitat Area, excluding the designated Common Area within a portion of the American Badger and Wildlife Habitat Area where only passive recreational uses and vegetation management are allowed. Disking of the American Badger and Wildlife Habitat Area, including the Common Area, should be avoided."

Mitigation Monitoring:

Mitigation Monitoring BIO-1: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Grading permits for ground disturbing activities shall not be approved for issuance by Project Review staff until the above note is printed on applicable building, grading and improvement plans. The applicant shall be responsible for notifying construction contractors about these requirements.

Mitigation:

Mitigation Measure BIO-2: NOTE ON PLANS AND MAP: No grading, spoil sites or construction staging will occur within the designated badger habitat area. Excavation and haul equipment shall be confined to the designated access routes, designated staging areas, and designated excavation areas. The badger habitat area should be appropriately flagged and identified during construction to avoid accidental incursions by heavy equipment that could result in excessive soil compaction that may impact potential burrow sites.

Mitigation Monitoring:

Mitigation Monitoring BIO-2: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Grading permits for ground disturbing activities shall not be approved for issuance by Project Review staff until the above note is printed on applicable building, grading and improvement plans. The applicant shall be responsible for notifying construction contractors about these requirements.

Mitigation:

Mitigation Measure BIO-3: NOTE ON PLANS AND MAP: A qualified biologist shall hold a training session for staff responsible for performing ground disturbing construction activities (e.g. activities involving heavy equipment used in excavation of foundations or other site grading). Staff will be trained to recognize American badgers and their habitats. Staff will also be trained to use protective measures to ensure that American badgers are not adversely impacted by ground disturbing construction activities. At least one staff person with up-to-date training in American badger protective measures shall be present at the site during all ground disturbing activities.

Mitigation Monitoring:

Mitigation Monitoring BIO-3: Grading permits for ground disturbing activities shall not be approved for issuance by Project Review staff until the above note are printed on applicable building, grading and improvement plans. The applicant shall be responsible for notifying construction contractors about training requirement.

Mitigation:

Mitigation Measure BIO-4: NOTE ON PLANS AND MAP: Prior to any grading or construction adjacent to the American Badger and Wildlife Habitat Area in designated building envelopes and/or septic areas, a pre-construction survey shall be performed by a qualified biologist to map the location of any potential dens. If potential dens are observed, a minimum 300-foot no disturbance setback/buffer will be established around the potential den during the breeding/pupping/rearing season (December 1 to May 31). During the non-breeding season (June 1 to November 31), a minimum 100-foot setback/buffer will be established.

- i. If planned construction activities are to occur within the 100-foot setback, a qualified biologist will perform track plate and/or push camera surveys to determine occupancy in consultation with CDFW. If occupied, the biologist will install one-way doors to exclude badgers temporarily until work is completed. No work will occur within the setback until it is confirmed in consultation with CDFW that the den is no longer occupied.

Mitigation Monitoring:

Mitigation Monitoring BIO-4: Grading permits for ground disturbing activities shall not be approved for issuance by Project Review staff until the above notes are printed on applicable building, grading and improvement plans. The applicant shall be responsible for notifying construction contractors about the pre-construction survey requirement.

Mitigation:

Mitigation Measure BIO-5: NOTE ON PLANS AND MAP: Downcast lighting (or landscape lighting) is required for outdoor placement on any structures that may result in indirect lighting impacts to badgers that may be located in the American Badger and Wildlife Habitat Area. Ambient lighting from these structures is not expected to negatively affect any badgers present in the habitat area based on the presence of existing ambient lighting surrounding both the habitat area and adjacent Open Space Preserve in the form of streetlamps and existing residential and commercial structures. It is expected that existing topography will prevent lighting impacts from affecting wildlife use in the Open Space Preserve to the north.

Mitigation Monitoring:

Mitigation Monitoring BIO-5: Permit Sonoma staff shall ensure that downcast lighting (or landscape lighting) is shown on all building and improvement plans, prior to issuance of building permits.

Mitigation:

Mitigation Measure BIO-6: NOTE ON MAP: Fire protection activities, including mowing, should be limited to those deemed necessary by local fire authorities and ordinances, and should be implemented in such a way that minimizes impacts to American Badger to the extent feasible. It is understood that fire danger varies by season and that the extent of fire management activities will vary year by year.

Mitigation Monitoring:

Mitigation Monitoring BIO-6: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Plans shall not be approved for issuance by Project Review staff until the above note is printed on applicable building and improvement plans.

Mitigation:

Mitigation Measure BIO-7: NOTE ON PLANS AND MAP: Prior to initiation of Project activities, a pre-construction burrowing owl survey shall be performed by a qualified biologist in the badger habitat area to determine if present.

Mitigation Monitoring:

Mitigation Monitoring BIO-7: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Plans shall not be approved for issuance by Project Review staff until the above note is printed on applicable building and improvement plans.

Mitigation:

Mitigation Measure BIO-8: NOTE ON PLANS AND MAP: If the survey finds burrowing owl within 200 meters of the Project Area during the breeding season (April 1 to October 15), the biologist will establish a no-disturbance buffer of no less than 200 meters around the active nest burrow. Any modification or reduction to these buffers will only be done on a case by case basis with written concurrence from CDFW and will include monitoring by the qualified biologist to ensure buffers are adequate to avoid any disturbance to nesting activity. If disturbance is observed, the buffer will be increased. Additional measures to further reduce or avoid disturbances such as temporary screens may be employed with written concurrence and approval of such methods by CDFW.

Mitigation Monitoring:

Mitigation Monitoring BIO-8: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Plans shall not be approved for issuance by Project Review staff until the above note is printed on applicable building and improvement plans.

Mitigation:

Mitigation Measure BIO-9: NOTE ON PLANS AND MAP: The burrowing owl shall be monitored by a qualified biologist, and the exclusion zone will be removed once it is determined by the biologist that the young have fledged from the nest and with written concurrence from CDFW.

Mitigation Monitoring:

Mitigation Monitoring BIO-9: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Plans shall not be approved for issuance by Project Review staff until the above note is printed on applicable building and improvement plans.

Mitigation:

Mitigation Measure BIO-10: NOTE ON PLANS AND MAP: If burrowing owls are detected during the non-breeding season prior to construction activities, a buffer of 50 meters shall be established.

Mitigation Monitoring:

Mitigation Monitoring BIO-10: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Plans shall not be approved for issuance by Project

Review staff until the above note is printed on applicable building and improvement plans.

Mitigation:

Mitigation Measure BIO-11: NOTE ON PLANS AND MAP: The following BMPs shall be implemented during the Proposed Project activities:

- No pesticides or rodenticides shall be employed or used.
- Construction will be limited to daylight hours only and artificial nighttime lighting on the Project site will be shielded, directed downward and minimized at night.
- Environmental training will be provided to all persons working on the Project site prior to the initiation of Project-related activities and training materials and briefings will include all biological resources that may be found on or in the vicinity of the Project site, the laws and regulations that protect those resources, the consequences of non-compliance with those laws and regulations and a contact person in the event that protected biological resources are discovered on the Project site.

Mitigation Monitoring:

Mitigation Monitoring BIO-11: Prior recordation of the Parcel Map, the Project Review planner shall ensure the note above is on the map. Plans shall not be approved for issuance by Project Review staff until the above note is printed on applicable building and improvement plans.

- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?***

Significance Level: No Impact

Comment: The WRA biological report determined there is no riparian habitat or other sensitive natural community on the project site. The nearest creek is located approximately 1/3 mile to the southwest, across Bodega Avenue. Therefore, this project will have no impact to riparian habitat or sensitive natural communities.

- c) *Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?***

Significance Level: No Impact

Comment: The WRA biological report determined there are no wetlands or waters on the project site. Therefore, this project will have no impact to these waters.

- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?***

Significance Level: Less than Significant with Mitigation Incorporated

Comment: There are no waterways on the site. The WRA biological report includes the following conclusion: "Non-native annual grassland habitat in the northwestern quarter of the Project Area appears to be part of a corridor connecting open space habitat to the west to the Paula Lane Open Space Preserve located north of the Project Area. Off-site dispersal barriers to the south include fencing that abuts pavement and lacks openings large enough to allow the passage of wildlife, and a heavily traversed two-lane road bordered by commercial development and bright night lighting. Dense residential development to the west precludes movement in this direction. While common mammal species and American Badger may occasionally occur in areas to the south of the Project Area while foraging this area does not provide a viable corridor due to barriers. Mitigation measures to protect the dispersal corridor connecting open space to the north and west are provided."

In a *Sol Ecology* letter from Dana Riggs, Principal Biologist, formerly with WRA, dated May 29, 2019, it states there is no wildlife corridor on these sites: "The Project site and Preserve provide contiguous habitat to one another, but they do not form a wildlife corridor that would be considered environmentally sensitive."

The following excerpt from the *Sol Ecology* letter addresses the question whether nursery sites are present on the Project site: "WRA's review of the statewide database, review of museum records, and a Project site evaluation by licensed qualified biologists yielded absolutely no evidence of badgers reproducing on the Project site. There are no entries citing evidence of natal activity, nor of any activity anywhere on the Project Site other than the northwest corner, and no documented occurrences anywhere in the vicinity in the last 10 years. Therefore, there is no scientific peer-reviewed evidence to support that badger natal territory is currently on the Project site. CDFW visited the site in 2012 and concluded there was no evidence of natal activity."

To ensure that the project does not impact movement, the consultant recommends a mitigation measure requiring pass-through fencing.

Mitigation:

Mitigation Measure BIO-12: NOTE ON PLANS AND MAP: Pass-through fencing shall be installed around the badger habitat area where it borders the Open Space Preserve to the north and the adjacent property to the west. A pass-through fence having at minimum a 12-inch opening from the ground to the bottom of the fence is recommended to allow badgers to move through the property; the 12-inch opening is based on the upper range of badger burrow entrance heights (Reid 2006). A no-climb fence may be used, provided the 12-inch opening at the bottom is maintained. The bottom wire or, if a no-climb fence, the bottom of the fence should be free from barbs to avoid entanglement. No screening, slats or weatherproofing material on the pass-through fence shall be installed in order to avoid the appearance of a visual barrier.

Mitigation Monitoring:

Mitigation Monitoring BIO-12: Prior to recordation of the Parcel Map, the Permit Sonoma shall ensure the note above is on the map. Plans shall not be approved for issuance by Project Review staff until the above note is printed on applicable building and improvement plans.

Comment: The WRA biological report includes the following information regarding breeding birds: "Golden eagle, white-tailed kite, Nuttall's woodpecker, loggerhead shrike, and grasshopper sparrow are special-status bird species with potential to occur and nest in the Project Area or immediate surrounds. Although many of the mature trees will be retained, Project activities have the potential to result in indirect nest abandonment, which would be considered take under the Migratory Bird Treaty Act (MBTA). WRA recommends the following measures be implemented to avoid take of special status birds and breeding birds protected by the MBTA and California Fish and Game Code.

Mitigation:

Mitigation Measure BIO-13: NOTE ON PLANS AND MAP: If ground disturbance or removal of vegetation occurs between February 1 and June 30 (breeding season), preconstruction surveys should be performed by a qualified biologist no more than 14 days prior to commencement of such activities to determine the presence and location of nesting bird species. If ground disturbance or removal of vegetation occurs between July 1 and August 31 (breeding season), pre-construction surveys should be performed within 30 days prior to such activities. If active nests are present, establishment of temporary protective breeding season buffers will avoid direct mortality of these birds, nests or young. The appropriate buffer distance is dependent on the species, surrounding vegetation, and topography and should be determined by a qualified biologist as appropriate to prevent nest abandonment and direct mortality during construction. Ground disturbance and removal of vegetation within the Project Area does not require preconstruction surveys if performed between September 1 and January 31 (non-breeding

season).

Mitigation Monitoring:

Mitigation Monitoring BIO-13: Prior recordation of the Parcel Map, the Permit Sonoma shall ensure the note above is on the map. Plans shall not be approved for issuance by Project Review staff until the above note is printed on applicable building and improvement plans.

- e) *Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance?***

Significance Level: Less than Significant with Mitigation Incorporation

Comment: The Sonoma County Zoning Code includes three ordinances that regulate tree removal on private land; the Tree Protection and Replacement Ordinance (Sec.26-88-010(m)) is the only one applicable to this project. This ordinance provides protection to certain trees greater than 9-inches in diameter. The project site contains several protected oak trees, which will remain. The following mitigation measure will ensure the project is consistent with the tree protection ordinance.

Mitigation:

Mitigation Measure BIO-14: NOTE ON PLANS AND MAP: "All development on the subject site is subject to the Sonoma County Tree Protection and Replacement Ordinance. Protected trees, their protected perimeters, and whether they are to be retained or removed must be clearly shown on the improvement, grading, septic and building permit plans. Trees that are proposed to be removed or are damaged during construction activities must be replaced in accordance with the Tree Protection ordinance. An arborist report is required for any grading or construction proposed within the protected perimeters of any protected tree. The project construction manager shall maintain all tree protection barriers in good condition at all times during all site disturbing activities. If any violation to this condition occurs, construction will be halted until the tree protection barriers have been reinstalled at the approved location(s)."

Mitigation Monitoring:

Mitigation Monitoring BIO-14a: Prior recordation of the Parcel Map, the Project Review planner shall ensure the tree protection note is on the map.

Mitigation Monitoring BIO-14b: Prior to issuance of Building, Grading, and/or Septic permits, the applicant shall provide proof to Permit Sonoma, via photographs, that all necessary tree protection barriers have been installed at the driplines of all trees intended for retention.

- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?***

Significance Level: No Impact

Comment: Habitat conservation plans and natural community conservation plans are site-specific plans to address effects on sensitive species of plants and animals. The Biological Resources Assessment Report prepared by WRA in August 2014 does not identify the project site as subject to a habitat conservation plan or natural community conservation plan.

5. CULTURAL RESOURCES:

On December 8, 2016, Assembly Bill 52 Project Notifications were sent to the Lytton Rancheria of California, Middletown Rancheria Band of Pomo Indians, Mishewal Wappo Tribe of Alexander Valley, The Federated Indians of Graton Rancheria, Cloverdale Rancheria Band of Pomo Indians and Kashia Pomo's Stewart's Point Rancheria. These Native American tribes were invited to consult on the project pursuant to Public Resources Code sections 21080.3.1 and 21080.3.2. No

requests for consultation were received from any tribe.

Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

Significance Level: Less than Significant Impact

Comment: A cultural resources study was prepared for the project by Architectural Resources Service on January 9, 2013. The report found that, “no cultural resources were identified.” The report is limited to an earlier configuration of Lots 1 and 2. The proposed configuration of Lots 21 and 2 covers approximately one additional acre. Given the lack of identified resources and inclusion of a standard mitigation measure describing the procedure if cultural resources are discovered, an updated report was not requested.

A standard condition of approval requires the following language be printed on the map:

Mitigation:

Mitigation Measure CUL-1: NOTES ON PLANS: “If archaeological materials such as pottery, arrowheads or midden are found, all work shall cease and Permit Sonoma staff shall be notified so that the find can be evaluated by a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists). Artifacts associated with prehistoric sites include humanly modified stone, shell, bone or other cultural materials such as charcoal, ash and burned rock indicative of food procurement or processing activities. Prehistoric domestic features include hearths, firepits, or house floor depressions whereas typical mortuary features are represented by human skeletal remains. Historic artifacts potentially include all by-products of human land use greater than 50 years of age including trash pits older than fifty years of age. The developer shall designate a Project Manager with authority to implement the mitigation prior to issuance of a building/grading permit. When contacted, a member of Permit Sonoma Project Review staff and the archaeologist shall visit the site to determine the extent of the resources and to develop proper procedures required for the discovery. No work shall commence until a protection plan is completed and implemented subject to the review and approval of the archaeologist and Project Review staff. Mitigation may include avoidance, removal, preservation and/or recordation in accordance with accepted professional archaeological practice.”

“If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and PRMD staff, County Coroner and a qualified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the Coroner so that a “Most Likely Descendant” can be designated.”

Mitigation Monitoring:

Mitigation Monitoring CUL-1: Permit Sonoma shall verify that all permits issued for this project include the above note on the plans.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Significance Level: Less than Significant with Mitigation Incorporated

Comment: There are no known archaeological resources on the site, but the project could uncover such materials during construction. The following measure will reduce the impact to less than significant.

Mitigation:

Mitigation Measure CUL-2: NOTE ON PLANS: If archaeological resources are found, all earthwork in the vicinity of the find shall cease, and Permit Sonoma staff and any potentially affected Native American tribe shall be notified so that the find can be evaluated by a qualified paleontologist. When contacted, a member of Permit Sonoma Project Review staff and the Tribe plus the project archaeologist shall visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. No further excavations in the vicinity of the find shall commence until a mitigation plan is approved and completed subject to the review and approval of the archaeologist, Project Review staff and the Tribe. Any appropriate Federal agencies shall be contacted.

Mitigation Monitoring:

Mitigation Monitoring CUL-2: Permit Sonoma shall verify that all permits issued for this project include the above note on the plans.

c) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

Significance Level: Less than Significant with Mitigation Incorporated

Comment: The project would not directly or indirectly destroy a unique paleontological resource or unique geologic feature. However, the project could potentially uncover previously undiscovered paleontological resources during project construction. The following mitigation measure will reduce the impact to less than significant.

Mitigation:

Mitigation Measure CUL-3: NOTE ON PLANS: If paleontological resources are found, all earthwork in the vicinity of the find shall cease, and Permit Sonoma staff shall be notified so that the find can be evaluated by a qualified paleontologist. When contacted, a member of Permit Sonoma Project Review staff and the paleontologist shall visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. No further excavations in the vicinity of the find shall commence until a mitigation plan is approved and completed subject to the review and approval of the paleontologist and Project Review staff. Local tribes and the appropriate Federal agencies shall be contacted.

Mitigation Monitoring:

Mitigation Monitoring CUL-3: Permit Sonoma shall verify that all permits issued for this project include the above note on the plans.

d) *Disturb any human remains, including those interred outside of formal cemeteries?*

Significance Level: Less than Significant with Mitigation Incorporated

Comment: No burial sites are known in the vicinity of the project, and most of the project site has already been disturbed by past construction. In the event that human remains are unearthed during construction, state law requires that the County Coroner be notified to investigate the nature and circumstances of the discovery. At the time of discovery, work in the immediate vicinity would cease until the Coroner permitted work to proceed. If the remains were determined to be prehistoric, the find would be treated as an archaeological site and the mitigation measure described in item 5.b above would apply. (1, 6)

As per the Native American Heritage Commission's check of the Sacred Lands data base, no sacred sites were identified.

Mitigation:

Mitigation measure described in item 5.b above would apply. (1, 6)

Mitigation Monitoring:

Mitigation monitoring described in item 5.b above would apply.

6. GEOLOGY AND SOILS:

Would the project:

- a) ***Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:***
 - i. ***Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.***

Significance Level: Less than Significant Impact

Comment: See response to 6.a.ii. The Sonoma County General Plan, Earthquake Fault Hazard Areas/Major Fault Hazard Zones map, PS-1b, identifies that the subject site is not located near any identified fault zones.

- ii. ***Strong seismic ground shaking?***

Significance Level: Less than Significant with Mitigation Incorporated

Comment: See response to 6.a.i. The Sonoma County General Plan, Ground Shaking Hazard Area map, Figure PS-1a, identifies the subject site to be located in an area subject to very strong ground shaking. All of Sonoma County is subject to seismic shaking that would result from earthquakes along the San Andreas, Healdsburg-Rodgers Creek, and other faults. Predicting seismic events is not possible, nor is providing mitigation that can entirely reduce the potential for injury and damage that can occur during a seismic event. However, using accepted geotechnical evaluation techniques and appropriate engineering practices, potential injury and damage can be diminished, thereby exposing fewer people and less property to the effects of a major damaging earthquake. The design and construction of future dwellings on new parcels are subject to load and strength standards of the California Building Code (CBC), which take seismic shaking into account. Project conditions of approval require that building permits be obtained for all construction and that the project meet all standard seismic and soil test/compaction requirements. The project would therefore not expose people to substantial risk of injury from seismic shaking.

Mitigation:

Mitigation Measure GEO-1: NOTE ON PLANS: Earthwork, grading, trenching, backfilling and compaction operations shall be conducted in accordance with the erosion control provisions of the Drainage and Storm Water Management Ordinance (Chapter 11, Sonoma County Code and Building Ordinance (Chapter 7, Sonoma County Code). Construction activities shall meet the California Building Code regulations for seismic safety. All work shall be subject to inspection by Permit Sonoma and must conform to all applicable code requirements.

Mitigation Monitoring:

Mitigation Monitoring GEO-1: The grading permit for ground disturbing activities shall not be approved for issuance by Project Review staff until the above notes are printed on applicable grading and improvement plans. The applicant shall be responsible for notifying construction contractors about code requirement.

Mitigation:

Mitigation Measure GEO-2: NOTE ON MAP: The design of earthwork, cuts and fills, drainage, pavements, utilities, foundations and structural components shall conform with the specifications and criteria contained in the project geotechnical report. The geotechnical engineer shall submit

an approval letter for the engineered grading plans prior to issuance of the grading permit. Prior to final of the grading permit the geotechnical engineer shall also inspect the construction work and shall certify to PRMD, prior to the acceptance of the improvements that the improvements have been constructed in accordance with the geotechnical specifications.

Mitigation Monitoring:

Mitigation Monitoring GEO-2: Permit Sonoma Plan Check staff will ensure plans are in compliance with geotechnical requirements. Permit Sonoma inspectors will ensure construction is in compliance with geotechnical requirements.

iii. Seismic-related ground failure, including liquefaction?

Significance Level: Less than Significant Impact

Comment: See response to 6.a.ii. The Sonoma County General Plan map Liquefaction Hazard Areas map, Figure PS-1c, identifies that the subject site is not located in an area subject to liquefaction. The Sonoma County Building Official may require the foundations of any proposed structures to be designed to withstand liquefaction if the required geotechnical report indicates the strong possibility of liquefaction. Based on standard permitting requirements, the project will have no significant risk of loss, injury or death from seismic ground failure or liquefaction.

iv. Landslides?

Significance Level: Less than Significant Impact

Comment: The Sonoma County General Plan, Deep-seated Landslide Hazard Areas/Very High Landslide Susceptibility Area, Figure PS-1d, identifies that subject site to not be located in a known landslide area with predominantly less than 15% slopes.

b) Result in substantial soil erosion or the loss of topsoil?

Significance Level: Less than Significant with Mitigation Incorporated

Comment: See responses to 6.ii, 6.iii and 6.a.iv. Future site development on Lots 1 and 2 may include grading and cuts and fills which require the issuance of a grading permit. Unregulated grading, both during and post construction, has the potential to increase the volume of runoff from a site which could have adverse downstream flooding and further erosional impacts, and increase soil erosion on and off site which could adversely impact downstream water quality.

However, in regard to potential water quantity impacts, County grading ordinance design and adopted best management practices require that storm water facilities be engineered to treat storm events and associated runoff to the 85 percentile storm event. Adopted flow control best management practices must be designed to treat storm events and associated runoff to the channel forming discharge storm event, which is commonly referred to at the two year storm event. Required inspection by County inspectors insures that all work is constructed according to the approved plans. These ordinance requirements and adopted best management practices are specifically designed to maintain potential project water quantity impacts at a less than significant level during and post construction.

In regard to potential water quantity impacts, County grading ordinance design and adopted BMPs require that storm water facilities be engineered to treat storm events and associated runoff to the 85 percentile storm event. Adopted flow control BMPs must be designed to treat storm events and associated runoff to the channel forming discharge storm event, which is commonly referred to at the two year storm event. Required inspection by County inspectors insures that all work is constructed according to the approved plans. These ordinance requirements and adopted best management practices are specifically designed to maintain potential project water quantity impacts at a less than significant level during and post

construction.

County grading ordinance design requirements, adopted County grading standards and BMPs (such as silt fencing, straw wattles, construction entrances to control soil discharges, primary and secondary containment areas for petroleum products, paints, lime and other materials of concern, etc.), mandated limitations on work in wet weather, and standard grading inspection requirements, are specifically designed to reduce or eliminate potential water quality impacts to a less than significant level during project construction.

For post construction water quality impacts, adopted grading permit standards and best management practices require creation of areas that allow storm water to be detained, infiltrated, or retained for later use. Other adopted water quality best management practices include storm water treatment devices based on filtering, settling or removing pollutants. These construction standards are specifically designed to maintain potential water quality grading impacts at a less than significant level post construction.

The County adopted grading ordinances and standards and related conditions of approval which enforce them are specific, and also require compliance with all standards and regulations adopted by the State and Regional Water Quality Control Board, such as the Standard Urban Stormwater Mitigation Plan (SUSMP) requirements and any other adopted BMPs. Therefore, no significant adverse soil erosion or related soil erosion water quality impacts are expected given the mandated conditions and standards that need to be met. See further discussion of related issues (such as maintenance of required post construction water quality facilities) under section 8 Hydrology and Water Quality.

There is a possibility that erosion control measures could fail. This impact could be reduced to less than significant by the mitigation measures below.

Mitigation:

Mitigation Measure GEO-3: NOTE ON MAPS AND PLANS: The project site shall be inspected by applicant's qualified engineer or qualified professional after storm events that produce 1 inch of rain or greater within 24 hour period in the City of Petaluma area. During every inspection, areas of significant erosion or erosion control device failure shall be noted and appropriate remedial actions will be taken immediately. If erosion control measures appear to be effective for three consecutive site inspections following 1-inch storm events, then site inspections will only be required following storm events that result in 2 inches of rain, or greater, within a 24-hour period in the City of Petaluma area. At the end of the rainy season, the applicant's qualified engineer or qualified professional will re-inspect the site and evaluate the effectiveness of the erosion control measures that were used. Copies of the completed inspection forms and documentation of remedial actions implemented will be submitted to the County Engineering Division.

Mitigation Monitoring:

Mitigation Monitoring GEO-3: Permit Sonoma will review the submitted inspection forms and documentation of remedial actions implemented. If there were problem areas at the site, necessary recommendations will be made or notices of violation issued to ensure required protection and compliance.

Mitigation:

Mitigation Measure GEO-4: NOTE ON MAPS AND PLANS: The applicant shall submit an Erosion and Sediment Control Plan prepared by a registered professional engineer as an integral part of the grading plan. The Erosion and Sediment Control Plan shall be subject to review and approval of the Permit Sonoma prior to the issuance of a grading permit. The Plan shall include temporary erosion control measures to be used during construction of cut and fill slopes, excavation for foundations, and other grading operations at the site to prevent discharge of sediment and contaminants into the drainage system. The Erosion and Sediment Control Plan shall include the following measures as applicable:

- i. Throughout the construction process, ground disturbance shall be minimized and existing vegetation shall be retained to the extent possible to reduce soil erosion. All construction and grading activities, including short-term needs (equipment staging areas, storage areas and field office locations) shall minimize the amount of land area disturbed. Whenever possible, existing disturbed areas shall be used for such purposes.
- ii. All drainage ways, wetland areas and creek channels shall be protected from silt and sediment in storm runoff through the use of silt fences, diversion berms and check dams. Fill slopes shall be compacted to stabilize. All exposed surface areas shall be mulched and reseeded and all cut and fill slopes shall be protected with hay mulch and /or erosion control blankets as appropriate.
- iii. All erosion control measures shall be installed according to the approved plans prior to the onset of the rainy season but no later than October 1st. Erosion control measures shall remain in place until the end of the rainy season, but may not be removed before April 15th.

Mitigation Monitoring:

Mitigation Monitoring GEO-4: Grading permits for ground disturbing activities shall not be approved for issuance by Permit Sonoma until the above notes are printed on applicable building, grading and improvement plans. The applicant shall be responsible for notifying construction contractors about erosion control requirement.

- c) *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?***

Significance Level: Less than Significant Impact

Comment: The project site is subject to seismic shaking as described in item 6.a.ii above. No further mitigation is required.

- d) *Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?***

Significance Level: Less than Significant Impact

Comment: The project site is subject to seismic shaking as described in item 6.a.ii. above. Table 18-1-B of the Uniform Building Code is an index of the relative expansive characteristics of soil as determined through laboratory testing. For the proposed project, soils at the site have not been tested for their expansive characteristics. No substantial risks to life or property would be created from soil expansion at the proposed project, even if it were to be affected by expansive soils. No further mitigation is required

- e) *Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?***

Significance Level: No Impact

Comment: The project site is not in an area served by public sewer. Preliminary documentation provided by the applicant and reviewed by the PRMD Project Review Health Specialist indicates that the soils on site would support a septic system and the required expansion area on each of the new lots, Lot 1 and Lot 2.

7. GREENHOUSE GAS EMISSIONS:

Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?***

Significance Level: Less than Significant Impact

Comment: The County concurs with the significance thresholds that Bay Area Air Quality Management District (BAAQMD) staff have recommended for projects other than stationary sources. The greenhouse gas (GHG) significance threshold is 1,100 metric tons per year of CO₂e or 4.6 metric tons of CO₂e per service population (residents and employees) per year. These thresholds are supported by substantial evidence for the reasons stated by BAAQMD staff. For plan level emissions analysis, the significance threshold is 6.6 MT per SP per year of CO₂e. BAAQMD's staff's analysis is found in the document titled "Air Quality Guidelines, May 2017," which is a publically available document that can be obtained from the BAAQMD website or from the County.

While the project's GHG emissions would be less than the significance threshold of 1,100 MT CO₂e/yr, used by the BAAQMD, the County has committed to reducing emissions to the maximum extent feasible by implementing all reasonably feasible measures and best available technologies to further reduce greenhouse gas emissions. Refer to comment in Item 7b below

On January 1, 2014, the California Green Building Standards Code (CALGreen) and, on July 1, 2014, the California Energy Code became effective throughout California. The County of Sonoma has adopted CALGreen and the California Energy Code.

- b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?***

Significance Level: Less than Significant

Comment: The County's adopted goals and policies include GP Policy OSRC-14.4 to reduce greenhouse gas emissions 25% below 1990 levels by 2015. Sonoma County emissions in 2015 were 9% below 1990 levels, while the countywide population grew 4%. In May 2018, the Board of Supervisors adopted a Resolution of Intent to Reduce Greenhouse Gas Emissions that included adoption of the Regional Climate Protection Agency's goal to further reduce greenhouse gas emissions by 40% below 1990 levels by 2030 and by 80% below 1990 levels by 2050. The Resolution of Intent included specific measures that can further reduce greenhouse gas emissions. All new development is required to evaluate all reasonably feasible measures to reduce greenhouse gas emissions and enhance carbon sequestration. Incorporation of greenhouse gas emissions reduction measures into design and construction documents for the future residences on Lots 1 and 2 will be required as a condition of approval.

