

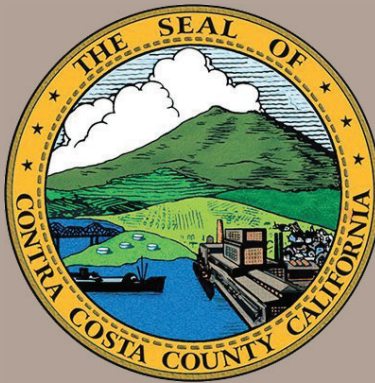
Final Environmental Impact Report

Spieker Senior Continuing Care Community Project

CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038
State Clearinghouse No. 2021070517



Prepared by



In Consultation with
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SECTION 1.0 INTRODUCTION

This document, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final Environmental Impact Report (Final EIR) for the Spieker Senior Continuing Care Community Project.

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by Contra Costa County and any Responsible Agencies in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

- (1) The Final EIR has been completed in compliance with CEQA;
- (2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final EIR prior to approving the project; and
- (3) The Final EIR reflects the lead agency's independent judgment and analysis.

1.2 CONTENTS OF THE FINAL EIR

CEQA Guidelines Section 15132 specify that the Final EIR shall consist of:

- a) The Draft EIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
- d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the County shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final EIR and all documents referenced in the Final EIR are available for public review at the following locations on weekdays during normal business hours.

Office of County Supervisor Candace Andersen
309 Diablo Road
Danville, Ca 94526

Office of County Supervisor Karen Mitchoff
2151 Salvio St. Suite R
Concord, CA 94520

Walnut Creek Library Contra Costa County
1644 North Broadway
Walnut Creek, CA 94596

The Final EIR is also available for review on the County's website:
<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>.

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft EIR for the Spieker Senior Continuing Care Community project, dated March 2022, was circulated to affected public agencies and interested parties for a 60-day review period from March 11, 2022 through May 10, 2022. The County undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability of the Draft EIR was published on the County's website (<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>) and filed at the County Clerk Recorder's Office on March 11, 2022;
- Notification of the availability of the Draft EIR was mailed to project area residents and other members of the public who had indicated interest in the project;
- The Draft EIR was delivered to the State Clearinghouse on March 11, 2022, as well as sent to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft EIR); and
- Copies of the Draft EIR were also made available on the County's website (<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>).

SECTION 3.0 DRAFT EIR RECIPIENTS

CEQA Guidelines Section 15086 requires the lead agency to consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The following agencies received a copy of the Draft EIR via the State Clearinghouse:

- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife, Bay Delta Region 3
- California Department of Housing and Community Development
- California Department of Parks and Recreation
- California Department of Transportation, District 4
- California Department of Water Resources
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency
- California Public Utilities Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2
- Department of Toxic Substances Control
- Office of Historic Preservation
- State Water Resources Control Board, Division of Drinking Water, District 4

The Notice of Availability (NOA) for the Draft EIR was sent by mail and/or email to the following organizations, businesses, and individuals who expressed interest in the project, and to all occupants and property owners within 300 feet of the project site:

- Adams, Broadwell, Joseph, & Cardozo
- Linda M. Lamerdin & Michael J. Young
- Contra Costa County Fire Protection District
- Central Contra Costa County Sanitary District
- Contra Costa County Water District
- City of Walnut Creek
- Walnut Creek School District
- Acalanes Union High School District
- Contra Costa County Mosquito & Vector Control
- Bay Area Air Quality Management District
- California Department of Social Services
- California Department of Public Health
- Transpac

- County of Alameda
- San Joaquin County
- Solano County

SECTION 4.0 RESPONSES TO DRAFT EIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by Contra Costa County on the Draft EIR.

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following. Copies of the letters and emails received by Contra Costa County are included in their entirety in Appendix A of this document. Comments received on the Draft EIR are listed below. None of the comments raised represents new significant information that would warrant recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5(a).

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4.1 MASTER RESPONSES

Many comments received during the public circulation of the Draft EIR raised similar concerns and questions; therefore, master responses have been prepared to respond to those common concerns/questions. The master responses address the following topics:

- Master Response 1: County General Plan Policy Consistency
- Master Response 2: Project Non-residential and Infill Designation
- Master Response 3: Regional Housing Needs Allocation
- Master Response 4: Flood Control District 50 Year Plan Consistency
- Master Response 5: Aesthetics
- Master Response 6: Air Quality
- Master Response 7: Biological Resources
- Master Response 8: Noise and Vibration
- Master Response 9: Transportation

The purpose of the master responses is to provide comprehensive answers in one location and to avoid redundancy throughout the individual responses. Cross references to topic responses are made, when appropriate, in individual responses.

Master Response 1: County General Plan Policy Consistency

As discussed in Section 2.2.2 General Plan Amendment and Rezoning (page 8) of the Draft EIR, the project is seeking a General Plan Amendment (GPA) to change the land use designation from Single-Family Residential – Medium Density (SM) to Congregate Care/Senior Housing (CC) and to rezone the site from A-2 (General Agriculture) to a site-specific Planned Unit (P-1) District in order to construct the proposed project. As the proposed project could only be built if the GPA and rezoning are approved, the Draft EIR analyzed the project assuming the land use designation and zoning were changed to CC and P-1, respectively. Thus, the proposed project would not conflict with the proposed CC land use designation and P-1 zoning.

The project's consistency with the County's 2005-2020 General Plan policies is discussed throughout the Draft EIR in each individual resource section. The following responses address General Plan policies and implementation measures that multiple comment letters deemed the proposed project inconsistent with. Table 4-1 below lists the General Plan policies and measures in their entirety for reference.

Table 4-1: General Plan Policies/Measures

Policy/Measure	Description
Policy 3-8	Infilling of already developed areas shall be encouraged. Proposals that would prematurely extend development into areas lacking requisite services, facilities, and infrastructure shall be opposed. In accommodating new development, preference shall generally be given to vacant or underused sites within urbanized areas, which have necessary utilities installed with available remaining capacity, before undeveloped suburban lands are utilized.

Table 4-1: General Plan Policies/Measures

Policy/Measure	Description
Policy 3-12	Preservation and buffering of agricultural land should be encouraged as it is critical to maintaining a healthy and competitive agricultural economy and assuring a balance of land uses. Preservation and conservation of open space, wetlands, parks, hillsides and ridgelines should be encouraged as it is crucial to preserve the continued availability of unique habitats for wildlife and plants, protect unique scenery, and provide a wide range of recreational opportunities for county residents.
Policy 3-23	A diversity of living options shall be permitted while ensuring community compatibility and quality residential development.
Policy 3-28	New residential development shall be accommodated only in areas where it will avoid creating severe unmitigated adverse impacts upon the environment and upon the existing community.
Policy 3-29	New housing projects shall be located on stable and secure lands or shall be designed to mitigate adverse or potentially adverse conditions. Residential densities of conventional construction shall generally decrease as the natural slope increases.
Policy 5-17	Emergency response vehicles shall be accommodated in development project design.
Policy 5-31	Roads developed in hilly areas shall minimize disturbance of the slope and natural features of the land.
Policy 8-6	Significant trees, natural vegetation, and wildlife populations generally shall be preserved.
Policy 8-7	Important wildlife habitats which would be disturbed by major development shall be preserved, and corridors for wildlife migration between undeveloped lands shall be retained.
Policy 8-12	Natural woodlands shall be preserved to the maximum extent possible in the course of land development.
Policy 8-14	Development on hillsides shall be limited to maintain valuable natural vegetation, especially forests and open grasslands, and to control erosion. Development on open hillsides and significant ridgelines throughout the County shall be restricted, and hillsides with a grade of 26 percent or greater shall be protected through implementing zoning measures and other appropriate actions.
Policy 8-80	Wherever possible, remaining natural watercourses and their riparian zones shall be restored to improve their function as habitats.
Policy 8-86	Existing native riparian habitat shall be preserved and enhanced by new development unless public safety concerns require removal of habitat for flood control or other public purposes.
Policy 8-89	Setback areas shall be provided along natural creeks and streams in areas planned for urbanization. The setback areas shall be of a width adequate to allow maintenance and to prevent damage to adjacent structures, the natural channel and associated riparian vegetation. The setback area shall be a minimum of 100 feet; 50 feet on each side of the centerline of the creek.

Table 4-1: General Plan Policies/Measures

Policy/Measure	Description
Policy 9-11	High-quality engineering of slopes shall be required to avoid soil erosion, downstream flooding, slope failure, loss of vegetative cover, high maintenance costs, property damage, and damage to visual quality. Particularly vulnerable areas should be avoided for urban development. Slopes of 26 percent or more should generally be protected and are generally not desirable for conventional cut-and-fill pad development. Development on open hillsides and significant ridgelines shall be restricted.
Policy 9-12	In order to conserve the scenic beauty of the county, developers shall generally be required to restore the natural contours and vegetation of the land after grading and other land disturbances. Public and private projects shall be designed to minimize damage to significant trees and other visual landmarks.
Policy 9-14	Extreme topographic modification, such as filling in canyons or removing hilltops, shall be avoided. Clustering and planned unit development approaches to development shall be encouraged. All future development plans, whether large- or small scale, shall be based on identifying safe and suitable sites for buildings, roads, and driveways. Exemptions to this policy are appropriate for mining, landfill, and public projects in open space areas.
Policy 9-19	When development is permitted to occur on hillsides, structures shall be located in a manner which is sensitive to available natural resources and constraints.
Policy 9-20	Hilltops, ridges, rock outcroppings, mature stands of trees, and other natural features shall be considered for preservation, at the time that any development applications are reviewed.
Policy 9-21	Any new development shall be encouraged to generally conform with natural contours to avoid excessive grading.
Measure 9-v	Develop a comprehensive and interconnected series of bicycle, pedestrian, and riding trails in conjunction with cities, special districts, public utilities, and County Service Areas.
Policy 11-8	Construction activities shall be concentrated during the hours of the day that are not noise-sensitive for adjacent land uses and should be commissioned to occur during normal work hours of the day to provide relative quiet during the more sensitive evening and early morning hours.

Policy 3-8: The project site is located within a developed region of central Contra Costa County and is surrounded on all sides by urban development such as residential subdivisions, Seven Hills School, and Heather Farms Park. Furthermore, the property is located within the service districts for the Contra Costa Water District, Central Sanitary District, and the Contra Costa County Fire Protection District, and access to the infrastructure and facilities related to these and other public services are adjacent to site and readily available should the project be implemented. Lastly, the property is severely underutilized in its current state as less than one acre of the 30-acre site has been developed. The project is clearly one of an infill nature that has access to existing public infrastructure and services, and that would substantially increase the use of the property in a manner that is substantially more consistent with the land uses on the surrounding properties and with the property's location

within the Urban Limit Line and within an urban land use designation. Based on the above, the project is substantially consistent with Policy 3-8 of the Land Use Element.

Policy 3-12: Although it currently is primarily undeveloped, the project site is located inside the Urban Limit Line and within an urban land use designation which allows for future development. Development of the property has been presumed for at least 30 years. Therefore, the property should not be categorized as open space or park lands.

With respect to wetlands, those habitat areas have been identified on the site and will primarily be undisturbed as part of the project. For the small portions of wetlands that will be permanently impacted by the project, compensatory mitigations measures (MM BIO-2.2 and MM BIO-3.2) have been incorporated into the project to require that compensatory riparian and/or wetland habitat be created, purchased, or otherwise acquired.

Policy 3-12 indicates that hillside preservation is to be encouraged at the site, but the policy does not prohibit development in the manner called for by the proposed project. Nearly the entirety of the site exhibits some degree of slope and elevation change, and thus there are hillsides scattered throughout the property. Conserving all hillsides at the site would be prohibitive of development and would not be consistent with the fact that development has been permitted on other hillsides in the surrounding area and throughout the unincorporated County. Therefore, a balance of conservation and development is appropriate. As proposed, some hillsides will be graded for development, but many of the site's steeper slopes along the boundary with Walnut Creek as well as those along the central perennial drainage have been preserved. This balanced design pattern is evidence that hillside preservation at the site has been encouraged and implemented.

Despite the fact that it consists of various hillsides, knolls, and low-lying areas, the project site does not contain, nor is it part of, a significant ridgeline. Shell Ridge is located southeast of the project site and is the closest significant ridgeline with portions ranging between approximately 290 feet and 800 feet in elevation. The highest peak in the northeastern portion of the project site is approximately at 190 feet in elevation and is separated from Shell Ridge by large areas within the city limits that have been previously graded to make way for residential development.

Policy 3-23: The urban area surrounding the project site already consists of a variety of living accommodations for residents of the County including single-family residences, townhomes, and multi-family apartment buildings. Housing in one of the onsite independent living units is offered to those who sign a care contract with the facility operator. Establishment of the proposed CCRC would introduce a new and unique living option in the area of project site and thus further diversify living options in this area of the County in compliance with Policy 3-23.

Policy 3-28: The proposed CCRC would be a state-licensed institutional use and would not be a residential development in terms of land uses identified in the County General Plan.

Policy 3-29: The topography of the project site is unique in that the sloped and flat areas of the property are not grouped together in a manner that results in uniform linear ridges and large valleys that would lend for more easily identifiable areas for development. Instead, the variations in slope change sporadically throughout the site creating non-linear upland areas and meandering valleys. As mentioned in several commenters' letters, the entirety of the health center and a large portion of the

apartment style building are located within portions of the property with a maximum slope of 15 percent. In compliance with Land Use Policy 3-29, on a majority of the site where the slope exceeds 15 percent and development is proposed, those areas are proposed for low-density development such as the one-story independent living units or structures such as the maintenance building that are not intended for human habitation.

Policy 5-17: The Contra Costa County Fire Protection District (CCCFPD) has had an opportunity to review the proposed project and has provided specific comments regarding the design of the emergency vehicle access (EVA) as well as other applicable fire safety standards. In their correspondence of October 21, 2020, CCCFPD staff listed emergency apparatus access roadways standards that would apply to the project including, but not limited to, minimum width of 20-feet, minimum vertical clearance of 13-feet 6-inches, and a minimum outside turning radius of 45 feet. Sheet-C3.0 (Lotting Plan) of the civil plans provides design details for all of the proposed development's interior access roads and verifies compliance with CCCFPD standards. Furthermore, CCCFPD has indicated that the southern EVA (at Seven Hills Ranch Road) is not required if the northern EVA (at North San Carlos Drive) meets applicable standards. Therefore, only one CCCFPD-approved EVA is required, which has been provided at North San Carlos Drive.

Policy 5-31: The proposed roadways have been designed in a manner necessary to provide access to all the primary improvements at the site. Aside from the proposed clear-span bridge, all of the internal access roads will be immediately adjacent to portions of the site also proposed for disturbance in order to accommodate buildings for the independent living units or the health center. The buildings within the facility have been placed in a manner that avoids the need for any significant portions of the site to be disturbed solely for roadway construction. Additionally, the existing culverted roadway crossing will be removed and replaced with a clear-span bridge, which allows for less encroachment within and a more natural presentation of the perennial drainage in the central portion of the property.

Policy 8-6: The County General Plan does not identify criterion for determining a tree's significance. However, the County's Heritage Tree Preservation District Ordinance ("Heritage Tree Ordinance") indicates that heritage trees are those that have significant psychological and tangible benefits for both residents of and visitors of the County. Furthermore, the Heritage Tree Ordinance defines a heritage tree as 1) a tree 72-inches or larger in circumference as measured 4.5 feet from grade, or 2) a tree or group of trees that has been specifically designated as a heritage tree by the County Board of Supervisors. Based on a review of the tree survey provided by the consulting arborist and of County records, there are no heritage or significant trees designated at the site. The County's Tree Protection and Preservation Ordinance (Section 816-6) will be used as the guide for protecting trees and controlling tree removal while also allowing for reasonable enjoyment of property rights and property development. Furthermore, in areas where permanent improvements will not be made, landscaped areas will be established. As shown on the submitted landscaping plans, approximately 1,080 trees will be replanted at the site, of which over 200 will be oaks which are native to the area.

Preservation of natural vegetation and wildlife populations has also been considered, as is evidenced by the incorporation of biological mitigations (MM BIO-1.1 through MM BIO-3.2) into the project. These mitigations will require that preconstruction surveys be administered to avoid impacts to sensitive species that may be present at the site and require compensatory mitigations for the identified riparian areas.

Policy 8-7: If General Plan Policy 8-7 were interpreted to prohibit development anywhere that suitable conditions exist to support wildlife, then nearly all of the project site would need to be “preserved”, which would only be consistent with one of the County’s Open Space land use designations such as Parks and Recreation (PR), Open Space (OS), or Watershed (WS). The subject property is located within a Single-Family Residential – Medium Density (SM) designation, which means that urban development has been anticipated to take place at the site. As such, a balanced approach of allowing development at the site, while also considering the preservation of important habitat should be taken. The wetland and riparian habitats are the most sensitive habitats identified at the site and are those that have been proposed for substantial preservation. A buffer area, enhancements, and the replacement of an existing culvert road crossing with a clear span bridge crossing have been proposed for the centrally located perennial drainage and wetland area. Furthermore, where portions of the southern perennial drainage and wetland areas will be permanently impacted by the Kinross Road extension, mitigation measures (MM BIO-2.2 and MM BIO-3.2) have been incorporated into the project to require that compensatory riparian and/or wetland habitat be created, purchased, or otherwise acquired.

As discussed within the Impact BIO-4 section of the DEIR (pages 84-85), the project site is mostly surrounded by urban development to the north, south, and west, and does not currently function as a high-quality wildlife corridor. Although the project site abuts Heather Farms Park to the east, the majority of the park lacks high quality habitat as it has been improved with play structures, buildings, ball fields, and paved parking areas. Based on the developed nature of most of the surrounding properties and the partially developed and low-quality habitat of Heather Farms Park, the project is not a corridor between undeveloped lands.

Policy 8-12: This policy requires a balanced approach of conserving riparian woodland resources at the site (no other types of woodland are present) while maintaining the property owner’s right to develop. The project site consists of various rolling hills and lowland areas, which calls for an increased level of engineering strategies and construction elements to meet applicable building code and safety requirements than would typically be required on a flat project site. Therefore, grading activities and structural improvements such as retaining walls are not only required within or immediately adjacent to the proposed footprint of permanent improvements, but also in areas of the site where permanent improvements are not proposed.

That being said, proposed tree removal has generally been limited to areas of the site that will be disturbed for permanent improvements or disturbed via grading activities necessary to stabilize sloped areas of the site. Trees in the remaining portions of the site have mostly been identified for preservation. To ensure survival of the trees identified for preservation, the consulting arborist has prescribed measures to be implemented both prior to and during construction activities. These measures include, but are not limited to, establishing enclosed tree protection zones, requiring contractors to meet with the consulting arborist, and requiring that an arborist monitor any excavation that is to take place in the vicinity of trees identified for protection. Lastly, CDD staff will recommend that the project be conditioned to prohibit the removal of any tree that is not in an area of the site where permanent improvements or associated grading will take place and that the consulting arborist has identified as having at least a “moderate” suitability for preservation.

Policy 8-14: As proposed, the majority of the steep hillsides along the western boundary with Walnut Creek and the hillside along the eastern boundary with the Heather Farms residential development

will be shrub, grassland, and groundcover area after project construction, which will deter erosion in those areas. On any remaining hillside areas that will be disturbed by grading, the County's grading ordinance will be implemented, which provides minimum standards for cut and fill slopes based on steepness. The replanting of sloped areas as shown on the landscape plan combined with implementation of the County's grading ordinance will ensure that potential erosion in disturbed areas of the site is controlled.

Development on hillsides at the project site have been considered whereby the larger apartment-style building and health center are generally proposed for construction in the less steep areas of the project site. Furthermore, Policy 8-14 states "hillsides with a grade of 26 percent or higher shall be protected through implemented zoning measures, which is done via the County's SD-1 Slope Density and Hillside Development Combining District. However, the project site is not located within an SD-1 combining district, and therefore those hillside development standards are not applicable to the project. Lastly, there are no significant ridgelines on the property and the property is not part of any of the County's identified significant ridgelines.

Policy 8-80: The existing culverted Seven Hills Ranch Road crossing at the central perennial drainage will be removed and replaced with a clear-span bridge positioned further west along the drainage corridor. The formally culverted area will be restored to its natural state as part of the central perennial drainage. Additionally, the project proposes to enhance the wetland areas along the central drainage, and to create a buffer along either side of the perennial drainage wherein no structures or other permanent improvements would be permitted. The project will be conditioned to require that the development rights over the buffer area be relinquished and conveyed to the County to ensure that the area is protected in perpetuity.

Policy 8-86: Aside from the area in the southeast portion of the project site that will be impacted by the Kinross Road extension and interior roadway construction, riparian habitat at the site will be preserved and only temporarily impacted. The project proposes to enhance the wetland areas along the central drainage, and to create a buffer along either side of the perennial drainage wherein no structures or other permanent improvements would be permitted. Additionally, the project will be conditioned to require that the development rights over the buffer area be relinquished and conveyed to the County to ensure that the area is protected in perpetuity.

Policy 8-89: Policy 8-89 requires that setback areas be provided along natural creeks and streams. In determining the width of the required easement area (setback area) for an unimproved earth channel in compliance with Section 914-14.012 of the County Ordinance, the height of top of bank must be determined. However, the County Public Works Department has determined that the central perennial drainage and wetland area has no definable bed and bank to channelize the minor amount of residual stormwater runoff that collects in that area of the site. Therefore, for the purposes of applying Chapter 914 (Rights-of-Way and Setbacks) of the County Ordinance, the central perennial drainage does not function as what would be generally defined as a "creek". Therefore, Policy 8-89 is not applicable to the central perennial drainage.

Policy 9-11: Policy 9-11 states that high quality engineering shall be required to avoid hazards such as soil erosion, flooding, slope failure, property damage, and damage to visual quality. Such engineering will be implemented as part of this project. All grading at the site will be subject to the County's grading ordinance, which provides minimum standards for cut slopes based on steepness

and height, and standards for fill that is to be placed on a cut slope or natural slopes steeper than one vertical to three horizontal. The grading plan's compliance with these standards will be verified by County building staff prior to issuance of a grading permit. Additionally, Mitigation Measure GEO-1.1 requires that the project sponsor submit a design-level geotechnical report prior to issuance of grading permits. The mitigation stipulates that this report include further investigation into the conditions of the site soils, and that final recommendations be provided for the grading, drainage, and structural development that is proposed. Lastly, the mitigation requires that all recommendations in the engineering geologist's report be incorporated into the final design and be submitted to the County for review prior to the issuance of construction permits.

Policy 9-11 does indicate that slopes of 26 percent or more should generally be protected and are generally not desirable, and that development on open hillsides and significant ridgelines shall be restricted. However, it should be noted that development in these areas is not prohibited. The apartment-style building (approximately 49 feet in height) and the health center (approximately 22 feet in height) would be the largest buildings at the site. The applicant has designed the project wherein the entirety of the health center and most of the apartment style building are located in areas of the site with existing slopes less than 26 percent. Except for the maintenance building, the one-story independent living unit buildings are primarily the structures that are proposed for construction in the steeper portions of the project site.

Policy 9-12: Those areas of the project site that will be graded but not permanently improved will be landscaped with trees, shrubs, and grasses as shown on the submitted landscape plans. The most visual existing landmarks at the project site are the riparian area in the center of the property and the knoll located in the northeastern region of the site. The perennial drainage and wetland areas in the center of the property will be preserved and protected with a buffer zone wherein no permanent structures will be permitted. Although some grading of the knoll will take place to create more gradual and stable slopes, the knoll will remain at the site as the prominent high point on the property.

The project site is not an extension of Shell Ridge as mentioned by some commenters. Shell Ridge is located southeast of the project site and is the closest significant ridgeline with portions ranging between approximately 290 feet and 800 feet in elevation. The highest peak in the northeastern portion of the project site is approximately at 190 feet in elevation and is separated from Shell Ridge by large areas within the city limits that have been previously graded and now accommodate urban development.

Policy 9-14: Policy 9-14 states that "extreme topographic modification, such as filling in canyons or removing hilltops, shall be avoided", and the project as proposed is consistent with this policy. The lowering of upland areas and filling of low-lying areas to create level building pads and areas for other improvements is commonly done throughout the County on construction sites with natural topographical variations. As shown on the submitted grading plans, the project site will still consist of sloped hillsides, a knoll, and a low-lying riparian area in the center of the site, which is evidence that extreme topographic modification is not proposed.

Policy 9-19: The project has been designed in a manner wherein the perennial drainage and wetland in the central area of the property are substantially preserved. No grading, buildings, or other structures (except for the clear span bridge crossing) will encroach within the boundaries of this area,

as a buffer that coincides with the boundaries of the enhanced wetland area will be established. Additionally, the existing culverted ranch road crossing over the central perennial drainage and wetland will be removed and replaced with a clear span bridge crossing, which reduces the existing encroachment on that natural resource.

With regard to site constraints, the project has been designed in a manner wherein the larger buildings have generally been proposed for construction in the less steep areas of the property. More specifically, the apartment style building and the health center would be constructed in the less steep areas of the property, and the smaller single-story independent living unit buildings have been proposed in the slightly steeper areas.

Policy 9-20: Although grading and tree removal at the site are proposed to allow for construction of the facility's different elements, the existing natural features of the project site were considered in the project's design. For example, the knoll located in the northern region of the site will remain as the prominent high point on the property after the project is constructed. Additionally, the perennial drainage and surrounding wetlands areas in the central portion of the site will be preserved at the site and protected via a buffer area where the development rights will be deeded to the County. Multiple significant Valley Oak trees have been identified for preservation by strategically locating permanent improvements such as retaining walls, internal roadways, and the health center. Lastly, staff has recommended that the project be conditioned to prohibit the removal of any tree that has been given at least a "Fair" rating and that is not located in an area of the site identified for grading or permanent improvements.

Policy 9-21: County General Plan Policy 9-21 indicates that new development shall be encouraged to "generally conform" with natural contours but does not prohibit them from being modified. The submitted grading plans indicate that the varied topography of the project site will be maintained after the project is implemented. This is evidenced by the varied elevations for the building pads, internal access streets, and undeveloped landscaping areas across the entirety of the site. Additionally, the more prominent elevation high point and low-lying areas will remain evident if the project is implemented. More specifically, the overall elevation of the site south of the central perennial drainage will remain lower than that of the northern portion, as it currently exists. Additionally, the steep slopes along the site's western boundary with the Walnut Creek channel and on either side of the central perennial drainage will remain. Lastly, the existing knoll just south of the proposed Health Center location will remain as the highest topographical feature on the site after the project is developed.

Measure 9-v: CEQA Guidelines Appendices G and N direct a lead agency to analyze whether a project will cause a significant impact due to a conflict with plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Implementation Measure 9-v is intended to carry out a goal of creating an interconnected system of bicycle and pedestrian facilities, and not to avoid or mitigate an environmental impact, and thus need not be analyzed in the EIR. In addition, although the project site is within the City of Walnut Creek's sphere of influence, the project site is within the County's jurisdiction. Therefore, the City of Walnut Creek's bike plan is not applicable to the project. Staff will work with the project sponsor and the City of Walnut Creek to explore the possibilities of providing trail connections as part of the project and, if the connections are deemed feasible, can be required as a condition of approval. The County has determined that this matter will be discussed further as part of the land use portion of the project staff's report.

Policy 11-8: In addition to requiring that construction activities be concentrated during hours that are not noise-sensitive for adjacent land uses, General Plan Policy 11-8 also states that construction activities “should be commissioned to occur during normal work hours of the day.” As mentioned in the Impact NOI-1 discussion in the DEIR (pages 154-158), the construction activities and the equipment used would not be located at the same location for the entirety of the construction phase, and thus construction noise impacts to nearby sensitive uses will be temporary. Thus, the potential noise impacts to the surrounding area will not be significant and unavoidable. Furthermore, MM NOI-1.1 explicitly restricts noise-generating construction activities to between the hours of 8:00 a.m. and 5:30 p.m., which are normal work hours. The combined temporary nature of the noise impacts to the surrounding area combined with the restriction of construction to normal work hours makes the project compliant with Policy 11-8.

Master Response 2: Project Non-Residential and Infill Designation

The project’s lack of a residential land use element is discussed in Section 2.2.1 of the Draft EIR on page 3. The project is an institutional use that will be licensed and regulated by the State Department of Social Services. Those living at the facility will never own or lease property at the facility as the living units are strictly an amenity that is provided as part of the care contract with the facility operator. As they are coupled with the State-regulated care contract and not a separate element, the County views the living units as an amenity of the institutional use and not residences as viewed in conjunction with the County zoning ordinance. Thus, the project is not subject to residential standards such as the County’s Inclusionary Housing and Park Dedications Ordinances.

Furthermore, the provisions of the Inclusionary Housing Ordinance require that residences be rented or sold under certain pricing conditions. Applying these regulations to the proposed project would not be possible as there is no itemized price solely for the living units. The monthly fee paid by the residents of the facility is not associated with the type of independent living unit provided, and is intended to cover access to medical care and amenities such as meals, housekeeping, landscape maintenance, entertainment, and transportation.

As stated in the Draft EIR (p. 31), an “infill site” is defined as a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. CEQA Guidelines Section 21072 defines a qualified urban use as any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. The project site adjoins qualified urban uses on 75 percent of its perimeter and, as defined by CEQA, is an infill site.

Master Response 3: Regional Housing Needs Allocation

The project site is not included in the current Sites Inventory for the County’s adopted Housing Element. Therefore, neither rezoning the site to a project-specific P-1 district nor changing the General Plan land use designation will violate the No Net Loss Law. Furthermore, the California Department of Housing and Community Development’s “Housing Element Annual Progress Report

Frequently Asked Questions” document indicates that senior housing with individual units that would allow for eating and living separately could count towards RHNA progress.¹

Master Response 4: FC District 50 Year Plan Consistency

The Contra Costa Flood Control and Water Conservation District (FC District) 50 Year Plan is a goal-oriented plan and not a policy document that is reviewed for project level consistency. The 50 Year Plan does indicate that converting a concrete channel to a natural creek is an objective that can be implemented without unreasonable disruption to a community, if a long-range “50-year” creek enhancement plan is adopted. However, no creek enhancement plan has been adopted for this portion of Walnut Creek. In addition, the portion of Walnut Creek adjacent to the project site is not a good candidate for implementation of the 50 Year Plan because it is concrete-lined with vertical side slopes versus only being engineered, and thus additional land on either side would be needed to create a gradual transitioned slope once the concrete lining is removed. Furthermore, adjacent portions of the creek are also concrete-lined, which would result in an isolated portion of “natural creek” if the plan were implemented here. Additional property beyond just that adjacent to the project site would be required to allow for a natural creek channel that incorporates longer stretches and avoids isolated improvements. However, all project structures and retaining walls maintain separations of between 25 to over 100 feet from the property line paralleling the Walnut Creek channel. The proposed setback is for the protection of mature oak trees and also due to steep slopes leading down to the channel. The alignment of the service road, together with the project’s substantial separation, may provide future opportunities for CCCFCD to accommodate changes to its facilities.

Master Response 5: Aesthetics

The aesthetics impacts of the proposed project are discussed in Section 3.1 Aesthetics on pages 31 through 43 of the Draft EIR and Appendix B, Aesthetics & Lighting Analysis and Peer Review. The Draft EIR references Senate Bill (SB) 743 as part of the regulatory framework, but does not rely on it to conclude that aesthetic impacts are less than significant. The Draft EIR evaluates aesthetic impacts independent of SB 743 in Section 3.1.2.1 Project Impacts.

As part of the aesthetics evaluation, the Draft EIR incorporates visual simulations intended to show the proposed project at full buildout. Appendix B of the Draft EIR includes a complete assessment of the visual environment surrounding the project site and includes an inventory of photos taken at 40 locations within and surrounding the site. Viewpoints 11, 12, and 38 represent the existing public views looking toward the site from Kinross Drive, Heather Farms Park, and Cherry Lane. Consistent with the CEQA Guidelines, visual simulation modeling was conducted from the most representative public viewpoints, and not from individual private properties. Figures 3.1-2 through 3.1-4 of the Draft EIR depict both “Existing” (pre-development) and “Proposed” (post-development) conditions reflecting scaled simulation modeling of the completed project. The modeling for all three simulations was prepared to scale reflecting the views taken at eye level from each of the locations shown in Figure 3.1-1, using the civil engineering, landscape, and architectural CAD plans from which image files were depicted in the Draft EIR. The simulation model accurately reflects the three-

¹ California Department of Housing and Community Development. “Department of Housing and Community Development Housing Element Annual Progress Report Frequently Asked Questions (FAQs)”. July 13, 2018. Accessed July 13, 2022. https://www.hcd.ca.gov/community-development/housing-element/docs/apr_faqs.pdf.

dimensional placement, form, and scale of all proposed finished pads and slopes, buildings, retaining walls, and landscaping. The trees and shrubbery depicted in the 3D modeling were taken directly from the CAD drawing produced by the project landscape architects and presented in plan form in the Draft EIR. The simulations accurately reflect the general type, placement, and form of shrubbery and trees, including those existing mature trees identified on the plans to be preserved (shown in the pre-development photos). This landscaping will be completed as part of the proposed project, and has been modeled to reflect approximately 10 years of growth. For example, the view looking into the project site from City of Walnut Creek property in Heather Farms Park (Figure 3.1-3 of the Draft EIR) reflects the finished slope transition up to the turn-around and the adjoining Health Care Center, as well as proposed landscaping and existing mature oak trees proposed to be preserved.

Based on the aesthetics evaluation, including these visual simulations, the County concluded that the proposed project would result in a less than significant aesthetics impact.

Master Response 6: Air Quality

The air quality impacts of the proposed project are discussed in Section 3.3 Air Quality on pages 49 through 64 of the Draft EIR and Appendix D, Air Quality & Greenhouse Gas Emissions Assessment and Peer Review. Multiple commenters raised concerns about air quality impacts related to construction haul trips and fugitive dust impacts. As discussed in Section 3.3 Air Quality (pages 56-57), the project would implement mitigation measures MM AIR-1.1 and MM AIR-1.2 to reduce construction air quality emissions to a less than significant level.

Construction Haul Trips

A total of 13,216 material haul trips were estimated for the project using material quantities calculated by the project civil engineer based on the grading and site improvement plans. There are also an additional 72,846 vendor trips calculated by CalEEMod for the project's construction which are assumed to be mostly heavy-duty diesel vehicles. However, trips are only one of the components used to estimate emissions from soil hauling. The other is vehicle miles traveled (or VMT) per trip. Thus, trips x miles per trip x emissions factor(s) (in g/ mile) = emissions.

To estimate emissions from onsite activities, it was assumed that all trips (13,216 haul trips and 72,846 vendor trips) would travel one mile on the site (i.e., 86,062 vehicle miles of travel on-site). The site is less than 0.5 miles across at its widest. Thus, the analysis conservatively assumes each onsite trip drives to the farthest possible point onsite and back. This assumption likely overestimates onsite emissions (both vehicle and road dust) from onsite haul trips, as not every trip will travel one mile when on site.

Additionally, it is assumed that all on-site haul trips will occur on unpaved roads, creating fugitive dust emissions. It is more likely that only a portion of the on-site haul trips will be conducted using unpaved roads, as the project includes new onsite roadways and parking/paved areas that are likely to be completed in advance of the buildings. Thus, on-site fugitive dust emissions from on-site haul trips are likely overestimated.

For onsite materials movement, CalEEMod uses general off-road construction equipment emissions profiles to estimate emissions. The equipment used to move soil onsite includes excavators, graders,

dozers, scrapers, tractors, loaders, and backhoes. It is assumed these pieces of equipment are running eight hours a day for the duration of the site preparation/grading phases. Moving soil around onsite using off-road construction equipment would result in considerably more DPM emissions than would be generated if on-highway dump trucks were used instead. Thus, vehicle emissions associated with onsite soil movement have likely been overestimated.

The project is also anticipated to export 75,000 cubic yards (cy) of soil offsite, meaning there is no additional soil being brought to the site. There is more than enough soil onsite to conduct the site preparation and grading activities without having to haul soil from one end of the site to the other. The final grading plans should be able to optimize the cut/fill needs of the site, minimizing onsite transport of soil, thereby further reducing emissions.

Truck trips associated with tree removal were not specifically addressed in the air quality analysis as there are too many uncertainties regarding exactly how trees will be removed and what equipment will be used to remove them. However, the CalEEMod analysis does include demolition and site preparation phases where this type of activity (tree removal) would occur. There are 9,402 haul trips associated with these two phases. Thus, some of these trips would cover the trips associated with tree removal.

Additionally, emissions associated with tree removal are not considered a significant source of construction emissions. Trips related with tree removal would be less than one trip per tree, depending on the method of removal and the use of woodchippers to produce wood mulch for onsite use and/or as a tool to reduce tree waste volume. Assuming one trip per tree, 353 trips are less than four percent of the 9,402 trips already included in the analysis. Haul trips represent less than 13 percent of the total construction trips associated with the project. Thus, the potential impact could be a 0.5 percent increase in haul trip emissions. Emissions from haul trips represent approximately five percent of total construction emissions estimates. Therefore, any changes that account for tree removal would be relatively small and would not change the findings of the air quality analysis.

When building tiered retaining walls, it is typical to use prefabricated self-supporting Mechanically Stabilized Earth (MSE) walls which use a compacted soil, rock, or concrete footing, together with geofabric placed with soil in layers for stability. They are typically not poured (i.e., cast in place) concrete walls. The sections shown on Sheet C3.0 identify use of retaining walls in several locations; these sections are illustrative, and do not mandate cast-in-place concrete walls. The civil engineering plans do identify the option of using limited cast-in-place concrete walls for interior courtyard biofiltration flow-through planters; however, these are small, isolated wall sections. Therefore, concrete haul trips are likely not needed for wall construction. Wall construction would likely be included in the site preparation, grading, and/or paving phases associated with the construction emissions analysis.

Additionally, concrete haul trips are likely overestimated in the analysis for the project because they are included in CalEEMod's estimate of vendor trips by default for the building construction. The Draft EIR Air Quality & Greenhouse Gas Emissions Assessment (Appendix D) added additional concrete haul trips, estimated based on building square footages and an average thickness of 12 inches (i.e., one foot). Concrete trips also assume 10 cy per delivery. It is possible to get deliveries of quantities up to 13 or 15 cy, further overestimating the number of haul trips in the analysis.

Fugitive Dust

MM AIR-1.1 (page 56 of the Draft EIR) is prescribed and enforced by the Bay Area Air Quality Management District (BAAQMD). It is related to controlling fugitive dust emissions from the site. It is BAAQMD's experience that fugitive dust emissions begin becoming a nuisance during windy conditions (i.e., sustained wind speeds in excess of 20 mph) and generally applies to dry soil conditions creating wind-blown dust. However, MM AIR-1.1 includes measures to control wind-blown dust (including site watering) regardless of wind speed and prohibit visible clouds of dust from leaving the site boundaries. In addition, MM AIR-1.1 includes a measure to allow the public to file a dust complaint with the County if breezy wind conditions (13-18 mph range) are creating dust emissions from the project site.

Master Response 7: Biological Resources

The biological resources impact of the proposed project is discussed in Section 3.4 Biological Resources on pages 65 through 87 of the Draft EIR and Appendix E, Biological Resources Report and Peer Review. Multiple comments were received regarding concerns with the Draft EIR's evaluation of existing special-status plants and animals, wetland/riparian area impacts and mitigation, and wildlife movement corridors.

Existing Conditions

Contra Costa County issued a Notice of Preparation (NOP) on July 23, 2021. CEQA Guidelines Section 15125, subdivision (a)(1) states: "Generally, the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced from both a local and regional perspective. Where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts, a lead agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence."

Natural Communities are California Department of Fish and Wildlife (CDFW) designations that concern certain habitats that are potentially protected under CEQA but not usually regulated directly by CDFW. Creeping wildrye is a native grass to California but does not in itself have a protected designation from the state, federal government, or CNPS. Appendix E of the Draft EIR documents the presence of creeping wildrye at the northern end of the central drainage, but based on the foregoing status summary did not map this as a special-status plant. Valley oak trees are usually characterized as an upland tree and not usually associated with riparian trees; however, due to the fact that the canopy of some of these oaks occur over the central drainage, CDFW and the Water Board could regulate them as riparian trees, thus also requiring mitigation.

Multiple comments suggest that the description of baseline conditions for sensitive communities in the Draft EIR did not discuss the extent of creeping wildrye grass habitat within the overall project site or riparian woodland habitat extending over portions of the project site drainages. The comments also suggest that this baseline documentation did not adequately disclose the potential for occurrence of the Alameda whipsnake, California red-legged frog, and western pond turtle, all special-status species. The Draft EIR has incorporated a wide range of documentation to provide the best available

description of the environmental setting from which to evaluate the environmental impacts of the proposed project to these particular habitats and species, as of the NOP issuance.

In response to these comments, and consistent with referenced CEQA Guidelines Section 15125(a)(1), an update to the February 2020 Biological Resources Assessment was prepared in June 2022 and is attached to this Final EIR as Appendix B. The updated assessment includes the following: (a) Mapping of the extent of creeping wildrye grass habitat present; (b) Survey results for plant species that require summer surveys in relationship to the footprint of the project; and (c) A full assessment for the potential for usage of this site by Alameda whipsnake, California red-legged frog, and western pond turtle (special-status species) among others. The updated assessment confirms the conclusions of the Draft EIR with respect to the potential for occurrence of special-status species documented in Draft EIR Table 3.4-2, and concludes that impacts to creeping wildrye grass and riparian woodland habitat connected to jurisdictional drainages will be adequately mitigated through implementation of Draft EIR mitigation measures MM BIO-2.1 through MM BIO-3.2.

Wetland/Riparian Area Impacts and Mitigation

As discussed on page 83 of the Draft EIR, the project proposes to establish a buffer area around the perennial drainage and enhanced wetlands habitat in the center of the project site. Aside from retaining walls for the clear-span bridge crossing, this design would avoid direct impacts to the central perennial drainage and associated seasonal wetlands. The design and placement of a series of tiered retaining walls within the central portion of the site would not adversely affect the flow of water or block the movement of wildlife through the site. As shown in Preliminary Hydrology and Water Quality Report (Appendix K of the Draft EIR), the project would not substantially divert or alter the pattern or volume of water draining through the central swale area. The project's planned stormwater detention and biofiltration facilities will detain and pretreat water before discharging into the swale to ensure that the maximum rate of discharge does not exceed pre-development conditions. However, as accounted for in the Preliminary Hydrology and Water Quality Report, the total volume of water, after being detained, will actually increase as a result of impervious surfaces within the project footprint (longer sustained flow at a mitigated rate).

Commenters question the feasibility of mitigation prescribed in the Draft EIR to reduce the projects effects on wetlands to a less than significant level. The area of jurisdictional wetlands and water of the U.S. has been verified in the USACE as documented in Draft EIR Appendix E. Draft EIR mitigation measure MM BIO-3.2 provides a series of options for required compensatory mitigation for the project's effects on state or federally protected wetlands as the basis for reducing impacts to less than significant. These measures require application to, and approval of permits from, the USACE and RWQCB prior to any disturbance to jurisdictional wetlands, in order to document compliance.

Some comments specifically call out mitigation banks as an inadequate mitigation measure option in MM BIO-3.2. Mitigation banks typically have an agency-approved Service Area that indicates where projects can impact wetlands and then purchase credits in the bank. That Service Area is negotiated between the bank owner and USACE/RWQCB during the bank approval process. However, the agencies can, on a project-by-project basis, allow the purchase of credits in a bank to satisfy mitigation conditions for projects outside the Service Area. If the USACE and RWQCB approve the use of a mitigation bank for the proposed project, then they have decided that the bank is appropriate,

which takes into account geography, watersheds, and the Service Area. It is up to the discretion of the regulatory agencies to allow the “diversion of funds” from the Walnut Creek area to areas in other parts of the County.

As discussed above and documented in Draft EIR Appendix E, a substantial area of open space will be protected connecting to the central drainage swale and along the southwesterly drainage where mitigation is feasible. These available areas do not include detention basins or other improvements which might conflict with accommodation of required wetland mitigation.

Wildlife Movement Corridors

The Draft EIR discusses impacts to wildlife corridors in Section 3.4.2.1 Project Impacts under Impact BIO-4 (pages 84-85). The Draft EIR acknowledges that Heather Farm Park is adjacent to the project site and the potential for wildlife to move between the project site and the park. The Draft EIR concluded that “Development of the project site would alter the existing habitat on the project site, and any movement of wildlife between these two areas would be permanently impacted by the project. However, the project site does not currently function as a high-quality wildlife corridor. Local species that are adapted to the urban environment would continue to occasionally traverse the project site after construction.” In addition, mitigation measures MM BIO-1.1 through MM BIO-1.3 would further reduce impacts to species using the project site as nesting habitat.

In addition, as detailed in the Grading and Utility Plans (BKF, 2/17/21, Sheets C4.0 through C6.0) included in the civil engineering set on the County’s website (<https://www.contracosta.ca.gov/DocumentCenter/View/67955/Spieker-Senior-Continuing-Care-Community-Revised-Civil-Plans-PDF>), tiered retaining walls have been employed in several locations above the drainage swale to create a larger total width of permanent open space adjoining this drainage, resulting in a total opening separation between retaining walls/structures on opposing sides of the drainage between 100 feet and well over 200 feet. The plans clearly show these walls as not being continuous on either side of the central swale, thereby accommodating the potential for wildlife movement. However, as discussed in Draft EIR Appendix E, the site is bordered along its entire westerly boundary by the Walnut Creek Channel, an unvegetated concrete structure with vertical walls that preclude most non-volant animals from dispersing onto the project site, and is almost entirely surrounded by dense residential development along all other boundaries.

Master Response 8: Noise and Vibration

The noise and vibration impacts of the proposed project is discussed in Section 3.13 Noise on pages 146 through 164 of the Draft EIR and Appendix O, Noise and Vibration Assessment. Multiple comments were received regarding concerns with the Draft EIR’s evaluation of construction noise and vibration.

Construction Noise

As discussed in Impact NOI-1 of the Draft EIR (pages 154-158), the construction activities and the equipment used would not be positioned at the same location for the entirety of the construction phase, and thus construction noise impacts to surrounding uses would be temporary. Thus, the potential noise impacts to the surrounding land uses will not be significant and unavoidable.

Furthermore, MM NOI-1.1 explicitly restricts noise-generating construction activities to between the hours of 8:00 a.m. and 5:30 p.m., which are normal work hours, and was revised to require the project to install temporary noise barriers where they would be effective in reducing noise impacts on adjacent sensitive receptors during construction (see Section 5.0 Section Draft EIR Text Revisions below). In addition to requiring that construction activities be concentrated during hours that are not noise-sensitive for adjacent land uses, General Plan Policy 11-8 also states that construction activities “should be commissioned to occur during normal work hours of the day.” The combined temporary nature of the noise impacts to surrounding uses combined with the restriction of construction to normal work hours makes the project compliant with Policy 11-8. Thus, the impact is considered less than significant with mitigation incorporated.

Cumulative Construction Noise

Cumulative construction noise impacts were evaluated in Impact NOI-C of the Draft EIR (page 163) and considered cumulative noise impacts from the projects identified in Table 3.0-1 of the Draft EIR. Table 3.0-1 includes projects that have been approved but not yet constructed or occupied. Projects not yet approved would be speculative to include in the cumulative analysis; therefore, they were not considered in the Draft EIR. The closest project listed in Table 3.0-1 is located at 2740 Jones Road, 0.4-miles northwest of the project site. This project would have a different nearest sensitive receptor and, therefore, a significant cumulative noise and vibration impact would not occur.

Vibration

Vibration levels were predicted following the methods outlined by the California Department of Transportation (Caltrans) in the Transportation and Construction Vibration Guidance Manual dated April 2020. As noted in Appendix O of the Draft EIR, “Vibration levels would vary depending on soil conditions, construction methods, and equipment used. Table 3.13-5 of the Draft EIR (page 161) presents typical vibration levels from construction equipment at a reference distance of 25 feet and at a variety of distances representative of the nearest surrounding structures. Vibration levels are highest close to the source, and then attenuate with increasing distance at the rate $(D_{ref}/D)^n$, where D is the distance from the source in feet and D_{ref} is the reference distance of 25 feet.

The calculations assumed Class III soils, which are defined as hard soils consisting of dense compacted sand, dry consolidated clay, consolidated glacial till, and some exposed rock (cannot dig with a shovel, need a pick to break up). According to Caltrans, “Literature indicates that the value of “n” in the above equation is generally 1 to 1.5. The suggested value for “n” is 1.1. The use of values greater than 1.1 would likely result in overestimation of amplitudes at distances closer than 25 feet and would be slightly conservative at distances beyond 25 feet.”

The vibration analysis was adequate as it followed industry standard methods utilizing a conservative value of “n” appropriate for the soils at the site ($n=1.1$). The analysis reached appropriate conclusions and identified mitigation measures capable of reducing the impact to a less than significant level.

Master Response 9: Transportation

The transportation impacts of the proposed project are discussed in Section 3.17 Transportation on pages 179 through 192 of the Draft EIR and Appendix P, Transportation Assessment. Multiple

comments were received regarding concerns with the Draft EIR's evaluation of vehicle miles traveled (VMT), emergency access, and traffic congestion.

Vehicle Miles Traveled

Multiple commenters note that the Vehicle Miles Traveled (VMT) assessment incorporates the number of full-time equivalent employees within its calculations rather than total employees (including part time and variable time employees). The commenters are correct in that the transportation assessment makes this conservative assumption. Per the County's VMT guidelines, the project's effects on VMT are assessed through a calculation of the daily VMT per service population with that figure being compared to the countywide average daily VMT per service population. Daily VMT per service population is calculated as follows:

- $$\text{VMT per Service Population} = (\text{Daily Trip Generation} \times \text{Service Population Trip Length}) / \text{Total Service Population}$$

The total service population refers to the number of project residents and employees summed together. If the calculation included total employees rather than full time equivalent employees, the denominator in the calculation would increase and the calculated VMT per service population would decrease. This change suggested by the commenters, if implemented, would lower the calculated VMT per service population relative to the threshold and value presented in the document. The overall conclusions of the document would not change, and the project would continue to have a less than significant impact with respect to VMT.

Emergency Access

As evaluated in the Draft EIR under Impact TRN-4 (page 186), the project proposes to provide two means of emergency vehicle access to the project site in compliance with Fire District standards – via connections to North San Carlos Drive and Kinross Drive. In addition, a third point of gated emergency-only access would be provided to Seven Hills Ranch Road, approximately 200 feet south and west of the Kinross entrance; this connection would be slightly less than the 20-foot minimum width required by Fire District standards. Thus, if one means of compliant emergency vehicle access were to become blocked, an alternative access point would be available for emergency responders.

While traffic associated with the Seven Hills School does peak during morning drop-off and afternoon pick up periods, these activities do not result in a standing queue on North San Carlos Drive extending to the project's proposed emergency vehicle access point. As North San Carlos Drive is two lanes wide, emergency vehicles would operate in a standard manner when accessing the site from this direction. Emergency responders, functioning with sirens, would either pass vehicles or wait for them to clear the area. While some additional delay could result during peak school traffic periods, this pathway would not be expected to be blocked under normal operating conditions.

Traffic Congestion

Senate Bill 743 established criteria for determining the significance of CEQA transportation impacts using vehicle miles traveled (VMT), rather than traffic congestion or level of service (LOS). The Draft EIR included a discussion of LOS in Section 3.17.3 Non-CEQA Effects (pages 188-190) for informational purposes only. Tables 3.17-3 and 3.17-4 of the Draft EIR show that under existing plus project and cumulative plus project conditions, the proposed project would not result in any operational deficiencies at nearby intersections.

The project's transportation assessment was prepared in accordance with Contra Costa County's Transportation Analysis Guidelines, June 23, 2020 (Public Works Department, Conservation and Development Department). Those guidelines do not stipulate or require the calculation and reporting of vehicle queues at area intersections or turning movements. As described above, the project is forecasted to result in minor increases in vehicle delays at area intersections (less than one second per vehicle to three seconds per vehicle). Given these results, the project would not result in unacceptable vehicle queueing over and above what currently occurs without the project. It should be noted that queueing is not a measure of effectiveness used within CEQA and that the data is provided for informational purposes only.

FEDERAL AND STATE AGENCIES

1. San Francisco Bay Regional Water Quality Control Board (dated May 10, 2022)

Comment 1.1: San Francisco Bay Regional Water Quality Control Board (Water Board) staff have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Spieker Senior Continuing Care Community Project (Project).

Project Summary. The Project proposes, among other elements, to amend the Land Use Map of the County General Plan's Land Use element by changing the land use designation of the site from residential medium density to Congregate Care/Senior Housing (CC); rezone the project site from an A-2 district to a site-specific P-1 (Planned Unit) district; reconfigure two existing parcels; and approve a Preliminary and Final Development Plan to allow construction of a continuing care retirement community (CCRC) consisting of the following primary components: 1) a total of 354 independent living units and amenities for residents not needing daily assistance, 2) a health care center for residents and the general public, 3) a maintenance building, 4) associated drainage, access, and utility improvements, and 5) approximately 375,000 cubic yards of cut and fill grading activities resulting in a net export of approximately 75,000 cubic yards of soil from the site.

The proposed Project would remove up to 353 trees, add new landscaping throughout the site and also include native tree planting and riparian revegetation areas adjacent to the existing seasonal wetland features on-site. Stormwater on-site would be directed to new stormwater lines, bioretention areas, and to an existing outfall along Walnut Creek. Access to the site would primarily be provided via an extension of Kinross Drive.

Response 1.1: This comment is a summary of the proposed project; therefore, no further response is required.

Comment 1.2: Summary of Comments. As discussed below we are very concerned that the DEIR underestimates the Project's impacts to riparian and aquatic habitat along the site's tributary streams and wetlands, and Walnut Creek. The DEIR lacks the details necessary to fully characterize the direct and indirect impacts to waters of the State both on and offsite. Further, the DEIR does not include or assess mitigation measures that could potentially provide for adequate compensation for Project impacts. Based on the information provided the Water Board is not able to determine whether the possible wetland and stream impacts will be mitigated to a level that is less than significant. Given the degree to which the DEIR is missing essential information we recommend that the DEIR be revised and recirculated for review.

With modification of the Project design and layout, with potential reduction in overall scope, it is possible that the Project's potential impacts to riparian and aquatic habitat may be mitigated to a less than significant level. This could be accomplished through development of acceptable onsite aquatic resource mitigation plans and use of acceptable setbacks from aquatic resources, including the Walnut Creek flood control channel and preserved aquatic habitat and mitigation areas. However, to reach any conclusions on whether adequate avoidance and minimization of impacts will occur, and whether adequate and acceptable mitigation will be provided, more information is needed. Without the identification of adequate mitigation measures it is not acceptable for the DEIR to conclude that

impacts have been reduced to a less-than-significant level for biological resources and hydrology and water quality.

As a responsible agency under CEQA, we offer the following comments on the DEIR. These comments are intended to support evaluation of the Project's potential significant environmental impacts and the Water Board's future review of applications to authorize project construction. The Project will require Clean Water Act (CWA) section 401 water quality certification (WQC) and waste discharge requirements (WDRs) from the Water Board because according to the DEIR, it will require placement of permanent fill or work within jurisdictional wetlands and other waters of the U.S. and the State.

The Draft EIR does not include the detailed information necessary for the Water Board to evaluate the Project's impacts, nor to determine that the Project's proposed impacts to water quality and beneficial uses will be adequately mitigated. CEQA procedures require that mitigation for all significant impacts be identified during the review process. Therefore, all impacts to State waters must be fully characterized and the EIR must identify specific mitigation measures needed to reduce impacts to a less than significant level.

Response 1.2: This comment is a summary of specific concerns with the Draft EIR that are further explained below. Detailed responses are provided below for each specific concern.

Comment 1.3: Setback to Walnut Creek Flood Control Channel and Central Stream/Wetland Channel. Most importantly with respect to the development of plans, this site provides a unique opportunity to re-establish a significant resource for anadromous fish within the urban area. Including adequate setbacks to the Central Stream/Wetland and the Walnut Creek channel would set aside land that will be necessary for the successful implementation of future adaptive management measures for development and preservation of fish habitat along the channel. This desired outcome is referenced in County planning documents, in particular the Contra Costa County Flood Control District (CCCFCD) 50-Year Plan that was adopted in 2009. The importance of preserving space for this essential and valuable resource is critical and should not be ignored nor its importance minimized. Both Chinook salmon and steelhead have been observed in the lower reaches of Walnut Creek and opportunities for future restoration measures within the concrete channel must be preserved. The development plans show grading and retaining walls in close proximity to the edge of the access road for the Walnut Creek channel. There does not appear to be the kind of setback area that is considered necessary to provide for future restorative work to occur within this reach. The western boundary of the site provides one of only a few locations of open land along the channelized Walnut Creek where restoration options may be available. Not maintaining adequate space at its confluence with the central stream/wetland for development of resting pools and fish movement in the concrete channel would be a significant loss. This associated impact of the Project as proposed needs to be characterized and included in the DEIR. We advise and recommend a serious look at modification of the design within this area to leave adequate setback from graded slopes and retaining walls to accommodate future restoration work. Obviously hydrologic and geomorphic analysis would be needed to fully define a future flood control channel modification design but estimates of adequate space are likely available now and should be honored in design of the proposed development.

Response 1.3: Please refer to Master Response 4: FC District 50 Year Plan Consistency above.

Comment 1.4: Biological Resources. The DEIR refers to the perennial drainage that is proposed to be permanently impacted by extension of Kinross Drive as a constructed ditch. This feature, although it may have been constructed or otherwise formed as a result of stormwater discharged from the neighboring developed area, should be identified as a naturalized stream with associated riparian vegetation and habitat for Water Board regulatory purposes. The DEIR states that the above noted perennial drainage/constructed ditch and concrete channel segments on the site are considered ‘non-jurisdictional waters’ and are exempt from federal regulation, which is misleading. While this determination is up to the U.S. Army Corps of Engineers (Corps) and may or may not be the case (perhaps not the case given the wetland delineation information provided in attachments to the DEIR), these features are waters of the State and are therefore protected State resources. The DEIR should appropriately characterize and detail all waters of the State on the site. The Project development should avoid and minimize impacts to these features to the maximum extent practicable and any unavoidable impacts must be appropriately mitigated.

The full extent of this stream and aquatic and riparian resources in the southern portion of the site and downstream of proposed work areas should be more fully characterized. The Water Board jurisdiction should be identified as extending to the top of the bank and inclusive of the riparian vegetation along the reach. Historical conditions along the drainage route should be considered, i.e., what were the conditions like before the surrounding development was constructed? Often times these ‘constructed ditches’ actually convey flows along, or near to pre-existing ephemeral or intermittent streams wherein the headwaters have been filled for development. The overall value of these systems should be acknowledged rather than dismissing this feature as a constructed ditch.

Response 1.4: The referenced drainage is a small manmade ditch carrying storm water discharged from the end of Kinross Drive, flowing southwesterly through the southern portion of the project site along Seven Hills Road, and emptying into two 24-inch corrugated metal pipe (CMP) culverts on the east (upstream) side of Homestead Avenue, just west of the project site. Impacts to this drainage are disclosed in Section 3.4 Biological Resources under Impact BIO-2 and Impact BIO-3 in the Draft EIR (pages 81-84) and are identified in the USACE verified delineation map (Figure 3.4-2 of the Draft EIR) as being subject to jurisdictional control as a perennial drainage. The Draft EIR concludes that with implementation of MM BIO-2.1, MM BIO-2.2, MM BIO-3.1, and MM BIO-3.2, impacts to this drainage would be less than significant. The identified mitigation measures include avoidance/minimization measures as well as compensatory measures if permanent impacts to the drainage are made.

Comment 1.5: The DEIR has not adequately characterized the impacts to this stream, impact characterizations that are necessary to determine the extent and nature of mitigation measures. If this reach is impacted by the Project the full extent of the impacts should be described, and the DEIR should also include an assessment of potential impacts to the receiving waters downstream of the development/grading, etc. Mitigation measures for the permanent loss of this stream and any other indirect impacts to downstream waters will need to include onsite creation of an aquatic feature of similar length and width at a minimum 1:1 ratio, and additional aquatic habitat should be provided to

address temporal impacts. Given the size of this Project and the site, onsite mitigation should be feasible as the Project proponent has the opportunity to modify the development design to accommodate the natural resource needs of the site.

Response 1.5: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 1.6: The DEIR references four seasonal wetland areas on the site and notes that one of these features was determined to be an isolated wetland and is therefore not subject to federal regulation. There is no mention of State regulation of impacts to this wetland. As noted above the DEIR must include a discussion of all State waters and State jurisdiction over impacts to these aquatic features. Further, it is not clear that the delineation documents for the Central Stream/Wetland Channel accurately represent the extent of wetland vegetation that should be protected and be provided with adequate setback. Such documentation will be needed moving forward. Supplemental surveys and mapping for this area, along with the southern stream appear to be warranted.

Response 1.6: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 1.7: As reference for DEIR revisions, please also consider that to adequately compensate for permanent fill of aquatic features the Water Board generally requires a roughly 2:1 ratio of created aquatic habitat (created:impacted), to comply with the no net loss policy for wetlands. We generally look for a 2:1 wetland mitigation ratio due to the challenges associated with creating water features in uplands and uncertainties with the eventual outcome of created features, and to compensate for temporal losses. Ideally, stream impacts would be offset at an onsite location by daylighting existing buried streams at a 1:1 ratio. If that is not possible, and streams can't be created, then significant restoration is the next preferred option, with enhancement and preservation following at higher mitigation ratios. Wetland and stream impact projects are required to comply with the State's no-net loss policy for wetlands, so adequate mitigation is a key element during permitting. Without more details on possible mitigation designs, we are not able to determine whether the project's impacts to wetlands and streams will be adequately mitigated.

Response 1.7: Mitigation measures MM BIO-2.2 and MM BIO-3.2 both require the project to provide compensatory mitigation for the permanent loss of riparian and wetland habitat at a 2:1 (mitigation:impact) ratio.

Comment 1.8: In addition, although this is not strictly a CEQA review requirement, a project must meet the California Wetlands Conservation Policy, also called the no-net loss policy, for the Water Board to authorize 401 water quality certification/WDRs for a project. The Water Board adopted U.S. Environmental Protection Agency's (EPA's) CWA section 404(b)(1) Guidelines (Guidelines) to evaluate whether a project, as proposed, constitutes the least damaging practicable alternative (LEDPA) that will achieve the basic project purpose. A project complies with the Guidelines if the following can be demonstrated:

1. First, there is no practicable alternative to the proposed project that would avoid or result in less adverse impacts to aquatic resources. Potential practicable alternatives include, but are

not limited to, alternative available locations, modified designs, and/or reductions in size, configuration, or density;

2. Second, all practicable steps have been taken to minimize unavoidable adverse impacts to aquatic resources; and
3. Finally, after impacts have been avoided and minimized to the maximum extent practicable, compensatory mitigation for unavoidable loss of acreage, beneficial uses and aquatic resource functions is provided.

Once a project proponent has satisfactorily demonstrated that the proposed project design is the LEDPA (e.g., that fill has been avoided and minimized to the maximum extent practicable), we will require appropriate compensatory mitigation for both temporary and permanent impacts to State waters. We will evaluate both the project, and the proposed mitigation together to ensure that there will be no net loss of acreage and no net loss of functions.

Response 1.8: This comment does not raise any issues with the Draft EIR analysis and explains Regional Water Quality Control Board's review process. No further response is required.

Comment 1.9: Impact Bio-2. The DEIR states that a limited amount (0.16 acre, 13 riparian trees) of riparian habitat occurs in association with the perennial drainage noted above. Trees include willows and valley oak. The mitigation proposed in the DEIR is "prior to issuance of a grading permit, the applicant shall prepare a Riparian and Aquatic Habitat and Monitoring Plan" for aquatic and riparian habitat creation as a means of compensatory mitigation. The DEIR further states that the Project proposes to enhance the riparian corridor along the central drainage as part of the Project design. This proposal is not acceptable. The central drainage area is a thriving vegetated wetland habitat that would very likely experience a type-change in the event that riparian trees are introduced into the local environment. Planting in this area should not be assumed to be acceptable. As mitigation for potential impacts to the southern stream the DEIR should explore creation of riparian, wetland and stream mitigation in-kind within the corridor along the southern most portion of the site. The graded slopes could be set back to provide adequate area for mitigation.

Response 1.9: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

The text regarding enhancement of the riparian corridor along the central drainage was removed (see Section 5.0 Draft EIR Text Revisions) to avoid confusion about what is considered mitigation. The project shall meet the replacement ratio and HMMP requirements identified in MM BIO-2.2.

Comment 1.10: Impact Bio-3. The DEIR does not provide a numerical or in-depth characterization of the perennial stream and wetlands that are proposed to be impacted in the southern portion of the site, or potentially for the bridge development across the Central Stream/Wetland. For the southern drainage impacts no details on the length or area are provided, although there is reference to some wetland acreage. Again, there is no acknowledgement of the onsite State wetlands that may be impacted within this, or other site areas. Such details are necessary to analyze the impacts and proposed mitigation. In addition, the DEIR does not provide assessment of a Project design alternative, or alternatives that might either avoid all or some portion of these permanent impacts, or

an alternative that would provide for acceptable mitigation for the permanent losses of aquatic function within the same corridor. As noted above providing mitigation for the southern section riparian impacts within the central wetland stream corridor is not acceptable, so other on-site options will need to be explored.

Response 1.10: The Draft EIR identifies that “two smaller wetlands totaling 0.003 and 0.01 acres, are present in the southern portion of the property” (page 83) and further states “Development in the southeast portion of property, namely the extension of Kinross Drive and the creation of a new road to connect with Seven Hills Ranch Road, will permanently impact one of the perennial drainages and the two small seasonal wetlands in this corner of the property” (page 83).

Section 7.4.2.3 Roadway Redesign Project evaluates an alternative that moves the proposed project entrance off of Kinross Drive and to the existing project entrance along Seven Hills Ranch Road. This alternative was considered in the Draft EIR as a possible means of avoiding impacts to the existing wetlands and perennial drainage in the southern portion of the project site.

Comment 1.11: For the Central Stream/Wetland the DEIR states that the Project would create a 50-foot buffer from the centerline and avoid direct impacts. Although direct impacts may be avoided under the current plan, there is insufficient information/detail analysis provided to document that the 50-foot setback is adequate to provide for full protection of this aquatic habitat in perpetuity and/or that the retaining walls and structures are setback appropriately from all wetland vegetation. This is particularly a concern due to what appear to be plans for substantial grading on the site and installation of tall retaining wall structures both in proximity to the wetland, and to the planned free-span bridge crossing. It has not been demonstrated that the riparian areas will be satisfactorily protected under these conditions and further, it is not clear that all riparian resources along this central channel have been appropriately characterized and identified in the DEIR.

Response 1.11: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 1.12: Mitigation measures proposed in the DEIR for the permanent loss of the perennial stream and seasonal wetlands in the southern portion of the site include acquisition of equivalent wetlands and waters at a nearby site at a ratio of 2:1 on an acreage basis; purchase of mitigation credits at a mitigation bank; enhancement of seasonal wetlands and the perennial drainage to be preserved in the central portion of the site as well as creation of seasonal wetland habitat in the bioretention facilities proposed on site, at a ratio of 2:1, on an acreage basis, and/or an alternative to be agreed upon with the Corps and the Water Board.

Although under some circumstances off-site mitigation and/or use of a mitigation bank might be acceptable, we don't expect to consider such options for this Project. Given the overall size of the site there should be ample opportunity to provide for a reasonable development approach while at the same time creating acceptable onsite mitigation measures. There should be no need to go offsite. Offsite mitigation, or the use of a mitigation bank (there are no mitigation banks that service this area so this is not an option for this Project) is only considered when and if onsite options for mitigation have been fully explored and found to be infeasible. The DEIR should be revised to consider less

damaging alternatives and accurately reflect the proposed impacts to streams and wetlands. Further, the revised DEIR should include specific measures proposed as onsite mitigation, such as that noted above (consider setting the development back from the southern corner and creating a mitigation corridor along a relocated perennial drainage, for example).

Note also that creation of mitigation wetlands within bioretention stormwater treatment facilities is not acceptable. These facilities are intended to remove pollutants from stormwater and although they may support wetland vegetation, only adequately treated stormwater may be released to natural or mitigation wetlands.

Response 1.12: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above. The proposed project currently proposes separate areas for wetland mitigation and stormwater treatment facilities. The bioretention areas are not included in the wetland mitigation areas.

Comment 1.13: Hydrology and Water Quality. A primary missing element in this section is an analysis of the impacts to hydrology and water quality associated with the fill of the stream, wetlands and riparian areas at the Kinross entrance. The DEIR is lacking details on the fill within this area and the outcome for water that currently flows through this reach. How would these flows be managed and what are the downstream receiving water conditions that will potentially be impacted, either directly or indirectly? Please include details on this element in the revised DEIR. In addition, the overall impacts to hydrology and water quality from drainage changes on the site as a result of grading and topographic changes needs to be analyzed and mitigation for impacts provided.

Response 1.13: Drainage currently discharges onto the project site from the City of Walnut Creek's stormwater pipe at the end of Kinross Drive. This water will be rerouted and conveyed to the existing culverts under Homestead Road, in accordance with design plans, including habitat enhancement measures, as approved by the County and the respective state and federal permitting authorities. The project will pre-treat and detain its contributing peak flows into this system in accordance with County C.3 and hydraulics standards, such that the capacity of the existing receiving pipes will not be adversely impacted.

Comment 1.14: We have not reviewed the details of the bioretention stormwater treatment designs or sizing. Sizing and design review will take place as the proposed Project plans develop. We do note that treatment features appear to be distributed throughout the site, in particular within the lots for the individual homes. Other larger facilities are situated in the southwest corner of the site, and near the confluence of the Central Stream/Wetland Channel and the Walnut Creek Flood Control Channel. The small dispersed features, while potentially a reasonable approach for stormwater management, pose a concern with respect to maintenance over the long term. The preference would be for more centralized facilities that are more likely to be maintained adequately.

With respect to location, the facility within the area at the confluence of the Central Stream/Wetland Channel with the flood control channel should be relocated to provide for preservation of the natural stream wetland habitat along the central channel, and to preserve area for future enhancement/restorative measures along the flood control channel. Location of a stormwater management feature along the existing southern drainage area is also a concern because the overall impacts to the stream

at this location have not been clarified, nor mitigation elements identified. Whether it is appropriate to locate a stormwater feature at this location cannot be determined without a more in-depth analysis of the Project's hydrology/water quality impacts and mitigation for State regulated aquatic resources.

Response 1.14: The bioretention areas for the proposed project have been preliminarily sized to account for both treatment and peak flow metering in accordance with City and County standards. The preliminary design for these facilities includes sufficient depth to detain the required volume consistent with the preliminary hydrology and water quality report for peak flow management. The facility at the confluence of the Central Stream/Wetland Channel with the flood control channel is located to flow to a concrete lined channel and avoid impacts to the central drainage and wetlands. Please refer to **Response 2.6:**, above regarding proposed drainage patterns on the southern portion of the project site.

Comment 1.15: Other elements of concern associated with the proposed development include the potential for shading of preserved aquatic resources or mitigation areas by high retaining walls, construction related disturbance to the Central Stream/Wetland Channel for the new bridge structure, loss of riparian vegetation from the new bridge structure, and impacts to existing riparian vegetation from retaining walls surrounding the bridge. Better characterization of the riparian and wetland extent along the Central Stream/Wetland Channel will allow revised DEIR reviewers to more appropriately determine whether impacts have been appropriately avoided and minimized. Relocation of the bridge further downstream might afford greater avoidance and protection of existing riparian buffer for the aquatic resources.

Thank you for your consideration of these comments for further review of the proposed Project. If you have any questions, please contact Katie Hart via email to Kathryn.hart@waterboards.ca.gov.

Response 1.15: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

REGIONAL AND LOCAL AGENCIES

2. City of Walnut Creek (dated May 10, 2022)

Comment 2.1: Thank you for the opportunity to review the Draft Environmental Impact Report for the Spieker Senior Continuing Care Retirement Community located on property within the City of Walnut Creek's Sphere of Influence. We continue to have a particular interest in this project due to its large size and the fact that it is proposed to be accessed via the City's roadway network, and, as always, appreciate your collaborative approach. Our comments on the Draft EIR for this project are as follows:

Section 3 .1 Aesthetics

1. As this project abuts multiple land uses within the City of Walnut Creek, including a prominent park and numerous residential properties, we find that the DEIR visual simulations are inadequate and do not fully disclose the potential aesthetic impacts to properties within Walnut Creek. Please provide additional photo-simulations of the proposed development showing the view from either

properties within Walnut Creek (to the south, southwest, west and east of the project site) looking in towards the project site or, where access may be restricted, from just inside the project site adjacent to properties within Walnut Creek looking into the project site. Additionally, the photo simulations (i) should account for any trees proposed to be removed in connection with the project by not including them, and (ii) should not include any trees that do not currently exist at that location unless such new trees are specifically required to be planted as part of the project. Additionally, project fencing that would be visible within the area of the individual photo-simulations shall be included in the simulation images. Locations identified in the Aesthetic and Lighting Analysis in Appendix B include: 1, 3, 9, 10, 12, 18, 19, 23, and 31, and shall be oriented to looking into the project site from the vantage point of the parcels within the City of Walnut Creek closest to the individual location identifiers.

Response 2.1: Please refer Master Response 5: Aesthetics.

Comment 2.2: 2. The topography of the site is extremely varied, particularly as it relates to properties outside of the project site. In addition to the photo-simulations requested above, please provide topographic cross-sections showing the relationship of properties within Walnut Creek to the proposed developed condition of the project site. Such cross-sections should extend approximately 200 feet into Walnut Creek in the areas adjacent to the project and within the City, and at least 200 feet into the project site, to best represent the topographic relationship between the proposed development and the existing parcels around the site.

Response 2.2: Appendix B of the Draft EIR includes a complete assessment of the visual environment surrounding the project site and includes an inventory of photos taken at 40 locations within and surrounding the site. The detailed landscape plan set (9 sheets) posted to the County website (<https://www.contracosta.ca.gov/DocumentCenter/View/67953/Spieker-Senior-Continue-Care-Community-Landscape-Plans-PDF>) and evaluated in the Draft EIR include a set of three detailed cross-sectional drawings depicting the scaled pad elevations, placements, and massing for the Independent Living and Health Care Center buildings, interior roadways, landscaping and other improvements, and both existing grades and finished slopes. These cross-sections accurately depict the placement and height of the proposed project structures and other improvements in relationship to the closest adjoining off-site buildings.

Comment 2.3: Section 3.4 Biological Resources

3. Section 3.4.1 Biological Resources. Environmental Setting. Regulatory Framework. Regional and Local. In addition to listing the Contra Costa County Tree Ordinance, the City of Walnut Creek's Tree Ordinance should also be discussed and applied in the DEIR analysis. The DEIR should specifically identify all trees proposed for removal or that may suffer construction impacts that are located within the City limits or bordering the City/County line, acknowledging that the City of Walnut Creek's Tree Ordinance separately regulates these trees.

4. Section 3.4.2 Impact Discussion. IMPACT BIO-5. In addition to listing the Contra Costa County Tree Ordinance, the City of Walnut Creek's Tree Ordinance and its requirements should be cited in

reference to trees proposed for removal or that may suffer construction impacts that are located within the City limits.

Response 2.3: Approximately 24 trees within the City of Walnut Creek are planned for removal within the extension of Kinross Drive and along the southern property line. Please refer to Section 5.0 Draft EIR Text Revisions for discussion of the City of Walnut Creek's Tree Ordinance.

Comment 2.4: Section 3.10 Hydrology and Water Quality

5. Section 3.4.2.1 Project Impacts. MM BIO 3-2. The EIR does not address or analyze potential impacts to wetlands off-site due to revised drainage pattern on east side of project. Please see specific comments below to Appendices K and L.

6. Section 3.4.2.1 Project Impacts. MM BIO 3-2. Item c. This item reads "Enhancement of seasonal wetlands and the perennial drainage to be preserved in the central portion of the site, as well as creation of seasonal wetland habitat in the bioretention facilities." The creation of seasonal wetland habitat in bioretention facilities may be inconsistent with the CCCWP C.3 Guidebook, as the bioretention facilities are designed to drain within 72 hours and based on experience, drain within much less time than that.

Response 2.4: The project plans as evaluated in the Draft EIR currently have separate areas for wetland mitigation and stormwater treatment facilities. The bioretention areas are not included in the wetland mitigation areas. Please refer to Section 5.0 Draft EIR Text Revisions for MM BIO-3.2.

Comment 2.5: 7. Section 2.2.8. "A detention basin is also proposed within the landscaped area adjacent to the health care center and North San Carlos Drive." Details and sizing of the detention basin could not be found and will require review by the City as this portion of the project drains onto lands/drainages within the City limits. As shown on Sheet CS.0, the detention basin only receives a small fraction of the runoff from the overall drainage area discharging to Outfall 6, which limits the basin's ability to detain runoff.

Response 2.5: The bioretention areas for the proposed project have been preliminarily sized to account for both treatment and peak flow metering in accordance with City and County standards. The preliminary design for these facilities includes sufficient depth to detain the required volume consistent with the preliminary hydrology and water quality report for peak flow management. The detention basin restricts peak flows based on both pre-development conditions and the design capacity of the 15-inch pipe to be placed within the North San Carlos Drive extension. As further discussed in the 12/2/20 memo prepared by BKF on this topic (See Appendix L of the Draft EIR), this planned storm drain line is designed to have minimal size and cover in order to fit within the existing site conditions and constraints. Based on further consultation with City of Walnut Creek Public Works Department staff on June 21, 2022, the project will be required to enter into a perpetual maintenance agreement with the City of Walnut Creek to ensure that this pipe is properly maintained.

Comment 2.6: 8. Section 3.10.2.1 Project Impacts. IMPACT HYD-3. The EIR did not address the alteration of the existing drainage pattern on the east side of the site. The revised drainage pattern will increase runoff to an existing off-site natural drainage which in the current condition does not receive any of the project runoff. This revised drainage pattern will also decrease runoff to an off-site pond. Specific comments are provided to Appendices K and L below.

9. Section 3.10.2.1 MM HYD-3.1. As proposed, the project is proposing a diversion of a watershed yet has not verified the adequacy of the downstream drainage facility (or impacts thereto) accepting the additional stormwater from the project.

Response 2.6: The project's final engineering design will manage storm water runoff in a manner that will not substantially alter the hydrology of adjoining properties owned by the City of Walnut Creek and CCWD. The preliminary design shown in the Draft EIR will be refined with the project improvement plans and be submitted for approval by Contra Costa County, CCWD, and the City of Walnut Creek to accomplish the following: (1) Detain waters leaving the site consistent with County and City drainage standards to ensure that peak post-development flows do not exceed pre-development conditions and (2) Direct all additional excess runoff leaving the project detention and water quality facilities to the 15-inch storm drain line planned within the North San Carlos Drive extension. The foregoing guidance is based on the current grading and preliminary improvement plans evaluated as part of the Draft EIR, and does not contemplate any off-site physical improvements outside of the currently improved roadway corridor through which the 15-inch line would be extended. As an alternative to part 3 above, the project will explore the feasibility of and consider pumping excess storm water leaving the northeasterly detention basin to discharge into the central drainage swale, in accordance with plans approved by the County and consistent with the 404 and 401 permits. All improvements needed to accomplish this part 3 alternative, if shown to be feasible, would also be fully contained within the footprint of grading identified in the current plans.

The project civil engineer previously completed a preliminary analysis of the City of Walnut Creek's downstream channel paralleling North San Carlos Drive (See Appendix L of Draft EIR) and determined the additional post-development flows would have de minimis effect on the channel's capacity. A conservative preliminary calculation showed an increase in peak HGL of less than 1/10 of an inch, which is beyond the level of accuracy of analysis. The foregoing refinements would marginally reduce flows entering this City facility.

Comment 2.7: 10. Appendix K. Preliminary Hydrology and Water Quality Report.

- a. Kinross Drive drainage. Report states that Kinross Drive drainage will be conveyed in an interceptor ditch and directed to the existing culvert under Homestead. Provide size, material, and condition of culvert.
- b. Outfall 6 (North San Carlos Outfall). Exhibit A notes that 6.28 acres (DMA 7) drains to Outfall 6. Exhibit B shows that the post DMA 7 area is 6.61 acres. The post DMA 7 is inconsistent with the Stormwater Control Plan which shows that area SR2, T47 and T46 also

drain to Outfall 6; please review, revise, and assess the effectiveness of the two DMAs based on the revised area totals.

- c. Section D.2. Hydrologic and Hydraulic Analysis. Note that review of the hydrologic model could not be performed as Appendix K only included a summary table of results. Please provide further information to allow review of the hydrologic model.
- d. Table 1 presents a tabulation of the required surface areas and volumes from the CCCWP IMP sizing calculator for each Outfall apparently compared with provided surface areas and volumes. The tabulation presumes that a shortage of provided surface area or volume for a bioretention basins cannot be made up for in another basin, which is not the case.
- e. Appendix E. Section A. Interceptor Channel Cross Section. The section depicts the property line as 12 to 40 from outside edge of channel. Please clarify as channel appears to abut the property line between the project and property with APN 173-042-019.

Response 2.7: Please refer to **Response 1.13:** regarding proposed drainage patterns on the southern portion of the project site.

Drainage currently discharges onto the project site from the City's stormwater pipe at the end of Kinross Drive. This water will be rerouted within the project site and continue to be conveyed to the existing culverts under Homestead Avenue, in accordance with final engineering design plans. The project will pre-treat and detain its contributing peak flows into this system in accordance with County C.3 and hydraulics standards and will not alter the volume or method of discharge into the existing culverts. Therefore, the project will not adversely affect the existing facilities, and no changes to the Draft EIR are required.

The commenter has noted a change in pre-development and post-development drainage sheds to the North San Carlos outfall location, and highlights a potential discrepancy between the post-development shed acreages reflected in the Preliminary Stormwater Control Plan and the Preliminary Hydrology Report (Appendix M and Appendix K of the Draft EIR, respectively). The Preliminary Hydrology Report accurately indicates changes in pre-development and post-development drainage management area (DMA). The post-project DMA 7 acreage as presented in the report includes the runoff from SR2, T47, and T46. These sheds will be further delineated and finalized in future permit submittals, and the appropriate detention volumes will be incorporated to maintain pre-project flows as required.

The Preliminary Hydrology and Water Quality Report provides a discussion of the inputs and design criteria in Section D.1. While section D.2 only includes a summary of results, Appendix C of the Preliminary Hydrology and Water Quality Report includes input and output information from the XPSWMM model. These modeling results will be updated and expanded as needed with the final design and permit submittals for review by the City and County.

The commenter states that the Preliminary Hydrology and Water Quality Report incorrectly assumes that any shortage of surface area and volume in a given bioretention basin cannot be made up for in another basin. This comment and the conservative nature of the assumptions used in the preliminary report are noted and

will be referenced in the final design for further review by City of Walnut Creek and County staff.

The commenter references the Preliminary Hydrology and Water Quality Report's Appendix E, and the physical relationship between the Walnut Creek Channel and the project boundary. To confirm, the Channel abuts a portion of the project site along its southerly property line.

Comment 2.8: 11. Appendix L. Drainage Feasibility Study

- a. Outfall 6 (North San Carlos Outfall). The study states that the drainage pattern is such that the runoff ultimately discharges to Walnut Creek downstream of the Contra Costa Canal connection in both the existing and proposed condition. It also states that the applicant defers to the City and County to determine if the additional flow to the culvert at the proposed discharge point for the 15" storm drain line presents capacity issues within the system. The City has comments regarding both statements.
- b. The ultimate outfall for the existing condition does not appear to be Walnut Creek. In the existing condition, runoff appears rather to drain to the CCWD property via drains under the sidewalk and then pond on CCWD property and/or drain into the pond on the adjacent City of Walnut Creek property to the north. The runoff currently does not appear to drain in a culvert under the CC Canal into Walnut Creek in the existing condition as stated in the study. As such, the EIR should be revised to address the impacts of this revised drainage pattern at the proposed outfall location downstream to Walnut Creek; analysis should include impacts to natural drainage ditch in terms of capacity, erosion and scour, freeboard, etc. Note that any discharge to this drainage from the project, no matter how much runoff is detained, is an increase in the peak flow and volume of runoff to the drainage as none of the runoff from Outfall 6 currently discharges to this drainage.
- c. The EIR should also be revised to also address the potential impacts to the apparent reduction in runoff feeding the City of Walnut Creek pond north of the CCCWD property (APN 144-043-005), which has been previously identified as a wetland.
- d. The proposed 15" storm drain to convey runoff along N San Carlos Drive does not meet minimum standards, including but not limited to pipe slope and cleansing velocity. Please provide hydraulic calculations for the proposed system and add hydraulic grade to Appendix E. Based on proposed design, City would not accept ownership of such system and would require a private storm drain easement and maintenance agreement.

Response 2.8: Please refer to **Response 2.5:** and **Response 2.6:** above regarding adequacy of proposed stormwater infrastructure.

Comment 2.9: 12. Appendix M: Preliminary Stormwater Control Plan and Peer Review

- a. The Stormwater Control Plan incorrectly classifies areas as self-treating and self-retaining areas. Please refer to the CCCWP C.3 Guidebook for definitions. Area SR2 (self-retaining area) is steeply sloped vegetated area that slopes to a bioretention basin. This may be considered a self-treating area if the area is ditched and drains off-site; without ditches, it should be considered a tributary area of the downslope IMP.
- b. Description of Drainage Management Areas (DMAs) in SWCP report in Section IV is inaccurate. Each description states that the DMA treats portions of the anticipated roof,

roadway, sidewalk and pervious area on site; the DMA does not treat runoff -the Integrated Management Practice (IMP; e.g. bioretention basins, flow-through planter) that the DMAs drains to treats the runoff. More importantly, each description also states that the DMAs are assumed to be entirely impervious. A check of a few DMAs indicates that that is not the case and assumptions were made for each DMA for the impervious area. Furthermore, the sizing calculations only consider the assumed impervious area and do not consider pervious areas draining to the IMPs.

- c. Appendix D. DMA Sizing Calculations. This table presents a tabulation by DMA of the treatment area required, treatment area provided, volume required and volume provided. For projects required to meet the HMP, there are three, not two, sizing requirements: area, surface volume, and subsurface volume. The table in Appendix B only presents two of the three. A review of the sizing calculations indicates in that many cases the area, surface volume, and subsurface volume provided area less than that required. Since the IMPs were not conservatively sized assuming the entire tributary drainage area was impervious (as erroneously stated in Section IV), the IMPs that are undersized need to be corrected.
- d. The additional table presenting a tabulation of required vs provided subsurface volume assumes that lack of detention in one IMP can be made up in another which is inaccurate.

Response 2.9: It is noted that self-retaining Area SR2 is planned to slope to a bioretention basin, but may be considered as self-treating if it is designed accordingly. This detail will be addressed in the final design.

Commenter notes that the DMAs convey water to the integrated management practice (IMP) facilities proposed in the project, that the report descriptions should correctly match the DMA assumptions to reflect partially impervious areas, and that sizing calculations should take into account both pervious and impervious areas draining to the IMPs. The assumptions utilized for purposes of sizing all IMPs conservatively take the total volume of water to be treated into account. The final storm water control plan (SWCP) and related calculations will be refined in accordance with County and City requirements as needed. Please also note that the scale on the exhibit used on Appendix M of the Draft EIR should read 1" equals 80', rather than 1' equals 100'.

Commenter also notes that the DMA sizing table should reflect area, surface volume, and subsurface volume, and may therefore call for smaller treatment areas than required. The final SWCP and related calculations will be prepared in accordance with County and City requirements. Adequate room is available to expand or contract the treatment areas as needed, and to ensure that the capacity of each IMP satisfies these requirements.

Comment 2.10: Section 3.11 Land Use and Planning

13. On the County's project website, the Project Description document (<https://www.contracosta.ca.gov/DocumentCenterNiew/67952/Spieker-Senior-Continuing-Care-Community-Project-Description-PDF>) notes that the entry to the project from Kinross Drive is " ... as requested by the City of Walnut Creek ...". That is incorrect, as the City has not "requested" that the project take access from any specific location. Please remove all such references alleging that the

City of Walnut Creek specifically requested the project take access to the project site from a particular location.

Response 2.10: The Draft EIR does not contain the above referenced statement “as requested by the City of Walnut Creek,” and the referenced project description document has been removed. The project description referenced on the updated version of the County’s website also does not include that statement.

(<https://www.contracosta.ca.gov/DocumentCenter/View/67952/Spieker-Senior-Continuing-Care-Community-Project-Description-PDF>).

Comment 2.11: 14. The Transportation Element of the City of Walnut Creek General Plan anticipates a bicycle trail following the alignment of Seven Hills Ranch Road across the project site to connect to Heather Farm Park. Accordingly, the City requests that the project provide pedestrian and bicycle connections around the perimeter of the site, to provide connectivity to Heather Farm Park, including allowing for connections between the Iron Horse Trail and the Seven Hills Ranch Road EVA, and between the Contra Costa Canal Trail and the N San Carlos Drive EVA. These connections will serve employees, and visitors, and in addition to the senior residents, in addition to members of the public seeking to access Heather Farm Park by foot or on bicycle.

Response 2.11: Please refer to the discussion of Measure 9-v in Master Response 1: County General Plan Policy Consistency above.

Comment 2.12: 15. The Project Alternatives section of the DEIR is inadequate. It fails to provide detail about the potential impacts related to both the “New Development” alternative and the “Roadway Redesign” alternative, and thus fails to fully identify the impacts associated with each alternative. This leads to questions as to why the Project remains the selected alternative, especially considering the “Roadway Redesign” alternative as being determined to be the environmentally preferred alternative.

Response 2.12: As discussed in Section 7.0 Alternatives of the Draft EIR, the CEQA Guidelines require that alternatives include enough information to allow a meaningful evaluation and comparison with the proposed project. If an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project. Section 15126.69d) of the CEQA Guidelines also states that a matrix displaying the significant environmental effects of each alternative may be used to summarize the comparison, which was also done via the inclusion of Table 7.4-2. Section 7.0 of the Draft EIR satisfies CEQA requirements by describing a range of reasonable alternatives to the project which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluates the comparative merits of the alternatives.

Comment 2.13: 16. A construction plan, including construction phasing, staging areas, and a hauling plan identifying roadways to be utilized for access to and from the project site for delivery of materials and equipment and off-haul of 75,000 CY of grading export (including destination of the off-haul), shall be submitted to the City for review and approval. The construction plan shall also

include a pavement impact analysis addressing anticipated impacts to City roads, curbs, and gutters from construction activities, and shall also address impacts to residents from construction traffic. All City infrastructure is expected to be restored to its pre-construction condition, including wear and tear, at the conclusion of construction activities.

Response 2.13: Construction related traffic congestion and use of roadways are not considered CEQA impacts; therefore, they are not addressed in the Draft EIR. A construction plan for the project will be prepared and submitted as part of the permitting process for the project.

Comment 2.14: Section 3.15 Public Services

17. While the project is envisioned as a “full-spectrum” continuum of care community, there are significant elements of the project that function as independent residences. Were this project to be developed within the City limits, the City would impose park impact fees assessed against the “non-healthcare center” residential components. As there appears to be no publicly accessible park facilities within the project, residents will likely utilize Heather Farm Park within the City of Walnut Creek. Please explain the County’s determination regarding the inapplicability of the County Park Impact Fee. Though the County’s General Plan refers to the Multiple Family Residential-Congregate Care (CC) land use designation as a “residential land use designation”, the County has otherwise determined that the project constitutes a “non-residential institutional use” (rendering the Park Impact Fee inapplicable). County Park Impact Fees could be used to mitigate impacts on parks within the County, including adjacent Heather Farm Park. Alternatively, please assess park fees against the individual, duplex, and multi-family residential type components of the project utilizing Walnut Creek assessment rates and remit those fees to the City of Walnut Creek.

Response 2.14: Please refer to Master Response 2: Project Non-Residential and Infill Designation regarding applicability of the County Park Impact Fee Ordinance.

Comment 2.15: 18. The DEIR contains the following statement, “The project would incrementally increase the demand for police services, however, the increased demand generated by the approximately 560 residents of the proposed CCRC would not be substantial compared to existing conditions of the CCCOS’s service area of over a million people. All 911 calls will be directed to the Valley Station located at the Alamo Plaza”. Given the adjacency of the project to the City of Walnut Creek, please discuss potential impacts to the City of Walnut Creek due to police services to be provided by the Walnut Creek Police Department. Please discuss and investigate additional project elements that may reduce impacts to the Walnut Creek Police Department, including but not limited to perimeter fencing and gating, and an on-site security plan that anticipates the provision of 24/7 on-site security personnel.

Response 2.15: Contra Costa County planning staff confirmed with the Contra Costa County Office of the Sheriff (CCCOS) that the CCCOS would respond to all 911 calls at the project site.² Only in the event of a major emergency would CCCOS request aid from the City of Walnut Creek Police Department.

² Morris, Telma. Principal Planner, Contra Costa County. Personal Communication. February 15, 2022.

Comment 2.16: Section 3.17 Transportation

19. In the project description, the project is described as having “... a full-time equivalent of up to 225 employees.” If these are not “full-time” employees but rather multiple part-time employees filling a full-time position, this would have an additional impact on VMT. Please provide greater detail on the expected number of employee trips/miles the project would generate based on the total number of employees who would regularly make the trip to the facility.

Response 2.16: Please refer to the Vehicle Miles Traveled section in Master Response 9: Transportation above.

Comment 2.17: 20. During construction, it is expected that some heavy vehicles would take access via the Ygnacio Valley Road/Marchbanks Drive-Tampico. In order to better facilitate truck movements leaving the site, the traffic signal at the intersection should be modified to install protected left-turn phasing on the northbound Tampico and southbound Marchbanks Drive approaches. In addition to modifying the Ygnacio Valley Road/Marchbanks Drive-Tampico intersection and in order to better facilitate and provide safer turning movements for vehicles leaving the site and improve flow on Ygnacio Valley Road, the traffic signal at the intersection of Ygnacio Valley Road/Kinross Drive-La Casa Via should also be modified to install protected left-turn phasing on the northbound La Casa Via and southbound Kinross Drive approaches.

Response 2.17: The intersections of Marchbanks Drive/Ygnacio Valley Road and Kinross Drive/Ygnacio Valley Road were evaluated within the transportation assessment prepared for the project. Both intersections were found to operate at Level of Service B or C during the weekday morning and evening peak hour commutes wherein traffic levels are the highest. Levels of Service B and C are indicative of good traffic operations with low to moderate levels of vehicle delay. The addition of traffic generated by the project was found to increase delays at these locations by a half second to three seconds per vehicle on average, with operations continuing to remain in the LOS B to C range. Construction traffic associated with the project is expected to be below traffic levels associated with full project occupancy. In addition, construction related traffic, particularly trucks, generally occurs outside of peak commute hours. Thus, the addition of temporary construction truck traffic at these locations is not expected to generate negative operational outcomes for which improvements such as protected phasing would be necessary as requested in the comment.

Comment 2.18: 21. Please identify the improvements specifically needed to establish and utilize both identified EVA locations (N. San Carlos and Seven Hills Ranch Road). Include physical improvements, tree removals, impacts to habitat and wetlands, and what parcels would be affected. Also clarify that these improvements and any associated mitigation are obligations of the project.

Response 2.18: As discussed in Section 3.17 Transportation under Impact TRN-3 and Impact TRN-4 of the Draft EIR (page 186), the proposed EVA along North San Carlos Drive would be improved to meet fire district standards. These improvements would require easements from City of Walnut Creek, Contra Costa Water District, and the United States Bureau of Reclamation, but would be accomplished within the

existing right-of-way and not impact surrounding environmental resources. In addition, the Fire District confirmed that only one official EVA is required. The additional emergency access described below will be a secondary access point.

An additional gated emergency access point to the project site would be provided along Seven Hills Ranch Road, approximately 200 feet southwesterly of the main entrance, however, no improvements to Seven Hills Ranch Road beyond the project site are proposed.

Comment 2.19: 22. Section 3.17.3 Non-CEQA Effects: Appendix P. Transportation Assessment/Peer Review

- a. P. 8 Standards of Significance - Intersection Levels of Service. The analysis applied the County's non-CEQA standards for intersection levels of service on City of Walnut Creek intersections. The operational analysis should have applied the City's non-CEQA standards on City intersections.

Response 2.19: The City of Walnut Creek's Intersection LOS standards are as follows:

- For study intersections, the threshold is considered significant if the addition of the traffic generated from the proposed project results in any one of the following:
- Causes a signalized intersection operating at an acceptable LOS without the project to operate at unacceptable LOS.
- Increases the v/c ratio by greater than 0.05 for a signalized study intersection that is already operating at unacceptable LOS without the project.

The project was not found to increase the v/c ratio by greater than 0.05 at any signalized study intersection already operating at an unacceptable LOS without the project. No inconsistencies with City of Walnut Creek service level policies were identified within the transportation study. It should be noted that LOS is not a measure of effectiveness used within CEQA and that the data is provided for informational purposes only.

Comment 2.20: P. 11 Please clarify which HCM methodology was used for the operational analysis (HCM 2000, HCM 2010, HCM 6).

Response 2.20: The LOS analysis reported is based on the methodology of the 2010 Highway Capacity Manual (HCM).

Comment 2.21: P. 23 Bicycle parking. Consider long-term bike parking for use by employees.

Response 2.21: The project will consider the provision of long-term bicycle parking for employees. As documented in the transportation study, the project provides sufficient bicycle parking to meet the demand measured at other similar facilities in California.

Comment 2.22: Please explain whether the provision of an overabundance of on-site parking has an effect on vehicle trips to and from the site.

Response 2.22: The project's trip generation as calculated in the transportation study is based on data collected at similar CCRC facilities within the United States. These facilities (where trip generation data was collected) are in similar suburban environments and provide sufficient parking to accommodate their parking demand. The transportation study reflects the amount of traffic expected from a CCRC facility of the size proposed with adequate parking to accommodate demand. Additional traffic over and above that forecast in the transportation analysis is not anticipated.

Comment 2.23: The City of Walnut Creek respectfully requests that these issues be addressed and fully documented as this is the environmental disclosure document upon which future land use decisions will be made.

Thank you for again considering our comments in your review of this application. Please don't hesitate to contact me directly if you would like to discuss any aspect of this letter further or if you have any questions.

Response 2.23: This is a concluding remark; therefore, no further response is required.

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

3. Mike Scott (dated March 12, 2022)

Comment 3.1: Reading the below, many things come to mind, none readily expressed in polite verbiage, but chief among them, why would a city largely comprised and overseen by educated people, allow such a nightmare as that proposed, among its howlers that 353 trees. 350 of them protected, will be “removed” to make way for, among other nonsense, a huge retaura-- pardon, “clubhouse,” with liquor license?

I repeat my previous comments:

You’ve got to be kidding. How is allowing the destruction of the pastoral heat sink, natural drainage, home of myriad wildlife of Seven Hills Ranch’s 30 acres for a Rossmoor, Jr. aiding “environmental sustainability and climate action?”

Menlo Park-based developer Ned Spieker, Jr.’s proposed retirement community has absolutely nothing to do with alleviating the Bay Area housing crisis. The leveling, paving of these 30 acres, removal of over 400 trees, 350 protected under Contra Costa County, Chapter 816-6 Tree Protection and Preservation, is entirely self-serving: 52 single-story “cottage residences, with two-bedroom condos going for \$2.5 million each, clearly for the half of one percent of seniors.

There are already at least 22 senior communities, convalescent homes excluding giant Rossmoor in Walnut Creek, with its onsite and neighboring clinics, doctors; dozens of other retirement homes in adjacent Pleasant Hill, Alamo, Danville, Lafayette, as well as scores of large private houses turned into senior care homes.

Rossmoor itself always has hundreds of vacancies, most luxurious by any measure, and for far less money than Ned Spieker’s proposal.

As for the huge restaurant onsite with liquor license, there are already 192 restaurants, bistros, cafes, bars in Walnut Creek, most of them within two miles of Seven Hills Ranch.

Aside from the noise, dust of four years construction, 17,000 truckloads of earth, we’re left with more light pollution, which interrupts human circadian rhythm, causing breast cancer in women, and why Paris, the City of Light, has turned down their night lights, something Walnut Creek’s banks, retailers and car dealers won’t allow.

Seven Hills Ranch borders Heather Farm Park, which opened in 1970, when Walnut Creek’s population half today’s 72,000, so Seven Hills would provide welcomed “breathing space” for East Bay residents wanting to stroll, enjoy nature, relax. Far better than three- and four-story buildings, inc. one of 84,000 sq. ft. solely for eight dozen retirees requiring nursing care, a 622-space parking lot, the entire ranch surrounded by 10- to 22-foot retaining wall, the complex larger than an aircraft carrier.

Spieker's proposal serves no one who can't be served as well for less at Rossmoor and dozens of other homes, and there are many already leveled languishing strip malls and other sites far better suited for such development.

The Walnut Creek City Council could instantly quash this environmental catastrophe by denying Spieker use of narrow residential Kinross Drive as entrance road. Simple as that. Of course, this would require Council members able to wonder what future generations think of them, left them.

We already know that when on the Walnut Creek Planning Commission, present Council member and past mayor Cindy Silva rubber-stamped every one of the 140 proposals crossing her desk.

Still more telling is that there is not a word about this nightmare in In a Nutshell, let alone directing readers to the below website and petition, despite everyone from KGO-7 to the San Jose Mercury News running stories on this proposed debacle. Make no mistake: This monstrosity serves no one but Ned Spieker, Jr. of Menlo Park, while leaving us all the lesser:

Response 3.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

4. Sam Van Zandt (dated March 11, 2022)

Comment 4.1: Received, thank you. I am strongly opposed to this project.! I do appreciate the update.

Response 4.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

5. Lucy Chappell (dated March 11, 2022)

Comment 5.1: You have mistaken me for someone who supports your plan to develop the acreage off Seven Hills Ranch Rd. Specifically, the Spieker Senior Continuing Care Project. I absolutely do not support this project and whole heartedly object to the plans.

You already know the countless relevant and powerful reasons why this plan is disastrous, so how you continue to support is beyond me. I would prefer to be notified of ways the community can stand up against this offensive takeover of Walnut Creek land.

Response 5.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

6. Richard Frankel (dated March 19, 2022)

Comment 6.1: It is beneficial for persons residing at Diablo Glen to have pedestrian access, including sidewalks, to the Contra Costa Canal and Iron Horse trails. It is a short distance from the project to the trails. If Diablo Glen has concerns about security, gate access can include a locking device.

Response 6.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

7. Carol Weed (dated March 26, 2022)

Comment 7.1: I oppose any development that destroys mature trees; they are so important in slowing climate change — more so than most people realize. It takes a tree 10 years or more of growth before it is able to absorb significant amounts of carbon dioxide from the air. A new, young “replacement” tree also requires a lot more water than a mature tree does.

The Contra Costa County Tree Removal Ordinance does not take climate change into account. Removing a mature tree and replacing it with a spindly young one is worse than inadequate. Tree roots also absorb excess surface water during a heavy rain and sequester it into the earth and send it to depleted aquifers. And trees are essential for the ecosystem and wildlife.

The Diablo Glen project is an example of such a terrible development plan —it’s totally inappropriate during these dry times, and those that we have ahead, to take down the over 400 mature trees as is proposed. It’s outrageous. Thank goodness the development has not been approved.

The earth needs trees in order to breathe. So do we.

Response 7.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

8. Zoe Siegel (dated April 6, 2022)

Comment 8.1: I hope you are doing well. A number of Walnut Creek residents have reached out to us to express concern about the Spieker Development on Seven Hills Ranch. In general, I think Greenbelt Alliance is supportive of infill housing near transit and I am acutely familiar with the need for more senior housing in particular so a lot about this development seems very promising and we want to be careful not to get wrapped up in NIMBY neighbor opposition.

It does appear that this project is in the floodplain and possibly will be paving over a wetland which is the one piece that does concern me. Would it be possible to clarify the flood mitigation strategies that will be taken when developing this project on a floodplain? It would be terrible to put an already vulnerable population in an even more vulnerable position as the water table continues to rise and flooding inevitably becomes more commonplace in Walnut Creek. I know you guys have been working on or have recently finished a great climate action plan so I am assuming you are taking this into consideration but wanted to ask.

Response 8.1: As discussed in Section 3.10.1.2 of the Draft EIR, the project site is located in Flood Zone X, an area of minimal flood hazard, and would not be subject to significant flood risk.³ In addition, the proposed project would comply with MM HYD-3.1, which requires the project to ensure there are adequate drainage facilities to convey stormwater from the project site.

³ FEMA. *Flood Insurance Rate Map No. 06013C0291F*. Effective on June 16, 2009.

Comment 8.2: Also, a slightly more straightforward question: does senior housing count towards the RHNA goal?

Response 8.2: Please refer to Master Response 3: Regional Housing Needs Allocation above.

9. Liliya Figotin (dated April 7, 2022)

Comment 9.1: My name is Liliya Figotin and I reside on Walnut Blvd, two houses away from Seven Hills Road, at 2065 Walnut Blvd. I have recently found out very concerning news about the county considering Seven Hill Rd as an alternative exit/entrance for the construction site and the community that will be developed on the ranch. Our street is a narrow street with no sidewalks. We suffer from thousands of cars daily shortcutting through our street. The other day, my husband and I were in a near-miss when a truck driver almost plowed through us and our dog while speeding on our street. Fortunately, we quickly jumped to the curb and were not hurt, but we deal with traffic problems daily. I am extremely concerned to find out that there is a possibility of added traffic on our residential street from the project. Please reinsure us and our neighbors that this will not happen.

All our houses on Walnut Blvd are facing the traffic, which differs greatly from Kinross, a wide street with sidewalks and townhouse and condo complexes not facing the street. None of the residents on Kinross live facing the traffic. All of us, residents of Walnut Blvd, do and feel the traffic 100-fold.

Response 9.1: As discussed in Section 3.17.2.1 under Impact TRN-1 (page 183), the project's main vehicle entrance would be located along the proposed extension of Kinross Drive. This extension will not include any through connections to other local or private streets in the project area. An emergency access gate would be provided at Seven Hills Ranch Road; however, this gate would be used for emergency vehicles only. The Roadway Redesign Project alternative discussed in Section 7.4.2.3 of the Draft EIR is not being proposed and is included as an alternative as required by CEQA.

10. John Bennison (dated April 7, 2022)

Comment 10.1: Dick Loewke and I have previously been in conversation, starting back in September, 2020; with regards to the Spieker development project. Dick has recently re-confirmed their application has not changed, with respect to the exclusive use of Kinross Drive for access; with gated emergency access to North San Carlos Drive and Seven Hills Ranch Road (with no widening of Seven Hills Ranch Road).

Response 10.1: The project has not changed and continues to propose an extension of Kinross Drive to serve as the main entrance to the project site.

Comment 10.2: The County's DEIR "Alternatives" to the proposed project, includes the consideration of a possible "alternative" of using Seven Hills Ranch Road in lieu of Kinross Drive (p.216); as developed by County staff in consultation with their EIR consultant.

You'll note that the north end of Walnut Blvd terminates at Seven Hills Ranch Road; before Seven Hills Ranch Road crosses the flood canal bridge and the T-intersection with Cherry Lane and Walden Road.

Question for you: Are you aware that posted regulatory signage on Walnut Blvd, between Seven Hills Ranch Road and Ygnacio Valley Road prohibits through traffic on this portion of Walnut? See attached photos.

Walnut Creek PD has verified and confirmed that prohibited through traffic on this portion of Walnut Blvd constitutes an enforceable traffic violation.

This means any consideration of Seven Hills Ranch Road as an "alternative" entrance/exit to the proposed Spieker development would only allow all traffic to legally continue only to the intersection with Walden Rd / Cherry Lane.

My question for you: Has this factor been considered as part of your evaluation of this possible alternative?

Response 10.2: As the commenter noted, the Roadway Redesign Alternative moves the main entrance of the project to Seven Hills Ranch Road, which may require future employees, visitors, and residents to drive along Walnut Boulevard in order to access the project site. People traveling along Walnut Boulevard to the project site would not be considered "through traffic" as their final destination is directly off of Walnut Boulevard and Walnut Boulevard provides direct access to Seven Hills Ranch Road. Vehicles traveling along Walnut Boulevard, but not visiting the project site, would still be prohibited.

11. Christine Keating (dated April 15, 2022)

Comment 11.1: I moved to Walnut Creek in 1982 and I am a resident of Contra Costa County. There is an excessive amount of empty retail space and office space available should any properties need to be rezoned to accommodate more housing. These oak trees can never be replaced. Ever.

I request that the County consider alternative, preferable plans to the Spieker proposal for Seven Hills Ranch. While the consultant's DEIR report has said that the environmental impacts can be mitigated we ask that you use common sense and consider that very nearly all of the natural environment currently at the site will be completely decimated. The proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over of the site. To state that such impacts can be mitigated is nonsensical and certainly not sensible. We are asking for Sensible, not Supersized. A plan that truly respects the environment, doesn't require unenforceable and ineffective mitigation and recognizes the property's unique location next to the existing Heather Farm Park.

Response 11.1: As discussed in Section 7.0 Alternatives, the Draft EIR evaluates three alternatives (No Project Alternative, Existing General Plan Development Alternative, and Roadway Redesign Alternative) to the proposed project, consistent

with CEQA Guidelines Section 15126.6(a). This comment does not suggest a different alternative to evaluate in the Draft EIR.

In addition, the Draft EIR concluded the project would comply with all local, state, and federal regulatory agency requirements to mitigate impacts to biological resources and would result in less than significant recreational impacts to Heather Farm Park (see Sections 3.4 Biological Resources, 3.15 Public Services, and 3.16 Recreation).

Comment 11.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 11.2: This comment does not provide any specific challenge or additional analysis that would require recirculation of the Draft EIR; therefore, no further response is required.

12. Jodi Davenport (dated April 15, 2022)

Comment 12.1: I'm writing as a resident of Walnut Creek in Contra Costa County. I request that the proposed Spieker development be rejected. The proposed development will have lasting negative impacts on our environment and community. I urge the County to hold out for a more sensible plan that would be more appropriate for the unique setting alongside Heather Farm park and the heavily used Ygnacio Valley Rd.

Response 12.1: This is an introductory comment; no further response is required.

Comment 12.2: *Environmental Impacts*

The proposed development would create lasting environmental harm and raises concerns about preserving biodiversity in our open spaces. The development would destroy habitats for many animals, remove more than 400 trees, and pave over and the current plan proposes to remove more than 400 trees. Further, the border area is one of the few places along the creek that is suitable for natural creek restoration that would allow native fish to travel upstream from delta waters, a long-time goal for local and regional conservation groups. Protecting the Ranch area that borders the Walnut Creek from the intrusive retaining walls planned there by the Spieker proposal would ensure the opportunity for creek restoration in the area.

Response 12.2: Please refer to Master Response 4: FC District 50 Year Plan Consistency and Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 12.3: *Impacts to local residents*

Beyond environmental impacts, the proposed development would significantly negatively affect residents in the surrounding communities.

The proposed development would significantly alter the nature of Heather Farm Park, with proposed 2-3 story buildings towering over areas set aside for passive recreation. Right now, this is a peaceful area of the park where people can enjoy trails around the natural pond.

Response 12.3: Please refer to Master Response 5: Aesthetics above. As discussed in Section 3.1 Aesthetics of the Draft EIR and shown in Figures 3.1-2 through 3.1-4, the proposed project would have limited visibility from public vantage points. In addition, consistent with General Plan Policy 9-12, the project would plant over 1,000 trees, including native oaks, along the site perimeter to screen the project from adjacent land uses.

Comment 12.4: Further, traffic is already a source of strain for the local community. Adding an additional 1000 residents and 200+ staff cannot help but impact the traffic on the already crowded Ygnacio Valley road.

Response 12.4: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 12.5: *Additional issues*

The proposed plan has numerous other flaws including:

- The planned construction will last 3-4 years and will release extensive dust or particulate matter into the air during every phase of the project. With wildfires now a regular occurrence, air quality should be a top consideration.
- The planned construction closes off established wildlife corridors
- The developers are disingenuously advertising the proposed developments as “homes” in local magazines, while simultaneously telling the County the development is “not residential.”

In conclusion, please deny the proposed Spieker development. The community deserves a better plan that is sensible and not super-sized.

Response 12.5: Please refer to Master Response 2: Project Non-Residential and Infill Designation, Master Response 6: Air Quality Fugitive Dust section, and Master Response 7: Biological Resources Wildlife Movement Corridors section above.

13. Peter and Mary Therkelsen (dated April 15, 2022)

Comment 13.1: I am extremely disappointed that this project has been allowed to advance this far. Something just is not right about this whole process. Among the many wrongs about this project is the failure to fulfill housing quotas.

The developer has specifically and adamantly insisted that it is not residential. In so saying they claim they do not have to fulfill County residential building requirements which mandate that all housing have an inclusionary component and that all housing includes a certain percentage of open space to building footprint. The County may not count this as fulfilling its residential quotas as you can't have it both ways. Either the development is residential and included in housing quotas and must therefore fulfill the above mentioned housing mandates or they are not residential and may not be counted as fulfilling housing quotas.

Additionally, this living facility requires a large number of residents in multi-story housing paying costly entry and monthly fees to support the developer's model. I am not opposed to offering this option to our community in an appropriate location and if it is developed without ignoring mandates put in place to protect and enhance neighborhoods and communities, to protect the landscape and to respect a property's surrounding land uses, such as parks and suburban homes.

Please do the right thing here, do not allow this project to move forward.

Response 13.1: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

14. Fred Safier (dated April 16, 2022)

Comment 14.1: I am a resident and registered voter in Walnut Creek, Contra Costa County. I have lived here since 1978 and have enjoyed the life style and diversity of the area. I walk to Heather Farm Park frequently and cherish its wildlife and the many diverse people who enjoy the park.

I request that Seven Hills Ranch be saved from the Spieker proposal to build a massive walled compound that levels all but one hill, takes out 400 trees, & paves over the 30-acres; completely destroying wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development design. Insist on a better plan for this property, a plan more closely in conformance with its land use designation.

Response 14.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 14.2: I would like to point out that the trees of Seven Hills Ranch serve as home and migratory host for an abundance of bird species. The Ranch is located directly next to Heather Farm Park. The park is nationally recognized as a home and migration stopover for an abundance of bird species; so much so that it is a designated eBird 'hotspot'. The proposal for Seven Hills Ranch calls for the removal of 400 mature trees, including California Oaks. To allow such a massive removal of native trees and the resultant permanent impact it will have on avian life for the Ranch AND the surrounding area is simply unacceptable. In addition, I ask that the County recognize that the

proposal does not allow for any wildlife corridors but is instead a walled-off, inaccessible compound. The Ranch is home and habitat to a profusion of animal life; it is where they live and/or travel through to find resources, such as food and water. It is part of a wildlife corridor that stretches from Mt. Diablo and down through Shell Ridge, eventually following along the Walnut Creek to reach the delta. The Spieker proposal for Seven Hills Ranch cuts off a critical habitat along this route. If you can imagine the routes to your grocery store being cut off, leaving you without the ability to reach a grocery store either by walking or driving from your home (and the inability to get grocery deliveries) - the loss of your food source – you can understand the deprivation and the consequences that await the animals that utilize Seven Hills Ranch should the Spieker proposal be allowed to proceed as planned.

Response 14.2: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 14.3: Moreover, the proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Response 14.3: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 14.4: Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 14.4: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

15. Joseph Sullivan (dated April 16, 2022)

Comment 15.1: I am a resident living off a street intersecting with Ygnacio Valley Road in Walnut Creek in Contra Costa County and wish to express my serious concerns and objections to the Spieker Proposal for a Senior Continuing Care Retirement Center on the current site of Seven Hills Ranch. As a senior citizen myself, I recognize the need for senior housing and could support offering an additional senior living option in an appropriate location, which did not cause such massive and irreparable damage to a rare and precious zone of peaceful nature and recreation and which did not cause the hugely negative traffic impact on the already crowded Ygnacio Valley corridor. Please serve the current citizens of Contra Costa County by rejecting the current Spieker proposal.

I urge strongly that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Response 15.1: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 15.2: Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

Response 15.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 15.3: While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents during the 3-4 year construction period and beyond. Even after construction, this proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density.

Response 15.3: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 15.4: In regard to the Spieker proposal: the trees of Seven Hills Ranch serve as home and migratory host for an abundance of bird species. The Ranch is located directly next to Heather Farm

Park, which I and other residents throughout Contra Costa County use extensively. The park is nationally recognized as a home and migration stopover for an abundance of bird species; so much so that it is a designated eBird 'hotspot'. The proposal for Seven Hills Ranch calls for the removal of 400 mature trees, including California Oaks. To allow such a massive removal of native trees and the resultant permanent impact it will have on avian life for the Ranch AND the surrounding area is unacceptable.

In addition, I ask that the County recognize that the proposal for Seven Hills Ranch does not allow for any wildlife corridors but is instead a walled-off, inaccessible compound. The Ranch is home and habitat to a profusion of animal life; it is where they live and/or travel through to find resources, such as food and water. It is part of a wildlife corridor that stretches from Mt. Diablo and down through Shell Ridge, eventually following along the Walnut Creek to reach the delta. The Spieker proposal for Seven Hills Ranch cuts off a critical habitat along this route. If you can imagine the routes to your grocery store being cut off, leaving you without the ability to reach a grocery store either by walking or driving from your home (and the inability to get grocery deliveries) - the loss of your food source - you can understand the deprivation and the consequences that await the animals that utilize Seven Hills Ranch should the Spieker proposal be allowed to proceed as planned.

Response 15.4: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 15.4: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

16. Lind Riebel (dated April 16, 2022)

Comment 16.1: As a Contra Costa resident, living in far east Lafayette, immediately adjacent to Walnut Creek, I am also a volunteer for Lindsay Wildlife Experience in Walnut Creek and very active in Lafayette politics.

It's time ALL Americans learned that we cannot live without nature. The proposed development would be an appalling destruction of 400 trees and all the living creatures on the property. Did you know that there is a LOT of scientific research showing that access to nature is very important to human health?

By the way, I am a senior citizen and I may need assisted living at some point. But this plan is NOT the way to build one.

Response 16.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

17. Rosalie Howarth (dated April 17, 2022)

Comment 17.1: Dear County Supervisors:

This project should NOT be given exemptions from zoning and land use designations. It should NOT be allowed to move forward! The EIR is inadequate. It is out of compliance with the current land use designations. It requires an extreme and intense change in the size & number of structures and hardscape allowed on the 30-acre site. It not only obliterates the existing landscape, home to trees, native birds and wildlife, it is also out of compliance with the County's own codes for hillside protection.

Response 17.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 17.2: This is not “urban infill”! Infill refers to filling in small to medium lots between already existing development, usually near public transportation, which this is not. Infill requires a project similar to its surroundings. Infill is not 30 acres in size! And this requires blasting or grinding down huge sandstone outcroppings. This is not housing! It does not fulfill housing quotas for the County set by the RHNA – the Regional Housing Needs Allocation. The developer claims that no affordable units need be included, ...because it isn't “housing”. Yet they want to be granted an amendment to increase the zoning to “high density”, as in, housing. This is purely a commercial enterprise!

It is counter to all contemporary urban planning guidelines to approve a project with so little natural greenspace and to have no accessible public walkways, on a 30 acre site.

I request that the County instead choose a plan that recognizes the property's unique location right next to a popular park and a school. Demand a plan that offers a public walkway up to the site's ridgeline, making available to the public the spectacular views of Mt. Diablo and the East Bay Area hills.

Response 17.2: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

Comment 17.3: The Draft EIR fails to address a number of major shortcomings in this proposal and should be recirculated for a more honest and realistic evaluation of the impacts of the Spieker proposal.

DENY the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 17.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

18. Emily Wheeler (dated April 17, 2022)

Comment 18.1: I was horrified to hear of the Spieker proposal to demolish the Seven Hills Ranch property. I am requesting that it be rejected.

My home is a ten-minute walk from Heather Farm Park, and I chose it partly for this reason. I've been hoping the Seven Hills property might become an addition to the park. I certainly did not expect the whole thing to be leveled, paved over and utterly destroyed.

When you remove 400 trees, you are removing a huge chunk of habitat for birds and other wildlife. The Seven Hills property is a big reason that Heather Farm Park is well known throughout the Bay Area as a wonderful place for nature lovers. Do you really want to turn the jewel in the crown of Walnut Creek into just another suburban recreation center?

The Spieker proposal includes very little natural greenspace and has no accessible public walkways on a 30-acre site. Instead, this site cries out for a preservation plan that recognizes the property's unique location. It should include a public walkway up to the site's ridgeline, making available the spectacular views of Mt. Diablo and the East Bay Area hills. Such a walkway is already proposed in the City of Walnut Creek's Transportation Element of the General Plan 2025 and also in their City of Walnut Creek Bicycle Plan 2011. The opportunity to provide this to the local community – a walkway from the park to the city's namesake creek – really must not be missed.

Seven Hills Ranch is one of the few places along the creek that is suitable for natural creek restoration. Such a restoration would allow native fish to travel upstream from delta waters, a long-time goal for local and regional conservation groups. Protecting the Ranch area that borders the Walnut Creek from the intrusive retaining walls planned there by the Spieker proposal would ensure the opportunity for creek restoration in the area.

I beg you to look for a plan that truly respects the environment, doesn't require unenforceable and ineffective "mitigation," and recognizes the property's unique location next to Heather Farm Park.

Response 18.1: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 4: FC District 50 Year Plan Consistency above.

19. Edward Jamgotchian (dated April 15, 2022)

Comment 19.1: My name is Edward Jamgotchian, and I have been a resident of Contra Costa County for over 20 years, and now living in Walnut Creek for over 10 years.

The Spieker development will negatively impact residents of Walnut Creek by 1) stressing the availability of life safety services and their timely response, and 2) degrading the quality of life due to the strain this development will have on public services and impact traffic congestion.

Response 19.1: As discussed in Section 3.15 Public Services of the Draft EIR under Impact PS-1 and Impact PS-2 (pages 172-173), the proposed project would not significantly impact fire or police protection services in the project area.

Please refer to Master Response 9: Transportation Traffic Congestions section above.

Comment 19.2: I request that the County consider alternative smaller scope & impact plans to the Spieker proposal for Seven Hills Ranch. While the consultant's DEIR report has said that the environmental impacts can be mitigated we ask that you use common sense and consider that very nearly all of the natural environment at the site will be completely decimated. The proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over of the site. To state that such impacts can be mitigated is nonsensical and certainly not sensible. We are asking for Sensible, not Supersized. A plan that truly respects the environment, doesn't require unenforceable and ineffective mitigation and recognizes the property's unique location next to the existing Heather Farm Park.

Response 19.2: Please refer to **Response 11.1:** above regarding alternatives.

Comment 19.3: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 19.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

20. Rochelle Fortier (dated April 15, 2022)

Comment 20.1: I am a resident of Walnut Creek. I walk for exercise in the Heather Farm Park every week. This proposed Senior Continuing Care Retirement facility is too large for the 30 acres of land. It does not fit in with the surrounding low-density two-story and one-story houses. It is right next door to Heather Farm Park. And it would be a giant overbuilt eyesore on the property.

Do not allow this plan to move forward. It is out of compliance with the current land use designation and requires an extreme and intense change in the number of structures and paving allowed on the 30-acre site.

The amount of cut and fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 20.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 20.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively

demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch.

The Draft EIR should be recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal.

In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 20.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

21. Dennis Fischer (dated April 18, 2022)

Comment 21.1: I request that the Spieker proposal that is out of compliance with the current land use designation and requires an extreme and intense change in the number of structures and paving allowed on the 30-acre site not be allowed to move forward. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 21.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 21.2: I am a Contra Costa Resident and wish to state my objections to the Spieker Senior Continuing Care Retirement Project due to its extreme alternation to the landscape, incongruence with surrounding residential neighborhoods, and traffic impacts. I frequent Heather Farms nearly everyday and the project as proposed would irrevocably change and devastate the existing landscape and vista of hills and hillsides.

Response 21.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 21.3: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 21.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

22. Carol Agnost (dated April 18, 2022)

Comment 22.1: A. Before you make a decision on the above property, please put on your hiking boots and take a walk on this land. It is possible to do so because I also live on Kinross Drive a ways up the street and it is easy to get on the land. We took a walk there with our daughter about a year ago. Both our son and she went to Seven Hills School during the 80's and 90's and we are very familiar with the property.

On the occasion we were hiking there, a herd of deer ran by in front of us down the hill. Many deer live on this land. This is no place to build a huge community.

There is also a large amount of other wildlife (raccoons, skunks, possum, jackrabbits, turkeys, quail and many birds and small animals) because they spill over occasionally into our neighborhood. Where are they supposed to go. Spieker is going to keep almost none of the natural land. This is going to be almost 30 acres of up to 4 story buildings crowded together. The amount of grading is going to destroy and level the property including hundreds of oak trees. The City of Walnut Creek does not allow the cutting down of even one tree over a certain size. What's this?

Response 22.1: Please refer to Master Response 7: Biological Resources Existing Conditions and Wildlife Movement Corridors sections above.

The project site is located in unincorporated Contra Costa County; therefore, the Draft EIR evaluated the proposed project's compliance with the County's Tree Ordinance in Section 3.4 Biological Resources under Impact BIO-5 (pages 85-86). The Kinross Drive extension is located within the City of Walnut Creek and tree removal associated with the roadway construction would be subject to the City's Tree Ordinance. Please refer to Section 5.0 Draft EIR Text Revisions for discussion of the City of Walnut Creek's Tree Ordinance.

Comment 22.2: The property is not zoned for this project because it is entirely inconsistent for the area not to mention the disaster it is going to create with regard to its three year construction, already horrific traffic on Ygnacio Valley Road, pollution and noise to surrounding neighborhoods on all sides.

Spieker has already started advertising and holding seminars for this "upscale" development like it is a done deal. Please, for once In this money hungry country, let the regular people win.

Response 22.2: Please refer to Master Response 1: County General Plan Policy Consistency, Master Response 6: Air Quality, Master Response 8: Noise and Vibration, and Master Response 9: Transportation above.

23. Jeff Kalin (dated April 18, 2022)

Comment 23.1: I have lived in Contra Costa County since 1990. My wife and I raised our family here. We and our children (who are grown and remain county residents) are proud of the progress and growth we've experienced within the county. After reviewing the current plan for development of the Spieker Senior Continuing Care Retirement, we are concerned that this project diminishes the

quality of the community we share. We believe the proposed development of the Spieker Senior Continuing Care Retirement Project will destroy a beautiful piece of property adjacent to other parkland and resources that benefit our community.

The project proposal essentially calls for the destruction of a gorgeous rustic property, close at hand, which provides respite to its neighbors and nearby residents. The plan will destroy the trees and wildlife habitat that currently exists there. The plan basically paves paradise to put up what looks like a factory with a parking lot. The proposal is so absent of any consideration of the beauty of this site, that it seems comic. Of the more that 350 trees on the site, the plan calls to preserve one of them, and surround it with cement. It's unlikely that tree would survive with so much construction near its roots and groundwater source - it is a sad irony within the proposal that it suggests a willingness to preserve a single tree, so that we can watch it slowly die. That is obscene.

Response 23.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 23.2: I request that the County consider alternative plans for the long term use of the Seven Hills Ranch property. There are more appropriate sites within the county to create a senior housing and continuing care site. The former Los Medanos Community Hospital site comes to mind. The closure of that facility and discontinuation of the healthcare district is shouting for a more meaningful plan for the property. And, there are other sites that fit the intention of this facility so much better than Seven Hills Ranch.

Response 23.2: As discussed in Section 7.4 Alternatives Analysis (page 213), alternative locations for the proposed project were considered, but ultimately rejected as the environmental impacts would be similar to the proposed location and any alternative sites may not be for sale as they are not controlled by the applicant.

Comment 23.3: The Draft EIR as released is inadequate in assessing the environmental impacts to a virtually pristine and pastoral natural environment. It demolishes the life that exists there. The Draft EIR should be recirculated for a more serious, realistic and legitimate evaluation of the impacts of the Spieker proposal. In addition, we request that the county further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 23.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

24. Marilyn Thorne (dated April 18, 2022)

Comment 24.1: Thank you Sean for keeping me in the loop regarding information on this project as promised.

I am a Contra Costa County resident living in Walnut Creek, and usually favor Senior Retirement living projects. However, I have many concerns regarding the Spieker Senior Continuing Care Retirement Project that is coming up for a zone change as well as the inappropriate size for this area where it is to be located. Here are my concerns:

1. This Project will be devastating to the existing landscape decimating all natural habitats and migration of all birds and animals. The 300 or more historical trees, where birds migrate to, and look for food and make nests, the wetland portion, and goal of paving and flattening 30 acres of pristine land prevents present and future generations from enjoying this pristine land. The Project will destroy the wild habitat and the natural environment which also helps Climate Control, and is close to one of our most popular parks, Heather Farms that all community members and visitors truly enjoy.

Response 24.1: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 24.2: 2. It appears that The Spieker Proposal is out of compliance regarding the “cut and fill” requirements with the county’s hillside protection and the best practices for avoiding steep slope construction as put forth in the Contra Costa County Codes.

Response 24.2: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 24.3: 3. Spieker’s Proposal has no public walkway up to the site’s ridgeline compared to the already proposed City of Walnut Creek’s Transportation Element of General Plan 2025; a walkway is also included in the City of Walnut Creek Bicycle Plan 2011. A walkway from the park creek should not be ignored, and should be enjoyed by the entire public. Why not allow all to enjoy the spectacular views of Mt. Diablo and East Bay Hills?

Response 24.3: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 24.4: 4. Traffic on streets, surrounding this project, i.e., Ygnacio Valley Road, Cherry Lane, Marchbanks, Kinross Drive (the Kinross Spur also to be voted upon by Walnut Creek) for Spieker Proposal’s entrance-way will be heavily impacted with traffic. The proposal goal of 225 FTE’s coming each day from the facility, visitors, medical vehicles, residents, and more will change our community. Why take away “quality of life” to those of us living within the surrounding area of this proposed project?

Response 24.4: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 24.5: According to what is being written in recent newspaper articles, it is expected to take 3 to 4 years of intensive construction and the size of this development proposed at this time is definitely incompatible with the surroundings. From the construction and development of this project, dust and particulate matter into the air during each phase will be carried by the usual westerly winds and blanket Seven Hills School where children learn and play, affect those enjoying our popular neighboring Heather Farm Park, ponds, trees, pools, play areas, dog park, homes, and all other that border Seven Hill Ranch. This increased dust in the air could likely contain construction toxins not found in our already natural wind-blown soil. Please do not allow people to get sick from allergies caused by construction and the removal of natural habitats.

I have also been informed that such a project that is oversized within this area proposed, will require at least 17,000 dump trucks worth of dirt that will be moved around the site, leveling hills filling in valleys. And of that, 6000 dump trucks worth of dirt will be removed from the site. This means roughly, if not more, 12,000 trips via Marchbanks, Ygnacio Valley Road, through Walnut Creek and beyond, will take place. Our streets' infrastructure will be destroyed.

Response 24.5: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 24.6: Please, we have already experienced staying in our homes and not traveling due to Covid-19. We are just learning now how to live a new normal.

The area proposed for Spieker Senior Continuing Care Retirement Project and the inappropriate size of this project does not even support what the State of California is asking for which is more affordable housing.

I am asking the County of Contra Costa to allow this pristine area of land to continue as an agricultural zone, and to not allow such an asphalt project of this size be approved in this particular area that will definitely have many negative impacts affecting the environment and the people living in the surrounding areas of this proposed project as well as natural habitats.

I request that the County of Contra Costa deny the General Plan Amendment request for changing the Agricultural Zone. Allow all habitats to stay natural for all generations, present and in the future, to enjoy.

Response 24.6: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

25. Lisa Svidler (dated April 19, 2022)

Comment 25.1: I am a long-time resident of Walnut Creek and I completely oppose this excessive proposal.

I request a rejection of the Spieker proposal that incorporates very, very little natural greenspace and has no accessible public walkways on a 30 acre site. Look for a development plan or preservation plan that recognizes the property's unique location right next to a very popular existing park. Expect a plan that offers a public walkway up to the site's ridgeline, making available to the public the spectacular views of Mt. Diablo and the East Bay Area hills. Such a walkway is already proposed in the City of Walnut Creek's Transportation Element of the General Plan 2025 and also in their City of Walnut Creek Bicycle Plan 2011 and the opportunity to provide this to the public - a walkway from the park to the city's creek - should not be ignored.

Response 25.1: Please refer to Response 2.11; regarding consistency with City of Walnut Creek transportation and bicycle plans.

Comment 25.2: I request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal

for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park – its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Response 25.2: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 25.3: Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 25.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

26. Igor Svidler (dated April 19, 2022)

Comment 26.1: I am a Walnut Creek resident for more than 20 years and I am against the proposed development that will practically destroy landscape, flora and fauna of this pristine open space.

I request that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, takes out 400 trees, & paves over the 30-acres; completely destroying wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development design. Insist on a better plan for this property. A plan more closely in conformance with its land use designation.

Response 26.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 26.2: The current proposal for Seven Hills Ranch does not fulfill housing quotas for the County. The developer has specifically and adamantly insisted that it is not residential. In so saying they claim they do not have to fulfill County residential building requirements which mandate that all housing have an inclusionary component and that all housing includes a certain percentage of open

space to building footprint. The County may not count this as fulfilling its residential quotas as you can't have it both ways. Either the development is residential and included in housing quotas and must therefore fulfill the above mentioned housing mandates or they are not residential and may not be counted as fulfilling housing quotas.

Additionally, this living facility requires a large number of residents in multi-story housing paying costly entry and monthly fees to support the developer's model. I am not opposed to offering this option to our community in an appropriate location and if it is developed without ignoring mandates put in place to protect and enhance neighborhoods and communities, to protect the landscape and to respect a property's surrounding land uses, such as parks and suburban homes.

Response 26.2: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

Comment 26.3: While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density.

Response 26.3: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 26.4: Extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 26.4: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

27. Barbara Davis (dated April 19, 2022)

Comment 27.1: I am a Contra Costa County resident who lives near the Seven Hills Site. I often walk to the edge of our neighborhood and look out over the grass-covered site, enjoying the beauty of the rolling hills and all of the wildlife I see as I stand watching. It is a County treasure that should not be destroyed.

I request that the Spieker proposal be stopped. Because it is out of compliance with the current land use designation and requires an extreme and intense change in the number of structures and paving allowed on the 30-acre site, it should not move forward. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 27.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 27.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 27.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

28. Nicole Schweickert (dated April 19, 2022)

Comment 28.1: I was shocked when I heard about this project! I've lived in Walnut Creek for 47 years & seen it grow from a little suburban town to a bustling business center. While one can't stop "progress" it has always been nice to enjoy plenty of open space, trails, parks, quiet little retreats of beautiful hills, trees, wildflowers & wildlife. We all need these reminders to keep us sane in a busy urban area.

Our family of six has spent countless hours at Heather Farms: bike riding, walking, swimming at Clark Pool, fishing, enjoying baby ducks & geese in the spring. The list goes on! I think it's unconscionable that you would deny scores of future families these everyday joys. Raping the environment with the proposed leveling of beautiful rolling hills, destruction of majestic oak trees & destroying wildlife habitat for a very expensive walled off compound that doesn't at all fit in with the area is madness! And most importantly this development goes against Walnut Creek's General Plan (created by some wise public servants who cared about the welfare of the citizenry).

These last two years of pandemic, tyrannical lockdowns, fear, questionable medical "facts", children out of school, job loss, dreams shattered have been devastating to all of us. And we are exhausted. All across the country we've seen so much government corruption. Officials breaking the public trust. Here is your chance to be real heroes. We hope you'll remember you are "public servants", charged with the lofty goal of representing all of the little people of our community.

Response 28.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

29. Robert Breuning (dated April 19, 2022)

Comment 29.1: I am a Walnut Creek resident and property owner and would like to strongly urge you to consider the long run impact of allowing this development to move forward. The fact that this land is owned by the county means it is technically owned by all of the legal residences within the county. Turning this land over to a private developer enriches just the financial interest of that developer at the expense of the rest of the citizens of Contra Costa County. The developer is solely interested in the profit potential of the project with little or no concern to how this affects the citizens of the community. You need to protect the wishes of the rightful owners of this property. If Spieker wants to invest their capital in this type of project then they should find a private parcel and negotiate a fair price to see their venture come to light. My thought is that they see a big opportunity to make a sizable profit by taking advantage of the limited voice of the people and then using their influence with county officials to get this approved. Who knows what benefits may eventually be passed along to the officials that could approve this development? They have influential means well beyond the capabilities of the individual voters of this county.

Response 29.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 29.2: I request that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, takes out 400 trees, and paves over the 30-acres; completely destroying wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development design. Insist on a better plan for this property. A plan more closely in conformance with its land use designation.

Response 29.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 29.3: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Thank you for your careful consideration of this important decision that can only have long term negative consequences. If this is approved, look what will be lost forever.

Response 29.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

30. Patricia McGowan (dated April 19, 2022)

Comment 30.1: I am submitting the following comments/concerns regarding the Draft EIR for the above referenced project.

Land Use and Planning, Issues

Key Issue: Are the independent living units considered housing? The Project Description states that the facility will be licensed by the State of California, but why would this result in a determination that the “independent living units”, which are apartments, are not housing? The City of Walnut Creek is currently processing an application for a very similar project where the independent living units have the land use designation of multi-family housing (which is age restricted by the project description to people +55 year old), and the project will be rezoned to PUD. So that project is requesting the same rezoning, but the independent living units are considered housing and thus are subject to City policies related to housing.

-If the independent living units on the Spieker Project are not housing, then do they count towards the County's required Regional Housing Needs Allocation (RHNA)?

-If they are counted as housing per the RHNA, then is it housing per the County's Inclusionary Ordinance 822-4?

-Regardless of other determinations, does it meet the definition of housing in the County's Inclusionary Ordinance and hence, is subject to the requirements of the Inclusionary Ordinance?

Response 30.1: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

Comment 30.2: Additional Issues/concerns/omissions from Section 3.11 of the DEIR: Land Use and Planning

1. Policy 3-28 states “New residential development shall be accommodated only in areas where it will avoid creating severe unmitigated adverse impacts upon the environment and upon the existing community.” The DEIR is written as if it were defending the project rather than objectively reviewing potential impacts. The existing community is hardly considered. The surroundings include low-medium density residential uses that would be drastically impacted by the immense scale of this development, especially in terms of the visual impacts, air pollution and noise associated with major grading and levelling of the hillsides, incredibly high retaining walls, removal of major trees, and the immense scale of the proposed apartment building. No creative thinking has gone into suggesting mitigation measures that would improve the compatibility with the neighborhood such as:

- Reduced scale of the largest building in terms of footprint and height
- Preserving a large portion of the site in open space that could be shared with the neighborhood.
- Preserving on-site critical trees
- Reduced grading to respect the natural form of the site by siting buildings in a way that minimizes grading requirements

This site should never be developed as intensely as proposed and a site plan that reduces impacts and integrates into the existing community would show far less development than what is proposed.

Response 30.2: The Draft EIR evaluated impacts related to aesthetics, air quality, and noise in Sections 3.1 Aesthetics, 3.3 Air Quality, and 3.13 Noise and concluded that any environmental impacts would be reduced to a less than significant level with mitigation incorporated. As discussed in the above-mentioned sections, the proposed project would be required to implement mitigation measures MM AES-4.1 (page 43), MM AIR-1.1 and MM AIR-1.2 (pages 56-57), and MM NOI-1.1 and MM NOI-1.2 (pages 157-160) in order to reduce impacts related to aesthetics, air quality, and noise to a less than significant level. These mitigation measures were developed in order for the project, as proposed, to result in a less than significant impact. Changes to the actual project design in order to reduce environmental impacts are discussed in Section 7.0 Alternatives of the Draft EIR.

Comment 30.3: 2. No analysis is provided for Contra Costa General Plan (GP) Land Use Implementation Measure 3-i, p. 3-46 of GP “Enforce the restrictions on open hillsides and significant ridge lines in the Open Space Element and protect hillsides with a grade of 26 percent or greater through implementing zoning and other appropriate measures and actions.” Please provide the analysis of compliance of the Project with this policy. The DEIR should include an analysis of slope conditions on the site and should include a clear slope map.

Response 30.3: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 30.4: 3. No analysis is provided for consistency with the Housing Element of the Contra Costa General Plan which was adopted to mitigate the imbalance between housing and jobs in the County. Housing Element Goal 6: “Provide adequate sites through land use designation-and zoning to accommodate the County's share of the Regional Housing Needs Allocation.” Please provide the analysis to show how changing the General Plan designation from a residential use to an institutional use provides compliance of the Project with this goal of the Housing Element adopted by the County Board of Supervisors.

4. No analysis is provided for how the Project will meet the County’s required compliance with the Association of Bay Area Governments (ABAG) Regional Housing Needs Allocation (RHNA) which was adopted at a State level to mitigate the imbalance between housing creation and job creation throughout the state. Preliminary determination by ABAG for unincorporated Contra Costa County is that during 2023 to 2031 over 7,600 housing units in the unincorporated areas plus an additional 5,800 housing units in Walnut Creek need to be built. The County will update the Housing Element of the General Plan to show locations and policies to facilitate this housing being built. As stated in the Project Description; “the Project does not contain any residential component” even though it will house 500-700 people. Thus, with an existing General Plan designation on this 30-acre site of Single Family Medium-Density Residential, the DEIR does not analyze how the Project advances the County’s required compliance with the Regional Housing Needs Allocation to have over 7,600 housing units built in the unincorporated areas of the County before 2031.

5. No analysis is provided for consistency with County Ordinance 822-4 Inclusionary Housing Ordinance, adopted by the Board of Supervisors, nor an explanation of why these buildings which will house 500-700 people, and which per the Project Description “will provide residential units for senior citizens” are not considered housing under Ordinance 822-4. Would the 354 “independent

living units for residents not needing daily assistance” be licensed through the State of CA as a “Residential Care Facility for the Elderly” or just the assisted living, skilled and memory care units? While the State of CA licensure of these types of housing facilities may classify them as “non-residential institutional use” there is no analysis of why the “independent living units for residents” are not housing under the County’s Inclusionary Housing Ordinance.

I also request that the DEIR provide the information that if the project is considered housing under Ordinance 822-4, what number of units out of the 354 independent living residential units will need to be low-moderate income, and/or what amount the fee would be, per Ordinance 822-4, for not constructing such units on-site.

Response 30.4: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

Comment 30.5: Air Quality

Under construction air quality impacts the estimated the number of truck trips is not accurate, and hence the amount of air pollution resulting from trucks during construction is in error. Specifically, Appendix D, Air Quality, Table 2: Total Haul Trips does not include trucks needed to demolish and haul off 353 mature trees which will be removed from the site. Additionally, it does not include the truck trips needed to move 150,000 cy of soil that will be cut and moved around on site. It counts the trucks for the soil that will be hauled off site, but not the dump-trucks that will be required to move the soil to other parts of the 30-acre site, nor the emissions from the off-road diesel equipment that will cut fill, spread and compact this soil. This is a serious error that needs to be recalculated based on the very extensive amount of cut, fill and soil movement on site that the Project proposes. Additionally, the truck trips from concrete trucks to construct the lengthy and tall retaining walls throughout the project site also appears to have been omitted, since construction of the buildings is noted in Table 2, but not construction of the large retaining walls.

Emissions calculations should include the impacts of dump trucks for earth work and construction of all of the long, tall retaining walls and that information should be stated in the EIR.

Response 30.5: Please refer to Master Response 6: Air Quality Construction Haul Trips section above.

Comment 30.6: Roadway Redesign Alternative

This alternative reduces the impact on wetlands. This location for the project entry is a significant improvement in regard to impact on the Kinross wetlands and should be required as part of the project redesign.

This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

31. Mike Scott (dated April 20, 2022)

This comment was received by the County during the public circulation period of the Draft EIR; however, the comment was addressed to the City of Walnut Creek staff and is a string of communication between the two parties. In addition, Mr. Scott's remarks in this comment do not raise any issues about the adequacy of the Draft EIR; therefore no response is required. The full text of this comment can be viewed in Appendix A of this Final EIR.

32. Ann Hassett (dated April 20, 2022)

Comment 32.1: I am writing you with urgency regarding the Spieker project in Walnut Creek. It's an undisputable fact now that global warming is real and rapidly affecting our way of life. Massive flooding, out of control wildfires, pollution of air and water etc., loss of crops and animal species. "To combat climate risks urban planning and land developers around the globe are increasingly creating community designs that protect or incorporate open spaces, clean air and connections with other people." Examples of this is Boston's SCAPE project, New York's 550 Madison project preserving and providing access to the neighborhoods largest public green space. Progressive cities and their land developers are focused on preserving and incorporating open and green spaces as well as finding more sustainable designs and architecture. (you can find these projects by Googling)

The Spieker senior housing project is the antithesis of this current thinking and trend. It proposes to decimate the land by leveling the hills and eradicating 400 plus trees (some of which are over 100 years old). It will erect 26 foot walls around the annihilated earth keeping the public at bay clearly not promoting inclusion or well-being of the existing citizenry. It is "old school" development. It negates the professed Walnut Creek city plan to go "green" (as was presented and embraced in the last City Council meeting). Finally, we must care for the flora and fauna on that land. We fondly call this 30 acres the Serengeti of Walnut Creek as there are a variety of animals (in large numbers) that reside on that land (not just passing through). They inhabit that space because it is safe and free from their predators that live in the wilds of Mt. Diablo. I have just seen 3 fawns born into that space. It is a calm and peaceful place for all of us.

Walnut Creek already has Rossmoor and other senior housing that provide various levels of care. Surely we can develop this land in such a way that considers us all. If Contra Costa County is looking for additional senior housing then why not bring it to an overgrown field or some abandoned building spaces within our county that is already accessible.

Research shows that access to nature can improve mental and physical health and productivity. Well-being is becoming a central topic in the development and transition to greener cities. The Toyota "Woven City" project in Japan is a prime example of this. Surely this project needs to be reconsidered for some other place that will not be disruptive to a well-established way of life.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 32.1: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

33. Susan Fischer (dated April 20, 2022)

Comment 33.1: I request that my comments be provided to the County Supervisors. As a concerned resident of Contra Costa County, I am providing this Public Comment on the Draft EIR for County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038, The Spieker Senior Continuing Care Retirement Project. I am deeply concerned that this project proposal is void of consideration for green space and the wildlife that depends on it for survival. During this time of climate change we need to be more mindful of protecting wildlife and the green spaces that it depends on. I am also concerned that this proposal does not benefit the vast majority of our community as it will not allow for public walkways.

In regard to the Spieker proposal: the trees of Seven Hills Ranch serve as home and migratory host for an abundance of bird species. The Ranch is located directly next to Heather Farm Park. The park is nationally recognized as a home and migration stopover for an abundance of bird species; so much so that it is a designated eBird ‘hotspot’. The proposal for Seven Hills Ranch calls for the removal of 400 mature trees, including California Oaks. To allow such a massive removal of native trees and the resultant permanent impact it will have on avian life for the Ranch AND the surrounding area is simply unacceptable.

I also ask that the County recognize that the proposal for Seven Hills Ranch does not allow for any wildlife corridors but is instead a walled-off, inaccessible compound. The Ranch is home and habitat to a profusion of animal life; it is where they live and/or travel through to find resources, such as food and water. It is part of a wildlife corridor that stretches from Mt. Diablo and down through Shell Ridge, eventually following along the Walnut Creek to reach the delta. The Spieker proposal for Seven Hills Ranch cuts off a critical habitat along this route. The wildlife that depends on Seven Hills Ranch for survival will suffer and perish without access to this green space. Our wildlife already suffers from diminishing green spaces and the continual competition and conflict with humans.

Response 33.1: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 33.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch. Thank you for considering my comments.

Response 33.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

34. Thomas Schweickert (dated April 20, 2022)

Comment 34.1: I am writing in extreme protest to the Spieker Development project proposed for the Seven Hills area. Thank you in advance for your time.

My office is adjacent to the intersection of Ygnacio Valley Road and Oak Grove Road. I am continually hearing complaints of the legendary congested, stopped, or unpleasantly slow traffic on Ygnacio from my clients who have to drive down Ygnacio to get to my office. They also later complain about their slow return trip back down Ygnacio after their appointment.

I realize that existing traffic problems may not have been caused by anyone in office currently, but it is beyond reason that any current office holder would be willing to increase those problems by adding all the traffic this proposed development would add, not only during construction but after the project is occupied.

My wife and I have lived and worked in Walnut Creek for almost four decades. Our city traffic is becoming a nightmare, and the idea that it could get worse due to this projects suggests a severe decline in the already diminishing quality of life Walnut Creek once enjoyed. Progress has its benefits, but the uncontrolled results of overdevelopment lead to disaster.

Response 34.1: Please refer to Master Response 9: Transportation Traffic Congestion above.

Comment 34.2: In addition, I live within a quarter mile of this proposed development, and the damage to our local environment is obvious - noise, congestion, loss of habitat, destruction of the buffer that Seven Hills presents. This is, in a word, unconscionable. Please do the right thing and support our community and the people who elected you as our representatives.

Again, thank you for your time and consideration.

Response 34.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

35. Margaret Lyman (dated April 21, 2022)

Comment 35.1: I am a Contra Costa County resident and I oppose the current development proposal and the General Plan Amendment request.

I request that the County consider alternative, preferable plans to the Spieker proposal for Seven Hills Ranch. While the consultant's DEIR report has said that the environmental impacts can be mitigated we ask that you use common sense and consider that very nearly all of the natural environment currently at the site will be completely decimated. The proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over of the site. To state that such impacts can be mitigated is nonsensical and certainly not sensible. We are asking for Sensible, not Supersized. A plan that truly respects the environment, doesn't require unenforceable and ineffective mitigation and recognizes the property's unique location next to the existing Heather Farm Park.

Seven Hills Ranch is not only a valuable watershed along the Walnut Creek, its location is one of the few places along the creek that is suitable for natural creek restoration. Such a restoration would allow native fish to travel upstream from delta waters, a long-time goal for local and regional conservation groups. Protecting the Ranch area that borders the Walnut Creek from the intrusive retaining walls planned there by the Spieker proposal would ensure the opportunity for creek restoration in the area.

Response 35.1: Please refer to Master Response 4: FC District 50 Year Plan Consistency and Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 35.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 35.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

36. Moira Pyne (dated April 21, 2022)

Comment 36.1: As a resident of Contra Costa County, I am concerned with the adverse impact upon the native wildlife, environment and irreplaceable scenic views the Spieker Proposal will have.

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

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

Response 36.1: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 36.2: The Draft EIR does not provide an adequate assessment of the true environmental impact of the effective demolition of every living thing on the 30-acre property. The Draft EIR should be recirculated for realistic and authentic evaluation of the impacts of the Spieker proposal. I also request the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 36.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required..

37. Miri Chan (dated April 23, 2022)

Comment 37.1: As a resident in Walnut Creek, I am really disappointed that the Contra Costa County has not been reacting to opinions from their residents about this potential drastic change to our community. There has not been any other proposals or resolutions from the city or county in how to best leverage this open space for their residents.

My family chose to move to Walnut Creek due to its balance of city life and nature, and its thriving population of young families. Having a development of such density near our schools and homes will take away safe and quiet roads. Does Walnut Creek really need another Rossmoor? Do we need an establishment that is isolated to a narrow age and income group?

My family and I care about bike safety as well, the increase of car traffic In and out Marchbanks and Kinross is already overwhelmed in pre-Covid days; drivers speeding and passing stop signs and red lights are far too common on Marchbanks/YVR. The city clearly does not have the infrastructure to support more vehicles in this neighborhood.

Response 37.1: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 37.2: If unfortunately this proposal gets passed, I am also very concerned about the air, noise, and land pollution coming from the construction site in the next few years—not to mention the loss of 400+ Trees, habitats of deers and other animals. It is not mentioned in the proposal how our residents (and our wildlife residents) will be protected from the excessive dissonance.

I have hope that the city and county will listen, understand our needs and concerns, and make the right decision for our future generation: PRESERVE OPEN SPACE AND SAFE ROADS.

Response 37.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 37.3: I request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds,

trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil. Contributing to this is the extensive grading for this oversized project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6,000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

Response 37.3: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 37.4: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 37.4: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

38. James Malian (dated April 23, 2022)

Comment 38.1: Me and hundreds of other Contra Costa County residents are voting in favor of vetoing this senseless project. We would like to protect and preserve the present environment for those who currently live here. Continuing with this project would: leave hundreds of wild animals homeless, create heavy amounts of traffic and noise pollution during its construction, bring countless trucks full of dirt through our city that will inevitably create a mess and poor air quality around the construction, among other things.

Response 38.1: Please refer to Master Response 6: Air Quality, Master Response 7: Biological Resources, and Master Response 8: Noise and Vibration above.

Comment 38.2: While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density. On top of this the amount of CO2 emissions will significantly rise during this construction, due to all the trucks coming in and out of the site.

Response 38.2: Please refer to Master Response 9: Transportation Traffic Congestion section above.

The Draft EIR evaluated greenhouse gas (GHG) emissions associated with construction of the proposed project in Section 3.8 Greenhouse Gas Emissions (page 118). As stated in the Draft EIR, neither the County nor the Bay Area Air Quality Management District (BAAQMD) have adopted thresholds for construction-related GHG emissions. The Draft EIR did disclose that the proposed project's estimated GHG emissions during construction was 975 metric tons of carbon dioxide equivalents (CO₂e).

Comment 38.3: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 38.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

39. Linda Lamerdin (dated April 24, 2022)

Comment 39.1: According to the DEIR, the proposed Kinross Dr. entrance DOES have a detrimental effect on the environment. For mitigation of this adverse effect, the DEIR proposes an alternative entrance to the project which does not have an adverse effect on the environment. The developer should be required to pursue this alternative entrance, (NOT the Kinross Dr. entrance) proposed by the DEIR, which does not have an adverse effect on the environment.

Response 39.1: The Roadway Redesign Alternative discussed in Section 7.4.2.3 of the Draft EIR is not considered a mitigation measure for the project's impacts to biological resources as a result of the Kinross Drive extension. The alternative is part of a required section under CEQA that discusses alternative project designs.

Comment 39.2: We request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil. Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and

filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

Response 39.2: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 39.3: We request that the County consider alternative, preferable plans to the Spieker proposal for Seven Hills Ranch. While the consultant's DEIR report has said that the environmental impacts can be mitigated, we ask that you use common sense and consider that very nearly all of the natural environment currently at the site will be completely decimated. The proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over of the site. To state that such impacts can be mitigated is nonsensical and certainly not sensible. We are asking for Sensible, not Supersized. A plan that truly respects the environment, doesn't require unenforceable and ineffective mitigation and recognizes the property's unique location next to the existing Heather Farm Park.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, we request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 39.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

40. Charles Clancy (dated April 24, 2022)

Comment 40.1: I've lived in Walnut Creek for 48 years and have lived within walking distance of Seven Hills Ranch for the last 34 years. Because we have never had public access to the property, I was relatively unfamiliar with it. When I learned about the proposed Spieker development in 2021 I started to do some research on the County's website and took a good look at the property through the fences and using other resources, such as Google Earth.

When I examined Spieker's proposal documents and detailed drawings I was astonished that a project that would basically obliterate this natural oasis would be proposed and designed for this site, at this or any other time.

In addition to the many environmental, aesthetic and other issues, the project design presents major geotechnical challenges. While these challenges can be met with enough expertise, careful design and funding, it does NOT follow that this project, which is grossly out of proportion for its surroundings, should be built just because it's technically feasible.

Response 40.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 40.2: The Draft EIR itself consistently and erroneously states that impacts from the many aspects of this project would be insignificant and/or easily mitigated. It says this in disregard of significant issues raised in the Appendix documents that accompanied the DEIR on the County's website.

An example would be the fact that a major portion of material excavated in the leveling of the western hill and re-contouring of the eastern knoll would be comprised of bedrock, which could be difficult to excavate and would have to be processed on site for use as fill or be exported off the site. The significant ramifications of this activity are not revealed in the DEIR. They must be revealed in the DEIR where the public can see what is planned and comment accordingly – as opposed to hiding them in the permit process later. While construction impacts are generally considered temporary, something as impactful as major bedrock excavation could have physical, political and/or legal consequences that resonate far beyond the end of construction.

Response 40.2: Impacts related to grading and excavation of the project site are discussed in Section 3.3 Air Quality (construction emissions), Section 3.7 Geology and Soils (geologic hazards), Section 3.10 Hydrology and Water Quality (construction water quality and stormwater runoff), and Section 3.13 Noise (construction noise).

With regards to bedrock excavation, the Draft EIR, in Section 3.7.2.1 Project Impacts under Impact GEO-1 (page 110), identifies mitigation measure MM GEO-1.1 which requires the project to prepare a site-specific, design-level geotechnical investigation and incorporate all identified recommendations into the final project design prior to issuance of construction permits. This includes a more detailed evaluation of the underlying bedrock and how it will impact cut grading and excavation.

Comment 40.3: This DEIR is totally inadequate and should be recirculated to provide a more serious, realistic and thoughtful evaluation of the Spieker proposal. And considering all of the objectionable features of this project I would also request that the County deny Spieker's General Plan Amendment request.

Response 40.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

41. Alvin Ng (dated April 24, 2022)

Comment 41.1: I urge the review committee to have a comprehensive re-evaluation of all the implications of such a large development in an area that has been previously undeveloped and requires a drastic modification to the landscape and intended plan for the area. I am writing as a concerned citizen that lives close to the development. I understand the city of Walnut Creek requires additional housing, and I urge the city to consider alternative development options that add housing

without a modification to the general plan. The plan proposed by the Spieker development is a large project that raises many concerns for myself and my neighbors.

Traffic and Noise

- Increased traffic, noise, and pollution on Ygnacio Valley Road and the surrounding neighborhoods.
 - During rush hour there is heavy congestion in both directions from the Heather Farms park up towards 680 on Ygnacio. Currently, it takes over 25 minutes to drive downtown from the park, and it will only get worse with the number of employees and residents coming in and out of the property on a daily basis.
 - The proposed entrance requires a left turn onto Marchbanks from Ygnacio. The current infrastructure at the intersection of Marchbanks and Ygnacio only allows for 7-8 cars to wait at the light to turn left. During rush hour, I personally have needed to wait for 2 light cycles in order to make the turn, and at times I have needed to wait in a lane that is intended for through traffic. Please carefully review this as part of your evaluation of traffic. The large increase in residents and employees going into this area will continue to back up traffic on Ygnacio at a critical intersection before the park where many families take their children for after-school activities.

Response 41.1: Please refer to Master Response 9: Transportation Traffic Congestion above.

Comment 41.2: The 4+ years of construction will also be a huge factor in noise pollution and exhaust pollution. In a time where more students and workers are staying at home Monday through Friday, this will be a huge detriment to those families in the surrounding neighborhoods.

Response 41.2: Please refer to Master Response 6: Air Quality and Master Response 8: Noise and Vibration above.

Comment 41.3: Environmental Concerns

- Removal of old-growth trees and threatening the health of any remaining trees on the property. The Spieker Development is proposing many retaining walls that will be built very close to the trees that remain, restricting their continued growth and health.
- Climate Crisis - Increase in Pollution
 - The removal of 400+ trees will immediately stop this natural habitat from removing 8.7 Metric Tons of CO₂ from the air every year, this number will only grow if more trees continue to die. Each tree has the ability to absorb 48lbs/year. (Source: annually. <https://www.usda.gov/media/blog/2015/03/17/power-one-treeevery-air-we-breathe>)

Response 41.3: The proposed project would plant 1,078 new trees in order to off-set tree removal. These newly planted trees would help in removing CO₂ from the atmosphere.

Comment 41.4: The sheer size of the buildings, parking lots, entertainment facilities, and medical care offices will require an enormous amount of cement and subsequent pollution in the area. Cement production is the source of 8% of the world's CO₂ (Source: <https://www.bbc.com/news/science-environment-46455844>)

Response 41.4: As discussed in Section 3.8 Greenhouse Gas Emissions of the Draft EIR (page 118), neither the County nor the BAAQMD have an adopted threshold of significance for construction-related GHG emissions, though the BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. Section 3.8.2.2 under Impact GHG-1 of Draft EIR (page 118) disclosed that construction of the project would emit approximately 3,062 MT of CO₂e.

Comment 41.5: There are also several surrounding developments that could utilize portions of the land, including The Seven Hills School, The Heather Farms Park, and the surrounding HOA communities. I request that the County consider alternative, preferable plans to the Spieker proposal for Seven Hills Ranch. While the consultant's DEIR report has said that the environmental impacts can be mitigated we ask that you use common sense and consider that very nearly all of the natural environment currently at the site will be completely decimated. The proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over the site. To state that such impacts can be mitigated is nonsensical and certainly not sensible. We are asking for Sensible, not Supersized. A plan that truly respects the environment, doesn't require unenforceable and ineffective mitigation, and recognizes the property's unique location next to the existing Heather Farm Park.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal that effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic, and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Thank you for taking the time to review my feedback.

Response 41.5: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

42. Lee Cuban (dated April 25, 2022)

Comment 42.1: I could copy and paste many paragraphs provided by our organizers of Save Seven Hills, but I will choose not to. I have been a resident of Walnut Creek on Marchbanks Drive for almost 30 years now. My street and the traffic on it has changed a lot. I walk quite often on Marchbanks as I head to Heather Farms. From what I understand, the construction will leave layers of toxic dust over the entire area of Heather Farms for a long time.

I understand that not only will nature be compromised, but the traffic will increase dramatically on Ygnacio Valley Road and of course my street Marchbanks. Cars already speed on Marchbanks and as it is, most driveways have a blind spot because the road is a curved loop. With so many cars parked on the street, Marchbanks, it is so dangerous to enter onto this street from the driveways.

Please deny approval for this proposal from Spieker. Please consider any one of the many other options that have already been sent your way.

All I know is, after 30 years, my quiet peaceful street is no more. With this Spieker proposal, I will most likely move out of Walnut Creek as I will not be able to take the trucks, traffic, dust, and noise that will take last years during its construction.

Response 42.1: Please refer to Master Response 6: Air Quality Fugitive Dust section, Master Response 8: Noise and Vibration, and Master Response 9: Transportation Traffic Congestion section above. .

43. Christopher Cain (dated April 28, 2022)

Comment 43.1: Having had the opportunity to review the draft Environmental Impact Report (DEIR) for the Spieker Senior Continuing Care Community (SCCC) project, I offer the following comments:

1. The DEIR is inadequate because it does not evaluate real project alternatives that will actually need to be considered by the County. One such alternative would be to reduce the overall project size to fit all the functional requirements for the General Plan SM designation (i.e. density, building height limits, parking spaces, etc.) on a project-wide basis (without subdividing the land) while still building a Continuing Care Retirement Community (CCRC) that achieves all the project objectives. This could be called the General Plan-Sized CCRC Alternative. An evaluation of the impacts of this alternative is needed if the County is considering whether to change the General Plan.

Response 43.1: The commenter’s proposed “General Plan-Sized CCRC Alternative” is not feasible, as the project site’s current General Plan designation of SM (Single-Family Residential Medium Density) and zoning of A-2 (General Agricultural) does not allow for the proposed Continuing Care Retirement Community (CCRC) land use. The General Plan Amendment to Congregate Care/Senior Housing (CC) and rezone to a site-specific Planned Unit (P-1) District is required for the project to proceed. The CC land use designation is the only designation wherein a CCRC is permitted, and as shown in Table 3-5 (Consistency Between the General Plan and Zoning Ordinance) of the General Plan, the P-1 district is the only zoning district determined to be consistent with the CC designation.

Section 7.4.2.2 Existing General Plan Development Alternative of the Draft EIR evaluates a project alternative utilizing the current General Plan designation of SM. This alternative would allow for the construction of approximately 166 single-family homes; however, it would not meet the project’s objective of creating a CCRC and senior living community.

Comment 43.2: 2. The DEIR is inadequate because it does not evaluate real project alternatives that will actually need to be considered by the County. One such alternative would be to convert the land to an open-space park (Park Alternative) by attaching the site to Heather Farms Park. Access for hiking and equestrian activities would be provided via North San Carlos Drive. While this Park Alternative would not achieve the developer's project objectives, its implementation would be within the powers of the County and associated civic and government entities (e.g. the City of Walnut Creek). It would be environmentally superior to the "No Project Alternative" because it would be permanent rather than temporary. It therefore needs to be considered by the responsible agencies before certifying the EIR.

Response 43.2: Section 15126.6(a) of the CEQA Guidelines states "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives". The commenter's proposed "Park Alternative" would not meet the project's most basic objective of providing senior housing, as the entire project site would be dedicated to parkland. Thus, the Draft EIR did not find this a feasible alternative and was not included as part of the project alternatives identified in Section 7.0 Alternatives of the Draft EIR.

Comment 43.3: 3. The attempted consideration of the "Roadway Redesign" alternative in the DEIR is inadequate and incorrect, as shown by the following:

a. The identification of the alternative is inadequate without more description, including mapping or equivalent information delineating impacted areas. The tree impact map in Appendix E only extends far enough to include a fraction of the dozens of trees along the alternative route to Walnut Blvd. As a result, the evaluation of impact to trees is incomplete. The wetlands delineation map in Appendix E only extends to the site boundary and omits most of the area affected by the Roadway alternative. As a result, the wetlands and riparian habitat evaluations are incomplete.

Response 43.3: Section 15126.6(d) of the CEQA Guidelines states, "If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed." The Roadway Redesign Alternative qualitatively discusses impacts related to biological resources in order to provide preliminary determinations on potential environmental impacts, consistent with Section 15126.6(d) of the CEQA Guidelines. In addition, this alternative would still be required to comply with the County's Tree Ordinance and implement mitigation measures MM BIO-3.1 and MM BIO-3.2 (page 83-84) as identified in the Draft EIR.

Comment 43.4: If the Roadway Redesign Alternative description statement (page 216) that all buildings and internal access roads would be unchanged is true, visitors to the site would all be forced to drive up a 10% slope on a narrow road to reach the reception area. This would not meet the project objectives and is not a correct description of something this developer would do.

Response 43.4: The Roadway Redesign Alternative would improve and widen Seven Hills Ranch Road from Walnut Boulevard to the interior of the project site. The design and grading of the alternative entrance is unknown at this time, however, any final design would be reviewed by City of Walnut Creek and Contra Costa County staff for compliance with applicable roadway standards.

Comment 43.5: b. On page 216, the DEIR incorrectly states that the relocation of the facility entrance to Seven Hills Ranch Road would “altogether” avoid “jurisdictional perennial drainage and seasonal wetland habitat” and therefore “reduce impacts to riparian and wetland habitat and trees.” In truth, the Roadway Redesign alternative would trade damage to wetlands and riparian habitat along Kinross for damage to wetlands and riparian habitat along Homestead Creek, with questionable net benefit.

c. The necessary road length running to Walnut Blvd for the Roadway Redesign alternative entrance road appears to be at least five times the length of the roadway to Kinross (see Western Grading Plan, Civil Sheet C4.1). Recognizing that the route parallels the PD2 perennial drainage and crosses the Homestead Creek natural channel and riparian zone, the 50-foot-wide alternative roadway will impact at least five times more of the drainage-related biological resources than the amount it protects along Kinross.

Response 43.5: The Draft EIR identified the perennial drainage on the southern portion of the project site that ultimately runs parallel to Seven Hills Ranch Road (see Figure 3.4-1 of the Draft EIR). While riparian and wetland habitat were identified in the area where the Kinross Drive extension would occur, no additional riparian or wetland habitat was identified surrounding the perennial drainage as it moves southwest across the site. As shown in Figure 3.4-1 of the Draft EIR, approximately 0.08-acre of perennial drainage was identified on the project site, this is inclusive of the central drainage. The Roadway Redesign Alternative would only impact the southern perennial drainage (a portion of the entire 0.08-acre) and any additional drainage along Seven Hills Ranch Road. While the comment is correct that this alternative would impact the southern perennial drainage, the total acreage amount would be less than the proposed project, as there is no riparian or wetland habitat along the perennial drainage associated with the Roadway Redesign Alternative.

Comment 43.6: d. To properly implement the Roadway Redesign Alternative, the elevation of the CCRC facility entrance building would need to be lowered or the entrance road would need extensive fill to reduce the 10% slope shown on the grading plans (sheet C4. 1) for the route to Seven Hills Ranch Rd. This regrading may impact additional trees as well as reduce the area available for the stormwater bio-retention areas.

e. The off-site widening of Seven Hills Ranch Road required for the Roadway Redesign Alternative would lead to removal of about 10 oak trees that are not currently mapped or in the count of those affected by the project, including 4 with trunk diameters greater than 2 feet.

Response 43.6: Please refer to **Response 43.3:** above regarding level of detail required for alternatives.

Comment 43.7: f. Based on items 3.a to 3.e above, the conclusion (on pages xxi and 217 of the DEIR) that the Roadway Redesign alternative would reduce the biological resource impacts is unsupported and incorrect. While this may not be important in the context of a County decision to change the General Plan designation for the project site, a thorough understanding of alternatives to the Kinross entrance will eventually be needed by the City of Walnut Creek. Therefore, appropriate corrections should be made to improve the accuracy of the EIR description and evaluation for the Roadway alternative.

Response 43.7: Please refer to **Response 43.5:** above regarding biological impacts of the Roadway Redesign Alternative and **Response 43.3:** above regarding level of detail required for alternatives.

Comment 43.8: 4. The EIR needs to recognize the existence of Homestead Creek and evaluate possible impacts to the associated wetlands and riparian corridor. In Section 3.10.1.2 Existing Conditions, pg 134 of the DEIR states that “In the western portion of the project site, runoff drains to a natural channel that feeds to a large concrete inlet structure within FC District right of way that feeds into the Walnut Creek by way of a dual-box concrete culvert.” This “natural channel” is Homestead Creek, as named in various documents including the Lake and Streambed Alteration Agreement number 1600-2005-0097-3 executed in 2005 by the California Department of Fish and Game for a storm drain outfall needed for a subdivision project located off Kinross in the City of Walnut Creek (reference State Clearinghouse Number 2005059032). As stated in the August 30, 2021 NOP letter from the Department of Fish and Game, complete descriptions are required in the EIR for “Encroachments into riparian habitats, wetlands or other sensitive areas.” This includes changes to Homestead Creek.

Response 43.8: The referenced drainage is a small manmade ditch carrying storm water discharged from the end of Kinross Drive, flowing southwesterly through the southern portion of the project site along Seven Hills Road, and emptying into two 24-inch CMP culverts on the east (upstream) side of Homestead Road, just west of the project site. The drainage is shown in Draft EIR Appendix K (the Preliminary Hydrology and Water Quality Report), and identified in the USACE verified delineation map (Figure 3.4-2 of the Draft EIR) as being subject to jurisdictional control as a perennial drainage.

Comment 43.9: 5. On DEIR page 23 under 2.2.8 Drainage and Utility Improvements, the last sentence incorrectly states that drainage from Kinross will “discharge to an existing drainage channel on the north side of Seven Hills Ranch Road.” The existing off-site drainage channel along Seven Hills Ranch Road is on the south side of the road, not the north side. This should be corrected.

Response 43.9: See Section 5.0 Draft EIR Text Revisions for corrections to the drainage location.

Comment 43.10: 6. DEIR Page 24 states that the project will connect to an existing 8-inch sanitary sewer line in Seven Hills Ranch Road. This connection is to be made in a shallow, two-foot-deep manhole (designated SSMH 97-2 on drawing C5.0, Utility Plan) located immediately beside the natural channel of Homestead Creek. The EIR should recognize and evaluate the increased environmental risk related to possible overflow from this manhole. The EIR should also describe the

condition of the 84-inch corrugated metal pipe (CMP) culvert at this location, evaluate potential construction-related risks, and propose appropriate mitigation.

Response 43.10: The existing 8-inch sanitary sewer pipe located in Seven Hills Ranch Road would be utilized to carry limited flows from the western portion of the proposed project. This pipe has a relatively shallow depth as it crosses over an 84-inch culvert that conveys stormwater from a tributary to Walnut Creek under Seven Hills Ranch Road. The commenter raises concern that possible surcharge from this pipe could result in sewage overflow being conveyed into the creek.

In order to address this comment, the project civil engineers consulted with Central Contra Costa Sanitary District (CCCSD) staff and confirmed that the pipe in question (downstream of manhole M97) has adequate capacity for the estimated project flows, taking into consideration its flow line and both static and dynamic conditions based on District standards. Previously, CCCSD staff confirmed in an email dated 9/16/20 that the existing sewer system has adequate capacity. CCCSD staff were subsequently asked to run their model to confirm no specific surcharge issues at this location. In an e-mail dated 10/1/2021, CCCSD confirmed that both their dynamic model and static calculations showed that the demands on the sewer line would remain within the district's capacity threshold, even with the additional flows proposed.

Comment 43.11: 7. DEIR Page 70 incorrectly states that the drainage that runs along Seven Hills Ranch Road flows into Walnut Creek “through a storm drain.” This should say “through Homestead Creek.” The stretch of Homestead Creek between Seven Hills Ranch Road and the Walnut Creek channel is a “natural channel” seasonal wetlands and riparian zone that may be impacted by the project. This inaccurate page 70 passage and others like it in the DEIR (see page 22 in the H.T. Harvey report in Appendix E) convey a misleading characterization of Homestead Creek that prevents realistic consideration of impacts.

Response 43.11: Please refer to **Response 43.8:** above regarding the description of the drainage.

Comment 43.12: 8. Page 74, Table 3.4-2. Having personally seen a turtle in Homestead Creek that looked like a Western Pond Turtle, I have good reason to believe that it provides suitable habitat for this species. This table needs to be revised if the project site could possibly include the area needed to widen Seven Hills Ranch Road from the current entrance to Walnut Blvd.

Response 43.12: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 43.13: 9. On DEIR Page 81 under the Impact BIO-2 heading, the text needs to recognize the perennial wetlands and riparian habitat along Homestead Creek, particularly within 50 feet of Seven Hills Ranch Road. These need to be included in the applicable area for MM BIO-2.1 and MM BIO-2.2. On this page and on summary page x, it should state that the Riparian and Aquatic HMMP needs to include Homestead Creek near Seven Hills Ranch Road.

Response 43.13: Section 3.4 Biological Resources of the Draft EIR evaluated the proposed project as described in Section 2.0 Project Information and Description and identified mitigation measures to reduce any potential biological impacts. Figure 3.4-2 maps the perennial drainage (Homestead Creek) on the southern portion of the project site. Mitigation measures MM BIO-2.1 and MM BIO-2.2 cover the portions of the southern perennial drainage that would be directly impacted by construction of the project.

Comment 43.14: 10. On DEIR Page 82, the text incorrectly says a ditch conveys runoff “along Seven Hills Ranch Road into the concrete lined channel of Walnut Creek.” In fact, the drainage running along the south side of Seven Hills Ranch Road flows into the open natural channel of Homestead Creek on the south side of the road. Homestead Creek then flows north through an 84" culvert under the road and then through several hundred feet of natural channel wetlands and riparian habitat before joining Walnut Creek through an inlet and box culvert structure that runs under the maintenance access roadway along Walnut Creek.

Response 43.14: The Draft EIR accurately describes that runoff from Seven Hills Ranch Road is ultimately conveyed to the concrete lined channel of Walnut Creek. Please refer to Section 5.0 Draft EIR Text Revisions for clarification.

Comment 43.15: 11. The text on DEIR Page 84 (and on page 32 in the H.T. Harvey report in Appendix E) is incorrect in guessing that wildlife movement through the southwest corner of the site is “unlikely” because Walnut Creek is concrete-lined. Homestead Creek is a wildlife corridor that runs along property lines and through backyards from north of Seven Hills Ranch Road to Ygnacio Valley Road, between and roughly parallel to Homestead Ave and Walnut Blvd. It provides a route toward the unlined open channel of Walnut Creek that runs through downtown Walnut Creek. This small creek provides wildlife access parallel to the lined channel of Walnut Creek. The deer, coyotes, skunks, foxes, turkeys, geese, ducks, and raccoons that we see constantly moving along this corridor are wildlife even if they have not been awarded “special status.” Homestead Creek does not have vertical concrete walls. The DEIR needs to be corrected to recognize that if the proposed project is constructed as planned, there will be substantial wildlife movement originating in the central PD 1 drainage habitat and the bio-retention area along Seven Hills Ranch Road that will continue to access the Homestead Creek wildlife corridor. Only then can the EIR adequately evaluate any environmental effects related to the EVA entrance, widening of Seven Hills Ranch Road, connection to the 8-inch sanitary sewer, or other improvement near the aging 8-inch CMP culvert.

Response 43.15: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 43.16: 12. Page 86: This page needs to state that Homestead Creek would qualify as a “natural watercourse” as defined in the General Plan Conservation Element and associated County Code regulations. See also recommendation 3 on page 9 of the HT Harvey report in App E and the text on page 18. Homestead Creek is a natural channel and as such requires a 50-ft setback. This will affect any construction activities required for the sanitary sewer connection along Seven Hills Ranch Road and possibly the design of the widened "Roadway" alternative.

Response 43.16: This comment incorrectly refers to the H.T. Harvey Peer Review in Appendix E of the Draft EIR, as the peer review does not recommend that the southern perennial drainage (Homestead Creek) be considered a natural watercourse.

The fourth paragraph on page 9 of the H.T. Harvey Peer Review states “The 50 foot setback is not applicable to the drainage in the southern portion of the site, as this feature is a man-made ditch conveying storm water runoff and as such does not represent a natural watercourse. The intent of the Contra Costa County Creek setback requirement is to protect natural watercourses.”

The last paragraph on page 18 of the H.T. Harvey Peer Review states “Because the perennial drainage located along the southern portion of the project site is a narrow ditch constructed in uplands (i.e., not a re-alignment of a natural watercourse), mostly conveying surface runoff from surrounding development (i.e., not having a groundwater connection), and mostly lacking associated wetland or riparian habitat, this drainage should not be subject to the 50-foot creek setback requirement, in our opinion.”

Comment 43.17: 13. Page 134: In the first bullet paragraph under “Stormwater Drainage”, the “Natural Channel” should be clearly identified as Homestead Creek. This comment also applies on page 199.

Response 43.17: Please refer to **Response 43.8:** above regarding the description of the drainage.

Comment 43.18: 14. Page 181: The “Roadway Network” existing conditions summary needs to include North San Carlos, Seven Hills Ranch Road, Cherry, Walden, Walnut Blvd. and Homestead Ave.

Response 43.18: The Draft EIR only identified roadways that would provide main vehicular access to the project’s proposed entrance via an extension of Kinross Drive.

Comment 43.19: 15. Page 186 says the project “would not result in adequate emergency access.” Is this correct?

Response 43.19: The proposed project would not result in inadequate emergency access. Please refer to Section 5.0 Draft EIR Text Revisions for this correction.

Comment 43.20: 16. Page 187: The list of intersections evaluated for LOS needs to include Walnut Blvd at Ygnacio Valley, Homestead at Ygnacio Valley, Cherry at Treat Blvd, and Walden at Civic.

Response 43.20: Intersections evaluated in Section 3.17.3 Non-CEQA Effects were identified through coordination with Contra Costa County and the City of Walnut Creek. Intersections not evaluated as part of this Draft EIR are anticipated to not be adversely affected by project traffic.

Comment 43.21: The EIR should recognize that the Roadway Redesign alternative would increase traffic on Walnut Blvd. Non-emergency health center traffic would run a long route to reach John Muir Hospital unless the North San Carlos ambulance entrance were made available for routine use by residents driving personal cars.

Response 43.21: The alternatives identified in Section 7.0 Alternatives of the Draft EIR are included in order to avoid or substantially lessen any of the significant effects of the project. Traffic congestion, or level of service (LOS), is no longer considered a CEQA impact and, therefore, does not need to be considered in the alternatives analysis.

Comment 43.22: 17. Page 202 (and Page x); The “no impact” conclusion is incorrect because the riparian zone along Homestead Creek was not considered.

Response 43.22: Page 202 of the Draft EIR refers to utility impacts that are less than significant with mitigation incorporated regarding stormwater drainage and electricity, telecommunication, and natural gas facilities. Page x of the Draft EIR is part of the summary table describing biological mitigation measure MM BIO-3.1 and MM BIO-3.2. It is unclear what “no impact” the comment is referring to; therefore, no further response is required. Note also that impacts to riparian and wetland habitats, as evaluated in the Draft EIR under BIO-2 and summarized in the table on pages x-xi identify “Less than Significant Impacts with Mitigation Incorporated.” These conclusions are further supported by the Updated Biological Resources Report in Appendix B of this Final EIR.

Comment 43.23: 18. Page 207: A net increase of 78 residents is a 16 percent population increase for this project. The basic idea of cumulative impact assessment calls for assuming that the project effects are paralleled by similar effects in other projects, so the cumulative impact would be a 16 percent increase in the population for all future development in the County. This should be considered significant.

Response 43.23: The Draft EIR correctly evaluates the proposed project’s 78 resident increase in population compared to the existing population of 174,423 people in unincorporated Contra Costa County.⁴ The commenter’s suggestion to apply a 16 percent increase in population across all future projects would be speculative, as it is unknown at this time if future projects in Contra Costa County would be built consistent with the existing General Plan designation. If future projects in Contra Costa County do result in increases in planned population, such an impact would be analyzed as part of the CEQA review for those projects.

Comment 43.24: 19. Page 214: The DEIR makes an unsupported and incorrect conclusion that there will be no impacts from changing the site planning designation and violating the functional requirements for SM, including density and building height. It is more reasonable to anticipate that a

⁴ California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State 2011-2020 with 2010 Census Benchmark*. Accessed on July 13, 2021. Available at: <http://dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>.

CCRC about 25 percent smaller than the proposed project could achieve the developer's goals and still fit the building height, resident count, traffic, and biological impacts to be expected with the SM planning designation. The responsible County Planners and Supervisors need information to support a properly informed decision, so the EIR needs to evaluate the 'general plan-sized CCRC' alternative. If there are questions, please contact Christopher Cain at the above address. Thank you for your consideration.

Response 43.24: Please refer to **Response 43.1:** above regarding the reduced size alternative.

44. Martha Rosenberg (dated April 30, 2022)

Comment 44.1: I am a resident of Walnut Creek, Contra Costa County.

I request that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, removes 400 trees and paves over the 30 acres, completely destroying wildlife habitat and the natural environment that is so unique to Contra Costa County. This property is not zoned or designated for this intense development design. Please insist on a better plan more closely in conformance with its land use designation.

Response 44.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 44.2: In regard to the Spieker proposal: the trees of Seven Hills Ranch serve as home and migratory host for an abundance of bird species. The Ranch is located directly next to Heather Farm Park. The park is nationally recognized as a home and migration stopover for an abundance of bird species; so much so that it is a designated eBird 'hotspot'. The proposal for Seven Hills Ranch calls for the removal of 400 mature trees, including California Oaks. To allow such a massive removal of native trees and the resultant permanent impact it will have on avian life for the Ranch AND the surrounding area is simply unacceptable.

In addition, I ask the County to recognize that the proposal for Seven Hills Ranch does not allow for any wildlife corridors but is instead a walled-off, inaccessible compound. The Ranch is home and habitat to a profusion of animal life; it is where they live and/or travel through to find resources, such as food and water. It is part of a wildlife corridor that stretches from Mt. Diablo and down through Shell Ridge, eventually following along the Walnut Creek to reach the delta. The Spieker proposal for Seven Hills Ranch cuts off a critical habitat along this route. If you can imagine the routes to your grocery store being cut off, leaving you without the ability to reach a grocery store either by walking or driving from your home (and the inability to get grocery deliveries) - the loss of your food source – you can understand the deprivation and the consequences that await the animals that utilize Seven Hills Ranch should the Spieker proposal be allowed to proceed as planned.

Response 44.2: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 44.3: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively

demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of the Seven Hills Ranch.

The Draft EIR should be recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal.

Response 44.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

45. Sylvia and Bruce Benzler (dated May 2, 2022)

Comment 45.1: This letter is to express support for the building of Diablo Glen, a CCRC in Walnut Creek. We have lived in our home in Alamo since 1974.

We are now at the point in our life where we would like to downsize. We are not quite ready for Assisted Living and we do not want to move to Rossmoor because we believe that it was not designed very well for Senior living (too many stairs and different levels). We would like to downsize by moving to a Condo or Townhome like our friends who moved from a home in Hillsborough to a Condo in San Mateo. But quite frankly there are not enough choices in the Walnut Creek, Danville and Alamo area for that type of move, and we would like to remain relatively close to the community we have lived in for so many years.

When we heard of Diablo Glen, we were interested because it is not too far from Alamo/Danville and right in the heart of Walnut Creek which has been a “go to” City for us for years. We go to parks, the theater, movies, library and restaurants in Walnut Creek and feel at home there. We signed up and paid the \$1,000 fee to be put on the list of interested people because we are thinking that this is the closest we can get to the type of move we would like to make. Actually we are surprised that Walnut Creek has not focused on building more zero lot size one level home communities for Seniors or, alternatively, high rise Senior living condos.

In sum, it seems that Diablo Glen is needed for those of us who want to stay in the community and release our homes to younger families.

Thanks for listening.

Response 45.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

46. Anne and Bill White (dated May 2, 2022)

Comment 46.1: We are 46 year residents of Concord and are very interested in seeing the Diablo Glen project be approved. We love this area and want to stay here but we are getting to the age where we need to downsize and seek some housing that will match our needs going forward. We have lived in our same house on Lancashire Place in Ygnacio Valley area and raised our two daughters in area public schools. Diablo Glen is a project that would allow us to stay in our “hood” among friends and

relatives and have appropriate care available at any stage of our lives. Most of the people who are interested in this project live in this area already and moving there will make larger family homes like ours available to younger families. We hope you will study the environmental report and see that this development will have a much lower impact than building a large number of single family homes. Those will be made available anyway by the people who move there. We hope to be able to make Diablo Glen our new home in the future.

Response 46.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

47. Carolyn Sladnick (dated May 2, 2022)

Comment 47.1: I just wanted to let you know how important this development is to me. I currently own my home in Clayton, and as a retiree, want to stay ‘local’. I am extremely familiar with Walnut Creek, and my medical coverage is with John Muir. To be able to move to Diablo Glen in Walnut Creek is the answer to so many of my needs. I need the community support of that development, and will make it possible for me to shop and trade at all the same businesses.

Thank you for your consideration.

Response 47.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

48. Ken and Janine Lyons (dated May 2, 2022)

Comment 48.1: I am writing in support of the development of Diablo Glen. We have lived in Lafayette and Orinda since 1975, almost 50 years. In that time we have made many wonderful friends. A great number of these are interested in moving to Diablo Glen at some point. It would be wonderful to have a community like this that could service the elders of the community. I practiced in Lafayette and Pinole for 33 years. I have no intent in leaving especially since my children and grandchildren are also living in Contra Costa County. I hope you will look favorably upon this proposed community. It should be a wonderful addition to the community and have a low impact for our new neighbors.

Response 48.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

49. Peter and Sally Figdor (dated May 2, 2022)

Comment 49.1: We are writing to you in support of the Diablo Glen Senior Development. As residents of Contra Costa County, and myself born and raised here, we are well aware of the need for this type of senior living within our county. We can think of no better use for that section of the Heather Farms property. The location is perfect for access to doctors, the John Muir Hospital, an abundance of shopping in downtown Walnut Creek as well as restaurants and the Leischer Performing arts Center. As seniors, we would very much like to age in place in this type of facility. Thank you for your consideration.

Response 49.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

50. Michael Zarrella and Linda Ruggeri (dated May 2, 2022)

Comment 50.1: Although we are not Contra Costa County residents, we would like to be. My wife and I are looking at Continuing Care Residential Communities in the Bay Area. We have seen what the proposed Diablo Glen project has to offer, and as seniors we would benefit greatly. We have read the EIR report and believe this project will be a welcome addition to your community, with little, to no negative impact. The proposed retirement community includes plans to plant over 1,000 new trees. While it is true that trees (including many non-native and highly combustible eucalyptus trees) are being removed to facilitate the project's construction, the project was designed around 81 protected and preserved trees, including all of the major valley oaks.

Diablo Gen would give us the opportunity to downsize, provide us with high quality care, home maintenance, restaurants and fitness amenities. It will allow us to remain in the vibrant Bay Area we live in and that we love.

Please consider approving the plans for Diablo Glen.

Thank you for taking the time to read our email.

Response 50.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

51. Connie Adelson (dated May 2, 2022)

Comment 51.1: I am writing to encourage you to pass the new development of Diablo Glen in Walnut Creek. My husband and I currently live in Alamo and are 71 years old. We are considering moving there if the development goes forward. We want to downsize, and want to stay locally. We are tired of a big yard and maintaining are 3/4 of an acre. The idea of a continuous care community is ideal at our age. I believe a retirement community is the best use for this property, as it won't bring as much traffic to the area. Thank you for your consideration.

Response 51.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

52. Stanley Sue (dated May 2, 2022)

Comment 52.1: I am writing to express my sincere hope that the Diablo Glen senior community will be built. Having lived in Walnut Creek for 15 years, my wife and I moved to Rossmoor in 2010. While we are happy in Rossmoor, it does not provide the kind of health care options that senior citizens need--comprehensive and multi-level residential health care services for seniors. In fact, as far as I know, there is not a single such community in all of Walnut Creek. We sorely need such a community, given the rapidly growing elderly population.

I hope the County will take these points into consideration and approve of the Diablo Glen project.

Response 52.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

53. Katherine Gray (dated May 3, 2022)

Comment 53.1: Help I live in Lafayette. I am a California native and I am 83 and dream of living my last days at Diablo Glen. I am so sold on this Corporation I have had my deposit down three times at Stoneridge and I withdrew my chance in hope to stay in Contra Costa County. Please work with me so I can get in before it is too late. Thank you.

Response 53.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

54. Robert Ingham (dated May 3, 2022)

Comment 54.1: I would like to speak in favor of the Diablo Glen project.

I am a long-term resident of Contra Costa County. I was raised in Lafayette (Acalanes High School), went away to school and returned to work over 25 years at John Muir Medical Center as a cardiologist, Chief of Staff, member of the Board of Trustees of John Muir and as a Director of San Ramon Valley Fire Protection District. I then spent time working in the Caribbean and at the University of Washington before returning to Walnut Creek 7 years ago. I have a pretty good feel for the community over a long period of time.

My parents spent over 20 years at the end of their lives in a tiered-care, CCRC community in Carmel Valley (Carmel Valley Manor). One only need investigate the Monterey Peninsula and the reputation that Carmel Valley Manor enjoys in serving that community. From everything I have heard in various presentations, and, after investigating the CCRCs that Spieker Properties has developed, I would have every expectation that Diablo Glen will comport themselves in a fashion after Carmel Valley Manor. They will be a tremendous asset to the community.

Tiered-care, CCRC communities are difficult to find in the Bay Area and California in general. My wife and I have been investigating our “next chapter” for many years and can attest to the difficulty in finding quality venues for the “next chapter”, particularly in the Bay Area. Diablo Glen appears to fill that need for us in a quality fashion, in a quality community and in a quality county.

I would hope that Contra Costa County will see the clear and present need for such communities as Diablo Glen to serve their senior population.

Response 54.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

55. Angela Anastasion (dated May 3, 2022)

Comment 55.1: I am a depositor waiting for the potential opening of Diablo Glen. This project really speaks to me because I have no family other than my husband for whom I am the caregiver.

We have lived in the area for 49 years and love everything the area has to offer. We do not want to leave and make new friends and miss the restaurants, health care providers, and amenities that we are accustomed to. We have walked the pond and lake of Heather Farms for many years. It's a lovely area.

Since we have no extended family to take care of us in our later years, Diablo Glen offers the comprehensive health care that we might need. Once we move from our home in Alamo, we don't want to have to relocate again. Both of us were teachers in the area, and Diablo Glen offers the lifestyle that enables us to stay in the area that we love.

We are encouraged that the project is acting responsibly to protect the natural habitat that exists. Since it's already designated for development, a senior residence is an enhancement to the area with this comprehensive life plan.

I hope, under careful consideration, the county will expedite this plan and support it.

Response 55.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

56. Guy Guber (dated May 3, 2022)

Comment 56.1: Dear Sir, I am writing in support of the ER and construction of the Diablo Glen retirement community. as a potential resident of that community I am cognizant of the many benefits that come with living in a cc RC. The community will provide an opportunity to establish a strong social support network and to participate in activities which will optimize aging for all of its residence. Additionally the availability of a variety of levels of care will facilitate the process of "aging in place". coincidentally, I am also a psychologist who has worked with older adults primarily in skilled nursing facilities, for over a decade. and, I have consistently and frequently seen the devastating impact of an older adult being moved into a facility where they are no longer connected to their community, it is a terrible thing to see. And residing in a cc RC such as Diablo Glen will prevent this situation from occurring. accordingly I hope that the county will move forward in its approval of the Diablo Glen project.

Response 56.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

57. Janice Fassiotto (dated May 3, 2022)

Comment 57.1: I am contacting you regarding the Diablo Glen project.

We have lived in our home in Danville for almost 50 years. During this time we have enjoyed all that Walnut Creek has offered; wonderful restaurants, unique shops, Bancroft Garden, Lindsay Wildlife Museum and much more. Supporting The Ballet School and Leshner Center for the Arts has been an important part of our life, it has given us many opportunities for plays and attending our grandchildren's performances.

At this point in our lives we are in the process of making a decision to leave our home. We feel Diablo Glen is a good fit, especially since we will continue to live near family and continue to live in a community we love.

We would appreciate your support of the Diablo Glen community.

Response 57.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

58. Mike Ball (dated May 3, 2022)

Comment 58.1: My name is Mike Ball and I live at 1560 Pyrenees Pl, Walnut Creek, CA 94598. My Town-Home is part of the Heather Farms HomeOwners Association that borders the proposed project.

I would like you to know that I am in full approval of this project. We have lived in Walnut Creek for over thirty years and would like to continue living in the same area through-out our lifetimes. This project is a perfect solution for our needs.

I worked in Commercial Real Estate for 17 years and I am familiar with the Quality that Spiker will bring to the development. And if it is not developed as a Comprehensive Life Plan Community, I know IT WILL BE DEVELOPED. The next development may not be as pleasing or appealing.

I know that there is opposition from my HOA, but I am not one of them and hope that you will understand it is a normal part of the approval process and you will endorse the development.

Thank you for your consideration.

Response 58.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

59. Tom and Melva Hansen (dated May 3, 2022)

Comment 59.1: We write in support of Contra Costa County approving Diablo Glen retirement community.

We have been residents of Alamo for 39 years, and our lives are centered on Alamo and Walnut Creek. The prospect of a comprehensive life plan community being built in Walnut Creek and Contra Costa County excited us, and we placed a deposit to get on the waiting list for a unit at Diablo Glen as soon as we learned of its potential availability. Nothing like it exists in Walnut Creek or Contra Costa County.

In addition to working in Walnut Creek for the Pacific-12 Conference, I contributed this community by being an active member of Round Hill Country Club, including serving as its President. We hope to remain close to Round Hill when the time comes for us to sell our current home.

We are especially pleased that the County summarized its analysis of the Diablo Glen Environmental Impact Report by stating the project will not cause a significant impact on the environment. That is important to us. The Diablo Glen retirement community seems a perfect use for the beautiful space, as the Hale family intended with its sale of the property. It will be a wonderful addition to Walnut Creek and Contra Costa County.

Thank you for your consideration of our support for Diablo Glen.

Response 59.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

60. Marillyn Cole (dated May 3, 2022)

Comment 60.1: I am a deposit holder for Diablo Glen, and I fully support the Seven Hills Ranch development.

I have been a resident of Contra Costa County since 1978. Of those 44 years, I have lived in Walnut Creek for 36 years and Lafayette for eight. I feel deeply connected to this community, and I really want to remain in Walnut Creek.

Living in Diablo Glen would free me from home-maintenance, as well as provide me with long-term care in the same community should I ever need it in the future. As a widow with no children, remaining in my current house or moving to a 55+ community means that I risk having to navigate my own long-term care in a crisis. Diablo Glen is the perfect answer for someone like me!

My move to Diablo Glen would also benefit our community as well, as my house would become available to a young family in need of a four-bedroom house on a large lot.

Thank you for your consideration.

Response 60.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

61. Susan Nakashima (dated May 3, 2022)

Comment 61.1: This is to make you aware that I would like to see the new Diablo Glenn community approved. I have been residing in this area since 1992 and would love to know that, if I choose to, I can move to a continuing care community that is near my circle of friends and family as well as near all of the nature, commercial, cultural and medical offerings that have been a part of my life over the past three decades. This development is especially appealing to me due to the continuing care aspect.

Diablo Glenn will help fill the need for additional senior housing including long term care while at the same time not causing any significant impact on the environment and in addition will add 1,000 new trees, preserve protected trees and remove non-native and highly combustible trees. My understanding is that this property is already designated for development. My friends, family and I would appreciate your support in approval of this development.

Response 61.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

62. Denise Kalm (dated May 3, 2022)

Comment 62.1: I am a senior looking for a life-care community in the next few years. Imagine my excitement when I learned I might only need to move a few blocks to a dream facility that has all the amenities and safety I want. It would also free up my highly desirable Sunset Park townhouse for a young family wanting to move to Walnut Creek. Initially, we had been looking in FL and AZ; we didn't see a way we could afford to stay in CA. But Diablo Glen represents that happy solution for us. I have lived in Walnut Creek since the early '80's and bought my Sunset Park property in 1986, so you know I love the area. And I hate moving, but this last move would afford me the things I want: a large population of people my age to enjoy activities with, a place pretty much the size of our already downsized house, tons of things to do and an assurance that we will be protected and safe, no matter what happens to us in the future. My husband and I really believe this is what Walnut Creek needs to retain our seniors AND free up housing for young workers.

What else is there to like for the greater community? For families with seniors living here, they will be able to stay close and avail themselves of all the benefits of having nearby grandparents to enjoy. Seniors still spend money and have the time to enjoy life, generally closer rather than farther away. This benefits the tax base. And diversity includes diversity of age. Failure to have housing like this might scare many of us out of the area, and/or the state.

Please let this plan go forward. The site chosen is perfect for active seniors with access to golf and Heather Farms. We need this option in our town. Thank you.

Response 62.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

63. Sharon Weight (dated May 3, 2022)

Comment 63.1: I am writing in support of the new Diablo Glen Retirement Community. We are lifelong Bay Area residents who are eager to make the next move to a more supported lifestyle. There are so many things that make Diablo Glen the right move for us. We love Walnut Creek and all the amenities it offers including the cultural events, great shopping, and wonderful restaurants. We have an active lifestyle and the proximity to Heather Farms Park and the walking trails is a big plus. Another important component for us is access to the great medical care that Walnut Creek has in abundance.

Walnut Creek is such a central location for visits to San Francisco and other areas of interest. We would also be close to family while knowing that we would not be a burden to them as we age.

Diablo Glen will offer such helpful services which we look forward to never having to do again!! Home maintenance, fitness amenities, housecleaning services, meals that I don't have to cook! It will be like living on a cruise ship!

We were so happy to read that the EIP analysis shows that the project will not cause a significant effect on the environment. That is important to us. It is also important to note that as well as preserving 81 existing trees, the development will plant 1000 new trees.

We have looked and looked for senior communities that offer comprehensive housing, services, amenities, and future care options in one development. Diablo Glen offers all of that in a beautiful setting. We are excited about having the opportunity to move into a new community with others who will soon be our new friends and neighbors.

We hope that this community will be approved and built. I believe we will be a great asset to the community.

Response 63.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

64. Marty Campbell (dated May 3, 2022)

Comment 64.1: I am a 45 year resident of Walnut Creek with deep roots here. Although my husband and I lived abroad several times while he was alive, we kept our home in the Northgate area of Walnut Creek because we know and love this community. Our church home is here, my husband rests in the columbarium there, and I want to live out my remaining days in this community.

As a comprehensive care community, Diablo Glen offers me the perfect solution as I wish to age in place. For now, I walk 4 miles a day and live an active, happy life with many friends across the county. My two sons and families live in Ohio and Virginia, attractive to visit but combined with the fact that they too may at some point move, I cannot imagine moving to be closer to them.

In addition, living alone now I anticipate needing more care in my future and wish to free my sons from this obligation; instead, knowing I am within reach of excellent medical care and immediate assistance at a cost built into my residential costs at Diablo Glen. This peace of mind for me and for my children is extremely important to me.

The lovely grounds and proximity to all the retail outlets and walking trails in Walnut Creek make Diablo Glen an important asset to our county. I can't wait for this to be approved and built!

Response 64.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

65. Nancy Vasko (dated May 4, 2022)

Comment 65.1: I live in Walnut Creek and dream of a better use of this 30 acre parcel of property.

I request approval be denied for the Spieker proposal's invasive, HUGE overbuild construction project for Seven Hills Ranch.

Keep the density at SM Single Family Residential Medium Density (approximately 120 homes) as per the current General Plan Amendment.

Anything over this would be a BIG ASK. This development is asking for 351 homes AND a 100 bed commercial nursing home.

As a neighbor, I do not need to live next to a 100 bed COMMERCIAL 24- HOUR nursing home. That is why we have zoning laws.

Put the commercial nursing home over on Ygnacio Valley Road, not next to a residential neighborhood and a city park.

I do not want to listen to delivery trucks beep- beep- beeping as they back up to the dock.

I do not want to listen to the employees coming and going on their 24 hour shifts.

I do not want to hear the ambulances.

I do not want the lights blaring 24 hours from a commercial nursing home.

Give me 120 single family homes that roll up and go to sleep when I do.

Stick to the SM Single Family Residential Medium Density (approximately 120 homes) as per the current General Plan Amendment.

They want to take out 400 trees.

They want to flatten the hills....bye-bye to Seven Hills.
They want to pave over the 30 acres.

They want to build huge retaining walls.

They want to build on every possible acre.

They want to remove 6,000 dump trucks of dirt and drive it down our streets in Walnut Creek.

Can't we find a better way to develop this property?

Does it have to be such a BIG OVERBUILD? Do we need a cruise ship parked in the middle of a residential neighborhood?

The 4 year construction will be NOISY, DUSTY, horrible for air quality and terribly annoying for all the residential neighbors that surround the property.

Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very

nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short, and long term impacts from this type of destruction.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic, and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 65.1: Please refer to Master Response 6: Air Quality, Master Response 8: Noise and Vibration, and Master Response 9: Transportation above.

Aside from the portions of the comment addressed by the Master Responses mentioned above, this comment does not provide any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

66. Mike and Karen Ball (dated May 4, 2022)

Comment 66.1: My husband and I would like to voice our support for the proposed Diablo Glen community. We are currently 30+ year residents of Walnut Creek and of the adjacent Heather Farm community and are excited to see a new retirement community being proposed in our area. We currently are seriously considering purchasing in Diablo Glen when it becomes available as it would allow us to remain in our neighborhood close to friends and family, continue to enjoy the amenities of the surrounding Bay Area and perhaps most importantly maintain our current church affiliation. We especially appreciate the location of Diablo Glen which would allow us to continue to use our current medical providers, provide proximity to medical treatment if needed and being able to continue to enjoy Heather Farm park amenities. We are eagerly looking forward to seeing this project move forward.

Response 66.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

67. Virginia Horner (dated May 4, 2022)

Comment 67.1: I support the building of the new Diablo Glen community. I have lived in Walnut Creek and then Moraga since 1971. I taught at Ygnacio Valley High School and Diablo Valley college for a total of 33 years. I attend church in Lafayette and I use Kaiser Walnut Creek for my medical care.

I am looking for a place to “age in place”. Diablo Glen would be a good fit for me because there will be social activities, restaurants and opportunities to exercise right on the campus. I would be close to Kaiser and my many friends in the area.

Response 67.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

68. Les Polgar (dated May 4, 2022)

Comment 68.1: I write in support of the Spieker Senior Continuing Care project. As a Lafayette resident since moving here in 1995 to take a job in Walnut Creek, we have been happy and productive citizens of the area.

What interests me about the new Spieker community is that my wife and I plan to live there. So, I have to admit, my interest is selfish.

I think that there is benefit when those who have worked in an area do not go away for retirement. There is a continuity of awareness and commitment that is preserved.

For me, that commitment has -- and still does -- involve housing. As a Board member of Hope Solutions (formerly Contra Costa Interfaith Housing), I am aware of the growing need for housing for the homeless. I gained some earlier knowledge about this problem from my prior volunteer work as a Trustee of Mt. Diablo Unitarian Universalist Church of Walnut Creek. (My wife is a past President of the Congregation.)

But we have other housing needs, too -- for seniors looking for places to live that offer continuing care. Alas, Rossmoor does not. So I ask for your support of this Spieker project. Thank you.

Response 68.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

69. Anne Tanner (dated May 4, 2022)

Comment 69.1: My name is Anne Tanner and my name is on the waiting list for Diablo Glen. I would very much like to see this new community approved and built.

My family moved to Walnut Creek when I was in kindergarten. I attended local elementary and junior high in Walnut Creek. I attended Ygnacio Valley High School in Concord because North Gate High School had not been built.

During high school and college summer breaks, I worked for the City of Walnut Creek as a recreation leader at several different elementary schools.

During my college years, Walnut Creek continued to be home. That's seventeen years living in Walnut Creek so far!

For the past eight years to date I have been living in the family home in Walnut Creek which my family has lived in for fifty years next month. That adds up to twenty-five years in Walnut Creek.

My doctors are here, my place of worship is here, and I have been downsizing and looking for an independent living option in Walnut Creek, and I believe I have found it.

Response 69.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

70. Mike Lamborn (dated May 4, 2022)

Comment 70.1: Good morning Sean. I wanted to drop you a line in support of the Diablo Glen project. As with any new project there are always folks who have reasons for opposing and they are often more vocal than those in favor.

My wife & I have collectively been residents of Contra Costa County for 54 years, but having been raised here my wife goes back to her childhood. We have lived in our Orinda home for 42 years and are making our plans for the next 3-5 years which include moving to Diablo Glen. The developers of Diablo Glen have established similar facilities throughout California and have done so in an admirable fashion. The Diablo Glen facilities will far exceed similar retirement properties such as Rossmoor by providing Assisted Living, Memory Care, and full Nursing which is extremely attractive to folks in our age range.

I can't think of a better use for the undeveloped property slated to become Diablo Glen. It will greatly benefit folks like us, and frankly I believe that the existing neighbors of this property will be more satisfied with Diablo Glen than any of the other possible development options.

I am certain the you & CC County also see this as a positive project, but I wanted you to know you are not alone.

Response 70.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

71. Richard and Patricia McKinley (dated May 4, 2022)

Comment 71.1: We are residents of Lafayette and have owned homes here for over 40 years. We have been searching for senior living options for a few years and really liked the Stoneridge complex in Pleasanton but did not want to leave Contra Costa County. The same group has now planned a community in CC County that meets our needs. We wish that it existed now and we would move in right now. This location is perfect for this use and it is being very thoughtfully planned to accommodate the community as well as the residents. We have put a deposit reservation on a place in this community and are hoping we are able to move in as soon as it is completed. Our family has long standing roots in this area and we prefer to stay in CC County in our retirement. This is the only development that offers everything we want and will need for our health and security with a location that makes us feel at home. Please move this project through as soon as possible so that we can know that it will be built as quickly as possible.

Thank you for your serious consideration of the needs of many of your current residents.

Response 71.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

72. Sylvia and Tim Carter (dated May 4, 2022)

Comment 72.1: We hope you'll approve the Diablo Glen senior living community. My husband, Tim, and I as well as many of our friends, would like to downsize to Diablo Glen, where we could live in comfort with the security in knowing all our current and future needs would be met. We have lived all our 55 years of married life in Walnut Creek and Orinda and would happily sell if we could live in a place like Diablo Glen. There are no other options in our area that we would consider. We would not leave our friends and children to move to another area so we would live out our lives in our current home if we did not have a Diablo Glen option. We think this project would be a win for seniors and Contra Costa.

Thank you for the work you do for the county.

Response 72.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

73. Wallace and Winnie Woo (dated May 5, 2022)

Comment 73.1: My name is Wallace Woo, I am a past planning commissioner of contra costa country while living in pleasant hill before moving to Oakland in 1994

My wife, Winnie Woo was on the Human Relations Commission as well during those years

I retired from the US EPA after 41 years the Agency

One of my first responsibilities with the Agency was to review Environmental Impact statements (EIS) for projects in the New England States of the US EPA

Of course while on the Contra Costa Planning Commission. I reviewed many EIR's for project within the unincorporated areas of the county

I strongly support this unique retirement community because of the minimal detrimental environmental impacts it courses to the environment but more importantly, it provides the county with an urgently needed service as our population continues to live longer lives

I agree with the major points as spelled out in the well written EIR and commend the developers for not only doing a very good job with the EIR but more importantly, proposing this retirement community to help seniors with a wonderful environment in their golden years

We strongly urge the Planning Commission to approve this project

Response 73.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

74. Angela Moskow (dated May 5, 2022)

Comment 74.1: I am with the California Oaks program of California Wildlife Foundation. I am working on a comment letter about the proposed Spieker Senior Continuing Care Community Project and have a question that is not addressed in the DEIR for the project. The letter our organization submitted last summer included discussion of 914-4.002 - Protection of natural watercourses.

Environmental documentation for the project should analyze whether the project is subject to the protected watercourse provisions of the Subdivision Ordinance (914).⁵

914-4.006 - Vegetation removal.

Vegetation removal within a protected watercourse shall be restricted to the removal of downed trees, trees that are precariously undercut and trees that have the potential of creating a major obstruction within the floodway. Removal work shall be done in an environmentally-sensitive manner, so as to minimize damage to remaining trees, undergrowth and other riparian vegetation. Older trees requiring removal of dead or diseased limbs shall be trimmed under the supervision of a tree specialist. To the maximum extent possible, undergrowth shall be preserved. (Ord. 89-28).

I made a couple of calls this afternoon to determine if the perennial drainage in the center of the property is considered to be protected. I was referred to you. The section of code referenced in the link above states:

914-4.002 - Protection of natural watercourses. (Ords. 89-28, 78-5).

The advisory agency, in its sole discretion, may determine that a natural watercourse, or a substantial portion of a natural watercourse, in a scenic attraction or possesses significant riparian habitat, and may require that the watercourse or portion of the watercourse be protected in its natural state. The watercourse or portion required to be protected shall be referred to as a “protected watercourse.”

Page 138 of the DEIR speaks about 914, but not this provision. As you know, the deadline for comment letters is early next week, so I thank you in advance for an insights you can offer.

Response 74.1: The Draft EIR discusses Title 9, Division 914 (Sections 914-14.010, .012, .014) of the Contra Costa County Ordinance Code in Section 3.4.1.1 Regulatory Framework (pages 66-67). Consistency with the above code is discussed in Section 3.4.2.1 Project Impacts under Impact BIO-3 (pages 82-84). The Draft EIR identifies the central perennial drainage on the project site as a natural watercourse that would be protected by establishing a buffer that will at least equal, but possibly extend beyond the boundaries of the enhanced wetland area.

⁵ https://library.municode.com/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT9SU_DIV914DR_CH914-14RI-WSE

75. Cindy and Brad Barber (dated May 5, 2022)

Comment 75.1: We are multi-generational Californians and since graduating from Cal, we've been fortunate to call the East Bay home. We settled in Orinda in 1988 and it is where we raised our daughters who completed their K-12 schooling in Orinda.

Over the years, we have been involved in the community. Cindy co-chaired the campaign to build a new Orinda Library in 2000, volunteered in our local elementary and middle schools and for more than 20 years has been deeply involved in St. Stephen's Episcopal Church, currently serving as Altar Guild Director. Cindy is also very involved in several tennis leagues in the central Contra Costa area.

Brad has served on the City of Orinda's Gateway Taskforce, been a member of the Board of Directors the Moraga-Orinda Fire District and served as its President. He now serves on the City of Orinda's Supplemental Sales Tax Oversight Commission. In addition to his work as Assistant Vice Chancellor at UC Berkeley and Assistant Vice President at the UC Systemwide Office of the President, Brad currently serves on a number of advisory boards at UC Berkeley, including at the School of Law, the Goldman School of Public Policy, the Institute of Governmental Studies, the Bancroft Library, and other programs. He is also a Regent of the Samuel Merritt University in Oakland and like Cindy is deeply involved in our church. As you can see our roots are deep in the East Bay. We would like to stay here and stay involved as long as we can be useful.

We are now beginning to think seriously about making a move to a continuous care retirement community. Contra Costa County is our home and the center of our social, intellectual and philanthropic universe; we want very much to remain here. There are, however, no high quality continuous care retirement communities in the immediate area and few in the East Bay.

Diablo Glen would allow local senior citizens to downsize, live in a community that offers many amenities and stimulating experiences and a higher level of care if and when needed and remain in or very near their own cities. By remaining in the area, seniors will be able to maintain their relationships with existing family and friends and remain involved in the communities, activities, organizations and programs that are important to them. It would also encourage seniors to sell their homes to younger buyers with children.

Cindy lost both her parents very recently and has seen first hand the benefits of continuous care retirement communities. Such communities, among other things, lighten the load for adult children of seniors in need of a higher level of care. That is one of many benefits that makes it attractive to us. Such communities also provide an important service for seniors with no children nearby by providing a community that can step up and provide the level of care needed.

We urge the County to approve Diablo Glen so it can be built and provide a very necessary benefit for local Seniors.

Response 75.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

76. Michael and Diane Casey (dated May 5, 2022)

Comment 76.1: My wife and I have lived in Walnut Creek for eleven years. We would like to voice our support for the proposed Diablo Glen project. I have been a member of the Walnut Creek Elks Lodge for many years. We are in our late 70s and early 80s. As we age, we would like to remain in Walnut Creek, though we know that as age takes its toll that might not be possible. It is with great hope for us that the proposed Diablo Glen Continuing Care Community be approved and completed in the near future.

We have friends that moved to the Stoneridge Creek community in Pleasanton when it first opened. The proposed Diablo Glen community is being developed by the same company as Stoneridge. This Continuing Care Community is designed to enable seniors, like ourselves, to stay in one place, even if our needs change from independent living, to assisted living, and even to full nursing home care. Our friends have experienced all of these needs while living at Stoneridge. Everything worked exactly as promised. The peace of mind and convenience of not having to move, coupled with top quality amenities, again without having to find and move to different facilities, is perfect for senior citizens. We have visited our friends many times, and find them to be very happy, well cared for and enjoying their later years.

This proposed facility would allow us and many others to continue to live in Walnut Creek. As far as we know there is no other facility in Walnut Creek that offers ALL the amenities that Diablo Glen is offering. We believe that Diablo Glen is perfect for our needs. It will be an asset for Walnut Creek seniors to stay in Walnut Creek as their lives evolve and not be concerned about moving, changing doctors, hospitals and other professionals.

We truly hope this project is approved and built in a timely fashion.

Response 76.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

77. Ellen Leng (dated May 5, 2022)

Comment 77.1: I write to register my opposition to the project to develop Seven Hills Ranch. Mature landscapes such as these in our community provide shade, wildlife habitat, and promote better air quality. As we work towards a sustainable community, we need to preserve these spaces and recognize their value to us and future generations.

Response 77.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

78. Dan and Colleen Hirano (dated May 5, 2022)

Comment 78.1: My wife & I wish to add our support for the approval of building Diablo Glen. We have lived in Moraga for nearly 45 years, and wish to remain in this beautiful, convenient area in our senior years. With Diablo Glen we can not only remain where we love and among those we love, but will enjoy a quality senior Life Plan community built by a successful development team that will offer retirement options otherwise unavailable in Contra Costa County (CCC). All of this built with

sensitive planning, landscaping & design that will become an asset to CCC, Walnut Creek and beyond – no need to look further than Stoneridge Creek in Pleasanton for an example of this team’s work.

Without a Diablo Glen it is certain we will be forced to relocate to another California county for an appropriate senior community. Moving away from our friends and Family would become a hardship for us.

We encourage & support your final approval of Diablo Glen. Thank you.

Response 78.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

79. Norman and Christy Lundberg (dated May 5, 2022)

Comment 79.1: My wife and I are on the list to move to Diablo Glen when it is completed and want to do all that we can to see that this community is completed.

We were both raised in El Cerrito and have lived in Martinez for more than 50 years where she taught school and I practiced law until our retirement. Our son and grandchildren live in Lafayette, most of our friends also live locally and we want to stay close to them when we move. We are now 74, and it is time for us to move on a community like Diablo Glen that can provide us with a new and exciting community as well as the continuing care we anticipate we will need as we grow older. This is the perfect community for us and many of the members of our local community as evidenced by the large number of local residents on the waiting list. As I am sure you are aware, there is really nothing like Diablo Glen in the immediate area, a place close to the Leshner Theater where we have season tickets, the restaurants we love and the charities we support like the Contra Costa Humane Society, the John Muir Land Trust, and the Mount Diablo Audubon Society.

We are both committed environmentalists but we recognize that the parcel of land that will developed into Diablo Glen cannot be retained as open space given its zoning and the lack of interest on the part of the organizations that might be in a position to acquire and maintain this parcel as open space.

In speaking with our friends who live in the area there is widespread agreement that this community is exactly that, a project that meets a great unfilled need that will have far less of an impact on the environment and adjacent community than any other project that might be developed on this property.

Response 79.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

80. Guy Guber (dated May 6, 2022)

Comment 80.1: I am following up on an email I sent in support of the approval for/construction of Diablo Glen Retirement community and the associated EIR.

In my initial note I focused on the benefits of the “Aging in Place” model with respect to both individuals and the community, and how Diablo Glen, serving primarily Contra Costa County residents, so fulfills that model, with all of its many benefits for all concerned.

However, I would also like to highlight specific aspects of the EIR as I understand it. First, the County’s initial findings that the construction of Diablo Glen will have no environmental impact, which I understand is an uncommon conclusion. Second, while the proposed construction site is approved for a residential development of 160+ single family homes, the design of Diablo Glen will mitigate a very substantial increase in traffic and miles driven on that site.

Accordingly, for the above environmental reasons, as well as for my previously referenced perspective vis-à-vis many county residents, I hope the EIR will be accepted/approved and that the construction of Diablo Glen will be able to proceed.

Response 80.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

81. Chan Nguyen (dated May 6, 2022)

Comment 81.1: I am a resident in Walnut Creek. I request that approval be denied for the Spieker proposal’s invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Response 81.1: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 81.2: Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction. The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 81.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

82. John Nguyen (dated May 6, 2022)

Comment 82.1: I am resident of Walnut creek and I request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Response 82.1: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 82.2: Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 82.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

83. Jan Warren (dated May 7, 2022)

Comment 83.1: My husband and I have lived in Walnut Creek and Contra Costa County the past 37 years. We raised our family and are now retired.

Seven Hills Ranch is a unique oasis in the middle of a City of 70,000 people in Walnut Creek, an additional 25,000 in unincorporated areas interspersing Walnut Creek, and shoppers, visitors, and those enjoying the outdoor amenities of Walnut Creek upwards of 200,000 over the weekend. Much of the areas of Heather Farms are now used by swimmers, soccer and baseball players, people using

the dog park, or visiting the Heather Farms Gardens, the Skate Park, the tennis courts, the all-purpose playground and picnic area or the Community Center. While Heather Farms offers outdoor amenities, it is not the same thing as a natural habitat.

This development doesn't qualify for an infill designation. Infill lots are those spaces left after development and cities have already been developed. Infill lots mean you're sandwiched between other structures. The last thing you want to do is build something that towers over your neighbors. Yet that is exactly what this development proposes. The neighboring housing is 1-2 stories and the new build is 4 stories.

Response 83.1: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 83.2: 3.1.1.2 – Project Site – You can't consider Hwy 24 and 680 scenic highways when it's unsafe to take your eyes off the road to see the hills because you'll either run into someone, or someone will run into you. There is just too much traffic. The scenic impact is on the site being developed.

Response 83.2: State Route 24 and Interstate 680 are officially designated scenic highways according to the California Department of Transportation.⁶

Comment 83.3: Look at the architectural drawings of the site on p. 60 of the DEIR and then look at the pictures of the natural landscape as shown in the DEIR and explain how you think this development is anything less than significantly impacted. The natural vegetation, trees, and rolling hills will be removed for buildings, asphalt, and concrete. The walls surrounding the development will not foster any interaction with neighbors, or nature's ability to move through the area.

This violates Policy 9-12 of the CCC 2005-2020 General Plan. Restoration is not the same thing as conservation. This project is more akin to the cutting of mountain tops in West Virginia to extract coal and later throwing grass seed on the land, which violates Policy 9-14.

Policy 9-21 states "any new development shall be encouraged to generally conform to natural contours to avoid excessive grading." Currently there are no retaining walls on the site to be developed because this is the natural landscape of the property. After the hills are leveled and moved around retaining walls will be necessary to hold the loose soil in place. This is a significant impact on the land, not to mention the natural habitats and trees to be removed.

Response 83.3: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 83.4: I want to highlight that the citizens of Walnut Creek, which borders this property, passed a bond measure to tax themselves to preserve open space like this site. Shellridge open space is managed by Walnut Creek. Limeridge is part of Walnut Creek and Concord, and the Acalanes Ridge is part of Sugarloaf that straddles between W.C. and Lafayette. Walnut Creek maintains these

⁶ California Department of Transportation. "Scenic Highways." Accessed August 16, 2021.
<https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>.

open space sites and the Walnut Creek Open Space Foundation works to preserve corridors for natural habitat animal movement.

I encourage you to go to www.walnut-creek.org/departments/open-space/open-space-history. There would be no open space or ridgelines free of development without the public.

Response 83.4: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 83.5: I request that the Spieker proposal that is out of compliance with the current land use designation and requires an extreme and intense change in the number of structures and paving allowed on the 30-acre site not be allowed to move forward. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 83.5: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 83.6: The proposed project is massive and is more in tune with the density of downtown Walnut Creek. Once concrete and asphalt is laid and the construction buildings are constructed over a period of 4 years, the habitat will be lost forever. Please consider reducing the size of this project and saving places for other living creatures.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 83.6: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

84. Kayoko Korsgaard (dated May 7, 2022)

Comment 84.1: I request that the Spieker proposal that is out of compliance with the current land use designation and requires an extreme and intense change in the number of structures and paving allowed on the 30-acre site not be allowed to move forward. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 84.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 84.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 84.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

85. Kate Roberts (dated May 7, 2022)

Comment 85.1: I am a Contra Costa County resident who lives close to the build site and value the peace and tranquility of the current area, Heather Farm Park and the adjacent trails.

Marchbanks is a quiet residential road and it is inappropriate for this to become a through route for construction vehicles for many years, followed by increased traffic once the development is built.

I request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Response 85.1: Please refer to Master Response 6: Air Quality Fugitive Dust section and Master Response 9: Transportation Traffic Congestion section above.

Comment 85.2: Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 85.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

86. Murray Roberts (dated May 7, 2022)

Comment 86.1: I am a Contra Costa County resident strongly opposed to what will be a catastrophic proposed development of Seven Hills Ranch.

While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density.

Response 86.1: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 86.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 86.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

87. Ronald Cassano (dated May 7, 2022)

Comment 87.1: I request that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, takes out 400 trees, & paves over the 30-acres; completely destroying wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development design. Insist on a better plan for this property. A plan more closely in conformance with its land use designation.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

I am a resident of Contra Costa County and Walnut Creek.

Thank you for the opportunity to comment on this project.

Response 87.1: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

88. Eric Korsgaard (dated May 7, 2022)

Comment 88.1: I am a native Contra Costa County resident and am adamantly opposed to the current proposal to build on Seven Hills Ranch. Having lived in Contra Costa County for over 50 years, I have seen almost all of our wildlife habitat overtaken by development. As a child I enjoyed and benefited from the many fields and orchards that were interspersed between housing developments. Over the decades I have seen all but a precious few of these natural spaces disappear, replaced by buildings, traffic, pollution and noise. Seven Hills Ranch is the last island of natural habitat in the area that I know of. It deserves to be preserved as much as possible.

I request that the Spieker proposal that is out of compliance with the current land use designation and requires an extreme and intense change in the number of structures and paving allowed on the 30-acre site not be allowed to move forward. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 88.1: Please refer to Master Response 1: County General Plan Policy Consistency above. Aside from the comments regarding consistency with the County policies pertaining to hillside development, the remaining portions of the comment do not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 88.2: While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density.

Response 88.2: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 88.3: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 88.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

89. Karen Murphy (dated May 7, 2022)

Comment 89.1: I am writing to you in whole hearted support of the proposed Diablo Glen Community.

About My Husband and Myself:

We have lived in Contra Costa County since 1982, raised our sons here and now one of our sons is raising his family here. We have been very involved with our communities through the schools and civic affairs. We live in Lafayette and spend a lot of time in Walnut Creek shopping, dining, going to movies and most importantly, receiving medical care through our doctors and John Muir. We are 75 years old and, while in relatively good health are trying to make plans to downsize and for that time when we will need extra care.

Why Diablo Glen

When we received an invitation to learn more about Diablo Glen we immediately accepted. The idea of a continuous care community has long been attractive to us. Being part of a community with activities and extended services such as transportation, cleaning and meals is very attractive. Adding on continuous nursing care and memory care is ideal. If one of us is ill or needs extended care we will still be in the same community, able to easily visit, share meals and care for one another. Our sons will not be burdened with the decision of “what to do” for us. We will have the security of knowing where we will spend our last years, hopefully enjoying an active life with long time and new friends.

Moving to a community within our community is huge! We were surprised by how many people we knew when we went to the orientation. In Diablo Glen we will have long time friends along with new friends to meet. Our doctors are right there. We will be near our favorite shops and restaurants. Other similar communities, in Pleasanton, Napa, Marin, would take us away from all that and make it more difficult to see friends and family.

We were thrilled to hear this will be a Spieker community. The company has a terrific track record and decades of experience developing and running communities just like this throughout California. That means a lot to us.

Diablo Glen and Housing

The demand for a place like Diablo Glen is huge! I am a local realtor and have been amazed at the tremendous demand for Rossmoor (often 5 to 10 offers per unit) since the pandemic. Rossmoor is a wonderful community and a great option for seniors able to live independently. However, when additional care is needed, it is necessary to move elsewhere for nursing or memory care or hire an independent home health aide. Many seniors thinking of Rossmoor will end up preferring Diablo Glen for that reason.

Diablo Glen will be a tremendous asset for Contra Costans bringing much needed housing to seniors and opening up more housing for young families. This is truly a win/win.

Response 89.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

90. Paul Altamirano (dated May 8, 2022)

Comment 90.1: I am a Walnut Creek and Contra Costa County resident.

I am disheartened and baffled by the seemingly high likelihood of approval for the proposed Spieker project. The Seven Hills Ranch area is a majestic natural treasure, abundant with wildlife and natural beauty. The massive and extreme, proposed development for rich elderly people which levels the natural beauty of the area, devastates wildlife habitats, rips out majestic trees and wetlands is not consistent with California's respect for the environment and is not in accordance with the land use designation. In addition, the residents of the housing units will not even own the property they live in!

I request that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, takes out 400 trees, & paves over the 30-acres; completely destroying wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development design. Insist on a better plan for this property. A plan more closely in conformance with its land use designation.

Response 90.1: Please refer to Master Response 1: County General Plan Policy Consistency above. Aside from the comments regarding consistency with the County policies, the remaining portions of the comment do not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 90.2: I request that the Spieker proposal for Seven Hills Ranch not be granted validity by referring to it as "urban infill". Infill refers to the (a) filling in of small to medium lots between already existing development, (b) filling in with a project similar to its surroundings, and (c) building on lots which generally require little new infrastructure for development. Rarely, if ever, can you point to an infill project that is 30 acres in size and that requires the substantial infrastructure work that this project requires. In addition to SHRanch being an inappropriate site for massive "urban infill", the proposed alleged "infill" project is completely out of sync with its surroundings. The Seven Hills Ranch site is bordered by Heather Farm Park, a K-8 school, suburban residential neighborhoods consisting of one and two-story town homes along with detached single-family homes, the Walnut Creek (the creek), and by vacant parcels owned by the Hale family estate. The proposal would dwarf and loom over any of the surrounding land uses. This proposal is "overkill" not "infill".

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

As a Board of Supervisors, you have the obligation to do better.

Response 90.2: Please refer to Master Response 2: Project Non-Residential and Infill Designation above. This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

91. Grant and Suanne Inman (dated May 8, 2022)

Comment 91.1: In support of the Diablo Glen project:

My husband and I are ready to move to a new retirement community with less upkeep and responsibility. Many of our friends are also signed up to enjoy a more comfortable, all inclusive, life style included in Diablo Glen.

We have lived in Orinda since 1974. We are pleased to have the opportunity to stay close to our hometown and family. Our children and grandchildren also live in Orinda and Moraga.

Thank you for your consideration.

Response 91.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

92. Phillip Ho (dated May 8, 2022)

Comment 92.1: I am a resident of the City of Walnut Creek, and a licensed civil and traffic engineer. I live in the Heather Farms HOA, a residential community adjacent to the site. I have prepared written comments on the DEIR (Project Description, Transportation, Geotechnical, Public Services), and have provided them to GreenFire Law Attorney-At-Law representing Save Seven Hills Ranch. GreenFire Law will formally submit DEIR comments (including my comments) to Contra Costa County. Nevertheless, I would like to call your attention to the following significant areas of concern.

The Spieker proposes to flatten the western half of the site and recontour the eastern half of the site. The project will create an area equivalent to no less than twenty-seven (27) football fields (a football field is 48,000 square feet or 1.10 acres) to accommodate a multitude of high-density buildings, flatwork, internal streets, and other facilities, all surrounded by unsightly sky-high retaining walls up to 26 feet tall much like a County Jail. The Spieker land use is 100% commercial with massive structures in the middle of a City park, school, and quiet residential area. The project is highly incompatible and is totally out of character with surrounding land uses. The project is environmentally disastrous and permanently detrimental to our park, school, and community. The project is not residential per General Plan Land Use designation and contributes absolutely nothing to housing. The project is completely closed in and walled off on all sides, gated, guarded, and inaccessible to all land-based wildlife.

Make no mistake about it. The Spieker Development serves one purpose and one purpose only. If approved, the project will be tremendously profitable to the developer at the expense of everyone else. The District 4 County Supervisor appears to be in favor of the project. This is unfortunate because she apparently puts the developer's interest over the interest of the local community. I am afraid the impacted local community will be left holding the bag. This is unacceptable.

Response 92.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 92.2: The Draft EIR is a complete sham and a disgrace. The DEIR is sloppy and shady. The DEIR is saturated with errors, omissions, misinformation, distortion, and misrepresentation to hide project impacts and evade mitigation measures, and to mislead and confuse decision makers and the public. The DEIR lacks disclosure, clarity, and transparency. It is all smoke and mirrors. Its analyses are grossly deficient and are not supported by professional traffic engineering industry practices. Its findings are unsubstantiated and unfounded. The traffic consultant who prepared the traffic study appears to not have visited the site as demonstrated in Appendix P. The DEIR is required to document environmental evaluation, data, and findings. Instead, the DEIR documents speculations and opinions. The DEIR is grossly deficient and must be denied.

Response 92.2: This comment does not provide any specific examples of where the Draft EIR contains errors or unsubstantiated claims. The transportation assessment (see Appendix P of the Draft EIR) was prepared by Fehr & Peers and peer reviewed by Hexagon Transportation Consultants, both of which are professional traffic consultants with extensive experience in CEQA and Contra Costa County.

Comment 92.3: The project will create significant impacts including fume, dust, airborne pollutants, noise, lighting, air vibration, ground vibration, truck tracked dirt and debris, construction traffic, degradation of pavement, emergency access, and public safety. The DEIR should address and mitigate these impacts. Instead, the DEIR simply rubber stamps impacts as acceptable and less than significant.

Response 92.3: The Draft EIR discusses impacts related to fumes, dust, airborne pollutants, noise, lighting, air vibration, ground vibration, truck tracked dirt and debris, construction traffic, degradation of pavement, emergency access, and public safety throughout Section 3.0 Environmental Setting, Impacts, and Mitigation. In addition, the Draft EIR identifies multiple mitigation measures in order to reduce environmental impacts to a less than significant level. These mitigation measures are summarized on pages v-xx of the Draft EIR and are also identified in their respective parts of Section 3.0 Environmental Setting, Impacts, and Mitigation.

Comment 92.4: The DEIR is inadequate in assessing true environmental impacts to a virtually pristine and bucolic natural environment. The proposal will permanently remove all natural habitat, completely wipe out literally every living thing that ever exists on the 30-acre site, flattens it, and paves it over. Only one out of seven existing hills in the Seven Hills Ranch will remain. The proposal is unacceptable in its current form, and must be denied. The DEIR should be recirculated for a more serious, realistic, and authentic evaluation of the impacts of the Spieker proposal. I respectfully request that the County staff carefully evaluate the Spieker proposal and recommend denial of the General Plan Amendment request, and that the Board of Supervisors deny the Spieker project.

The Spieker proposal has negligible natural greenspace and has no accessible public walkways on a 30-acre site. A development plan or preservation plan should recognize the property's unique location right next to a very popular existing City park. Expect a plan that offers a public walkway up to the site's ridgeline, making available to the public the spectacular views of Mt. Diablo and the East

Bay Area hills. Such a walkway is already proposed in the City of Walnut Creek's Transportation Element of the General Plan 2025 and also in their City of Walnut Creek Bicycle Plan 2011 and the opportunity to provide this to the public - a walkway from the park to the city's creek - should not be ignored.

Response 92.4: Please refer to Master Response 1: County General Plan Policy Consistency above, specifically Measure 9-v. This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

93. Karen Altamirano (dated May 8, 2022)

Comment 93.1: I am a Walnut Creek and Contra Costa County resident. I just moved to beautiful Walnut Creek in December 2021 and am horrified that this planned development is even being considered for this beautiful property. I know it will negatively impact the local wildlife living there (which I witness every day), Heather Farms Park, the neighboring community, as well as the entire community of Walnut Creek. This is a HUGE project that the land is NOT currently zoned for. The average senior citizen will not even be able to afford living there, so don't think this plan helps the elderly. Please don't let corporate greed ruin the charm of Walnut Creek. Please seek an alternate use of this land that is line with the current zoning. Preserve the beautiful hills, trees and wildlife that make Walnut Creek the beautiful city that it is!

I request that the County consider alternative, preferable plans to the Spieker proposal for Seven Hills Ranch. While the consultant's DEIR report has said that the environmental impacts can be mitigated, we ask that you use common sense and consider that very nearly all of the natural environment currently at the site will be completely decimated. The proposal includes the removal of 400 trees, the leveling of all but one hill, and the nearly complete paving and building over of the site. To state that such impacts can be mitigated is nonsensical and certainly not sensible. We are asking for Sensible, not Supersized. A plan that truly respects the environment, doesn't require unenforceable and ineffective mitigation and recognizes the property's unique location next to the existing Heather Farm Park.

Response 93.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 93.2: While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors, and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density. I request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm

Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Response 93.2: Please refer to Master Response 6: Air Quality Fugitive Dust section and Master Response 9: Transportation Traffic Congestion section.

Comment 93.3: Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills, and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short- and long-term impacts from this type of destruction.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic, and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

As a Board of Supervisors, you have the obligation to do better.

Response 93.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

94. Ray and Barbara Breslau (dated May 8, 2022)

Comment 94.1: I am writing to urge you to approve the plans for Diablo Glen, the beautiful retirement community proposed for the Walnut Creek area.

My husband and I moved to Orinda from the East Coast twelve years ago to be closer to our children and grand children who live in the East Bay area. We are both heavily involved in the Contra Costa community. My husband volunteers with the fire department. I belong to the Orinda Women's Club. Several of my friends at the club are also interested in moving to Diablo Glen. The idea of being able to downsize into a new community with all possible levels of high quality health care, along with some of our existing friends and near to our children and grand children feels ideal.

It looks to us as if Diablo Glen has been thoughtfully planned to have minimal negative effect on the environment and maximum positive effect. First, we believe that a senior living community will create less automobile traffic than individual homes which we understand would be the alternative development for the property. Second, We appreciate that the plan is to preserve the mature valley oak trees that we love. Third, we love the location. We have a friend who lives in Stoneridge Creek. We like what we have seen of the facility there, but Pleasanton is too far for us and for our children who live primarily in Walnut Creek, Berkeley and El Cerrito.

Please, please, we urge you to approve the plans for Diablo Glen. We are ready to sell our lovely house in Orinda Woods to move to Diablo Glen as soon as it is built.

Response 94.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

95. Priscilla Couden (dated May 8, 2022)

Comment 95.1: I have been a Contra Costa County resident for 40 years. I am proud of the green areas and parks we enjoy, but I am appalled that the developer of this property adjoining Heather Farm Park proposes to remove existing hills and heritage trees to accomplish its goals. I am absolutely opposed to changing the General Plan for this project.

I therefore request that the Seven Hills Ranch be saved from this developer's proposal to build a massive walled compound that levels all but one hill, takes out 400 trees, and paves over 30 acres, completely destroying wildlife habitat and the natural environment. This property is not zoned or designated for this intense development design. Please insist on a better plan for this property and do not accede to the developer's request for an amendment to the General Plan.

The Draft EIR recently released is inadequate in assessing the true environmental impacts to a pristine natural environment by a proposal which effectively demolishes every living thing on the 30-acre property and paves over and flattens all but one hill of the Seven Hills Ranch. The Draft EIR should be recirculated for further evaluation of the impacts of the Spieker proposal. Also, as already stated, I request that the County absolutely deny the General Plan Amendment request included in the Spieker proposal for the Seven Hills Ranch property.

Response 95.1: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

96. Bob and Carleen Carns (dated May 8, 2022)

Comment 96.1: We write to you to voice our support of the Diablo Glen project and to encourage approval of the EIR for this project. We have lived in the Danville/Alamo area for 45 years. We are ready to downsize our home and move to a community for retired people that offers continuing care.

Diablo Glen is the answer to our search. It will allow us to stay in a community we know well, stay close to our friends and health care providers and remain active in our church activities. After searching communities in San Jose and out towards the delta, we were pleased to find that a community has been proposed for Walnut Creek. We like the scale of Diablo Glen, big enough to make many new friends, but not so large as to feel like it's own city. It will provide us an opportunity to participate in activities with our new neighbors and relieve us of many of the duties of homeownership that are getting harder for us to manage. We especially like the idea of getting help when we need it that a continuing care community can offer.

We are pleased to see that Diablo Glen will provide senior housing that is so needed in Walnut Creek and Contra Costa County. We look forward to continuing to enjoy all that Walnut Creek has to offer

in terms of theater, dining and shopping. We are also pleased that Diablo Glen is an infill project rather than something being built out at the edges of the county.

We are excited to make Diablo Glen our new home and encourage you to approve the EIR for this project.

Response 96.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

97. Michael Barbee (dated May 8, 2022)

Comment 97.1: I am writing today in support of the Spieker Community project. I want to provide a bit of our family background, and the reasons why my wife and I support the project.

My wife was born and raised on Springbrook Road in Walnut Creek. I moved with my parents to the Livorna Estates subdivision in Walnut Creek when I was entering high school. After college, my wife worked for a real estate management firm in Lafayette, and a construction firm in Concord. I worked for two civil engineering firms in Walnut Creek at the start of my career. Ultimately, with two partners, I founded a civil engineering firm in 1989 with our office located in Bishop Ranch, San Ramon. Though my partners and I have all retired, the firm is still thriving and has designed and processed many projects in Contra Costa County.

Now, my wife and I are at the stage where we are considering retirement communities in which to live. We have considered Rossmoor, but we are uncomfortable because the vast majority of housing options in Rossmoor are constructed as multiple level living units. We desire a single level home for mobility and safety reasons. All residential units of the Spieker Community will be single level.

In addition, the main draw for us is the assisted living / memory care facility that will be located right on campus. To give you some background, both of our mothers needed to move to an assisted living facility prior to passing away. No assisted living facilities were located within 5 miles of their homes in which they had lived for decades. Our fathers, at an advanced age, needed to drive on I-680 to go visit their wives. Needless to say, this was a nerve wracking experience.

It is my understanding that the piece of property on which the Spieker Community will be built is already zoned as medium density residential; it is not considered Open Space. My wife and I still drive, but nowhere near as much as we used to with commutes, school drop off / pick up, youth sports, etc. In addition, the Spieker Community is going to provide a shuttle service, which we would utilize, to various points in Walnut Creek, such as Broadway Plaza, BART, the Leshner Theater, etc. The Spieker Community should have substantially less traffic impact on the neighboring community than a traditional medium density residential community.

For all of these reasons, we are looking forward to being a part of the Spieker Community when it is open for new residents.

If you need further information, please do not hesitate to contact me.

Response 97.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

98. Mark Jennings (dated May 9, 2022)

Comment 98.1: I have had the chance to review the biological section and available documents regarding the DEIR for the Spieker Senior Continuing Care Community Project. Based on my 40 years of professional experience with special status amphibians and reptiles, I find the DEIR to be deficient with regards to the potential for the presence of certain listed species, such as the California red-legged frog (*Rana draytonii*). My findings are based on having conducted literally hundreds of protocol California red-legged frog habitat assessments and surveys in the Bay Area (including locations in Walnut Creek, Concord, Danville, and Alamo) for various development projects, as well as my extensive experience in consulting with State and Federal Agencies regarding this species, California tiger salamanders (*Ambystoma californiense*), and western pond turtles (*Actinemys marmorata*).

For the record, I have also worked for H. T. Harvey and Associates, Inc., (as an employee back in the 1990s) and Olberding Environmental, Inc., on projects dealing with special status amphibian and reptile species (including surveys for California red-legged frogs, California tiger salamanders, and western pond turtles).

I find that the DEIR, as well as the background reports by LSA, Olberding Environmental, Inc., and H. T. Harvey and Associates, Inc., provide only a basic review of the potential for occurrence of California red-legged frogs, California tiger salamanders, and western pond turtles within the project site area and the surrounding vicinity of Walnut Creek. As acknowledged in the LSA report, California tiger salamanders have been reported from the site based on an old occurrence in the 1950s and California red-legged frogs are known to occur in the surrounding area. The perennial stream in the center of the project site includes areas of ponded water and freshwater marsh (fed by perennial springs), that provides potential habitat for both of these species, as well as western pond turtles. Additionally, other suitable habitats remain in the adjacent areas of Heather Farm Park and the Contra Costa Water District storage pond property, and in tributary drainages to Walnut Creek. While the surrounding areas have been developed with residential subdivisions over the past several decades, the 30-acre project site has remained relatively undisturbed and still contains natural habitat that could support these species, as does adjacent areas of natural habitat that have no physical barriers to dispersal.

There is no information in any of the background reports or DEIR that provides the required baseline documentation to reach the conclusion that these species are now absent from the project site. Such documentation would include appropriate habitat assessments, field assessments, and protocol surveys (such as for California red-legged frogs). I've been involved with many past development projects where agencies have required protocol California red-legged frog surveys at urban sites such as this at locations in Walnut Creek, Concord, Pleasant Hill, Alamo, Danville, Pacheco, and Orinda, despite being mostly surrounded by developments.

Such detailed surveys must be conducted in accordance with agency protocols to confirm their presence or absence on site. This is particularly important as there is a new locality record for the California red-legged frog on Shell Ridge (about 3 miles SE of the project site) that was recently

submitted to the California Natural Diversity Data Base, and I have observed western pond turtles at adjacent Heather Farm Park. There are sufficient wildlife corridors to allow for frogs and turtles to move between aquatic habitats on Heather Farm Park to the aquatic habitats on the project site (and vice versa).

I find some of the statements in the LSA report which they used to support their claim of the absence of suitable habitat for special status species to be factually misleading or incorrect. For example, under California tiger salamander, they state “no small mammal burrows were observed in the surrounding grasslands.” The H. T. Harvey and Associates, Inc., report noted that they found small mammal burrows on site. Although they focused only on burrows for California ground squirrels (*Spermophilus beecheyi*), the presence of Botta Pocket gopher (*Thomomys bottae*) on site is certain given their abundant presence in the vicinity of Walnut Creek, including urban areas. California tiger salamanders are known utilize not only the small mammal burrows of California ground squirrels for terrestrial habitat, they also utilize the small mammal burrows of Botta pocket gophers--especially in areas where the former are not present (such as at Jepson Prairie in Solano County, California).

Another example in the LSA report is for western pond turtles. They state that “the wetland drainage on site does not provide perennial open water utilized by this species.” Western pond turtles are known to make extensive movements overland to utilize a wide variety of aquatic and terrestrial habitats. These include intermittent ponds, intermittent and perennial streams, and areas of duff away from aquatic habitats. The perennial stream area on the project site cannot simply be dismissed out of hand as unsuitable aquatic habitat for this species.

Based on my review of the available documents and the DEIR, it is apparent that most efforts were spent on this project dealing with special status plant species rather than special status vertebrate species such as special status amphibians and reptiles. As mentioned above, detailed surveys for California red-legged frogs, California tiger salamanders, and western pond turtles have been required by agencies on similar projects in the Walnut Creek area and they must be conducted on the Spieker Senior Continuing Care Community Project site in order to confirm their presence or absence here. This information is critical and would have a substantial effect on the feasibility of the proposed project if occurrences of any of these species were found to be present on site.

Thank you for the opportunity to provide my comments to this important project.

Response 98.1: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

99. Laurence McEwen (dated May 9, 2022)

Comment 99.1: The following constitutes my comments on the County’s Draft EIR for the Spieker Senior Continuing Care Retirement Project on the site of the Seven Hills Ranch in Walnut Creek. My wife and I have been residents of this community for 33 years.

I suggest that this proposal is not a valid “urban infill” as it is not filling in small to medium lots among existing development, is not filling in with a project consistent with its surroundings, or building on lots which generally require little new infrastructure for development. A development of this size will require substantial infrastructure work and is completely out of sync with its

surroundings, namely Heather Farm Park, a K-8 school, suburban and residential neighborhoods consisting of one and two-story town homes along with detached single-family homes consistent with the existing General Plan which the developer proposes to change.

I request that approval be denied for the Spieker proposal's invasive, lengthy, out-of-proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result will be a development completely incongruous with its surroundings. The construction will release massive dust and particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch.

Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 99.1: Please refer to Master Response 1: County General Plan Policy Consistency, Master Response 2: Project Non-Residential and Infill Designation, and Master Response 6: Air Quality Fugitive Dust section above.

Comment 99.2: While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is unrealistic to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density.

Response 99.2: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 99.3: I therefore request that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, destroys 400 trees, and paves over the 30- acres, completely destroying wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development design. Insist on a better plan for this property. A plan more closely in conformance with its land use designation. The Draft EIR should be recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. Finally, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 99.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

100. Phillip Sturiale (dated May 9, 2022)

Comment 100.1: I have been a resident of Contra Costa County since the 1980's. My wife and I raised our daughter in Contra Costa County where she attended school from kindergarten through getting her MA from St Mary's College. I would like nothing more than to be able to age in a community like Diablo Glenn, and to do it in Contra Costa County. In that way, I can keep the friends I have, and make new friends at the same time. In comparing Contra Costa County with other areas in the state, as well as other states, we do not have enough of communities like Diablo Glenn. Consider giving the approval for Diablo Glenn in the very near future.

Response 100.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

101. Terryann Sturiale (dated May 9, 2022)

Comment 101.1: Please note that I am in favor of the retirement community that Diablo Glen is planning for the Seven Hills area in Walnut Creek. I have been a resident of Contra Costa County since 1985. I am a retired teacher, having taught in the Walnut Creek School District for 25 years. I have been aware of the CCRC type of living since my brother moved into Eagles Landing, Potomac Falls, VA. I was sad we had nothing to compare with Eagles Landing, so I could stay in my neighborhood while receiving a high quality of care as I age. Diablo Glenn affords me this opportunity. I would think that at a time when so many retirees are leaving the state, that it is in the best interest to establish, within our county, a community to allow retirees to stay in the area with the amenities of a CCRC. It will benefit the entire county as you can see when you read the Environmental Impact Report. Please consider approving Diablo Glenn as soon as possible. I am not getting any younger!

Response 101.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

102. Graham Goodenough (dated May 9, 2022)

Comment 102.1: I am a Contra Costa County resident and live and drive daily in the area and I have major concerns about adding more capacity in to an already congested area. While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density.

Response 102.1: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 102.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 102.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

103. Lynn and Tom Trowbridge (dated May 9, 2022)

Comment 103.1: My husband and I wish to support the effort to bring Diablo Glen to Contra Costa County. We have lived in Orinda for 46 years and are deeply rooted here. We have both served in a number of volunteer rolls over the years and wish to continue that both in Orinda and in CCCounty. Tom was Orinda's Citizen of the Year in 2020.

We are, however, both in our early 80's and while still active would like to downsize and simplify living and at the same time, prepare for the years ahead in a place like Diablo Glen. We think that Diablo Glen will offer an arrangement for us to do that.

We agree that the location chosen will fit into the community nicely with less environmental impact than other sorts of development. At the same time Diablo Glen will fill a real need for older residents of CCC who want to stay in the area near family, friends, and community connections built up over many years.

Thank you for taking into account the voices of potential residents of Diablo Glen who are currently long time residents of Contra Costa County.

Response 103.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

104. Alan Bade (dated May 9, 2022)

Comment 104.1: I'd like to comment on the DEIR for the Spieker Senior Care project. The County File numbers are; (County File Numbers CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038).

The DEIR does not adequately recognize the project's proximity to an important avian oasis where at least 181 species of birds have been identified (<https://ebird.org/hotspot/L373922>). The general public does not have access to the project site to observe bird life. But the two properties are linked as habitat, so many of the species observed at Heather Farm Park undoubtedly also use the project site. Here is a bar chart for Heather Farm Park's observations:

<https://ebird.org/barchart?byr=1995&eyr=2022&bmo=1&emo=12&r=L373922>.

The loss of the project site will have significant impacts on birds that have not been addressed in the DEIR, as the cumulative habitat value of the project site plus Heather Farm Park is greater than the separate components. The project site's avian and wildlife impacts should be studied in this context in the EIR. There is a significant reliable water source at Heather Farm Park's natural pond, which augments the project site's habitat value. Many species of birds use the grasslands, wetlands, and hundreds of trees on the project's property.

The removal of 353 protected trees will have a large impact on migratory and nesting birds. Many of these are mature native oaks that are particularly valuable to birds. The project site should be surveyed in all seasons, but especially in nesting and migration seasons, by a qualified biologist with expertise in ornithology. The 2-1/2-hour survey mentioned in the DEIR to assess the property is inadequate to properly understand the avian impacts.

Response 104.1: Please refer to Master Response 7: Biological Resources Existing Conditions and Wildlife Movement Corridors sections above.

Comment 104.2: The NOP Comments from the California Dept of Fish and Wildlife specifically mentioned that impacts on White-tailed Kites should be evaluated. No evaluation of White-tailed Kite was included in the DEIR. There are 47 individual sightings of White-tailed Kites listed on the Cornell Lab of Ornithology's eBird website (<https://ebird.org/about>) immediately adjacent to the project site, between 2014 and the present. These were primarily at Heather Farm Park (26 observations: <https://ebird.org/species/whtkit/L373922> and <https://ebird.org/barchart?byr=2010&eyr=2022&bmo=1&emo=12&r=L373922&spp=whtkit>), but also many from nearby neighborhoods. Here is a recent sighting: <https://ebird.org/checklist/S108016035>.

Response 104.2: Table 3.4-2 of the Draft EIR discloses that White-tailed kite habitat is present on the project site. Impacts to White-tailed kites are discussed in Section 3.4.2.1 Project Impacts under Impact BIO-1 (pages 79-80). The Draft EIR concluded that with implementation of mitigation measures MM BIO-1.3 and MM BIO-1.4, impacts to White-tailed kites and other nesting birds would be reduced to a less than significant level.

Comment 104.3: The DEIR acknowledges that a rare wetland exists on the property with seasonal cattails and bullrushes. As these are set in the center of 30 acres of grasslands and near a reliable water source, the DEIR should examine whether these wetlands may be appropriate habitat for occasional Tricolored blackbird nesting or foraging, even if this is a rare occurrence. Tricolored Blackbirds are a species of CA special concern.

Response 104.3: There is no suitable nesting habitat (e.g., extensive emergent vegetation) on the project site that would attract Tricolored blackbirds. While it is possible that nonbreeders may occasionally forage on the site, there is nothing about the project site that would be particularly attractive to the species. Thus, the project would not have any substantive impact regarding Tricolored blackbirds or their populations and were not included in the Draft EIR analysis.

Comment 104.4: A significant opportunity would be lost if this project went forward as designed. The County Flood Control District's 50-year plan provides guidance on how we can restore habitat in our creeks while replacing outdated infrastructure. This project as designed is a step in the wrong direction. The project should have studied whether the channelized section of Walnut Creek could be restored to a more natural condition along the bank adjacent to the site. At the very least, a public trail should be added along Walnut Creek and habitat be improved. The opportunity to add public access is rare and should not be missed. Any restored section along Walnut Creek should be connected to public access trails along the wetlands and riparian areas on the property.

Thank you for the opportunity to comment.

Response 104.4: Please refer to Master Response 4: FC District 50 Year Plan Consistency above.

105. Lester Tong (dated May 9, 2022)

Comment 105.1: I am a Contra Costa County resident in Walnut Creek that resides adjacent to the proposed Seven Hills Development for senior assisted-living units. I am providing a few comments regarding the subject above for your consideration.

Housing/Residential: Has the developer clearly and adequately framed the proposal as being allocated to the housing/residential element of the General Plan or not? The current proposal for Seven Hills Ranch does not appear to fulfill defined housing quotas by the General Plan. The developer has specifically described its proposal as not categorized as residential. Thus, the developer claims there is no requirement to fulfill County residential building requirements, which mandate that all housing have a component to include a certain percentage of open space to the development's footprint. If the developer's claims are indeed true, the County may not count this proposal as fulfilling its residential quotas. Either the development is classified as being residential and included in housing quotas and therefore must fulfill the above mentioned housing mandates or they are not residential and must not be counted as fulfilling housing quotas. If the proposed development does not meet the housing element allocations for Walnut Creek or the County, then the developer needs to evaluate other potential alternative locations throughout the County that may be viable with less adverse and/or more beneficial impacts, and should be included in the DEIR alternatives analyses. It should be noted that depending on how the project is framed – housing/not housing – will dictate how the EIR will formulate and evaluate alternatives to the proposed development in the County. Decision-makers rely on planning staff to ensure that the DEIR appropriately and clearly frames the proposed development. For example: What is the “without” project condition? Not fulfilling the housing allocation? Housing allocation may not apply. If housing allocations do apply to this proposed development, then there are additional land use requirements that must be in compliance where the developer wants to avoid. Not developing a 450-unit senior housing facility at Seven Hills specifically? Building a lesser scale development is a possibility. Not generating City/County revenue? This development could be developed elsewhere in the County with likely more beneficial effects with similar revenue.

Response 105.1: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

Comment 105.2: Safety and Public Services (including emergency services): Presumably, this living facility requires a large number of residents in multi-story housing paying costly entry and monthly fees to support the developer's model without providing the "true" costs not only to its future residents but also to the City and County. Being a senior citizen, I do not oppose providing senior assisted living facilities in our community in an appropriate location and if it is developed in compliance with the basic requirements to protect and enhance neighborhoods and communities, to protect the landscape and to respect a property's surrounding land uses, such as parks and suburban homes. The Sequoia Viamonte facility appears to be a good example of such a reasonable development in a reasonable location. Totalling 200 units, the facility fits into its location. The sequestered Seven Hills property requires significant planning for its broad range of community impacts from construction and high resident use of limited access, traffic controls, lengthy construction and nuisance from construction, water resources to mitigate construction impacts, etc. There will be an increased demand for public services, especially emergency services that may be necessary during catastrophic events that the City and County must prepare budgetary plans to address.

Response 105.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 105.3: Adverse Effects. The Draft EIR recently released is likely lacking in assessing the true environmental impacts to the natural and surrounding environs and community. This proposal effectively changes the existing landscape of the 30-acre property, and levels all but a single hill of the Seven Hills Ranch – this remaining single hill speaks volumes as to the scope of this project in context to the neighborhood. The proposed height of the buildings appears to maximize the structure for its proposed number of units. Has a minimal height been evaluated to lessen the elimination of long-held views of neighboring homes? If not, why? Transparency in evaluations/assessments/considerations would be helpful to understand the basis for decision-making and could provide evidence that appropriate work was accomplished or not.

Response 105.3: Please refer to Master Response 5: Aesthetics above.

Comment 105.4: Re-circulation of the Draft EIR. The DEIR should be re-circulated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal to include the potential for complying with additional requirements that may arise from any revisions to the Housing and Safety components of the General Plan currently under review of which there are several very important considerations including climate change, disaster planning, and alternative locations in the County where there are just as viable or more viable needs, including the better distribution of County-wide services pertinent to emergency planning for catastrophic events. There are pros and cons for centralizing emergency services. One of the pros may be short-term economics. However, a significant negative effect of centralizing emergency services is a single catastrophic event that eliminates or restricts such services from performing widespread assistance. If the City or County has foresight and thoughtful planning, the needs can be distributed appropriately throughout the County within a reasonable budget. This concern for emergency services is emphasized because there are already up to 50 senior facilities of varying capacities throughout Walnut Creek. What is the current threshold for providing emergency services in a disaster to these existing facilities? We as a community have already experienced what triage looks like during the early stages of covid-19. It is only reasonable to prepare for the possibility for future events. The DEIR should address the impacts

on all aspects of emergency services and the potential burden on nearby health care facilities in context to the number of existing senior care facilities.