8. HAZARDS AND HAZARDOUS MATERIALS:

Would the project:

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?***

Significance Level: Less than Significant with Mitigation Incorporated

Comment: Future site development of each lot is not expected to create a significant hazard from the routine use of hazardous materials, or from minor use of them during the construction process. However, it is possible that improper handling or storage could result in minor spills or drips of hazardous materials such as oil, fuel or paint during or after construction. The applicant is required by ordinance to comply with applicable hazardous waste generator,

storage tank, and AB2185 (hazardous materials handling) requirements and maintain all applicable permits for these programs from the Hazardous Materials Division of Sonoma County Department of Emergency Services. In addition, as discussed in Section 6.b, the applicant must obtain a grading permit and meet all requirements and adopted best management practices for control of potential runoff from the site. The applicant must also maintain all required water quality control measures in the long term. Given the above requirements, and that no significant hazard from the routine use of hazardous materials on site is expected, this impact is considered less than significant.

Construction will require use of fuels and other hazardous materials. Improper storage or handling of these materials could result in spills. Much of the work associated with the project will occur in sensitive aquatic areas. The potential spill of hazardous materials will be reduced to less than significant level through the incorporation of specific mitigation.

Mitigation:

Mitigation Measure HAZ-1: NOTE ON MAPS AND PLANS: The construction contract will require that any storage of flammable liquids be in compliance with the Sonoma County Fire Code and section 7-1.01G of the Caltrans Standard Specification (or the functional equivalent) for the protection of surface waters. In the event of a spill of hazardous materials the Contractor will immediately call the emergency number 9-1-1 to report the spill, and will take appropriate actions to contain the spill to prevent further migration of the hazardous materials to storm water drains or surface waters.

Mitigation Monitoring:

Mitigation Monitoring HAZ-1: Grading permits shall not be approved for issuance by Permit Sonoma until the above notes are printed on the grading and improvement plans. The applicant shall be responsible for notifying construction contractors about the requirement for responsible storage and spill cleanup of hazardous materials.

Mitigation:

Mitigation Measure HAZ-2: NOTE ON MAPS AND PLANS: During construction, hazardous materials shall be stored away from drainage or environmentally sensitive areas, on non-porous surfaces. Storage of flammable liquids shall be in accordance with Sonoma County Fire Code.

A concrete washout area, such as a temporary pit, shall be designated to clean concrete trucks and tools. At no time shall concrete waste be allowed to enter waterways, including creeks and storm drains.

The project would include use of approved pesticides to enhance the effectiveness of invasive species removal. All pesticides shall be properly used and stored.

Vehicle storage, fueling and maintenance areas shall be designated and maintained to prevent the discharge of pollutants to the environment. Spill cleanup materials shall be kept on site at all times during construction, and spills shall be cleaned up immediately. In the event of a spill of hazardous materials, the applicant shall call 911 to report the spill and take appropriate action to contain and clean up the spill.

Portable toilets shall be located and maintained to prevent the discharge of pollutants to the environment.

Mitigation Monitoring:

Mitigation Monitoring HAZ-2: Grading permits shall not be approved for issuance by Permit Sonoma until the above notes are printed on the grading and improvement plans. The applicant shall be responsible for notifying construction contractors about the requirement for responsible storage and spill cleanup of hazardous materials.

- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

Significance Level: Less than Significant Impact

Comment: See response to 8.a. This project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

Significance Level: No Impact

Comment: There are no existing or proposed schools within 0.25 miles of the project site (1)

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

Significance Level: No Impact

Comment: The project site is not identified on any lists compiled by the California Environmental Protection Agency, Regional Water Quality Control Board, California Department of Toxic Substances, and the California Integrated Waste Management Board. An adjacent parcel to the south and a parcel approximately 435 feet to the west are both closed Leaking Underground Storage Tank (LUST) sites. Another parcel adjacent to the south is a permitted Underground Storage Tank (UST).

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?**

Significance Level: No Impact

Comment: The project site is not located within an airport land use plan. The Petaluma Municipal Airport is approximately 2.9 miles northeast of the subject property.

- f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

Significance Level: No Impact

Comment: There are no known private airstrips within the vicinity of the proposed project.

- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

Significance Level: No Impact

Comment: The project would not impair implementation of, or physically interfere with the County's adopted emergency operations plan. There is no separate emergency evacuation plan for the County. In any case, the project would not change existing circulation patterns significantly, and would have no effect outside the area. See Item 16.e. for discussion of emergency access.

- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas of where residences are intermixed with wildlands?***

Significance Level: No Impact

Comment: The Sonoma County General Plan map for Wildland Fire Hazard Areas, Figure Ps-1g, indicates the subject site is not in a wildland fire hazard area. The Project site is not in or near lands classified as very high fire severity zones or state responsibility areas for wildfires. However, at the time of development of Lots 1 and 2, the County Fire Marshal's fire safe requirements will ensure that all future site development is designed to reduce the exposure of people and property that reduces the risk of injury and/or damage to an insignificant level

9. HYDROLOGY AND WATER QUALITY:

Would the project:

- a) Violate any water quality standards or waste discharge requirements?***

Significance Level: Less than Significant with Mitigation Incorporated

Comment: Potential water impacts can be created from future grading activities on site for a single family dwelling and related accessory structures on Lots 1 and 2. Water quality impacts can occur during project construction, post construction, and during the long term if installed methods to permanently control runoff and water quality are not maintained.

A grading permit is subject to specific ordinance, adopted standards, and other State and Regional Agency requirements are mandated to be obtained and will reduce potential impacts from grading and hazardous materials during and post construction to a less than significant level. In addition to those requirements, the proposed project is subject to water quality regulations adopted by the State and Regional Water Quality Control Board, including the Standard Urban Stormwater Mitigation Plan (SUSMP) requirements, Low Impact Development (LID), and adopted best management practices. The SUSMP program requires that facilities constructed to control water quantity and quality be maintained in such a manner as to prevent their long term degradation, and insure that future increased water quality or quantity impacts do not occur.

Given the above construction, post construction, and long term maintenance requirements and adopted standards, no significant adverse water quantity or quality impacts are expected given the mandated conditions and standards that need to be met. Development of each lot will require all domestic waste water to be disposed of in private septic systems which must meet County standards for their construction and operation.

Since projects with an acre or more of ground disturbance overall, including the project site and any off site staging area and disposal area, construction of the project is subject to the requirements of the State Water Resources Control Board General Permit for Construction Projects.

Mitigation:

Mitigation Measure HYD-1: NOTE ON MAPS AND PLANS: This project is subject to the National Pollution Discharge Elimination System (NPDES) requirements, and coverage under the State General Construction Permit, as adopted by the State Water Resources Control Board (SWRCB). A copy of the Notice of Intent (NOI) filed with the SWRCB, as well as the Waste Discharge Identification Number (WDID) issued by that agency must be submitted to the Drainage Review Section of Permit Sonoma.

Mitigation Monitoring:

Mitigation Monitoring HYD-1: Permit Sonoma shall not issue the Building Permit until the NOI and the WDID have been received.

- b) *Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?***

Significance Level: Less than Significant Impact

Comment: The Groundwater Availability maps by the State of California State Department of Water Resources indicate that majority of the subject site is located in a Zone 2 water availability area (major natural recharge area). Future site development of Lots 1 and 2 will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. The Sonoma County Project Review Health Specialist reviewed the project and required that new testing be done for proposed Lots 1 and 2 to provide proof that current water quality standards can be met. Two well logs were received on August 3, 2016 for the two new wells (one drilled on each lot) installed with 100-foot bentonite seals. Both wells have 100-foot setbacks to septic systems and septic reserve areas. The lab well water analysis, dated August 19, 2016 for both wells resulted in the absence of TC and E. coli, and non-detection of Arsenic and Nitrates.

- c) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?***

Significance Level: Less than Significant Impact

Comment: Future development of Lots 1 and 2 is required to be designed to prevent and/or minimize the discharge of pollutants and waste after the project is constructed (post-construction). There are numerous post-construction storm water best management practices that can be utilized to accomplish this goal. These range from project designs and/or Low Impact Development (LID) best management practices that minimize new impervious surfaces, disperse development over larger areas, and/or that create areas that allow storm water to be detained, infiltrated, or retained for later use. Other post-construction storm water best management practices include storm water treatment devices based on filtering, settling or removing pollutants.

LID is a site design strategy that seeks to mimic the pre-development site hydrology through infiltration, interception, reuse, and evapotranspiration. LID techniques include the use of small scale landscape-based best management practices such as vegetated natural filters and bioretention areas (e.g. vegetated swales and raingardens) to treat and infiltrate storm water runoff. LID also requires preservation and protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable trees, flood plains, woodlands, native vegetation and permeable soils.

The project shall address water quality through storm water treatment best management practices and shall also address water quantity through storm water flow control best management practices. Storm water treatment best management practices shall be designed to treat storm events and associated runoff to the 85 percentile storm event. Storm water flow control best management practices shall be designed to treat storm events and associated runoff to the channel forming discharge storm event which is commonly referred to as the two year 24 hour storm event. Storm water treatment best management practices and storm water flow control best management practices are subsets of post-construction storm water best management practices. However, there is overlap between the two subsets. Post-construction storm water best management practices should utilize LID techniques as the first priority.

The type of the selected storm water best management practices shall be in accordance with the adopted Sonoma County Best Management Practice Guide. The listed storm water best management practices, pollutants and materials of concern are examples and do not represent a comprehensive listing of all available storm water best management practices.

The Grading and Storm Water Section of Permit Sonoma recommends the following note be placed on the map to minimize adverse impacts to the environment.

Mitigation:

Mitigation HYD-2: NOTES ON MAPS AND PLANS: Prior to issuance of a grading or building permit, the property owner shall submit any and all required grading/site plans and drainage reports for proposed work to Permit Sonoma for review. Grading/site plans shall clearly indicate the nature and extent of the proposed work and include erosion prevention/sediment control measures, details, notes, and specifications to prevent damages and to minimize adverse impacts to the environment. Drainage improvements shall be designed in accordance with the Sonoma County Water Agency Flood Control Design Criteria, to maintain off-site natural drainage patterns, and to limit post-development storm water levels and pollutant discharges in compliance with Permit Sonoma's best management practices guide. Grading and drainage improvements shall abide by all applicable standards and provisions of the Sonoma County Code and all other relevant laws and regulations.

Mitigation Monitoring:

Mitigation Monitoring HYD-2: Prior recordation of the Parcel Map, Permit Sonoma shall ensure the note above is on the map. Plans shall not be approved for issuance until the above note is printed on applicable building and improvement plans.

- d) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?***

Significance Level: Less than Significant Impact

Comment: See response to 9.c.

- e) *Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?***

Significance Level: Less than Significant Impact

Comment: The project will not substantially alter existing drainage patterns. The project does not include the alteration of a course of a stream or river. The impact of the project would be less than significant. There will be no significant changes in storm water runoff due to the use of LID techniques, such as minimizing the use of impervious surfaces; and directing runoff to pervious and vegetated areas with landscaping that incorporates noninvasive native and naturalized species plant vegetation.

- f) *Otherwise substantially degrade water quality?***

Significance Level: Less than Significant Impact

Comment: The project does not involve other changes in the environment that could result in substantially degrading water quality.

g) Place housing within a 100-year hazard area as mapped on a federal Flood hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map?

Significance Level: No Impact

Comment: The Sonoma County General Plan Flood Hazard map, Figure PS-1e, indicates the project site is not located in a flood hazard area.

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

Significance Level: No Impact

Comment: See response to 9.g. The project site is not located in a flood hazard area.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Significance Level: No Impact

Comment: The Sonoma County General Plan Dam Failure Inundation Hazard Areas map, Figure PS-1f, indicates the project site is not located in an inundation hazard area.

j) Inundation by seiche, tsunami, or mudflow?

Significance Level: No Impact

Comment: The project site is not located in an area subject to seiche, tsunami, or mudflow.

10. LAND USE AND PLANNING:

Would the project:

a) Physically divide an established community?

Significance Level: No Impact

Comment: The project would not physically divide a community.

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

Significance Level: No Impact

Comment: The property has a Sonoma County General Plan designation of Rural Residential and Zoning Designation of Agriculture and Residential with a density of 2 acres per dwelling unit. The proposed subdivision 6.06 +/- acres into two parcels of 1.53 +/- acres and one parcel of 3.0 +/- acres in size does not conflict with the designation.

The County General Plan and zoning govern development on the site, not the City of Petaluma General Plan 2025.

The designated American Badger and Wildlife Habitat Area at the rear of the property does not preclude the Urban Separator Path identified in the Petaluma General Plan 2025 that runs along the rear of the property line.

The proposed parcels as depicted on the Tentative Map are consistent with the West Petaluma Area Plan since the proposed lots are 1.53 acres each and each lot has its own existing well and a primary and reserve septic area. .

The project does not conflict with any land use plan, policy, or regulation of an agency with jurisdiction over the project.

c) *Conflict with any applicable habitat conservation plan or natural community conservation plan?*

Significance Level: No Impact

Comment: There are no habitat conservation or natural community conservation plans applicable to the project location.

11. MINERAL RESOURCES:

Would the project:

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

Significance Level: No Impact

Comment: No known mineral resources of value for the region and/ or state have been identified for the project site.

b) *Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?*

Significance Level: No Impact

Comment: See response to 11.a. The project will not result in the loss of locally important mineral resources as delineated on a local general plan, specific plan or other land use plan.

12. NOISE:

Would the project:

a) *Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

Significance Level: Less than Significant with Mitigation Incorporated

Comment: The project includes future construction activities on Lots 1 and 2 that may generate ground borne vibration and noise. The Noise Element of the Sonoma County General Plan establishes goals, objectives and policies including performance standards to regulate noise affecting residential and other sensitive receptors. The general plan sets separate standards for transportation noise and for noise from non-transportation land uses. The following mitigation measure will ensure that the completed project will not result in excessive noise generation or expose persons to noise levels in excess of County standards.

Mitigation:

Mitigation Measure NOI-1: NOTE ON MAPS AND PLANS: During construction activities, noise shall be controlled in accordance with Table NE-2 (or an adjusted Table NE-2 with respect to

ambient noise as described in General Plan 2020, Policy NE-1c,) as measured at the exterior property line of any affected residential or sensitive land use:

Hourly Noise Metric ¹ , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L ₅₀ (30 minutes in any hour)	50	45
L ₂₅ (15 minutes in any hour)	55	50
L ₀₈ (4 minutes 48 seconds in any hour)	60	55
L ₀₂ (72 seconds in any hour)	65	60
¹ The sound level exceeded n% of the time in any hour. For example, the L ₅₀ is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level.		

Mitigation Monitoring:

Mitigation Monitoring NOI-1: NOTE ON MAPS AND PLANS: Permit Sonoma staff will investigate any noise complaints during construction activities. If such investigation indicates that the appropriate noise standards have been or may have been exceeded, the permit holders shall be required to install, at their expense, additional professionally designed noise control measures. Failure to install the additional noise control measure(s) will be considered a violation of the use permit conditions. If noise complaints continue, Permit Sonoma shall investigate complaints. If violations are found, Permit Sonoma shall seek voluntary compliance from the permit holder and thereafter may initiate an enforcement action and/or revocation or modification proceedings, as appropriate.

Mitigation:

Mitigation Measure NOI-2

NOTE ON MAPS AND PLANS: Construction activities for this project shall be restricted as follows:

- i. All internal combustion engines used during construction of this project will be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code. Equipment shall be properly maintained and turned off when not in use.
- ii. Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. If work outside the times specified above becomes necessary, the applicant shall notify the Permit Sonoma Project Review Division as soon as practical.
- iii. There will be no start-up of machines nor equipment prior to 7:00 a.m, Monday through Friday or 9:00 am on weekends and holidays; no delivery of materials or equipment prior to 7:00 a.m nor past 7:00 p.m, Monday through Friday or prior to 9:00 a.m. nor past 7:00 p.m. on weekends and holidays and no servicing of equipment past 7:00 p.m., Monday through Friday, or weekends and holidays. A sign(s) shall be posted on the site regarding the allowable hours of construction, and including the developer=s phone number for public contact.
- iv. Pile driving activities shall be limited to 7:30 a.m. to 7:00 p.m. weekdays only.
- v. Construction maintenance, storage and staging areas for construction equipment shall avoid proximity to residential areas to the maximum extent practicable. Stationary construction equipment, such as compressors, mixers, etc., shall be placed away from residential areas and/or provided with acoustical shielding. Quiet construction equipment

shall be used when possible.

- vi. The applicant shall designate a Project Manager with authority to implement the mitigation prior to issuance of a building/grading permit. The Project Manager's phone number shall be conspicuously posted at the construction site. The Project Manager shall determine the cause of noise complaints (e.g. starting too early, faulty muffler, etc.) and shall take prompt action to correct the problem.

Mitigation Monitoring:

Mitigation Monitoring NOI-2: Permit Sonoma staff shall ensure that the measures are listed on all site alteration, grading, or improvement plans, prior to issuance of grading permits. Any noise complaints will be investigated by Permit Sonoma staff

b) *Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?*

Significance Level: Less than Significant Impact

Comment: The project includes construction activities that may generate ground borne vibration and noise. These levels would not be significant because they would be short-term and temporary, and would be limited to daytime hours. There are no other activities or uses associated with the project that would expose persons to or generate excessive ground borne vibration or ground borne noise levels. The project does not include blasting activities.

c) *A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?*

Significance Level: Less than Significant Impact

Comment: See response to 12.a. The project would not create a significant permanent increase in ambient noise levels in the project vicinity above existing noise levels without the project.

d) *A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

Significance Level: Less than Significant with Mitigation Incorporation

Comment: There will be potentially significant noise impacts from the construction activities. This impact will cease when construction is finished. Standard heavy equipment associated with similar construction efforts include dump trucks, excavators, jackhammers, chainsaws, water trucks, and cranes. The following mitigation measure will reduce the noise impact from construction activities and hauling to less than significant. (1) See also item 12.a above.

Mitigation:

Mitigation Measure NOI-3: NOTE ON MAPS AND PLANS: Construction activities for this project shall be restricted as follows: All internal combustion engines used during construction of this project will be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code. Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 am and 7:00 pm on weekdays and 9:00 am and 7:00 pm on weekends and holidays. Only work that does not require motorized vehicles or power equipment shall be allowed on holidays (1). If work outside the times specified above becomes necessary, the resident engineer shall notify the Permit Sonoma Environmental Review Division as soon as practical.

Mitigation Monitoring:

Mitigation Monitoring NOI-3: Permit Sonoma staff shall ensure that the measures are listed on

all site alteration, grading, or improvement plans, prior to issuance of grading permits. Any noise complaints will be investigated by Permit Sonoma staff.

- e) ***For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?***

Significance Level: No Impact

Comment: The Sonoma County General Plan, Figure AT-3, identifies the locations of all public use airports in Sonoma County. The project site is not located near a known airport or within two miles of a public airport or public use airport exposing people residing or working in the project area to excessive noise levels.

- f) ***For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?***

Significance Level: No impact

Comment: See response 12.e. There are no known private airstrips within the project area.

13. POPULATION AND HOUSING:

Would the project:

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

Significance Level: Less than Significant Impact

Comment: The proposed project would include future site development of Lots 1 and 2, likely consisting of one new single-family dwelling and associated accessory structures on each lot; no road or utility extensions are proposed or required. The proposal will not result in direct or indirect substantial population growth.

- b) ***Displace substantial numbers of existing housing necessitating the construction of replacement housing elsewhere?***

Significance Level: No Impact

Comment: No housing will be displaced by the project.

- c) ***Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?***

Significance Level: No Impact

Comment: No people will be displaced by the project.

14. PUBLIC SERVICES:

Would the project:

- a) ***Would the project result in substantial adverse physical impacts associated with***

the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the public services:

i. Fire protection?

Significance Level: Less than Significant Impact

Comment: The County Fire Marshal reviewed and commented on the project. Future site development of Lots 1 and 2 is subject to compliance with the Sonoma County Fire Safe Standards, including fire protection methods such as sprinklers in buildings, alarm systems, extinguishers, vegetation management, hazardous materials management and management of flammable or combustible liquids and gases.

ii. Police?

Significance Level: Less than Significant Impact

Comment: The Sonoma County Sheriff will continue to serve this area. There will be no increased need for police protection resulting from the creation of two new lots and, likely, two new single-family dwellings.

iii. Schools, parks, or other public facilities?

Significance Level: Less than Significant Impact

Comment: Fees associated with future site development are required to be paid prior to issuance of Building Permits. The paid fees offset potential impacts to public services include school and park mitigation fees.

iv. Parks?

Significance Level: Less than Significant Impact

Comment: See response to 14.iii.

v. Other public facilities?

Significance Level: Less than Significant Impact

Comment: See response to 14.iii.

15. RECREATION:

Would the project:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Significance Level: Less than Significant Impact

Comment: The proposed project would not involve activities that would cause or accelerate substantial physical deterioration of parks or recreational facilities.

b) Does the project include recreational facilities or require the construction or

expansion of recreational facilities which might have an adverse physical effect on the environment?

Significance Level: Less than Significant Impact

Comment: See response to 15.a. The project does not include the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. The project includes a Common Area for Lots 1 and 2 residents' passive recreational enjoyment of its natural features and views.

16. TRANSPORTATION / TRAFFIC:

Would the project:

- a) *Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?***

Significance Level: No Impact

Comment: The proposed project consists of a 2-lot subdivision with a designated remainder, with future development occurring on Lots 1 and 2. This request does not result in traffic exceeding a level of service standard established by the County congestion management agency for designated roads or highways. The County Department of Transportation and Public Works reviewed the proposal and suggested conditions of approval. The project will result in the construction of two single-family dwellings, generating two vehicle trips during the PM peak hour according to the Institute of Traffic Engineers Trip Generation Manual, 9th Edition). Using the screening criteria established by the County of Sonoma Guidelines for Traffic Studies, Revised April 2015, the project would not cause a significant traffic impact based on traffic contributed to the street system.

- b) *Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?***

Significance Level: No Impact

Comment: See response to 16.a. The requested project will not exceed a level of service standard established by the County congestion management agency for designated roads or highways. The project would not exceed the level of service (LOS) standard established by the County congestion management agency for any designated road or highway. Sonoma County General Plan Circulation and Transit Objective CT-2.1 is to maintain a LOS C or better on arterial and collector roadways.

- c) *Result in change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?***

Significance Level: No Impact

Comment: See responses to 12. & 12.f. This project would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

Significance Level: No Impact

Comment: The project would not include any hazardous design features or uses that would obstruct roadways or compromise sight distances.

- e) Result in inadequate emergency access?**

Significance Level: No Impact

Comment: The project will be required to comply with all emergency access requirements of the Sonoma County Fire Safe Standards, including emergency vehicle access requirements. Project development plans are routinely reviewed by the Department of Fire and Emergency Services during the building permit process to ensure compliance.

- f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?**

Significance Level: No Impact

Comment: The project is located on and accessed by Paula Lane, which is not identified in the 2010 Sonoma County Bicycle and Pedestrian Plan.

- g) Result in inadequate parking capacity?**

Significance Level: No Impact

Comment: Each proposed lot will be approximately 1.5 acres in size and large enough to accommodate single family residential parking.

17. UTILITIES AND SERVICE SYSTEMS:

Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?**

Significance Level: No Impact

Comment: The site is served by private septic systems. There will be no effect on wastewater treatment facilities.

- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

Significance Level: No Impact

Comment: The site is served by private wells and septic systems. There will be no impact from treatment facility expansion or construction of new facilities.

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

Significance Level: Less than Significant Impact

Comment: See response to 9.c.

- d) *Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?***

Significance Level: No Impact.

Comment: See response to 9.b.

- e) *Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?***

Significance Level: No Impact

Comment: The site is served by individual, private septic systems.

- f) *Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?***

Significance Level: Less than Significant Impact

Comment: Sonoma County has a solid waste management program in place that provides solid waste collection and disposal services for the entire County. The project is consistent with the Sonoma County General Plan policy for the Agriculture and Residential 2 acre density land use designation. Therefore, development on this site will not exceed the amount of waste that has already been determined to be generated by development of these sites and would not impact the local landfill's capacity.

- g) *Comply with federal, state, and local statutes and regulations related to solid waste?***

Significance Level: Less than Significant Impact

Comment: Sonoma County has access to adequate permitted landfill capacity to serve the proposed project.

18. MANDATORY FINDINGS OF SIGNIFICANCE

- a) *Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?***

Significance Level: Less than Significant with Mitigation Incorporated

Comment: The mitigation measures listed in 4.b and 4.d will mitigate impacts to the American Badger, Burrowing Owl and migratory birds to Less than Significant.

- b) *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of***

a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Significance Level: Less than Significant Impact

Comment: The project request is for the creation of two new residential lots, which is consistent with the density prescribed by the Sonoma County General Plan. There have been no significant unmitigable impacts identified for this project. The requested project does not have impacts that are cumulatively considerable.

c) *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

Significance Level: Less than Significant Impact

Comment: See responses to 17.a. and 17.b. The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

Sources

1. PRMD staff evaluation based on review of the project site and project description.
2. Sonoma County Important Farmland Map 1996. California Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring Program.
3. Assessor's Parcel Maps
4. BAAQMD CEQA Guidelines; Bay Area Air Quality Management District; June 2010; <http://www.baaqmd.gov/>
5. California Air Resources Board (CARB) <http://www.arb.ca.gov/>
6. California Natural Diversity Database, California Department of Fish & Game.
7. Sonoma County General Plan 2020 (as amended), Sonoma County Board of Supervisors, September 2008
8. California Environmental Protection Agency –
<http://www.calepa.ca.gov/SiteCleanup/corteseList/default.htm>
<http://www.envirostor.dtsc.ca.gov/public/> (Cortese List)
<http://www.calrecycle.ca.gov/SWFacilities/Directory/search.aspx> (SWIS)
9. Alquist-Priolo Special Studies Zones; State of California; 1983.
10. Flood Insurance Rate Maps, Federal Emergency Management Agency.
11. Special Report 120, California Division of Mines and Geology; 1980.
12. General Plan Consistency Determination, (65402 Review), Sonoma County Permit & Resource Management Department.
13. Standard Specifications, State of California Department of Transportation, available online: http://www.dot.ca.gov/hq/esc/oe/specs_html
14. Tree Protection and Replacement Ordinance (Ordinance No. 4014); Sonoma County.

15. Valley Oak Protection Ordinance (Ordinance No. 4991); Sonoma County, December 1996.
16. Heritage or Landmark Tree Ordinance (Ordinance No. 3651); Sonoma County.
17. Manual of Standards for Erosion and Sediment Control Measures, Association of Bay Area Governments; May, 1995.
18. Soil Survey of Sonoma County, California, Sonoma County, U.S. Department of Agriculture; 1972.
19. Evaluation of Groundwater Resources, California Department of Water Resources; 1975.
20. Sonoma County Congestion Management Program, Sonoma County Transportation Authority; December 18, 1995.
21. Sonoma County Aggregate Resources Management Plan and Program EIR, 1994.
22. 2010 Sonoma County Bicycle and Pedestrian Plan, Sonoma County Permit and Resource Management Department; August 2010. <http://www.sonoma-county.org/prmd/docs/misc/bikeplandraft.pdf>
23. Deed and Agreement By and Between the City of Petaluma and The Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights, signed April 10, 2012 (Paula Lane Open Space Preserve)

Other Technical Reports and Documents

24. Biological Resources Assessment Report, WRA, August 2014
25. Cultural Resources Evaluation, Archaeological Resource Service, January 9, 2013
26. California Department of Fish and Game, Bay Delta Region, letter from Scott Wilson to Misti Harris at Permit Sonoma, dated December 27, 2012
27. American Badger Habitat Survey for the Paula Lane Proposed Subdivision, Kimberley Fitts and Deriek Marshall, January 2004.
28. Deed and Agreement By and Between the City of Petaluma and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights

Attachments

Planning Commission Appeal, November 8, 2018

Sol Ecology letter from Dana Riggs, Principal Biologist (formerly with WRA) to Board of Supervisors, May 29, 2019, with attachments

Revised Paula Lane Tentative Map, dated July 24, 2019

Sonoma County Code Sections 25-42. - Lots and 25-43. - Optional Design and Improvement Standard

**Planning Commission/Board of Zoning Adjustments
Appeal Form**

PJR-021

To: Board of Supervisors
County of Sonoma, State of California

File # MWS 2012-004

Appeal is hereby made by: Paula Lane Action Network (501c3 nonprofit org.)
Please Print

Mailing Address:

P.O. Box 2903

Petaluma, CA 94953

Phone: (707) 241-5548

Email: info@paulalaneactionnetwork.org

The Sonoma County Planning Commission / Board of Zoning Adjustments (circle one) on

November 1, 20 18, approved / denied (circle one) a request by

Gardner

for minor

subdivision at 245 Paula Lane in Petaluma.

located at (see above)

APN 019 - 080 - 003 Zoned AR2 RR2 Supervisorial District 2

This appeal is made pursuant to Sonoma County Code Chapter 26 Section 26-92-160 for the following specific reasons:

Inadequate environmental review under CEQA; no review or discussion of SMW correspondence or expert biological opinion of Kim Fitts. Significant negative impacts, not adequately mitigated to special status species and to the Conservation Easement and property at 431 Paula Lane.

Date: 11-8-2018

Appellant: Susan Fitts for P.L.A.N.
Signature

Appeal Fee: See current PRMD Project Review Fee Schedule

DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff

This appeal was filed with the Permit and Resource Management Department on the 8th day of November, 20 18, receipt of which is hereby acknowledged.

[Signature]
PRMD Staff

Sonoma County Permit and Resource Management Department

2550 Ventura Avenue ♦ Santa Rosa, CA ♦ 95403-2829 ♦ (707) 565-1900 ♦ Fax (707) 565-1103

CMuller S:\Handouts\PJR\PJR-021 Planning Commission BZA Appeal Form.wpd 03/17/09

Please note: Many of our friends & colleagues lost everything in the Oct. 2017 fires. We are empathetic to the County's circumstances and long term recovery.



Paula Lane Action Network (P.L.A.N.)

Open Space & Habitat Conservation...Paula Lane Nature Preserve

November 8, 2018

Permit and Resource Management Department
2550 Ventura Ave.
Santa Rosa, CA 95403

Re: APPEAL REQUEST – PLANNING COMMISSION DECISION NOVEMBER 1, 2018

245 Paula Lane Subdivision Proposal/Mitigated Negative Declaration – MNS 2012-004

To Whom It May Concern:

Please refer to the recently submitted biological opinion of Kim Fitts (10/22/2018) and correspondence with exhibits submitted by Shute, Mihaly & Weinberger (10/26/2018) on behalf of our nonprofit organization. This, with PLAN's additional correspondence, were part of the record for the proposal considered and voted upon, but not reviewed or commented upon, at all, in the November 1, 2018 hearing by Commissioners.

In the 3-minute public comment by Susan Kirks, representing PLAN, a nonprofit organization with 300 supporting members in the Bay Area, including Petaluma, and the Madrone Audubon Society, a nonprofit organization with approximately 3000 members in Sonoma County, including many in Petaluma, opposition to the proposal was expressed and clarification of mis-statements by the property owner's biologist were also provided. The Commission also received numerous letters of opposition to the subdivision proposal.

This information in the record was not discussed or even referenced at the Planning Commission hearing. Substantial evidence regarding negative environmental impacts of the proposal, the inadequacy of the environmental review process, and inconsistency with the Petaluma General Plan and the Sonoma County General Plan et al, were provided for review and consideration.