Response 105.4: The Draft EIR evaluates impacts to emergency public services (fire and police services) in Section 3.15 Public Services under Impact PS-1 and Impact PS-2 (pages 172-173). The Draft EIR also evaluates whether the project would interfere with an adopted emergency response plan in Section 3.9.2.1 under Impact HAZ-6 (page 129). CEQA does not require EIRs to evaluate project impacts based on plans in the process of being updated, as it would be speculative since those plans have not been officially adopted and could change in the future. Thus, the Draft EIR adequately evaluated the project's impact on emergency response services and does not require recirculation.

Comment 105.5: A vote to oppose amendment as contained in the Strieker proposal for Seven Hills is. For the reasons stated above, I strongly urge that the County deny the General Plan Amendment request contained in the Speiker proposal for the Seven Hills Ranch. The developer's request to forego an appropriate housing/residential review is obviously an attempt to maximize its economic gain at the expense of proper review, evaluation and implementation of requirements and compliances to protect public interest and quality of life for which the City and County Planning agencies have been established to secure under the law. In this era of misinformation and propaganda, I am hopeful that clear minds and hearts consider all the factual evaluations and assessments.

In closing, the proposed 450 unit Seven Hills development with an estimated 500+ parking spaces (both above and below ground) in a sequestered location immediately adjacent to a popular civic park with limited access, high existing multiple uses, and an existing high visitation rate pales in comparison to how the recently constructed Viamonte facility fits into its environs. Roadway access already existed. Certainly there were impacts to neighboring businesses and residents, but in a less densely populated area. The scale of development as proposed is plainly unwarranted for this neighborhood.

I appreciate the opportunity to comment on the DEIR and the amendment as proposed by the Spieker proposal and look forward to seeing responses as deemed appropriate.

Response 105.5: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

106. Judith Mears (dated May 9, 2022)

Comment 106.1: I am a Pre-Construction Depositor at Diablo Glen, and I am writing in support of Diablo Glen's application currently before the Contra Costa County Board of Supervisors.

I have been a resident of Walnut Creek for more than 30 years, during which time I have always owned my own home. My partner and I live in a home with 4 bedrooms, 3 bedrooms, and a significantly-sized "bonus room". We have a back yard with fruit trees, shrubs and roses, and a view of Mt. Diablo. If we are able to move into Diablo Glen, our home will be available for a younger

family with children, eager to take advantage of the home's domestic and outdoor space, the community amenities, and the excellent school system.

My partner and I are both retired lawyers. I have been a volunteer for many years for the Walnut Creek-based Meals on Wheels Diablo Region, doing office work to help with annual audits. I have most recently served on the Committee planning the organization's largest fundraising event to be held next month. I am also a Contra Costa County HICAP Volunteer Medicare Counselor, registered with the State of California, providing advice and counsel to people who have, or who are eligible to have, Medicare. ("HICAP" stands for Health Insurance Counseling and Advocacy Program.) Through my volunteer activities I understand how fortunate I am to be able to own my own home when so many cannot.

My partner is 76 years old, and I will be 76 in a few weeks. If Diablo Glen is approved, I expect we will be almost 80 years old by the time we can move in. Our house was built in 1966, and as it and we age, the demands for maintenance and repair will likely increase in both complexity and expense. At age 80, I know I would be very relieved not to have any further maintenance worries regarding my domicile, especially in an environment when earthquakes and wildfires can cause expensive damage.

Also, at age 80, it is natural to assume that we may need access to the type of medical care that seniors use. We are long-time Kaiser members, and we expect to continue to be. Living at Diablo Glen won't interfere with that membership. But Kaiser doesn't cover long term care or memory care, both of which will be available (and included, at no extra charge) at Diablo Glen. That will give me great peace of mind. No other senior facility in this area is a comprehensive life plan community, the way Stoneridge Creek is in Pleasanton and as Diablo Glen will be.

I am sure that you will use your best professional judgment to complete your work on the Diablo Glen application as soon as possible. I urge you, your managers, and the County Board of Supervisors to approve the Diablo Glen application and bring this valuable project to life. The land in question has already been zoned residential. Building this project is, in my opinion, the best possible residential use of that land.

Response 106.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

107. Joy Reid (dated May 9, 2022)

Comment 107.1: I have been a resident of Contra Costa County for 33 years and have lived near Heather Farms Park for over 31 years. I am very opposed to the Spiker retirement project. It is thrusting a massive commercial business in a residential area.

In regard to the Spieker proposal: the trees of Seven Hills Ranch serve as home and migratory host for an abundance of bird species. The Ranch is located directly next to Heather Farm Park. The park is nationally recognized as a home and migration stopover for an abundance of bird species; so much so that it is a designated eBird 'hotspot'. The proposal for Seven Hills Ranch calls for the removal of 400 mature trees, including California Oaks. To allow such a massive removal of native trees and the

resultant permanent impact it will have on avian life for the Ranch AND the surrounding area is simply unacceptable.

In addition, I ask that the County recognize that the proposal for Seven Hills Ranch does not allow for any wildlife corridors but is instead a walled-off, inaccessible compound. The Ranch is home and habitat to a profusion of animal life; it is where they live and/or travel through to find resources, such as food and water. It is part of a wildlife corridor that stretches from Mt. Diablo and down through Shell Ridge, eventually following along the Walnut Creek to reach the delta. The Spieker proposal for Seven Hills Ranch cuts off a critical habitat along this route. If you can imagine the routes to your grocery store being cut off, leaving you without the ability to reach a grocery store either by walking or driving from your home (and the inability to get grocery deliveries) - the loss of your food source - you can understand the deprivation and the consequences that await the animals that utilize Seven Hills Ranch should the Spieker proposal be allowed to proceed as planned.

Response 107.1: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 107.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 107.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

108. Sharon Doherty (dated May 9, 2022)

Comment 108.1: As a resident and homeowner living on Kinross Drive, I am concerned regarding the negative impact of allowing the possible development of Seven Hills Ranch Development.

I have lived in the community of Heather Farms Homeowner's Association since 1985. One of the plans for Seven Hills Ranch is for the entrance to be off Kinross Drive. Our community is filled with families and pets walking and playing in our neighborhoods. When new homes were built at the bottom of Kinross Drive a few years ago, but not part of our homeowner's association, huge construction trucks of all shapes and types used Kinross Drive as a short cut to the construction. These trucks had complete disregard for the fact that Kinross Drive is a private street maintained and paid for by the homeowners. However, more important is the fact that they sped through our private street with little concern for our family's safety. A development of the projected size of Seven Hills Ranch would be a disaster of trucks using our tiny and winding streets as a short cut.

I met Mr. Hale years ago and visited him in his adobe ranch home. He hoped that his children would add to Heather Farm Park by selling the property to the City of Walnut Creek and enhance Heather Farm Park with the open space of his property.

Look at our Open Space that the city of Walnut Creek saved for all the citizens to enjoy nature. It is always one of the check marks of one of the favorite parts of Walnut Creek. Take a lesson from those former city leaders and do all of us a favor by voting against development of Seven Hills and instead, promoting additional open space to the citizens of our city.

Response 108.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 108.2: Focus on the fact that we are in a drought, and where are we to obtain all the water needed to build such a very large development??? The drought that arrives on a regular basis in California is not going to disappear.

Plan for the future, not for the moment.

Response 108.2: The Draft EIR evaluated the project's impact on water supplies in Section 3.19.2.1 Project Impacts under Impact UTL-2 (page 203). The Draft EIR concluded that the Contra Costa Water District (CCWD) would have sufficient water supplies to serve the proposed project during average, single-dry, and up to three years of multiple-dry years without extra conservation measures.

109. Michael Young (dated May 9, 2022)

Comment 109.1: NEGATIVE IMPACT STATED IN THE DRAFT EIR

The Draft EIR states that the proposed Kinross Drive entrance has a direct impact on the environment, in that it affects the biological resources at and near this proposed entrance. As a result, the EIR proposes that an alternative entrance be used, which does not have an impact on the environment. The alternative entrance, per the EIR, empties onto Walden Rd. from Seven Hills Ranch Rd., which is in an unincorporated area of the county. This alternative entrance is the DEIR Roadway Redesign Project Alternative which is identified as environmentally superior (for biological resources) to the Project design.

In addition to this alternative entrance being 'superior' for biological impacts, it moves the project traffic off Ygnacio Valley Road where traffic congestion is heavy, to an arterial [Civic Dr.] which is closer to downtown and alternative routes. This alternative access also provides direct access to the Pleasant Hill Bart and I 680 North. We strongly urge that this alternative entrance be used instead of the proposed Kinross Dr. entrance.

Response 109.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 109.2: THE DRAFT EIR DOES NOT SUGGEST A LOCAL ALTERNATIVE SITE

The draft EIR is also deficient in that it does not suggest an alternative "local" site for the proposed project.

My wife, Linda Lamerdin and I live at 592 Matterhorn Dr., Walnut Creek, CA 94598, which is adjacent to the proposed Spieker Development site. We oppose this proposed development.

Response 109.2: Please refer to **Response 23.2:** above regarding location alternatives.

110. Carol Curtis (dated May 9, 2022)

Comment 110.1: My home is adjacent to the above proposed project and I am appalled that the County may consider amending its General Plan to allow commercial development on this site. The surrounding area is residential and the General Plan permitting medium density housing is sound. The Spieker report offers no compelling reason to permit an outsized commercial complex which would bring a large number of residents, support and service staff to this particular location. Additionally, it proposes a rolling hillside location for a project that requires areas of flat ground. How does that even make any sense?

Response 110.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 110.2: With respect to the Draft Environmental Impact Report:

1. The reports states, without substantiation, that a similar amount of grading would be required for medium density housing. The adjacent Heather Farms Community (a planned unit, single-family development - not a condo neighborhood as stated in the report) has similar topography and was built with minimal ground disturbance. Certainly multi- family homes or lots that incorporate ADU's would meet the County's need for additional housing without topping the hills, filling in the valleys and jeopardizing the site's flora and fauna. Please consider how successfully the Indian Valley area of Walnut Creek (off Homestead Avenue) has been developed without substantially disturbing the hills.

Response 110.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 110.3: 2. The report states there are portions of the site that potentially provide habitat to desirable species, specifically bats, owls and other nesting birds and that the developer promises to mitigate any impacts after the project is underway. Please consider requiring the developer to complete all impact assessments prior to obtaining a land use variance to assure the County the project is viable before it abandons its General Plan and approves such a drastic change to the land use designation.

Response 110.3: As stated in mitigation measures MM BIO-1.1 through MM BIO-1.4 (pages 78-80), the project would be required to implement mitigation measures prior to beginning construction or issuance of a tree removal permit, grading permit, or demolition permit. The results of the pre-construction surveys required by MM BIO-1.1 through MM BIO-1.4 would be reviewed and approved by the Contra Costa County Department of Conservation and Development. In addition, a Biological

Resources Report and Peer Review were prepared for the project site and included in the Draft EIR as Appendix E.

Comment 110.4: 3. The report states that water will be used to control the dust and remove mud and debris but fails to state where all this water will come from. California is in the middle of an historic drought. Water restrictions for residential, agricultural and commercial users are currently being imposed and more are likely. Is it in the County's best interests to permit this use for such a scarce and valuable resource?

Response 110.4: Please refer to **Response 108.2:** above regarding water supply.

Comment 110.5: 4. The report states construction noise will be mitigated but fails to account for the noise added by the completed project. Specifically, since this project is for a senior "continuing care" population there will be ambulance sirens on a regular basis. In addition the complex will have a restaurant with a liquor license, both of which create more noise than a residential area.

Response 110.5: The Draft EIR evaluates operational noise impacts in Section 3.13.2.2 Project Impacts under Impact NOI-1 (pages 158-160). The Draft EIR concluded that with implementation of mitigation measure MM NOI-1.2, the proposed project would not result in a significant operational noise impact and would meet the 60 dBA L_{dn} noise and land use compatibility thresholds established for residential land uses by Contra Costa County and the City of Walnut Creek.

Comment 110.6: 5. The report does not adequately address impacts to transportation and road use, as follows:

The report fails to analyze the project's impact on already congested Ygnacio Valley Road. Most of the "full-time equivalent" employees (multiple individuals counted as "one") will be coming and going at typical commute hours and the City of Walnut Creek needs to be able to plan for that congestion using a number that accurately accounts for multiple part-time employees. Additionally, project residents and visitors will add substantially to Marchbanks Drive traffic, jeopardizing cyclist safety in the recently added bicycle lane.

Response 110.6: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 110.7: With respect to impact on Marchbanks Drive, the project does not provide sufficient parking for its employees to come and go which will necessitate them parking on the only nearby street. Marchbanks Drive currently provides overflow parking for the nearby apartments and Heather Farms homeowners and is already impacted.

Response 110.7: The Draft EIR discusses parking standards in Section 3.17.3 Non-CEQA Effects (pages 190-191). The project proposes 594 parking spaces. The County does not have specific parking standards that match the proposed CCRC use; therefore, the closest land use types to the proposed project require either 255 (nursing homes) or 792 (multi-family apartments) parking spaces. As an alternative measure, ITE's Parking Generation Manual, 5th Edition does include parking

generation rates for CCRC projects, and suggests 494 parking spaces for the proposed project, which the project would exceed.

Comment 110.8: The project has no grocery store, pharmacy or any other store meaning most residents will need to leave the development to shop for basics or have them delivered. While the developer plans some shuttle service, there is no easy access to public transportation. Residents are quite likely to use cars, whether their own, taxis or ride-shares and delivery services will be employed, drastically increase truck traffic in the area. The DEIR needs to address this realistically.

Response 110.8: Resident trips for local services (i.e., grocery stores, banks, restaurants, etc.), and deliveries to the project site are accounted for in the trip generation shown in Table 3.17-2 of the Draft EIR (page 188).

Comment 110.9: Lastly, while not exactly an environmental issue, the time and logistics required for all the anticipated residents to exit this area in case of emergency must be considered. We all watched in horror as residents of Paradise California struggled to evacuate ahead of fire and many could not get out in time. With a proposed community this large, roads this small, additional emergency exits kept locked to residents, and many residents in fragile health and requiring special care, how does the developer propose to provide adequate emergency evacuation?

Response 110.9: Emergency access gates would be located along Seven Hills Ranch Road, at the existing entrance to the project site, and along North San Carlos Drive near the entrance to the Seven Hills School. The emergency access gate leading to North San Carlos Drive, in addition to the main entrance via the extension of Kinross Drive, would provide adequate emergency exits from the project site. The additional gated access to Seven Hills Ranch Road, while potentially available for use, was not found to be needed to satisfy County Fire District standards for emergency access. Please also refer to Master Response 9: Transportation Emergency Access section.

Comment 110.10: In summary, I think this prime residential land should be developed in a manner consistent with the surrounding area. That means a two story maximum (from grade) building height limit, with every effort made to preserve the riparian habitats and wildlife corridors, and with maximum emergency access assured. Community healthcare is readily available in this vicinity both at John Muir Hospital and with surrounding ancillary providers, and no need for this particular SCCC in this particular location has been demonstrated. The County's General Plan should not be amended.

Thank you for your time and consideration,

Response 110.10: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

111. Paul Banta (dated May 9, 2022)

Comment 111.1: My wife and I are residents of the Heather Farms residential area, and we have enjoyed living in this area for the past 5 years. I am writing regarding the proposed development in the Seven Hills Ranch Area.

I lived in Los Angeles for 31 years, and I saw continuous destruction of natural areas for years. There is a great deal to be said for preserving as much natural land as possible in a community. That was never a priority in Los Angeles. Many communities were disrupted or destroyed by unnecessary or excessive development. The only motive was money. Money and greed.

The same thing happened in my parents community in the San Diego area where many residents lived on or near a large piece of natural land that was never zoned as space for residential homes. But developers were allowed to buy and develop this land despite the protests and legal action of all the residents in this community. The developers pulled whatever strings and paid whomever until they were given the rights to build hundreds of homes right next to all the existing homes. The peacefulness and beauty of the community is being destroyed after 50 years of existing in the state for which it was intended to exist.

Now these Seven Hills developers want to destroy our community. The intended plan that has been presented to the current residents is so inappropriate and so destructive in so many ways. Anyone with common sense can see this. Again, the motivation appears to be nothing more than money and greed. Horrendous traffic issues, air pollution, noise pollution, visual pollution, and significant destruction of the natural environment. No one has explained to any residents of our area why this huge project needs to be put in this Seven Hills area. Again, it is another totally inappropriate project for our community, and I certainly hope that none of you will consider letting this horrible idea move forward.

I am not sure if this specific project is needed at all in the Walnut Creek area or anywhere else. In addition, California is in a severe drought and there is no reason to believe that it will not remain in one for many years. So, where is all the water coming from that will be needed for this massive project. Please explain.

I and many others will be following this issue very closely, and we will certainly hope that the County Planning Commission will make the only decision that makes any sense regarding this proposed project.

Response 111.1: Please refer to Master Response 5: Aesthetics, Master Response 6: Air Quality, Master Response 8: Noise and Vibration, Master Response 9: Transportation, and **Response 108.2:** regarding water supply. This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

112. Carol Hess (dated May 9, 2022)

Comment 112.1: Why is 30+ acres of land being considered for a Senior Retirement Community for only 400 seniors? 30+ acres provide opportunities to hike, bike, and explore the wildlife, fish, birds, plants, etc.

Displacing the flora and fauna is unacceptable!

The views from the hills are amazing and should be enjoyed by everyone and not flattened.

Why isn't the GENERAL PLAN being observed?

Amendments to the GENERAL PLAN shouldn't be made for Spieker to build fictitious "Diablo Glen"!

Heather Farm with many amenities will be hard if not impossible to access.

The project will take a minimum of 3 years to complete.

Why are hundreds of trees (many protected) projected to be uprooted?

Why are the needs of 400 wealthy seniors being considered and not all the county residents?

Ygnacio Valley Rd. is already impacted. Diablo Glen's 600 cars would have a devastating effect on traffic.

Downtown Walnut Creek, Kaiser Hospital W.C., Kaiser Park Shadelands, etc., won't be accessible in a timely manner!

Thank you for preserving this land for generations to come by retaining its character.

Please address my stated concerns.

The favor of a reply is requested.

Response 112.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

113. Olesya Epps (dated May 9, 2022)

Comment 113.1: Hello! I am a Contra Costa County resident and am working and living and raising my 3 young children in the Contra Costa County. We love the city of Walnut Creek and Heather Farms park area and our personal lives as well as all lives of our neighbours in our community at Diablo Hills and community we have at Bancroft Elementary School and Seven Hills school would all be affected by intended development proposal at Seven Hills which we are absolutely against as it is currently not in line with original intended project the area is zoned to and rather than giving the prime spot in the heart of everything to a long-term care facility with no inclusionary housing or other regard for community needs, we are speaking against this proposed development and hope at some point another project is found that will better fit this area and community.

I request that the Spieker proposal that is out of compliance with the current land use designation and requires an extreme and intense change in the number of structures and paving allowed on the 30-acre site not be allowed to move forward. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in the County codes.

Response 113.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 113.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 113.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

114. Bill Morrissey (dated May 9, 2022)

Comment 114.1: As a Heather Farms HOA home owner, I want to register my extreme concerns about the proposed Seven Hills Ranch site development.

I could provide a long list of issues but instead want to ask if the planning commission can honestly attest to this very high urban density development being even remotely compatible to its surrounding areas consisting of private residences, the Heather Farms Park, The Seven Hills School, and the Heather Farms HOA community.

It is obvious that this proposed commercial development belongs in an appropriate commercially zoned area. The site, if developed, should be for much needed homes developed in a manner consistent with its residential, school and park surroundings.

Response 114.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

115. Deborah Tsuyuki (dated May 9, 2022)

Comment 115.1: I'm a resident of the Heather Farms community. About a year ago, I first heard of the proposal to develop the 7 Hills Ranch in to an assisted living community. My initial thought was that I hated to see this open space go, but this had the potential to address a much needed service in our community.

I am not a "NIMBY" sort, however, the developer's proposed scale and the targeted market would not be in the best interest of those most in need of access to affordable assisted living and care in our the community. The developers are targeting the financially elite, who could afford the high cost of the proposed services offered. This development would not be affordable by the majority of people who need assisted living.

Beyond the issues of density and who could afford the proposed services, is impact on the environment: The project footprint would forever obliterate one of the very few safe havens used by

innumerable wild birds and indigenous mammals and further reduce our State's open spaces. Added upon the environmental impact, is question sustainability: Water and energy resources are critical and we are already on the tipping edge of a climate disaster. This high density community will mean numerous employees and service vehicles will need to access and exit the property on 24/7 basis. This increased traffic on narrow neighborhood streets would mean more congestion. In the event of a natural disaster or fire , there could be catastrophic consequences; You'll have a large population of people with limited mobility trapped in multistory structures, with only limited access to emergency egresses. The County of Contra Costa and it's dedicated Civil Servants have the very difficult job to create a balance between what's best for the long term good of many, versus the desires of a few who. I hope our government officials look well beyond the deep pockets of corporate real estate developers, and look to the needs of the constituents whom they serve.

Thank you for your attention and consideration.

Response 115.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

116. Kathy Doyle (dated May 9, 2022)

Comment 116.1: As a homeowner at Heather Farms, I am extremely concerned about what this project will do to the value of my property. The constant construction while this is in progress, and the amount of traffic that will come through will totally disrupt the serenity of the neighborhood. My home is on Kinross Drive, so will be directly affected. I am also concerned with the environmental impact of leveling the land, and removing so many trees. I am totally against this project.

Response 116.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

117. Marianne Baldetti (dated May 9, 2022)

Comment 117.1: I encourage you to reconsider the present development proposal for the 30-acre Hale parcel located in CCC and surrounded by the City of Walnut Creek.

The proposed development is in my opinion incompatible with the surrounding community. It's size alone will develop traffic congestion and overburden the surrounding infrastructure.

I urge you to take a more balanced approach to developing a more well-rounded development that includes greenbelt space or community parks with a mix of single-family residential and high-density housing units.

Response 117.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

118. Jim Reid (dated May 10, 2022)

Comment 118.1: I have lived near Heather Farms Park in Contra Costa County for 32 years. I have enjoyed the hiking and bike trails that are located here in the Walnut Creek area. This site would be a

wonderful addition of open space for the city of Walnut Creek and Contra Costa County. There is no need to destroy this open space in order to pave it over for another over-priced senior center.

I request a rejection of the Spieker proposal that incorporates very, very little natural greenspace and has no accessible public walkways on a 30 acre site. Look for a development plan or preservation plan that recognizes the property's unique location right next to a very popular existing park. Expect a plan that offers a public walkway up to the site's ridgeline, making available to the public the spectacular views of Mt. Diablo and the East Bay Area hills. Such a walkway is already proposed in the City of Walnut Creek's Transportation Element of the General Plan 2025 and also in their City of Walnut Creek Bicycle Plan 2011 and the opportunity to provide this to the public – a walkway from the park to the city's creek - should not be ignored.

Response 118.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 118.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 118.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

119. Elizabeth Campbell (dated May 10, 2022)

Comment 119.1: I am writing to request that you do not permit all (or most) of the changes to the general plan regarding this development. The construction alone would drastically change the shape of the land. I wish you would take into consideration the amount of vegetation that would be replaced by asphalt, cement and buildings. Also, while the rest of us need to cut down on the water we use, this project when completed, all of the homes and buildings will consume a huge amount daily. There're many more reasons that I, and I am sure many others, feel that this project is more harmful than helpful to our city and county.

Please don't approve this project.

Response 119.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

120. Mark Rubenstein and Yvonne LaLanne (dated May 10, 2022)

Comment 120.1: I have been a resident of Contra Costa County for over 30 years and have a passionate interest in the quality of life here. 3 of our 4 children and 3 grandchildren live here.

Growth is inevitable; badly planned and executed growth is just wrong.

While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves. It is disingenuous to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its actual land use designation density.

I live on the Ygnacio Valley corridor where traffic has been and continues to be out of control.

Response 120.1: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 120.2: I request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural windblown soil.

Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

Response 120.2: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 120.3: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 120.3: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

121. California Wildlife Foundation (dated May 10, 2022)

Comment 121.1: The California Oaks program of California Wildlife Foundation works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values. This letter follows California Wildlife Foundation/California Oaks (CWF/CO) comments sent August 19, 2021 regarding the General Plan Amendment, Rezone, Minor Subdivision, Preliminary and Final Development Plan, and Land Use Permit (County File Numbers CDGP20-00001, CDRZ20- 03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038) for the Spieker Senior Continuing Care Community Project.

It is problematic the Draft Environmental Impact Report (DEIR) continues to rely on the July 2020 Preliminary Arborist Report prepared by HortScience/Bartlett Consulting, despite shortcomings and discrepancies of the report. Further, the DEIR is inconsistent with Public Resources Code Section 21083.4 in that it does not analyze nor mitigate for impacts to trees that are 5-inches diameter at breast height (dbh) and does not have mitigation measures additional to tree planting. The oak mitigation ratio is also low. Lastly, the DEIR also appears to be in conflict with Vegetation Removal provisions (914-4.006) of Contra Costa County's Subdivision Ordinance's Watercourse Protections.

Response 121.1: Public Resources Code Section 21083.4 addresses mitigation associated with oak woodland habitat. As shown in Figure 3.4-1 of the Draft EIR, none of the project site is mapped as oak woodland and the majority of the site is mapped as annual grassland. While oak trees are present on the site, they are spread out and solitary or in small clusters that do not meet the definition of oak woodland; therefore, Public Resources Code Section 21083.4 is not applicable to the project.

Please refer to **Response 74.1:** above regarding vegetation removal provision 914-4.006.

Comment 121.2: Preliminary arborist report is insufficient for DEIR.

The preliminary arborist report has the following deficiencies:

1. The DEIR is relying on a preliminary report that has inconsistencies with the oak mapping performed by BKF. The DEIR's reliance on the preliminary arborist's report is deficient because of inconsistencies between the report and the December 2020 oak map prepared by BKF. CWF/CO strongly disagrees with the conclusion reached by HT Harvey and Associates and Olberding Environmental, Inc. that no additional tree survey is necessary.

Community members who are preparing comments on the project have pointed out that the tree numbering sequence on the BKF Engineering Tree Removal Plan map does not agree with the the HortScience/Bartlett Arborist's report. The BKF map was used for the locations, and the HortScience/Bartlett report was used for the attributes such as species, trunk size, etc. A unique tree number was present in both, which should allow for the tree location coordinates to be joined with the attributes so that the map could be symbolized. Unfortunately, there are many gaps and duplications that made it impossible to join attributes with some of the trees that were captured from the map. The HortScience/Bartlett report listed 485 trees in an unbroken number sequence with 82 trees identified for preservation. The Seven Hills Ranch Road Tentative Parcel Map – MS20-0007

prepared by BKF in December 2020 had 443 trees with a broken number sequence, duplicated numbers, and a highest tree number of 496. There were 42 trees in the arborist's report that did not appear on the map prepared by BKF, based on the number of trees found in each source. The arborist's report listed 82 trees to be preserved. Only 75 trees to be preserved were found on the BFK map. Further three of those 75 trees had duplicate numbers. Fifty-eight trees had a number duplication problem on the BFK map, thus 29 of those trees could not be joined with attributes from the arborist's report. To provide specific examples, the BFK map has a number gap between 176 and 182. Thus, the attributes for trees 177 through 181 in the arborist's report could not be joined to any locations on the BFK map. All of these trees are valley oaks that have trunk diameters greater than 6.5 inches at breast height, thus they qualify as protected under Contra Costa County's Tree Protection and Preservation ordinance. A second example is that a tree with the number 233 appears in two locations on the BFK map. The arborist's report lists tree 233 as a valley oak with a 16-inch diameter trunk. Those attributes were associated with the first occurrence in BFK's digitized dataset. The second occurrence of tree #233 on the BFK map does not have attributes listed.

Response 121.2: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

The Draft EIR evaluated the proposed removal of trees based on the information and conclusions of the arborist report included in Appendix E of the Draft EIR. As discussed in Section 3.4 Biological Resources under Impact BIO-5 of the Draft EIR (pages 85-86), the project would comply with the County's Tree Ordinance and would obtain permits for the removal of protected trees from the project site.

Several tree numbering errors were found in the civil engineer's Existing Conditions & Tree Removal Plan on Sheets C2.0 through C2.2. The numbering discrepancies on these sheets included incorrect references to the tree numbers found in the Arborist Report, and use of duplicative numbers. Nevertheless, the engineering plans accurately identified by red "x" which individual trees would be affected by the project. These numbering discrepancies do not affect the specific tree types and locations, or the total number of trees to be removed with implementation of the project as documented in the Arborist Report and analyzed in the DEIR. In addition, as explained under impact BIO-5, all trees to be removed are subject to issuance of a permit by the respective agencies, using final engineering documents. Therefore, no additional impacts would result from correction of the tree numbering on the preliminary civil engineering plans, and no changes are required to the DEIR.

Comment 121.3: 2. DEIR fails to fully analyze and mitigate for trees that qualify for protection under Chapter 816-6 of County Code, Tree Protection and Preservation.

Section 816-6.6004 - Protected trees of Contra Costa County Code utilizes a definition of protected tree(s) that includes a definition that is not utilized in the arborist's report, and is thus not discussed in the DEIR: "(2) (C) And any significant grouping of trees, including groves of four or more trees." The arborist's report has no discussion of tree groves, but instead simply describes trees that meet the county's protection threshold. This tree-by-tree approach diminishes the important ecosystem role of oak and is also counter to Contra Costa County's General Plan. Section 8-6 of the General Plan's Vegetation and Wildlife Policies states: "Significant trees, natural vegetation, and wildlife

populations generally shall be preserved.” Section 8-12 states: “Natural woodlands shall be preserved to the maximum extent possible in the course of land development.” Policy 8-6 is presented on page 67 of the DEIR, with no further discussion. Policy 8-12 is not discussed in the DEIR. The DEIR’s piecemeal approach to trees, combined with the inconsistencies between the arborist’s report and BFK map noted above, fail to properly assess the impacts to the site’s oak woodlands and the natural communities dependent upon the woodlands.

Response 121.3: Please refer to Master Response 1: County General Plan Policy Consistency above. The existence of a grove of four or more trees alone does not categorize a tree as being protected. Pursuant to Section 816-6.6004(1)(A) of the ordinance, in addition to being within a grove of four or more trees, the trees must also measure 6.5 inches in diameter at breast height and be one of the listed indigenous tree species. To identify protected trees for the project, any tree measuring 6.5 inches at breast height, regardless of species, is used as the threshold. This is consistent with Sections 816-6.6004(2)(A) and Sections 816-6.6004(3)(B) of the tree protection ordinance, as the property can be further divided and therefore is “undeveloped” as defined in Section 816-6.4024.

Comment 121.4: 3. Oak root protection zones are subject to disturbance.

The aforementioned August 19, 2021 CWF/CO comment letter noted quite a few of the trees that are proposed to be protected during the construction are at risk of damage within the root protection zone (RPZ) of the trees. Oaks should have no disturbance within the RPZ, which is the area that extends beyond the dripline to a distance that is half the distance between the trunk and the dripline. The DEIR did not address the incursions on the RPZ despite this issue being raised in CWF/CO letter. CWF/CO also communicated with Contra Costa County (March 23, 2020) about the Envision Contra Costa 2040 General Plan update to urge the county to include the RPZ in all oak tree protections.

CWF/CO reviewed the preliminary arborist report and determined that at least 29 oak trees are at risk of damage during construction of the proposed facility based on project documentation reviewed thus far. These include #415 (25-inch diameter), which is described as “off-site” ~25 feet from grading, #428 (50-inch diameter), 30-50 feet from grading on all sides. If the project advances, please note that Contra Costa County’s tree ordinance includes the provision that accidental destruction requires replacement with an equivalent tree. Provisions should be made for possible damage to the 81 “protected” trees (primarily valley oaks) that are meant to remain standing during and after the construction.

The environmental impact report should fully document the actual number of trees directly affected and those at risk of damage and decline because of incursion into the RPZ. Detailed information on species, size, and numbers proposed for removal or retention, with clear mapping of their relationship to the proposed limits of grading and other habitat modifications must be provided.

Response 121.4: The Draft EIR discusses tree protection measures in Section 3.4.2.1 Project Impacts under Impact BIO-5 (pages 85-86). Consistent with the Contra Costa County Tree Protection and Preservation Ordinance, conditions of approval will be imposed and will include tree replacement, protective measures identified by the

arborist report, and assurance bonds to ensure that all conditions will be successfully met.

Comment 121.5: 4. Potential omission of protected trees from tree permit

CWF/CO's August 2021 letter noted that the arborist report lists the health of 8 valley oaks as poor and 100 as fair, concluding:

Based on my review of the data, there were 230 native trees of moderate and high suitability for preservation proposed for removal as part of the project, 193 of which qualified as Protected. I recommend mitigation of all Protected native trees of moderate and high suitability for preservation at a 1:1 ratio with 15-gallon container size.

Section (2)(A) of Contra Costa County Tree Protection and Preservation code indicates that a condition of approval for the removal of a tree is "The arborist report indicates that the tree is in poor health and cannot be saved." This is entirely different than the determination that a tree is in fair health and thus not subject to the provisions of Chapter 816-6. The arborist report ignores the habitat values of the valley oaks assessed in fair or poor health and instead simply describes their suitability for the proposed facility's highly-altered landscape.

CWF/CO is aware of instances when arborist reports over-estimate trees in decline to minimize mitigation costs that developers incur. It is essential that the arborist report that informs the DEIR, and associated mapping of trees that will be impacted, are accurate.

Response 121.5: The arborist report for the project (see Appendix E of the Draft EIR) was prepared by a professional biological resources company (HortScience|Bartlett Consulting) and board certified master arborist. The County is confident in the validity of the project arborist report and the professional opinion of the master arborist with regards to tree health.

Comment 121.6: DEIR is inconsistent with Public Resources Code Section 21083.4.

Public Resources Code Section 21083.4 addresses impacts to oak woodlands that must be addressed under California Environmental Quality Act (CEQA). The size of oak trees that qualify under this code are those that are 5-inches in diameter or at breast height. The DEIR's analysis and mitigation provisions only apply to larger diameter trees (6.5 inches). This is a deficiency that must be corrected.

Page 42 of the DEIR notes that 1,000 trees will be planted, including oaks. Section 21083.4 limits oak tree planting to half of the mitigation for oak impacts and requires the trees to be maintained during a seven-year establishment period.⁷ Riparian habitat mitigation also focuses on replanting. This is another deficiency that must be corrected. It takes many years for newly planted oaks to provide the ecosystem services of mature oaks, thus other mitigation measures that conserve oaks are also necessary.

⁷ 1 (C) Mitigation pursuant to this paragraph shall not fulfill more than one-half of the mitigation requirement for the project.

Response 121.6: Tree replacement on the project site would be consistent with the County and City of Walnut Creek Tree Ordinances within the respective jurisdictional areas of disturbance. The type and location of replacement plantings plans will be reviewed prior to the issuance of grading permits. Mitigation measures MM BIO-2.2 and MM BIO-3.2 are standard CEQA mitigation measures to reduce impacts to riparian and wetland habitat. While the project calls for enhancement of existing wetlands on-site, detailed plans demonstrating adequacy to satisfy the 2:1 (mitigation:impact) compensatory mitigation ratio requirements outlined in MM BIO-2.2 and MM BIO-3.2 have not yet been prepared. Prior to the disturbance of existing features, the project would still be required to prepare these detailed plans and demonstrate compliance with the 2:1 ratio through a combination of other means as outlined in the mitigation measures, and subject to state and federal regulatory oversight and approval as part of the permitting process.

Please refer to **Response 121.1:** regarding applicability with Public Resources Code Section 21083.4.

Comment 121.7: Oak mitigation ratio is low.

The proposed 2:1 mitigation ratio for loss of riparian oaks (Mitigation Measure BIO-2) is low, and also, as discussed immediately above, inadequate per Public Resources Code Section 21083's limitation of mitigation plantings to 50% of the oak mitigation. CWF/CO recommends that oak mitigation be at a ratio of at least 6:1.

Response 121.7: The 2:1 mitigation ratio included in mitigation measures MM BIO-2.2 and MM BIO-3.2 is consistent with standard mitigation practices for projects with riparian and wetland impacts and subject to state and federal regulatory oversight and approval as part of the permitting process.

Please refer to **Response 121.1:** regarding applicability with Public Resources Code Section 21083.4.

Comment 121.8: Application of Subdivision Ordinance watercourse protections not analyzed in DEIR.

The August 2021 CWF/CO letter stated that environmental documentation for the project should analyze whether the project is subject to the protected watercourse provisions of the Subdivision Ordinance (914).⁸

914-4.006 - Vegetation removal.

Vegetation removal within a protected watercourse shall be restricted to the removal of downed trees, trees that are precariously undercut and trees that have the potential of creating a major obstruction within the floodway. Removal work shall be done in an environmentally-sensitive manner, so as to minimize damage to remaining trees, undergrowth and other riparian vegetation. Older trees

⁸ https://library.municode.com/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT9SU_DIV914DR_CH914-14RI-WSE

requiring removal of dead or diseased limbs shall be trimmed under the supervision of a tree specialist. To the maximum extent possible, undergrowth shall be preserved. (Ord. 89-28).

The DEIR did not address this question. If the Subdivision Ordinance's watercourse protection does apply then vegetation removal must be restricted accordingly.

Response 121.8: Please refer to **Response 74.1:**, regarding Subdivision Ordinance 914.

Comment 121.9: The Roots of a Legacy—A History of Walnut Creek, California's Open Space describes the process that led to ballot measures that funded land preservation and a shift towards an embrace of land protection by the city.⁹ As a result, Walnut Creek has a "Livability" score of 79, which is considered to be exceptional.¹⁰ The zoning of the parcels under consideration for the Spieker proposal prohibits this type of development. The proposed amendments to the General Plan and zoning regulations diminish land use protections while not contributing to affordable housing. They erode the careful governance and land protection efforts that have contributed to the area's environmental quality.

This ill-conceived project, as currently construed, would retain 55 or fewer of the site's native trees.¹¹ The project should not advance without adequate environmental analysis and mitigation.

Response 121.9: This comment does not raise any new issues about the adequacy of the Draft EIR; therefore, no further response is required.

122. Jarrod Epps (dated May 10, 2022)

Comment 122.1: I am a resident of Contra Costa county, and I request that the Spieker proposal for Seven Hills Ranch not be granted validity due to the size, scope, impact, and lack of supporting/surrounding infrastructure available for such a development.

The proposal in its current form would further exacerbate traffic safety issues in the micro-location and proposes absurd solutions for additional traffic flow including transforming the entirety of Kinross Drive, from Ygnacio Valley Road through to the development, into a public thoroughway. Transforming what is currently an exceptionally narrow, winding private street with kids playing in it throughout the day into a public thoroughway is not only unsafe for local residents, it's negligent and will certainly result in injuries and potentially death.

Response 122.1: Please refer to Master Response 9: Transportation Traffic Congestion section above.

Comment 122.2: In addition, for the several hundred new residents in the location, there are not enough reasonable exit options for evacuation of the area in case of fire or other natural disasters,

⁹ DeSalles, S., 1997, California State University, Master of Arts in History thesis.

¹⁰ See: <https://livability.com/best-places/top-100-best-places-to-live/2016/walnut-creek/> and <https://www.areavibes.com/walnut+creek-ca/livability/> and <https://www.niche.com/places-to-live/walnut-creek-contra-costa-ca/>.

¹¹ Twenty-six of the 81 trees to be preserved are not native trees, according to the preliminary arborist report.

especially considering these will be elderly residents with whom extra care much be taken in their preparation and transport in such a situation.

Response 122.2: Please refer to **Response 110.9:**, regarding emergency access.

Comment 122.3: I've seen the project referred to as "urban infill". Infill refers to the (a) filling in of small to medium lots between already existing development, (b) filling in with a project similar to its surroundings, and (c) building on lots that generally require little new infrastructure for development. Rarely, if ever, can you point to an infill project that is 30 acres in size and that requires the substantial infrastructure work that this project requires.

In addition to SHRanch being an inappropriate site for massive "urban infill", the proposed alleged "infill" project is completely out of sync with its surroundings. The Seven Hills Ranch site is bordered by Heather Farm Park, a K-8 school, suburban residential neighborhoods consisting of one and two-story town homes along with detached single-family homes, the Walnut Creek (the creek), and by vacant parcels owned by the Hale family estate.

Response 122.3: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 122.4: Further, the current proposal includes massive buildings and slopes which would dominate the existing locale and destroy the environment adjacent to the project. The fact is that the current project is out of proportion for such a construction project to proceed in our peaceful community.

The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

I appreciate your consideration of my comments.

Response 122.4: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

123. Russ Nishikawa (dated May 10, 2022)

Comment 123.1: I would like all of you to go the end of Kinross (proposed entrance to the Spieker 7 Hills Development) and imagine the devastating impact of the proposed project on the lives and welfare of surrounding residents and the neighborhood. Would you allow this development next to your homes?

The impact on the environment is very destructive and inconsistent with the General Plan (medium to low density housing) on this 35 acre parcel. Approval of the Seven Hills sale and project will lead to 3 to 4 years of physical devastation of this hidden treasure as bulldozers and trucks move thousands of loads of fill, leveling the hills. Think of this construction site in your backyard with tractors beeping and diesel smoke spewing and dust covering your home, autos and plants. Imagine all the

vibrations as these majestic hills are leveled and foundation footings are set. Imagine the light pollution at night from having this construction site in your backyard.

When you go to the site, imagine the monolithic main commercial building atop the hill where the old homestead is located. It will be monstrous and aesthetically an insult to this residential neighborhood. Upon completion, every day the destructive impact will be felt by you and your neighbors, with hundreds of more cars coming and going with each shift change. Yes, health care and maintenance workers who will be coming and going through your residential neighborhood late at night and early in the day.

Imagine if you lived next to this property which will provide no access (planned gated community) to nearby residents. Imagine the high walls surrounding this property, blocking your view of the nearby hills? Wouldn't you feel insulted by the existence of this massive commercial and exclusive development adjacent to your home? Imagine all the light pollution from all the street and house lighting and noise pollution from the air conditioning units. Would you be pleased with this type of development in your backyard? I think not, because for the surrounding neighborhood there is no upside... only downside, with lower home values and a lower quality of life for you and your neighbors.

So what is the alternative? Do not approve the Spieker Seven Hills Project as it is not consistent with the original lower density residential plan! Think of the future. Think of an oak tree-filled rolling hill low density housing alternative or an extension of Heather Farms Park. Think green, not concrete. Think about how you and the other residents are impacted by your decision on this project. Think of our collective quality of life versus the wishes of the developers.

Response 123.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

124. Sheila Rogstad (dated May 10, 2022)

Comment 124.1: I am submitting the following comments for the
SPIEKER SENIOR CONTINUING CARE COMMUNITY PROJECT

State Clearinghouse # 2021070517

County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038

Please acknowledge that you received them on time.

The Cultural Resources section of the DEIR is based on an Archaeological Resources Assessment Report (ARAR) prepared by Basin Research Associates dated July 2020 and a Historic Resources Evaluation Report (HRER) prepared by Archaeological/Historical Consultants dated October 2020. Review of the Cultural Resources section indicates it makes no reference to two important historic resources associated with the site and adjacent properties, which could be adversely affected by the proposed Project. These consist of the Diablo Junior Museum and the "Rabbit Cannery". A brief history of these historic resources is provided below, but the DEIR does not address either of them or how the proposed Project could potentially affect contributing elements and the important setting of

both of these resources. Further research should be conducted into both of these resources, the potential impacts assessed, and any measures necessary to fully mitigate adverse effects identified.

Diablo Junior Museum - The Diablo Junior Museum was started by Alexander Lindsay on a portion of the original Seven Hills Ranch property now occupied by Seven Hills School. Seven Hills School has extensive documentation on the history of the Hale family, the Lindsay ownership, and its eventual purchase by the school from the Lindsay family. Regarding where the Hale family resided when they first moved to Seven Hills Ranch in 1928, the HRER states on page 6 that “it is not clear whether they lived on the property, since the current house was built in 1947, and the only older building is a small cottage built in the 1910s or 1920s – which does not seem big enough for a family of six.”

Original Hale Residence at the end of Seven Hills Ranch Road purchased by Lindsay

The incorrect information in the HRER on even the Hale occupation of the Seven Hills Ranch site and relationship to the Lindsay and Seven Hills School ownership needs to be addressed, and a detailed review of the importance of the site to Lindsay’s role in establishing the Diablo Museum provided in an updated HRER and addressed in the Recirculated DEIR. There is no question that the Hale family originally resided in the large Mediterranean-styled house on what is now the Seven Hills School parcel, and accessed that residence via Seven Hills Ranch Road, as did Lindsay and his wife when they purchased the residence and surrounding structures and land from Idolene Hoopers, Sheridan Hale’s mother. As described on the Lindsay History page of the Lindsay Wildlife Experience website,

Response 124.1: The historic resources evaluation report (HRER) prepared for the project (see Appendix F of the Draft EIR) evaluated the existing buildings on the project site, which consists of several structures in the southwest portion of the site. The HRER evaluated these buildings as possible residences for the Hale family, but determined it to be unknown given their age and size. The above comment’s statement that the Hale family lived in “the large Mediterranean-styled house on what is now the Seven Hills School parcel” supports the HRER’s conclusion that the existing buildings are not previous residences for the Hale family. The Seven Hills School property is not listed on City, State or County registers of historic resources; therefore it is unclear as to whether the referenced adjoining properties contain historical resources as defined in the CEQA Guidelines. Since the previous residence is not on the project site and is not a designated historic resource, the proposed project would not result in an impact to a historical resource on an adjacent property.

Comment 124.2: More than 60 years ago Alexander “Sandy” Lindsay shared his curiosity and passion for the natural world with the people of Walnut Creek, especially children. What started as a garage full of locally collected specimens, and the occasional wild animal, slowly developed into series of informal classes and neighborhood hikes. Lindsay quickly inspired like-minded individuals to cooperate with his education efforts, and in 1955 the Diablo Junior Museum Association officially formed, including a governing board of directors. That is the story of how the Lindsay Wildlife Experience began.”

This eventually grew into educational programs and field trips focused on the natural world, continuing after Lindsay's death at age 44 in 1962, with the museum moving to Larkey Park where it continues today as the Lindsay Wildlife Experience. But the Seven Hills Ranch property, with its rolling hills and abundant wildlife, was the original inspiration for Lindsay and the Museum Association. Lindsay Wildlife Experience now focuses on educating children and the visiting public on the human impacts on wildlife, and operates a veterinary care and rehabilitation facility of regional importance. The importance of the Seven Hills Ranch site to this legacy should be fully explored and the potential impacts of the proposed Project addressed with regard to the critical importance the existing setting has to that legacy. As currently proposed, the Seven Hills Ranch site will be basically leveled with almost all of the 30-acre site graded and disturbed, displacing all of the existing wildlife, many of which will likely be injured or killed and may end up in the care of the Lindsay Wildlife Experience if they survive. Further research should be conducted into the Lindsay occupation of Seven Hills Ranch, the potential impacts of the proposed Project on that legacy assessed in an updated HRER, and any measures necessary to fully mitigate adverse effects identified and incorporated into the Recirculated DEIR.

Response 124.2: The commenter's reference to possible involvement by Alexander Lindsay in use and/or ownership of a portion of the property to the north of the project site is noted. As explained in response to Comment 124.1: above, the proposed project would not disturb or significantly alter the character of any potential resources on these off-site properties. Therefore, no changes to the DEIR are needed.

Comment 124.3: Rabbit Cannery – The HRER does not address the history of adjacent properties that could be directly and indirectly affected by the proposed Project, particularly what has been described as the “Rabbit Cannery” in local history, which reportedly occupied the area near the intersection of Seven Hills Ranch Road and Homestead Avenue. Information on the Rabbit Cannery was obtained from a life-long resident of Walnut Creek for the past 82 years, Barney Howard, who grew up in the neighborhood. He knew the Hale and Lindsay families and volunteered caring for many of the animals that Lindsay housed on the property, which meant navigating his bike up through the Seven Hills Ranch site. Mr. Howard recalls hearing that the Rabbit Cannery was established before World War I and that various buildings were part of that operation, including the existing residences at 955 and 962 Seven Hills Ranch Road, and extending onto the Seven Hills Ranch site before it was under the Hale family ownership. Mr. Howard recalls that at least one of the small outbuildings on the Seven Hills Ranch site near the entrance to the property was part of the rabbit cannery operations. None of these buildings are included in the inventory in the HRER, even though they are on the Seven Hills Ranch Road site, which is surprising given their obvious old age. All of these structures would be demolished under the proposed Project. The buildings at 962 and 967 Seven Hills Ranch Road are listed in both the City of Walnut Creek and Contra Costa County General Plans as places of possible historical significance. According to the Spieker Project plan, the existing residence at 962 Seven Hills Ranch Road would have a retaining wall constructed within 10 feet of the northeast side of the structure installed as part of the proposed Project, dramatically altering the existing pastoral setting and compromising its aesthetic character. Online records indicate this residence was constructed in 1933, but long-time neighbors have explained that it was once part of the actual cannery building and was later transformed into a residence and modified over the years. All of these structures would be directly and indirectly affected by the proposed Project and no review of their history or possible architectural or historical significance was provided in the HRER, including a number of older structures on the Seven Hills Ranch site. Given the significant physical

impacts the proposed Project would have on these structures and the existing setting, further research should be conducted into the possible significance of these resources, the potential impacts of the proposed Project assessed in an updated HRER, and any measures necessary to fully mitigate adverse effects identified and incorporated into the Recirculated DEIR.

Response 124.3: This comment is based on speculation about the eligibility of an off-site property containing a potential historic resource. As shown in Figure 3 of DEIR Appendix F (Historic Resources Evaluation Report), the principal existing outbuildings on the project site include: (1) the garage located directly south of the main house (Building 1); (2) a recently remodeled and expanded cottage/garage directly adjoining the garage (Building 2); (3) a stable located approximately 100 feet northwesterly of the main house (Building 4); and a barn located north of the main house (Building 5). As shown in DEIR Figure 3.2-3, these principal outbuildings are located between approximately 100 and 300 feet from the southerly project site boundary. There is an additional small, unenclosed shed structure at the bottom of the driveway leading up to the main house. It was not included in Appendix F because it is far from the main building complex and is essentially a shade structure with plywood partially attached on two sides. There is no obvious physical connection between this unenclosed shed and the rabbit cannery operations described by the commenter.

Research on the history of the project site and the physical characteristics of all of these outbuildings has revealed no evidence of usage for purposes of rabbit farming and/or slaughtering/processing. Pages 23-25 of DEIR Appendix F provide a complete description of the principal outbuildings together with detailed photographs. While evidence of use of several of the outbuildings for both domestic purposes and the handling of horses is documented in the Report, no evidence of current or historic use in connection with the commenter's referenced "Rabbit Cannery" was revealed during the inspection or through the review of documentation pertaining to historic use of the subject project site.

The off-site properties located at 962 and 967 Seven Hills Ranch Road are not listed as potential historical resources in the City of Walnut Creek 2025 General Plan (reference <https://www.walnut-creek.org/departments/community-development-department/zoning/long-range-plans/general-plan>). The off-site property at 962 Seven Hills Ranch Road is listed as a potential historic resource in the Contra Costa County Historic Resources Inventory, but has not been evaluated. Therefore, it is unclear whether it is a historical resource as defined in the CEQA Guidelines.

The project Engineering Plans dated February 27, 2021, provide the engineering design details of the proposed project as evaluated in the DEIR, including the extent of grading, retaining walls, roadway and utility improvements, and building placements. Sheets C3.0 and C4.1 show the relationship of these improvements to the adjoining property to the south. DEIR Figure 2.2-4 identifies the supplemental landscaping proposed to be established in the area adjoining the southerly boundary of the project site. As proposed, and subject to the mitigation measures in the DEIR, the project improvements would not result in the construction of any improvements

on the above referenced adjoining properties to the south, and would not affect the major existing trees in this areas. As shown in DEIR Figure 2.2-4, the project proposes to plant additional landscaping consisting of trees and shrubbery between those adjoining properties and the nearest buildings and site improvements on the project site. These plans include construction of a retaining wall approximately 5 feet in height directly below the parking area for the independent living units, well inside the southerly property boundary. The closest independent living building in this area would be located approximately 90 feet north of the southerly property line. Use of this wall avoids grading of the slope and disturbance of mature trees. Based on this relationship, and subject to the mitigation measures pertaining to construction and operation of the project, the project would not have the potential to disturb or significantly alter the character of any potential historic resources on the off-site property to the south of the project site, and therefore no changes are needed to the DEIR.

Comment 124.4: As a resident of Walnut Creek for fifty years, I have always been concerned with the open space and the quality of life in the area. The very large proposed development on the former Seven Hills Ranch property is a terrible affront to the well being of the community. We do not need the added traffic and increased population.

As someone who has always been interested in and done research on the history of the area, I am aware that the property is significantly historical. More research needs to be done to protect that history specifically the rabbit factory that was once a viable business in the area. Along with the glove factory that used the rabbit pelts.

As a member of the Walnut Creek Historical Society, I feel that the significance of the property needs further evaluation.

Response 124.4: This is a closing comment; therefore, no further response is required.

125. James Frey (dated May 10, 2022)

Comment 125.1: I am a resident of Walnut Creek and I live in Heather Farms HOA. I do have a vested interest in Seven Hills Ranch as I reside very close to the Ranch. I am sure you have been reminded by many of the people who oppose the Spieker Development Proposal (“SDP” or “Proposal”) that the Proposal does not conform at all to the General Plan. This General Plan is the bedrock document that the residents and voters of Walnut Creek rely on to understand development in our city.

I am against the SDP because it is clearly out of compliance, not only with the General Plan, but also with the current land use designation for which Walnut Creek stands. Citizens may not remove a tree with a trunk larger than 9 inches in diameter without city approval, which is rarely given. Yet the SDP calls for the removal of approximately 400 trees, including about 350 old-growth, protected trees. The Proposal removes 90% of the green space of the Ranch. It will wipe out animal and bird habitation.

Response 125.1: Please refer to Master Response 1: County General Plan Policy Consistency above. In addition, the project site is located on unincorporated Contra Costa County land; thus, City of Walnut Creek tree protection policies do not apply, except as noted previously in connection with the Kinross Drive access portion of the site.

Comment 125.2: The SDP will require 3 to 4 years for construction, during which time there will be 7000 dump truck loads of dirt movement, putting huge amounts of dust and debris into the air. It will flatten the remaining hills to accommodate construction of the massive project that will tower over our neighborhood. It will immediately add a huge increase in large trucks in our traffic on Ygnacio Valley Boulevard and the Heather Farms area. Once completed, it will add more than 1000 vehicles daily to our congestion. This traffic will never decrease, it will only grow larger. It will add a huge burden to our already stretched infrastructure (electric power, water, and garbage).

Response 125.2: Please refer to Master Response 6: Air Quality Fugitive Dust section and Master Response 9: Transportation Traffic Congestion section above.

Comment 125.3: The SDP is not fair to the residents in the area, the citizens and voters of Walnut Creek. This Proposal will have a very negative effect on property values in the area. If approved, the residents will have to deal daily with the traffic, noise, and dirt and dust. Our roads will be jammed and worn down by the truck traffic.

Ned Spieker will never be bothered by any of these problems. He will just be concerned about the economic returns to himself and his company. He does not live here in Walnut Creek and he does not vote in Walnut Creek. We residents do.

Please recognize our position. The General Plan is a good plan, a fair alternative to the Proposal. It will address the issue of new homes for Walnut Creek citizens. It will add to the property tax base, whereas the SDP will hurt property values. Based on many conversations with residents and the 3,500 signers of our petition to stop the SDP, the General Plan as written will not draw arguments, petitions, and protests. The Walnut Creek/CCC voters accept the General Plan as written. But I assure you there is very strong resistance to the amendments requested by the SDP.

The Save Seven Hills Ranch committee and I are always available for questions or discussions regarding the Ranch.

Response 125.3: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

126. Walnut Creek Watershed Council (dated May 10, 2022)

Comment 126.1: Since its inception, the Walnut Creek Watershed Council has not taken any position on any land use matter pending before a local jurisdiction; nor is the Council presently taking a position on whether the County should approve the request for a General Plan Amendment (GPA), but that is due to the DEIR's failure to adequately disclose the impacts of the proposed GPA. However, consistent with the purpose of our organization, the Council is expressing its concerns

about the substantive impacts on wetlands and riparian areas of the proposed project, and the adequacy of the DEIR with regard to its discussion of the impacts on wetlands and riparian areas.

50-Year Plan “From Channels to Creeks”

In 2009, the County Board of Supervisors adopted the 50-year plan “From Channels to Creeks”. While recognizing that the original mission of the Flood Control and Water Conservation District was to provide flood control infrastructure, the 50-Year plan stated that to “be aligned with today’s public policy, however, the District’s mission must be expanded to include habitat preservation and water quality in the course of providing flood protection.” (Page 3)

A study completed in October 2021 identifies the Seven Hills Ranch property as one of a few places where Walnut Creek (the creek) could be naturalized, and states that conserving the property would be an important wildlife anchor. The DEIR does not mention the 50-year plan, nor does it disclose the impact of approving the project on the resources that would be benefited by implementation of the 50-year plan.

A Plan for the Walnut Creek

Recently, the Council, the Flood Control and Water Conservation District, and the Resource Conservation District have begun discussions about cooperating on a plan for the entire watershed. For the Council and the creek groups that comprise the Board, it is critically important to create a plan that focuses on restoration of the watershed and on implementation of the goals of the 50-Year Plan. An important goal for the watershed is to restore the salmon runs that existed before the concrete channel was constructed.

The project area is an important component of any watershed restoration effort. It is one of a few areas where the concrete channel could be modified and a resting area for salmonids could be created. This project eliminates this opportunity. The Council believes a housing project done in conformance with the existing zoning could be designed with a sensitivity to the environment and with a goal of protecting the opportunity at this site to restore the salmon runs that existed before the concrete channel was constructed.

Response 126.1: Please refer to Master Response 4: FC District 50 Year Plan Consistency above.

Comment 126.2: Wetland Impacts

The project proposes the destruction of the wetlands at the end of Kinross Drive (Kinross wetlands). The DEIR recognizes (page 83) that there is a scarcity of wetlands regionally, and that any loss of wetlands is significant. Further, as stated on page 83, “Even small wetlands make disproportionate contributions to water quality, groundwater recharge, watershed function and wildlife habitat in the region.” However, the DEIR fails to articulate why the destruction of the Kinross wetlands is included in the preferred alternative, and why the destruction of any wetlands is acceptable.

Response 126.2: The Draft EIR identifies the removal of wetlands as a potentially significant impact in Section 3.4.2.1 Project Impacts under Impact BIO-3 (pages 82-

84). It is not the intent of the Draft EIR to determine if a project's proposed construction is "acceptable", but rather to disclose the project's impacts on the environment and if those impacts can be mitigated. The Draft EIR concludes that with implementation of mitigation measure MM BIO-3.2, project impacts to wetlands would be reduced to a less than significant level.

It is unclear what the comment means by "the DEIR fails to articulate why the destruction of the Kinross wetlands is included in the preferred alternative". The Draft EIR concludes that the environmentally superior alternative is the Roadway Redesign Alternative, which would avoid the wetlands near Kinross Drive altogether (page 216). See Section 5.0 Draft EIR Revisions for further clarification on which alternative is the environmentally superior option.

Comment 126.3: The Council is concerned about the impacts on the other wetland areas that will be adversely impacted by (1) the construction of retaining walls surrounding them, (2) the 3-4 years of continuous construction activity, and (3) the de-watering of the wetlands through diversion of rainwater into storm drains that transport rainwater away from the wetlands. The DEIR fails to disclose that the retaining walls will change the migration of water into the wetlands; it fails to discuss the impacts of 3-4 years of continuous construction activity on the wetland area; and it fails to discuss the impacts on the wetland areas of transporting rainwater away from the wetland areas. An adequate analysis would also disclose the impacts of 3-4 years of ongoing construction activity on the use of the wetlands by wildlife.

Response 126.3: Please refer to Master Response 7: Biological Resources above.

Comment 126.4: Mitigation of Wetland Impacts

While recognizing that this project would destroy the Kinross wetlands and while failing to disclose the impacts on other wetlands on the property, the DEIR nevertheless asserts on page 84 that the mitigation it recommends reduces the impacts to wetlands to less than significant. Given that there is a scarcity of wetlands in the central county area, the DEIR must accord the regionally scarce wetlands on the property a significantly higher level of consideration than is discussed in the DEIR. Further, the Council hopes that the County will recognize the importance of these regionally scarce wetland resources and will protect those resources in its decision.

However, if the County certifies the EIR and approves the GPA, the Council requests that proposed mitigation measure BIO-3.2 be revised to read substantially as follows:

"The applicant must mitigate the permanent loss of wetlands through one of the following measures:

1. The applicant must replace the wetlands by acquiring existing wetlands at a 5:1 ratio or at least one acre, whichever is greater. The protected wetlands must be in the Walnut Creek Watershed and be within 3 miles of the project site.
2. The applicant must create new wetland areas at a 2:1 ratio or at least 0.5 acre, whichever is greater. The protected wetlands must be in the Walnut Creek Watershed and be within 3 miles of the project site.

3. Activities on the project site do not qualify for consideration of mitigation of the loss of wetlands.

One of the Council's goals is to maintain or increase wetlands in the Walnut Creek Watershed. We hope the County believes this should be the County's goal as well. The acquisition of existing wetlands does not meet this goal, as the total amount of wetlands in the watershed is still reduced. Nevertheless, we retained the option of acquisition of existing wetlands in the mitigation measure, but we increased the amount of acreage to be acquired to more appropriately mitigate the permanent loss of regionally scarce wetlands. This is consistent with the DEIR's recognition of the disproportionate effect of even small wetlands in our region. However, our very strong preference is that the applicant be required to create new wetland areas, and, in order not to see the continued reduction in wetland areas, the Council believes that the ratio should be substantially higher than what is proposed in MM BIO-3.2.

Response 126.4: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 126.5: The second provision of MM BIO 3-2 allows the Applicant to deposit money in a mitigation bank. This is worse than the first option, as the only Mitigation Bank in the County is in East County. The possible diversion of funds to East County means there will be a continuing loss of wetlands in the Central County area. The DEIR fails to disclose the possibility that all funds might be diverted to creek restoration outside of the Walnut Creek Watershed.

The proposed consideration of 'enhancements' to the central riparian corridor is inappropriate because of the significant adverse impacts on the central riparian corridor by the project. The Council's proposed language for MM BIO 3-2 does not address how to mitigate the impact of the 3-4 years of construction impact on wetlands, or how to mitigate the impact on of the loss of the normal migration of water into the permanent wetlands. Thus, we can't offer any suggestions about how to mitigate these impacts. If the County approves the project, the County will need to require additional mitigation because of those impacts.

Response 126.5: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 126.6: Riparian Impacts

The DEIR fails to disclose the permanent impacts on wildlife (including birds) of the construction of so many retaining walls, nor the impacts of so many single-family dwellings adjacent to the central riparian corridor. The DEIR fails to disclose the temporary impacts of 3-4 years of construction activity on the use of the central riparian corridor by wildlife. Nor does the DEIR recognize the project's proximity to an eBird hotspot, and it fails to discuss the impacts of the project's removal of 353 protected trees on wildlife or on the use of the mature oak trees by birds who visit Heather Farm Park.

Response 126.6: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors and Wetland/Riparian Area Impacts and Mitigation sections above.

Comment 126.7: Mitigation of Riparian Impacts

The DEIR proposes MM BIO 2-2 and states that it will reduce the impacts to a “less than significant level.” The DEIR inappropriately relies on a Riparian Aquatic Habitat and Monitoring Plan to address the impacts on riparian areas.

The DEIR proposes that this plan is to be prepared ‘prior to issuance of a grading permit’. It is inappropriate to defer the consideration of impacts to the riparian areas until after the substantive decision is made. The deferral of consideration of the impacts on the riparian areas until after the decision on the GPA is not consistent with CEQA. If the County approves the GPA, and relies on the preparation of this plan for mitigation, this plan must be prepared by a riparian resource restoration company selected by the County and approved by the regulatory agencies. Further, the Council believes the importance of such a document means that it should also be subject to public review and comment.

In addition, MM BIO 2-2 has the same deficiency that MM BIO 3-2 has. MM 2-2 implicitly allows mitigation to be done outside of the Walnut Creek Watershed. This is wrong. All mitigation must be done solely in the Walnut Creek Watershed, and all mitigation should be done within 3 miles of the project site.

Response 126.7: The Draft EIR in Section 3.4.2.1 Project Impacts under Impact BIO-2 (page 81) clearly discloses the proposed project’s impact as “The project, as proposed, would permanently impact approximately 0.16 acres of riparian woodland habitat and will result in the removal or damage of up to 13 riparian trees due to partial clearing for the extension of Kinross Drive”. The Draft EIR then identifies performance standards in the mitigation measures MM BIO-2.1 and MM BIO-2.2 in order to reduce the impacts to riparian to a less than significant level. These mitigation measures were developed in accordance with current CEQA standards and includes the requirement that the Riparian and Aquatic Habitat and Monitoring Plan be prepared by a “qualified restoration ecologist.” Impacts to riparian areas are subject to regulatory agency oversight which further ensures the impact would be adequately mitigated.

Comment 126.8: Roadway Redesign Project Alternative

The Roadway Redesign Project Alternative proposes using the Seven Hills Ranch Road as the main entry to the project (p. 216). The DEIR determines that this alternative would lessen the project’s biological resources impact by avoiding riparian and wetland habitats. It would also remove fewer protected trees. Given the relative scarcity of wetlands and the significant destruction of 353 protected trees, the County must further evaluate this alternative in a re-issued DEIR.

Response 126.8: Please refer to **Response 43.3:**

Comment 126.9: Water Supply

The Council is also concerned about the impact of water supply during this mega drought in California. The DEIR makes no mention of water supply issues, even while the State and Federal

Governments are substantially reducing their water deliveries. The impact of the project on water supply during California's mega drought must be addressed. At a minimum, the DEIR should contain a water budget for the entire project.

Response 126.9: Please refer to **Response 108.2:**.

Comment 126.10: Conclusion

For the foregoing reasons, the County should require preparation and circulation of a new DEIR that adequately discloses the impacts of the project on the environment, and should not grant the GPA based on this DEIR.

Response 126.10: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

127. Robert Pinkos (dated May 10, 2022)

Comment 127.1: As an East Contra Costa County resident, and the parent of a former Seven Hills School student/graduate, I cannot imagine the disruption not only to Walnut Creek, but to the Seven Hills School this project would cause. Long gone already are the days when the children at the school could look out their window and see horses and possibly other wildlife at the Seven Hills Ranch. Of course, change marches on, BUT some changes just aren't worth it. If I could, I'd buy the Ranch and donate it to the city of Walnut Creek to keep as long as possible as a free park and hiking area. (Maybe someone could do that).

After reading the Draft EIR, I was aghast at the obvious slant on the part of the drafters in favor of the developer. In part, to suggest that the removal of over 300 native oak trees is environmentally sound and have little to no impact is ludicrous. If construction is allowed to proceed, the County will be forfeiting one of the most beautiful green sites left in downtown Walnut Creek. That which should be left unfettered for the use of future generations will be marred forever, leaving the view to only the few who can afford it. I hope the County will invest in keeping an invaluable green space that is already naturally attached to Heather Farm Park. To quote Joni Mitchell "they paved paradise; put up a parking lot." Please don't allow this project to go through!

I request that the Spieker proposal for Seven Hills Ranch not be granted validity by referring to it as "urban infill". Infill refers to the (a) filling in of small to medium lots between already existing development, (b) filling in with a project similar to its surroundings, and (c) building on lots which generally require little new infrastructure for development. Rarely, if ever, can you point to an infill project that is 30 acres in size and that requires the substantial infrastructure work that this project requires.

In addition to Seven Hills Ranch being an inappropriate site for massive "urban infill", the proposed alleged "infill" project is completely out of sync with its surroundings. The Seven Hills Ranch site is bordered by Heather Farm Park, a K-8 school, suburban residential neighborhoods consisting of one and two-story town homes along with detached single-family homes, the Walnut Creek (the creek),

and by vacant parcels owned by the Hale family estate. The proposal would dwarf and loom over any of the surrounding land uses. This proposal is “overkill” not “infill”.

Response 127.1: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 127.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 127.2: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

128. Jane Pinkos (dated May 10, 2022)

Comment 128.1: As an East Contra Costa County resident, I am vehemently opposed to the construction of the Spieker Project noted above. I used to work for Sheridan Hale and have walked his property many times. The land is a thing of natural beauty which he would have hated to see destroyed by covering it in concrete—a development that could be built anywhere else without having such a negative impact on the natural environment.

After reading the Draft EIR, I was aghast at the obvious slant on the part of the drafters in favor of the developer. In part, to suggest that the removal of over 300 native oak trees is environmentally sound and have little to no impact is ludicrous. If construction is allowed to proceed, the County will be forfeiting one of the most beautiful green sites left in downtown Walnut Creek. That which should be left unfettered for the use of future generations will be marred forever, leaving the view to only the few who can afford it. I hope the County will invest in keeping an invaluable green space that is already naturally attached to Heather Farm Park. To quote Joni Mitchell "they paved paradise; put up a parking lot." Please don't allow this project to go through!

I request that the Spieker proposal for Seven Hills Ranch not be granted validity by referring to it as “urban infill”. Infill refers to the (a) filling in of small to medium lots between already existing development, (b) filling in with a project similar to its surroundings, and (c) building on lots which generally require little new infrastructure for development. Rarely, if ever, can you point to an infill project that is 30 acres in size and that requires the substantial infrastructure work that this project requires. In addition to Seven Hills Ranch being an inappropriate site for massive “urban infill”, the proposed alleged “infill” project is completely out of sync with its surroundings. The Seven Hills Ranch site is bordered by Heather Farm Park, a K-8 school, suburban residential neighborhoods consisting of one and two-story town homes along with detached single-family homes, the Walnut Creek (the creek), and by vacant parcels owned by the Hale family estate. The proposal would dwarf and loom over any of the surrounding land uses. This proposal is “overkill” not “infill”.

Response 128.1: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 128.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 128.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

129. Walnut Creek Open Space (dated May 10, 2022)

Comment 129.1: I am writing to provide comments on the Draft Environmental Impact Report (DEIR) for the Spieker Project listed above at Seven Hills Ranch. The project's biological reports and DEIR do not adequately characterize the site's habitats or species, the project impacts to the habitats and species, or mitigation for the potential project impacts. Therefore, further biological analyses are required to adequately evaluate the project, its impacts and proposed mitigation. This information should be presented in a new Recirculated DEIR report in order to adequately inform the public regarding the project. My detailed comments are provided on the following pages. Thank you for the opportunity to provide comments on this project and your attention to these critical issues.

Response 129.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 129.2: Sean Micallef is a Partner and Chief Ecologist at Zentner Planning and Ecology and is on the Board of the Walnut Creek Open Space Foundation. He has more than 25 years of environmental consulting experience, with the focus of most of his work in Northern California and the SF Bay Area specifically. He regularly conducts surveys and completes Biological Resources Assessments for special status plants and wildlife, writes and reviews biological sections of CEQA/NEPA documents, prepares jurisdictional delineations for wetlands and waters, prepares state and federal environmental permits, is a CDFW and USFWS approved Qualified Biologist for numerous construction monitoring projects, and designs, constructs, and monitors wetland mitigation projects throughout the region.

In providing my comments on the Draft Environmental Impact Report (DEIR) for the Spieker Project, I have reviewed the Project Description by the applicant's consulting planner, Loewke Planning Associates (dated February 19, 2021), and the plans for the project including the Tree Removal, Grading, Utility, and Landscape Plans, among others, and studies prepared by consultants to the applicant, including the Biological Resource Assessment from LSA Associates (LSA; dated February 2020), summary report on Biological Resources by Olberding Environmental (Olberding; dated July 28, 2020), the U.S. Army Corps of Engineers (Corps) Jurisdictional Delineation of the site by Olberding (dated April 2020) and Certified Preliminary Jurisdictional Determination Map (File ID

2020-003165) by the Corps (dated March 24, 2021), and the Preliminary Arborist Report by Hortscience/Bartlett Consulting (Bartlett; dated July 2020). I have also reviewed the Biological Resources Report Peer Review by H.T. Harvey & Associates (HT Harvey) (dated July 30, 2021), which purportedly was to provide a review of the adequacy of the applicant's studies and, along with the LSA study, a basis for preparation of the Biological Resources section of the DEIR. Unfortunately, the LSA report and the HT Harvey peer review, and the applicant's studies upon which they are based, inadequately describe existing resources on the SHR site, do not accurately describe potential impacts of the Spieker Project, are not consistent with the relevant plans and regulations, and fail to provide adequate mitigation to address significant impacts. Accurate information on existing resources must first be documented before impacts can be fully disclosed and then adequate mitigation measures developed. Mitigation guidelines of the CDFW, USFWS, CORPS and RWQCB all call for avoidance of potential impacts as the preferred approach to mitigating substantial adverse effects, followed by on-site replacement, off-site replacement in the same vicinity and other forms of compensatory mitigation in descending order of preference and only when the preferred method of avoidance and on-site replacement is not feasible.

The original LSA Report is entirely lacking in substance and cannot support a relatively simple CEQA document such as a Mitigated Negative Declaration (MND), much less a DEIR. Based upon its lack of content, information regarding the habitats and communities on the site, and references to peer reviewed studies, it is clear that this report was initially commissioned as a preliminary study rather than a full Biological Resources Assessment. Because of this poor initial report, additional reports were commissioned by other Biological Consulting firms to supplement it. Unfortunately, however, because they are supplemental reports rather than a full-scale, intensive report as is required to support an EIR, they still fail to capture all of the elements that should have been captured, and would have been, had a full-scale report been commissioned.

The reports are flawed in a number of ways relative to special status species and habitats as well as potential impacts to these and the mitigation measures required. Therefore, the analysis in the DEIR is flawed as well. In addition, even though these documents have been submitted as the foundation for the biological resources section of the DEIR, the DEIR does not even come to the same conclusions as the biological reports in a couple of key areas concerning tree and wetland mitigation. The information provided in the HT Harvey review and the DEIR do not adequately describe known or potential resources on the Seven Hills Ranch site, their impacts, and do not provide meaningful mitigation for substantial impacts.

Given the significance of the omissions and errors in the DEIR analysis, we are requesting that the DEIR be recirculated to allow the public an opportunity to review the missing and inaccurate information described below, and to comment on project impacts and expanded mitigation programs that should have been included in the DEIR and should be included in the Recirculated DEIR. In particular, the recirculated DEIR needs to address the significant impacts to trees, special status habitats and species, County setback requirements on trees protected and regulated waters affected by the proposed Project.

Response 129.2: This comment is a summary of specific concerns with the Draft EIR that are further explained below. Detailed responses are provided below for each specific comment.

Comment 129.3: Tree Impacts and County Tree Ordinance

The HT Harvey review of the Bartlett arborist report did not include a review of their methods or results, but rather just incorporated the arborist results verbatim into their report. In no biological report or DEIR, was a graphic of the mapped trees overlaid with the proposed development plans, as is standard practice, to verify the trees that would be impacted by the development. Based upon the analyses performed by James Martin, a consulting biologist, it is clear that additional unmapped trees are present on the site and that additional impacts to known trees are likely to occur as a result of the project.

Even with the above inconsistencies and the likely presence of additional impacts to oaks and other native trees, the biological reports and the arborist report indicate that a total of 353 trees are subject to the County Tree Ordinance and will have to be mitigated. The loss of these trees is a significant impact and is required to be addressed by CEQA. However, the DEIR appears to disregard the conclusions in all of the biological reports. Though mitigation is required by the County Tree Ordinance, the DEIR fails to provide any mitigation for the loss of any of these trees.

Under Impact BIO-5 on page 85, the DEIR acknowledges that a permit would be required for the removal of any tree which meets the definition of “protected tree” but concludes that the removal of approximately 353 protected trees would be a less than significant impact and that no mitigation would be required. This is clearly not consistent with the County Tree Ordinance or the biological reports that were produced to support the DEIR.

Response 129.3: The Contra Costa County Tree Ordinance (Ordinance Code Chapter 816.6) requires permits for any person proposing to trench, grade or fill within the dripline of any protected tree, or to cut down, destroy, trim by topping or remove any protected tree. As discussed in Section 3.4.1.1 Regulatory Framework of the Draft EIR (page 66), the request to remove/impact trees is being considered with this environmental document and it will be considered as part of the proposed land use entitlement of the project. Compliance with the County’s Tree Ordinance is a standard requirement for all development projects on County land; therefore, the Draft EIR did not describe compliance with the Tree Ordinance as a mitigation measure. In addition, the County Tree Ordinance does not state a tree replacement ratio and instead leaves the decision to include a certain tree replacement ratio as a condition of approval to the Director of the County Department of Conservation and Development, or his designee. The project is proposing to plant approximately 1,078 trees on the site which equates to a replacement ratio of 2.8:1. Thus, the Draft EIR concluded the project would not conflict with the County Tree Ordinance and would result in a less than significant impact.

Comment 129.4: The DEIR continues with an unsubstantiated claim that “an additional 81 suitable protected trees are to be preserved, including all of the major valley oaks.” The HT Harvey review and DEIR simply repeat the claims in the Bartlett’s arborist report and Project Description, with no critical review or disclosure of the major errors and inconsistencies described above, and no analysis of opportunities to adjust the limits of grading and other disturbance associated with the proposed Project to provide for additional tree protection and reduction in the scale of tree loss. No map, table, or other verifiable evidence is provided that demonstrates “all of the major valley oaks” would be

preserved, which is grossly inaccurate when one actually reviews the tree data in concert with the proposed development plan.

Response 129.4: The comment’s referenced sentence in the Draft EIR was revised to remove “including all major valley oaks.” Please refer to Section 5.0 Draft EIR Text Revisions below.

Comment 129.5: Because the DEIR fails to address mitigation for the loss of at least 353 trees subject to the County Tree Ordinance, a revised and Recirculated DEIR should be produced to properly address tree loss as a result of the project. Also, given the magnitude of the inaccuracies, errors, and omissions described above, an independent peer review of the Bartlett’s arborist report and Revised Civil Plans should be performed by a certified arborist retained by the County to provide an accurate baseline necessary to accurately assess the potential impacts, and update information on tree removal and risk, which should be provided in the Recirculated DEIR.

Response 129.5: Please refer to **Response 129.3:**.

Comment 129.6: Impacts to Special Status Habitats

The biological documents including the LSA report, the HT Harvey review, and the DEIR do not adequately describe the habitats or the types and extent of sensitive natural communities on the project site or detail the impacts to these communities from the proposed development project.

Creeping Wildrye and other Native Grassland Habitat

The HT Harvey report describes some riparian habitat on the project site which the LSA report fails to discuss. However, large patches of creeping wildrye (*Elymus triticoides*), a rhizomatous native perennial grass, are not described or discussed in either report. Creeping wildrye is only listed in Attachment 2 of the Olberding Environmental report as a species that was observed onsite. However, the extent of creeping wildrye on the site is not discussed. There is at least one large stand of creeping wildrye adjacent to the upper portions of the central drainage and adjacent seasonal wetlands (Photo 1).

As indicated in the California Sensitive Natural Community List, stands of creeping wildrye have a rank of G3S3 and are considered a sensitive natural community type by the CDFW and, therefore, should have been addressed in the DEIR. Further, it is possible, since this stand of native grassland was not discussed or described in the DEIR or any of the other biological documents, that other stands of this or other native grasslands exist on the property. This large stand of creeping wildrye occurs within the alignment of the proposed bridge crossing of the central drainage and would be destroyed by the project. This impact was also not disclosed or described in the DEIR and background reports.

Therefore, the extent of this and other native grasslands on the site should be accurately mapped and described in a new Biological Resources Report, the assessment of the potential project impacts should be detailed and appropriate mitigation measures for the loss of this sensitive natural community should be included in a new Recirculated DEIR.

Response 129.6: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 129.7: Riparian Woodland Habitat

Riparian woodland habitat is present on the site in the upper portion of the central drainage as well as along the southern drainage of the site (which is noted as a perennial drainage in the Corps approved jurisdictional delineation). While the HT Harvey review acknowledges the presence of riparian vegetation, it does not acknowledge its presence at all along the main central drainage and only on a portion of the southern drainage associated with the Kinross Drive extension onto the property. While the dripline of this portion of the riparian woodland habitat is properly mapped in the Olberding Delineation (Figure 5a), a much smaller area is inexplicably mapped in the HT Harvey report and then only this inaccurate representation is discussed in the DEIR. The discussion of potential impacts on sensitive natural communities under Impact BIO-2 on page 81 of the DEIR is limited only to the loss of the inaccurately estimated 0.16 acre of riparian woodland habitat associated with the Kinross Drive extension.

Within the Central drainage, riparian woodland habitat extends over the upper portion of the drainage. This well-developed riparian woodland is characterized by native valley oak with an understory that is dominated by native vegetation such as creeping wildrye, Baltic rush (*Juncus balticus*) and cattail (*Typha* sp.).

Therefore, the extent of the riparian woodland on the site should be accurately mapped and described in a new Biological Resources Report. The report should include an assessment of the potential project impacts to the riparian habitat as well as appropriate mitigation. These impacts and the appropriate mitigation should be detailed and enumerated and this information should be included in a new Recirculated DEIR.

Response 129.7: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 129.8: Valley Oak Woodland Habitat

The HT Harvey report goes out of its way to indicate a habitat described as “oaks” exists on the site, instead of oak woodland as it would normally be called or in this case, valley oak woodland as is the standard in biological reviews. The reason for this omission is likely because valley oak woodland is a sensitive habitat. However, it is clear from their map of oaks on the project site, that oak woodland, dominated by valley oaks, is present in a number of areas on the Seven Hills Ranch property. Valley oak woodland is a sensitive natural community type that the CDFW has identified with a high inventory priority. Currently, all valley oak woodland alliances have a rarity ranking of G3S3. The DEIR also downplays the existence of valley oak woodland on the site, mischaracterizing them as groups of oaks that are typically small and consist of one to a few valley oaks, when there are some significant stands of valley oak woodland throughout the site and the project proposes the loss of over 100 valley oaks.

Because the biological documents and the DEIR fail to identify valley oak woodland on the site, they also fail to map or enumerate the impacts to valley oak woodland as a result of the proposed project

or to provide appropriate mitigation for the loss of valley oak woodland. The failure to properly evaluate the habitat on site or to discuss the project impacts and mitigation warrants a new full-scale biological report, which will properly evaluate the biological resources on the project site as well as the impacts and mitigation measures necessary for these impacts. The result of the new biological report should be included in the Recirculated DEIR.

Response 129.8: Please refer to **Response 121.1:** regarding oak woodlands.

Comment 129.9: Wetland Mitigation

MM Bio-3.2 describes four potential methods that the proposed project could employ to provide wetland mitigation. Wetland mitigation is required for the project because the project is proposed to impact jurisdictional wetlands and waters. These methods include a. Acquisition of lands with adequate wetlands, b. Mitigation banks, c. Enhancement/creation on-site in bioretention facilities proposed onsite, and d. some other agreed-upon method with agency staff. However, the DEIR fails to describe how any of these methods could adequately be accomplished and it is doubtful that any of them can be accomplished by the methods provided in the document.

Method a in the DEIR, fails to discuss that offsite land that includes wetlands is scarce and generally unavailable in this region, though the scarcity of this type of land was acknowledged in the HT Harvey review. It is doubtful that this method could be used due to its scarcity. Regardless, the DEIR should have provided maps showing the land where this is expected to be accomplished if this is the method that is expected to be used.

Method b, which is presented in the DEIR, is not a genuine option as no approved mitigation banks are available in this area. This method can't be used and, therefore, should not have been provided as an option. It is provided as an option only to provide cover for the project, which has not adequately described how on-site or off-site mitigation would be accomplished. The DEIR cannot present the public with options that it knows are not genuine and the lack of approved mitigation banks that could serve this area is very widely known and acknowledged.

Method C is not a viable alternative either, as stormwater treatment facilities, such as bioretention areas, cannot be used as wetland mitigation. This false choice is derived from a flawed analysis in the HT Harvey report. On page 32 of the HT Harvey report, the report states that a bioswale treatment area could potentially be counted as a mitigation feature if it develops wetland attributes. This is categorically false. Water that runs off from impervious surfaces must be treated before it is released to jurisdictional wetlands or waters. Therefore, and by state water rules, water treatment features cannot count as jurisdictional wetlands or waters regardless of whether these areas develop wetland features. In fact, most treatment facilities are designed to contain wetland features; however, they do not count as wetland creation or mitigation. This is a significant error, which provides further evidence that a full-scale biological resources report should be completed for this project.

This fallacy is then repeated in MM Bio 3.2 (c) where it states that one of the mitigation options is...creation of seasonal wetland habitat in the bioretention facilities proposed onsite. Bioretention facilities are required by the State Water Resources Control Board through the Regional Water Boards in order to treat impervious surfaces. These areas are exempt from the Clean Water Act and

cannot be used as wetland mitigation. Water released to either existing or constructed wetlands must be treated in bioretention or other treatment areas prior to being released to wetlands.

Method d, which the DEIR also present, is not a viable CEQA alternative as well. CEQA requires that a minimum ratio of 1:1 impacts to mitigation is provided by potential projects. Any negotiated method of mitigation with state and federal resource agencies would require, at a minimum, 1:1 mitigation, but 2:1 mitigation is more likely given the project.

Despite the illusion of options presented in the DEIR, the only choices are to provide mitigation onsite, which is the most realistic or provide mitigation offsite. Therefore, the DEIR must demonstrate where and how at least appropriate mitigation can be accomplished and it should be revised to include a mitigation plan that details where and how the impacts to wetlands and waters will be mitigated either onsite or offsite. Providing false choices does not satisfy this requirement.

Further, while enhance of an existing feature that is truly lacking in habitat values can provide additional mitigation, it does not satisfy mitigation requirements to provide wetland creation acreage to offset permanent impacts to existing wetlands. No wetland creation was provided for in the DEIR and, therefore, the significant impacts to wetlands have not been mitigation. In the case of the creek enhancement recommendations provided in the DEIR for the central drainage, the proposed “enhancement” measures are more likely to shade out existing native vegetation and habitat than to provide enhancements to the existing drainage, which already contains relatively high habitat values. Therefore, all of this information should be contained within a Wetland and Habitat Mitigation Plan that is provided as part of the biological documents for the DEIR.

Because the biological documents are inadequate and because the DEIR fails to adequately demonstrate how wetland mitigation can be accomplished, a new Biological Report, including a Wetland and Habitat Mitigation Plan, should be commissioned to adequately address wetland and habitat impacts and mitigation measures. Once the report is completed, the information should be incorporated into a Recirculated DEIR document for the publics review.

Response 129.9: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above. Please also refer to Section 5.0 Draft EIR Text Revisions below clarifying wetland enhancement areas.

Comment 129.10: Species Review

The biological reports by LSA, Olberding, and HT Harvey as well as the DEIR provide only a very cursory review of special status species and their potential to occur on the project site. This lack of information is especially egregious relative to wildlife species that are known from the region including Alameda whipsnake (AWS), California red-legged frog (CRLF), western pond turtle (WPT), nesting birds, and roosting bats. Further, none of the reports mapped known special status species occurrences within proximity to the site, which is standard practice when conducting special-status species reviews. The lack of thoroughness in the biological reports and DEIR is documented in the DEIR comment letter by James Martin. Further evidence of the lack of review by these documents is provided below regarding the potential for AWS to occur on site.

Alameda Whipsnake

The LSA and additional biological reports fail to properly evaluate the site for Alameda whipsnake (AWS) habitat. AWS is a federally threatened and state threatened species. Further, the LSA report provides inaccurate information regarding the site in order to conclude that whipsnake habitat is not present on the Seven Hills Ranch site. The only place AWS habitat is evaluated in any of the documents is on Table A of the LSA report, a portion of which is shown below, where it is stated that there is no chaparral or rocky habitat typical for this species on or adjacent to the project site. The HT Harvey review simply assumes the LSA conclusions and provides no further discussion or analysis regarding the obvious inaccurate representations regarding the site habitat described in the LSA report.

However, photos 8 and 9 of LSA's own report clearly show rocky habitat as well as scrub on the project site. In addition, rather than rocky habitat, the proper habitat characteristic for AWS is rock outcrops. Further, it is not only chaparral that provides primary habitat, but scrub as well. The USFWS (2000) states that grasslands that are linked to scrub by rock outcrops are considered primary constituent elements. Secondary elements include the presence of oak woodland.

The site actually contains all of these elements, and therefore, is considered to have prime constituent elements for AWS. Figure 1 shows the rock outcrop habitat that is clearly visible via aerial photography of the site. A total of at least 2.35 acres of rock outcrop is present on the site. Scrub habitat is present along the northern border of the property along with additional rock outcrops as well. Scrub species on the site include coastal sage (*Artemisia californica*), coyote bush (*Baccharis pilularis*) and silver bush lupine (*Lupinus albifrons*).

The project site provides more than 30 acres of AWS habitat and adjacent contiguous areas within the natural area of Heather Farm to the east, as well as natural areas to the southeast and southwest provide additional habitat contiguous to the site that AWS may use. The USFWS (2000) states that the home range of AWS is just 1.9-8.7 ha (4.7 to 21.5 acres) and that there is lots of overlap with home ranges of additional AWS with no territorial behavior (Swaim 1994). Therefore, there is more than enough habitat on the site for several mating pairs of AWS.

Because the habitat was not properly evaluated for AWS, a new, full-scale biological report should be completed. This report would properly evaluate the existing habitats on the site to support AWS and propose avoidance and minimization measures for AWS as it has the potential to occur within the project site. This information should also be provided to state and federal wildlife agency staff so that they can properly analyze the impacts of the project on AWS. Once a new, thorough Biological Report has been completed, a Recirculated EIR should be completed that incorporates the updated AWS information and analyses from the biological report.

Response 129.10: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 129.11: California Red-Legged Frog (CRLF) and Western Pond Turtle (WPT) CRLF is another example of the failure of the biological reports and the DEIR to properly evaluate the existing habitat on the site relative to special status species. Table 3.4-2 of the DEIR just lists "no" for CRLF under the column "suitable habitat for this species". In fact, the site contains seasonal

wetlands and marsh surrounded by grasslands and oak woodlands. Burrows and burrowing animals were also found on the site as noted in the HT Harvey review, in contrast to the LSA report. These burrows can provide important upland refugia for CRLF. Given these habitat elements, the site actually provides quality potential habitat for CRLF. I recently observed a CRLF in the Shell Ridge Open Space under very similar conditions, but with much less water than that which occurs on the Seven Hills Ranch site. This observation is provided in the comment letter by James Martin. The CRLF was located within a narrow and relatively shallow pond below a seep in an otherwise dry, ephemeral tributary. Frogs often seek out these known wet areas below seeps in spring within the otherwise dry landscape and are known to make point-to-point migrations between these areas without regard to topography or what we might consider potential blockages. It is very possible that CRLF move between Shell Ridge and the site using the larger corridor noted in the Wildlife Corridor section below.

Probably even more egregious is that Table 3.4-2 of the DEIR comes to the same conclusion for WPT. WPT are known to occur at the adjacent Heather Farm Park and likely use the Walnut Creek storage pond as well. These ponds are only approximately 550 feet and 100 feet respectively from the site, whereas WPT nests are known to occur up to about 1,500 feet from ponds in uplands areas. Given the presence of a relatively undisturbed site, perennial water, and cover provided by the emergent vegetation within the drainages on the Seven Hills Ranch site, it is very likely that WPT use the site.

Unfortunately, the conclusions reached in Table 3.4-2 of the DEIR, contain no analysis for how a determination of presence or absence of “Suitable Habitat On-Site” was made. This information is necessary to demonstrate a reasoned basis for concluding a special-status species is not present and would not be impacted by the proposed project. Neither the HT Harvey or LSA reports, contain a species-by-species habitat assessment for the over 20 special-status animal species known or suspected from the Walnut Creek vicinity. The above examples provide evidence to show the flawed analyses in these documents relative to a number of native, special status species.

A thorough analysis should have been included in the DEIR and background reports summarizing habitat conditions and how a determination on absence of suitable habitat for each special-status animal species was made. Therefore, in order to avoid significant impacts to special status species, a biological analysis that includes the above measures should be completed for the project relative to potential species status species. This information should then be included in a Recirculated DEIR.

Response 129.11: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 129.12: Creek Setback Requirements

The LSA report does not address the required County setback requirements at all. However, the HT Harvey review provides a discussion of 50-foot creek setback requirements as part of the County’s Creek Ordinance. These County setback requirements are meant to be minimum requirements for setbacks and are not optional requirements. Unfortunately, HT Harvey’s analysis of the project in regards to the setbacks is flawed. Despite the report providing a Figure (Figure 2, Impacts map), that clearly shows that the project proposes permanent impacts within the setbacks, the report somehow concludes that there are no impacts within the 50-foot setback. In fact, the project proposes 20-foot-

tall retaining walls that are well within the creek setback as well as a bioretention area within the setback. The HT Harvey report and the DEIR failed to recognize or discuss these elements of the proposed development within the required County setback.

The DEIR refers to the drainage along the south portion of the project as a “man-made” drainage and, as such, the DEIR failed to include creek setback requirements for this channel. The Corps, however, has disagreed with this assumption all along and instead of naming this a man-made ditch constructed in upland, it was deemed to be a perennial drainage. This perennial drainage connects to Homestead Creek. Thus, this channel is also subject to the County setback requirements. This is yet another instance of the biological documents and the DEIR not providing proper analyses for biological baseline conditions of the site as well as the impacts by the proposed project.

A proper analysis of the project as it relates to County setback requirements should have been included as part of the main Biological Resources Assessment that LSA completed for the project and properly evaluated as part of the HT Harvey review.

Because the County creek setback requirements were not properly analyzed, a new Biological Report which accurately reviews the project plan elements in regard to the County Creek Setback requirements should be completed. The results of the report should then be incorporated into the new Recirculated DEIR.

Response 129.12: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 129.13: Wildlife Corridors

Likely because the biological reports failed to provide a detailed accounting of potential species that could use the site, the reports also failed to properly analyze the site as a potential migratory corridor for wildlife species. There are actually two sets of obvious corridors, (a) the local one between the site and adjacent open space parcels and Heather Farm and (b) a larger one that connects via these open spaces, the adjacent Diablo Hills Golf Course, another open space parcel, and from there across Ygnacio Valley Road to Shell Ridge Open Space. The larger corridor is potentially used by a variety of species including amphibians and is almost certainly used by birds and mammals. The local one is almost certainly used by all species including insects, amphibians, reptiles, mammals, and birds, including likely use by western pond turtle, which are known to occur at Heather Farms and likely use the Seven Hills Ranch property.

Again, the biological reports and the DEIR failed to properly analyze these corridors and the potential impact the development would have on these corridors. The development would completely wipe out the local corridor and would permanently cut off the larger corridor from Shell Ridge to Seven Hills Ranch and Heather Farm. Therefore, a new biological report should be completed to properly evaluate wildlife corridors locally and how they connect to the Walnut Creek Open Space. The results of the new report should be incorporated into the Recirculated DEIR.

Response 129.13: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 129.14: Conclusion

Because the initial LSA report is so lacking in content and biological analyses and the supplemental reports, such as the HT Harvey review, still do not add up to a full-scale report or adequately characterize the site's habitats or species, the project impacts to the habitats and species, or mitigation for the potential project impacts, a true, full-scale Biological Resources Assessment of the project should be completed so that all of the biological impacts can be properly evaluated. As noted in the above examples, information regarding the habitats as well as the species that use them on the site were omitted or mis-characterized and the impacts from the proposed project to these special habitats and species are potentially significant. Because these baseline habitat and species information and the potential impacts and mitigation were not presented in the biological reports of the DEIR, a new comprehensive biological report should be undertaken and the results of the new biological report should then be incorporated into a new Recirculated DEIR. This information will accurately provide the public with a complete discussion of the proposed biological conditions, impacts, and the mitigation necessary for the provide completion of the proposed project.

Response 129.14: Please refer to the responses regarding the commenter's concerns above. Based on these responses, the Draft EIR does not require recirculation.

130. W. Stevenson Curtis (dated May 10, 2022)

Comment 130.1: This proposed development design is not appropriate in any way for the property and the proposed EIR should be rejected in its entirety for failure to adequately address the issues pertaining to the proposed land use, the insensitivity to the natural topography and the alternatives available to reflect a more environmentally sensitive solution(s), the scale of the proposed structures in relation to the surrounding areas, the significant financial impact of the project on the surrounding neighborhoods, the negative impact on traffic in the neighborhood and feeder streets, the inability to provide for safe mass evacuation in the case of emergency.

Let me explain, but first, I want it understood that I have been a licensed Architect for 49 years and a licensed Real Estate professional (both salesperson and Broker) for over 50 years ... all of it here in Central Contra Costa County. I served on the Martinez Planning Commission for two years and I have designed or acted as a Consultant on approximately 200 homes, townhomes and duets here in Contra Costa County. I would generally be considered to be pro-growth, but there are limits to that. This instance is one of those.

1) This project proposes, conservatively, some 375,000 cubic yards of earth to be moved, including 75,000 cubic yards to be removed entirely from the site. To give some visual perspective, 375,000 cubic yards is approximately the volume of one of the apartment buildings Spieker built at the Pleasant Hill Transit Village on Treat Blvd. This property in its natural existing state has a gently rolling topography that could accommodate a development of 90 to 140 dwellings on unpadded lots with streets that conform to the existing contours with little grading required while preserving most of the healthy trees with minimal impact on the adjoining neighborhoods. The design process could easily maintain the outlook of most of the surrounding homes. But you start with the land and build with the land not against it as this project has. The Draft EIR indicates that a project built on this land that falls within the current General Plan guidelines would have about the same amount of earth movement required. That simply does not need to be the case. I point to the older development of

Indian Valley, also in the county portion of Walnut Creek or the smaller development (suitable as a cul de sac prototype) located in Martinez on Linton Terrace as two successful alternatives. I have attached a sketch of one proposal that utilizes the current state law providing for both Additional Dwelling Units and Junior ADU's to create 46 Villas, each with a 3 to 4 bedroom home + a 2 bedroom ADU + a Junior ADU option for a total depending on configuration of 130 dwellings that could accommodate multi-generational homes and / or live-in care accommodations. In this sketch the only grading is for private streets and the neighborhood courtyard clusters. There would be no grading of significance beyond the building envelopes and most of the existing trees would be preserved. All of the land adjoining adjacent development would be preserved in its natural state and views and vistas from Heather Farms Park would be maximally preserved by clustering the all the homes close to the Ygnacio Creek channel but behind the existing tree growth. In short, there are ways to accommodate growth within the existing General Plan designation (4.6 units per acre) while maintaining the existing topography, buffering from adjoining neighbors and still provide for affordable housing and senior living scenarios. It provides for parking at 2.5+ per unit and an overall density that can accommodate an emergency evacuation plan.

Response 130.1: The Existing General Plan Development Alternative described in Section 7.4.2.2 of the Draft EIR (pages 214-216) used a conservative approach to evaluate the grading needed to construct this alternative. While this alternative could be designed to maximally reduce grading requirements, as the comment demonstrates, any final project design will not be completed until the initial project entitlements have been approved; it would therefore be inappropriate to speculate as to the details of final design plans in the Draft EIR. Therefore, the Draft EIR assumed a worst-case scenario for grading to adequately disclose the potential impacts of this Existing General Plan Development Alternative.

Comment 130.2: 2) The scale of the proposed apartment building is totally inappropriate. The overall dimensions are over 500 feet by 900 feet by 38 to 49 feet high, which is about the length and width as the overall size of the Transit Village mixed use complex in Pleasant Hill and about the same height, but at least the Pleasant Hill Complex is divided into several buildings with streets between them and is within a defined urban core. Again, please note that this is also a Spieker Project approved by the County.

a. A really strong image to get an idea of the size would be to picture the Pleasant Hill BART Station on the 7 Hills site only 200 feet longer and a solid 40 foot high wall... about twice the height of the BART Station. (Please see the attached photo)

b. The Draft EIR notes that most of the existing trees will be removed and new trees planted many in what appears to be almost a hedge row right next to this building all the way around, presumably to breakup the towering look of the building. In these days of home hardening to prevent the spread of wildfires this is totally inappropriate.

c. There is a reason that virtually all residential codes stipulate a maximum height of 35 feet on detached and attached dwellings, not located in an urban core... namely to create an appropriate sense of scale for the inhabitants This is the same reason that buildings in office parks in suburban communities like Walnut Creek are usually restricted to even less height, have a significantly smaller foot print and are set several hundred feet back from adjoining streets. They simply overwhelm the

scale of a human being if appropriate care is not taken. No care to provide scale has been made with this project unless you think putting a buffer of 20 ft high homes and duets less than 100 feet from a 48 foot high wall 900 feet long is providing scale

d. The visual impact of this structure on the surrounding neighborhoods would be immense and not mitigated by their proposed measures. The southerly corners of the Apartment building are as close as 180 feet from the neighbors in Heather Farms and only nominally further from Club Terrace and even with the change in elevation between the proposed Apartment Building and Adirondack in Heather Farms, the Apartment Building effectively creates a wall for homeowners on both streets and appears to rise above the roofline of homes in Heather Farms. (Please see the attached photo of the Spieker project at the PH BART Station, which approximates the height of the Proposed Apartment building and the approximate view from the homes on Club View Terrace and Adirondack). Or Google map “Avalon, Walnut Creek or Sunne and Treat, Walnut Creek and rotate the main street image to look down Sunne ... that is the image and scale proposed for this residential neighborhood. The scale and view is commercial not residential and is not appropriate in this location under any circumstances.

e. Even within the Seven Hills project the Apartment Building has negative impacts. The Duets on the North side of the building will essentially have no or minimal direct sun during the winter months, while those on the South and West sides of the Apartment house will endure the added heat from the reflective sun off the building

Response 130.2: Please refer to Master Response 5: Aesthetics above.

Comment 130.3: 3) There is a saying that: if it looks like a duck and quacks like a duck, then it's probably a duck. The Draft EIR indicates that because the Project is proposed currently as a Congregate Care facility it has no residential mandated components. Calling it a Congregate Care Facility is simply a way to get around those mandates. The portion designated for independent living, which will be on the proposed 25 acre parcel is designed as a condo development, whether you call it that or not. The fees to be collected for the privilege of living there are literally the same cost as purchasing the equivalent condo.

a. If the separate parcels are approved there is nothing keeping the developer from spinning it off at a later time as condos rather than congregate care. The residents of the facility will have already paid a fee that approximates the current value as a condo, but without the benefits of getting the appreciation. In 5 years or some other date down the line, the developer sells the condo to the people living in it, then the developer pockets the profit. The Draft EIR does not appear to address this circumstance which would effectively bypass all the safeguards in place for residential development.

Response 130.3: Please refer to Master Response 2: Project Non-Residential and Infill Designation above. In the event County decision-makers choose to support the project, they have the opportunity to condition the entitlements in a manner wherein the independent units are restricted from being converted to rental or for sale units, or that the units be subject to the County's Inclusionary Housing, Park Dedications, and Child Care Facilities ordinances prior being made available for sale or rent.

Comment 130.4: 4) The Site Plan for the complex reflects the developer's desire to create a separate parcel for the Independent living element of the project and another parcel for the assisted living and memory care element. The proposed configuration does not satisfactorily address or mitigate the impact on adjoining property owners, most specifically those on Adirondack Way facing Kinross, the end of both Allegheny Drive and Matterhorn Drive as well as the detached homes on Pyrenees Dr backing to the project.

a. Most of the employee and emergency traffic will be associated with the Assisted Care / Memory Care facility and yet the only access to the facility is a road that passes as close as 15 feet from the homes in Heather Farms. This will adversely impact the value of these homes, the quality of life of the homeowners and entail an extra burden of disclosure upon these owners when they sell.

b. The fire truck turnaround is located directly next to the homes at the end of Matterhorn Dr. And since both ambulances and fire trucks are called out on medical emergencies like at the assisted living facility the households adjoining this road will be continually disrupted.

c. Additionally, as proposed, all of the traffic for the development including 225 employees and 350+ residents, all deliveries, all emergency vehicles and all visitors to both the independent living residences and the assisted living/memory care residences will pass through a single entrance at the end of Kinross Dr. This will increase the traffic passing by the homes on Adirondack and Club View Terrace from perhaps 30 vehicles / day or so to well over 1200 / day. Most of this will occur during commute hours compounding an already bad scenario at Marchbanks and Ygnacio as well as Ygnacio and Walnut Blvd near the middle school, not even considering the jamb up at Kinross and Marchbanks. This will negatively impact the quality of life for those immediately adjoining the streets in question, but also the entire neighborhood due to the added congestion and traffic noise. It will have a negative impact on neighborhood property values as well by potentially several \$100,000 per home

Response 130.4: Please refer to Master Response 9: Transportation Traffic Congestion section.

Section 3.13.2.2 Project Impacts under Impact NOI-1 (page 160) of the Draft EIR discusses permanent noise impacts associated with project generated traffic. The Draft EIR concluded that project traffic noise increase would be below the three dBA and five dBA L_{dn} thresholds of significance on all roadways in the project area, resulting in a less than significant impact.

Comment 130.5: d. The parking element calls for 594 parking spaces from all sources. After subtracting the portion allocated for the care facility that leaves 514 for the 354 units, less than 1.5 spaces / du including guest parking. In contrast, the portion of Heather Farms adjoining this project (Heather Farms, Lot 12) has 525 spaces for 127 homes, 4.13 spaces / du.

i. It gets worse, because the 225 full time equivalent employees, which I estimate is around 325 or more actual people need to park somewhere. Assuming 60% work a normal work schedule a total of 195 vehicles would need to be accommodated in that 7:30 am to 6 pm ... that takes literally 100% of the guest and care facility parking assuming roughly 10% carpool to work. That

leaves no parking for Apartment overflow, no parking for visitors to the residents, no parking for events at the community center, no family member visits to the memory care

1. And their only alternative is to park on Kinross Dr and Marchbanks Dr. My estimate is that 30 to 100 cars would have to park on those streets.
2. That also does not account for the work shift changes which means that for the workers at the care facility there needs to be double the spaces.

Response 130.5: Consistency with parking standards is discussed in Section 3.17.3 Non CEQA Effects of the Draft EIR (pages 190-191) and further analyzed in Appendix P of the Draft EIR.

Comment 130.6: The development proposed is not an appropriate use of this land under any circumstances and should be rejected in its entirety because of its wholesale destruction of a pristine piece of property, its lack of adherence to the existing, well thought out, General Plan, its significant negative impact on the overall community environment, its likely significant reduction in neighborhood property values, and its overwhelming negative impact on the transportation infrastructure especially during commute times and emergency evacuations.

Response 130.6: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

131. Heather Farms Homeowners Association/O'Toole (dated May 10, 2022)

Comment 131.1: We represent the Heather Farms Homeowners Association (“Association”) and write on behalf of its more than 1000 residents and 359 homes. This letter follows on the numerous emails and other comments residents have submitted in opposition to the Spieker Senior Continuing Care Community Project (the “Project”) as presently planned.

As discussed in detail in the enclosed attachment the Association prepared, the DEIR fails to adequately address numerous CEQA impacts, summarized below. Moreover, the Project itself is grossly disproportionate to the site’s General Plan Land Use Designation and the proposed General Plan Amendment is based on a Draft Environmental Impact Report (“DEIR”) that inadequately addresses the severe and substantial impacts the Project will create, which include:

- Impacts on aesthetics and an incompatible land use
 - Visual impact from over-sized development
 - Out of proportion and incongruent land use compared to surrounding land uses
 - An erroneous finding that the Project site is in an “urban” environment and the proposal is an “infill” project despite the area’s obviously rural character
- Impacts from abundant, overly large and imposing retaining walls
 - Visual impact
 - Encroachment by the proposed Kinross Drive extension’s retaining walls on Association property

- Encroachment on Association property during construction, in particular during the construction of the Kinross Drive extension
- The completed Project will be a walled-off compound with no walkable public access
 - The Project eliminates the possibility of a future trail crossing on the Project site connecting Heather Farm Park, the vista point of Mt. Diablo and the Walnut Creek channel – a trail contemplated by the City of Walnut Creek’s City plan
- Impacts on Air Quality
 - Construction produced emissions
 - Permanent impact from idling cars awaiting entrance at the Project’s guard shack and gates
- Impacts on and loss of wildlife and trees - complete devastation of the existing natural topography, flora and fauna
- Impacts from Noise - construction and ongoing permanent from Project operations
- Impacts from Vibration during lengthy construction requiring bedrock drilling
- Impacts from Traffic
 - Construction and permanent traffic impacts on Kinross Dr., Marchbanks Dr., Heather Dr. and Ygnacio Valley Rd.
 - Use of private portion of Kinross Dr. by construction and permanent traffic
- Impacts on Water Supply
- Kinross Dr. extension: across “Lot A,” a parcel historically designated by the City of Walnut Creek to remain in perpetuity; and the impact on wetlands at this location

These impacts and deficiencies in the DEIR are addressed with specificity in the enclosed attachment.

We trust the information presented in this letter and its accompanying attachment reflects both the significant concerns the Association and its residents have regarding the Project, as well as serious deficiencies in the DEIR. The Association respectfully requests you consider these concerns carefully.

Should the Planning Commission require additional information, we and the Association stand ready to provide the same.

The HFHOA is a community of 359 homes through which a private portion of Kinross Dr. runs between Ygnacio Valley Rd. and Marchbanks Dr. Residences for the HFHOA are located on both sides of Marchbanks Drive. The entrance for the proposed development is planned for the end of Kinross Dr, adjacent to the public portion that runs north of Marchbanks Drive.

We have many concerns at how this massive proposal, extremely out-of-proportion to the General Plan Land Use Designation and one that requires a General Plan Amendment by the County, will impact our community and we feel that the DEIR has inadequately addressed the impacts. We feel there must be revision to the DEIR document if it is to truly inform decision makers.

General Summary, Impacts of Concern to HFHOA

Following this general summary are our CEQA specific comments on the Draft EIR.

- Impacts on aesthetics and incompatible land use.
 - Visual impact from over-sized development
 - Out of proportion and incongruent land use compared to surrounding land uses.
 - The notion that ours is an “urban” environment and the proposal is an “infill” project.
- Impacts from abundant, overly large and imposing retaining walls.
 - Visual impact
 - Encroachment by the Kinross Dr. extension’s retaining walls on HFHOA property.
 - Encroachment on HFHOA property during construction, in particular during the construction of the Kinross Dr. extension.
- The creation of a walled-off compound with no walkable public access.
 - The possibility for a trail crossing on the property from Heather Farm Park to the vista point of Mt. Diablo to the Walnut Creek channel is eliminated. This trail possibility has been and is noted in the City of Walnut Creek planning documents.
- Impacts on Air Quality
 - Construction produced emissions.
 - Permanent impact from idling cars awaiting entrance at the development’s guard shack and gates.
- Impacts on and loss of Wildlife and Trees. The complete devastation of the existing natural topography, flora and fauna.
- Impacts from Noise - Construction and permanent
- Impacts from Vibration due to a lengthy construction, ie. driving through bedrock
- Impacts from Traffic.
 - Construction and permanent traffic impacts on Kinross Dr., Marchbanks Dr, Heather Dr. and Ygnacio Valley Rd.
 - The use of the Private portion of Kinross Dr. by construction and permanent traffic.
- Impacts on Water Supply
- Kinross Dr. extension: across “Lot A”, a parcel historically designated by the City of Walnut Creek to remain in perpetuity; and the impact on wetlands at this location.

Response 131.1: This comment is a summary of specific issues with the Draft EIR that are further explained below. Detailed responses are provided below for each specific issue.

Comment 131.2: CEQA Specific HFHOA DEIR comments:

Section 2.0 Project Information and Description

2.2. Project Description.

The DEIR indicates a maximum of 225 “full-time equivalent” employees. The DEIR does not identify the maximum number of full-time, part-time, and on-demand employees. Hence, all project transportation impact findings are called into question. Inaccurate or incomplete information such as this may cloud decision makers’ and the public’s understanding of the project and impede informed decision making. The information must be reexamined and accurate information included in the DEIR.

Response 131.2: Please refer to Master Response 9: Transportation Vehicle Miles Traveled section above.

Comment 131.3: 2.2.6 Landscape and Open Space

Discrepancies:

Project descriptions and arborist reports previously indicate the project will remove 403 trees, 353 of which are “protected” status. DEIR references to removed trees follow the language found in the developer’s description which states that the project “requires a permit for the removal of 353 protected trees” with no mention of the actual number of ALL trees to be removed. This language serves to ignore and minimize the true environmental impact, which is 403 trees removed - an additional 50 trees. Per the Preliminary Arborist report prepared for Spieker Development and dated July 2020 by Bartlett Consulting there are 485 trees on the site. Of these, 82 trees are slated for preservation, leaving 403 trees to be removed.

The DEIR states (p85)“...81 suitable protected trees are to be preserved, including all of the major Valley Oaks.” This is incorrect, as the arborist report states, many of the 353 “protected” trees that will be demolished are major Valley Oaks, in fact there are 300 Valley Oaks on the site. (See Tree Removal map here, Figure 5)

Response 131.3: The comment’s referenced sentences in the Draft EIR was revised to remove “including all major valley oaks” and correct the number of trees proposed to be removed. Please refer to Section 5.0 Draft EIR Text Revisions below.

Comment 131.4: Impact BIO-5 To find that there is a "less than significant impact" in regard to the project conflicting with “local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance” is a contradictory finding. The DEIR notes (p66) that the trees are protected by Contra Costa County 816-6 Ordinance Code | Contra Costa County, CA | Municode Library yet does not find the impact to be significant for the removal of 353 protected status trees.

The DEIR must be revised to correct the discrepancy carried forth from the developer’s project description and declare the total number of trees removed will be 403, which is a greater number, and also indicate which of those are “protected” trees (353). Clearer reasoning as to why this is a less than significant impact must be given. This must be done to ensure accuracy to assist decision makers and the public in evaluating environmental effects of the proposal.

Response 131.4: As discussed in Section 3.4.2.1 Project Impacts under Impact BIO-5 of the Draft EIR, the Contra Costa County Tree Ordinance requires permits for the removal of any protected trees on private property. The proposed project would be required to obtain these permits in order to remove the 353 protected trees on-site. Since the proposed project would comply with the County’s Tree Ordinance and

obtain permits to remove the protected trees on-site, the Draft EIR concluded that the project would not conflict with a local ordinance and the project would have a less than significant impact.

Comment 131.5: The section states (p9) “...Trails would be placed...to provide access to the open space...” and “...an existing knoll will be recontoured but remain as open space with a proposed trail allowing access to the knoll..”

- The definition of open space is not clearly defined as this is in the area of wetlands to which access should be restricted.
- The existing knoll is shown as being graded down at least 10 ft. in height in the developer’s submitted documents. This reduction in height should be noted here.
- It is unclear that “trails” will be inaccessible to the general public but rather for the use of the development’s residents only. The development will be walled with a guard shack and this should be stated in this section so as to give a clear representation of who will be allowed access to the top.

To ensure accuracy and understanding and provide useful, complete information for decision makers and the public when evaluating environmental effects the above information must be included in the DEIR.

Response 131.5: Access to the open space on-site would be restricted to residents and employees of the proposed project. Trails near the central drainage on-site would be along the north and south banks, outside of the wetland area. The Draft EIR discloses that the “existing knoll on the north-central portion of the site will be recontoured” as part of the project.

Comment 131.6: 2.2.8

The DEIR states that “ the wetlands enhancements would be made within the area south of the project Entry, opposite the Independent Living Building, to replace habitat disturbed within the existing Kinross Drive right-of-way.”

- The DEIR must expound on how this replacement for habitat eliminated by the proposed Kinross entrance will mitigate the aesthetic and environmental loss of the wetlands and the habitat currently present at the site.

Response 131.6: Impacts related to wetland removal and proposed mitigation are discussed in Section 3.4.2.1 Project Impacts under Impact BIO-3 (pages 82-84). These mitigation measures require application to, and approval of permits from, the USACE and RWQCB prior to any disturbance to jurisdictional wetlands, in order to document compliance.

Comment 131.7: Section 3.0 Environmental Setting, Impacts, and Mitigation

3.1 Aesthetics

3.1.1.1 Regulatory Framework

Senate Bill 743

(1). The project’s aesthetic impacts must be considered significant. Senate Bill (SB) 743 is inaccurately cited as applying in the case of this development and may not be used to justify that aesthetic impacts need not be considered for the following reasons:

- As adamantly stressed by the developer themselves this proposal is NOT residential or mixed-use residential. “A CCRC or RCFE is a service arrangement that includes housing and not a mixed use project that includes residential housing.”¹² Nor is it an employment center project. The developer has stated - insisted - it be defined as a “service arrangement”, NOT residential.
- Additionally, the project is not located in an “infill” site (see next paragraph) within a transit priority area. The DEIR provides only a definition of a transit priority area (footnote 2, p31) but does not indicate how exactly the site fulfills the requirements to be defined as such. Exact quantification at such a conclusion must be included.

Decision makers and the public must be informed that the project’s aesthetics must most certainly be considered and this should clearly be stated in the Draft EIR.

Response 131.7: The Draft EIR references Senate Bill (SB) 743 as part of the regulatory framework, but does not rely on it to conclude that aesthetic impacts are less than significant. The Draft EIR evaluates aesthetic impacts independent of SB 743 in Section 3.1.2.1 Project Impacts (pages 37-43).

Comment 131.8: (2 .) To describe this as an “infill” site within an “urban” area is an incorrect description of the site and such wording should be stricken from the DEIR document.

- The site does not fulfill the infill definition included in the DEIR itself (p 31 footnote 2) either by having been previously developed (no), or, if vacant (which for all intents and purposes Seven Hills Ranch is, having only a caretaker on the property) having 75% of its perimeter adjoining qualified urban uses (no) and located within a transit priority area (no). It predominantly adjoins a creek(W) (with an existing utility road along which a pedestrian nature trail has been proposed by the public, Seven Hills Creek Trail), empty parcel (SW), and Heather Farm Park (E & SE) all of which the DEIR must recognize as non-urban along with calculating and stating the percentage therein. In addition, the remaining adjoining uses are neighborhoods of moderate density (SF-M) and a school. This is not a “lot” surrounded by “urban” development (see AES-1 below in this comment document under Aesthetics 3.1.2.1).

Response 131.8: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 131.9:

- In addition, the small percentage that is made up of surrounding residential is correctly described as “consist(ing) of one- to two-story houses” as stated in the DEIR (p 33), but

¹² Miller, Starr, Regalia 11/20/2020 response to CCCo Notice of Incomplete Application Submittal for Spieker Senior Senior Development Community Care and DEIR 2.2.1 Project Description

incorrect when including “and apartments” to the statement. There are no apartments and to say so may give the impression that there are adjacent high-rises similar to the proposed project. There are no high-rises, nothing over 2-stories, anywhere near the vicinity of the property. The project desires to place a 550,000 square foot, 3- and 4-story apartment building next to a decidedly non-urban and dissimilar residential area. As previously requested by HFHOA during the NOP comment period, the DEIR should indicate the distance to the nearest buildings of similar mass and height for purposes of studying the appropriateness of this proposal relative to the surrounding neighborhoods.

The DEIR gives decision makers and the public the false and misleading impression that this is an “infill” site surrounded by “urban” development and uses. The “infill” and “urban” labels should be deleted and replaced with proper descriptions in the DEIR as the purpose of the EIR is to fully and accurately inform.

Response 131.9: Please refer to Master Response 2: Project Non-Residential and Infill Designation above. Two-story apartment buildings are located approximately 600 feet southeast of the project site at 110 Hogan Court (Stoneridge Luxury Apartments).

Comment 131.10: (3) Senate Bill (SB) 743 does apply to the extent that “local governments retain their ability to regulate a project’s aesthetic impacts outside of the CEQA process” as stated in SB743.

- This site, known as Seven Hills Ranch, while County property, is in the City of Walnut Creek’s Sphere of Influence. It was the historical desire by the City and the City’s residents that the property be included in their Open Space/ Hillside Protection Ordinance , Measure P, in 1991. While that goal was not achieved, the pursuit of it shows the recognition by the City, and its residents, that this is a property with natural features such as hillsides and a ridgeline which warrant protective measures whether that be full preservation or development in accordance with principles sensitive and respectful of its natural features.

These facts can not be ignored in any discussion of SB 743 which the DEIR has sought to and should continue to include. SB 743 clearly indicates that there is a need to respect the local government’s input on development proposals being considered and this site’s history with the City of Walnut Creek should be exposed in any DEIR wishing to be meaningful regarding the property and the proposal.

To fully inform decision makers and the public this information on the historical significance of the site to the City of Walnut Creek should clearly be stated in the DEIR when referencing SB 743.

Response 131.10: As the comment points out “local governments retain their ability to regulate a project’s aesthetic impacts outside of the CEQA process.” As the Draft EIR focuses only on discussing the project’s CEQA related aesthetic impacts, Contra Costa County may consider other non-CEQA aesthetic considerations in separate staff reports.

Comment 131.11: (4) Photos included with the DEIR (p34-36) lack complete information to inform DEIR readers.

- The close-up view of DEIR Photo 4 neglects to fully show the view from the end of Kinross Dr. (Photo 4) of the current existing oaks which will be destroyed or likely experience construction trauma and root restriction (retaining walls) such that they will not survive.
- DEIR Photos of the ridgeline are taken at such an angle as to minimize the true ridgeline height (DEIR Conceptual Photo Simulation 2), although it is evident that the ridgeline view will be completely obscured from the adjoining park and its nature area, as mentioned above.
- DEIR Photo views from Kinross Dr. are questionable and proper visuals must be re-requested for the DEIR to be informative. The vegetation is imaginative yet not stated as so. To show trees growing over the 49 foot height of the building in DEIR Photo Simulation Figure 3.1-2 is unrealistic, just as are the large tree massings shown along the roadway. In fact, plans call for retaining walls along the roadway entrance and the area of the phantom trees and those walls are not indicated in the photo simulations. It is doubtful that trees shown in the photo simulations will actually grow or be retained under the conditions proposed by the project. The creation of a building pad at 130' elevation plus the 49' height of the multi-story building on the west side of the property creates a total top-of-building elevation of 179', completely eradicating vistas from nearby HFHOA homes, the highest of which sits at 170' elevation. The proposal does not adhere to either the City or County General Plan; the photo simulations do not realistically indicate the true impact of the proposal.

These photos and photo simulations must be re-requested, asking for more accurate depictions of the current and proposed scenarios. It is essential that decision makers understand clearly the visual impacts of this proposed project which is in actuality out of place with and jarringly impactful on its surroundings.

Response 131.11: Please refer to Master Response 5: Aesthetics above.

Comment 131.12: 3.1.2.1

Impact AES-1

The DEIR refers repeatedly to the project's proposed site as "surrounded by urban development" and yet goes on to describe the surrounding area as decidedly un-urban (p 33 Surrounding Area). Further, the information in (3.1.1.1 # 2) above discusses the incorrect application of the "infill" and "urban" labels for this site. Therefore any DEIR impacts must be evaluated with the stated understanding and recognition that the proposed project's location is in a non-urbanized area.

The CEQA Significance Guideline for Aesthetics item l.c. asks whether the project (in a non-urbanized area such as this project is) would "substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point).

The DEIR must state that the scenic ridgeline of the proposed project's site is not only visible from the equestrian center, but also clearly visible from the Nature Area of the adjoining Heather Farm Park; a highly popular nature area with walking paths used extensively by public park visitors who seek a nature experience in the park. The development's proposed two-story Health Care Facility's

placement and retaining walls will be clearly visible and overbearing from this publicly accessible vantage point and will destroy the ambiance of this highly popular area of retreat for park visitors, will obscure the ridgeline views and is completely incongruent with this adjoining land use. (See previous ridgeline Photos 2, pg 5 here)

Further, the ridgeline is protected by Contra Costa County ordinance 82-1.016 – Hillside protection. The western side of the property adjoins the Walnut Creek creek along which runs a utility road for which a pedestrian nature trail has been proposed by the public, Seven Hills Creek Trail (Figure 1). Cut & Fill grading, Retaining walls and the project's structures would effectively eliminate the current hills, trees and existing visual character and quality of public views of the site.

The DEIR must be revised to indicate that the project, proposed for the non-urbanized location, would degrade public views of the site as described here and therefore has a Potentially Significant Impact in regard to Aesthetics item 1c.

Response 131.12: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 2: Project Non-Residential and Infill Designation above.

Comment 131.13: Impact AES-2

The DEIR states “development of the proposed CCRC would be consistent with the surrounding urban development and would not substantially alter the view from local scenic vistas.” In fact, the current undeveloped hills of the site are clearly visible from Lime Ridge, designated a scenic ridgeway by the Contra Costa County General Plan.

<https://www.contracosta.ca.gov/DocumentCenter/View/61024/31-Aesthetics-PDF>. The proposed development’s roof will rise to 180 feet elevation, 20 to 25 feet higher than the current visible hilltops. This will therefore be more visible than the existing topography and surrounding development, which the report inaccurately states is “urban”, as noted in 3.1.1.1 (#2) in this comment document.)

The DEIR must re-evaluate and strive to accurately depict the aesthetic impacts and surrounding environs in order to provide decision makers and the public proper information.

Response 131.13: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 5: Aesthetics above.

Comment 131.14: 3.3 Air Quality

3.3.1.1 Background Information - Sensitive Receptors

The DEIR fails to include the adjacent Heather Farm Park in any of its discussion of Air Quality impacts. This is a substantial oversight as the park gets over 1.5 million visitors annually and due to its shared eastern boundary with the proposed project site is subject to impacts from anything that happens on the project site. Runners, children and the elderly all use pathways and park spaces close enough to the project site to be impacted by construction’s “fugitive dust” from the site.

Response 131.14: Please refer to Master Response 6: Air Quality

Figure 3.3-1 of the Draft EIR (page 61) shows the location of the nearest sensitive receptors to the project site. Project construction and operational air quality impacts to the sensitive receptors shown on Figure 3.3-1 would be greatest as they are the closest to the project site. As discussed in Section 3.3.2.2 Project Impacts (pages 54-64), the proposed project, with implementation of mitigation measures MM AIR-1.1 and MM AIR-1.2, would result in less than significant air quality impacts to nearby sensitive receptors. Since Heather Farms Park is farther away than the receptors shown in Figure 3.3-1, air quality impacts to receptors located at Heather Farms Park would be the same or less than those identified at closer locations shown in Figure 3.3-1.

Comment 131.15: In addition, the DEIR fails to address the impact on existing nearby residences from vehicles lined up and idling at the proposed guard shack entrance, while they wait for approval to enter and/or for the gates to open. It was requested in our NOP comment that this item be included in the DEIR.

To fully inform decision makers and the public, Heather Farm Park must be included in this section as an adjacent impacted area with sensitive receptors to the proposal's construction activities. Impact from emissions due to vehicles idling as they await security checks and/or gate access must be calculated and included in the DEIR.

Response 131.15: The emissions factors (EMFAC2017) used for the air quality analysis (see Appendix D of the Draft EIR) are composite emissions factors based on the typical California drive cycle as defined by California Air Resources Board for use in their EMFAC model. The typical drive cycle includes a certain amount of idle time as well as run time at various speeds. Thus, all trips to and from the project site include idling emissions as well as emissions from traveling at various speeds/conditions.

Additionally, idling vehicles do not emit fugitive road dust (fugitive PM_{2.5}) and the majority of vehicles entering the site are assumed to be light duty gasoline or electric vehicles, which do not emit diesel particulate matter (DPM). Thus, the conclusions of the air quality assessment (and health risk assessment) would not change by making efforts to specifically account for idling cars at the entrance gate.

Comment 131.16: MMAir-1.1

The mitigation shown under i) "...average wind speeds exceed 20 mph..." while indicated as a best practice is inadequate for a site next to an elementary school with sensitive receptors. The Beaufort Wind Scale indicates that wind speed of 13-18mph "raises dust, leaves and paper". The suggested mitigation of 20 mph as the point that all excavation, grading and/or demolition activities shall be suspended is inadequate for this site and must be adjusted downward to reduce the impact, in particular due to the extreme grading activities which will take place, to a safe level for nearby sensitive receptors in the park, the school, and the nearby residents.

Response 131.16: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 131.17: Impact AIR-3

This section makes no reference to the location of Heather Farm Park, directly adjacent to the east side of the proposal site. Sensitive receptors (the public of all ages) come and go through the area, they are potential recipients of the construction pollution which would be generated by the project's lengthy and intense building process, in particular the grading activities, which raise dust, and the immense number of construction vehicles, and their emissions, to be employed over the entire course of construction. The horse arena and the nature area are particularly susceptible to impact and should not be ignored in the DEIR. 1.5 million people visit Heather Farm Park annually. Runners, children and the elderly all use pathways and park spaces close enough to the project site to be impacted by the extended construction time. The impact on them from this proposal should not be ignored.

To fully inform decision makers and the public, Heather Farm Park must be included in this section as an impacted area by all construction activities for this proposal.

Response 131.17: Please refer to **Response 131.14:** above regarding sensitive receptors at Heather Farm Park.

Comment 131.18: 3.4 Biological Resources

3.4.1.1 Regulatory Framework

The DEIR clearly outlines Federal and State protections for the Migratory Bird Treaty Act and Sensitive Habitat Regulations for wetland and riparian habitats (p65,66) and also the Contra Costa County General Plan policies in regard to the protection and preservation of trees, significant ecological resource areas, hillsides, ridgelines, wetlands, and riparian habitat (p67-68).

3.4.2.1 Project Impacts

Impact BIO-1:

The project calls for the removal of 403 trees, including 353 of Contra Costa County's local "Protected Status" Oaks. The DEIR makes no mention of this special status species, as defined in the County's Tree Protection and Preservation Ordinance Chapter 816-6, (Ords. 94-59, 94-22).

Response 131.18: The Draft EIR acknowledges the protected status of the trees to be removed as part of the project in Section 3.4.2.1 under Impact BIO-5 (page 85). The Draft EIR states "The project proposes the removal of approximately 353 existing protected trees."

Comment 131.19: As requested in our NOP comment, to make the DEIR a useful tool for understanding it must reference both City and County ordinances and policies for the site. While under County Jurisdiction, the property falls within the "Sphere of Influence" of the City of Walnut Creek. Additionally, the trees proposed to be removed from the end of Kinross Dr. are in the City and should be evaluated per City ordinance, Chapter 3-8 PRESERVATION OF TREES.

Response 131.19: Please refer to **Response 2.3:** above regarding consistency with City of Walnut Creek Tree Ordinance.

Comment 131.20: The arborist report is lacking and contradictory in significant information; tree numbers and quantity are inconsistent.

Response 131.20: It is unclear from the comment what numbers in the arborist report are lacking or contradictory. Please refer to **Response 131.3:** regarding corrections to the number of trees to be removed as part of the project.

Comment 131.21: Heather Farm Park is an eBird “Hotspot”, a known site for an over-abundance of bird life. The connectivity for native and migratory bird species between the Park and the proposed development site is well established. No mention is made in the DEIR of this significant habitat connection and the reliance of the native and migratory bird population on the trees of Seven Hills Ranch.

If the DEIR is to serve as an authentic tool to inform decision makers and the public it must address the significant environmental impact from the removal of the 409 trees, 353 of them protected, along with the recognition of the interconnectivity of the site with Heather Farm Park’s eBird Hotspot designation. An independent peer review arborist report must be conducted.

Response 131.21: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 131.22: MM BIO-3.1

Until actual mitigation plans are in place and approved by the USACE and the RWQCB, project approval by the County should not take place. Decision makers must understand that mitigation measures suggested may be inadequate and thereby the plan for an entrance road over a federally recognized and designated “wetlands” at the end of Kinross Dr, which will eliminate those wetlands, is not yet approved and the proposal must not proceed without approval. The DEIR must note that until the approved plans for wetland impact is approved the project may not proceed.

Response 131.22: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above. Receiving approval from USACE/RWQCB are separate actions and do not determine whether or not the project can be approved at the local County level.

Comment 131.23: 3.11 Land Use Planning

3.11.1.2 Existing Conditions

- The DEIR states “The A-2 zoning is inconsistent with SM General Plan land use designation. As the General Plan is controlling, the site is considered residential.” It must be noted here that the proposal, as stated above in comments for 3.1.1.1 (#1) does not wish to be considered residential but rather a “service arrangement”.

There are discrepancies in the DEIR as to when the residential use is applied as a justification for certain policies and when “non-residential” is used as justification. The DEIR must avoid the turnabout in project description for the purpose of applying different land use policies. The project must be evaluated either as residential, a mixed-use residential, or a service arrangement, but the designations may not be used interchangeably.

Response 131.23: The sentence referenced by the comment only applies to the existing General Plan designation of the project site, not the project itself. The project site is within a residential designation as is shown on the County's General Plan Land Use Map, but the project remains a compatible non-residential use.

Comment 131.24: The proposal property is located in the City of Walnut Creek's Sphere of Influence (map) and is approximately 50% bordered by properties in the City of Walnut Creek's jurisdiction. The City's policies and ordinances must be highlighted in any informative discussion of development of the property and the environmental impacts therein, yet the information is absent from the DEIR document. In regard to the environment, the City of Walnut Creek's General Plan's stated purpose is that it "preserves and manages the integrity of the natural environment and vistas, including vistas of and from the hills, and protects and expands access to natural resources, including the open spaces, trails, parks, and creeks that surround and connect the community." The property is currently designated by the City as SF-very low and as noted above in section 3.1.1.1 (#3) was historically sought after to become open space.

The DEIR must include explanation of the City of Walnut Creek's influence and impact regarding the proposed site. Decision makers and the public must understand the entire picture of the existing property and its surroundings to adequately review this development.

Response 131.24: Although the project site is within the City of Walnut Creek's sphere of influence, a majority of the project site is within the County's jurisdiction. Therefore, the City of Walnut Creek's policies are only applicable to the portions of the project within the City of Walnut Creek (i.e. Kinross Drive). As noted in the DEIR, the project will require specific permits and easements from the City of Walnut Creek to facilitate improvements to the Kinross Drive entrance and North San Carlos EVA and utility corridor. County staff will continue to work with the project sponsor and the City of Walnut Creek to address City interests as part of the final plans and permitting process.

Comment 131.25: Impact LU-2 (p142)

This impact as stated cites selective portions of General Plan policies. If taken in their entirety the policies cited clearly indicate the development proposal is not a candidate for the proposed site.

- It assumes the General Plan Amendment to Congregate Care land use designation will occur. Currently the proposal is in conflict with the SM land use designation. There is no guarantee the County decision makers will approve the extreme leap in density from approximately 120 units (net, after roadway, etc allowances. Gross is from 30 to 147 units) for the site to 450 units. To ask for almost 4 times the allowable density is a huge leap and out-of-sync with the surroundings. It is not and should not be a shoo-in.
- The DEIR claims the project site is designated for future urban uses and considered "urban infill", given the surrounding development. As noted in the comment above in this document for section 3.1.1.1 (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.

- While citing the County’s General Plan policy 3-8 the DEIR does not properly state the policy, which says “Proposals that would prematurely extend development into areas lacking requisite services facilities and infrastructure shall be opposed.” The 30-acre site is vacant with the exception of one house, now occupied by a caretaker. It does not have and has not had any infrastructure of the type necessary for this proposed scale of development. This development proposal should seek out a re-purposed site to meet with the parameters of this policy. The site requires a new road extension, which can only be achieved through the dedication of a piece of property (Lot A) in Walnut Creek which was historically put in place to precisely avoid a through road in that location. The citizens of Walnut Creek are opposed to the dedication of Lot A and this should be so noted in the DEIR. To say that the proposal supports CCCo GP Policy 3-23 “A diversity of living options...while ensuring community compatibility.” The City of Walnut Creek already offers several options for this model of senior housing, the CCRC. One exists at the corner of Ygnacio Valley Rd and Oak Grove Rd (Viamonte), and another is in the process of being built for the Shadelands area, both locations being only approximately 2 miles away. Both of these locations are indeed surrounded by suitable and compatible commercial/business land uses, unlike the incompatible surrounding land uses to the proposed project site.
- It is disingenuous for the DEIR to cite partially CCC GP Policy 3-28 by stating “the project would not result in an unmitigated adverse environmental impact upon the environment...” (a questionable statement on its own) but neglecting to include “...and upon the existing community”. This omission does not fully inform.

The DEIR must be as transparent, precise and as informative as possible, including all facts which may be relevant to decision makers and the public. For this reason the Land Use Planning section needs revisions and further inclusions as noted above.

Response 131.25: Please refer to **Response 30.2:** and Master Response 1: County General Plan Policy Consistency above.

Comment 131.26: 3.13 Noise
MM NOI-1.1

- While the DEIR has produced much information and mitigation requirements there is no doubt that the lengthy construction phase for the proposal will be very difficult to mitigate as suggested.
 - The incessant back-up beeping from multiple construction vehicles at once has not been included in the document. In addition there is no mention of the impact from the back-up beeping from numerous construction vehicles at once. With the City of Walnut Creek planning for construction of a new pool facility very close by and adding to the cacophony of construction engines, grading and dumping activities and back-up beeping, the noise impact will be much greater than any measure included in the report.

The DEIR must note that additional construction by the City of Walnut Creek very likely will be taking place nearby and concurrently and this information must be calculated and the noise impact accurately assessed in the DEIR.

Response 131.26: Please refer to Master Response 8: Noise and Vibration above.

Comment 131.27:

- If a Construction Noise Management Plan is to be prepared as mandated, the proposed entity that will confirm the plan's implementation and oversight should be included in the DEIR.
- The project would result in the generation of excessive groundborne vibration. Bedrock exists across the site, and close to existing residences. The DEIR must address how this bedrock will be broken up and how that will affect the nearby homes both short term and long term. Unlike soil, rock is too hard to simply excavate and has to be removed by drilling, hammering, pneumatic hammers or by blasting, none of which are mentioned in the DEIR. Without this information the impact can not be addressed.
- The DEIR must confirm that the tennis court will be used for tennis and not Pickleball. Pickleball is a noisy sport and will have noise impact if allowed on the proposed tennis courts. This must be written in any EIR should the proposal be allowed to proceed. Pickleball courts are available at many locations in the City of Walnut Creek and the County so the necessity of maintaining some on site is not necessary and should be prohibited due to the noise impact.

Decision makers and the public can not assess the proposal unless the DEIR:

- acknowledges nearby construction plans are likely to occur concurrently within the project's construction timeline.
- states the authority that will manage monitoring and enforcing mitigation measures.
- reveals the method of and noise/vibration impacts from shattering bedrock.
- limits the sport court activity to Tennis, not Pickleball or any other sport.

Response 131.27: Please refer to Master Response 8: Noise and Vibration above.

The Construction Noise Management Plan required in MM NOI-1.1 requires that the contractor retain a qualified acoustical professional to address any noise concerns during project construction. Approval and enforcement of this Construction Noise Management Plan shall be completed by the County prior to issuance of demolition, grading, and building permits.

Comment 131.28: 3.14 Population and Housing

3.14.2.1

Impact POP-1

The impact does apply and has significant impact for the following two reasons:

- (1) Per the calculations and corrected assumptions shown below, the total residents under the current SM Land Use Designation would be 295. The total for the CCRC proposal equals 558. Therefore, the proposal does induce population growth directly beyond what the current land use designation would induce; it very nearly doubles it. The DEIR calculation is faulty and needs to be corrected. The number of units and the number of individuals per household used in calculations are both unsubstantiated numbers, throwing off the entire conclusion.
 - The designation of SM applied to the property would yield, once roadways, openspace, environmental constraints, etc are accounted for, 120 units. IF space allowed to add inclusionary units (instead of incorporating them into the 120 units) at 15% (CCCo ordinance 822-4.4), that would bring the total to 138 (Versus the DEIR statement of 166).

- The Contra Costa County estimate of 2.9 persons per household should not be applied, but rather the City of Walnut Creek census data, which shows averages 2.13 to 2.14 per household (US Census). The link to this data is included in the footnote of the DEIR (p207).

Response 131.28: The SM (Single Family Residential – Medium) General Plan designation allows for single-family residential units between 3.0 to 4.9 single-family units per net acre. With the inclusion of required minimum 15 percent density bonus for mandatory inclusionary housing, the County calculated that the project site could hold a maximum of approximately 166 residential units. This figure could be greater if a larger percentage of affordable units were accommodated. Since the project site is located within unincorporated Contra Costa County, it is appropriate to use the County’s estimated persons per household of 2.9.

Comment 131.29:

- (2) The proposal will induce substantial unplanned population growth due to the ceding of “Lot A” by the City of Walnut Creek to the developer, thereby removing an obstacle (p166) to population growth which was expressly put in place to avoid the impacts its removal would bring.
- The Kinross Dr extension would require action by the City of Walnut Creek to cede “Lot A”, a 1’x50’ strip of land, to the new property owner. The express Public Purpose of this lot’s purchase by the City of Walnut Creek in 1970 was that “Kinross Drive shall not be connected to Seven Hills Ranch” as stated in the General Plan at the time. It is clear that the City did not want Kinross Drive to become a through road, an intention now carried forward and implied in the more recent and current City of Walnut Creek General Plans.

Response 131.29: The Draft EIR in Section 3.14.2.1 Project Impacts under Impact POP-1 (pages 166-167) acknowledges that the proposed project would result in approximately 560 CCRC tenants, compared to the 482 residential inhabitants of a conventional 166-unit housing project. The project site’s General Plan designation of SM, however, already accounts for future population growth on-site as it is designated for residential uses. The extension of Kinross Drive as part of the proposed project would not preclude the site from being developed with residential uses if the proposed project is not approved. Seven Hills Ranch Road already leads to the project site and could provide access to future homes.

Comment 131.30: 3.17 Transportation

3.17.1.1 Regulatory Framework

(p180) Contra Costa County General Plan

The Draft EIR does not fully reveal that the proposal violates the Contra Costa County General Plan, Policy 5-31: “Roads developed in hilly areas shall minimize disturbance of the slope and natural features of the land.”

The project proposes massive excavation, to permanently flatten the entire site with the exception of one hill, eliminate natural slopes and natural features of the land, and to destroy 400+ trees, 350 of which are protected, and all wildlife. The proposal indicates no respect for the environment, no

respect for the natural habitat, no respect for all wildlife. The proposed entrance crosses over an existing wetlands and includes retaining walls due to grading in the area of the wetlands and adjacent hills.

To provide complete information the DEIR must revisit and clearly show the impacts and that the proposal IS NOT in accordance with the Contra Costa General Plan and the City of Walnut Creek with regard to slope and natural feature disturbance.

Response 131.30: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 131.31: 3.17.2.1 Project Impacts

Impact TRN-1

The DEIR is incorrect to state that “the project does not conflict with aplan...addressing the circulation system, including...bicycle lanes and pedestrian facilities.”

- The Bicycle Facilities Map in the Transportation Element (p5-9) of the Walnut Creek General Plan in addition to the City of Walnut Creek Bicycle Plan 2011 (p47) include a proposed bicycle and pedestrian route following the extension of Seven Hills Ranch Road across the entire SHR site, which would logically link the Homestead and Walnut Boulevard neighborhoods to the southwest to Heather Farm Park to the northeast.
- In the City of Walnut Creek Planning Commission Minutes of Oct 28, 2004 (p3) it is stated that “a public trail would be established to Seven Hills Ranch Road”.

Response 131.31: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 131.32: 3.17.3 Intersection LOS, Appendix P, Fig 2 to 8.

The DEIR lists six intersections, but shows only four of them in Figures 2 to 8. This omission hides project impacts from public view.

Response 131.32: The intersections of Civic Drive/Ygnacio Valley Road and Bancroft Road/Ygnacio Valley Road were included as part of the transportation analysis to determine the project’s effects on designated Multimodal Transportation Service Objectives (MTSOs), pursuant to the Central County Action Plan. These intersections were identified in a different manner than the ones shown on Figures 2-8; therefore, the Transportation Assessment did not include them on the same figure. The Draft EIR still discloses the location of these intersections and any potential deficiencies in Section 3.17.3 Non-CEQA Effects (pages 187-190).

Comment 131.33: 3.17.3 Project Trip Generation.

Table 3.17-2 Weekday Project Vehicle Trip Generation

The DEIR documents proposed mixed land uses, but does not account for traffic generated by all land use components. The trip generation is flawed and must be properly restated.

Response 131.33: The trip generation land use provided in Table 3.17-2 of the Draft EIR (page 188) was taken from the Institute of Transportation Engineers (ITE) *Trip*

Generation Manual, 10th Edition and is specific to continuing care retirement communities (CCRC). Thus, the trip generation inherently accounts for the mix of land uses associated with CCRCs.

Comment 131.34: Appendix P , Figures 6 and 7 Intersection Delay / LOS

The DEIR reports findings on vehicle delays and levels of service, but does not address peak hour queuing impacts. A longer queue requires a longer median left-turn lane, and also longer green time. The traffic analysis is incomplete and inadequate and must be corrected and restated.

Response 131.34: Please refer to Master Response 9: Transportation Traffic Congestion above.

Comment 131.35: Appendix P Figure 4 Project Trip Distribution.

DEIR shows project traffic on Kinross Drive which is signed 15 mph and “PRIVATE STREETS”. This private street has multiple stop signs and speed bumps. Project traffic should never be directed to use Kinross Drive. The traffic distribution is flawed and must be corrected and restated.

The above items must be re-evaluated with an eye to providing objective and thorough traffic information to the decision makers and public who must rely on the DEIR for accuracy.

Response 131.35: Project traffic will not be directed to use Kinross Drive. The project’s transportation impact analysis estimates which roadways project generated traffic will use to access the site. This was accomplished using a review of existing travel patterns and a select zone analysis from the CCTA’s travel demand model. While the portion of Kinross Drive south of Marchbanks Drive is a private street, it is open for use by the public. As it provides a direct link into the project site for some trips, a small amount of traffic, approximately 10 AM/PM peak hours through trips, was forecast to use the roadway and assigned to the facility within the transportation assessment.

Comment 131.36: 3.19 Utilities and Service Systems
Impact UTL-2

- The DEIR reports that “CCWD will be able to meet demand during average, single-dry, and up to two years of multiple-dry years through 2045”. Unfortunately, we are currently “in a severe drought extending into a 3rd summer” (Contra Costa Times, “California drought: New water restrictions coming to 1.4 million East Bay residents” May 3, 2022) It does not seem wise to proceed with a project that so significantly affects the water supply.

Response 131.36: As discussed in Section 3.19.2.1 Project Impacts under Impact UTL-2 (page 203), the Contra Costa Water District (CCWD) will meet any potential supply shortfalls experienced during dry year conditions, with or without the project, through a combination of a short-term conservation program and/or short-term water purchases, consistent with the CCWD’s Future Water Supply Study.

Comment 131.37:

- Additionally, the DEIR states, without providing calculation or methodology as to how it has arrived at the conclusion, that if the property were developed at its current SM land use designation the water demand would remain the same. Quantification of these conclusions must be included in the DEIR to verify and provide support for this conclusion. (See section 3.14.2.1 above to calculate current vs. proposed number of residents.)
- The DEIR may consider including the suggestion that the proposal utilize “purple pipe” (recycled water) solutions to mitigate the taxing of the water supply system before allowing this project to proceed.

The DEIR must further report that construction will not proceed until the current drought has ended and water supplies are ample for this new significant drain on water resources.

Response 131.37: The Draft EIR calculated the project’s water use to be approximately 114,689 gallons per day (gpd),¹³ or approximately 128 acre-feet per year¹⁴ (AFY), and compared that to CCWD’s excess water supply. The Draft EIR concluded, in Section 3.19.2.1 Project Impacts under Impact UTL-2 (page 203), that CCWD would have sufficient supplies to accommodate the proposed project; therefore, no comparison of water use to the existing General Plan designation of SM is required. The Draft EIR includes reference to the SM designation only to point out that the project site is designated for future development and that increases in water use on-site would have been accounted for by CCWD.

Comment 131.38: ADDITIONAL CEQA ITEM: CEQA 3.21 Mandatory Findings of Significance
Either by design or inadvertent omission the DEIR fails to address the questions posed in the standard CEQA Environmental Checklist . Specifically item 3.21 a) “ Does the project have the potential to substantially degrade the quality of the environment...?” The project will alter very nearly the entire existing natural environment and landscape of the site. Very, very few living creatures or natural features will remain. It is a devastation of the existing topography, flora and fauna. It will be irrevocably and detrimentally altered:

- The grading required will level all the hills with the exception of one and fill in the valleys on the site. It will destroy the ridgeline which should be protected under the ordinances of the City of Walnut Creek, in which the property lies. Per the Spieker Development Project Description “ Overall cut volume is expected to be approximately 225,000 cubic yards, with roughly 150,000 CY of fill, resulting in the potential for export of up to 75,000 CY .” This is a massive amount of earth movement. (See below, Cut and Fill map Figure 3) If completed the footprint of the project’s IL building is larger than the footprint of the SF Warriors Chase Center Arena. (See Figure 4)
- 400+ trees will be removed from the site, 353 of which are “protected trees”. (See below, Tree Removal map Figure 5) Furthermore, the excessive need for immense retaining walls

¹³ 37,447 gpd wastewater (North San Carlos) + 60,039 gpd wastewater (Seven Hills Ranch Road) ÷ 0.85 = 114,689 gpd total water demand

¹⁴ 114,689 gpd x 365 days/year ÷ 325,851 gallons/acre-foot = 128.4 acre-feet per year

brings into question whether the remaining 82 retained trees can survive. (See below Retaining Walls map Figure 6)

- The extensive and intrusive grading and need for encroaching retaining walls threatens the wetlands found on and near the property. Wetlands are a scarce resource and subject to mandated protective measures. See map and 3D below (Figures 7,8). The map indicates how close the project limits are to the west side of the central wetland, especially to the south end where the bridge is proposed. Damage from grading and construction equipment would be extensive; Kinross and the southern wetlands destroyed.

The project poses a huge, completely altering impact to the environment. The overall impact MUST be addressed and the DEIR MUST include this information and a Mandatory Findings of Significance section. To omit this section does not give decision makers and the public a true picture of this project's impacts.

Response 131.38: Inclusion of a Mandatory Findings of Significance Section is not required in an EIR. Per CEQA Guidelines Section 15065, the Mandatory Findings of Significance is used to determine whether a project needs to prepare an EIR, which the project has already done.

Comment 131.39: Section 4.0 Growth Inducing Impacts
Impact GRO-1

- The DEIR is not accurately representing the numbers of persons the proposal would serve, if approved, versus the number of persons that would reside on the property if it were developed in accordance with the General Plan, SF-M. This is evaluated previously in this comment document section 3.14.2.1 / Impact POP-1. As noted there, the method for calculating how many units and the persons per household is flawed.
- The DEIR seeks to compare against County data rather than the more relevant City of Walnut Creek statistics, as previously discussed in 3.14.2.1 here in this comment document. Therefore the conclusion that there would be a less than significant impact is based on a false premise. If calculated correctly the increase in residents from the proposal versus the increase should the site be developed in accordance with its current General Plan Land Use Designation SF-M would be approaching double. (558 versus 295)
- The DEIR again incorrectly suggests that this is an urban area on an infill site. As noted in the comment in this document for section 3.1.1.1 (#2) this site is decidedly NOT a site for dense "urban infill" such as this proposal.

The DEIR must recalculate using accurate data to truly reflect that the project would foster a significant population growth and indirect growth-inducing impacts in the surrounding area.

Response 131.39: Please refer to **Response 131.28:** regarding population calculations.

Comment 131.40: Section 5.0 Significant and Irreversible Environmental Changes
5.1.2 Commitment of Future Generations to Similar Use

- As noted in this comment document for section 3.1.1.1 (#2) this site is decidedly NOT a site for dense “urban infill” such as this proposal.

Response 131.40: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 131.41: Section 6.0 Significant and Unavoidable Impacts

- Based on the entirety of facts in this comment document, the conclusion that the proposed project would not result in any significant and unavoidable impacts must be reexamined. The DEIR must be recirculated for reevaluation.

Response 131.41: Significant and unavoidable impacts would occur if an impact could not be reduced to a less than significant level through mitigation. As discussed throughout the Draft EIR and in the Summary section (pages v-xxi), the project, with implementation of all identified mitigation measures, would result in a less than significant impact on the environment.

Comment 131.42: 7.0 Alternatives

7.2 Project Objectives

- It must be noted that the project objective of being located “on an infill site and compatible with the surrounding community” cannot be met by the project as currently proposed. This is discussed in this document in the following sections:
 - Section 4.0, Impact GRO-1
 - 3.1.2.1, Impact AES-1
- To achieve the mass and height needed for this proposal, grading and recontouring will put the proposed IL building roof at 180 feet elevation, 20 to 25 feet higher than the current visible hilltops and approximately 25’ higher than any surrounding residences. The Health Care facility will overshadow the existing adjacent Heather Farm Park. The creek with a proposed creek trail runs along the west side.

Response 131.42: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 131.43:

- The DEIR states that alternative suitable sites suggested would “not reduce the identified significant and unavoidable construction noise impact, which is primarily due to the size of the project, duration of the construction schedule ...” The DEIR must restate and recognize that it is NOT the size and duration that make the current proposal site less attractive and unsuitable from a construction standpoint BUT the landscape itself is a huge contributing factor. The natural contours must be destroyed, an immense amount of bedrock and soil must be broken apart, rearranged or hauled away and the rolling hill landscape must be virtually leveled. This is the main contributing factor which brings on the lengthy and disruptive construction and the significant environmental impact associated with it. Were a relatively flat site to be located for this project, impacts would indeed be SIGNIFICANTLY reduced. To state otherwise would be less than correct.

Response 131.43: The Draft EIR contained a typo in Section 7.4.1.1 Location Alternative (page 213) regarding a significant and unavoidable construction noise impact. This typo has been corrected, as shown below in Section 5.0 Draft EIR Text Revisions.

Comment 131.44: 7.1.1 & 7.2

While the project proposal meets the project objectives of providing a high quality, licensed CCRC community it does so at great environmental cost and, despite what the DEIR declares (p212), does not provide a retirement option not currently provided in Contra Costa County and specifically in the City of Walnut Creek. In addition, to claim the project will operate on an infill site compatible with the surrounding community is inaccurate as noted above in this comment document 3.1.1.1 (#2)

- The City of Walnut Creek already offers several options for the CCRC model of senior housing. One exists at the corner of Ygnacio Valley Rd and Oak Grove Rd, (Viamonte) and another is in the process of being built for the Shadelands area, both locations being only approximately 2 miles away from the proposal's site and which together will provide over 400 CCRC units for potential senior residents. Both of these locations are level, in need of little grading, and indeed surrounded by suitable and compatible commercial/business land uses, unlike the incompatible surrounding land uses to the proposed project site.
- In addition, it should be noted that Walnut Creek offers an abundance of senior living options, one being Rossmoor, which consists of 6500 units available to seniors.

Response 131.44: Please refer to Master Response 2: Project Non-Residential and Infill Designation above. The proposed Spieker CCRC project is substantively different from the referenced examples of CCRC's currently found in Walnut Creek, in that the Spieker project contains a much larger complement of amenities and services integrated into a campus setting. The Project Description included in Section 2.2 of the DEIR provided an abbreviated summary of the proposed Spieker project's services and amenities. The Spieker Senior Continuing Care Retirement Community (CCRC) Project calls for development of a self-contained campus offering continuing care contracts that provide for integrated delivery of housing, resident services, and long-term care. This Project's amenities include a Clubhouse Building and a Recreation Building, containing the community administrative offices, multiple restaurants, library, lounges, card and billiard rooms, computer center, theater, mail room, exercise and fitness center, indoor community pool, health spa and beauty salon, art studio, multi-purpose room, and community auditorium. In addition, this Project includes a maintenance building which will house the community's maintenance department, a laundry, storage, workshop, golf cart maintenance, and control center for the community's high-efficiency heating, ventilation, and air conditioning (HVAC) network and other utility systems. This Project also provides resident support services, including 24-hour emergency assistance and access to the Health Care Center, shuttle and group transportation services, laundry and personal services, and other activity services. In contrast, the other referenced existing facilities in Walnut Creek, while in high demand, do not contain this level of services and amenities.

Comment 131.45: 7.4.1.1 Location Alternative

- One of the developer's "sister" facilities, Stoneridge Creek, is located in Pleasanton, approx. 25 miles south of Walnut Creek. The flat location is adjacent to mainly commercial environs and is well suited to this development proposal and expansion could be considered. Again, this developer's CCRC developments are self-sustaining with theaters, restaurants, recreation facilities, healthcare facilities, and more all within their walls. It is of no consequence to residents as to where the development is located.
- While the option may no longer be available, the 59 acres at Concord Village was recently available and may still be an option for this development. The recent availability provides evidence that there are options in the Contra Costa County which will offer in-place infrastructure, would benefit from a senior facility in their midst, offer land use compatibility and would greatly minimize the environmental impact.
- Due to changes in work lifestyle due to the pandemic, many retail and office spaces have become available, even along the Ygnacio Valley Rd. corridor in Walnut Creek. The sites have existing infrastructure, are already level and would require little grading or major construction work. This would completely eliminate the massive environmental impact on the current site.

Response 131.45: As discussed in Section 7.4.1.1 Location Alternative of the Draft EIR (page 213), a location alternative was rejected due to no readily available approximately 30-acre sites in Central Contra Costa County.

Comment 131.46: 7.4.2.1 No Project Alternative

- The site could be developed in accordance with the General Plan land use designation. As discussed elsewhere in this comment document the DEIR has used faulty data to come to the conclusion that the proposal has equivalent or lesser impacts.
- The site could be preserved, resulting in no environmental impacts. Local conservation organizations could reevaluate its potential and become involved as the public sees great value in this property and once again expresses the desire to preserve it, just as they did in 1991.

Response 131.46: As discussed in Section 7.4.2.1 No Project Alternative of the Draft EIR (page 214), the No Project Alternative assumes the project site would remain as it is today and the existing buildings on-site reoccupied. This avoids all environmental impacts. An alternative consistent with the existing General Plan designation of SM is provided in Section 7.4.2.2 Existing General Plan Development Alternative.

Comment 131.47: 7.4.2.2 Existing General Plan Development Alternative/Comparison of Env. Impacts

- An alternative use for the site at Seven Hills Ranch, a use in keeping with the current land use designation, would be workforce housing developed in accordance with the General Plan land use designation and compatible with the surrounding community. The site is a close-in location and workforce needs for transportation, recreation and employment opportunities could more easily be met on this site with less impact on the environment than workforce

housing located further away from employment centers. Ostensibly, there is a greater need for workforce housing than the project's proposal whose objectives are already being met in the Walnut Creek Community. The proposed development is a self-contained compound offering all the amenities required for its residents, including health care, on site. There is no real need for this CCRC to be located in this location. It can be located anywhere. Given the substantial environmental impacts - including impacts on climate change- this site is better suited to either no development or workforce housing of a smaller scale that does not involve the complete destruction of the natural landscape through extensive grading and is compatible with the surrounding uses.

- The current proposal could be restructured and its project objectives modified, since the needs that the project hopes to serve are already being met in the community. A proposal in keeping with the surrounding community and within the General Plan land use designation is an alternative to be considered.
- This section misstates the number of units and therefore overstates the impact of the alternative of the property being developed in accordance with the current General Plan. The number of single-family units which would fit on the site and the Walnut Creek number of persons per household are both stated incorrectly and should be restated. See comments under 3.14.2.1, Impact POP-1 in this document.
- The DEIR's stated conclusion that to develop in accordance with the Existing General Plan Land Use Designation would have similar impacts is not adequately explained or logically proven and is based on incorrect calculations as stated above. The CEQA Guidelines discuss that "alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project." (DEIR p211).

The conclusion that to develop in accordance with the current land use designation versus the proposal's extreme CCRC designation is similarly impactful is not based on enough accurate analysis and proof to be definitive and useful. The DEIR must present more comprehensive information to put forth this conclusion and to provide decision makers and the public with the tools to fully understand the environmental impacts of the proposal.

Response 131.47: Please refer to **Response 2.12:** regarding level of detail required for alternatives.

132. Ozgur Kozaci (dated May 10, 2022)

Comment 132.1: Thank you for providing me the opportunity to comment on the internal inconsistencies and deficiencies of the Draft EIR. Please find my detailed comments and questions as attached for your records.

In summary, The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 132.1: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

133. Lesley Hunt (dated May 10, 2022)

Comment 133.1: Selection of which rare species to search for

While the LSA selections were adequate for a preliminary study, they were too narrow for the later, presumably more comprehensive work that would be undertaken as the project progressed. Both locations and habitat types shrink as plants and animals become more rare, and new populations of listed species are often discovered in unexpected places. The HT Harvey peer review accepted the LSA list without any discussion of its adequacy. This should be re-examined and an expanded list included in a Recirculated DEIR.

Response 133.1: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 133.2: Wildlife Corridor

Seven Hills Ranch (SHR) sits astride the last remaining wildlife corridor from Shell Ridge and other preserved wild land to the south and Suisun Bay to the north, and it is a crucial link in it. The corridor comes down to Ygnacio Valley Road and crosses it, then winds through various patches of open space (including the golf course) between there and SHR and Heather Farm. From there it follows the Walnut Creek channel north to Suisun Bay. There was no discussion of the corridor's existence or its role in allowing the movement of wildlife up and down the creek. There was also no discussion of any mitigation measures; instead any animal who cannot fly will be blocked by high walls and gates.

In addition to the animals who utilize SHR, there are many birds in Heather Farm (185 species according to the ebird hotspot) some of whom utilize SHR for nesting and foraging. (A red-tailed hawk nest and a probable turkey vulture nest have been spotted and documented by both volunteers and professional biologists this spring.) This should be more thoroughly researched and the results included in a Recirculated DEIR.

Response 133.2: Please refer to Master Response 7: Biological Resources Wildlife Movement Corridors section above.

Comment 133.3: 50 Year Creek Plan

In about 2009 the County Flood Control District developed a 50-year plan for the creeks' future, recognizing that many of the facilities would need to be redesigned and rebuilt for new conditions, including greater environmental concern. One of the few places to create respite for migrating fish was below Seven Hills Ranch. Consideration of this plan and consultation with the Flood control District might have offered realistic opportunities for nearby mitigation of drainage impacts, as well as wildlife impacts, in addition to doing necessary planning for the future. This plan should be reviewed for impacts on the project and the results included in a Recirculated DEIR.

Response 133.3: Please refer to Master Response 4: FC District 50 Year Plan Consistency above.

Comment 133.4: Valley Oaks and Retaining Walls

There are many high retaining walls affecting many of the site's valley oak trees – too many. Strangely, HT Harvey accepted this in its peer review instead of performing a thorough study of the impacts by a qualified arborist. This study should be done and the results included in a Recirculated DEIR.

Response 133.4: Impacts related to the removal of valley oak trees are discussed in Section 3.4 Biological Resources of the Draft EIR (pages 65-87). Impacts to species who use valley oaks as habitat, wildlife movement corridors, and compliance with the County's and City of Walnut Creek's tree ordinances (see Section 5.0 Draft EIR Text Revisions for compliance with City of Walnut Creek Tree Preservation Ordinance) are discussed throughout the section. In addition, consistent with Contra Costa County Tree Ordinance, the project would be conditioned to include tree protection measures for trees to be preserved (including any valley oaks). Conditions may include tree restitution, protective measures identified by the arborist report, and assurance bonds to ensure that all conditions will be successfully met (see pages 85-86 of the Draft EIR).

Comment 133.5: Conclusion

Again and again we see issues overlooked or not examined thoroughly. A thorough Biological Resources study should be commissioned and completed and the DEIR recirculated with the systematic information provided therein.

Response 133.5: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

134. California Native Plant Society (dated May 10, 2022)

Comment 134.1: While we would have wished to have had the time to prepare a more thorough response to this DEIR, we are registering the following concerns and ask that they be adequately addressed in the FEIR:

1. There was a very narrow consideration in the DEIR of the potential special-status species on the site. Many species are informally known to occur fairly close by even though they are not shown in the California Natural Diversity Data Base (CNDDB).

2. Treatment of two sensitive communities --Elymus (Leymus) triticoides - Creeping wild rye – This species was alleged not to be present, but there is a photo of a thriving stand of Elymus triticoides mixed with Juncus Balticus on page 56 of the DEIR. A bridge is proposed directly over this spot. Quercus lobata - Valley oak woodland - Far too many oak trees are slated for removal, and many

others will be subject to severe root pruning as a result of the many tall retaining walls. A qualified arborist should be engaged to assess and mitigate for these impacts.

3. Mitigation measures - Many of the mitigation measures proposed are not the ones the regulatory agencies prefer; in particular there was little onsite mitigation and extensive offsite mitigation.

Response 134.1: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

135. Rosemary Nishikawa (dated May 10, 2022)

I would like to express my disgust of the above proposed plan to allow Spieker corporation to purchase 30 acres of pristine land in our neighborhood and turn it into a monstrous development that is totally out of character of our neighborhood. We live next to Heather Farms park in the Heather Farms HOA which abuts Seven Hills Ranch. This is a virgin 30 acre piece of property which is surrounded by medium density housing zoning. Spieker's plan to build 450 units on this land with several restaurants, swimming pools, tennis courts, movie theater, and a nursing home is TOTALLY OUT OF CHARACTER for our surrounding residential community. Spieker is asking the City of Walnut Creek to go against its promise to our neighborhood, and allow Spieker to use the end of Kinross Dr. for their only entry to their proposed gated community. This is a total slap in the face to our community, as it was promised there would NEVER be access to the ranch from that road. Secondly, Spieker is planning to cut down over 400 trees, of which 350 are PROTECTED OAK TREES!!!! Their mitigation would be to throw money at the county to plant 10 gal trees "somewhere else". This 30 acre property is home to a huge variety of birds who live there and raise their young in these old trees that CANNOT BE REPLACED.

Response 135.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 135.2: Third, my townhome sits 4 feet from the fence line of Seven hills ranch. What precautions is Spieker going to take when their machinery is using seismic blasting and pounding to break up the bedrock on these hills?

Fourth, they plan to install 10-14' high retaining walls all around the property including cutting away the soil that supports our homes and where the roots of our trees are. We will all be subjected to an entire year of earth moving, blasting, hauling off these beautiful hills and flatten this land which is a travesty. Where is the report showing the sound pollution, the light pollution, the impact on wildlife on this property? At a time in our world, where we have lost over 129 million trees in California due to wild fires, why in the world would you allow the cutting down of beautiful old Oak trees??????

Response 135.2: Please refer to Master Response 5: Aesthetics, Master Response 7: Biological Resources, and Master Response 8: Noise and Vibration.

Comment 135.3: Fifth, what is going to happen to the ridge line of this property? Isn't there laws and rules in place for the protection of such? You owe it to the residents of Walnut Creek to stick to the General plan and the current land use designation, which would allow around 120 homes spread out over this 30 acre area honoring and preserving the hills and existing trees.

Response 135.3: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 135.4: Please respect our concerns of extreme high traffic on both Ygnacio Valley Blvd and Marchbanks, the enormous amount of noise pollution for 5 years of construction, forever light pollution from 30 acres of concrete, street lights, industrial size air conditioning units, extensive heat from the concrete on 30 acres with very little greenery. This is NOT THE RIGHT SITE FOR THIS MONSTROSITY. Do the right thing and do not approve this project.

Response 135.4: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

136. Russ and Sandy Mowrer (dated May 10, 2022)

Comment 136.1: Russ and I arrived in Walnut Creek from Colorado in 1966 to begin a career with Chevron. The job sent us to live in many places around the world(Canada,Nigeria, Kazakhstan, England, and New Jersey,USA) We would always return to Walnut Creek.

Our two daughters were raised in W.C. They have married and blest us with 5 grandchildren, and now 2 great grandchildren have joined the clan. This close knit family still live in this area. We hope to continue living in W.C. but are ready to downsize.

Diablo Glen would offer everything we would need as we enter into our Golden Years! It would have access to high quality care if needed, new friends who share our interests, helpful and fun services such as home maintenance, restaurants and fitness areas.

The proposed community of Diablo Glen will allow seniors to receive the very best in retirement living. Russ and I hope to be two of the occupants!!

Response 136.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

137. Walden District Improvement Association (dated May 10, 2022)

Comment 137.1: The following constitutes the comments of the Walden District Improvement Association on the County's Draft EIR for the Spieker Senior Continuing Care Retirement Project on the site of the Seven Hills Ranch in Walnut Creek. Walden serves a community of over 7,000 residents in the vicinity of the proposed project, those of which who are directly across the Walnut Creek channel from the project will be directly impacted and many more will suffer from the construction itself (noise, dust, etc.) as well as the traffic involved in the day-to-day operation of this huge facility.

We furthermore maintain that this proposal is not a valid "urban infill" as it is not filling in small to medium lots among existing development, is not filling in with a project consistent with its surroundings, or building on lots which generally require little new infrastructure for development. A development of this size will require substantial infrastructure work and is completely out of sync with its surroundings, namely Heather Farm Park, a K-8 school, suburban and residential

neighborhoods consisting of one and two-story town homes along with detached single-family homes consistent with the existing General Plan which the developer proposes to change.

Response 137.1: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 137.2: We request that approval be denied for the Spieker proposal's invasive, lengthy, out-of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result will be a development completely incongruous with its surroundings. The construction will release massive dust and particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch.

Response 137.2: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 137.3: Contributing to this local insult is the extensive grading necessary for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are prodigious short and long term impacts from this type of destruction. The amount of cut & fill required for the proposed design is not only devastating to the existing landscape it is also out of compliance with the County's hillside protection and best practices for avoiding steep slope construction as put forth in County codes.

Response 137.3: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 137.4: The Draft EIR cites its traffic studies on nearby intersections, but those studies failed to include several key intersections directly involving Walden. While traffic is inevitable whenever new development is planned, the Spieker proposal for Seven Hills Ranch will heavily impact the City of Walnut Creek's streets and residents. This proposal will bring delivery trucks, 225 full time equivalent employees (meaning more than 225 employees will come and go from the facility), medical vehicles, resident care assistants, visitors and the residents themselves.

Seven Hills Ranch Road is cited as the current project entry point. This means that heavy construction equipment will be traveling down Seven Hills Ranch Road via Cherry, Walden and Walnut Boulevard until the Kinross entrance can be developed. Although a temporary situation, this will nonetheless be a nightmare for those residents during the yet-to-be-determined duration of construction activities. Seven Hills Ranch Road is also listed as one of two Emergency Vehicle Access gates, North San Carlos being the other. While an additional emergency vehicle access is necessary in single-entry developments, how long will it take to recognize the inconvenience of a single point of entry when additional access points, specifically Seven Hills Ranch Road, are available?

Response 137.4: Please refer to Master Response 9: Transportation above.

Comment 137.5: Seven Hills Ranch Road is also included in the draft EIR alternative projects section. While the context is the impact on the environmental report it is still an acknowledgement that Seven Hills Ranch Road could become the main entrance to the development. This would be a disaster to residents on Cherry, Walden and Walnut Boulevard although Walnut Boulevard, as we all know, is closed to through traffic. It is unrealistic to argue that the impact is significantly lessened from what would occur were the property to be developed in accordance with its current land use designation density.

Response 137.5: The Roadway Redesign Project Alternative identified in Section 7.4.2.3 of the Draft EIR (pages 216-217) was included in order to reduce biological impacts associated with the extension of Kinross Drive.

Comment 137.6: Walden therefore requests that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, destroys 400 trees, and paves over the 30-acres, completely destroying a wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development. The County should Insist on a better plan for this property, a plan more closely in conformance with its current land use designation. The Draft EIR should be recirculated for a more realistic evaluation of the impacts of the Spieker proposal.

Finally, we ask that the County deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch. We feel that this project is simply too big a project in the wrong place.

Response 137.6: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

138. Alexander Tuchinsky (dated May 10, 2022)

Comment 138.1: I request that Seven Hills Ranch be saved from a developer's proposal to build a massive walled compound that levels all but one hill, takes out 400 trees, & paves over the 30-acres; completely destroying wildlife habitat and the natural environment. This property is not "zoned" or designated for this intense development design. Insist on a better plan for this property. A plan more closely in conformance with its land use designation.

I request that approval be denied for the Spieker proposal's invasive, lengthy, out of proportion construction project to proceed in our peaceful community. The current Spieker proposal for Seven Hills Ranch is so massive that it is expected to take 3-4 years of intensive construction and the result is a development completely incongruous with its surroundings. The construction will release extensive dust or particulate matter into the air during every phase of the project. This dust will be carried by the usual westerly winds and blanket neighboring Heather Farm Park - its ponds, trees, pools, play areas, dog park and small nature area in addition to the school which also borders Seven Hills Ranch. Visitors to the park along with the school population will be impacted by increased dust in the air which may contain construction toxins not found in natural wind-blown soil.

Contributing to this is the extensive grading for this oversize project which will require at least 17,000 dump trucks worth of dirt to be moved around the site, leveling hills and filling in valleys. Of that, 6000 dump trucks worth of dirt will be removed from the site, meaning 12,000 trips via Marchbanks and Ygnacio Valley Road through Walnut Creek and beyond. The project requires very nearly complete landscape destruction. Little to none of what is there now will be left, and there are serious, huge, short and long term impacts from this type of destruction.

Response 138.1: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 138.2: The Draft EIR recently released is inadequate in assessing the true environmental impacts to a virtually pristine and bucolic natural environment by a proposal which effectively demolishes every living thing on the 30-acre property, and paves over and flattens all but one hill of, ironically, the Seven Hills Ranch. The Draft EIR should be Recirculated for a more serious, realistic and authentic evaluation of the impacts of the Spieker proposal. In addition, I request that the County further deny the General Plan Amendment request included in the Spieker proposal for Seven Hills Ranch.

Response 138.2: This comment does not raise any specific challenge to the analysis of the Draft EIR that would require recirculation; therefore, no further response is required.

139. Brandon O’Sullivan (dated May 10, 2022)

Comment 139.1: I respect how busy you are serving our community, so I will be brief. This is a Public Comment on the Draft EIR for County File # CDGP20-00001, CDRZ20-03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038, The Spieker Senior Continuing Care Retirement Project.

As a long-time Walnut Creek resident, I respectfully request that the County consider alternative, preferable plans to the Spieker proposal for Seven Hills Ranch. While the consultant’s DEIR report has said that the environmental impacts can be mitigated we ask that you use common sense and consider that very nearly all of the natural environment currently at the site will be completely decimated. The proposal includes the removal of 400 mature trees (including many California Oaks), the leveling of all but one hill, and the nearly complete paving and building over of the site. To state that such impacts can be mitigated is nonsensical and certainly not sensible. The proposal would dwarf and loom over any of the surrounding lands uses. This proposal is “overkill” not “infill”. So, we are asking for Sensible, not Supersized. A plan that truly respects the environment, doesn’t require unenforceable and ineffective mitigation, and recognizes the property’s unique location next to the existing Heather Farm Park. One that is nationally recognized as a home and migration stopover for an abundance of bird species; so much so that it is a designated eBird ‘hotspot’.

Thank you for your time and I sincerely appreciate you for taking my comments into serious consideration.

Response 139.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

140. Wendel Rosen LLP (dated May 10, 2022)

Comment 140.1: Wendel Rosen LLP represents the Seven Hills School (“School”) which owns and operates a local independent school immediately adjacent to the Spieker Senior Continuing Care Community Project (“Project”). The purpose of this letter is to provide comments on the Draft Environmental Impact Report (“DEIR”) analyzing the proposed Project. While our client understands that work has been undertaken to prepare the DEIR, we feel the DEIR is inadequate in a number of ways and that additional environmental review should be conducted to address and rectify the deficiencies set forth below.

Seven Hills School

By way of background and for context in the County’s consideration of our comments, it is important to understand the School’s functions and operation. The School educates over 400 children from across the Bay Area from pre-kindergarten through 8th grade. It was founded in 1962 as the St. Stephen’s Day School (in Orinda) but, once the School moved its campus to Walnut Creek and, inspired by the natural beauty of its new campus, school leaders changed the name of the school to The Seven Hills School. In fact, the School campus exists on 9 acres of what was formerly part of the Hale property on which the Project is proposed.

The School’s instructors and students gather much inspiration from beauty of the surrounding landscape, including the Hale property and enjoy unparalleled views of Mt. Diablo from much of the campus. In fact, one of the core beliefs of the School includes the following intention: that “Our beautiful, natural campus provides unique opportunities for student engagement, innovation and wonder.” Instruction often takes place outdoors and students of all ages enjoy non-classroom time outdoors as well.

Against this backdrop, we offer the following comments on the DEIR. Our comments are organized to follow the sections as they appear in the DEIR.

Response 140.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 140.2: Project Description

The Project Description at Section 2.2.1 articulates the basis for the Project to be evaluated as a non-residential project from a CEQA standpoint and states that “the County has determined the project does not contain any residential component for purposes of implementing State and local land use regulations” (see DEIR p. 3) and yet the DEIR contains ample references to the residents of the senior continuing care community. While the technical conclusion that the Project would be licensed by the State of California as a non-residential institutional use may be correct, the analyses contained within the DEIR are flawed in that true nature of the majority of the Project, from a land use perspective, is that of a residential nature.

Response 140.2: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 140.3: Aesthetics

The DEIR avoids consideration of Aesthetic Impacts under SB 743, codified at Public Resources Code §21099.

Public Resources Code § 21009 (d) allows a lead agency to determine that the aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.

Response 140.3: Please refer to **Response 131.7:** for clarification on SB 743.

Comment 140.4: However, the Project cannot be classified as anything other than a residential use despite the DEIR's feverish reliance on the word "units" to describe the residential apartment units and the residential single family villas. While the designation of a continuing care community is appropriate for state licensing purposes, the Project is a residential project with ancillary medical facilities. It is disingenuous for the DEIR to state otherwise when, for example, the Appendix I Development Checklist states, on the one hand, there are no single family or multi-family residences in Section 3 and, on the other hand, indicate there are "354 independent living "units" plus 100 care "units" in Section 4.

Response 140.4: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 140.5: Public Resources Code § 21099(a)(4) defines "infill site" as a lot located within an urban area that has been previously developed or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. We do not dispute that the Project site is located within an "urban area" (defined by Gov. Code § 65007(l)) as "urban area" means a developed area in which there are 10,000 residents or more.

However, we do dispute that the Project site should be considered an "infill site" because the Project site does not reflect that "at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." (See Pub. Resources Code, § 21099(a)(4)). To wit, there are a number of parcels adjacent to the Project that are undeveloped, including the entire western boundary adjacent to the Walnut Creek channel; an undeveloped segment adjacent to Heather Farm Park; the undeveloped slopes of Seven Hills School property; the Kinross right-of-way and adjacent Heather Farms open space; and a portion of the Hale property within the City limits that is not part of this project site. These undeveloped parcels account for far more than 25% of the perimeter of the site.

We would further argue that the Project site is not located on an infill site within a transit priority area. "Transit priority area" means "an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan" (Pub. Resources Code, § 21099, (a)(5) & (7)).

Here, it appears there are several bus lines and a BART stop but these are all over a mile away from the proposed Project site. Furthermore, the nearest bus stops are at Ygnacio Valley Road and Marchbanks (located 1.5 miles from the Project) and Kinross and Ygnacio Valley Road (located 1.6 miles from the Project) and it does not appear the Project site has “[t]he intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods” within ½ mile of it in order to qualify it as being in a transit priority area (see DEIR p. 182).

Therefore, it is inappropriate for the DEIR to rely on SB 743 as a way to avoid an aesthetics impact analysis.

Response 140.5: Please refer to **Response 131.7:** for clarification on SB 743 and Master Response 2: Project Non-Residential and Infill Designation above.

Comment 140.6: In addition, Appendix B fails to analyze the aesthetic impacts to the School. The analysis section on Building Height and Buffering/Project Scale and Applicability of County General Plan Goals and Policies (Open Space Goal 9D) fail to analyze impacts to School. While it can be argued that the School is not a public vantage point on which aesthetic impacts must be addressed, the DEIR also fails to analyze the impacts from the following public places: Heather Farms Park, the Heather Farm Dog Park, and from North San Carlos on the approach to the Project site.

The Collander Associates Peer Review report of October 2021, which is a part of Appendix B, references “renderings” which are not included as a part of the DEIR. To the extent the DEIR relies upon information and records in order to formulate its analysis and conclude there are no significant impacts but does not provide that information as a part of the record violates CEQA. A failure to include “material necessary to informed decision making and informed public participation” undermines the purpose of CEQA and the Legislature’s intent in enacting CEQA to “inform governmental decision-makers and the public about the potential significant environmental effects of proposed activities” (CEQA Guidelines section 15002(a)(1)) and (County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931, 946). A failure to include such information is prejudicial error.

Response 140.6: Please refer to Master Response 5: Aesthetics above. The renderings referenced by Callender Associates are the architectural plans available on the County’s website for the project (<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>).

Comment 140.7: The Project is inconsistent with County General Plan Policy 9-11 (which restricts development on open hillsides), Policy 9-14 (avoid removal of hilltops) and Policy 9-21 (development to conform with natural contours to avoid excessive grading). The DEIR indicates the Project will plant trees at the perimeter of the site which will provide screening but fails to analyze the visual and aesthetic impact of the removal of 350+ trees from the Site until the replacement trees reach an age of maturity, which is estimated to be 15 to 20 years.

Response 140.7: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 140.8: Section 3.1.2.2 (Cumulative Impacts) concludes that the “proposed project would be urban infill and consistent with surrounding urban environment” and “would not obstruct view of Mount Diablo” which fails to address the aesthetic impacts of the placement of the medical center between the School campus and Mount Diablo.

The School has retained the services of Robert Becker to analyze the limited renderings provided as a part of the DEIR. The Becker renderings are attached hereto as Attachment “1”. The renderings show vastly different aesthetic impacts to the School and from North San Carlos than are analyzed in the DEIR and, for this reason, the analysis contained in the DEIR is inadequate.

Response 140.8: Please refer to Master Response 5: Aesthetics above. Private views not available to the public, such as views from backyards or Seven Hills School land, are not protected and were therefore not considered in the aesthetics analysis.

Comment 140.9: Air Quality

The School is extremely concerned with the DEIR’s level of analysis of air quality impacts, particularly during the Project construction stage for many reasons including, but not limited to, the dispersal of silica dust as a result of the blasting and demolition of surface level granite on the site. Section 3.3.1.3 fails to indicate the distance of the Project from the School as a sensitive receptor and, in so doing, fails to provide the public with adequate information on which to understand the potential significant effects of the Project on the student and teacher population.

Response 140.9: Section 3.3.1.3 Existing Conditions of the Draft EIR (page 53) states “The nearest sensitive receptors are single-family homes adjacent to the eastern property line of the project site, and the Seven Hills School directly north of the project site.”. While a distance was not provided, it was the intent of the word “directly” to describe the location of the Seven Hills School as next to the project site and sharing the northern property line. In addition, Figure 3.3-1 (page 61) shows the location of sensitive receptors on the Seven Hills School site relative to the project site.

Comment 140.10: The Bay Area Air Quality Management District (“BAAQMD”) recently adopted updated CEQA thresholds of significance that it recommends for public agencies’ use in evaluating the impacts of land use projects and plans on climate change.

The new BAAQMD climate change thresholds follow an approach endorsed by the Supreme Court in *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204. Projects must do their “fair share” toward what is required to meet the state’s long-term climate goals in order to have a less-than-significant impact on climate change for CEQA purposes.

For both residential and non-residential buildings, the “design elements” which are factors in determining whether the thresholds of significance are reached include the following: that the buildings: (i) not include natural gas appliances or natural gas plumbing; and (2) not result in any wasteful, inefficient, or unnecessary energy usage as determined by relevant CEQA analysis pursuant to Pub. Resources Code, § 21100(b)(3) and CEQA Guidelines § 15126.2(b)).

In Section 3.6 of the Energy portion of the DEIR, and particularly Section 3.6.2.1 (p. 102), the DEIR states “[t]he proposed CCRC would consume energy, in the form of electricity and natural gas, primarily from building heating and cooling, lighting, appliances, electronics, and water heating. The proposed CCRC would consume a total of approximately 2.87 million kilowatt hours (kWh) of electricity per year and approximately 8.63 million kBtu of natural gas per year.” Because the first threshold of the new BAAQMD threshold of significance is not met (that the design elements not include natural gas appliances or plumbing), the DEIR must not conclude that the Project will not have a significant impact on the environment relative to air quality.

In addition under the new BAAQMD thresholds of significance, projects must also achieve vehicle miles traveled (VMT) reductions as follows: (i) Residential projects: 15% below existing VMT per capita; (ii) Office projects: 15% below existing VMT per employee; and (iii) Retail projects: no net increase in existing VMT. All projects must also comply with the off-street electric vehicle (EV) infrastructure requirements of the most recent version of CALGreen Tier 2.

It is not clear from the DEIR that the Project will provide for EV charging stations at the multi-family apartment building or within the villa garages or whether the Project will comply with the off-street EV infrastructure requirements of CALGREEN Tier 2 (see Appendix I, Table E.1, LUT 1 and LUT 2). In addition, the DEIR does not indicate the percentage reduction of the vehicle miles traveled (see Appendix I, Table E.1, LUT 4).

BAAQMD considers land use projects that meet the above thresholds to not make a cumulatively considerable contribution to adverse global climate change impacts for purposes of CEQA. Until the Project is evaluated based upon these thresholds, the DEIR is inadequate and should be recirculated to determine whether the Project meets these thresholds of significance or not; if not, these air quality impacts would be considered a significant impact for purposes of CEQA.

Response 140.10: The Bay Area Air Quality Management District (BAAQMD) adopted their updated CEQA Thresholds for Evaluating the Significance of Climate Impacts From Land Use Projects and Plans on April 20, 2022. This was during the public circulation period of the Draft EIR. CEQA requires EIR’s to evaluate a project’s impacts based on the current guidelines and thresholds at the time the EIR is prepared and when the Notice of Preparation (NOP) is published. The NOP for the proposed project was circulated July 23, 2021 to August 23, 2021 and the Draft EIR was circulated March 11, 2022 to May 10, 2022, both of which were prior to BAAQMD adopting the updated thresholds.

Comment 140.11: We understand the Project will employ 10% or more coal fired fly ash in concrete mix employed during their project construction (see the last paragraph on page 8 of the applicant’s Project Description). Coal fired fly ash contains heavy metals, polynuclear aromatic hydrocarbons, dioxins and furans, and possibly PFAS chemical compounds. The emission of these toxic constituents have not been evaluated in the DEIR and, if present, must be mitigated to a level of insignificance.

Response 140.11: Because of the volume of concrete needed to construct the project, cement (with fly ash), sand, aggregate (i.e., gravel), and water will be loaded into concrete mix trucks at a nearby concrete batch plant and mixed in transit to the site. Because of the water in the mix, dust emissions from pouring/pumping concrete

onsite will be negligible. As a result, emissions of fly ash (or any other fugitive dust emissions from concrete operations) from the site are not anticipated in any quantifiable amount.

Additionally, concrete batch plants are required to be permitted by the BAAQMD before being constructed and prior to operation. The BAAQMD stationary source permit would place limits on particulate emissions (that include fly ash) and require the use of controls on particulate matter emissions, including fly ash and fine particulate matter.

Comment 140.12: Finally, the DEIR notes that the maximum annual PM_{2.5} concentration from construction was shown to occur at the School, adjacent to the northern boundary of the project (as seen in Figure 3.3-1) and was estimated to be 0.18 µg/m³ occurring during Year 1 of construction. Given the proximity of the Project to the School, air quality compliance during construction will be highly dependent on the proper implementation of mitigation measures (primarily related to dust control). In order to ensure air quality mitigation measures are effective, we request an increased buffer between the outer boundary of the Project's construction area and the School/Project property line.

Response 140.12: The BAAQMD single-source significance threshold for annual PM_{2.5} concentrations is 0.3 µg/m³. As shown in Table 3.3-5 of the Draft EIR (page 59), project construction would result in an unmitigated annual PM_{2.5} concentration of 0.18 µg/m³ at the maximally exposed individual (located at Seven Hills School). Since unmitigated PM_{2.5} emissions would be below the BAAQMD threshold, additional mitigation measures are not required in order to reduce the impact to a less than significant level.

Comment 140.13: Biological Resources

The Project conflicts with the following County General Plan policies: Policy 8-6 (Significant trees, natural vegetation, and wildlife populations generally shall be preserved); Policy 8-7 (Important wildlife habitats which would be disturbed by major development shall be preserved, and corridors for wildlife migration between undeveloped lands shall be retained); and Policy 8-14 (Development on hillsides shall be limited to maintain valuable natural vegetation, especially forests and open grasslands, and to control erosion. Development on open hillsides and significant ridgelines throughout the County shall be restricted).

The Project will result in 225,000 cubic tons of cut (with a net export of 75,000 cubic yards) and conflicts with all of the above-mentioned General Plan policies. All of the open hillsides, as well as the prominent rock outcroppings on the site, are being leveled in order to create flat buildable pads for the buildings within the Project.

Response 140.13: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 140.14: Geology

MM GEO-6.1 should be expanded to include a tribal cultural resources monitor since there is evidence in the record that tribal cultural resources likely exist on the Property. A tribal cultural resources monitor serves an entirely different purpose than a paleontological monitor and, thus, should be included in this mitigation measure.

Response 140.14: Section 3.5 Cultural Resources includes mitigation measures MM CUL-2.1 through MM CUL-2.3 and MM CUL-3.1 which are related to archaeological and tribal cultural resources. Mitigation MM GEO-6.1 is specific to paleontological resources, which are animal and plant fossils.

Comment 140.15: Hydrology and Water Quality

Please see the correspondence from Terraphase dated April 21, 2022 (attached hereto as Attachment “2”) which identifies several deficiencies in the DEIR’s analysis of the proposed Project’s impacts and proposed mitigation regarding hydrology and water quality including deficiencies in the analysis of alternatives to the Project. Terraphase’s review of the DEIR indicates deficiencies, both in the analysis presented in the DEIR, and in the sufficiency of the proposed mitigation measures. Overall, the DEIR concludes that impacts to hydrology and water quality are less than significant with mitigation. However, the DEIR does not provide sufficient information and analysis to support this conclusion.

Response 140.15: Please refer to Master Response 6: Air Quality, **Response 1.13:**, **Response 1.14:**, **Response 2.5:**, **Response 2.6:**, **Response 2.7:**, and **Response 2.9:** above. As discussed in these earlier responses and documented in Draft EIR Appendix K, the Preliminary Hydrology and Water Quality Report, and Appendix M, Preliminary Stormwater Control Plan, the Draft EIR analysis has taken into account runoff from 100-year storm events (see Basis of Design on Section D.1 of Appendix K). In addition, as documented in Appendices K and M, the proposed storm water detention facilities have been designed on a preliminary basis to prevent all water leaving the site under post-development conditions from exceeding the pre-project runoff volumes. Finally, Draft EIR Mitigation Measure MM HYD-3.1 requires that final storm drainage and detention facilities be designed in accordance with County standards and submitted for review and approval prior to construction. As previously noted, these plans will also be submitted for review and approval by the City of Walnut Creek and CCWD related to drainage leaving the northeasterly portion of the site. As evaluated in the Draft EIR and subject to the prescribed mitigation measures, the project’s potential impacts to drainage would be mitigated to a less than significant level, and no changes to the Draft EIR are required.

Comment 140.16: Land Use and Planning

The Project is inconsistent with the County’s General Plan which is a requirement to approve the requested rezoning from A-2 to a Planned Unit District (P-1) in order to construct the proposed congregate care community. County Ordinance Code § 84-66.406(2) requires that, “when approving and adopting the rezoning application...the planning commission and/or board of supervisors...shall be satisfied that [t]he proposed planned unit development is consistent with the county general plan.”

Response 140.16: As discussed in Section 2.2.2 General Plan Amendment and Rezoning of the Draft EIR (page 8), the proposed project is seeking a General Plan amendment (GPA) from Single-Family Residential – Medium Density (SM) to Congregate Care/Senior Housing (CC), in addition to the rezoning mentioned in the comment. As the comment points out, this GPA is required in order for the project to be built and is why the GPA is included as part of the project and is part of the list of discretionary actions included in Section 2.4 Uses of the EIR (page 25).

Comment 140.17: The Project fails to comply with the County’s inclusionary housing requirements which requires residential development projects with more than 126 rental units to provide at least 15% of those units as affordable or to pay an in-lieu fee (County Ordinance Code § 84-66.402 (c) and § 84-66.404 (c)). The Project Description, the DEIR and various appendices clearly describe a residential project that includes 354 independent “living units” as well as a residential health care facility. The Transportation section even includes an analysis of a 15% density bonus under the General Plan to account for mandatory inclusionary units which presumes the County considers this a residential project. As such, the Project must satisfy the County’s inclusionary housing obligations.

County Ordinance Code section 822-4.406(o) defines a “residential development” as any development project that includes the construction of one or more dwelling units which is either exclusively residential or as part of a mixed use development. While the Project is described as a congregate care facility in an effort to exempt it from the County’s inclusionary housing requirements, the California Health and Safety Code defines a “community care facility” as “any facility, place or building that is maintained and operated to provide non-medical residential care, daycare...including but not limited to, the physically handicapped, mentally impaired, incompetent person and abused or neglected children” (Health and Safety Code section 1502(a)). “Residential facility” is defined as any family home, group care facility or similar facility for 24-hour non-medical care of persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or the protection of the individual” (Health and Safety Code section 1502(a)(1)).

As the Project Description and the DEIR underscore, the 354 units are for residents who do not require daily assistance. Thus, the Project must either include the requisite amount of affordable housing or pay the in-lieu fee.

Response 140.17: Please refer to Master Response 2: Project Non-Residential and Infill Designation above,

Comment 140.18: The Project also conflicts with the County General Plan’s Open Space Element in that it fails to meet the park standards and thresholds established by the Growth Management Program. Table 9-1 of the Open Space Element requires 3 acres of neighborhood parks per 1000 residents servicing a one-half mile radius and located within the center of the neighborhood. The DEIR indicates the Project will provide outdoor amenities including tennis courts, walking trails, and a community garden but it does not appear as though the Project will be constructing any parks as a part of the project. Applying the criteria set forth in the Growth Management Plan, the Project should be supplying 1.5 acres of neighborhood park or pay the in-lieu fee for this amount. In fact, the DEIR concludes in the Public Services section of the analysis (DIER, p. 173) that, not only should the County’s Park Impact Fee Ordinance not apply due to the “proprietor-lodger relationship”, that

because the County has sufficient numbers and sizes of parks within the County and surrounding region already, the Project would not or should not require the construction of new or altered park facilities. No other residential or mixed use projects are permitted to opt out of the applicability of the Park Impact Fee ordinance simply because the County already has sufficient numbers and sizes of parks; nor should the Project be exempt from this requirement.

Response 140.18: It is anticipated that the CCRC facility will accommodate approximately 560 residents, which would require that approximately 1.6 acres of neighborhood parks be provided to serve the increased demand created by the project. The project sponsor is not proposing new park facilities as part of the project, but has incorporated various outdoor recreational areas such as building courtyards, community gardens, tennis courts, a dog run, and an overlook area as part of the project. These areas alone account for approximately 2.9 acres of designated outdoor recreational area for the residents of the facility, which exceed the 1.6 acres required for consistency with the Growth Management Element standard..

Comment 140.19: The medical care facility of the Project must also be analyzed as a commercial land use and, therefore, comply with the County’s commercial land use requirements, which the DEIR fails to do. County Ordinance Code section 84-63.408 defines “commercial property” as all properties with a commercial designation in the general plan including but not limited to the following: commercial, regional commercial, airport commercial, office commercial and business park. Hospitals are included within the types of regional commercial land uses. Section 84-66.1406(3) requires the Board of Supervisors to find, among other things, that traffic congestion will not likely be created by the proposed commercial center, including demonstrating that the development plan provides for proper entrances and exits.

To this point, the DEIR fails to adequately analyze the potential for conflicts between the EVA to and from North San Carlos and traffic accessing the School which will be addressed in greater detail in the Transportation section below.

Response 140.19: Please refer to Master Response 9: Transportation above.

Comment 140.20: Noise

General Plan Policy 11-8 states that “[c]onstruction activities shall be concentrated during the hours of the day that are not noise-sensitive for adjacent land uses and should be commissioned to occur during normal work hours of the day to provide relative quiet during the more sensitive evening and early morning hours.” The School operates Monday through Friday, from 6:30 a.m. to 5 p.m. from before September 1st through the end of May. The General Plan Policy to concentrate construction activities to times that are not noise-sensitive is a mandate. It is not clear from the DEIR how the construction activities, which are scheduled to last for 4 years, will be concentrated during the hours of the day that are not noise-sensitive.

Response 140.20: As discussed in Section 3.13.1.2 Regulatory Framework of the Draft EIR (pages 149-150), the Contra Costa County Ordinance Code Section 716-8.1004 limits grading operations to between 7:30 a.m. and 5:30 p.m. on weekdays and the City of Walnut Creek’s Municipal Code limits construction to within the

hours of 7:00 a.m. and 6:00 p.m. on weekdays. The proposed project would implement mitigation measure MM NOI-1.1 (page 157-158), which restricts construction to the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. This is consistent with the County Ordinance Code, County General Plan Policy 11-8, and City of Walnut Creek Municipal Code. See also Master Response 1: County General Plan Policy Consistency above.

Comment 140.21: The DEIR acknowledges that construction noise levels exceeding 60 dBA Leq would have the potential to result in speech and activity interference outdoors and within buildings assuming that windows/doors are open for ventilation specifically at the School. During the COVID-19 pandemic, the School was able to continue with student instruction by keeping doors and windows open and, both pre- and post-pandemic, classes are held outdoors with some regularity.

The Mitigation Measures do not address whether or how General Plan Policy 11-8 will be met. Mitigation Measure MMNOI-1.1(l) suggests installation of temporary noise barriers “where they would be effective in reducing the construction noise impact”. Such a mitigation measure is hollow in that it leaves the Applicant the discretion to install temporary noise barriers only if they would be effective in reducing construction noise. Further, there is simply no realistic way to undertake construction activities during the hours of the day that are not noise sensitive for the School and its instruction activities. Therefore, the DEIR improperly concludes that the noise impacts can be mitigated to a less than significant level. The DEIR must, instead, conclude the noise impacts are significant and unavoidable and then make statements of overriding consideration should the County wish to approve the Project.

Response 140.21: Please refer to Master Response 8: Noise and Vibration above.

Comment 140.22: The DEIR also indicates, in the vibration discussion of the noise analysis, that the closest structures to the Project site are a school building, located about 10 feet northeast of the property line and about 30 feet from the closest proposed building. It is our understanding that the majority of the Project site is comprised of bedrock materials so the list of suggested mitigation measures found in MM MOI-2.1 will be woefully inadequate to mitigate the vibrational impacts from the Project on the School.

Without doing an adequate level of analysis, the DEIR improperly concludes that the vibrational impacts can be mitigated to a less than significant level. The DEIR must, instead, conclude the vibration impacts are significant and unavoidable and thereafter make statements of overriding consideration should the County opt to approve the Project.

Response 140.22: Please refer to Master Response 8: Noise and Vibration above.

Comment 140.23: Public Services

The DEIR’s analysis of the Project’s impacts on the Contra Costa County Fire Protection District (CCCFPD) does not analyze the demographic of the population within the Project’s community, stating “...the proposed health care center on-site would provide some medical attention to residents on-site and may decrease the need for medical-related emergency calls onsite.” This is a highly speculative statement which overlooks that the community is comprised of residents over the age of 65. If this were a new community of 560 proposed residents of mixed age ranges, the fact there is an

on-site health care facility would decrease the need for medical-related emergency calls on site but this is a community comprised of exclusively senior individuals whose medical needs may not necessarily be addressed by virtue of the presence of the on-site medical facility.

It is, therefore, inappropriate for the DEIR to conclude that the demand on emergency services is a less than significant impact.

Response 140.23: The CEQA question the comment is referring to is Impact PS-1, which asks if construction of the project would require the provision of new or altered Contra Costa County Fire Protection District (CCCYPD) facilities in order to serve the proposed project and maintain acceptable service ratios, response times, or other performance objectives. This question focuses on the need for physical construction of facilities and any environmental impacts that may occur as a result of that construction. While the number of fire protection service calls would increase with the proposed project, the Draft EIR concluded no new or altered CCCYPD facilities would be required in order for CCCYPD to serve the project site and maintain their current performance objectives; therefore, the impact is considered less than significant.

Comment 140.24: Transportation

Neither the Project Description (Section 2.2.7) nor the Transportation section address the fact that access rights to cross a 50 square foot area of land at the end of Kinross¹⁵, either in the form of an easement or acquisition of a fee interest, will need to be secured from the City of Walnut Creek. In the event the City failed to provide these access rights, the Project would be required to secure access over Seven Hills Ranch Road (a private road) or, potentially, North San Carlos Drive (a public street). While there was a superficial analysis of the Roadway Redesign Alternative in the Alternatives section of the DEIR, the full environmental impacts of having to access the Project site from Seven Hills Ranch Road (or from North San Carlos) have not been evaluated.

Response 140.24: Section 2.2.7 Site Access, Circulation, and Parking of the Draft EIR states, “The extension of Kinross Drive would be constructed within a 50-foot right-of-way that was previously dedicated to the City of Walnut Creek.” In addition, Section 3.17.2.1 Project Impacts under Impact TRN-1 of the Draft EIR (page 183-184) states “A 50-foot Kinross Drive right-of-way was dedicated with recordation of the Heather Farms Condominium Final Subdivision Map (#4006) in 1970 (see final map included in Appendix P), and is proposed to be utilized for completion of improvements extending westerly from the current Kinross turn-around (at Club View Terrace) to the project boundary, subject to an improvement agreement,

¹⁵ The Walnut Creek City Council convened in closed session on November 17, 2020 to consider the following agenda item:

2(b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Pursuant to Government Code Section 54956.8)

Property: Lot A of Subdivision Map 4006, dated March 1970 (a fifty square foot area of land at the end of the proposed Kinross Drive street dedication at the City boundary with Contra Costa County)

Negotiating Parties: City of Walnut Creek, Seven Hills Ranch I and II, LLC and Spieker Senior Development Investment, LLC

encroachment permit, or similar mechanism to provide details of improvements from the City of Walnut Creek (a Responsible Agency under CEQA)”.

Comment 140.25: The DEIR’s discussion relative to the EVA off of North San Carlos Drive and its potential for conflict with cars accessing or exiting the School is non-existent. It should be noted that North San Carlos provides the only vehicular access to the School and features a one-way in and one-way out loop for parents to utilize when coming to the School. North San Carlos is paved to a width of approximately 20’ from the Heather Farm Dog Park up to the School gate and lacks a shoulder on both sides in the area of the Equestrian Center. Aside from some early morning drop off, the majority of parents drop their students off at School between the hours of 7:40 a.m. and 8:15 a.m. Similarly, parents queue in the afternoon waiting to retrieve their kids from School. The queue can, oftentimes, extend from the School gate on eastern end of campus back to the adjacent Equestrian Center. The DEIR fails to analyze any potential conflicts between the queuing cars and the emergency vehicles utilizing the EVA. Nor does the DEIR indicate how frequently or infrequently this EVA is anticipated to be used. The DEIR further fails to address any potential vehicular conflict between buses going to and from the School nor between horse trailers accessing the Equestrian Center. We are also concerned that the slope of the EVA along Seven Hills Ranch Road may be too steep to safely allow fire trucks to traverse it and access the School in the event of an emergency.

Therefore the statement in Impact TRN-3 that the project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) is less than significant is not supported.

Response 140.25: Please refer to Master Response 9: Transportation Emergency Access section above.

Comment 140.26: The DEIR is further flawed inasmuch as the Transportation analysis appears to overlook the contribution of the total number of employees coming and going to the CCRC as a part of its LOS analysis and Project parking impacts in that it only evaluates the number of residential units in the analysis (see Table 3.17-2). Furthermore, there are references in the DEIR to “FTEs” or “full-time equivalent” employees (see DEIR p. 204) which results in a potential underestimate of the number of vehicle trips accessing the Project. A FTE could be one full-time employee; it could also be two half-time employees or three/four part-time employees. There is absolutely no mention of the impact on the maximum potential number of employees on either the LOS, VMT or parking in the Transportation section as a result of the total number of employees, delivery vehicles and visitors.

It is, therefore, inappropriate for the DEIR to conclude that the Project impact on the transportation system is a less than significant impact.

Response 140.26: Please refer to Master Response 9: Transportation Vehicle Miles Traveled section above. Please refer to **Response 110.7:** regarding parking.

Comment 140.27: Utilities and Service Systems

We wish to point out a comment letter from Mr. Christopher Cain dated July 28, 2021 and attached as Attachment “3” which was submitted during the scoping period in which Mr. Cain raises concerns with the adequacy of the sanitary sewer. The letter notes there is a “relatively high environmental risk from overflow at the proposed connection location of the sanitary sewer pipe carrying project flow west from the site to the manhole designated SSMH 97-2 on Drawing C5.0, Utility Plan because this

manhole is only two feet deep and it is located immediately above a natural creek flowing into Walnut Creek.” Mr. Cain’s letter notes that, because the system is failing, there is a potential for pressure build-up in the sewage line which could result in raw sewage overtopping the manhole cover and being released into Homestead Creek and, ultimately, into Walnut Creek.

The DEIR fails to address this observation and the comment from the Contra Costa Sanitary District, which predates the preparation of the DEIR, fails to adequately analyze this potential impact. It is, therefore, inappropriate for the DEIR to conclude that the Project impact on the utility and service system is a less than significant impact.

Response 140.27: Please refer to **Response 43.10:** regarding adequacy of the above mentioned sewer line.

Comment 140.28: Alternatives

The Alternatives analysis in the DEIR is inadequate for many reasons.

First, the No Project Alternative completely overlooks, and fails to analyze, the Project site being developed under the existing general plan designation and zoning. Further, the Existing General Plan Alternative is, essentially, the same as the No Project Alternative and the analysis does not support the DEIR’s conclusion that this alternative would require the same extent of grading (with attendant air quality, noise and vibration impacts), wetlands impacts, transportation impacts (as it relates to potential conflicts with the EVA and school traffic) and tree removal.

Response 140.28: Please refer to **Response 131.46:** regarding the No Project Alternative and **Response 130.1:** regarding the Existing General Plan Development Alternative.

Comment 140.29: Second, the DEIR fails to analyze a reasonable range of alternatives as required by CEQA (see CEQA Guidelines section 15126.6(c)). Significantly, the alternative analysis fails to evaluate a smaller project, with a fewer number of residential units and a smaller medical care facility which would result in less grading (and likely shorter construction timeframe), fewer wetlands impacts, fewer biological impacts, fewer transportation impacts, less alteration of the topography of the site.

The Roadway Redesign Project Alternative similarly barely qualifies as a reasonable alternative since it merely focuses on a different (and legally infeasible) entry to the Project site.

Response 140.29: The County included eminent domain for prior projects (i.e. Bay View) as a Conditions of Approval, and could use a similar process to implement the Roadway Redesign Alternative. The Existing General Plan Development Alternative is a version of a reduced development alternative. As explained in Section 7.4.2.2 of the Draft EIR (pages 214-216), the Existing General Plan Development Alternative would require similar grading given the topography of the site, resulting in similar construction air quality and noise impacts to the proposed project. A reduced development alternative would also not necessarily avoid the need for the Kinross Drive extension (which the Roadway Redesign Project Alternative does), which is

where wetland impacts are concentrated. Finally, the proposed project would not result in any significant transportation impacts, and a reduced development alternative would result in the same or similar less than significant impacts.

Comment 140.30: Finally, CEQA frowns upon an alternatives analysis which is based upon a project description so narrowly tailored as to only permit a local agency to consider the project before it. In other words, a lead agency may not give a project's purpose an artificially narrow definition. In re Bay-Delta etc. (2008) 43 Cal.4th 1143, 1166).

CEQA Guidelines section 15126.6(d) requires an EIR to include sufficient information regarding each alternative in order to allow for "meaningful evaluation, analysis and comparison with the proposed project." In the seminal CEQA case of Laurel Heights Improvement Association v. Regents of the University of California (1998) 47 Cal.3d 376), "each alternative must be described in sufficient detail to permit comparison with the proposed project." The DEIR devotes exactly 5 pages to a superficial discussion of the Project alternatives, which is contrary to the requirements of section 15126.6(d) and the case law interpreting the adequacy of the Alternatives' analysis. Additionally, Table 7.4-2 (Summary of Project and Project Alternative Impacts) of the Alternatives' analysis miraculously concludes the same levels and types of environment impacts for two of the three proposed alternatives which undermines the integrity of the DEIR's analysis and conclusions.

Response 140.30: Please refer to **Response 2.12:** regarding level of detail required for alternatives.

Comment 140.31: Adequacy of the DEIR and Requirement to Recirculate

For all of the foregoing reasons, the DEIR fails to sufficiently inform the County Planning Commission, the Board of Supervisors and the public of the Project's potential environmental impacts and further fails to provide substantial evidence supporting the conclusions in the sections noted above.

The DEIR, and its appendices, contain many conclusory statements related to the Project's impacts on environment. It is inconceivable (and erroneous as articulated above) that all of the significant impacts of a Project of this magnitude and construction duration can be mitigated to a level of insignificance. We acknowledge and understand that the County may very much wish to approve this Project; it is authorized to do so under CEQA but it must do so consistent with the requirements of CEQA which permits a local agency to approve a project with significant and unavoidable impacts, so long as findings of overriding considerations are made consistent with CEQA Guidelines §15093.

A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification by the local agency. Public Resources Code §15088.5 (a). "Significant new information" requiring recirculation includes disclosure of a feasible project alternative or mitigation measure which is considerably different from others previously analyzed that would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it. (Pub. Resources Code § 15088.5 (a)(3)). As noted above, the Alternatives analysis fails to evaluate a scaled-down version of the Project.

We respectfully request the County direct the Applicant to address the DEIR deficiencies identified herein and to also include a comprehensive revision to the Alternatives' analysis and to, thereafter, recirculate the DEIR for further public review and comment.

Thank you for your attention and consideration of our comments.

Response 140.31: Please refer to the responses regarding each of the commenter's concerns above. Based on these responses, the Draft EIR does not require recirculation.

141. Greenfire Law (May 10, 2022)

Comment 141.1: These comments on the Draft Environmental Impact Report for the Spieker Senior Continuing Care Community Project (the document, "DEIR," and the project described, the "Project") on behalf of Save Seven Hills Ranch ("SSHR").

SSHR is comprised of Contra Costa County ("County") community members who envision a future for Seven Hills Ranch that respects the site's natural landscape and features and recognizes the value of its unique location next to the regionally significant Heather Farm Park and Walnut Creek's waterways. SSHR looks to protect the site's native trees, contours, wildlife habitat, watershed, and waterways—providing potential for creek restoration—and to provide public access to connective walkways and the incredible vistas of Mt. Diablo and the western East Bay Hills from Seven Hills Ranch.

Included in this submission are numerous attachments which themselves contain substantive comment on the Project as well as expert opinion. The List of Additional Comments Attached, on page 45, provides an index of these additional submissions, which should be added to the record and individually addressed in the response to comments.

The Legislature intended the California Environmental Quality Act ("CEQA") is to "[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities." Omitting "material necessary to informed decision making and informed public participation" subverts the purposes of CEQA and is a fundamental error that is prejudicial. When a significant environmental issue is raised in comments that object to the draft EIR's analysis, the response must be detailed and must provide a reasoned, good faith analysis.

In this master comment and its attachments, SSHR identifies fundamental gaps in the evidence underlying the DEIR's analysis of the Project. The DEIR fails to inform Contra Costa County residents and the County Board of Supervisors of all the potential significant environmental impacts the Project is likely to have, fails to provide substantial evidence supporting the conclusion of the DEIR that the Project will not have a significant impact on the environment, is inconsistent with the Contra Costa General Plan ("General Plan"), long term County planning, and County ordinances. It also fails to properly analyze and provide for project alternatives. Therefore, the DEIR must be revised and, at a minimum, recirculated. Any recirculated DEIR should take into account Contra Costa restraints on development. As is, the DEIR will not withstand judicial. Because the deficiencies of the DEIR are so significant, SSHR requests that further opportunity for public comment be allowed if a Final EIR is prepared.

Response 141.1: This comment is a summary of specific issues with the Draft EIR that are further explained below. Detailed responses are provided below for each specific issue.

Comment 141.2: I. The Project's inconsistency with the General Plan is insufficiently disclosed or discussed.

The CEQA Guidelines require an EIR to discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans. This is because, “[a]s the court explained in *Citizens of Goleta Valley v Board of Supervisors* (1990) 52 C3d 553, a project-specific EIR should ordinarily not provide an occasion to reconsider fundamental policies such as those contained in a general plan or local coastal plan. Such ad hoc reconsideration of established policy is not only unnecessary and wasteful, it is antithetical to principles of long-range comprehensive planning.” As discussed throughout these comments and the attachments, the Project is inconsistent with the Housing, Open Space, Conservation, Transportation, Noise, and Land Use Elements of the County's General Plan. It requires creative rezoning and characterizing clearly residential uses as commercial. There are further inconsistencies with 50 Year Plan for the Contra Costa County Flood Control District. None of these inconsistencies is discussed, and all of them render the Project inappropriate for the location under the County's long term planning efforts.

Response 141.2: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 4: FC District 50 Year Plan Consistency above.

Comment 141.3: II. The project alternatives section of the DEIR is insufficient.

The DEIR's discussion of project alternatives is inadequate because it fails to provide sufficient information about each included alternative to allow meaningful comparison with the proposed Project and fails to include analysis of reasonable, feasible alternative projects.

A. The DEIR does not include sufficient information about each alternative included therein to allow meaningful comparison with the proposed Project.

An EIR must include sufficient information about each alternative “to allow meaningful evaluation, analysis and comparison with the proposed project.”⁸ Each alternative “must be described in sufficient detail to permit comparison with the proposed project. The key issue is whether the selection and discussion of alternatives fosters informed decision-making and informed public participation.” Moreover, EIRs must discuss an alternative's adverse environmental effects, though in less detail than impacts of a proposed project. Information must be sufficient to permit comparison of relative merits and environmental impacts of the project and the alternatives. To that end, the analysis must contain concrete information sufficient to allow a fact-based comparison of the environmental effects of the alternatives and the project. The alternatives analysis is a scant six pages long. It provides no basis for its “conclusions” regarding the impacts of the barely-examined alternatives.

Response 141.3: Please refer to **Response 2.12:** regarding level of detail required for alternatives.

Comment 141.4: B. The Existing General Plan Alternative discussed in section 7.4.2.2 of the DEIR is more accurately described as the No Project Alternative.

A No Project Alternative in a DEIR is the one that assumes “what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.” The existing land use designation of the site is Single Family Residential – Medium Density. The reasonable expectation for the future of Seven Hills Ranch if the Project is denied is that it will be developed consistent with its current land use designation.

Response 141.4: The County would disagree that the most reasonably expected development in the future would be residential homes. The County believes it is just as likely the landowner keeps the property as is if the proposed project is denied, or the land is sold to another individual who would maintain the project site’s current condition.

Comment 141.5: C. The impacts of the Existing General Plan Alternative are inaccurately stated.

The Existing General Plan Alternative provides no support for its ultimate conclusion that:

...grading of the project site in order to develop the Existing General Plan Development Alternative would be similar to the proposed project due to the topography. Given that the grading is the most intense phase of construction and contributes the most toward air quality emissions and construction noise, the Existing General Plan Development Alternative would result in similar construction criteria pollutant and construction noise impacts.

The analysis of project alternatives must contain concrete information sufficient to allow a fact-based comparison of the environmental effects of the alternatives and the Project. No information is provided to support this conclusion about the Existing General Plan Alternative’s environmental impacts. In fact, it is highly unlikely that the extreme cut and fill requested for the Project would be needed or approved, because that would be inconsistent with, among other thing, the County’s General Plan and tree ordinance. By overstating the potential impacts of this proposed alternative, the impacts of the Project in comparison were misleading and understated.

Response 141.5: Please refer to **Response 2.12:** regarding level of detail required for alternatives.

The proposed project’s dense multi-story buildings concentrate development in certain areas of the project site. As such, the number of roadways required to move around the site are reduced. If the full amount of single-family residential is developed instead, these homes would be spread out across the site and roadways would have to be built throughout to connect to each one. This would result in significantly more roadways, which would require grading for each one.

Comment 141.6: D. The Location Alternative is too vague to provide a useful comparison.

The Location Alternative discussed in section 7.4.1.1 of the DEIR fails to describe the alternative location(s) and their features in sufficient detail to permit comparison with the proposed Project and foster informed decision-making and public participation. The DEIR concludes, with no supporting analysis, that moving the project to alternate location(s) would not reduce the identified significant and unavoidable construction noise impact, duration of the construction schedule, proximity of nearby sensitive receptors for an infill site, or the identified less than significant construction-related criteria air pollutant.

This alternative as perfunctorily dismissed without even identifying the alleged available sites “near the San Ramon Regional Medical Center and in the City of Lafayette.” The CEQA Guidelines acknowledge that “[d]rafting an EIR ... involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency [nonetheless] must use its best efforts to find out and disclose all that it reasonably can.” Certainly the location of the secret location alternatives could have been disclosed. Since this information is lacking, the County cannot make an “informed, reasoned decision” and in that case, the EIR will not survive judicial review.

Finally, The CEQA Guidelines direct that “[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”

Having determined that moving the Project to some other, undisclosed, location would result in identical impacts, the Location Alternative cannot serve as an alternative.

Response 141.6: Please refer to **Response 131.45:** regarding location alternatives. Several infill sites east and southeast of the San Ramon Regional Medical Center (located at 6001 Norris Canyon Road) are present; however, they are surrounded by residential uses and consist of rolling topography, similar to the proposed project site. In addition, alternative infill locations in the City of Lafayette north of State Route 24, such as the land located northwest of the intersection of Camino Diablo and Dunsyre Drive, would similarly be surrounded by residential uses and rolling topography.

Comment 141.7: E. The No Project Alternative should have been identified as a conservation alternative.

The No Project Alternative discussed in section 7.4.2.1 of the DEIR should have been termed a conservation alternative. The requirement to consider alternatives that lessen significant impacts applies “even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” The DEIR acknowledges that were it not presented as the No Project Alternative, this alternative—a conservation of Seven Hills Ranch--would have been identified as the environmentally superior alternative.

A Conservation Alternative would be consistent with the County’s General Plan, the 50 Year Plan for the Contra Costa County Flood Control District, and numerous County policies to protect ridgelines and riparian habitat. The County’s 50 Year Plan, From Channels to Creeks, was adopted in

2009 with a vision to “broaden[] the need for infrastructure replacement into an opportunity to restore multi-functional creek corridors as riparian ecosystems and shared public greenways that addressing rising flood risk while offering more benefits to more people.” The 50 Year Plan “proposes to re-integrate creek corridors into communities as vital public resources supporting health and well-being, civil engagement and education, wildlife habitat and everyday life.” Seven Hills Ranch was identified in the 50 Year Plan as an ideal area for conservation and restoration under the 50 Year Plan:

Seven Hills Ranch, on the upstream eastern bank, is a ~30-acre parcel of oak savannah habitat with a minor tributary, potential wetland habitat, and source of cool summer water. The ranch site offers valley vistas; public access to views can promote sense of safety along the creek. If the site is conserved and connected with restoration of Walnut Creek, the combined area has potential to anchor wildlife habitat.

The County has made no effort to include an analysis or explanation for why this conservation objective is ignored in the DEIR, which is impermissible under CEQA.

Response 141.7: Please refer to Master Response 4: FC District 50 Year Plan Consistency above.

Alternatives in the Draft EIR were selected in order to meet the most basic objectives of the project, which was determined to be construction of housing on the project site. While CEQA allows alternatives to “impede to some degree the attainment of the project objectives”, as the comment points out, the conservation alternative proposed by the project would not meet any of the project objectives and would not construct any form of housing on the project site. Therefore, the conservation alternative was not considered.

Comment 141.8: F. The DEIR excludes a particular, potentially feasible alternative.

An EIR must consider a “range of reasonable alternatives. The range must be sufficient to “permit a reasonable choice of alternatives so far as environmental aspects are concerned.” A range of alternatives is inadequate where some particular potentially feasible alternative was excluded. Here, that alternative is one that would reduce the size or footprint of the project, allowing for development that is compliant with Contra Costa County Constraints on development, which are shown below, in Figure 1. Such an alternative would be more appropriate to the site, minimize or eliminate the need for spot zoning, allow for a publicly accessible park, wetland preservation, decreased stormwater impacts, and increase setbacks to decreased noise impacts.

Having failed to consider in any depth any alternative that does not modify and use nearly every square inch of the site, the DEIR’s alternative project analysis is insufficient.

Response 141.8: Please refer to **Response 43.1:** regarding level of detail required for alternatives.

Comment 141.9: III. The Project description is inaccurate.

A. The Project is in reality a mix of residential and commercial uses.

The Project contains both residential and commercial components. However, rather than complying with the County's relevant requirements for each, the Project improperly seeks to avoid compliance with either while still taking advantage of the County's resources available to residential and commercial projects. The Project must comply with the residential and commercial requirements, as relevant, under Contra Costa County Code ("County Code") and the County's General Plan. The Project description should be accurate, stable, and finite. The description of the project should describe the projects economic characteristics and any supporting public service facilities.

Response 141.9: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 141.10: 1. Any change to the Housing Element requires compliance with the Housing Element Law.

The applicant proposes changing the zoning for the site. Any effort to do so must comply with Government Code section 65585.

2. Rezoning may cause the County to violate the No Net Loss Law.

The No Net Loss Law requires the County to maintain adequate cites to meet its Regional Housing Needs Assessment ("RHNA") by each category at all times. The County cannot rezone residential sites to commercial without taking into account the RHNA:

Sometimes land use inconsistencies arise during a general plan update when undertaken separately from the Housing Element. A jurisdiction updating the land use element of the general plan must consider the sites inventory of the Housing Element. If sites identified in the Housing Element site's inventory will be downzoned as part of the general plan update, other sites must be identified or rezoned to accommodate the resulting shortfall of capacity. Under state law, the land use element must be consistent with the Housing Element, and if the land use element does not permit the density in the Housing Element, the Housing Element or land use element must be amended to achieve consistency.

A third party may challenge any violation by the County.

There is a moral imperative here as well. As of 2020, Contra Costa County was well below meeting its RHNA goals for very-low housing needs and was deemed "highly unlikely" to meet its goal for very-low housing "given the lack of projects in the development pipeline that propose units in these categories." As detailed in the table below, Contra Costa County is ahead only on its above-moderate income level housing. The Project should not be refined in a way to reinforce this disparity in affordable housing, and reduce inclusionary housing obligations by rezoning to allow the applicant to avoid inclusionary housing requirements.

Response 141.10: Please refer to Master Response 3: Regional Housing Needs Allocation above.

Comment 141.11: B. The 354 independent living units constitute residential land uses and must comply with the residential land use requirements.

As previously highlighted by the County, the Project's independent living units contain a residential component under the definitions in Section 82.4 of the County's Zoning Ordinance related to One-Family Dwellings, Multi-Family Dwellings, Multiple Family Building Groups, and Apartment Units, triggering required compliance with the County's Inclusionary Housing Ordinance and Park Dedication Standards. Because the independent living units constitute a residential use under the County Code, the Project must comply with the County's requirements for residential developments.

Response 141.11: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 141.12: 1. The independent living units must include inclusionary housing.

Inclusionary housing requirements under County Code define a "residential development" as any development project that includes the construction of one or more dwelling units, including but not limited to exclusively residential projects and mixed-use projects. Community care facilities are exempt under the County Code, however, a community care facility is defined as "any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult daycare...including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children..." And a "residential facility" qualifying as a community care facility is any family home, group care facility, or similar facility...for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or the protection of the individual."

The DEIR states that the 354 independent living units and related amenities are for residents "not needing daily assistance." The DEIR does not indicate that the independent living units are maintained or operated to provide residential care, day treatment, or adult daycare to physically handicapped, mentally impaired, or incompetent persons. Nor does it indicate that the independent living units provide 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining activities of daily living. As such, they do not qualify as a community care facility exempt from compliance with the County's inclusionary housing requirements.

The County Code requires that residential developments of more than 126 rental units provide at least 15% as inclusionary units, with at least 20% of those rented at an affordable rent to very low-income households. Alternatively, an in-lieu fee may be paid. The Project, however, provides no affordable housing and does not provide for payment of an in-lieu fee for the same. As a result, the project description cannot be accurate.

Response 141.12: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 141.13: 2. The independent living units must comply with the density limits set forth in the General Plan.

The independent living units far exceed the maximum density permitted under the County Code and General Plan. The use of P-1 districts is intended to “promote the diversification of buildings, lot sizes, and open spaces to produce an environment in harmony with surrounding existing and potential uses.”

The General Plan does not set a density maximum for the Congregate Care-Senior Housing land use designation the Project applicant seeks. And the DEIR makes no effort to show how approval of the high-density housing the Project requires harmonizes with the far less dense neighboring residential and rural land uses. As such, the permissible density should be calculated consistent with the existing underlying General Plan designation for the Project site, which is Single-Family Residential-Medium Density. The maximum density for this land use designation is 4.9 single-family units per net acre. The high-density housing in the independent living units exceed this maximum density. Indeed, the DEIR describes: “[t]he proposed apartment style building would include a total of 302 units, ranging from one to three bedrooms and approximately 835 to 1,590 square feet.” And the Project also includes:

30 single-story buildings (including 22 duplexes) housing a total of 52 units. The single-story buildings would range in size from approximately 1,430 to 2,720 square feet. Half of these single-story buildings would be located along two new cul-de-sacs in the middle of the project site, while the other half would be located along the road surrounding the apartment building.

The DEIR confirms that the total size of the lot containing these residential units is 25 acres. Thus, based on the underlying land use designation, the 25 acres designated for independent living units can accommodate no more than 122.5 dwelling units before a density bonus must be applied, assuming every inch of the property is suitable for development, which is not the case.

If the developer of a residential facility includes at least 10% of a planned development as senior housing, the developer is entitled to a density bonus of between 5 and 35% of the maximum density permitted in the underlying zone. The County Code, in addressing the density bonus available for a housing development that limits residency based on age requirements for housing for older persons, states: “...The density bonus to which an applicant is entitled under this section will be calculated in accordance with Government Code Section 65915(g).”⁵⁴ Government Code, sec. 65915(f)(3)(A) states that, “[f]or housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.” And the forementioned subsection states that: “a senior housing development, as defined in Sections 51.3 and 51.12 of the Civil Code...that limits residency based on age requirements for housing for older persons pursuant to Section 789.76 or 799.5 of the Civil Code.” Thus, at most, the Project’s independent living units may qualify for a 20% density bonus, meaning that the this component of the Project may be entitled to a total of 147 dwelling units, or 5.88 dwelling units per acre. Even after applying the maximum density bonus, the Project seeks double the permissible number of dwelling units, seeking approval for 354 independent living units, which far exceeds the density permitted under the General Plan and County Code. The impacts of such a dramatic change in policy and deviation from the General Plan should have been fully disclosed and discussed.

Response 141.13: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 2: Project Non-Residential and Infill Designation above.

The Draft EIR addresses the project as proposed, and environmental impacts resulting from the change in land use on the site were disclosed. The County will further address General Plan consistency as part of the Staff Report for the project.

Comment 141.14: 3. The independent living units must comply with the density limits set forth in Walnut Creek's Municipal Code.

The Project is inconsistent with the City of Walnut Creek's density restrictions based on average slope of the development site, which must be considered here because the Project is within the City of Walnut Creek's sphere of influence. Specifically, Walnut Creek Municipal Code, sec. 10-2.3.403 states that "...development of any residentially zoned properties or portions of same properties...which have an average slope of fifteen (15) percent or greater as defined herein shall be subject to the provisions of this article..." It also requires compliance with various building requirements for developments built on slopes, including decreasing density based on the slope being built upon. For slopes between 15%-16%, the maximum permitted density is .9 dwelling units per acre, decreasing by one tenth for incremental increases in slopes. As detailed in section VI.A below, almost half of the Project site is proposed to be built on slopes greater than 15%. And as discussed above, the Project's anticipated density far exceeds the density limits for slopes of those sizes.

Response 141.14: The project being located within the City of Walnut Creek's sphere of influence does not require the project to comply with City's Municipal Code for density restrictions. The project site is located on unincorporated Contra Costa County land and any future development on the project site (including the proposed project) would be reviewed and approved based on County standards.

Comment 141.15: 4. The independent living units and the health care center must provide park access to the public.

The County's General Plan Open Space Element ("Open Space Element") sets forth a goal of achieving 4 acres of parkland per 1,000 residents. In an effort to reach this goal, residential developments are required to comply with the County's Park Dedications Ordinance, which mandates dedication of land, payment of an in-lieu fee, or a combination of both for neighborhood and community park or recreational purposes. The County Code requires that multifamily residential developments either dedicate 282 square ft. per unit to parklands or pay an in-lieu fee of \$3,233 per unit. Townhomes are required to contribute either 311 square feet per unit to parklands or pay an in-lieu fee of \$3,571 per unit. Single-family detached homes must contribute either 391 square feet per unit to parklands or contribute a \$4,489 fee per unit.

The DEIR asserts that because the Project is for a non-residential use, the County's Park Dedications Ordinance does not apply. However, as discussed above, the independent living units are residential in nature. Indeed, the Project consists of 302 units in its apartment style building. To satisfy the requirements under the Park Dedication Ordinance for the apartment building, the Project applicant must either contribute 85,164 square feet to parkland or pay an in-lieu fee of \$976,366. The Project consists of 8 single family homes. To satisfy the requirements under the Park Dedication Ordinance for the single-family homes, the Project applicant must either contribute 3,128 square feet to parkland or pay an in-lieu fee of \$35,912. The Project consists of 22 townhomes, each comprised of two units. To satisfy the requirements under the Park Dedication Ordinance for the townhomes, the

Project applicant must either contribute 13,684 square feet to parkland or pay an in-lieu fee of \$157,124. In sum, to comply with the Park Dedication Ordinance, the Project applicant must dedicate a total of approximately 2.34 acres to publicly accessible parkland or pay a total of nearly \$1.17 million towards in-lieu fees. Because Heather Farms Park is already overused, it would make most sense to require park dedication rather than paying in-lieu fees. Yet, as proposed, the Project will not contribute a single square foot or dollar to the County.

Response 141.15: Please refer Master Response 2: Project Non-Residential and Infill Designation above.

Comment 141.16: 5. The Project is inconsistent with the County’s Open Space Element, which encourages and requires public access to parks and trails.

The County’s Open Space Element promotes and requires public access to parks, open space, and trails. The Project is inconsistent with various policies thereunder. Specifically, Implementation Measure 9-r of the Open Space Element requires that new developments meet the park standards and criteria included in the Growth Management Program and set forth in Table 9-1 of the Open Space Element. Table 9-1 requires 2.5 acres of neighborhood parks per 1,000 residents within a one-half mile radius of the park, which is to be located at the center of the neighborhood that it services and 1.5 acres of community parks per 1,000 residents within a 2-mile radius of the park, which is to be located in the center of a group of communities and include some natural features of interest, such as water frontage or rough topography.

The DEIR identifies Heather Farm Park as the nearest park to the Project, which is 0.8 miles from the Project’s entry. It also notes that residents of the Project “may use existing park facilities in the project area, including Heather Farm Park, and the proposed [Continuing Care Retirement Community] CCRC would provide various on-site recreational amenities...and open spaces that would offset its park demand.” Ultimately, the DEIR concludes that “[g]iven the amount and size of existing parks within the county and the surrounding region and proposed on-site recreational amenities, increased park demand generated by the project would be incremental and would not require the construction of new or altered park facilities.” However, once again, the DEIR provides no facts to support this conclusion, making it impossible for the public to consider whether this statement is consistent with the Open Space Element. And importantly, Heather Farm Park is already heavily overutilized. Indeed, it is visited by over 1.2 visitors annually. The DEIR fails to analyze how the Project will further burden Heather Farm Park or how the remaining requirements set forth in Table 9-1 for community and neighborhood parks are satisfied.

Open Space Element, Policy 9-33 states: “[a] well-balanced distribution of local parks, based on character and intensity of present and planned residential development and future recreation needs, shall be preserved.” But the Project, as noted above, contributes nothing to local parks, even though some number of its 560 residents and 230 projected full-time equivalent employees will undoubtedly add use to nearby Heather Farm Park and other parks in the Project’s vicinity.

Response 141.16: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

It is anticipated that the recreational amenities on-site would offset park demand for this CCRC use. A portion of the project's users would be in assisted living and, therefore, less likely to use area recreational facilities and further reduce demand for parkland from the project.

Comment 141.17: Implementation Measure 9-v directs that the County “[d]evelop a comprehensive and interconnected series of bicycle, pedestrian, and riding trails in conjunction with cities, special districts, public utilities, and County Service Areas.” The Project is inconsistent with 9-v as well. In fact, the Project not only fails to include bicycle, pedestrian, and riding trails accessible to the public, but will render impossible the bicycle and pedestrian route proposed in Walnut Creek’s General Plan Transportation element following the extension of Seven Hills Ranch Road across the entire Seven Hills Ranch site. Indeed, this pedestrian and bicycle route is intended to help “[p]romote bicycle use as an alternative way to get to work, school, shopping recreational facilities, and transit stops.” Walnut Creek seeks to “[w]ork with other agencies and jurisdictions to ensure that safe bicycle facilities are available at the edge of the city limits,” yet the DEIR makes no indication that the Project applicant coordinated with Walnut Creek to accommodate the proposed bicycle path that the Project will thwart.

Response 141.17: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 141.18: C. The healthcare facility portion of the Project is a commercial land use and must comply with commercial land use requirements.

“Commercial property” means all properties with a commercial designation in the general plan including but not limited to the following: commercial, regional commercial, airport commercial, office, and business park. Regional commercial designations allow for “large centers of commercial land use concentrations, including...hospitals.” Office designations allow for “office facilities of an administrative character including...medical/dental offices.” The DEIR describes the care facility as a “health care center for 100 residents requiring daily assistance of daily medical attention.” The healthcare center will include assisted living units, skilled nursing beds, and memory care units and be accessible to on-site residents as well as the general public. It is most akin to a medical office or hospital setting providing medical care and assistance to patients.

“When approving and adopting the rezoning application, the preliminary development plan or the final development plan, the planning commission and/or board of supervisors as the case may be shall be satisfied that...[i]n the case of the commercial development, it is needed that the proposed location to provide adequate commercial facilities of the type proposed, and that traffic congestion will not likely be created by the proposed center, or will be obviated by presently projected improvements and by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking, and that the development will be an attractive and efficient center which will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development...”

This standard cannot be met for the healthcare center. First, the healthcare facility will create significant traffic congestion which is not properly analyzed by the DEIR. While the DEIR claims that the impact on Vehicle Miles Traveled (“VMT”) is insignificant, the analysis is fundamentally

flawed. Specifically, the DEIR only identifies and relies upon the number of full-time equivalent employees to conduct its VMT analysis. However, one full-time equivalent employee could be made up of several part time or on-call employees, as well as non-employee doctors and nurses, creating more trips to and from the Project, and thus significantly impacting the VMT analysis, as discussed in Attachment N appended hereto. Yet the DEIR fails to address this issue entirely. Because the analysis is based on incomplete information, it cannot be relied upon to determine that the Project will have a less than significant impact on VMT, and it similarly cannot be concluded that the Project will not cause traffic congestion, as required by the County Code.

Response 141.18: Refer to Master Response 9: Transportation above.

Comment 141.19: Further, the traffic impacts created by the Project will create serious safety concerns resulting in inconsistency with the General Plan’s Transportation Element (“Transportation Element”). Specifically, Policy 5-17 states that “Emergency response vehicles shall be accommodated in development project design.” However, the Project does not provide emergency access meeting the Fire District requirements. The County requires that fire access roads be at least 20 feet wide. And projects containing more than 100 dwelling units must contain two separate and approved fire apparatus access roads. The DEIR acknowledges these requirements, yet concedes that at least one of the fire access roads will not meet the fire district’s required 20-foot width. Moreover, the DEIR identifies the primary route for emergency vehicle access to the healthcare center via North San Carlos Drive. However, the DEIR fails to consider the important fact that all emergency access to the healthcare facility via North San Carlos Drive will be thwarted significantly, if not entirely, during high periods of congestion related to Seven Hills School traffic. Indeed, the congestion on North San Carlos Drive, which runs through Heather Farm Park and terminates at the school’s gate, is so significant during morning drop off and evening pick up that emergency access to the healthcare facility via that route will likely be entirely ineffective.

Response 141.19: Please refer to **Response 2.18:** regarding emergency access and the Master Response 9: Transportation Emergency Access section above.

Comment 141.20: Finally, the healthcare facility will not fit harmoniously into the adjacent and surrounding development. The healthcare facility is adjacent to a school, residential housing, and an equestrian center. None of these neighboring land uses are compatible with a commercial development that will utilize industrial grade mechanical equipment. Moreover, the Project anticipates employing 225 full-time equivalent employees, which will likely be comprised of far more than 225 individual people traveling to and from the Project site. This commercial use is far more noise and traffic heavy than the neighboring land uses. Because the County cannot make the required findings under County Code, section 84-66.1406(3), the Project should not be approved.

Response 141.20: Please refer to Master Response 5: Aesthetics, Master Response 8: Noise and Vibration, and Master Response 9: Transportation Traffic Congestion section above.

Comment 141.21: IV. The DEIR fails to adequately analyze the Project’s aesthetic impacts.

A. The Project improperly avoids consideration of Aesthetic Impacts under SB 743.

The Project relies on SB 743 to avoid full analysis of aesthetic impacts. Under SB 743, aesthetics and parking impacts shall not be considered significant impacts on the environment only if (1) the project is residential, mixed use residential, or an employment center, (2) on an infill site, and (3) within a transit priority area.⁹¹ However, the Project does not satisfy the requirements under SB 743, and thus aesthetic and parking impacts cannot be presumed to be insignificant.

First, if the applicant succeeds in its efforts to have the entire the Project—including both the independent living units and the healthcare center—designated “non-residential,” the first element is unsatisfied.

Second, the Project is not situated on an infill site. “Infill site” means a lot located within an urban area that has been previously developed or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. Several parcels neighboring the Project are undeveloped, including the entire western edge, which is bordered by the Walnut Creek Channel; an undeveloped segment adjacent to Heather Farm Park; the undeveloped slopes of Seven Hills School property; the Kinross right-of-way and adjacent Heather Farms open space; and a portion of the Hale property within the City limits that is not part of this Project site. These undeveloped parcels account for more than 25% of the perimeter of the site. As such, the Project site is not properly classified as infill.

And finally, the Project is not located within a transit priority area. The DEIR makes no attempt establish this element, and a careful look at the surrounding transit stops confirms that it cannot be established. A transit priority area is “an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program...” And a “major transit stop” means a site containing an existing rail or bus rapid transit station; a ferry terminal served by either a bus or rail transit service; the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods or major transit stops included in the applicable regional transportation plan. The nearest bus stations are at Kinross Road and Ygnacio, which is approximately 1.6 miles from the Project, and Ygnacio Valley and Marchbanks Drive/Tampico, which is approximately 1.5 miles from the Project. The nearest Bart station is 1.5 miles from the There is no ferry station in the general area of the Project. Based on the distances from the nearest bus and Bart stations, the Project is not located within a major transit stop.

Because the requirements of SB 743 are unsatisfied, the Project’s aesthetic and parking impacts cannot be presumed insignificant.

Response 141.21: Please refer to **Response 131.7:** regarding clarification on SB 743.

Comment 141.22: B. The Project’s aesthetic impacts are inconsistent with the Open Space Element.

A review of photographic renderings included below confirm that the aesthetic impacts of the Project will, indeed, be significant and inconsistent with the General Plan. As noted in Open Space Element Policy 9-14, “[e]xtreme topographic modification, such as filling in canyons or removing hilltops, shall be avoided. Clustering and planned unit development approaches to development shall be encouraged...” The Project, however, will require extreme topographic modification, leveling open hillsides to accommodate dense housing without making any effort to cluster the housing, as

proposed in section II.B. above. Open Space Element Policy 9-21 goes on to state that “any new development shall be encouraged to generally conform with natural contours avoiding excessive grading,” and Policy 9-12 similarly states that “[i]n order to conserve the scenic beauty of the county, developers shall generally be required to restore the natural contours and vegetation of the land after grading and other land disturbances. Public and private projects shall be designed to minimize damage to significant trees and other visual landmarks.” But the Project makes no effort to conform to the natural contours and instead will require 12 months of grading, resulting in what is currently open space with rolling hills becoming a largely flat 30-acre development perched on retaining walls. Indeed, given the extreme cut and fill requirements for development of the Project, it appears impossible to adequately restore the natural contours and vegetation of the land as required by Policy 9-12. The DEIR acknowledges these General Plan policies apply to its consideration of aesthetic impacts, but fail entirely to analyze how the Project is consistent with them.

The toll taken by this type of cut and fill Project is detailed in the figures below and discussed further in Attachment E submitted herewith. Specifically, the first figure below shows the lowest floor elevation levels after cut and fill operations are finished for the proposed Project. Note that all the buildings in the western half of the Project are the same lowest finish floor level, which would require leveling of the hills. And the second figure depicts the proposed excavation material thickness that must be cut or filled to the existing elevation for the Project.

Moreover, the DEIR’s conceptual photo simulations supporting its conclusion that the Project will not result in a significant aesthetic impact are inaccurate and fail to represent the Project to scale. These deficiencies are highlighted in the photographic renderings below which compare the existing conditions of Seven Hills Ranch to the conditions after the Project’s construction. However, as indicated by the markup of these photo simulations, the overall aesthetic impacts of the Project do not comport with the Project’s actual size, mass, and footprint. And significant liberty appears to have been taken to hide the Project’s size through shrubbery and tree placement, which will not be present upon the Project’s completion.

The photograph above was taken looking west towards the future extension of Kinross Drive.

As noted above, the overall size and height of the main building are inaccurately represented. And, to disguise and screen the view of the building, shrubs and trees were left in the photo simulation even though they are tagged for removal under the Project’s Tree Permit.

The photograph above depicts the view from San Carlos Drive looking south from the northeast end of the Project site.

As noted above, the photograph simulation of the Project from this viewpoint omits a large security wall that will surround the site and the photograph is taken from an angle that improperly minimizes the building’s mass and visibility and depicts mature landscaping to screen an eleven-foot-tall retaining wall.

The photograph above depicts the view of the west edge of the Project site from Cherry Lane.

As noted above, the Project applicant's photo simulation again uses mature trees and shrubs to screen the view of the independent living units and main building and the mass, height, and footprint of the main building appear significantly smaller than what is proposed by the Project applicant.

Response 141.22: Please refer to Master Response 5: Aesthetics above.

Comment 141.23: V. The DEIR's conclusions set forth in the Land Use and Planning sections are inadequately analyzed and unsupported by the administrative record.

An EIR's conclusions must be supported by substantial evidence. But the DEIR contains numerous conclusory statements related to Land Use and Planning that are unsupported by any evidence or analysis. As such, it does not meet the requirements under CEQA.

The DEIR states that "[t]he proposed [Continuing Care Retirement Community] CCRC would be a compatible use with the surrounding community." However, as discussed above, the commercial element of the Project is not compatible with the surrounding land uses, which are primarily low-density residential in nature. The DEIR makes no effort to analyze or explain how the Project is compatible with the surrounding community.

The DEIR states that "[t]he project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect." Yet there are many General Plan policies that the Project is in direct conflict with. For example, Land Use Element Policy 3-12 states that "...Preservation and conservation of open space, wetlands, parks, hillsides and ridgelines should be encouraged as it is crucial to preserve the continued availability of unique habitats for wildlife and plants, protect unique scenery, and provide a wide range of recreational opportunities for county residents." The Project is inconsistent with this policy. As proposed, the Project requires that open hillsides be levelled rather than developed around, and a ridgeline is being graded and built upon in such a manner that the ridgeline will no longer be visible.

Land Use Policy 3-22 states that "[h]ousing opportunities for all income levels shall be created. Fair affordable housing opportunities should exist for all economic segments of the county." But as discussed in section III.B.1, above, but, no inclusionary housing is provided by the Project.

Land Use Policy 3-29 states that "[n]ew housing projects shall be located on stable and secure lands or shall be designed to mitigate adverse or potentially adverse conditions. Residential densities of conventional construction shall generally decrease as the natural slope increases." But the apartment building described on pages 8 and 24 of the DEIR is high density yet located on a steeply sloping area of the Project site proposed to be levelled by cutting up to 24 ft. of earth away from the natural hillside.

Because the DEIR fails to support its conclusions that the Project is consistent with the surrounding land uses, and the Project is, in fact, inconsistent with the County's Land Use Element, the Project should be denied.

Response 141.23: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 2: Project Non-Residential and Infill Designation above.

The project provides a self-contained Continuing Care Retirement Community (CCRC) with living accommodations for seniors adjacent to properties with residential housing. As discussed on Draft EIR page 3, this CCRC would be licensed through the State of California Department of Social Services (DSS) Continuing Care Contracts Branch as a Residential Care Facility for the Elderly (RCFE). Such facilities are frequently located within residential areas and would not pose an incompatible land use with the surrounding area. In addition, aside from zoning districts R-65 and R-100, which are both Very Low Density zoning districts, a hospital can be established in all of the County's single family residential districts with the approval of a land use permit.

Comment 141.24: VI. The Project is inconsistent with the grading requirements set forth by the County's municipal code, Walnut Creek's municipal code, and the County's Open Space Element.

Section 3.1.2.1 of the DEIR asserts that the excessive grading required for the Project will have either no impact or a less than significant impact. However, inconsistencies with the County's municipal code, Walnut Creek's municipal code, and the County's Open Space Element detailed below indicate that the grading will not only be significant, but in conflict with the various requirements under each of these authorities.

A. The Project is inconsistent with the County's grading ordinance.

County Code, section 82-1.016 requires that development on open hillsides throughout the county be restricted and hillsides with a grade of 26% or more be protected through implementing zoning measures and other appropriate actions.

As detailed in the figure below and discussed in Attachment E attached hereto, Seven Hills Ranch includes slopes that are greater than 26% that the County has failed to protect. Indeed nearly 20% of the Project site consists of slopes greater than 26% and 23 buildings proposed for the Project will cut into these slopes that should be protected from development under the County Code. The DEIR claims that slopes over 25% grade would be avoided by the Project, but the figure below depicting the slope grade and outlining the Project's overall footprint confirms that this statement is entirely false.

Further, County Code, section 716-2.1002 states that "[a]ny excavation or fill which the county building official finds is a menace to life, limb or property or adversely affects the safety, use or stability of a public way or drainage way or channel is declared to be a public nuisance, and in addition to any other remedy available under the law, may be abated pursuant to Article 14-6.4."

Moreover, County Code, section 706-8.206 requires that "[c]ut slopes shall be rounded off at the top and toe to blend and conform to existing terrain." Despite acknowledging this and other requirements under the County Code related to slope grading, the DEIR makes no effort to confirm compliance. And as detailed in the figure below and Attachment F appended hereto, the Project's maintenance building and independent living units will cut into the Adirondack Hill, which measures between 26%-43% slope grade, effectively destroying it without making any effort to blend and conform this section of the Project to the existing terrain.

Response 141.24: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 141.25: B. The grading required for the Project is inconsistent with the County's Open Space Element.

Open Space Element Policy 9-21 requires that any new development shall be encouraged to generally conform with natural contours to avoid excessive grading. Policy 9-14 states that "extreme topographic modification, such as filling canyons or removing hilltops, shall be avoided. Clustering and planned unit development approaches to development shall be encouraged. All future development plans, whether large- or small-scale, shall be based on identifying safe and suitable sites for buildings, roads, and driveways..." But as discussed in detail above, the Project requires excessive grading and topographic modification as it seeks to demolish and level the rolling hills that currently exist at Seven Hills Farm. The Project makes no effort to cluster portions of the development to avoid this impact to the topography.

Open Space Element Policy 9-19 states that "[w]hen development is permitted to occur on hillsides, structures shall be located in a manner which is sensitive to available natural resources and constraints." And Policy 9-11 states that "[p]articularly vulnerable areas should be avoided for urban development. Slopes of 26% or more should generally be protected and are generally not desirable for conventional cut-and-fill pad development. Development on hillsides and significant ridgelines shall be restricted." Considering the significant Project's numerous inconsistencies with the County's General Plan, the Project should not be permitted on the hillsides of Seven Hills Ranch. But if it is so permitted, the especially vulnerable areas with slopes of 26% grade or more, which are detailed in the two figures above, must be protected.

Finally, Policy 9-12 states that "[i]n order to conserve the scenic beauty of the county, developers shall generally be required to restore the natural contours and vegetation of the land after grading and other land disturbances. Public and private projects shall be designed to minimize damage to significant trees and other visual landmarks." As discussed in Attachment F, Seven Hills Ranch is an extension of Shell Ridge, a major scenic ridge in central Contra Costa County. The County's General Plan requires protection of this scenic beauty by restoring the natural contours of the land. But instead, the natural beauty will be largely demolished and entirely restricted from public access if the Project is approved as proposed.

Response 141.25: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 141.26: C. The Project is inconsistent with Walnut Creek's grading ordinance.

As noted above, the Project is within Walnut Creek's sphere of influence. As such, Walnut Creek's applicable ordinances should be considered in evaluating the Project. The Walnut Creek Municipal code states:

[g]rading of the property shall be designed to minimize disruption of the natural topography. Grading is discouraged on the site except for roads; driveways; garage pads; cuts under the house; cuts on the uphill side of the house which are screened from public view by the house or existing vegetation; site

distance requirements; drainage; and soil stability purposes. All approved grading shall be done in such a manner that it presents a finished look of rounded slopes. All exposed graded areas shall be hydroseeded/relandscaped to minimize erosion. Roads should follow contour lines, where feasible, to minimize grading.

The DEIR suggests that the Project will preserve an “existing knoll on the north-central portion of the site [which] will be recontoured but remain as open space with a proposed trail allowing access to the top.” But the graphic below cuts against this claim. The thick pink line below represents the current topography and elevation per the proposed Landscaping plan from Attachment A7, which is significantly lowered and reshaped, without preserving the natural topography.

Indeed, the Project applicant makes no effort to grade such that disruption of Seven Hills Ranch’s natural topography will be minimized. Instead, the Project proposes to essentially flatten what is presently an open space filled with rolling hills.

Further, the Walnut Creek Municipal Code states that “[n]o structures shall be built within 50 feet of a fault line, within 50 feet of the top of a creek bank or within that setback from a known landslide area recommended in a soils report prepared for the proposed development. Where significant riparian vegetation exists beyond the limits required above for creek setbacks, the setback line shall be extended to include such areas.” Yet the Project seeks to destroy an area of wetland completely to allow for the Kinross Road extension. This is inconsistent with Walnut Creek’s prohibition of development within 50 feet of a creek bank.

Because the grading required for the Project violates the requirements set forth in the County Code, the County General Plan, and the Walnut Creek Municipal Code, the Project must not be approved. And because the DEIR fails to analyze how the Project does not violate these various requirements in determining that the grading required for the Project will not cause significant impact to the environment, the DEIR must not be certified.

Response 141.26: Please refer to **Response 131.24:** regarding City of Walnut Creek policies.

Comment 141.27: VII. The Project fails to provide sufficient information to support its conclusion that noise generated by the Project and its construction are within the state and local limits.

The County’s General Plan Noise Element (“Noise Element”) sets out to “ensure that new developments will be constructed so as to limit the effects of exterior noise on the residents” and to “maintain appropriate noise conditions in all areas of the County.” To that end, Policy 11-2 sets the standard for outdoor noise levels in residential areas as 60 dB. And Policy 11-6 directs that if an area is below the maximum “normally acceptable” noise level, an increase in noise to the maximum should not be necessarily allowed. The maximum “normally acceptable” noise level for residential land uses comprised of low density single family homes, duplexes, or mobile homes is 60 dB, and the maximum “normally acceptable” noise level for multifamily residential land uses is 65 dB.

The DEIR includes short-term noise measurement data collected at various points near residential areas adjacent to the Project site. Each data point confirms that the residential developments adjacent to the Project are below the maximum “normally acceptable” noise level for any residential area,

ranging from 48dBA to 51dBA. Project construction is anticipated to last for three to four years. And during these years, the DEIR states that the estimate construction noise levels will range primarily between 66dBA and 72dBA for the residential areas neighboring the planned independent living units and between 59dBA and 74dBA for the residential areas neighboring the healthcare center. This rise in noise violates General Plan Policy 11-2, requiring that outdoor noise levels in residential areas not exceed 60dBA and Policy 11-6, directing that existing residential land uses with below “normally acceptable” noise levels not necessarily be permitted an increase in noise to the maximum “normally acceptable” level.

MM NOI-1.1 sets forth twelve measures that the DEIR asserts will “result in a less than significant temporary construction noise impact.” However, neither the section 3.13.2.2 of the DEIR nor Appendix O detailing the Noise and Vibration Assessment and Peer Review discuss how those measures will reduce the construction noise impacts or to what level they will be reduced. Thus, the DEIR fails to establish that the construction noise generated from the Project will be consistent with the General Plan limitations regarding the same.

Response 141.27: Please refer to Master Response 8: Noise and Vibration above. As stated in the last bullet of MM NOI-1.1, the use of temporary noise barriers, such as an eight-foot plywood barrier, would provide at least 5 dBA of noise reduction.

Comment 141.28: Moreover, the DEIR and Appendix O concede that, as it pertains to permanent operational noise sources, the noise analysis did not include information about the number, type, and size of mechanic equipment to be used in the Project. Yet the DEIR asserts that with the implementation of MM NOI-1.2, which requires selection of mechanical equipment that will reduce impacts on surrounding uses to 50dBA, there will be less than a significant impact. Without information about the number, location, or size of the mechanical equipment needed for the healthcare center, it cannot be known that equipment meeting this standard is even available.

The Project applicant should be required to identify the number, size, type, and location of all mechanical equipment so that the DEIR can effectively evaluate whether any mitigation measure can actually mitigate the noise resulting therefrom to the necessary level.

Response 141.28: Since the location and type of mechanical units the proposed project will use is unknown at this time, the Draft EIR assumed a worst case scenario in order to assess mechanical equipment noise impact to nearby sensitive receptors. The Draft EIR concluded that this worst case scenario would result in mechanical equipment exceeding the City of Walnut Creek’s compatibility threshold by as much as six dBA, the nighttime noise limit by as much as 15 dBA, and ambient noise levels by as much as 10 dBA. As such, the Draft EIR identified mitigation measure MM NOI-1.2, which requires the proposed project to retain a qualified acoustical consultant, prior to issuance of building permits, to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction measures necessary to reduce noise to comply with the noise limits at all adjacent noise sensitive land uses. Such noise reductions measures are not limited to only equipment choices and may include shielding mechanical equipment or moving mechanical equipment inside buildings. In either case, the proposed project must comply with MM NOI-1.2 and show conformance with noise and land use

compatibility thresholds established for residential land uses by Contra Costa County and the City of Walnut Creek before building permits will be issued. Therefore, the project's impacts will be reduced to less than significant with application of the DEIR mitigation measures, and no changes to the DEIR are required.

Comment 141.29: VIII. The Project has unmitigated and undiscussed impacts to water resources.

A. The DEIR does not disclose regulated waters and adjacent water-dependent habitat.

As discussed in Attachment B, the Corps of Engineers surveyed the channel bisecting the property, the Southern Perennial Drainage and determined that it is a jurisdictional Water of the U.S. This should have been disclosed. Likewise, the DEIR does not describe or map wetland and riparian habitat along the Homestead Creek corridor. Apparently, no survey has been done to determine the extent of State waters on the site.

B. No effort has been made to avoid and minimize adverse impacts to Waters of the U.S.

The Project seeks to extend Kinross Road for its use as the main entrance to both the residential independent living units and the commercial healthcare center. This extension will require the destruction and filling of the Kinross wetlands presently located there to support the new road. Because the Project will cause discharge and fill to Waters of the US, a permit from the Corps of Engineers will be required. The Environmental Protection Agency requires "district engineer [to] issue an individual section 404 permit only upon determination that...the permit applicant take all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the United States." This requires a public interest review by the Corps of Engineers, which is likely to preclude issuance of any fill permit. The DEIR acknowledges that "even small wetland areas make disproportionate contributions to water quality, groundwater recharge, watershed function, and wildlife habitat in the region," and there are alternatives that have less or no impacts to Waters of the U.S. Section 7.4.2.3 of the DEIR describes a Roadway Redesign Alternative which "assumes that the proposed project's extension of Kinross Drive...would be removed and the main entrance to the project site would be relocated to the current entrance to the project site along Seven Hills Ranch Road." The DEIR confirms that the Roadway Redesign Project Alternative would:

...reduce impacts to riparian and wetland habitat and tress by removing the extension of Kinross Drive to the project site. Construction of this extension would have required the disturbance and/or removal of jurisdictional perennial drainage and seasonal wetland habitat. Relocating the entrance to the existing Seven Hills Ranch Road entrance would avoid these features altogether.