The 245 Paula Lane property is within the UGB of the City of Petaluma. Additional communication related to the City's approval or disapproval is needed.

The 245 Paula Lane subdivision proposal was approved by a Planning Commission vote with 1 dissenting vote. The Commissioner who dissented commented she could not conceive that this proposal would not have impact on the habitat. She was correct in her assessment.

Approval of this proposal, with comments by Commissioners such as the applicant being willing to participate in a design review process and being willing to plant a hedge row, was inappropriate and did not consider submitted information about the American Badger or negative impacts to the contiguous habitat and immediately adjacent property of the Paula Lane Nature Preserve.

The Paula Lane Nature Preserve is the name of the Project and overall property protected in perpetuity by a Conservation Easement, placed and held by the Sonoma County Ag and Open Space District. The property was acquired by the City of Petaluma and PLAN, Grantees, in 2012 with a grant of over \$1,000,000 in public funds. One Commissioner queried County Counsel, "Would the City have to return the million dollars?" County Counsel responded no. This was the essence of the minimal discussion, along with a question about the City of Petaluma input into the process of subdivision proposal review and the Open Space District as well. Vague

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responses were provided by the County Planner who had framed presentation of the proposal to include multiple code violations and illegal activity in construction and grading on the property, described as activity, as if this was “business as usual” as PRMD, with permits then subsequently issued. The inference was the City of Petaluma and Open Space District had no additional input. Because of the issues involved and substantial correspondence submitted to the Commission, responsible Commissioners should have requested the Planner return to both the City of Petaluma and the Open Space District to obtain clarification and input, given the serious nature of the identified negative impacts.

PLAN’s correspondence clearly stated the Open Space District does not comment on proposals such as the one before the Commission; however, PLAN’s correspondence clearly delineated the pathway toward a conservation easement application to the District existed, instead of proceeding with the attempt to develop on the 245 Paula Lane property. This was never referenced, nor discussed.

Such a discussion would also directly relate to the inadequacy of the environmental review for the project and the resultant mitigated negative declaration.

Approval of this proposal, should it go forward, would negate the Conservation Easement on the Paula Lane Nature Preserve Property. This is directly related to the reason the over \$1,000,000 grant was provided to acquire and conserve this property. This is a serious issue, and the negative impacts to the Paula Lane Nature Preserve property were not even minimally reviewed and certainly not adequately considered.

Jokes made by two Commissioners with the biologist representing the property owner about a cat and fox were also inappropriate and dismissive related to the serious nature of the proposal before the Commission for review.

The 245 Paula owner’s biologist endeavored to communicate to the Commission that wildlife corridors must be carefully considered with many criteria to identify the “patches” of land or habitat that are connected for wildlife movement.

Relevant to this appeal request and the discussion on November 1, the biologist’s comments about the wildlife corridor were based on her apparent observation of the 245 Paula Lane property and the area, with claims of a nearby heavily traveled street, possibly dangerous for wildlife movement, nearby residential development and night lighting. She concluded in the report as well as in the hearing that there just was no wildlife corridor evident related to 245 Paula Lane.

In fact, the 245 Paula Lane property is centrally located in a heavily traversed wildlife corridor in West Petaluma. This corridor connects to 2 additional corridors extending to the Marin and Sonoma coasts, all three of which are relevant for American Badger and other species. Recently, an additional Matching Grant was recommended for a property south of Paula Lane, to be conserved, and this land will protect an additional component of the wildlife corridor, connecting that land to the Paula Lane area, including the 245 Paula and the 431 Paula Lane properties (latter open space). That was a sustained effort for almost 15 years. The Paula Lane conservation effort was the result of 12 years of diligent perseverance to ensure conservation of important, sensitive, longstanding habitat and protection of property within the wildlife corridor.

The biologist for the 245 Paula owner also commented “three biologists” walked around, looking for a female badger area or dens and they just could not find any. In the 3 minute comment allowed for Naturalist Susan Kirks who was representing Paula Lane Action Network and Madrone Audubon Society, clarified the existence of a natal territory on the 245 Paula property and the adjacent conserved open space property.

The applicant also made several comments during the rather informally conducted hearing process, including, “I don’t even think there are any PLAN members on Paula Lane.” Also, “We couldn’t even cut our grass without the County being called.” In addition, the applicant submitted additional information in an effort to portray Susan Kirks as a “stalker” and on a “personal mission” against them. Factual information has been submitted to the public record for clarification about any interaction with the 245 Paula owners. The issue here is not about an attempt to portray Susan Kirks negatively or otherwise. The issue is intense attempted, intentional habitat destruction on a property with longstanding, documented, sensitive habitat, as well as a subdivision proposal that would permanently harm what remains of the habitat on the 245 Paula Lane property and negate the Conservation Easement of the Paula Lane Nature Preserve open space property. The 2012 correspondence from Regional Manager Wilson of the CA Department of Fish and Wildlife also did not result in sufficiently following the Department’s discussion and requests related to the sensitive habitat, American Badger and Burrowing Owl.

The issue to be considered related to the Open Space District, also, is not about “giving back a million dollars” to the District. The issue relates to ensuring protection of conservation values protected by the Conservation Easement on the Paula Lane Nature Preserve open space property and, in addition, that requirements of the Matching Grant Agreement are able to be fulfilled and sustained - public access, education and volunteering, a carefully planned and implemented project, with wildlife protective and wildlife friendly features.

The Board of Directors of the Sonoma County Ag and Open Space District will need to issue a statement of negating the Conservation Easement and loss of the over \$1,000,000 investment in the Paula Lane Nature Preserve property, with approval of this proposal for development, and as such, this will establish a negative precedent in Sonoma County related to investment of open space sales tax dollars and requiring terms of Conservation Easements be upheld. When there is an alternative that would provide benefits to the 245 Paula owners as well as ensure the public funds investment is protected and no further habitat destruction occurs, with protection of the existing open space Conservation Easement – and such an alternative does exist – this should be discussed, considered, and reviewed.

The severe negative impacts of the 245 Paula Lane subdivision proposal, regardless of whether it is 1 lot, 2 lots, or 50 lots, also must be considered in the context of CEQA and actual impacts that would occur from the proposal.

The 245 Paula owner casually commented during the hearing, from her seat, she saw birds all the time and there are so many birds on the 245 Paula property. This does not constitute a biological resource assessment. In addition, the 245 Paula owner’s biologist who presented information to the Planning Commission, including the repeated comment of how she couldn’t locate a CNDDDB entry for any adult female badger or natal territory (therefore, it must not exist) - conducted an inadequate assessment, which is addressed in the expert mammal biologist’s response and opinion – submitted for the public record and never mentioned or discussed by the Commission. Biologist Fitts conducted the habitat survey of both 431 Paula and 245 Paula in 2004 and has periodically monitored the area and properties for several years. The Naturalist, Susan Kirks, with 19 years of direct field study and observation of American Badger, including these 2 properties, also possesses expertise the owner’s biologist does not possess.

This appeal is filed by Paula Lane Action Network. Within 72 hours, the \$1,174 appeal fee was raised from nonprofit supporters, 5 of whom live in the immediate area of the 245 Paula Lane property.

Lastly, a dismissive comment about letters that had been received opposing the subdivision proposal from several apartment dwellers of the Price Drive Apartments, from the dais, did not go unnoticed. The comment was made with a tone as if these were just letters from the apartment residents, inferring these comments somehow carried

PRMD, Nov. 8, 2018, P. 4

less meaning or significance. Those who live at the Price Drive Apartments are directly already impacted by the 245 Paula owners' activities and would be further seriously negatively impacted by the additional habitat destruction and development proposal. The two property owners most seriously impacted by the 245 Paula Lane subdivision proposal are the Price Drive Apartments west of the 245 Paula Lane property (strong opposition to the proposal) and the Paula Lane Nature Preserve open space property immediately to the north.

During the hearing, a question was raised, with no answer given, regarding American Badger activity south of the 245 Paula Lane property. Be advised that historically, year-round, the habitat and corridor within which the 245 Paula Lane property exists, badger activity of foraging and burrowing occurs on the properties south of the 245 Paula Lane property, observed and documented over several years' time, to Bodega Avenue. The corridor continues south of Bodega over to Cleveland Lane and area, and to the Kelly Creek Property just east of Helen Putnam Regional Park, which is now being funded and conserved.

An appeal hearing is requested to further consider significant negative environmental impacts of the 245 Paula Lane subdivision proposal, the inadequate environmental review, the inconsistency with the Petaluma General Plan and Sonoma County General Plan et al, and the resultant negating of a public funds investment and Conservation Easement protecting sensitive conservation values on the Paula Lane Nature Preserve open space property.

Sincerely,

Susan Kirks

Susan Kirks, Chair, Board of Directors
Naturalist – American Badger
Paula Lane Action Network

Enc.: Appeal Form, Check for Appeal Fee

Paula Lane Action Network (P.L.A.N.), P.O. Box 2903, Petaluma, CA 94953 /
info@paulalaneactionnetwork.org / 707-241-5548 / www.paulalaneactionnetwork.org



COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT
2550 Ventura Avenue, Santa Rosa, CA 95403-2829
(707) 565-1900 FAX (707) 565-1103

Application Fees / Invoice # 337941 on 11/08/2018 for: MNS12-0004

Site Address: 245 PAULA LN Petaluma [PET]

Activity Type: Minor Subdivision

APN: 019-080-003

Initialized By: MGROSCH

Fire District: Wilmar VFC

Insp Area:

Valuation: \$0.00

Ag/Comm/Res:

Description: MINOR SUBDIVISION CREATING TWO LOTS
REQUEST FOR A MINOR SUBDIVISION OF 6.06 ACRES RESULTING IN TWO LOTS OF 1.53
ACRES IN SIZE EACH AND A DESIGNATED REMAINDER OF 3.0 ACRES.

PETITION PURSUANT TO CODE SECTION 25-43 TO INCREASE LENGTH TO WIDTH RATIO
LIMITATION REQUIRED PER SECTION 25-42(B).

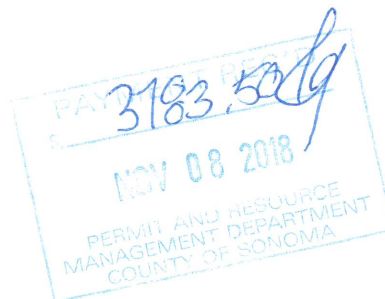
11/8/2018: Appeal received of Planning Commission decision 11/1/2018

Owner:

Applicant: GARDNER KIM
245 PAULA LANE
PETALUMA, CA 94952
415 637 6456

Fee Item	Description	Account Code	Total Fee
1011-000	Appeal	26010121-45061-10005	\$1,164.00
Invoiced Fees:			\$1,164.00
Total Paid:			\$33,807.40
Project Balance Due:			\$3,783.50

When validated below, this is your receipt



Refunds of fees paid may be made pursuant to Section 108.6 of Appendix 1 of the California Building Code and adopted model codes, subject to the following:

- 1) 100% of a fee erroneously paid or collected.
- 2) 90% of the plan review fee when an application for a permit is withdrawn or cancelled or expires or becomes void before any plan review effort has been expended. No portion of the plan review fee shall be refunded when any plan review effort has been expended.
- 3) 90% of the building, plumbing, electrical, and/or mechanical fee may be refunded when a permit is withdrawn, or cancelled or expires or becomes void before any work was done and before any inspections are performed. No portion of these fees shall be refunded when any work was done and/or any inspections have been performed.
- 4) Application for refund must be made within one year.

May 29, 2019

Sonoma County Board of Supervisors
575 Administration Drive
Room 100 A
Santa Rosa, CA 95403

Re: MND for PRMD File No. MNS 12-0004 (245 Paula Lane, Petaluma, California) - Response to Biological Resources Comments

Dear Members of the Board,

This letter responds to the following three comment letters on the 245 Paula Lane Project (Project) PRMD File No. MNS 12-0004:

- 1) Susan Kirks, Chair of the Board of Directors, Paula Lane Action Network dated November 8, 2018;
- 2) Amy Bricker and Aaron Stanton, Attorneys, Shute, Mihaly & Weinberger LLP dated October 26, 2018; and
- 3) Kim Fitts, Wildlife Biologist, BioConsultant Environmental Consulting dated October 22, 2018.

Comments in these letters related to biological resources are addressed below. The comments are numbered in the original letters (see Attachments 1, 2, and 3) and correspond to the numbered comments below. Each comment is paraphrased and addressed below in the corresponding numbered responses.

Comment Letter 1 – From Susan Kirks, Chair Board of Directors, Paula Lane Action Network

Comment 1-1: *Project development would negate the conservation easement on the adjacent Paula Lane Nature Preserve Property (Preserve). Project impacts to the Preserve were not considered in the Project Mitigated Negative Declaration (MND). It is implied that the terms of the Conservation Easement are not being upheld by allowing the minor subdivision.*

Response 1-1 – Project consistency with conservation easement: Potential impacts to the Preserve were evaluated in detail in connection with the proposed Project. Project development will not negate or affect the conservation easement, because there are no significant impacts to the Preserve associated with the Project. The MND does consider impacts of Project activities to the Preserve, as evidenced by the extensive discussion and development of mitigation measures and mitigation monitoring (MM) BIO-1 through BIO-11 in part (a) of the Biology section; see pages 12 through 17 of the MND. These measures will reduce any impacts to a less-than-

significant level and will ensure that the Project will be in compliance with the spirit and intent of the adjacent conservation easement, and to reduce edge effects resulting from Project actions to less than significant levels.

The Preserve was established in 2012 as an independent 11-acre grassland preserve to protect and preserve wildlife habitat and to provide educational opportunities, including passive wildlife viewing. As stated in the Project and Restoration Management Plan for the Paula Lane Nature Preserve (Management Plan), the Conservation Easement Policy states that “use of the Property is restricted solely to natural resource protection, habitat restoration and enhancement, recreational and educational, agricultural and residential uses as defined in this Section 5.2.” The proposed Project is consistent with the Management Plan approved by the Sonoma County Agricultural Preservation and Open Space District in January 29, 2013, which permits agricultural and residential activities on the Preserve property. Two residences, plus parking are currently located and occupied on the eastern portion of the Preserve. Similar to the Preserve layout, the two planned residences on the Project site are in line with these Preserve structures along the eastern portion of the property line, allowing for wildlife to continue to move about freely from north to south between the Preserve and the set-aside Badger Habitat Area located on the western portion of the Project property consistent with the terms of the Conservation Easement Section 5.4.7. See also MM BIO-12 in the MND for details on pass-thru fencing around the Badger Habitat Area. The current Conservation Easement does not restrict development on neighboring sites and the proposed development is consistent with surrounding development and lower in density than the existing neighborhoods directly adjacent to the Preserve. Vegetation management on the Project Site is also consistent with Preserve management guidelines, County vegetation management specifications, and recommendations from the State Department of Fish and Wildlife for managing sensitive habitat areas for fire prevention (see Attachment 4, Correspondence from CDFW).

In summary, all impacts on the Preserve were considered in the MND, and the Project will have no significant impacts on the Preserve.

Comment 1-2: *Biologist for the property owner (Dana Riggs) concluded that the Project site does not contain a wildlife corridor. This is contradicted by Susan Kirk’s comments at the November 1, 2018 hearing discussing a badger natal territory on the Project site and the larger heavily traversed West Petaluma wildlife corridor that includes the Project site. A matching grant was recommended to preserve a property south of the Project site as part of the wildlife corridor.*

Response 1-2a – Wildlife Corridors: Ms. Kirks claims that evidence of movement between the Preserve and the Project site by way of trails is evidence of a wildlife corridor, and therefore this area would be considered to be environmentally sensitive. However, this analysis is flawed. Corridors, by definition, provide connectivity to allow movement between habitat fragments or “patches” otherwise devoid of preferred habitat (Hilty et al., 2019, NRCS 2004). This means that to qualify as a corridor, the landscape element must enhance movement beyond what is possible, or it must permit the animal to cross some barrier. Based on well-established biological standards, there is no wildlife corridor on these sites. The property does not connect patches otherwise devoid of preferred habitat, and there is no “barrier” on site for the badgers to cross.

The Project site and Preserve provide contiguous habitat to one another, but they do not form a wildlife corridor that would be considered environmentally sensitive. A single female American badger can have a home range of between 130 and 1790 acres, with an average home range size of 400 acres (Newhouse and Kinley 2000, Zeiner 1990; Goodrich and Buskirk 1998; Messick and Hornocker 1981); density reportedly averages one per square mile in open areas (Long 1973). Within this framework there may be numerous corridors that allow a single badger to move between patches of habitat. Some common examples of wildlife corridors include long driveways (not blocked by fencing or other hardscape), railway crossings, drainage ditches, culverts, riparian habitats, windbreaks, hedgerows, shelterbelts, etc. Existing movement corridors in the vicinity of the Project site are shown in Figure 1 (Attachment 5). These corridors connect various habitat patches in the vicinity of the Project Site but do not otherwise contain preferred contiguous habitat due to some barrier such as fencing or roadways. The proposed Project will not affect these existing corridors nor will it result in the removal of preferred habitat on the Project Site.

Ms. Kirks claims that the site is part of a larger heavily traversed corridor, but there is no *scientific* evidence supporting this claim. To the contrary, this issue is thoroughly addressed in the 2014 Biological Resources Assessment Report (2014 WRA Report), which describes barriers to dispersal between the Preserve and lands to the south, including: impenetrable fences (abutting concrete that prevent burrowing), large structures with outdoor lighting (including an apartment complex, shopping complex, and an industrial building), and indirect lighting (including a bright gaslight located immediately south of the project area that brightly illuminates potential habitat to the south). Figure 1 attached to this response (Attachment 5) depicts the location of dispersal barriers relative to Project Site and Preserve and/or evidence of use [based on reported occurrences in the California Natural Diversity Database (CNDDDB) ¹ and findings from the 2014 WRA Report.] Land immediately south of the Project site represents the southeastern limit of habitat due to these barriers. Movement corridors between the property to immediate south of the Project site and lands south of Bodega Avenue are located to the west of both properties and will not be affected by development at the Project site.

The current proposed minor subdivision and location of building envelopes will not create any significant barrier to wildlife movement between the Preserve and lands to the south as shown in Attachment 5, Figure 1. See also Response 1-1 for discussion about consistency with adjacent conservation easement and pass-thru fencing around Badger Habitat Area in the northwestern portion of the site.

Response 1-2b – Natal Territory: Ms. Kirks states that there is currently a badger natal territory on the Project site, and that the area is environmentally sensitive because it supports a reproducing pair of badgers. However, review of the statewide database, review of museum records, and a Project site evaluation by licensed qualified biologists yielded absolutely no evidence of badgers reproducing on the Project site. In other words, there is no scientific peer-reviewed evidence to support to this claim.

¹ The California Natural Diversity Database (CNDDDB) is an inventory of the status and locations of rare plants and animals in California, maintained by the California Department of Fish and Wildlife. It is the primary resource for wildlife biologists evaluating whether species are currently present, or have historically been present, in a particular area.

Ms. Fitts claims that she has submitted numerous reports to the CNDDDB documenting continuous use on the Project Site since 2003. And yet, the CNDDDB database includes no corresponding entries. In fact, there is only one documented occurrence in the CNDDDB database, comprised of three entries: two entries from 2003 citing only “foraging habitat, trails, and dens” on an 11-acre parcel (which includes the Preserve and the northwestern corner of the Project Site) and a single entry from 2009 at the corner of Bodega Avenue and Paula Lane reporting “an adult female was found emaciated and had an abscess on her right hip”.² There are no entries citing evidence of natal activity, nor of any activity anywhere on the Project Site other than the northwest corner, and no documented occurrences anywhere in the vicinity in the last 10 years. In fact, Ms. Fitts states in her own report that “although badger use extends onto adjacent properties [to the 11-acre Preserve], the denning /use is concentrated on the proposed project site” [the Preserve] (Fitts 2004). A copy of the current database (CNDDDB) report for this site is provided in Attachment 7.

CDFW visited the site in 2012 and concluded there was no evidence of natal activity. Prior studies done by Dr. Kucera (2004) and WRA (2014) also found no evidence of natal activity on the Project site. In 2014, WRA wildlife biologists found evidence of foraging habitat in the northwest corner of the Project site as evidenced by “active digs” or reasonably-sized burrows, but no recent tracks or scat were found and no evidence of a natal den was observed; natal dens are more complex than day-use dens, with the mound of soil excavated more than twice the size of a day-use den mound (Huck 2010, Weir and Hoodicoff 2002; Lindzey 1976). At least one burrow was observed in 2013 to be occupied by red fox (WRA 2014). In addition, a single badger may dig a new burrow nightly and therefore, the presence of multiple burrows is not evidence of a population of badgers, nor a natal area and may simply be a single foraging badger (Zeiner 1990). The 2014 WRA Report recognizes potential foraging habitat on the Project Site but contravenes any claim that the Project Site is a natal area.

Regardless, MM BIO-4 in the MND will ensure that any impacts to badger are less than significant, by providing adequate setbacks from noise and other temporary disturbances associated with construction during the breeding/pupping/rearing season should an active den be discovered in the future. Therefore, even if Ms. Kirks’ claim of natal activity were correct—and there is no evidence that it is—these measures would reduce any impacts to a less-than-significant level.

The absence of a natal area and wildlife corridor within the Project site are important to note, because these are the thresholds for determining impact significance for special status species. In other words, actions that would substantially reduce the habitat or range of a species, cause a population to drop below self-sustaining levels³, or create a permanent barrier to dispersal constitutes a significant impact. Since none of these things will occur, and all other potential

² There are no entries to support evidence that there is breeding on the Project site. While the entry regarding an emaciated female with an abscess is suggestive that it recently weaned pups, the recorded location of that female was neither the Project site nor the Preserve. Further, there is an article in the Press Democrat archives that a female matching the entry’s description was taken to a local wildlife rescue center and found to be a juvenile (not an adult) with distemper and was later euthanized.

³ Such as directly impacting a natal area.

impacts to foraging habitat have been mitigated, the project will not result in significant impacts to the American badger as defined under CEQA.

Comment 1-34: *The 2012 correspondence from Regional Manager Wilson of the California Department of Fish and Wildlife (CDFW) regarding American Badger and Burrowing Owl was not sufficiently addressed.*

Response 1-3 – Avoidance, Minimization, and Mitigation Measures (AMMs) for American badger and burrowing owls: CDFW conducted a site visit in 2012 and concluded that, while evidence of badger use was found on the site, no evidence of a natal area or pupping was reported (see Response 1-2b), nor was there evidence of use by burrowing owl. The December 27, 2012 CDFW letter concluded these species may be present and provided standard recommendations for performing an impact evaluation, including habitat assessment, surveys, and impact assessment and that such information should inform any “subsequent avoidance, minimization, and mitigation measures to avoid take and minimize habitat destruction.” Following impact assessment, the letter recommended working with DFG (now CDFW) to 1) maintain the size and distribution of extant badger and burrowing owl populations; 2) increase these populations where possible and appropriate, and 3) minimize or prevent unnatural causes of decline (e.g. burrow destruction, chemical controls of rodents, etc.).

WRA performed a complete habitat assessment, surveys, and impact assessment in 2014 as described in the 2014 WRA Report, and according to the standard recommendations provided by CDFW. Following this, WRA contacted CDFW to work with the Department to establish appropriate AMMs as directed in the 2012 letter. In March 2014, Mr. McKannay of CDFW walked the site with the WRA Project biologist (Dana Riggs) to examine the site for evidence of use, and to confirm the limits of the extant population. It was concluded that only a small area of the site is currently used by badger (as of March 2014 and consistent with the findings from WRA’s review of the site in 2013 and the records in the CNDDDB). At CDFW’s direction, WRA prepared draft measures for CDFW to review; these measures were submitted to CDFW on June 3, 2014. CDFW provided an email response on July 18, 2014 approving all of the proposed measures with the addition of four added measures to include grading restrictions, environmental training, restrictions on disking, and limitations of fire protection activities. CDFW prepared a formal response approving the mitigation measures the biological impacts analysis and submitted the response to the County. Email correspondence between the biologist and CDFW described above is provided in Attachment 4.

Comment 1-4: *The Project must receive sufficient environmental review. Was adequate environmental review conducted for bird species for the Project? The property owner’s biologist (Dana Riggs) assessment of the American Badger is contradicted in the findings of Susan Kirks and of Kim Fitts who conducted a study in 2004 and has been monitoring the property intermittently. The Naturalist, Susan Kirks, with 19 years of direct field study possesses expertise the owner’s biologist does not possess.*

Response 1.4a – Standard Scientific Practices and Agency Review: “Section 3.0 – Methodology” of the 2014 WRA Report addresses Ms. Kirks’ comment regarding adequate environmental review. The 2014 WRA Report followed standardized guidelines and requirements, as recommended by CDFW, for evaluating habitats for special status species, utilizing scientific

principles. The application recognizes that Ms. Kirks is familiar with the site, generally, but it is also important to note that she does not hold the requisite academic background or qualifications to be considered an expert on biological and habitat issues. It is important to note that the findings of the Project biologist, Dana Riggs, have been affirmed by CDFW, the state agency tasked with oversight of all issues related to protected species and their habitat.

Response 1.4b – Birds: The Project biologist performed a complete review for special status birds in conformance with established scientific protocols and determined that as many as seven special status bird species may be present on the Project site. However, in accordance with CEQA Guidelines Section 15065, biologists determined that there were no potentially significant impacts to avian foraging habitat due to the relatively small size of the proposed development area compared with larger tracts of more suitable foraging habitat available on adjacent properties, which would ensure none of these populations would drop below self-sustaining levels. Furthermore, implementation of specific measures outlined in the MND Mitigation Measure BIO-13 will ensure impacts to nesting birds are avoided. The biological assessment was circulated to state agencies, including the California Department of Fish and Wildlife. without further comment from the agencies regarding nesting birds.

Response 1-4c – Documentation and Peer Review: While Ms. Kirks' time and effort spent observing American badger in Sonoma County over the past 19 years is appreciated, her findings have not been published or documented as per standardized guidelines and thus, those finding have not been peer-reviewed and verified by the larger scientific community. Peer review is perhaps the most critical piece of modern scientific protocol; without peer review, it is impossible to substantiate Ms. Kirks' allegations regarding badger activity in the area, particularly with regard to the species' behavior, population ecology, and distribution. Without proper documentation and scientific peer review, the information provided by Ms. Kirks cannot be regarded as substantial evidence pursuant to CEQA. Information obtained from citizen scientists can be useful in contributing to the general knowledge of a species within a particular region, but it is not a substitute for habitat assessments performed by a qualified biologist⁴ using standardized guidelines and practices within the context of evaluating potential impacts under CEQA.

It should be noted that Tom Kucera, Ph.D., a certified wildlife biologist with more than 35 years of experience in wildlife biology and mammalogy, also evaluated the Project area in 2004 and found no evidence of natal activity (Attachment 6). Dr. Kucera stated that "developing some 8-10 acres of habitat in an already fragmented landscape is unlikely to have a significant adverse impact on an animal that is of low density by nature and has a home range of hundreds or thousands of acres." A full copy of this letter and Dr. Kucera's credentials is provided as Attachment 6. Dr. Kucera's findings are consistent with that of the WRA biologists, as documented in the 2014 WRA Report which concluded the total amount of foraging habitat on the Project Site is likely less than 1% based on home range estimates within the literature and availability of more suitable (and less fragmented) habitat in the surrounding areas⁵.

⁴ An individual with a degree in biology or related field of science, with knowledge of the survey protocols relevant to the species

⁵ Such as Helen Putnam Park and rural open space to the south and west of Petaluma.

Comment 1-5: *At the November 1, 2018 hearing, a question about American Badger activity south of the Project site was not adequately answered. The response should have been that the area south of the Project site has documented American Badger activity and is part of a wildlife corridor that includes the Project site.*

Response 1-5 – Extent of American badger activity at Project site: See Response 1.2a regarding what constitutes a wildlife corridor. Ms. Kirks’ letter mentions about badger observations from neighbors residing south of the Project Site and project opposition. However, she provides no additional evidence of badger activity south of the Project Site, other than a single reported CNDDDB occurrence of a badger near the intersection of Paula Lane and Bodega Avenue (Attachment 7). See Response 1-4c for further discussion on documentation and scientific peer review.

Surveys of the entire site were conducted in March 2013 by WRA and no evidence of recent use by badgers was found outside the northwest portion of the Property. A few inactive burrows (where no fresh dirt was present, mounds were grown over and/or cobwebs over the entrance were present) were found on the southwest corner of the site prior to current site development. A site walk conducted with Mr. Adam McKannay at CDFW confirmed that badgers were only present in the northwest corner of the Property, and that soil compaction (from historic uses) precluded badger activity elsewhere on the Property.

Nonetheless, the Project will not result in any permanent barrier to these areas; in particular, to Cleveland Lane (which Ms. Kirks claims is a wildlife corridor and, which is located nearly 1000 feet west of the Project site.) The badgers may still access the properties to the south of the project Site via pathways located west of the Site (see Attachment 5, Figure 1).

Comment 1.6: *The Project is not consistent with the Petaluma General Plan, Sonoma County General Plan, and Paula Lane Nature Preserve Conservation Easement.*

Response 1-6 – Consistency with local plans: The Project is consistent with the above stated plans, as described in preceding comments. The Project site is not currently designated as an important Biotic Habitat Area in either the Sonoma County or Petaluma General Plan, and therefore most of the plan policies do not apply to this property. The designation of the Badger Habitat Area will ensure connectivity between natural habitat areas on the Preserve with areas to the south and the wildlife corridor located to the southwest of the site. Furthermore, the Project will avoid foraging habitat on the site and seek to mitigate potentially significant effects to foraging habitat through measures developed in consultation with and at the direction of CDFW, which is also consistent with the Sonoma County and Petaluma General Plans.

Comment Letter 2 – From Shute, Mihaly & Weinberger

Comments related to biological resources are addressed below. Comments not directly related to biology will be addressed under separate cover.

Section III. The MND’s Description of the Project Setting is Inadequate

Comment 2.1: *Address cumulative projects that will be carried out in the area while the Project is under construction.*

Response 2.1: There are currently no projects planned in the immediate vicinity of the Project Site. The nearest planned project is located several miles to the west on Bodega Avenue.

Comment 2.2: *Address Project compliance with Sonoma County General Plan, Petaluma General Plan, and the West Petaluma Area Plan with respect to biological resources.*

Response 2.2: See Response 1.6 regarding the Project's general compliance with Sonoma County and Petaluma General Plans policies, and incorporation of mitigation measures, in consultation with CDFW, to minimize the Project's significant impact to biological resources to less than significant levels. Attachment 8 provides a list of Local Plan Policies Regarding Biological Issues for informational purposes.

Comment 2.3: *Address environmentally sensitive and significant nature of Project's surroundings including the adjacent Preserve. In particular, discuss the habitat in the Project site that is contiguous with habitat on the Preserve.*

Response 2.3: See Response 1.2a and 1.2b.