C. The DEIR does not discuss the likelihood that the Project cannot meet State requirements for a 401 Certification.

The DEIR does not indicate that a state 401 water quality certification has been obtained, whether one will be required, or how this Project could obtain one.

D. Proposed mitigation is inadequate.

Because the baseline regarding the extent of regulated waters and water-adjacent habitat was not clearly defined, it is impossible to accurately state the impacts of the Project. It is therefore not

possible to determine the amount of necessary mitigation and whether the proposed mitigation reduces the impacts of the Project to less than significant.

Mitigation efforts should be focused on site or at very least, in the Walnut Creek Watershed. Any replacement of wetland habitat should be at a ratio of 2:1.

Response 141.29: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above. The Draft EIR is required to analyze the potential environmental impacts of the project and not the likelihood of obtaining permits from responsible agencies. If the project is approved by the County, the project would still need to obtain necessary permits from responsible agencies.

Comment 141.30: IX. The Project's needs will likely exceed the capacity of the sanitary sewer service proposed, rendering it inconsistent with the County Code, General Plan, and CEQA Checklist.

County Code, section 420-6.602 requires use of properly functioning sanitary sewage systems by mandating that "a person may not do any of the following:...(e) have, use or operate an improperly functioning sewage collection or disposal system." General Plan Policy 7-2 states that "[n]ew development, not existing residents, should be required to pay all costs of upgrading existing public facilities or constructing new facilities which are exclusively needed to serve new development." And the CEQA Environmental Checklist Form suggests further analysis where the "project would 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...or other performance objectives for any of the public services..."

The Project proposes to "connect to an existing eight-inch sanitary sewer line in North San Carlos Drive and an eight-inch sanitary sewer line in Seven Hills Ranch Road." And the DEIR concludes that "the project would not require any off-site improvements to existing sanitary sewer facilities" in order to support the average daily wastewater flow from the Project. However, this conclusion is not supported upon a closer examination of the existing facilities. As noted in Attachment O, a member of the public brought this concern to the County during the Notice of Preparation comment period. Specifically, it was noted that, "[t]he system in place carries a high environmental risk from overflow at the proposed connection to the sanitary sewer pipe carrying project flow west from the site to the manhole designated SSMH 97-2 on Drawing C5.0, Utility Plan because this manhole is only two feet deep and is located immediately above a natural creek flowing into Walnut Creek."

The sanitary sewer system proposed for use by the Project is unlikely to be able to sustain the needs of the Project. Indeed, the result of this system failing based on the equivalent of 328 new households feeding into a single 8" sewage line will be a pressure build-up in the sewage line pushing through a manhole cover and releasing raw sewage over the bridge into Homestead Creek. Despite this issue being highlighted during the Notice of Preparation comment period, the DEIR makes no effort to address or mitigate this impact on public services. And the proposed sanitary sewage system's failure will result in an improperly functioning sewage collection or disposal system, in violation of the County Code. Moreover, waiting for a catastrophic failure would result in facility upgrade costs being passed on to the taxpayers rather than the developer, as required by the General Plan. The

County must require that the Project applicant improve the sanitary sewage system such that this risk of sewage overflow is diminished. The DEIR fails to identify and mitigate for potential negative impacts to biological resources.

Response 141.30: Please refer to **Response 43.10:** regarding adequacy of the above mentioned sewer line.

Comment 141.31: A. The DEIR fails to establish a reliable and credible baseline condition for biological conditions

Use of an industry-standard approach for assessing an impact is appropriate. Here, a substandard review has resulted in an unreliable baseline. The cursory biological surveys failed to identify an active red-tailed hawk nest, failed to disclose the nature and extent of existing habitat conditions (e.g., the existence of valley oak woodland and creeping wild-rye grassland on site), and their potential as habitat for protected species (e.g., pond turtles, monarch butterflies, and California red-legged frog), all as discussed in greater detail in Attachment B. Additionally, Mr. Sean Tully, a respected biologist, considered a California red-legged frog expert by both the California Department of Fish & Wildlife and the U.S. Fish and Wildlife Service, concluded that the DEIR fails to establish an accurate baseline for the presence of wildlife, including sensitive species.

The failure to establish a reliable baseline has resulted in unsupportable conclusions that the Project will result in less-than-significant impacts, and also causes proposed mitigation measures to be improperly targeted and insufficient.

Response 141.31: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 141.32: B. The DEIR's Sensitive Plant Survey conclusions are unreliable.

Use of an industry-standard approach for assessing an impact is ordinarily appropriate. (Eureka Citizens for Responsible Gov't v City of Eureka (2007) 147 CA4th 357, 372.) Several deficiencies in the DEIR's plant surveys indicate that its determination that the Project sites contains minimal sensitive plant species is unreliable. For example, Attachment 2 to Appendix E identifies all plant species observed at the Project Site. However, SSHR's professional wildlife biologist, botanist, and consultant, Mr. Ted Robertson, identified at least thirty-one plant species omitted from Attachment 2 to Appendix E but personally observed growing along the perimeter of the Property by Mr. Robertson. The exclusion of these obvious and common species indicates that the botanist conducting the DEIR's plant surveys lacks the experience necessary to conduct botanical surveys for sensitive species as well. Moreover, the timing of these surveys did not include summer bloom periods for *Blepharizonia plumosa*, which the DEIR notes is considered rare or endangered in California and elsewhere. Mr. James Martin identified standard protocols that would normally be used for biological and water resource surveys that were ignored here.

Response 141.32: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 141.33: C. The DEIR fails to adequately consider and mitigate against significant impacts on riparian habitat caused by retaining walls.

The County General Plan's Conservation Element includes several policies to promote protection and conservation of wetlands. For example, Policy 8-17 states "[t]he ecological value of wetland areas...shall be recognized. Existing wetlands in the County shall be identified and regulated. Restoration of degraded wetland areas shall be encouraged and supported whenever possible." Policy 8-24 goes on to state that "[t]he County shall strive to identify and conserve remaining upland habitat areas which are adjacent to wetlands and are critical to the survival and nesting of wetland species." And Policy 8-27 states that "[s]easonal wetlands in grassland areas of the County shall be identified and protected."

The Project site encompasses four primary seasonal wetlands, totaling .35 acres. The Project site also spans two small seasonal wetlands. The DEIR asserts that the Project will not "interfere substantially with the movement of 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" with the implementation of MM BIO-1.1 through MM BIO-1.3.¹⁵¹ It similarly concludes that the Project will "avoid adversely affecting the wetlands proposed to remain on-site during project construction and would pay compensatory mitigation for the permanent loss of wetlands" through implementation of MM BIO-3.1 and MM BIO-3.2. However, the DEIR fails to discuss how the massive and complex retaining walls surrounding the remaining wetlands will impact the wildlife that presently rely on or pass through them. Indeed, the substantial fill and construction of retaining walls shown in the figures below prepared by Save Seven Hills Ranch will dramatically change the flow of water and limit wildlife movement in these wetlands, which represent some of few remaining wildlife corridors from Mt. Diablo to Walnut Creek. As detailed in the figure below, the Project will be effectively surrounded by retaining walls of various heights and lengths. And the wetlands will essentially be closed by them.

Moreover, the DEIR fails to include hydraulic and structural detail and analysis of the proposed bridge to be constructed over the wetlands and detailed in Figure 16.¹⁵³ The DEIR must include the foundation type and location and information detailing how bridge construction will take place to avoid and/or mitigate significant disturbance of the wetlands.

The Project's excessive encroachment on these wetlands is inconsistent with the General Plan policies set forth above and will significantly impact the flow of water and limit wildlife movement they presently support. As such, the Project should not be permitted to move forward as proposed.

Response 141.33: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation and Wildlife Movement Corridors sections above.

Comment 141.34: X. The mass tree removal proposed by the Project is not lawful
A. The proposed tree removal conflicts with the County's Tree Ordinance.

The Contra Costa County Tree Ordinance states that "[n]o person shall trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree on private property within the county without a tree permit, except as provided for in Section 816-4.1002."¹⁵⁵ A tree permit should include consideration of whether "[r]easonable development of the

property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot." A tree permit should be denied if, among other things, it is "reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree" or if "[t]he value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner[.]"

The Project applicant is seeking discretionary approval from the County for a Tree Removal Permit that would permit destruction of up to 409 trees, including 353 protected trees. The locations of these trees are shown below in Figure 17. As discussed, in Attachment B, the likely number of trees lost to the Project will likely be great than 409.

B. The Project's tree removal is inconsistent with the General Plan.

The Project's tree removal (and impacts to wildlife and water resources) conflict with numerous policies in the County's General Plan Conservation element, including 8-6 ("Significant trees, natural vegetation, and wildlife populations generally shall be preserved"), 8-7 ("Important wildlife habitats which would be disturbed by major development shall be preserved, and corridors for wildlife migration between undeveloped lands shall be retained."), 8-14 ("Development on hillsides shall be limited to maintain valuable natural vegetation, especially forests and open grasslands, and to control erosion. Development on open hillsides and significant ridgelines throughout the County shall be restricted, and hillsides with a grade of 26 percent or greater shall be protected through implementing zoning measures and other appropriate actions"), 8-80 ("Wherever possible, remaining natural watercourses and their riparian zones shall be restored to improve their function as habitats"), 8-86 ("Existing native riparian habitat shall be preserved and enhanced by new development unless public safety concerns require removal of habitat for flood control or other public purposes").

C. Proposed mitigation for tree removal is inadequate.

The DEIR summarily concludes that the Project will be in compliance with the Tree Ordinance with the implementation of three mitigation measures which apply solely to the 81 trees it deems "suitable [] to be preserved..." However, the DEIR provides no analysis or discussion supporting the removal of the trees, including those identified by ordinance as relevant to permitting tree removal. The DEIR fails to discuss clustering or focusing Project development in a way that would preserve trees, particularly away from the edges of the site. As shown in Figure 17, the natural clustering of trees does leave large areas of the site open for development, without removing nearly every tree that is not on the perimeter of the site.

Attachment B discusses mitigation measures that are more aligned with the purpose and intent of the County Ordinance, and the direction of the CDFW (recommending a 6:1 replacement ratio). Appropriate mitigation should be included in a recirculated DEIR.

Response 141.34: Please refer to Master Response 1: County General Plan Policy Consistency and **Response 121.2:** regarding corrections to tree numbering between project plans and the arborist report.

Comment 141.35: XI. The DEIR fails to adequately address transportation impacts

Traffic impacts are addressed in Attachments N and H.

The DEIR acknowledged that North San Carlos Drive modifications will be necessary. (DEIR p. 23, § 2.2.7 (“The project would also improve North San Carlos Drive from the proposed EVA gate to the Heather Farm Dog Park to meet fire district standards.”) It does not examine those impacts. [cite law cumulative impacts]

The Project fails to implement the Bike/Ped Trail Corridor Across Site from the Walnut Creek General Plan.

Because this project takes place within the City of Walnut Creek’s Sphere of Influence an very heavy truck traffic is anticipated during construction, the impacts to City Roads must be thoroughly addressed.

Response 141.35: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 9: Transportation above. As part of the County’s standard conditions of approval, the County may require the project to monitor roadways during construction and restore roadways to pre-project conditions. Any work required to rehabilitate damaged roadways would occur within existing paved areas and would not result in additional environmental impacts.

Comment 141.36: XII. The Project should comply with subdivision ordinance as a major subdivision

The DEIR recites that only a Minor Subdivision is necessary. However, “‘Subdivision’ includes a condominium project, as defined in Section 1350 of the Civil Code, or a community apartment project, as defined in Section 11004 of the Business and Professions Code.” A “‘Community apartment project’ means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon.” Quite a few additional requirements apply to subdivisions, which have not been addressed here. For instance, minimum street widths, stream setbacks, and drainage minimum requirements. Further, in considering a subdivision application, advisory agencies must be notified of natural watercourses (which the DEIR obscures), so that a decision may be made as to whether each watercourse should be treated as a “protected watercourse.” Walnut Creek should be treated as a protected watercourse, and so both it and its side drainages must be protected from harm from improperly designed storm drainage facilities. The Project should be re-examined and the DEIR recirculated to address compliance with the terms of the County’s subdivision ordinance.

Response 141.36: Please refer to Master Response 2: Project Non-Residential and Infill Designation above. The project is not considered a community apartment complex as the residents will own no interest in the land.

Comment 141.37: XIII. Conclusion

As discussed in detail above, the DEIR does not comply with the CEQA because it fails to inform Contra Costa County residents and the County Board of Supervisors of all the potential significant environmental impacts the Project may have, fails to provide substantial evidence supporting its conclusions that the Project will not have a significant impact on the environment, is utterly inconsistent with the County's Municipal Code and General Plan, and fails to properly analyze and provide for project alternatives. Importantly, much of the DEIR's analysis relies on the Project applicant's assumption that the Project site will be re-zoned to P-1, however, the extensive General Plan inconsistencies set forth herein confirm that such rezoning is not likely to be approved. For these reasons, SSHR respectfully requests that the County reject the DEIR and deny the Project.

Response 141.37: This is a concluding remark; therefore, no further response is required.

142. Jim Martin (dated May 10, 2022)

Comment 142.1: POTENTIAL IMPACTS ON AESTHETICS, VISUAL QUALITY AND NEW LIGHT AND GLARE

The potential impacts of the proposed Spieker Project on aesthetics, visual character and quality of the Seven Hills Ranch vicinity, and new light and glare have been inadequately addressed in the DEIR. The beautiful, undeveloped character of Seven Hills Ranch (SHR) is what makes it so special in views from Heather Farm Park, Seven Hills School and the surrounding neighborhoods. One of undeveloped grassland covered hillsides, with native oaks and other trees. This beautiful setting of high visual quality and character would be completely altered under the proposed Spieker Project, with over 90 percent of the site graded to accommodate level building pads, requiring massive retaining walls up to 26 feet in height, removing most of the existing vegetative cover including over 400 trees, and replacing them with two massive structures, other buildings, roadways, parking areas, and limited replacement plantings and landscaping. None of which is adequately disclosed, analyzed or mitigated for in the DEIR.

The varied topography of the SHR site prevent views of the entire property from just a few locations, and the enormity of the proposed Spieker Project warrants a thorough analysis from all surrounding areas, which was not provided in the DEIR. In comments on the NOP, SSHR requested that photosimulations be provided from 12 different locations to fully characterize the potential impacts on aesthetics and visual character. These 12 viewpoint locations were carefully selected from publicly accessible viewing areas to fully represent the potential changes to the existing visual character of the site which would occur under the proposed Spieker Project. Although the proposed project would dramatically alter views from the surrounding residences, the recommended viewpoint locations were limited to publicly accessible areas as our understanding was the County does not evaluate potential impacts from private residences.

The 12 recommended viewpoint locations are indicated in the attached "Photosimulation Location Map", and include views from the north, east, south and west of the SHR site. The DEIR provided photomontages from only three of these 12 locations, all of which have major inaccuracies and problems that must be addressed in the Recirculated DEIR, as reviewed further below. No explanation is provided in the DEIR for how photomontage location were selected, or why the other 9 locations recommended in comments on the NOP were ignored. Specifically, these photomontage

locations consist of the sidewalk along North San Carlos Drive near the entrance to Seven Hills School (View 1), the Natural Area on the north side of the parking lot to the Equestrian Center in Heather Farm Park (View 2), the west ends of Allegheny Drive (View 3) and Adirondack Way (View 4) in the Heather Farms neighborhood, from Kinross Drive (View 5), from the end of Seven Hills Ranch Road (View 6) where it enters the SHR site at the intersection with Homestead Avenue, from the Cherry Street neighborhood to the west (View 8), from the Seven Hills Creek Trail along the western edge of the site along the east side of the Walnut Creek channel (Views 7, 9, 10 and 11), and from Seven Hills School (View 12).

The following provides a summary of each of the 12 recommended viewpoint locations, together with representative photographs indicating why views from the selected location are important in characterizing the SHR site and changes that would take place with implementation of the proposed Spieker Project. Photomontages should be prepared by a qualified visual simulation specialist from all 12 of the requested locations, including the 9 that were not considered at all in the DEIR, and presented as part of an accurate analysis in the Recirculated DEIR.

Response 142.1: The County considered the 12 recommended viewpoints and narrowed down the selection to the three views presented in the Draft EIR (see Figure 3.1-2 through Figure 3.1-4). The County determined that these three viewpoints represented public views of the project site sufficiently for the aesthetics analysis to be completed.

Comment 142.2: Review of Recommended Photosimulation Locations

View 1 from North San Carlos Drive in Heather Farm Park – looking south from the sidewalk along the entrance road to Seven Hills School. This view of the SHR site is an essential component of the pastoral setting in the southwestern portion of Heather Farm Park. The undeveloped setting with rolling hills, native oaks and other scatter trees has been a key characteristic of the experience at Seven Hills School, a private school at the end of North San Carlos Drive, which was established at this location in the 1960's. The Seven Hills School property was the original home of the Diablo Junior Museum formed by Alexander Lindsay and others in 1955. The museum eventually became Alexander Lindsay Junior Museum after Lindsay's death in 1962 and continues today in Larkey Park as the Lindsay Wildlife Experience. Protecting and rehabilitating injured wildlife from the Seven Hills Ranch property and surrounding area was an important mission of Lindsay and the education of children, and their important work continues today. As Seven Hills School has expanded over the decades, it has been accomplished with respect for the hillside setting of the campus, protecting the native oaks and other trees, with some of the original buildings from the Lindsay era still in use today. The proposed Medical Center, parking lots, access road, and Exclusionary Fence at the boundary of the site, would completely alter this pastoral setting.

The DEIR included a photomontage from the edge of the property above the Equestrian Center in Heather Farm Park (see Figure 3.1-3), but this does not accurately represent the views of the SHR site from the adjacent parklands or North San Carlos Drive and distorts the visibility of the enormous 85,000 SF Medical Center Building that would loom over the park, as reviewed further below. By selecting a photomontage location at the bottom of the hillside, the new 12 foot retaining wall would physically screen any view of the structure from that location. If a more realistic location had been used for the photomontage, one that park visitors actual use along North San Carlos, the parking lot

to the Equestrian Center, or from the Nature Area, then the massiveness of the structure would be revealed beyond the retaining wall or along the south side of North San Carlos Drive near the entrance to Seven Hills School. No information was included in the DEIR on the design and height of the security fencing along the northern edge of the SHR site where it borders Heather Farm Park, or was depicted in Figure 3.1-3, but it would likely alter the current open condition, where rural ranch fencing remains along much of the frontage.

View 2 from Nature Area at Heather Farm Park – looking south from the main trail near the entrance off the parking lot near the Equestrian Center. Views of SHR are prominent in views from the Natural Area and adjacent Equestrian Center, including the specimen valley oak (Tree # 428) that dominates the grassland covered hillside. The existing condition of SHR reinforces the natural setting of this part of Heather Farm Park and calls back to an earlier era of Walnut Creek and Contra Costa County, when ranching and horses played an essential role in everyday life. The specimen valley oak is visible in the center of the first image, on the hillside above the parking lot to the Equestrian Center, at the right edge of the second image, and features in the third image. Under the proposed project, a retaining wall would be installed within the tree canopy above the specimen oak and extend down the east (left) side of the tree, reaching a height of almost 12 feet in the foreground above the Equestrian Center. The Medical Center would surround the uphill side of the specimen tree, completely altering the existing undeveloped character of the SHR site. Grading, retaining wall construction and changes in surface hydrology would all pose risks to the long-term health of the specimen oak, given construction would extend within the dripline of this tree, and would likely lead to its eventual decline and death, none of which was disclosed in the DEIR.

As noted for View 1, the DEIR included a photomontage from the edge of the property above the Equestrian Center in Heather Farm Park (see Figure 3.1-3). But this photomontage does not accurately represent the views of the SHR site from the adjacent parklands and distorts the visibility of the enormous 85,000 SF Medical Center Building that would loom over the park, as reviewed further below. By selecting a photomontage location at the bottom of the hillside, the new 12 foot retaining wall would physically screen any view of the structure from that location. If a more realistic location had been used for the photomontage, one that park visitors actual use along North San Carlos, the parking lot to the Equestrian Center, or from the Nature Area, then the massiveness of the structure would be revealed beyond the retaining wall or along the south side of North San Carlos Drive near the entrance to Seven Hills School. No information was included in the DEIR on the design and height of the security fencing along the northern edge of the SHR site where it borders Heather Farm Park, or was depicted in Figure 3.1-3, but it would likely alter the current open condition, where rural ranch fencing remains along much of the frontage.

View 3 from west end of Allegheny Drive – looking west across the SHR site over the cyclone fence that borders the east site of the property along the Heather Farms neighborhood. The rolling hillsides, scattered oaks and abundant deer and wildlife characterize the existing condition of the site in views from the Heather Farms neighborhood, with distant views of Acalanes Ridge and Briones. All of which would be replaced with structures, roadways, and retaining walls. Even the top of the highest knoll on the SHR property would be graded down by at least 13 feet and the surrounding ridgeline and hillside completely graded to create large building pads and roadways. Grading would extend into the dripline of the specimen valley oak (Tree # 389) at the left edge of the photograph and would likely lead to the death of this oak. All of the other oaks and other trees on the site visible in this view would be removed as part of the project.

View 4 from west end of Adirondack Way – looking west across SHR over the cyclone fence that borders the east side of the property along the Heather Farms neighborhood. The rolling hillsides, scattered oaks and abundant deer and wildlife characterize the existing condition of the site in views from the Heather Farms neighborhood, with distant views of Acalanes Ridge and Briones. All of which would be replaced with the massive Main Building extending to an elevation of 180 feet at the continuous roof peak, along with other structures, roadways, and retaining walls. All of the trees on the SHR site visible in this photograph would be removed under the proposed project and the majority of this view would be completely obstructed by the massive Main Building that would be about 480 feet wide and 820 feet long. The photosimulation should accurately depict the dramatic change in existing conditions from this location.

View 5 from Kinross Drive - looking west from Kinross Drive where the main entrance to the Spieker Project is proposed. The DEIR does include a photosimulation from this vicinity (see Figure 3.1-2) but is grossly inaccurate and must be redone for the Recirculated DEIR, as described further below. Kinross Drive would be extended directly through the riparian woodland on the far side of the cul-de-sac in this view. The Main Building would be highly visible in views from Kinross Drive and Club View Terrace as most of the existing trees that currently screen or occupy the site would be removed. The roof peak of the Main Building would be at an elevation of about 180 feet, an estimated 30 feet higher than the elevation where this particular photograph was taken. The entrance to the building would be two stories, but the four stories that ring the structure would be visible behind, forming a continuous horizon line. The Main Building would occupy most of this view, stretching out of view beyond the hillside at the right edge of the photograph and in line with the single-story residence on the west side of Club View Terrace on the left edge of the image, and higher than the existing tree canopy between these points. The applicant's Preliminary Arborist Report, referenced in the DEIR, inaccurately assumes the valley oaks on the south (left) side of the entrance road off of Kinross Drive would be retained. But the trunks of these trees would be located just a few feet from the new retaining wall and roadway, and construction would so severely affect these trees that they most likely could not survive. Most of these existing trees should therefore not be shown as being retained in the photosimulation as they would inaccurately screen much of the new Main Building in views from this location and closer to the intersection with Club View Terrace.

View 6 from Seven Hills Ranch Road at Homestead Avenue Intersection – looking northeast onto the existing entrance of the SHR site. The beau colic entrance onto the property includes an old arch, mature eucalyptus and oaks, rustic ranch fencing and outbuildings which all contribute to the rural character that has been largely lost in the Walnut Creek area. Everything in this view would be completely altered with implementation of the proposed project, with almost all of the trees either removed from the site in this location, or at risk of damage and rapid decline because of the proximity of grading and retaining wall construction. The massive Main Building would completely transform views from this location, spanning the length of almost three football fields in this view. With a continuous roof peak at an elevation of 180 feet, looming over 50 feet higher than the elevation at this location and with a continuous height and mass along the south elevation of the Main Building. Grading would extend under the canopy of the valley oak trees that are proposed to be retained in the applicant's Preliminary Arborist Report. Many would most likely not survive the damage to the tree root zone and canopy and should therefore not be shown as retained in the photosimulation where they would inaccurately screen much of the new Main Building in views from this location.

View 7 from the southwest along Seven Hills Creek Trail – looking northeast onto the southern ridgeline on the SHR site. Seven Hills Creek Trail is located along the existing maintenance road owned by the County along the east side of the Walnut Creek channel, connecting Seven Hills Ranch Road to the Contra Costa Canal Trail to the north and stretching almost a half mile along the west frontage of the SHR site and the Seven Hills School property. It is open to the public by volunteers who are working to formalize incorporating this trail segment into the larger network of trails in the area, providing an important link between the Homestead and Walnut Boulevard neighborhoods to the southwest and the Canal Trail alignment and Heather Farm Park to the northwest. It provides stunning views of the rolling hillsides, tree covered slopes, valleys and the perennial stream through the center of the SHR site. The proposed Main Building in the southern portion of the SHR site would loom over the trail and Cherry Street neighborhood to the west, dramatically altering the natural setting that characterizes this area. The top of the ridgeline would be cut down by more than 20 feet and the hillside leveled down to an elevation of 130 feet, removing all of the trees along the horizon line and replacing them with the massive Main Building that would extend above the current horizon line in this image. The Main Building would have a roof peak elevation of 180 feet, approximately 80 feet higher than the elevation along the trail corridor and residential neighborhood to the west which sits on the valley floor at an elevation of about 100 feet.

View 8 from Cherry Street – looking east through the existing single-family residences that characterize the established neighborhood of one and two story homes to the west of the SHR site. The DEIR does include a photosimulation from this vicinity (see Figure 3.1-4) but is grossly inaccurate and must be redone for the Recirculated DEIR, as described further below. The Main Building would loom over the neighborhood with the roof peak reaching an elevation of 180 feet above the valley floor which has an elevation of about 100 feet, appearing as one massive building larger than anything in the surrounding area. The continuous building height, width of up to 480 feet and length of 820 feet would magnify its massive form and how dramatically it would alter the visual character and quality of the area. One-story units would ring the west and north sides of the Main Building and would further intensify the change in character from natural open space to urban development. The lack of available planting area between the Main Building and one-story units would preclude the opportunity to provide any effective screening of this new building mass, and any plantings installed as landscaping would take decades before it could be even partially effective at obscuring the mass and bulk of the buildings.

View 9 from Seven Hills Creek Trail – looking east through an undeveloped valley of grassland bordered by native oaks and planted eucalyptus. This entire valley would be filled and all of the trees in this image would be removed to accommodate the proposed earthwork to fit the massive Main Building and perimeter “Villas” in the Spieker Project, completely altering the existing character of the SHR site in views from Seven Hills Creek Trail and the single-family residences along the west side of the Walnut Creek channel. The second image shows the Seven Hills Creek Trail between photosimulation locations #9 and 10, showing trail users and the natural mosaic of grassland and woodland habitat along this frontage of the SHR site. A continuous retaining wall system with heights of 15 to 25 feet would border this entire frontage, completely altering the natural setting of the trail corridor and views from residences to the west.

View 10 from Seven Hills Creek Trail – looking east across the center of the SHR site where the perennial stream bisects the property. This is one of the widest valleys on SHR, with sensitive

riparian woodlands to the east at the spring which feeds the perennial stream, and scattered oaks on the hillside slopes. Retaining walls up to 26 feet in height would border almost the entire length of the perennial stream under the proposed Spieker Project to accommodate the level building pads and buildings of the development. Although the stream would be retained and native species planted along the edge under the proposed project, it would be bordered by vertical walls and new development. The proposed retaining walls along the central drainage would reach a height of 26 feet across the center of the second photograph, almost to the top of the large oaks (Trees #287, 288, and 291) on the left side of the image. Most of this cluster of valley oaks is shown as being retained in the applicant's Preliminary Arborist Report, but the proximity of grading within the tree canopy, and construction of the massive retaining walls would adversely affect the root zone of these trees and their long term survival is uncertain. Similarly, retaining walls would extend into the root zone of the other specimen oaks along the north (left) side of the drainage (Trees # 370, 359, 357, and 356), with retaining walls in close proximity to the tree trunks, and their long term survival is unlikely. With their decline and eventual death, the continuous retaining wall system in close proximity to these trees would be completely exposed and unscreened in views from Seven Hills Creek Trail and the residences along the west side of the Walnut Creek channel. Effectively screening a retaining wall structure of this kind is unlikely and under best case conditions would take decades before it masked this harsh vertical element. Similarly, views of the massive Main Building could not be effectively screened in views from the Seven Hills Creek Trail in the third and fourth photographs and would permanently alter this beautiful setting on the SHR site.

View 11 from Seven Hills Creek Trail – looking east on the hillside slopes of the SHR site where fills and a retaining wall system are proposed. A retaining wall system over 25 feet in height would sit at the top of the new 2.5:1 fill slope, looming over Seven Hills Creek Trail and the residences along the west side of the Walnut Creek channel. Effectively screening a retaining wall structure of this kind is unlikely and under best case conditions would take decades before it masked this harsh vertical element. The two valley oaks in the center of both images, as would other trees in this area, would be removed to accommodate the proposed fills slope that would extend all the way to the western frontage along the Seven Hills Creek Trail corridor.

View 12 from Seven Hills School – looking east across the soccer field and past the large valley oak (Tree # 428) on the SHR site, with Mount Diablo prominently visible in the distance. The field is well used by the school for sports, outdoor assemblies and public events. The field bleachers on the west side of the field are oriented to take in the panoramic view of the peak and surrounding foothills of Mount Diablo. The proposed Medical Center on the SHR site would completely obstruct views of the specimen oak on the SHR the site, ridgelines, and possibly even the summit of Mount Diablo from the field and bleachers. Photosimulations are necessary to clarify potential impacts on this important view from the school campus and should disclose the full building mass and height without any assumed landscape screening, which tends to take decades before it becomes effective.

Response 142.2: Please refer to **Response 142.1:** regarding views and Master Response 5: Aesthetics above.

Comment 142.3: Reanalysis to address Aesthetics, Visual Quality, and New Light and Glare

Accurate photosimulations from each of the above 12 locations recommended by SSHR is necessary to understand the magnitude of the proposed project and how it would substantially degrade the

existing visual character and quality of the site and its surroundings and would create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. The photosimulations in the Aesthetics section of the DEIR should be redone by a professional consultant who specializes in visual simulations, to accurately depict new structures, retaining walls, new roadways and parking, graded slopes and trees to be removed. Information on the exclusionary walls and fencing that are proposed around the entire perimeter of the SHR site as part of the proposed Spieker Project should be clearly mapped and incorporated into photosimulations, elevations, and the DEIR analysis. The photosimulations should depict conditions without mature landscaping as it will take more than 20 years before it provides any effective screening. Additional photomontages could be included showing mature landscaping at each location, but only if the accurate photomontages showing the project shortly after construction is completed are included in the DEIR.

It is clear in reviewing the Grading Plans, Site Plans, Landscaping Plans and Elevations that the proposed Spieker project would substantially degrade the existing visual character and quality of the site and its surroundings, which is not acknowledged in the Aesthetics section of the DEIR. Over 90 percent of the site would be graded, and the majority of the existing trees removed. To accommodate the proposed approach to development, large building pads would be created leveling the rolling hills of Seven Hills Ranch and creating enormous retaining walls up to 26 feet in height. The Main Building and Medical Center would be the largest buildings in the area, with the Main Building having a footprint that is possibly the largest in all of Walnut Creek. A building footprint that is larger than any of the commercial buildings that surround the Pleasant Hill BART station to the northwest. Comparison of the proposed building mass to existing structures in the area was not provided anywhere in the DEIR, which is critical in understanding the visual compatibility of a project in terms of building footprint, height, mass, and design. These proposed new structures would loom over the existing residential neighborhoods that surround the SHR site, and the Natural Area of Heather Farm Park, creating sources of new light and glare which should be carefully analyzed in the DEIR.

From the surrounding neighborhoods the Main Building would appear as one massive building about 480 feet wide and 820 feet long with a continuous roof peak at an elevation of 180 feet in views from the south, west and north. Even in views from the east along Kinross Drive, where the main entrance would be visible, it would still appear as one massive building because the four-story roof peak would obstruct the horizon line behind the entrance. The current elevations of the entrance to the building off of Kinross Drive are misleading (Sheet A321 by KTG Y) as they give the impression of no building mass behind the entrance area, which should be corrected, and future conditions of the project accurately depicted in the photosimulations. The analysis in the Aesthetics section and Land Use section of the DEIR should provide a comparison of the proposed building footprint and mass to other structures in Walnut Creek and the surrounding area to fully understand the magnitude of what is being proposed on the site.

To accommodate the enormous building pads, large retaining wall systems are being proposed that ring and traverse the site. None of the analysis in the DEIR adequately describes the extent, height, and visibility of these structures, which must be acknowledged given the challenges in providing effective landscaping to screen their vertical mass, even when designed as stepped systems. Over time, landscape plantings tend to die off on the wall type systems shown in the proposed Landscape Plans for the Project, leaving inaccessible weed covered terraces with inadequate growing areas to support mature trees that could otherwise eventually provide screening of both the wall system and the structures beyond. Conflicts with the relevant goals and policies of the County General Plan

related to protection of hillside settings, native vegetation, and avoiding excessive grading are not reviewed in the DEIR or considered in describing the substantial adverse impact on the visual quality of the SHR site and its importance to the aesthetic experience appreciated by users of Heather Farm Park, Seven Hills School, Seven Hills Creek Trail, and the surrounding residents, which should be provided in the Recirculated DEIR.

Mitigation Measures must be included in the Recirculated DEIR to address the significant adverse impacts of the proposed Spieker Project on aesthetics and visual quality of the SHR site. This includes breaking up the mass and footprint of the Main Building and Medical Center, reducing the height of these massive structures where necessary to protect important views, such as across the SHR site from the soccer field on the Seven Hills School campus. The massive retaining walls with heights of up to feet should be eliminated or reduced, and natural slopes used to prevent the “fortress” effect these walls would have on views from the surrounding areas, particularly from the Seven Hills Creek Trail corridor, the residential neighborhood to the west, Seven Hills School, and Heather Farm Park. The extensive tree removal and grading required under the proposed project would conflict with County policies and should be modified to retain areas of native oak woodland and specimen trees and the rolling landform, with adequate restrictions to avoid the dripline of trees to be retained and the highest knoll on the SHR site. The map of “Land Use Compatibility and Aesthetics Constraints for EIR Alternatives” submitted in comments on the NOP provides a summary of these major considerations in addressing the significant impacts of the Spieker Project on the visual quality and character of the area. These should be used in developing an Environmentally Superior Alternative in the EIR that respects the hillside setting of SHR and natural character of this beautiful site.

Response 142.3: Please refer to Master Response 1: County General Plan Policy Consistency and Master Response 5: Aesthetics above.

Comment 142.4: Specific Comments on Aesthetics section of DEIR

The Aesthetics section of the DEIR is grossly inadequate, containing incorrect assumptions about conditions of the site, inaccurate assessment of the potential impacts of the proposed Spieker Project, and no mitigation to address the dramatic change in the high quality visual character of the site and incompatibility of the mass, height and bulk of proposed structure in relation to the adjacent public park, Seven Hills School and surrounding low-density residential development. The following provides a review of deficiencies in the Aesthetics section of the DEIR, which collectively warrant Recirculation of the DEIR given the magnitude of the inaccuracies and omissions in the current analysis. The existing pastoral setting of high visual quality and character would be completely altered under the proposed Spieker Project, with over 90 percent of the site graded to accommodate level building pads, requiring massive retaining walls up to 26 feet in height, removing most of the existing vegetative cover including over 400 trees, and replacing them with two massive structures, other buildings, roadways, parking areas, and limited replacement plantings and landscaping. None of which is adequately disclosed, analyzed or mitigated for in the DEIR.

The Introduction to Section 3.1 on page 31 of the DEIR indicates that the Aesthetics section is based on the “aesthetics analysis prepared for the project by Loewke Planning Associates, Inc., dated July 2020, a Lighting Plan prepared by Associated Lighting Representatives, dated August 2020, and an aesthetics analysis peer review prepared by Callander Associates, dated October 2021.” And copies

of these reports are included in Appendix B of the DEIR. But the “aesthetics analysis” used as a primary basis for the descriptions and conclusions in the Aesthetics section was prepared by the applicant’s consulting planner, Loewke Planning Associates, not an independent specialist with experience in preparing Aesthetic sections of EIRs. The “aesthetics analysis” is so grossly inaccurate in its description of the proposed Spieker Project that it reads like a promotional brochure, not an objective analysis. Examples of this distorted “Aesthetics Analysis” (AA) by Loewke Planning Associates includes the following, as excerpted from Appendix B of the DEIR.

Response 142.4: The comment correctly states that aesthetics analysis included in Appendix B of the Draft EIR was prepared by Loewke Planning Associates, Inc., however, a peer review of the aesthetics analysis was prepared by an independent professional, Callander Associates, and included in Appendix B to review the findings.

Comment 142.5: Inaccurate Claims in of Infill Development

On page 2, the AA incorrectly claims the SHR site is a “A true ‘infill’ development site...”, which is incorrect according to definitions of “infill” under the California Code of Regulations and the CEQA Statutes, as reviewed below.

As defined in SB 743, codified at Public Resources Code section 21099, subdivision (a)(4) Section, an “infill site” “means a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.” CEQA defines “qualified urban use” as “any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.” Pub. Res. Code, Section 21022.

This is not the case for the SHR site, which is bordered by permanent open space of Heather Farm Park to the north, undeveloped lots to the south, the undeveloped Walnut Creek channel to the west, and portions of permanent open space within the Heather Farms Project to the east and the Seven Hills School property to the northwest, encompassing well over 50 percent of the perimeter that is not developed with “qualified urban uses.”

This misrepresentation of the proposed Project as an “infill” development should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the existing condition of the site, its setting in an area that retains rural characteristics, and the importance of the undeveloped nature of the SHR site to that character of the surrounding area, to existing residents, users of Heather Farm Park, and the Seven Hills School community.

Response 142.5: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 142.6: Inaccurate Claims Design Configuration to Protect the Natural Environment
On page 5, Building Placement, the AA makes a false claim that...

“...buildings, roadways, and grading improvements have been arranged to maximize preservation of the large valley oak trees on the site, and in particular those of “moderate” to “good” health as analyzed in the Arborist’s Report (Attachment B CEQA Technical Studies, Item #4b). This design configuration helps to integrate the Project into its surroundings and to protect the natural environment present on the Site.”

However, as described in detail in comments on the Biological Resources section of the DEIR, the proposed project proposes to remove over 350 trees that qualify as “protected” under the County Tree Protection Ordinance, including many trees in good to excellent condition that qualify as Heritage Trees with trunk diameters of over 22 inches, together with most of the stands of native Valley Oak Woodland on the site, which is a sensitive natural community type. The attached map (see attached Tree Removal Map) shows a composite of the proposed limits of grading, building footprints, and retaining walls on the site and demonstrate how in fact the proposed limits of grading extend over almost the entire site, removing the majority of the protected trees on the site and large areas of native valley oak woodland. For the AA and DEIR to claim that the proposed Project has been “arranged to maximize preservation of large valley oaks...” and “integrate the Project into its surroundings and to protect the natural environment...” is a grossly inaccurate claim. Over 90 percent of the site will be disturbed to accommodate the proposed approach to development, over 375,000 CY of dirt will be move with hillsides leveled and valleys filled in to create large level building pads, bordered by retaining walls up to 26 feet in height with little regard to the direct and indirect impacts on the natural environment, the majority of which would be obliterated by the proposed Project.

This misrepresentation of the proposed Project as “maximizing” tree preservation to “protect the natural environment” should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the existing character of the site, tree resources, and the natural environment.

Response 142.6: The project was designed in order to maximize tree preservation, while developing the project site consistent with the project objectives. Trees will be required to be removed to develop the site; however, the project would plant 1,078 trees, consistent with General Plan Policy 9-12.

Comment 142.7: Inaccurate Claim of Limited Grading and Protection of Important Features on Site

On page 5, Site Grading, the AA falsely claims that...

“The design concept calls for localized cut and fill areas enhanced by tiered retaining walls to efficiently utilize the central portions of the overall site, and to set building pads at lower levels to appropriately accommodate the taller buildings. As noted above, the grading design maximizes opportunities for preservation of healthy oak trees while avoiding impacts to jurisdictional wetlands and drainages in the central portion of the site. The small knoll in the north-central portion of the Site will be preserved and reshaped at its lower elevations to accommodate site improvements while preserving this landform as seen both from within the Site and from adjoining private properties. Based on the approach of preserving important existing features and localizing more intensive grading in the central portions of the site, Project grading would not present any significant aesthetic impacts.”

However, the proposed Project in no way calls for “localized cut and fill areas enhanced by tiered retaining walls”. Instead, the majority of the site will be mass graded, leveling hillsides and filling valleys on the site. Bordered by massive retaining walls up to 26 feet in height which serve one purpose, to maximize development potential in a hillside setting. The grading design does the opposite of “maximizes opportunities for preservation of healthy oak trees” and “avoiding impacts to jurisdictional wetlands and drainages” and instead eliminates most of the trees on the site, completely relocates the southern perennial drainage and provides no meaningful setback from this feature, impinges on required setbacks along the central drainage with retaining walls over 20 feet in height, and would result in direct and indirect significant impacts to this wetland feature. The highest knoll and associated spur ridge would be completely regraded, shaving off more than 13 feet off the highest elevation according to the cross-sections in the proposed Landscape Plans. The attached maps (see attached Adirondack Hill Slope Analysis Map, Tree Removal Map, CCC Constraints Alternative Map) show a composite of the proposed limits of grading, building footprints, and retaining walls on the site and demonstrate how in fact the proposed limits of grading extend over almost the entire site, completely altering the existing scenic quality of the site.

This misrepresentation of the proposed Project as being sensitively designed and respecting the existing topography and characteristics of the site should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the existing character of the site, tree resources, and the natural environment.

Response 142.7: Please refer to the discussion of Policy 9-11 of Master Response 1: County General Plan Policy Consistency regarding consistency with County grading policies.

Comment 142.8: Inaccurate Claim of Compatible Building Design

On page 6, Architecture, the AA falsely claims that...

“...Architecture reflects a strong residential theme with modulated building masses. The building designs are compatible with the range of residential styles present surrounding this infill Site, both inside the City of Walnut Creek and in the unincorporated area.”

However, the proposed Project is completely out of character with the small-scale one and two story buildings that border the SHR site. The Main Building would have one of the largest building footprints in all of Walnut Creek, about 480 feet by 820 feet, more than twice the size of the Target store in downtown Walnut Creek and larger than any building footprint for every one of the massive office buildings that surround the Pleasant Hill BART station to the northwest. The Medical Center Building is over 85,000 SF in size, dwarfing any structure in the surrounding area, and looming over the adjacent Equestrian Center and Nature Area of Heather Farm Park.

This misrepresentation of the proposed Project as being compatible with the surrounding uses and is an infill development should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the existing character of the site, compatibility with surrounding uses, and preservation of the natural environment.

Response 142.8: As discussed in Section 3.1 Aesthetics of the Draft EIR under Impact AES-3 (page 42), the project would be rezoned from A-2 to P-1 and include specific design regulations to accommodate the development of the proposed project. Therefore, the project would not conflict with the site zoning and would be compatible with the surrounding neighborhood.

Comment 142.9: Inaccurate Claim of Compatibility with Open Space Goal 9-D

On page 6, under applicability to Open Space Goal 9-D. To preserve and protect areas of identified high scenic value, where practical, and in accordance with the Land Use Element Map, the AA falsely claims that...

“...The Project would result in an aesthetically attractive continuing care retirement community which would be similar in character and development pattern to a low-medium density residential development.”

However, the proposed Project would be anything than “similar in character and development pattern to a low-medium density residential development” and instead would require mass grading of the hillside setting to accommodate massive buildings that are completely out of character with the area, retaining walls up to 26 feet in height that cannot be effectively screened, and complete transformation of the pastoral setting of the Seven Hills Ranch site. The attached maps (see attached Adirondack Hill Slope Analysis Map, Tree Removal Map, CCC Constraints Alternative Map) show a composite of the proposed limits of grading, building footprints, and retaining walls on the site and demonstrate how in fact the proposed limits of grading extend over almost the entire site, completely altering the existing scenic quality of the site.

This misrepresentation of the proposed Project as being similar in character and the surrounding development pattern and high scenic value of the SHR site should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the existing character of the site, similarity in character and development pattern, and destruction of the high scenic value of the site, in conflict with Open Space Goal 9-D.

Response 142.9: Open Space Scenic Resource Goal 9-D aims to protect scenic areas in accordance with the Land Use Element Map. The project site is located within the Urban Limit Line, is General Plan designated Single-Family Residential – Medium Density (SM), and is not designated as an area of high scenic value per the Land Use Element Map. Therefore, development of the proposed project would not conflict with Open Space Goal 9-D.

Comment 142.10: Inaccurate Claim of Compatibility with Open Space Policy 9-11

On page 7, under applicability to Open Space Policy 9-11. High-quality engineering of slopes shall be required to avoid soil erosion, downstream flooding, slope failure, loss of vegetative cover, high maintenance costs, property damage, and damage to visual quality. Particularly vulnerable areas should be avoided for urban development. Slopes of 26 percent or more should generally be protected and are generally not desirable for conventional cut-and-fill pad development. Development on open hillsides and significant ridgelines shall be restricted, the AA falsely claims that...

“The proposed Project would involve localized cut and fill within the central portions of this 30.8-acre Site. The Preliminary Development Plan reflects use of tiered retaining walls at the edges of the development footprint in order to limit grading and preserve the larger valley oak trees in good health located along the perimeter of the site and the central drainage. Development in areas with steep slopes has been avoided. The Project Site has very limited and isolated visibility from public vantage points, including the surrounding public roads and public lands. As shown in County General Plan Figure 9-1, the Project Site is not located near or visible from any scenic ridges.”

However, the proposed Project would instead: involve massive grading and disturbance over 90 percent of the site, not “localized cut and fill within the central portions”; proposes the use of retaining walls up to 26 feet in height not to “limit grading and preserve the larger valley oak trees... and the central drainage” but instead to simply maximize the size of development footprints to accommodate massive buildings out of character with the site and surrounding, that in fact would significantly damage the visual quality of the area; levels all areas within the limits of grading including large areas of the site with slopes of 26 percent or more such as the footprint of the Maintenance Building/Office Building, the southwestern slopes that will be leveled to accommodate the Main Building and some of the Villas, and the south-facing slopes of the highest ridge and knoll on the site, rather than avoiding “areas with steep slopes” as claimed; and proposes extensive development on the open hillsides and highest ridge and knoll on the site which is prominent in views from the adjacent Heather Farm Park, Seven Hills School and surrounding neighborhood, with over 13 feet of the top of the ridgeline and knoll removed to create cut-and-fill pad development, in conflict with Open Space Policy 9-11. The attached maps (see attached Adirondack Hill Slope Analysis Map, Tree Removal Map, CCC Constraints Alternative Map) show a composite of the proposed limits of grading, building footprints, and retaining walls on the site and demonstrate how in fact the proposed limits of grading extend over most of the property, encompassing the scenic hillsides, slopes of 26 percent and more, and encompass areas of native valley oak woodland, protected trees, and regulated waters associated with the southern perennial drainage and central drainage.

This misrepresentation of the proposed Project as having just localized cut and fills, avoiding steep slopes of 26 percent or more, avoiding vegetative cover and not damaging the visual quality of the SHR site should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the existing hillside setting, the loss of protected trees and other vegetation, and complete alteration of the visual character of the SHR site through creation of massive building pads and use of enormous retaining walls up to 26 feet in height, some of which will be highly visible in views from Heather Farm Park and other publicly accessible areas such as Kinross Drive, Seven Hills Ranch Road, Cherry Street, and the Seven Hills Creek Trail, in conflict with Open Space Policy 9-11.

Response 142.10: Please refer to the Policy 9-11 section of Master Response 1: County General Plan Policy Consistency above.

Comment 142.11: Inaccurate Claim of Compatibility with Open Space Policy 9-14

On page 7 under applicability to Open Space Policy 9-14. Extreme topographic modification, such as filling in canyons or removing hilltops, shall be avoided. Clustering and planned unit development approaches to development shall be encouraged. All future development plans, whether large- or small-scale, shall be based on identifying safe and suitable sites for buildings, roads, and driveways.

Exemptions to this policy are appropriate for mining, landfill, and public projects in open space areas, the AA falsely claims that...

“ See above. The Project has been designed as a planned unit, with use of private internal roadways, only one principal access (Kinross Drive) with no through access to other roadways (other than gated EVA access), controlled placement and elevation of all buildings, and preservation of natural features and resources.”

However, as demonstrated in the above review of other assertions in the AA, the proposed Project would result in “extreme topographic modification” including removing over 13 feet from the top of the highest ridge and knoll and the entire southern hilltop where the existing residence is located to depths of over 20 feet, filling in of the valley south of the central drainage and west of the existing residence, would not provide “clustering” but instead spreads massive buildings and roadways across the entire site, and locates roadways through regulated waters and sensitive oak woodland habitat, rather than completely avoiding them in the proposed crossing of the central drainage. The attached maps (see attached Adirondack Hill Slope Analysis Map, Tree Removal Map, CCC Constraints Alternative Map) show a composite of the proposed limits of grading, building footprints, and retaining walls on the site and demonstrate how in fact the proposed limits of grading extend over most of the property, resulting in extreme topographic modification and encompassing steep slopes, and completely altering the existing scenic character of the site.

This misrepresentation of the proposed Project as not having “extreme topographic modifications” to the site, that it clusters development, and has identified safe and suitable routes for buildings and roadways, including the location of the proposed crossing of the central drainage, should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the massive grading, complete alteration of the hillside setting with removing hilltops and filling in of the valleys, and loss of protected trees and regulated waters, in conflict with Open Space Policy 9-11.

Response 142.11: Please refer to the Policy 9-11 and 9-14 sections of Master Response 1: County General Plan Policy Consistency above.

Comment 142.12: Inaccurate Claim of Compatibility with Open Space Policy 9-21

On page 7 under applicability to Open Space Policy 9-21. Any new development shall be encouraged to generally conform with natural contours to avoid excessive grading, the AA falsely claims that...

“The grading exhibit of the Preliminary Development Plan identifies localized cut and fill areas and includes deeper cuts near the center of the site where taller buildings are to be placed, preservation and enhancement of the central drainage, preservation of larger valley oak trees in good health and particularly near the perimeter of the Site, and preservation of a small knoll in the northerly portion of the site. Some off-haul of excess cut material may be required to avoid impact to natural features and mature trees, and to keep building pads at sufficiently low elevations to limit their visibility from adjoining properties.”

However, the proposed Project would instead: involve massive grading and disturbance over 90 percent of the site, not “localized cut and fill areas”; proposes the use of retaining walls up to 26 feet in height which are only necessary to maximize the size of development footprints to accommodate

massive buildings out of character with the site and surrounding that would not conform with natural contours; includes excessive grading that encompass areas with steep slopes in excess of 26 percent; and proposes extensive development on the open hillsides and highest ridge and knoll on the site which is prominent in views from the adjacent Heather Farm Park, Seven Hills School and surrounding neighborhood, with over 13 feet of the top of the ridgeline and knoll removed to create cut-and-fill pad development, which would preserve this feature as claimed in the AA, but completely alter it and then entire site. The attached maps (see attached Adirondack Hill Slope Analysis Map, Tree Removal Map, CCC Constraints Alternative Map) show a composite of the proposed limits of grading, building footprints, and retaining walls on the site and demonstrate how in fact the proposed limits of grading extend over most of the property, encompassing the scenic hillsides, slopes of 26 percent and more, and encompass areas of native valley oak woodland, protected trees, and regulated waters associated with the southern perennial drainage and central drainage. Over 5,000 truck trips are anticipated to off-haul the excess soil from the over 375,000 CY of earth that is to be graded during the course of construction, which is the required because of the excessive grading to accommodate the proposed approach to development, not to “avoid impact to natural features and mature trees” as claimed in the AA.

This misrepresentation of the proposed Project as having just localized cut and fills, avoiding steep slopes of 26 percent or more, avoiding vegetative cover and not damaging the visual quality of the SHR site should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the existing hillside setting, the proposed excessive grading and alteration of natural contours and resulting loss of protected trees and other vegetation, and complete alteration of the visual character of the SHR site, in conflict with Open Space Policy 9-21.

Response 142.12: Please refer to the Policy 9-21 section of Master Response 1: County General Plan Policy Consistency above.

Comment 142.13: Inaccurate Claim of Insignificant Impact under CEQA Guidelines Aesthetics Question c.

On page 12 under CEQA Guidelines for Aesthetics, Question c, Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?, the AA falsely claims that...

“As noted above, the Project Site has very limited and isolated visibility from public vantage points, including the surrounding public roads and public lands. The Project site is surrounded by residential uses to the east, south, and west, and by Seven Hills Private School to the north, and a portion of Heather Farms Park to the northeast. Photographs are included below looking toward the Site from Cherry Lane, Cora Court, Kings Oak Place, and the extension of North San Carlos Drive within Heather Farms Park. The Project would not result in a significant impact to scenic quality, based on consistency with applicable County General Plan Goals and Policies (as discussed herein).”

However, the site is highly visible from surrounding areas, as described in detail above under the Review of Recommended Photosimulation Locations, including areas in the adjacent Heather Farm

Park, Seven Hills School, Kinross Drive, Seven Hills Ranch Drive, Cherry Street, the Seven Hills Creek Trail, and other locations, contrary to the assertions in the AA. As described in detail above, the proposed Project would in fact result in significant impacts on scenic quality, substantially degrading the existing visual character and quality of public views of the site and its surroundings. This misrepresentation of the proposed Project not having a significant impact on scenic quality and substantially degrading the existing visual character and quality of public views of the site and its surroundings should be corrected in all parts of the AA and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the scenic character of the site and would conflict with relevant goals and policies from the General Plan.

Response 142.13: CEQA Guidelines Aesthetics Question c) gives two options, one for projects in nonurbanized areas and one for urbanized areas. The comment provides the question for projects in nonurbanized areas; however, the County considers the project site to be in an urban area and on an infill site (please refer to Master Response 2: Project Non-Residential and Infill Designation above). Therefore, the Draft EIR evaluated the project based on the urbanized area question. (see Impact AES-3).

Comment 142.14: The Introduction to Section 3.1 on page 31 of the DEIR indicates an “aesthetics analysis peer review” was prepared by Callander Associates and contained in Appendix B of the DEIR. This three page “review” consists largely of a table reviewing the CEQA Guidelines for Aesthetics and whether Callander Associates concurs with the conclusions reached by Loewke Planning Associates in their AA. No information was provided in the “review” on how it was conducted, beyond a “review of the renderings and the Loewke assessment(s)”. These raise the following questions which should be addressed in the Recirculated DEIR:

- Was a site visit conducted by Callander Associates to better understand the existing character of the site and surroundings? There is no reference to a site visit, which would be critical in conducting an adequate “peer review”, especially with a subject as subjective as aesthetics. This should be disclosed in the Recirculated DEIR.
- Were any maps prepared showing visibility of the site from surrounding publicly accessible areas such as Heather Farm Park, Allegheny Drive, Adirondack Way, Kinross Drive, Seven Hills Ranch Road, Cherry Street, and Seven Hills Creek? Especially given the claims in the AA that the “Project site has very limited and isolated visibility from public vantage points.” If not, a detailed map showing publicly visible areas of the site should be provided in the Recirculated DEIR to better inform reviewers of the true visibility of the site and where particular focus should be provided on proposed building mass and design in assessing potential impacts and reaching a conclusion on significance and need for mitigation. Viewshed
- Under Question c on page 2 of the review, Callander Associates “Concur” with the findings in the AA that “The project would not substantially degrade the character or quality of public views. The site interior is largely hidden from public view and the high visibility site elements (perimeter trees and knoll) will remain largely unaltered.” This concurrence simply parrots assertions in the AA and is grossly inaccurate as detailed in the above review, with no basis for this determination. As described in detail above, the proposed Project would in fact result in significant impacts on scenic quality, substantially degrading the existing visual

character and quality of public views of the site. This misrepresentation of the proposed Project not having a significant impact on scenic quality and substantially degrading the existing visual character and quality of public views of the site and its surroundings should be corrected in all parts of the peer review by Callander Associates and the entire DEIR. It grossly misrepresents the significant impacts of the proposed Project on the scenic character of the site and would conflict with relevant Open Space Goal 9-D and Open Space Policies 9-11, 9-14, and 9-21, as discussed above.

- The review by Callander Associates makes no reference to the photomontages prepared by Loewke Planning Associates, which were used in Figures 3.1-2 through 3.1-4 of the DEIR to purportedly characterize the change in visual character of the proposed Project. Given how important they are in conveying the changes that would occur as a result of the Project, were these photomontages reviewed by Callander Associates as part of the “peer review”? As discussed further below, these photomontages are grossly inaccurate and misrepresent the changes which would occur from the Project, which should have been identified by Callander Associates if a thorough review had been performed, which is the purpose of a “peer review”. The accuracy of the photomontages should be reviewed by an independent visual simulation specialist, and revised as recommended below, with the corrected photomontages of these three and the other 9 requested locations included in an updated Aesthetics section of the Recirculated DEIR, where potential impacts are fully recognized and meaningful mitigation measures recommended to address the significant changes that would otherwise occur under the proposed Project.

Response 142.14: Callander Associates reviewed the aesthetics analysis and lighting plan included in Appendix B of the Draft EIR and the project plans available on the County’s website (<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>). Callander Associates’ responses in the peer review are intended to either confirm the findings of the aesthetics analysis or provide a differing opinion. Callander Associates agreed with the findings of the aesthetics analysis in their professional opinion, therefore, they did not provide any additional analysis. Refer to Master Response 5: Aesthetics for a description of how the photo simulations were prepared. The County and David J. Powers & Associates reviewed the photo simulations and determined them to be adequate for CEQA review.

Comment 142.15: The Introduction to Section 3.1 on page 31 of the DEIR indicates that the Aesthetics section is based on the AA by Loewke Planning Associates, the Lighting Plan prepared by Associated Lighting Representatives, and an aesthetics analysis peer review prepared by Callander Associates. But it doesn’t indicate who actually prepared the section, what methods were used, and what if any experience they have in preparing Aesthetics sections of CEQA documents, which should be provided.

Why was the faulty analysis prepared by the applicant’s consulting planner used as a basis for what should have been an objective analysis in the DEIR, which is supposed to be a public information document, of what can be perceived as a highly subjective issue, aesthetics? Especially given how the issues of scenic value and visual quality are so bluntly dismissed in the AA?

Relying on an assessment prepared by a consultant to the applicant is inexcusable, but a reflection of the lack of objectivity contained in the DEIR, the need for an independent review, and Recirculation of the DEIR so the public and decision-makers have an objective document from which to make informed decisions. This is not what is provided in the current version of the DEIR, as reviewed further below.

Response 142.15: The Draft EIR was prepared by Contra Costa County and David J. Powers & Associates. David J. Powers & Associates is a professional environmental consulting firm with decades of experience preparing CEQA documents. The aesthetics analysis included in Appendix B was prepared by the project applicant, however, the County required the analysis to be peer reviewed by an independent professional (Callander Associates). This independent peer review concurred with the conclusions of the aesthetics analysis.

Comment 142.16: In the Regulatory Framework in Section 3.3.3.3 on page 31 of the DEIR a summary of Senate Bill 743 is included as somehow being relevant to development of the SHR site, with the statement that “under SB 743, a project’s aesthetics impacts will no longer be considered significant impacts on the environment if: the project is a residential, mixed-use residential, or employment center project, and the project is located on an infill site within a transit priority area.” The discussion on page 31 of the DEIR includes a detailed footnote defining what qualifies as an “infill site” and a “transit priority area”. Yet, it is clear from an impartial review of the criteria for what qualifies under these terms that the site does not meet the minimum definitions for either infill or part of a transit priority area. As discussed above, under the inaccurate characterization in the AA that the Project is an infill development, with more than 50 percent of the adjacent properties undeveloped with urban uses. The site does not qualify as part of a transit priority area either, located over half a mile from the Pleasant Hill BART Station (over 3,100 feet at the closest points), and both pedestrian and vehicle routes between the site and BART Station are even longer than that because of limited available routes. Vehicle must travel east to Ygnacio Valley Road before heading northwest back to the closest BART station. Bicyclists and pedestrians much circumvent the limited access over the Walnut Creek channel, traveling north through Heather Farm Park and then either all the way north to Bancroft or southwest along on the Canal Trail before turning north at Cherry Street or even further west to the Iron Horse Trail, before they can head northwest to the BART station, again, well over a half mile distance. And yet the Aesthetics section of the DEIR opens with this reference to Senate Bill 743 and this implication that “a project’s aesthetic impacts will no longer be considered significant” because somehow this site qualifies under these provisions. The Recirculated DEIR should strike all erroneous references to Senate Bill 743 and prepare a new Aesthetics section that accurately and fully discloses the significant impacts of the project on the scenic character and high visual quality of the SHR site. Mischaracterizing and dismissing the significant impacts proposed Project because of a misapplication of the provisions of Senate Bill 743 is egregious, and shows the serious flaws in the analysis contained in the DEIR.

Response 142.16: Please refer to Master Response 5: Aesthetics above.

Comment 142.17: A review of relevant policies from the County General Plan is provided on page 32 of the DEIR. Inaccuracies in the applicability of Goal 9-D and Policies 9-12, 9-14 and 9-21 in the AA were reviewed above and the analysis in the Aesthetics section of the DEIR should be revised accordingly with regard to these goals and policies.

The following goals and policies under Scenic Resources under the Open Space Element of the County General Plan are also applicable to development of the SHR site, but were omitted from the list provided on page 32 of the DEIR. These should be included and the implications of their applicability to the proposed Project considered as part of the updated analysis in the Recirculated DEIR.

- Scenic Resources (SR) Goal 9-D. To preserve and protect areas of identified high scenic value, where practical, and in accordance with the Land Use Element Map.
- SR 9-10. In areas designated for urban development, the principles outlined below shall be applied in the review of development proposals.
- SR 9-19. When development is permitted to occur on hillsides, structures shall be located in a manner which is sensitive to available natural resources and constraints.
- SR 9-20. Hilltops, ridges, rock outcroppings, mature stands of trees, and other natural features shall be considered for preservation, at the time that any development applications are reviewed.

Response 142.17: Please refer to Master Response 1: County General Plan Policy Consistency and **Response 142.9:** regarding Goal 9-D above.

Comment 142.18: The description of the SHR site and surrounding area on pages 32 and 33 of the DEIR is cursory at best, and does not reflect the high quality and open space characteristics of the property that complement the Equestrian Center and Nature Area at the adjacent Heather Farm Park, its importance in the setting of the adjacent Seven Hills School, or views from surrounding streets and residences. The description does not acknowledge the visual prominence of the ridgeline on the site that now forms the horizon line in views from the Equestrian Center parking lot and Nature Area, which is the highest elevation on the SHR site. Of the four photos referenced on page 32 of the DEIR that purportedly show the existing conditions on the site, only Photo 2 could be considered remotely representative. The other photos appear to be taken randomly and without regard for the high quality scenic values of the site, ignoring views of the rolling hillside, scattered trees and woodlands, and the specimen valley oak (Tree # 428) and grasslands that dominates views from North San Carlos in Heather Farm Park. Using a photo like the one in Photo 4 (see below) to characterize the conditions of a property with such high scenic values as the SHR site is inexcusable for a public information document, but speaks to the degree to which the aesthetic resources of the property have been disregarded and ignored in the DEIR. These photos should be replaced with professionally taken images in the Recirculated DEIR that accurately represent conditions on the SHR site. The descriptions and photographs provided above under, Review of Recommended Photosimulation Locations, provides more accurate information on the conditions and visibility of the SHR site.

Response 142.18: The commenter's opinions regarding the adequacy of the project description and the efficacy of the site photos are noted, and will be available for consideration by County decision-makers. However, the County believes that the photos and site description provided in the Draft EIR are adequate representations of the existing aesthetics of the project site.

Comment 142.19: The statement on page 33, first paragraph of the DEIR that “The project site is generally surrounded by urban development” is grossly inaccurate and does not acknowledge the extent of permanent open space, vacant lots, partially developed properties and the Walnut Creek channel that forms the western border of the SHR site. The Heather Farms townhome development contains two permanent open space parcels that extend over 500 feet along the eastern edge of the SHR site. Over 300 feet along the southern edge of the SHR site is bordered by the vacant parcels under the Hale family ownership, and the remaining 600 feet of the southern border is occupied by very low-density single-family residence on large lots or undeveloped lands owned by the County as part of the Walnut Creek flood control channel. Over 800 feet along the northern edge of the site is bordered by the permanent open space of Heather Farm Park and the undeveloped tree covered hillside at the entrance to Seven Hills School. The repeated mischaracterization that the SHR site is surrounded by urban development must be removed here, in other places in the text of the Aesthetics section, the AA and the entire DEIR.

Response 142.19: Please refer to Master Response 2: Project Non-Residential and Infill Designation regarding infill and urban designation.

Comment 142.20: The statement on page 33, first paragraph of the DEIR that “The school campus consists of several buildings, a surface parking lot, soccer field, basketball court, and playground...” ignores the fact that the entire northeast portion of the property that borders the SHR site consists of undeveloped hillside covered with oak woodlands, as does the western edge that borders the Walnut Creek channel. The Seven Hills School property is not completely developed with school-related facilities as inferred by the description in the DEIR. The wooded hillside setting is an important part of the school experience, which is reinforced by the undeveloped condition of the SHR site. This omission should be corrected in the DEIR.

Response 142.20: Please refer to Section 5.0 Draft EIR Text Revisions for a revised description of the Seven Hills School site.

Comment 142.21: The description of Heather Farm Park on page 33, second paragraph of the DEIR omits any description of the Nature Area that surrounds the western lake and provides trails and unobstructed views to the open hillside and prominent ridgeline on the SHR site, across the gravel parking lot of the Equestrian Center. This is described above under the Review of Recommended Photosimulation Locations, View 2. The SHR site and highest ridge is a dominant element along the horizon line from the Nature Area, parking lot to the Equestrian Center, and end of North San Carlos Drive and a photomontage should be included in the DEIR from this area, not the deceptive one taken from the property line which distorts views of the SHR site as shown in Figure 3.1-3 of the DEIR.

Response 142.21: The Draft EIR provides a general description of the amenities at Heather Farm Park, including disclosing the existence of walking trails within the park. Please refer to Master Response 5: Aesthetics regarding selection of photosimulations.

Comment 142.22: The introductory statement under Section 3.2.1, Impact Discussion on page 37 of the DEIR claims that the significant criteria used to assess the project’s impact on aesthetics are exempted as provided under Public Resources Code Section (PRC) 21099. As explained above in

comments on page 2 of the AA and in Section 3.3.3.3 on page 31 of the DEIR regarding the applicability of in-fill development and Senate Bill 743, it is clear from an impartial review of the criteria for what qualifies under these terms that the site does not meet the minimum definitions for either infill or part of a transit priority area, and that the provisions of Senate Bill 743 and PRC Section 21099 do not apply to the review of applications on the SHR site. The Recirculated DEIR should strike all erroneous references to Senate Bill 743 and PRC 21099, and prepare a new Aesthetics section that accurately and fully discloses the significant impacts of the project on the scenic character and high visual quality of the SHR site.

Response 142.22: Please refer to Master Response 5: Aesthetics regarding SB 743.

Comment 142.23: Under Impact AES-1 on page 37 of the DEIR incorrectly states that “...development of the proposed CCRC would be consistent with the surrounding urban development and would not substantially alter the view from local scenic vistas.” No explanation was provided in support of this claim, which is in no way accurate. The proposed Project would dramatically alter the existing undeveloped character of the SHR site, would be inconsistent with the adjacent open space and low-density residential development, and would be inconsistent with the goals and policies of the County General Plan related to the protection of scenic resources. The beautiful setting of high visual quality and character would be completely altered under the proposed Project, with over 90 percent of the site graded to accommodate level building pads, requiring massive retaining walls up to 26 feet in height, removing most of the existing vegetative cover including over 400 trees, and replacing them with two massive structures, other buildings, roadways, retaining walls, parking areas, and limited replacement plantings and landscaping. None of which is adequately disclosed, analyzed or mitigated for in the DEIR.

Response 142.23: Please refer to Master Response 1: County General Plan Policy Consistency. There are no County designated scenic vistas in the project area and as discussed in **Response 142.8:** and **Response 142.9:**, the County concludes the proposed project design is compatible with surrounding land uses.

Comment 142.24: The analysis in the Recirculated DEIR should be revised to include maps to document the limits of proposed grading, changes in the existing natural topography, extent of cut and fills, height and length of retaining walls and large structures, cross-sections showing these changes, and accurate photosimulations from representative locations where public views of the site are possible, as requested above under Review of Recommended Photosimulation Locations. The proposed Medical Center building would be 85,000 SF in size stretching over 250 feet in width parallel to the north property boundary and dwarfing the enormous specimen oak (Tree #428) that currently dominates views from the end of North San Carlos Drive and the Equestrian Center parking lot in Heather Farm Park. The footprint of the Main Building would be about 480 by 820 feet in size, larger than any building footprint in the surrounding area, including larger than any of the office buildings associated with the Pleasant Hill/Contra Costa Centre BART Station. The image below shows a view of the footprint of the proposed Main Building with the footprint of the enormous Target store in downtown Walnut Creek at Ygnacio Boulevard and North California Street superimposed on top of it, to demonstrate how massive and out of character the Main Building would be in this area of low-density residential development. The footprint of the Main Building is almost twice the length of the footprint of Target building, and the Main Building would be taller, more than twice the height of the Target Building in views from the Ygnacio/North California intersection.

Even the proposed one story duplex units along the western edge of the proposed development footprint would be bordered by retaining walls up to 25 feet in height, which is in no way consistent with development practices anywhere in Walnut Creek.

Details of the proposed project and comparison of the mass, height and footprint of the proposed buildings, retaining walls and other changes associated with the proposed Project should be fully disclosed as part of an EIR, is not the case with the current DEIR, and should be included in the Recirculated DEIR. The statement on page 37 of the DEIR regarding the proposed Project being consistent with the “surrounding urban development” should be deleted and replaced with an accurate comparison and acknowledgement of the major impacts on scenic resources in the Recirculated DEIR.

Response 142.24: The Draft EIR includes multiple figures from project plans (Figure 2.2-4 through Figure 2.2-17), including site plans and building elevations. Additional project plans (including civil plans) can be viewed on the County website for the project (<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>). Section 2.2 Project Description of the Draft EIR includes discussion of the projects massing, height, building locations, and retaining walls (pages 3-26). As discussed in **Response 142.8:**, the project site would be rezoned to P-1 and would be built to the design standards of that zoning district, as set by the County.

Comment 142.25: Under Impact AES-1 on page 37 of the DEIR, there’s a reference to Figures 3.1-1 through 3.1-4 showing a “conceptual view of the project from public vantage points”. As discussed above under Review of Recommended Photosimulation Locations, the DEIR provided photomontages from only three of the 12 locations requested in the SSHR comments on the NOP, all three of which have major inaccuracies and problems that must be addressed in the Recirculated DEIR, as reviewed further below. No explanation is provided in the DEIR for how the three photomontage location were selected, or why the other 9 locations recommended in comments on the NOP were ignored given the visual prominence of the SHR site, and an explanation and justification should be provided. The proposed Project would have a major impact on the visual character of the SHR site and surrounding area, and photomontages should be prepared by a qualified visual simulation specialist for all 12 locations requested above. The photomontages should be prepared by an independent consultant who specializes in visual simulations, not the applicant’s planning consultant who has a major conflict of interests and produced photomontages that do not accurately reflect the proposed Project in Figures 3.1-1 through 3.1-4, as reviewed below.

The photomontage depicted in Figure 3.1-2 shows views of the SHR site from Kinross Drive, but is grossly inaccurate as indicated in the markup of the photomontage below and must be redone for the Recirculated DEIR. Kinross Drive would be extended directly through the riparian woodland on the far side of the cul-de-sac in this view. The Main Building would be highly visible in views from Kinross Drive and Club View Terrace as most of the existing trees that currently screen or occupy the site would be removed. The roof peak of the Main Building would be at an elevation of about 180 feet, an estimated 30 feet higher than the elevation where this particular photograph was taken. The entrance to the building would be two stories, but the four stories that ring the structure would be visible behind the entrance area, forming a continuous horizon line not depicted in the photomontage. The Main Building would occupy most of this view, stretching out of view beyond the hillside at the right edge of the photograph and in line with the single-story residence on the west side of Club

View Terrace on the left edge of the image, and higher than the existing tree canopy between these points, none of which is accurately depicted in the photomontage. The applicant's Preliminary Arborist Report, referenced in the DEIR, inaccurately assumes the valley oaks on the south (left) side of the entrance road off of Kinross Drive would be retained. But the trunks of these trees would be located just a few feet from the new retaining wall and roadway, and construction would so severely affect these trees that they most likely could not survive. Most of the existing trees along the Kinross Drive extension through this riparian corridor and on the site itself should therefore not be shown as being retained in the photosimulation because they would be removed and part of the proposed Project, and they currently inaccurately screen much of the new Main Building in views from this location and closer to the intersection with Club View Terrace.

New dense landscaping is also shown in this photomontage, which screens over 70 percent of the portions of the Main Building that would otherwise be visible. Landscape screening should not be shown in the corrected photomontages or should be shown to represent the progressive change over the next 20 or so years as landscaping matures, showing views of the site at one years after completion of construction and a second photomontage at five to 10 years after construction. A corrected photomontage for the view in Figure 3.1-2 should be prepared by an independent consultant who specializes in visual simulations, which accurately depict views of the site at Year 1 and Year 5 after construction, and included as part of the updated analysis in the Recirculated DEIR.

The photomontage depicted in Figure 3.1-3 shows views of the SHR site from the edge of the property above the Equestrian Center in Heather Farm Park, but this does not accurately represent the views of the SHR site from the adjacent parklands or North San Carlos Drive indicated in the markup of the photomontage below, and distorts the visibility of the enormous 85,000 SF Medical Center Building that would loom over the park. By selecting a photomontage location at the bottom of the hillside, the new 12 foot retaining wall would physically screen any view of the structure from that location. If a more realistic location had been used for the photomontage, one that park visitors actual use along North San Carlos, the parking lot to the Equestrian Center, or from the Nature Area, then the massiveness of the Medical Building structure would be revealed beyond the retaining wall or along the south side of North San Carlos Drive near the entrance to Seven Hills School. Under the proposed Project, a retaining wall would be installed within the tree canopy above the specimen oak and extend down the east (left) side of the tree, reaching a height of almost 12 feet in the foreground above the Equestrian Center. The Medical Center would surround the uphill side of the specimen tree, completely altering the existing undeveloped character of the SHR site. The entire ridgeline above the oak would be graded away to a depth of 13 feet or more, which would likely no longer be visible in views from Heather Farm Park given the extent of grading and height of the proposed Medical Center. Grading, retaining wall construction and changes in surface hydrology would all pose risks to the long-term health of the specimen oak that currently dominates views from Heather Farm Park, which could lead to its eventual decline and death, none of which was disclosed in the DEIR.

In addition, no information was included in the DEIR on the design and height of the security fencing or wall that would presumably be installed round the entire SHR site, including along the property line where it borders Heather Farm Park. It is unlikely that the proposed Project would not replace the existing three strand barbed wire fence that remains in the vicinity of the photograph in Figure 3.1-3 and other locations around the perimeter of the site. The Project Description also contains no

information on what is proposed around the site, which should be fully disclosed in the Recirculated DEIR and included in updated photomontages.

Landscape screening should not be shown in the corrected photomontages or should be shown to represent the progressive change over the next 20 or so years as landscaping matures. A corrected photomontage for the view in Figure 3.1-3 should be prepared by an independent consultant who specializes in visual simulations, which accurately depict views of the site at Year 1 and Year 5 after construction, and included as part of the updated analysis in the Recirculated DEIR.

The photomontage depicted in Figure 3.1-4 shows views of the SHR site from the residential neighborhood to the west along Cherry Street, but inaccurately depicts the visibility and features of the proposed Project and must be redone for the Recirculated DEIR. The Main Building would loom over the neighborhood to the west with the roof peak reaching an elevation of 180 feet above the valley floor which has an elevation of about 100 feet, appearing as one massive building larger than anything in the surrounding area. The continuous building height, width of up to 480 feet and length of 820 feet would magnify its massive form and how dramatically it would alter the visual character and quality of the area. One-story units would ring the west and north sides of the Main Building and would further intensify the change in character from natural open space to urban development. The lack of available planting area between the Main Building and one-story units would preclude the opportunity to provide any effective screening of this new building mass, and any plantings installed as landscaping would take decades before it could be even partially effective at obscuring the mass and bulk of the buildings.

Most of the existing trees on the site visible in Figure 3.1-4 would be removed as part of the proposed Project and should therefore not be shown as being retained in the photosimulation. Existing trees and inserted trees included by the preparer of the photomontage inaccurately screen much of the new Main Building and other structures in views from this location. This includes tree canopy in a valley that would be completely filled in as part of the project at the left edge of the image, as well as extensive new landscaping that was included in the photomontage to deceptively screen views of new structures, including retaining walls and the massive Main Building which would be 49 feet high at this location. Even inserting a pine tree in the very center, foreground of the photomontage to hide the proposed structures, which is unprofessional at best. Landscape screening should not be shown in the corrected photomontages or should be shown to represent the progressive change over the next 20 or so years as landscaping matures. A corrected photomontage for the view in Figure 3.1-4 should be prepared by an independent consultant who specializes in visual simulations, which accurately depict views of the site at Year 1 and Year 5 after construction, and included as part of the updated analysis in the Recirculated DEIR.

Response 142.25: Please refer to Master Response 5: Aesthetics above.

Comment 142.26: The assessment under Impact AEIS-3 on page 42 of the DEIR disregards the potential impacts of the proposed Project on the high scenic values of the site and conflict with applicable goals and policies in the County General Plan. Any question of compatibility of the proposed Project with the surrounding existing development is dismissed simply because the “proposed P-1 zoning would include site-specific regulations to accommodate development of the proposed CCRC.” No assessment of the stark contrast in building mass, height, and approach to

grading in altering the existing conditions of the site and how that would affect the surrounding characteristics is provided.

Response 142.26: Please refer to **Response 142.13:** above regarding Impact AES-3.

Comment 142.27: This entire impact assessment under Impact AES-3 on page 42 of the DEIR must be completely rewritten to reflect the magnitude of the potential impacts of the project on aesthetic resources, as discussed above. Contrary to the assertions that the proposed project would be “consistent with General Plan Policies 9-11, 9-14, and 9-21...” it would conflict with these and others from the County General Plan, as listed above including Scenic Resources (SR) Goal 9-D, SR 9-10, SR 9-19, and SR 9-20. The extensive use of retaining walls is to maximize the size of building pads on the site and possible extent of development, not to “...limit grading and preserve the mature trees located along the perimeter of the project site and central drainage”, as contended in the DEIR. And the claim that development on slopes steeper than 26 percent “would be avoided” is incorrect and should be deleted. If any meaningful analysis had been performed rather than complete reliance on the AA prepared by the applicant’s planning consultant, the magnitude of the potential impacts of the proposed Project on aesthetics and the visual quality of the site and surrounding area would have been understood, which is not the case in the DEIR.

Response 142.27: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 142.28: The analysis in the Recirculated DEIR under Impact AES-3 should be revised to include maps to document the limits of proposed grading, changes in the existing natural topography, extent of cut and fills, height and length of retaining walls and large structures, cross-sections showing these changes, and accurate photosimulations from representative locations where public views of the site are possible, as requested above under Review of Recommended Photosimulation Locations. Details of the proposed structures and comparison of the mass, height and footprint of the proposed buildings, retaining walls and other changes associated with the proposed Project should be fully disclosed in the Recirculated DEIR, and these should be identified as significant impacts under Impact AES-3.

Response 142.28: Please refer to **Response 142.24:** above.

Comment 142.29: Mitigation measures should be prepared to address the significant impacts on aesthetics and visual quality under Impact AES-3. As indicated in the Land Use Compatibility and Aesthetics Constraints map below, these should focus on alleviating the impacts associated with the excessive grading, massive retaining walls which can’t be effectively screened, and reducing the bulk, height and footprints of the Main Building and Medical Center Building. These revisions to the proposed Project necessary to address significant impacts were not evaluated or considered in the Alternatives chapter of the DEIR, which should be completely revised as part of the Recirculated DEIR. A “Modified Project Alternative should be prepared as part of the Alternatives analysis which incorporates these necessary mitigations into a refined project design, together with other constraints and mitigation from other issues not addressed in the DEIR. This should include substantial revisions to the proposed Project to include the following mitigation provisions:

- The massive retaining walls with heights of to 26 feet should be eliminated and replaced with natural slopes, which means pulling back the limits of building footprints and development.
- The mass and footprint of the two largest buildings should be broken up to better conform with the natural topography of the site in compliance with applicable policies from the County General Plan, while avoiding steeper slopes in excess of 26 degrees, and the height of these structures should be reduced to respect the existing development patterns in the area of one and two-story residential structures.
- The ridgeline and highest knoll on the site prominent in views from North San Carlos Drive, the Equestrian Center and Nature Area in Heather Farm Park should be better respected under a revised approach to grading, with the existing elevation of the knoll and rock outcrops along the southern slopes of the ridge retained to the maximum extent feasible.
- Greater avoidance of the native trees on the site should be provided to soften the dramatic change in visual character from surrounding neighborhoods and to protect their value as important habitat for wildlife.
- The duplicate turn-around circle and 12-foot high retaining wall closest to Heather Farm Park should be eliminated from the project plans, and the area retained as natural hillside to provide a buffer between the proposed development and the adjacent parklands.
- The first floor elevation and height of proposed structures adjacent to Seven Hills School should be compatible with the existing buildings and not obstruct light or significantly compromise dramatic views of Mount Diablo from common areas of the campus, including the outdoor bleachers and soccer field. This should include reducing the proposed grade of units proposed along the northwestern boundary with the school to eliminate the fills and retaining walls proposed in this location, and reducing the height and footprint of the Medical Building so that views to the east of Mount Diablo are maintained from the soccer field on the campus.
- Proposed landscaping should be refined to effectively screen any remaining retaining wall systems and to soften the transition between new buildings and areas retained as undeveloped hillside on the SHR site.

Response 142.29: As documented in the responses above to this comment letter, the County concludes that the project would not result in a potentially significant aesthetics impact, except for light and glare (see discussion under Impact AES-4 on pages 42-43); therefore, no additional mitigation measures are required.

Comment 142.30: The discussion of Cumulative Impacts under Impact AES0C on page 43 of the DEIR does not acknowledge the dramatic change in the existing character of the SHR site that would occur as a result of the proposed Project. Or how Project implementation would likely contribute to future development of the vacant lots under Hale family ownership along Homestead Avenue at the current terminus of Seven Hills Ranch Road onto the property. The extension of sanitary sewer and other services along Seven Hills Ranch Road would facilitate future development of these vacant lots, and possibly further subdivision of the large, partially developed parcels which currently contribute to the high scenic value and semi-rural character of this area. This would be a significant contribution to the cumulative impacts of development that the proposed Project would have on the visual character of this area, which is not acknowledged in the DEIR. The lack of any focus on these vacant and partially developed parcels in the DEIR, including the omission of a photomontage from

the end of Seven Hills Ranch Road, should be addressed as part of an expanded analysis in the Recirculated DEIR.

Response 142.30: As discussed in the responses above and in Section 3.1 Aesthetics under Impacts AES-1, AES-2, and AES-3 (pages 37-42), the project would not obstruct views of scenic resources or impact scenic resources within a state scenic highway and would be compatible with surrounding development; therefore, it would not contribute to a cumulative aesthetic impact. In addition, the project site is served by existing infrastructure (see Section 4.0 Growth-Inducing Impacts of the Draft EIR, page 207) and would not result in unplanned population growth through unplanned development. It would be speculative to assume that approval of this project would facilitate development of other land in the project area.

143. Jim Martin (dated May 10, 2022)

Comment 143.1: POTENTIAL IMPACTS TO BIOLOGICAL IMPACTS

The potential impacts of the proposed Spieker Project on the biological and wetland resources of the SHR site must be thoroughly and accurately assessed as part of the CEQA review, which was not done in the DEIR. Numerous policies in the Contra Costa County General Plan and adopted ordinances of the County call for the protection of native vegetation, streams and other wetlands, native trees, rare plant communities, and special-status species. State and federal regulations administered by the California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), the U.S. Army Corps of Engineers (CORPS), and the U.S. Fish and Wildlife Service (USFWS), among other agencies, apply to the protection and management of biological and wetland resources known or suspected to occur on the SHR site and vicinity. On the local level, the Contra Costa County Tree Ordinance (Chapter 816.6) provides for the preservation of certain protected trees in unincorporated areas by controlling tree removal in the interest of public health, safety and welfare, and to preserve scenic beauty (Ords. 94-59, 94-22). Title 9, Division 914 (Sections 914-14.010, .012, .014) of the County Code discusses policies related to water resources within unincorporated areas and defines restrictions for development adjacent to natural watercourses, which includes a minimum setback of 50 feet from creeks, which is not met under the proposed project or adequately assessed in the DEIR, among other major conflicts. This is in addition to other policies and regulations, including those of the City of Walnut Creek which apply to the portions of the areas affected by the proposed Project within city limits.

In providing our comments on the DEIR for the Spieker Project, we have reviewed the Project Description by the applicant's consulting planner, Loewke Planning Associates (dated February 19, 2021), various Project plans, (Tree Removal, Grading, Utility, and Landscape Plans, among others) and studies prepared by consultants to the applicant, including the Biological Resource Assessment from LSA Associates (LSA) (dated February 2020), summary report on Biological Resources by Olberding Environmental (OE) (dated July 28, 2020), the U.S. Army Corps of Engineers Jurisdictional Delineation of the site by OE (dated April 2020) and the Preliminary Arborist Report by Hortscience/Bartlett Consulting (HBC) (dated July 2020), together with the Certified Preliminary Jurisdictional Determination Map (File ID 2020-003165) by the CORPS (dated March 24, 2021). We have also reviewed the Biological Resources Report Peer Review by H.T. Harvey & Associates (HTH) (dated July 30, 2021), which purportedly was to provide a review of the adequacy of the

applicant's studies and a basis for preparation of the Biological Resources section of the DEIR. However, The HTH peer review and the applicant's studies upon which it is based inadequately describe existing resources on the SHR site, do not accurately describe potential impacts of the Spieker Project and inconsistency with the relevant plans and regulations, and do not provide adequate mitigation to address significant impacts. Accurate information on existing resources must first be documented before impacts can be fully disclosed and then adequate mitigation measures developed. Mitigation guidelines of the CDFW, USFWS, CORPS and RWQCB all call for avoidance of potential impacts as the preferred approach to mitigating substantial adverse effects, followed by on- site replacement, off-site replacement in the same vicinity and other forms of compensatory mitigation in descending order of preference and only when the preferred method of avoidance and on-site replacement is not feasible. Which in many cases is not provided or addressed in the DEIR, as detailed below.

The information provided in the HTH review and DEIR does not adequately describe known or potential resources on the SHR site and does not provide meaningful mitigation for substantial impacts. Examples of ways in which the HTH review and DEIR are inadequate include the insufficient information on special-status species and sensitive natural communities, no peer review of the Preliminary Arborist Report by the applicant's consulting arborist or detailed mapping and analysis of the hundreds of trees proposed for removal , no review or analysis of the extent of State-waters on the SHR site and off-site locations potentially impacted by the proposed Project, lack of any substantive review of relevant County General Plan policies and ordinances, erroneous conclusions dismissing the importance of the SHR site for native wildlife and the substantial disruption of wildlife movement opportunities that would occur as a result of the proposed Project, and the lack of any meaningful mitigation for potential impacts on regulated waters, native trees, and woodland habitat, among other issues which have not been adequately assessed in the DEIR. A few of these issues are addressed below to demonstrate the inadequacy of the HTH review and DEIR analysis, the need for an updated analysis and adequate mitigation to address the significant impacts of the proposed Project on biological and wetland resources.

Given the significance of the omissions and errors in the DEIR analysis, we are requesting that the DEIR be recirculated to allow the public an opportunity to review the missing and inaccurate information described below, and to comment on expanded mitigation programs that should have been included in the DEIR. In particular to address the significant impacts on trees protected under County Ordinance, valley oak woodlands and other sensitive natural communities recognized by CDFW, results of missing surveys for special-status species, and regulated waters affected by the proposed Project.

All of the impacts in the Biological Resources section of the DEIR are inaccurately identified as less-than- significant, even in instances where mitigation measures have been recommended to address significant impacts under Impact BIO-1, Impact BIO-2, and Impact BIO-3. As explained in detail in our comments below, the conclusions in the DEIR of less-than-significant impacts and the adequacy of mitigation measures are not accurate. Given the significance of the potential impacts which are not fully disclosed in the DEIR and the inadequacy of the recommended mitigation measures, the potential impacts on biological and wetland resources would remain significant and unavoidable without major modifications to the proposed Project. CEQA requires an EIR to disclose all significant adverse effects and to identify mitigation measures which are both effective and enforceable, which is not the case with this DEIR.

Response 143.1: This comment is a summary of specific concerns with the Draft EIR that are further explained below. Detailed responses are provided below for each specific concern.

Comment 143.2: Special-Status Species And Sensitive Natural Communities

Surveys for special-status plants and sensitive natural communities must be conducted in accordance with the latest surveys guidelines of the CDFW, which has not been performed based on the information provided in the LSA, OE and HTH reports and summarized in the DEIR. The surveys must be conducted during the appropriate time of year to allow for detection, and the results incorporated into the DEIR to provide an adequate understanding of the full potential impacts of the proposed project on biological resources. Deficiencies found in the available reports and DEIR include inadequate information on the potential for occurrence of sensitive natural communities, insufficient surveys to confirm presence or absence of a number of special-status animal species, and the continued potential for presence of at least three special-status plant species on the site. Some of these deficiencies are discussed further below, but others remain as well, and all should be fully addressed, and updated information provided in the Recirculated DEIR.

Special-Status Plants

In the discussion of “Results” in the review by HTH regarding the potential for occurrence of special-status plants on the site, they refer to the focused surveys and the conclusion in the Summary Report by OE (see excerpted text below) as evidence that “systematic surveys” were conducted, that no special-status plant species were encountered and none are suspected to occur on the site. When in fact, the surveys performed by OE were not “systematic” surveys conducted in accordance with the latest 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW Guidelines), but instead were “focused plant surveys” that were literally focused on the potential for presence of only the five special-status plant species identified in the LSA report as having some potential for occurrence on the site. These “focused” surveys did not consider the potential for presence of the three California Rare Plant Rank 3 and 4 species identified by HTH as having some potential for occurrence on the site - small-flowered morning-glory (*Convolvulus simulans*), small spikerush (*Eleocharis parvula*), and little mousetail (*Myosurus minimus* ssp. *apus*). The brief paragraph in the 2020 Summary Report by OE does not meet the standards for rare plant surveys called for in the CDFW Guidelines which require that a list of all plant species encountered during the identified surveys be provided as part of the report of findings, along with a description of survey methods, map of the survey limits, and information on qualifications of the individuals conducting the surveys, all of which are required at a minimum under the latest CDFW Guidelines to allow for a determination on the adequacy of the survey results and were not provided. In addition, the 2020 Summary Report by OE indicates that the surveys did not follow the latest 2018 CDFW Guidelines, but instead followed older guidelines from 2009 and 2001 (see excerpted text below), with no information on presence or absence of sensitive natural community types such as valley oak woodland and native grasslands on the SHR site, as discussed further below. In other comments submitted by SSHR, a field inspection by biologist Ted Robertson indicate that numerous plant species were observed from accessible areas along the perimeter of the site that were not included in the cursory list contained in the 2020 Summary Report by OE, bringing into question the adequacy of the focused surveys and their compliance with even

the older guidelines. These deficiencies were not pointed out in the HTH review or DEIR, which simply assumes that “systematic” surveys were conducted and no special-status plants were encountered or suspected to occur on the site.

Protocol-level special status plant surveys - LSA determined that five special status plant species had the potential to occur on the Property. Focused plant surveys were conducted by Olberding Environmental during the appropriate blooming periods for the five species. Surveys were performed on March 25, April 21, May 29, and June 29, 2020. None of the five special status plant species with potential to occur were found during any of the surveys and are presumed absent. (Excerpt from page 1 of OE 2020 Summary Report)

Special-Status Plant Survey – Four special-status plant surveys were conducted on the entire Property by Olberding Environmental biologist, Frank Muzio, on March 25, April 21, May 29, and June 29, 2020. These surveys followed the California Department of Fish and Game (CDFG) (2009) and CNPS (2001) published survey guidelines. (Excerpt from page 2 of OE 2020 Summary Report)

Because of the lack of any map in the 2020 Summary Report by OE, there is also no way to confirm whether surveys for special-status plant species were conducted for areas off of the SHR property that could be affected by the proposed Project, including the City of Walnut Creek parcel where the main entrance is proposed off of Kinross Drive, areas along Seven Hills Ranch Road that would have to be disturbed to accommodate improvements to the roadway, drainage, sewer line and other infrastructure, and areas along North San Carlos Drive that would be modified as indicated in Figure 2.2-2 of the DEIR. Without additional evidence demonstrating where the surveys were performed and information missing in the 2020 Summary Report by OE, the peer review by HTH and DEIR should not simply assume that adequate surveys of off-site areas were conducted by the applicant’s consulting biologists. Because an accurate baseline necessary to accurately assess the potential impacts of the proposed Project has not been provided, systematic surveys should be conducted during the appropriate time of the year to verify whether the three special-status plant species identified by HTH as possibly occurring on the SHR site are present, and whether any other special-status plant species and sensitive natural communities are present on-site and in off-site locations that could be disturbed by Project construction. Supplemental systematic surveys should be conducted by a qualified botanist to verify presence or absence in on-site and off-site areas not considered in previous survey efforts or where past surveys do not meet the CDFW Guidance, and the results of that information included in an updated analysis in the Recirculated DEIR.

Response 143.2: This comment suggests that the special-status plant survey results are unreliable because OE followed the 2009 California Department of Fish and Game protocol rather than the more recent 2018 California Department of Fish and Wildlife protocol. With respect to the salient aspects of conducting such surveys (survey objectives, survey preparation, survey extent, survey method, timing/number of surveys, and reference sites), the 2009 and 2018 protocols are nearly identical, and nothing in OE’s botanical survey report suggests that their surveys deviated from the 2018 protocol in a way that would have caused them to miss special-status plants that were actually present.

The comment also suggests that OE’s surveys are unreliable because they were “focused” rather than floristic or systematic. Both the 2009 and 2018 CDFW

protocols advise that surveys should be floristic in nature, so that every plant taxon on the site is identified to the level necessary to determine rarity and listing status, rather than a “focused survey” limited to habitats known to support special-status species or restricted to lists of potentially occurring species. The first paragraph of OE’s survey report lists the five species determined by LSA to have some potential to occur on the project site and states, “While these species were the focus of the botanical surveys, all plant species within the Property were observed and recorded.” Although this statement suggests that the surveys were “focused,” (a) this statement clearly indicates “all plant species within the Property were observed and recorded,” and (b) the methods discussed later in the OE report clearly indicate that the procedures recommended by both the 2009 and 2018 protocols, and necessary to determine presence/absence of special-status plants, were followed. Thus, these were not inappropriately “focused” surveys in that they were floristic (so that even if the three List 4 species identified by H. T. Harvey as having some potential to occur on the site were present, they would have been detected during the surveys), and they covered the entire site. The comment letter states that another biologist identified species from the perimeter of the site that were not included in the list in OE’s report; this does not indicate that the OE survey missed special-status plants that were actually present. The referenced report provides a map of the survey area boundary and was included in Appendix E of the Draft EIR.

The H.T. Harvey Peer Review on page 6 (Appendix E of the Draft EIR) discusses the potential presence of California Rare Plant Rank 3 and 4 species on the project site. The comment is correct that H.T. Harvey identified three potential Rank 3/4 species (small-flowered morning-glory, small spikerush, and little mousetail) to occur on-site; however, H.T. Harvey concluded that since these species were not found during OE’s previous plant surveys (which overlapped the blooming period of these species) they can be ruled out as being present on the project site.

Comment 143.3: Sensitive Natural Communities

Riparian Habitat. The HTH review and DEIR do not adequately describe the extent of sensitive natural community types on the SHR site or off-site areas that could be affected by the proposed Project. The HTH review describes and maps small area riparian woodland that surrounds a perennial stream along the proposed off-site main access off of Kinross Drive. But it assumes that all construction work would be accomplished within this unrealistically narrow zone when in fact construction disturbance would likely extend well beyond this footprint. Many of the willows and other trees growing along this perennial drainage have trunks rooted within the proposed roadway footprint, but then grow laterally along the ground surface with canopy that extends well beyond this footprint. So a much greater area of riparian habitat would be affected as a result of construction, than was indicated in the HTH review and briefly summarized under Impact BIO-2 on page 81 of the DEIR which concludes that the Project “...would permanently impact approximately 0.16 acre of riparian woodland habitat and will result in the removal or damage of up to 13 riparian trees due to partial clearing for the extension of Kinross Drive.”

However, the HTH review and DEIR do not acknowledge the presence of riparian woodland along the central perennial drainage that bisects the SHR site, which extends over the active channel, or the

presence of riparian canopy over the continuation of the southern drainage beyond the footprint of the Kinross Drive extension. The southern drainage is a tributary of nearby Homestead Creek, which was not even acknowledged in the DEIR, and is also bordered by well-developed riparian woodland habitat which must be described, and potential impacts assessed in the Recirculated DEIR. The southern drainage has clearly been modified over time but has been mischaracterized in the DEIR and background reports as a man-made ditch constructed in uplands. This mischaracterization dismisses the likelihood that this feature was in fact a natural drainage that was relocated when Seven Hills Ranch Road was extended onto the site, possibly over 100 years ago. The original wetland delineation by OE tried to mischaracterize this drainage as a “non-jurisdictional constructed ditch” (see mapped orange alignment in draft delineation by OE below), but the CORPS determined as part of their verification that it was in fact a regulated “perennial drainage” (see mapped blue alignment in verified delineation below). Routine clearing on the SHR site has likely prevented the establishment of woody riparian vegetation along much of the southern drainage, but mature trees provide a near continuous canopy along this entire feature until it reaches Homestead Avenue, as can be seen in the aerial base map in the figures below. Although planted eucalyptus dominate the tree canopy through this reach of the southern perennial drainage, the DEIR does not disclose the fact that many of the trees along this feature are in native valley oaks. Regardless, the presence of tree canopy along the southern perennial drainage could qualify as “riparian”, just as the native-dominated tree canopy along the Kinross Drive extension segment of this feature has been. The CDFW, which regulates modifications to streams and riparian habitat as State Waters should have been consulted during preparation of the DEIR to determine whether the southern perennial drainage is considered jurisdictional and whether the continuous tree canopy across the SHR site is considered riparian. This consultation should be undertaken, and the results described and mapped in the Recirculated DEIR.

The HTH review and mapping by OE as part of the wetland delineation at least acknowledge and map the “Riparian Dripline” (see pink area in above maps) associated with the upper end of the perennial drainage that would be affected by the proposed Kinross Drive extension. However, the DEIR does not show this riparian canopy in either the only figures in the Biological Resources section, Figure 3.4-1, Existing Habitats On-Site and Figure 3.4-2, Federally Protected Waters and Wetlands On-Site, or any other mapping of riparian woodlands and habitat. The brief summary of “Riparian Woodland” on page 71 of the DEIR provides no definition of what qualifies as riparian habitat and claims that only “one small area of riparian woodland exists in the southern portion of the site, where it occurs on either side of the perennial drainage.” It then further incorrectly states that “The occurrence of willows in this area could be attributed to this being a low spot in the landscape where run-off from the surrounding area, including the development to the south and southeast, collects in winter months, before the water is then drainage off by the constructed ditch (perennial drainage) flowing to the west from the path of riparian habitat.” This statement mischaracterizes the origins of the entire southern perennial drainage, or the correction made by the CORPS as part of their verification of the wetland delineation. Review of historic photographs available on Google Earth Pro indicate that well-developed riparian woodland occurred throughout this area, long before Kinross Drive was extended off of Marchbanks Drive and the residential subdivision along Club View Terrace was developed, as indicated in the aerial photograph from July of 1993 below. The mischaracterizations about the origins of the southern perennial drainage as a constructed ditch and the conjecture that the riparian habitat through this area is somehow a result of run-off from upgradient development should be stricken here and everywhere else in the DEIR, and the feature described based on its existing conditions in accordance with CEQA practices in the Recirculated DEIR. Willows and other riparian species become established and thrive where surface and

groundwater conditions allow, and review of the natural topography of this area supports the natural formation of riparian habitat along the southern perennial drainage.

Response 143.3: Please refer to Master Response 7: Biological Resources and **Response 43.5:** and **Response 43.8:** above regarding description of the southern drainage and riparian trees.

The HTH review and DEIR completely ignore the presence of valley oak woodland and riparian habitat along the central drainage on the SHR site, and do not recognize that stands of native grassland also qualify as a sensitive natural community type by the CDFW that should have been mapped and described in accordance with the CDFW Guidance. The central drainage is fed by perennially flowing springs that originate at the eastern edge of the SHR site and in the permanent open space area of the Heather Farms development. The riparian woodlands at the upper end of the central drainage on the SHR site are dominated by native valley oak, with a canopy that extends over the mapped limits of federally regulated waters indicated in Figure 3.4-2 of the DEIR. The CORPS doesn't typically regulate riparian habitat under Section 404 of the Clean Water Act beyond the Ordinary High Water Mark, but the CDFW and RWQCB both do, under State Code and the Porter-Cologne Clean Water Act. State waters typically extend to the top of bank or limits of riparian vegetation, whichever is greater. But the DEIR provides no description of State waters and no maps of any kind showing the assumed limits of State regulated waters.

Response 143.3: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 143.4: Based on review of aerial photography, the Preliminary Arborist Report, and observations made from the perimeter of the site, valley oak dominate areas of native tree cover on the site, including the upper reach of the central drainage. Valley oak and willow canopy extends over the wetlands and waters associated with the central drainage, and therefore qualifies as "riparian" habitat regulated by CDFW and the RWQCB. The HTH review and DEIR do not acknowledge any riparian cover along the central drainage, even though the mapping in Figure 3.4-1 of the DEIR clearly shows tree canopy over this feature along the Seven Hills Ranch Road alignment. Given this absence of baseline data, we mapped the extent of riparian habitat and valley oak woodland to define the boundaries of these sensitive natural community types more accurately. The estimated canopy of these cover types are shown below in the Central Perennial Drainage Map, together with the location of protected trees, the mapped limits of federally regulated wetlands, the centerline of the central drainage, and a layer showing the proposed development plan, including the limits of grading, proposed retaining walls, roadways, buildings, biofiltration basins and other features. Given that the woodland canopy continues up the slopes well beyond the limits of wetlands along the central drainage, it is difficult to define where riparian habitat ends and continues up the hillside as oak woodland. The 50-foot setback requirement called for under County's Creek Ordinance was used as the boundary in the map below, in differentiating the riparian from upland woodland cover in the map below, but further input from the CDFW and RWQCB is warranted to discern this boundary.

As indicated in the Central Perennial Drainage Map, the proposed bridge crossing of the central drainage passes right through the riparian habitat on the SHR site requiring removal of numerous trees and shading the regulated waters below the new structure. These impacts to riparian habitat

along the central drainage were completely omitted in the HTH review and DEIR and represent a significant adverse impact on State waters. No mitigation for the loss of native riparian cover is proposed to address this significant impact, which typically includes options for avoiding and minimizing the adverse effects. As is clear from the map, options for a crossing of the central drainage downstream are feasible and could be achieved without impacting any trees or riparian habitat simply by relocating the proposed bridge downstream. The extent of riparian habitat must be disclosed in the CEQA document, the potential impacts assessed, and adequate mitigation provided in the Recirculated DEIR. The magnitude of this omission alone warrants Recirculation of the DEIR as new substantial information that was not provided in the DEIR. Unlike the unavoidable impacts to riparian habitat along the Kinross Drive extension to provide vehicle access onto the site, the identified potential impacts to the riparian and woodland habitat along the central drainage could be easily avoided by simply relocating the bridge and redesigning the footprint of grading and development. This should be thoroughly assessed in the Recirculated DEIR, including the implications under an updated analysis of Alternatives to the proposed Project.

Response 143.4: As discussed in Section 2.2.8 Drainage and Utility Improvements (page 23) and Section 3.4.2.1 Project Impacts under Impacts BIO-3 (page 83) of the Draft EIR, the proposed bridge crossing would be a clear span design to avoid any impacts to the central drainage area with restoration at the original drainage features in this area. The central drainage area is not considered riparian habitat in the Draft EIR or by the RWQCB as discussed in **Response 1.9:**. For these reasons, the Draft EIR did not identify additional wetland acreage in this area to be impacted as a result of the project.

Comment 143.5: Valley Oak Woodland. Reinforcing this omission in the DEIR regarding presence of riparian habitat along the central drainage is the fact that the native woodland habitat on the SHR site is dominated, and in some places is composed exclusively of valley oak. Valley oak woodland is a sensitive natural community type identified with a high inventory priority by the CDFW. The following provides a summary of sensitive natural communities from the CDFW website, under their Natural Communities program (<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>). Basically, all Natural Communities with a State rank of S1-S3 are considered a sensitive natural community type.

According to the most recent California Sensitive Natural Communities list (dated August 18, 2021) posted on the CDFW website at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=153609&inline> and clipped below, all Valley Oak Woodland alliances have a rarity ranking of G3S3 and are considered a sensitive natural community type by CDFW.

The DEIR does not even acknowledge the presence of valley oak woodland on the site, or its classification by the CDFW as a sensitive natural community type. Valley oak woodland occurs along the eastern, western, and southwestern edges of the site, including stands on either end of the central drainage as indicated in the above map. Most of the stands of oak woodlands mapped simply as “Oaks” in Figure 3.4-1 are in fact valley oak woodlands given the dominance of this species based on review of the Preliminary Arborist Report and aerial photography. The presence of “oak woodlands” is acknowledged in the list of habitat types on page 68 of the DEIR. But the DEIR then downplays the presence of woodland habitat in the description of “Oaks” on page 70, and incorrectly

states that “the groups of oaks are typically small and consist of one to a few valley oak..” This mischaracterizes the larger stands of valley oak woodland present on the site, some of which are indicated in the above map of the Central Drainage. The stand at the upper end of the central drainage is composed of over 70 trees that meet the definition of a protected tree under the County Tree Protection Ordinance. Mapping and habitat descriptions prepared by the CDFW provide additional evidence that the large stands of oak woodland on the SHR site qualify as valley oak woodland. As defined in the CDFW California Wildlife Habitat Relationship System, the SHR site is located within the range of Valley Oak Woodland and meet the description of this habitat type, as indicated in the extracted clips below.

The DEIR does not disclose the potential impacts of the proposed Project on valley oak woodlands and loss of this sensitive natural community type on the SHR site, which is a substantial omission and warrants additional analysis and Recirculation of the DEIR. The discussion of potential impacts on sensitive natural communities under Impact BIO-2 on page 81 of the DEIR is limited to the loss of an estimated 0.16 acre of riparian woodland habitat associated with the Kinross Drive extension onto the SHR site. No acknowledgement of the potential impacts on the riparian and upland woodland habitat dominated by valley oak is contained in the DEIR, affecting a much larger area of sensitive natural community types than disclosed on page 81 of the DEIR. This loss of over 100 native valley oaks and the associated acreage of habitat should be accurately mapped, the potential impacts assessed, and adequate mitigation provided in the Recirculated DEIR.

No avoidance and/or compensatory mitigation for loss of trees and oak woodland habitat was included in the DEIR even though significant adverse impacts would result from the proposed Project. Mitigation should at minimum include avoidance of most of the larger stand of valley oak woodland and riparian habitat at the upper end of the central drainage which can be accomplished by relocating the proposed bridge crossing outside and restricting the limits of grading outside the canopy of this important stand of the woodland sensitive natural community types. Other areas of valley oak woodland would still be affected by the proposed Project but could presumably be mitigated for by implementing a Valley Oak Woodland Mitigation and Restoration Program (VOW Program). But this was not identified as a required mitigation measure in the DEIR because the document failed to assess potential impacts on this sensitive natural community type, which should be included as a new mitigation measure in the Recirculated DEIR. The VOW Program should identify feasible locations to replace valley oak woodland habitat on the site at a minimum 2:1 ratio (ratio of acreage of replacement habitat to habitat affected). Use of the periphery of the areas to be retained as open space along the central drainage for part of the VOW Program must ensure that the tree plantings don’t eventually shade out the existing high quality seasonal wetland and freshwater marsh along this feature. The “enhancement” plantings in the Project Landscape Plans would do just that (see proposed Restoration Design Concept Plan, Sheet L-6 below), with overly dense plantings of willow and oaks have been proposed along the entire central drainage which was not assessed in the HTH review or the DEIR. Willows are mapped along this entire feature but are shown having a schematic plant diameter of less than 10 feet, when mature willow trees can have a canopy width of 50 feet or more. The photograph below shows the existing upstream end of the central drainage where mature willows provide a continuous canopy and have shaded out the emergent freshwater marsh and seasonal wetlands along this feature. The central drainage is also the location where the applicant proposes to mitigate for the loss of riparian habitat as a result of the Kinross Drive extension, which should instead be accomplished along the southern perennial drainage which is

being directly affected by those unavoidable impacts, as discussed further below under Regulated Waters.

As described above, the DEIR is deficient in its assessment of potential impacts on sensitive natural communities and existing riparian and wetland habitat. This includes loss of most of the riparian and valley oak woodland along the upper portion of the central drainage, and secondary impacts to the existing wetlands and seasonal wetlands along this feature as a result of the proposed “Restoration Concept Plan”. These are all substantial adverse impacts on highly sensitive and regulated habitats, which documented as part of baseline conditions and direct and indirect impacts disclosed as part of the CEQA environmental review. Given the magnitude of this missing information and significance of the impact, a Recirculated DEIR is warranted to provide for full disclosure and allow the public and decision- makers to understand the potential implications of the proposed Project and alternatives available that would serve lessen or fully mitigate these adverse effects.

Response 143.5: Please refer to **Response 121.1:** regarding oak woodlands. Please refer to Section 5.0 Draft EIR Text Revisions below for correction to description of habitat types on-site.

Comment 143.6: Creeping Wild-Rye. Finally, the presence of creeping wildrye grasslands dominated by creeping wild rye (*Leymus triticoides*) has not been disclosed in the DEIR and background reports. As indicated in the California Sensitive Natural Community List (see clip below), stands of creeping wildrye have a rank of G3S3 and are considered a sensitive natural community type by the CDFW. The list of plant species in Attachment 2 of the 2020 Summary Report by OE identifies *Leymus triticoides* as present on the site, as does the draft Jurisdictional Delineation of the site by OE. I observed a large conspicuous stand of creeping wildrye in the understory of the valley oak woodland and margins of the seasonal wetlands along the upper end of the central drainage downstream of the Seven Hills Ranch Road crossing. It is possible that other large stands of this species may be present on the SHR site which were not mapped in accordance with the CDFW Guidance as part of the surveys for special-status plants and sensitive natural communities. This large stand of creeping wildrye occurs within the alignment of the proposed bridge crossing of the central drainage and would be destroyed with Project implementation, which was not disclosed in the DEIR and background reports. The extent of stands of creeping wildrye should be accurately mapped, an assessment of potential impacts provided and appropriate mitigation for loss of this sensitive natural community type should be included in the Recirculated DEIR.

Response 143.6: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 143.7: Special-Status Animal Species

The DEIR and background reports by LSA, Olberding Environmental (OE) and H.T. Harvey & Associates (HTH) provide only a cursory review of the potential for occurrence of special-status animal species known or suspected from the Walnut Creek vicinity, including listed species such as California red-legged frog and California tiger salamander, and California Species of Special Concern such as western pond turtle and several bat species. As acknowledged in the LSA report, California tiger salamander has been reported from the site from an occurrence in the 1950s and California red-legged frog is known to occur in the surrounding area. The central perennial stream includes areas of ponded water and freshwater marsh fed by perennial springs that provides suitable

habitat for both of these species, and other habitat remains in the adjacent areas of Heather Farm Park and the CCWD storage pond property, and tributary drainages to Walnut Creek. While the surrounding areas have been developed with residential subdivisions over the past 80 years with increasing, the 30 acre SHR site has remained relatively undisturbed and still contains natural habitat that could support these species, as does adjacent areas of natural habitat that have no physical barriers for dispersal.

However, no information is provided in the applicant's reports, the HTH review, or the DEIR that supports how a conclusion of absence was reached for California red-legged frog, California tiger salamander, western pond turtle, and other special-status animal species, including appropriate habitat assessments, field inspections and even protocol surveys for some species when suitable habitat is present. The DEIR failed to establish an accurate baseline of existing habitat conditions and detailed surveys must therefore be conducted in accordance with agency protocols to confirm presence or absence of California red-legged frog and California tiger salamander on the site, given past records and continuous undeveloped condition of the SHR site. This is critical information that would have a substantial influence on the feasibility of the proposed Project if occurrences of either of these species remain on the SHR site.

The DEIR and conclusion reached in Table 3.4-2, Special-Status Wildlife Species Potentially Occurring within the Project Area, on page 75 of the DEIR contains no analysis for how a determination of presence or absence of "Suitable Habitat On-Site" was made which is necessary to demonstrate a reasoned basis for concluding a special-status species is not present and would not be impacted by the proposed Project. This includes the "peer review" in the HTH report, which contains no species by species habitat assessment for the over 20 special-status animal species known or suspected from the Walnut Creek vicinity. A thorough analysis should have been included in the DEIR and background reports summarizing habitat conditions and how a determination on absence of suitable habitat for each special-status animal species was made.

California Red-Legged Frog. Using California red-legged frog (CRLF) as an example of the inaccurate determinations in Table 3.4-2 of the DEIR and background reports, suitable habitat for this species does in fact occur on the SHR site and surrounding areas that was not disclosed in the DEIR. This species is known to occur in freshwater marsh, riparian woodlands and surrounding grassland and woodland habitats. The SHR site occurs about midway from Critical Habitat designated for this species by the USFWS about three miles to the southeast along Shell Ridge and about four miles to the northwest in Briones Regional Park. A new occurrence of this species was reported in 2021 by consulting biologist Sean Micallef (see Field Survey Form below) along Shell Ridge even closer than the designated Critical Habitat in very similar conditions to those found along the central drainage and southern drainage on the SHR site. This new occurrence record is the closest reported in proximity to the SHR site and reflects the lack of data on distribution along Shell Ridge and the Walnut Creek area. As summarized in the CNDDB On-line Field Survey Form completed by Mr. Micallef, an individual frog was observed in a narrow pond...

"...located below a seep within an otherwise ephemeral drainage. The pond lies within an area of exposed sandstone. The surroundings areas are annual grasslands and oak woodland."

The USFWS issued *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged frog* (CRLF Guidance) in August 2005. The CRLF Guidance defines procedures for

conducting 1) a site assessment of CRLF locality records and potential habitat in around a site, and 2) focused field surveys for breeding pools and other associated habitat to determine whether CRLF are likely to be present. The first step in determining whether a formal habitat assessment should be prepared in accordance with the CRLF Guidance is whether a site is located within the current or historic range of CRLF, which is without question the case for the SHR site.

The second step in the process of conducting a formal habitat assessment under the CRLF Guidance is whether there are any known records for CRLF within a mile of a site. The new occurrence reported by Micallef is the closest known record for CRLF to the SHR site, about three miles to the southeast. But this one-mile distance triggering the need for a formal habitat assessment is only guidance and as stated on page 3 of the CRLF Guidance “This distance may be subject to change when new data becomes available, or based on site-specific conditions, so it is advised that surveyors check with the appropriate Service Fish and Wildlife Office to ensure they are using the most up-to-date information.” There is no indication in the DEIR or background reports that any input was obtained from representatives of the USFWS whether formal site assessment or focused surveys are appropriate for the SHR site.

The third step in the process of conducting a formal habitat assessment under CRLF Guidance is to document habitat conditions within one mile within the boundary of a site, which was not performed as part of the DEIR or review provided in any of the background reports. However, even an informal review of conditions present on the SHR site and surrounding area indicate suitable aquatic habitat for CRLF within one mile. Based on a review of aerial photographs and a vehicle and pedestrian inspection of field conditions performed by myself, the attached map shows the locations of aquatic habitat on or close to the SHR site which could support CRLF, together with photographs of each location and a brief summary of observed conditions. No barriers are present between any of these locations that would preclude movement of CRLF to or from the SHR site to each location. As summarized in the CRLF Guidance, studies indicate that individual frogs are known to move considerable distances, well within the locations of suitable aquatic habitat found in the vicinity of the SHR site, which reinforces the need to conduct protocol surveys and determine presence or absence and present these results in the Recirculated DEIR. As excerpted from the CRLF Guidance...

California red-legged frogs may move up to 3 kilometers (1.88 miles) up or down drainages and are known to wander throughout riparian woodlands up to several dozen meters from the water (Rathbun et al. 1993). Dispersing frogs have been recorded to cover distances from 0.40 kilometer (0.25 mile) to more than 3.2 kilometers (2 miles) without apparent regard to topography, vegetation type, or riparian corridors (Bulger 1998). California red-legged frogs have been observed to make long-distance movements that are straight-line, point to point migrations rather than using corridors for moving in between habitats. Dispersal distances are considered to be dependent on habitat availability and environmental conditions. On rainy nights California red-legged frogs may roam away from aquatic sites as much as 1.6 kilometers (1 mile). California red-legged frogs will often move away from the water after the first winter rains, causing sites where California red-legged frogs were easily observed in the summer months to appear devoid of this species. Additionally, California red-legged frogs will sometimes disperse in response to receding water which often occurs during the driest time of the year. (Excerpt from page 16 of CRLF Guidance)

The following are photographs capturing conditions at each of the 8 identified locations of aquatic habitat providing suitable conditions for CRLF. Three of these (Locations 1, 2 and 3) are located on-site, and the other five (Locations 4 – 8) are located in proximity to the site with no barriers that would prevent CRLF dispersal none of which was disclosed in the DEIR or background reports.

Location 1 – Central Drainage and Perennial Freshwater Springs. The central drainage on the site contains freshwater marsh, seasonal wetlands, and areas of dense willow riparian habitat, bordered by undeveloped hillsides of open grassland and valley oak woodland cover. The freshwater marsh is dominated by dense stands of cattail with deep pools of standing water and associated aquatic vegetation typical of CRLF breeding locations. No information is provided in the DEIR and background reports for why this essential feature was dismissed as suitable breeding, summer, and upland habitat for CRLF. The ponded area upgradient of the existing Seven Hills Ranch Road crossing appears deep enough to provide refugia for adult frogs as does areas of cattail thickets downstream within 200 feet of the crossing, but no information was presented in the DEIR or background reports indicating that any data was gathered on depth.

Location 2 – Riparian Woodland and Wetlands at Kinross Drive Extension. The proposed Kinross Drive extension that would provide vehicle access onto the SHR site contains a dense thicket of riparian woodland dominated by willow and valley oak. This southern perennial drainage feature includes areas of pooled water, moist soil, fallen trees, and dense vegetation that provide suitable refugia and foraging opportunities for CRLF. The drainage continues into an open drainage on the SHR site that the Corps determined was a regulated perennial feature, although the applicant's wetland consultant initially claimed it was non-jurisdictional and a man-made seasonal drainage. It was likely a natural feature that was relocated to its existing alignment when Seven Hills Road was extended onto the SHR site, possibly back in the 1920s. It connects to nearby Homestead Creek along a roadside ditch after leaving the SHR site and passing through a culvert under the paved Homestead Avenue crossing.

Location 3 – Riparian Habitat along Homestead Creek on the SHR Site. Homestead Creek is an intermittent tributary to Walnut Creek that supports an overstory of well-developed riparian habitat with areas of freshwater marsh along the active channel. It remains a natural feature bordered by residential development and undeveloped land, including the SHR site. A narrow band of the SHR site extends to the bottom of the creek channel at Location 3, which was not disclosed in the DEIR or any of the background reports. The channel bottom at Location 3 consists of a natural bed of cobble and gravel with scattered perennial emergent vegetation along the channel, bordered by grassland and riparian cover that extends unobstructed onto the SHR site. Only a three-strand barbed wire fence separates the upland grasslands and oak woodlands from the creek bank and riparian habitat on the SHR site.

Location 4 – Riparian Habitat Adjacent to CCC Pump Station Facility. A natural depression on the south side of the CCC Pump Station and east side of the City of Walnut Creek water storage basin ponds water seasonally and supports a dense cover of willow with scattered clumps of emergent vegetation. The open grassland covered field to the south of the willow thicket appears to be natural and is fenced from public access. Water ponds during the winter and spring in a low elevation depression over 50 feet in length that extends into the understory of the willow thicket at this location. The North San Carlos extension onto the Seven Hills School property separates this location

from the SHR site but does not pose a barrier to possible CRLF and other wildlife movement to the SHR site, located about 150 feet to the south of the seasonal pond.

Location 5 – Riparian and Freshwater Marsh Habitat along Ygnacio Canal in Heather Farm Park. The Ygnacio Canal is a concrete-lined drainage used for distributing irrigation water. It supports stands of freshwater marsh vegetation in some locations, and is bordered by the grasslands, riparian woodlands and uplands of the Natural Area in Heather Farm Park. The side- slopes of the concrete canal are gentle enough to allow for movement by CRLF and other wildlife. The SHR site is located about 500 feet south of the canal, separated by the gravel parking lot of the Equestrian Center and North San Carlos Drive, but neither pose a permanent barrier for CRLF and other wildlife dispersal.

Location 6 – Freshwater Marsh Habitat around Lake in Heather Farm Park. This large lake in Heather Farm Park is bordered by dense stands of cattail and riparian woodland, including dense thickets of willow and overstory of valley oaks. Review of historical photographs indicate a natural seasonal lake in this area. Surface water is maintained year round in the existing lake, regulated by an outfall at North San Carlos Drive shown in the photograph below. The lake supports a large population of western pond turtle, recognized as a California Species of Special Concern by the CDFW, which are known to disperse from the lake for nesting and other behaviors. The presence of this species in habitat adjacent to the SHR site was not disclosed or discussed in any way in the DEIR and background reports, another indication of the short- comings in the habitat assessment effort. The perimeter of the lake supports grassland and native oaks as part of a Natural Area in Heather Farm Park. North San Carlos Drive borders the western edge of the lake and the Ygnacio Canal borders the southwestern edge of the lake, but neither pose a permanent barrier for CRLF and other wildlife dispersal onto the SHR site, located about 600 feet to the southwest.

Location 7 – Earthen Channel Creek that Borders Contra Costa Canal. A natural creek that drains from the lake in Heather Farm Park flows northwest and then south along the east side of the concrete-lined Contra Costa Canal. The creek is an earthen channel that supports a near continuous cover of cattail, with grassland covered banks. The segment of the creek in Heather Farm Park downstream of the lake contains an overstory of valley oak, eucalyptus and other tree species, where river otter and other native species have been known to den. Developed features such as the fenced dog park, the CCC Pump Station, the concrete-lined Walnut Creek storage pond, and Seven Hills School property occur between segments of this creek and the SHR site, but are located between separate campus Drive borders the western edge of the lake and the Ygnacio Canal borders the southwestern edge of the lake, but neither pose a permanent barrier for CRLF and other wildlife dispersal onto the SHR site, located about 600 feet to the southwest.

Location 8 – Creek at Confluence with Walnut Creek Channel. The earthen creek passes under the Contra Costa Canal and Regional Trail and passes through a riprap-lined reach before draining into the Walnut Creek channel. The banks of this segment of the creek support a cover of grassland with a few scattered oaks. Water is ponded in this reach because of the outfall system at the confluence with Walnut Creek, supporting emergent wetlands and aquatic vegetation that provides ideal cover for CRLF. Developed features such as the concrete-lined Contra Costa Canal and paved regional trail separate this reach of the creek from that in Location 7, but the culvert system under these improvements provide access between Locations 7 and 8. This reach of the creek is completely enclosed by cyclone fencing, limiting human access and separating it from the nearby heavily used regional trail.

Conclusions Regarding CRLF Habitat Suitability and Need for Further Assessment. The above review of aquatic habitat on and near the SHR site provides clear evidence that suitable breeding and upland habitat for CRLF is present, that the DEIR failed to establish an accurate baseline of existing habitat conditions, that a formal habitat assessment and protocol field surveys are warranted in accordance with the CRLF Guidance and should have been conducted as part of the background reports prepared for the applicant or the “peer review” by HTH, with the results presented in the DEIR. In accordance with the CRLF Guidance, representatives of the USFWS should be consulted over the scope and extent of the field surveys following completion and submittal of a formal habitat assessment for review. Detailed surveys for CRLF have never been conducted in the SHR vicinity to my knowledge, and the assumption of absence of this federally-listed species taken in the DEIR without regard to the observed presence of potential breeding habitat and suitable uplands is unsupportable. The observed conditions, historic distribution, and proximity to designated Critical Habitat all warrant preparation of a formal habitat assessment and conduct of protocol field surveys in accordance with the CRLF Guidance to determine presence or absence and present these results in the Recirculated DEIR.

If CRLF or other State and/or federally-listed special-status animal species are present on the SHR site it would have major implications on the potential for development, which must be recognized as part of the CEQA review process. Habitat avoidance would be necessary to avoid any breeding location(s) and sufficient upland habitat provide to protect the population. A comprehensive mitigation plan would be required prepared in consultation with and be approved by the USFWS, CDFW, CORPS, and the County, to provide for the protection, replacement, and management of habitat for CRLF or other listed species affected by the proposed Project. This would include detailed provisions related to preconstruction and construction avoidance, habitat avoidance and mitigation, and habitat connectivity and on-site management that would serve as performance standards to ensure adequacy and feasibility in fulfilment of the County’s CEQA review. Temporary impacts on CRLF habitat would be addressed through appropriate construction restrictions and controls, through adequate revegetation of temporarily disturbed areas, and by enhancing the existing habitat to be retained as permanent open space. Permanent habitat impacts (habitat lost as a result of development) would presumably be mitigated at a minimum 3:1 ratio, consistent with USFWS practices for impacts on CRLF.

Response 143.7: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 143.8: Western Pond Turtle. The DEIR and background reports contain no discussion of possible presence of western pond turtle (WPT) on the site, Table 3.4-2 on page 75 of the DEIR indicates there is no suitable on-site habitat for this species. Western pond turtles occupy perennial and intermittent streams and ponds with adequate refugia and basking areas for sunning. Sexually mature females produce 5–13 eggs per clutch and may deposit eggs either once or twice a year. While most nests are located within 90 m (300 ft) of water, individuals may travel considerable distances from water for egg-laying, reportedly moving as much as 0.8 km (1/2 mile) away from and up to 90 m (300 ft) above the nearest source of water. WPT is recognized as a California Species of Special Concern by the CDFW and its possible presence warrants a thorough evaluation as part of CEQA review.

As indicated above in the map of Observed Aquatic Habitat with Suitable Conditions for CRLF and WPT, known occurrences and suitable aquatic habitat for WPT is found on the SHR site and adjacent areas, well within the known ½ mile dispersal distance for nesting. This includes the freshwater marsh and areas of ponded water along the central drainage, Homestead Creek along the southwestern edge of the site, and several areas of suitable aquatic habitat in Heather Farm Park and along the Contra Costa Canal corridor. WPT are easily observed along the lake in the nearby Nature Area of Heather Farm Park, as evidenced by the photograph below of a large number of turtles basking on rafts of cattail near the northwestern edge of the lake along North San Carlos Drive, and the report of a WPT crossing Seven Hills Ranch Road near Homestead Creek observed by a nearby neighbor.

Given the proximity of known occurrences and presence of suitable habitat on the SHR site, it is possible that WPT may occupy or utilize the site for nesting. There are no physical barriers between the lake in Heather Farm Park and the open hillsides of the site above the Equestrian Center parking lot, and individual turtles could utilize these slopes for nesting. Similarly, the hillsides above Homestead Creek could be used for nesting by WPT, as could the hillsides along the freshwater marsh wetlands in the central drainage if turtles are present along this feature. In addition, off-site impacts associated with the proposed Project (including the undefined modifications to North San Carlos Drive segment shown in Figure 2.2-3 of the DEIR) could result in direct and indirect impacts to WPT which have been observed within a few feet of the edge of pavement along the lake in Heather Farm Park and crossing Seven Hills Ranch Road. No surveys of any kind were apparently conducted as part of the DEIR or background studies, which all dismiss the potential for WPT to be present on the site, similar to their assertions with regard to CRLF, with no supportable basis for that conclusion. The DEIR failed to establish an accurate baseline of existing habitat conditions and further detailed surveys should be conducted by a qualified biologist, an assessment of the potential impacts of the proposed Project performed, and additional mitigation provided in the Recirculated DEIR to adequately address this deficiency in the DEIR. Again, given the magnitude of this missing information and significance of the potential impact on this California Species of Special Concern, a Recirculated DEIR is warranted to provide for full disclosure and allow the public and decision-makers to understand the potential implications of the proposed Project and alternatives available that would serve lessen or fully mitigate these adverse effects.

Response 143.8: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 143.9: Bats. Similarly, no detailed description of the survey methods and results were provided in the HTH review or DEIR to allow for a conclusive determination on presence or absence of any special-status bat species on the SHR site. Given the presence of numerous unused structures, which both pallid bat and Townsend's big-eared bat have been known to occupy, and large trees with cavities and exfoliating bark, the DEIR failed to establish an accurate baseline of existing habitat conditions and acoustic surveys should have been conducted to confirm whether any special-status bats are present and could be affected by the proposed Project, and to allow for detection of any maternity roosts which should preferably be permanently avoided given the sensitivity of these species. Review of the CNDDDB inventory indicates occurrences of both pallid bat and Townsend's big-eared bat that extend just west of the SHR site, which is not disclosed in the DEIR. The claim that pallid bat "have likely been extirpated as a breeder from urban areas such as the project region" on page 76 of the DEIR ignores the large site of the SHR site, its largely undeveloped condition,

presence of perennial water sources and abundant foraging habitat, and that this species could continue to thrive on the property if it were to remain undeveloped. Even after acknowledging that at least two of the mature valley oaks on the site were observed to have cavities that could support roosting bats. The unused and seldom used structures on the SHR site provide excellent habitat for Townsend's big-eared bat, but no information was provided in the DEIR or background studies for how a determination was made in Table 3.4-2 on page 75 of the DEIR that no suitable habitat is present. This is unsupportable without a detailed focal survey, inspecting all structures and suitable cavities and performing acoustic surveys by a qualified bat specialist to confirm presence or absence.

The HTH review and MM BIO-1.1 on page 78 of the DEIR simply rely on standard preconstruction measure to address avoidance of any occupied maternity roosts or individual bats, but this does not address the permanent loss of this sensitive resources if present on the SHR site. This mitigation is adequate to confirm no new roosting activity has become established on the site in advance of construction but is inadequate to address the possible permanent loss of essential habitat for either pallid bat or Townsend's big eared bat if a maternity roost(s) is present, which can only be accomplished with the above recommended focal surveys. Special-status bat species are also known to roost in foliage and could be injured or lost during tree removal unless appropriate construction avoidance measures are implemented, which should be specified provided as additional mitigation. Additional detailed investigation is necessary to accurately document presence or absence of special-status animal species on the SHR site and allow for an adequate review as part of the Recirculated DEIR, which is not possible with the limited scope and information contained in the current HTH review and DEIR.

Response 143.9: The HT Harvey ecologist, Kim Briones, who conducted the site visit is one of HT Harvey's bat biologists. She has extensive experience with bats and assessing structures and trees for potential roosts and suitable habitat. While no active roosts were found during her site visit, Section 3.4.2.1 Project Impacts under Impact BIO-1 of the Draft EIR (pages 77-79) discloses that there is suitable habitat for them and creates the potential for bat roosts to be present on the site. As such, the project is required to implement MM BIO-1.1 as mitigation, includes additional preconstruction surveys to confirm whether bat roosts are present on the site. Additional surveys confirming whether there are existing bat roosts currently on the project site would not change the Draft EIR's conclusion that there is the potential for roosting bats to be present on the project site and that MM BIO-1.1 is required to reduce any potential impacts to a less than significant level. In addition, MM BIO-1.1 does include specific construction avoidance measures such as establishing a disturbance-free buffer zone and implementing exclusion techniques.

Comment 143.10: Nesting Raptors and Other Birds. The DEIR and background reports largely dismiss the potential for nesting by raptors and other bird species recognized as Species of Special Concern by the CDFW. These include western burrowing owl, loggerhead shrike, and northern harrier, among other species. Table 3.4-2 on page 75 of the DEIR falsely claims there is no suitable habitat for any of these species on the SHR site, even though the rolling grasslands, open woodlands and scattered shrubs provide excellent habitat for all three species. The DEIR and background reports do not acknowledge the presence of an active red-tailed hawk nest along the western edge of the site (see location map below), that has reportedly been nesting in that location for years and is likely dependent on the remaining grasslands on the SHR site as essential foraging habitat. But the fact that

this conspicuous raptor and its large stick nest was apparently never detected in any of the previous surveys efforts or disclosed in the DEIR as an existing resource on the site is an indication of the cursory and inadequate effort performed in conducting more comprehensive surveys of bird nesting activity.

The SHR site actually provides excellent quality habitat for loggerhead shrike, and moderate quality habitat for northern harrier and burrowing owl, which is not disclosed in the HTH review or DEIR. The previous background reports for the applicant dismissed the potential for presence of burrowing owl because of the absence of ground squirrels, which construct burrows typically used by burrowing owl for nesting. However, burrowing owl are known to use debris piles, old pipes, and crawl spaces under buildings for nesting. There are a number of old structures observable around the perimeter of the site which could possibly provide suitable nesting areas for burrowing owl, but it is unclear whether any type of habitat inspection was performed, and certainly no protocol surveys for this species were conducted according to the available information. The brief discussion on burrowing owl on page 79 of the DEIR indicates that ground squirrel burrows were observed on the site, but they did not appear to be “currently active nor recent”. Followed by the conclusion that “given the paucity of suitable burrows and the lack of any recent breeding records from areas in the site vicinity, there is no valuable habitat for burrowing owls, and it is unlikely that burrowing owls would use the site regularly.”

A preconstruction survey was recommended in MM BIO-1.2 to address the possibility that burrowing owl may be present on the site, and that avoidance and minimization guidelines must be developed prior to the start of construction in accordance with the March 7, 2012, CDFW Staff Report on Burrowing Owl Mitigation (CDFW Staff Report).¹ However, no performance standards for avoidance of an active nest/colony are specified in MM BIO-1.2, and the implication is that treatments such as site surveillance, buffers, translocation, artificial burrows, or habitat replacement would address the potential impact and the nest/colony could be destroyed rather than modifying the proposed development plans to ensure avoidance of any on-site nest/colony and establishment of an adequate buffer to protect the occurrence. This approach to mitigation is in conflict with the site assessment and survey procedures specified in the CDFW Staff Report and could result in permanent, significant impacts on this species which were not disclosed in the DEIR.

The 2012 CDFW Staff Report defines three progressive steps that are necessary in evaluating whether a project would result in impacts to burrowing owls. As defined on page 5 of the CDFW Staff Report, these steps consist of: 1) habitat assessment, 2) surveys, and 3) impact assessment. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with the Fish and Game Code. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed activity. It appears that none of the habitat assessment or surveys protocols were performed on the SHR site in accordance with the CDFW Staff Report.

One of the primary triggers in determining the need for surveys is presence of suitable grassland habitat and ground squirrel burrows or other possible nesting habitat, both of which are present on the SHR site. Instead of following the procedures defined in the CDFW Staff Report and conducting detailed surveys to confirm presence or absence of burrowing owl on the SHR site, the HTH review

and DEIR simply conclude that “it is unlikely that burrowing owls would use the site regularly.” However, the SHR site is large enough and contains enough suitable habitat to support a pair or colony of burrowing owl that could have avoided detection without conduct of detailed surveys, which is the very reason they are called for in the CDFW Staff Report, to confirm presence or absence when suitable habitat conditions are present.

The DEIR failed to establish an accurate baseline of existing habitat conditions and protocol surveys must be conducted in accordance with the CDFW Staff Report, which involve a minimum of four site visits: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. Additional breeding season site visits may be necessary, especially if non-breeding season exclusion methods are contemplated. The comment letter from CDFW written in response to the NOP on the proposed Project (NOP Response Letter)² identifies 15 special-status species known or suspected to occur near the Project site, including loggerhead shrike, northern harrier, and western burrowing owl. The NOP Response Letter from CDFW recommends that surveys be conducted for special-status species with potential to occur on the site, in accordance with survey protocols. The possible presence of burrowing owl on the site was considered high enough by CDFW that they recommended the following language regarding burrowing owl be included in the DEIR, assuming that appropriate surveys had been conducted and appropriate avoidance measures incorporated in accordance with the CDFW Staff Report.

The DEIR and background reports did not conduct detailed surveys for western burrowing owl as recommended by CDFW and warranted based on presence of ground squirrel burrows, other potential nesting habitat, and suitable foraging habitat on the SHR site in accordance with the CDFW Staff Report. The varied topography and visually inaccessible portions of the site make detection of this species difficult, even if protocol surveys by a qualified professional were conducted and the conclusion in the DEIR that the species is absent based on the lack of known records in the vicinity is unsupportable.

Protocol surveys should be conducted and the results incorporated into the Recirculated DEIR. In addition, depending on the findings of the protocol surveys, MM BIO-1.2 should be revised to include the above items b and c regarding compensatory mitigation if burrowing owl are encountered on the SHR site, as recommended by CDFW in their NOP Response Letter. Without the additional protocol surveys and incorporation of additional mitigation language in MM BIO-1.2 if this species is detected, the potential impacts on western burrowing owl can't be fully understood and disclosed and adequacy of mitigation measures with defined performance standards provided in the Recirculated DEIR.

The DEIR failed to establish an accurate baseline of existing habitat conditions and additional detailed bird surveys should also be conducted on the site to confirm the observed nesting by red-tailed hawk, possibly other tree and shrub nesting raptors, and other bird species recognized as California Species of Special Concern identified by the CDFW such as loggerhead shrike and northern harrier. The presence of any California Species of Special Concern should be fully disclosed as part of CEQA review and an assessment of potential impacts and necessary mitigation provided. Raptors and other native bird species are protected under the federal Migratory Bird Treaty Act and State Fish and Game Code. It is unclear whether the eucalyptus tree actively used by red-tailed hawk would be removed as part of the proposed Project, but the Recirculated DEIR should provide an

analysis of direct and indirect impacts to this and other nesting birds encountered during the detailed bird surveys.

Mitigation MM BIO-1.3 and Bio-1.4 are recommended in the DEIR to address potential impacts to raptors and nesting birds but are inadequate. Measure MM BIO-1.3 unrealistically calls for “avoidance and nesting inhibition” which are not feasible for a proposed Project that will involve removal of existing vegetative cover, most of the trees, and disturbance to over 90 percent of a 30-acre site, for a construction period that is expected to last up to four years. It calls for removal of “all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed” prior to the “start of the nesting season (e.g., prior to February 1), with the goal of preventing the potential delay of project construction due to the presence of an active nest. But this approach to stripping all vegetation outside the nesting season is not feasible as it would expose the site to a risk of severe erosion during heavy rainfall and could generate adverse air quality conditions from dust. Keeping the site devoid of vegetation during the entire four year construction period would conflict with BMPs recommended to address erosion and sedimentation that could affect regulated waters on the site, which call for establishment of vegetative cover on graded slopes, especially during the winter months, to minimize these risks. Measure MM BIO-1.3 may appear to address a potential impact on nesting birds, but it is not feasible for a project of this magnitude that involves stripping vegetative cover from such large areas of the site.

Measure MM BIO-1.4 is a standard preconstruction nest avoidance measure that restricts disturbance in proximity to an active nest. It does not address permanent avoidance of an active nest location, like the known red-tailed hawk nest or the substantial loss of suitable grassland and woodland foraging habitat on the site, which should be provided in the updated analysis in the Recirculated DEIR. The raptor nest construction setback of “typically 300 feet” called for in MM BIO-1.4 has been replaced by “500” feet as a standard used by CDFW and should be revised in the mitigation measure.

Response 143.10: Section 3.4.2.1 Project Impacts under Impact BIO-1 of the Draft EIR (pages 79-80) discloses that there is potentially suitable nesting and/or foraging habitat for birds, including migratory birds, burrowing owls, and raptors such as the white-tailed kite. While surveys done to the level of detail specified in the comment above were not completed, the conclusion that these species could be found on the project site would remain the same. As such, mitigation measures MM BIO-1.2, MM BIO-1.3, and MM BIO-1.4 were identified in order to reduce any impacts to bird species to a less than significant level. It is the opinion of the County, Olberding Environmental, Inc., and HT Harvey & Associates, that the mitigation measures presented are adequate to address the identified impacts.

Comment 143.11: Monarch Butterfly. Monarch butterfly (*Danux plexippus plexippus*) is known for its long-distance annual migration and reliance on native milkweed (*Asclepias* spp.) as its obligate larval host plant. There are two subpopulations of monarchs in North America, with the eastern population overwintering in Mexico and breeding in the midwestern states, and the western population generally overwintering in coastal California and fanning out across the west from Arizona to Idaho. Both migratory populations have declined dramatically over the past twenty years due to a number of interrelated factors. These include habitat loss in breeding and overwintering locations, habitat degradation, disease, pesticide exposure, and climate change, among others. Based on the Xerces Society Western Monarch County, the number of monarchs making the annual journey

to coastal California has experienced erratic swings in population estimates with declined >95% in some recent years.

Monarchs were petitioned to be listed under the federal Endangered Species Act in 2014. In December 2020, the USFWS found that listing was warranted but precluded by other listing actions on its National Priority List and the monarch is currently slated to be listed in 2024. In California, monarchs are included on the CDFW Terrestrial and Vernal Pool Invertebrates of Conservation Priority list. They are identified as a Species of Greatest Conservation Need in California's State Wildlife Action Plan. Section 1002 of the California Fish and Game Code prohibits the take or possession of wildlife for scientific research, education, or propagation purposes without a valid Scientific Collection Permit (SCP) issued by CDFW. This applies to handling monarchs, removing them from the wild, or otherwise taking them for scientific or propagation purposes, including captive rearing. Due to the current status of the migratory monarch population, CDFW has also issued a moratorium on certain activities covered with an SCP.

Monarchs have been reported by residents in the vicinity of the SHR site, likely attracted to the large grove of planted eucalyptus in the southern portion of the property for feeding and possibly roosting. Native milkweed species serve as the larval host plant for monarch and are relatively common in the rolling grasslands of the Walnut Creek vicinity. The map of reported milkweed distribution in relation to known overwintering locations are mapped below, taken from the 2016 *State of the Monarch Butterfly Overwintering Sites in California* from the Xerces Society. No milkweed species were identified in the list of plant species from the 2020 Summary Report by OE but this list clearly does not provide an inventory of all plants on the SHR site as pointed out in other comments submitted by SSHR, based on a field inspection by biologist Ted Robertson. At least two larval host plants were however included on the list - goldenrod (*Solidago canadensis*) and Helianthus (*Helianthus californicus*) – and other more common nectar species are known from the site including coyote brush, willow, and eucalyptus. There remains a possibility that larval host plants are present on the site that serve as hosts to monarchs, which could be inadvertently destroyed by initial grubbing and grading for the proposed Project, together with nectar plants. The large grove of mature eucalyptus could also provide important winter roosting habitat for the species given the declining abundance of eucalyptus, which is to be completely eliminated as part of the proposed Project.

The DEIR and background reports provide no information on Monarch butterflies and the potential for occurrence on the SHR site. Given the vulnerable status of this species and possible presence on the SHR site, for either egg laying and larval development, or for winter roosting in the mature eucalyptus grove, the DEIR failed to establish an accurate baseline of existing habitat conditions related to this species. Surveys should be conducted to confirm presence or absence of this species in suitable habitat on the site, including periodic inspections of the eucalyptus grove in the winter months and determination on whether larval host and nectar plants are present, with the results incorporated as part of an updated assessment to be included in the Recirculated DEIR.

Response 143.11: The comment letter suggests that because mature eucalyptus trees are present, those trees could be used as a winter roost. No winter roosts are known from the Walnut Creek area.¹⁶ Rather, all winter roosts in the Bay Area are either

¹⁶ Xerces Society. "Map of Overwintering Sites – Western Monarch Count". Accessed September 14, 2022. <https://www.westernmonarchcount.org/map-of-overwintering-sites/>.

coastal or much closer to the edge of the Bay than the project site. Monarchs need certain thermal conditions in winter that are not provided by sites at inland locations such as Walnut Creek. Also, the project will have little impact, if any, on suitable breeding habitat or on monarch eggs, larvae, or pupae because there is no evidence that its larval host plant, milkweed, occurs on the site in any abundance. As mentioned in the comment letter, Olberding kept a list of all the plants observed during their wetland delineation field work, and they did not report any milkweed on the site. If it were present in any abundance (and therefore capable of supporting more than a very small number of breeding monarch butterflies), it would have been included on their plant list. Even in areas with lots of milkweed, monarch butterflies are not common breeders in the Bay Area, and the project will have little impact, if any, on important breeding habitat or individuals (e.g., eggs, larvae, or pupae) of this species. While implementation of the project would result in the loss of some nectar plants, these plants are abundant and widespread on the landscape, and the loss of nectar plants as a result of this project would not affect monarch populations. It should also be noted that the comment letter incorrectly refers to two plants – *Solidago canadensis* and *Helianthus californicus* – as “larval host plants.” Monarchs do not breed on those plants, though adults use them as nectar sources.

Comment 143.12: Loss Of Protected Trees And Woodland Habitat

The HTH review and DEIR does not contain any analysis regarding tree and woodland habitat loss, and simply relies on the inadequate Preliminary Arborist Report (PAR) prepared by HBC for the applicant. The mapping of vegetative cover in Figures 1 and 2 in the HTH review and Figure 3.4-1 of the DEIR appears to grossly underestimate the limits of tree canopy on the SHR site when one compares the mapped boundaries to the underlying tree dripline visible on the aerial base to these maps under close examination. Our review of the PAR and comparison to mapping contained in the proposed Tree Removal Plan, and Grading Plan indicates major discrepancies and inconsistencies with the mapping, and the PAR and Project Description which incorrectly assumes that many of the trees in close proximity to grading and other construction disturbance would be preserved under the proposed Project. This would result in far more trees removed, damaged or eventually lost as a result of construction and changes in growing conditions than has been assumed in the PAR and reported in the HTH review and DEIR. Review of the Tree Assessment in the PAR and comparison to the Tree Assessment Map and the Tree Removal Plan (BKF Sheets C2.1 and C2.2, undated) indicates that as many as 81 trees were not mapped, were mapped twice, or had conflicting information on removal or preservation.

None of the maps in the Project application, the DEIR or background studies plotted the location of trees to be removed in relation to the proposed limits of grading and Project improvements such as retaining walls, fill slopes, cut slopes, and the bridge over the central drainage, which is critical in understanding the distribution of tree resources and opportunities for refinements to the proposed Project to avoid larger trees and groupings of trees. They simply show either all trees with trunk diameters of large enough size to qualify as “protected” under the County’s Tree Protection Ordinance, or those protected trees to be retained beyond the limits of proposed grading and disturbance. In the SSHR response to the NOP, we requested this information be mapped regarding protected trees and extent of proposed disturbance, including data on the location of native species and some indication of size or assigned size- class to better understand where larger protected trees

were located as a possible higher level constraint. But none of this was included in the DEIR, and clearly no investigation into the inconsistencies and inaccuracies we reported in the response to the NOP was conducted either. With no attempt to at least randomly verify data presented in the PAR, including trunk location, trunk size, species, health, and suitability for preservation, which is a standard practice conducted as part of a “peer review” where tree resources are at risk but not performed as part of the HTH review or DEIR.

However, a volunteer GIS specialist working with SSHR digitized all of the available tree data and Project Plans to create a Tree Removal Map that could have easily been provided as part of the DEIR analysis given that all of the tree and Project-related spatial data was available to the applicant and EIR consultant team. The Tree Removal Map below shows all of the protected trees, where trunk locations could be verified, plotted on an aerial base map to show the extent of existing tree canopy. Together with a digitized layer showing the proposed limits of grading, building footprints, roadways, retaining walls, and bridge over the central drainage. Where tree data could be verified, the Tree Removal Map distinguishes by color code the non-native from native tree species, and further identifies the native trees down to species - valley oak, California bay, or arroyo willow. It also shows whether the tree is to be removed or “retained” under the proposed Project.

The Tree Removal Map shows the distribution of protected trees to be removed in relation to the footprint of the proposed Project. The majority of the native trees proposed for removal are located at the upper, eastern end of the central drainage where the proposed bridge crossing and Maintenance/Office Building are to be located. As discussed above under comments on Sensitive Natural Communities and indicated in the Central Perennial Drainage Map, these consist of over 70 native valley oak trees which form part of a large stand of valley oak woodland and riparian woodland habitat that would be largely eliminated under the proposed Project. Other stands of native oak woodlands that would be removed occur on the steep slopes to the west of the existing residence, scattered trees growing within the eucalyptus grove along the southern perennial drainage and Seven Hills Ranch Road, the western frontage along the Walnut Creek channel, and the highest ridge and knoll on the site. Given the extremely high number of protected trees that could be affected by the proposed Project, this is critical baseline information omitted from the DEIR to better understand potential impacts and mitigation options.

As noted above, there are major errors and inconsistencies in the available mapping of tree resources on the SHR site. In the process of digitizing the tree data and preparing the above Tree Removal Plan, available data and mapping was scrutinized from the PAR and Revised Civil Plans showing proposed Tree Removal (Sheets C2.0, C2.1, and C2.2). Based on this review, there were problems with about 20 percent of the 485 trees from the Tree Assessment in the PAR, with most of these issues unresolvable without follow-up from the Certified Arborist and Project Civil Engineer. These errors and inconsistencies should have been identified and resolved as part of the HTH review if it had been thorough. This represents such a large number of trees purportedly assessed in the PAR, that it brings into question the accuracy of even those trees where trunk locations could be verified between mapping sources. The following provides a partial summary of the inconsistencies uncovered during the process of digitizing the tree data, which should if it had been thorough:

- The Tree Assessment in the PAR has 485 trees listed in an unbroken sequence. Table 3, Trees Identified for Preservation, in the PAR lists a total of 82 recommended for preservation of the assumed 485 trees.

- However, only 443 trees of the reported 485 trees from the PAR could be located and digitized from the Revised Civil Plans showing proposed Tree Removal.
- Of these 443 trees in the Revised Civil Plans, 75 trees could be located that were listed in Table 3 of the PAR. Of these 75 trees, 3 carried duplicate numbers, so their locations are uncertain. Which means that only 72 of the 82 trees identified for preservation in the PAR could be located in the available data without any obvious ambiguities.
- Relative to tables in the PAR, 42 trees were totally absent from the Revised Civil Plans, in spite of the map tree number sequence extending to 496, 11 more than what was purportedly assessed in the Tree Inventory. There were several gaps in the tree map numbering sequence, amounting to 80 trees.
- The PAR also contained a gross-scale Tree Assessment Map (TAM) at the end showing approximate tree locations by tree number. The TAM indicates some areas where trees should have appeared on the Revised Civil Plan tree maps when a visual comparison was made, but were missing. Because the TAM is a simple low-resolution image it is difficult to difficult to even “guestimate” where the missing trees might be located, and they could only be approximately located.
- At least 58 of the tree numbers in the Revised Civil Plans were either duplicated or were duplicates. This means that a tree could appear in two different places on the map with the same number. This means that the locations of at least 58 of the 443 trees mapped on the Revised Civil Plans are uncertain. It is impossible to tell which location is correct and/or how it should be numbered in alignment with the Tree Assessment in the PAR.
- It appears that the Revised Civil Plans went through multiple updates and that somehow the tree numbering data lost track of the numbering and/or didn't have locations for some of the trees and never pursued verification.

In addition to the inaccuracies in the mapped tree data and uncertainty over just how many trees are proposed for removal, at least an additional 31 trees were identified in the PAR to be preserved but grading and development would extend within the tree dripline and poses a severe risk to these trees, in conflict with the basic recommendations for tree preservation and contrary to the assertions in the applicant's Project Description that these trees would be retained. Again, the risk to these at trees should have been verified in the DEIR but was not. Instead, the entire discussion of tree loss and risk is limited to just a few lines on page 85 of the DEIR that simply repeats the unverified information from the PAR and applicant's Project Description, that approximately 353 trees that qualify as protected under the County Ordinance would be removed, and that an additional 81 “suitable protected trees are to be preserved”. Several examples of this inaccurate and incorrect information in the PAR for risks to trees to be retained that was not reviewed or addressed in the DEIR but should be included in the Recirculation of the DEIR include:

- Trees #467, 468, 469, and 477 are all shown as being preserved in the Tree Removal Plan and PAR, but the access road through the riparian woodland off of Kinross Drive would include grading and new retaining walls within just a few feet of their trunks, and is it highly unlikely that trees could survive construction-related damage and disturbance to the tree root zones and canopy.
- Tree #389 is a specimen valley oak growing on the property line, which has undergone decline but remains a dramatic feature at the west end of Allegheny Drive. Grading would extend to within several feet of the trunk of this tree, well within the tree canopy, and would

eliminate most of the remaining root system that wasn't disturbed when the Heather Farm Neighborhood was developed decades ago.

- Trees #356, 357, 359, and 370 occur along the north side of the central perennial drainage and would have retaining walls constructed within much of the tree dripline, some within just a few feet of the trunk. These walls would reach heights of over 20 feet and would require removal of much of the major limbs over half of the tree dripline if the trees were to survive construction.
- Tree #428, the specimen valley oak that forms the predominant feature in views of the SHR site from the Equestrian Center in Heather Farm Park and the soccer field from Seven Hills School would have a retaining wall within the uphill side of the tree dripline up to six feet in height, extending along the east side of the tree and reaching a height of almost 12 feet to the east. Surface drainage important to the long-term survival of this iconic specimen tree would be completely interrupted by the proposed Project, and pathways with irrigated landscaping would surround the remaining perimeter of the tree dripline, all conditions that would conflict with best management practices for mature oaks and would likely contribute to its eventual decline and death.
- Trees #436 through 450 grow along the south edge of the property line to Seven Hills School and would have grading to install a new retaining wall within 15 feet of their trunks. Grading this close to established trunks could lead to their decline and eventual death.
- Trees #287, 288, 291 are specimen valley oak trees that would be affected by construction of retaining walls up to 26 feet in height within their driplines on the northwest end of the central perennial drainage, with the footings of the walls constructed less than 15 feet from their trunks. Major limbs and much of the tree canopy would likely have to be removed to accommodate these walls, and if they were to survive likely construction damage, the changes in surface drainage and other modifications would most likely lead to their eventual decline and death.
- Trees #269, 267, 262, 259, 258, 257, 256, 255, 253, 252, 247, 233, 232, and 231 are associated with stands of trees along the western edge of the site that would be affected by grading, fills and construction of retaining walls up to 21 feet in height within their driplines, with the footings and other grading constructed less than 15 feet from their trunks. Major limbs and much of the tree canopy would likely have to be removed to accommodate these walls, and if they were to survive likely construction damage, the changes in surface drainage and other modifications would most likely lead to their eventual decline and death.
- Trees #183, 182 and 036 are specimen valley oaks near the southwestern edge of the property that would have grading and retaining wall construction within their driplines. Surface drainage important to the long-term survival of these specimen trees would be completely interrupted by the proposed Project and would conflict with best management practices for mature oaks and would likely contribute to its eventual decline and death.

Finally, the tree inventory in the PAR did not include an assessment of all trees in off-site locations that could be affected by the proposed Project. This includes trees in proximity to proposed grading and other disturbance, such as the mature valley oaks along the southwestern edge of the site where biofiltration basins, retaining walls and other modifications are proposed within the tree driplines; trees along Seven Hills Ranch Road frontage which could be affected by off-site infrastructure improvements, particularly the specimen valley oak at the northeast corner of the Homestead Creek crossing; and trees along the proposed off-site improvements to North San Carlos Drive past the

northwest side of the lake in Heather Farm Park. As discussed on Page 23 of the DEIR under Section 2.2.7, North San Carlos Drive would be improved from the proposed EVA gate to the Heather Farm Dog Park to meet fire district standards, but no information is provided to explain what would be involved and whether any trees or other important features like the aquatic habitat of the lake could be impacted. This segment of North San Carlos passes within 15 feet of the regulated waters along the lake and through valley oak woodland in the Nature Area of Heather Farm Park as indicated in these photographs.

Given the magnitude of the inaccuracies, errors and omissions described above, an independent peer review of the PAR and Revised Civil Plans should be performed by a certified arborist retained by the County to provide an accurate baseline necessary to accurately assess the potential impacts, and update information on tree removal and risk provided in the Recirculated DEIR. An accurate map(s) showing each protected tree proposed for removal or preservation under the proposed Project and relationship to grading and other modifications should be provided in the Recirculated DEIR. The map(s) should indicate whether it is a native or non-native species, provide some indication of size class, health and suitability for preservation, and the limits of proposed grading and other disturbance in the vicinity so that an accurate assessment of possible damage or loss can be made as part of the analysis and to confirm its accuracy. The independent peer review should include at least a random sampling that verifies the tree data contained in the PAR, with the inventory and mapping updated, if necessary, based on any deficient or inaccurate information. A detailed analysis of the risk of loss or decline to individual trees which qualify as a protected tree under County ordinance, and the number of trees proposed for removal updated to provide an accurate understanding of the full impacts of the proposed Project on tree resources and woodland habitat. This should include information on all off-site trees that could be impacted by the proposed Project. Where trees within the incorporated areas of Walnut Creek could be affected, a review of conformance with the Walnut Creek General Plan policies and ordinances should also be provided, in addition to that under County jurisdiction.

Response 143.12: Please refer to Master Response 1: County General Plan Policy Consistency and **Response 121.2** regarding corrections to tree numbering between project plans and the arborist report.

Comment 143.13: Under Impact BIO-5 on page 85, the DEIR acknowledges that a permit would be required for the removal of any tree which meets the definition of “protected tree” but concludes that the removal of approximately 353 protected trees would be a less than significant impact and that no mitigation would be required. Apparently because “the project herein incorporates the request to remove the above mentioned trees.” Followed by an unsubstantiated claim that “an additional 81 suitable protected trees are to be preserved, including all of the major valley oaks.” The HTH review and DEIR simply repeats the claims in the applicant’s PAR and Project Description, with no critical review or disclosure of the major errors and inconsistencies described above, and no analysis of opportunities to adjust the limits of grading and other disturbance associated with the proposed Project to provide for additional tree protection and reduction in the scale of tree loss. No map, table, or other verifiable evidence is provided that demonstrates “all of the major valley oaks” would be preserved, which is grossly inaccurate when one actually reviews the tree data in some level of detail.

To provide an indication of whether all the “major valley oak” would be preserved, the location of heritage-sized trees was plotted in relation to the Project limits of grading and other modifications, as part of a constraints analysis that is typically performed to evaluate reasonable alternatives, which

was not done as part of the DEIR. The CC County Constraints Alternative Map below shows the location of heritage-sized native trees based on digitized data from the PAR and whether they would be removed or retained, together with other major constraints which should have been recognized as part of the analysis in the DEIR, including required buffers from wetland drainages, stands of valley oak woodland, and steep slopes in excess of 26 percent, all called out for protection under County Ordinance and/or General Plan policies.

As indicated in the CC County Constraints Alternative Map, while grading directly avoids the trunks of about 21 of the larger valley oaks to be retained along the periphery of proposed grading, in some cases of questionable long-term viability as reviewed above, at least 20 heritage-sized trees scattered throughout the site would be removed as currently proposed. The claim in the DEIR that “all of the major valley oaks” would be preserved is an unsupported, gross distortion by the applicant that was simply repeated in the DEIR with no attempt at verification, which is inexcusable as a public information document, especially given the controversy around tree loss surrounding the proposed Project. In addition, close to half of the 81 protected trees to be “retained” in the claim made on page 85 of the DEIR are so close to Project-related disturbance that they are of risk of damage and loss as a result of construction activities and long-term changes to drainage, available water, and other factors, as discussed above. No independent analysis of the risk to these 81 protected trees, likelihood of their long-term survival, or specific recommendations such as adjustments to the limits of grading, use of short retaining walls or oversteepened slopes, was provided in the DEIR or background reports, which must be performed as part of the analysis in the Recirculated DEIR.

Response 143.13: The comment’s referenced sentence in the Draft EIR was revised to remove “including all major valley oaks.” Please refer to Section 5.0 Draft EIR Text Revisions below.

Comment 143.14: The magnitude of the potential impact on protected trees warrants an explanation for how a determination was made in the DEIR that the loss of over 353 protected trees and associated a habitat is less than significant and requires not type of mitigation. By what basis and under what criteria was this determination of less-than-significant impact made by the County? What other projects have been approved by the County in the recent past, or even distant past, which involved the removal of hundreds of protected trees? If there are any such projects, please summarize some details about the project, the site, an estimate of total trees on the site and percentage protected, and whether any compensatory mitigation was required? And finally, why was the recommendation by CDFW in their NOP response letter to provide replacement tree plantings at a 6:1 ratio disregarded in the analysis under Impact BIO-5, particularly given they are a Trustee Agency and likely a Responsible Agency for required discretionary approval for the proposed Project? The purpose of the County’s Tree Ordinance is to ensure a thorough review of applications in balancing the importance of protecting regulated trees with private development interests. Not to simply permit an application proposing to remove over 350 protected trees without a critical review that includes consideration of options to avoid areas with high numbers of trees or even larger trees of heritage-size under County code, which was not performed in the DEIR. The discussion under Impact BIO-5 states that “should the project be approved, conditions will be imposed as part of the proposed entitlement’s conditions of approval. Conditions may include tree restrictions, protective measures identified by the arborist report, and assurance bonds to ensure that all conditions will be successfully met.” But once the project is approved, refinements to preserve additional protected trees would not be possible, so the statement is misleading at best regarding “tree restrictions”.

Without some critical review and analysis conducted during the CEQA review process, and refinements to the proposed Project to further address the significant impacts on valley oak woodlands, riparian woodlands, and tree resources, the County would be abdicating their responsibility to ensure compliance with the intent of the Tree Protection Ordinance and conformance with applicable General Plan policies related to protection of trees and native vegetation, including Policies 8-6, 8-7, 8-14, 8-80, 8-86, and 8-89.

Response 143.14: Please refer to Master Response 1: County General Plan Policy Consistency for General Plan consistency and to **Response 121.1:** regarding oak woodlands. Please also refer to Section 5.0 Draft EIR Text Revisions below for correction to description of habitat types on-site.

Impacts related to the removal of trees from the project site and their subsequent impacts to animal species, riparian, and wetland areas are discussed in Section 3.4.2.1 Project Impacts under Impact BIO-1 through Impact BIO-4 of the Draft EIR (pages 77-85). The Draft EIR evaluated the project's removal of trees in compliance with the County's Tree Ordinance under Impact BIO-5 (page 85-86). The project would comply with all aspects of the Tree Ordinance and obtain permits from the County and City prior to the removal of any protected trees. Since the project would comply with the local policy protecting trees, the Draft EIR concluded that the project would result in a less than significant impact.

Comment 143.15: Regarding proposed tree replacement, the Project Description on page 9 of the DEIR under Landscaping, states that the Project would remove approximately 353 existing trees and plant 1,078 trees. That the central drainage would be enhanced with riparian plantings including willows and native oaks. As indicated on page 82 of the DEIR, the proposed Project would “enhance the riparian corridor along the central drainage”, and implementation of MM BIO-2.1 and MM BIO-2.2 would presumably “ensure” that adverse impacts to existing riparian habitat is kept to a minimum and the Project's riparian enhancement design is subject to a regulatory agency-approved Riparian and Aquatic HMMP. However, no reference is made anywhere in the Biological Resources section of the DEIR that the proposed Landscape Plan was reviewed in the HTH report or DEIR to ensure compatibility and adequacy of the proposed tree plantings, and whether the proposed riparian enhancement design along the central drainage is appropriate, which is not the case. As discussed above under Sensitive Natural Communities, the Restoration Concept Plan (Sheet L-6 of proposed Landscape Plans) proposes overly dense plantings of willow and oak along the entire central drainage which would eventually shade out the existing high quality freshwater marsh and seasonal wetland habitat. Of the 1,078 “trees” to be planted under the Project Landscape Plans, a review of the Conceptual Design (Sheet L-1) indicates that only 250 or roughly 23 percent of the proposed tree plantings are native species indigenous to the Walnut Creek vicinity, primarily valley oak and coast live oak. This does not even provide a 1:1 replacement ratio for the protected trees to be removed, and no analysis is contained in the DEIR for how the proposed tree replacement in the Landscape Plan would address the direct removal and substantial limb removal that would be required to many of the trees proposed to be retained in close proximity to retaining walls and other modifications, which must be provided in the updated analysis in the Recirculated DEIR.

As discussed above under comments on Sensitive Natural Communities, no avoidance and/or compensatory mitigation for loss of trees and oak woodland habitat was included in the DEIR even

though significant adverse impacts would result from the proposed Project. The removal of a minimum of 353 trees which qualify as protected, and dozens of other trees that would be at risk of decline and eventual loss, would be a significant impact under any circumstances, but certainly for a Project that requires both a General Plan Amendment and Rezoning for approval. Mitigation should at minimum include avoidance of most of the larger stand of valley oak woodland and riparian habitat at the upper end of the central drainage which can be accomplished by relocating the proposed bridge crossing outside and restricting the limits of grading outside the canopy of this important stand of the woodland sensitive natural community types.

Other areas of valley oak woodland would still be affected by the proposed Project but could presumably be mitigated for by implementing the VOM Program called for in the above comments on Sensitive Natural Communities. The VOW Program should identify feasible locations to replace valley oak and riparian woodland habitat on the site at a minimum 2:1 ratio (ratio of acreage of replacement habitat to habitat affected). As noted before, use of the periphery of the proposed open space along the central drainage for part of the VOW Program must ensure that the tree plantings don't eventually shade out the existing high quality seasonal wetland and freshwater marsh along this feature. The proposed "Restoration Concept" in the Project Landscape Plans (see Sheet L-6) consist of overly dense plantings of willow and oaks that would shade out the existing wetland habitat along the central drainage. This indirect impact was not assessed in the HTH review or the DEIR, and the plans should be revised to ensure protection of this sensitive wetland habitat.

The proposed mitigation identified in the HTH review that was simply folded in as Best Management Practices rather than mitigation under Impact BIO-5 in the DEIR is grossly inadequate and basically provides only standard practices to protect trees to be retained. It provides no measures to avoid the canopy of specimen trees to be protected or adjust the limits of grading to avoid large areas of native trees that qualify as protected under County ordinance, such as the stand of riparian and valley oak woodland at the upper end of the central drainage discussed above under Sensitive Natural Communities, which should be provided as part of the independent peer review and incorporated as mitigation measures in the Recirculated DEIR. Where replacement tree plantings are provided as part of recommended mitigation, they should be provided at ratios consistent with CDFW and other standards. The CDFW NOP response letter recommended a replacement ratio of 6:1 for native trees to be removed, which would be unachievable on the site without a considerable reduction in the total number of trees proposed for removal.

Replacement plantings for the significant number of protected trees lost as a result of the proposed Project should be provided on-site in areas that are retained as permanent open space, and the analysis in the Recirculated DEIR should verify and demonstrate that there is adequate land area to provide compensatory mitigation. The HTH review and DEIR provides no analysis regarding the feasibility of on-site replacement plantings, which would be unachievable at even a 1:1 replacement ratio as recommended in the PAR under the proposed Project given the high number of trees to be removed and the limited suitable areas around the perimeter of the site without proposed structures, impervious surfaces, and biofiltration areas, or exposed bedrock in the future where proposed cut slopes would remove the existing shallow layer of soil on much of the site. Evidence of this challenge in establishing trees or any landscaping for that matter on the sandstone bedrock found in this area is visible in the prominent cut slopes along Ygnacio Valley Road between Ygnacio Court and Marchbanks Drive, as indicated in the photograph below.

As described in detail above, the DEIR is grossly deficient in its assessment of potential impacts on tree resources and woodland habitat. This includes loss of most of the riparian and valley oak woodland along the upper portion of the central drainage, removal of over 353 protected trees from the site and risk to over half of the 81 to be “retained” but in close proximity to project-related disturbance, conclusion that potential impacts on tree resources is less than significant and requires no compensatory mitigation of any kind, and lack of review of the compatibility and feasibility of the limited native tree plantings to be installed as part of the proposed Landscape Plans. These are all substantial issues that should have been thoroughly reviewed in the DEIR but were not. They should have been documented to disclose baseline conditions and allow for a thorough analysis of the direct and indirect significant impacts as part of the CEQA environmental review. Given the magnitude of this missing and unverified information, the obvious significance of the potential impacts on tree resources, and conflicts with the intent of the County Tree Ordinance and General Plan policies, a Recirculated DEIR is warranted to provide for full disclosure and allow the public and decision-makers to understand the potential implications of the proposed Project and alternatives available that would serve lessen or fully mitigate these adverse effects.

Response 143.15: Please refer to **Response 121.1:** regarding the potential for oak woodlands. Mitigation measure MM BIO-2.2 requires preparation of a Riparian and Aquatic Habitat and Monitoring Plan (Riparian and Aquatic HMMP) prior to the issuance of grading permits. This Riparian and Aquatic HMMP would be prepared by a qualified restoration ecologist and include a review of the proposed planting plan around the central drainage.

The project’s tree replacement rates and selected species would comply with the County’s Tree Preservation Ordinance.

Comment 143.16: WILDLIFE HABITAT AND MOVEMENT OPPORTUNITIES

The HTH review and DEIR inaccurately characterize the existing wildlife habitat conditions on the site, and do not acknowledge its relationship to the surrounding undeveloped lands such as the Natural Area of Heather Farm Park or the current opportunities for wildlife movement to and from the Homestead Creek corridor, the Heather Farms neighborhood to the east, and parklands to the north. The discussion of existing wildlife habitat in the HTH review and under Impact BIO-4 of the DEIR dismisses the importance of the site as a refuge to a high numbers of deer and other wildlife that forage in the surrounding residential neighborhoods to the southwest, south, and east and Heather Park to the north, and retreat to the relatively protected area on the SHR site where human access is restricted and limited. The perennial surface waters available along the central drainage, the southern perennial drainage, and Homestead Creek on the site provide an important source of drinking water and attract wildlife during the dry summer and fall months. Neighbors have reported numerous species of birds, including nesting red-tailed hawk, deer, coyote, gray fox, raccoon, striped skunk, western pond turtles, and even river otters from the site, indicating a much higher habitat value than described in the DEIR.

The importance of the adjacent Heather Farm Park is also disregarded in the cursory reference to contained in the DEIR, that “much of the park lacks high quality habitat” and the lake and surrounding uplands “attract moderate numbers of locally common, urban-adapted birds, occasional migratory birds, and other wildlife...”. When in fact the Nature Area is an eBird hotspot with a large

number of observed resident, migratory, common and uncommon, the lake supports a large population of WPT not disclosed in the DEIR which is a California Special Concern Species, and contains suitable habitat for other special-status species, including CRLF, as discussed above under Special-Status Species. Well- established wildlife trails are visible through the three-strand barbed wire fencing along the northern and southern boundaries of the site, and in openings to the six-foot cyclone fence along the eastern edge of the site, contrary to the assertions in the HTH review and on page 85 of the DEIR that the “project site does not currently function as a high-quality wildlife corridor”. The site is in fact the only corridor available for land-mobile wildlife movements given the current condition of the Walnut Creek channel and developed lands to the east, magnifying the importance of the site to wildlife in dispersing into the surrounding neighborhoods and parklands, and returning to the relatively secure refuge it now provides. These mischaracterizations of the existing habitat values of the SHR site and adjacent Nature Area in Heather Farm Park should be corrected in the DEIR.

The proposed Project would presumably include impermeable fences, walls and gates that would preclude future access by land-mobile wildlife, although this has not defined or disclosed anywhere in the DEIR or HTH review. This presumably includes new exclusion fencing along the boundaries of the SHR site where existing barbed wire livestock fencing and openings in the cyclone fencing still allow for unobstructed movement of land-mobile wildlife through the area. No information is presented in the DEIR or applicant’s Project Description on what type of fencing, walls and gates are proposed around the SHR site, which is a glaring omission given the implications on wildlife movement.

Project implementation and urbanization of the site would eliminate existing wildlife habitat over more than 90 percent of the 30.6 acre site, including highly sensitive riparian woodland, oak woodland, and most of the tree and grassland cover. Although not disclosed in the DEIR, Figure 2, Impact Map, from the HTH review does show that permanent impacts would encompass 26.72 acres and temporary impacts to 4.13 acres of the study area, as indicated in the excerpted map below. Basically, everything on the site would be eliminated or disturbed with the possible exception of the relatively narrow band of regulated wetlands along the central drainage. All wildlife would likely be killed or displaced during initial grubbing and grading, with larger wildlife forced off the site. These larger wildlife species, including the numerous deer, would most likely have no other secure habitat available in the surrounding area and would likely be lost to vehicle collisions, entanglement with fencing and other barriers while fleeing, stress, and eventual decline and death due to the lack of available essential resources. This displacement and lack of available retreat in the surrounding areas is not acknowledged in the DEIR and no mitigation measures have been developed to address this significant impact. A detailed Wildlife Relocation Plan (WRP) should be required to address the construction-related displacement of wildlife from the site when grubbing and grading is initiated. The WRP should be prepared in consultation with the CDFW defining how deer and other larger wildlife are to be treated during construction, and possibly include a capture and relocation program implemented by a qualified wildlife biologist to help minimize the risk of vehicle collisions and other loss that would otherwise likely occur as a result of Project implementation.

Retaining and enhancing the central perennial drainage, as currently proposed, would not replace the current functions and values of the site to wildlife, which would have no alternative location to survive if displaced by the proposed Project. The central drainage would be bordered by retaining walls up to 22 feet in height and exclusion fencing at the upstream and downstream ends, and

perimeter of the site, which would prevent access and recolonization by even more common wildlife species. Ultimately, the comparative value of the “enhanced” riparian corridor under the proposed Project would be less than its existing value to wildlife given the unobstructed access wildlife currently have and limited disturbance by humans and pets, which would no longer be the case. The proposed “Restoration Concept” in the Project Landscape Plans (see Sheet L-6) shows trails and overlooks on both sides of the central drainage, which would likely be frequented by future residents and their pets, and would come to within about 15 feet of the freshwater marsh and seasonal wetland habitat, greatly diminishing their value to wildlife, none of which is not disclosed or mitigated for in the DEIR. Typically, CDFW calls for providing minimum setbacks for trails and other access into riparian corridors and other sensitive wildlife features, and such small setbacks as currently proposed would be inconsistent with those typical setback standards.

Contrary to the assertion under Impact BIO-4 that impacts on wildlife movement opportunities and native nursery sites would be less than significant, the conversion of 30 acres of existing habitat to urban use, together with the loss of future access to the perennial wetlands and riparian habitat along the central drainage would be significant. Displacing wildlife from a 30-acre site and basically converting the existing habitat they are dependent on to urban use with permanent barriers that prevent eventual recolonization is not a less-than-significant impact as claimed in the DEIR. Land mobile wildlife would no longer be able to disperse across the site as they currently do, in moving between Heather Farm Park and the residential neighborhoods to the southwest, south and east. Even raptors such as the red-tailed hawk pair known to nest on the site, which was not disclosed in the DEIR, would most likely be permanently displaced with the loss of most of the remaining grasslands in this part of Walnut Creek, losing this important native “nursery” from the site. The analysis in the DEIR regarding wildlife habitat and movement opportunities is deficient and does not disclose baseline conditions necessary to allow for an analysis of the direct and indirect impacts of the proposed Project. Given the magnitude of this missing and unverified information, the obvious significance of the potential impacts on wildlife habitat and movement opportunities, a Recirculated DEIR is warranted to provide for full disclosure and allow the public and decision-makers to understand the potential implications of the proposed Project and alternatives available that would serve to lessen or fully mitigate these adverse effects.

The magnitude of this loss of habitat, displacement of wildlife, and exclusion of land-mobile wildlife on the value of the surrounding area and viability to sustain wildlife species now found in this part of Walnut Creek and Heather Farm Park is not addressed in the DEIR, including under the discussion under Impact BIO-C. Cumulative Impacts. Contrary to the assertion on page 87 of the DEIR that the “project would not result in a cumulatively considerable contribution to a cumulatively significant biological resources impact”, it would devastate the viability of this part of Walnut Creek to support and maintain current population numbers and even species, such as the pair of red-tailed hawks which currently nest on the site and likely depend on the grasslands on the site as primary foraging habitat. The remaining natural grasslands in the surrounding area are likely so limited in extent that maintaining a nest at this location in Walnut Creek would not be sustainable, directly as a result of the proposed project. Similarly, the refugia the site currently provides even common wildlife species like deer, fox, and coyote are likely a critical factor in maintaining viable populations in this part of Walnut Creek. Although it was not disclosed anywhere in the DEIR, the Hale family also owns the large undeveloped parcels to the south of the SHR site within the City Limits of Walnut Creek, which also provides foraging habitat for grassland dependent species. The infrastructure installed along Seven Hills Ranch Road would contribute to the feasibility of developing these vacant lots, and

the growth inducing and cumulative contribution the proposed Project would have on the eventual conversion of these remaining vacant lots to residential development was not disclosed here or anywhere else in the DEIR, which is major omission in the document. Security fencing installed as part of the proposed Project would create new barriers to land-mobile wildlife that would prevent access from these vacant lots and the large, partially developed parcels along Homestead Creek to the currently undeveloped habitat on the SHR site and the Natural Area of Heather Farm Park and permanent open space in the Heather Farms development, which represents a significant project and cumulative impact on wildlife movement opportunities through this part of Walnut Creek and requires mitigation to address this impact, including maintaining a viable movement corridor across the SHR site.

Response 143.16: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation and Wildlife Movement Corridors sections above.

Comment 143.17: Regulated Waters

In 2019, the CEQA Guidelines were revised to ensure consideration of State-regulated wetlands in evaluating the potentially significant impacts of a project, not exclusively federally-regulated wetlands. The HTH review and DEIR do not document all State and federally-regulated waters on the SHR site or address the full impact of the proposed Project on wetlands and regulated waters, including the loss of riparian woodland and possibly other State-wetlands along the central perennial drainage and other locations on the site. The DEIR glaringly failed to describe or map the wetland and riparian habitat along the Homestead Creek corridor, which touches the southwestern edge of the SHR site before its confluence with the Walnut Creek channel. This portion of the site extends down a steep slope of valley oak woodland and grassland cover, and interfaces with the well-developed and intact riparian woodland habitat along the Homestead Creek corridor, described above under comments on Special-Status Species and suitable habitat for CRLF. As discussed above in comments on Sensitive Natural Communities, the DEIR incorrectly states on page 70 that the mischaracterized “constructed ditch” is “...considered Non-Jurisdictional Waters and are exempt from federal regulation”, when in fact the CORPS corrected this assertion by the applicant’s wetlands consultant and renamed this feature as a “perennial drainage” and determined that is a regulated federal waters. The description of flows from the southern perennial drainage under Impact BIO-3 on page 82 of the DEIR incorrectly states that this feature is a “constructed ditch, which appears to primarily convey storm water runoff from the development upslope of the project site to the south and southeast, along Seven Hills Ranch Road and into the concrete-lined channel of Walnut Creek”, when in fact this is a modified natural feature (see comments above under Sensitive Natural Community) that is tributary to Homestead Creek, where flows continue off the SHR site along the road-side ditch along Seven Hills Ranch Road and discharge directly into this creek. Homestead Creek then continues as a high-quality, intact natural riparian corridor for over 300 feet before reaching the modified Walnut Creek flood control structures. The DEIR does not even acknowledge the presence of Homestead Creek anywhere in the DEIR (see location of Homestead Creek in the above Tree Removal Map), or the fact that the SHR site actually touches this feature in two places, a gross omission given its high value, fact that it is a regulated-waters, and supports special-status species such as WPT.

The mischaracterization in the HTH review and DEIR of the southern perennial drainage as a non-regulated, constructed feature ignores the determination of the CORPS that it is a protected waters

tributary to Homestead Creek. This mischaracterization continues in the assertion that it is not regulated under the Contra Costa County Creek Structure Setback called for in Title 9, Division 914, which is incorrect. At minimum, Section 914-14.012, Structures setback lines for unimproved earth channels, calls for a minimum 30 foot horizontal setback distance between the top of bank and proposed structures, as indicated in the excerpt from the Code, which is not provided under the proposed Project and not disclosed in the HTH review and DEIR. As indicated in the Southern Perennial Drainage Map below, the proposed Project would completely relocate the existing channel to the very southern edge of the site and then would construct Project-related structures within the minimum setback distance, including new retaining walls up to 14 feet in height, a bioretention basin stretching over 150 feet in length within a few feet of the relocated drainage, and the new EVA access off of Seven Hills Ranch Road. All of which are in conflict with County Code and were not disclosed or assessed in the DEIR. Under Subsection (d) of the code, “where significant riparian vegetation exists beyond the limits required above, the advisory agency may extend the setback line to include such areas.” This additional setback distance is warranted along the southern perennial drainage on the SHR given the continuous overstory of both native and non-native species, and presence of scattered wetlands along this feature. Instead, the DEIR dismisses this feature as a “constructed ditch” and does not call for any setback of any kind from this regulated waters.

Contrary to the assertions in the HTH review and the DEIR, the southern perennial drainage is a natural feature that has been modified in the past to improve its stormwater conveyance, likely when it was relocated during construction of the extension of Seven Hills Ranch Road onto the site over 100 years ago. It contains high quality riparian habitat just upstream of the site, within the proposed Kinross Drive extension that would be affected by the proposed Project, and is tributary to Homestead Creek downstream. For these reasons the minimum setback distance of 50 feet from the centerline of the existing or relocated alignment of the southern perennial drainage should be provided in accordance with Policy 8.89 of the County General Plan. Other relevant Policies 8-24, 8-27, 8-80, 8-82, and 8-86 also apply to the southern perennial drainage to maintain and enhance the existing habitat values of this feature, replace the high quality riparian habitat eliminated as a result of the unavoidable impacts from the Kinross Drive extension, and convey stormwater flows from the upgradient watershed, all of which are not addressed in the DEIR. The mischaracterizations and omission regarding the southern perennial drainage and Homestead Creek is evidence that regulated waters were not adequately mapped, described, and assessed in the DEIR. The applicability of local plans, County codes and policies, presumably addressed under Impact BIO-5 of the DEIR, did not consider the major inconsistencies regarding treatment of the southern perennial drainage under the proposed Project. Because an accurate baseline necessary to accurately assess the potential impacts of the proposed Project has not been provided, supplemental surveys and mapping should be conducted to document the full extent of federal and County-regulated waters on the site, and the results of that information included in an updated analysis in the Recirculated DEIR. The analysis under Impact BIO-5 should be revised to acknowledge these inconsistencies and additional mitigation recommended that restricts structures and other improvements outside this setback zone along the southern perennial drainage and provides sufficient land area on the site to achieve adequate compensatory mitigation.

There is no indication that a review of potential State-waters was conducted as part of the HTH review and DEIR. As discussed above under the comments on Sensitive Natural Communities, the HTH review and DEIR neglected to map and describe riparian woodland habitat dominated by native valley oak and willow found along the upper end of the central perennial drainage, and riparian

habitat found along the southern perennial drainage. It also fails to identify areas of potential State-waters beyond the limits of federal-waters (see Figure 3.4-2, Federally Protected Waters and Wetlands On-Site, in the DEIR) which are dominated by Baltic rush and other wetland indicator species. State-waters protected under the Porter Cologne Water Quality Act and other State regulations do not require that all three of the federal-criteria be met and can therefore extend well beyond wetlands mapped as part of a CORPS verified delineation. In riparian areas, where federal waters typically extend to the Ordinary High Water Mark (OHWM) of the creek bank, State-waters extend to the outer limits of riparian vegetation, which can be a considerable distance beyond the top of bank, and certainly beyond the OHWM. A detailed assessment could not be performed during preparation of this review of the DEIR because of restricted access onto the site, but a visual inspection using binoculars found seasonal wetland indicators along the margins of the central drainage that extended well beyond the limits of the seasonal wetlands mapped in Figure 3.4-2. These areas are dominated by conspicuous clumps of Baltic rush (*Juncus balticus*) which is a FACW species. In other comments submitted by SSHR, a field inspection by biologist Ted Robertson indicate that potential seasonal wetlands were observed in another location away from the perennial drainages mapped as part of the CORPS delineation. All of this is evidence that State-waters were not adequately mapped and described in the DEIR. Because an accurate baseline necessary to accurately assess the potential impacts of the proposed Project has not been provided, supplemental surveys and mapping should be conducted to document the full extent of State-waters on the site, and the results of that information included in an updated analysis in the Recirculated DEIR.

The HTH review and DEIR do not acknowledge the presence of riparian canopy along the southern perennial drainage on the site, beyond the footprint of the Kinross Drive extension. The southern drainage is a tributary of nearby Homestead Creek, which was not even acknowledged in the DEIR. The southern perennial drainage has clearly been modified over time but has been mischaracterized in the DEIR and background reports as a ditch constructed in uplands. This mischaracterization dismisses the likelihood that this feature was in fact a natural drainage that was relocated when Seven Hills Ranch Road was extended onto the site, possibly over 100 years ago. As discussed above under the comments on Sensitive Natural Communities, the original wetland delineation by OE tried to mischaracterize this drainage as a “non-jurisdictional constructed ditch” but the CORPS determined as part of their verification that it was in fact a regulated “perennial drainage”. Routine clearing on the SHR site has likely prevented the establishment of woody riparian vegetation along much of the southern perennial drainage, but mature trees provide a near continuous canopy along this entire feature until it reaches Homestead Avenue (see map of Southern Perennial Drainage below). Although planted eucalyptus dominate the tree canopy through this reach of the southern perennial drainage, the DEIR does not disclose the fact that many of the trees along this feature are native valley oaks. Regardless, the presence of tree canopy along the southern perennial drainage could qualify as “riparian habitat”, just as the native-dominated tree canopy along the Kinross Drive extension segment of this feature has been. The CDFW, which regulates modifications to streams and riparian habitat as State-waters should have been consulted during preparation of the DEIR to determine whether the southern perennial drainage is considered jurisdictional and whether the continuous tree canopy across the SHR site is considered riparian. This consultation should be undertaken, and the results described and mapped in the Recirculated DEIR.

Response 143.17: Please refer to **Response 1.4:** and **Response 43.5:** above regarding impacts to the southern perennial drainage.

Comment 143.18: Based on the presence of State-waters not disclosed in the DEIR, the potential impacts on riparian habitat and regulated State-waters are much greater than was indicated in the HTH review and DEIR. Under Impact BIO-2 on page 81 of the DEIR contends that the Project "...would permanently impact approximately 0.16 acre of riparian woodland habitat and will result in the removal or damage of up to 13 riparian trees due to partial clearing for the extension of Kinross Drive." But it does not disclose or assess potential impacts on riparian habitat associated with the proposed bridge crossing and grading in the vicinity of the central drainage, or possible impacts on potential seasonal wetlands that qualify as State-waters located beyond the footprint of the federal-waters along the central drainage and possibly other areas on the SHR site. It also does not disclose potential impacts on regulated waters that could be affected by the proposed off-site modifications along Seven Hills Ranch Road, which could include reconstruction of the existing culvert crossing to Homestead Creek, and the changes to North San Carlos Drive where it borders the lake in Heather Farm Park. Because an accurate baseline necessary to accurately assess the potential impacts of the proposed Project has not been provided, supplemental surveys and mapping should be conducted to document the full extent of regulated waters on and off- site, and the results of that information included in an updated analysis in the Recirculated DEIR.

No conceptual mitigation plan has been prepared to address the potential impacts of the proposed Project on regulated State and federal-waters, which is typically provided as part of a DEIR to allow for public review and comment on its adequacy. Mitigation Measures BIO-2.1, BIO-2.2, BIO-3.3, and BIO-3.2 have been recommended in the DEIR to address identified impacts on riparian habitat and regulated waters, but these are either vague measures to minimize impacts and use best management practices, or they're focused on the erroneous assumptions regarding the limits of State and federal-waters affected by the proposed Project, which is much greater and involves regulated waters outside the Kinross Drive extension not addressed in the DEIR. In particular is the omission of direct impacts to riparian habitat and wetlands along the central drainage which would be impacted by the new bridge crossing and proposed removal of the existing culvert, and the proposed relocation of the entire southern perennial drainage, which is proposed to be completely relocated to the very southern edge of the site with new retaining walls, a bioretention basin and other structures installed within a few feet of this relocated feature, rather than enhancing it as a natural drainage and using it to mitigate the upstream impacts of the Kinross Drive extension.

Mitigation Measures BIO-2.1, BIO-2.2, BIO-3.3, and BIO-3.2 also do not serve to address some of the indirect impacts of the proposed Project and resulting loss or degradation of regulated waters that were not disclosed in the DEIR. These include 1) construction-related disturbance required to install the new bridge and remove the existing culvert crossing of the central drainage, 2) indirect impacts of shading from the new bridge and dense willow and oak plantings that would be installed as part of the Restoration Concept Plan (Sheet L-6 of proposed Landscape Plans), 3) shading from retaining walls of over 20 feet in height and retention basins that would border the central drainage and southern perennial drainage that would impede native plant growth and diminish the value of these features to wildlife that currently utilize and rely on them as essential habitat, which could include special-status species such as CRLF and WPT as discussed above under comments on Special-Status Species, among many other potential indirect impacts not addressed in the DEIR. No reference is made anywhere in the Biological Resources section of the DEIR that the proposed Landscape Plan was reviewed in the HTH report or DEIR to ensure compatibility and adequacy of the proposed plantings and whether the proposed riparian enhancement design along the central drainage is appropriate, which is not the case. As discussed above under comments on Sensitive Natural

Communities, the Restoration Concept Plan proposes overly dense plantings of willow and oak along the entire central drainage which would eventually shade out the existing high quality freshwater marsh and seasonal wetland habitat. The DEIR also does not disclose the potential indirect impacts of the proposed Project on the freshwater marsh and seasonal wetlands as a result of the possible excavation and recompaction of fills up to 17 feet in depth along much of the southern edge of the central drainage, as discussed in other comments by SSHR. Excavation below the existing ground and surface waters levels along this feature, which could take a considerable length of time and require continuous dewatering of this feature, could have major implications on its viability and the assumption in the DEIR that the regulated waters along the central drainage would be avoided from construction-related disturbance with the simple installation of temporary exclusionary fencing, which would no longer be feasible as mitigation. None of these potential impacts on regulated waters have been addressed in the discussions under Impact BIO-2 and Impact BIO-3, or effectively mitigated in any way under the current language in Mitigation Measures BIO-2.1, BIO-2.2, BIO-3.3, and BIO-3.2.

Response 143.18: Please refer to **Response 2.1:**, **Response 141.29:**, and **Response 143.4:** regarding the impacts related to the clear span bridge, State-waters, and drainage along North San Carlos Drive, and Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 143.19: County ordinance and General Plan policies call for a minimum 50 foot setback from creeks, among other protections not addressed in the Biological Resources section of the DEIR. Contrary to the assertion on page 86 of the DEIR which claims that “the project has been designed to incorporate a 50- foot setback from the centerline of the central drainage and proposes restoration and enhancement of wetland and riparian habitat within this preserved corridor” this minimum setback distance is not met as indicated in Figure 2 of the HTH review and shown in greater detail in the Central Perennial Drainage Map below. As clearly shown in the Central Perennial Drainage Map below, proposed retaining walls of 20 or more feet in height would extend within this 50-foot minimum setback for a distance of over 300 feet on the south side of the drainage and a large bioretention basin is proposed at the downstream end of this minimum setback distance. The bioretention basin qualifies as a “structure” as it is a constructed basin that would require future on-going maintenance, limits what type of vegetation can become established in this basin. Its location near the confluence of the central perennial drainage with Walnut Creek would also restrict opportunities for native plantings and possible future enhancement of the Walnut Creek channel, as discussed further below. As noted above under the comments on Loss of Protected Trees and Woodland Habitat, the proposed Project would affect far more of the sensitive riparian habitat than is marked in Figure 2 of the HTH review along the proposed main entrance off of Kinross Drive and summarized in the discussions under Impacts BIO-2 and Impact BIO-3 in the DEIR. This additional riparian and woodland habitat affected by the proposed Project that was not disclosed in the DEIR is clearly visible in the Central Perennial Drainage Map and Southern Perennial Drainage Map

Response 143.19: Please refer to Master Response 1: County General Plan Policy Consistency regarding creek setback requirement.

Comment 143.20: Where direct impacts are unavoidable, compensatory mitigation should be provided through creation of new in-kind habitat at a minimum replacement ratio of 2:1. Not through out-of-kind enhancement as is currently proposed along the central perennial drainage. Because of the deficiencies in the DEIR, not recognizing the actual extent of potential impacts and not

identifying areas where these impacts would or could be achieved on-site, our review indicates that it is not feasible to adequately mitigate for the potential impacts of the proposed Project on-site given the extent of proposed development and the lack of available land area remaining that would be suitable for mitigation purposes. Enhancing the already high value habitat along the central perennial drainage, as assumed in the HTH review and DEIR based on the proposed Restoration Concept Plan (Sheet L-6 of proposed Landscape Plans), would be inadequate and inappropriate given this feature is already of high habitat value, that overplanting with willows and oaks would severely compromise its existing habitat values, and the drainage would basically become isolated from wildlife access because of the extent of adjacent development and barrier fencing installed as part of the proposed Project. The proposed Project should be revised to maintain the minimum 50-foot setback standard from the central drainage, including restricting the proposed retaining walls and bioretention basins outside this setback zone, and to provide a required minimum setback along the southern perennial drainage to allow for adequate on-site mitigation on State and federally-regulated waters, which is currently not feasible. The analysis under Impact BIO-5 should be revised to acknowledge these inconsistencies and additional mitigation recommended that restricts structures and other improvements outside this setback zone along the central drainage and provides sufficient land area on the site to achieve adequate compensatory mitigation.

Proposed mitigation should be achieved by 1) further avoidance of direct impacts to riparian and wetland habitat along the central drainage by relocating the proposed bridge location to avoid loss of riparian tree cover, as discussed above under comments on Sensitive Natural Communities, and 2) by providing an adequate setback from the southern perennial drainage and enhancing this feature in its existing or relocated alignment, providing a minimum 50 foot setback distance in accordance with County minimum setback distances and enhancing the on-site segment from the Kinross Drive extension to the Homestead Avenue undercrossing. Structures should be restricted within the required setback zones and the limits of grading and other project-related improvements such as biofiltration basins located outside the central perennial drainage and southern perennial drainages, as these would compromise the future enhanced value of these features and their function as appropriate locations to mitigate for the unavoidable impacts associated with the proposed Kinross Drive extension and relocated bridge crossing of the central perennial drainage. This approach to mitigation would also avoid the indirect impacts of the proposed Restoration Concept Plan (Sheet L-6 of proposed Landscape Plans) on the existing habitat values of the freshwater marsh and seasonal wetlands along the central perennial drainage, which have not been disclosed or addressed in the DEIR, and would otherwise limit the intended mitigation purpose of creating dense riparian woodland cover to replace that lost from the unavoidable impacts of the proposed Kinross Drive extension. Attempting to create this type of densely wooded riparian habitat is not appropriate along the central drainage, and should instead be achieved along the required setback zone along the southern perennial drainage. As currently proposed, mitigation for potential impacts on regulated waters is inadequate and the DEIR does not disclose this deficiency and fact that achieving adequate mitigation is not feasible. Restrictions on the proposed extent of development are warranted to protect sensitive regulated habitats, meet the minimum setback distances in accordance with County code, and provide sufficient land area to achieve compensatory mitigation ratios, which is not possible under the proposed Project. These constraints to proposed development and options to achieve adequate mitigation are addressed below under Biological Constraints for EIR Alternatives.

Response 143.20: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section and **Response 131.6:** regarding wetland and riparian mitigation.

Comment 143.21: Conformance With “50-Year Plan” Of Contra Costa County Flood Control District

The DEIR also fails to acknowledge the 50-Year Plan of the Contra Costa County Flood Control District (CCC FCD) and conflicts the proposed Project would have with this plan that was adopted by the CCC FCD in 2009. Impact BIO-5 in the DEIR presumably assesses any conflicts the proposed Project would have with local plans and policies, but does not even describe the 50-Year Plan let alone assess conformance or conflicts. No summary or review of the 50-Year Plan is provided under the discussion of applicable Regional and Local Plans on page 66 of the DEIR.

The CCC FCD adopted the 50-Year Plan with the understanding that the concrete channels installed in the late 1960s and early 1970's, like the Walnut Creek channel along the western frontage of the SHR site, have a useful end life of about 50 years, and in 2009 they adopted the 50-Year Plan with a general goal of restoring creeks to some enhanced condition as part of future maintenance/replacement efforts. Unfortunately, there are very few locations with undeveloped land where any type of meaningful restoration would be possible along the channelized reach of Walnut Creek, with the western frontage of SHR site probably the last major one of any size.

In 2021 the CCC FCD funded preparation of the “Walnut Creek Watershed Restoration Opportunities” (WCWRO) report. The WCWRO (<https://riverlab.berkeley.edu/index.php/news/50yp/>) was prepared by Riverlab at UC Berkeley to explore restoration challenges and opportunities, taking the 50-year plan to the next stage. It recognizes Seven Hills Ranch as a key restoration opportunity site W5 (see excerpt below from page 123 of the WCWRO) and in various maps. Regarding restoration opportunities, the WCWRO concluded that although the Grayson Creek tributary has limited opportunities, that "remnant assemblages of native fish in patches of Walnut Creek and San Ramon Creek, however, indicate the potential for watershed-scale restoration to mitigate urban hydromodification, expand habitat area, and allow natural patterns of flooding (a requites or "keystone" disturbance process) to support native fish and reduce competitive pressure of exotic generalists." (page 60, last paragraph). The WCWRO then goes on to state that "rRestoration to reinvigorate persistence of salmon populations in Walnut Creek's watershed would at least require removing barriers to movement, reducing storm flow velocities and reducing excessive peak flows, establishing of refuge habitat for salmon to rest and feed as they migrate through freshwaters, and disconnecting sources of pollutants."

The western boundary of the SHR site provides one of the few locations with currently undeveloped land where some meaningful restoration opportunities are available, where the eastern bank of the existing concrete channel can be laid back to a more natural condition, and features such as resting pools for salmonid movement can be incorporated into the channel bottom. The following map of Reach W5 is excerpted from the Walnut Creek Restoration Opportunity Atlas, part of the larger WCWRO planning effort, which identifies the Seven Hills Ranch reach as having the “most opportunities” for Overall Restoration Opportunities. Further detailed hydrologic and geomorphic analysis, together with a thorough assessment of available options to improve opportunities for movement of anadromous species in identifying necessary land area and feasible treatments, but this

would be the next step in refining opportunities for future restoration critical to improving the health and restoring natural habitat functions of the Walnut Creek channel and watershed.

Implementation of these critical restoration efforts envisioned under the WCWRO requires land area along the existing creek frontages. As noted above and conveyed in Map R-W5 from the Walnut Creek Restoration Opportunity Atlas, the Seven Hills Ranch site provides the last sizable undeveloped land area available for future restoration. Implementation of the proposed Project would extend fill slopes, construct retaining walls up to 25 feet in height, and install bioretention basins along the entire frontage of the SHR site, including the western end of the central perennial drainage near the confluence with the Walnut Creek channel. These modifications would completely preclude any future opportunity to lay back the eastern concrete wall of the existing Walnut Creek channel, conflicting with the intended restoration goals of the WCWRO and adopted 50-Year Plan.

The County has an opportunity as part of the General Plan Amendment under consideration with the Spieker application to negotiate adequate land area that would allow for future restoration of the Walnut Creek frontage on the SHR site, and ensure consistency with the intent of the WCWRO and 50- Year Plan. But this requires that an adequate setback be provided as a reserve for future restoration when funding becomes available for detailed study and construction. This could serve as an important model for future restoration along the Walnut Creek channel and inspire other meaningful restoration efforts in the watershed, but is only possible if sufficient land area is set aside on the SHR site and modification associated with the proposed Project do not preclude future restoration options. The confluence of the central perennial drainage with the Walnut Creek channel is an important feature for possible future restoration efforts, given the drainage provides perennial freshwater flows and is located on the valley floor where laying back the existing concrete wall would be technically feasible without cutting into the hillsides of the SHR site. A minimum setback area with a distance of about 100 feet along the northwestern edge of SHR site was considered adequate to create a large resting pool for anadromous fish and a transition from existing concrete wall to a more natural creek banks upstream and downstream of the confluence, while still maintaining a required maintenance road for access.

This recommended 100-foot setback for future restoration along the western edge of the SHR site near the confluence of the central perennial drainage with Walnut Creek is indicated below in the CC County Constraints Alternative Map. This map shows the proposed Project improvements in relation to the recommended 100-foot creek restoration setback, in addition to major biological and environmental constraints that were identified during review of the DEIR. It demonstrates how the proposed limits of grading, retaining walls, bioretention basins, and fill slopes under the proposed Project would all extend into this minimum 100-foot setback distance, precluding any future meaningful restoration and conflicting with the intent of the 50-Year Plan. Restrictions on the proposed extent of development are warranted to meet the intent of the 50-Year Plan and achieving future restoration goals in the WCWRO, which would not possible under the proposed Project. The analysis under Impact BIO-5 should be revised to acknowledge these inconsistencies and additional mitigation recommended that restricts structures and other improvements outside this setback zone along the western edge of the site to provide sufficient land area for future restoration efforts under the 50-Year Plan.

Response 143.21: Please refer to Master Response 4: FC District 50 Year Plan Consistency above.

Comment 143.22: Biological constraints for EIR alternatives

The above CCC County Constraints Map shows highly sensitive biological features on the SHR site that warrant avoidance and protection. This include areas of valley oak woodland and riparian woodland, which are both sensitive natural community types, wetlands and the minimum 50-foot setback distance called for under County code and General Plan policies, the location of heritage-sized trees (trunk diameters of 22 inches or greater), and the setback along the western edge of the to accommodate the future Walnut Creek channel/pool restoration to achieve conformance with the intent of the CCC FCD's 50-Year Plan. Additional sensitive biological resources could be identified in the studies recommended above, but the known sensitive resources should have been recognized as biological constraints in developing the Environmentally Superior Alternative in the DEIR, which was not the case. These known constraints include: 1) avoidance of oak woodlands and protected oaks, 2) providing full avoidance of the central perennial drainage with a minimum 50-foot setback, 3) avoiding the sensitive riparian woodlands not disclosed in the DEIR along the central perennial drainage, 4) maintaining wildlife habitat connectivity and movement opportunities across the site, and 5) restoring and enhancing the tributary drainage to Homestead Creek along the southeastern boundary of the site for use as required compensatory mitigation for unavoidable impacts associated with the proposed Kinross Drive extension onto the site.

The proposed Project currently completely disregards each of these sensitive biological resources as indicated in the extent of permanent and temporary impacts mapped in the HTH review and indicated in the above Figure 2, Impacts Map, basically eliminating or substantially compromising all of these important habitat features from the SHR site. As discussed in detail in the above comments, the DEIR neglects to fully disclose the extent of sensitive biological and wetland resources on the site, does not adequately assess the potential adverse impacts of the proposed Project and contribution to cumulatively significant adverse impacts, and does not provide effective measures that would serve to adequately mitigate these significant impacts to a level of less than significant. Considerable revision to the proposed Project is necessary to address all of the identified constraints on the SHR site, and to provide adequate land area to achieve required mitigation where impacts are unavoidable, such as the proposed vehicle entrance off of Kinross Drive. This is warranted to ensure compliance with applicable State and federal regulations and consistency with the County and City of Walnut Creek General Plans and ordinances.

Revisions to the proposed Project necessary to address significant impacts on biological and wetland resources addressed in the above comments on the DEIR include the following minimum recommendations. Additional restrictions on proposed development may still be necessary to address as yet undisclosed significant impacts beyond those recommended below, depending on the results of the extensive missing background information on existing conditions that has not been disclosed in the DEIR and warrants reassessment and Recirculation of the DEIR, as reviewed in depth in the above comments. Based on the available information, the following minimum constraints should be recognized and formalized as mitigation measures in the Recirculated DEIR and constraints to development on the SHR site:

- Provide a minimum setback distance of 50 feet from the centerline of the existing or relocated alignment of the southern perennial drainage in accordance with Policy 8.89 of the County General Plan, together with relevant Policies 8-24, 8-27, 8-80, 8-82, and 8-86. This

setback would serve to protect and allow for enhancement of the existing habitat values of this feature, serve as mitigation to replace the high quality riparian habitat eliminated as a result of the upstream unavoidable impacts from the Kinross Drive extension, and convey stormwater flows from the upgradient watershed.

- Avoid the large stand of valley oak woodland and riparian habitat at the upper end of the central drainage which could be accomplished by relocating the proposed bridge crossing outside of existing tree canopy and by restricting the limits of grading outside the canopy of this important stand of the woodland sensitive natural community types. Depending on the degree of refinement to the limits of grading, this could serve to preserve over 80 native protected trees, representing over 20 percent of the protected trees to be removed under the proposed Project, almost all of which are native valley oaks and four of which are heritage-sized trees.
- Avoid large areas of valley oak woodland and steep slopes in excess of 26 percent along the southwestern edge of the site, avoiding more than 20 native protected trees and providing greater setback protection for at least eight heritage-sized valley oak trees.
- Restricting development from the valley oak woodlands and individual heritage-sized native trees in the north-western and west-central boundary, and along the eastern edge of the site, generally in areas of steep slopes in excess of 26 percent. This would serve to avoid and provide additional setback protection for at least 10 heritage-sized valley oak trees.
- Provide a minimum 100-foot setback for future restoration along the western edge of the SHR site near the confluence of the central perennial drainage with Walnut Creek to meet the intent of the CCC FCD 50-Year Plan and achieving future restoration goals in the WCWRO, which would not possible under the proposed Project. As currently proposed, fill slopes, retaining walls, bioretention basins, and open space improvements would all extend into this minimum 100-foot setback distance, precluding any future meaningful restoration and conflicting with the intent of the 50-Year Plan.

The above recommendations for further avoidance and adequate mitigation of the potential impacts of the proposed Project should form the basis for substantial revisions to the Alternatives chapter of the DEIR, which is grossly deficient because the significant impacts of the proposed Project on sensitive biological and wetland resources was not accurately disclosed and effective mitigation was not recommended, which should be provided as part of further analysis in the Recirculated DEIR. These minimum recommendations should be incorporated into a “Modified Project Alternative” that effectively addresses the significant impacts of the proposed Project that were not disclosed in the DEIR. Assuming the above constraints are adequately recognized, and compensatory mitigation provided where full avoidance is not feasible, this Modified Project Design Alternative would then serve as an accurate “Environmentally Superior Alternative” for review and consideration by the public and decision-makers, which was not provided in the DEIR.

The DEIR did not fully recognize the significant impacts of the project on riparian and valley oak woodland habitat, incursion into minimum required setbacks from creeks and natural drainages, significant loss of native tree resources, and conflicts with local plans and policies such as the Flood Control District’s 50-Year Plan, and instead focused almost solely on the unavoidable impacts to the riparian habitat along the Kinross Drive extension as a basis for evaluating the biological implications for alternatives to the proposed Project. These limitations in the analysis contained in the Alternatives chapter, which was based on insufficient and inaccurate baseline information on

existing conditions, errors in the conclusions regarding potential significance, and inadequate mitigation contained in the Biological Resources section of the DEIR, just reinforces the need to update the entire analysis contained in the DEIR and prepare a Recirculated DEIR for review and consideration by the public and decisionmakers.

Response 143.22: Please refer to Master Response 1: County General Plan Policy Consistency regarding project's consistency with creek setback requirements and Master Response 4: FC District 50 Year Plan Consistency. Since the project would be consistent with County General Plan policies and is not in a good location for Walnut Creek restoration, the Draft EIR did not identify alternatives to address these issues.

The direct impacts of the project on biological resources are primarily due to the removal of the wetland/riparian area for the Kinross Drive Extension. Thus, the Draft EIR identified the Roadway Redesign Alternative, which avoids this impact altogether.

144. Ted Robertson (dated May 10, 2022)

Comment 144.1: SEVEN HILLS RANCH ANALYSIS OF SENSITIVE PLANT SURVEYS

Ted Robertson walked along the perimeter fence of the Seven Hills Ranch site between (9:00 AM and 12:00 PM) on March 24, 2022. Surveys were supplemented with binoculars (Swarovski 8.5 x 42) and spotting scope (Zeiss 20-65x by 85 mm)

Floristic Survey Portion of Botanical Survey Report – Appendix E, pdf pgs. 42-44 Adequacy of floristic survey low:

Species missed in floristic report but listed in arborist report:

1. *Acacia baileyana*
2. *Aesculus californica*
3. *Allocasuarina cunninghamiana*
4. Ash sp.
5. *Cupressus arizonica*
- 6 and 7. Failed = to identify two *Eucalyptus* spp. (*E. camaldulensis*, and *E. viminalis*)
8. *Fraxinus uhdei*
9. *Ligustrum japonicum*
10. *Phoenix canariensis*
- 11-14. Not able to identify 4 pine species to species, including CA native species *Pinus Sabiana*, and *P. radiata*
15. *Prunus domestica*
16. *Prunus dulcis*
17. chinus mole
- 18.. *Ulmus pumila*
19. Misidentification of *Washingtonia* spp.

Species missed in floristic report found growing along perimeter of property identified by SSHR botanist Ted Robertson:

20. *Artemisia douglasiana*
21. *Geranium* mole
22. *Hordeum murinum* (was *H. marinum* misidentified?)
23. *Lupinus bicolor* – common annual species--very distinct
24. *Erodium* species such as *E. cicutarium* – very widespread
25. *Vicia villosa* – widespread and obvious – vine over 1 meter long with over a dozen showy purple flowers on each flowering stem
26. *Cynara cardunculus* – huge plant (over 1 meter in height and circumference)
27. *Stipa miliacea* var. *miliacea* – large grass with inflorescences over ½ meter long
28. *Medicago polymorpha* – very common at site
29. *Cotoneaster franchetii* – Woody shrub
30. *Euphorbia* spp. (*E. spathulata*) – tall herb with very milky juice and opposite leaves
31. *Festuca myuros* (*Vulpia myuros*)

Conclusions: Obderling's botanist, Frank Muzio does not seem to have necessary botanical credentials and experience planning and conducting Botanical Surveys for sensitive species with potential to occur.

Too many obvious and common species were missed, which indicates Mr. Muzio has little or no experience with locating and identifying rare plants in Contra Costa County. First line of pdf page 38, "All the plants found on the Property were identified to species.", has not been met.

Timing of surveys did not include summer bloom periods for *Blepharizonia plumosa* (blooms July-October; most herbarium collections occur during Aug. - Oct.). This plant grows in foothill woodlands and valley grasslands, both habitats present at Environmental Study Area. Highest elevation at site is 55 meters, which is in the elevation range of this species. Last survey period was on June 29th (pdf pg. 37, beginning of last paragraph). There are only 3 known occurrences for this species, one on Mt. Diablo, and 2 locations at Black Diamond Mines Regional Park.

I did not perform an independent CNNDDB (California Natural Diversity Data Base) analysis to confirm if any species were missing. It appears that the search range for the DEIR, if the CNNDDB analysis was conducted, was only 5 miles whereas the standard of practice is 10 miles or all adjacent 7.5 minute USGS quads which is a minimum of nine 7.5-minute quads. Analysis and range of analysis should be confirmed and should adhere to standard practice.

Comments on Vegetation Map (Appendix E, pdf pgs. 7 and 152)

The grasslands are classified as annual. There are several acres of perennial grasslands that were not mapped, primarily composed of *Phalaris aquatica*. Too often, grasslands are simplified and miss portions of native perennial grasslands.

Response 144.1: Refer to Master Response 7: Biological Resources Existing Conditions that confirms the special status species findings of the Draft EIR.

Comment 144.2: Additional Comments, next page:

Active Red-tailed Hawk nest

Please see Google Earth Photo following for location of an active Red-tailed Hawk nest on SHRanch property observed on March 24th, 2022. According to local residents, the nest has been there for several years. The DEIR didn't address this or other nesting raptors in the area which rely on the foraging habitat of the SHRanch.

Adult remained sitting low on the center of the nest, indicating that eggs were being incubated. Incubation lasts 28-32 days. Fledglings start leaving nest between 4 to 6 weeks after hatching.

Response 144.2: Given the potential for raptors, including Red-tailed hawk, to nest on the site, the Draft EIR identified MM BIO-1.3 and MM BIO-1.4 that requires avoidance of and pre-construction surveys for nesting raptors. These measures would reduce impacts to current and potential future nesting birds on the site to a less than significant level. Due to the regional abundance of foraging habitat, a reduction in foraging habitat on the project site would not result in a significant impact.

Comment 144.3: Potential Seasonal wetland not sampled.

This isolated potential seasonal wetland feature, circled here on a Google Earth photo, is an indication that there may be other potential State waters that weren't addressed in the Corps delineation, which focuses on federal waters. This includes all of the riparian woodland along the central drainage, which is also a State waters that wasn't addressed in the Corps wetland delineation of the DEIR. These sites must be indicated in the DEIR and impact noted.

Potential Seasonal wetland not sampled. Contained *Juncus balticus*?, a known wetland indicator plant (facultative wetland (FACW) plant classification)

Response 144.3: As discussed in Appendix E of the Draft EIR, a wetland delineation was completed for the site and verified by the USACE. This formal delineation is generally relied upon by the RWQCB for permitting purposes. No additional wetland areas were identified in the area indicated by the commenter.

145. Bob Simmons (dated May 10, 2022)

Comment 145.1: IMPACTS ON WETLANDS, WALNUT CREEK, AND WATER SUPPLY

Failure to Consider the "50-Year Plan from Channels to Creeks"

The DEIR fails to even mention the 50-Year Plan "From Channels to Creeks"¹, which was approved by the Board of Supervisors in 2009, much less disclose the significant and adverse impact of the project on the resources that could be benefited by the implementation of that important plan. The Walnut Creek Watershed Restoration Opportunities Oct 2021 study, prepared for the County, identified the Seven Hills Ranch property as one of a very few places where Walnut Creek (the creek) could be naturalized. Approval of this project would eliminate that opportunity. A housing project done in conformance with existing zoning could avoid eliminating the opportunity to achieve a portion of the 50-Year Plan.

Response 145.1: Please refer to Master Response 4: FC District 50 Year Plan Consistency above.

Comment 145.2: Wetland Impacts

The DEIR recognizes that there is a scarcity of wetlands regionally, and that any loss of wetlands is significant. This project would completely destroy the existing wetlands at the end of Kinross Drive (“Kinross wetlands”), which the DEIR acknowledges (p. xi) by stating that there will be a permanent loss of wetlands. That loss cannot be mitigated, and the DEIR admits that “any permanent loss of wetland habitat because of the Project would be considered significant under CEQA”(p. 83). If the County approves this DEIR, it must, as stated on p. 83 of the DEIR, consider the loss to be significant under CEQA. This would require the County to issue a Statement of Overriding Considerations.

There are significant impacts on the wetlands in the central riparian area. This results from the extensive alteration of the surface, the construction of large retaining walls around the central riparian area, and the substantial alteration of water migrating into the central riparian area because almost all storm water is diverted into storm drains and diverted off-site. The DEIR is deficient in its failure to analyze and disclose all possible impacts to the central riparian area.

Response 145.2: The Draft EIR concludes that with implementation of mitigation measures MM BIO-3.1 and MM BIO-3.2, impacts to wetlands would be reduced a less than significant level. Thus, the County does not need to adopt a Statement of Overriding Considerations for this impact.

Comment 145.3: Mitigation of Wetland Impacts

The DEIR asserts that the mitigation it recommends reduces the impacts to the wetland areas to less than significant. For this conclusion, the DEIR relies on MM BIO-3.2. That measure is inadequate to mitigate the Project’s impacts to the wetlands. First, it allows the Applicant to purchase existing wetlands at a 2:1 ratio. It doesn’t specifically limit the purchase to the Walnut Creek Watershed. More importantly, however, this provision effectively allows the continued loss of wetlands in the Walnut Creek Watershed. The purchase of existing wetlands as compensation for the destruction of existing wetlands necessarily means a net loss of existing wetlands. Finally, the ratio of 2:1 on an acreage basis is inappropriate, particularly where the DEIR recognizes the scarcity of wetlands in this region. It needs to be much higher, and set a minimum requirement of 5:1 or an acre, whichever is more.

The second provision of the mitigation measure allows the Applicant to deposit money into a mitigation bank. This is worse than the first option, as the only Mitigation Bank in the County is in East County. Any mitigation in East County does NOT qualify as mitigation in the Walnut Creek Watershed.

The third provision allows credit for enhancement of seasonal wetlands in the central riparian area. Given the damage being done by this project to the central riparian area, zero credit should be given for any action in this area, which should just be left alone.

Response 145.3: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section and **Response 131.6** regarding wetland and riparian mitigation.

Comment 145.4: Loss of Riparian Habitat and Its Impacts on Wildlife and Birds

The DEIR fails to recognize, much less disclose, the impacts on wildlife and birds of the construction of the many retaining walls around the central riparian corridor (see Figure 1-3, included here, p. 4-5) and of the many single family dwellings around the central riparian area. These actions will impact the riparian habitat by limiting the movement of wildlife in what is one of the few remaining wildlife corridors from Mt. Diablo to Walnut Creek (the creek). Moreover, the DEIR fails to disclose the impacts of the extensive hardscape and the many retaining walls which may dramatically change the migration of water into the central riparian area during the year. In addition, the DEIR did not disclose the presence of an eBird hotspot in adjacent Heather Farm Park, nor did the DEIR discuss the impacts of the project's removal of 400 trees, 353 of which are in protected status, on the wildlife and bird habitat they provide, and on the movement of wildlife

The DEIR proposes Mitigation Measure BIO 2-2 as the method to mitigate the riparian impacts to less than significant. MM BIO 2-2 has some of the same problems that MM 3-2 has. One of its problems is its reliance on a Riparian Aquatic Habitat and Monitoring Plan. The first problem is that this is prepared after the decision on the General Plan Amendment. First, it only requires preparation prior to issuance of a grading permit; it fails to require that the plan be approved by the regulatory agencies. Simply stated, this is not a rational approach to protecting these important resources. The DEIR believes that the project proposes to 'enhance' the central riparian area, and that mitigation measures BIO 2-1 and 2-2 will "ensure" that adverse impacts to the riparian area resources are kept to a minimum. This is, of course, complete nonsense.

There is little that the applicant can do to mitigate its adverse impacts on wetlands and riparian areas, and the mitigation measures are woefully inadequate to protect these important resources.

While the DEIR states that the regulatory agencies must approve this project, it is the County's obligation to fully protect the wetland, riparian, and wildlife resources of the area. This is not a one-acre project, but a 30-acre project that is going to forever alter, and largely destroy, some important resources. The County needs to do its job to fully protect these resources.

Response 145.4: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation and Wildlife Movement Corridors sections and **Response 131.6:** regarding wetland and riparian mitigation.

Comment 145.5: Roadway Redesign Project Alternative

In the Roadway Redesign Project Alternative, the DEIR proposes using the Seven Hills Ranch Road as the main entry to the Project (p. 216). The DEIR determines that this Alternative "would lessen the Project's biological resources impacts by avoiding riparian and wetland habitats". It would also remove fewer protected trees which are regulated under the County Tree Preservation Ordinance 816-6.

Given the scarcity of wetlands in the region, the determination that the Roadway Redesign Project is environmentally superior as far as the impacts on the biological resources means that the County may not properly approve a road access that would destroy the Kinross wetlands.

Response 145.5: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 145.6: Water Supply

The DEIR makes no mention of water supply issues, even while the State and Federal Governments are substantially reducing their water deliveries to areas within the State. The impact of the project on water supply during the mega drought California is experiencing must be addressed, and the County should require an independently-prepared water budget before proceeding with this project. The failure of the DEIR to address water supply means it is defective.

Response 145.6: Please refer to **Response 108.2:** above regarding water supply.

146. David Clinnick (dated May 10, 2022)

Comment 146.1: CULTURAL AND TRIBAL CULTURAL RESOURCES IMPACTS

I am writing to address some key points of concern regarding the DEIR, Sections 3.5 & 3.18, most specifically the assessment of potential prehistoric cultural resources at the Seven Hills Ranch and the mitigation measures, both of which are inadequate.

The DEIR makes the following statements:

"The City of Walnut Creek Map of Archaeologically Sensitive Areas shows the general project area as highly sensitive to archaeological resources. This estimate of sensitivity is likely based on the site's proximity to the channelized Walnut Creek, along which previously recorded prehistoric archaeological resources have been found." (DEIR pg. 91).

"An archival review was completed for the project by the California Historical Resources Information System/Northwest Information Center. The records search included a 500-foot radius of the project site. The review found no records of previous cultural resource studies and no recorded/reported prehistoric and/or historic era archaeological sites within the project site. " (ibid).

The DEIR concludes, following a pedestrian survey under adverse observation conditions and a CHRIS records search, that the Seven Hills Ranch has a low potential for prehistoric resources. Both the pedestrian survey and record search are inadequate means to reach such a conclusion. Further, the DEIR's conclusion directly contradicts the City of Walnut Creek's assessment as stated in the DEIR itself. The 2020 pedestrian survey, as referenced by the DEIR, was conducted with less than 5% ground visibility. Such adverse conditions render the pedestrian survey essentially meaningless given that over 95% of surficial observation was obstructed by ground vegetation. One should not anticipate detecting signs of potential below ground cultural resources under such conditions. Given the topography of the Seven Hills Ranch, with clear depositional zones, the potential for below ground cultural resources is high. Though in common use by many CRM firms in California, the

500-foot radius (diffusion/radius approach) record search is a grossly inadequate method to assess the potential for prehistoric resources.

The diffusion approach may be useful in some cases, such as defining an excavated site's boundaries, but is an inappropriate method for determining the probability of archaeological resources, especially prehistoric cultural resources. The lack of nearby recorded sites is most likely an effect of the relatively poor research intensity in Contra Costa County compared to other regions of the United States. The predominance of the epicenter/diffusion paradigm used by the CRM sector in Northern California demonstrates the woefully out-of-date interpretive lens under which many firms operate. Such an approach increases the likelihood of unintended destruction of prehistoric resources. For more than half a century, the field of archaeology has taken great consideration into understanding and reconstructing past settlement patterns in light of subsistence regimes, environmental factors, site formation and taphonomic processes. Unfortunately, the methodology under which the DEIR was conducted takes none of this into consideration.

The radius approach fails to consider the peripatetic nature of many prehistoric cultures that were primarily hunter-gatherers following a seasonal itinerary. Rather, it assumes that all settlement patterns mirror an agriculturist or urban center to outlining periphery distribution. While both Miwok and Ohlone communities were noted to have large settlement locations, this does not mean that prehistoric landscape use and demography in Contra Costa County followed the "normative" European-style settlement pattern assumed by the DEIR assessment. Rather, the local topography and the distribution of natural resources must be considered, i.e., the arrangement of ridgelines, valleys, and natural water course, when determining high probability areas. The City of Walnut Creek clearly took such an approach with their determination that the Seven Hills Ranch is "highly sensitive to archaeological resources."

The Sevens Hills Ranch is the terminus of Shell Ridge (see figure 1). As noted in the DEIR, the Ranch encompasses the end portion of the ridge at the boundary of Walnut/San Ramon Creek. As today so in the past, the San Ramon Creek corridor and the Ignacio Valley to Kirker Pass corridor would have been known and highly travelled. The spring at Seven Hills Ranch would have attracted humans and wildlife alike, as it still attracts wildlife today.

Most importantly, Shell Ridge is known for its prehistoric cultural resources with several recorded prehistoric sites along the ridgeline and other well known, but poorly recorded, milling stations throughout the range of Shell Ridge. Given the demonstrated site pattern within Walnut Creek itself, as known from sites such as CA-CCO-309, the probability of the presence of prehistoric resources at Seven Hills Ranch, contra the DEIR, is incredibly high—again as the city itself has previously determined. With the environmental and topographic similarity of Seven Hills Ranch with that of CA-CCO-309, it is fair to assume that there is also a high potential for the presence of prehistoric human skeletal remains. As such, the inadvertent discovery protocol recommended by the DEIR is an inadequate mitigation measure. At a minimum, preconstruction, random and targeted, below ground testing at Seven Hills Ranch should be performed. Given that it is known that prehistoric human remains are often associated with below ground prehistoric resources in Contra Costa County, any excavation must be done with tribal consultation and monitoring.

Response 146.1: The Archaeological Resources Assessment Report prepared by Basin Research Associates, was done to current CEQA standards and provides

evidence to determine archaeological sensitivity. As the comment points out, the Draft EIR also relied on the City of Walnut Creek's archaeological sensitivity map and concluded that the project site has a high sensitivity for archaeological resources. Mitigation measures MM CUL-2.1 through MM CUL-2.3 are standard mitigation measures used by the County for sites with no known cultural resources, but in areas with high sensitivity.

147. Stan Roe and Charles Clancy (dated May 10, 2022)

Comment 147.1: DEIR DENSITY LIMITATIONS AND EXTREME CUT FILL TOPOGRAPHIC LIMITATIONS

DEIR, page 8

2.2.2 General Plan Amendment and Rezoning

The project site currently has a General Plan land use designation of Single-Family Residential – Medium Density (SM) and is zoned A-2 (General Agricultural). The project proposes to amend the Land Use Element Map of the County General Plan by way of changing the land use designation from SM to Congregate Care/Senior Housing (CC) and rezone the site from A-2 to a site-specific Planned Unit (P-1) District in order to construct the proposed CCRC. The CC designation and P-1 zoning do not have density limits (i.e., floor-to-area ratio or dwelling units per acre).

Comment

The underlined statement “The CC designation and P-1 zoning do not have density limits (i.e., floor-to-area ratio or dwelling units per acre)” is extremely important to the proposed Spieker development yet doesn't reference a County Ordinance and is left to the DEIR reviewer to research.

Indeed, within the Contra Costa County General Plan, Chapter 3 (Land Use Element), page 3-17, Table 3-4, line-item Multi-Family Residential there is a reference to Congregate Care-Senior Housing (CC) as being N/A (Non-Applicable) to Units Per Net Acre. Table 3-4 is displayed on the next page.

There isn't a specific reference in the Contra Costa County Code, Title 8-Zoning Chapter 84-66-P-1 Planned Unit District for exemption from density limitations such as floor-to-area ratio or dwelling per acre. There is a vague residential density guidance offered in Article 84-66.8.-Density, 84-66.802-Residential, but no specific exemptions:

84-66.802 - Residential.

In computing the net development area to set residential densities, use the general plan as a guide and exclude areas set aside for churches, schools, streets, commercial use, or other nonresidential use, but include areas set aside for common open space, outdoor recreation, or parks.
(Ord. 79-74: § 84-66.026: prior code § 8166(k): Ord. 1743).

DEIR reviewers have to assume that the County DEIR preparers have in some way used the General Plan as guidance in exempting a Planned Unit P-1 District zoning from floor-to-area ratio or dwelling per acre limitations.

On the prior page (3-16) to Table 3-4, there's a two-paragraph introduction to the use of Table 3-4 at the bottom of that page:

Table 3-4 lists the 32 General Plan land use designations and the densities or use intensities associated with each. The designations are closely related to the density requirements defined in the County's Zoning Ordinance, and are continuous, without gaps, across the density range. For example, the density requirements of units per net acre for the Single-Family Residential-Very Low (0.2-0.9) and Single- [1] Family Residential-Low (1.0-2.9) designations mean that the very low designation will allow for densities ranging from 0.2 units per net acre up to but not including 1.0 units per net acre. Residential densities are generally defined in terms of housing units per net acre.

When calculating the allowed density of a parcel, readers should keep in mind that unique environmental characteristics may justify a reduced number of units or intensity of use than is normally allowed under the General Plan designation. Notwithstanding this caveat, one single-family residential unit is allowed on any existing, legally-created lot in the residential, agricultural, and open space designations. The County Zoning Ordinance provides for variances from the minimum lot size and dimensional requirements, in accordance with State law.

The underlined paragraph is interesting because it infers there may be environmental circumstances that justifies reducing the number of dwellings/acres for land use designations. It refers the reader to the County Zoning Ordinances:

Contra Costa County Code, Title 8 (Zoning), Division 82 (General Regulations), Chapter 82-1 (65/35 Land Preservation Plan):

Ordinance 82-1.016 Hillside Protection

Development on open hillsides and significant ridgelines throughout the county shall be restricted and hillsides with a grade of twenty-six percent or greater shall be protected through implementing zoning measures and other appropriate actions.
(Ords. 91-1 § 2, 90-66 § 4).

Figures 1-4 were prepared by a GIS expert. All of the building and retaining wall information came from the following documents available on the County website:

- Revised Civil Plans 12.2.20_202102261333285679.pdf
- Overall Grading Plan sheet C4.0
- Western Grading Plan sheet C4.1
- Eastern Grading Plan sheet C4.2

Elevations from these documents were spot checked against a LiDAR-derived digital elevation model and were generally within 6 inches of each other.

There aren't any references of CC (Congregate Care/Senior Housing (CC) land use designation and/or Planned Unit P-1 District zoning being exempt from building on greater than twenty-six percent grade slopes.

- Figure 1 displays slope magnitude as a percentage of the existing Seven Hills Ranch terrain model. The slopes colored in red represent slope grades greater than twenty-six percent.
- 18.2% of the Seven Hills Ranch parcel are slope grades greater than twenty-six percent.
- 23 buildings in the proposed Spieker development will cut into greater than twenty-six percent slope grades.

Contra Costa County General Plan, Chapter 9, Scenic Resource Policies and Scenic Resources Implementation Measures

Scenic Resources Policies

9-10. In areas designated for urban development, the principles outlined below shall be applied in the review of development proposals.

9-11. High-quality engineering of slopes shall be required to avoid soil erosion, downstream flooding, slope failure, loss of vegetative cover, high maintenance costs, property damage, and damage to visual quality. Particularly vulnerable areas should be avoided for urban development. Slopes of 26 percent or more should generally be protected and are generally not desirable for conventional cut-and-fill pad development. Development on open hillsides and significant ridgelines shall be restricted.

9-12. In order to conserve the scenic beauty of the county, developers shall generally be required to restore the natural contours and vegetation of the land after grading and other land disturbances. Public and private projects shall be designed to minimize damage to significant trees and other visual landmarks.

9-13. Providing public facilities for outdoor recreation should remain an important land use objective in the county, as a method of promoting high scenic quality, for air quality maintenance, and to enhance outdoor recreation opportunities of all residents.

9-14. Extreme topographic modification, such as filling in canyons or removing hilltops, shall be avoided. Clustering and planned unit development approaches to development shall be encouraged. All future development plans, whether large- or small-scale, shall be based on identifying safe and suitable sites for buildings, roads, and driveways. Exemptions to this policy are appropriate for mining, landfill, and public projects in open space areas.

9-15. In areas along major scenic ridges which are designated for open space use, the principles outlined in Policy 9-16 through Policy 9-23 shall apply.

9-16. New water tanks that would harm the visual quality of a scenic ridge shall be buried, camouflaged, or screened to mitigate their impacts.

9-17. New power lines shall be located parallel to existing lines in order to minimize their visual impact.

9-18. Construction of new structures on the top of major scenic ridges or within 50 feet of the ridgeline shall be discouraged.

9-19. When development is permitted to occur on hillsides, structures shall be located in a manner which is sensitive to available natural resources and constraints.

9-20. Hilltops, ridges, rock outcroppings, mature stands of trees, and other natural features shall be considered for preservation, at the time that any development applications are reviewed.

9-21. Any new development shall be encouraged to generally conform with natural contours to avoid excessive grading.

9-22. All new land uses which are to be located below a major scenic ridge shall be reviewed with an emphasis on protecting the visual qualities of the ridge.

9-23. Involvement of public interest groups shall be encouraged when identifying, acquiring, and maintaining those areas of unique visual quality in the county.

9-24. The appearance of the county shall be improved by eliminating negative features such as non-conforming signs and overhead utility lines, and by encouraging aesthetically-designed facilities with adequate setbacks and landscaping.

9-25. Maintenance of the scenic waterways of the county shall be ensured through public protection of the marshes and riparian vegetation along the shorelines and delta levees, as otherwise specified in this Plan.

9-26. Tule islands and levee remnants within the county shall be restricted from new development.

9-27. Physical and visual public access to established scenic routes shall be protected.

Scenic Resources Implementation Measure

9-a. Prepare specific plans and/or adopt an ordinance which would delineate the boundaries of and protect the major scenic ridgelines not already under public ownership.

9-b. Carefully study and review any development projects which would have the potential to degrade the scenic qualities of major significant ridges in the county or the bay and delta shoreline.

9-c. Develop hillside and ridgeline design guidelines to provide better guidance for development, particularly as it relates to grading, massing, and relationship of structures to ridgelines.

9-d. Where possible, structures shall not be built on the top of any designated scenic ridgeline.

9-e. Develop and enforce guidelines for development along scenic waterways to maintain the visual quality of these areas.

9-f. Prepare a corridor study in which an appropriate scenic corridor width will be defined along all proposed scenic routes.

9-g. Prepare a visual analysis of proposed scenic routes to identify views of significant visual or cultural value.

9-h. Identify and designate "gateways" within the scenic routes which are located at unique transition points in topography or land use and serve as entrances to regions of the county.

Comment

The proposed Seven Hills Ranch development is an extreme cut and fill development atop the northwest extension of Shell Ridge, a scenic, major ridgeline in central Contra Costa County. This type of development is not recommended in the Contra Costa County General Plan, Chapter 9, Scenic Resource Policies and Scenic Resources Implementation Measures whose provisions are to protect major ridgelines like Shell Ridge from cut and fill developments. In particular, subtitle 9-14 states that extreme topographic modification should be avoided.

- Figures 2-4 show the extreme nature of the proposed Spieker cut and fill development. The developer couldn't possibly restore the natural contours and vegetation as required by the Contra Costa County General Plan, Chapter 9, subtitle 9-12.
- Figure 2 shows the lowest absolute finish floor levels for the proposed Spieker buildings. All the buildings in the western half of the proposed development are the same lowest finish floor level, which would require the leveling of the hill.
- Figure 3 shows how the developer intends to extremely cut and fill the hills and ridge lines of the Seven Hills Ranch to obtain the lowest finish floor levels.
- Figure 4 shows the true heights of the retaining walls needed to control slumping and/or erosion as a result of the proposed Spieker cut and fill development.

Figure 2 Absolute Lowest Floor Elevation Levels after cut and fill operations are finished for the proposed Spieker development. Note that all the buildings in the western half of the proposed development are the same lowest finish floor level, which would require the leveling of the hill.

Conclusions

- CC (Congregate Care/Senior Housing (CC) land use designation is exempt from dwelling/acre limitations per Contra Costa County General Plan, Chapter 3 (Land Use Element), page 3-17, Table 3-4. Floor-to-area ratio hasn't been specifically referenced in Table 3-4.
- There isn't a specific reference in the Contra Costa County Code, Title 8-Zoning Chapter 84-66-P-1 Planned Unit District for exemption from density limitations such as floor-to-area ratio or dwelling per acre. DEIR reviewers have to assume the County DEIR preparers have in some way used the General Plan as guidance in exempting a Planned Unit P-1 District zoning from floor-to-area ratio or dwelling per acre limitations. The County DEIR preparers must explain their reasoning from exempting Planned Unit P-1 Zoning from floor-to-area ratio or dwelling per acre limitations and reissue the DEIR.
- Per the County Zoning Ordinances and Contra Costa County General Plan, Chapter 3 (Land Use Element), page 3-16, the Seven Hills Ranch parcel has unique environmental characteristics that may justify a reduced number of units or intensity of use than is normally allowed under the General Plan designation:
 - 18.2% of the Seven Hills Ranch parcel is greater than twenty-six percent slope grade.

- 23 buildings in the proposed Spieker development will cut into greater than twenty-six percent slope grades and that is protected by Ordinance 82-1.016 Hillside Protection.
- The proposed Seven Hills Ranch development is an extreme cut and fill development atop the northwest extension of Shell Ridge, a scenic, major ridgeline in central Contra Costa County. This type of development is not recommended in the Contra Costa County General Plan, Chapter 9, Scenic Resource Policies and Scenic Resources Implementation Measures whose provisions are to protect major ridgelines like Shell Ridge from cut and fill developments.
- The Contra Costa County General Plan, Chapter 9, Scenic Resource Policies and Scenic Resources, subtitle 9-14 states that extreme topographic modification should be avoided. An example is the developer's plan to completely level the topography of the western half of the proposed development.
- The developer couldn't possibly restore the natural contours and vegetation of the land after grading as required under the Contra Costa County General Plan, Chapter 9, provision 9-12.
- Figures 1-4 were prepared by a GIS expert with the architectural drawings available on the County website and support the extreme nature of the proposed Spieker cut and fill development.

Response 147.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

148. Stan Roe and Charles Clancy (dated May 10, 2022)

Comment 148.1: GEOTECHNICAL GEOLOGY COMMENTS

DEIR, Pages xiii and xiv

MM GEO-1.1: Design-level Geotechnical Compliance: The applicant shall prepare a site-specific, design-level geotechnical investigation for the project. The design-level geotechnical report shall include, but not be limited to, the following considerations:

- a) The 2019 CBC classification of the site as being located in Site Class B or C shall be determined. Building foundations, retaining walls, and structural framing requirements will be impacted by the Site Classification.
- b) The central portion of the site is underlain by artificial fill and colluvial soils that are more than 17 feet deep. The liquefaction potential of these underlying soils shall be evaluated.
- c) More detailed evaluation of the excavation characteristics of the sandstone and claystone bedrock underlying the site shall be performed. The excavation characteristics of the bedrock will impact cut grading and excavations for underground utilities and foundations.

d) Final recommendations for grading shall be provided, including permanent and temporary slope inclinations, differential fill thickness for building pads, fill construction, and the extent of colluvial and artificial soil removal.

e) The impacts from the onsite expansive soils on proposed structures, pavements, and flatwork shall be addressed.

f) f) The design and construction of valley drains and subdrains in fill keyways and benches shall be addressed.

g) Potential water seepage through rock fractures, daylighting from cut slopes and into utility trenches shall be assessed.

h) Pseudostatic seismic loads will need to be incorporated into the design of retaining walls which will be more than six feet tall, as specified in the CBC. All recommendations by the engineering geologist and/or geotechnical engineer shall be incorporated into the final design. Recommendations that are applicable to foundation design, earthwork, and site preparation that were prepared prior to or during the project design Spieker Senior Continuing Care Community Project xiv Draft EIR Contra Costa County March 2022 phase, shall be incorporated in the project, all foundations and other project structures must comply with the performance standards set forth in the California Building Code. The final seismic considerations for the site shall be submitted to and approved of by the Contra Costa Department of Conservation and Development prior to issuance of grading and building permits.

Comment

Figures 1 and 2 were prepared by a GIS expert. All of the building and retaining wall information came from the following documents available on the County website:

- Revised Civil Plans 12.2.20_202102261333285679.pdf
- Overall Grading Plan sheet C4.0
- Western Grading Plan sheet C4.1
- Eastern Grading Plan sheet C4.2

Elevations from these documents were spot checked against a LiDAR-derived digital elevation model and were generally within 6 inches of each other.

MM-GEO-1.1 is typical of this DEIR in not mentioning the high slope grades present in the proposed development area. Figure 1 shows that 18.2% of the Seven Hills Ranch parcel is greater than 26% slope grade (highlighted in red). A proposed development on this slope grade violates Contra Costa County Ordinance 82-1.016-Hillside Protection and ignores the provisions in the Contra Costa County General Plan Chapter 9 Open Space Element (Scenic Resource Policies and Scenic Resources Implementation Measure):

Contra Costa County Ordinance 82-1.016-Hillside Protection

Development on open hillsides and significant ridgelines throughout the county shall be restricted and hillsides with a grade of twenty-six percent or greater shall be protected through implementing zoning measures and other appropriate actions.

Contra Costa County General Plan, Chapter 9, Scenic Resource Policies and Scenic Resources Implementation Measures

Scenic Resources Policies

9-10. In areas designated for urban development, the principles outlined below shall be applied in the review of development proposals.

9-11. High-quality engineering of slopes shall be required to avoid soil erosion, downstream flooding, slope failure, loss of vegetative cover, high maintenance costs, property damage, and damage to visual quality. Particularly vulnerable areas should be avoided for urban development. Slopes of 26 percent or more should generally be protected and are generally not desirable for conventional cut-and-fill pad development. Development on open hillsides and significant ridgelines shall be restricted.

9-12. In order to conserve the scenic beauty of the county, developers shall generally be required to restore the natural contours and vegetation of the land after grading and other land disturbances. Public and private projects shall be designed to minimize damage to significant trees and other visual landmarks.

9-13. Providing public facilities for outdoor recreation should remain an important land use objective in the county, as a method of promoting high scenic quality, for air quality maintenance, and to enhance outdoor recreation opportunities of all residents.

9-14. Extreme topographic modification, such as filling in canyons or removing hilltops, shall be avoided. Clustering and planned unit development approaches to development shall be encouraged. All future development plans, whether large- or small-scale, shall be based on identifying safe and suitable sites for buildings, roads, and driveways. Exemptions to this policy are appropriate for mining, landfill, and public projects in open space areas.

9-15. In areas along major scenic ridges which are designated for open space use, the principles outlined in Policy 9-16 through Policy 9-23 shall apply.

9-16. New water tanks that would harm the visual quality of a scenic ridge shall be buried, camouflaged, or screened to mitigate their impacts.

9-17. New power lines shall be located parallel to existing lines in order to minimize their visual impact.

9-18. Construction of new structures on the top of major scenic ridges or within 50 feet of the ridgeline shall be discouraged.

9-19. When development is permitted to occur on hillsides, structures shall be located in a manner which is sensitive to available natural resources and constraints.

9-20. Hilltops, ridges, rock outcroppings, mature stands of trees, and other natural features shall be considered for preservation, at the time that any development applications are reviewed.

9-21. Any new development shall be encouraged to generally conform with natural contours to avoid excessive grading.

9-22. All new land uses which are to be located below a major scenic ridge shall be reviewed with an emphasis on protecting the visual qualities of the ridge.

9-23. Involvement of public interest groups shall be encouraged when identifying, acquiring, and maintaining those areas of unique visual quality in the county.

9-24. The appearance of the county shall be improved by eliminating negative features such as non-conforming signs and overhead utility lines, and by encouraging aesthetically-designed facilities with adequate setbacks and landscaping.

9-25. Maintenance of the scenic waterways of the county shall be ensured through public protection of the marshes and riparian vegetation along the shorelines and delta levees, as otherwise specified in this Plan.

9-26. Tule islands and levee remnants within the county shall be restricted from new development.

9-27. Physical and visual public access to established scenic routes shall be protected.

Scenic Resources Implementation Measure

9-a. Prepare specific plans and/or adopt an ordinance which would delineate the boundaries of and protect the major scenic ridgelines not already under public ownership.

9-b. Carefully study and review any development projects which would have the potential to degrade the scenic qualities of major significant ridges in the county or the bay and delta shoreline.

9-c. Develop hillside and ridgeline design guidelines to provide better guidance for development, particularly as it relates to grading, massing, and relationship of structures to ridgelines.

9-d. Where possible, structures shall not be built on the top of any designated scenic ridgeline.

9-e. Develop and enforce guidelines for development along scenic waterways to maintain the visual quality of these areas.

9-f. Prepare a corridor study in which an appropriate scenic corridor width will be defined along all proposed scenic routes.

9-g. Prepare a visual analysis of proposed scenic routes to identify views of significant visual or cultural value.

9-h. Identify and designate "gateways" within the scenic routes which are located at unique transition points in topography or land use and serve as entrances to regions of the county.

Conclusion

Seven Hills Ranch is an extension of Shell Ridge, a major scenic ridge in central Contra Costa County. While Shell Ridge has been developed between the Shell Ridge Open Space and Seven Hills Ranch, this is an opportunity for the County to protect and plan a suitable development for the last remaining area of this truly natural wonder:

- Why isn't the county protecting the slopes within Seven Hills Ranch that are greater than 26% grade according to Ordinance 82-1.016-Hillside Protection?
- Why isn't the County following its own General Plan Chapter 9 Open Space Element (Scenic Resource Policies and Scenic Resources Implementation Measure) in protecting the Shell Ridge ridgeline and hills within Seven Hills Ranch?
- The people of Contra Costa County deserve answers to these questions and that needs to be included in the DEIR and reissued.

Response 148.1: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 148.2: DEIR, MM GEO-1.1, subtitle (c), page xiii

c. More detailed evaluation of the excavation characteristics of the sandstone and claystone bedrock underlying the site shall be performed. The excavation characteristics of the bedrock will impact cut grading and excavations for underground utilities and foundations.

Comment

The excavation and grading plan is arguably the most contentious and controversial activity during the first year of the proposed development of Seven Hills Ranch. The extremely hard, well-cemented Miocene-aged sandstone that forms the bedrock under Seven Hills Ranch will be difficult to excavate as noted in the DEIR Appendix G, Grading, Subtitle (1), page 8:

GRADING

The following are our preliminary grading recommendations for the design and construction of the project.

1. Cuts into bedrock will be difficult and will require rock grading and excavation methods and equipment. Compressive strengths of approximately 3,000 psi were obtained from near surface sandstone boulder samples in TP-9. We anticipate the hardness of the rock will increase with depth. Blasting is not recommended.

Shell Ridge, which Seven Hills Ranch is situated on, is a very prominent scenic ridge in central Contra Costa County because these hard, well-cemented Miocene-aged sandstones are very resistant to natural erosion processes.

What's the rippability of the Seven Hills Ranch sandstone bedrock? This important parameter has not been reported in the DEIR. According to Everest Geophysics*, an accurate evaluation of rock rippability will improve the prediction of the excavation effort, the construction schedule, cost estimations, facilitate the selection of proper extraction equipment and maximize overall production. Everest Geophysics is a contractor that can conduct a seismic refraction survey to measure compressional wave velocity from which an accurate value of the rippability of the Seven Hills Ranch sandstone bedrock can be measured.

Conclusion

The proposed development of Seven Hills Ranch is two years into the approval process and Spieker hasn't produced a detailed excavation and grading plan (DEIR page xiii) for public review. We can only assume they are avoiding the DEIR and public review and will reveal their plans only for the permit process:

- Impact on noise, dust, and vibrations can't be properly assessed without a detailed excavation and grading plan.
- Consider a seismic refraction survey to measure the rippability of the Seven Hills Ranch sandstone bedrock.
- The excavation and grading plans must be included in the DEIR and reissued.

Response 148.2: Please refer to **Response 40.2:** regarding removal of bedrock.

Comment 148.3: Comment

The proposed Seven Hills Ranch Development Maintenance Building is cutting into the "Adirondack Hill" northeast slope that measures between 26%-43% slope grade (Figure 2). The excavation of the Maintenance Building and the Independent Living Building is expected to extract a total volume of approximately 18,000 cubic yards of hard, well-cemented Miocene-aged sandstone with low rippability on "Adirondack Hill" (based on the results of Test Pit 8 or TP-8). The "Adirondack Hill" with all its scenic beauty will be destroyed. This is a violation of the Contra Costa County General Plan, Chapter 9, Open Space Element (Scenic Resource Policies 9-11):

9-11. High-quality engineering of slopes shall be required to avoid soil erosion, downstream flooding, slope failure, loss of vegetative cover, high maintenance costs, property damage, and damage to visual quality. Particularly vulnerable areas should be avoided for urban development. Slopes of 26 percent or more should generally be protected and are generally not desirable for conventional cut-and-fill pad development. Development on open hillsides and significant ridgelines shall be restricted.

100% of the proposed Seven Hills Ranch development Maintenance Building is located within 100 feet of the Heather Farms HOA property line.

Conclusion

- If the county does not protect this hillside under Ordinance 82-1.016-Hillside Protection, how does the developer intend to excavate these hillsides and respect MM NOI-2.1, Subtitle (d)?

DEIR, page xix

MM NOI-2.1: The project shall implement the following measures to minimize vibration impacts from construction activities:

d) Select demolition methods not involving impact tools within 100 feet of the perimeter property lines adjoining off-site structures.

- The excavation equipment plan to excavate 26-43% slope grade for the proposed Maintenance Building must be included in the DEIR and reissued.
- The current slope grade west of the Medical Center averages around 20%. According to the Civil grading drawings, the developer intends to recontour this area and create a 34% slope grade into the Medical Center. Not only is the developer ignoring existing slope grade issues, but are also creating new slope grade issues.
- The Developer must respect the provisions of California Building Code 1808.7 Foundations on or Adjacent to Slopes as the permanent slope cuts for the Maintenance Building and Independent Living Building are greater than 3H:1V (33%):

1808.7 Foundations on or Adjacent to Slopes

The placement of buildings and structures on or adjacent to slopes steeper than one unit vertical in three units horizontal (33.3-percent slope) shall comply with Sections 1808.7.1 through 1808.7.5.

1808.7.1 Building Clearance From Ascending Slopes

In general, buildings below slopes shall be set a sufficient distance from the slope to provide protection from slope drainage, erosion and shallow failures. Except as provided in Section 1808.7.5 and Figure 1808.7.1, the following criteria will be assumed to provide this protection. Where the existing slope is steeper than one unit vertical in one unit horizontal (100-percent slope), the toe of the slope shall be assumed to be at the intersection of a horizontal plane drawn from the top of the foundation and a plane drawn tangent to the slope at an angle of 45 degrees (0.79 rad) to the horizontal. Where a retaining wall is constructed at the toe of the slope, the height of the slope shall be measured from the top of the wall to the top of the slope.

1808.7.2 Foundation Setback From Descending Slope Surface

Foundations on or adjacent to slope surfaces shall be founded in firm material with an embedment and set back from the slope surface sufficient to provide vertical and lateral support for the foundation without detrimental settlement. Except as provided for in Section 1808.7.5 and Figure 1808.7.1, the following setback is deemed adequate to meet the criteria. Where the slope is steeper than 1 unit vertical in 1 unit horizontal

(100-percent slope), the required setback shall be measured from an imaginary plane 45 degrees (0.79 rad) to the horizontal, projected upward from the toe of the slope.

1808.7.3 Pools

The setback between pools regulated by this code and slopes shall be equal to one-half the building footing setback distance required by this section. That portion of the pool wall within a horizontal distance of 7 feet (2134 mm) from the top of the slope shall be capable of supporting the water in the pool without soil support.

1808.7.4 Foundation Elevation

On graded sites, the top of any exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved drainage device not less than 12 inches (305 mm) plus 2 percent. Alternate elevations are permitted subject to the approval of the building official, provided that it can be demonstrated that required drainage to the point of discharge and away from the structure is provided at all locations on the site.

1808.7.5 Alternate Setback and Clearance

Alternate setbacks and clearances are permitted, subject to the approval of the building official. The building official shall be permitted to require a geotechnical investigation as set forth in Section 1803.5.10.

Response 148.3: As discussed in **Response 40.2:**, the project would be required to implement MM GEO-1.1, which would further evaluate bedrock on-site and how it would affect grading and excavation. Once the analysis is complete, appropriate construction equipment can be selected. Mitigation measure MM NOI-2.1, part f) states: “A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the County by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring” (page 162 of the Draft EIR). Thus, once the appropriate construction equipment is selected, it will be reported to the County in order to determine appropriate vibration monitoring. In addition, the project would be built to California Building Code standards, as detailed in the required site-specific, design-level geotechnical investigation, per MM GEO-1.1.

Comment 148.4: DEIR, Appendix G, General Summary, page 7, subtitle (2)

2. The central portion of the site (blue hachure area on Plate 3) is underlain by artificial fill and colluvial soils that are more than 17 feet deep. The liquefaction potential of these underlying soils should be evaluated.

Comment

The undocumented artificial fill mentioned in DEIR Appendix G General Summary page 7 Subtitle (2) was encountered in Test Pit 7 and was most likely used to repair a slump into the Central Drainage as interpreted from a 1939 Google Earth image (Figure 3).

Conclusion

If the undocumented fill is removed because of the liquefaction tests, it must be replaced by fill designed to withstand liquefaction. More on this in the next comment.

Response 148.4: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 148.5: DEIR, page 24.

2.2.10 Grading and Construction

Site grading and construction of the proposed project would be completed in a single phase over a total period of up to three to four years. A total of approximately 225,000 cubic yards (cy) of soil would be cut and approximately 150,000 cy of soil would be used as fill, resulting in a net export of 75,000 cy of soil. Maximum cut depths in limited areas would be approximately 25 feet in the south central portion of the site. Tiered five-foot retaining walls would be located at various locations along the internal roadways and around the perimeter of the project site behind the single-story buildings. Additional retaining walls ranging in size from seven to 14 feet would be located on the southern portion of the project site, adjacent to the Kinross Drive extension, near North San Carlos Drive, and adjacent to a proposed single-story building and Seven Hills School. Abutments are proposed up to 24 feet for the internal access road bridge over the central drainage. Grading would be completed in the first 12 months, construction of the independent living units would be completed in the following 22 months, and construction of the health care center would be completed in the last 18 months.

Comment

The second sentence in this paragraph is incorrect. It should state that a total of approximately 225,000 cubic yards (cy) consisting of 80-95% hard, well-cemented Seven Hills sandstone bedrock boulders and 5-20% of expansive soil would be cut and approximately 150,000 cy consisting of 80-95% hard, well-cemented Seven Hills sandstone bedrock boulders and 5-20% of expansive soil would be used as fill, resulting in a net export of 75,000 cy consisting of 80-95% hard, well-cemented Seven Hills sandstone bedrock boulders and 5-20% of expansive soil.

- The lack of a detailed excavation and grading plan is probably the reason for the County reviews believing that excavation material was to be all soil.
- Two crucial points are missed by the County reviewers by the mischaracterization of the excavation material.
 - Point 1 Protecting the Central Drainage and Walnut Creek from Rockfall.
 - Point 2 Creating Artificial Fill according to Contra Costa County Ordinances and the California Building Code.

Point 1---Protecting the Central Drainage and Walnut Creek from Rockfall

DEIR, Appendix G, Grading, page 8, subtitle (2)

2. Grading operations will need to consider potential accidental rockfall hazards along the western and northern property boundaries. Grading equipment operating on hillsides may dislodge boulders that could roll downhill.

Conclusion

- Excavation of 225,000 cubic yards consisting of 80-95% hard, well-cemented Seven Hills sandstone bedrock as well as installation of tiered retaining walls in areas of >26% slope grade will result in large boulders that have the potential to overwhelm any flimsy, plastic protective fencing meant to protect the seasonal wetlands within the Central Drainage and Walnut Creek.
- The protective fencing must be sturdy and metallic.
- Figure 4 is an example of such a sturdy, metallic fence that must be extended to ground level for the proposed development to protect the Central Drainage and Walnut Creek. Does the developer intend to use a sturdy, metallic fence?
- What height will the fencing be and how far from the seasonal wetland boundary will it be installed?
- How does the developer intend to construct the bridge over the Central Drainage without damaging the seasonal wetlands (Figure 5)?
- The impact to the Central Drainage wetlands and Walnut Creek won't be known until the developer discloses its fencing plans and bridge construction plans.
- The fencing and bridge construction plans must be included in the DEIR and reissued.

Response 148.5: Section 3.7.2.1 Project Impacts under Impact GEO-1 of the Draft EIR discloses that areas along the western and northern boundaries of the project site are mapped as rock fall hazard areas (page 111). The Draft EIR concluded that with implementation of MM GEO-1.1, rock fall hazards would be reduced to a less than significant level.

As discussed in Section 2.2.8 Drainage and Utility Improvements (page 23) and Section 3.4.2.1 Project Impacts under Impacts BIO-3 (page 83) of the Draft EIR, the proposed bridge crossing would be a clear span design to avoid any impacts to the central drainage and riparian area.

Comment 148.6: Point 2---Creating Artificial Fill according to Contra Costa County Ordinances and the California Building Code

DEIR, Appendix G, Grading, page 8, Subtitle (9)

Grading

9. Oversized rock particles greater than about 4 to 6-inches diameter in size should be buried at least 5-feet deep in fill areas.

Conclusion

This statement isn't in compliance with 2019 California Building Code, Section 1804.3, Placement of Backfill:

2019 California Building Code Section 1804.3 Placement of Backfill

The excavation outside the foundation shall be backfilled with soil that is free of organic material, construction debris, cobbles and boulders or with a controlled low-strength material (CLSM). The backfill shall be placed in lifts and compacted in a manner that does not damage the foundation or the waterproofing or damp proofing material.

Exception: CLSM need not be compacted.