Section IV. The County Must Prepare an EIR that Analyzes the Potentially Significant Effects of the Project

Comment 2.4: *The Project would result in less than significant impacts to the American Badger with mitigation measures incorporated. The MND's conclusions rely on a 2014 biological assessment by Dana Riggs that found no evidence of badger use outside of the northwestern portion of the project site. This finding is contradicted by previous studies including the 2004 biological assessment and 2012 observations by Kim Fitts, the 2012 observation of 5 burrows on the Project site by CDFW, and the 2013 letter by Dana Riggs discussing the presence of new badger burrows on areas outside of the northwest portion of the project site. This evidence potentially undermines the MND conclusions and adequacy of the mitigation measures.*

Response 2.4: See Response 1-4c, Response 1.5, and supplemental response below.

As discussed above, a review of the Fitts 2004 report and reported 2012 observations lends no additional credible evidence for badger use outside the northwestern area. The December 2012 letter from CDFW reports observing five burrows near the ridgeline; but it does not inform regarding the location of the burrows on the property. The biologist did map burrows in the northwestern portion of the property near the ridgeline and presumably these are the same burrows. A site walk conducted with CDFW staff confirmed presence in the northwest corner of the property alone and that soil compaction (from historic uses) precluded badger activity elsewhere on the property.

The 2013 letter by Dana Riggs specifically states that "very few digs were observed on the southwestern portion of the property (less than 5), and none showed evidence of recent use." In the next paragraph there is reference to "three old badger digs" referring to evidence found prior to activity, not after. The statement in the last paragraph "evidence of recent digs overlapping older digs in the same general area" was again in reference to the northwestern portion of the

site (though not specifically stated), which is the only portion of the site where active digs were ever observed. Therefore, the conclusion that current badger range is limited to the northwest portion of the property is supported by direct evidence and the conclusions and mitigation measures included in the MND are adequate.

Comment 2.5: *The MND mischaracterizes existing threats to badger habitat. The MND asserts that feral cats in the Preserve are the primary threats to badger habitat and that the presence of a watering bucket may have a substantial adverse effect on the badger. Susan Kirks and Adam KcKannay, CDFW, contradict this finding and concur that cats on the Preserve are domestic and not feral and do not pose a threat to badger habitat. Primary threats are to be barking dogs at the project site and the unpermitted grading and fencing at the project site that was acknowledged in the MND.*

Response 2.5: Cats do pose a threat to badger habitats, and there is nothing to indicate that CDFW thinks otherwise. Mr. McKannay indicated that both feral/house (aka domestic) cats and barking dogs present throughout the existing neighborhood in the vicinity of the Preserve would result in an impact on badger habitat. Domestic cats have the same potential to impact native wildlife populations as feral cats, and there is little to no difference between the two in terms of hunting capabilities. Advocates argue that well-fed domestic cats do not hunt to the extent their feral counterparts do. However, numerous studies dispute this argument, and state that even when fed daily, domestic cats continue to hunt and kill a large number of native wildlife (see Attachment 9, Citations from Studies on the effects of domestic cats). Unlike barking dogs, which are usually restricted to their fenced-in yards, domestic cats roam freely and, without controls, are responsible for the extinction of numerous mammals, reptiles, and bird species (see Attachment 9). Another often overlooked effect is competition. Primary prey sources for the badger include the California vole (*Microtus californicus*) in Sonoma County. The California vole, also an easy target for domestic cats, is roughly equivalent in size to the common house mouse. On March 8, 2013, Project biologist Dana Riggs witnessed and recorded in her field notes nearly a dozen cats (either domestic or feral) surrounding what appeared to possibly be a feeding bowl (next to a watering bucket) on the adjacent Preserve property, close to and visible from Paula Lane. This observation was reported in the 2014 WRA Report as anecdotal and it is her professional opinion that cats (both domestic and feral) and invasive species (including the red fox) continues to be a considerable threat to badgers and their habitat, both on the Project site and in the adjacent Preserve.

CDFW concurs with this WRA finding that pets present a conservation risk to wildlife. As stated in CDFW staff correspondence submitted by Shute & Mihaly (Exhibit E), “I assume this risk [from barking dogs and feral/house cats] was known, and accepted by the purchasing entity, when establishing the Preserve in a rural residential area with variable land uses and housing densities surrounding it.” Thus, the addition of two single-family residences is not likely to significantly increase this threat from existing levels, or conditions.

Comment 2.6: *Address habitat and wildlife corridor loss in the MND. Per the 2004 Fitts Report, the Project site is partially composed of open annual grassland that provides excellent habitat for the American Badger and is part of a larger wildlife corridor that includes the Preserve and*

adjacent open space lands. Per the Fitts Report, construction impacts such as noise and vibration are highly likely to cause the badger to move from the Project site.

Response 2.6: See Response 1.2b regarding badger natal area and Response 1.2a regarding wildlife corridors.

Construction impacts such as noise and vibration are temporary in nature and may cause badgers to avoid the site during the construction period. However, this is not considered a significant impact due to the large home ranges of this species and availability of suitable habitat for the badger to move in project vicinity, if necessary. Furthermore, mitigation measures approved by CDFW (Attachment 4) will ensure that any occupied dens are avoided utilizing setbacks between 100 feet and 300 feet depending on time of year and/or the animals will be excluded using one-way doors in consultation with CDFW to minimize any impact.

Comment 2.7: *Mitigation measures BIO-2, BIO-3, BIO-4, BIO-5, BIO-6, and BIO-12 are inadequate because they are based on the assumption that the American Badger range is limited to the northwest portion of the property.*

Response 2.7: See Response 1.5 and 2.4.

Comment 2.8: *The explanation for mitigation measure BIO-5 that light from the project will not affect the Preserve because the Preserve is at a higher elevation than the Project site doesn't make sense.*

Response 2.8: The Preserve is located on a north facing slope, while the Project site is located on a south facing slope. Because of topography, only lighting along the ridge between the two sites would result in impacts. Because no lighting is proposed on the ridgeline, no impacts from lighting to the Preserve will occur (see updated Staff Report).

Comment 2.9: *Mitigation measures BIO-7, BIO-8, BIO-9, and BIO-10 address the potential mortality to burrowing owl during construction but do not address permanent habitat loss to the burrowing owl likely to be caused by the Project. In 2012, CDFW recommend "adequate mitigation to protect and restore existing habitat of badger and burrowing owls should be required."*

Response: As cited in the 2014 WRA Report, the Project site does not provide habitat for burrowing owl. The 2012 letter by CDFW recommends performing a habitat assessment to determine if burrowing owl is present. Because burrowing owl was not present and no sign of the species was observed on the Project Site, no loss of habitat will occur. In addition, leading research on special status birds in a CDFW publication "California Bird Species of Special Concern" concludes that burrowing owl occurs "only sparingly in Sonoma County" and that the County is not within the current breeding range for this species (Shuford and Gardali 2008). Therefore, it is highly unlikely that burrowing owl would ever be present on the site and thus, the project will not result in loss of habitat for this species. For additional discussion on burrowing owl, please refer to Response 1-3.

Comment 2.10: *The MND does not adequately address the potential for permanent impacts to special-status bird species due to loss of habitat. In addition, many species named in the conservation easement document for the adjacent Preserve are not mentioned in the MND. The conservation easement document names: Allen's and Rufous Hummingbirds, Sharp-shinned*

Hawk, White-tailed Kite, Cooper's Hawk, Nuttall's Woodpecker, Oak Titmouse, Red-breasted Sapsucker, Snowy Egret, Great Egret, Great Blue Heron, Black-crowned Night Heron and Long-billed Curlew.

Response 2.10: See Response 1.4b regarding loss of habitat for special status birds. All of the species listed above are common in the Petaluma area and are present both in open space and urban areas, with the exception of long-billed curlew which is predominantly a wetland species and not likely to occur on the project site due to absence of wetlands. Removal of approximately 3 acres of grassland habitat with limited forage area (due to compacted soils) will not result in the elimination of any of the above listed species' local populations or cause these populations to drop to less than self-sustaining levels. Mitigation Measure BIO-13 requires pre-construction nesting bird surveys and appropriately-sized no disturbance buffers which will ensure no direct mortality or impact to any breeding birds. Therefore, no significant impacts to these species are likely to occur as a result of the proposed project.

Comment 2.11: *Though the MND states that the project will comply with the Sonoma County Tree Protection and Replacement Ordinance in mitigation measure BIO-14, there is evidence that significant impacts to protected trees have already been sustained because of unpermitted construction and grading at the project site.*

Response: No evidence has been put forth to substantiate the claim that significant impacts to protected trees have already been sustained. A review of aerial photographs before (5/2012) and after initial grading (10/2013 and later) show no change in canopy cover with the exception of those trees growing immediately adjacent to the house (and according to the landowner through the eaves of the house, which is visible on aerial photographs). Impacts to trees located along the driveway were authorized by the permit department (Encroachment permit ENC 16-0127) and recommendations from the arborist were incorporated as encroachment permit's conditions.

Comment Letter 3 – From Kim Fitts, Wildlife Biologist, October 22, 2018, Review of WRA Biological Resources Assessment Report

Comment 3.1: *The proposed mitigation measures are inadequate to avoid Take or to mitigate adverse effects caused by the Project including disruption or impedance of dispersal patterns to badgers, reduction and fragmentation of a documented landscape scale movement corridor, changes in land use from rural low-density development, and loss of access to foraging habitat."*

Response 3.1: The U.S. Endangered Species Act (ESA) and California Endangered Species Act (CESA) prohibit the "take" of protected species. Both statutes define the word "take" differently. As Ms. Fitts points out, under the ESA, "Take is defined as kill, harass, or otherwise harm" [a species]; this definition is limited to federal listed species only. Take as defined under CESA does not include the words "harm" or "harass."

But the "take" definition is not relevant to this Project, because the American Badger is not listed or otherwise protected under the ESA or CESA. The American Badger is listed as a "species of

concern" by CDFW⁶ and a species of "least concern" by the IUCN. As discussed above, the Project will not modify Badger habitat or otherwise result in a substantial adverse effect on American Badger.

As previously described, CDFW, the Trustee agency responsible for ensuring adequacy of measures under CEQA as they relate to biological resources, approved and/or provided all of the proposed mitigation measures and indicated that the measures are adequate (Attachment 4); see Response 1-3. Finally, the Project site will remain rural low-density development following this minor subdivision, and as described in Response 1.1, will be consistent with overall characteristics of the surrounding environment, including the Preserve.

Comment 3.2: *Mitigation measures do not address DFW recommended mitigation including to protect and restore existing habitat that can support badger and burrowing owls.*

Response 3.2: See Response 1.3.

Comment 3.3: *Mitigation measures do not address the significant diurnal noise and vibration likely to cause the displacement of badger from the Project site and Preserve.*

Response 3.3: See Response 1.2a, 1.2b, and 2.6.

Comment 3.4: *The WRA report incorrectly states that: 1) badger have only used a small portion of the Project Site (outside of proposed building envelopes) and that (1) one percent of foraging habitat would be lost to development, 2) barriers to the south and west indicate the majority of the site is not part of any viable corridor, 3) the Project Site likely represents the southeastern extent of a single territory for one badger pair, and 4) compatible uses are proposed in the Badger Habitat Area.*

Response 3.4: Ms. Fitts claims that the above statements are incorrect but offers no evidence to the contrary. Figure 1 from Ms. Fitts' 2004 report, which reportedly depicts the extent of badger activity on the Project site, was omitted from the documentation submitted as part of the record; thus, no counter evidence was offered to depict badger activity outside the 1.0-acre Badger Habitat Area. Furthermore, the 2009 CNDDDB occurrence submitted by Ms. Fitts supports that badger activity on the Project site is limited to the northwest corner of the property (Attachment 7). Lastly, uses proposed in the Badger Habitat Area including recreation and small shade structures are consistent with uses proposed on the Preserve, including both recreation and a

⁶ "Species of Special Concern" is an administrative designation and carries no formal legal status. Section 15380 of the CEQA Guidelines clearly indicates that species of special concern should be included in an analysis of project impacts if they can be shown to meet the criteria of sensitivity outlined therein. Sections 15063 and 15065 of the CEQA Guidelines, which address how an impact is identified as significant, are particularly relevant to SSCs. Project-level impacts to listed (rare, threatened, or endangered species) species are generally considered significant thus requiring lead agencies to prepare an Environmental Impact Report to fully analyze and evaluate the impacts. In assigning "impact significance" to populations of non-listed species, analysts usually consider factors such as population-level effects, proportion of the taxon's range affected by a project, regional effects, and impacts to habitat features.

barn and garden, and both are bordered by development on one side; see Response 1.1. The Project's biological impacts will be less than significant with existing mitigation.

Comment 3.5: *The impact analysis does not adequately address potential impediment/disruption of dispersal patterns, loss of foraging habitat, or that the contiguous land represents a natal area within a special status species home range.*

Response 3.5: See Responses 1.2a, 1.2b, and 1.5

Comment 3.6: *Impacts resulting from human/pet encroachment, and increased risk of mortality from forced displacement are not adequately mitigated for and would negate the Preserve's primary conservation value.*

Response 3.6: See Responses 1.1, 2.5, and 2.6.

Please do not hesitate to contact me should you have questions concerning any of the above responses.

Respectfully,



Dana Riggs, Principal Biologist

- Attachments:**
- 1 – Letter from Susan Kirks, Chair of the Board of Directors, Paula Lane Action Network dated November 8, 2018
 - 2 – Letter from Amy Bricker and Aaron Stanton, Attorneys, Shute, Mihaly & Weinberger LLP dated October 26, 2018
 - 3 – Letter from Kim Fitts, Wildlife Biologist dated October 22, 2018
 - 4 – Email Correspondence from Adam McKannay, CDFW in 2014
 - 5 – Wildlife Corridor and Dispersal Barriers Map
 - 6 – Letter from Tom Kucera, 2004
 - 7 – CNDDDB Report
 - 8 – Summary of Local Plan Policies Regarding Biological Issues
 - 9 – Citations from studies on the effects of domestic cats

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Planning Commission/Board of Zoning Adjustments Appeal Form

PJR-021

To: Board of Supervisors
County of Sonoma, State of California

File # MWS 2012-004

Appeal is hereby made by: Paula Lane Action Network (501c3 nonprofit org.)
Please Print

Mailing Address:

P.O. Box 2903

Petaluma, CA 94953

Phone: (707) 241-5548

Email: info@paulalaneactionnetwork.org

The Sonoma County Planning Commission / Board of Zoning Adjustments (circle one) on

November 1, 2018, approved / denied (circle one) a request by

Gardner

for minor

subdivision at 245 Paula Lane in Petaluma.

located at (see above)

APN 019 - 080 - 003 Zoned AR2 RR2 Supervisorial District 2

This appeal is made pursuant to Sonoma County Code Chapter 26 Section 26-92-160 for the following specific reasons:

Inadequate environmental review under CEQA; no review or discussion of SMW correspondence or expert biological opinion of Kim Fitts. Significant negative impacts, not adequately mitigated to special status species and to the Conservation Easement and property at 431 Paula Lane.

Date: 11-8-2018

Appellant: Susan Fitts for P.L.A.N.
Signature

Appeal Fee: See current PRMD Project Review Fee Schedule

DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff

This appeal was filed with the Permit and Resource Management Department on the 8th day of November, 2018, receipt of which is hereby acknowledged.

[Signature]
PRMD Staff

Sonoma County Permit and Resource Management Department

2550 Ventura Avenue ♦ Santa Rosa, CA ♦ 95403-2829 ♦ (707) 565-1900 ♦ Fax (707) 565-1103

CMuller S:\Handouts\PJR\PJR-021 Planning Commission BZA Appeal Form.wpd 03/17/09

Please note: Many of our friends & colleagues lost everything in the Oct. 2017 fires. We are empathetic to the County's circumstances and long term recovery.



Paula Lane Action Network (P.L.A.N.)

Open Space & Habitat Conservation - Paula Lane Nature Preserve

November 8, 2018

Permit and Resource Management Department
2550 Ventura Ave.
Santa Rosa, CA 95403

Re: APPEAL REQUEST – PLANNING COMMISSION DECISION NOVEMBER 1, 2018

245 Paula Lane Subdivision Proposal/Mitigated Negative Declaration – MNS 2012-004

To Whom It May Concern:

Please refer to the recently submitted biological opinion of Kim Fitts (10/22/2018) and correspondence with exhibits submitted by Shute, Mihaly & Weinberger (10/26/2018) on behalf of our nonprofit organization. This, with PLAN's additional correspondence, were part of the record for the proposal considered and voted upon, but not reviewed or commented upon, at all, in the November 1, 2018 hearing by Commissioners.

In the 3-minute public comment by Susan Kirks, representing PLAN, a nonprofit organization with 300 supporting members in the Bay Area, including Petaluma, and the Madrone Audubon Society, a nonprofit organization with approximately 3000 members in Sonoma County, including many in Petaluma, opposition to the proposal was expressed and clarification of mis-statements by the property owner's biologist were also provided. The Commission also received numerous letters of opposition to the subdivision proposal.

This information in the record was not discussed or even referenced at the Planning Commission hearing. Substantial evidence regarding negative environmental impacts of the proposal, the inadequacy of the environmental review process, and inconsistency with the Petaluma General Plan and the Sonoma County General Plan et al. were provided for review and consideration.

The 245 Paula Lane property is within the UGB of the City of Petaluma. Additional communication related to the City's approval or disapproval is needed.

The 245 Paula Lane subdivision proposal was approved by a Planning Commission vote with 1 dissenting vote. The Commissioner who dissented commented she could not conceive that this proposal would not have impact on the habitat. She was correct in her assessment.

Approval of this proposal, with comments by Commissioners such as the applicant being willing to participate in a design review process and being willing to plant a hedge row, was inappropriate and did not consider submitted information about the American Badger or negative impacts to the contiguous habitat and immediately adjacent property of the Paula Lane Nature Preserve.

The Paula Lane Nature Preserve is the name of the Project and overall property protected in perpetuity by a Conservation Easement, placed and held by the Sonoma County Ag and Open Space District. The property was acquired by the City of Petaluma and PLAN, Grantees, in 2012 with a grant of over \$1,000,000 in public funds. One Commissioner queried County Counsel, "Would the City have to return the million dollars?" County Counsel responded no. This was the essence of the minimal discussion, along with a question about the City of Petaluma input into the process of subdivision proposal review and the Open Space District as well. Vague

1.1

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responses were provided by the County Planner who had framed presentation of the proposal to include multiple code violations and illegal activity in construction and grading on the property, described as activity, as if this was “business as usual” as PRMD, with permits then subsequently issued. The inference was the City of Petaluma and Open Space District had no additional input. Because of the issues involved and substantial correspondence submitted to the Commission, responsible Commissioners should have requested the Planner return to both the City of Petaluma and the Open Space District to obtain clarification and input, given the serious nature of the identified negative impacts.

PLAN’s correspondence clearly stated the Open Space District does not comment on proposals such as the one before the Commission; however, PLAN’s correspondence clearly delineated the pathway toward a conservation easement application to the District existed, instead of proceeding with the attempt to develop on the 245 Paula Lane property. This was never referenced, nor discussed.

1.1

Such a discussion would also directly relate to the inadequacy of the environmental review for the project and the resultant mitigated negative declaration.

Approval of this proposal, should it go forward, would negate the Conservation Easement on the Paula Lane Nature Preserve Property. This is directly related to the reason the over \$1,000,000 grant was provided to acquire and conserve this property. This is a serious issue, and the negative impacts to the Paula Lane Nature Preserve property were not even minimally reviewed and certainly not adequately considered.

Jokes made by two Commissioners with the biologist representing the property owner about a cat and fox were also inappropriate and dismissive related to the serious nature of the proposal before the Commission for review.

The 245 Paula owner’s biologist endeavored to communicate to the Commission that wildlife corridors must be carefully considered with many criteria to identify the “patches” of land or habitat that are connected for wildlife movement.

Relevant to this appeal request and the discussion on November 1, the biologist’s comments about the wildlife corridor were based on her apparent observation of the 245 Paula Lane property and the area, with claims of a nearby heavily traveled street, possibly dangerous for wildlife movement, nearby residential development and night lighting. She concluded in the report as well as in the hearing that there just was no wildlife corridor evident related to 245 Paula Lane.

In fact, the 245 Paula Lane property is centrally located in a heavily traversed wildlife corridor in West Petaluma. This corridor connects to 2 additional corridors extending to the Marin and Sonoma coasts, all three of which are relevant for American Badger and other species. Recently, an additional Matching Grant was recommended for a property south of Paula Lane, to be conserved, and this land will protect an additional component of the wildlife corridor, connecting that land to the Paula Lane area, including the 245 Paula and the 431 Paula Lane properties (latter open space). That was a sustained effort for almost 15 years. The Paula Lane conservation effort was the result of 12 years of diligent perseverance to ensure conservation of important, sensitive, longstanding habitat and protection of property within the wildlife corridor.

1.2

The biologist for the 245 Paula owner also commented “three biologists” walked around, looking for a female badger area or dens and they just could not find any. In the 3 minute comment allowed for Naturalist Susan Kirks who was representing Paula Lane Action Network and Madrone Audubon Society, clarified the existence of a natal territory on the 245 Paula property and the adjacent conserved open space property.

The applicant also made several comments during the rather informally conducted hearing process, including, “I don’t even think there are any PLAN members on Paula Lane.” Also, “We couldn’t even cut our grass without the County being called.” In addition, the applicant submitted additional information in an effort to portray Susan Kirks as a “stalker” and on a “personal mission” against them. Factual information has been submitted to the public record for clarification about any interaction with the 245 Paula owners. The issue here is not about an attempt to portray Susan Kirks negatively or otherwise. The issue is intense attempted, intentional habitat destruction on a property with longstanding, documented, sensitive habitat, as well as a subdivision proposal that would permanently harm what remains of the habitat on the 245 Paula Lane property and negate the Conservation Easement of the Paula Lane Nature Preserve open space property. The 2012 correspondence from Regional Manager Wilson of the CA Department of Fish and Wildlife also did not result in sufficiently following the Department’s discussion and requests related to the sensitive habitat, American Badger and Burrowing Owl.

1.2

1.3

The issue to be considered related to the Open Space District, also, is not about “giving back a million dollars” to the District. The issue relates to ensuring protection of conservation values protected by the Conservation Easement on the Paula Lane Nature Preserve open space property and, in addition, that requirements of the Matching Grant Agreement are able to be fulfilled and sustained - public access, education and volunteering, a carefully planned and implemented project, with wildlife protective and wildlife friendly features.

1.1

The Board of Directors of the Sonoma County Ag and Open Space District will need to issue a statement of negating the Conservation Easement and loss of the over \$1,000,000 investment in the Paula Lane Nature Preserve property, with approval of this proposal for development, and as such, this will establish a negative precedent in Sonoma County related to investment of open space sales tax dollars and requiring terms of Conservation Easements be upheld. When there is an alternative that would provide benefits to the 245 Paula owners as well as ensure the public funds investment is protected and no further habitat destruction occurs, with protection of the existing open space Conservation Easement – and such an alternative does exist – this should be discussed, considered, and reviewed.

The severe negative impacts of the 245 Paula Lane subdivision proposal, regardless of whether it is 1 lot, 2 lots, or 50 lots, also must be considered in the context of CEQA and actual impacts that would occur from the proposal.

The 245 Paula owner casually commented during the hearing, from her seat, she saw birds all the time and there are so many birds on the 245 Paula property. This does not constitute a biological resource assessment. In addition, the 245 Paula owner’s biologist who presented information to the Planning Commission, including the repeated comment of how she couldn’t locate a CNDDB entry for any adult female badger or natal territory (therefore, it must not exist) - conducted an inadequate assessment, which is addressed in the expert mammal biologist’s response and opinion – submitted for the public record and never mentioned or discussed by the Commission. Biologist Fitts conducted the habitat survey of both 431 Paula and 245 Paula in 2004 and has periodically monitored the area and properties for several years. The Naturalist, Susan Kirks, with 19 years of direct field study and observation of American Badger, including these 2 properties, also possesses expertise the owner’s biologist does not possess.

1.4

This appeal is filed by Paula Lane Action Network. Within 72 hours, the \$1,174 appeal fee was raised from nonprofit supporters, 5 of whom live in the immediate area of the 245 Paula Lane property.

Lastly, a dismissive comment about letters that had been received opposing the subdivision proposal from several apartment dwellers of the Price Drive Apartments, from the dais, did not go unnoticed. The comment was made with a tone as if these were just letters from the apartment residents, inferring these comments somehow carried

PRMD, Nov. 8, 2018, P. 4

less meaning or significance. Those who live at the Price Drive Apartments are directly already impacted by the 245 Paula owners' activities and would be further seriously negatively impacted by the additional habitat destruction and development proposal. The two property owners most seriously impacted by the 245 Paula Lane subdivision proposal are the Price Drive Apartments west of the 245 Paula Lane property (strong opposition to the proposal) and the Paula Lane Nature Preserve open space property immediately to the north.

During the hearing, a question was raised, with no answer given, regarding American Badger activity south of the 245 Paula Lane property. Be advised that historically, year-round, the habitat and corridor within which the 245 Paula Lane property exists, badger activity of foraging and burrowing occurs on the properties south of the 245 Paula Lane property, observed and documented over several years' time, to Bodega Avenue. The corridor continues south of Bodega over to Cleveland Lane and area, and to the Kelly Creek Property just east of Helen Putnam Regional Park, which is now being funded and conserved.

1.5

An appeal hearing is requested to further consider significant negative environmental impacts of the 245 Paula Lane subdivision proposal, the inadequate environmental review, the inconsistency with the Petaluma General Plan and Sonoma County General Plan et al, and the resultant negating of a public funds investment and Conservation Easement protecting sensitive conservation values on the Paula Lane Nature Preserve open space property.

1.6

Sincerely,

Susan Kirks

Susan Kirks, Chair, Board of Directors
Naturalist – American Badger
Paula Lane Action Network

Enc.: Appeal Form, Check for Appeal Fee

Paula Lane Action Network (P.L.A.N.), P.O. Box 2903, Petaluma, CA 94953 /
info@paulalaneactionnetwork.org / 707-241-5548 / www.paulalaneactionnetwork.org



COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403-2829
(707) 565-1900 FAX (707) 565-1103

Application Fees / Invoice # 337941 on 11/08/2018 for: MNS12-0004

Site Address: 245 PAULA LN Petaluma [PET]

Activity Type: Minor Subdivision

APN: 019-080-003

Initialized By: MGROSCH

Fire District: Wilmar VFC

Insp Area:

Valuation: \$0.00

Ag/Comm/Res:

Description: MINOR SUBDIVISION CREATING TWO LOTS

REQUEST FOR A MINOR SUBDIVISION OF 6.06 ACRES RESULTING IN TWO LOTS OF 1.53 ACRES IN SIZE EACH AND A DESIGNATED REMAINDER OF 3.0 ACRES.

PETITION PURSUANT TO CODE SECTION 25-43 TO INCREASE LENGTH TO WIDTH RATIO LIMITATION REQUIRED PER SECTION 25-42(B).

11/8/2018: Appeal received of Planning Commission decision 11/1/2018

Owner:

Applicant: GARDNER KIM
245 PAULA LANE
PETALUMA, CA 94952
415 637 6456

Fee Item	Description	Account Code	Total Fee
1011-000	Appeal	26010121-45061-10005	\$1,164.00
Invoiced Fees:			\$1,164.00
Total Paid:			\$33,807.40
Project Balance Due:			\$3,783.50

When validated below, this is your receipt

3183.5069
11-08-2018

Refunds of fees paid may be made pursuant to Section 108.6 of Appendix 1 of the California Building Code and adopted model codes, subject to the following:

- 1) 100% of a fee erroneously paid or collected.
- 2) 90% of the plan review fee when an application for a permit is withdrawn or cancelled or expires or becomes void before any plan review effort has been expended. No portion of the plan review fee shall be refunded when any plan review effort has been expended.
- 3) 90% of the building, plumbing, electrical, and/or mechanical fee may be refunded when a permit is withdrawn, or cancelled or expires or becomes void before any work was done and before any inspections are performed. No portion of these fees shall be refunded when any work was done and/or any inspections have been performed.
- 4) Application for refund must be made within one year.



396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
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AMY J. BRICKER
Attorney
bricker@smwlaw.com

October 26, 2018

Via FedEx

Georgia McDaniel
Project Planner
County of Sonoma Permit & Resource
Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403 -2859

Re: 245 Paula Lane: Initial Study and Mitigated Negative Declaration
PRMD File No. MNS 12-0004

Dear Ms. McDaniel:

On behalf of the Paula Lane Action Network ("PLAN"), we have reviewed the Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration ("MND") prepared in connection with the proposed subdivision located at 245 Paula Lane ("Project") in Sonoma County. We submit this letter to express our legal opinion that: (1) the MND for the proposed Project fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 et seq. ("Guidelines"), and (2) the County must prepare an environmental impact report ("EIR") before proceeding with the Project.

The MND fails to include the information and analysis necessary to evaluate the Project's impacts, and it does not provide sufficient evidence or analysis to support its conclusions concerning many environmental impacts. Similarly, many of the mitigation measures proposed in the MND are inadequate and will not address the Project's significant environmental impacts.

At the same time, what information the MND does provide makes clear that there is a fair argument that the Project—a subdivision to be located in the habitat area of the American Badger, a California species of special concern—will have significant impacts on the environment. Indeed, the MND admits that the Project area shows signs of

recent use by the American Badger, including as a wildlife corridor, and acknowledges that habitat loss and residential development can threaten the badger and its movement. MND at 13, 18-19. Further, the Project will add to cumulatively significant environmental impacts—in particular, the erosion of the conservation values that the neighboring Open Space Preserve at 431 Paula Lane (“the Preserve”) was established to protect—resulting from past, present, and future projects in the region.

The Project is also fundamentally inconsistent with the County General Plan, the City General Plan, and the West Petaluma Area Plan. Tellingly, the County General Plan calls for the “preservation of important biotic resource areas and scenic features” and the protection of special status species and areas of habitat connectivity. Goal LU-10; Goal OSRC-7; Objective OSRC-7.1. As a residential subdivision sited in a habitat for American Badger, the Project clearly conflicts with this mandate. It also runs afoul of numerous other provisions in the land use plans designed to protect the region’s unique aesthetic and recreational resources. Thus, approval of the Project and adoption of the MND would violate not only CEQA, but the State Planning and Zoning Law, Government Code section 65000 et seq, as well. For all of these reasons, the County cannot approve the Project as currently proposed.

I. CEQA Legal Standard

It is well settled that CEQA establishes a “low threshold” for initial preparation of an environmental impact report (“EIR”), especially in the face of conflicting assertions concerning the possible effects of a proposed project. *Project Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 928 (2005).

CEQA provides that a lead agency may issue a negative declaration and avoid preparing an EIR only if “[t]here is no substantial evidence, in light of the whole record before the lead agency, that the Project may have a significant effect on the environment.” Pub. Res. Code § 21080(c)(1) (emphasis added). A lead agency may adopt a mitigated negative declaration only when all potentially significant impacts of a project will be avoided or reduced to insignificance. Pub. Res. Code § 21080(c)(2); Guidelines § 15070(b). A mitigated negative declaration will also be set aside if the proponent’s conclusions are not based on substantial evidence in the record. *Grundstrom v. County of Mendocino*, 202 Cal. App. 3d 296, 311 (1988).

An initial study must provide the factual basis, with analysis included, for making the determination that no significant impact will result from the project. Guidelines § 15063(d)(3). In making this determination, the agency must consider the

direct and indirect impacts of the project as a whole, Guidelines § 15064(d), as well as the project's cumulative impacts. See *City of Antioch v. City Council of Pittsburg*, 187 Cal. App. 3d 1325, 1333 (1986).

An agency must prepare an EIR whenever it is presented with a "fair argument" that a project may have a significant effect on the environment, even if there is also substantial evidence to indicate that the impact is not significant. *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 75 (1974); *Friends of B St. v. City of Hayward*, 106 Cal. App. 3d 988, 1002 (1980); Guidelines § 15064(f)(1). Where there are conflicting opinions regarding the significance of an impact, the agency must treat the impact as significant and prepare an EIR. *Stanislaus Audubon Soc'y v. County of Stanislaus*, 33 Cal. App. 4th 144, 150-51 (1995) (an EIR is required if a project will result in reasonably foreseeable indirect physical changes that may have a significant adverse effect on the environment); Guidelines § 15064(f)(1).

II. The MND's Description of the Project is Inadequate.

The MND must adequately describe the Project. "An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal. App. 4th 713, 727 (1994) (quoting *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 193 (1977)). "The negative declaration is inappropriate where the agency has failed to provide an accurate project description or to gather information and undertake an adequate environmental analysis." *City of Redlands v. County of San Bernardino*, 96 Cal. App. 4th 398, 406, 410 (2002). Courts have found that, even if an environmental review document is adequate in all other respects, the use of a "truncated project concept" violates CEQA and mandates the conclusion that the lead agency did not proceed in a manner required by law. *San Joaquin Raptor*, 27 Cal. App. 4th at 729-30. Furthermore, "[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." *Id.* at 730 (citation omitted). Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable.

Here, the Initial Study barely describes the Project at all. Indeed, it only provides one paragraph of text, and even this limited discussion is cursory and vague. Any reasonably complete description of the Project would give the public and decision-makers a sense of what this subdivision would look like, how it would work, and how it would fit into the West Petaluma community. The purported project description does none of this; it merely describes the acreage of the three lots to be created out of the

current parcel. This failure echoes throughout the document: because the Project is incompletely described, none of its impacts can be fully analyzed.

The closest that the Initial Study comes to providing a sense of the Project is its references to the proposed lot sizes, to an American Badger habitat area on the west side of the property, and to designated building envelopes. Merely describing building envelopes is not sufficient, however; the document should provide information about what the subdivision will look like. For example, what are the development standards and guidelines? What plan can the public and decision makers consult in order to verify that the subdivision will be well-planned and that the homes would be compatible with other development in the area? Where are the photo simulations showing how this subdivision would appear from Bodega Avenue, Paula Lane, and the Preserve bordering the property? At this point, the County should be providing focused direction to the applicant regarding her vision for the Project, taking into account the nature and ambience of West Petaluma. Yet, because the County released this Initial Study without pressing for critical Project details, it appears the County may be attempting to satisfy the needs of the applicant at the expense of the community.

The flaws in the Initial Study's project description extend beyond its failure to contain a more developed land use plan; the document lacks sufficient plans for how the development will function. For example, how will residents of the two new proposed lots access their property? Where will the driveways, if any, be located? They are not shown on the map provided. MND at 6. The map as a whole is so small as to compromise its legibility. A member of the public lacking a magnifying glass would be excluded from reviewing the proposed subdivision.

As a final example of the problems with the insufficient project description, the anticipated drainage features are inadequately described. The MND requires that the Project applicant submit grading and drainage plans to the Permit and Resource Management Department ("PRMD") for review, and it references best practices for storm water management that can be incorporated. MND 35-36. But the eventual plan for the site remains a mystery (will it be terraced or maintain the natural slope? Where will the referenced drainage and landscaping features be located?) Unless and until the applicant

¹ Drainage is a particular concern regarding the Project design. Previous grading and vegetation removal on the Project site has lead to increased stormwater runoff downhill from the property. The proposed Project threatens to make an existing problem even worse.

prepares a more detailed land use plan for the Project, and one which grapples with these basic planning and design considerations, the Initial Study will remain incapable of addressing and analyzing the Project's important environmental effects.

III. The MND's Description of the Project Setting Is Inadequate.

CEQA provides that one of the required components of an initial study is a description of the environmental setting of a project. Guidelines § 15063(d)(2). "[W]ithout such a description, analysis of impacts, mitigation measures and project alternatives becomes impossible." *County of Amador v. El Dorado County Water Agency*, 76 Cal. App. 4th 931, 953 (1999). Decision-makers must be able to weigh the project's effects against "real conditions on the ground." *City of Carmel-by-the-Sea v. Board of Supervisors*, 183 Cal. App. 3d 229, 246 (1986). One initial study's "environmental setting" section that was held to be adequate set forth the existing site conditions, facilities, and recreational uses, and contained a description of the existing physical conditions, including the topography and types of habitats and vegetation. *Highhouse Field Rescue v. City of Santa Cruz*, 131 Cal. App. 4th 1170, 915-17 (2005). According to the court, the initial study's several-pages-long environmental setting discussion "met the minimum requirements of the Guidelines." *Id.* at 917.

In contrast to this type of thorough description of the environmental context in which a project is proposed, the environmental setting discussion in the proposed MND omits essential information and thus fails to meet CEQA's requirements. In order for the public and decision-makers to be able to fully understand the environmental impacts of this Project, more information about the Project setting is needed. Such information includes, but is not limited to, a detailed description of the following:

The visual character and appearance of the community and the proposed Project site, including existing development and open space in the Project vicinity. This would necessarily include photographs of the Project site and its surroundings.

The site's proximity to Bodega Avenue, a road designated as a "scenic route" by the West Petaluma Area Plan. West Petaluma Area Plan at 31.

The ridgeline near the Project site (textual and photographic).

The existing hydrological and hydraulic conditions of drainages in the vicinity of the Project.

Cumulative projects, including major construction projects, that will be carried out in the area during the period when the Project will be under construction.

2.1

Sonoma County's General Plan, the City of Petaluma's General Plan, and the West Petaluma Area Plan, including the goals and policies relevant to the Project site (going beyond maximum densities, the only information currently included about the surrounding land uses).

2.2

Noise levels existing at and around the Project site.

Existing transportation infrastructure around the Project site, including the existing accident rates on roadways, availability of public transportation, and line-of-sight information for proposed subdivision access points (when these access points are ultimately included).

The environmentally sensitive and significant nature of the Project's surroundings, which include an open space preserve. The Project area includes habitat for sensitive species that is contiguous with habitat in the open space preserve.

2.3

Any other relevant regional and local setting information necessary to evaluate project and cumulative impacts.

As noted above, the Project site is immediately adjacent to an open space preserve. And the broader Project area has been the subject of longstanding efforts to protect and preserve the rural character of this part of the County. The Project's goal of subdividing land to make way for two additional houses threatens to completely and permanently change the rural and open space nature of this area. Given the inadequacies of the Project setting and description, however, a member of the public would not be made aware of this looming threat to important environmental, aesthetic, and community values.

IV. The County Must Prepare an EIR That Analyzes the Potentially Significant Effects of the Proposed Project.

An agency must prepare an EIR for a proposed project whenever substantial evidence in the administrative record supports a "fair argument" that the project may have significant impacts on the environment. Guidelines §§ 15064(a)(1),

(f)(1). A fair argument can be made that the Project, which will replace open space with a subdivision, will have potentially significant impacts on biological resources, aesthetics, and land use. Furthermore, the Project will add to cumulatively significant environmental impacts resulting from a number of past, present, and future projects in the region. For all of these reasons, as discussed below, the County is required to prepare an EIR.

A. The Project Will Result in Significant Adverse Impacts to Biological Resources.

1. The Project Will Have Significant Adverse Impacts on the American Badger, a California Species of Special Concern.

The MND incorrectly concludes that the Project would result in less than significant impacts to the American Badger with mitigation measures incorporated. MND at 13. On the contrary, the Project will result in significant adverse impacts to this special status species that will not be addressed by the mitigation measures described in the MND.

a. Substantial Evidence in the Record Undermines the MND's "Less Than Significant Impact" Conclusion.

The MND rests on faulty assumptions and inaccurate observations concerning the presence of American Badgers on the Project site. Relying on a 2014 biological assessment by Dana Riggs, the MND asserts that "no evidence of badger use" was found beyond the northwestern portion of the Project area. MND at 13. As a result, the MND's conclusions regarding the Project's effects on the badger population and its proposed mitigation measures—including especially the American Badger Habitat Area (see MND at 14)—are based on the assumption that the badger habitat is confined to the northwestern corner of the property.

There is substantial evidence in the record that the Riggs Report and the MND significantly underestimate the extent of the American Badger's presence on the Project site. Biologist Kim Fitts completed her own assessment of the badger population at 245 Paula Lane and 431 Paula Lane, the property adjacent to the Project site, in 2004 (the 431 property forms a continuous open space and habitat with the 245 Paula Lane property, including the Project site). Kim Fitts, American Badger Habitat Survey (2004), attached as Exhibit A. Fitts counted 25 badger dens and observed that "badger use extends onto adjacent properties." Fitts returned to the site in 2012. She observed

2.4

three to four recently created burrows on the Project site (245 Paula Lane) and several older burrows that she had mapped on her previous visits. Letter from Kim Fitts to Misti Harris, July 24, 2013, attached as Exhibit B. Most recently, Fitts drafted a letter in October of 2018 confirming that the grassland habitat covering the Project site and the adjacent open space preserve is a movement corridor for badgers and hosts badger trails and burrows. The undersigned have reviewed the October 2018 Fitts letter and hereby incorporate it by reference into this document. The letter will be sent under separate cover.

The California Department of Fish and Wildlife (then Fish and Game) also observed numerous burrows on the project site in 2012. The Department sent a letter to PRMD Planner Misti Harris on December 27, 2012, recounting its observation of “approximately five badger burrows . . . on the neighboring Project site at 245 Paula Lane.” Letter from Department of Fish and Game to Misti Harris, December 27, 2012, attached as Exhibit C.

2.4

Finally, the Applicant’s own biological consultant contradicted the conclusions relied upon by the MND in a letter to the Applicant in 2013. In that letter, Riggs informed the Applicant that “three old badger digs were observed” on the southern portion of the site, where there had been unauthorized grading activity. Letter from Dana Riggs to Kim Gardner, July 5, 2013, attached as Exhibit D. “ Evidence of recent digs overlapping older dig in the same general area on the site suggests current site activities have not deterred badger use at the site. (emphasis added). This letter acknowledges what the MND denies—that American Badgers have been active recently on areas of the site extending beyond the northwestern corner. This evidence undermines the MND’s conclusions concerning the Project’s impacts on the American Badger and the adequacy of the proposed mitigation measures.

The MND also incorrectly asserts that feral cats in the adjacent Preserve are “the primary threats” to badger habitat. The MND goes as far as to claim that the presence of a watering bucket—and not the construction of two residential buildings, with all of the associated impacts (noise, dust, night-time lighting, loss of open space, etc.)—is “the activity that may have a substantial adverse effect” on the American Badger.

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The assertion about the feral cats and water bucket is as ridiculous as it is inaccurate. These claims were first made in the Riggs biological report. In 2014, Susan Kirks, a member of the PLAN Board of Directors, discussed this report with Adam

McKannay of the California Department of Fish and Wildlife. E-mail Exchange between Susan Kirks and Adam McKannay, September 17-18, 2014, attached as Exhibit E. Kirks explained that there are domestic—not feral—cats living near the property, and that these cats do not compete with badgers for habitat. Instead, she wrote, “What is negatively impacting the American Badger in the area are the barking dogs on-site at 245 Paula, the intensive and extensive illegal grading, obstructive fencing, and structures the owners placed in the habitat[.]”*Id.* McKannay concurred with Kirks’s “observations of barking dogs and feral/house cats in the vicinity of the Preserve.”*Id.* The unpermitted grading and fencing was the subject of numerous complaints from neighbors and is acknowledged in the MND. E-mail from Kim Fitts to Misti Harris, January 28, 2014, attached as Exhibit F; Letter from Kim Fitts, Exhibit B; Letter from Amy Bricker to T. Wick and M. Grosch, May 17, 2016, attached as Exhibit G; MND at 2. This evidence shows that the proposed development and the concomitant structures and human activity, and not a watering bucket on the adjacent Preserve, is the primary threat to the badger habitat.

2.5

The evidence above reveals that the MND significantly underestimates the presence of American Badger on the Project site and misunderstands the nature of the threats to their habitat. As a result, the MND’s conclusions concerning the impact of the Project and the adequacy of the proposed mitigation measures are suspect. The evidence creates a fair argument that the Project will result in significant impacts to the American Badger that will not be mitigated by the proposed measures.

b. The Project Will Destroy and Compromise Badger Habitat and Wildlife Movement Corridors.

Habitat loss and fragmentation “are the greatest threats to badgers” in the state. 2012 Department of Fish and Game Letter, Exhibit C. American Badgers require significant home ranges and travel widely within them due to their efficiency as hunters. They must travel from place to place to allow prey populations to recover from their presence. Their need to travel means that badgers are vulnerable when their habitats are fragmented by development. 2004 Fitts Report, Exhibit A. Badgers are unlikely to remain in areas where agricultural land has given way to urbanization. 2012 Department of Fish and Game Letter, Exhibit C.

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The Project site is partially composed of open annual grassland. This grassland provides “excellent habitat” for both the small mammals that form the major part of the American Badger’s diet and for the badger itself. 2004 Fitts Report, Exhibit A. Further, the Project site is contiguous with a larger wildlife movement corridor that

includes the open space preserve to the north of the property and other open space lands. 2013 Fitts Letter, Exhibit B. PLAN has identified and documented this important wildlife corridor in which both the Project site and the open space preserve exist.

The Project will destroy badger habitat or make further occupation of the area by badgers untenable. Noise and vibrations from construction would disrupt the badgers while they are in their burrows underground. 2004 Fitts Report, Exhibit A (“The development of this property would create significant diurnal noise and vibration, highly likely to cause the badger to move from the site.”). Further, bright night lighting “may . . . disrupt breeding on or adjacent to the Project Area.” Dana Riggs, WRA, Biological Resources Assessment Report, attached as Exhibit H. Finally, the conversion of open space to residential development will result in habitat fragmentation and the disruption of the wildlife movement corridor of which the Project site forms a part.

2.6

c. The Mitigation Measures are Inadequate.

As explained above, the mitigation measures—which are based on the incorrect assumption that the American Badger’s range is limited to the northwestern portion of the property—are inadequate to address the significant adverse impacts that the Project will have on the American Badger. For example, mitigation measures BIO-1, BIO-2, BIO-3, and BIO-4 concern land uses and activities that may be conducted on or adjacent to the designated American Badger Habitat Area. MND at 14-15. But since the Badger’s actual habitat extends beyond that small corner of the site, these mitigation measures are inherently inadequate to protect the badger. Similar defects affect mitigation measures BIO-5, BIO-6, and BIO-12. MND at 15-16, 19. Since the badger habitat extends across larger portions of the Project site, even downcast lighting will affect the badgers. And pass-thru fencing around the designated badger habitat is also inadequate: the badgers’ range extends well beyond those areas, and pass-thru fencing cannot mitigate the replacement of open space with residential development and the habitat disruption that comes with it.

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With respect to mitigation measure BIO-5, the MND states that “existing topography will prevent lighting impacts from affecting wildlife use in the Open Space Preserve to the north.” MND at 15. The property is sloped from the north to the south, with the Preserve at a higher elevation than the Project site. The two new proposed residences are slated to occupy the northern portion of the site, adjacent to the Preserve. Light from the residences will affect the Preserve despite existing topography. Mitigation measure BIO-5’s explanation makes no sense: light is not discouraged by an uphill slope.

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To address these inadequate mitigation measures, the County could consider requiring the creation of a conservation easement on the subject property. A conservation easement that protected the environmental and open space values of the badger habitat area would more meaningfully address the Project's negative impacts.

2. There is a Fair Argument that the Project Will Have A Significant Impact on Other Species of Special Concern.

The MND contains four mitigation measures concerning the burrowing owl, another California Species of Special Concern (BIO-7, BIO-8, BIO-9, and BIO-10). MND at 16-17. These mitigation measures require pre-construction surveys to locate burrowing owl and subsequent measures to avoid disturbing any owls that are so located. Id. None of the measures, however, affirmatively address the habitat loss likely to be caused by the Project.

There is substantial evidence in the record that the mitigation measures described above are inadequate to address the significant impacts to the burrowing owl likely to result from habitat disruption. According to a letter from the Department of Fish and Game in 2012, burrowing owl have been highly correlated with American Badger burrows in Sonoma County. 2012 Department of Fish and Game Letter, Exhibit C. The Department goes on to express concern that burrowing owl populations, like populations of American Badger, have taken a drastic hit as a result of habitat fragmentation. Id. Finally, the letter recommends that, if the Project will impact burrowing owls or their habitat, "adequate mitigation to protect and restore existing habitat that can support badger and burrowing owls should be required." Id.

None of the mitigation measures focused on the burrowing owl will protect or restore existing habitat. Instead, the measures would only prevent the accidental take of a burrowing owl as a result of active construction activities. While this is a step in the right direction, it is insufficient. The Project would result in the permanent conversion of burrowing owl habitat to residential development. The mitigation measures do not prevent this habitat loss, nor do they make any provision for the restoration of lost habitat. The mitigation measures are thus insufficient to address the significant impacts to burrowing owls.

Finally, the MND inadequately addresses the potential significant impacts of the Project on special-status bird species. The MND states, quoting the 2014 Riggs Report: "Golden eagle, white-tailed kite, Nuttall's woodpecker, loggerhead shrike, and

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grasshopper sparrow are special-status bird species with potential to occur and nest in the Project Area or immediate surrounds. Although many of the mature trees will be retained, Project activities have the potential to result in indirect nest abandonment, which would be considered take under the Migratory Bird Treaty Act.” MND at 19. To address this, the MND proposes mitigation measure BIO-13, requiring preconstruction surveys during certain times of year. MND at 19-20. The MND and the mitigation measure significantly understate the potential for significant harm to these bird species and others. The conservation easement affecting the Preserve adjacent to the Project site states that Allen’s and Rufous Hummingbirds, Sharp-shinned Hawk, White-tailed Kite, Cooper’s Hawk, Nuttall’s Woodpecker, Oak Titmouse, Red-breasted Sapsucker, Snowy Egret, Great Egret, Great Blue Heron, Black-crowned Night Heron and Long-billed Curlew all use the Preserve. Deed and Agreement By and Between the City of Petaluma and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights, Recorded May 14, 2012, as Doc. 2012046059, Official Records of Sonoma County, § 2.1, attached as Exhibit I. Several of these special-status species are not even discussed by the MND or addressed by the mitigation measures. Impacts to these species could include, among other things, loss of adequate food sources caused by the decreased availability of prey species due to the destruction of open space. But the MND does not address these impacts. There is a fair argument that the Project will have a significant impact on these species that will not be addressed by the proposed mitigation measures.

2.10

3. There is a Fair Argument that the Project Will Have a Significant Impact on Protected Trees.

The MND states that the Project site “contains several protected oak trees, which will remain,” and proposes a mitigation measure (BIO-14) requiring compliance with the Sonoma County Tree Protection and Replacement Ordinance. MND at 20-21. There is, however, substantial evidence in the record that significant impacts to protected trees have already been sustained as a result of unpermitted construction and grading activities. In 2016, this firm submitted a report by certified arborist Sherby Sanborn to PRMD. The report stated that grading activities associated with roadway construction had “already impacted the root systems” of protected trees including “a Valley Oak, Coast Live Oaks, and a Monterey Cypress.” Letter from Sherby Sanborn to PLAN, May 17, 2016, attached as Exhibit J.

2.11

Mitigation measure BIO-14 states that trees damaged during construction activities “must be replaced in accordance with the Tree Protection ordinance.” MND at

20. To our knowledge, however, restoration activities related to the roadway construction in 2016 have never been completed. There is thus a fair argument that the mitigation measures are only words on paper and insufficient to address the Project's already significant adverse impacts on protected trees, not to mention potential significant impacts in the future.

2.11

B. There is a Fair Argument that the Project Will Have Significant Aesthetic Impacts.

Under CEQA, it is the state's policy to "[t]ake all action necessary to provide the people of this state with . . . enjoyment of aesthetic, natural, scenic, and historic environmental qualities." Pub. Res. Code § 21001(b) (emphasis added). Thus, courts have recognized that aesthetic issues "are properly studied in an EIR to assess the impacts of a project." *The Pocket Protectors*, 124 Cal. App. 4th at 937 (overturning a mitigated negative declaration and requiring an EIR where proposed project potentially affected street-level aesthetics). "Any substantial negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA." *Ocean View Estates Homeowners Assn., Inc. v. Montecito Water District*, 116 Cal. App. 4th 396, 401 (2004). As explained by the court in *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas*, 29 Cal. App. 4th 1597, 1606 (1994), it is "self-evident" that replacing open space with a subdivision will have an adverse effect upon "views and the beauty of the setting." Projects that are aesthetically incompatible with surrounding uses have also been required to prepare EIRs. *Protect Niles v. City of Fremont*, 25 Cal. App. 5th 1129, 1145-49 (2018) (holding that neighbors' objections to a project's aesthetic incompatibility with its surroundings constituted substantial evidence of a fair argument that the project would have a significant impact on the environment).

The proposed project is located in close proximity to Bodega Avenue, a corridor designated by the West Petaluma Area Plan as a scenic route. The MND recites the aesthetic policies of the Area Plan (e.g., "Policy 2.3.1: Protect visually vulnerable landscapes, such as ridgelines, unique scenic areas, and areas essential for defining the form of development in Petaluma") and attempts to address them. MND at 7. For example, the MND's mitigation measure AES-1 requires that building occur within building envelopes to reduce the impact on the view from Bodega Avenue. MND at 7-8. The building envelopes are situated behind the existing house and barn if viewed from certain places on Bodega Avenue.

As an initial matter, the MND's analysis is inadequate. It does not contain a full view-shed analysis or any pictures showing the views from Bodega Avenue. The

public is unable to analyze the Project's potential impacts on the view, and one is left to wonder about the completeness of PRMD's own review.

Additionally, the proposed mitigation measure is insufficient to protect the view from Bodega Avenue: it says nothing about the appearance of the homes that may eventually be built on the lot and, critically, does not limit their height. It is all well and good to place a new home behind an existing barn—but the view will not be spared if the home towers over the existing structure. This issue is compounded by the fact that the ground underneath the building envelopes is approximately 20 feet higher than the ground beneath the barn and the existing house. Finally, considering the lack of a height limitation, the topography of the site, the lack of photographs from Bodega Avenue, and the presence of a ridgeline just up-slope from the proposed building envelopes, the MND does not adequately explain how the view of the ridgeline will remain uninterrupted from Bodega Avenue. See West Petaluma Area Plan Policy 2.3.1 ("Protect visually vulnerable landscapes, such as ridgelines . . .").

The MND also entirely fails to consider the aesthetic impact of the development with respect to the view from the neighboring Open Space Preserve. The conservation easement over the adjacent Preserve states that the property "will continue to be a public preserve in perpetuity." Conservation Easement, § 5.6, Exhibit I. It further acknowledges that the property's "primarily undeveloped character is an important open space resource, contributing to the county's rural character." Id., § 2.2. Opportunities for "recreational enjoyment" of the site's "natural features" is enshrined as one of the conservation values of the easement. Id., § 2.3

The Project will have a significant adverse impact on the aesthetics of the area, as viewed and appreciated by the public from the Preserve. The Project will replace scenic open space on the southern boundary of the Preserve with two new houses and, presumably, parking areas, vehicles, and other features of residential development. This will negatively impact the Preserve's ambience and scenic open space qualities and decrease the opportunities for recreational enjoyment of the site's natural features. The MND has not explained, as it must, how the Project's impact on the view from the Preserve is less than significant. See *Ocean View Estates Homeowners Ass'n, Inc.*, 116 Cal. App. 4th at 402 (requiring an agency to prepare an EIR because the petitioner presented "evidence from which a fair argument can be made that the [project] will be visible from public trails."); *Protect Niles*, 25 Cal. App. 5th at 1145-49. The open space preserve represents a substantial investment—including one million dollars in public funds (see October 2018 letter by Kim Fitts, submitted under separate cover)—in protecting the rural character and aesthetics of this area. The addition of two homes in

close proximity to the Preserve would forever change the rural nature of the site.

Further, the MND does not even attempt to mitigate the Project's aesthetic impact on the Preserve. The Preserve is located up-slope of the Project site, so the topography will make Project features fully visible. And the building envelopes, which PRMD positioned to reduce the visual impact on Bodega Avenue, are situated so that both houses will be visible from the Preserve. Not even trees will obstruct the view. Mitigation measures that could reduce the impact—e.g., context-specific limits on building heights; required plantings, including trees, etc.—are absent.

C. There is a Fair Argument that the Project Will Have Significant Recreational Impacts.

The City of Petaluma General Plan 2025 (which applies to the Project site because it lies within the Urban Growth Boundary) calls for the City to “[r]etain and expand city-wide park and recreation assets,” including by encouraging and supporting collaboration with “non-profit organizations and private parties in the use of public lands for outdoor education opportunities such as . . . wildlife study/protection areas.” Goal 6-G-1; Policy 6-P-1(G).

The MND incorrectly concludes that the Project will not have significant recreational impacts because it would not lead to the degradation of parks or recreational facilities. In reaching this conclusion, the MND completely ignores the presence of a recreational facility adjacent to the Project site. One of the conservation values that the Preserve is intended to protect includes opportunities for “recreational enjoyment” of the site's natural features. In keeping with the General Plan policies above, the Preserve currently provides opportunities for non-profit organizations to use public lands for outdoor education activities and wildlife study. By disrupting American Badger habitat and the habitat of other special-status species and making the adjacent Preserve less attractive to these animals and birds, the Project will significantly diminish the opportunities available for wildlife study and education in the Preserve. As such, the Project conflicts with the recreational policies and goals of the City's General Plan, and there is a fair argument that the Project will have significant recreational impacts.

D. There is a Fair Argument that the Project Will Have Significant Land Use Impacts.

Evidence that a project is inconsistent with land use standards adopted to mitigate environmental impacts supports a fair argument that a project will have a

significant adverse effect. *Pocket Protectors*, 124 Cal. App. 4th 903 (2004); *Lighthouse Field Beach Rescue*, 131 Cal. App. 4th 1170 (2005). Since the Project is inconsistent with the General Plan as shown below, a fair argument exists that the Project would cause significant land use impacts. Thus, PRMD cannot rely on the MND and must prepare an EIR.

The MND concludes that the Project does not conflict with any land use plan or policy. MND at 38. In reaching this conclusion, the MND discusses the zoning designation applicable to the Project site and the zoning density of the Project. It further concludes that the designated American Badger Habitat Area “does not preclude the Urban Separator Path identified in the Petaluma General Plan 2025 that runs along the rear of the property line.” *Id.*

The MND neglects a series of applicable goals and policies from relevant land use plans with which the Project conflicts.

Sonoma County’s General Plan 2020 Land Use Element and its Open Space and Resource Conservation Element contain goals and policies in conflict with this Project. For example, Goal LU-10 provides that the “uses and intensities of any land development shall be consistent with the preservation of important biotic resource areas and scenic features.” To achieve this goal, the General Plan encourages incentivizing voluntary easements on lands with important biological resources (Policy LU-10b), and developing programs “for preservation and enhancement of important biotic resource areas,” (Policy LU-10c). Goal OSRC-7 sounds a similar note, calling for the County to “[p]rotect and enhance the County’s natural habitats and diverse plant and animal communities.” This goal is supported by the following objectives: “[i]dentify and protect native vegetation and wildlife, particularly occurrences of special status species . . . and areas of essential habitat connectivity,” (Objective OSRC-7.1), and “[m]aintain connectivity between natural habitat areas” (Objective OSRC-7.5). But, as explained above, this Project will disrupt the habitat of the American Badger, a special-status species, and interrupt a wildlife movement corridor. This habitat disruption is not consistent with “the preservation of important biotic resource areas” or the protection and maintenance of wildlife and habitat connectivity called for in the General Plan.

The Project is also inconsistent with Goal LU-5 of the County General Plan. This goal calls for the identification of “important open space areas between and around the county’s cities and communities” and the maintenance of these areas “in a largely open or natural character with low intensities of development.” The Project is an open space area outside of the City of Petaluma but on the edge of its Urban Growth

Boundary. As such, it falls within the scope of Goal LU-5. The Project, however, would replace open space with development, which would not maintain this area “in a largely open or natural character” as called for by the Plan².

Moving from the County General Plan to the City of Petaluma General Plan 2025 (which applies to the Project site because of its location within the Urban Growth Boundary), the Project conflicts with policies pertaining to the Urban Separator. General Plan Figure 3-3-1 shows that the property is adjacent to the Urban Separator Path³. See also Letter from Heather Hines to Misti Harris, January 24, 2013, attached as Exhibit K (“the Urban Separator Path as identified in the Petaluma General Plan 2025 runs along the rear property line and should be incorporated into any future development of the property.”). The City’s General Plan calls for the maintenance of “a permanent open space around the city” through the use of “an Urban Separator Pathway.” Policy 1-P-18. While the MND states that the badger habitat area does not preclude the Urban Separator Path, the habitat area does not extend into the remainder parcel. To be consistent with the General Plan, the MND should extend open space restrictions consistent with the maintenance of an Urban Separator Pathway to the remainder lot.

In addition to its conflicts with the City and County General Plans, the Project conflicts with the West Petaluma Area Plan’s Open Space Plan. This plan “proposes the preservation of open space” for the purpose of preserving “natural resources such as areas required for the preservation of plant and animal life.” West Petaluma Area Plan at 30. The Project here runs completely against this policy in that it converts open space to residential development. Further, as discussed above in the biological resources section, this particular open space is required for the preservation of species such as the American Badger. Since the MND does not contain adequate mitigation to protect the badger and other species, the Project conflicts with the letter and the purpose of the West Petaluma Area Plan’s Open Space Plan.

This letter has already discussed the Project’s potential conflict with Policy 2.3.1 of the West Petaluma Area Plan and its goal of protecting scenic ridgelines (see section concerning aesthetic impacts, above). It has also discussed the Project’s conflict with City of Petaluma General Plan Goal 6-G-1 and Policy 6-P-1, concerning parks and recreation (see section concerning recreational impacts, above).

² In contrast, the creation of conservation easements in this area, including on the Project site, would be in keeping with Goal LU-5.

Finally, it appears that the Project may conflict with density standards for Rural Residential areas. The two subdivided lots are 1.53 acres each, smaller than the two-acre minimum lot size for these areas. Section 25-43 of the Sonoma County Code suggests that clustered development may be permitted when “common usable open space” is set aside. The proposed subdivision adds two lots between a large home constructed on the property in 2012 and the property line shared with the protected open space preserve, with a small area in the northwest corner of the property designated as “badger habitat.” It appears the total acreage for the two lots and the “badger habitat” is 3.06 acres (i.e., 1.53 acres multiplied by two). The remainder parcel is 3 acres. Given this arrangement, it is not clear whether “common usable open space” has been set aside, as the area set aside for habitat appears to be part of the subdivided lots.