Contra Costa County Ordinance 716-4.804 - Reports—Soil. (Requirements for a grading permit)

- (a) The county building official may require a soil investigation and report based on the most recent plan.
- (b) The preliminary soil report shall be prepared by a soil engineer based upon adequate test borings or excavations. The report shall indicate the presence of critically expansive soils, or other soils problems, which if not corrected would lead to defects in structures, buildings, or other improvements; and when it so indicates, it shall further report on an investigation of each lot of the development including recommended corrective action which is likely to prevent such defects or damage to each building, structure, or improvement to be constructed.
- (c) The preliminary soil report shall also contain:
 - (1) Reports on the suitability of the earth material for construction of stable embankments and excavation slopes, including those necessary for any artificial or natural drainage channels.
 - (2) Recommendations for construction procedures to obtain required stability.
 - (3) Maximum design velocities for any natural or artificial drainage channel.

2019 California Building Code, Section 1804.6, Compacted Fill Material

Where shallow foundations will bear on compacted fill material, the compacted fill shall comply with the provisions of an approved geotechnical report, as set forth in Section 1803.

Exception: Compacted fill material 12 inches (305 mm) in depth or less need not comply with an approved report, provided that the in-place dry density is not less than 90 percent of the maximum dry density at optimum moisture content determined in accordance with ASTM D1557. The compaction shall be verified by special inspection in accordance with Section 1705.6.

Comment

- How does the developer intend to convert approximately 150,000 cubic yards consisting of 80-95% hard, well-cemented Seven Hills sandstone bedrock boulders and 5-20% of expansive soil into artificial fill that can be well-compacted and not be subject to liquefaction and still follow Contra Costa County Ordinance 716-4.804 Reports-Soils?
- The boulders must be converted into a finer material so it can be well-compacted during the grading process (2019 California Building Code Section 804.3 Placement of Backfill). These are the possibilities:

- Use of an on-site rock crushing unit and/or jackhammers (how many?) that will create much more noise, dust, and vibration that the County hasn't included in its environmental evaluations.
- Trucking 150,000 cubic yards consisting of 80-90% hard, well-cemented Seven Hills sandstone bedrock boulders and 5-20% of expansive soil to an off-site rock crushing unit and then trucked back to the development site? The County hasn't included these extra truck trips in its traffic study estimates.

Conclusion

- The increased impact of expected noise, dust, vibrations, and truck traffic won't be known until the developer discloses its plans to convert approximately 150,000 cy consisting of 80-95% hard, well-cemented Seven Hills sandstone bedrock boulders and 5-20% of expansive soil into artificial fill not subject to liquefaction.
- It appears the developer will reveal these plans including a soil geotechnical report (as specified in 2019 CA Building Code Section 1804.6 Compacted Fill Material and Contra Costa County Ordinance 716-4.804 Reports Soils) only to obtain a grading permit and avoid public review during the EIR process.
- These plans and the soil technical report must be included in the DEIR and reissued.

Response 148.6: A site-specific, design-level geotechnical investigation, is required by mitigation measure MM GEO-1.1. The investigation shall be completed prior to issuance of construction permits and shall be reviewed by the County for approval. The Draft EIR concluded that the project, with implementation of recommendations in the geotechnical investigation and built to current California Building Code standards, would result in less than significant impacts related to ground shaking.

Comment 148.7: Appendix J, page 80

Figure 6 is page 3 of 4 of a Phase 1 Site Environmental Assessment by Ken and Norman Hale. The interesting note is adjacent to Item 30, "a small wetland from a sulfur spring".

Four seasonal wetlands have been identified in Seven Hills Ranch (SW-1, SW-2, SW-3 and SW-4, see Figure 7).

Comment

- The presence of a sulfur spring means that hydrogen sulfide gas has become concentrated in the groundwater beneath Seven Hills Ranch. This gas is recognizable by its distinct "rotten eggs" smell that can be lethal if one is exposed to large concentrations. It's a heavy gas, so when entering the atmosphere, it will sink to ground level.
- Hydrogen sulfide gas is associated regionally with groundwater in the Domingue formation sandstone. This formation doesn't outcrop in Seven Hills Ranch, but projecting outcrops from the Shell Ridge Open Space to the northwest, this formation is interpreted to be below ground level north-northeast and adjacent to Seven Hills Ranch School. Natural fracture systems could transport ground water with associated hydrogen sulfide gas from the Domingue formation to the Briones (aka Monterey or Cierbo) formation sandstones outcropping in Seven Hills Ranch

- In 1874, Bareges Sulfur Springs opened on Ygnacio Valley Road where St. John's Vianney Church now stands. It's believed the waters of this sulfur spring originated in the Domengine formation since this location is also on trend with the Domengine outcrops in the Shell Ridge Open Space. Sulfur Creek flows through the Domengine outcrops in the Shell Ridge Open Space.
- One can still smell "rotten eggs" when driving by St. John's Vianney Church on Ygnacio Valley Road.
- Ken and Norman Hale haven't identified which of the four seasonal wetlands is associated with a sulfur spring.
- The proposed Seven Hills Ranch development will involve a large-scale excavation of the sandstone bedrock and expose the groundwater aquifers that possibly could expose large concentrations of hydrogen sulfide gas to the construction workers.

Conclusions

- There is a risk that hydrogen sulfide is concentrated in the ground water beneath Seven Hills Ranch.
- There must be a follow-up with Ken and Norman Hale as to which seasonal wetland is associated with a sulfur spring.
- This risk must become part of the DEIR with a mitigation plan involving hydrogen sulfide safety protocol and reissued.

Response 148.7: Natural sulfur springs have been recognized in the site area for over 100 years. Specifically, along the northeast flank of Shell Ridge. The sulfur is thought to be a byproduct of gypsum and pyrite mineralization which are common to Eocene age rocks of the Domengene Sandstone that are exposed along the northeast flank of Shell Ridge. The nearest mapped outcrop of Domengene Sandstone is approximately 3/4-miles to the southeast of the site.

Typically, subsurface water flows along bedding planes within the bedrock. The bedding orientation of the layered sedimentary rocks within the site area are northwest-striking and near-vertical and sometimes overturned. This would mean that sulfur-rich subsurface waters sourced from the Domengene Sandstone to the southeast would have to pass through a relatively thick sequence of rocks and cross bedding planes and individual beds with different permeabilities to get to the site, and this would be extremely unlikely.

Baez Geotechnical Group (BGG) staff did not smell a sulfur odor described as "rotten eggs" anywhere on the property during their field exploration and geologic mapping program conducted in preparation of their March 24, 2020 Geotechnical and Geologic Investigation (included in Draft EIR Appendix G). As discussed in their report, Test Pit TP-6, containing artificial fill materials from excavations for the current alignment of Walnut Creek, encountered water seeping into the bottom of the pit at or about 17-feet below the existing ground surface. The pit remained open for a short time prior to backfilling to allow the subsurface water to stabilize and no such sulfur scent was detected during this time.

There is no record or evidence of a sulfur spring having been located within the site by other professionals. Based on Baez Geotechnical analysis it is extremely unlikely that the proposed project grading would encounter such a sulfur spring. Therefore, no further analysis or amendments to the DEIR are needed.

149. Philip Ho (dated May 10, 2022)

Comment 149.1: Geotechnical Comments

DEIR Section 3.7. Appendix G: Geological & Geological Investigation.

DEIR Section 3.17. Appendix P Transportation, Page 28, Construction Traffic.

DEIR, Appendix P, Page 28 states: “The total overall project excavation volume is expected to be approximately 225,000 cubic yards (CY), with roughly 150,000 CY of fill, resulting in the potential for export of up to 75,000 CY.”

Comments:

[1] The project proposes to level the western half of the site and to recontour the eastern half of the site. One of the existing seven hills will remain. This will create an area equivalent to approximately twenty-seven (27) football fields to accommodate the multitude of high-density, high-rise buildings, flatwork, internal streets, and other facilities. This requires extensive soil excavation, rock excavation, and trenching. The DEIR presumes all excavated materials as clean soil only. The grading quantities are based on clean soil only and are therefore erroneous and misleading. The DEIR does not differentiate between excavation of soil and excavation of bedrock. According to Appendix G, a portion of the site has either rock outcrops or shallow covers of over bedrock. Rock excavation may include cutting, grinding, drilling, blasting, and crushing of bedrock. Crushed bedrocks are contaminated, and are not acceptable as clean fill. Contaminated materials are hazardous and shall be hauled off-site. The DEIR disregards the quantity of crushed rock (not suitable as engineered fill), substantially overstates the quantity of soil that is suitable as fill, and substantially under-reports the quantity of excavated materials to be hauled off-site.

The DEIR is saturated with errors, omissions, and misinformation which causes confusion, uncertainties and can mislead decision makers and the public. The DEIR skirts over the subject of bedrock excavation, grading, off-hauling operations, construction traffic impacts (Appendix P, page 28), obscures project impacts, and evades mitigation measures. Since earthwork quantities are grossly misrepresented, all DEIR findings of impacts related to grading, off-hauling, and other related construction activities are invalid and have no merits.

Response 149.1: The Draft EIR accurately disclosed the current expected excavation and fill numbers based on the project design. Please refer to **Response 148.6:** regarding bedrock excavation and **Response 2.13:** regarding construction traffic.

Comment 149.2: [2] The DEIR earthwork quantities are erroneous and misleading. The DEIR does not disclose the quantity of organic materials and debris generated from the removal of all existing structures, vegetation, and trees. The DEIR under-reports the amount of materials to be hauled off-site, and skirts over its impacts on the adjacent City park, school, residential neighborhood, and local streets.

[3] The DEIR should provide additional information on the haul truck sizes, tonnage, and types (e.g. single trailer, dial trailer), frequency of haul trucks entering and exiting the site, haul truck schedule/duration (weekday, weekend, hours of the day). DEIR should identify the haul truck impacts quantitatively and qualitatively. The project should direct haul trucks to use multiple project access points to minimize the construction impacts on Kinross Drive, Heather Dr, North San Carlos Drive, Marchbanks Drive, and Ygnacio Valley Road.

[4] The DEIR does not fully describe the sheer magnitude of massive soil excavation, rock drilling, blasting, trenching, grading, pile driving, retaining walls, foundation work, loading/unloading of soil/ rock/organic materials onto massive haul trucks, transportation of construction materials, and the use of power generators, machinery, tools, and lighting equipment. All these activities will create a 24/7 cascade of pollutants including fumes, dust, airborne particles (especially silica dust), noise, high-intensity illumination, air vibration, ground vibration, and construction truck/equipment/ machinery/tools exhaust over 4+ years. The use of water trucks may have some limited and temporary effect on moisture content in exposed soil, but has no effect on crushed rock or any of the other pollutants listed herein. The DEIR should address all these issues and impacts.

[5] The DEIR should identify and quantify all other project related vehicles and trucks. This includes all employee vehicles, construction trucks, earthmoving trucks, water trucks, transportation of tower cranes, rock drilling machines, pile driving machines, construction equipment, tools, power generators, lighting, construction materials, storage shed, trailer, etc. The DEIR should account for all this in addressing construction impacts.

[6] The earth materials will fill up between 3,000 to 6,000 dump trucks and tandem trailers to remove soil from the site. This will create between 6,000 and 12,000 two-way truck trips. (If the project does not use tandem trailers, the volume of dump truck trips will be doubled to the higher 12,000 two-way truck trips, and may require more time for project completion.) These dump trucks will go up and down Kinross Drive and Marchbanks Drive at approx 30 minute intervals, 9 hours a day, 5 days a week, for 16+ months (likely much longer), not 12 months as the DEIR erroneously states.

Response 149.2: Please refer to Master Response 6: Air Quality Construction Haul Trips section above.

Comment 149.3: The project's hauling operation, transportation, deliveries, and all other off-site activities shall be prohibited on all Saturdays, Sundays, and public holidays. The project truck traffic will create unsafe conditions for the pedestrians and children in the residential neighborhood, pedestrians of all ages crossing Heather Dr as they visit the Heather Farm Park facilities and golfers crossing Marchbanks in two places where Marchbanks crosses through the golf course. This will definitely degrade the quality of life in this decidedly suburban area.

Response 149.3: As stated in mitigation measure MM NOI-1.1 (page 157 of the Draft EIR), noise-generating activities, including construction traffic at the construction site or in areas adjacent to the construction site, shall be restricted to the

hours of 8:00 a.m. to 5:30 p.m., Monday through Friday, with no construction allowed on federal and State weekends and holidays.

Comment 149.4: The hauling truck traffic wheel loads will substantially damage the pavement on local streets. The damage to street pavement would be far greater if all construction-related truck trips are accounted for. The DEIR shall identify all haul routes within the City of Walnut Creek, and degradation to the Pavement Conditions Index (PCI). The project shall replace the pavement cross-sections full depth along all haul routes between the project site and freeway on/off-ramps prior to the County issuing an occupancy permit.

Response 149.4: Please refer to **Response 141.35:** regarding haul trips and potential damage to city streets.

Comment 149.5: [7] DEIR should describe how and in what manner will the project remove and clean up soil, crushed rock, organic materials, debris, trash, waste, and construction materials tracked, dumped, or abandoned onto the City streets by the project activities. The project shall not use excessive potable water (California is in a year-over-year drought) and shall be in compliance with the local water agency. The project is prohibited by the Water Board from allowing any illicit discharge to drain into the public storm drain system.

Response 149.5: Mitigation measure MM AIR-1.1 (page 56-57 of the Draft EIR) discusses required street cleanup procedures during project construction.

Comment 149.6: [8] DEIR should identify how all project construction activities, whether associated with hauling operation or not, impact the quality of life for all Heather Farm Park visitors, Cowden Rose Garden visitors, Seven Hills School students and staff, and local residential neighborhoods in the City of Walnut Creek. The DEIR is substantially deficient in all respects.

[9] The DEIR shall more thoroughly identify, evaluate, address, and mitigate all project impacts described above.

Facts: The DEIR is required to identify the proposed project impacts, including both long-term impacts and near-term impacts.

Action: DEIR Section 3.17, Appendix P, Section 3.7, and Appendix G to be revised accordingly.

Response 149.6: Please refer to **Response 131.14:** above regarding air quality impacts to nearby sensitive receptors, Master Response 6: Air Quality Fugitive Dust section for discussion on controlling fugitive dust and provisions for the public to file dust complaints, and Master Response 8: Noise and Vibration regarding construction noise and vibration.

150. Stan Roe (dated May 10, 2022)

Comment 150.1: Storm Water Drainage Impacts

This comment will address the proposed storm water drainage system from the north-northwest end of the Seven Hills Ranch property. This area currently doesn't have underground drainage systems. Storm water currently flows onto North San Carlos Drive, the Equestrian Center of Walnut Creek, and Contra Costa Water District (CCWD) property (Figure 1).

DEIR, Appendix K, Preliminary Hydrology and Water Quality Report, pages 4-5, subtitle (D), Proposed Drainage System, first paragraph:

D. Proposed Drainage System

The proposed drainage system is designed to convey the 10-year design storm in the storm pipe with a hydraulic grade line below the rim of the structure. For storms larger than the 10-year event, including runoff from the 100- year storm runoff will be carried in the street. Low points in the street and terrain, where overland release or conveyance will flood property or has potential to damage surrounding areas, will be intercepted and conveyed in the storm system. The Contra Costa County drainage guidelines will be used to size the proposed storm drain system. Existing drainage patterns will be maintained by providing outlets from the storm drain system to existing points of discharge and detaining as required to not exceed pre-project runoff. Given the project's design elevations and detention of additional runoff, we do not anticipate water levels in the Walnut Creek affecting the projects drainage design, nor do we anticipate requiring flap gates.

Concerning the proposed storm water drainage system from the north-northwest end of the Seven Hills Ranch property, DEIR, Appendix K, Preliminary Hydrology and Water Quality Report, page 4-5, subtitle (D), Proposed Drainage System, second to last paragraph:

On the northerly end of the Project Site where the Health Care Center is planned, stormwater flows offsite to North San Carlos Drive and the Equestrian Center of Walnut Creek gravel parking lot. These two areas do not currently contain underground drainage systems. The project proposes to pipe the runoff off site and discharge to the existing drainage channel crossing North San Carlos Drive.

Response 150.1: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 150.2: Comment 2

Referring again to Figure 1, the drainage that occurs through Heather Farm Park and into Walnut Creek is by an "Unnamed Creek". This creek appears from under Ygnacio Valley Road opposite the Sports Basement. It doesn't have a surface presence south of the Sports Basement, so it probably has been hooked up to the street sewer system during the development stage of the Walnut Avenue/Northgate neighborhoods. When it surfaces at Ygnacio Valley Road, it flows into Heather Farm Park in a west-northwest direction around the southern-most soccer field and under North San Carlos Drive into the Nature Lake at Heather Farm Park. North San Carlos Drive acts as a "dam" at the north end of the Nature Lake at Heather Farm Park. The "Unnamed Creek" reappears as an outfall north of the "dam". The "Unnamed Creek" then flows along the northeast boundary of the Dog Park and turns southwest paralleling the Contra Costa Canal.

The "Unnamed Creek" eventually crosses under the Contra Costa Canal and drains into Walnut Creek.

In December 2012, extreme winter rains overwhelmed the Heather Farm Park drainage system resulting in extreme flooding at the north outfall of the Natural Lake at Heather Farm Park into the “Unnamed Creek” as shown in this YouTube video (see Figure 1 for location):

December 2, 2012 - Walnut Creek, CA - Heather Farm Park & Contra Costa Flood Control Canal – YouTube

Will diverting storm water from Seven Hills Ranch via pipeline and intake points along North San Carlos Drive into the “Unnamed Creek” worsen an already bad situation as illustrated by this December 2012 flood? Extreme weather events would have a significant erosional impact on the “Unnamed Creek” and its surroundings.

Response 150.2: Please refer to **Response 2.6:** regarding drainage along North San Carlos Drive.

Comment 150.3: DEIR, page 135

3.10.2 Impact Discussion

For the purpose of determining the significance of the project’s impact on hydrology and water quality, would the project:

- 1) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?
- 2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?
- 3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
 - result in substantial erosion or siltation on- or off-site
 - substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site
 - create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff
 - impede or redirect flood flows?
- 4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?
- 5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

DEIR, page 137

Impact HYD-3:

The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or

planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. (Less than Significant Impact with Mitigation Incorporated)

Comment 3

- The DEIR completely ignores a significant erosional impact to the “Unnamed Creek” and its surroundings during extreme weather events such as occurred on December 2, 2012.
- Appendix K makes no secret that during extreme weather events the retention pond (76 ft. long X 34 ft. wide X 4 ft. deep) will have the potential to overflow through Walnut Creek property and CCWD property before finding intake in the low points of North San Carlo Drive and adjacent terrain that will find its way into the “Unnamed Creek”.
 - In an August 28, 2020 Comment letter from CCWD to Sean Tully, CCWD state on page 2:
 - 2. No drainage from the project site shall be allowed to go onto CCWD or Reclamation property.
- Has CCWD given their approval for this proposed drainage system along North San Carlos Drive?
- The impact on the added storm water volume and erosion to the “Unnamed Creek” and its surroundings needs to be addressed beyond the concept of a 100-year storm or a 1% probability of an occurrence in a given year. The hydraulic modeling needs to include more frequent extreme weather events in these times of climate change. Does the hydraulic model predict severe erosion during flooding?
- Should the County ignore Chapter 6.5 of the California Watershed Protection and Restoration Act Chapter 5808 (5808.1) when a citizen comes forward with local initiative to promote watershed protection?

Chapter 6.5. California Watershed Protection And Restoration Act (5808-5808.2) (9422)

5808. This chapter shall be known, and may be cited, as the California Watershed Protection and Restoration Act. (9423) 5808.1. The Legislature finds and declares the following: (9424) (a) In addition to the statutory and regulatory policies and programs established pursuant to the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), Division 20.4 (commencing with Section 30901), and Chapter 1.696 (commencing with Section 5096.600) of Division 5, Division 7 (commencing with Section 13000) and Division 26.5 (commencing with Section 79500) of the Water Code, and other statutes and regulations affecting watershed planning and protection, efforts to conserve, maintain, restore, protect, enhance, and utilize California's rivers and streams for habitat, recreation, water supply, public health, economic development, and other purposes have a greater likelihood of being successful when governments, including federal and tribal governments, work in partnership with citizens in an effort to combine community resources, local initiative, and state agency support. (9425)

Conclusion

- The new hydraulic modeling must be included in the DEIR with a new mitigation plan (including a deeper and larger retention pond) to ease the erosional impact of the “Unnamed Creek” and its surroundings during extreme weather events.

- A report from CCWD approving the proposed North San Carlos Drive drainage must also be included in the DEIR.
- Once the new hydrologic modeling and CCWD report are included in the DEIR, it should be reissued.

Response 150.3: Please refer to **Response 1.13:**, **Response 1.14:**, **Response 2.6:**, and **Response 2.7:** regarding proposed stormwater facilities.

151. Catherine Crossett Avila (dated May 10, 2022)

Comment 151.1: Potential Hydrology Impacts

Impact BIO-3: It appears that the proposed bridge/culvert may have a significant impact on wetlands. In addition, the significant fill and tall walls placed on the right and left bank of the wetlands may have an adverse impact on the existing wetlands that requires mitigation.

Response 151.1: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 151.2: Impact Hyd-3 notes that the project would not alter the existing drainage pattern of the site. Given the substantial fill and very tall walls proposed for the project, we disagree with this finding as surface flows would be revised to pipe flows which is a significant alteration of the existing drainage pattern.

Response 151.2: The comment is noted, however, the County maintains that the project would not alter existing drainage patterns, as flows on the project site would still be directed to the central and southern drainages, and to North San Carlos Drive.

Comment 151.3: Appendix K – Preliminary Hydrology and Water Quality Report

The soils were classified as Hydrologic Soil Group D. Were any infiltration tests completed by the geotechnical engineer to confirm this assumption?

The existing DMA.dwg shows significant fill on and a dramatic revision to the drainage pattern. How are the revisions to the surface drainage and concentration of the existing wetlands with tall walls on the left and right channel walls affect the biota and how will these impacts be mitigated? The CEQA checklist

Interceptor Channel Capacity Post-Project conditions

The flow rates have a Froude number of 1.75 to 1.8 and supercritical flow. What does the hydraulic analysis look like if subcritical flow is assumed?

Response 151.3: Field infiltration tests were not performed as part of the Due Diligence Geotechnical and Geologic Investigation report prepared by BGG for the site. The Web Soil Survey, National Cooperative Soil Survey, by the US Department of Agriculture, Natural Resources Conservation Services, provides information on the

engineering and physical properties of soils for the United States. The Web Soil Survey shows that over 90 percent of the site (except along Walnut Creek) is mantled by the Lodo clay loam soil series. This soil that has developed over the bedrock is reported to be in Hydrologic Group D, with infiltration rates of 0.2 to 0.6 inches per hour.

As stated in DEIR Section 3.4.1.1, wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act. As called for in DEIR Mitigation Measures BIO-3.1 and 3.2, the project must complete permitting with the Corps of Engineers and RWQCB, and the project's stormwater treatment features and water discharge must be designed to be consistent with the California RWQCB's Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit and avoid damage to protected habitat. The treatment features and related discharges to the central swale area will be placed in locations to treat runoff from the developed portion of the site before entering avoided wetlands. To the extent feasible, existing site drainage patterns in the vicinity of avoided wetlands are to be preserved to prevent indirect alterations to surface hydrology that may contribute to supporting the wetlands.

The channel as preliminarily designed would have a super-critical regime based on the channel shape and flow/velocity. This will be further detailed with the improvement plans.

Comment 151.4: Appendix L – Drainage Feasibility Study

Page 1 and Appendix D: Please confirm a complete water quality analysis was performed and the discharge was hydro-modified such that all water is treated and no additional discharge flows under the Contra Costa Canal.

Page 3: Please confirm the proposed solution treats all stormwater onsite and no additional peak flow leaves the site.

Page 4: Please confirm the minimum self-cleaning velocity of 3 feet per second (fps) is maintained at all storm outfalls per the Urban Drainage Design manual. From Appendix H, the velocity appears to be 2.35 fps. The system should be redesigned to meet the minimum self-cleaning velocity or a maintenance agreement should be implemented to mitigate.

Response 151.4: Please refer to **Response 2.5:** and **Response 2.6:** above regarding Appendix L.

Comment 151.5: Appendix M – Preliminary Stormwater Control Plan

Page 2 of 17: It is unclear how the project will comply with the C.3 Stormwater Guidelines since the improvements “would nevertheless result in a net increase of total impervious surface compared to

pre-development conditions, and will therefore be engineered for compliance with Contra Costa County C.3 Stormwater Guidelines”.

Stormwater Control Plan C6.0 notes that the area in the southwest side of the project “drains offsite and that treatment is not feasible”. The project should be redesigned until the project fully treats the storm drainage. Further, a structure of some type (presumably a bridge or a culvert approximately 20-ft tall). Details of this drainage structure and how it will be constructed to minimize and mitigate damage to the wetland should be provided in one of the drainage reports.

The stormwater Treatment Summary notes that “where additional detention is required, a 60” RCP pipe is proposed to provide necessary storage. See sheet C5.0 for location. Sheet 5.0 in the revised Civil Plans 12.2.20, however, does not contain a 60” RCP pipe reference.

Response 151.5: The project qualifies as a C.3 regulated project within the SF Bay Municipal Regional Stormwater permit (MRP) as a result of the addition of impervious surface. The preliminary Stormwater Management Plan outlines how the project will comply with provision C.3 and will be further detailed with the improvement plans.

The preliminary SWCP provides stormwater treatment to the maximum extent practicable, consistent with “MRP2” (permit R2-2015-0049) and the standard as set forth in the Clean Water Act which calls for achieving treatment of flows to the “maximum extent practicable.” The preliminary SWCP identifies a small segment of the emergency access connection along the extension of Seven Hills Ranch Road as impracticable/infeasible to treat due to boundary and topographic constraints. Improvements within this area have been minimized and the DEIR confirms that no increase in peak flows will occur relative to the site's pre-development condition. The adequacy of downstream facilities to accommodate flows into this system have been verified as discussed in **Response 1.13**. Therefore, the project will not adversely affect the existing facilities, and no changes to the DEIR are required. The preliminary stormwater control and the hydraulics design currently do not utilize oversized pipes for detention. This will be further detailed with the improvement plans.

Comment 151.6: Further comment:

Bridge design, structure and construction

Information and details must be included in the EIR with hydraulic and structural analysis detailing the proposed type of bridge over the wetlands, including foundation type and location and provide information as to how the construction will take place to avoid and/or mitigate significant disturbance of the wetlands.

Response 151.6: Please refer to **Response 143.4:** regarding bridge design.

Comment 151.7: Figure notes:

Graphics produced, provided and added by Charles Clancy, GIS Analyst for Chevron, Retired. Specializing in geospatial/geologic data mining and creation, cartography/presentation graphics, 2D & 3 D visualizations, data forensics.

As currently proposed by the developer, the bridge abutments would be over 20 feet high and would be about 65 feet apart.

The streets are shown projected onto the existing terrain in yellow. The road extending from the bridge is shown on the existing terrain. In 3d it would go over the bridge and alongside the building at about the same elevation as the building floor.

Contours are every 5 feet. Under the bridge the existing elevation is 114. The road elevation on the proposed bridge is 137. The maintenance building floor would be at 136.

The existing SHRR culvert is approximately 75 feet to the SE of where the bridge is proposed. After the culvert is removed the original drainage would have to be restored. To build the bridge as proposed, with its abutments and the retaining wall along the west side of the drainage, protection of the existing wetland would be challenging and "restoration" and "enhancement" would be necessary as described in the original project description. The dashed wetland outline was digitized from BKF Civil drawings then adjusted to reflect vegetation patterns on the orthoimagery.

Response 151.7: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

152. Kennedy & Associates (dated May 10, 2022)

Comment 152.1: Appendix K, L, and M

Kennedy and Associates (K&A) has received and reviewed the Draft Environmental Impact Report and associated Appendices for the Spieker Senior Continuing Care Community Project. We have reviewed the appendices listed in the subject line above for any issues that may be inconsistent, infeasible, or non-compliant with standard engineering practices and regulatory frameworks.

It is noted that the level of this design is appropriate to the current phase of the project, i.e. evaluating potential environmental impacts of various project alternatives. It is anticipated that most of the issues noted below would be remedied during detailed review in the entitlement and construction design phases.

With that said, K&A provides the following comments.

Appendix K – Appendix K - Preliminary Hydrology and Water Quality Report Comments:

It is understood that the project will implement Low Impact Development (LID) treatment facilities that may include any of the combination of the following: bioretention facilities, flow through planters, pervious pavements, depressed landscaped areas, and green roofs in series with cisterns, vaults, and/or dry wells. These LID facilities are sized to treat runoff as well as provide post-project flow control.

Confirm it is acceptable within a retirement community to:

- Construct the bioretention areas 15” lower than the surrounding grade, and
- Include pervious pavements and / or pavers.

If deemed acceptable, ensure any potential tripping hazards are adequately mitigated. Confirm a minimum 10-ft dry lane for access is adequate for:

- County drainage requirements, and
- Critical facilities for a retirement community / medical facility.

Response 152.1: The final design of the proposed stormwater facilities will be reviewed by the County Public Works Department for the adequacy of maintenance vehicle accessibility and safety prior to the issuance of construction permits.

Comment 152.2: Appendix L – Drainage Feasibility Study Comments:

It is noted that the project’s proposed solution states that the constraints along the outfall required the storm drain proposed to be 15”, which has a maximum capacity that is less than what is required. Additionally, the design slope is 0.002 feet per foot length which is less than the 0.005 city requirement with a pipe velocity of 2.35 feet per second falling below the Urban Drainage Design Manual’s recommendation of 3 feet per second as a self-cleaning velocity.

The proposed solution also notes that the utilization of onsite storage to limit the peak flow within the outfall to the capacity of the 15-inch PVC pipe will ensure that the hydraulic grade line requirement of 18 inches is also met.

It is unclear whether the use of the onsite storage limits the peak flow to the extent that the proposed 15” pipe has the required capacity or recommended velocity. If yes, the Memorandum should be updated as such. If no, it is unclear how the Memo concluded as designed the design is a feasible alternative to the previous design and/or existing conditions.

The Memorandum also defers the determination of whether the downstream facilities have capacity for the additional project flows to the City and County. It is typically the project proponent’s responsibility to determine adequate capacity exists or design and evaluate environmental impacts of upgrades to any facilities.

Response 152.2: Please refer to **Response 2.5:** and **Response 2.6:** above regarding adequacy of proposed stormwater infrastructure.

Comment 152.3: Appendix M – Preliminary Stormwater Control Plan Comments:

From the Stormwater Exhibit C6.0 it is unclear where the drainage from existing Kinross upslope from the extension is going. It appears to be bypassing treatment and be diverted toward 7 Hills Ranch Rd. What drainage facilities exist to accept this flow?

II.C Part of 7 Hills Ranch Road is identified as part of the project untreated. This is not permitted under MRP2.

Generally, the ability for pervious landscape areas to drain eventually to bioretention will depend on the fine grading, a precise design review matter.

The association of IMPs with DMAs, while called out in the text, is unclear graphically.

Part of DMA T37 appears to drain to the wetland.

DMAs T40 and T47 appear to split the tennis court a flat area.

For the courtyard areas T55, T56 and T57 each DMA is draining to many IMP's. This is not a calculable pattern and is not allowed per page 35 of the Guidebook.

The self-treating areas call out that there will be a small amount of pervious area draining to them. This is limited to 5% and the actual impact is not shown. Also, they rely on area drains to capture overflow beyond the design runoff. In most cases an area drain is not shown so it is unclear if this proposal will function as intended.

Is car washing contemplated for any of the residents? If so, car washing should be added to the Sources and Source Control Measures.

Response 152.3: Existing treatment upstream of the project limits it outside of the project area. It is piped and then directed to the interceptor channel, consistent with the flow pattern of the existing condition. New impervious surfaces within the Kinross Drive improvements are directed to DMA 18 for treatment. See **Response 2.7** for a full discussion of drainage within this area. The project will pre-treat and detain its contributing peak flows along the extension of Kinross Drive in accordance with County C.3 and hydraulics standards and will not alter the volume or method of discharge into the existing culverts.

The preliminary SWCP provides stormwater treatment to the maximum extent practicable, consistent with “MRP2” (permit R2-2015-0049) and the standard as set forth in the Clean Water Act which calls for achieving treatment of flows to the “maximum extent practicable”. The preliminary SWCP identifies a small segment of the emergency access connection along the extension of Seven Hills Ranch Road as impracticable/infeasible to treat due to boundary and topographic constraints. Improvements within this area have been minimized and the Draft EIR confirms that no increase in peak flows will occur relative to the site’s pre-development condition. The adequacy of downstream facilities to accommodate flows into this system have been verified as discussed in **Response 1.13:**

The plans included in the Draft EIR and its appendices are accurate for purposes of impact analysis and entitlement. These plans are subject to engineering refinement and further detailing as part of the construction documents. As documented in Appendices K, L, and M, storm water detention, pre-treatment, and full compliance with County C.3 standards will be verified through review of the construction documents prior to issuance of permits.

Each area draining to an integrate management practice (IMP) is identified in Draft EIR Appendix M, and shown the Storm Water Control Plan provided in appendix Attachment B. The supporting sizing calculations for those IMPs are provided in appendix Attachment C. The DMA sizing calculations are provided in appendix Attachment D, and typical sections for those treatment facilities are further detailed in appendix Attachment E.

Final grading of DMA A37 and the bioretention basin will detail all impervious runoff directed to T37 for treatment before discharge to the central swale. This is consistent with the description on pages 7-8 of DEIR Appendix M and Attachment B.

Stormwater Treatment Areas 11 and 12 are shown in Draft EIR Appendix M, Attachment B (both corresponding to Post DMA 6 as shown in Draft EIR Appendix K). These areas have been appropriately sized and configured for efficient conveyance and treatment as documented in the report. As previously noted, minor refinements may be implemented as part of the final construction-level documents which will be verified for conformance to all applicable County standards.

Courtyard and connected roof shed areas are appropriately identified in the preliminary SWCP as being pretreated and subsequently draining into the collection system within the surrounding looping roadway before being discharged. Consistent with this preliminary SWCP, additional detailing of courtyard areas and related roof sheds will be provided with the construction document permit submittals.

As stated beginning on page 10 of Draft EIR Appendix M further detailed in Attachment C, the Drainage Management Areas include 13 self-treating area which consist mainly of landscaped areas with a very small amount of impervious area (such as the tops of retaining walls and curbs around formal landscaping areas). Stormwater from each such drainage area is directed via surface runoff to the associated area drain which is designed to treat the first 1" of rainfall and provide a minimum of 3" of ponding to promote infiltration into the soil. Any stormwater in excess of the 3" will be captured by the area drain and discharged into the storm drain system.

Occasional car washing is not excluded as an operational activity in the Operational Source Control BMP's provided in Section V (Source Control Measures) of DEIR Appendix M which reads: "Plazas, sidewalks and parking lots will be swept regularly to prevent accumulation of litter and debris. Any debris from pressure washing will be collected to prevent entry into the storm drain system. Any wash water containing any cleaning agent or degreaser and will be collected and discharged to the sanitary sewer not to a storm drain." The associated area drains are all detailed on the Stormwater Control Plan in Attachment B.

153. Patricia McGowen and Anonymous (dated May 10, 2022)

Comment 153.1: Land Use and Housing Impacts

P. 141, Section 3.1.11.1.2, Land Use Section, "Existing Conditions"

A mere three short paragraphs are provided on “Existing Conditions” and only one sentence states what existing land uses are in the surrounding area. No text is provided on the existing conditions of the site in terms of tree cover, existing topography, views out, existing buildings, any easements, or infrastructure. It is critical to note the density of surrounding residential uses, access provisions, the scale of nearby residential buildings, the use of Seven Hills School (no. of students, etc.) the adjacent park usage, and the creek. The reader has no information on which to assess impacts as compared to existing conditions because of the lack of this information.

Response 153.1: Section 3.11 Land Use and Planning of the Draft EIR discussed impacts related to land use choices and land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. The Draft EIR accurately describes the project site’s current land use, per the County’s General Plan and zoning ordinance, and the surrounding land uses. Details related to aesthetics (e.g., views, building heights), biological resources, or public services are not appropriate for this section and are described in their separate sections of the Draft EIR (see Section 3.1 Aesthetics, 3.4 Biological Resources, and Section 3.15 Public Services).

Comment 153.2: p. 142

Only four pages of the 218 page DEIR address the topic of land use. The Project proposes a major change in land use from what currently exists at the site and would be in significant contrast to the surrounding neighborhood. The DEIR needs to address this and needs to explain the existing surroundings in more detail so the reader knows the significant contrast that will be created, in particular to the adjacent park and eastern creek.

Response 153.2: As stated in Section 3.11.2 Impact Discussion (Draft EIR page 141), the project would result in a significant land use impact if the project would either physically divide an established community or cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. As discussed under Impact LU-1 and Impact LU-2, the project would not physically divide a community and would not conflict with any land use plan, policy, or regulation. Thus, the Draft EIR adequately evaluates the project’s land use impacts.

Comment 153.3: Impact LU-2, p. 142, par. 1, “The proposed CCRC would be a compatible use with the surrounding community”

There is nothing stated that would substantiate this conclusory statement. No text explains how compatibility is defined. For land use, compatibility is about types of land use, daily activity, scale and height of buildings, noise and other secondary land use considerations, associated traffic, etc. The only compatible element is the fact that the project is primarily residential, despite the Project Description saying it’s not residential. And surrounding communities also include a park and a school.

Response 153.3: Please refer to Master Response 2: Project Non-Residential and Infill Designation. Based on the surrounding land uses, the County concluded that a CCRC facility would be compatible land use in this area.

Comment 153.4: Impact LU-2, p. 142, par. 1, The project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect
The Contra Costa County (CCCo) General Plan (GP) Land Use (LU) designation for this site is SM, single family medium density, not Continuing Care Retirement Community (CCRC) multi-family designation. Yet paragraph 2 p. 142 states that “the Project would not conflict with the GP LU designation.” Yes it would. This conclusion is inaccurate. Please provide the analysis and correct the conclusion. The DEIR should assess conflict with existing land use designations and also explain clearly what proposed designation changes the applicant has proposed. The potential conflict with the proposed land use designation should also be addressed.

Response 153.4: As discussed under Impact LU-2 of the Draft EIR (page 142), the project proposes a General Plan Amendment to change the land use designation from SM to CCRC. With this General Plan Amendment, the project would not conflict with the land use designation of the County’s General Plan.

Comment 153.5: We disagree that there is no conflict with GP Policy 3-23... “ensuring community compatibility and quality residential construction.” The conflict lies in the Project Description which states that this is a non-residential institutional use. Please clarify how an institutional use complies with Policy 3-23.

No analysis is provided for consistency with GP Policy 3-22 “Housing opportunities for all income levels shall be created. Fair affordable housing opportunities should exist for all economic segments of the county.” Please describe how the Project which will house 500-700 people yet provides no affordable housing complies with this Policy.

No analysis is provided for consistency with GP Policy 3-29 “New housing projects shall be located on stable and secure lands or shall be designed to mitigate adverse or potentially adverse conditions. Residential densities of conventional construction shall generally decrease as the natural slope increases.” The “apartment building” as described on p. 8 and p. 24 of the DEIR is very high density and is located on a steeply sloping part of the site which is proposed to be levelled by cutting up to 24 feet of earth away from the natural hillside. Please describe how the Project complies with this policy.

Impact LU-2, p. 142, par. 2, “The project would not result in an unmitigated adverse environmental impact, consistent with General Plan policy 3-28.”

Policy 3-28 states “New residential development shall be accommodated only in areas where it will avoid creating severe unmitigated adverse impacts upon the environment and upon the existing community.” Please refer to other comments that address potential unmitigated significant impacts such as removal of trees, major grading, etc. The DEIR is written as if it were defending the project rather than objectively reviewing potential impacts. The existing community is hardly considered. The surroundings include low-medium density residential uses that would be drastically impacted by the immense scale of this development, especially in terms of the visual impacts, air pollution and noise associated with major grading and leveling of the hillsides, incredibly high retaining walls, removal of major trees, and the immense scale of the proposed apartment building. No creative

thinking has gone into suggesting mitigation measures that would improve the compatibility with the neighborhood such as:

- Reduced scale of the largest building in terms of footprint and height
- Preserving a large portion of the site in open space that could be shared with the neighborhood
- Preserving on-site critical trees
- Reduced grading to respect the natural form of the site by siting buildings in a way that minimizes grading requirements

The site should never be developed as intensely as proposed and a good site planner would have shown far less development than what is proposed.

Please provide the analysis of how the Project complies with this policy.

Response 153.5: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 153.6: No analysis is provided for GP LU Implementation measure 3-i, p. 3-46 of GP “Enforce the restrictions on open hillsides and significant ridge lines in the Open Space Element and protect hillsides with a grade of 26 percent or greater through implementing zoning and other appropriate measures and actions. Please provide the analysis of compliance of the Project with this policy. The DEIR should include an analysis of slope conditions on the site and should include a clear slope map.

Response 153.6: It is unclear what implementation measure the comment is referring to, as implementation measure 3-i (referenced in the comment below) is different than what is provided. Please refer to Master Response 1: County General Plan Policy Consistency regarding consistency with General Plan policies regarding hillside development.

Comment 153.7: No analysis is provided for GP LU Implementation measure 3-i, p. 3-46 of GP “Require staff reports on applications for commercial, light industrial, and office developments of more than 10,000 square feet or generating 25 or more jobs to address the impact of that development upon the subregional jobs/housing balance.” Per the Project Description, this is an institutional use which will employ +225 people. Please provide the analysis for how the Project complies with this GP Implementation Measure. With that many employees, where will their housing be provided?

Response 153.7: As implementation measure 3-i states, the analysis of these issues will be provided for in the staff report for the project, not the Draft EIR.

Comment 153.8: Impact LU-2, p. 142, par. 3

No analysis is provided for how the cumulative project list was determined. The number of projects on the list is very small and includes only residential projects in the area, not retail, office or institutional projects. What criteria and radius from the project site was used? The new community

center and pool complex in Heather Farm Park that was conceptually approved by the WC City Council in Dec. 2021 should be noted.

Response 153.8: Cumulative projects were selected based on a one-mile radius from the project site. Any approved (but not yet constructed or occupied) projects at the time the NOP was circulated (July 23, 2021) and projects with pending development applications were included. Projects proposed after the NOP date do not need to be included in the Draft EIR.

Comment 153.9: Wholly excluded from DEIR

No analysis is provided for consistency with the Housing Element of the Contra Costa General Plan which was adopted to mitigate the imbalance between housing and jobs in the County. Housing Element Goal 6: “Provide adequate sites through LU designation and zoning to accommodate the County’s share of the Regional Housing Needs Allocation.” Please provide the analysis to show how changing the General Plan designation from a residential use to an institutional use provides compliance of the Project with this goal of the Housing Element adopted by the County Board of Supervisors.

No analysis is provided for how the Project will meet the County’s required compliance with the Association of Bay Area Governments (ABAG) Regional Housing Needs Allocation which was adopted at a State level to mitigate the imbalance between housing creation and job creation throughout the state. Preliminary determination by ABAG for unincorporated Contra Costa County is that during 2023 to 2031 over 7,600 housing units in the unincorporated areas plus an additional 5,800 housing units in Walnut Creek need to be built. The County must update the Housing Element of the General Plan to show locations and policies to facilitate this housing being built. As stated in the Project Description, “the Project does not contain any residential component” even though it will house 500-700 people. Thus, with an existing General Plan designation on this 30-acre site of Single Family Medium-Density Residential, the DEIR does not analyze how the Project advances the County’s required compliance with the Regional Housing Needs Allocation to have over 7,600 housing units built in the unincorporated areas of the County before 2031. Please provide this analysis.

No analysis is provided for consistency with County Ordinance 822-4 Inclusionary Housing Ordinance, adopted by the Board of Supervisors, nor an explanation of why these buildings which will house 500-700 people, and which per the Project Description “will provide residential units for senior citizens” are not considered housing under Ordinance 822-4. Would the 354 “independent living units for residents not needing daily assistance” be licensed through the State of CA as a “Residential Care Facility for the Elderly” or just the assisted living, skilled and memory care units? While the State of CA licensure of these types of housing facilities may classify them as “non-residential institutional use” there is no analysis of why the “independent living units for residents” are not housing under the County’s Inclusionary Housing Ordinance.

We also request that the DEIR provide the information that if the project is considered housing under Ordinance 822-4, what number of units out of the 354 Independent Living residential units will need to be low-moderate income, and/or what amount the fee would be, per Ordinance 822-4, for not constructing such units on-site.

Response 153.9: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

Comment 153.10: No analysis is provided for consistency with the County General Plan Open Space element, Scenic Resources policies 9-10, 9-11, 9-12, and 9-14.1 Please prepare the analysis so that it can be determined if the Project is consistent with these adopted public policies.

No analysis is provided for consistency with County Ordinance 82-1.016 Hillside Protection, which states “Development on open hillsides and significant ridge lines throughout the County shall be restricted and hillsides with a grade of twenty-six percent or greater shall be protected through implementing zoning measures and other appropriate actions.” Please prepare the analysis so that it can be determined if the Project is consistent with this County-wide Ordinance.

Response 153.10: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 153.11: p.216m Existing GP Development Alternative

The analysis of impacts from developing the site in compliance with the GP designation of Single-Family Medium density SF-M (1-4.9un/ac) residential is inadequate. The County has stated that the likely number of units under SF-M after allowing for roadways, open space requirements, slope and biohabitat protections and other infrastructure requirements is more likely approximately 110 to 120 units. The EIR must state more realistically what the unit number would be with the current land use designation, taking into consideration the above constraints. The DEIR figure of 166 units is unsubstantiated and the calculation for this number should be explained.

Response 153.11: Please refer to **Response 131.28:** regarding number of allowed units.

Comment 153.12: Additionally, the assertion that 166 units would have the same environmental impacts as 454 senior living units which include a 550,000 square foot housing unit and a 85,000 square foot health care center along with on-site employment of +225 ‘full-time equivalent’ (meaning more than 225 individuals) people must be further explained.

Please develop and analyze an alternative that realistically complies with the General Plan designation, clusters the homes to reduce grading, soil displacement and number of dump trucks, reduces removal of mature oak trees, stays a greater distance away from the natural drainage areas and wetland, provides public connections to Heather Farm Park and to the trails west of the project site, and leaves a substantial part of the site unaltered and usable as shared open space or as front and backyards.

Response 153.12: Please refer to **Response 141.5:** regarding Existing General Plan Development Alternative.

Comment 153.13: Section 6.0: Significant and Unavoidable Impacts, page 210

The conclusion is that there are no significant unavoidable impacts. However, the comments above

confirm that the project is largely inconsistent with the County's General Plan and local ordinances, and the DEIR provides no analysis or discussion of these inconsistencies.

Response 153.13: Please refer to Master Response 1: County General Plan Policy Consistency above.

154. Philip Ho, (dated May 10, 2022)

Comment 154.1: POTENTIAL IMPACTS TO PUBLIC SERVICES

DEIR Section 3.15 Public Services

DEIR Contra Costa County General Plan Policy 7-62 reads: The County shall strive to reach a maximum running time of 3 minutes and/or 1.5 miles from the first-due station, and a minimum of 3 firefighters to be maintained in all central business district (CBD), urban and suburban areas.

Contra Costa County General Plan Policy 7-63 reads: The County shall strive to achieve a total response time (dispatch plus running and set-up time) of five minutes in CBD, urban, and suburban areas for 90 percent of all emergency responses.

Contra Costa County General Plan Policy 7-70 reads: The effectiveness of existing and proposed fire protection facilities shall be maximized by incorporating analysis of optimum fire and emergency service access into circulation system design.

Comments: The proposed northeast fire access road is connected to North San Carlos Drive which is a 2-lane street. The north side of North San Carlos Drive is a fence. The south side of North San Carlos Drive is the Equestrian Center parking lot. The existing Seven Hills School campus serves 400 students and is adjacent to the proposed fire access road. All school parents and staff use North San Carlos Drive to access the school. The school does not have an alternate route to/from Ygnacio Valley Road.

In the morning around 8 AM, North San Carlos Drive is very congested with many cars waiting in line in long queues for their turn to either find parking or to drop off students, then turn around and leave. In the afternoon around 3 PM, North San Carlos Drive is very congested with cars forming long queues beyond the gate, and they wait for the school to let out and pick up students, then turn around and leave. Everyone drives. Non-motorized modes of transportation are non-existent.

Under these roadway and congested traffic conditions, it is highly questionable if fire engines and other emergency vehicles (police cars, ambulances) can access the project site. It is highly questionable that the Fire District can achieve the response time in compliance with General Plan Policies 7-62, 7-63, and 7-70. The DEIR does not acknowledge, evaluate, or address access, circulation, and safety for fire engines to travel (at high speeds) and maneuver on North San Carlos Drive during the school pick-up and drop-off times. The DEIR does not demonstrate how the project circulation system design can enable the Fire District to achieve the required emergency response times and be compliant with Policies 7-62, 7-63, and 7-70. The DEIR is non-compliant and substantially deficient.

Facts: The project is required to demonstrate compliance *prior to* obtaining entitlement. Achieving compliance *shall not* be a post-entitlement task. Any DEIR statements or declarations of intent by the applicant that “promises” to achieve compliance *after entitlement* is irrelevant and have no standing in CEQA compliance or the planning permit approval process.

Action: The DEIR to present a different project proposal and preliminary design to demonstrate compliance with General Plan Policies 7-63, 7-63, and 7-70. Update the DEIR, Appendix G, Appendix P, and civil plans accordingly.

Response 154.1: Please refer to Master Response 9: Transportation Emergency Access section above.

Comment 154.2: DEIR Section 3.15 Public Services

Comments: The DEIR must address the following with respect to emergency site evacuation:

1. Proposed substandard fire access road design.
2. Site access conditions for fire trucks, police cars, ambulances, and transport vehicles.
3. Proposed on-site street circulation.
4. Several hundreds of employees.
5. Several hundreds of occupants and their visitors.
6. Time duration required to evacuate safely and orderly to avoid injuries or loss of life.

Facts: The substantial number of project occupants may have one or more of the following conditions or alignments: elderly, mobility challenged, infirm, cognitively impaired, physically impaired, or on life support. The evacuation plan shall account for these factors.

Action: The project shall present an emergency evacuation plan to meet the needs of all users and in compliance with General Plan Policies.

Response 154.2: Please refer to **Response 2.18:** and the Master Response 9: Transportation Emergency Access section above.

Comment 154.3: 29 DEIR Appendix D. Air Quality and Dust

Comment: The project construction phase is estimated to take 4+ years to complete. The project will involve massive excavation of dirt and rock. The Project will generate huge clouds of fumes, dust, and airborne pollutants over the project site for years to come. Significant sources of fumes, dust, and airborne pollutants are bare soil, bedrock, hauling, materials handling, truck activities, and site improvements. Excavation and grading will obliterate all existing ground cover and trees, leaving the soil bare and exposed to dry weather and wind. Bare soil leads to fine soil particles and dust becoming airborne. Bedrock removal requires drilling, blasting, cutting, chipping, and grinding. Crushed rock leads to fine rock particles and dust becoming airborne. Rock drilling and blasting produce silica flume and dust (smaller than 1/100th the size of a grain of sand) which becomes airborne and degrade our air quality. Silica dust originates from crystalline silica (quartz) commonly found in rocks, sand, and soil. Exposure to silica dust in small amounts is known to cause lung cancer (Silicosis), lung disease, and kidney disease. Injuries and illnesses brought on by exposure to silica dust are permanent, irreversible, chronic, severe, and can be fatal. OSHA 1910.1053(a) classifies silica dust as a toxic and hazardous substance.

Hauling is the stockpiling, loading, unloading, and transporting of soil, rock, and debris on-site and off-site. Hauling activities lead to fine soil particles, rock particles, and dust becoming airborne. Materials handling include the importing, stockpiling, storage, and handling of cement, sand, aggregates, additives, chemicals, as well as other construction and building materials. Material handling leads to fine particles, dust, and chemical products becoming airborne. Construction equipment, machinery, and tools include excavators, backhoe loaders, bulldozers, rock-breaking machines, rock-blasting explosives, cranes, pile driving machines, water trucks, dump trucks, materials delivery trucks, concrete trucks, power generators, and others. The use of construction equipment, machinery, and tools produces exhaust and fumes. Site improvements include retaining walls, buildings, support facilities, paving, utilities, and landscaping. Site improvement activities lead to pollutants and dust becoming airborne.

Wind will most certainly carry the cloud of fumes, dust, and airborne pollutants from the project site to surrounding communities within 2,000 feet or 7+ city blocks of the site. All neighborhood residential units (every square inch of every home) will be completely covered in dust and pollutants 24/7 for years. All Heather Farms HOA-owned facilities (every square inch of streets, signs, clubhouse, swimming pools, tennis courts, common areas, ground cover, plants, trees, fence) will be completely covered in pollutants 24/7 for years. Even if the HOA Maintenance crew were to power wash the homes and all HOA-owned facilities, it would be moot because pollutants will continue to descend upon our community unabated 24/7. Besides, it would be a gross misuse of drinking water which we must conserve. The Contra Costa County Clean Water Program prohibits illicit discharge (water carrying pollutants) into the public storm drain system. Power washing would produce illicit discharge. When literally everything is covered in a coat of dust and pollutants 24/7, residents are forced to shut all windows and stay indoors. The HOA Board will be forced to permanently close the clubhouse, swimming pools, and tennis courts. In other words, the HOA Board will no longer be able to serve its residents or maintain the quality of life in our community. The pollutants will pose a serious public health and safety threat to all residents in our community, especially those who have had respiratory-related issues such as asthma. Also, the pollutants will impact the vitality of all existing ground cover, plants, and trees in our community. It is unclear if landscape, plants, and trees will survive if pollutants, fine particles, and dust (which blocks off sunlight) were not removed. The HOA Board may feel compelled to do something to remove the pollutants. However, it is unclear if there a lasting solution exists. I am afraid that the financial burden of cleanup and detox of our community will fall on the HOA and its residents, and not on the project applicant. The adverse construction impacts, permanent environmental destruction, and devastation to the Heather Farms HOA community will be as immeasurable as the project would be unstoppable if it is approved by the County.

Case in point. In my professional land development practice, I saw firsthand how fine soil particles and dust generated by grading operation from the Waterstone Phase II subdivision project site off Columbus Parkway in the City of Vallejo were carried by wind over a distance of 2,000 feet+ up the hill, over the ridges (to the other side of the hill), and descend onto all the existing homes in the City of Benicia.

The project shall be solely responsible for financially compensating impacted City parks, schools, neighborhoods, and residents for the degradation of air quality, enjoyment of their properties without exposure to toxins, and environmental cleanup on a regular basis.

Facts: The project is required to identify project impacts.

Action: The project shall identify project impacts and mitigation measures on air quality as described above. The project shall be solely responsible for financially compensating impacted City parks, schools, neighborhoods, and residents for the degradation of air quality, enjoyment of their properties without exposure to toxins, and environmental cleanup on a regular basis.

Response 154.3: Impacts and mitigation measures related to air quality are discussed in Section 3.3 Air Quality of the Draft EIR (pages 49-64).

Comment 154.4: 30 DEIR Appendix O. Noise & Vibration

Comment: The project construction phase is expected to take 4+ years to complete. The construction phase will create a significant amount of noise, air vibration and ground-borne vibration. Significant sources of noise include excavation, grading, bedrock removal, hauling, truck activities, and site improvements. This includes the use of excavators, backhoe loaders, bulldozers, rock-breaking machines (drilling, cutting, chipping, grinding), rock-blasting explosives, cranes, piling driving machines, water trucks, dump trucks, material delivery trucks, concrete trucks, power generators, and others. Significant sources of air vibration and ground-borne vibration include the use of rock-breaking machines (drilling, cutting, chipping, grinding), rock-blasting explosives, piling driving machines, and others.

Air vibration energy is transmitted by air. For example, air vibration causes glass windows and buildings to vibrate. Ground-borne vibration is transmitted on the ground similar to how energy is transmitted in an earthquake. Ground-borne vibration causes buildings and trees to vibrate with the earth. A pile-driving machine produces noise, air vibration, and ground-borne vibration. Such construction activities are expected to create noise levels ranging from 110 to 130 decibels if not higher.

Conclusion

The Spieker Project will significantly and adversely impact our community as follows: [1] restricts our use and enjoyment of our homes, [2] restricts our use and enjoyment of HOA community facilities, [3] exposes all residents, visitors, and workers to unsafe streets, cancerous pollutants, dust, chemical products, noise, and vibration for 4+ years, [4] jeopardizes our health and well-being, [5] decimates our environment and natural habitats, and [6] degrade our quality of life, all with no acknowledgment, no mitigation, and no financial compensation from the developer. This is a serious and imminent public health and safety threat to our community. If preserving our quality of life is a priority to the Board, I urge the Board to take a stand now and to allocate the resource necessary to oppose the Spieker Project in favor of Heather Farms HOA. Time is of the essence. The Spieker Project Draft EIR is scheduled to be released in late February 2022 for public comment.

Response 154.4: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

155. Philip Ho (May 10, 2022)

Comment 155.1: POTENTIAL IMPACTS TO TRANSPORTATION

DEIR Section 2. Project Information And Description

1 DEIR Section 2.2. Page 3. Project Description.

DEIR states: “Support staff for the entire CCRC is expected to represent a full-time equivalent of up to 225 employees.”

[1] The DEIR project description does not identify the maximum number of full-time employees, but instead identifies the maximum number of full-time equivalent employees. If all employees were in fact full-time employees, the project description would not have characterized them as full-time equivalent employees. This clearly indicates that the project will not have a maximum of 225 full-time employees, but will instead have an undisclosed (and undoubtedly a much higher) number of employees including full-time, part-time, and on-call workers. The term equivalent is undefined in the project description. This ambiguous and nebulous term has the effect of providing the DEIR maximum latitude in under-reporting project employee service population and project impacts, evading mitigation measures, and allowing the DEIR to skirt over the issue altogether unnoticed.

[2] This seemingly innocuous omission has major implications to project impacts and mitigation, including, but not limited to, vehicle miles traveled (VMT), project trip generation, level-of-service (LOS), vehicle queues, and required storage lane lengths. More employees invariably mean more traffic and greater project impacts.

[3] If a full-time employee works 40 hours per week (8-hour shift, 5 days per week), then any number of part-time and/or on-call employees who work a combined total of 40 hours per week could arguably be counted as one equivalent full-time employee. However, the vehicle miles traveled, project trip generation, and project impacts of several part-time and/or on-call employees are very different than that of one actual full-time employee. Interestingly, the DEIR is silent on this issue.

[4] Since the actual maximum project employee (service population) is undisclosed and undefined, any vehicle-miles traveled (VMT) and project trip generation results presented in the DEIR and Appendix P have no merits and their findings are invalid.

[5] The DEIR project description lacks definition, clarity, disclosure, and transparency. The DEIR is substantially deficient.

Facts: The project description is undisclosed and undefined.

Action: DEIR and Appendix P to be revised and clarified accordingly. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.1: The project description in Section 2.2 of the Draft EIR explains that support staff for the entire CCRC is expected to represent a full-time equivalent of up to 225 employees. Please refer to Master Response 9: Transportation Vehicle Miles Traveled section for a complete discussion of how full-time and part-time employees are fully accounted for in the transportation analysis.

Comment 155.2: DEIR Section 3.17. Transportation

DEIR Appendix P

2 DEIR, Section 3.17.1.1, Page 180. Regulatory Framework. Regional and Local.

DEIR Section 3.17.1.1, Page 180, Contra Costa County General Plan, Policy 5-31 reads: “Roads developed in hilly areas shall minimize disturbance of the slope and natural features of the land.”

Comment: The project is non-compliant with Policy 5-31. Interestingly, the DEIR appears to have adopted the position that compliance is either discretionary or negotiable. The proposed massive cut and fill constitute a massive disturbance to the natural slopes and natural features of the land, including, but not limited to, the wholesale destruction of protected trees, creek, wetlands, natural habitats, and wildlife. The DEIR is substantially deficient.

Facts: The project is required to comply with Policy 5-31.

Action: DEIR to present a different proposal to demonstrate compliance with Policy 5-31. The proposed streets shall follow the natural terrain of the site, with minimal grading and minimal disturbance to the natural slopes and natural features of the land. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.2: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 155.3: 3 Project Description Update Feb 8, 2021, Summary, Page 2, 1st paragraph, line 7.

DEIR, Section 2.2.7, page 23. Site Access, Circulation, and Parking

DEIR, Section 3.17.1.1, Page 180. Regulatory Framework. Regional and Local.

Project Description Update Feb 8, 2021, Summary, Page 2, 1st paragraph, line 7 reads: “A supplemental gated EVA is also planned from the internal private roadway to the extension of Seven Hills Ranch Road at the southwest end of the Site; improvements within this supplemental EVA may be less than the fire district’s standard 20-foot width.”

DEIR Section 2.2.7, Page 23, Site Access, Circulation, and Parking reads: “The project would also improve North San Carlos Drive from the proposed EVA gate to the Heather Farm Dog Park to meet fire district standards.”

DEIR Section 3.17.1.1, Page 180, Contra Costa County General Plan, Policy 5-31 reads: “Emergency response vehicles shall be accommodated in development project design.”

Comment: The project emergency access does not meet Fire Code. The DEIR Project Description Update and DEIR Section 2.2.7 confirm that the project is non-compliant with the Fire Code. The DEIR Section 3.17.1.1 confirms that the project is non-compliant with General Plan Policy 5-31.

Interestingly, the DEIR language indicates that the project applicant has adopted the position that compliance is either discretionary or negotiable. The DEIR is substantially deficient.

The fire access roads are required to have a minimum paved width of 20 feet. See Contra Costa County, Fire Protection District, Fire Code, Page 23, Table D103.4 (Ordinance 2019-37). The project description confirms that the proposed fire access road at the southwest end of the site is less than 20 feet wide. It does not meet Fire Code and is non-compliant.

The fire access roads require a 90-foot diameter cul-de-sac turnaround. See Contra Costa County, Fire Protection District, Fire Code, Page 23, Table D103.4 (Ordinance 2019-37). The proposed fire access roads have cul-de-sac diameters of 80 feet. They do not meet Fire Code and are non-compliant.

Fire access road longitudinal slope shall not exceed 15%. Civil Plan sheet C4.2 shows that the northeast EVA access road with a longitudinal slope of 18%. This is non-compliant.

Since the project site has a hilly terrain and the proposed building pad elevations are significantly above the surrounding streets, the project is required to demonstrate feasibility in that the proposed fire access roads can in fact accommodate the movements and maneuverability of the longest fire engines traveling to and from the site. This includes but is not limited to meeting design criteria on crest vertical curves and sag vertical curves.

Fire access road crest vertical curves shall be designed to provide a minimum vertical clearance of six (6) inches for the longest fire engine in the Fire District. No fire access road crest vertical curve shall cause the longest fire engines to bottom out on the pavement (when traveling to/from the project site) or otherwise cause damages to any fire-fighting apparatus. The civil plan sheets omit preliminary street vertical profiles, so vertical curve design and vertical clearance cannot be verified, evaluated, or commented on.

Fire access road sag vertical curves shall be designed to provide a minimum vertical clearance of six (6) inches to the front and rear bumpers of the longest fire engine in the Fire District. No fire access road sag vertical curve shall require the longest fire engine front and/or rear bumpers to scrap the pavement (while traveling to/from the project site) or otherwise cause damages to any fire-fighting apparatus. The civil plan sheets omit preliminary street vertical profiles, so vertical curve design and vertical clearance compliance cannot be verified, evaluated, or commented on.

Facts: The project is required to provide preliminary plans and documents, and demonstrate feasibility, compliance, and consistency prior to obtaining entitlement. Any promises, statements, or declarations of intent by the project applicant to attain feasibility, compliance, or consistency after entitlement are irrelevant to the planning permit application and approval process including satisfying or resolving engineering comments and concerns.

Action: The DEIR to present a different project proposal and preliminary design to demonstrate project feasibility, compliance, and consistency with the Fire Code and General Plan Policy 5-31. Update the DEIR, Appendix P transportation analysis, and civil plans accordingly.

Response 155.3: Please refer to **Response 2.18:** regarding emergency access and the Master Response 9: Transportation Emergency Access section above.

Comment 155.4: 4 DEIR Section 3.17.1.2. Page 181. Existing Conditions. Roadway Network. Ygnacio Valley Road. DEIR states: “The posted speed limit on Ygnacio Valley Road in the Plan Area is 30 miles per hour.”

Comment: This statement is erroneous. The DEIR *mischaracterizes* the street, and misinforms and misleads the public.

Facts: The posted speed limit on Ygnacio Valley Road is 40 miles per hour. Speed limit signs are posted on Ygnacio Valley Road in the study area.

Action: The DEIR and Appendix P (page 3) “Roadway Network” are to be corrected accordingly

Response 155.4: Please refer to Section 5.0 Draft EIR Text Revisions for a correction to the speed limit.

Comment 155.5: 5 DEIR Section 3.17.1.2. Page 181. Existing Conditions. Roadway Network. Kinross Drive.

DEIR states: “East of its intersection at Marchbanks Road, Kinross Drive is a two-lane residential roadway... Most of this easterly segment of roadway is a private facility passing through the Heather Farms residential development ... West of Marchbanks intersection, Kinross Drive is a two-lane public street...”

Comment: These statements are erroneous and inappropriately worded. The DEIR *mischaracterizes* the street classifications and functions, and misinforms and misleads the public.

Facts: Kinross Drive is a two-lane local residential street, not a residential roadway. A certain large segment (about 2,000 feet) of Kinross Drive is a private street, owned by the Heather Farms Homeowners Association (a private entity), controlled by multiple stop signs and speed bumps, and has a posted speed limit of 15 miles per hour. The remaining segments of Kinross Drive are City owned, and are public streets. Ygnacio Valley Road is oriented east-west. Kinross Drive is oriented north-south, not east-west. Near the proposed project site driveway on Kinross Drive, Marchbanks Drive is oriented east-west, not north-south. Kinross Drive should be referenced as being either north of or south of Marchbanks Drive, and Marchbanks Drive should be referenced as being either east of or west of Kinross Drive.

Action: The DEIR and Appendix P (page 3) “Roadway Network” are to be corrected accordingly.

6 DEIR Section 3.17.1.2. Page 181. Existing Conditions. Roadway Network. Marchbanks Drive. DEIR states: “Marchbanks Drive is a two-lane collector roadway ...”

Comment: This statement is inappropriately worded. The DEIR *mischaracterizes* the street classification and functions, and misinforms and misleads the public.

Facts: Marchbanks Drive is a local collector street, *not* a collector roadway.

Action: The DEIR and Appendix P (page 3) “Roadway Network” are to be corrected accordingly.

Response 155.5: The comment is noted and will be available for consideration by County decision-makers; however, the County believes the descriptions of Kinross Drive and Marchbanks Drive are accurate.

Comment 155.6: 7 DEIR Section 3.17.2.1. Page 184. Project Impacts. Circulation System.

DEIR states: “Improvements within this supplemental gated access may be less than the fire district’s standard 20-foot width.”

Comment: The DEIR clearly indicates that the project does not meet the Fire District’s minimum fire lane width at the gate. If the Fire District requirements are compromised (to satisfy the project’s ask), fire trucks and apparatus will be required to access using a substandard fire lane. That will put lives (including firemen, medical/paramedic staff, peace officers, project occupants, and employees) and properties at risk, and subject the Fire District to untold increased exposure to liabilities. The DEIR indicates that the project intends to not comply with Fire District requirements. The DEIR is substantially deficient.

Facts: The project does not meet the fire district’s requirements, and puts public safety and the Fire District at risk.

Action: DEIR to present a different proposal in compliance with Fire District requirements.

Response 155.6: Please refer to **Response 2.18:** regarding emergency access and the Master Response 9: Transportation Emergency Access section above.

Comment 155.7: 8 DEIR Section 3.17.2.1. Page 184. Project Impacts. Transit Facilities.

DEIR states: “Given the nature of the project, it is not expected to generate transit demand that would exceed existing transit facility capacities. The project would include on-site shuttle services which may reduce the need for residents to access some local transit facilities. The project, therefore, would not conflict with regulations addressing transit facilities.”

Comment: The DEIR and Appendix P (page 4) does not present any data or analysis, only opinions and conjectures. The DEIR findings and conclusion are unsubstantiated and misleading. The DEIR is substantially deficient.

Facts: The project is required to correctly identify project impacts.

Action: DEIR to provide an analysis of transit trip generation for all land uses including transit trips generated by independent units, assisted living units, hospital, maintenance facility, and visitors. Update DEIR and Appendix P transportation analysis accordingly.

Response 155.7: The Governor’s Office of Planning and Research (OPR) advises that project evaluation of multimodal transportation networks should not treat the addition of new transit users as an adverse impact.¹⁷ The proposed on-site shuttle would further reduce the need for such transit services as indicated in the Draft EIR.

Comment 155.8: 9 DEIR Section 3.17.2.1. Page 184. Project Impacts. Bicycle Facilities.

DEIR states: “If the independent living unit portion of the project were treated as a traditional “Multi-Family Dwelling ..., Code Section 82-16.412 would require ...”

Comment: The DEIR compares the project bicycle parking requirement with that of a traditional multi-family dwelling. In other words, the DEIR presents traditional multi-family land use as comparable land use. The project proposes *mixed-use* (i.e. commercial and institutional), *not* residential. The proposed mixed use is *not comparable* to and *not compatible* with residential use. Hence, the DEIR findings are misleading and have no merits. The DEIR is substantially deficient. Facts: The DEIR is required to correctly identify project impacts. The project mixed land uses are not comparable to residential use.

Action: DEIR and Appendix P (page 5) “Bicycle Facilities” to remove all references to residential land use. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.8: As discussed in Impact TRN-1 under bicycle facilities of the Draft EIR (page 184), the County does not have bicycle parking standards for CCRC facilities; therefore, the Draft EIR compared bicycle parking space standards for the project against the closest available land uses (e.g., multi-family dwelling, health care/hospital).

Comment 155.9: 10 DEIR Section 3.17.2.1. Page 184. Project Impacts. Pedestrian Facilities.

DEIR states: “Given the nature of the project, it is not likely to generate pedestrian demand that would exceed the capacity of the area’s pedestrian network. Observations at other similar Spieker properties throughout California have found that few off-site pedestrian trips occur... The project would not conflict with regulations addressing pedestrian facilities. (Less than Significant Impact)”

Comment: The DEIR did not present any data or analysis, only *opinions* and *conjectures*. The DEIR findings and conclusions are unsubstantiated. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR and Appendix P (page 5) “Pedestrian Facilities” to identify pedestrian trips and impacts based on proposed mixed land uses, occupants, employees, visitors, etc. DEIR to acknowledge and take into account pedestrian activities due to the project within walking distance to the Heather Farm Park, Cowden Rose Garden, and Contra Costa Canal trail. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.9: The Draft EIR discusses the provision of sidewalks along the extension of Kinross Drive and throughout the project site. The existing pedestrian

¹⁷ Governor’s Office of Planning and Research. *Technical Advisory On Evaluating Transportation Impacts in CEQA*. December 2018. Page 19.

facilities on Kinross Drive and Marchbanks Drive would provide adequate access for project residents to Heather Farm Park and associated facilities. As stated in the DEIR, the project would result in less than significant impacts to pedestrian facilities.

Comment 155.10: 11 DEIR Section 3.17.2.1. Page 185. Project VMT Summary.

DEIR states: “As shown in Table 3.17-1, the project would generate a daily VMT per service population of 21.5 and would be less than 15 percent below the Countywide baseline and 2040 VMT per service population. Therefore, the project would have a less than significant impact pertaining to VMT. (Less than Significant Impact)”

Comment: The DEIR evaluates the project with a single land use type even though the project is mixed use. The DEIR contains no data or analysis of VMT by land use type. VMT findings and conclusions are unsubstantiated and invalid. The DEIR omits details and disclosure, and lacks transparency. The DEIR is written in a manner that does not allow the public to evaluate its merits or to comment on its findings. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR and Appendix P (page 9, Table 1) “Project VMT Summary” to itemize project-generated VMT for all project components including independent living units, assisted living units, hospital, maintenance facility, shuttles, visitors, and deliveries. The DEIR to acknowledge and take into account average trip lengths for each land use type and/or each user type. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.10: The VMT analysis is based on the trip generation (see Table 3.17-2 of the Draft EIR) for the project, which utilized the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 10th Edition CCRC land use code. The CCRC land use code is specific to the proposed project and takes into account the types of land uses associated with a CCRC.

Comment 155.11: 12 DEIR Section 3.17.3. Page 187. Non-CEQA Effects.

DEIR states: “While the evaluation of project CEQA impacts on the transportation system is based on VMT, in accordance with Contra Costa County’s Transportation Analysis Guidelines, the following discussion is included for information purposes because the County applies operational standards when evaluating the effects of development projects on the performance of the unincorporated County’s transportation facilities to ensure the levels of growth and development provided in the General Plan Land Use Elements are sufficiently accommodated.”

Comment: The project site is *literally an island* within the City of Walnut Creek. It is surrounded by parcels in Walnut Creek on all sides. County-owned transportation facilities simply do not exist at or anywhere near the project. Hence, an evaluation of compliance with the performance of unincorporated County transportation facilities is irrelevant and misleading.

Facts: There are no County-owned transportation facilities within the project study area that serve the project site. There are transportation facilities outside the project site boundaries, but none are County-owned, and none are under the County jurisdiction.

Action: DEIR to correct and clarify this information. Update the DEIR and Appendix P transportation analysis accordingly.

13 DEIR Section 3.17.3. Page 187. Non-CEQA Effects. Intersection LOS.

DEIR states: “The County considers LOS E and LOS F to be unacceptable conditions for intersections. Therefore, projects that result in the degradation from an acceptable LOS D or better to an unacceptable LOS E or LOS F must identify improvements to address operational deficiencies.”

Comment: The DEIR erroneously uses the County LOS standards criteria to evaluate public and private streets and intersections in the City of Walnut Creek. The DEIR analysis and findings are invalid. The DEIR is substantially deficient.

Facts: All study streets and intersections are in the City of Walnut Creek. The County has no jurisdiction over City-owned streets and intersections.

Action: The DEIR and Appendix P (pages 8 and 9) “Intersection Levels of Service” to comply with City of Walnut Creek transportation impact study guidelines and requirements including Walnut Creek LOS standards. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.11: Please refer to **Response 2.19:** regarding City of Walnut Creek LOS standards.

Comment 155.12: 14 DEIR Section 3.17.3. Page 187, 188. Intersection LOS, and Appendix P, Figures 2 to 8. DEIR lists six (6) study intersections.

Comment: The DEIR Appendix P, Figures 2 to 8 show four (4) study intersections. Two intersections are *missing*. With so much information *omitted* in the DEIR and Appendix P, the public is unable to evaluate its merits or comment on its findings. The DEIR is substantially deficient.

Facts: The project is required to correctly identify project impacts.

Action: DEIR and Appendix P to be revised accordingly. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.12: The intersection LOS analysis was provided in the Draft EIR for informational purposes only. Although two intersections on the edges of the figures provided in Appendix P were omitted, the existing and existing plus project LOS for all six study intersections was identified in Table 3.17-3.

Comment 155.13: 15 DEIR Section 3.17.3. Page 188. Non-CEQA Effects. Intersection LOS.

DEIR states: “The intersections listed above were evaluated for four scenarios: 1) existing conditions; 2) existing with project; 3) cumulative conditions; and 4) cumulative with project.”

Comment: The DEIR evaluated four scenarios. Two other scenarios are not evaluated. The DEIR study scope is inconsistent with Contra Costa County Transportation Analysis Guidelines (TAG)

dated June 23, 2020. TAG, Section 7, Page 21 requires, as a minimum, the evaluation of six (6) scenarios: (1) existing, (2) existing plus project, (3) near-term, (4) near term plus project, (5) cumulative, and (6) cumulative plus project. The cumulative horizon year and travel model forecasts used shall be in accordance with the County General Plan (Envision 2040) as noted on TAG, Page 14. The DEIR is substantially deficient.

Facts: The project is required to correctly identify project impacts.

Action: DEIR and Appendix P (page 11) to be revised to comply with TAG. The near-term baseline shall account for all entitled projects (approved but not yet constructed) as well as background/regional traffic growth in accordance. The near-term plus project scenario horizon year is based on the anticipated project construction and occupancy timeline. The near-Term plus project conditions scenario is Year 2027 or later. This is based on the most optimistic schedule of EIR Certification in Year 2022, final design approval 1 year later in Year 2023, and project occupancy 4 years later in Year 2027. It is unclear if the assumed EIR Certification timeline of Year 2022 is doable considering the extent to which the DEIR and its technical appendices need to be revised and quite possibly re-circulated for comments. DEIR and Appendix P shall document a list of entitled projects and their total traffic generation at all study intersections. In the event there are no entitled projects, the DEIR must document that also. DEIR and Appendix P (page 8) “Intersection Levels of Service” shall comply with City of Walnut Creek LOS standards in evaluating all transportation facilities under Walnut Creek jurisdiction. DEIR shall document guidelines, LOS standards, significance criteria, and travel demand forecast model used to evaluate the project. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.13: The proposed project generates less than 100 vehicle trips in both the weekday AM and PM peak hours. Thus, per the County’s Transportation Impact Analysis Guidelines, referenced in the comment, no Level of Service analysis is required. Furthermore, California State Senate Bill 743 (SB 743) expressly eliminated the use of intersection LOS or any measure of automobile delay and congestion from review of project impacts within California Environmental Quality Act (CEQA) review. The calculation of intersection LOS performed for the project is not required, nor can it be used in the assessment of the project’s environmental effects within the DEIR’s review. The LOS analysis was performed to provide additional information regarding current and future operating conditions on the roadway network surrounding the project site. Any effects that would have been identified within the near-term scenarios referenced in the comment are captured within the study’s cumulative assessment. The inclusion of additional scenarios would not have provided any additional relevant information.

Comment 155.14: 16 DEIR Appendix P, Figure 3. Existing Peak Hour Intersection Traffic Volumes DEIR shows existing peak hour turning movement counts at Intersection #4 Kinross Drive/Marchbanks Drive.

Comment: Intersection #4 turning movement volumes reads: 10, 20, 30, 40, 60, and 90 vehicles per hour. These traffic volumes are fictitious, inconsistent with field data counts, and do not represent pre-COVID typical existing peak hour conditions. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR and Appendix P (Figure 3) to be revised accordingly. Appendix P to document existing field count output data sheets and big data adjustments, if applicable, at all study intersections. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.14: The prevailing traffic volumes at this intersection are very low during both the morning and evening peak hours. Measurements of pre-pandemic traffic flow from the Streetlight data turning movement counts at this location were rounded up to the nearest ten. Observations of peak hour traffic flows at this intersection conducted during and after the covid-19 pandemic have found extremely low levels of vehicle delay consistent with Level of Service A conditions.

Comment 155.15: 17 DEIR Appendix P, Figure 3. Existing Peak Hour Intersection Traffic Volumes DEIR Appendix P shows existing peak hour turning movement counts at four study intersections.

Comment: Intersection #1, #2, and #3 are adjacent signalized intersections on Ygnacio Valley Road.
Intersection #1: Ygnacio Valley Road at Marchbanks Drive-Tampico
Intersection #2: Ygnacio Valley Road at Kinross Drive-La Casa Via
Intersection #3: Ygnacio Valley Road at North San Carlos Drive-South San Carlos Drive
Intersections #1 and #2 are one block apart with no driveways in between.
Intersections #2 and #3 are two blocks apart and are separated by a signalized driveway at the John Muir Medical Center, Emergency Room facility.

The existing traffic volume counts at the study intersections are not properly accounted for. *Cars conveniently vanish into thin air*. A total of 90 AM vehicles departing eastbound from intersection #1 never arrive at the downstream Intersection #2 one block away. There is no driveway on that block. Similarly, 276 PM vehicles that arrive eastbound at Intersection #3 never departed from the upstream Intersection #2 (where they are supposed to originate from). Note the Emergency Room driveway on that block is not a factor in the calculations because the driveway carries a negligible volume of traffic. The DEIR under-reports and misrepresents existing traffic counts. Hence, existing condition findings are invalid and unfounded.

Existing turning volumes at all study intersections shall be *adjusted* and/or *calibrated* to account for all vehicle departing and arriving to ensure that all vehicles are accounted for. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly document existing conditions.

Action: DEIR and Appendix P (Figure 3) to be revised accordingly. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.15: The commenter's conclusion that 90 vehicles are unaccounted for in the existing AM peak hour movement eastbound between Intersections #1 and #2 has not correctly taken into account all of the various components of eastbound traffic flow. Figure 3 correctly shows that a total of 1,325 vehicles travel eastbound from Intersection #1, including left turns from Marchbanks (24), eastbound through (1,260), a portion of the through/right from Ygnacio (21 of 42), and a portion of the

through/right from Tampico (20 of 41). Those vehicles are accounted for at Intersection #2 in the eastbound through (1,109), left onto Kinross (2), and through/right onto La Casa Via (214) movements.

Again, the commenter's conclusion that 276 vehicles are unaccounted for in the existing PM peak hour movement eastbound between Intersections #2 and #3 has not correctly taken into account all of the various components of eastbound traffic flow. Figure 3 correctly shows that a total of 2,991 vehicles travel eastbound from Intersection #2, including left turns from Kinross (12), eastbound through (2,691), and right from La Casa Via (288). Those vehicles are accounted for at Intersection #3 in the eastbound through (2,694), left onto North San Carlos (116), and a portion of the through/right onto South San Carlos (181 of 261) movements

The model therefore correctly takes into account all existing vehicle movements at the referenced study area intersections, and no changes to the DEIR are required.

Comment 155.16: 18 DEIR Appendix P, Figures 3, 5, 6, 7, and 8. Intersection Traffic Volumes, Lane Configurations, Traffic Control

DEIR Appendix P shows traffic volumes and lane configurations at four study intersections on all the figures.

Comment: For the approaches to each intersection, the figures should show a left-turn arrow, a thru arrow, and a right-turn arrow, and their associated traffic volumes. Intersection lane configurations for each scenario should be shown on a separate figure and should not be co-mingled with traffic volumes. Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR Appendix P, Figures 3, 5, 6, 7, and 8 to be revised accordingly. Add Figures to show lane configurations. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.16: The figures referenced in the comment illustrate intersection lane configurations, volumes, and control. This is standard practice. Separating out the information on multiple figures would require the reader to flip between pages to review the relevant information.

Comment 155.17: 19 DEIR Appendix P, Figure 7. Cumulative Peak Hour Intersection Traffic Volumes

DEIR Appendix P shows cumulative peak hour volumes at Intersection #4 Kinross Drive/ Marchbanks Drive.

Comment: Cumulative volumes (Year 2040) are shown to be identical to existing conditions (Year 2020). This is highly questionable. The DEIR Appendix P presents no evidence to support no growth in traffic for the cumulative baseline scenario. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR Appendix P (Figure 7) to be revised accordingly. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.17: The comment notes that no growth is forecast at the intersection of Kinross Drive and Marchbanks Drive in the cumulative scenario. Cumulative forecasts for the transportation study were developed using the Contra Costa Transportation Authority's regional travel demand model which assumes buildout of the relevant General Plans. No growth in traffic is expected on the subject sections of Kinross Drive and Marchbanks Drive within this period, which is consistent with the surrounding neighborhood's anticipated development patterns.

Comment 155.18: 20 DEIR Appendix P, Figures 6 and 7, Pages 15 and 16. Intersection Delay / LOS DEIR Appendix P shows vehicular peak hour delays and levels of service (LOS) at study intersections. Comment: Intersection delays and level of service (LOS) are useful metrics, but they cannot inform the public about changes in vehicle queue lengths. The DEIR Appendix P should include an analysis of 95th percentile queue lengths and storage requirements for left-turns, throughs, and right turns, and to identify project impacts. For example, an increase in the 95th percentile queue length may require an extension of left-turn storage lane length and/or changes in green time allocation. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR Appendix P (Figures 6 and 7) to be revised accordingly. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.18: The proposed project generates less than 100 vehicle trips in both the weekday AM and PM peak hours. Thus, per the County's Transportation Impact Analysis Guidelines, no intersection analysis is required. It should also be noted that the County's guidelines do not require the assessment or reporting of queues at intersections. Furthermore, California State Senate Bill 743 (SB 743) expressly eliminated the use of intersection LOS or any measure of automobile delay and congestion from review of project impacts within California Environmental Quality Act (CEQA) review. The project results in minimal increases in vehicle delays at area intersections and would not be expected to result in unacceptable degradation of vehicle queues if such an analysis was performed.

Comment 155.19: 21 DEIR Section 3.17.2.1 Page 185, Table 3.17-1. Project VMT Summary

DEIR presents a singular project vehicle-miles traveled (VMT) number for each study scenario. Comment: The DEIR erroneously assumes that the project has one and only one land use type even though the project proposes mixed land use. The DEIR and Appendix P did not perform a vehicle-miles traveled (VMT) analysis of each land use category. The DEIR fails to acknowledge and take into account the distinct trip characteristics and trip lengths of each category of service population. The DEIR under-reports and misrepresents project generated vehicle-miles traveled (VMT) and its impacts. The DEIR adopted VMT assumptions, methodology, and analysis are *fundamentally flawed, technically unsound, and are not supported by the traffic engineering professional industry's current best practices*. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: The DEIR and Appendix P to itemize VMT generation and analysis by land use type, and acknowledge and take into account the distinct trip characteristics of users including independent living unit occupants, assisted living unit occupants, congregate care employees, hospital staff, maintenance workers, visitors, shuttles, and deliveries. Update the DEIR and Appendix P transportation analysis accordingly.

22 DEIR Section 3.17.3 Page 188. Project Trip Generation. Table 3.17-2. Weekday Project Vehicle Trip Generation

DEIR documents the use of ITE Trip Generation rates of Land Use Code 255 Congregate Care to calculate daily and peak hour trip generation of 454 units. Table 3.17-2 shows that the project will generate 73 PM peak hour trips (28 in, 45 out).

Comment: The project has mixed land uses. The project has several land use components including independent living units, assisted living units, a hospital, and a maintenance facility. The DEIR does not account for the trip generation of all land use components. The DEIR under-reports and misrepresents project daily and peak hour trip generation and impacts.

The DEIR adopted assumptions, methodology, and analysis are fundamentally flawed, technically unsound, and are not supported by the traffic engineering professional industry's current best practices. The DEIR, Appendix P, Page 2, Project Description states: A total of 225 employees will work at the site, with four work shifts. The standard shift is from 9 AM to 5 PM. The standard work shift has 101 employees or 45% of 225 employees.

These 101 employees leave work at 5 PM and will generate 101 PM Peak Hour outbound vehicle trips. Assuming a five percent (5%) transit mode split, these 101 employees will generate 96 PM peak hour outbound vehicle trips. Note that the employees alone from the standard shift generate more than twice the trip generation of 45 PM peak hour outbound vehicle trips presented in the DEIR and Appendix P (page 14, Table 5).

Had the DEIR accounted for trip generation of all project components (it had not), the total PM peak hour vehicle trip generation would have been far greater than the 96 PM peak hour trips illustrated here. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR and Appendix P (page 13) "Project Trip Generation" to itemize trip generation of all project components including independent living units, assisted living units, hospital, maintenance facility, visitors, shuttles, and deliveries. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.19: Please refer to **Response 155.10:** regarding VMT calculation and trip generation.

Comment 155.20: 23 DEIR Appendix P, Page 14, Project Trip Distribution.

DEIR states: “Roughly 70 percent of project related traffic is expected to arrive and depart to the west on Ygnacio Valley Road with the remaining 30 percent having origins and destinations to the east.” Comment: This project trip distribution assumption is erroneous and misleading. It misinforms the public. Project-generated traffic (and in particular employee trips, visitor trips, and deliveries) are predominantly from areas to the west of the project. In other words, 80 percent of the trips are to/from the west, and the remaining 20 percent of the trips are to/from the east. I have lived in the neighborhood for many years, and am very familiar with local traffic circulation patterns. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: Correct the DEIR and Appendix P (page 14) accordingly. Update DEIR and Appendix P transportation analysis accordingly.

Response 155.20: The project’s trip distribution pattern was developed based on a select zone analysis from the CCTA’s regional travel demand model, as is required. The model is validated to current traffic conditions and is the industry standard tool for assessing travel patterns within transportation impact analyses. If the transportation impact analysis was redone to incorporate the anecdotal trip distribution pattern referenced within the comment, none of the study’s conclusions would change.

Comment 155.21: 24 DEIR Appendix P, Figure 4, Project Trip Distribution.

DEIR shows project trip distribution on three streets, namely, Marchbanks Drive (west) 60%, Marchbanks Drive (east) 25%, and Kinross Drive 15%.

Comment: The DEIR Appendix P erroneously and inappropriately assigns 15% of project trips onto a private street. These trip distribution assumptions are unrealistic. DEIR findings and conclusions are invalid.

From the site, project trips generally go one of two ways. First, project trips head west on Ygnacio Valley Road in the general direction of Walnut Creek BART Station, downtown Walnut Creek, Interstate 680, and Highway 24. Second, project trips head east on Ygnacio Valley Road in the general direction of Bancroft Road, Oak Grove Road, Treat Boulevard, and the Concord Pavilion. Project trip distribution is a reflection of motorists’ choice of alternate viable routes and is predicated on travel time and level of riding comfort afforded. I have lived in the area for many years, have driven all three routes back and forth thousands of times, and can attest to motorists’ choices of routes and local traffic circulation patterns. Listed below are descriptions of all the possible routes, their peak hour travel times, and their viability as legitimate alternate travel routes.

[1] The first task is to consider the travel times of Route A and Route B for project trips heading west.

Route A: Project driveway (on Kinross Drive, public street), 400 feet to Marchbanks Drive (west), 2,400 feet to Ygnacio Valley Road-Tampico, turn right at the signal, and clear the intersection.

Route B: Project driveway (on Kinross Drive, public street), 400 feet to Kinross Drive (private street), 2,000 feet to Kinross Drive (public street), 300 feet to Ygnacio Valley Road-La Casa Via, turn right at the signal, 1,000 feet westerly to Marchbanks Drive-Tampico, go straight thru the signal, and clear the intersection.

Route A is 2,800 feet long and its travel time is 1.5 minutes. Route B is 3,700 feet long and its travel time is 3.0 minutes.

Route B's travel distance is considerably greater and travel time is significantly longer because cars on Kinross Drive (private street) are slowed down by two STOP signs, six (6) speed bumps, and two (2) traffic signals. Hence, Route B is neither a legitimate route nor a viable alternate route to Route A. The longest segment (2,000 feet) of Kinross Drive is privately owned and is signed at 15 MPH. The STOP signs, speed bumps, and 15 MPH posted speed limits on Kinross Drive (private street) are there precisely to weed out cut-thru traffic including those generated by the Spieker Development.

[2] The second task is to consider the travel times of Route C and Route D for project trips heading east.

Route C: Project driveway (on Kinross Drive, public street), 400 feet to Marchbanks Drive (east), 3,300 feet on Marchbanks Drive-Heather Drive-North San Carlos Drive to Ygnacio Valley Road-South San Carlos Drive, turn left at the signal, and clear the intersection.

Route D: Project driveway (on Kinross Drive, public street), 400 feet to Kinross Drive (private street), 2,000 feet to Kinross Drive (public street), 300 feet to Ygnacio Valley Road-La Casa Via, turn left at the signal, 2,000 feet easterly to North San Carlos Drive-South San Carlos Drive, go straight thru the signal, and clear the intersection.

Route C is 3,700 feet long and its travel time is 2.5 minutes. Route D is 4,700 feet long and its travel time is 5.0 minutes.

Route D's travel time is considerably greater and travel time is significantly longer because cars on Kinross Drive (private street) are slowed down by two STOP signs, six (6) speed bumps, and three (3) traffic signals. Hence, Route D is neither a legitimate route nor a viable alternate route to Route C. The longest segment (2,000 feet) of Kinross Drive is privately owned and is signed at 15 MPH. The STOP signs, speed bumps, and 15 MPH posted speed limits on Kinross Drive are there precisely to weed out cut-thru traffic including those generated by the Spieker Development.

Spieker Development generated project trips shall not be assigned to any private street. Project trips should be re-distributed and re-analyzed. The DEIR is substantially deficient.

Facts: The DEIR is required to correctly identify project impacts.

Action: DEIR and Appendix P (Figure 4) to be revised to show trip distribution: Marchbanks Drive (west) 80%, Marchbanks Drive (east)-Heather Drive-North San Carlos Drive 20%, and Kinross Drive (private street) 0%. Update DEIR and Appendix P transportation analysis accordingly.

Response 155.21: The proposed project generates less than 100 vehicle trips in both the weekday AM and PM peak hours. Thus, per the County's Transportation Impact Analysis Guidelines, referenced in the comment, no Level of Service analysis is required. Furthermore, California State Senate Bill 743 (SB 743) expressly eliminated the use of intersection LOS or any measure of automobile delay and congestion from review of project impacts within California Environmental Quality Act (CEQA) review. The calculation of intersection LOS performed for the project is not required, nor can it be used in the assessment of the project's environmental effects within the DEIR's review. The LOS analysis was performed to provide additional information regarding current and future operating conditions on the roadway network surrounding the project site.

The project's trip distribution pattern was developed based on a select zone analysis from the CCTA's regional travel demand model, as is required. The model is validated to current traffic conditions and is the industry standard tool for assessing travel patterns within transportation impact analyses. A small amount of project traffic was assigned to Kinross Drive. In the AM peak hour, three outbound trips and seven inbound trips were assigned to the roadway. In the PM peak hour, four inbound trips and seven outbound trips were assigned to Kinross Drive. If all of these trips were reassigned to Marchbanks Drive as suggested in the comment, none of the conclusions of the analysis would change. All levels of service reported in the document would remain as reported in both the Existing plus Project and Cumulative plus Project scenarios.

While the majority of project traffic is expected to use Marchbanks Drive to access the project site, a small amount of project traffic is expected to use Kinross Drive. First, Kinross Drive provides direct access into the project site and is the roadway being extending into the facility to provide access. Second, the comment fails to consider the delays associated with individual turning movements. As an example, at the Tampico/Marchbanks/Ygnacio Valley Road intersection the eastbound left turn lane (into Marchbanks Drive) operates at LOS F (>100 seconds of delay) in the AM peak hour and LOS E with (>65 seconds of delay) during the PM peak hour in Cumulative conditions. Vehicles accessing the project may choose to avoid the high levels of vehicle delay at this left turn movement and use the left turn at Ygnacio Valley Road/Kinross Drive instead. In addition, Ygnacio Valley Road can be congested during peak travel periods. Congestion can lead to lane imbalance and a restricted ability to weave. In such conditions a vehicle may need a longer amount of time and distance to move from the outside lane to the inside lane to make a left turn at the Tampico/Marchbanks/Ygnacio Valley Road, resulting in a downstream left turn at Kinross Drive instead, as just one example.

Project traffic will not be directed to use Kinross Drive. However, Kinross Drive is open to the public and some small amount of project generated traffic is expected to use this roadway.

Comment 155.22: 25 DEIR Appendix P, Page 15, Cumulative and Cumulative Plus Project Conditions.

DEIR states: “Cumulative forecasts for the study intersections were developed using growth rates from the CCTA travel demand model.”

Comment: DEIR narrative is generic, ambiguous, and lacks disclosure and transparency. The DEIR is substantially deficient.

Facts: The CCTA traffic demand model provides traffic forecasts for Envision 2040 scenario. The DEIR should explain and clarify why the DEIR decided to not use County traffic model forecasts for Year 2040, but separately derive growth rates to use as a substitute. This is inconsistent with County transportation study guidelines.

Action: The DEIR and Appendix P are to be clarified and corrected accordingly. Update the DEIR and Appendix P transportation analysis accordingly.

Response 155.22: The study uses the Contra Costa Travel Authority’s regional travel demand model in the development of cumulative forecasts. This model is the required tool in the assessment of cumulative forecasts of traffic conditions in Contra Costa County. The model has been statistically validated to represent existing baseline travel conditions and its cumulative forecasts are based on the buildout of the General Plans of the various communities surrounding the project site. The model is used by the City of Walnut Creek, the City of Pleasant Hill, Contra Costa County and all other jurisdictions within the CCTA’s area of influence.

Comment 155.23: 26 DEIR Section 3.17. Appendix P Transportation, Page 28, Construction Traffic.

DEIR Section 3.7. Appendix G: Geological & Geological Investigation.

DEIR, Appendix P, page 28 states: “The total overall project excavation volume is expected to be approximately 225,000 cubic yards (CY), with roughly 150,000 CY of fill, resulting in the potential for export of up to 75,000 CY.”

Comments:

[1] The project proposes to level the western half of the site and to recontour the eastern half of the site. One of the existing seven hills will remain. This will create an area equivalent to approximately twenty-seven (27) football fields to accommodate the multitude of high-density, high-rise buildings, flatwork, internal streets, and other facilities. This requires extensive soil excavation, rock excavation, and trenching. The DEIR presumes all excavated materials as clean soil only. The grading quantities are based on clean soil only and are therefore erroneous and misleading. The DEIR does not differentiate between excavation of soil and excavation of bedrock. According to Appendix G, a portion of the site has either rock outcrops or shallow covers of over bedrock. Rock excavation may include cutting, grinding, drilling, blasting, and crushing of bedrock. Crushed

bedrocks are contaminated, and are not acceptable as clean fill. Contaminated materials are hazardous and shall be hauled off-site. The DEIR disregards the quantity of crushed rock (not suitable as engineered fill), substantially overstates the quantity of soil that is suitable as fill, and substantially under-reports the quantity of excavated materials to be hauled off-site.

The DEIR is saturated with errors, omissions, and misinformation which causes confusion, uncertainties and can mislead decision makers and the public. The DEIR skirts over the subject of bedrock excavation, grading, off-hauling operations, construction traffic impacts (Appendix P, page 28), obscures project impacts, and evades mitigation measures. Since earthwork quantities are grossly misrepresented, all DEIR findings of impacts related to grading, off-hauling, and other related construction activities are invalid and have no merits.

[2] The DEIR earthwork quantities are erroneous and misleading. The DEIR does not disclose the quantity of organic materials and debris generated from the removal of all existing structures, vegetation, and trees. The DEIR under-reports the amount of materials to be hauled off-site, and skirts over its impacts on the adjacent City park, school, residential neighborhood, and local streets.

[3] The DEIR should provide additional information on the haul truck sizes, tonnage, and types (e.g. single trailer, dial trailer), frequency of haul trucks entering and exiting the site, haul truck schedule/duration (weekday, weekend, hours of the day). DEIR should identify the haul truck impacts quantitatively and qualitatively. The project should direct haul trucks to use multiple project access points to minimize the construction impacts on Kinross Drive, Heather Dr, North San Carlos Drive, Marchbanks Drive, and Ygnacio Valley Road.

[4] The DEIR does not fully describe the sheer magnitude of massive soil excavation, rock drilling, blasting, trenching, grading, pile driving, retaining walls, foundation work, loading/unloading of soil/ rock/organic materials onto massive haul trucks, transportation of construction materials, and the use of power generators, machinery, tools, and lighting equipment. All these activities will create a 24/7 cascade of pollutants including fumes, dust, airborne particles (especially silica dust), noise, high-intensity illumination, air vibration, ground vibration, and construction truck/equipment/ machinery/tools exhaust over 4+ years. The use of water trucks may have some limited and temporary effect on moisture content in exposed soil, but has no effect on crushed rock or any of the other pollutants listed herein. The DEIR should address all these issues and impacts.

[5] The DEIR should identify and quantify all other project related vehicles and trucks. This includes all employee vehicles, construction trucks, earthmoving trucks, water trucks, transportation of tower cranes, rock drilling machines, pile driving machines, construction equipment, tools, power generators, lighting, construction materials, storage shed, trailer, etc. The DEIR should account for all this in addressing construction impacts.

[6] The earth materials will fill up between 3,000 to 6,000 dump trucks and tandem trailers to remove soil from the site. This will create between 6,000 and 12,000 two-way truck trips. (If the project does not use tandem trailers, the volume of dump truck trips will be doubled to the higher 12,000 two-way truck trips, and may require more time for project completion.) These dump trucks will go up and down Kinross Drive and Marchbanks Drive at approx 30 minute intervals, 9 hours a

day, 5 days a week, for 16+ months (likely much longer), not 12 months as the DEIR erroneously states.

The project's hauling operation, transportation, deliveries, and all other off-site activities shall be prohibited on all Saturdays, Sundays, and public holidays. The project truck traffic will create unsafe conditions for the pedestrians and children in the residential neighborhood, pedestrians of all ages crossing Heather Dr as they visit the Heather Farm Park facilities and golfers crossing Marchbanks in two places where Marchbanks crosses through the golf course. This will definitely degrade the quality of life in this decidedly suburban area.

The hauling truck traffic wheel loads will substantially damage the pavement on local streets. The damage to street pavement would be far greater if all construction-related truck trips are accounted for. The DEIR shall identify all haul routes within the City of Walnut Creek, and degradation to the Pavement Conditions Index (PCI). The project shall replace the pavement cross-sections full depth along all haul routes between the project site and freeway on/off-ramps prior to the County issuing an occupancy permit.

[7] DEIR should describe how and in what manner will the project remove and clean up soil, crushed rock, organic materials, debris, trash, waste, and construction materials tracked, dumped, or abandoned onto the City streets by the project activities. The project shall not use excessive potable water (California is in a year-over-year drought) and shall be in compliance with the local water agency. The project is prohibited by the Water Board from allowing any illicit discharge to drain into the public storm drain system.

[8] DEIR should identify how all project construction activities, whether associated with hauling operation or not, impact the quality of life for all Heather Farm Park visitors, Cowden Rose Garden visitors, Seven Hills School students and staff, and local residential neighborhoods in the City of Walnut Creek. The DEIR is substantially deficient in all respects.

[9] The DEIR shall more thoroughly identify, evaluate, address, and mitigate all project impacts described above.

Facts: The project is required to identify impacts, including both long-term impacts and near-term impacts.

Action: DEIR, Appendix G, and Appendix P to be revised accordingly.

Response 155.23: This comment repeats previous comments made in Comment 149 (Philip Ho, (dated May 10, 2022)). Please refer to **Response 149.1:** through **Response 149.6:** above.

156. Stan Roe (dated May 10, 2022)

Comment 156.1: POTENTIAL IMPACTS TO THE UTILITIES AND SERVICE SYSTEMS

DEIR, Appendix A: NOP Comments and Scoping Meeting Transcript, pages 30-31 reads as follows:

Christopher Cain
955 Seven Hills Ranch Road, Walnut Creek, CA 94598

July 28, 2021

Department of Conservation and Development 30 Muir Road Martinez,
California 94553 Attention: Sean Tully

Subject: Comment regarding Spieker SCCC Project County File Numbers CDGP20-00001,
CDRZ20- 03255, CDMS20-00007, CDDP20-03018, & CDLP20-02038

Dear Planning Team

Having had the opportunity to review some of the available planning documents for the Spieker Senior Continuing Care Community (SCCC) project, I offer the following comment related the proposed sanitary sewer service. There may be a relatively high environmental risk from overflow at the proposed connection location of the sanitary sewer pipe carrying project flow west from the site to the manhole designated SSMH-97-2 on Drawing C5.0, Utility Plan because this manhole is only two feet deep, and it is located immediately above a natural creek flowing into Walnut Creek. The manhole is very shallow, because it and the sewer at this location are located only a few feet east of the top of the 7-foot diameter corrugated metal pipe (CMP) culvert that carries Homestead Creek under Seven Hills Ranch Road. The sewer pipe passes westward over the top of the culvert, which is only about three feet below the top of the pavement. A partial blockage in the entrance to the 8-inch pipe exiting the manhole that caused a relatively small 2-foot surcharge would result in overtopping of the manhole and flow directly to the creek. While manhole overtopping is possible throughout any gravity sewer piping system, the unusually shallow depth of this manhole and its location immediately beside the creek justify specific environmental consideration to determine the significance of the risk and possible mitigation. The presence of the shallow manhole and nearby creek are not clearly shown in the project documents. The topographic contour mapping on Speiker SCCC Project Dwg C5.0 "Utility Plan" (dated July 27/2020) for the land near the western end of Seven Hill Ranch Road is incorrect because it fails to show the actual elevations in Homestead Creek, a small natural tributary that drains into Walnut Creek through an outfall about 100 yards north of the Seven Hills Ranch Road bridge over Walnut Creek. The contour mapping shows only a short, dead-end section of channel connected to Walnut Creek close to the outfall, with just a dotted line indicating the Homestead Creek centerline extending to the south. In reality, the 10- to 15-foot deep open channel of Homestead Creek extends south (upstream) from its outfall a distance of about a half-mile toward Ygnacio Valley Road along an alignment parallel to and between Walnut Blvd and Homestead Ave. Recognizing that there is a large oak tree located at the junction of Homestead Creek and Seven Hills Ranch Road, it may be that the surveyor was working with aerial photo data that did not clearly determine the actual ground surface below the oak tree, leaving the CAD computer to extrapolate it from nearby areas. As a result, the contours drawn for the area under the oak tree show a relatively flat ground surface without clear indication of the presence of the large 84-inch diameter CMP culvert under the road with associated headwalls and guardrails. I sent a brief version of this comment into the system about a year ago, and apparently no one noticed, so now I'm trying again. I'm on social security and I think the CMP is older than I am. Someone should go look at it before planning to run a lot more wastewater flow across it. If there are questions, please call Christopher Cain, at 925-360-5733. Thank you for your consideration.

Sincerely
Christopher Cain

Comments

Christopher Cain is a consulting civil engineer and works for an international engineering firm. He has worked for private companies and municipalities and is an expert in sanitary sewer systems. Contra Costa County DEIR preparers and Contra Costa County Sanitary District (CCCSD) engineers must respond appropriately to his comment and adequately address the conclusion that the Seven Hills Ranch Road sewage system that currently supports 1 household will need no further upgrading with the addition of 328 additional households.

DEIR, pages 201-202.

Wastewater/Sanitary Sewer

The project proposes to connect to an existing eight-inch sanitary sewer line in North San Carlos Drive and an eight-inch sanitary sewer line in Seven Hills Ranch Road. Both the CCCSD and BKF Engineers estimated the average daily wastewater flow to be generated by the proposed CCRC. The results of their calculations are summarized below in Table 3.19-1.

Although the CCCSD estimated that the project would have a larger average daily wastewater flow, the CCCSD determined that the existing infrastructure would be adequate for the proposed project. Therefore, the project would not require any off-site improvements to existing sanitary sewer facilities. The new lines connecting the proposed CCRC to North San Carlos Drive and Seven Hills Ranch Road would be subject to the construction-related mitigation measures and standard conditions of approval within this EIR and therefore, would not result in a significant environmental effect.

Comments

In review, here's the problem as Mr. Cain sees it. He believes that the CCCSD engineers haven't visited manhole SSMH-97-2 in a long while and don't understand that it is located adjacent to Homestead Creek, and the bridge that runs over the creek, is in serious disrepair. Indeed, if you examine the elevation contours on Figure 1, they probably believe the creek doesn't extend under Seven Hills Ranch Road because the contouring suggests flat terrain. Manhole SSMH-97-2 is 18 inches deep and is within code. The 8" sewer line along Seven Hills Ranch Road has enough capacity and grade to accommodate an additional 328 households....if nothing goes wrong.

Comments

Figures 2 and 3 show the Seven Hills Ranch Road bridge over Homestead Creek to be in serious disrepair. This is shocking considering it may be an important transit point for potential sewage coming from 328 proposed Speiker development households.

Mr. Cain believes and states that CCCSD is ignoring a potential environmental disaster if there's a back-up in the sewage lines downstream from Manhole SSMH-97-2 caused by a slow-down and/or stoppage. With 1 household currently using the 8" sewage line, the risk of this happening is low. However, with 328 additional households feeding into the 8" sewage line, the risk is elevated that the 18" Manhole SSMH-97-2 would fill up quickly with sewage. The pressure build-up in the sewage line would push the manhole cover up and out with raw sewage flowing over the bridge and into

Homestead Creek (Figures 2 and 3). During the wet season when Homestead Creek is flowing, the sewage would have no difficulty flowing into the Walnut Creek watershed and then to Suisun Bay. During the dry season, the raw sewage may not make it to the Walnut Creek watershed, but is that a risk the CCCSD should be taking? In addition, should CCCSD ignore Chapter 6.5 of the California Watershed Protection and Restoration Act Chapter 5808 (5808.1) when a citizen comes forward with local initiative to promote watershed protection?

CHAPTER 6.5. CALIFORNIA WATERSHED PROTECTION AND RESTORATION ACT (5808-5808.2) (9422)

5808. This chapter shall be known, and may be cited, as the California Watershed Protection and Restoration Act. (9423)

5808.1. The Legislature finds and declares the following: (9424)

(a) In addition to the statutory and regulatory policies and programs established pursuant to the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), Division 20.4 (commencing with Section 30901), and Chapter 1.696 (commencing with Section 5096.600) of Division 5, Division 7 (commencing with Section 13000) and Division 26.5 (commencing with Section 79500) of the Water Code, and other statutes and regulations affecting watershed planning and protection, efforts to conserve, maintain, restore, protect, enhance, and utilize California's rivers and streams for habitat, recreation, water supply, public health, economic development, and other purposes have a greater likelihood of being successful when governments, including federal and tribal governments, work in partnership with citizens in an effort to combine community resources, local initiative, and state agency support. (9425)

Conclusions

- The purpose of a DEIR/EIR is to identify potential environmental risks and offer a mitigation plan to reduce or even eliminate that risk.
- This DEIR has failed to act on Mr. Cain's NOP comment and recognize the environmental impact of potential damage to the Walnut Creek watershed and Suisun Bay and offer a mitigation plan to reduce or eliminate the environmental risk.
- This environmental risk and a mitigation plan must be included in the DEIR and reissued.

Response 156.1: In addition to his NOP comment, Mr. Cain submitted a comment on the Draft EIR (see Comment 43) that addresses the same issues presented here. Please refer to **Response 43.1:** through **Response 43.24:**.

157. Ozgur Kozaci (dated May 10, 2022)

Comment 157.1: COMMENTS AND QUESTIONS FOR THE SPIEKER SENIOR CONTINUING CARE COMMUNITY PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT

GENERAL COMMENTS

Thank you for providing me the opportunity to submit my observations listing the deficiencies and inconsistencies within the DEIR and the associated Proposed Project Description.

At a high-level the main question is: How is it possible that a project proposes to

- (1) Grade at least 84% (minimum) of the site
- (2) Cut/grade down ridges that are geologic continuation of Shell Ridge
- (3) Fill in valleys
- (4) Change the entire surface hydrology of the site via regrading and mostly impervious cover
- (5) Unavoidably destroy paleontological resources
- (6) Unavoidably destroy wetlands
- (7) Unavoidably destroy riparian habitats
- (8) Clear-cut close to 400 mature trees, 353 of which are protected
- (9) Unavoidably generate significant dust adjacent to sensitive receptors including hundreds of students in the neighboring houses, school and 1,5million annual visitors of the Heather Farms Park, and use unspecified amounts of water to suppress it during significant drought
- (10) Unavoidably generate significant noise adjacent to hundreds of students next door and sensitive receptors in the neighboring houses
- (11) Unavoidably generate significant vibration adjacent to hundreds of students next door and sensitive receptors in the neighboring houses
- (12) Release a Biological Impact Report that defers evaluation of habitats after the EIR is complete, essentially circumventing the EIR process without addressing the potential impacts
- (13) Release a Geotechnical and Geological Report that defers assessment of seismic hazards after the EIR is complete, essentially circumventing the EIR process without addressing the potential impacts
- (14) Release a Geotechnical and Geological Report that defers even the site characterization to see what type of rock and soils underlie the project after the EIR is complete, essentially circumventing the EIR process without addressing the potential impacts
- (15) Require eight (8) different, fundamental permits and exceptions that directly conflict with the property's current status and proposes to drastically change the entire zonation

and its DEIR still able to call every single aspect of the CEQA defined impact “Less Than Significant with Mitigation Incorporated” without substantiated suggestions as to what that mitigation might be?

There is not a single impact that was estimated to be moderately significant or worse despite the proposed complete reshaping of landscape and building moderate to high-density buildings unlike anything around them over the entire land that is currently a natural habitat with rolling hills, valleys, wetlands, mature trees, numerous species of wildlife, paleontological resources adjacent to Heather Farms Park with 1,5 million annual visitors.

In my opinion, this DEIR should be voided and redone independently as it lacks substance on key issues such as biological, aesthetical, geologic, and paleontological impact assessments. Some examples include but are not limited to the following:

- There are significant inconsistencies between the proposed project description and defined impacts in DEIR
 - e.g., Top of small knoll is claimed to be preserved in the description but plans clearly show lowering and complete modification of this hilltop.
 - e.g., Aesthetics section claim that the project is not visible from its surroundings or scenic trails. This is demonstrably not correct.

e.g., The wetland is claimed to be preserved but the proposed development and geologic properties at this location makes this almost impossible.

- There are contradicting statements and assumptions within and among the DEIR appendices

e.g., Noise appendix states the project specific equipment list was not provided by the owner. The next paragraph makes assumptions based on the equipment list for the proposed project.

e.g., The DEIR report states "...laboratory testing of on site soils confirmed the presence of soils that were moderately expansive." but Appendix G simply states "The laboratory tests for the three surface samples collected from the exploratory test pits indicate that the soils are very likely expansive".

e.g., Updated and Final Project Description (02/08/21), Project Entitlements and Permits section item #6 on page 3 states "County Tree Permit to authorize removal and replacement of 353 protected trees **in poor to moderate health**...". However, Appendix E-2, page 52/152 (07/28/20) states "The Report identifies 353 as Protected, **of which 193 are of high or moderate suitability for preservation**. The project calls for saving 81 of these healthy trees, all of which are large valley oaks and make recommendations of preservation guidelines."

- In almost every instance, the DEIR only states the most favorable interpretation for the Project and omits less favorable or unfavorable interpretations and/or classifications stated in its own appendices

e.g., The site is underlain by expansive soils. Appendix G states this and provides a range of lab test results. The DEIR reports only the most favorable interpretation which is moderately expansive; however, actual classification clearly demonstrates this hazard ranges from the higher end of moderate to very high. The average would be high not moderate.

e.g., The distance reported for noise and vibration for calculating the impact on the neighboring town homes of Heather Farms HOA is approximately 250 ft. In reality, the edge of grading is as close as 25 ft to these homes.

- In many instances an Environmental Impact Appendix simply describes the project and then concludes as no impact without presenting a scientific (or any) justification

e.g., Aesthetics appendix presents no measurable justification for its interpretations. What is said in the text directly contradicts their own photos in the same appendix.

On page 6, "The Project would result in an **aesthetically attractive** continuing care retirement community which would be similar in character and development pattern to a **low-medium density residential development**". What is the basis for

“aesthetically attractive” and how is this qualified as “low-medium density”? And the proposal insists this is not a residential development which is a clear contradiction.

On page 7, “The proposed Project would involve localized cut and fill within the central portions of this 30.8-acre Site.” Proposed project drawings clearly show that almost the entire site (>84%) will be graded which is the opposite of “localized”.

- In many instances potentially significant impacts are broad-brushed, not addressed, and deferred to the construction phase, which is too late and against the whole purpose of preparing a DEIR, essentially circumventing the process

e.g., Biological monitoring for nesting birds and bumble bees are deferred to the construction phase which is clearly too late.

e.g., The retaining wall south of the proposed health center is planned to be adjacent to the Heather Farms HOA houses and yet it is not clear how they are proposing to maintain the integrity of the neighboring houses during excavation and vaguely proposed construction approach.

e.g., Seismic hazards and geotechnical variability of site conditions and associated grading and construction impacts to the site and project are deferred to a stage after the DEIR process.

- Many items requested by authorities to be specifically evaluated in detail with alternatives are omitted and not addressed

e.g., City of Walnut Creek requested the seismic hazards be addressed but there is none. The section in Geotechnical report is inadequate.

e.g., City of Walnut Creek requested visual renderings of the proposed project from Heather Farms Park vantage point. Only one such rendering is provided and it is not realistic as the proposed structures are hidden behind fictional fully grown model trees.

- In rare instances where specific values as opposed to general descriptions are provided, they are often, if not always, either inaccurate or in favor of the project whereas the opposite can be demonstrated

e.g., Noise distance from the Heather Farms Homes (Pyrennes Dr.) is as close as ~25ft as opposed to the stated ~250ft.

Response 157.1: This comment is a summary of specific concerns with the Draft EIR that are further explained below. Detailed responses are provided below for each specific concern.

Comment 157.2: DETAILED COMMENTS AND QUESTIONS FOR THE MAIN DEIR (MARCH 2022)

PAGE vi

AIR-1.1A states “*All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times a day and at a frequency adequate to maintain minimum soil moisture of 12 percent.*”

This proposed mitigation creates another problem: Loss of water for dust suppression for a minimum of 4 years during a drought. The DEIR should have estimated the amount of water to be used for this purpose, identified its source, and included it as part of the impact assessment. It was not done.

AIR-1.1C states “All visible mud or dirt track-out onto adjacent public roads shall be removed using a wet power vacuum street sweepers at least once per day. The use of dry power sweeping shall be prohibited.”

This proposed mitigation creates another problem: Loss of water for dust suppression for 4 years during a drought. The DEIR should have estimated the amount of water to be used for this purpose, identified its source, and included it as part of the impact assessment. It was not done.

Response 157.2: The Draft EIR evaluates the project’s water use during operation in Section 3.19 Utilities and Service Systems under Impact UTL-2 (page 203). Water use during construction would be temporary and not result in lasting impacts on water supply. In addition, the amount of water to be used during construction would be variable depending on conditions and given the temporary nature of the use would not be significant.

Comment 157.3: PAGE vii

AIR-1.1L states “*The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.*”

This will likely prolong the estimated 4-year construction schedule but this likely scenario is not included or presented as part of the DEIR.

Response 157.3: As explained in Section 2.2.10 of the Draft EIR and analyzed in Appendix D (Air Quality and GHG Assessment), it has been assumed that grading would be completed in the first 12 months, construction of the independent living units would be completed in the following 22 months, and construction of the health care center would be completed in the last 18 months. The comment references enhanced BMP’s recommended by the BAAQMD to be implemented during all phases of construction. Referenced BMP (I) is consistent with the planned project construction sequencing as described above which reduces the total amount of disturbed surfaces at any one time. Therefore, no additional delays are expected.

Comment 157.4: AIR-1.1M(2) states “washing truck tires and construction equipment prior to leaving the site.”

This proposed mitigation creates another problem: Loss of water for dust suppression for 4 years during a drought. The DEIR should have estimated the amount of water to be used for this purpose, identified its source, and included it as part of the impact assessment. It was not done.

Response 157.4: Please refer to **Response 157.2:** regarding water use.

Comment 157.5: AIR-1.2 states “Prior to the issuance of any demolition, grading, and/or building permits, the project applicant shall retain a qualified consultant to develop a plan demonstrating that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 72 percent reduction in diesel particulate matter (DPM) exhaust emissions or greater and a fleet-wide average 16 percent reduction in NOX or greater.”

Site conditions, even rock classification which underlies the majority of the site at very shallow depths (less than few feet) or at the surface were not characterized. This classification will dictate the type of equipment used for excavation, grading and amount of material that can be reused onsite or to be removed from the site. Since these are not addressed as part of this DEIR and its relevant appendix, it is not possible to realistically estimate this impact or propose realistic mitigation measures to limit its consequences.

Response 157.5: The project would be required to implement MM GEO-1.1, which would further evaluate bedrock on-site and how it would affect grading and excavation. Once the analysis is complete, appropriate construction equipment can be selected. Once the construction equipment is selected, mitigation measure MM AIR-1.2 would be implemented and the project would be required to achieve a fleet-wide average 72 percent reduction in diesel particulate matter (DPM) exhaust emissions or greater and a fleet-wide average 16 percent reduction in NOX or greater, based on the selected construction equipment.

Comment 157.6: PAGE viii

BIO-1.1 states “*Pre-Construction Bat Surveys: A pre-activity survey for roosting bats shall be conducted at the two valley oaks (Quercus lobata) that support suitable roost habitat near the northeastern and southeastern corners of the project site within 30 days prior to the onset of ground-disturbing activities.*”

First, the DEIR does not even identify whether they exist or not but simply postpone the survey of bats until the construction phase. This prevents a realistic impact assessment at the DEIR stage and renders this DEIR call unresolved.

BIO-1.1 further states “*If a maternity roost is detected, a disturbance-free buffer zone (determined by a qualified biologist) shall be implemented during the maternity roost season (March 15–August 31). No project-related activities shall take place within the buffer during the maternity season.*”

The proposed project involves grading and construction all the way up to the few trees to be left uncut. Not only the survival of these trees is questionable due to the proposed extreme grading and construction plans but also the proposed plans do not leave any extra space where a buffer zone can be established. Appendix G repeatedly draws attention to either needed or unintended over excavation potential across the entire site due to geologic conditions. The geotechnical grading realities are in clear contrast with the potential survival of preserved trees.

Furthermore, if these disturbance-free buffers are implemented properly between March 15 and August 31 as described in BIO-1.1, it would extend the construction duration and by extension its impact which was not even considered as a possibility in the DEIR.

As local residents, living less than 0.3 miles away from the proposed development we have seen bats in our neighborhood.

BIO-1.2 states *“Pre-construction surveys for western burrowing owl shall be conducted in accordance with the March 7, 2012 CDFW Staff Report on Burrowing Owl Mitigation. If preconstruction surveys find active nests avoidance and minimization guidelines must be developed prior to the start of construction in accordance with the March 7, 2012, CDFW memo, and through consultation with CDFW.”*

First, the DEIR does not even identify whether they exist or not but simply postpone the survey of burrowing owls until the construction phase. This prevents a realistic impact assessment at the DEIR stage and renders this DEIR call unresolved.

Second, the proposed project involves grading and construction all the way up to the uncut trees. Not only the survival of these trees is questionable due to the proposed extreme grading and construction plans but also the proposed plans do not leave any extra space where a buffer zone can be established.

As a local resident living less than 0.3miles away from the proposed development we have seen owls in our neighborhood.

Response 157.6: Please refer to **Response 143.9:** and **Response 143.10:** regarding bats and owls.

Comment 157.7: PAGE ix

BIO-1.4 states *“If an active nest is found in an area that would be disturbed by construction, the biologist shall designate an adequate buffer zone (typically 300 feet for raptors and 100 feet for other species) to be established around the nest, in consultation with the California Department of Fish and Wildlife (CDFW). The buffer would ensure that nests shall not be disturbed until the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.”*

This mitigation would also significantly prolong the 4-year construction duration, if applied as described because due to the proposed density of construction 100 or 300ft buffer zones would significantly limit the area that can be graded and constructed. Possibility of prolonged grading and construction schedule and its possible impacts are not considered or discussed in the DEIR.

Response 157.7: It would be speculative to account for delays in construction due to implementation of mitigation measure MM BIO-1.4; therefore, the Draft EIR evaluated impacts based on the project's current construction schedule.

Comment 157.8: General comment on Biological Resources pages viii and ix
*Appendix E page 6 indicates "One special-status animal, western bumble bee (*Bombus occidentalis*), has the potential to occur at the project site. This species is currently a candidate for listing in the State of California, and may occur throughout the site's grassland habitats."*

A potentially significant impact as identified in Appendix E is not mentioned or addressed in this overall DEIR section at all. Does this mean that this potentially significant impact will be ignored or potentially deferred past the EIR process? As a local resident living less than 0.3 miles away from the proposed development we have seen bumble bees in our neighborhood.

Response 157.8: As discussed on page 5 of the H.T. Harvey peer review, included in Appendix E of the Draft EIR, it is their opinion that the western bumble bee does not have potential to occur on the project site. Based on the documentation provided by H.T. Harvey, the County concluded that western bumble bees do not have potential to occur on-site; therefore, analysis was not included in the Draft EIR.

Comment 157.9: PAGE x

BIO-2.1A states "*Existing native vegetation shall be retained by removing only as much vegetation as necessary to accommodate the new road.*"

This statement misrepresents the impact and proposed impact. The entire extent of the riparian area at the end of Kinross Drive will be destroyed because the proposed entrance is 50 ft wide and the riparian habitat covers this entire area. This entire area is proposed to be destroyed, filled and paved over as the main entrance to the proposed development.

Response 157.9: The amount of riparian and wetland area to be removed by the project in order to construct the Kinross Drive extension is disclosed under Impact BIO-2 and Impact BIO-3 of the Draft EIR (pages 81-84). Mitigation measure MM BIO-2.1 is intended to minimize any additional vegetation removal.

Comment 157.10: BIO-2.1B states "Temporary disturbance or removal of riparian vegetation shall not exceed the minimum necessary to complete the work."

It is not necessary to destroy this riparian area at the end of Kinross Dr. In fact, a small "Lot A", 1'x50' between the proposed site and the City property is historically created and designated to specifically prevent connection of Kinross Dr to Seven Hills Ranch Road, according to the City of Walnut Creek records. (See below pg 11 comment regarding DEIR Pages xx and xxi) The property has another entrance and it can be used instead of destroying this riparian vegetation, which also includes a wetland. The alternative option assessed in the DEIR also states that the development can be built using the existing access roads without destroying the habitat and connecting Kinross Drive to Seven Hills Ranch Road.

Response 157.10: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.11: BIO-2.1C states “Exposed soil shall be controlled by stabilizing slopes (e.g., with erosion control blankets) and protecting channels (e.g., using silt fences or straw wattles).”

The current proposed plan would grade and remove the entire top soil down to bedrock and in other lower elevation locations are proposed to be artificially filled.

Response 157.11: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.12: BIO-2.2 states “For areas that are not able to be avoided, the project shall restore or enhance an equivalent area at a 2:1 (mitigation:impact) ratio, on an acreage basis (or as otherwise directed by a regulatory agency with regulatory authority over impacts to riparian habitat on the site).”

First of all, the riparian area at the end of Kinross Dr can be avoided. The project can simply utilize the existing entrance to the property.

Secondly, the proposed construction density does not allow for a space that can be restored or enhanced at 2:1 ratio elsewhere on the property. Allocating such a mitigation area should have been part of this DEIR to demonstrate if the mitigation would be achievable or not.

BIO-2.2H states “*The mitigation shall be deemed complete and the applicant released from further responsibilities when the final success criteria have been met, or when the mitigation is deemed complete as determined by applicable regulatory/resource agencies.*”

Neither success criteria nor the timeline within which it should be achieved are described in this document. What happens if the final success criteria is not met and the project is already built? A provision with no definition or consequence statement cannot enforce compliance.

Response 157.12: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 157.13: PAGE xi

BIO-3.1 states” *The central drainage and associated seasonal wetlands that are to be avoided by the project design will be protected from construction activities through implementation of best management practices (BMPs) such as installing silt fencing between jurisdictional waters and project related activities, locating staging and laydown areas away from potentially jurisdictional features, and isolating construction work areas from any identified jurisdictional features. In addition, site stormwater treatment features must be designed consistent with the California Regional Water Quality Control Board, San Francisco Bay Region, Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit as described above and shall be placed in locations to treat runoff from the developed portion of the site before entering avoided wetlands. To the extent*

feasible, existing site drainage patterns in the vicinity of avoided wetlands shall be preserved to prevent indirect alterations to surface hydrology that may contribute to supporting the wetlands.”

None of this is possible because of the geologic site conditions and proposed high density (>84%) grading and construction. Furthermore, any surficial measures such as silt fencing and surface runoff from the development portion (entire site) would alter the surface hydrology that is asked to be preserved in the last sentence of this mitigation measure. This proposed mitigation measure is in contradiction with the proposed development plan.

Response 157.13: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 157.14: BIO-3.2 states “To compensate for the perennial drainage and seasonal wetlands that will be permanently impacted by extension of Kinross Drive to the project site, the project proponent shall implement one of the following, in agreement with United States Army Corps of Engineers (USACE) and the Regional Water Quality Control Board (RWQCB) as per permit requirements.

- a) Acquisition of equivalent wetlands and waters at a nearby site at a ratio of 2:1, on an acreage basis;*
- b) Purchase of mitigation credits at a mitigation bank;*
- c) Enhancement of seasonal wetlands and the perennial drainage to be preserved in the central portion of the site, as well as creation of seasonal wetland habitat in the bioretention facilities proposed on site, at a ratio of 2:1, on an acreage basis;*
- d) An alternative to be agreed upon with the USACE and RWQCB.”*

These proposed measures are standard language and do not address or provide site-specific, well-defined mitigation measures at all. All these alternatives even at this vague detail defer the actual mitigation approach past the EIR process, practically circumventing it (e.g., “An alternative to be agreed upon with the USACE and RWQCB.”).

Response 157.14: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section above.

Comment 157.15: PAGE xiii

GEO-1.1 states “*The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving 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; strong seismic ground shaking; seismic related ground failure, including liquefaction; or landslides. (Less than Significant Impact with Mitigation Incorporated).*”

If the design-level geotechnical investigation is not performed at this stage it is not possible to address the environmental impact including the risk of loss, injury, or death as a result of seismic hazards. With the current limited information calling the potential impact less than significant is not justified.