Since the Project conflicts with applicable land use plans, there is a fair argument that it would cause significant land use impacts, and PRMD must prepare an EIR. Furthermore, these conflicts demonstrate that Project approval would also violate the State Planning and Zoning Law.

E. There is a Fair Argument that the Project Will Have Significant Cumulative Impacts.

CEQA requires a discussion of the environmental impacts, both direct and indirect, of the proposed project in combination with all “closely related past, present and reasonably foreseeable probable future projects.” Guidelines § 15355(b) (see also Pub. Res. Code § 21083(b); Guidelines §§ 15021(a)(2), 15130(a), 15358. The discussion of cumulative impacts must “reflect the severity of the impacts and the likelihood of their occurrence” (Guidelines § 15130(b)), and must document its analysis with references to specific scientific and empirical evidence. *Mountain Lion Coalition v. California Fish & Game Comm’n*, 214 Cal. App. 3d 1043, 1047, 1052 (1989). A lead agency must prepare an EIR if a project’s possible impacts, though “individually limited,” may be “cumulatively considerable.” Pub. Res. Code § 15064(i).

Extensive case authority highlights the importance of a thorough cumulative impacts analysis. In *San Bernardino Valley Audubon Society v. Metropolitan Water District*, 71 Cal. App. 4th 382, 399 (1999), for example, the court invalidated a negative declaration and required preparation of an EIR for the adoption of a habitat conservation plan and natural community conservation plan. The court specifically held that the negative declaration’s “summary discussion of cumulative impacts is inadequate,” and that “it is at least potentially possible that there will be incremental impacts . . . that will have a cumulative effect.” *Id.*

The MND fails to analyze the Project's cumulative impacts in light of related past, present, and reasonably foreseeable probable future projects. First, the MND fails to address the cumulative effects of the unpermitted grading and construction work that has recently occurred on the Project site. The MND acknowledges that illegal grading occurred in the project description, but its impacts are not addressed in the cumulative impacts section. The illegal grading and construction had negative impacts on protected trees on the parcel, Sanborn Letter, Exhibit J, and disrupted wildlife habitat, Letter from Lindsay Mickles to Misti Harris, February 20, 2014, attached as Exhibit L ("The owners have graded away wildlife habitat up to my property line . . . and have installed unpassable fencing . . . in the . . . area of the property that was always habitat for wildlife and through which wildlife frequently moved"). The MND does not address how these existing and closely related impacts to wildlife and protected species will interact with projected Project activities.

Additionally, the MND fails to consider the impact of past and future development around the Project site. In particular, this is a special concern because of the danger that the Open Space Preserve will be walled in by development. The impacts from such development—including the development proposed in the current Project—are identified in the October 2018 Fitts letter (sent under separate cover). These impacts will negate the conservation easement over the open space property and undermine the more than \$1,000,000 in public funds that have been invested in the Open Space Preserve and its conservation values. If residential development steadily increases around the Preserve, this special property will gradually lose its value as a wildlife habitat and a place for wildlife study, education, and passive public enjoyment of open space.

Because the MND does not analyze the potential for cumulative impacts in light of these past actions and future projects, it cannot possibly conclude that there will be no significant cumulative impacts. Accordingly, the County must prepare an EIR to evaluate whether the Project's impacts will be cumulatively significant.

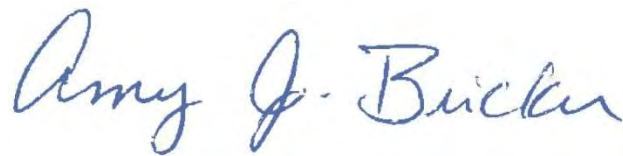
V. Conclusion

For all of the reasons explained above, there is fair argument that the Project will have significant impacts on the environment. The Project also conflicts with numerous policies in the County and City General Plans and the West Petaluma Area Plan. Approval of the Project would contravene good public policy and violate CEQA

and State Planning and Zoning Law. We therefore urge PRMD to revise the Project and prepare an EIR.

Respectfully,

SHUTE, MIHALY & WEINBERGER LLP



Amy J. Bricker
Aaron M. Stanton

Exhibits:

- A - Kim Fitts, BioConsultant LLC, American Badger Habitat Survey (2004).
- B - Letter from Kim Fitts, BioConsultant LLC, to Misti Harris, PRMD, July 24, 2013.
- C - Letter from Scott Wilson, Department of Fish and Game, to Misti Harris, December 27, 2012.
- D - Letter from Dana Riggs, WRA, Inc., to Kim Gardner, July 5, 2013.
- E - E-mail Exchange between Susan Kirks and Adam McKannay, September 17-18, 2014.
- F - E-mail from Kim Fitts to Misti Harris, January 28, 2014.
- G - Letter from Amy Bricker, Shute, Mihaly & Weinberger LLP, to T. Wick and M. Grosch, May 17, 2016.
- H - Dana Riggs, WRA, Biological Resources Assessment report: 245 Paula Lane, Sonoma County California (August 2014).
- I - Deed and Agreement By and Between the City of Petaluma and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights, Recorded May 14, 2012, as Doc. 2012046059 in the Official Records of Sonoma County.
- J - Letter from Sherby Sanborn to Paula Lane Action Network (PLAN), May 17, 2016.
- K - Letter from Heather Hines, Petaluma Community Development Department, to Misti Harris, January 24, 2013.
- L - Letter from Lindsay Mickles, Mickles Enterprises, to Misti Harris, February 20, 2014.



October 22, 2018

Members of Sonoma County Planning Commission
George McDaniel, Member of Planning Staff
Sonoma County Permit and Resource Division
2550 Ventura Ave.
Santa Rosa, CA 95403

Re: MNS 12-2004 / 245 Paula Lane WRA Biological Resources Assessment Report
August 2014

Submitted: Email: Georgia.McDaniel@sonoma-county.org

Dear Members of the Planning Commission and Ms. McDaniel:

I have been a professional consulting wildlife biologist for the past 30 years and the retired owner of BioConsultant LLC. I am a recognized expert on the federally endangered Point Arena mountain beaver (*Aplodontia rufa nigra*), and have served as the primary consultant for federal, state and local governments on its management. I have collaborated with CA Department of Fish and Wildlife (DFW) on numerous studies and projects.

I have monitored the status of the American badger (*Taxidea taxus*)(badger) within the Paula Lane environs since 2003. At the request of Paula Lane Action Network (PLAN), I conducted a habitat survey on two adjacent properties (431 & 245 Paula Lane) to determine if, and to what extent, badgers were utilizing the land. The resulting report, American Badger Habitat Survey–Paula Lane Proposed Subdivision (2004), documented extensive and long-term badger activity on both parcels. The study clearly illustrates that the grassland habitat creates a movement corridor and that the badger trails and burrowing systems are contiguous between the 431 and 245 Paula Lane properties. Additionally, the report states that burrowing activity was noted on adjacent properties to the southwest and west.

The habitat of the 431 and 245 Paula Lane properties has been well documented as continuously supporting badger since 2003, and according to land owners in the Paula Lane area for a century. In a professional capacity, I have observed and documented in reports and to DFW California Natural Diversity Data Base the presence of foraging, denning and its use of the habitat as a natal area within a home range. DFW staff have also documented active badger use during several site visits.

In 2012, the Sonoma County Agricultural Preservation and Open Space District awarded a \$1,000,000 grant to the City of Petaluma and Paula Lane Action Network, as Grantees,



to acquire and conserve the 431 Paula Lane 11.22 acre property (Preserve). The District placed and holds in perpetuity a Conservation Easement over the Preserve; badger is the primary conservation value.

I have reviewed the WRA Biological Resources Assessment Report -245 Paula Lane, Sonoma County California (August 2014) prepared by Dana Riggs, and the Mitigated Negative Declaration for the Minor Subdivision (Project). In my professional opinion, the mitigation measures proposed are simply avoidance measures to avoid direct impact and are inadequate to avoid Take or to mitigate adverse effects caused by the Project, as described by DFW below.

3.1

In the attached 2012 DFW letter, Scott Wilson recommends that “The County of Sonoma and applicant work with DFW to: 1) maintain the size and distribution of extant badger and burrowing owl populations, 2) increase the population of badger and burrowing owl populations where possible and appropriate, and 3) minimize or prevent unnatural causes of badger and burrowing owl population decline (e.g. burrow destruction, chemical control of rodent host and prey, etc). If the Project will impact badgers, burrowing owls or their habitat, adequate mitigation to protect and restore existing habitat that can support badger and burrowing owls should be required.”

3.2

Construction-Related Significant Impacts

Significant impacts include those that would result in “take” of special status species or impede/disrupt dispersal patterns. Take is defined as kill, harass, or otherwise harm a species of special concern. Removal of suitable habitat for non-listed species is not considered significant unless it disrupts movement patterns of the species such that take may occur as a result such as removal of habitat during the breeding season.

3.1

The badger is a fossorial animal, meaning that it spends much of its life underground in burrows/dens. The U.S. Fish and Wildlife Service consider other fossorial animals, such as the Point Arena mountain beaver to be very sensitive to ground vibrations caused by construction activities. Further development of this property would create significant diurnal noise and vibration, likely to cause the displacement of badger from the Project Site and the Preserve.

3.3

Project related significant impacts include those that could result in direct mortality, harm, or harassment and impede/disrupt dispersal patterns to badgers on the Project site and to those utilizing the adjacent Preserve. Other substantial adverse effects include reduction and fragmentation of a documented landscape scale movement corridor, change in land use from rural low density development, and loss of access to foraging habitats.

These potential impacts meet the criteria of Take.



Appropriateness of the Mitigation Measures

Mitigation measures are based upon surveys/assessments and analysis of potential impacts; the WRA assessments are inadequate as follows:

The WRA report incorrectly states that: 1) badger have only used a small portion of the Project Site (outside of proposed building envelopes) and that (1) one percent of foraging habitat would be lost to development, 2) barriers to the south and west indicate the majority of the site is not part of any viable dispersal corridor, 3) the Project Site likely represents the southeastern extent of a single territory for one badger pair, and 4) compatible uses are proposed in the Badger Habitat Area; these are incompatible for continued badger use.

3.4

Additionally, the designation of less than a small area of land bordered by development for a highly mobile species is biological unsound and meaningless, and to allow compatible uses such as recreation and installing structures in a small area would render it unsuitable as a movement corridor.

The impact analysis does not adequately address potential impediment/disruption of dispersal patterns, loss of foraging habitat or that the contiguous land represents a natal area within a special status species home range.

3.5

Collectively, the proposed Restrictions and Mitigation Measures do not mitigate for potential adverse effects or reduce impacts to less than significant as required by CEQA. As recommended in the 2012 DFW letter, the goal is to maintain or increase the population, minimize or prevent badger decline and if the Project will impact badgers “adequate mitigation to protect and restore existing habitat that can support badger...should be required”.

3.2

The proposed Mitigation Measures do not satisfy DFW’s stated recommendations nor do they reduce *substantial adverse effects to less than significant* to qualify for a Negative Declaration.

If approved, the Project would clearly have adverse effects through habitat modifications; effecting dispersal and breeding patterns, human/pet encroachment, and increased risk of mortality from forced displacement. These impacts are not adequately mitigated for and would negate the Preserve’s primary conservation value, which was purchased with public funds. Therefore, I urge the Commission members to deny the application.

3.6

A deed restriction or a conservation easement which would be managed for the badger as a Special Status Species would maintain the documented landscape scale movement corridor and restore impacted long-standing badger habitat.



I reserve the right to provide further comment on the biological resources impacts to:
MNS12-2004 and the 245 Paula property.

Sincerely,

Kim Fitts

Kim Fitts, Wildlife Biologist
DBA BioConsultant

Attachment 4



kim gardner <kimlichtergardner@gmail.com>

FW: 245 Paula Lane, Petaluma File No. MNS12-0004

2 messages

Dana Riggs <riggs@wra-ca.com>
To: kim gardner <kimlichtergardner@gmail.com>
Cc: Mhogan1@hoganls.com

Fri, Jul 18, 2014 at 3:26 PM

Mike, please see the attached map for information regarding the no-build area. Building envelopes will need to be placed outside this area. Information regarding what is allowed in the habitat area is provided below (not sure how much detail might be needed on the map – maybe none).

Hope to see you tomorrow. Thanks!

DANA RIGGS | Principal | o: 415.454.8868 x 123 | c: 707.396.3373 | riggs@wra-ca.com

WRA, Inc. | www.wra-ca.com | 2169-G East Francisco Blvd., San Rafael, CA 94901 | San Diego | Fort Bragg | Denver

WRA is open for consulting in San Diego and Denver.

From: McKannay, Adam@Wildlife [mailto:Adam.McKannay@wildlife.ca.gov]
Sent: Friday, July 18, 2014 3:13 PM
To: Dana Riggs
Cc: Misti.Harris@sonoma-county.org
Subject: RE: 245 Paula Lane, Petaluma File No. MNS12-0004

Dana,

The measures identified below are consistent with the Department's recommendations for similar projects requiring best management practices for American badger. I would also like to recommend the following be included in some format or variation consistent with the intent of the measure:

- 1) No grading, spoil sites or construction staging will occur within the Badger Habitat Area. Excavation and haul equipment shall be confined to the designated access routes, designated staging areas, and designated excavation areas. The Badger Habitat Area should be appropriately flagged and identified during construction to avoid accidental incursions by heavy equipment that could result in excessive soil compaction that may impact potential burrow sites.
- 2) A Qualified Biologist shall hold a training session for staff responsible for performing ground disturbing construction activities (e.g. activities involving heavy equipment used in excavation of foundations or other site grading). Staff will be trained to recognize American badgers and their habitats. Staff will also be trained to use protective measures to ensure that American badgers are not adversely impacted by ground disturbing construction activities. At least one staff person with up-to-date training in American badger protective measures shall be present at the site at all during ground disturbing activities.
- 3) Disking of the Badger Habitat Area should be avoided.
- 4) Fire protection activities, including mowing, should be limited to those deemed necessary by local fire authorities and ordinances, and should be implemented in such a way that minimizes impacts to American badger to the extent feasible. It is understood that fire danger varies by season and that the extent of fire management activities will vary year by year.

Please let me know if you have any other questions or comments.

Adam McKannay

Environmental Scientist

California Department of Fish and Wildlife

7329 Silverado Trail

Napa, CA 94558

Phone (707) 944-5534

From: Dana Riggs [<mailto:riggs@wra-ca.com>]

Sent: Tuesday, June 03, 2014 1:53 PM

To: McKannay, Adam@Wildlife

Subject: 245 Paula Lane, Petaluma File No. MNS12-0004

Hi Adam,

Thank you for your recent visit to the 245 Paula Lane property located in Petaluma, Sonoma County, California. Per our discussion at the site, the purpose of this email is to review the findings of the site visit and habitat assessment on the property for American Badger and request your input on the proposed mitigation measures to be included in our biological report to the County that will ensure the proposed minor subdivision and grading at the property do not result in negative impacts to this species or its habitat. This request is in response to a letter from CDFW to the County and landowner dated December 27, 2012.

Per our on-site discussion, only a small portion of the site planned for subdivision currently supports American Badger; this portion of the site is located on the back northwest upper quarter of the property and constitutes approximately 1.0 acre of the total 6.0-acre site (see attached figure). The determination of this area as habitat is based on evidence collected during our initial site visit on March 8, 2013 where we documented a number of suitable burrows in friable soils in this area of the property. Most of the burrows we observed appeared to be old and inactive based on vegetation growing in the throw piles and/or spider webs present at the openings. The highest concentrations of burrows were found along the treeline and ridgeline. Other areas of the property, including the eastern half of the property were compacted as a result of prior land disturbances (prior to applicants ownership) and contained no evidence of burrowing past or present.

To mitigate for potential impacts to American badger on the property, the following measures shall be implemented:

- 1) The project has been modified to include building envelopes which will be placed outside the existing badger habitat area. Only compatible uses such as but not limited to: horse and livestock grazing; agricultural uses; recreational related uses (that do not include grading); rural/permit exempt structures (e.g. small shed, gazebo, livestock rain shelter) with dirt or raised flooring; vegetation management (control of invasive species and fire management); or similar uses shall be allowed in this area.
- 2) Pass-thru fencing shall be installed around the habitat area where it borders the Open Space Preserve to the north and the adjacent property to the west. A pass-through fence having at minimum a 12-inch opening from the ground to the bottom of the fence is recommended to allow badgers to move through the property; the 12-inch opening is based on the upper range of badger burrow entrance heights (Reid 2006). A no-climb fence may be used, provided the 12-inch opening at the bottom is maintained. The bottom wire or, if a no-climb fence, the bottom of the fence should be free from barbs to avoid entanglement. No screening, slats or weatherproofing material on the pass-through fence shall be installed in order to avoid the appearance of a visual barrier.
- 3) Prior to any grading or construction adjacent to the habitat area in designated building envelopes, a pre-construction survey shall be performed by a qualified biologist to map the location of any potential dens. If potential dens are observed, a minimum 300-foot no disturbance setback/buffer will be established around the potential den during the breeding/pupping/rearing season (December 1 to May 31). During the non-breeding season (June 1 to November 31), a minimum 100-foot setback/buffer will be established.

- a. If planned construction activities are to occur within the 100-foot setback, a qualified biologist will perform track plate and/or push camera surveys to determine occupancy in consultation with CDFW.

If occupied, the biologist will install one-way doors to exclude badgers temporarily until work is completed. No work will occur within the setback until it is confirmed in consultation with CDFW that the den is no longer occupied.

4) Downcast lighting (or landscape lighting) is recommended for outdoor placement on any structures that may result in indirect lighting impacts to badgers that may be located in the habitat area. Ambient lighting from these structures is not expected to negatively affect any badgers present in the habitat area based on the presence of existing ambient lighting surrounding both the habitat area and adjacent Open Space Preserve in the form of streetlamps and existing residential and commercial structures. It is expected that existing topography will prevent lighting impacts from affecting wildlife use in the Open Space Preserve to the north.

We greatly appreciate your consideration of these measures in advance of submittal to the County of Sonoma. Please advise if you feel further measures are needed for consideration under CEQA, or if you wish to have us revise any measures provided herein.

Best regards,

DANA RIGGS | Principal | o: 415.454.8868 x 123 | c: 707.396.3373 | riggs@wra-ca.com

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 **Badger Habitat 20140602.pdf**
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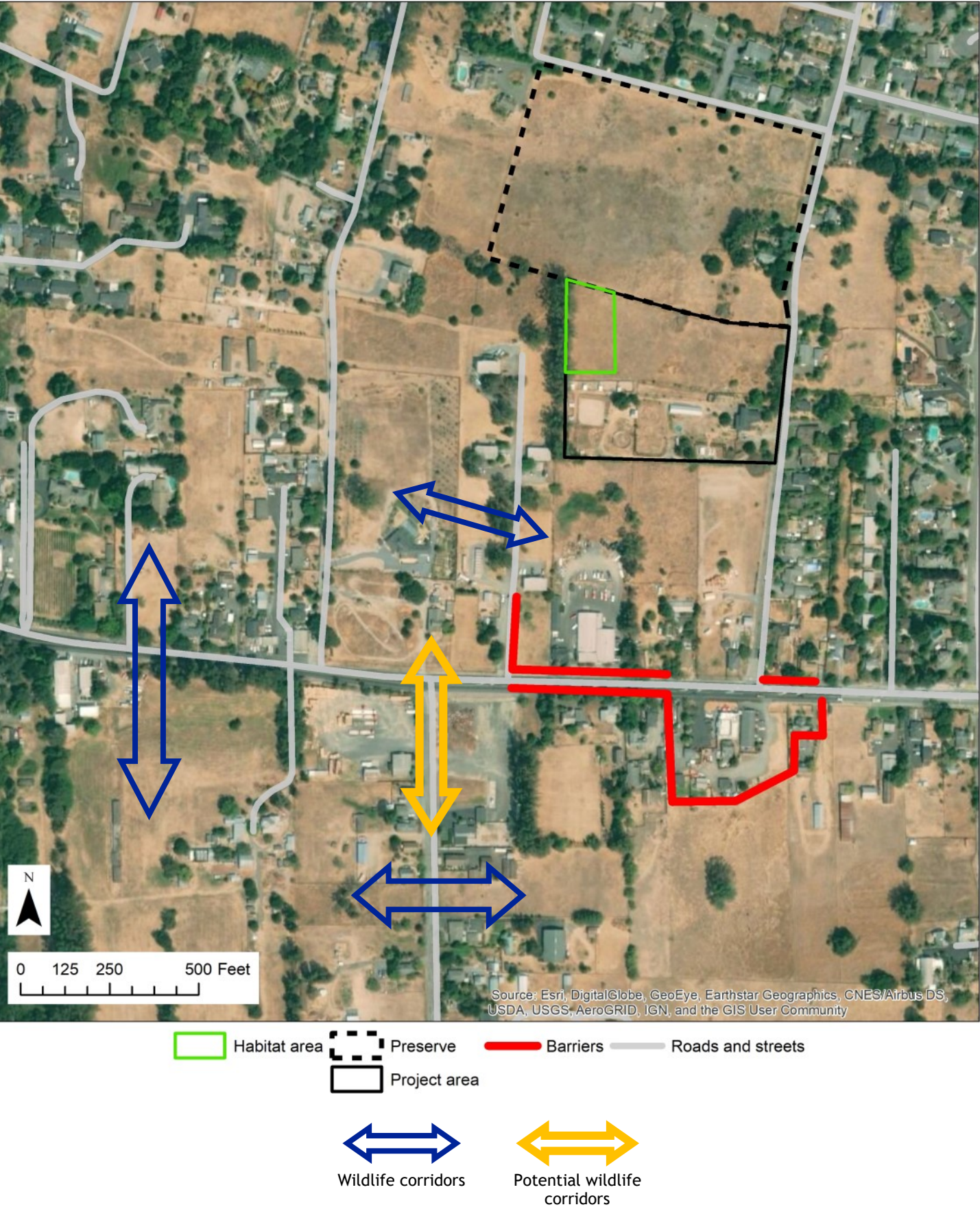
Kim Gardner <kimlichtergardner@gmail.com>
To: Dana Riggs <riggs@wra-ca.com>
Cc: "Mhogan1@hoganls.com" <Mhogan1@hoganls.com>

Fri, Jul 18, 2014 at 6:37 PM

Sent from my iPad
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<Badger Habitat 20140602.pdf>

Attachment 5, Figure 1: Wildlife Corridors and Dispersal Barriers Map
 Paula Lane, Petaluma, CA



Thomas E. Kucera, Ph.D.
22 Reservoir Road
San Rafael CA 94901

5 May 2004

Ms. Marti Buxton
Mission Valley Properties
5000 Hopyard Road, Suite 170
Pleasanton CA 94588

Dear Ms Buxton:

This letter is in reference to the property at the southwest corner of Paula Lane and Sunset, in the city of Petaluma, California. At the beginning, I would like to state that I am not taking a position of advocacy for the project and I do not want my remarks to be interpreted as such. I would like to contribute some scientific awareness of badgers and rare carnivores in general to the discussion.

At your request, I visited the site with you on 13 April 2004 to look at and assess wildlife sign, particularly that reportedly made by American badgers. I have also reviewed documents regarding badgers and the project that you provided me, including those written by: Robert W. Floerke, dated March 11, 2002; Anne Flannery, May 16, 2002; Kimberly Fitts and Derek Marshall, January 2004; William F. Gogin and Bradley G. Erskine, February 11, 2004; K Shawn Smallwood, February 23, 2004; and Liam Davis, email, February 23, 2004.

I am a wildlife biologist with more than 25 years of experience. I received a Master's degree in Resource Ecology (Wildlife Management) from the University of Michigan in 1976, and earned a Ph.D. in Wildland Resource Science (Wildlife Biology) from the University of California, Berkeley (UCB), in 1988. I am a Certified Wildlife Biologist, as designated by The Wildlife Society, the professional organization of wildlife biologists. Currently I am employed as a Research Wildlife Biologist in the Department of Environmental Science, Policy, and Management at UCB, and as a Project Manager with the Endangered Species Recovery Program, California State University, Stanislaus. I also conduct numerous independent wildlife studies. For more than 10 years I have been involved in research on the distribution and ecology of rare mammalian carnivores in California, including the fisher, marten, wolverine, which are cousins to the badgers, all members of the family Mustelidae.

The American badger is a medium-sized (7-20 lbs) member of the mustelid family, related to sea otters, weasels, and skunks. They have a large native distribution in North America, mainly on unforested lands from the northern

Great Plains in Canada into Mexico. They are specialized for digging, and prey on burrowing rodents such as pocket gophers, ground squirrels, and kangaroo rats. Although related to economically important furbearers (e.g., mink, fishers, marten, sea otters, etc.), badgers have fur of relatively poor quality and low economic value. They are incidentally caught in traps set for other species, but have never been a major component of a fur harvest. Badgers are poorly known ecologically in California; most research on them has occurred elsewhere, notably Idaho (Messick and Hornocker 1981) and Wyoming (Minta 1993), mostly on undeveloped land. Most of the following information is from those studies and from Grinnell et al. (1937) and a recent species review by Lindzey (2003).

Although occasionally active during the day, badgers are primarily nocturnal, when they forage, and typically spend daytime underground. Dens are common, as many as 4 per acre, and are used for daytime resting, food storage, and parturition, which occurs in February through April. Dens are typically open, but may be plugged from below during cold weather, and may be reused frequently. Badgers are typically solitary. Researchers have estimated badger densities on open, undeveloped lands of between 0.5 and 2 animals per square mile (640 acres). Sizes of home ranges reported in the scientific literature have varied by sex, age, season, and geographic location from 300 to more than 3,600 acres (0.5-6 square miles). The home ranges of different individuals may overlap. Again, these data are from rangelands in Idaho, Wyoming, and Utah; no such data from California exist.

The property at Paula Lane, at the western edge of the city of Petaluma, comprises approximately 11 undeveloped acres in a suburban landscape fragmented with residential developments. The density of development is apparently higher to the east (toward central Petaluma) than to the west. The property immediately adjoining to the west appears to have been developed in the last few years; others nearby are up to approximately 40 years old, and no doubt others are older still. Examination of aerial photos confirms the visual impression of fragmentation due to residential sprawl. The site itself is flat to moderately sloping and vegetated mostly with annual grasses and native and non-native forbs, with a few *Baccharis* shrubs and several trees along the edge.

At the time of my visit, the grasses were 1-3 feet high and quite dense. Although dense vegetation covered most of the ground, several animal burrows, which were relatively fresh (i.e., with loose dirt with no vegetation, open entrance), were evident. Others were less fresh, as evidenced by cobwebs covering the opening. The uneven nature of the ground on much of the site supports the contention that such animal excavations have occurred for some years. I am aware that in addition to badgers, other mammals that excavate burrows of the size and type found on the site, such as coyotes and red foxes, have been reported at the site. I also saw mounds made by pocket gophers, and found one freshly killed gopher, with only the head and intestines present. There

was no way to determine what killed it, but I doubt that a badger would have left the head and intestines. A predatory bird or domestic cat are possibilities.

I am sensitive to the need for verifiable documentation of the distribution of animals that are poorly known and difficult to study, having spent several years developing reliable, empirical, non-lethal detection methodologies for fishers and martens (Zielinski and Kucera 1995) that are presently widely used in rare carnivore surveys in California. In the documents that I read and during my site visit, I saw no direct evidence that establishes the presence of badgers at the site. The existence of burrows means that burrowing mammals are present, but I do not know how one can confidently discriminate burrows made by badgers from those made by coyotes or foxes. "Dens [of badgers] are variable in characteristics, with most having only a single, often elliptical entrance" (Lindzey 2003:686). I saw no scats at or near the burrows. (In contrast to the assertion of Kimberly Fitts in her document of February 24, 2004, that "the badger buries its scat," Lindzey (2003:686) writes "Scats frequently occur in the mound of soil at the entrance and in the den itself.") I saw no tracks at or near the burrows clear enough to identify. No expert has reported seeing a badger at the site, and I am unaware of the existence of any carcass (for example, from a road kill), photograph, or other solid evidence of badgers at the site. The existence of burrows by itself in my mind is insufficient to conclude the presence of badgers.

To my knowledge, there has been no published ecological research on badgers in California. As a wildlife research biologist, I regret the fact that the status, distribution, and ecology of badgers in California are essentially unknown. Badgers have been of conservation concern in California since at least 1937, when Grinnell et al. (1937:374) stated "The badger has been reduced in numbers over almost all its range in California." It was and likely still is subject to poisoning and shooting, and continues to experience habitat loss from agricultural and urban development. Williams (1986) listed it as a "species of special concern in California," and stated (p. 66) "No current data exist on the status of Badger populations in California..." According to the California Department of Fish and Game (CDFG; <http://www.dfg.ca.gov/hcpb/species/ssc/ssc.shtml>), Species of Special Concern (SSC) is a designation for "animals not listed under the federal Endangered Species Act or the California Endangered Species Act, but which nonetheless 1) are declining at a rate that could result in listing, or 2) historically occurred in low numbers and known threats to their persistence currently exist." It is essentially an early warning regarding species that could qualify for listing as threatened or endangered, with the expectation that such a warning combined with management attention could make such listings unnecessary.

According to the CDFG, "This designation is intended to result in special consideration for these animals by the Department, land managers, consulting biologists, and others, and is intended to focus attention on the species to help avert the need for costly listing under federal and State endangered species laws

and cumbersome recovery efforts that might ultimately be required. This designation also is intended to stimulate collection of additional information on the biology, distribution, and status of poorly known at-risk species, and focus research and management attention on them.

"Department staff should consider SSCs during 1) the environmental review process, 2) conservation planning process, 3) the preparation of management plans for Department lands, and 4) inventories, surveys, and monitoring (conducted either by the Department or others with whom we are cooperating)." (<http://www.dfg.ca.gov/hcpb/species/ssc/ssc.shtml>)

Direction to CDFG staff, taken from their website and presented in the previous paragraph, is to "consider SSCs" during environmental reviews. It is my understanding that CDFG's consideration of the badger with respect to the Paula Lane project is outlined in a letter dated March 11, 2002 from Robert W. Floerke, Regional Manager, Central Coast Region, to Ms. Irene T. Borba of the City of Petaluma Planning Department. In this letter, Mr. Floerke recommends using the undeveloped portion of the project for long-term badger habitat, and separating this from the developed portions with a barrier extending some depth into the ground to prevent badger access under fences and walls to prevent problems for future owners. This recommendation was repeated in an email dated February 23, 2004, from Mr. Liam Davis of CDFG to Ms. Borba. This exclusion concept appears to me a reasonable approach in an abundance of caution to discourage badgers from accessing the developed areas, assuming that badgers do indeed occur there. Developing some 8-10 acres of habitat in an already fragmented landscape is unlikely to have a significant adverse impact on an animal that is of low density by nature and has a home range of hundreds or thousands of acres.

You and I also discussed methods to reduce the likelihood of injury to badgers (or other species) if present in dens during any grading activities, and I presented some ideas. I would anticipate that any badger exclusion or removal plans would be developed in more detail with input from CDFG and other wildlife experts. Overall, however, the concept of identifying occupied dens so as to allow their occupants to escape before construction and physically excluding badgers from the developed portion of the property seems feasible to me.

I hope these remarks are helpful. Please contact me if I can provide any additional information or clarification.

Sincerely,

Thomas E. Kucera, Ph.D.
22 Reservoir Road
San Rafael CA 94901

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- Lindzey, F. G. Badger. 2003. Badger. Pp. 683-691 in G. A. Feldhammer, B. C. Thompson, and J. A. Chapman (eds.). Wild mammals of North America: ecology, management, and conservation. Johns Hopkins Press, Baltimore.
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- Zielinski, W. L. and T. E. Kucera (eds.). 1995. American marten, fisher, lynx, and wolverine: survey methods for their detection. USDA For. Serv. Gen. Tech. Rep. PSW-GTR-157.

Cc: M. Bradish
I. Borba

THOMAS EDWARD KUCERA

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Education

Ph.D., Wildland Resource Science, University of California, Berkeley, 1988. Area of Specialization: Wildlife ecology, population dynamics, and management. Major Professor: Dr. Dale R. McCullough. Dissertation Title: Ecology and Population Dynamics of Mule Deer in the Eastern Sierra Nevada, California.

M.S., Resource Ecology (Wildlife Management), 1976. The University of Michigan. Thesis Title: Social Behavior During Rut and Breeding System of the Desert Mule Deer.

B.A., Psychology and Zoology, 1969. Western Michigan University.

Professional Employment

Research Wildlife Biologist, Department of Environmental Science, Policy, and Management, University of California, Berkeley. July 2003-present. I lead the operational component of the California Cooperative Wild Turkey Project, including collecting and field necropsies of wild turkeys in state parks, agency coordination, etc.

Project Manager and Wildlife Biologist, Endangered Species Recovery Program, California State University, Stanislaus. January 2001-present. I manage and conduct projects for ESRP that include endangered species issues. Projects include documenting the potential impact of a new highway in the Mojave desert on threatened and endangered plant and animal species and other natural resources, and assessing a dry stretch of the San Joaquin River bed for a variety of listed species including the San Joaquin kit fox, Fresno kangaroo rat, and valley elderberry longhorn beetle.

Wildlife Biologist, URS Corporation, Oakland, CA. August 2001-present. I lead field efforts on surveys for endangered species, particularly small mammals and kit foxes, in the San Joaquin Valley.

Wildlife Biologist, National Park Service, Point Reyes National Seashore, Point Reyes Station, CA. March 1998-March 2000. I managed the ungulate program at the Seashore, which includes elk, native deer, and two species of exotic deer. Responsibilities included planning, organizing, supervising, and conducting management and monitoring activities such as animal capture and translocation, collections and necropsies, radiotelemetry, disease monitoring, and censuses. I supervised two GS-7 technicians and volunteers.

Lecturer and Specialist, Department of Environmental Science, Policy, and Management, University of California, Berkeley, 1992-1998. Courses taught: Advanced Wildlife Management (ESPM 187); North American Wildlife - Conservation and Identification (ESPM 106); graduate seminars on Metapopulation Biology and Conservation Genetics. I was Principal Investigator on a study of the ecology of American martens in the Sierra Nevada funded by the Inyo National Forest. I directed an effort to detect wolverines, Sierra Nevada red fox, and other rare carnivores in mountainous areas of California, and

co-authored a U.S. Forest Service General Technical Report on detection methods for rare carnivores. I led a project to assess the effects of biomass harvest on wildlife in forests of northern California. I was part of a team writing an updated version of Mammals of Special Concern in California for the California Department of Fish and Game. I prepared the "Sportsman's Guide to Mule Deer Habitat Improvements in California," funded by The Mule Deer Foundation.

Project Leader, Tahoe Pilot Project, University of California, Berkeley, May-September, 1992. I supervised a team of six biologists in gathering data on vertebrate distribution across several watersheds in the Sierra Nevada as part of a project combining California's Wildlife-Habitat Relationships models with models of forest growth and yield to predict future wildlife distribution under different management scenarios.

Wildlife Biologist, September 1990-January 1992, Wildland Resources Center, University of California, Berkeley, working with the California Department of Forestry and Fire Protection to develop a Habitat Conservation Plan for the northern spotted owl.

Senior Associate (March 1989-Sept. 1990) and Consulting Biologist (1990-1997), Environmental Science Associates, Inc., San Francisco. I designed, supervised, managed, and conducted studies related to the impact of various projects and land-use changes on terrestrial wildlife. Projects included salt marsh harvest mouse trapping studies in Alameda, Santa Clara, and San Mateo counties, California clapper rail surveys, telemetry studies of deer for highway planning, bio-reserve planning for The Nature Conservancy, shorebird and waterfowl censuses, and Mojave Desert field surveys on the Nevada Test Site.

Wildlife Biologist, July-August 1981, E. Linwood Smith Associates, Tucson, AZ. I conducted radiotelemetry studies of desert bighorn sheep in southwestern Arizona.

Raptor Research Biologist, February 1979-June 1981, Snake River Birds of Prey Project, U.S. Bureau of Land Management, Boise, ID. I collected, compiled, and analyzed data on raptor ecology, nesting density, reproductive performance and diets, prey densities, and habitat distribution in the Snake River Birds of Prey Area in southwestern Idaho.

Wildlife Biologist, May-September 1978, U.S. Forest Service, Portland, OR. I worked on the Resources Planning Act assessment of fish and wildlife for Region 6 (Oregon and Washington), and compiled a publication containing distribution and habitat matrices for all vertebrate species in the region.

Range Aide, April 1978 Inyo National Forest, Bishop, CA. I conducted censuses of bighorn sheep on the winter range at the base of the eastern escarpment of the Sierra Nevada.

Academic Employment

Research Assistant, 1982-1983, Black-tailed deer project, Hopland Field Station, Mendocino County, CA. I captured, marked and released deer, conducted daylight and spotlight censuses, supervised processing and data collection from hunter-killed deer on the Station, and conducted habitat surveys and vegetation analyses.

Teaching Assistant, 1981-2, 1987, Department of Forestry and Resource Management,

University of California, Berkeley. I taught sections of North American Game Birds and Mammals, and Wildlife Biology and Management.

Selected Consulting Experience

Consulting Biologist, Mammoth Mountain Ski Area and Intra-West Corp., Mammoth Lakes CA, May 2001-present. At the request of Mammoth Mountain, I am conducting an ecological study of American martens on the alpine ski areas of Mammoth and June Mountains, and the nordic ski area of Tamarack, on the Inyo National Forest, Mono County, CA.

Member, San Francisco Bay Area Regional Team, California Rapid Assessment Method (CRAM) for wetlands. San Francisco Estuary Institute, May 2003-present. I assist in the EPA-sponsored program to develop and test rapid methods to assess wetlands around San Francisco Bay.

Consulting Biologist, Montezuma Wetlands LLC, Emeryville CA. August 2000-present. I trap for the endangered salt marsh harvest mouse in the Montezuma wetlands of Suisun Bay as part of the project for upland disposal of dredge spoils from the Oakland estuary.

Consulting Biologist, California Department of Parks and Recreation, November 1999-present. Conducted detection surveys to detect red fox (*Vulpes vulpes*) and other carnivores at China Camp State Park; assessed the black-tailed deer management program on Angel Island State park.

Consulting Biologist, GANDA Co., San Anselmo, CA 1997-2002. Set up forest carnivore detection stations in Plumas County; conducted small-mammal trapping for salt-marsh harvest mice, and collected house mice as surrogates for toxics analyses; burrowing owl monitoring in eastern Alameda County.

Consulting Biologist, Ibis Co., San Rafael CA. 1998-2000. I conducted trapping for salt marsh harvest mice in Menlo Park, at Mare Island, Solano Co., the Concord Naval Weapons Center, Contra Costa County, and at the Alameda Naval Air Station, Alameda Co.

Consulting Biologist, Monk and Associates, Walnut Creek CA, May-June 2000. Conducting live trapping and removal of salt marsh harvest mice at Sonoma Creek and Highway 37, Sonoma County, preparatory to seismic retrofit of the Hwy. 37 bridge.

Consultant to the World Bank, 1998. At the request of the World Bank, I made a mission to Georgia to consult on the status of and make management recommendations for several large mammals of conservation concern, including designing monitoring and inventory programs.

Consulting Biologist, Planning Concepts, Nevada City, CA, 1996, to assess effects of operations of a gravel mine on wintering mule deer and pronghorn in Lassen County.

Consulting Biologist, EBASCO Environmental, Sacramento, CA, September-November 1992. I designed, supervised, and conducted field surveys to quantify fall mule deer migration in a proposed reservoir area, North Fork Stanislaus River, California.

- Consulting Biologist, McClenahan and Hopkins Associates, Redwood City, CA, April-July 1992. I identified wildlife issues and impacts to bald eagles and deer from a proposed 3000-acre residential development near Lake Almanor, Plumas County.
- Consulting Biologist, EIP Associates, Sacramento, CA, December 1991-March 1992. I designed and supervised a study to detect martens, fishers, and wolverines in an area of proposed ski expansion at Alpine Meadows, Lake Tahoe Basin, California, using photographic bait stations and sooted track plates.
- Consulting Biologist, Environmental Management Associates, Brea, CA, 1986-1988. I designed, conducted, and supervised field studies in an area of several proposed geothermal plants in the eastern Sierra Nevada to quantify the importance of the area for migratory and summering deer.
- Consulting Biologist, EA Engineering, Science, and Technology, Inc., Lafayette, CA, 1986-88. I designed and conducted field studies in the area of a proposed reservoir in the western Sierra Nevada to evaluate its importance for deer, spotted owls, and other wildlife.
- Consulting Biologist, Bonneville-Pacific Corp., Salt Lake City, UT, 1986-87. I designed, conducted, and supervised field studies in an area of a proposed geothermal plant to quantify the value of the area to migratory and summering deer in Mono Co., CA.
- Consulting Biologist, Jordan Glazov, Ltd., Mammoth Lakes, CA, 1985-86. I quantified migratory and summering deer use and other wildlife values of an area on which a golf course development was proposed near the town of Mammoth Lakes, Mono Co., CA.
- Consulting Biologist, O'Connor Design Group, Mammoth Lakes, CA, 1984-85. I determined the wildlife values of an area proposed for alpine ski development at Mammoth Lakes, CA.
- Consulting Biologist, Biosystems Analysis, Inc., Santa Cruz, CA, 1984-85. I advised in the design and implementation of field studies to assess the impacts of PG&E's Crane Valley hydro project on mule deer in the Western Sierra Nevada.
- Consulting Biologist, Terry Clapham, Bishop, CA, 1985. I advised on impacts of small hydro developments on mule deer in the White Mountains, Mono Co., CA.
- Consulting Biologist, Phil Leitner of ESA/Madrone, Novato, CA, 1984-85, for advice regarding ecology of deer in the upper San Joaquin River drainage for an environmental analysis of cumulative effects of hydro development in the basin.
- Consulting Biologist, Holton Associates, Berkeley, CA, 1983-84. I evaluated the impacts of the proposed Tuolumne River Ponderosa hydro project on mule deer, and conducted winter surveys for bald eagles along the river.
- Consultant on the Conservation of the Camelidae in Bolivia, February 1981, UNESCO, Paris. I made a mission to Bolivia for the United Nations Educational, Scientific, and Cultural Organization to advise on field ecological studies for the conservation of the vicuna, and to evaluate environmental impacts of human activities and the use of conservation areas for the protection of camelids.

Fellowships and Awards

Bidwell Research Fellowship in Forestry and Howard William Siggins Fellowship, University of California, Berkeley, 1984-1985; Charles Lathrop Pack Prize in Forestry, University of California, Berkeley, 1984; Hilgard Fellowship, University of California, Berkeley, 1983-1984; Regent's Fellowship, University of California, Berkeley, 1982-1983.

Center for Latin American Studies Travel Grant, University of California, Berkeley, 1982, for travel to Bolivia to study occurrence of endangered large mammals and vicuna/alpaca dietary interactions.

Danforth Fellow, Department of Psychology, The University of Michigan, 1970-1971.

Cum Laude graduate, Western Michigan University, with Departmental (Psychology) Honors, Dean's List, Honor College; member of Omicron Delta Kappa, Phi Eta Sigma, Beta Beta Beta, and Psi Chi academic honorary societies.

Research Grants

The Rocky Mountain Elk Foundation, Canon, Inc. Expeditions Into the Parks, Bosack and Kruger Foundation, USDA Forest Service, The Mule Deer Foundation, University of California Division of Agriculture and Natural Resources, University of California Energy Research Institute, California Department of Fish and Game, American Museum of Natural History, Sacramento Safari Club, Inyo and Mono County Fish and Game Fund, Mzuri Wildlife Foundation, Boone and Crockett Club, National Rifle Association, Center for Latin American Studies

Publications

- Manning, E. J. B., T. E. Kucera, N. B. Gates, L. M. Woods, and M. Fallon-McKnight. 2003. Testing for *Mycobacterium avium* ss. *paratuberculosis* infection in asymptomatic free-ranging tule elk from an infected herd. *Journal of Wildlife Diseases* 39:323-328.
- Gogan, P. J. P., R. H. Barrett, W. W. Shook, and T. E. Kucera. 2001. Control of ungulate numbers in a protected area. *Wildlife Society Bulletin* 29 (4): 1075-1088.
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- wolverine: survey methods for their detection. USDA For. Serv. Gen. Tech. Rep. PSW-GTR-157.
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- Kucera, T. E. and R. H. Barrett. 1995. California wildlife faces an uncertain future. *California Agriculture* 49(6):23-27.
- Kucera, T. E. and W. L. Zielinski. 1995. The case of forest carnivores: small packages, big worries. *Endangered Species Update* 12(3):1-7.
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- Kucera, T. E. and R. H. Barrett. 1993. The California Cooperative Wolverine Survey. *Transactions of the Western Section of the Wildlife Society* 29:49-53.
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- Kucera, T. E. 1991. Genetic variability in tule elk. *California Fish and Game* 77:70-78.
- Kucera, T. E. 1991. Adaptive variation in sex ratios of offspring in nutritionally stressed mule deer. *Journal of Mammalogy* 72:745-749.
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- Kucera, T. E. 1982. How mule deer mate in Texas. *Natural History* 91:650-57.
- Kucera, T. E. 1978. Social behavior and breeding system of the desert mule deer. *Journal of Mammalogy* 59:463-476.
- Guenther, K. and T. E. Kucera. 1978. *Wildlife of the Pacific Northwest: Occurrence and Distribution by Habitat, BLM District and National Forest*. USDA Forest Service Region 6 Special Publication No. 6. Portland OR.

Presentations at scientific meetings

- The Wildlife Society, September 2001. Organized and moderated a special symposium Remote Photography in Wildlife Research and Management at the national meeting in Reno, NV.
- Kucera, T. E., N. Gates, and M. Fallon-McKnight. 1999. Tule elk at Point Reyes National Seashore: Return of a native. Society for Ecological Restoration, San Francisco, CA, September, 1999.
- Kucera, T. E. 1997. Structural characteristics of rest sites of American martens in managed east-side forests. Western Section of The Wildlife Society Annual Meeting, San Diego, CA, 8 February.
- Fallon-McKnight, M. and T. E. Kucera. Habitat similarities between American martens and northern goshawks in the eastern Sierra Nevada. Western Section of The Wildlife

- Society Annual Meeting, San Diego, CA, 8 February 1997.
- Kucera, T. E. 1996. Relationships between fecal chemicals and population parameters in mule deer. Presented at the Western Section of The Wildlife Society Annual Meeting, Sparks, NV, 3 February.
- Kucera, T. E. and R. H. Barrett. 1995. Effects of biomass thinning on wildlife habitat in forests of northern California. Paper presented at The Wildlife Society 2nd Annual Conference, Portland, OR, 13 September.
- Kucera, T. E. and W. L. Zielinski. 1995. Survey methods for the detection of lynx, wolverine, fisher, and marten. Paper presented at the Western Section of The Wildlife Society Annual Conference, Santa Rosa, CA, 24 January.
- Kucera, T. E. and W. L. Zielinski. 1995. The current distribution of American martens in California. Paper presented at the Western Section of The Wildlife Society Annual Conference, Santa Rosa, CA, 24 January.
- Zielinski, W. L. and T. E. Kucera. 1995. The current distribution of fishers in California. Paper presented at the Western Section of The Wildlife Society Annual Conference, Santa Rosa, CA, 24 January.

Memberships

The Wildlife Society, The American Society of Mammalogists, The Society for Conservation Biology, the American Association for the Advancement of Science.

Certification Certified Wildlife Biologist

Foreign languages Spanish

Other activities

Have federal Endangered Species Permit and state Memorandum of Understanding for livetrapping the endangered salt marsh harvest mouse (Reithrodontomys raviventris), San Joaquin kangaroo rats (Dipodomys nitratoideis), and State MOU to live trap Mohave ground squirrels (Spermophilus mojavensis) and American martens. Conducted workshops on detection of forest carnivores for the USDA Forest Service Region 1 (Kalispell MT) and Region 6 (Portland OR), and for the University of California Cooperative Extension (Riverside CA); member of the Monitoring Committee of the Interagency Forest Carnivore Working Group; served on expert panels evaluating consequences of forest-management options on wildlife in the Pacific Northwest and the Sierra Nevada for the USDA Forest Service; reviewed manuscripts for The Journal of Wildlife Management, Ecological Monographs, Conservation Biology, Mammalian Species, and the Wildlife Society Bulletin; consulted to the California Academy of Sciences on their permanent exhibit "Wild California"; provided photographs and reviewed text for Life on the Edge, A Guide to California's Endangered Natural Resources: Wildlife published by Biosystems Books.

References

Prof. Reginald H. Barrett (510-642-7261)
ESPM, 151 Hilgard Hall
University of California

Dr. Peter Gogan (406-994-6989)
USGS-BRD
Montana State University

Berkeley CA 94720-3110

Prof. Dale McCullough (510-642-8462)
ESPM, 151 Hilgard Hall
University of California
Berkeley CA 94720-3110

Bozeman MT 59715-5065

Dr. Patrick Kelly (559-453-1103)
Endangered Species Recovery Program
1900 N. Gateway Ave.
Fresno CA 93727

Sonoma County General Plan 2020

Amended August 9, 2016

Open Space and Resource Conservation Element, Section 3: Biotic Resources GOALS, OBJECTIVES, AND POLICIES

* Mitigating Policy

GOAL OSRC-7:	Protect and enhance the County's natural habitats and diverse plant and animal communities.
Objective OSRC-7.1:	Identify and protect native vegetation and wildlife, particularly occurrences of special status species, wetlands, sensitive natural communities, woodlands, and areas of essential habitat connectivity.
Objective OSRC-7.2:	Designate important Biotic Habitat Areas and update designations periodically using credible data sources.
Objective OSRC-7.3:	Establish development guidelines to protect designated Biotic Habitat Areas and assure that the quality of these natural resources is maintained.
Objective OSRC-7.4:	Where appropriate, support regulatory efforts by other agencies to protect biotic habitat.
Objective OSRC-7.5:	Maintain connectivity between natural habitat areas.
Objective OSRC-7.6:	Establish standards and programs to protect native trees and plant communities.
Objective OSRC-7.7:	Support use of native plant species and removal of invasive exotic species.
Objective OSRC-7.8:	Encourage voluntary efforts to restore and enhance biotic habitat.
Objective OSRC-7.9:	Preserve and restore the Laguna de Santa Rosa, San Pablo Bay and Petaluma marshes and other major marshes and wetlands.
Objective OSRC-7.10:	Promote production of native marine and shoreline plant and animal habitats along the Pacific Coast and San Pablo Bay shorelines.

Policy OSRC-7a: Designate as Biotic Habitat Areas in the Open Space and Resource Conservation Element the known locations shown on Figures OSRC-5a through OSRC 5i and identified as Special Status Species Habitat, Marshes and Wetlands, Sensitive Natural Communities, and Habitat Connectivity Corridors.*

Policy OSRC-7b: Rezone to the Biotic Resources combining district all lands designated as Biotic Habitat Areas. Prepare and adopt an ordinance that provides for protection of designated Biotic Habitat Areas in conformance with the following principles. Until the ordinance is adopted, require that land use and development in designated areas comply with these principles:

(1) For discretionary projects, notify applicants of protected habitats and species and possible requirements of Federal and State regulatory agencies, request identification of known protected habitats and species, and:

(a) In designated Biotic Habitat Areas, require site assessment and adequate mitigation. The priorities

for adequate mitigation are, in order of highest to lowest priority:

- Avoid the habitat.
- Mitigate on site to achieve no net loss.
- Mitigate off site to achieve no net loss.
- Create replacement habitat off site to achieve no net loss.

To the extent feasible, the mitigation required by the County should be consistent with permit requirements of Federal and State regulatory agencies.

(b) In designated Marshes and Wetlands, require a setback of 100 feet from the delineated edges of wetlands. The setback may be reduced based upon site assessment and appropriate mitigation.

(c) In designated Habitat Connectivity Corridors, encourage property owners to consult with CDFG, install wildlife friendly fencing, and provide for roadway undercrossings and oversized culverts and bridges to allow movement of terrestrial wildlife.

(d) The acreage required for adequate mitigation and replacement habitat shall be at least two times the acreage affected unless a lower level is acceptable to the applicable State and Federal agencies, with the amount depending on the habitat affected and the applicable mitigation priority value.

(2) For discretionary projects in all designated Biotic Habitat Areas, send referrals to appropriate regulatory agencies and, where such agencies' comments or other agency information indicates biotic resources could be adversely affected, require site assessment, compliance with agency requirements and adequate mitigation pursuant to the priorities in (1) (a).*

Policy OSRC-7c: Notify discretionary and ministerial permit applicants of possible requirements of Federal and State regulatory agencies related to jurisdictional wetlands or special status species.*

Policy OSRC-7d: In all areas outside Urban Service Areas, encourage property owners to utilize wildlife friendly fencing and to minimize the use of outdoor lighting that could disrupt native wildlife movement activity.*

Policy OSRC-7e: In coordination with resource agencies, landowners and affected public, review Biotic Habitat Area designations and related policy issues periodically, but at least every five years. If warranted, develop recommendations for additional policies that may be needed to ensure appropriate protection of biotic resources. Include consideration of methods to identify and monitor cumulative habitat loss and establish thresholds to protect sensitive resources.*

Policy OSRC-7f: Support acquisition of conservation easements or fee title by the Sonoma County Agricultural Preservation and Open Space District (SCAPOS) of designated Biotic Habitat Areas.*

Policy OSRC-7g: Where additional Biotic Habitat Areas are designated in Area Plans, revise such plans and guidelines as needed to provide protection of biotic resources equivalent or better than the protection provided by the General Plan.

Policy OSRC-7h: In coordination with resource agencies, landowners and affected public, conduct a comprehensive study of the cumulative impacts of habitat fragmentation and connectivity loss and the effects of exclusionary fencing on wildlife movement. If warranted, identify essential habitat connectivity corridors and develop recommendations for policies to protect essential habitat corridors and linkages and to restore and improve opportunities for native plant and animal dispersal.*

Policy OSRC-7i: Conduct a comprehensive habitat identification and mapping program for use in future policy determinations.*

Policy OSRC-7j: Establish a clearinghouse of information for public use related to biotic habitat protection and management and work toward making this information available by computer.

Policy OSRC-7k: Require the identification, preservation and protection of native trees and woodlands in the design of discretionary projects, and, to the maximum extent practicable, minimize the removal of native trees and fragmentation of woodlands, require any trees removed to be replaced, preferably on the site, and provide permanent protection of other existing woodlands where replacement planting does not provide adequate mitigation.

Policy OSRC-7l: Identify important oak woodlands, assess current protection, identify options to provide greater protection of oak woodlands and their role in connectivity, water quality and scenic resources, and develop recommendations for regulatory protection and voluntary programs to protect and enhance oak woodlands through education, technical assistance, easements and incentives.*

Policy OSRC-7m: Designate important valley oak habitat areas, reevaluate current designations, and apply a Valley Oak Habitat combining district zoning that requires adequate mitigation for trees removed and monitoring of replacement tree survival.*

Policy OSRC-7n: Encourage landowners to voluntarily participate in a program that protects officially designated individual trees or groves that either have historical interest or significance or have outstanding size, age, rarity, shape or location.*

Policy OSRC-7o: Encourage the use of native plant species in landscaping. For discretionary projects, require the use of native or compatible non-native species for landscaping where consistent with fire safety. Prohibit the use of invasive exotic species.*

Policy OSRC-7p: Support voluntary programs for habitat restoration and enhancement, hazardous fuel management, removal and control of invasive exotics, native plant revegetation, treatment of woodlands affected by Sudden Oak Death, use of fencerows and hedgerows, and management of biotic habitat.*

Policy OSRC-7q: Participate in the development of a conservation strategy to preserve, restore and enhance the unique vernal pool habitat of the Santa Rosa Plain and protect the associated special-status species. Seek ways to minimize the adverse effects of irrigation on valley oaks and vernal pool habitat.*

Policy OSRC-7r: Develop comprehensive programs for preservation and restoration of the freshwater marsh habitat of the Laguna de Santa Rosa area, the extensive marsh areas along the Petaluma River, other tidal marshes, and freshwater marshes such as the Pitkin, Kenwood, Cunningham, and Atascadero Marshes. Include mechanisms for preservation and enhancement such as land acquisition, zoning restrictions, public and private conservation easements, regulating filling, grading or construction, floodwater retention, and wetland restoration.*

Policy OSRC-7s: Develop comprehensive programs for preservation and restoration of the San Pablo Bay area and shoreline habitats, including mechanisms for preservation and enhancement such as acquisition, zoning and easements and avoiding activities such as filling, grading or construction that would be detrimental to the biotic resources or historic water retention functions.*

Policy OSRC-7t: Continue to actively participate in the FishNet4C program and work cooperatively with participating agencies to implement recommendations to improve and restore aquatic habitat for listed anadromous fish species and other fishery resources.*

Policy OSRC-7u: Identify and consider designation of old growth Redwood and Douglas Fir as sensitive natural communities. Encourage preservation and public acquisition of remaining old growth Redwood and Douglas Fir forests in private ownership with the County. Because of their rarity and biological importance, these sensitive natural community types should be made priorities for protection through conservation easements, fee title purchase, or other mechanisms.*

City of Petaluma General Plan 2025

Published May 2008 and Revised January 11, 2012

Chapter 4: The Natural Environment

Goals, Policies, and Programs

Goal 4-G-1: Biology and Natural Resources. Protect and enhance biological and natural resources within the UGB.

4-P-1 *(Policy regarding the Petaluma River and its tributaries – not relevant, removed.)*

4-P-2 Conserve wildlife ecosystems and sensitive habitat areas in the following order of protection preference: 1) avoidance, 2) on-site mitigation, and 3) off-site mitigation.

A. Utilize Technical Memorandum 3: Biological Resources Review as a baseline document, expanding to address project specific impacts.

4-P-3 Protect special status species and supporting habitats within Petaluma, including species that are State or Federal listed as endangered, threatened, or rare.

A. As part of the development review process, site-specific biological resource assessments may be required to consider the impacts on riparian and aquatic resources and the habitats they provide for invertebrates, fish, amphibians, reptiles, birds, mammals, and plants. If development is located outside these ecologically sensitive regions, no site-specific assessment of biological resources may be necessary. Appropriate mitigation measures to reduce impacts to sensitive habitats and special status species shall be imposed on a project-by-project basis according to Petaluma's environmental review process.

B. Permit mitigation banking as a conditional use in all land use designations along the Petaluma River and its tributaries.

Goal 4-G-2: Biology and Natural Resources. Promote resource protection within the Petaluma Watershed to conserve grassland habitats, oak woodlands, and other natural resources that are found in areas between the UGB and the Planning Area Boundary,

4-P-4 Continue to support rural land use designations and Agricultural Best Management Practices within the Sonoma County General Plan.

A. Coordinate with Sonoma County's Agricultural Preservation and Open Space District, Permit and Resource Management Department, and Water Agency to protect riparian corridors and critical biological habitats as well as to reduce cumulative impacts on sensitive watershed areas outside of the city limits.

B. Work with County, State and federal agencies to ensure that development within the Planning Referral Area does not substantially affect State or federally listed rare, endangered, or threatened species or their habitats. Require assessments of biological resources prior to approval of any development in or within 300 feet of ecologically sensitive areas.

4-P-5 Support wetland mitigation and oak woodlands restoration in the unincorporated areas outside the UGB.

West Petaluma Area Plan

Adopted August 11, 1981 and Modified September 23, 2008

Major Policies

(2) Insure that impacts are mitigated before approving subdivisions or rezonings which increase residential densities, especially those within proximity to existing agricultural operations

Constraints and Mitigation Measures: Natural Characteristics – Vegetation and Wildlife

(1) Continue to refer development proposals within the areas to the California Native Plant Society and the California Department of Fish and Game to insure regular update of knowledge relative to plants and wildlife.



THE WILDLIFE SOCIETY

Excellence in Wildlife Stewardship Through Science and Education

Ecological Impacts of Feral Cats

The domestic cat (*Felis catus*) is now found on all 7 continents, with 600 million cats worldwide and 148-188 million within the United States.^{1,2} As a domestic animal, cats have no native range and are a non-native species in all environments worldwide; native prey species often have no evolved defenses against this invasive predator. Domestic cats have the potential for intense environmental alterations due to their predatory instincts and close affiliation with humans, a relationship that has led to the species' global spread and artificially large populations.

Hunting: Domestic cats are highly skilled predators, and studies have shown that even when fed daily by humans, cats continue to hunt wildlife.^{3,4,5} Domestic cats have tremendous impacts on wildlife and are responsible for the extinction of numerous mammals,^{6,7} reptiles,^{8,9} and at least 33 bird species.¹⁰ The BP Deepwater Horizon oil spill, widely considered to be the worst environmental disaster in the history of the United States, resulted in the deaths of over 7,000 birds: A 2009 study estimated the number of birds killed by cats *every year* in the United States at one billion, conservatively.¹¹ In southern California, researchers observed that native bird diversity dropped as cat abundance increased.¹² A Virginia study conducted on free-ranging cats between January and November of 1990 found that 4 urban cats killed an average of 26 native vertebrates while a single rural cat killed 83 individuals.¹³ These data were conservative, accounting only for prey returned to the home and not eaten or left outside. Precise numbers of cat-caused mortalities are difficult to obtain given the secrecy with which most cats hunt, yet the abundance of scientific studies and eyewitness accounts make it clear that cats kill a large number of native wildlife.