Specifically, when:

- Even the site classification is not determined,
- “*Strong seismic ground shaking*” is not even mentioned at all,
- The artificial fill is not characterized and potential mitigation methods are not identified,
- Excavation characteristics of underlying bedrock are not known,

Then, generalized assumptions to be addressed after the EIR is against the purpose of the EIR assessment.

Response 157.15: Please refer to **Response 148.6:** regarding the site-specific, design-level geotechnical investigation.

Comment 157.16: IMPACT GEO-2 does not exist at all and the list of Impacts skip from GEO-1 to GEO-3. Is GEO-2 omitted? If yes, what was it?

Response 157.16: Impact GEO-2 is discussed on page 111 of the Draft EIR. The impacts discussed in the table on pages v-xx only includes those that require mitigation measures.

Comment 157.17: PAGE xiv

First paragraph (not sure which mitigation measure, unclear due to poor formatting) This mitigation measure indicates “*final seismic considerations*” but not even basic seismic considerations are addressed in the DEIR or its appendix. The appendix simply states there are earthquakes in the region and the site is not underlain by a known fault. This is an inadequate reporting for seismic hazard characterization by any definition. Also, it does not address the requirement by the City of Walnut Creek.

Response 157.17: Existing geologic hazards, including seismic hazards, liquefaction, and slope stability, are discussed in Section 3.7.1.2 Existing Conditions of the Draft EIR (page 108). The project site is located on unincorporated Contra Costa County land and project plans would be approved by the County; therefore, County geotechnical requirements were used.

Comment 157.18: GEO-3 states “The project would not 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. (Less than Significant Impact with Mitigation Incorporated)” However, mitigation measure states “See mitigation measure MM GEO-1.1 above.” and defers to an earlier limited explanation not specific to this hazard.

The site is not characterized. Landslide hazard (e.g., during excavation of near vertical bedrock), liquefaction hazard related to the artificial fill, potential slope stability failures affecting neighboring houses as a result of close vicinity (in some cases ~25ft) excavations are not addressed in the current DEIR or its appendices. Calling this potential impact less than significant is not justified due to lack of detailed characterization and lack of proposed mitigation measures specific to the site conditions.

Response 157.18: Please refer to **Response 157.17:** regarding existing seismic conditions. The Draft EIR, under Impact GEO-3 (page 112), discloses that the project

site has potential for liquefaction and rock fall impacts; however, the project would be constructed in compliance with the California Building Code and site-specific, design level geotechnical investigation. These construction requirements would address risks for on- or off-site soils stability, and reduce impacts to a less than significant level.

Comment 157.19: GEO-4 states “The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. (Less than Significant Impact with Mitigation Incorporated).” However, mitigation measure states “See mitigation measure MM *GEO-1.1 above.*” and defers to an earlier limited explanation not specific to this hazard.

GEO-1.1 does not provide a mitigation measure. It simply states that expansive soil hazard needs to be characterized and addressed. Current geotechnical report indicates that the site is underlain by expansive soils. Does the project proposed to excavate out the entire top soil covering the project area? If yes, then either much more (potentially more than 50%) than the guessed amount of 33.33333% soil will need to be trucked out for disposal elsewhere or on-site soil enhancement facilities will need to be established. Neither possibility, which would have additional significant environmental impacts, is even considered or addressed as part of the DEIR.

Response 157.19: Existing soil conditions are discussed in Section 3.7.1.2 Existing Conditions of the Draft EIR (page 107). The Draft EIR, under Impact GEO-4 (page 112), discloses that the project site has expansive soils; however, the project would be constructed in compliance with the California Building Code and site-specific, design level geotechnical investigation. These construction requirements would address risks related to expansive soils, and reduce impacts to a less than significant level.

Comment 157.20: GEO-6.1 states “The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. (Less than Significant Impact with Mitigation Incorporated).”

The site is the geologic continuation of Shell Ridge Scenic Trails which are known to host significant paleontological resources as identified in the relevant Appendix H. It is almost inevitable to not destroy paleontological resources due to the proposed extensive grading (>84%) of the entire site and deep excavations reaching 25ft deep.

Furthermore, due to the near vertical bedrock layers underlying almost the entire site means that the geologic layers and site conditions will change laterally in a very frequent (within a few feet or less) manner across the entire site. Either paleontological monitors will be required at every grading equipment or only one grading equipment can operate at a time under the paleontological monitoring which would significantly prolong the duration of grading and construction considerably, if done properly.

Response 157.20: Mitigation measure MM GEO-6.1 requires the project to implement paleontological monitoring during excavation and soil disturbing activities.

Comment 157.21: PAGE xv

GEO-6.2 states *“If fossils are discovered during excavation, the Principal Paleontologist or his/her designated representative will make a preliminary taxonomic identification and determine if the find is significant.”*

However, as indicated in the Appendix H, Evaluation of Paleontological Impacts, page 4, paragraph 2. *“Results*

Because of the presence of vertebrate fossils in the Miocene Cierbo Sandstone and the Cierbo “sand and gravel” (and its synonyms) they have a high potential for containing significant paleontological resources. The Pleistocene units are assigned a high potential for containing significant paleontological resources, because of the high number of significant finds and locations.”

It is highly likely that significant fossils will be unearthed and potentially destroyed during the grading phase. The current proposed mitigation does not address the significant kind and amount of fossils that can be destroyed during the heavy equipment grading activities unless it is approached as a paleontological site of importance. If the mitigation measures are applied as intended, then the proposed grading and construction phase of 4 years would be significantly prolonged potentially to a level of unfeasible length for a profit driven enterprise. There is an apparent conflict of interest in terms of preserving *“significant paleontological resources”* underneath the site and the proposed high-density, profit-driven development project, which is not identified or discussed as part of the report at all.

Response 157.21: It is currently unknown what kind of fossils may be encountered on-site; therefore, mitigation measure MM GEO-6.2 requires a Principal Paleontologist or his/her designated representative to make a preliminary taxonomic identification.

It would be speculative to account for delays in construction due to implementation of mitigation measure MM GEO-6.2; therefore, the Draft EIR evaluated impacts based on the project’s current construction schedule.

Comment 157.22: PAGE xvi

HYD-3 states *“The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner...”*

The project proposes to grade at least 84% of the property and cover much of it with impervious construction which will substantially alter the existing drainage pattern. This is because entire ridges will be cut down and drainages will be filled up according to the proposed plan. The proposed mitigation does not address this at all. And as a result, the suggested *“Less than Significant Impact with Mitigation Incorporated”* is not justified at all.

Response 157.22: Please refer to **Response 151.2:** regarding drainage patterns.

Comment 157.23: PAGE xx

Existing General Plan Development Alternative

The entry to the first and second paragraphs state “*The Existing General Plan Development Alternative would develop the project site consistent with its current General Plan designation. The project site is General Plan designated as SM (Single Family Residential - Medium).*” And “*The Existing General Plan Development Alternative would result in 188 fewer units; however, lessen the construction criteria pollutant and construction noise impacts; however, grading of the project site in order to develop the Existing General Plan Development Alternative would be similar to the proposed project due to the topography. Given that the grading is the most intense phase of construction and contributes the most towards air quality emissions and construction noise, the Existing General Plan Development Alternative would result in similar construction criteria pollutant and construction noise impacts. This alternative would result in the same or similar impacts to biology, cultural resources, geology and soils, and hazards and hazardous materials, hydrology and water quality, and tribal cultural resources.*”

It is not clear and/or justified how impact for single family homes which by definition requires space between units can be the same or similar to an island-style, continuous, 4-level building almost the size of Oakland Coliseum Stadium in its largest dimension.

Furthermore, single family housing would address the residential needs of seniors who do not need continuous assistance as proposed by the Project Description and this population covers the majority of proposed residents according to the proposal. Therefore, it is both unjustified and inaccurate to state that “the Existing General Plan Development Alternative would not meet any of the project objectives”.

Response 157.23: Please refer to **Response 2.12:** regarding Existing General Plan Development alternative.

Comment 157.24: PAGES xx and xxi

Roadway Redesign Project Alternative states that:

“*The Roadway Redesign Project Alternative would remove the proposed Kinross Drive extension to the project site and place the main entrance to the project at the existing project site entrance along Seven Hills Ranch Road.*”

“*The Roadway Redesign Project Alternative would reduce impacts to riparian and wetland habitats.*” “*The Roadway Redesign Project Alternative would meet all the project objectives.*”

These assessments provided by the DEIR present that the reallocation of Kinross Drive as the entrance to the proposed development is not necessary and avoids destruction of sensitive habitats at this location.

Also, critically important is that the allocation of a 50’ by 1’ strip at the end of Kinross Drive to the City of Walnut Creek. It was established in 1970 under the condition that “*Kinross Dr. shall not be connected to Seven Hills Ranch Rd.*”. This is written in the deed of this property and it was disclosed by Ms. Sandra Meyer of City of Walnut Creek Community and Economic Development Director on Friday, May 15, 2020 at 4:40:27pm via email to the representatives of the proposed development.

As a result, the best alternative is to honor the current deed of the ROW at the end of Kinross Drive and not change its current status.

Response 157.24: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.25: Environmentally Superior Alternative
Environmentally superior alternative would be to add this property to the adjacent Heather Farms Park without any development but this option was not mentioned at all.

Response 157.25: Alternatives were selected to avoid significant environmental impacts and achieve most of the project objectives. The comment's proposed alternative would not meet any of the project objectives; therefore, it was not considered as an alternative.

Comment 157.26: Areas of Public Controversy

It is important to note that the areas of public controversy section lists the entirety with every single aspect of the proposed project. Unfortunately, it does not list any of the specific issues highlighted as part of the Comments appendix but finds it sufficient to just list the overall topics, which alone is quite striking and significant.

It should be noted that "Noise" will not only be construction related as underplayed as this document. Its impacts will also be operational. Having a health center adjacent to a school with its deliveries and emergency vehicle activities in addition to regular staff traffic cannot be ignored.

Response 157.26: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.27: Furthermore, the following significant and increasingly more critical impacts are not discussed at all:

- Water usage for construction for four or more years and operation (not just household services but also watering of fragile, 15-gallon or smaller plants for decades proposed to replace self-sustaining mature trees) while there is a shortage due to drought and climate change.
- Additional electricity demand on the infrastructure when the current residents are asked to turn off air conditioners etc. during 100F+ days.

Response 157.27: Please refer to **Response 157.2:** regarding water use.

Electricity demand of the project is disclosed in Section 3.6 Energy under Impact EN-1. The project would consume a total of approximately 2.87 million kilowatt hours (kWh) of electricity per year. The project would be built to current Title 24 and CALGreen energy efficiency measures.

Comment 157.28: PAGE 1

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

Second paragraph states that *“As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)).”*

Geologic and Geotechnical site conditions are not adequately characterized and deferred to a post EIR phase. This completely circumvents the purpose of developing an EIR.

For example, the site is not classified therefore rock excavation (rippability) characteristics are not known and as a result potential impacts of grading cannot be estimated. Let alone a mitigation measure be provided.

Furthermore, the seismic hazards for the site are not characterized at all. Ground motion characteristics, site amplification potential, liquefaction possibility at the deep artificial fill locations are not defined and therefore mitigation measures could not be proposed.

Top soil is defined as expansive but its mitigation measures are not defined. Will the entire topsoil be removed from the site and discarded or will it be enhanced on site? Not known.

The significant excavations and almost complete (>84%) grading and significant leveling of the site as proposed requires high retaining walls reaching and in places exceeding 20ft. No detailed definition for how these retaining walls are planned to be constructed were provided. As a result, their potential impact on the environment or safety for the people building and living around them cannot be judged with the current DEIR.

The depth and characteristics of the artificial fill is not known. No information on how this region will be treated and prepared for safe construction was provided. Because the depth of the artificial fill is unknown its volume is unknown and as a result the amount of material estimated (33.33333%) to be exported (trucked) out of the project site is unknown and an optimistic guess at best. Furthermore, the contents of this artificial fill is also unknown and how it will need to be treated if there are toxic wastes involved is not known or considered as a possibility.

The entire site is underlain by near vertical sedimentary rocks. This means that the foundation conditions will change laterally every time the bedding changes (every few inches to few feet). This implies extremely heterogeneous subsurface conditions which will impact site characterization requirements according to the CBC. No estimate on the variability of these conditions is provided. The limited lab testing (3 samples for >30 acres) is far from capturing this variation in site conditions.

Response 157.28: Please refer to **Response 40.2:** and **Response 157.15:** regarding removal of bedrock geologic mitigation. The Draft EIR discloses existing geologic conditions and potentially significant project impacts related to seismic hazards, liquefaction, slope stability, and expansive soils in Section 3.7 Geology and Soils. As

stated in mitigation measure MM GEO-1.1, a site-specific, design-level geotechnical investigation shall be prepared and the project shall be designed and constructed in accordance with the recommendations presented in the site-specific geotechnical report and CBC requirements.

Comment 157.29: The site is the continuation of the Shell Ridge which includes scenic trails and significant paleontological (fossil) resources. Excavation of the entire site as currently proposed will undoubtedly destroy these resources. Even a proper monitoring program cannot avoid this impact because the bedding of the rock at the site is not near horizontal and therefore assumptions for fossil bearing locations will be extremely limited (along strike of the bedding) in space. As a result, constant monitoring and excavation interruption will be required every time the bedding changes which would significantly prolong the construction time of assumed 4 years. None of these site-specific issues are considered or discussed in this DEIR.

Response 157.29: Please refer to **Response 157.20:** and **Response 157.21:** regarding paleontological resources.

Comment 157.30: PAGE 9

2.2.6 Landscaping and Open Space

The last sentence of the first paragraph of this subsection states that *“The project would remove approximately 353 existing trees and plant 1,078 trees.”*

This statement appears to be a favorable proposed action by the developer but it is misleading and fails to disclose that close to 400 (353 of which are protected) mature, self-sustaining trees will be clear cut and replaced with 1078 pot-sized plants (15-gallon max) which would take decades of watering during drought conditions to reach maturity (Figure 1).

Response 157.30: See Section 5.0 Draft EIR Text Revisions regarding correction to tree removal numbers.

Comment 157.31: The second paragraph states that “An existing knoll on the north-central portion of the site will be recontoured but remain as open space with a proposed trail allowing access to the top.”

This statement is not accurate and is misleading. The knoll will be completely lowered several feet and reshaped (Figure 2). As a result, it will not be preserved. Similarly, all other ridges which give the current land its name "Seven Hills Ranch" are the continuation of Shell Ridge and will be graded down to a flat construction surface at 131' elevation. (Figure 3).

Response 157.31: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.32: PAGE 23

2.2.8 Drainage and Utility Improvements

The first paragraph of this subsection states that *“Drainage and wetland enhancements would also be made within the area south of the Project Entry, opposite the Independent Living Building, to replace habitat disturbed within the existing Kinross Drive right-of-way.”*

The location of this proposed “enhancement” is vaguely described and no specifics are provided. This prevents the ability to evaluate the validity and appropriateness of proposed mitigation.

Also, further down in the same paragraph it is stated that *“Four outfalls are proposed to discharge to the existing drainage through the center of the site. Two of these outfalls would be located at the easterly end of the drainage and would discharge at the realigned internal access road. The two remaining outfalls would discharge at the westerly end of the drainage near the existing outfall to Walnut Creek.”*

As a result, the proposed development plan indicates that this natural land will be graded down and replaced with pavement and buildings and the resultant surface flow which is not natural anymore will be dumped into Walnut Creek. Surface flow from a developed area will be completely different from the existing natural habitat and will inevitably involve toxic waste including but not limited to engine oils, household waste containing cleaning supplies, etc.

Response 157.32: Please refer to Master Response 7: Biological Resources Wetland/ Riparian Area Impacts and Mitigation section above. The proposed drainage improvements will also conform to Provision C.3 of the NPDES and treat runoff from the site prior to entry into the storm drain system.

Comment 157.33: PAGE 24

2.2.10 Grading and Construction

The first paragraph states that “A total of approximately 225,000 cubic yards (cy) of soil would be cut and approximately 150,000 cy of soil would be used as fill, resulting in a net export of 75,000 cy of soil.”

The estimate of 75,000 cy for net export is exactly 33.3333333% of the estimated excavation amount and appears to be an optimistic rounded up number that is well below the ordinance (Contra Costa County Ordinance 2004-16 to reduce the quantity of construction and demolition debris disposed in landfills as required by State Law) requiring less than 50% export. Furthermore, it is not justified by any means. For example, the site conditions are not classified adequately. Rock class is not known whether it is B or C and the total amount of artificial fill is not known because its bottom depth is unknown. Furthermore, Appendix G geotechnical report indicates high to very-high shrink-swell potential for the surface soil. All these uncertainties about the bedrock, soil, and artificial fill essentially add up to the entirety of the site. When none of these parameters are known any estimate on how much of this material can be reused and how much of it will need to be exported is just a guess.

Response 157.33: Please refer to **Response 148.6:** regarding the site-specific, design-level geotechnical investigation.

Comment 157.34: Finally, the first sentence of the first paragraph states “Site grading and construction of the proposed project would be completed in a single phase over a total period of up to three to four years.”

Because none of the site conditions are adequately characterized it is impossible to estimate the duration for site grading and consequently construction. For example, if the bedrock classification is type B it will be much harder to excavate and reuse this material. Either significantly more material will need to be exported or a temporary aggregate processing plant will need to be constructed on-site to crush, sort and redistribute the excavated bedrock material. Similarly, the top soil will either need to be exported out completely or further processed on site so that it can be reused as fill material. Since none of these properties are known and no alternative approaches were discussed it is impossible to estimate the duration or its potential impacts on the environment which is the basis for this report to begin with.

Response 157.34: The Draft EIR evaluated the project based on the applicant’s current construction plans and understanding of the project site. Refinements to the construction plans may occur with implementation of mitigation measures (such as MM GEO-1.1), however, the Draft EIR accurately discloses project impacts based on the current design.

Comment 157.35: PAGE 25

2.3 PROJECT OBJECTIVES

Out of eight (8) objectives four (4) of them specifically mention “*residents*”. The project insists that it is not a residential project but majority of its proposed occupants would be residents not requiring assistance per its own description. This internal inconsistency is troubling and appears to take advantage of the exceptions for continuous care facilities while it tries not to appear as a residential project.

Response 157.35: Please refer to Master Response 2: Project Non-Residential and Infill Designation above.

Comment 157.36: Bullet point #5 states that “Design, build, and operate a high-quality CCRC on an infill site, to be compatible with the surrounding community and consistent with State standards.”

This proposed project is absolutely not compatible with the surrounding community. There are no four-level, shopping mall-sized buildings around it.

Response 157.36: Please refer to **Response 141.23:** regarding land use compatibility.

Comment 157.37: Bullet point #5 states that “Contribute to greater livability for senior citizens by incorporating the following design and planning principles: safety and security...”

How can senior citizens as a vulnerable population safely evacuate a massive four-level building in case of an emergency such as fire or earthquake? Please note that vulnerabilities include but not limited to limited mobility, slow reflexes, various levels of cognitive disorders etc. which would significantly diminish reaction time and safe completion of evacuation. The proposed project design fundamentally contradicts with its own project description.

Response 157.37: Please refer to **Response 110.9:** regarding emergency access.

Comment 157.38: PAGE 25

2.5 APPROVALS

The project applicant is seeking discretionary approval from the County and other responsible agencies for the following entitlements: (1) *General Plan Amendment*, (2) *Rezone*, (3) *Minor Subdivision*, (4) *Development Plan*, (5) *Land Use Permit*, (5) *Tree Removal Permit*.

These major categories of approval requirements to build this proposed project alone plainly describes how incompatible this proposal is with its location.

Response 157.38: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.39: PAGE 33

Scenic Highways, Ridges, and Waterways

The first paragraph defines and lists scenic highways and ends by clearly stating that the project site is not visible from these locations.

However, the second paragraph defines and lists scenic ridgeways. And leaves it at that! It does not state that the project site is visible from some if not all of these scenic ridgeways (please see Figure 4). Why does this paragraph stop just short of saying proposed development will be visible from these locations? This inconsistent treatment of observations indicates bias in favor of the proposed project.

Response 157.39: Section 3.1.1.2 Existing Conditions describes the current location of scenic ridgeways. Analysis of the project and its relation to scenic ridgeways is provided under Impact AES-1 of page 37 of the Draft EIR.

Comment 157.40: PAGE 36

Photo 5 caption states “*Obstructed View of Project Site Over Home from Kings Oak Place*”

However, the project site view will not be obstructed to the residents of this home shown on this photo. This is a biased and misleading statement.

Photo 6 Again, the project site view will not be obstructed to the residents of this home. They will clearly see the entire grading, construction, and large buildings everyday. This is a biased and misleading statement. Also please note that the green, rolling hill in the view is proposed to be graded down and instead that whole view will be filled by a laterally continuous, island-style 4-level, high-density residential building similar to the size of a Target Store or a Sports Arena.

General comment about site photos:

Showing only 6 photos from carefully selected angles in favor of the proposed project, behind other houses for such a proposed development on ~30 acres are neither representative nor adequate compared to the proposed development and existing conditions.

Response 157.40: Photos are taken and aesthetic impacts are evaluated from publicly accessible viewpoints, not private property or homes.

Comment 157.41: PAGE 37

Project Impacts

AES-1₂ states “*The project would not have a substantial adverse effect on a scenic vista. (Less than Significant Impact)*”

This paragraph states “*It is possible that portions of the project site are visible from these ridgeways. However, development of the proposed CCRC would not obstruct views of the San Francisco Bay, Mount Diablo, or other ridgeways. Additionally, development of the proposed CCRC would be consistent with the surrounding urban development and would not substantially alter the view from local scenic vistas.*”

First of all, the project is visible from the Mount Diablo and Shell Ridge trails. Secondly, it also blocks some of the local views of this scenery but not shown and shared in any of the report text or figures.

Response 157.41: The Draft EIR concluded that the project would not obstruct public views of designated scenic ridgeways in the area.

Comment 157.42: PAGE 38

Figure 3.1-1 CONCEPTUAL PHOTO SIMULATION VIEWPOINTS

It must be noted that the earthy color palette chosen for buildings, roads and other development features is extremely misleading. In reality, at least 84% of the entire property is being proposed to be graded and replaced with pavements, buildings, sidewalks, parking lots and other artificial structures. Depicted greenery will initially be planted shrubbery and 15-gallon pot sized trees. They would not reach maturity and depicted canopy coverage for decades to come.

PAGE 39

Figure 3.1-2 CONCEPTUAL PHOTO SIMULATION 1

Why not develop this photorealistic figure where the "END" road sign is as in Photo 4 on page 35 (see below with the red arrow for location)? That will clearly show the major difference from the public view when not hidden behind a few left-over trees which belong to other existing properties and inexistent model trees (red). And it will be a more honest representation as intended by the DEIR. Furthermore, the distance between the dark green tree (indicated by the red arrow on the existing photo) and the light green trees (to the right side of the proposed entrance road) is less than 50 feet. Therefore, the photo simulation does not represent a possible concept unless more trees than shown are cut.

PAGE 40

Figure 3.1-3 CONCEPTUAL PHOTO SIMULATION 2

This also appears to be a misleading simulation. Where is the fully grown reddish tree in the middle of the simulation? Also, all other landscaping items are placed and the simulation angle is arranged such that any construction is hidden (see red outlines in the figure below). These locations are not representative. The DEIR should provide more angles to demonstrate that if actually these statements are defensible and not just picked at the best possible locations. Furthermore, all the modeled vegetation outlined with red are fully grown, hypothetical greenery strategically placed to obstruct the real construction size.

PAGE 41

Figure 3.1-4 CONCEPTUAL PHOTO SIMULATION 3

There are no such fully grown trees and won't be for decades, if ever, as simulated here (see red outlines below) conveniently hiding the proposed 4-level building. Current proposal describes planting 15-gallon trees. These are pot sized and it will take at least decades to hide the giant 4-level building behind them, if ever. Photorealistic simulations should include landscaping and vegetation as proposed in the document such as 15-gallon trees etc and not hypothetical scenarios that benefit the developer and hide the actual construction end results for decades to come.

Response 157.42: Please refer to Master Response 5: Aesthetics above.

Comment 157.43: PAGE 42

AES-3: states *“The project would not conflict with applicable zoning and other regulations governing scenic quality. (Less than Significant Impact)”*

The first paragraph states *“The proposed P-1 zoning...”*

Emphasis on *“Proposed”*. Therefore, it currently conflicts with applicable zoning and other regulations.

Response 157.43: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 157.44: Second paragraph states “the project would use tiered retaining walls at the edges of the proposed CCRC in order to limit grading and preserve the mature trees located along the perimeter of the project site and the central drainage.”

This statement is incomplete and does not reflect the whole situation. Hundreds of mature and protected trees are proposed to be clear cut through the vast majority of the site.

The next sentence states *“Development in areas with steep slopes (over 26 percent grade), which are primarily along the project site’s perimeter and adjacent to Walnut Creek, would be avoided.”*

This is incorrect and misleading. See slope map (Figure 5) with proposed grading extent and building footprint. Multiple areas with steep slopes (over 26 percent grade) are clearly proposed to be graded as opposed to this misleading impact statement.

The next sentence states “Consistent with General Plan Policy 9-12, the project would plant over 1,000 trees on the site including native oaks along the site perimeter (see Figure 2.2-4).”

This is misleading. The proposal involves clear cutting close to 400 mature trees ~353 of which are in protected status. The replacement "trees" are pot-sized 15-gallon replacements which would take decades and tons of gallons of water to mature, if successful. During the four years (minimum) of construction and at least two decades (approximately a quarter century) the site will be visible from its surroundings and not offsetting carbon emissions while unnecessarily consuming scarce water resources. The impact should be classified as Significant at least for the first 20-25 years.

Response 157.44: Please refer to Master Response 1: County General Plan Policy Consistency above.

Comment 157.45: PAGE 43

AES-C states *“...the proposed project would be urban infill and would be consistent with the surrounding urban environment, would not substantially alter views from local scenic ridgeways, and would not obstruct views of scenic resources such as scenic waterways, Mount Diablo, and scenic ridgeways.”*

This is extremely misleading.

First of all, the area surrounding this site is not urban. It is part suburban and part park (Heather Farms).

Secondly, the proposed structures will be visible from the surroundings and scenic trails such as Shell Ridge.

Thirdly, the developed suburban locations surrounding the site could not be more different than what is proposed. The proposed project includes an island-style (mono block), laterally continuous, high-density, 4-level massive residential building similar to what is being developed only in downtown

Walnut Creek adjacent to the BART station. The area surrounding this site is composed of spaced-out, single-family, one or at most two-level low-medium density residential homes consistent with the current zoning for this property.

Response 157.45: Please refer to Master Response 2: Project Non-Residential and Infill Designation and Master Response 5: Aesthetics regarding aesthetic impacts.

Comment 157.46: PAGE 45

First paragraph states *“Specifically, Measure C-1990 restricts urban development to 35 percent of the land in the County and preserves 65 percent of the land in the County for agriculture, open space, wetlands, parks and other non-urban uses.”*

Does a property need to be only "prime" agricultural land to be preserved? Can it be simply agricultural land? The sentence above does not require a land to be prime.

Response 157.46: Measure C-1990 also requires a minimum parcel size of 40-acres for prime agricultural lands. As described on page 45 of the Draft EIR, Measure C-1990 created an Urban Limit Line (ULL) to identify the outer boundaries of urban development in the County. The project site is located within the ULL for the County.

Comment 157.47: Policy 3-12 states “...assuring a balance of land uses. Preservation and conservation of open space, wetlands, parks, hillsides and ridgelines should be encouraged as it is crucial to preserve the continued availability of unique habitats for wildlife and plants, protect unique scenery, and provide a wide range of recreational opportunities for county residents.”

According to this description a land should be preserved not only for its agricultural potential but also for a balanced availability of open space, wetlands, parks, hillsides, and ridgelines because they are crucial to preserve the continued availability of unique habitats for wildlife and plants, unique scenery, and recreational opportunities for county residents. None of these additional provisions are considered under the current impact assessment.

Policy 8-2 states *“Areas designated for open space/agricultural uses shall not be considered as a reserve for urban uses and the 65 percent standard for non-urban uses must not be violated.”*

Current proposal is completely in violation of this policy.

Response 157.47: Despite being located within an A2 (General Agricultural) zoning district, the General Plan land use designation for the subject property is the zoning tool that determines the land use type allowed at the site. The project site is currently designated under the County’s General Plan as Single-Family Residential – Medium Density (SM) and, therefore, is not intended for open space/agricultural use.

Comment 157.48: PAGE 46

3.2.2 Impact Discussion

Agricultural preservation is only one of the reasons identified in the County Policies as stated by Measure C-1990. *“Measure C-1990’s policies are intended to create an Urban Limit Line (ULL) to identify the outer boundaries of urban development in the County, protect and promote the economic viability or agricultural land, protect open hillsides and significant ridgelines, manage growth in the County, and more.”*

As clearly stated above, there are many other reasons as described in detail by the policies that require preservation of open space.

Narrowing the preservation of this land to agriculture and proposing that it does not specifically meet the prime agricultural criteria is misleading because it ignores the other reasons stated by County policies for preserving open space. But somehow all these other reasons are left out of this Impact discussion.

Response 157.48: Section 3.2 Agricultural and Forestry Resources of the Draft EIR only addresses impacts to agricultural resources; therefore, Measure C-1990 is only discussed in an agricultural context.

Comment 157.49: PAGE 50

3.3 Air Quality – Sensitive Receptors

First paragraph states *“Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.”*

The project site is next to a school with 400 children and a residential area with elderly residents as described in sensitive receptors. In addition, the adjacent Heather Farms Park is visited by 1.5 million visitors annually some of whom fall under the sensitive receptors category. The population of park visitors who may be affected are completely ignored and omitted as part of this DEIR.

Response 157.49: The Draft EIR discloses the location of the nearest sensitive receptors to the site in Section 3.3.1.3 Existing Conditions (page 53). The Draft EIR states “nearest sensitive receptors are single-family homes adjacent to the eastern property line of the project site, and the Seven Hills School directly north of the project site.” Impacts to these nearest sensitive receptors provides a worst-case scenario analysis for air pollution, and it is assumed that the potential impacts will decrease for sensitive receptors that are located further from the site.

Comment 157.50: Furthermore, the site is underlain by class B type rock which is hard to excavate and break into smaller grain size resulting in significant dust and/or water usage for dust suppression during drought conditions.

Response 157.50: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.51: PAGE 56

AIR-1.1A states *“All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times a day and at a frequency adequate to maintain minimum soil moisture of 12 percent.”*

This would generate a huge amount of waste water for dust suppression during drought when everybody is expected to reduce water usage. The DEIR should calculate the amount of estimated water usage for this purpose and ensure that this resource will be available at the proposed project execution time without any impacts on local and regional residents. This is still the case even if non-potable water is used because eventually there is finite amount of water and even non-potable water may be used for better purposes where it is actually needed.

AIR-1.1C states *“All visible mud or dirt track-out onto adjacent public roads shall be removed using a wet power vacuum street sweeper at least once per day.”*

This would also generate a huge amount of waste water for dust suppression during drought when everybody is expected to reduce water usage. The DEIR should calculate the amount of estimated water usage for this purpose and ensure that this resource will be available at the proposed project execution time without any impacts on local and regional residents.

Response 157.51: Please refer to **Response 157.2:** regarding water use.

Comment 157.52: AIR-1.1L states “The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.”

This would likely prolong the grading and construction duration, if executed as stated. The DEIR should provide an estimate of schedule delays resulting from this mitigation approach. So far no consideration for grading and construction delays and possible resultant impacts are provided in the DEIR.

Response 157.52: Please refer to **Response 157.3:** regarding the construction period.

Comment 157.53: AIR-1.1M(2) states “washing truck tires and construction equipment prior to leaving the site.”

This would also generate a huge amount of wasted water for dust suppression during drought when everybody is expected to reduce water usage. The DEIR should calculate the amount of estimated

water usage for this purpose and ensure that this resource will be available at the proposed project execution time without any impacts on local and regional residents.

Response 157.53: Please refer to **Response 157.2:** regarding water use.

Comment 157.54: AIR-1.1N states “Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.”

This will completely change surface water hydrology since majority of the site has slopes greater than 1 percent.

Response 157.54: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.55: PAGE 61

FIGURE 3.3-1 LOCATIONS OF OFF-SITE RECEPTORS, MEIS, AND PROPOSED EMERGENCY GENERATOR

Why are 1,5 million annual visitors of Heather Farms Park (adjacent to the property), some of whom are sensitive receptors) left out of this figure? The legend box conveniently covers the Park area.

Response 157.55: The figure shows the maximally exposed individual sensitive receptors as identified in the air quality analysis. Additional nearby sensitive receptors are shown for informational purposes only.

Comment 157.56: PAGE 62

Impact AIR-4 first paragraph states *“The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors. However, they would be localized and are not likely to adversely affect people off-site by resulting in confirmed odor complaints. The project would not include any sources of significant odors that would cause complaints from surrounding uses.”* How is this justified. It is just a statement with no scientific backup.

Response 157.56: Odor from diesel exhaust would be temporary and dependent on the location of construction equipment on the project site. The only permanent source of odor included as part of the project is the trash compactor located within the maintenance building, which would contain odors inside.

Comment 157.57: PAGE 76

Western Bumblebees

“While the project site may contain potentially suitable habitat for the western bumblebee, the species has experienced a recent range contraction and is now considered to be confined to higher elevation sites in the Sierra Nevada range and portions of the Northern California coast.”

Additionally, the western bumblebee has not been observed in the project vicinity since 1972. Therefore, this species does not have potential to occur on-site.”

As local residents living only less than 0.3 miles away, we do see bumble bees in our neighborhood.

Response 157.57: Please refer to **Response 157.8:** regarding bees.

Comment 157.58: General Comment about Special Status Wildlife Species

How about otters, foxes, owls which we know exist in our area? There is inconsistency of listed species between different sections of the DEIR and also its relevant appendix.

Response 157.58: Please refer to Master Response 7: Biological Resources Existing Conditions section above.

Comment 157.59: PAGE 85

BIO-5 states *“The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. (Less than Significant Impact)”*

These 353 are currently protected and the proposal to remove them is against this status. Permit has not been approved and therefore under current circumstances this assessment has to be considered very significant impact.

Response 157.59: As discussed under Impact BIO-5, the project would be required to comply with the County Tree Ordinance and obtain permits to remove the protected trees on-site. The trees would not be removed unless the County grants the permits; therefore, the project would not conflict with the Tree Ordinance.

Comment 157.60: PAGE 87

BIO-C states *“The project would not result in a cumulatively considerable contribution to a cumulatively significant biological resources impact. (Less than Significant Cumulative Impact with Mitigation Incorporated)”*

This section further states *“All projects developed within Contra Costa County would be required to comply with the Contra Costa County Tree Ordinance and the Contra Costa County Creek Structure Setback Requirements. Cumulative projects would also likely include preconstruction bird surveys similar to MM BIO-1.1 and MM BIO-1.4 in order to comply with the MBTA and California Fish and Game Code. Therefore, the project would not result in a cumulatively considerable contribution to a cumulatively significant biological resources impact. (Less than Significant Cumulative Impact with Mitigation Incorporated)”*.

However, these monitoring measures are deferred to after the EIR phase. As a result, the impacts related to birds are currently not known and the proposed tree removal is against the current CCC tree ordinance. Therefore, less than significant cumulative impact assessment under current conditions is not correct.

Response 157.60: The Draft EIR discloses the potential for impacts to birds in Impact BIO-1 (page 77-80) and mitigation measures MM BIO-1.1 and MM BIO-1.4 are standard CEQA measures to reduce bird impacts to a less than significant level. Requiring preconstruction nesting bird surveys ensures that any active nests are identified and adequately avoided immediately prior to construction regardless of whether or not they were present at the time the EIR was prepared. It is erroneous to state the mitigation is deferred, as the mitigation measures are clearly stated in the Draft EIR.

Comment 157.61: PAGE 99

Construction and Demolition Debris Recovery Ordinance

The first paragraph states “*The intent of Contra Costa County Ordinance 2004-16 is to reduce the quantity of construction and demolition debris disposed in landfills as required by State law. Ordinance 2004-16 requires owners of all construction or demolition projects that are 5,000 sf in size or greater to demonstrate that at least 50 percent of the construction and demolition debris generated on the jobsite are reused, recycled, or otherwise diverted (unless a diversion adjustment is granted).*”

The proposed project currently claims that only 33.333333% of excavated material will be exported, in other words disposed. However, no justification for this estimate is provided.

Due to the lack of detailed site characterization, which would have been needed as part of this DEIR to estimate how much of the bedrock, expansive (shrink-swell potential) soils, and artificial fill of unknown total volume can be safely used as fill, it is not possible to estimate the total amount of materials to be disposed as indicated in this ordinance. The current proposed estimate appears to be an optimistic guess without any technical justification.

Response 157.61: The amount of material to be exported is based on the applicant’s current understanding of site conditions and construction plans. The project is required to comply with County Ordinance 2004-16 regardless of final export volume numbers.

Comment 157.62: PAGE 104

3.7 GEOLOGY AND SOILS

The first paragraph states “*The following discussion is based, in part, on a geotechnical and geologic investigation prepared for the project by Baez Geotechnical Group (Baez) dated March 2020 and an Evaluation of Paleontological Impacts prepared for the project by Professional Geologist James P. Walker, dated April 2020. Copies of these reports are included as Appendix G and Appendix H, respectively, of this EIR.*”

- Are there parts in this section that differ from the referenced reports corresponding to the appendices G and H?
- If there are differences, what are they and what are they based on? For example, were there other, supplementary investigations?
- If there were other supplementary investigations, why are they not provided as supplementary evidence?

Response 157.62: The term “in part” is used generically to describe that the text written in Section 3.7 Geology and Soils is not solely from the technical reports, but also from the footnotes referenced in the section. No other supplementary investigations were completed, other than those referenced.

Comment 157.63: PAGE 105

California Building Standards Code

First paragraph states *“The CBC requires that a site-specific geotechnical investigation report be prepared for a broad range of land development projects and an even broader range of seismic and geologic conditions, including surface fault rupture, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability.”*

To be more specific, CBC (2019) 1803.5.6 Rock Strata section states that *“Where subsurface explorations at the project site indicate variations in the structure of rock on which foundations are to be constructed, a sufficient number of borings shall be drilled to sufficient depths to assess the competency of the rock and its load-bearing capacity.”*

As explained in the Geotechnical report (Appendix G, Geology and Subsurface Conditions Section), the site is located on tilted, nearly vertical sedimentary bedrock. This and the findings from field observations indicate that the rock conditions will be highly variable and will require significant amount of drilling and lab testing. These were not performed and therefore site condition assessments and related mitigation measures are incomplete and/or unjustified.

Furthermore, only surface fault rupture hazard was mentioned (not studied) at an extremely limited (high-level) context. Other geologic and seismic hazards such as ground shaking, liquefaction, differential settlement, lateral spreading were not evaluated or addressed at all. Statements about expansive soils and slope stability in the Appendix G in Geology and Subsurface Conditions section are downplayed and not reflected wholly in the main overall DEIR report.

Response 157.63: Please refer to **Response 157.28:** regarding geologic impacts.

Comment 157.64: Public Resources Code Section 5097.5

Last sentence of this section states *“Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.”*

Indeed, as indicated in Appendix H Evaluation of Paleontological Impacts for the Spieker Senior Continuing Care Community, Seven Hills Ranch Road Walnut Creek, California Report, the project site has high potential for considerable impact and loss of significant paleontological resources. Since the entire area will be excavated and graded, the entire operation will need to be closely monitored and documented for paleontological resources.

- Significant cost and schedule impact for the proposed project prolonging the excavation stage is inevitable, if monitoring is performed properly.
- None of these potential impacts, especially the significant prolonged duration for grading, were discussed or even mentioned in the DEIR.

Response 157.64: Please refer to **Response 157.20:** and **Response 157.21:** regarding paleontological resources.

Comment 157.65: PAGE 107

Soils

The first paragraph of the main DEIR report states *“However, laboratory testing of on site soils confirmed the presence of soils **that were moderately expansive.**”* and references Appendix G. However, Appendix G, Subsection Surface Soils, second paragraph simply states *“The laboratory tests for the three surface samples collected from the exploratory test pits indicate that the **soils are very likely expansive,** with LLs of 54 to 66 and PIs of 30 to 49.”*

This is a discrepancy between the main EIR and its Appendix as a favorable rewording for the project without scientific basis.

This is an inaccurate representation of the reference #42. Appendix G states that *"The laboratory tests for the three surface samples collected from the exploratory test pits indicate that the soils are very likely expansive, with LLs of 54 to 66 and PIs of 30 to 49."*

According to the extremely limited (3 samples for 30 acres where site conditions are highly variable) liquid limit (LL) values the expansive soils at the site can be classified between the **higher end of medium** (Snethan et al., 1977) to **high** (Chen, 1965; Snethan et al., 1977) **and very high** (Chen, 1965).

On the other hand, again based on the extremely limited (3 samples for 30 acres where site conditions are highly variable) Plasticity Index (PI) values the expansive soils at the site can be classified between **high and very high** (see table below).

The second half of first paragraph under Soils Subsection of the main DEIR document states *“Expansive soils shrink upon drying and swell upon wetting. Expansive soils in hillside areas create a potential for slope creep (i.e., a slow process where the downslope movement includes both lateral and vertical components, typically only a fraction of an inch per year. However, this movement accumulates over the years and can result in several inches of displacement over the life of a project.).”*

This explanation in the main DEIR report is a significant deviation from what is provided in the original Geotechnical Report (Baez, 2020, Appendix G). The original Appendix G states *“These test results are different than those of published reports for the native soils and suggests that some of the bedrock is more clay-rich than others. These expansive soils will shrink upon drying and swell upon wetting.*

Expansive clays on hillsides have a tendency to creep down slope seasonally, expanding when wetted perpendicular to the slope face and shrinking when drying vertically downward with a net downslope movement.”

The difference between the DEIR main report and the original Geotechnical Investigation Report for this project appear to be an attempt to downplay the severity of soil expansiveness without the basis of additional technical justification.

The last sentence of Soils subsection in the main DEIR states *“Samples of clayey soils on-site were found to be highly expansive.”* And is more in line with scientifically accepted classification criteria and the Appendix G; however, it is contradictory to the statement two paragraphs above.

Response 157.65: See Section 5.0 Draft EIR Text Revisions for correction to the expansive soil description. The classification of the soils on site would not result in any greater impact or the need for additional mitigation measures than previously identified in the Draft EIR.

Comment 157.66: PAGE 108

Groundwater

“Groundwater levels within the project site are likely similar to the elevation of the bottom of Walnut Creek adjacent to the western boundary. Standing water was observed on-site within the large artificial fill area at approximately 17 feet below ground surface (bgs).”

This statement is based on very limited information and only represents the artificial fill area towards the center of the site. Majority of the site is underlain by shallow and near vertical (steeply dipping) bedrock. Groundwater conditions in this environment, hence the majority of the site is unknown.

Response 157.66: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.67: Geologic Hazards – Faults

“The nearest seismically active fault is the Concord Fault, located approximately 2.3 miles east of the of the project site. The project site is not included within or adjacent to a State of California Earthquake Fault Zone.”

This statement provides the most favorable but incomplete findings for the site.

First of all, the site is located between Concord and Calaveras Faults. The near-vertical bedrock structure is in a favorable orientation (oblique) between the two faults. This condition can be exploited by a complex East Bay earthquake rupture and may cause secondary deformation in terms of surface displacement, surface warping, and/or surface tilting. This potential seismic hazard was not even considered as part of this section.

Secondly, seismic hazards are not limited to surface fault deformation. Strong ground motions and soil amplifications should also be considered and addressed as part of structural assessments and plans, especially when healthcare facilities and vulnerable populations are considered as in this project. This hazard was not considered as part of this DEIR.

Geologic Hazards – Liquefaction

Thirdly, earthquake induced liquefaction is only described in general terms but no site-specific evaluation was performed. Specifically, the deep (deeper than 17ft) artificial fill may be prone to liquefaction hazard but no sufficient characterization was performed as part of this DEIR.

Geologic Hazards – Landslides and Slope Stability

Fourth, earthquake induced slope stability issues, especially considering deep excavations with near-vertical retaining walls were not even considered. It is important to note that no technical explanation for mitigation and/or construction methodology even for static conditions was provided in the DEIR.

PAGE 110

Ground Shaking

GEO-1.1 states *“Design-level Geotechnical Compliance: The applicant shall prepare a site specific, design-level geotechnical investigation for the project.”*

This should have been addressed as part of the Environmental Impact Review process. When it is deferred to the design phase it is too late to evaluate and address the potential impact as part of this EIR process. The recommendation literally bypasses the EIR phase and also ignores the request by the City of Walnut Creek (Appendix A, NOP Comments and Scoping Meeting Transcript, page 53).

Therefore, it is not justified with the current information, to call this hazard *“Less than Significant Impact with Mitigation Incorporated”* at this stage since neither the hazard nor the mitigation is actually defined.

PAGE 111

Liquefaction

This section states *“As discussed above, the project would implement MM GEO-1.1 and prepare a site-specific, design-level geotechnical investigation to address liquefaction and other geologic hazards.”*

As noted above for ground shaking hazard, this should have been addressed as part of the Environmental Impact Review process. When it is postponed to the design phase it is too late to evaluate and address the potential as part of this EIR process. The recommendation literally bypasses the EIR phase and also ignores the request by the City of Walnut Creek (Appendix A, NOP Comments and Scoping Meeting Transcript, page 53).

Therefore, it is not justified with the current information, to call this hazard “*Less than Significant Impact with Mitigation Incorporated*” at this stage since neither the hazard nor the mitigation is actually defined.

Landslides

This section states “*The slopes on the western boundary and portions of the northern boundary of the project site have been mapped as rock fall hazard areas. As proposed, the engineered slopes and retaining walls shall stabilize slopes and minimize landslide risks.*”

No site-specific characterization or slope engineering approach has been provided as part of this DEIR. As noted above for ground shaking hazard, this should have been addressed as part of the environmental Impact Review process. When it is deferred to the design phase it is too late to evaluate and address the potential as part of this EIR process. The recommendation literally bypasses the EIR phase and also ignores the request by the City of Walnut Creek (Appendix A, NOP Comments and Scoping Meeting Transcript, page 53).

Therefore, it is not justified with the current information, to call this hazard “*Less than Significant Impact with Mitigation Incorporated*” at this stage since neither the hazard nor the mitigation is actually defined.

Response 157.67: Please refer to **Response 157.28:** regarding geologic impacts.

Comment 157.68: GEO-2: states “The project would not result in substantial soil erosion or the loss of topsoil.”

Vast majority (~84%) of the site is proposed to be graded. This process will remove and cause loss of top soil. This is in stark contradiction with the “*Less than Significant Impact*” call by this DEIR.

Response 157.68: As discussed in Impact GEO-2 of the Draft EIR, the project shall comply with the County’s Grading Ordinance (Division 716 of the County Ordinance Code) and the National Pollution Discharge Elimination System (NPDES) General Construction Permit requirements, including the development and implementation of a stormwater pollution prevention plan (SWPPP). Compliance with these regulations would reduce soil erosion impacts to a less than significant level.

Comment 157.69: PAGE 112

GEO-3: states “*The project would not 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.*”

This section states *“The project site has moderate potential for liquefaction and the slopes on the western boundary and portions of the northern boundary of the project site have been mapped as rock fall hazard areas. As discussed in Impact GEO-1, the proposed project would be constructed in compliance with the CBC and site-specific, design level geotechnical investigation (see MM GEO-1.1). These construction requirements would address risks for on- or off-site soils stability. For these reasons, the proposed project would not change or exacerbate the geologic conditions and any impact would be less than significant.”*

However, no site-specific characterization to characterize these hazards were performed as part of this EIR process. As noted above for ground shaking hazard, this should have been addressed as part of the environmental Impact Review process. When it is deferred to the design phase it is too late to evaluate and address the potential impact as part of this EIR process. The recommendation literally bypasses the EIR phase and also ignores the request by the City of Walnut Creek (Appendix A, NOP Comments and Scoping Meeting Transcript, page 53).

Therefore, it is not justified with the current information, to call this hazard *“Less than Significant Impact with Mitigation Incorporated”* at this stage.

GEO-4: states *“The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property.”* This section states *“The project site is underlain by clay soils with moderate to high expansion potential. However, the design level geotechnical report shall provide specific measures to avoid/control damage associated with expansive soils. In summary, the project would be required to comply with MM GEO-1.1 and implement recommendations from the project site-specific, design level geotechnical investigation.”*

However, no site-specific characterization to characterize these hazards were performed as part of this EIR process. As noted above for ground shaking hazard, this should have been addressed as part of the environmental Impact Review process. When it is deferred to the design phase it is too late to evaluate and address the potential as part of this EIR process. The recommendation literally bypasses the EIR phase and also ignores the request by the City of Walnut Creek (Appendix A, NOP Comments and Scoping Meeting Transcript, page 53).

Therefore, it is not justified with the current information, to call this hazard *“Less than Significant Impact with Mitigation Incorporated”* at this stage.

Response 157.69: Please refer to **Response 157.28:** regarding geologic impacts.

Comment 157.70: GEO-6: states *“The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature.”*

This section states *“Given the presence of vertebrate fossils in similar geologic units in Contra Costa County, the project site has a relatively high potential for containing significant paleontological resources. Grading of the project site could result in the disturbance of previously undiscovered paleontological resources.”*

As indicated in Appendix H Evaluation of Paleontological Impacts for the Spieker Senior Continuing Care Community, Seven Hills Ranch Road Walnut Creek, California Report, the project site has high potential for considerable impact and loss of significant paleontological resources. Since the entire area will be excavated and graded, the entire operation will need to be closely monitored and documented for paleontological resources.

The proposed project is a significant resource impact risk and there is significant cost and schedule impact for the proposed project. Prolonging the excavation stage is inevitable, if monitoring is performed properly however these potential impacts and their implications were not considered at all as part of the DEIR.

First of all, the first sentence in the above statement downplays the potential at this site. To be specific, Shell Ridge which is the geologic continuation of this site and source to significant paleontological resources is about 1.5 miles away (please see Figure 6).

Secondly, the word “*disturbance*” is a significant underrepresentation of potential destruction of these paleontological resources. Given the site conditions, majority of grading and excavation will be performed by heavy equipment and will cover at least 84% of the site, if not more. The size and speed of these excavation methods combined with highly variable site conditions due to near vertical bedding would either make the discovery an after thought of destruction or cause significant delays to construction schedule if monitoring is performed properly.

None of these potential direct and indirect impacts that would significantly prolong the construction duration estimate were discussed or even mentioned in the DEIR.

Response 157.70: Please refer to **Response 157.20:** and **Response 157.21:** regarding paleontological resources.

Comment 157.71: PAGE 114

3.7.2.2 Cumulative Impacts

GEO-C: states “*The project would not result in a cumulatively considerable contribution to a cumulatively significant geology and soils impact. (Less than Significant Cumulative Impact with Mitigation Incorporated)*”

- The entire topography of the site will change if this proposal is approved as is.
- The entire surface hydrology and groundwater conditions will change if this proposal is approved as is.
- Almost the entire top soil will be removed and disposed of.
- A significant paleontological resource (fossil bearing bedrock) will be destroyed during grading.
- A sulfur spring will be destroyed.
- Two wetlands and a riparian area will be modified, if not destroyed.

How is it possible to conclude “Less than significant cumulative impact” when every fundamental aspect of the site conditions will be destroyed or significantly modified?

Response 157.71: As discussed in Section 3.7.2.1 Project Impacts of the Draft EIR, the project, with implementation of mitigation measures MM GEO-1.1, MM GEO-6.1, and MM GEO-6.2, would result in less than significant impacts related to geology and soils. In addition, projects in the cumulative scenario would be required to implement similar mitigation measures and be built to current California Building Code standards. Therefore, the project would not contribute to a significant cumulative impact.

Comment 157.72: PAGE 120

3.8.2.3 Cumulative Impacts

GHG-C: states *“The project would not result in a cumulatively considerable contribution to a cumulatively significant GHG emissions impact. (Less than Significant Cumulative Impact)”*

Four years of construction, thousands of truck trips for grading and the construction supplies, clear cutting of self-sustaining ~400 mature trees are being proposed and yet “less than significant impact on Greenhouse Gas Emissions” interpretation does not appear to be a scientifically justified conclusion.

Response 157.72: As discussed in Impact GHG-C of the Draft EIR (page 120), a project would be considered to have a cumulative impact if it exceeds the identified significance threshold in Impact GHG-1 of 2.8 metric tons of CO₂e/year/service population in 2030. As shown in Table 3.8-1 of the Draft EIR, the project would not exceed this threshold; therefore, the project would not result in a cumulative GHG impact.

Comment 157.73: PAGE 134

Groundwater

“Groundwater on-site generally exists at a depth of approximately 17 feet bgs.” Bgs-below ground surface.

This is only true for a limited portion of the site where an artificial fill of unknown depth (greater than 17ft) was encountered. There are no other groundwater measurements where there is shallow bedrock.

Response 157.73: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 157.74: PAGE 155

Table 3.13-3: Estimated Construction Noise Levels

- Grading equipment is underestimated because type B bedrock may not be easily excavated with the listed equipment.
- Drilling for site characterization is not accounted for.

Response 157.74: Please refer to **Response 148.3:** regarding construction noise.

Comment 157.75: PAGE 214

Relationship to Project Objectives

“The No Project Alternative would not meet any of the project objectives as no change would be made to the existing land uses at the site and the current land uses do not provide any senior living facilities.”

The lack of detail and lack potential negative impacts in the above statement suggests that if the proposed project is not built there will be no significant deficiencies or impacts. This project does not offer to fill a significant need for a considerable amount of population. The impacts overwhelmingly outweigh the gains at the expense of total and irreversible natural destruction and at the expense of valuable resources such as water and energy despite the currently in place zoning and regulatory ordinances.

Response 157.75: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

158. Joanna Santoro (dated May 10, 2022)

Comment 158.1: GENERAL COMMENTS

Water

Impact UTL-2: The project would not have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. (Less Than Significant Impact). Page 203. Questions:

1. The analysis states “the project would result in a total water demand of approximately 114,689 gpd.” On Page vi. “Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. (Less than Significant Impact with Mitigation Incorporated)” the recommended mitigation measures are provided at “MM AIR-1.1: Enhanced BAAQMD Best Management Practices: The project shall implement the Bay Area Air Quality Management District’s (BAAQMD’s) recommended best management practices (BMPs) and additional measures to reduce construction equipment exhaust emissions. These measures shall include the following:

a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times a day and at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content shall be verified by lab samples or moisture probe.”

- a. What is the anticipated water usage for this mitigation measure?
 - b. How is this figure estimated?
 - c. Does the analysis of water usage at UTL-2 include the water needed to meet this mitigation measure?
 - d. What % of water usage at UTL-2 is needed for MMAIR-1.1 a)?
2. Page vi “c) All visible mud or dirt track-out onto adjacent public roads shall be removed using a wet power vacuum street sweepers at least once per day. The use of dry power sweeping shall be prohibited.”
 - a. What is the anticipated water usage for this mitigation measure?
 - b. How is this figure estimated?
 - c. Does the analysis of water usage at UTL-2 include the water needed to meet this mitigation measure?
 - d. What % of water usage at UTL-2 is needed for MMAIR-1.1 c)?
3. Page vii “k) Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.”
 - a. What is the anticipated water usage for this mitigation measure?
 - b. How is this figure estimated?
 - c. Does the analysis of water usage at UTL-2 include the water needed to meet this mitigation measure?
 - d. What % of water usage at UTL-2 is needed for MMAIR-1.1 k)?
4. Page vii “m) Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a six to 12-inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment prior to leaving the site.”
 - a. What is the anticipated water usage for this mitigation measure?
 - b. How is this figure estimated?
 - c. Does the analysis of water usage at UTL-2 include the water needed to meet this mitigation measure?
 - d. What % of water usage at UTL-2 is needed for MMAIR-1.1 m)?

Response 158.1: Please refer to **Response 157.2:** regarding water use.

Comment 158.2: Page 203 “According to the CCWD’s 2020 UWMP, the CCWD will have a progressively increasing water supply and will be able to meet water demand during average, single-dry, and up to three years of multiple-dry years through 2035. The CCWD estimates they will be able to meet demand during average, single-dry, and up to two years of multiple-dry years through 2045.

The CCWD would have approximately 700 AF of excess water for the year three multiple-dry year scenario and would have up to approximately 69,300 AF of excess water for the average year scenario. Therefore, the additional demand of 128 AFY generated by the project could be accommodated by the CCWD during average, single-dry, and up to three years of multiple-dry years without extra conservation measures.”

- a. How does the calculation provided for this development compare with the current property use?
- b. How does it compare if the site is developed, but retains its current single-family home designation?
- c. The analysis of water reserves indicates that the Spieker Development will take 18% of all contingency water (128 AF/700AF) available in multiple-year drought scenarios. Does the CCWD analysis include “megadrought” scenarios, like the one we are currently in? (As outlined in [Nature](#) article “Rapid intensification of the emerging southwestern North American megadrought in 2020–2021” (citation: North American megadrought in 2020–2021. *Nat. Clim. Chang.* 12, 232–234 (2022). <https://doi.org/10.1038/s41558-022-01290-z>).

Response 158.2: The current residence on the project site would use substantially less water than the proposed development. Water usage for single-family residences is typically 40 to 50 percent higher than multi-family residences; however, the reduced number of single-family units on the site may result in reduced water usage. The UWMP does take into account drought scenarios and the effects of climate change.

Comment 158.3: The average measurement of snowpack this year across the state as of March 29, 2022 was 11 inches, 39% of what we need by April 1. (CA Dept. of Water Resources, March 29, 2022). https://cdec.water.ca.gov/snowapp/sweq.action?campaign_id=49&emc=edit_ca_20220331&instance_id=57232&nl=california-today&querydate=01-05-2022 Governor Newsom has thus far (as of March 28, 2022) left details of water usage reductions to local water providers and wholesalers (<https://calmatters.org/environment/2022/03/newsom-imposes-new-california-water-restrictions-leaves-details-to-locals/>) but given the megadrought conditions, more strict reductions could be required in the future.

- d. If these reductions were to be imposed, could the project continue to meet the Air Quality Impact Mitigations required at Page vi. ? [“Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. (Less than Significant Impact with Mitigation Incorporated)” the recommended mitigation measures are provided at “MM AIR-1.1: Enhanced BAAQMD Best Management Practices: The project shall implement the Bay Area Air Quality Management District’s (BAAQMD’s) recommended best management practices (BMPs) and additional measures to reduce construction equipment exhaust emissions”]
- e. Up to what percentage of water usage reduction can the development withstand?

- f. If more drastic reductions are required once the development is operational, what percentage of the county's contingency water does the development use? Provide a chart for multiple reduction scenarios. E.g.

Spieker Development	CCWD Total Contingency	Additional Percent Reduction Required	Percent Spieker Development Uses of CCWD Contingency
128 AF	700 AF	0 (included in current analysis)	18%
		10%	
		25%	

Response 158.3: Implementation of MM AIR-1.1 would be temporary and would be required in order to mitigate air quality impacts. The project would still be required to comply with this mitigation measure even if reductions are imposed.

As discussed under Impact UTL-2 of the Draft EIR (page 203), CCWD would meet any potential supply shortfalls experienced during dry year conditions, with or without the project, through a combination of a short-term conservation program and/or short-term water purchases, consistent with the CCWD's Future Water Supply Study. The project would comply with any mandated CCWD water conservation programs as they are needed.

Comment 158.4: Page vi. "Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. (Less than Significant Impact with Mitigation Incorporated)" the recommended mitigation measures are provided at "MM AIR-1.1: Enhanced BAAQMD Best Management Practices: The project shall implement the Bay Area Air Quality Management District's (BAAQMD's) recommended best management practices (BMPs) and additional measures to reduce construction equipment exhaust emissions.

- g. What is the water source for the water to be used in these mitigation measures?
- h. If water trucks are required, are their emissions calculated into the Impact AIR-1 analysis?

Response 158.4: Please refer to **Response 157.2:** regarding water use. Please refer to Master Response 6: Air Quality regarding construction period emissions assumptions.

Comment 158.5: Grading (Air Quality+ GHG + Noise)

2.2.10 Grading & Construction (Page 24)

"Site grading and construction of the proposed project would be completed in a single phase over a total period of up to three to four years. A total of approximately 225,000 cubic yards (cy) of soil

would be cut and approximately 150,000 cy of soil would be used as fill, resulting in a net export of 75,000 cy of soil. Maximum cut depths in limited areas would be approximately 25 feet in the south central portion of the site. Tiered five-foot retaining walls would be located at various locations along the internal roadways and around the perimeter of the project site behind the single-story buildings. Additional retaining walls ranging in size from seven to 14 feet would be located on the southern portion of the project site, adjacent to the Kinross Drive extension, near North San Carlos Drive, and adjacent to a proposed single-story building and Seven Hills School. Abutments are proposed up to 24 feet for the internal access road bridge over the central drainage.”

Questions

1. 75,000 cy of soil will be removed from the site.
 - a. What size(s) trucks will be deployed for this operation?
 - b. How many trucks will be used for removal in one day, one week, one month, total grading operation?
 - c. What route will they take?
 - d. How many trucks per day will be on the affected local streets?
 - e. What is the end destination?
 - f. How has the impact of this operation been analyzed with regard to air pollution from particulate matter and exhaust, greenhouse gas emissions, and noise?
 - g. Considering the adjacent facilities (residential, Seven Hills School, Community Arts Preschool, Heather Farm Park athletics facilities, Equestrian Center, dog park), has any analysis been done re: Air Quality, Noise, GHG emissions on developing children and animals?
 - h. What are potential contamination impacts to the Community Garden at Heather Farms where food is being grown?

Response 158.5: Please refer to Master Response 6: Air Quality Construction Haul Trips section above.

Comment 158.6: For the 150,000 cy of soil to be used on the site, will it remain on site the entire time or need to be moved to a temporary staging area off-site? If the latter, what is the destination?

And what would happen to the significant portion of excavated material that would be comprised of bedrock?

Response 158.6: Soil and bedrock to be reused would be stored in on-site staging areas.

Comment 158.7: How many trucks will be deployed at the same time in the grading operation? What is the cumulative air quality, GHG, and noise emissions level projected?

Response 158.7: Please refer to Master Response 6: Air Quality Construction Haul Trips section above. Cumulative air quality, GHG, and noise impacts are discussed in Sections 3.3.2.3 (page 63), 3.8.2.3 (page 120), and 3.13.2.3 (page 163) of the Draft EIR, respectively.

Comment 158.8: MM AIR-1.1: Enhanced BAAQMD Best Management Practices: The project shall implement the Bay Area Air Quality Management District's (BAAQMD's) recommended best management practices (BMPs) and additional measures to reduce construction equipment exhaust emissions. These measures shall include the following:

- a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times a day and at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content shall be verified by lab samples or moisture probe.”
 - a. Has analysis been performed on how far particulate matter (dust, dirt, debris) from the exposed earth during grading can/will travel based on different wind patterns on site?
 - b. In existing landscape vs. proposed with different grading and removal of trees?
 - c. What does this look like at 12% moisture content?
 - d. If water usage needs to be reduced due to drought conditions, what other mitigation measures will be deployed to control particulate matter?

Response 158.8: Please refer to Master Response 6: Air Quality Fugitive Dust section and **Response 158.3:** above regarding water use for air quality mitigation.

Comment 158.9: Evacuation/Emergency and other impacts to Neighbors

2.3 Project Objectives page 25 states one of the objectives is to “Provide an on-site Health Care Center licensed to provide assisted living, skilled nursing services, and memory support to residents of the CCRC, and to nonresidents as space permits.”

Questions

1. “Impact HAZ-6: The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. (Less than Significant Impact)” (page 129). “The proposed project would not impair or physically interfere with any adopted emergency response or evacuation plan and would be constructed to comply with all applicable building and fire codes. During construction and operation of the project, roadways would not be blocked such that emergency vehicles would be unable to access the site or surrounding properties. During operation, emergency ingress and egress to the project site would be provided by the surrounding roadways. The alignments of the drive aisles on-site and the radii of the corners and curbs would be adequate to accommodate the circulation of emergency vehicles.” This response provides no analysis or details to support this conclusion. There is no information regarding the number or type of construction vehicles and equipment that would be on site or traveling to/from site on any given day or the potential mix of equipment/vehicles on a peak day, including any oversize vehicles/equipment such as cranes, cement mixers, industrial dumptrucks, or flatbed tractor trailers. What impact is possible to the surrounding community including residents, Seven Hills School, Community Arts Preschool, John Muir Medical Center during times of peak traffic which already block major roadways like Ygnacio Valley Road as well as surrounding local streets?

2. During operation, how many individuals with medical, mobility, and/or memory care issues might need to be evacuated in the event of a major emergency (e.g. sustained power outage from earthquake)?
3. What City/County resources would be required compared to the current use of the property?
4. How does this impact the evacuation plan of the other individuals in the immediate vicinity using the same evacuation routes who are also unable to evacuate via car since they are not in able condition to drive (e.g. pre-school, school children, hospital patients)?

Response 158.9: Please refer to Master Response 9: Transportation Emergency Access section and **Response 2.13:** regarding construction traffic. Impacts related to police and fire services are discussed in Section 3.15 Public Services of the Draft EIR (pages 168-175).

Comment 158.10: “3.9.2.2 Cumulative Impacts Impact HAZ-C: The project would not result in a cumulatively considerable contribution to a cumulatively significant hazards and hazardous materials impact. (Less than Significant Cumulative Impact)” “Cumulative scenario projects could also be located on sites that were used for agricultural purposes in the past and chemicals such as pesticides and fertilizers may have been used. The use of these chemicals on agricultural properties can result in widespread residual soil contamination. In addition, development of some of the sites would require demolition of existing buildings that may contain ACMs and/or lead-based paint. Demolition of these structures could expose construction workers or other persons in the vicinity to harmful levels of asbestos or lead. (page 129-130)

“Based on these conditions, which are present on most cumulative project sites to varying degrees, impacts could occur in the cumulative scenario as a result of exposure of residents and/or workers to substances that have been shown to adversely affect health. For all cumulative scenario projects, mitigation measures will be implemented as a condition of approval to lessen risks associated with exposure to hazardous materials.” (Page 130). There is no analysis of this hazards present on this specific site or details of mitigation measures that need to be taken.

Response 158.10: Hazardous materials impacts specific to the project site, including asbestos and lead-based paint, are discussed in Section 3.9 Hazards and Hazardous Materials of the Draft EIR (pages 121-130).

Comment 158.11: “Further, adherence to applicable existing local, state, and federal laws and regulations related to hazardous materials would lessen the potential for cumulative impacts.” (Page 130) Adherence to all applicable laws and regulations should be a minimum assumption.

- a. What analysis or details can be provided to address that all eventualities from the extensive excavation, earth movement, and transportation, including contaminants that travel by air and water, have been considered?
- b. Does any such analysis consider the immediate vicinity includes many children in various stages of growth and development (residential, Seven Hills School, Heather Farms Park, including Clarke Swim Center, skate park, athletic fields, and Community Arts Preschool)?

- c. How does the analysis specifically address children and other medically vulnerable populations vs. the average population?
- d. How are the potential effects of air and water contamination addressed for nearby animals, including all wildlife and domesticated animals (horses at Equestrian Center, dogs at Heather Farms dog park/park)?

Response 158.11: Please refer to **Response 158.10:** regarding hazardous material impacts.

Comment 158.12: Aesthetics/Land Use

Questions

1. Page xvii requires mitigation measures as outlined in “MM NOI-1.1: A Construction Noise Management Plan shall be prepared...” including “1) A qualified acoustical professional shall be retained to address noise concerns, and if needed, to determine if construction noise levels at adjacent property lines are consistent with the findings of the certified EIR. Corrective actions shall be taken to reduce construction noise if inconsistencies are identified. Temporary noise barriers could be considered during construction phases involving earth moving equipment (e.g., grading operations) where they would be effective in reducing the construction noise impact, when directly adjoining sensitive receptors, such as at the Seven Hills School. An eight-foot plywood noise barrier could reduce noise levels by at least 5 dBA.”
 - a. Where would the 8ft. plywood noise barrier be placed?
 - b. What would this site look like, including equipment, grading, staging areas, and noise barriers during this phase?
 - c. How long would these barriers be in place?
 - d. Provide renderings to include vantages from adjacent locations including Cherry Lane, Heather Farms Park and Seven Hills School.

Response 158.12: Locations and duration of plywood barriers would be determined once the Construction Noise Management Plan is prepared. The temporary use of noise barriers during construction would not result in any permanent visual impacts from public vantage points in the vicinity of the site.

Comment 158.13: Policy 3-8 “Infilling of already developed areas shall be encouraged. Proposals that would prematurely extend development into areas lacking requisite services, facilities, and infrastructure shall be opposed. In accommodating new development, preference shall generally be given to vacant or underused sites within urbanized areas, which have necessary utilities installed with available remaining capacity, before undeveloped suburban lands are utilized.” (Page 140)

- a. Explain how this site has the necessary utilities installed already if it currently supports just one single family home?
- b. How many feet of new electricity, cable, water, sewer will need to be run from the main connection (tie-in) points?
- c. Will these routes disturb any adjacent properties, including those accessed by the public (including, but not limited to, Heather Farms Park, roads, sidewalks)?

Response 158.13: Please refer to the Policy 3-8 discussion section of Master Response 1: County General Plan Policy Consistency and discussion under Impact UTL-1 of the Draft EIR (pages 201-202) regarding utility connections.

Comment 158.14: “The project is considered urban infill, given the surrounding development, and would diversify senior citizen housing options, consistent with General Plan policies 3-8 and 3-23.” (Page 142)

- a. Throughout the document, the development is referred to as senior citizen housing, however, given the assisted living, skilled nursing, and outpatient health center, this is a more drastic change in use from the current A-2 General Agricultural District/Single-Family Residential Medium Density (SM) zoning.
- b. This is not a small empty lot between two houses; this project is a large parcel of open space which contains the signature environmental landscape features of the area: rolling hills and ridgetops of the Diablo foothills and mature oak trees; has the county concurred with the definition of “urban infill” for this project?

“Infill development is different from redevelopment. Redevelopment converts an existing site into one that has a better economic benefit for the community.” (Realized ©, <https://www.realized1031.com/glossary/infill-location>, accessed 4/4/2022). In the spirit of Policy 3-8, what alternate vacant or underused sites in the county have been explored for this development instead of this site?

Response 158.14: Please refer to the Policy 3-8 and 3-23 discussion sections of Master Response 1: County General Plan Policy Consistency and Master Response 2: Project Non-Residential and Infill Designation above.

Comment 158.15: Policy 3-12 “Preservation and buffering of agricultural land should be encouraged as it is critical to maintaining a healthy and competitive agricultural economy and assuring a balance of land uses. Preservation and conservation of open space, wetlands, parks, hillsides and ridgelines should be encouraged as it is crucial to preserve the continued availability of unique habitats for wildlife and plants, protect unique scenery, and provide a wide range of recreational opportunities for county residents. “(page 140) Policy 3-28 “New residential development shall be accommodated only in areas where it will avoid creating severe unmitigated adverse impacts upon the environment and upon the existing community” (page 141). “The project proposes to preserve the existing drainage through the middle of the project site, consistent with General Plan policy 3-12, and, as discussed throughout this EIR, the project would not result in an unmitigated adverse environmental impact, consistent with General Plan policy 3-28” (page 142). There is no direct analysis provided of the cumulative environmental impacts and the adverse impact to the surrounding community to draw this conclusion. This project disregards Policy 3-12 as it does not preserve or buffer agricultural land, open space, wetlands, hillsides, or ridgelines. It does not protect unique scenery or provide a wide range of recreational opportunities for county residents.

Response 158.15: Please refer to the Policy 3-12 discussion section of Master Response 1: County General Plan Policy Consistency above.

Comment 158.16: What is the cumulative adverse impact to visual/aesthetics by removal of ridges, hills, grasses, wildlife and trees to be replaced by buildings, retaining walls, streets, and parking lots?

Response 158.16: Cumulative aesthetics impacts are discussed under Impact AES-C of the Draft EIR (page 43).

Comment 158.17: Has any analysis of Heat Island impacts from the development as a whole, and specifically the extensive surface parking lots and roads been done?

Response 158.17: The project proposes to plant over 1,000 trees throughout the property that will help shade the hardscape areas of the site and reduce the heat island effect. This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 158.18: What is the impact of such a drastic change from largely open, agricultural land to a high-density residential area that can only be afforded to people of a certain age and income as well as the medical inpatient and outpatient facilities?

Response 158.18: The Section 3.0 Environmental Setting, Impacts, and Mitigation of Draft EIR discusses the impacts of the change in land use on the project site. Economic considerations, such as affordability, are not a CEQA topic.

Comment 158.19: What is the demand for this development compared to the medical facilities and assisted living facilities along Ygnacio Valley Road within 1 mile (e.g. Walnut Creek Medical Center, including John Muir Hospital and surrounding outpatient medical offices as well as Walnut Creek Senior Living, Atria, Classic Care Home, Mercy Care Home)?

Response 158.19: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 158.20: Hydrology and Water Quality

1. “Impact HYD-2: The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. (Less than Significant Impact) Groundwater on-site exists at approximately 17 feet bgs.⁶³ The project does not propose any below-grade parking garages or other subterranean levels. Thus, groundwater pumping is not anticipated for project construction.” This conclusion is incorrect as the project DOES include below-grade parking garages and subterranean construction. See page 159. “**Parking Lots** The project would include several surface parking lots and one below-grade parking garage. Parking activities in the below-grade parking garage would not be anticipated to be audible outside of the parking garage.” How can the conclusions drawn in 3.10 HYDROLOGY AND WATER QUALITY be trusted if they omitted analysis of the impact of such a significant structure?

Response 158.20: Please refer to Section 5.0 Draft EIR Text Revisions for correction to parking lot descriptions.

159. Jan Warren (dated May 10, 2022)

Comment 159.1: GENERAL PUBLIC COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT, SPIEKER SENIOR CONTINUING CARE COMMUNITY PROJECT

Housing and Population Statement

1. Because it is considered a service community this development doesn't fulfill or count as housing under the State Mandate website.
2. The proposed CCRC, per the developer's request and insistence, is not a residential use and is considered a "service arrangement" relationship.
3. Therefore this development will not meet County RNHA housing needs or provide different levels of income housing.

Justify why 354 independent living units and amenities for residents not needing daily assistance should be classified as anything other than residential. Since the Care Center states it is open to the general public, it seems more appropriate to rezone the land into 2 separate parcels, one for the housing component, and one for the care center. The requested land use amendment designations should be reconsidered.

Response 159.1: Please refer Master Response 2: Project Non-Residential and Infill Designation and Master Response 3: Regional Housing Needs Allocation above.

Comment 159.2: Impact LU 2 – Project Impacts

Project is considered infill, given the surrounding development. It is a false statement that the project would diversify senior citizen housing options, consistent with General Plan policies 3-8 and 3-23. The cost to live in this development requires high upfront cost, as well as ongoing high monthly fees. Please show how extremely low, very low, low, and moderate income people could afford to live here.

Response 159.2: Please refer to Master Response 2: Project Non-Residential and Infill Designation. Cost of living is not a CEQA issue and, therefore, not discussed in the Draft EIR.

Comment 159.3: Much of the comparisons of the DEIR impacts are compared against the location of the site, which is in the county. The real impacts fall upon the residents of the City of Walnut Creek. The only real connection with the County is the Seven Hills Ranch Road, which is designated as an emergency access road.

Response 159.3: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 159.4: Transportation

It is misstated on p. 181 that the intersection at Marchbanks and YVR is 30 mph. YVR doesn't reduce from 35 to 30 mph until Homestead.

Response 159.4: Please refer to Section 5.0 Draft EIR Text Revisions for a correction to the speed limit.

Comment 159.5: State specific areas you intend to provide bicycle and safe pedestrian use within and outside of the project site. Policy 5-21

Response 159.5: Bicycle and pedestrian facilities are discussed under Impact TRN-1 of the Draft EIR (pages 184-185).

Comment 159.6: Verify that the project shall comply with the following applicant generated report recommendation:

The Transportation Assessment Appendix P, p. 29-30. *Fehr and Peers Technical Memorandum* dated July 21, 2021 and supplied by the applicant states that the applicant should provide a "Construction Traffic Management Plan" which shall include "A prohibition on all construction truck activity during the weekday morning and evening peak commute periods (7 to 9 AM and 4 to 6 PM)" While not specifically required by CEQA, this critical recommendation regarding traffic was completely disregarded in the Transportation analysis and no mitigation measures are suggested in the DEIR. Based on the above referenced memorandum it is clear the project WILL have a significant impact. Claiming there will be "No Traffic Impacts", the DEIR finds no mitigation measures related to Transportation are necessary. This oversight must be corrected and may be corrected in MM NO1-1.1 (p.157) which requires that the project "*shall restrict noise-generating activities including construction traffic at the construction site or in areas adjacent to the construction site to the hours of 8:00 am to 5:30 pm, M-F, with no construction allowed on Federal and State weekends and holidays.*" Either this MM should be amended or a new traffic mitigation measure must be included to reduce construction traffic impact and reflect the applicant generated report recommendation included above.

Response 159.6: Please refer to **Response 2.13:** regarding construction traffic.

Comment 159.7: p.115, GHG Emissions: Impact 3.8.2.2

We disagree that the construction project will have emissions that have a less than significant impact. Just because there is no established threshold for GHG emissions at construction sites by the County or BAAQMD, doesn't mean there are no impacts. It means they haven't measured the impacts and have not established thresholds. Aggressive standards need to be set since the Bay Area is in non-attainment for ozone and PM 2.5., and BAAQMD substantiates that there is no safe level of PM 2.5. During the 4 years of construction, the neighborhood directly to the south, the park to the east and the CCCounty Canal trail north of the property, which is heavily used by bikers and walkers of all ages, will most certainly be impacted by the GHG generated by the construction process from dump trucks, diesel construction equipment, delivery trucks, concrete trucks etc.

To state in the impact section that 4 years is a short period of time for people to breathe excessive dust, pollution, particulate matter and greenhouse gases, hear excessive noise, and endure restrictions to the enjoyment of their home, neighborhood, park and K-8 school is inaccurate. The proposed site is not located in a downtown, commercial area and yet its impacts and final purpose are more closely aligned with such an area. This project and its lengthy construction period will have a distinct impact on the neighboring land uses.

Response 159.7: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 159.8: In order to reduce VMT will construction workers from Contra Costa County be prioritized for jobs and given incentives to carpool or use transit where possible?

- Please clarify the number of construction workers and where they will be parking?
- Verify comparable construction sites to substantiate VMT of workers. Where on the site will the construction staging site be located?

Response 159.8: Draft EIR Appendix P identifies the requirement for preparation and approval of a Construction Traffic Management Plan specifying the traffic controls and methods proposed during each phase of project construction, including the accommodation of parking for workers. DEIR Appendix D (Air Quality and GHG Assessment) includes an estimate of worker numbers and trips, including haul trips for each phase of construction. Consistent with OPR Guidelines and the Contra Costa County Transportation Analysis Guidelines, VMT associated with construction traffic is temporary in nature and therefore not subject to significance analysis under CEQA.

Comment 159.9: Table 3.8-1, p.119

For 2025 the Proposed Project for ongoing emissions is 1,811 metric tons CO₂e/yr. The Brightline significance threshold is 660 metric tons CO₂e/yr. The 2025 proposed project is almost 3 times the significance threshold.

Even though the 1,811 MT CO₂e/year is almost 3 times the 660 MT Brightline Threshold, the 2nd part of the chart shows the project is less than a significant impact because the project is 2.3 vs the 2.8 threshold using the 785 per capita approach. According to BAAQMD only one of these thresholds needs to be met to be considered less than significant.

Response 159.9: The comment is incorrect, to be considered an exceedance, the project must exceed both the GHG significance threshold in metric tons per year and the service population significance threshold.

Comment 159.10: It is unreasonable to consider a 30.4 acres residential development to a quarter to half acre more typical residential site in Walnut Creek. As of June 1, 2022 the County of Contra Costa will require all newly constructed residential buildings, hotels, offices, and retail buildings to be all-electric to be fully electric, which will reduce some of the egregious 1,811 MT CO₂e/year emissions.

To reduce ongoing emissions this project should include solar panels with battery backup. Recognizing this is a sensitive population, at the very least there should be battery storage for the health center and community gathering area. The use of any Diesel backup generators should be minimal and replaced when electric batteries become more available and cheaper, no later than 10 years from the facility opening.

Concrete and asphalt are particularly impactful on emissions and their lifecycle should be considered and reduced where possible. The 30.4 acre land area will have 6.46 acres of paving. Paving creates runoff, lack of ability for water to drain into the land, and creates more heat. Further consider ways to reduce paving. Consider providing a # of shared vehicles. Consider personal deliveries from Amazon, etc. be centrally delivered and dropped off via electric golf cart. Educate against idling.

Response 159.10: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 159.11: Wind greater than 20 mph will trigger a shutdown. Who will have the authority to shut down the site due to excessive wind? What criteria will be used to shutdown construction when air quality is bad due to wildfires?

Response 159.11: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 159.12: Is the construction of the outer wall included in the emissions?

Response 159.12: Yes, construction of the outer wall is included.

Comment 159.13: This project would introduce new sources of TACs during construction. New sensitive receptors would also be introduced to the area. P. 16

CalEEMod is based on older Carb EMFAC2014. Update to 2017. Workers are assumed to be driving light duty auto and trucks.

Response 159.13: EMFAC2017 was used to model air quality emissions.

Comment 159.14: Construction predicted period emissions exceed BAAQMD significant thresholds for ROG in 2024. Given that estimates are given for 2021, will the project times be expedited or pushed out to 2025 if approved?

Response 159.14: Construction emissions are modeled for the approximate time it will take the project to be built (i.e., four years); therefore, the project can be presumed to be built in four years from the start of construction.

Comment 159.15: Will there be a monitoring device onsite during the construction period? Will readings be at different times of day and recorded?

Response 159.15: No monitoring devices are required as part of the mitigation measures; however, as stated in mitigation measure MM AIR-1.2, the project

applicant shall submit a plan confirming the use of Tier 4 or Tier 3 construction equipment.

Comment 159.16: Since the current site is currently unoccupied any increase using combustion will be greater than the current baseline of zero, particularly during the construction phase. Covering the truck will still release PM2.5 into the air from large equipment until the truck is filled and covered and dust will be created moving into the site, around the site, and out of the site.

Consider providing a # of shared vehicles. Consider personal deliveries from Amazon, etc. be centrally delivered and dropped off via electric golf cart. Educate delivery drivers against idling.

Require that vehicles waiting at the guard shack for approval of entry turn off their engines to avoid excessive idling.

Response 159.16: Please refer to **Response 131.15:** regarding idling.

Comment 159.17: Regarding MM Air-1.1: Per item j, MM Air-1.1, wind greater than 20 mph will trigger a shutdown of the construction site. Who will have the authority to shut down the site due to excessive wind? What criteria will be used to shutdown construction when air quality is bad due to wildfires? I recommend that this MM be modified to require the designation of an on-site manager to oversee the implementation of all elements of this mitigation measure throughout the construction process, all four years of it.

Response 159.17: Please refer to Master Response 6: Air Quality Fugitive Dust section above.

Comment 159.18: It appears that several components of construction were not included in the estimate of construction trucks and hence pollution resulting from construction. Specifically, Appendix D, Air Quality, Table 2: Total Haul Trips does not include trucks needed to demolish and haul off 353 mature trees¹ which will be removed from the site. Additionally, it does not include the truck trips needed to move 150,000 cy of soil that will be cut and moved around on site². It counts the trucks for the soil that will be hauled off site, but not the dump trucks that will be required to move the soil to other parts of the 30-acre site, nor the emissions from the off-road diesel equipment that will spread and compact this soil. This is a serious error and must be recalculated based on the very extensive amount of cut, fill and soil movement on site that the Project proposes. Additionally, the amount of concrete trucks to construct the lengthy and tall retaining walls throughout the project site³ also appears to have been omitted, since construction of the buildings is noted in Table 2, but not construction of the large retaining walls. Emissions calculations should include the impacts of dump trucks for earth work and construction of all of the long, tall retaining walls and that information should be stated in the EIR.

Response 159.18: Please refer to Master Response 6: Air Quality Construction Haul Trips section above.

Comment 159.19: This project would introduce new sources of TACs during construction. New sensitive receptors would also be introduced to the area. P. 16

CalEEMod is based on older Carb EMFAC2014⁴. Update to 2017. Workers are assumed to be driving light duty auto and trucks.
Construction predicted period emissions exceed BAAQMD significant thresholds for ROG in 2024.

Given that estimates are given for 2021, will the project times be expedited or pushed out to 2025 if approved?

Will there be an air quality monitoring device onsite during the construction period? Will readings be at different times of day and recorded?

Since the current site is currently unoccupied any increase using combustion engines will be greater than the current baseline of zero, particularly during the construction phase. Covering the soil in the back of the dump trucks will still release PM2.5 into the air from large off-road diesel earthwork equipment until the truck is filled and covered, and dust will be created moving into the site, around the site, and out of the site.

Response 159.19: These are repeat comments from above, please refer to **Response 159.11:** and **Response 159.17:** above.

Comment 159.20: Noise Policy 18 p. 149

“Construction activities shall be concentrated during the hours of the day that are not noise-sensitive for adjacent land uses and should be commissioned to occur during the normal work hours of the day to provide relative quiet during the more sensitive evening and early morning hours”.

- We disagree that this provides noise at a construction site that is less than significant. We ask for a definition of “relative quiet”?

Response 159.20: The Noise Element of the General Plan does not provide a noise level range or other definition for the identification of a “relative quiet” environment. Please refer to the Policy 11-8 discussion section of Master Response 1: County General Plan Policy Consistency above.

Comment 159.21: The statement that construction activities shall be concentrated during the hours of the day that are not noise-sensitive for adjacent land use assumes people in the adjacent neighborhood:

1. Aren’t retired. The adjacent PUD community has a large percentage of retired people who are enjoying their home at various hours during the day, seven days a week.
2. Aren’t working from home. Going forward from the pandemic the number of people working from home has jumped, the adjacent neighborhoods, including the PUD, have large numbers of working people now working permanently from home.
3. Want to stay inside Seven Hills School all day
4. Don’t enjoy working in their yard
5. Aren’t caring for children or parents in their home.
6. Don’t want to plan a day at Heather Farms Park or Gardens
7. Have horses at the equestrian center who don’t mind noise

8. Don't want to enjoy a walk during the day, especially in the nearby park and its Nature Area and around its natural lake.
9. Don't want to enjoy their coffee or wine outside on the deck or patio for their home
10. Don't want to visit with friends and neighbors except in the evening.
11. Don't want to try to sell their home in the next 4 years.
12. Plan on staying inside or leaving their home during the day for 4 years in a row.

This project is too large and will take too long to ask the neighbors to put up with the inconveniences that disrupt the ability to use and enjoy their property. Perhaps a better plan would be to construct in stages such that neighbors have a break, for example 3 months during the spring or fall months to enjoy the milder weather the area gets during those months and to allow construction to take place in the summer when no children are in neighboring school?

Response 159.21: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 159.22: 3.4 Biological Resources p 66

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations. Work within the bed or banks of a stream or the adjacent riparian habitat requires streambed Alteration Agreement from CDFW. Permit required to trench, grade, or fill within the dripline of any protected tree, or to cut down, destroy, trim by topping or removal of any protected tree, per the County's Tree Protection and Preservation Ordinance 816-6. The County must strongly resist this project's plan to allow the destruction of 353 mature, **protected** trees directly in conflict with their Ordinance that specifically seeks to protect such trees.

Seasonal wetland total .35 acres, 2 largest in season central portion of project and southern end.

Project will permanently impact approx .16 acres of riparian woodland habitat and remove up to 13 riparian trees to extend Kinross Drive.

Riparian expert needs to be on site to make sure the habitat is protected before construction begins. It is insufficient for the property owner or project sponsor to oversee this critical need. P43 8.6 Wetlands

This riparian habitat is small against 30 acres and needs to be protected. It is not acceptable to say it's ok to have 70% restoration by year #5. P. 104

Wetlands are relatively scarce regionally. Any permanent loss or temporary disturbance of wetland habitat would be considered significant under Ceqa, especially during this drought period. Base flood plain p 44. Pic with wetland p. 59

EMG verified wetland existence p 252 and 259. Note shallow groundwater 10-20' depth.

Response 159.22: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section.

Comment 159.23: TREES is not listed under one category

P 31 2.2.6 Landscaping and open space

“Landscaping would be provided throughout the project and would include bio retention basins, native tree planting and riparian revegetation area, courtyard ornamental landscaping and water features, and various plantings throughout the site. Trees would be planted along the project boundary to provide screening from adjacent properties and roadways”.

This description lacks the detail to know what will actually be provided, where, and the overall impact.

Response 159.23: Landscape plans are available on the county website (<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>).

Comment 159.24: Tree removal permit states it is a discretionary approval necessary to implement the project as proposed. It can't be both discretionary and necessary.

The project would remove 353 existing trees and plant 1,078 trees. Trees are part of the living landscape in which birds, insects, and other living creatures need the tree to exist. These trees sequester carbon and clean the air, offer shade, and remove the heat impact of the area. Trees are not some ornamental structure that can be torn down and something else easily replaced. Go into any neighborhood that has repeating five basic houses. What distinguishes each house is the landscaping. The tree roots catch and retain moisture and are part of a symbiotic transfer of nutrients to the living matter below the tree in the soil and vice versa. Removal of mature trees is a substantial impact which cannot be replaced by planting ornamental trees and shrubs.

Response 159.24: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 159.25: Biological Resources p 66

The Contra Costa Tree Protection and Preservation Ordinance 816-6 states that trees are “valuable assets that economically, environmentally and aesthetically are important to the community.” P.67 Policy 8-6 states significant trees shall be preserved. Designate the protected trees. The aerial photo of the site shows three locations where the majority of the trees are clustered. A large cluster of trees exists where the apartment complex will be built. Are any of those protected trees? Contra Costa County Tree Protection and Preservation Ordinance 816-6 defines ‘protected trees’.

1. Any tree measuring 20 “ or larger in circumference
2. Any multi-stemmed grouping of trees, including groves of 4+ trees
3. Any tree shown to be preserved on an approved tentative map, development or site plan, or required to be retained as a condition of approval

Permit required to trench, grade, or fill within the dripline of any protected tree, or to cut down, destroy, trim by topping or remove any protected tree. MM Bio – 2.1, p.81

Mature trees need an expansive area through their root system to live. The location and size of the trees to be removed need to be identified as well as the location and size of the replacement. Ornamental trees do not offer the same benefit. How much habitat will the new trees provide compared to the existing trees to be removed, and how many years will it take for the tree to be large enough to provide habitat? Will the trees growth potential be limited by where they are located by exterior walls or roadways?

Response 159.25: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 159.26: Impact AES-3 – There is no comparison to the aesthetic of clusters of naturally growing trees as part of a natural landscape compared to planting trees to fill a spot to block the view of the closest neighborhood.

3.1.2 – The document fails to identify the 1,000 slow growing ornamental trees and shrubs to be planted and how many of them are native oaks and the number of years it will take for them to grow to the size of the native oaks to be removed. It's unlikely that all these new trees will survive or thrive. There must be a stated commitment to replace any new trees that die within the first 3 years with native trees as listed in the EIR?

Response 159.26: Please refer to Master Response 1: County General Plan Policy Consistency above. Impact AES-3 states that the project will plant over 1,000 trees, consistent with General Plan Policy 9-12. Landscape plans are available on the county website (<https://www.contracosta.ca.gov/7911/Spieker-Senior-Continuing-Care>).

Comment 159.27: MM Bio – 2.1, p.81

In order to protect riparian habitat and trees it is essential that detailed steps are shared on the process so sensitive habitat is not rolled over by heavy construction equipment and also during the construction of roads and housing. Any compaction of this area will be detrimental to the health of the riparian area. The protection is described as a fence around the riparian area. Will something more substantive than a plastic fence be installed?

Response 159.27: Please refer to Master Response 7: Biological Resources Wetland/Riparian Area Impacts and Mitigation section and mitigation measures MM BIO-1.1 through MM BIO-3.2 for details of the avoidance measure that will be employed.

Comment 159.28: This project while it has pluses that it is located in Walnut Creek and is assessable to many amenities, has to be considered against the fact that it is slated to be built in an infill area that already has established neighborhoods, with a City Park that will be impacted for too long a period of time before residents can move in and enjoy the facility.

This project should be measured against the existing site. Nothing is currently on the site that creates excessive noise, or creates excessive pollution, or disturbs the natural habitat. The project is massive using just about every foot of the 30 acres with only one entrance and exit except for emergencies. It

has no sidewalks such that the residents must walk in the streets or drive to even get around the complex. This project also doesn't provide housing options for all levels of income. It also requires a lot of reinforcement of moved dirt to stabilize the ground and deter from the natural landscape. This DEIR should be recirculated and resubmitted with a smaller footprint and incorporating more of the existing natural beauty. When the Orchards Shopping Center was built in Walnut Creek it was built on 25 acres with retail, restaurants, grocery store, senior housing, large open spaces for the public and an 8' pathway around the property, and a pre-preschool is being added. By comparison this project is crammed full with only a couple of small places for public gathering.

Response 159.28: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 159.29: Alternatives, Location: I question the need to limit the location for this proposal to Central Contra Costa County. It is an upscale development meant to attract people of means who have the ability to travel. The local amenities may justify the high cost for individuals wishing to live in this facility, however, the applicant has a twin development already located in Pleasanton which offers similar amenities, could easily expand, and should be included as an Alternative. The surrounding land uses to that facility offer options and more closely match this mixed-use proposal. Expansion there would not require the destruction of an area of natural beauty fortuitously located next to an existing park.

Response 159.29: Please refer to **Response 23.2:** regarding location alternative.

Comment 159.30: General Statement

Disaster Preparedness: A comprehensive disaster preparedness plan and annual drill is needed as part of the plan.

Response 159.30: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

160. Charles Clancy (May 10, 2022)

Comment 160.1: MAP PORTFOLIO – SAVE SEVEN HILLS RANCH

Maps are numbered according to the page number they appear on; there is no #1 map.

2 Grading Limits Map #1

This map illustrates that the final product of the development proposal's grading and construction would comprise 84% of the total Seven Hills Ranch parcel. It is reasonable to state that except for a few inaccessible rockfall hazard areas on the northwest and west edges, the entire parcel would ultimately be impacted by this project.

3 Grading Limits Map #2

This map indicates that the final product of the proposal's grading and construction would comprise 84% of the total Seven Hills Ranch parcel. It is reasonable to state that with the exception of a few inaccessible rockfall hazard areas on the northwest and west edges, the entire parcel would ultimately

be impacted by this project. The map also illustrates how much of the existing natural drainage would be transformed into impervious cover, including areas between streets and buildings.

4 Floor Levels Map

This map illustrates the contrast between the developer's and the DEIR's statements and implications that the project is designed for environmental compatibility between the existing rolling terrain and the design proposed. In fact, this map indicates that the entire western hills would be leveled to create a platform for the IL Building and surrounding villas. The true proposed finished floor levels have been color-coded to show how far above sea level they are planned to be.

5 Cut and Fill Map

This map illustrates the extensive cut and fill grading that would be required to create the platforms for the proposal's various buildings. The proposed design's environmental incompatibility with the existing terrain is graphically and clearly represented. Cut and fill values have been color-coded in order that cut and fill can be easily differentiated and their magnitudes compared. Many of the site's locations for cutting operations would involve bedrock removal, a fact that has not been addressed in the developer's proposal or the DEIR.

6 Building Heights Map

This map indicates how far above the existing terrain the proposed rooftops would be. The site is currently undeveloped with the exception of one single-family residential building and a few small outbuildings. The addition of the proposed buildings will dominate the site.

NOTE: White numbers shown indicate the finished building heights from the building floor levels to the rooftops. The legend indicates the height or depth the proposed buildings will be above the existing, or today's landscape terrain.

7 Retaining Wall Heights Map

Substantial and imposing retaining walls are required for the proposed design, to shore up the plan's extensive cut and fill grading. The need for such buttressing is a sign of the proposed design's environmental incompatibility with and significant impact on the existing natural terrain; graphically and clearly represented here. The planned retaining wall heights are color-coded by total height.

NOTE: In addition to the retaining walls the entire compound is enclosed by security walls, with guard shack and gated entrance.

Response 160.1: Copies of the mapping provided are included with the comment letter in Appendix A. This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 160.2: 8 Slope Map

Seven Hills Ranch, the proposed development site, is in Contra Costa County and is within Walnut Creek's "Sphere of Influence". To protect hillsides both jurisdictions have slope codes that govern permissible development on sloping terrain. That is, they ordain that construction shall not occur on slopes over a certain steepness. Contra Costa County's code pertains to slopes that exceed 26%.

Walnut Creek's code pertains to slopes that exceed 15%. This map indicates that developer is either unaware of, or has chosen to ignore any local slope codes. As shown here, the proposed development will significantly overlap areas where slope codes would be applicable. The DEIR needs

to more clearly indicate the environmental impact that will occur from the planned disregard of slope ordinances in this design.

Response 160.2: Please refer to Master Response 1: County General Plan Policy Consistency regarding consistency with County policies protecting hillsides. The project is located on unincorporated Contra Costa County land and the County is the lead agency for CEQA; therefore, County policies related to hillside development are discussed in the Draft EIR.

Comment 160.3: 9 "Adirondack Hill" Detail Map; Slopes, Wetlands Bridge

"Adirondack Hill" is the name given here for the area at the end of Adirondack Drive in the adjacent Heather Farm HOA development. The proposed development plans call for cuts into this hill to create platforms for the Maintenance Building and the southeastern end of the IL Building. This map reveals that slope codes and noise codes have been disregarded. Additionally, proposal does not account for the fact that this extreme grading would involve bedrock removal exceedingly close to existing residences. The map also indicates where a proposed bridge over the Central Wetland would be located, how high its abutments would be, and how close the grading and construction would be to the wetland. The DEIR must clearly state these impactful and significant realities. See Locator Map next page for detail orientation.

10 Locator map for "Adirondack Hill"; Slopes

This is a copy of the Slope Map with the "Adirondack Hill" detail location shown.

file name:seven hills proposed spieker senior dev slope index adirondack crclancy 05-01-2022.pdf

Response 160.3: Please refer to **Response 143.4:** regarding the impacts related to the clear span bridge. Please refer to **Response 148.6:** regarding bedrock excavation.

Comment 160.4: 11 CCCo Development Constraints, 26% slope / Alternatives Map

This map shows how much developable land would be available if the Contra Costa County 26% slope code and a limited set of other constraints related to trees and wetlands were adhered to. The map can help visualize realistic and environmentally respectful Alternative development possibilities.

12 Walnut Creek Development Constraints, 15% slope / Alternatives Map

This map shows how much developable land would be available if the Walnut Creek 15% slope code and a limited set of other constraints related to trees and wetlands were applied. Walnut Creek's code is related to average slope and density. The map can help visualize realistic and environmentally respectful Alternative development possibilities.

13 Tree Removal Map

This map shows the distribution of trees to be removed or preserved and indicates which trees are Native. This map also serves as context for the status and plans for Central and Southern wetlands and drainage.

14 Southern Perennial Wetlands/Drainage Map

This map details the current and potential future status of trees, wetlands and drainage in the Southern Perennial Wetlands/Drainage area, which includes the proposed Kinross Extension. An added feature is existing Valley Oak Woodlands, which were not defined in the arborist's report.

15 Central Wetlands/Drainage Map

This map details the current and potential future status of trees, wetlands and drainage in the Central Wetland/Drainage. An added feature is Valley Oak Woodlands which were not defined in the arborist's report.

16 All Constraints (Contra Costa County: 26% slope) / Alternatives Map

This map shows the potential development area after all foreseeable constraints have been applied: slopes greater than 26%, preserved tree buffers, wetland buffers, Valley Oak Woodlands, and a Walnut Creek channel restoration setback. Aids to visualize the possibilities for alternative development.

18 Footprint Comparison: Spieker Development Proposal with (1) the Oakland Coliseum, (2) the Walnut Creek Target Store, and (3) the SF Chase Center The proposed development design includes the leveling down of hills on the west side of the site and the construction of a very large pad on which the Independent Living Building and some of the 'cottages' are to be built. Here the footprints of known buildings are superimposed over the IL building to allow comparison and visualization of the large building pad and the potential environmental impact of the proposed development design.

file name: seven hills proposed spieker senior dev il bldg size comparison with wc target crclancy 05-03-2022.pdf

Response 160.4: This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

Comment 160.5: Index to Map Portfolio & expanded Map Descriptions,
Save Seven Hills Ranch

Maps and this document compiled by Charles Clancy 05-04-2022

(Maps listed in the order in which the maps were originally developed, there is no map #1; numbering starts with the #2.)

Technical Information follows Index

2 Grading Limits Map #1 pg 2

This map illustrates that the final product of the development proposal's grading and construction would comprise 84% of the total Seven Hills Ranch parcel. It is reasonable to state that except for a few inaccessible rockfall hazard areas on the northwest and west edges, the entire parcel would ultimately be impacted by this project. file name: seven hills proposed spieker senior dev lines grading limits crclancy 04-30-2022.pdf

3 Grading Limits Map #2 pg 3

This map indicates that the final product of the proposal's grading and construction would comprise 84% of the total Seven Hills Ranch parcel. It is reasonable to state that with the exception of a few inaccessible rockfall hazard areas on the northwest and west edges, the entire parcel would ultimately be impacted by this project. The map also illustrates how much of the existing natural drainage would be transformed into impervious cover, including areas between streets and buildings.

file name: seven hills proposed spieker senior dev polygons grading limits crclancy 04-30-2022.pdf

4 Floor Levels Map... pg 4

This map illustrates the contrast between the developer's statements and implications that the project is designed for environmental compatibility between the existing rolling terrain and the design proposed. In fact, this map indicates that the entire western hills would be leveled to create a platform for the IL Building and surrounding villas. The true proposed finished floor levels have been color-coded to show how far above sea level they are planned to be.

file name: seven hills proposed spieker senior dev true floor levels crclancy 05-01-2022.pdf

5 Cut and Fill Map... pg 5

This map illustrates the extensive cut and fill grading that would be required to create the platforms for the proposal's various buildings. The proposed design's environmental incompatibility with the existing terrain is graphically and clearly represented. Cut and fill values have been color-coded in order that cut and fill can be easily differentiated and their magnitudes compared. Many of the site's locations for cutting operations would involve bedrock removal, a fact that has not been addressed in the developer's proposal or the DEIR.

file name:seven hills proposed spieker senior dev cut and fill crclancy 05-01-2022.pdf

6 Building Heights Map... pg 6

This map indicates how far above the existing terrain the proposed rooftops would be. The site is currently undeveloped with the exception of one single-family residential building and a few small outbuildings. The addition of the proposed buildings will dominate the site.

NOTE: White numbers shown indicate the finished building heights from the building floor levels to the rooftops. The legend indicates the height or depth the proposed buildings will be above the existing, or today's landscape terrain.

file name:seven hills proposed spieker senior dev building heights crclancy 05-01-2022.pdf

7 Retaining Wall Heights Map... pg 7

Substantial and imposing retaining walls are required for the proposed design, to shore up the plan's extensive cut and fill grading. The need for such buttressing is a sign of the proposed design's environmental incompatibility with and significant impact on the existing natural terrain; graphically and clearly represented here. The planned wall heights are color-coded by total height. Data points from the developer's own representations were used along with values that were derived from the proposed terrain contours and interpolations at significant gradient changes.

NOTE: In addition to retaining walls the entire compound is enclosed by security walls, with guard shack and gated entrance.

file name:seven hills proposed spieker senior dev retaining wall heights crclancy 05-01-2022.pdf

8 Slope Map... pg 8

Seven Hills Ranch, the proposed development site, is in Contra Costa County and is within Walnut Creek's "Sphere of Influence". To protect hillsides both jurisdictions have slope codes that govern permissible development on sloping terrain. That is, they ordain that construction shall not occur on slopes over a certain steepness. Contra Costa County's code pertains to slopes that exceed 26%. Walnut Creek's code pertains to slopes that exceed 15%. This map indicates that developer is either unaware of, or has chosen to ignore any local slope codes. As shown here, the proposed development will significantly overlap areas where slope codes would be applicable. The DEIR needs to more clearly indicate the environmental impact that will occur from the planned disregard of slope

ordinances in this design. The Digital Elevation Model was analyzed to show areas where slopes exceed 26% and 15%.

file name: seven hills proposed spieker senior dev slope index crclancy 05-01-2022.pdf

9 "Adirondack Hill" Detail Map; Slopes, Wetlands Bridge pg 9

"Adirondack Hill" is the name given here for the area at the end of Adirondack Drive in the adjacent Heather Farm HOA development. The proposed development plans call for cuts into this hill to create platforms for the Maintenance Building and the southeastern end of the IL Building. This map reveals that slope codes and noise codes have been disregarded. Additionally, proposal does not account for the fact that this extreme grading would involve bedrock removal exceedingly close to existing residences. The map also indicates where a proposed bridge over the Central Wetland would be located, how high its abutments would be, and how close the grading and construction would be to the wetland. The DEIR must clearly state these impactful and significant realities.

file name: seven hills proposed spieker senior dev adirondack hill detail crclancy 05-02-2022.pdf

10 Locator map for "Adirondack Hill"; Slopes pg 10

This is a copy of the Slope Map with the "Adirondack Hill" detail location shown.

file name: seven hills proposed spieker senior dev slope index adirondack crclancy 05-01-2022.pdf

11 CCCo Development Constraints, 26% slope / Alternatives Map... pg 11

This map shows how much developable land would be available if the Contra Costa County 26% slope code and a limited set of other constraints related to trees and wetlands were adhered to. The map can help visualize realistic and environmentally respectful Alternative development possibilities.

file name: seven hills proposed spieker senior dev cc county alternative 26 pct crclancy 05-01-2022.pdf

12 Walnut Creek Development Constraints, 15% slope / Alternatives Map... pg 12

This map shows how much developable land would be available if the Walnut Creek 15% slope code and a limited set of other constraints related to trees and wetlands were applied. Walnut Creek's code is related to average slope and density. The map can help visualize realistic and environmentally respectful Alternative development possibilities.

file name: seven hills proposed spieker senior dev walnut creek alternative 15 pct crclancy 05-02-2022.pdf

13 Tree Removal Map... pg 13

This map shows the distribution of trees to be removed or preserved and indicates which trees are Native. This map also serves as context for the status and plans for Central and Southern wetlands and drainage.

file name: seven hills proposed spieker senior dev tree removal map crclancy 04-13-2022.pdf

14 Southern Perennial Wetlands/Drainage Map... pg 14

This map details the current and potential future status of trees, wetlands and drainage in the Southern Perennial Wetlands/Drainage area, which includes the proposed Kinross Extension. An added feature is existing Valley Oak Woodlands, which were not defined in the arborist's report.

file name: seven hills proposed spieker senior dev southern perennial drainage crclancy 05-02-2022.pdf

15 Central Wetlands/Drainage Map... pg 15

This map details the current and potential future status of trees, wetlands and drainage in the Central Wetland/Drainage. An added feature is Valley Oak Woodlands which were not defined in the arborist's report.

file name:seven hills proposed spieker senior dev central drainage crclancy 05-02-2022.pdf

16 All Constraints (Contra Costa County: 26% slope) / Alternatives Map... pg 16

This map shows the potential development area after all foreseeable constraints have been applied: slopes greater than 26%, preserved tree buffers, wetland buffers, Valley Oak Woodlands, and a Walnut Creek channel restoration setback. Aids to visualize the possibilities for alternative development.

file name:seven hills proposed spieker senior dev cc county constraints alternative 26 pct crclancy 04-30-2022.pdf

17 All Constraints (Walnut Creek: 15% slope) / Alternatives Map... pg 17

This map shows the potential development area after all foreseeable constraints have been applied: slopes greater than 15%, preserved tree buffers, wetland buffers, Valley Oak Woodlands, and a Walnut Creek channel / Pool restoration setback. Aids to visualize the possibilities for alternative development.

file name:seven hills proposed spieker senior dev walnut creek constraints alternative 15 pct crclancy

18 Footprint Comparison: Spieker Development Proposal with (1) the Oakland Coliseum, (2) the Walnut Creek Target Store, and (3) the SF Chase Center. pg 18

The proposed development design includes the leveling down of hills on the west side of the site and the construction of a very large pad on which the Independent Living Building and some of the 'cottages' are to be built. Here the footprints of known buildings are superimposed over the IL building to allow comparison and visualization of the large building pad and the potential environmental impact of the proposed development design.

file names: seven hills proposed spieker senior dev il bldg size comparison with oakland coliseum crclancy 5-03-2022.pdf seven hills proposed spieker senior dev il bldg size comparison with wc target crclancy 05-03-2022.pdf

seven hills proposed spieker senior dev il bldg size comparison with sf chase center crclancy 05-03-2022.pdf

Response 160.5: This comment is an index of the previous descriptions of figures; therefore, no further response is required.

SECTION 5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the Spieker Senior Continuing Care Community Project Draft EIR dated March 2022. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page ii Table of Contents, Figures; the following figures were missing from the Table of Contents and will be **ADDED**:

Figure 2.2-15: Health Care Center – North and West Elevations, Page 20

Figure 3.4-1: Existing Habitats On-Site, Page 69

Page xiv Summary of Significant Impacts and Mitigation Measures; the following text will be **ADDED** to the end of the first paragraph of MM GEO-6.1:

Paleontological Monitoring. Construction activities involving excavation or other soil disturbance within the project site shall be required to retain a qualified Paleontological Monitor as defined by the Society for Vertebrate Paleontology (SVP) (2010) equipped with necessary tools and supplies to monitor all excavation, trenching, or other ground disturbance. Monitoring will entail the visual inspection of excavated or graded areas and trench sidewalls. In the event that a paleontological resource is discovered, the monitor will have the authority to temporarily divert the construction equipment around the find until it is assessed for scientific significance and collected. Prior to issuance of a grading permit a copy of the executed contract or other evidence that paleontological monitoring services have been retained, shall be provided to the County for review.

Page xvi Summary of Significant Impacts and Mitigation Measures; the text in second sentence of MM HYD-3.1 will be **REVISED** as follows:

Any proposed diversions of the watershed shall be subject to review by the County Public Works Department, and possibly be subject to hearing body approval.

Page xviii Summary of Significant Impacts and Mitigation Measures; the last bullet of MM NOI-1.1 will be **REVISED** as follows:

- 1) A qualified acoustical professional shall be retained to address noise concerns, and if needed, to determine if construction noise levels at adjacent property lines are consistent with the findings of the certified EIR. Corrective actions shall be taken to reduce construction noise if inconsistencies are identified. Temporary noise barriers ~~could~~ shall be ~~considered~~ installed during construction phases involving earth moving equipment (e.g., grading operations) where they would be effective in reducing the construction noise impact, when directly adjoining sensitive receptors, such as at the Seven Hills School. An eight-foot plywood noise barrier could reduce noise levels by at least 5 dBA.

Page xxi Summary of Project Alternatives under Roadway Redesign Project Alternative; the following footnote will be added to the first paragraph:

In order to provide the necessary ROW, the project developer would need to acquire a portion of the adjacent land along Seven Hills Ranch Road or the County may take the land through eminent domain.¹

¹ The County avoids the use of eminent domain when at all possible and generally will not support the use of eminent domain in relation to a private project.

Page xxi Summary of Project Alternatives under Roadway Redesign Project Alternative; the last paragraph will be **REVISED** as follows:

The Roadway Redesign Project Alternative would reduce impacts to riparian woodland and wetland habitat, but potentially result in increased impacts to the jurisdictional drainage in the southwest region of the site, impacts to ornamental tree habitat along Seven Hills Ranch Road, and impacts from increased drainage demand. This alternative would result in the same or similar impacts to air quality, cultural resources, geology and soils, and hazards and hazardous materials, ~~hydrology and water quality~~, noise, and tribal cultural resources. The Roadway Redesign Project Alternative would meet all the project objectives.

Page xxi Summary of Project Alternatives under Environmentally Superior Alternative; the last sentence in the first paragraph will be **REVISED** as follows:

~~In addition to the No Project~~ However, an alternate among the other alternatives must be chosen pursuant to CEQA Guidelines Section 15126.6(e)(2), and thus the Roadway Redesign Project Alternative is the environmentally superior alternative as it would lessen the project's biological resources impacts to seasonal wetland and riparian woodland habitat.

Page 9 Section 2.2.6 Landscaping and Open Space; the text in the first paragraph will be **REVISED** as follows:

Trees would be planted along the project boundary to provide screening from adjacent properties and roadways. The project would remove approximately 403 existing trees (including 353 protected trees) ~~353 existing trees~~ and plant 1,078 trees.

Page 23 Section 2.2.8 Drainage and Utility Improvements; the text in the last sentence of the first paragraph will be **REVISED** as follows:

Kinross Drive would drain to an interceptor channel along the south side of the internal access road and discharge to an existing drainage channel on the ~~north~~ south side of Seven Hills Ranch Road.

Page 23 Section 2.2.8 Drainage and Utility Improvements; the following text will be **ADDED** after the first paragraph:

The project's final engineering design will manage storm water runoff in a manner that will not substantially alter the hydrology of adjoining properties owned by the City of Walnut Creek and CCWD. The preliminary design shown in the DEIR will be refined with the project improvement plans and be submitted for approval by Contra Costa County, the City of Walnut Creek, and CCWD

to accomplish the following: (1) Detain waters leaving the site consistent with County and City drainage standards to ensure that peak post-development flows do not exceed pre-development conditions; 2) Direct all additional excess runoff leaving the project detention and water quality facilities to the 15" storm drain line planned within the North San Carlos Drive extension or alternative alignment as approved by CCWD, the City of Walnut Creek, and Contra Costa County. As an alternative to part 2 above, the project will explore the feasibility of and consider pumping excess storm water leaving the northeasterly detention basin to discharge into the central drainage swale, in accordance with plans approved by the County and consistent with the required 404 and 401 permits.

Page 29 Table 3.0-1 Cumulative Project List; the last project description will be **REVISED** as follows:

Table 3.0-1: Cumulative Projects List			
Name and Location	Description	Distance to Proposed Project	Status
699 Ygnacio Valley Road Project	The project proposes to demolish all existing gas station structures on-site and construct a new five-story mixed-use building. The mixed-use building would include approximately 2,625 square-feet of ground floor commercial area and approximately 96, 100-percent affordable residential units. The project would include 41 on-site parking spaces in an enclosed garage located behind the proposed commercial space.	1 mile	Under review

Page 31 Section 3.1.1.1 Regulatory Framework under Senate Bill 743; the following footnote will be **ADDED** to the first bullet point:

The project is a residential, mixed-use residential, or employment center project.¹

¹ Employment center project means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area.

Page 33 Section 3.1.1.2 Existing Conditions under Surrounding Area; the last sentence of the first paragraph will be **REVISED** as follows:

The school campus consists of several buildings, a surface parking lot, soccer field, basketball court, ~~and playgrounds, and undeveloped hillsides.~~

Page 66 Section 3.4.1.1 Regulatory Framework under Regional and Local; the following text will be **ADDED** after the Contra Costa County Tree Ordinance section:

City of Walnut Creek Tree Preservation Ordinance

Chapter 8 of Title 3 of the Walnut Creek Municipal Code, known as the Tree Preservation Ordinance, requires a tree removal permit for removal of certain trees. These regulations apply to removal of trees within the project’s proposed access connection along Kinross Drive which is within the City of Walnut Creek’s boundary. Trees protected under this ordinance are defined as the following, per Section 3-8.02:

- Any live woody plant having a single perennial stem of 28 inches or more in circumference measured 4.5 feet above the natural grade;
- Any multi-stemmed perennial plant having an aggregate circumference of 40 inches or more measured 4.5 feet above the natural grade;
- Any multi-stemmed plant having one stem of 28 inches or more in circumference.

The tree removal permit procedure is outlined in Section 3-8.04. To obtain a tree removal permit, an applicant shall file an application for the review of the Public Works Director (Director). An arborist report would also need to be provided, including a tree survey plan specifying the precise location of existing and proposed buildings and grades to these trees along with underground utility services, subdrains, water, sewer, irrigation, and lighting. The arborist report shall include a table which identifies each tree by number, along with its size, species, and whether or not it is proposed for removal or preservation. Additionally, removal of any “Highly Protected Tree” also requires a tree removal permit. Highly Protected Trees are defined as the following native trees that meet the size criteria set forth above: valley oak, blue oak, coast live oak, California black oak, canyon live oak, interior live oak, madrone, California buckeye, California black walnut, and grey pine.

Page 68 Section 3.4.1.2 Existing Conditions under Habitat Types On-Site; the text in the first paragraph will be **REVISED** as follows:

Several types of habitats exist on-site. These habitats include annual grassland, developed land, oaks ~~woodland~~, ornamental woodland, perennial drainage, riparian woodland, and seasonal wetlands. A map of the existing habitats is included in Figure 3.4 1.

Page 82 Section 3.4.2.1 Project Impacts under Impact BIO-2; the text in the last paragraph will be **REVISED** as follows:

~~The project proposes to enhance the riparian corridor along the central drainage as part of the project design.~~ Implementation of MM BIO-2.1 and MM BIO-2.2 will ensure that adverse impacts to existing riparian habitat is kept to a minimum and the project’s riparian enhancement design is subject to a regulatory agency-approved Riparian and Aquatic HMMP. Therefore, the project’s impacts to existing riparian habitat would be reduced to a less than significant level. (**Less than Significant Impact with Mitigation Incorporated**)

Page 82 Section 3.4.2.1 Project Impacts under Impact BIO-3; the text in the third sentence of the first paragraph will be **REVISED** as follows:

The perennial drainage in the center of the property represents a semi-natural watercourse that would have been historically present, prior to the surrounding development, whereas the perennial drainage

along the southern edge of the property in between Kinross Drive and Seven Hills Ranch Road is a narrow, constructed ditch, which appears to primarily convey storm water runoff from the development upslope of the project site to the south and southeast, along Seven Hills Ranch Road and ultimately into the concrete-lined channel of Walnut Creek.

Page 83 Section 3.4.2.1; the third paragraph under Impact BIO-3 will be **REVISED** as follows:

~~Consistent with the County's Creek Structure Setback requirements, The County Public Works Department has determined that the central perennial drainage has no definable bed and bank to channelize the minor amount of residual stormwater runoff that collects in that area. Therefore, in the context of Division 914 (Drainage) of the County Ordinance, the drainage does not function as what would generally be defined as a creek. However, the project proposes to establish a 50-foot buffer from the centerline of area around the perennial drainage in the center of the project site that will at least equal, but possibly extend beyond the boundary of the proposed enhanced wetland area. This design buffer implementation~~ would avoid direct impacts to the central perennial drainage and associated seasonal wetlands, and would establish a buffer to avoid indirect impacts. In addition, as described above in the impact discussion for riparian habitat, the project will enhance the areas outside of the seasonal wetlands by planting with native riparian trees and shrubs. In this manner, the project would avoid and minimize direct impacts on the majority of federally protected wetlands on the site.

Page 84 Section 3.4.2.1 MM BIO-3.2; the text in item c) will be **REVISED** as follows:

- c) Enhancement of seasonal wetlands and the perennial drainage to be preserved in the central portion of the site, as well as creation of seasonal wetland habitat ~~in the bioretention facilities proposed on site~~, at a ratio of 2:1, on an acreage basis;

Page 85 Section 3.4.2.1 Project Impacts under Impact BIO-5; the text in the first paragraph will be **REVISED** as follows:

Pursuant to the Contra Costa County Tree Ordinance, permits from the Conservation and Development Department are required for the removal of any trees which meet the definition of "protected tree", as previously described. The project proposes the removal of approximately 353 existing protected trees. An additional 81 suitable protected trees are to be preserved, ~~including all of the major valley oaks.~~

Page 86 Section 3.4.2.1 Project Impacts under Impact BIO-5; the last sentence of the Contra Costa County Tree Ordinance section will be **REVISED** as follows:

The project is proposing to plant approximately 1,078 trees on the site which equates to a replacement ratio of 2.8:1. With the incorporation of the above measures, the project would be in compliance with the Contra County Tree Protection and Preservation Ordinance. (**Less than Significant Impact**)

Page 86 Section 3.4.2.1 Project Impacts under Impact BIO-5; the following text will be **ADDED** after the Contra Costa County Tree Ordinance section:

City of Walnut Creek Tree Preservation Ordinance

Approximately 24 trees within the City of Walnut Creek are planned for removal within the extension of Kinross Drive and along the southern property line. These trees would be subject to the City's Tree Preservation Ordinance. Prior to the removal of any trees and the start of construction activities (i.e., grading and excavation), the project shall comply with the City's Tree Preservation Ordinance and obtain tree removal permits for the 24 trees. For this reason, the proposed project would be consistent with the City's Tree Preservation Ordinance. (Less than Significant Impact)

Page 86 Section 3.4.2.1 Project Impacts under Impact BIO-5; the first paragraph under Contra Costa County Creek Structure Setback Requirements section will be **REVISED** as follows:

The goals and policies laid out in the General Plan Conservation Element to protect watercourses in the County is administered through the establishment of requirements in the County Code for setbacks from the centerline of watercourses, and restrictions on development within those corridors. The perennial drainage in the center of the project would qualify as a "natural watercourse" as Defined in the General Plan Conservation Element ~~and associated County Code regulations.~~ Although the County has determined that the central perennial drainage would not be defined as a creek within the context of Section 914-14 of the ordinance regarding the establishment of structure setbacks for drainage resources, the project has been designed to incorporate a 50-foot setback from the centerline of buffer area around the central drainage and proposes restoration and enhancement of wetland and riparian habitat within this preserved corridor. The maximum width of the drainage and buffer zone is up to 300 feet wide in some locations. While the project will propose some new trails within this corridor, trails would be considered an allowable use within the creek-setback buffer area limits, as per the County Code. However, development rights over this buffer area will be deeded to the County and which primarily restricts the building of permanent structures will be prohibited with the setback area. Because the project does not include any new development within this corridor aside from the clear-span bridge, and the project proposes enhancement of wetland habitat within this corridor, the project would be in compliance with ~~the County's creek structure setback regulations~~ Conservation Element policies regarding the protection of watercourses.

Page 107 Section 3.7.1.2 Existing Conditions under Soils; the third sentence of the first paragraph will be **REVISED** as follows:

However, laboratory testing of on-site soils confirmed the presence of soils that were likely ~~moderately~~ expansive.

Page 113 Section 3.7.2.1 Project Impacts under Impact GEO-6; the following text will be **ADDED** to the end of the first paragraph of MM GEO-6.1:

Paleontological Monitoring. Construction activities involving excavation or other soil disturbance within the project site shall be required to retain a qualified Paleontological Monitor as defined by the Society for Vertebrate Paleontology (SVP) (2010) equipped with necessary tools and supplies to monitor all excavation, trenching, or other ground disturbance. Monitoring will entail the visual inspection of excavated or graded areas and trench sidewalls. In the event that a paleontological resource is discovered, the monitor will have the authority to temporarily divert the construction

equipment around the find until it is assessed for scientific significance and collected. Prior to issuance of a grading permit a copy of the executed contract or other evidence that paleontological monitoring services have been retained, shall be provided to the County for review.

Page 138 Section 3.10.2.1 Project Impacts under Impact HYD-3; the text in second sentence of MM HYD-3.1 will be **REVISED** as follows:

Any proposed diversions of the watershed shall be subject to review by the County Public Works Department, and possibly be subject to hearing body approval.

Page 158 Section 3.13.2.2 Project Impacts under Impact NOI-1; the last bullet of MM NOI-1.1 will be **REVISED** as follows:

- m) A qualified acoustical professional shall be retained to address noise concerns, and if needed, to determine if construction noise levels at adjacent property lines are consistent with the findings of the certified EIR. Corrective actions shall be taken to reduce construction noise if inconsistencies are identified. Temporary noise barriers ~~could~~ shall be considered installed during construction phases involving earth moving equipment (e.g., grading operations) where they would be effective in reducing the construction noise impact, when directly adjoining sensitive receptors, such as at the Seven Hills School. An eight-foot plywood noise barrier could reduce noise levels by at least 5 dBA.

Page 159 Section 3.13.2.2 Project Impacts under Impact NOI-1; the beginning of the paragraph under Parking Lots will be **REVISED** as follows:

The project would include several surface parking lots and one ~~above~~below-grade parking garage. Parking activities in the ~~above~~below-grade parking garage would not be anticipated to be audible outside of the parking garage.

Page 181 Section 3.17.1.2 Existing Conditions under Roadway Network; the last sentence under Ygnacio Valley Road will be **REVISED** as follows:

The posted speed limit on Ygnacio Valley Road in the Plan Area is ~~340~~ miles per hour (mph).

Page 186 Section 3.17.2.1 Project Impacts under TRN-4; the last sentence will be **REVISED** as follows:

Therefore, the project would be in compliance with the California Fire Code and would not result in inadequate emergency access. (Less than Significant Impact)

Page 213 Section 7.4.1.1 Location Alternative; the text in the second paragraph will be **REVISED** as follows:

While these sites meet the size requirement, location alternatives were rejected because the potentially suitable sites would not reduce the identified ~~significant and unavoidable~~ less than significant with mitigation incorporated construction noise impact, which is primarily due to the size

of the project, duration of the construction schedule, and proximity of nearby sensitive receptors for an infill site.

Page 216 Section 7.4.2.3 Roadway Redesign Project; the following footnote will be **ADDED** to the first paragraph:

In order to provide the necessary ROW, the project developer would need to acquire a portion of the adjacent land along Seven Hills Ranch Road or the County may take the land through eminent domain.¹¹⁴

¹¹⁴ The County avoids the use of eminent domain when at all possible and generally will not support the use of eminent domain in relation to a private project.

Page 216 Section 7.4.2.3 Roadway Redesign Project; the second paragraph will be **REVISED** as follows:

The Roadway Redesign Project Alternative would reduce impacts to riparian woodland and wetland habitats ~~and trees~~ by removing the extension of Kinross Drive to the project site. Construction of this extension would have required the disturbance and/or removal of jurisdictional perennial drainage, riparian woodland, and seasonal wetland habitat. Relocating the entrance to the existing Seven Hills Ranch Road entrance would avoid these features altogether. The Roadway Redesign Project Alternative would still maintain a ~~50-foot~~ buffer around the central drainage on the project site during construction and include a clear span bridge over the central drainage to avoid impacts. All other less than significant biological resource impacts (bats, owls, and nesting birds) would remain similar or the same as the development of the rest of the project site would remain unchanged.

Page 217 Section 7.4.2.3 Roadway Redesign Project; the fourth paragraph will be **REVISED** as follows:

The Roadway Redesign Project Alternative would potentially result in increased impacts to the jurisdictional drainage in the southwest region of the site, impacts to tree habitat along Seven Hills Ranch Road, and impacts from increased drainage demand. With respect to impacts on perennial drainage, the Roadway Redesign Project Alternative would avoid the smaller segment at the Kinross Road extension, but would impact the remaining 200 feet of that perennial drainage from the westerly edge of the proposed project improvements to Walnut Avenue. For tree impacts, this alternative would save the trees within the area of the Kinross Road extension, but would likely require the removal of up to 30 trees to accommodate improvements necessary along Seven Hills Ranch Road. Lastly, this alternative would consist of adding new roadway pavement over a linear distance of 850 feet would add approximately 22,000 square feet of impervious surface that would in turn increase peak flows from the site. The Roadway Redesign Project Alternative would result in the same or similar less than significant impacts (with mitigation) as the proposed project related to air quality, cultural resources, geology and soils, hazards and hazardous materials, ~~hydrology and water quality~~, noise, and tribal cultural resources.

Page 217 Section 7.4.3 Environmentally Superior Alternative; the last sentence in the first paragraph will be **REVISED** as follows:

~~In addition to the No Project~~ Thus, the Roadway Redesign Project Alternative is the environmentally superior alternative and would lessen the project's biological resources impact.

Page 27 Appendix E Biological Resources Report Peer Review; the last sentence in the second paragraph of Section 4.3.3 will be **REMOVED** as follows:

A limited amount of riparian woodland habitat occurs in the southernmost portion of the project site, and is associated with the perennial drainage in between the end of Kinross Drive and Seven Hills Seven Hills Ranch Road. The tree species associated with this riparian woodland habitat include predominantly arroyo willow and valley oak individuals. Currently, the proposed project design will permanently impact approximately 0.16 ac of riparian woodland habitat (Figure 2) and will result in the removal or damage of up to 13 riparian trees due to partial clearing for the extension of Kinross Drive. ~~In addition, there is potential for temporary, indirect impacts to the remaining 0.18 acre from construction related activities.~~