*A four month old feral kitten devours an Eastern Cottontail rabbit.
Photo credit: Jake Berzon, Wikimedia.*

Competition with Wildlife: Predation by domestic cats is an obvious threat to wildlife, but competition with wildlife species is less direct and often overlooked. Feral and free-ranging cats compete with native mesopredators like skunks, opossums, raccoons, and foxes for prey. Unfortunately for these and other native species, the domestic cat has an overwhelming competitive advantage because humans subsidize their populations by supplying food, water, and shelter, allowing cat populations to reach densities 100 times higher than those of their native counterparts.¹⁴

Disease Transmission: Diseases in feral and free-ranging cats can be transmitted to wildlife, decreasing their fitness or causing death.^{15,16} Cats are natural vectors for rabies and can host a variety of other diseases and parasites including toxoplasmosis, hookworms, feline immunodeficiency virus, and feline infectious peritonitis. Since greater density of

individuals means a greater likelihood of disease transmission, feral cat colonies may serve as a reservoir for disease, threatening the health of cats and local wildlife.

The introduction of domestic cats to environments worldwide has caused a reduction in biodiversity and altered ecosystem functions. Domestic cats are non-native species that, when allowed to roam freely outside of the home, have severe and varied negative impacts on native ecosystems.

¹ O'Brien S.J. and Johnson W.E. 2007. The evolution of cats. *Scientific American* 297: 68-75.

² Dauphine N. and Cooper R.J. 2009. Impacts of free-ranging domestic cats (*Felis catus*) on birds in the United States: a review of recent research with conservation and management recommendations. *Proceedings of the Fourth International Partners in Flight Conference: Tundra to Tropics*, p 205-219.

³ Warner R. 1985. Demography and movements of free-ranging cats in rural Illinois. *Journal of Wildlife Management* 49: 340-346.

⁴ Churcher P.B. and Lawton J.H. 1987. Predation by domestic cats in an English village. *Journal of Zoology* 212: 439-455.

⁵ Churcher P.B. and Lawton J.H. 1989. Beware of well-fed felines. *Natural History Magazine* 95: 40-46.

⁶ Mellink E. 1992. The status of *Neotoma anthonyi* (Rodentia, Muridae, Cricetinae) of Todos Santos Islands, Baja California, Mexico. *Bulletin of the Southern California Academy of Sciences* 91: 137-140.

⁷ Tershey B.R., Donlan C.J., Keitt B.S., Croll D.A., Sánchez J.A., Wood B., Hermosillo M.A., Howald G.R., Biavaschi N. 2002. Island conservation in north-west Mexico: a conservation model integrating research, education and exotic mammal eradication. Pages 293-300 in C.R. Veitch and M.N. Clout, eds. *Turning the tide: the eradication of invasive species*. World Conservation Union, Gland, Switzerland.

⁸ Iverson J.B. 1978. The impact of feral cats and dogs on populations of the West Indian rock iguana, *Cyclura carinata*. *Biological Conservation* 14: 63-73.

⁹ Mitchell N., Haeffner R., Veer V., Fulford-Gardner M., Clerveaux W., Veitch C.R., and Mitchell G. 2002. Cat eradication and the restoration of endangered iguanas (*Cyclura carinata*) on Long Cay, Caicos Bank, Turks and Caicos Islands, British West Indies. Pages 206-212 in C.R. Veitch and M.N. Clout, eds. *Turning the tide: the eradication of invasive species*. World Conservation Union, Gland, Switzerland.

¹⁰ Lever C. 1994. Naturalized animals: the ecology of successfully introduced species. T & AD Poyser Ltd., London.

¹¹ Dauphine N. and Cooper R.J. 2009.

¹² Crooks K.R. and Soulé M.E. 1999. Mesopredator release and avifaunal extinctions in a fragmented system. *Nature* 400: 563-566.

¹³ Mitchell J.C. and Beck R.A. 1992. Free-ranging domestic cat predation on native vertebrates in rural and urban Virginia. *Virginia Journal of Science* 43(1B): 197-207.

¹⁴ Coleman J.S. and Temple S.A. 1992. Rural residents' free-ranging domestic cats: a review. *Wildlife Society Bulletin* 21: 381-390.

¹⁵ Jessup D.A., Pettan K.C., Lowenstine L.J., and Pedersen N.C. 1993. Feline leukemia virus infection and renal spirochetosis in a free-ranging cougar (*Felis concolor*). *Journal of Zoo and Wildlife Medicine* 24(1): 73-79.

¹⁶ Leutenegger C.M., Hoffmann-Lehmann R., Riols C., Liberek M., Worel G., Lups P., Fehr D., Hartmann M., Welienmann P., and Lutz H. 1999. Viral infections in free-living populations of the European wildcat. *Journal of Wildlife Diseases* 35(4): 678-686.

AMERICAN BADGER AND WILDLIFE HABITAT AREA. NOTES:
THE FOLLOWING RESTRICTIONS AND MITIGATION MEASURES FROM THE WRA BIOLOGICAL
RESOURCES ASSESSMENT REPORT ARE CONDITIONS OF APPROVAL AND MUST BE IMPLEMENTED.

1. ONLY COMPATIBLE USES SUCH AS BUT NOT LIMITED TO: HORSE AND LIVESTOCK GRAZING;
AGRICULTURAL USES; PASSIVE RECREATIONAL RELATED USES (THAT DO NOT INCLUDE GRADING);
RURAL/PERMIT EXEMPT STRUCTURES (E.G. SMALL SHED, GAZEBO, LIVESTOCK RAIN SHELTER) WITH
DIRT OR RAISED FLOORING; VEGETATION MANAGEMENT (CONTROL OF INVASIVE SPECIES AND FIRE
MANAGEMENT); OR SIMILAR USES SHALL BE ALLOWED IN THE DESIGNATED AMERICAN BADGER AND
WILDLIFE HABITAT AREA, EXCLUDING THE DESIGNATED COMMON AREA WITHIN A PORTION OF THE
AMERICAN BADGER AND WILDLIFE HABITAT AREA WHERE ONLY PASSIVE RECREATIONAL USES AND
VEGETATION MANAGEMENT ARE ALLOWED. DISKING OF THE AMERICAN BADGER AND WILDLIFE
HABITAT AREA, INCLUDING THE COMMON AREA, SHOULD BE AVOIDED.

2. NO GRADING, SPOIL SITES OR CONSTRUCTION STAGING WILL OCCUR WITHIN THE DESIGNATED
AMERICAN BADGER AND WILDLIFE HABITAT AREA. EXCAVATION AND HAUL EQUIPMENT SHALL BE
CONFINED TO THE DESIGNATED ACCESS ROUTES, DESIGNATED STAGING AREAS, AND DESIGNATED
EXCAVATION AREAS. THE AMERICAN BADGER AND WILDLIFE HABITAT AREA SHOULD BE
APPROPRIATELY FLAGGED AND IDENTIFIED DURING CONSTRUCTION TO AVOID ACCIDENTAL
INCURSIONS BY HEAVY EQUIPMENT THAT COULD RESULT IN EXCESSIVE SOIL COMPACTION THAT MAY
IMPACT POTENTIAL BURROW SITES.

3. A QUALIFIED BIOLOGIST SHALL HOLD A TRAINING SESSION FOR STAFF RESPONSIBLE FOR
PERFORMING GROUND DISTURBING CONSTRUCTION ACTIVITIES (E.G. ACTIVITIES INVOLVING HEAVY
EQUIPMENT USED IN EXCAVATION OF FOUNDATIONS OR OTHER SITE GRADING). STAFF WILL BE
TRAINED TO RECOGNIZE AMERICAN BADGER AND THEIR HABITATS. STAFF WILL ALSO BE TRAINED TO
USE PROTECTIVE MEASURES TO ENSURE THAT AMERICAN BADGERS AND WILDLIFE ARE NOT
ADVERSELY IMPACTED BY GROUND DISTURBING CONSTRUCTION ACTIVITIES. AT LEAST ONE STAFF
PERSON WITH UP-TO-DATE TRAINING IN AMERICAN BADGER PROTECTIVE MEASURES SHALL BE
PRESENT AT THE SITE DURING ALL GROUND DISTURBING ACTIVITIES.

4. PRIOR TO ANY GRADING OR CONSTRUCTION ADJACENT TO THE AMERICAN BADGER AND WILDLIFE
HABITAT AREA IN DESIGNATED BUILDING ENVELOPES AND/OR SEPTIC AREAS, A PRE-CONSTRUCTION
SURVEY SHALL BE PERFORMED BY A QUALIFIED BIOLOGIST TO MAP THE LOCATION OF ANY POTENTIAL
DENS. IF POTENTIAL DENS ARE OBSERVED, A MINIMUM 300-FOOT NO DISTURBANCE SETBACK/BUFFER
WILL BE ESTABLISHED AROUND THE POTENTIAL DEN DURING THE BREEDING/PUPPING/REARING
SEASON (DECEMBER 1 TO MAY 31). DURING THE NON-BREEDING SEASON (JUNE 1 TO NOVEMBER 31), A
MINIMUM 100-FOOT SETBACK/BUFFER WILL BE ESTABLISHED.

• IF PLANNED CONSTRUCTION ACTIVITIES ARE TO OCCUR WITHIN THE 100-FOOT SETBACK, A
QUALIFIED BIOLOGIST WILL PERFORM TRACK PLATE AND/OR PUSH CAMERA SURVEYS TO
DETERMINE OCCUPANCY IN CONSULTATION WITH CDFW. IF OCCUPIED, THE BIOLOGIST WILL
INSTALL ONE-WAY DOORS TO EXCLUDE BADGERS TEMPORARILY UNTIL WORK IS COMPLETED. NO
WORK WILL OCCUR WITHIN THE SETBACK UNTIL IT IS CONFIRMED IN CONSULTATION WITH CDFW
THAT THE DEN IS NO LONGER OCCUPIED.

5. DOWNCAST LIGHTING (OR LANDSCAPE LIGHTING) IS REQUIRED FOR OUTDOOR PLACEMENT ON ANY
STRUCTURES THAT MAY RESULT IN INDIRECT LIGHTING IMPACTS TO BADGERS THAT MAY BE LOCATED
IN THE AMERICAN BADGER AND WILDLIFE HABITAT AREA. AMBIENT LIGHTING FROM THESE
STRUCTURES IS NOT EXPECTED TO NEGATIVELY AFFECT ANY BADGERS PRESENT IN THE HABITAT
AREA BASED ON THE PRESENCE OF EXISTING AMBIENT LIGHTING SURROUNDING BOTH THE HABITAT
AREA AND ADJACENT OPEN SPACE PRESERVE IN THE FORM OF STREET LAMPS AND EXISTING
RESIDENTIAL AND COMMERCIAL STRUCTURES. IT IS EXPECTED THAT EXISTING TOPOGRAPHY WILL
PREVENT LIGHTING IMPACTS FROM AFFECTING WILDLIFE USE IN THE OPEN SPACE PRESERVE TO THE
NORTH.

6. FIRE PROTECTION ACTIVITIES, INCLUDING MOWING, SHOULD BE LIMITED TO THOSE DEEMED
NECESSARY BY LOCAL FIRE AUTHORITIES AND ORDINANCES, AND SHOULD BE IMPLEMENTED IN SUCH
A WAY THAT MINIMIZES IMPACTS TO AMERICAN BADGER TO THE EXTENT FEASIBLE. IT IS UNDERSTOOD
THAT FIRE DANGER VARIES BY SEASON AND THAT THE EXTENT OF FIRE MANAGEMENT ACTIVITIES
WILL VARY YEAR BY YEAR.

7. PRIOR TO INITIATION OF PROJECT ACTIVITIES, A PRE-CONSTRUCTION BURROWING OWL SURVEY
SHALL BE PERFORMED BY A QUALIFIED BIOLOGIST IN THE AMERICAN BADGER AND WILDLIFE HABITAT
AREA TO DETERMINE IF PRESENT.

8. IF THE SURVEY FINDS BURROWING OWL WITHIN 200 METERS OF THE PROJECT AREA DURING THE
BREEDING SEASON (APRIL 1 TO OCTOBER 15), THE BIOLOGIST WILL ESTABLISH A NO-DISTURBANCE
BUFFER OF NO LESS THAN 200 METERS AROUND THE ACTIVE NEST BURROW. ANY MODIFICATION OR
REDUCTION TO THESE BUFFERS WILL ONLY BE DONE ON A CASE BY CASE BASIS WITH WRITTEN
CONCURRENCE FROM CDFW AND WILL INCLUDE MONITORING BY THE QUALIFIED BIOLOGIST TO
ENSURE BUFFERS ARE ADEQUATE TO AVOID ANY DISTURBANCE TO NESTING ACTIVITY. IF
DISTURBANCE IS OBSERVED, THE BUFFER WILL BE INCREASED. ADDITIONAL MEASURES TO FURTHER
REDUCE OR AVOID DISTURBANCES SUCH AS TEMPORARY SCREENS MAY BE EMPLOYED WITH
WRITTEN CONCURRENCE AND APPROVAL OF SUCH METHODS BY CDFW.

9. THE BURROWING OWL SHALL BE MONITORED BY A QUALIFIED BIOLOGIST, AND THE EXCLUSION
ZONE WILL BE REMOVED ONCE IT IS DETERMINED BY THE BIOLOGIST THAT THE YOUNG HAVE
FLEDGED FROM THE NEST AND WITH WRITTEN CONCURRENCE FROM CDFW.

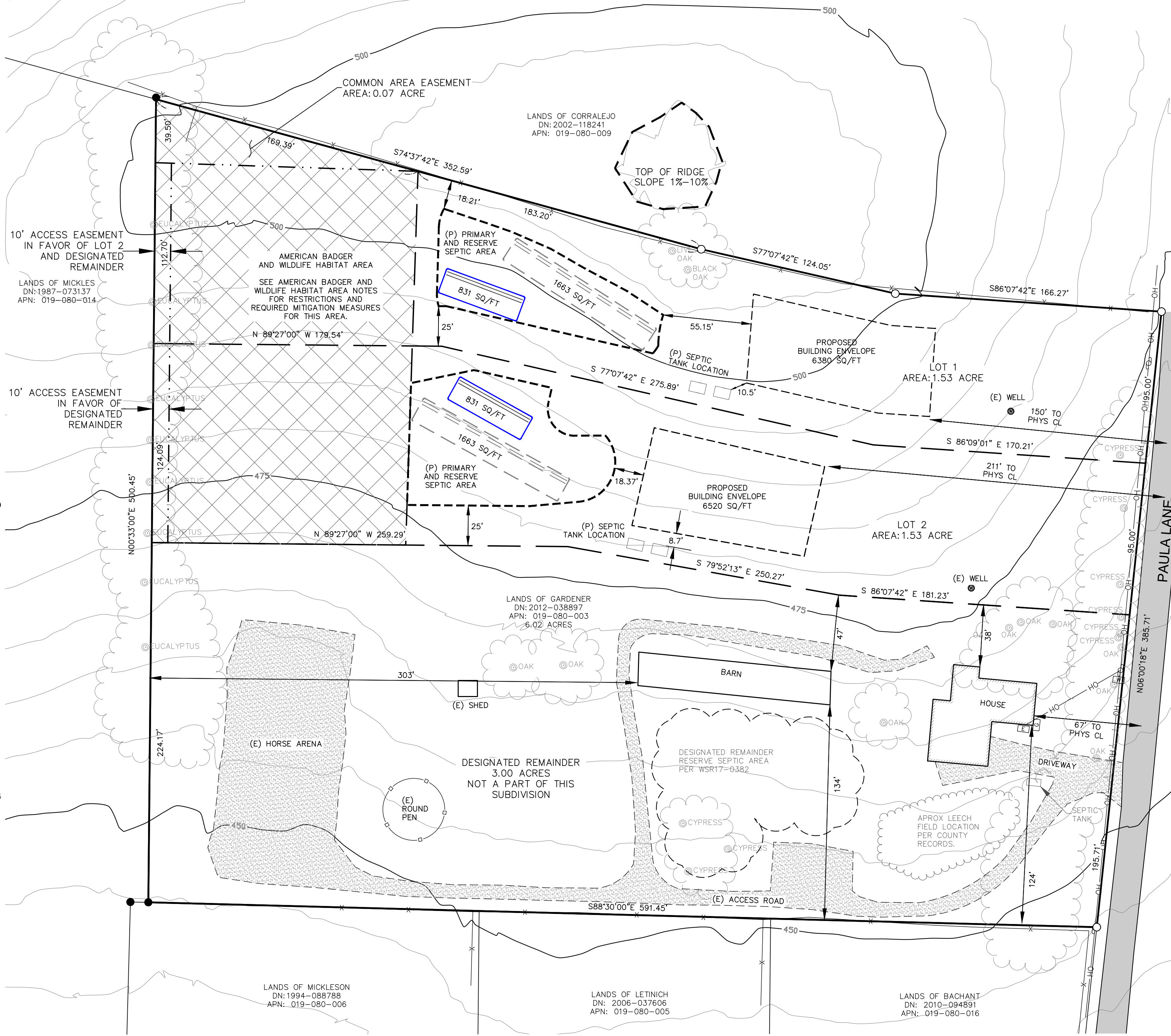
10. IF BURROWING OWLS ARE DETECTED DURING THE NON-BREEDING SEASON PRIOR TO
CONSTRUCTION ACTIVITIES, A BUFFER OF 50 METERS SHALL BE ESTABLISHED.

11. THE FOLLOWING BMPs SHALL BE IMPLEMENTED DURING THE PROPOSED PROJECT ACTIVITIES:
• NO PESTICIDES OR RODENTICIDES SHALL BE EMPLOYED OR USED.
• CONSTRUCTION WILL BE LIMITED TO DAYLIGHT HOURS ONLY AND ARTIFICIAL NIGHTTIME LIGHTING
ON THE PROJECT SITE WILL BE SHIELDED, DIRECTED DOWNWARD AND MINIMIZED AT NIGHT.
• ENVIRONMENTAL TRAINING WILL BE PROVIDED TO ALL PERSONS WORKING ON THE PROJECT SITE
PRIOR TO THE INITIATION OF PROJECT-RELATED ACTIVITIES AND TRAINING MATERIALS AND
BRIEFINGS WILL INCLUDE ALL BIOLOGICAL RESOURCES THAT MAY BE FOUND ON OR IN THE
VICINITY OF THE PROJECT SITE, THE LAWS AND REGULATIONS THAT PROTECT THOSE
RESOURCES, THE CONSEQUENCES OF NON-COMPLIANCE WITH THOSE LAWS AND REGULATIONS
AND A CONTACT PERSON IN THE EVENT THAT PROTECTED BIOLOGICAL RESOURCES ARE
DISCOVERED ON THE PROJECT SITE.

12. PASS-THRU FENCING SHALL BE INSTALLED AROUND THE AMERICAN BADGER AND WILDLIFE
HABITAT AREA WHERE IT BORDERS THE OPEN SPACE PRESERVE TO THE NORTH AND THE ADJACENT
PROPERTY TO THE WEST. A PASS-THROUGH FENCE HAVING AT MINIMUM A 12-INCH OPENING FROM
THE GROUND TO THE BOTTOM OF THE FENCE IS RECOMMENDED TO ALLOW BADGERS TO MOVE
THROUGH THE PROPERTY; THE 12-INCH OPENING IS BASED ON THE UPPER RANGE OF BADGER
BURROW ENTRANCE HEIGHTS (REID 2006). A NO-CLIMB FENCE MAY BE USED, PROVIDED THE 12-INCH
OPENING AT THE BOTTOM IS MAINTAINED. THE BOTTOM WIRE OR, IF A NO-CLIMB FENCE, THE BOTTOM
OF THE FENCE SHOULD BE FREE FROM BARBS TO AVOID ENTANGLEMENT. NO SCREENING, SLATS OR
WEATHERPROOFING MATERIAL ON THE PASS-THROUGH FENCE SHALL BE INSTALLED IN ORDER TO
AVOID THE APPEARANCE OF A VISUAL BARRIER.

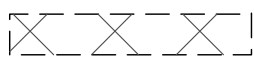
13. IF GROUND DISTURBANCE OR REMOVAL OF VEGETATION OCCURS BETWEEN FEBRUARY 1 AND
JUNE 30 (BREEDING SEASON), PRECONSTRUCTION SURVEYS SHOULD BE PERFORMED BY A QUALIFIED
BIOLOGIST NO MORE THAN 14 DAYS PRIOR TO COMMENCEMENT OF SUCH ACTIVITIES TO DETERMINE
THE PRESENCE AND LOCATION OF NESTING BIRD SPECIES. IF GROUND DISTURBANCE OR REMOVAL
OF VEGETATION OCCURS BETWEEN JULY 1 AND AUGUST 31 (BREEDING SEASON), PRE-CONSTRUCTION
SURVEYS SHOULD BE PERFORMED WITHIN 30 DAYS PRIOR TO SUCH ACTIVITIES. IF ACTIVE NESTS ARE
PRESENT, ESTABLISHMENT OF TEMPORARY PROTECTIVE BREEDING SEASON BUFFERS WILL AVOID
DIRECT MORTALITY OF THESE BIRDS, NESTS OR YOUNG. THE APPROPRIATE BUFFER DISTANCE IS
DEPENDENT ON THE SPECIES, SURROUNDING VEGETATION, AND TOPOGRAPHY AND SHOULD BE
DETERMINED BY A QUALIFIED BIOLOGIST AS APPROPRIATE TO PREVENT NEST ABANDONMENT AND
DIRECT MORTALITY DURING CONSTRUCTION. GROUND DISTURBANCE AND REMOVAL OF VEGETATION
WITHIN THE PROJECT AREA DOES NOT REQUIRE PRECONSTRUCTION SURVEYS IF PERFORMED
BETWEEN SEPTEMBER 1 AND JANUARY 31 (NON-BREEDING SEASON).

14. ALL DEVELOPMENT ON THE SUBJECT SITE IS SUBJECT TO THE SONOMA COUNTY TREE
PROTECTION AND REPLACEMENT ORDINANCE. PROTECTED TREES, THEIR PROTECTED PERIMETERS,
AND WHETHER THEY ARE TO BE RETAINED OR REMOVED MUST BE CLEARLY SHOWN ON THE
IMPROVEMENT, GRADING, SEPTIC AND BUILDING PERMIT PLANS. TREES THAT ARE PROPOSED TO BE
REMOVED OR ARE DAMAGED DURING CONSTRUCTION ACTIVITIES MUST BE REPLACED IN
ACCORDANCE WITH THE TREE PROTECTION ORDINANCE. AN ARBORIST REPORT IS REQUIRED FOR
ANY GRADING OR CONSTRUCTION PROPOSED WITHIN THE PROTECTED PERIMETERS OF ANY
PROTECTED TREE. THE PROJECT CONSTRUCTION MANAGER SHALL MAINTAIN ALL TREE PROTECTION
BARRIERS IN GOOD CONDITION AT ALL TIMES DURING ALL SITE DISTURBING ACTIVITIES. IF ANY
VIOLATION TO THIS CONDITION OCCURS, CONSTRUCTION WILL BE HALTED UNTIL THE TREE
PROTECTION BARRIERS HAVE BEEN REINSTALLED AT THE APPROVED LOCATION(S).



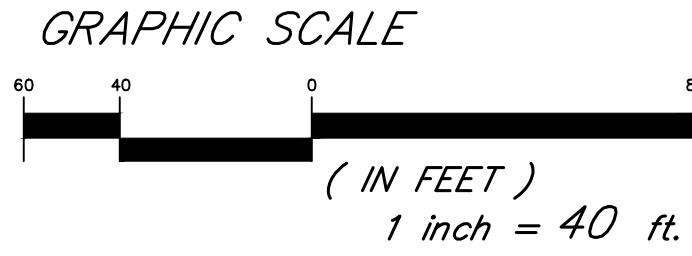
LEGEND

	RECORD BOUNDARY LINE
	RECORD ADJOINING BOUNDARY LINE
	PROPOSED LOT LINE
	PROPOSED BUILDING ENVELOPE
	PROPOSED SEPTIC AREA
	PROPOSED PRIMARY SEPTIC DISPERSAL AREA
	PROPOSED RESERVE SEPTIC DISPERSAL AREA
	EDGE OF ASPHALT CONCRETE
	EDGE OF GRAVEL ROAD
	WIRE FENCE
	OVERHEAD WIRE
	TREE DRIPLINE
	ASPHALT CONCRETE SURFACE
	GRAVEL SURFACE



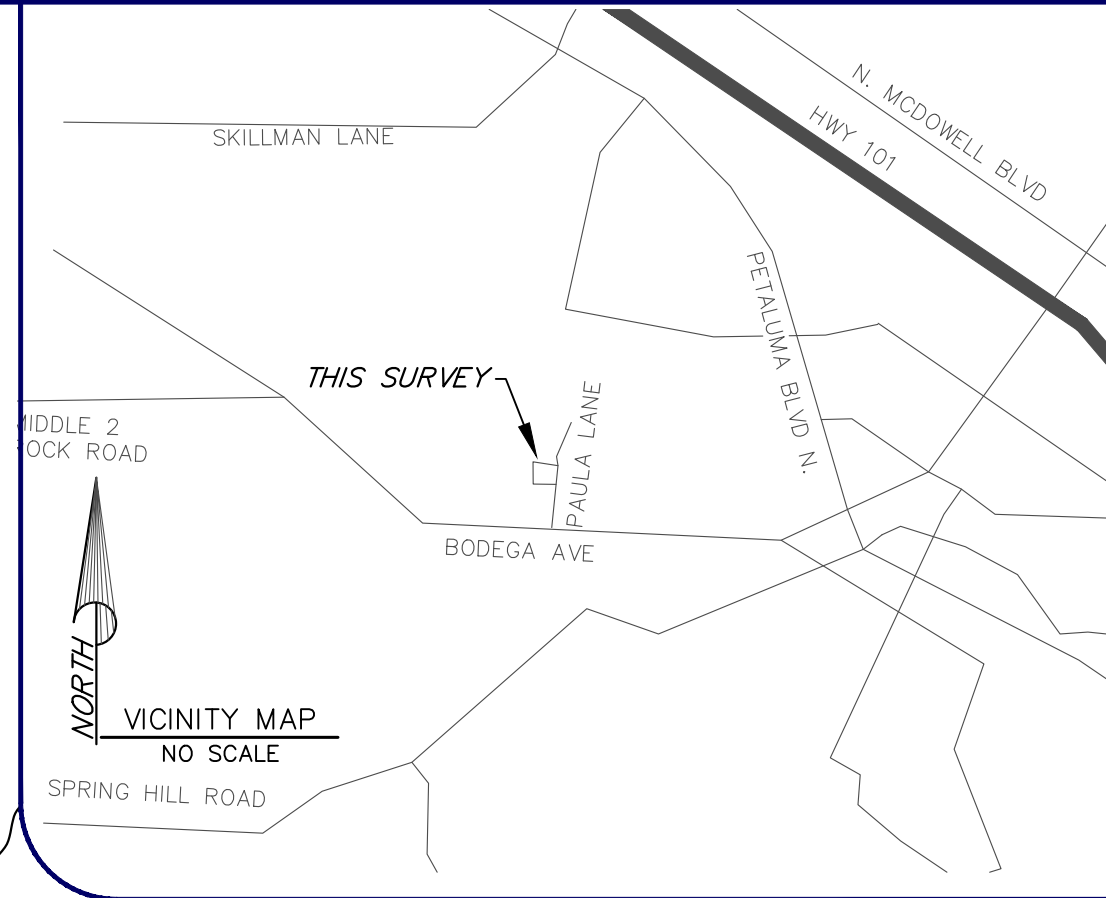
	AMERICAN BADGER & WILDLIFE HABITAT AREA PER WRA BIOLOGICAL RESOURCES ASSESSMENT REPORT, DATED AUGUST 2014.
	RANDOM CONTROL POINT W/##
	FOUND 1/2" IRON PIPE NO TAG EXCEPT AS NOTED
	FOUND 2" BRASS DISK IN MONUMENT WELL
	UTILITY POLE W/ GUY WIRE
	WATER METER
	GAS METER
	ELECTRIC METER
	1/2" IRON PIPE TAGGED LS 8451
	EXISTING
	PROPOSED

- GENERAL NOTES:
- THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY.
BOUNDARY INFORMATION SHOWN IS RECORD DATA
PER DEED RECORDED AS DOCUMENT NUMBER:2012-038897 ONLY.
 - HORIZONTAL CONTROL:
NORTH FROM GPS
 - VERTICAL CONTROL:
ELEVATION DATUM IS ASSUMED AT CONTROL POINT #2 (500.00')
 - BUILDING HEIGHT SHALL NOT EXCEED 35 FEET UNLESS ALLOWED BY
SONOMA COUNTY CODES.



OWNER INFO
KIM GARDNER
840 CHERRY STEET
PETALUMA, CA 94952
(415)637-6456

PROJECT SUMMARY
EXISTING ZONING = AR 2 B6
PROPOSED ZONING= AR 2 B6
EXISTING DENSITY= 2 ACRE
PROPOSED DENSITY= 2 ACRE
TOTAL SITE ACREAGE= 6.03
TOTAL NUMBER OF LOTS=2 WITH A REMAINDER
SMALLEST LOT SIZE= 0.07
AVERAGE LOT SIZE= 2.0



HOGAN LAND SERVICES
A CALIFORNIA CORPORATION

1702 4TH STREET
SANTA ROSA, CA 95405

www.hoganls.com

Tel (707) 544-2104
Fax (707) 522-2105

TENTATIVE MAP

245 PAULA LANE
PETALUMA, CALIFORNIA

APN: 019-080-003

1 OF 1

THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECTORSHIP AT THE REQUEST OF KIM GARDNER IN DECEMBER, 2017

DRN:	ALS
CHK:	ASR
PM:	ASR
DATE:	07/24/19
JOB #:	1369

ADAM S. RIVERA, PLS 8451

Sec. 25-43. - Optional design and improvement standards.

Should a subdivider elect to utilize development concepts such as cluster, townhouse, condominium or combinations thereof, whereby areas of permanent open space would be provided within the subdivision, he may petition the planning commission to reduce the standards established in this article by compliance with each of the following:

- (a) Improve the subdivision design by density control and better community environment; the standards set out in this article concerning streets and lots may be varied only when the gross density of an area is not increased and open common area is created; provided, that the design has the approval of the planning commission, and where in their opinion the deviation will:
 - (1) Produce a more desirable and livable community.
 - (2) Create better community environment through dedication of public areas, scenic easements, open spaces or reforestation of barren areas.
 - (3) Reduce the danger of erosion.
- (b) As an incentive to creating better overall communities, the planning commission may authorize deviations of up to seventy-five percent reduction in lot size but with no increase in density in the overall development; provided, that an area equivalent to the decrease is set aside as common usable open space in aggregates of at least one acre.
- (c) Before any deviation based on improved design shall be authorized, the subdivider shall present a preliminary map of the development to the planning commission for approval prior to filing a tentative subdivision map. This map shall show lot arrangement, shape and size, street pattern along with cross sections of proposed roads, area of all common open space and other such information as the planning commission may feel necessary to make their findings. The proposed exceptions shall be approved by the planning commission, upon a finding that the variation as authorized will result in a community which is a substantial improvement over the community which could have been developed by following the requirements set out in this article.
- (d) Where permanent open space or scenic easements are to be provided, the county shall be named as a party to any deed restrictions or alternate methods to forever preclude a use other than open space within those areas designated in the subdivision.

(Ord. No. 1137 § 5.)